BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Commission's Review of Chapter 4901:1-10 of the Ohio Administrative Code.	: : : :	Case No. 12-2050-EL-ORD

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PROCEEDINGS - ORAL ARGUMENTS

before Chairman Asim Z. Haque, Commissioners M. Beth Trombold, Thomas W. Johnson and Daniel R. Conway, and Mr. Gregory Price and Ms. Patricia A. Schabo, Attorney Examiners, at the Public Utilities Commission of Ohio, 180 East Broad Street, Room 11-B, Columbus, Ohio, called at 1:45 p.m. on Wednesday, January 10, 2018.

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On behalf of The Dayton Power and Light Company.

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ADDITIONAL SPEAKERS FROM THE AUDIENCE:

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Mr. Eric Brown, DP&L

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Wednesday Afternoon Session,
January 10, 2018.

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CHAIRMAN HAQUE: Okay. Let's go back on the record and begin the oral argument portion of today's meeting.

The Commissioners and I would like to welcome you all to today's oral argument regarding Case No. 12-2050-EL-ORD, being In the Matter of the Commission's Review of Chapter 4901:1-10 of the Ohio Administrative Code, Net Metering.

I will note Commissioner Friedeman is recused from this proceeding which is why there's an empty seat here.

This afternoon's oral arguments will be conducted in accordance with the Commission's Entry that was issued on December the 21st, 2017. As stated in the Entry, the Commission has invited those entities who filed an Application for Rehearing or a Memorandum Contra any such application to participate.

All parties will be given 5 minutes to present their arguments, with the exception of the Environmental Advocates which will have 10 minutes. After each argument, the Commissioners will have an

opportunity to pose questions. After all parties have presented their arguments, each party will have 1 minute of rebuttal. And just for clarification, the Environmental Advocates are being given more time because there were many of them collapsed into one rehearing application.

We ask that counsel speak clearly into the microphone, so his or her voice will be audible to the Commissioners, as well as our court reporter, and those viewing the webcast on the Commission's website. Counsel will receive a warning from the Legal Director or Attorney Examiners if they proceed beyond the scope of these oral arguments or if they are running short on time.

The order of today's arguments will be, first of all, One Energy, then Dayton Power and Light, then the Environmental Advocates, then FirstEnergy, then the Ohio Consumers' Counsel, then IGS, and finally AEP Ohio. Rebuttal will occur in the same order.

So let's go ahead and begin with One Energy. Ms. Johnson.

You got married and you have another last name, right?

MS. TREADWAY: I do now. It's Treadway.

CHAIRMAN HAQUE: Sorry.

MS. TREADWAY: That's all right.

CHAIRMAN HAQUE: Ms. Treadway.

MS. TREADWAY: I kept both so you can use either.

CHAIRMAN HAQUE: Okay. Very good. Welcome.

MS. TREADWAY: Thank you.

Good afternoon, Commissioners. My name is Katie Treadway, and I am the Head of Regulatory Affairs for One Energy Enterprises.

One Energy is a Findlay, Ohio headquartered company that develops, installs, and operates Wind for Industry® projects. One Energy is responsible for more net metered wind projects in the State of Ohio than everyone else combined. We have helped write some of the Interconnection Standards that are currently in use by Ohio utilities and have been strong proponents of utilities strictly enforcing IEEE 1547 and the standards that govern interconnections.

The reason we are intervening at this level currently is because of a very specific clause that was introduced into the final rule language by surprise. The sole focus of my testimony today is

based on the revised definition of "premises" that was inserted into the final rule.

The revised rule inserts an additional condition into the definition of "premises." It requires that a lot is only a contiguous lot if the utility agrees that it is safe to use that lot on a case-by-case basis.

The revised rule directly attacks net metering systems that cross easements and rights-of-way.

The revised rule is unlawful, it is unreasonable, it is impractical, and it is unnecessary.

The revised rule is unlawful. The revised rule is unlawful because it is vague. It does not reference any standards to decide what is safe. It is unlawful because its grants utilities regulatory authority over other companies' electrical systems in a manner that has nothing to do with grid performance or reliability. It is unlawful because it infringes on private property rights of municipalities and private landowners.

The revised rule is unreasonable. The revised rule is unreasonable because it gives utilities unfettered authority to create new

standards on a case-by-case basis and apply those standards to the very companies that are challenging their business model.

It is unreasonable because it gives them authority over a process that they, themselves, are subject to. It is unreasonable because it gives them the ability to make it harder on us than it is on them.

The revised rule is impractical. The revised rule is impractical because the utilities' allegations that crossing easements or rights-of-way creates unsafe conditions is an admission that they, themselves, create unsafe conditions since they must follow the same rules that we follow.

The rule is impractical because the modern real estate world is complicated. Take, for example, Ohio's beloved Toledo Zoo. The Toledo Zoo consists of over 30 parcels of land that house the zoo's parking lots, pedestrian walkways, amphitheaters, restaurants, and animal facilities.

Not unusually, the Toledo Zoo, itself, doesn't own all of the land the zoo sits on. Part of it's owned by the City of Toledo and the Norfolk Southern Combined Railroad, among others. In addition, walking paths for the zoo cross a number of

streets including the Anthony Wayne Trail, a state route, Broadway Street, Marlboro Street, and even a railroad track. In addition, utility easements are ubiquitous throughout the zoo.

The Toledo Zoo has solar panels. Under the new rule, the electric utility would potentially have the discretion to decide if the entire zoo was safe just so it could install those solar panels.

The revised rule is unnecessary. The revised rule is unnecessary because there are already protections in place to protect the public. The crossing of easements and rights-of-ways is already heavily regulated by the Board of Building Standards, building inspectors, county, township, and local zoning authorities and commissions, private landowners, railroads, other utilities, and literally hundreds of years of industry practice and case law.

But luckily, there is a simple answer that is not unlawful, there is a simple answer that is not unreasonable, there is a simple answer that is not impractical, and there is a simple answer that is not unnecessary. The answer is to leave the definition of "premises" just like it was in the Commission's 2015 Order.

Using the revised definition of

"premises" guarantees a legal challenge to this rule. And the very fact the utilities are insisting on this language is just one more attempt by them to try to protect their business model.

We are not unsafe. We are a threat to their business model. That is why they're trying to attack our ability to work with large commercial and industrial customers and they are couching that attack in a veil of unsupported safety claims. That is why the Commission should adopt its 2015 Order's definition of "premises."

I'm happy to take your questions.

CHAIRMAN HAQUE: Okay. Thank you.

Ms. Treadway, I think this -- it would be helpful to us up here, could you -- could you just walk us through a practical example, I know you used the Toledo Zoo, but walk us through a practical example whereby you start with a parcel of land, assumedly the metered point is at that parcel, and then you've got contiguous pieces.

This is, you know, one -- talk to us about One Energy's business model. And so you would start with -- you would start with conceivably, or maybe you don't actually put solar panels on a facility on the metered -- on the -- on the parcel of

land with the metered point. Maybe you want to -- maybe you want to put solar panels on a contiguous parcel.

So talk to us about, you know, what you would do. Let's assume that -- let's assume -- let's assume both ways. Let's assume that you get your -- you get your desired definition versus how you would proceed if you had to ensure that the utility decreed that it's not unsafe and hazardous to put solar panels on a -- on the roof of a parcel, a contiguous parcel.

MS. TREADWAY: Absolutely. So first I'll start by explaining how we would proceed under the Commission's 2015 rule and then how we would proceed under the rule that is proposed in December -- or, in November of 2017.

So essentially our business model, we install utility-scale wind turbines on industrial facilities. So these turbines are large, so we locate them a distance away from the facility itself. Other types of net metering technologies also have -- can be located a distance from an industrial facility. Solar panels sometimes are in a solar field. Hydro power is another example of a type of resource that would have to be located away from the

customer's actual facility.

So all of our customers' facilities are complicated. So these are often large industrial complexes. These real estate -- these pieces of real estate, the structures of that real estate are basically the result of hundreds of years of real estate transactions.

So we've had some facilities where it's the Port Authority who owns the facility. We've had it where it's a developer, like CBRE, that owns the facility and then the industrial just rents from them. So there's all sorts of arrangements, both from a real estate perspective and from a transactional perspective that make it very complicated of how an actual industrial facility is laid out and made. So --

CHAIRMAN HAQUE: Got it. Yeah. So -- so -- so the -- the -- the potential -- so let's just say the structure or the place where people are going into is on a parcel where the metered point is. But you've got a wind turbine --

MS. TREADWAY: Right.

CHAIRMAN HAQUE: -- so you're going to want to place the wind turbine in a -- in a contiguous parcel that maybe is deep into the

contiguous parcel so as to avoid any interference with that structure, okay?

MS. TREADWAY: Correct.

CHAIRMAN HAQUE: So then what is the, from just purely a technology standpoint, what, like what are the, what are the facilities, what are the wires, what are the hookups that go from that, that wind turbine to the metered point and is that arguably distribution stuff.

MS. TREADWAY: So all of our facilities are clearly behind the meters. They don't mark the distribution grid; that is a traditional, you know, utility's domain, the traditional distribution grid. All of it is essentially behind the customer's meter with the utility. So it's essentially part of, and interconnected with, the industrial customer's facility itself.

The various structures that make up the technology that involve, is part of those systems, includes the turbine itself, transformers, switching stations, and collection lines that run to the industrial facility. So essentially it takes that power from the turbine and delivers it to the customer-generator's facility. So it's a wire.

And essentially the practical process of

how we go through that now is that if, you know, that piece of real estate has an easement on it, for example a lot of industrial facilities have railroads nearby. So, for example, if it was a requirement for us to cross that railroad, if whoever the owner of that railroad is, we have to go to them for permission.

So, for example, CSX is a railroad we've often had to, been required to cross a line of. So we have to go to CSX. CSX has a wireline occupancy manual that we have to adhere to. It's approximately 40 to 50 pages. It requires us to submit detailed engineering drawings. Those detailed engineering drawings have to be accepted by the engineers at CSX; once they are, they review those drawings for safety. Then they give us the go-ahead to actually conduct the work. While we're doing the work, they inspect the facilities, they make sure they're safe. And they eventually, if we satisfy all of their parameters, they go ahead and grant that permit.

There are very unique considerations that have to be taken into account when you go underneath or over a railroad and that's why it's important that the utility -- or, the railroad, who has the expertise over that, is able to govern that process

and ensure that every crossing that does take place at a railroad is safe.

So the same process exists any time we have to cross a roadway that's around an industrial facility or if there's a pipeline around an industrial facility. Whoever is the owner of that piece of private property has to give us explicit permission to cross that or else we essentially can jeopardize the entire project.

CHAIRMAN HAQUE: Okay. And let me just ask one more question. I'm sorry I have so many questions --

MS. TREADWAY: No --

CHAIRMAN HAQUE: -- for you, but you're one of the only parties arguing on this issue, so.

MS. TREADWAY: Yup.

CHAIRMAN HAQUE: Can you -- can you marry for me the concepts of the Commission's language in the rule, which is "unsafe" and "hazardous," and that's the standard that the Commission would utilize or that the EDU would utilize, which could eventually come to the Commission in some form of a complaint, I'm guessing, if they -- if you felt like they unreasonably withheld their consent to you utilizing this contiguous parcel.

Can you marry that with the whole public thoroughfare, right-of-way issue? Because I think from what I'm understanding from what you just said, it's that the utility would potentially be abridging the rights of those who hold, for instance, the easement or the public right-of-way? Not abridging. I mean, it potentially could be a cog in your business model, right, but not necessarily, you know, abridging a property right there.

So can you marry those concepts? I mean, what the Commission said is if this is not safe or if this is hazardous, then the EDU's got to say, "Hey, this is not safe and not hazardous." Potentially you find another methodology to do it. But I'm interested in that standard that has been created and marrying that to your argument associated with the right-of-way, public thoroughfares, et cetera.

MS. TREADWAY: So again, this area is comprehensively regulated, so we don't think there necessarily needs to be an overlay with respect to that.

I would say that the term "safety" and -- of "unsafe" and "hazardous" as it's used is of particular concern because unlike the interconnection rules which holistically deal with safety, as opposed

to the net metering rules which do not, they reference specific standards and specific actions that must be taken. UL 1741, IEEE 1547, the National Electric Code. These aren't ambiguous, unclear standards that are just whatever comes out of the utilities' minds. These are written standards that we understand, that we can understand going into things so that we can ensure that we are satisfying those standards prior to the project even starting.

We want to ensure these facilities are safe as well, but if we don't know what standard the utility is going to apply to determine what's safe and what's -- or what's hazardous, then we can't possibly adhere to that standard. Instead, it allows them to just make it up on a case-by-case basis to either allow us to go forward or not.

So we already have to go through a very intricate process with the utility. We work with them constantly on how to design an interconnect that will not impact the grid whatsoever, that will ensure the safety and the reliability of the electric grid.

What the utility doesn't do is tell us how to build a wind turbine. What they don't do is tell us how to construct a foundation or how to build a roadway.

Now, we just want to make sure that the utilities' authority is clearly where it is most effective and where it currently lies, which is with the interconnection itself and protecting the distribution system; not overreaching into an already-existing comprehensive regulatory framework that determines how people can construct things on their own properties.

CHAIRMAN HAQUE: Okay. Other questions? Commissioner Conway.

COMMISSIONER CONWAY: Thank you.

Ms. Treadway, as I understand your position, it's okay for the utilities to be concerned about, and to review and either approve or not approve your -- your clients' facilities as long as -- as far as it's -- as long as it's limited to the manner in which it affects the utility's side of the interconnection. Is that a fair way to describe what your position is?

MS. TREADWAY: Yes. The manner in which it affects, yes, the distribution grid and the safety and reliability of that grid.

COMMISSIONER CONWAY: So would -- would you -- I've got Dayton's Memorandum Contra comments in mind as I'm asking these questions. And I'm sure

you've read their -- not their comments -- but their Memorandum Contra, right?

MS. TREADWAY: Correct.

COMMISSIONER CONWAY: So do you agree with their view that at least to the extent that they address this topic, that it would be appropriate for the utilities to review what your clients are proposing to do on their side of the interconnection to the extent that it affects and maybe creates an unsafe or hazardous condition on the utility's side of the interconnection, on their system.

