

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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Forest Hills Supermarket,	:	
Inc., d/b/a Konnis Family	:	
Foods,	:	
	:	
Complainant,	:	
	:	
vs.	:	Case No. 18-785-EL-CSS
	:	
The Cleveland Electric	:	
Illuminating Company,	:	
	:	
and	:	
	:	
FirstEnergy Corp.,	:	
	:	
Respondents.	:	

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PROCEEDINGS

before Patricia A. Schabo, Attorney Examiner, at the  
Public Utilities Commission of Ohio, 180 East Broad  
Street, Room 11-D, Columbus, Ohio, called at 10:30  
a.m. on Tuesday, February 26, 2019.

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1 APPEARANCES:

2 Wargo & Wargo Co., LPA  
3 By Thomas M. Wilson, Esq.  
4 30 Park Street  
5 Berea, Ohio 44017

6 On behalf of the Complainant.

7 FirstEnergy  
8 By Robert M. Endris, Esq.  
9 Joshua R. Eckert, Esq.  
10 and Emily V. Danford, Esq.  
11 76 South Main Street  
12 Akron, Ohio 44308

13 On behalf of the Respondents.

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1 Tuesday Morning Session,  
2 February 26, 2019,  
3 10:35 a.m.

4 - - -

5 ATTORNEY EXAMINER SCHABO: The Public  
6 Utilities Commission of Ohio has set for hearing at  
7 this time and place Case No. 18-785-EL-CSS being  
8 Forest Hills Supermarket, Inc., d/b/a Konnis Family  
9 Foods versus The Cleveland Electric Illuminating  
10 Company.

11 My name is Patricia Schabo. I am one of  
12 the Attorney Examiners assigned by the Commission to  
13 hear this case.

14 Let's begin with appearances of counsel,  
15 beginning with the Complainant.

16 MR. WILSON: Thank you. For the record,  
17 Thomas Wilson, Wargo & Wargo, 440-234-0662, on behalf  
18 of Forest Hills, Inc.

19 MR. ENDRIS: Thank you, your Honor. On  
20 behalf of The Cleveland Electric Illuminating  
21 Company, Robert M. Endris, 76 South Main Street,  
22 Akron, Ohio 44308. Also with me, appearing with me  
23 today is Emily Danford, same address, and also I  
24 would like to enter an appearance today for Joshua  
25 Eckert as well --

1 ATTORNEY EXAMINER SCHABO: Okay.

2 MR. ENDRIS: -- who has been previously  
3 listed in this matter, appearing in this matter.  
4 Thank you.

5 ATTORNEY EXAMINER SCHABO: With that,  
6 Mr. Wilson, did you want to present a case without  
7 witnesses? Did you want to introduce any exhibits?

8 MR. WILSON: I have some exhibits to  
9 introduce, but I have no witnesses here today. Do we  
10 do any type of opening or is that different here in  
11 front -- I've never been in front of the Public  
12 Utilities Commission, so pardon my naiveté.

13 ATTORNEY EXAMINER SCHABO: No problem.  
14 You can do an opening statement, if you'd like to do  
15 some kind of opening statement. It's not necessary.  
16 For the most part, I will preside over the hearing,  
17 and any record we create will be presented to the  
18 Commission along with any recommendation from myself,  
19 and that's how the Commission will get the  
20 information. So any evidence you would like to mark  
21 and move into evidence, any cross-examination of the  
22 Company's witness, all of that will go to the  
23 Commission. Let's go off the record.

24 (Discussion off the record.)

25 ATTORNEY EXAMINER SCHABO: Let's go back

1 on the record.

2 Mr. Wilson, you wanted to make an  
3 opening statement?

4 MR. WILSON: Thank you. Just short  
5 opening remarks. As I mentioned before, I'm here on  
6 behalf of Forest Hills Supermarket, Inc. Forest  
7 Hills Supermarket, Inc. is a supermarket in East  
8 Cleveland, Ohio. It is a small family-run  
9 supermarket that is a direct competitor with Giant  
10 Eagle, which is right down the road.

11 Forest Hills has been at the address of  
12 13598 Euclid Avenue for somewhere about 30 years.  
13 Forest Hills had been receiving electricity from CEI  
14 through two separate meters which were billed under  
15 Account No. 110 023 165 209. It's the 209 account.  
16 In September of 2016, CEI came in and installed a new  
17 meter at the rear of the Forest Hills Supermarket.  
18 At that time they took off the two old meters, put in  
19 a new meter, and then rather than billing -- continue  
20 the billing through the 209 account to Forest Hills,  
21 they began to bill the landlord at -- at the shopping  
22 mall rather than Forest Hills.

23 In May of 2017, the landlord contacted  
24 CEI, said hey, why am I getting these new bills, this  
25 isn't for me. On June 19th of 2017, CEI made a

determination and determined that the new meter was serving the 13598 Euclid Avenue, i.e. Forest Hills, not what they had previously been billing at under 13520 Euclid Avenue. In other words, there was just a mistake where the -- where the bills were going.

On August 1st of 2017, CEI sent a bill to Forest Hills under a different -- a different account, and it billed for June '08 through -- to July of '06 for 29 days that showed a previous balance of \$37,000, \$37,384.63, with consumption for that month of \$7,576.44, for a total amount due of \$44,961.07. In other words, for the first time, on August 1st, 2017, Forest Hills received a bill for \$44,961.07 when it had been getting consumption bills of 5, 6, \$7,000, and we'll be presenting that into evidence.

Dated that same time of August 1 of 2017, CEI also sent a letter to Forest Hills stating that the bill of \$44,961.07 was for the time period of 12/9/2016 to 7/6/2017. Prior to that Forest Hills hadn't received this bill. Among other things, the 8/1/2017 letter says, "Your account has been billed from 12/9/2016 to 7/6/2017 due to your account not being established for electric services at the following address: 13598 Euclid Avenue New Service,

1 East Cleveland, Ohio 44112." However, that was  
2 incorrect, as Forest Hills had been there for over 35  
3 years and had been receiving consistent bills  
4 through -- from CEI at that time. It was not a new  
5 service that was ever started. If there had been --  
6 there was never a new service. At that time they  
7 said that the "amount will be displayed on your next  
8 bill."

9 Subsequent to that -- I'm sorry. One  
10 last thing, on the 8/1/2017 letter, which again we'll  
11 be introducing, Forest Hills placed a -- CEI placed  
12 Forest Hills on a payment plan, and the payment plan  
13 took the 44 -- the total amount, divided it -- of  
14 44,961.07, divided it by the seven months that they  
15 had not previously billed for, and added \$6,423.01 of  
16 additional monthly charge to the current consumption  
17 charge. When you added the \$6,423, it nearly doubled  
18 their bill, and Forest Hills, on 4/9 of 2018, Forest  
19 Hills had been paying the consumption charges but not  
20 the back amount, and they received a disconnect  
21 notice for nonpayment of the prior bill even though  
22 they had not been charged for that monthly -- or that  
23 seven-month time period until August of 2017. That's  
24 all.

25 ATTORNEY EXAMINER SCHABO: Thank you.



1                   Mr. Endris, did you want to make an  
2 opening statement?

3                   MR. ENDRIS: Yes. Very briefly, your  
4 Honor. Thank you. This case is about a simple and  
5 normal rebill process that the Company undertook in  
6 order to bill for electricity consumed by Forest  
7 Hills Supermarket. It initiated from a meter -- or  
8 from a service upgrade requested by the landlord and  
9 was all performed pursuant to that request. The  
10 evidence will show that -- that the Complainant  
11 continued to receive service under the two old meters  
12 for another three months after the upgrade service  
13 was completed. At the time that the service cut over  
14 to the new meter was performed by the landlord is  
15 when the period of consumption needed to switch over  
16 so that Forest Hills could be billed for the  
17 electricity they were consuming. When the records  
18 got straightened out, the rebill was a normal  
19 process, according to the Commission's records.  
20 Thank you.

21                   ATTORNEY EXAMINER SCHABO: Thank you.

22                   Mr. Wilson, would you like to mark and  
23 move any exhibits?

24                   MR. WILSON: Initially I would like to  
25 mark the -- and move into as an exhibit the August 1,

1 2017 -- what's the easiest way to do this, your  
2 Honor, just hand them up, walk around?

3 ATTORNEY EXAMINER SCHABO: You can walk  
4 around and -- you'll need to give the court reporter  
5 a copy and counsel one.

6 MR. WILSON: I'm just trying to make it  
7 as easy as possible for everyone.

8 ATTORNEY EXAMINER SCHABO: Right. You  
9 can choose whether or not you'd like to use numbers  
10 or letters.

11 MR. WILSON: Let's use letters -- let's  
12 use numbers, please. I like numbers for the Court.  
13 And these are all documents that I've now provided to  
14 counsel, in the order that I believe I provided them  
15 to counsel.

16 ATTORNEY EXAMINER SCHABO: Okay. So the  
17 August 1, 2017, letter you'd like marked as Exhibit  
18 1; is that correct?

19 MR. WILSON: That is correct, your  
20 Honor.

21 (EXHIBIT 1 MARKED FOR IDENTIFICATION.)

22 MR. WILSON: Exhibit 2 is the billing  
23 statement from the Illuminating Company to Forest  
24 Hills Supermarket, Inc. for the billing period June 8  
25 to July 6, 2017, for 29 days, and that is Account No.

1 110 124 917 649, which shows an amount due of  
2 \$44,961.07.

3 (EXHIBIT 2 MARKED FOR IDENTIFICATION.)

4 MR. WILSON: Exhibit 3 is a --

5 (EXHIBIT 3 MARKED FOR IDENTIFICATION.)

