

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the)
Commission's)
Investigation into Verde)
Energy USA Ohio, LLC's)
Compliance with the Ohio) Case No. 19-0958-GE-COI
Administrative Code and)
Potential Remedial)
Actions for)
Non-Compliance)

ORAL DEPOSITION OF
KIRA JORDAN

OCTOBER 10, 2019

THE ORAL DEPOSITION OF KIRA JORDAN,
produced as a witness at the instance of Ohio
Consumers' Counsel, and duly sworn, was taken in the
above-styled and numbered cause on the 10th day of
October, 2019, from 9:45 a.m. to 5:06 p.m., via
telephone, before Andrea L. Desormeaux, CSR in and for
the State of Texas, reported by machine shorthand, at
the offices of Baker & Hostetler, 811 Main Street,
Suite 1100, Houston, Texas, pursuant to the Ohio
Administrative Code Rule 4901-1-21 and the provisions
stated on the record or attached hereto.

A P P E A R A N C E S

FOR OHIO CONSUMERS' COUNSEL: (Via-Telephone)

Ms. Angela D. O'Brien
Mr. Christopher Healey
Mr. Bryce McKenney
Mr. Jim Williams
Assistant Consumers' Counsel
Office of the Ohio Consumer's Counsel
65 East State Street, 7th Floor
Columbus, Ohio 43215
Phone: (614) 466-9531
angela.obrien@occ.ohio.gov

FOR OHIO GENERAL ATTORNEY'S OFFICE: (Via-Telephone)

Mr. Andy Shaffer
Ohio Attorney General's Office
30 East Broad Street, 14th Floor
Columbus, Ohio 43215
Phone: (614) 644-8539
andy.shaffer@ohioattorneygeneral.gov

FOR VERDE ENERGY USA OHIO, LLC:

Mr. David F. Proano (Via-Telephone)
Baker & Hostetler, LLP
Key Tower
127 Public Square, Suite 2000
Cleveland, Ohio 44114-1214
Phone: (216) 621-0200
Fax: (216) 696-0740
dproano@bakerlaw.com

Ms. C. Alexis Keene
Spark Energy
12140 Wickchester Lane, Suite 100
Houston, Texas 77079
Phone: (832) 217-1831
akeene@sparkenergy.com

A P P E A R A N C E S

FOR IGS ENERGY: (Via-Telephone)

Mr. Joe Olikier
IGS Energy, Inc.
6100 Emerald Pkwy
Dublin, Ohio 43016
Phone: (614) 659-5063
joe.oliker@igs.com

FOR PUBLIC UTILITIES COMMISSION OF OHIO: (By Telephone)

Ms. Melissa Scarberry
Ms. Nedra Ramsey
Ms. Alla Tempesta
Public Utilities Commission of Ohio
180 East Broad Street
Columbus, Ohio 43215
Phone: (800) 686-7826

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1 THE REPORTER: On the record, please
2 state your stipulations.

09:45:35 3 MS. O'BRIEN: OCC has none. This is
09:45:36 4 Angela O'Brien.

09:45:41 5 MR. PROANO: This is David Proano,
09:45:43 6 counsel for Verde Energy. We have no stipulations.

09:45:43 7 THE REPORTER: Could we do roll call real
09:45:43 8 quick? I'm sorry, I skipped ahead with the
09:45:59 9 stipulations.

09:45:59 10 MS. KEENE: Alexis Keene, general counsel
09:45:59 11 for Verde.

09:46:10 12 MS. O'BRIEN: And this is Angela O'Brien
09:46:11 13 for OCC.

09:46:18 14 MR. OLIKER: Joe Olikier with IGS Energy.

09:46:29 15 MS. O'BRIEN: We also have in the room
09:46:31 16 with us, again, Chris Healey with OCC and Jim Williams.
09:46:31 17 And Bryce McKenney who is also counsel with OCC, he is
09:46:31 18 also on the phone.

09:46:48 19 MR. SHAFFER: Andy Shaffer, Ohio General
09:46:51 20 Attorney's Office on behalf of Staff.

09:46:55 21 MS. RAMSEY: Nedra Ramsey for PUCO Staff.

09:47:01 22 MS. SCARBERRY: Melissa Scarberry, PUCO
09:47:05 23 Staff.

09:47:06 24 MS. TAMPESCUS: Alla Tempesta, PUCO
09:47:10 25 Staff.

09:47:18 1 MR. PROANO: And I believe you have my
09:47:20 2 name but just for the record, David Proano, counsel for
09:47:23 3 Verde Energy USA Ohio, LLC.

09:47:23 4 THE REPORTER: Thank you. Are there any
09:47:35 5 other stipulations that you would like to make?

09:47:35 6 MS. O'BRIEN: None from OCC.

09:47:42 7 MR. PROANO: I would like to make a
09:47:48 8 statement on the record before we start. We have, from
09:47:49 9 the very beginning of this case, objected to the
09:47:52 10 production of any competitive business trade secret
09:47:58 11 information to IGS Energy, the intervenor. We've been
09:48:02 12 very clear about that position from the very beginning.

09:48:05 13 Consistent with that position and the
09:48:08 14 protection of trade secrets under Ohio law, whenever
09:48:12 15 there has been sensitive competitive business
09:48:15 16 information that's not relevant to any claims that IGS
09:48:21 17 Energy may have against Verde Energy, we have not
09:48:25 18 provided that to IGS Energy. We've been very clear
09:48:29 19 about that for this entire case.

09:48:34 20 Mr. Olikier is counsel for IGS Energy,
09:48:36 21 he's on this telephone conference for this deposition.
09:48:40 22 And so I'd like to make clear that we will continue to
09:48:44 23 protect Verde Energy's sensitive trade secret and
09:48:50 24 sensitive competitive business information that is not
09:48:54 25 relevant to any claims that IGS Energy may have. For

09:48:57 1 that reason, I would like to seek an agreement for
09:49:01 2 Mr. Olikier that if it comes to a document or testimony
09:49:06 3 that we consider to be trade secret information, that
09:49:09 4 is not relevant to the claims IGS may have, that we
09:49:14 5 have Mr. Olikier leave the conference and we will advise
09:49:19 6 Mr. Olikier by e-mail when we're done discussing that
09:49:21 7 information.

09:49:22 8 After this deposition, I would like the
09:49:25 9 opportunity also to review the transcript without IGS
09:49:32 10 Energy seeing it first, for us to be able to mark as
09:49:35 11 confidential and subject to a protective agreement that
09:49:38 12 sensitive trade secret and business competitive
09:49:43 13 information prior to the disclosure of the deposition
09:49:48 14 transcript to IGS Energy or its filing on the public
09:49:52 15 record. Thank you.

09:49:55 16 MR. OLIER: Thank you for that statement
09:49:58 17 Mr. Proano. This is Joe Olikier speaking. We do not
09:50:02 18 agree to that stipulation. I understand that you don't
09:50:04 19 practice in front of the Commission very often; but to
09:50:07 20 my knowledge there is no limitation on IGS's
09:50:10 21 intervention in this case and the issues we may pursue.

09:50:15 22 We also have a protective agreement in
09:50:17 23 place which means that there is a document to protect
09:50:20 24 documents transmitted between your client or any
09:50:23 25 information to my client. That information cannot be

09:50:26 1 used for any competitive purpose or shared with any
09:50:29 2 individual that has not signed the nondisclosure
09:50:32 3 agreement. Therefore, it would be inappropriate to
09:50:35 4 limit my client's access to any information in this
09:50:38 5 deposition, and it would be inconsistent with
09:50:41 6 Commission practice. So while you may have concerns
09:50:45 7 for your client's information, I can assure you that
09:50:47 8 it's safe and that I will honor any obligations and
09:50:51 9 ethical obligations to protect that information.

09:50:54 10 But despite that interest in protecting
09:50:56 11 your client's information, I am not going to start a
09:50:59 12 new process for your client that is inconsistent with
09:51:02 13 past Commission practice. So you do what you have to
09:51:05 14 do if you come to that issue.

09:51:09 15 MR. PROANO: Well, if we come to a point
09:51:12 16 in this deposition where we feel we need to get the
09:51:14 17 Commission to review whether or not IGS is entitled to
09:51:18 18 competitive information that has really nothing to do
09:51:21 19 with IGS's claims, we may -- after consulting with my
09:51:25 20 client, we may halt the depo and seek a protective
09:51:29 21 order.

09:51:29 22 MR. OLIKER: And I can assure you I have
09:51:31 23 reviewed the protective agreement in the time in which
09:51:34 24 this came up before the deposition started and now, and
09:51:36 25 there are no restrictions in the agreement but, of

09:51:40 1 course, we will keep that information protected and not
09:51:43 2 share it with any individuals making business decisions
09:51:48 3 consistent with their obligations. But feel free to go
09:51:50 4 ahead and make that decision yourself with your client.

09:52:00 5 MS. O'BRIEN: This is Angela O'Brien.
09:52:03 6 Are you guys done?

09:52:07 7 MR. PROANO: I think we are for now.

09:52:10 8 MS. O'BRIEN: Okay. So with that, I'm
09:52:12 9 going to go ahead and get started. I did hear that the
09:52:15 10 witness was sworn in, so I'll go ahead and get started.

09:52:20 11 Just for the record, this is the
09:52:22 12 deposition of Kira Jordan and it's being conducted in
09:52:27 13 PUCO Case No. 19-958-GE-COI in the matter of the
09:52:34 14 Commission's investigation into Verde Energy USA Ohio,
09:52:38 15 LLC's compliance with the Ohio Administrative Code and
09:52:41 16 potential remedial actions for noncompliance.

09:52:41 17 KIRA JORDAN,
09:52:41 18 having been first duly sworn, testified as follows:

09:52:41 19 EXAMINATION

09:52:41 20 BY MS. O'BRIEN:

09:52:46 21 Q. Ms. Jordan, could you please state your name
09:52:48 22 for the record?

09:52:49 23 A. Sure. Kira Jordan.

09:52:51 24 Q. And could you state your business address?

09:52:53 25 A. I believe it is 12140 Wickchester Lane, Suite

09:53:01 1 100, Houston, Texas 77079.

09:53:07 2 Q. Okay. And Ms. Jordan, have you ever been
09:53:12 3 deposed before?

09:53:13 4 A. Yes, I have.

09:53:13 5 Q. Okay. So you're generally familiar with
09:53:17 6 the -- with the process?

09:53:18 7 A. I think so.

09:53:21 8 Q. And I'm sure your attorneys have given you
09:53:25 9 some instructions on, you know, what will be happening
09:53:31 10 and things like that?

09:53:34 11 A. Yes.

09:53:37 12 Q. Okay. Now, because this is a telephonic
09:53:42 13 question -- or I'm sorry -- a telephonic deposition,
09:53:47 14 I'm just going to ask that you please refrain from
09:53:51 15 communicating or talking, passing notes, texting,
09:53:55 16 whispering or, et cetera, with counsel or any other
09:53:58 17 person in the room with you there. And if this does
09:54:02 18 occur, I would just ask the court reporter to note on
09:54:04 19 the record when those communications occur. I'll also
09:54:08 20 ask that you please turn off your electronic devices
09:54:12 21 and phones to prevent any such communications. Is that
09:54:18 22 okay with you?

09:54:24 23 MR. PROANO: Could I pause there, Angela?
09:54:26 24 What are you asking specifically?

09:54:26 25 MS. O'BRIEN: What I'm asking

09:54:27 1 specifically is -- you know, David, I understand that
09:54:29 2 you're not in the room with her.

09:54:32 3 MR. PROANO: No, I'm not.

09:54:34 4 MS. O'BRIEN: So I mean, my -- I just
09:54:35 5 don't want any communications between the witness and
09:54:38 6 the attorneys while I'm trying to conduct the
09:54:41 7 deposition. You know, I'm not there in the room with
09:54:44 8 you, so I can't see what's going on, obviously. And to
09:54:47 9 the extent that those kind of activities occur, I just
09:54:50 10 would like for the court reporter to note them for the
09:54:52 11 record.

09:54:53 12 MR. PROANO: Well, I can represent to you
09:54:55 13 that neither Alexis nor I, apart from a verbal
09:54:59 14 statement that's on the record, will be communicating
09:55:02 15 with Ms. Jordan either electronically or otherwise.
09:55:06 16 But Ms. Keene and I -- Ms. Keene's going to be able to
09:55:15 17 have her computer and her phone on, and I certainly can
09:55:18 18 communicate with Ms. Keene, between counsel. So I just
09:55:20 19 want to make that clear on the record that, you know,
09:55:22 20 we certainly won't do that with respect to the witness
09:55:23 21 and -- but that -- Ms. Keene and I can certainly
09:55:26 22 communicate with each other.

09:55:28 23 MS. O'BRIEN: Okay. That's fine. I just
09:55:29 24 want to avoid any instances where counsel is directing
09:55:33 25 the witness how to answer a particular question. And

09:55:37 1 like I said, I'm not there in the room, so I can't see.
09:55:41 2 And that's -- that's my only notation. So with that
09:55:44 3 understanding, I'll take you at your word and we can
09:55:50 4 move on.

09:55:54 5 Q. (By Ms. O'Brien) Ms. Jordan, I just -- moving
09:55:57 6 on, I just want to let you know if at any time you need
09:56:00 7 a break during the deposition, please just let me know
09:56:02 8 and we can take one. The only thing I ask is that if I
09:56:08 9 have a question pending with you, if you could just
09:56:10 10 answer the question and then we can take a break
09:56:12 11 afterwards. Is that okay with you?

09:56:15 12 A. Yes, sounds good.

09:56:19 13 MR. PROANO: Could I just interject real
09:56:23 14 quickly for the court reporter's benefit?

09:56:23 15 Court reporter, if you hear my voice, I'm
09:56:25 16 going to be the one objecting if there's a question
09:56:28 17 that I believe requires one. This is David Proano.
09:56:33 18 Hopefully I don't need to announce myself every time I
09:56:37 19 make an objection. If it's not clear that it's me
09:56:39 20 speaking, court reporter, please let me know. But you
09:56:42 21 can assume that any objections will come from David
09:56:46 22 Proano, counsel for Verde Energy.

09:56:53 23 THE REPORTER: Thank you.

09:56:54 24 Q. (By Ms. O'Brien) Okay. And Ms. Jordan, if
09:56:56 25 anytime you don't understand one of my questions,

09:56:58 1 please just let me know. I'll be happy to rephrase it
09:57:01 2 and make it easier for you to understand. Or, you
09:57:06 3 know, sometimes I may not be as clear as I wanted. Is
09:57:09 4 that okay with you?

09:57:11 5 A. Yes, that's okay.

09:57:13 6 Q. And it's also in -- you know, this is a
09:57:17 7 telephonic deposition, so it's particularly important
09:57:20 8 to make sure that all of your responses to my questions
09:57:22 9 are verbal because the court reporter can't properly
09:57:28 10 record a nod or a shaking of the head.

09:57:31 11 A. Understood.

09:57:32 12 Q. Do you understand that? Great, okay.

09:57:38 13 So as a result -- my understanding is
09:57:48 14 that you're the person responsible for verifying
09:57:52 15 Verde's responses to OCC's interrogatories and requests
09:57:55 16 for production of documents, the discovery in this
09:58:01 17 case. Is that correct?

09:58:02 18 A. Yes, I have signed some verifications, yes.

09:58:06 19 Q. Okay. Did you verify all of Verde's
09:58:11 20 interrogatories and request for production of
09:58:13 21 documents?

09:58:39 22 A. I believe so, yes.

09:58:39 23 Q. Great. And if you -- I believe it's in your
09:58:45 24 verification to Verde's responses to OCC's first set of
09:58:49 25 discovery, you indicate that your position with Verde

09:58:55 1 is a senior director, portfolio management, for Verde
09:59:00 2 Energy USA Ohio, LLC, through a shared service
09:59:05 3 arrangement with an affiliate of Verde Energy USA Ohio,
09:59:08 4 LLC. Is that correct?

09:59:09 5 A. One moment. I'm flipping through the binder.

09:59:25 6 Yes, ma'am, that's correct.

09:59:27 7 Q. Now, what is the shared service arrangement
09:59:32 8 with the affiliate of Verde Energy? What does that
09:59:36 9 mean?

09:59:44 10 A. Well, in a -- I guess kind of in -- in
09:59:47 11 business terms, that means that in my role I provide
09:59:54 12 pricing portfolio management functions for Verde Energy
10:00:01 13 Ohio and also some of the other brands.

10:00:05 14 Q. And what other brands do you provide services
10:00:11 15 for?

10:00:13 16 A. Again, not -- not to try to recall all the
10:00:19 17 legal entity names, but again from a business
10:00:22 18 standpoint, I provide services for Spark, Verde, and
10:00:32 19 what we call provider brands.

10:00:35 20 Q. And what --

10:00:36 21 A. And Major --

10:00:38 22 Q. -- are provider brands?

10:00:41 23 A. Those would include Electricity Maine, ENH
10:00:51 24 Power, and Provider Power. Massachusetts.

10:00:57 25 Q. I didn't mean to cut you off.

10:01:00 1 And what are -- are those -- are those
10:01:04 2 retail energy suppliers similar to Verde Energy?

10:01:14 3 A. Yes.

10:01:15 4 Q. And do they -- what states do those operate
10:01:22 5 in?

10:01:22 6 A. I -- I think I'd struggle to name all of the
10:01:36 7 states. I can certainly give it a -- my best shot.

10:01:44 8 Q. Well, let me ask you this: What provider
10:01:48 9 brands do you not provide services for?

10:01:49 10 A. I think I understand your question. I provide
10:01:57 11 services in some capacity for all of the again -- in
10:02:03 12 air quotes -- provider brands.

10:02:10 13 Q. Okay. So the provider brands would be all
10:02:14 14 of -- as I understand it, they would be all of the
10:02:18 15 companies that operate under Spark Holding Company in
10:02:24 16 the different states providing retail electric and
10:02:29 17 retail natural gas supply service; is that correct?

10:02:33 18 A. I'm honestly not sure what all is under Spark
10:02:45 19 Holdco. But again, the brands that I work with are
10:02:48 20 Provider, Spark, Verde; and I believe I left off Major
10:02:55 21 Energy.

10:02:56 22 Q. Okay. Well, we can come back to that if we
10:02:58 23 need to. Let's just move on to -- move on.

10:03:03 24 Tell me -- tell me what your
10:03:06 25 understanding is of this proceeding. Why do you think

10:03:08 1 we're here today?

10:03:09 2 A. I mean, my understanding of why we're here
10:03:23 3 today is that you would like to ask me questions
10:03:29 4 perhaps related to the -- you know, the questions in
10:03:35 5 the discovery and related to the Staff report.

10:03:40 6 Q. Okay. And so are you familiar with the Staff
10:03:43 7 report that was filed in this proceeding? I believe it
10:03:46 8 was initially filed on May 3rd, and then a corrected
10:03:50 9 version was filed on May 29th. Are you familiar with
10:04:00 10 that?

10:04:00 11 A. I'm certainly familiar with it. I can't say
10:04:03 12 I've committed it all to memory; but, yes, I'm familiar
10:04:08 13 with it.

10:04:09 14 Q. Have you read it?

10:04:09 15 A. I have.

10:04:10 16 Q. Okay. Now, my understanding is that Verde
10:04:18 17 Energy -- and let's just back up a second. If I refer
10:04:21 18 to "Verde," will you understand me to mean Verde Energy
10:04:26 19 USA Ohio, LLC?

10:04:30 20 A. Yes, that is my understanding of Verde in this
10:04:34 21 discussion.

10:04:34 22 Q. Okay, great. And if for -- if for some reason
10:04:37 23 I am referring to a Verde that operates in a different
10:04:41 24 state, I will let you know. But, you know, most all of
10:04:44 25 my questions relate to Verde as it operates here in

10:04:49 1 Ohio, providing retail natural gas -- retail and
10:04:53 2 natural gas supply service.

10:04:56 3 And also, just to get it out of the way,
10:04:59 4 are you familiar with the acronyms CRES and CRNGS?

10:05:12 5 A. Yes.

10:05:12 6 Q. And those acronyms stand for Competitive
10:05:20 7 Retail Electric Supply and Competitive Retail Natural
10:05:26 8 Gas Supply; is that your understanding?

10:05:29 9 A. Yes, that is my understanding.

10:05:30 10 Q. Okay. So if I use those acronyms, you'll
10:05:34 11 understand what I mean by them?

10:05:35 12 A. Yes, ma'am.

10:05:36 13 Q. My understanding is that Verde provides both
10:05:45 14 natural gas and electric supply service in Ohio; is
10:05:49 15 that correct?

10:05:49 16 A. That is my understanding as well.

10:05:51 17 Q. Okay. Now I would like to ask you some
10:06:01 18 questions about your resume that you provided late
10:06:07 19 yesterday afternoon -- or actually Verde provided late
10:06:11 20 yesterday afternoon. So if you could get your resume
10:06:15 21 for reference, that would be helpful.

10:06:26 22 THE WITNESS: David, where would I find
10:06:27 23 it, other than in my brain?

10:06:32 24 MR. PROANO: It will be attached to tab
10:06:35 25 19.

10:06:46 1 THE WITNESS: Tab 19 of what?

10:06:48 2 MR. PROANO: It's page 4 there in your
10:06:49 3 binder.

10:06:50 4 THE WITNESS: Stand by.

10:06:50 5 MS. O'BRIEN: Oh, that's fine. Let me
10:06:51 6 know when you're there.

10:06:56 7 THE WITNESS: I mean, it's my resume but
10:06:58 8 still... So hopefully I know what's in it.

10:07:13 9 Okay. We're having some logistical
10:07:17 10 challenges over here.

10:07:17 11 MS. O'BRIEN: That's fine. Take your
10:07:17 12 time.

10:07:19 13 THE WITNESS: David, our tab numbers
10:07:21 14 aren't the same but, I mean, regarding my resume, I
10:07:23 15 think I -- I think I can handle it.

10:07:30 16 MR. PROANO: Okay. It is the responses
10:07:31 17 to the October 7th document request. Do you see that
10:07:35 18 in your index?

10:07:35 19 THE WITNESS: Oh, okay.

10:07:51 20 MR. PROANO: It should be near the end of
10:07:52 21 the discovery binder. It's attached as an exhibit to
10:08:07 22 the discovery responses to the October 7th scope of
10:08:10 23 document request.

10:08:13 24 MS. O'BRIEN: And I also have it, as
10:08:15 25 well, attached to Verde's amended responses to a

10:08:19 1 request for production of documents propounded on
10:08:23 2 September 23rd, 2019, if that's helpful.

10:08:29 3 THE WITNESS: That's fine. It's my
10:08:36 4 resume. I can't find it but -- oh, wait. It's my
10:08:40 5 resume, so I'm pretty sure I know what's in there.

10:08:45 6 MS. O'BRIEN: All right.

10:08:46 7 THE WITNESS: Actually, I found it.

10:08:47 8 MS. O'BRIEN: Oh, perfect.

10:08:55 9 Q. (By Ms. O'Brien) So according to your resume,
10:08:57 10 you've been employed with Spark Energy since June of
10:09:00 11 2013; is that right?

10:09:02 12 A. Yes, that's correct.

10:09:05 13 Q. And tell me, according to your resume, you
10:09:14 14 started as a senior director of marketing; is that
10:09:22 15 correct?

10:09:22 16 A. Actually, I started -- I think my first title
10:09:25 17 was director of -- I think director of marketing or
10:09:28 18 director of channel marketing.

10:09:30 19 Q. Okay. Well, let's talk about the different --
10:09:33 20 the different roles you've had with Verde.

10:09:38 21 When you first began with Verde, do you
10:09:40 22 remember what your initial title was?

10:09:41 23 A. So when I started, Verde was not part of
10:09:53 24 the -- was not a brand that I worked with.

10:10:03 25 Q. (By Ms. O'Brien) Oh, I'm sorry, it's Spark

10:10:05 1 Energy. So you're technically employed by Spark
10:10:10 2 Energy; but as you mentioned, you provide services to
10:10:13 3 Verde. So when you began Spark Energy, what was your
10:10:21 4 initial title?

10:10:22 5 A. Director of channel marketing.

10:10:29 6 Q. Okay. And is that different than the senior
10:10:37 7 director of marketing you have referenced here in your
10:10:39 8 resume?

10:10:41 9 A. In terms of -- in terms of activities, no.
10:10:47 10 The senior director of marketing position actually just
10:10:50 11 encompassed the channel marketing activities, plus
10:10:56 12 additional responsibilities.

10:10:56 13 Q. Okay.

10:10:58 14 A. So in the interest of saving space, I didn't
10:11:03 15 list every role.

10:11:06 16 Q. Oh, I'm sorry, I didn't mean to cut you off.
10:11:07 17 What were your responsibilities in that
10:11:09 18 role?

10:11:09 19 A. In my -- in the first role or the senior
10:11:13 20 director of marketing?

10:11:15 21 Q. You mentioned your first role was the director
10:11:20 22 of channel marketing, I believe; is that correct?

10:11:23 23 A. Yes.

10:11:24 24 Q. Okay. What were your responsibilities in that
10:11:27 25 role?

10:11:28 1 A. When I started, the channel marketing role was
10:11:38 2 primarily focused on door-to-door and telemarketing
10:11:42 3 acquisition channels.

10:11:45 4 Q. Okay. And when you say "focused on
10:11:47 5 door-to-door and telemarketing," what specifically do
10:11:54 6 you mean? What did you do with respect to those
10:11:57 7 subjects?

10:12:06 8 A. Among other things, I mean, the primary role
10:12:09 9 was working with third-party vendors to acquire
10:12:17 10 customers via the channels I mentioned. So,
10:12:20 11 door-to-door and outbound telemarketing. There were
10:12:23 12 other channels that I had -- eventually had
10:12:26 13 responsibility for, but in terms of what the -- you
10:12:30 14 know, the lion's share of the job was, that was it.

10:12:35 15 Q. What other channels did you have
10:12:37 16 responsibility for?

10:12:38 17 A. To a lesser extent, some -- I'd say you know
10:12:46 18 affinity relationships, web marketing, stuff like that.

10:12:53 19 Q. When you say affinity relationships, what do
10:12:55 20 you mean by that?

10:12:58 21 A. Oh, an example would be working with schools
10:13:02 22 or something to get -- or a neighborhood or a local --
10:13:11 23 local organization to acquire customers through their
10:13:13 24 membership or, you know, parent base.

10:13:18 25 Q. Is there anything else -- anything else you

10:13:21 1 did in that role?

10:13:23 2 A. I mean, that's not -- that's the lion's share
10:13:38 3 of that role.

10:13:39 4 Q. Okay. And then so after that, did you move --
10:13:48 5 you moved on to senior director of marketing; is that
10:13:51 6 correct?

10:13:51 7 A. Yes, that is correct.

10:13:53 8 Q. And can you tell me what your responsibilities
10:13:56 9 were in that role?

10:13:58 10 A. So that was what I was referring to when I
10:14:07 11 said eventually other channels. So with the senior
10:14:11 12 director of marketing position, I officially gained the
10:14:18 13 digital channel as, I guess, one of the channels that I
10:14:22 14 was responsible for. So really it was regarding
10:14:25 15 reporting structure and -- yeah, reporting structure
10:14:34 16 change.

10:14:34 17 Q. And when you say "reporting structure
10:14:37 18 channel," what does that mean?

10:14:42 19 A. There was a lady whose title I'm going to --
10:14:45 20 I'm going off of memory. Her title was -- let's call
10:14:50 21 her director of Internet marketing or maybe director of
10:14:54 22 digital marketing. So she ended up reporting to me,
10:14:58 23 and then I got a title change.

10:15:02 24 Q. Okay. So is there anything else that you are
10:15:05 25 responsible for as the senior director of marketing?

10:15:12 1 A. No. I mean, that's the -- again, that's the
10:15:19 2 lion's share of it. That was the most significant
10:15:22 3 change in those roles.

10:15:24 4 Q. Okay. Referring to your resume -- and I'm
10:15:31 5 specifically referring to the section where you say
10:15:33 6 you're a senior director.

10:15:35 7 When you were a senior director of
10:15:38 8 marketing, one of the bullet points -- the second
10:15:43 9 bullet point on there, it says that you expanded
10:15:45 10 door-to-door telemarketing and direct mail channels to
10:15:48 11 achieve double-digit growth in sales, acquiring over
10:15:52 12 150,000 new customers annually. Do you see that
10:15:55 13 statement?

10:15:56 14 MR. PROANO: Ms. Jordan, try tab 20 in
10:16:01 15 your binder. I want you to have that in front of you.

10:16:05 16 THE WITNESS: Oh, I was able to find it,
10:16:06 17 so we're good.

10:16:08 18 MR. PROANO: Oh, you were. Okay, great.
10:16:10 19 Thank you.

10:16:10 20 A. Yes, I see that line on my resume.

10:16:15 21 Q. (By Ms. O'Brien) Okay. So tell me a little
10:16:16 22 bit more about that. When -- when you referred to the
10:16:25 23 150,000 customers annually, were those customers for
10:16:34 24 all of the Spark companies or all of the companies
10:16:41 25 owned by Spark Holdco?

10:16:47 1 A. So at that time that role referred -- I mean,
10:16:50 2 there only was Spark Energy.

10:16:56 3 Q. Okay. So you were responsible for increasing
10:17:00 4 customers annually just for Spark Energy at that time?

10:17:10 5 A. That's right. At that time Spark Energy and
10:17:14 6 Spark Energy Gas were the only companies that we had at
10:17:19 7 the, you know --

10:17:19 8 Q. And --

10:17:21 9 A. Go ahead. Sorry.

10:17:23 10 Q. And what was that time frame?

10:17:24 11 A. Oh, boy. I want to say I changed roles in --
10:17:42 12 so if you're asking -- if the question you're asking is
10:17:45 13 when did -- what is the second bullet point referring
10:17:49 14 to? Is that what you're asking, what time frame is
10:17:52 15 that?

10:17:54 16 Q. I guess what I'm asking is when you say you
10:17:56 17 expanded -- I'm sorry, let me look at it.

10:18:01 18 When you achieved double-digit growth in
10:18:04 19 acquiring over 150,000 new customers annually, when you
10:18:09 20 say "annually," what years are you referring to?

10:18:13 21 A. Sure. So that was 2014. Yeah, 2013/'14.

10:18:25 22 Q. And at that point was Spark Energy operating
10:18:32 23 in Ohio?

10:18:34 24 A. I really can't remember. I can't remember, to
10:18:49 25 be honest.

10:18:52 1 Q. I'm sorry, I didn't mean to cut anyone off.

10:18:56 2 Okay. And can you tell me a little bit
10:18:57 3 about how you achieved that sales growth?

10:19:10 4 A. What do you want to know specifically?

10:19:12 5 MR. PROANO: Ms. O'Brien, I'm going to
10:19:14 6 object. That's a pretty vague question. Are you just
10:19:17 7 talking about the '13/'14 time frame, or what are you
10:19:20 8 referring to.

10:19:21 9 MS. O'BRIEN: Well, I'm referring
10:19:21 10 specifically to her statement here in her resume that
10:19:26 11 she, you know, achieved double-digit growth in sales,
10:19:32 12 acquiring over 150,000 new customers annually. I just
10:19:36 13 want to know how she achieved that.

10:19:38 14 MR. PROANO: You're talking about which
10:19:40 15 markets? I'm just trying to understand the relevance
10:19:42 16 here.

10:19:43 17 MS. O'BRIEN: Well, that's what I'm
10:19:43 18 trying to get at. I mean, I'm trying to figure out,
10:19:48 19 you know, is -- what did -- did this growth occur in
10:19:51 20 Ohio? Did it not occur in Ohio? What years did it
10:19:55 21 occur and, you know, how did it occur? That's what I'm
10:20:02 22 getting at.

10:20:03 23 MR. PROANO: Ms. Jordan, you may proceed
10:20:05 24 if you know.

10:20:08 25 A. So what I can tell you -- to help answer your

10:20:18 1 question -- is that prior to my coming to Spark, the
10:20:22 2 company in general was not -- not acquiring very many
10:20:26 3 customers. Why that is, I don't know.

10:20:32 4 So a lot of the growth came from re --
10:20:39 5 reinvigorating or reestablishing relationships with
10:20:46 6 those third-party sales vendors. So, I mean, that's a
10:20:54 7 lot of it. We were going from a very -- you know, a
10:20:59 8 very -- excuse me -- a very -- a very different --
10:21:04 9 starting from a different -- a very different point in
10:21:06 10 the company's, I'll say, sales trajectory.

10:21:13 11 Q. (By Ms. O'Brien) Okay. Which leads me to my
10:21:15 12 next question, the fourth bullet point under senior
10:21:21 13 director of marketing, you state that you expanded
10:21:26 14 vendor partner network to support expansion of retail
10:21:31 15 program across the US.

10:21:32 16 Can you explain to me what you did to
10:21:35 17 accomplish that?

10:21:39 18 A. So the word "retail," kind of, in the language
10:21:49 19 that we use within the company, refers to people at --
10:21:56 20 in or at storefronts. So that is similar -- that would
10:22:06 21 be another type of a third-party vendor.

10:22:14 22 Q. Okay. I guess I'm -- I don't quite understand
10:22:19 23 when you say a storefront and third-party vendor. What
10:22:25 24 do you mean by third-party vendor in this statement
10:22:30 25 here in your resume?

10:22:33 1 MR. PROANO: Which bullet point are you
10:22:39 2 looking at, Ms. O'Brien.

10:22:39 3 MS. O'BRIEN: Oh, I'm sorry. I'm looking
10:22:39 4 at the fourth bullet point, under senior director of
10:22:41 5 marketing -- I'm sorry, it doesn't say third-party
10:22:45 6 vendor. It says vendor partner.

10:22:47 7 MR. PROANO: Thank you.

