

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the Matter of the :  
Application of Ohio Edison:  
Company, The Cleveland :  
Electric Illuminating :  
Company, and The Toledo :  
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. :

- - -

PROCEEDINGS

before Mr. Gregory Price, Ms. Mandy Chiles, and  
Ms. Megan Addison, Attorney Examiners, at the Public  
Utilities Commission of Ohio, 180 East Broad Street,  
Room 11-A, Columbus, Ohio, called at 10:00 a.m. on  
Tuesday, September 29, 2015.

- - -

VOLUME XX

- - -

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

- - -

## 1 APPEARANCES:

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

7 Calfee, Halter & Griswold LLP  
8 By Mr. James Lang  
9 and Mr. N. Trevor Alexander  
10 The Calfee Building  
11 1405 East Sixth Street  
12 Cleveland, Ohio 44114

13 Jones Day  
14 By Mr. David A. Kutik  
15 901 Lakeside Avenue  
16 Cleveland, Ohio 44114

17 On behalf of the Applicants.

18 Bruce J. Weston, Consumers' Counsel  
19 By Mr. Larry Sauer  
20 Ms. Maureen R. Grady Willis  
21 Mr. William J. Michael  
22 Mr. Kevin F. Moore  
23 Mr. Ajay K. Kumar  
24 Assistant Consumers' Counsel  
25 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.

Ohio Partners for Affordable Energy  
By Ms. Colleen L. Mooney  
231 West Lima Street  
Findlay, Ohio 45840

On behalf of the Ohio Partners for  
Affordable Energy.

## 1 APPEARANCES: (Continued)

2 Bricker & Eckler, LLP  
3 By Mr. Dane Stinson  
4 and Mr. Dylan Borchers  
5 100 South Third Street  
6 Columbus, Ohio 43215-4291

7 Bricker & Eckler, LLP  
8 By Mr. Glenn S. Krassen  
9 1001 Lakeside Avenue East, Suite 1350  
10 Cleveland, Ohio 44114

11 On behalf of the Northeast Ohio Public  
12 Energy Council, Ohio Schools Council, and  
13 Power for the Schools.

14 Earthjustice  
15 By Mr. Shannon Fisk  
16 Northeast Office  
17 1617 John F. Kennedy Boulevard, Suite 1675  
18 Philadelphia, Pennsylvania 19103

19 Earthjustice  
20 By Mr. Michael Soules  
21 1625 Massachusetts Avenue NW, Suite 702  
22 Washington, D.C. 20036

23 Sierra Club Environmental Law Program  
24 Mr. Tony Mendoza  
25 85 Second Street, 2nd Floor  
San Francisco, California 94105

Richard Sahli Law Office, LLC  
By Mr. Richard C. Sahli  
981 Pinewood Lane  
Columbus, Ohio 43230-3662

On behalf of the Sierra Club.

McNees, Wallace & Nurick LLC  
By Mr. Frank P. Darr  
and Mr. Samuel C. Randazzo  
21 East State Street, 17th Floor  
Columbus, Ohio 43215

On behalf of the Industrial Energy Users  
of Ohio.

## 1 APPEARANCES: (Continued)

2 IGS Energy  
3 By Mr. Joseph Olikier  
4 6100 Emerald Parkway  
5 Dublin, Ohio 43016

6 On behalf of IGS Energy.

7 Taft, Stettinius & Hollister LLP  
8 By Mr. Mark S. Yurick  
9 and Mr. Devin D. Parram  
10 65 East State Street, Suite 1000  
11 Columbus, Ohio 43215

12 On behalf of The Kroger Company.

13 Vorys, Sater, Seymour & Pease, LLP  
14 By Mr. M. Howard Petricoff  
15 Ms. Gretchen Petrucci  
16 Mr. Stephen M. Howard  
17 and Mr. Michael J. Settineri  
18 52 East Gay Street  
19 Columbus, Ohio 43215

20 On behalf of Retail Energy Supply  
21 Association, PJM Power Providers Group,  
22 Electric Power Supply Association,  
23 Constellation NewEnergy, and Exelon  
24 Generation, LLC.

25 Mike DeWine, Ohio Attorney General  
By Mr. William L. Wright,  
Section Chief  
Mr. Thomas G. Lindgren  
Mr. Thomas W. McNamee  
Mr. Steven L. Beeler  
Assistant Attorneys General  
Public Utilities Section  
180 East Broad Street, 6th Floor  
Columbus, Ohio 43215

On behalf of the Staff of the PUCO.

## 1 APPEARANCES: (Continued)

2 Kravitz, Brown & Dortch, LLC  
3 By Mr. Michael D. Dortch  
4 and Mr. Richard R. Parsons  
5 65 East State Street, Suite 200  
6 Columbus, Ohio 43215

7 On behalf of Dynegy, Inc.

8 Carpenter Lipps & Leland LLP  
9 By Ms. Kimberly W. Bojko  
10 Ms. Rebecca L. Hussey  
11 280 North High Street, Suite 1300  
12 Columbus, Ohio 43215

13 On behalf of the Ohio Manufacturers'  
14 Association Energy Group.

15 Carpenter Lipps & Leland LLP  
16 By Mr. Joel E. Sechler  
17 280 North High Street, Suite 1300  
18 Columbus, Ohio 43215

19 On behalf of EnerNOC, Inc.

20 Boehm, Kurtz & Lowry  
21 By Mr. Michael L. Kurtz  
22 Mr. Kurt J. Boehm  
23 Ms. Jody Kyler Cohn  
24 36 East Seventh Street, Suite 1510  
25 Cincinnati, Ohio 45202

On behalf of the Ohio Energy Group.

Environmental Law & Policy Center  
By Ms. Madeline Fleisher  
21 West Broad Street, Suite 500  
Columbus, Ohio 43215

On behalf of the Environmental Law &  
Policy Center.

## 1 APPEARANCES: (Continued)

2 Stone Mattheis Xenopoulos & Brew, PC  
3 By Mr. Michael Lavanga  
4 Mr. Garrett A. Stone  
5 Mr. Owen J. Kopon  
6 1025 Thomas Jefferson Street, N.W.  
7 Eighth Floor West Tower  
8 Washington, D.C. 20007-5201

9 On behalf of the Nucor Steel Marion, Inc.

10 Barth E. Royer, LLC  
11 By Mr. Barth E. Royer  
12 2740 East Main Street  
13 Bexley, Ohio 43209

14 and

15 Taft, Stettinius & Hollister LLP  
16 By Mr. Adrian D. Thompson  
17 200 Public Square, Suite 3500  
18 Cleveland, Ohio 44114-2300

19 On behalf of the Cleveland Municipal  
20 School District.

21 Spilman, Thomas & Battle, PLLC  
22 By Mr. Derrick Price Williamson  
23 Ms. Carrie Harris  
24 Ms. Lisa Hawrot  
25 1100 Bent Creek Boulevard, Suite 101  
Mechanicsburg, Pennsylvania 17050

On behalf of Wal-Mart Stores East, LP,  
and Sam's East, Inc.

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

Bricker & Eckler, LLP  
By Mr. Thomas J. O'Brien  
100 South Third Street  
Columbus, Ohio 43215-4291

On behalf of the Ohio Hospital  
Association.

## 1 APPEARANCES: (Continued)

2 Ohio Environmental Council  
3 By Mr. Trent A. Dougherty  
4 and Mr. John Finnigan  
5 1145 Chesapeake Avenue, Suite I  
6 Columbus, Ohio 43212

7 On behalf of the Ohio Environmental  
8 Council and the Environmental Defense  
9 Fund.

10 Mr. Thomas R. Hays  
11 8355 Island Lane  
12 Maineville, Ohio 45039

13 On behalf of the Northwest Ohio  
14 Aggregation Coalition and the Individual  
15 Communities.

16 Ice Miller, LLP  
17 By Mr. Christopher Miller,  
18 250 West Street, Suite 700  
19 Columbus, Ohio 43215-7509

20 On behalf of the Association of  
21 Independent Colleges and Universities of  
22 Ohio.

23 American Electric Power  
24 By Mr. Steven T. Nourse  
25 Mr. Matthew J. Satterwhite  
One Riverside Plaza  
Columbus, Ohio 43215

On behalf of the Ohio Power Company.

Mr. Craig I. Smith  
15700 Van Aken Boulevard #26  
Shaker Heights, Ohio 44120

On behalf of Material Sciences  
Corporation.

Meissner and Associates Law Firm  
By Mr. Joseph Patrick Meissner  
5400 Detroit Avenue  
Cleveland, Ohio 44102

1 APPEARANCES: (Continued)

2           Kegler, Brown, Hill & Ritter  
3           By Mr. Christopher J. Allwein  
4           and Ms. Margeaux Kimbrough  
5           Capitol Square, Suite 1800  
6           65 East State Street  
7           Columbus, Ohio 43215-4294

8                   On behalf of the EverPower Wind Holdings,  
9                   Incorporated.

10                               - - -



3850

## INDEX

- - -

## WITNESS PAGE

Raymond L. Evans	
Cross-Examination by Mr. Hays (Continued)	3853
Further Cross-Examination by Mr. Sauer	3854
Redirect Examination by Mr. Lang	3857
Recross-Examination by Mr. Fisk	3864
Recross-Examination by Mr. Oliker	3866

Santino L. Fanelli	
Direct Examination by Mr. Kutik	3879
Cross-Examination by Mr. Mendoza	3881
Cross-Examination by Mr. O'Brien	3899
Cross-Examination by Ms. Hussey	3900
Cross-Examination by Mr. Stinson	3906
Cross-Examination by Ms. Willis	3943

- - -

## EXHIBITS

- - -

## COMPANY EXHIBITS IDENTIFIED ADMITTED

46 - Supplemental Testimony of Raymond L. Evans	XIX-3679	3869
47 - Supplemental Testimony of Raymond L. Evans (Confidential)	XIX-3679	3869
48 - Errata Sheet of Raymond L. Evans	XIX-3679	3869
49 - Errata Sheet of Raymond L. Evans (Confidential)	XIX-3679	3869
50 - Direct Testimony of Santino L. Fanelli	3878	4010
51 - Errata Sheet of Santino L. Fanelli	3878	4010

3851

## INDEX (Continued)

- - -

## SIERRA CLUB EXHIBIT IDENTIFIED ADMITTED

64 - Regulatory Impact Analysis  
for the Clean Power Plan  
Final Rule XIX-3772 3871

65 - Letter dated 11-11-11  
Subject: Revisions to Federal  
Implementation Plans to Reduce  
Interstate Transport of Fine  
Particulate Matter and Ozone XIX-3780 --

66 - Response to RESA Set 3-INT-14 3898 4011

- - -

## NOPEC EXHIBITS IDENTIFIED ADMITTED

1 - Opinion and Order,  
Case No. 12-1230-EL-SSO 3932 --

- - -

## IGS EXHIBITS IDENTIFIED ADMITTED

8 - Letter dated 12-1-14  
Re: Docket  
EPA-HQ-OAR-2013-0602 XIX-3710 3869

- - -

## OCC EXHIBITS IDENTIFIED ADMITTED

2 - FirstEnergy Environmental  
Disclosure Information IV-892 3872

16 - Responses to IEU Set 3-INT-3 3945 4011

17 - Responses to OCC Set 5-INT-125 3959 4011

- - -

3852

1 Tuesday Morning Session,

2 September 29, 2015.

3 - - -

4 EXAMINER ADDISON: Let's go on the  
5 record. The Public Utilities Commission of Ohio has  
6 set for hearing at this time and place case No.  
7 14-129-EL-SSO, being In the Matter of the Application  
8 of Ohio Edison Company, the Cleveland Electric  
9 Illuminating Company and The Toledo Edison Company  
10 for Authority to Provide a Standard Service Offer  
11 pursuant to RC 4928.143 in the Form of an Electric  
12 Security Plan.

13 My name is Megan Addison, and with me is  
14 Mandy Chiles. We are the Attorney Examiners assigned  
15 by the Commission to hear this case. We'll dispense  
16 about taking appearances this morning.

17 Mr. Evans, I would just like to be remind  
18 you that you're still under oath, and I believe we  
19 left off with Mr. Hays yesterday.

20 Mr. Hays, if you'd like to proceed.

21 MR. HAYS: Thank you, your Honor. I just  
22 had two final questions.

23 - - -  
24  
25

1 RAYMOND L. EVANS

2 being first previously sworn, as prescribed by law,  
3 was examined and testified as follows:

4 CROSS-EXAMINATION (Continued)

5 By Mr. Hays:

6 Q. For how many years has the Sammis plant  
7 been disposing of bottom ash?

8 A. The Sammis plant has been disposing of  
9 bottom ash since unit I came on in the late 1950s.

10 Q. And how many years has the Sammis plant  
11 been disposing of fly ash?

12 A. The response to that question is the same  
13 as the last, since the 1950s.

14 MR. HAYS: Thank you very much. I  
15 appreciate your testimony.

16 EXAMINER ADDISON: Thank you, Mr. Hays.  
17 OEG.

18 MR. COHN: No questions. Thank you.

19 EXAMINER PRICE: Mr. Lindgren.

20 MR. LINDGREN: No questions.

21 EXAMINER ADDISON: Thank you. At this  
22 time we will move to the confidential portion of the  
23 transcript. I believe we're okay in the room. If  
24 you haven't executed a confidentiality agreement,  
25 just exit the room at this time. Thank you all.

1                   MR. BURK: Is there anybody -- the  
2 gentleman with the beard, have you signed a  
3 confidentiality agreement?

4                   PARTICIPANT: Yes, I have.

5                   EXAMINER ADDISON: Thank you.

6                   Mr. Fisk, would you --

7                   MR. FISK: I have no confidential.

8                   EXAMINER ADDISON: Let's go off the  
9 record for a moment.

10                   (Discussion off the record.)

11                   (CONFIDENTIAL PORTION EXCERPTED.)

12

13

14

15

16

17

18

19

20

21

22

23

24

25

3856

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

(OPEN RECORD.)

MS. ADDISON: Mr. Lang, do you have any  
redirect for the public portion?

MR. LANG: I do have a few questions.  
Thank you, your Honor.

- - -

## REDIRECT EXAMINATION

By Mr. Lang:

Q. Mr. Evans, yesterday morning you were asked about a reference to a 1.5 percent rate of improvement when comments were submitted on the proposed Clean Power Plan. There was also discussion yesterday of the final Clean Power Plan using a 4.3 percent heat rate assumption. How do you reconcile the comments submitted on the proposed Clean Power Plan with the assumption that's in the final rule?

A. After the Clean Power Plan was proposed in June, our understanding as we went into preparing comments was that the guidelines suggested a capital investment was needed to achieve the full 6 percent of the heat rate improvement.

As we dug in after the comment close date on the technical EPA provided and reviewed the preamble again, it was our realization you could achieve 4 percent through operating changes 2 percent was the guidance the EPA was issuing to the states on capital investment.

With the final Clean Power Plan, EPA basically stated that there is no preference to capital or operational and changes. They basically

1       said if you can achieve it all through operational,  
2       that is fine.

3               With the Sammis plant, as we've sat and  
4       reviewed IPM's final -- EPA's final IPM model, the  
5       information indicates through load changes or load  
6       capacity increases, that Sammis load capacity would  
7       end up in the range of between 73 and 84 percent.

8               As we looked at our heat rate curves for  
9       the units, the capability of the plants is they can  
10      achieve a 4 percent. The capability of the  
11      individual units and the plan in aggregate, they can  
12      achieve that 4 percent heat rate improvement through  
13      increased capacity factor, thus, the difference  
14      between our comments in December of 2014 to EPA and  
15      the results of the final Clean Power Plan.

16              Q.   And, Mr. Evans, you were also asked by  
17      Mr. Fisk -- and I can't remember whether it was  
18      yesterday morning or afternoon, I think in the  
19      afternoon -- Mr. Fisk about the bottom ash settling  
20      pond and its regulation under the CCR rule.

21              You said you were not forecasting  
22      additional costs, but you were still evaluating --  
23      since you still are evaluating, what is the range of  
24      costs of the anticipated outcomes that you're  
25      expecting based on that evaluation?



1           A.     With respect to the potential remedial  
2     actions that might be needed for the ponds at the  
3     Sammis plant should groundwater monitoring data  
4     indicate an issue, the cost of fix for the bottom ash  
5     ponds we estimate to be at less than a million  
6     dollars. The ponds are four acres in size, and we  
7     believe that the coal combustion residual rule  
8     requirement is that you install a composite liner to  
9     remedy that situation, so the cost would be less than  
10    a million dollars to implement should we need to.

11           MR. FISK: Your Honor, I would move to  
12    strike that answer. We've repeatedly asked for cost  
13    estimates under the EMG rule and the coal ash rule  
14    regarding bottom ash and were never provided that  
15    information. It's not information that's publicly  
16    available.

17           I believe the hearing examiners have  
18    already made the ruling that information that is not  
19    publicly available cannot be suddenly sprung on us at  
20    the hearing, so to suddenly have a number in the  
21    record that we have no way to verify, we have no  
22    documentation of, is simply prejudicial to us.

23           EXAMINER ADDISON: Mr. Lang.

24           MR. LANG: Your Honor, there were  
25    questions in the cross-examination of Mr. Evans which

1 this specifically responds to. There was extensive  
2 back and forth with Mr. Fisk on the CCR rule specific  
3 to this bottom ash settling pond, and the exchange  
4 between the two of them was Mr. Evans did not  
5 anticipate future costs; however, there were still  
6 studies being performed that would be completed by  
7 2017.

8 What was not asked -- I believe counsel  
9 for Sierra Club was happy with establishing that  
10 there was uncertainty as to those results of that  
11 evaluation. What was not asked was what that  
12 evaluation might reveal and what the options would be  
13 for the plant after that evaluation was conducted.

14 So simply to follow up on that because  
15 that was the question, the line of questioning  
16 explored by Mr. Fisk, I think it's proper redirect  
17 to, excuse the pun, close the loop on that question  
18 that was left hanging yesterday. It's not an issue  
19 that has been addressed previously that I know of.  
20 It's not an issue addressed in discovery. It is an  
21 issue, as Mr. Evans has said, that has come up more  
22 recently.

23 The ELG rules were not final and  
24 published until a little bit earlier this year, and I  
25 believe, as Mr. Evans testified yesterday, the

1 companies -- the Sammis plant has been analyzing the  
2 impact of the CCR rules -- the company has been  
3 analyzing the impact of CCR over the summer, and as a  
4 result of that analysis, Mr. Evans has this  
5 information. So I believe it's proper redirect based  
6 on the questions that were asked yesterday.

7 EXAMINER ADDISON: Mr. Fisk.

8 MR. FISK: Just one correction. First,  
9 the ELG rule has not been finalized, so there's no  
10 final rule for them to evaluate it at this point.

11 MR. LANG: I meant CCR, not ELG.

12 MR. FISK: Okay. The simple reality is  
13 we did multiple times in discovery ask for  
14 information on what their cost estimates were with  
15 the ELG rule and for the CCR rule. They never  
16 revealed any of this information. We asked in  
17 Mr. Evans deposition. He simply said, "We evaluate  
18 them. We don't know what the cost would be." For  
19 him to suddenly come up on the stand with cost  
20 numbers that they never provided to us is patently  
21 prejudicial.

22 EXAMINER ADDISON: At this time, we will  
23 deny the motion to strike. We don't recall a  
24 specific instance where the amount was in question.  
25 It was more had those amounts been finalized. So at

1       this time, the motion to strike will be denied.

2               MR. LANG: Thank you, your Honor.

3               Q.       (By Mr. Lang) And, Mr. Evans, moving on,  
4       you were asked also by Mr. Fisk, now moving to the  
5       ELG rule, the eight options the EPA has proposed as  
6       revisions to the ELG rule. Are there options in the  
7       proposed ELG rule that would not require some form of  
8       a closed-loop system?

9               A.       In the proposed ELG rule there are  
10       options in the rule that would not require the Sammis  
11       plant to install additional wastewater treatment  
12       systems, thus, there would be no additional capital  
13       investment required. Those are options three, three  
14       alpha and three bravo.

15               USEPA has requested as part of its  
16       preamble and public forums since the rule was issued  
17       for justification of technologies associated with the  
18       other options. Those other options, the EPA  
19       expressed a concern, both in the preamble and in  
20       public forums, that they most likely could not cost  
21       justify under the requirements of the Clean Water Act  
22       due to the low benefits from those technologies.

23               Q.       And also, Mr. Evans, Ms. Fleisher asked  
24       you specifically about the Sammis plant NPDES permit  
25       and asked whether your testimony addresses the plan

1 of action for mercury that's in the NPDES permit on  
2 page 25 that she referenced. Why did your testimony  
3 not address that plan of action for mercury in the  
4 NPDES permit?

5 A. The plan of action that we put forth to  
6 the Ohio EPA is to continue using the existing NPDES  
7 treatment system for FGD wastewater that's cited in  
8 that permit. That system that was installed as part  
9 of the consent decree under the installation of the  
10 FGD system includes a system that removes the mercury  
11 in question and achieves the permit limits that are  
12 in the permit; therefore, the plan is compliant with  
13 the permit. No additional capital expenditure is  
14 required to treat wastewater at the Sammis plant  
15 associated with that permit limit.

16 Q. And lastly, Mr. Evans, Ms. Fleisher asked  
17 you about new combined cycle natural gas facilities  
18 that were assumed in the EPA IPM modeling of the  
19 final Clean Power Plan. You referenced the Fremont  
20 natural gas plant. Was that a correct reference?

21 A. That was an incorrect reference. What I  
22 meant to reference was the Oregon Energy Center  
23 located in Oregon, Ohio. The Fremont plant is an  
24 existing plant and is already included in the USEPA  
25 IPM model. That was my misstatement due to the

1 nearness of the two plants to each other.

2 MR. LANG: Thank you, Mr. Evans.

3 And, your Honors, that completes our  
4 redirect.

5 EXAMINER ADDISON: Thank you, Mr. Lang.  
6 Mr. Fisk?

7 MR. FISK: Can I have one minute?

8 EXAMINER ADDISON: You may.

9 MR. FISK: So, your Honor, I have a  
10 portion of the deposition transcript that is in the  
11 confidential session but it's regarding issues that  
12 Mr. Evans just discussed, so I don't know if the  
13 redirect needs to be in public or confidential.

