

1       BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

2                               - - -

3       In the Matter of the       :  
4       Application of Ohio       :  
5       Edison Company, The       :  
6       Cleveland Electric       :  
7       Illuminating Company,     :Case No. 10-388-EL-SSO  
8       and The Toledo Edison     :  
9       Company for Authority to:  
10      Establish a Standard     :  
11      Service Offer Pursuant   :  
12      to R.C. Section 4928.143:  
13      in the Form of an       :  
14      Electric Security Plan.   :

15                               - - -

16                               CONTINUED PROCEEDINGS

17       Before Gregory Price, Hearing Examiner, at The  
18       Public Utilities Commission of Ohio, 180 East  
19       Broad Street, Columbus, Ohio, Hearing Room 11A,  
20       on Monday, June 21, 2010, at 10:00 a.m.

21                               - - -

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                              - - -

APPEARANCES:

Mr. Arthur E. Korkosz, Mr. Mark A. Hayden,  
and Ms. Ebony Miller  
FirstEnergy  
76 South Main Street  
Akron, Ohio 44308  
and  
Jones Day  
By Mr. David A. Kutik  
North Point, 901 Lakeside Avenue  
Cleveland, Ohio 44114

On behalf of the Applicants.

Ohio Attorney General Richard Cordray  
Mr. Duane Luckey, Section Chief  
By Mr. Thomas W. McNamee  
Assistant Attorney General  
180 East Broad Street  
Columbus, Ohio 43215

On behalf of the Staff of the Public  
Utilities Commission of Ohio.

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Miller, Mr. Andre Porter, and Mr. C. Todd  
Jones  
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Columbus, Ohio 43215

On behalf of AICUO.

Mr. Joseph Patrick Meissner  
The Legal Aid Society of Cleveland  
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Cleveland, Ohio 44113

On behalf of the Citizens Coalition.

Brickfield, Burchette, Ritts & Stone  
By Mr. Michael K. Lavanga and Mr. Garrett  
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On behalf of Nucor Steel Marion, Inc.

APPEARANCES: continued

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On behalf of Material Sciences  
Corporation.

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By Ms. Lisa G. McAlister and Mr. Samuel C.  
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21 East State Street, 17th Floor  
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On behalf of Industrial Energy Users  
Ohio and The Cleveland Clinic.

Chester, Wilcox & Saxbe, LLP  
By Mr. Mark S. Yurick, Mr. Matthew S.  
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65 East State Street, Suite 1000  
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On behalf of the Kroger Company.

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By Mr. Michael L. Kurtz and Mr. David F.  
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36 East Seventh Street, Suite 1510  
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On behalf of Ohio Energy Group.

Vorys, Sater, Seymour and Pease, LLP  
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52 East Gay Street  
Columbus, Ohio 43216-1008

and

Ms. Cynthia Brady  
Constellation Energy Resources, LLC  
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On behalf of Constellation NewEnergy,  
Inc., and Constellation Energy  
Commodities Group, Inc.

APPEARANCES: continued

Mr. Henry W. Eckhart  
50 West Broad Street, Suite 2117  
Columbus, Ohio 43215

On behalf of Natural Resources  
Defense Council.

Mr. Michael E. Heintz  
1207 Grandview Avenue, Suite 201  
Columbus, Ohio 43212-3449

On behalf of Environmental Law &  
Policy Center.

Ms. Janine Migden-Ostrander  
Ohio Consumers' Counsel  
By Mr. Jeffrey L. Small and Mr. Gregory J.  
Poulos  
10 West Broad Street, 18th Floor  
Columbus, Ohio 43215

On behalf of the Residential  
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Mr. Michael R. Beiting and Mr. Morgan  
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Akron, Ohio 44308

and  
Porter, Wright, Morris & Arthur  
By Mr. Daniel R. Conway and Mr. Eric B.  
Gallon  
41 South High Street, Suite 300  
Columbus, Ohio 43215

On behalf of FirstEnergy Solutions  
Corp.

Ms. Colleen L. Mooney and Mr. David C.  
Rinebolt  
231 West Lima Street  
Findlay, Ohio 45840

On behalf of Ohio Partners for  
Affordable Energy.

1 APPEARANCES: continued

2 Bricker & Eckler, LLP  
3 By Mr. Matthew W. Warnock and Mr. Glenn S.  
4 Krassen  
5 100 South Third Street  
6 Columbus, Ohio 43215

7 On behalf of NOPEC.

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1 Monday Morning Session,  
2 June 21, 2010.

3 - - -

4 HEARING EXAMINER PRICE: Good  
5 morning. The Public Utilities Commission has  
6 set for hearing at this time and place Case No.  
7 10-388-EL-SSO being in the matter of the  
8 Application of Ohio Edison Company, the  
9 Cleveland Electric Illuminating Company, and the  
10 Toledo Edison Company for authority to establish  
11 a standard service offer pursuant to Section  
12 4928.143 Revised Code in the form of an electric  
13 security plan.

14 My name is Gregory Price. I'm the  
15 Attorney Examiner assigned to preside over  
16 today's hearing.

17 Given the extended break since our  
18 last hearing, we'll begin by taking appearances  
19 from the parties, starting with the company.

20 MR. KORKOSZ: Thank you, Your Honor.  
21 On behalf of the Applicants, I'm Arthur E.  
22 Korkosz. Appearing with me on behalf of the  
23 company are Mark Hayden and Ebony Miller, 76  
24 South Main Street, Akron, Ohio, and also  
25 appearing on behalf of the company is David A.



Kutik of Jones Day.

HEARING EXAMINER PRICE: Thank you.

Mr. McNamee?

MR. MCNAMEE: On behalf of the Staff of the Public Utilities Commission of Ohio, Richard Cordray, Attorney General of the State of Ohio, Duane Luckey, Chief, Public Utilities Section, I'm Thomas W. McNamee, Assistant Attorney General. The address is 180 East Broad Street, Columbus, Ohio.

HEARING EXAMINER PRICE: Thank you.

MR. PARRAM: Hello. My name is Devin Parram. I'm here on behalf of AICUO. I'm here on behalf of Chris Miller, Andre Porter, C. Todd Jones, and Greg Dunn.

HEARING EXAMINER PRICE: Thank you.

MR. MEISSNER: Good morning, Your Honor. My name is Joseph Patrick Meissner. I'm an attorney with the Legal Aid Society. I'm very proud to be here today on behalf of the Citizens Collation. Our address is 1223 West 6th Street, Cleveland, Ohio 44113. Thank you, Your Honor.

MR. LAVANGA: Good morning, Your Honor. On behalf of Nucor Steel Marion, Michael K. Lavanga of the law firm of Brickfield,

1 Burchette, Ritts & Stone. Address is 1025  
2 Thomas Jefferson Street, 8th Floor, West Tower,  
3 Washington, D.C. 20007. And I'd also like to  
4 enter an appearance on behalf of Garrett A.  
5 Stone.

6 MR. SMITH: On behalf of Material  
7 Sciences Corporation, Craig I. Smith, Attorney  
8 at Law, 2824 Coventry Road, Cleveland, Ohio  
9 44120.

10 MS. MCALISTER: Thank you, Your  
11 Honor. On behalf of Industrial Energy Users  
12 Ohio, McNeese, Wallace & Nurick, by Lisa  
13 McAlister, Samuel C. Randazzo, 21 East State  
14 Street, 17th Floor, Columbus, Ohio 43215. I'd  
15 also like to enter an appearance for the  
16 Cleveland Clinic.

17 MR. YURICK: Your Honor, on behalf of  
18 the Kroger Company, the law firm of Chester,  
19 Wilcox & Saxbe, John Bentine, Mark Yurick and  
20 Matt White, 65 East State Street, Columbus, Ohio  
21 43215.

22 MR. KURTZ: Good morning. For the  
23 Ohio Energy Group, Mike Kurtz and Dave Boehm,  
24 Boehm, Kurtz & Lowry, 1510 URS Center,  
25 Cincinnati, Ohio.

1 MR. SETTINERI: Good morning, Your  
2 Honor. On behalf of the Constellation  
3 NewEnergy, Inc., Constellation Energy  
4 Commodities Group, Inc., M. Howard Petricoff,  
5 Stephen M. Howard, and Michael Settineri of the  
6 law firm Vorys, Sater, Seymour and Pease, 52  
7 East Gay Street, Columbus, Ohio 43215. Also  
8 Cynthia Fonner Brady, Senior Counsel,  
9 Constellation Energy Resources, LLC, 550 West  
10 Washington Street, Suite 300, Chicago, Illinois  
11 60661.

12 MR. ECKHART: Good morning, Your  
13 Honor. Henry W. Eckhart on behalf of the  
14 Natural Resources Defense Council. My address  
15 is 50 West Broad Street, Columbus, Ohio 43215.

16 MR. HEINTZ: On behalf of the  
17 Environmental Law and Policy Center, Michael  
18 Heintz, 1207 Grandview Avenue, Suite 201,  
19 Columbus, Ohio 43212.

20 MR. SMALL: On behalf of the  
21 residential customers of FirstEnergy Janine  
22 Migden-Ostrander, Consumers' Counsel, Jeffrey  
23 Small, counsel of record, Gregory Poulos,  
24 Assistant Consumers' Counsel, Office of the Ohio  
25 Consumers' Counsel, 10 West Broad Street, Suite

1 1800, Columbus, Ohio 43215.

2 MR. GALLON: On behalf of FirstEnergy  
3 Solutions, Michael R. Beiting and Morgan E.  
4 Parke, FirstEnergy Corp., 76 South Main Street,  
5 Akron, Ohio 44308, and also Daniel R. Conway and  
6 Eric B. Gallon, Porter, Wright, Morris & Arthur,  
7 41 South High Street, Suite 3000, Columbus,  
8 Ohio 43215.

9 MS. MOONEY: On behalf of Ohio  
10 Partners for Affordable Energy, David C.  
11 Rinebolt, Colleen L. Mooney, 231 West Lima  
12 Street, Findlay, Ohio 45840.

13 MR. WARNOCK: On behalf of the  
14 Northeast Ohio Public Energy Counsel, Matthew W.  
15 Warnock and Glenn S. Krassen, law firm of  
16 Bricker & Eckler, LLP, 100 South Third Street,  
17 Columbus, Ohio 43215.

18 HEARING EXAMINER PRICE: Anybody  
19 else like to make an appearance?

20 Do we have any preliminary matters we  
21 need to discuss before we take our first witness  
22 today? Hearing none, Mr. McNamee, call your  
23 witness.

24 MR. MCNAMEE: Thank you. The Staff  
25 would call Robert B. Fortney.

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ROBERT B. FORTNEY

called as a witness on behalf of the Staff,  
being first duly sworn, testified as follows:

HEARING EXAMINER PRICE: Please be  
seated and state your name and business address  
for the record.

THE WITNESS: Robert B. Fortney, 180  
East Broad Street, Columbus, Ohio 43215.

HEARING EXAMINER PRICE: Thank you.  
Mr. McNamee?

- - -

DIRECT EXAMINATION

By Mr. McNamee:

Q. Mr. Fortney, by whom are you  
employed?

A. The Public Utilities Commission of  
Ohio.

Q. In what capacity?

A. Public Utilities Administrator 3.

Q. Have you previously submitted  
testimony in this case?

A. Yes, I did.

MR. MCNAMEE: Your Honor, I'd ask to  
have marked for identification at this time a  
multipage document filed June 10 denominated

1 Supplemental Prepared Testimony of Robert B.  
2 Fortney. The testimony is small; the  
3 attachments are large. I'd denominate that  
4 Staff Exhibit 3.

