

IN THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the Matter of the :  
Application of Ohio Edison:  
Company, The Cleveland :  
Electric Illuminating :  
Company, and The Toledo :  
Edison Company for : Case No. 14-1297-EL-SSO  
Authority to Provide for :  
a Standard Service Offer :  
Pursuant to R.C. 4928.143 :  
in the Form of an Electric:  
Security Plan. :

- - -

DEPOSITION

of Donald A. Moul, taken before me, Karen Sue Gibson,  
a Notary Public in and for the State of Ohio, at the  
offices of FirstEnergy Corporation, 76 South Main  
Street, Akron, Ohio, on Thursday, January 15, 2015,  
at 8 a.m.

- - -

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

- - -

APPEARANCES:

FirstEnergy Corp.  
By Mr. James W. Burk  
76 South Main Street  
Akron, Ohio 44308

Calfee, Halter & Griswold LLP  
By Mr. James Lang  
The Calfee Building  
1405 East Sixth Street  
Cleveland, Ohio 44114

On behalf of the Applicants.

Bruce E. Weston, Ohio Consumers' Counsel  
By Ms. Maureen R. Grady (via speakerphone)  
and Mr. Kevin Moore (via speakerphone)  
Assistant Consumers' Counsel  
10 West Broad Street, Suite 1800  
Columbus, Ohio 43215-3485

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

Earthjustice  
By Mr. Shannon Fisk  
Northeast Office  
1617 John F. Kennedy Boulevard, Suite 1675  
Philadelphia, Pennsylvania 19103

Earthjustice  
By Mr. Michael Soules  
1625 Massachusetts Avenue NW, Suite 702  
Washington, D.C. 20036

On behalf of the Sierra Club.

Ohio Partners for Affordable Energy  
By Ms. Colleen Mooney (via speakerphone)  
231 West Lima Street  
Findlay, Ohio 45846

On behalf of the Ohio Partners for  
Affordable Energy.

1 APPEARANCES: (Continued)

2 McNeese, Wallace & Nurick LLC  
3 By Mr. Frank Darr (via speakerphone)  
4 21 East State Street, 17th Floor  
5 Columbus, Ohio 43215

6 On behalf of the Industrial Energy Users  
7 of Ohio.

8 Vorys, Sater, Seymour & Pease, LLP  
9 By Mr. Michael Settineri (via speakerphone)  
10 52 East Gay Street  
11 Columbus, Ohio 43215

12 On behalf of PJM Power Providers Group,  
13 Electric Power Supply Association, and  
14 Retail Energy Supply Association.

15 Carpenter Lipps & Leland LLP  
16 By Ms. Rebecca Hussey (via speakerphone)  
17 and Ms. Kimberly Bojko (via speakerphone)  
18 280 North High Street, Suite 1300  
19 Columbus, Ohio 43215

20 On behalf of the Ohio Manufacturers'  
21 Association Energy Group.

22 Environmental Law & Policy Center  
23 By Ms. Madeline Fleisher (via speakerphone)  
24 1207 Grandview Avenue, Suite 201  
Columbus, Ohio 43212

On behalf of the Environmental Law &  
Policy Center.

Brickfield, Burchette, Ritts & Stone, PC  
By Mr. Michael Lavanga (via speakerphone)  
1025 Thomas Jefferson Street, N.W.  
8th Floor West  
Washington, D.C. 20007

On behalf of the Nucor Steel Marion, Inc.

- - -

24

1 APPEARANCES: (Continued)

2 FirstEnergy Corp.  
3 By Mr. Brian Knipe  
4 76 South Main Street  
5 Akron, Ohio 44308

6 On behalf of FirstEnergy Services.

7 ALSO PRESENT:

8 Mr. Hisham Choueiki, PUCO Staff (via  
9 speakerphone)  
10 Mr. Kevin Murray (via speakerphone)

11 - - -

## INDEX

- - -

Witness	Page
Cross-Examination by Mr. Soules	8
Cross-Examination by Mr. Olikier	113
Cross-Examination by Ms. Hussey	126
Cross-Examination by Ms. Fleisher	138
Cross-Examination by Mr. Settineri	160
Cross-Examination by Ms. Grady	186
Cross-Examination (Continued) by Mr. Soules	224
Cross-Examination (Continued) by Mr. Olikier	265
Cross-Examination (Continued) by Ms. Hussey	271
Cross-Examination (Continued) by Ms. Fleisher	286
Cross-Examination (Continued) by Mr. Settineri	287
Cross-Examination (Continued) by Ms. Grady	303

- - -

Deposition Exhibit	Identified
1 Draft Term Sheet	49
2 OCC Set 1-INT-19	88
3 SC Set 1-RPD-49 Attachment 1 (Conf.)	227
4 SC Set 1-INT-13 (Conf.)	235
5 SC Set 3-INT-87 (Conf.)	237
6 Kroger Set 2-INT-2 (Conf.)	255

- - -

Thursday Morning Session,

January 15, 2015.

- - -

MR. SOULES: Michael Soules appearing on  
behalf of Sierra Club.

MR. FISK: Shannon Fisk on behalf of  
Sierra Club.

MR. LANG: This is Jim Lang from Calfee  
Halter on behalf of FirstEnergy. I am here with the  
Witness Don Moul.

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

MR. KNIPE: Brian Knipe for FirstEnergy  
Solutions.

MR. LANG: And that's everyone here in  
person. Who is on the phone?

MR. OLIKER: Joe Olikier on behalf of IGS  
Energy.

MS. HUSSEY: Rebecca Hussey on behalf of  
the Ohio Manufacturers' Association Energy Group.

MS. FLEISHER: Sorry. Talking over you.  
This is Madeline Fleisher from Environmental Law &  
Policy Center.

MS. MOONEY: This is Colleen Mooney with

1 Ohio Partners for Affordable Energy.

2 MS. BOJKO: Kim Bojko OMAEG.

3 MR. DARR: Frank Darr, IEU.

4 MR. SETTINERI: Mike Settineri on behalf  
5 of PJM Power Producers Group and Retail -- Retail  
6 Energy Supply Association.

7 MR. LAVANGA: This is Mike Lavanga on  
8 behalf of Nucor Steel Marion.

9 MR. CHOEI KI: Good morning. This is  
10 Hisham Choueiki, Ohio staff.

11 MR. LANG: I think that's everyone. The  
12 OMA, that's you on the phone, Kim?

13 MS. BOJKO: Yes, it is.

14 MR. LANG: Okay. Good morning. All  
15 right. We are going to be off the record for one  
16 minute and work on a technology issue.

17 (Off the record.)

18 MR. LANG: Let's go back on the record.  
19 And why don't you go ahead. Do you want to swear in  
20 the witness.

21 - - -

22

23

24

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

DONALD A. MOUL

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

CROSS-EXAMINATION

By Mr. Soules:

Q. Okay. Good morning, Mr. Moul.

A. Good morning.

Q. Am I pronouncing that right?

A. You're absolutely correct.

Q. Great. So, again, my name is Mike  
Soules. I am representing Sierra Club in this  
proceeding. Could you please state your full name  
for the record.

A. Donald A. Moul.

Q. Okay. And what is your business address,  
Mr. Moul?

A. 341 White Pond Drive in Akron.

Q. Okay. Is that the West Akron campus?

A. Yes.

Q. And what is your educational background?

A. I hold a Bachelor of Science in nuclear  
engineering from Penn State University and a Master's  
in business administration from the University of  
Notre Dame.

1           Q.    Okay.  Thank you.  Have you had any  
2   formal training or education since graduating from  
3   Notre Dame?

4           A.    With respect to?

5           Q.    With respect to any of your various job  
6   responsibilities since graduating from Notre Dame.

7           A.    I did pass my senior reactor operator  
8   license at Davis-Besse since graduating from Notre  
9   Dame, but I was going through that course work  
10   concurrently with my Master's in business  
11   administration.

12          Q.    Okay.  Anything else?

13          A.    Not since then.

14          Q.    Okay.  Have you had any training in  
15   economic dispatch modeling of power plants?

16          A.    Practical training.

17          Q.    And what kind of practical training?

18          A.    The dispatch group reports to me at  
19   FirstEnergy Solutions' generation dispatch.

20          Q.    Okay.  Are you familiar with the -- so  
21   the generation dispatch group at FirstEnergy  
22   Solutions reports to you you just said, right?

23          A.    Not directly but they are in my  
24   organization.

1           Q.    Okay.  And who do they report to  
2 directly?

3           A.    Jim Melody.

4           Q.    Okay.  And does Mr. Melody report to you?

5           A.    Yes.

6           Q.    And are they employed directly by -- if I  
7 refer to FirstEnergy Solutions as FES, will you  
8 understand what I mean?

9           A.    Yes, I will.

10          Q.    Okay.  All right.  Are they employed --  
11 are those -- is that group directly employed by FES?

12          A.    Yes.

13          Q.    Okay.  And they perform economic dispatch  
14 modeling of power plants?

15          A.    Our power plants, yes.

16          Q.    So if we could talk a little bit about  
17 the employment history described in your testimony.  
18 You stated that you served in several management  
19 positions in the nuclear power generation industry  
20 prior to joining FES in 2004; is that correct?

21          A.    Yes.

22          Q.    Okay.  And then when you joined FES, you  
23 took a management position at Davis-Besse; is that  
24 correct?

1 A. Yes.

2 Q. Okay. And then after initially starting  
3 work at Davis-Besse, you held a couple of other  
4 management positions at Davis-Besse specifically?

5 A. Yes.

6 Q. Okay. And then you were eventually named  
7 vice president of nuclear support for FirstEnergy  
8 Nuclear Operating Company; is that correct?

9 A. Yes.

10 Q. Okay. And if I refer to that company as  
11 FENOC, will you understand what I mean?

12 A. Yes, I will.

13 Q. Okay. Great. And when did you start  
14 working for FENOC?

15 A. Well, actually when I was hired in 2004,  
16 I was hired into FENOC at Davis-Besse, so I would say  
17 2004.

18 Q. Okay. So the entire -- so since 2004  
19 until you left to go to become president of Ohio  
20 Edison and Penn Power, you were employed by FENOC?

21 A. Yes.

22 Q. Okay. When -- when did you assume your  
23 position as vice president of nuclear support?

24 A. It was in the fall of, I believe, 2009.

1           Q.    Okay.  So you were in that position for  
2   about two years?

3           A.    A little under two years.

4           Q.    Okay.  And what were your specific  
5   responsibilities as vice president of nuclear  
6   support?

7           A.    I was responsible for the fleet  
8   organization, the fleet support organization of  
9   FENOC.

10          Q.    What is the fleet support organization?

11          A.    We would -- we were in charge of  
12   functional area managers, fleet operations manager,  
13   fleet maintenance manager, for example, and we would  
14   provide governance oversight and support for all  
15   three of the nuclear units in the FirstEnergy fleet.

16          Q.    Okay.  One thing I am a little hazy about  
17   is the relationship between FENOC and FES.  Do you  
18   have an understanding of how those two interact?

19          A.    Yes.

20          Q.    And what is their relationship exactly?

21          A.    Could you rephrase the question?

22          Q.    Okay.  So stepping back looking at, say,  
23   Davis-Besse specifically, there are employees of FES  
24   that are involved with Davis-Besse, correct?

1           A.    Yes.

2           Q.    Okay.  And then there are employees of  
3   FENOC who also have involvement with Davis-Besse.

4           A.    Yes.

5           Q.    Okay.  And how are those  
6   responsibilities, duties allocated between those two  
7   companies?

8           A.    FENOC is a subsidiary of FirstEnergy  
9   Generation as well as FirstEnergy Solutions, the  
10   global FirstEnergy Solutions.

11          Q.    Okay.  And is FENOC purely focused on the  
12   operation side of the nuclear units?

13          A.    Yes.

14          Q.    Okay.  So it doesn't have anything to do  
15   with the marketing of the power from Davis-Besse; is  
16   that correct?

17          A.    When you say "it," you mean FENOC.

18          Q.    Yes.

19          A.    That's correct.

20          Q.    Okay.  And then in 2011 you were  
21   appointed president of Ohio Edison and Penn Power,  
22   correct?

23          A.    Yes.

24          Q.    Okay.  And how long were you in that

1 position?

2 A. Again, a little under two years.

3 Q. Okay. When in 2011 were you appointed  
4 president of those companies?

5 A. I believe it was February.

6 Q. Okay. All right. And what were your  
7 specific responsibilities as president of Ohio  
8 Edison?

9 A. Well, it's the -- regional -- sorry, the  
10 operating company president for Ohio Edison and Penn  
11 Power so all of the line crews, all of the  
12 engineering, all of the meter readers, substation  
13 crews all reported up through me as well as our  
14 external affairs folks that supported FirstEnergy  
15 Solutions -- not Solutions, sorry, Ohio Edison and  
16 Penn Power.

17 Q. The external affairs did you say?

18 A. They are shared services employees but  
19 there were some that were assigned to Ohio Edison and  
20 Penn Power. We have area managers that support the  
21 local communities.

22 Q. Okay, okay. And how many employees were  
23 you supervising at Ohio Edison?

24 A. I don't know the exact number, but it was

1 around 1,400 employees --

2 Q. Okay.

3 A. -- between Ohio Edison and Penn Power.

4 Q. And as between those two separate  
5 companies, how many were specifically under the Ohio  
6 Edison umbrella?

7 A. It was around 1,100.

8 Q. Okay. All right. Are there any other  
9 responsibilities that you had as president of Ohio  
10 Edison that you haven't mentioned that you can think  
11 of?

12 A. None that I remember right now.

13 Q. Okay. And the 700ish employees that you  
14 were supervising as president of Ohio Edison, were  
15 they directly employed by Ohio Edison, or were they  
16 employed by another entity within the FirstEnergy  
17 corporate family?

18 A. They were employed by Ohio Edison.

19 Q. Okay. And how about the shared  
20 services -- the external affairs folks?

21 A. Those folks were shared services  
22 FirstEnergy employees.

23 Q. Okay. And those employees provided  
24 services to both Ohio Edison as well as other

1 companies within the FirstEnergy corporate family?

2 A. They have the capability to do that, but  
3 their primary role and function was to support Ohio  
4 Edison and Penn Power.

5 Q. Okay. And when you were president of  
6 Ohio Edison and Penn Power, who did you report to?

7 A. Dennis Chack.

8 Q. And who is he?

9 A. He's the president of Ohio Utilities.

10 Q. And who does he report to?

11 A. Mark Julian.

12 Q. And who is Mr. Julian?

13 A. I don't remember the exact title, but he  
14 is vice president for utility operations.

15 Q. Okay.

16 A. Something along those lines.

17 Q. In -- what's your current title within  
18 FirstEnergy Corporation?

19 A. Vice president commodity operations.

20 Q. Okay. And you're directly employed by  
21 FES; is that correct?

22 A. Yes.

23 Q. Okay. And that's a company from which  
24 you receive a paycheck?

1 A. Yes.

2 Q. Okay. And you began serving in that  
3 position in October, 2012?

4 A. Yes.

5 Q. Okay. Now, in your testimony you state  
6 that you're responsible for fossil fuel and related  
7 commodities, generation dispatch, energy market  
8 transactions, retail load forecasting, retail  
9 structuring and pricing, and the wholesale  
10 transaction functions of FES; is that correct?

11 A. Yes.

12 Q. Okay. And what are your specific  
13 responsibilities with respect to fossil fuel and  
14 related commodities?

15 A. Jim Melody is the vice president of -- of  
16 fuel and unit dispatch, and his group procures the  
17 fossil fuel to support our generation fleet.

18 Q. And Mr. Melody reports to you?

19 A. As I said earlier, yes.

20 Q. All right, all right. So that means that  
21 you're essentially responsible for procuring the coal  
22 supplies for the Sammis plant; is that correct?

23 A. Yes.

24 Q. Okay. Are you personally involved in

1 negotiating those contracts?

2 A. From time to time, yes.

3 Q. But not always?

4 A. Not always.

5 Q. Okay. And in what circumstances would  
6 you be -- would you get involved in the negotiation  
7 of those contracts?

8 A. If it was a significant involvement or a  
9 significant dollar amount associated with the  
10 contract or if it was contentious enough to raise to  
11 a higher level in the organization for the final --  
12 final negotiation, then I would be involved.

13 Q. Okay. Do you have any responsibility for  
14 procuring fuel for the OVEC plants?

15 A. No.

16 Q. Okay. And when FirstEnergy ultimately  
17 approves a coal supply contract, are you the one who  
18 provides the final sign off?

19 A. No.

20 Q. Okay. Who is that?

21 A. Jim Melody.

22 Q. So if you were going to get involved in  
23 the negotiation of a coal supply contract, that --  
24 that would purely be in an advisory role because Jim

1 Melody would be the one who makes the final decision;  
2 is that correct?

3 A. No.

4 Q. And why is that not correct if Mr. Melody  
5 has --

6 A. It's advisory but also Mr. Melody reports  
7 to me so I would want to authorize the final say in  
8 whether that contract was acceptable or not.

9 Q. Okay. So ultimately you have final sign  
10 off as opposed to Mr. Melody; is that correct?

11 A. Mr. Melody signs the contract, but he  
12 confers with me.

13 Q. Okay. So he signs the contract, but you  
14 have to approve it.

15 A. His signature is approval.

16 Q. Okay.

17 A. But I confer with Mr. Melody, and he  
18 reports to me.

19 Q. Okay. And you have an understanding  
20 generally speaking without getting -- so, yeah.

21 Strike that.

22 Not getting into any specifics of where  
23 the coal is sourced from but you have an  
24 understanding of where the coal is sourced from for

1 the Sammis plant; is that correct?

2 A. Yes.

3 Q. Okay. And you're responsible for  
4 managing the fuel supplies for FES's natural gas  
5 generation; is that correct?

6 A. Yes.

7 Q. Okay. And which generation assets are  
8 those?

9 A. There's the Springdale combined cycle  
10 unit which is most of the work as far as operation as  
11 a baseload-type unit, close to it anyway. And  
12 then -- go down the list. There's Springdale 1 and  
13 2. There is Chambersburg. There's Gans. There's  
14 Hunlock. There's Buchanan. There's -- and you just  
15 wanted natural gas, right?

16 Q. Right.

17 THE WITNESS: Could you read back the  
18 ones I've said so far? I want to make sure. Quite  
19 the laundry list.

20 (Record read.)

21 A. Gans and West Lorain is natural gas  
22 capable, but it runs on oil right now because the gas  
23 infrastructure won't support natural gas to it.

24 Q. Okay. And where is that unit located?

1           A.    A little west of Cleveland.

2           Q.    Okay.  And does Mr. Melody negotiate  
3 those contracts or does someone else?

4           A.    Someone else.

5           Q.    Okay.  And who is that?

6           A.    That's Dave Frederick.

7           Q.    Okay.  And does he have the final sign  
8 off approval for entering into those contracts?

9           A.    I don't know if he is the one who signs  
10 them or if Jim Melody signs those.

11          Q.    Okay.  But Mr. Melody is not involved in  
12 negotiating the gas contracts.

13          A.    The tactical day-to-day to align gas for  
14 our units is through Dave Frederick's group who  
15 report to Jim Melody.

16          Q.    Okay.  Got it.  Do you have any other  
17 responsibilities with respect to fossil fuel and  
18 related commodities?

19          A.    Purchase of reagents to support the  
20 fossil plants and then transportation of fossil fuel  
21 and reagents to the plants as well.

22          Q.    And do you negotiate the reagent purchase  
23 contracts?

24          A.    My group does.  I don't personally.

1           Q.    Okay.  And how about the transportation  
2   contracts?

3           A.    My group does but I don't personally.

4           Q.    Okay.  And you're also responsible for  
5   generation dispatch; is that correct?

6           A.    Yes.

7           Q.    What are your specific responsibilities  
8   with respect to dispatch?

9           A.    Through Jim Melody's organization we have  
10   a dispatch desk that offers our generating units into  
11   the day-ahead market at PJM and also handles realtime  
12   desk operations to dispatch the units in accordance  
13   with signals from PJM.

14          Q.    Okay.  And are you responsible for the --  
15   are you ultimately responsible for the dispatch of  
16   all of FES's generating units?

17          A.    Yes.

18          Q.    Are you responsible for deciding whether  
19   or not to offer generating units into the PJM energy  
20   market?

21          A.    Could you rephrase that question?

22          Q.    Sure.  So I'm trying to get a sense of  
23   with respect to the generation dispatch  
24   responsibilities that you have if you're involved in

1 the marketing side of that power or if it's related  
2 purely to the operational side of, you know, ramping  
3 up or ramping down a unit per PJM's instructions.

4 A. I would say it's both.

5 Q. Okay.

6 A. All right. Because there is a must offer  
7 requirement into the market unless you are in a  
8 forced outage, for example, so, I mean, we offer our  
9 units that are capable of performing into the market  
10 every day.

11 Q. Okay, okay. And people under your  
12 responsibility -- people under your supervision offer  
13 those units into the day-ahead energy market; is that  
14 correct?

15 A. Yes.

16 Q. And the realtime market?

17 A. Occasionally, depending upon the status  
18 of the market. If we are uncertain if it will be  
19 there for the day-ahead offer, we'll take realtime.

20 Q. Okay. So would it be fair to say in  
21 general terms you understand how generating units are  
22 dispatched into PJM?

23 A. Yes.

24 Q. And, you know, I am not asking for an

1 opus but just sort of general terms how are units  
2 dispatched into PJM?

3 A. Oh, boy, that can be quite extensive but  
4 what I would say is they can either be offered in  
5 economically, or they can be offered as a must run,  
6 and based upon your offer, your price, or your cost  
7 offer, and the reliability needs of the market that  
8 date as determined by PJM will determine which units  
9 run and which units don't or what signals they get  
10 from PJM as to whether they should be running up or  
11 running down and output.

12 Q. Okay. Thank you.

13 A. Was that succinct enough for you?

14 Q. No, that was -- that was one of the best  
15 explanations I've heard. Is it your understanding  
16 that in actual practice units are dispatched on an  
17 hourly basis?

18 A. Yes, but we look at them on an integrated  
19 basis too from an economic standpoint.

20 Q. And what do you mean by "an integrated  
21 basis"?

22 A. We'll take a seven-day look at a unit and  
23 see if it's economic over seven days. There may be  
24 some hours when it's not economic, but over that

1       seven-day timeframe, it's more economic to run it  
2       through those couple of hours of uneconomic operation  
3       in general.

4             Q.    Okay.  So you take -- you take a  
5       seven-day snapshot generally speaking when deciding  
6       how to make offers into PJM?

7             A.    Yes.

8             Q.    Okay.  But PJM itself, when it's making  
9       the ultimate dispatch decisions, does that on an  
10      hourly basis; is that correct?

11            A.    If it's economically offered into the  
12      market, yes.

13            Q.    As opposed to must run?

14            A.    Correct.

15            Q.    Okay.  And leaving aside reliability  
16      issues or, you know, transmission constraints, PJM  
17      will dispatch the available unit that has the lowest  
18      variable operating cost; is that correct?

19            A.    No.

20            Q.    And why is that not correct?

21            A.    A must-run unit will be dispatched as  
22      well, may be dispatched at its minimum but it will be  
23      dispatched as well.

24            Q.    So if we -- let's carve out for a moment

1 must-run units which I know that could be a big carve  
2 out.

3 A. Could be a significant portion of the  
4 market.

5 Q. With respect to units that are offered  
6 economically --

7 A. Yes.

8 Q. -- does PJM dispatch those based on the  
9 one that has the lowest variable operating cost?

10 A. Yes.

11 Q. Okay. And do you think it's fair to say  
12 in general the dispatch of different generating units  
13 into PJM is affected by the costs of other generating  
14 units on the grid?

15 A. No.

16 Q. And why is that wrong?

17 A. It's affected by their fuel cost, their  
18 variables costs, and where they line up on the supply  
19 stack. Then it becomes based on their costs relative  
20 to other operating units on the grid.

21 Q. Okay. So apart from -- so we have the  
22 aspect of a unit's own variable operating costs,  
23 right?

24 A. Yeah.

1           Q.    But if you have unit A that has a  
2           variable operating cost of X and then you have unit B  
3           that has a variable operating cost of X plus 1, and  
4           PJM is looking at both of those units, I recognize  
5           this is a very -- very, very simplified hypothetical,  
6           whether unit 1 gets dispatched or not will depend on  
7           part of what the costs of unit 2 are, correct?

8           A.    Ignoring must-run status, ignoring  
9           production tax credits that may come into play,  
10          ignoring all those other market realities, yes.

11          Q.    Okay. Those are good caveats.

12          A.    Because it's how the market works.

13          Q.    And with respect to FES's generating  
14          units, the dispatch of those units into PJM is  
15          because of the market affected by the costs and  
16          conditions of units outside of the FES fleet,  
17          correct?

18          A.    Oh, yes.

19          Q.    Okay. Again, without delving into  
20          specifics of bid strategy, to be sensitive of  
21          confidentiality and related issues, do you make  
22          decisions about whether FirstEnergy -- about whether  
23          FES's units are bid into the capacity market?

24          A.    Yes. Well, no, because unless you put in

1 a deactivation notice, you have a must offer  
2 requirement into the capacity market, so short of  
3 deactivating a unit, you don't really have a choice.

4 Q. What about with respect to the capacity  
5 auctions, like the base residual auction, are you  
6 responsible for those bids?

7 A. Yes, those offers.

8 Q. Okay. And what are your specific  
9 responsibilities with respect to retail load  
10 forecasting and retail structuring and pricing?

11 A. We have in my organization a load  
12 forecasting group that -- that projects based upon  
13 the load we serve every day into PJM what that load  
14 is going to be because you have to not only offer  
15 your load but offer your generation as well. And so  
16 that's load forecasting.

17 And then from a structuring and pricing  
18 standpoint, we develop all the costing as well as all  
19 the margin associated with retail offers that we put  
20 in front of retail customers for the sales force.

21 Q. Okay. And you also have responsibility  
22 for wholesale transactions; is that correct?

23 A. Yes.

24 Q. And what are those specific

1 responsibilities?

