

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the Matter of the :
Review of the Application :
of Ohio Edison Company, :
The Cleveland Electric :
Illuminating Company, The : Case No. 12-2190-EL-POR
Toledo Edison Company for : Case No. 12-2191-EL-POR
Approval of Their Energy : Case No. 12-2192-EL-POR
Efficiency and Peak :
Demand Reduction Program :
Portfolio Plans for 2013 :
through 2015. :

- - -

PROCEEDINGS

before Mr. Gregory Price and Ms. Mandy Willey Chiles,
Attorney Examiners, at the Public Utilities
Commission of Ohio, 180 East Broad Street, Room 11-A,
Columbus, Ohio, called at 10:00 a.m. on Wednesday,
October 24, 2012.

- - -

VOLUME III

- - -

ARMSTRONG & OKEY, INC.
222 East Town Street, Second Floor
Columbus, Ohio 43215-5201
(614) 224-9481 - (800) 223-9481
Fax - (614) 224-5724

- - -

1 APPEARANCES:

2 FirstEnergy Service Company
3 By Ms. Kathy J. Kolich
4 Ms. Carrie M. Dunn
5 76 South Main Street
6 Akron, Ohio 44308

7 Calfee, Halter & Griswold LLP
8 Mr. James F. Lang
9 1405 East Sixth Street
10 Cleveland, Ohio 44114

11 On behalf of the FirstEnergy Company.

12 Natural Resources Defense Council
13 By Ms. Rebecca J. Riley
14 2 North Riverside Plaza, Suite 2250
15 Chicago, Illinois 60606

16 On behalf of the Natural Resources
17 Defense Council

18 Williams, Allwein & Moser, LLC
19 By Mr. Christopher J. Allwein
20 1373 Grandview Avenue, Suite 212
21 Columbus, Ohio 43212

22 On behalf of the Natural Resources
23 Defense Council and the Sierra Club.

24 Williams, Allwein & Moser, LLC
25 Mr. Todd M. Williams
Two Maritime Plaza, Third Floor
Toledo, Ohio 43604

On behalf of Advanced Energy Economy
Ohio.

Ohio Environmental Council
By Mr. Trent A. Dougherty
and Ms. Cathryn Loucas
1207 Grandview Avenue, Suite 201
Columbus, Ohio 43212

On behalf of the Ohio Environmental.
Council.

1 APPEARANCES (Continued):

2 Brickfield, Burchette, Ritts & Stone, PC
3 By Mr. Michael K. Lavanga
4 1025 Thomas Jefferson Street, Northwest
5 Eighth Floor, West Tower
6 Washington, D.C. 20007-5201

7 On behalf of Nucor Steel Marion, Inc.
8 Environmental's Policy Center
9 By Mr. Robert Kelter
10 Mr. Justin Vickers
11 Mr. Nick McDaniel
12 35 East Wacker Drive, Suite 1300
13 Chicago, Illinois 6060163101

14 On behalf of the Environmental Law &
15 Policy Center.

16 Mr. David C. Rinebolt
17 Ms. Colleen Mooney
18 231 West Lima Street
19 P.O. Box 1793
20 Findlay, Ohio 45839-1793

21 On behalf of Ohio Partners for
22 Affordable Energy.

23 Bricker & Eckler, LLP
24 By Mr. Thomas J. O'Brien
25 100 South Third Street
Columbus, Ohio 43215-4291

and

Mr. Richard Sites
155 East Broad Street
Columbus, Ohio 43215

On behalf of the Ohio Hospital Group.

Bricker & Eckler, LLP
By Mr. J. Thomas Siwo
100 South Third Street
Columbus, Ohio 43215-4291

On behalf of the OMA Energy Group.

1 APPEARANCES (Continued):

2 Boehm, Kurtz & Lowry
3 By Mr. Michael L. Kurtz
4 and Ms. Jody M. Kyler
5 36 East Seventh Street
6 Suite 1510
7 Cincinnati, Ohio 45202-4454

8 On behalf of the Ohio Energy Group.

9 EnerNOC, Inc.
10 By Mr. Gregory J. Poulos
11 471 East Broad Street, Suite 1520
12 New Albany, Ohio 43215

13 On behalf of EnerNoc, Inc.

14 McNees, Wallace & Nurick
15 By Mr. Joseph Olikier
16 and Mr. Samuel C. Randazzo
17 Fifth Third Center, Suite 1700
18 21 East State Street
19 Columbus, Ohio 43215

20 On behalf of the Industrial Energy
21 Users of Ohio.

22 Sierra Club
23 Mr. Manuel Somoza
24 85 Second Street, Second Floor
25 San Francisco, California 94105-3459

On behalf of the Sierra Club.

Bruce J. Weston, Ohio Consumers' Counsel
By Ms. Kyle L. Kern,
Assistant Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485

On behalf of the Residential
Consumers of the Ohio Edison, The
Cleveland Electric illuminating
Company, and The Toledo Edison Company.

1 APPEARANCES (Continued):

2 Mike DeWine, Ohio Attorney General
3 William L. Wright, Section Chief
4 Public Utilities Section
5 Mr. Devin D. Parram
6 180 East Broad Street
7 Columbus, Ohio 43215-3793

8 On behalf of the Staff of the Public
9 Utilities Commission.

10 - - -
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX

- - -

WITNESS PAGE

Edward C. Miller (Continued)

Cross-Examination by Mr. Allwein	385
Cross-Examination by Mr. Dougherty	430
Cross-Examination by Mr. Parram	433
Redirect Examination by Ms. Dunn	447
Recross-Examination by Mr. Allwein	457
Examination by Examiner Price	464

Eren G. Demiray

Direct Examination by Mr. Lang	471
Cross-Examination by Mr. Vickers	473
Cross-Examination by Ms. Kern	481
Cross-Examination by Mr. Allwein	491
Cross-Examination by Mr. Dougherty	492
Cross-Examination by Mr. Olier	495
Cross-Examination by Mr. Parram	506
Examination by Examiner Price	517
Redirect Examination by Mr. Lang	522
Recross-Examination by Mr. Olier	532
REcross-Examination by Mr. Vickers	533
Recross-Examination by Mr. Allwein	536

Jeffrey Loiter

Direct Examination by Mr. Allwein	549
Cross-Examination by Ms. Kolich	551
Redirect Examination by Mr. Allwein	621
Recross-Examination by Ms. Kolich	629
Examination by Examiner Price	633

Glenn Reed

Direct Examination by Mr. Allwein	638
Cross-Examination by Ms. Dunn	646
Redirect Examination by Mr. Allwein	658
Recross-Examination by Ms. Dunn	666

- - -

COMPANY EXHIBITS

IDFD ADMTD

4 - Direct Testimony of Edward
C. Miller

II-147 466

5 - Direct Testimony of Eren
G. Demiray

472 545

383

1	12- Ohio Edison Plan, Attachment A	466	466
2	13- CEI, Attachment B	466	466
3	14- Toledo Edison Plan, Attachment C	466	466
4	- - -		
5	ELPC EXHIBITS	IDFD	ADMTD
6	3 - Pennsylvania Statewide Evaluator Report, 6/1/10 to 5/31/11	II-303	467
7	IEU-OHIO EXHIBITS	IDFD	ADMTD
8	2 - PJM Manual 18	500	546
9	3 - PJM Manual 18B	501	546
10	4 - PJM Manual 19	503	546
11	- - -		
12	SIERRA CLUB EXHIBITS	IDFD	ADMTD
13	1 - Direct Testimony of Jeffrey Loiter	549	637
14	2 - Direct Testimony of Glenn Reed	638	668
15	- - -		
16	STAFF EXHIBITS	IDFD	ADMTD
17	2 - Table, Mercantile Utility (Large Enterprise)	434	467
18	3 - Table, Mercantile Utility (Large Enterprise)	435	467
19	4 - Table, Mercantile Utility (Large Enterprise)	435	467
20	- - -		
21	ENERNOC EXHIBITS	IDFD	ADMTD
22	1 - 2015/2016 RPM Base Residual Auction Results	II-326	469
23			
24			
25			

1 Wednesday Morning Session,

2 October 24, 2012.

3 - - -

4 EXAMINER PRICE: Let's go back on the
5 record. Good morning. The Public Utilities
6 Commission has set for hearing at this time and place
7 Case Nos. 12-2190-EL-POR, et al., being In the Matter
8 of the Application of Ohio Edison Company, The
9 Cleveland Electric Illuminating Company, and The
10 Toledo Edison Company for Approval of Their Energy
11 Efficiency and Peak Demand Reduction Portfolio Plans
12 for 2013 through 2015.

13 My name is Gregory Price. With me is
14 Mandy Willey Chiles. We are the attorney examiners
15 assigned to preside over today's hearing. It is day
16 three of our hearing, and, once again, we'll dispense
17 with any appearances for the day.

18 Ms. Mooney, you have a preliminary issue
19 before we take our first witness?

20 MS. MOONEY: Yes, your Honor. Yesterday
21 I asked for administrative notice of the applications
22 in five, past four and the current USF rider cases,
23 and I'm going to withdraw the request for
24 administrative notice of the applications because the
25 numbers I need are in the Opinion and Orders in the

1 last four cases, and I don't need to take
2 administrative notice of the Opinions and Orders;
3 therefore, I'm withdrawing my request for
4 administrative notice on the USF.

5 EXAMINER PRICE: Thank you very much.

6 Okay. We will now commence -- recommence
7 with our cross-examination of Mr. Miller.

8 Mr. Miller, I will remind you you are
9 still under oath from yesterday.

10 Mr. Allwein, please proceed.

11 - - -

12 EDWARD C. MILLER

13 having been previously sworn, as prescribed by law,
14 was examined and testified as follows:

15 CROSS-EXAMINATION(Continued)

16 By Mr. Allwein:

17 Q. Good morning, Mr. Miller.

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

19 (Discussion off the record.)

20 EXAMINER PRICE: Back on the record.

21 Q. (By Mr. Allwein) I'm hesitant to say it,
22 but I'm going to go ahead and try it again. Good
23 morning, Mr. Miller.

24 A. Good morning.

25 Q. Okay. Did you consider the ADM

1 Associates Evaluation of the 2011 Energy Efficient
2 Products Program as you designed this program?

3 A. In developing the plan we did consider
4 the ADM evaluation reports and results in developing
5 the plan, yes.

6 Q. Okay. And just for the record, the plan
7 I'm referring to was filed in Case No.
8 12-1533-EL-EEC; is that correct? That would have
9 been the companies', meaning the three FirstEnergy
10 electric distribution utilities, annual portfolio
11 benchmark status report.

12 A. That would be correct.

13 Q. Thank you. Okay. I want to refer to a
14 couple of pages in that report and it -- I did not
15 print out the entire report. I printed out pages,
16 but I do have enough copies for everybody.

17 Is that okay with counsel?

18 MS. DUNN: That's fine.

19 MR. ALLWEIN: All right.

20 I'm sorry, your Honor, may I approach?

21 EXAMINER PRICE: You may.

22 MR. ALLWEIN: This is just for reference.

23 EXAMINER PRICE: You are not going to
24 mark this?

25 MR. ALLWEIN: No, sir.

1 EXAMINER PRICE: Bench, please.

2 MR. ALLWEIN: My apologies. The
3 deposition came very early this morning.

4 Q. (By Mr. Allwein) Okay. This is page 6-2
5 of the ADM report filed in the companies' Case No.
6 12-1533-EL-EEC. And on this page -- let's see, one
7 of the conclusions made -- well, let me describe this
8 a little bit more, sorry. This page has some
9 recommendations. Do you see that -- the headline
10 there about a quarter of the way down the page,
11 "Recommendations"?

12 A. Yes.

13 Q. All right. And there are under that is
14 6-1-1 -- I'm sorry, 6.1.1, "Recommendations for
15 Program Improvement." Do you see that?

16 A. Yes.

17 Q. And if you look down to the fourth bullet
18 point of 4, one of the recommendations is, "Consider
19 increasing some of the rebate amounts, particularly
20 those for Energy Star refrigerators and high
21 efficiency central air conditioners." Do you see
22 that?

23 A. Yes, I do.

24 Q. Okay. And did you consider increasing
25 your rebates amount -- or rebate amounts?

1 A. Yes. Actually, as part of our portfolio
2 plan, we have a rebate strategy that's included in
3 the appendices. The highlights to mention is for the
4 majority of the measures included in the plan, we do
5 propose a rebate range which has an "up to" value
6 associated with various measures.

7 Through program implementation, the
8 objective is to allow us to adjust that range as
9 conditions warrant. In other words, we don't want to
10 overpay for participation if it's deemed that the
11 rebate level is set too high. Conversely, if the
12 rebate level is set too low, to have the ability to
13 increase the rebate within that range.

14 In addition, in our appendix section in
15 the plan we also have a measure assumption sheet
16 which details the rebate that we model for all the
17 measures in the plan, recognizing that the rebate
18 levels that we provide the customers will, you know,
19 under the rebate range strategy, you know, can be,
20 you know, lesser than or greater than a certain
21 value, but within the range that's proposed in the
22 portfolio plan.

23 Q. Okay. And what is the companies' range
24 for high efficiency central air conditioning in terms
25 of a rebate amount? And if you refer to the plan,

1 could you please let me know what you are looking at
2 or where you are looking, I should say. Thank you.

3 A. Yes. I'm referring to Appendix C-4 of
4 the companies' plans. We identify in the energy
5 efficient products program subprograms for HVAC and
6 water heating equipment, and then on the far right we
7 have the rebate strategy that identifies the rebate
8 values for various HVAC types of units, including air
9 source heat pumps, central air conditioners, ground
10 source heat pumps, and so on.

11 Q. Okay. And, again, my question is, so for
12 central air conditioners, what is the -- the range
13 for -- of the rebate amount for the central air
14 conditioners?

15 A. Up to \$150 per unit.

16 Q. Okay. And --

17 MR. ALLWEIN: Your Honor, may I approach?
18 I have another page from the ADM plan.

19 EXAMINER PRICE: You may.

20 MR. ALLWEIN: Evaluation, excuse me.
21 Again, I won't have this marked as an exhibit. It
22 will just be for reference.

23 EXAMINER PRICE: Thank you.

24 MR. ALLWEIN: And I will give you one
25 first.

1 Q. (By Mr. Allwein) I want to direct your
2 attention -- this is page 5-8 of the ADM Evaluation.
3 And I want to direct your attention to Table 5-8 at
4 the top of the page, and that table is titled --
5 entitled "Differences in Product Rebate Levels." Do
6 you see that?

7 A. Yes.

8 Q. And it states, if you go -- let's see,
9 it's one, two, three, four, five, six, seven, eight
10 rows down. You see the "High Efficiency Central AC"
11 row"?

12 A. Yes.

13 Q. Okay. And in the middle column titled
14 "Companies' Rebate Level," they state that your
15 rebate level is 150. Do you see that?

16 A. Yes.

17 Q. So would you agree with me they are using
18 the maximum in the companies' range to represent your
19 rebate level?

20 A. Yes.

21 Q. And do you see the column titled
22 "National Median Rebate Level"?

23 A. Yes.

24 Q. And what is the national median rebate
25 level for high efficiency central AC as listed on

1 this table?

2 A. \$500.

3 Q. Okay. And would you agree then with the
4 table in the last column where it says "Rebate Gap,"
5 they present a \$350 gap between the \$500 national
6 median rebate level and your maximum rebate level?

7 A. Specifically for the high efficiency
8 central air conditioner, yes.

9 Q. Okay.

10 EXAMINER PRICE: Mr. Miller --

11 THE WITNESS: Yes, sir.

12 EXAMINER PRICE: -- do you know, are
13 there any products not listed on this table where the
14 company's rebate level is above the national median?

15 THE WITNESS: I can't cite a specific
16 measure. I know we have looked at rebate levels and
17 believe there are measures where the rebate level is
18 above the national median level. I will comment that
19 a lot of our incentive strategy also takes into
20 account experience, obviously, that we have in other
21 jurisdictions, input from our implementation vendors
22 that have experience in other jurisdictions. When
23 you look at HVAC measures, one of the difficulties is
24 every region has different energy savings for the
25 equipment. For instance --

1 EXAMINER PRICE: Actually, I think you
2 are getting beyond the scope of my question. I am
3 sure your counsel would love to ask you those
4 questions on redirect, but for now, I apologize for
5 interrupting you, but it's either that or strike your
6 comments.

7 Mr. Allwein.

8 MR. ALLWEIN: Yes.

9 Q. (By Mr. Allwein) I want to just go over
10 one more page of this report with you.

11 MR. ALLWEIN: Your Honors, may I
12 approach?

13 EXAMINER PRICE: You may.

14 MR. ALLWEIN: Again, this is just a page
15 from the ADM Evaluation of the 2011 Energy
16 Efficiency -- FirstEnergy Energy Efficiency
17 Portfolio. And this is going to be page 6 from that
18 report.

19 Q. I'm sorry, I gave you the wrong page.
20 I'm actually going to refer back to a page I already
21 gave you, page 6-2.

22 A. I actually like this page.

23 Q. I think we are going to get to that page,
24 but let's go back to page 6-2 for a moment. And I
25 want to go down to the second bullet point under

1 6.1.1, "Recommendations for Program Improvement."

2 Can you read the second bullet point?

3 MS. DUNN: I'm sorry, Chris. I just
4 wanted to clear up, is this pages from the
5 residential or commercial evaluation or both?

6 MR. ALLWEIN: This would be from the
7 residential.

8 MS. DUNN: Thank you. Sorry about the
9 interruption.

10 A. "The rebate application process was
11 burdensome to the HVAC contractors, and customer
12 errors in both the retail and HVAC applications
13 caused delays in rebate processing."

14 Q. Okay. That's all I want you to read.
15 Thank you. How do you correct this problem in the
16 plan?

17 A. We have corrected this problem, I
18 believe, through program implementation. You will
19 note that specifically over the last year we
20 significantly reduced our rebate processing time. I
21 believe our median processing time for paying rebates
22 was 64 days in 2011, and that is decreased to 41 days
23 currently, so there has been a significant
24 improvement in the rebate application, rebate
25 processing process.

1 Q. And do you address that specifically in
2 the plan anywhere or expressly anywhere, I should
3 say?

4 A. We don't express that specific
5 implementation improvement in the plan.

6 Q. Okay. Thank you. All right. So can you
7 provide an example of how you employed an item from
8 the ADM Evaluation into your plan?

9 A. In the plan we do speak to
10 implementation, quality controls, program process,
11 I'll say, evaluations, so I believe in the plan where
12 we speak to those types of ongoing monitoring,
13 implementation of the implementation activities is
14 where we would speak to the expected and continuous,
15 I'll say, monitoring quality control of the processes
16 and the programs.

17 I do know in developing the final plan,
18 we did take into account some specific
19 recommendations more associated with some of the
20 measure assumptions from a process standpoint, other
21 than the QA/QC monitoring evaluation that we speak to
22 managing the plan. I can't cite a specific example.

23 Q. Okay. And I want to just ask you one
24 more question about the energy efficient products
25 plan, and I'm looking on page 26 of the Toledo Edison

1 plan. Are you there? I'm sorry.

2 A. Yes, sir.

3 Q. And before I ask you the question about
4 what's on this page, is this the same description
5 that also appears in Ohio Edison's plan and in
6 Cleveland Electric Illuminating's plan regarding the
7 energy efficient products program?

8 A. Yes, it is.

9 Q. Thank you. And I want to direct your
10 attention on page 26 to the third row down. It is
11 labeled on the left "Target Market" in parenthesis
12 "Including Participation Requirements." Do you see
13 that?

14 A. Yes.

15 Q. All right. And can you state -- can you
16 read the right column in that same row for me?

17 A. "Residential customers of the company
18 that purchase high efficiency appliances or other
19 qualifying products from retailers."

20 Q. So is your target market here folks who
21 are already going to purchase or have already
22 purchased a high efficiency appliance or product?

23 A. No.

24 Q. What is your target market?

25 A. The target market is residential

1 customers of the company. The objective is to
2 encourage those customers to purchase higher
3 efficiency appliances.

4 Q. And so will you do anything to market
5 this program to customers?

6 A. Yes.

7 Q. What will you do?

8 A. The marketing is probably pretty endless.

9 Q. If you could be brief, that would be
10 great, just to give us an idea.

11 A. High level -- high level marketing
12 activities would be through our energy efficiency kit
13 program we are planning on providing marketing
14 materials to promote all the programs to our
15 customers. You know, we really view the kit as a
16 general awareness of all the opportunities available,
17 as well as provide program-specific marketing.

18 We also in our plan have an energy usage
19 reports program where we -- I think everyone is
20 familiar with the OPower type design where we provide
21 customized marketing messages as part of the energy
22 usage reports to customers.

23 Some of those marketing messages are
24 seasonally oriented based on when customers are shown
25 to purchase appliances. You know, there are certain

1 times of the year, before the holidays or after the
2 holidays, things along those lines, where we time the
3 marketing of the specific products to customers
4 within the energy usage reports program.

5 And then there's the typical marketing
6 campaign such as bill inserts, other types of
7 promotions, whether they are internet or newspaper,
8 radio, I mean those types of campaigns as well.

9 Q. All right. And how do you identify
10 customers that are in the market for an -- for an
11 appliance like this?

12 A. Residentially, the marketing tends to be
13 more mass market approach, extremely difficult to
14 identify, you know, the Customer A on Meadow Drive is
15 in the market and Customer B isn't, you know. So a
16 lot of the marketing activities are more oriented
17 towards mass marketing. The energy usage reports,
18 though, does take into account the customers usage
19 and the time of year in order to try to better target
20 those customers.

21 You know, also, you know, working with
22 retailers, you know, of the products, you know,
23 allows us to try to better target the promotions
24 within stores, for instance, depending upon the exact
25 product. So it really, you know, from a residential

1 standpoint, our marketing is very diverse, just
2 recognizing the, I'll say, difficulty in specifically
3 identifying getting back to, you know, I'm in the
4 market today for a refrigerator where someone else
5 might not be until tomorrow.

6 Q. Okay. Now, you mentioned the kits, I
7 think, in your answer there.

8 A. Yes.

9 Q. Is that part of the energy efficient
10 products program?

11 A. That is actually part of our home
12 performance program. We view it as one of the many
13 options customers have to learn about energy
14 efficiency in the home and become more efficient in
15 the home, so it's -- it's, you know, one of many
16 options customers have to learn about energy
17 efficiency in the home and become more efficient in
18 the home so it's one of the many options that
19 promotes customer choice in the program but, you
20 know, do -- I strongly believe the kits are a huge
21 general awareness part of the program because it
22 really provides education of energy efficiency and
23 promotion or awareness of energy efficiency among
24 customers at a general level.

25 And then, you know, as I mentioned, we

1 are planing on including specific program marketing
2 information within the kit that we provide to
3 customers.

4 Q. All right. So is the companies' strategy
5 to provide the kit for free and then induce the
6 customer with your rebates to buy a \$1,000
7 refrigerator, just hypothetically?

8 A. I would -- I mean, hypothetically, that's
9 correct. The intent of the kit is to create general
10 awareness of the plan and energy efficiency. It is
11 to promote programs on a whole, such as energy
12 efficient products, and all the opportunities that
13 are available to customers in the plan, as well as
14 support or increase the adoption of the efficient
15 measures that are provided as a component of the kit.

16 Q. All right. All right. So I just want to
17 ask you what is your -- well, I'm sorry. Let me
18 provide some foundation.

19 On the next page, the word "strategy" is
20 used in the left column a number of times. I'm
21 talking about page 27 here of the Toledo Edison
22 program. As you look down that left column, do you
23 see that?

24 A. Yes, sir.

25 Q. All right. What is your definition of

1 strategy?

2 A. Well, I think strategy is kind of broad,
3 but, you know, at a high level my definition of
4 strategy would be related to providing the -- the
5 plan, the objective, the intent, so to speak. It
6 really depends on what context it's being used.

7 Q. Okay. And do you see the -- the top
8 row -- well, I guess there's -- the end of the row
9 from the previous page for the first full row on page
10 27, you speak to implementation strategy. What's
11 your definition of that, to be more specific?

12 A. My definition of implementation strategy?

13 Q. Yes, sir.

14 A. I believe it speaks to the key elements
15 of what we are anticipating to do through the course
16 of program implementation.

17 Q. And if you look in your definition of --
18 or, I'm sorry, on the right column that I believe
19 presents the companies' implementation strategy, as
20 you just described, how do you determine whether to
21 use above-stream buy-downs or point-of-purchase
22 rebates for a particular product?

23 A. I think several factors go into the
24 design of how the incentive is provided to the
25 customer. Currently we provide point-of-sale

1 buy-downs for CFLs in other jurisdictions, and that
2 is the plan -- or that's the companies' plan for
3 implementation in Ohio for our CFL components within
4 the energy efficient products program.

5 Certainly a lot of those opportunities
6 are discussed or implementation, as we contract with
7 the implementation vendor, based on their experience
8 and their, you know, the -- I'll say their experience
9 in working with the national retailers knowing, you
10 know, the types of products and, you know, that have
11 been demonstrated to work well or that they currently
12 have implemented through an upstream approach versus
13 an after-the-fact rebate application.

14 The other factor that comes into play,
15 too, I think is the type of product as well, so I
16 think, you know, one of the benefits of a
17 point-of-sale discount for CFLs that, you know, we do
18 have experience from early CFL programs where
19 customers are less likely to mail a rebate in -- form
20 in for a product that has a low rebate value,
21 whereas, you know, so that's -- that's one of the
22 reasons why the point of sale works very well for
23 that type of measure, so I think it really depends on
24 a lot of the factors associated with the type of
25 product, the implementation vendor, the industry

1 experience regarding how the incentive is provided to
2 the customer, whether it's a, you know,
3 after-purchase rebate application process or point of
4 sale or upstream approach.

5 EXAMINER PRICE: Mr. Miller, has anybody
6 ever studied what percentage of point-of-sale CFLs
7 get -- I'm trying to think of the proper word --
8 installed outside of the sponsoring companies'
9 service territory?

10 A. Specifically, not that I can identify. I
11 believe the evaluation of the program would take that
12 into account in establishing the verified savings of
13 the program, but I can't speak to a specific survey
14 that does that.

15 EXAMINER PRICE: Okay. Thank you. I'll
16 find somebody else. Thank you.

17 Q. (By Mr. Allwein) If you look on page 27,
18 in the second full row, in the row titled "Program
19 Issues and Risks," et cetera, do you see that?

20 A. Yes.

21 Q. You state that "Current economic
22 conditions are the main potential threat to program
23 success." What do you base that statement on?
24 What's your basis for that statement?

25 A. The basis of that statement is feedback

1 that we receive from our program managers and
2 implementation team regarding the fact that, you
3 know, with economic -- you know, with challenging
4 economic conditions, customers are -- you know, a lot
5 of customers may be challenged to undertake the
6 investment in energy efficiency, and that was the
7 basis for that statement.

8 Q. Okay. And don't you think that some of
9 that threat might be alleviated by offering
10 incentives for products that are more in line with
11 the ADM Evaluation recommendations?

12 A. Potentially. I will note, you know, the
13 specific references that ADM provided, we have 90
14 measures in our plan with many of the measures having
15 multiple tiers, so that, you know, is a subset, so to
16 speak.

17 But, you know, speaking to the -- the
18 customer's ability to invest, you know, for instance,
19 a -- you cited before an Energy Star refrigerator,
20 you threw out \$1,000, for the customer to buy a
21 \$1,000 refrigerator, you know, the economic times,
22 you know, regardless of what rebate level, customers
23 may not be in a position to buy a refrigerator,
24 unless we basically subsidize almost the entire cost
25 of it and not just provide an incentive for the

1 incremental component associated with upgrading to
2 the more efficient model. So, you know, potentially,
3 yes, but I think it depends.

4 Q. Okay. Well, you ended that explanation
5 with "it depends." But, I mean, I believe that when
6 you say "it depends," I mean, isn't the cost the --
7 well, let me ask you, don't you think cost is going
8 to be a primary factor in deciding whether to buy
9 a -- an efficient refrigerator or the next step-up
10 efficient refrigerator?

11 A. I was elevating to the total level,
12 recognizing the customer is making a decision to buy
13 equipment. Our programs are designed to encourage the
14 customer to buy the more -- if the customer is
15 challenged due to economic or otherwise, they may not
16 be in the position or have the interest or ability to
17 purchase the equipment, let alone consider the more
18 efficient equipment.

19 Q. Okay. Would you agree with me, looking
20 at Table 5-8 in the ADM Evaluation, that your rebate
21 level for refrigerators, clothes washers, and HVAC
22 tune-up, high efficiency central AC, as we have
23 already discussed, and an air source heat pump and a
24 GS heat pump, all of your rebate levels, assuming
25 that the rebate levels listed are the maximum range,

1 are below the national median rebate level as
2 presented by ADM?

3 A. Actually, our rebate strategy for
4 refrigerators in Appendix C-4 is up to \$64 per unit,
5 so that would be in excess of the national median
6 range. So I think this highlights your question, is
7 we're talking about a \$1,000 refrigerator. Even if
8 at the national median level of \$50, is a customer in
9 a challenged economic condition, whether it's
10 employment related or otherwise, you know, making the
11 decision to buy a new refrigerator in the first
12 place.

13 Q. But I believe that, within reason, that
14 somebody may be buying a new appliance in the first
15 place is, as we discussed with Mr. Fitzpatrick
16 yesterday, that an appliance wears out so the
17 customer is going to replace that appliance; is that
18 correct, that would be one motivation?

19 A. Certainly one motivation is if the
20 appliance fails, you know. I mean, certainly at the
21 end of that measure's life, I think there's -- you
22 know, that's just one situation. I mean, there is
23 other situations. Customers remodel their kitchen
24 and want new appliances but, you know, for whatever
25 reason.