10:22:48 8 Q. (By Ms. O'Brien) What do you mean by "vendor
10:22:50 9 partner"?

10:22:52 10 A. A vendor partner or a -- or an outsourced
10:23:03 11 agency partner. In my -- when I say it, it means a --
10:23:10 12 a company or an organization that is -- that would be
10:23:17 13 contracted by Verde to -- for the purpose of providing
10:23:24 14 a service. In this context, the service would be
10:23:29 15 helping to acquire customers.

10:23:31 16 Q. Okay. Well, let's move on. From senior
10:23:44 17 director of marketing, you moved on to a role as senior
10:23:49 18 director, retail portfolio management. Is that the --
10:23:55 19 that's the current role you hold now, correct?

10:23:58 20 A. Yes, it is.

10:24:00 21 Q. And when did you begin your role as senior
10:24:06 22 director, retail portfolio management?

10:24:11 23 A. I believe it was sometime in 2015. Maybe late
10:24:21 24 '15.

10:24:25 25 Q. Okay. And what were your primary -- or what

10:24:27 1 are your responsibilities in your role as retail
10:24:32 2 portfolio -- senior director, retail portfolio
10:24:40 3 management?

10:24:42 4 A. I think the first bullet point kind of
10:24:45 5 summarizes it, but I developed pricing and products.
10:24:51 6 When I say "products," plans for the -- primarily for
10:24:59 7 the mass market customer space.

10:25:07 8 Q. Okay. Anything else?

10:25:09 9 A. Yes.

10:25:13 10 Q. Can you explain?

10:25:20 11 A. In my role today -- and it's changed over
10:25:24 12 time -- I also have a marketing team and a business
10:25:28 13 intelligence team.

10:25:30 14 Q. Okay. And how many people report to you?

10:25:32 15 A. Oh, boy. Okay. One moment, please.

10:26:23 16 Eleven.

10:26:24 17 Q. And where are those people located? Do they
10:26:26 18 work there in Houston with you?

10:26:30 19 A. Yes, except we have one remote employee but --
10:26:39 20 oh, I forgot the guy. Twelve. Sorry.

10:26:41 21 Q. So does Verde have any employees in Ohio?

10:26:45 22 A. No, ma'am.

10:26:49 23 Q. Who do you report to?

10:27:00 24 A. I report to Mike Kuznar. I think his title is
10:27:11 25 head of retail or something like that.

10:27:14 1 Q. And who is the highest ranking officer with
10:27:21 2 Spark Energy, LLC?

10:27:26 3 A. What do you mean by "highest ranking officer"?

10:27:32 4 Q. Who is the boss at Spark Energy, LLC?

10:27:36 5 MR. PROANO: I'm going to object to that.
10:27:40 6 Ms. O'Brien, are you talking about the publicly traded
10:27:43 7 company, Spark Energy, LLC.

10:27:46 8 MS. O'BRIEN: I am talking about the
10:27:48 9 company that Ms. Jordan works for.

10:27:51 10 MR. PROANO: And I'm going to object. I
10:27:52 11 think "the boss" is vague and ambiguous and improper.

10:27:59 12 Do you want to clarify that question,
10:28:02 13 please?

10:28:04 14 Q. (By Ms. O'Brien) Ms. Jordan, you mentioned
10:28:05 15 that you report to a person; I can't recall that
10:28:13 16 person's name offhand. Does that person report to
10:28:16 17 someone else?

10:28:17 18 A. Yes, he does.

10:28:19 19 Q. And who does that person report to?

10:28:22 20 A. As far as I know, he reports to Nathan
10:28:33 21 Kroeker.

10:28:33 22 Q. I'm sorry. Who is Nathan Kroeker, you said?

10:28:39 23 A. Kroeker.

10:28:41 24 Q. And who is that?

10:28:50 25 A. He's -- I believe his title is president and

10:28:57 1 CEO.

10:28:57 2 Q. Okay. So back to your resume. Under senior
10:29:02 3 director, retail portfolio management, the fourth
10:29:05 4 bullet point down, you say your duties are to research
10:29:08 5 and understand tariffs and market rules, procedures,
10:29:13 6 and pricing risks relating to products offered.

10:29:17 7 By researching and understanding market
10:29:28 8 rules, what do you mean?

10:29:30 9 A. I'm referring to the context to which it
10:29:34 10 applies in my role. So, for example, there are some
10:29:40 11 utilities that require a minimum term length or require
10:29:55 12 certain -- have certain prohibitions against rate
10:30:04 13 changes and stuff like that. So that's what I
10:30:07 14 mean, you know, in general.

10:30:08 15 Q. So are part of your duties in that respect to
10:30:12 16 research and understand the market rules in Ohio?

10:30:22 17 A. It depends on what you mean by "market rules."
10:30:27 18 I'm certainly responsible for -- you know, to the
10:30:30 19 extent that it applies to pricing.

10:30:36 20 Q. Well, are part of your duties to understand
10:30:38 21 the rules that govern the provision of competitive
10:30:44 22 retail gas and competitive retail electric supply
10:30:47 23 services in Ohio?

10:30:52 24 A. I -- I certainly would not consider --
10:30:59 25 consider my role responsible for a holistic

10:31:03 1 understanding of that, if that's what you're asking.

10:31:09 2 Q. Do you have an understanding of the rules in
10:31:14 3 Ohio governing the provision of competitive retail
10:31:21 4 electric and competitive retail natural gas supply
10:31:24 5 services?

10:31:25 6 A. I certainly have some knowledge. I'm just
10:31:34 7 trying to communicate that -- you're asking about my
10:31:39 8 role, you know, in portfolio management; and I'm trying
10:31:42 9 to communicate that that is not -- kind of, that's not
10:31:45 10 one of my key job roles to have a holistic
10:31:49 11 understanding of the rules in a given utility area.
10:31:53 12 But I certainly have some, in my -- you know, in order
10:31:56 13 to do my job.

10:31:57 14 Q. Okay. So whose responsibility is it within
10:32:03 15 Spark Energy to understand the Ohio rules regarding the
10:32:07 16 provision of competitive retail electric and natural
10:32:12 17 gas supply service?

10:32:14 18 MR. PROANO: Objection.

10:32:23 19 Q. (By Ms. O'Brien) Ms. Jordan, you can still
10:32:25 20 answer.

10:32:28 21 A. Well, I don't -- I'm not the one writing job
10:32:32 22 descriptions, but I can tell you we obviously have a
10:32:35 23 regulatory department.

10:32:38 24 Q. Okay. And tell me about the regulatory
10:32:40 25 department. How many people are in the regulatory

10:32:44 1 department?

10:32:56 2 A. I actually don't know their full org
10:32:56 3 structure, so I -- you know, I couldn't tell you that.
10:33:01 4 You know, I work with different folks, but I cannot
10:33:04 5 give you an exhaustive list of what -- who's considered
10:33:09 6 to be in the regulatory department.

10:33:10 7 Q. Do you know who was in charge of that
10:33:12 8 department?

10:33:12 9 A. I don't know the full reporting structure. I
10:33:28 10 can tell you we have a director of regulatory. And I'm
10:33:32 11 using that title colloquially. I don't know if that's
10:33:35 12 her official title.

10:33:36 13 Q. And who would that be?

10:33:38 14 A. I know her first name is Brianna, and her last
10:33:43 15 name starts with an A.

10:33:49 16 Q. But you don't know who that person is?

10:33:57 17 A. I just don't know how to spell her last name.

10:33:57 18 Q. Okay.

10:33:59 19 A. Yes, I know who she is.

10:34:01 20 Q. But does she work in the same office as you in
10:34:07 21 Houston?

10:34:07 22 A. No, I don't think so.

10:34:20 23 Q. Where else does Spark Energy, LLC have
10:34:24 24 offices?

10:34:24 25 A. I -- I don't know, ma'am. I can tell you that

10:34:36 1 the majority of the employees are in Houston.

10:34:40 2 Q. But you did say Spark Energy has no employees
10:34:53 3 in Ohio; is that correct?

10:34:55 4 A. I said no one on my team. At least that's
10:35:01 5 what I thought you were asking me, if I had any people
10:35:04 6 in -- you know, that were anywhere else.

10:35:08 7 Q. Do you know if Spark Energy has any employees
10:35:11 8 in Ohio?

10:35:12 9 A. There may be one person. I think there's one
10:35:27 10 person. But again, that is a think, that's not a know.

10:35:31 11 Q. Okay. Again, referring to your resume, toward
10:35:42 12 the top you list a number of different areas of
10:35:45 13 expertise. Do you see where I'm referencing?

10:35:52 14 A. Yes.

10:35:53 15 Q. And one of those areas of expertise is vendor
10:36:00 16 management. Can you explain to me your expertise in
10:36:06 17 vendor management?

10:36:07 18 A. Do you have a specific question? I'm not
10:36:16 19 clear what you're looking for.

10:36:21 20 Q. What do you do in your position with Spark
10:36:28 21 Energy that makes you an expert in vendor management?

10:36:32 22 A. I've certainly had experience managing a
10:36:39 23 number of external vendors in the channel marketing
10:36:44 24 space, as well as various agencies on the marketing
10:36:50 25 side.

10:36:59 1 Q. How many vendors would you say you've managed?

10:37:03 2 A. Are you asking, kind of, over my career or
10:37:09 3 over -- at any one time? Or what are you asking.

10:37:13 4 Q. No. During -- during your -- as part of your
10:37:18 5 job duties with Spark Energy.

10:37:32 6 A. Oh, I'd say, at any given time, 10 to 15, you
10:37:36 7 know, at any one time.

10:37:38 8 Q. You said 10 to 15 at any one time?

10:37:42 9 A. Yes.

10:37:45 10 Q. Okay. And when you -- and by "vendors," do
10:37:50 11 you mean vendors that perform sales and marketing for
10:37:58 12 Verde?

10:37:58 13 A. Well, again, during my time, you know, there
10:38:03 14 was no -- at least, you know, in my context there was
10:38:07 15 no Verde. But as a Spark employee, that includes those
10:38:13 16 door-to-door and telemarketing vendors. And also there
10:38:19 17 are, like I mentioned, web brokers, is what we call
10:38:24 18 them, and digital agencies. So there are various
10:38:28 19 flavors of vendors.

10:38:29 20 Q. Do you currently manage any sales or marketing
10:38:34 21 vendors that provide services for Verde?

10:38:38 22 A. It depends on what you're calling sales and
10:38:49 23 marketing. I do not manage any door-to-door or
10:38:52 24 telemarketing vendors.

10:38:53 25 Q. You don't? Who within Spark Energy manages

10:38:59 1 the vendors who provide the sales and marketing
10:39:02 2 services for Verde?

10:39:06 3 A. What channels are you asking about
10:39:13 4 specifically?

10:39:14 5 Q. I guess what I'm wanting to figure out is
10:39:20 6 who -- who is responsible for managing the sales and
10:39:25 7 marketing vendors that provide services for Verde?

10:39:32 8 A. I'm not trying to be difficult. So it just
10:39:37 9 depends on the -- it depends on the channel. It's a
10:39:40 10 different person for it, depending on the channel.
10:39:42 11 That's why I'm asking my question.

10:39:44 12 Q. Okay. Well, let me back up.

10:39:47 13 So my understanding is that Verde in Ohio
10:39:51 14 utilizes the services of third-party vendors for
10:39:55 15 telemarketing; is that correct?

10:39:57 16 A. Not right now but, yes, it has in the past.

10:40:09 17 Q. And when you say "not right now," why are they
10:40:13 18 not using vendors right now? Is that because of these
10:40:16 19 proceedings that are occurring right now? I guess what
10:40:22 20 I'm asking is: Are they not currently marketing
10:40:25 21 because Verde has agreed to not market for a period of
10:40:32 22 time because of --

10:40:36 23 A. There's no activity.

10:40:38 24 MR. PROANO: Hold on a second,
10:40:40 25 Ms. Jordan.

10:40:41 1 I'm just going to object. Ms. O'Brien,
10:40:43 2 could you ask that question again? I just want to make
10:40:45 3 sure --

10:40:45 4 MS. O'BRIEN: Yeah. I'm just trying to
10:40:48 5 clarify. And she says -- you know, she says that
10:40:50 6 currently there are no third-party vendors providing
10:40:53 7 marketing services for Verde in Ohio. Is that because
10:40:59 8 right now Verde is actively not marketing and enrolling
10:41:05 9 customers?

10:41:08 10 MR. PROANO: Do you understand the
10:41:09 11 question Ms. Jordan?

10:41:12 12 THE WITNESS: I believe I do.

10:41:16 13 MR. PROANO: Proceed.

10:41:17 14 A. So there are no third-party telemarketing or
10:41:26 15 door-to-door vendors in -- I'll say actively acquiring
10:41:33 16 customers in Ohio because we at Verde voluntarily
10:41:43 17 decided to stop.

10:41:46 18 Q. (By Ms. O'Brien) Okay. So when Verde does
10:41:50 19 market and enroll to customers in Ohio, there are
10:41:57 20 third-party vendors who provide those sales and
10:42:00 21 marketing services to Verde; is that correct?

10:42:03 22 MR. PROANO: Objection. Are you talking
10:42:05 23 about past or when the marketing stay is over?

10:42:09 24 MS. O'BRIEN: Both.

10:42:14 25 MR. PROANO: Ms. Jordan, do you

10:42:15 1 understand the question with that clarification?

10:42:23 2 THE WITNESS: Sure.

10:42:25 3 A. So in the past, yes, third-party vendors were
10:42:28 4 used to help acquire customers for Verde in Ohio.

10:42:33 5 Q. (By Ms. O'Brien) Okay. Who within Spark
10:42:35 6 Energy manages the relationship with those third-party
10:42:41 7 vendors?

10:42:41 8 A. It depends on the vendor. But, I mean, we
10:42:56 9 have a sales -- you know, we have a sales team that
10:42:59 10 would handle that type of activity.

10:43:01 11 Q. So the sales team -- now, the sales -- when
10:43:10 12 you say a sales team, I'm a little bit unclear as to
10:43:15 13 what that means. What do you mean by "sales team"?

10:43:18 14 MR. PROANO: Can I just pause for one
10:43:20 15 second? Sorry, Ms. O'Brien. I think you were cutting
10:43:23 16 off the witness there. And maybe --

10:43:24 17 MS. O'BRIEN: Oh, I'm sorry.

10:43:25 18 MR. PROANO: -- allow her to finish her
10:43:27 19 answer, that would be great.

10:43:28 20 MS. O'BRIEN: Oh, I'm sorry. I didn't
10:43:30 21 realize she was still going.

10:43:33 22 Q. (By Ms. O'Brien) Please, continue.

10:43:36 23 A. Oh, so, I mean, a sales team -- when I say
10:43:40 24 "sales team," I mean employees of, you know, Spark
10:43:46 25 Energy that provide shared services to Verde Energy

10:43:54 1 Ohio.

10:44:06 2 MS. O'BRIEN: Could I possibly take a
10:44:08 3 break for a few minutes, two minutes?

10:44:12 4 MR. PROANO: Could we actually all take a
10:44:14 5 break more than two minutes?

10:44:17 6 MS. O'BRIEN: That's fine if you want to
10:44:18 7 take like a five minute break.

10:44:22 8 MR. PROANO: Sure. Reconvene in five
10:44:24 9 minutes.

10:54:49 10 (Off the record 10:44 a.m. to 10:55 a.m.)

10:54:49 11 Q. (By Ms. O'Brien) So before the break we were
10:55:00 12 talking about who within Spark Energy manages the
10:55:13 13 vendors, the third-party marketing and sales vendors,
10:55:16 14 who within Spark Energy manages the relationship with
10:55:19 15 those companies? And you mentioned, I believe, that
10:55:22 16 there's a sales department. Is my recollection
10:55:28 17 correct, Ms. Jordan?

10:55:29 18 A. Yes, that is what I said, there's a sales
10:55:32 19 team.

10:55:32 20 Q. Okay. So the sales team, what are -- when you
10:55:36 21 say it's a sales team, is it a sales team that --
10:55:40 22 explain what you mean by a sales team. What do they
10:55:43 23 do?

10:55:43 24 A. Excuse me. They're -- it's a group of people
10:55:49 25 that are responsible and accountable for managing those

10:55:56 1 relationships, like you asked me. So managing the
10:55:59 2 relationships with those third-party vendors.

10:56:04 3 Q. Okay. And are any of the individuals on that
10:56:08 4 sales team responsible for marketing and soliciting
10:56:22 5 customers themselves?

10:56:24 6 A. I don't understand what you mean. Do you
10:56:28 7 mean, like, are they -- are they signing up customers?
10:56:30 8 Is that what you're asking me.

10:56:32 9 Q. Yeah. Do they directly solicit and market
10:56:35 10 customers on behalf of Verde?

10:56:37 11 A. No.

10:56:37 12 Q. They don't. Does Verde have any employees
10:56:48 13 that are specifically responsible for soliciting and
10:56:59 14 marketing customers in Ohio?

10:57:04 15 A. I am not aware of that being someone's --
10:57:09 16 someone's sole job. We do have a commercial sales
10:57:15 17 team, but I do not think that that's the -- the context
10:57:19 18 I was referring to was a -- you know, in mass
10:57:23 19 market/residential.

10:57:23 20 Q. Okay. So does any Spark Energy or Verde
10:57:26 21 employee solicit or market services to residential
10:57:32 22 customers in Ohio?

10:57:38 23 MR. PROANO: Are you talking about
10:57:39 24 directly, Ms. O'Brien?

10:57:42 25 MS. O'BRIEN: Yes.

10:57:43 1 MR. PROANO: That they personally
10:57:49 2 directly market?

10:57:49 3 MS. O'BRIEN: Yes.

10:57:50 4 MR. PROANO: Okay.

10:57:50 5 A. No, we don't have anyone on the sales team who
10:57:57 6 has that responsibility.

10:58:00 7 Q. (By Ms. O'Brien) So when Verde markets and
10:58:02 8 solicits customers in Ohio, they rely 100 percent on
10:58:06 9 the services of third-party vendors?

10:58:14 10 MR. PROANO: I'm sorry, Ms. O'Brien.

10:58:16 11 MS. O'BRIEN: Oh, no, that's okay.

10:58:17 12 MR. PROANO: I just want to clarify.
10:58:19 13 You're speaking about past marketing, since it's not
10:58:21 14 currently ongoing?

10:58:23 15 MS. O'BRIEN: Yes.

10:58:26 16 MR. PROANO: Thank you.

10:58:26 17 MS. O'BRIEN: And -- both past and what
10:58:27 18 Verde will do in the future when eventually it resumes
10:58:31 19 marketing.

10:58:39 20 A. So I would not say that would be a hundred
10:58:42 21 percent, you know, in the past or in the future. There
10:58:44 22 are -- as I mentioned earlier, we have multiple sales
10:58:48 23 channels, so no to your question of would it be a
10:58:52 24 hundred percent relying on third-party vendors.

10:58:56 25 Q. (By Ms. O'Brien) Well, what percentage would

10:58:57 1 you say it would be?

10:59:00 2 A. I wouldn't want to speculate because, you
10:59:05 3 know, it could depend. It depends on -- it just
10:59:10 4 depends.

10:59:12 5 Q. I guess, it depends on what?

10:59:21 6 A. I mean, I guess I'm speaking from more of just
10:59:29 7 a -- more of a mathematical, you know, exercise. Like
10:59:32 8 it depends on -- it depends on the production of -- it
10:59:40 9 depends on whether or not we -- when I say "we,"
10:59:46 10 Verde -- you know, opted to use a third-party vendor.
10:59:49 11 It depends on the number of sales those vendors would
10:59:56 12 bring versus other channels. So that's what I mean,
10:59:58 13 you know.

10:59:58 14 Q. Would you say that Verde relies 75 percent on
11:00:06 15 the services of third-party vendors?

11:00:08 16 MR. PROANO: Objection.

11:00:16 17 A. I wouldn't want to put a number on it.

11:00:18 18 Q. (By Ms. O'Brien) Would it be more than
11:00:20 19 50 percent of the time they rely on third-party
11:00:25 20 vendors?

11:00:25 21 MR. PROANO: Ms. O'Brien, are you still
11:00:26 22 talking about the past?

11:00:27 23 MS. O'BRIEN: Yes. No, not just the
11:00:30 24 past. I mean -- well, primarily the past but, you
11:00:34 25 know, to the extent Verde enrolls and markets the

11:00:39 1 customers in Ohio in the future. I mean, what I'm
11:00:42 2 trying to get at, basically, is how much -- how much
11:00:44 3 you rely on third-party vendors. I mean, do you rely a
11:00:49 4 hundred percent? Ms. Jordan testified that, no, not a
11:00:53 5 hundred percent. Okay, well, is it 75 percent?
11:00:56 6 80 percent? How much? That's what I'm getting at.

11:00:59 7 MR. PROANO: I guess I just -- I'm going
11:01:00 8 to object because the witness already said she doesn't
11:01:02 9 know. And also I think the question should be
11:01:06 10 clarified as to past and future more clearly. There is
11:01:09 11 no current marketing in Ohio.

11:01:11 12 MS. O'BRIEN: Okay.

11:01:12 13 MR. PROANO: I just feel like it's
11:01:13 14 important to clarify the time frame, basically.

11:01:16 15 MS. O'BRIEN: Okay.

11:01:17 16 Q. (By Ms. O'Brien) Well, in the past, how much
11:01:19 17 has Verde relied on the services of third-party vendors
11:01:24 18 in marketing and soliciting to customers in Ohio?

11:01:29 19 A. I did not specifically look at that -- that
11:01:36 20 channel mix. You know, generally speaking, as a -- if
11:01:42 21 I'm wearing my portfolio management hat, you know, we
11:01:49 22 would like a -- we would like a mix of channels. So, I
11:01:53 23 mean, I didn't go back and look at what that -- what
11:01:55 24 that specific mix was.

11:01:59 25 Q. And can you identify what those channels are?

11:02:01 1 A. So while not being exhaustive, I mean,
11:02:11 2 certainly door-to-door and outbound telemarketing are
11:02:15 3 sales channels. Also inbound telephonic sales. Direct
11:02:19 4 mail. Internet from kind of what we call organic
11:02:27 5 Internet. You know, think about Google ads, stuff like
11:02:32 6 that, and web brokers and retail storefronts would all
11:02:39 7 be -- I'd consider those all channels. Again, it's not
11:02:43 8 an exhaustive list, but those are probably the larger
11:02:47 9 ones that I can think of.

11:02:49 10 Q. Okay. Are there any other ones that you can
11:02:51 11 think of?

11:02:59 12 A. I mean, well, sure. I mean, we could go --
11:03:01 13 you know, be here, you know, forever, I mean, talking
11:03:04 14 about the --

11:03:06 15 Q. Well, I mean, how many are -- how many -- is
11:03:09 16 there how many -- I'm sorry, I'm trying to clarify it.

11:03:13 17 How many ways are there to market to a
11:03:15 18 customer in Ohio? There's only -- well, you just
11:03:21 19 identified several.

11:03:27 20 A. So I think those are the -- those are the
11:03:32 21 largest ones, but I'm sure that -- I'm just saying that
11:03:36 22 there's -- that, you know, my intention -- I'm not -- I
11:03:38 23 know I'm not being exhaustive. That's all.

11:03:45 24 Q. Okay. Fair enough.

11:03:45 25 A. But those are the larger ones.

11:03:47 1 Q. Okay. Fair enough.

11:03:50 2 Does Verde have any retail storefronts in
11:03:57 3 Ohio?

11:03:57 4 A. So of course, no, we don't now.

11:04:00 5 Q. Did you ever have any retail storefronts in
11:04:06 6 Ohio?

11:04:07 7 A. I do not know the answer to that question.

11:04:13 8 Q. Okay. Just give me a minute here.

11:04:28 9 So I want to switch gears a little bit.

11:04:31 10 Tell me about your participation in the discovery
11:04:35 11 process during this proceeding. My -- as we discussed,
11:04:39 12 you verified Verde's responses to interrogatories and
11:04:43 13 request for production of documents. But explain to
11:04:49 14 me, you know, what your other -- what your other
11:04:53 15 responsibilities were in responding to discovery.

11:04:56 16 MR. PROANO: Ms. Jordan, I'm just going
11:04:59 17 to caution you that to the extent you had
11:05:02 18 communications with in-house counsel or outside counsel
11:05:06 19 in connection with your work on discovery responses,
11:05:08 20 you cannot disclose that information; but certainly
11:05:12 21 outside of those bounds, you're welcome to answer these
11:05:15 22 questions.

11:05:17 23 THE WITNESS: Can you reask the question,
11:05:18 24 please? I'm sorry.

11:05:21 25 Q. (By Ms. O'Brien) What did you do to assist in

11:05:26 1 Verde's responses to interrogatories and requests for
11:05:32 2 production of documents in this case?

11:05:37 3 A. I'm not sure how much I assisted but, I mean,
11:05:47 4 I certainly, you know, reviewed various documents, you
11:05:50 5 know, and spoke with Verde's counsel and outside -- you
11:05:57 6 know, internal and outside counsel. You know, looked
11:06:02 7 at some spreadsheets and spoke with a few of my --
11:06:07 8 well, actually, one coworker.

11:06:11 9 Q. And did you draft any of the responses?

11:06:26 10 A. I certainly helped provide the information
11:06:27 11 that is in the responses. I don't know that -- I mean,
11:06:30 12 I'm not going to say that I -- you know, I'm not the
11:06:34 13 one that physically typed them.

11:06:38 14 Q. No, fair enough.

11:06:40 15 So did other people within Verde or Spark
11:06:47 16 Energy help draft the responses?

11:06:51 17 MR. PROANO: Ms. O'Brien, you mean other
11:06:54 18 than counsel?

11:06:54 19 MS. O'BRIEN: Yeah, other than counsel.

11:06:56 20 MR. PROANO: Thank you.

11:07:08 21 A. So I don't -- so if you're asking who
11:07:08 22 actually -- who typed them up, I actually don't know
11:07:09 23 the answer to that question. I know it's someone, you
11:07:15 24 know --

11:07:15 25 Q. (By Ms. O'Brien) Okay.

11:07:16 1 A. Someone with some -- some legal type of
11:07:19 2 person. But I can tell you that, yes, I did have a
11:07:23 3 role in providing, you know, some of the information in
11:07:28 4 them.

11:07:28 5 Q. Okay, great. Now, just to go back a minute,
11:07:34 6 my understanding -- and I think we discussed this a
11:07:36 7 little bit before -- is that Verde is a wholly owned
11:07:40 8 subsidiary of Spark Holdco. Is my understanding
11:07:49 9 correct?

11:07:49 10 A. I believe that is the case.

11:07:50 11 Q. Okay. And Spark Holdco, the parent company,
11:07:53 12 has multiple companies that it owns that provide retail
11:08:04 13 energy services in other states; is that correct?

11:08:07 14 A. That is my understanding of the structure,
11:08:11 15 yes.

11:08:12 16 Q. And if I were to refer to these other
11:08:17 17 companies that provide services in other states, if I
11:08:22 18 refer to those as Spark companies, will you understand
11:08:28 19 what I'm referring to?

11:08:29 20 A. I can agree to that definition for this
11:08:33 21 purpose, sure.

11:08:34 22 Q. Okay. Now, have you participated in preparing
11:08:41 23 discovery or verifying discovery responses for Spark
11:08:48 24 companies in other states?

11:08:59 25 A. Yes.

11:09:00 1 Q. And what other -- what other -- well, let me
11:09:03 2 back up.

11:09:04 3 What about in Ohio?

11:09:09 4 A. Outside of this particular matter?

11:09:20 5 Q. Uh-huh, yes.

11:09:22 6 A. Not that I recall. This is -- to the best of
11:09:32 7 my memory, this is -- this is the only one that I've
11:09:37 8 been involved in and the only one I'm aware of.

11:09:39 9 Q. And for Spark companies in other states, how
11:09:43 10 many discovery productions have you assisted with?

11:09:50 11 A. I would not want to guess.

11:09:56 12 Q. More than 10?

11:10:01 13 A. So I'm saying I don't want to guess because I
11:10:10 14 don't -- you know, because I'm not legal; I don't know
11:10:12 15 what a -- you know, I have not committed to memory what
11:10:16 16 a discovery response is versus answering questions or
11:10:18 17 something, you know.

11:10:19 18 Q. Okay.

11:10:21 19 A. So, yeah, I don't feel like it's more than --
11:10:27 20 I don't feel like it's more than 10.

11:10:29 21 Q. Okay. No, that's fine. That's fair enough.

11:10:41 22 We'll actually move on to a different
11:10:43 23 topic, actually. Now I want to move off of your
11:10:46 24 resume, actually, and refer you to a document that
11:10:50 25 Verde provided to OCC in response to discovery. And

11:10:57 1 the stamp is Verde 000909.

11:11:02 2 A. Okay. Just a minute. Wait, 909. I'm there.

11:11:30 3 Q. Are you there?

11:11:31 4 A. Yes.

11:11:32 5 Q. Have you reviewed this document?

11:11:36 6 A. Yes. Excuse me. Yes.

11:12:13 7 Q. Okay. Now, on this page there's a reference
11:12:22 8 to a Verde compliance manager, vendor quality
11:12:28 9 assurance. Do you see that reference?

11:12:30 10 A. I do.

11:12:30 11 Q. Who is that?

11:12:41 12 A. I believe that person is Juan Trevino.

11:12:47 13 Q. I'm sorry?

11:12:48 14 A. I'm sorry, my voice is going. Juan Trevino.

11:13:04 15 Q. Does that person work in the same office as
11:13:04 16 you?

11:13:04 17 A. Yes, ma'am, he does.

11:13:05 18 Q. And can you tell me about -- does he work in
11:13:10 19 the same -- I guess, does he work in the same division
11:13:13 20 as you or is it just -- is he the only compliance
11:13:20 21 manager for Verde or are there other people who are in
11:13:24 22 a similar role?

11:13:25 23 A. He is the -- he's the sole vendor compliance
11:13:30 24 manager.

11:13:31 25 Q. So there's only one?

11:13:33 1 A. Yes, you know, at least that I'm aware of,
11:13:40 2 yes.

11:13:40 3 Q. And do you know whether -- and do you know
11:13:47 4 whether his responsibilities are for all of the Spark
11:13:54 5 companies?

11:13:55 6 A. Yes, I believe that they are.

11:14:05 7 Q. Okay. Let's see, now if you could turn to
11:14:12 8 another document that Verde provided to OCC in response
11:14:16 9 to discovery. And this document is marked Verde
11:14:26 10 000880.

11:14:34 11 A. 880?

11:14:36 12 Q. Uh-huh, yes.

11:14:37 13 A. Okay. Found it.

11:14:38 14 Q. Okay, great. And have you reviewed this
11:14:54 15 document?

11:14:56 16 A. I mean, this one doesn't ring a bell but, I
11:15:06 17 mean, I reviewed the documents in general and certainly
11:15:09 18 I'm looking at it right now.

11:15:10 19 Q. Okay. If you could turn to -- as part of that
11:15:13 20 document, if you could turn to Verde 000883. Let me
11:15:25 21 know when you're there.

11:15:44 22 A. Actually, I don't know if I have an 883. Hold
11:16:03 23 on.

11:16:04 24 So assuming it's in chronological order,
11:16:06 25 I actually do not have an 883.

11:16:09 1 Q. Okay.

11:16:10 2 A. Let me see, this is... One moment, please.

11:16:19 3 MR. PROANO: It's in the same document,
11:16:21 4 Ms. Jordan.

11:16:23 5 THE WITNESS: Oh, it's in 880?

11:16:25 6 MR. PROANO: Yes. Just turn a couple of
11:16:27 7 pages in the same document.

11:16:29 8 THE WITNESS: Oh, well, that could help.
11:16:32 9 Oh, I see, I see. So the 880 is like the start of it.
11:16:36 10 Okay. I got it. I got it now. Thank you David. I
11:16:44 11 see, I see.

11:16:45 12 A. Okay. I'm there now.

11:16:46 13 Q. (By Ms. O'Brien) Okay, great. And do you see
11:16:48 14 on that page a reference to a senior manager, sales
11:16:53 15 collections and remittance customer support?

11:17:06 16 A. One moment, please. Yes, I see that.

11:17:37 17 Q. Okay, great. Who is that?

11:17:43 18 A. So I believe that that -- you're asking me who
11:17:57 19 the senior manager of sales collections and remittance?

11:18:03 20 Q. Yeah.

11:18:05 21 A. That's quite a title. I believe that's
11:18:12 22 referring to John Beijer, a guy named John Beijer. I
11:18:18 23 think it's like B-E-I-J-E-R. I don't know.

11:18:25 24 Q. Okay. Does that person work with you in the
11:18:29 25 Houston office?

11:18:32 1 A. He is no longer employed with Spark.

11:18:38 2 Q. Okay. Does someone else within Spark Energy
11:18:41 3 hold that title now?

11:18:44 4 A. No, not to my knowledge.

11:18:48 5 Q. So who within Spark Energy assumed the
11:18:58 6 responsibilities that the senior manager of sales
11:19:00 7 collections and remittance customer support had -- who
11:19:09 8 assumed those responsibilities if there's no longer a
11:19:16 9 senior manager?

11:19:16 10 A. To my knowledge those responsibilities were
11:19:18 11 split between various -- various folks.

11:19:21 12 Q. I'm sorry, I didn't hear you.

11:19:24 13 A. I said I believe it was -- those
11:19:27 14 responsibilities were split between various folks.

11:19:32 15 Q. Okay. Do you know -- do you know what the
11:19:38 16 responsibilities of that title were or are?

11:19:46 17 A. No, ma'am, not -- you know, not beyond the --
11:19:55 18 not beyond, you know, kind of the context in which I
11:20:00 19 would have interacted with them.

11:20:01 20 Q. Okay.

11:20:02 21 A. So, no, I don't know, you know, totally what
11:20:05 22 he was responsible for.

