BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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

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DEPOSITION

of Eileen M. Mikkelsen, taken before me, Karen Sue Gibson, a Notary Public in and for the State of Ohio, at the offices of FirstEnergy Corp., 76 South Main Street, Akron, Ohio, on Tuesday, December 22, 2015, at 9:30 a.m.

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APPEARANCES:

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On behalf of the Applicants.

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

Bricker & Eckler, LLP
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On behalf of the Northeast Ohio Public Energy Council, Ohio Schools Council, and Power for the Schools.

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On behalf of the Sierra Club.

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On behalf of IGS Energy.

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

Mike DeWine, Ohio Attorney General
By Mr. William L. Wright,
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On behalf of the Staff of the PUCO.

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On behalf of the Environmental Law & Policy Center.

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On behalf of the Ohio Environmental Council and the Environmental Defense Fund.

American Electric Power
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On behalf of the Ohio Power Company.

APPEARANCES: (Continued)

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On behalf of the Industrial Energy Users of Ohio.

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On behalf of The Kroger Company.

Carpenter Lipps & Leland LLP
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On behalf of the Ohio Manufacturers' Association Energy Group.

ALSO PRESENT:

Mr. William Allen, AEP (via speakerphone).
Ms. Tammy Turkenton, PUCO Staff (via speakerphone).
Dr. Hisham M. Choueiki, Ph.D, P.E., PUCO Staff (via speakerphone).
Mr. Kevin Murray, McNees, Wallace & Nurick (via speakerphone).

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Tuesday Morning Session,
December 22, 2015.

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EILEEN M. MIKKELSEN

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

CROSS-EXAMINATION

By Ms. Willis:

Q. Good morning.

A. Good morning.

Q. Would you state your name for the record, please.

A. My name is Eileen M. Mikkelsen.

Q. And your position?

A. I'm director of rates and regulatory affairs for the state of Ohio.

Q. For the state of Ohio for, on behalf of?

A. The Ohio Edison Company, the Cleveland Electric Illuminating Company and the Toledo Edison Company.

Q. Thank you. Now, Ms. Mikkelsen, this morning I am going to ask you a series of questions, and I would ask that you provide oral responses to those questions. If you have any questions or do not understand the question I am asking, please ask me to clarify or note you're not understanding my question. If you need to take a break at any time, just let me know. We are happy to take a 15-minute break whenever you or your counsel desires provided that it's not in the middle of a question and an answer has been provided to any pending question.

MS. WILLIS: At this time I would like to mark for identification purposes as Deposition Exhibit No. 1 the notice to take deposition and request for production of documents by the Office of the Consumers' Counsel.

(EXHIBIT MARKED FOR IDENTIFICATION.)

Q. Ms. Mikkelsen, are you -- are you familiar with that document? Have you seen that document?

A. Yes.

Q. And you are appearing today to be deposed pursuant to that notice; is that correct?

A. Yes.

Q. Okay. On page 2 of that document, the OCC requested you to supply to OCC two hours before the deposition a series of documents. Do you see that?

A. No.

Q. If you go to page 2 starting on --

actually go down to the bottom of page 1.

A. Thank you.

Q. "Ms. Mikkelsen shall make available to OCC two hours before the start of the deposition the following documents" and you see documents listed there?

A. I do.

Q. And did you comply with that request?

MR. KUTIK: I'll note an objection and note that as we have fully discussed in e-mail conversations, for lack of a better word, we've told you what you have we have provided. We told you what we would have here today so I'll object to the question because we have already told you what's happened and in our view we have complied.

Q. Ms. Mikkelsen, you may answer.

A. I have with me today the documents I relied upon or referred to in producing my fifth supplemental testimony including workpapers that support the fifth supplemental testimony.

Q. You indicate that you had documents that support your fifth supplemental testimony, that you brought those with you. Can you identify specifically what those are?

A. Yes.

Q. Thank you. Please do so.

A. I brought a copy of the workpaper that was filed with my testimony on December 1, and I brought copies of the documents that were referred to in my workpaper that was filed on December 1.

Q. And specifically the documents that were referred to include what?

A. Attachment JAR-1 Revised, Attachment JJL-1 competitively sensitive and confidential, JJL-2 competitively sensitive and confidential, and JJL-3 Revised competitively sensitive and confidential, and a copy of IEU Set 1 INT-25 Attachment 1 Revised.

Q. Did you bring any other documents with you today for the deposition?

A. I have with me -- yes.

Q. Can you identify those, please, for me. Please identify them.

A. I have a copy of my fifth supplemental testimony. I have a copy of the third supplemental stipulation and recommendation. I have a copy of my direct testimony filed on August 4, 2014. I have a copy of my supplemental testimony filed on December 22, 2014. I have a copy of my second supplemental testimony filed on May 4, 2015. I have a copy of the stipulation and recommendation filed on

December 22, 2014. I have a copy of the errata for the stipulation and recommendation that was filed on December 22, 2014. The errata was filed on January 21, 2015. I have a copy of the application that was filed on August 4, 2014, but not the attachments to the application. I have a copy of the supplemental stipulation and recommendation that was filed in this proceeding. I have a copy of my third supplemental testimony that was filed on June 1, 2015. I have a copy of my fourth supplemental testimony that was filed on June 4, 2015. And I have a copy of the second supplemental stipulation and recommendation that was filed in this proceeding. And finally a copy of my rebuttal testimony that was filed on October 19, 2015, in this proceeding.

Q. Thank you.

A. You're welcome.

Q. Now, the notice of deposition also requested information in the companies' possession, custody, or control that pertained to estimated typical bill impacts to customers that incorporate the provisions of the third supplemental stipulation. Did you bring with you any documents that purport to be those -- contain that information?

MR. KUTIK: I'll object. Again, this

information was provided in discovery. She can answer.

A. No.

Q. I'm sorry?

A. No.

MS. WILLIS: No. At this time I would like to mark as Deposition Exhibit No. 2 the motion for subpoena duces tecum filed by OCC, and I am going to represent for the record this is a subpoena to produce documents consistent with the deposition notice, Deposition Exhibit No. 1.

(EXHIBIT MARKED FOR IDENTIFICATION.)

Q. Ms. Mikkelsen, have you seen this document before?

A. I have not seen the motion for the subpoena, but I have seen the notice to take deposition that's attached to the notice -- pardon me, the motion for subpoena.

Q. Now, Ms. Mikkelsen, you indicated as part of the materials that you brought with you you brought the third supplemental stipulation and recommendation; is that correct?

A. Yes.

Q. I am going to have that marked for identification purposes as Deposition Exhibit No. 3.

(EXHIBIT MARKED FOR IDENTIFICATION.)

Q. Do you need a copy of that, an extra copy? Okay. Now, you are familiar with this document, are you not?

A. Yes.

Q. And this document is the doc --

MR. KUTIK: Hold on a second. Did you mark that document?

MS. WILLIS: Deposition Exhibit No. 3. You want an extra?

MR. KUTIK: I want to make sure she is looking at the copy you have marked.

Off the record.

(Discussion off the record.)

Q. Ms. Mikkelsen, are you familiar with that document? I'll give you a moment to look and take your time.

A. Thank you.

Yes.

Q. Now, is this -- you mentioned before that you brought a copy of your testimony with you to this proceeding, the fifth supplemental testimony of Eileen Mikkelsen dated December 1, 2015?

A. Yes.

Q. And I am going to ask you questions

primarily about your fifth supplemental testimony and the document that we called Deposition Exhibit No. 3, the third supplemental stipulation and recommendation.

Now, going to your testimony on page 1, you reference that the purpose of your testimony is to support the third supplemental stipulation and recommendation; is that -- is that the document that has been marked as Deposition Exhibit No. 3?

A. Yes.

Q. And what role did you have, Ms. Mikkelsen, in bringing the third stipulation to fruition?

A. I participated in settlement discussions that gave rise to the third supplemental stipulation and recommendation.

Q. Were you involved in negotiating any of the terms of the third supplemental stipulation?

A. Yes.

Q. And what terms specifically were you involved in negotiating?

A. I would say all of the terms.

Q. And as your -- in your role as the director of rates and regulatory affairs, did you have to approve the terms before they were put into the stipulation?

A. No.

Q. Who would have approved the terms that were -- that are contained in the third supplemental stipulation, if you know?

MR. KUTIK: I assume your question is on behalf of the companies.

MS. WILLIS: On behalf of the companies, correct.

THE WITNESS: May I have the question reread, please.

(Record read.)

A. That would have been representatives of the rates and regulatory affairs group and the legal team.

Q. And do you know who the representative of the rate -- who the representatives of the rates and regulatory affairs would have been that would have approved the terms contained in the third stipulation?

A. William Ridmann.

Q. Are there any other representatives of the rates and regulatory affairs division that would have approved the terms and conditions contained in the third supplemental stipulation -- or the third

stipulation?

A. No.

Q. Was there any approval for the third supplemental stipulation above and beyond Mr. Ridmann that was needed in order to reach the -- let me strike that.

Is there any other individual working for or on behalf of the companies besides Mr. Ridmann that would have had to have approved the terms and conditions contained in the third stipulation?

A. Yes.

Q. And who would that have been?

A. Ebony Yeboah and Leila Vespoli.

Q. Are there any other representatives of the companies who would have to approve the terms and conditions contained in the third stipulation beyond the individuals you've identified?

A. I don't know.

Q. Now, were the terms and conditions that are contained in the third stipulation approved by FirstEnergy Solutions, if you know?

A. No.

Q. Were the terms and conditions that are contained within the third stipulation approved by any other organization within the FirstEnergy

Corporation?

MR. KUTIK: Objection.

A. May I ask you to rephrase the question?

Q. I will try.

A. Thank you.

Q. Are there any other -- we talked about individuals within the companies whose approval was needed. I am trying to find out if there are other individuals outside the company whose approval would be needed to present the third supplemental stipulation and file it at the Commission.

MR. KUTIK: Again, these are approvals on behalf of the companies.

MS. WILLIS: Well, we can ask that question on behalf of the companies.

MR. KUTIK: And this is my problem with your question, are there approvals needed outside the company, well, there were a number of signatory parties. That's not what your question asked.

MS. WILLIS: Okay. My question -- I'm sorry and thank you.

Q. My question is really directed to entities within the FirstEnergy corporate structure, whether there were any other entities or individuals within that FE corporate structure that would have had to have approved the terms and conditions contained in the third supplemental stipulation, if you know.

A. I don't know.

Q. Okay. Now, let's turn to page 3 of your -- I'm sorry, 1 of your testimony where you begin to discuss the third supplemental stipulation and recommendation. Can you tell me other than the staff who are the additional parties that signed the third supplemental stipulation and recommendation that were not signatories to previous stipulations filed in this proceeding?

A. Ohio Partners for Affordable Energy and EnerNOC.

Q. And who do you understand that the Ohio Partners for Affordable Energy represent? What type of customers do they represent?

MR. KUTIK: Objection.

A. Low income.

Q. Is it your understanding that Ohio Partners for Affordable Energy represent weatherization providers that provide services to low income customers?

A. No.

Q. That is not your understanding.

A. Correct.

Q. Okay. Now, on page 3 of your testimony you describe the -- what you consider to be the salient features, and I am looking at line 17 -- 16 through 17 where you describe the salient features of the third supplemental stipulation. And included in those salient features is a modified term of rider RRS going from 15 years to 8 years. Do you see that?

A. Yes.

Q. And then you go on to summarize what you consider to be salient features in pages 3 through 6; is that a fair characterization?

A. Yes.

Q. Now, there are a number of new provisions in the third supplemental stipulation as compared to the earlier stipulations filed in this case, correct?

A. There are new provisions in the third supplemental stipulation and recommendation.

Q. Thank you. And the third -- the new provisions would be included in the bullets that are contained from pages 3 through 6 of your testimony, correct?

THE WITNESS: May I have that question reread, please.

(Record read.)

A. Yes.
Q. And when I say new provision, can you identify what you consider to be new provisions contained in the third stipulation that were not in the previous stipulations?
MR. KUTIK: Objection.
THE WITNESS: May I ask you to reread the question, please, ma'am.
(Record read.)
A. Could you explain to me what you mean by new provisions?
Q. Well, by new provisions I mean that these are provisions that are not found in the prior stipulations. With that understanding can you identify which are new?
A. Would your definition of a new provision extend to just changing the term of a provision?
Q. Let's stay away from changes to existing provisions -- to existing provisions that are contained. Let's talk about totally new, never addressed before in any of the prior stipulations.
MR. KUTIK: Objection.
Q. What would -- what would those provisions be? Can you identify them?
MR. KUTIK: Objection.

A. I'm not sure I still understand the definition of the new provision.

MR. KUTIK: I'm struggling with it too so.

Q. I am not sure I understand why you are struggling with it. I am saying if -- for instance -- we could go through the list. For instance, the CO-2 emissions, would you consider those -- in the bullet contained on lines 14 through 22 with respect to resource diversification, would you consider the CO-2 emissions goal to be a new provision that has never been addressed in prior stipulations?

A. Yes.

Q. Okay. And would you consider the battery storage provision to be a new provision that has not been addressed in prior stipulations?

MR. KUTIK: And, again, we are talking about stipulations in this case.

MS. WILLIS: In this case, yes, thank you.

A. Yes.

Q. And would you consider the filing of an energy efficiency PDR portfolio plan to be part of the new provisions in the third supplemental

stipulation?

A. May I ask you to be more specific with that question, please?

Q. I am specifically referring to lines 19 through 21 where you say under iv "Filing in their next energy efficiency/PDR Portfolio Plan a customer engagement pilot program to be implemented across the Companies' small and medium commercial and industrial customers."

MR. KUTIK: I think you are looking at page 4 of the fifth supplemental testimony.

MS. WILLIS: Yes, that's correct.

A. I would consider that a new provision.

Q. And would you consider on the provision v "An opportunity for an increase of in-state renewable resources" to be a new provision in the third supplemental stipulation?

A. Yes.

Q. And would you consider vi "A Carbon Reduction Emissions Plan" to be a new provision in the third supplemental stipulation?

A. Yes.

Q. And if we went on to the bullet contained on lines 23 through 28 which describes straight fixed variable rate design, would you consider that to be a new provision that was not contained in prior stipulations filed in this case?

A. Yes.

Q. And would you consider the gridSMART modernization provisions of the third stipulation described on lines 11 through 13 of page 4 of your testimony to be a new provision?

A. Lines 11 through 13 do not refer to a gridSMART.

Q. I'm sorry, smart meter, speaks about grid modernization and full smart meter implementation.

MR. KUTIK: When you are referring to the --

MS. WILLIS: Third supplemental, yes.

Q. And when I refer to -- I can say third supplemental stipulation and recommendation. I could just say stipulation 3 perhaps to shortcut on some words. So if I say stipulation 3, will you know what I'm referring to?

MR. KUTIK: Actually it's the fourth stipulation.

MS. WILLIS: Then why didn't you call it the third?

MR. KUTIK: Because it's the third supplemental. We had a supplemental and then a second supplement and then a third supplemental and so on.

Q. Well, you call it the third supplemental stipulation. I guess we'll call it 3S stipulation, something to shortcut it just so that I'm -- I just want to make sure you and I are communicating.

MR. KUTIK: You can say the most recent stipulation.

MS. WILLIS: Most recent is fine with me.

MR. KUTIK: Do you understand that term? Is that okay with you?

THE WITNESS: Yes.

Q. Most recently filed stipulation in this proceeding. Okay. And I think -- I guess so going back to my question, on lines 11 through 13, page 4, you describe a grid modernization business plan and a timeline for the companies to achieve full smart meter implementation. Would you consider that a new provision under the latest filed stipulation in this proceeding?

A. Yes.

Q. Now, are there any other provisions that you consider to be new provisions in the recently -- most recently filed stipulation?

MR. KUTIK: Objection.

A. May I ask you to rephrase with respect to "new," please?

Q. If we -- we are not going to go there. We are going to move on.

Would you agree with me that neither the utilities nor any party has submitted testimony describing in detail why the new provisions that we've discussed, being the CO-2 emissions, the battery storage, the fixed variable rate design, the grid modernization, should be viewed as beneficial to customers?

A. No.

Q. And are you referring to the fact that you presented some testimony beginning on page 10, lines 1 through 13, where you discuss what you believe to be benefits to customers in the public interest?

A. In part, yes.

Q. Is there any other part that I'm missing where you would describe in detail the new provisions and how the new provisions that we've discussed are beneficial to customers?

MR. KUTIK: Objection.

A. May I ask you to rephrase? It was a compound question.

Q. You indicated that you did not agree that parties had some -- you indicated to me that you would not agree with my statement that parties had not submitted testimony that described in detail why the new provisions that we discussed under the stipulation, the latest stipulation filed, should be viewed as beneficial to customers. Do you recall that response?

A. Yes.

Q. And I want to understand why you responded in the negative to that. Can you tell me whether you believe you have -- where you or other parties have submitted testimony that describe in detail the -- how the new provisions that we've discussed are viewed as beneficial to customers?

A. In my fifth supplemental testimony --

Q. Yes.

A. -- starting at page 10.

Q. Okay.

A. I describe how the stipulation as a package benefits customers and talk about the -- continuing on about the quantitative and qualitative benefits arising from the stipulation, the third supplemental stipulation.

Q. And when you discuss the quantitative and qualitative benefits of the stipulation, did you discuss -- and did you discuss the benefits to customers, for instance, of the CO-2 emissions provisions that we -- that relate back to page 4 of your testimony, lines 14 through 22?

A. Page 10?

Q. Yes.

A. At line 11 talks about CO-2 reductions and continues on to talk about how that, among other provisions, benefit customers in the public interest. On page 13 starting at line 7 continuing through a portion of line 11 discusses the commitment to environmental stewardship including the goal to reduce CO-2 by at least 90 percent below the 2005 levels by 2045 in terms of a qualitative benefit of the stipulation.

Q. Now, let's go to your testimony at page 3, line 22 through 24. You talk about the term of rider RRS. Do you see that reference?

MR. KUTIK: I'm sorry, you said 20 to 24?

MS. WILLIS: Uh-huh. 22 to 24.

A. Yes.

Q. And you say there the term of rider RRS has been modified from the original term of 15 years and now is an 8-year term, correct?

A. Yes.

Q. Okay. Can you identify all conditions under which the eight-year term of the rider RRS could be shortened?

A. The stipulation doesn't contemplate a shortening of the term of the rider RRS.

Q. What about when generation units are sold or transferred that are subject to rider RRS?

MR. KUTIK: Objection.

Q. Does the -- does that affect the term of rider RRS?

MR. KUTIK: Objection.

A. May I ask you to rephrase the question, please, ma'am?

Q. Sure. Are you familiar with a term in the third sum -- in the latest filed stipulation that -- and I am talking about section -- may I have a moment -- VB1. Let me strike that. Let's start it over again.

Can I direct your attention to the latest filed stipulation at page 7, specifically Section B1 where the term of the -- VB1 where the term of rider RRS is described. Can you look at that for a moment, please.

A. Yes.

Q. Now, the last sentence of that term says "The Companies agree that the Commission may proceed to terminate the specific charge/credit of Rider RRS for any generation unit upon its sale or transfer pursuant to 4905.26." Do you see that?

A. Yes.

Q. Is it your understanding that in order for the specific charge or credit for the generation unit to be terminated that the PUCO would have to order an investigation to do so?

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

(Record read.)

MR. KUTIK: I'll object to the extent it calls for a legal conclusion, but she may answer.

A. I don't know.

Q. So you're not familiar with that particular provision of the stipulation; is that correct?

A. No.

Q. You are not familiar?

A. I am familiar.

Q. And so you do not have an understanding of what pursuant to RC 4905.26 is intended to mean?

A. I think that is the reference to the

Revised Code which the Commission would rely upon in order to terminate the specific charge or credit that is related to a generating unit that -- if it should decide to proceed to terminate that charge upon sale or transfer.

Q. Is it your understanding that this provision, and I am talking about VB1 contained on the latest filed stipulation page 7, that this term does not apply to third parties seeking to terminate a specific charge or credit of rider RRS?

MR. KUTIK: Objection.

A. May I ask you to rephrase it, please?

Q. Is it your understanding, Ms. Mikkelsen, that parties may proceed to terminate the specific charge or credit of rider RRS for any generation unit upon its sale or transfer in any process including 4905.26?

A. May I ask you to rephrase?

Q. Yes. By this provision are parties given any rights to terminate the specific charge or credit of rider RRS for a generation unit upon its sale or transfer?

A. May I ask you to rephrase with respect to parties?

Q. Does anyone besides the Commission have any right to terminate a specific charge or credit of rider RRS for any generation unit upon its sale or transfer?

MR. KUTIK: I'll object. Calls for a legal conclusion and I am not aware of any term that someone can terminate a charge other than the Commission.

MS. WILLIS: Well, if the witness -- if that's the witness's understanding, that would be great if she would state it.

MR. KUTIK: That's a matter of law, isn't it?

MS. WILLIS: I am trying to determine what the --

Q. If you can answer my question, it would be great.

THE WITNESS: May I have the question reread, please, ma'am.

(Record read.)

A. No.

Q. Does any party or person have a right to seek to terminate the specific charge or credit of rider RRS for any generation unit upon its sale or transfer under your understanding of this provision? We are talking about VB1 page 7 of the latest filed stipulation.

A. No.

Q. Do you know, Ms. Mikkelsen, whether this provision in the stipulation covers the OVEC interests or entitlement to Kyger and Clifty Creek units?

A. Yes.

Q. It does cover Kyger and Clifty Creek; is that your understanding?

A. Yes.

Q. So is it your understanding if FES transferred its interest in OVEC that the PUCO could proceed to terminate the specific OVEC unit charge or credit under rider RRS through the 4905.26 process?

MR. KUTIK: Objection.

A. May I ask you to rephrase the question, please?

Q. Is your concern with the entity that's transferring there? Is that where your concern is? I am not understanding why you -- why you are seeking clarification there.

A. I didn't understand the question.

Q. You indicated that -- in an earlier response that this provision did cover the OVEC interests or entitlement in Kyger and Clifty Creek, and so I was following up with the question that under this provision then if the -- let me go back for a moment.

The interest in OVEC is held by FirstEnergy Solutions, correct?

A. The FES entitlement to the OVEC plant, yes.

Q. Okay. So if FES transferred its entitlement in OVEC or sold it, entitlement in OVEC, that the PUCO could proceed to terminate the specific OVEC unit charge or credit of rider RRS through the 4905.26 process.

MR. KUTIK: Objection.

A. Yes.

Q. Okay. Can you identify -- Ms. Mikkelsen, please identify for me all conditions under which the eight-year term of rider RRS could be lengthened under the latest filed stipulation.

A. The stipulation does not include provisions to lengthen the term of rider RRS beyond the final reconciliation which would be required after May 31 of 2024.

Q. Now, let's switch gears for a moment and we are going to talk about the term of the ESP. Under the latest filed stipulation the term of the

ESP has been lengthened from three years to eight years; is that correct?

A. Yes.

Q. And in particular I am talking about the latest stipulation provision VA1, and I am on page 7. To your knowledge has the PUCO ever approved an ESP longer than three years for any electric distribution utility in Ohio?

A. No.

Q. Can you identify -- let me strike that.

Please identify, Ms. Mikkelsen, all conditions under which the eight-year term of the ESP could be shortened under the latest filed stipulation.

A. The eight-year term would be subject to the statutory requirements under Revised Code 4928.143(E). And provision K addresses transition provisions associated with that test.

Q. And when you say provision K, that's provision VK on page 18 of the latest filed stipulation?

A. Yes.

Q. And you mentioned the statute 4928.143(E). Are you familiar with that statute?

A. Yes.

Q. Have you ever read that statute?

A. Yes.

Q. Can you tell me how the transition provision K on page 18 of the latest filed stipulation compares to the Statute 4928.143(E)?

A. May I ask you to rephrase the question?

Q. Is there anything in 4928.143(E) that requires the Commission to consider qualitative effects of the ESP, if you know?

MR. KUTIK: Objection. Go ahead.

A. Revised 4928.143(E) allows for the Commission to identify transition provisions that would be used in its determination with respect to the continuation of the ESP.

Q. And within the transition provisions of 4928.143, is there a provision that requires the Commission to consider the qualitative effects of the ESP?

MR. KUTIK: Objection.

A. 4928.143(E) does not identify what the specific transition provisions would be and those are outlined here in provision K.

Q. Is it your opinion that provision K is consistent with the provisions of 4928.143(E)?

MR. KUTIK: Objection. Calls for a legal

conclusion.

A. Yes.

Q. Ms. Mikkelsen, is there anything in 4928.143(E) that requires the PUCO to consider the impact of termination on the financial health of the utility?

MR. KUTIK: Objection. Calls for legal conclusion.

Q. If you know.

MS. WILLIS: Thank you.

A. Only to the extent it should consider it a transition provision.

Q. And when you say a transition provision, do you -- do you have a specific part of the statute in mind that you're -- that you're using those words from?

A. May I ask you if you have a copy of the statute?

Q. I do. I do. We can mark that as Deposition Exhibit No. 5.

MR. KUTIK: Let her mark it.

(EXHIBIT MARKED FOR IDENTIFICATION.)

Q. I will give you a moment to read through that.

THE WITNESS: I'm sorry. May I have the

question reread, please.

(Record read.)

A. Yes.

Q. And what particular portion of the statute are you referring to, Ms. Mikkelsen?

A. The portion that reads "The Commission may impose such conditions on the plan's termination as it considers reasonable and necessary to accommodate the transition."

Q. And going on "from an approved plan to the more advantageous" -- "advantageous alternative"; is that correct? That's the rest of the phrase?

A. That's what the document reads, yes.

Q. And when the Commission uses -- let me strike that.

So you, Ms. Mikkelsen, you read into those words that the Commission might consider the impact of the termination on the financial health of the utilities; is that correct?

A. May I ask you to rephrase the question, please?

Q. You interpret, Ms. Mikkelsen, the Commission considering long -- let me strike that.

You interpret the words that "The Commission may impose such conditions on the plan's termination as it considers reasonable and necessary" to require that the PUCO consider the impact of termination on the financial health of the utilities as you set forth in provision K1A of the latest filed stipulation, correct?