14 EXAMINER ADDISON: Would you mind letting  
15 Mr. Lang take a look.

16 Let's go off the record for a moment.

17 (Discussion off the record.)

18 MS. ADDISON: Let's go back on the  
19 record.

20 Mr. Fisk.

21 MR. FISK: Thank you, your Honor.

22 - - -

23 RECROSS-EXAMINATION

24 By Mr. Fisk:

25 Q. Mr. Evans, do you have in front of you

1 your transcript of your confidential deposition?

2 A. I do.

3 Q. And just so the record is clear, I  
4 discussed with Mr. Lang that these two questions  
5 would be fine in the public session. If you could  
6 turn to page 167 of the transcript, let me know when  
7 you're there.

8 A. I've read it.

9 Q. Okay. And do you recall your counsel in  
10 redirect just asked you questions about potential  
11 costs related to bottom ash wastewater handling at  
12 the Sammis plant?

13 A. I do.

14 Q. And if I could direct you to, starting at  
15 line 8 on page 167, the question, "Okay" --

16 A. I'm sorry to stop you, Mr. Fisk. I  
17 understood my counsel's question to be regarding the  
18 bottom ash ponds and coal combustion residual rule.  
19 Are we at the same point?

20 Q. Yes. Yes, we are.

21 A. Okay. Thank you.

22 Q. So starting on line 8 on page 167, the  
23 question is: "Okay. Let me try it again. For the  
24 bottom ash wastewater settling pond, would there  
25 be -- do you know at this point whether the Coal

1 Combustion Residuals Rule would require any capital  
2 investments?"

3 Answer: "I don't know."

4 Question: "Okay. And the -- with regard  
5 to that would the bottom ash settling pond -- do you  
6 know whether the Coal Combustion Residuals Rule would  
7 lead to any increased O&M costs."

8 Answer: "I don't know."

9 Did I read that correctly?

10 A. Yes.

11 MR. FISK: Okay. I have nothing further.

12 EXAMINER ADDISON: Thank you, Mr. Fisk.

13 Mr. Oliker.

14 MR. OLIKER: Thank you, your Honor.

15 - - -

16 RECROSS-EXAMINATION

17 By Mr. Oliker:

18 Q. Mr. Evans, counsel for FirstEnergy asked  
19 you a question on redirect regarding the ability to  
20 improve the heat rate by 4.3 percent. Am I correct  
21 that that improvement is based on the assumption that  
22 the Sammis plant would dispatch at a higher capacity  
23 factor than they are currently dispatching?

24 A. That is correct. The IPM model of USEPA  
25 predicts that Sammis will dispatch at a much higher



1 rate.

2 Q. So the idea is as you increase the amount  
3 of dispatch in a plant, it becomes more efficient,  
4 correct?

5 A. That is correct.

6 Q. And am I also correct that FirstEnergy  
7 believes that as natural gas-fired power plants are  
8 dispatched more often, it will lower the total  
9 capacity factor of coal-fired power plants relative  
10 to existing levels which will degrade heat rates?

11 MR. LANG: Your Honor, I would object.  
12 That was actually a question asked and answered  
13 yesterday morning, and it is not specific to the  
14 redirect question I asked, which was specifically  
15 about changes at Sammis.

16 EXAMINER ADDISON: Mr. Olikar.

17 MR. OLIKER: Your Honor, it's directly  
18 related. It's a follow-up question to his claim  
19 about the improvement of heat rates, which is  
20 contradicted by his testimony yesterday in his  
21 statements and comments. They've opened the door to  
22 this line.

23 EXAMINER ADDISON: I'll allow the  
24 question.

25 THE WITNESS: Could you reread the

1 question, please.

2 (Record read.)

3 A. That is correct.

4 MR. OLIKER: I have no more questions,  
5 your Honor.

6 Thank you, Mr. Evans.

7 EXAMINER ADDISON: Thank you, Mr. Olikier.  
8 Ms. Hussey?

9 MS. HUSSEY: No questions.

10 MS. ADDISON: Mr. Stinson.

11 MR. STINSON: No questions.

12 MS. ADDISON: Ms. Cohn.

13 MS. COHN: No questions.

14 MS. ADDISON: Mr. Sauer.

15 MR. SAUER: No questions, your Honor.

16 MS. ADDISON: Mr. Lindgren.

17 MR. LINDGREN: No questions, your Honor.

18 EXAMINER ADDISON: Thank you, Mr. Evans.

19 You are excused.

20 Mr. Lang.

21 MR. LANG: Thank you, your Honor. The  
22 companies would move into the record Company Exhibit  
23 46, 47 Confidential, which are the two versions of  
24 Mr. Evans supplemental testimony, and then Company  
25 Exhibit 48 and 49 Confidential, which are the two

1 versions his errata.

2 EXAMINER ADDISON: Any objections?

3 MR. FISK: We would just note for the  
4 record and renew our objection to the errata,  
5 Exhibits 48 and 49C, recognizing, of course, the  
6 Bench has already ruled on that.

7 MR. OLIKER: As would IGS.

8 EXAMINER ADDISON: Thank you. Your  
9 objections are noted.

10 The Attorney Examiners at this time will  
11 move into evidence FirstEnergy Exhibit 46, 47  
12 Confidential, 48, and 49 Confidential.

13 (EXHIBITS ADMITTED INTO EVIDENCE.)

14 MS. ADDISON: Mr. Oliker.

15 MR. OLIKER: IGS would move for the  
16 admission of Exhibit 8.

17 EXAMINER ADDISON: Any objection?

18 MR. LANG: No, your Honor.

19 EXAMINER ADDISON: It will be admitted  
20 into evidence.

21 (EXHIBIT ADMITTED INTO EVIDENCE.)

22 MS. ADDISON: Mr. Fisk.

23 MR. FISK: Sierra Club would move for the  
24 admission of Sierra Club Exhibits 64 and 65.

25 EXAMINER ADDISON: Any objection?

1 MR. LANG: No objection to 64. We do  
2 object to 65 as not being identified by the witness,  
3 not being authenticated. The only question that was  
4 used with the witness on that point was whether he  
5 had any reason to -- after he had said he was not  
6 familiar with the document, whether he had any reason  
7 to doubt that it was the document. He said he did  
8 not, but simply having no reason to doubt what a  
9 document is doesn't actually establish that it is  
10 what it is, particularly when a witness has already  
11 said he's not familiar with the document.

12 EXAMINER ADDISON: Mr. Fisk.

13 MR. FISK: Thank you, your Honor.  
14 Exhibit 65, which is a comment letter submitted by  
15 FirstEnergy Corp., we believe the witness did note  
16 that while he wasn't sure whether he had seen this  
17 document specifically and could not recall, he did  
18 acknowledge that he had no reason to doubt that it  
19 was a comment letter they had submitted. This is  
20 dated during the time when he was the head of the  
21 environmental department, which was in charge of  
22 submitting comments to EPA, and Mr. Evans testified  
23 that ultimately he had the responsibility for  
24 comments that went into EPA on environmental  
25 regulations.

1           Also at the bottom of page 2, two  
2 individuals at FirstEnergy, Mr. Jirousek and  
3 Mr. Hartman are identified and are direct reports to  
4 Mr. Evans, and so we believe that this document has  
5 been properly authenticated and should come into the  
6 record.

7           EXAMINER ADDISON: I tend to agree with  
8 Mr. Lang, simply stating that he had no reason to  
9 doubt the authenticity of this document, that it  
10 exists, isn't the same as being familiar with the  
11 document. So at this time, we will not be admitting  
12 Sierra Club Exhibit 65.

13           (EXHIBIT 64 ADMITTED INTO EVIDENCE.)

14           MR. FISK: Thank you, your Honor.

15           EXAMINER ADDISON: Thank you.

16           Let's go ahead and take a brief recess.

17           MR. SAUER: Before we go off the record,  
18 I'll move for the admission of OCC Exhibit 2.

19           EXAMINER ADDISON: I'm so sorry,  
20 Mr. Sauer. Was OCC Exhibit 2 already admitted into  
21 the record?

22           MR. SAUER: It was marked but not moved  
23 into evidence.

24           EXAMINER ADDISON: Any objection,  
25 Mr. Lang?

1 MR. LANG: No objection, your Honor.

2 EXAMINER ADDISON: OCC Exhibit 2 will be  
3 admitted into evidence.

4 MR. SAUER: Thank you, your Honor.

5 (EXHIBIT ADMITTED INTO EVIDENCE.)

6 MR. FISK: I'm sorry, your Honor, if we  
7 could address one more issue before we go on break.  
8 Sierra Club would respectfully request that the  
9 deadline for the supplemental testimony on the Clean  
10 Power Plan be extended by an additional two weeks.

11 The testimony of Mr. Evans yesterday made  
12 clear that it took him four weeks simply to parse  
13 through all of the IPM files and then additional time  
14 for ICF to do the analysis. Given that it took  
15 FirstEnergy, through Mr. Evans, at least four weeks,  
16 and actually probably more than that, to do that sort  
17 of analysis, we think that the intervenors should  
18 have a similar amount of time to be able to do their  
19 own analyses and to pass through what Mr. Evans did,  
20 and ten days is not enough time given the record that  
21 has been established. So we would request an extra  
22 amount of time to be able to do that analysis and be  
23 able to submit supplemental.

24 EXAMINER ADDISON: Mr. Lang, response?

25 MR. LANG: Your Honor, the four weeks

1 related to the final Clean Power Plan document, which  
2 as Mr. Evans described, I would adhere to first, the  
3 preamble is actually hundreds of pages of discussion  
4 of the final Clean Power Plan. That was released in  
5 early August. All parties have had access to that  
6 material.

7 It was established that all parties have  
8 had access to the data files that Mr. Evans relied  
9 upon. If any party was interested in providing their  
10 own analysis the way Mr. Evans has done, both in his  
11 initial testing and in his errata of those data  
12 files, they have had the same amount of time that the  
13 companies have had to perform that analysis.

14 So to the extent that that is something  
15 that intervenors are interested in doing, they've  
16 been on notice since May when his supplemental  
17 testimony was filed and included the analysis of  
18 EPA's data on the proposed Clean Power Plan, were  
19 able to ask questions about in the deposition. They  
20 know where it is in the website, and they know where  
21 the final version is on the website. It was  
22 available to the public.

23 So if they at that time wanted to retain  
24 outside counsel to provide a different analysis of  
25 those model results from what the companies have

1 provided, they've had the same amount of time to do  
2 that. So we certainly think that the accommodation  
3 that the Bench has provided to the intervenors in  
4 response to the errata being filed, having ten  
5 additional days if they want to to file supplemental,  
6 is more than sufficient for them to respond.

7 And so we would object to the request for  
8 a further extension of these proceedings in order for  
9 them to do something that they've had with the final  
10 Clean Power Plan over a month and a half already to  
11 do if they wanted to do.

12 EXAMINER ADDISON: Mr. Fisk?

13 MR. FISK: Your Honor, Mr. Evans'  
14 analysis of IPM modeling files, and that's what's at  
15 issue here, not just the text of the Clean Power  
16 Plan, but the IPM modeling files, was first done in  
17 May. We've had no opportunity to do written  
18 discovery on that. We did a deposition on it in  
19 which Mr. Evans was unable to tell us any of the  
20 files that he relied on, wasn't sure if there was a  
21 spreadsheet supporting the analysis. So we never had  
22 any identification of that information that would be  
23 needed to do the analysis that Mr. Evans did despite  
24 asking repeatedly at his deposition.

25 We then received an errata which is a new



1 analysis during the hearing at which finally  
2 yesterday Mr. Evans finally revealed to us how he did  
3 the analysis and where in the hundreds of megabytes  
4 of files he picked out the data.

5 So we're starting from basically ground  
6 zero yesterday in terms of being able to do this  
7 analysis. Mr. Evans has made clear that it took him  
8 at least four weeks to do it. To require us to then  
9 do at this time in ten days I think simply is not  
10 enough time, and an additional two weeks would allow  
11 for a full exploration of the issue that the  
12 Commission has made clear it is interested in, and I  
13 think it is only fair to allow the intervenor  
14 sufficient time to provide that information.

15 EXAMINER ADDISON: Mr. Lang, last word.

16 MR. LANG: Your Honor, I'll point out  
17 Mr. Evans was deposed on the data files that he  
18 reviewed of the proposed Clean Power Plan. He  
19 specifically said, "I don't have it in front of me.  
20 If you put it in front of me, I can show you what I  
21 did." They chose not to do that.

22 This is a smokescreen that's being  
23 invented of them not knowing what was done. The  
24 smokescreen that they're setting up is saying, "We  
25 had no idea what he was doing." That's because they

1 didn't ask him. The only thing they asked him was,  
2 as established yesterday and in reference to his  
3 deposition transcripts, was put a title of a file,  
4 and his response was in deposition, I don't remember  
5 the exact title of the file, but if you can show me,  
6 if you could put it in front of me, the files that I  
7 do reference in my deposition, because it's a large  
8 Zip file, I can show you what I used. They chose not  
9 to do that.

10 The basic point is those files that were  
11 used for the proposed Clean Power Plan have been on  
12 EPA's website since last summer. The files for the  
13 final Clean Power Plan which, again, are referenced  
14 in his errata have been on the EPA's website since  
15 early to mid-August, and as a courtesy to the  
16 parties, we provided the errata two weeks ahead of  
17 Mr. Evans going on the stand, and we got no response  
18 from the parties in terms of follow-up deposition and  
19 no response from the parties on needing additional  
20 information with that errata.

21 They chose to wait until we moved forward  
22 yesterday with the errata and object to it rather  
23 than explore the information that was in the errata.  
24 That was a choice of their own making. Again, the  
25 Bench has been courteous to them allowing them ten

1 days to file supplemental. We believe that's  
2 sufficient.

3 MR. OLIKER: Your Honor, if I could  
4 respond briefly. From page 120 of the deposition:  
5 "Jim, during the break was the witness able to  
6 identify which one of the EPA-presented sheets he  
7 utilized to extrapolate Figures 1 through 4?"

8 Mr. Lang: "He was not."

9 Mr. Oliker: "Did he look?"

10 Mr. Lang: "We did not look. We  
11 discussed what would be required and the detail that  
12 would go into it and he did not do it during the  
13 break."

14 EXAMINER ADDISON: Thank you all. I  
15 think we will defer ruling on this motion until after  
16 we return from a brief recess. Let's come back at  
17 10:00, and we will give our ruling at that point.

18 MR. FISK: Thank you, your Honor.

19 EXAMINER ADDISON: Thank you. Let's go  
20 off the record.

21 (Recess taken.)

22 EXAMINER ADDISON: Let's go back on the  
23 record. After considering the various arguments  
24 regarding the pending motion to extend the deadline  
25 to file supplemental testimony, the Attorney

1 Examiners feel that extending the deadline to  
2 October 13th would be appropriate, as that was four  
3 weeks from the time that Mr. Evans' errata was filed.  
4 So October 13 would be the new deadline for  
5 intervenor supplemental testimony to be filed.

6 MR. FISK: Thank you, your Honor.

7 EXAMINER CHILES: Thank you.

8 All right, Mr. Kutik.

9 MR. KUTIK: Yes, your Honor. The company  
10 calls as their next witness, Santino Fanelli.

11 (Witness sworn.)

12 MR. KUTIK: Your Honor, we would like at  
13 this time to have marked for identification as  
14 Company Exhibit 50 the Direct Testimony of Santino L.  
15 Fanelli.

16 EXAMINER CHILES: So marked.

17 (EXHIBIT MARKED FOR IDENTIFICATION.)

18 MR. KUTIK: We would also like to have  
19 marked as Company Exhibit 51 for identification,  
20 Santino Fanelli Errata sheet that was filed on  
21 November 14, 2014.

22 EXAMINER CHILES: So marked.

23 (EXHIBIT MARKED FOR IDENTIFICATION.)

24 MR. KUTIK: May I proceed, your Honor?

25 EXAMINER CHILES: You may.

1                                   - - -

2                                   SANTINO L. FANELLI

3       being first duly sworn, as prescribed by law, was  
4       examined and testified as follows:

5                                   DIRECT EXAMINATION

6       By Mr. Kutik:

7                   Q.     Please introduce yourself.

8                   A.     Good morning. My name is Santino  
9       Fanelli. I'm the manager of revenue requirements in  
10      the rates and regulatory affairs department of the  
11      FirstEnergy Service Company.

12                  Q.     Mr. Fanelli, do you have before you what  
13      has been marked for identification as Company Exhibit  
14      50?

15                  A.     Yes, I do.

16                  Q.     What is that?

17                  A.     That is my direct testimony filed in this  
18      proceeding.

19                  Q.     Do you also have before you Company  
20      Exhibit 1 for identification?

21                  A.     Yes, I do.

22                  Q.     What is that?

23                  A.     That is the first errata sheet to my  
24      testimony filed in November of 2014.

25                  Q.     Do you also have before you what has been

1 marked, identified, and admitted as Company Exhibit  
2 5?

3 A. Yes, I do.

4 Q. And does that have anything to relate to  
5 your testimony?

6 A. Yes, it does. Exhibit 5 includes  
7 amendments that were necessary to reflect the  
8 Stipulation and Recommendation filed in this case on  
9 December 22, 2014 and that does impact my testimony.

10 Q. And we see what impacts your testimony on  
11 the first page of that document?

12 A. That's correct.

13 Q. Going back to what has been marked for  
14 identification as Exhibit 50, your direct testimony,  
15 do you have any amendments or updates to make to that  
16 document?

17 A. Yes, I do. I have a few updates. On  
18 page 2, line 8, at the end of the sentence but before  
19 the period insert the words "and Case No.  
20 14-828-EL-UNC."

21 Q. Do you have any others?

22 A. Yes. On page 5, line 9, after the word  
23 "Jurica" insert the words "(as adopted by Company  
24 Witness Savage)."

25 Q. Mr. Fanelli, could you make sure your

1 microphone is on.

2 Do you have any other amendments or  
3 updates?

4 A. Yes. On page 9, at the beginning of line  
5 2, delete the word "transmission," and on that same  
6 page, line 4, replace the name "Cunningham" with  
7 "Phillips."

8 And one final amendment or update is on  
9 page 11, line 5, "2012" should be updated to "2013."

10 Q. Mr. Fanelli, if I asked you the questions  
11 that appear in Exhibit 50 for identification, would  
12 your answers be the same as appear in that exhibit as  
13 modified by Company Exhibit 51 for identification,  
14 Company Exhibit 5, and your remarks here today?

15 A. Yes, they would.

16 MR. KUTIK: No further questions.

17 EXAMINER CHILES: Thank you, Mr. Kutik.

18 Mr. Mendoza.

19 MR. MENDOZA: Thank you, your Honor.

20 - - -

21 CROSS-EXAMINATION

22 By Mr. Mendoza:

23 Q. Good morning, Mr. Fanelli.

24 A. Good morning.

25 Q. Aside from Company Exhibit 5, Company

1 Exhibit 50, and Company Exhibit 51, do you have any  
2 documents with you today, Mr. Fanelli?

3 A. Yes, I do. I have a copy of my  
4 deposition transcript, and I also have copies of  
5 attachments that were filed with the Company's  
6 application that I sponsor, specifically attachment  
7 3, attachment 6, and attachment 7.

8 Q. Anything else, Mr. Fanelli?

9 A. No.

10 Q. Okay. Thank you very much. And you  
11 testified about the ESP versus MRO test, correct?

12 A. Yes.

13 Q. And your testimony identifies purported  
14 quantitative benefits of the proposed ESP, right?

15 A. My testimony looks at the proposed ESP in  
16 the aggregate as compared to an MRO and that in the  
17 aggregate evaluation does include quantitative  
18 benefits as a component.

19 Q. And it also identifies qualitative  
20 benefits of the proposed ESP, right?

21 A. As part of the in-aggregate evaluation,  
22 yes.

23 Q. And let's turn to page 8 of your  
24 testimony, and I'd like to direct your attention to  
25 lines 1 through 3.



1           A.    I see a reference.

2           Q.    Thank you, Mr. Fanelli.  Do you see a  
3 sentence that states, "As discussed by Company  
4 Witness Ruberto, proposed Rider RRS is estimated to  
5 result in a nominal net quantifiable benefit to  
6 customers" -- and there's a figure there -- "over the  
7 term of the rider or" -- and there's another  
8 figure -- "on a net present value basis."  Do you see  
9 that sentence?

10          A.    Yes, I do.

11          Q.    And you did not create your own estimates  
12 of expenses and revenues for rider RRS; isn't that  
13 right?

14          A.    The numbers shown in the reference that  
15 you just read were developed by Company Witness  
16 Ruberto.  I did review those numbers and the  
17 underlying support for them and had no reason to  
18 conclude otherwise that I shouldn't include them in  
19 the test.

20               MR. MENDOZA:  Your Honor, I move to  
21 strike the non-responsive part of his answer after he  
22 said that he received the numbers from Mr. Ruberto.

23               MR. KUTIK:  Your Honor, I think he was  
24 responding to what he did.  He was asked if those  
25 numbers were his own, and he indicated what he did.

1 EXAMINER ADDISON: I agree. Motion to  
2 strike is denied.

3 Q. After receiving those numbers from  
4 Mr. Ruberto, you did not modify them in any way;  
5 isn't that right, Mr. Fanelli?

6 A. The numbers on those lines in my  
7 testimony are the same numbers presented in  
8 Mr. Ruberto's testimony.

9 Q. And you initially filed testimony on  
10 August 4, 2014, correct?

11 A. Yes.

12 Q. And that August 4, 2014 testimony  
13 contained a table on page 8 immediately below line 11  
14 titled "Quantitative Benefit of ESP IV"; isn't that  
15 right?