11:20:06 23 Q. Now I'd like to move on to another document
11:20:21 24 that was provided to OCC in discovery, and this one is
11:20:28 25 Verde 000840. Let me know when you are there.

11:20:48 1 A. I am there.

11:20:50 2 Q. And this document refers to -- or is --
11:20:53 3 there's an e-mail here, and it's signed "Kindest
11:20:58 4 regards, Xiomara Mendoza." Do you see that?

11:21:15 5 A. Yes, I see it.

11:21:16 6 Q. And who is that?

11:21:24 7 A. So she -- she is or was -- I'm honestly not
11:21:33 8 sure if she's still with the company -- on one of the
11:21:36 9 teams that is responsible for responding to Commission
11:21:45 10 complaints.

11:21:45 11 Q. How many teams are within Spark Energy that
11:21:53 12 respond to fake Commission complaints?

11:22:10 13 MR. PROANO: Are you talking about,
11:22:12 14 Ms. O'Brien, complaints from all over the country or
11:22:16 15 just in Ohio?

11:22:19 16 MS. O'BRIEN: Well, if it's just one
11:22:26 17 team -- that's what I'm trying to determine, if there's
11:22:30 18 one team that addresses complaints from all of the
11:22:33 19 states in which Spark operates or if there are
11:22:37 20 multiple. I believe I heard Ms. Jordan say that --
11:22:43 21 refer to one of the teams, so that's what my question
11:22:47 22 is going to.

11:22:50 23 MR. PROANO: Thank you.

11:22:51 24 Ms. Jordan, you may proceed if you know.

11:22:55 25 THE WITNESS: Sure.

11:22:55 1 A. So to my knowledge, there is one primary team
11:22:58 2 that is tasked with doing that. But I'm sure that --
11:23:08 3 you can understand that depending on the nature of that
11:23:11 4 correspondence, they might have to get other folks in
11:23:14 5 the organization involved.

11:23:17 6 Q. (By Ms. O'Brien) Sure. And do you know how
11:23:19 7 many people are on that team?

11:23:20 8 A. No, ma'am, I don't.

11:23:25 9 Q. But it's not just one person?

11:23:30 10 A. No, ma'am, it is not. I just don't -- you
11:23:34 11 know, I just don't know how many. It is -- it is
11:23:39 12 definitely a team.

11:23:40 13 Q. Okay. And just to back up, how many -- how
11:23:45 14 many employees are in your office there in Houston?

11:23:56 15 A. Oh, I can give you a range but...

11:23:59 16 Q. That would be fine.

11:24:00 17 A. Yeah. I'd say I think it's around maybe 150
11:24:05 18 folks.

11:24:05 19 Q. Okay.

11:24:06 20 A. 150 physical people. Now, you know, again,
11:24:10 21 you know, I'm not in HR. I don't know who's an
11:24:13 22 employee versus a contractor. You know, there's 150
11:24:17 23 folks in the office.

11:24:19 24 Q. Okay. Thank you.

11:24:26 25 Now going back, I believe you mentioned

11:24:33 1 that you had reviewed the Staff report that was filed
11:24:36 2 in this case on May 29th; is that correct?

11:24:40 3 A. Yes.

11:24:46 4 Q. And having reviewed it, are you aware that the
11:24:51 5 PUCO Staff made specific findings regarding Verde's
11:24:57 6 compliance or noncompliance with various PUCO rules?

11:25:05 7 MR. PROANO: Objection to the form of the
11:25:07 8 question.

11:25:08 9 Q. (By Ms. O'Brien) Let me rephrase.

11:25:11 10 Are you aware that in the Staff report,
11:25:14 11 the PUCO Staff made specific allegations regarding
11:25:19 12 Verde's compliance with PUCO rules?

11:25:29 13 A. Yes, I certainly can -- I see the section
11:25:32 14 called "Discussion of Violations." Yes, I'm familiar
11:25:35 15 with that section, if that's what you're asking.

11:25:36 16 Q. Now, as a result of the Staff report, did
11:25:40 17 Verde undertake any sort of internal audit to review
11:25:50 18 the allegations in the Staff report?

11:25:54 19 MR. PROANO: Ms. Jordan, I'm just going
11:25:55 20 to caution you that to the extent there's any
11:25:58 21 privileged information relating to any such work, you
11:26:02 22 cannot disclose that but you certainly are entitled to
11:26:05 23 disclose any other information that's responsive to
11:26:08 24 this question.

11:26:15 25 A. So I'm not really clear what you're asking

11:26:19 1 because -- I mean, obviously there is more work done to
11:26:24 2 respond to all of the, you know, interrogatories or
11:26:28 3 whatever they're called. So what are you -- is that
11:26:33 4 what you mean?

11:26:34 5 Q. (By Ms. O'Brien) Yeah. Well, did -- I'll
11:26:37 6 back up.

11:26:38 7 When the team that is responsible for
11:26:45 8 monitoring state commission complaints, when those
11:26:50 9 people receive complaints from the Public Utilities
11:26:54 10 Commissions of Ohio, my understanding is that they
11:26:58 11 respond and do an investigation regarding that
11:27:03 12 complaint. Is that correct?

11:27:04 13 A. Yes, that is correct.

11:27:07 14 Q. So my question is, is in response to the Staff
11:27:14 15 report that was filed in this case, did Verde undertake
11:27:19 16 any -- any steps in addition to that to review its
11:27:30 17 marketing of retail electric -- of retail electric and
11:27:36 18 of retail natural gas supply service to customers in
11:27:38 19 Ohio to address the allegations in the complaint?

11:27:47 20 MR. PROANO: Ms. O'Brien, I guess I'm
11:27:49 21 confused. You're talking about before the staff report
11:27:52 22 was issued and before the complaint was -- before this
11:27:56 23 case was open, did Verde investigate allegations?

11:28:01 24 MS. O'BRIEN: Well, I guess what I'm
11:28:04 25 getting at is: Was there an investigation separate and

11:28:10 1 apart from the normal investigations that Verde
11:28:15 2 completes when it receives a specific customer
11:28:18 3 complaint, if that makes sense.

11:28:23 4 MR. PROANO: Again, Ms. Jordan, if you
11:28:24 5 know the answer, go ahead. If it's subject to
11:28:28 6 privilege, you know, and we need to discuss it, let me
11:28:31 7 know.

11:28:31 8 THE WITNESS: Okay.

11:28:33 9 A. So to answer your question -- so, at least
11:28:42 10 it's my understanding, you know, of the complaints in
11:28:48 11 the -- you know, referenced in the report, those -- you
11:28:52 12 know, those were investigated at the time they were
11:28:55 13 received, to the extent that they were sent to -- to
11:28:57 14 Verde, you know, to the extent that the company had
11:29:02 15 them. I'm not personally aware of whether or not, I
11:29:06 16 guess, an additional -- like you said, an additional --
11:29:11 17 I think you said -- used the word "investigation" or
11:29:12 18 "audit" was done. I'm not privy to that.

11:29:16 19 Q. (By Ms. O'Brien) Okay. Now, are you familiar
11:29:22 20 with the joint stipulation that PUCO Staff and Verde
11:29:27 21 filed in this case on September 6th?

11:29:31 22 A. Yes, ma'am.

11:29:31 23 Q. Have you reviewed that?

11:29:38 24 A. Yes, I have.

11:29:39 25 Q. And is it your understanding that the

11:29:42 1 settlement between Staff and Verde addresses the
11:29:44 2 findings set forth in the Staff report?

11:29:47 3 MR. PROANO: Objection to the form of the
11:29:49 4 question.

11:29:52 5 Q. (By Ms. O'Brien) Well, let me ask you this:
11:29:55 6 What do you think the purpose of the settlement between
11:29:57 7 Staff and Verde is?

11:30:06 8 A. Again, not to use, you know, legal or
11:30:06 9 regulatory lingo, I mean, it's my understanding that
11:30:07 10 the stipulation is related to the -- to the Staff
11:30:11 11 report in some way or to this -- this matter.

11:30:29 12 Q. But you have reviewed it, correct?

11:30:31 13 A. Uh-huh, I have. Excuse me. Sorry for not
11:30:35 14 saying "yes."

11:30:38 15 Q. And you're aware that in the settlement that
11:30:41 16 Verde makes various commitments?

11:30:53 17 A. I certainly see that the joint -- the joint --
11:30:57 18 Section 3, Joint Recommendation of Signatory Parties, I
11:31:05 19 see those handful of statements or -- yeah, I guess you
11:31:13 20 can call them statements, paragraphs.

11:31:15 21 Q. And based on your review of the paragraphs,
11:31:20 22 they required Verde to do certain things; is that your
11:31:24 23 understanding?

11:31:34 24 A. Yes. As I read it, it requires us to do
11:31:38 25 certain things and to not do certain things.

11:31:41 1 Q. Okay. Fair enough.

11:31:43 2 I want to move on to -- let's see, let's
11:31:53 3 move on to your -- well, actually Verde's responses to
11:32:01 4 OCC's interrogatories. And we're going to start with
11:32:06 5 the responses to the first set. And I'll direct your
11:32:09 6 attention to Verde's response to OCC's Interrogatory
11:32:16 7 1-3.

11:32:16 8 MR. PROANO: These are the responses
11:32:17 9 dated May 13th, 2019; is that correct, Ms. O'Brien? To
11:32:28 10 help locate the document.

11:32:29 11 MS. O'BRIEN: Yeah, that should be, I
11:32:31 12 believe. Yeah, that sounds right.

11:32:35 13 A. Okay. I've got that one. You said May 13th,
11:32:37 14 right, correct?

11:32:39 15 MS. O'BRIEN: Yeah.

11:32:40 16 THE WITNESS: I got it.

11:32:42 17 Q. (By Ms. O'Brien) Okay. If you look at the
11:32:47 18 response, Verde's response to Interrogatory 1-3 --
11:33:06 19 actually I think we already covered the topic that I
11:33:09 20 want to discuss here, so I am going to move ahead. I
11:33:12 21 apologize.

11:33:13 22 Let's move onto Verde's response to
11:33:17 23 Interrogatory 1-4?

11:33:24 24 A. Okay.

11:33:25 25 Q. Do you see the response there? And here Verde

11:33:28 1 responds that it recruits third-party marketers through
11:33:33 2 industry relationships.

11:33:35 3 A. Yes, I see that.

11:33:40 4 Q. Can you describe for me what you mean by
11:33:45 5 "industry relationships"?

11:33:50 6 A. Sure. That means that it is commonplace, I'll
11:33:59 7 say, that people that -- you know, people who have
11:34:05 8 worked in sales roles within the industry have -- you
11:34:12 9 know, have vendor relationships or have experience with
11:34:14 10 a certain third-party vendor. And as they -- you know,
11:34:19 11 and they would -- they can, if they so choose,
11:34:25 12 introduce those relationships to -- to their -- to
11:34:28 13 Verde or to their -- you know, to their current
11:34:30 14 company. That's all that means.

11:34:31 15 Q. Okay. And do you see further in that response
11:34:41 16 where it says "Once a marketing firm is selected by
11:34:46 17 Verde Energy, the marketing firm must undergo Verde
11:34:49 18 Energy's onboarding process"? Do you see that
11:34:54 19 statement?

11:34:54 20 A. Yes, I do.

11:34:55 21 Q. Can you describe for me Verde Energy's
11:34:58 22 onboarding process?

11:35:08 23 A. So this -- in this context, the process for
11:35:15 24 onboarding the company and then the agents, but in
11:35:18 25 general it includes obviously education about the

11:35:26 1 utility area that the particular vendor is going to
11:35:32 2 work in, so kind of an educational piece about that.
11:35:39 3 An educational piece about the company, you know, about
11:35:42 4 Verde. And education around how to do business with
11:35:50 5 Verde. So what that -- you know, what I mean by that
11:35:54 6 is not only the, kind of, administrative stuff but, you
11:35:57 7 know, what's expected from a sales and marketing
11:36:00 8 standpoint with regard to compliance and quality and
11:36:02 9 things like that.

11:36:03 10 Q. And how is the onboarding process
11:36:10 11 accomplished? Is it -- for example, is it a training
11:36:16 12 program? Or tell me how it works.

11:36:20 13 A. I mean, I could say it -- those conversations,
11:36:29 14 depending on the content -- you know, again, like I
11:36:33 15 said, part of it's working with the -- with regards to
11:36:36 16 the third-party company, so those communications could
11:36:41 17 happen, you know, via phone or -- or Webex or something
11:36:51 18 like that.

11:36:51 19 And then in regards to the agent, that
11:36:54 20 could happen -- excuse me. That could happen via --
11:37:02 21 you know, via onsite interactions or, you know, via
11:37:10 22 conference calls or Webex. There are multiple ways
11:37:15 23 that could happen, if you're asking about how
11:37:17 24 information is delivered to the field, so to speak.

11:37:24 25 Q. Okay. And is there someone -- is there

11:37:28 1 someone employed by Verde who is responsible for
11:37:33 2 conducting the onboarding processes?

11:37:42 3 A. I wouldn't say it's one person. But, yes,
11:37:44 4 there are -- there are certainly people responsible for
11:37:46 5 that, yes.

11:37:47 6 Q. And how many?

11:37:50 7 A. To answer that question today would be
11:38:01 8 different -- a different answer than it would have been
11:38:05 9 six or eight months ago. So what time period are you
11:38:09 10 asking me?

11:38:09 11 Q. Well, I guess, why would it be different? Are
11:38:17 12 you saying it would be different because right now
11:38:19 13 Verde is not actively marketing and enrolling
11:38:23 14 customers?

11:38:24 15 A. Oh, I simply mean that, you know, employees
11:38:26 16 are hired, you know, that come on and come off. That's
11:38:29 17 all I mean. It's just -- it's just different.

11:38:32 18 Q. Okay. I get that.

11:38:34 19 A. Yeah.

11:38:34 20 Q. But in general, how many people are
11:38:39 21 responsible in Verde? Is it one person? Is it five
11:38:43 22 people? Is there a specific group whose --

11:38:43 23 A. I can tell you --

11:38:50 24 Q. Oh, go ahead.

11:38:50 25 A. I can tell you today there's -- there are five

11:39:03 1 people today that have -- that could -- again, could,
11:39:11 2 depending on how the -- you know, depending on what
11:39:15 3 vendor they're working with, could be involved in that
11:39:19 4 process.

11:39:19 5 Q. And how long does the process take?

11:39:25 6 A. Can you clarify what you mean? Which part?
11:39:36 7 The training or what?

11:39:39 8 Q. Well, when Verde -- you know, we discussed how
11:39:46 9 Verde chooses third-party marketers through industry
11:39:52 10 relationships. Once Verde chooses a third-party
11:39:57 11 marketer, how long does it take for Verde to conduct
11:40:05 12 its onboarding process before that third-party marketer
11:40:10 13 is actually marketing to customers?

11:40:14 14 A. It could take -- I would say -- I mean, I
11:40:19 15 can't give you a -- it depends, but I could -- it
11:40:23 16 takes -- again, I'll give you a range. It's certainly
11:40:27 17 on the order of weeks, not days, and can be up to --
11:40:32 18 you know, I've seen it be months, with an S. So it
11:40:36 19 just depends.

11:40:36 20 Q. Okay.

11:40:37 21 A. Like I said, it's certainly not days.

11:40:39 22 Q. So what happens in those weeks and months
11:40:45 23 before the third-party marketer can actually start
11:40:51 24 soliciting to customers?

11:40:56 25 A. Oh, I mean, it could be a number of things.

11:41:01 1 You know, sometimes it's about gathering documentation
11:41:05 2 from the -- from the company itself. Or gathering
11:41:12 3 documentation from the -- you know, related to the
11:41:14 4 agents that intend to sell on our behalf. You know,
11:41:19 5 any number of things kind of related to mobilizing a
11:41:25 6 group of folks to go sell in a location. And it also
11:41:33 7 depends on channels as well, so...

11:41:36 8 Q. Is there --

11:41:37 9 A. You know, I can't just -- I'm sorry, go ahead.

11:41:38 10 Q. Oh, go ahead. Were you finished? I'm sorry.

11:41:42 11 A. I was just going to say it just -- there are a
11:41:46 12 lot of variables that can lead to -- that impact that
11:41:48 13 time. It really depends on the situation. I can't --
11:41:51 14 there's no -- I can't give you a hard and fast rule,
11:41:54 15 like it takes, you know, five days to do X and then
11:41:57 16 five more days to do Y. It doesn't -- unfortunately,
11:42:02 17 it doesn't work that way.

11:42:03 18 Q. Okay. Well, does Verde have a formal process
11:42:06 19 for onboarding?

11:42:08 20 A. There is a -- I have seen an onboarding --
11:42:18 21 kind of a checklist, yes. I do not have it committed
11:42:23 22 to memory.

11:42:23 23 Q. Do you know what the steps are on that
11:42:31 24 checklist?

11:42:31 25 A. That's why I say I don't have it committed to

11:42:34 1 memory. What I've told you -- what I outlined before
11:42:39 2 are some of the steps. Again, you know, at a high
11:42:44 3 level, you know, they need to be educated about our
11:42:49 4 company. They need to be educated about the utility.
11:42:53 5 They need to be educated about the rules within a
11:42:57 6 utility or a state. They need to be educated about the
11:43:02 7 rules with respect to doing business with Verde. They
11:43:05 8 need to be educated about the product that they are
11:43:10 9 going to sell. You know, they need to -- there's the,
11:43:13 10 kind of, administrative side, right? They need to
11:43:18 11 be -- what's the word I'd use -- provisioned into the
11:43:24 12 third-party verification system. So those are some of
11:43:28 13 the things they need to do. Like I said, that is --
11:43:32 14 that's not exhaustive, but those are the ones that come
11:43:36 15 to mind.

11:43:36 16 Q. Are background checks included in that?

11:43:39 17 A. Yes. That's part of the -- that's what I'd
11:43:46 18 consider part of the provisioning. So in order to be,
11:43:49 19 you know, an agent, yes.

11:43:52 20 Q. And for the third-party vendors that Verde
11:43:57 21 uses, do you know whether -- do you know whether the
11:44:01 22 agents that are used are primarily located in the
11:44:04 23 United States or are they located overseas?

11:44:08 24 A. I would say -- I mean, as far as I know, they
11:44:22 25 are -- from a door-to-door standpoint, obviously

11:44:26 1 they're located -- they're located in the United
11:44:28 2 States.

11:44:28 3 Q. Yeah, clearly.

11:44:29 4 A. I am aware of some third-party vendors that
11:44:37 5 are not located in the United States.

11:44:40 6 Q. Do you know about how many third-party vendors
11:44:44 7 that Verde uses that are not located in the US?

11:44:49 8 A. No, I don't know how many.

11:44:56 9 Q. Okay.

11:44:57 10 A. Especially right -- like, you know, obviously
11:45:00 11 the answer is zero right now.

11:45:03 12 Q. Sure.

11:45:04 13 A. But, no, I'm not -- I don't have any
11:45:09 14 information that would tell me that.

11:45:13 15 Q. Okay. Now if I could direct your attention to
11:45:18 16 Verde's response to OCC Interrogatory 1-005.

11:45:27 17 A. Oh, the same tab. Okay. Sorry.

11:45:34 18 Yes, I'm there.

11:45:35 19 Q. Okay, great. And here in the response you
11:45:42 20 state that Verde compensates its own employees via an
11:45:51 21 hourly rate with an additional fixed dollar amount
11:45:54 22 incentive for each successful enrollment. Do you see
11:45:58 23 that statement?

11:45:59 24 A. Yes.

11:45:59 25 Q. What is the hourly rate that Verde pays its

11:46:04 1 employee sales representatives?

11:46:10 2 A. I do not know.

11:46:10 3 Q. Can you describe for me the additional fixed
11:46:14 4 dollar amount incentive?

11:46:17 5 A. I can tell you that it's -- again, I'm just
11:46:22 6 aware from personal knowledge that it's on the -- you
11:46:25 7 know, it's on the order of a single -- you know, it's a
11:46:30 8 single digit number. I don't know what it is, but it's
11:46:32 9 one digit.

11:46:34 10 Q. So by "one digit," do you mean like if a Verde
11:46:41 11 employee enrolls a customer, they might receive \$5 per
11:46:45 12 customer? Is that what we're talking about, or is it
11:46:49 13 something different?

11:46:49 14 A. The -- what this is referring to, it would be
11:46:54 15 for a successful enrollment or, you know, renewal.
11:47:00 16 It'd be between, like, 1 and -- yeah, between 1 and \$9.
11:47:05 17 Yeah, that's what I mean.

11:47:09 18 Q. And then that would be on top of whatever the
11:47:11 19 hourly rate would be?

11:47:13 20 A. Yes.

11:47:14 21 Q. And is the hourly rate more than minimum wage?

11:47:26 22 A. I believe that it is. I thought -- what's
11:47:31 23 minimum wage? Like 7-something?

11:47:33 24 Q. I'm not sure.

11:47:36 25 A. I know what it was when I was working, so...

11:47:41 1 Q. I don't even want to tell you what the minimum
11:47:43 2 wage was when I started working eons ago because it was
11:47:47 3 pretty pathetic.

11:47:49 4 A. So assuming that it's like 7-something, I
11:47:51 5 believe that the hourly rate is over that.

11:47:54 6 Q. Okay, great. And here, further in that
11:48:12 7 response, Verde states that for agents and independent
11:48:17 8 contractors of marketing firms, Verde does not directly
11:48:22 9 compensate those representatives and cannot verify how
11:48:25 10 the representatives are compensated.

11:48:28 11 How does Verde compensate the marketing
11:48:31 12 firm?

11:48:37 13 A. Can you be more specific?

11:48:42 14 Q. Okay. I'll try to give you an example. For
11:48:45 15 example, does Verde pay the marketing firm -- do they
11:48:51 16 pay them on a monthly basis or is it like a yearly
11:48:57 17 contract? That's what I'm trying to get at.

11:48:59 18 A. Most of the vendors, to my knowledge, are paid
11:49:02 19 on a -- are paid weekly or biweekly, for the most part.
11:49:12 20 I'm sure that that varies, though.

11:49:16 21 Q. Okay. So if they are paid weekly or biweekly,
11:49:20 22 does Verde -- when it works with a marketing vendor,
11:49:28 23 does it have like a contract with that vendor? I'm
11:49:30 24 trying to understand how the relationship works. I'm
11:49:36 25 assuming that there's some sort of contract but I don't

11:49:41 1 know and that's what I'm asking you.

11:49:43 2 A. So that's why I said that the -- that the
11:49:45 3 payments -- payment schedule or payment arrangements
11:49:49 4 could vary, because it varies by contract.

11:49:52 5 Q. Okay. So when -- and so when Verde enters
11:49:58 6 into a contract with a marketing vendor, is it --
11:50:05 7 what's usually the term of that contract? Is it a year
11:50:08 8 or six months or what's the nature of the time frame?

11:50:13 9 A. I don't know the answer to that question
11:50:17 10 because I'm sure that it varies from vendor to vendor.

11:50:22 11 Q. Okay. And just to get an idea, what -- do you
11:50:30 12 know what Verde pays these vendors on a weekly or a
11:50:34 13 biweekly basis?

11:50:37 14 MR. PROANO: Ms. O'Brien, do you mean the
11:50:41 15 individual representatives of the vendor or the vendor
11:50:44 16 itself?

11:50:44 17 MS. O'BRIEN: No, the vendors themselves
11:50:47 18 because the response here to the discovery request says
11:50:49 19 that Verde doesn't know how the individual
11:50:52 20 representatives are compensated.

11:50:54 21 Q. (By Ms. O'Brien) So my question is, you know,
11:50:56 22 what are the vendors paid?

11:51:04 23 MR. PROANO: If you know the answer, you
11:51:06 24 may proceed, Ms. Jordan.

11:51:11 25 A. I don't know vendor to vendor, you know,

11:51:15 1 sitting here today, what each vendor is paid, you know,
11:51:20 2 on their -- during their pay cycle with respect to when
11:51:26 3 they were selling for Verde Ohio.

11:51:29 4 Q. (By Ms. O'Brien) Okay. So you don't have an
11:51:31 5 idea -- any idea at all -- as to what they're paid or
11:51:38 6 what a particular vendor contract is worth?

11:51:43 7 MR. PROANO: I'm just going to object
11:51:45 8 to -- this is just kind of vague. I mean, we're
11:51:48 9 talking about a number of vendors that have provided
11:51:51 10 services in the state of Ohio, and Ms. Jordan testified
11:51:55 11 she doesn't know specifically what vendor was paid
11:51:58 12 what. I just want to make sure the record is clear
11:52:03 13 that it's just a little bit undefined question.

11:52:05 14 Q. (By Ms. O'Brien) For example -- and I have
11:52:07 15 no -- because I have no idea at all. So, for example,
11:52:09 16 is a vendor paid -- you said that they were paid on --
11:52:13 17 to be paid on a biweekly basis or a weekly basis.

11:52:20 18 Would -- would it be -- would Verde, for
11:52:23 19 example, pay a vendor, I don't know, a thousand dollars
11:52:26 20 a week for services or is that -- I'm trying to get an
11:52:33 21 idea of just a general number of what they pay vendors.

11:52:42 22 A. I understand what you're asking. The answer
11:52:44 23 is that it varies. It's all over the map.

11:52:46 24 Q. Okay.

11:52:47 25 A. There is no -- I literally -- there is no hard

11:52:52 1 and fast -- I couldn't even give you a rule of thumb,
11:52:57 2 it's that must variation.

11:52:59 3 Q. Okay. Do you know what the high range would
11:53:01 4 be?

11:53:01 5 A. No. I mean, if anything I did would be -- it
11:53:14 6 would be guessing, so no.

11:53:16 7 Q. Okay.

11:53:16 8 A. It's truly -- it truly is -- it truly varies
11:53:24 9 quite widely.

11:53:24 10 Q. Okay. Yeah, I don't want you to guess.

11:53:26 11 But on top of whatever the vendor would
11:53:28 12 be paid for the services, would there be an incentive
11:53:35 13 for a certain number of enrollments?

11:53:44 14 A. I do not know of -- I'm not aware of any
11:53:48 15 relative to the -- the sales in Ohio. I can tell you
11:53:52 16 as a general practice, I mean, there -- you know, there
11:53:58 17 could be. I'm not aware of any, but I have heard of
11:54:01 18 that just from my business knowledge.

11:54:03 19 Q. Okay. And tell me a little bit about the
11:54:18 20 reasons why Verde would terminate a relationship with a
11:54:24 21 vendor.

11:54:29 22 A. I mean, are you just asking me, like, why?
11:54:39 23 What are -- I mean, there could be a number of reasons.

11:54:41 24 Q. Well, what are some of them?

11:54:42 25 A. One, convenience. Just because we decide from

11:54:48 1 a -- because we decide to. You know, quality could be
11:54:54 2 a reason. You know, maybe -- again, there could be a
11:55:05 3 number of reasons. It could be a disagreement on
11:55:07 4 contract terms. Those are a few --

11:55:11 5 Q. Okay. Well, let's go back to -- were you
11:55:14 6 finished?

11:55:14 7 A. I said those were a few.

11:55:19 8 Q. Okay. So let's go back to quality. In what
11:55:22 9 circumstances would Verde terminate its relationship
11:55:28 10 with a vendor for quality concerns?

11:55:31 11 A. I mean, I haven't -- again, not sitting here
11:55:40 12 looking at each individual contract, but generally
11:55:43 13 speaking, I mean, we can terminate for any -- you know,
11:55:46 14 any kind of fraud or violations of state utility rules
11:55:53 15 and violations of, kind of, the code of conduct
11:56:01 16 within -- within Verde's code of conduct.

11:56:08 17 Q. And in your experience, has -- when Verde does
11:56:13 18 terminate a relationship with a vendor is -- you know,
11:56:19 19 how severe does a violation need to be before Verde
11:56:22 20 terminates the relationship with a vendor?

11:56:25 21 A. I couldn't speculate on that because I'm not
11:56:34 22 the one that would do it, but I certainly know it's
11:56:39 23 happened.

11:56:39 24 Q. Well, who within -- who within Spark Energy
11:56:43 25 would be responsible for terminating vendor

11:56:47 1 relationships?

11:56:48 2 A. I don't know if I'd say, you know,
11:56:57 3 responsible. I mean, but like I mentioned, there were
11:57:00 4 folks that manage vendor relationships.

11:57:03 5 Q. Okay.

11:57:04 6 A. I guess, you know, as a matter -- a legal
11:57:06 7 matter, I guess, would be, you know, someone in legal
11:57:09 8 to technically do it. But, you know, the folks in
11:57:13 9 sales would be having those conversations that, you
11:57:17 10 know -- that would say, hey, you know, we're parting
11:57:22 11 ways.

11:57:22 12 Q. Let's jump ahead to Verde's response to
11:57:28 13 Interrogatory 1-006. And let me know when you're
11:57:37 14 there.

11:57:37 15 MR. PROANO: Ms. O'Brien, before we get
11:57:38 16 into a new topic, is this a good time to break for
11:57:42 17 lunch?

11:57:42 18 MS. O'BRIEN: Yeah, actually, that would
11:57:43 19 be. Why don't we do that. I didn't look at the time.
11:57:46 20 But, yes, you are correct. It's 1:00 o'clock. How
11:57:52 21 long would you like to take?

11:57:53 22 MR. PROANO: I'd like to wrap up the depo
11:57:55 23 this afternoon, obviously, by 5:00. So if everyone can
11:58:03 24 have lunch in about 40 minutes, does that work for
11:58:06 25 everyone?

11:58:07 1 MS. O'BRIEN: Yes, that works for us.

11:58:10 2 MR. PROANO: Ms. Jordan? Ms. Keene?

11:58:13 3 MS. KEENE: It will fine with us. Well,
11:58:15 4 we'll reconvene at 1:40 our time and 12:40 central --
11:58:23 5 12:45 central.

12:54:56 6 (Off the record 11:58 a.m. to 12:55 p.m.)

12:55:09 7 Q. (By Ms. O'Brien) Ms. Jordan, if you could
12:55:23 8 turn to Verde's response to Interrogatory 1-6. Let me
12:55:33 9 know when you're there.

12:55:43 10 A. Yes, I found it.

12:55:45 11 Q. Okay. And here the response references Verde
12:55:49 12 Energy's quality audit process. Can you describe that
12:55:52 13 for me?

12:55:53 14 A. So there are a couple of things. There's an
12:56:08 15 audit of a sampling of sales calls, if it's
12:56:12 16 telemarketing. There's an audit of TPV, third-party
12:56:19 17 verifications, for those channels that have those. The
12:56:31 18 process also includes -- I guess you could call them --
12:56:34 19 field audits or spot checks. Yeah, I guess that's
12:56:42 20 the -- some pieces of the audit process.

12:56:47 21 Q. Okay. And how often do the audits take place?

12:56:50 22 A. Well, the review of third-party verifications
12:57:08 23 and of sales calls is ongoing, right? It's a
12:57:12 24 continuous process. It's not -- not limited to one
12:57:17 25 point in time.

12:57:22 1 Q. Okay. So I gets it's -- for example, if you
12:57:25 2 were applying the quality audit process to a particular
12:57:28 3 vendor that provides telemarketing services, how -- I
12:57:34 4 mean, what would that look like? I mean, how often --
12:57:39 5 what would that consist of? What would the auditor do?

12:57:47 6 MR. PROANO: Object. That question is
12:57:49 7 very compound.

12:57:51 8 MS. O'BRIEN: Yeah, I realize that. I'll
12:57:54 9 rephrase.

12:57:57 10 Q. (By Ms. O'Brien) What I want to know is if
12:57:59 11 you're auditing a particular telemarketing vendor, for
12:58:02 12 example, when does -- when does the auditor conduct its
12:58:08 13 audit? I mean, you said it was an ongoing process. I
12:58:14 14 just -- can you explain that further --

12:58:17 15 A. Yes.

12:58:17 16 Q. -- what you mean by that?

12:58:21 17 A. So what I mean by a "continuous process" is
12:58:27 18 that, for example, if a -- if the audit company is
12:58:35 19 auditing TPVs, for example -- let's just say, for
12:58:42 20 example, they had a hundred TPVs to review. What I
12:58:47 21 mean by it's happening in an ongoing process, it's
12:58:50 22 not -- you know, I would not think -- I don't know, but
12:58:53 23 I would not think it's feasible to review all 100 in
12:58:59 24 one day. That's what I mean. So they would be working
12:59:01 25 through a battery or a collection of files and scoring

12:59:09 1 them.

12:59:10 2 Q. Okay.

12:59:11 3 A. And that process -- that's what I mean by an
12:59:14 4 ongoing process. That's not something that can be done
12:59:17 5 at a given point in time.

12:59:20 6 Q. And with respect to door-to-door marketing,
12:59:24 7 how are -- how are those marketing or the vendors
12:59:33 8 audited for door-to-door services?

12:59:44 9 A. So the part about the TPVs, the third-party
12:59:49 10 verifications, I mean, that applies to door-to-door
12:59:53 11 agents, as well.

12:59:59 12 Q. Okay.

01:00:00 13 A. There also are the field audits. And then I
01:00:04 14 don't know if you -- I don't know if this is considered
01:00:06 15 part of the audit process, but that we also have
01:00:10 16 welcome calls that occur -- that are -- go out to
01:00:14 17 customers or go out to people who have been enrolled
01:00:22 18 shortly after that process as a -- as another type of
01:00:26 19 QA measure. I don't know if you'd consider that part
01:00:30 20 of an audit, but it's another QA measure.

01:00:33 21 Q. And when you say QA -- oh, quality audit; is
01:00:36 22 that what you're referring to as QA?

01:00:38 23 A. I was actually meaning quality assurance.

01:00:43 24 Q. Oh, okay. Well, I'm glad I asked, then.