2 A. We will sell or purchase wholesale blocks  
3 of power to balance our energy position serving our  
4 load and balancing off our actual generation that we  
5 control as well.

6 Q. Okay. Apart from our discussion over the  
7 past couple of minutes here, do you have any other  
8 job responsibilities in your current position?

9 A. There's always other duties as assigned.  
10 But with respect to this situation, no, none that I  
11 can think of right now.

12 Q. Okay. And how many FirstEnergy employees  
13 do you currently supervise?

14 A. About 83.

15 Q. 83, okay. And those are all FES  
16 employees, correct?

17 A. Yes.

18 Q. All right. And who within FirstEnergy  
19 Corporation do you report to?

20 A. Donald Schneider.

21 Q. Donald Schneider who is the president of  
22 FES, correct?

23 A. Yes.

24 Q. And who does Mr. Schneider report to?

1           A.    Mr. Schneider reports to Leila Vespoli  
2    who is the -- I believe her title is executive vice  
3    president of markets and chief legal officer.

4           Q.    And Ms. Vespoli, do her responsibilities  
5    only pertain to FES or other parts of the FirstEnergy  
6    corporate family?

7           A.    Hers are broader than just FES.  There  
8    are other parts of the FirstEnergy corporate family.

9           Q.    Okay.  In your current job do you do any  
10   work for Ohio Edison Company?

11          A.    No.

12          Q.    Okay.  Do you receive any compensation  
13   from Ohio Edison Company?

14          A.    No.

15          Q.    Okay.  Do you provide any services to  
16   Ohio Edison Company?

17          A.    No.

18          Q.    And you don't report to anyone at Ohio  
19   Edison?

20          A.    No.

21          Q.    And no one from Ohio Edison currently  
22   reports to you?

23          A.    That's correct.

24          Q.    Do you communicate any -- excuse me.

1 Strike that.

2 Do you communicate with any employees of  
3 Ohio Edison Company?

4 A. In what capacity?

5 Q. In your role at FES.

6 A. No.

7 Q. Okay. So if you had any conversation  
8 with an employee of an Ohio Edison Company, that  
9 would be because you were in a community group  
10 together or some nonwork-related function.

11 A. Right, yeah. I don't stop talking to the  
12 people that used to work at Ohio Edison.

13 Q. Yeah, yeah. No. That would be a little  
14 weird.

15 A. Yeah.

16 Q. How about Cleveland Electric  
17 Illuminating, do you do any work for them?

18 A. No.

19 Q. Do you receive any compensation from  
20 them?

21 A. No.

22 Q. Okay. Do you provide any services to the  
23 Cleveland Electric Illuminating Company?

24 A. No.

1           Q.   And you don't report to anyone at the  
2 company?

3           A.   No.

4           Q.   All right. And no one at that company  
5 reports to you?

6           A.   That's correct.

7           Q.   Okay. And with respect to  
8 FirstEnergy-related business do you communicate with  
9 anyone from The Cleveland Electric Illuminating  
10 Company?

11          A.   No.

12          Q.   All right. I'm sure you can guess what I  
13 am going to ask next.

14          A.   It might have something to do with  
15 Toledo.

16          Q.   Very good guess. Do you do any work for  
17 The Toledo Edison Company?

18          A.   No.

19          Q.   And do you receive any compensation from  
20 Toledo Edison Company?

21          A.   No.

22          Q.   All right. Do you provide any services  
23 to Toledo Edison Company?

24          A.   No.

1           Q.   And you don't report to anyone at Toledo  
2 Edison?

3           A.   No.

4           Q.   And no one at Toledo Edison reports to  
5 you.

6           A.   That's correct.

7           Q.   And you don't communicate with anyone  
8 from Toledo Edison with respect to  
9 FirstEnergy-related business.

10          A.   That's correct.

11          Q.   Okay. And just for the record in your  
12 appearance today you are appearing on behalf of those  
13 three companies; is that correct?

14          A.   Yes.

15          Q.   Okay. Not on behalf of FES.

16          A.   I'm employed by FES, but I am on behalf  
17 of the companies.

18          Q.   Okay. Thank you. Are you familiar with  
19 the regulated generation group within FirstEnergy  
20 Corporation?

21          A.   Yes.

22          Q.   And do you know who the director of that  
23 group is?

24          A.   The director, I believe that's Jay

1 Ruberto.

2 Q. Okay. And in your current position do  
3 you communicate with Mr. Ruberto?

4 A. Rarely, if ever.

5 Q. Okay. Do you communicate with any other  
6 employees from the regulated generation group?

7 A. Jim Haney I see from time to time.

8 Q. Okay. And what do you discuss with  
9 Mr. Haney when you see him from time to time?

10 A. Could you be more specific? What are you  
11 looking for?

12 Q. Apart from a casual encounter with  
13 Mr. Haney, do you meet with him?

14 A. We -- we are on some committees together  
15 from time to time, and I'll see him in our generation  
16 study team.

17 Q. Okay. Do you discuss the marketing or  
18 dispatch of generating units with Mr. Haney?

19 A. No.

20 Q. Okay. In your current position do you do  
21 any work for the FirstEnergy Service Company?

22 A. No.

23 Q. Okay. And you don't receive any  
24 compensation from the service company.

1 A. No.

2 Q. And you don't report to anyone at  
3 FirstEnergy service company.

4 A. No. I report to Don Schneider.

5 Q. Okay. And no one from the service  
6 company reports to you, correct?

7 A. That's correct.

8 Q. All right. Do you communicate with any  
9 employees of the service company?

10 A. Yes.

11 Q. I suspect that would be hard to avoid.

12 A. Right.

13 Q. And who -- who do you communicate with  
14 from the service company?

15 A. Well, our legal support --

16 Q. Okay.

17 A. -- is from the service company. Some of  
18 the markets support is through the service company.  
19 Some of the external affairs folks I keep in contact  
20 with that are from the service company as well.

21 Q. And I'm sorry. I think you told me this  
22 before, but could you explain again the external  
23 affairs folks, what are their responsibilities?

24 A. It varies. There is different parts of

1 the group. Some are local affairs. Some are federal  
2 and -- federal affairs in Washington, D.C. So --

3 Q. So generally speaking relationships with  
4 entities outside of FirstEnergy Corp.

5 A. Yes.

6 Q. Okay. Got it. Just like the name  
7 sounds.

8 A. Right.

9 Q. Are you familiar with the business  
10 development department at FirstEnergy Corporation?

11 A. Yes.

12 Q. Okay. And does that department provide  
13 any services to FES?

14 A. Yes.

15 Q. Okay. And what services?

16 A. They will do asset evaluations, both  
17 considering whether we want to purchase something or  
18 whether we want to sell something, and they also are  
19 the keepers of our long-term price forecast.

20 Q. And when you say "our long-term price  
21 forecast," you mean FES's.

22 A. Yes.

23 Q. Do you know whether or not the business  
24 development department provides services to the

1 regulated generation group?

2 A. I don't know.

3 Q. Okay. When you say "asset evaluation,"  
4 are you referring to plants specifically or other  
5 types of assets?

6 A. Really it's mostly plants, but it could  
7 be other types of assets as well, right? We own a  
8 Norton facility which is a compressed air storage  
9 potential location. That's something that the  
10 business development team would evaluate. It's not a  
11 plant.

12 Q. Okay. So apart from asset evaluations  
13 and the long-term price forecast, does business  
14 development provide any other services to FES?

15 A. They support us on some of our purchases  
16 of RECs.

17 Q. And, I'm sorry, RECs are renewable --

18 A. Renewable energy credits, yes.

19 Q. Okay. Anything else?

20 A. Not that I can remember right now.

21 Q. Okay. And who is the head of the  
22 business development group?

23 A. That's Dave Pinter.

24 Q. Okay. And do you have -- do you have a

1 sense of generally speaking what types of expertise  
2 that department has?

3 A. Economic modeling.

4 Q. Okay. Does business development do all  
5 the economic modeling for FES?

6 A. No.

7 Q. Okay. Who else does modeling for FES?

8 A. We do some of it internally.

9 Q. Okay. And are you referring to dispatch  
10 modeling when you refer to modeling or broader?

11 A. Broader than that.

12 Q. Okay. And what else would that include?

13 A. It could include gas market modeling.

14 Q. Okay. Anything else?

15 A. Energy market modeling.

16 Q. Okay, okay.

17 A. Things that are relevant to our commodity  
18 business.

19 Q. Okay. Thank you. Any other modeling  
20 beyond what you just mentioned?

21 A. It would be on a case-by-case basis. We  
22 have some folks with strong analytical capabilities  
23 in FirstEnergy Solutions so there are times when we  
24 will ask them to do modeling for emergent issues that

1       come up.

2               Q.    Okay.  If we could talk for a minute  
3       about those long-term price forecasts.

4               A.    Sure.

5               Q.    So apart from anything related to this  
6       proceeding, FES has a long-term price for --  
7       long-term energy price forecast, correct?

8               A.    Yes.

9               Q.    Okay.  And a capacity price forecast?

10              A.    Yes.

11              Q.    Okay.

12              MR. SOULES:  Just to allay any worries I  
13       am not going to ask any specific numbers.

14              MR. LANG:  Okay.

15              MR. SOULES:  I am trying to be very  
16       cognizant.

17              A.    Yes.  Those are highly proprietary.

18              Q.    Yes, yes, I understand.  And who  
19       specifically prepares those forecasts?

20              A.    I don't know.

21              Q.    Okay.

22              A.    It's housed in business development, but  
23       I don't know who specifically calculates them.  I  
24       know some are internal and some are externally

1       sourced through Dave Pinter's group.

2               Q.    Okay.  But the price forecasts are  
3       prepared by business development, not by FES itself,  
4       correct?

5               A.    That's correct.

6               Q.    And do you know what those price  
7       forecasts are used for?

8               A.    Yes.

9               Q.    And what are they used for?

10              A.    A variety of things.

11              Q.    Okay.  Can you give me some examples?

12              A.    Valuation of units in our -- in our  
13       fleet, valuation of assets that we're considering to  
14       purchase.

15              Q.    Okay.

16              A.    Any number of things.  If it interfaces  
17       with a commodity market, that would be at least one  
18       of the inputs into its valuation.

19              Q.    Okay.  And FES uses these price forecasts  
20       for generation dispatch modeling as well; is that  
21       correct?

22              A.    We do sometimes, yes.

23              Q.    Okay.  Under what circumstances do you  
24       use those forecasts for modeling purposes?

1           A.    For a long-term dispatch.  Generation  
2   dispatch modeling is something we do on a daily basis  
3   seven days, pretty short-term stuff.

4           Q.    Right.  But if you are doing the  
5   long-term forecast, then you would use these price  
6   projections.

7           A.    Yes, something beyond four years where  
8   you have visibility to energy future prices.

9           Q.    Okay.  So the price forecast extends  
10   beyond four years; is that correct?

11          A.    Yes.

12          Q.    Okay.  Do you know how far out they  
13   extend?

14          A.    No.

15          Q.    Do you know if they extend out beyond 10  
16   years?

17          A.    Yes.

18          Q.    And they do?

19          A.    Yes.

20          Q.    Okay.  Do you know if they extend out  
21   beyond 15 years?

22          A.    I'm not positive but I believe they do.

23          Q.    Okay.  With respect to the sort of  
24   longer-term analyses that FES performs, how

1 frequently are those analyses performed?

2 A. Not very frequently.

3 Q. Okay. Can you give me a ballpark figure?

4 A. It would be event based, right, on a  
5 case-by-case basis.

6 Q. They are not regularly updated?

7 A. The business development group regularly  
8 updates their price forecasts, but I don't know what  
9 kind of a cadence or what regular schedule they are  
10 on to reevaluate assets, for example.

11 Q. Okay. Do you know when the price  
12 forecasts were most recently updated?

13 A. Within the last year.

14 Q. Can you be more specific?

15 A. I can't remember off the top of my head.

16 Q. Okay. But they are fairly current it's  
17 fair to say.

18 A. Yes.

19 Q. Do you know, is there only one set of  
20 price projections? Are there multiple sets of  
21 projections?

22 A. There are different projections for  
23 different commodities but there is really one  
24 long-term price forecast and there are different

1 views depending upon what your belief is the way the  
2 economy is going to go. So there's a range of  
3 outputs that could be -- could be determined based on  
4 a long-term price forecast based on your view what  
5 the future holds.

6 Q. Okay. So if you -- if FES were  
7 interested in doing some kind of long-term revenue  
8 analysis, business development would be capable of  
9 giving you, say, a case based upon a higher energy  
10 price as well as a case based upon a lower energy  
11 price; is that correct?

12 A. They would give us a range basically.

13 Q. Okay. Do you have a sense of how many  
14 different -- how -- strike that.

15 And is it the same situation with respect  
16 to capacity prices where business development would  
17 be capable of giving you a range of?

18 A. I don't know.

19 Q. Okay. But certainly for energy prices.

20 A. Yeah.

21 Q. Apart from the work that business  
22 development does in terms of long-term forecasting,  
23 am I correct that FES itself does some long-term  
24 forecasting as well internally?

1           A.    No.

2           Q.    Okay.  So anything that's far forward  
3 looking you would go to business development.

4           A.    Yes.

5           Q.    Okay.  Does FES ever commission any  
6 outside parties to do forecasts?

7           A.    Not forecasts.

8           Q.    Okay.  How about to do modeling, dispatch  
9 modeling?

10          A.    Yes.

11          Q.    Okay.  And what circumstances?

12          A.    Associated with capacity market  
13 evaluations but it's not a specific dispatch model.

14          Q.    Okay.  All right.

15          A.    Also for hedging analysis determining  
16 what our right balance of -- of sales channels should  
17 be for our portfolio, portfolio management.  We  
18 engage outside support for some of that as well  
19 because we don't have the capability internally.

20          Q.    But none of that outside work involves  
21 modeling the dispatch of generating units; is that  
22 correct?

23          A.    The portfolio analysis would have a  
24 sample dispatching associated with it that feeds into

1       it.

2               Q.    Okay.

3               A.    But it's not a specific output that says  
4       this is what you are going to dispatch.

5               Q.    Okay.  And FES also has long-term CO-2  
6       price forecasts as well; is that correct?

7               A.    Business development would support us  
8       with anything that's long term.  Some of these  
9       markets are kind of emerging right now with CASPR  
10      showing up again so.

11              Q.    Right.

12              A.    A lot of that is factored into the  
13      long-term price forecast already, the cost of CO-2,  
14      for example.

15              Q.    Okay.  And business development would  
16      maintain any CO-2 price forecast on FES's behalf,  
17      correct?

18              A.    Yes.

19              Q.    Okay.  And with respect to the CO-2  
20      prices, is it the kind of situation where business  
21      development would be able to give you a high CO-2  
22      case and low CO-2 case if you were doing a long-term  
23      revenue analysis?

24              A.    I don't know if they have got a high or

1 low. I know they have it factored in.

2 Q. Okay. And do you know how far out those  
3 price forecasts extend?

4 A. Not specifically but as we went through  
5 the ladder before, greater than 15 years.

6 Q. Okay, okay. And how about with respect  
7 to future coal prices, does business development have  
8 a set of price projections for coal?

9 A. I don't know. We'll use industry indices  
10 for that.

11 Q. Okay. Can you give me an example of an  
12 industry index?

13 A. BOYD has price forecasts.

14 Q. All right.

15 A. ICE has price forecasts for coal.

16 Q. And I guess to clarify the CO-2 price  
17 that we were talking about a moment ago, business  
18 development has its own -- has a separate projected  
19 CO-2 price; is that correct?

20 A. I don't know if it's separate or if it's  
21 included in their long-term price forecast.

22 Q. And when you say long-term price  
23 forecast, you mean long-term energy price forecasts.

24 A. Yes.

1           Q.    You know business development factors in  
2   the CO-2 prices; you don't know if they disaggregate  
3   that into --

4           A.    Correct.

5           Q.    Okay. Got it. Thank you. Are you  
6   familiar with the proposed agreement under which FES  
7   would sell its capacity, energy, and ancillary  
8   services to Ohio Edison Company, Cleveland Electric  
9   Illuminating Company, and Toledo Edison Company?

10          A.    Yes.

11          Q.    Okay. And the assets that would be the  
12   subject of the proposed agreement, the Sammis plant,  
13   the Davis-Besse plant, and FES's share of the OVEC  
14   plants, correct?

15          A.    Yes.

16          Q.    Okay. If I refer to that proposed  
17   agreement as the proposed transaction, will you  
18   understand what I mean?

19          A.    Yes, I will.

20          Q.    Okay. Great. And if I refer to our  
21   little trio of -- actually big trio of utilities as  
22   the companies, will you understand what I mean?

23          A.    Yes, I will.

24          Q.    Great. Do you know whether or not FES

1 and the companies have executed a final purchase  
2 power agreement for this proposed transaction?

3 A. We have not. We have a term sheet.

4 Q. Okay. And the companies and FES have not  
5 yet put together a draft of the PPA, correct? They  
6 only have the term sheet; is that correct?

7 A. That's correct.

8 Q. Okay. All right. Are you familiar with  
9 the economic stability program that the companies  
10 proposed to the Commission?

11 A. Yes.

12 Q. Okay. And what is that generally  
13 speaking as you understand it?

14 A. It's an update or a renewal of our  
15 previous economic -- economic stability program, and  
16 it also includes rider RRS which is associated with  
17 the transaction that you mentioned previously.

18 Q. Okay. So rider RRS and the proposed  
19 transaction are the two components of the economic  
20 stability program; is that accurate?

21 A. Yes.

22 Q. Okay.

23 (EXHIBIT MARKED FOR IDENTIFICATION.)

24 Q. You have been passed a document that's

1       been marked as Exhibit 1. This document was attached  
2       to a discovery response entitled IEU Set 1-INT-25,  
3       and the document is entitled IEU Set 1-INT-25  
4       Attachment 1. Are you familiar with this document?

5             A. Yes.

6             Q. Okay. What is this document?

7             A. This is the term sheet.

8             Q. The term sheet we just discussed.

9             A. Yes.

10            Q. And do you know whether or not the  
11       economic stability program is based upon this  
12       particular term sheet?

13            A. I know the transaction that's proposed is  
14       based upon this term sheet.

15            Q. Okay. And with respect to the economic  
16       stability program that the companies are seeking from  
17       the -- seeking Commission approval for, do you know  
18       whether or not that proposed transaction, which is  
19       based on this term sheet, is assumed to be a part of  
20       that?

21            MR. LANG: Objection to the form but go  
22       ahead.

23            A. Yes.

24            Q. It is. Okay. And rider RRS was

1 developed based upon this term sheet; is that  
2 correct?

3 A. I don't know.

4 Q. Okay. Would rider RRS exist independent  
5 of a purchase power agreement between FES and the  
6 companies?

7 A. No.

8 Q. Okay. But you don't know whether or not  
9 this specific term sheet provided the basis for rider  
10 RRS?

11 A. I believe this term sheet supports the  
12 proposed transaction in front of us. That's what I  
13 know.

14 Q. Okay. Fair enough. Do you know when the  
15 term sheet was finalized?

16 A. Late July, early August.

17 Q. Okay. And do you know whether or not  
18 this is the most recent version of the term sheet?  
19 And if you need a few minutes to scan it, that's  
20 fine.

21 A. I scanned the pages. They look to be  
22 correct. The sections are all correct. I would have  
23 to read through it though to be sure if -- if there  
24 were any changes between what you've got here and

1       what the final version was.

2               Q.    Okay.  Well, we will spare you that.

3               A.    Okay.  I have a high degree of confidence  
4       that it's the final version and that we presented it  
5       to you as an INT so.

6               Q.    Okay.  All right.  Fair enough.  Thank  
7       you.  And has anyone from FES approved this term  
8       sheet?

9               A.    Yes.

10              Q.    And who is that?

11              A.    Don Schneider.

12              Q.    All right.  So we can set this aside for  
13       the time being.  We will come back to it a little bit  
14       later.

15              A.    Okay.

16              Q.    So kind of stepping back to the proposed  
17       transaction more generally, is it FES that made the  
18       initial proposal to the companies; is that correct?

19              A.    Yes.

20              Q.    Okay.  And with respect to the very first  
21       proposal overture that was made, who was involved in  
22       developing that proposal?

23              A.    I had a conversation with Jim Haney.

24              Q.    Okay.  And that was the first

1 communication with the companies about the proposed  
2 transaction.

3 A. Yes.

4 Q. Okay. Before you went to Mr. Haney, did  
5 you discuss this proposal with anyone at FES?

6 A. Yes.

7 Q. And who was that?

8 A. Donny Schneider.

9 Q. Okay.

10 A. Kelley Mendenhall and in my organization  
11 Kevin Warvell.

12 Q. Kevin Warvell?

13 A. Yes.

14 Q. And Kelley Mendenhall, that's a woman,  
15 right?

16 A. Yes.

17 Q. All right. What is Ms. Mendenhall's  
18 position at FirstEnergy?

19 A. Right now, I don't recall her title, but  
20 she transitioned from FirstEnergy Solutions which is  
21 where she was at the time.

22 Q. Okay.

23 A. And she's now in the market policy group.

24 Q. Is that part of FirstEnergy Service

1 Company?

2 A. Yes.

3 Q. Okay. And Kevin Warvell?

4 A. Warvell.

5 Q. Warvell, he works for you?

6 A. Yes.

7 Q. And what does his job involve?

8 A. He's the vice president of commercial  
9 operations structuring and pricing.

10 Q. So does that relate to retail pricing?

11 A. Also -- also the wholesale functions of  
12 the organization and a lot of the analytics that we  
13 mentioned earlier.

14 Q. Okay. Apart from those three  
15 individuals, was there anyone else you discussed this  
16 proposal with at FES?

17 A. No.

18 Q. Okay. And, I'm sorry, Miss Mendenhall's  
19 position at the time this proposal was made was what?

20 A. She was one of the -- she was vice  
21 president of -- her title changed a couple of times,  
22 but it was retail ops and strategy.

23 Q. Okay. And did she report to you?

24 A. No.

1 Q. Did she report to Don Schneider?

2 A. Yes.

3 Q. Are you -- at the time were the two of  
4 you kind of at the same --

5 A. We're peers.

6 Q. Okay. All right. And when you say  
7 strategy was part of her job responsibility, what do  
8 you mean by strategy?

9 A. It was associated with market strategies  
10 and our interface with states to advocate the FES  
11 position.

12 Q. Okay. So kind of -- so partially kind of  
13 an external affairs role?

14 A. Not really. I mean, interfaced with  
15 external bodies but it wasn't -- it wasn't about  
16 relationship management.

17 Q. Okay. And who has that position now now  
18 that Ms. Mendenhall has left?

19 A. It was eliminated.

20 Q. Eliminated, okay. Cutbacks?

21 A. Yes.

22 Q. And did you -- were you the one who first  
23 came up with the idea of doing a purchase power  
24 agreement for the companies?

1           A.    Yes.

2           Q.    Okay.  How -- how did you come up with  
3   that idea?

4           A.    Well, in late December of 2013, we saw  
5   what AEP had filed and used that as a foundation and  
6   had some conversations about how we might be able to  
7   structure something that would make sense for the  
8   customers of Ohio as well as FirstEnergy Solutions.

9           Q.    And when you say we had some  
10   conversations, you mean the four of you internal at  
11   FES.

12          A.    Correct.

13          Q.    All right.  Did you discuss this idea  
14   with anyone at AEP?

15          A.    No.

16          Q.    Okay.  Anyone at Duke Energy?

17          A.    No.

18          Q.    Okay.  So that was in December, 2013,  
19   that AEP made its filing, right?

20          A.    Yes.

21          Q.    Is this something that was being  
22   discussed internal at FES for a five -- four- or  
23   five-month period?

24          A.    Could you be more specific when are you

1       talking about?

2               Q.   Well, how long were there conversations  
3       internal at FES regarding coming up with something?

4               A.   Really from the first of the year  
5       basically after the holidays until I approached  
6       Mr. Haney in early May.

7               Q.   Okay, okay. And did you -- apart from  
8       the three people that we just discussed,  
9       Ms. Mendenhall, Mr. Schneider, and Mr. Warvell, was  
10      there anyone else within the FirstEnergy corporate  
11      family that you discussed the proposal with prior to  
12      going to Mr. Haney?

13              A.   Legal counsel.

14              Q.   Okay. Anyone else besides that?

15              A.   No.

16              Q.   Okay. And why was FES interested in  
17      making this proposal to the companies?

18              A.   Well, from my testimony basically there's  
19      transition in the markets. The future of some of  
20      these generating units is in doubt. So while we see  
21      some upside in the out years based on the construct,  
22      we would be trading certainty for that timeframe to  
23      provide that upside to customers and that protection  
24      to customers against rising prices based on the

1 experience of January, 2014. We thought it was a  
2 fair tradeoff.

3 Q. Okay. And when you say the experience of  
4 January, 2014, are you referring to the polar  
5 vortex --

6 A. Yes.

7 Q. -- and the subsequent winter conditions?

8 A. And the subsequent runup in energy  
9 prices.

10 Q. Okay. Were there -- apart from what you  
11 just mentioned were there any other reasons why FES  
12 wanted to enter into the proposed transaction?

13 A. No.

14 Q. Okay. But at the heart of it was a  
15 concern about, you know, Sammis, Davis-Besse from an  
16 economic -- or a profitability perspective they  
17 weren't looking good in the near term.

18 A. There was uncertainty in the near term.

19 Q. Okay. And you were willing to get some  
20 certainty for the near term. You were willing to  
21 trade that for the hundreds of millions of dollars  
22 you -- these plants are projected to make in the out  
23 years; is that correct?

24 A. Yes.

1           Q.    Okay.  And you said it was in early May,  
2   2014, when you approached Mr. Haney?

3           A.    Yes.

4           Q.    And was that a phone call, a meeting,  
5   some other communication?

6           A.    Verbal conversation, I believe it was a  
7   phone call.

8           Q.    Okay.  And what did you propose to him at  
9   that time?

10          A.    I proposed to him up to all of the  
11   FirstEnergy Solutions' plants.

12          Q.    Did you set out a proposed timeframe for  
13   this purchase power agreement?

14          A.    Not at the time.

15          Q.    Okay.

16          A.    It was more of a conceptual discussion.

17          Q.    Do you remember, was there anything else  
18   that you discussed during that phone call?

19          A.    No.

20          Q.    Okay.  Do you know how long the phone  
21   call lasted?

22          A.    No.

23          Q.    Okay.

24          A.    But it wasn't long.

1           Q.    Okay. Did Mr. Haney ask you any  
2           questions when you -- you know, during that  
3           relatively short call?