1 Q. All right.

2 A. I mean, while we were discussing, you
3 know, clothes washers, for instance, our rebate range
4 is up to \$236. This is well in excess of the median
5 range level, so, again, just highlighting our rebate
6 strategy is to allow us to adjust the incentives to
7 promote customer participation based on conditions
8 that exist at the time.

9 Q. All right. Okay. If you look on page
10 27 --

11 EXAMINER PRICE: Mr. Allwein, are you
12 moving past rebates?

13 MR. ALLWEIN: I was going to so go ahead,
14 if you have questions, sir.

15 EXAMINER PRICE: Thanks.

16 Were you here yesterday for the testimony
17 about the free riders?

18 THE WITNESS: I was not.

19 EXAMINER PRICE: I was stymied mid. Do
20 you have an estimation for free riders?

21 THE WITNESS: Yes, I do.

22 EXAMINER PRICE: Could you give me -- see
23 if it sounds like what your witness yesterday
24 testified to.

25 THE WITNESS: I mean, in the most

1 general sense, a free rider would be a customer who,
2 theoretically, would have -- would have purchased
3 the -- or not, the more efficient equipment without
4 the influence of the program.

5 EXAMINER PRICE: Excellent. That's
6 exactly what your other witness testified. And also
7 yesterday we had testimony that said as rebates go
8 down, free ridership increases, which makes sense
9 because you've got people who are going to act
10 anyways, and so as rebates go down, you will have a
11 higher percentage of people who are free riders who
12 were motivated by the rebate. Do you agree with
13 that?

14 THE WITNESS: I don't think so. And here
15 is the logic that I have. Is a free rider, or the
16 people who would have undertaken the energy efficient
17 equipment anyway, whether you have the program or
18 not, that's a -- depending upon the program, I
19 believe that's a fixed number. I think what the
20 incentive level does is results in the additional
21 participation to motivate those who wouldn't have
22 participated.

23 EXAMINER PRICE: Okay. That's fine.

24 But you would agree with rebate levels go
25 up for a free rider that's more -- I don't want to

1 call it wasted dollars, but more dollars that are not
2 motivating people to buy energy efficient products.
3 It's just money going to the pockets of the free
4 riders; is that right?

5 THE WITNESS: If I understand correctly,
6 as rebate levels go up, we would be overpaying for
7 the free riders, yes, the people who would have
8 participated anyway, correct.

9 EXAMINER PRICE: So how do you manage
10 that pot of money? Where do you find the point where
11 you're not sending -- as rebate levels go up, and
12 you've pointed out there are a couple of instances
13 where your companies rebate range is above the
14 national median. How do you find that supported so
15 that an excessive amount of money is not going to
16 simply -- again, I hate to use the word "waste," but
17 it does seem it's going towards free riders, who are
18 going to buy energy efficient products anyway, versus
19 truly motivating people who would not have acted but
20 for the rebate?

21 THE WITNESS: I think the primary drivers
22 of that would be the evaluation of the program and
23 the feedback that we would receive through the
24 implementation vendors to understand how the program
25 is packaged. Was the rebate level achieving the

1 desired participation levels and to understand those
2 participation levels, whether they are free riders or
3 whether they are truly being motivated by the
4 incentive, but I believe the evaluation of the
5 program which is, you know, done constantly is a key
6 source of that input in order to make that decision.

7 EXAMINER PRICE: Okay. Thank you.

8 Thank you, Mr. Allwein.

9 MR. ALLWEIN: Thank you, your Honor.

10 Q. (By Mr. Allwein) Let's turn to page 30
11 of the program plan.

12 EXAMINER PRICE: By the way,
13 Mr. Sullivan, you can start preparing your rebuttal
14 for that answer because I'm going to ask you the same
15 question in short order.

16 MR. ALLWEIN: Thank you for that
17 heads-up, your Honor.

18 Q. (By Mr. Allwein) Okay. On page 30 --
19 I'm sorry, I'm just looking for it. I didn't mark it
20 here in the Toledo Edison plan. All right. Under
21 "Kits," you say that "The Companies' efficiency kits
22 offerings will include a variety of items meant to
23 introduce customer segments to energy efficient
24 technologies," and that includes further down there
25 on the list CFLs. Do you see that?

1 A. Yes.

2 Q. Yesterday Mr. Fitzpatrick made a
3 statement that in terms of energy efficiency
4 awareness customers are not starting from zero, but
5 they do have some awareness. So my question to you
6 is, do you have any evidence that customers need an
7 introduction to energy efficiency technologies like
8 compact fluorescent light bulbs?

9 A. Personally speaking, I would say the
10 answer is yes. You know, I don't have any, you know,
11 detailed studies or analysis. You know, while
12 customers are somewhat aware of energy efficiency, I
13 don't think anyone would argue that, you know, across
14 the entire residential population that that level of
15 understanding varies, you know, so I do see
16 tremendous value in promoting general awareness of
17 energy efficiency and the opportunities that are
18 available to customers, you know, in this, you know,
19 description.

20 You know, we do note that the kit
21 contents are subject to change, you know. For
22 instance, we do have LED nightlights as a component
23 of the kit so that does introduce the customers to
24 the LED technology. Certainly they are not new
25 today, but they've only been around for two years,

1 roughly, so, I mean, it does give us the opportunity
2 to, over time, adjust kit contents to make other
3 technologies available to them and to increase
4 awareness of them.

5 Smart strips are one that I know, you
6 know, some of my family members don't have any
7 insight into what a smart strip really is. They just
8 think it's a surge strip or an extension cord, so to
9 speak, whereas the energy savings, you know, value of
10 it is completely unknown to them, so that's the, you
11 know -- I think that underscores the fact that the
12 level of understanding really varies and it depends
13 on the technology.

14 EXAMINER PRICE: In deference to the
15 Supreme Court that may some day be reviewing the
16 transcript, why don't you explain what a smart strip
17 really is.

18 THE WITNESS: Okay. A smart strip is a
19 device that typically can be used for either home
20 entertainment or computer systems or even an office
21 cubical-type environment. Two different technologies
22 that can be employed. The common one is you have a,
23 you know, four or -- four or six outlets, I believe,
24 are pretty common. One of the outlets is what I will
25 call a main outlet, and that's where you would plug

1 in like your computer tower, and then you plug the
2 ancillary equipment into the other outlets.

3 And then, depending upon the draw of
4 consumption in the main outlet, the strip identifies
5 whether or not the device is being used, and if it's
6 not being used, then it shuts down power to the other
7 components.

8 The other type of technology would be
9 more there are some occupancy sensor-type strips,
10 which would be perfectly suited for an office
11 cubical, whereas, if you leave your office, it can
12 shut down your coffee warmer and your lights over
13 your desk and, you know, desktop calculator, and some
14 of those items.

15 EXAMINER PRICE: Thank you.

16 MR. ALLWEIN: Thank you, your Honor.

17 Q. (By Mr. Allwein) I want to go back to I
18 was asking you specifically about the CFLs in the
19 kits. Are not the CFLs in the kits the primary
20 driver in terms of the energy savings derived from
21 those kits?

22 A. That is correct.

23 Q. Okay. And did you review the Market
24 Potential Study that is a part of all three electric
25 distribution companies' portfolio plans?

1 A. Yes.

2 Q. Okay. I just want to show you a page
3 from the Market Potential Study, and I don't -- I'm
4 not requesting this be marked as an exhibit. Again,
5 it's just for reference.

6 Okay. This is page 67 from the Market
7 Potential Study. And I want to direct your attention
8 to the bottom of the page where it discusses "Indoor
9 and Outdoor/Security Lighting." Do you see that?

10 A. Yes, sir.

11 Q. And can you read the two sentences that
12 follow that heading?

13 A. "Nearly three quarters of the respondents
14 in each operating company have compact fluorescent
15 light bulbs installed in their homes. The medium
16 number of CFL bulbs installed in
17 respondents' home is six."

18 Q. Okay. So from the Market Potential
19 Study, which you used to develop this plan, those
20 sentences indicate that most folks -- and "by most,"
21 I mean nearly three quarters -- are using compact
22 fluorescent bulbs in their homes; is that correct?

23 A. That is correct. And, actually, I think
24 this is disturbing that only less than three quarters
25 have CFLs installed in their home.

1 Q. Okay. But the ones that do the average
2 amount is six; is that correct?

3 A. Again, I believe that's a very low
4 number. You know, when I look at, you know, industry
5 data, manufacturer data, it suggests that the average
6 home has 55 to 65 incandescent sockets in the home.
7 I know myself, I think I have six lights in my
8 kitchen alone, so I think this speaks to the huge
9 opportunity to increase CFLs.

10 Q. Right. But just to review, the idea
11 behind the kits is to introduce customer segments to
12 energy efficiency technologies. The main savings
13 driver in those kits is the CFLs, correct?

14 A. That is correct. But I commented earlier
15 it's also to increase the adoption or accelerate the
16 adoption of the technologies. I note that when CFLs
17 first came out, many customers were not satisfied
18 with the quality of the light, the warm-up time, the
19 color rendition. There weren't dimmable bulbs on the
20 market. There weren't -- so, I mean, just in the
21 past two years, note that the technology has vastly
22 improved, so I still believe strongly that the kit
23 provides a tremendous value in accelerating the
24 adoption of the newer types of CFLs associated that
25 are now available to get that number to more than

1 six.

2 EXAMINER PRICE: Do you put something in
3 there that is a newer type of CFL? Do you put a
4 dimmable one? Do you put one that's not the curly-Q,
5 that looks more like a traditional light bulb, or do
6 you just put your basic 100 watt replacement bulb in
7 there?

8 MR. ALLWEIN: Right now, our kit in
9 Pennsylvania, we include a dimmable CFL for that
10 reason.

11 EXAMINER PRICE: And what's the wattage
12 that you put in there?

13 THE WITNESS: I believe the dimmable was
14 100 kilowatt equivalent. I believe it's a -- I'll
15 say it's -- I believe it's in the neighborhood of two
16 to three 100 watt equivalents, and I'll say two to
17 three 60 watt equivalents. And I apologize. We have
18 different kits we provide in both Pennsylvania and
19 Maryland. In total, I think there is six different
20 kits, but they are a relatively balanced set, sort of
21 between 100 watts and 60 watts.

22 EXAMINER PRICE: Do you put something
23 that's not the early curly-Q? Let me rephrase that.
24 Do you put anything in that looks like a more
25 traditional light bulb?

1 THE WITNESS: Other than the dimmable, I
2 believe the current one is the spiral, the
3 traditional spiral. I think that's a good
4 suggestion, though.

5 EXAMINER PRICE: Thank you, Mr. Allwein.

6 MR. ALLWEIN: Thank you, your Honor.

7 Q. (By Mr. Allwein) Mr. Miller, do you
8 think that -- well, let me back up. The kits are
9 mailed out upon request, correct?

10 A. Yes. It is an opt-in program design,
11 requires the customer to affirmatively select to
12 receive the kit, yes.

13 Q. So, in your opinion, is it likely that
14 folks that have aversions to the CFLs will order a
15 box of these from the company?

16 A. Aversions, they don't like them?

17 Q. Correct, I'm sorry.

18 A. I would acknowledge there could be a
19 chance that customers, for whatever reason, may not
20 want to receive a kit.

21 Q. Okay. And do you have any evidence that
22 customers take other actions after getting a kit, and
23 here I guess I'm referring to the fact that you've
24 handed these out in Pennsylvania, right?

25 A. Currently I don't have that insight, but

1 I do note the education materials that are included
2 in the other -- the other measures that are included
3 I think does support better for customers to take
4 other actions than they otherwise would. If they
5 don't have the information, then you're one step
6 further away.

7 You know, the aversion to CFLs, you know,
8 the expansion of that is by virtue of having other
9 products in the kit, I think, again, does have the
10 opportunity to overcome that aversion. If the
11 customer sees value in the kit, they might not like
12 one component. They might like the other component.
13 That then supports the awareness, the adoption of
14 those measures. So I think it's the value of the
15 kit.

16 Q. Let me just ask you one question. What
17 are the contents of the small commercial kit?

18 A. The small commercial kit primarily
19 includes a smart strip, faucet aerators for
20 bathrooms, as well as CFLs.

21 Q. Okay.

22 A. It's primarily designed for what I would
23 call more of a home office type environment or a
24 small Mom and Pop type business.

25 Q. Okay. But, again, the main savings

1 driver there is the CFLs, correct?

2 A. CFLs would be the main driver.

3 Q. All right. How -- I'm going to move on
4 to small --

5 EXAMINER PRICE: Excuse me. I -- I have
6 to have a follow up. I'm sorry.

7 MR. ALLWEIN: Go ahead, sorry.

8 EXAMINER PRICE: When you say the main
9 driver, if a -- for both residential and small
10 commercial is two separate questions. If a consumer
11 installed every single thing in the kit, what
12 percentage of energy savings would the CFLs
13 represent, first, residential, and then small
14 commercial?

15 THE WITNESS: I believe it's in the range
16 of 85 percent of the savings would be related to the
17 CFLs, and I believe it's consistent between the two,
18 but relatively consistent within residential and
19 small C&I.

20 EXAMINER PRICE: Thank you.

21 Thank you, Mr. Allwein.

22 MR. ALLWEIN: Thank you, your Honor.

23 Q. (By Mr. Allwein) I want to move on, if
24 you don't mind, to the C&I -- I'm sorry, commercial
25 and industrial energy efficient equipment program,

1 small and large. I wanted to ask how are the small
2 enterprises different from large enterprise
3 customers?

4 A. The definition in our plan between small
5 and large depends on the customer's rate schedule, as
6 noted at the beginning of the plan, the rate schedule
7 specifically for small and large.

8 Actually, it's on page 5 we identify, for
9 purposes of this plan, the small enterprise group
10 consists of small commercial and industrial, C&I,
11 customers who are taking service on the general
12 service, secondary rate schedule GS. The mercantile
13 utility group consists of large customers C&I taking
14 service on the general service, primary GP general
15 service, subtransmission GSU, and general service
16 transmission GT rate schedules --

17 Q. Okay. Now, in the company's opinion, do
18 the small enterprise customers make decisions about
19 energy in a different manner than large enterprise
20 customers?

21 A. I think every customer makes different
22 decisions.

23 Q. I guess I'm speaking generally as a
24 group.

25 A. I think it depends on the customer. You

1 could have a small customer that's part of a chain,
2 for instance, and their energy decisions may be
3 similar to a large individual customer. Again, I
4 think every customer is different. I think it's hard
5 to characterize it.

6 Q. Okay. Well, let me ask you then about
7 the program differences. What are -- can you
8 highlight the -- some of the main differences between
9 the commercial and industrial energy efficient
10 equipment program small and the commercial and
11 industrial energy efficient equipment program large?

12 A. At a high level you would say there is
13 very little difference between the two programs.
14 It's just based on the availability to the customer
15 class in defining the measures for each of the plans.
16 We did consider size of customer in order to identify
17 the measures that are most likely to be promoted or
18 adopted within the different customer sectors, you
19 know, in the -- by virtue of being a small customer,
20 there are certain HVAC equipment, for instance,
21 that's more applicable, like, the same type of air
22 conditioner or heat pump you might have in your home
23 works for a small business.

24 When you get into large customers, by
25 virtue of their size, they might have chillers type

1 equipment. So, you know, when we designed the
2 measures for the specific measures for each plan, we
3 did take into account the, I'll say, the size of the
4 customer in terms of their usage in identifying the
5 common measures. I do know, though, in both the
6 small and in the large efficient equipment program,
7 we do have custom measures that allows if there are
8 measures that aren't specifically defined, that we
9 would be able to promote them within that program as
10 well.

11 Q. Where the measures are the same between
12 the commercial and industrial, efficient -- energy
13 efficient equipment program, small and large, are the
14 incentives different?

15 A. I believe the incentives are the same. I
16 would have to check each measure specifically to see
17 if there are any differences, but my recollection is
18 for the same measure, the incentive is the same
19 between the two classes.

20 Q. Okay. And is the program delivery any
21 different between those two groups in terms of the
22 measures that are the same -- or similar, I should
23 say?

24 A. Currently the program delivery is the
25 same. You know, we have one implementation vendor

1 who is managing, you know, both our small and our
2 large programs. I will note, though, that we haven't
3 pursued the contracting for the '13 through '15
4 programs, and there is potential we could have
5 different implementation vendors for different
6 sectors.

7 Q. Okay. All right. And one moment here.
8 All right. Now, I'm finally get to go that page I
9 gave you a little while ago of the ADM Evaluation.
10 It was page 6. Too bad I can't find my own copy.

11 I found it. This is from the ADM
12 Evaluation page 6. If you look in the first full
13 paragraph, I guess I'll call it, it begins with the
14 words "Although the programs have been successful."
15 Do you see that?

16 A. Yes.

17 Q. All right. I want to direct your
18 attention to actually the second sentence, which
19 begins on the third line, and that sentence says, "In
20 particular smaller organizations that utilize less
21 energy have not been as active in the programs in
22 comparison to more energy intensive organizations,
23 such as manufacturing firms." It says then, "The
24 lower level of participation suggests these
25 organizations face additional barriers."

1 And then you describe the barriers --
2 excuse me. The report describes the barriers as
3 being -- included less expertise in energy efficiency
4 equipment, financial constraints, and reduced
5 benefits from improvements due to renting or leasing.
6 Do you see that?

7 A. Yes, I do.

8 Q. All right. And is there anything in the
9 small commercial and industrial energy efficient
10 equipment program that provides additional expertise
11 to small enterprises in order to address these
12 barriers?

13 A. Yes.

14 Q. Well, can you describe some of your
15 efforts?

16 A. Sure. First off, I mentioned we haven't
17 contracted for vendors for the '13 through '15 plans.
18 It's my expectation the vendors we hire will have the
19 expertise and technical support to support customer
20 participation in the programs. You know, I do note
21 that this evaluation report was for, primarily, the
22 first year of a new program start-up, so I don't
23 think there is anything here that should be expected
24 as unusual. And I will note that in the industry,
25 reaching small businesses is commonly observed across

1 the industry, so I really don't think this is
2 anything unusual.

3 The other mechanisms, you know, we've
4 already discussed the incentive level ranges, so as
5 implementation proceeds and we identify the need for
6 incentives to be different in order to better target
7 promotion and participation of the program, that
8 supports that.

9 And then the last thing that comes to
10 mind is in our C&I equipment small program, we do
11 have a component of it which provides direct
12 installation of measures in conjunction with an
13 energy assessment provided to very small customers.

14 Q. All right. And regarding the items that
15 you just stated, you know, to address these barriers,
16 is any of that described in the plan?

17 A. I do know we have language in the program
18 description that I can look for and point you to.
19 The incentive level ranges, I think, are already
20 spoken for. The hiring of vendors, I believe, is
21 discussed in the plan where we note that we will
22 undertake an RFP process to hire vendors for the '13
23 through '15 program, so I think that speaks to
24 hiring. And it might take me a minute to find the
25 exact language I'm looking for.

1 Q. Take your time.

2 A. Okay. Page 39 of the plan for Toledo
3 Edison, the second row, implementation strategy, the
4 second paragraph, second sentence, we identify, "The
5 company will consider providing the direct
6 installation of select energy efficiency measures to
7 customers through participating contractors during
8 program implementation or as a future enhancement."

9 Q. All right. So thank you for finding
10 that.

11 A. Sorry it took so long. I was actually
12 reading the wrong program.

13 Q. The -- you state the company will
14 consider providing direct installation through
15 participating contractors or as a future enhancement.
16 Is there anything more concrete in this plan that
17 addresses that direct installation?

18 A. Not for that specific delivery channel.
19 The mind-set is that we will conduct an RFP process
20 to identify the vendors, and based on the vendors
21 that respond, sheer experience, their coverage in the
22 market, you know, their qualifications, you know, all
23 those attributes is when we anticipate that would be
24 finalized.

25 Q. Okay. So the company is considering this

1 in the future, but as of right now, it's not
2 something definite in the plan.

3 A. It's not in the current plan. It's in
4 the new plan and will be decided through
5 implementation.

6 Q. Okay. I guess I'm misunderstanding you.
7 I'm looking at your proposed plan 2013 to 2015. And
8 the language you just pointed me to states that you
9 will consider providing this direct installation
10 through contractors or as a future enhancement.

11 A. I -- it says, "during program
12 implementation or as a future enhancement." When I
13 speak to "during implementation," that would be the
14 activities we undertake here very shortly in order to
15 implement the programs, hopefully, early next year.

16 Q. Okay. But as of now, you haven't put out
17 an RFP.

18 A. That RFP process is in the process of
19 being completed, but we have not put out an RFP for
20 that program, to my knowledge. I know there is a lot
21 of work developing them, but I just can't speak to
22 whether sent has been hit yet or not.

23 Q. Okay. All right. Do you have any
24 evidence that small business customers are unaware of
25 compact fluorescent light bulbs?

1 A. I would probably point back to the market
2 study, if 25 percent or more don't have any, I
3 wouldn't -- I would think that there are small
4 businesses who also would not have any.

5 Q. But not that they don't have any, but
6 just whether they are aware of them or not. Do you
7 have any evidence whether they are aware of them or
8 not?

9 A. I do not. I can think of one small
10 business I go to all the time, and they have none
11 installed. I can't say I have asked the owner if
12 he -- you know, why he doesn't have any installed,
13 but it's a little Mom and Pop restaurant that has all
14 incandescents, and I want to talk to the owner so
15 bad, so.

16 Q. All right.

17 MR. ALLWEIN: One moment, your Honor.

18 Go ahead.

19 EXAMINER PRICE: Yeah. I was noticing in
20 the sheets, Mr. Allwein, page 6 they were talking
21 about the lighting measures account for most of the
22 kilowatt-hour savings. It seemed that that bullet
23 point was in contention with the pages -- the
24 sentence that Mr. Allwein was pointing out in the
25 same page for smaller firms. Isn't lighting still a

1 massive market -- potential for energy efficiency
2 gains?

3 THE WITNESS: Definitely. The fact that
4 the majority of the savings are coming from lighting
5 is not uncommon. It's extremely common in the
6 industry in energy efficiency, and I think our point
7 is completely on the mark that there is -- it's a
8 huge end use and has a huge opportunity for savings.

9 EXAMINER PRICE: And if you were an
10 accounting firm or a law firm, or something along
11 those lines, what else would you do for energy
12 efficiency measures?

13 THE WITNESS: Some opportunities for each
14 had heating, ventilation, air conditioning equipment.

15 EXAMINER PRICE: If you lease, you are
16 not going to do an HVAC retrofit.

17 THE WITNESS: Correct. Probably the
18 other items that come to mind would be the more
19 efficient computer equipment, monitors would be
20 immediate items because whether you own or lease,
21 typically you own your own computer equipment.

22 EXAMINER PRICE: And you have incentives
23 set up for more efficient computer equipment?

24 THE WITNESS: Yes.

25 EXAMINER PRICE: Do you -- Mr. Allwein

1 asked whether small business owners were aware of
2 CFLs. Do you think there is a degree of
3 understanding out there among small business owners
4 about more efficient computer equipment? Or do you
5 think that's an area for education?

6 THE WITNESS: I always believe there's
7 always room for more education. I'm struggling to
8 put my handle on how much of the small business would
9 be knowledgeable or not regarding the more efficient
10 equipment. I would agree there is definitely some
11 knowledge. I just don't know the magnitude of the
12 knowledge.

13 EXAMINER PRICE: Is there anything your
14 Market Potential Study that would help me?

15 THE WITNESS: I don't recall.

16 EXAMINER PRICE: Okay. Thank you.

17 Thank you, Mr. Allwein.

18 Q. (By Mr. Allwein) Regarding the more
19 efficient computer equipment that you just mentioned
20 to the Attorney Examiner, is that a specific program,
21 or where do incentives for that appear?

22 A. That's within our energy efficient
23 product -- or energy efficient equipment program
24 small, and it is identified as -- I'm sorry. I
25 misspoke. The energy efficient computer equipment is

1 specifically identified in the residential portfolio.

2 EXAMINER PRICE: It is in -- I need a new
3 monitor.

4 THE WITNESS: Yes, it is. Computer
5 monitors and computers are identified in the
6 residential portfolio, but, again, I misspoke for the
7 small customer.

8 EXAMINER PRICE: Does that mean it's not
9 a specific part, or does that mean it's not available
10 to small commercials?

11 THE WITNESS: That means it is not
12 available.

13 MR. ALLWEIN: I have no further
14 questions, your Honor.

15 EXAMINER PRICE: Mr. Dougherty.

16 MR. DOUGHERTY: I may have some
17 questions.

18 - - -

19 CROSS-EXAMINATION

20 By Mr. Dougherty:

21 Q. Good morning, Mr. Miller.

22 A. Good morning.

23 Q. Trent Dougherty, and I represent the Ohio
24 Environmental Council, and I have just a few
25 questions. I will be brief, relatively.

1 On page 16 of your testimony, starting on
2 lines 16 through 23, you talk about, I believe,
3 what's characterized as other programs; is that
4 correct?

5 A. Yes, sir.

6 Q. And those other programs include the
7 mercantile customer program, the transmission and
8 distribution improvement program, and a couple of
9 others; is that correct?

10 A. I'm looking at my testimony on page 16.
11 The first question that's identified --

12 Q. I'm sorry, lines 16 through 32.

13 A. Okay. I'm sorry. Yes, the mercantile
14 customer program, the T&D improvement program are,
15 yes.

16 Q. And those are also referenced in the
17 charts you have in your Exhibits ECM-1 through 7,
18 correct?

19 A. Yes.

20 Q. And so those are part of the companies'
21 portfolio plan that have been represented as other
22 programs, correct?

23 A. Yes.

24 Q. And specifically on the transmission and
25 distribution improvement program, do you know what

1 T&D improvements the companies plan under this
2 program?

3 A. We do not have a -- a specific list of
4 projects at this time that I could specifically
5 reference. I know historically the T&D, the projects
6 that we have filed with the Commission under the T&D
7 improvements have included items such as capacity or
8 banks, as well as reconductoring of certain
9 electrical lines.

10 Q. To your knowledge, did the company
11 conduct these type of improvements, these
12 transmission and distribution improvements, for the
13 sole purpose of energy savings?

14 A. These projects would be primarily
15 undertaken for the purpose of ensuring reliability or
16 load-serving capabilities.

17 Q. And so without the energy efficiency
18 benchmarks, the companies would be conducting these
19 types of projects anyway?

20 A. Yes.

21 MR. DOUGHERTY: No further questions.

22 EXAMINER PRICE: Thank you.

23 Mr. Williams.

24 MR. WILLIAMS: I have no questions at
25 this time.

1 EXAMINER PRICE: Ms. Mooney, did we give
2 you an opportunity to ask questions of this witness
3 yesterday?

4 MS. MOONEY: Oh, yes.

5 EXAMINER PRICE: Anybody else? I'm just
6 making sure. Staff is always last. I want to make
7 sure I wasn't missing anybody.

8 Mr. Parram.

9 - - -

10 CROSS-EXAMINATION

11 By Mr. Parram:

12 Q. Good morning, Mr. Miller.

13 A. Good morning.

14 Q. I'm Devin Parram. I'm counsel on behalf
15 of staff. I have some questions for you. On the
16 first day Mr. Dargie punted to you some questions
17 relating to how the budgets are allocated as relates
18 to different customer classes across the operating
19 companies. Are you the correct person to ask --
20 correct person to ask these questions?

21 A. Yes, sir.

22 Q. Okay. Thank you. And before I jump into
23 questions regarding the proposed portfolio, what --
24 did you have any involvement in the current or
25 existing portfolio plan in developing the budgets for

1 that plan?

2 A. I did not.

3 Q. Okay. Did you in creating the budgets or
4 your work on the pending portfolio, which is the
5 subject matter of this case, did you review the
6 budgets from the current or existing portfolio?

7 A. Yes.

8 Q. And is it fair to say that you are
9 familiar with the budgets for -- in the current or
10 existing portfolio plan?

11 A. Yes.

12 MR. PARRAM: Your Honor, I would like to
13 have marked for purposes of identification three
14 different exhibits, Staff Exhibit, 2 which is a
15 single-page document from the portfolio plan, the
16 first portfolio plan filed by the companies, two
17 tables for the portfolio plan, with a table entitled
18 Mercantile Utility (Large Enterprise)." I would like
19 to have that marked as Staff Exhibit 2.

20 EXAMINER PRICE: So marked.

21 (EXHIBIT MARKED FOR IDENTIFICATION.)

22 MR. PARRAM: I'm sorry, your Honor,
23 specifically, Staff Exhibit 2 was relating to Ohio
24 Edison.

25 EXAMINER PRICE: Thank you.

1 MR. PARRAM: I'd also like to have marked
2 for purposes of identification Staff Exhibit 3, which
3 is the Table for the portfolio plan of the Cleveland
4 Electric Illuminating Company, which was filed in the
5 companies' existing portfolio case.

6 EXAMINER PRICE: So marked.

7 (EXHIBIT MARKED FOR IDENTIFICATION.)

8 MR. PARRAM: A single-page document which
9 indicates a table labeled "Mercantile Utility (Large
10 Enterprise)."

11 Then I would also like to have a document
12 marked for purposes of identification Staff Exhibit
13 4, table of the portfolio plan of Toledo Edison,
14 which is from the portfolio plan filed in the
15 existing or current portfolio for the companies,
16 which has a table listed on it "Mercantile Utility
17 (Large Enterprise)."

18 EXAMINER PRICE: So marked.

19 (EXHIBIT MARKED FOR IDENTIFICATION.)

20 MR. PARRAM: May I approach the witness,
21 your Honor?

22 EXAMINER PRICE: You may.

23 Q. (By Mr. Parram) Mr. Miller, do you have
24 Staff Exhibits 2, 3, and 4 in front of you?

25 A. Yes, sir.

1 Q. Okay. Are you familiar with this
2 document?

3 A. Yes, I am.

4 Q. What is this document?

5 A. These are tables from our filing which
6 details the budgets of the current plan from 2010
7 through '12, broken out by operations and incentive
8 for the three operating companies.