6 MR. ENDRIS: I'm sorry. I lost track of  
7 what --

8 MR. WILSON: This is Exhibit 3.

9 MR. ENDRIS: What did you hand her?

10 MR. WILSON: It's in the order that I  
11 gave them to you. It is the August 9, 2017, bill,  
12 Account No. 110 124 917 649. That's the Account 649,  
13 and that's from the period of July 7 to August 7,  
14 2017, for 32 days, and again these bills are to  
15 both -- Exhibit 1 and Exhibit 2 are to Forest Hills  
16 Supermarket, Inc. at 13598 Euclid, and if you go down  
17 under the right hand -- left-hand side, under  
18 "Messages," under the first paragraph it states,  
19 "Thank you for setting up a payment arrangement with  
20 The Illuminating Company on 8/1/2017. The terms of  
21 the installment plan require a monthly installment  
22 amount of \$6,423 in addition to the current charges.  
23 The amount you must pay will be shown on your bill  
24 each month. Please pay this amount by the due date  
25 on the bill. Failure to keep the terms of the

1 installment plan may result in a disconnection of  
2 your service."

3 That is an incorrect statement. There  
4 was never a monthly plan that was agreed to by Forest  
5 Hills. It was placed -- it was placed by CEI  
6 unilaterally on us, on Forest Hills.

7 MR. ENDRIS: Your Honor, he's  
8 testifying. There's no facts in the record at all  
9 for the statements that he's making.

10 MR. WILSON: They're also true. I'll  
11 just introduce the records, that's all.

12 ATTORNEY EXAMINER SCHABO: The  
13 Commission can make that determination, I agree. Go  
14 ahead. You didn't bring a witness to testify --

15 MR. WILSON: I did not.

16 ATTORNEY EXAMINER SCHABO: -- so go  
17 ahead and mark your exhibits.

18 MR. WILSON: May I read from the  
19 exhibits, your Honor?

20 ATTORNEY EXAMINER SCHABO: No. The  
21 exhibits will speak for themselves, if they're  
22 admitted.

23 MR. WILSON: The next exhibit will be  
24 Exhibit 4.

25 ATTORNEY EXAMINER SCHABO: I will amend

1 my statement to say that if there is some portion of  
2 an exhibit that you would like us to pay attention  
3 to, you may point that portion out, but again, there  
4 is no need to read the actual content of the exhibit.

5 MR. WILSON: Understood, your Honor.  
6 Thank you.

7 Exhibit 4 is the April 9, 2018, bill  
8 from -- from The Illuminating Company to Forest Hills  
9 Supermarket, Inc., 13598 Euclid Avenue, East  
10 Cleveland, Ohio, Account No. 110 124 917 649, which  
11 is the "Disconnection Notice," is the only section  
12 that I would point the Court to (indicating).

13 (EXHIBIT 4 MARKED FOR IDENTIFICATION.)

14 MR. WILSON: Exhibit 5.

15 (EXHIBIT 5 MARKED FOR IDENTIFICATION.)

16 MR. WILSON: Exhibit 5 is an e-mail  
17 chain from myself to -- at the bottom dated October  
18 25, 2017, to Joshua Eckert at FirstEnergy Corp  
19 requesting documents and asking for all the bills.  
20 The response, which is on the top from Mr. Eckert to  
21 myself on October 27, 2017, in which CEI only  
22 provides a small amount of documents.

23 And then the last exhibit would be  
24 Exhibit 6.

25 (EXHIBIT 6 MARKED FOR IDENTIFICATION.)

1 MR. WILSON: Your Honor (indicating).  
 2 Exhibit 6 is the follow-up e-mail chain from myself,  
 3 at the bottom, to -- to Mr. Eckert, and his response,  
 4 Mr. Eckert, from FirstEnergy Corp to myself is a  
 5 response dated November 13, 2017, in which I've asked  
 6 for all of the bills and which they were also not  
 7 produced. That's all, your Honor.

8 ATTORNEY EXAMINER SCHABO: Thank you.  
 9 Exhibit 1 through 6 will be marked as discussed.

10 Mr. Endris.

11 MR. ENDRIS: Has he requested these to  
 12 be admitted into the record yet, your Honor?

13 ATTORNEY EXAMINER SCHABO: Mr. Wilson,  
 14 are you admitting these into the record? Mr. Wilson,  
 15 are you moving for these exhibits to be --

16 MR. WILSON: Yes, your Honor.

17 ATTORNEY EXAMINER SCHABO: -- admitted  
 18 into the record?

19 MR. WILSON: Yes, your Honor.

20 ATTORNEY EXAMINER SCHABO: Yes, he has.

21 MR. ENDRIS: Thank you, your Honor. At  
 22 this time the Company would object to the admission  
 23 of these exhibits. There's no witness here to  
 24 authenticate these documents nor to cross-examine  
 25 about their content and/or the meaning of their

1 content.

2 MR. WILSON: Your Honor, these are all  
3 admissions made by FirstEnergy or CEI, admissions  
4 against interest. While they may be hearsay, they  
5 are admissible under the -- well, they're actually  
6 not hearsay because they're admission by a party  
7 opponent.

8 MR. ENDRIS: With all due respect, your  
9 Honor, if I may, that still doesn't overcome the  
10 ability -- inability to cross-examine over the  
11 contents of these exhibits.

12 MR. WILSON: And again, your Honor, I  
13 guess I misunderstand. If I understood what the  
14 Court said to me earlier, it said the documents speak  
15 for themselves, so if the documents speak for  
16 themselves, which the Court made the determination  
17 without objection by Mr. -- by counsel and I have  
18 produced the documents, to allow them to speak for  
19 themselves. In regard to the last two documents,  
20 Exhibit 5 and 6, which are documents where Forest  
21 Hills Supermarket is attempting to get bills and the  
22 only two witnesses available on that would be myself,  
23 and I'm happy to swear myself in -- or have you swear  
24 me in and I'll testify to it, in regard -- and in  
25 addition to Mr. Eckert, who is counsel, which

1 obviously I couldn't cross-examine anyway, so -- and  
 2 the last two are only to put in there to show that  
 3 irrespective of how many times we asked and how many  
 4 times we tried, CEI selectively provided us with  
 5 documents, and now to say to you I can't put those  
 6 documents in because we don't have a witness, when  
 7 they are the ones that sent the e-mails and they're  
 8 the ones that stent the attachments, I don't know who  
 9 else I could call to but myself to put those in. And  
 10 again, if someone wants to swear me in, I'll be happy  
 11 to testify in regard to Exhibits 5 and 6.

12 ATTORNEY EXAMINER SCHABO: Setting  
 13 Exhibits 5 and 6 aside for just a moment, Mr. Endris,  
 14 are you indicating that we cannot rely on the  
 15 authenticity of bills that were issued by CEI?

16 MR. ENDRIS: No, your Honor. What I'm  
 17 saying is there's no witness to cross-examine on  
 18 whether they received these billed statements and  
 19 were aware of the content.

20 ATTORNEY EXAMINER SCHABO: You know  
 21 what, just for now we're going to leave this open.  
 22 We're not going to rule on the admissibility at this  
 23 very second. What we can do is proceed with the  
 24 Company's case, and perhaps Mr. Wilson can find an  
 25 opportunity to have these documents identified by a



1 witness during his cross-examination.

2 MR. ENDRIS: Thank you, your Honor.

3 ATTORNEY EXAMINER SCHABO: You're  
4 welcome.

5 MR. ENDRIS: At this time the Company  
6 would call Miss Princess Davis to the stand.

7 ATTORNEY EXAMINER SCHABO: Good morning.

8 MS. DAVIS: Good morning.

9 (Ms. Davis was sworn.)

10 ATTORNEY EXAMINER SCHABO: Thank you.  
11 Have a seat. If you can state your name and your  
12 business address for the record.

13 THE WITNESS: Princess Davis, 5001 Nasa  
14 Boulevard, Fairmont, West Virginia 26554.

15 ATTORNEY EXAMINER SCHABO: Thank you.

16 MR. ENDRIS: Your Honor, may I request a  
17 brief recess? I just realized I did not bring with  
18 me a copy of my witness' testimony.

19 ATTORNEY EXAMINER SCHABO: Absolutely.  
20 Let's go off the record.

21 MR. ENDRIS: Thank you, your Honor.

22 ATTORNEY EXAMINER SCHABO: You're  
23 welcome.

24 (Recess taken.)

25 ATTORNEY EXAMINER SCHABO: Let's go back

1 on the record.

2 - - -

3 PRINCESS DAVIS,

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

6 DIRECT EXAMINATION

7 BY MR. ENDRIS:

8 Q. Miss Davis, I am handing you what's --  
9 you already have it. Do you have before you -- let  
10 me back up. I'll try to start right where we left  
11 off. Miss Davis, by whom are you employed and in  
12 what capacity?

13 A. FirstEnergy Operating Company. I'm a  
14 Customer Service Compliance Specialist.

15 Q. Thank you. Do you have what's been  
16 marked or what's been -- can you identify what's been  
17 placed in front of you?

18 A. It's my direct testimony on behalf of  
19 The Cleveland Electric Illuminating Company.

20 MR. WILSON: Has it been marked as an  
21 exhibit?

22 ATTORNEY EXAMINER SCHABO: I don't  
23 believe so, not yet.

24 MR. ENDRIS: Yes, may I have that marked  
25 as Company Exhibit 1?

1 ATTORNEY EXAMINER SCHABO: Yes.

2 MR. WILSON: So we're both -- we're both  
3 numbers?

4 ATTORNEY EXAMINER SCHABO: Let's do  
5 Company Exhibit A.

6 MR. ENDRIS: Exhibit A. Thank you.

7 (EXHIBIT A MARKED FOR IDENTIFICATION.)

8 MR. WILSON: Thank you.

9 ATTORNEY EXAMINER SCHABO: So marked.

10 MR. ENDRIS: Thank you, your Honor.

11 BY MR. ENDRIS:

12 Q. Do you have what's been marked as  
13 Company Exhibit A in front of you?

14 A. Yes.

15 Q. And was that prepared by you or under  
16 your supervision?

17 A. Yes.

18 MR. ENDRIS: Your Honor, at this time,  
19 in light of the exhibits that may or may not come  
20 into the record, I'd like to begin with some rebuttal  
21 rather than go straight into cross-examination.