MR. KUTIK: Objection.

A. No.

Q. So your testimony is the Commission does not have to consider the financial health -- the impact of termination on the financial health of the utilities under the statute, correct?

A. Correct.

Q. Does the Commission have to consider the impact of termination on the financial health of the companies' affiliates under your understanding?

MR. KUTIK: Objection.

A. May I ask you to rephrase the question, please?

Q. Under 4928.143(E) does the Commission have to consider the impact of termination on the financial health of the affiliates of FirstEnergy in this case?

A. May I ask you to clarify what you mean with respect to in this case?

Q. Okay. Let me try to make it simple. We have been talking about the transition provision in the latest filed stipulation under K1 on page 18 of the latest filed stipulation and in that provision you indicate that the document indicates that termination shall be only ordered following and it has a number of conditions. One of the conditions says that the Commission's test of the plan shall include consideration of the prospective quantitative and qualitative effects of stipulated ESP IV, and this is where I am focusing on, including the impact of termination on the financial health of the utilities. Do you see that provision?

A.   Yes.

Q.   And your testimony is that that provision is consistent with 4928.143(E); is that correct?

A.   Yes.

Q.   And where do you find -- let me strike that.

Do you also believe, Ms. Mikkelsen, that as part of the transition provision that the Commission should consider -- should consider the impact of termination on the financial health of FirstEnergy's affiliates?

MR. KUTIK: Could I have the question read, please.

(Record read.)

A. May I ask you to rephrase the question, please?

Q. I am not sure I can rephrase it any more, Ms. Mikkelsen. I am just asking you you have agreed to a termination provision, and as part of that termination provision, you are stating that the Commission before terminating they should look at the impact of the termination on the financial health of the utilities. And I am asking you is it your opinion apart from the transition provision that's contained, should the Commission look at the impact of termination on the financial health of the affiliates of FirstEnergy?

MR. KUTIK: Objection.

A. It would be helpful to me if you could clarify what you mean with respect to FirstEnergy affiliates in that question.

Q. FirstEnergy Solutions. Let's just stick with FirstEnergy Solutions who owned the generation units that are under the rider RRS. With that clarification can you answer my question?

A. Yes, I can answer your question.

Q. Will you please answer my question.

A. No, I don't think they would look at FES.

Q. Should they look at FES?

MR. KUTIK: Objection.

A. No.

Q. And why should they not consider FES as part of the impact of termination on the financial health of FES? Why is that not important to the Commission?

MR. KUTIK: Objection, mischaracterizes --

Q. For purposes -- let me strike that.

MR. KUTIK: Let me finish my objection. Mischaracterizes her testimony. Go ahead.

Q. Let me strike that. Under the termination and transition provision contained in the latest filed stipulation, are you shifting the burden of proof on this issue, or does a utility still have to show that significantly excess earnings will not occur?

A. May I ask you to rephrase the question? It sounded like a compound question to me.

Q. Yes. In the provision K1A you state that termination shall be only ordered following, and you have got a list of provisions. I want to focus on the very last section of that provision which says "a finding that the remaining term of the Stipulated ESP

IV is substantially likely to result in significantly excessive earnings for each utility," okay? I am going to ask you if that -- and we have already talked about your belief is that this is -- this provision, the transition provision, is consistent with 4928.143(E). That's what my question is going to. I am trying to explore how it's consistent because I think the words are different, so I am trying to ask you how --

MR. KUTIK: Let's now put a question to her. I understand the explanation but now let's put a question to her.

Q. Under the statute the burden of proof is on the utility, is it not, to show that the significant excessive earnings will not occur; is that your understanding of the statute?

MR. KUTIK: Objection. Calls for a legal conclusion.

THE WITNESS: May I have the question reread, please.

A. The statute reads "The burden of proof for demonstrating that significantly excessive earnings will not occur shall be on the electric distribution utility."

Q. And by the words "contained in the

transition provision of the latest filed document," are you seeking to change that burden of proof?

A. I'm not a lawyer.

MR. KUTIK: So I'll object. Go ahead.

A. No.

Q. Do you read the words that -- under provision K1A to change the burden of proof?

MR. KUTIK: Note my objection.

A. My nonlegal opinion is no.

Q. Okay. And that was not intended to change the burden of proof; is that correct?

MR. KUTIK: Objection.

Q. Whether it does or not was it intended to change the burden of proof that's contained in the Statute 149 -- 4928.143(E)?

MR. KUTIK: Same objection.

A. I am not a lawyer. I don't think so.

Q. Not asking you your legal opinion.

MR. KUTIK: She gave you an answer.

Q. Was it intended?

MR. KUTIK: Well, now I object to asked and answered as well as legal conclusion.

A. I already answered the question.

Q. We can disagree about that, but we'll move on.

Ms. Mikkelsen, is Section K, the transition provision, meant to supercede 4928 -- the provisions of 4928.143, or is it meant to work in conjunction with it?

MR. KUTIK: Objection. Calls for a legal conclusion.

A. Recognizing I am not an attorney, I believe VK -- the Roman V provision K provision is to work in conjunction with 4928.143(E).

Q. And so if the -- if the issue is not addressed in 49 -- or in K1A, then the 4928.143 provisions would apply; is that correct?

MR. KUTIK: Objection.

Q. Your understanding.

MR. KUTIK: Objection, calls for a legal conclusion.

A. May I ask you to restate the question as it relates to the issues?

Q. You indicated it's your understanding that 4928.143 works in conjunction with transition provision K1A. In working in conjunction with provision K1A, if a provision is not addressed in that -- let me strike that.

If a provision is not addressed under K1A, then is it your understanding that the

provisions of 4928.143 apply?
MR. KUTIK: Same objections.
A. Yes.
Q. Can the companies withdraw the ESP at any time during the eight-year term?
MR. KUTIK: Objection.
A. No.
Q. So you are not aware of any conditions under which the companies could withdraw the ESP at any time during the eight-year term?
MR. KUTIK: Objection.
A. I took your first question to mean at any time throughout the ESP period so perhaps you should rephrase your question.
Q. Let me rephrase it. Okay. Is it your understanding, Ms. Mikkelsen, that the conditions have the ability to withdraw in this case -- let me strike that.
Is it your understanding, Ms. Mikkelsen, that the companies have the ability to withdraw the ESP at any time during the eight-year term under the provisions of the latest filed stipulation?
MR. KUTIK: Objection.
THE WITNESS: May I ask you to reread the question, please.

(Record read.)

A. If by at any time you mean is there a specific provision which if triggered would they be able to withdraw the ESP at that time as opposed to any time, then yes.

Q. And can you explain to me where this right of withdrawal comes from?

A. May I ask you to rephrase your question, please?

Q. Well, you indicated that the companies do have the right to withdraw the ESP, and I am just trying to understand where you believe that right comes from so --

A. Are you asking me where is it documented?

Q. Yes, because we were -- my question was focused under the latest filed stipulation does the company have the ability to withdraw the ESP during the eight-year term. If you believe that the companies have that right, can you point to a provision in the latest filed stipulation that permits the companies to withdraw the ESP during the eight-year term?

A. Roman VI paragraph 4 starting on 19 and continuing to paragraph 20 -- pardon me, page 20.

Q. I'm sorry. Can you give me that

reference again?
A. Yes. Roman VI, paragraph 4, starting on page 19 and continuing to page 20.
Q. Okay. Is there any other provision in the latest filed stipulation that you believe gives the companies the ability to withdraw the ESP during -- during the eight-year term?
A. I am not aware of another provision as I sit here today.
Q. Okay. Can the companies withdraw the ESP during the eight-year term under any provision of law that you know of?
MR. KUTIK: Objection.
Q. Outside -- we are now talking about outside of the latest filed stipulation. Is there a law, any law that you are aware of, that would allow the companies to withdraw the ESP during the eight-year term agreed to under the stipulation?
MR. KUTIK: Objection. Calls for a legal conclusion.
Q. If you know.
A. I am not a lawyer. I am not comfortable opining on legal matters.
MR. KUTIK: Let's go off the record.
(Recess taken.)

Q. Back on the record. Under the latest filed stipulation can the company terminates the ESP if under the yearly SEET review a customer refund is ordered?

A. The stipulation doesn't contain a provision that addresses that situation.

Q. Is it your understanding that under the law the company can terminate the ESP if it's -- if it's under a yearly SEET process and a customer refund is ordered?

MR. KUTIK: Objection. Calls for a legal conclusion.

A. I don't know.

Q. Is there an annual SEET review contemplated under the stipulation for each of the utilities?

MR. KUTIK: Objection.

THE WITNESS: May I have the question reread, please.

(Record read.)

A. On page 16 --

Q. Yes.

A. -- under Section H4.

Q. Yes.

A. It does say that "The Companies agree that the determination of whether to exclude the impact of deferred carrying charges shall be made at the time of the Companies' annual SEET filings." So in so much as that provision addresses annual SEET filings, then I would say yes. Beyond that the stipulation does not address the annual SEET filing.

Q. Okay. Is the company under the stipulation giving up any right it may have under the law to terminate the ESP if under an annual SEET filing a customer refund is ordered?

MR. KUTIK: Objection.

A. I am not an attorney and I am not aware of any provision in the stipulation that would give up any such right that the company may have.

Q. Okay. Thank you. If the ESP is terminated under -- if the company -- let me strike that.

Ms. Mikkelsen, please identify all the conditions under which the eight-year term of the ESP could be lengthened under the latest filed stipulation.

A. The stipulation does not include provisions with respect to lengthening the term of the ESP beyond eight years with the exception of specific reconciliation provisions that are required at the end of a rider's life.

Q. Thank you. I want to focus for a moment on rider DCR. You are familiar with rider DCR?

A. Yes.

Q. And the term of rider DCR was extended from three years to eight years under the latest filed stipulation, correct?

A. The extension of rider DCR was extended from three years to eight years as a provision included in the third supplemental stipulation and recommendation.

Q. To your knowledge, Ms. Mikkelsen, has the PUCO ever approved a distribution investment cost tracker mechanism for a period of time longer than three years?

A. I don't know.

Q. Do you know of any -- let me strike that.

Under the latest filed stipulation, if -- even if the ESP is terminated, rider DCR shall continue; is that correct?

A. May I ask you to rephrase the question, please?

Q. Let's go to Section K of the latest filed contract. And I want to focus --

MR. KUTIK: You mean stipulation.

Q. I'm sorry, the latest filed stipulation, K1a, I want to direct your attention to the last sentence that says "Termination shall not affect the continued cost recovery of Riders DCR and RRS." Do you see that reference?

A. Yes.

Q. So even if the ESP is terminated, rider DCR and rider RRS shall continue in effect, right?

A. Yes.

Q. And what is the basis or rationale to allow rider DCR to continue even if the underlying ESP is terminated?

A. It was part of the negotiated settlement.

Q. Can you tell me the reason for that -- that the company would want to have rider DCR continue even if the ESP is terminated?

A. To assure the continuation of the benefits for our customers that arise from rider DCR.

Q. Are you aware of a policy of provision -- let me strike that.

Are you aware of a policy within the state of Ohio promulgated by the PUCO that allows a provision of a -- a provision that is approved as part of an ESP to continue even if the ESP is terminated?

MR. KUTIK: Objection.

A. May I ask you to rephrase the question? I am not sure I understood the question, ma'am.

Q. Sure. Are you aware of any instances in the past where the PUCO has allowed a provision that's approved as part of an ESP to continue even if the underlying ESP is terminated?

A. I can't think of an example.

Q. Are you aware of any provision of law that allows a provision that's approved as part of an ESP to continue even if the underlying ESP is terminated?

MR. KUTIK: Objection.

A. I am not an attorney, and I am not able to point to a statutory reference.

Q. Do you know what the potential revenue increase is associated with the new caps for rider DCR under the latest proposed stipulation for the full eight-year ESP?

A. May I ask you to restate that question, please, ma'am?

Q. Under the rider DCR there are caps for distribution investment, correct?

A. No.

Q. And why is that not correct?

A. Nothing in rider DCR caps the distribution investment that the companies can make over the term of the ESP.

Q. But the DCR rider caps what can be collected from customers under the rider, correct?

A. Yes.

Q. And I am asking -- my question goes to what are the potential charges that can be made to customers associated with the new caps for rider DCR for the full eight-year period?

A. The revenue cap for rider DCR will increase by $30 million per year for the period June 1, 2016, through May 31, 2019, and then increase by 20 million per year for the period June 1 of 2019 through May 31 of 2022 and then increase by $15 million per year for the period June 1, 2022, through May 31, 2024.

Q. Let's start for a moment in 2015. What's the DCR cap in 2015 that is then added onto under the stipulation?

A. The DCR cap for the period June 1 of 2015 through May 31 of 2016 is $210 million before adjustments for over or undercollection in the prior period.

Q. So would it be fair to say from 2016

through 2017, the amount -- the charges collected from customers could be as much as $240 million --

MR. KUTIK: Objection.

Q. -- in rider DCR?

THE WITNESS: May I ask you to reread that, please, total.

(Record read.)

A. No.

Q. And why is that not correct?

A. The period would be June 1 of 2016 through May 31 of 2017.

Q. And during that period the charges collected from customers would be as high under -- could be as high as $240 million under the DCR -- under rider DCR, correct?

A. Subject to adjustments from over or undercollection in prior periods and assuming revenue requirements in support of that cap, yes.

Q. Understood. Thank you for those clarifications. So if we then take -- I am only going to go one more year period. If we take the period of 2017 through 2018 beginning June, I believe you said June 1 through May 31, the total charges collected that could be collected from customers under rider DCR would for that year go up to

270 million?

MR. KUTIK: Objection. Just to be clear you are talking June 1, 2017, through May 31, 2018?

MS. WILLIS: Yes.

MR. KUTIK: I still object. Go ahead.

A. Assuming no adjustments for over or undercollection in prior periods and further assuming revenue requirements in support of that revenue level, yes.

Q. So have you -- do you know as we sit here today if we went through each year of the eight-year period what the total charges that could be collected from customers associated with the DCR rider would be over the entire term of the ESP?

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

(Record read.)

A. Yes.

Q. And what would that be?

A. Again, assuming revenue requirements to support recovery of dollars at or above the revenue cap levels over the ESP for a period the total -- back up. No, I am not sure I do know as I sit here adding it up.

Q. Do you need a calculator? Would a

calculator help?

A. No. Is your question what is the total of 30 times 3 plus 20 times 6 plus 15 times 2?

Q. Yes.

A. That number is 180 million.

Q. Well, I guess that was not my question. My question is really trying to get to how much customers could be charged under the entire period of the eight-year ESP term under rider DCR. What you gave me, the 180 million, is how much the cap increases from the beginning of the ESP term to the end of the ESP term. I am actually asking about the collections -- the charges that could be collected from customers under rider -- under the rider DCR caps --

MR. KUTIK: So we make it clear, let's put a question to the witness.

Q. Please identify, Ms. Mikkelsen, the total charges that could be collected from customers under the DCR caps under the DCR rider proposed in the latest stipulation considering the entire eight-year term.

A. I don't have that number with me here. I didn't bring a calculator.

Q. I would be happy to allow you to use my calculator.

A. Okay.

Q. If I can find it on my phone. Here you go. Thank you, Ms. Mikkelsen.

A. Assuming revenue requirements based on distribution spent on behalf of the utility companies are in excess of the annual revenue caps and assuming no adjustments to the annual caps for over- or underrecovery in prior period, if you add up those totals for the eight-year period, you get a number of 2000 -- 2.595 billion.

Q. Thank you. Now, when you calculated the $2.59 billion, did you assume a return on equity associated with any of the DCR rider?

MR. KUTIK: Objection.

A. No.

Q. Under what conditions would the DCR rider include a return on equity?

MR. KUTIK: Objection.

A. May I ask you to rephrase the question, please?

Q. Under the DCR rider is there a component that allows the company to charge customers a return on equity?

A. Return on equity is a component of the allowed revenue requirement under rider DCR.

Q. Okay. And under what conditions is it an allowed component under rider DCR?

MR. KUTIK: I'll object at this point that this is information that's not new to the case. It covers ground that should have been covered earlier. It's not a feature of the third supplemental stipulation, so I'll object as beyond the scope of proper discovery and of the hearing in the upcoming case.

Q. Go ahead and answer.

A. I don't understand the question, ma'am.

Q. Ms. Mikkelsen, you indicated that the return on equity is a component or may be a component of rider DCR.

A. What I testified to was that the revenue requirement calculation for rider DCR includes a return on equity component.

Q. And in the figure, the 2.59 figure that you provided to me, did that include a return on equity component figured into that?

A. I don't know.

Q. Okay. Do you know the return on equity component, what the level of return on equity included in the DCR rider is?

MR. KUTIK: Objection, beyond the scope.

A. I don't understand the question, ma'am.

Q. You had said there's a return on equity component permitted in the DCR rider on the investment. What is the level of the return on equity component that's included in the investment, if you know?

A. If the question is what is the return on equity allowed on the investment for purposes of calculating rider DCR, that number is 10.5 percent.

Q. Thank you. And that did not change in this third -- in the latest filed stipulation, correct?

A. Correct.

Q. So the 10.5 percent rate of return component of the DCR rider will remain in effect during the entire time of -- that the DCR rider is being collected from customers, correct?

A. Yes.

Q. Now, on page 4 of your testimony, lines 23 to 28, you discuss the stipulation provisions related to straight fixed variable rate design. Do you see that section?

A. Assuming you are referring to my fifth supplemental testimony, yes.

Q. Yes, yes. Now, you indicate in your testimony lines 23 through 24 that "The Companies will file an Application for Tariff Approval case." Is that different from a distribution rate case, if you know?

MR. KUTIK: Objection.

A. Yes.

Q. Can you walk me through what happens in a tariff approval case, what the process is?

MR. KUTIK: Objection.

A. I think the process or the procedure would be determined by the Commission at the time the company makes the filing.

Q. But you're proposing in your testimony that it's a -- you are defining the filing as an application for tariff approval, correct?

A. Yes.

Q. Do you know what the standard of review is in a proceeding where a tariff is being requested -- where approval is being requested of a tariff?

MR. KUTIK: Objection.

A. I feel as though the question calls for a legal opinion, ma'am, and I am not an attorney, so I don't have a legal opinion.

Q. Is it your understanding the straight fixed variable rate applies to residential customers only --

MR. KUTIK: I am going --

Q. -- as for purposes of the latest filed stipulation?

MS. WILLIS: I'm sorry. I didn't mean to cut you off.

MR. KUTIK: I want the question read or repeated.

MS. WILLIS: We can read it, and I will listen to it. Maybe I will change it.

MR. KUTIK: Go ahead, please, Karen.

(Record read.)

Q. Let me withdraw that. Ms. Mikkelsen, is it your understanding of the proposal for a straight fixed variable rate design is a proposal that would be applied only to residential customers or only affects residential customers?

MR. KUTIK: Objection.

A. The companies have agreed to file a case to transition to proposed straight fixed variable cost recovery mechanism for residential customers.

Q. And at year three when 75 percent of the fixed costs and 25 percent of the variable costs are collected -- let me strike that.

You propose a three-year phase-in of the straight fixed variable cost recovery, do you not, under your latest filed stipulation?

A. The stipulation lays out a three-year phase-in.

Q. What happens in year four under the stipulation with respect to the rate design for straight fixed variable rate cost recovery?

A. Assuming the straight fixed variable rate design is approved in a manner consistent with what's laid out here.

Q. Yes.

A. Then year four would be 75 percent fixed costs and 25 percent variable costs.

Q. How did the companies come up with an allocation of 75 percent fixed costs and 25 percent variable costs?

MR. KUTIK: Objection. Mischaracterizes the stipulation.

A. May I ask you to restate the question, please, or rephrase the question?

Q. Sure. The stipulation indicates on page 12 under provision F1a -- F1b that "Cost recovery shall be based on an allocation of 75 percent fixed costs and 25 percent variable costs." How did the company determine that the allocation should be 75 percent fixed costs and 25 percent variable costs?

MR. KUTIK: Objection. Mischaracterizes the stipulation.

A. The companies did not make that determination. The allocation was agreed to as part of a negotiated settlement among the signatory parties.

Q. Do you know what the al -- if anything the allocation was based on the 75/25 split, how that -- what that was based on?

MR. KUTIK: Well, let me just caution the witness not to reveal any substance of settlement conversations. If you want to discuss the rationale, that's fine, but substance of the conversation I would instruct you not to answer.

MS. WILLIS: Appreciate that.

THE WITNESS: May I have the question, please.

(Record read.)

A. Again, that allocation was really agreed to as part of a negotiated settlement.

Q. If you know, is there any study or analysis that relies upon a 75 percent and 25 percent variable cost allocation for straight fixed variable rate design?

MR. KUTIK: Same instruction.

A. I am not aware of any such study.

Q. Okay. Are you aware of any precedent in Ohio that supports an allocation of 75 percent fixed and 25 percent variable with respect to the allocation of costs under a straight fixed variable recovery mechanism?

MR. KUTIK: Objection. Calls for a legal conclusion.

A. I am not aware of any electric distribution utility that has an approved straight fixed variable rate design in the state of Ohio.

Q. Are you aware of any gas utility that has a straight fixed variable rate design that uses a 75 percent fixed and 25 percent variable cost allocation for its straight fixed variable rate design?

A. Not specifically, no.

Q. You indicate in this -- in -- let me strike that.

In the latest filed stipulation under the transition to decoupled rates under F2, you -- there is an indication that "All lost distribution revenue shall continue to be recovered in its current fashion up to the time that any decoupling mechanism is implemented." Do you see that reference?

A. Yes.

Q. How is the lost distribution revenue currently being recovered by the company -- companies?

A. In rider DSE2.

Q. And how are the current lost revenues measured for purposes of collection under rider DSE2?

MR. KUTIK: I'll object. Mischaracterizes the rider. Also I'll object as beyond the scope of discovery. You can answer if you understand the question.

THE WITNESS: May I ask you to reread the question, please, ma'am.

(Record read.)

A. The companies identify the kilowatt-hours that have been saved as a result of energy efficiency and then for those kilowatt-hours that have been saved determine what the distribution revenue would have been associated with those kilowatt-hours or kW demand and those are the dollars that are recovered in rider DSE2.

Q. You mentioned that part of the -- part of the determination is the -- is what distribution revenues would have been collected; is that correct?

A. Yes.

Q. And when you are determining what distribution revenues would have been collected, do you weather normalize that -- those revenues?

MR. KUTIK: Objection. Beyond the scope.

A. No. We take the kilowatt-hours that have been determined to be saved, multiply it by the approved rates.

Q. And the approved rates would have been those rates set in the last distribution rate case?

A. Base --

MR. KUTIK: Same objection.

A. The rates set in the companies' last base distribution rate case, yes.

Q. And the rates set in the companies' last distribution rate case were not weather normalized; is that correct?

MR. KUTIK: Objection. Same objection, beyond the scope.

A. I am not sure I understand the question, ma'am.

Q. Let me -- let me withdraw that. You've already -- I will go somewhere else.

Can you tell me generally how much annual lost distribution revenue is collected under rider DSE2?

MR. KUTIK: Objection. Beyond the scope.

A. I don't remember.

Q. And the DSE2 rider is collected from all customers; is that correct?

MR. KUTIK: Same objection.

A. No.

Q. Is it your understanding that DSE2 is bypassable subject to the Senate Bill 310 opt out?

MR. KUTIK: Objection. Again, beyond the scope.

A. Certain customers may opt out of -- may opt out of the companies' energy efficiency programs pursuant to SB 310, and as a result, they would not be charged rider DSE2.

Q. Now, in the latest filed stipulation at page 13 under 2, the statement is that -- and I am looking at the second full sentence that "If the Commission approves a decoupling mechanism, lost distribution revenue associated with the decoupled rates after the effective date shall be recovered for the variable portion of the rate, and all other riders shall continue and revenue will be decoupled" and then it goes on. I want to focus on the phrase "all other riders shall continue." Can you tell me what that refers to?

A. All other Commission-approved riders.

Q. Now, are you saying -- does the stipulation then call for all other riders to be part of the decoupled rates?

A. No.

Q. Can you explain to me then what the provision intends to do?

A. As this reads, if the Commission approves a decoupling mechanism, lost distribution revenue associated with the decoupled rates after the effective date shall be recovered for the variable portion of the decoupled rates, and all other riders that are not included in the decoupled rate would continue. And then it goes on to say the revenue will be decoupled to the level of the weather adjusted base distribution revenue and lost distribution revenue as of the 12-month period ending September 30, 2018.

Q. So are you saying that the -- this provision limits the riders that are decoupled in the lost distribution revenue rate?

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

(Record read.)

MR. KUTIK: Objection.

A. May I ask you to rephrase the question, please, ma'am?

Q. I will try.

I am going to move on. Why did the company pick the 12-month period ended September 30, 2018, for measuring revenue in kWh sales for purposes of the straight fixed variable rate design?

MR. KUTIK: Objection. Mischaracterizes the stipulation.

A. May I ask you to rephrase the question, please?

Q. Yes. Under the stipulation the revenue will be decoupled to the level of weather adjusted base distribution and lost distribution revenue in kWh sales as of the 12-month period ended September 30, 2018. And that's contained at the very last sentence under section F2, page 13 of the stipulation. Why did the company choose the 12-month period ended September 30, 2018, for the baseline for the decoupling?

MR. KUTIK: Objection. Mischaracterizes the stipulation.

A. The signatory parties agreed in settlement negotiation to that provision.

Q. And what was the basis, if you know, for that provision for that date, the 12-month period ending September 30, 2018, for measuring the revenue in kWh sales?

MR. KUTIK: I'll note my prior instruction with respect to settlement conversations.

A. I think the date may have been chosen to align with the beginning period of January 1, 2019, for the decoupled rate.

Q. Thank you. Under the tariff application -- let me strike that.

Under the tar -- the application for tariff approval case, will parties have an opportunity to review the 2018 revenue in kWh sales for the 12-month -- let me strike that.