MS. TREADWAY: So absolutely the interconnection rules specify very explicitly that we have to show to the utility that our facilities satisfy IEEE 1547 and all those other articulated standards so that it will not impact the distribution grid. And we absolutely think it is important in the State of Ohio to ensure that the distribution grid is not negatively affected by these projects.

COMMISSIONER CONWAY: So -- yes, it is.

CHAIRMAN HAQUE: Can you speak closer to mic because --

COMMISSIONER CONWAY: I'm sorry. If there's -- if, in the course of this exercise, you can't hear me, just raise your hand, wherever you are

in the room, if you can't hear me, okay? So can you hear me now in the back of the room? No? Well, okay.

CHAIRMAN HAQUE: Hold on one second. We're going to -- we might adjust the volume here.

COMMISSIONER CONWAY: At least you can hear me.

MS. TREADWAY: I can hear you, yes.

CHAIRMAN HAQUE: Okay. Let's keep rolling.

COMMISSIONER CONWAY: Okay.

MS. TREADWAY: I can repeat the question, too, if you'd like or if that helps.

COMMISSIONER CONWAY: The -- my question is, to the extent that Dayton has responded to your concerns in their Memorandum Contra, are you in agreement with what they have to say about what the purpose of their review, the utility's review would be, which is, as I understand it, to ensure that whatever you're doing on your side of the meter, the interconnect -- I'm sorry -- your side of the interconnection is not having a hazardous or unsafe consequence on the distribution network itself, the utility's side of the interconnection.

MS. TREADWAY: So I would say we do agree

-- I don't agree with how it was necessarily worded or framed, but, broadly, we do agree with the perspective that absolutely we should be required to submit plans, and we already do, we submit interconnection applications and all sorts of supporting documentation to ensure that it does not impact the distribution grid.

We just believe that this rule as proposed in the 2015 Order -- 2017, I apologize, Order doesn't satisfy that because it's so vague and broad that we can't determine whether they're talking about that interconnection or whether the rule applies to something much broader which could be how the actual facility is constructed, for example, or what the foundation looks like, which is clearly not in the utility's purview.

COMMISSIONER CONWAY: So -- so if what we meant in our rule, as far as the standard for the utilities to apply, to determine whether you're presenting an unsafe or hazardous condition is the manner in which Dayton has described it in their Memorandum Contra, are you okay with that as the -- as the meaning of the standard in our rule? Is that sufficient --

MS. TREADWAY: No, I don't think --

COMMISSIONER CONWAY: -- for you?

MS. TREADWAY: I don't think we would be comfortable with adopting the language that DP&L suggested. And I honestly don't know what that exact language is, so it's hard --

COMMISSIONER CONWAY: All right. That's fair enough.

MS. TREADWAY: -- to speak to it today.

What we would be content with is moving it to the previous standard that was in the 2015 Commission Order, so.

COMMISSIONER CONWAY: All right.

CHAIRMAN HAQUE: Commissioner Trombold.

COMMISSIONER TROMBOLD: Hi. Thanks. Quick question for you. So I'm guessing, you said most -- all of your -- all of the clients that you work with are industrial-based, right?

MS. TREADWAY: Yes.

COMMISSIONER TROMBOLD: So are those -- in all of those situations is there a contiguous-premises issue? Would you say more than not there is? Or can you give me an idea of how often this is an issue then?

MS. TREADWAY: I would say in every single instance that we've worked on we've had to

cross some sort of easement, some sort of parcel line, or some sort of roadway/railway right-of-way on these industrial facilities. They're just so complicated from a real estate standpoint. It's virtually impossible to avoid.

COMMISSIONER TROMBOLD: Okay. Thank you.

MS. TREADWAY: Uh-huh.

CHAIRMAN HAQUE: Commissioner Johnson.

COMMISSIONER JOHNSON: Thank you for your testimony. Now, when I think of One Energy, I think of wind. And I think that -- and when I think of this requirement, I think of solar, I think of wind, I think of a lot of different areas. I wonder if there's any separation in your mind between, for example, solar operators and wind operators, I mean as far as this provision about the safety interests and the utilities.

MS. TREADWAY: I would say no, I wouldn't treat any of the resources differently. All behind-the-meter, you know, DG companies have a responsibility to ensure a safe interconnection with the grid, and to ensure that the safety and the reliability of the grid is not affected.

I think that for some resources it may be easier to site them closer to the facility, but

that's certainly not the case in all instances. And so no, I wouldn't, I wouldn't treat this rule differently for any of the resources.

COMMISSIONER JOHNSON: And I also wonder if, if you think all companies are the same like yours. Are they pretty much all, all of them as reputable, all of them as, as doing as good a job in, in making sure that safety is, you know, a number one priority?

MS. TREADWAY: Not necessarily. And that's why the Commission's interconnection rules are so important. That's why it is so important that when someone is interconnecting a facility like this, they follow those rules and that the utility insists that they strictly adhere to those rules. It's absolutely essential for the safety and reliability of the grid.

And that's why it's essential that the authorities, the local authorities that do have authority, the building inspectors, the Board of Building Standards, that they do ensure that those practices are safe. That -- that system and that regulatory framework is in existence to protect that safety and that's why it's there.

CHAIRMAN HAQUE: Attorney Examiners?

Nothing?

Okay. Ms. Treadway, thank you very much. We'll see you on rebuttal maybe.

MS. TREADWAY: Thank you.

CHAIRMAN HAQUE: Okay.

MS. TREADWAY: Sounds good.

CHAIRMAN HAQUE: Thank you.

Okay. Next up we have Dayton Power and Light.

MR. SCHULER: Mr. Chairman, Honorable Commissioners, Attorney Examiners, and the PUCO Staff, I am Michael Schuler, I represent the Dayton Power and Light Company.

Dayton Power and Light maintains that the -- we support the rules as they are written in the November 2017 Order from this Commission. We believe that the rules maintain a delicate balance of all the many different interests that have been involved in this case, that have been fleshed out over more than half a decade. We believe they strike a delicate balance that both encourages the development of distributed generation as required by 4928.02(C), while also ensuring reasonable limits to ensure safe and reliable service.

I'd like to focus on two examples that

really exemplify this delicate balance as set forth in the November 17 Order.

The first is how net readings and credits are calculated. Unless the Commission orders otherwise on an Entry on Rehearing with further clarification, (B)(9)(a) and (b) demand that a customer-generator, for up to 100 percent of their energy requirements, the bill calculation will be determined not just on a generation component, but also on the volumetric transmission and distribution components as well. We see this as a tremendous benefit for customer-generators that will also induce and encourage the development of distributed generation in Ohio.

We believe that this is balanced with reasonable limitations on excess generation, such that credits for excess generation are limited to energy-only credits for SSO and only for SSO customers.

You know, as probably talked about quite a bit in a lot of the briefing, the net metering rules are designed not to encourage excess generation, but it does happen. In fact, DP&L has probably about 20 customers that are already excess-generators. We expect to see more of those

with the 120 percent sizing rule.

But I raise this because DP&L is in a unique situation with their tariffs and our current competitive bid service in that we, unlike the rest of the utilities, have an energy-only component to our SSO bids and our tariffs. So if the rules were to be changed to a capacity credit as well, it would put us in a bit of a unique position of having to somehow figure out how we would operate under our current existing tariffs. So this is a great example of how the Commission's November 17 Order really balanced all interests involved.

Perhaps the best example was what was just discussed up here with Ms. Treadway, is the delicate balance of how the Commission addressed the differing viewpoints on net metering with contiguous properties.

Obviously, the EDUs expressed a lot of concern about having any net metering on contiguous properties because of safety and reliability concerns; while a lot of the other parties in the case expressed concern about not -- about stifling the opportunity of installing distributed generation in Ohio.

We believe that the rules from the

November 17 Order really strike a good balance and an evenhanded approach by allowing net metering on contiguous properties, while also keeping the EDU as part of the process to ensure that safety and reliability will be maintained on the distribution grid.

Now, One Energy only talked about one of their issues, but they actually have two issues with the language contained in the rules from the November 2017 Order.

The first is they are seeking additional language to permit net metering on contiguous properties that are not necessarily contiguous. Specifically, they're looking at easements and right-of-ways, and there's been a discussion up here already about this, but we view this as not a contiguous property and would encourage the Commission not to adopt these additional -- this additional wording.

By definition, "contiguous" means adjacent to. And by inserting a right-of-way from a third party, they're no longer adjacent properties.

In addition to that, as One Energy has brought up, this introduces another party to an already very complicated process that obviously we've

all come to know over the last five years. So, for that reason, we do not believe that the additional language should be added.

One Energy also spent a lot of time talking up here about removing the language that allows the utilities to have a voice in whether net metering infrastructure on contiguous properties present an unsafe or hazardous condition. And we would -- we would submit that that language should remain in there.

As -- as Ms. Treadway mentioned, the utility is -- and also in their papers -- that we are the gatekeeper as the EDU and we obviously control the interconnection. But it doesn't just stop there. As some of the discussion we had up here, how the energy gets to the interconnection is also a concern of safety and reliability for everyone involved, customers, the utility workers, and could have an impact on the distribution utility's grid.

Ultimately, we expect that -- I think One Energy expects the Commission to just trust that these third parties have sufficient safeguards out there and have more, you know, more expertise than the utility, but we would take issue with that particular position.

So, for that reason, we believe that the rules are appropriate as set forth in the November 17 Order. It allows customers to install their own generation, but if they wish to put energy back onto the distribution utility's grid, the utility should have a say at the table.

CHAIRMAN HAQUE: Thank you, Mr. Schuler.

So a question on the premises issue.

MR. SCHULER: Sure.

CHAIRMAN HAQUE: I think we can probably craft the rule, when we are talking about contiguity, we could craft the rule based upon some of the concerns associated with property rights and what may get in the way with contiguity.

But look, more so from a policy perspective, when we're talking about safety, so if DP&L reviewed a project that came its way from One Energy, what would you be looking for, what would you be looking for when you reviewed this project, you're trying to determine if there was a safety or a hazard that would -- that would -- that would do harm to the distribution grid?

MR. SCHULER: Mr. Chairman, I think -- I hate to answer it this way, but it's very difficult to have an answer for this question and that's why we

thinks it does need to be a case-by-case basis. It really depends on what we would be faced with.

They talked about the Toledo Zoo here today with windmills and very experienced entities involved, but these rules apply across the entire state with all EDUs and all customers, with solar, wind, and other types of generation. So it -- it really is difficult to answer it in a sweeping manner which is actually the very reason why we believe the language should remain in there that we need to be a part of that process to determine on a case-by-case basis.

CHAIRMAN HAQUE: Okay. And then a question about the -- the payment for excess generation and the debate between energy only or energy plus capacity. So if it's the policy of this State to advance net metering, why shouldn't we allow for a payment for excess generation that includes capacity?

MR. SCHULER: Your Honor, for -- well, for a couple of reasons. The first, obviously, our reading of the Revised Code is that, you know, net metering is designed for a specific purpose and that's to net out what is received and what is put back onto the grid. There are other ways for

customers to produce generation. We would -- we would hate to see net metering essentially become just another way to do generation in Ohio.

And then also more specifically from DP&L's perspective, like I alluded to, it could potentially create some problems with the tariffs that we just recently filed and were approved by the Commission because of the fact that we don't have a capacity component. So for both our own selfish reasons, but also from a higher-level policy reason, we believe that it should be energy only.

CHAIRMAN HAQUE: Okay. Other questions from the bench?

Mr. Johnson.

COMMISSIONER JOHNSON: Thank you very much.

You mentioned about the, I think you said 20 customers that were producing excess amount of energy. I wondered, are those solar customers?

MR. SCHULER: Sorry. I was looking back at my team, Mr. Commissioner. Yeah. Yes, I believe they are solar customers.

COMMISSIONER JOHNSON: Okay. And -- and I wondered if you had other numbers as far as, you know, this, this Order and how many it would affect

and is there any -- I'm not even sure whether you would -- it's going to cost you more or it's costing you -- would cost you less, as far as the company is concerned, the way it's written right now?

MR. SCHULER: Just to make sure I understand your question, Mr. Commissioner. When you're referring to "costs," are you referring to the implementation of net metering or are you talking about a different type of costs?

COMMISSIONER JOHNSON: I'm talking about the -- I guess maybe it's in question form. Is there an additional cost that this Order would cause, and that would be implementing it, it would be operating it.

MR. SCHULER: Yeah, there certainly will be additional costs. I think that was addressed in the Commission's November 2017 Order that we can come in and seek recovery of those costs. But you've identified a good portion of them. They will be the implementation. Obviously with these rules going in, we will expect to see more of this. We will need to automate the processes -- they will -- or invest a lot of extra manual labor, but we intend to automate the processes which will require obviously some costs.

And there will be other things I think that we alluded to in our Memo Contra, the, you know, the effect on distribution revenues as a result of net metering. So yes, there will be some costs. We have not been able to quantify that yet, as we're still working on implementation, but yes, there will be.

COMMISSIONER JOHNSON: And do you have an idea of how many customers we're talking about at DP&L?

MR. SCHULER: Total number of customers or who might implement net metering? Our -- our total number of customers is about 520,000 customers. But how many customers may implement net metering, I don't know that that's something we can project.

Obviously, I think customers are probably starting to analyze what these rules may mean to them and whatever other incentives they might have out there to install their own generation and distribute it back onto the grid. So it's -- it's difficult at this point and nor do I have a number to project how many customers will take advantage of net metering.

COMMISSIONER JOHNSON: Well, would you say at the present time it would be insignificant?

MR. SCHULER: Of how many will --

COMMISSIONER JOHNSON: Yeah.

MR. BEELER: 350 currently.

MR. SCHULER: We do have -- yeah, I want to make sure I got the numbers right up here. We do currently have about 350 customers --

COMMISSIONER JOHNSON: Okay.

MR. SCHULER: -- that do net metering.

Certainly we would expect that to grow now that customers have a little more understanding of what they can expect, their expectations, they can plan their systems, especially now with the understanding that it can be sized at 120 percent, that will certainly, I would imagine, induce customers to implement distributed generation and, once again, a reason why we believe these rules are a very good balance of all interests involved.