22 ATTORNEY EXAMINER SCHABO: Okay. Well,  
23 then -- let's just simplify this. Exhibits 5 and 6  
24 are e-mail exchanges between two attorneys. I will  
25 not swear you in on behalf of your client because

1 that is a conflict. An attorney cannot act as a  
2 witness in their client's own case. Exhibits 5 and 6  
3 will not be admitted.

4 Exhibits 1 through 4, although I'll  
5 admit is a bit fast and loose, have been referenced  
6 throughout the pleadings, have been referenced within  
7 the stated testimony, are records that were created  
8 by the Company, sent to the Complainant. One would  
9 presume that the Company is relying upon the  
10 Complainant to receive these. Though not in the most  
11 ideal sense, i.e. via testimony, the Complainant has  
12 acknowledged receiving them, and for the ease of the  
13 record and for the Commission's own admission,  
14 Exhibits 1 through 4 will be admitted.

15 (EXHIBITS ADMITTED INTO EVIDENCE.)

16 MR. ENDRIS: Thank you, your Honor. May  
17 I make at least one observation that these bill  
18 statements include confidential consumption  
19 information. If Complainant is willing to waive  
20 that, then they don't have to be redacted.

21 ATTORNEY EXAMINER SCHABO: Okay. Mr.  
22 Wilson, if there is confidential information  
23 within --

24 MR. WILSON: We'll waive it, your Honor.

25 ATTORNEY EXAMINER SCHABO: You'll waive

1 it. Okay.

2 MR. ENDRIS: And if I may ask one more,  
3 if counsel will stipulate that other billed  
4 statements sent to his client were, in fact, received  
5 by his client.

6 MR. WILSON: I wouldn't be able to  
7 stipulate to that until I saw the particular  
8 documents, your Honor. I mean, in general -- I  
9 answer -- I don't have that answer, your Honor. I'd  
10 have to see the document.

11 ATTORNEY EXAMINER SCHABO: Let's go off  
12 the record.

13 (Discussion off the record.)

14 ATTORNEY EXAMINER SCHABO: Let's go back  
15 on the record.

16 Mr. Endris, I believe you had requested  
17 that there be a stipulation as to some other bills  
18 issued by the Company.

19 MR. ENDRIS: Yes, your Honor, and while  
20 we were off the record counsel for Complainant  
21 stipulated that his client indeed received the billed  
22 statements that he's been -- that he's been shown.

23 ATTORNEY EXAMINER SCHABO: Mr. Wilson,  
24 is that correct?

25 MR. WILSON: Yes, that is correct, your

1 Honor. There appears to be four -- four first pages  
2 of two-page documents with various amounts, and they  
3 appear to be for an account number of 110 023 165  
4 209, and they are --

5 ATTORNEY EXAMINER SCHABO: We'll let Mr.  
6 Endris mark them and identify them. Okay?

7 MR. WILSON: Understood, your Honor.

8 ATTORNEY EXAMINER SCHABO: Great. Thank  
9 you.

10 MR. WILSON: So stipulated.

11 ATTORNEY EXAMINER SCHABO: Mr. Endris.

12 MR. ENDRIS: Thank you, your Honor. May  
13 I approach the witness?

14 ATTORNEY EXAMINER SCHABO: You may.

15 MR. ENDRIS: And first I would ask that  
16 these be marked as Company --

17 ATTORNEY EXAMINER SCHABO: B.

18 MR. ENDRIS: -- Exhibit B.

19 ATTORNEY EXAMINER SCHABO: All four  
20 or --

21 MR. ENDRIS: Yes, four pages to the  
22 exhibit.

23 ATTORNEY EXAMINER SCHABO: We will mark  
24 as Company Exhibit B a package of four documents.  
25 I'll go ahead and let you identify them further, Mr.

1 Endris.

2 MR. ENDRIS: Thank you, your Honor, and  
3 for the record I have handwritten the numbers one,  
4 two, three, and four on the successive pages in the  
5 exhibit, Company Exhibit B.

6 MR. WILSON: So it's B1, B2, B3, that  
7 way?

8 MR. ENDRIS: Yes.

9 MR. WILSON: Okay. Thank you.

10 (EXHIBIT B MARKED FOR IDENTIFICATION.)

11 BY MR. ENDRIS:

12 Q. Miss Davis, I've handed you what's been  
13 marked as Company Exhibit B, consisting of four pages  
14 of B1, B2, B3, and B4. Can you identify these  
15 documents?

16 A. They are bills that were issued to  
17 Forest Hills Supermarket by the Illuminating Company  
18 for billings March 7th of 2017 through July 7th of  
19 2017, under account number ending in 209.

20 Q. And were these sent to the address 13598  
21 Euclid Avenue, East Cleveland?

22 A. Yes. Each one was sent to 1398 (sic).

23 Q. And I would direct your attention to the  
24 left-hand side of the page. Is there a graphic  
25 depiction of consumption history?

1 A. Yes.

2 Q. And is there a table of monthly  
3 consumption history above the graphic?

4 A. Yes.

5 Q. And does that appear on each one of the  
6 pages?

7 A. It does, yes.

8 Q. For each monthly billing statement. And  
9 I would direct your attention to the top right  
10 portion of the billing statement under "Account  
11 Summary." I know it's a little blurry. Do you see  
12 that section?

13 A. Yes.

14 Q. And does it state "Previous Balance"?

15 A. Yes. It shows a previous balance of  
16 49.64.

17 Q. And going down the page a little  
18 further, for the "Usage Information," does it show  
19 the kilowatt hours consumed for these bills?

20 A. Yes. It looks like zero consumption.

21 Q. On each --

22 A. For each of the four bills shown, yes.

23 MR. ENDRIS: That's all I have on  
24 rebuttal, your Honor.

25 ATTORNEY EXAMINER SCHABO: Thank you.



1 MR. ENDRIS: I would move for the  
2 admission of Company Exhibit B, B1, B2, B3, and B4.

3 ATTORNEY EXAMINER SCHABO: They've been  
4 stipulated, so we can go ahead and admit them for the  
5 record.

6 MR. ENDRIS: Thank you.

7 (EXHIBITS ADMITTED INTO EVIDENCE.)

8 ATTORNEY EXAMINER SCHABO: Would you  
9 like to proceed sponsoring your witness on direct?

10 MR. ENDRIS: I'm sorry? I apologize.

11 ATTORNEY EXAMINER SCHABO: Would you  
12 like to proceed with sponsoring your witness on  
13 direct?

14 MR. ENDRIS: Yes. At this time, your  
15 Honor, I would offer Miss Davis direct testimony into  
16 the record subject to cross-examination.

17 ATTORNEY EXAMINER SCHABO: We'll proceed  
18 with cross-examination and then work on the  
19 admission.

20 MR. WILSON: The Court will note my  
21 objection to the -- to Exhibit A. I'm happy to  
22 provide the Court with my reasons for it, but I don't  
23 always know what the Courts want in regard to  
24 providing -- it's hearsay, classic hearsay.

25 ATTORNEY EXAMINER SCHABO: Are you

1 moving to strike portions?

2 MR. WILSON: Yes.

3 ATTORNEY EXAMINER SCHABO: Would you  
4 like to cross-examine her on any part of the  
5 testimony?

6 MR. WILSON: Let's start with the  
7 easiest piece first, your Honor. Before I can  
8 determine whether or not to cross-examine her on  
9 anything in regard to Exhibit A, CEI Exhibit A,  
10 Company Exhibit A, I need to place my objections on  
11 the record. No. 1, she's here to testify. Her prior  
12 testimony is classic hearsay. There is no reason  
13 that she cannot testify here on her own, if counsel  
14 needs to ask questions, but in regard to putting in a  
15 piece of paper in front of the Commission on which  
16 I've not had the opportunity to cross-examine in  
17 regard to the specifics within the testimony other  
18 than the fact that -- it's -- it's hearsay. There's  
19 no hearsay exception that allows it in, and I was  
20 precluded from cross-examining her, and we would  
21 object to Exhibit A coming into the record.

22 ATTORNEY EXAMINER SCHABO: Okay. We  
23 take a little side break -- or we're going to stay on  
24 the record and just explain the procedure. So at  
25 this point in time her testimony is not anything

1 other than presented for purposes -- this is how I  
 2 think about it to myself. It is as if Mr. Endris  
 3 just asked her each one of those questions in our  
 4 presence and she delivered those answers right now.  
 5 So no part of it has been admitted. It is laid out  
 6 in front of you. Think of it as a pre-transcript, if  
 7 you will. After this we'll go ahead and we'll take a  
 8 short break so that you can re-review it, because  
 9 you're not used to the procedure. At that time you  
 10 may go through and move to strike any portion based  
 11 on typical objections to testimony. Once we have her  
 12 finished statement by way of striking something or  
 13 not, you may cross-examine her on any portion of that  
 14 testimony. It is different, but that is how the  
 15 Commission proceeds with its cases.

16 So let's go off the record for, say,  
 17 five, ten minutes, and you can review the testimony,  
 18 and then we'll pick up with any motion to strike that  
 19 you might have.

20 MR. WILSON: Again, just so that I'm  
 21 clear on the procedure, and I apologize for my  
 22 ignorance, your Honor, I know better, but when we  
 23 come back on the record, if I understand what your  
 24 Honor has said, the testimony as set forth in Exhibit  
 25 A is going to be -- I'm allowed to cross-examine on.

1                   ATTORNEY EXAMINER SCHABO: You may move  
2 to strike any portion of it and you may cross-examine  
3 her on it, yes.

4                   MR. WILSON: And when I move to -- when  
5 I objected to the entirety of it, that was a  
6 different objection than to the specifics within?

7                   ATTORNEY EXAMINER SCHABO: I -- yes. I  
8 interpreted it differently because I understood that  
9 you believe that the testimony just came in the  
10 record as is, without you having an opportunity to  
11 challenge it in any way, and what I am trying to  
12 explain to you is that you will have the full  
13 opportunity to challenge it. So if you are -- if  
14 your objection is that you are objecting to her  
15 presenting written testimony, that objection is  
16 overruled because that is how it works in the  
17 Commission's proceedings. If your objection is you  
18 haven't had the opportunity to cross-examine her, my  
19 response would be then proceed to cross-examine her,  
20 please.