01:00:46 25 Okay. Now, further down in the response,

01:00:54 1 Verde responds "In very limited cases, some internal
01:00:57 2 call service employees, internal call center
01:01:00 3 representatives, interact with potential customers."

01:01:04 4 Can you explain what those circumstances
01:01:08 5 are?

01:01:09 6 A. Yeah. The most obvious one, right, is if a
01:01:17 7 customer makes an inbound call to the customer service
01:01:20 8 number.

01:01:22 9 Q. Okay.

01:01:23 10 A. I'd say that's the primary way that would
01:01:29 11 happen.

01:01:29 12 Q. So would it be primarily for those customers
01:01:34 13 who call into Verde who are seeking information about
01:01:38 14 enrolling?

01:01:41 15 A. Can you rephrase the question?

01:01:43 16 Q. Well, I guess your response here, it says "in
01:01:49 17 very limited cases." I'm trying to get at what those
01:01:55 18 very limited cases are.

01:01:58 19 A. So the sentence, yeah, with potential
01:02:03 20 customers, that would be the limited case, that there
01:02:05 21 is a -- that, you know, someone would make an inbound
01:02:11 22 call.

01:02:17 23 The other -- you know, that's one way.
01:02:19 24 And then in, again, very, very limited cases there --
01:02:25 25 possibly -- again, I do not know if this happened in

01:02:29 1 Ohio, but there is a team that can make an outbound
01:02:33 2 call to, like, let's say a contract is coming up for
01:02:40 3 expiration, you know, and they want to have a customer
01:02:44 4 renew or they might call a potential customer. And
01:02:46 5 when I say "potential customer," if it's like a win
01:02:49 6 back. So someone who was a customer and dropped, maybe
01:02:53 7 to try to win back that business. So I guess, you
01:02:58 8 know -- so technically that would be a potential
01:03:00 9 customer again.

01:03:01 10 Q. Okay. So in those cases when you're talking
01:03:05 11 about a win back situation, which I'm taking to mean
01:03:09 12 involves a case where you have a customer that's been a
01:03:15 13 Verde customer and then leaves and you have an internal
01:03:20 14 call service employee who contacts that customer to win
01:03:23 15 back the business, do you ever -- or does Verde ever
01:03:31 16 use third-party vendors for that function?

01:03:36 17 MR. PROANO: Object to the form of the
01:03:39 18 question.

01:03:41 19 A. Are you asking me if Verde uses or has used
01:03:45 20 third-party vendors for win backs?

01:03:48 21 Q. (By Ms. O'Brien) Yes. Thank you.

01:03:50 22 A. So, no, not that I'm aware of. We have not,
01:04:02 23 you know, retained the services of anyone to go after
01:04:04 24 former customers.

01:04:05 25 Q. Okay. So would you say that for the

01:04:10 1 internal -- for Verde's internal call service
01:04:19 2 employees, would you say that their -- their function
01:04:21 3 is primarily winning back prior Verde customers, as
01:04:25 4 opposed to directly marketing services to new
01:04:29 5 customers?

01:04:31 6 MR. PROANO: Objection to the form of the
01:04:33 7 question.

01:04:34 8 Q. (By Ms. O'Brien) You can -- if you understand
01:04:36 9 my question, you can go ahead and answer. I'll
01:04:40 10 rephrase it, though, if you don't understand.

01:04:43 11 A. I can tell you that acquisition is generally
01:04:49 12 not their primary role in any way, in either
01:04:53 13 circumstance.

01:04:54 14 Q. Okay.

01:04:54 15 A. Because I think you said "primarily." No,
01:04:57 16 that's not their -- that's not their primary job.

01:04:59 17 Q. Okay. Thank you. Actually, that was the
01:05:02 18 answer I was looking for.

01:05:06 19 And then with respect to the internal
01:05:09 20 call service employees who are involved in winning back
01:05:15 21 customers, how many of these employees does Verde have?

01:05:22 22 A. I do not know the answer to that question.

01:05:28 23 Q. Okay. If you could turn now to your
01:05:35 24 response -- or Verde's response -- to Interrogatory
01:05:38 25 1-007.

01:05:45 1 A. Yes, yes, I have it.

01:05:47 2 Q. And the response references or states that
01:05:53 3 Verde Energy employs an audit firm responsible for
01:05:56 4 reviewing the compliance of randomly selected TPV
01:06:02 5 calls. What -- who is that audit firm?

01:06:07 6 A. That would be J. Lodge.

01:06:12 7 Q. And is that the only auditing firm that Verde
01:06:15 8 uses?

01:06:16 9 A. To my --

01:06:19 10 MR. PROANO: Are you talking about
01:06:20 11 currently or just in Ohio, Ms. O'Brien?

01:06:22 12 MS. O'BRIEN: In Ohio.

01:06:29 13 A. To my knowledge that is the only one that has
01:06:31 14 been used with respect to Ohio. And that's the only
01:06:37 15 one I'm aware of today.

01:06:39 16 Q. (By Ms. O'Brien) Okay. And further down in
01:06:41 17 the response there's a statement: "Additionally Verde
01:06:45 18 Energy conducts random field audits of marketing
01:06:49 19 firms." Explain the random field audit.

01:06:59 20 A. It's pretty much what's outlined in the rest
01:07:08 21 of the response with respect to the in-person -- an
01:07:13 22 in-person visit.

01:07:16 23 Q. And how often are they conducted?

01:07:19 24 A. I don't know how often they were conducted
01:07:24 25 with respect to Ohio, you know, in the last several --

01:07:28 1 several months.

01:07:29 2 Q. Okay. But are they normally conducted on a
01:07:33 3 certain schedule; like, for example, twice a year?

01:07:40 4 A. I can tell you I'm aware that, at a minimum,
01:07:52 5 that the directive is to visit quarterly at a -- but
01:07:59 6 that's a minimum. And again, I don't know, you know,
01:08:05 7 what occurred back then. I didn't -- I did not look
01:08:10 8 into that.

01:08:11 9 Q. Okay. How does Verde -- how does Verde
01:08:16 10 determine who it will market its services to?

01:08:24 11 MR. PROANO: In Ohio, Ms. O'Brien?

01:08:27 12 MS. O'BRIEN: Yes.

01:08:28 13 MR. PROANO: How it marketed in the past?

01:08:30 14 MS. O'BRIEN: Yes.

01:08:31 15 MR. PROANO: Okay. Thank you.

01:08:32 16 A. Can you be more specific?

01:08:37 17 Q. (By Ms. O'Brien) Like, for example, how does
01:08:39 18 Verde determine what potential customers they will
01:08:43 19 call?

01:08:46 20 A. Okay. So you're asking about --

01:08:48 21 MR. PROANO: I'm going to object.

01:08:50 22 Hold on, Ms. Jordan. Sorry to cut you
01:08:53 23 off.

01:08:54 24 I know this is detailed, Ms. O'Brien, but
01:08:56 25 I think it is important that we use the right tense

01:09:00 1 because Verde is not marketing in Ohio currently. So
01:09:04 2 I'm going to object every time there's a question that
01:09:07 3 indicates there's current marketing. This is all in
01:09:10 4 the past.

01:09:11 5 MS. O'BRIEN: Okay.

01:09:12 6 MR. PROANO: And I'm sorry to be so
01:09:14 7 detail oriented, but it is an important issue in this
01:09:17 8 case.

01:09:17 9 Q. (By Ms. O'Brien) Okay. How has -- in the
01:09:22 10 past how has Verde determined who it is going to call
01:09:25 11 to market services to?

01:09:29 12 A. I mean, in general, I mean, the process -- I
01:09:37 13 mean, the first filter would be to identify people who
01:09:42 14 live within the territory that can be served by -- you
01:09:49 15 know, in a deregulated territory. That's the first
01:09:52 16 criteria.

01:09:54 17 Q. Okay. And how does Verde get that
01:09:57 18 information?

01:09:59 19 A. I would -- I would be speculating if I knew
01:10:06 20 how -- kind of the -- the data aggregation behind it,
01:10:12 21 but that typically involves working with a company
01:10:20 22 whose company that -- whose job it is to provide leads.

01:10:22 23 Q. Okay.

01:10:22 24 A. When I say "leads," telemarketing leads.

01:10:27 25 Q. Sure. Now, the companies that would provide

01:10:30 1 telemarketing leads, are they different than the
01:10:33 2 vendors that Verde used to market and enroll customers,
01:10:42 3 potential customers, in Ohio?

01:10:43 4 MR. PROANO: Could you restate the --
01:10:47 5 Ms. O'Brien, I'm just going to object. Could you
01:10:50 6 restate the question, please?

01:10:51 7 MS. O'BRIEN: Okay.

01:10:51 8 Q. (By Ms. O'Brien) Well, when Verde was
01:10:54 9 marketing and enrolling customers in the past and Verde
01:10:59 10 obtained leads from a company, marketing leads, is the
01:11:06 11 company that provides those leads different from the
01:11:09 12 vendor that markets and solicits the customers?

01:11:16 13 A. Yes. And I want to clarify something that I
01:11:22 14 said.

01:11:24 15 So in most cases, Verde will acquire the
01:11:34 16 leads and -- and provide them to the vendor. There are
01:11:40 17 other cases where the leads can be acquired elsewhere.
01:11:53 18 In both cases -- or in all cases, the leads are, I'll
01:12:03 19 say -- what's the word I want to say -- consolidated
01:12:07 20 with a vendor that is -- consolidated with a -- with
01:12:12 21 Verde's lead vendor. I know that's super confusing.

01:12:17 22 Q. No, actually --

01:12:18 23 A. But I wanted it to be clear.

01:12:20 24 Q. No, that's fine.

01:12:22 25 And is the same true for leads regarding

01:12:29 1 customers who Verde solicited through door-to-door
01:12:34 2 marketing?

01:12:48 3 A. The same true about -- I mean, what I was
01:12:48 4 referring to was telemarketing leads; so, no, that
01:12:50 5 would not apply to door-to-door.

01:12:52 6 Q. Okay. So how does -- or how did Verde obtain
01:12:56 7 leads for it's door-to-door marketing?

01:13:09 8 A. I mean, that process is different in that the
01:13:14 9 teams are physically located, right? It's more obvious
01:13:23 10 who or which households or which residences are located
01:13:26 11 in an area that Verde serves. So I would not
01:13:35 12 characterize that as a lead, per se.

01:13:38 13 Q. Okay. Well, how did Verde determine which
01:13:47 14 doors to knock on?

01:13:54 15 MR. PROANO: Object to the form of the
01:13:56 16 question.

01:14:02 17 A. I -- I don't -- I'm not privy to any specifics
01:14:07 18 around that. What I do know is that there are general,
01:14:17 19 kind of, internal guidelines of where not to go. I'm
01:14:24 20 not privy to -- you know, again, that would be the
01:14:28 21 sales team that would work on which -- like you said,
01:14:34 22 what doors to knock or what areas to go to within a --

01:14:36 23 Q. (By Ms. O'Brien) Okay. What are the internal
01:14:40 24 guidelines regarding what areas not to go to?

01:14:43 25 MR. PROANO: Object to the form of the

01:14:44 1 question.

01:14:51 2 A. So when I say "where not to go," obviously
01:14:55 3 there are -- I mean, just when you think of our own
01:14:58 4 homes, you know, there are neighborhoods that say
01:15:00 5 things and, you know, have posted non-soliciting signs.
01:15:03 6 And obviously if it's a -- I don't know, maybe it's not
01:15:10 7 obvious. But for example, you might not want
01:15:13 8 door-to-door agents to go inside of a closed -- you
01:15:19 9 know, a closed apartment building or something like
01:15:21 10 that. That's what I'm talking about.

01:15:33 11 Q. (By Ms. O'Brien) And why is that?

01:15:33 12 A. I mean, it's just -- that's an internal -- I
01:15:35 13 guess just an internal guideline. You know, I am aware
01:15:41 14 that some suppliers are perfectly okay with that.

01:15:47 15 Q. I'm sorry, I didn't catch that last part.

01:15:49 16 A. I said that -- I said it's just a -- it's a
01:15:51 17 company internal -- it's just an internal company
01:15:55 18 preference. I said that I am aware that there are some
01:15:58 19 suppliers that are perfectly okay with that.

01:16:06 20 Q. And Verde is not?

01:16:14 21 A. In general -- again, I'm not speaking to
01:16:17 22 specific -- specific vendor contracts; but based on my
01:16:20 23 personal knowledge, in general, door-to-door agents are
01:16:29 24 prohibited from going -- going inside those types of,
01:16:32 25 you know, buildings where there's a single entrance and

01:16:37 1 then you -- you know, a single entrance that gains
01:16:39 2 access to, you know, multiple apartments or something
01:16:41 3 like that.

01:16:42 4 Q. Okay. Does Verde have other restrictions with
01:16:45 5 respect to door-to-door soliciting?

01:16:49 6 MR. PROANO: Object to the form of the
01:16:50 7 question to the extent it's in the present tense.

01:16:55 8 A. I mean, there's a -- there's a code of conduct
01:16:59 9 that outlines some of that. And there -- I believe
01:17:03 10 it's also in the training. But, yes, there -- I mean,
01:17:06 11 again, I don't have it in front of me. I'm sure it's
01:17:08 12 in here somewhere. But, yes, there are other -- other
01:17:13 13 guidelines.

01:17:14 14 Q. (By Ms. O'Brien) Do you know of some of them?

01:17:16 15 A. Oh, sure. I mean, are we talking -- so we're
01:17:23 16 talking about door-to-door still?

01:17:25 17 Q. Yes.

01:17:28 18 MR. PROANO: Could I -- objection. Is
01:17:30 19 there a question pending?

01:17:32 20 MS. O'BRIEN: Yeah. I asked her if she
01:17:34 21 knows of some of the guidelines. She said that she was
01:17:40 22 aware -- I believe she testified that she was aware of
01:17:44 23 guidelines that are set forth in the code of conduct
01:17:49 24 but she didn't know all of them.

01:17:51 25 If I'm mischaracterizing your statement,

01:17:55 1 Ms. Jordan, please let me know. But I'm just asking
01:17:58 2 her which guideline she knows of.

01:18:01 3 MR. PROANO: Ms. Jordan, do you
01:18:04 4 understand the question?

01:18:06 5 THE WITNESS: Yes, I believe I understand
01:18:07 6 the question.

01:18:18 7 A. So, there are -- like I said, there are a lot
01:18:25 8 of guidelines. So some of them are, you know,
01:18:27 9 regarding do not -- it's kind of a list of dos and
01:18:32 10 don'ts, right? There's: Do not represent yourself as
01:18:35 11 being with the utility. Don't sell or solicit to
01:18:40 12 people who are, I'll just say, unable to make decisions
01:18:44 13 for themselves; so minors or people that are, you
01:18:53 14 know -- you know -- or, you know, seniors that don't
01:19:00 15 understand what they're signing up for. There are
01:19:03 16 guidelines around not -- you know, not going into the
01:19:09 17 customer's home or the prospect's home. You know,
01:19:16 18 always wearing your -- when I say "always wearing
01:19:21 19 your," that the agents are required to wear a couple of
01:19:24 20 identifying clothes and/or tags or ID badges. Sorry.
01:19:36 21 So those -- those are a few.

01:19:39 22 Q. Okay. Now let's talk a little about the
01:20:03 23 customer complaint process.

01:20:04 24 When a customer has a complaint, either
01:20:08 25 about being enrolled in Verde's services or Verde's

01:20:17 1 service itself, describe for -- describe for me the
01:20:21 2 process that Verde takes to resolve the complaint.

01:20:26 3 A. It depends. So, can you be more specific with
01:20:38 4 what you want to know?

01:20:39 5 Q. For example, suppose a potential Verde
01:20:42 6 customer has a complaint about enrollment, and that
01:20:48 7 customer contacts Verde and notifies them of that
01:20:52 8 complaint. What would Verde do?

01:20:58 9 MR. PROANO: Object to the form of the
01:21:00 10 question.

01:21:08 11 A. Okay. So if the customer contacts Verde and
01:21:12 12 it comes in, you know, through the call center, a
01:21:20 13 couple of things happen. Obviously the immediate --
01:21:28 14 you know, it depends on the nature of the inquiry. So
01:21:31 15 the immediate customer -- customer concern is
01:21:35 16 addressed. So if it's regarding -- kind of, you know,
01:21:39 17 if they're asking, hey, was I enrolled or not, or
01:21:45 18 whatever, obviously that has to be addressed. And then
01:21:50 19 the -- after that, I mean, an effort to gather
01:21:54 20 information begins, again, depending on the nature of
01:21:57 21 the complaint.

01:22:05 22 Q. (By Ms. O'Brien) Okay. Does Verde have
01:22:11 23 employees that are dedicated to customer complaints?

01:22:17 24 A. I would not say we have customers -- employees
01:22:29 25 dedicated to customer complaints. Our customer care

01:22:32 1 agents, you know, have -- have multiple skills, as used
01:22:40 2 in the -- in the -- you know, the terminology used in
01:22:44 3 the call center. They're skilled in different multiple
01:22:48 4 processes.

01:22:49 5 Q. And how many customer care agents does Verde
01:22:53 6 have?

01:22:56 7 A. Oh, ma'am, I do not know.

01:22:58 8 Q. Would you say it's 25? More than 25?

01:23:14 9 A. I am certain that there are more than 25
01:23:14 10 people that are on -- you know, considered on the
01:23:15 11 customer care team. Now, again, whether or not they
01:23:18 12 are employees or contractors, I don't know. But if
01:23:21 13 you're asking -- you know, functionally speaking, are
01:23:23 14 there more than 25 folks that answer the phones? Yes,
01:23:27 15 ma'am.

01:23:27 16 Q. But, for example, less than 50, would you say?

01:23:31 17 A. I would not venture a guess.

01:23:35 18 Q. Okay.

01:23:35 19 A. I can tell you it's less than a hundred.

01:23:38 20 Q. Okay. Now I would like for you to take a look
01:23:53 21 at another document that Verde provided in response to
01:23:57 22 discovery, and this one is labeled Verde 000528. If
01:24:04 23 you could locate that and let me know when you found
01:24:07 24 it.

01:24:22 25 A. I found it.

01:24:23 1 Q. Great. And on the first page there, about
01:24:37 2 three quarters of the way down, you'll see a statement
01:24:40 3 there that says "We determine that due to it not
01:24:42 4 complying to various Ohio administrative codes, it
01:24:45 5 should be deemed a no sale." Do you see that
01:24:52 6 statement?

01:24:57 7 A. I do see that.

01:25:01 8 Q. What is a no sale?

01:25:05 9 A. I'm not going to speculate, like, what this
01:25:08 10 person meant. But in, kind of, company nomenclature,
01:25:21 11 that means -- that it's typically referred to a -- a
01:25:26 12 sales intersection that gets to the point of
01:25:32 13 verification and then should not have been verified.
01:25:35 14 That is what it means to me. I do not know what she
01:25:39 15 meant in -- you know, I don't know if she means that
01:25:43 16 specific definition in this e-mail. But in general --
01:25:45 17 I mean, either way, you know, it should not -- it's
01:25:47 18 something that should not have ended up in a --
01:25:52 19 resulted in an enrollment.

01:25:55 20 Q. Okay. In what circumstances would -- would a
01:26:01 21 potential customer enrollment be deemed a no sale?

01:26:05 22 A. Again, I don't know what -- you know, what she
01:26:21 23 meant in this particular issue; but in general, a no
01:26:24 24 sale would be caused by a customer failing to complete
01:26:33 25 the TPV process. So what that means is they could

01:26:36 1 have -- there are a number of reasons that a TPV
01:26:41 2 could -- might not be completed. But in general --
01:26:46 3 again, the general idea of it, of a third-party
01:26:51 4 verification, is to make sure that the customer or the
01:26:56 5 prospective customer understands -- understands what
01:26:58 6 they're signing up for and that they are agreeing to
01:27:06 7 it. So --

01:27:06 8 Q. Are there any other -- oh, I'm sorry.

01:27:08 9 A. That's all right.

01:27:08 10 Q. Are there any --

01:27:08 11 A. So to the --

01:27:08 12 Q. Oh, I'm sorry I'm talking over you.

01:27:08 13 A. Yeah, I know it's hard. I was just saying to
01:27:11 14 the extent that that's -- you know, that is the general
01:27:13 15 idea in terms of a -- you know, again, using my -- the
01:27:21 16 way that I have used the term "no sale," that's how
01:27:27 17 someone would fail a TPV.

01:27:29 18 Q. Are there any other circumstances where a
01:27:34 19 potential enrollment would be deemed a no sale?

01:27:37 20 A. Yes.

01:27:38 21 Q. And what are those?

01:27:46 22 MR. PROANO: Object to the form of the
01:27:47 23 question.

01:27:55 24 A. Again, so when I said "no sale," I was
01:27:57 25 referring to a TPV. But any circumstance where a --

01:28:02 1 you know, a -- again, a customer -- there seems to be a
01:28:11 2 mismatch between the understanding of the customer and
01:28:13 3 the -- you know, and the contract that was signed. If
01:28:19 4 there's a mismatch between those two in understanding,
01:28:23 5 you know, that could be a no sale. Or if the -- or
01:28:26 6 said differently, if the QA process, for example, hears
01:28:34 7 something -- and again, there are a number of things
01:28:37 8 that they could hear. But it's possible for that
01:28:39 9 process, the QA process, to turn something into a no
01:28:45 10 sale. Or for the welcome call process to -- when I say
01:28:50 11 turn to -- to result in an enrollment then being turned
01:28:54 12 into a -- quote, unquote -- no sale.

01:29:11 13 Q. (By Ms. O'Brien) Now I'd like to refer you to
01:29:13 14 the... Okay. If you could turn back to the document
01:29:35 15 that begins with page Verde 000840.

01:29:40 16 A. Okay.

01:29:40 17 Q. Let me know when you're there.

01:29:43 18 A. Yes, I'm there.

01:29:44 19 Q. Have you reviewed this document?

01:30:09 20 A. Yes.

01:30:09 21 Q. And if you take a look on the second page,
01:30:13 22 000841, there's a description of a customer complaint
01:30:22 23 about a Verde sales representative named Ryan who told
01:30:28 24 a customer that the rate of 7.5 was better than the
01:30:32 25 rate of 5.3 that the customer already had because the

01:30:37 1 AEP customer service fee would drop upon enrollment.

01:30:42 2 Do you see that?

01:30:43 3 MR. PROANO: Objection to the form of the
01:30:45 4 question.

01:30:48 5 A. Yes, I see -- yes, I see that verbiage in the
01:30:53 6 description of the issue section, yes, ma'am.

01:30:54 7 Q. (By Ms. O'Brien) And if you go back to
01:31:00 8 000840, do you see the statement there by, it looks
01:31:05 9 like, Xiomara Mendoza, that those actions by the sales
01:31:14 10 agent are unacceptable?

01:31:17 11 A. Yes, I see that.

01:31:19 12 Q. Do you know whether this particular sales
01:31:24 13 agent, Ryan, was a Verde employee or a third-party
01:31:29 14 contract agent?

01:31:31 15 A. No, I don't have personal knowledge of that.
01:31:56 16 I can -- I only know what's here that says -- refers to
01:32:02 17 an outbound telemarketing representative.

01:32:05 18 Q. And do you see the statement in here where it
01:32:11 19 says that this matter was escalated to the proper
01:32:14 20 department to investigate?

01:32:16 21 A. I do see that.

01:32:17 22 Q. Okay. What department would this matter have
01:32:22 23 been escalated to?

01:32:24 24 A. Again, I don't want to -- you know, I don't
01:32:40 25 know about this particular matter. Generally speaking,

01:32:46 1 the folks that would be involved would be the -- the
01:32:54 2 vendor compliance person and the -- and someone in
01:32:58 3 sales to investigate, in general. Again, I don't know
01:33:01 4 about this one, but that's the general process.

01:33:05 5 Q. Okay. And so you wouldn't know what the
01:33:07 6 outcome of this investigation would be?

01:33:09 7 A. I don't believe I have seen what -- anything
01:33:23 8 regarding this Randy -- what's his name? Ryan.

01:33:31 9 Q. Ryan.

01:33:33 10 A. Ryan. I haven't seen anything. That doesn't
01:33:37 11 mean anything didn't happen. I just have not -- I
01:33:39 12 personally have not seen it.

01:33:41 13 Q. Okay. Now I think before you indicated to me
01:33:46 14 that you had reviewed the joint settlement between
01:33:50 15 Staff and Verde in this case; is that correct?

01:33:54 16 A. Yes. I reviewed the joint -- the stipulation
01:34:00 17 document? That?

01:34:02 18 Q. Yes.

01:34:03 19 A. Yes.

01:34:03 20 Q. Uh-huh. And if I refer to it as "the
01:34:06 21 settlement," will we be on the same page? Will you
01:34:09 22 know that I'm referring to the joint stipulation and
01:34:13 23 recommendation?

01:34:13 24 A. Okay. I was just making sure.

01:34:15 25 Q. Yeah. No, I'm just asking because I know

01:34:18 1 sometimes that we use different terminology; but I plan
01:34:21 2 to refer to it as "the settlement." I just want to
01:34:24 3 make sure that you know what I'm referring to.

01:34:26 4 A. Okay.

01:34:27 5 Q. So you reviewed the settlement, right?

01:34:31 6 A. Yes.

01:34:32 7 Q. Okay. Can you tell me what in the settlement
01:34:37 8 prevents Verde sales agents from soliciting customers
01:34:43 9 in this way?

01:34:47 10 A. In what way are you referring to?

01:34:49 11 Q. I'm asking you if there's anything in the
01:34:51 12 settlement that prevents Verde's sales agents from
01:34:55 13 soliciting customers in the manner described in 000840.

01:35:02 14 MR. PROANO: Objection to the form of the
01:35:06 15 question.

01:35:15 16 A. I can tell you that there is something in the
01:35:21 17 stipulation, No. 5, that talks about an action plan for
01:35:27 18 compliance prior to -- 90 days prior to resuming any
01:35:33 19 marketing in the state. In my view, that -- that plan
01:35:41 20 would out -- you know, would outline in more detail the
01:35:47 21 quality -- I would say QA processes and any -- you
01:35:54 22 know, any plans that the company has regarding
01:35:58 23 marketing and sales.

01:36:00 24 Q. (By Ms. O'Brien) Okay. But isn't it true
01:36:01 25 that the action plan hasn't been drafted yet?

01:36:10 1 A. The action plan referenced here has not been
01:36:12 2 drafted. The -- I'll say family of companies, in
01:36:20 3 layman's terms, certainly has a compliance program and
01:36:24 4 some, you know, some foundational elements that apply
01:36:27 5 across the board, and then I'm sure after, you know,
01:36:33 6 this matter is finalized, obviously we will finalize
01:36:39 7 that plan.

01:36:41 8 Q. But in the -- in the settlement itself,
01:36:45 9 nothing prevents Verde from marketing services to a
01:36:50 10 customer in the manner described in 000840; is that
01:36:56 11 correct?

01:36:56 12 MR. PROANO: Objection. She just said
01:36:58 13 that was not correct and pointed to paragraph 5 of the
01:37:00 14 stipulation. So I object.

01:37:05 15 Q. (By Ms. O'Brien) You can go ahead and answer
01:37:06 16 the question.

01:37:07 17 A. So I don't -- you know, not speaking to the
01:37:13 18 stipulation, I would say that Verde's own -- own
01:37:17 19 guidelines, you know, prohibit that. And I already
01:37:21 20 stated that's -- something like misrepresenting the
01:37:23 21 rate is very clearly prohibited in training and in that
01:37:33 22 code of conduct that I was referencing earlier before
01:37:36 23 lunch -- or maybe that was after lunch. Sorry.

01:37:42 24 So something like that would be kind of
01:37:44 25 off -- you know, something like that is kind of just

01:37:46 1 wholly not okay in the first place, just with respect
01:37:52 2 to our own rules.

01:37:58 3 Q. Okay. And going back to the action plan
01:38:01 4 actually referenced in the settlement -- it was a
01:38:04 5 paragraph. Let me look here.

01:38:30 6 One minute. Okay. Here we go. In
01:38:31 7 paragraph 5, the action plan referenced here. The
01:38:37 8 settlement here states that the action plan will be
01:38:40 9 submitted at least 90 days prior to resuming marketing
01:38:46 10 and customer enrollment in Ohio.

01:38:48 11 My understanding -- and you can correct
01:38:50 12 me if I'm wrong -- is that Staff will have input to
01:38:53 13 that action plan?

01:38:58 14 A. I actually don't know the answer to that
01:39:05 15 question. Let me -- unless it's outlined here.

01:39:29 16 Q. Actually if it helps any, you can reference
01:39:32 17 Verde's response to interrogatory 4-49 which
01:39:42 18 specifically states that Staff can provide comments or
01:39:46 19 suggested changes to the action plan.

01:39:50 20 A. Where is the -- I'm sorry. What document are
01:39:53 21 you referring to? Can you repeat it again? I'm sorry.

01:39:57 22 Q. Verde's response to interrogatory 4-49. And I
01:40:01 23 believe actually that was a supplemental response that
01:40:08 24 was provided... maybe it was one of the supplemental
01:40:14 25 responses. Let me just see where it is.

01:40:39 1 MR. PROANO: Ms. O'Brien, it was served
01:40:41 2 last night.

01:40:42 3 MS. O'BRIEN: Okay.

01:40:43 4 MR. PROANO: I don't know if -- I don't
01:40:45 5 know if the witness has a copy of this since it was
01:40:48 6 served so late last night.

01:40:50 7 MS. O'BRIEN: Okay.

01:40:51 8 MR. PROANO: If you wish, I could read
01:40:53 9 the answer into the record.

01:40:54 10 MS. O'BRIEN: Yeah, that's fine, if you
01:40:55 11 would like to.

01:40:57 12 MR. PROANO: Yeah. The response was,
01:40:59 13 "The action plan for compliance does not yet exist.
01:41:02 14 Pursuant to the terms of the joint stipulation and
01:41:05 15 recommendation, Verde anticipates that the action plan
01:41:07 16 will provide a detailed explanation of how Verde Energy
01:41:10 17 will ensure compliance of Ohio rules and regulations
01:41:14 18 and address the concerns identified in the Staff
01:41:17 19 report. Verde Energy will provide the action plan to
01:41:18 20 staff at least 90 days prior to resuming marketing and
01:41:21 21 customer enrollment in Ohio, during which period Staff
01:41:26 22 can provide comments or suggested changes to Verde
01:41:31 23 Energy, intended to ensure Verde Energy's compliance
01:41:34 24 with Ohio law and prevent future issues associated with
01:41:34 25 instances of noncompliance."

01:41:41 1 Q. (By Ms. O'Brien) Okay. Ms. Jordan, do you
01:41:41 2 understand that response?

01:41:45 3 A. So I was able -- I was actually able to locate
01:41:46 4 it. Yes, I understand the response. I understood your
01:41:49 5 question to be did the stipulation expressly require --
01:41:58 6 you know, require input from the -- did it say it
01:42:01 7 there? So that's how I understood your question.

01:42:04 8 Q. Yeah. Exactly. So -- so that response to
01:42:07 9 interrogatory 4-49 clarifies that Staff will have input
01:42:15 10 to the action plan. Is that your understanding now?

01:42:18 11 A. That is my understanding.

01:42:19 12 Q. Okay. Will Verde agree to allow OCC to
01:42:26 13 comment on what is included in the action plan?

01:42:28 14 MR. PROANO: I'm just going to object to
01:42:30 15 that question. That's more of a legal question, I
01:42:32 16 think, between lawyers. And certainly this person is
01:42:38 17 not designated to testify as a corporate rep on this
01:42:43 18 stipulated settlement.

01:42:44 19 So I'm happy to talk about that offline,
01:42:46 20 if you wish, Ms. O'Brien, but we have not put this
01:42:49 21 witness on for that purpose.

01:42:51 22 Q. (By Ms. O'Brien) Ms. Jordan, you can answer
01:42:53 23 if you can.

01:42:55 24 A. I was going to say I don't think that I'm the
01:42:59 25 person to make that call.

01:43:03 1 Q. Okay. Fair enough.

01:43:04 2 Okay. Let me -- let me move onto another
01:43:10 3 document. Now I'd like you to take a look at another
01:43:19 4 document Verde provided in response to OPC's discovery.

01:43:34 5 Ms. Jordan, I just want to backtrack on
01:43:37 6 one prior question, on the previous question regarding
01:43:41 7 whether or not Verde would commit to allowing OCC to
01:43:46 8 comment on the action plan. You stated that you
01:43:49 9 weren't the person to ask on that. Who would be?

01:43:54 10 A. I don't know that I had a specific person in
01:43:58 11 mind. I just -- you know, I would expect that that
01:44:04 12 would be something that is handled by our legal and
01:44:10 13 regulatory team. I didn't necessarily -- I didn't have
01:44:13 14 a specific person in mind, other than it not being me.

01:44:22 15 Q. Okay. Fair enough. If you could refer to
01:44:24 16 Verde 004274 and let me know when you have it.

01:45:15 17 A. I have located it.

01:45:16 18 Q. Okay. Great. And if you refer to page
01:45:31 19 004277, which is part of that same document, you'll see
01:45:36 20 it describes a customer complaint from a 77 -- I'm
01:45:45 21 sorry, excuse me -- 77-year old customer about
01:45:48 22 receiving harassing calls from a sales agent, who
01:45:51 23 referred to himself as Alex, about how she could lower
01:45:58 24 her rate, and informing her that if she did not switch
01:46:00 25 her service she would be turned off and it would cost

01:46:03 1 her \$2,000 to turn her service back on. Do you see
01:46:06 2 that?

01:46:07 3 MR. PROANO: Objection to the form of the
01:46:09 4 question.

01:46:11 5 Q. (By Ms. O'Brien) Do you see that statement,
01:46:13 6 Ms. Jordan?