5 MR. SMALL: I believe you're up to 4.

6 MR. MCNAMEE: Is it 4?

7 MR. SMALL: I did a little checking  
8 this morning.

9 HEARING EXAMINER PRICE: So marked as  
10 Staff Exhibit 4.

11 (EXHIBIT HEREBY MARKED.)

12 Q. Mr. Fortney, do you have before you  
13 what's just been marked for identification as  
14 Staff Exhibit 4?

15 A. Yes.

16 Q. What is it?

17 A. It's my written supplemental prepared  
18 testimony.

19 Q. Was it prepared by you or under your  
20 direction?

21 A. Yes, it was.

22 Q. Are the contents of what's been  
23 marked for identification Staff Exhibit 4 true,  
24 to the best of your knowledge and belief?

25 A. Yes.

1           Q.    If I were to ask you questions  
2           contained within what's been marked for  
3           identification as Staff Exhibit 4 here this  
4           morning, would your answers here today be as  
5           presented therein?

6           A.    Yes.

7                   MR. MCNAMEE:  With that, Your Honor,  
8           the witness is available for cross.

9                   HEARING EXAMINER PRICE:  FirstEnergy?

10                  MR. KUTIK:  We would prefer to go  
11          last.

12                   HEARING EXAMINER PRICE:  It's my  
13          tendency to put on all the people to cross who  
14          are parties in the same interest first, so you  
15          can go last amongst the parties who have joined  
16          the stipulation but I will take all the parties  
17          who joined the stipulation before I take the  
18          parties who oppose the stipulation.

19                  MR. KUTIK:  If that's your purpose,  
20          we have no questions.

21                  MR. SMALL:  Your Honor, I know it's  
22          your preference to deal with motions to strike  
23          right the first thing.  I do have -- I may have  
24          some motions to strike but I will have a few  
25          questions before those motions.  I just wanted

1 to alert the Bench.

2 HEARING EXAMINER PRICE: Appreciate  
3 that. Thank you. AICUO?

4 MR. PARRAM: Your Honor, we have no  
5 questions at this time.

6 HEARING EXAMINER PRICE: Thank you.  
7 Mr. Lavanga?

8 MR. LAVANGA: No questions.

9 HEARING EXAMINER PRICE: Mr. Smith?

10 MR. SMITH: No questions.

11 HEARING EXAMINER PRICE: Ms.

12 McAlister?

13 MS. MCALISTER: No questions.

14 HEARING EXAMINER PRICE: Mr. Yurick?

15 MR. YURICK: No questions.

16 HEARING EXAMINER PRICE: Mr. Kurtz?

17 MR. KURTZ: No questions.

18 HEARING EXAMINER PRICE: Mr.

19 Settineri?

20 MR. SETTINERI: No questions.

21 HEARING EXAMINER PRICE: Mr. Gallon?

22 MR. GALLON: No questions.

23 HEARING EXAMINER PRICE: Mr. Warnock?

24 MR. WARNOCK: No questions.

25 HEARING EXAMINER PRICE: Let's take



OCC next and then we'll come back and finish the other parties who are opposed to the stipulation. That way perhaps their cross will be shortened after Mr. Small's cross. Mr. Small?

MR. SMALL: Have we dealt with FirstEnergy?

HEARING EXAMINER PRICE: He said they had no questions.

MR. SMALL: Thank you, Your Honor.

HEARING EXAMINER PRICE: I have not missed any parties who are on the stipulation, have I? Mr. Small, please proceed.

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# CROSS-EXAMINATION

By Mr. Small:

Q. Mr. Fortney, Jeff Small, OCC. I have a few questions for you this morning. Mr. Fortney, you have presented, I count them at 11 pages of testimony, 5 pages of text, and 12 scenarios for typical bills. Is that a fair summary of your testimony?

A. I lost you at the end.

HEARING EXAMINER PRICE: Let's go off the record.

1 (Off the record.)

2 Q. I'm not sure if you lost me because  
3 of my microphone but let's start over. You  
4 presented 11 pages of testimony, I count 5 of  
5 text, and 12 scenarios which contain typical  
6 bill comparisons. Is that a fair summary of  
7 your testimony?

8 A. I never counted the scenarios, but  
9 I'll accept that.

10 Q. Well, let's go through the scenarios  
11 in a summary fashion. You present two \$45  
12 scenarios, \$45 for the bid price for the CBP,  
13 one with new adjustments and one without  
14 adjustments; is that correct?

15 A. Yes.

16 Q. And two scenarios that have \$50 CBP  
17 prices; is that correct?

18 A. Correct.

19 Q. And then you have two that are at \$55  
20 for the CBP; is that correct?

21 A. Correct.

22 Q. And you have two at \$58.41 for the  
23 CBP price, correct?

24 A. Correct.

25 Q. And the significance of the \$58.41 is

1 that that was the CBP price for the last ESP; is  
2 that correct?

3 A. 61.50 minus 3.09 is the 58.41, 3.09  
4 representing the transmission piece. So yes,  
5 that is meant to reflect the current price.

6 Q. The generation price is 58.41?

7 A. Yes.

8 Q. And then you have two scenarios with  
9 the 60 CBP price, correct?

10 A. Correct.

11 Q. And one at 65?

12 A. Correct.

13 Q. And one at 70?

14 A. Correct.

15 Q. And I count that as twelve. Does  
16 that sound like twelve scenarios?

17 A. I believe so, yes.

18 Q. And the testimony and its twelve  
19 typical bill scenarios was filed and transmitted  
20 electronically to parties, as you indicate on  
21 the bottom of page 1 of your testimony?

22 A. Yes.

23 Q. By the way, I'm going to be referring  
24 to pages 1 through 5 of your testimony. There  
25 aren't very many pages, but they're not page

1       numbered so I hope that's clear to you.

2               A.     Page 1 starting with the questions?

3               Q.     Yes.

4               A.     Page 1 would be with question 1, yes.

5               A.     Fine.

6               Q.     And that testimony was transmitted to  
7 parties on June 10, 2010, correct?

8               A.     I believe that's correct, yes.

9                       MR. SMALL: Your Honor, I'd like to  
10 mark OCC Exhibit 6 and approach.

11                      HEARING EXAMINER PRICE: It will be  
12 so marked and you may approach.

13                      (EXHIBIT HEREBY MARKED.)

14               Q.     Mr. Fortney, OCC 6 is an exhibit  
15 whose first page, there are 14 pages to it,  
16 whose first page shows a screen print from the  
17 E-mail that transmitted testimony to the OCC.  
18 Do you see the attachments at the bottom of the  
19 E-mail?

20               A.     Yes.

21               Q.     And do they look like the files that  
22 we just looked at? The first PDF is your  
23 testimony and then there are twelve scenario  
24 PDFs. Were there such PDFs delivered to the  
25 parties?

1           A.    I believe so, yes.

2           Q.    Would you please turn to the second  
3 page of OCC Exhibit 6 and that shows the  
4 properties, the document properties of the first  
5 PDF that was shown on the first page. It  
6 contains your written testimony. Does the  
7 information look correct, that the PDF was  
8 created on June 10 and contained 11 pages as  
9 shown on the bottom of that page?

10          A.    That's what this sheet says.

11          Q.    Would you please turn to the third  
12 page of the exhibit which shows the properties  
13 for the PDF containing the very first scenario.

14               MR. KUTIK: Your Honor, I'm going to  
15 object at this point to any further questions  
16 with respect to this document until a proper  
17 foundation has been laid that the witness is  
18 familiar with this document.

19               HEARING EXAMINER PRICE: Sustained.

20               MR. SMALL: Your Honor, as far as, if  
21 I may, as far as foundation, it's even contained  
22 in the supplemental testimony at the bottom of  
23 page 1 that this is the manner in which the  
24 documents were delivered to the parties.

25               HEARING EXAMINER PRICE: Well, I

1 understand that, but I don't have any idea  
2 whether he's ever looked at the document  
3 properties for any of his testimony or any of  
4 the attachments or whether he would even have  
5 the technical ability to find the document  
6 properties. That's what you need to be asking  
7 him.

8 Q. Mr. Fortney, the documents that were  
9 delivered to the OCC appeared to be labeled that  
10 they were created on either May 25 or May 12 of  
11 2010; is that correct. Is that when the PDFs  
12 were created?

13 A. That's what this document says.

14 MR. KUTIK: I'll object and move to  
15 strike.

16 HEARING EXAMINER PRICE: Sustained.

17 Q. Well, Mr. Fortney, this is your  
18 testimony. What was the process for producing  
19 the documents? Did you have personal  
20 involvement in the production of the exhibits  
21 which are part of your testimony?

22 A. After the staff was directed to  
23 provide typical bills which reflect the ESP  
24 provisions, I worked with the FirstEnergy  
25 Company. We talked about what parameters were

1 to be set, what the range of market-based prices  
2 were, we talked about assumptions that should be  
3 made, and FirstEnergy performed the actual bill  
4 calculations.

5 Q. So the designation on these files of  
6 Laura DiNicola being the author, that's an  
7 indication that the company produced these  
8 documents; is that correct?

9 MR. KUTIK: Objection.

10 HEARING EXAMINER PRICE: Sustained.

11 Q. The company produced these documents,  
12 didn't they?

13 MR. KUTIK: Objection.

14 MR. MCNAMEE: Objection.

15 HEARING EXAMINER PRICE: Grounds on  
16 this one?

17 MR. KUTIK: What are "these  
18 documents"? Are you talking about Exhibit 6 or  
19 are you talking about --

20 HEARING EXAMINER PRICE: Mr. Small,  
21 can you clarify what "these documents" are?

22 MR. SMALL: These documents, I'm  
23 referring to the attachments to Mr. Fortney's  
24 testimony that show the bill, typical bill  
25 scenarios.

1           MR. MCNAMEE: My basis is asked and  
2 answered. He already explained the process  
3 under which these documents are created.

4           HEARING EXAMINER PRICE: I'm going to  
5 overrule your objection. You can answer. Why  
6 don't you restate your question.

7           Q. Mr. Fortney, these scenarios for  
8 typical bills, the documents and PDFs that were  
9 provided to the parties, these were produced by  
10 FirstEnergy; is that correct?

11          A. The typical bills were produced by  
12 FirstEnergy.

13          Q. Also the testimony received by the  
14 parties -- I'm sorry, not the text of your  
15 testimony but the tables, the typical bill  
16 comparisons are all stamped confidential. Do  
17 you see that?

18          A. Yes.

19          Q. Those were stamped confidential by  
20 FirstEnergy?

21          A. Those were stamped, if that's the  
22 proper word, they were labeled confidential. As  
23 I explained before, at some point I was working  
24 with the company to go over various scenarios,  
25 various assumptions, and at the time that they



1 provided me with some draft copies they were  
2 confidential. These probably should not have  
3 been marked confidential and they aren't  
4 confidential. I consider them just to be very  
5 similar to schedule E-5s that are filed with any  
6 rate case which reflect typical bills at various  
7 tariffs and at various usages.

8 MR. SMALL: At this time, Your  
9 Honor, the OCC has motions to strike. The OCC  
10 moves to strike the attachments to Mr. Fortney's  
11 testimony as the work product of FirstEnergy not  
12 of Mr. Fortney or the Staff. And as for the  
13 scenarios, the assumptions that Mr. Fortney says  
14 he discussed with the companies, those scenarios  
15 and the assumptions are contained, largely  
16 contained in answer 5 to his testimony on page  
17 2, carrying over to page 3; again, question and  
18 answer 5 which, and I could go over in detail,  
19 but lift evidence almost word for word from the  
20 testimony of Mr. Ridmann, pages 15 through 17 of  
21 the testimony filed earlier in this case and  
22 marked as and entered as FirstEnergy Exhibit 4.