21                   Let's go off the record.

22                   (Discussion off the record.)

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

25                   Mr. Wilson, are you more comfortable

1 with the written -- the concept of the written  
2 testimony now that we've discussed it?

3 MR. WILSON: Your Honor has explained it  
4 to me in detail, along with counsel for CEI, and I  
5 understand the procedure and I understand the -- what  
6 my role is here and what everyone's role is, and I  
7 appreciate counsel and I appreciate this Court -- or,  
8 I'm sorry, the Commission explaining that to me, and  
9 I'm ready to proceed, your Honor.

10 ATTORNEY EXAMINER SCHABO: Fabulous.  
11 Are there any portions you have a motion to strike?

12 MR. WILSON: Well, I guess the -- yes,  
13 your Honor.

14 ATTORNEY EXAMINER SCHABO: Okay. If you  
15 could identify the page you're on.

16 MR. WILSON: Page 3.

17 ATTORNEY EXAMINER SCHABO: Page 3. And  
18 then you can either identify it by question and  
19 answer -- or, I'm sorry, by line number.

20 MR. WILSON: Beginning with the question  
21 on Line 8, "Did you review any records related to  
22 this case?" And then the answer coming right  
23 afterwards, beginning in the middle of Line 10 to  
24 the -- that begins with, "These records," and then --  
25 the statement is, "These records, all of which were

1 kept in the course of regularly conducted business  
2 activity, include customer contact notes and other  
3 customer service records, and various bills  
4 associated with the property," I move to strike that.

5 ATTORNEY EXAMINER SCHABO: Go on.

6 MR. WILSON: No. 1, there's no  
7 identification of what the records are. All it is is  
8 I have these records that I looked at. I don't know  
9 what those records are. I know -- "customer service  
10 records," I don't even know what that means. I  
11 haven't been provided any of those records, "and  
12 various bills associated with the property," I don't  
13 know what that means. I don't know if it's the  
14 documents that -- the four documents that CEI has  
15 produced. Have there been other documents? I cannot  
16 cross-examine someone on documents that I don't have  
17 in front of me and which are under some nebulous  
18 concept of "customer contact notes"; "customer  
19 service records." I don't know what those mean. In  
20 regard to that I move to strike and move to strike in  
21 regard to anything following up on that.

22 ATTORNEY EXAMINER SCHABO: Mr. Endris,  
23 do you have a response?

24 MR. ENDRIS: Yes, your Honor. First, I  
25 would note that your Honor's entry of November 21st

1 specified the prefiling date for this testimony. It  
 2 was three days longer than what the rule required,  
 3 and your Honor specifically noted that it was in  
 4 order to allow time for review and for depositions.  
 5 If Mr. Wilson had questions about the records that  
 6 were reviewed in her testimony, he had ample time.  
 7 Other than that, your Honor, Miss Davis' testimony is  
 8 that these are, in fact, the records that --

9 MR. WILSON: Objection. Your Honor the  
 10 testimony is the testimony, not what he says.

11 ATTORNEY EXAMINER SCHABO: We're not  
 12 going to be objecting on his grounds for responding  
 13 to a motion to strike.

14 MR. WILSON: My apologies both to  
 15 counsel and to the Court.

16 MR. ENDRIS: Thank you, your Honor.  
 17 She's testified that this is what she does in the  
 18 normal course of her capacity of employment.

19 MR. WILSON: May I respond, your Honor?

20 ATTORNEY EXAMINER SCHABO: You may.

21 MR. WILSON: The issue of discovery and  
 22 what is permitted for or allowed in regard to  
 23 depositions is a totally separate and distinct issue  
 24 as to what is admissible here in front of the  
 25 Commission in regard to the documents and the

1 testimony. They're separate and apart. Irrespective  
 2 of what occurred or did not occur during the  
 3 discovery time period, that does not change the  
 4 burden in regard to what is admissible in regard to  
 5 the statement here. What counsel has said basically  
 6 is because Forest Hills Supermarket didn't take any  
 7 depositions, everything should come in, and that,  
 8 quite frankly, your Honor, has no legal basis, not in  
 9 the rules of evidence, even if they are liberalized  
 10 for purposes of the Commission.

11 ATTORNEY EXAMINER SCHABO: Your motion  
 12 to strike is directed at these records, all of which  
 13 were kept, so she would answer any questions did you  
 14 review any records related to the case. If you would  
 15 like to flesh out what she means by customer service  
 16 records related to the property, feel free to do so  
 17 on cross-examination, but I will not strike her  
 18 explanation or her positive answer as to whether or  
 19 not she was reviewed any records in the case. To be  
 20 clear, we are not admitting these records.

21 MR. WILSON: But they're not even here  
 22 for me to cross-examine her on. You're asking me to  
 23 cross-examine on a statement where she says I looked  
 24 at records, and I don't know what those records are,  
 25 and if I ask her what those records are, she could



1 say customer contact notes, but there's none here.  
 2 There's none that's been presented with her  
 3 testimony, and as the Court has already made -- or as  
 4 the Commission has already made the determination,  
 5 I'm stuck with this statement here, the prefiled  
 6 statement. Okay. It would have been easy for the  
 7 prefiled statement to have attached documents so that  
 8 I would have known what they are for. I cannot  
 9 cross-examine her. You're taking away the ability to  
 10 cross-examine if you allow her to make statements  
 11 that are going to be part of the record before the  
 12 Court that it is impossible for me to cross-examine  
 13 on.

14 ATTORNEY EXAMINER SCHABO: Your motion  
 15 to strike is denied on an evidentiary basis. Do you  
 16 have a second motion to strike?

17 MR. WILSON: Yes, your Honor.

18 ATTORNEY EXAMINER SCHABO: If you could  
 19 provide the page number.

20 MR. WILSON: Page 3, question -- the  
 21 question on Line 18 and the answer which begins on  
 22 Line 20, which says this -- it's the -- "Complainant  
 23 Forest Hills is a grocery store located in a strip  
 24 mall as a tenant in a landlord-owned building...." I  
 25 move to strike that because I have no idea how she

1 would know that, and if -- I'm going to ask that --  
 2 if I'm going to be able to permit her to be  
 3 cross-examined on that, but I want to move to strike  
 4 it. If she's here in her capacity of -- of a --  
 5 whatever her capacity -- as a customer service  
 6 capacity. That's all.

7 ATTORNEY EXAMINER SCHABO: Mr. Endris.

8 MR. ENDRIS: Thank you, your Honor.  
 9 Counsel doesn't have any basis for alleging that she  
 10 has no way of knowing this. It's pure conjecture on  
 11 his part, and -- and he's, as your Honor previously  
 12 indicated, he's capable or allowed to cross-examine  
 13 her on the basis of her knowledge of that  
 14 information, but he doesn't have grounds to strike it  
 15 at this point.

16 ATTORNEY EXAMINER SCHABO: Are you  
 17 alleging that it is hearsay, that it is otherwise  
 18 objectionable on an evidentiary basis?

19 MR. WILSON: It is objectionable on an  
 20 evidentiary basis, plus there's been no --

21 ATTORNEY EXAMINER SCHABO: What is that  
 22 evidentiary basis?

23 MR. WILSON: First of all, it's hearsay.

24 ATTORNEY EXAMINER SCHABO: How is it  
 25 hearsay?

1                   MR. WILSON: Because she's making a  
2 statement about -- strike that.

3                   ATTORNEY EXAMINER SCHABO: She's in  
4 court and she's subject to cross-examination.

5                   MR. WILSON: Your Honor, how about if I  
6 just cross-examine her and I withdraw that motion,  
7 motion to strike?

8                   ATTORNEY EXAMINER SCHABO: Okay.

9                   MR. WILSON: We'll be able to  
10 cross-examine her on everything in regard to --  
11 unfortunately, since I don't have the documents in  
12 front of me, it will be difficult, but I don't have a  
13 better idea on how to do this, so I'll just go  
14 through it and cross-examine her, as long as --  
15 because this is her statement, we'll go forward. I'm  
16 ready.

17                   ATTORNEY EXAMINER SCHABO: Are there --  
18 we're going to go off the record for five minutes.  
19 I'm going to allow you to read through the testimony,  
20 and if there are any other motions to strike that you  
21 would make before cross-examining the witness, you  
22 may do so at that time, keeping in mind that the  
23 Rules of Evidence do otherwise apply. She, on the  
24 other hand, is here, in court, asserting facts. She  
25 is subject to cross-examination. If it is her

1 statement, it is, therefore, not hearsay. If she is  
2 characterizing the statement of others, just like in  
3 court.

4 Let's go off the record for five minutes  
5 to allow Mr. Wilson the opportunity to review the  
6 witness testimony. We'll go back on at 11:45.

7 ATTORNEY EXAMINER SCHABO: Let's go back  
8 on the record.

9 Mr. Wilson, do you have any further  
10 motions to strike?

11 MR. WILSON: No, your Honor.

12 ATTORNEY EXAMINER SCHABO: Okay. You  
13 may cross, then.

14 - - -

15 CROSS-EXAMINATION

16 BY MR. WILSON:

17 Q. Miss Davis, how long have you been  
18 working with FirstEnergy Service Company?

19 A. Just over 18 years.

20 Q. And your current title is what?

21 A. Customer Service Compliance Specialist.

22 Q. And how long have you been a Customer  
23 Service Compliance Specialist?

24 A. Just about ten years.

25 Q. Okay. Were you a Customer -- is it fair

1 to say you were a Customer Service Compliance  
2 Specialist in the 2016, 2017 time period?