9 Q. Okay. Did you have an opportunity to
10 review these documents, or did you review any -- any
11 of these documents in preparing the proposed
12 portfolio plan in this case?

13 A. We reviewed the total budgets of the
14 programs in developing the programs for '13 through
15 '15, yes.

16 Q. And I would like to direct your attention
17 to Staff Exhibit 2 first. This is a table entitled
18 "Mercantile Utility (Large Enterprise)." Do you see
19 where I'm at there?

20 A. Yes.

21 Q. And on that table, there is two different
22 sections, "Peak Demand Reduction Programs" and
23 "Energy Efficiency Programs." I would like to focus
24 your attention on the "Energy Efficiency Programs"
25 section of the document. Do you see where that is?

1 A. Yes.

2 Q. And more specifically, there are four
3 rows listed there, and then, I guess, five at the
4 very bottom would be the totals. I would like to
5 direct your attention to the fourth row, which is
6 labeled "Energy Efficiency Program Subtotal." Do you
7 see where I'm at?

8 A. Yes.

9 Q. And the third column over lists the total
10 budgets for 2010 through 2012, and do you see that?

11 A. Yes.

12 Q. For Ohio Edison what was the energy
13 efficiency program subtotal total budget for 2010
14 through 2012?

15 A. The budget shown is \$7,952,338.

16 Q. Okay. Now, if you could go to Staff
17 Exhibit 3, please. Do you have that in front of you?

18 A. Yes, sir.

19 Q. For the Cleveland Electric Illuminating
20 Company, what was the total budget for the -- for the
21 energy efficiency program subtotal total budget for
22 2010 through 2012 on Staff Exhibit 3?

23 A. Yeah, I see the column heading, indicates
24 through '13. I believe that should have been '12 --

25 Q. Threw me off.

1 A. The number -- the corresponding numbers
2 shown for Cleveland Electric Illuminating is
3 \$8,172,066.

4 Q. Okay. And for both numbers, the one on
5 Staff Exhibit 2 and Staff Exhibit 3, those are the
6 correct numbers; is that -- were those the correct
7 total budgets for the operating companies as it
8 relates to the energy efficiency program totals?

9 A. These were the subtotals, I believe, at
10 the time of the filing. I do know that we have
11 completed a few staff requests associated with
12 shifting funds that I would have to check to see
13 whether there were any that impacted these budgets.

14 Q. Okay. Are you aware of whether one of
15 the requests was for Ohio Edison, Large Enterprise,
16 as relates to shifting budgets?

17 A. I believe I recall. I hope I am not
18 confusing, but yes.

19 Q. And for purposes of my question today,
20 the numbers contained on here were as initially
21 planned and filed in the current existing portfolio
22 plan?

23 A. That is correct.

24 Q. Okay. And if you could go to Staff
25 Exhibit 4, please.

1 A. Okay.

2 Q. In looking at the same section, what
3 would be the total budget for 2010 through 2012 for
4 Toledo Edison?

5 A. The corresponding number, \$7,475,698.

6 Q. So out of the three operating companies,
7 Toledo Edison -- you might have to lay all three of
8 them out to see. Ohio Edison had the smallest total
9 budget as originally filed in the current or existing
10 portfolio plan?

11 A. That is correct on a dollar magnitude
12 basis. They all appear to be relatively similar.

13 Q. Do you have a copy of the pending
14 portfolio moneys for all of the operating companies?

15 A. Yes, I do.

16 Q. If you could turn to Ohio Edison's
17 pending portfolio plan first, specifically if you
18 could turn to Appendix C-3, PUCO 6A.

19 A. Okay.

20 Q. And there should be -- make sure we have
21 all on the same page. It says, "PUCO 6A,
22 "Portfolio-Specific Assignment of EE&C Costs" at the
23 top. Is that where you are?

24 A. Yes.

25 Q. And there are two different tables on

1 this page. One is "Ohio Edison Mercantile." The
2 other table is "Ohio Edison Mercantile Utility (Large
3 Enterprise)." I would like to focus your attention
4 to the "Mercantile Utility (Large Enterprise)" table.
5 Are you there with me?

6 A. On the bottom of the page, yes.

7 Q. Yes. And specifically for the row that
8 says "EE Program Subtotal," I would like you to go
9 over to the third row where it's the total budget for
10 2013 through 2015, and what is the total budget for
11 Ohio Edison for the 2013-2015 period?

12 A. For the energy efficient program
13 subtotal, which includes the energy efficient
14 equipment program, large, and the energy efficient
15 buildings program, large, it's \$6,762,845.

16 Q. Okay. Now, I would like to jump to
17 Cleveland Electric's portfolio to Appendix C-3 of
18 that portfolio plan. Are you there?

19 A. Yes.

20 Q. And if we can go to the same table, the
21 Mercantile utility table, and if you can go to the
22 total budget, and for 2013 through 2015 for Cleveland
23 Electric, what is the budget for that time period?

24 A. The budget for that time period is
25 \$4,322,811.

1 Q. And now if we could jump to Toledo Edison
2 Appendix C-3, PUCO 6A, and look at that table.

3 A. Okay.

4 Q. Are you with me?

5 A. Yes.

6 Q. And now looking at Toledo Edison's total
7 budget for 2013 through 2015, what is the budget for
8 there?

9 A. \$8,603,775.

10 Q. Okay. So in the pending portfolio,
11 Toledo Edison now has the highest budget, is that
12 correct, for the energy efficiency program subtotals,
13 as opposed to Cleveland Electric and Ohio Edison; is
14 that correct?

15 A. That is correct.

16 Q. And, in fact, Toledo Edison's budget is
17 almost twice as much as Cleveland Electric's budget;
18 is that correct?

19 A. That is correct.

20 Q. Could you explain why there is a
21 substantial -- or why the increase in budget in
22 Toledo Edison in the pending plan from the existing
23 plan?

24 A. Yes. The program budgets that were
25 created were created individually for each of the

1 programs for each of the operating companies. It was
2 not a statewide budget that was allocated to the
3 programs, but it was a buildup of the program budget
4 unique for each operating company. And to explain a
5 little bit further, the primary -- and I think I
6 touched on this a little bit yesterday. The primary
7 drivers of the budget is associated with the program
8 costs that are associated with the implementation
9 vendors.

10 There's -- there's minor components for
11 the evaluation in marketing. There is minor
12 components for tracking and reporting, minor
13 components for the utility costs. But the
14 predominant portion of the budget is the program --
15 what I would call program direct cost related to the
16 implementation vendor.

17 For each of the programs we have a --
18 a -- we established a cost based on the -- I
19 apologize for repeating. We established a cost that
20 takes into account either current contracted pricing
21 that we have, either for the same or similar
22 programs, as well as RFP pricing that we have in
23 order to project what the pricing of the programs
24 will be going forward.

25 Typically there's a fixed component

1 that's the cost associated with the vendors.
2 Typically they are fixed costs to support the
3 program, develop the systems to support the program,
4 and customer participation in the program. And
5 there's typically a variable cost which depends on
6 the participation projection.

7 For each of the programs we develop
8 individual participation projections. Those
9 participation projections took into account
10 historical performance of the program, took into
11 account our, I'll say, knowledge of the customer
12 base. For instance, you could have completely
13 different customers between operating companies. You
14 could have fewer customers with higher usage,
15 indicates a larger customer. They might have more
16 opportunity but fewer customers, where in other
17 companies you might have a lot of customers and
18 smaller usage, so you might have more participation
19 but you have smaller opportunity within that customer
20 for lighting, for instance, with number of lights
21 that you have.

22 So for each of the operating companies,
23 we developed participation projections individually,
24 taking into account the historical performance,
25 feedback from our implementation team, and then also

1 looking at that disconnect customer base to project
2 what that participation is going forward.

3 So from looking at the numbers, our
4 participation projections for '13 through '15
5 indicate that we have the highest participation
6 projections for Toledo Edison and the smaller
7 participation projections for Cleveland Electric, and
8 I believe the historical performance was one of the
9 factors in the lower projections for Cleveland
10 Electric going forward, recognizing that your larger
11 customer base tends to be a more disconnect number of
12 customers.

13 Q. Okay. One of the things you mentioned
14 was in analyzing a particular customer base looking
15 at different classes of customers, when you looked at
16 commercial and -- commercial and industrial class,
17 did part of your analysis go into the square footage
18 for your particular commercial and industrial
19 customers?

20 A. We don't have square footage. We don't
21 track square footage of the customer. The
22 predominant insights we would have would be the
23 average usage by customer. We looked at the rate
24 schedules we have for each operating company. We
25 looked at the number of customers. We looked at the

1 average usage of customers and total usage and
2 historical participation. But we took that
3 difference between the operating companies into
4 account in setting the projections going forward.

5 Q. Was part of your analysis also the number
6 of customers in a particular -- in a particular
7 service area?

8 A. Yes, we did look at number of customers
9 at each particular service territory. It's -- you
10 know, developing projections, I'll say, is very
11 challenging in the sense that -- I'm sorry.

12 Q. And was part of your analysis the
13 megawatt-hour sales for each particular customer
14 class?

15 A. Yes. We did look at the megawatt-hour
16 sales of the -- of the customers in the individual
17 customer classes. One of the cautions there, though,
18 is what you could have of a significantly large
19 customer. You know, you got one customer that
20 distorts that opportunity, you know, within the
21 individual sectors, so we did look at usage, but I
22 will caution that it's -- it's an indicator, but
23 it's -- you have to be careful with how you look at
24 that average.

25 EXAMINER PRICE: Without revealing

1 anybody's proprietary information, do you have any
2 customers that are disproportionately large for their
3 service territory?

4 THE WITNESS: Yes. My recollection is
5 at -- let me check for one second. I think I can
6 confirm my recollection. Yes. My recollection is at
7 Toledo Edison we do have a major customer that
8 significantly represents the sales within the large
9 customer sector.

10 EXAMINER PRICE: Thank you.

11 Q. (By Mr. Parram) Are you aware of
12 Cleveland Electric during the existing portfolio
13 plan, if they had any budgetary concerns as it
14 relates to rebates to mercantile -- large mercantile
15 customers?

16 A. I recall that we did have some budgetary
17 constraints which resulted in some budget shifts.
18 I'm not -- you know, without having those filings
19 with me, I just can't -- I'm not remembering the
20 exact details, though.

21 Q. And are you aware if Ohio Edison had any
22 budgetary -- similar budgetary concerns?

23 A. I would be speculating as to the company.
24 I apologize. I know that we had budgetary concerns,
25 but I'm not remembering the specific utilities.

1 Q. Well, who -- would there be a specific
2 witness that would be more knowledgeable what those
3 budgetary concerns were, preferably somebody that
4 hasn't already testified?

5 A. I hate to defer because I apologize for
6 not remembering. Witness Demiray would know that
7 information.

8 Q. And would it be fair to say Witness
9 Demiray would have knowledge as it relates to if
10 Toledo Edison had any budgetary concerns?

11 A. Yes.

12 MR. PARRAM: Your Honor, that's all I
13 have.

14 EXAMINER PRICE: Thank you. Let's go off
15 the record.

16 (Discussion off the record.)

17 EXAMINER PRICE: Let's go back on the
18 record.

19 Ms. Dunn.

20 MS. DUNN: Yes, your Honor. Thank you.
21 I do have some redirect.

22 - - -

23 REDIRECT EXAMINATION

24 By Ms. Dunn:

25 Q. Mr. Miller, yesterday Mr. McDaniel from

1 the ELPC submitted -- submitted to you Exhibit 1.
2 This is the Act 129 Statewide Evaluator Report. Do
3 you have that in front of you?

4 A. Yes, I do.

5 Q. Okay. If you could turn to page 64,
6 which is the page that Mr. McDaniel referred you to
7 yesterday.

8 A. Yes. Yes. Yes.

9 Q. I heard you. I think everybody did.

10 MS. DUNN: He said "yes."

11 Q. On page 64 he -- he had you -- he asked
12 you questions relating to Met-Ed's installation rates
13 for certain provisions in the kit.

14 A. Yes.

15 Q. What program participation participant
16 did these figures pertain to?

17 A. This was specific to the low income
18 program audit activities, which is referenced
19 beginning on page 62 of this report.

20 Q. And can you explain to me the low
21 installation rates?

22 A. Yes. The low installation rates I should
23 say are not unanticipated. Basically, in having the
24 kit, we look at maximizing the energy savings,
25 minimizing the cost. As a component of it, I did

1 mention yesterday, as an example, for LED nightlights
2 that we projected a 30 percent installation rate.
3 You know, this report identifies specific to this kit
4 and this program. It was 30 percent -- or I'm sorry,
5 36 percent, so in that situation, the energy savings
6 that we projected for that component of the kit would
7 actually be greater, but really at a high level.

8 The items such as nightlights, faucet
9 aerators, and furnace whistles are included because
10 they do provide energy savings, but they are an
11 extremely low cost measure, so they still make sense
12 to include in the kit, even though the installation
13 rates are what we projected.

14 Q. And you also see in that section that the
15 statewide evaluator -- and I guess for purposes of
16 the record, who is this statewide evaluator in
17 Pennsylvania?

18 A. In Pennsylvania it's GDS Associates, and
19 they also have an additional evaluator, includes
20 Nexen & Mondre Energy, which is identified on the
21 cover.

22 Q. And what is the function of a statewide
23 evaluator in a program such as Pennsylvania?

24 A. The function of the statewide evaluator
25 is to oversee the evaluation activities that are

1 completed by each EDCs independent evaluator. I
2 mentioned earlier, I believe yesterday, that the
3 companies are contracted with ADS Associates as the
4 evaluator of our programs. GDS, or the statewide
5 evaluation team, overlooks the evaluation activities,
6 the evaluation plan that our independent evaluator is
7 doing on the programs to validate the results to the
8 Commission.

9 Q. And you'll see on page 64, as it pertains
10 to Met-Ed, they did -- the statewide evaluator made a
11 couple of observations. Can you identify those
12 observations?

13 A. I'm sorry, the page number?

14 Q. Same page, 64, containing the Met-Ed.

15 A. The third bullet identifies there were
16 some cases where only one of the two smart strips
17 were being used, possibly because a customer only had
18 a need for one, yet was given two anyway. Met-Ed had
19 similar findings as the statewide evaluator, and
20 assumed a 40 percent installation rate for this
21 measure.

22 Q. What did the company or the companies --
23 excuse me. What did the FirstEnergy utilities do in
24 response to the statewide evaluator's observation?

25 A. Actually, due to our evaluation results,

1 we reduced the number of smart strips we were
2 providing to one, recognizing that customers weren't
3 using the second one as a result of the evaluation
4 activities.

5 Q. And if you could turn to page 62 in the
6 same document.

7 A. Okay.

8 Q. And under the first paragraph under site
9 visits, could you please -- do you see the fifth
10 sentence down that begins with the "SWE"?

11 A. Yes.

12 Q. Can you please read that sentence and the
13 sentence after it out loud.

14 A. "The SWE, 'statewide evaluator,' did not
15 complete a statistically significant number of site
16 visits and, therefore, the quantitative results of
17 the site visits did not result in adjustment to
18 installation rates. Particularly in the case of
19 measures with low installation rates as deemed in the
20 TRM. The results of 10 site visits may not represent
21 actual installation rates.

22 Q. And can you continue reading for the last
23 sentence, please.

24 A. "EDCs have received site visit summary
25 reports and have responded to comments and

1 recommendations to improve implementation and
2 evaluation of their low income Portfolios."

3 Q. And based on your knowledge of the
4 Pennsylvania programs, do you agree with the
5 statewide evaluator's statements?

6 A. Yes.

7 Q. You can go ahead and set that exhibit
8 aside.

9 MS. DUNN: Your Honor, may I approach?

10 EXAMINER PRICE: You may.

11 Q. Now, you recall Mr. Allwein presenting
12 you pages of what I just handed you, Appendix D,
13 "Evaluation of the 2011 Energy Efficient Products
14 Program."

15 A. Yes.

16 Q. And the document I handed you, are you
17 familiar with it?

18 A. Yes.

19 Q. And that is the complete Appendix D of
20 the Evaluation of the 20 "Energy Efficient Products
21 Program" for Ohio in the 2011 annual report?

22 A. Yes.

23 Q. Can you please turn to what's listed at
24 the bottom as page 5-6 of the final report. And I
25 apologize, I don't have enough copies for everyone,

1 but if anyone needs one, I can get you one afterward.

2 A. Yes.

3 Q. And do you see on "5.2.6, Rebate
4 Adequacy"?

5 A. Yes.

6 Q. Can you read the first sentence in the
7 report, please?

8 A. "Retailer and HVAC contractor respondents
9 felt that the product rebates offered by the
10 companies were adequate to encourage participation in
11 the program."

12 Q. And if you could also, looking at this
13 from Section 5.2 which starts on 5-4 and at the top,
14 it says "Process Evaluation Findings."

15 A. Yes.

16 Q. If we go through this entire section,
17 including the table that Mr. Allwein pointed out on
18 5-8, does the -- does the state -- excuse me. Does
19 ADM actually recommend that the companies provide
20 rebate levels at the national medium?

21 A. No, they do not.

22 Q. And in -- in response to one of the
23 questions that Mr. Price asked you, you began
24 discussing why the national median is not always the
25 appropriate rebate structure for the companies. Can

1 you explain why?

2 A. Yes. Primarily, because equipment
3 pricing varies by region so it makes sense that
4 certain products may cost more in certain regions,
5 and if your percentage structure is a percentage of
6 the incremental cost, especially in places where
7 equipment may be less, the incentive would,
8 accordingly, be less as well.

9 The other factor takes into account that
10 certain products have different energy efficiency
11 results in different regions. Clients with hotter
12 climates have increased air conditioning use so this
13 is a lot more energy savings due to operating hours
14 of the equipment that results from air conditioning
15 in hotter climates as opposed to colder climates.

16 Q. And also in the line of questioning
17 involving this report, Mr. Allwein had you read
18 sections relating to issues with HVAC contractors and
19 paperwork involved. Do you remember that?

20 A. Yes.

21 Q. Can you explain to me what kinds of
22 paperwork is involved with HVAC rebates?

23 A. The rebate application requires specific
24 product information to ensure its qualification for
25 the efficiency tier in the rebate level that's being

1 provided. Information such as the model and
2 equipment number, model number of the -- of an air
3 conditioner, for instance, is needed to complete that
4 information.

5 Q. And regarding -- you also were asked
6 regarding the rebate applications being in paper or
7 online. Are rebate applications online?

8 A. Actually, we do have online rebate
9 applications for -- currently for an energy efficient
10 products program. However, we do not have it for the
11 HVAC equipment because that program typically
12 requires the contractor involvement in order to
13 provide sufficient information regarding the
14 equipment, its efficiency levels in order to validate
15 the information of the activities, as well as for
16 rebate processing.

17 Q. And I believe it was Attorney Examiner
18 Price that asked you this question regarding whether
19 or not there were any studies -- studies related to
20 whether individuals will purchase more energy
21 efficient products as a result of receiving the kits.
22 Do you remember that question?

23 A. Yes, I -- yes, yes, I do.

24 Q. Are you aware of any studies relating to
25 that issue?

1 A. Actually, I am -- there was the Ohio
2 Energy Project completed a study associated with
3 school kits, and the results of that study concluded
4 that customers who received the kits were more
5 motivated to purchase additional CFLs as a result of
6 receiving the kit. That was provided in a discovery
7 response.

8 Q. And also can you just, for everyone's
9 knowledge, what is a school kit?

10 A. A school kit is essentially the same as
11 the kit we are planning. The key difference is a
12 school kit is one that results from targeting the
13 distribution of kits to our residential customers
14 through school programs where students learn about
15 energy efficiency and commit to energy efficiency, so
16 as a result, they receive an energy efficiency kit.

17 MS. DUNN: Just one moment.

18 That's all I have.

19 EXAMINER PRICE: Thank you.

20 OPAE?

21 MS. MOONEY: No recross.

22 EXAMINER PRICE: IEU-Ohio.

23 MR. OLIKER: Nothing, your Honor.

24 EXAMINER PRICE: ELPC.

25 MR. KELTER: Can we have one second?

1 EXAMINER PRICE: You may.

2 MR. KELTER: We don't have any.

3 EXAMINER PRICE: Thank you.

4 Mr. Kurtz.

5 MR. KURTZ: None, your Honor.

6 EXAMINER PRICE: Ms. Kern.

7 MS. KERN: No, your Honor.

8 EXAMINER PRICE: Mr. Allwein.

9 MR. ALLWEIN: Yes, your Honors.

10 - - -

11 RECROSS-EXAMINATION

12 By Mr. Allwein:

13 Q. Okay. Mr. Miller, you were just asked a
14 question about some school kits.

15 A. Yes.

16 Q. And aren't there different circumstances
17 surrounding the distribution of those kits?

18 A. The distribution of the kits is different
19 in that it targets the distribution in conjunction
20 with the school program.

21 Q. And can you describe what's involved with
22 that school program?

23 MS. DUNN: Objection, asked and answered.

24 EXAMINER PRICE: I don't understand your
25 objection.

1 MS. DUNN: I asked him to describe the
2 school kit program, and he described what was
3 involved in the school kit program.

4 EXAMINER PRICE: I think Mr. Allwein is
5 asking what's involved in the school program that
6 accompanies the kit.

7 MS. DUNN: Okay, clarified. Withdrawn.

8 MR. ALLWEIN: Thank you.

9 A. It would be the same as I previously
10 answered.

11 Q. What I'm asking you is not -- what I'm
12 asking you is what are the circumstances surrounding
13 the school program, in other words, isn't -- aren't
14 the school kits distributed to kids and that is part
15 of a homework assignment?

16 A. It could be part of a homework
17 assignment. Other forms are as a result of a simple
18 pledge form that the student takes home, has the
19 family complete that says, yes, we, you know, we --
20 you know, we support energy efficiency. We want the
21 kit, essentially, so it's an opt-in type design as
22 well.

23 EXAMINER PRICE: Mr. Miller -- I'm sorry,
24 Mr. Allwein. This is part of an overall educational
25 point of some degree or another? You don't go to the

1 basketball game and pass these out to the fans.
2 There is some classroom instruction involved in this;
3 is that correct?

4 THE WITNESS: Yes.

5 Q. (By Mr. Allwein) And doesn't the pledge
6 that you referred to, isn't it one of the items in
7 the pledge that they actually install the items in
8 the kit?

9 A. That is a component of the pledge.

10 Q. Okay. And I just want to go back one
11 more time to the ADM Evaluation.

12 EXAMINER PRICE: Can we go off the
13 record?

14 MR. ALLWEIN: Sure.

15 (Discussion off the record.)

16 EXAMINER PRICE: Let's go back on the
17 record.

18 Mr. Allwein.

19 Q. (By Mr. Allwein) All right. I'm sorry.
20 Hang on one second. I believe counsel for the
21 companies, and correct me if I'm wrong, asked you if
22 raising the rebate levels was a required action as a
23 result of this evaluation; is that correct?

24 A. I believe that -- I believe the question
25 was, was it a recommendation to the companies of the

1 independent evaluator.

2 Q. And what was your response to that?

3 A. The response was no.

4 Q. All right. And help me understand this
5 because I'm looking at page 6-2, and I believe that
6 under Recommendations for Program Improvement, they
7 asked you, as we discussed before, to consider
8 increasing some of the rebate amounts; isn't that
9 true?

10 A. Yes.

11 MS. DUNN: Objection, mischaracterizes
12 the question he asked before. It also
13 mischaracterizes the question I asked on direct.

14 MR. ALLWEIN: I characterized the
15 question, and he cleared up exactly what it was you
16 asked, so I was following up on that.

17 EXAMINER PRICE: Why don't you just
18 rephrase your question, Mr. Allwein.

19 Q. (By Mr. Allwein) Okay. Are any of the
20 items that are in this evaluation required by the
21 company to carry out -- are any of these
22 recommendations required in the evaluation?

23 A. The recommendations themselves are not
24 required. The recommendations are to the company.
25 Obviously, the company has compliance targets to meet

1 in Pennsylvania, so, I mean, there is no direct
2 requirement, but the recommendations for items that
3 the evaluator identifies for consideration, which I
4 believe is what that statement is referring to, are
5 taken into account.

6 Q. Okay. I'm not sure why you brought up
7 the Pennsylvania evaluation. We were talking about
8 the evaluation of the Ohio programs.

9 A. I'm sorry, I misspoke when I said
10 Pennsylvania.

11 Q. Okay.

12 EXAMINER PRICE: Okay. Let's clear up
13 the record on this. What's the recommendation and
14 what's the consideration considered? Just to be
15 clear, isn't it true, Mr. Miller, although the
16 evaluator didn't recommend increasing any of the
17 rebate amounts, the evaluator did recommend you
18 consider increasing some of the rebate amounts?

19 THE WITNESS: That is correct.

20 EXAMINER PRICE: Thank you.

21 Q. (By Mr. Allwein) And one more question
22 on that. In particular, they asked you to consider
23 increasing the rebate amounts for central air
24 conditioners and Energy Star refrigerators; isn't
25 that true?

1 A. That is correct.

2 Q. Turning one more time to Table 5-8, that
3 first column is the national median rebate level. Do
4 you see that?

5 A. Yes.

6 Q. And median implies that there are some
7 areas where the rebate levels are higher than the
8 levels listed here; is that correct?

9 A. Yes.

10 Q. And I think you mentioned that there are
11 less cooling degree days in the FirstEnergy service
12 territories, correct?

13 A. I didn't specifically mention the
14 FirstEnergy service territories, but just based on my
15 knowledge, I would agree with that statement that our
16 cooling hours would be less than what it would be in
17 southern states.

18 Q. Okay. And so if we have less cooling
19 degree days in the FirstEnergy service territories,
20 it might justify the lower high efficiency central
21 air conditioning rebate level than the median; is
22 that correct?

23 A. As -- as a consideration, equipment
24 pricing would be the other component.

25 Q. Okay. And so by the same turn, if the

1 heating degree days in the FirstEnergy service
2 territories are greater than in many parts of the
3 countries -- many parts of the country, wouldn't that
4 be a factor in possibly assigning a rebate level
5 greater than the national median as listed here.

6 A. I would agree with that.

7 MR. ALLWEIN: No further questions, your
8 Honor.

9 EXAMINER PRICE: Thank you.

10 Mr. Dougherty.

11 MR. DOUGHERTY: None, your Honors.

12 EXAMINER PRICE: Mr. Williams.

13 MR. WILLIAMS: None.

14 EXAMINER PRICE: Staff.

15 MR. PARRAM: None.

16 MS. DUNN: Your Honor, I believe we have
17 the administrative notice. The companies have no
18 problem admitting this as an exhibit, but we prefer
19 not to take administrative notice of the entire -- I
20 don't know what they were suggesting administrative
21 notice on, I guess.

22 EXAMINER PRICE: I was suggesting
23 administrative notice, but I'm not quite done with
24 your witness.

25 MS. DUNN: Okay. I apologize.

1 EXAMINER PRICE: No problem.

2 - - -

3 EXAMINATION

4 By Examiner Price:

5 Q. Mr. Miller, just to be clear, I do not
6 believe you are the correct witness to ask any
7 questions regarding bidding energy efficiency
8 resources into PJM auctions, are you? Or are you?

9 A. That is correct. That would be Witness
10 Demiray.

11 Q. That would be Witness Demiray, okay.

12 EXAMINER PRICE: Now, Ms. Dunn, first of
13 all, just for the record, why don't we mark this as
14 company Exhibit whatever is next in line.

15 MS. DUNN: I think we're on 11.

16 EXAMINER PRICE: Company Exhibit 11. And
17 if you would care to move for administrative notice
18 of Appendix D, and just Appendix D, we'll take
19 administrative notice of that.

20 MS. DUNN: I would like to move for
21 administrative notice of Appendix D, the "Evaluation
22 of the 2011 Energy Efficient Products Program which
23 is part of the annual report filed in Case No.
24 12-1533.

25 EXAMINER PRICE: Any objections? We'll

1 take administrative notice of that document.

2 MR. ALLWEIN: Your Honor, may I request
3 we take one more item from 12-1533, or request that
4 you take administrative notice of one more item in
5 that docket since we're not taking administrative
6 notice of the entire docket in that case?

7 EXAMINER PRICE: Why don't you bring the
8 document, and then we'll take a look at it.

9 MR. ALLWEIN: All right. Thank you.

10 EXAMINER PRICE: Ms. Dunn, anything else?

11 MS. DUNN: That's all I have, your Honor.
12 Thank you.

13 EXAMINER PRICE: Do you want to move your
14 exhibit?

15 MS. DUNN: Oh, yeah, sorry. I would like
16 to move Company Exhibit 4, which is Mr. Miller's
17 testimony, and as part of that testimony, I would
18 also like to move in the plans that were filed in
19 this case along with the application, which is
20 Attachment A, B, and C to the application.

21 EXAMINER PRICE: Have we marked those?

22 MS. DUNN: We haven't marked them
23 separately. I would do it if you would like.

24 EXAMINER PRICE: Let's mark them.

25 MS. DUNN: Let's mark Attachment A, the

1 plan, as Company Exhibit 12; Attachment B, which is
2 another plan -- and I'm sorry. I will be more
3 precise. I apologize. Attachment A is Ohio Edison's
4 plan. We'll mark that as Company Exhibit 12.
5 Attachment B to the application is Cleveland Electric
6 Illuminating Company's plan. We'll mark that as
7 Company Exhibit 13. And Attachment C to the
8 application is Toledo Edison's plan. We'll mark that
9 as Company Exhibit 14.

10 EXAMINER PRICE: All those exhibits will
11 be so marked.

12 (EXHIBITS MARKED FOR IDENTIFICATION.)