23 HEARING EXAMINER PRICE: Let's take  
24 your -- I'm not sure if I understand your second  
25 part of your motion to strike, so let's take

1 your motion to strike in individual pieces.

2 MR. SMALL: I think they're related  
3 though, Your Honor. The testimony is lifted  
4 from, largely lifted from pages 15 through 17 of  
5 Mr. Ridmann's testimony and those are the  
6 scenarios that were produced. So Mr. Ridmann is  
7 the author of the assumptions and FirstEnergy is  
8 the author of the typical bill analysis.

9 The Entry on Rehearing instructed the  
10 Staff to prepare these in addition to the fact  
11 that it appears to be FirstEnergy's work, and I  
12 do not have a FirstEnergy witness on the stand  
13 to cross-examine which is the problem with  
14 hearsay. This is also not the directive of the  
15 Entry on Rehearing from the Commission which  
16 instructed the Staff to produce these, not  
17 FirstEnergy.

18 HEARING EXAMINER PRICE: Mr. McNamee?

19 MR. MCNAMEE: Your Honor, the  
20 witness has provided this information and he has  
21 obtained it in the way that it's most sensible  
22 to be obtained. It is the company that has the  
23 software that does the billing and generates the  
24 bills. He has worked with them in order to  
25 produce this, to produce these reports in the

1 most efficient way to get there. He has  
2 explained how he proceeded. It was done  
3 pursuant to his direction just as I asked him  
4 the question, "Was this done under your  
5 direction?" It was done under his direction.  
6 There's nothing unusual about this at all. It's  
7 not objectionable.

8 HEARING EXAMINER PRICE: Mr. Kutik?

9 MR. KUTIK: Your Honor, I'm still  
10 waiting to hear some type of legal basis for  
11 objection. I haven't heard it other than  
12 Mr. Small doesn't like the fact that FirstEnergy  
13 originated the documents. That's not a basis  
14 for excluding any testimony that I'm aware of.

15 In addition, in fact, as counsel for  
16 Staff said, this is Mr. Fortney's testimony.  
17 He's adopted the calculations. He's available  
18 for cross-examination.

19 HEARING EXAMINER PRICE: Mr. Small?

20 MR. SMALL: The evidentiary  
21 objection is pretty obvious. I said it was  
22 hearsay. It is hearsay.

23 MR. KUTIK: It is not hearsay.

24 MR. SMALL: It's presenting  
25 Mr. Ridmann's and FirstEnergy's work. This is

1 classic hearsay where I cannot cross-examine  
2 Mr. Fortney on the matter because Mr. Ridmann is  
3 really the witness who is making these  
4 statements.

5 HEARING EXAMINER PRICE: We still  
6 have to hear you ask a question Mr. Fortney  
7 can't answer. Motion to strike is denied.

8 As to the attachments, as to the  
9 testimony, I know you consider them related but  
10 it seems to me -- it's my turn -- it seems to me  
11 that it's not illogical that the assumptions in  
12 the ESP would be the assumptions that are in the  
13 bill impact since the idea of the bill impact  
14 was to figure out what the precise impact on  
15 customer bills would be if the Commission  
16 adopted the ESP as proposed. So as to the  
17 second part of the motion to strike, that would  
18 also be denied.

19 Q. Mr. Fortney, let's turn to pages 2  
20 and 3 of your testimony. I'm sorry. Do you  
21 have Mr. Ridmann's testimony with you on the  
22 stand?

23 A. No.

24 Q. I can provide a copy of that.

25 MR. SMALL: Your Honor --

1 HEARING EXAMINER PRICE: You may  
2 approach.

3 MR. SMALL: I have a limited number  
4 of copies of these. It's already part of the  
5 record. I have one more. Do you need it?

6 HEARING EXAMINER PRICE: I'll take  
7 it.

8 Q. Mr. Fortney, this is going to be a  
9 little bit tortuous because we don't have line  
10 numberings even on this, but I have numbered my  
11 lines and I'll do my best to communicate  
12 portions of your testimony.

13 Your answer to question 5 beginning  
14 on line 6 that starts, it's in subsection A that  
15 you have there, and it's in the second sentence,  
16 it states "The generation capacity charges." Do  
17 you see that?

18 A. I'm sorry. Could I have the question  
19 reread?

20 HEARING EXAMINER PRICE: You may.

21 (Question read.)

22 Q. Have you located that in your  
23 testimony?

24 A. Yes.

25 Q. Can you turn to page 15 of Mr.

1 Ridmann's testimony, FirstEnergy Exhibit 4, and  
2 I'd like to bring your attention to the sentence  
3 on lines 22 and 23. Do you have that?

4 A. Yes.

5 Q. They're word for word, aren't they?

6 A. As they should be. The assumptions  
7 are meant to reflect the ESP as proposed.

8 HEARING EXAMINER PRICE: Mr. McNamee,  
9 do you have an objection?

10 MR. MCNAMEE: I do, and it's a  
11 curious one. I'm not sure I ever made this one  
12 before. It's not -- this isn't hostile. He is  
13 asking -- it's wasting our time because he's  
14 pointing out that the witness used sensible  
15 assumptions in his testimony, which I am  
16 perfectly willing to concede. There's no  
17 relevance here. It doesn't matter. They should  
18 be the same.

19 HEARING EXAMINER PRICE: I think he's  
20 allowed to ask non-hostile questions, but I  
21 certainly understand the relevancy objection.

22 MR. SMALL: We have just gotten  
23 started, I might point out. I'm pretty sure  
24 Mr. McNamee doesn't even know where this line of  
25 questioning is going because I just asked my

1 first foundation question.

2 HEARING EXAMINER PRICE: So the  
3 relevance will be clear to all of us in short  
4 order?

5 MR. SMALL: I believe Mr. McNamee's  
6 statement foreshadows the point that I am trying  
7 to make here.

8 HEARING EXAMINER PRICE: Proceed. He  
9 answered your question.

10 Q. He answered my question. Mr.  
11 Fortney, we won't prolong this too much. Your  
12 answer on line 10 through 12, that would be  
13 subsection B, and your question and answer 5, do  
14 you see that?

15 A. Yes.

16 Q. And that is word for word from  
17 FirstEnergy Exhibit 4, page 16, lines 1 through  
18 3; is that correct?

19 A. I will accept that that's correct  
20 without reading them word for word.

21 Q. Okay.

22 A. It was meant to be.

23 Q. All right. Let's get to the "meant  
24 to be." In question and answer 5 of your  
25 testimony you're laying out the assumptions that

1 are used in the typical bill comparison that are  
2 attached to your testimony, correct?

3 A. Correct.

4 Q. And at least with respect to those  
5 scenarios where there's not an adjustment for  
6 lighting, to use a general term, you used  
7 exactly the same assumptions that are stated in  
8 Mr. Ridmann's testimony; is that correct?

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

11 HEARING EXAMINER PRICE: You may.

12 (Question read.)

13 A. I don't believe that's correct in its  
14 entirety.

15 Q. Okay. What are the differences in  
16 the assumptions between your testimony and  
17 Mr. Ridmann's work which is shown on pages 15  
18 through 17 of FirstEnergy Exhibit 4?

19 MR. KUTIK: You are asking the  
20 assumptions that he's made?

21 MR. SMALL: Assumptions.

22 A. Well, one difference, if you go to  
23 page 4 of my testimony, letter (k), that is, I  
24 think, a very important assumption that's  
25 included here that I don't know whether



1 Mr. Ridmann had that in his testimony or not.

2 Q. Is it that you don't know whether he  
3 had it in his testimony, or is it that you don't  
4 know what was contained in the tables that went  
5 along with Mr. Ridmann's testimony? In other  
6 words, did he make the same assumption that  
7 you're making? It just wasn't located in his  
8 testimony?

9 A. Mr. Ridmann for the ESP as proposed,  
10 as stipulated by various parties, does say that  
11 there would be -- that one of the provisions of  
12 ESP is that there is no recovery of the MISO  
13 exit fees, the MISO PJM integration fees, and  
14 the PJM RTEP costs for the first five years.

15 Q. And so I don't quite understand, why  
16 is it that you think your testimony is different  
17 when you just said that Mr. Ridmann made these  
18 same assumptions?

19 A. Because you asked me if my testimony  
20 was word for word with Mr. Ridmann's and I said  
21 not in its entirety.

22 Q. We moved beyond that. I was asking  
23 whether your assumptions were the same, not  
24 whether your testimony was word for word.

25 A. My assumptions should be exactly the

1 same as Mr. Ridmann's testimony, yes.

2 Q. I'm on page 4 of your testimony. For  
3 your reference, the first words on the page are  
4 "June 1st, 2011" and the last word is  
5 "already." Are you on that page?

6 A. Yes.

7 Q. On lines 9 through 10 you discuss  
8 your assumption concerning Rider DCR and it's  
9 set at \$124 million for all three FirstEnergy  
10 EDUs, correct?

11 A. Correct.

12 Q. And that's also the assumption that  
13 was contained in Mr. Ridmann's testimony,  
14 correct?

15 A. I believe so, yes.

16 Q. And that is not in the stipulation;  
17 is that correct? That value is not found in the  
18 stipulation?

19 A. I don't know whether or not 124 is  
20 found in the stipulation. The stipulation has a  
21 DCR for the 3-year period.

22 Q. And do you recall that the first  
23 dollar value for the first year is \$150 million?

24 A. I don't recall what the value amount  
25 was in the stipulation.

1           Q.     But the number of \$124 million is  
2     found in Mr. Ridmann's testimony and you have  
3     used the same assumptions; is that correct?

4           A.     That's correct.

5           Q.     And I just want to complete this to  
6     make sure that I understand the foundation for  
7     the underlying facts for the numbers that you  
8     present. On page 3, subsection (i), which is  
9     found about mid-way through the -- starts about  
10    mid-way on the page, in your response you  
11    discuss assumptions regarding Rider EDR. Do you  
12    see that? That's the Economic Development  
13    Rider?

14          A.     Yes.

15          Q.     And do you also make the same  
16    assumptions regarding Rider EDR as made in  
17    Mr. Ridmann's testimony? And let me give you an  
18    example. For instance, the automaker credit  
19    provision that was contained in, referred to in  
20    Mr. Ridmann's testimony, do you make the same  
21    assumption concerning that which is part of the  
22    Rider EDR?

23          A.     Yes. I believe the only difference  
24    would be the lighting adjustment. There again,  
25    as we ran typical bills, it was evident that if

1     there was a decrease in the overall rate, which  
2     would eliminate the need for the lighting  
3     credits in the EDR, that the lighting classes  
4     were going to see some significant increases  
5     even if there were an overall decrease in rates,  
6     in generation rates. So these typical bills  
7     also have a scenario where the lighting classes  
8     were given, even if there was a decrease in the  
9     overall generation rate, that the lighting  
10    classes would receive no more than a zero  
11    increase.

12           Q.     Would you please turn to page 2 of  
13    your testimony. You mention at various points  
14    on this page, and it's scattered throughout page  
15    2, the words "current and proposed rates." Does  
16    current mean June 2010, right now, as you use it  
17    in your testimony?

18           A.     As used in my testimony, the typical  
19    bills reflect a comparison between 2010 and 2011  
20    for summer bills and between 2011 and 2012 for  
21    winter bills, and has to do with the fact that  
22    the ESP would not become effective until June  
23    1st, 2011, and so some of the 2010 winter bills  
24    would also be in effect for the first -- for the  
25    first five months of 2011. So that's why the

1 winter bills reflect 2011 to 2012 and the summer  
2 bills reflect 2010 to 2011. But, yes, the  
3 current would reflect 2010 rates.