Under the tariff approval application process that is adopted as part of the stipulation, the latest filed stipulation, will parties have an opportunity to review the weather adjusted base distribution revenue and lost distribution revenue in kWh sales?

THE WITNESS: May I ask you to reread that question, please, ma'am.

(Record read.)

A. Yes.

Q. Now, when the filing is made -- let me strike that.

Under the stipulation a filing for the straight fixed variable rate design is made in April -- is made by April 3, 2017; is that correct?

A. Yes.

Q. And when the filing is made and rates will be determined, will all the information associated with the 12-month period ended September 30, 2018, be projected information as opposed to actual?

A. Yes, I would expect that would be the case with that number then trued up as the actual data becomes available.

Q. Now, Ms. Mikkelsen, is it your understanding that the customer impacts from the straight fixed variable rate design proposal will be presented to the Commission in 90 days from the date the stipulation is filed; is that your understanding?

A. The companies when they make their filing for the grid modernization business plan within 90 days of the third supplemental stipulation will include a plan for the decoupling mechanism. What that plan includes hasn't been determined at this time.

Q. So the company has not determined that when it files its plan for the straight fixed variable, that it will present customer impacts from the straight fixed variable proposal; is that correct?

A. I don't think that determination has been made yet.

Q. Is it also true, Ms. Mikkelsen, that the company has not done a bill impact or analysis of its straight fixed variable rate design proposal?

MR. KUTIK: Objection.

A. I think that analysis is currently underway at the direction of counsel in anticipation of litigation in order to fulfill the stipulation requirement that a plan be filed within 30 days of the filing of the stipulation.

MR. KUTIK: Could you hold on a second, please?

MS. WILLIS: Sure.

MR. KUTIK: Off the record.

(Discussion off the record.)

(Record read.)

A. I meant 90 days, I apologize.

Q. So you were anticipating that in that filing in 90 days you will present a bill impact or analysis showing the effect of the straight fixed variable rate design on residential customers?

A. I think, as I said earlier, the determination hasn't been made what will be included in that plan that's filed within 90 days.

Q. Ms. Mikkelsen, are you familiar with the PUCO docket which looked at distribution utilities' rate structures?

A. May I ask you to be more specific, ma'am?

Q. Are you familiar with Docket No. 10-3126-EL-UNC?

A. Yes.

Q. I am going to mark for identification purposes as Deposition Exhibit 6 the Commission entry and ask you to look at that, Ms. Mikkelsen, and tell me if that's --

MR. KUTIK: Do you have a copy for me?

MS. WILLIS: Sorry.

MR. KUTIK: No problem.

(EXHIBIT MARKED FOR IDENTIFICATION.)

Q. Ask you if that is the docket that you are familiar with that the PUCO looked at the distribution -- electric distribution utilities' rate structures.

THE WITNESS: May I ask for the question to be reread, please.

(Record read.)

A. I am familiar with this docket.

Q. Okay. Do you have an understanding of what the PUCO was looking at in particular in that docket?

MR. KUTIK: I'll object to the extent it calls for speculation. She can answer.

A. The Commission posed discussion questions in this docket.

Q. And I'm sorry. I didn't mean to interrupt. Were you finished?

A. I am.

Q. And it was your understanding that the Commission posed questions on decoupling as well as straight fixed variable rate design?

A. The Commission posed a number of questions which are outlined here in your Deposition Exhibit 6.

Q. Now, Ms. Mikkelsen, are you aware whether the companies filed comments in response to the Commission's entry and request for comments?

A. Yes.

Q. Are you familiar with those comments?
A. Yes.
Q. Did you assist in drafting those comments?
A. Yes.
MS. WILLIS: I am going to have marked for identification purposes as Deposition Exhibit No. 8 the comments of Ohio Edison, The Cleveland Electric Illuminating Company, and The Toledo Edison filed in Case No. 10-3126-EL-UNC filed February 11, 2011.
MR. KUTIK: Do you mean to have this 8 or 7?
MS. WILLIS: I think this is No. 7. Yeah, this is No. 7.
MR. KUTIK: You said 8. So this will be marked as 7?
MS. WILLIS: This is 7.
(EXHIBIT MARKED FOR IDENTIFICATION.)
Q. Now, I am going to give you a moment to review this if you need a moment.
A. Would you like me to read this 14-page document, ma'am?
Q. No. I am just asking if you are familiar in general with those comments.
A. I am.

Q. Okay. And you had indicated you assisted in drafting those comments, correct?
A. Yes.
Q. And at the time those comments were filed, what would your position have been with the company?
A. The same position I have today.
Q. Okay. Now, Ms. Mikkelsen, are you familiar with the PUCO's holding in that case?
A. I'm sorry. May I ask you to repeat that question?
Q. Are you familiar with what the Commission -- the final order that was issued in this case which analyzed the comments filed by various parties?
A. Yes.
MS. WILLIS: Mark for identification purposes as OCC Deposition Exhibit No. 8 finding and order in Case No. 10-3126-EL-UNC.
(EXHIBIT MARKED FOR IDENTIFICATION.)
Q. I would ask you to take a look at that and tell me if you understand that to be the finding and order in Case No. 10-3126-EL-UNC.
MR. KUTIK: Objection.
A. I'm familiar with this order.

Q. And is it your understanding part of the Commission's -- that part of the Commission's determination in this case was that the appropriate time to implement an SFV design rate is during an electric utility's rate case?

MR. KUTIK: Objection. The document speaks for itself.

A. That's what the document says on page 20 under paragraph 64.

Q. And is it also your understanding that that's the position that the companies took in the filed comments in this proceeding -- in that proceeding?

A. I see that in the Commission finding and order. I'm not able as I sit here to locate that in the 14 pages of comments that the company filed.

Q. With respect to the 14 pages of comments the company filed, as we sit here today, is it your understand -- is it your belief that the comments filed were appropriate?

MR. KUTIK: Objection.

A. May I ask you to rephrase your question, ma'am?

Q. Sure. Is there anything in the comments that were filed February 11, 2011, by the companies that you now disagree with?

MR. KUTIK: Well, I'll object. I mean, you are asking her to recall the contents of a 14-page document that was filed four or five years ago. She hasn't obviously sat here and read it. So, I mean, it is an unfair question and I object.

MS. WILLIS: That's fine. I will withdraw the question, and we can just -- I could rephrase some questions.

Q. Ms. Mikkelsen, I am turning to the comments at page 2. Further -- or down on the page the statement is -- the statement is made "The Companies believe that attempting to recover all fixed distribution costs through a single customer charge applied to all customers, i.e., straight fixed variable, ignores the cost causation principle of ratemaking and may have the effect of shifting cost recovery from higher-usage customers to lower-usage customers." Do you believe that that statement still holds true today?

MR. KUTIK: Objection. Same objection.

A. I think that the stipulation on page 13 under paragraph F item 3 recognizes and the company says that "the Companies agree to be cognizant of the principle of gradualism and the effect of decoupling on various usage levels." So I think this stipulation recognizes the potential for such a concern and attempts to address it.

Q. Now, on page 5 of the comments at the very bottom, the statement is made "The Companies, and presumably the other electric utilities in the state, are in a rising cost environment." Is that statement still true today?

MR. KUTIK: Objection.

A. I haven't conducted that study.

Q. Going on to page 6 under B, the comments stated "One impact on customers of a decoupling mech" -- let me strike that.

Further on down on page 6 the comments state "First, with a shift to SFV, the kWh or kW charge for distribution service will be reduced or eliminated. A byproduct of this change in the distribution rate design will be to reduce the savings that customers experience either through energy efficiency and/or peak demand reduction efforts." Is that statement true today?

MR. KUTIK: Well, I'll object especially since that's the proposal of this case or was proposed to be. This stuff is later.

A. I haven't thought about that at this

time. I can't really answer the question without more thought, study.

Q. The next sentence is "Customers will have less of an economic incentive to participate in energy efficiency or peak demand reduction programs resulting in an increase in the cost of the programs in order to achieve the statutorily required savings and reductions." Is that statement true today?

MR. KUTIK: Objection. Same objections.

A. I haven't thought about it in the context of today's environment.

Q. Okay. Further on down on page 7 the statement is "By changing the price signals, the SFV rate design promotes the opposite outcome of the policy intent set forth in SB 221 by reducing the benefit to customers who take the necessary steps to conserve energy."

MR. KUTIK: Can you be more specific as to where you are, please?

MS. WILLIS: I'm sorry, page 7 of the comments. It's in the first paragraph five lines down.

MR. KUTIK: Thank you.

Q. Is that statement true today?

A. I haven't thought about it in the context of the proposal and the stipulation of today's environment.

Q. Further on down on page 7, first full paragraph, "A second consequence of a SFV decoupling mechanism is the unanticipated harm that could arise from going to a design that includes a much higher customer charge. This will negatively impact low use customers the most. The shifting of cost recovery" -- let me stop there. Is that statement -- the statement in those two sentences true today?

A. I am not sure I understand the question, ma'am.

Q. Do you agree that "A second consequence of a SFV decoupling mechanism is the unanticipated harm that could arise from going to a design that includes a much higher customer charge"?

A. No, I don't agree with that because as I mentioned earlier, the stipulation explicitly on page 13 paragraph F3 recognizes and the companies agree to be cognizant of the effect of decoupling on various usage levels, so I can't agree with you on the unanticipated, that this clearly recognizes the potential for that circumstance, ma'am.

Q. Thank you. Now, further on down the sentence is -- is contained there that says "The shifting of cost recovery may also be seen as inconsistent with 4928.02(L), which is the policy statement to protect at-risk populations"; is that statement true?

MR. KUTIK: Objection.

A. I don't know. I haven't given it any thought or study.

Q. Further on down on the page the statement is "To the extent these low use customers are also low income customers and these low use customers are already participants in the PIPP program, shifting revenue responsibility will not increase their obligation to pay, but will simply shift more dollars into the USF rider that all customers pay"; is that statement true?

A. I believe so under all the set of assumptions that are laid out in that statement.

Q. And going to page 8 at the very bottom, the statement is "The existing distribution rate design is based on decades of cost of service studies and related distribution rate design both of which are based on well-established rate making principles that have been tested in countless proceedings. Nothing has changed to alter the underlying basis for that body of work or the resultant rate design." Is that -- are those two statements true as you sit here today?

MR. KUTIK: Objection.

A. Certainly the second statement something has changed to alter the underlying basis and that would have been the Commission's order in Case 10-3126-EL-UNC where the Commission encourages electric utilities to file in their next base rate cases utilizing straight fixed variable rate design.

Q. Going to the sentence, "For example, with regard to cost causation and recovery of distribution system costs from those customers causing the cost, the SFV approach suffers from many limitations. Principally, the costs are not being recovered from the cost causers"; is that statement true?

MR. KUTIK: Objection.

A. May I ask you to rephrase the question? Certainly it was true at the time the company filed the document. I haven't thought about this statement in isolation without the context of the entire document in light of today's facts and circumstances.

Q. Are you aware of anything in today's facts and circumstances which would change the opinion that was expressed in the comments that -- that the SFV approach suffers from many limitations and the principal concern that costs are not being recovered from the cost causers under the SFV approach?

A. I haven't given these sentences due consideration in light of today's facts and circumstances so I don't know as I sit here today.

Q. And going down on page 9, the first full paragraph, the statement is "The Companies further believe before any modification to the existing rate design is considered, much less implemented by the Commission, customer attitudes must be tested to determine the receptivity to modifications to rate design." Do you believe that to be true?

A. I --

MR. KUTIK: Objection.

A. I think that customers will have an opportunity -- certainly had during the settlement process an opportunity to express their receptivity to modification like this in rate design and would continue to have that opportunity after the company files the case before the Commission.

Q. Does the company intend to test customer attitudes to determine whether other customers besides the signatory representatives of customers will be receptive to modifications to rate design under an SFV approach?

MR. KUTIK: Can I have the question read, please.

(Record read.)

A. I think as I stated just a moment or two ago, this proposal was discussed with all of the signa -- pardon me, with all the parties. Signatory and nonsignatory parties had an opportunity to express their views during settlement discussions on this provision. And, further, all parties, signatory and nonsignatory parties, would have the opportunity to participate in the case that was filed before the Commission.

Q. At this point is there a plan for the company when it comes in with its filing in 90 days to propose testing customer attitudes to determine the receptivity to modifications in rate design under an SFV approach?

A. As I mentioned earlier, the determination of what would be included in the plan is still under development.

Q. Let's move to page 10 of the comments under c. The statement is that the "decoupling may make sense in a declining sales industry, like natural gas, but it is wholly inappropriate in the electric industry where sales and costs are increasing"; is that statement true today?

MR. KUTIK: Objection.

A. I haven't performed that study.

Q. Do you know if a study was performed in order to make that statement with respect to the comments that were filed in this proceeding?

MR. KUTIK: I'm sorry. When you say "this proceeding," you are talking about?

Q. 10 -- thank you, 10-3126-EL-UNC.

A. Well, certainly at page 5 carrying over to page 6 of this document the company puts in specific information with respect to cost increases in the basic materials that it used. And I believe they would have looked at sales growth trends at the time these comments were made.

Q. And do you believe as we sit here today that the -- you are in a rising cost environment with respect to the electric distribution utility costs?

A. As I said earlier, I have not performed that study.

Q. Understanding that you have not performed that study but are you generally aware -- would you generally agree with me that based upon your knowledge and expertise as director of rates for the utilities, that the companies like other -- that the companies are in a rising cost environment with respect to electric distribution costs?

MR. KUTIK: Asked and answered now for the third time.

A. I don't know.

Q. Moving to page 11 of the comments the statement is made halfway down the page "Moving to a SFV design where customers are charged a fixed charge for distribution and a variable charge for generation diminishes the customer incentive needed to spur distribution efficiency and demand reductions from a customer perspective. It will result in a shifting of costs from higher-usage customers to lower-usage customers, without assurance that the new distribution rate design more properly assigns costs to cost causers." Is that a true statement as we sit here today?

MR. KUTIK: Objection.

A. There are a number of statements here, not a statement, and when I read this sentence, it suggests that 100 percent of the distribution charges are included in a fixed charge and the variable charge is simply for generation and that is different than the proposal included in the stipulation.

Q. Now, on the top of page 13 of the comments the statement is made "The Commission should strive to support rate design that is based on cost causation. As stated above, the Commission should not consider a SFV rate design for residential customers until costs can be properly assigned. When the information is available to support an allocation of fixed costs to customers is when the Commission should consider such action." Do you believe those statements are true today?

MR. KUTIK: Objection.

A. I don't know without reading this in the context of the entire document which, again, I have not had an opportunity to read the entire 14-page document. So taking individual sentences out and asking me if it's true today, I don't -- I don't even know the context necessarily and detail of which it was stated originally, let alone how that may or may not be applicable today, so I don't think I can answer the question.

Q. Now, Ms. Mikkelsen, you stated you assisted in drafting these comments, correct?

A. Yes.

Q. And is it that you don't recall, or is it that your memory has not been refreshed by looking at these comments?

MR. KUTIK: Well, I'll object to the question. And it's argumentative. I think she's told you what her limitations are. But if you want to answer that question, fine. If you don't want to answer that question, that's fine too.

A. I haven't had the opportunity to read the 14-page document that we filed almost five years ago. So I guess I'll leave it at that.

MR. KUTIK: Okay. Let's go off the record.

(Thereupon, at 12:21 p.m., a lunch recess was taken.)

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Tuesday Afternoon Session,
December 22, 2015.

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EILEEN M. MIKKELSEN

being previously duly sworn, as hereinafter certified, deposes and says further as follows:

CROSS-EXAMINATION (Continued)

By Ms. Willis:

Q. Let's go to your testimony -- good afternoon, I guess. Let's go to your testimony on page 3. Specifically line 25 you testify that "The risk sharing element contained in the Companies' original filing is expanded." Do you see that?

MR. KUTIK: Page what?

MS. WILLIS: 3.

A. In my fifth supplemental page 3 at 25 I see that, yes.

Q. Yes. Can you tell me what the risk sharing element was in the companies' original filing that is now expanded?

MR. KUTIK: Objection. Go ahead.

A. It was the audit provision.

Q. Can you be a little bit more specific? Which stipulation and which audit provision are you referring to?

A. The audit provision was laid out in my direct testimony filed in -- on August 4 of 2014.

Q. And you are saying that the audit that you propose was a risk sharing element that was included in the filing?

A. What I am saying is in my direct testimony again filed on August 4 of 2014, we laid out a review process, a two-tier review process, for the retail rate stability rider. And then in my second supplemental testimony filed on May 4, 2015, that addressed the review process as the risk sharing mechanism.

Q. Okay. Are there any additional places in your previously filed testimony that you testified on the risk sharing element included in the companies' original filing?

A. By that question are you excluding my testimony, my fifth supplemental testimony, which also addresses that topic?

Q. I am excluding that, yes.

A. No. Those would be the two prior testimonies.

Q. Okay. Can you tell me, Ms. Mikkelsen, why the risk sharing begins in year five as opposed to year one of the eight-year term?

MR. KUTIK: Objection. Mischaracterizes the stipulation.

A. May I ask you to rephrase the question, please?

Q. Yes. You indicate in your testimony that "The risk sharing element contained in the Companies' original filing is expanded to include a commitment by the Companies that Rider RRS in year five will include a credit of $10 million for the total" -- "in total for the Companies." So I'm asking why did you start the commitment for a credit in year five as opposed to an earlier commitment?

A. It was part of the negotiated settlement.

Q. Is there any reason or rationale that -- of why the credit should only begin in year five?

MR. KUTIK: Note my instruction about revealing settlement -- the content of the settlement conversations. You can answer.

A. Again, the agreement was to start the credit in year five.

Q. Were you part of the coming up with the risk sharing element that was expanded in the latest filed stipulation?

MR. KUTIK: Same instruction.

A. May I ask you to rephrase the question, please, ma'am?

Q. Sure. Under the stipulation credits begin in year five for the companies under rider RRS. Can you tell me if you were involved in developing the proposal that -- to provide customers credits starting in year five?

MR. KUTIK: Same instruction.

A. I did not develop the proposal.

Q. Can you just tell me who developed that proposal, if you know?

A. No.

MR. KUTIK: Same instruction.

Q. You do not know who developed the proposal?

MR. KUTIK: Asked and answered.

A. The proposal was part of a negotiated agreement.

Q. How did the company determine that it could financially afford the risk sharing proposal that you testified to on lines 25 through 27?

A. May I ask you to restate the question, please?

Q. Sure. Under the companies' risk sharing elements, credits to customers could amount to at least $100 million from year five through year eight;

is that correct?

MR. KUTIK: Objection.

THE WITNESS: May I ask you to reread that question, please.

(Record read.)

A. The risk sharing element contained in the stipulation was agreed to by all of the signatory parties. It's not a company proposal. It's a negotiated agreement on behalf of all of the parties.

Q. But as part of the negotiated agreement, are you aware of whether the company made a determination that it was financially willing to agree to a $100 million worth of credits going to its customers?

MR. KUTIK: Objection.

A. May I ask you to rephrase the question, please, ma'am?

Q. Before the company was willing to accept the terms of the stipulation agreement, did it conduct any analysis or study as to the impact of the provisions within the stipulation on the financial well-being of the utilities?

MR. KUTIK: I'll object and also instruct you not to reveal conversations that you had with counsel, that if you would need to include those, you should exclude those from your testimony.

THE WITNESS: May I ask you to reread that question, please.

(Record read.)

A. Is this question now more broad to the entire stipulation?

Q. Yes. It's more broad at this point, yes.

A. I don't recall any -- or I don't remember any financial impact analysis being conducted for the utilities.

Q. Do you know if the companies looked at the impact of the latest filed stipulation on their earnings per share calculations?

MR. KUTIK: Same instruction.

A. No. I have not seen any study beyond the financial statements that were included in the application.

Q. Well, the financial statements included in the application pertain to the application and not the stipulation, correct?

A. Uh-huh, yes.

Q. So you have not -- so your testimony is you have not seen any financial analysis that looks at the impact of the stipulation on the utilities' financial well-being, correct?

A. Correct.

Q. Are you aware of whether or not there have been pro forma financial projections of the effect of the ESP on the electric utilities for the duration of the eight-year ESP term?

A. There have not been.

Q. Are you aware of whether or not pro forma financial projections of the ESP on the electric utilities for the duration of the ESP were part of the filing requirements associated with the application?

MR. KUTIK: Objection. Calls for a legal conclusion.

A. Again, I am not an attorney, but as I mentioned earlier, the companies filed pro forma financial statements at the time they made their application.

Q. And why did the companies do that, if you know? Why did they make the filing? Were they -- just thought it was pertinent information or were they responding to any Commission rules or regulations, if you know?

MR. KUTIK: Objection. Compound.

A. May I ask you to restate the question, please?

Q. Sure. You indicated as part of the original application the utilities filed pro forma information. And are you speaking about Mr. Lisowski's financial data?

A. No.

MR. KUTIK: Objection.

Q. Whose financial data are you -- are you referring to there?

MR. KUTIK: Objection.

Q. I'm sorry, who --

MS. WILLIS: I'm sorry. Go ahead.

MR. KUTIK: No.

Q. Who presented the financial projections that you were referring to? Which FE witness?

MR. KUTIK: Are you trying to determine which witness sponsored that?

MS. WILLIS: Yes.

A. The pro forma financial statements were on an exhibit to the application filed on August 4 of 2014, and they were sponsored by Company Witness Fanelli.

Q. Fanelli, thank you. So is it your understanding that associated with this third -- let me strike that.

Do you know if the companies considered

any financial measures in determining whether or not the stipulation, the latest filed stipulation, was acceptable to them in terms of the utilities' financial positions?

MR. KUTIK: Objection.

A. May I ask you to rephrase the question?

MS. WILLIS: May I have the question reread.

(Record read.)

Q. Ms. Mikkelsen, do you know if the company considered financial measures including earnings per share in determining whether or not to agree to the latest filed stipulation?

MR. KUTIK: Objection including asked and answered.

A. As I said earlier, the financial analysis that was done was done in support of the application. There has not been an additional financial analysis conducted.

Q. Has the company quantified the cost that it will incur associated with the latest filed stipulation?

MR. KUTIK: Objection.

A. May I ask you to rephrase the question, please, ma'am?

Q. What are the costs to the companies under the third supplemental stipulation? And when I say the costs to the companies, I mean the cost to the company and/or their shareholders associated with the package, the settlement package, as contained in the latest filed stipulation.
A. On page 12 --
Q. Yes.
A. -- of the fifth supplemental testimony, I provide a quantification of the economic development funding, the low income funding, and the Customer Advisory Agency funding, all of which are programs that would be funded by the shareholders of the companies.
Q. And would you consider the cost of the risk sharing element that's contained including the credits as a cost to the utility or its shareholders?
MR. KUTIK: Objection.
A. May I ask you to clarify what you mean with respect to the risk sharing?
Q. Yes. It's what we have been discussing for the last 5 minutes or so on page 3, lines 25 through 27, the $100 million worth of credits that will go to customers in -- in the last years, five through eight, of the latest filed stipulation.

MR. KUTIK: Objection. Mischaracterizes the stipulation.

A. May I ask you to restate the question, please, ma'am?

Q. Do the companies consider the credits that it must pay customers under the risk sharing element to be a cost to it or its shareholders?

MR. KUTIK: Objection. Mischaracterizes the stipulation.

A. The provision that you are pointing to starting on page 3 at line 25 and continuing to page 4, line 3, does not require the companies to provide a credit. It only creates the circumstance in which the companies may provide a credit.

Q. And the reason you are saying the companies may provide a credit is because of -- of how it is struc -- how that credit is structured; is that correct?

MR. KUTIK: Objection.

A. May I ask you to restate the question, please, ma'am?

Q. Do you understand how the credit works in years five through eight of the stipulation?

A. I do.

Q. And if customers are already receiving a credit, that credit is netted against the companies' commitment to provide a credit; is that correct?

MR. KUTIK: Objection.

A. I'm not sure I would agree with your characterization.

Q. Well, if you go to --

MR. KUTIK: Excuse me. Had you finished your answer?

Q. I apologize. I didn't mean to interrupt.

MR. KUTIK: She may have finished her answer. I don't know.

A. I'm done.

Q. If we go to the stipulation at page 8, VB2, you give an example of how customer credits will occur, correct?

A. Yes.

Q. And you indicate that, for instance, if -- and I am going back a page at the very bottom of page 7, if the rider provides an aggregate credit of $6 million in year five, then the companies would contribute an additional 4 million to consumers. Do you see that?

A. I do.

Q. So the credit -- the aggregate credit that's -- that is owed to customers is netted against what would be the companies' committed contribution under the stipulation; is that correct?

THE WITNESS: May I ask you to reread that question, please.

(Record read.)

A. May I ask you to clarify what you mean of netted? I am not thinking about it in the same context that you are.

Q. Would you agree with me that the companies' agreement to credit -- the agreement that customers should receive a credit from rider RRS in years five through eight is a contingent -- creates a contingent obligation on the company?

MR. KUTIK: I'll object to the extent it calls for a legal conclusion.

A. The companies' obligation to provide a credit independent of the credit that would naturally occur under RRS is contingent upon future outcomes.

Q. Thank you. You said it much more precisely than I did. I appreciate that. Under the rider RRS what happens if the units are sold, the units that are subject to rider RRS?

MR. KUTIK: Objection.

Q. Let me restate that. Is the company obligated to credit customers for units that are sold unless the PUCO terminates the specific credit?

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

(Record read.)

MR. KUTIK: Objection. Mischaracterizes the stipulation.

A. May I ask you to rephrase the question, please?

Q. Sure. In the -- in VB1 of the stipulation, page 7, the last sentence says the Companies agree that the Commission may proceed to terminate the specific charge or credit for any generation unit upon its sale or transfer to 4905.26 -- pursuant to 4905.26. Okay. Do you see that reference?

A. Yes.

Q. So if the units -- let's assume that the units associated with rider RRS are sold. Is the company still obligated under the stipulation to credit customers in years five through eight for the units that have been sold?

A. The commitments made in paragraph B2 are independent of the provisions in B1.

Q. So if the companies -- if the generation units are sold -- let me strike that.

Is it your understanding that the contingent credits from years five through eight are funded by the companies?