16 A. Yes, that was included in my original  
17 testimony.

18 Q. And the companies filed a Stipulation and  
19 Recommendation in this proceeding in December 2014,  
20 right?

21 A. Yes.

22 Q. And then in January 2015, the companies  
23 filed amendments to testimony to reflect the  
24 stipulation; isn't that right?

25 A. Yes.

1           Q.    And through the filing of that amendments  
2   to testimony document, page 8, lines 9 through 11,  
3   and the table immediately below line 11 titled,  
4   again, "Quantitative Benefit of ESP IV" were deleted  
5   from your testimony; isn't that right?

6           A.    Yes, that information was moved into the  
7   companies' supplemental testimony to reflect the  
8   impact of the stipulation.

9           Q.    So you were no longer providing a  
10   quantitative estimate that compares the expected  
11   results of the proposed ESP IV to the expected  
12   results of an MRO; isn't that right?

13           MR. KUTIK: Your Honor, I object. His  
14   testimony is what it is. Ms. Mikkelsen's testimony  
15   is what it is. The changes were shown in Company  
16   Exhibit 5. What is the point?

17           EXAMINER ADDISON: Mr. Mendoza.

18           MR. MENDOZA: I'm trying to establish  
19   he's no longer offering the estimate. I mean, it's a  
20   pretty straightforward question.

21           MR. KUTIK: It mischaracterizes his  
22   testimony to the extent there are figures in his  
23   testimony.

24           EXAMINER CHILES: Could I have that  
25   question read back, please.

1 (Record read.)

2 EXAMINER CHILES: Overruled. The witness  
3 may answer the question if he holds an opinion on the  
4 subject.

5 A. No, that's not right. In my testimony I  
6 am still sponsoring, beginning on page 7 at line 4  
7 through page 8, line 8, certain quantifiable benefits  
8 of the companies' proposed ESP. What's not included  
9 in my testimony because it's reflected in the  
10 companies' supplemental testimony are additional  
11 quantifiable benefits that arose out of the  
12 stipulation.

13 Q. Right. So my question is about whether  
14 you're offering a comparison of the quantitative  
15 benefits of the proposed ESP and the MRO.

16 THE WITNESS: I'm sorry. May I please  
17 have that question reread.

18 EXAMINER CHILES: You may.

19 (Record read.)

20 A. I am providing that comparison for the  
21 specific provisions addressed in my testimony.

22 Q. The opposite of the word benefit is  
23 detriment, right, Mr. Fanelli?

24 A. That's fair.

25 Q. And your testimony does not describe any

1 qualitative detriments of the proposed ESP; isn't  
2 that right?

3 A. My testimony compares the proposed ESP to  
4 the expected results of what otherwise apply under an  
5 MRO in the aggregate, taking into consideration all  
6 relevant terms and conditions, and explicitly  
7 recognized in my testimony, those particular  
8 provisions that I felt had an incremental impact on  
9 the comparison, either quantitatively or  
10 qualitatively.

11 In my analysis, I do not identify any  
12 qualitative costs of the ESP that would  
13 correspondingly have, as you characterize it, a  
14 benefit to the MRO or detriment of the ESP. I didn't  
15 see any of those in the aggregate comparison.

16 MR. MENDOZA: Could I have that answer  
17 read back, please.

18 EXAMINER PRICE: You may.

19 (Record read.)

20 MR. MENDOZA: I'd like to move to strike  
21 the answer up to the point where he said he did not  
22 identify and then went on to answer the question.

23 EXAMINER CHILES: Mr. Kutik?

24 MR. KUTIK: Your Honor, first, there's a  
25 problem with the question that assumes that there is

3888

1 a so-called detriment, to the qualitative detriment,  
2 to the ESP. Mr. Fanelli was explaining that there  
3 isn't any. He's also explaining what you have to do  
4 and what he did with respect to his ESP versus MRO  
5 test. So it's a perfectly proper answer and directly  
6 responsive to his question.

7 EXAMINER CHILES: I agree, and that  
8 motion to strike is denied.

9 Q. (By Mr. Mendoza) And your testimony does  
10 not describe any qualitative benefits that would  
11 apply under an MRO, correct?

12 A. My analysis looked at the ESP compared to  
13 an MRO in the aggregate. In my review, I did not  
14 identify any qualitative costs of the ESP that would  
15 have a corresponding benefit of the MRO.

16 Q. Just to be clear, you did not identify  
17 any qualitative benefits that would apply under an  
18 MRO; isn't that right?

19 MR. KUTIK: Objection. Asked and  
20 answered.

21 EXAMINER CHILES: Could I have that  
22 answer read back, please.

23 (Record read.)

24 EXAMINER CHILES: Sustained.

25 Q. Mr. Fanelli, let's turn to page 9 of your

1 testimony. And do you see -- I apologize. Are you  
2 on page 9?

3 A. I am. Thank you.

4 Q. Do you see on line 2 where you refer to  
5 "more stable prices" as a qualitative benefit of the  
6 proposed ESP?

7 A. I do.

8 Q. Okay. And to analyze the extent to which  
9 rider RRS would provide more stable prices, you  
10 reviewed the testimony of another witness, right?

11 A. Support for that statement is included in  
12 the testimony of Companies' Witness Strah,  
13 specifically where Mr. Strah shows an illustrative  
14 comparison of retail generation prices with and  
15 without rider RRS over the term of the economic  
16 stability program.

17 Q. Right. And my question is that when you  
18 provided the statement, you reviewed his testimony;  
19 isn't that right?

20 A. Yes, I reviewed his testimony in support  
21 of that statement.

22 Q. And other than reviewing Mr. Strah's  
23 testimony, you didn't evaluate rider RRS's potential  
24 effect on price volatility; isn't that right?

25 MR. KUTIK: May I have that question

1 read, please.

2 EXAMINER CHILES: You may.

3 (Record read.)

4 A. Mr. Strah's testimony provided the  
5 support that I needed to justify this statement. In  
6 addition to the graph that I mentioned in my prior  
7 response, he also has a discussion regarding how the  
8 rider RRS is constructed and how it would naturally  
9 provide rate stability benefits to customers.

10 MR. MENDOZA: Your Honor, I'd move to  
11 strike that answer. I asked him if he reviewed  
12 anything other than Mr. Strah's testimony. He's  
13 talking about Mr. Strah's testimony. We've already  
14 established that he reviewed Mr. Strah's testimony.  
15 I want to know if he did anything else.

16 EXAMINER CHILES: Mr. Kutik, do you have  
17 a response?

18 MR. KUTIK: I think he was trying to  
19 explain what he did, your Honor. He was asked what  
20 he did.

21 EXAMINER CHILES: The motion to strike is  
22 denied at this point.

23 However, I'll direct the witness to  
24 listen to the question and answer the question  
25 directly without excessive elaboration.



1           Q.     (By Mr. Mendoza) Mr. Fanelli, we  
2 understand you reviewed Mr. Strah's testimony. My  
3 question is, did you review anything else to support  
4 the statement in your testimony that rider RRS would  
5 provide more stable prices?

6           A.     Mr. Strah's testimony was the primary  
7 support for that statement.

8           Q.     And so you didn't conduct an independent  
9 evaluation regarding price stability, right?

10          A.     I'm not sure what you mean by evaluation.  
11 I reviewed Mr. Strah's testimony and the accompanying  
12 workpapers that he had that discussed this particular  
13 topic. I agree with his results, and so I was  
14 comfortable including this statement in my testimony.

15          Q.     Staying on page 9, let's look at line 3,  
16 Mr. Fanelli. Do you see where you refer to "economic  
17 development and job retention" as qualitative benefit  
18 as the proposed ESP?

19          A.     Yes, I do.

20          Q.     And to analyze the economic development  
21 and job retention benefits of the proposed ESP, you  
22 reviewed the testimony of other witnesses; isn't that  
23 right?

24          A.     Other witnesses' testimony provided  
25 support for that section of my testimony.

1           Q.    And those witnesses were Mr. Strah and  
2   Ms. Sarah Murley, right?

3           A.    Mr. Strah and Ms. Murley specifically  
4   addressed economic development and job retention  
5   benefits.

6           Q.    And you did not conduct an independent  
7   analysis of the economic development and job  
8   retention benefits of the proposed ESP, right.

9           A.    If by analysis you're referring to a  
10   detailed analytical study, no, I did not do that. I  
11   reviewed the testimony of Mr. Strah and Ms. Murley,  
12   understood what they were saying, agreed with it  
13   based on my own experience and, therefore, felt that  
14   it was reasonable to cite as support for the  
15   statement in my testimony.

16           MS. HUSSEY:   Could I have that response  
17   reread, please.

18           EXAMINER CHILES:   You may.

19           (Record read.)

20           Q.    Just to confirm, Mr. Fanelli, you relied  
21   on those two witnesses only; is that right?

22           A.    As well as my own personal experience.

23           Q.    Staying on page 9, let's look at line 1.  
24   Do you see where you offer "reliable electric  
25   generation" as a qualitative benefit of the proposed

1 ESP?

2 A. Yes.

3 Q. And if rider RRS is denied, you don't  
4 know if the Sammis coal-fired power plant will  
5 retire, right?

6 A. Stated by other company witnesses, the  
7 future of the Sammis plant is uncertain.

8 Q. And so just to confirm, you don't know --  
9 you don't know, right, that that plant will retire if  
10 rider RRS is denied?

11 MR. KUTIK: Objection. Asked and  
12 answered.

13 EXAMINER CHILES: Overruled.

14 A. I don't have any knowledge regarding the  
15 future of the Sammis plant other than what I said in  
16 my previous response.

17 Q. Okay. And if rider RRS is denied, you  
18 don't know if Davis-Besse will retire, right?

19 A. I understand that the future of  
20 Davis-Besse is uncertain.

21 Q. So you don't know if it will retire,  
22 right?

23 A. I don't have knowledge of the future of  
24 Davis-Besse other than what I said in my prior  
25 response.

1 Q. And if rider RRS is denied, you don't  
2 know if the OVEC plants will retire, right?

3 A. That's right, I don't know.

4 Q. And you do not remember if you had spoken  
5 with anybody about whether any of these plants will  
6 retire if rider RRS does not, right?

7 A. I don't recall being part of any  
8 discussions on those topics, nor would I expect to  
9 be, because that's not my role in the organization.

10 Q. Okay. You covered this a little bit with  
11 counsel for the companies, but just switching gears a  
12 second, Gavin Cunningham filed testimony in this  
13 proceeding, right?

14 A. Direct testimony, yes.

15 Q. And that was in August 2014 when you  
16 filed your direct testimony, right?

17 A. Yes.

18 Q. And subsequent to that, Mr. Cunningham  
19 retired, isn't that right?

20 A. Yes.

21 Q. And Rodney Phillips filed supplemental  
22 testimony in this proceeding; isn't that right?

23 A. Yes.

24 Q. And Mr. Phillips adopted the direct  
25 testimony of Mr. Cunningham; isn't that right?

1           A.     Yes.

2           Q.     And Company Witness Cunningham and  
3           Phillips have estimated the cost of reliability  
4           impacts should Sammis and Davis-Besse retire, right?

5           A.     As I understand the combination of the  
6           direct testimony and the supplemental testimony,  
7           collectively they provide a range of potential  
8           estimates for transmission investment that might  
9           occur should Davis-Besse and Sammis be retired.

10          Q.     At the time you filed your direct  
11          testimony in August, you were relying only on  
12          Mr. Cunningham's testimony; isn't that right?

13          A.     At that time, yes. Mr. Phillips'  
14          supplemental was not filed until after.

15          Q.     Okay. And the companies have not  
16          conducted an analysis on the costs to residential  
17          customers if the transmission upgrades identified in  
18          Mr. Cunningham's direct testimony were made; isn't  
19          that right?

20                 MR. KUTIK: Objection.

21                 EXAMINER CHILES: Grounds?

22                 MR. KUTIK: That was covered by  
23          Ms. Mikkelsen. Beyond the scope of this witness.

24                 EXAMINER CHILES: Mr. Mendoza.

25                 MR. MENDOZA: For one, on page 4, he has

1 heading titled "Estimated Customer Impacts." He's  
2 also sponsored a discovery response on this issue.

3 MR. KUTIK: The issue is about  
4 transmission. That was discussed specifically by  
5 Ms. Mikkelsen.

6 MR. MENDOZA: Your Honor, if I may.

7 EXAMINER CHILES: You may.

8 MR. MENDOZA: I'd like to ask Mr. Fanelli  
9 about the customer impacts of those transmission  
10 upgrades. I'm not going to ask him about the  
11 transmission upgrade analysis itself.

12 MR. KUTIK: Again, Ms. Mikkelsen  
13 addressed the cost to customers of that issue.

14 EXAMINER CHILES: Overruled. The witness  
15 may answer if he holds knowledge on this subject.

16 Do you need the question reread?

17 THE WITNESS: That would be helpful,  
18 please.

19 EXAMINER CHILES: Would you repeat the  
20 question, please.

21 (Record read.)

22 A. Ms. Mikkelsen's second supplemental  
23 testimony does include estimated revenue requirement  
24 impacts of the transmission investments identified by  
25 Mr. Cunningham and Mr. Phillips.

1 MR. MENDOZA: Your Honor, may we  
2 approach?

3 EXAMINER CHILES: You may.

4 Q. Mr. Fanelli, do you have a discovery  
5 response in front of you that's identified as RESA  
6 RESA, Set 3-INT-14?

7 A. Yes.

8 Q. And have you seen this document before?

9 A. Yes, I have.

10 Q. And do you see where it says at the top  
11 right "witness" and then it lists your name; isn't  
12 that right?

13 A. Yes.

14 Q. And then there's a question that says,  
15 "Have the Companies conducted any analysis on the  
16 cost to residential customers if the transmission  
17 upgrades occur as referenced in line 8, page 4 of  
18 Gavin Cunningham's written direct testimony?" Do you  
19 see that?

20 A. Yes.

21 EXAMINER CHILES: Mr. Mendoza, I just  
22 want to interrupt you for a moment. Do you intend to  
23 mark this as an exhibit?

24 MR. MENDOZA: Yes.

25 EXAMINER CHILES: Do you want to go ahead

1 and do that now?

2 MR. MENDOZA: What number are we on?

3 EXAMINER CHILES: I believe you're on 66.

4 MR. MENDOZA: Yes, we would like to have  
5 this marked as Sierra Club Exhibit 66. Thank you,  
6 your Honor.

7 EXAMINER CHILES: So marked.

8 (EXHIBIT MARKED FOR IDENTIFICATION.)

9 Q. Mr. Fanelli, do you see where there's a  
10 response and then there's an objection, the company  
11 objects that this question is not relevant, and then  
12 they go on to say the answer is "no." Do you see  
13 that?

14 A. I see that. This response was prepared  
15 relative to the companies' original application and  
16 Mr. Cunningham's direct testimony, and it was  
17 interpreted to be a question pertaining to the  
18 typical bill analysis that I sponsored as part of the  
19 companies' application, and that is why the answer is  
20 "no," as you stated.

21 As I mentioned in my prior response,  
22 Ms. Mikkelsen, in the second supplemental testimony  
23 filed later, did address the revenue requirements  
24 associated with the estimated avoided transmission  
25 investment.



1           Q.    Did you supplement this discovery  
2    response?

3           A.    I did not, because the typical bill  
4    analysis was not updated to reflect these.

5           MR. MENDOZA:  Thank you, Mr. Fanelli.  I  
6    have no further questions.

7           THE WITNESS:  Thank you.

8           EXAMINER CHILES:  Thank you, Mr. Mendoza.  
9    Mr. O'Brien.

10          MR. O'BRIEN:  Thank you, your Honor.

11                               - - -

12                               CROSS-EXAMINATION

13    By Mr. O'Brien:

14          Q.    Mr. Fanelli, I'm Tom O'Brien.  I'm  
15    representing the hospitals in this case.

16                One question.  Following up on the last  
17    answer you just gave, was the typical bill analysis  
18    updated to show the effect of the stipulation's  
19    reintroduction of the rider EDR into the case?

20          A.    In response to discovery related to the  
21    original stipulation, the companies did provide an  
22    updated typical bill analysis reflecting that  
23    stipulation.

24          Q.    But to your knowledge, no company witness  
25    is sponsoring that updated bill analysis.

1           A.    I am the witness on that discovery  
2 response.

3           Q.    Has that updated bill analysis been  
4 introduced into the record in this case?

5           A.    Not to my knowledge.

6           Mr. O'BRIEN: Thank you. No further  
7 questions, your Honor.

8           EXAMINER CHILES: Thank you, Mr. O'Brien.  
9 Ms. Hussey.

10          MS. HUSSEY: Thank you, your Honor.

11                               - - -

12                               CROSS-EXAMINATION

13 By Ms. Hussey:

14          Q.    Good morning, Mr. Fanelli.

15          A.    Good morning.

16          Q.    I'd like to talk about rider DCR briefly.  
17 You addressed the proposed annual aggregate revenue  
18 caps for Rider DCR in your testimony, correct?

19          A.    Yes.

20          Q.    And you testified that the proposed  
21 annual aggregate for rider DCR caps are based on the  
22 existing revenue caps with annual increases of  
23 30 million; is that correct?

24          A.    Yes, the proposed caps are based on the  
25 existing caps under ESP III with annual incremental

1 aggregate increases of \$30 million.

2 Q. And you further testified that it has  
3 been seven years since the companies' last  
4 distribution rate case; is that correct?

5 A. At the time of the filing of my direct  
6 testimony, yes.

7 Q. Okay. And when forming your opinion that  
8 the caps are reasonable, did you assess it was  
9 reasonable that the companies have not filed a base  
10 distribution rate case in seven years?

11 A. The continuation of the base distribution  
12 rate freeze was a factor that I took into  
13 consideration when making the determination that the  
14 proposed caps are reasonable. The companies  
15 currently have the lowest delivery rates in the  
16 state, and continuation of those base distribution  
17 rates at that low level will continue to provide rate  
18 certainty and stability for customers. So that,  
19 coupled with the company's proposal in rider DCR as a  
20 package, I felt was reasonable.

21 Q. Okay. Could you turn to page 4, line 14.

22 A. I'm there.

23 Q. Okay. And you testify there that  
24 attachment 7 to the companies' ESP application shows  
25 estimated annual rate impacts of the proposed ESP IV

1 on nonshopping customers at various usage levels. Is  
2 that accurate?

3 A. Yes.

4 Q. Okay. And isn't it true that the annual  
5 rate impacts resulting from the stipulation will  
6 differ from those shown in attachment 7 to the  
7 application?

8 A. This stipulation did contain provisions  
9 that have an impact on the typical bill analysis, and  
10 that's what's reflected in the discovery response  
11 that I mentioned earlier.

12 Q. Okay. And in your estimation, would it  
13 be fair to say that a number of assumptions made in  
14 developing estimated customer impacts of the EDU --  
15 or excuse me, of the ESP have changed based on the  
16 stipulation?

17 THE WITNESS: I'm sorry. May I please  
18 have that question reread.

19 EXAMINER CHILES: You may.

20 (Record read.)

21 A. This stipulation did result in changes to  
22 the assumptions that I have identified in my direct  
23 testimony regarding the typical bill analysis.

24 Q. Thank you. Are you aware that the term  
25 of the proposed ESP begins June 2016 and concludes

1 2019?

2 A. May 31, 2019, yes.

3 Q. Thank you. On page 8 at lines 3 to 6,  
4 you referred to RTEP costs. Do you see that  
5 reference?

6 A. I do see that reference.

7 Q. And do you also see the reference in  
8 those lines to the companies' ESP II case?

9 A. Yes.

10 Q. Would you agree that in the ESP II case,  
11 the entire amount of the RTEP costs to be foregone by  
12 the companies was a stipulated certain amount?

13 A. No, I don't agree with that. While the  
14 stipulation in the ESP II case did include the number  
15 360 million, there were other conditions contained in  
16 that particular provision that could have resulted in  
17 the number being higher than 360 million.

18 Q. There was, in fact, a number provided for  
19 in the stipulation and the order, though, correct?

20 A. The number 360 million did appear in the  
21 stipulation. I was trying to clarify that that  
22 wasn't the guaranteed number because the 360 million  
23 was stated conditionally in the context of a "longer  
24 of" provision. It was either the longer of a  
25 five-year period or when \$360 million had not been

1 passed along to retail customers.

2 MS. HUSSEY: I'm going to move to strike  
3 his response after his affirmative response. I  
4 believe he already had explained previously, and I  
5 just asked him for an either affirmative or negative  
6 response.

7 EXAMINER CHILES: Mr. Kutik.

8 MR. KUTIK: Well, the question relies on  
9 a misleading characterization of the record which  
10 this witness was trying to clarify.

11 EXAMINER CHILES: Motion to strike is  
12 denied.

13 Q. (By Ms. Hussey) Would you agree that the  
14 benefits of rider RRS that are forecasted by the  
15 companies are not guaranteed?

16 A. I'm sorry. Which specific benefits are  
17 you referring to?

18 Q. The economic benefits that have been  
19 alleged by the companies.

20 A. If by economic benefits you're referring  
21 to the quantitative benefit of \$2 billion that I  
22 testified to, I agree that number is based on the  
23 companies' current best estimates.

24 MS. HUSSEY: Your Honor, would you direct  
25 the witness to respond directly to my question,

1 please, which was whether the benefits, the economic  
2 benefits, are guaranteed.

3 MR. KUTIK: Your Honor, his response was  
4 they're estimates.

5 MS. HUSSEY: I don't believe that's what  
6 he said.

7 MR. KUTIK: That's exactly what he said.

8 EXAMINER CHILES: Could I have the  
9 question and answer read back, please.

10 (Record read.)

11 MS. HUSSEY: I can follow up, your Honor.

12 Q. (By Ms. Hussey) Being estimates, are  
13 those figures guaranteed?

14 MR. KUTIK: May I have the question read?  
15 I couldn't hear.

16 EXAMINER CHILES: You may.

17 (Record read.)

18 MR. KUTIK: You'll need to turn on your  
19 microphone. It turned off.

20 A. Since that number is based on the  
21 companies' best estimates, the actual could be higher  
22 or lower, so it's not guaranteed.