13 EXAMINER PRICE: Would you like to move
14 admission for all?

15 MS. DUNN: Company Exhibits 12, 13, 14,
16 as previously identified.

17 EXAMINER PRICE: Any objections?

18 Hearing none, those exhibits will be
19 admitted, as well as Exhibit 4, if I haven't already
20 done it.

21 (EXHIBITS ADMITTED INTO EVIDENCE.)

22 EXAMINER PRICE: Mr. McDaniel, you had a
23 document?

24 MR. McDANIEL: Your Honor, ELPC Exhibit
25 3, I believe.

1 EXAMINER PRICE: Any objections?

2 It will be admitted.

3 (EXHIBIT ADMITTED INTO EVIDENCE.)

4 MR. McDANIEL: Your Honor, we -- just
5 have pages 62 through 71 of the report, I think, just
6 to keep it simple.

7 EXAMINER PRICE: Okay. Thank you.

8 MR. KELTER: Unless, as we told counsel
9 yesterday, we are okay if you guys want to admit the
10 whole report.

11 MS. DUNN: We'll just admit those pages
12 you referenced.

13 EXAMINER PRICE: What are those pages
14 again?

15 MR. McDANIEL: 62 to 71.

16 EXAMINER PRICE: Okay. Good.

17 Mr. Parram.

18 MR. PARRAM: Yes. I move for the
19 admission of Staff Exhibits 2, 3, and 4 to the
20 record.

21 EXAMINER PRICE: Any objection to the
22 admission of those documents?

23 Seeing none, they will be admitted.

24 (EXHIBITS ADMITTED INTO EVIDENCE.)

25 EXAMINER PRICE: Mr. Poulos is not here.

1 On my motion, I will move the admission of EnerNOC
2 Exhibit 1. Any objections?

3 Seeing none it will --

4 MS. DUNN: I'm sorry, your Honor, was
5 that the PJM?

6 EXAMINER PRICE: Yes.

7 MS. DUNN: I believe he only referred to
8 one of the pages. I would prefer only the one page
9 he referred to be admitted.

10 EXAMINER PRICE: I'll tell you what,
11 we'll -- I will withdraw my motion. We'll let
12 Mr. Poulos deal with this when he comes back.

13 MS. DUNN: Thank you, your Honor.

14 EXAMINER PRICE: That's what I get for
15 trying to help him.

16 Okay. At this time we will break for
17 lunch, and we will return at 1:45.

18 We're off the record.

19 (At 12:40 p.m. a lunch recess was taken
20 until 1:52 p.m.)

21 - - -

22

23

24

25

1 Wednesday Afternoon Session,
2 October 24, 2012.

3 - - -

4 EXAMINER CHILES: You may proceed.

5 MR. LANG: Your Honor --

6 EXAMINER PRICE: One second, Mr. Lang.

7 EXAMINER CHILES: I'm sorry, Mr. Poulos.

8 MR. POULOS: Thank you, your Honor. At
9 this time I would like to offer EnerNOC Exhibit 1 and
10 EnerNOC Exhibit 2 into the record. I've talked to
11 counsel for the companies, and as to EnerNOC Exhibit
12 1, we are only going to offer page 8 of that exhibit.

13 EXAMINER CHILES: Page 8. Are there any
14 objections to EnerNOC Exhibit 1 or Exhibit 2?

15 EXAMINER PRICE: I object to admitting
16 Exhibit 2. It's a Commission entry. We don't need
17 to do anything with it.

18 MR. POULIS: Sustained.

19 EXAMINER PRICE: No. You don't need to
20 seek admission. The Commission entry. It speaks for
21 itself.

22 EXAMINER CHILES: Exhibit 1 will be
23 admitted.

24 (EXHIBIT ADMITTED INTO EVIDENCE.)

25 MR. POULOS: Thank you, your Honor.

1 EXAMINER CHILES: Mr. Lang.

2 MR. ALLWEIN: I'm sorry, Mr. Lang.

3 Your Honors, before we continue, I just
4 wanted to get a clarification about the subject --
5 the testimony subjects that Mr. Demiray is going to
6 testify on, specifically regarding PJM issues. I
7 know we had a discussion about it, and I just
8 wondered what -- I guess I was just looking for a
9 clarification.

10 EXAMINER PRICE: From who?

11 MR. ALLWEIN: From the Bench.

12 EXAMINER PRICE: I'm not sure what you
13 mean.

14 MR. ALLWEIN: I thought that witnesses
15 were deferring the testimony on certain things to
16 others, and I thought PJM was deferred to
17 Mr. Demiray.

18 EXAMINER PRICE: So it was.

19 MR. LANG: And to the -- you know, to the
20 extent that questions to Mr. Dargie was deferred, we
21 are hoping to answer those today.

22 EXAMINER PRICE: So you're saying
23 Mr. Demiray will not point down the line but will
24 endeavor to answer any questions.

25 MR. LANG: Unfortunately, he is running

1 out of people to point to.

2 EXAMINER PRICE: Is that?

3 MR. ALLWEIN: I guess I'm just not sure
4 of what he is going to say.

5 EXAMINER PRICE: Well, none of us are.
6 That's why we're here. Let's just go with it and
7 we'll see how things go. If there is a problem,
8 we'll address it when it comes up.

9 MR. ALLWEIN: All right. Thank you, your
10 Honors.

11 EXAMINER CHILES: All right.

12 Mr. Lang, you may proceed.

13 MR. LANG: And with that, the companies
14 call Mr. Demiray.

15 (Witness sworn.)

16 EXAMINER CHILES: Thank you. You may be
17 seated.

18 - - -

19 EREN G. DEMIRAY

20 being first duly sworn, as prescribed by law, was
21 examined and testified as follows:

22 DIRECT EXAMINATION

23 By Mr. Lang:

24 Q. Mr. Demiray, can you introduce yourself,
25 please.

1 A. My name is Eren Glen Demiray. I'm a
2 staff analyst for the companies. My address is 76
3 South Main Street, Akron, Ohio 44308.

4 MR. LANG: Your Honor, we ask that
5 Mr. Demiray's prefiled direct testimony be marked as
6 Company Exhibit 5.

7 EXAMINER CHILES: It will be so marked.

8 (EXHIBIT MARKED FOR IDENTIFICATION.)

9 Q. Mr. Demiray, do you have your prefiled
10 direct testimony in front of you?

11 A. Yes, I do.

12 Q. Was this prepared by you or under your
13 supervision?

14 A. Yes.

15 Q. Do you have any corrections to make to
16 your testimony?

17 A. Yes, I do have one correction on the
18 bottom of page 5. This is footnote No. 2, the second
19 line from the bottom. It says, "the following
20 benefits: Energy-related costs avoided by the
21 utility, c-related." It should state "capacity
22 related."

23 Q. So "c-related" should say "capacity
24 related."

25 A. Correct.

1 Q. With that one correction, if I asked you
2 the same questions today that are in your testimony,
3 would you provide the same answers?

4 A. Yes.

5 MR. LANG: Your Honor, the witness is
6 available.

7 EXAMINER CHILES: Thank you.

8 Mr. Poulos.

9 MR. POULOS: No questions, your Honor.
10 Thank you.

11 EXAMINER CHILES: Mr. Olikier.

12 MR. OLIKER: I have some questions, your
13 Honor. I can go first or I can go last. It would
14 depend on how other parties want to go. If they have
15 a lot of cross, it may not be necessary, depending on
16 what other parties said.

17 EXAMINER CHILES: We can pass you and
18 come back to you before staff.

19 MR. OLIKER: Thank you, your Honor. I
20 would appreciate it.

21 EXAMINER CHILES: The EPLC.

22 - - -

23 CROSS-EXAMINATION

24 By Mr. Vickers:

25 Q. Good afternoon, Mr. Demiray. My name is

1 Justin Vickers. We met previously at the
2 Environmental Law & Policy Center.

3 You administer the companies' energy
4 efficiency collaborative group; is that correct?

5 A. That is part of my responsibility, though
6 it's not what I am here to testify about today.

7 Q. I would like to ask you a few questions.
8 Mr. Dargie had some -- did not attend all the
9 meetings and had some problems remembering some of
10 what happened at some of the meetings. The companies
11 sort of put forward the collaborative as an important
12 part of developing this plan. I just have a few
13 clarifying questions.

14 MR. LANG: Objection to the
15 characterization, but if you could go ahead with your
16 question, that would be great.

17 MR. VICKERS: Sure.

18 Q. Does your role include scheduling
19 collaborative meetings?

20 A. I do send out the e-mails. I think the
21 scheduling involved of all parties in the
22 collaborative when they are available.

23 Q. And you also circulate some of the
24 relevant materials for the meetings?

25 A. That's correct.

1 Q. At any point during the collaborative
2 process in the last 12 months, did collaborative
3 members raise concerns to you about the availability
4 of meeting materials, sort of when they arrived?

5 A. I would say yes, that is something that
6 was addressed at the last collaborative meeting where
7 Mr. Dargie did commit we would be putting out
8 materials a week in advance, with some certain
9 caveats around it.

10 Q. Sure. And do you recall the subcommittee
11 meeting on February 24, that there was a meeting
12 then?

13 A. Which one in particular are you referring
14 to?

15 Q. It would have been both.

16 A. Yes, there were two that day.

17 Q. Great. And do you recall that the
18 materials for that meeting were sent out the day
19 before that meeting so on the 23rd?

20 A. I don't recall that specifically but --

21 Q. Subject to check.

22 A. That sounds reasonable.

23 Q. And it was after that meeting that the
24 companies agreed to work on when the materials would
25 be sent out?

1 A. I would say a couple of things on that.
2 First, we have, I would say, always strived to put
3 forward materials before that timeline. The
4 companies have made a commitment in the most recent
5 collaborative meeting to do that, but I wouldn't say
6 it was specifically due that day.

7 Q. Do you recall scheduling an April 24
8 meeting that never happened but at one point was
9 scheduled?

10 A. I believe there would have been one
11 scheduled at one point and was canceled.

12 Q. And was it canceled, at least in part, to
13 afford the company an opportunity to finalize and
14 review its plans before sort of going forward and
15 presenting issues to the collaborative?

16 A. Specifically, I don't recall all the
17 issues for it.

18 Q. Would that have been one of them?

19 A. I do not recall.

20 MR. VICKERS: May I approach, your
21 Honors?

22 EXAMINER CHILES: You may.

23 MR. VICKERS: Make sure I have got the
24 right one. Can I have this marked as ELPC Exhibit 4.

25 (EXHIBIT MARKED FOR IDENTIFICATION.)

1 Q. I have handed you, Mr. Demiray, a copy of
2 an e-mail that you sent, I believe. The from there,
3 is that your e-mail address on toward the top of the
4 page under "Subject"?

5 A. "The from," yes, that is.

6 Q. And that was sent Thursday, April 19,
7 2012, at 3:07 p.m.

8 A. That is correct.

9 Q. Okay. And the subject is "RE: 4-24
10 collaborative meeting postponed."

11 A. Yes, that is the subject.

12 Q. If you look at the body of the e-mail
13 there, it says, "The collaborative meeting scheduled
14 for April 24 is being postponed to provide additional
15 time to finalize and internally review plan details";
16 is that right?

17 A. That's correct.

18 Q. And to your recollection, the next
19 meeting ended up happening on July 10. Does that
20 sound right, subject to check?

21 A. Yeah, I think that's reasonable, yes.

22 Q. Do the companies ever provide a draft
23 plan -- and by "draft plan," I mean something more
24 than slides indicating what the programs would be,
25 but something more like what was filed at the

1 Commission, sort of with narrative descriptions of
2 the plans?

3 A. I would say -- I don't necessarily
4 characterize that as being a narrative plan. I would
5 say what the companies had provided was a number of
6 things, one of which would have been a PowerPoint
7 presentation that had a number of details about the
8 plans, including program descriptions, measures. I
9 would say included in there also would be rebates,
10 the rebates strategy, specific values, including
11 expected savings, measure lives, things of that
12 nature, maybe a slight implementation strategy.

13 So I wouldn't say it would have all of
14 the details, such as what would be -- would have been
15 included as the Companies' Exhibits A, B, and C, but
16 I think the substantive material of the plan was
17 provided prior to the filing of the plan.

18 Q. And that was at the July 10 meeting?
19 Does that sound right?

20 A. That's possible. I think that is
21 correct, and it probably would have been sent out in
22 advance of that, at least a week.

23 Q. Sure. And the plans were filed on the
24 31st; is that right?

25 A. I believe that's correct.

1 Q. So that was the last meeting before the
2 plans were actually filed.

3 A. Yeah. And that was actually a mix, I'd
4 say, of a collaborative meeting but also a settlement
5 conference.

6 Q. I would just like to ask a couple of
7 questions about shared savings. The companies
8 propose to use an annualized rather than a pro rata
9 method for determining savings for the shared savings
10 mechanism; is that right?

11 A. Generally? Are you referring to a
12 specific spot in my testimony?

13 Q. Page 8, lines 14 through 16. "All energy
14 savings used for the purposes of this Incentive
15 Mechanism will be based on annualized, rather than
16 partial year, savings."

17 A. Yes, that's correct.

18 Q. And do you anticipate -- when the
19 companies talk about partial year savings, are they
20 anticipating calculating savings down to the day if
21 they were to use partial year savings?

22 A. I think that would depend on the actual
23 measure installed. Some you might have data on a
24 daily basis. You might have it on a monthly basis
25 for others. So I think it depends on the measure

1 being installed.

2 Q. And now, setting side sort of legal
3 issues, but would it be technically possible, just in
4 terms of collecting data, to do that on a quarterly
5 basis rather than on something less than that? So
6 rather than an annualized basis, could the savings
7 mechanism for a partial year be calculated on a
8 quarterly basis?

9 A. Well, what it says -- in general what I'm
10 trying to say as part of my testimony on shared
11 savings, regardless of which manner is determined,
12 prorated or annualized, I think the important thing
13 is there is consistency and transparency between the
14 annual report and what the shared savings mechanism
15 uses. So as to the method of calculation, I would
16 say that's outside the scope of what I'm proposing in
17 the shared savings mechanism.

18 Q. But -- and finally, are you familiar with
19 the significantly excessive earnings test?

20 A. I know that it exists, but I don't know
21 the details on it. It's not part of my
22 responsibilities.

23 Q. So as to the shared savings incentive,
24 you don't see that as being a cap on your shared
25 savings?

1 A. I don't have an opinion on it. Again, I
2 am not familiar enough with it.

3 MR. VICKERS: Thanks, no more questions.

4 EXAMINER CHILES: Thank you.

5 Mr. Kurtz.

6 MR. KURTZ: No questions, your Honor.

7 EXAMINER CHILES: Ms. Kern.

8 MS. KERN: Just a few questions, your
9 Honor.

10 - - -

11 CROSS-EXAMINATION

12 By Ms. Kern:

13 Q. Good afternoon, Mr. Demiray. I'm Kyle
14 Kern, an attorney with OCC.

15 Mr. Demiray, the companies are proposing
16 an incentive mechanism as part of its portfolio,
17 correct?

18 A. Correct.

19 Q. And you provide the incentive tiers
20 through a table on page 10 of your testimony,
21 correct?

22 A. That is correct.

23 Q. And that is the incentive mechanism that
24 the companies are proposing has five tiers, correct?

25 A. That is correct.

1 Q. If the company does not meet the
2 benchmark, it receives no shared savings incentive,
3 correct?

4 A. I would say, as shown out to the
5 illustrative example -- state exactly what again?

6 Q. That if the company does not meet the
7 benchmark, they do not get a shared savings
8 incentive.

9 A. It would be -- it's based on two factors.
10 It would be achieving or meeting both the annual and
11 the cumulative benchmark. That's what you would have
12 to first do to be able to be eligible, or if you want
13 to call it to trigger any of the downstream
14 calculations.

15 Q. Okay. And if we look at the first tier
16 as shown in your testimony, if the company is within
17 100 to 105 percent of compliance, or exceeds
18 compliance by up to 105 percent, it receives a
19 5 percent shared savings incentive; is that correct?
20 Actually, I believe that's the second tier.

21 A. Correct.

22 Q. Okay. So simply by meeting the
23 benchmark, the companies will receive an incentive;
24 is that correct?

25 A. According to this calculation, if you had

1 the rare occurrence of hitting it to the
2 megawatt-hour exactly, I think that would be the
3 case, yes.

4 Q. Well, why should the company get an
5 incentive for simply meeting the benchmark if that
6 rare occasion of hitting it dead on occurred?

7 A. Again, I think the likelihood of that is
8 very slim. But to answer the question, the entire
9 purpose of the incentive mechanism is to have the
10 companies meet or achieve those benchmarks so, again,
11 having a -- having an incentive that is tied directly
12 to that I think is appropriate.

13 I would say on top of that, you know, the
14 companies, as part of developing this, did take a
15 process of looking at other relevant, if you want to
16 call them, proxies in the state, one of which was the
17 AEP recently approved mechanism --

18 Q. We are going to get to that.

19 A. Okay.

20 Q. Actually, that's where I'm going. I want
21 to know what other --

22 MR. LANG: And, your Honor, if he could
23 finish his answer.

24 MS. KERN: I believe he answered my
25 question.

1 MR. LANG: He was in the course of
2 answering.

3 EXAMINER CHILES: Let's let the witness
4 wrap up his answer.

5 THE WITNESS: Okay. So, again, the
6 reason these were selected was essentially the
7 companies went through a process where they looked at
8 various proxies nationally and within the state. The
9 one within the state that was most recently approved
10 was AEP's incentive mechanism at the time, and these
11 incentive tiers plus the percentages are identical to
12 that.

13 Q. Okay. Are you finished?

14 A. I'm finished, thank you.

15 Q. Okay. And you mentioned that the
16 companies looked at different proxies. Let's start
17 with those within the state. You mentioned AEP and
18 you also mentioned AEP's energy efficiency proceeding
19 in your testimony. Are there any other proceedings
20 within the state of Ohio that you looked at when
21 developing your incentive mechanism structure?

22 A. I would say that only by proxy did we
23 also review the Duke mechanism, but I would say that
24 is only through the footnote on page 6, No. 3, where
25 there was a staff proposal entered into the Case

1 09-1947. There were some summaries in there, and as
2 part of that, as you can see, staff did state that
3 staff does not have a strong preference, as I say on
4 lines 17 through 19. And, essentially, that
5 comparison did include Duke at the time, but it
6 showed a preference toward the AEP model for
7 simplicity.

8 Q. Did you look at precedents in other
9 states when you developed your incentive mechanism?

10 A. To an extent, yes. As noted in -- let's
11 see -- page 4 lines 8 through 9, there is a
12 publication, Aligning Utility Incentives with
13 Investment in Energy Efficiency, as published by the
14 National Action Plan for Energy Efficiency.

15 In there is a table, Table 6-1, where
16 there are a number of states identified. We did look
17 through there to see what we would consider to be
18 relevant proxies to a shared savings mechanism that,
19 again, would be based on actual shared savings and
20 not something like a return on equity or a -- I would
21 say a percentage of programs, and in there there were
22 a couple of specific states identified, those being
23 Georgia, where I believe the percentage is up to
24 115 percent. Other ones that I consider to be
25 relevant proxies would be Minnesota, where I believe

1 it's listed as being up to a 30 percent; New
2 Hampshire, where I believe it would be up to
3 12 percent; and some of them actually based on shared
4 savings are interesting in that the percentage
5 actually starts below 100 percent, as low as
6 60 percent. We say that in something like Rhode
7 Island. There is another one in there as well, I
8 would say Hawaii, but I don't really consider that a
9 relevant proxy.

10 Q. And you mentioned Georgia, Minnesota, and
11 Hawaii, and you got those states, the references to
12 those states, through the table, is that correct, the
13 table that you referenced?

14 A. That is correct, although I actually
15 referenced Hawaii as not being a relevant proxy, in
16 my opinion.

17 Q. And my question, did you look at specific
18 proceedings in the states of Georgia and Minnesota?

19 A. No, I did not. I relied on the
20 information as presented in that table.

21 Q. Okay. Would you agree that the shared
22 savings tiers in -- presented in your testimony are
23 identical to those in the AEP energy efficiency
24 proceeding?

25 A. I believe I already stated that, yes.

1 Q. Okay. And you are aware that the AEP
2 energy efficiency proceeding was a stipulated
3 proceeding, correct?

4 A. I am aware that it was stipulated, but I
5 also would say I wasn't aware of the components that
6 were the give and the take in there, so at the end of
7 the day, I was looking at what came out of it as an
8 approved mechanism.

9 Q. But you would acknowledge that there is
10 give and take when a case is stipulated and that the
11 stipulation presents a package of individual terms,
12 correct?

13 A. I understand that is a part of the
14 stipulation. I would also say that, you know, what
15 FirstEnergy companies have proposed here is not
16 specifically an identical copy to that. It is
17 something different.

18 Q. Right.

19 A. It includes actually some things that I
20 would say are less advantageous to the companies than
21 would have been received in the AEP one, one of which
22 would be, you know, we are not excluding the effects
23 of low income programs, which actually negatively
24 impacts the assumed net benefits.

25 Q. And the other major difference is that

1 FirstEnergy has not presented a cap, whereas, the AEP
2 proceeding has a cap.

3 A. There is a cap set at I believe it's \$20
4 million per year in the AEP stipulation.

5 Q. Ohio law does not require a company to
6 receive an incentive for its energy efficiency
7 portfolio; would you agree?

8 A. I would agree. It allows it under
9 4901-1-39-07.

10 Q. It is permissible.

11 A. It is permissible, but is not required
12 there.

13 MS. KERN: Thank you very much. I have
14 no -- just one second.

15 Q. Mr. Demiray, are you familiar in the
16 Minnesota example that you cited from the table that
17 the companies did not allow lost revenues in that
18 case?

19 A. I don't know what specifically lost
20 revenues are indicated in there, what are in and out.
21 I would say that, in general, though, in my testimony
22 there are considered -- you know. I have on lines --
23 this would be page 4, lines 9 through 12. Generally
24 there are, I would say, three legs of the stool of
25 incentive, if you want to call it this, towards

1 utilities, those being program cost recovery, lost
2 revenue recovery, and then also performance
3 incentives.

4 So to say that they don't have a specific
5 mechanism for lost revenue recovery, I don't know,
6 though, if that also means that they would not be
7 getting some sort of compensation for volumetric
8 changes that are the effect of energy efficiency.

9 Q. And you haven't examined the Minnesota
10 filings to that extent to determine that.

11 A. No, I have not. Again, I was relying on
12 the information presented in that table.

13 MS. KERN: Okay. Thank you.

14 EXAMINER PRICE: Before we proceed with
15 the next counsel, I just -- this is already in your
16 testimony, and if I missed it, I apologize.

17 With respect to the table, page 10, can
18 you put some -- do you have estimates in dollar signs
19 around what the actual -- if you hit the maximum of
20 each tier, what the actual monetary incentive would
21 be?

22 THE WITNESS: I can give a rough
23 guideline.

24 EXAMINER PRICE: I assumed that's all you
25 could give. That would be great.

1 THE WITNESS: In general, if we take a
2 look at the portfolio plan as filed, as I would say,
3 net benefits of about 200, I think it's 35 million
4 dollars. If you exclude the effects of mercantile
5 customers, mercantiles, and just assume those are
6 going to be out of it, I think that drops down to
7 about \$157 million, and that's again on a TRC basis.
8 UCT wasn't a required filing element so it wasn't
9 included as part of this.

10 But, you know, I believe that a
11 reasonable estimate is probably \$185 million, so that
12 would be in total over all three companies over all
13 three years. Take that down to an average just
14 assume 20 to 21 million dollars per company, per
15 year. So, again, if you are talking about a 10
16 percent incentive then, \$2.1 million, somewhere in
17 there. A little bit higher, you know, high 2, if you
18 are talking about a 13 percent.

19 EXAMINER PRICE: Thank you. That's very
20 helpful.

21 THE WITNESS: You're very welcome.

22 EXAMINER PRICE: Thank you.

23 EXAMINER CHILES: Mr. Somoza.

24 MR. SOMOZA: No questions.

25 EXAMINER CHILES: Mr. Allwein.

1 MR. ALLWEIN: I just have a few
2 questions.

3 - - -

4 CROSS-EXAMINATION

5 By Mr. Allwein

6 Q. Mr. Demiray, the purpose of your
7 testimony, at least as described in your direct
8 testimony, was limited to the shared savings
9 mechanism; is that correct?

10 A. That is correct.

11 Q. And just to be clear, and for the record,
12 there isn't any information in your direct testimony
13 or exhibits regarding a bid into the PJM base
14 residual auction; is that correct?

15 A. I would think there's no information in
16 my direct testimony about PJM bidding, correct.

17 Q. Okay. Can you be sure?

18 A. I can read through everything, if you
19 bear with me. Let me scan.

20 I would say no specific references to PJM
21 bidding within my testimony.

22 Q. All right. And you list your current
23 responsibilities within the energy
24 deficiency department -- Energy Efficiency Department
25 on page 3. Within those responsibilities do you

1 mention any responsibility for the PJM base residual
2 auction bids that may be contemplated or conducted by
3 the company?

4 A. I would say that, you know, my -- if you
5 take a look at what my responsibilities, it's
6 activities related to energy efficiency and
7 conservation, so I would say there is no direct
8 statement of PJM bidding responsibility in there. To
9 the extent that there are limited -- I would say I do
10 have very limited knowledge and, I would say,
11 association with PJM bidding.

12 MR. ALLWEIN: I have no further
13 questions, your Honor.

14 EXAMINER CHILES: Thank you.

15 Mr. Dougherty.

16 - - -

17 CROSS-EXAMINATION

18 By Mr. Dougherty:

19 Q. Hello, Mr. Demiray. I'm Trent Dougherty,
20 representing the Ohio Environmental Council, and I
21 just have one question, really. It's a bit of a
22 clarification.

23 On page 11 of your testimony, starting on
24 line 12, you answer the question, "Does the proposed
25 incentive mechanism affect the companies' ability to

1 bank savings?" Is that correct?

2 A. That is correct.

3 Q. And can you just go ahead and read for me
4 your answer starting on line 12 where it says, "No"
5 and then ending on line 15.

6 A. "No, any kWh saving above and beyond the
7 statutory targets established in Section 4928.66,
8 Revised Code, after making up for any shortfalls from
9 prior year's requirements, will be banked and may be
10 applied at the discretion of the Companies towards
11 compliance with future statutory targets."

12 Q. Thank you. So on line 14 you say those
13 will be banked. That's your testimony?

14 A. Yes.

15 Q. That exceedences will be banked. So if
16 the companies -- or if a company exceeds its
17 cumulative benchmarks for a year, can they both bank
18 and use that shared savings for the incentive
19 mechanism, those savings?

20 A. I think if you take a look at my Exhibit
21 EGE-3, we can show why that would not be the case.

22 Q. Yeah. Could you walk me just briefly
23 through that?

24 A. Walk you through that specifically?

25 Q. Just to make it clear.

1 A. There is -- are you there?

2 Q. You said EGD-3?

3 A. Correct.

4 Q. Yeah.

5 A. One of the determining factors for
6 deciding if a company is eligible for an incentive or
7 not is a meeting of both the annual compliance goal
8 and the cumulative compliance goal. You can see
9 there are annual energy savings that the company
10 would get each year. Those would be ones that were
11 acquired during that year. Those are separate from
12 cumulative savings banked in previous years, so the
13 trigger, again, would be based off those annual
14 compliance goals and cumulative compliance goals, so
15 you would not be applying the bank against that
16 annual goal.

17 MR. DOUGHERTY: Thank you. Thank you.
18 No further questions.

19 EXAMINER PRICE: Do you know if AEP,
20 which is one of your proxies, is a similar -- is in a
21 similar situation where they can both bank and
22 receive an incentive payment for exceeding?

23 THE WITNESS: I believe that they can.

24 EXAMINER PRICE: Thank you.

25 EXAMINER CHILES: Mr. Williams.

1 MR. WILLIAMS: No questions.

2 EXAMINER CHILES: All right.

3 Mr. Oliker.

4 MR. OLIKER: Unfortunately, my questions
5 have not been asked.

6 EXAMINER CHILES: That's too bad.

7 - - -

8 CROSS-EXAMINATION

9 By Mr. Oliker:

10 Q. Good afternoon, Mr. Demiray. My name is
11 Joe Oliker. I represent IEU-Ohio.

12 A. Hello.

13 Q. I understand you have had the unfortunate
14 job of answering questions on PJM bidding.

15 A. That is correct.

16 Q. And several parties' testimony and
17 cross-examination has raised issues with respect to
18 the bidding of energy efficiency and the bidding of
19 peak demand reduction, correct?

20 A. That is correct.

21 Q. Would you agree that energy efficiency
22 and peak demand reduction are considered capacity
23 resources by PJM?

24 A. Aligned with, I think, the definitions
25 that's in PJM Manual 18.

1 Q. Thank you. I was getting there. And
2 along the line of PJM manuals, you would agree that
3 the reliability pricing model auctions for both the
4 base residual auction and the incremental auctions
5 has specific rules for bidding?

6 A. Yes.

7 Q. And I think you just mentioned PJM Manual
8 18. Would you be able to identify that manual if I
9 presented it to you?

10 A. Yes.

11 MR. OLIKER: May I approach, your Honor?

12 EXAMINER CHILES: You may.

13 MR. OLIKER: These are some of my
14 favorite documents.

15 EXAMINER PRICE: Do you keep them by your
16 nightstand?

17 MR. OLIKER: Yes. They are by my
18 nightstand. I figure I will give him all of these
19 documents now. It will be easier. Placing three
20 documents in front of the witness. My apologies for
21 my disorganization.

22 EXAMINER PRICE: No problem.

23 Mr. Oliker, we only have two up on the
24 Bench.

25 MR. OLIKER: I'm sorry, your Honor.

1 Which manuals do you have?

2 EXAMINER CHILES: We have 19 and 18B.

3 MR. OLIKER: The most important one, I'm
4 sorry.

5 EXAMINER PRICE: If I could just ask the
6 witness a brief question while Mr. Oliker gets
7 settled.

8 You seem to have remarkable familiarity
9 with this, and I assume this is not your hobby. What
10 relevant work experience do you have regarding the
11 PJM auctions in your experience with FirstEnergy?