COMMISSIONER JOHNSON: Thank you.

CHAIRMAN HAQUE: Just a quick follow-up. Of the 320, what's -- what's the customer class breakdown roughly if you know it?

MR. BEELER: In terms of residential versus commercial?

CHAIRMAN HAQUE: Yeah.

MR. BEELER: I'd say about 80 percent residential.

CHAIRMAN HAQUE: Okay.

MR. BEELER: That's on the numbers side. The capacity is a lot different.

CHAIRMAN HAQUE: Okay. Commissioner Trombold.

COMMISSIONER TROMBOLD: Going back to the premises issue. Excuse me. Just curious. This whole contiguous lot, have you -- has your company noticed safety issues associated with it? Has there been a lot of that? And how does that come to your attention?

MR. SCHULER: Up until this point we haven't had any contiguous lots, so I don't think we have -- we have not seen that yet. That's obviously going to be something that will come up. But we are anticipating that certainly some issues will come up.

And just using the example of what One Energy has talked about. They talked about the Toledo Zoo. Or, you know, in their Reply Comments they talked about putting rooftop solar up at FirstEnergy, on top of their parking garage and carrying it across a number of easements which include roads, pedestrian walkways, and over to the stadium, and then eventually connecting into our interconnection.

Along that way -- I mean, we are talking about a dangerous commodity here -- but along that way there could be a number of things that go wrong that could affect a number of different people, including the distribution utility workers that maintain the interconnection, how that could impact the reliability of our interconnection. And of course, you know, if there's any sort of sagging line or something is not maintained properly or installed properly, that could affect the customers that are standing under or above those lines.

So although we haven't seen anything yet because the rules are being implemented, we do anticipate that there could be issues and that's why we think it's appropriate for us to have a seat at the table.

We're not here to, you know, stifle the development of distributed generation, but we believe that as the resident experts on distribution systems, we should certainly have a say in what is safe and reliable.

COMMISSIONER TROMBOLD: Okay. Thank you.

CHAIRMAN HAQUE: Commissioner Conway.

COMMISSIONER CONWAY: Two -- at least two areas, Mr. Schuler, I wanted to follow up with you.

First, actually preliminarily, can you hear me in the back of the room or not?

CHAIRMAN HAQUE: We have nodding heads.

COMMISSIONER CONWAY: There are nodding heads. Good.

What is "contiguous." It seems to me, based on what I've heard from your comments, that under the rule as currently written, Mr. Schuler, your view is that if the parcels, if the lots are across the street or across a railroad right-of-way, they're not contiguous. Is that -- do I understand your position correctly?

MR. SCHULER: That is our position, yes.

COMMISSIONER CONWAY: All right. And if there is a utility easement that runs along the juncture of the two contiguous lots, are you also of the position that those are not contiguous, that those are not contiguous lots?

MR. SCHULER: For purposes of net metering?

COMMISSIONER CONWAY: Yes.

MR. SCHULER: For purposes of net metering, we would --

COMMISSIONER CONWAY: For purposes of the rule that we're considering here.

MR. SCHULER: Yes. Yes, we would. We would, even if it is utility easement. In fact, that would probably raise one of our graver concerns is how are those lines, that are getting to the interconnection, going above or below our distribution utility lines. It's probably one of the greatest concerns we have with safety.

COMMISSIONER CONWAY: But your position is they're not even contiguous so they wouldn't even be, those lots would not be available to the, to the net meterer or the customer-generator to use anyway. We wouldn't even get to the -- we wouldn't get past the threshold of contiguity under your view of it, right?

MR. SCHULER: Yes, Commissioner Conway. It's essentially a two-pronged analysis that we don't believe that it is contiguous such that it should not be permitted; but, if so, we see it as a -- as a safety concern.

COMMISSIONER CONWAY: Is it safe, is it hazardous. All right. So they've got actually two hurdles to get over for you. One is contiguity and the other is safety/hazardous.

Okay. I -- when I started out this afternoon with my questions for Ms. Treadway, I was

wondering whether or not there was common ground actually between you, at least, and One Energy, because it seemed to me that your explanation of what you were looking to address in your review, under the rule as it's currently written, is simply the impact on your side of the interconnection by what the -- by what the One Energies are proposing to do on their side. And so, I thought well maybe there really isn't a disagreement, maybe you're just talking, using different nomenclature or something.

But now that I hear your views about what "contiguous" means and what -- and what "safety issues" mean, I'm thinking that there is really a difference of opinion, pretty fundamental, between you and One Energy. And that is that you're interested in, under the rule as it's currently written, you're interested not only in not having these, these net-meterer, customer-generator facilities crossing rights-of-way and public ways, but you're also interested in looking to see whether you think the manner in which they string up their lines on their side of the interconnection, in your view, are safe enough. Not -- not as far as how they impact the distribution network, but how they impact activities on these -- on the contiguous lots where

they're erecting their net metering system.

So is that accurate that you want to be involved in a safety and hazard review on the customer's property. You're not just interested on impacts on your network of that type.

MR. SCHULER: In this unique circumstance, Commissioner Conway, where we're talking about a contiguous lot, which we read the rules (B)(5) and (B)(6) as two separate scenarios --

COMMISSIONER CONWAY: My -- my question is assume that you got past the contiguous threshold. You're not talking about whether it's contiguous or not contiguous. It is contiguous. It's just that there are facilities on the contiguous lot that you you want to take a look at to make sure that they don't have -- that they're safe or they're nonhazardous.

And my question is, is your safety/hazardous review, assuming that in your view they are contiguous, does it extend to examining whether or not the hazard or the safety is -- is limited to or is a consequence that's just on the customer side of the meter, that you have the right to get into that and just make a determination for yourself whether it can be operated safely or

nonhazardous, in a nonhazardous manner, all on -- with impacts being evaluated, just those on the customer side of the interconnection.

MR. SCHULER: I believe it would be both, Mr. Conway. It could have a safety concern for the interconnection itself.

COMMISSIONER CONWAY: Assume it doesn't have it. Let's just keep whittling this down. Assume it doesn't have a safety or a hazardous impact on your distribution network. You're only now -- the question is are you allowed, under our rule, to look at what the safety and hazardous impacts are solely on the customer side of the interconnection and assume there's not a contiguous issue either.

You're past contiguity. You're not -- you're past adverse, hazardous impacts, unsafe impacts on the distribution network, and now we're just talking about what's going on, the activities on the customer's facilities and the area, the geographical area that the customer owns.

Is it your -- is it your duty, your job, under this rule as written, as you see it, to go in there and take a look at it and make sure that everything is operating safely and in a nonhazardous manner on the customer's side of the interconnection

on the customer's property?

MR. SCHULER: And I'm not trying to evade the question. I just -- it is -- we see it as two separate analyses. If it's -- if we have a contiguous lot, it's one analysis. But if it is a noncontiguous lot, it's just contained on the customer's premises; the interconnection rules govern that. So if we're talking about a contiguous lot, we fall under the (B)(6) rules which contemplate the safe or hazardous condition.

So I'm trying to make sure I am understanding your question. I'm not trying to evade it.

So under that scenario, because we are talking about a unique situation with a contiguous lot, we believe it does both, both the interconnection, but also how that energy is getting to our interconnection because it's coming across from another property. So it raises an additional level of -- and I don't want to say "concern" because we don't know that it will, but it should merit an additional level of review as a result.

Does that answer your question, Commissioner Conway? I want to make sure I am.

COMMISSIONER CONWAY: I'm -- I'm just

trying to look for common ground that we can use as a basis for resolving the disagreements, and I just want to make sure I understand what your position is.

It sounds like -- you tell me whether I misunderstand it -- based on what you just said, it sounds to me like if there are contiguous lots, put aside contiguity as an issue, contiguous lots that where the customer, where the meter is located on that lot, you're not interested, you don't have a role in figuring out whether things are being done safely on the customer's premises on that lot.

But to the extent that there's a contiguous lot that the net metering system is installed on, you would have an interest in going over to that lot and taking a look to see whether or not things, in your view, are being done in a safe and operated in a safe and nonhazardous manner. So you'd have to -- that's what I'm taking away from what you just said. And if I'm wrong, correct me.

MR. SCHULER: No, I believe we are on the same page and, yes, that is correct. And for the very reason why I believe -- why we're seeing them as parsed out and why we believe the rules do, is when the facility is on the same property it's a more immediate access to the interconnection; whereas,

when we're talking about contiguous lots, we don't know how far that could be. And so the longer you go down, the longer you're running a line to get into the interconnection across contiguous lots can create other safety concerns and reliability concerns that are out there. So I believe, with that explanation, yes, we agree.

COMMISSIONER CONWAY: But you keep slipping off my hook here a little bit.

(Laughter all around.)

MR. SCHULER: I'm not trying to.

COMMISSIONER CONWAY: I'm suggesting to you that there's no impact from what's going on on either of the two contiguous lots. In the example there's no impact on the distribution network itself. We're just talking about from a safety and hazardous standpoint. There's simply a question of whether or not there's a safe and a nonhazardous installation and operation of the equipment on that second contiguous lot. Are you interested in that under your view of the rules?

MR. SCHULER: Yes.

COMMISSIONER CONWAY: All right.

CHAIRMAN HAQUE: Just to clarify, because I think I got a little confused during this line of

questioning as well.

So look, so you've got, you've got the lot where the metered point is, okay? And then in the One Energy example you've got the contiguous lot where the wind turbine is. So on the lot where the metered point is, there are already, per what Ms. Treadway has said, there are already particular standards that have to be met, 4901:1-22, National Electric Code, IEEE standards. Those -- you -- you -- you work with One Energy to ensure that those standards are adhered to. Sans contiguity. Forget contiguity for a second. So just on a net metered facility, let's assume that the wind turbine is on that same, on that same parcel as the, as the facility that will be, you know, arguably utilizing the power; there are certain safety standards that have to be met.

MR. SCHULER: Correct, Mr. Chairman.

CHAIRMAN HAQUE: And you work with -- you work with One Energy to ensure that those standards are adhered to currently, per what Ms. Treadway has already stated.

MR. SCHULER: Yes. And in addition to what you've already identified, there are also roughly 30 pages of tariffs that we have that govern

it as well.

CHAIRMAN HAQUE: Got it. And then when you moved -- and then when the wind turbine moves to a contiguous lot and you start crossing utility facilities -- so the property interests aside -- when the wind turbine moves let's say just further away, okay, and you start crossing potentially into utility easements that have -- that have potential facilities. It goes -- the wind turbine is further and further away from the metered point. There is another -- well, I guess what we have established is really a trigger or a mechanism for the utility to say, even beyond the safety requirements that already need to be adhered to, to say we're not okay with this, we're not okay with this from a safety and hazard standpoint. Right? I mean, we're -- we're on the same page with that, right?

COMMISSIONER CONWAY: I'm not -- I mean I'm just trying to understand what the position is. I'm not really -- maybe it appears that I'm taking a position on the result here. I'm trying to figure out where you have your disagreement with Ms. Treadway.

And I think her position is -- her position is that you should stay out of her business

when you're on the parcel where her customer's facilities are, and you should stay out of her business on the parcel that's contiguous to it, but you should be in her business with regard to the overall impact of whatever's going on on the first lot as well as the second lot, whatever that overall impact is on your network, she's saying she's okay with that, as I understand it.

But she's saying stay out of our business, we don't need you to tell us whether our line is sagging on our first parcel or whether the line from the first parcel to the second parcel is sagging. That's -- that's other people's business and we don't need your help with that. That's what she's saying, I think.

And my question is -- because after reading your Memorandum Contra I thought well maybe you're okay with that too, and maybe there's not a disagreement between you and Ms. Treadway. That's my -- that's my question --

CHAIRMAN HAQUE: I think you just want to say there is a disagreement. I think we can agree there is a disagreement.

MR. SCHULER: Yes, I think there is a disagreement there.

I was with you, Commissioner Conway. I thought we were getting there, as I was listening to the arguments, but I think it's become clear that we do have a disagreement.

And I think the Chairman has pointed out that you've identified the exact scenario there and it really comes down to the interconnection itself is a very finite point per 4901:1-22. That's what we're talking about in -- in (B)(6) where we're talking about contiguous lots is how that energy gets to that interconnection can also have an impact, and we want to make sure that we have a say in that, in that process, which is not contained in the interconnection rules.

CHAIRMAN HAQUE: Okay. Attorney Examiners Price, Schabo?

EXAMINER PRICE: I just had one question on the --

CHAIRMAN HAQUE: Make sure your mic is on, Greg. Yeah.

EXAMINER PRICE: -- on the excess generation. Does Dayton Power and Light have the back-office ability to measure excess generation put on by shopping customers and compensate their CRES provider for that -- for that energy?

MR. SCHULER: The -- I'm -- I'm sorry. The back-office capability to measure excess generation --

EXAMINER PRICE: Excess generation, right. If you have a negative load one month, do you have the ability to track that and then send that information on to the CRES provider and compensate the provider for the unaccounted-for energy?

MR. SCHULER: I believe we will, because it requires interval meters which can do that, and certainly, as you saw in our Memo Contra, implementing Smart Grid will further assist in that process.

CHAIRMAN HAQUE: What do you do --

MR. SCHULER: So --

CHAIRMAN HAQUE: What do you do with excess energy right now? What do you do with the excess energy that comes into the system right now.

MR. BROWN: It's unaccounted for.

COMMISSIONER CONWAY: It's unaccounted for.

CHAIRMAN HAQUE: It's just unaccounted for?

MR. BROWN: Correct.

MR. SCHULER: You're starting to get

really technical here, Mr. Chairman. So I -- I --

COMMISSIONER CONWAY: It goes out into the Aether.

MR. SCHULER: You are correct.

CHAIRMAN HAQUE: Okay. All right. Very good. Any other questions? Mr. Schuler -- we can't -- we can't go down the parcel path again.

COMMISSIONER CONWAY: No, no way.

(Laughter all around.)

MR. SCHULER: I should steer clear of that on rebuttal then, Mr. Chairman?

(Laughter all around.)

COMMISSIONER CONWAY: Stay away from it.