23 MR. HUSSEY: Thank you. No further  
24 questions, your Honor.

25 EXAMINER CHILES: Thank you, Ms. Hussey.

1 Mr. Hays.

2 MR. HAYS: No questions, your Honor.

3 EXAMINER CHILES: Mr. Stinson.

4 - - -

5 CROSS-EXAMINATION

6 By Mr. Stinson:

7 Q. Good morning, Mr. Fanelli.

8 A. Good morning, Mr. Stinson.

9 Q. Just a few questions, a bit about your  
10 background. On page 1, line 23, you state you have  
11 experienced a number of matters that have come before  
12 the Commission. Would that include rate distribution  
13 proceedings?

14 A. Are you referring to base distribution  
15 rate cases?

16 Q. Right.

17 A. I was involved in the companies' most  
18 recent base distribution rate case.

19 Q. When was that?

20 A. That rate case was filed in 2007,  
21 litigated over 2007-2008 period, and then the rates  
22 went into effect in 2009.

23 Q. And what were your responsibilities in  
24 that base rate proceeding?

25 A. My involvement, as I remember it here



1 today, was primarily in an analytical support role,  
2 helping to develop various standard filing  
3 requirements and other supporting schedules, helping  
4 to draft company witness testimony and helping to  
5 review staff reports and intervenor testimony filed  
6 with the case and provide analytical summaries to  
7 management.

8 Q. Now, in your testimony, you addressed the  
9 ESP versus MRO test, correct?

10 A. Yes.

11 Q. And in performing your analysis, you  
12 considered the Commission's orders appearing in  
13 footnote 2 on page 7.

14 A. That's part of what I considered, yes.

15 Q. Did you also consider Ohio Revised Code  
16 Section 4928.142?

17 MR. KUTIK: I'm sorry. Can I have the  
18 question reread.

19 EXAMINER CHILES: You may.

20 (Record read.)

21 A. Generally, yes.

22 Q. And that statute governs the MRO or  
23 market rate offer, correct?

24 A. Generally, yes, as I understand it.

25 Q. And did you also consider Ohio Revised

1 Code Section 4928.143?

2 A. Certain sections, yes.

3 Q. And that statute generally governs ESP or  
4 Electric Security Plans, correct?

5 A. Generally, yes.

6 Q. You're not an attorney, are you,  
7 Mr. Fanelli?

8 A. I'm not.

9 Q. Nevertheless, you have a general working  
10 knowledge of those statutes. If I refer to those  
11 statutes as .142 and .143, do you know what I mean?

12 A. In this context, yes.

13 Q. And do you have a general working  
14 knowledge of .142 and .143?

15 MR. KUTIK: Your Honor, if counsel is  
16 going to ask this witness questions about those  
17 statutes may he be provided a copy of them?

18 EXAMINER CHILES: Do you have a copy?

19 MR. STINSON: I'm getting there, your  
20 Honor. I do have copies.

21 EXAMINER CHILES: Okay.

22 MR. STINSON: If you'd like them now.

23 EXAMINER CHILES: I think that would be  
24 helpful.

25 MR. STINSON: If I may approach, your

1 Honor.

2 EXAMINER CHILES: You may.

3 MR. STINSON: I'm not going to mark  
4 these, your Honor. I'm just going to provide them  
5 for reference.

6 EXAMINER CHILES: Thank you.

7 Q. (By Mr. Stinson) I've placed before you  
8 Ohio Revised Code Section 4928.142 and .143. Have  
9 you had an opportunity to review those?

10 A. A cursory review, yes.

11 Q. And are those statutes, .142 and .143, the  
12 statutes you indicated you considered in your  
13 analysis of this proceeding?

14 A. Yes, generally.

15 Q. And back to my question, I know you're  
16 not an attorney, but do you have a general working  
17 knowledge of those statutes for purposes of this  
18 proceeding?

19 A. Based on my involvement in the companies'  
20 prior SSO cases and monitoring other SSO cases that  
21 have gone on in the state, I feel I have a fair  
22 nonlegal understanding of the statutes, at least how  
23 they've been interpreted in prior SSO cases.

24 Q. And you did consider them in preparing  
25 your testimony in this proceeding, right?

1           A.     In my testimony I conducted the ESP  
2     versus MRO in-the-aggregate test. Since I was  
3     preparing an ESP versus the MRO under that statutory  
4     test, inherently, I generally did refer to both of  
5     these statutes.

6           Q.     We've identified the orders you referred  
7     to on page 7, paragraph 2, the statutes .142 and  
8     .143. Did you consider any other order statutes or  
9     documents in forming your analysis of the ESP versus  
10    MRO test?

11          A.     Yes, I relied on testimony of other  
12    company witnesses, as referenced in this discussion  
13    in my testimony. I also generally relied on my  
14    experience in the companies' prior SSO cases.  
15    They're not explicitly called out here.

16          Q.     Did you rely on any Commission rules?

17          A.     I don't remember specific Commission  
18    rules that I would have relied on.

19          Q.     What about the Ohio Supreme Court  
20    decisions, did you rely on any Supreme Court  
21    decisions in formulating your analysis?

22          A.     None explicitly that I remember.

23          Q.     Now, in your testimony, page 6, line 17,  
24    you identify section 4928.143(C)(1) as providing the  
25    language for the ESP versus MRO test, correct?

1           A.    Yes.

2           Q.    And I'm going to read a portion of that  
3 provision.  You can follow along to see if I read it  
4 correctly.  But the language provides, does it not,  
5 that "The commission by order shall approve or modify  
6 and approve an application filed under division (A)  
7 of the section if it finds that the electric security  
8 plan so approved, including its pricing and all other  
9 terms and conditions, including any deferrals and any  
10 future recovery of deferrals, is more favorable in  
11 the aggregate as compared to the expected results  
12 that would otherwise apply under section 4928.142 of  
13 the Revised Code."

14                   Did I read that correctly?

15           A.    Yes.

16           Q.    Now, for the Commission to approve an  
17 ESP, it must be more favorable in the aggregate than  
18 a proposed MRO; is that correct?

19           A.    As I understand the statute, yes.  The  
20 determination would be whether the ESP in the  
21 aggregate is more favorable than the expected results  
22 of an MRO.

23           Q.    Thank you.  And the ESP cannot be as  
24 favorable in the aggregate as the MRO, correct?

25           A.    I'm not aware of the situation in front

1 of the Commission where that circumstance has  
2 occurred.

3 Q. Well, I'm just trying to test your  
4 knowledge of the test itself. The test, we've  
5 already stated that the ESP must be more favorable.  
6 So under your knowledge of the test, isn't it correct  
7 that the ESP cannot be as favorable in the aggregate  
8 as an MRO?

9 MR. KUTIK: Your Honor, I'll object at  
10 this point.

11 EXAMINER CHILES: Grounds?

12 MR. KUTIK: This witness has testified  
13 about what he did and what the test is. There's no  
14 evidence in the record that an ESP is as favorable as  
15 an MRO, and these discussions are discussions that  
16 lawyers have in briefs, not witness and counsel have  
17 at a hearing under oath.

18 EXAMINER CHILES: Mr. Stinson.

19 MR. STINSON: Your Honor, he cited to the  
20 test in his direct testimony. I'm just trying to  
21 determine his knowledge of the test and how it's  
22 applied. It's a perfectly permissible area of  
23 inquiry if he's already mentioned the test in his  
24 testimony.

25 MR. KUTIK: It would have some bearing,

3913

1 your Honor, if the hypothetical had something to do  
2 with the facts in this case, which it does not.

3 EXAMINER CHILES: The objection is  
4 overruled at this point, but I don't want to spend a  
5 lot of time in this area. I think after a few  
6 questions --

7 MR. STINSON: Understand. We're moving  
8 on in just a question or two, your Honor.

9 EXAMINER CHILES: Thank you.

10 THE WITNESS: I'm sorry. Is there a  
11 question pending?

12 EXAMINER CHILES: Would you reread the  
13 question, please.

14 (Record read.)

15 A. In my testimony I was trying to  
16 demonstrate that the proposed ESP was more favorable  
17 in the aggregate. Should the circumstance arise  
18 where it's exactly a wash or as favorable, as you've  
19 posed, I think I would need to seek guidance from  
20 counsel on the correct interpretation of that.

21 Q. So you can't answer that question?

22 MR. KUTIK: Objection. He gave his  
23 answer.

24 EXAMINER CHILES: Sustained.

25 Q. Would you agree with me, then, that the

1 test did not prefer an ESP over an MRO?

2 MR. KUTIK: Objection. What does that  
3 mean?

4 EXAMINER CHILES: Mr. Stinson.

5 MR. STINSON: I don't know what the  
6 objection is, your Honor.

7 MR. KUTIK: The objection is it's a vague  
8 and unintelligible question because it won't further  
9 the record, won't put any facts into the record.

10 MR. STINSON: Your Honor, what  
11 Mr. Fanelli has testified to in his testimony at page  
12 9, lines 21 and 22, states, "In general, as  
13 recognized by the Commission in its Order in the  
14 Companies' ESP III, an ESP provides flexibility  
15 compared to an MRO that offers significant advantages  
16 to the Companies' ratepayers and the public."

17 I'm attempting to determine whether  
18 Mr. Fanelli believes that the ESP versus MRO test  
19 prefers an ESP over an MRO.

20 EXAMINER CHILES: Could you please try to  
21 rephrase your question?

22 MR. STINSON: I'll move on, your Honor.

23 EXAMINER CHILES: Thank you.

24 Q. (By Mr. Stinson) Now, going back to the  
25 test you cited in .143(C)(1), the results of applying



1 .142 would be to obtain a generation price through a  
2 competitive bidding process, correct?

3 A. 4928.142 does contemplate competitive  
4 procurements for standard service offer.

5 Q. .142 did not require the determination of  
6 any other prices or cause for the purposes of the ESP  
7 versus MRO test, correct?

8 MR. KUTIK: May I have the question  
9 reread please.

10 EXAMINER CHILES: You may.

11 (Record read.)

12 MR. KUTIK: Objection, your Honor.

13 EXAMINER CHILES: Grounds?

14 MR. KUTIK: Section 142 has nothing to do  
15 with the ESP versus MRO test in terms of what it  
16 says, what it does.

17 EXAMINER CHILES: Mr. Stinson.

18 MR. STINSON: Your Honor, .142 is --  
19 under .143 (C)(1), there's a comparison made between  
20 ESP and the results of .142, and that's what I'm  
21 trying to get at, is that .142 produces the  
22 competitive -- produces the generation supply price  
23 through a competitive auction and the .143 produces  
24 the price as well by .143(B)(1).

25 EXAMINER CHILES: Overruled. The witness

1 may answer if he knows.

2 Would you repeat the question.

3 (Record read.)

4 A. .142 contemplates competitive bidding for  
5 SSO service. .143, in the discussion of the  
6 in-the-aggregate test, contemplates comparison in the  
7 aggregate of the ESP to those expected results from  
8 .142.

9 Q. My question was, .142 does not require  
10 the determination of any other prices or costs for  
11 purposes of the ESP versus MRO test, correct?

12 MR. KUTIK: Again, your Honor, the  
13 question assumes that .142 determines a price for  
14 .143. It's exactly the opposite. And these are the  
15 problems of having these type of questions, because  
16 we're now having to argue fine legal points which  
17 would be argued in brief and not on the stand.

18 EXAMINER CHILES: Mr. Stinson.

19 MR. STINSON: Number one, your Honor has  
20 already ruled on that objection and has instructed  
21 the witness to answer.

22 MR. KUTIK: He already answered the  
23 question to the best of his ability.

24 EXAMINER CHILES: I think at this point,  
25 hearing the witness' answer, I'm going to sustain the

1 objection.

2 Q. (By Mr. Stinson) Turning now to  
3 .143(B)(2), does that provision permit an electric  
4 utility to include in an ESP the nine items listed in  
5 subdivisions (A) through (I)?

6 MR. KUTIK: I objection.

7 EXAMINER CHILES: Grounds.

8 MR. KUTIK: We're talking about what the  
9 statute says, talking about a section of the statute  
10 that has nothing to do with the witness' testimony in  
11 terms of his analysis of the ESP versus MRO test,  
12 which is clearly under division C, not division B.

13 MR. STINSON: In response, your Honor,  
14 the division (B)(2) lists the items that can be  
15 included in an ESP. Mr. Fanelli has testified as to  
16 what items were included, laying a foundation as to  
17 whether those items were properly included.

18 MR. KUTIK: Your Honor, if this counsel  
19 believes there are parts of the ESP that are  
20 improper, that's a proper subject for brief and  
21 improper for cross-examination.

22 MR. STINSON: Your Honor, I can inquire  
23 as to his knowledge of the test to determine whether  
24 the provisions that are included in the test are  
25 properly included.

1 EXAMINER CHILES: The objection is  
2 sustained at this point.

3 MR. STINSON: Let's turn to page 7, line  
4 12.

5 A. I'm there.

6 Q. You state there, "Consistent with the  
7 Commission's decision in the Companies' most recent  
8 ESP III case and other companies' cases, because  
9 these distribution-related capital costs would also  
10 be recoverable under an MRO through a base  
11 distribution rate case, there is no quantifiable cost  
12 of the proposed ESP IV associated with this  
13 provision."

14 Did I read that correctly?

15 A. Yes.

16 Q. Now, when you state that the  
17 distribution-related capital costs would also be  
18 recoverable under an MRO through a base distribution  
19 rate case, you did not mean that distribution-related  
20 capital costs would be recovered through .142, did  
21 you?

22 MR. KUTIK: Again, your Honor, I'll  
23 object.

24 EXAMINER CHILES: Grounds.

25 MR. KUTIK: Legal conclusion.

1 EXAMINER CHILES: We'll note for the  
2 record, again, that Mr. Fanelli is not an attorney,  
3 but he may answer if he holds knowledge on the  
4 subject.

5 THE WITNESS: May I please have the  
6 question reread?

7 EXAMINER CHILES: You may.

8 (Record read.)

9 A. In this context, the comparison assumes  
10 that under an MRO, but outside of .142, the companies  
11 would file a base distribution rate case.

12 Q. So the distribution-related capital costs  
13 for -- I'm getting to the point, Mr. Fanelli, that  
14 the distribution-related capital costs we're speaking  
15 of would be recovered through a base distribution  
16 rate case, correct?

17 MR. KUTIK: Your Honor, are we talking at  
18 this point in the alternate to the ESP?

19 EXAMINER CHILES: Mr. Stinson.

20 MR. STINSON: We've already talked about  
21 how the -- we've already talked about the MRO and the  
22 base distribution rate case, so it would be not an  
23 ESP. We're talking about the MRO and a distribution  
24 rate case.

25 EXAMINER CHILES: Do you need the

1 question reread?

2 THE WITNESS: That would be helpful.

3 Thank you.

4 (Record read.)

5 A. In this sentence that you read or  
6 referenced, I'm referring to Commission precedent in  
7 this situation, which is comparing costs recovered  
8 under rider DCR, under the ESP compared to the  
9 expected results that would otherwise apply under an  
10 MRO, the assumption being that under an MRO, the  
11 companies would file a base distribution rate case  
12 and the same costs would be recovered; therefore, on  
13 a quantitative basis in regards to the  
14 in-the-aggregate test, it's neutral.

15 Q. Would the base distribution rate case be  
16 a separate application than the MRO application?

17 A. The MRO case would be filed as an SSO  
18 case. A base rate case would be filed as an AIR  
19 case.

20 Q. Thank you. On page 7, line 11, you state  
21 that "The proposed ESP IV includes a provision of  
22 recovery of distribution-related capital costs  
23 through Rider DCR." Do you see that?

24 A. Yes.

25 Q. And those distribution-related capital

1 costs could be recovered through the DCR with revenue  
2 caps as detailed on page 3 of your testimony  
3 beginning on line 7, correct?

4 A. In this sentence I'm referencing the  
5 Companies' proposal to continue rider DCR. I agree  
6 that page 3 of my testimony addresses the proposed  
7 revenue caps under rider DCR.

8 Q. And that would be 240 million for the  
9 period June 1, 2016 through May 31, 2017; and  
10 207 million for the period June 1, 2017 through  
11 May 31, 2018; and 300 million for the period June 1,  
12 2018 through the end of the ESP IV, correct?

13 A. Those are the proposed caps, yes.

14 Q. And that's an increase of \$30 million per  
15 year from ESP III; is that correct?

16 A. The revenue cap in the last year of ESP  
17 III is \$210 million. So the proposed caps that are  
18 contemplated here start with that and add \$30 million  
19 per year.

20 Q. And these amounts would be recoverable  
21 during the term of the ESP subject to the caps,  
22 correct?

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

25 EXAMINER CHILES: You may.

1 (Record read.)

2 A. I'm sorry. Could you please clarify what  
3 you mean by "amounts" in that question.

4 Q. Well, there's amounts up to \$240 million,  
5 270 million and 300 million during the three years of  
6 the ESP, correct?

7 A. Yes, those are the proposed caps on the  
8 amount of DCR revenue.

9 Q. And each year of the ESP, those amounts  
10 could be recovered through the DCR, correct?

11 A. Subject to the condition described on  
12 lines 13 through 16 of my testimony, those are the  
13 proposed revenue caps.

14 Q. Thank you. And the ESP term begins  
15 June 1, 2016, correct?

16 A. Yes.

17 Q. And when did the companies begin  
18 collecting the increased amount of the DCR rider?

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

21 EXAMINER CHILES: You may.

22 (Record read.)

23 MR. KUTIK: Your Honor, I guess I object  
24 because the question is unclear in terms of are we  
25 talking about under the proposal or there's a current



1 DCR?

2 EXAMINER CHILES: Mr. Stinson, would you  
3 clarify.

4 MR. STINSON: I believe I indicated the  
5 increased amount. There's a \$30 million proposed  
6 increase.

7 MR. KUTIK: Your Honor, again, that  
8 mischaracterizes the companies' proposal. It isn't  
9 an increase. It's an increase of the cap.

10 EXAMINER CHILES: Mr. Stinson.

11 MR. STINSON: Well, let me --

12 Q. (By Mr. Stinson) How often is the DCR  
13 rider adjusted, Mr. Fanelli?

14 A. Rider DCR is updated on a quarterly  
15 basis.

16 Q. So would the additional \$30 million under  
17 the cap be eligible for adjustment beginning  
18 June 1st, 2016?

19 A. Under the companies' proposal, the  
20 proposed revenue cap of \$240 million would be in  
21 effect June 1 of 2016.

22 Q. And does that mean, then, that that  
23 additional amount would be subject to collection  
24 then?

25 MR. KUTIK: Objection, your Honor. At

1     this point we're mixing apples and oranges. We're  
2     talking about -- Mr. Fanelli is talking about a cap.  
3     Mr. Stinson is talking about amounts that would be  
4     collected.

5                 EXAMINER CHILES: Mr. Stinson, would you  
6     mind rephrasing your question.

7                 Q.     (By Mr. Stinson) I'm just trying to  
8     understand when you -- you have a cap existing of  
9     210 million. You're proposing to increase that cap  
10    by 30 million. The ESP is effective June 1st of  
11    2016. I want to know if that additional \$30 million  
12    under the cap is subject to collection commencing or  
13    beginning June 1st of 2016.

14                MR. KUTIK: Again, your Honor. We're  
15    talking about different things. There's a revenue  
16    requirement which sets the rate and there's the caps,  
17    which is the limitation on how much can be recovered.  
18    We haven't talked about what's in the filing on  
19    June 1st, if there is a filing on June 1st.

20                MR. STINSON: My question, your Honor, is  
21    merely whether those additional costs are eligible  
22    for recovery on June 1st.

23                EXAMINER CHILES: With that  
24    clarification.

25                MR. KUTIK: If the witness understands

1 it. I'm not sure I do.

2 EXAMINER CHILES: Do you need the  
3 question reread?

4 THE WITNESS: That would be helpful,  
5 please.

6 (Record read.)

7 A. The companies' rider DCR revenue  
8 requirement is going to be what it's going to be as  
9 calculated in the quarterly filings. The amount that  
10 the companies would be allowed to recover under rider  
11 DCR would be subject to the proposed caps as stated  
12 in my testimony. So solely for purposes of  
13 determining what the cap level of revenue is starting  
14 June 1st of 2016, that cap level would be  
15 240 million.

16 Q. If the revenue requirement is above  
17 \$210 million or, let's say, about \$220 million, would  
18 that difference between the \$210 million you  
19 identified existing in the current DCR rider be  
20 eligible for recovery commencing June 1, 2016?

21 THE WITNESS: I'm sorry. May I have that  
22 question reread, please.

23 EXAMINER CHILES: You may.

24 (Record read.)

25 A. I'm sorry, Mr. Stinson. In your

1 question, the 210 and 220 that you posed, what is the  
2 time period for that?

3 Q. Let me rephrase it. You indicated that  
4 the cap in the existing DCR is \$210 million, correct?

5 A. For the last year of the ESP III, yes.

6 Q. Right. My question now is with the  
7 revenue requirement as of June 1st is \$220 million,  
8 would that difference of \$10 million be recoverable  
9 in the DCR effective June 1, 2016?

10 MR. KUTIK: It assumes the companies'  
11 proposal is approved; is that correct, counsel?

12 MR. STINSON: Yes. We're talking about  
13 the proposed application.

14 A. Under that hypothetical, yes, that would  
15 be the case, under the companies' proposal, subject  
16 to the proposed revenue caps that are stated here in  
17 my testimony.

18 Q. Thank you. Going back to your testimony  
19 at page 9, line 8, you state, "Further, through Rider  
20 DCR and the Government Directives Recovery Rider,  
21 ('Rider GDR'), the Companies will be able to invest  
22 in their infrastructure and provide safe and reliable  
23 service more efficiently than would be achieved  
24 through a base distribution rate case under an MRO."  
25 Do you see that?