3 A. Yes.

4 Q. 13598 Euclid Avenue, Cleveland, Ohio,  
5 44112, have you ever been to that property?

6 A. No, I have not.

7 Q. So you don't know -- strike that. Are  
8 there meters there?

9 A. Yes.

10 Q. Have you ever seen them?

11 A. No.

12 Q. Okay. So you have no personal knowledge  
13 whether there are meters there?

14 A. No, but I do contact our Meter Services  
15 Department, who did go to the property.

16 Q. I asked that -- but you've never seen  
17 them and they're not here today; is that correct?

18 A. That's correct.

19 Q. So you have no personal knowledge about  
20 13598 Euclid Avenue?

21 A. No, but I am an expert witness for the  
22 Company and rely on information during my  
23 investigation from others within the Company to form  
24 my opinion and investigation analysis.

25 Q. And what documents did you, as an

1 expert -- as an expert testifying here on behalf of  
2 CEI today -- do you mind if I call it CEI or --

3 A. No, that's fine.

4 Q. -- is there a different name? It's just  
5 easier to come out with, it rolls easier.

6 A. That's what we commonly refer to it as  
7 well.

8 Q. All right. Thank you. In regard to --  
9 you're here to testify as an expert?

10 A. Yes.

11 Q. In what capacity of an expert?

12 A. I'm not sure I understand what you're  
13 saying.

14 Q. You're not going to testify in your  
15 capacity as an expert as to installation of meters?

16 A. No, just in the overall billing of  
17 customers and investigation in customers, the work  
18 order piece that was created for the upgrade. That's  
19 all information that I've gathered on behalf of the  
20 Company.

21 Q. And how much of that information has  
22 been provided to me prior to your testimony here  
23 today?

24 A. I cannot answer that. I don't know  
25 exactly what you've been provided with.

1 Q. Okay. What are customer contact notes?

2 A. It's our billing records, customer  
3 records. When a customer or anyone calls into our  
4 contact center, each agent automatically notes the  
5 account, that they were on that account and a summary  
6 of that conversation.

7 Q. In regard to customer contact notes, you  
8 reviewed those in preparation for your expert  
9 testimony here today?

10 A. Yes.

11 Q. Okay. Which specific customer contact  
12 notes did you review in preparation for today's  
13 testimony? And I'd like the dates, please.

14 A. Specifically May 11th of 2017, which is  
15 when a representative from the landlord, Zaremba  
16 Group, had contacted CEI regarding --

17 MR. WILSON: Objection, your Honor.  
18 It's hearsay.

19 ATTORNEY EXAMINER SCHABO: Please let  
20 the witness finish her statement and then make the  
21 objection.

22 Were you done with your answer?

23 THE WITNESS: Yes.

24 ATTORNEY EXAMINER SCHABO: Okay. Your  
25 objection?

1 MR. WILSON: She's testified that  
2 somebody from someplace else contacted her to give  
3 her some information, and that person is not here and  
4 I have no opportunity to cross-examine it. It is  
5 hearsay.

6 ATTORNEY EXAMINER SCHABO: Mr. Endris.

7 MR. ENDRIS: Your Honor, this is not --  
8 this meets the exception to the hearsay rule  
9 regarding expert witness. She is an expert and is  
10 qualified to review the records and testify as to  
11 their content.

12 ATTORNEY EXAMINER SCHABO: Mr. Wilson.

13 MR. WILSON: Again, your Honor, I feel  
14 like as if I've fallen down the rabbit hole.  
15 Sometimes the Rules of Evidence are enforced and  
16 sometimes they're not. In regard to expert  
17 testimony, I've not been provided with a single  
18 document in regard to this witness' review of  
19 anything, in which case that she's testifying about.  
20 I cannot cross-examine her about documents that I've  
21 never seen that she seems to have reviewed. So if  
22 we're talking about expert testimony, then I have the  
23 right, under the rules, to see everything that  
24 she's -- that she's relied upon in her testimony. I  
25 don't have that. I don't know what this May 11,



1 2017, thing is. Okay. However, I'm being told that  
 2 as an expert, she's going to be allowed to testify  
 3 about something, and if I don't have the document --  
 4 if I don't have the documents, I haven't been  
 5 provided the documents, she can't testify in regard  
 6 to those specifics, in regard to an expert, because,  
 7 quite frankly, I don't even know what she's an expert  
 8 in as it pertains to customer -- as it pertains to  
 9 the providing of electricity and the metering to the  
 10 Forest Hills Supermarket.

11 ATTORNEY EXAMINER SCHABO: Well, I  
 12 believe that she said that she was not testifying as  
 13 an expert as to the metering and the provision of  
 14 electricity. She's testifying in the capacity as a  
 15 Customer Servicing Specialist and customer  
 16 complaints, and your objection is overruled.

17 MR. WILSON: Thank you, your Honor.

18 BY MR. WILSON:

19 Q. So you've reviewed the available -- so  
 20 you -- in preparation to provide your expert  
 21 testimony here today, you've looked at a May 11,  
 22 2017, what, customer contact note?

23 A. I've reviewed all customer contact notes  
 24 in my review of the investigation for the entire  
 25 case.

1           Q.    I understand that.  My question is, I  
2   want you to tell me what specific customer contact  
3   notes you've reviewed in preparation for your expert  
4   testimony here today, and I believe you said the May  
5   11, 2017.  What other ones?

6           A.    May 11th is one of the contacts, and  
7   actually throughout my testimony there's references  
8   to multiple contacts that were reviewed and contact  
9   dates of what occurred.

10           MR. WILSON:  And again, your Honor,  
11   she's now reading and looking into her testimony to  
12   answer her question on cross-examination.  She  
13   doesn't even know what she's put in her -- the  
14   Court -- the Commission told me this is just as if  
15   she's testifying, okay, her testimony here.  So she  
16   doesn't get to go back and reread it when she's  
17   answering her questions.  That's never proper in any  
18   type of evidentiary matter.

19           MR. ENDRIS:  If I may, your Honor.  Your  
20   Honor, with all due respect, it's not at all uncommon  
21   to read back the record in a proceeding.

22           ATTORNEY EXAMINER SCHABO:  Your  
23   objection is overruled.

24           MR. WILSON:  I'm sorry?

25           ATTORNEY EXAMINER SCHABO:  Your

1 objection is overruled.

2 MR. WILSON: One moment, your Honor.

3 All right.

4 BY MR. WILSON:

5 Q. Other than the May 11, 2017, customer  
6 contact note, can you tell me today what other  
7 specific date of a customer contact note you  
8 reviewed?

9 A. We received court documents.

10 Q. I'm just talking customer contact notes.

11 A. Well, the customer contact notes can be  
12 documents that we receive from your office as well.

13 Q. I apologize. Go forward.

14 A. Anything that comes in on an account is  
15 documented under customer contact. It doesn't  
16 necessarily have to be someone calling us. It's a  
17 record of the account, so if a disconnect notice goes  
18 out, there's going to be a line item in the contact  
19 notes to show that. If we receive letters from your  
20 office, there's a contact note to show that. I  
21 believe August 30th, I believe --

22 Q. What year?

23 A. -- August 20th.

24 Q. August 20th --

25 A. I apologize. That was a record -- that

1 was a letter that we received from your office.

2 Q. I'm sorry, August 20 of what year?

3 A. Of 2017.

4 Q. And again, you're looking at your  
5 testimony to testify; is that correct?

6 A. Just as reference, yes.

7 MR. WILSON: Objection.

8 ATTORNEY EXAMINER SCHABO: Is this  
9 refreshing your recollection?

10 THE WITNESS: I'm sorry?

11 ATTORNEY EXAMINER SCHABO: Is this  
12 refreshing your recollection?

13 THE WITNESS: Yes.

14 ATTORNEY EXAMINER SCHABO: Objection  
15 overruled.

16 MR. WILSON: That may be, your Honor,  
17 but she hasn't said she doesn't remember it. She's  
18 just rereading what she's -- she's just rereading her  
19 testimony in. If I understand the Rules of Evidence,  
20 I get to ask a question. If she doesn't know  
21 something, she says I don't know. Counsel then gets  
22 to say may I refresh your recollection with  
23 something, and he gives me something to show her, in  
24 which case she would refresh her recollection. The  
25 difficulty I have is I don't understand how she could

1 refresh her recollection with her own testimony.  
2 That's the -- that's the rabbit hole we're in. This  
3 testimony that she keeps looking at is her testimony.

4 Let's pretend -- because I understand  
5 that this is what the Commission said, that this is  
6 the testimony, Exhibit A is the testimony that she's  
7 presenting. If I ask her in cross-examination what  
8 her testimony -- about a question, she doesn't get to  
9 ask the court reporter to go back and look at the --  
10 and look at the testimony that she previously gave.  
11 It doesn't work that way. She either remembers it or  
12 she doesn't. All I'm asking is I want specifics, and  
13 when I asked her about a specific, she went back and  
14 reread her testimony, which is again insane, but  
15 that's my objection, your Honor. And I apologize for  
16 the last remark. That was uncalled for, and I  
17 withdraw it. It was unprofessional, and I take it  
18 back, but I am truly at a frustrated point here.

19 ATTORNEY EXAMINER SCHABO: I understand  
20 your frustration. It is different than a courtroom.  
21 It's an administrative proceeding, under different  
22 rules, and we have different Ohio Administrative Code  
23 provisions that pertain to how our hearings are  
24 conducted, and where it is not addressed specifically  
25 in the code or the statute, the civil and evidentiary

1 rules do apply. There is a disconnect because of the  
2 unfamiliarity with the form. I believe I already  
3 overruled your objection, but if I haven't, I will  
4 overrule it now, and we'll continue.

5 MR. WILSON: Thank you, your Honor.

6 ATTORNEY EXAMINER SCHABO: You're  
7 welcome.

8 BY MR. WILSON:

9 Q. Other than the May 11, 2017, customer  
10 contact note and the August 20, 2017, customer  
11 contact note, what other customer contact notes did  
12 you review in preparation to give your expert opinion  
13 here today?

14 A. Specifically I reviewed the order from  
15 June 19th of 2017.

16 Q. I'm sorry, the -- the order? From June  
17 19th, 2017, is that a -- an order from what?

18 A. That is the order that was drafted from  
19 the May 11th contact for us to investigate the meter  
20 that was at the location in servicing the  
21 supermarket.