12 THE WITNESS: Okay. All right. I would
13 say that as part of my role in energy efficiency, you
14 know, we do identify specific projects, I would say,
15 in the planning of the portfolio plan. There were
16 specific -- I would say in relation to Manual 18B,
17 there are some call-outs in there for specific
18 technologies that are identified -- specific
19 technologies that were identified in Manual 18B.

20 Really, the only, I would say, direct
21 involvement I have with it is looking at some of the
22 resource credits that we have had in the past,
23 looking at, kind of quantifying some of those to a
24 limited extent, in connection with our DMV team, and
25 preparing on a limited scale some of the evaluation

1 reports, or I should say preinstallation reports.

2 EXAMINER PRICE: Are you aware that the
3 companies' bid some amount, which I don't know the
4 exact amount off the top of my head, although I
5 believe 36 megawatts occurred in the last PJM based
6 residual action, were you involved with identifying
7 the capacity resources to be bid into the base
8 residual auction?

9 THE WITNESS: To an extent, yes. I was
10 involved with contacting the customers and trying to
11 secure those resources.

12 EXAMINER PRICE: But not involved with
13 identifying which resources to bid in.

14 THE WITNESS: I would say not directly,
15 no.

16 EXAMINER PRICE: Okay. You are aware
17 that there is an open -- are you aware there is an
18 open Commission proceeding regarding FirstEnergy's
19 participation into the 2012 base residual auction?

20 THE WITNESS: Do you have a specific
21 reference?

22 EXAMINER PRICE: Case No. 12-814-EL-UNC.

23 THE WITNESS: I'm familiar with that.

24 EXAMINER PRICE: Were you involved in
25 preparing the companies' responses to that Commission

1 entry or that Commission proceeding?

2 THE WITNESS: I would say I had limited
3 involvement in it, yes.

4 EXAMINER PRICE: Have you been directly
5 involved in any bidding of beyond what we discussed
6 here? Have you been involved in any bidding into
7 base residual auctions, in your experience?

8 THE WITNESS: Just so I understand, what
9 would you consider to be bidding? Would that be the
10 actual submission of the bids to PJM?

11 EXAMINER PRICE: Yes.

12 THE WITNESS: No, that's not something
13 that's handled in the energy efficiency group.

14 EXAMINER PRICE: Not in any other group
15 you may have worked at FirstEnergy previously?

16 THE WITNESS: Not submitting the bid
17 directly, no.

18 EXAMINER PRICE: Okay.

19 Thank you, Mr. Olikier.

20 MR. OLICKER: Thank you, your Honor.

21 Q. (By Mr. Olikier) Mr. Demiray, can you see
22 the first document I placed in front of you? Is that
23 PJM Manual 18?

24 A. Yes, it is.

25 MR. OLICKER: Your Honor, I would like to

1 mark for identification as IEU-Ohio Exhibit No. 2 PJM
2 Manual 18.

3 EXAMINER CHILES: So marked.

4 (EXHIBIT MARKED FOR IDENTIFICATION.)

5 MR. OLIKER: Thank you.

6 Q. And have you seen this document before,
7 Mr. Demiray?

8 A. Yes, I have.

9 Q. Does it appear to be true and accurate
10 copies of PJM's manual?

11 A. Yes, it does.

12 Q. And on the topic of PJM bidding rules of
13 capacity resources, would you believe -- do you
14 believe this document is controlling?

15 A. I would say yes.

16 Q. Would you agree the effective date is
17 February 23, 2012?

18 A. Correct.

19 Q. And as far as you know, is that the most
20 recent PJM Manual 18?

21 A. As far as I know, yes.

22 Q. So with respect to the rules for bidding
23 of energy efficiency and peak demand reduction, this
24 manual would identify the exact rules for such
25 bidding and Ohio law would have no effect; is that

1 correct?

2 A. That's correct, in conjunction with 18B.

3 Q. That -- that leads me to one of my next
4 questions. With respect to the bidding rules, Manual
5 18 controls, but there are other differences, such as
6 measurement and verification.

7 A. Correct.

8 Q. So, I guess, in laymen's terms, how do
9 you quantify what you are bidding? Would you agree
10 that rule 18 -- Manual 18B sets forth methodologies
11 for the quantification of energy efficiency resources
12 in bidding in PJM?

13 A. Do I agree with that? Yes.

14 Q. And the document that I have placed in
15 front of you, is that the second document?

16 MR. OLIKER: I would like to mark that,
17 your Honor, as IEU-Ohio Exhibit No. 3 PJM Manual 18B.

18 EXAMINER CHILES: So marked.

19 (EXHIBIT MARKED FOR IDENTIFICATION.)

20 Q. Mr. Demiray, do you -- can you identify
21 IEU-Ohio Exhibit No. 3 as PJM Manual 18B?

22 A. Yes.

23 Q. And is the effective date in that
24 document March 1, 2010?

25 A. Yes.

1 Q. Does it appear to be a true and accurate
2 copy of that manual?

3 A. With my familiarity with it, yes.

4 Q. And as far as you know, is that the most
5 recent version?

6 A. Yes.

7 Q. And if FirstEnergy were to bid energy
8 efficiency resources into the base residual auction,
9 do you believe that this document controlled the unit
10 of resources that could be bid, irrespective of Ohio
11 law?

12 A. I believe that this would govern what is
13 eligible in the PJM's auction, and it would be
14 subject to these rules, yes.

15 Q. And one final issue, Manual 18B only
16 deals with energy efficiency. Are you aware of
17 whether there is another manual that may affect the
18 bidding of demand response?

19 A. I believe there's another document you
20 put in front of me, which would be PJM Manual 19B --
21 or 19, sorry, yes.

22 MR. OLICKER: Your Honor, at this time I
23 would like to mark as IEU-Ohio Exhibit 4 PJM Manual
24 19.

25 EXAMINER CHILES: So marked.

1 (EXHIBIT MARKED FOR IDENTIFICATION.)

2 EXAMINER PRICE: Did you two rehearse
3 this?

4 Q. Mr. Demiray --

5 A. Yes.

6 Q. -- does PJM Manual 19, which has been
7 marked as IEU-Ohio Exhibit No. 4, does that appear to
8 be a true and accurate copy?

9 A. Yes.

10 Q. And is the effective date on that
11 document June 28, 2012?

12 A. Yes.

13 Q. As far as you know, is that the most
14 recent version of that manual?

15 A. To my knowledge, yes.

16 Q. And understanding that the quantification
17 of demand response resources, there is some overlap
18 between PJM Manual 18 and PJM Manual 19, does PJM
19 Manual 19 set forth the methodologies for load drop
20 forecast for demand response resources?

21 A. I cannot specifically say I know that.

22 Q. Could you please turn to page 23,
23 IEU-Ohio Exhibit No. 4.

24 A. I'm there.

25 Q. Is the subject at the top of the page

1 Load Drop Estimate Guidelines?

2 A. Yes, it is.

3 Q. And from a general standpoint, what does
4 load drop mean to you?

5 A. Production and load.

6 Q. And would you consider that a relevant
7 measure to peak demand reduction attributes?

8 A. Yes.

9 Q. And do you have any reason to contest the
10 methodologies that may be set forth in this manual?

11 A. No, I do not.

12 MR. OLIKER: Could I have one moment,
13 your Honor?

14 EXAMINER CHILES: You may.

15 Q. Mr. Demiray, turning back to IEU-Ohio
16 Exhibit 2 and PJM Manual 18, we mentioned this manual
17 deals with the bidding rules, but would you agree
18 that it also sets forth the penalties that may be
19 applied to a bidder?

20 EXAMINER PRICE: Mr. Oliker.

21 MR. OLIKER: Yes, your Honor.

22 EXAMINER PRICE: On this issue, how are
23 you adverse to the company?

24 MR. OLIKER: The company has taken the
25 position that -- well, if you look at their

1 testimony, your Honor, they haven't mentioned whether
2 or not they are going to bid rider ELR into the
3 auction. And there has -- hasn't been much testimony
4 of why that may be and what road blocks may exist to
5 prevent that from happening.

6 EXAMINER PRICE: And IEU-Ohio is adverse
7 to the company on this issue?

8 MR. OLIKER: Yes, your Honor.

9 EXAMINER PRICE: Okay. Thank you. You
10 were doing you such a great job, I was just not quite
11 sure. Okay. Thank you.

12 Let's have the question back before my
13 interruption.

14 THE WITNESS: Yeah, I apologize.

15 (Record read.)

16 A. Just looking through the table of
17 contents, there does appear to be a section under 9.3
18 that does have auction credits and charges.

19 Q. Yes. And I think it's in the area of
20 "Settlements."

21 A. It is in Section 9.

22 Q. Okay. So for purposes of penalties,
23 bidding rules, quantification of energy efficiency
24 and peak demand reduction, you would agree that the
25 three manuals in IEU Exhibits 2, 3, and 4 as set

1 before you, those would control those decisions or
2 any rulings from PJM and the Federal Energy
3 Regulatory Commission?

4 A. From PJM, yes, I do.

5 Q. And regardless of Ohio law, those would
6 control, true?

7 A. I do believe that, yes.

8 MR. OLIKER: No more questions, your
9 Honor.

10 Thank you, Mr. Demiray.

11 EXAMINER CHILES: Thank you.

12 Mr. Parram.

13 - - -

14 CROSS-EXAMINATION

15 By Mr. Parram:

16 Q. Good afternoon, Mr. Demiray.

17 A. Hello.

18 Q. I'm Devin Parram. I'm counsel on behalf
19 of staff. Were you in the room earlier when
20 Mr. Miller testified?

21 A. For the majority of it, yes.

22 Q. Were you here when I introduced a number
23 of exhibits, Staff Exhibit 2, Staff Exhibit 3, Staff
24 Exhibit 4?

25 A. I was here. I do not have copies of

1 those in front of me, though.

2 MR. PARRAM: Mr. Miller, do you still
3 have your copies?

4 MR. MILLER: I do not.

5 MR. PARRAM: May I approach the witness?

6 EXAMINER CHILES: You may.

7 Q. Mr. Demiray, do you have Staff Exhibit 2,
8 3, and 4 in front of you?

9 A. Yes, I do.

10 Q. Are you familiar with these documents?

11 A. Yeah. These appear to be from the
12 companies' existing portfolio plan, tables -- or
13 sections of 6A.

14 Q. And on Staff Exhibit 2, do you see the
15 table "Mercantile Utility (Large Enterprise)"? Are
16 you there with me?

17 A. Yes.

18 Q. And you see the "Energy Efficiency
19 Program Subtotal" for total budget 2010 through 2012,
20 the amount there, \$7,952,338?

21 A. Under "EE Program Subtotal," yes.

22 Q. Okay. So you are there with me. And
23 Mr. Miller testified earlier that this dollar amount
24 may have been -- there may have been a change to this
25 budgeted amount in the current or existing portfolio

1 program. Were you here when he testified to that?

2 A. Yes, I was.

3 Q. Are you aware if there was a time or when
4 this amount was increased by the company?

5 A. I can state that there are a couple of
6 changes that happened to these numbers. Specific to
7 the large enterprise sector, I believe there was a
8 staff letter request that would have happened. I
9 believe it was 8-29. I think I sent that to
10 Mr. Scheck, involving an Ohio Edison large commercial
11 customers.

12 Q. When you say there was a change, what
13 exactly was the change? Anything in that budget?

14 A. It was reallocating certain dollars among
15 this class.

16 Q. Could you explain how the reallocation
17 worked.

18 A. On a general level, it was moving money
19 from the Interruptible Demand Reduction Program that
20 was unspent into the "C/I Equipment Program
21 (Commercial Lighting)."

22 Q. So more money -- so money was moved into
23 the C/I Commercial Lighting Program?

24 A. That is correct.

25 Q. Were there any other reallocations that

1 you are aware of?

2 A. That was the first, I would say. I could
3 probably list a number of them, to save us all some
4 time here, because I would have been involved in all
5 of them directly. Ohio Edison would have had another
6 one that would have been done for the small
7 commercial class. I believe that -- I believe the
8 date is 11-9 on that one, and it would have been
9 moving money among those classes, again, from
10 programs that were expected to go unspent. I believe
11 it was a similar shift into the equipment program.

12 There would have been another staff
13 request, I believe it was for the Illuminating
14 Company. I believe I sent a request to Mr. Scheck on
15 11-16 for the large commercial class there. It would
16 have been similar in nature of shifting funds from
17 the Interruptible Demand Reduction Program that were
18 expected to go unspent into the C/I Equipment
19 Program.

20 Similar to the shift in Ohio Edison, I
21 believe there was one done for the Illuminating
22 Company into the small commercial class, again, on
23 that same day, 11-16, again, for the purpose of
24 adding a small amount of budget to that program.

25 I believe there was also a Commission

1 order, and I apologize, I don't know the case number,
2 but it would have been along the same lines. The
3 reason we did it through this mechanism is it was
4 greater than 25 percent of the class total, so an
5 additional change was going through a Commission
6 order at that point. That would have been for Ohio
7 Edison large commercial class, I believe.

8 Q. Just to follow up what you had mentioned
9 with -- for specific shifts or reallocations in
10 budgets that are above 25 percent, you have to
11 specifically seek Commission approval for that?

12 A. That's my understanding, yes.

13 Q. But below 25 percent, that is just
14 through staff?

15 A. That's my understanding, yes.

16 Q. As it relates to some of the shifts
17 within Ohio Edison and Cleveland Electric for
18 commercial and industrial, were these requests
19 related to increases in commercial lighting?

20 A. I believe they were in most, if not all,
21 cases. I think there were a few dollars that also
22 went to, I believe, an audit program and possibly the
23 motors program as well, in one of the companies, I
24 can't recall which one off the top of my head.

25 Q. And just to clarify, on Staff Exhibit 3,

1 could you go to that, please.

2 A. I'm there.

3 Q. Yeah. I think you already mentioned
4 this, but just to tie up with the exhibit, the total
5 budget for 2010 to 2012, it should be '12 on the
6 exhibit?

7 A. It says '13, yes.

8 Q. It says '13. That budget increased due
9 to some of the shifts you just previously mentioned?

10 A. To be clear, the EE Program Subtotal I
11 believe would have been increased, whereas, the total
12 for the class remained the same.

13 Q. Thank you. And I just have a couple of
14 questions regarding the company's bidding into the
15 PJM base residual auction.

16 Are you aware if the company previously
17 bid ELR into the PJM base residual auction?

18 A. Do you have a specific year in mind?

19 Q. Over the past 2012, 2011.

20 A. I believe the ELR load has been bid into
21 the PJM BRA, specifically in, it would have been the
22 periods covered by the ESP II. So through the point
23 of May 31, 2014, any time up to that, the company did
24 have ELR in hand, it would have been bid into that
25 auction.

1 EXAMINER PRICE: What do you mean by
2 that? You mean for the delivery year up through May?

3 THE WITNESS: It would have been if
4 the -- sorry. If the ESP, I would say, II went
5 through May 31, '14, so it would have been the
6 delivery year '13-'14 they would have bid that into.
7 Beyond that point, that ESP III did not occur so we
8 did not have commitment to those.

9 When the -- I would say the '15-'16 BRA
10 load was not bid into that. But to the extent that
11 the companies did receive commitments from ELR
12 customers, my knowledge is that the load associated
13 with that would have been bid in the incremental
14 auction for the -- make sure I get it right, I'm
15 sorry -- the '14-'15 at that point.

16 EXAMINER PRICE: And you're saying the
17 company has bid in the incremental auctions.

18 THE WITNESS: Incremental auctions since
19 receiving commitments from customers associated with
20 the timeframe of ESP III.

21 EXAMINER PRICE: Okay. Do you know about
22 what date that incremental auction was? Was that the
23 first incremental auction?

24 THE WITNESS: For the '14-'15 year, there
25 would have only been one so far.

1 EXAMINER PRICE: Do you know about what
2 date that would have been?

3 THE WITNESS: I believe there's months --
4 27 months prior. The most -- and then I believe it's
5 12 months, and then 3 months, I believe, so working
6 back from those.

7 EXAMINER PRICE: I'll figure it out.

8 THE WITNESS: Okay.

9 Q. (By Mr. Parram) So just to be clear, the
10 companies bid into the BRA and the incremental
11 auctions for -- over the time -- the time period you
12 mentioned?

13 A. Maybe I can try to summarize which years
14 my understanding is. Again, for periods up until the
15 2013 to 2014 delivery year, the companies did bid
16 into the BRAs associated with that, is my
17 understanding, of the ELR load.

18 And then past that point, past the point
19 of ESP II when we were involved with ESP III, they
20 did not bid into the BRA for the '14-'15 delivery
21 year, though subsequent to that, when the companies
22 did receive specific commitments from specific
23 customers, they would have bid in that load into an
24 incremental auction in the '14-'15 delivery year.

25 Q. Are you aware of the capacity that was

1 cleared for those auctions?

2 A. In a specific zone, in total? Actually,
3 no. No, I'm not.

4 EXAMINER PRICE: Do you know whether in
5 the incremental auction -- you don't know the date,
6 but the first incremental auction for the 2014-'15
7 delivery year, whether the company bid any additional
8 energy resources that either did not clear in the
9 base residual auction or were not available at the
10 time of the base residual action?

11 THE WITNESS: And you said energy
12 resources specifically?

13 EXAMINER PRICE: Energy efficiencies.

14 THE WITNESS: Energy efficiency
15 resources?

16 EXAMINER PRICE: Yes.

17 THE WITNESS: The company did bid energy
18 efficiency resources they would have had under their
19 control into an incremental auction at that time.

20 EXAMINER PRICE: Do you know -- and
21 counsel can object if this is proprietary. Do you
22 know the amount that cleared in the incremental
23 auction?

24 THE WITNESS: It is confidential. That
25 cleared in the auction from the companies' bid?

1 EXAMINER PRICE: That cleared in the
2 auction.

3 THE WITNESS: I can say I believe that is
4 confidential information.

5 MS. KOLICH: The number of megawatts?

6 EXAMINER PRICE: Uh-huh.

7 MR. LANG: One moment, please.

8 MS. KOLICH: It's not the amount of
9 megawatts that cleared -- that FirstEnergy bid that
10 cleared the market is not confidential.

11 THE WITNESS: Okay. Based on that, yes.
12 In -- walk through the years here. You are asking
13 specifically for the '13-'14?

14 EXAMINER PRICE: Actually, I was
15 asking -- I would appreciate an answer for '13-'14,
16 but I was asking about '14-'15.

17 THE WITNESS: '14-'15?

18 EXAMINER PRICE: Yes.

19 THE WITNESS: Yes, the companies did bid
20 in the incremental auction. It would have been
21 21 megawatts.

22 EXAMINER PRICE: Okay. And how much in
23 '13-'14?

24 THE WITNESS: '13-'14, not the first but
25 the second incremental auction then. That would have

1 been also 21.

2 EXAMINER PRICE: Okay. Thank you.

3 MR. ALLWEIN: Your Honor, I'm sorry. I
4 didn't hear part of your question. Were you talking
5 about peak demand resources?

6 EXAMINER PRICE: I was talking about
7 energy efficiency resources.

8 MR. ALLWEIN: Oh, okay.

9 EXAMINER PRICE: He had already answered
10 peak demand. I was curious about energy efficiency.

11 MR. ALLWEIN: I'm sorry, I just didn't.

12 EXAMINER PRICE: No, fair question.

13 Thank you, Mr. Parram.

14 Q. (By Mr. Parram) Is the company planning
15 to receive additional commitments from current ELR
16 customers to bid into the next BRA?

17 A. Into the next BRA?

18 Q. Yes.

19 A. I would say that right now there are, I
20 believe, contracts out for customers who might want
21 to extend their ELR commitment in through the end of
22 ESP III, which would go through I believe it's 2016,
23 through May 31, 2016. So those are outstanding right
24 now. To the extent the companies would receive
25 those, they would be bid into that auction or

1 subsequent incremental auctions if it wasn't at the
2 time of the BRA.

3 MR. PARRAM: Thank you, Mr. Demiray.

4 - - -

5 EXAMINATION

6 By Examiner Price:

7 Q. I just had a couple of follow-up
8 questions.

9 EXAMINER PRICE: Again, counsel can
10 object if this is treading on confidential
11 proprietary information. I don't think it is.

12 Q. The 36 megawatts that cleared in the
13 2014-'15 base residual auction was held May -- got
14 that wrong. Start again. May 31, 2012, the
15 company -- the PJM held the base residual auction for
16 delivery years 2015-2016.

17 A. Correct.

18 Q. And 36 megawatts cleared at that time?

19 A. From the companies.

20 Q. From FirstEnergy. Do you have knowledge
21 of the amount of revenues that the company received
22 from those 36 megawatts that will be used to offset
23 energy efficiency costs, program costs?

24 A. I would say I don't think any revenues
25 have been received yet. I think those would be

1 received closer to the delivery year.

2 Q. But do you have an estimate of how much
3 revenue you will receive?

4 A. I would say that the auction clearing
5 price was public. I believe it was \$357 a
6 megawatt-day, so that times --

7 Q. Don't ask me to do the calculations.

8 A. No, no. It was \$357 a megawatt-day, so
9 the revenues would be that times -- the 21 megawatts
10 times the \$365, would be my understanding of what the
11 revenues associated with that bid would entail.

12 MR. LANG: Just to make sure, I think you
13 said 21 megawatts, and he is referring to 36.

14 A. I apologize. That's 36 in that year.

15 Q. Can you do the math for me off the top of
16 your head?

17 A. Probably not.

18 Q. That's fine. Is the company continuing
19 to obtain ownership commitments and intending to bid
20 the energy resources it receives ownership
21 commitments for into the remaining three base
22 residual auctions for the 2015-2016 delivery year?

23 A. Specific to the incremental auctions
24 and --

25 Q. Incremental auctions.

1 A. Are you specifically talking about
2 customers that had installations prior to that, the
3 time that --

4 Q. Sure. Why not.

5 MS. KOLICH: Your Honor, before he
6 answers, I -- you are asking about future strategies
7 bidding into auctions?

8 EXAMINER PRICE: I am not asking for
9 strategies. I'm asking if as ownership commitments
10 come in, whether -- whether the company intends to
11 continue bidding those energy efficiency resources in
12 the future incremental auctions.

13 MS. KOLICH: Hold on a second.

14 No problem, just want to be sure.

15 Q. There is no controversy. Go ahead and
16 answer the question.

17 A. As commitments do come in, companies
18 would be bidding those amounts into an incremental
19 auction.

20 Q. Okay. The company is proposing in this
21 plan to only bid in installed energy resources?

22 A. That's correct.

23 Q. And energy resources, as I understand it,
24 can be bid into the base residual auctions for four
25 years after the install date, right?

1 A. Yeah. It is defined specifically in 18B,
2 but yes, there is a four-year shelf life, if you call
3 it that, for energy efficiency resource credits.

4 Q. With the rollin in incremental auctions,
5 it is not going to be the case that you are only
6 going to bid five months of installation out of the
7 year, and you will be able to bid the remaining seven
8 months into the next base residual auction; is that
9 right?

10 A. So in a specific year, if the BRA occurs,
11 you would bid what you had in hand, under the
12 companies' strategy at that point. If you did make
13 up subsequent commitments through in hand, those
14 would be bid at the time that we would have them into
15 subsequent incremental auctions.

16 Q. Future installation, right? Because you
17 are only doing installed -- you are only proposing to
18 do installed --

19 A. Correct. I am not talking about a
20 forecasting. I'm talking about, again, what would
21 happen in hand, and by future, just as opposed to the
22 point of the BRA, correct.

23 Q. Okay. Last question, is there anything
24 in the three documents that Mr. Olier had marked and
25 had you review that would prevent FirstEnergy from

1 bidding in resources as Mr. Scheck has proposed in
2 his testimony?

3 A. The one -- one thing I would be unsure of
4 would be I believe as part of the PJM initial
5 evaluation report, the companies would be required to
6 state that they owned the resources and there would
7 be a forecast issue at that point that you are
8 forecasting, that you would be owning a resource that
9 you do not actually have in hand, or you would be
10 stating that you own something that you don't have in
11 hand. I think that creates a complication.

12 Q. Am I wrong? I thought I understood the
13 testimony up to date to be that from this point
14 forward, you are getting ownership of the resources
15 as part of a condition of participation in the
16 program.

17 A. As a condition of the participation in
18 the regular programs that have been included on our
19 forms, both mercantile and -- I would say mercantile
20 self-direct, as well as the mercantile large utility
21 customers and small. I would say that for those
22 customers that are residential, where terms and
23 conditions is available, it has been added to those.
24 There are certain programs, like CFL direct, on the
25 shelf where you wouldn't be going through terms and

1 conditions.

2 Q. Okay. That's a good point. Okay. So
3 other than those, are there any other obstacles to
4 bidding in capacity resources as proposed by
5 Mr. Scheck?

6 A. Did you say obstacles?

7 Q. Any obstacles within the PJM bidding
8 rules.

9 A. In the PJM bidding rules, not to my
10 knowledge.

11 EXAMINER PRICE: Thank you.

12 EXAMINER CHILES: Thank you.

13 Mr. Lang, redirect?

14 MR. LANG: Could we have just 5 minutes,
15 your Honor, please?

16 EXAMINER CHILES: Sure.

17 (Recess taken.)

18 EXAMINER CHILES: Let's go back on the
19 record.

20 Mr. Lang.

21 MR. LANG: Thank you, your Honor.

22 - - -

23 REDIRECT EXAMINATION

24 By Mr. Lang:

25 Q. You were asked a question by, I believe

1 it was, Mr. Parram about as the company acquires
2 contracts and ownership rights to demand resources,
3 would then bid into a base residual auction. You
4 responded they would be bidding into that auction.
5 It was a little unclear to me. I was hoping you
6 could clarify specifically the auctions you were
7 talking about that would be -- that, in particular,
8 rider ELR contracts would be bid into.

9 A. Yes. To the extent the company does
10 receive commitments, it would be through the period
11 of the ESP III Stipulation which, again, ends on
12 5-31-16, so the auctions in question would be
13 incremental auctions prior to that date -- for
14 delivery years prior to that date.

15 Q. You were also asked several questions
16 about obstacles to bidding resources into the PJM
17 auction, specifically to the PJM rules. Can you
18 discuss whether there are other obstacles?

19 A. Yes. Well, the answer was specific for
20 the rule, that, you know, I think there are a number
21 of other risks about bidding into future PJM
22 auctions. You know, specifically, I think there is a
23 good financial risk to the company, a large financial
24 risk, in the sense that you are taking a forward
25 position on specific technologies that you are

1 expecting to be installed, which may or may not
2 overlap with the ultimate rules PJM has for specific
3 technologies that can be admitted.

4 You know, PJM, I believe it's Manual 18B,
5 in there does speak specifically about a number of
6 technologies being lighting, I believe it's air
7 conditioning. There are some for building measures
8 and then also process improvements. But outside of
9 that, there is a number of potential technologies
10 that the companies have included as measures in their
11 plans that I would say are not necessarily a hundred
12 percent overlapping with what PJM has defined.

13 Some examples of something like that
14 could be some of the behavioral programs that the
15 companies have. So I think that there is risk that
16 if you are bidding a set amount based off a
17 projected, you don't know at the end of the day where
18 those specific -- specific technologies will come
19 from and if it will be 100 percent eligible for PJM.

20 On top of that, there are -- I would say
21 there are financial risks as well directly related to
22 bidding into that -- that future auction. You'd know
23 that you would be bidding into the BRA. To the
24 extent that any sort of incremental auction, a
25 company could go out and have to make up that

1 shortfall, again, for technologies that might not be
2 covered. You would then be buying at whatever the
3 spot market -- I shouldn't say the spot market --
4 whatever the auction price is for that incremental
5 auction.

6 I think there is -- has been a
7 distinction in that we have seen sometimes when those
8 are, in recent memory, a little bit lower, the
9 incremental auctions, than the regular auction
10 prices, but I don't know if that will continue in the
11 future. There are some fundamental changes between
12 the auction as it existed with new auction rules
13 being implemented.

14 I would say there are also very low
15 costs -- low cost resources that have been depressing
16 the recent incremental prices, lower than they
17 otherwise would, and that may not hold true in the
18 future. There have been -- I would say the 2012 PJM
19 installed margin reserve report, I think is the
20 title, has suggested there will be constraints in the
21 future zones. That might mean that prices will no
22 longer hold true to as they were historically where
23 they were lower in an incremental auction.

24 MR. ALLWEIN: Your Honor, I'm going to
25 object to that answer and move to strike because

1 Mr. Demiray testified earlier that he was -- and I'm
2 referring specifically to the issues about risk. He
3 testified earlier that he was not directly involved
4 in these bids. He had limited involvement in PJM
5 issues during the companies' last energy efficiency
6 bid. His involvement was limited to calling
7 customers regarding their energy efficiency
8 resources. He's only aware to an extent of the
9 companies' bid, and he was not involved in the bid
10 itself or other resource bids, and he stated he had
11 very limited involvement with 12-814.

12 EXAMINER CHILES: Mr. Lang, do you have a
13 response to the objection?

14 MR. LANG: Yes, your Honor. I think he
15 has shown over the last 20 minutes to a half hour
16 what his knowledge is. He has been providing his --
17 what he does know to this Commission. The fact that
18 he was not the one directly making the bids,
19 that's -- everyone knows that's a different
20 department. But he is a person who has been
21 involved.

22 It's obvious he is familiar with the PJM
23 rules. It's obvious he has reviewed those for
24 identifying what resources are viable through the --
25 his department to be bid in the auction, and, in

1 fact, my next question, if you would permit it, would
2 be to ask him specifically with regard to the
3 36 megawatts that Attorney Examiner Price asked him
4 about, what his involvement was in identifying that
5 36 megawatts for purposes of the 20a5-'16 base
6 residual auction.

