

1 BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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

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11 CONTINUED PROCEEDINGS

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

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21 ARMSTRONG & OKEY, INC.
 22 222 East Town Street, 2nd Floor
 Columbus, Ohio 43215-5201
 (614) 224-9481/(800) 223-9481
 23 Fax (614) 224-5724

24 - - -

25

1 APPEARANCES:

2 Mr. Arthur E. Korkosz, Mr. Mark A. Hayden,
and Ms. Ebony Miller

3 FirstEnergy
4 76 South Main Street
Akron, Ohio 44308

5 and
Jones Day
6 By Mr. David A. Kutik
North Point, 901 Lakeside Avenue
Cleveland, Ohio 44114

7
8 On behalf of the Applicants.

9 Ohio Attorney General Richard Cordray
Mr. Duane Luckey, Section Chief
10 By Mr. Thomas W. McNamee
Assistant Attorney General
11 180 East Broad Street
Columbus, Ohio 43215

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

13
14 Schottenstein, Zox & Dunn Co., LPA
By Mr. Devin D. Parram, Mr. Christopher
Miller, Mr. Andre Porter, and Mr. C. Todd
15 Jones
250 West Street
16 Columbus, Ohio 43215

17 On behalf of AICUO.

18 Mr. Joseph Patrick Meissner
The Legal Aid Society of Cleveland
19 1223 West Sixth Street
Cleveland, Ohio 44113

20
21 On behalf of the Citizens Coalition.

22 Brickfield, Burchette, Ritts & Stone
By Mr. Michael K. Lavanga and Mr. Garrett
A. Stone
23 1025 Thomas Jefferson Street, NW
Eighth Floor, West Tower
24 Washington, DC 20007

25 On behalf of Nucor Steel Marion, Inc.

1 APPEARANCES: continued

2 Mr. Craig I. Smith
3 2824 Coventry Road
4 Cleveland, Ohio 44120

5 On behalf of Material Sciences
6 Corporation.

7 McNees, Wallace & Nurick, LLC
8 By Ms. Lisa G. McAlister and Mr. Samuel C.
9 Randazzo
10 21 East State Street, 17th Floor
11 Columbus, Ohio 43215

12 On behalf of Industrial Energy Users
13 Ohio and The Cleveland Clinic.

14 Chester, Wilcox & Saxbe, LLP
15 By Mr. Mark S. Yurick, Mr. Matthew S.
16 White, and Mr. John W. Bentine
17 65 East State Street, Suite 1000
18 Columbus, Ohio 43215

19 On behalf of the Kroger Company.

20 Boehm, Kurtz & Lowry
21 By Mr. Michael L. Kurtz and Mr. David F.
22 Boehm
23 36 East Seventh Street, Suite 1510
24 Cincinnati, Ohio 45202

25 On behalf of Ohio Energy Group.

Vorys, Sater, Seymour and Pease, LLP
By Mr. Michael J. Settineri, Mr. M. Howard
Petricoff, and Mr. Stephen M. Howard
52 East Gay Street
Columbus, Ohio 43216-1008

and

Ms. Cynthia Brady
Constellation Energy Resources, LLC
550 West Washington Blvd., Suite 300
Chicago, Illinois 60661

On behalf of Constellation NewEnergy,
Inc., and Constellation Energy
Commodities Group, Inc.

1 APPEARANCES: continued

2 Mr. Henry W. Eckhart
3 50 West Broad Street, Suite 2117
4 Columbus, Ohio 43215

5 On behalf of Natural Resources
6 Defense Council.

7 Mr. Michael E. Heintz
8 1207 Grandview Avenue, Suite 201
9 Columbus, Ohio 43212-3449

10 On behalf of Environmental Law &
11 Policy Center.

12 Ms. Janine Migden-Ostrander
13 Ohio Consumers' Counsel
14 By Mr. Jeffrey L. Small and Mr. Gregory J.
15 Poulos
16 10 West Broad Street, 18th Floor
17 Columbus, Ohio 43215

18 On behalf of the Residential
19 Customers of FirstEnergy.

20 Mr. Michael R. Beiting and Mr. Morgan
21 Parke
22 First Energy Corporation
23 76 South Main Street
24 Akron, Ohio 44308

25 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.

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APPEARANCES: continued

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

On behalf of NOPEC.

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INDEX TO WITNESSES

- - -

STAFF

DIRECT CROSS

Robert B. Fortney

By Mr. McNamee

13

By Mr. Small

17

By Mr. Eckhart

55

By Mr. Meissner

58

- - -

APPLICANT

DIRECT CROSS

William R. Ridmann

By Mr. Korkosz

68

By Mr. Small

75

By Mr. Meissner

92

- - -

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX TO EXHIBITS

- - -

STAFF	ID'd	AD'd
4 - Supplemental Prepared Testimony of Robert B. Fortney	14	67

- - -

OCC	ID'd	AD'd
6 - Screen Print from E-mail	20	--
7 - Summary of Switching Statistics	47	--

- - -

JOINT	ID'd	AD'd
2 - Supplemental Stipulation	69	95

- - -

1 Monday Morning Session,

2 June 21, 2010.

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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.

1 Kutik of Jones Day.

2 HEARING EXAMINER PRICE: Thank you.

3 Mr. McNamee?

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

11 HEARING EXAMINER PRICE: Thank you.

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

16 HEARING EXAMINER PRICE: Thank you.

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

23 MR. LAVANGA: Good morning, Your
24 Honor. On behalf of Nucor Steel Marion, Michael
25 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.

1 ROBERT B. FORTNEY

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

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

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

9 HEARING EXAMINER PRICE: Thank you.
10 Mr. McNamee?

11 - - -

12 DIRECT EXAMINATION

13 By Mr. McNamee:

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

16 A. The Public Utilities Commission of
17 Ohio.

18 Q. In what capacity?

19 A. Public Utilities Administrator 3.

20 Q. Have you previously submitted
21 testimony in this case?

22 A. Yes, I did.

23 MR. MCNAMEE: Your Honor, I'd ask to
24 have marked for identification at this time a
25 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

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

6 MR. SMALL: Have we dealt with
7 FirstEnergy?

8 HEARING EXAMINER PRICE: He said they
9 had no questions.

10 MR. SMALL: Thank you, Your Honor.

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

14 - - -

15 CROSS-EXAMINATION

16 By Mr. Small:

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

23 A. I lost you at the end.

24 HEARING EXAMINER PRICE: Let's go off
25 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

1 12, 2010.

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

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

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

24 A. Yes, I do.

25 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

1 CROSS-EXAMINATION

2 By Mr. Small:

3 Q. Mr. Ridmann, Jeff Small, OCC.

4 A. Good afternoon.

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

7 A. Yes, I do.

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

17 A. Correct.

18 Q. And the other portion that is new for
19 the replacement of Section E.2 of the
20 stipulation is not only naming them but also
21 providing COSE with certain dollar amounts,
22 25,000 in 2011, 50,000 in 2012, 50,000 in 2013,
23 and 25,000 in 2014. Those are the provisions,
24 adding COSE and adding those dollar amounts.
25 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.

1 Meissner?

2 MR. MEISSNER: Yes, Your Honor.

3 Thank you.

4 - - -

5 CROSS-EXAMINATION

6 By Mr. Meissner:

7 Q. Good afternoon, Mr. Ridmann.

8 A. Good afternoon, Mr. Meissner.

9 Q. How are you?

10 A. Just fine.

11 Q. It's good to see you.

12 A. Likewise.

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

17 A. Yes.

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

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

25 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.

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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.

Iris I. Dillion, Registered
Professional Reporter.

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