4 Q. So in the comparison, the month of  
5 June for 2010 is part of the current rates?

6 A. That's correct. June 2010 is a  
7 summer rate.

8 Q. And why haven't you -- and the  
9 proposed ESP is for three years starting June  
10 2011, correct?

11 A. Correct.

12 Q. And why haven't you provided typical  
13 bill analysis for the remainder of the period of  
14 the ESP?

15 A. Well, I thought the first year was  
16 confusing enough. I could have done that. I  
17 believe you would have had to make some  
18 assumptions, but I thought my instructions were  
19 to compare the ESP to the current rates and  
20 that's why I only provided the first year.

21 Q. What instructions are you referring  
22 to? Are you referring to the Entry on  
23 Rehearing?

24 A. Yeah. That was the only instructions  
25 that I had.

1           Q.   Well, the instructions here, and  
2   hopefully we won't have a problem reading it  
3   word for word, the Commission directs its Staff  
4   to conduct a detailed analysis of the increase  
5   in proposed ESP in customer bills. It says  
6   proposed ESP. Aren't there things that increase  
7   during the ESP period during the stipulation?

8           A.   I know that the question -- there  
9   are things that increase. I don't know whether  
10   they are known or not. I know the capacity  
11   charge will change the second year. There are  
12   riders, DSE Riders, and I forget all the names,  
13   the SmartGrid Rider, things like that will  
14   change but I don't believe the changes are  
15   known.

16          Q.   Well, one of the things that changes,  
17   or at least potentially changes, is DCR Rider,  
18   correct, increase in residential -- not  
19   residential, increase in distribution rates over  
20   the period of the ESP. That could change?

21           MR. KUTIK: I'll object. Are we  
22   asking will they change or could they change?  
23   Because you asked both of those questions, so I  
24   object to the question.

25          Q.   Could they change?

1           A.    I believe they could change.  I am  
2 not all that familiar with the DCR.

3           Q.    And the amount that we have for the  
4 first year is not known right now either, is it?

5           A.    No.

6           Q.    You have just adopted FirstEnergy's  
7 assumption of \$124 million, correct?

8           A.    Correct.

9           Q.    And Staff has no assumption that they  
10 could have used for the other years of the ESP  
11 that's been proposed?

12          A.    That's just one rider that could  
13 change.  There are other riders, as I mentioned,  
14 DSE, the SmartGrid Rider.  And once you start  
15 making assumptions, then you've got to start  
16 doing all the combinations and permutations of  
17 the assumption and you end up with stacks of  
18 paper that will fill these tables.

19          Q.    I hope I got that right about what  
20 you meant by current and proposed rates that are  
21 assumed in your testimony.  You're aware that  
22 there is a rider currently in effect called  
23 Rider DSI, correct, that's for distribution  
24 rates?

25          A.    Yes.

1           Q.    And that rider expires December 31,  
2   2011, correct?

3           A.    I am not entirely sure when the DSI  
4   Rider expires.  It's my understanding that the  
5   DSI Rider and the DCR Rider are never in effect  
6   at the same time; and I forget, is DCR the  
7   correct acronym for the \$124 million?

8           Q.    I think you have got the right  
9   acronym.  Rider DCR is the \$124 million we have  
10  been talking about, and I will agree with you  
11  that they do not coincide with one another with  
12  the ESP, proposed ESP as adopted.  But I'm  
13  asking what is built into your assumption as far  
14  as these riders are concerned, as far as current  
15  and proposed rates, and what is the breaking  
16  point when one rider is supposed to drop off and  
17  the other one is supposed to start up again?

18          A.    I don't know when the DSI Rider ends,  
19  but I think the assumption would be that the DSI  
20  Rider would be zero and the DCR Rider would be  
21  whatever it is in the first year.

22          Q.    I guess that is what I'm trying to  
23  get at was what are the numbers that you have in  
24  it for the first year?  That is, when you say  
25  proposed rates and this ESP begins, the proposed



1 ESP starts on June 1st, 2011, what do you assume  
2 for the Distribution Rider?

3 A. For the current bill calculations,  
4 and there again I'm looking at a standard  
5 residential schedule for CEI, the DSI Rider for  
6 the current rates was .002571 cents, for the  
7 proposed bill there is no DSI Rider, and the DCR  
8 Rider is .004217 cents.

9 Q. So I think what you're telling me is  
10 you don't know when the one stops and the other  
11 one begins, but you're telling me that in your  
12 numbers the current rates have the DSI and the  
13 proposed rates have the DCR rates; is that  
14 correct?

15 A. That's correct.

16 Q. And Rider DSI is scheduled to --  
17 well, why don't you turn to Mr. Ridmann's  
18 testimony that I have provided to you and page  
19 17 of his testimony, line 13, actually 12 and  
20 13, it states there generally that the DSI  
21 expires on December 31, 2011. Do you see that?

22 A. Yes.

23 Q. Do you have any reason to not believe  
24 that?

25 A. No.

1 Q. So Rider DSI is scheduled to end on  
2 December 31, 2011, regardless of whether the  
3 ESP, the proposed ESP is approved, correct?

4 A. That's correct.

5 Q. In your testimony you don't present  
6 any bill impact scenarios for the ESP not being  
7 approved. It's only for under the ESP, correct?

8 A. That's correct.

9 Q. Would you please turn to page 2 of  
10 your testimony and you label it as item (c).  
11 It's about mid-way through the page, and it  
12 states that current rates incorporate the  
13 Residential Deferred Distribution Cost Recovery  
14 Rider and that was approved by the Commission.  
15 Do you see that?

16 A. Yes.

17 Q. What level of Rider RDD revenues is  
18 assumed for the proposed rates?

19 A. Are we talking about -- first of all,  
20 are we just talking about Rider RDD for  
21 residential, for distribution?

22 Q. That's all we're talking about right  
23 now.

24 A. I do not know the level of revenue.  
25 I know that the current rates -- here again I'm

1 talking about a CEI, standard residential  
2 schedule for the current rates for the RDD for  
3 the first 500 are .011634 for the first 500  
4 kilowatts and .014952 for the over 500  
5 kilowatts.

6 Q. But the question was what was the  
7 assumption for Rider RDD in proposed rates. You  
8 gave me for current rates.

9 A. There is no -- there's a zero  
10 assumption for the RDD in proposed rates.

11 Q. So that rider will end in May 2011  
12 regardless of whether the proposed ESP is  
13 approved, correct?

14 A. That's correct.

15 Q. On page 2, item (d) towards the  
16 bottom of the page you state that reconcilable  
17 riders are included in the current rates and the  
18 proposed rates at levels as of January 2010. Do  
19 you see that?

20 A. Yes.

21 Q. What do the words following that  
22 "where applicable" mean?

23 A. Well, I'm trying to think through  
24 what riders are reconcilable. There again, I  
25 believe it's riders such as the DSE Riders --

1 Q. I'm sorry. What was that acronym?

2 A. The DSE riders.

3 Q. Let's just go on to that question.

4 What makes that --

5 MR. MCNAMEE: I object. I think the  
6 witness needs the opportunity to finish his  
7 answer.

8 HEARING EXAMINER PRICE: Sustained.

9 A. Without going through every one,  
10 whatever riders are adjusted, whether they be  
11 quarterly, semi-annually, or annually, that was  
12 what this subsection little (d) was meant to  
13 cover. Where applicable would be if the  
14 Commission continues to approve whatever  
15 reconciliations are made to those rates.

16 Q. You sort of anticipated my next  
17 question which is what are the reconcilable  
18 riders?

19 A. I have Ohio Edison's current tariff  
20 and I would be more than happy to go through  
21 every rider and tell whether I believe they are  
22 reconcilable or not.

23 Q. Well, I think you could probably  
24 quickly run over the acronyms of the ones you  
25 consider to be reconcilable.

1           A.     Delta Revenue Recovery Rider, Demand  
2     Side Management Rider, Distribution  
3     Uncollectable Rider, Generation Cause  
4     Reconciliation Rider, Green Resource Rider,  
5     Advance Meter Infrastructure Modern Grid Rider,  
6     PIP Uncollectable Rider, Nondistribution  
7     Uncollectable Rider, Demand Side Management and  
8     Energy Efficiency Rider. Rider EDR has elements  
9     that are reconcilable.

10          Q.     I'm sorry. Was that AER?

11          A.     The EDR, Economic Development Rider  
12     has elements pertaining to the cost recovery  
13     from the GS and GP class which are reconcilable.  
14     We talked about before, the Residential Deferred  
15     Distribution Cost Recovery Rider will have a  
16     reconciliation at the end of it.

17                 MR. SMALL: I can't tell whether he's  
18     done, Your Honor.

19                 HEARING EXAMINER PRICE: Are you  
20     completed, Mr. Fortney?

21                 THE WITNESS: I have two more sheets.

22                 HEARING EXAMINER PRICE: Not yet.

23          A.     The Nonresidential Deferred  
24     Distribution Cost Recovery Rider will be  
25     reconciled at the end.

1           Q.    That's sufficient for me. I don't  
2    want to cut you off.

3           A.    From going through the Ohio Edison  
4    tariff, those are other riders that I see that  
5    are reconcilable.

6           Q.    There are a number of them that would  
7    seem to be increasing over time; for instance,  
8    the DSM, the energy efficiency related riders  
9    and so forth. Would you agree with that?

10          A.    They could increase, yes. I would  
11   expect them to increase.

12          Q.    And so why did you assume 2010  
13   levels? You stated in your testimony on page 2  
14   in item (d) you assumed levels of January 2010.  
15   Shouldn't you have made assumptions that some of  
16   those riders were going to increase over time?

17          A.    By how much, Mr. Small? I have no  
18   idea what a Reconcilable Rider would increase.  
19   I don't know what assumption to put in there.  
20   There again, I could do a range of assumptions  
21   and we would have a table full of paper that is  
22   virtually meaningless because it's all based  
23   upon assumptions.

24          Q.    Would you please turn to the next  
25   page of your testimony, page 3, item (f) where

1 you state that all customers are treated as  
2 taking service under the Companies' standard  
3 service offer. Earlier in that sentence you say  
4 for both current and proposed rates. Do you see  
5 that?

6 A. Yes.

7 MR. SMALL: If I may at this point,  
8 Your Honor, I'd like to mark OCC Exhibit 7 and  
9 approach.

10 HEARING EXAMINER PRICE: You may. So  
11 marked.

12 (EXHIBIT HEREBY MARKED.)

13 Q. Mr. Fortney, looking at OCC Exhibit  
14 7, do you recognize it as a summary of switching  
15 statistics from the PUCO Web site?

16 A. I don't recognize it as such, but I  
17 will take your word for it.

18 Q. Do you have familiarity with  
19 switching in the service territories for the  
20 Ohio utilities?

21 A. It's been quite sometime since I have  
22 gone to this data.

23 Q. But the PUCO does maintain these  
24 switching statistics on its Web site?

25 A. I believe so, yes.

1           Q.     Now, on OCC Exhibit 7, CEI is the  
2     first utility identified and then there's some  
3     non-FirstEnergy utilities on the second page.  
4     Ohio Edison is at the top of the second page and  
5     then Toledo Edison is at the bottom of the  
6     second page. And I won't go through all the  
7     numbers but the overall switching statistics  
8     appear to be in the 50 to 60 percent range for  
9     total customer, total kWh. Does that square  
10    with your understanding of the general state of  
11    switching in the FirstEnergy service  
12    territories?