7 EXAMINER CHILES: The objection is
8 overruled.

9 Q. (By Mr. Lang) So, Mr. Demiray, if you
10 could answer that question with regard to your
11 involvement with regard to the 36 megawatts bid into
12 the 2015-2016 base residual auction.

13 A. All right. Yes, I did say that part of
14 my involvement in that was reaching out to customers.
15 I would say that it does go much beyond that, though.
16 When we were looking at what could be bid into that
17 auction, we took a look at our existing forms or
18 enrollment forms with customers where there was no
19 specific designation. The customer hadn't turned
20 over those rights to the companies.

21 As such, we put together -- I actually
22 put together a list of all the -- working with the
23 implementation team, I should say, of all the
24 customers that had made up all the installations to
25 date to try to quantify the total population. From

1 that, then we took a look at all the technologies
2 that we had in our portfolio at that time, which ones
3 would possibly fit, and I would say we are also of a
4 scale that it would make sense to try to bid those,
5 take into consideration there are incremental EM&V
6 costs associated with this, and not knowing what
7 those revenues would eventually be.

8 The companies identified, I would say,
9 lighting technology in the commercial sector, as well
10 as lighting technology in the residential sector as
11 being areas where we thought we could submit
12 something to PJM, get an approved EM&V report, and
13 then, consequently, bid those into the '15-'16 BRA.

14 So as part of what I did, again, it was
15 trying to approach customers and, I would say, secure
16 that ownership right. It was after the fact so we
17 developed strategies to go out there and do that. In
18 addition to that, then we went through the PJM
19 preinstallation evaluation report as part of what I
20 was doing. That was, again, trying to fill out how
21 to specifically quantify what may be different in
22 Ohio's rules as to what to count there versus what
23 would possibly count under the EM&V program in PJM
24 because they are different rules.

25 You can't say that, for example,

1 something that is a deemed value in Ohio TRM would
2 necessarily meet the standard that is in Manual 18B.
3 So, again, what I did do was work with our EM&V folks
4 and assemble a plan that we actually sent to PJM, got
5 preapproval for. And then beyond that, started to,
6 again, reach out to customers to secure those rights
7 wherever possible.

8 EXAMINER PRICE: I think it's fair that
9 the company had to go through a lot of new steps in
10 the 2015-2016 base residual auction. My question for
11 you is the next base residual auction, looking
12 forward, will be 2016-'17.

13 THE WITNESS: Correct.

14 EXAMINER PRICE: Is it fair for the
15 Commission to expect that the company will have
16 substantially more resources bid into that base
17 residual auction?

18 THE WITNESS: I think that's fair, yes.

19 EXAMINER PRICE: Counsel can object if
20 this is treading on confidential. But can you give a
21 ballpark quantified estimate?

22 If you want to object, go ahead.

23 MS. KOLICH: I just want to make sure I
24 understand the question. A ballpark at this point of
25 what the companies intent to bid in the next May

1 auction?

2 EXAMINER PRICE: Yeah. If you're not
3 comfortable, it's not -- a ballpark at this point is
4 not going to make or break this record.

5 MS. KOLICH: I understand, but I would
6 like to answer your question if we can. You're the
7 judge.

8 He may provide an answer.

9 THE WITNESS: I would say in terms of
10 specific megawatt value, no, I don't feel comfortable
11 saying. I could do that, but I think the rules that
12 have been kind of set forth in our plan would be what
13 we expect to be following. Again, it would be for
14 those that we do own that have signed over that
15 resource, which we know is now a condition on those
16 forms, so that it's really not a checkmark, it's
17 100 percent given to us.

18 It would be in line with -- again, I
19 wouldn't say a number specifically, but it would be
20 in line with what you would expect to see when
21 looking at the installations for specific
22 technologies, again, that would overlap with 18B,
23 most likely being lighting, a significant chunk of
24 that, as well as other easily quantifiable ones.

25 EXAMINER PRICE: Let me ask a question

1 the opposite way then. For lighting alone, what is
2 the -- what is the total energy efficiency savings
3 you expect to get from lighting alone if that's one
4 that translates easily?

5 THE WITNESS: Lighting comes in a number
6 of forms, you know, residential and commercial, both
7 which would have different, I would say, assumptions
8 for peak demand reduction. Again, I wouldn't be
9 comfortable giving a specific number. I'm sorry.

10 EXAMINER PRICE: That's okay. No
11 problem.

12 Continue, Mr. Lang.

13 Q. (By Mr. Lang) With regard to a specific
14 number, you were asked about the 36 megawatts, again,
15 bid into the 2015-'16 base residual auctions and what
16 value or compensation would be associated with that.
17 Were you able to run that math on the break?

18 A. Yes, I was. So, again, a \$357 megawatt
19 price, 365 days, 36 megawatts bid, that's
20 approximately 4.7 million, and that would be
21 essentially collected by the companies and credited
22 back to customers through the appropriate rate
23 mechanism in -- at the time of that delivery year, so
24 in 2015.

25 EXAMINER PRICE: That will be -- that's

1 just for the 36 number?

2 THE WITNESS: That's associated
3 specifically with the 36, yes.

4 EXAMINER PRICE: So there is additional
5 revenue from the additional 21 out there somewhere.

6 THE WITNESS: There is. I think we had
7 two incremental auctions where 21 has been bid in as
8 specifically to the ATSI zone, associated with energy
9 efficiency. So, yes, similar mechanics; it would be
10 a different clearing price, so I don't know those
11 numbers.

12 EXAMINER PRICE: That's fine.

13 MR. LANG: That's all we have, your
14 Honor.

15 EXAMINER CHILES: Thank you.

16 Recross, Mr. Poulos.

17 MR. POULOS: No, thank you.

18 EXAMINER PRICE: Mr. Olikar.

19 MR. OLIKER: Maybe one question, your
20 Honor.

21 - - -

22 RECROSS-EXAMINATION

23 By Mr. Olikar:

24 Q. Mr. Demiray, in response to a question
25 from Mr. Lang, you mentioned that you are not going

1 to bid -- or you don't intend to bid rider ELR
2 past -- for example, in the 2016-'17 base residual
3 auction because you won't have ESP in place; is that
4 correct?

5 A. That's my understanding, yes.

6 Q. Are you aware of whether -- this is not
7 to deny that there may be substantial risk for the
8 forward position, but are you aware of the fact that
9 planned demand response resources can be bid into the
10 auction and especially the base residual auction?

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

12 MR. OLIKER: Thank you. Thank you,
13 Mr. Demiray. That's all I have.

14 EXAMINER CHILES: Mr. Vickers.

15 - - -

16 RECROSS-EXAMINATION

17 By Mr. Vickers:

18 Q. Just maybe two questions. Mr. Demiray,
19 talking about risk of bidding in, do you have an
20 opinion about whether the company would be willing to
21 bid prospective savings if risks were eliminated? Is
22 that the main component for --

23 A. I don't think you will ever necessarily
24 eliminate risk. I think you would be shifting it
25 from one party to many parties.

1 Q. And so is your concern with the just risk
2 generally, not risk just to the company?

3 A. I think risk is a concern, as I said.
4 The incremental auctions have cleared lower
5 historically, but I think there are fundamental
6 dynamics that mean that you can't necessarily tell
7 would be the same in the future.

8 Q. And have you or do you know if the
9 company has looked at whether other utilities in the
10 Midwest or in the country bid prospective savings
11 into the BRAs?

12 A. I have not looked at that specifically.

13 MR. VICKERS: Mr. Demiray, okay. Thanks.
14 No further questions.

15 EXAMINER PRICE: Can I ask a similar
16 question to follow up on that? Are you aware of
17 whether any other utility in Ohio has bid any peak
18 demand reduction into the PJM auctions?

19 THE WITNESS: I would say if you take a
20 look at the 2015-'16 delivery year, you'll see that
21 there are energy efficiency resources that have
22 cleared in that year in zones that cover operating
23 companies, but I wouldn't say specifically that I
24 could tell from anything like that what came from a
25 specific entity.

1 EXAMINER PRICE: Okay. And you have no
2 knowledge from any other source?

3 THE WITNESS: Can I hear the question one
4 more time? I want to make sure I answer the question
5 correctly.

6 EXAMINER PRICE: Do you know whether --
7 I'm going to ask you to answer a different question,
8 actually. Do you know whether any other Ohio
9 electric utilities bid any peak demand reduction or
10 energy efficiency capacity resources into the
11 2015-2016 base residual auction?

12 THE WITNESS: And you said specifically
13 forecast?

14 EXAMINER PRICE: No, I didn't say
15 forecast.

16 THE WITNESS: Well, I would say some
17 resources have been bid, yes. I would say that they
18 also probably have varying degrees to which they were
19 bid, depending on what that company's individual
20 strategy was.

21 EXAMINER PRICE: Thank you.

22 EXAMINER CHILES: Mr. Kurtz.

23 MR. KURTZ: No questions, your Honor.

24 EXAMINER CHILES: Ms. Kern.

25 MS. KERN: No questions.

1 EXAMINER CHILES: Mr. Somoza.

2 MR. SOMOZA: No questions, your Honor.

3 EXAMINER CHILES: Mr. Allwein.

4 MR. ALLWEIN: Yes, your Honors.

5 - - -

6 RECROSS-EXAMINATION

7 By Mr. Allwein:

8 Q. You were just talking about risk
9 mitigation a minute ago. Does the companies -- why
10 didn't the companies' proposal on this issue not
11 include any mitigation proposal?

12 A. I would say that the mitigation is the
13 position that the companies took that we will not be
14 bidding resources that we don't own.

15 Q. But you are aware that other utilities do
16 bid forecast resources into PJM.

17 A. And you're speaking specific to what
18 zone?

19 Q. In the -- just in PJM in general. Are
20 you aware, as you are providing testimony on PJM base
21 residual auction bidding, that companies do bid
22 forecast resources into PJM?

23 A. I believe some companies have, yes. I
24 would not say that's universal.

25 Q. Okay. And do you know or are you aware

1 of how these companies mitigate the risks of bidding
2 a forecast amount of energy savings into a future
3 capacity auction?

4 A. I have not had a conversation with other
5 utilities regarding that.

6 Q. Okay. And have you ever heard anything
7 about that?

8 A. I have not read an article about that,
9 no.

10 Q. Okay. And you mentioned low cost
11 resources have been keeping incremental costs low.
12 What resources are you referring to and how long will
13 those persist?

14 A. I'm sorry, can you restate --

15 THE WITNESS: I'm sorry. Can I have the
16 question read again?

17 MR. ALLWEIN: May I have the question
18 reread, please.

19 (Record read.)

20 A. My understanding is that PJM has actually
21 reduced some of their load forecasts, and as such,
22 what was needed at one point was basically offered
23 back into the subsequent auctions at a very low cost,
24 and because of -- I guess the recession would be one
25 of the reasons why the load forecasts have shrunk,

1 therefore, taking the initial need down. They have
2 been basically forced to bid at zero or very low
3 costs based on that.

4 To answer how long that will continue, I
5 don't see how anyone can put a specific date on
6 something like that, but I would say that, again, a
7 fundamental change is that we have seen recently some
8 prices that have been low, and I wouldn't expect that
9 to continue, based on recovery of the recession,
10 potentially, or possible impacts of things like the
11 MATS.

12 Q. All right. Let me ask you, you discussed
13 the most recent auction participation. Over what
14 period of time did you evaluate which resources could
15 be bid into the 2012 auction, the 2015-2016 base
16 residual capacity auction?

17 A. I would have begun looking at that in, I
18 would say, late March, early April of this year, and
19 then continued up to the point of the auction.

20 Q. And how long during that time -- you
21 mentioned approaching customers or contacting
22 customers. How -- how long -- what time period -- in
23 what time period did that occur?

24 A. Customer contacts went through a variety
25 of means, first of which, was an e-mail to any

1 customer who had -- any customer who had participated
2 in the companies' programs specific to lighting on
3 the commercial side.

4 Following up from that, there would have
5 been a coordinated effort from the companies' account
6 reps, both regional and then as well as those in the
7 national accounts, to reach out directly to the top
8 customers, those that, I would say, have loads that
9 were greater than 100 kW, which would kind of meet
10 the criteria, to try to get them to commit those
11 resources to the company.

12 That was happening after the initial
13 e-mail went out, which I believe was in mid May and
14 continuing until the point of the auction. I'm
15 sorry, it was not mid May. It was mid April until
16 the auction, which would have happened in early May.

17 Q. Okay. On what date was the EM&V plan due
18 by the companies to PJM? Do you recall that date?

19 A. Not the specific date but it would have
20 been in mid April.

21 Q. All right. So basically you had 30 days
22 between the EM&V plan and the date of the auction to
23 contact customers?

24 A. I don't think the customer contact was
25 necessarily dependent on the EM&V plan. Again, the

1 date of the initial contact to customers was the 23rd
2 of April.

3 Q. Okay. In response to Attorney Examiner
4 Price's question about whether more would be bid into
5 the subsequent auctions under the proposed plan than
6 what was bid into -- bid into the 2012 base residual
7 auction, you characterize it as substantially more.
8 Can you give us an idea of what you mean by
9 "substantially more"?

10 MR. LANG: Objection, because I think
11 that was -- specifically I asked and he tried to
12 answer.

13 EXAMINER CHILES: Do you have a response
14 to the objection?

15 MR. ALLWEIN: Yes. Attorney Examiner
16 Price was looking for a ballpark number, and the
17 answer to that question was it would be substantially
18 more. I'm asking what does this witness mean by
19 substantially more?

20 MR. LANG: He was asked to quantify, and
21 he said he was not able to.

22 EXAMINER CHILES: I'm going to sustain
23 the objection.

24 Q. Well, let me ask you this. What is your
25 definition of substantial?

1 MR. LANG: Objection, same grounds.

2 EXAMINER CHILES: Sustained.

3 Q. And under your proposal in the plan which
4 you discussed, how are the -- the elements of your
5 proposal different than the past bids that you have
6 previously mentioned here today?

7 A. I'm sorry, please, can you rephrase that?

8 Q. Well, for instance, you said that you
9 were only going to bid in -- I believe your plan, and
10 correct me if I am wrong, it's that you are only
11 going to bid in installed measures for which you have
12 ownership. Is that any different than the conditions
13 under which you have submitted past bids?

14 A. If you could point me to a specific
15 reference, because I think there are other criteria
16 that are put on there.

17 Q. Okay. Well, I was just using those two
18 as an example. I can't find it in your testimony,
19 but I believe that the plan states that you are
20 going -- I'm sorry. I believe it's in Witness
21 Dargie's testimony that you are going to bid in only
22 installed resources for which you have ownership. Is
23 that correct?

24 MR. LANG: I object, your Honors. It
25 sounds like the cross that he passed on the first

1 time around rather than recross.

2 EXAMINER CHILES: Do you have a response,
3 Mr. Allwein?

4 MR. ALLWEIN: Well, actually the first
5 time around I wasn't sure exactly what the witness
6 was going to say regarding PJM bids or auctions, and
7 so I assumed that on recross, we would have the
8 ability to ask about what the witness has discussed
9 here after his redirect and with regard to the
10 attorney examiner's questions.

11 EXAMINER CHILES: Could you read the
12 question back for me, please.

13 (Record read.)

14 EXAMINER CHILES: The objection is
15 overruled.

16 THE WITNESS: And can you state the
17 question again or please have it reread.

18 EXAMINER CHILES: Please reread it.

19 MR. ALLWEIN: Thank you.

20 (Record read.)

21 A. So the question, if I'm understanding you
22 correctly, is how will we do something different
23 from -- based on that criteria, than what was done
24 or -- I assume you are speaking specifically to the
25 '15-'16 BRA?

1 Q. I guess to be -- to rephrase it, what are
2 you going to do in these future bids that wasn't a
3 condition or an element of your previous bids?

4 A. Yeah. The previous bids, specifically
5 the 36 in the '15-'16 BRA, was for lighting
6 technology. It was a limited focus to that because
7 that was one of the companies felt could be easily
8 quantifiable and one that we felt would meet the PJM
9 eligibility requirements for an EM&V plan.

10 In the -- you know, in Mr. Dargie's
11 testimony, he did state that they would have to have
12 ownership rights -- that the companies would have
13 ownership rights at the time of the PJM auctions, and
14 that's provided that the credits are of scale and
15 will meet, eventually, the PJM EM&V standards.

16 I would say the PJM EM&V standards are
17 spoken about. Again, the technologies, I know they
18 have specifically called out. They're related to not
19 only lighting but a few other technologies that they
20 specifically state including cooling, building
21 shelves, process improvements. So to the extent that
22 the companies feel that they have ownership of those
23 credits -- of credits associated with the new plan
24 and feel that they are of scale, they would bid
25 those.

1 Q. Okay. And in response to an answer on
2 redirect, you did the multiplication, and I think you
3 came up with \$4.7 million; is that correct?

4 A. I believe that's right.

5 Q. And I was just wondering, doesn't that
6 benefit either persist for four years or the life of
7 the measure, according to PJM rules?

8 A. "That benefit" being the revenue
9 specifically?

10 Q. Yes.

11 A. I'm not sure.

12 Q. And you -- you discussed a lot of the
13 risks, and I was just wondering, is this a risk to
14 customers of higher costs for capacity in the future
15 by not bidding in forecast resources for PJM?

16 A. I don't believe I spoke about customer
17 risks in that sense.

18 Q. But did you speak of risk from the
19 companies' side? I was just trying to contrast it
20 with risks that customers take because you're not
21 going to bid these resources in unless you own them
22 and they are already installed.

23 THE WITNESS: Can you please reread that?

24 (Record read.)

25 A. I don't think there is an accurate way to

1 quantify those risks.

2 MR. ALLWEIN: I have no further
3 questions, your Honors.

4 EXAMINER CHILES: Thank you.
5 Mr. Dougherty.

6 MR. DOUGHERTY: No questions.

7 EXAMINER CHILES: Mr. Williams.

8 MR. WILLIAMS: No questions.

9 EXAMINER CHILES: Mr. Parram.

10 MR. PARRAM: No questions, your Honor.

11 EXAMINER CHILES: Examiner Price.

12 EXAMINER PRICE: I'm done.

13 EXAMINER CHILES: I have no questions.

14 Thank you.

15 THE WITNESS: Thank you very much.

16 MR. LANG: Your Honors, the companies
17 would move in company -- Company Exhibit No. 5.

18 EXAMINER CHILES: Are there any
19 objections to the admission of Company Exhibit 5?

20 Hearing none Company, Exhibit 5 will be
21 admitted.

22 (EXHIBIT ADMITTED INTO EVIDENCE.)

23 MS. KOLICH: Your Honor, before the
24 company -- I'm sorry, go ahead.

25 MR. OLIKER: Your Honor, at this time

1 IEU-Ohio would like to move for the admission of
2 Exhibits 2, 3, and 4.

3 EXAMINER CHILES: Are there any
4 objections to the admission of IEU Exhibits 2, 3, or
5 4?

6 Hearing none, IEU Exhibits 2, 3, and 4
7 will be admitted.

8 (EXHIBITS ADMITTED INTO EVIDENCE.)

9 MS. KOLICH: Your Honor, before the
10 company closes its case --

11 EXAMINER CHILES: I'm sorry, one moment.
12 Mr. Vickers, you did mark an ELPC.

13 MR. VICKERS: No, we don't need to admit
14 that. Thanks.

15 EXAMINER CHILES: Thank you.

16 I'm sorry, Ms. Kolich.

17 MS. KOLICH: My apologies, your Honor.
18 I'm going to try this one more time. Before the
19 company closes its case, an issue came up this
20 morning.

21 As the Bench is aware, I deposed Mr.
22 Sullivan this morning regarding a ruling from the
23 Bench yesterday. I presented him with a document
24 that was a response by the company to Sierra Club set
25 3, Interrogatory 97, which is the verbal response,

1 plus several -- six pages of attachments.

2 Mr. Sullivan indicated that he had never
3 seen this document in his deposition so I'm concerned
4 about being able to authenticate it during his cross
5 tomorrow.

6 I've spoken with counsel of the NRDC, and
7 he has agreed to stipulate to the authenticity of SC
8 Set 3, Interrogatory No. 97, the company's response
9 thereto, as being an accurate copy of what was sent
10 by the companies.

11 Mr. Allwein, feel free to correct me if
12 I've mischaracterized your position.

13 MR. ALLWEIN: No, there was no
14 mischaracterization.

15 EXAMINER PRICE: Thank you. Noted for
16 the record.

17 Would you like to do the proof of
18 publications now?

19 MS. KOLICH: Sure. Before we switch
20 topics, would the Bench prefer I move it into -- move
21 this as an exhibit now or at cross?

22 EXAMINER PRICE: Now.

23 MS. KOLICH: Then I would like marked for
24 identification the Company's response to Sierra
25 Club's Set 3, Interrogatory --

1 EXAMINER PRICE: No, no, no. I'm sorry.
2 I wasn't talking about that document.

3 MS. KOLICH: Should I wait for tomorrow
4 for this one?

5 EXAMINER PRICE: You can do that
6 tomorrow.

7 MS. KOLICH: Okay. Then, yes, moving on
8 to the proof of publications.

9 EXAMINER PRICE: Proof of publications.

10 MS. KOLICH: At this time, your Honor,
11 the company would like to move into evidence Company
12 Exhibits 6 and 7, which are the proofs of publication
13 putting everybody on notice of this case.

14 EXAMINER PRICE: Any objections to the
15 admission of Companies' Exhibits 6 and 7?

16 Hearing none, they will be admitted.

17 (EXHIBITS ADMITTED INTO EVIDENCE.)

18 EXAMINER PRICE: Let's go off the record
19 for one second.

20 (Discussion off the record.)

21 EXAMINER PRICE: Let's go back on the
22 record.

23 (Witness sworn.)

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

1 THE WITNESS: My name is Jeffrey Loiter.
2 My business address is at Optimal Energy,
3 Incorporated, at 14 School Street in Bristol, Vermont
4 05443.

5 EXAMINER PRICE: Thank you.

6 Mr. Allwein, please proceed.

7 MR. ALLWEIN: Your Honor, I request that
8 you please mark the following exhibit that I just
9 handed you as Sierra Club Exhibit 1, please.

10 EXAMINER PRICE: It will be so marked.

11 (EXHIBIT MARKED FOR IDENTIFICATION.)

12 - - -

13 JEFFREY LOITER

14 being first duly sworn, as prescribed by law, was
15 examined and testified as follows:

16 DIRECT EXAMINATION

17 By Mr. Allwein:

18 Q. Mr. Loiter, you have already stated your
19 name and business address, I believe. Do you have
20 the exhibit marked as Sierra Club Exhibit 1 in front
21 of you?

22 A. I believe you are referring to my
23 prefiled testimony in this case?

24 Q. Yes.

25 A. Yes, I do.

1 Q. And is it also -- I'm sorry. Is it your
2 testimony filed along with the exhibits?

3 A. Yes. There are four attachments.

4 Q. Was this testimony prepared by you or
5 under your direction?

6 A. Yes, it was.

7 Q. And do you have any corrections or
8 updates that you would like to make in your testimony
9 today?

10 A. No, I don't.

11 Q. Now, if I were to ask you the same
12 questions today that appear in your testimony under
13 oath, would your answers be the same?

14 A. Yes.

15 MR. ALLWEIN: Thank you.

16 I present this witness for
17 cross-examination.

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

19 (Discussion off the record.)

20 EXAMINER PRICE: Back on the record.

21 Is Mr. Williams still here?

22 MR. DOUGHERTY: He's gone.

23 EXAMINER PRICE: Ohio Environmental
24 Council.

25 MS. LOUCAS: No questions, your Honor.

1 EXAMINER PRICE: Ms. Kern.

2 MS. KERN: No questions, your Honor.

3 EXAMINER PRICE: Mr. Kurtz.

4 MR. KURTZ: No questions.

5 EXAMINER PRICE: ELPC.

6 MR. VICKERS: No questions.

7 EXAMINER PRICE: Mr. Olikar.

8 MR. OLICKER: No questions, your Honor.

9 EXAMINER PRICE: Mr. Poulos.

10 MR. POULIS: No questions, your Honor.

11 EXAMINER PRICE: That was everyone.

12 FirstEnergy.

13 MS. KOLICH: I get to go first and last.

14 EXAMINER PRICE: No, staff is last.

15 MS. KOLICH: That's true.

16 - - -

17 CROSS-EXAMINATION

18 By Ms. Kolich:

19 Q. I'm Kathy Kolich, counsel for the
20 company, and I'm going to be asking you some
21 questions this afternoon. If at any time you don't
22 understand any question I ask, feel free to ask me to
23 rephrase. I will be more than happy to do so;
24 otherwise, I will assume you understand my question.
25 Okay?

1 A. Okay.

2 Q. All righty. If you'll turn to page 2 of
3 your testimony, line 10.

4 A. Yes.

5 Q. You state you support a utility client
6 that participates in the ISO New England Forward
7 Capacity Market. Do you see that?

8 A. Yes.

9 Q. Which client would that be?

10 A. That is the Connecticut Municipal
11 Electric Energy Cooperative.

12 Q. Okay. And what do you do in support of
13 that client as it pertains to ISO New England?

14 A. As it pertains to their participation in
15 the forward capacity market, I have advised them
16 on -- on their participation. I've prepared M&V
17 plans for submission to ISO. I have submitted bids
18 and overseen the submission of bids into both the
19 annual and what's called the reconfiguration
20 auctions. I have been responsible for tracking the
21 performance of their efficiency resource and
22 calculating the value of the -- the quantity of the
23 resource for submission for payment.

24 Q. And that utility client bids, generally,
25 one to one-and-a-half megawatts of capacity; is that

1 correct?

2 A. The company has bid into several auctions
3 with varying amounts of resources.

4 Q. What's the maximum they've bid?

5 A. Well, the initial -- the initial bid on
6 the first -- first auction was over 5 megawatts.

7 Q. How much over 5? Less than 10?

8 A. Oh, yeah. I'm sorry. It was 5 point, I
9 think, 6, something like that.

10 Q. Okay. And that was the maximum bid, the
11 maximum they've ever bid in the auctions?

12 A. That's the maximum that they bid at any
13 one time. The total resource now exceeds 10
14 megawatts.

15 Q. Do you support any clients that bid in
16 the PJM market?

17 A. I do not.

18 Q. And do you have any personal experience
19 bidding into the PJM market?

20 A. I do not.

21 Q. And you don't have any firsthand
22 knowledge of the bids made by other utilities in the
23 PJM market, do you?

24 A. I do not have any knowledge of bids
25 placed by companies into PJM's auctions, no.

1 Q. Now, preparation for -- well, in general,
2 have you read the PJM bidding rules?

3 A. I have definitely read information
4 concerning the participation of demand side resources
5 in PJM at various times in the past. I couldn't
6 point to any specific documents at this time.

7 Q. Do you consider yourself an expert on PJM
8 bidding rules?

9 A. No, I would not consider myself an expert
10 of PJM bidding rules. No.

11 Q. Now, you're testifying on behalf of the
12 Sierra Club; is that correct?

13 A. Yes.

14 Q. Now, the Sierra Club, they are broadly
15 concerned with issues of the environment and
16 protecting the environment; is that right?

17 A. That's my understanding, yes.

18 Q. Now, as you understand it, the Sierra
19 Club doesn't represent anybody other than their own
20 organization; is that correct?

21 A. I don't have any knowledge of who they
22 represent. Well, can you define what you mean by
23 "represent," please?

24 Q. Well, for example, the OCC in Ohio
25 represents residential customers. Industrial Energy

1 Users of Ohio represent industrial customers. Do
2 they represent any individuals or entities in Ohio,
3 or do they more or less just represent the ideals of
4 their organization in these proceedings?

5 A. I can't say how they would characterize
6 who their constituency is, either in Ohio or anywhere
7 else.

8 Q. I'm sorry, go ahead.

9 A. No, that's all.

10 Q. I am not asking how they characterize it.
11 I'm asking what your understanding is of --

12 MR. ALLWEIN: Your Honor, I'm going to
13 object. We have filed a motion to intervene, and it
14 was approved by the Commission, and we've stated who
15 we represent in that motion to intervene. Mr. Loiter
16 has been hired to help us evaluate the plan.

17 EXAMINER PRICE: Sustained.

18 Q. Now, in preparation for your testimony
19 you did not review any Ohio Commission rules, did
20 you?

21 A. I certainly have reviewed what I believe
22 are Ohio -- I'm sorry, I don't know the right word,
23 but the Ohio code or --

24 Q. The statutes?

25 A. The statutes. I don't know if any of

1 those would be considered Commission rules.

2 Q. No, those are separate. So you've
3 reviewed the laws in Ohio surrounding energy
4 efficiency benchmarks and requirements.

5 A. I have reviewed some of those, yes.

6 Q. Okay. Are you aware that the Commission
7 also establishes rules surrounding energy efficiency
8 separate from the statutes?

9 A. Sure, yes.

10 Q. Have you reviewed those rules?

11 A. I certainly couldn't say I have reviewed
12 them in their entirety. Is there a specific rule you
13 are asking about?

14 Q. Just a second, please. No -- well, it's
15 Section 4901: 1-39, starting 01 and going through, I
16 believe, 08 or 09. They are commonly referred to as
17 "the green rules."

18 A. I can't say without looking at them to
19 know whether or not I've reviewed them. That doesn't
20 sound familiar, though.