CHAIRMAN HAQUE: Right.

Okay. Mr. Schuler, thank you very much.

MR. SCHULER: Thank you.

CHAIRMAN HAQUE: Okay. We'll proceed with our Environmental Advocates.

MS. FLEISHER: Chairman, Commissioners, Attorney Examiners, thanks for the opportunity to discuss these issues today.

Just logistically, my name is Madeline Fleisher, I'm with the Environmental Law and Policy Center, and I'll be taking 7 minutes today to address the capacity value of excess generation. My

co-counsel, Miranda Leppla, will take on the time-of-use sizing and customer premises issues, for any questions on those fronts.

And on this, I just really want to cover two main points. First is that the General Assembly here has not only set forth a policy of encouraging distributed generation, but it specifically directed how that policy is to be implemented which is to treat net metering customers and their kilowatt hours identically to those of non-net metering customers. That's in the statute, it's very explicit as to rate structure, retail rate components, and any monthly charges. And our perspective is that controls what the Commission does here. That there's no room to, you know, create a new rate component regarding excess generation. It's kilowatt-hours are the same.

And then to the extent we are going to delve into what is the capacity value of excess generation, we think there's plenty to show that the capacity value is there. And the main counterargument to this has been that the distributed generation is not dispatchable.

But capacity value is not about dispatchability. It's about whether distributed generation can reliably and predictably reduce peak

demand, and it can, it's been valued as such in other states across multiple jurisdictions of all kinds, and so we think that it's appropriate to do the same here and we'll appropriately implement state policy recognizing the value of distributed generation to all customers who benefit from lower peak demand.

With respect to the statute here, it's -- it's standard policy across the United States, where you have low penetration of distributed generation, to not get caught up in exact valuation of what is every single kilowatt-hour worth with respect to energy value, with respect to capacity value, with respect to transmission and distribution value, where it can contribute on all those fronts.

And this sort of just "treat it the same as any other kilowatt-hour" approach is meant to be rough justice. It's not meant to say this is necessarily exactly the capacity value of every kilowatt-hour of excess generation, but it's a way to recognize that the capacity value is there and that it should be encouraged for more DG to be deployed and to decrease peak demand with this sort of cost-saving resource.

And so, when the General Assembly did that, we weren't doing anything crazy, and they were

adopting a pretty standard practice across the United States, and so there's no real basis in the statute for the Commission to -- to start departing from that language in the statute.

If we are going to delve into the capacity value, since I'm guessing that you would like to, you know, it's -- it's, as a practical matter, a question of does this -- can this allow less capacity to be procured? And it can.

We see this already happening in the PJM capacity market where, you know, as laid out in detail in our briefing in this case, there's an established system that PJM has to forecast.

They focus on distributed solar, which is the main distributed generation resource they deal with, to forecast what is going to be the excess generation at times of peak demand, and they use that to lower the procurement requirements for the wholesale capacity auctions.

That lowers prices in the capacity auctions, that lowers prices for all customers, and it provides real benefits. And so from our perspective, you know, giving that value to the kilowatt-hours of the customers who actually own the DG systems is -- is fair and appropriate.

And, you know, there's -- the SSO auction process is a little more esoteric, but it's mostly based on historical data about load. And to the extent there are DG customers out there who are reducing peak demand as shown in that historic load data, they are also lowering how much the auction participants think they need to go out and procure and what are the costs that then get passed on to SSO customers.

And so, on both fronts, you can see that the capacity value is there. Assigning it a, you know, penny value, "down to the penny" value is complex, folks have done it, that's a Valuation of Solar study which we think, you know, if we get to high-penetration DG and you need to figure out exactly what is the allocation of costs and benefits, that might be appropriate, but that's just not where Ohio is.

And so, we think that what the Commission issued in its original 2014 rule was a fair way to get at a complicated question when the stakes are not incredibly high, and the State policy on this front and the chosen State approach on this front is clear.

Thank you. I'm happy to answer any questions.

COMMISSIONER CONWAY: Do we want to do the other three minutes first?

CHAIRMAN HAQUE: What do you want to do?

EXAMINER PRICE: Let's take the other three minutes.

COMMISSIONER CONWAY: Three minutes. Then maybe you can tag-team the questions.

CHAIRMAN HAQUE: Okay. Thank you, Ms. Fleisher.

Ms. Leppla.

MS. LEPPLA: Good afternoon, Chairman and Commissioners. As Madeline explained, I'll be taking time-of-use, premises, and the 120-percent sizing issue.

To start with, time-of-use rates. As the Commission recognized on page 17 of the Finding and Order, we all agree that there should be some compensation for net metering customers' peak-load reductions; we just disagree about perhaps how to get there right now.

The Commission indicated that that should happen through time-of-use rates based on hourly-load data from advanced meters. But, as my colleague said, Ohio just isn't quite there yet. While we'd like to do this down to the, you know, the bare

minimum if we had high penetration, and at some point maybe that's where Ohio will be, right now we have two main problems with just deferring to time-of-use rates.

The first is that millions of Ohioans do not have advanced meters right now. Less than 20 percent of residential customers in Ohio and that's at least 2 million Ohioans, like I said, in the vast majority of FirstEnergy territory and DP&L customers don't have advanced meters and are unlikely to get them for years to come. In fact, both of those utilities don't currently have plans to roll those out. And also that less than 20 percent of residential customers includes Duke, who needs to replace those advanced meters due to technological and functionality problems with those meters right now.

AEP is in the process of rolling out AMI, and I know you are well aware of this, but over 700,000 people are still waiting to get those implemented and that will take another three years to do so.

So even if customers were to pay extra, which would be unfair based on, you know, the way we're supposed to be distributing energy, if people

paid extra to get an advanced meter installed, which under, for example, FirstEnergy, would cost them $105 to get that installed and then they'd have to also have a communication link, either set up on their own or pay FirstEnergy $50 per month to get keep that and maintain that so they're adding to their bill already. Even if they did install that, FirstEnergy and DP&L don't currently have any time-of-use-rates plans that they could opt into. So just on a base level, we have a problem with the millions of Ohioans that don't have advanced meters right now.

And the second issue with this is that even with our existing time-of-use rates that are in place, they weren't designed with net metering customers in mind.

For example, and we detailed this in our brief, but just to point it out quickly, AEP's time-of-use option has the time-varying aspect only in the capacity component of the rates. So an excess generation credit for net metering based on the energy component is not the same whether generation is coming at a time of peak load or not.

Another issue is that AEP has pretty broad on-peak/off-peak hours right now. They're 7 a.m. to 9 p.m. on non-holiday weekdays and that

makes it really difficult to create a price signal that really would be necessary to achieve the compensation that's appropriate for these peak demand production credits basically.

So to achieve the Commission's vision of compensating customers' peak demand, the rates really have to be designed in a manner to do so. And our recommendation would be that we discuss this at PowerForward coming up in March. We have, you know, a lot of great speakers that probably are lined up already. You guys know way more about it than I do right now. So our recommendation is to consider this and really take a deep dive on this as part of the PowerForward process.

So unless and until that proceeding results in some sort of new policy for net metering, we really need to take a harder look at whether or not we have viable time-of-use options that really are useful in this sense.

Quickly, on premises. Safety is an important part of the interconnection process and the Commission designed those interconnection rules to make sure safety concerns don't become a pretext for artificial obstacles to net metering. The same principles should apply here. And we agree that the

problematic language is that "as determined on a utility by case" -- or "on a case-by-case basis." Pardon me.

And I read DP&L's brief, like Commissioner Conway, to mean that they didn't have a problem with what was going on behind the meter. They just wanted to make sure that they had, you know, their, you know, overarching, you know, safety concerns in front of the meter. And our concern with this, we share it with One Energy, the proposed language kind of gives the utilities a veto power on safety. And we think that there needs to be a clear and transparent process, just like the interconnection process, that ensures it's not something that's going to extend the utilities' reach behind the meter.

And finally, just on 120 percent. We support the 120 percent, so. Thank you.

CHAIRMAN HAQUE: Okay. Thank you.

So to start the questioning, Ms. Fleisher, so I think part of the issue here is trying to ascribe a definition to capacity in this context, okay? And it sounds like to me that you want to equate capacity to the ability to reduce peak demand, right?

MS. FLEISHER: I guess I'd fine-tune that a little bit and equate capacity value to "are you lowering the price of capacity procurement," and generally that's done by lowering peak -- whatever the peak demand requirements are used to set those capacity procurement requirements.

CHAIRMAN HAQUE: And so when, per what you stated, when PJM is forecasting this out, do you know if they are forecasting specifically the DG customers in the State of Ohio? What does that methodology look like? And when we're talking about the concept of "rough justice," I mean how rough are we talking about here?

MS. FLEISHER: Yeah. So we referenced in our, in our briefing, I forget exactly what stage but I think a couple points, the 2017 PJM load forecast as a way to see where this is happening.

And what they do is they have, you know, it's sort of behind-the-veil exactly what the methodology is, but for each zone within PJM, which includes AEP, it includes ATSI, it includes Duke, it includes DP&L, they project a specific amount of megawatts of basically peak demand reduction that will come from distributed solar within those transmission footprints.

And they use that to, you know, I'm sure you guys are at least pretty familiar with PJM's capacity auctions, those, you know, they check to see whether there will be any constrained zones and that, you know, the distributed solar can play a role in that. So in a case where in the past or recently you had Duke's transmission zone be constrained, you know, if you had enough distributed solar there, that could help resolve that.

So it is a pretty granular look at where is the distributed generation, what role is it playing. If you look at the 2017 load forecast report, they had 49 megawatts of distributed solar in Ohio transmission zones. I mean that's -- that's out of a total of 878 megawatts across PJM. Ohio is not the center of distributed solar in PJM, but there is some here.

If you get, you know, if you just do a rough $80 per-megawatt-day value for that, for those megawatts, that's a million-and-a-half a year from Ohio solar that's, you know, that is being, that amount of capacity is being met with distributed solar generation.

So, you know, as more distributed generation comes to Ohio and it can play a bigger

role, it can produce more savings for all customers. And our point of view is you should be sending the right signal to get those cost-saving resources onto the grid, and the legislature picked a pretty reasonable way to do that for this point in Ohio.

CHAIRMAN HAQUE: Can you talk about the same concept but now infuse actual tangible dollars into it? And I guess how do we get from the point where you say, well, peak demand reduction is equivalent to capacity and then, you know, follow the money trail to then the pockets of a distributed generator, a distributed generation customer who is then receiving a payment for capacity.

MS. FLEISHER: Well, we don't make -- other demand-side resources do that. But, you know, you can have -- we have the interruptible resources that get compensated through utility interruptible programs just at sort of a placeholder value for capacity within the PJM footprint.

We have, you know, just your normal person who implements any sort of energy-efficiency measure that reduces their peak load; they're saving, on the generation side of their bill, the full value of that kilowatt-hour.

And I'll add that if we're going to start

digging into, you know, where exactly is the value, how much is it; currently, under the regulatory regime, distributed generation can't get any credit for excess generation on the transmission and distribution side. That's a Supreme Court decision, you know, not within your scope obviously, but if we're going to say what is the full value and where is it, you know, we should be revisiting that.

And so I guess my point is this -- this is sort of a single-issue ratemaking almost approach --

CHAIRMAN HAQUE: Yeah.

MS. FLEISHER: -- if we're going to pick away at the value, but not give a chance to have it.

CHAIRMAN HAQUE: But energy efficiency, you can pool it, you can bid it into -- you can bid it into markets at least currently.

With respect to, you know, again, what we're really talking about here is the excess generation piece. So if you are generating your own power at your homestead, then, you know, whatever you don't need to take from the utility affects, volumetrically affects your rates and so you're basically achieving, you know, a -- you're achieving -- you're achieving I guess savings that way.

I guess there are ways -- I guess there are ways to distinguish what -- there are ways to distinguish some of the other resources that are utilized from net metering.

And specifically net metering, when we're talking about net metering and specifically this issue, it's really the -- the -- it's really the excess generation issue because there's -- because you are able to, with just -- with just generating your own power, you are -- you're impacting, you're impacting your bills that way. You're the wrong person to ask, does this feel like -- does this feel like kind of cherry on top of -- of -- of the sort of net metering money regime, but -- but it may feel that way to others.

MS. FLEISHER: I understand, you know, where you're coming from, and I guess I have sort of two responses.

So one is this is exactly the kind of, you know, sort of "how do you feel about distributed generation" problem that I think the General Assembly was trying to confront when it said identical rates.

You know, this is your -- if you think that this is, you know, an important element of the

value or if you think it's not an important element of the value, this is a way to create an artificial barrier by lowering, you know, the compensation for distributed generation.

And so it's, it's, you know, I would say almost not a valuation question at that level. It's do you think this is the same as other demand-side resources or not. And I think that's a very sticky question that depends on your perspective and one that, you know, is foreclosed by the statute.

And the other point I guess is that, you know, it's -- when you're procuring capacity through the SSO auction, through the PJM auction, it's blind to what is -- what is the resource affecting that peak demand that's driving your capacity procurement

You know, when -- when SSO auction participants are going out to get their 1 percent tranche satisfied, they don't know what's in that 1 percent tranche, whether it's distributed generation, whether it's energy efficiency, whether it's demand response; it's just what is that capacity amount. So to the extent that distributed generation is lowering that, it should be treated the same way as any other resource that's serving that function.

CHAIRMAN HAQUE: Okay. Other questions?

Mr. Johnson.

COMMISSIONER JOHNSON: Thank you very much.

I wanted to talk a little or have you talk a little bit about the 120 percent, the -- whether that's the right number or not, whether, you know, I think we've gotten comments in regards to having it not more than 100 percent and we've had comments about not stopping it at 120 percent, that it has a larger -- it ought to be larger. And I wondered your perspective of the -- of what the General Assembly was trying to get at and what's your position.

MS. FLEISHER: So I'll, if you don't mind, I will reserve that one for my colleague, Ms. Leppla, to address. And we can trade off or I can, you know, tackle any other capacity value questions.

CHAIRMAN HAQUE: So any other questions on the capacity issue?

MS. FLEISHER: Yeah.

COMMISSIONER JOHNSON: Sorry.