4           A.    He asked some clarifying questions, and  
5           then he told me he would think about it and get back  
6           to me.

7           Q.    Okay. And at that time did the two of  
8           you discuss limiting the PPA to just Sammis,  
9           Davis-Besse, and the OVEC share?

10          A.    Not at that time.

11          Q.    Okay. And did you offer to do a PPA that  
12          would -- that would include some or all of the  
13          units -- up to all of the units; is that what you  
14          said?

15          A.    Up to all of the units.

16          Q.    Okay. All right.

17          A.    The focus was on all of them at the time.

18          Q.    The focus was on all of them at the time?  
19          Okay. And is that because the FES units that are not  
20          included in the proposed transaction today, the ones  
21          that were excluded, also face uncertain economic --

22          A.    They are operating in the same market.

23          Q.    Yeah. Okay. Fair enough. And the way  
24          you left it was he said he would think about it and

1 get back to you.

2 A. Yes.

3 Q. All right. Is there anything else you  
4 recall about that telephone conversation in May you  
5 haven't already mentioned?

6 A. No.

7 Q. All right. Before calling Mr. Haney,  
8 did -- did you prepare any kind of internal  
9 assessment of this proposal?

10 A. Could you clarify what you're -- what  
11 you're looking for?

12 Q. Sure. So this proposal that you made to  
13 the companies would involve potentially all of the  
14 generating units, the one that we are talking about  
15 as of May --

16 A. Yeah.

17 Q. -- that uncertain timeframe, that's a  
18 pretty big proposal; would you agree?

19 A. Yes.

20 Q. Before proposing that to, you know, the  
21 regulated companies, did you prepare some kind of  
22 internal report saying this is a good idea and here  
23 is why or?

24 A. No. We really looked at the -- at the

1 P&Ls for all the stations and had a conversation  
2 about which ones to include as consideration for  
3 the -- for the companies.

4 Q. Okay.

5 A. Profit and loss statements.

6 Q. Thank you.

7 A. You're welcome.

8 Q. So you didn't prepare any kind of written  
9 report or analysis.

10 A. Just -- just a listing of the plants  
11 associated with it and what their -- what their  
12 profit and loss statements were showing. I mean, it  
13 wasn't a formalized report. It wasn't some  
14 formalized analysis associated with it.

15 Q. Okay. Did the four of you exchange any  
16 e-mails at that time?

17 A. I don't remember.

18 Q. Okay. So -- so I have this clear in my  
19 head, prior to going to Mr. Haney, the only -- the  
20 only kind of written analysis or report would have  
21 been simply a list of the profit and loss statements  
22 for the FES units.

23 MR. LANG: Objection, asked and answered  
24 but you can answer it again.

1           A.    Yeah.  It essentially was that, yes.

2           Q.    Do you remember putting anything else in  
3 writing relating to this proposal prior to May, 2014?

4           MR. LANG:  Objection, asked and answered  
5 and I guess beyond the scope of his testimony and not  
6 relevant to the part of this -- not relevant to  
7 what's in this proceeding but you can answer.

8           A.    Not that I remember right now.

9           Q.    Okay.  Do you remember reviewing any  
10 other data or information prior to making that  
11 proposal?

12          A.    Aside from the profit and loss statements  
13 that I've mentioned to you?

14          Q.    Yeah.

15          A.    No.

16          Q.    So after you made this initial proposal  
17 to the companies, you then -- FES made a more  
18 specific proposal; is that correct?

19          A.    Yes.

20          Q.    Okay.  And that was the one that  
21 specifically mentioned the Sammis, Davis-Besse, and  
22 OVEC share, correct?

23          A.    Yes.

24          Q.    Okay.  And were you involved in

1 developing that more specific follow-up proposal?

2 A. Yes.

3 Q. Okay. Who was involved in developing  
4 that proposal?

5 A. The same mentioned individuals that I  
6 told you before, Mr. Schneider, Mr. Warvell, and  
7 Ms. Mendenhall.

8 Q. Okay. And no one else outside of those  
9 three people?

10 A. Not at that time.

11 Q. Okay. All right. Later there were folks  
12 involved in developing the proposal?

13 A. Yes.

14 Q. Okay. And who were those individuals?

15 A. There was an FES team associated with  
16 developing the term sheet and finalizing what we  
17 would consider as the proposal.

18 Q. Okay. Do you know when the FES team was  
19 formed?

20 A. I don't know exactly. It was in the  
21 summer of 2014.

22 Q. Okay. And do you know who the -- were  
23 the members of the FES team?

24 A. Off the top of my head, I know most of

1       them. I know who the lead was, Sharon Noewer.

2             Q.    Okay. And is she employed by FES?

3             A.    She was at the time, yes.

4             Q.    Okay. And just to be clear between the  
5       time that -- so after you spoke to Mr. Haney up to  
6       the point of which FES made this more specific  
7       proposal, did FES prepare any kind of written  
8       analysis of which units to include or not include?

9             A.    We developed a presentation that would  
10      outlie or outlay the structure that was proposed.

11            Q.    Okay.

12            A.    PowerPoint presentation.

13            Q.    PowerPoint, okay. And you would have  
14      prepared that before making the more specific  
15      follow-up proposal to the companies.

16            A.    Yes.

17            Q.    Okay. Anything else apart from the  
18      PowerPoint?

19            A.    Again, relied on profit and loss  
20      statements but other than that, no.

21            Q.    Okay. Do you know whether or not the  
22      four of you exchanged any e-mails prior to making the  
23      more specific proposal?

24            A.    I don't recall. I don't remember but it

1       wouldn't surprise me if we had.

2               Q.     Okay.

3               A.     And we would also be working with legal  
4       counsel in developing this proposal.

5               Q.     Okay. Thank you. So the units that are  
6       the subject of the proposed transaction are a subset  
7       of FES's fleet, correct?

8               A.     Yes.

9               Q.     Okay. What was the criteria that you  
10      used in deciding that these would be the right plants  
11      to include in the PPA?

12              A.     Focused on fuel diversity and having  
13      baseload units that could be relied upon to provide a  
14      reliability benefit for customers in Ohio. We looked  
15      for baseload units that were originally built and  
16      still support the state of Ohio locally in Ohio. We  
17      also took a look at since the companies weren't  
18      interested in the entire portfolio and a subset, we  
19      took a close look at our portfolio mix from a  
20      percentage of different fuel types and how that fuel  
21      mix risk is balanced, and we came up with what we  
22      thought was the best approximation of that same  
23      balance between nuclear and coal-baseload units.

24              Q.     I'm sorry. The same balance with respect

1 to what?

2 A. Percentage of nuclear generations versus  
3 percentage of fossil generation.

4 Q. Okay. And you were comparing that to the  
5 state of Ohio's generation?

6 A. No. We were comparing that to the  
7 remainder of our portfolio.

8 Q. Okay. All right. So you were trying to  
9 make it a representative subset.

10 A. Correct.

11 Q. All right. Okay. Fair enough. Were the  
12 economics of these particular units either more or  
13 less favorable than those of the units that were  
14 excluded?

15 A. Some were more favorable, some were less  
16 favorable.

17 Q. Okay. But that was not a criteria that  
18 you looked at.

19 A. No. We looked at baseload units built  
20 for the customers of Ohio with the right fuel  
21 diversity and balancing that mix of fuels  
22 percentagewise compared to what would be remaining in  
23 our competitive portfolio.

24 Q. Okay. Were there any other

1       considerations that you looked at?

2               A.   Well, we also have two units proposed  
3       here that have had major capital upgrades that are  
4       now prepared to operate reliably for the term of  
5       these 15 years, spent \$1.7 billion making Sammis  
6       clean air compliant and Davis-Besse has a new reactor  
7       vessel head, new steam generators, and NC01 plant.

8               Q.   Okay. What about with respect to the  
9       OVEC share?

10              A.   The OVEC share, as I mentioned, we looked  
11       at what AEP filed and that was the foundation that we  
12       started from so that essentially was the foundation  
13       of the proposal was start with OVEC and what makes  
14       sense to provide greater protection for the customers  
15       of Ohio and greater certainty for our plants.

16              Q.   Okay. Thank you. Now, I think you  
17       mentioned a few minutes ago there was an FES team  
18       that was designated.

19              A.   Yes.

20              Q.   And that team represented FES in the  
21       negotiations with the companies, correct?

22              A.   Yes.

23              Q.   Okay. And the team was formed in  
24       summer -- sometime in summer, 2014?

1           A.    Yeah.  I wasn't on the team but that's my  
2   recollection.  It was in that June-July timeframe  
3   leading up to the August filing.

4           Q.    Okay.  Do you know who selected the  
5   members of the team?

6           A.    No.

7           Q.    But it wasn't you.

8           A.    It wasn't me.

9           Q.    Okay.  Do you know who would know who had  
10  selected the members of the FES team?

11          A.    I don't know.

12          Q.    Okay.  Do you know whether Mr. Schneider  
13  would have had to have approved designation of the  
14  FES team?

15          A.    I don't know if he would have had to or  
16  not.

17          Q.    Okay.  And you said Ms. Noewer led the  
18  FES team; is that correct?

19          A.    Yes.

20          Q.    Do you know why she was selected to lead  
21  the team?

22          A.    No.

23          Q.    Do you have any -- any understanding at  
24  all as to how the members of that team were selected?

1           A.    I wasn't involved in the selection.

2           Q.    Yeah.

3           A.    So I don't know.  When I look at -- from  
4           what I remember of the membership, it was looking for  
5           cross functional between the commercial side of the  
6           business and the operational side of the business.

7           Q.    Do you know whether or not the FES team  
8           was given a specific charge or mission before  
9           beginning its work?

10          A.    No.

11          Q.    Okay.  Did you communicate with the  
12          members of the FES team prior to the finalization of  
13          the term sheet?

14          A.    Yes.

15          Q.    Okay.  And with whom did you communicate  
16          with?

17          A.    Kelley Mendenhall, Sharon Noewer, and  
18          from time to time legal counsel.

19          Q.    Okay.  Is it your understanding that  
20          Kelley Mendenhall is on the FES team?

21          A.    No.  Sharon Noewer reports to Kelley  
22          Mendenhall or at the time did.

23          Q.    Okay.  So she was overseeing Ms. Noewer  
24          who was in charge of the FES team.

1 A. Yes.

2 Q. All right. And what did you discuss with  
3 Ms. Mendenhall and Ms. Noewer during this timeframe?

4 MR. LANG: Just objection to the extent  
5 that you were in legal communications that may have  
6 included them. Set those to the side as privileged  
7 but I'm sure there were nonlegal communications that  
8 you can talk about.

9 THE WITNESS: Yes, there are.

10 MR. SOULES: Thank you.

11 A. Typically I would communicate with Sharon  
12 or Kelley regarding some of the commercial  
13 negotiation issues that were contentious in the  
14 development of the term sheet.

15 Q. And which issues were those?

16 A. The first was generation dispatch, who  
17 would dispatch the units.

18 Q. Okay.

19 A. The second was the unit contingent status  
20 of the agreement which included good utility practice  
21 clause associated in here and the timelines  
22 associated with it.

23 Q. Okay. Were there any other issues?

24 A. Well, as far as generation dispatch,

1       there was also a discussion about who would offer the  
2       units into the capacity market.

3               Q.     Sure.   Okay.   Apart from this, anything?

4               A.     No.   Those were the major issues.

5               Q.     In -- just trying to get a sense of what  
6       the specific role of the FES team was to the best of  
7       your understanding, by the time the team was formed  
8       had FES already concluded this proposed transaction  
9       was a good deal, you know, you were supportive of it?

10              A.     We were supportive of the concept but it  
11       was dependent on a successful negotiation of the term  
12       sheet.

13              Q.     Okay.   Fair enough.   Do you know whether  
14       the FES team evaluated potential costs and benefits  
15       of the proposed transaction from FES's perspective?

16              A.     I don't know that they did.   I could  
17       assume that they did but I don't know that.

18              Q.     Okay.   And was it a dispute specifically  
19       with respect to generation dispatch and capacity?

20              A.     Yeah.   My team dispatches these units  
21       right now and offers them into the capacity auction  
22       and our original position was that we wanted to  
23       continue to dispatch them since we are still owners  
24       of the units and still offer them into the capacity

1 auction.

2 Q. Okay.

3 A. And, of course, the energy delivery side  
4 of the house wanted control of both dispatch and  
5 offer them into the capacity auction.

6 Q. And ultimately you agreed to let them do  
7 that.

8 A. Yes.

9 Q. Okay. And with respect to the good  
10 utility practice language, what was the dispute  
11 there?

12 A. Well, it really tied to the unit  
13 contingent status.

14 Q. Okay.

15 A. We wanted this to be a unit contingent  
16 offer period. The utility wanted to be unit  
17 contingent with a 30-day clause for outages and the  
18 good utility practice language. We eventually  
19 settled on 180-day window which is included in the  
20 term sheet.

21 Q. And where is that included?

22 A. I believe it's Section 8, yes, Section 8.  
23 It's actually on page 3 of 15.

24 Q. Okay. Thank you. So prior to the

1 finalization of this term sheeted, the proposed  
2 transaction was still being negotiated; is that  
3 accurate to say?

4 A. Yes.

5 Q. And it was being negotiated at arm's  
6 length?

7 A. Oh, absolutely.

8 Q. Okay. And why do you say -- what's the  
9 basis for that?

10 A. Because of the contentious issues that we  
11 are talking about here, this was not -- not an easy  
12 negotiation by any stretch of the imagination.

13 Q. Okay. Did you exchange e-mails with  
14 Ms. Mendenhall and Ms. Noewer regarding the issues  
15 related to the term sheet?

16 A. I got some draft e-mails through legal  
17 counsel of draft term sheets but mostly it was verbal  
18 communication talking about these specific issues,  
19 what our position was from generation dispatch and  
20 the capacity control of the units was so it wouldn't  
21 surprise me if there was an e-mail but I don't recall  
22 it specifically. It was more verbal communication  
23 until the final version of the term sheet came out.

24 Q. Okay. And while this negotiation was

1 ongoing were you and Mr. Schneider -- Mr. Warvell and  
2 Ms. Mendenhall continuing to meet to decide if this  
3 was a good deal for FES?

4 A. We kept Mr. Schneider up to date as to  
5 the progress. Mr. Warvell, kind of because it was in  
6 the hands of an FES team negotiating, wasn't involved  
7 in the day-to-day discussions of this proposed  
8 transaction.

9 Q. Okay. Was Ms. Noewer providing regular  
10 updates to Ms. Mendenhall to the best of your  
11 knowledge?

12 A. Yes.

13 Q. Okay. And to you as well?

14 A. Only on a case-by-case basis to me. I  
15 would be kept apprised with e-mails from counsel as  
16 to different -- different updates on the material  
17 sheet but she wasn't reporting to me at the time.

18 Q. Okay. So was Ms. Mendenhall much more  
19 involved in the negotiation of the term sheet than  
20 you were?

21 A. I would say Ms. Noewer was involved in  
22 the negotiation of the term sheet much more than me.  
23 I'm not sure -- I don't know the level of involvement  
24 that Ms. Noewer brought Ms. Mendenhall into the

1 discussion. I know that I would talk with  
2 Ms. Mendenhall and Ms. Noewer from time to time on  
3 specific issues.

4 Q. Okay, okay. Thank you.

5 MR. SOULES: Could we go off for 5  
6 minutes.

7 MR. LANG: How about a break? It's  
8 actually a good time for a break. Why don't we do  
9 that. Off the record.

10 (Recess taken.)

11 MR. LANG: We'll go ahead and get started  
12 again, and we are back on the record.

13 MR. SOULES: All right.

14 Q. Well, welcome back.

15 A. Thanks.

16 Q. So before we -- before we had a break we  
17 were talking a bit about the FES team and its  
18 negotiations the -- with respect to the proposed  
19 transaction. Do you recall that discussion?

20 A. Yes.

21 Q. Apart from Ms. Mendenhall and your  
22 occasional role, are you aware of anyone else that  
23 was involved in the negotiations of the term sheet  
24 other than the FES team?

1           A.    No.

2           Q.    Okay.  And you don't -- it's your sense  
3   that Ms. Mendenhall was more involved than you but  
4   you don't know the exact extent to which she was; is  
5   that accurate?

6           A.    Correct.

7           Q.    Okay.  But Ms. Noewer was heavily  
8   involved.

9           A.    She was the team lead, yes.

10          Q.    So if we could shift gears a little bit,  
11   just the regular course of operating its generating  
12   units, does FES prepare any kind of reports regarding  
13   the physical condition of its generation fleet?

14          A.    Are you referring to my side of FES?

15          Q.    As -- you mean --

16          A.    As opposed to FENOC or FEG?

17          Q.    Why don't we start with your side of FES.

18          A.    No.

19          Q.    Do you if FENOC and/or FEG prepare  
20   reports regarding the physical condition of those  
21   plants?

22          A.    I don't know about Sammis but I do know  
23   about Davis-Besse because I worked there for a few  
24   years so, yes.

1           Q.    And what types of assessments were  
2           prepared?

3           A.    There are system health reports.  There  
4           were component health reports.  There are program  
5           health reports associated with the plant.

6           Q.    And when you refer to health, you mean  
7           the health of the plant, not the health of the --  
8           yeah.

9           A.    Of the equipment and the plant, yes.

10          Q.    All right.  Okay.  Do you know how  
11          regularly those types of reports were updated?

12          A.    Yes.

13          Q.    How frequently?

14          A.    It varies.  It could be on a monthly  
15          basis, quarterly basis, or an annual basis.

16          Q.    And what does it vary based on?  Is it  
17          just the different type of report?

18          A.    Different type of report.

19          Q.    Okay.  Do you know whether or not the  
20          companies requested any of those reports when it was  
21          negotiating the proposed transaction with FES?

22          A.    No.

23          Q.    No, you don't know?

24          A.    I don't know.

1           Q.    Okay. All right. Do you know who would  
2 know the answer to that?

3           A.    Probably team lead for the companies.

4           Q.    Okay. And on the FES side would Sharon  
5 Noewer have been the contact?

6           A.    Yes.

7           Q.    Okay. Are you aware of any information  
8 that FES provided the companies regarding the  
9 physical condition of Davis-Besse and Sammis?

10          A.    Yes.

11          Q.    Okay. And what information was that?

12          A.    I don't recall all the parameters of the  
13 information but there was a request for information  
14 on the plants themselves.

15          Q.    Do you remember any of the parameters?

16          A.    Not right now.

17          Q.    Okay. Are there any documents you could  
18 review that would refresh your recollection about  
19 that?

20          A.    I don't know.

21          Q.    Okay. All right. We may come back to  
22 that this afternoon briefly. So if we can talk about  
23 the proposed transaction again a little bit.

24          A.    Okay.

1           Q.    You -- you personally provided some input  
2   into whether FES should approve this term sheet; is  
3   that correct?

4           A.    Yes.

5           Q.    Okay.  And what -- what did you share  
6   with other people within FES about the term sheet?

7           A.    Could you rephrase that question?

8           MR. LANG:  I'll caution you again put the  
9   legal discussions to the side but kind of the, you  
10   know, substantive term sheet issues that are nonlegal  
11   you can discuss.

12          A.    Okay.  So with respect to the commercial  
13   terms that I mentioned to you previously --

14          Q.    Okay.

15          A.    We came to compromise or final position  
16   between what my input to Sharon Noewer and the team  
17   was and what they ended up with I told them I thought  
18   was acceptable.

19          Q.    Okay.  And that's with respect to the  
20   unit contingent provision and the discussion about  
21   who would be responsible for offering the units into  
22   the market?

23          A.    And generation dispatch.

24          Q.    Right, and generation dispatch, thank

1       you. And beyond those issues you don't recall  
2       providing any input to the process?

3             A.    That's correct.

4             Q.    Okay. Did you personally draft or work  
5       on any of the provisions within this term sheet?

6             A.    No.

7             Q.    Okay. Apart from what we just discussed,  
8       those handful of issues, did you have any discussions  
9       with anyone at FirstEnergy regarding any of the terms  
10      of the term sheet?

11            MR. LANG: Objection to the -- yeah.  
12      Just objection. But go ahead.

13            A.    No.

14            Q.    Okay. Could you turn to section 19 of  
15      the term sheet which is on page 10.

16            A.    Uh-huh.

17            Q.    Are you familiar with this section of the  
18      term sheet?

19            A.    Yes.

20            Q.    Okay. I'm not inquiring about anything  
21      that's attorney-client privilege so apart from  
22      anything that is privileged, did you have any  
23      discussions regarding this provision of the term  
24      sheet?

1           A.    No.

2           Q.    Okay.  Now, over the course of the  
3 negotiations FES and the companies ultimately settled  
4 on a 15-year term for the proposed transaction; is  
5 that correct?

6           A.    Yes.

7           Q.    Do you recall FES having any internal  
8 discussions about whether the 15-year period was  
9 appropriate?

10          A.    Yes.

11          Q.    And what were those discussions?

12          A.    We looked at a term that was long enough  
13 to get an adequate protection for customers and give  
14 us certainty for our plants.

15          Q.    Okay.  Did FES consider a shorter term  
16 length?

17          A.    No.

18          Q.    Did FES consider a longer term length?

19          A.    No.

20          Q.    And I -- correct me if I'm wrong but I  
21 think you stated earlier this morning that you don't  
22 recall when that 15-year time period first came into  
23 the discussions; is that correct?

24          A.    I don't think I mentioned that.

1           Q.    Okay.  Well, do you recall when you  
2   first -- when FES first started talking about 15  
3   years?

4           A.    When we originally started considering  
5   this construct.  It started at 15 years and it stayed  
6   at 15 years.

7           Q.    Okay.  And when you say this construct,  
8   you mean the very initial proposal even before going  
9   to Jim Haney?

10          A.    Yes.

11          Q.    Okay.  And when you made that very  
12   initial rather open ended proposal to Mr. Haney, did  
13   you mention 15 years as part of a proposed term  
14   length?

15          A.    Yes.

16          Q.    Okay.  Are you aware of whether or not  
17   the companies pushed for a shorter or longer term  
18   length during the negotiations over the proposed  
19   transaction?

20          A.    I don't know.

21          Q.    Okay.  So let's assume hypothetically  
22   that FES and the companies enter into the proposed  
23   transaction -- you know, they enter into a purchase  
24   power agreement for the four units over the 15-year

1 period.

2 A. Okay.

3 Q. In that circumstance are you aware of any  
4 provision in a PPA that would prevent FES from  
5 terminating the agreement early?

6 A. Could you rephrase that? There's a  
7 couple of double negatives in there. I want to  
8 follow what you are asking me.

9 Q. No, thank you. Happy to. All right. So  
10 let's assume for purposes of this discussion that FES  
11 and the companies enter into a 15-year PPA for  
12 Sammis, Davis-Besse, and the OVEC share.

13 A. Okay.

14 Q. Are you aware of any requirement that  
15 would prevent FES from terminating the agreement  
16 prior to 2031?

17 A. Am I aware of any event that would  
18 prevent FirstEnergy Solutions from terminating prior  
19 to that timeframe?

20 Q. Are you aware of anything that would  
21 prevent FirstEnergy Solutions from terminating before  
22 2031?

23 A. Well, I think if I look at it, it's got a  
24 delivery period that's 15 years. So once you are in

1       this contract, this PPA, it's a 15-year PPA.

2               Q.    Okay.  And you are looking at section 10?

3               A.    Section 10.

4               Q.    Okay.  Are you aware of anything else  
5       that would prevent -- apart from this section of the  
6       term sheet, are you aware of anything else that would  
7       prevent FES from terminating prior to May 31, 2031?

8               A.    It's a contract for 15 years.  I mean,  
9       there's some guidance on unit contingency for large  
10      capital but that's a joint agreement so, no, I am not  
11      aware of anything.

12              Q.    Okay.  And are you aware of what the  
13      financial consequences would be if FES were to  
14      terminate before the end of the 15-year period?

15              A.    No.

16              Q.    Okay.  Just to be clear, you referred to  
17      this is a contract for 15 years.  This is a term  
18      sheet, correct?

19              A.    Correct.

20              Q.    Okay.  And no purchase power agreement  
21      has been drafted yet, correct?

22                   MR. LANG:  Asked and answered.  Go ahead.

23              A.    That's correct.

24              Q.    So you don't actually know what the final

1 provisions of the PPA will look like; is that  
2 correct?

3 A. Yes.

4 Q. Yes, you don't know; or, yes, you do  
5 know?

6 A. You asked me you really don't know.

7 Q. Okay.

8 A. Yes, I don't know.

9 Q. Okay. All right. Okay.

10 A. I am having trouble following you with --

11 Q. You're right.

12 A. Am I answering "yes," or am I answering  
13 "no"?

14 Q. That's what happens when you don't have  
15 enough coffee.

16 A. Fair enough.

17 Q. Thank you. You recall that we were  
18 earlier talking about the regulated generation group  
19 within FirstEnergy Corporation?

20 A. Yes.

21 Q. Okay. That's the group that's led by Jay  
22 Ruberto, correct?

23 A. Yes.

24 Q. Okay. Am I correct that FirstEnergy has

1 a policy regarding the extent to which FES employees  
2 can communicate with regulated generation employees?

3 A. Yes.

4 Q. And what is that policy?

5 A. There's a separation -- corporate  
6 separation policy. And based upon your functions and  
7 what your responsibilities are, you are either a  
8 regulated employee, a competitive market function  
9 employee. You could be a shared service officer or a  
10 shared service employee as well.

11 Q. Okay. And shared service employee or  
12 officer would be someone who would provide services  
13 to either side?

14 A. Or has the capability to see either side  
15 but cannot be a conduit between the two for specific  
16 transmission-related information.