A. If by contingent credits you are referring to the credits described in paragraph B2, "Risk Sharing," the answer is yes.

Q. Thank you. Now, on page 4 of your testimony, that's the fifth supplemental testimony, you speak of the rigorous review process that was agreed to by the companies, do you not?

A. Yes.

Q. Okay. Now, that's covered by provision VB3 of the latest filed stipulation; is that correct?

A. Yes, as more fully described in the direct testimony that I filed on August 4 of 2014 as referenced herein.

Q. And that testimony that you are referencing is pages 14 and 15 of your August 4, 2014, testimony?

MR. KUTIK: What are the page references again?

Q. Pages 14 and 15 of your August 14, 2014, testimony.

A. Yes.

Q. Now, the review is a preview of costs and benefits arising from the performance requirements in the PJM market; is that correct?

A. No.

MR. KUTIK: Objection.

Q. Can you describe to me then the review that you're referencing in the stipulation VB3a?

A. The third supplemental stipulation and recommendation at VB3a refers to the review process set forth in my direct testimony and goes on to describe that the companies, not their customers, would be responsible for adjustments made to rider RRS based on actions deemed unreasonable by the Commission including any costs after proper consideration of such costs and netting of any bonus payments associated with the performance requirements in PJM's markets.

Q. I guess I was focusing on the performance requirements in PJM markets. Can you tell me what you mean there by that "performance requirements in PJM markets"?

MR. KUTIK: Just so we're clear what document are you referring to?

MS. WILLIS: I'm sorry. Thank you, Mr. Kutik. That would be the third stipulation, the latest filed stipulation, Section VB3a.

A. I think that this refers to network interface you performance requirements that may exist in the PJM markets over the eight-year term of the ESP and would include performance requirements associated with capacity performance products.

Q. So it could refer to performance requirements that may not even be in existence at this point; is that correct?

A. Yes.

Q. Now, on page 4 of your testimony, line 7, you were talking about in this paragraph the rigorous review process that we have been discussing, but you indicate in there that you -- the review will include full information sharing with the staff regarding the FirstEnergy Solutions Corporate fleet. Do you see that?

A. I think the reference is not only at line 7 as you suggest but before line 7 but, yes, I see the reference.

Q. Can you tell me what the full information sharing -- what full information will be shared about the corporate fleet, what that would entail?

MR. KUTIK: Objection.

THE WITNESS: May I ask you to reread the question, please, ma'am.

(Record read.)
A. There is no commitment with respect to the corporate fleet.
Q. So the reference is FirstEnergy Solutions C-O-R-P. What does that mean?
A. Corp. but it's modifying FirstEnergy Solutions. I took your earlier question to be a much broader question.
Q. Okay. I'm sorry.
A. One that I didn't fully understand.
Q. Okay. To be clear my question really goes to page 4, line 7, the full information sharing regarding FirstEnergy Solutions CORP dot fleet, and I am asking you what that full information sharing would entail, what information about the corporate fleet?
MR. KUTIK: Objection, compound.
A. Again, it's information about FirstEnergy Solutions Corp.'s fleet and that provision is spelled out on page 8 of the stipulation under paragraph 3B, "Full Information Sharing."
Q. It is limited -- would you agree with me it's limited to cost components of the rider RRS?
A. May I ask you to rephrase the question as it relates to rider RRS?

Q. Sure. Under the latest filed stipulation, Section 3B, page 8, the statement is contained "FirstEnergy Solutions Corp. period fleet information on any cost component will be provided pursuant to a reasonable Staff request." My question is how do you define cost component and would -- my question is first how do you define cost component?

A. I think cost component relates to the costs that would be charged from FirstEnergy Solutions to the companies pursuant to the proposed transaction.

Q. So the commitment is to provide the staff information on cost components for other generation units owned by FirstEnergy Solutions; is that correct?

A. Upon reasonable staff requests, yes.

Q. And who determines whether the staff request is reasonable?

A. That would be determined by the Commission.

Q. So if the staff wanted to look at the type of fuel used in one of the rider RRS units versus a FirstEnergy Corp. -- Solutions Corp. unit, that would be part of the information sharing that would be permitted under this full information sharing provision?

MR. KUTIK: Objection.

A. I would expect information associated with the fuel payment and fuel costs of other plants that are part of the FirstEnergy Solutions' fleet would be included in this provision.

Q. Are you aware, Ms. Mikkelsen, of any information that is provided to the staff that receives indefinite protection?

A. I don't know.

Q. Are you aware of any information that is provided to the PUCO that receives indefinite protection?

A. I don't know.

Q. Are you aware of any general practice at the PUCO that utilities' information is kept protected for distinct periods of time?

MR. KUTIK: Objection.

A. Yes.

Q. And are you aware of the process whereby a utility's information -- whereby a utility would seek information -- are you aware of processes at the PUCO whereby a utility would seek to protect information that was filed or given to the staff?

A. Yes.

Q. Is it -- under Provision 3b on page 8 of the latest filed stipulation, would the company file a motion for protection in order to implement this provision, or is it a self-executing provision?

MR. KUTIK: Objection. Calls for a legal conclusion.

A. Again, as I have said, I am not an attorney, but this provision calls for the staff to treat any and all such information in the manner I have described in this paragraph.

Q. So it doesn't require -- in your opinion it doesn't require the company to file a motion for protection.

MR. KUTIK: Same objection and mischaracterizes her testimony.

A. I would expect that any information provided to the staff pursuant to this provision would be treated in the manner outlined in this provision.

Q. Now, the information that would be fully shared, is that information that belongs to FirstEnergy Solutions or is it information that belongs to the companies?

A. FirstEnergy Solutions' fleet information.

Q. I'm sorry. I didn't mean to interrupt.

MR. KUTIK: Was that a question?
THE WITNESS: No, that was my answer, FirstEnergy Solutions' fleet information. FirstEnergy Solutions' fleet information.
Q. And do you consider FirstEnergy Solutions a utility, if you know?
MR. KUTIK: Objection to the extent it calls for a legal conclusion.
A. Again, I am not an attorney, but no.
Q. Ms. Mikkelsen, can the companies by agreeing to this provision bind FirstEnergy Solutions to this full information sharing?
A. The companies are making this commitment on behalf of FirstEnergy Solutions, yes.
Q. And FirstEnergy Solutions has agreed to this commitment; is that correct?
A. FirstEnergy Solutions would be bound by the commitment the company is making here.
Q. And how is it that they would be bound, if you know?
A. I am not sure I understand the question.
Q. Well, you indicated that FirstEnergy Solutions would be bound by the companies agreeing to this provision. And I am just trying to understand how that is. Can you explain to me how you believe

FirstEnergy Solutions is bound to this provision in this document when they have not signed on to this document as a signatory party?

MR. KUTIK: Objection.

A. I think the companies are making this commitment on behalf of FirstEnergy Solutions.

Q. Let's assume, Ms. Mikkelsen, as part of the Staff or Commission review under Section 3a, page 8, of rider RRS, the Commission determines that FES has passed on to the utilities under the PPA costs that the PUCO finds to be unreasonable, imprudent, or improper. Can you assume that for a moment?

MR. KUTIK: May I have that repeated?

MS. WILLIS: That's all right.

(Record read.)

A. No.

Q. And why can't you assume that?

A. The review process laid out in my testimony and then additionally modified in this third supplemental stipulation relates to the Commission's review of the reasonableness of the costs for inclusion in rider RRS.

Q. I am not sure I am following what distinction you are making, Ms. Mikkelsen. My assumption -- what I am asking you to assume is as part of the Commission review that the Commission determines that FES has passed on to -- or that the costs under the PPA rider are not reasonable, prudent, or proper. Can you assume that?

A. No.

Q. And why can't you assume that?

A. For starters the companies don't have and aren't proposing a PPA rider.

Q. PPA costs, are they proposing PPA costs to be passed through the rider RRS?

A. Rider RRS is designed to include the difference between the costs that the companies pay for the output from the utilities included in the proposed transaction and the sale of the output of those units into the PJM market. The difference between those two is what is included in rider RRS, whether it be a credit or a charge.

Q. Can we assume that as part of the Commission review it determines that there are costs in rider RRS that are not reasonable, prudent, or improper -- or proper? Can you assume that?

A. Yes.

Q. Is it your understanding that under the latest filed stipulation that the PUCO has a right to exclude such costs from rider RRS?

A. The opportunity to review -- to audit for the reasonableness of the costs excluding legacy cost components contained in rider RRS was spelled out in my direct testimony filed on August 4 of 2014.

Q. I understand that but I am asking you as we sit here today, is it your understanding that the PUCO has a right to exclude costs that it -- costs in rider RRS that it finds to be unreasonable, imprudent, or improper?

A. With the exception of legacy cost components, yes.

Q. Now, in the event that costs are excluded by the Commission from being part of rider RRS on the basis that they are unreasonable, imprudent, or improper, where would the disallowance be reflected?

MR. KUTIK: Objection.

A. May I ask you to rephrase the question, please?

Q. Sure. In the case that costs under rider RRS are disallowed, would the disallowance be reflected on the companies' books or on FirstEnergy Solutions' books --

MR. KUTIK: Objection.

Q. -- or neither of the two?

THE WITNESS: May I ask you to reread the question for me, please, ma'am.

(Record read.)

A. The companies would bear the financial risk.

Q. Thank you.

MS. WILLIS: I would like marked as Deposition Exhibit 9 a multi-page document which is the revised response to an IEU Set 1 Interrogatory 25.

(EXHIBIT MARKED FOR IDENTIFICATION.)

Q. Do you have that document in front of you?

A. Yes.

Q. And can you describe what this document is?

A. It is a revised response dated December 1, 2015, to IEU Set 1 Interrogatory 25.

Q. And would you consider this to be an agreement in principle between FirstEnergy Solutions and the utilities?

A. Are you referring to the attachment, ma'am?

Q. Yes.

A. I'm sorry. May I ask you to rephrase your question?

Q. Yes.

A. Restate your question?

Q. Would you agree with me that the document attached and labeled IEU Set 1 Interrogatory 25 Attachment 1 Revised is -- is the agreement that exists between FirstEnergy Solutions and the utilities with respect to the -- with respect to a purchase power agreement for the units that have been included in rider RRS?

A. IEU Set 1 Interrogatory 25 Attachment 1 Revised is a term sheet between the companies and FirstEnergy Solutions dictating the terms of the purchase of the output of certain generating units by the companies from FirstEnergy Solutions.

Q. So there is no purchase power agreement as we sit here today between FirstEnergy Solutions and the utilities that has been -- let me strike that.

There is no purchase power agreement between FES and the utilities; is that correct at this time?

A. Yes.

Q. If rider RRS is approved, will the utilities file the purchase power agreement with the PUCO?

A. No.

Q. So is it your understanding that the FirstEnergy -- that the companies are not seeking PUCO approval of the actual purchase power arrangement?

MR. KUTIK: Well, I'll object. This is beyond the scope of the information that's added as far as the third supplemental stipulation so it's beyond the scope of proper discovery for this upcoming hearing. But the witness can answer the question if she can.

A. The companies are not seeking approval of the purchase power agreement in this proceeding.

Q. With respect to the term sheet, are you familiar with this term sheet, the revised term sheet?

A. Yes.

Q. Did you help draft the revised term sheet?

MR. KUTIK: Well, again, these are questions that were asked of her in prior depositions. If your question is did she draft the revisions to the term sheet, that's a better question.

MS. WILLIS: Appreciate it. I appreciate

that question.

Q. There have been revisions made to the term sheet; is that correct?

A. Yes.

Q. And would you characterize those as two revisions that you know of?

A. Yes.

Q. One is the term of -- was instead of being 15 years has been reduced to 8?

A. Page 3 of 15, Item 10, delivery period was modified so that it is now June 1, 2016, to May 31, 2024.

Q. Okay. And was there a second revision to the PPA term sheet which lowers return on equity?

A. Yes.

Q. And where would that be contained?

A. Page 3 of 15 under the section entitled "Capacity Payments," more specifically the subsection entitled "Weighted Average Cost of Capital."

MR. KUTIK: May I have the answer read, please? I think you misspoke. In fact, I know you misspoke. You said 3 of 15.

A. 13 of 15, I apologize.

Q. Thank you. I'm sorry. Could you -- could you state that again?

MR. KUTIK: Why don't we just have the answer reread.

MS. WILLIS: That would be fine.

(Record read.)

Q. Did you help draft any of these revisions to the purchase -- I'm sorry, to the term sheet that is shown in IEU Interrogatory 25 Attachment 1 Revised?

A. No.

Q. Do you know who would have authorized the revised -- the revisions to the term sheet?

MR. KUTIK: Objection.

A. If I look at the last page of the attachment, I see a signature of Jay Ruberto on behalf of the companies and a signature of Kevin Warvell on behalf of FirstEnergy Solutions Corp.

Q. Thank you. Now, let's go to Section VC of the latest filed stipulation and recommendation. Do you have that page?

A. Yes.

Q. Under Subsection 1 the company advocates to market enhancements and any other market improvements. Do you see that reference?

A. The sentence actually reads "The Companies shall, in good faith advocate for market enhancements such as a longer-term capacity product, and any other market improvements."

Q. Can you tell me what market enhancements are or market improvements are from the companies' perspective and it is agreeing to in good faith advocate for?

A. The example identified here is a longer-term capacity product.

Q. Are there other examples of the kinds of things that would enhance or improve the market from the companies' perspective?

A. I'm not aware of any others at this time. However, as the company identifies other market improvements or enhancements, they will inform the staff of their position and the rationale behind it before they make that filing.

Q. Okay. Let's discuss for a moment the grid modernization provisions under the stipulation Section VD1 through 5 starting on page 9. Can you tell me whether or not the company has surveyed customers to gauge the customers' opinion on whether grid modernization is something they want?

A. May I ask you to rephrase your question? Be more specific, please.

Q. Sure. Is it your understanding that

FirstEnergy customers have expressed an opinion that they are interested in grid modernization equipment such as smart metering?

MR. KUTIK: When you say FirstEnergy, you mean the companies?

Q. The companies.

A. The companies have conducted a pilot program where pilot participates had the opportunity to have advanced metering installed on their home or decline the opportunity. So in that respect we have some pilot experience with respect to customers' willingness and interest in having the advanced metering installed.

Q. And can you tell me how many customers were in the pilot program that you've identified?

A. Approximately 35,000.

Q. Now, in the grid modernization section, 2d, you refer to "opportunities to leverage smart meter related investments being made in Pennsylvania that could benefit smart meter implementation in Ohio." Are you referring there to efforts by FirstEnergy affiliates with respect to smart meter investments?

A. Yes.

Q. And can you tell me what stage the smart meter implementation or smart meter related investments are at with respect to Pennsylvania?

MR. KUTIK: Objection.

A. Not with any specificity, no.

Q. With generality can you tell me at what stage the smart meter-related investments being made in Pennsylvania by your affiliates are at?

MR. KUTIK: Objection.

A. I believe we have begun deployment of smart meters in Pennsylvania. We are not at or near full deployment.

Q. And when was deployment begun, if you know, in Pennsylvania of smart meters?

A. I don't remember.

Q. Do you know what the docket number that the smart meter -- let me strike that.

Is it safe to assume that in Pennsylvania that the smart meter implementation had to have been approved by the Public Utilities Commission of Pennsylvania?

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

(Record read.)

A. Pennsylvania Act 129 created a statutory requirement to deploy smart meters across the

Commonwealth of Pennsylvania.

Q. But did the companies have to submit a plan to the regulatory Commission to implement the full smart meter -- full smart meter deployment?

A. Yes.

Q. And do you know what docket that would have been in?

A. No.

Q. Okay. Do you know when the filing for the smart meter plan would have been made?

A. I don't remember.

Q. Do you know what type of rate design was associated with the smart meter plan applied for in Pennsylvania?

MR. KUTIK: Objection.

A. No.

Q. And do you know what the impact on customers in terms of bill, how much -- let me strike that.

And do you know how much the smart meter implementation plan filed by your affiliates in Pennsylvania would cost customers?

A. No.

Q. Now, the rate treatment that you are recommending under Section VD3 comes with a recommended rate design; is that correct?

A. Paragraph D3 lays out the proposed rate treatment.

Q. And if the Commission approves the proposed rate treatment laid out in -- in paragraph 3 on page 10 of the latest filed stipulation, is it your understanding that the Commission is approving the rate design of rate -- rider AMI?

A. Yes.

Q. And what is the rate design of rider AMI that the Commission would be approving if it approved this provision in your stipulation?

A. The rate design as it says here would be a forward-looking formula rate reconciled for actual costs compared to forecasted costs and for actual revenue received compared to forecasted revenue recovered. The rider rate design specifically is on a customer charge basis.

Q. So the grid modernization -- let me strike that.

Can you explain what you mean by the rate design specifically is on a customer charge basis?

A. Rider AMI creates a customer charge for each customer by month.

Q. Is that customer charge a flat rate

charge?

A. It is a monthly customer charge that is reset each time the rider is reset, but it is constant through the quarterly period until the rider is reset.

Q. Is the customer charge based on usage?

A. No. It is a customer charge, not an energy or demand based charge.

Q. Now, currently the company has a rider AMI; is that correct?

A. Yes.

Q. And in the current rider AMI, are charges for DACR and Volt/VAR included in that? And I am referring back to the stipulation D, "Grid Modernization," 1 where you provide examples of initiatives.

A. Costs currently included in rider AMI are costs being recovered that were incurred associated with the Commission-approved pilot program.

Q. And the Commission-approved pilot program would not have included costs for distribution, automation, circuit reconfiguration, or Volt/VAR; is that correct?

A. No.

Q. Can you tell me what costs to customers were included in the pilot program and charged through rider AMI?

A. It would have been costs associated with the implementation of the Commission-approved pilot program.

Q. So did the -- did the Commission-approved pilot program include costs for DACR and Volt/VAR?

A. Yes.

Q. Now, in Section D1 of the latest filed stipulation, page 9, you indicate that the companies agree to work with the staff to attempt to remove any barriers for distributed generation, and so my question is what are the barriers that you understand exist for distributed generation?

A. Part of working with the staff is to identify barriers, if any, for distributed generation.

Q. As we sit here today, can you identify any barriers for distributed generation?

A. No.

Q. Now, you currently have net metering tariffs; is that correct?

A. Yes.

Q. When you indicate that you will be consulting with the staff on net metering tariffs, are you talking about adjusting your net metering tariffs or -- let me strike that.

When you say you will be agreeing to consult with the staff on net metering tariffs, are you indicating there that you will consult for purposes of changes to your existing net metering tariffs?

A. What we are indicating here is that we will consult with staff on our existing net metering tariffs.

Q. I understood that's what the words say, but I am asking you what's the consulting about if you currently have net metering tariffs?

MR. KUTIK: Objection. Asked and answered.

A. Consulting to review with the staff our current net metering tariffs.

Q. So are you agreeing to adjust or change your current net metering tariffs in consultation with the staff's review of them?

A. That is a potential outcome from the consultation.

Q. Now, at the latest filed stipulation VD3 section on page 10, you discuss the review process for rider AMI. You indicate there that the costs will be updated and reconciled on a quarterly basis. Do you see that reference?

A. Yes.

Q. Is there an opportunity for parties to review and challenge the grid modernization costs?

A. May I ask you to rephrase the question, please?

Q. Under the review process that you propose will parties be able to review or challenge the rate treatment that you've agreed to under this provision of the stipulation? I'm speaking of 3 -- Section D3, page 10.

A. The rate treatment is laid out in paragraph VD3.

Q. And does the rate treatment permit parties to review and challenge the rates that will be implemented associated with the grid modernization costs?

A. There is nothing in this paragraph that prevents that from occurring.

Q. Would the -- does the company agree that parties should have the opportunity to review and challenge the grid modernization costs?

A. The companies' agreement with respect to the rate treatment associated with grid modernization is spelled out in paragraph 3 on page 10.

Q. Now, with respect to part of the rate treatment, you indicate that -- or it is indicated in the stipulation that the return on equity shall initially be set at 10.38 with an additional 50 basis point adder. Do you see that reference?

A. Yes.

Q. Can you tell me why a 50 basis point adder is needed for this particular rider?

A. The rate treatment including the return on equity was agreed to as part of the negotiated settlement.

Q. What is the basis for the additional 50 basis point adder onto the rider?

MR. KUTIK: I will note again my instruction not to reveal contents of specific conversations you had with or were present for as part of the settlement process. But if you can respond to this question otherwise, please go ahead.

A. The ROE was agreed to as part of a negotiated settlement process. The level of the ROE may have been set in order to compensate the companies for making investments in grid modernization in Ohio vis-a-vis other opportunities for investment.

Q. Are you aware of any PUCO precedent for a provision that allows a 50 basis point adder onto an investment rider, a rider that recovers investment?

MR. KUTIK: Objection.

A. I'm not sure I see that the same way. The basis point adder is used to determine the overall ROE that would be used in the rate.

Q. But I want to segregate out the 50 basis point adder. I am saying do you -- are you aware of any other PUCO -- any PUCO precedent that would allow a 50 basis point adder to be added onto the return on equity associated with a rider to compensate for a utility making an investment?

MR. KUTIK: Objection. Mischaracterizes the stipulation.

A. I'm saying that the authorized return on equity is the total of these two components.

Q. Are you aware of any precedent in Ohio that allows a 10.88 percent return on equity associated with an investment collected through the rider?

A. May I ask you to rephrase the question, please?

Q. Sure. Are you aware of any PUCO precedent which establishes as a reasonable return on equity a 10.88 percent applied to a rider to compensate a utility for investment?

MR. KUTIK: Objection.

A. I don't know.

Q. Let's go to Section E of the stipulation, "Resource Diversification." As part of the E1 --

MR. KUTIK: Before we do that why don't we take a quick break.

MS. WILLIS: That's great. Thank you.

MR. KUTIK: It's 20 after. Why don't we come back at 2:30.

MS. WILLIS: Thank you.

(Recess taken.)

Q. Back on the record. We are now going to shift our discussion to the resource diversification commitments made on -- in Section E of the latest filed stipulation beginning on page 11 and carrying over to page 12. Now, in that Section E the statement is made that "FirstEnergy Corp. will establish a goal to reduce CO-2 emissions by at least 90 percent below 2005 levels by 2045." Do you see that reference?

A. Yes.

Q. How does FirstEnergy Corp. plan to reduce its emissions by at least 90 percent below the 2005 levels by 2045?

A. I am not aware of the plan to achieve that goal.

Q. Are you aware that there is a plan in existence to achieve that goal?

A. No, I am not aware there is a plan today to achieve that goal.

Q. And who would know whether such a plan exists?

MR. KUTIK: Objection to the extent it calls for speculation.

Q. If you know.

A. I think that on page 12 of the stipulations the companies make a commitment that by November 1 of 2016, they'll file a report with the Commission highlighting the then current strategy for among other things carbon reduction.

Q. Do you know what FirstEnergy Corporation's carbon emission levels were in 2005?

A. We provided that information in discovery. I don't have that number committed to memory.

Q. Do you know whose discovery that would have been?

MR. KUTIK: Who asked it you mean?

Q. Yes. Who asked that in discovery?
A. OCC or ELPC.
MR. KUTIK: That narrows it down.
MS. WILLIS: Yeah. I think that is the only two parties that have provided discovery so.
A. That's not true but.
Q. There are other parties that have served discovery? Who would that include?
A. Sierra Club.
Q. Oh, sorry about that.
A. Exelon.
MS. WILLIS: Sorry about that, guys.
Q. Do you know what FirstEnergy Corp.'s carbon emission levels were in 2014?
A. No.
Q. Would you agree with me there will not be a penalty for FirstEnergy Corp. if FirstEnergy fails to reduce their emission levels by at least 90 percent below 2005 levels by 2045?
MR. KUTIK: Objection.
A. The stipulation does not include a penalty provision relative to this CO-2 reduction rule.
Q. Will the companies be providing yearly reports to detail their progress with meeting the

commitments to reduce carbon levels by at least 90 percent below 2005 levels by 2045?

A. No.

Q. Is there a way to check FirstEnergy corporate progress on this commitment if there are no filings of reports?

MR. KUTIK: Objection. Go ahead.

A. The companies do agree to file as to the then status of carbon reductions every five years until 2045.

Q. So parties will get the information every five years; is that your understanding?

A. My understanding is the companies will file with the Commission a report every five years as to the then current status of the carbon reductions.

Q. And the companies will not be filing yearly reports then, correct?

MR. KUTIK: Objection. Asked and answered.

A. Correct.

Q. Do you agree there will be costs to customers associated with FirstEnergy's commitment to reduce its carbon emission levels by at least 90 percent below 2005 levels by 2045?

MR. KUTIK: Objection. May I have the

question read.

(Record read.)

A. No.

Q. And that's based upon the fact that you are not aware of how FirstEnergy plans to reduce its emissions --

MR. KUTIK: Objection.

Q. -- correct?

MR. KUTIK: Objection.

A. No.

Q. Can you explain to me then why you will not agree that there will be costs associated with FirstEnergy's commitment?

MR. KUTIK: Objection. Mischaracterizes her testimony.

A. May I ask you to restate the question?

Q. Sure. Ms. Mikkelsen, do you agree there will be costs charged to customers -- let me strike that, that there will be costs to customers associated with FirstEnergy fulfilling its commitment to reduce its carbon emission levels?

A. I think I already answered that question no.

Q. And why is that?

A. Because I don't know that there will be costs charged to the companies' customers as a result of FirstEnergy Corp. obtaining its goal to reduce CO-2 emissions.

Q. I'm sorry. I didn't mean to interrupt. If there are costs associated with FirstEnergy's commitment to reduce its carbon emission levels, it's the companies' intention to collect those costs from customers; is that correct?

MR. KUTIK: Objection.

A. No, not necessarily.

Q. And can you explain then -- let me try it this way. If there are costs associated with FirstEnergy's commitment to reduce its carbon emission levels, is there a cost mechanism -- a cost recovery mechanism built into the stipulation that would allow FirstEnergy to recover those costs?

MR. KUTIK: Objection.