22 Q. I understand. So when you say "order,"  
23 you don't mean an order from the Commission?

24 A. No.

25 Q. You just mean a -- a document that's

1 called an order?

2 A. It was an order that -- from the May  
3 11th contact, the Customer Service Center requested,  
4 sent an order over to Meter Services to investigate  
5 the claim.

6 Q. What other documents did you review in  
7 regard to customer contact notes?

8 A. The August 1st rebill letter that was  
9 issued to your client.

10 Q. And what was the -- August 1st what?

11 A. August 1st, 2017.

12 Q. Okay. And that was the what letter?

13 A. It was a rebill letter and notification  
14 of the account being billed. I believe that's what  
15 you introduced into evidence as evidence No. 1.

16 Q. Okay. Thank you. What else?

17 A. Also the October 11th letter, which  
18 was -- of 2017, which was referred to our Legal  
19 Department from your office, which was the --  
20 indicating that it was being investigated and working  
21 with the landlord regarding the rebilling issue.

22 Q. Anything else?

23 A. There are specific no contacts after  
24 that, though I'm not for sure on the exact date, but  
25 at some point in January -- well, actually, on August

1 the 30th, I believe, there was a contact from the  
2 Complainant requesting a new payment agreement, which  
3 was not granted at that time. Then in January we  
4 issued a disconnect notice and in February --

5 Q. I'm sorry, what date was that?

6 MR. ENDRIS: Excuse me, your Honor.  
7 I've got to protest. He keeps interrupting my  
8 client -- or my witness in mid-sentence, and I would  
9 ask the court to remind him to let her finish her  
10 sentence before interrupting her.

11 ATTORNEY EXAMINER SCHABO: Let her  
12 finish.

13 A. In January of 2017 a disconnect notice  
14 was issued, and in February of 2016 a second payment  
15 plan was set up for the client. Then in April of  
16 2017 another disconnect notice was issued, and in May  
17 of 2017 this Complaint was filed -- I'm sorry, May of  
18 2018. I need to correct that. The January was also  
19 2018, and February was 2018. I apologize. And then  
20 May is when we received the Complaint, in May of  
21 2018. Those are the specific contacts that I recall.

22 Q. Anything else?

23 A. Not that I recall at this time.

24 Q. Do you have any of those documents here  
25 with you today?



1 A. No.

2 Q. And you're recalling them from memory?

3 A. I'm recalling from what -- my  
4 preparation as well, yes. They were not introduced  
5 into evidence, so we do not have them today.

6 Q. What's the date of the February 2017  
7 second payment plan customer contact note that you  
8 talked about here this morning?

9 A. It was actually February of 2018. That  
10 was part of my correction, and if I may, I do have  
11 that included in my testimony as of the date that  
12 was. It was February 1st of 2018. That's referenced  
13 on Page 5, Line 11.

14 MR. WILSON: Objection. Same objection.  
15 She's reading from her prior testimony. She doesn't  
16 get to read from her prior testimony. If she doesn't  
17 it, she says she doesn't remember. She doesn't get  
18 to go look at it. She's testifying on testifying.  
19 That's all, your Honor.

20 ATTORNEY EXAMINER SCHABO: The objection  
21 is overruled.

22 BY MR. WILSON:

23 Q. Any other customer contact notes?

24 A. Not that I recall.

25 Q. What is a customer contact note?

1           A.    It's the record for CEI for anything  
2   that's done on an account, anytime anyone does work  
3   on an account, talks to a customer on an account or  
4   an order is done, a document is issued.

5           Q.    So it's your testimony here today that  
6   the dates that you've now provided us in regard to  
7   customer contact notes constitutes the entirety of  
8   the customer contact note file that CEI has?

9           A.    No.

10          Q.    There are other things?

11          A.    There may be things that I'm not  
12   recalling today that are in the customer notes that  
13   may not have been used in my investigation. I don't  
14   have specific dates of every disconnect notice that  
15   was issued. I believe, from my recollection, there  
16   was also contacts after the Complaint was filed, such  
17   as power outage, things like that, that were not  
18   privy to this Complaint.

19          Q.    So the answer to the question is there  
20   may be other things in the file? You just don't  
21   remember in regard to customer contact notes?

22          A.    They may not be part of the testimony.

23          Q.    Okay. Can you tell me what records are  
24   kept -- are kept in the regular course of regularly  
25   conducted business by FirstEnergy or CEI in regard to

1 13598 Euclid Avenue, in their entirety?

2 A. We would have copies of customer bills,  
3 customer letters, disconnection notices, the work  
4 order that was created for the upgrade, follow-up  
5 orders that we did to investigate that, our customer  
6 accounting contacts where the rebills were completed,  
7 any power outages that a customer, you know, would  
8 file. Anything related to the account is going to be  
9 maintained.

10 Q. Perhaps I -- I'm sorry. I don't mean to  
11 interrupt. Are you complete?

12 A. Yes.

13 Q. Okay. Perhaps my question was vague.  
14 In regard to 13598 Euclid Avenue, not in general, not  
15 what's generally kept, but I would like to know the  
16 specifics of all of the records that are kept in the  
17 normal course of regularly conducted business  
18 activity in regard to 13598 Euclid Avenue.

19 MR. ENDRIS: Your Honor, I'm going to  
20 object. She just answered that very same question.

21 MR. WILSON: May I, your Honor?

22 ATTORNEY EXAMINER SCHABO: Your  
23 response.

24 MR. WILSON: She talked generally. I'm  
25 asking for the specifics in regard to this one

1 particular thing, and all I heard is generalities of  
2 there could be power outages, there could be this. I  
3 want to know what's in the file that's -- what's in  
4 the file, since I don't have them and I haven't --  
5 they haven't been produced to me, and if she's going  
6 to talk about them, I still want to know what's in  
7 them.

8 MR. ENDRIS: Your Honor, counsel has had  
9 ten months to conduct discovery and has not, and he's  
10 objecting that he doesn't have documents in his  
11 possession that he's never asked for.

12 MR. WILSON: That -- your Honor, Exhibit  
13 5 and 6, those are the documents. I asked for  
14 everything. As a matter of fact, I asked for it  
15 twice, and what I got was what CEI decided to give me  
16 and nothing else, and now I'm being precluded to  
17 cross-examine her because they refused to give me the  
18 documents, and Exhibit 5 and 6 were kicked out, and  
19 they're not even before this committee. I am  
20 hamstrung here. You can't say you get to  
21 cross-examine them, but they don't have to produce  
22 the documents, and when they don't produce the  
23 documents, they get to rely on them. Objection.

24 MR. ENDRIS: Your Honor, those  
25 communications were prior to the filing of this

1 Complaint.

2 ATTORNEY EXAMINER SCHABO: Your  
3 objection is sustained. She's already answered your  
4 question. If you would like to clarify your question  
5 further, you may do so.

6 BY MR. WILSON:

7 Q. Can you give me the specifics of the  
8 other customer service records that you reviewed,  
9 please? And I want the specifics, not generalities.

10 A. I reviewed the disconnect notices.

11 Q. That are not -- may I --

12 A. I reviewed the bills that were issued to  
13 the Complainant for multiple months prior to the  
14 meter exchange as well as after the meter exchange.  
15 I reviewed the letters that were sent to the Company  
16 from your office. I reviewed the written testimony  
17 of -- I'm sorry, the written Complaint, our answer to  
18 the Complaint, the work order record where the  
19 upgrade was requested. I reviewed the order that was  
20 investigated in June to confirm that Forest Hills was  
21 indeed receiving service from the new meter that was  
22 installed in September of 2016.

23 Q. And again, I guess my question was  
24 unclear, because I asked what other customer service  
25 records other than the customer contact notes. Your

1 testimony -- your prior testimony said that you  
 2 reviewed customer contact notes and other customer  
 3 service records and various bills associated with the  
 4 property. You've now listed for me the customer  
 5 contact notes. Okay. Those were all the documents  
 6 that we talked about from the August 30 letter, June  
 7 2017 disconnect notice. Now, in regard to the  
 8 customer service records, I assume -- may I assume  
 9 those -- strike that. Are customer service records  
 10 different than customer contact notes?

11 A. Customer service records can be contact  
 12 notes as well, but it is also the work order that I  
 13 referred to where the Zaremba Group requested the  
 14 upgrade.

15 Q. I'm sorry, what?

16 A. The work order --

17 Q. I just didn't hear it.

18 A. The work order where the upgrade was  
 19 requested, the document, the order where we went out  
 20 and investigated in June. We also had meter reading  
 21 records which showed where actual meter readings were  
 22 obtained, what date they were obtained. So those  
 23 are -- anything in our billing system would be  
 24 considered a customer service record.

25 Q. Okay. So when you said in your prior

1 testimony that you reviewed customer contact notes,  
2 other customer service records, and various bills  
3 associated with the property, in your mind are those  
4 all combined together or are they separate?

5 A. Well, they can be considered separate or  
6 inclusive depending on what's -- you know, who is --  
7 what you're reviewing it for. The customer contacts  
8 is one list of things that we reviewed through, and  
9 then other records are just kind of a catchall for  
10 anything that -- such as like the meter reading  
11 history, the crews' work orders, the orders that are  
12 sent to Meter Services.

13 Q. You testified that you reviewed various  
14 bills associated with the property, and when you say  
15 property, are you talking about 13598 Euclid?

16 A. Yes.

17 Q. Which specific bills did you -- strike  
18 that. When you said various bills associated, did  
19 you review all the bills?

20 A. Yes.

21 Q. Okay. So when you say --

22 A. Actually, let me clarify. When I say  
23 all the bills, I went back to where -- September of  
24 2016 forward.

25 Q. Okay and. September of 2016, what was

1 the dollar value of the bill?

2 A. I cannot tell you that.

3 Q. What was the consumption?

4 A. In September? I cannot tell you. I can  
5 give you a generality that the usage was 5 to \$7,000,  
6 but after the December, the consumption dropped to  
7 zero.