17 Q. Okay. And what is your understanding as  
18 to where that policy comes from or why it's required?

19 A. It's -- it's a regulatory requirement to  
20 ensure separation between marketing function  
21 employees and -- and regulated employees.

22 Q. Okay. Do you know where that -- is that  
23 a state regulatory requirement?

24 A. It's federal, I believe.

1           Q.    Federal?  Okay.  Do you know anything  
2   beyond that or just it's a federal regulatory  
3   requirement?

4           A.    I believe it's FERC.

5           Q.    FERC, okay.  And does that policy apply  
6   also to FirstEnergy Service Company employees?

7           A.    Yes.

8           Q.    Okay.  So there's like a cohort of  
9   service company employees that work with FES and a  
10   cohort that works exclusively with regulated  
11   generation; is that fair to say?

12          A.    Yes.

13          Q.    And there's no sharing of information  
14   between those two sets of service company employees  
15   under this policy.

16          A.    Yes.  It can't be a conduit.

17          Q.    Okay.  Can you justify what you mean by  
18   conduit?

19          A.    A path of information flowing between the  
20   two.

21          Q.    Okay.  Whether written or verbal.

22          A.    Correct.

23          Q.    Okay.  Earlier you had said that you knew  
24   some but not all of the members of the FES team off

1 the top of your head; is that correct?

2 A. Yes.

3 MR. SOULES: I would like to pass you --  
4 could we have this marked as Exhibit 2.

5 (EXHIBIT MARKED FOR IDENTIFICATION.)

6 Q. Okay. You have now been passed a  
7 document that's been labeled Exhibit 2. This is a  
8 response to the discovery request and that discovery  
9 request is OCC Set 1-INT-19. And if -- well, first,  
10 are you familiar with this discovery response? I  
11 recognize you are not the sponsoring witness for it.

12 A. Yes, but I have seen this, yes.

13 Q. Okay. If you were to look at part of the  
14 response, would that refresh your recollection as to  
15 all the members of the --

16 A. Absolutely.

17 Q. Okay. Now, just a moment ago we were  
18 talking about how some FirstEnergy Service Company  
19 employees fall on the competitive marketing side of  
20 this wall with regulated generation. Do you know  
21 whether or not the members -- do you know where the  
22 members of the FES team fall with respect to  
23 competitive marketing versus regulated generation?

24 A. I don't know.

1           Q.    You don't know? Okay. Do you know with  
2   respect to any of the members of the FES team?

3           A.    Well, I know Sharon Noewer was FES. I  
4   know Nick Fernandez was supporting FES. Jason  
5   Lisowski supported FES. Dave Pinter in this role was  
6   supporting FES. Paul Harden is FENOC so he is FES.  
7   The attorneys, shared services, right, but obviously  
8   on this team I would say they were supporting FES.  
9   Fred von Ahn is generation so he was supporting FES.  
10   So really I look at the attorneys. They are the only  
11   ones I would have any question in my mind but seeing  
12   that they were on the FES team and they're shared  
13   services employees, I would assume that their  
14   function based on being on this team would be to  
15   support FES.

16          Q.    Okay. Apart from any one service --  
17   apart from the attorneys and apart from the FES  
18   employees, do you know whether -- actually strike  
19   that.

20          A.    I just went down through all of them for  
21   you.

22          Q.    Yeah. So Mr. Fernandez works for  
23   FirstEnergy Service Company; is that correct?

24          A.    Yes.

1           Q.   And does he exclusively provide services  
2   for FES apart from his role on the FES team?

3           A.   At this time when he was at FES, yes.  He  
4   provided support to FES exclusively.

5           Q.   Okay.  And Mr. Lisowski exclusively  
6   provides service to FES, correct?

7           A.   Yes, on the Solutions and Generation  
8   side.

9           Q.   Okay.  And Mr. Pinter, is he a shared  
10   services employees?

11          A.   Yes.

12          Q.   Okay.  So sometimes he provides support  
13   to regulated generation.

14          A.   Yes.

15          Q.   Okay.  And Ms. Hashlamoun, does she  
16   exclusively provide services to FES?

17          A.   I don't know.

18          Q.   Okay, okay.  You just don't know one way  
19   or the other.

20          A.   No.

21          Q.   All right.  So in your direct testimony  
22   you discuss the concept of resource diversity; is  
23   that correct?

24          A.   Yes.

1           Q.    Okay.  Looking at page 6 of your  
2    testimony, you define resource diversity as including  
3    both the concept of fuel diversity as well as the  
4    concept of asset diversity; is that correct?

5           A.    Yes.

6           Q.    Where did you come up with this  
7    definition of resource diversity?

8           A.    Based it on my industry experience.

9           Q.    Okay.  And which experience specifically?

10          A.    Both as a generator and understanding the  
11    markets.

12          Q.    Okay.  And prior to your current  
13    position, were you -- can you remind me what  
14    involvement you had with the markets?

15          A.    My last two years' experience has been  
16    associated with the markets.

17          Q.    Okay.  All right.  But prior -- but prior  
18    to joining -- prior to your current position, you  
19    weren't involved with the marketing of energy and  
20    capacity; is that correct?

21          A.    That's correct.

22          Q.    Okay.  But you obviously have a lot --  
23    lot of experience on the generation side from your  
24    work at Davis-Besse and other nuclear units.

1           A.    Yes.

2           Q.    Okay.  And with respect to fuel  
3    diversity, you state that that means having a mix of  
4    resources comprising the generation fuel mix; is that  
5    correct?

6           A.    Yes.

7           Q.    And you list as examples coal, nuclear,  
8    gas, wind, and solar.  Are there any other fuel --  
9    any other resources that would comprise fuel  
10   diversity?

11          A.    Yes.

12          Q.    Okay.  What are those?

13          A.    Anaerobic digestors, very small  
14   capacity-type things that are in the -- in more the  
15   experimental phases right now, nothing substantial  
16   though.  These are the major ones.

17          Q.    Okay.  And is it your opinion that coal  
18   and nuclear assets are a necessary component for  
19   resource diversity?

20          A.    Yes.

21          Q.    Okay.  And looking again at page 6 of  
22   your testimony where you describe the value of  
23   resource diversity, you state the "Gas assets can  
24   take advantage of low-cost, locally-supplied natural

1 gas"; is that correct?

2 A. Yes.

3 Q. Do you see low-cost, locally-supplied  
4 natural gas as being the principal value of gas for  
5 purposes of resource diversity?

6 A. Yes.

7 Q. Okay. And then with respect to  
8 renewables, which I assume you mean wind and solar,  
9 do you view those as a no fuel cost way of  
10 essentially supplementing the generation mix?

11 A. Yes.

12 Q. Okay. And so -- but if you didn't have  
13 coal and nuclear assets, the -- you would not have  
14 resource diversity; is that accurate?

15 A. Yes.

16 Q. And if we could turn to page 9 of your  
17 testimony.

18 A. Okay.

19 Q. On lines 3 and 4, you state that in  
20 "2013, the generation mix primarily serving Ohio was  
21 44.4 percent coal, 35.1 percent nuclear, 16.4 percent  
22 gas, 1.9 percent wind, and 0.9 percent  
23 hydroelectric"; is that correct?

24 A. Yes.

1           Q.    Do you see this as being -- oh, and just  
2   to clarify this is referring to generation, not  
3   capacity, correct?

4           A.    Yes, although in my view of the world  
5   generation is capacity.

6           Q.    Can you explain what you mean by that?

7           A.    Demand response doesn't generate  
8   megawatts, for example, so I don't consider that  
9   capacity even though it's included in the capacity  
10  market.

11          Q.    Okay. And you don't consider demand  
12  response to be part of resource diversity.

13          A.    Correct.

14          Q.    Because it doesn't actually generate  
15  megawatts.

16          A.    Correct.

17          Q.    Okay. Do you agree that demand response  
18  affects the load?

19          A.    Yes.

20          Q.    Okay. So looking at these percentages,  
21  do you view this generation mix as being the optimal  
22  resource diverse allocation?

23          A.    Could you rephrase that?

24          Q.    You've testified that the economic

1 stability program is important for purposes of  
2 resource diversity; is that correct?

3 A. Yes.

4 Q. And the concern is if additional coal and  
5 nuclear plants retire, then the generation mix will  
6 change; is that correct?

7 A. Yes.

8 Q. And in your testimony you've cited to the  
9 2013 generation mix in that discussion.

10 A. That's correct.

11 Q. So I'm wondering are you offering an  
12 opinion as to what the ideal mix of generation assets  
13 is for Ohio?

14 A. I am not offering an opinion as to the  
15 ideal or optimal mix.

16 Q. Okay. And you don't have an opinion as  
17 to whether or not the current business is optimal; is  
18 that correct?

19 A. That's correct.

20 Q. Okay. But you have concerns about  
21 whether any additional -- you were concerned that any  
22 additional retirements would make the generation mix  
23 less optimal.

24 A. Yes.

1           Q.    Okay.  Thank you.  Are you aware that PJM  
2           recently filed a capacity performance proposal with  
3           FERC?

4           A.    Yes.

5           Q.    Okay.  And what does that proposal  
6           involve?

7           A.    The capacity performance proposal is  
8           designed to provide greater support for high  
9           reliability assets, capacity assets in PJM markets.

10          Q.    Okay.  And so certain assets would be  
11          designated as capacity performance resources,  
12          correct?

13          A.    Yes.

14          Q.    The ones that are high reliability.

15          A.    Yes.

16          Q.    Okay.  And is it your understanding that  
17          in order to offer a unit as a capacity performance  
18          resource the seller would have to represent that it  
19          has made or will make the necessary investment to  
20          ensure the resource has the capability to provide  
21          energy when called upon by PJM?

22                MR. LANG:  Just objection to the extent  
23          it is beyond his testimony.  But to the extent you  
24          can answer it, go ahead.

1 A. No.

2 Q. That's not your understanding?

3 A. That's correct.

4 Q. Okay. And why -- why is that incorrect?

5 A. The assumption is unless you have an  
6 exemption in the capacity performance proposal you  
7 have to prove that you cannot qualify as a capacity  
8 performance product to the independent market  
9 monitor. Otherwise, you have a must offer  
10 requirement.

11 Q. Okay. So it's assumed then unless you  
12 can prove otherwise.

13 A. Correct --

14 Q. Okay.

15 A. -- or you have an exemption.

16 Q. Or you have an exemption. And do you  
17 know what those exemptions are?

18 A. They are listed in the proposal but, for  
19 example, pumped hydro storage.

20 Q. Okay. Has FES evaluated whether the  
21 Sammis units would qualify as a capacity  
22 performance -- would qualify as capacity performance  
23 resources?

24 MR. LANG: To the extent you are

1 getting -- you might be able to answer this question,  
2 but to the extent you are getting into a confidential  
3 area, let us know.

4 THE WITNESS: All right.

5 A. Yes.

6 Q. Okay. FES has evaluated that.

7 A. Yes.

8 Q. Okay. And, again, if we tread into  
9 something that is confidential, please, you know.

10 A. I think if we get into specifics, we  
11 might want to save that for the confidential portion  
12 of the discussion.

13 MR. LANG: Right.

14 Q. Okay. Well, I will ask this, and if we  
15 need to punt it, we can. Did FES prepare a written  
16 report of that evaluation?

17 A. No.

18 Q. Okay. Same question with respect to  
19 Davis-Besse, do you know whether Davis-Besse would  
20 qualify as a capacity performance resource?

21 A. Yes, I do know.

22 Q. It is your opinion that it would.

23 A. Yes.

24 Q. Okay. And is this a written report

1 reflecting that evaluation?

2 A. No.

3 Q. And has FES evaluated whether the OVEC  
4 units would qualify?

5 A. Yes.

6 Q. Okay. And, yes, there was an evaluation,  
7 or yes?

8 A. Yes, there was an evaluation.

9 Q. Okay. And that -- what was -- is it  
10 FES's understanding that those units would qualify?

11 A. Yes.

12 Q. Okay. Was there a written report  
13 reflecting that evaluation?

14 A. No.

15 Q. Okay. We may come back to that a little  
16 bit in the afternoon, but I don't want -- I want to  
17 be sensitive to the --

18 A. Sure.

19 Q. So just a few more questions. Earlier  
20 you were describing sort of the short-term four-year  
21 forecast that FES performs. Do you recall that  
22 discussion --

23 A. Yes.

24 Q. -- where business development would

1 handle something that was longer term; is that  
2 correct?

3 A. Yes.

4 Q. Okay. Does FES have a four-year  
5 projection of the profitability of the Sammis plant?

6 A. Well, I think those have been provided  
7 already. Those are the profit and loss statements.

8 Q. The profit and loss statements.

9 A. Yeah, for the Sammis plant.

10 Q. Okay. And it's your understanding that  
11 those have been provided to whom?

12 A. Through Jason Lisowski's testimony.

13 Q. Okay. Jason Lisowski provided testimony  
14 regarding a 15-year evaluation; is that correct?

15 A. Yeah, but in that 15-year projection  
16 there is the first four years. In order to do that,  
17 they use market forwards because that's the best  
18 information available and then the long-term price  
19 forecast transitions for the out years.

20 Q. Okay. So with respect to that -- the  
21 near years, the near term years, is it your  
22 understanding that Mr. Lisowski's forecast is  
23 consistent with FES's internal forecast?

24 A. Yes.

1           Q.    Okay.  And do you know what price  
2           projections Mr. Lisowski used in preparing his  
3           15-year forecast?

4           A.    I don't.

5           Q.    Okay.  Do you know -- so you don't know  
6           whether or not FES's -- the energy -- the energy  
7           capacity and CO-2 price forecasts that FES regularly  
8           use, you don't know whether or not those were used by  
9           Mr. Lisowski for his projections?

10          A.    That's correct.

11          Q.    Okay.  You had mentioned earlier that FES  
12          does some forecasting of capacity prices working with  
13          an entity outside of business development; is that  
14          correct?

15          A.    Yes.

16          Q.    And who is that forecaster?

17                THE WITNESS:  It's a contract with an  
18          outside firm.  Can I answer it?

19                MR. LANG:  Could be confidential to your  
20          business.

21                THE WITNESS:  Right.

22          A.    Can we save that for the confidential  
23          portion?

24          Q.    Absolutely, absolutely, yeah.  Apart

1 from -- I'm sorry. Stepping back to before  
2 Mr. Lisowski's price forecast or, you know, his  
3 revenue analysis that was provided to the companies,  
4 apart from that does FES have a purely internal  
5 four-year forecast for the profitability of its  
6 units?

7 A. No.

8 Q. Okay. And you had mentioned earlier that  
9 FES prepares his -- occasionally prepared asset  
10 evaluations of certain units in the regular course of  
11 its business; is that correct?

12 A. Actually that's not correct. It's  
13 business development will --

14 Q. Oh, okay.

15 A. -- perform those evaluations.

16 Q. Okay. Because those are the longer-term  
17 evaluations that FES doesn't have the internal  
18 capability to?

19 A. Not only that. FES's function isn't  
20 asset evaluation.

21 Q. Okay. The business development asset  
22 evaluations, are those prepared at FES's request?

23 A. From time to time, yes.

24 Q. Okay. Do you know if FirstEnergy

1 Corporation -- if anyone within FirstEnergy  
2 Corporation has an internal asset evaluation of the  
3 Sammis units?

4 A. I don't know.

5 Q. Okay. Do you know if anyone within  
6 FirstEnergy Corporation has an asset evaluation of  
7 the Davis-Besse plant?

8 A. Well, there would be -- there would be a  
9 book value that business development would have for  
10 Davis-Besse and Sammis but other than that, I don't  
11 know.

12 Q. Okay, okay. Sorry I am skipping around  
13 here a little bit. Just trying to get done as quick  
14 as we can. So cycling back for a moment to the  
15 period before you had that initial conversation with  
16 James Haney in May, 2014, do you recall that  
17 discussion?

18 A. Yes.

19 Q. Okay. And you had said that before  
20 approaching Mr. Haney you and three others at FES  
21 were looking at profit and loss statements for the  
22 FES generating units; is that correct?

23 A. Yes.

24 Q. Okay. And when you were looking at those

1 statements, were you evaluating what the terms of the  
2 PPA with the companies might ultimately look like?

3 A. Could you rephrase that question?

4 Q. Sure. So we -- so Exhibit 1 is the term  
5 sheet, right, which reflects the proposed  
6 transaction.

7 A. Yes, yes.

8 Q. And that term sheet is a culmination of a  
9 process that began shortly after New Year's of 2014,  
10 correct?

11 A. Yes.

12 Q. Okay. Prior to -- when you were looking  
13 at these earlier profit and loss statements thinking  
14 about approaching the companies, were you thinking  
15 about, you know, what the term of the proposed  
16 transaction might look like or might be?

17 A. Yes. As I mentioned, 15 years was what  
18 we had originally thought.

19 Q. Okay. And you had also mentioned after  
20 the initial discussion with Mr. Haney but before  
21 making the specific proposal for Sammis, Davis-Besse,  
22 and the OVEC share, FES had prepared a PowerPoint  
23 presentation?

24 A. No. That was after I got a letter back

1 from Mr. Haney on May 13 that said we're not  
2 interested in all of the assets and we would like to  
3 take a look at a subset of them and that's when we  
4 prepared that. It was after May 13.

5 Q. Okay, okay. But it was in the process of  
6 going back to the companies with the specific  
7 proposal for Sammis, Davis-Besse, and OVEC.

8 A. Yes.

9 Q. Okay. And when -- did you prepare the  
10 PowerPoint yourself?

11 A. No.

12 Q. Who did?

13 A. I don't know.

14 Q. Okay. Was the PowerPoint -- as FES was  
15 evaluating, you know, the proposed transaction it was  
16 going to offer to the companies, were you using this  
17 PowerPoint as part of that evaluation process?

18 A. No.

19 Q. So it simply reflected what you had  
20 already decided?

21 A. Reflected our recommendation.

22 Q. Reflected your recommendation, okay.

23 MR. SOULES: Could I have a 2-minute  
24 break?

1 (Recess taken.)

2 MR. LANG: Want to go back on the record.

3 We actually had a -- we were thinking about one of  
4 his answers. You were asking about different shared  
5 services employees, what information they can  
6 exchange and the conduit. But we -- and we think he  
7 misspoke with regard to what shared services  
8 employees can share, and so I think just so the  
9 record is clear I think it might be helpful --

10 Q. Yeah, please.

11 MR. LANG: -- to explain that.

12 A. Shared services employees can speak with  
13 each other across shared services, but they can't  
14 provide that information to either marketing function  
15 employees or regulated employees inappropriately.  
16 That's that conduit. They can't be a conduit to the  
17 other side of the operation.

18 Q. Okay. That makes sense.

19 A. But shared services is allowed to talk  
20 with each other.

21 Q. Yeah.

22 A. So we wanted to clarify that.

23 Q. Okay. Yeah, thank you for the  
24 clarification. And I am sure you know that any time

1       you think of something like that later on is good to  
2       clarify for the record.

3             A.     Sure.

4             Q.     So just a few quick things, going back to  
5       the profit and loss statements that FES was looking  
6       at prior to May, 2013, just -- just so I understand,  
7       you had said those statements were incorporated into  
8       Mr. Lisowski's modeling?

9             A.     They may have been, yeah.

10            Q.     Okay.

11            A.     Mr. Lisowski is a source of P&Ls for our  
12       plants for us so that's where we get that  
13       information.

14            Q.     Okay. But those profit and loss  
15       statements were provided to the company -- the ones  
16       that you were specifically looking at were provided  
17       to the companies at some point.

18            A.     I don't know.

19            Q.     Okay.

20            A.     Those specific ones were but profit and  
21       loss statements were.

22            Q.     Okay. So when you earlier said that you  
23       thought that had been provided by Mr. Lisowski,  
24       you're not actually sure about that; is that correct?

1           A.    I thought the information had been  
2           provided by Mr. Lisowski.  I don't know if it's the  
3           specific sheets that we were looking at.

4           Q.    Okay.  Do you generally remember the  
5           timeframe in which you were looking at those sheets?

6           A.    No.

7           Q.    Okay.  You just know it was sometime  
8           between January and early May.

9           A.    First quarter.

10          Q.    First quarter, okay.  All right.  That's  
11          a good window.  And I think earlier -- correct me if  
12          I am wrong, but I think earlier you said that FES did  
13          not prepare any four-year forecasts apart from  
14          whatever was reflected in Mr. Lisowski's modeling  
15          runs; is that correct?

16          A.    Yes.

17          Q.    Okay.  Has -- does FES prepare any other  
18          kind of short-term forecasts for the profitability of  
19          its units?

20          A.    Could you rephrase that question?

21          Q.    In the regular -- so Mr. Lisowski's  
22          modeling runs were something specific to this  
23          proposed transaction, would you agree?

24          A.    Yes.

1 Q. Okay. So in the regular course of  
2 business, does FES prepare any kind of short-term  
3 forecasts of its generating units' profitability?

4 A. Well, regularly look at P&L statements  
5 but those all come from Mr. Lisowski's team as well.

6 Q. Okay.

7 A. Just through the course of normal  
8 business.

9 Q. Okay. And he -- just to clarify he does  
10 not work for business development, correct?

11 A. That's correct.

12 Q. Okay. Does FES have any other short-term  
13 forecasts apart from the ones you just mentioned with  
14 respect to the profitability of its units?

15 A. No.

16 Q. Okay. Do you know an individual named  
17 Paul Harden?

18 A. Yes.

19 Q. Okay. And do you know where he works?

20 A. Yes. He works for FENOC.

21 Q. Did you have any communications with  
22 Mr. Harden regarding the proposed transaction?

23 A. No.

24 Q. No. Do you communicate with him in the

1 regular course of business?

2 A. Yes.

3 Q. Okay. And about what?

4 A. About nuclear generation and fossil  
5 generation.

6 Q. Okay. But you've never -- you have not  
7 had any discussions with Mr. Harden about the  
8 proposed transaction?

9 A. Well, could you clarify what timeframe  
10 you're talking about? I mean, since it's been filed  
11 I have talked to Mr. Harden about it, but leading up  
12 to it or going through the evaluation of the term  
13 sheet, I did not talk to Mr. Harden.

14 Q. Okay. Well, that clarifies it.

15 A. Does that clarify it for you?

16 Q. Thank you.

17 A. Okay.

18 Q. Well, are you aware generally that the  
19 companies designated the team to represent its  
20 interests in the negotiation of the proposed  
21 transaction?

22 A. Yes.

23 Q. Okay. And have you heard of that team  
24 being described as the EDU team?

1 A. Yes.

2 Q. Okay. Could you pull up Exhibit 2  
3 briefly.

4 A. Okay.

5 Q. And looking at the response to part A,  
6 would you agree that those are the members of the EDU  
7 team?

8 A. Well, here is what I will say, I see the  
9 list that's been provided. I didn't review who was  
10 on the EDU team before seeing the list here so.

11 Q. Okay.

12 A. That's all I can tell you.

13 Q. No, that's fair enough. Looking at that  
14 list of names under part A, did you have any -- prior  
15 to the filing of the ESP application, did you discuss  
16 the proposed application with any of those  
17 individuals?

18 A. No.

19 Q. Okay. Can we turn back to page 9 of your  
20 testimony briefly.

21 A. Yes.

22 Q. So earlier we were talking about the 2013  
23 figures regarding the generation mix for Ohio.

24 A. Yes.

1           Q.    And I know you had said that in your  
2           mind -- from your perspective generation and capacity  
3           are the same thing?

4           A.    Yes.

5           Q.    Just to be clear from kind of stepping  
6           apart from your personal position on that issue, do  
7           you know whether these numbers reflect generation or  
8           capacity?

9           A.    These reflect megawatts of generation.

10          Q.    Okay.  So if I were to pull up like EIA  
11          data for Ohio in 2013, those numbers would correspond  
12          with these numbers?

13          A.    I don't know.

14          Q.    Okay.  Do you know -- where did you get  
15          these figures?

16          A.    These were based on PJM total footprint  
17          and megawatts of generation.

18          Q.    Do you mean megawatt hours of generation?

19          A.    No, megawatts.

20          Q.    Isn't that capacity?  Doesn't megawatts  
21          measure capacity, not generation?

22          A.    It's based on megawatts.

23                MR. SOULES:  Okay.  I'm sorry.  Go ahead.

24                Okay.  I think we're done for the public session so.

1 Thank you for your time.

2 THE WITNESS: All right.

3 MR. LANG: Okay. We'll move on and we'll  
4 just go through the -- it looks like somebody came  
5 off mute. But we are looking to proceed. I am just  
6 going to go through as the people identified  
7 themselves on the phone this morning which means that  
8 Mr. Olikar would go first. Are you there, Joe?

9 MR. OLIKER: Yes, I am and I am on a cell  
10 phone. I hope it's not too loud.

11 MR. LANG: We'll try to see if we can  
12 make it work. If not, you'll have to switch to a  
13 better phone.

14 MR. OLIKER: Okay.

15 - - -

16 CROSS-EXAMINATION

17 By Mr. Olikar:

18 Q. Good morning, Mr. Moul.

19 A. Good morning.

20 MR. LANG: Hold on.

21 Q. Just a few questions.

22 MR. LANG: Hey, Joe, can you hold on for  
23 one second? I just wanted to -- because I think  
24 there were a couple beeps, I wasn't sure, just

1 checking to see in addition to the folks that made  
2 appearances at the initial -- at the start of the  
3 deposition, is there anybody that has joined that has  
4 not made an appearance?

5 MS. GRADY: Yes. Maureen Grady and Kevin  
6 Moore from OCC.

7 MR. MURRAY: Kevin Murray, IEU-Ohio, has  
8 joined as well.

9 MR. LANG: All right. Welcome, folks.

10 Okay. Go ahead, Joe.

11 Q. (By Mr. Olikier) Good morning, Mr. Moul.

12 A. Good morning.

13 Q. My name is Joe Olikier, and I represent  
14 IGS Energy. By way of background have you been  
15 involved in any of the FirstEnergy Solutions  
16 legislative activity over the past five years?