13           MR. KUTIK: Again, Your Honor, I  
14    object. The witness does not demonstrate any  
15    familiarity with this document. If he wants to  
16    talk generally about switching, that's another  
17    story.

18           Q.     Without reference to this particular  
19    document, Mr. Fortney, do you understand there  
20    is significant switching in the FirstEnergy  
21    service territories?

22           A.     Yes. That's my understanding,  
23    depending on the word "significant," but I would  
24    accept that 50 percent is probably not a bad  
25    ballpark number.



1 Q. For the current situation?

2 A. Yes.

3 Q. And is it your expectation that if  
4 the proposed ESP is accepted and approved by the  
5 Commission, that switching statistics would go  
6 to zero? From that roughly 50 percent level  
7 that you just stated for the current situation,  
8 would the switching statistics go to zero or  
9 near zero under the proposed ESP?

10 A. I think that depends entirely on what  
11 the bid, the generation price bid comes at.

12 Q. Okay. So you have no expectation at  
13 this time what those numbers would look like?

14 A. Which numbers?

15 Q. The switching statistics?

16 A. No, I have no expectations.

17 Q. Wouldn't standard service offer rates  
18 be affected by shopping?

19 A. They may be in some abstract way that  
20 I'm not thinking of, but no. They will be  
21 affected by whatever the winning bid is. They  
22 could be affected upwards or downwards, but -- I  
23 guess I need the question reread. I waited so  
24 long now I forgot what the question was.

25 (Question read.)

1           A.    Well, I guess I believe that the  
2   level of shopping could affect the bidding, so  
3   if that's what you're talking about, yeah, that  
4   could happen; or after the bid if more customers  
5   shop, there could be a bigger reconciliation,  
6   generation reconciliaton. So they could affect  
7   generations in that way, but as a matter of this  
8   is the winning bid, this is what the generation  
9   rates will be, no, it's not affected by shopping.

10          Q.    Aren't there bypassable charges in  
11   the proposed ESP?

12          A.    Sure. The generation rates are  
13   bypassable.

14          Q.    Aren't these calculations as far as  
15   what would be the standard service offer  
16   dependent upon who stays and who switches to  
17   alternative supply?

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

20                (Question read.)

21                MR. KUTIK: Objection, asked and  
22   answered.

23                HEARING EXAMINER PRICE: Sustained.

24          Q.    I guess my question regarding (f) on  
25   page 3 is why you need to make an assumption,

1 state an assumption as the basis of your  
2 tables? Why is it important to make this  
3 assumption as far as calculating typical bills  
4 in your tables?

5 MR. KUTIK: I'm sorry. Is the  
6 question why is it necessary to state the  
7 assumptions or why is it necessary to have the  
8 assumptions?

9 Q. Why is it important to have the  
10 assumption? I believe we got an answer that  
11 says it's not important and yet it's stated here  
12 in your testimony that this is an assumption  
13 that you have made in a typical bill. So I'm  
14 asking you why is this in the testimony as far  
15 as the assumption that you made to calculate the  
16 typical bills?

17 A. First of all, I haven't said this  
18 assumption was not important. If I did, I  
19 misspoke, and I don't believe I said that, but  
20 all this is saying is these typical bills are  
21 calculated for people who are not shopping.  
22 They are standard service offer customers who  
23 take generation transmission distribution from  
24 FirstEnergy.

25 HEARING EXAMINER PRICE: When you say

1 "all customers," you're referring to the bill  
2 impact schedules? All customers, anybody who is  
3 in the table is treated as taking SSO service;  
4 is that right? You haven't calculated the bill  
5 impacts for shopping customers?

6 THE WITNESS: Yes, that's correct.  
7 All of these bills on the typical bills are  
8 non-shopping customers, standard service offer  
9 customers.

10 HEARING EXAMINER PRICE: I think we  
11 have gotten to the bottom of that.

12 Q. Mr. Fortney, are you aware that  
13 FirstEnergy filed a notice recently to reduce  
14 Rider GEN under the current ESP due to a  
15 reduction in the annual rate for transmission  
16 service?

17 A. Vaguely. I don't know any of the  
18 specifics.

19 Q. Okay. Do the current rates used in  
20 your typical bill comparison reflect those  
21 reductions?

22 A. I don't know the answer.

23 Q. Do you recall discussing this  
24 assumption or this basis for typical bills with  
25 the FirstEnergy individuals that you were

1 working with?

2 A. Actually, I do recall. I don't  
3 recall what the answer was. I believe the  
4 answer was that current bills do not reflect the  
5 recent reduction.

6 Q. Would you please turn to pages 4 and  
7 5 of your testimony in your question and answer  
8 6 and 7, and you propose at this point in your  
9 testimony to alter the results of the proposed  
10 stipulation; is that correct?

11 A. Yes. The two recommendations in  
12 answer 6, my answer 6 and 7 will slightly alter  
13 the results of the ESP as proposed.

14 Q. This recommendation was not contained  
15 in Staff testimony prior to your current  
16 supplemental testimony, correct?

17 A. That's correct.

18 Q. Nor was it contained in anyone else's  
19 testimony in this case, was it?

20 A. Not to my knowledge.

21 Q. And there wasn't anything in the  
22 Entry on Rehearing requesting an analysis or a  
23 proposed recommendation as far as the  
24 stipulation is concerned, was there?

25 A. That's correct.

1           Q.    What caused you to make the  
2    recommendations?

3           A.    Because, as I described the process  
4    before, as we did iterations of typical bills at  
5    different levels of the market rate, it became  
6    apparent that the lighting schedules were kind  
7    of an anomaly in the way the provisions of the  
8    ESP read.  If there was, as I mentioned before,  
9    if there was an overall decrease in rates, the  
10   lighting schedules received a significant  
11   increase because they lost their discounts.  So  
12   it was a decision on my part to make this  
13   recommendation and have the typical bills  
14   reflect that recommendation.

15          Q.    And why aren't you willing to depend  
16    or rely upon the parties who negotiated the  
17    lighting provision in the stipulation?

18               MR. KUTIK;  Objection, argumentative.

19               HEARING EXAMINER PRICE:  Overruled.

20          A.    I assume if they disagree with my  
21    testimony they will either cross-examine me or  
22    will cover it in brief.

23               MR. SMALL:  If I could have just a  
24    moment, Your Honor.

25               HEARING EXAMINER PRICE:  You may.

1 MR. SMALL: That completes my  
2 examination, Your Honor. Thank you.

3 HEARING EXAMINER PRICE: Ms. Mooney,  
4 I inadvertently skipped you earlier. Any cross?

5 MS. MOONEY: No questions. Thank you.

6 HEARING EXAMINER PRICE: Mr. Heintz?

7 MR. HEINTZ: No questions, Your  
8 Honor.

9 HEARING EXAMINER PRICE: Mr. Eckhart?

10 MR. ECKHART: Yes, briefly, Your  
11 Honor.

12 - - -

13 CROSS-EXAMINATION

14 By Mr. Eckhart:

15 Q. Mr. Fortney, you have testified that  
16 you adopted a number of --

17 A. Excuse me. You probably better use  
18 the microphone. I'm old. I don't hear so well.

19 Q. Sorry. Mr. Fortney, I'm Henry  
20 Eckhart. I represent the Natural Resources  
21 Defense Council, and you have testified that you  
22 adopted a number of the assumptions from the  
23 FirstEnergy information. Did you make any test  
24 of the reasonableness or appropriateness of  
25 those assumptions?

1 HEARING EXAMINER PRICE: I don't  
2 understand your question, Mr. Eckhart. Mr.  
3 Fortney, those assumptions that you adopted are  
4 embedded in the ESP to which Staff has  
5 stipulated; is that correct?

6 THE WITNESS: That's correct. As  
7 testified to by Mr. Ridmann, in support of the  
8 stipulation they adopt all those assumptions  
9 with the lighting changes that Mr. Small just  
10 went through with me.

11 Q. Well, maybe I'm not making myself  
12 clear, but what I wanted to know is subsequent  
13 to the stipulation and subsequent to the  
14 Staff -- or prior to the Staff joining it, did  
15 you test the FirstEnergy assumptions that you  
16 used to come to that conclusion?

17 A. Come to what conclusion?

18 Q. The conclusion that the Staff would  
19 join in the stipulation.

20 MR. MCNAMEE: Objection.

21 HEARING EXAMINER PRICE: Grounds?

22 MR. MCNAMEE: We're endeavoring to  
23 find out why the Staff entered into a  
24 stipulation. That's not the purpose of the  
25 proceeding here this morning. The purpose of



1 the proceeding here this morning is to  
2 cross-examine about these outputs, and not why a  
3 stipulation was entered into. We have already  
4 discussed that.

5 HEARING EXAMINER PRICE: Sustained.

6 Q. Mr. Fortney, does the Staff have the  
7 software that you referred to that the company  
8 has to come to those conclusions? Does the  
9 Staff have the capacity to do that or do they  
10 have to rely on FirstEnergy?

11 A. We currently do not have the  
12 capacity. Could we do it? Sure, we could.

13 Q. Why didn't you?

14 A. Because it's so much more convenient  
15 to rely on the company who already has the  
16 software, the capability of calculating bills,  
17 the capability of making different assumptions.

18 Q. Are you done?

19 A. Yes.

20 Q. Well, if you're going to rely on the  
21 company's assumptions and you don't have the  
22 capacity, why do you even bother?

23 MR. KUTIK: Objection.

24 HEARING EXAMINER PRICE: Sustained.

25 MR. ECKHART: That's all.

1 HEARING EXAMINER PRICE: Mr.  
2 Meissner?

3 MR. MEISSNER: Yes.

4 - - -

5 CROSS-EXAMINATION

6 By Mr. Meissner:

7 Q. Good morning, Your Honor. Good  
8 morning, Mr. Fortney.

9 A. Good morning, Mr. Meissner.

10 Q. How are you today?

11 A. All right. It's nice to see you  
12 here.

13 Q. Good. You're aware of the fact that  
14 I represented low income families since the  
15 mid-1970s before the Commission.

16 A. I didn't know it was since the 1970s  
17 but I know that you represent low income  
18 families.

19 Q. What is the purpose or goal of the  
20 testimony you're presenting in terms of what  
21 you're trying to show the customers?

22 A. Well, I think that's also at least  
23 semi-addressed in my testimony. At the public  
24 hearings it was noted by apparently several  
25 parties that it was necessary to see what the

1 bill impact would be if the provisions of the  
2 ESP were adopted, and this bill analysis is  
3 simply to try to give the bill impact for each  
4 schedule of customers at the various levels of  
5 market rates from between 45 and 70.

6 Q. Is it really possible to tell the  
7 customers what the impact will be on the amounts  
8 of money they'll pay for electricity under this  
9 ESP?

10 A. You have to make some assumptions  
11 just like you would have to make some  
12 assumptions on any rate plan, yes.

13 Q. Well, if the rate plan was simply to  
14 increase the company's revenue, say, 4 percent,  
15 you wouldn't have to make too many assumptions  
16 there, would you?

17 A. Oh, sure, you've got to make all  
18 kinds of assumptions in the rate design, revenue  
19 distribution. There would be numerous  
20 assumptions you would have to make if it wasn't  
21 spelled out in the rate plan.

22 Q. I think in answer to some questions  
23 asked by OCC you seemed to indicate, looking at  
24 this ESP, we really can't tell customers if  
25 their rates will go up, stay the same, or go

1 down.