1           A.    Yes, I do.

2           Q.    What do you mean by "more efficiently"?

3           A.    Rider DCR and Rider GDR in this context  
4 provide efficiency relative to a base rate case in a  
5 few different ways.  First, from a timing  
6 perspective, as we discussed earlier, rider DCR is  
7 updated and reconciled on a quarterly basis and it's  
8 subject to Commission staff review on an annual  
9 basis.  So from the companies' perspective, having  
10 that mechanism available mitigates regulatory lag  
11 that would otherwise occur and provides them the  
12 opportunity to recover their costs in a timely  
13 fashion than would occur absent rider DCR.

14                     Similarly, from a timing perspective, the  
15 Commission staff has the opportunity to review those  
16 investments on an annual basis, and I think based on  
17 my experience in our last distribution rate case and  
18 the rider DCR audits that have taken place so far,  
19 that that provides additional benefits to customers,  
20 the efficiency of that review, because the scope is  
21 narrow, only an annual period, and it also allows for  
22 a detailed and granular review of specific capital  
23 investments that have been made in the past year over  
24 that audit period.

25                     That timeliness of recovery and

1 Commission review, from the companies' perspective,  
2 also allows the companies an opportunity to invest in  
3 their infrastructure in a more proactive or economic  
4 manner than otherwise would occur.

5 So because they have rider DCR available  
6 to them and they don't have the time lag on recovery,  
7 they're in a better position to plan their work  
8 proactively, ultimately to the benefit of customers,  
9 and we've seen examples of that under rider DCR.

10 So when I'm talking about efficiency  
11 here, I'm talking about it from a timing perspective,  
12 both from the companies' filing to a review of the  
13 Commission, as well as from an operational  
14 perspective the benefits that it provides the  
15 companies in terms of being able to invest more  
16 proactively to the benefit of customers.

17 Q. So would the company under the DCR be  
18 able to recover its investments sooner than under a  
19 base distribution rate case?

20 A. Under the proposed rider DCR filing  
21 schedule, yes, I would expect that to be the case.  
22 By example, when I look back at the companies' last  
23 distribution rate case, the period covered between  
24 rate cases was anywhere from 12 to 18 years, and what  
25 we're talking about here with DCR is a quarter update

1 process and an annual review.

2 Q. Thank you. Now, in conducting your ESP  
3 versus MRO analysis during the three-year term, did  
4 you do any analysis as to the revenues you would  
5 collect or the companies would collect sooner under  
6 the DCR rider versus the revenues the companies would  
7 collect later under the base distribution rate case?

8 A. I did not do that explicitly. As has  
9 been established in the prior cases that I referenced  
10 in my testimony, while there could be timing  
11 difference between those recoveries, the  
12 interpretation from the Commission's perspective with  
13 regards to the test has been to treat those costs as  
14 neutral because they would be recovered either way,  
15 albeit subject to some slight timing differences  
16 potentially.

17 Q. What would be those timing differences?  
18 Let me rephrase that. Would that recovery be similar  
19 during the term of the ESP, the three years, or  
20 outside of that term?

21 THE WITNESS: I'm sorry. May I please  
22 have that question repeated.

23 EXAMINER CHILES: You may.

24 (Record read.)

25 THE WITNESS: Thank you.

1           A.    A timing difference, if any, would be  
2           dependent upon the timing of when a rate case would  
3           be filed. For purposes of my analysis, consistent  
4           with the Commission precedent, I assumed that  
5           quantitatively the costs recovered through DCR would  
6           be a wash relative to a base distribution rate case  
7           under an MRO.

8           Q.    Are you familiar with the term "date  
9           certain"?

10          A.    Yes.

11          Q.    And for purposes of your evaluation of  
12          the ESP versus MRO test, could you calculate the  
13          value of the companies' property at a date certain if  
14          a base rate application were filed?

15          A.    I did not specifically conduct that  
16          analysis, because I didn't feel that it was  
17          necessary. In my analysis, I considered, consistent  
18          with the orders that I cited to, that the costs  
19          recovered under rider DCR, which are currently  
20          subject to annual review, would be recoverable under  
21          a base distribution rate case on the MRO side of the  
22          comparison.

23          Q.    Did you determine the companies' rate of  
24          return if a base distribution rate case were filed?

25          A.    I didn't explicitly take into



1 consideration a return in the context of this  
2 comparison in my test. Again, consistent with  
3 Commission precedent, I assumed that the revenue  
4 requirements under rider DCR, since they're subject  
5 to staff review currently, would be recoverable  
6 through a base distribution rate case, so there's no  
7 quantifiable impact to the test.

8 Q. And that leads me to page 7, line 14 of  
9 your testimony, where again you state, "There is no  
10 quantifiable cost of the proposed ESP IV associated  
11 with this provision"; is that correct? Is that your  
12 testimony?

13 A. Here I'm testifying that consistent with  
14 the cases that I cited to, rider DCR does not have a  
15 quantitative impact on the ESP versus MRO test.

16 Q. And the case you cited to in footnote 3  
17 is the ESP III case, which is case No.  
18 12-1230-EL-SSO?

19 A. Yes, that's one of them.

20 Q. And you cite to pages 55 and 56 of that  
21 case; is that correct?

22 A. Yes.

23 MR. STINSON: If I may approach, your  
24 Honor.

25 EXAMINER CHILES: You may.

1 MR. STINSON: I'd like to mark what I've  
2 handed to the witness as NOPEC Exhibit 1 for  
3 identification purposes at this point.

4 EXAMINER CHILES: So marked.

5 (EXHIBIT MARKED FOR IDENTIFICATION.)

6 Q. And do you recognize that exhibit,  
7 Mr. Fanelli?

8 A. Yes.

9 Q. And is that the PUCO's order issued in  
10 Case No. 12-1230 that you reference in footnote 3 on  
11 page 7?

12 A. It appears to be.

13 Q. I turn your attention to page 55 to 56.  
14 The last word on page 55 continuing is, "The  
15 Commission agrees with Staff witness Fortney that  
16 these costs should be considered substantially equal  
17 and removed from the ESP v. MRO analysis," correct?

18 A. You read that correctly, yes.

19 Q. At page 51 of the same exhibit, it  
20 states, "Additionally, NOPEC/NOAC argue that  
21 FirstEnergy improperly included in its analysis an  
22 assumed Commission-approved distribution rate  
23 increase of \$376 million under an MRO in order to  
24 offset the \$405 million to be collected from Rider  
25 DCR under the ESP 3," cited to Company Exhibit 3

1 attachment WRR-1.

2 A. I'm sorry, Mr. Stinson, I don't see --  
3 I'm on page 51. I apologize.

4 Q. Okay. I'm sorry. The last line on the  
5 bottom of 51, beginning with "Additionally."

6 A. Okay. Thank you.

7 Q. Over to the parenthetical on 52.

8 MR. KUTIK: Your Honor. I object. Move  
9 to strike the question.

10 EXAMINER CHILES: Would you turn your  
11 microphone on, please.

12 MR. KUTIK: I object. The document says  
13 what it says. The Commission can read and understand  
14 its own orders, and we can cite them in our briefs.

15 EXAMINER CHILES: Mr. Stinson.

16 MR. STINSON: Your Honor, I'm just  
17 testing Mr. Fanelli's statement that there's no  
18 quantifiable cost of the proposed ESP IV when he  
19 cited Case No. 12-1230.

20 MR. KUTIK: And he cited 12-1230, as you  
21 said, because the Commission has basically determined  
22 that for these type of riders, for the ESP versus MRO  
23 test, it should be considered a wash, which is  
24 exactly what the order says.

25 MR. STINSON: My point goes to the fact

3934

1 that Mr. Fanelli says there's quantifiable cost, and  
2 the Commission has stated on page 56 that, quote,  
3 "substantially equal," and on page 51 to 52 that we  
4 just cited there is a statement as to what those  
5 costs are, what the difference is, the 376 million  
6 versus the 405 million. This goes to whether his  
7 statement is correct that there's no quantifiable  
8 cost.

9 MR. KUTIK: What --

10 EXAMINER CHILES: I'm sorry, Mr. Kutik,  
11 did you have follow-up?

12 MR. KUTIK: Mr. Stinson failed to point  
13 out the sentence before one of the ones he read,  
14 which indicates that Mr. Fortney's analysis was that  
15 DCR should be considered simply a wash, quote, end  
16 quote, and the Commission then on the next sentence  
17 which he read agreed with that.

18 EXAMINER CHILES: I'm going to overrule  
19 the objection at this point. I'll allow some  
20 questioning on this point.

21 But I don't want to be simply reading  
22 things into the record from this document, but you  
23 can ask some questions.

24 MR. STINSON: Thank you.

25 Q. (By Mr. Stinson) My question then,

1 Mr. Fanelli, is whether you agree that the costs to  
2 consumers under rider DCR and the ESP III case under  
3 the ESP analysis were 405 million, and the costs  
4 under the distribution rate case and the MRO analysis  
5 were 376 million?

6 A. I agree with the Commission decision that  
7 the costs are considered essentially a wash.

8 Q. I'm asking about the factual basis  
9 whether the Commission -- let me back up. On page 55  
10 as we've stated, the Commission states these costs  
11 should be considered substantially equal. On page 51  
12 to 52 we have a quantification of 376 million for the  
13 MRO analysis of 405 of the ESP analysis. Do you  
14 agree with those figures?

15 MR. KUTIK: Your Honor, again, counsel  
16 has improperly used this document. He again reads  
17 the sentence out of context. In fact, he doesn't  
18 even read the whole sentence. The sentence says "and  
19 removed from the ESP versus MRO test."

20 EXAMINER CHILES: Mr. Stinson.

21 MR. STINSON: Your Honor, I read the  
22 sentence verbatim the first time. I'm just going  
23 back and trying to refresh the witness to answer the  
24 question.

25 MR. KUTIK: He didn't read it verbatim,

1 your Honor, because he actually removed that phrase  
2 in his last question. That's the point of the  
3 objection.

4 EXAMINER CHILES: Mr. Stinson, could you  
5 rephrase the question and be more specific about  
6 what -- more specific about references --

7 MR. STINSON: I'm trying to lay the  
8 foundation, your Honor. On page 55 to 56 the  
9 Commission stated that "The Commission agrees with  
10 Staff witness Mr. Fortney that these costs should be  
11 considered substantially equal and removed the ESP v.  
12 MRO analysis."

13 My question goes to being substantially  
14 equal, and on page 51 to 52, the quantifications of  
15 405 million and 376 million, whether Mr. Fanelli  
16 agrees that those were the costs quantified for the  
17 MRO v. ESP analysis.

18 MR. KUTIK: And again, counsel is reading  
19 sentences out of context, as I pointed out. Instead  
20 of agreeing with Mr. Fortney's analysis, the previous  
21 sentence that he just quoted, that was simply a wash.  
22 I think we can readily agree that "substantially  
23 equal" and "simply a wash" mean the same thing.

24 MR. STINSON: Your Honor, my question  
25 goes to the fact that there's a quantification in

1       this case of 376 million and 405 million for the ESP  
2       and MRO and whether those numbers are accurate in  
3       this case and whether that's the basis for the  
4       Commission's phrase "substantially equal."

5               MR. KUTIK: If counsel wanted to debate  
6       the accuracy of the Commission's determination or  
7       characterization of the evidence in Case No. 12-1230,  
8       he had the opportunity to make that argument before  
9       this Commission in application for rehearing and  
10      before the Supreme Court on appeal. And, in fact,  
11      they have appealed it. So all those questions about  
12      what the evidence showed or didn't show or what  
13      conclusions it supports or doesn't support belong in  
14      that appeal and not in our hearing today.

15             EXAMINER CHILES: Thank you. The  
16      objection is sustained. I think we need to move on  
17      at this point.

18             Q.     (By Mr. Stinson) The only other  
19      quantitative benefit that you testified to is the  
20      \$3 million for economic development, correct?

21             A.     When you say "only other," you mean in  
22      addition to the estimate for rider RRS?

23             Q.     Right, rider RRS.

24             A.     That is the only other quantitative  
25      benefit I discuss in my testimony. There are

1 additional quantitative benefits discussed by  
2 Ms. Mikkelsen resulting from the stipulation.

3 Q. Did you play any part in the  
4 determination as to the qualitative or quantitative  
5 benefits that Ms. Mikkelsen addresses?

6 A. I reviewed that section of her  
7 supplemental testimony.

8 Q. Did you make any adjustments to her  
9 testimony?

10 MR. KUTIK: Objection, your Honor.

11 EXAMINER CHILES: Grounds?

12 MR. KUTIK: His testimony is what it is.  
13 There's nothing in Mr. Fanelli's testimony,  
14 Ms. Mikkelsen's testimony. In fact, it's just the  
15 opposite.

16 MR. STINSON: I asked him what part he  
17 played in Ms. Mikkelsen's testimony.

18 MR. KUTIK: That's not what he said.

19 EXAMINER CHILES: Would you repeat the  
20 question.

21 Q. (By Mr. Stinson) Did you play any role in  
22 the development of Ms. Mikkelsen's testimony with  
23 respect to this whole factor be included, the ESP  
24 versus MRO test?

25 A. I'm not sure exactly what you mean by



1 "play any role" other than the items noted in the  
2 errata sheet that impacted my testimony. There were  
3 no other changes to my testimony regarding the  
4 quantitative benefits of the ESP versus the MRO  
5 resulting from the stipulation.

6 Q. At page 9, line 14, of your testimony,  
7 you state, "Third, as part of ESP IV the Companies  
8 are providing support for at-risk populations by  
9 continuing funding for low income customers as a part  
10 of the Community Connections program," correct?

11 A. Yes.

12 Q. And you included that as a qualitative  
13 benefit, correct?

14 A. Yes.

15 Q. And am I correct that the support to be  
16 provided under the Community Connections Program is  
17 \$5 million per year?

18 A. I believe that's correct.

19 Q. Why was not that sum included in  
20 quantifiable benefits?

21 A. The funding for the Community Connections  
22 Program is recoverable under the companies' rider  
23 DSE. So in total across all customers, it's revenue  
24 neutral so there is no quantifiable cost; however,  
25 given that this funding is targeting low-income,

1 at-risk populations, it provides a significant  
2 qualitative benefit associated with the ESP.

3 Q. Page 9, line 17, you state, "Fourth, the  
4 Companies' commitment to implement a supplier web  
5 portal," and that is included as a qualitative  
6 benefit as well, correct?

7 A. Yes.

8 Q. Has that been quantified?

9 A. As it relates to the in-the-aggregate  
10 test, there is no cost associated with this  
11 particular provision. This commitment, as discussed  
12 in Witness Smialek's testimony is born out of the RMI  
13 proceeding, which directed the companies to continue  
14 to work with interested stakeholders to try to  
15 develop a Web-based system. What the companies are  
16 proposing here as part of their ESP is an  
17 acceleration of that process and a commitment to move  
18 forward with the supplier portal. So that  
19 acceleration is what's counted here as a qualitative  
20 benefit of the ESP.

21 Given that it was born out of that  
22 direction from the RMI, there's no quantitative cost  
23 because the costs would be there under either an ESP  
24 or an MRO.

25 Q. But under an MRO, do you mean that cost

3941

1       could be recovered under a base distribution rate  
2       case?

3               A.     Or other mechanism.

4               Q.     Such as?

5               A.     I don't have a specific example because  
6       that analysis has not been conducted.

7               MR. STINSON:  Thank you.

8               I have no other questions, your Honor.

9               EXAMINER CHILES:  Thank you, Mr. Stinson.

10              Let's go off the record for a minute.

11              (At 12:00 p.m. a lunch recess was taken  
12       until TIME p.m.)

13                               - - -

3942

1 Tuesday Afternoon Session,  
2 September 29, 2015.

3 - - -

4 EXAMINER CHILES: Before we resume with  
5 the cross-examination, Mr. Kutik.

6 MR. KUTIK: Your Honor, in light of your  
7 ruling this morning relating to the potential  
8 supplemental testimony that may be due now on  
9 October 13, the companies request that any party that  
10 wishes or anticipates filing such supplemental  
11 testimony advise the Bench of that fact by either  
12 this Friday or Monday, at the latest, and that such  
13 parties have their witnesses available to testify on  
14 October 19, which is the first day that we have open  
15 in our schedule.

16 The schedule that we had provided  
17 anticipates that after the 13th, that week, we have  
18 three full days, mostly of staff testimony, as well  
19 as Dr. Kalt, and the first and next available day  
20 would be the 19th, and we ask that witnesses be  
21 available on the 19th so we can complete the  
22 examination, if any, on that day.

23 EXAMINER CHILES: Thank you, Mr. Kutik.  
24 Does any party wish to respond to that right now?

25 MR. MENDOZA: Sierra Club would be

1       pleased to advise the Bench about whether we'll be  
2       filing testimony on Monday. We'll advise you on  
3       Monday about whether we will be filing testimony on  
4       the 13th. As to the availability of such a witness,  
5       we can't make any representations with respect to  
6       that today, but we would be pleased to do that as  
7       well on Monday.

8               EXAMINER CHILES: Mr. Kutik, is that  
9       agreeable to you?

10              MR. KUTIK: That's fine.

11              EXAMINER CHILES: Thank you very much.  
12       Does anyone else have anything to add?

13              We'll resume with the cross-examination  
14       of Mr. Fanelli. Ms. Grady.

15              MS. WILLIS: Thank you, your Honor. And  
16       I might note for the record that with my marriage  
17       having gone on, it will be Ms. Willis from this  
18       point.

19              EXAMINER CHILES: Ms. Willis.

20                               - - -

21                               CROSS-EXAMINATION

22       By Ms. Willis:

23              Q.    Good afternoon, Mr. Fanelli.

24              A.    Good afternoon, Ms. Willis.

25              Q.    Now, earlier today you were

1 cross-examined by Mr. O'Brien on the bill impact  
2 analysis that you had run. Do you recall that  
3 cross-examination?

4 A. Yes.

5 Q. And you had referred to attachment 7 as  
6 the bill impact analysis that was filed with the  
7 application and which you conducted; is that correct?

8 A. Yes. Attachment 7 to the application  
9 represented the companies' typical bill analysis  
10 under the proposal in the analysis.

11 Q. And that was the proposed ESP that was  
12 filed with the Commission, correct?

13 A. As filed in August 2014, correct.

14 Q. And you also in your responses to  
15 Mr. O'Brien indicated or spoke of another bill  
16 analysis. Do you recall those questions?

17 A. I recall a reference to a supplemental  
18 typical bill analysis that we provided in discovery.

19 Q. Yes. And can you explain to me what the  
20 supplemental bill analysis that you provided in  
21 discovery would have addressed?

22 A. The response that we provided in that  
23 discovery reflected the companies' estimated typical  
24 bill analysis resulting from the original stipulation  
25 filed in December of 2014.

1           Q.    And you indicated, Mr. Fanelli, that the  
2    supplemental -- we'll call it the supplemental bill  
3    analysis. You indicated that the supplemental bill  
4    analysis was provided in discovery; is that correct?

5           A.    Yes.

6           Q.    And can you identify what the discovery  
7    response would have been or the request that -- could  
8    you identify that for us?

9           MR. KUTIK: Are you asking by number?

10          MS. WILLIS: Yes.

11          Q.    By number and party, if you know.

12          A.    I believe it was IEU Set 3. I don't  
13    recall the specific interrogatory number. I'm sorry.

14          Q.    Thank you.

15          MS. WILLIS: Your Honor, may I approach?

16          EXAMINER CHILES: You may.

17          MS. WILLIS: Your Honor, at this time I'd  
18    like marked as OCC Exhibit No. 16 a multi-page  
19    document entitled "IEU Set 3, Interrogatory 3  
20    Responses to Request."

21          EXAMINER CHILES: So marked.

22          (EXHIBIT MARKED FOR IDENTIFICATION.)

23          Q.    Mr. Fanelli, I have handed you what has  
24    been marked for identification purposes as OCC  
25    Exhibit No. 3. Can you look at that briefly and tell

1 me if that is the supplemental bill analysis that  
2 we've been speaking of?

3 A. This appears to be the companies' typical  
4 bill analysis provided in discovery reflecting the  
5 impact of the original stipulation.

6 Q. And you were the witness responsible for  
7 providing that and running that bill analysis; is  
8 that correct?

9 A. Yes.

10 Q. And does this appear to be an accurate  
11 copy of that discovery response?

12 MR. KUTIK: We'll stipulate, subject to  
13 check.

14 MS. WILLIS: Thank you.

15 Q. Mr. Fanelli, have you run a bill analysis  
16 that would reflect the results of the supplemental  
17 stipulations, any of the supplemental stipulations  
18 that were filed in this case?

19 A. We have considered and analyzed the  
20 estimated impact of the supplemental and supplemental  
21 stipulations. That analysis wasn't formalized into  
22 the presentation we have here as presented in the  
23 typical bills.

24 Q. Mr. Fanelli, was that analysis that you  
25 said was not formalized, was that ever provided to



1 any of the parties in this proceeding through  
2 discovery, if you know?

3 A. I don't believe it was requested in  
4 discovery, so, to my knowledge, it was not provided.

5 Q. And do you know if the analysis that was  
6 not formalized was ever communicated to any of the  
7 parties in this proceeding, including the signatory  
8 parties to the stipulation?

9 MR. KUTIK: Your Honor, I'll object to  
10 the extent that may cover confidential settlement  
11 communications, so I would ask that the witness be  
12 allowed to exclude any of those communications in his  
13 answer.

14 MS. WILLIS: Your Honor, I think my  
15 question really -- it was not to divulge the content  
16 but whether or not the information had been provided  
17 to parties, and I don't believe that's covered by any  
18 privilege.

19 MR. KUTIK: If you're asking about the  
20 content of the conversation he had with a signatory  
21 party, the companies are a signatory party. To the  
22 extent that occurred within a settlement context,  
23 that would be covered by the confidentiality  
24 privilege, your Honor.

25 EXAMINER CHILES: Could I have the

1 question read back, please.

2 (Record read.)

3 EXAMINER CHILES: I'm going to sustain  
4 the objection.

5 Do you want to try to rephrase your  
6 question?

7 MS. WILLIS: Your Honor, if I may, I was  
8 asking whether communications had occurred, not to  
9 what the extent of the communications were or what  
10 they revealed. I believe the fact that  
11 communications either did or did not occur is not  
12 privileged.