17 MR. LANG: Objection to beyond the scope.

18 A. Could you clarify what you mean by  
19 legislative activities?

20 Q. Have you supported any of the testimony  
21 that FirstEnergy Solutions has provided to the Ohio  
22 General Assembly?

23 A. No.

24 Q. Have you supported any of the testimony

1       that FirstEnergy of Ohio's utilities have provided to  
2       the General Assembly?

3             A.    No.

4             Q.    Have you participated in FirstEnergy or  
5       FirstEnergy Solutions' legislative activity in any  
6       fashion?

7             MR. LANG:  Objection.

8             A.    I'm having a hard time understanding what  
9       do you mean by legislative activity.  Are you talking  
10      about specific testimony?

11            Q.    Any testimony at all.

12            A.    No testimony at all.

13            Q.    Okay.  And have you -- have you been  
14      involved in any of FirstEnergy Solutions' regulatory  
15      activity in Ohio in the past three years?

16            MR. LANG:  Objection.

17            A.    Could you clarify what you mean by  
18      regulatory activity?

19            Q.    For example, FirstEnergy Solutions had  
20      historically intervened in the electric security plan  
21      cases of other Ohio utilities.  Have you been  
22      involved in any of those activities?

23            A.    No.

24            Q.    And would your answer be the same with

1       respect to FirstEnergy the Ohio utilities?

2                   MR. LANG: Can you say it again, Joe?

3               Q.    Sure. Have you participated in  
4       FirstEnergy utilities prior electric security plan?

5               A.    No.

6               Q.    Okay. Thank you. And has Sharon Noewer  
7       reported to you at any point in time in the past five  
8       years?

9               A.    No.

10              Q.    What about Roger Rucker?

11              A.    No.

12              Q.    Okay. On page 2 of your testimony, you  
13       state that "The economic viability of the Plants is  
14       in doubt. Market-based revenues for energy and  
15       capacity have been at historic lows and are  
16       insufficient to permit FES to continue operating the  
17       Plants and to make the necessary investments." In  
18       this statement what investments are you referring to?

19              A.    Referring to capital investments to  
20       ensure reliable and ongoing investment in the -- in  
21       the units themselves.

22              Q.    When you refer to -- let's take that one  
23       step at a time. The capital investments regarding  
24       the reliability, are you referring to the ability of

1 the plants to continue to operate without forced  
2 outages?

3 A. Could you -- could you break that down by  
4 unit so?

5 Q. Well, first, before we do that can you  
6 tell me what you meant by reliability in your  
7 response?

8 A. Reliability -- reliability means  
9 operating at or better than previous EFOR values.

10 Q. Okay. So you're not referring to the  
11 reliability of the grid.

12 A. That's correct.

13 Q. Okay. And before we go on to the  
14 specific plants, the investment that we were talking  
15 about for your statement on page 2, is that near-term  
16 investment, long-term investment, or both?

17 A. Both.

18 Q. Is the investment necessary to continue  
19 to operate the plants?

20 A. Could you rephrase that question?

21 Q. Sure. When you say that market-based  
22 revenues are not enough to permit FES to continue to  
23 operate the plants and to make the necessary  
24 investments, I guess my question is if you don't make

1       these investments, will the plants continue to be  
2       able to operate?

3             A.    Yes.

4             Q.    Okay.  And still staying with this  
5       statement we have been discussing, what is the  
6       standard that FES uses to measure what revenues are  
7       sufficient to continue to operate the plants?

8             A.    We look at whether its revenues are  
9       greater than its costs.

10            Q.    And when you say costs, what costs are  
11       you referring to?

12            A.    Total costs.

13            Q.    So you're not -- so you're including the  
14       return of capital costs and interest expense as well?

15            A.    Interest and depreciation, yes.

16            Q.    And also return on equity, correct?

17            A.    We're just looking at profit and loss.  
18       We're not -- we're not assuming a return on  
19       investment.

20            Q.    So is it your testimony that if the  
21       plants recover -- if the variable -- let me start  
22       that again.

23                    Is it your testimony that if the revenues  
24       produced by the plant is greater than the variable

1 costs of operation, the interest expense and the  
2 depreciation expense, then you will not retire the  
3 plant?

4 A. My testimony is their future is in doubt  
5 based on their current revenue situation. I'm having  
6 a hard time following your parsing out of costs.

7 Q. Okay. So you would agree -- we have been  
8 talking about the costs that exist for a power plant.  
9 There's -- in the energy market, if a plant's  
10 variable costs are lower than the market clearing  
11 price, then the --

12 MR. LANG: Joe, I'm sorry. The court  
13 reporter is having trouble picking up your statement  
14 from your.

15 Q. I'll try again. I'm speaking a little  
16 quickly. In the energy markets, if the variable  
17 costs of operation is lower than the clearing price,  
18 then the plant will clear in great margin, correct?

19 A. Yes.

20 Q. Okay. So I'm asking you to assume for a  
21 second if the margin that is created from the  
22 emergency markets and the capacity revenue is great  
23 enough to cover interest expense and depreciation  
24 expense, will FES retire the plants?

1           A.    No.

2           Q.    Thank you.  And you understand that when  
3   I ask that question, I was not referring to any  
4   income, capacity expense, or equity costs?

5           A.    I'm having a hard time hearing you.  I  
6   don't understand what you're saying right now.

7           MR. LANG:  Yeah.

8           Q.    We will --

9           MR. LANG:  Joe, it is -- Joe, it is  
10   difficult to hear the words that you are saying over  
11   your cell phone.

12          MR. OLIKER:  Is it easier now?

13          MR. LANG:  That actually did sound  
14   better.

15          Q.    Okay.  I think I figured out the problem.  
16                 And when we were talking before about  
17   interest expense, you would agree, for example, you  
18   indicated that the Sammis plant recently underwent a  
19   1.8 million -- billion dollar capital expenditure,  
20   correct?

21          A.    Yes.

22          Q.    And a portion of that capital expenditure  
23   would have been funded by debt, correct?

24          A.    Yes.

1           Q.    And you would agree that if -- assuming a  
2    50/50 debt-to-equity ratio, if FirstEnergy Solutions  
3    decided to retire the Sammis plant, then there would  
4    still be interest expense on \$900 million of debt.

5           MR. LANG:  Objection to the basis for the  
6    hypothetical.  But go ahead and answer if you can.

7           A.    Yes.

8           Q.    Okay.  And that example right there  
9    provides a very good reason why FES should continue  
10   to operate Sammis if the margin for energy sales and  
11   capacity revenue was great enough to recover interest  
12   expense.

13          MR. LANG:  Objection.

14          A.    Given your hypothetical preconditions of  
15   energy and capacity revenue being greater than  
16   interest and depreciation, I would agree.

17          Q.    Okay.  And when we're talking about  
18   depreciation, could you define what depreciation is?

19          A.    I would get my accountants to give you  
20   that definition.

21          Q.    Would you agree from a high level it is  
22   the recovery of a long-term expenditure?

23          A.    Your definition is reasonable so I would  
24   agree.

1           Q.    Okay.  And referring back to the  
2           statement you have on page 2 of your testimony where  
3           you say energy prices remain extremely low, what  
4           would you consider adequate energy prices on peak and  
5           off peak?

6           A.    I would consider adequate energy prices  
7           to be such that these plants would cover their fully  
8           loaded costs plus a rate of return.

9           Q.    Okay.  And just a few more questions.  
10          I'm almost done with my public one.  And feel free to  
11          interrupt me if this is confidential but when was the  
12          last time FirstEnergy Solutions performed a -- an  
13          analysis of the profitability of the Davis-Besse,  
14          Sammis, and OVEC plants?

15          A.    I don't know.

16          Q.    Do you know if it was done anywhere  
17          between April and July of 2014?

18          A.    I don't know specifically.

19          Q.    Would you agree that FirstEnergy  
20          Solutions has created an estimate of the possibility  
21          of those plants at the time FirstEnergy filed its  
22          electric security plan?

23          A.    Yes.

24          Q.    And do you know why FirstEnergy chose to

1 use the testimony of Judah Rose rather than  
2 FirstEnergy Solutions' projections?

3 MR. LANG: Objection.

4 A. When you say FirstEnergy, are you talking  
5 about FirstEnergy Solutions or energy delivery unit?

6 Q. I'm talking about both.

7 A. Well, for -- you would have to talk to  
8 the energy delivery folks, but from where I sit if I  
9 was working with a counterparty, I wouldn't merely  
10 accept their future energy price forecasts. I would  
11 get an independent look to make sure it was a prudent  
12 investment.

13 Q. Do you believe FirstEnergy retained Judah  
14 Rose?

15 A. The companies retained Judah Rose.

16 Q. Were you involved in the retention of  
17 Judah Rose?

18 A. No.

19 Q. Do you know specifically who retained  
20 Judah Rose, what individual?

21 A. No.

22 Q. Do you know who Mark Hayden is?

23 A. Yes.

24 Q. Would you agree that Mark Hayden

1 represents FirstEnergy Solutions?

2 A. Yes.

3 Q. If I told you that Mark Hayden retained  
4 Judah Rose, would you agree that FirstEnergy  
5 Solutions retained Judah Rose?

6 MR. LANG: Objection. Go ahead.

7 A. I don't know because he's shared  
8 services.

9 Q. Okay. Briefly you talked about, I  
10 believe, separation issues between regulated and  
11 unregulated companies. Do you remember that  
12 discussion with Mr. Soules?

13 A. Yes.

14 Q. And are you aware of Ohio separation  
15 requirements?

16 A. Not specifically other than I know I go  
17 through training every year to make sure that I  
18 understand them from a practical standpoint.

19 Q. When you say you undergo training, do you  
20 undergo training related to Ohio separation  
21 requirements specifically?

22 A. No. I think it's mostly FERC separation  
23 and whatever our corporate requirements are.

24 Q. Okay. Mr. Moul, are you involved at all

1 in the cost management, for example, of the operation  
2 for Davis-Besse or Sammis?

3 MR. LANG: Joe, can you restate that?  
4 You broke up a little.

5 Q. Sure. Mr. Moul, are you involved in cost  
6 management for the Davis-Besse or Sammis plants?

7 A. No. Well, let me -- let me correct that.  
8 My group procures the fuel for Sammis so how that  
9 factors into their costs would impact the Sammis  
10 plant but other than that, no.

11 Q. Okay. So you're not involved on the  
12 operation and maintenance side.

13 A. That's correct.

14 Q. Okay. And just a few more questions.  
15 You mentioned fuel for Sammis. Are you familiar with  
16 the rail constraints that currently exist in the  
17 midwest related to PRB coal?

18 A. Yes.

19 Q. And could you clarify for the record PRB  
20 coal?

21 A. Pardon me? You broke up. Are you still  
22 there? Sorry. You broke up for a second. I  
23 couldn't hear your question because you broke up.  
24 Could you repeat that?

1           Q.    Yeah.  Would you agree PBR stands for  
2   Pacific River Basin?

3           A.    No.  It's Powder River Basin.

4           MR. OLIKER:  Okay.  That's actually all  
5   the questions I have.  That's fine.

6           MR. LANG:  Okay.  Next on the list is  
7   Rebecca Hussey.

8           MS. HUSSEY:  Thank you.

9           MR. LANG:  Are you there, Rebecca?

10          MS. HUSSEY:  I'm sorry.

11                               - - -

12                               CROSS-EXAMINATION

13   By Ms. Hussey:

14          Q.    Mr. Moul, you stated you report to Don  
15   Schneider, correct?

16          A.    Yes.

17          Q.    And who does he work for?

18          A.    As I stated before, he works for Leila  
19   Vespoli.

20          Q.    Okay.  And he reports directly to Leila  
21   Vespoli?

22          A.    Yes.

23          Q.    Okay.  And did you prepare your  
24   testimony?

1           A.    Yes.

2           Q.    Who asked you to prepare your testimony  
3 for the companies?

4           A.    I don't remember.

5           Q.    Okay.  And --

6           A.    Actually Mark Hayden requested me to  
7 prepare my testimony.

8           Q.    Okay.  Thank you.  And did Mr. Hayden  
9 tell you what the purpose of the testimony was?

10           MR. LANG:  Objection.  That's privileged  
11 communication.

12           Q.    Okay.  Did you understand why you were  
13 testifying on their behalf when you were approached  
14 to develop testimony?

15           MR. LANG:  Continuing objection.  To the  
16 extent you can provide information about your  
17 testimony that wasn't gained through a privileged  
18 communication, you can do so.

19           A.    The purpose of my testimony was to talk  
20 about the future of the plants as uncertain and why  
21 these plants are important in the marketplace.

22           Q.    Thank you.  And to your knowledge is  
23 there anyone that works for the EDU, FirstEnergy EDU,  
24 that offers similar testimony in this case?

1           A.    I don't know.

2           Q.    Did you have any role in crafting the  
3 application that was filed in August, 2014?

4           MR. LANG:  Objection.  Beyond the scope  
5 of his testimony.

6           A.    No.

7           Q.    And I believe you testified earlier that  
8 you did not have a role in the creation of rider RRS;  
9 is that correct?

10          A.    That's correct.

11          Q.    I think you stated previously this  
12 morning that the proposed transaction was just one  
13 aspect of the economic stability program; is that an  
14 accurate characterization?

15          MR. LANG:  Objection to form.

16          Q.    What have you said earlier?

17          A.    I was really referring to ESP as the  
18 electric security plan, so it may have had terms --  
19 ESP terms mixed up there a little bit.

20          Q.    Okay.  Are you familiar with the concept  
21 of the economic stability program generally?

22          A.    Yes.

23          Q.    Okay.  What other provisions or items do  
24 you believe that the program addresses beyond the PPA

1 or the proposed transaction?

2 A. I'm really not focused on a lot beyond  
3 the PPA. I have read through it once or twice, but I  
4 don't recall any specifics right now.

5 Q. Okay. So did you have a role in any  
6 other provision of the ESP then?

7 A. No.

8 Q. Proposed ESP? No? When you discuss why  
9 you chose the plants that are included in the  
10 proposed transaction, you discuss that you compared  
11 it to the rest of FES's portfolio. Do you recall  
12 that?

13 A. Yes.

14 Q. Okay. And did that port -- excuse me,  
15 portfolio include generating units outside of Ohio?

16 A. Yes.

17 Q. Okay. So when you were discussing the  
18 portfolio and fuel diversity, was that any relation  
19 to the entire FES fleet including the units out of  
20 Ohio?

21 A. Yes.

22 Q. Okay. So did you look at FES's portfolio  
23 mix as a whole in regard to all states, not just  
24 Ohio?

1           A.    Yes, in comparing what we were offering  
2   Ohio, yes.

3           Q.    Thank you.  Okay.  And you stated that  
4   you chose baseload for reliability for Ohio  
5   customers, I believe, and just so we're clear those  
6   baseload units do not serve Ohio customers, correct?

7           A.    No.

8           Q.    Okay.  Could you please --

9           A.    That's not correct.

10          Q.    Okay.  What about under the terms of the  
11   proposed transaction?

12               MR. LANG:  Objection to form.

13          A.    These plants provide power to the grid.  
14   The grid supports Ohio.

15          Q.    Okay.  But under the terms of the  
16   proposed transaction, the power would not be used to  
17   directly support Ohio customers or would not be  
18   purchased strictly by Ohio customers, correct?

19               MR. LANG:  Objection.

20          A.    Could you repeat that question again?

21          Q.    Sure.  Under the terms of the proposed  
22   transaction, the generation from Sammis and from  
23   Davis-Besse, will that be used to serve Ohio  
24   customers?

1           A.    No.  It will provide a hedge or a  
2           protection for the customers against rising market  
3           prices.

4           Q.    So these baseload units, the generation  
5           from them will continue to be dispatched into PJM?

6           A.    Yes.

7           Q.    And PJM will continue to make those  
8           dispatch decisions for the region; is that correct?

9           A.    Yes.

10          Q.    You mentioned in the course of FES's  
11          negotiations with the EDU or the companies that two  
12          issues were negotiated, 1, who would dispatch the  
13          generating units and who would bid them into the  
14          capacity auctions; and, No. 2, the disagreement about  
15          the unit contingent offer and whether there would be  
16          a 30-day window for good utility practice.  Would you  
17          explain the second point again?

18               MR. LANG:  Objection to the restatement.  
19          If you can answer.

20          Q.    Okay.  And you can rephrase -- let me  
21          know what your take is on what the issues were.

22          A.    You're specifically asking about the unit  
23          contingent status?

24          Q.    Yes.

1           A.    As we went into the proposal, this was  
2           offered as purely unit contingent with no window of  
3           liability for FirstEnergy Solutions. The energy  
4           delivery unit wanted a 30-day window for an unplanned  
5           outage, and we felt that was too short. We  
6           negotiated and landed on 180 days.

7           Q.    Okay. And so 180 days was advanced by  
8           FES or FE?

9           A.    I don't know.

10          Q.    Okay. And in addition to the unit  
11          contingent offer and then who would dispatch the  
12          generating units and who bid them into the capacity  
13          auctions, were there any other issues that arose in  
14          the context of your conversations with the company?

15          A.    Not in my conversations. I wasn't part  
16          of the FES team so there were only a few specific  
17          issues that came to me.

18          Q.    Okay. And are you aware of any other  
19          issues that were encountered by the FES team?

20          A.    I don't know.

21          Q.    To your knowledge did FirstEnergy request  
22          anything in return for the payments to FES for the  
23          units?

24               MR. LANG: Objection. By FirstEnergy you

1 mean the companies?

2 MS. HUSSEY: I do.

3 A. I don't know.

4 Q. Okay. And from your perspective what is  
5 your understanding of how the transaction benefits  
6 the companies?

7 A. From my perspective the transaction  
8 provides reliability and certainty for the customers  
9 against rising energy prices in a volatile and  
10 changing market.

11 Q. Okay. And what is the benefit to the  
12 companies, not just their customers?

13 A. Well, could you -- could you rephrase  
14 that question?

15 Q. Do you see any inherent benefits in the  
16 proposed transaction going directly to the company as  
17 opposed to just their customers?

18 A. Yes. I would say that the reliability  
19 benefits of these baseload units staying where they  
20 are and in the market provides a more reliable system  
21 that the companies can rely on to get their customers  
22 power 24/7.

23 Q. Okay. I believe you testified that you  
24 had not previously had discussion with the Ohio

1 legislature or before legislators with regard to the  
2 proposed transaction or the ESP; is that correct?

3 MR. LANG: Objection to form.

4 A. Yes.

5 Q. Yes, you have not?

6 A. Yes, I have not.

7 Q. Okay. My apologies.

8 MR. LANG: That's why I objected to form.

9 Q. And what about the governor's office?

10 A. Could you rephrase or qualify that  
11 question?

12 Q. Sure. Have you lobbied for policy  
13 positions on behalf of FirstEnergy Solutions at the  
14 governor's office?

15 A. No.

16 Q. What about for policy positions on behalf  
17 of the company at the governor's office?

18 A. No.

19 Q. And have you met with PUCO Commissioners  
20 or staff regarding the application or the proposed  
21 transaction?

22 A. No.

23 Q. Earlier you referenced the energy  
24 delivery group. Is that under FirstEnergy Services

1 Corporation?

2 A. No.

3 Q. Okay. Could you explain for me where in  
4 the spectrum that would fall?

5 A. I'm sorry. I didn't understand your  
6 question. Could you say that again?

7 Q. Sure. Where does -- where does the  
8 energy delivery group fall within the FirstEnergy  
9 organization?

10 A. They are part of the companies.

11 Q. Okay. So they are -- they are a subset  
12 of the companies rather than FirstEnergy Services  
13 Corporation?

14 A. Yes.

15 Q. I believe you talked with Mr. Olier a  
16 little bit about the term "necessary investments" on  
17 page 2 of your testimony.

18 A. Yes.

19 Q. And that capital investment would be  
20 necessary to ensure reliability in the near and long  
21 term.

22 A. Yes.

23 Q. In the short term could you describe what  
24 those necessary investments would be?

1           A.   Not off the top of my head.

2           Q.   Okay. Any idea about what type of costs  
3 or what degree of costs would be associated with  
4 short-term necessary investments?

5           A.   Only what has been provided in the profit  
6 and loss statements.

7           Q.   And to your understanding do those  
8 statements reflect any necessary investments that  
9 would occur over the course of the ESP?

10          A.   For what's known right now, yes.

11          Q.   Okay. And what about over the term of  
12 the proposed transaction?

13          A.   Based on our current knowledge right now,  
14 yes.

15          Q.   Okay. Are you familiar with the  
16 February, 2014, Sargent Lundy assessment of the  
17 remaining useful life of the Sammis plant?

18          A.   No.

19          Q.   Okay. Outside of the scope of that  
20 report, what's your understanding of the remaining  
21 useful life of the Sammis plant?

22          A.   It's well beyond 15 years. That's my  
23 understanding.

24          Q.   Did you consider mothballing either the

1 Sammis or Davis-Besse facilities until market prices  
2 for energy and capacity improve to a level that the  
3 plants would be profitable?

4 MR. LANG: Objection.

5 THE WITNESS: Isn't that confidential?

6 MR. LANG: Could be.

7 MS. HUSSEY: Okay. We can talk about it  
8 later.

9 Q. In order to be considered reliable, is  
10 there a number of days in any given year that you  
11 would say a baseload plant would need to be in  
12 service?

13 A. I wouldn't have a specific number in  
14 mind, but I would say having the capability to run  
15 24/7 regardless of weather conditions with a high  
16 capacity factor.

17 MS. HUSSEY: Okay. That's it for my  
18 public, the public questions. Thank you very much.

19 MR. FISK: Can we go off for a couple of  
20 minutes?

21 MR. LANG: Let's take a break. 5, 10?

22 MR. FISK: 5 is fine.

23 (Recess taken.)

24 MR. LANG: We're back on in Akron.

1 Madeline Fleisher.

2 MS. FLEISHER: Yes.

3 - - -

4 CROSS-EXAMINATION

5 By Ms. Fleisher:

6 Q. Hi.

7 A. Hello.

8 Q. My name is Madeline Fleisher. I  
9 represent the Environmental Law & Policy Center.  
10 Thanks for being with us today, Mr. Moul.

11 A. My pleasure.

12 Q. And at any point if you can't hear me,  
13 just let me know and likewise if we're reaching into  
14 anything confidential that I should save for this  
15 afternoon.

16 A. Okay.

17 Q. So I would like to talk just about a few  
18 things in your testimony starting with on page 2  
19 where you describe -- the summary, where you say "The  
20 economic viability of the Plant is in doubt." When  
21 you provided that testimony, was that based on  
22 specific market projections or forecasts?

23 A. Market projections but also changes,  
24 movement, transition in the marketplace.

1           Q.    Can you describe what you mean by that  
2   latter phrasing?

3           A.    Movement in energy price, movement in gas  
4   prices, movement in policy decisions.

5           Q.    Okay.  Would it be accurate to say that's  
6   sort of a more qualitative consideration of what's  
7   going on in the market?

8           A.    Correct.

9           Q.    To the extent you are considering either  
10   quantitative or qualitative market trends, does this  
11   portion of your testimony take into account the  
12   possibility of capacity performance payments for the  
13   Sammis -- for any of the plants?

14          A.    No.  This testimony was filed prior to  
15   capacity performance being proposed.

16          Q.    Do you know if -- I realize that's  
17   obviously not a finalized policy but is it possible  
18   that capacity performance payments could change your  
19   assessment in this portion of your testimony?

20          A.    Yes.

21          Q.    Have you since you filed this testimony  
22   done any evaluation of whether capacity performance  
23   payments would change the likelihood of any of the  
24   plants being closed down?

1 A. Could you rephrase that question?

2 Q. Sure. Happy to. Since you filed your  
3 testimony have you evaluated whether the -- whether  
4 capacity performance payments would alter the  
5 conclusions that you make here?

6 A. Yes.

7 Q. And what were the results of that  
8 evaluation?

9 A. Well, it's not complete. We've looked at  
10 potential, but it's not complete.

11 Q. Okay. So is it accurate to say that at  
12 this point you have not reached any conclusions --  
13 pardon me, you have not reached any conclusion as to  
14 whether capacity performance payments would alter the  
15 economic outlook for the plant?

16 A. Yes.

17 Q. Do you know when your -- your evaluation  
18 of that issue would be complete?

19 A. Yes.

20 Q. When would that be?

21 A. Following final FERC approval of whatever  
22 this proposal is going to end up as in the tariff.

23 Q. And at that point you would, I guess -- I  
24 will probably say something dealing with a

1       hypothetical situation where the proposed transaction  
2       in this case is not in place, once the FERC proposal  
3       is approved at that point, you would decide whether  
4       or not to close the plant; is that correct?

5               MR. LANG: Objection, beyond the scope of  
6       the testimony. You can answer.

7               A.    Could you -- could you rephrase that? I  
8       had a hard time following all the predecessors to it.

9               Q.    Sure. Yeah. It's hard to talk about the  
10      hypotheticals. I guess I'm asking if it's correct  
11      that putting aside the proposed power purchase  
12      agreement here, if that weren't on the table, you  
13      would decide whether to close the Sammis,  
14      Davis-Besse, and OVEC plants -- or I guess Sammis and  
15      Davis-Besse once the FERC capacity performance  
16      proposal is finalized?

17              A.    Yes.

18              Q.    And if FirstEnergy Solutions did  
19      decide -- or scratch that.

20                    Are you familiar with reliability  
21      must-run agreements?

22              A.    Yes.

23              Q.    And if FES were to decide to close any of  
24      the plants at issue here, would FES be willing to

1 enter into an RMR agreement with PJM?

2 A. I don't know.

3 Q. Are there any particular reasons that FES  
4 would refuse to enter into such an agreement?

5 A. I don't know.

6 Q. Do you know what criteria FES would use  
7 in assessing whether to enter into such an agreement?

8 MR. LANG: Objection to the extent that  
9 that requires confidential discussions or  
10 confidential information. If you can answer it  
11 without providing confidential, at a high level, you  
12 can do that.

13 THE WITNESS: I don't think I can answer  
14 without going into the confidential information.

15 Q. Okay. That's fine. All right. Let's  
16 talk a little bit about your discussions with the  
17 companies. Before you approached Mr. Haney about  
18 that proposed transaction, had FirstEnergy Solutions  
19 sought any similar financial arrangement with any  
20 other entity regarding any of its plants?