2 A. By far the major factor in the ESP is  
3 what the option will provide, and as we've  
4 indicated it could be somewhere between 45 and  
5 70 or it could be even out of those ranges. So,  
6 yes, it is impossible to say the ESP will  
7 provide rates that are X without, first of all,  
8 without knowing what the market price could be.

9 Q. And leaving aside the whole thing of  
10 what the market price could be, you still can't  
11 tell us whether rates will go up, stay the same,  
12 or go down because of all the riders and other  
13 factors in the ESP, including the stipulation?

14 A. I think that's probably true, yes.

15 Q. You did try to compare what the  
16 current rates are for, like, the current year  
17 2010; isn't that correct?

18 A. Well, there again, as I explained to  
19 Mr. Small, essentially, yes; current rates in  
20 2010 compared to the first year of the ESP rates  
21 which begins in June of 2011.

22 Q. And under the current -- the current  
23 rates are set by the ESP that was approved back  
24 in, I guess the stipulations, in early 2009.

25 A. To a great degree, but yes, there are

1 also riders in there that are -- there are  
2 distribution rates come from the distribution  
3 case, the fuel rates come from the fuel case.  
4 There are a variety of cases where the current  
5 rates are derived from.

6 Q. And are you generally aware of the  
7 terms of the ESP under which the rates are now  
8 being set?

9 A. Yes.

10 Q. And have you reviewed the stipulation  
11 that has been proposed for the new ESP that the  
12 Commission is being asked to accept? Have you  
13 reviewed the terms of that?

14 A. Yes. That's what these bills,  
15 typical bills are based on.

16 Q. Are you aware that under the current  
17 ESP that the company provides a fuel fund of \$6  
18 million or \$2 million a year to help low income  
19 families, or will you at least accept that,  
20 subject to check?

21 A. I was vaguely aware of that, but I  
22 will accept it subject to check, sure.

23 Q. Are you aware that under the proposed  
24 ESP and the stipulations that we so far have,  
25 that the most that there would be of a fuel fund

1 is only approximately \$500,000?

2 MR. KUTIK: Objection.

3 HEARING EXAMINER PRICE: Grounds?

4 MR. KUTIK: Relevance.

5 HEARING EXAMINER PRICE: Sustained.

6 It's outside the scope of today's hearing, Mr.  
7 Meissner.

8 MR. MEISSNER: Well, Your Honor, I  
9 thought we were looking at what the rates --

10 HEARING EXAMINER PRICE: We're  
11 looking at customer bill impacts. Fuel fund has  
12 no impact on customer bill impacts. Ms.  
13 Turkenton earlier testified in support of the  
14 stipulation. Those questions should have been  
15 directed to her.

16 Q. The rates that customers will be  
17 charged, there are various classes of customers  
18 in terms of income, aren't there? Some  
19 customers having fairly low incomes, others  
20 having middle incomes, and others having higher?

21 A. Are we speaking with residential  
22 customers?

23 Q. Yes.

24 A. I assume that's true. I don't know  
25 that for a fact but I certainly assume that the

1 FirstEnergy customer base is representative of  
2 the overall population which would have some low  
3 income, medium income, and high income  
4 customers.

5 Q. Did you take into account, in looking  
6 at the rate impacts, any changes in the  
7 distribution of the incomes of these various  
8 customer groups or residential customers?

9 A. No.

10 Q. Would you have any basis for  
11 believing or being able to state that the number  
12 of families that would be low income under the  
13 impacts that you have examined, that that would  
14 decrease by, say, 75 percent in the FirstEnergy  
15 territories?

16 MR. KUTIK: Could I have the question  
17 read?

18 HEARING EXAMINER PRICE: You may.

19 (Question read.)

20 MR. KUTIK: And the "that" in that  
21 question was what?

22 MR. MEISSNER: Which "that"?

23 MR. KUTIK: I object to the question  
24 on the the grounds of relevance.

25 HEARING EXAMINER PRICE: Perhaps

1 Mr. Meissner can rephrase the question for us so  
2 there's no confusion of which "that."

3 MR. MEISSNER: Thank you, Your Honor.

4 Q. In response to the previous question  
5 I asked you, you acknowledged that there are  
6 different income groups among those residential  
7 customers that would be impacted by the rates  
8 that would be set by the ESP.

9 My question is do you have any basis  
10 for saying that the numbers of customers who  
11 would be considered low income would decrease by  
12 75 percent under the terms of the ESP, the three  
13 years?

14 HEARING EXAMINER PRICE: I'm sorry,  
15 Mr. Meissner, I don't understand where in the  
16 evidence that 75 percent decrease is coming  
17 from. I think you are assuming a fact that we  
18 don't have any evidence of.

19 MR. MEISSNER: I'm asking the witness  
20 if he has any basis for that.

21 HEARING EXAMINER PRICE: Can you show  
22 me in his testimony where you are referring to?

23 MR. MEISSNER: I am looking in the  
24 customer bases which are going to be the  
25 customers that are going to be impacted under



1 the figures that he has provided to us, so I  
2 don't see where it is in the testimony either,  
3 and I want to make that very obvious that he has  
4 not considered impacts on customers in terms of  
5 whether customers and how they will be affected  
6 by these rates.

7 HEARING EXAMINER PRICE: Mr. McNamee?

8 MR. MCNAMEE: Impacts on customers  
9 is exactly what he's testifying to. That's the  
10 point of this large stack of paper. I mean,  
11 we're not looking at the -- I don't understand.  
12 I object to this line of questioning on the  
13 basis of relevance. The witness has testified  
14 to the bill impacts that will occur to customers  
15 within the assumptions that are laid out in  
16 here.

17 HEARING EXAMINER PRICE: I think he  
18 previously -- I think what he has not testified  
19 yet or not addressed yet is whether he took into  
20 account customer income in setting the bill  
21 impacts.

22 MR. MCNAMEE: Their ability to pay.

23 HEARING EXAMINER PRICE: I'm just  
24 saying perhaps you can rephrase the question to  
25 ask that question.

1           MR. MEISSNER: Maybe that's the  
2 question then.

3           Q. Have you taken into account any  
4 statistics at all about income of the various  
5 customer groups, residential customers that  
6 would be affected by these rate impacts?

7           A. No.

8           MR. MEISSNER: Thank you very much,  
9 Your Honor. That completes our questions.

10          HEARING EXAMINER PRICE: Thank you.  
11 Redirect?

12          MR. MCNAMEE: I think not. May I  
13 approach the witness?

14          HEARING EXAMINER PRICE: You may.  
15 Let's take five minutes and let the Reporter  
16 take a break here.

17                 (Off the record.)

18          HEARING EXAMINER PRICE: Back on the  
19 record. Mr. McNamee, redirect?

20          MR. MCNAMEE: Thank you, Your Honor.  
21 I have no questions. Staff would move for the  
22 admission of Staff Exhibit 4.

23          HEARING EXAMINER PRICE: Any  
24 objections to the admission of Staff Exhibit 4?

25          MR. SMALL: None, other than those

1 already stated, Your Honor.

2 HEARING EXAMINER PRICE: We'll note  
3 your continuing objection made during your  
4 motion to strike and admit Staff Exhibit 4.

5 MEISSNER: Your Honor, we have an  
6 objection to the submission because we're not  
7 really clear that the purpose for what this  
8 hearing was supposed to be has been served by  
9 what has been presented by the Staff.

10 HEARING EXAMINER PRICE: Thank you.  
11 Your objection is noted.

12 MR. MEISSNER: Thank you.

13 HEARING EXAMINER PRICE: It will be  
14 admitted. You may step down.

15 (EXHIBIT HEREBY ADMITTED).

16 HEARING EXAMINER PRICE: With that, I  
17 believe we will adjourn until 1:30 at which  
18 point FirstEnergy will present a witness in  
19 support of the supplemental stipulation and  
20 we'll do that live. Thank you all. Off the  
21 record.

22 - - -

23 Thereupon at 12:00 p.m. a lunch  
24 recess was taken until 1:30 p.m.

25 - - -

1 Monday Afternoon Session,  
2 June 21, 2010.

3 - - -

4 HEARING EXAMINER PRICE: As a  
5 preliminary matter I'd just like to note that  
6 our next witness is beyond the scope of what the  
7 Commission had originally announced for today's  
8 hearing. However, off the record OCC had  
9 expressed some concern regarding the admission  
10 of the supplemental stipulation without the  
11 testimony of a witness, and FirstEnergy has  
12 agreed to put on a witness to sponsor that  
13 stipulation. With that, Mr. Korkosz, you can  
14 call your next witness.

15 MR. KORKOSZ: We recall Mr. Ridmann.

16 - - -

17 WILLIAM R. RIDMANN  
18 called as a witness on behalf of the Applicants,  
19 being first duly sworn, testified as follows:

20 HEARING EXAMINER PRICE: Just for  
21 the record, state your name and address again,  
22 please.

23 THE WITNESS: My name is William R.  
24 Ridmann, R-i-d-m-a-n-n, 76 South Main Street,  
25 Akron, Ohio.

1 HEARING EXAMINER PRICE: You can  
2 proceed.

3 - - -

4 DIRECT EXAMINATION

5 By Mr. Korkosz:

6 Q. Mr. Ridmann, you previously testified  
7 in this proceeding?

8 A. Yes, I did.

9 MR. KORKOSZ: If Your Honor please,  
10 I have previously distributed to the parties and  
11 to Your Honor and the Court Reporter a  
12 multi-page document that is comprised of a  
13 covering transmittal letter dated May 12 and  
14 then the subsequent pages are identified as a  
15 Supplemental Stipulation. I ask that that  
16 document be marked for identification as Joint  
17 Exhibit 2.

18 HEARING EXAMINER PRICE: So marked.

19 (EXHIBIT HEREBY MARKED.)

20 Q. Mr. Ridmann, do you have Joint  
21 Exhibit 2 before you?

22 A. Yes, I do.

23 Q. Are you familiar with the  
24 circumstances that led to the creation of this  
25 document?

1           A.    Yes, I am.

2           Q.    First of all, tell us what the  
3 document is, very briefly.

4           A.    It's basically a supplemental  
5 stipulation to the original stipulation that was  
6 filed in Case No. 10-388-EL-SSO and basically it  
7 provides for additional terms basically that  
8 were not in the original stipulation, and  
9 provides for a couple of additional parties to  
10 sign on it.

11          Q.    All right. Are you familiar with the  
12 circumstances that led to the creation of Joint  
13 Exhibit 2?

14          A.    Yes, I am.

15          Q.    Could you summarize that briefly.

16          A.    Yes. Basically the supplemental  
17 stipulation provides for some terms, provisions  
18 for the City of Akron and COSE and basically  
19 discussions began with these two parties after  
20 they had basically filed for intervention, and  
21 we worked with the two parties and then  
22 ultimately with all those who had signed the  
23 first stipulation or the original stipulation to  
24 sign the supplemental stipulation also, such  
25 that that agreement was reached and filed on May

12, 2010.

Q. And you referred to some additional provisions that are in this Joint Exhibit 2. Could you summarize what the principal provisions that distinguish Joint Exhibit 2 are.

A. Yes. Basically it provides to COSE, Council of Smaller Enterprises, basically the same type of provisions that were in the original stipulation for the Ohio Hospital Association in terms of provisions related to being administrator under the energy efficiency provisions of the original stip; and for the City of Akron, basically it extends to them basically similar provisions which were in the original stipulation for the City of Cleveland.

Q. Mr. Ridmann, in your earlier testimony in this proceeding, a portion of that testimony testified to your opinion that the provisions of the ESP set out in the earlier stipulation and recommendation were more favorable in the aggregate as compared to the expected results that would otherwise apply as the results of an MRO. Do you recall that?