CHAIRMAN HAQUE: No worries. This is -- this is -- we're making the rules as we go here, Commissioner.

Commissioner Johnson.

COMMISSIONER CONWAY: I'm Commissioner Conway.

CHAIRMAN HAQUE: Excuse me. Commissioner Conway.

COMMISSIONER CONWAY: Can you hear me back there?

I also have an interest in the answer that might come from Ms. Leppla to Mr. Johnson's question, but -- and hopefully I'm not going to follow up on the same area, but rather in your area, Ms. Fleisher.

But with regard to the "rough justice" topic, one of the things that strikes me is the discussion, some of the terminology we get which is, we hear, which is a lot of distributed generation, quote/unquote, related comments. I go back to, when I hear it I go back to the tariff that we're actually talking about here which is net metering. And I go back to I think about the definition in the Revised Code of what a net metering system is. And what it says, as I recall, is that it's a system, the intention for which, the customer's intention for which, is to offset part or all of his consumption. It's not a system that's designed to generate excess

amounts of generation.

And so, I think of this net metering service tariff as focusing on really -- really focusing on that part of the activity. And this excess generation kind of results because it's the way the tariff is designed to operate from month-to-month and the carryover excess could be used as a credit in next month, et cetera. But it's not really a tariff that's designed to incent customer generation that is inputted into the system on a chronic or continuous basis.

So the "rough justice" that I first think about when I'm -- when I'm thinking about this area is what's happening with regard to all the generation that the customer is producing that gets up to the "all" or "part" threshold within the definition.

And I guess the observation I have is that as I understand it, correct me if I'm wrong, that when the customer generates all or part or all of his own -- his own consumption needs through his equipment, he gets to offset that entire amount against all of the variable charges, both the SSO charges, including capacity, as well as the distribution wires charges and other wires charges; is that correct?

MS. FLEISHER: Yeah, the -- up to the point where you're zeroing out your usage --

COMMISSIONER CONWAY: Yes.

MS. FLEISHER: -- you do get a full bill credit.

COMMISSIONER CONWAY: So you get credit. It's as if you're not a distribution service customer up to that point if you get all the way up to offsetting 100 percent, right?

MS. FLEISHER: (Nods.)

COMMISSIONER CONWAY: So from a "rough justice" and an incentive standpoint, it just seems to me that we're providing a pretty good deal to the customer-generator who generates -- for all the generation he provides for his own needs, his or her own needs, all the way up to the point it becomes excess.

So it seems to me that what we do with the excess part of it maybe deserves a little bit closer attention because it's not really what this tariff is focusing on, as I see it. So wouldn't you think it would be fair to treat it in a slightly different fashion than we're treating the other -- the other production that the customer has, up to that threshold, where the iceberg starts to poke its

head up above the waterline?

MS. FLEISHER: Sure. And putting a pin in our view that that's not consistent, it wouldn't be consistent with the statute to treat the excess generation differently.

As a practical matter, it's -- in my view it is "rough justice" because this is not, you know, free money. The customer has installed a system, then paid for that system, often a significant amount, with an expectation as to, you know, what the payback period might be, and that system is actually generating electricity that is going onto the system. Those electrons, those kilowatt-hours, are a thing that you're compensating them for.

And so, you know, just as, you know, you wouldn't let me come in, you know, your garage and plug in my electric car without, you know, paying something for that. These folks are providing electricity to the grid and it is justice and I think fair to compensate them for that.

COMMISSIONER CONWAY: Let me ask it in a slightly different way.

MS. FLEISHER: Yeah.

COMMISSIONER CONWAY: What if we had decided that instead of classifying a customer's

approach as being within the net metering tariff as one that can achieve up to 120 percent of his size to be able to produce 120 percent of the customer's domestic needs, we had said 100 percent, you know, or we had said facilities that don't produce excess generation -- well, put that aside for a minute.

But we had, instead of saying 120 percent, we had said 100 percent. What impact would that have on the compensation that customers would get and how much of this excess generation issue would that have kind of obviated or avoided?

MS. FLEISHER: Well, I think that highlights the problematic nature of trying to come up with like what's, in practical terms, the best policy without information. And without a lot of these customers on -- you know, if we want to go do a Valuation of Solar study, sure, lots of states do that and we've cited a long list of them where these are cost-beneficial resources; contributing more to the grid than they're getting back.

You know, can I tell you right now in Ohio how many folks are going to be generating excess generation and how much that's going to, you know, how much that will reduce costs and how much -- what costs it will impose on the grid? I can't tell you

and, you know, maybe the utilities can.

COMMISSIONER CONWAY: Okay. One more -- one more choice for you.

MS. FLEISHER: Yeah.

COMMISSIONER CONWAY: Theoretical choice. What if we told you you can have your choice. We'll limit the net metering facilities to 100 percent of projected or historical consumption, or you can have energy only for excess generation and we'll let the size go up to 120 percent. Which would you choose?

MS. FLEISHER: Well, I don't have a net metering system, so I haven't done the calculations. I mean -- and you're going to hate me for this. I --

COMMISSIONER CONWAY: No, I won't.

MS. FLEISHER: Well --

COMMISSIONER CONWAY: I think very highly of you.

MS. FLEISHER: I guess my answer is going to be that shouldn't be a choice. The question of appropriate sizing is about the statutory guidelines of it has to be to offset, you know, to offset your generation. And the question of appropriate compensation is a different part of the statute. And, you know, they may require -- obviously they're related and they have affects on each other, but they

may require different considerations. So, you know, I choose not to make that choice if that's okay.

COMMISSIONER CONWAY: It's okay.

CHAIRMAN HAQUE: Any other questions on the capacity issue?

Okay. Thank you, Ms. Fleisher.

And we'll -- Ms. Leppla can come back up.

And, Commissioner Johnson, your question.

Do you recall Commissioner Johnson's question or --

MS. LEPPLA: I do.

CHAIRMAN HAQUE: -- or do you want him to restate it?

MS. LEPPLA: I do. So if you want me to -- do you want to reiterate anything?

COMMISSIONER JOHNSON: Yeah, I just wanted to, I wanted to zero in on the amount and in -- in -- in -- there's been criticisms on both ways that it doesn't go high enough and some say it should not go over 100 percent. And I wanted, I wanted kind of your perspective of it, and I also wanted to, you know, being consistent with statute, any comments you might have.

MS. LEPPLA: Sure. Well, you know, as we were just discussing, the statute is -- the language

is intended to primarily offset usage, right? So up to 100 percent would be great if we could just cut it off there and say you did a great job, you sized it perfectly, but that's just not the reality that customers are faced with. There are a lot of factors that go into this.

And so, we think the 120 percent is a good, happy medium, where you are able to size your system so that you can generate all of your capacity without the threat kind of looming over your head that you are suddenly going to be subject to all of the rules that a utility is.

Because someone installing a system, you know, if you talk to people all the time about why they're installing this, it is to offset. They're not trying to make money necessarily obviously. I mean they don't want to be regulated like a utility. They're excited about the possibility that they can install this and create their own energy and do it in a clean manner. The reason we think there needs to be some flexibility built into that is because you can't always predict your energy usage.

Say you -- say I installed solar on a house. I lived there, you know, there's five people say that live in this house and we sized our system

just for that purpose. When I go to sell my house, whoever takes over that house may only have two people living there, so their energy is probably going to be used much less. And so if they go over that 100, if we just had this limited to that 100 percent threshold, they might have a problem.

Now, there are other, you know, remedies they can, you know, go about to make sure that they can either, you know, shut off a panel if they have to or whatever, but a lot of what we've heard from customers is that when they start to get near that 100 percent threshold that is currently in effect or the idea of it, right, is that the utilities will say just turn your lights on and expend more energy.

We obviously don't like that from an environmental perspective and that's not really the goal of why someone installs solar in the first place or another type of net metered distribution generation system.

So we think that this will permit customers to take a historic look-back at the three preceding years and size their system appropriately.

And another thing that we like about this bit of flexibility is that if you decide to do an energy-efficiency project after you've installed

solar and, you know, of course the mantra is always do all of your energy efficiency before you, you know, size your house for a system like this. But if you decide to do some type of energy efficiency, you know, technology is always evolving, that you won't be foreclosed from doing some type of energy-efficiency project simply because you will then be bumped over that 100-percent threshold. So I hope that answers your question.

COMMISSIONER JOHNSON: Thank you.

CHAIRMAN HAQUE: Any other questions from the bench? Mr. Price? Ms. Schabo?

Thank you very much.

MS. LEPPLA: Thank you very much.

CHAIRMAN HAQUE: Okay. Next up is FirstEnergy.

MR. ENDRIS: Mr. Chairman and Commissioners and Attorney Examiners and Staff, my name is Robert Endris, and I represent Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company.

The Commission has gotten it right with its most-recent Finding and Order. And we support the Order, subject to the few modifications we have recommended. The Companies respectfully offer the

following remarks and topics for today's discussion: The compensation credit and the sizing criteria.

When the Commission correctly ordered an energy-only credit, several parties complained that the recent decision reached a different conclusion than was reached earlier in this proceeding. One party asserts that it was unlawful for the Commission to do so without legal justification.

However, those proposed rules on which they rely were withdrawn from JCARR, and two Supreme Court appeals remain pending. It was not only lawful to change that earlier Order; it was necessary.

First, let me clarify the relevant compensation for excess generation as has been discussed shortly ago.

The Commission has not changed utilities' net energy metering tariff compensation for the customer's generation in the amount that offsets their consumption going down to zero. That compensation remains a full retail rate offset to all kilowatt-hour-based charges. When it hits zero, the customer pays nothing for them. The Order deals only with the amount going past zero to give extra compensation for the amount we sometimes call "net negative."

The Commission's Order is correct because it complies with a prior Supreme Court decision on this specific question; FirstEnergy Corp versus PUCO. In that 2002 decision, the Supreme Court of Ohio ordered the Commission to reinstate the Companies' tariff with the energy-only credit provision. The Court has spoken. In the statute, "electricity" means energy for excess generation.

A second reason why the Commission's decision is correct is the Commission's own past precedent establishing the hospital net metering compensation.

In 2008, the Commission determined that for hospital net metering, the market value of the electricity means the locational marginal price of energy. If it means energy only for hospitals, it cannot mean something other than energy only for nonhospitals. Based on this Commission precedent, "electricity" means energy.

A third reason the Commission is correct is because excess generation simply does not provide any capacity value to the Companies or to their non-net metering customers. Customer A's excess generation is not sold to Customer B and does not reduce anyone else's capacity obligation. If

anything, capacity costs are reallocated, raising the cost to non-net metering customers.

The statute allows cost shifting for kilowatt-hour-based charges that already burden non-net metering customers that full retail rate offset that I spoke of earlier. Further compensating for a capacity component would make them pay something for nothing. For the customers paying these subsidies, "electricity" means energy.

The energy-only compensation for excess generation is thus consistent with the Court and Commission precedent interpreting the law and avoids further burdening non-net metering customers.

On the 120 percent oversizing. Much of the record deals with the statutory limitation to offset part or all of the customer's requirements. Deliberate, planned excess generation is not permitted by the statute. Others look for wiggle room in the word "primarily."

I won't repeat the Companies' many arguments throughout this proceeding, except to say that just because 100 percent is on the way up to 120 percent, does not satisfy the "part or all" limitation. All the words must be read together.

Addressing some of the arguments.

Variable consumption and intermittent generation are already accommodated in the sizing process by evaluating up to 36 months of consumption history and by using reliable generation estimators like PVWatts.

Possible future growth is also easily dealt with. Many times anticipated growth never occurs. And for actual growth there is a simple remedy: Add more equipment. The statute does not contemplate the exception swallowing the rule to permit excess generation by everyone, to accommodate the few who might increase their consumption. The initial sizing threshold should remain up to 100 percent of the customer's annual consumption and annual requirements.

In conclusion, other parties' efforts to loosen the eligibility requirements through regulations, which go beyond the statutory limits, are misplaced. The General Assembly has not amended the eligibility requirements for net metering. "Electricity" still means energy, and "all or part" still means no more than 100 percent.

The Companies respectfully request that the Commission grant the Companies' Application for Rehearing and deny the other parties' Applications for Rehearing.

Thank you for this opportunity and I'm -- and I'm pleased to answer any questions you may have.

CHAIRMAN HAQUE: Thank you, Mr. Endris.

So the first thing is can you give us sort of a similar snapshot that Mr. Schuler did with Dayton Power and Light. And tell us, you know, how many net metering customers you have in the FE footprint. Whether or not you provide a capacity payment as well.

MR. ENDRIS: Yes, Mr. Chairman. The companies have approximately 1,000 customers on the -- on their net metering tariffs. And I would say the breakdown is roughly similar, although I haven't looked at that recently, between residential and nonresidential. And the Companies do not provide a capacity-component credit for excess generation in keeping with the 2002 Supreme Court decision.

CHAIRMAN HAQUE: Okay. Very good. So I'll ask you a similar question that I asked Mr. Schuler about the capacity payment which is: If it's the policy of the State -- so let's leave the legal argument aside for a second and put our policy hats on. If it's the policy position of the State to advance net metering in the state, wouldn't it make sense to allow for net metering customers to receive

a capacity payment for their excess generation?

MR. ENDRIS: I would answer that, Mr. Chairman, saying that there are other ways to encourage and promote net metering besides increasing the subsidy. It's true that typically the more you pay someone, the more you'll get of that. But then, as I mentioned earlier, paying something for nothing isn't -- isn't really the policy in the state.

CHAIRMAN HAQUE: And what happens in the FE footprint to the excess generation that's put back on the system, what happens to it?

MR. ENDRIS: That is settled in PJM as a an unaccounted-for energy. Unaccounted-for energy is distributed to all load-serving entities, so all the suppliers and CRES providers, on a load-ratio shared basis. So it's going back to the suppliers.

CHAIRMAN HAQUE: Okay. And I'm sorry if you already mentioned this, but does FirstEnergy have a position on the premises issue?

MR. ENDRIS: Yes, your Honor. The Companies -- I would first note that a definition of "premises" is new in this proceeding. The statute does not include it and the previous rules did not include it. The Companies have always had the position that an adjacent lot is acceptable, but a

lot separated by roadways or unowned property would not be.