01:46:13 7 A. Yes, I see the verbiage about the \$2000 and so
01:46:21 8 on. Yes, I see that.

01:46:23 9 Q. Okay. And this document also refers to --
01:46:34 10 refers to a KAA Energy Agency as a third party vendor.
01:46:46 11 Do you see that?

01:46:46 12 A. Yes, I see that.

01:46:47 13 Q. Does Verde still work with KAA Energy?

01:46:58 14 MR. PROANO: You mean outside of Ohio,
01:47:00 15 Ms. O'Brien?

01:47:05 16 Q. (By Ms. O'Brien) Well, do you still work with
01:47:07 17 KAA Energy in Ohio or otherwise?

01:47:13 18 A. I do not know because I haven't -- I don't
01:47:21 19 know. That's not something that I looked at, you know,
01:47:29 20 in preparation for this. So I don't know the answer to
01:47:32 21 that question.

01:47:32 22 Q. Okay. And can you tell me what in the
01:47:36 23 settlement prevents Verde from using telemarketers like
01:47:40 24 KAA Energy in the future?

01:47:44 25 MR. PROANO: Objection to the form of the

01:47:48 1 question.

01:47:48 2 A. Can you ask your question again, please?

01:47:51 3 Q. (By Ms. O'Brien) What in the settlement
01:47:53 4 prevents Verde from using telemarketers like KAA Energy
01:47:58 5 in the future?

01:48:06 6 MR. PROANO: Again, objection to the form
01:48:06 7 of the question.

01:48:14 8 A. I don't see anything specific about obviously
01:48:15 9 that vendor in the -- in the stipulation. I would say
01:48:18 10 that Verde has a significant interest in not working
01:48:26 11 with third-party vendors whose agents engage in this
01:48:34 12 kind of behavior. There's no -- you know, yeah. I
01:48:40 13 mean, there's a -- we have an interest in that anyway
01:48:43 14 because as I mentioned before, the intent is that
01:48:49 15 people under -- the customers and prospective customers
01:48:54 16 understand what they are signing up for. We don't want
01:48:56 17 to do business with folks that do that anyway.

01:49:00 18 Q. (By Ms. O'Brien) So is your answer, no,
01:49:01 19 there's nothing in the settlement that prevents Verde
01:49:04 20 from using telemarketers like KAA Energy?

01:49:08 21 MR. PROANO: Objection. That's not her
01:49:10 22 answer. Objection to the form of the question.

01:49:12 23 MS. O'BRIEN: Well, then she can -- she
01:49:14 24 can answer whether it is or not.

01:49:24 25 A. What I said was I did not see anything in the

01:49:27 1 stipulation regarding a specific marketer.

01:49:30 2 Q. (By Ms. O'Brien) Okay. Thank you.

01:49:33 3 Okay. Now turning to the Staff report,
01:49:36 4 you indicated that you reviewed the Staff report; is
01:49:44 5 that correct?

01:49:44 6 A. One minute. I'm trying to -- I'm jockeying
01:49:47 7 binders.

01:49:51 8 MR. PROANO: Change of topic,
01:49:54 9 Ms. O'Brien. Is this a good time to take a 5-minute
01:49:57 10 break?

01:49:58 11 MS. O'BRIEN: If the witness needs a
01:50:00 12 break, that's fine. We can take a break.

01:50:02 13 MR. PROANO: Ms. Jordan?

01:50:14 14 THE WITNESS: I would happily take a bio
01:50:18 15 break.

02:03:34 16 (Off the record 2:03 p.m. to 2:04 p.m.)

02:03:34 17 MS. O'BRIEN: Are we good to go back on
02:03:34 18 the record?

02:03:34 19 THE REPORTER: Yes, ma'am. On the
02:03:34 20 record.

02:03:41 21 MS. O'BRIEN: Okay, Great.

02:03:41 22 Q. (By Ms. O'Brien) Ms. Jordan, what is your
02:03:45 23 understanding of the term "spoofing"?

02:04:07 24 MR. PROANO: Could I pause here,
02:04:07 25 Ms. O'Brien? Are we getting into the corporate rep

02:04:10 1 notice?

02:04:11 2 MS. O'BRIEN: Well, we're getting into
02:04:13 3 the deposition questions regarding spoofing, if that's
02:04:16 4 what you're asking.

02:04:17 5 MR. PROANO: Okay. Before you get into
02:04:18 6 the topics that you've noticed pursuant to your
02:04:21 7 October 17th seventh notice, I'm just -- if you could
02:04:25 8 delineate when you are going to ask those questions in
02:04:28 9 her corporate capacity because that's different.

02:04:30 10 MS. O'BRIEN: Okay.

02:04:31 11 MR. PROANO: I would appreciate that.
02:04:33 12 That would help clarify the record and also let
02:04:37 13 Ms. Jordan know. Thank you.

02:04:37 14 MS. O'BRIEN: I guess --

02:04:37 15 MR. OLIKER: Before you go, also -- this
02:04:40 16 is Joe Oliker. I do have a few questions, and I wasn't
02:04:43 17 sure how you want to separate those questions in the
02:04:46 18 deposition.

02:04:51 19 MS. O'BRIEN: Yeah, I guess just at the
02:04:53 20 end of the deposition. I mean, as opposed to what?
02:04:57 21 Asking them -- I don't understand the question. When
02:05:00 22 else would you ask them?

02:05:02 23 MR. OLIKER: I think what he's identified
02:05:03 24 is that he wants there to be a break in the deposition
02:05:06 25 from when the corporate section begins and when the

02:05:09 1 prior questions to Ms. Jordan were specified, and I'm
02:05:15 2 just trying to make sure that I'm not told that I've
02:05:18 3 missed my chance because you've moved the corporate
02:05:21 4 side.

02:05:21 5 MS. O'BRIEN: Well, I mean, I'm not going
02:05:23 6 to tell you that. You know, I'm going to ask the
02:05:25 7 questions in the order that I have it laid out. I'm
02:05:28 8 not planning on setting aside a different order based
02:05:34 9 upon Ms. Jordan's corporate designee.

02:05:39 10 I'm not sure exactly that there should be
02:05:42 11 a difference. But regardless, I guess my answer is,
02:05:47 12 you know, if you can ask them at the end. I need to
02:05:51 13 get -- I have a bunch of stuff to get through and I'd
02:05:55 14 like to get through it, so... are we good?

02:06:03 15 MR. OLIKER: Sure.

02:06:06 16 MS. O'BRIEN: Yeah, I mean, I'm not going
02:06:07 17 to tell you not to ask any questions. That's -- I
02:06:11 18 mean, you can ask some questions at the end. I'm not
02:06:14 19 going to try to tell you that you've missed any
02:06:17 20 opportunity or anything, so --

02:06:19 21 MR. PROANO: I don't think my statement
02:06:20 22 was for you, Angela.

02:06:27 23 MS. O'BRIEN: Okay. So let's go ahead
02:06:27 24 and -- are we back on the record?

02:06:44 25 THE REPORTER: I've been on the record.

02:06:44 1 MS. O'BRIEN: Are we -- okay. So we're
02:06:44 2 on now, right?

02:06:44 3 THE REPORTER: Yes, ma'am, I've been on
02:06:44 4 the record. I'm sorry, nobody told me to go off.

02:06:44 5 MS. O'BRIEN: Okay. I just wanted to
02:06:46 6 make sure.

02:06:46 7 Q. (By Ms. O'Brien) Okay. So, Ms. Jordan, what
02:06:49 8 is your understanding of the term "spoofing"?

02:06:54 9 A. The term, as I understand it, is -- at least
02:07:06 10 in this context is, I guess, as faking or I guess
02:07:23 11 making a phone number seem like it's from another one.
02:07:30 12 That's my -- you know, how that happens, I don't know.
02:07:33 13 But that's like my, you know, layperson's understanding
02:07:35 14 of what spoofing is.

02:07:38 15 Q. Okay. So I'd like you to refer to a document
02:07:45 16 that was produced by Verde in response to OCC's
02:07:49 17 discovery. It's Verde 000957. Let me know when you
02:07:57 18 have it.

02:08:11 19 A. I found it.

02:08:12 20 Q. Okay, great. And have you reviewed this
02:08:25 21 document?

02:08:26 22 A. Yes, I have.

02:08:28 23 Q. Okay. Now, this document describes a customer
02:08:33 24 complaint where the customer received a call from a
02:08:35 25 Verde sales representative and it showed up on her

02:08:38 1 caller ID as an AEP Ohio customer service number.

02:08:46 2 Do you know whether the sales
02:08:47 3 representative referenced in this document is a Verde
02:08:50 4 employee, or a third-party contractor?

02:08:53 5 MR. PROANO: Objection to the form of the
02:08:56 6 question.

02:09:04 7 A. Can you ask the question again, please?

02:09:11 8 Q. (By Ms. O'Brien) Do you know whether the sales
02:09:12 9 representative referenced in this document is a Verde
02:09:15 10 employee or a third-party contractor?

02:09:18 11 MR. PROANO: Object to the form of the
02:09:20 12 question.

02:09:21 13 A. There is nothing specifically in this that
02:09:37 14 identifies a vendor. You know, I can make --

02:09:42 15 Q. (By Ms. O'Brien) I guess my -- go ahead.

02:09:44 16 A. I guess I can make inferences, but it would be
02:09:48 17 just that. I don't see anything explicitly that says
02:09:50 18 it, other than it refers to a vendor. So therefore a
02:09:54 19 vendor would not be an internal -- a Verde employee.

02:10:02 20 Q. I'm sorry. I didn't hear that last part.

02:10:07 21 A. Excuse me. I said so there's a sentence --
02:10:15 22 one, two -- I guess the third sentence in the response
02:10:18 23 from Louise. Says, "Verde's vendor records do not
02:10:28 24 reflect any calls made to the telephone number 614" et
02:10:32 25 cetera. I said while I don't see a vendor name, that

02:10:35 1 sentence leads me to believe that that would be a
02:10:38 2 third-party vendor versus a Verde employee. And when I
02:10:43 3 say employee, again, you know, Verde -- a Verde call
02:10:47 4 center agent or employee.

02:10:49 5 Q. Okay. So Verde doesn't know -- so by your
02:11:03 6 prior answers, you indicated that Verde doesn't really
02:11:09 7 get involved with outbound sales marketing; is that
02:11:18 8 correct?

02:11:18 9 MR. PROANO: Objection.

02:11:19 10 Q. (By Ms. O'Brien) Soliciting and marketing
02:11:24 11 services to customers, correct?

02:11:27 12 MR. PROANO: Objection to the form of the
02:11:31 13 question.

02:11:32 14 A. What I said is there are some -- some limited
02:11:36 15 occasions where they would do that, but it's not -- I
02:11:38 16 would not consider it their primary -- you know, their
02:11:46 17 primary job. But that's what I said.

02:11:48 18 Q. (By Ms. O'Brien) Okay. Do you know why this
02:11:51 19 customer would -- do you know why the customer would
02:11:57 20 receive a call from a Verde sales marketer and the
02:12:01 21 caller ID would reflect an AEP Ohio customer service
02:12:06 22 number?

02:12:06 23 MR. PROANO: I'm going to object because
02:12:08 24 there's nothing in this document that says that a Verde
02:12:10 25 sales representative made that call.

02:12:14 1 MS. O'BRIEN: Okay. Well, you know, we
02:12:15 2 can move on to another document, actually.

02:12:24 3 Q. (By Ms. O'Brien) Let's move on to Verde
02:12:27 4 000965. Let me know when you are there.

02:12:42 5 A. I am there.

02:12:45 6 Q. Okay. If you go to page 000966, this reflects
02:12:52 7 a customer complaint that a Verde Energy representative
02:12:58 8 claiming to work for AEP Ohio named Kevin Brown -- and
02:13:06 9 there's an ID number here -- offered a \$30 discount
02:13:10 10 since the AEP 10 percent discount has expired.

02:13:15 11 Do you know whether or not this Verde
02:13:17 12 Energy representative was a Verde Energy employee, or
02:13:21 13 was it a third-party contractor?

02:13:59 14 A. So I do not see anything that specifically, in
02:14:06 15 the response, addresses that. I could only answer you
02:14:13 16 with regards to our -- to Verde's general practices.

02:14:19 17 Q. Okay. But do you know why this customer would
02:14:22 18 receive a call from a Verde Energy representative that
02:14:28 19 reflected an AEP number on the caller ID?

02:14:39 20 A. No, I don't know why a prospective customer
02:14:46 21 would receive a call like that. I don't see in here --
02:14:52 22 I'm reading again. I see where the customer was added
02:14:55 23 to the do not call list, but I don't see where -- where
02:15:02 24 a -- like I said, I don't see where a vendor was
02:15:07 25 identified.

02:15:08 1 Q. I'm not asking you if a vendor was identified
02:15:12 2 specifically. I'm just asking you why a customer would
02:15:16 3 receive a call from Verde Energy that shows up on her
02:15:24 4 caller ID as an AEP Ohio number?

02:15:28 5 MR. PROANO: Objection; asked and
02:15:30 6 answered.

02:15:31 7 MS. O'BRIEN: Well, what was her answer?

02:15:34 8 MR. PROANO: Reporter, could you read
02:15:36 9 back her answer?

02:16:12 10 (The last answer was read.)

02:16:12 11 Q. (By Ms. O'Brien) If we can move on to the
02:16:14 12 document that's stamped Verde 004312. Let me know when
02:16:40 13 you're there.

02:16:41 14 A. I'm there.

02:16:42 15 Q. Just give me a minute here.

02:17:04 16 A. Sure.

02:17:37 17 Q. Okay. If you turn to page 004315. This
02:17:41 18 reflects a customer complaint that the customer
02:17:48 19 received a call from Verde and it showed up in her
02:17:54 20 customer ID as Ohio Edison. Do you see that?

02:18:06 21 MR. PROANO: Objection to the form of the
02:18:07 22 question.

02:18:07 23 A. Page 4315?

02:18:10 24 Q. (By Ms. O'Brien) Uh-huh.

02:18:11 25 A. Yes, I see the section you're referring to.

02:18:14 1 Q. Okay. Do you know why this customer would
02:18:16 2 receive a call from Verde Energy that showed a number
02:18:21 3 in the caller ID as an Ohio Edison number?

02:18:26 4 MR. PROANO: Object again because the
02:18:27 5 document doesn't say "Verde Energy" in the complaint.
02:18:30 6 So my objection stands on the form of the question.

02:18:34 7 Q. (By Ms. O'Brien) Ms. Jordan, you can answer.

02:18:45 8 A. So I can say there is no reason that -- no
02:18:53 9 reason at all that a third-party vendor, trying to
02:19:01 10 acquire customers on behalf of Verde Energy, should be
02:19:05 11 trying to make themselves look like the utility. There
02:19:14 12 is no acceptable reason from Verde's perspective.

02:19:17 13 Q. Do you see on page Verde 004313, again a
02:19:30 14 telemarketer associated with KAA Energy; do you see
02:19:36 15 that?

02:19:36 16 A. Can you repeat yourself, please? I'm sorry, I
02:19:41 17 was turning the page. I couldn't hear you.

02:19:43 18 Q. Do you see on Verde 004313 it reflects an
02:19:48 19 outbound telemarketer KAA Energy?

02:19:57 20 A. Yes, I see the bullet point starting with
02:20:03 21 2/21/2019. I see that bullet point, yes.

02:20:05 22 Q. And I think you stated previously you didn't
02:20:08 23 know whether or not Verde still maintains a
02:20:12 24 relationship with KAA Energy?

02:20:16 25 A. That's right; I don't know.

02:20:31 1 Q. Okay. If you could pull out another document
02:20:33 2 that Verde provided in response to discovery, Verde
02:20:38 3 000293.

02:21:00 4 A. I have found it.

02:21:00 5 Q. Do you see here that it describes a customer
02:21:05 6 complaint involving Verde Energy where she gets
02:21:08 7 numerous calls every day from a 513 area code number
02:21:17 8 and from a sales representative representing themselves
02:21:22 9 as someone from Duke. Do you see that?

02:21:29 10 A. Yes, I see where it says the complaint is
02:21:40 11 regarding a customer getting numerous calls every day.
02:21:44 12 Yes, ma'am, I see that.

02:21:46 13 Q. And do you see where it says: "When I talked
02:21:48 14 to the rep I directly asked what company he was with
02:21:51 15 and he said the Choice Program, which was not a company
02:21:54 16 name. After further questioning, I was able to find
02:21:58 17 out the call was from Verde." Do you see that?

02:22:02 18 A. I see where that's in the complaint, yes.

02:22:08 19 Q. Do you know why this particular telemarketer
02:22:15 20 would be informing a potential Verde customer that he
02:22:20 21 was from Duke?

02:22:24 22 MR. PROANO: Objection.

02:22:40 23 A. I don't see the disposition of this one, at
02:22:44 24 least not here in front of me, so I don't know -- I
02:22:49 25 don't know the outcome of the research regarding this

02:22:52 1 particular complaint. Again, I can tell you at a
02:22:58 2 wholesale level it is not okay for a vendor acquiring
02:23:04 3 customers on behalf of Verde to misrepresent themselves
02:23:08 4 as being the utility or part of the utility or
02:23:11 5 something else.

02:23:13 6 Q. (By Ms. O'Brien) And now I want to move on to
02:23:19 7 the materials that Verde served last night. These are
02:23:25 8 objections -- or these are responses to OCC's request
02:23:36 9 for production of documents. I believe that they were
02:23:41 10 initially -- I believe that these are responsive to
02:23:47 11 OCC's sixth set that Verde supplemented and served late
02:23:51 12 yesterday evening. If you can find those and let me
02:23:57 13 know when you have them.

02:24:17 14 THE WITNESS: David, can you help me
02:24:20 15 here? I see something starting -- dated October 7th
02:24:24 16 but I don't know if that --

02:24:26 17 MR. PROANO: It should be the amended
02:24:28 18 responses to OCC's 6th set. January 19.10.09. Amended
02:24:41 19 responses to OCC's 6th set.

02:24:46 20 THE WITNESS: I was in the wrong place.
02:24:48 21 I've got to swap binders here. I'm looking for -- you
02:25:02 22 said amended responses to OCC sixth set.

02:25:06 23 Q. (By Ms. O'Brien) I think the actual title of
02:25:08 24 the document is Verde Energy USA Ohio's objections and
02:25:13 25 responses to request for production of documents

02:25:13 1 propounded on October 7, 2019. That's the document I'm
02:25:18 2 looking at. I don't know how David has labeled it in
02:25:22 3 your binder.

02:25:24 4 A. Gotcha. I see the amended one. That's what
02:25:28 5 we want, the amended objections and responses?

02:25:32 6 MS. KEENE: That's what she says.

02:25:34 7 A. Okay. I guess I'm there. We'll find out
02:25:36 8 shortly.

02:25:37 9 Q. (By Ms. O'Brien) And if you'll look at the
02:25:40 10 attachments, it looks like one of the attachments is
02:25:44 11 your resume, and then the second attachment is a PUCO
02:25:52 12 complaint. There's no Bates stamp on it but at the top
02:25:57 13 it reflects a PUCO number of 00265297 and it has a date
02:26:05 14 of Wednesday, October 9th, 2019.

02:26:10 15 A. Okay. Slow down.

02:26:13 16 Q. I'm not sure why it would have that date, but
02:26:17 17 since that was yesterday.

02:26:52 18 A. One moment, please.

02:26:52 19 Q. And if it's any help, it references a sales
02:26:59 20 agent named Henry Peterson.

02:27:01 21 A. I'm flipping. I'm in the general section. I
02:27:05 22 just don't -- I'm flipping. I'm flipping.

02:27:24 23 MS. KEENE: Ms. O'Brien, are you asking
02:27:25 24 for an exhibit?

02:27:26 25 MS. O'BRIEN: This is one of the

02:27:28 1 documents that Verde produced yesterday evening.

02:27:32 2 MS. KEENE: Correct.

02:27:34 3 MS. O'BRIEN: In response to OCC's sixth
02:27:37 4 set and the document has attachments to it.

02:27:41 5 MR. PROANO: Ms. O'Brien -- sorry,
02:27:44 6 Ms. O'Brien, I think why we are getting confused, I
02:27:49 7 don't think you are referencing the sixth set. I think
02:27:51 8 you are referencing the production of documents in
02:27:54 9 response to the October 7th, 2019, deposition notice.

02:27:58 10 MS. O'BRIEN: Okay. Well, yeah, that is
02:28:01 11 the October -- regarding the same issues.

02:28:06 12 MR. PROANO: Yeah, it's a different
02:28:07 13 document. We are not looking for the sixth set. We
02:28:12 14 are looking for the discovery response that has in the
02:28:14 15 title of it October 7, 2019.

02:28:19 16 MS. O'BRIEN: Yes. That's what I'm
02:28:20 17 looking at. Thank you.

02:28:32 18 MS. KEENE: Dated 10/10 on your tab.

02:28:37 19 THE WITNESS: Hang on.

02:28:38 20 MS. KEENE: And then in the first
02:28:40 21 paragraph in that tab -- I think you had the tab
02:28:44 22 proper.

02:28:45 23 THE WITNESS: I'm going.

02:28:47 24 MS. KEENE: You'll see the October 7th
02:28:48 25 date that Ms. O'Brien is referring to.

02:28:51 1 THE WITNESS: I see that.

02:28:53 2 MS. KEENE: And the particular document
02:28:54 3 she is referring to is before the Exhibit 1 in your
02:28:56 4 tab.

02:28:58 5 THE WITNESS: I found my resume. I'm
02:29:00 6 getting warmer. Sorry, guys. I promise I'm not trying
02:29:04 7 to be, like, slow.

02:29:06 8 MS. O'BRIEN: I get it because it's hard.

02:29:10 9 A. So we are talking about -- I see 265297.

02:29:17 10 Q. (By Ms. O'Brien) Yes.

02:29:18 11 A. All right. I am finally there.

02:29:24 12 Q. And again this is a complaint where a customer
02:29:28 13 contacted the PUCO regarding their enrollment with
02:29:34 14 Verde. He speaks that the caller ID shows the -- a
02:29:48 15 call from Cleveland Electric Illuminating Company. Do
02:29:50 16 you have any knowledge about this specific complaint?

02:29:52 17 A. No. Nothing beyond -- I believe seeing, you
02:29:56 18 know, seeing this in its native form, this information
02:30:01 19 that we have in front of us.

02:30:03 20 Q. And again, do you know why this customer would
02:30:06 21 receive a call from Verde reflecting in the caller ID
02:30:10 22 as Cleveland Electric Illuminating Company?

02:30:19 23 A. No, ma'am.

02:30:23 24 Q. Another attachment to that same production.
02:30:26 25 If you could --

02:30:26 1 MR. PROANO: Ms. O'Brien, just so the
02:30:29 2 record is clear, I assume now we're into the five
02:30:32 3 topics of your October 7th corporate rep notice?

02:30:36 4 MS. O'BRIEN: Yeah.

02:30:38 5 MR. PROANO: Okay. Just so the record is
02:30:41 6 clear, Ms. Jordan is now testifying as the designated
02:30:46 7 corporate representative of Verde Energy on the five
02:30:50 8 topics listed on the October 7th, 2019, OCC notice of
02:30:58 9 deposition. Thank you, Ms. O'Brien.

02:31:04 10 MS. O'BRIEN: Actually, I'm going to move
02:31:06 11 on from that document.

02:31:08 12 Q. (By Ms. O'Brien) Ms. Jordan, do you have any
02:31:11 13 reason to believe that the customers in the complaints
02:31:14 14 that we just discussed, do you have any reason to
02:31:18 15 believe that they're not being truthful in their
02:31:24 16 complaints?

02:31:25 17 A. I don't have any reason to believe that the
02:31:37 18 customers, you know, experienced what they said they
02:31:43 19 did.

02:31:46 20 Q. Okay. And actually, I will go back to that
02:31:48 21 production and just give me a minute here because I
02:31:51 22 want to find our... Just give me one second.

02:33:42 23 Actually, I thought it was in this
02:33:44 24 production but obviously I am not seeing it because...

02:34:04 25 Well, let's do it this way. If you

02:34:07 1 could -- if you could get that Staff report that was
02:34:10 2 filed in this case on May 29th.

02:34:16 3 MR. PROANO: I'm sorry to interrupt
02:34:17 4 again, Ms. O'Brien. Are we back to her individual
02:34:21 5 capacity?

02:34:22 6 MS. O'BRIEN: No.

02:34:23 7 MR. PROANO: Yes or no?

02:34:24 8 MS. O'BRIEN: No.

02:34:25 9 MR. PROANO: Okay. Thank you.

02:34:28 10 Q. (By Ms. O'Brien) And if you could turn to
02:34:30 11 page 11 and let me know when you're there?

02:34:41 12 A. I have found it.

02:34:43 13 Q. If you go down about the middle of the page,
02:34:59 14 there's a bullet point where it says another customer
02:35:05 15 reported that he received a call from Jack Jordan,
02:35:12 16 Verde ID 121125. The customer's caller ID indicated
02:35:18 17 that he was getting a call from the illuminating
02:35:20 18 company; however, Jack turned out to be a
02:35:25 19 representative of Verde.

02:35:32 20 Do you see that?

02:35:32 21 A. Yes, I see the third bullet point.

02:35:35 22 Q. Do you have any reason to believe that the
02:35:37 23 customer was -- was lying in that complaint?

02:35:44 24 MR. PROANO: Objection to the form of the
02:35:47 25 question.

02:35:52 1 A. I mean, I'm certainly not questioning whether
02:35:54 2 or not a complaint was made. I don't -- and I'm not --
02:35:59 3 I don't have any reason -- you know, any reason to
02:36:03 4 believe that, you know, one way or the other. Clearly
02:36:09 5 the complaint was made.

02:36:11 6 Q. (By Ms. O'Brien) I'm sorry, part of this is
02:36:18 7 going to -- okay. Actually, let's turn -- instead of
02:36:22 8 the Staff report, this will make it easier. If you
02:36:27 9 could find your document that's Verde Energy's
02:36:33 10 responses to OCC's sixth set. And this was also served
02:36:40 11 last night.

02:36:42 12 A. Responses to the sixth set? Okay.

02:36:48 13 MR. PROANO: It would have been the
02:36:49 14 document, Ms. Jordan, prior to the prior one. Right
02:36:53 15 before the October 7th one.

02:36:59 16 THE WITNESS: Okay. Amended responses to
02:37:11 17 OCC's sixth set? That one?

02:37:16 18 MS. O'BRIEN: Yes.

02:37:18 19 A. Okay.

02:37:21 20 Q. (By Ms. O'Brien) And if you turn to the
02:37:22 21 response to INT 6-51.

02:37:42 22 A. Okay. I'm there.

02:37:43 23 Q. Okay. And this is a response that you
02:37:49 24 provided and it says here, "No agent by the name of
02:37:53 25 Jack Jordan or by ID 121125 was identified either

02:37:58 1 active or inactive status in Verde Energy's system or
02:38:04 2 tracking agent profiles. Thus, no individual named
02:38:09 3 Jack Jordan or identified by that ID number works or
02:38:12 4 has worked as an employee or agent on Verde Energy's
02:38:15 5 behalf."

02:38:18 6 Now, this is -- if you flip now to -- I
02:38:28 7 believe that -- if you look at this ID number here,
02:38:32 8 this 11 -- or this 121125, this comes from page 11 of
02:38:41 9 the Staff report, the middle bullet point on page 11.
02:38:48 10 Do you see that?

02:38:49 11 A. Not yet. Let me kind of double duty. Okay.
02:38:56 12 Page 11 versus -- okay. So...

02:39:02 13 Q. Okay.

02:39:04 14 A. Yes, I see that ID.

02:39:05 15 Q. Okay. So now if you go back to Verde's
02:39:17 16 production from a request -- from OCC's request
02:39:27 17 propounded on October 7, 2019. And again if you could
02:39:31 18 go to the back and find that page number 00265297.

02:39:42 19 A. What's the number again? The case number?

02:40:00 20 Q. Case No. 00265297. And if you can find the
02:40:14 21 document -- again, I -- well, I mean, they're not
02:40:18 22 stamped.

02:40:18 23 A. I found a -- it says case detail on the top of
02:40:24 24 it.

02:40:25 25 Q. Okay. Well, the -- what I want you to look at

02:40:29 1 is a page that has a page No. 2 on the bottom and it
02:40:36 2 has -- it looks like it's -- it's got entries that are
02:40:44 3 labeled "case comments." And there's an entry labeled
02:40:49 4 4/18/2019. If you can find that for me and see if you
02:40:57 5 can find it, that will be great.

02:41:08 6 A. I see the case comments.

02:41:11 7 Q. Okay. And do you see the comments that begin
02:41:14 8 with -- I'm not going to say the customer name for --
02:41:18 9 in the record. But it said, "Customer received a call
02:41:22 10 this afternoon from Jack Jordan, ID 12125 from Verde
02:41:27 11 Energy, although per the customer's ID, the call was
02:41:33 12 from the Illuminating Company." Do you see that?

02:41:37 13 A. Yes, I see that.

02:41:43 14 Q. Okay. So it appears that there's been a typo
02:41:46 15 with respect to Jack Jordan's ID number. So I guess
02:41:54 16 what I'm getting at is: Did Verde investigate this
02:42:00 17 report of Jack Jordan calling a customer and claiming
02:42:03 18 that he was from the Cleveland Illuminating Company?
02:42:08 19 Did Verde investigate this particular ID number, the
02:42:12 20 12125?

02:42:34 21 MR. PROANO: I'm sorry, Ms. O'Brien, did
02:42:36 22 they investigate that -- not the number referenced in
02:42:41 23 the Staff report, but the number in the underlying
02:42:46 24 complaint document? Is that what you're asking?

02:42:48 25 MS. O'BRIEN: Yeah.

02:42:48 1 MR. PROANO: Okay.

02:42:49 2 MS. O'BRIEN: It just looks like there's
02:42:50 3 been a typo in the Staff report, I think. And I think
02:42:57 4 that that's been carried over. So...

02:43:00 5 A. So to answer your question, I don't know --
02:43:04 6 let me -- I do see the difference in the numbers.

02:43:04 7 Q. Okay.

02:43:08 8 A. I am not -- let me look. I know a search was
02:43:15 9 done for the name. I'm looking for the -- the response
02:43:33 10 to where the -- the response. There's a specific
02:43:40 11 question about --

02:43:41 12 MR. PROANO: It would be the sixth set,
02:43:45 13 Ms. Jordan. The document in your binder right before
02:43:47 14 this document.

02:43:49 15 THE WITNESS: All right. Yeah.

02:43:50 16 MR. PROANO: The response deals with all
02:43:51 17 these questions about Jack Jordan.

02:43:56 18 THE WITNESS: Thank you.

02:43:57 19 A. All right. So, you know, based on this, I can
02:44:03 20 only, you know, say that the search was done on the
02:44:07 21 name and then the ID 121125.

02:44:15 22 Q. (By Ms. O'Brien) Okay.

02:44:16 23 A. I do not know, because the information is not
02:44:18 24 in front of me, with respect to that complaint with the
02:44:24 25 case number ending in 5297. I don't see anything here

02:44:31 1 that tells me that a search was done on 12125. That
02:44:41 2 doesn't mean that didn't happen. I just don't have
02:44:43 3 that information in here to tell you that or not.

02:44:46 4 Q. Okay. So you don't know whether or not
02:44:48 5 there's an agent by -- with the ID number of 12125
02:44:54 6 currently -- well, I guess, who had marketed for Verde
02:45:00 7 in the past? You don't know if that person -- you
02:45:07 8 don't know if that person actually existed, or you
02:45:10 9 haven't done that investigation?

02:45:13 10 MR. PROANO: Objection.

02:45:14 11 A. I have not done that investigation. Again,
02:45:17 12 like I said, I don't have enough information in front
02:45:19 13 of me here to tell you whether or not that this other
02:45:23 14 number has been investigated. I just don't know. I do
02:45:29 15 know the name was checked.

02:45:30 16 Q. (By Ms. O'Brien) Okay. So the response here
02:45:32 17 in response to interrogatory 6-051 which -- 051A which
02:45:48 18 carries into the rest for a lot of -- which is
02:45:53 19 referenced in response to subpart B through F, it looks
02:46:00 20 like. You don't know whether or not an agent with the
02:46:08 21 ID No. 12125 worked for Verde, do you?

02:46:17 22 A. No, I do not know that today. To my
02:46:21 23 knowledge, that research -- I don't know if that
02:46:22 24 research has been done. I don't have that information.

02:46:24 25 Q. Okay.

02:46:26 1 A. I'm sure it could be looked up at some point.

02:46:31 2 Q. Okay. Great. And again, is there any reason
02:46:34 3 why a Verde sales representative would be identifying
02:46:38 4 himself as Jack Jordan from the Cleveland Electric
02:46:42 5 Illuminating Company to a potential customer of Verde?

02:46:47 6 A. Absolutely not.

02:46:48 7 MR. PROANO: Objection.

02:46:56 8 Q. (By Ms. O'Brien) In light of the customer
02:46:59 9 complaints that we've discussed, what has Verde done to
02:47:04 10 address the claims of spoofing?

02:47:08 11 A. Can you be more specific?

02:47:16 12 MR. PROANO: Object to the form of the
02:47:18 13 question.

02:47:20 14 Q. (By Ms. O'Brien) What does Verde do to
02:47:25 15 prevent spoofing?

02:47:28 16 A. I mean, I think that -- I mentioned earlier --
02:47:42 17 well, I know I mentioned earlier that things like fraud
02:47:47 18 and misrepresentation by the sales representatives, or
02:47:55 19 misrepresentation of the products offered is, you know,
02:48:00 20 not acceptable in our contracts and with regard -- and
02:48:04 21 in our -- I'll say -- I'm saying code of conduct but
02:48:09 22 it's kind of in our overall, in that on-boarding
02:48:12 23 process we talked about earlier.