A. Yes, I do.

Q. Do any of the modifications that

1 Joint Exhibit 2 makes to that earlier  
2 stipulation and recommendation change your  
3 opinion or that supporting rationale?

4 A. No. I believe the ESP is still  
5 beneficial overall relative to the MRO, and the  
6 provisions that are being added under the  
7 supplemental stipulation does nothing to change  
8 my opinion of that.

9 Q. And your earlier testimony in this  
10 proceeding also discussed the benefits of the  
11 ESP as was described in the original stipulation  
12 and recommendation. Do any of the modifications  
13 in Joint Exhibit 2 change your testimony with  
14 respect to the evaluation of those benefits?

15 A. No. I think, if anything, it  
16 strengthens the benefits in terms of its support  
17 of state policy in terms of providing energy  
18 efficiency by getting two more parties on to  
19 promote energy efficiency to our customers and  
20 the contact base with which they have contacts  
21 with. So if anything, the benefits are  
22 strengthened.

23 Q. Mr. Ridmann, you also in your earlier  
24 testimony addressed the three part criteria the  
25 Commission has customarily used to evaluate



1 stipulations among parties to a proceeding. Do  
2 you have an opinion whether the supplemental  
3 stipulation here, Joint Exhibit 2, also  
4 satisfies those criteria?

5 A. Absolutely, it does.

6 Q. Can you summarize why you held that  
7 opinion?

8 A. I think basically the three criteria,  
9 basically, were satisfied. Basically  
10 negotiations were among capable, knowledgeable  
11 parties. I can say that for all the parties  
12 involved in this, that they were very capable.  
13 They knew what they were entering into, and the  
14 supplemental stipulation doesn't violate any  
15 repertory principles of practice; and as I  
16 stated before, it provides benefits to customers  
17 and supports state policy by providing  
18 additional opportunities for energy efficiency  
19 in the marketplace.

20 MR. KORKOSZ: If Your Honor please,  
21 I offer Joint Exhibit 2 and tender Mr. Ridmann  
22 for cross-examination.

23 HEARING EXAMINER PRICE: Thank you.  
24 AICUO?

25 MR. PARRAM: We have no questions at

1 this time.

2 HEARING EXAMINER PRICE: Nucor?

3 MR. LAVANGA: No questions, Your  
4 Honor.

5 HEARING EXAMINER PRICE: Mr. Smith?

6 MR. SMITH: No questions.

7 HEARING EXAMINER PRICE: IE Ohio?

8 MS. MCALISTER: No questions, Your  
9 Honor.

10 HEARING EXAMINER PRICE: OEG?

11 MR. KURTZ: No questions.

12 HEARING EXAMINER PRICE: FES?

13 MR. GALLON: No questions,

14 HEARING EXAMINER PRICE: Mr. Warnock  
15 on behalf of the various clients?

16 MR. WARNOCK: No questions.

17 HEARING EXAMINER PRICE: Mr.  
18 Settineri?

19 MR. SETTINERI: No questions.

20 HEARING EXAMINER PRICE: Mr. Small?

21 MR. SMALL: Thank you, Your Honor. I  
22 have a few questions.

23 - - -

24

25

CROSS-EXAMINATION

By Mr. Small:

Q. Mr. Ridmann, Jeff Small, OCC.

A. Good afternoon.

Q. You have Joint Exhibit 2 in front of you?

A. Yes, I do.

Q. And I believe what has just been summarized -- I'm going to proceed from the beginning to the end of the document, so beginning on page 2 of the exhibit, and I'm using the page numbers at the bottom of the page, I believe you've stated that Council of Smaller Enterprises has been added as an administrator of energy efficiency programs as part of the supplemental stip, correct?

A. Correct.

Q. And the other portion that is new for the replacement of Section E.2 of the stipulation is not only naming them but also providing COSE with certain dollar amounts, 25,000 in 2011, 50,000 in 2012, 50,000 in 2013, and 25,000 in 2014. Those are the provisions, adding COSE and adding those dollar amounts. That's what's been added to the stipulation,

1 correct?

2 A. For that provision, yes.

3 Q. What is the experience that the  
4 Council of Smaller Enterprises has in  
5 administering energy efficiency projects?

6 A. They have been meeting with  
7 customers. They're active in the marketplace.  
8 They have met with or continue -- have met and  
9 continue to meet with their client base in terms  
10 of promoting energy efficiency and promoting  
11 basically or establishing basically what their  
12 customers have done in terms of energy  
13 efficiency, and they're ready and willing to  
14 offer new programs as soon as they're approved  
15 by the Commission.

16 Q. A little bit more specifically, are  
17 you saying that COSE is holding meetings? What  
18 are they meeting about? What meetings are you  
19 talking about?

20 A. I think they're establishing  
21 basically with their client base what  
22 opportunities customers -- first of all, they're  
23 explaining basically the energy efficiency  
24 policy and rules that have been developed and  
25 the opportunities for their customers to promote

1 or to help basically promote the policy of  
2 energy efficiency through actions that they have  
3 done or may do in the future in terms of  
4 installing more energy efficiency equipment,  
5 taking other steps to improve their energy  
6 usage.

7 Q. So when you say explaining, do you  
8 mean they're explaining what can be done since  
9 the passage of Senate Bill 221 under the new  
10 legal framework?

11 A. Yes. That's part of it, but then  
12 also explaining or working with engineers and  
13 others that can help customers understand what  
14 they can do in their facilities to reduce energy  
15 usage.

16 Q. Do you know whether COSE has been  
17 energy administrator in the past?

18 A. Yes.

19 Q. And what program have they  
20 administered?

21 A. As part of the -- as part of the  
22 roles of an administrator they have been  
23 basically working to develop historical or get  
24 historical projects, and at the same time  
25 preparing their client base for new programs

1 that will hopefully be launched in the near  
2 future.

3 Q. I'm specifically referring to past  
4 projects.

5 A. Historical projects.

6 Q. Can you give me an example of their  
7 administration of a past project?

8 A. What they are doing is meeting with  
9 their client base to determine what energy  
10 efficiency projects have been done by their  
11 clients and determining whether they can meet  
12 the mercantile classifications that have been  
13 established through rulemaking in Ohio.

14 Q. Is that part of their activities  
15 under the stipulation provisions on page 2? Are  
16 the meetings that you are talking about, isn't  
17 that what they're being paid for under the  
18 provisions at the top of page 2 of your  
19 supplemental stipulation? Is that really a  
20 historical program? That's what I'm asking.

21 A. Is what a historical program? Sorry.

22 Q. The meetings that you were describing  
23 with clients. Isn't that their current  
24 activities?

25 A. Yes, that's their current activities,

1 and that would be their activity going forward  
2 too.

3 Q. I'm specifically asking about their  
4 experience in the past.

5 A. Yes. They have held meetings with  
6 clients to determine what energy efficiency  
7 projects have been completed, and I'm sure at  
8 the same time talking about what energy  
9 efficiency projects may be coming down the road  
10 that their client base could participate in once  
11 the companies' filing has been accepted.

12 Q. So their experience is limited to  
13 these meetings that you're describing?

14 MR. KORKOSZ: Objection,  
15 mischaracterizes the answer.

16 A. No.

17 HEARING EXAMINER PRICE: Sustained.

18 Q. What is it that COSI has done  
19 besides meeting with their client base?

20 HEARING EXAMINER PRICE: Mr. Small,  
21 it's COSE. COSI is the science museum down the  
22 block.

23 Q. Sorry. COSE.

24 A. Part of the meetings are obviously --  
25 I know they have expertise that they have hired

1 to go out and basically establish what energy  
2 efficiency projects can be done at facilities,  
3 and so a meeting can involve basically what can  
4 be done at the facilities of the clients.

5 Q. Going forward, what is expected of  
6 COSE as administrator under the supplemental  
7 stipulation?

8 A. Basically to promote energy  
9 efficiency under the companies' programs that  
10 will be adopted by the PUCO, and to promote  
11 those to their client base and help them through  
12 any engineering aspects that small businesses  
13 may need in order to become more energy  
14 efficient.

15 Q. And what documentation of their  
16 activities will be required as far as reporting  
17 to FirstEnergy that they have undertaken these  
18 administrative tasks?

19 A. I would say whatever is laid out in  
20 the portfolio case in terms of what's required  
21 for administrators and what's required for the  
22 various programs that customers undertake as  
23 part of energy efficiency. The documentation  
24 will follow that, basically what's required.

25 Q. And would your answer be the same if



1 I asked about the documentation that would be  
2 presented to the Public Utilities Commission of  
3 Ohio, that it's the documentation provided for  
4 in the portfolio case?

5 A. And anything else we may find to  
6 support basically the provisions of getting the  
7 energy efficiency counted in terms of the  
8 requirements that we need and getting recovery  
9 of the costs associated with it.

10 Q. Are you referring to documentation  
11 provided to FirstEnergy?

12 A. I'm referring to documents provided  
13 to FirstEnergy as part of meeting the compliance  
14 that they would have to do to count basically  
15 the energy efficiency that they will have  
16 performed. Whatever documentation that is, as  
17 it evolves with Commission rulemaking or  
18 decisions, that will be required of the customer  
19 to be provided to FirstEnergy and we would  
20 submit that information to the Commission.

21 Q. Okay. I understand that you are  
22 talking about documentation as it relates to a  
23 program that's been proposed by a customer for  
24 inclusion in the FirstEnergy efficient  
25 requirements. But what I'm talking about is

1 documentation that FirstEnergy and the Public  
2 Utilities Commission of Ohio, of COSE's actual  
3 activities, not their customers having their  
4 projects accepted by the PUCO, but documentation  
5 of COSE's actual administrative activity. Is  
6 there going to be any reporting to FirstEnergy  
7 or to the PUCO regarding their actual  
8 activities?

9 A. I'm not aware of any right now.

10 Q. Now, I'll direct your attention to  
11 the last phrase of the last -- of the paragraph  
12 that we have been discussing at the top of page  
13 2. It says "with such amounts recovered through  
14 Rider DSE." Do you see that?

15 A. Yes.

16 Q. So the additional amounts for COSE,  
17 they're not going to be provided by the company  
18 but they're going to be provided by customers;  
19 is that correct?

20 A. I'm sorry. Would you repeat that  
21 question? Could we have it reread?

22 HEARING EXAMINER PRICE: Yes.

23 (Question read.)

24 A. Well, they're going -- actual  
25 payments are going to be provided by the company

1 and the company would expect to recover those  
2 through DSE Rider through its customers.

3 Q. So there are no shareholder dollars  
4 involved here; is that correct?

5 A. There are no shareholder dollars  
6 involved.

7 Q. Let's move on to the paragraph at the  
8 bottom of page 2 and here I believe you  
9 indicated that the existing Section E.7 of the  
10 stipulation, the part that is changed, is the  
11 last portion which refers to program for the  
12 City of Akron, correct?

13 A. Yes.

14 Q. And so that begins, I'm on the 6th  
15 line of the paragraph, the sentence starts "To  
16 help make energy efficiency programs available  
17 to Akron residents." That and the portion  
18 afterwards is the part that's been added,  
19 correct?

20 A. Correct.

21 Q. So this additional portion of the  
22 supplemental stipulation is only for the benefit  
23 of residents of the City of Akron, correct?

24 A. And I would also say their own  
25 accounts and for other accounts that may fall

1 under their energy efficiency and sustainability  
2 goals.

3 Q. Well, the part I'm concentrating on,  
4 I'm on the very first sentence of the portion  
5 that's been added. It says "programs available  
6 to Akron residents." Do you see that?