A. The stipulation does not include a specific cost recovery mechanism associated with the CO-2 reduction goal.

Q. So if FirstEnergy incurs costs to reduce its carbon emission levels associated with the commitment made in this stipulation, is FirstEnergy committing to not collect those costs from customers over the term of the eight-year ESP?

MR. KUTIK: I'll object this time because I let you go on and talk about FirstEnergy because usually it's clear from the question whether you are talking about the companies or the corporation, but on this instance it's not clear which FirstEnergy you are talking about.

MS. WILLIS: Okay. I'm sorry. I meant FirstEnergy utilities.

A. Oh, I'm sorry.

MR. KUTIK: I think she has been kind of moving the FirstEnergy reference but.

Q. Perhaps we should go into this again. I'm sorry. I apologize. The -- the carbon reduction is a FirstEnergy Corporation goal; is that correct?

A. Yes.

Q. And would you agree that if there are costs associated with meeting that goal, there is no recovery mechanism built into the PPA rider for those costs?

MR. KUTIK: Objection.

Q. Built -- let me strike that.

Would you agree with me there is no cost recovery mechanism for FirstEnergy Corporation to collect costs associated with fulfilling its commitment to reduce carbon emission levels in the stipulation recently filed at the Commission?

MR. KUTIK: Objection. Asked and answered.

THE WITNESS: May I ask you to read the question back to me, please, ma'am.

(Record read.)

A. Yes.

Q. Would you agree with me that there is no cost recovery mechanism associated with -- let me strike that.

Would you agree with me there is no cost recovery mechanism that would compensate the FirstEnergy utilities for costs incurred to fulfill FirstEnergy Corporation's commitment to reduce carbon levels -- carbon emission levels?

MR. KUTIK: Objection. I am not sure whether the question assumes that FirstEnergy's Ohio utilities are having the costs or whether these are costs of FirstEnergy Corp. So I can't tell from your question.

A. May I ask you to rephrase the question, please?

Q. Assume for me, if you will, that there are costs incurred by FirstEnergy Corporation to meet its carbon emission reduction goal that's stated in the stipulation. Are you following me?

A. Yes.

Q. Is there anything in the stipulation which would allow the FirstEnergy Corporation or FirstEnergy utilities to collect those costs from Ohio customers?

MR. KUTIK: Objection. Asked and answered. Tell her again.

A. No.

Q. Does the corporate commitment to reduce carbon emissions apply to all plants owned by FirstEnergy Solutions?

MR. KUTIK: Objection.

A. It is a goal to reduce CO-2 emissions for plants that are owned and operated by FirstEnergy Corporation.

Q. And did the plants that are owned and operated by FirstEnergy Corporation include plants outside the state of Ohio?

A. Yes.

Q. Is it your understanding, Ms. Mikkelsen, and if you don't know, you can certainly so state, that reductions in the CO-2 emissions can be obtained for the FirstEnergy Corporation fleet without expenditures?

MR. KUTIK: Objection.

A. I don't know.

Q. Do you know if there are other actions besides expenditures that can be taken by FirstEnergy Corporation to reduce its carbon emission levels?

A. May I ask you to rephrase the question? I am not sure I understand the question.

Q. Sure. Do you know if there are any actions that can be taken by FirstEnergy Corporation besides expenditures that would permit it to obtain a goal of reducing its carbon emissions by at least 90 percent below 2005 levels by 2045?

MR. KUTIK: Objection.

A. I don't know.

Q. Ms. Mikkelsen, are you aware of any actions that the FirstEnergy utilities will need to take to help implement the carbon emission reduction goal committed to by FirstEnergy Corporation?

A. I am not aware of any actions that the companies would need to take to assist in attainment of this goal.

Q. Can you tell me who within the FirstEnergy -- let me strike that.

Was there an officer or an executive within the FirstEnergy Corporation that had to approve this provision in the stipulation which -- this provision in the stipulation? If you know.

A. I don't know who specifically approved the inclusion of this provision in the stipulation.

Q. Would it be your understanding that someone from FirstEnergy Corporation would have to approve this provision before it was put into the stipulation?

MR. KUTIK: Objection.

A. I don't know that FirstEnergy Corporation has any employees, so I am not sure I understand your question.

Q. Who would make a commitment on behalf of FirstEnergy Corporation, if you know, within the FirstEnergy structure, corporate structure?

A. As I said earlier, I don't know who approved the inclusion of this provision in the stipulation.

Q. Now, let's go on to the battery resources commitment and that's under Section VE2. Do you have that section?

A. Yes.

Q. What is FirstEnergy planning to do to evaluate investing in battery resources?

MR. KUTIK: And in this case the

FirstEnergy is the companies?
MS. WILLIS: Yes, the companies. Let me strike that and start over.
Q. On page 11 under E2, specifically "Battery Technology," the statement is made that "The Companies will evaluate investing in battery resources." Do you see that reference?
A. Yes.
Q. Can you tell me what the companies are planning to do to evaluate investing in battery resources?
A. I think the specifics of that evaluation have yet to be determined.
Q. Will there be costs associated with the companies' evaluation of investing in battery resources?
A. Maybe.
Q. And have the companies completed any analysis to determine how much the evaluation of investing in battery resources will cost?
A. May I ask you to rephrase the question? I am getting turned around between the evaluation and the investment in your question. It's not entirely clear to me where you are going.
Q. Thank you. My questions really go to the

evaluation. Are there costs to evaluate investing in battery resources? And if there are costs, has the company determined how much those costs would be in invest -- or in evaluating?

A. The companies have not identified what the cost would be associated with this evaluation.

Q. And if there are costs associated with evaluating whether to invest in battery resources, who will be responsible for paying those costs under the stipulation?

A. The stipulation provides for -- I think as the provision says here, the companies will evaluate investing in battery resources. But the investment in the battery resources would be contingent upon Commission approval that all investments would be rate based and included for recovery in rider AMI.

Q. Understood that the investment would be recovered through rider AMI. My question is focusing on whether the evaluation costs would be recovered through some mechanism in this stipulation.

A. The stipulation does not address cost recovery associated with the evaluation.

Q. Now, rider AMI that the costs of the battery investment would flow to are -- is a nonbypassable charge; is that correct?

A. Yes.

Q. Is it bypassable by any customers, if you know?

MR. KUTIK: Again, I'll object to the extent this is beyond the scope of proper discovery. It is not a new feature of the third supplemental stipulation.

A. May I ask you to rephrase as it relates to bypassable and nonbypassable?

Q. Is rider AMI bypassable subject to 310 opt out?

A. No.

Q. Is it bypassable for any other reason?

A. Why I was asking you to be more clear with respect to bypassable is GT customers do not pay rider AMI so I was trying to get better clarity from you what you meant by bypassability. In the absence of that I will say it is not a bypassable rider, but customers taking service at the transmission level do not pay that rider.

Q. Thank you for that clarification. Now, like the grid modernization investment, would the battery technology investment be used -- be using forward-looking rate concepts?

A. Yes. It would be afforded the same rate treatment as is spelled out in -- on page 10 in paragraph 3.

Q. And it would be also subject to the 10.38 return on equity plus the 50 basis points adder?

A. Yes, recognizing that the 10.38 is a starting point and it would follow as the stipulation says the ATSI ROE as it is adjusted in the future.

Q. Does the stipulation contemplate that the Commission under -- the Commission would be required to approve any and all investment with respect to the battery investment?

MR. KUTIK: Objection.

A. May I ask you to rephrase that question, please?

Q. Sure. Would the Commission be required to -- to approve any battery investment that -- let me strike that.

Do the companies already have battery resources that they've invested in? Let me strike that.

Do any of the entities within the FirstEnergy corporate structure have battery resources that they've invested in as we sit here today?

MR. KUTIK: I don't know if that's competitively sensitive, so you'll have to tell me if you know that information whether it is competitively sensitive.

A. I don't know.

Q. Okay. Now, in your testimony on page 4, lines 19 through 22 -- let me strike that. Let me go at it a different way.

In regard to Section E which we have been discussing in different subsections, in paragraph 3a the companies commit to reactivate in 2017 all programs suspended in their energy efficiency-PDR portfolio plan in Case No. 12-2190-EL-POL, correct?

A. Yes.

Q. Have the companies conducted any analysis to determine the costs associated with reactivating the suspended energy efficiency programs in 2017?

A. No.

Q. Would you agree that there will be costs associated with reactivating the suspended programs?

A. I would expect there would be costs associated with reactivating programs that had been suspended.

Q. And what do -- do you know what the companies estimate those costs to reactivate the program will be?

A. The companies don't have an estimate at this time.

Q. And under the stipulation the companies would charge customers for those costs associated with reactivating its energy efficiency program, correct?

A. I think the companies will include the programs in their next EE-PDR portfolio plan filed before the Commission along with the associated budget, and to the extent that the programs are -- are approved by the Commission, then the costs associated with offering those programs would be recovered from the customers.

Q. And the energy efficiency programs that were suspended, as you refer to in the stipulation, were suspended because FirstEnergy chose under Senate Bill 310 to suspend them, correct?

MR. KUTIK: Objection.

A. The companies filed an amended EE-PDR portfolio plan as was allowed under Senate Bill 310.

Q. And under that amended plan, they proposed to suspend the programs, correct?

A. Yes.

Q. And would you agree that under Senate

Bill 310 a utility could choose either to continue its existing portfolio plan through 2016, or it could amend it under a 60-day PUCO approval process?

MR. KUTIK: Objection.

A. Yes.

Q. And with regard to the resource diversification in paragraph 3a, are the companies committing to reactivate in 2017 all the programs currently suspended in their energy efficiency-PDR portfolio plan in Case 12-2109 regardless of any changes to the state of Ohio's laws governing energy efficiency benchmarks?

A. Yes.

Q. Would you agree that reactivating the suspended energy efficiency programs requires PUCO approval?

A. As I said, the companies plan to file an EE-PDR portfolio plan in April of 2016 that would govern the provision of energy efficiency programs for the period of 2017 through 2019.

Q. Now, Section 3a of the stipulation, there's a mention of the companies expanding offerings through May 31, 2024, or it says will expand offerings. Do you see that?

A. Yes.

Q. Can you identify the expanded program offerings that you are referring to there?
A. No.
Q. The expanded offerings have not been identified?
A. Correct.
Q. Would you agree that in order to expand the energy efficiency programs' offerings that the companies would need PUCO approval?
MR. KUTIK: Objection to the extent it calls for a legal conclusion.
A. I think the companies plan to include the expanded offerings in the EE-PDR portfolio plan that they file in April of 2016.
Q. Are you -- Ms. Mikkelsen, you are familiar with Senate Bill 310, correct?
A. I'm not sure what you mean by "familiar." I have some familiarity.
Q. You have some awareness of it, correct?
A. Correct.
Q. Would you agree with me that the PUCO cannot take any action with regard to reviewing or approving applications for portfolio plans until January 1, 2017?
MR. KUTIK: Objection to the extent it

calls for a legal conclusion.

A. I don't know.

Q. To your knowledge there has been no new state of Ohio law that supercedes Senate Bill 310; is that correct?

A. Yes.

Q. Can you identify the authority under which the Commission can review and approve the companies' energy efficiency-PDR portfolio plan as provided under Section 3b?

MR. KUTIK: Objection to the extent it calls for a legal conclusion.

A. The EE-PDR portfolio plan referenced here would be the plan that would be in effect from 2017 to 2019.

Q. And it's your understanding the Commission has the ability to review and approve that plan.

MR. KUTIK: Objection to the extent it calls for a legal conclusion.

A. I am not an attorney, but yes.

Q. Now, with respect to Section VE3b where it talks about the PUCO review and approval, do you understand that process that you are outlining in that provision to be any different than what currently occurs?

MR. KUTIK: Objection.

A. I think the Commission will determine what -- what it deems necessary for its review in order to give its approval. This provision does contemplate a different review other than as it says, which I believe the Commission does anyway, that the shall examine the aggregate of energy cost efficiency and its impact on customers.

Q. Can you tell me what you mean by the aggregate cost of energy efficiency or what is meant there in the stipulation?

A. The total cost of implementing the programs.

Q. Now, with respect to Section VEC -- VE3c, you are talking about a white-labeled, customer engagement pilot program. Can you tell me under the stipulation who would pay for that pilot program?

A. The stipulation -- under the stipulations the companies agree to include in its next EE-PDR portfolio plan seeking Commission approval of the three-year, white-labeled, customer engagement pilot program. To the extent that the Commission approves that program for offering, then the costs associated with that program would be recovered pursuant to the existing rider DSE rate design.

Q. And is the rider DSE bypassable?

MR. KUTIK: I'll object. This has all been discussed earlier in the deposition so it has been asked and answered.

A. I am not sure what you mean by bypassable, but I will say that customers are able to opt out of the companies' energy efficiency programs and in turn opt out or avoid participation in rider DSE. Further, customers who implement mercantile self-directed programs are able to seek an exception from rider DSE too. I don't think of that in the traditional sense of bypassable or nonbypassable but hopefully that answers your question.

Q. Thank you. Can you tell me whether the cost associated with this pilot program -- can you tell me how much the companies' estimate will be -- how much the customer engagement pilot program will cost for the three-year period?

A. That would be included in the budget included in the next EE-PDR portfolio plan filing.

Q. And as we sit here today, you do not know how much that pilot program will cost?

A. Correct.

Q. Did the costs of the pilot program for the small/medium commercial and industrial customers stay within the commercial and industrial customer class?

A. Yes.

Q. And can you tell me why a three-year program was chosen?

MR. KUTIK: Note my earlier instruction with respect to specific conversations of settlement.

A. It was negotiated as part of the settlement process.

Q. Can you tell me whether EnerNOC has cost estimates of the program if you are aware?

MR. KUTIK: Same instruction.

A. I don't know.

Q. And do you know if there are similar programs elsewhere in the country which are similar to the three-year, white-labeled, customer engagement pilot program?

A. I believe EnerNOC offers a similar program in other jurisdictions.

Q. Now, as part of the stipulation, you have agreed -- and I am looking at Section 3d, the very last section, you have agreed that the after-tax annual shared savings cap shall be increased from 10 million to 25 million and shall continue to be

recovered in rider DSE. Do you see that?
A. Yes.
Q. Can you explain to me the justification for increasing the companies' annual shared savings cap?
MR. KUTIK: Note my earlier objection with respect to the content of the settlement discussions, but otherwise you can answer.
A. It was agreed to in a negotiated settlement.
Q. Do you know the basis for the increasing the annual shared savings cap --
MR. KUTIK: Same instruction.
Q. -- or rationale?
A. I expect it would be to incent the utilities to do more energy efficiency.
Q. Does the PUCO, if you know, have authority to approval the increase of FirstEnergy's shared savings cap from 10 million to 25 million?
MR. KUTIK: Objection to the extent it calls for a legal conclusion.
A. I am not an attorney, but I believe they do.
Q. And are you aware, Ms. Mikkelsen, whether or not if the $25 million shared savings cap would be

approved as part of the stipulation, that would provide the companies with the largest shared savings currently allowed in the state of Ohio?

MR. KUTIK: Objection.

THE WITNESS: May I have the question reread, please.

(Record read.)

A. I don't think approval of a cap in any way dictates the level of shared savings that will be collected.

Q. With that caveat, can you tell me whether or not you are aware of -- let me strike that.

Can you tell me whether you are aware of a higher shared savings cap than the $25 million you proposed in this stipulation --

MR. KUTIK: Objection.

Q. -- for Ohio?

MR. KUTIK: Objection.

A. May I ask you to restate the question as it relates to "you proposed"?

Q. Sure. Ms. Mikkelsen, are you aware -- let me strike that.

Ms. Mikkelsen, if the $25 million shared savings cap is approved, would you agree with me that it would provide the utilities with the largest shared savings cap currently allowed in the state of Ohio?

MR. KUTIK: Objection.

A. I'm not sure I can answer that question given that the cap is for three utilities. I am not aware of a cap elsewhere in the state that relates to three utilities, so I am not sure as I sit here I can answer your question as posed.

Q. Would you agree with me, Ms. Mikkelsen, under Senate Bill 310, if you know, the PUCO currently has no authority to approve provisions of the stipulation under Section E, "Resource Diversification," paragraphs 3a, b, c, and d?

MR. KUTIK: Objection to the extent it calls for a legal conclusion.

A. I don't agree with that characterization. I think that issue was addressed in the errata filed for the stipulation and recommendation that was filed on January 21 of 2015.

Q. And how was that -- how did that errata address that issue?

A. I think that as a first matter the company is seeking approval of these programs as part of the ESP and then -- got myself turned around here. I apologize.

Q. It's all right.

A. To the extent that these programs in the stipulation the company is seeking approval for would be for programs that are implemented in 2017, I am not aware of a provision in SB 310 that prevents the Commission -- prevents the Commission from approving portfolio plans for 2017 and beyond, so I guess I will rephrase my first part of that answer to the second part of the answer.

Q. So are you saying because the programs are approved as part of a stipulation in a filed ESP that you believe that the PUCO then has the authority to approve them as part of the ESP plan?

MR. KUTIK: Objection. Mischaracterizes her testimony.

A. I think what I am saying is if we are talking now specifically about the energy efficiency programs that the companies will include in their EE-PDR plan to begin in 2017, I don't think there is anything in SB 310 that prevents the Commission from approving EE-PDR portfolio plans for 2017 and beyond.

Q. Let's go on to the "Increase in Renewable Resources," Section E4, VE4, page 12 of the recently filed stipulation. You characterize this as a commitment or an opportunity for an increase.

MR. KUTIK: I'm sorry. Are you asking her?

Q. Yes. Do you characterize this as a commitment or an opportunity for an increase? And I am specifically looking at your testimony on page 4, line 21.

A. My testimony says at page 4, line 21, it's an opportunity for an increase.

Q. And not a commitment.

A. Well, certainly --

MR. KUTIK: Go ahead.

A. -- the companies commit to the extent staff deems it helpful to comply with a future federal or state law or rule, and to the extent that such federal or state law or rule has not fostered the development of new renewable energy resources, including wind and solar, then the companies shall make a filing at the Commission at the staff's request demonstrating the need to procure the new renewable energy resources.

Q. Can you state to me -- can you identify all the conditions that need to occur before the companies shall procure 100 megawatts of wind or solar resources?

A. The commitments relative to this

provision are enumerated here on item 4 on page 12.

Q. Could you identify those specifically for me? What conditions must be met before the companies shall procure 100 megawatts?

MR. KUTIK: Objection. Asked and answered.

A. As I said, to the extent that the staff deems it helpful to comply with the future federal or state law or rule, and to the extent such federal or state law or rule has not fostered the development of new renewable energy resources, then the companies at the staff's request shall make a filing at the Commission demonstrating the need to procure new renewable energy resources including wind and solar. Assuming the Commission approves that application, then the companies would move forward with the procurement of the wind and/or solar resources.

Q. Now, you -- the stipulation proposes that rider ORR would collect the costs associated with renewable resources; is that correct?

A. Yes.

Q. And that would function similar to rider RRS as a purchase power agreement; is that correct?

MR. KUTIK: Objection.

A. May I ask you to rephrase the question, please?

Q. Sure. Would the ORR function like rider RRS?

MR. KUTIK: Objection.

A. Rider ORR would include the net of the costs associated with procuring the wind or solar and the revenues generated from the sale of those attributes into the market.

Q. And is that any different from how the rider RRS functions?

MR. KUTIK: Objection.

A. Different plans, different terms.

Q. But the formula --

MR. KUTIK: Excuse me. Had you finished?

Q. I'm sorry. I don't mean to interrupt.

A. I am finished for now. There may be others but.

Q. I'm --

A. The interruption caused me to lose my thought.

Q. I'm sorry. I will really try to refrain.

MR. KUTIK: If you need to have the answer read so you can cap your thought, we can do that.

THE WITNESS: I think we have established in my mind there are differences between the two riders.

MR. KUTIK: Okay.

Q. And with respect to this provision that is the procurement of wind and solar resources, is there a commitment to a purchase or is this a commitment to investment?

MR. KUTIK: Objection.

A. The commitment is the companies will procure 100 megawatts of new Ohio wind or solar resources.

Q. So it could be a procurement, or it could be an actual investment in building of a wind or solar resource; is that right?

MR. KUTIK: Objection. Mischaracterizes her testimony.

A. The stipulation contemplates the procurement of the resources which will then be sold back into the market.

Q. So you are saying that it does not contemplate the building of a solar or wind resource.

MR. KUTIK: Objection. Asked and answered.

A. It does. The provision contemplates development of a new renewable energy resource. The companies would be buying the output from that resource.

Q. And the companies would not necessarily be building that --

MR. KUTIK: Objection.

Q. -- that plant whether it's wind or solar?

MR. KUTIK: Asked and answered.

Q. That's my question.

MR. KUTIK: Asked and answered.

MS. WILLIS: I am not sure she answered it.

MR. KUTIK: Yes, she did three times. This is the last time she is going to answer it. Go ahead.

A. The provision contemplates the company procuring the output and selling that into a market.

Q. How would the utilities demonstrate the need to procure new renewable energy resources under this provision?

A. I think that determination would need to be made based on the facts and circumstances available at that time.

Q. And what affects the need to procure a new energy -- new renewable energy resources including wind and solar?

A. I think that really deals with the staff's determination that it would be helpful to comply with the future federal or state law or rule to the extent that such federal or state law or rule hasn't fostered the development of new renewable energy resources including wind and solar.

Q. Let's talk about the carbon reduction emissions plan under Section VE5. The stipulation envisions the companies filing a report with the Commission, correct?

MR. KUTIK: Objection. Asked and answered.

A. Yes.

Q. And would they be seeking PUCO approval of the report?

A. No.

Q. Does the stipulation envision a process associated with the filing of the report which would be a review process?

MR. KUTIK: Objection.

A. The stipulation lays out a process where the companies will file a report with the Commission highlighting their then current strategy related to a number of items discussed in this section of the stipulation. And then the companies agree to file with the Commission a report regarding the progress of those initiatives every five years thereafter.

Q. So other than the filing of the report, would you agree with me there is no commitment to have a review of the filed report?

MR. KUTIK: Objection.

A. The companies' commitment is to file the report. I would expect the Commission would review the report once we file it but.

Q. Would you -- does the stipulation envision a -- a basis for the PUCO to alter the strategy contained in the report?

A. No.

Q. Let's go to your testimony on page 12 where you testified to the ESP versus the MRO analysis. And I want to focus on your chart on lines 12 and there you show a nominal customer benefit of $561 million for the retail rate stability rider. Do you see that?

A. Yes.

Q. Is that benefit a figure for eight years?

A. Yes.

Q. And is that benefit or figure based on Mr. Rose's ICF energy market price projections from your as filed case in August, 2014?

A. Among other elements, yes.

Q. So for your latest testimony there has been no update since the August, 2014, filing of the energy market price projections from the as filed case?

A. Correct.

Q. Do you know when those energy market price projections were made by Judah Rose?

MR. KUTIK: Objection.

A. They would have been made prior to the company filing its application in this proceeding.

Q. Ms. Mikkelsen, do you know who made the decision not to update the market energy prices?

MR. KUTIK: Objection.

A. I am not even sure such a decision was made.

Q. Do you know if there had been updates of market energy prices by the companies or on behalf of the companies?

MR. KUTIK: Objection.

THE WITNESS: Can I have that question reread, please.

(Record read.)

A. I am not aware of any updated market projections.

Q. And who would know that if you don't know?

MR. KUTIK: Well, objection. Assumes -- I think it mischaracterizes her testimony. She didn't say she didn't know. She said she is not aware of any.

A. Right. I am not aware of any.

Q. Would you agree with me that if an update of the energy market price projections were to be prepared today, that those projections would be lower than the price projections in your as filed case that support the $561 million benefit in your latest testimony?

A. I don't know.

Q. And what's the basis of your not knowing?

MR. KUTIK: I'll object. Argumentative.

A. I haven't conducted the study.

Q. Okay. Are you generally aware of the energy market prices, the energy market price projections? Is that something you are generally aware of?

MR. KUTIK: Now, we have asked two separate questions so I'll object to that.

Q. Let me strike that. I'm sorry. In your position as director of regulatory rates, are you generally aware of energy market price projections?

A. My responsibilities go to the distribution companies, and so I don't particularly focus on wholesale market prices in the day-to-day conduct of my responsibilities. I become aware of them during periods where we have an SSO auction, but we haven't had those as a result of this proceeding so perhaps less so.

Q. Now, on page 12 of your testimony you show new values as compared to the earlier supplemental testimony for economic development funding, low income funding, and Customer Advisory fund; is that correct?

A. Yes.

Q. And would you agree with me that these increases are entirely the result of the ESP going from three years to eight years?

MR. KUTIK: Objection.

A. No.

Q. Are there other changes in the stipulation other than the number of years that cause these benefits to go up?

A. Yes.

Q. And what would those changes have been?

A. The annual economic development funding level went from $1 million to $3 million per year.

Q. Is there anything else?

A. No.

Q. Okay. Now, in your testimony -- let me strike that.

You testified, Ms. Mikkelsen, that the third supplemental stipulation has the effect of extending certain rate design and rider provisions such as ELR and the economic development credits from three years to eight years. Do you see that?

A. May I ask you to provide me a reference?

Q. I am looking for that myself. I will try to find you a more specific reference. We can come back to that one.

Now, under the stipulation would you agree with me there will be costs passed on to customers?

MR. KUTIK: Objection.

A. May I ask you to be more specific with respect to your reference, ma'am?

Q. Well, we can go specifically. I am going to -- I am going to go through the provisions in the stipulation that will affect the rates that residential customers pay. So let's start with rider RRS. Would you agree with me rider RRS with an eight-year term will affect the rates that customers will pay?

A. Rider RRS will include either a credit or a charge over the eight-year period. The third supplemental stipulation and recommendation reduces the cost and increases the benefits over the first eight years associated with rider RRS for residential customers versus what was filed in the original application.

Q. And your estimate is that customers will receive $561 million of quantitative benefits from rider RRS during the first eight years -- or during the eight-year period?

A. Yes.

MS. WILLIS: At this time I would like to mark as Deposition Exhibit 10 your workpaper marked November 30, 2015.