13 MR. KUTIK: If I may be heard, your  
14 Honor.

15 EXAMINER CHILES: Yes.

16 MR. KUTIK: The question asked whether or  
17 not the -- the question was about whether the bill  
18 impacts or the supplemental analysis of the bill  
19 impacts were communicated to any parties, including  
20 signatory parties. That necessarily indicates the  
21 type of information that may or may not have been  
22 communicated.

23 EXAMINER CHILES: Ms. Willis, your  
24 response?

25 MS. WILLIS: Your Honor, I don't believe

1     it's privileged.  It's asking whether communications  
2     occurred, not the substance of the communications.  
3     If I'd asked about the substance of the  
4     communications, that would arguably be covered by  
5     privilege.  But the fact that communications did or  
6     did not occur is not -- will not elicit a privileged  
7     response.

8                 MR. KUTIK:  The question asked about  
9     communications about bill impacts.

10                EXAMINER CHILES:  I'm going to sustain  
11     the objection.

12                Ms. Willis, we can go into a confidential  
13     session if you wish, and you can ask that question,  
14     and then we can always move it into the public  
15     session if you find it's not confidential.

16                MR. KUTIK:  Your Honor, I don't believe  
17     this would be appropriate for a confidential session.  
18     It's akin to attorney/client privilege.  It is barred  
19     from discovery or disclosure.  It is not because it's  
20     proprietary.

21                EXAMINER CHILES:  I'm going to sustain  
22     the objection.

23                Q.     (By Ms. Willis) Do you know if the  
24     analysis that you referred to of the impacts of the  
25     supplemental stipulation was shared with any party to

1       this proceeding?

2               A.    I was not personally involved in any  
3       discussions with any parties relating to the topic  
4       that we're talking about here.

5               Q.    Do you know if there were any  
6       conversations that would have conveyed the impact of  
7       the informal analysis of the supplemental stipulation  
8       to any parties to this proceeding?

9               MR. KUTIK:  Your Honor, and I would ask  
10      the witness be directed not to disclose any  
11      communications he might have received from counsel  
12      relating to conversations that took place with  
13      signatory parties as a result of the settlement  
14      process.

15              EXAMINER CHILES:  Thank you.

16              THE WITNESS:  May I please have the  
17      question reread.

18              EXAMINER CHILES:  You may.

19              THE WITNESS:  Thank you.

20              (Record read.)

21              A.    I personally was not involved in any of  
22      those discussions, so I can't speak to what may or  
23      may not have been conveyed in discussions in which I  
24      didn't participate.

25              Q.    Do you know, in fact, if these

1 discussions occurred.

2 A. Since I was not involved in any and I  
3 wasn't part of the settlement process personally, I  
4 can't speak to whether these discussions occurred or  
5 didn't occur.

6 Q. Thank you, Mr. Fanelli.

7 Now, let's go to your testimony for the  
8 moment on the DCR caps. And I'm going to direct your  
9 attention to pages 3 and 4 of your testimony. In  
10 page 3 at line 6 through 9 of your testimony, you  
11 identify the DCR caps. Do you see that reference?

12 A. Yes. I identify there the proposed  
13 revenue caps for ESP IV.

14 Q. And the caps represent the amount of  
15 money the companies can collect from customers for  
16 the revenue requirement associated with increases in  
17 distribution plant since May 31st, 2007?

18 THE WITNESS: May I please have that  
19 question reread.

20 EXAMINER CHILES: You may.

21 THE WITNESS: Thank you.

22 (Record read.)

23 A. Rider DCR revenue requirement is derived  
24 based largely on changes in plants since May 31st,  
25 2007, so that would be the companies' calculated

1 revenue requirement. The amount that they would be  
2 able to recover from customers under rider DCR is  
3 subject to the caps as proposed in this section of my  
4 testimony.

5 Q. Now, under the proposed revenue caps that  
6 you testified to, 240 million can be collected from  
7 customers for the period June 1st, 2016 through  
8 May 31st, 2017, correct?

9 A. 240 million is the revenue cap for that  
10 period, subject to the condition explained on lines  
11 13 through 16 of my testimony.

12 Q. And when you say it's the revenue cap, it  
13 means that's that the total, the maximum amount of  
14 dollars that can be collected from customers during  
15 that period, correct?

16 A. The revenue cap is the maximum amount to  
17 be recovered for that specific time period.

18 Q. And when you say "be recovered," you're  
19 talking about collecting the money from customers,  
20 correct?

21 A. Referring to billing the customers. We  
22 may not collect every dollar that we bill.

23 Q. So billing customers up to \$240 million  
24 under that June 1st, 2016 through May 31st, 2017  
25 period, correct?

1           A.     That's what the 240 million represents.

2           Q.     And the \$270 million for the period  
3     June 1st, 2017 through May 31st, 2008 is 270 million  
4     that can be billed to customers for the period  
5     June 1st, 2017 -- oh, I'm sorry. Let me strike that  
6     and start over.

7                     The \$270 million that you testified to on  
8     line 8 of page 3 is money that can be billed to  
9     customers for the period June 1st, 2017 through  
10    May 31st, 2018, correct?

11          A.     That is the cap amount to be charged to  
12    customers for that period subject to the condition on  
13    rows 13 through 16 of my testimony.

14          Q.     Understood. And the \$300 million that  
15    you refer to on line 8 of page 3 of your testimony is  
16    300 million that can be charged to customers annually  
17    for the period June 1st, 2018 through the end of the  
18    ESP IV, correct?

19          A.     Yes, again, subject to that same  
20    condition.

21          Q.     Now, the companies' proposal then is to  
22    implement the annual increases in the DCR rider of up  
23    to \$30 million per year, correct?

24                    THE WITNESS: May I please have that  
25    question reread.

1 EXAMINER CHILES: You may.

2 THE WITNESS: Thank you.

3 (Record read.)

4 A. The companies' proposal is to implement  
5 these revenue caps on the dates stated in my  
6 testimony. The actual revenue may not be those  
7 amounts.

8 Q. Let me try to put it this way: The  
9 companies' proposal then is to charge customers  
10 annually up to \$30 million per year through the DCR  
11 rider?

12 A. No, I wouldn't characterize it that way.  
13 Through rider DCR, the companies are seeking to  
14 charge customers for the revenue requirement that's  
15 calculated. That revenue requirement is subject to  
16 the revenue caps that are stated here. So if the  
17 revenue requirements are below these cap levels, the  
18 companies only recover their revenue requirement.

19 Q. Right. But the revenue requirement can  
20 be -- the revenue requirement proposal that the  
21 companies present, you can collect up to  
22 \$30 million -- you can bill and charge customers for  
23 up to \$30 million per year under the DCR rider?

24 THE WITNESS: I'm sorry. May I please  
25 have that question reread.



1 EXAMINER CHILES: You may.

2 THE WITNESS: Thank you.

3 (Record read.)

4 Q. Let me rephrase that.

5 A. Thank you.

6 Q. Under the companies' proposal, you can  
7 charge customers up to \$30 million per year in the  
8 DCR rider for the revenue requirements associated  
9 with distribution.

10 A. The companies' proposal is to charge  
11 customers the rider DCR revenue requirement subject  
12 to the caps. So what's stated here in my testimony  
13 lays out the companies' proposal for what those caps  
14 would be, which effectively represents the capped  
15 amount or the maximum amount that could be charged to  
16 customers, subject to the conditions in lines 13  
17 through 16.

18 Q. Thank you. Now, on lines 22 through 23  
19 of your testimony, on page 3, you state that "The  
20 \$30 million annual aggregate revenue cap increase is  
21 based on the actual average annual Rider DCR revenue  
22 requirement increase since the Companies' last base  
23 rate case." Do you see that reference?

24 A. I do, yes.

25 Q. And the companies' last -- I believe

1 earlier you testified that the companies' last base  
2 rate was filed in 2007 and an opinion and order came  
3 out in 2009, correct?

4 A. Correct.

5 Q. And do you know whether or not the case  
6 number is 07-551-EL-AIR?

7 A. I believe that's correct.

8 Q. Now, on page 4 in lines 2 through 5, you  
9 explain that "In the Companies' most recent DCR  
10 filing, the annual Rider DCR revenue requirement  
11 based on the Rate Base balances as of May 31, 2014  
12 was \$208.4 million." Do you see that?

13 A. I see that reference, and that was the  
14 most recent at the time we submitted this testimony.

15 Q. And you state that the \$208.4 million  
16 revenue requirement "is an average annual increase of  
17 approximately \$30 million over the seven years since  
18 the last base distribution rate case," correct?

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

21 EXAMINER CHILES: You may.

22 (Record read.)

23 A. Yes. 208 divided by 7 is approximately  
24 30.

25 Q. And you believe, Mr. Fanelli, that the

1 average annual rider DCR revenue requirement increase  
2 since the companies' last distribution rate case is a  
3 reasonable representation of the average annual rider  
4 DCR revenue requirement increase during the term of  
5 the ESP IV, correct?

6 THE WITNESS: May I please have that  
7 question reread.

8 EXAMINER CHILES: You may.

9 (Record read.)

10 A. I do think that's reasonable for a few  
11 reasons. In preparation for my testimony in the  
12 case, we worked closely with the folks representing  
13 the companies who prepared the capital budgets and  
14 discussed their expectations for spending going  
15 forward. Given that capital spend and, more  
16 specifically, plant in service is the main driver  
17 behind the rider DCR revenue requirement, we wanted  
18 to make sure that the estimated spending was in line  
19 with what we had seen historically in support of the  
20 \$208 million revenue requirement.

21 Based on those discussions, our  
22 expectation was that, yes, the going-forward  
23 projections would be relatively in line. This is  
24 supported by the companies' projected financial  
25 statements that were attached to the application as

1 attachment 6 where you can see the average annual  
2 gross plant changes on those projected balance  
3 sheets, and those are in line as well with what we  
4 had seen historically.

5 More recently, I've looked at the  
6 companies' most current capital forecast as of 2015,  
7 and those expectations are still in line, and the  
8 companies' most recent rider DCR filings, which now  
9 take us up to an eight-year period, that 30 million  
10 is still the average over that whole period. So it's  
11 the combination of the history behind the 30 million  
12 coupled with expectations going forward that would  
13 allow me to conclude that I think the \$30 million is  
14 reasonable.

15 MS. WILLIS: Your Honor, I'm going to  
16 move to strike everything after he answered "yes" on  
17 the basis it is non-responsive and gratuitous.

18 MR. KUTIK: May I have the question and  
19 answer reread your Honor.

20 EXAMINER CHILES: Yes, please.

21 (Record read.)

22 MR. KUTIK: Your Honor, he was asked  
23 whether he relied upon or he believed that the  
24 eight-year period was reasonable, and he was  
25 explaining that it was reasonable in addition to

1 considering other things. So he didn't only consider  
2 the past history, he looked at it in terms of future  
3 projections. So "yes" or "no" would be a  
4 misrepresentation and inaccurate, and he was trying  
5 to make his answer accurate.

6 EXAMINER CHILES: I agree. I think the  
7 witness was attempting to answer the question so the  
8 motion to strike is denied.

9 MS. WILLIS: Your Honor, may I approach.

10 EXAMINER CHILES: You may.

11 MS. WILLIS: I would like to have marked  
12 as OCC No. 17 a single-page document entitled  
13 Response to Request OCC Set 5, Interrogatory 125.

14 EXAMINER CHILES: So marked.

15 (EXHIBIT MARKED FOR IDENTIFICATION.)

16 Q. Take a look at that document,  
17 Mr. Fanelli. Did you have a chance to look at that  
18 document?

19 A. Yes. Thank you.

20 Q. And are you familiar with that document?

21 A. Yes.

22 Q. Are you responsible for this response?

23 A. Yes, I am.

24 Q. Thank you. Now, Mr. Fanelli, you have  
25 not determined the actual revenue requirement for the

1 DCR for the ESP IV period, correct?

2 A. Interpreting your question literally,  
3 actual revenue requirements won't be known until that  
4 point in the future. So, no, we have not calculated  
5 those.

6 Q. Have you estimated the revenue  
7 requirement for the DCR for the ESP IV period?

8 A. As part of my testimony, I did not  
9 include an estimate of rider DCR revenue requirements  
10 over the ESP IV period because I was focused on the  
11 caps.

12 Q. Thank you. Now, Mr. Fanelli, rider DCR  
13 was first implemented in Case No. 10-388-EL-SSO; is  
14 that your understanding?

15 A. Yes.

16 Q. And at that time, the cap was set at  
17 150 million for the first 12 months that the rider  
18 was in effect, correct?

19 A. That's correct.

20 Q. And that first 12-month period was  
21 calendar year 2012, correct?

22 A. Correct.

23 Q. Now, at that time, Mr. Fanelli, FE was  
24 not required to show that additions to distribution  
25 plants since its last base rate case caused it to

1 experience a revenue deficiency, correct?

2 THE WITNESS: Could I please have the  
3 question reread.

4 EXAMINER CHILES: You may.

5 THE WITNESS: Thank you.

6 (Record read.)

7 MR. KUTIK: Your Honor, I'll object. The  
8 order is what it is.

9 EXAMINER CHILES: Overruled.

10 A. If you're asking me what type of  
11 justification for the original caps was included in  
12 the stipulation, I don't believe the items that you  
13 mentioned were. The revenue caps coming out of ESP  
14 II were the results of that stipulation and agreed to  
15 by the stipulated parties, and I think from the  
16 companies' perspective, those levels were reasonable  
17 in that they allowed the companies to earn the  
18 opportunity to earn a return of and on incremental  
19 investments made since the time of the last rate  
20 case.

21 Q. Now, in Case No. 10-388-EL-SSO, the DCR  
22 caps were increased from 150 million in 2012 to  
23 165 million in 2013; is that correct?

24 A. Yes, subject to the condition that any  
25 revenue below the cap in 2012 would be -- would be

1 recoverable in 2013 subject to that period's cap.

2 Q. And the DCR caps were increased  
3 75 million for the first five months in 2014 under  
4 that order?

5 MR. KUTIK: May I have the question  
6 reread, please.

7 EXAMINER CHILES: You may.

8 (Record read.)

9 A. The caps weren't increased by 75 million.  
10 75 million was the cap for that five- month period.

11 Q. The \$75 million cap would equate to an  
12 annual cap of 180 million if the cap was carried  
13 through for the entire year under the same rate; is  
14 that correct?

15 A. Yes, 75 million over five months  
16 annualized would be 180.

17 Q. So in Case No. 10-388-EL-SSO, the annual  
18 increases in the DCR caps were 15 million per year,  
19 correct?

20 A. The caps increased 15 million per year on  
21 an annualized basis.

22 Q. Thank you. And then the next case that  
23 addressed the rider DCR caps was the next FirstEnergy  
24 SSO filing, correct?

25 A. The caps were next addressed in the



1 companies' ESP III case.

2 Q. And that would have been case No.

3 12-1230-EL-SSO; if you know?

4 A. Yes, that's correct.

5 Q. And is it your understanding that in that  
6 case rider DCR was extended through May 31st, 2016?

7 A. Yes.

8 Q. And you're familiar with the DCR caps  
9 that were set in that case, correct?

10 A. The revenue caps, yes.

11 Q. And the revenue caps for the DCR rider  
12 were set at 195 million for 12 months ending  
13 May 31st, 2015?

14 A. Yes, subject to that same condition, that  
15 any prior period over or under would be carried  
16 forward.

17 Q. Thank you. And the DCR cap was  
18 210 million for the 12 months ending May 31st, 2016,  
19 correct?

20 A. 210 million, yes, subject to that same  
21 condition.

22 Q. And that \$210 million DCR cap is the  
23 latest approved DCR cap for FE?

24 A. \$210 million is the approved cap for the  
25 last year of ESP III. The companies don't have

1 approval beyond that currently.

2 Q. So the annual increases to the DCR cap  
3 since it has been in effect were set at \$15 million  
4 per year, correct?

5 MR. KUTIK: Could I have the question  
6 reread, please.

7 EXAMINER CHILES: You may.

8 (Record read.)

9 A. While that has been the average annual  
10 cap increase over ESP II and ESP III, as we discussed  
11 earlier, the companies' revenue requirements have  
12 increased at an average rate of 30 million per year,  
13 and that's why we're proposing to put those more in  
14 line under the ESP IV time period.

15 Q. Now, let's focus on how the DCR caps work  
16 over the three-year ESP term. Year one under rider  
17 DCR, FE could charge customers \$30 million more than  
18 the last approved DCR; is that correct?

19 THE WITNESS: May I please have that  
20 question reread.

21 EXAMINER CHILES: You may.

22 THE WITNESS: Thank you.

23 (Record read.)

24 MR. KUTIK: Your Honor, I'll object.  
25 We've been over this already.

1 EXAMINER CHILES: Overruled.

2 A. What the companies can charge the  
3 customers is based on their revenue requirements. In  
4 year one of the proposed ESP IV, the revenue cap that  
5 we're proposing here is \$240 million, subject to the  
6 condition discussed on lines 13 through 16.

7 Q. And the \$240 million collection is  
8 \$30 million more than the existing collection cap  
9 under the DCR, correct?

10 A. The rider DCR revenue cap for the last  
11 year of ESP III is \$210 million.

12 Q. Now, in year two under rider DCR, FE  
13 could charge customers another \$30 million, correct?

14 A. Under the companies' proposal, the  
15 revenue cap that the companies can charge customers  
16 in that second year of ESP IV is \$270 million,  
17 subject to the condition stated below in my  
18 testimony, and that's to recognize the fact that the  
19 companies' revenue requirements are increasing  
20 correspondingly.

21 Q. And the \$270 million cap is 60 million  
22 more than the currently approved DCR cap of  
23 210 million, correct?

24 A. The difference between 270 and 210 is  
25 60 million, and the reason that we're proposing that

1 increase is to better align with the companies' costs  
2 and the increase in the revenue requirements.

3 Q. Now, in year three under the rider DCR,  
4 FE could charge customers another \$30 million, that  
5 is, they could collect up to -- they could charge  
6 customers up to \$300 million for the DCR in year  
7 three?

8 A. On an annual basis starting in year three  
9 of ESP IV, the proposed revenue cap is \$300 million.

10 Q. And that \$300 million cap is 90 million  
11 more than the latest approved DCR cap; is that  
12 correct?

13 A. The difference between 300 and 210 is 90,  
14 I agree. And, again, that's to reflect the increase  
15 in the companies' costs or revenue requirements.

16 Q. So under the FirstEnergy's proposal, the  
17 cumulative total amount collected from customers  
18 under the DCR would be \$180 million more than the  
19 latest approved DCR cap?

20 THE WITNESS: May I please have that  
21 question reread?

22 EXAMINER CHILES: You may.

23 THE WITNESS: Thank you.

24 (Record read.)

25 Q. Let me withdraw that and rephrase.

1 Under FirstEnergy's proposal, the  
2 cumulative total amount charged to customers under  
3 the DCR could be 180 million more than the latest  
4 approved DCR?

5 A. The companies' proposal here is to  
6 increase the annual revenue caps to align with the  
7 increases in their revenue requirement that we've  
8 seen historically and reasonably expect going  
9 forward. The numbers shown here in the section of my  
10 testimony that we're discussing are the proposed caps  
11 for those periods, and, again, that's to reflect the  
12 increase in the cost.

13 As a mathematical exercise, if you're  
14 asking me if 30 plus 60 plus 90 equals 180, I agree  
15 with that. I just don't necessarily agree with the  
16 characterization of the question, because I see these  
17 caps as allowing the companies an opportunity to  
18 continue to have the chance to earn a return of and  
19 on their investment.

20 MS. WILLIS: Your Honor, I would move to  
21 strike portions of that response, the portions of  
22 that response up to where he answered my question  
23 where he said "As a mathematical exercise, I agree  
24 with you," and then the final sentence, I would move  
25 to strike as well. I believe that he was not

1 responsive to my question in his earlier remarks and  
2 he volunteered information in a narrative explanation  
3 of why the company believes the caps are appropriate,  
4 and that was not the focus of my question.

5 EXAMINER CHILES: Mr. Kutik.

6 MR. KUTIK: Yes, your Honor. As the  
7 witness stated, he could not agree with the  
8 characterization of the implication of the question,  
9 so he needed to explain what his answer was before he  
10 gave his answer and the context of his answer.

11 EXAMINER CHILES: Could I have the answer  
12 read back, please?

13 (Record read.)

14 EXAMINER CHILES: I'm going to grant the  
15 motion to strike at this point. We'll strike  
16 everything in the answer except for the sentence  
17 beginning with "as a mathematical exercise."

18 MS. WILLIS: Thank you, your Honor.

19 Q. (By Ms. Willis) Now, Mr. Fanelli, as part  
20 of the supplemental stipulations that were filed in  
21 this case, there were rate design changes made to the  
22 companies' proposed ESP, correct?

23 MR. KUTIK: Did you say stipulation or  
24 supplemental stipulation?

25 MS. WILLIS: Supplemental.

1           A.    Do you have a specific reference or could  
2           you clarify what you mean by rate design changes as  
3           it pertains to the supplemental stipulations?

4           Q.    Yes.  The supplemental -- let me strike  
5           that.  Let me start over.

6                    After the company filed their testimony,  
7           a stipulation was reached in December of 2014,  
8           correct?

9           A.    The original stipulation in this case was  
10          filed in December of 2014.

11          Q.    And then following that original  
12          stipulation, there were two additional stipulations,  
13          one entitled the "Supplemental Stipulation and  
14          Recommendation" and the second entitled a "Second  
15          Supplemental Stipulation and Recommendation."  Are  
16          you aware of that?

17          A.    Yes, I'm aware of two additional  
18          stipulations were filed.

19          Q.    Let's start with the first stipulation,  
20          that December 22nd, 2014 stipulation.  Is it your  
21          understanding that there were rate design changes  
22          made to the companies' proposed ESP through that  
23          supplemental -- through that stipulation?

24          A.    The original stipulation filed in  
25          December did include a rate design change to proposed

1 rider RRS which was different than the companies'  
2 original application.