7 A. Yes, I do.

8 Q. But nobody else is eligible for this  
9 additional provision, right? They're for the  
10 benefits of Akron residents?

11 A. And there's also an additional  
12 provision to enable the City of Akron to achieve  
13 its energy efficiency and sustainability goals  
14 similar to what was done with the City of  
15 Cleveland.

16 Q. Are there energy efficiency and  
17 sustainability goals for the City of Akron that  
18 go outside the use by Akron residents? You seem  
19 to be saying that it won't be just for Akron  
20 residents. Is there something about energy  
21 efficiency and sustainability goals that extend  
22 beyond the boundaries of Akron?

23 A. No. I don't see it extending beyond  
24 the City of Akron in terms of a geographic area.

25 Q. What is expected of the City of Akron

1 in return for the dollar amounts that are shown  
2 later on in that paragraph, \$100,000 per year  
3 from years 2011 through 2013? What's expected  
4 of the City of Akron for those amounts of money?

5 A. Basically, to promote energy  
6 efficiency through its residences and through  
7 businesses and through its own accounts, and to  
8 help promote energy efficiency within the City  
9 of Akron.

10 Q. What is the importance of having this  
11 for the City of Akron as opposed to having  
12 programs that generally apply to the customers  
13 of the FirstEnergy service territories? Why  
14 single out the City of Akron residents?

15 A. Well, I would say we didn't single  
16 them out. We also established it with the City  
17 of Cleveland; two major cities within the  
18 service territory of the companies; two major  
19 cities.

20 Q. Okay. Would you agree with me that  
21 there are more residents of the rest of the  
22 service territory, subtracting out Akron and the  
23 City of Cleveland, than there are to just  
24 Cleveland and Akron? This is just serving a  
25 minority of the residents of the FirstEnergy

1 service territories, correct?

2 A. Yes. I would believe most -- there  
3 are more residents that live outside the City of  
4 Cleveland and outside the City of Akron.

5 Q. Why do you see an importance of a  
6 program that would serve a minority of the  
7 customers of the FirstEnergy service  
8 territories?

9 A. Because these cities basically serve  
10 clientele base which is hard to reach and for  
11 which they have -- or a group of residents that  
12 are harder to reach, and the fact that they have  
13 an interest in promoting energy efficiency to  
14 their constituents.

15 Q. What documentation of the City of  
16 Akron's efforts do you expect regarding their  
17 activities, either as FirstEnergy or reporting  
18 to the Public Utilities Commission about their  
19 activities in return for these dollar amounts?

20 A. Well, that's like similar to the  
21 question you asked regarding COSE. I think we  
22 have not laid out anything definitive at this  
23 point, but I think we're going to expect to see  
24 genuine interest on their part to promote energy  
25 efficiency throughout their communities.

1 Q. I think the gist of the question --

2 MR. KORKOSZ: Excuse me. I don't  
3 think Mr. Ridmann has been able to finish his  
4 answer.

5 A. And basically look at what they've  
6 done in terms of promoting energy efficiency  
7 through their own -- through their residences or  
8 through the businesses and their own accounts.

9 Q. Will there be any reporting?

10 A. We haven't, again as I said before,  
11 we haven't established any reporting but we're  
12 going to want to take a look at basically what  
13 they've done as part of their efforts.

14 Q. If you could look at the top of page  
15 3, which is where that paragraph ends, it also  
16 refers to "with such amounts recovered through  
17 Rider DSE." Do you see that?

18 A. Yes, I do.

19 Q. So again, this addition of the City  
20 of Akron does not involve shareholder dollars,  
21 does it?

22 A. Same answer I had for the situation  
23 with COSE. The company will pay COSE and expect  
24 to collect those amounts through DSE Rider and  
25 its customers.

1 Q. Do you have your previous testimony,  
2 FirstEnergy Exhibit 4 with you on the stand?

3 A. Yes, I do.

4 Q. Would you please turn to page 14 of  
5 that testimony.

6 A. All right.

7 Q. I'm at lines 13 through 15 of that  
8 testimony and I'll just read that. "Even the  
9 parties who did not sign the stipulation were  
10 involved in these discussions and negotiations  
11 and had adequate time to provide recommendations  
12 and input to the development of this ESP." With  
13 respect to the supplemental stipulation, is that  
14 true? Did all the parties have an opportunity  
15 to engage in the negotiations and adequate time  
16 to provide their input?

17 A. I believe so. I think all those  
18 signatory parties and those who were parties to  
19 the case were sent a copy of the supplemental  
20 stipulation on April 27, had plenty of time to  
21 review it and comment on it.

22 HEARING EXAMINER PRICE: Are you  
23 saying before it was signed?

24 THE WITNESS: Yes. It was signed  
25 around May 10, May 12, somewhere in that time



1 frame. In addition, the supplemental  
2 stipulation on page 3 states "The supplemental  
3 stipulation will be held open for additional  
4 intervenors and parties to sign on as signatory  
5 parties until the issuance of an order by the  
6 Commission."

7 Q. Where were you just reading from?

8 A. Page 3 of the supplemental  
9 stipulation at the bottom, last sentence.

10 Q. Would you direct my attention -- I'm  
11 at the bottom of page 3. Where do I find it?

12 A. The last sentence, the paragraph that  
13 begins "In witness whereof," the last sentence  
14 reads, "The supplemental stipulation will be  
15 held open for additional intervenors and parties  
16 to sign on as signatory parties until the  
17 issuance of an order by the Commission."

18 So I think in conjunction with this  
19 language and the fact that all parties were sent  
20 the supplemental stipulation before it was  
21 signed on April 27 provided parties with  
22 adequate notice and review of the supplemental  
23 stipulation.

24 Q. So there were no actual negotiations  
25 as in convening the parties, but you're saying

1 that people were served with this before it was  
2 executed?

3 A. Well, we had a lot of convening of  
4 the parties all throughout this whole process,  
5 Mr. Small. Everyone's aware of the issues.

6 Q. Now, I'm curious about provision 3,  
7 page 3 of the supplemental stipulation and  
8 related provision in paragraph 4. Paragraph 3,  
9 "The signatory parties agree not to oppose the  
10 stipulation or the ESP as modified by this  
11 supplemental stipulation." Do you see that?

12 A. I'm sorry. Where are you at?  
13 Paragraph 3?

14 Q. Paragraph 3, the second sentence.

15 A. Okay.

16 Q. And the paragraph 4 stipulation is  
17 dependent upon the Commission accepting the  
18 stipulation as modified by the supplemental  
19 stipulation, without modification. Do you see  
20 that?

21 A. Yes.

22 Q. Were you here this morning when  
23 Mr. Fortney testified?

24 A. Yes.

25 Q. And the Staff of the Public Utilities

1 Commission is a signatory party to this  
2 supplemental stipulation?

3 A. Yes.

4 Q. As well as to the original  
5 stipulation?

6 A. Yes.

7 Q. And Mr. Fortney testified today that  
8 he had changes that he wanted to make to the  
9 stipulation. Is that your understanding?

10 A. I think he had recommendations on the  
11 lighting schedules.

12 Q. Was it your understanding that he was  
13 proposing a modification to the stipulation?

14 A. Well, I don't remember his exact  
15 language in his testimony, Mr. Small, but he  
16 clearly was recommending after his review of all  
17 the data that this is one area that needed, in  
18 his opinion, to be adjusted.

19 MR. SMALL: That concludes my  
20 examination. Thank you.

21 HEARING EXAMINER PRICE: Thank you.  
22 Mr. Heintz?

23 MR. HEINTZ: No questions, Your  
24 Honor.

25 HEARING EXAMINER PRICE: Mr.

Meissner?

MR. MEISSNER: Yes, Your Honor.

Thank you.

- - -

CROSS-EXAMINATION

By Mr. Meissner:

Q. Good afternoon, Mr. Ridmann.

A. Good afternoon, Mr. Meissner.

Q. How are you?

A. Just fine.

Q. It's good to see you.

A. Likewise.

Q. The testimony you gave earlier, you said the stipulation, the second stipulation has further strengthened the stipulations that are now available for the Commission's actions.

A. Yes.

Q. Wouldn't you agree, though, there's still the possibility that there could be other ways in which these stipulations could be further strengthened?

A. I presume there are ways. I haven't really thought about whether they're anything in particular or not.

Q. And isn't it still true that even

1 with the second stipulation, that the amount  
2 that is set aside for fuel funds in these  
3 stipulations is less than the amount of the fuel  
4 funds in the current stipulations under which  
5 the companies are operating?

6 A. Yes.

7 Q. And isn't it true that the number in  
8 the proposed stipulations is significantly less  
9 than under the current stipulation?

10 A. Well, I don't want to get into  
11 adjectives about descriptions, but it's less.

12 Q. Well, 75 percent less, would that  
13 sound like a statistic that you could testify  
14 to?

15 A. I think under this proposed  
16 stipulation it is a million and a half dollars  
17 over the three years.

18 Q. Less?

19 A. No, total.

20 Q. All right. And it is a million and a  
21 half dollars less each year under the proposed  
22 stipulations, including with the second  
23 stipulation --

24 A. That's correct.

25 Q. -- than it is under the current

1 stipulations that the company is operating  
2 under?

3 A. That's correct. The current  
4 stipulation is about \$2 million a year.

5 MR. MEISSNER: Thank you very much,  
6 Mr. Ridmann. Thank you, Your Honor.

7 HEARING EXAMINER PRICE: Thank you.  
8 Redirect?

9 MR. KORKOSZ: No redirect, Your  
10 Honor. I reoffer Exhibit 2.

11 HEARING EXAMINER PRICE: Any  
12 objection to the admission of Joint Exhibit 2?

13 MR. SMALL: Your Honor, OCC does  
14 object to the admission of the exhibit and I  
15 just wanted to put on the record that you  
16 summarized the off-the-record discussions, but  
17 that OCC believes that this is inappropriate,  
18 not only -- there was a discussion about putting  
19 on a witness but this is also not within the  
20 description of the items that would be  
21 undertaken at today's hearing as described in  
22 the Entry on Rehearing, and we object to its  
23 admission on that basis as well.

24 HEARING EXAMINER PRICE: Well, I  
25 think it's within the scope of my authority

1 conducting the hearing to address this issue, so  
2 to the extent you're making the objection, it's  
3 overruled.

4 MR. SMALL: I understand. I just  
5 wanted to put it on the record.

6 HEARING EXAMINER PRICE: It's noted.  
7 With that, Joint Exhibit 2 will be admitted.

8 (EXHIBIT HEREBY ADMITTED.)

9 HEARING EXAMINER PRICE: We have the  
10 question of supplemental briefs. Again, I'm  
11 open to supplemental briefs ten days from today,  
12 which I guess would be July 1st. I would again  
13 instruct the parties that supplemental briefs  
14 should be tailored to the topics which we  
15 addressed today, both the bill impacts and the  
16 impact of the supplemental stipulation. Let's  
17 not relitigate and reargue issues that were  
18 thoroughly and well addressed in everybody's  
19 initial briefs.

20 MR. KORKOSZ: Your Honor, perhaps not  
21 to beat to death a point which should be  
22 implicitly clear, that's a single brief?

23 HEARING EXAMINER PRICE: A single  
24 brief, yes. With that, we're adjourned. Thank  
25 you all.

CERTIFICATE

I do hereby certify that the foregoing is  
a true and correct transcript of the continued  
proceedings taken by me in this matter before  
The Public Utilities Commission of Ohio on June  
21, 2010.

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Iris I. Dillion, Registered  
Professional Reporter.

- - -



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