21 A. No.

22 Q. Is this a reason you approached Mr. Haney  
23 first?

24 A. Could you rephrase that question?

1           Q.    I guess when you came up with the idea of  
2           this proposed transaction, did you have in mind only  
3           to enter into it with the company?

4           A.    It was the construct that we considered.  
5           We didn't necessarily consider any other constructs.

6           Q.    Okay.  Are you then -- sorry.  Can you  
7           sort of be more definitive?  Did you consider  
8           entering into a transaction with any other entity?

9           A.    No.

10          Q.    Is there a reason for that?

11          A.    No.

12          Q.    So that FES sort of came to you and it  
13          ended up being agreed upon with the company.

14               MR. LANG:  Objection.

15          A.    Yes.

16          Q.    In your -- to the extent you were  
17          involved in the discussions with the companies, did  
18          they ever mention the possibility of procuring  
19          generation from any entity besides FirstEnergy  
20          Solutions?

21          A.    No.

22          Q.    And did -- to the best of your knowledge,  
23          did anyone from the companies ever suggest the  
24          possibility of conducting any competitive procurement

1 to obtain this amount and type of generation?

2 A. No.

3 Q. I would like to look at the portion of  
4 your testimony at the bottom of page 3 going on to  
5 page 4. You say "In light of the historically low  
6 level of revenues for the last several years, FES may  
7 not be financially able to bear the short-term losses  
8 associated with the Plants, despite the fact that  
9 market prices are expected to rise over the long  
10 term." When you say 'FES may not be financially able  
11 to bear the short-term losses," what does that mean?

12 A. It means not being willing to have  
13 greater expenses than revenues for these plants.

14 Q. Are there any -- hold on. I want to  
15 phrase this in as clear a way as possible. Besides  
16 the short-term losses themselves, would there be any  
17 other material consequences for FES?

18 MR. LANG: Objection.

19 A. Could you clarify your question?

20 Q. So when you say you wouldn't be able to  
21 tolerate the short-term loss, I guess, why wouldn't  
22 you -- why wouldn't FES be able to tolerate them?

23 A. Because we would be losing money on these  
24 plants.

1           Q.    Okay.  And is there some specific result  
2    like bankruptcy or drop in share price or anything  
3    else that would specifically make this particular  
4    level of loss unsustainable?

5           A.    No.

6           Q.    So it's just a qualitative judgment about  
7    the finances of the company?

8           A.    No.

9           Q.    Can you explain to me what criteria make  
10   a loss unsustainable versus sustainable?

11          A.    Depending upon the magnitude of the cost  
12   versus the revenues, a competitive business would not  
13   choose to continue operating an asset that continues  
14   to lose money.  So it's qualitative and it's not  
15   specific to any downstream action.

16          Q.    Okay.  And I guess in making that  
17   judgment, would you consider the long-term potential  
18   profitability of the plant?

19          A.    Yes.

20          Q.    And is there a reason why the long-term  
21   profits that you -- that have been presented in the  
22   projections in this case would be insufficient  
23   incentives for FES to keep the plants open?

24          A.    Because in the near term we may not be

1 willing to take losses to get to those long-term  
2 gains.

3 Q. Is the amount of uncertainty about those  
4 long-term gains, does that play any role in the  
5 decision?

6 A. It's the amount of uncertainty in the  
7 markets in general, specifically in the near term,  
8 that plays into that.

9 Q. Okay. What about long-term uncertainty  
10 over the 15-year term of the proposed transaction?

11 A. Could you -- could you restate that  
12 question?

13 Q. Sure. You said -- I guess I had asked  
14 whether the uncertainty about the profit -- or price  
15 projections makes a difference, and you said, I'm  
16 just going to summarize here, that near-term  
17 certainty played a role, and I am asking if long-term  
18 uncertainty plays a role in FES's assessment that it  
19 would not necessarily be able to keep these plants  
20 open.

21 A. The long-term uncertainty is consistent  
22 whether we would keep the plants open or not, so it  
23 would be a factor.

24 Q. Okay. Turning to the issue of how you

1       selected these particular plants in response to the  
2       companies' proposal that you come back with some  
3       specific ones. And I am going to try not to repeat  
4       other people's questions here so bear with me. How  
5       did you decide the amount of generation in terms of  
6       megawatts that you wanted to propose for the  
7       transaction?

8               A. We looked at our Ohio-based assets and  
9       looked at what combination of those assets would have  
10      a similar percentage of fuel breakdowns as the  
11      remaining portfolio for FES would have as well  
12      because we think that's a -- a prudent mix between  
13      fuel types for baseload generation so the megawatts  
14      fell out based on the percentages.

15             Q. And did -- in coming up with this  
16      specific proposal, did you consider any Ohio-based  
17      assets that you ultimately decided not to include in  
18      the proposal?

19             A. Yes.

20             Q. And can you -- you don't have to go  
21      through the names of the specific plants unless  
22      that's the easiest way to do it but can you describe  
23      which assets those were?

24             A. Yeah. The other two we looked at were

1 Perry and Bay Shore. Those are the ones that are  
2 baseload generating assets. Bay Shore was too small  
3 really and is associated with a confidential contract  
4 with a counterparty we can talk about later. And  
5 using Perry would more heavily weight it towards  
6 nuclear and would -- would not match up with that  
7 fuel diversity percentage mix that we were striving  
8 for.

9 Q. Okay. And are you aware of any baseload  
10 plants in Ohio owned by other generation companies  
11 that are of similar sizes in terms of megawatts?

12 A. I don't know.

13 Q. Hold on. I am just skipping around here  
14 a little bit. All right. Let's go back to you had  
15 discussed with some of the other folks that 2013  
16 generation mix in Ohio described in your testimony of  
17 44 -- about 44 percent coal, 35 percent nuclear, 16  
18 percent gas, and small percent wind and  
19 hydroelectric.

20 In your communications with the company,  
21 did you ever discuss with them what the appropriate  
22 generation mix would be compared to these  
23 percentages?

24 A. No.

1           Q.    And in your view how high a percentage  
2           of -- yeah -- how high would the percentage of gas  
3           have to go before there would not be sufficient  
4           resource diversity?

5           A.    I don't know.

6           Q.    Do you know if 30 percent would be too  
7           high?

8           A.    It's a function of the ability of gas  
9           infrastructure to supply gas plants, and based on  
10          that I don't know.

11          Q.    Okay. And do you have a view as to  
12          whether it's important to preserve resource diversity  
13          specifically in Ohio as opposed to across the PJM  
14          grid?

15          A.    My opinion it's equally important.

16          Q.    Why is that?

17          A.    Because of the value of resource  
18          diversity. It's not specifically an Ohio thing. I  
19          think it's a general important aspect associated with  
20          a reliable grid.

21          Q.    Okay. I guess I want to turn that around  
22          for a second. If you could -- assuming you could  
23          preserve what in your view would be sufficient  
24          resource diversity across PJM, is there any reason

1       why you need a specific amount of resource diversity  
2       in Ohio in particular?

3             A.    Yes.

4             Q.    What's that?

5             A.    Because where the plant is located  
6       matters.

7             Q.    So you think the resource diversity has  
8       to be across -- within a particular hub; is that  
9       correct?

10            A.    Well, if you take a look at my testimony,  
11       I talk about Gavin Cunningham's evaluation of the  
12       level of transmission upgrades that would be required  
13       should these plants retire. So it's resource  
14       diversity is valuable across the footprint. It's  
15       valuable locationally. So in my opinion it's  
16       universally valuable.

17            Q.    Okay. Sorry. Just one minute. I  
18       believe -- again, I am not trying to exactly capture  
19       your testimony here, but I believe before you said  
20       that you view peak demand reduction and energy  
21       efficiency measures as not an -- not being an aspect  
22       of resource diversity; is that correct?

23            A.    I stated I don't consider them to be  
24       capacity.

1           Q.    Okay.  Do you think they are an important  
2   part of resource diversity?

3           A.    I think they are important on the demand  
4   side as a dispatch transmission operator tool.

5           Q.    So do you think that there should be as  
6   part of the portfolio of resources some amount of  
7   peak demand reduction and energy efficiency?

8           A.    Not as capacity.

9           Q.    Okay.  I got -- if we look at pages 7  
10   through 8 of your testimony, you generally describe  
11   some purposes that resource diversity serves; is that  
12   correct?

13          A.    Yes.

14          Q.    Do you think that energy efficiency and  
15   peak demand reduction measures can also address any  
16   of these purposes?

17          A.    No, because demand reduction and energy  
18   efficiency don't produce a single megawatt.

19          Q.    So I guess let's just go through these  
20   one by one.  You're saying that energy efficiency and  
21   peak demand reduction play no role in mitigating  
22   price volatility?

23          A.    I'm saying they don't generate a  
24   megawatt; so, therefore, they cannot be part of

1 supply. They can help manage demand, but they don't  
2 provide supply.

3 Q. Okay. Does managing -- can managing  
4 demand help mitigate price volatility?

5 A. No.

6 Q. Okay. Can managing demand help avoid, I  
7 am just going to quote, "potential catastrophic  
8 issues within a single class of generation"?

9 A. No, because it doesn't generate.

10 Q. Okay. If you have -- I'll skip that.

11 During your testimony you said that you  
12 noted that preserving nuclear generation may help  
13 with proposed EPA carbon emission rules, help Ohio  
14 comply with those rules; is that correct?

15 A. Yes.

16 Q. Do you know what the treatment of nuclear  
17 generation in the final version of those rules will  
18 be?

19 A. I don't know.

20 Q. Okay. Sometimes I ask questions to  
21 assert the obvious. Do you know if keeping coal  
22 plants open within Ohio could make it harder for the  
23 states to comply with any final carbon emission rule?

24 A. I don't know.

1 Q. Is it possible?

2 A. It's possible.

3 Q. Going back to your -- the discussions  
4 between FES and the companies about the proposed  
5 transactions, did you ever discuss FES's internal  
6 price projections with the company during those  
7 discussions?

8 A. No.

9 Q. And you mentioned you got involved in a  
10 couple I believe you said contentious issues in the  
11 negotiations. Were you -- would you say you were  
12 involved with all of the issues that became  
13 contentious?

14 A. I don't know.

15 Q. Were you aware of any disputes regarding  
16 the capital expenditures provision which -- hold on,  
17 let me find it here, that provision No. 12 of the  
18 term sheet.

19 A. Could you ask your question again? I  
20 missed the beginning of it as we were going through  
21 the term sheet.

22 Q. Sure. No problem. Looking at the  
23 capital expenditures provision, and take a second to  
24 read it over if you need to and I am happy to then

1 repeat again, were you aware of any contention or  
2 debate about the particular terms of this provision?

3 A. No.

4 Q. To the best of your knowledge, did the  
5 companies ever seek any more extensive ability to  
6 play a role in FES's capital expenditures decision?

7 A. I don't know.

8 Q. And did you participate in any  
9 discussions regarding the limitations on the  
10 liability provision which is provision 19?

11 A. No.

12 Q. Were you aware of any debates about the  
13 substance of that provision?

14 A. No.

15 Q. I think you mentioned you got somewhat  
16 regular updates about how the discussions were  
17 proceeding; is that correct?

18 A. Yes.

19 Q. Do you think those were fairly complete  
20 updates, or did they just focus on a few issues?

21 A. They focused on a few issues.

22 Q. Okay. And looking at the good utility  
23 practice provision of the term sheet which is --  
24 sorry, I should have written down all these

1 numbers -- 1, sorry, at the top, operating work is  
2 the title, but then seller has an obligation to  
3 perform the operating work in accordance with good  
4 utility practice. What's your understanding of the  
5 term operating work?

6 A. It's a defined term in the back of the  
7 term sheet.

8 Q. Okay. And is your understanding that  
9 this would include -- that the term operating work  
10 would include procurement of fuel supplies? Oh,  
11 sorry, skip that. I just saw that there.

12 Sorry. I wanted to ask would the term  
13 operating work include the planning of outages?

14 A. Here's my understanding of the term  
15 operating work. "'Operating Work' means the  
16 operation, maintenance, use, repair or retirement of  
17 the Facility on or after the Effective Date,  
18 including but not limited to labor; parts; supplies;  
19 insurance; permits; licensing; taxes other than  
20 income; procurement of ancillary services; fuel and  
21 other consumables; fuel acquisition, transportation  
22 balancing and storage; waste handling and disposal  
23 (including coal ash or spent nuclear fuel); filing,  
24 defense and settlement of claims, suits and causes of

1       action; procurement (or sale) of Allowances and  
2       settlement of all other environmental charges (or  
3       credits) pertaining to the operation of the Facility;  
4       including any and all such actions as may be required  
5       to comply with the permit, rule, regulation, order,  
6       standard or other requirements of a Governmental  
7       Authority; but excluding any Capital Expenditures  
8       Work."

9               Q.    Okay.  I am happy to note you just read  
10       the definition of operating work.

11              A.    Thought I would help you out.

12              Q.    Thank you very much.  I guess then can I  
13       ask do you have any view on whether this definition  
14       applies with respect to planned outages?

15              A.    Planned outages includes some capital  
16       expenditures so there would be a part that wouldn't  
17       be part of this and there would be some that I think  
18       would be.  That's my opinion.

19              Q.    Okay.  Thank you.  Give me just 30  
20       seconds here to make sure I'm done.

21                    I think I have just one or two more  
22       questions.  You were discussing with Mr. Soules that  
23       you would get energy price forecasts from the  
24       business development unit or that you have on

1 occasion gotten those and that they would provide you  
2 with the range.

3 A. A range of an asset value.

4 Q. Okay. And that asset value would be  
5 based on energy price forecasts; is that correct?

6 A. Yes.

7 Q. And do you know how they would come up  
8 with that range of value?

9 A. No.

10 Q. Would you give any guidance in asking for  
11 the -- for a particular range or -- or would they  
12 decide that internally to the business development  
13 group?

14 A. Could you rephrase that question?

15 Q. Sure. I guess would you just say I would  
16 like an asset value for this particular asset, or  
17 would you ever offer any further guidance or make  
18 any -- have any more details than such a request?

19 A. Hypothetically I would ask for an asset  
20 value. If I had questions about the range, I would  
21 ask questions after I saw what the value was.

22 Q. In getting such an asset value, have you  
23 ever had questions?

24 A. Yes.

1           Q.    Can you give me some examples of the  
2           types of questions you would ask?

3           A.    I would ask which economic outlook ranges  
4           did you base this on.

5           Q.    Okay.  And when you say "which economic  
6           outlook," is that referring to some particular type  
7           of document, or, I guess, is that a specific type of  
8           document?

9           A.    No.

10          Q.    Is it a defined term in any sense?

11          A.    No.

12          Q.    Does it refer to the assumptions they  
13          used as input to their modeling and forecasting?

14          A.    Yes.

15          Q.    Okay.  And if you asked them that, then  
16          what would their response be?

17          A.    It's a hypothetical question.  I have no  
18          idea what their response would be.  It would be case  
19          dependent.

20          Q.    Okay.  I guess then my understanding was  
21          you were talking about a specific example of  
22          questions that you have asked them in the past; is  
23          that correct?

24          A.    No.  It was a hypothetical you asked me

1       what type of questions would you ask. Maybe I didn't  
2       understand the question.

3               MS. FLEISHER: I apologize if I  
4       misunderstood there. I think that's it from my end.  
5       Thanks, everyone.

6               MR. LANG: It's a lunchtime break. I  
7       think we are going to take a lunch break at this time  
8       since we got going at 8.

9               MR. FISK: Can we ask who else?

10              MR. LANG: Let's go off the record.

11              (Discussion off the record.)

12              (Thereupon, at lunch recess was taken at  
13       12 noon.)

14                               - - -

15

16

17

18

19

20

21

22

23

24

1 Thursday Afternoon Session,  
2 January 15, 2015.

3 - - -

4 MR. LANG: Hello. We are back on in  
5 Akron.

6 Colleen Mooney, you were next on my list,  
7 but I think you said you didn't have questions? She  
8 may not be there.

9 Frank Darr was next. Frank, are you  
10 there?

11 MR. DARR: Yes. No questions.

12 MR. LANG: No questions. And Mike  
13 Settineri would be next then.

14 MR. SETTINERI: Thanks, Jim. Are we on  
15 the record?

16 MR. LANG: We are.

17 MR. SETTINERI: Great.

18 - - -

19 CROSS-EXAMINATION

20 By Mr. Settineri:

21 Q. Good afternoon, Mr. Moul. My name is  
22 Mike Settineri, and we represent the Retail Energy  
23 Supply Association in the PJM Power Producers Group.  
24 How are you today?

1           A.    Fine, thank you.

2           Q.    Good.  If you can't hear me at all, just  
3 speak up and let me know.  Let's start, if you  
4 could -- if you could turn to your testimony, I would  
5 like to ask you a question on page 9.

6           A.    Okay.

7           Q.    Do you have a copy of your testimony in  
8 front of you?

9           A.    I do.

10          Q.    Okay.  At lines 19 to 20 and 21, you make  
11 a comparison between Sammis as a coal plant versus  
12 all of Ohio resources.  Do you see that language?

13          A.    I see that language.

14          Q.    And in regard to that comparison that you  
15 make, did you conduct a similar comparison as to a  
16 gas-fired electric generation plant?

17          A.    No.

18          Q.    Why not?

19          A.    Because that part of my testimony was  
20 associated with renewable resources.

21          Q.    Would you agree with me that a gas-fired  
22 electric generation unit is generally just as  
23 reliable as a coal-fired unit?

24          A.    No.

1 Q. Why not?

2 A. A gas-fired unit relies on just-in-time  
3 delivery of gas. A coal unit has a coal pile with  
4 typically around 30 days' supply.

5 Q. Any other reasons?

6 A. No.

7 Q. Have you ever had problems with coal  
8 piles freezing in the cold weather?

9 A. Yes.

10 Q. Can you give me an example of what  
11 happened?

12 A. A frozen coal pile can limit the output  
13 of a station depending upon the extent of its  
14 freezing.

15 Q. When a coal pile freezes, how do you  
16 remedy that situation?

17 A. I don't know.

18 Q. In your experience what would be the  
19 greatest limitation on output that you have seen as a  
20 result of a coal pile freezing?

21 A. I don't know a specific number.

22 Q. Any ballpark numbers?

23 A. I've had very limited experience on coal  
24 piles freezing.

1           Q.    Okay.  Is that just based on your  
2   experience, or are you saying that as -- as a general  
3   industry statement?

4           A.    My experience.

5           Q.    Okay.  Turning to page 10, line 4, you  
6   make a statement that "Moreover, the current gas  
7   infrastructure is stressed, and any transition to  
8   more gas-fired units will take time."  Do you feel  
9   that the current gas infrastructure in Ohio is  
10  stressed?

11          A.    Yes.

12          Q.    Do you believe the current gas  
13  infrastructure within the PJM regional -- or  
14  geographical area is stressed?

15          A.    Yes.

16          Q.    Turning back to the Ohio, why do you  
17  believe that the current gas infrastructure in Ohio  
18  is stressed?

19          A.    I base that based on the experiences of  
20  January, 2014, and our own experiences within our  
21  generating fleet.

22          Q.    Okay.  And January, 2014, you are  
23  referring to has been referred to as the polar  
24  vortex; is that correct?

1           A.    Yes.

2           Q.    Okay.  And did you have gas interruptions  
3   to any units in your fleet during the polar vortex?

4           MR. LANG:  To the extent any of that is  
5   confidential, let me know if it is, and we can hold  
6   it until later.

7           A.    Why don't we hold that until later.

8           Q.    I would be glad to, thank you.  You also  
9   include a phrase that -- 6 and 7 of page 10, and I'll  
10   paraphrase, that gas-fired units cannot be relied  
11   upon exclusively as the backbone of the electric  
12   system.  And I'll note in your testimony you  
13   previously indicated the generation mix serving Ohio  
14   being 16.4 percent gas for 2013.  If you assume that  
15   the generation mix serving Ohio, 16.4 percent today,  
16   do you have an opinion at what percent of gas being  
17   the generation mix would result in that gas being  
18   considered exclusively as the backbone of the  
19   electric system?

20          A.    I don't know.

21          Q.    You don't have an opinion?

22          A.    I really don't know.

23          Q.    Would you agree with me gas plants can  
24   operate any time of the day and in any season?

1 A. No.

2 Q. Why not?

3 A. They need to get fuel, and if they have  
4 an interruptible fuel supply or if there's a  
5 limitation on delivery, they can't operate.

6 Q. Assuming there are no interruptions on  
7 delivery and fuel is available, would you agree with  
8 me that gas plants can operate any time of the day  
9 and in any season?

10 A. Yes.

11 Q. Turning to page 11, line 11 of your  
12 testimony, you state -- and, again, I'll paraphrase,  
13 natural gas-fired plants account for 45 percent of  
14 the forced outages in PJM. It appeared that was a  
15 statement based on January, 2014, peak. Is that a  
16 fair paraphrase of that testimony?

17 A. Yes.

18 Q. Okay. What accounted for the other 55  
19 percent of the forced outages?

20 MR. LANG: Objection.

21 A. It's listed in the PJM polar vortex  
22 report. I don't remember the breakdowns according to  
23 different asset types, but it's broken down that way.

24 Q. Okay. Thank you. When did you -- you

1       stated earlier that you prepared your testimony.

2       When did you start preparing your testimony for this  
3       proceeding?

4             A.    It was in the -- in the summertime,  
5       June -- July timeframe leading up to August 4.

6             Q.    Okay. Did you take a vacation last  
7       July 4?

8             MR. LANG:  Objection to relevance.

9             A.    I was off for the holiday.

10            Q.    Okay. Did you start on your testimony  
11       before the holiday?

12            A.    I don't remember.

13            Q.    But you do -- you do remember starting to  
14       prepare your testimony in July; is that correct?

15            MR. LANG:  Objection, asked and answered.

16            A.    Yes.

17            Q.    And if you can, do you recall what part  
18       of July you started preparing your testimony?

19            A.    I don't remember.

20            Q.    Okay. Thank you. Going back to the  
21       generation mix that you discuss at page 9, lines 3 to  
22       5 of your testimony, and just so I understand, are  
23       those -- those -- No. 1, the figures that you present  
24       there, is that based on the generation mix within

1 PJM?

2 A. Yes.

3 Q. And is that based on a megawatt figure?

4 A. Yes.

5 Q. And what was the source for that data  
6 that -- that you used to calculate those percents?

7 A. I don't remember.

8 Q. Was it publicly available?

9 A. Yes.

10 Q. Was it from the PJM website?

11 A. I really don't remember.

12 Q. Thank you. In your testimony, am I  
13 correct when you use the phrase "plants," you are  
14 referring to the Davis-Besse and the Sammis plants?

15 A. Could you rephrase that question?

16 Q. Sure. I just want to make sure -- I'll  
17 just do it this way, I am going to refer to plants,  
18 and when I do, I am going to -- that includes the  
19 Davis-Besse nuclear power station, the W.H. Sammis  
20 plant, correct?

21 A. Okay.

22 Q. With that said if the plants were  
23 retired, what percent, let me ask this, of the  
24 generation mix serving Ohio would then be coal based?

1           A.    I don't know.

2           Q.    All right.  Same question, if the plants  
3   were retired, what percent of the generation mix  
4   primarily serving Ohio would be gas based?

5           A.    I don't know.

6           Q.    If the plants were retired, what percent  
7   of the generation mix primarily serving Ohio would be  
8   nuclear?

9           A.    I don't know.

10          Q.    Am I correct then you didn't perform any  
11   calculations to determine what those percents would  
12   be?

13          A.    Could you rephrase that question?

14          Q.    Did you perform any calculations to  
15   determine what percent of generation mix would be  
16   serving Ohio if the plants were retired?

17          A.    I did not.

18          Q.    Do you have an opinion as to the shift  
19   in -- if the plants were retired, do you have an  
20   opinion as to how much the numbers -- the magnitude  
21   of the change in the numbers that you present at  
22   lines 3 to 5 of your testimony at page 9?

23          A.    No.  I know that coal and nuclear would  
24   go down, and gas would go up as well as wind and

1 hydro.

2 Q. You don't have a feel for the magnitude.

3 A. No.

4 Q. Thank you. Do you consider a gas fired  
5 electric generation plant to be a baseload plant?

6 A. Could you be more specific?

7 Q. Well, let me ask you this, what don't you  
8 understand about the question?

9 A. Well, there are different types of  
10 gas-fired plants.

11 Q. Do you consider a combined cycle  
12 gas-fired electric generation plant to be a baseload  
13 plant?

14 A. I consider it to be an intermediate  
15 plant.

16 Q. Why do you consider it to be an  
17 intermediate plant?

18 A. Because it can operate like a baseload  
19 plant but also has some peaking capabilities.

20 Q. And what type of gas-fired electric  
21 generation plants would you consider a baseload plant  
22 and not an intermediary plant?

23 A. None.

24 Q. So is it fair to say then that all

1 gas-fired electric generation plants you would  
2 consider to be baseload plants?

3 MR. LANG: Objection. Go ahead and  
4 answer.

5 A. No.

6 Q. I'm just confused so maybe you can help  
7 me here. You said an intermediary plant, which is a  
8 combined cycle gas-fired electric generation plant,  
9 has peaking capabilities, but it also is a baseload  
10 plant; is that correct?

11 A. No.

12 Q. So you don't consider a combined cycle  
13 gas-fired electric generation plant to be a baseload  
14 plant; is that correct?

15 A. Yes.

16 Q. Is that solely because it has the ability  
17 to be a peaking plant?

18 A. Could you rephrase that question?

19 Q. What I am trying to understand then is  
20 the intermediary plant is an example of a combined  
21 cycle plant. Do you consider that to be a peaking  
22 plant, right? But doesn't that unit also have the  
23 ability to run 24/7 as long as there is a continuous  
24 source of fuel?

1           A.    Yes.

2           Q.    And it could run in all weather with a  
3   high capacity factor if it has a continuous source of  
4   fuel, correct?