3 Q. And did it propose any other rate design  
4 changes?

5 MR. KUTIK: Your Honor, I'll object at  
6 this point. Ms. Mikkelsen testified about the stip  
7 and the stipulations, the supplemental stipulation  
8 and the second supplemental stipulation. This  
9 witness is not here to testify about those.

10 EXAMINER CHILES: Ms. Willis, do you want  
11 to respond?

12 MS. WILLIS: Yes, your Honor. If you  
13 would give me some leeway, I believe Mr. Fanelli  
14 talks about the estimated customer impacts, and in  
15 there he makes assumptions that underlie the customer  
16 bill impacts.

17 My questions are going to whether or not  
18 those assumptions are valid and how they affect the  
19 bill impacts and the reliability of the bill impact  
20 statements that were provided as attachment 7 to the  
21 original application.

22 EXAMINER CHILES: Thank you. The  
23 objection is overruled at this point. The witness  
24 may answer if he knows.

25 THE WITNESS: May I please have the



1 question reread.

2 EXAMINER CHILES: You may.

3 THE WITNESS: Thank you.

4 (Record read.)

5 MR. KUTIK: Your Honor, since this  
6 witness is not the witness to testify about the  
7 stipulation, may he be provided a copy of the  
8 stipulation?

9 EXAMINER CHILES: Do you have a copy,  
10 Ms. Willis?

11 MS. WILLIS: Yes, certainly, your Honor.

12 EXAMINER CHILES: Thank you.

13 Q. (By Ms. Willis) Mr. Fanelli, we are  
14 focusing at this point on the original stipulation  
15 dated December 22nd, 2014, and my question was, you  
16 had indicated that there were -- the original  
17 stipulation included rider RRS changes, and I was  
18 asking you whether there were other rate design  
19 changes associated with that stipulation.

20 A. In the original stipulation there were  
21 other provisions that would have an impact on the  
22 companies' rates. I wouldn't necessarily  
23 characterize those as rate design changes.

24 Q. Okay. And what would those provisions  
25 have been that would have an impact on the companies'

1 rates and therefore have an impact on customer bills?

2 A. In the original stipulation, the  
3 provision starting on page 7 discussing rider ELR; on  
4 page 9, provisions numbered 7, 8, and 9.

5 Q. And could you identify those, as you have  
6 my copy of the stipulations?

7 A. I apologize, Ms. Willis.

8 MR. KUTIK: Could we go off the record?

9 EXAMINER CHILES: We may.

10 (Discussion off the record.)

11 EXAMINER CHILES: Let's go back on the  
12 record.

13 A. Did you get the first one, Ms. Willis?

14 Q. Yes. But you said page 9 of the  
15 stipulation.

16 A. Page 9 of the original stipulation?

17 Q. Yes.

18 A. Provisions numbered on that page 7, 8,  
19 and 9.

20 Q. Okay.

21 A. Would reflect differences compared to the  
22 companies' application.

23 Q. And, therefore, would reflect differences  
24 on bill impacts, customer bill impacts, that are  
25 shown on attachment 7 to the application?

1           A.    Those three changes would result in a  
2           difference between the typical bills filed with the  
3           application and the typical bills that you entered as  
4           OCC Exhibit 16 reflecting the stipulation.

5           Q.    I guess I want to stick -- I would like  
6           to stick to the difference between the stipulation  
7           and attachment 7, not OCC Exhibit 16, because I'm  
8           comparing the stipulation to the bill impact  
9           statements that were filed as part of the  
10          application.

11          MR. KUTIK:  I hate to do this, your  
12          Honor.  May we go off the record.  I think the mics  
13          are off.

14          EXAMINER CHILES:  Do you want to try  
15          again.

16          (Discussion off the record.)

17          EXAMINER CHILES:  Let's go back on the  
18          record.

19          Could we have the question reread,  
20          please.

21          (Record read.)

22          A.    Sorry.  I'll try to clarify.

23          Q.    Thank you.

24          A.    Provisions 7, 8, and 9 on page 9 of the  
25          original stipulation would be different than the

1 assumptions included in attachment 7 to the  
2 application.

3 Q. Thank you. And going back to the  
4 provision dealing with Rider ELR in the original  
5 stipulation, that would be different than the  
6 assumptions made in the bill impact analysis  
7 presented as attachment 7 to the companies'  
8 application as well, correct?

9 A. The renewal of rider ELR under the  
10 original stipulation is different than what was  
11 reflected in the companies' application.

12 Q. Now, were there any other changes that  
13 were made by the stipulation that would affect the  
14 customer bills and would be different than the  
15 customer bill impact analysis -- would produce a  
16 different customer bill impact analysis than that  
17 presented as attachment 7 to the companies'  
18 application?

19 A. Other provisions in the original  
20 stipulation that could have an impact on the typical  
21 bill analysis relative to what we filed in the  
22 application would include at the bottom of page 9  
23 little (iii) related to rider DRR.

24 Q. Yes.

25 A. As well as on page 10, and I believe I

1 mentioned this earlier, just for clarification, the  
2 rate design change associated with rider RRS shown  
3 there in Roman Numeral lower case (iv).

4 Q. Are there any other changes made in the  
5 original stipulation that would affect the bill  
6 impact statements presented as attachment 7 to the  
7 companies' application?

8 A. I don't believe there are any others, and  
9 those changes and assumptions would have been  
10 incorporated into the updated analysis we provided in  
11 discovery.

12 Q. So OCC Exhibit 16 would reflect the  
13 changes made under the stipulation would show the  
14 impact of the changes on -- let me strike that.

15 So OCC Exhibit 16 reflects the changes to  
16 the bill impact statements that are made by the  
17 stipulation filed December 22nd, 2014?

18 A. OCC Exhibit 16 represents the companies'  
19 estimated typical bill analysis reflecting the  
20 original stipulation from December of 2014.

21 Q. Thank you. Now, let's move on to next to  
22 the stipulation, what is entitled the second -- let  
23 me strike that .

24 What is entitled the Supplemental  
25 Stipulation, do you have that in front of you?

1           A.    I have a copy of the supplemental  
2 stipulation and recommendation.

3           Q.    Now, with respect to the supplemental  
4 stipulation, did that stipulation make additional  
5 changes to the original stipulation that would impact  
6 the customer bills?

7           A.    There is one provision in the  
8 supplemental stipulation that would have an impact on  
9 a typical bill analysis if it was requested to be  
10 provided. That is the modifications to rider ELR  
11 discussed on page 2. And the companies did look at  
12 the estimated impact associated with that provision  
13 on their customers at the time that the supplemental  
14 stipulation and recommendation was entered into.

15          Q.    Did the supplemental stipulation also  
16 impact rider EDR and would that impact have an effect  
17 on the customer bills?

18          A.    Assumptions related to rider ELR for  
19 purposes of a typical bill analysis would include  
20 estimated credits under rider ELR which are recovered  
21 under DSE-1 as well as a corresponding estimated  
22 credit under rider EDR(b) that's recovered under  
23 rider EDR(e).

24                If you look at what's presented here,  
25 what's relevant compared to the original stipulation

1 is that the curtailable load that would be available  
2 to customers is the 136,250 kW, and that's compared  
3 to 75,000 kW in the original stipulation. So the  
4 difference between that, assuming that the full  
5 136,000 kW would be subscribed, taken advantage of by  
6 rider ELR eligible customers, in total across rider  
7 ELR and EDR would be approximately \$700 million split  
8 between rider DSE-1 at approximately 3.6 million and  
9 rider EDR at approximately 3.6 million. So we didn't  
10 see that impact as being that material from a  
11 customer bill perspective.

12 Q. And the \$7 million impact, is that a  
13 yearly impact or an impact over the entire ESP IV  
14 period?

15 A. The approximately \$7 million number that  
16 I referenced is an annual number assuming that the  
17 full curtailable load is subscribed.

18 Q. And the ELR credit, that would be a  
19 credit that residential customers would be paying  
20 for; is that correct?

21 A. The rider ELR credit is recovered under  
22 rider DSE-1, which residential customers as well as  
23 all other non-rider ELR customers pay. In looking at  
24 that, the impact on a residential bill is immaterial,  
25 approximately .01 cent per kilowatt hour, if I

1 remember.

2 Q. Now, let's go to your testimony on the  
3 MRO versus the ESP analysis. Specifically, on page  
4 7, you discuss the quantitative benefits of the  
5 companies' proposed ESP, and that testimony starts on  
6 line 6 and carries over to page 7, line 8. Do you  
7 see that? Starts at line 6, carries over at page 8,  
8 line 8.

9 A. Yes, I see that.

10 Q. And on lines 11 through 15 of page 7, you  
11 discuss rider DCR. Do you see that?

12 A. Yes, I see that.

13 Q. And you conclude that DCR is not a  
14 quantified benefit or cost because FE could collect  
15 the same dollars it collects in rider DCR in a base  
16 rate case under an MRO, correct?

17 A. What I conclude here, consistent with  
18 Commission precedent, is that for purposes of the  
19 quantitative side of the ESP/MRO comparison, the  
20 impact of rider DCR is neutral.

21 Q. And does this mean that you assume that  
22 the alternative under an MRO is one or more base rate  
23 cases during ESP IV and that such rate cases are  
24 presumed to collect about the same amount of revenue  
25 as rider DCR?



1           A.    This assumes that the revenue  
2 requirements recovered under rider DCR would be  
3 recovered under an MRO through a base distribution  
4 rate case.

5           Q.    Now, under the DCR rider, the return  
6 earned on the plant reflects a 10.5 percent return on  
7 equity and a 6.54 percent cost of debt; is that  
8 correct?

9           A.    The revenue requirement calculation for  
10 rider DCR?

11          Q.    Yes.

12          A.    Currently, and proposed to continue under  
13 ESP IV, includes a return on equity of 10.5 percent  
14 and a weighted average cost of debt is 6.54 percent,  
15 consistent with the companies' last rate case.

16          Q.    And that was the 2007 base rate case that  
17 we spoke of?

18          A.    Yes.

19          Q.    Now, you indicated earlier today that the  
20 DCR rider is updated quarterly and has annual audits,  
21 correct?

22          A.    Yes.

23          Q.    Is it your understanding, Mr. Fanelli,  
24 that either the updates or the audits give parties an  
25 opportunity to challenge the return on equity or the

1 cost of debt utilized in the rider?

2 A. The scope of the rider DCR audit process?

3 Q. Yes.

4 A. Which other parties can participate is to  
5 determine whether the revenue requirements associated  
6 with rider DCR and the underlying investments were  
7 not unreasonable based on the facts and circumstances  
8 known at the time. So I think that a party  
9 participating in that audit has the opportunity to  
10 question anything that falls under that scope.

11 Q. And is it your understanding that you  
12 would define the scope as including the ability to  
13 challenge the return on equity or the cost of debt  
14 that was utilized in the rider?

15 MR. KUTIK: I'll object, your Honor, to  
16 the extent it calls for a legal conclusion.

17 EXAMINER CHILES: Mr. Fanelli, I believe  
18 we've noted for the record before you're not an  
19 attorney. You may answer the question with that  
20 notation.

21 A. As I understand it, the return on equity  
22 and cost of debt has already been agreed to as part  
23 of the stipulation, so it would not explicitly be  
24 under consideration in the audit.

25 Q. And would it be under consideration in

1 the quarterly filings, if you know?

2 A. The companies calculate the rider DCR  
3 revenue requirements which are filed quarterly  
4 consistent with the stipulation and the terms in the  
5 stipulation.

6 Q. Now, beginning at page 8, line 12 of your  
7 testimony, you discuss the qualitative benefits of  
8 the ESP IV versus the MRO alternative, and  
9 specifically at line 17, you discuss rider RRS  
10 benefits. Do you see that testimony?

11 A. Starting at line 17, on page 8, I believe  
12 I'm discussing qualitative benefits associated with  
13 the economic stability program.

14 Q. Of which rider RRS is a prime component,  
15 correct?

16 A. Rider RRS is a component of the economic  
17 stability program along with numerous other benefits.

18 Q. And in the qualitative benefits that you  
19 list there, you list several, generation reliability,  
20 fuel and resource diversity, rate stability, economic  
21 development and job retention, and avoidance of  
22 transmission capital expenditures, correct?

23 A. It wasn't verbatim, but generally those  
24 are the items discussed.

25 Q. Now, just to be clear, you claim these

1 are qualitative benefits from ESP IV that are not  
2 present under an MRO that lacks rider RRS; is that  
3 correct?

4 A. The qualitative benefits discussed in  
5 this paragraph are directly related to the companies'  
6 proposed economic stability program which provides  
7 certainty regarding the continued operation of the  
8 plants contained in the economic stability program,  
9 and because of that certainty, there's subsequent  
10 certainty for the State of Ohio and customers that  
11 these benefits associated with generation, stable  
12 pricing, economic development, and avoided  
13 transmission investment will continue to exist in the  
14 future under the 15-year term.

15 MS. WILLIS: May I have that question and  
16 answer reread, please.

17 EXAMINER CHILES: You may.

18 (Record read.)

19 Q. I'm not sure you answered my question,  
20 Mr. Fanelli. My question is, the qualitative  
21 benefits from ESP IV that you list on page 17 -- I'm  
22 sorry -- on page 8, line 17 that we just discussed,  
23 those are not present under an MRO; is that correct?

24 A. The certainty regarding the continuation  
25 of these existing benefits is based upon the

1 companies' proposed ESP, and that certainty would not  
2 exist absent the proposed economic stability program.

3 Q. So your testimony is that certainty does  
4 not exist under an MRO because an MRO does not  
5 contain the proposed economic stability program that  
6 the company is proposing?

7 A. As other witnesses have testified, the  
8 future of the plants that are subject to the economic  
9 stability program is uncertain. The companies'  
10 proposed economic stability program, which is  
11 proposed specifically as part of this ESP, provides  
12 certainty, and that certainty would not exist absent  
13 the proposed economic stability program.

14 Q. Now, when you refer in your testimony to  
15 the reliability benefit -- and I'm referring to page  
16 9 at the very top, line 1, you say, "Approval of the  
17 Economic Stability Program will provide a broad range  
18 of benefits, including," and that's where you put in  
19 "reliable electric generation." Is it your  
20 understanding that the ESP provides this benefit  
21 because it avoids retiring Davis-Besse or Sammis?

22 A. What I'm talking about here is the future  
23 of Davis-Besse and Sammis is uncertain, as other  
24 witnesses have testified. Through the economic  
25 stability program, there's certainty over this time

1 period, and through that certainty, there's greater  
2 assurance that the current benefits afforded by these  
3 plants associated with having baseload generation  
4 that's fuel diverse with on-site fuel capabilities  
5 that was built originally to serve the customers of  
6 the companies is providing certainty that those  
7 benefits will continue to exist during the term of  
8 the economic stability program. And that's the  
9 benefit I'm trying to articulate here in this  
10 reference.

11 Q. Is it your testimony that under an MRO  
12 that Davis-Besse and Sammis would not be operating to  
13 provide reliable generation to customers?

14 THE WITNESS: May I have that question  
15 reread, please.

16 EXAMINER CHILES: You may.

17 THE WITNESS: Thank you.

18 (Record read.)

19 A. It's my testimony that the future of the  
20 plants is uncertain.

21 Q. Are you testifying that -- or would you  
22 agree with me that in your analysis of the ESP versus  
23 MRO, you are assuming in calculating the benefits of  
24 the ESP that Davis-Besse and Sammis would not be  
25 operating to provide reliable generation service to

1 FE's customers?

2 THE WITNESS: Sorry. May I please have  
3 that question reread.

4 EXAMINER CHILES: You may.

5 THE WITNESS: Thank you.

6 (Record read.)

7 Q. Under an MRO. Thank you.

8 A. I don't agree with that characterization.  
9 I'm assuming here, based on the testimony of other  
10 witnesses in the case, that the future of the plants  
11 is uncertain. Under the proposed economic stability  
12 program, there's certainty for the future of those  
13 plants, and that certainty, the effect of that  
14 certainty, is the qualitative benefits here that I'm  
15 discussing in this paragraph.

16 Q. So you are measuring the qualitative  
17 benefits of the ESP versus the MRO by measuring the  
18 certainty that the units Davis-Besse and Sammis will  
19 be providing reliable generation service; is that  
20 correct?

21 A. The qualitative benefits related to  
22 generation reliability that we're discussing here are  
23 the direct effect of the assumption that the  
24 companies' economic stability program would be  
25 approved, and under that economic stability program,

1       there's certainty regarding the future of the plants.  
2       Absent the companies' proposed economic stability  
3       program, the future of the plants is uncertain.

4               Q.     Mr. Fanelli, are you assuming in your ESP  
5       versus MRO analysis that Davis-Besse and Sammis will  
6       not be operating, and, therefore, will require new  
7       transmission investment?

8               A.     Similar to what we just discussed, my  
9       analysis is based on the fact that the future of the  
10      plants is uncertain, and through the proposed  
11      economic stability program as part of the ESP,  
12      there's certainty for the plants, thereby providing  
13      certainty that the transmission investment costs  
14      discussed here will be avoided.

15              Q.     In your ESP versus MRO analysis of the --  
16      let me strike that.

17                     In your ESP versus MRO analysis, you  
18      assume, do you not, that Davis-Besse and Sammis will  
19      not be operating and, therefore, new transmission  
20      investment will be required?

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

23                     EXAMINER CHILES:  Could I have that  
24      question read back, please.

25                     (Record read.)



1 EXAMINER CHILES: Sustained.

2 Q. In your ESP versus MRO analysis, are you  
3 assuming that -- let me strike that.

4 In your ESP versus MRO analysis, you  
5 assume that Davis-Besse and Sammis will be retired  
6 and that would cause plant job losses and related  
7 economic losses; is that correct?

8 THE WITNESS: May I please have that  
9 question reread.

10 EXAMINER CHILES: You may.

11 THE WITNESS: Thank you.

12 (Record read.)

13 A. No. I'm assuming that the future of the  
14 plants is uncertain. The proposed economic stability  
15 program provides certainty to the plants, thereby  
16 providing certainty that the existing benefits  
17 associated with economic development and job  
18 retention will continue.

19 Q. Now, in your MRO versus ESP analysis, you  
20 consider as a qualitative benefit proposed rider RRS,  
21 correct? And I'm looking at page 8, the top of that  
22 page where you quote -- where you cite to Company  
23 Witness Ruberto.

24 A. I'm sorry. In your question did you say  
25 qualitative or quantitative?

1 Q. Quantitative.

2 A. On page 8, lines 1 through 3, I discuss  
3 the quantitative benefit of rider RRS.

4 Q. And as we discussed earlier, you accepted  
5 the nominal net quantifiable benefit to customers  
6 that Company Witness Ruberto testified to; is that  
7 correct?

8 A. I'm not sure what you mean by "accepted."  
9 I did review the testimony of Mr. Ruberto, as well as  
10 the supporting information provided by Mr. Lisowski.  
11 Reviewed it and based on my review and judgment,  
12 coupled with my reliance on Mr. Lisowski, I had no  
13 reason to conclude that the information presented in  
14 Mr. Ruberto's testimony was not reasonable.

15 Q. So in conducting your ESP versus MRO  
16 analysis, in looking at the quantifiable benefits of  
17 the ESP, you accepted or you relied upon the nominal  
18 net quantifiable benefit provided by Company Witness  
19 Ruberto, correct?

20 A. I reviewed Mr. Ruberto's testimony and  
21 his attachment, as well as the supporting information  
22 and the testimony of Mr. Lisowski. Based on my  
23 review, I had no reason to conclude the number wasn't  
24 reasonable so I incorporate it into the test, but the  
25 number is from Mr. Ruberto's testimony.

1           Q.    And is it your understanding that that  
2           number, and I believe it's 2,018,000,000, that  
3           nominal net quantifiable benefit is calculated over  
4           the term of the rider, which would be 15 years?

5           A.    The proposed term of rider RRS being  
6           proposed as part of the companies' ESP is a 15-year  
7           period, so in order to conduct any aggregate test  
8           appropriately and completely, the full 15 years of  
9           that estimated impact are incorporated.

10          Q.    Now, Mr. Fanelli, are you aware that the  
11          PUCO staff recently filed testimony concerning rider  
12          RRS and concerning the ESP versus MRO analysis?

13          A.    I'm aware that Commission staff has  
14          recently filed testimony in this case. I have not  
15          had an opportunity to review all of that testimony in  
16          detail.

17          Q.    Is it your understanding that staff  
18          witness -- let me strike that.

19                Is it your understanding that staff  
20          Witness Choueki indicated if the rider RRS were to go  
21          forward, it should be just for a three-year period  
22          coinciding with the ESP IV time frame?

23          A.    I'm sorry. I don't have that testimony  
24          in front of me. I know I reviewed it generally. I  
25          just don't remember the specifics.

1           Q.    And I'd be happy to share that testimony  
2 with you for purposes of my cross if you'd give me a  
3 moment.

4           MR. KUTIK:  Your Honor, I guess I object.  
5 I mean, at this point, what is the point?  If she  
6 wants to ask him what would be the effect of a  
7 truncated analysis, let her go ahead and do that.  
8 Dr. Choueki's testimony is what it is.

9           MS. WILLIS:  We can do that.  I just  
10 thought if he may want to -- if he questions it is a  
11 three-year term and not a 15-year term, but that's  
12 fine.  I can go forward with the testimony without  
13 showing him Dr. Choueki.  I thought it was a courtesy  
14 to the witness.

15           EXAMINER CHILES:  Why don't we try going  
16 forward first.

17           MS. WILLIS:  Thank you.

18           Q.    (By Ms. Willis) I want to explore with  
19 you if rider RRS was approved for only a three-year  
20 period, how that would affect your testimony on the  
21 ESP versus MRO analysis.  Your testimony uses the --  
22 as we established, your testimony uses rider RRS rate  
23 benefit estimates that were prepared by Witness  
24 Ruberto; is that correct?

25           A.    The estimated benefit of rider RRS was

1 developed by Company Witness Ruberto. I reviewed  
2 that information and incorporated it into the  
3 analysis here.