MR. KUTIK: Let her mark it.

(EXHIBIT MARKED FOR IDENTIFICATION.)

Q. Do you have that document before you?

A. I do.

Q. This reflects the $561 million quantitative benefit from rider RRS?

A. Yes.

Q. And this is derived from JAR-1 Revised but adjusted for a modified return on equity?

A. As well as a modified term.

Q. Yes. Thank you. And in your workpaper you accepted the projected market revenues on JAR-1 Revised?

A. Yes.

Q. Now --

A. For a shortened term.

Q. Thank you. Thank you. Now, continuing on your theme of costs passed on to customers through the stipulation, I am going to go to --

MR. KUTIK: I'll object.

Q. -- grid modernization.

MR. KUTIK: It mischaracterizes her testimony already so go ahead.

Q. Under grid modernization are residential customers charged through rider AMI?

A. Residential customers currently are charged under rider AMI.

Q. And residential customers will be charged as well through the enhanced provisions of rider AMI under this stipulation; is that correct?

A. Only to the extent that the Commission approves moving forward with any or all of the grid modernization business plan.

Q. And part of that modernization business plan is for full deployment of smart meters; is that correct?

A. The plan is required to include a timeline for the company to achieve full smart meter implementation. However, I think the business plan when it's complete will include information that would inform the decision whether that's the right thing to do or not.

Q. And at this time there is no estimates available for what customers will -- residential customers will be charged through rider AMI under the grid modernization provision of the stipulation?

MR. KUTIK: Objection. Asked and answered.

A. There's no estimate because there's no approved cost to be recovered at this time through rider AMI associated with this provision.

Q. I'm sorry. Now, with respect to the battery technology under Section VE2, residential customers will be charged for that commitment through rider AMI; is that correct?

MR. KUTIK: Objection.

A. To the extent that the Commission approves investments in battery resources, then the costs associated with that Commission-approved investment would be recovered by residential customers under rider AMI.

Q. And with respect to the energy efficiency offerings under VE3, energy -- with respect to energy efficiency and shared savings, the residential customers will be charged through rider DSE2, correct?

A. To the extent that residential customers participate in Commission-approved programs as part of the companies' EE-PDR plan, then the costs associated with residential customers' participation would be recovered from residential customers in rider DSE2.

Q. And that rider DSE2 is bypassable subject to the Senate Bill 310 opt out, correct?

MR. KUTIK: Objection. Asked and answered.

A. Senate Bill 310 -- customers with the ability to opt out of the companies' programs pursuant to Senate Bill 310 don't involve the residential customers. The customers that can opt out have to be served above primary on the companies' distribution system, so the opt out doesn't affect the residential customers.

Q. Thank you. With respect to the 100 megawatts of wind or solar, residential customers could potentially be charged through rider ORR, correct?

A. Residential customers could receive a charge or a credit under rider ORR.

Q. And with respect to rider DCR, with the increased revenue caps residential customers could be charged through rider DCR for distribution investment, correct?

A. Residential customers are responsible in part for rider DCR.

Q. Under rider ELR, Section VG4ai of the stipulation, residential customers would be charged through rider DSE1, correct?

A. May I ask you for the reference again, please, ma'am?

Q. VG4ai1.

A. The rider ELR credit would be recovered through rider DSE1.

Q. And that's charged to residential customers, correct?

A. That is charged to among -- residential customers as well as all other customers with the exception of the customers who take interruptible service.

Q. Okay. And the automaker credit under Section VG4aii, residential customers will be charged for that through rider EDI, correct?

MR. KUTIK: Objection.

THE WITNESS: May I have that question reread, please.

(Record read.)

Q. EDR(i).

A. May I ask you to just restate the question, please, ma'am?

Q. Yes. With respect to the automaker credit which is a provision in the latest filed stipulation, residential customers will be charged for that under rider EDR(h) -- let me strike that.

Under the automaker credit, the credit will be continued but recovered under rider EDR(i) for the term of the ESP IV from customers including residential customers?

A. The automaker credit will continue, albeit at a lower rate, during the term of ESP IV that was agreed to in the companies' stipulation that was filed in December of 2014. This provision simply extends that from May 31 of 2019 to May 31 of 2024 for the revised term of the ESP. No other changes to the provision and the costs associated with that provision are recovered under rider EDR(i) from residential and other customers.

Q. Okay. And with respect to the commercial high load factor time-of-use rates provision under VG4aiv, residential customers will be charged through rider GCR, correct?

A. No. Only nonshopping residential customers are charged rider GCR and only to the extent that there are charges. There may be charges or credits to rider GCR rising from the high load factor time-of-use rate or there may be no impact to GCR.

Q. Under the Community Connections funding, Section VH5, residential customers will be charged through rider DSE2 in the amount of $48 million; is that correct?

A. Not necessarily.

Q. And the "not necessarily" because why?

A. The residential customers will only be charged for the dollars that are actually used by the Community Connections program so the provision here calls for that to be funded at $6 million per year, but to the extent that that funding isn't utilized, then the residential customers wouldn't be charged for it, so it's based on participation by residential customers in the program and at what level, and then those dollars are recovered.

Q. And what has been the experience of the company with respect to the Community Connections funding whether or not those funds have been utilized?

MR. KUTIK: Objection.

A. It has varied. I think in recent history very much the majority of the dollars have been spent originally at the beginning of the Community Connections program. Probably the annual allotment was not fully utilized.

Q. When you say "recent history," can you tell me what you mean by "recent history"?

A. Oh, I am thinking of the ESP III and ESP II period.

Q. Does the company have information on the amount that was unexpended with respect to the Community Connections program --

MR. KUTIK: Objection.

Q. -- over the last several years?

MR. KUTIK: Objection.

A. Yes. I don't have that information at my fingertips, but I expect that information resides somewhere in the company.

Q. Okay. With respect to --

MR. KUTIK: Before you go to your next question, let's take a 10-minute break.

MS. WILLIS: Okay. Thank you. I am coming to the end.

(Recess taken.)

Q. Back on the record. And I do appreciate your patience in putting you through all of this. It's been a long day so far, but we'll chug on.

MR. KUTIK: Let's not make it longer.

MS. WILLIS: I won't.

Q. Rider NMB pilot, VH6, turn to that provision under the stipulation, please. Under that provision residential customers will be charged through rider NMB, correct?

MR. KUTIK: Objection.

A. May I ask you to restate the question, rephrase the question, please?

Q. Sure. Under the rider NMB pilot the program will be expanded, correct?

A. It may be.

Q. Okay. And it may be it is potentially expanded for other customers to take part in it; is that correct?

A. Up to five additional rate GT customers who otherwise would not have been eligible to participate.

Q. And if the program is expanded up to the five GT customers who had -- is expanded to include the five GT customers, will that likely increase what the remaining customers pay through rider NMB?

A. I don't know what the impact will be of participation in rider NMB.

Q. But if more customers participate in rider NMB, will that likely increase the costs of the program to other customers who pay rider NMB?

A. Not necessarily.

Q. And why is that not necessarily true?

A. The rider NMB pilot the costs -- the rider NMB pilot allows for certain customers to procure their nonmarket-based services from a CRES supplier rather than taking those services from the companies, from the companies. Who participates and the manner in which they participate I don't know what that's going to be today so I don't know what, if any, impact there would be on customers remaining on NMB. It is potential that they could pay less with customers participating in this pilot.

Q. And there also is the potential they

could pay more?
A. Perhaps.
Q. And what conditions would have to be present if customers would pay more through rider NMB?
A. That would depend upon the load characteristics of the customers who elect to participate in the pilot.
Q. So if the load characteristics of the customers who participate in the pilot are higher than the remaining customers who are on rider NMB, would that be more likely to increase the costs of rider NMB to the customers remaining on that rider?
MR. KUTIK: Objection.
A. May I ask you to rephrase the question, please?
Q. You indicated that one of the conditions that would affect whether customers were charged more under rider NMB would be dependent on the load characteristics of the customers who elect to take part in the pilot, correct?
A. I guess to clarify the rider NMB revenue requirement will go down as customers elect to participate in the rider NMB pilot and source their nonmarket-based services from someone other than the

company.

Q. But with the revenue requirement going down does also the amount of customers under which the revenue requirement is spread then go up?

MR. KUTIK: Objection.

A. No.

Q. How would customers pay more under rider NMB? What are the conditions that would have to exist for customers to pay more through rider NMB if the pilot provision is utilized by the five additional customers?

A. May I ask you to rephrase the question? I wasn't focus on the five additional customers, so maybe I am not understanding your question. I apologize for that.

Q. Let me try to be a little more clear. The rider NMB pilot program has the potential to increase costs for the remaining customers on rider NMB; is that correct?

MR. KUTIK: I will object to this line of questioning at this time. Besides being confusing and mischaracterizing the rider in the program, it's beyond the scope of discovery appropriate for this part of the case. Rider NMB and the pilot program have been subject to extensive testimony and cross-examination, and this witness doesn't need to talk about that stuff. So unless you have a couple more questions I will instruct the witness not to answer, but I will let you ask another couple of questions. Do you want to tie it into the stip? That's fine.

Q. As part of the stipulation, you are proposing to expand rider NMB for five additional customers; isn't that correct?

A. It is up to five additional customers, yes.

Q. And with the addition of the five -- would the -- would the expansion up to five additional customers be likely to cause rates to customers paying rider NMB to increase?

A. I don't know. It would depend upon the facts and circumstances at the time of the participation.

Q. And what are the facts and circumstances at the time of the participation that would -- that it would -- that would be the factors that influence whether or not customers would pay more?

MR. KUTIK: Objection.

A. The NSPLs of the customers who participate.

Q. Can you tell me what NSPLs?

MR. KUTIK: Well, that's something that has been subject to discussion before so let's move on.

Q. Okay. With respect to the incremental tax provision, can you tell me is that a provision that customers -- residential customers are charged for along with other customers?

A. To the extent that there are taxes collected under the incremental tax provision, I would expect residential customers would be responsible for those in part.

Q. I am going to mark for identification purposes as OCC Exhibit No. 11 a multi-page document which is the companies' response to OCC 17 Interrogatory 12 and ask you, Ms. Mikkelsen, if you are familiar with that document.

(EXHIBIT MARKED FOR IDENTIFICATION.)

A. I am familiar with the response to OCC Set 17 Interrogatory 12. I would note that the packet of information you provided me also includes OCC Set 17 Interrogatory 13, at least -- yeah.

Q. The back page, the last page of the document inadvertently included -- you can disregard that. Disregarding that, can you tell me whether you are familiar with the attachment OCC interrogatory -- Set 17 Interrogatory 12 Attachment 1 entitled "Estimated Typical Bill Impacts of the Third Supplemental Stipulation, Assuming the Stipulation is Accepted as Filed"?

MR. KUTIK: Objection. Asked and answered.

A. Yes.

Q. Okay. And can you tell me what assumptions were made with respect to these typical bill impacts?

A. The starting point for these typical bill impacts were the typical bills that were submitted during the hearings in this case, and I believe those typical bills were originally included in a response to IEU Set 3 Interrogatory No. 3 and then they were subsequently introduced into the hearings. The changes made from those typical bills to the typical bills that you provided me here include the additional 61,250 kilowatts of additional ELR eligible load as well as the change in rider RRS associated with the reduction in the return on equity.

Q. Did the typical bills include -- let me strike that.

The typical bill comparison that's provided would not include the effects of any riders; is that correct?

MR. KUTIK: Objection. Mischaracterizes her testimony.

A. No, that's not correct.

Q. Can you tell me what riders the typical bill comparison includes in terms of the third supplemental stipulation?

MR. KUTIK: Objection.

A. May I ask you to rephrase the question, please?

Q. Does the typical bill analysis that's been provided include the effect of rider RRS?

MR. KUTIK: Objection. Asked and answered.

A. Yes, yes. As I said earlier, it includes the impact of the reduction in rider RRS pursuant to the third supplemental stipulation.

Q. Are there any other provisions contained within this -- the supplemental stipulation that are reflected in this bill impact analysis besides rider RRS and the ELR eligible load?

MR. KUTIK: Is your question are there any other changes reflected?

Q. Are there any other changes, thank you, reflected in this bill analysis associated with the third supplemental stipulation?

A. The two changes that I noted earlier are the two changes that are reflected in these typical bills versus the ones that were entered into the record in the case.

MS. WILLIS: That's all the questions I have. Thank you, Ms. Mikkelsen.

MR. KUTIK: Very good. Let's go off the record for a minute.

(Discussion off the record.)

MR. KUTIK: Let's go back on the record.

MR. SOULES: Okay. Great. Thank you.

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CROSS-EXAMINATION

By Mr. Soules:

Q. Good afternoon, Mrs. -- Ms. Mikkelsen. My name is Michael Soules. I represent the Sierra Club in this proceeding.

A. Good afternoon.

Q. Could you please turn to page 8 of the third supplemental stipulation and specifically to Section VB3a entitled "Rigorous Review of Rider RRS."

A. I'm there.

Q. Let me just ask are you able to hear me okay right now?

MR. KUTIK: Yes.

MR. SOULES: Great. Thank you.

Q. Ms. Mikkelsen, are there any additions between the review process described on pages 14 and 15 of your direct testimony and the review process that's referenced in this section of the third supplemental stipulation?

A. Yes.

Q. And what are those differences?

A. The third supplemental stipulation and recommendation makes clear that the companies and not their customers would be responsible for adjustments made to rider RRS based on actions deemed unreasonable by the Commission including any costs after proper consideration of such costs and netting of any bonus payments associated with the performance requirements in the PJM market.

Q. Are there any other differences between the two review processes?

A. No.

Q. Okay. And under the review process described in this section of the stipulation, if costs were disallowed by the Commission through the review process, would the expenses incurred by the companies associated with that review process be recoverable through rider RRS?

MR. KUTIK: Objection. Asked and answered.

THE WITNESS: May I ask you to reread the question, please, ma'am.

(Record read.)

A. Yes.

Q. Thank you. If you could please look at section -- same page, Section VB3b entitled "Full Information Sharing" and please let me know when you are there.

A. I'm there.

Q. Great. Now, under this third provision of the third supplemental stipulation the companies agree to provide FES information on any cost component in response to a reasonable staff request, correct?

A. Yes.

Q. FES is not directly bound by the terms of the third supplemental stipulation, correct?

MR. KUTIK: Objection.

A. FES is not a signatory party to the stipulation.

Q. So is FES bound by the terms of the third supplemental stipulation?

MR. KUTIK: Objection to the extent it calls for a legal conclusion.

A. I think, as we discussed earlier, the companies are making this commitment on behalf of FirstEnergy Solutions as part of this stipulation.

Q. Under this provision of the stipulation, if the staff requested information that is in FES's possession, FES would still have to agree to provide that information, correct?

MR. KUTIK: Objection.

A. I believe this provision represents the agreement that the companies and FES will provide this information.

MR. SOULES: I'm sorry. Could I have that last answer read back.

(Record read.)

Q. And FES's agreement to provide this information is based on the term sheet; is that correct?

A. May I ask you to point me specifically to what you are looking at in the term sheet?

Q. I was not referencing any specific provision of the term sheet. I'm just trying to understand how a nonsignatory to the third supplemental stipulation would be bound by the terms of that stipulation.

MR. KUTIK: So your question?

Q. I am asking -- so my question is is FES's obligation to provide the fleet information based upon the term sheet?

A. No, I don't believe it's based upon the term sheet.

Q. Okay. What is it based upon?

MR. KUTIK: Objection.

A. The commitment made by the companies in this stipulation on behalf of the companies and FirstEnergy Solutions.

Q. Under this provision of the stipulation, can the staff force FES to provide fleet information?

MR. KUTIK: Objection.

A. Yes, pursuant to a reasonable request as determined by the Commission.

Q. Is it your understanding that the Commission has jurisdiction over FES directly?

MR. KUTIK: Objection. Calls for a legal conclusion.

A. May I ask you to be -- to rephrase the question perhaps with more clarity with respect to jurisdiction?

Q. What don't you understand about the question?

A. Well, I think that the Commission has jurisdiction over -- in some fashion over CRES providers in the state of Ohio. And your question asked me if the Commission had jurisdiction over FES so I would --

Q. Okay.

MR. KUTIK: Have you -- excuse me. Have you finished your answer?

THE WITNESS: Yes.

MR. KUTIK: Okay.

Q. It's your understanding that the staff can issue document requests to FES, and FES would be required to respond to those requests?

A. I believe the process would be the staff would issue data requests to the companies, and the companies would get the information from FirstEnergy Solutions and provide it to the staff pursuant to their requests.

Q. Under this provision of the stipulation, that's your understanding of how the process would work?

A. Yes.

Q. Is that correct?
A. Yes.
Q. The Sammis plant is owned by FirstEnergy Generation, LLC, correct?
A. Yes.
Q. And that is an affiliate of FES, correct?
MR. KUTIK: Objection.
A. An affiliate or a subsidiary.
Q. Thank you for that clarification. Does the information sharing commitment in Section VB3b of the stipulation extend to information in the possession of FirstEnergy Generation, LLC?
A. Yes.
Q. That's not stated explicitly anywhere in the third supplemental stipulation though, correct?
MR. KUTIK: Objection, argumentative.
Q. That's fine. I will withdraw the question, and we will let the stipulation speak for itself.
The Davis-Besse plant is owned by FirstEnergy Nuclear Generation, LLC, correct?
A. Yes.
Q. And that is also an affiliate or subsidiary of FES, correct?
A. Yes.

Q. Does the information sharing commitment in this provision of the stipulation extend to information in the possession of FirstEnergy Nuclear Generation, LLC?

A. Yes.

Q. The Davis-Besse plant is operated by FirstEnergy Nuclear Operating Company, correct?

A. I don't remember.

Q. Do you remember if the Davis-Besse plant is operated by a different corporate entity than FirstEnergy Generation -- FirstEnergy Nuclear Generation, LLC?

MR. KUTIK: Objection.

A. Yes.

Q. Do you know if the information sharing commitment in this provision of the stipulation extends to information in the possession of the operator of the Davis-Besse plant?

A. Yes.

Q. And does it?

A. Yes.

Q. Does the information sharing provision in this section of the stipulation extend to information in the possession of OVEC?

A. The information sharing under this

provision relates to any and all information that FirstEnergy Solutions has relative to OVEC.

Q. But OVEC itself has not made any commitment to share fleet information to the Commission; is that correct?

A. May I ask you to rephrase the question, please?

Q. What do you not understand about the question?

A. I am not sure what "fleet information" modifies in that question.

Q. If there is information that's in the possession of OVEC but not FES, would the information sharing provision apply to that information?

A. This full information sharing provision applies to the FirstEnergy Solution Corporation's fleet of generating units.

Q. Has OVEC made any commitment to share information with the Commission as part of this third supplemental stipulation?

MR. KUTIK: Objection. Asked and answered.

A. No.

Q. Thank you. Could you please turn to page 2 of the third supplemental stipulation. Please let know me know when you are there.

A. I'm there.

Q. In the third line from the bottom of this page, there is a reference to "potential long-term retail price increases and volatility." Do you see that reference in the stipulation?

A. Yes.

Q. Have the companies evaluated the potential for retail price increases during the eight-year term of rider RRS?

MR. KUTIK: Objection.

A. Yes, as it relates to retail generation prices.

Q. And what steps has the company taken to evaluate that?

A. That would have been information included in the companies' initial application.

Q. And when you say initial application, you are referring to the application filed on August 4 of 2014?

A. Yes, and the supporting testimony.

Q. Apart from any evaluations that were provided with the initial application and supporting testimony, have the companies otherwise evaluated the potential for retail price increases during the eight-year term of rider RRS?

THE WITNESS: May I ask you to reread the question, please, ma'am.

(Record read.)

A. Not that I remember.

Q. Is it fair to say that the results of any such evaluation have already been presented to the Commission in this case?

A. Yes. This sentence you are referring to refers to the retail rate stability rider and that information has already been presented to the Commission.

Q. And the companies have not undertaken any other evaluation of the potential for retail price increases other than what's been submitted to the Commission; is that correct?

A. Right, as it relates to the proposed retail rate stability rider, no.

Q. Thank you. Have the companies evaluated the potential for retail price volatility during the eight-year term of rider RRS?

MR. KUTIK: Objection.

A. That would have been included in the initial application and supporting testimony in this proceeding.

Q. So is it fair to say any evaluation that the companies have undertaken regarding the potential for retail price volatility during the eight-year term of rider RRS has already been presented to the Commission?

A. Yes, as it relates to the proposed retail rate stability rider.

Q. Have the companies evaluated rate volatility apart from the proposed retail rate stability rider?

A. Not that I remember.

Q. Have the companies evaluated the potential for retail price increases apart from as they relate to the retail rate stability rider?

A. May I ask you to rephrase the question? I am not sure I understood the question.

Q. Sure. I was trying to understand. You had referenced that the fact that any results of an evaluation as they relate to rider RRS have already been presented to the Commission. And I was trying to understand whether the companies had evaluated the potential for retail price increases apart from rider RRS. Does that clarification make sense to you?

A. I apologize. I thought we already answered that question in so much as I said not that

I remember. Was that a different question? It's hard on the phone.

Q. Yeah, and I apologize if the connection is bad. My second question was relating to retail price increases as opposed to retail price volatility.

A. Same answer then.

Q. Great. Thank you. Would you please turn to page 7 of the third supplemental stipulation.

A. I'm there.

Q. Great. Thank you. And looking specifically at Section VB2 entitled "Risk Sharing," let's assume hypothetically that rider RRS produces a charge in the fifth year and that customers are paid some amount of credits under this stipulation provision. In that scenario, the companies would pay the customer a credit, correct?

MR. KUTIK: Objection. Incomplete hypothetical.

A. May I ask you to rephrase the question, please?

Q. Would you tell me what you don't understand about the question?

A. "Some amount."

Q. Okay. Let's assume hypothetically that rider RRS produces a charge in the fifth year and that customers are paid $10 million of credits under the stipulation provision. In that scenario the companies would pay the $10 million of customer credit, correct?

A. Yes.

Q. Would the companies be subsequently reimbursed for those payments by FES?

A. No.

Q. Would the companies be subsequently reimbursed for those payments by FirstEnergy Corporation?

A. No.

Q. But to the extent that customer credits are paid out under this provision of the stipulation, those payments would represent a direct cost to the company, correct?

A. A direct cost to the companies plural, yes.

Q. And I did say companies. I apologize if the connection is bad again. Is there anything in the third supplemental stipulation that would prevent the companies from being reimbursed for those costs through a future rate proceeding?

MR. KUTIK: Objection.

A. This stipulation does not contemplate the companies recovering those costs through any future rate proceeding.

Q. Is there anything though that would prevent the companies from being reimbursed for those costs for a future rate proceeding?

MR. KUTIK: Objection. Asked and answered.

A. Again, there is nothing in this stipulation that contemplates the companies' ability to recover the credits, if any, provided under this provision in a separate or subsequent rate proceeding.

Q. Would it be fair to say that the stipulation is silent on that issue?

MR. KUTIK: Objection. Mischaracterizes her testimony.

A. No.

Q. Can you point me to any language in the provision -- strike that.

Can you point me to any language in the third supplemental stipulation that prevents the companies from being reimbursed for such costs in a future proceeding?

A. Again, the third supplemental stipulation contemplates a base distribution rate freeze over the term of the ESP, so in the absence of a base distribution rate case, any expenses that would be incurred by the company pursuant to this provision wouldn't have the opportunity to be recovered.

Q. Would there be opportunity to recover those costs after May 31 of 2024?

A. No.

Q. And why not?

A. Because credits, if any, would be expensed as incurred so there would be no for lack of a better word regulatory asset to recover as you suggest in a period outside of the term of the ESP.

Q. If the companies paid the customer credit under this provision of the stipulation, that would, all else equal, weaken the companies' balance sheet after the credits have been paid; is that correct?

MR. KUTIK: Objection.

A. I don't know.

Q. But it's your understanding that the companies are committing to not seek recovery for the cost of these customer credits in any future Commission proceeding; is that correct?

A. Yes.

Q. And it's your understanding that the

companies are committing to factor the cost of these customer credits into any future application that's filed at the Commission?

A. May I ask you to rephrase that question? I am not sure I understood it.

Q. Could you tell me what part of it you don't understand?

A. "Factoring in."

Q. Take it from the perspective of a hypothetical. Let's suppose hypothetically speaking the companies ended up paying out $100 million of customer credit authorized by this provision of the stipulation. Are you with me so far?

A. Yes.

Q. Are the companies -- so at the end of the payment of that the companies would be $100 million poorer than they otherwise would be; is that correct?

MR. KUTIK: Objection.

A. The companies would have $100 million less, all else equal.

Q. And if the companies were filing an application with the Commission sometime after May 31 of 2024, would the companies' weakened balance sheet be able to be factored into that application?

MR. KUTIK: Objection.

A. I'm not sure we agreed to the hypothetical of the weakened balance sheet. So may I ask you to repeat with that in mind?

Q. Sure. Why don't I -- maybe I will ask a prefatory question. If all else equal, the companies had $100 million less than they otherwise would due to the payment of these customer credits, would you agree that the companies' balance sheet would be weakened to some extent?

MR. KUTIK: Objection.

A. It would be different, all else equal. Whether or not it would be weak or weakened I think would depend very much on the facts and circumstances at that time.

Q. Okay. Thank you. Why don't we shift gears. Could you please turn to page 18 of the third supplemental stipulation.

A. I'm there.

Q. Great. Thank you. Looking at Section VL2 specifically, the last sentence of that section reads "Rider RRS may operate as a financial limitation on the consequences of shopping but does not in any way limit a customer's ability to shop, and does not negatively impact retail competition or POLR auctions." Do you see that sentence in the

stipulation?

A. Yes.

Q. Rider RRS does not place a financial limitation on a customer's ability to shop, correct?

THE WITNESS: May I ask you to reread the question, please, ma'am.

(Record read.)

MR. KUTIK: Objection.

A. As the stipulation says here, rider RRS does not in any way limit a customer's ability to shop.

Q. But you agree with my last question?

MR. KUTIK: Objection. Asked and answered. Her answer was what it was.