02:48:18 24 So, you know, those are -- the contracts
02:48:24 25 speak to, you know, remedies that we have or things

02:48:28 1 that we can do, things that Verde can do if a vendor
02:48:36 2 engages in conduct -- you know, if they are found to
02:48:42 3 engage in conduct that is, you know, a violation of
02:48:45 4 those -- those terms. "Terms" in a legal sense and in
02:48:51 5 terms of the code of conduct and ground rules.

02:49:00 6 Q. What, in the settlement between the PUCO and
02:49:03 7 Verde -- or PUCO Staff and Verde, rather, specifically.

02:49:03 8 THE REPORTER: Can you repeat the
02:49:03 9 question? You kind of cut out a little bit.

02:49:03 10 MS. O'BRIEN: Oh, I'm sorry.

02:49:16 11 Q. (By Ms. O'Brien) My question is: What in the
02:49:17 12 settlement between PUCO Staff and Verde addresses the
02:49:23 13 problem of spoofing?

02:50:19 14 A. So I would point back to paragraph 5 and --
02:50:28 15 and my previous statement about Verde's own policies
02:50:39 16 around such behavior.

02:50:42 17 Q. But nothing in paragraph 5 specifically
02:50:47 18 addresses spoofing; is that correct?

02:50:49 19 MR. PROANO: Objection to the form of the
02:50:52 20 question.

02:50:59 21 A. Paragraph 5 talks about an action plan for
02:51:06 22 compliance and that is in reference to marketing and
02:51:09 23 customer enrollment. So in my eyes, you know, that
02:51:18 24 action plan would -- would apply to, like it says,
02:51:25 25 marketing customer enrollment in Ohio.

02:51:30 1 Q. (By Ms. O'Brien) But I think as you testified
02:51:31 2 earlier, the action plan hasn't been drafted yet,
02:51:34 3 right?

02:51:41 4 A. The action plan has not been drafted
02:51:43 5 specifically in response to, you know, this
02:51:46 6 stipulation. As I mentioned before, we have standard
02:51:52 7 practices and we have a compliance department and a
02:51:55 8 regulatory department, so there are -- there's a
02:51:57 9 foundation that that action plan, I'm sure, will build
02:52:02 10 upon. And as it can, as a -- you know, I think we --
02:52:07 11 not I think, I know one of those foundational pieces is
02:52:11 12 that we don't represent to the vendors to the -- for
02:52:17 13 Verde itself, do not represent itself as the utility.
02:52:22 14 That's kind of something that you -- that's covered on
02:52:24 15 Day 1.

02:52:26 16 Q. But you would agree with me that there are
02:52:30 17 more -- there are several customer complaints regarding
02:52:33 18 spoofing, right?

02:52:35 19 A. I think we've gone over a handful. I couldn't
02:52:46 20 tell you how many are related to spoofing.

02:52:48 21 Q. Okay. Now, do you know, does Verde possess
02:52:59 22 any technology through which spoofing can be
02:53:04 23 accomplished?

02:53:06 24 MR. PROANO: In which spoofing can be
02:53:08 25 done? Is that the question, Ms. O'Brien?

02:53:11 1 MS. O'BRIEN: Well, yeah, that's fine.
02:53:13 2 Mr. Proano, you stated it more eloquently than I did.

02:53:19 3 MR. PROANO: Okay. So the question was
02:53:22 4 clear.

02:53:22 5 A. What's the question?

02:53:25 6 Q. (By Ms. O'Brien) Does Verde possess
02:53:28 7 technology through which spoofing can be done?

02:53:31 8 A. Absolutely not.

02:53:34 9 Q. Do you know whether Verde's third-party
02:53:48 10 marketing vendors possess that technology?

02:53:52 11 A. No, I don't know. I'm not an expert on
02:54:03 12 telephony. I'm not sure how that happens. I know we
02:54:06 13 don't have it in the company.

02:54:13 14 Q. Okay. Aside from Verde's policy that spoofing
02:54:17 15 is not allowed, what does Verde do to ensure that its
02:54:22 16 third-party marketers or third-party vendors don't use
02:54:27 17 spoofing technology?

02:54:29 18 A. I can tell you that if there was a technology,
02:54:48 19 if there's a technology out there for us to be able to
02:54:53 20 see -- you know, see behavior like that if it occurred,
02:54:58 21 you know, I'm not aware of it. And if -- you know, I'm
02:55:01 22 sure that Verde and every other supplier would be
02:55:04 23 interested in it.

02:55:07 24 To answer your question, there are the QA
02:55:10 25 processes that we talked about earlier, so listening to

02:55:15 1 the sales calls, listening to the verification calls
02:55:18 2 and then welcome calls that would help us -- when I say
02:55:26 3 "us" -- help Verde get wind of something, behavior like
02:55:32 4 that, if it was occurring. Because there are questions
02:55:35 5 asked about, you know, someone -- you know, how they
02:55:42 6 represented themselves.

02:55:43 7 But from a technological standpoint, I'm
02:55:46 8 not aware of a way to kind of -- you know, to kind of
02:55:54 9 be in the customer's shoes and see what they saw. It's
02:55:57 10 very difficult.

02:56:00 11 Q. Do Verde's auditors audit third-party --
02:56:07 12 third-party vendors for spoofing activities?

02:56:20 13 A. Again, it's very difficult to do that from a
02:56:23 14 technology standpoint with regard to something showing
02:56:25 15 up on a caller ID or a screen. What they -- "they"
02:56:34 16 being the audit -- we'll just call them auditors. What
02:56:39 17 they would be looking for, listening for, is any
02:56:43 18 representation of the sales representative as someone
02:56:49 19 from the utility or some other -- something else other
02:56:52 20 than a sales representative trying to acquire a
02:56:55 21 customer on behalf of Verde. That's what they would be
02:56:57 22 listening --

02:56:59 23 Q. Why did --

02:57:00 24 A. Go ahead.

02:57:00 25 Q. I apologize. Were you finished?

02:57:10 1 A. All I was going to say is that's what they
02:57:12 2 would be listening for. Okay. Now I'm finished.

02:57:19 3 Q. Okay. So why do you say it would be hard to
02:57:22 4 identify that technology? I mean, why would an auditor
02:57:27 5 have a problem identifying whether a third-party vendor
02:57:33 6 used spoofing technology?

02:57:37 7 MR. PROANO: Objection.

02:57:47 8 A. Again, I'm not an expert on telephony, but
02:57:51 9 someone auditing a sales call or -- you know, when I
02:57:56 10 say "auditing," listening to a sales call or a
02:58:02 11 verification call, they would not have the number that
02:58:09 12 showed up on caller ID. At least I'm not aware of it.
02:58:17 13 That's what I mean; it would be very difficult. They
02:58:23 14 could only hear the words between the parties.

02:58:28 15 Q. (By Ms. O'Brien) Sure. Are you saying that
02:58:30 16 your auditors don't review or don't audit what types of
02:58:34 17 technology your third-party vendors are using to
02:58:37 18 contact customers?

02:58:39 19 MR. PROANO: Objection.

02:58:53 20 A. I don't understand your question.

02:58:54 21 Q. (By Ms. O'Brien) Do -- I mean, it sounds like
02:59:06 22 what you're saying to me -- and you can -- please
02:59:09 23 correct me if I'm wrong -- is that the people who audit
02:59:16 24 Verde's third-party vendors do not review or
02:59:25 25 investigate what types of technology those third-party

02:59:30 1 vendors use to contact customers, is my understanding.

02:59:36 2 MR. PROANO: Objection.

02:59:46 3 A. So I don't have any knowledge of that type of
02:59:54 4 audit. I can tell you that -- again, now this is not
03:00:01 5 with respect to Verde Ohio. I don't know specifically.
03:00:05 6 I know in general that the vendors are asked to provide
03:00:08 7 the numbers they're calling from. And that, again,
03:00:23 8 when you're -- you know, after the fact, after a sales
03:00:27 9 contact, it is -- I am not aware of any way that an
03:00:36 10 auditor can put themselves in the prospect's shoes and
03:00:40 11 kind of recreate what they experienced.

03:00:43 12 But they asked -- you know, I am aware
03:00:47 13 that -- of cases when the sales team has, you know,
03:00:49 14 asked the telemarketing vendor to provide the numbers
03:00:54 15 that will show up on the caller ID. There's a name for
03:00:58 16 it. I can't remember what it's called but...

03:01:01 17 Q. (By Ms. O'Brien) Okay. But it's conceivable
03:01:04 18 that an auditor or someone could ask a third-party
03:01:10 19 vendor what type of technology they use to contact
03:01:13 20 customers; is that right?

03:01:16 21 A. I don't have any knowledge of that.

03:01:25 22 Q. Okay. Let's take a look at document marked
03:01:37 23 Verde 000510.

03:01:52 24 A. 00510. Okay. I have found it.

03:01:59 25 Q. Okay. Have you had a chance to review this

03:02:07 1 document?

03:02:08 2 A. Yes.

03:02:36 3 Q. Okay. And now, this document concerns a
03:02:47 4 customer complaint regarding a door-to-door salesperson
03:02:51 5 for Verde representing himself as a representative of
03:02:55 6 Duke Energy. Do you see that? I think it is reflected
03:03:01 7 on 000511.

03:03:07 8 A. Yes.

03:03:16 9 Q. Okay. And do you know whether the salesperson
03:03:20 10 referenced in this document is a Verde employee or a
03:03:23 11 third-party vendor agent?

03:03:27 12 MR. PROANO: Objection to the form of the
03:03:31 13 question.

03:03:33 14 A. So based on what I read here, the person was
03:03:41 15 contacted by someone working with a third-party vendor.

03:03:48 16 Q. (By Ms. O'Brien) And do you see on the front
03:03:55 17 page where the customer's concerns were escalated to
03:04:02 18 Verde's compliance manager, vendor quality -- or vendor
03:04:05 19 and quality assurance for investigation purposes?

03:04:08 20 A. Yes, ma'am.

03:04:10 21 Q. Do you know what the outcome of that
03:04:13 22 investigation was?

03:04:15 23 A. Sitting with the information provided here?
03:04:25 24 No. I don't -- I don't see it. Let me look. No.

03:04:36 25 Q. What in the settlement between Verde and PUCO

03:04:40 1 Staff prevents Verde's door-to-door sales agents from
03:04:44 2 representing themselves as a representative from the
03:04:46 3 utility?

03:04:48 4 MR. PROANO: Objection to the form of the
03:04:51 5 question.

03:05:00 6 A. So, similar to our conversation about
03:05:03 7 spoofing, I think that there are already -- there are
03:05:15 8 rules and -- there are rules and guidelines in place
03:05:19 9 that address this and -- and, again, you know, I would
03:05:25 10 expect that the -- the action plan or compliance plan,
03:05:37 11 you know, will outline more specifically, you know, the
03:05:43 12 steps that the company will -- will take and the
03:05:45 13 processes that will be in place before resuming sales
03:05:50 14 in Ohio.

03:05:51 15 Q. (By Ms. O'Brien) Okay. Now if you could move
03:05:57 16 on to document Verde 004590.

03:06:28 17 A. I found it.

03:06:29 18 Q. Okay. And do you see on the -- on the front
03:06:35 19 page, in the middle of the page, there's a statement,
03:06:42 20 it says: "Upon review, we have determined that due to
03:06:45 21 opportunities within the call, that this enrollment
03:06:50 22 needed -- or that this enrollment needed to be
03:06:53 23 escalated."

03:06:55 24 What is it meant by "opportunities within
03:06:59 25 the call"?

03:07:01 1 A. I don't know. I wouldn't want to speculate.

03:07:21 2 Q. Okay. If you could refer now to Verde 000333
03:07:26 3 -- or I'm sorry -- 336.

03:07:29 4 A. Say it again, please.

03:07:30 5 Q. Verde 000336.

03:07:38 6 A. 336?

03:07:39 7 Q. Yes.

03:07:40 8 A. Okay. I found it.

03:08:08 9 Q. Okay. And if you move a couple of pages back
03:08:10 10 to Verde 000338, if you can flip to that.

03:08:24 11 A. 338. Okay.

03:08:27 12 Q. Okay. And do you see at the bottom there is a
03:08:33 13 statement that says, "We apologize for the delay in
03:08:38 14 response and appreciate your patience while we attempt
03:08:42 15 to resolve this matter. Please be aware that after
03:08:45 16 multiple attempts to retrieve the sales call from the
03:08:49 17 vendor, we have been unsuccessful. Verde no longer
03:08:53 18 does business with them and they have been unresponsive
03:09:00 19 to requests such as these."

03:09:00 20 Why wouldn't Verde be able to obtain its
03:09:03 21 own sales calls from its own vendor?

03:09:18 22 A. I would not speculate as to why, you know,
03:09:20 23 other than beyond what's written right here.

03:09:24 24 Q. So when Verde uses a third-party vendor to
03:09:32 25 conduct telemarketing to enroll and market and solicit

03:09:40 1 new customers, how does Verde ensure that it has access
03:09:43 2 to the sales calls?

03:09:47 3 MR. PROANO: Objection.

03:10:03 4 A. So the contracts -- as far as I know, the
03:10:05 5 contracts require -- certainly require that the company
03:10:10 6 have -- be able to access the sales calls. So from my
03:10:18 7 perspective, no, there's not a reason why Verde
03:10:23 8 shouldn't be able to get them.

03:10:41 9 Q. (By Ms. O'Brien) Now, you indicated that you
03:10:43 10 had received the Staff report filed in this proceeding,
03:10:47 11 right?

03:10:47 12 MR. PROANO: Say that again, Ms. O'Brien.
03:10:49 13 I'm sorry. I didn't hear you.

03:10:53 14 Q. (By Ms. O'Brien) Ms. Jordan, you indicated
03:10:55 15 that you reviewed the Staff report filed in this case,
03:11:00 16 right?

03:11:00 17 A. Like I said, I reviewed it. It's not
03:11:05 18 committed to memory because it's pretty long, but yes,
03:11:08 19 I reviewed it.

03:11:11 20 Q. Are you aware that -- are you aware that the
03:11:15 21 Staff report makes allegations regarding Verde's
03:11:20 22 failure to maintain records in accordance with the
03:11:24 23 PUC's rules?

03:11:29 24 A. So what I see is a reference to some
03:11:53 25 administrative code numbers.

03:12:12 1 Q. If you flip to page 15 --

03:12:17 2 MR. PROANO: Ms. Jordan, are you done
03:12:21 3 with your answer?

03:12:24 4 Q. (By Ms. O'Brien) I'm sorry, I didn't mean to
03:12:27 5 cut you off.

03:12:31 6 A. I wasn't saying anything. I think that was
03:12:33 7 David.

03:12:34 8 MR. PROANO: I'm just asking: Were you
03:12:37 9 done with your answer, Ms. Jordan?

03:12:39 10 A. Yes. Yeah, I was.

03:12:41 11 Q. (By Ms. O'Brien) Okay. What was your answer?
03:12:45 12 I'm sorry, I didn't catch it.

03:12:52 13 A. I don't know now.

03:12:53 14 MS. O'BRIEN: Can the court reporter read
03:12:56 15 her answer back?

03:13:29 16 (The requested material was read.)

03:13:29 17 Q. (By Ms. O'Brien) Okay. Well, what -- I'm not
03:13:36 18 going to read the Staff report, but what in the
03:13:41 19 settlement between PUCO Staff and Verde ensures that
03:13:48 20 Verde will maintain its customer records in accordance
03:13:51 21 with PUCO's rules?

03:13:55 22 A. I would expect that the action plan would
03:14:07 23 address those matters in further detail.

03:14:10 24 Q. Okay. Now, if you can refer to Verde 000498.

03:14:26 25 A. 00498. Is that what you said? 498?

03:14:41 1 Q. Yes.

03:14:44 2 A. Okay.

03:14:44 3 Q. Okay. And do you see on the front page
03:14:49 4 there's a statement from Verde regarding a customer
03:14:52 5 complaint that says, "After careful review, due to
03:14:56 6 unforeseen circumstances, Verde no longer has record of
03:14:59 7 the IP address and the on line enrollment form used to
03:15:03 8 enroll the customers' electric service." Do you see
03:15:12 9 that?

03:15:13 10 A. Yes, I see that sentence.

03:15:16 11 Q. Why would Verde not have the records for the
03:15:19 12 online enrollment?

03:15:27 13 MR. PROANO: Objection.

03:15:46 14 A. I wouldn't want to speculate as to why that
03:15:57 15 would have been the case at that time.

03:16:00 16 Q. (By Ms. O'Brien) Okay. Now, I think you --
03:16:07 17 we discussed in the beginning of the deposition that
03:16:09 18 part of your duties are to review and research the
03:16:13 19 relevant rules that govern marketing of retail,
03:16:18 20 electric and retail natural gas supply service in the
03:16:23 21 different states.

03:16:25 22 Is that your recollection?

03:16:29 23 MR. PROANO: Objection.

03:16:31 24 A. So you asked me is it my -- part of my duties
03:16:35 25 to understand all of the rules in the state?

03:16:46 1 Q. (By Ms. O'Brien) Yeah, well, I think your
03:16:47 2 resume says that part of your duties as a senior
03:16:56 3 director in retail portfolio management is to research
03:16:59 4 and understand tariffs and market roles, procedures,
03:17:05 5 and pricing associated -- or related to the products
03:17:09 6 offered.

03:17:09 7 A. Yes.

03:17:10 8 Q. Do you remember that?

03:17:11 9 A. Yes, related to the -- yes. I'm just trying
03:17:13 10 to be clear that I have no endeavor to understand
03:17:21 11 every -- you know, I would not say that I understand
03:17:23 12 every rule and regulation that's out there.

03:17:30 13 Q. Okay. Well, do you understand the Ohio PUCO
03:17:34 14 rules governing CRES and CRNG third-party verification
03:17:44 15 calls?

03:17:48 16 A. No. That would not be part of my purview,
03:17:52 17 actually. I have a general understanding of what tends
03:17:56 18 to be required in third-party verification calls, but
03:17:59 19 that would not be part of my responsibility as it
03:18:07 20 relates -- does not relate to products.

03:18:14 21 Q. Okay. Whose responsibility would that be?

03:18:21 22 A. I think from a matter of understanding what
03:18:23 23 the requirements are, you know, that falls with
03:18:30 24 regulatory -- you know, you can call it the
03:18:33 25 three-legged stool, I suppose, right, there's

03:18:36 1 regulatory to understand what's required and sales to
03:18:40 2 help get it out to the field and compliance to make
03:18:46 3 sure it's still happening.

03:18:47 4 Q. Is there a specific person within Verde
03:18:51 5 that -- that -- who would have the responsibility to
03:18:54 6 clearly understand the third-party verification rules?

03:19:04 7 A. So I mentioned that we have a person that
03:19:12 8 heads our regulatory department. I don't know if
03:19:16 9 she's -- you know, there's a team, so I don't know if I
03:19:19 10 would call anyone singularly responsible, but I would
03:19:23 11 say our regulatory department is the...

03:19:26 12 Q. And what was that person's name again?

03:19:29 13 A. Brianna. Then I'd say -- I don't know her
03:19:33 14 last name. I don't know how to spell it. Brianna A.

03:19:40 15 Q. Can you kind of just --

03:19:43 16 A. A.

03:19:43 17 Q. I'm sorry?

03:19:44 18 A. I said Brianna A.

03:19:46 19 Q. Brianna A?

03:19:47 20 A. Yeah. I'm going to butcher it, so...

03:19:52 21 Q. Okay. Well, let's look for now to Verde
03:20:01 22 004222. Let me know when you're there.

03:20:29 23 A. I have found it.

03:20:32 24 Q. Okay. And if you could flip specifically to
03:20:35 25 Verde 004226.

03:21:17 1 A. I see it.

03:21:17 2 Q. Are you there?

03:21:18 3 A. Yes, I am there.

03:21:19 4 Q. And towards the bottom of the page there's a
03:21:21 5 section that says "outcome" and it says, "However, due
03:21:27 6 to apparent discrepancies within the TPV, the
03:21:31 7 enrollment should have been deemed a no sale."

03:21:36 8 Again, what do you mean by discrepancies
03:21:41 9 within the TPV?

03:21:44 10 MR. PROANO: Objection. I don't believe
03:21:47 11 Ms. Jordan authored this document. So object to the
03:21:52 12 form of the question.

03:21:52 13 MS. O'BRIEN: I'm asking her --

03:21:52 14 Q. (By Ms. O'Brien) Ms. Jordan, do you know what
03:21:56 15 discrepancies within the TPV means? You can answer
03:22:01 16 whether you do or you don't know.

03:22:04 17 A. No, I don't know beyond what is in this
03:22:10 18 outcome paragraph right here. I don't know with more
03:22:21 19 specificity what that means.

03:22:24 20 Q. Who would know that?

03:22:38 21 MR. PROANO: Ms. O'Brien, I'm sorry. By
03:22:38 22 "that," do you mean for this specific case, or what
03:22:38 23 that phrase means generally, or what are you looking
03:22:41 24 for?

03:22:41 25 MS. O'BRIEN: Well, you know, who

03:22:42 1 would -- who would know what it means, generally? It
03:22:45 2 appears to be a term of art. I mean, I kind of have a
03:22:53 3 thought of what it means, but I want to know what Verde
03:22:57 4 means by it. So who within Verde would know what that
03:23:06 5 term means.

03:23:07 6 MR. PROANO: Objection.

03:23:10 7 A. So I -- I mean, I could only say that maybe
03:23:16 8 Xiomara would know what it means in this particular
03:23:18 9 case. And I mean, I think I spoke in general to what
03:23:23 10 would make something be a no sale, but again, I don't
03:23:27 11 know about this specific case. But I think we already
03:23:30 12 talked about what would make something a no sale, in
03:23:33 13 general. Again, using my own -- using my work
03:23:38 14 colloquial term.

03:23:47 15 Q. (By Ms. O'Brien) Okay. Now if we could
03:24:01 16 switch gears and flip to -- we're going to flip back to
03:24:07 17 Verde's responses to OCC's first set of discovery. I
03:24:16 18 want to go to Verde's response to Interrogatory 1-10.
03:24:32 19 Let me know when you're there.

03:24:45 20 MR. PROANO: What's the date of the
03:24:48 21 response?

03:24:49 22 MS. O'BRIEN: It's the May 13th
03:24:55 23 production.

03:25:11 24 MR. Proano: Thank you.

03:25:11 25 A. So what -- what number are we looking for

03:25:13 1 here?

03:25:15 2 Q. (By Ms. O'Brien) The response to
03:25:16 3 interrogatory 1-10?

03:25:19 4 A. Oh, okay.

03:25:21 5 Q. Can you please explain Verde's process for
03:25:34 6 sending contract expiration notices to its customers?

03:25:48 7 A. Can you be more specific? Like from a
03:25:56 8 technology standpoint? What are you asking?

03:25:58 9 Q. Well, that can be included. I guess what I'm
03:26:01 10 getting at is when Verde enrolls a customer for service
03:26:09 11 and they have a contract and their contract is about to
03:26:13 12 expire, what does Verde do to let the customer know
03:26:16 13 that their contract is about to expire?

03:26:19 14 A. I understand your question. So as stated in
03:26:28 15 response, we have an application -- you know, a
03:26:31 16 computer application that tracks those relevant
03:26:38 17 contract dates; so start and end date and things like
03:26:42 18 that. So roughly 60 days prior to, you know, to that
03:26:51 19 contract end date that's in the system, there's a
03:26:53 20 process that -- I'll just say a process that triggers
03:27:03 21 and helps generate a contract expiration notice that is
03:27:10 22 delivered, you know, printed and sent in the mail.

03:27:16 23 Q. Okay. So do all customers receive a written
03:27:23 24 notice of expiration?

03:27:30 25 A. I don't know if I can ever say if all

03:27:33 1 customers receive it. I'd say that all customers that
03:27:38 2 are on -- you know, certainly the process intent is
03:27:42 3 that all customers on a fixed plan that are, you know,
03:27:46 4 where their fixed plan is up for -- you know, coming
03:27:51 5 towards its end, yes, that's certainly the -- that's
03:27:55 6 the -- the point of the process. I can't say that
03:27:58 7 it -- you know, I mean, I'm sure things can happen, so
03:28:01 8 I can't tell you a hundred percent but yeah, that's the
03:28:04 9 idea.

03:28:05 10 Q. Okay. Can you refer now to Verde 001299?

03:28:14 11 A. Okay. Hold on. Swapping binders again.

03:28:22 12 MR. PROANO: Ms. O'Brien, I'm just
03:28:24 13 reminding you of my 5:00 p.m. hard stop. Where are you
03:28:27 14 at in your...

03:28:27 15 MS. O'BRIEN: I'm getting through it as
03:28:29 16 quick as I can, David. I mean, you know, she also --
03:28:37 17 Ms. Jordan, as I understand it, has an attorney with
03:28:40 18 her down in Houston, too.

03:28:43 19 MR. PROANO: Okay. I just want to know
03:28:45 20 where you are at so I can plan accordingly. I have a
03:28:48 21 childcare issue.

03:28:49 22 MS. O'BRIEN: I get it. I have three
03:28:51 23 kids.

03:28:51 24 MR. PROANO: If you can give me a
03:28:53 25 heads-up here in the next 10 or 15 minutes, I'd

03:28:56 1 appreciate it.

03:28:58 2 MS. O'BRIEN: Yeah.

03:29:00 3 Q. (By Ms. O'Brien) Ms. Jordan, are you there?

03:29:02 4 A. What number was it? 1299?

03:29:06 5 Q. Yeah. 001299. Are you there?

03:29:25 6 A. I am there.

03:29:26 7 Q. Okay. Great. And if you flip to page 001300.

03:29:33 8 A. 1300. I see it.

03:29:54 9 Q. And you'll see the last paragraph in -- it
03:29:57 10 looks like this e-mail, it states, "Verde's product
03:30:01 11 renew onto a month-to-month basis, as the initial terms
03:30:05 12 of service explain, and so they are exempt from
03:30:11 13 08C4901: 1-21-11G. Therefore, there are not renewal
03:30:18 14 notices to provide in this case."

03:30:24 15 MR. PROANO: Ms. O'Brien, we're off the
03:30:26 16 corporate rep notice; is that correct? I just want to
03:30:30 17 confirm that we are now back to Ms. Jordan's
03:30:34 18 deposition.

03:30:35 19 MS. O'BRIEN: This is not a spoofing
03:30:36 20 issue.

03:30:37 21 MR. PROANO: Okay. I just wanted to know
03:30:40 22 for the record.

03:30:42 23 Q. (By Ms. O'Brien) So why does Verde take the
03:30:51 24 position in this case that no renewal notices are
03:30:54 25 necessary?

03:31:12 1 A. There's a lot of information in here. Can you
03:31:16 2 give me a moment to go...

03:31:18 3 Q. Sure. Take your time.

03:31:19 4 A. As I'm reading, it looks like there's multiple
03:31:22 5 contracts or something, so just please bear with me.
03:32:20 6 I'm caught up.

03:32:21 7 Q. Okay. Do you need my question again?

03:32:23 8 A. Yes, please.

03:32:24 9 Q. Okay. Why would Verde not provide a renewal
03:32:30 10 notice to a customer in this case?

03:32:32 11 A. So I happen to know this from my personal
03:32:39 12 knowledge. So based on my read of this, this customer
03:32:47 13 was signed up prior to the -- to Spark acquiring Verde.
03:33:04 14 So, one, the process that I mentioned earlier would --
03:33:11 15 you know, would not necessarily apply because I was
03:33:14 16 referring to processes that were in place, you know,
03:33:19 17 with respect to more recent contracts and more recent
03:33:26 18 processes that Spark put into place after acquisition
03:33:30 19 of Verde.

03:33:33 20 Q. Do you know -- do you know if -- do you see on
03:33:41 21 the front page, if you flip to 001299, do you see where
03:33:49 22 it says here -- and this is -- it looks like a
03:33:53 23 statement by someone with the PUCO. It says, "It was
03:33:58 24 determined that notifying customers upon initial
03:34:01 25 enrollment does not make a CRES provider exempt from

03:34:05 1 OAC4901: 1-21-11G, as the initial terms and conditions
03:34:14 2 do not meet the regulatory requirement of notice to be
03:34:16 3 provided between 45 and 90 calendar days before the
03:34:20 4 contract expires. Initial terms also do not meet the
03:34:26 5 criteria of a notice provided in a separate mailing or
03:34:31 6 conspicuously placed in a bill message or insert."

03:34:41 7 Does Verde continue or was it a practice
03:34:43 8 in marketing and enrolling customers to not provide
03:34:48 9 notices of expiration in similar cases?

03:34:53 10 A. So what I can tell you is that if a product is
03:35:06 11 sold to a customer as a fixed plan, then -- when I say
03:35:14 12 "fixed," I mean a -- a fixed -- a plan with a fixed
03:35:22 13 rate and a defined term length -- then those plans
03:35:30 14 should, as far as I know, get -- those customers should
03:35:39 15 get contract expiration notices at the end of their
03:35:42 16 term. Certainly that's the process today.

03:35:48 17 Q. And do you see the statement at the top, it
03:35:51 18 looks like from a Louise Bourgeois that says, "After
03:35:56 19 careful review, although Verde believes the customer
03:35:58 20 was properly notified of a contract expiration, we
03:36:03 21 agree to process a cost analysis for the service period
03:36:10 22 9/13/2017 through 1/11/2019. If a refund is due, the
03:36:17 23 customer will be refunded accordingly."

03:36:23 24 Do you see that?

03:36:23 25 A. I see that paragraph, yes, I do.

03:36:24 1 Q. Why would Verde disagree with Staff's
03:36:28 2 assessment of the rule?

03:36:31 3 MR. PROANO: You're asking her in her
03:36:33 4 individual capacity, correct?

03:36:37 5 MS. O'BRIEN: Yes.

03:36:37 6 A. I can't speculate on, like, this particular
03:36:42 7 matter. Again, based on my personal knowledge, there
03:36:49 8 were, again, prior to Spark acquiring -- acquiring
03:36:58 9 Verde, I know there were some products sold that were
03:37:04 10 not -- again, it's my understanding because I wasn't
03:37:08 11 there, there were products sold that were not -- that
03:37:15 12 were not, I guess, fixed contract, as I defined them
03:37:22 13 earlier.

03:37:22 14 Q. (By Ms. O'Brien) Who would know?

03:37:24 15 A. Oh, ma'am, I don't know. Someone -- you know,
03:37:29 16 who would know why the -- why Louise wrote that Verde
03:37:35 17 believes the customer was properly notified? Is that
03:37:37 18 what you're asking me?

03:37:38 19 Q. Yeah. Who would know what Verde's policy is
03:37:41 20 on that?

03:37:45 21 MR. PROANO: I think those are two
03:37:47 22 different questions. What is it that you're asking,
03:37:51 23 Ms. O'Brien?

03:37:55 24 MS. O'BRIEN: Ms. Jordan just testified
03:37:56 25 that she doesn't know why Verde would take this

03:37:59 1 position. I'm asking her who would know.

03:38:15 2 A. So I don't know what specific person that
03:38:17 3 would be. I guess what I'm trying to convey to you is
03:38:22 4 that this particular customer was acquired, you know,
03:38:30 5 at a time that -- at a different time, under a
03:38:34 6 different leadership team that, you know, has nothing
03:38:37 7 to do with -- with Spark. So I don't know.

03:38:43 8 So, you know, all I know is that those --
03:38:45 9 that this product was sold under -- or could be related
03:38:50 10 to a different -- would be related to a different
03:38:52 11 process. The process that I was telling you about, the
03:38:56 12 contract expiration notices, is something that is done
03:39:00 13 today.

03:39:01 14 Q. (By Ms. O'Brien) Okay. Fair enough. But the
03:39:03 15 statement here by Louise Bourgeois was made on
03:39:08 16 February 8th, 2019. So that is during the relevant
03:39:13 17 time period in this case, correct?

03:39:29 18 A. Yeah, and I understand that Ms. Bourgeois is
03:39:32 19 responding post acquisition. I'm just -- she's
03:39:38 20 responding -- you know, she's responding because the
03:39:40 21 customer contacted -- it looks like they contacted us.

03:39:44 22 Q. Who is Louise Bourgeois?

03:39:51 23 A. I don't know Louise. At least, if I do, I
03:39:54 24 don't -- I don't know that I know her.

03:39:56 25 Q. You don't know who she is at all? You don't

03:39:58 1 know whether she works in Houston with you?

03:40:08 2 A. I can see that her signature says that she is.
03:40:12 3 But I don't know all -- I don't know all 150 people in
03:40:15 4 the building and this was back in February. So I
03:40:18 5 don't -- it's not a person that I know.

03:40:19 6 Q. Do you know -- oh, I'm sorry, I didn't mean to
03:40:22 7 cut you off.

03:40:23 8 A. I said I just don't know her.

03:40:25 9 Q. Okay. Do you know if she's still with Verde?

03:40:36 10 A. No, ma'am, I don't know.

03:40:46 11 MR. PROANO: Angela -- Ms. O'Brien, what
03:40:49 12 is your time frame, if you could let me know.

03:40:53 13 MS. O'BRIEN: I can probably get through
03:40:56 14 this in the next half hour, if I can do it without
03:41:04 15 interruptions, I guess.

03:41:10 16 MR. PROANO: Okay.

03:41:11 17 MS. O'BRIEN: So I don't have too much
03:41:12 18 more. You know, it's a lot of information.

03:41:15 19 Q. (By Ms. O'Brien) Okay. Now I want to move
03:41:17 20 onto a different topic.

03:41:22 21 Are you familiar with the Ohio -- I'm
03:41:24 22 sorry. Are you familiar with Ohio's rules regarding
03:41:28 23 notifying customers that they have seven calendar days
03:41:31 24 to rescind a contract for CRES service in seven
03:41:37 25 business days, to rescind for CRNG service?