CHAIRMAN HAQUE: Okay. Thank you.

Others?

Commissioner Conway.

COMMISSIONER CONWAY: So just to follow up on the last question from Chairman Haque. Is it your position that under the current rule as it's written, lots that are not adjacent are also not contiguous? Or are you -- do you read the rules as allowing for inclusion within the contiguous category lots that are separated by a public way or other, you know, an easement or a railroad right-of-way? So, in other words, is that just -- are those lots, are those parcels just not part of the contiguous category in your view?

MR. ENDRIS: We would interpret it that way. The term "contiguous" in property law, real estate law, doesn't -- isn't consistent or always clear as to whether that includes properties that are across a roadway.

Here, we are doing this pursuant to definition and that part of the -- that language in the earlier proposed rule isn't present in the rules as they are written today, the irrespective of the

easements or public thoroughfares.

COMMISSIONER CONWAY: And if a -- if the -- if One Energy was operating in one of your companies' service areas or is, I'm sure it is, and they have a prospect that has its own customer facilities on one parcel, and then adjacent to it and also contiguous but adjacent to it is another parcel where they erect a wind turbine, is it your understanding that your role under the, under the portion of the rule that authorizes, requires you to evaluate whether the, you know, the proposed net metering system is going to be safe and nonhazardous, does it allow you to evaluate safety and hazardous impacts on that adjacent, that are solely affecting that adjacent lot, or does it only give you the authority to evaluate safety and nonhazardousness from the perspective of impacts on your side of the interconnection?

MR. ENDRIS: Well, our engineers do always evaluate the safety aspects of any interconnection to the Companies' system. For properties that are adjacent or even if you considered them to be on the single lot, we look at the designs, but would not otherwise go into the customer's premises. So it's -- it's the act of

going off premises, crossing unknown property boundaries, that we would evaluate as not appropriate for interconnection.

COMMISSIONER CONWAY: "Crossing boundaries," you mean in the instances where there's a public way or an easement or a railroad right-of-way that divides the two?

MR. ENDRIS: Yes, your Honor.

COMMISSIONER CONWAY: But those wouldn't be contiguous in your view of that term, so you wouldn't approve it anyway, would you, regardless. Once you have a circumstance where there's a proposal that would involve a line passing, you know, going across a public way or going across a railroad right-of-way, you would -- your first reaction or assessment of that would be, the first step would be to say it's not contiguous, so it's not eligible, right?

MR. ENDRIS: That's correct, your Honor. And that would be the same standard that we apply for service to premises as opposed to just interconnection of generation.

COMMISSIONER CONWAY: But you also think it's just not safe, it's just automatically not a safe application, so you'd reject it under your

authority under the safety and hazardousness, the hazardous evaluation, you'd reject it on that basis, too, then, right?

MR. ENDRIS: We would.

COMMISSIONER CONWAY: Yeah. So --

MR. ENDRIS: And to be clear, we would prefer not to be in that "ongoing evaluation of safety" role in a situation like that when problems occur down the road.

COMMISSIONER CONWAY: All right. Okay.

CHAIRMAN HAQUE: Okay. Very good.

Questions from the bench?

Commissioner Johnson.

COMMISSIONER JOHNSON: Just -- just a little bit of a clarifying question. I mean, when you gave the numbers of around 1,000 and such, are we talking about anything other than solar in that thousand?

MR. ENDRIS: Yes, there are some. We have some wind resources as well as some biogas resources. I'm not as familiar with the number of microturbine installations, but there are some.

COMMISSIONER JOHNSON: Thank you.

CHAIRMAN HAQUE: Commissioner Trombold.

COMMISSIONER TROMBOLD: Also in those

thousand customers, do you know whether or not there's a lot of them that are over their 100 percent on a regular basis, or there's just some outliers there, or is it just a handful? Can you give us any sense of that?

MR. ENDRIS: It would be a relatively low number, if any, and I would attribute that to our successful implementation of the "part or all" standard upfront in the sizing decision.

COMMISSIONER TROMBOLD: Okay. Thank you.

CHAIRMAN HAQUE: Okay. Thank you very much.

MR. ENDRIS: Thank you.

CHAIRMAN HAQUE: We will next hear from the Ohio Consumers' Counsel.

MR. HEALEY: Good afternoon, Chairman Haque, Commissioners, Attorney Examiners, Staff. I'm Christopher Healey, representing the Ohio Consumers' Counsel. Thank you for the opportunity to speak on behalf of the residential utility consumers regarding net metering rules.

The Consumers' Counsel supports the PUCO's effort to provide more comprehensive rules regarding net metering to ensure consistency across the State of Ohio for consumers. These rules,

however, shall remain flexible enough to adapt to changing technologies and to incorporate what the PUCO learns through future initiatives.

The Consumers' Counsel's goal is for net metering customers to receive fair compensation; no more, no less. In other words, net metering customers should neither subsidize nor be subsidized by other customers.

I'm going to focus on two recommendations today. OCC's other positions are in our filings in this case.

First, the PUCO should protect consumers by conducting a comprehensive, statewide evaluation of net metering based on the most-recently available information. There are already two pending forums for this: First, the PUCO's PowerForward initiative and, second, the PUCO's upcoming rules review which is already open.

Second, the PUCO should not permit utilities to own distributed generation in Ohio.

As you know, the Consumers' Counsel's primary recommendation in this case is for the Commission to defer making overarching decisions regarding compensation for net metering until it conducts a comprehensive statewide investigation.

This investigation will help the Commission and parties understand the value that distributed generation provides to all customers and the grid.

It's important for the Commission to make decisions based on the most-recently available information. The PUCO should take advantage of two upcoming opportunities to develop further knowledge on net metering. The first opportunity is PowerForward where Phase 3 is just two months away. The second opportunity is the recently-opened docket to review net metering rules under the standard five-year JCARR review process. In each of these forums the PUCO can solicit more up-to-date comments and evidence to decide how best to craft its net metering rules.

In the meantime, the Consumers' Counsel recommends that the Commission modify its proposed rule to retain capacity credits for customer-generators who generate more than they use. This would -- this would be consistent with the PUCO's current rule, enacted in 2009, which allows customers to receive credit for excess generation. Then, the Commission can refine its analysis to more precisely value the contributions that customer-generators provide to the grid.

Turning now to my second topic. In this case, Duke Energy has asked the Commission to conclude that an electric distribution utility can be considered a customer-generator if it owns and operates distributed generation on a customer's premises.

In its Order, the Commission made no findings on this issue, but it did invite electric utilities to file an application if the utility intends to offer net metering in a manner that is not contemplated by Revised Code 4928 or the net metering rules.

On rehearing, the Consumers' Counsel asks the Commission to clarify that it is not making any finding that a utility can own customer-funded distributed generation in Ohio.

Under the 1999 Energy Law, electric distribution utilities in Ohio should not own any generation, and the law does not permit a utility to provide competitive services on the customer side of the meter with captive customer funds.

And as the Consumers' Counsel has emphasized here and in other forums, subsidized generation distorts market prices and is anticompetitive, which leads to higher costs for

customers.

In conclusion, we look forward to gaining a better understanding of the value that customer-generators provide to all consumers, and we support policies that allow for behind-the-meter services to develop in a vibrant and competitive market that results in technological innovation and lower prices for consumers.

Thank you. And I'm happy to take any questions.

CHAIRMAN HAQUE: Thank you, Mr. Healey.

So the -- the potential state -- the statewide review, what do you hope that the Commission gains from the statewide review?

MR. HEALEY: I think we're looking to answer the primary question that we're all discussing today which is what is the actual value that customer-generators provide. We know there's some value, right? We know, at the very least, they're providing energy. We know -- I believe that they provide some capacity value for the various reasons that Ms. Fleisher explained, but we don't know exactly what that value is and I don't think anybody here thinks we do.

So I think our goal, through a

more-comprehensive evaluation, I don't know if it's exactly a Valuation of Solar study or something like that or something different would be to get to a point where we do have a better understanding, and maybe don't get it down to the last penny, but get closer than we are now before we enact a rule, like the Commission's current one, which largely forecloses any value for capacity for the vast majority of customers other than maybe a small number that have the right meter at this moment.

CHAIRMAN HAQUE: Why, in the interim, allow for the capacity payment? So the OCC would prefer that we conduct a statewide review to try and identify what the actual monetary capacity benefit would be from distributed generation in the state. But why, in the meantime, allow for the capacity payment?

I -- I thought you would go the other way because this is, arguably if it's -- if it's -- if it's going to be unaccounted for, I think that's going to be socialized across the footprint of each utility, I could be wrong about that but I think that's how it goes, the excess payment, so why that position?

MR. HEALEY: I think the simple answer is

we do believe there is some value. We believe that that is consistent with the state policy of encouraging distributed generation.

I think in addition to that -- my apologies.

I think the other issue is that historically that option has been available to customers. At least within Duke's territory they do currently receive a capacity benefit. And based on the Commission's prior Orders in this case, fairly strongly supported that view in detail. And the most-recent Order seems to be a fairly significant reversal without a lot of explanation. And we're trying to understand what the Commission's, you know, change of heart has been based on, and I think that further review would give us more insight into what the Commission is thinking and why they are headed in the direction that they're headed.

CHAIRMAN HAQUE: Thank you.

Other questions?

Commissioner Johnson.

COMMISSIONER JOHNSON: I think you answered this, but I just want to make it clear. So -- and you talked about getting more information. Are you suggesting that we just throw this case out

and not pass anything or what is OCC's position?

MR. HEALEY: I think our position on that issue is largely focused on the capacity credit. Certainly we're not suggesting throwing out the rest of the case. There are various other issues we addressed; others that we don't take any issue with.

I think the focus of the new statewide initiative would be on the valuation issue. And I think our view, as we stated in our briefs, would be for the time being to retain a capacity credit consistent with what the Commission is doing now, largely a status quo, rather than shifting gears, getting to a new statewide evaluation, getting new information and then shifting gears again. It makes more sense to just take a little bit more time before we get to a more-definitive policy like the one that the Commission has ordered in November.

COMMISSIONER JOHNSON: Thank you.

CHAIRMAN HAQUE: Other questions?

Mr. Price.

EXAMINER PRICE: What's OCC's position on whether the net metering tariff should be available for shopping customers?

MR. HEALEY: I don't think that OCC has taken a position in this case on that issue.

EXAMINER PRICE: In your own personal perspective.

(Laughter all around.)

MR. HEALEY: I honestly can't speak to that issue.

CHAIRMAN HAQUE: Smart, Young Litigator. Well done.

(Laughter all around.)

MR. HEALEY: That's why we need the statewide evaluation.

CHAIRMAN HAQUE: Okay. Ms. Schabo, anything? No?

Okay. Mr. Healey, thank you very much.

CHAIRMAN HAQUE: Wonderful segue, Mr. Price, into IGS.

Mr. Oliker.

MR. OLIKER: Thank you, Mr. Chairman, Commissioners. Good afternoon. My name is Joe Oliker, and I am Senior Regulatory Counsel for IGS Energy.

The IGS family of companies offer a diverse range of projects from retail electric service to distributed generation solutions. We serve over one million retail electric and natural gas customers and we have developed over 70 megawatts

of solar assets throughout the United States.

As a result of our diverse business portfolio, we have a unique perspective regarding both distributed generation and net metering rules.

In this proceeding, we filed an Application for Rehearing regarding the November 8th Finding and Order because we believe it undervalues compensation for distributed generation resources and we think it also potentially discriminates against shopping customers.

Put simply, we don't think that individuals desiring to develop distributed generation should have to choose between shopping and building a distributed generation resource.

Without going into specific details that we may address further in our Application for Rehearing, we would like to emphasize a few areas that we believe the Commission should focus on in an Entry on Rehearing regarding these rules.

Under the current rules there is little opportunity for a shopping customer to receive net metering compensation from a supplier for any generation that is placed back onto the electric grid. And this is due to the fact that in large part, as you've heard earlier, there is not a great

deal of advanced metering in Ohio. And even when you have an advanced meter, that always is not enough, as we've seen, for example, with Duke Energy Ohio where they have 100 percent smart meter rollout, they're not reconciling the PJM settlement statements to the actual customer usage. And if they're not actually reconciling the settlement statements to actual usage, that means that we can't get a negative load on our settlement statement. And without a negative load, we can't give any value to the customer for that energy. So the problem is particularly difficult for smaller customers and smaller commercial customers.

And even to the extent that you have a utility that does reconcile its settlement statements to actual usage, it's operationally difficult for us to give a credit to a customer because LMP prices go up and down, and you effectively need a crystal ball for a 25-year period to be able to quantify the value of the excess energy that may be going onto the grid.

So, from a practical standpoint, what this all means is we may be forced to ask a customer to go back to default service if we want to put solar panels in their house, and that's an untenable position to be in when you're also one of the leading

electric suppliers in Ohio.

So, for these various reasons, we have three suggestions that we would like to make to the Commission to simplify the process and to allow distributed generation to have some penetration in Ohio.

And the first recommendation we would make is whether or not a customer is an SSO customer or a shopping customer, they should have access to a net metering tariff offered by a utility. And that net metering tariff should allow for compensation up to the point when their compensation -- their production exceeds usage for it to be based upon the full SSO rate. So that would be a 100-percent instead of a 120-percent solution.

And the other important distinction that we think this Entry on Rehearing should make is the currently-proposed rules require for there to be a monthly netting, and with a monthly netting process it creates a lot of uncertainty and difficulty. We would transfer that to either a semiannual netting or an annual netting. In that scenario, a customer would be able to actually size their generation facility to offset 100 percent of their usage requirements. We think it's difficult to do that

now.

But regardless of what the Commission does, we think, at a minimum, the Commission should at least implement what was contained in the November 8th Order which is to require us to receive a negative load on our PJM settlement statement for energy and capacity; and in instances where there is no advanced metering, the utility should be required to do that based upon a profile, and that will ensure that we at least have some form of compensation that we can pass along to a customer.

That aside, we are recommending a straightforward process merely to simplify things. And I just want to share an example or two.