5           A.    Yes.

6           Q.    What I'm trying to understand then is, if  
7   I heard you correctly, you still don't consider that  
8   unit to be a baseload plant though.

9           A.    I consider it to be an intermediate plant  
10   that has the capability to run like a baseload plant.

11          Q.    Would that be at the discretion of the  
12   operator subject to dispatch?

13          A.    Yes.

14          Q.    Thank you.  At page 5 of your testimony,  
15   line 17, there is a phrase "imports from other  
16   states" and the specific sentence starting at line 15  
17   reads "If new plants are not constructed in Ohio to  
18   replace this baseload generation, customers could  
19   also see higher congestion costs resulting from  
20   capacity imports from other states."  Do you see that  
21   sentence?

22          A.    Yes.

23          Q.    If new plants are constructed in Ohio,  
24   and say new baseload plants are constructed in Ohio,

1       could that relieve the need to import capacity from  
2       other states?

3             A.    I don't know.

4             Q.    Would that be dependent on the size of  
5       the plant?

6             A.    Yes.

7             Q.    Okay. Any other factor that it would be  
8       dependent on?

9             A.    Yes.

10            Q.    What other factors?

11            A.    Location.

12            Q.    Are you familiar with the Carroll County  
13       combined cycle gas-fired electric generation plant  
14       that's been proposed in Carroll County, Ohio?

15            A.    I've heard of it.

16            Q.    When did you hear about it?

17            A.    I don't remember.

18            Q.    Are you familiar with the Oregon Clean  
19       Energy Center currently being constructed in Oregon,  
20       Ohio, that is a combined cycle gas-fired generation  
21       plant?

22            A.    Yes.

23            Q.    Are you familiar with the gas generation  
24       plant that's been proposed for Middletown, Ohio?

1           A.    No.

2           Q.    Are you familiar with the gas-fired  
3 generation plant that's been proposed in Lordstown,  
4 Ohio?

5           A.    Yes.

6           Q.    Would you view the construction --  
7 assuming that these plants are constructed and  
8 operated, would you view those plants as having the  
9 ability to eliminate or lower any capacity imports  
10 from other states?

11          A.    I don't know.

12          Q.    Okay.  Why don't you know?

13          A.    Those plants aren't constructed, haven't  
14 generated a megawatt yet, and just because they are  
15 in the queue doesn't mean they are going to break  
16 ground.

17          Q.    No.  You missed my assumption.  I said  
18 assume that they are built and operated.  Will they  
19 either eliminate or reduce the need to import  
20 capacity from other states?

21          A.    I don't know.

22          Q.    Why don't you know?

23          A.    Because their location and their  
24 capabilities I can't possibly sit here and model how

1       that would impart the transmission system or what  
2       capacity would still be needed in the state of Ohio.

3             Q.    Would you consider those plants when  
4       developing and writing your testimony?

5             A.    I considered plants that exist.

6             Q.    Thank you.  At page 5, lines 12 to 13,  
7       you state that the "Retirement of the Plants could  
8       also mean that customers are forced to pay  
9       significantly more for energy, for transmission  
10      upgrades," and I'll stop there although the sentence  
11      does continue.  Why will customers be forced to pay  
12      significantly more for energy if the plants are  
13      retired?

14            A.    If you read the sentence, it says they  
15      could also be forced to pay significantly more for  
16      energy.

17            Q.    Okay.  And what do you mean by "could  
18      also"?

19            A.    If there is more reliance on natural gas,  
20      the volatility of natural gas prices would be  
21      reflected in energy prices.

22            Q.    Is that assuming that -- and who are the  
23      customers that are referred to in that sentence?

24            A.    Customers of electricity.

1 Q. And on the retail side, correct?

2 A. Yes.

3 Q. What if a customer has a fixed rate  
4 contract for three years?

5 A. For electricity?

6 Q. Would that customer be affected by swings  
7 in natural gas prices?

8 A. Not immediately.

9 Q. Would you agree with me, assuming that's  
10 a fixed price for the three years, that during that  
11 three-year period they would not be affected?

12 A. I don't know.

13 Q. When you say significantly more, can you  
14 quantify that for me?

15 A. Well, when you look at prices during the  
16 polar vortex, gas prices were extremely high, that  
17 would qualify as significantly more in my mind.

18 Q. All right. And you expect that the  
19 retirement of the plants would lead to prices of that  
20 level that occurred during the polar vortex?

21 A. I don't know.

22 Q. Why not?

23 A. Because I don't know what impact that  
24 would have on the gas infrastructure.

1           Q.    How would the retirement of the plants  
2           affect the natural gas infrastructure?

3           A.    If more generation is sourced from  
4           natural gas, it could suppress the gas infrastructure  
5           and cause prices to rise.

6           Q.    Is it fair to assume that as natural gas  
7           plants are -- let me rephrase that.

8                   Is it fair to assume that if and when  
9           natural gas plants are constructed in Ohio, that  
10          you -- you would see new natural gas infrastructure  
11          constructed?

12          A.    I don't know.

13          Q.    Are you familiar -- are you familiar with  
14          the Oregon Clean Energy Project?

15                  MR. LANG:  Asked and answered.  Go ahead.

16          A.    Yes.

17          Q.    Are you aware that there is a new 22-mile  
18          gas pipeline being developed to support that  
19          facility?

20          A.    I don't know.  Is it constructed?

21          Q.    Unfortunately in the deposition I have to  
22          ask the questions.

23          A.    Fair enough.

24          Q.    All right.  Do you view the addition of

1 capacity from natural gas-fired electric generation  
2 plants as a benefit to the reliability of the PJM  
3 grid?

4 A. Could you rephrase that question?

5 Q. Yeah. Is there a benefit to the  
6 reliability of the grid if additional gas-fired  
7 electric generation plants are constructed and  
8 operated?

9 A. I don't know.

10 Q. Turning to page 4 of your testimony, line  
11 6, line 6 you have a sentence that starts "In 2012,  
12 FES announced plans to retire six coal-fired plants  
13 with a total capacity of 2,689 megawatts." Do you  
14 see that language?

15 A. Yes.

16 Q. Were those plants retired?

17 A. Some of them were.

18 Q. How many of the six were retired?

19 A. Three. The other three were in an RMR  
20 construct.

21 Q. And the other three that went into the  
22 RMR construct, did that occur after the announcement  
23 to retire the plants?

24 A. Yes.

1           Q.   For the three plants that retired, how  
2           long did it take to retire those plants?

3           A.   I don't know.

4           Q.   Let me ask you this, I am just trying to  
5           understand. What is required to retire a plant?

6           A.   Could you rephrase that question?

7           Q.   Yeah, sure. And let me back up. Let me  
8           ask a different question. In your testimony I  
9           believe you use the word deactivate versus retire.  
10          Can you tell me the difference between retiring a  
11          coal plant versus deactivating a coal plant in your  
12          view?

13          A.   I think they are relatively  
14          interchangeable.

15          Q.   Would both lead to the plant being closed  
16          and the workforce being, however you want to say it,  
17          terminated or laid off?

18          A.   Yes.

19          Q.   Okay. And turning back to the three  
20          plants that were retired, are you familiar with the  
21          steps that were taken to retire those plants?

22          A.   No. I wasn't at FirstEnergy Solutions at  
23          that time.

24          Q.   Okay. In your experience do you have a

1       general -- in your experience do you have any -- let  
2       me rephrase that.

3               Do you have any experience with retiring  
4       a generation plant?

5               A.    Could you rephrase that question?

6               Q.    What part of that question didn't you  
7       understand?

8               A.    Well, there's different parts to  
9       deactivating a plant. I want to understand what you  
10      are asking me.

11              Q.    I am just trying to understand from a  
12      plant to be retired, I am trying to understand the  
13      steps that are required to get a feel for how long it  
14      takes. So, for instance, if you tell me the first  
15      step is we have to make an announcement. Then we  
16      wait three months, and then we do the next step.  
17      That's what I am trying to understand here. So with  
18      that said, that's going back to my question and  
19      initially was just, you know, what steps are required  
20      to take a plant to retirement?

21              A.    Well, I don't have the timelines  
22      memorized, but I do know there's a 90-day  
23      notification requirement in PJM prior to  
24      deactivation. You have to file for deactivation with

1 PJM.

2 Q. Okay. Then after that notice is filed,  
3 what would be the next steps to take that plant to  
4 retirement?

5 A. The filing is reviewed by the independent  
6 market monitor to ensure there is no excessive market  
7 power.

8 Q. Okay. And does the IMM have to approve  
9 the closure?

10 A. IMM isn't an approval. They make a  
11 judgment as to whether excessive market power is  
12 being -- is being -- it's being wielded.

13 Q. Okay. Thank you. In turning back to the  
14 plant itself, what steps are necessary -- are  
15 required at the plant to take it to retirement?

16 A. I've not been involved in the specific  
17 plant steps to take it to retirement.

18 Q. Okay. Thank you. Can -- are you aware  
19 if a coal generation plant can be brought back online  
20 after being retired?

21 A. Yes.

22 Q. And how long does that generally take?

23 A. It would vary depending upon the plant  
24 and the condition that it was maintained in.

1           Q.    Okay.  Any feel for the range of time  
2   that it would take?

3           A.    No feel.

4           Q.    Okay.  You mentioned earlier that price  
5   forecasts are used, and I am paraphrasing here, for  
6   valuation of units, purchase of units, long-term  
7   forecasts.  My question is -- and this may be for the  
8   confidential section.  Has -- has FES considered  
9   purchasing any additional units within the last year?

10          MR. LANG:  Objection to beyond the scope  
11   of his testimony and relevance.  And then I would  
12   have to ask is that confidential?

13          THE WITNESS:  I would not answer that  
14   outside of a confidential session.

15          MR. LANG:  Okay.

16          Q.    Thank you.  We will move that to later.  
17   Going back to the OVEC unit, if I understood earlier  
18   today, am I correct that the OVEC was not --  
19   entitlement was not part of the initial proposal that  
20   was discussed with I think it was Jim Haney?

21          A.    No, you are not correct.

22          Q.    Okay.  So then the OVEC entitlement was  
23   part of the initial proposal from the very beginning,  
24   correct?

1           A.    Yes.

2           Q.    Thank you.  What was the -- you mentioned  
3           earlier today you had no other conversations when  
4           first -- coming up with the proposal other than with  
5           legal counsel.  Who was the legal counsel that you  
6           spoke to when developing this proposal I believe  
7           in -- I don't know the timeframe, but you mentioned I  
8           think approximately early 2014?

9           A.    Mark Hayden.

10          Q.    You also mentioned the initial proposal  
11          included all of FES's units, correct?

12          A.    Yes.

13          Q.    And that would have included all the gas  
14          units, correct?

15          A.    Yes.

16          Q.    Why did FES want to control -- control  
17          the dispatch and bidding under the term sheet related  
18          to the proposal?

19          A.    We were most familiar with the units, and  
20          we still own the units.

21          Q.    Why does being familiar with the units  
22          make any difference to dispatch and bidding?

23          A.    It really went back to our level of  
24          comfort as owners of the units.

1           Q.    Why would -- well, I guess I just don't  
2 understand that answer, so I will think how to ask  
3 the question here. Why would owning the units give  
4 you a level of comfort if the companies are  
5 dispatching and bidding the units into the markets?

6           A.    Only because we are still the owners.

7           Q.    Well, recognizing that you might be  
8 the -- FES would be the owners -- and let me ask that  
9 question. Does FES own these units?

10          A.    Yes.

11          Q.    Or is it a subsidiary of FES that owns  
12 these units?

13          A.    I don't know.

14          Q.    Again, trying to understand why would --  
15 assuming FES owns the units, why would the fact that  
16 FES owns the units make FES more comfortable in the  
17 dispatch and bidding?

18          A.    Because we have a high level of  
19 confidence in our team and wanted to control them.  
20 We even --

21          Q.    Why do you have -- go ahead.

22          A.    We eventually conceded that in the  
23 negotiation.

24          Q.    Why do you have a high level of

1 confidence in your team?

2 A. Because I hire good people.

3 Q. And you're confident in their ability to  
4 bid and dispatch these units into the wholesale  
5 markets?

6 A. Yes.

7 Q. You mentioned earlier there was some --  
8 there were some questions and answers related to the  
9 PJM capacity -- I think it's the capacity performance  
10 proposal. Do you recall that line of questioning  
11 earlier?

12 A. Yes.

13 MR. SETTINERI: And I think someone may  
14 have their phone off mute right now. If someone  
15 does, if they could put it on mute, that would be  
16 appreciated.

17 Q. And I just want -- you had mentioned also  
18 that FES had done evaluations of that proposal; is  
19 that correct?

20 A. Yes.

21 Q. And you had indicated, I believe, that  
22 the evaluations weren't complete; is that correct?

23 A. Yes.

24 Q. Okay. What is not -- let me back up.

1 Was the -- did the evaluation cover all of FES --  
2 FES's units?

3 A. Yes.

4 Q. And did more -- you indicated previously  
5 that Davis-Besse and Sammis, I believe, qualified for  
6 the proposal as presented. Did other units within  
7 FES qualify?

8 A. We're -- we are getting close to  
9 confidential stuff here.

10 Q. We can stop there. That would be fine.

11 A. Yeah. Could we save that for the  
12 confidential portion?

13 Q. I would be glad to. Let me ask this  
14 question, in regards to the proposal, why did you  
15 pick the companies -- when I say companies, I mean  
16 the applicants in this proceeding -- versus  
17 presenting the proposal to another entity that  
18 operates in the wholesale market?

19 A. As I stated earlier, we saw the filing  
20 that AEP made, and we looked at that construct and  
21 used that as the foundation for our proposal. We had  
22 assets in Ohio that made sense for Ohio utilities,  
23 and we knew that our ESP was coming up for the  
24 companies so that's how it came together.

1           Q.    Just a couple more questions here.  Page  
2           2, line 18 of your testimony, you state that  
3           "Market-based revenues for energy and capacity have  
4           been at historic lows."  On what do you base that  
5           language?

6           A.    General trends over the last five years.

7                   MR. SETTINERI:  All right.  Thank you,  
8           Mr. Moul.  That is all I have for the public session.

9                   THE WITNESS:  Okay.

10                  MR. LANG:  Let's see.  Thanks, Mike.  And  
11           Maureen Grady.

12                  MS. GRADY:  Thank you.

13                               - - -

14                               CROSS-EXAMINATION

15           By Ms. Grady:

16                  Q.    Good afternoon.  Is it Mr. Moul or  
17           Mr. Moul?

18                  A.    Moul.

19                  Q.    Moul, okay.  I appreciate that.

20                  A.    It's like where you go shopping.

21                  Q.    Oh, Moul instead of Moul, that I can  
22           remember.  The shopping mall I'll be able to  
23           remember.

24                  A.    Thank you.

1           Q.    Now, I am going to direct your -- I am  
2           going to try to keep my questions not -- so that they  
3           are not repetitive; and, you know, I will be maybe  
4           jumping around a bit based on the other questions  
5           that have been asked. But I want to focus for a  
6           moment on your testimony on page 2 in line 17 through  
7           18 which has been focused on a bit where you discuss  
8           why the future of the plants is uncertain. When  
9           you -- when you use the term "the plants" there, are  
10          you referring to Davis-Besse and Sammis?

11          A.    Yes.

12          Q.    And you are not referring to the OVEC  
13          Kyger Creek and Clifty Creek?

14          A.    Yes.

15          Q.    Okay. Now, on page 2 on line 17 -- let  
16          me strike that.

17                 You discussed earlier today, or earlier  
18          this morning, what the causes of the -- or the  
19          reasons why the economic viability of the plants are  
20          in doubt. And you link that to the energy and  
21          capacity prices; is that a fair characterization?

22          A.    Yes.

23          Q.    Is there any other causes or factors that  
24          have caused the economic -- economic viability of the

1 plants to be in doubt?

2 A. No, none that I can think of right now.

3 Q. Okay. Can you tell me how long the  
4 economic viability of Sammis and Davis-Besse has been  
5 in doubt?

6 A. I'm basing my statements on 2009 through  
7 present.

8 Q. So would you say then starting in 2009,  
9 it became clear to the company that the economic  
10 viability of the plant was in doubt?

11 A. No.

12 Q. Well, can you explain to me then what  
13 your -- the reference to 2009 to 2012 meant then?

14 A. That's the range of years that I would  
15 look at to determine whether they have been  
16 challenged. So just because they were challenged in  
17 2009, I wouldn't say that that would make any level  
18 of certainty that their future was in doubt. It's  
19 the trend over time.

20 Q. I'm sorry. Go ahead.

21 A. The trend over time.

22 Q. Okay. So you're saying that one-year  
23 snapshot is not enough to determine whether or not  
24 the economic viability of a plant is in doubt,

1 correct?

2 A. I don't know.

3 Q. Well, you make the assumption that it's  
4 in doubt based on a three-year period from 2009 to  
5 2012, correct?

6 A. No.

7 Q. I guess I'm just -- maybe it's been a  
8 long morning so far, and it's starting to be a long  
9 afternoon. I'm just not understanding what you are  
10 saying. I thought you -- you testified that you  
11 looked at when you said the economic -- economic  
12 viability of the plant is in doubt, you were looking  
13 at the 2009 through 2012 period; is that correct?

14 A. No. I said 2009 to present.

15 Q. To present, I'm sorry. And this may be  
16 confidential and, if so, I can hold it for the  
17 confidential portion, but I am going to ask it and  
18 then you are going to let me know. Has FES  
19 considered selling its -- these plants? And that's  
20 Davis-Besse and Sammis.

21 A. That's really probably for the  
22 confidential session.

23 Q. Okay. Thank you. Are there any other  
24 generating facilities that are owned by FES where the

1 economic viability of the plants is in doubt other  
2 than besides Sammis and Davis-Besse?

3 A. That would probably be for the  
4 confidential session.

5 Q. Okay.

6 MR. DARR: Excuse me. Could you ask the  
7 witness to move a little closer to the telephone,  
8 please.

9 THE WITNESS: Sorry.

10 Q. Now, earlier today we talked about the  
11 profit and loss statements and the information  
12 presented by Witness Lisowski. Can you tell me if  
13 the profit and loss statements are the methodology or  
14 the way that the company evaluates the economic  
15 viability of a plant?

16 A. Yes.

17 Q. And is that the sole method for  
18 determining whether or not the plants are  
19 economically viable?

20 A. No.

21 Q. And what other methods does the company  
22 use to determine whether the plants are economically  
23 viable besides the profit and loss statement?

24 A. An evaluation of market trends.

1           Q.    Okay.  Are there anything else -- any  
2   other studies or methodologies that the company  
3   utilized when it's evaluating the economic viability  
4   of the plant besides market trend and the profit and  
5   loss statement?

6           A.    No.

7           Q.    Now, are you involved at all in the  
8   decision-making process with respect to either the  
9   market trends or the profit and loss statements in  
10   evaluating the financial viability of the generating  
11   plant?

12          A.    Yes.

13          Q.    And what is your involvement?  Let me  
14   take it bit by bit.  Do you have any involvement in  
15   the market trends analysis in evaluating the  
16   financial viability of the generating plant?

17          A.    Yes.

18          Q.    And what is your involvement?

19          A.    My organization provides some input.

20          Q.    And by your organization are you  
21   referring to your -- the -- the business structure,  
22   not FES as a whole?

23          A.    I'm referring to commodity operations.

24          Q.    Okay.  And with respect to the profit and

1       loss statements, is that also an area where you are  
2       involved in the decision making regarding the  
3       viability of the generating plants?

4             A.    Yes.

5             Q.    Okay.  Do you know, Mr. Moul, whether or  
6       not the -- either in the profit and loss statements  
7       or the market trend -- let me strike that.

8                    Do you know, Mr. Moul, if in the  
9       evaluation process of the profit and loss statements  
10      whether you are looking at whether the revenues  
11      exceed the plant's total avoidable costs, or are you  
12      looking at something else?

13            A.    We're looking at total costs.

14            Q.    Okay.  And by total costs that would be  
15      the fully loaded costs that you described earlier  
16      today?

17            A.    Yes.

18            Q.    Do you know if evaluating revenues versus  
19      the fully loaded costs is a standard technique that's  
20      used in the industry to determine whether to keep  
21      generating plants running or to shut them down?

22            A.    I don't know.

23            Q.    Now, on page 2 of your testimony at lines  
24      22 through 24, you say there that "Recent experience

1 demonstrates that nuclear and coal baseload  
2 generating assets like the Plants help support stable  
3 and reliable retail service in Ohio." Do you see  
4 that reference?

5 A. Yes.

6 Q. And there you are referring to the polar  
7 vortex on January 6 and 7 of 2014?

8 A. Yes.

9 Q. Mr. Moul, do you believe that gas-fired  
10 generating plants in Ohio also help support stable  
11 and reliable retail service?

12 A. Yes.

13 Q. Okay. Now, if I were to ask you  
14 questions about how your units at Davis-Besse and  
15 Sammis as well as Kyger Creek and Clifty Creek  
16 performed during the polar vortex, would that be  
17 considered confidential?

18 A. Yes.

19 Q. Okay. Now, under the polar vortex  
20 scenario if the RRS rider would have been in place,  
21 what would have happened to customers' bills?

22 A. I don't know.

23 Q. Do you know if customers would have  
24 received an offsetting credit to the high market

1 prices that were being experienced at that point in  
2 time?

3 MR. LANG: Objection to the assumption.  
4 Go ahead and answer.

5 A. Based on the hypothetical I believe they  
6 would have gotten a credit for that month.

7 Q. Do you know how much of a credit?

8 A. I don't know.

9 Q. What variables would you have to know to  
10 answer that question?

11 A. You would have to know how the plants  
12 performed. You would have to know what they earned  
13 in total revenues in the wholesale market and how  
14 that compared to their costs.

15 Q. Now, on page 3 on lines 4 through 5, you  
16 indicate that the markets have not provided  
17 sufficient revenues to ensure continued operation of  
18 the plant. Do you see that reference?

19 A. Yes.

20 Q. And there are you referring to market for  
21 energy and capacity as well as ancillary services?

22 A. Correct.

23 Q. Okay. Now, you indicate, and I am trying  
24 to find the point on this page, but you use the

1 firm -- term "significant" -- "significant revenue  
2 decline." Do you see where that term is used?

3 A. Can you point me to a line?

4 Q. That's what -- yeah, that is line 7 on  
5 page 3.

6 A. Oh, yes, I see it.

7 Q. Can you define "significant revenue  
8 decline" as you use that term?

9 A. I would suggest it's associated with  
10 reduction in energy prices and capacity prices since  
11 2008.

12 Q. Can you quantify the significant revenue  
13 decline since 2008 that FES has -- has incurred?

14 MR. LANG: Confidential, if I could --

15 A. Yeah. Really it's based on market --  
16 market prices so look at a market price trend on  
17 energy. That will give you what I would consider a  
18 significant decline since 2008. It's publicly  
19 available information.

20 Q. Okay. But I was focusing on the  
21 significant revenue decline for FES in particular.

22 A. Well, that would be in the confidential  
23 section.

24 Q. During our confidential

1 cross-examination?

2 A. Yes.

3 Q. Okay. Now, on page 3 lines 10 through  
4 12, you say that the uncertainty and volatility would  
5 need to subside immediately for the outlook for the  
6 plants to improve. Do you see that?

7 A. Yes.

8 Q. If the price of energy and capacity went  
9 up but was still volatile, though high, would that be  
10 sufficient for the outlook to improve?

11 A. I don't know.

12 Q. Is it more a question of the price being  
13 high enough and the uncertainty and volatility  
14 wouldn't matter if the price is high enough?

15 A. Could you rephrase that question?

16 Q. Is it more important that the price be  
17 high than -- as opposed to the price being certain  
18 and not volatile in order for the -- in order for the  
19 outlook for the plants to improve?

20 A. I think prices being high is more  
21 important than less volatile, but volatility is a  
22 consideration as well.

23 Q. Now, on page 3 of your testimony at lines  
24 10 through 16, you say that the plants may not

1 survive long enough to see the long-term power prices  
2 forecasted by FE Witness Judah Rose, correct?

3 A. Yes.

4 Q. What studies or analysis have you done  
5 or -- have you done that you would -- let me strike  
6 that.

7 Are there any studies or analysis that  
8 you have done or that you are aware of other than the  
9 study by Company Witness Rose that would lead you to  
10 the same conclusion?

11 A. Yes.

12 Q. And what studies or analysis would those  
13 be?

14 A. It would be a similar price forecast  
15 using the FES forecast using profit and loss  
16 statements with the FES forecast.

17 Q. So your opinion is based not only on the  
18 profit and loss statements but also on Mr. Rose's  
19 long-term forecasted energy prices?

20 A. Among other things, yes.

21 Q. And when you say among other things, what  
22 are the other things that your opinion is based on?

23 A. The internal FES price forecast as well.

24 Q. Are you aware of or familiar with any of

1 the other forecasts that have been presented in this  
2 case?

3 A. Could you rephrase that question?

4 Q. Are you familiar with OCC Witness  
5 Wilson's -- Witness Wilson's forecast of long-term  
6 power prices presented in this case?

7 MR. LANG: Objection to the  
8 representation.

9 A. No.

10 Q. Okay. If other forecasts showed a more  
11 promising outlook for electric prices, would you feel  
12 differently about your concern the plants might not  
13 survive?

14 A. I don't know.

15 Q. Now, on page 3 on lines 23 and 24, you  
16 state that FES may not be able to financially bear  
17 the short-term losses associated with the plants.  
18 Can you identify what you mean by short-term losses?

19 MR. LANG: Are you asking him to  
20 quantify?

21 Q. I'm talking about -- yeah, in time, let's  
22 talk about the time, short-term losses in a temporal  
23 fashion.

24 A. Within the next three to four years.

1           Q.    And when you use the term short-term  
2    losses, were you talking about the time duration, or  
3    were you talking about a magnitude of losses?

4           A.    Both time and magnitude.

5           Q.    Okay.  Do you know, Mr. Moul, whether or  
6    not in the past five years whether or not Sammis has  
7    covered its full cost of revenues of Sammis, have  
8    covered the fully loaded costs of producing power at  
9    that unit?