4 Q. And are you aware that during the time  
5 period covered by ESP IV, that Witness Ruberto  
6 projects that rider RRS will result in a net charge  
7 to customers of about \$420 million during the time  
8 period of ESP IV?

9 A. I'm not sure of the exact number. I  
10 believe that rider RRS is estimated to be a charge to  
11 customers for the first three years and then turn to  
12 a credit for the remaining period.

13 Q. Would you accept, subject to check, that  
14 the calculations of Witness Ruberto show a  
15 \$420 million charge during the first three years, and  
16 that's a nominal charge?

17 A. I believe Mr. Ruberto's attachment is  
18 shown on a calendar-year basis, so if you could  
19 explain to me how you develop the number for what you  
20 said was a three-year period, it would be helpful.

21 Q. Well, we'll just assume for the moment  
22 that Mr. Ruberto's projects that there's a  
23 \$420 million charge to customers during the ESP  
24 period. Can you make that assumption, please, for  
25 me?

1           A.     Yes.

2           Q.     And under your analysis, that would  
3     become a quantifiable cost under the ESP portion of  
4     the ESP versus MRO analysis, correct?

5           MR. KUTIK: I'll object at this point,  
6     your Honor. It assumes facts not in evidence.  
7     There's no proposal here, your Honor, that the rider  
8     RRS is limited to a three-years. There's no evidence  
9     that if it was so limited, that it would exist and  
10    that there would be an ESP to judge at that point.

11          EXAMINER CHILES: Ms. Willis?

12          MS. WILLIS: Your Honor, I'm just trying  
13    to explore an alternative. The staff's testimony  
14    will be put into evidence. I would think that the  
15    Bench would want to understand the impact of adopting  
16    the staff's proposal on an ESP versus MRO analysis.

17          EXAMINER CHILES: The objection is  
18    overruled. I'll allow a limited amount of  
19    questioning on this subject.

20          MS. WILLIS: Thank you, your Honor.

21          EXAMINER PRICE: May I please have the  
22    question reread.

23          EXAMINER CHILES: You may.

24          THE WITNESS: Thank you.

25               (Record read.)

1           A.    That cost that you're referring to,  
2           assuming the number is correct, is already  
3           incorporated into my analysis.

4           Q.    I understand, but your analysis is over  
5           15 years. I'm limiting my question to a three-year  
6           term. Suppose the Commission adopts a rider RRS for  
7           a three-year period of time.

8           A.    I'm sorry. Is there a question pending?

9           MS. WILLIS: I'd have to go back. Can  
10          you go back to when there was a question pending?  
11          I'm sorry. I lost my train of the thought.

12          (Record read.)

13          MR. KUTIK: Does the record reflect that  
14          he answered that?

15          MS. WILLIS: I'm requesting he answer it.

16          MR. KUTIK: He said the cost was already  
17          in his analysis.

18          MS. WILLIS: I can rephrase.

19          EXAMINER CHILES: Would you mind starting  
20          over?

21          MS. WILLIS: I can rephrase.

22          EXAMINER CHILES: Thank you.

23          Q.    (By Ms. Willis) Mr. Fanelli, assuming  
24          that there is a \$420 million charge to customers over  
25          the three-year ESP term and assuming the RRS rider is

1       adopted over a three-year period term, in calculating  
2       the results of the ESP versus MRO analysis, would the  
3       value of the charge be a quantifiable cost under the  
4       ESP versus MRO test?

5               THE WITNESS:   May I please have that  
6       reread.

7               EXAMINER CHILES:   You may.

8               THE WITNESS:   Thank you.

9               (Record read.)

10              A.    The question is asking me to assume a  
11       hypothetical ESP that's different than what the  
12       company has proposed here.   I'm not sure I'm able to  
13       address that because that's not the companies'  
14       proposal and I haven't conducted that analysis.

15              Q.    Understood.   But you understand how the  
16       ESP versus MRO analysis is conducted, correct?

17              A.    Yes.

18              Q.    And you look at quantifiable costs of the  
19       ESP as part of that analysis, correct?

20              A.    The test is an in-the-aggregate test.

21              Q.    And as part of that test, you are looking  
22       at the quantifiable costs of the ESP, correct?

23              A.    That is a component of the  
24       in-the-aggregate test.

25              Q.    As part of looking at the quantifiable



1 cost of the ESP, would you consider the quantifiable  
2 cost of rider RRS in a three-year period if the  
3 three-year period was the term of the ESP versus MRO  
4 analysis?

5 MR. KUTIK: Again, your Honor, I'll  
6 object. Again, it's divorced from the companies'  
7 proposal. This witness has already testified he  
8 hasn't analyzed anything other than the companies'  
9 proposal.

10 EXAMINER CHILES: Overruled at this  
11 point. He may answer if he holds an opinion.

12 A. Not having reviewed that, I'm not sure  
13 that I can provide you an opinion. I think if the  
14 underlying circumstances contributing to the proposed  
15 ESP changed, the entire analysis would have to be  
16 reevaluated based upon those facts and circumstances.  
17 And based on your hypothetical, I'm not sure I have  
18 enough information to do that.

19 Q. And what information would you need to  
20 answer my hypothetical?

21 A. In an in-the-aggregate evaluation of a  
22 hypothetical ESP, I would need to take into  
23 consideration all terms and conditions of the ESP.

24 Q. Understood. But my question really went  
25 to, understanding that there are many factors to take

1 into account in an ESP versus MRO analysis, I am  
2 asking you whether the cost of a rider, a  
3 quantifiable cost of a rider, would be included in  
4 the analysis?

5 MR. KUTIK: Your Honor, I object. That's  
6 already been asked and answered.

7 EXAMINER CHILES: Sustained.

8 Q. Mr. Fanelli, in your testimony, you  
9 identify a quantifiable benefit of the ESP; is that  
10 correct? And I'm directing your attention to page 7,  
11 lines 16 through 19. You call it a quantitative  
12 benefit.

13 A. On page 7, line 16 through 19, yes, I'm  
14 discussing a quantitative benefit of the proposed  
15 ESP.

16 Q. And that's a \$3 million quantitative  
17 benefit of the ESP under your analysis?

18 A. That quantitative benefit is due to  
19 shareholder funding being committed for up to  
20 \$3 million over the term of the ESP.

21 Q. And that is the only quantitative benefit  
22 that you identify, is it not, under the ESP versus  
23 MRO test?

24 A. No. I also consider rider RRS that we  
25 were previously discussing as a quantitative benefit

1 of the ESP.

2 Q. And that's what we discussed on page 8,  
3 the first three lines, the \$2.104 million over the  
4 term of the rider?

5 A. I believe you may have read the number  
6 from my original testimony.

7 Q. Oh, I'm sorry.

8 A. So with the updates reflecting the  
9 errata, I believe the correct number for the  
10 estimated nominal impact of rider RRS is  
11 2,018,000,000.

12 Q. Thank you for that correction.

13 A. You're welcome.

14 Q. Now, Mr. Fanelli, you prepared testimony  
15 on SEET, the significantly excessive earnings test,  
16 do you not, starting on page 10 of your testimony?

17 A. Yes.

18 Q. And on page 11, lines 11 through 12, you  
19 state that the companies are proposing to broaden the  
20 SEET adjustment listed on page 10, lines 21 through  
21 22, correct?

22 A. Yes.

23 Q. Now, you indicate on page 11, lines 5  
24 through 6, the PUCO has never determined that the  
25 companies have significantly excessive earnings. Do

1       you see that?

2               A.     For the years 2009 through 2013, yes.

3               Q.     So you are familiar with those SEET  
4       filings, are you not?

5               A.     Yes, I am familiar.

6               Q.     And are you aware whether the companies  
7       filed testimony to support the SEET test calculation  
8       in those proceedings?

9               A.     The companies' seat filings do include  
10       supporting testimony.

11              Q.     And in that testimony, do you know if the  
12       companies proposed a broadening adjustment as you  
13       have proposed here?

14              A.     Are you referring to the companies' most  
15       recent SEET filing?

16              Q.     I'm referring to any of them. Well,  
17       let's be precise about this. I'm sorry. Let's start  
18       with the 2009 through 2013 SEET filings. With  
19       respect to any of those filings, are you aware of  
20       whether the companies proposed a broadening  
21       adjustment as you propose here in your testimony?

22              A.     To my knowledge, those SEET filings for  
23       2009 through 2013 did not include this request. This  
24       request is being made specifically as part of the  
25       companies' proposal in this case.

1 Q. And are you familiar with the 2014 and  
2 the 2015 SEET filings of the companies?

3 A. Sorry. For clarification, when you say  
4 the 2014 and '15 SEET filings, do you mean for  
5 calendar years 2013 and 2014?

6 Q. Yes. I'm sorry.

7 A. With that clarification, yes, I'm  
8 familiar with those filings.

9 Q. And are you aware of whether the  
10 companies filed testimony to support the SEET test  
11 calculation in those proceedings?

12 A. Yes, the companies would have filed  
13 supporting testimony.

14 Q. And in that testimony, the companies --  
15 are you aware whether the companies proposed a  
16 broadening adjustment as you have proposed here?

17 A. I don't believe those two SEET filings  
18 included this specific request. This request is  
19 being made as part of this case.

20 Q. And the filing for calendar year 2014, do  
21 you know when that was made?

22 A. Yes. That was made September 15th of  
23 this year.

24 Q. And that would have been Case No.  
25 15-1450-EL-UNC, if you know?

1           A.    I'm sorry.  I don't remember the specific  
2    case number.

3           Q.    Thank you.  Now, the broadening of the  
4    SEET adjustment that you proposed, that would allow  
5    the company to make equity adjustments to exclude the  
6    impact of a reduction in equity from not only any  
7    write-off or good will, but also from the impact of  
8    reduced equity arising from a PUCO order; is that  
9    correct?

10           THE WITNESS:  May I please have the  
11   question reread?

12           EXAMINER CHILES:  You may.

13           THE WITNESS:  Thank you.

14           (Record read.)

15           A.    The companies' proposal here is to seek  
16    an adjustment to the calculation of equity for SEET  
17    purposes that would adjust for a reduction in equity  
18    that would result from a Commission order.

19           Q.    And, Mr. Fanelli, what type of PUCO  
20    orders would result in a reduction in equity?

21           A.    Well, I'm not able to provide you with an  
22    all-inclusive list.  An example of one such  
23    Commission order would be one where there's some sort  
24    of disallowance of costs.

25           Q.    Could the PUCO order that would result in

1 a reduction in equity be an order issued in a rate  
2 case, such as a distribution rate case?

3 A. Potentially if there was such an order.

4 Q. And could a PUCO order issued in an ESP  
5 case result in a reduction in equity?

6 A. Potentially it could if there was such an  
7 order.

8 Q. And could a PUCO order in a rider case  
9 proceeding result in a reduction in equity?

10 A. It could potentially if there was such an  
11 order.

12 Q. Are there any other types of orders that  
13 you can think of that could result in a disallowance  
14 of cost recovery which would result in a reduction in  
15 equity?

16 A. The intention of this language was to be  
17 broad enough to recover any such Commission orders.  
18 Based on the example I mentioned to you that came to  
19 mind, I can't think of any other of those cases that  
20 would fall within that example, but I can't say  
21 that's a definitive inclusive list either.

22 Q. Would a Commission order that defers cost  
23 for recovery also result in a reduction in equity?

24 A. I think it would depend upon the terms of  
25 the order. So if there is a deferral that

1       neutralizes the earnings impact, then there would be  
2       no impact to earnings or equity resulting from that.

3               Q.     But you could perceive of an instance  
4       where there could be a disallowance of cost  
5       associated with a deferral case, correct?

6               A.     I'm sorry. I may have misunderstood your  
7       prior question. Are you referring to deferral from  
8       an accounting standpoint, or are you referring to a  
9       specific filing?

10              Q.     I was referring to a deferral from an  
11       accounting perspective where the company, for  
12       instance, files a rider and seeks to defer costs. If  
13       a Commission order is issued which changes the --  
14       which does not grant the full deferral, would that be  
15       a disallowance that could result in a reduction in  
16       equity?

17              A.     Conceptionally, a deferral should be  
18       earnings neutral. That's the intention of the  
19       deferral. If there's a Commission order or a  
20       decision that results in a situation where the  
21       companies have expenses that are higher than their  
22       revenues, then that would flow through the income  
23       statement as a loss and would reduce common equity.

24              Q.     For instance, if the Commission in a  
25       deferral approved a lower carrying charge than the



1 company requested, would that be a disallowance of  
2 costs which would result in reduced equity?

3 THE WITNESS: May I please have that  
4 question reread?

5 EXAMINER CHILES: You may.

6 THE WITNESS: Thank you.

7 (Record read.)

8 A. If under your hypothetical the principal  
9 balance of the deferral was still earnings neutral,  
10 where the revenues and expenses equal and just the  
11 carrying charge is adjusted, I don't necessarily see  
12 that as a circumstance that would potentially fall  
13 under this particular provision, though, I would have  
14 to review in more detail that circumstance should it  
15 arise.

16 Q. Thank you, Mr. Fanelli.

17 Now, you're familiar with the SEET  
18 calculation, correct, the return on equity  
19 calculation that's used for the SEET calculation?

20 MR. KUTIK: May I have the question  
21 reread?

22 Q. Let me try to rephrase it.

23 Mr. Fanelli, you are familiar with the  
24 SEET calculation, correct?

25 A. I'm familiar with the companies' SEET

1 calculations.

2 Q. And you understand it is a formula that  
3 is used to determine the return on equity that is  
4 measured by the SEET test, correct?

5 A. If you're referring to the calculation of  
6 the companies' ROEs that are subsequently compared to  
7 a comparable group, I wouldn't necessarily  
8 characterize that characterization as a formula. The  
9 starting point for that information is the publicly  
10 reported financial statements, and then the companies  
11 go through a series of approved adjustments to arrive  
12 at a number for SEET purposes.

13 Q. In arriving at a return on equity that is  
14 calculated and compared to the comparable earnings of  
15 other companies, are you familiar with how that  
16 return on equity is calculated?

17 THE WITNESS: May I have that question  
18 reread?

19 EXAMINER CHILES: You may.

20 THE WITNESS: Thank you.

21 (Record read.)

22 A. If you're referring to the companies'  
23 return on equity?

24 Q. Yes.

25 A. Yes, I'm familiar with that calculation.

1           Q.    And do you understand there's a numerator  
2           and denominator to that calculation?

3           A.    At a high level, yes, there's a net  
4           income number, and that's divided by an equity number  
5           to arrive at an ROE.

6           Q.    Yes. Thank you. Is it your  
7           understanding that using the numerator and  
8           denominator you just described, that the denominator  
9           is the average monthly common equity balance during  
10          the year for purposes of that SEET calculation?

11          A.    As specified in the SEET statute and the  
12          generic SEET case, the common equity used in the  
13          calculation is an average over a specific period of  
14          time incorporating the allowable adjustments.

15          Q.    And the numerator would be net income; is  
16          that correct?

17          A.    The numerator would be net income,  
18          including the effect of the allowable adjustments.

19          Q.    So it would be the utility's profits  
20          after deducting expenses and excluding any  
21          non-recurring, special, and extraordinary items?

22          A.    The net income used in the SEET  
23          calculation starts with what's reported in the public  
24          financials. There's then adjustments made consistent  
25          with the SEET statute, the generic SEET proceeding,

1 and any specific adjustments that were authorized  
2 under the companies' electric security plan.

3 Q. Now, the result of the fraction, the net  
4 income divided by the common equity, that results in  
5 an adjusted return on common equity, correct, under  
6 the SEET formula?

7 A. The net income calculated under SEET  
8 divided by the average equity calculated under SEET  
9 produces a return on equity.

10 Q. And that return on equity becomes the  
11 reference point to measure whether the companies'  
12 earnings were significantly excessive.

13 A. The companies' calculated ROEs are then  
14 compared to a comparable group in order to aid in the  
15 determination of whether significantly excessive  
16 earnings occurred.

17 Q. Okay. Now, generally when you reduce the  
18 denominator in calculating a fraction, you increase  
19 the value of the fraction, correct?

20 A. Mathematically speaking, holding the  
21 numerator constant, if you decrease the denominator,  
22 the result is going to increase.

23 Q. And mathematically speaking, when you  
24 increase the denominator in calculating a fraction,  
25 you reduce the value of the fraction.

1           A.     Holding the numerator constant, an  
2     increase in the denominator would result in a lower  
3     result.

4           Q.     And when we use the SEET calculation, if  
5     the denominator is greater, and holding the numerator  
6     the same, then the adjusted return on common equity  
7     for SEET purposes becomes lower; is that correct?

8           A.     All else equal, if you have a numerator  
9     divided by the denominator and the denominator  
10    increases, the result of the fraction is going to  
11    decrease.

12           EXAMINER CHILES:   Let's go off the record  
13    for a minute.

14                   (Discussion off the record.)

15           EXAMINER CHILES:   Back on the record.  
16    Thank you.

17           MS. WILLIS:   I'm not sure.   Is there a  
18    question pending?

19           MR. KUTIK:   I think he answered it.

20           MS. WILLIS:   Could you read back the  
21    question and answer.   Thank you.

22                   (Record read back as requested.)

23           Q.     And when you proposed to broaden the  
24    adjustments to the SEET ROE calculation, that will  
25    increase the denominator; is that correct?

1           A.    What the companies' proposal is here is  
2   intended to better balance the interest of the  
3   companies and the customers, so in a circumstance  
4   where as we were discussing earlier, if there's a  
5   Commission order that results in a disallowance, the  
6   companies would return those monies to customers  
7   thereby making the customers whole.

8           So going forward then from a SEET  
9   perspective, what this proposal is seeking to do is  
10  to not continue to reflect the impact, that write-off  
11  on the equity balance, because otherwise all else  
12  equal, it's going to put the utilities at a greater  
13  risk to trigger significantly excessive earnings,  
14  which could potentially result in further refunds to  
15  customers.

16          So by incorporating this broadening  
17  adjustment, we're trying to better balance that so  
18  the customers are made whole and the customers aren't  
19  harmed going forward from a SEET perspective.

20          MS. WILLIS:  May I have my question  
21  reread and the answer reread.  Thank you.

22          EXAMINER CHILES:  You may.

23          (Record read.)

24          MS. WILLIS:  Your Honor, I move to  
25  strike.  I believe it was not responsive and

1 volunteered information, not responsive to my  
2 question.

3 MR. KUTIK: Your Honor, the problem with  
4 the question is, as the answer demonstrated, is that  
5 it couldn't fairly, given the characterization, be  
6 answered "yes" or "no." So the witness needed to put  
7 his answer in context to explain his answer.

8 EXAMINER CHILES: I'm going to deny the  
9 motion to strike.

10 Q. Now, Mr. Fanelli, you're not proposing to  
11 broaden the adjustment to net income on the SEET ROE  
12 formula to exclude the effects on net income from a  
13 PUCO order, are you?

14 A. The companies' proposal here is specific  
15 to equity because equity is calculated on a  
16 cumulative basis, whereas, net income is specific to  
17 just that year.

18 MS. WILLIS: Thank you, Mr. Fanelli.  
19 That's all the questions I have.

20 Thank you, your Honors.

21 THE WITNESS: Thank you.

22 EXAMINER CHILES: Thank you, Ms. Willis.  
23 Ms. Cohn.

24 MR. COHN: No questions. Thank you.

25 EXAMINER PRICE: Mr. Dougherty.

1 MR. DOUGHERTY: No questions.

2 EXAMINER PRICE: Mr. Lindgren.

3 MR. LINDGREN: No questions, your Honor.

4 EXAMINER CHILES: Let's go off the record  
5 for a moment.

6 (Discussion off the record.)

7 EXAMINER CHILES: Mr. Kutik.

8 MR. KUTIK: We have no redirect, your  
9 Honor. And if the Bench has no questions, at this  
10 time, we move for the admission of Companies'  
11 Exhibits 50 and 51.

12 EXAMINER CHILES: Are there any  
13 objections to the admission of Companies' Exhibits 50  
14 and 51?

15 Hearing none, they will be admitted.

16 (EXHIBITS ADMITTED INTO EVIDENCE.)

17 EXAMINER CHILES: Mr. Mendoza.

18 MR. MENDOZA: I'd like to move for the  
19 admission of Sierra Club 66.

20 EXAMINER CHILES: Are there any  
21 objections to the admission of Sierra Club Exhibit  
22 66?

23 MR. KUTIK: No, your Honor.

24 EXAMINER CHILES: Hearing none, it will  
25 be admitted.



1 (EXHIBIT ADMITTED INTO EVIDENCE.)

2 EXAMINER PRICE: And Mrs. Willis.

3 MS. WILLIS: Your Honor, I'd like to move  
4 for the admission of OCC Exhibits 16 and 17.

5 EXAMINER CHILES: Are there any  
6 objections to the admission of OCC Exhibits 16 and  
7 17?

8 MR. KUTIK: No, your Honor.

9 EXAMINER CHILES: Hearing none, they will  
10 be admitted.

11 (EXHIBITS ADMITTED INTO EVIDENCE.)

12 EXAMINER CHILES: Thank you, Mr. Fanelli.  
13 You are excused.

14 MR. MENDOZA: Your Honor, one matter we  
15 can address off the record.

16 EXAMINER CHILES: Let's go ahead and go  
17 off the record. We will return at 9:00 on Thursday.

18 (The hearing adjourned at 3:31 p.m.)

19 - - -

20

21

22

23

24

25

4012

## 1 CERTIFICATE

2 I do hereby certify that the foregoing is  
3 a true and correct transcript of the proceedings  
4 taken by me in this matter on Tuesday, September 29,  
5 2015, and carefully compared with my original  
6 stenographic notes.

7  
8  
9 Carol A. Kirk, RPR, RMR.

10 (CAK-79410)

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

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**10/14/2015 4:25:15 PM**

**in**

**Case No(s). 14-1297-EL-SSO**

Summary: Transcript In the Matter of the application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company hearing held on 09/29/15 - Volume XX electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Anderson, Rosemary Foster Mrs.