Currently, as we're looking at situations with the customer, we can only size a net metering facility to offset 15 to 25 percent of their usage requirements. That's because we don't see any value under the currently-authorized net metering rules, and we have to size the facility, so they don't actually put any electrons back onto the grid. And we would hopefully rectify that process through this proceeding on rehearing.

With any remaining time, I'd be happy to answer any questions.

CHAIRMAN HAQUE: Thank you, Mr. Oliker.

So describe IGS's long-term vision operating in the DG space. And then, based upon where we are now, what is specifically needed for IGS to obtain that vision?

MR. OLIKER: I think long term, your Honor, we see that as an area of extreme growth. We have, you know, dedicated a portion of the IGS family of companies to specifically develop distributed generation. You know, in the past three years alone we've developed over 70 megawatts, and we're on pace to more than triple that I think in the next few years. Whether or not that is in Ohio is not clear. Part of that will depend on how this proceeding evolves.

But through, number one, providing certainty to what the net metering credit will be. It doesn't necessarily have to be certainty up to 100 percent, 120 percent. I've heard all the conversations; is the number 100 percent, is it 120 percent.

You know, in our mind, as a developer, the 120 percent number is fictitious and it doesn't matter because we're not going to construct a facility that's that big.

I gave you the example earlier of 15 to 25 percent. It's -- we're building resources or we're trying to build resources more as a peak-shaving facility because of the uncertainty when you are actually putting electricity back onto the grid.

By having additional certainty for what the net metering credit is, even if it is only up to the point where the production of the facility is up to 100 percent of usage, that would help the situation. Having the annual reconciliation of the net grid in credits, that would also help the situation.

I say that because if you look at months like today in January, a solar facility's not likely, even if it's sized to produce 110, 120 percent of annual usage, it probably will not offset all of your usage in the month just because it's January and solar doesn't produce as much. But if you look at April, you might produce more than 30 percent of your actual usage.

So that creates that uncertainty with those months and it's difficult to carry over your credits because of the monetary cash-out. If you move to an annual basis, with a flat rate, then you

can model the solar construction so you actually are doing as the statute says, which is intending to offset all of your usage requirements. Whereas now, under the current rules, I don't think you can even get close. But that's just our perspective as a developer.

CHAIRMAN HAQUE: Based upon -- based upon where we're currently situated in this state, what is the selling point for a retailer to -- how do you sell DG to potential customers as -- as a -- as a supplier in this state?

MR. OLIKER: One of the ways you can do it of course, your Honor, is by telling customers you're going to save them money, which is what we can do in other states with full retail rate net metering. And if you have the ability to carry over the net metering credits on an annual basis, then you can tell them you are not going to pay the utility very much for electric service.

Whereas now there's the uncertainty of, well, you're going to be paying the utility for electrons in January, and then in April you're going to be producing more but your cash-out is going to be at the energy value within that month. Then you've got all that uncertainty that you have to model and

explain to the customer. By making things simple and explainable to a customer in something that we can bake into say a PPA, which is typically how the industry constructs these contracts, you say this is a PPA, you will pay us for 25 years --

CHAIRMAN HAQUE: You're not allowed to say PPA. No, I'm just messing with you.

(Laughter all around.)

MR. OLIKER: So yes, this is a good type of PPA, your Honor. But it's usually a 25-year PPA and customers want certainty over what that PPA will be. The more of the externalities you can take out of that PPA, the better for explaining to a customer and showing value to them.

CHAIRMAN HAQUE: Okay. But -- so as a supplier, even in an ideal world, you have to be able to -- to -- you have to be able to effectively -- let me -- let me phrase it differently.

So if you are on -- if you're on the -- if you're on the net metering tariff for -- for AEP Ohio, okay? You know, you have some certainty about what will happen on a month-to-month basis. If you produce power, your -- your -- you will -- you will receive the equivalent offset. And then the excess piece is sort of what we're talking about here today

associated with, you know, how are we going to quantify the excess, okay?

But as a competitive retailer, you don't -- you -- you are -- how are you -- how do you essentially monetize this entire, this entire space as a retailer? I mean, I understand what your asks are, you know, you need meters, you need to be able to settle appropriately with PJM. But really for the retail supplier community, I mean how do you monetize this world and make it -- make it something that's worthwhile to a customer?

MR. OLIKER: And first can I clarify, your Honor, are you speaking as IGS Energy, the electric supplier, or IGS Solar, the distributed generation developer?

CHAIRMAN HAQUE: Well, that's a fair question. We'll talk about -- we'll -- we'll ask you from the supplier, from purely the supplier perspective.

MR. OLIKER: From the supplier perspective -- and the reason why I asked the question is because net metering often pits two sides of our business against each other because the interests may be different and we're trying to find a solution that makes both of them happy.

At least from a retail electric side, having the credit on our PJM settlement statement for energy and capacity, it's a step in the right direction for sure. It can create difficulties to the extent there's no transparency on what the credit may be. If we don't know down to a specific meter what the capacity tag is for that customer or we don't know the exact hours that we're getting a negative load for that customer on our settlement statement, it's very -- it's impossible to monetize it.

Just like, as we've heard earlier, it's currently allocated to unaccounted-for energy. If it's in unaccounted-for energy, it's benefiting all load-serving entities within the zone, including the SSO suppliers, and it's not directly allocated to IGS. So in that scenario there is -- the ability to monetize is, it's fractionated by, you know, a factor of 50 of what we get for what's actually being produced.

So being able to isolate it down to the settlement statement per customer is definitely a step in the right direction, but it is still a complicated process that is difficult to do on a customer-by-customer basis, especially for

residential customers where the cost of doing those calculations may exceed the value.

CHAIRMAN HAQUE: Okay. In one of the EDU briefs they cite that you should be able to monetize this through appropriate modeling. Agree? Disagree?

MR. OLIKER: It is a difficult process to do due to the uncertainty. I mean, I haven't seen many good models that go out 25 years in my experience. Typically, the shorter the duration of the model, the more accurate it is. But solar is a 20- to 25-year investment. So there are ways to monetize it, but it requires a developer to bear a lot of risk, and either that or put that risk on the customer which makes the transaction difficult to explain or to, you know, justify in the long term potentially.

CHAIRMAN HAQUE: For your three suggestions can you -- are they in the -- are they in the order in which you would prioritize? Or is there one that's -- that's -- that is paramount to you?

MR. OLIKER: Depending on which company I'm speaking for here, I would say if we were trying to solely develop solar assets, I would say the annual reconciliation would be the largest and overt for solar development. It would take out a lot of

uncertainty.

But from the retail electric supplier side if -- and again, if the credit is coming from the utility itself, that becomes less of an issue for the retail supplier. If the credit is coming from the retail supplier, the PJM settlement issue becomes the biggest issue.

CHAIRMAN HAQUE: Okay. Other questions?

Mr. Price.

EXAMINER PRICE: I just have two questions. First, in the Order we did implement continuous rollover of the credits. Does that work for you in terms of substituting for the annual reconciliation or do you still need something else?

MR. OLIKER: The difficulty you run into with the rollover of the credits, it goes back to that example of January versus April. In January, a customer is probably going to be taking from the grid and they'll be paying that distribution rate and a generation rate to the utility. Whereas, in April, if they're producing more than they use, then they're going to be cashed out at the energy-only price. So those two prices are not going to necessarily be the same and they're still going to have a significant bill to the utility.

EXAMINER PRICE: Okay. And I guess my second question is do you see -- you've proposed that shopping customers be allowed to use the utilities' net metering tariff. Do you see that in perpetuity or do you see a point in the future at which point IGS will say, okay, we're done now, this should now just be solely left to the marketers.

MR. OLIKER: I don't want to ever say never, but I think for the next five years it would be at least a good solution and we could revisit it at that point on what the appropriate path forward is. But, as I understand it now, we're a long way away to having full smart meter rollout and to having actual PJM settlements reconcile up to actual usage. So at least for the next five years.

CHAIRMAN HAQUE: Mr. Conway.

COMMISSIONER CONWAY: Thank you.

Mr. Oliker, if we were to adopt the annual reconciliation request or proposal and we were, at the same time, to shift to straight fixed variable pricing for distribution service for the EDUs, how would that affect -- how would that affect your model, your business plan? I guess what I'm trying to get at is to what extent does your business plan depend upon being able to offset wires charges,

variable, currently variable-priced wires charges?

MR. OLIKER: Your Honor, I have not run that calculation, but we do have some manner of straight fixed variable now that are customer charges and some with the utilities. Of course, as you increase the customer charges, that will -- it will change the economics for sure.

I would -- I would hope at least if there was some form of movement to straight fixed variable, there would be some valuation of the distribution component of solar. I mean we see that in other states. Whether there are avoided future distribution costs or a reduction of voltage on a circuit in a certain area that that would at least be considered in that. But I mean it's just a practical consequence, it would impact the economics.

CHAIRMAN HAQUE: Okay. Any other questions for Mr. Oliker?

Okay. Thank you very much.

MR. OLIKER: Thank you.

CHAIRMAN HAQUE: Okay. AEP Ohio.

Mr. Nourse, how are you, sir?

MR. NOURSE: Thank you, your Honor.

Honorable Chairman and Commissioners, Attorney Examiners and Staff, I get to bat cleanup,

so I'll try to be non-duplicative and address a few issues important to AEP.

First of all, I agree with Mr. Endris and Mr. Schuler that the Commission did do a commendable job in its November 2017 Order, balancing a lot of complicated interests, implementing the statute in a legal -- legally-defensible fashion.

The 2014 version of the rules, you know, were challenged by FirstEnergy and AEP, and we still have appeals pending at the Supreme Court on that. You know, we'd like to see these rules finalized and be able to withdraw those appeals and move forward.

And really the two -- the main difference between the 2014 version of the rules that we did challenge and the current version under the November Order that, you know, we, at least AEP is accepting, are the two things that are now being put back on the table through rehearing that are most important to us. Number one is the shopping customer issue and number two is the capacity credit issue. So I'd like to address those mainly. Also, I can briefly address the contiguous issue and give our perspective on that if you have questions.

So first, firstly, you know, I think it was a matter determined by the General Assembly, not

the Commission, that net metering, the obligation in the statute, 4928.67, is incumbent on the utilities and it really relates to nonshopping customers.

And, you know, we briefed this before, I won't go into great detail, but certainly the main provision in 67(B)(3)(b) makes it clear that we're talking about netting electricity supplied by the electric utility where it exceeds the generation from the customer-generator. So that's a nonshopping customer pretty clearly and that's the scope of that statute.

Further, in the definition of net metering in 4928.01(A)(30), net metering is the difference between the electricity supplied and the electricity generated. And again, for a shopping customer, under today's regulatory regime, the utility, AEP Ohio, is not supplying electricity, generation service, to a shopping customer.

Further, I would flip the argument that Ms. Fleisher made about 67(A)(1) about no identical tariff. She's using it for the capacity credit, which I can address, but with respect to shopping or nonshopping customers there is no identical rate structure in rate components in monthly charges for a shopping versus a nonshopping customer. The shopping

customers get out of all the generation-related bypassable charges. And so, again, that's further evidence that the General Assembly only contemplated nonshopping.

And finally, on the statutory arguments here for this issue. In 02(H), 4928.02(H) prohibits the subsidy of generation service with distribution charges.

Now, as I'll get into in a minute, there's a certain clear subsidy that's already occurring that's really by operation of the net metering statute. But, you know, and -- and that gets into the capacity issue. But here, you know, trying to add shopping customers back in or add them in would -- would violate that statute, in addition to being an unnecessary subsidy that would be created by going beyond the net metering statute.

So that's -- that's the shopping versus nonshopping. I don't know if you want to ask questions about that now or I can go ahead and hit the capacity --

CHAIRMAN HAQUE: Please just go ahead, yeah.

MR. NOURSE: On the capacity energy-only debate, you know, I think the -- as Mr. Endris said,

the FirstEnergy case really requires the credit only occur for energy. And I want to talk a little bit about this idea that the Environmental Advocates and to an extent OCC is saying that this net metering customer, for the excess piece, it should be considered a capacity resource. And -- and there's a clear distinction between, you know, offsetting part or all of your own load. That's really the intention of net metering. I think Commissioner Conway quoted the definition of 01(A)(31)(d) earlier; intended to offset part or all of the generator's requirements. So that, that is the policy, that's part of the definitional structure.

So to set up a compensation system that incorporates capacity -- sorry -- are you telling me to stop?

EXAMINER SCHABO: Yeah. Just wind it up.

MR. NOURSE: Okay. To set up that capacity payment for something that's supposed to be relating just to the excess, that goes way beyond the purpose of net metering and it's not considered a capacity resource by PJM for the 5 hours of coincident peak per year, it's not part of the capacity performance regime, it's not dispatchable in any way, so that's -- that's -- that's inappropriate.

Questions?

CHAIRMAN HAQUE: Okay. So sans a statutory interpretation associated with IGS or any other supplier being able to utilize the net metering tariff, functionally -- functionally, can AEP Ohio do it?

MR. NOURSE: Well, if you're asking, yeah, I mean, we can -- we can -- for the -- for the customers that have interval metering or AMI metering, which is increasing, but currently it's about 10 percent, 13 percent of our customers. After we get done deploying AMI, it will be closer to 75 percent. So for those customers and probably with some back-office tweaks, you know, I think we could -- we could bill the two, the bidirectional, I guess, you know, the customer's generation on the one hand and the customer's load on the other hand and be able to bill that through -- through to the CRES and settle on that basis.

CHAIRMAN HAQUE: Okay. And then the -- the annual reconciliation piece, any comments about Mr. Oliker's suggestion or that request?

MR. NOURSE: Well, I mean, again, it just underlines my point about not only can we not rely on these -- these -- on this excess energy as a capacity

resource on an hourly or daily basis or even a billing period, they want to go to the full year and try to get credit for it, you know, so I think that goes beyond the -- the facts.

And I guess I would just say like to the Environmental Advocates or IGS that argues for exploring this further, OCC even made comments about this. Sure, explore it further. If there's a basis in the future to attribute some capacity value and to the extent, you know, frankly, I think the statute would need to be changed, but, you know, if -- there's nothing that precludes further action in the future based on further facts or information that's developed in the future.