8 Q. All I'm asking is can you tell me the  
9 various consumptions on any particular bill as you  
10 sit here today?

11 A. No.

12 Q. Can you tell me the dollar value on any  
13 particular bill as you sit here today?

14 A. Not to the dollar, no.

15 Q. When you talk about the various bills,  
16 what account number were you talking about?

17 A. The account ending in 209 and the  
18 account ending in 649.

19 Q. Did you look at any other account  
20 numbers?

21 A. I looked at account numbers for the  
22 landlord, which ended in 305.

23 Q. Your prior testimony is that the  
24 landlord requested the upgrades; is that correct?

25 A. That's correct.



1 Q. Okay. So it wasn't Forest Hills  
2 Supermarket that requested the upgrades?

3 A. No.

4 Q. And that request is somewhere in a CEI  
5 record?

6 A. Yes.

7 Q. And is it here today?

8 A. No.

9 Q. Do you know whether or not it's ever  
10 been produced to Forest Hills Supermarket, as you sit  
11 here today?

12 A. To my knowledge, they have not been  
13 requested.

14 Q. That wasn't my question. Do you know  
15 whether or not it's been produced?

16 A. I do not know.

17 Q. If I were to request something that I  
18 didn't know occurred, how would I go about doing  
19 that -- strike that. If a customer were to  
20 request -- would want something that the customer  
21 didn't know occurred, how would the customer go about  
22 requesting that document that they didn't know  
23 existed, please give me stuff that I don't know  
24 about?

25 MR. ENDRIS: Your Honor, I'm going to

1 object. He's asking questions that sound more like  
2 calling for a legal opinion or legal strategy.

3 MR. WILSON: Your Honor, may I?

4 ATTORNEY EXAMINER SCHABO: Can we be a  
5 little less hostile to the witness? I'm sorry,  
6 that's the wrong word. Can we be a little less  
7 argumentative with the witness? I'll allow the  
8 question. She can answer it, whether or not she  
9 knows how a customer would request information.

10 MR. WILSON: Yes, your Honor.

11 ATTORNEY EXAMINER SCHABO: I understand  
12 your frustration, but could we introduce a little bit  
13 of kindness?

14 MR. WILSON: Understood, your Honor. I  
15 will be more professional in regard to the witness --

16 ATTORNEY EXAMINER SCHABO: Thank you.

17 MR. WILSON: -- and to the Commission  
18 and to counsel.

19 ATTORNEY EXAMINER SCHABO: Do you need  
20 the question read back to you?

21 THE WITNESS: Yes, please.

22 ATTORNEY EXAMINER SCHABO: Could you  
23 read the question back, please?

24 (Question read back.)

25 A. In my opinion, I would, you know, most

1     likely request for that specific document, where did  
2     the request for a new meter come from. I mean, that  
3     would be a logical question that I would maybe ask if  
4     I was unsure as to why a new meter was installed.

5                 MR. WILSON: May I approach the witness,  
6     your Honor?

7                 ATTORNEY EXAMINER SCHABO: You may.

8                 Q. I just wanted to see that you had it in  
9     front of you. Okay. In regard to CEI Exhibit B1 --  
10    do you have that in front of you? Do you see that?

11                A. Yes.

12                Q. What meter is that for? What's the  
13    number on the meter?

14                A. I apologize, I cannot read it.

15                Q. In regard to B2, can you tell me what  
16    the meter number is on Exhibit B2?

17                A. I cannot.

18                Q. All right. Let's try Exhibit B3, can  
19    you tell me what the meter number is for B3?

20                ATTORNEY EXAMINER SCHABO: Is there a  
21    reference as to where the meter number would be on  
22    this document?

23                THE WITNESS: (Indicating.)

24                ATTORNEY EXAMINER SCHABO: This is  
25    information for meter number?

1                   THE WITNESS: There's actually two  
2 meters on these bills. However, I cannot make out  
3 the exact numbers.

4                   ATTORNEY EXAMINER SCHABO: Okay. Thank  
5 you.

6 BY MR. WILSON:

7                   Q. I'm sorry. That was B3. Would your  
8 answer be the same for B4?

9                   A. Yes.

10                  Q. Okay. Are there places in the CEI  
11 records which talks about what type of business a  
12 customer is in? For example, at my business will it  
13 say somewhere in CEI documents that I have a law firm  
14 that's receiving this electricity through this meter?

15                  A. Only if you requested it or it was in  
16 the name of your business.

17                  Q. So if it said Wargo & Wargo Co., LPA,  
18 which is the name of my law firm, would you know that  
19 that's a -- would CEI have a document in its files  
20 that said that this is a law firm versus this is an  
21 accounting firm versus anything else that could be  
22 Wargo & Wargo Co., LPA?

23                  A. Not generally no.

24                  Q. In regard to the specifics in regard  
25 13598, is there a document in any of the files which

1 lists 13598 as a grocery store?

2 A. I cannot concretely say other than the  
3 name that is on it in references to contact notes. I  
4 cannot say if there's an actual document that states  
5 that.

6 Q. Okay. And you would be able to look  
7 at -- if you had the file in front of you, you would  
8 be able to look through that and make that  
9 determination; would that be correct?

10 A. Well, I'm able to see the document that  
11 we have here that refers to it as a supermarket in  
12 the name.

13 Q. The name of the company. Other than the  
14 name, is there something else in the CEI documents  
15 that would -- that you would be able to refer to to  
16 determine what was going on at that supermarket --

17 MR. ENDRIS: Objection, your Honor.

18 Q. -- whether it's a supermarket or a  
19 grocery store or a corner store or a beverage store  
20 or anything, other than the name?

21 ATTORNEY EXAMINER SCHABO: Hold on.  
22 Your objection?

23 MR. ENDRIS: Asked and answered. She  
24 already said that there's no specific record that  
25 she's aware of. Now he's trying to parse it down and

1 give examples of other names or types of supermarkets  
2 or stores.

3 MR. WILSON: I'll withdraw the question.  
4 Counsel's answer is good enough for me.

5 Q. Without referring to your prior  
6 testimony, can you tell the Commission what meters  
7 are associated with Account 209?

8 A. Not the specific numbers, no.

9 Q. How about in regard to Account 649?

10 A. No.

11 Q. What's a billing correction?

12 A. I'm sorry?

13 Q. What's a billing correction?

14 A. That is anytime that an account is  
15 rebilled for any reason.

16 Q. Can you tell me the date of the first  
17 billing correction in regard to the meters of the  
18 first bill that was sent to Forest Hills?

19 A. I believe it was August the 9th of 2017.

20 Q. And prior to that was Forest Hills  
21 Supermarket billed for any consumption via those  
22 meters?

23 A. Forest Hills, prior to that, was billed  
24 for the original two meters that they were originally  
25 billed for, and they were billed for some consumption

1 between September and January, I believe, and then I  
2 believe beginning with the February billing through  
3 July the consumption was zero.

4 Q. Okay. But in between that time period,  
5 there wasn't a monthly, every month you get a  
6 consumption -- you have to -- excuse me, the  
7 consumption that was billed to CEI for that time  
8 period of what, was it December 9 through -- 2016  
9 through July 6, 2017?

10 MR. ENDRIS: Your Honor, I object. She  
11 just got through saying there was zero bills on the  
12 bills for those months.

13 Q. Perhaps my question is -- what I'm  
14 trying to understand is the August 1st bill, which we  
15 marked as Exhibit 2 that's in front of you, was that  
16 the first time that the rebilled amount, the amount  
17 from December 9, 2016, to July 16, 2017, was billed?

18 A. The exhibit that I have in front of me  
19 for No. 2 is the original billing from April to May  
20 on the two meters, the original two meters that  
21 billed zero consumption.

22 Q. What I'm trying to understand is the  
23 \$37,384.63 had that been billed?

24 ATTORNEY EXAMINER SCHABO: He's  
25 referring to Exhibit No. 2, not Exhibit B2. Do you

1 still have --

2 THE WITNESS: I was not given those.

3 ATTORNEY EXAMINER SCHABO: Could we  
4 provide her with a copy of Exhibit 2?

5 MR. WILSON: I thought they had them  
6 marked.

7 ATTORNEY EXAMINER SCHABO: We had them  
8 marked, but she does not have it in front of her.

9 MR. WILSON: May I approach?

10 ATTORNEY EXAMINER SCHABO: You may.

11 BY MR. WILSON:

12 Q. I'm handing you what's been marked as a  
13 number of --

14 I'm taking out five and six, your Honor,  
15 as the Court has already ruled on -- or the  
16 Commission has already --

17 I'm handing you what's been marked as  
18 Forest Hills Exhibits 1 through 4 -- 1 through 3.  
19 I'm sorry. Where is four? It's just not in order.  
20 I'm handing you what's been marked as Exhibits 1  
21 through 4, please.

22 A. Thank you.

23 Q. Take a look at Exhibit 2 for me, please,  
24 and tell me when you've had an opportunity to review  
25 it so I may inquire.



1           A.    You can inquire.

2           Q.    Thank you.  In regard to August 2 --  
3   Exhibit 2, is that a document you reviewed prior to  
4   testifying here today?

5           A.    Yes.

6           Q.    Okay.  And that's in regard to Account  
7   649?

8           A.    Yes.

9           Q.    In regard to Account 649, did you review  
10  all of the bills?  And I apologize to counsel and the  
11  Commission if she's already testified.  What I'd like  
12  to find out is what was the first bill in regard to  
13  649 that you reviewed and the last bill in regard to  
14  649 that you reviewed.

15          A.    649, these -- this bill would have been  
16  one of the first, because 649 was the newly created  
17  account number for Forest Hills once we determined  
18  that they were being billed -- or, I'm sorry, they  
19  were being provided electricity from the new meter  
20  that was installed in September of 2016.

21          Q.    So it's your testimony that Exhibit 2 is  
22  the first bill that got sent to them in regard to  
23  649?