03:41:47 1 A. I am aware that most utilities have rescission
03:41:50 2 rules. I didn't have seven days for Ohio in my mind,
03:41:53 3 but I take you at your word that it's seven days.

03:41:58 4 Q. Are you aware that the Staff report filed in
03:42:01 5 this case makes findings regarding Verde's alleged
03:42:06 6 failure to notify customers that they have seven
03:42:08 7 calendar days or seven business days to rescind
03:42:12 8 contracts for service?

03:42:47 9 A. Oh, sorry. Just trying to find the page.

03:42:51 10 Q. Actually, I can give you the page number.

03:42:55 11 A. I got it. It's 13.

03:42:57 12 Q. Oh, you got it? Yeah.

03:43:00 13 A. Okay. I'm there.

03:43:17 14 Q. So I guess my question was: You're aware that
03:43:21 15 the Staff report makes findings regarding Verde's
03:43:25 16 alleged failure to notify customers that they have
03:43:29 17 seven days to rescind CRES or CRNG services, right?

03:43:34 18 MR. PROANO: Objection to the form of the
03:43:36 19 question.

03:43:42 20 A. I see some verbiage about customers being told
03:43:45 21 three days, yeah.

03:43:54 22 Q. (By Ms. O'Brien) Well, wouldn't settlement
03:43:55 23 between PUCO Staff and Verde ensure that customers will
03:44:00 24 be notified that they have seven calendar days or seven
03:44:05 25 business days to rescind contracts for CRES or CRNG

03:44:14 1 services?

03:44:24 2 A. I think that -- that can be addressed in the
03:44:28 3 compliance plan and I think -- and it's addressed in
03:44:35 4 the -- you know, in the general rules.

03:44:43 5 Q. If you can refer to Verde 003703.

03:45:08 6 A. Oh, got it.

03:45:13 7 Q. Have you had a chance -- you can take a minute
03:45:16 8 to -- or however long you need to just review this and
03:45:20 9 let me know when you're ready.

03:45:22 10 A. Okay. Thank you. Okay. I'm ready.

03:46:41 11 Q. So this document reflects a customer complaint
03:46:49 12 that -- well, one, there was a no sale due to
03:46:56 13 discrepancies with the TPV call, but also the complaint
03:47:01 14 notes that there was some customer confusion regarding
03:47:05 15 whether his rate with Verde would be measured in CCF
03:47:11 16 versus MCF.

03:47:13 17 Do you see that?

03:47:14 18 A. Yes.

03:47:17 19 Q. Now, are you familiar with the Ohio
03:47:24 20 administrative code rule that requires offers for
03:47:30 21 competitive retail natural gas supply service to be
03:47:34 22 measured in CCF or MCF, whichever is consistent with
03:47:38 23 the incumbent natural gas company's billing format?

03:47:43 24 A. I am familiar with that.

03:47:47 25 Q. You are familiar with that?

03:47:49 1 A. Yes.

03:47:49 2 Q. Okay. And what does Verde do to ensure that
03:47:55 3 its potential customers are not confused by the unit of
03:47:59 4 measurement for their natural gas supply?

03:48:05 5 MR. PROANO: Objection to the form of the
03:48:12 6 question.

03:48:13 7 A. So, I mean, generally speaking, in the -- in
03:48:18 8 any of the utilities, you know, we try to make it
03:48:22 9 easier -- easy for the customer to understand by -- by
03:48:27 10 talking about their rate in -- you know, like you said,
03:48:30 11 in the way that the incumbent utility talks about it.
03:48:37 12 So that should be -- or that would be in the -- in the
03:48:45 13 TPV and also, you know, it should be in the way that
03:48:49 14 the sales representative sells the product.

03:48:56 15 Q. (By Ms. O'Brien) Okay. Are Verde's
03:49:03 16 third-party vendors trained with respect to these
03:49:05 17 issues?

03:49:07 18 A. Yes. I mean, they -- you know, I can't speak
03:49:10 19 to every incidence where an agent was trained, but like
03:49:16 20 I said, you know, the intent for sure is that units of
03:49:22 21 measure are consistent and -- consistent at each touch
03:49:27 22 point, customer touch point, and consistent with the
03:49:32 23 unit of measure that the utility uses.

03:49:45 24 Q. Okay. Now I'm going to direct your attention
03:49:45 25 to the settlement between Verde and PUCO Staff that was

03:49:48 1 filed on September 6th. So if you can pull that out
03:49:52 2 and take a look at it.

03:49:53 3 A. You said the settlement?

03:49:59 4 Q. Yes.

03:49:59 5 A. Okay. Got it.

03:50:01 6 Q. Okay. And we're going to take a look at
03:50:06 7 paragraph 3, which is under -- I'm sorry, it's on page
03:50:12 8 4. It's under Roman numeral III, paragraph 3. This
03:50:25 9 part of the stipulation provides that Verde's
03:50:28 10 residential customers enrolled from October 1, 2018, to
03:50:31 11 April 30th, 2019, will be re-rated. And it
03:50:39 12 specifically references retail electric residential
03:50:42 13 customers.

03:50:44 14 Does the settlement re-rate or otherwise
03:50:48 15 provide restitution to natural gas customers that were
03:50:53 16 enrolled during the same period?

03:51:01 17 A. I'm looking at the same thing you're looking
03:51:02 18 at and it says electric customers.

03:51:05 19 Q. So would you agree with me that the settlement
03:51:16 20 between Verde and PUCO Staff does not provide
03:51:20 21 restitution or otherwise re-rate natural gas customers?

03:51:26 22 MR. PROANO: Objection to the form of the
03:51:29 23 question.

03:51:35 24 A. What I see in paragraph 3 references electric
03:51:40 25 customers.

03:51:41 1 Q. (By Ms. O'Brien) Okay. If you could just
03:51:51 2 give me a couple of minutes. I think we can wrap this
03:51:54 3 up here pretty quickly. If I could just take a couple
03:51:54 4 of minutes, that would be great.

03:52:05 5 Does anybody need a break?

03:52:05 6 MR. PROANO: Could we do three minutes?

03:52:08 7 MS. O'BRIEN: That's fine.

03:52:08 8 THE WITNESS: I would like to walk across
03:52:08 9 the room to get a warm beverage.

03:59:17 10 (Off the record 3:52 to 3:59.)

03:59:17 11 Q. (By Ms. O'Brien) Okay. So Ms. Jordan, I'd
03:59:32 12 like you to turn to Verde's responses to OCC INT 335
03:59:57 13 and let me know when are you there.

03:59:59 14 A. What set of responses would this be in?

04:00:02 15 Q. This would be the third set.

04:00:06 16 A. All right. Third set. What number am I
04:00:11 17 looking for again?

04:00:13 18 Q. 335 and the set is actually dated
04:00:16 19 September 19th, if that helps.

04:00:19 20 A. Okay. 335. Interrogatory 335. Okay. I am
04:00:33 21 here.

04:00:35 22 MR. PROANO: I would like to note for the
04:00:37 23 record that this is marked as confidential information.

04:00:40 24 MS. O'BRIEN: Okay.

04:00:42 25 Q. (By Ms. O'Brien) Is this -- we're going to be

04:00:47 1 talking about the Exhibit 2 that was provided in the
04:00:55 2 re- rating information. So I'm just giving you a
04:00:58 3 heads-up. Actually if you want to turn to INT 336?

04:01:12 4 A. Okay.

04:01:13 5 Q. I'm sorry. Go ahead.

04:01:15 6 A. 336.

04:01:17 7 Q. Yeah.

04:01:21 8 A. Okay.

04:01:22 9 Q. Okay. And the response will be to subpart A.

04:01:28 10 A. Okay. So you want me to look at Exhibit 2?

04:01:33 11 Q. 2, yeah. It is Verde 003591.

04:01:40 12 MR. PROANO: Ms. Jordan, I think that
04:01:42 13 should be in -- on the laptop in front of you in an
04:01:45 14 Excel format.

04:01:47 15 THE WITNESS: Yes, sir. I am pulling it
04:01:49 16 up as we speak.

04:02:02 17 A. I've got the spreadsheet open.

04:02:12 18 Q. (By Ms. O'Brien) If you go to the first tab,
04:02:14 19 the pivot tab?

04:02:20 20 A. Yes, ma'am.

04:02:21 21 Q. We just want to have an understanding of the
04:02:25 22 various -- the various columns here and get an
04:02:33 23 understanding of how -- just if you could explain for
04:02:40 24 me each of the columns and how the grand total, the
04:02:50 25 [REDACTED] was calculated?

04:02:55 1 A. Sure. So the first thing that I want to make
04:03:00 2 sure is clear is that [REDACTED]
04:03:05 3 [REDACTED] I guess you said [REDACTED]
04:03:07 4 [REDACTED] But it was done as [REDACTED]
04:03:16 5 [REDACTED]
04:03:25 6 [REDACTED] So the purpose of this
04:03:28 7 was to [REDACTED] So a lot of the information here
04:03:35 8 in the second tab, and thereby that feed into the first
04:03:41 9 tab, [REDACTED]
04:03:45 10 That's the first thing I want to make sure you
04:03:48 11 understand.

04:03:48 12 Q. Okay.

04:03:49 13 A. So now your question is: What are the --
04:03:52 14 like, what is this? Just explain the tab?

04:03:55 15 Q. Yeah. Well, let me back up. I just want to
04:03:59 16 confirm that in this Exhibit 2 there are no -- there
04:04:03 17 are no re-rates for natural gas customers; is that
04:04:07 18 correct?

04:04:07 19 A. Looking at it here... Let me see. Looking at
04:04:21 20 it and looking at the number, it looks to be only
04:04:25 21 electric customers.

04:04:26 22 Q. Okay. And do you know why there are no
04:04:29 23 re-rates in here for natural gas customers?

04:04:32 24 A. No, ma'am. I was asked to look at electric
04:04:38 25 customers. I don't know -- I calculated the data I was

04:04:43 1 asked to calculate.

04:04:44 2 Q. Give me just one second.

04:05:03 3 Okay. So Ms. Jordan, could you just go
04:05:06 4 through each of these columns and clarify what each one
04:05:11 5 means? Like, for example, if we can start with --
04:05:18 6 yeah, if you can just go through the columns -- and I
04:05:23 7 know some of them are clear but some of them aren't so
04:05:26 8 clear. So if you could start with the first column?

04:05:29 9 A. On the pivot tab?

04:05:33 10 Q. Yes.

04:05:34 11 A. Okay. [REDACTED]

04:05:39 12 [REDACTED]

04:05:51 13 [REDACTED]

04:05:55 14 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

04:07:03 1

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

04:07:49 10

Q. Okay. And who created these spreadsheets?

04:08:01 11

A. I did.

04:08:01 12

Q. Now we're going to move to the [REDACTED] tab.

04:08:08 13

And just one second.

04:08:47 14

Okay. Thank you, Ms. Jordan. So on this

04:08:51 15

tab it's the same thing, there are just some of the

04:08:54 16

columns that aren't clear to us. If we could start

04:08:57 17

with [REDACTED] if you can

04:09:05 18

explain what that means?

04:09:06 19

A. Sure. [REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

04:09:35 1 [REDACTED]
04:09:37 2 [REDACTED] [REDACTED]
04:09:37 3 [REDACTED] [REDACTED]
04:09:41 4 [REDACTED] [REDACTED]
[REDACTED] [REDACTED]
04:09:55 6 Q. Okay. And now... Okay. So the next column
04:10:07 7 is [REDACTED]
04:10:16 8 A. That acronym stands for [REDACTED]
04:10:21 9 That could also stand for [REDACTED]. But it's
04:10:25 10 [REDACTED] anyway.
04:10:26 11 Q. Okay. And then the next, [REDACTED]?
04:10:37 12 A. This is going to be a little harder to
04:10:40 13 explain, but it's basically [REDACTED]. [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED] Does that make sense?
04:11:04 18 Q. Yeah.
04:11:06 19 A. Okay.
04:11:06 20 Q. So the next one is the [REDACTED], which if
04:11:16 21 you could just clarify that for us.
04:11:18 22 A. Yes. So [REDACTED] should mean -- should
04:11:29 23 mean [REDACTED] In
04:11:33 24 this particular case, it looks like that is -- it
04:11:38 25 actually doesn't look -- it doesn't look accurate.

04:11:45 1 There are any number of reasons, from a systems
04:11:51 2 standpoint, why that's the case. But that's what
04:11:53 3 the -- it's intended to mean the [REDACTED]

[REDACTED]
04:11:57 5 Q. Okay. So for example, [REDACTED] would that be a
04:12:06 6 [REDACTED] I mean, what...

04:12:09 7 A. So, like I said, what it should be is [REDACTED] It
04:12:13 8 should be [REDACTED]. But as you can see, the columns
04:12:17 9 next to it, you can see that [REDACTED]

04:12:24 10 [REDACTED]

04:12:25 11 [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

04:12:47 18 Q. Okay.

04:12:49 19 A. It's not -- it's not [REDACTED]

04:12:51 20 Q. So I think we can figure out what the [REDACTED]

04:13:00 21 [REDACTED] and the [REDACTED] are?

04:13:03 22 A. Yes.

04:13:04 23 Q. And the [REDACTED] we know what that is.

04:13:07 24 The [REDACTED] The

04:13:14 25 [REDACTED] can you explain -- I see that there's

04:13:19 1 [REDACTED] in here but --

04:13:24 2 A. Sure.

04:13:24 3 Q. Okay. So I think I see it. Can you just
04:13:26 4 clarify it for me?

04:13:27 5 A. Yeah. So I think you can see there's a
04:13:30 6 formula in there, and so all I'm trying to do is [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED] So it's just a
04:13:56 11 helper field to help me with the formula. That's all.

04:14:01 12 Q. Okay. So the next one, can you explain this
04:14:07 13 column? What is it? [REDACTED]

04:14:11 14 A. Uh-huh.

04:14:13 15 Q. And the numbers here reflect what?

04:14:16 16 A. Sure. So in there is another formula. So
04:14:21 17 basically what it says is [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

04:14:58 1

04:15:00 2

04:15:02 3

04:15:04 4

04:15:06 5

04:15:08 6

04:15:10 7

04:15:20 8

04:15:28 9

04:15:31 10

04:15:31 11

04:15:40 12

04:15:42 13

04:15:51 14

04:16:08 15

04:16:14 16

04:16:17 17

04:16:19 18

04:16:24 19

04:16:26 20

04:16:28 21

04:16:29 22

04:16:45 23

04:16:47 24

04:16:49 25

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Q. And then the next column, [REDACTED] I

think that's self-explanatory.

A. Yes.

Q. [REDACTED], I think that's

self-explanatory. The [REDACTED] and the

[REDACTED] -- hold on just one...

A. Sure.

Q. Okay. So for the [REDACTED] column, if you could explain -- I think I know what it is, but if you could just tell me, that will be good.

A. Sure. So in this particular exercise, I was provided with a -- a [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Q. Uh-huh.

A. [REDACTED]

[REDACTED]

04:16:54 1 [REDACTED]
[REDACTED] [REDACTED]
04:16:58 3 And as you can see, I'm just
04:17:01 4 calculating -- calculating the [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED] So I'm just
04:17:16 8 [REDACTED]
04:17:19 9 Q. Okay.
04:17:20 10 A. And the result of that is in column U.
04:17:24 11 Q. Okay. And then column T, the [REDACTED]
04:17:30 12 [REDACTED] I think we are good on that. The [REDACTED] we're
04:17:39 13 good on. I think that's the last column.
04:17:59 14 Okay. Thank you for bearing with me on
04:18:02 15 that. I apologize; I have lawyer math so I need these
04:18:08 16 things spelled out for me. That's why I'm not a
04:18:11 17 business person.
04:18:15 18 MS. O'BRIEN: Okay. So I think with
04:18:18 19 that, I am done with my questions.
04:18:25 20 MR. PROANO: All right. Mr. Olier, do
04:18:25 21 you want --
04:18:32 22 MR. NUGENT: This is Mike Nugent. Joe
04:18:35 23 had to fill in for me on a different call. So I have
04:18:38 24 jumped in obviously a little bit after the fact, but we
04:18:41 25 do have a couple of questions.

04:18:45 1 He brought to my attention that there was
04:18:47 2 a vendor that Verde used. I believe it was BAAA; is
04:18:56 3 that correct?

04:18:56 4 MR. PROANO: Are you asking the questions
04:18:58 5 now, Mr. Nugent?

04:19:00 6 MR. NUGENT: I am.

04:19:00 7 MR. PROANO: Okay. Ms. Jordan, are you
04:19:03 8 ready?

04:19:03 9 THE WITNESS: Oh, okay. I was like, is
04:19:05 10 he asking me? I didn't know if he was asking me or
11 you.

12 THE REPORTER: There's too much noise.
13 I'm sorry, there's too much noise on the conference
14 call. I don't know if somebody is touching their
15 microphone.

04:19:24 16 MR. NUGENT: I apologize. I had sat in,
04:19:25 17 because, like Mr. Proano, you know, I also have a
04:19:26 18 childcare commitment so I was trying to get into my
04:19:26 19 car.

04:19:26 20 THE REPORTER: I'm sorry, before we go
04:19:26 21 on, your name is Mike?

04:19:39 22 MR. NUGENT: Michael Nugent, N-U-G-E-N-T.
04:19:39 23 I'm also an attorney with Interstate Gas Supply, Inc.

04:19:39 24 THE REPORTER: Thank you.

04:19:39 25 MR. NUGENT: You're welcome.

EXAMINATION

BY MR. NUGENT:

Q. Ms. Jordan, are you ready? I only have a few questions.

A. Sure. I'm ready.

Q. Okay. I believe it was discussed earlier on the deposition that Verde used a third-party vendor to sell its products and services by the name BAAA, or that is the acronym. Is that correct?

A. That -- actually, no, that doesn't ring a bell. No, sir.

Q. Well, let me -- maybe I'll come at this a different way then. In the wake of the Staff report and the COI that was filed by PUCO Staff, what steps did Verde take to investigate the action practices that were alleged in the Staff report?

MR. PROANO: You're talking about other than what counsel did, Mr. Nugent?

MR. NUGENT: Yes.

MR. PROANO: Ms. Jordan, without disclosing any privileged communications or work product, you may answer that question.

A. So, I mean the -- I know that the individual, I guess cases or allegations within the -- within, you know, referenced in the Staff report were investigated

04:21:24 1 and, you know, and resolved if possible.

04:21:30 2 Are you asking me about something
04:21:32 3 specific?

04:21:33 4 Q. (By Mr. Nugent) Sure. So when you say
04:21:34 5 "resolved," did Verde identify the third-party sales
04:21:39 6 agents that committed the acts and practices that were
04:21:44 7 alleged in the Staff report?

04:21:47 8 MR. PROANO: Mr. Nugent, are you talking
04:21:49 9 about all allegations, or just a specific one?

04:21:54 10 MR. NUGENT: All allegations.

04:21:57 11 MR. PROANO: You may answer if you can,
04:21:59 12 Ms. Jordan.

04:21:59 13 A. So I can say that in some cases a third-party
04:22:02 14 vendors party vendor was identified and in some
04:22:07 15 cases -- you know were relevant to a third-party vendor
04:22:11 16 and in some cases they weren't. So I can't give you a
04:22:16 17 holistic answer.

04:22:17 18 Q. (By Mr. Nugent) Okay. And when that
04:22:18 19 third-party vendor was identified, what steps did Verde
04:22:22 20 take? What sort of corrective action did Verde take?

04:22:25 21 A. I think it --

04:22:32 22 Q. For example, did it terminate its relationship
04:22:34 23 with that specific vendor?

04:22:35 24 A. So there are a number of -- I guess a number
04:22:44 25 of specific cases, so there are some cases in the -- I

04:22:50 1 don't know what you want to call this -- in the
04:22:53 2 document production or what have you. There are some
04:22:56 3 circumstances where a vendor relationship has been
04:23:00 4 terminated.

04:23:01 5 There are some cases where individuals
04:23:03 6 have been removed from campaigns. Again, the answer
04:23:09 7 just depends. I can't give you a blanket answer.

04:23:16 8 Q. (By Mr. Nugent) What sort of criteria did
04:23:18 9 Verde use to determine whether it was going to
04:23:20 10 terminate a relationship with a vendor or ask that
04:23:23 11 particular employees of those vendors were terminated?

04:23:31 12 A. I'm not privy to that -- that criteria. It's
04:23:36 13 not something I'm aware of.

04:23:37 14 Q. Okay. Who would be aware of that or who might
04:23:43 15 be aware of that?

04:23:44 16 A. As far as I know, that kind of decision would
04:23:48 17 be made with the sales -- sales team and our legal and
04:23:56 18 compliance folks.

04:24:05 19 Q. Okay. Does Verde obtain vendors that operate
04:24:09 20 in different states or different jurisdictions? So for
04:24:12 21 example, does it retain a vendor that might operate,
04:24:17 22 provide sales services in Ohio as well as Pennsylvania
04:24:19 23 and other markets? Or are they dedicated to one
04:24:25 24 particular state or jurisdiction only?

04:24:27 25 A. I can say that that -- it depends. There are

04:24:34 1 both scenarios. I'm aware of both scenarios existing
04:24:38 2 at, you know, any point in time.

04:24:42 3 Q. Well, let's just use the two states that I
04:24:45 4 referenced then. Since we're talking about Ohio, do
04:24:48 5 the agents that Verde entered into a relationship with,
04:24:54 6 do they also sell the products in a state like
04:24:57 7 Pennsylvania as well?

04:24:57 8 A. I can't answer that question for you without
04:25:02 9 looking at a set of data at a given time period.
04:25:06 10 Again, it could just depend on -- you know, it depends
04:25:11 11 on the vendor, it depends on Verde business decisions,
04:25:16 12 too. So I can't tell you that just sitting here today.

04:25:20 13 Q. How many different vendors does Verde use to
04:25:23 14 sell its products and services in Ohio?

04:25:26 15 A. Right now, none.

04:25:32 16 MR. PROANO: In the past, Mr. Nugent?

04:25:36 17 MR. NUGENT: No.

04:25:36 18 Q. (By Mr. Nugent) At the present time?

04:25:39 19 A. None.

04:25:41 20 Q. So previously, then, during the time period
04:25:46 21 of -- I believe it was October 1st through April 12th,
04:25:52 22 how many vendors did Verde use to sell products and
04:25:59 23 services in Ohio?

04:26:00 24 A. I don't have that in front of me. I do know
04:26:05 25 in response to one of the complaints that that list of

04:26:11 1 vendors was provided to PUCO. I don't have that list
04:26:14 2 in front of me right now.

04:26:16 3 Q. Okay. I believe counsel for the Ohio
04:26:28 4 Consumers Counsel earlier asked you a question
04:26:31 5 regarding training of third-party vendors. Do you
04:26:39 6 remember that?

04:26:39 7 A. She asked about an on-boarding process.

04:26:47 8 Q. Okay. Does Verde require its third-party
04:26:51 9 vendors to train agents on the specific, we'll say,
04:26:55 10 laws and rules to sell products and services in a
04:26:58 11 particular state or jurisdiction?

04:27:00 12 A. Yes, that is -- I mean, that type of training
04:27:05 13 is -- well, I'll say it this way: Local rules and
04:27:13 14 regulations are certainly part of the on-boarding
04:27:16 15 process. On-boarding training process.

04:27:21 16 Q. And how often does -- thank you. And how
04:27:24 17 often does Verde follow up with those vendors to verify
04:27:29 18 whether or not their training was completed?

04:27:31 19 A. Given that this is -- we're kind of talking in
04:27:37 20 the rearview mirror, I can't tell you. I haven't
04:27:40 21 looked at that particular information. I can tell you
04:27:43 22 that in general there's an on -- as agents come on
04:27:49 23 to -- when I say "come on," are provisioned onto a
04:27:53 24 campaign. It's an ongoing process. So there's a --

04:27:59 25 Q. Okay.

04:27:59 1 A. I'll say there's kind of a vendor training and
04:28:03 2 education process, but then it's an ongoing process as
04:28:07 3 new agents come on to a campaign.

04:28:14 4 Q. So when a new agent joins the campaign, I'm
04:28:18 5 assuming -- and correct me if I'm wrong -- they're
04:28:22 6 trained -- they initially receive training, but does
04:28:26 7 Verde require that that agent receive any subsequent
04:28:31 8 training, whether it be six months from the date of
04:28:34 9 hire or one year from the date of hire and so on?

04:28:37 10 A. Sure. I am not aware of, I'll say, codified
04:28:49 11 timing of individual agent training. What I can tell
04:28:53 12 you is that there -- as a practice, that the compliance
04:29:02 13 team plus the sales team, their minimum schedule is
04:29:08 14 once a quarter for, you know, an in-person -- you know,
04:29:11 15 an in-person visit.

04:29:15 16 But in order -- you know, specifically to
04:29:17 17 your question about a formal training, I don't know
04:29:22 18 that there's anything codified. I would say again that
04:29:26 19 it's an ongoing process because each -- you know, a
04:29:29 20 vendor would have kind of a relationship manager that
04:29:31 21 would, again, on an ongoing basis be addressing, you
04:29:40 22 know, various needs, you know, every single day. You
04:29:43 23 know, Monday through Sunday.

04:29:50 24 Q. How does Verde ensure that the training was
04:29:54 25 completed? Is any formal documentation required?

04:29:58 1 A. So I cannot speak with certainty to the time
04:30:04 2 period in question. I can tell you what our process is
04:30:08 3 that's in place today, is that there's a -- I guess you
04:30:12 4 would call it the training -- it's kind of a quiz tool.
04:30:17 5 I don't know what you want to call it. But, you know,
04:30:21 6 there's a tool that helps, you know, document kind
04:30:29 7 of -- document agents and, you know, when they took the
04:30:32 8 test and obviously their -- you know, whether or not
04:30:37 9 they answered the questions and stuff like that.

04:30:41 10 Q. And this test that you're referring to, do all
04:30:45 11 of Verde's agents have to complete this test, or in the
04:30:54 12 past, did they have to complete this test?

04:30:55 13 A. Like I said, I did not look at the specific
04:31:00 14 thing, you know, for every agent in the past. Again, I
04:31:02 15 can just tell you it's a general -- you know, a general
04:31:06 16 practice. And then -- but I do know back then that
04:31:10 17 agents were required to sign a code of conduct because
04:31:13 18 that process has been in place for years. I'm just
04:31:16 19 saying specifically to that, you know, the tracking of
04:31:20 20 it via an electronic tool, I'm not sure about that part
04:31:27 21 on the timing.

04:31:28 22 Q. I want to stay on the test for a moment, if I
04:31:31 23 could. Who compiled the test? Was it Verde or was it
04:31:34 24 the vendor that you use?

04:31:38 25 A. You mean like the testing vendor? Or what do

04:31:46 1 you mean?

04:31:46 2 Q. You mentioned that the agents take a test
04:31:50 3 regarding the different laws and rules and regulations.

04:31:56 4 I want to know who put that test together
04:31:58 5 and whether -- and then I also would like to know
04:32:01 6 whether or not Verde has approved that test, reviewed
04:32:06 7 and approved that test?

04:32:08 8 A. So I would say that -- a couple of things. I
04:32:13 9 don't know -- I don't know that the test would
04:32:17 10 specifically be about, you know, Ohio's specific rules
04:32:19 11 and regulations to the detail of admin code such and
04:32:24 12 such. So I don't want to make that characterization.
04:32:26 13 But yeah, the test comes from -- is developed by Verde
04:32:31 14 folks.

04:32:33 15 Q. So and just so I'm clear, are you telling me
04:32:37 16 that there's a possibility that the test could not be
04:32:39 17 state specific? In other words, someone who is going
04:32:43 18 to sell products in Ohio might not take -- the test
04:32:49 19 they take might not ask questions specifically related
04:32:52 20 to the rules and regulations in Ohio?

04:32:54 21 MR. PROANO: Objection to the form of the
04:32:56 22 question.

04:32:57 23 A. I'm trying to communicate that the test is not
04:33:05 24 an exhaustive list of, you know, the -- the Ohio rules
04:33:13 25 and regulations. You know, there's other questions

04:33:17 1 about customer correspondence and stuff like that.

04:33:20 2 That's all -- that's my intent.

04:33:22 3 I do not know, sitting here today,
04:33:25 4 whether or not the test is state-specific. I know
04:33:29 5 there's training that is -- the training certainly is.
04:33:32 6 But again, I'm not looking at the test. And like I
04:33:35 7 said, I don't know if it was in place then, so I don't
04:33:37 8 want to make any statements without having that in
04:33:40 9 front of me.

04:33:42 10 Q. (By Mr. Nugent) Okay. So what else, aside
04:33:46 11 from a test, then, does Verde do to insure that its
04:33:53 12 sales agents are complying with the commission's
04:33:59 13 rules -- Commission of Ohio's rules as well as state of
04:34:02 14 law?

04:34:07 15 A. So there are -- are we talking about
04:34:14 16 door-to-door? Or what channel are we talking about to
04:34:19 17 answer that question?

04:34:20 18 Q. Telephonic. Both.

04:34:29 19 A. Okay. So there's a third-party company
04:34:35 20 that -- whose job it is to audit and review sales calls
04:34:40 21 and TPV recordings. There are -- obviously we have a
04:34:47 22 customer care department that takes inbound calls from
04:34:50 23 customers or prospective customers. There are welcome
04:34:56 24 calls that are conducted by an outside company that
04:35:00 25 talks to folks after the company has received their

04:35:04 1 enrollment, that the compliance and folks on the sales
04:35:13 2 team responsible for quality also make field visits.

04:35:21 3 Q. Okay. And in terms of reviewing sales calls
04:35:25 4 and third-party verifications, how frequently is that
04:35:30 5 performed?

04:35:33 6 MR. PROANO: Performed in Ohio or other
04:35:36 7 states, Mr. Nugent?

04:35:39 8 MR. NUGENT: Ohio.

04:35:40 9 MR. PROANO: Was performed?

04:35:42 10 MR. NUGENT: Yes. Was performed.

04:35:44 11 A. So the process in general, I can't -- so it's
04:35:48 12 not a -- it's not a how often type of thing. It is
04:35:52 13 a -- it's an ongoing process. So it's not a -- I guess
04:35:58 14 I wouldn't call it -- it's not kind of a spot audit.
04:36:01 15 It's just an ongoing process.

04:36:03 16 Q. (By Mr. Nugent) Okay. Thank you. I believe
04:36:29 17 that is all the questions that I have at this time,
04:36:32 18 Ms. Jordan. So I want to thank you. And I believe we
04:36:39 19 may talk again soon.

04:36:41 20 MS. O'BRIEN: This is Angela O'Brien
04:36:46 21 again.

04:36:46 22 EXAMINATION

04:36:47 23 BY MS. O'BRIEN:

04:36:47 24 Q. Ms. Jordan, I just have two quick follow-up
04:36:51 25 questions. If you could turn to -- again, we're going

04:37:02 1 to go back to this Exhibit 2 that we were just looking
04:37:05 2 at.

04:37:09 3 A. The spreadsheet?

04:37:11 4 Q. Yes.

04:37:13 5 A. Okay.

04:37:13 6 Q. And I'm also going to refer to the same
04:37:18 7 interrogatory, 3-36. But now we're going to look at
04:37:26 8 subpart B.

04:37:26 9 A. Okay. I've long since turned from that page.

04:37:28 10 Q. I'll give you a minute to get there.

04:37:31 11 A. Which set is this?

04:37:33 12 MR. PROANO: Third set.

04:37:35 13 MS. KEENE: Responses to OCC third set
04:37:38 14 dated 9/19.

04:37:41 15 THE WITNESS: Third set. Interrogatory
04:37:42 16 what?

04:37:43 17 MS. KEENE: In 19, and it is page 19.

04:37:50 18 THE WITNESS: Okay. Page 19, 336, got
04:37:57 19 it.

04:37:57 20 Q. (By Ms. O'Brien) And actually the response we
04:37:58 21 are going to look at is on page 20. It is Verde's
04:38:02 22 response to subpart B. And here Verde states that [REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED] [REDACTED] [REDACTED]

04:38:20 1

04:38:24 3

04:38:29 4

04:38:34 5

04:38:43 6

04:38:44 7

04:38:45 8

04:38:49 9

04:38:54 10

04:38:57 11

04:39:01 12

04:39:05 13

04:39:12 14

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04:39:56 25

[REDACTED]

I just want to confirm that as a part of the re-rating done under the settlement, that customers will not be re-rated to a higher rate.

MR. PROANO: Objection to the form of the question.

A. Yeah. I mean, that's the -- yes, that is the -- that is the -- meaning, yes -- or no, a customer will not be re-rated to a higher rate. What that response means is that if the customer's Verde rate is lower than the comparison rate, then -- right, then it's in the customer's favor and, you know, there would be no refund due or re-rate due, I guess.

Q. (By Ms. O'Brien) Okay. So if you go back to the Exhibit 2, and if you're on -- if you move to the [REDACTED] tabs...

A. Uh-huh.

Q. Let me know when you're there.

A. I'm there.

Q. Okay. So I'm going to refer to column U, line 49.

A. Yes.

Q. There's a [REDACTED] amount there?

A. Wait, where are you?

04:39:58 1 Q. I'm in column U.

04:40:00 2 A. Yes.

04:40:00 3 Q. Line 49.

04:40:05 4 A. Oh, okay. Yes.

04:40:08 5 Q. Okay. And can you just clarify that

04:40:16 6 customer -- that customers won't be re-rated to a

04:40:18 7 higher rate based upon the [REDACTED], what looks like a

04:40:30 8 [REDACTED] amount -- or can you just clarify --

04:40:32 9 A. Yes. The [REDACTED]

04:40:55 14 Does that make sense?