But the point is today there's no basis to assume, there's no evidence, no information that suggests that this excess energy piece is -- is, you know, is a capacity resource.

I'd really like to get, I know it's late in the day, but I think there was -- a lot of parties were given a lot of latitude here. I wanted to use an actual example to show, because I think there's some confusion about how the billing works, if I could, to try to --

CHAIRMAN HAQUE: Please.

MR. NOURSE: -- illustrate these points.

CHAIRMAN HAQUE: Yeah, go ahead.

MR. NOURSE: But, you know, an ideal, I guess an ideal net metering customer would be one that offsets their load with their -- with their generation behind the meter, and that's kind of, I think, the -- the definition.

So if you have a thousand kWh customer who uses a thousand kWh and produces a thousand kWh during a billing period. Now, their bill wouldn't go to zero, it would go -- because we do have a customer charge and we do have some percentage of base D. But for AEP Ohio, that's $125 for a thousand kWh customer. If they offset by producing a thousand under the net metering regime here, their bill would go down to $12. It's $113 savings. Most of that, over $100, relates to two categories: Generation and then T&D.

So the generation makes sense and they're offsetting generation.

The -- the T&D charges, I mean let's be clear about that. That -- that is absorbed by all the other customers. This customer is still using, they're pushing a thousand out, they're pulling a thousand in. They're using the grid or else they

would be off-grid if they could totally produce their energy when they need it. So they're using the grid, and that's paid for, that's picked up by all the other customers. They're already getting a complete capacity credit for all the generation they offset their load with.

So in this example, a thousand kWh, they get $15 from AEP for offsetting the capacity charges reflected in rates. So they're getting 100 percent capacity payment for that generation up to they're offsetting, you know, their full -- their full load requirements. So that's another reason why this energy credit thing is, you know, it's just I think "cherry on top" is the correct way to look at it.

The net metering customers, by virtue of the way the General Assembly set it up, are already getting a very generous payment stream, and they're already getting subsidized by the other customers that T&D, which is about 40-plus dollars for AEP Ohio, is going to be picked up by all the other customers.

So, you know, those are -- those are how the dollars move, you know, and that's -- that's a real example just based on AEP's rates and simple math. So I just wanted to make sure that is clear.

CHAIRMAN HAQUE: Mr. Nourse, can you just, for consistency's sake, can you describe the net metering landscape in AEP Ohio? Roughly how many customers, if you know, --

MR. NOURSE: Yeah.

CHAIRMAN HAQUE: -- residential, industrial, whether or not you offer a capacity payment currently for excess generation.

MR. NOURSE: Yup. I pinged -- I pinged someone when I heard those questions earlier.

So for residential we have about 1,063 customers currently. 1,010 of those are solar, 53 are wind.

And then on the nonresidential side, we have 307 total net metering customers. 279 are solar, 23 are wind, and 5 are other.

And obviously those numbers don't reflect the load value. Just because there's more residential customers doesn't mean there's not a lot more load on the non-res side, but those are the numbers I think you were asking about.

CHAIRMAN HAQUE: And then, no, you don't allow for a capacity payment for the excess. It's energy-only right now?

MR. NOURSE: Well, you know, to clarify

that, I think we -- we currently have a Gen C and Gen E rates, meaning there's an energy and a capacity unbundling that has occurred more recently in the last few years. These rules that we're really applying today predate the 2014 Order because you were changing the rules in 2014 and then you pulled them back and now. So -- so, you know, I think basically they do get the SSO rate today which -- which is really now unbundled into Gen C, Gen E for us, and then an Alternative Energy Rider for the renewable portion of the supply.

CHAIRMAN HAQUE: Other questions for Mr. Nourse?

Mr. Conway.

COMMISSIONER CONWAY: Just to also kind of to complete the circuit with the EDUs, Mr. Nourse, with regard to how you're going to implement, your client is going to implement the authority to review and approve or disapprove net metering applications based on what your conclusions are about the hazard and safety --

MR. NOURSE: Yeah.

COMMISSIONER CONWAY: -- impacts that they will produce. And in a related matter with regard to the contiguous question, is it your -- your

client's view that, as is apparently the case with FirstEnergy, I'm not sure quite about Dayton Power and Light where they come out on this, but you will interpret the contiguous criterion as excluding from the contiguous category properties that are separated by a public way or a railroad right-of-way or another -- or an easement like a utility easement, or are you --

MR. NOURSE: Yeah.

COMMISSIONER CONWAY: -- or do you regard them as properties that are separate in that fashion, still contiguous, but then subject to this safety and hazard review and if it -- and then --

MR. NOURSE: Yeah.

COMMISSIONER CONWAY: Okay.

MR. NOURSE: Yes. So let me -- there's two parts there. So on the, on the contiguous piece, I mean I think if they're separated then they wouldn't be contiguous. But if they're just -- if it's just a utility right-of-way at the edge of the two properties that are contiguous, you know, I think I would still consider that contiguous. If it is separated by a separate parcel, whether it's a highway or a -- or a railroad or something, I think that's probably noncontiguous.

But I would also emphasize, maybe that gets maybe lost in One Energy's argument, I mean the key under the statute, and this is statutory, the contiguous language comes from the statute, that it's supposed to be the customer's premises. So, I mean, it can't be a solar developer that has a contiguous property or is providing two parcels away or whatever. That's community solar and that is not permitted under the Ohio rules.

But if it's under the customer's control and if it is contiguous, not separated, I think that's -- that's how we would interpret it.

As for the safety issue, I think we probably are similar again to the way Mr. Endris described it. Our engineers look at, they're trying to facilitate interconnection, they look at the safety issues.

And I'll say that "behind the meter" is not always the same as, you know, the "point of interconnection," meaning we do look behind the meter or behind the point of interconnection for some things. For example, there's got to be switching in place where if the -- if the circuit gets turned off for work on the circuit, that customer, if they have their behind-the-meter generation running, won't

electrocute our workers that are up on the pole. So that's one example. It's all part of the plan that's submitted. So there are safety issues that can be behind the meter at the point of interconnection.

But as to if you're on the back property that crosses, you know, and it doesn't have these other contiguous problems, I don't think we look at that, you know, subject to my earlier explanation of contiguous.

COMMISSIONER CONWAY: Okay. Thank you.

MR. NOURSE: Okay.

CHAIRMAN HAQUE: Other questions?

Okay. Thank you.

MR. NOURSE: Thank you.

CHAIRMAN HAQUE: Okay. We are going to move to rebuttal.

EXAMINER PRICE: Lightening round.

CHAIRMAN HAQUE: What's that?

EXAMINER PRICE: Lightening round.

CHAIRMAN HAQUE: Lightening round. So rebuttal is supposed to be 1 minute and there are seven parties, so this should take roughly 7 minutes.

Ms. Johnson, you are up first.

MS. TREADWAY: Thank you, Commissioners.

It is absolutely necessary that we ensure

the safety and reliability of the distribution grid, and that is accomplished under the current interconnection rules and their requirement that we adhere to IEEE 1547, UL 1741, and the National Electric Code.

It is absolutely necessary that the crossing of easements is safely done. And again, that is comprehensively regulated by the Board of Building Standards, building inspectors, local, county, township zoning authorities.

It is regulated the same way. Every single building and every single stadium in the State of Ohio is regulated to ensure that it is safe and the electric systems of those facilities are safe.

Giving the utilities the discretion over this, based on no clear standard, is unnecessary and it can, quite frankly, strike dead commercial and industrial net metering in the State of Ohio.

If this is going to be addressed, it should be done holistically and in the interconnection rules, not here, and that's why it's important that the Commission adopt its 2015 Order's definition of the term "premises." Thank you.

CHAIRMAN HAQUE: Thank you.

Dayton Power and Light.

MR. SCHULER: Thank you, Mr. Chairman and Commissioners.

I've spent my last hour or two trying to think of how we might be able to bridge the gap between One Energy and the EDUs. And I think it might boil down, I don't know if this completely bridges the gap, but I think it addresses a number of concerns and perhaps clarifies where DP&L is at on this issue.

I think it really is two alternative routes for the Commission on this. If there's a clarification of the term "contiguous" to not include easements and right-of-ways, because obviously we do not see that as contiguous, I think that would abate most of our concerns. Otherwise, then, if easements and right-of-ways are permitted, then that's where we really do need that safety analysis because -- thank you -- because those right-of-ways could be our own lines. Commissioner Conway, we talked about that before, that is one of our primary concerns is it being our own lines, so.

With those two alternate possibilities for us, I think that could bridge part of this gap here and hopefully find the common ground that you were looking for.

CHAIRMAN HAQUE: What was the second one again? I'm so sorry.

MR. SCHULER: Well, essentially leaving the rule the way it is and allowing us to conduct a safety analysis, as the rule allows us, to look at whether it's an unsafe or hazardous condition.

CHAIRMAN HAQUE: Okay. Thank you.

MS. FLEISHER: Your Honors, there's been a lot of assertions about the capacity value of excess generation. And we've presented, in our briefings and here, some facts to back up our assertions that there is capacity value: Valuation of Solar studies done in other jurisdictions; an explanation of the mechanism, the existing mechanisms by which distributed generation provides capacity value.

On the other side you have, "Oh, this is a subsidy," from FirstEnergy, a utility that had no excess generation on its system in 2016, which we mentioned in our Memo Contra.

This is exactly why Ohio has a statute that protects net metering customers against being targeted through rate design decisions that have no factual basis and why this should all be put on hold. If you want to do a Valuation of Solar study, you

can; but meanwhile, there is value here, it should be compensated, they are providing electricity. Thank you.

CHAIRMAN HAQUE: Thank you.

Mr. Endris.

MR. ENDRIS: Thank you, Mr. Chairman.

I would like to address the questions that were asked by Commissioner Conway, particularly about the -- whether these should be treated as any other resource, any other capacity resource. And the answer is no, they are not the same as other capacity resources, particularly in their dispatchability or, for example, in the case of demand response under the Companies' programs, they are callable during a curtailment event and there are penalties for nonperformance.

Net metering, on the other hand, customer generation, is a plug-and-play without those kinds of constraints. And the amount of subsidy for spinning back to the zero is constrained only by -- is constrained by the statutory limitations that we've discussed today. Thank you.

CHAIRMAN HAQUE: Thank you.

Mr. Healey.

MR. HEALEY: Thank you, Mr. Chairman.

I would note that the Commission asked a lot of questions today, primarily of the utilities, asking for data, how many customers, how many megawatts. I think this highlights the need for additional information-gathering.

What we have through this proceeding so far is a lot of comments from a lot of parties and those have been really, really valuable. But what we don't have is an Ohio-specific study analyzing what the actual value is coming from Ohio, coming from Ohio customers who are generating their own electricity.

And that's why we're asking for further review which will benefit both the Commission, benefit OCC in understanding the value of distributed generation to the customers that we represent which includes both distributed generation net metering customers and those that aren't.

So that's why we really want an understanding of what is the true value here, how can we compensate customers for that true value, no more, no less, to avoid having the subsidies that various parties have talked about today. Thank you.

CHAIRMAN HAQUE: Thank you.

Mr. Oliker.

And I joked with Angela here that by "rebuttal" we meant closing arguments. Sorry.

(Laughter all around.)

MR. OLIKER: Thank you, your Honor.

Just three quick points to follow up on Mr. Healey's comments.

I think we heard today there is probably less than 5,000 net metering customers in the entire state, maybe less than one-tenth of 1 percent of all customers. I mean we're not talking about any penetration of any sort.

And to respond to AEP about the availability of net metering tariffs. We do not believe it would be beyond the Commission's jurisdiction to extend that right to shopping customers. Interpreting the net metering rules in that way would be permissible under the statute.

Additionally, one more response to AEP. There was discussion of a customer that produces and consumes 1,000 kilowatt-hours and that that's an ideal customer. We agree, but we don't know of any of those customers that exist. So, as a result of that, the rules need to work within the confines of the market and the actual production curves and usage curves of actual customers, and the annual

reconciliation would address that issue. Thank you, your Honor.

CHAIRMAN HAQUE: Thank you.

And Mr. Nourse.

MR. NOURSE: Thank you.

You know, I don't know why there's so much debate about the excess energy issue if there aren't -- if it isn't the intention to try to get that additional compensation.

All I would say is I think -- this is a 2012 docket and I think the Commission needs to act. I think the Commission can reevaluate the rules and maybe the five-year time is already beginning now based on this whole docket, but I think the Commission has an obligation to update these rules, move forward based on the best information it had, and the law and, you know, that's what we would ask without further delay. Thank you.

CHAIRMAN HAQUE: Okay. Thank you very much.

Look, from my lens, this is extraordinarily helpful. Net metering is a policy-rich discussion, policy-rich debate.

Obviously, we are -- we have read your briefs, are pretty well attuned to all the legal

arguments in the briefs, but being able to dialogue with all of you about especially the policy of the State as it pertains to net metering is extraordinarily helpful.

Thank you very much to all of the litigants and those who supported all of you today. You did your entities that you represented a lot of justice.

And I would be happy to -- to turn the mic over to the Commissioners if you have anything else you'd like to add?

COMMISSIONER CONWAY: I -- I found it very helpful also, Mr. Chairman. And I also appreciate, very much, well-prepared presenters which all of you were, from all sides, very helpful, and thank you very much for your effort. We really appreciate it.

CHAIRMAN HAQUE: I would be remiss if I didn't give a shout out to Bryce McKenney who is in the room, former Attorney Examiner. Were these your rules, Bryce?

MR. McKENNEY: At one time.

CHAIRMAN HAQUE: At one time these were Bryce's rules. So a shout out to now old-school Bryce McKenney at the ripe age of like 33 or whatever

Bryce is.

Okay. Thank you very much. We are adjourned today. Thank you.

(Thereupon, the proceedings concluded at 4:20 p.m.)

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CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Wednesday, January 10, 2018, and carefully compared with my original stenographic notes.

Carolyn M. Burke

Carolyn M. Burke, Registered Professional Reporter, and Notary Public in and for the State of Ohio.

My commission expires July 17, 2018.

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Summary: Transcript In the Matter of the Commission's Review of Chapter 4901:1-10 of the Ohio Administrative Code, hearing held on January 10, 2018. electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Burke, Carolyn