24          A.    There should have been a rebill letter,  
25  a multi -- a multi-bill bill that was sent to them

1 that showed the breakdown of each billing period, so  
2 I cannot completely say that this is the first bill  
3 sent to them.

4 Q. Okay. So you can't tell me, where it  
5 says "Previous Balance," where it say \$37,384.63,  
6 whether that number had been billed prior to August 1  
7 of 2017 on Exhibit 2?

8 A. Under the multi-bill, the rebill that's  
9 not here, would have had all of the breakdown of that  
10 prior to this.

11 Q. So there's a prior bill?

12 A. There was a bill that was sent to them  
13 as a -- that was considered a multi-bill rebill that  
14 had a breakdown of each billing component and each  
15 billing period that was being billed from December  
16 7th through July -- or, I'm sorry, through June.

17 Q. So there is a -- I'm sorry. What did  
18 you call it, a --

19 A. A multi-bill rebill.

20 Q. A multi-bill rebill. Okay. So the  
21 multi -- it's your testimony here today that there's  
22 a multi-bill rebill that would have shown the  
23 balance, a previous balance of 37,384.63?

24 A. I cannot speak without seeing it to  
25 exactly what the previous balance would have shown,

1 but it would have shown each individual billing  
2 period and what was being billed for that period to  
3 give us the total.

4 Q. Okay. So --

5 A. And just to add to that, I apologize,  
6 the original amount was billed to the landlord.

7 Q. I got that. What I'm trying to  
8 understand is this, before receiving a bill for  
9 \$37,384.63, which is a previous balance amount, were  
10 there multiple bills that were sent to Forest Hills  
11 Supermarket that set out the individual monthly bills  
12 that the 37,384.63 is the total of?

13 A. I believe so, yes.

14 Q. So every month the client got a --  
15 Forest Hills got a bill that said, for Account 649,  
16 that said there is a previous balance of what that  
17 ultimately totaled up to 37,384.63, not the multi --  
18 not the multi-bill, but I'm talking about specific  
19 bills?

20 A. No. The multi-bill -- multi-monthly  
21 rebill was the first billing that would have been  
22 sent to Forest Hills Supermarket for the new meter  
23 showing the breakdown of each billing component,  
24 along with the rebill letter that was sent to them.  
25 They were also issued a rebill letter on August the

1 1st.

2 MR. WILSON: No further questions.

3 ATTORNEY EXAMINER SCHABO: Any redirect?

4 MR. ENDRIS: Yes, your Honor.

5 - - -

6 REDIRECT EXAMINATION

7 BY MR. ENDRIS:

8 Q. Counsel asked you earlier if you --  
9 about the bills that you had reviewed in preparation  
10 for this case. Do you recall that --

11 A. Yes.

12 Q. -- question?

13 And you mentioned bills beginning in  
14 September and then through -- I think you mentioned  
15 up through the Complaint period. Did you also look  
16 at consumption history outside of that window of  
17 bills that you reviewed?

18 A. Yes.

19 Q. And what did your review of the  
20 consumption history show?

21 A. The review showed that the consumption  
22 for super -- Forest Hills Supermarket was consistent  
23 through December of 2016, consistent to the amounts  
24 of prior years, and then on the two meters it  
25 registered zero. The usage on the new meter

1 registered consumption consistent to prior usage for  
2 Super Hills Forest Market prior to December of 2016.

3 Q. And counsel also asked you if you could,  
4 sitting there today, identify the meter numbers for  
5 Account 209. Do you recall that question?

6 A. Yes.

7 Q. Are the meter numbers for Account 209  
8 listed in your testimony?

9 A. Yes.

10 Q. And counsel also asked you if you could  
11 recall the meter number for account ending in 649.  
12 Do you recall that question?

13 A. Yes.

14 MR. WILSON: Objection, your Honor.  
15 That wasn't my question. My question was, given  
16 the -- given Exhibits B1, B2, B3, and B4, could she  
17 provide me with the meter numbers based upon those  
18 documents, which she could not. I did not ask that  
19 question. It's a different question. Or as Donald  
20 Trump would say it's a different question. And to  
21 further my objection, redirect is confined to the  
22 scope of cross, pursuant to the Rules of Evidence.

23 MR. ENDRIS: I'll rephrase, your Honor.

24 ATTORNEY EXAMINER SCHABO: Thank you.

25

1 BY MR. ENDRIS:

2 Q. Do you recall being asked if you could  
3 identify the meter for -- meter number off of Exhibit  
4 B1, B2, B3, and B4?

5 A. Yes.

6 Q. Are the meter numbers that would appear  
7 on -- that appear on those bills also listed in your  
8 testimony?

9 A. Yes.

10 MR. WILSON: Objection, your Honor.  
11 Objection, your Honor.

12 ATTORNEY EXAMINER SCHABO: I understand  
13 your objection that what you intended or thought that  
14 you asked is different than what he's asking. Is  
15 that correct?

16 MR. WILSON: No, your Honor. I don't  
17 know how --

18 ATTORNEY EXAMINER SCHABO: Do you have a  
19 new objection? Okay.

20 MR. WILSON: My objection is different,  
21 which is --

22 ATTORNEY EXAMINER SCHABO: My apologies.

23 MR. WILSON: My objection is she  
24 testified earlier in regard to B1, 2, 3, and 4 that  
25 she could not identify the meter numbers. Because

1 there is a meter number listed in her prior  
2 testimony, that doesn't change the fact that she  
3 could not identify the meter numbers listed in B1, 2,  
4 3, and 4. Separate issues.

5 ATTORNEY EXAMINER SCHABO: Mr. Endris.

6 MR. ENDRIS: I'll withdraw the question.

7 ATTORNEY EXAMINER SCHABO: Thank you.

8 MR. ENDRIS: May I approach the witness,  
9 your Honor?

10 ATTORNEY EXAMINER SCHABO: You may.

11 MR. ENDRIS: I think this would be  
12 Company Exhibit C.

13 ATTORNEY EXAMINER SCHABO: Yes.

14 MR. ENDRIS: If I could have it marked  
15 please.

16 (EXHIBIT C MARKED FOR IDENTIFICATION.)

17 MR. ENDRIS: Thank you.

18 BY MR. ENDRIS:

19 Q. Miss Davis, I'm handing you a document  
20 that has been marked as Company Exhibit C. Do you  
21 see that?

22 A. Yes.

23 Q. And earlier when -- do you recall that  
24 counsel asked you questions about what customer  
25 records you reviewed and you identified a letter

1 received from the client's counsel dated August 9th,  
2 2017?

3 A. It is a letter that we received in  
4 Customer Service -- I'm sorry, the Customer Service  
5 Department received indicating it was -- it appears  
6 to be a follow-up letter to our August 1st letter  
7 where they were questioning a balance due of  
8 \$44,961.07, and the letter indicates that they have  
9 contacted the landlord to determine why the client  
10 was not billed and was trying to reach a resolution  
11 with the landlord to take care -- you know, to  
12 resolve the billing.

13 Q. Thank you.

14 Your Honor, the Company would offer  
15 Company Exhibit C for the record.

16 ATTORNEY EXAMINER SCHABO: Any  
17 objection?

18 MR. WILSON: No objection.

19 ATTORNEY EXAMINER SCHABO: We'll admit  
20 Exhibit C.

21 (EXHIBIT ADMITTED INTO EVIDENCE.)

22 ATTORNEY EXAMINER SCHABO: Does that  
23 mean you are finished with your redirect?

24 MR. ENDRIS: Yes, your Honor.

25 ATTORNEY EXAMINER SCHABO: Do you have



1 any recross?

2 MR. WILSON: No, your Honor.

3 ATTORNEY EXAMINER SCHABO: Mr. Endris,  
4 do you have any other exhibits to move?

5 MR. ENDRIS: I think I previously moved,  
6 subject to cross, Miss Davis testimony, and if I have  
7 not previously offered it, I would offer Company  
8 Exhibit B1 -- those were stipulated. My apologies.

9 ATTORNEY EXAMINER SCHABO: We did that  
10 before.

11 Any objection that we have not discussed  
12 regarding Company Exhibit A?

13 MR. WILSON: Nothing, your Honor, other  
14 than to reiterate my objections previously made.  
15 Your Honor, other than that, nothing new.

16 ATTORNEY EXAMINER SCHABO: All right.  
17 Noting your objection, Company Exhibit A will be  
18 admitted.

19 (EXHIBIT ADMITTED INTO EVIDENCE.)

20 ATTORNEY EXAMINER SCHABO: My  
21 recollection is B1 through 4 have been stipulated to  
22 and Company Exhibit C is admitted as well. Let's go  
23 off the record for a moment.

24 (Discussion off the record.)

25 ATTORNEY EXAMINER SCHABO: Let's go back

1 on the record. We had a brief discussion regarding  
2 briefing. Pursuant to that discussion, initial  
3 briefs will be due on March the 15th, and reply  
4 briefs will be due on March the 29th.

5 With that, is there nothing else to  
6 discuss?

7 MR. WILSON: Nothing.

8 MR. ENDRIS: Nothing here, your Honor.

9 ATTORNEY EXAMINER SCHABO: Subject to  
10 briefing, the case is submitted to the record. Thank  
11 you very much. We are adjourned.

12 MR. WILSON: Thank you, your Honor.

13 MR. ENDRIS: Thank you.

14 (Thereupon, the hearing was concluded at  
15 12:43 p.m.)

CERTIFICATE

I do hereby certify that the foregoing  
is a true and correct transcript of the proceedings  
taken by me in this matter on Tuesday, February 26,  
2019, and carefully compared with my original  
stenographic notes.

Valerie J. Sloas  
Valerie J. Sloas, Registered  
Professional Reporter and  
Notary Public in and for  
the State of Ohio.

My commission expires June 10, 2021.  
(VJS-89098)



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Summary: Transcript Forest Hills Supermarket, Inc., d/b/a Konnis Family Foods vs. The Cleveland Electric Illuminating Company and FirstEnergy Corp., hearing held on February 26th, 2019. electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Sloas, Valerie J. Mrs.