21 Q. Well, your deposition --

22 MS. KOLICH: May I approach?

23 EXAMINER PRICE: You may.

24 Q. Page 7, lines 8 and 9.

25 A. I'm sorry, of my testimony?

1 Q. No, of the deposition I'm going to show
2 you here. Find the right pages for you here.

3 EXAMINER PRICE: You may approach.

4 MS. KOLICH: Didn't I ask --

5 MR. ALLWEIN: Does counsel have an extra
6 copy?

7 EXAMINER PRICE: I'm sorry. I apologize.
8 I'm totally wrong in this regard.

9 MS. KOLICH: I want that on the record.

10 EXAMINER PRICE: Very much so.

11 MS. KOLICH: I'm sorry.

12 Mr. Allwein.

13 MR. ALLWEIN: I do not have a copy of the
14 deposition.

15 MS. KOLICH: Okay. Can we go off the
16 record for a minute?

17 EXAMINER PRICE: We are off the record.

18 (Discussion off the record.)

19 EXAMINER PRICE: Let's go on the record.

20 MS. KOLICH: May I reapproach the
21 witness, your Honor?

22 EXAMINER PRICE: You may. I'm going to
23 pay for that the rest of this evening, aren't I?

24 MS. KOLICH: No, sir.

25 Q. (By Ms. Kolich) You recall when I took

1 your deposition a couple weeks ago?

2 A. I do.

3 Q. And when I asked you the question on page
4 7, line 5, "Okay, how about the Commission rules, did
5 you review those as they pertain to energy efficiency
6 and a peak demand reduction?" Do you see that?

7 A. I understand. I'm just reading.

8 Q. Okay.

9 A. Okay. I've read that.

10 Q. And your response to that question was?

11 A. The answer on line 8 says, "I don't
12 believe anything I reviewed is a Commission ruling.
13 I don't think so, no."

14 Q. Okay. Thank you. And you didn't review
15 any Commission orders or entries in preparation for
16 your testimony either, did you?

17 A. I don't -- I don't think I did, no.

18 Q. How about the PJM bidding rules?

19 A. I believe I answered previously that in
20 the past, I have reviewed a variety of documents
21 related to PJM and the base residual auction and the
22 participation of demand side resources in that -- in
23 that auction in that market. Whether or not any of
24 those would be characterized as bidding rules, I
25 don't know.

1 Q. Did you review them for purposes of
2 preparing for your testimony today?

3 A. No, I did not.

4 Q. Okay. But in preparation for your
5 testimony, you did speak with Mr. Sawmiller of the
6 Sierra Club; is that correct?

7 A. I'm sorry, with whom?

8 Q. Mr. Sawmiller.

9 A. Yeah.

10 Q. And you also spoke with Mr. Sullivan?

11 A. I have, yes.

12 Q. And you also spoke with Mr. Glenn Reed?

13 A. Yes.

14 Q. Of Energy Future Group?

15 A. Yes.

16 Q. Okay. Now, you've provided suggestions
17 on the discovery requests presented by -- or
18 submitted to the company by the Sierra Club; is that
19 correct?

20 A. Yes.

21 Q. When doing so, did the Sierra Club put
22 any constraints on you as to what could or could not
23 be asked in discovery by you?

24 A. Your question implies that I would be
25 asking the questions, asking the discovery, so I

1 don't think I can answer that question as you've
2 phrased it.

3 Q. Okay. When I deposed you, you indicated
4 you provided suggestions and you confirmed that
5 here --

6 A. Yes.

7 Q. -- on discovery requests. There was
8 nothing -- no constraints as to what you should be
9 able to provide suggestions on as far as topics in
10 discovery, were there?

11 A. No.

12 Q. Okay. Now, are you familiar with the
13 Ohio -- the companies' Ohio collaborative process?

14 A. I will not say I'm familiar with it. I
15 know that it exists.

16 Q. Okay. And you've not participated in any
17 of the meetings; is that correct?

18 A. That's correct.

19 Q. So all of the recommendations -- none of
20 the recommendations in your testimony -- strike that.

21 You've not presented any of the
22 recommendations found in your testimony to the
23 collaborative, obviously.

24 A. No, I have not.

25 Q. Have you participated in any other

1 collaborative groups that are sponsored by
2 FirstEnergy in other jurisdictions?

3 A. No.

4 Q. Now, you've reviewed the companies'
5 plans; is that correct?

6 A. Yes.

7 Q. And you don't know -- or you don't have
8 any information to say with any confidence whether
9 the plans will meet the statutory benchmarks, do you?

10 THE WITNESS: Could you repeat that
11 question, please?

12 (Record read.)

13 A. I would agree. I don't have sufficient
14 information to determine that the plan -- the plans,
15 as filed, meets the benchmarks, which is a concern.

16 Q. Did you submit any discovery requests for
17 any information that you thought you needed to have
18 in order to draw any conclusions regarding the plans
19 and their ability to meet the statutory requirements?

20 A. It's not my role to submit discovery
21 questions.

22 Q. Did you provide any suggestions to the
23 Sierra Club as to the types of materials they should
24 ask for in order for you to draw any conclusions
25 about whether the plans would meet the statutory

1 targets?

2 A. I provided suggestions on a number of
3 questions, and I believe some of those were
4 incorporated into the discovery requests that were
5 submitted.

6 Q. Turning to page 5 of your testimony --
7 I'm sorry, page 4, specifically starting on line 7.

8 A. Yes.

9 Q. You talk about the failure to bid the
10 savings from planned energy efficiency programs
11 result in substantially higher costs for
12 FirstEnergy's customers. Do you see that?

13 A. Yes.

14 Q. Did you perform an analysis that under --
15 that supports that conclusion drawn there?

16 A. The statements that follow the statement
17 that you are referring to are an analysis that --
18 that supports that statement in that there are --
19 there are two factors that would result in higher
20 costs for FirstEnergy customers.

21 Q. Substantially higher costs, based on your
22 analysis below on lines 8 through 21, how much does
23 that come out to?

24 A. Are you asking for a quantitative dollar
25 figure?

1 Q. Yes.

2 A. I did not estimate a quantitative dollar
3 figure.

4 Q. And the page -- or line 9, "the
5 likelihood that FirstEnergy's efficiency and demand
6 response resources would likely have reduced the
7 clearing price of the auction," do you see that?

8 A. Yes.

9 Q. How many megawatts were you assuming
10 FirstEnergy would bid in order to move the market
11 price?

12 A. I don't think it's necessary to assume a
13 particular quality in order to know that based on
14 simple supply and demand, that if supply goes up, the
15 clearing price of the auction should -- should shift
16 out and go down.

17 Q. Unless you are on the flat part of a
18 supply curve; isn't that right?

19 A. You're assuming that every supply curve
20 has a flat spot. Are you assuming that every supply
21 curve has a flat spot?

22 Q. No. I'm just saying that your premise is
23 only valid if there isn't a flat part of a supply
24 curve.

25 A. Okay. So, right, my premise is that, in

1 general, when supply increases, the -- you know, the
2 price comes down.

3 EXAMINER PRICE: Do you have access to
4 the 2012 -- May 1, 2012, PJM base residual auction
5 supply curve?

6 THE WITNESS: I don't know if that's
7 publicly --

8 EXAMINER PRICE: I am asking if you have
9 it, if you have reviewed it.

10 THE WITNESS: None of the data that I
11 have looked at looked like a full supply curve of
12 that -- the result of that auction. I don't know if
13 that's available.

14 EXAMINER PRICE: So you don't know what
15 the supply curve looked like.

16 THE WITNESS: I don't. No.

17 MS. KOLICH: That was going to be my next
18 question.

19 EXAMINER PRICE: Beat you to it.

20 MS. KOLICH: Thank you.

21 Q. (By Ms. Kolich) Now, on line 7, page 5,
22 let -- before we go there, let's go to page 4, line
23 18. Are you there?

24 A. Yes.

25 Q. You talk about the initial auction three

1 years in advance, but additional incremental
2 auctions. Do you see that?

3 A. Yes.

4 Q. And on line 22 you say that "the
5 companies can shed part of their obligation in the
6 later incremental auctions." Do you see that?

7 A. Yes.

8 Q. Do you know for a fact that in the future
9 the companies will be able to do this?

10 A. I'm not aware that the incremental
11 auctions will cease to exist in the future, if that's
12 what you mean.

13 Q. That is what I mean.

14 A. I'm not, you know -- I've not seen any
15 information that suggests the incremental auctions
16 will not be part of the market in the future.

17 Q. Okay. Now, let's go to page 5, line 7.

18 A. Okay.

19 Q. You talk about other utilities in both
20 ISO New England and PJM successfully bid future
21 energy resources in the market. Do you see that?

22 A. Yes.

23 Q. And I believe one of them is your client,
24 the Connecticut Municipal utility; is that correct?

25 A. Yes.

1 Q. And they are not obligated to meet any
2 statutory energy efficiency targets, are they?

3 A. They are obligated to spend money that
4 they collect from their customers on energy
5 efficiency, but there's no specific megawatt-hour
6 charge they have to hit.

7 Q. And they don't bid or participate in
8 every auction in ISO New England, do they?

9 A. They have chosen not to participate in
10 some of the auctions in the past several years.

11 Q. I believe earlier you said the maximum
12 they have ever bid is approximately 5 megawatts; is
13 that correct?

14 A. That was the largest single bid that they
15 made, yes.

16 Q. Okay. Should they fail to deliver the 5
17 megawatts that they committed, can you provide me
18 with a ballpark estimate of what the penalty -- what
19 they would pay in penalties?

20 A. No. I don't think I can.

21 Q. Would you agree with me that the more
22 they bid, the more risk they run of -- strike that.

23 Should they bid more and fail to deliver,
24 you would agree with me that the penalties would be
25 higher than if they bid less?

1 A. Well, the penalty would be based on
2 whatever shortfall they had. Excuse me. So the --
3 the greater the resource they have committed, the
4 larger the potential shortfall could be. So I guess
5 with that basis, yes, the greater the bid, the
6 greater the potential for a penalty.

7 Q. Okay. On line 11, page 5, of your
8 testimony, you also mentioned Efficiency Vermont; do
9 you see that?

10 A. Yes.

11 Q. And they also participate in ISO New
12 England; is that correct?

13 A. Yes, they participate in the ISO New
14 England Forward Capacity Market.

15 Q. I'm sorry, I don't recall if I asked you
16 this question or not, but before we move off of
17 Connecticut, does -- does Connecticut muni flow the
18 revenues they receive in the auction back to their
19 customers? Do you know?

20 A. I don't know the complete disposition of
21 the funds that CMEEC -- I should say the Connecticut
22 Municipal Electric Energy Cooperative. I don't know
23 the total disposition of those funds.

24 Q. Okay. Now, going on to Efficiency
25 Vermont, it's a statewide efficiency utility for the

1 state of Vermont; isn't that right?

2 A. It is statewide with the exception of the
3 Burlington Electric Department.

4 Q. And it has the responsibility of
5 delivering efficiency programs throughout virtually
6 all of Vermont, excluding Burlington?

7 A. Yes, that's correct.

8 Q. And the obligation to achieve energy
9 efficiency targets lie with Efficiency Vermont and
10 not the individual distribution utilities; is that
11 correct?

12 A. That's correct.

13 Q. And Efficiency Vermont doesn't bid
14 100 percent of their future planned efficiency
15 resources into the capacity auctions, do they?

16 A. Again, I believe the -- their intent is
17 to bid as close to that as possible. That's my
18 understanding. They intend to bid as much of the
19 resources they can as close to 100 percent as
20 possible.

21 Q. Do they bid 100 percent?

22 A. I can't say if it's exactly equal to
23 100 percent.

24 MS. KOLICH: May I approach, your Honor?

25 EXAMINER PRICE: You may.

1 Q. Page 17, line 19. Okay, do you recall
2 when I took your deposition?

3 A. Yes.

4 Q. And I asked you a question. We're
5 talking about Efficiency Vermont --

6 A. Yes.

7 Q. In 2016.

8 A. Uh-huh.

9 Q. And did they bid a hundred percent of
10 those future planned efficiency resources. Your
11 answer was?

12 A. My answer was, "My understanding is that
13 they bid close to 100 percent but not a hundred
14 percent of their plans."

15 Q. Thank you. And you don't know for a fact
16 where -- what the revenues received from the auction
17 by Efficiency Vermont are used for, do you?

18 A. I cannot say with any certainty the exact
19 disposition of those revenues. I have a general
20 sense as to some of the potential uses of those
21 revenues.

22 Q. And I may have asked you this earlier in
23 the deposition, I apologize if I did, the Connecticut
24 Muni and Efficiency Vermont, those are the only two
25 utilities with which you have personal knowledge as

1 far as bidding into ISO New England; is that correct?

2 A. I'm sorry, did you say you asked me that
3 earlier in the deposition or the testimony?

4 Q. Just today, but I'm not sure if I did. I
5 went a little bit out of order in the beginning.

6 A. Those are the only two that I have direct
7 personal knowledge of. You know, any other knowledge
8 I have of other utilities and their -- how they bid
9 their existing in-plant resource is based on
10 conversations or indirect conversations with others.

11 Q. Okay. Page 5, line 17 of your testimony.

12 A. Yes.

13 Q. You state that you don't agree with the
14 companies' assessment of the chilling effect, as it's
15 referred to in your question on line 15; is that
16 correct?

17 A. That's what my testimony says, yes.

18 Q. And it's based on the company's
19 interpretation of information that they provided in
20 SC Set 3, Interrogatory 81, which is attached to your
21 testimony?

22 A. Yes.

23 Q. Let's look at that for a minute, please.

24 A. Okay.

25 Q. Now, if you go to the second line of

1 paragraph 2 of the response --

2 A. Yes.

3 Q. -- it indicates that 460 out of 1,033
4 customers who participate in the programs opted to
5 retain ownership. Do you see that?

6 A. Yes.

7 Q. Did you talk to any of these customers?

8 A. No, I did not.

9 Q. Now, what's your understanding of what
10 the companies are requesting with regard to the
11 chilling effect issue? Because you -- you suggested
12 as a recommendation that the Commission not allow the
13 companies -- give you the exact quote. On page 7,
14 line 4, "I recommend the commission deny the
15 Companies' request to retain the opt-in to petition
16 for reconsideration of the order related to savings
17 ownership."

18 A. That's what my testimony says on page 7,
19 yes.

20 Q. Okay. So even if the companies can
21 demonstrate to the Commission that there is a
22 chilling effect, your testimony is they should not be
23 able to ask the Commission to reconsider.

24 A. My testimony is that asking X and D for
25 that option without any ability to know what the

1 future outcome would be seemed unreasonable to me.

2 Q. My question didn't go to a future
3 outcome. It went to the company definitively being
4 able to demonstrate that there was a chilling effect,
5 that certain customers who otherwise would have
6 participated in one of their programs chose not to
7 because of the prerequisite to transfer ownership.
8 And I'm asking if the companies can demonstrate that,
9 is it your testimony they shouldn't be able to
10 petition the Commission?

11 A. I don't think I gave an opinion on that
12 in my testimony, and I'm not prepared to give an
13 opinion on that now.

14 Q. Your opinion lies on page 7, line 4,
15 where you suggest the Commission deny the request.

16 A. I see that request is as being setting
17 up -- setting up some kind of commitment on the part
18 of the Commission to look at this before it's -- it's
19 known whether or not it's a problem. I'm not an
20 attorney, certainly, but if -- my testimony has to do
21 with this preemptive request that this option
22 should -- should remain open now and that the
23 termination would be made now. I don't see why some
24 determination couldn't be made in the future. My --
25 my testimony relates only to this request made now

1 currently in this case.

2 Q. Okay. Now, with regard to those
3 customers that -- the 432, I believe, customers, the
4 numbers in Attachment 1 in your testimony --

5 A. Yes.

6 Q. Second paragraph, 460 out of 1,033,
7 you're not making any statement as to the likely
8 outcome in Ohio if customers are given a choice,
9 those customers are given a choice of retaining
10 ownership of energy credits or participating in a
11 company-sponsored program, are you?

12 THE WITNESS: Can you read the question
13 back, please.

14 (Record read.)

15 A. Given that the Commission has ruled that
16 they shouldn't -- that they cannot be given a choice,
17 I have not made any prediction what will happen in
18 Ohio, no.

19 MS. KOLICH: Could I have that answer
20 reread, please.

21 (Record read.)

22 Q. You refer to the Commission taking the
23 choice away. Are you saying that the Commission no
24 longer gives the customer the choice to decide
25 whether to participate in a company-sponsored energy

1 efficiency program or not participate in and retain
2 ownership credits?

3 THE WITNESS: I'm sorry, it must be
4 getting late in the day. Could you read that back
5 again, please.

6 (Record read.)

7 A. No, I'm not saying that.

8 Q. So would your answer to my prior question
9 change -- strike that.

10 I'll just ask it. With that
11 clarification and understanding, make sure we are on
12 the same page, you are not making any statement as to
13 the likely outcome in Ohio if customers are given a
14 choice of retaining ownership of their energy
15 efficiency credits or alternatively participating in
16 a company-sponsored program, are you?

17 THE WITNESS: I'm sorry, I have to ask
18 you to read the question back again.

19 (Record read.)

20 A. No, I am not making any estimate of the
21 decision processes of the Ohio customers.

22 Q. Okay. If you move to page 6, lines 3 and
23 4 of your testimony, you make a statement, "It is
24 unlikely that customers will forego hundreds of
25 thousands of dollars in rebates or incentive payments

1 for the much smaller monetary benefits received from
2 direct participation in the auction." Do you see
3 that?

4 A. Yes.

5 Q. Now, the rebates to which you refer,
6 those are the ones offered by the companies?

7 A. That's what I'm referring to, yes.

8 Q. Okay. And the decision by the
9 customer -- are we talking about a specific customer
10 here or a hypothetical customer here?

11 A. With your previous question, I thought
12 you were referring to these Pennsylvania customers
13 and making some kind of assessment as to whether that
14 number would be higher or lower or something in Ohio.
15 With my testimony here I'm talking about a generic
16 customer.

17 Q. Okay. So this statement -- I'm sorry.
18 Go ahead.

19 A. Regardless of Ohio or Pennsylvania.

20 Q. Right. And right now I'm referring to
21 whatever you're referring to in your testimony --
22 excuse me -- on page -- on lines 4 and 5, and that's
23 a hypothetical customer?

24 A. Right. I did not -- I'm not talking
25 about any specific customer, customer class, or

1 anything like that.

2 Q. You didn't -- you didn't talk to any
3 FirstEnergy customers when formulating this
4 conclusion, did you?

5 A. I did not talk to any FirstEnergy
6 customers, no.

7 Q. Okay. Now, the decision -- thank you.
8 The decision whether to choose the -- the benefits
9 from the auction or participate in a program with
10 rebates, that decision is pretty much based upon a
11 revenue stream of what the customer would receive
12 through the auction versus the amount of rebate they
13 would get by participation in a program; isn't that
14 right?

15 A. I think the comparative revenue would be
16 one factor in their decision.

17 Q. Now, on line 4 you talk about the
18 hundreds of thousands of dollars in rebates. How did
19 you quantify that? Did you run an analysis or review
20 the rebates? What were your assumptions?

21 A. That was primarily based on my experience
22 with primarily on the commercial side of the size of
23 projects that customers do that receive rebates.
24 That's what it was based on.

25 Q. Do you know how large of customers

1 FirstEnergy serves megawatt-wise?

2 A. I don't have any firsthand knowledge, but
3 I would imagine they are like any -- many other
4 utilities in that they serve customers ranging from
5 individual small households through small commercial
6 customers, all the way up to very large industrials,
7 which are very substantial loads.

8 Q. Okay. So when -- assuming hundreds of
9 and thousands of dollars in rebates, what size
10 customers were you assuming?

11 A. I wasn't really making any assumption
12 about a customer size. That's really more based on
13 the fact that -- on project size, which doesn't
14 necessarily correlate with customer size.

15 Q. Okay. Now, if you do, I want to talk to
16 you afterwards, but you don't know or have any
17 projections on what the clearing prices in PJM will
18 be in the future, do you?

19 A. No, I do not.

20 Q. And how about the future incremental
21 auctions?

22 A. I do not have a crystal ball for that,
23 I'm afraid.

24 Q. Like I said, if you did, I want to talk
25 to you.

1 Page 6, line 9 -- I'm sorry, line 18 of
2 your testimony.

3 A. Yes.

4 Q. Now, you state starting on 17, "In fact,
5 to the extent that the incremental auction clears at
6 a price lower than the original base residual
7 auction, the Companies can actually make money on the
8 difference." Do you see that?

9 A. Yes.

10 Q. Now, the opposite is true if the base --
11 incremental auctions clear higher than the base
12 residuals, correct?

13 A. My understanding, that if the incremental
14 auctions were to clear at a price above the base
15 residual auction, the company would be responsible
16 for that difference.

17 Q. Now, the purpose of the PJM base residual
18 auction, that's intended to ensure sufficient
19 capacity in the market to meet the forecasted load,
20 isn't it, the primary purpose?

21 A. I would think that's an important purpose
22 for the base residual auction, yes. I don't know if
23 it's the primary purpose, probably the primary
24 purpose, but I can't -- I don't know if I have ever
25 read anywhere where it says that's the primary

1 purpose. That's my understanding.

2 Q. Are there other purposes, in your view?

3 A. I feel like you've read a listing of
4 purposes, but I can't -- I can't recall any other
5 ones specifically.

6 Q. Page 8, line 1, of your testimony, you
7 talk about "The programs as filed take shortcuts
8 towards meeting the benchmarks." Do you see that?

9 A. Yes.

10 Q. And that -- that statement is based on an
11 overreliance -- the companies' overreliance on
12 inexpensive energy kits and no-cost savings claimed
13 from customers' DR efforts. Is that a fair
14 characterization?

15 A. That is my testimony, yes.

16 Q. Okay. Let's talk about the efficiency
17 kits for a little bit here, and just so we're clear,
18 your testimony is limited solely to the small
19 commercial efficiency kit; is that right?

20 A. Yes, that's my -- yes.

21 Q. Okay. Now, on page 8, line 10, of your
22 testimony you refer to trade allies. Do you see
23 that?

24 A. Yes.

25 Q. Now, a trade ally would include

1 wholesalers or retailers that sell equipment that
2 might be subject to efficiency program efforts?

3 A. Yes.

4 Q. And it might even include engineers who
5 specifically design or specify systems that use
6 efficient equipment?

7 A. Yes.

8 Q. And it might even include contractors and
9 tradespeople who install and maintain that type of
10 equipment; is that right?

11 A. Yes.

12 Q. Now, on line 10 you state that you -- you
13 refer to trade allies, indicating that incentives
14 might in fact be too low. Do you see that?

15 A. Yes.

16 Q. Now, have you spoken to any trade allies,
17 either in FirstEnergy or outside of FirstEnergy's
18 territory?

19 A. No. This statement was based on the
20 referenced evaluation that appears on lines 10, 11,
21 and 12 of my testimony on page 8.

22 Q. Regardless of this statement, have you
23 talked to trade allies, participants who are
24 considered trade allies throughout the country?

25 A. I believe I have had conversations with

1 NT that would be characterized as trade allies in
2 other -- in other jurisdictions.

3 Q. Ever find one to complain about
4 incentives being too high?

5 A. I can't recall having a conversation
6 about incentive levels directly with any of those
7 trade allies.

8 Q. Now, there's no guarantee that higher
9 incentives will result in higher, greater
10 participation, is there?

11 A. There is no guarantee, no.

12 Q. Okay. On page 8, line 7, you refer to
13 "Low incentives may not be sufficient to induce
14 program participation." Do you see that?

15 A. Yes.

16 Q. Now, you are not referring to any
17 particular program incentives included in the plan,
18 are you?

19 A. I'm sorry, I'm just going to read for a
20 minute, please.

21 Q. Sure.

22 A. The question and answer that you are
23 referring to in my testimony on page 8 was not in
24 reference to any particular program. It was more of
25 a general statement about efficiency programs.

1 Q. And would you agree with me that when
2 establishing rebate levels, at least one factor to be
3 considered is the rebate levels in neighboring
4 jurisdictions?

5 A. That was one of my recommendations.

6 Q. Yes. Now, are you familiar with AEP
7 Ohio's service territory? Let me rephrase that.
8 Would you agree with me AEP Ohio would be a
9 neighboring jurisdiction of FirstEnergy?

10 A. Subject to checking the map again, yes,
11 sure.

12 Q. Okay. You didn't compare rebate levels
13 offered by AEP Ohio in their plan, did you, when
14 making this statement?

15 A. I'm sorry, compare them to what?

16 Q. The rebate levels offered by the
17 companies.

18 A. I was not able to make such a comparison
19 because the rebate levels specified in the plans
20 aren't provided with, particularly on the commercial
21 side, sufficient detail to make a comparison.

22 Q. Isn't another reason you didn't do it
23 because you didn't review the AEP plan?

24 A. I reviewed -- I did look at some of AEP's
25 program materials that were available online, but I

1 did not review AEP's plan specifically, no.

2 Q. How about Duke Ohio's energy efficiency
3 plan?

4 A. I did not review Duke Ohio's efficiency
5 plan, no.

6 Q. How about Dayton Power & Light?

7 A. No.

8 Q. Page 8, line 16, of your testimony, you
9 refer to free riders. Do you see that?

10 A. Yes.

11 Q. Now, you've not done any quantitative
12 analysis to determine the levels of free ridership
13 that may occur with dissemination of the efficiency
14 kits, have you?

15 A. No. I would have no basis for estimating
16 free ridership of a program delivered by FirstEnergy
17 without -- you know, without being hired to do an
18 evaluation, no.

19 Q. Page 9, line 18 of your testimony, you
20 refer to the "kits having a measure life of just
21 three years." Do you see that?

22 A. Yes.

23 Q. Are you generally familiar with the
24 contents of the small commercial kits?

25 A. Yes. We have some material provided by

1 the companies that describes the contents of the kit,
2 yes.

3 Q. Okay. Are CFLs included, do you know?

4 A. I believe CFLs are the primary
5 constituent of the small commercial kit.

6 Q. How about aerators?

7 A. I heard a witness earlier today mention
8 that an aerator -- aerators were part of the small
9 commercial kit, but that's at variance to some other
10 information we were provided.

11 Q. Smart strips?

12 A. I believe a smart -- my understanding
13 that a smart strip is included, yes.

14 Q. Now, did you check the Ohio draft TRM for
15 the measure lives of any of these measures, the three
16 I just mentioned?

17 A. I did not.

18 Q. Page 9, line 22, you also reference
19 concerns regarding "the Companies' assumed in-service
20 rate and savings estimates for the kits." Do you see
21 that?

22 A. Yes.

23 Q. You did not do any independent analysis
24 specifically on the commercial in-service rates of
25 the kits, did you?

1 A. No. Again, in order to make such a
2 determination, I would need to do an evaluation of
3 FirstEnergy programs, and I haven't been hired to do
4 that.

5 Q. Okay. And you didn't do an independent
6 analysis of what the savings estimates of the kits
7 should be, did you?

8 A. Well, I rely -- I did review the Ohio TRM
9 estimates as compared to the estimates put forth by
10 the -- by the company.

11 MS. KOLICH: Could I have that answer
12 reread, please.

13 (Record read.)

14 Q. So your -- your analysis was limited to
15 basically checking them, again, just sort of as -- in
16 a ballpark sense? Would that be accurate?

17 A. You're referring just to my analysis
18 around the efficiency kits. That's the extent of the
19 quantitative analysis I did, yes.

20 Q. Page 10, line 3, of your testimony.

21 A. Yes.

22 Q. Just a point of clarification,
23 actually -- well, it's referred to up on line 2 as
24 well, the small enterprise program. And on line 3
25 you refer to small enterprise customers. Do you see

1 that?

2 A. Yes.

3 Q. Okay. I just want to clarify for the
4 record that when you're talking about the small
5 enterprise customers, you're generally not talking
6 about multi-family residential, except for common
7 areas?

8 A. Yes, that's a fair characterization. I
9 don't believe that FirstEnergy plans specifically
10 called out multi-family differently than the small
11 enterprise customers for those types of programs.

12 Q. Okay. Now, have you ever seen one of the
13 kits that the companies provide to their customers,
14 the small energy efficiency kit?

15 A. I have not seen those kits, no.

16 Q. Okay. But you're aware that those kits
17 include educational materials that describe the
18 technologies included, how to use those various
19 technologies, and also where they can find out more
20 information about other energy efficiency programs
21 offered by the companies; is that right?

22 A. That's my understanding.

23 Q. Now, did you review any of the
24 educational materials?

25 A. Those were not part of the plan, so no, I

1 did not review them.

2 Q. And you did not help develop a discovery
3 request to ask for those types of materials on behalf
4 of Sierra Club?

5 A. I can't recall if I made a suggestion
6 about the education materials, you know, during those
7 conversations.

8 Q. Okay. Did you review all of the
9 responses to the Sierra Club interrogatories and data
10 requests submitted to the companies?

11 A. I did review all of the responses from
12 the Sierra Club interrogatories, yes.

13 Q. Okay. Page 10, line 9, you refer to
14 smaller firms having limited access to capital. Do
15 you see that?

16 A. Yes.

17 Q. The efficiency kits we're talking about,
18 those are free to customers, aren't they?

19 A. That's my understanding.

20 Q. And they are given to customers who
21 request them?

22 A. Again, that's my understanding of the
23 plan for the program.

24 Q. Okay. Page 10, line 21, of your
25 testimony.

1 A. Yes.

2 Q. It appears that you're recommending a
3 direct install model over the dissemination of
4 efficiency kits; is that a fair characterization?

5 A. No. I think a better characterization
6 would be that, at the very least, the company
7 consider spending some money on a direct install
8 model, not necessarily all of the money or only the
9 money used for the kits.

10 Q. Are you suggesting the company not supply
11 efficiency kits? Is that your recommendation?

12 A. That's certainly not my preferred
13 strategy. I did not make a recommendation. I don't
14 believe I made a recommendation specifically to say
15 "don't do kits."

16 Q. Okay. Now, just so we're on the same
17 page here, how do you define a direct install model
18 or direct install program?