10           MR. LANG:  Yeah.  Let's save that for the  
11    confidential section, Maureen.

12           Q.    Okay.  And if I ask you that question  
13    about the OVEC, the Clifty Creek units, that would be  
14    saved for the confidential?

15           A.    Yeah.

16           Q.    Okay.  Now, on page 4 of your testimony,  
17    you indicate that "FES may not be able to continue  
18    incurring losses," and I am looking at line 2.

19           A.    Which page are you on?

20           Q.    What facts -- I'm sorry, page 4.

21           A.    I'm with you.

22           Q.    Line 2.

23           A.    I'm with you.

24           Q.    Can you tell me what factors will

1 determine if FES can continue to incur losses?

2 A. Our willingness to continue to lose money  
3 on these units.

4 Q. What factors affect your willingness to  
5 incur losses on these units?

6 A. There are various factors.

7 Q. Can you identify those factors?

8 A. Costs of the units, earnings expectations  
9 for the corporation that we support. It's a pretty  
10 broad question.

11 Q. Have you done modeling or any studies or  
12 analysis which would look at whether or not FES  
13 can -- can continue to incur losses associated with  
14 these units?

15 A. No.

16 Q. Have you done any modeling or studies to  
17 determine if FES is willing to continue to incur  
18 losses with these units?

19 A. No.

20 Q. When you use the term "near term" on line  
21 2, page 4, can you tell me what -- how you define  
22 "near term"?

23 A. Within the next four years.

24 Q. And when you use the term "long-term" on

1 line 3 of page 4, can you define that?

2 A. Through the 15th year, 4 years through 15  
3 years of this proposed transaction.

4 Q. Now, on page 4 of your testimony,  
5 specifically lines 10 through 12, you state that  
6 "PJM's Market Monitor market data shows that 24,933  
7 megawatts of fossil-fuel capacity is planning to  
8 retire" plus an additional 14,597 megawatts is at  
9 risk of retirement. Do you see that?

10 A. Yes.

11 Q. Are Sammis or Davis-Besse included in the  
12 24,933 megawatts planning to retire?

13 A. No.

14 Q. And are the Sammis and Davis-Besse plants  
15 included in the 14,597 megawatts at risk of  
16 retirement?

17 A. That would be something for the  
18 confidential section.

19 Q. Okay. Do you know over what period of  
20 time the 24,933 megawatts are planned for retirement?

21 A. That data comes from the State of the  
22 Market Report. I don't recall the specific  
23 timeframe.

24 Q. Do you know if -- let me strike that.

1           Are you familiar with any new fossil-fuel  
2 capacity that's planned to be brought on at PJM?

3           A.    Could you rephrase that question?

4           Q.    Are you aware of any capacity additions  
5 that are planned for PJM?

6           A.    Yes.

7           Q.    And would this -- would these new planned  
8 capacity additions offset some of the losses that you  
9 discuss here?

10          A.    I don't know.

11          Q.    And you don't know because you don't know  
12 the size of the planned addition --

13          A.    Yes.

14          Q.    -- in relation to the retirement?

15          A.    Yes.

16          Q.    Okay. Now, on page 4 on line 19, you  
17 indicate that "several nuclear plants are either  
18 being closed or on the verge of closure." Can you  
19 identify which nuclear plants you're speaking about  
20 there?

21          A.    Yeah. If you go to the latter part of my  
22 testimony, page 12.

23          Q.    Yes. Okay. That's the discussion  
24 beginning on line 7 through 10?

1           A.    Yes.  And then, of course, additionally  
2           you've got the Exelon units out west that would be  
3           Clinton, Byron, and Quad Cities that did not clear  
4           the last capacity auction and are being evaluated as  
5           to whether they are viable in the market today.

6           Q.    Thank you.  Are you familiar, Mr. Moul,  
7           with the environmental disclosure statements that the  
8           FirstEnergy companies file each quarter with the  
9           PUCO?

10          A.    No.

11          Q.    Can you tell me what percentage of FES's  
12          current generating fleet is coal fired?

13          A.    Approximately 52 percent.

14          Q.    Now, on page 17 -- on line 17 and 18 on  
15          page 5, you state that "Ohio's customers are better  
16          off through continued operation of these existing  
17          resources."  Do you see that?

18          A.    Yes.

19          Q.    Are you talking about better off in the  
20          long term or better off in the short term?

21          A.    Both.

22          Q.    Now, on page 5 of your testimony on lines  
23          12 through 15 you state that "Retirement of the  
24          Plants could also mean that customers are forced to

1       pay significantly more for energy." Do you see that?

2             A.    Yes.

3             Q.    Is it also possible that the retirement  
4       of the plants could mean that customers will pay  
5       significantly less for energy?

6             A.    I don't know.

7             Q.    And the reason you don't know is?

8             A.    There are too many variables, too many  
9       uncertainties in the question. I can't -- I can't go  
10      that many hypotheticals deep.

11            Q.    Aren't those the same hypotheticals that  
12      you have to know related to your statement that  
13      retirement of the plants could mean that customers  
14      are forced to pay significantly more for energy?

15            A.    No.

16            Q.    They're not the same set of assumptions?

17            A.    No.

18            Q.    Do you know, Mr. Moul, if there are other  
19      electric generating facilities in Ohio that may be  
20      facing closure because they are old, inefficient, or  
21      uneconomical?

22            A.    Could you rephrase that question?

23            Q.    Are you aware, Mr. Moul, of any  
24      generating plants that are within Ohio that are

1       consider -- are under consideration for closure  
2       because they are uneconomical at this point?

3             A.    I know there are some plants that are  
4       going to retire.  What I don't know is the specific  
5       reasons why.

6             Q.    Do you consider the RRS -- rider RRS a  
7       subsidy?

8             A.    No.

9             Q.    And why do you not consider it a subsidy?

10            A.    I consider it a benefit that provides  
11       stability and reliability benefits to the customers  
12       and certainty to the FirstEnergy Solutions' plants.

13            Q.    But is it -- is it a benefit that is  
14       subsidized by -- that the company seeks to subsidize  
15       from its generation customers?  Or, I'm sorry, let me  
16       strike that.

17                    Wouldn't you agree that it is a payment  
18       by customers, by distribution customers, to support  
19       generation operations which in the short-term are  
20       going to cost customers money?

21            A.    No.

22            Q.    And what do you disagree with with  
23       respect to that statement?

24            A.    My view is it's an agreement between the

1 companies and FirstEnergy Solutions that provides  
2 stability and protection for customers against rising  
3 electricity prices.

4 Q. And the stability and protection for  
5 customers is paid for by above-market -- above-market  
6 charges to customers for a short period of time, the  
7 three-year period of time?

8 A. I don't know that.

9 Q. Well, isn't that what -- isn't that what  
10 your model shows?

11 A. The model shows a charge for the first  
12 few years and a significant benefit for the  
13 remainder.

14 Q. So let's talk -- let's talk about the  
15 first three years. For the first three years would  
16 you consider that a customer subsidy by distribution  
17 customers of the generation business?

18 MR. LANG: Objection to the  
19 characterization of the economic stability program  
20 but you can answer.

21 A. For the first few years I see customers  
22 gaining that protection against rising prices that  
23 may or may not show up, and in exchange for the  
24 certainty of those plants in the near term, they gain

1       that stability and benefits for the remaining years.

2               Q.    But they're paying for protection; is  
3       that correct?  They are paying above-market prices  
4       for generation for the protection over the period of  
5       the PPA rider.

6               MR. LANG:  Objection.

7               A.    No.

8               Q.    Okay.  Why are they not paying  
9       above-market prices for generation for the first  
10      three years under your -- under the company's  
11      projection?

12              A.    This construct states the output of the  
13      plants, sells it into the wholesale market, nets it  
14      against its costs, so to the degree at which costs  
15      are above the market, there is a charge and below  
16      market then there is a credit to customers.

17              Q.    So when the costs are above market,  
18      customers are paying the above-market costs; is that  
19      correct?

20              MR. LANG:  Objection again.

21              A.    No.  It's a nonbypassable charge or  
22      credit depending on what the energy markets provide  
23      to the output of the plants.

24              Q.    So when they -- when -- if we are basing

1       our -- let's take a step back for a moment.  If  
2       we're -- the company -- you had indicated the company  
3       in its testimony projects that for the first three  
4       years, customers will pay under the PPA rider,  
5       correct?

6             A.    Yes.

7             Q.    And they are paying -- the payments that  
8       they make under the PPA rider will be for prices that  
9       are above -- will be -- let me strike that.

10            Customers will be charged for  
11       approximately \$400 million worth of expenses under  
12       the company's projections for the PPA rider for the  
13       first three years, correct?

14            A.    The customers under the companies'  
15       projections would be paying for the stability and  
16       reliability benefits and protections against rising  
17       energy prices.

18            Q.    And the reason you are disagreeing with  
19       me, you are saying that the payments go for stability  
20       and reliability and not for above-market generation.

21            A.    That's correct.

22            Q.    Now, on page 11, line 13 and 14, you are  
23       talking again about the polar vortex, and you state  
24       that "because of fuel diversity that a broad mix of

1 resources were able to pull together to meet load."

2 Do you see that?

3 A. Give me a second to get there. Which  
4 lines did you say again?

5 Q. Lines 13 and 14.

6 A. Yes.

7 Q. And by fuel diversity there would you be  
8 including wind -- wind and solar?

9 A. Yes.

10 Q. And would you also be referring to demand  
11 response and voltage reduction?

12 A. No.

13 Q. Is demand response reductions a way to --  
14 directed to reducing the load; is that correct?

15 A. That's correct.

16 Q. And that reducing the load was -- is a  
17 factor in whether or not the load was able to be met?

18 A. Could you rephrase that question?

19 Q. Is it your understanding that demand  
20 response and voltage reductions were a tool that were  
21 used to address the polar vortex?

22 A. Yes.

23 Q. Now, earlier there was some discussion  
24 about the profit and loss statements. Can you tell

1 me if -- if there are more than one particular type  
2 of profit and loss statement? Is there a profit and  
3 loss statement other than those that have been  
4 presented by Witness Lisowski?

5 A. I don't know.

6 Q. Do you know if there are historic profit  
7 and loss statements which would show, for example,  
8 over the past 10 years whether Davis-Besse had been  
9 profitable or had experienced losses?

10 A. I don't know.

11 Q. And who would know that? Would  
12 Mr. Lisowski know that information?

13 A. Mr. Lisowski might know that information.

14 Q. Are the profit and loss statements that  
15 you are aware of, are they based on a unit-by-unit  
16 basis?

17 A. Plant by plant, not unit by unit.

18 Q. I'm sorry, yes, plant by plant. So if we  
19 wanted to, we could look at different plants' profits  
20 and losses statements and see how those compare to  
21 the Davis-Besse and Sammis profit and loss  
22 statements?

23 A. Well, those would be confidential and I'm  
24 not exactly sure why they would be relevant.

1           Q.    When you looked at -- when you were  
2           in your -- during the period of time when you were --  
3           you were determining whether or not -- let me strike  
4           that.

5                     During the period of time in 2014 when  
6           you were considering which plants would be part of  
7           the PPA, did you look at the profit and loss  
8           statements for the plants on a plant-by-plant basis?

9           A.    Yes.

10          Q.    And did you make any comparison between  
11          the profit and loss statements between, for instance,  
12          Davis-Besse versus some other unit or some other  
13          plant that FirstEnergy Solutions used or owns?

14          A.    We looked at the profit and loss  
15          statements. I don't know that we -- we didn't do a  
16          specific comparison.

17          Q.    And do you recall how the Davis-Besse  
18          profit and loss statements compared to other plants'  
19          profits and loss statements at that time?

20          A.    I don't remember.

21          Q.    Do you recall how the Sammis profit and  
22          loss statement would have compared to the other  
23          FirstEnergy Solutions' profit and loss statements for  
24          the other plants?

1           A.    I don't remember.

2           Q.    Was the profit and loss statement for  
3   Davis-Besse and Sammis measured relative to the other  
4   profit and loss statements of FirstEnergy Solutions'  
5   plants?

6           A.    Could you rephrase that question?

7           Q.    When you were -- when you were  
8   determine -- when you were trying to make a  
9   determination as to what plant would be considered  
10   for the PPA rider, did you compare the profit and  
11   loss statements of each of the plants?

12          A.    No.  I think I've already described the  
13   criteria we used to choose the subset of plants that  
14   are included here.

15          Q.    So the profit and loss statements were  
16   not a factor that bore upon the selection of the  
17   units; is that what you're saying?

18          A.    I'm saying it was one piece of  
19   information, but it was not the overriding piece of  
20   information that determined what units were included  
21   in this offer.

22          Q.    And when you say it was not the  
23   overriding piece of information, what do you consider  
24   the overriding piece of information related to

1 choosing the units for the PPA?

2 A. The criteria that I have outlined  
3 previously today. Would you like me to go over it  
4 again?

5 Q. No. I recall that. Thank you.

6 A. Okay.

7 Q. Mr. Moul, who made the ultimate decision  
8 on behalf of FirstEnergy Solutions to accept the  
9 terms of the term sheet?

10 A. Donald Schneider.

11 Q. And you had input into that decision; is  
12 that correct?

13 A. Yes.

14 Q. Now, you discussed earlier that you had  
15 discussions with the company and that at first you  
16 proposed all the units -- all the plants be  
17 considered for the PPA agreement; is that right? Is  
18 that correct?

19 A. Yes.

20 Q. And did the companies -- when I say  
21 companies, I am referring to Ohio Edison, Toledo  
22 Edison, and CEI -- did they indicate they were not  
23 interested in all of the units or all of the plants?

24 A. Yes.

1           Q.    And when did they indicate they were not  
2 interested in all of the plants?

3           A.    May 13.

4           Q.    And do you understand why they were not  
5 interested in all of the units -- plants? I'm sorry.  
6 Do you understand why the companies were not  
7 interested in negotiating a PPA agreement for all of  
8 the FES plants?

9           A.    I don't know.

10          Q.    So they did not indicate to you why they  
11 were not interested in pursuing a PPA for all of the  
12 plants of FES?

13          A.    They provided a letter of response that  
14 said they are interested. I think they looked at  
15 their load profile. I can't recall the details  
16 specifically of the letter, but I got a letter back  
17 from Jim Haney on May 13 that provided what they were  
18 interested in and high level basis of why.

19          Q.    Do you understand the -- do you know  
20 whether or not that correspondence, the letter of  
21 response from Mr. Haney, do you know whether that was  
22 provided to any parties in discovery?

23          A.    Yes.

24          Q.    And that is it was provided to parties --

1 to parties in discovery?

2 MR. LANG: Yes, it was, Maureen.

3 Q. Thank you. Now, you talked a little bit  
4 earlier this morning, and I am not sure who it was  
5 with, but you talked about the term sheet and whether  
6 or not -- I believe it was with the counsel for  
7 Sierra Club whether or not the term sheet or the  
8 agreement could be terminated. Do you recall that?

9 A. Yes.

10 Q. And I believe you indicated that if there  
11 was agreement between FES and the companies, that it  
12 could be terminated early; is that a fair  
13 characterization?

14 A. Not exactly. If there -- there's a  
15 section in the term sheet associated with this with  
16 unit contingency. Goes into in the event of a  
17 capital expenditure is required such that it could  
18 render the facility uneconomic, then between buyers  
19 and sellers it could either be replaced by FES or  
20 dropped from the PPA under mutual agreement.

21 Q. Okay. Thank you. And to your knowledge,  
22 that's the only provision in the term sheet which  
23 allows the PPA agreement to be terminated?

24 A. No.

1           Q.    And can you give me the other sections of  
2   the term sheet that would allow the PPA rider to  
3   be -- or the PPA to be terminated?

4           MR. LANG:  Yeah.  Maureen, I will just  
5   state the standard objection in these cases since  
6   he's not an attorney he is not providing legal  
7   construction but can certainly provide his  
8   understanding of the term sheet.

9           MS. GRADY:  Thank you.

10          A.    Yeah.  The only one that I know of is  
11   under Section 20 in conditions that if a required  
12   governmental approval is lacking and it doesn't look  
13   like it's going to come, and this is something that  
14   was required at the time of consummation, then it can  
15   be terminated.  Otherwise, no.  It's on page 10 of  
16   15.

17          Q.    Thank you.  Now, there was some  
18   discussion earlier today on reliability and how you  
19   measure reliability and capability to run the units  
20   at 24/7 regardless of weather and with a high  
21   capacity factor.  Do you remember that questioning  
22   and that discussion?

23          A.    Yes.

24          Q.    Can you tell me how you define a high

1 capacity factor, what that would be, what capacity  
2 factor is considered high?

3 A. I would say greater than 70 percent as a  
4 ballpark number.

5 Q. Okay. Now, you talked a bit about the  
6 capacity performance payments that are under  
7 consideration. Do you recall that?

8 A. Yes.

9 Q. And you said you have some analysis  
10 underway which is not complete with regard to the  
11 effect or the impact of the capacity performance  
12 payments on Davis-Besse and Sammis; is that correct?

13 A. Yes.

14 Q. Have you looked at whether or not  
15 Davis-Besse and Sammis would comply with the capacity  
16 performance standard that's currently proposed?

17 MR. LANG: Objection, asked and answered.  
18 It was covered this morning.

19 A. Yes, they do. They do qualify.

20 Q. Okay. So is it then your opinion that  
21 they would -- you would be able to receive capacity  
22 performance payments from Davis-Besse and Sammis  
23 under the standard that's currently structured?

24 A. Provided they clear in the market, yes.

1           Q.   Is it your understanding that the  
2           capacity performance would go into effect for the  
3           2015 base residual auction?

4           A.   I don't know.

5           Q.   Do you know if the capacity performance  
6           payments would -- let me strike that.

7                     Do you know how the capacity performance  
8           payments, if approved as structured, would be handled  
9           under the PPA, what impact they would have on the PPA  
10          if the PPA rider was approved?

11          A.   Yes.

12          Q.   And can you explain that?

13          A.   In accordance with the term sheet, the  
14          capacity payment would fall under what these plants  
15          receive as revenue in the market and would net  
16          against their costs.

17          Q.   And with respect to the capacity  
18          performance payments evaluation, can you tell me, and  
19          you are going to have to forgive me if this was asked  
20          and answered because I just don't recall it, can you  
21          tell me who is doing that evaluation?

22          A.   We are internally.

23          Q.   And we being FES?

24          A.   Yes.

1           Q.   And is that something -- is that being  
2   done as part of your division?

3           A.   Yes.

4           Q.   And who would be in charge of doing that  
5   evaluation?

6           A.   Well, reporting up through me Kevin  
7   Warvell's group.

8           Q.   Okay.  Now, early this morning there was  
9   some discussion of shared service employees and I  
10   believe you testified that shared service employees  
11   cannot be a conduit between regulated generation  
12   employees and the competitive employees.  Do you  
13   remember that?

14          A.   Yes.

15          Q.   So if shared service employees work with  
16   both regulated generation and competitive service,  
17   how can they separate their knowledge from one group  
18   and not share or use it with the other group?

19          A.   We clarified that shared services  
20   personnel can speak to each other, but they can't act  
21   as a conduit between regulated and market function  
22   employees.

23          Q.   And I understand that.  I am trying to  
24   understand how from a practical purpose that works.

1       How do they -- how are they expected to separate  
2       their knowledge from one group and not share it with  
3       or use it in their discussions with another group?

4           A.    We go through an annual training program  
5       that identifies the code of conduct and the  
6       expectations for regulated employees, market function  
7       employees, shared services employees, shared service  
8       officers. And so in accordance with that training,  
9       that's how they can separate that information to  
10      ensure that it's not a conduit.

11          Q.    Does the shared services attorneys  
12      sometimes represent FirstEnergy and sometimes  
13      represent FirstEnergy Solutions?

14           MR. LANG:  Maureen, we are getting way  
15      outside his testimony here but certainly beyond the  
16      scope. But to the extent you know, you can try to  
17      answer.

18          A.    What I would say is a shared services  
19      employee such as an attorney can represent  
20      FirstEnergy Solutions where they can represent the  
21      regulated side of the business but not on the same  
22      issue.

23          Q.    And do you know -- if you don't know,  
24      that's fine. Do you know how it's decided which

1       entity they would represent, FE or FES?

2             A.    I don't know.

3             Q.    For purposes of a team that -- let's take  
4       for purposes of the question that the team relates to  
5       the proposed transaction, the PPA agreement here.  
6       Can you -- tell me how it's determined whether, for  
7       instance, Mr. Hayden, who is the shared service  
8       employee, represents or provides service to FES  
9       versus FE?

10            A.    I don't know how that's decided, but once  
11       it's decided that's the way it's structured for that  
12       transaction.

13            Q.    Now, I believe, Mr. Moul, you stated that  
14       Mr. Hayden asked you to prepare testimony for the  
15       regulated companies; is that correct?

16            A.    Yes.

17            Q.    So you understood that you were to be a  
18       witness for the regulated companies and not FES?

19            A.    That's correct.

20            Q.    I'm not going to ask you what the  
21       communications were, but did Mr. Hayden tell you what  
22       the purpose of the testimony was that he wanted you  
23       to draft?

24                   MR. LANG:  We'll object and you can move

1 on, Maureen. And I would note we are trying to get  
2 done by 5:30.

3 MS. GRADY: Understood. If I may have a  
4 moment, that may be the end of my cross, but I would  
5 like a minute. Can we take like a 5-minute break and  
6 then I'll have a chance to look over all my notes?

7 THE WITNESS: How about 10?

8 MS. GRADY: 10 is fine. Thank you.

9 (Recess taken.)

10 MR. LANG: We are back on in Akron.  
11 Maureen, what do you think? Ms. Grady, are you  
12 there?

13 I confirmed once Maureen is done I don't  
14 have anyone else that has questions for the public  
15 version. If that is wrong, let me know.

16 Hearing no takers. Can anyone hear me  
17 other than Maureen? Maureen?

18 MS. GRADY: Yes.

19 MR. LANG: Been waiting on you.

20 MS. GRADY: I'm sorry. I apologize. I  
21 went out and just came back. Oh, I am -- and,  
22 Mr. Moul, I have no further questions and I thank  
23 you.

24 THE WITNESS: You are welcome.

1 MR. LANG: That's what we needed to hear.

2 If there is no further questions on the public  
3 section of the deposition, we are going to hang up,  
4 dial back in on the confidential number, and once we  
5 have everybody back on in a couple of minutes, we'll  
6 get going in that section. So I will hang up now.

7 We can go off record.

8 (Discussion off the record.)

9 (Confidential Portion Excerpted.)

10

11

12

13

14

15

16

17

18

19

20

21

22

23

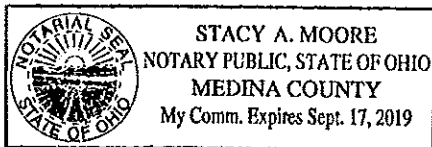
24

1 State of Ohio :  
2 County of SUMMIT : SS:

3 I, Donald A. Moul, do hereby certify that I  
4 have read the foregoing transcript of my deposition  
5 given on Thursday, January 15, 2015; that together  
6 with the correction page attached hereto noting  
7 changes in form or substance, if any, it is true and  
8 correct.

9 Donald A. Moul  
10 Donald A. Moul

11 I do hereby certify that the foregoing  
12 transcript of the deposition of Donald A. Moul was  
13 submitted to the witness for reading and signing;  
14 that after he had stated to the undersigned Notary  
15 Public that he had read and examined his deposition,  
16 he signed the same in my presence on the 26<sup>th</sup> day  
17 of January, 2015.



16 Stacy A. Moore  
17 Notary Public

18 My commission expires 9/17, 19.

19 - - -

## ERRATA SHEET

Please do not write on the transcript. Any changes in form or substance you desire to make should be entered upon this sheet.

### TO THE REPORTER:

I have read the entire transcript of my deposition taken on the 15<sup>th</sup> day of January, 2015, or the same has been read to me. I request that the following changes be entered upon the record for the reasons indicated. I have signed my name to the signature page and authorize you to attach the same to the original transcript.

Page	Line	Change	Reason
23	18	market should be unit	Incorrect word
24	11	and should be in	Incorrect word
46	15	<del>ICE</del> ICE should be ICAP	Witness used incorrect acronym.
67	7	and NCOI should be an INPO-1	Incorrect word
119	18	in great should be and make	Incorrect word
174	1	impart should be impact	Incorrect word
176	4	supress should be stress	Incorrect word
220	20	where should be or	Incorrect word

Date

1/23/15

Signature:

Donald A. Moore

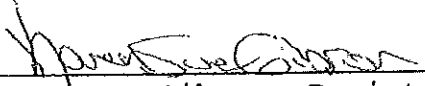
## 1 CERTIFICATE

2 State of Ohio :  
3 County of Franklin : SS:

4 I, Karen Sue Gibson, Notary Public in and for  
5 the State of Ohio, duly commissioned and qualified,  
6 certify that the within named Donald A. Moul was by  
7 me duly sworn to testify to the whole truth in the  
8 cause aforesaid; that the testimony was taken down by  
9 me in stenotypy in the presence of said witness,  
afterwards transcribed upon a computer; that the  
foregoing is a true and correct transcript of the  
testimony given by said witness taken at the time and  
place in the foregoing caption specified and  
completed without adjournment.

10 I certify that I am not a relative, employee,  
11 or attorney of any of the parties hereto, or of any  
12 attorney or counsel employed by the parties, or  
financially interested in the action.

13 IN WITNESS WHEREOF, I have hereunto set my  
14 hand and affixed my seal of office at Columbus, Ohio,  
on this 19th day of January, 2015.

15   
16 Karen Sue Gibson, Registered  
17 Merit Reporter and Notary Public  
in and for the State of Ohio.

18 My commission expires August 14, 2015.

19 (KSG-5988public)  
20  
21  
22  
23  
24

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**8/20/2015 12:07:39 AM**

**in**

**Case No(s). 14-1297-EL-SSO**

Summary: Deposition (Public) of Donald A. Moul, Vol. I, electronically filed by Mr. Tony G. Mendoza on behalf of Sierra Club