A. Rider RRS does not in any way limit a customer's ability to shop.

Q. And that includes both physical and financial limits, correct?

MR. KUTIK: Objection. Asked and answered.

A. Rider RRS does not in any way limit a customer's ability to shop.

Q. I believe that was a "yes" or "no" -- that was a question that could be answered with a "yes" or "no."

MR. KUTIK: Well, she has given you her answer so let's move on.

MR. SOULES: Could I have the last question and answer read back.

(Record read.)

Q. Okay. Could you please turn to page 7 of the third supplemental stipulation.

A. I'm there.

Q. If you could look at Section VB1. Under this provision of the stipulation, the term of rider RRS would be shortened to an eight-year period, correct?

A. It was difficult to hear. You said VB as in boy 1, correct?

Q. Yes, the section entitled "Term of Rider RRS."

A. I'm sorry. May I have your question again, please, sir?

Q. Absolutely. Under this provision the term of rider RRS would be shortened to an eight-year period, correct?

A. Yes, subject to financial reconciliation.

Q. Does the stipulation preclude the companies from seeking an extension of rider RRS beyond May 31, 2024?

A. No.

Q. So the companies would be able to seek an extension of the rider beyond the current subset date of May 31, 2024, correct?

MR. KUTIK: Objection. Mischaracterizes her testimony.

A. There is nothing in this stipulation that prevents the company from seeking an extension of rider RRS subsequent to May 31 of 2024.

Q. Okay. Thank you. Could you please turn to page 11 of the third supplemental stipulation.

A. I'm there.

Q. And let's look specifically at Section VE3, the section entitled, "Unlocking Energy Efficiency," et cetera, et cetera. Are you there?

A. Yes.

Q. Great. Under this provision of the stipulation the companies are committing to reactivate all programs under their EE/PDR portfolio plan in 2017; is that correct?

MR. KUTIK: Objection. Asked and answered. Go ahead.

A. Yes.

Q. And is the commitment for 2017 specifically contingent upon approval by the

Commission?

MR. KUTIK: Objection.

A. I think the commitment is as it states here that "The Companies will reactivate in 2017 all programs suspended in their EE/PDR Portfolio Plan Case, and will expand offerings through May 31 of 2024 to include best practice ideas from utility peers in Ohio and nationally."

Q. Could you see the language in paragraph E stating "The submitted EE/PDR portfolio plan will be subject to Commission review and approval"?

MR. KUTIK: I'm sorry. Where are you?

MR. SOULES: Page 11, Section E3 paragraph b.

MR. KUTIK: B as in boy.

MR. SOULES: B as in boy, yep.

MR. KUTIK: Thank you.

A. Yes, I see that.

Q. So the Commission review and approval that's discussed in paragraph b does not affect the companies' commitment to reactivate all of the programs that were suspended 4-20-17; is that correct?

A. I think the companies' commitment is to reactivate the programs. As I said earlier, the companies will make a filing in April of 2016 which will include all the programs and expanded offerings and that submitted EE-PDR portfolio plan would be subject to Commission review and approval which it says here and which we discussed earlier which approval shall examine the aggregate cost of energy efficiency and its impact on customers.

MR. KUTIK: Let's go off the record for a second.

MR. SOULES: Sure.

(Discussion off the record.)

MR. SOULES: Can I get the last question and answer read back, please.

(Record read.)

MR. SOULES: Thank you.

Q. Ms. Mikkelsen, if the Commission does not approve the plan as filed in April of 2016, the programs that are referenced in paragraph a will not be reactivated for 2017; is that a fair statement?

A. I guess I'm having difficulty following the line of thought in so much as the intention of what would be included would be spelled out here and presumably approved by the Commission as part of the ESP, then I think, as this calls out, they will specifically look at the portfolio plan offerings including the examination of the cost, the impact on customers. I would not expect there to be a significant departure between what the companies file and what the Commission reviews. That's where I am struggling with your question. Perhaps -- may I ask you to restate it, please?

Q. Will the companies reactivate all of the programs that were suspended 4-17-20 irrespective of what the Commission decides with respect to the portfolio plan that will be filed in April of 2016?

MR. KUTIK: Objection.

A. I think the company will ultimately implement programs approved by the Commission in their next EE-PDR portfolio plan.

Q. So any specific program that is reactivated will only be reactivated if the Commission approves that reactivation, correct?

A. Yes.

Q. Okay. And are the companies committing to propose that these energy efficiency programs continue for the remainder of the eight-year ESP?

A. May I ask you to rephrase the question as it relates to these programs?

Q. Sure. And I was referring to the programs that were previously suspended which are referenced in paragraph a of Section 3. With that clarification are the companies committing to propose that these energy efficiency programs continue for the remainder of the eight-year ESP?

MR. KUTIK: Objection.

A. The EE-PDR portfolio plan will be a three-year plan that's submitted in April of next year for the Commission's approval, but as you point out in provision 3a, the companies would seek to reactivate all the programs that have been suspended as well as expanded offerings through May 31 of 2024. But there would be a number of EE-PDR portfolio plan filings throughout that period.

Q. But in each of those filings the companies are committed to proposing that these programs will continue at least until May 31 of 2024?

A. Yes. Assuming, of course, that the programs continue to make sense in the future, yes.

Q. But if the programs no longer made sense at some future point prior to a later portfolio filing, the companies may not necessary commit to continuing that program; is that correct?

MR. KUTIK: Objection.

A. I think that if the program no longer made sense, and by that I mean, for example, satisfied the TRC criteria, then I think the companies may in the future EE-PDR filings look to other programs in order to help it achieve the goal of 800,000 megawatt-hours of energy savings annually. But I think the intent today is that all those programs would be offered throughout the period of May 31 of 2024.

Q. Okay. Under this provision of the third supplemental stipulation, is there any minimum level of funding for these energy efficiency programs that the companies are committed to proposing in their portfolio plan?

MR. KUTIK: Objection.

A. No.

Q. Okay. And a moment ago you referenced the 800,000 megawatt-hours of energy savings annually which is in paragraph b. Do you see that reference in the paragraph?

A. Yes.

Q. Okay. Under this section of the third supplemental stipulation, the companies are not required to achieve 800,000 megawatts of energy savings annually, correct?

MR. KUTIK: Objection.

A. Correct.

Q. Okay. Could you please turn to page 12 of the stipulation.

A. I'm there.

Q. Great. Thank you. And I want to talk for just a couple of minutes about Section VE4 regarding renewable resources. Now, under this provision, the companies would be required to procure 100 megawatts of wind or solar power if certain conditions are met, correct?

A. Yes.

Q. And more specifically this provision would only be triggered where there was a future law or rule for which new renewable energy resources would be helpful for compliance, but the law or rule had not fostered development of such resources, correct?

A. Yes, to the extent that the staff makes that determination, yes.

Q. Are you aware of any situation in which both of those conditions could be satisfied?

MR. KUTIK: Objection.

A. May I ask you to rephrase the question, please?

Q. Can you tell me what you don't understand about the question?

A. Really all of it. I apologize. I just don't understand the question.

Q. Okay. I -- so just for clarification I am trying to understand what types of situations, if any, these specific conditions could be triggered, and I am wondering if you're aware of any scenario or situation in which the condition set forth in this section of the stipulation would be met.

MR. KUTIK: Objection.

A. This provision deals with future federal or state laws or rules, so as I sit here today, I am not aware of a future federal or state law or rule that could in the staff's analysis trigger this provision.

Q. Can you explain how new renewable resources could be helpful for compliance with a future law or rule if that law or rule itself did not foster the development of such resources?

MR. KUTIK: Objection.

A. If the future law or rule required renewable resources but the requirement wasn't fostering the development of the renewable resources, that might be a circumstance where the staff would deem it helpful.

Q. But wouldn't the existence of that

requirement necessarily foster the development of new renewable resources?

MR. KUTIK: Objection. Now you are arguing with the witness.

MR. SOULES: No. I'm curious. I am not arguing with the witness.

MR. KUTIK: Well, you are. If you want to answer that question, go ahead. If not, you don't have to.

A. It may or may not. It depends on the future facts and circumstances.

Q. Let's assume hypothetically there were a future federal or state law or rule and the Commission staff and the companies disagreed about whether or not that law or rule had sufficiently fostered the development of new renewable energy resources. In that scenario, who would make the final decision whether 100 megawatts of wind or solar resources would have to be procured?

A. The stipulation does not provide for a role for the companies in that determination. That determination would be made by the staff and then at the staff's request the companies would make a filing at the Commission.

Q. So if the staff -- so long as the staff wanted the companies to make that filing, the companies would be required to make such a filing; is that correct?

A. If the staff requested the filing, then the companies would make the filing.

MR. SOULES: Okay. Thank you. I have no further questions. Thank you, Ms. Mikkelsen.

MR. KUTIK: Thank you. Let's go off the record.

(Recess taken.)

MR. SETTINERI: This is Mike Settineri. Are we on the record, David?

MR. KUTIK: I guess we are now.

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CROSS-EXAMINATION

By Mr. Settineri:

Q. I guess I could say late good afternoon, Ms. Mikkelsen. My name is Mike Settineri. I represent -- on behalf of the Exelon Generation Company, Constellation NewEnergy, Inc., PJM Power Providers Group, and the Electric Power Supply Association with the law firm of Vorys, Sater, Seymour & Pease.

Let's start, first, I just want to clarify, I believe earlier today you had mentioned some of the charges or revenues that are collected in rider RRS, and just to clarify am I correct that capacity performance penalties -- or I could say charges as well as bonuses would be netted under rider RRS?

MR. KUTIK: Well, I'll object as beyond the scope of the hearing and discovery, but she can answer.

THE WITNESS: May I have the question reread, please, ma'am.

(Record read.)

A. The discussion we had earlier today providing some additional understanding with respect to the Commission's review of rider RRS.

Q. All right. Are you done with your answer?

A. Yes.

Q. All right. Let me ask you it a different way then. Through the third supplemental stipulation are there any changes to what can be recovered under rider RRS?

A. No.

Q. And the recoveries -- strike that.

In regards to what could be netted in the calculation of rider RRS, that could include capacity performance charges, capacity performance bonuses, correct?

MR. KUTIK: Objection. Beyond the scope.

A. Rider RRS would include the net difference between the costs associated with procuring the energy output and the revenues associated with participation in the PJM markets.

Q. And to drill down when you say revenues, that could include PJM capacity performance bonuses, correct?

A. Yes.

Q. All right. And as well, that could also include any imposed capacity performance charges, correct?

A. Yes.

Q. As well in terms of netting for rider RRS, as a third supplemental stipulation -- let's strike that.

In regards to the revised term sheet between the companies, the FirstEnergy Solutions, has there been any change in regards to the environmental attributes that would be passed on to the companies under the proposed term sheet?

A. No.

Q. So, for example, if in the future there is a carbon credit program that the proposed -- the plants that are proposed to be under the term sheet, those -- the credits or any revenues resulting from those programs would be -- would flow to the benefit of the companies under the proposed term sheet, correct?

A. No.

Q. Why not?

A. The term sheet says that the companies will purchase the capacity of each facility with the associated energy and ancillary services and environmental attributes. Then once the companies have procured those generation-related outputs or attributes, they will sell those into the PJM market, and the difference between the costs associated with procuring that output/attributes and the revenue derived from the market will be included in rider RRS. There will be no benefit to the companies as a result of that purchase specifically to your question environmental attribute.

Q. Okay. Those environmental attributes that the company is purchasing could then be used to participate in a carbon cap and trade program, for example, correct?

A. I think the proposal is the company would sell those attributes into a market if that's what you mean by participating in a cap and trade program, that the companies would sell the attributes into that market, yes.

Q. Okay. Thank you. And I appreciate that. And then in turn those revenues would be netted under rider RRS, correct?

A. Those revenues would be included with other revenues and netted against the costs with the difference being a credit or a charge to be included in rider RRS.

Q. Okay. Thank you. If you could turn to page 12 of your fifth supplemental testimony.

A. I'm there.

Q. Okay. And in that question and answer on that page starting at line 7, your answer indicates that quantitatively the stipulated ESP IV is estimated to be more favorable than the expected result of an MRO, correct?

A. Yes.

Q. Is that analysis on that -- that you are giving in that answer over the eight-year period for the ESP IV?

MR. KUTIK: Objection. Asked and answered.

A. Yes.

Q. And in regard to the expected result of the MRO, would that also be over an eight-year period?

A. Yes.

Q. And honing in on lines 10 to 11, you say "more favorable than the expected results of an MRO." What are the expected results of an MRO over an eight-year period?

A. The expected results of an MRO would be the same as the expected results from the companies' SSO procurement process over the eight-year period.

Q. Okay. And then the difference then between the stipulated ESP IV quantitative analysis -- number and the MRO number would be the dollars that you list in the table, correct?

MR. KUTIK: Objection.

A. Yes, the table listed on page 12 of my testimony.

Q. Thank you for clarifying that. And the table at page 12 of your testimony lists a certain number of payments. We have economic development funding for 24 million, low income funding 19.1 million, and Customer Advisory Agency funding of 8 million. Just to clarify now, I believe you said previously those payments are coming from the shareholders of the FE Corporation; is that what you said previously?

MR. KUTIK: Objection.

A. These dollars would not be recovered from the customers of the companies.

Q. All right. I just want to clarify. I think earlier you mentioned payments from shareholders, but really those payments are from FirstEnergy Corporation; is that correct?

A. These are payments made by the companies.

Q. Okay. So these -- okay. All right. Made by the companies but -- and not FirstEnergy Corporation, correct?

A. These are payments made by the companies.

Q. Okay. Now, in regards to an MRO, are you aware of any prohibitions that would allow the companies to make those same payments under an MRO?

MR. KUTIK: Objection.

A. No.

Q. In regards to the retail rate stability rider, you show there that the total dollar amount is $561 million in the table, correct?

A. Yes.

Q. If over the course of the eight-year

period that that number of $561 actually ends up being zero dollars, do you still believe that the ESP IV is more favorable quantitatively than the MRO over the eight-year period?

MR. KUTIK: I think you meant to say $561 million, correct?

MR. SETTINERI: Yeah. I'll laugh and say if I said $561, then I apologize. Let me try again.

Q. If we change the number of $561 million in your table to zero dollars, would you -- would your -- would your answer remain that the stipulated ESP IV is more favorable than the expected results of the MRO over the eight-year period?

A. If your hypothetical question is if the retail rate stability rider did not exist, would, all else equal, the remaining provisions of the ESP be more favorable in the aggregate than an MRO, the answer would be yes under that hypothetical construct.

Q. All right. And to clarify that hypothetical, it was that on the quantitative analysis. Would your answer be the same quantitatively?

A. My answer doesn't change.

Q. Thank you. If we could turn then to

stip -- the fifth -- let's see, the third supplemental stipulation at page 18.

A. I'm there.

Q. Thank you. Am I correct that under the stipulation that there will be a fourth-year test regarding comparing the stipulated ESP IV versus the MRO for the remaining term of the stipulated ESP IV?

A. I think you're referring to a statutory provision that requires an ESP that extends four years or beyond to certain tests.

Q. Okay. And in regards to that, quantitatively how will the ESP be compared to the MRO at that point in time?

MR. KUTIK: I am not sure I heard the whole question.

A. May I ask you to repeat that, please?

Q. Sure. In that fourth year when that test is done, how will the ESP IV quantitatively be compared to the MRO?

A. The statute requires that the Commission shall test the plan in the fourth year to determine whether the plan continues to be more favorable in the aggregate during the remaining term of the plan as compared to an MRO.

Q. For example, though, if there are

losses -- if rider RRS is a charge for the first three years, will the -- will the companies be looking at including in the analysis quantifi -- the quantitative results of the first three years of rider RRS?

MR. KUTIK: Objection.

A. As I said in my last answer, the test would be for the remaining term of the plan.

Q. Okay. So there would be no retrospective review of the performance of rider RRS at that time, correct?

MR. KUTIK: Objection. Asked and answered.

A. The statutory provision is clear that the test would be a prospective test with respect to the remaining term of the plan.

Q. And in regards to the anticipated charges or credits for rider RRS over the remainder of the ESP IV term, would the companies be relying on the projections that are existing today in this proceeding?

MR. KUTIK: Objection to the extent it calls for speculation.

A. I don't know as I sit here today what the -- what the companies would be relying upon in a

MRO versus ESP test in year four.

Q. Potentially the companies could revise those projections in year four MRO versus ESP test, correct?

MR. KUTIK: Objection. Calls for speculation.

A. It's possible.

Q. And it's also possible that the companies could simply propose using the projected -- projections from this proceeding as well, correct?

MR. KUTIK: Objection. Calls for speculation. Also asked and answered.

A. I think that determination would be made at the time of the filing in year four of the plan.

Q. In regards to -- in paragraph K1a there is a reference to the financial health of the utilities. What entities make up the term "utilities"?

A. Ohio Edison, The Cleveland Electric Illuminating Company, and The Toledo Edison Company.

Q. If you could turn to page 7 of the stipulation, please, the third supplemental stipulation.

A. I'm there.

Q. Thank you. And at the bottom you'll see a paragraph B2 starts out with a title "Risk Sharing." Do you see that?

A. Yes.

Q. And this section discusses a possible credit by the companies, correct?

A. I think this provision addresses a risk sharing provision that's been included in the stipulation.

Q. What risk is being addressed by this paragraph -- this provision?

A. I think this provision was intended to address the risk sharing factor that was raised by the Commission in the AEP case.

Q. Well, specifically I am asking what risk is this provision addressing.

MR. KUTIK: Objection. Asked and answered.

Q. Let me ask it another way. Would you agree this provision is addressing the risk that rider RRS may not produce a credit in years five, six, seven, and eight?

A. Yes.

Q. Okay. And do you believe that it's possible in years five, six, seven, and eight that rider RRS will not be a credit in those years?

MR. KUTIK: Objection. Calls for speculation.

A. The companies' filing shows that the companies' forecast there will be a credit in -- starting in 2019 through 2024.

Q. Are you done with your answer?

A. Yes.

Q. Okay. And do the companies stand by those projections?

A. Yes.

Q. And in the original 15-year projections, the companies projected credits all the way through the end of the 15-year term, correct?

A. In the initial application, the companies projected charges in the initial years of rider RRS followed by credits in the subsequent years of rider RRS with a net credit on a nominal and net present value basis.

Q. And the third supplemental stipulation does not impose a cap on the amount -- strike that.

The third supplemental stipulation does not impose a cap on rider RRS to the extent it would be a charge, correct?

MR. KUTIK: Objection.

A. The third supplemental stipulation and recommendation does not include a cap on the rider RRS charges or credits.

Q. Turning to page 8 of the stipulation, paragraph 3a, there's a section titled "Rigorous Review of Rider RRS." Are you there?

A. Yes.

Q. And the second sentence states "Specifically, the Companies agree to participate in annual compliance reviews before the Commission to ensure that actions taken by the Companies when selling the output from generation units included in Rider RRS into the PJM market were not unreasonable." Do you see that language?

A. I do.

Q. Okay. The compliance review by the Commission over the actions of the companies when selling the output, will that compliance review include the bidding strategies of the companies when selling the output from the units into the PJM markets?

MR. KUTIK: Objection.

A. I think the Commission will determine what it wants to include in its review of the actions taken by the companies.

Q. Under the third supplemental stipulation, do you believe the Commission has the right to review the companies' actions taken in regard to bidding output into the PJM markets?

MR. KUTIK: Objection.

A. Yes.

Q. Okay. And in the event the Commission determines that the actions were not reasonable, is it possible that the Commission could disallow certain cost recoveries by the companies under this provision in the third supplemental stipulation which is the 3a paragraph?

A. Should the Commission make that determination, they could make an adjustment to rider RRS.

Q. In regard -- attached to your testimony, if you recall, you had attached, I believe, a summary projection of rider RRS credits and charges. Do you recall that being attached to your testimony?

A. It was not attached to my testimony.

Q. Okay.

MR. KUTIK: Are you talking about the workpaper that was filed with her testimony?

MR. SETTINERI: Yes, I do -- yes I am, I should say.

Q. And I just have a simple question in

regards to that workpaper, Ms. Mikkelsen. In regards to the projections on that workpaper, did the companies perform any type of sensitivity analysis?

A. No. The projections from line 10 came from JAR-1 Revised.

Q. Okay. At page 2 of the stipulation -- excuse me, page -- I gave you a wrong page reference there. Bear with me. Page 8 of the third supplemental stipulation.

A. I'm there.

Q. There's a phrase on that page "In addition, the calculation of Rider RRS will be based on the sale of power into PJM." Do you see that phrase?

A. Yes.

Q. Okay. Am I -- isn't it true that the companies cannot only sell the output into the PJM markets from these units but could also enter into bilateral contracts with third parties to generate revenues?

MR. KUTIK: Objection.

A. This sentence addresses the calculation of rider RRS.

Q. I understand that, but it states that the calculation of rider RRS will be based on the sale of power into PJM. But isn't it true if there are bilateral contracts, sales of the output under the term sheet, under the output that's being purchased under the term sheet, that those revenues also would go into the calculation of rider RRS, correct?

MR. KUTIK: Objection.

A. This sentence reads that "The calculation of rider RRS will be based on the sale of power into PJM."

Q. I understand that's what the sentence says but that's what I am trying to clarify. Are you saying through this sentence that rider RRS will only include revenues for the sale of power into PJM?

A. What I am saying is the sentence reads "The calculation of rider RRS will be based on the sale of power into PJM." This sentence addresses the calculation of rider RRS.

Q. I understand that but what about -- let me just come at it a different way then. Under the ESP IV as modified -- or under the stipulated ESP IV, would the companies have the ability to sell the output from the FirstEnergy Solutions' Sammis and Davis-Besse units under a bilateral contract with a willing buyer?

MR. KUTIK: Objection.

A. There is no provision in the third supplemental stipulation and recommendation that prevents that.

Q. Okay. All right. And if that does occur, those revenues would also go into the netting under rider RRS, correct?

A. Again, this sentence reads "The calculation of rider RRS will be based on the sale of power into PJM."

Q. All right. Let me ask you in regards to the changes to the term sheet which was previously marked as an exhibit, IEU Set 1 Interrogatory 25 Attachment 1 Revised, was there any negotiation sessions between FirstEnergy Solutions and the companies?

MR. KUTIK: Objection.

A. Yes.

Q. All right. When did those occur?

A. November of 2015.

Q. Okay. And in regard to the -- earlier I believe you said there were only two changes to that term sheet which related to a -- I believe a return on equity as well as the 8-year term versus a 15-year term, correct?

A. Yes.

Q. Okay. And so what has FirstEnergy Solutions given up in regards to this term sheet? And when I say in regards to this term sheet, I mean to the changes in the term sheet negotiations between the companies and FES.

A. May I ask you to rephrase the question, please?

Q. Sure. Through the negotiations between FES and the companies that you say occurred in November of 2015, what did FES give up through those negotiations?

A. May I ask you to rephrase the question? Be more specific what you mean with respect to "give up."

Q. How did FES -- what did FES negotiate away in those sessions?

MR. KUTIK: Objection.

A. I can't answer that question on behalf of FES, sir.

Q. Would you agree with me that FES would have negotiated away the rate of -- the return on equity in regards to it being lowered?

A. Again, I'm not sure, sir, what you mean by "negotiated away." I would agree that the revised term sheet reflects a return on equity of 10.38.

Q. Okay. And you would also agree with me, wouldn't you, that FES has gained the projected credits from years 9 through 15 of the original -- as the original PPA was proposed, correct?

A. I would agree with you, sir, that the term of the PPA was modified from 15 years to 8 years.

Q. And through that modification any revenues received from the output would remain with FES now, correct?

MR. KUTIK: Objection.

A. I don't have a view what would happen with respect to the output of the units subsequent to the term of rider RRS.

Q. You wouldn't rely on the companies' projections for years 9 through 15 as proposed in the initial application; is that correct? Is that what you are saying?

MR. KUTIK: Objection.

A. No. No.

Q. Okay. If we can go back to page 18 of the stipulation, please.

A. I'm there.

Q. Under K1 there is a note that "Termination shall not affect the continued cost recovery of Riders DCR and RRS." Do you see that?

A. Yes.

Q. Okay. So if the Commission terminates the stipulated ESP IV in favor of an MRO, isn't it true that -- well, strike that question.

Let me ask you this, do you believe that the continued cost recovery of rider DCR and rider RRS are consistent with the Revised Code Section 4928.143(E) which relates to the transition conditions you discussed earlier today?

MR. KUTIK: Objection to the extent it calls for a legal conclusion.

A. I'm not an attorney but, yes.

Q. Okay. And I guess to be clear for the record then, if the Commission terminates the stipulated ESP IV in the fourth year, under this stipulation rider RRS would continue for the full eight-year period, correct?

MR. KUTIK: Objection. Asked and answered.

A. Yes.

Q. Thank you. Regarding the Community Connections program, I believe that was discussed in the stipulation, you can find that reference if you would like, but what I would like to know is OPAE currently receiving an administrative fee for -- regarding administration of the Community Connections program?

MR. KUTIK: Objection. Beyond the scope. Improper discovery in this case.

A. Sir, is your question with respect to ESP III, is OPAE administering the companies' Community Connections program? Is that your question, sir?

Q. No. I wanted to know if they are receiving an administrative fee from the companies currently.

MR. KUTIK: Same objection.

A. OPAE is administering the Community Connections under ESP III and receiving an administrative fee for doing that.

Q. Okay. How does rider RRS lead to economic development?

MR. KUTIK: Well, I'll object and instruct the witness not to answer. These are questions that should have been answered earlier in the case; and, in fact, they were addressed earlier in the case so ask your next question.

MR. SETTINERI: It's actually, I believe, once I can find her testimony, page 9 of her testimony she makes that statement.

MR. KUTIK: Well, my instruction still stands. We are now in the ninth hour, and we are not going to repeat stuff and go through stuff that's been discussed ad nauseam in the hearing.

MR. SETTINERI: I appreciate that. This is my last question, and she does say in her testimony here that it's also that the rider RRS is an economic development and job retention program.