04:40:56 15 Q. That makes sense. Thank you, Ms. Jordan, for
04:40:59 16 clarifying that. And with that, I don't have anything
04:41:01 17 else.

04:41:03 18 MR. PROANO: I have a couple of questions
04:41:06 19 on direct for the witness. This is David Proano,
04:41:08 20 counsel for Verde Energy.

04:41:08 21 EXAMINATION

04:41:17 22 BY MR. PROANO:

04:41:17 23 Q. Ms. Jordan, I have a few questions here. You
04:41:21 24 had mentioned under cross-examination that the
04:41:24 25 1.68 million re-rate number was an early estimate. Was

04:41:27 1 that your testimony?

04:41:28 2 A. Yes. I think it was 1.62 in this version but
04:41:38 3 okay. Yeah.

04:41:39 4 Q. Around 1.068 million, correct?

04:41:44 5 A. Uh-huh, yes.

04:41:44 6 Q. Is that a sort of cap on what Ohio consumers
04:41:50 7 are going to receive under the settlement?

04:41:52 8 A. No. That, again, was my kind of quick way to
04:41:59 9 get an estimate. Obviously, as customers continue to
04:42:04 10 be in their -- in their fixed contracts, then
04:42:11 11 they'll -- that number could go up from there.

04:42:14 12 Q. Based on your knowledge of the customer data
04:42:17 13 that you worked with to prepare these estimates at the
04:42:21 14 re-rate to Ohio customers, do you expect that number
04:42:24 15 ultimately to be higher or lower than the number in the
04:42:27 16 settlement?

04:42:28 17 A. I would expect it to be higher.

04:42:32 18 Q. And why do you say that?

04:42:35 19 A. Because the estimate I did was, you know,
04:42:39 20 several -- well, it feels like several months ago but
04:42:44 21 it was last month. So until we can adjust customer
04:42:50 22 rates to the lower rate, then time -- you know, time
04:42:56 23 has continued to pass as we sit here. So that number
04:42:59 24 is already greater than the 1.068.

04:43:02 25 Q. Is that because more months have passed while

04:43:05 1 the customer is under the current rate?

04:43:08 2 A. Yes. For those that are still active, that's
04:43:11 3 right.

04:43:11 4 Q. And has the company discussed a proposal for
04:43:18 5 how the re-rate is actually going to work?

04:43:21 6 A. Yes, we have some ideas.

04:43:25 7 Q. And what is the current idea?

04:43:27 8 A. I think the most -- the cleanest way to do it
04:43:33 9 would be to take the customers from the applicable
04:43:41 10 period, to send out notices as required by the
04:43:47 11 stipulation, and then after some time that the customer
04:43:56 12 has time to respond.

04:43:57 13 So first send out a notice that says hey,
04:44:00 14 you can terminate your contract with no penalties if
04:44:03 15 you wish. After giving the customer some time to take
04:44:08 16 action, for those that did not opt to terminate their
04:44:16 17 contract, then the internal billing and transactions
04:44:22 18 team could basically change the customer's rate on
04:44:26 19 their current contract to be the comparison rate.

04:44:36 20 And then after that rate change is
04:44:38 21 effective -- because I know you guys are aware that it
04:44:38 22 might take a billing cycle -- so after such time that
04:44:38 23 those rates are effective, then that would allow us to
04:44:52 24 kind of ring fence the re-rate and stop -- you know,
04:44:54 25 then we can have a definitive number to work with.

04:44:57 1 Q. Let me just summarize. Under the stipulation
04:45:01 2 there is, once the settlement is approved, a notice
04:45:06 3 that's going to go out to all Ohio consumers, electric
04:45:11 4 and gas, notifying them of the PUCO staff investigation
04:45:15 5 and giving them an opportunity to terminate their
04:45:18 6 agreement with Verde, correct?

04:45:20 7 A. That is my understanding.

04:45:21 8 Q. And once that notice goes out, there will be a
04:45:25 9 time period after that goes out where you will run a
04:45:28 10 re-rate for customers who had a higher rate than the
04:45:32 11 one indicated in paragraph 3 of the settlement; and at
04:45:37 12 the same time you will institute a lower rate down to
04:45:41 13 that rate that's indicated in paragraph 3 for those
04:45:44 14 customers that have a higher rate than that number,
04:45:48 15 correct?

04:45:48 16 A. That is correct.

04:45:49 17 Q. All right. We're going to turn to the
04:45:57 18 stipulation. I want you to turn to it, but before we
04:45:59 19 do, the Excel file, you mentioned the [REDACTED]
04:46:03 20 column is the column that has a [REDACTED] in it?

04:46:08 21 A. Yes.

04:46:09 22 Q. Does that make a material difference to the
04:46:11 23 re-rate calculation?

04:46:12 24 A. It's not used at all.

04:46:18 25 Q. Turn to the joint stipulation and

04:46:21 1 recommendation and let me know when you have it in
04:46:23 2 front of you.

04:46:23 3 A. I have it.

04:46:26 4 Q. Ms. O'Brien had asked whether or not natural
04:46:31 5 gas customers were going to be re-rated under section
04:46:34 6 3, paragraph 3, on page 4 of the settlement. Do you
04:46:43 7 see that?

04:46:43 8 A. Yes.

04:46:44 9 Q. And do you recall those questions?

04:46:48 10 A. I do.

04:46:49 11 Q. And do you recall you said that paragraph 3
04:46:51 12 only references retail electric residential customers,
04:46:54 13 right?

04:46:54 14 A. Yes, that is what I said.

04:46:58 15 Q. Now, paragraph 5 which references the action
04:47:01 16 plan for compliance, is that limited to electricity
04:47:05 17 customers?

04:47:09 18 A. No, it doesn't say that, nor am I interpreting
04:47:12 19 it as such.

04:47:13 20 Q. So it would include natural gas customers, as
04:47:16 21 well, correct?

04:47:17 22 A. Yes.

04:47:20 23 Q. And the same thing with paragraph 6. Is the
04:47:27 24 notice giving customers signed up during a certain time
04:47:30 25 period limited to electricity customers?

04:47:33 1 A. I do not see a limitation.

04:47:39 2 Q. So this notice would also go to various
04:47:42 3 Verde's natural gas customers in Ohio, correct?

04:47:43 4 A. Yes.

04:47:46 5 Q. Would the notice under paragraph 6 also go to
04:47:51 6 Verde's natural gas customers that fall within the
04:47:56 7 parameters of that paragraph?

04:47:56 8 A. Yes, it would.

04:47:57 9 Q. Paragraph 3 of the stipulation mentions "An
04:48:08 10 adjustment for rewards provided by Verde Energy to
04:48:13 11 re-rated customers as part of Verde Energy shop and
04:48:17 12 rewards program." Do you see that language?

04:48:19 13 A. Yes, I do.

04:48:20 14 Q. Could you please turn for me in your binder to
04:48:27 15 the 10/9/19 amended responses to OCC's 4th and 7th
04:48:35 16 requests?

04:48:36 17 A. Okay. I'm on the tab, yes.

04:48:42 18 Q. And do you see there are three interrogatories
04:48:45 19 that were amended pursuant to this response dated
04:48:53 20 October 9th, 2019?

04:48:54 21 A. Yes. Interrogatories starting with 4042?

04:49:09 22 Q. Yeah. So it's interrogatory 4042, 4043, and
04:49:15 23 7-5 4 H, correct?

04:49:18 24 A. Yes. I'm there.

04:49:21 25 Q. The last page of this document, is that your

04:49:23 1 sworn verification attesting to the accuracy of these
04:49:28 2 amended responses?

04:49:34 3 A. Yes, it is.

04:49:35 4 Q. I would like to have the reporter mark this
04:49:37 5 document as Exhibit 1, please, and entered into the
04:49:40 6 record of this deposition.

04:49:40 7 Ms. Jordan --

04:49:40 8 THE REPORTER: Wait a minute. If you
04:50:49 9 want me to mark it, I need to find it.

04:50:49 10 (Exhibit No. 1 marked.)

04:50:53 11 Q. (By Mr. Proano) And could you -- we'll have
04:50:57 12 it in the record, but could you just explain briefly,
04:51:00 13 for the Commission's benefit, how the adjustment for
04:51:03 14 the rewards program will work under the language on the
04:51:09 15 rewards program adjustment in paragraph 3 of the
04:51:12 16 settlement?

04:51:13 17 A. It's pretty straightforward, I think. So the
04:51:20 18 adjustment will just be 70 cents per customer -- I'm
04:51:25 19 going to define a term, customer month, and just as I
04:51:35 20 kind of described in Exhibit 2, simply a -- that's
04:51:39 21 simply a calculation of number of months that a
04:51:43 22 customer was active.

04:51:45 23 So that's something that we'll be able to
04:51:49 24 calculate. And then the re-rate would be reduced by
04:51:56 25 the amount of 70 cents per customer-month as defined.

04:52:02 1 Q. Okay. Let's take a concrete example. Let's
04:52:10 2 say there's a customer that's going to be re-rated
04:52:12 3 under paragraph 3 of the settlement, and that customer
04:52:15 4 receives five months' worth of reward points.

04:52:19 5 A. Yes?

04:52:19 6 Q. What would be your adjustment to the re-rate
04:52:23 7 to that customer?

04:52:23 8 A. 70 cents times five, which I'm guessing would
04:52:29 9 be --

04:52:30 10 Q. Which would be \$3.50?

04:52:36 11 A. Sounds like -- Yes. 3.50 total.

04:52:38 12 Q. Where does that 70 cents per month per
04:52:39 13 customer represent, where does that number come from?

04:52:41 14 A. That is a representation of the cost that
04:52:49 15 Verde pays to provide those rewards to Verde customers.

04:52:54 16 Q. Is it actual out-of-pocket costs of enrolling
04:52:58 17 these customers in this rewards program?

04:53:00 18 A. That's right. That's what the invoice --
04:53:03 19 that's the number on the invoice.

04:53:05 20 Q. Now, is Verde also going to reduce even
04:53:10 21 further the re-rate based on its own internal
04:53:12 22 administrative costs, or is it not going to do that?

04:53:15 23 A. No. There will be no administrative costs or
04:53:20 24 anything else. Just the flat out-of-pocket.

04:53:35 25 Q. And the actual out-of-pocket costs is a matter

04:53:39 1 of contract, correct?

04:53:40 2 A. It is.

04:53:42 3 Q. What is the -- strike that.

04:53:52 4 That 70 cent number, where does it come
04:53:56 5 from?

04:53:56 6 A. It comes from the contract. Is that what you
04:53:56 7 mean?

04:53:56 8 Q. It looks like it was the settlement -- I'm
04:54:04 9 sorry, Ms. Jordan, were you done?

04:54:04 10 A. That's where it comes from. How they come up
04:54:07 11 with that number, I have no idea.

04:54:09 12 Q. But you said it comes from a contract?

04:54:11 13 A. Yeah, that's our contract with the vendor that
04:54:14 14 helps provide the program.

04:54:20 15 Q. And this is the vendor that operates the
04:54:22 16 rewards program?

04:54:22 17 A. That is correct.

04:54:23 18 Q. If you go back to the joint stipulation
04:54:28 19 and recommendation and let me know when you have it in
04:54:30 20 front of you, please.

04:54:39 21 A. I'm there.

04:54:40 22 Q. Could you look at page 3, section 3, paragraph
04:54:43 23 2 that discusses Dominion's MVR program?

04:54:50 24 A. Yes, I'm there.

04:54:51 25 Q. And that discusses a one-year period during

04:54:55 1 which Verde Energy will be withdrawn from Dominion's
04:55:00 2 MVR program, correct?

04:55:03 3 A. Yes.

04:55:03 4 Q. And what do you-all consider to be the
04:55:06 5 effective date of that notice that starts at that
04:55:09 6 one-year block? What does Verde consider that date to
04:55:12 7 be, approximately?

04:55:12 8 A. Sure. So the -- I mean, we consider that date
04:55:18 9 to be I'll say on or about September 10th, though we
04:55:25 10 had initially requested to be removed from the program
04:55:28 11 back in May.

04:55:29 12 Q. And why September 10th, Ms. Jordan?

04:55:35 13 A. That's the last -- that's the date, from what
04:55:39 14 I can see, that the last MVR customer was received by
04:55:46 15 Verde.

04:55:47 16 Q. So despite the notice, was Verde still
04:55:50 17 receiving some customers from Dominion on the MVR
04:55:55 18 program?

04:55:55 19 A. That's right. There's an original request
04:55:58 20 made back in May on when we stopped marketing through
04:56:01 21 the other channels. And it came to our attention that,
04:56:11 22 though to a lesser extent that we were getting them
04:56:14 23 before, that we were still getting a few customers via
04:56:17 24 the program. Because it's kind of -- it's somewhat of
04:56:20 25 an automatic process.

04:56:23 1 Q. Is Verde Energy now withdrawn completely from
04:56:27 2 that Dominion MVR program?

04:56:31 3 A. In my view, yes. We haven't received a
04:56:34 4 customer, like I said, that I'm aware of, since the
04:56:40 5 10th of September.

04:56:40 6 Q. So just to confirm, today is October 10th, you
04:56:41 7 have not received a customer from Dominion's MVR
04:56:44 8 program for now a month?

04:56:46 9 A. No. Not that I'm aware of and I checked two
04:56:50 10 days ago.

04:56:51 11 Q. I'm sorry. Go ahead.

04:56:52 12 A. I said I checked two days ago. So we hadn't
04:56:55 13 got anything.

04:56:56 14 Q. Okay. Verde Energy will then continue to stay
04:57:02 15 out of the MVR program for an additional 11 months, for
04:57:06 16 a total of 12 months, correct?

04:57:07 17 A. Yes, that's what the agreement is.

04:57:15 18 Q. Do you consider that -- strike that.

04:57:21 19 There were some questions asked of you
04:57:26 20 about some spoofing complaints by customers, where
04:57:29 21 Ms. O'Brien asked you whether or not you had any reason
04:57:31 22 to believe that the customer was mistaken or was lying.

04:57:35 23 Do you remember those questions?

04:57:36 24 A. I do.

04:57:38 25 Q. Now, your response was -- and correct me if

04:57:41 1 I'm wrong in any way -- but I believe your response was
04:57:45 2 you didn't have reason to believe that that specific
04:57:47 3 customer was lying when they complained, correct?

04:57:49 4 A. Yes. That's what I said.

04:57:52 5 Q. But you told me your company's position on
04:57:55 6 spoofing?

04:58:01 7 A. Well, yeah. The company's position on
04:58:03 8 spoofing is that it's unacceptable and in no way does
04:58:06 9 it, you know, help the brand reputation of Verde
04:58:11 10 Energy. It's expressly prohibited in vendor contracts,
04:58:19 11 codes of conduct, training.

04:58:27 12 So, you know, whether spoofing is kind of
04:58:32 13 explicitly listed and there's general -- there's
04:58:34 14 general language about representing oneself as a
04:58:37 15 utility or misrepresenting oneself as anything other
04:58:41 16 than someone selling on behalf of Verde.

04:58:46 17 Q. So is it fair to say from your perspective,
04:58:51 18 while you can't necessarily say a specific customer was
04:58:54 19 lying about a complaint, that complaint is not
04:58:58 20 consistent with Verde's company policy, correct?

04:59:01 21 A. That's exactly what I'm saying. I'm saying
04:59:04 22 that that is not okay.

04:59:05 23 Q. Did you see generally in the customer
04:59:21 24 complaint shown to you by Ms. O'Brien that when faced
04:59:24 25 with a complaint, Verde Energy made efforts to address

04:59:27 1 the customer's complaint and issues?

04:59:31 2 A. I think that's a true statement. I think that
04:59:34 3 the documents and the record show that, you know,
04:59:39 4 investigations were conducted, and in the cases where
04:59:42 5 enrollment did occur and the customer wanted to drop
04:59:46 6 that -- you know, they were allowed to do so with no
04:59:50 7 penalty and in some cases they were re-rated --
04:59:53 8 re-rated and made whole.

04:59:57 9 MR. PROANO: Thank you. I have nothing
04:59:58 10 further subject to any further redirect.

05:00:03 11 MS. O'BRIEN: I actually have a couple of
05:00:06 12 follow-up questions.

05:00:06 13 EXAMINATION

05:00:06 14 BY MS. O'BRIEN:

05:00:11 15 Q. Ms. Jordan, I believe Mr. Proano asked you
05:00:13 16 some questions about paragraphs of the stipulation, not
05:00:18 17 specifically including natural gas customers. Do you
05:00:23 18 know why natural gas customers weren't specifically
05:00:27 19 included in the settlement?

05:00:29 20 MR. PROANO: You mean paragraph 3,
05:00:31 21 Ms. O'Brien?

05:00:34 22 MS. O'BRIEN: I think you also referenced
05:00:36 23 paragraph 5, as well, with respect to the action plan.

05:00:45 24 Q. (By Ms. O'Brien) Do you know why Verde and
05:00:49 25 PUCO Staff specifically did not include natural gas

05:00:52 1 customers in here?

05:00:53 2 MR. PROANO: I'm going to object to the
05:00:55 3 form of the question because paragraph 3 only
05:00:59 4 references retail electricity customers. I object
05:01:03 5 otherwise to the form of the question.

05:01:06 6 You may answer, Ms. Jordan.

05:01:11 7 A. I wasn't part of the discussions that led to
05:01:15 8 this stipulation. So I don't know.

05:01:21 9 Q. (By Ms. O'Brien) Okay. And moving back to
05:01:24 10 paragraph 2 of the stipulation, I think Mr. Proano
05:01:27 11 asked you some questions about Dominion's MVR program
05:01:35 12 and how you are no longer taking new customers under
05:01:46 13 Dominion's MVR program, but isn't it true that Verde
05:01:48 14 continues to serve customers, existing MVR customers
05:01:53 15 under the program?

05:01:56 16 A. Yes, there are customers that were -- that
05:02:00 17 were enrolled as part of the program prior to -- prior
05:02:05 18 to the September 9th date -- or September 10th, I'm
05:02:14 19 sorry.

05:02:14 20 Q. I'm sorry, I didn't mean to cut you off.

05:02:16 21 A. I was correcting the date. It was
05:02:20 22 September 10th.

05:02:20 23 Q. And Verde continues to serve those customers;
05:02:23 24 is that correct?

05:02:26 25 A. Yes.

05:02:29 1 MS. O'BRIEN: Thank you. I think that's
05:02:31 2 all I have.

05:02:33 3 MR. PROANO: I have one follow-up
05:02:35 4 question based on the recross.

05:02:35 5 EXAMINATION

05:02:40 6 BY MR. PROANO:

05:02:40 7 Q. Ms. Jordan, under the stipulated settlement,
05:02:47 8 paragraph 3.6, the notice to inform Ohio customers
05:02:56 9 enrolled since June 1st, 2018, notifies them of the
05:03:03 10 PUCO Staff allegations and gives them an opportunity to
05:03:07 11 cancel their contract without penalty, will that notice
05:03:10 12 also be sent to those MVR customers that are still
05:03:15 13 served currently by Verde energy?

05:03:17 14 A. I mean, as I read it, that would include
05:03:22 15 anybody enrolled since June 1st. You know, any
05:03:25 16 customer enrolled since June 1st, 2018. I mean, yeah,
05:03:32 17 that does not exclude anyone, so, yes, that would
05:03:36 18 include MVR.

05:03:37 19 Q. So that includes MVR customers currently
05:03:40 20 enrolled with Verde. Is that your answer?

05:03:44 21 A. I mean, yeah, I'm reading it. Those acquired
05:03:47 22 since June -- June 1st, 2018. I don't know that there
05:03:51 23 are any before that, but -- so, yes, to the extent that
05:03:58 24 it includes the -- you know, to the ones that came on
05:04:03 25 after June 1st, 2018, those would be included.

05:04:09 1 MR. PROANO: I have nothing further.

05:04:11 2 Thank you, Ms. Jordan.

05:04:14 3 MS. O'BRIEN: Thank you, Ms. Jordan, for
05:04:16 4 your time.

05:04:16 5 THE REPORTER: Before you all hang up,
05:04:16 6 could I please get your transcript orders on the
05:04:25 7 record?

05:04:25 8 MS. O'BRIEN: Yes. This is Angela
05:04:26 9 O'Brien from OCC. We would like an expedited
05:04:30 10 transcript.

05:04:35 11 MR. PROANO: This is David Proano from
05:04:37 12 Verde Energy. What we want is just the opportunity to
05:04:40 13 review, have the witness review and sign the transcript
05:04:45 14 that the OCC is ordering.

05:04:45 15 THE REPORTER: So you don't want to order
05:04:45 16 a copy of the transcript?

05:04:54 17 MR. PROANO: Not at this time because I
05:04:55 18 believe OCC is going to file it as a matter of record.

05:05:07 19 MR. NUGENT: IGS would also like an
05:05:09 20 opportunity to review the transcript that OCC ordered.

05:05:09 21 THE REPORTER: Oh, okay. So all these
05:05:19 22 free transcripts are going out.

05:05:19 23 MS. O'BRIEN: And, look, I'm fine with
05:05:22 24 people reviewing and signing it. You know, I'm hoping
05:05:27 25 that no one will give me an issue when it comes time to

05:05:31 1 file the transcript with the hearing if we choose to do
05:05:34 2 so. And that's all I'm stating for the record.

05:05:42 3 MR. PROANO: And we can address that at
05:05:44 4 the right time with the attorney examiners,
05:05:46 5 Ms. O'Brien.

05:05:47 6 MS. O'BRIEN: I mean, I'm fine to, you
05:05:50 7 know, allow you to have a chance to review the
05:05:52 8 transcript but, you know, we're getting close to the
05:05:57 9 hearing, and I would expect that it wouldn't be an
05:06:01 10 objection from parties when we go to file.

05:06:05 11 MR. PROANO: I mean, I'm not going to
05:06:06 12 agree to that because we get -- as a matter of right,
05:06:10 13 the witness has a right to review her testimony before
05:06:12 14 signing it. But what I can tell you is -- on the
05:06:14 15 record -- is that we will do it with all due haste.
05:06:17 16 And then with respect to the admission of the
05:06:19 17 testimony, we can deal with that at the appropriate
05:06:21 18 time with the attorney examiners.

05:06:25 19 I think at this point we're going to have
05:06:27 20 to file a motion anyway to do it in a shortened time
05:06:30 21 period. And you and I offline can talk about that,
05:06:32 22 Ms. O'Brien.

05:06:32 23 MS. O'BRIEN: Yeah, and that's -- I mean,
05:06:33 24 those motions are typically granted. I just wanted to
05:06:36 25 state that for the record. You know, I think, there's

05:06:40 1 more than good cause in this case, but I just --

05:06:43 2 MR. PROANO: Okay. I just didn't want

05:06:46 3 that to be a condition under which we're about to

05:06:48 4 review the transcript. That's all. I just wanted to

05:06:49 5 make that clear.

6 THE REPORTER: Are we off the record?

7 MS. O'BRIEN: Yes.

8 (Deposition concluded at 5:06 p.m.)

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1 CHANGES AND SIGNATURE

2 | WITNESS NAME: KIRA JORDAN

3 | DATE OF DEPOSITION: 10/10/19

4	PAGE	LINE	CHANGE	REASON
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5 _____

7 _____

8

1 I, KIRA JORDAN, have read the foregoing
2 deposition and hereby affix my signature that same is
3 true and correct, except as noted above.

4
5 _____
6 KIRA JORDAN

7 THE STATE OF _____:

8 COUNTY OF _____:

9
10 Before me, _____, on
11 this day personally appeared KIRA JORDAN, known to me
12 (or proved to me under oath or through _____)
13 (description of identity card or other document) to be
the person whose name is subscribed to the foregoing
instrument and acknowledged to me that they executed
the same for the purposes and consideration therein
expressed.

14
15 Given under my hand and seal of office
this _____ day of _____, 2019.

16
17
18 _____
Notary Public in and for
19 The State of _____

20 My Commission Expires _____

21
22 Job No. 01-76148
23
24
25

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the)
Commission's)
Investigation into Verde)
Energy USA Ohio, LLC's)
Compliance with the Ohio) Case No. 19-0958-GE-COI
Administrative Code and)
Potential Remedial)
Actions for)
Non-Compliance)

REPORTER'S CERTIFICATION
DEPOSITION OF KIRA JORDAN
TAKEN ON OCTOBER 10, 2019

I, ANDREA L. KAPEL, Certified Shorthand Reporter,
hereby certify to the following:

That the witness, KIRA JORDAN, was duly sworn by
the officer and that the transcript of the oral
deposition is a true record of the testimony given by
the witness;

That the deposition transcript was submitted on
_____, _____, to the witness or to the
attorney for the witness for examination, signature and
return to me by _____;

That the amount of time used by each party at the
deposition is as follows:

Ms. O'Brien - (05:24:56)
Mr. Proano - (00:22:50)
Mr. Nugent - (00:16:18)

That pursuant to information given to the
deposition officer at the time said testimony was
taken, the following includes counsel for all parties
of record:

Ms. Angela D. O'Brien, Mr. Christopher Healey,
Mr. Bryce McKenney, and Mr. Jim Williams, attorneys for
Ohio Consumers' Counsel.

Mr. Andy Shaffer, attorney Ohio General Attorney's
Office.

Ms. Melissa Scarberry, Ms. Nedra Ramsey, and

1 Ms. Alla Tempesta, attorneys for Public Utilities
Commission of Ohio.

2 Mr. David F. Proano and Ms. C. Alexis Keene,
attorneys for Verde Energy USA Ohio, LLC

3 Mr. Joe Oliker and Mr. Michael Nugent, attorneys
for IGS Energy.

4 I further certify that I am neither counsel for,
5 related to, nor employed by any of the parties or
attorneys in the action in which this proceeding was
6 taken, and further that I am not financially or
otherwise interested in the outcome of the action.

7
8 Certified to by me this ____ day of _____,
2019.

9
10
11
12 ANDREA L. DESORMEAUX, TEXAS CSR NO. 4835
Expiration Date: December 31, 2019
13 Firm Registration No. 61
Expiration Date: January 31, 2021
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1 FURTHER CERTIFICATION

2 The original deposition was/was not returned to the
3 deposition officer on _____;

4 If returned, the attached Changes and Signature
5 page contains any changes and the reasons therefor;

6 If returned, the original deposition was delivered
7 to Ms. Angela D. O'Brien, Custodial Attorney;

8 That \$_____ is the deposition officer's charges
9 to the attorney representing Ohio Consumers' Counsel
10 for preparing the original deposition transcript and
11 any copies of exhibits;

12 That the deposition was delivered in accordance
13 with Rule 30(f), and that a copy of this certificate
14 was served on all parties shown herein on and filed
15 with the Clerk.

16 Certified to by me this ____ day of _____,
17 2019.

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DEPOSITION EXHIBITS

FILED UNDER SEAL

INTENTIONALLY OMITTED

1	CHANGES AND SIGNATURE			
2	WITNESS NAME: KIRA JORDAN			
3	DATE OF DEPOSITION: 10/10/19			
4	PAGE	LINE	CHANGE	REASON
5	14	1	<u>Senior</u> <u>Director</u> <u>Portfolio</u> <u>Management</u>	Title Capitalization
6	14	19	<u>Provider</u> brands	Capitalization
7	14	22	<u>Provider</u> brands	Capitalization
8	14	24	<u>Provider</u> Power Massachusetts	No Comma
9	15	8	What <u>Provider</u>	Capitalization
10	15	12	<u>Provider</u> brands	Capitalization
11	15	13	so the <u>Provider</u> brands	Capitalization
12	15	15	Spark Hold <u>Co</u> , LLC	rather than Spark Holding Company
13	18	22	October 7 th <u>Set</u> of	instead of "scope" of
14	18	23	document requests	vs. singular (request)
15	19	14	<u>Senior</u> <u>Director</u> of <u>Marketing</u>	Title Capitalization
16	19	17	was <u>Director</u> of -- I think <u>Director</u> of Marketing	Capital <u>D</u>
17	19	18	<u>Director</u> of <u>Channel</u> <u>Marketing</u>	Title Capitalization
18	20	5	<u>Director</u> of <u>Channel</u> <u>Marketing</u>	Capital <u>C</u> <u>M</u>
19	20	6	<u>Senior</u>	Capital <u>S</u>
20	20	7	<u>Director</u> of <u>Marketing</u>	Capital <u>D</u> <u>M</u>
21	20	10	The <u>Senior</u> <u>Director</u> of <u>Marketing</u>	Title Capitalization
22	20	19	<u>Senior</u>	Capital <u>S</u>
23	20	20	<u>Director</u> of <u>Marketing</u>	Capital <u>D</u> <u>M</u>
24	20	21	<u>Director</u>	Capital <u>D</u>
25	20	22	of <u>Channel</u> <u>Marketing</u>	Capital <u>C</u> <u>M</u>

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CHANGES AND SIGNATURE

WITNESS NAME: KIRA JORDAN

DATE OF DEPOSITION: 10/10/19

PAGE	LINE	CHANGE	REASON
22	5	<u>Senior</u> <u>Director</u> of <u>Marketing</u>	Title Capitalization
22	11	<u>Director</u>	Capital <u>D</u>
22	12	<u>Director</u> of <u>Marketing</u>	Title Capitalization
22	21	<u>Director</u> of Internet Marketing or maybe <u>Director</u>	Capital <u>D</u>
22	22	<u>Digital</u> <u>Marketing</u>	Capital <u>D</u> <u>M</u>
22	25	<u>Senior</u> <u>Director</u> of <u>Marketing</u>	Title Capitalization
23	6	<u>Senior</u> <u>Director</u>	Title Capitalization
23	7	<u>Senior</u> <u>Director</u>	Title Capitalization
23	8	<u>Marketing</u>	Capital <u>M</u>
26	12	<u>Senior</u>	Capital <u>S</u>
26	13	<u>Director</u> of <u>Marketing</u>	Title Capitalization
26	19	<u>Company</u>	Capital <u>C</u>
27	16	<u>Senior</u>	Capital <u>S</u>
27	17	<u>Director</u> of <u>Marketing</u> , you moved on to a role as <u>Senior</u>	Capital <u>D</u>
27	18	<u>Director</u> , <u>Retail</u> <u>Portfolio</u> <u>Management</u>	Title Capitalization
27	21	<u>Senior</u>	Capital <u>S</u>
27	22	<u>Director</u> , <u>Retail</u> <u>Portfolio</u> <u>Management</u> ?	Title Capitalization
28	1	are your responsibilities in your role as <u>Retail</u>	Capital <u>R</u>
28	2	<u>Portfolio</u> -- <u>Senior</u> <u>Director</u> , <u>Retail</u> <u>Portfolio</u>	Capitalization
28	3	<u>Management</u> ?	Capital <u>M</u>
28	25	<u>Head</u> of <u>Retail</u>	Title Capitalization

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PAGE	LINE	CHANGE	REASON
29	7	Company, Spark Energy, Inc.	Commas
29	25	title is <u>P</u> resident	Capital <u>P</u>
30	2	under <u>S</u> enior	Capital <u>S</u>
30	3	<u>D</u> irector, <u>R</u> etail <u>P</u> ortfolio <u>M</u> anagement	Title Capitalization
32	10	<u>D</u> irector of <u>R</u> egulatory	Title Capitalization
32	14	Briana	misspelling
48	8	<u>C</u> ompliance <u>M</u> anager	Title Capitalization
48	20	<u>C</u> ompliance	Capital <u>C</u>
48	21	<u>M</u> anager	Capital <u>M</u>
48	23	<u>V</u> erde <u>C</u> ompliance	<u>V</u> erde not "Vendor"
48	24	<u>M</u> anager	Capital <u>M</u>
50	14	<u>S</u> enior <u>M</u> anager, <u>S</u> ales	Title Capitalization
50	15	<u>C</u> ollections and <u>R</u> emittance Customer <u>S</u> upport	Capital <u>C</u> <u>S</u>
50	19	<u>S</u> enior <u>M</u> anager of <u>S</u> ales <u>C</u> ollections and <u>R</u> emittances?	Title Capitalization
51	6	<u>S</u> enior <u>M</u> anager of <u>S</u> ales	Title Capitalization
51	7	<u>C</u> ollections and <u>R</u> emittance <u>C</u> ustomer <u>S</u> upport	Capitalization
51	9	<u>S</u> enior <u>M</u> anager	Title Capitalization
52	12	delete "fake" replace with state.	
73	3	It will <u>b</u> e fine with us.	Add "be"
73	3,4,5	beginning with " <u>W</u> ell	(through Line 5)
99	4	OCC's discovery	acronym misspelled

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116	18	customers did not, you know	Add "did not"
137	13	Briana	Misspelling
116	17	I don't have any reason not to believe that the	(add "not")

1 I, KIRA JORDAN, have read the foregoing
 2 deposition and hereby affix my signature that same is
 3 true and correct, except as noted above.

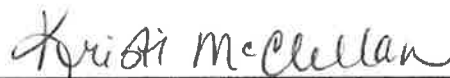
4
 5 
 6 KIRA JORDAN

7 THE STATE OF Texas :

8 COUNTY OF Harris :

9
 10 Before me, Kristi McClellan, on
 11 this day personally appeared KIRA JORDAN, known to me
 12 (or proved to me under oath or through under oath)
 13 (description of identity card or other document) to be
 14 the person whose name is subscribed to the foregoing
 15 instrument and acknowledged to me that they executed
 16 the same for the purposes and consideration therein
 17 expressed.

18
 19 Given under my hand and seal of office
 20 this 14 day of October, 2019.

21 
 22 Notary Public in and for
 23 The State of Texas

24 My Commission Expires 2-13-2023

25 Job No. 01-76148



This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

11/4/2019 11:39:45 AM

in

Case No(s). 19-0958-GE-COI

Summary: Transcript Revised Public Version of the Deposition Transcript of Kira Jordan electronically filed by Mrs. Tracy J Greene on behalf of O'Brien, Angela D