Q. So very quickly, Ms. Mikkelsen, I would like to know why you believe rider RRS will lead to economic development.

MR. KUTIK: And we'll stipulate that she will rely on her prior testimony on that subject.

MR. SETTINERI: Well, I am asking for a quick answer, and then we will be done.

MR. KUTIK: Well, we are done.

MR. SETTINERI: It's a fair question.

MR. KUTIK: No, it isn't a fair question because she has testified at length, and the record is what it is.

MR. SETTINERI: It's in her testimony and that's the purpose of this deposition.

MR. KUTIK: No. I said we will stipulate she will rely on her prior testimony for support for this.

MR. SETTINERI: That's not what the purpose of this deposition is.

MR. KUTIK: Okay. But, Mike, she's not going to answer that question, so if you have no further questions, we will go to the next lawyer.

MR. SETTINERI: Well, I'll note on the record I reserve the right to reopen this deposition at your refusal, to instruct the witness not to answer a question that's in her testimony and on the basis -- not on the basis of privilege. It's a very simple question.

MR. KUTIK: Well, again, there are questions with respect to what the proper scope is. I already told you that she is relying on her prior testimony. We are now in the ninth hour of this deposition, and we are going to move -- we are going to go forward.

MR. SETTINERI: I am looking at this question more, David. This question that she's answering is "Does the third supplemental stipulation as a package benefit customers in the public interest" and she is saying "Yes" and paraphrasing she is -- part of her answer is this program is providing benefit.

MR. KUTIK: Ms. Mikkelsen, are you

relying on your prior testimony?

THE WITNESS: Relying on my prior testimony as well as the testimony of other witnesses in this proceeding.

MR. KUTIK: So now you have your answer.

MR. SETTINERI: Well, I don't but my reservation is on the record.

I will turn it over to the rest of the group, and I have no further questions.

MR. KUTIK: Okay.

MR. OLIKER: I have got about 10 minutes if people don't mind if I go next.

MR. KUTIK: And this is Joe?

MR. OLIKER: That's right.

MR. KUTIK: Okay.

MR. OLIKER: Okay. Good evening.

MR. KUTIK: Joe? Joe, can you just hold on for a second? Let's go off the record.

(Discussion off the record.)

MR. KUTIK: Let's go back on the record.

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CROSS-EXAMINATION

By Mr. Oliker:

Q. Ms. Mikkelsen, to follow up on a question that Mr. Settineri asked you, do you remember a discussion about bilateral sales of energy?

A. I remember a discussion about bilateral sales. I don't remember it being limited to energy.

Q. Okay. Thank you for that clarification. I guess my question is pretty simple, and I am just trying to do this for simplicity and efficiency, to the extent that FirstEnergy makes a bilateral sale involving the Sammis or Davis-Besse unit, what will FirstEnergy do with the revenues?

MR. KUTIK: And when you say "FirstEnergy," you are referring to the companies?

MR. OLIKER: Yes.

A. As we discussed earlier, the stipulation at page 8 says that "calculation of Rider RRS will be based on the sale of power in PJM."

Q. So is that another way of saying that if FirstEnergy does, in fact, make a bilateral sale to another company using the Sammis unit, that those revenues do not have to be included in the calculation of rider RRS?

A. Again, this sentence reads that "The calculation of Rider RRS will be based on the sale of power into PJM." That is the basis for the calculation of rider RRS.

Q. Okay. Then let me come from this angle, do you consider a bilateral sale from the Sammis unit to a third party as a sale in PJM?

A. I think that would depend on the third party.

Q. Okay. So there -- just to funnel this down, there are potential bilateral sales that FirstEnergy can make with Sammis and Davis-Besse that would have revenue that would not be included in rider RRS.

A. I think we need to remind ourselves that we are under the review of rider RRS section and that the Commission would review the companies' decisions associated with selling the output from the units into PJM to make sure they were not unreasonable so that the Commission has the oversight authority relative to those sales.

Q. Okay. Thank you. That's helpful. And on that note, also sticking in this provision, there's been some discussion about review of the prudence of FirstEnergy's decisions in committing capacity resources to performance auctions. Would the Commission also have the opportunity to review the way FirstEnergy Solutions operated the units?

MR. KUTIK: Objection.

A. May I ask you to restate the question for a couple of reasons? One, it was compound; two, it referred to FirstEnergy.

Q. Sure. Let me just ask you a straight up hypothetical. Assume that in 2018 if the contract and the application is approved as filed, FirstEnergy Solutions is operating the Sammis unit, and they are aware that the temperature is likely to be negative 35 degrees. They don't spray the coal pile. It freezes. There is a PJM nonperform -- performance event and it turns out that the Sammis unit cannot dispatch and a nonperformance penalty is assessed. Would the Commission be within its rights to determine that because FirstEnergy Solutions imprudently operated the Sammis unit that those nonperformance penalties should not flow through rider RRS?

MR. KUTIK: Objection.

A. This provision is clear that the companies would be responsible for adjustments made to rider RRS based on actions deemed unreasonable by the Commission including any costs after consideration of costs and netting with bonus payments associated with performance requirements in PJM.

Q. As I understand that provision, it says the evaluation will be determined at the time the costs are committed; is that correct?

MR. KUTIK: Objection.

A. May I ask you to rephrase the question, please?

Q. What is -- first, let's go at it from this angle, will the Commission be allowed to review FES's actions as they relate to the way FES operates the Sammis unit?

MR. KUTIK: Objection.

A. The Commission will be allowed to review the costs and revenues that are netted for inclusion as either a credit or a charge in rider RRS. They are reviewing the costs incurred by the companies.

Q. So the Commission will not review how FES operates the units?

MR. KUTIK: Objection. Asked and answered.

MR. OLIKER: David, I really want to move on, but it's not clear to me.

MR. KUTIK: I haven't instructed her not to answer. She can tell you again.

A. The Commission will review the costs netted against the revenues for inclusion in rider RRS.

MR. KUTIK: Let's go off the record for a minute.

(Discussion off the record.)

MR. KUTIK: Let's go back on the record.

Q. (By Mr. Oliker) So going back to the hypothetical that we talked about before, if FES does not spray the coal pile and the Sammis unit fails to perform during a PJM performance event, is that a situation that could lead to a disallowance of costs included in the RRS?

A. I'm not able to speculate on that hypothetical.

Q. Okay. Thank you. That's fine. Moving to the battery provision of the stipulation, would you agree that batteries are capable of providing frequency regulation within PJM?

A. I don't know.

Q. Do you know what frequency regulation is, Ms. Mikkelsen?

A. No.

Q. Would you agree that batteries are capable of producing electrical energy?

MR. KUTIK: Objection.

A. I don't know.

Q. Would you agree that batteries are

capable of selling energy into the wholesale energy market?

A. Are you asking me --

MR. KUTIK: Objection.

A. -- if a battery can make a sale?

MR. KUTIK: Objection.

Q. Would you agree that a market participant can sell energy in the wholesale energy market using batteries?

A. I don't know.

Q. Would you agree that batteries can be used to avoid distribution investment?

MR. KUTIK: I'm sorry. What was the last word?

MR. OLIKER: Distribution investment.

THE WITNESS: May I have the question reread, please, ma'am.

(Record read.)

A. May I --

MR. KUTIK: Note my objection. Go ahead.

A. May I ask you to be more specific with "avoid distribution investment"?

Q. Would you agree that distribution investment is evaluated based upon where constraints exist on the distribution grid?

MR. KUTIK: Objection. Calls for speculation.

A. I think that there are a number of factors that are considered relative to investments in the distribution system.

Q. Would you agree that distribution congestion is one of those factors?

A. Same -- sorry, Joe. May I ask you to repeat that? It broke up. I am having trouble hearing or understanding. I apologize.

Q. That's okay. Would you agree that distribution congestion is one of those factors?

MR. KUTIK: Objection.

A. I agree that demand on various portions of the distribution system is a contributing factor in a decision to make distribution investment.

Q. Okay. And are you aware that some utilities have used batteries to avoid distribution investment?

MR. KUTIK: Objection.

A. If your question is am I aware that some utilities have invested in battery resources for their distribution system, then the answer is yes.

Q. And do you know how those utilities used batteries on their distribution system?

A. No.

Q. Okay. Going back -- before you referred to distributed -- I'm sorry, batteries -- let me rephrase that.

Distribution investment can be driven by demand on the distribution system, correct?

A. Yes.

Q. Would you agree that this distributed generation may be used to lower the demand on the distribution system?

MR. KUTIK: Well, at this point we are getting far afield from the third supplemental stipulation so I'll object. We are not going to go too much further down this road.

A. It may or may not.

Q. And why do you qualify your answer with a "may or may not"?

MR. KUTIK: Objection. Beyond the scope.

A. To the extent that the distribution utility has to provide service in the event that the distributed generation is unavailable, then it would not.

Q. Okay. So you are referring to during the peak hours; am I correct?

MR. KUTIK: Well, at this point, Joe,

unless you can tie it to the third supplemental stipulation I am going to instruct her not to answer. We are really beyond the scope at this point.

MR. OLIKER: This ties into the straight fixed variable, Dave.

MR. KUTIK: I don't think so.

Q. Ms. Mikkelsen, would you agree a straight fixed variable design reduces the value of distributed generation?

A. I don't know. I haven't thought about that fully in this context, so I'm not prepared to respond at this time.

Q. Okay. If a customer installs rooftop solar, would you agree that the total amount of electricity they take from the grid will be reduced relative to not installing the solar?

MR. KUTIK: Objection.

A. Yes, assuming there is sun.

Q. Okay. And to the extent that -- if a customer installs rooftop solar under the current rate design for distribution rates, they will pay less, correct?

MR. KUTIK: Objection.

A. To the extent that a customer installs rooftop solar and as a result of that installation takes less power from the distribution utility than they would have otherwise taken, then they will pay less to the distribution utility.

Q. Okay. But if a straight fixed variable rate design is put into place, then that customer will pay a higher amount than they would under the existing distribution rate design.

MR. KUTIK: Objection. Calls for speculation. Incomplete hypothetical.

A. Right. I don't know.

Q. Okay. Would you agree that it's possible that if a customer installs rooftop solar, that that may reduce the total amount of distribution investment that is needed for that sector of the grid?

MR. KUTIK: Objection. Calls for speculation. Incomplete hypothetical.

A. I feel if a customer installs rooftop solar, the utilities still need to be positioned to serve the customer in the event that the rooftop solar is not providing generation. So I'm not sure that it would change the distribution investment.

Q. If you know, are distribution circuits experiencing peak usage at similar times as the PJM capacity market?

A. They may or may not be.

Q. Okay. Just a few more questions in regards to the provision of the stipulation regarding renewable energy. Mechanically would FirstEnergy pay a monthly revenue requirement, or would it be a kilowatt-hour price?

MR. KUTIK: Objection. I am not sure what you are referring to, Joe.

Q. Would you -- the stipulation indicates that FirstEnergy will pay an all-in price for energy and RECs; is that correct?

A. Yes, and I think the all-in price would also include capacity, yes.

Q. Okay. So I guess when you are making the all-in price, would it be a monthly revenue requirement similar to the PPA generation units, or would it be a cents per kilowatt?

A. I think that would be determined at the time the procurement takes place, although I would expect it to be on a dollars per megawatt-hour basis or some factor like that.

Q. Okay. And would FirstEnergy retain any of the RECs that are supplied to the contract for its own purposes?

MR. KUTIK: Again, FirstEnergy means the

companies?

MR. OLIKER: Yes.

MR. KUTIK: I'll object anyway.

A. The stipulation contemplates all of the attributes associated with the purchase would be sold into the market.

Q. So it does not contemplate FirstEnergy utilities maintaining any RECs for their own compliance purposes.

A. Correct.

Q. Would you agree that if FirstEnergy were to construct 100 megawatts of solar, that could have a negative impact on the renewable energy credit market?

MR. KUTIK: Objection. It mischaracterizes the stipulation.

THE WITNESS: May I have the question reread, please.

(Record read.)

A. The stipulation contemplates the companies procuring these resources, not constructing these resources.

Q. But you would agree that the stipulation does envision that 100 megawatts of solar would be constructed by someone.

MR. KUTIK: Objection.

A. No.

Q. Why is that not true?

A. Because the stipulation says to the extent that the staff deems it helpful to comply with future federal or state law or rule and to the extent that such federal or state law or rule has not fostered the development of new renewable energy resources, then the companies at the staff's request should make a filing at that time at the Commission demonstrating the need to procure the new renewable energy resources.

Q. And am I correct this provision of the stipulation contemplates that either a third party or some party will construct 100 megawatts of solar?

MR. KUTIK: Objection. Asked and answered.

A. No.

Q. So you're saying this can be existing solar?

A. No.

Q. Sorry. I am not trying to argue with you. I am just trying to understand whether the stipulation contemplates new construction of solar resources by any party.

MR. KUTIK: That's been asked and answered. Now, this is the third time. Tell him again for the last time.

A. It is wind or solar resources and those are new Ohio wind or solar resources assuming the staff deems it helpful relative to the discussion we had a moment ago and requests that the company make a filing and that the Commission approves the filing that the companies go forward to procure the 100 megawatts of new Ohio wind or solar resources.

Q. Would you agree that if all of those conditions that you've identified are satisfied and 100 megawatts of solar new resources are constructed as part of this provision, it may have a negative impact on the renewable energy credit market prices?

MR. KUTIK: Objection. Calls for speculation, incomplete hypothetical.

A. I don't know because one of the criteria is that it hasn't fostered the development of new renewable energy resources.

MR. OLIKER: Okay. I believe those are all the questions I have. Thank you, Ms. Mikkelsen.

MR. KUTIK: Okay. Let's go off the record.

THE WITNESS: Thank you.

(Recess taken.)

MR. KUTIK: Let's go back on the record.

MS. BOJKO: Thank you.

- - -

CROSS-EXAMINATION

By Ms. Bojko:

Q. Good evening, Ms. Mikkelsen.

A. Good evening.

Q. Speaking with -- or staying with the renewable provision on page 12 of the third supplemental stipulation, will the procurement of the renewable resource be competitively bid?

A. Yes.

Q. Now, could you please turn to page 8.

MR. KUTIK: Of the third supplemental stipulation?

MS. BOJKO: Yes, I'm sorry. All my questions this evening will be on the third supplemental stipulation.

MR. KUTIK: Thank you.

Q. If you could turn to page 8, the severability section. Do you see that?

A. Yes.

Q. Okay. At the fourth line down it says that any invalidated provision will be restored to its equivalent value. Do you see that discussion in the stipulation?

A. I see that line, yes.

Q. Okay. If rider RRS is invalidated, FirstEnergy would restore what value of the purchase power agreement, what value of rider RRS?

MR. KUTIK: Well, I'll object and note that that's beyond the scope of proper discovery for this phase of the case. That provision remained unchanged from the prior stipulation so. But she can answer.

THE WITNESS: May I have the question reread, please.

Q. Well, let me try again.

MS. BOJKO: Strike that because actually, David, I am really just trying to talk about the third supplemental stipulation.

Q. So under the third supplemental stipulation, if this provision, this severity provision is invoked, how would the value of rider RRS be determined?

MR. KUTIK: Well, again, I will note that it's beyond the scope. This is not an original provision with respect to this stipulation but she can answer. I will also object because it calls for speculation. Go ahead.

A. I think that determination would be made at the time the severability provision is invoked.

Q. Well, would you envision that all costs of the PPA for the extended -- or for the eight-year term would be included in that evaluation?

MR. KUTIK: Same objection.

A. This provision really contemplates that the signatory parties and the company will work in good faith to restore the invalidated provision.

Q. All right. I am trying to understand if it would include the new provisions embedded in the third supplemental stipulation, would it include a value associated -- a value associated with the credits listed in Section B2?

MR. KUTIK: I am going to object. It calls for speculation. Go ahead and answer if you can.

A. I mean, this severability provision specifically addresses a circumstance where rider RRS is invalidated in whole or in part. And it is the rider RRS provision that this language addresses the parties working in good faith to restore that invalidated provision.

Q. And at this time you don't know what the value of that would be; is that right?

MR. KUTIK: Objection.

A. Right. I think that evaluation would have to occur at the time the provision -- if and when the provision was invalidated.

Q. Okay. Turning to page 11 of the third supplemental stip, Section E2, the "Battery Technology."

A. I'm there.

Q. Are the conditions -- thanks. Are the companies asking for approval of the recovery of investments associated with battery resources through rider AMI in this proceeding?

A. No. I think the companies -- this provision says the companies will evaluate investing in battery resources, and then contingent at that time upon Commission approval, investments made for such resources would at that time be included in recovery in rider AMI.

MR. KUTIK: Let's go off the record for a minute.

(Discussion off the record.)

MR. KUTIK: Let's go back on the record. Thank you.

Q. (By Ms. Bojko) Were you done,

Ms. Mikkelsen?

A. Yes.

Q. Okay. Staying on page 3, Section E3b.

MR. KUTIK: Page 1?

Q. Is the goal -- yes. Is the goal of 800,000 megawatt-hours in savings in addition to the savings already achieved in previous years under the companies' existing POR? Or excuse me. Strike that.

Is the goal of the 800,000 megawatt-hours in savings in addition to the savings already achieved in previous years under the companies' portfolio plan?

A. Yes.

Q. Are the referenced cost effective programs only on savings achieved from the companies' POR program?

MR. KUTIK: May I have the question read, please. I'm sorry.

(Record read.)

A. May I ask you to rephrase the question, please?

Q. Sure. I lost my reference, sorry.

MR. KUTIK: You are talking about 3b on page 11.

Q. Strike that. I'm sorry. I'm actually

talking about Section 3d, my letter is inverted 3d. At the second sentence of 3d on page 11 going over to page 12, it talks about "Cost effective energy efficiency programs shall be eligible for shared savings." Do you see that?

A. Yes.

Q. And are these cost effective programs referenced in this sentence only on savings achieved from the companies' POR program?

A. Yes.

Q. And would it include customer -- customer behavior programs?

MR. KUTIK: Objection.

A. I don't remember.

Q. Okay. Let's turn to page 13 of the third supplemental stipulation, Section G1, the last sentence. Under what circumstances would staff agree to allow the companies to implement a base distribution rate case prior to June 1, 2024, as an exception to the distribution rate freeze, if you know?

A. I don't know.

Q. Do you know if this provision was added for a particular purpose or event that may occur in the future?

MR. KUTIK: I will give you the same instruction I have given you throughout the deposition not to reveal specific discussions undertaken during the settlement process, but if you can otherwise answer the question, go right ahead.

A. The provision was added as part of the negotiated settlement process. I am not aware of a specific future event that it was intended to address.

Q. Turn to page 15 of the third supplemental stip.

A. I'm there.

Q. And this is Section B little i on page 15. Are the additional funds for COSE also for the purpose of encouraging the advancement of energy efficiency for members of COSE which was a requirement in the previous stipulation filed in this case?

A. Yes. All the underlying terms exist. All this provision does is extend the payment stream to address the longer ESP period.

Q. And would your answer be the same for the AICUO provision as well?

A. Yes.

Q. Would this provision -- with the new

provision in the third supplemental stipulation is COSE or its members required to complete energy efficiency projects or achieve energy savings in years 2020 through '24 in exchange for the additional $300,000?

A. No.

Q. Would your answer be the same for AICUO in Section B little iii?

A. Yes.

Q. Looking at Section B2 on -- still on page 15, do you know what the estimated costs of the actual level 2 energy efficiency audits are?

A. No.

Q. Let's turn to page 17, please, of the third supplemental stipulation. Referring to the rider NMB provision, No. 6 on page 17, do you see that?

A. Yes.

Q. And in previous discussions you stated it was up to five additional customers, five additional GT customers; is that correct?

A. Yes.

Q. Do the companies have the ability to deny a GT customer's request to participate in the program?

MR. KUTIK: Objection.

A. No, so long as they are otherwise eligible to participate.

Q. And as far as eligibility goes, the exception to including the five -- up to five GT customers is with regard to the eligibility requirements prior stipulations that required -- strike that.

Do you mean that they would have to be otherwise eligible as defined in the prior stipulation that created the rider NMB pilot program?

MR. KUTIK: Objection.

A. Yes, as modified by the third supplemental stipulation and recommendation.

Q. So the aspect of paragraph 6 would state to otherwise would not be eligible for participation, that was only referencing the signatory parties or nonopposing parties that were listed in the prior stipulation as being eligible for rider NMB?

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

(Record read.)

MR. KUTIK: Objection. For among other reasons, I am not sure what the question means. Go ahead.

A. The supplemental stipulation and recommendation identifies members -- identifies who is able to participate in the pilot program. And then that participation list is modified by the third supplemental stipulation and recommendation to include up to five additional rate GT customers who wouldn't have been eligible under the supplemental stipulation and recommendation.

MS. BOJKO: Thank you. That was my question. Thank you for figuring it out.

That's all I have. Thank you so much. No further questions.

MR. KUTIK: Okay. Very good.

MS. BOJKO: Thank you for your time.

MR. KUTIK: While we were off the record much earlier today, individuals had indicated whether they had questions or not. We have now gone through the list of people who had questions who are still on the phone. So we will consider the deposition to be concluded at this time, and we will indicate that we will exercise our right to review the deposition transcript. Thank you very much, everyone.

MS. WILLIS: Thank you.

(Thereupon, the deposition was concluded at 7:04 p.m.)

State of Ohio :
: SS:
County of ___________________ :

I, Eileen M. Mikkelsen, do hereby certify that I have read the foregoing transcript of my deposition given on Tuesday, December 22, 2015; that together with the correction page attached hereto noting changes in form or substance, if any, it is true and correct.

____
Eileen M. Mikkelsen

I do hereby certify that the foregoing transcript of the deposition of Eileen M. Mikkelsen was submitted to the witness for reading and signing; that after she had stated to the undersigned Notary Public that she had read and examined her deposition, she signed the same in my presence on the ________ day of ______________________, 2015.

____
Notary Public

My commission expires _________________, ________.

\- - -

CERTIFICATE

State of Ohio :
: SS:
County of Franklin :

I, Karen Sue Gibson, Notary Public in and for the State of Ohio, duly commissioned and qualified, certify that the within named Eileen M. Mikkelsen was by me duly sworn to testify to the whole truth in the cause aforesaid; that the testimony was taken down by me in stenotypy in the presence of said witness, afterwards transcribed upon a computer; that the foregoing is a true and correct transcript of the testimony given by said witness taken at the time and place in the foregoing caption specified and completed without adjournment.

I certify that I am not a relative, employee, or attorney of any of the parties hereto, or of any attorney or counsel employed by the parties, or financially interested in the action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Columbus, Ohio, on this 24th day of December, 2015.

____
Karen Sue Gibson, Registered
Merit Reporter and Notary Public
in and for the State of Ohio.

My commission expires August 14, 2020.

(KSG-6131)

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ARMSTRONG & OKEY, INC.
Registered Professional Reporters
222 E. Town St. - 2nd Floor
Columbus, Ohio 43215
614/224-9481

December 24, 2015

Ms. Eileen M. Mikkelsen
℅ Mr. James M. Burk
FirstEnergy Corp.
76 South Main Street
Akron, Ohio 44308

Re: In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Authority to Provide for a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Electric Security Plan.

Dear Ms. Mikkelsen:

Enclosed is the transcript of your deposition taken on December 22, 2015, for examination pursuant to 4901-1-21(K) of the Ohio Rules of Practice before the Public Utilities Commission of Ohio.

The rule requires that your deposition be read by or to you. Any changes in form or substance which you desire to make shall be entered by me with a statement of the reasons given for making them.

If your deposition is not signed within 10 days of its submission to you, I am required to sign it and state the fact of the refusal to sign with the reason, if any, given therefor; and the deposition may then be used as though signed, unless on a motion to suppress the Commission holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part. By copy of this letter I am advising the attorneys in the case of the submission of your deposition.

Please have your deposition signed <u>in the presence of a Notary Public</u> and return to us by certified mail.

Thank you for your promptness in this matter.

Sincerely,

ARMSTRONG & OKEY, INC.

Cc: Mr. Kutik
Ms. Willis
Mr. Settineri
Mr. Nourse

State of Ohio :
: SS:
County of ____________________ :

I, Eileen M. Mikkelsen, do hereby certify that I have read the foregoing transcript of my deposition given on Tuesday, December 22, 2015; that together with the correction page attached hereto noting changes in form or substance, if any, it is true and correct.

____
Eileen M. Mikkelsen

I do hereby certify that the foregoing transcript of the deposition of Eileen M. Mikkelsen was submitted to the witness for reading and signing; that after she had stated to the undersigned Notary Public that she had read and examined her deposition, she signed the same in my presence on the ________ day of ______________________, 2015.

____
Notary Public

My commission expires __________________, ________.

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ERRATA SHEET

Please do not write on the transcript. Any changes in form or substance you desire to make should be entered upon this sheet.

TO THE REPORTER:

I have read the entire transcript of my deposition taken on the _______ day of _____________________, ________, or the same has been read to me. I request that the following changes be entered upon the record for the reasons indicated. I have signed my name to the signature page and authorize you to attach the same to the original transcript.

Page	Line	Change	Reason

Date ____________ Signature: ____________________________________

CERTIFICATE

State of Ohio :
: SS:
County of Franklin :

I, Karen Sue Gibson, Notary Public in and for the State of Ohio, duly commissioned and qualified, certify that the within named Eileen M. Mikkelsen was by me duly sworn to testify to the whole truth in the cause aforesaid; that the testimony was taken down by me in stenotypy in the presence of said witness, afterwards transcribed upon a computer; that the foregoing is a true and correct transcript of the testimony given by said witness taken at the time and place in the foregoing caption specified and completed without adjournment.

I certify that I am not a relative, employee, or attorney of any of the parties hereto, or of any attorney or counsel employed by the parties, or financially interested in the action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Columbus, Ohio, on this 24th day of December, 2015.

Karen Sue Gibson

Karen Sue Gibson, Registered Merit Reporter and Notary Public in and for the State of Ohio.

NOTARY PUBLIC STATE OF OHIO

My commission expires August 14, 2020.

(KSG-6131)

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