19 A. A direct install program is usually
20 characterized by a relatively streamlined approach
21 for participation by the customers, you know, a
22 maximum size of the customer or being limited to
23 certain rate class, a relatively limited set of
24 measures that are amenable to sort of a more
25 proscriptive uniform treatment across customers,

1 relatively high percentage of the cost covered by the
2 company, usually through direct payments to the
3 installation contractor.

4 Q. Okay.

5 A. Those are a lot of the characters, I
6 think.

7 Q. Okay. And I believe you said, correct me
8 if I am wrong, you are not proposing any specific
9 budget amount for such a program; is that right?

10 A. That's correct.

11 Q. So without knowing the costs, we wouldn't
12 know the exact TRC value of any such program, would
13 we?

14 A. I don't think you can draw the conclusion
15 that we don't know the TRC because I didn't propose a
16 particular budget.

17 Q. Okay. Under your recollection what would
18 the TRC be?

19 A. I did not estimate a TRC as outcome for a
20 small direct install program, although, one, I'm not
21 advocating that the company pursue a direct install
22 program that would not be shown to be cost effective;
23 and, two, my experience with direct install programs
24 in other jurisdictions has shown that that type of
25 program can be made to be cost effective.

1 Q. Okay. Do you have any details
2 surrounding your recommendation for a direct install
3 model so that we could determine what the -- or
4 project -- project what the participation rates might
5 be, how much we should spend on each of the measures
6 you referred to as part of the install program?

7 A. I think there were -- I felt like there
8 were two different questions in that.

9 Q. There were.

10 A. I'm sorry, can you repeat that or
11 rephrase it?

12 Q. I almost did, and I thought we'll see if
13 you followed it and can answer it. Let's try that
14 again.

15 With regard to the direct install model
16 that you're suggesting -- well, let me start even
17 more basic than that. Are you suggesting the
18 companies implement a direct install program in their
19 plans?

20 A. I think that would be a good addition to
21 the portfolio, yes.

22 Q. Okay. But you have no recommended budget
23 for any such program, do you?

24 A. No; nor do I think recommending a
25 specific budget is absolutely necessary to convey

1 that as a good idea and would provide good benefits
2 to your -- to the companies' customers.

3 MS. KOLICH: Your Honor, I move to strike
4 everything after "no."

5 EXAMINER PRICE: May I have the question
6 and answer back, please.

7 (Record read.)

8 EXAMINER PRICE: We are going to do two
9 things. We are going to grant the motion to strike,
10 and the second part, we are going to take a 5-minute
11 break.

12 Let's go off the record.

13 (Recess taken.)

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

16 Please continue.

17 MS. KOLICH: Thank you, your Honor.

18 Q. (By Ms. Kolich) Mr. Loiter, before the
19 break we were talking about the direct install model,
20 and part of your recommendation it appears is based
21 on a -- the turn-key model, National Grid -- I'm on
22 line 2, page 1, of your testimony -- and the AEP
23 Ohio's Express program, which is referred to on lines
24 3 and 4 of your testimony on page 11; is that
25 correct?

1 A. I gave those as two examples of places
2 where that model has been used, but there certainly
3 are lots more instances of that type of program being
4 implemented.

5 Q. Okay. You have no specific knowledge of
6 the types of measures offered in the National Grid
7 program, do you?

8 A. Certainly I don't have any specific
9 knowledge of what they offered in 1990. My general
10 understanding is that the direct install program
11 Massachusetts had had been primarily lighting, as
12 they are in most places.

13 MS. KOLICH: Could I have that answer
14 reread, please?

15 EXAMINER PRICE: You may.

16 (Record read.)

17 MS. KOLICH: Move to strike every --
18 starting with "my general understanding" and
19 everything after.

20 EXAMINER PRICE: Sustained -- or granted.

21 Q. Testimony line 3, page 11, where you
22 refer to the AEP Express program. Now, you viewed
23 that program as a success; is that right?

24 A. I reviewed some information that showed
25 that it generated savings at what appeared to be a --

1 a reasonable cost.

2 Q. Okay. Now, when I deposed you, you
3 indicated you didn't recall what the factors were
4 that made the program successful. Do you recall them
5 now?

6 A. Subsequent to the deposition, I reviewed
7 additional information about that program.

8 Q. So what information did you review?

9 A. I believe it was simply just a quarterly
10 report of the spending and savings on that program.

11 Q. Prepared by AEP?

12 A. I believe it was prepared by AEP.

13 Q. Have there been any customer evaluations
14 of the AEP Express program?

15 A. I don't know.

16 Q. Have you seen any?

17 A. I would say I don't know if there have
18 been any or not.

19 Q. I didn't ask that. I asked if you have
20 seen any.

21 A. No. If I had seen them, I would know.

22 Q. Okay. Have you seen any trade ally or
23 vendor evaluations on the Express program?

24 A. I have not seen any vendor or trade
25 evaluations of that program, no.

1 Q. How about AEP's evaluation of the
2 program, have you seen that?

3 A. I have not seen any other -- anything
4 that I would call an evaluation of that program,
5 other than a reporting of the savings and spending
6 that were generated by that program.

7 Q. Okay. When you say savings and spending,
8 there were no participation rates included?

9 A. There may have been participant numbers
10 included as well, but those may be hard to interpret
11 because you don't always know how they define a
12 participant.

13 Q. And you don't know how much was budgeted
14 towards that program?

15 A. I don't know what their plan budgets, no,
16 only what they ended up spending on it. Yeah, I
17 don't know when they budgeted. That may have been
18 part of the reporting, actually, but I don't
19 remember.

20 Q. Okay. So you wouldn't be able to tell me
21 what the cost per megawatt saved is then?

22 A. Actually, I did just a quick "back of the
23 envelope" calculation, and I think it was in the
24 order of \$20 a megawatt-hour, and -- what I assumed
25 was an annual megawatt-hour.

1 Q. When did you do that calculation?

2 A. A few days ago.

3 Q. Page 11, line 7.

4 A. Yes.

5 Q. This is where you talk about how the
6 company incents lighting retrofits, is that a fair
7 statement, starting on line 7 and going to the end of
8 the page?

9 A. It's retrofits, but my concern is based
10 on the way the company incents lighting in general
11 and a concern over clarity of defining what's an
12 efficient fixture and what's not.

13 Q. Okay. Now, this testimony starting on
14 line 7 regarding the lighting technologies down to
15 the end of the page that specifically related to
16 linear fluorescent lighting, isn't it, technologies?

17 A. This discussion was about linear
18 fluorescents, but the concept would hold true for
19 other types of lighting.

20 Q. Now, you understand the company is not
21 providing incentives for the installation of T12
22 lighting; is that correct?

23 A. I understand that, yes.

24 Q. Okay. To clarify, it's not your
25 position that there should be no incentive to

1 encourage early retirement of T12 lighting systems
2 for more efficient lighting systems, is there? Is
3 it?

4 A. That's correct, it's not my position.

5 Q. But you object to incenting customers to
6 go to a standard T8 system as opposed to a more
7 efficient lighting system; is that right?

8 A. That's correct. My objection is to
9 differentiating the -- what would be considered an
10 acceptable efficient lighting technology based on the
11 existing equipment in a customer's facility and also
12 the fact that it provides an incentive for something
13 that would otherwise be considered baseline.

14 Q. Do you know if the companies incent a
15 modification from a T12 to a standard T8 system?

16 A. That's my understanding, based on the
17 interrogatory response that I refer to in my
18 testimony on line 12 of page 11.

19 Q. Do you know what that incentive level is?

20 A. I do not know what the dollar value of
21 that incentive was, nor do I believe it was provided
22 in the plan.

23 Q. And you did not submit or suggest the
24 generation of a discovery request to ask for that
25 information, did you?

1 A. I don't remember the wording of the
2 request that led to this answer and whether or not it
3 referred to the actual incentive level, or whether it
4 was a more general question whether or not this was
5 something the company would do, so, you know, I don't
6 recall.

7 Q. Okay. But you would agree with me you
8 did review all of the interrogatory responses and
9 data request responses, right? You told me that
10 already.

11 A. I did, yes.

12 Q. And you think you would remember if you
13 saw a response dealing with incentives on lighting,
14 maybe? Maybe not?

15 A. Oh, no, I would recall if I saw any
16 answer, I believe. I'm saying I don't recall the
17 exact wording of the question as to whether or not it
18 would have specifically asked for that, and I do know
19 that just because an interrogatory asks for a
20 question, it doesn't mean we got -- we got all the
21 answers all the time.

22 Q. I understand that. And the company also
23 incentivizes customers to replace older systems with high
24 efficiency T8 lighting, don't they?

25 A. I'm sorry, I'm not sure I understand the

1 distinction you are making between that question and
2 the types of things we have just been talking about.

3 Q. The first part -- first part of my
4 question -- first series of questions dealt with
5 standard T8 lighting as opposed to high efficiency T8
6 lighting, which is where I'm going next.

7 A. All right.

8 Q. So can I --

9 A. Can you ask your question again, please.

10 Q. Sure. You are aware the companies incent
11 customers to switch to a high efficient T8 lighting
12 system; is that right?

13 A. Right, yes.

14 Q. Okay. But you don't know the rebate
15 levels for that incentive, do you?

16 A. Specific rebate levels for that were not
17 provided in the plan.

18 Q. Okay. So the answer is no, you don't?

19 A. No, I do not.

20 Q. Okay. And the companies also incent
21 customers to replace their current lighting systems
22 with T5 systems, don't they?

23 A. I believe T5 are a potential efficiency
24 measure, yes.

25 Q. Okay. But you don't know the incentive

1 level that the companies offer for switching to those
2 types of systems either, do you?

3 A. Again, there was not a specific incentive
4 provided in the plan for that specific technology.

5 Q. So your answer is no?

6 A. My answer is no.

7 Q. At the end of the day, it's the
8 customer's decision as to what type of lighting
9 retrofit, be it standard, T5 that it desires to
10 install; isn't that right?

11 A. Well, customers can put any type of
12 lighting fixture they want in their facility, but
13 it's up to the company to define what an eligible
14 efficient fixture is that they are going to be
15 willing to pay an incentive for.

16 Q. Now, do you know if the Commission allows
17 the companies to count the savings if a customer
18 switches from a T12 lighting system to a standard T8
19 lighting system?

20 A. I don't have any knowledge of whether or
21 not the Commission has ruled on that.

22 Q. Page 11, line 21 of your testimony --

23 A. Yes.

24 Q. -- you refer to creating confusion among
25 customers. Do you see that?

1 A. Yes.

2 Q. And just to put that in context, what is
3 it that's creating the confusion for the customers,
4 in your opinion?

5 A. Well, my opinion what creates confusion
6 is that if a customer or a trade ally wants to
7 install something that's considered to be high
8 efficiency and get -- and get -- and participate in
9 the companies' program of doing that, that there's a
10 particular technology or fixture that in one case
11 would qualify and another case wouldn't qualify. And
12 based on whether -- how old or how -- you know, what
13 kind of technology they already had, and I believe
14 that can create confusion, both among customers and
15 trade allies. Which of these are you considering
16 efficient? You are giving two messages.

17 Q. Now, are more efficient energy lighting
18 systems, let's say comparing a T5 to a T8 high
19 efficiency -- and I am not an expert on lighting,
20 I'll grant you that up front.

21 A. Okay.

22 Q. Is a T12 system generally more expensive
23 than a standard T8 system because it's more energy
24 efficient or in general?

25 A. You said T12, and I don't think you meant

1 to say t12 in that question.

2 Q. No, I did not. Let's try that again.
3 You are right, it's getting late in the day, and my
4 day started early. If I -- if you were comparing a
5 T8 standard system and a T8 high efficiency system?

6 A. Okay.

7 Q. Is it -- is the more efficient system
8 generally more costly?

9 A. First, I just want to make sure we use
10 good terminology. We have been using "high
11 efficiency T8," and usually we talk about "high
12 performance T8," but I just want to make sure that's
13 clear.

14 But, yes, high performance T8 fixture or
15 a lamp and ballast combination is going to be more
16 expensive than a standard T8, yes, of equivalent
17 characteristics, of course.

18 Q. Now, turning to your calculation on page
19 12, under line 10.

20 A. Uh-huh, yes.

21 Q. Now, just to clarify a couple of things,
22 when you made that calculation, there was no
23 assumption about the incentives or what was being
24 paid as an incentive; is that correct?

25 A. That's correct.

1 Q. Okay. Page 12, line 16, you -- you
2 indicate that other utilities in Ohio have already
3 removed incentives for T12 to standard T8s. Do you
4 see that?

5 A. Yes.

6 Q. And you use Duke, I believe --

7 A. Yes, I did.

8 Q. -- as an example of one that no longer
9 incentives for that change; is that right?

10 A. That's right.

11 Q. But you don't know whether AEP still
12 incentives for a T12 to a standard T8 fixture, do you?

13 A. I did not go investigate whether that was
14 the case in the AEP Ohio, no.

15 Q. Uh-huh. How about Dayton Power & Light,
16 do you know if they incentive for that change from T12
17 to a T8?

18 A. I do not know, although I would say that
19 it's not relevant to the extent that it's -- you
20 know, my recommendation wouldn't change regardless of
21 those other companies' approaches.

22 Q. How many utilities do you know for a fact
23 don't incentive for switches from T12s to T8s? When
24 there is energy efficiency requirements in the state?

25 A. I'm not sure what you mean by "energy

1 efficiency requirements."

2 Q. Let me clarify it for you so we only have
3 to go through this once. Ohio has energy efficiency
4 targets that utilities have to meet, correct?

5 A. That's my understanding of what the
6 benchmarks are, yeah.

7 Q. Okay. And there are other states that
8 have certain energy efficiency reduction
9 requirements, either by statute, government direct --
10 executive directive, or Commission order, or some
11 other -- some other thing that's requiring those
12 reductions; is that right?

13 A. Right. Yeah, there is a variety of those
14 mechanisms, yes.

15 Q. I'm only referring to the states that
16 have those types of requirements where there -- the
17 utilities are required to reduce energy consumption.
18 Okay?

19 A. Okay.

20 Q. Now, in those states are you familiar --
21 do you know of any utilities -- strike that.

22 Do you know how many utilities don't
23 incent for switching from a T12 to a T8 system?

24 A. I can name a few, but I don't know the
25 total number, no.

1 Q. Now, on page 9 -- I'm sorry, page 13,
2 line 10 --

3 A. Yes.

4 Q. -- you make a statement "FirstEnergy's
5 own projections for the smaller enterprise programs
6 costing twice the amount of the large enterprise
7 programs on a dollar-per-lifetime megawatt basis."
8 Do you see that?

9 A. Yes.

10 Q. Now, all you're saying here -- well, part
11 of what you're saying here is that the small
12 enterprise program is more expensive in terms of cost
13 of the saved energy than in a large program; isn't
14 that right?

15 A. With respect to the plans that we're
16 talking about today, yes.

17 Q. Okay. And a smaller -- smaller
18 enterprise programs being more expensive than the
19 programs for large customers, that's not an unusual
20 result, is it?

21 A. I do not -- no, it is not an unusual
22 result in my experience.

23 Q. Now, on page 13, line 17, of your
24 testimony carrying over to page 14, you indicate that
25 the account executives, I assume they are the company

1 account executives, should be utilized as a key
2 source of information on the efficiency needs of this
3 customer segment, being the large customer segment.
4 Is that right? Do you see that?

5 A. You know, that's within of the aspects
6 of -- of addressing those large mercantile customers
7 that I call out in my testimony, yes.

8 Q. Okay. Just so we're clear on the record,
9 the account executives you are referring to are the
10 company's account executives, right?

11 A. Yes.

12 Q. Okay. Now, you are aware that the
13 company does utilize account reps that are dedicated
14 to specific large accounts, aren't you?

15 A. I'm sorry, are you referring to something
16 other than the account executives?

17 Q. No. No.

18 A. You are referring to the same account
19 executives?

20 Q. Yeah; because you say the account
21 executives should be utilized as a key source of
22 information on the efficiency needs of the customer
23 segment. I didn't know whether or not you were aware
24 that the company has dedicated account reps to its
25 large customers, and that's what I'm asking. Are you

1 aware of that?

2 A. I'm sorry, I'm confused. You used the
3 term "account executives," and now you are using the
4 term "account reps." I am not sure if you are
5 referring to some different group.

6 Q. It's my fault. That's a bad habit.
7 That's how I always refer to them. They are one and
8 the same. I'm talking about the same people.

9 A. That's my understanding. They have large
10 account -- large customer account executives, which
11 they refer to in the plans, and my interpretation of
12 that would be that those individuals are responsible
13 for some number of customers.

14 Q. Okay. And part of their duties, these
15 account executives are used as a conduit of
16 information about the various EE programs offered by
17 the companies; isn't that right?

18 A. That the plan describes serving as the
19 route for that information from the company to the
20 customer.

21 Q. Now, page 14, line 3, of your testimony,
22 you refer to "a bundle of information that the
23 account executives pass along." Do you see that?

24 A. Yes.

25 Q. Now, you haven't seen any of the

1 information that the account executives provide to
2 customers regarding EE programs offered by the
3 companies, have you?

4 A. No. That material was not included in
5 the plan. I did not review it.

6 Q. I'm sorry. And you didn't talk to any
7 account executives of the company, did you?

8 A. I did not.

9 Q. And you didn't talk to any of the
10 customers who may interact with the companies'
11 account executives, did you?

12 A. No. But similar to one of my previous
13 responses, I don't think it's necessary to have
14 spoken to those people in order to, you know, have an
15 understanding and an opinion on whether or not, you
16 know, having account executives interact differently
17 with respect to efficiency is necessary.

18 MS. KOLICH: Your Honor, I move to strike
19 everything after "no."

20 EXAMINER PRICE: I'm going to grant the
21 motion.

22 And, you know, Mr. Loiter, if you could
23 just, please, you know, answer the -- listen
24 carefully to the question. Answer the question, and
25 if there's -- you have additional information which

1 you think is valuable for the Commission to
2 understand, then Mr. Allwein will ask you on
3 redirect. There will be an opportunity for redirect,
4 so, you know, don't feel it's your last chance to
5 respond to the issues she's trying to elicit

6 THE WITNESS: Yes, your Honor. I'm
7 sorry.

8 EXAMINER PRICE: I was just trying to get
9 us all out of here.

10 THE WITNESS: I understand.

11 Q. Page 14, line 6 of your testimony?

12 A. Yes.

13 Q. You refer to very high levels of
14 potential free ridership. Do you see that?

15 A. Yes.

16 Q. And that statement is based on your
17 understanding of the mercantile self-direct program
18 and the demand response program, contract demand
19 response program; is that correct?

20 A. Yes.

21 Q. Is it your understanding that the law
22 allows Ohio utilities to count projects implemented
23 by mercantile customers?

24 A. It is.

25 Q. Page 15, line 7, of your testimony, I may

1 have the wrong cite here. I apologize. No. It
2 starts with, "If that were the case, then Companies
3 could also take credit for savings resulting from,
4 say, a local climate action group passing out CFLs on
5 Election Day." Do you see that?

6 A. I do.

7 Q. Now, that example is used to demonstrate
8 why, in your opinion, the companies should not count
9 contract demand for demand resources provided to PJM
10 if they are provided through other entities; is that
11 right?

12 MR. OLIKER: Could I have that question
13 reread.

14 EXAMINER PRICE: You may.

15 Let's reread the question, please.

16 (Record read.)

17 MR. OLIKER: Thank you.

18 A. Yes.

19 Q. Now, in your example, no one is paying
20 the customer to take the bulb, are they?

21 A. No. No. That wasn't part of my
22 construct, no.

23 Q. And in your example, the customer is
24 getting something rather than getting paid to give
25 something up; isn't that right?

1 A. My example wasn't intended to discuss,
2 really, you know, monetary flows, more of an example
3 regarding, you know, influence and engagement. But I
4 think what you asked was, yeah, they are getting a
5 CFL.

6 Q. As -- I'm sorry, go ahead.

7 A. That's what I think you are asking.

8 Q. Right. And they are not getting paid to
9 give something back to the en -- climate action
10 group?

11 A. I didn't say one way or the other, but,
12 no, it wasn't anticipating that would be part of this
13 hypothetical.

14 Q. Okay. Now, let's focus on the contract
15 demand program for a minute. What's your
16 understanding of what the companies are proposing in
17 this plan as far as the contract demand program?

18 A. My understanding is that in the past, the
19 companies provided some payment for customers who
20 engaged in demand response activity within, you know,
21 the PJM's available demand response programs, and
22 then the companies decided, and as it states in the
23 plan, that they don't actually have to provide that
24 extra payment, that these customers would keep doing
25 that participation in the PJM demand response program

1 and, therefore, the companies are not going to
2 provide those payments anymore but will continue to
3 count the reductions from that activity. That's my
4 understanding.

5 Q. Okay. Now, so the customer, if it
6 participates in the PJM program, gets compensated for
7 dedicating its demand resources; is that right?

8 A. That's my understanding, yes.

9 Q. Now, are you -- are you suggesting that
10 the company go out and find different demand
11 resources beyond those that are already participating
12 in PJM, or they should pay the customer to also
13 dedicate those resources to the company?

14 A. I didn't make a recommendation for either
15 of those. I think those are both options that the
16 company could exercise. My recommendation is that
17 those particular savings are what I would consider to
18 be free riders and shouldn't be counted as part of
19 the companies' portfolio because I also wouldn't call
20 it a program.

21 Q. Okay. Now, you said they were both
22 options. Let's take the first option where the
23 company -- actually, I think it was your second
24 option, or my second option, the company pays the
25 customer again for the same peak demand reduction

1 resources. It's your position that there wouldn't be
2 free ridership if the company also paid the customer
3 for the same demand resources?

4 A. No, I wouldn't state that there would be
5 no free ridership. In just about any program there's
6 going to be some level of free ridership, in almost
7 any program. It's a question of how much.

8 EXAMINER PRICE: But in this case, isn't
9 the customer a free rider? They're getting paid to
10 do something that they would have done anyways? Let
11 me withdraw my question. Can you give me your
12 definition of free rider?

13 THE WITNESS: Sure. A free rider is
14 someone who participates in a program typically by
15 taking some kind of monetary compensation when
16 they -- when they would have taken that action even
17 in the absence of that.

18 EXAMINER PRICE: Okay. Now, let's go
19 back to the case we were talking with.

20 THE WITNESS: Yes.

21 EXAMINER PRICE: If the company needed to
22 give additional compensation to the customer, isn't
23 the customer in that specific case now is a free
24 rider? They've already done the demand response.
25 They have already done it as a market transaction, a

1 willing seller and a willing buyer, so now, why are
2 they not a free rider in that case?

3 THE WITNESS: Well, I'm contemplating
4 customers who have yet to make the decision to
5 participate and would make the decision to
6 participate based on the combined payment from --
7 from PJM and the company. I think --

8 EXAMINER PRICE: But if PJM is a market
9 rate, you are still talking about the customer
10 getting above market compensation. PJM is a willing
11 seller and willing buyer.

12 THE WITNESS: Right.

13 EXAMINER PRICE: That's going to result
14 in a market rate. If you're talking about anything
15 additional from the company, that's an above market
16 transaction, right?

17 THE WITNESS: Right. That's the whole
18 point of most efficiency programs. I mean, there is
19 a market price for high -- high performance TA
20 lighting or high efficiency cooling systems, and by
21 having the -- having a program administrator,
22 utility, or whatever, go and provide payment, you're
23 influencing the market. You're changing the market
24 decision, and that this would be analogous to that.

25 And I understand what you're saying about

1 if they were already in and the company paid an extra
2 payment, yes, that is more payment to a free rider.
3 What I'm contemplating is companies need to
4 continually -- demand response often they have to
5 sign up every year, and there's always new companies
6 and customers that might sign up, and there's
7 companies out there that maybe don't find the market
8 rate from PJM sufficient to participate to get over
9 what, you know, objections they have to that, and the
10 additional payment from the company would make the
11 difference, just as it is with other efficiency
12 measures.

13 EXAMINER PRICE: Thank you.

14 Q. (By Ms. Kolich) Okay. Believe it or not,
15 I'm almost finished here. I just need to recap --

16 A. Sure thing.

17 Q. -- on somewhat what you're recommending
18 and based on what.

19 A. Okay.

20 Q. So I'm just going to run through it real
21 quick here. Now, when you made your recommendations
22 and prepared your testimony, you did not review the
23 Ohio recommendation for cost-effective testing, did
24 you?

25 A. I did not.

1 Q. And you can't make any determination as
2 to whether the plan includes programs not allowed,
3 that would not be allowed to be included by law, did
4 you?

5 A. I'm sorry, can you repeat that?

6 Q. Yeah, let me try that one again. You
7 can't make any determination as to whether the plan
8 includes programs that are otherwise not allowed by
9 law, can you?

10 THE WITNESS: I'm sorry, can you read
11 that back, please.

12 (Record read.)

13 A. No, I did not make a determination as to
14 whether or not these programs are allowable by law.

15 Q. Okay. And you made no determination
16 about baseline calculations as presented by Company
17 Witness Eberts, did you?

18 A. If that refers to the baseline used for
19 setting the benchmark, that's correct, I did not.

20 Q. And that is what I referred to. And you
21 made no determination about how the targets set forth
22 in the plan were calculated from a mathematical
23 standpoint; is that right?

24 A. That's correct. That was not part of my
25 analysis or testimony.

1 Q. And you do not know for a fact that the
2 plans as proposed by the companies will not hit the
3 statutory targets set forth in the law, do you?

4 A. I would say I don't know one way or the
5 other whether or not they are going to achieve the
6 benchmarks, no.

7 Q. Now, with regard to your program
8 modifications recommended in your testimony, you
9 provided no suggested budgets for any of those
10 suggested changes, did you?

11 A. That's correct.

12 Q. And you made no estimate of the amount of
13 additional savings that would be generated if those
14 recommendations were adopted, did you?

15 A. That's correct, I did not make an
16 estimate of the additional savings.

17 Q. In fact, do you know if those
18 recommendations are adopted, there would, in fact, be
19 incremental additional savings?

20 A. That would depend on the manner in which
21 the budget was allocated to them or whether or not
22 the budgets increased or not, so I can't say.

23 Q. And you provided no -- you did no
24 analysis of what the total cost of the plan would be
25 if your recommendations are adopted, did you?

1 A. Again, I did not submit a recommendation
2 as to the total budget that the companies should
3 devote to their plans so, no.

4 Q. And you don't know what portfolio -- when
5 the TRC on a portfolio basis would be if your
6 recommendations are adopted, do you?

7 A. I did not estimate any change in TRC from
8 these -- from my recommendations, no.

9 Q. And you didn't do any analysis on how
10 participation rates among those various programs --
11 among those various programs would be affected if
12 your recommendations are adopted; is that right?

13 A. I don't think all my recommendations
14 would necessarily result in a change to participation
15 rates, but for those that might, no, I did not.

16 MS. KOLICH: Okay. If you just give me a
17 minute, your Honor.

18 EXAMINER PRICE: Certainly.

19 MS. KOLICH: That's all I have, your
20 Honor.

21 EXAMINER PRICE: Do you believe the
22 companies should be held harmless in the event they
23 bid projected resources into the PJM base residual
24 auction and are unable to meet those projections? Do
25 you think the customer base should backstop that?

1 THE WITNESS: I'm uncomfortable
2 suggesting that the customer base should be
3 responsible for that because it's -- it's one thing
4 to plan, to plan for efficiency, but then it's up to
5 the company to do a good job, and I've seen any
6 number of instances where, you know, the company has
7 a good plan, and maybe in one particular program or
8 maybe in one particular year they just -- they don't
9 do a good job.

10 EXAMINER PRICE: You do not recommend the
11 companies be held harmless.

12 THE WITNESS: Right. I don't recommend
13 that they be held harmless.

14 EXAMINER PRICE: Has the Sierra Club
15 intervened in any energy efficiency portfolio program
16 cases for companies other than FirstEnergy?

17 THE WITNESS: I can't speak to Sierra
18 Club's other engagements. I don't have a totality of
19 that knowledge, I'm sorry.

20 EXAMINER PRICE: You may not know the
21 answer to this one, too.

22 THE WITNESS: That's been a common theme
23 this evening, it seems.

24 EXAMINER PRICE: Do you know if the
25 Sierra Club has recommended that any of the other

1 Ohio utilities bid their energy efficiency into the
2 PJM capacity auctions as you've recommended?

3 THE WITNESS: I don't know. I'm sorry.

4 EXAMINER PRICE: That's okay. One last
5 question, maybe -- maybe not the last one.

6 THE WITNESS: Okay.

7 EXAMINER PRICE: Isn't it true that
8 program spending in a given customer class is
9 generally borne by that customer class of
10 FirstEnergy? Program spending for large mercantile
11 customers gets paid for by large mercantile
12 customers?

13 THE WITNESS: I don't know the details of
14 how the riders and rate recovery are going in this
15 case. That wasn't part of my -- you know, what I
16 reviewed. I know that that's, in my experience,
17 typically what the intent is. Obviously, each
18 customer class wants to feel like they are getting
19 back what they put in through a rider.

20 EXAMINER PRICE: Right. You are
21 recommending that program spending for large
22 mercantile customers be increased, on page 15, line
23 22.

24 THE WITNESS: Where I say, "There are
25 many programs available to address the large customer

1 class that provide a much stronger connection between
2 program spending and program savings."

3 EXAMINER PRICE: Actually, I think it's
4 really the second sentence.

5 THE WITNESS: "I recommend that the
6 companies re-allocate their spending to achieve a
7 much higher proportion of their savings from focused
8 efforts."

9 That wouldn't -- that re-allocation
10 wouldn't necessarily be across classes. It could be
11 within class rather than spending on -- what limited
12 spending that there is on the self-direct and the
13 demand response could be shifted to other types of
14 programs.

15 EXAMINER PRICE: So you're not
16 recommending that large mercantile customers bear a
17 larger burden of complying with benchmarks.

18 THE WITNESS: Yeah. I don't -- I didn't
19 really give direct contemplation to that. I think
20 it's a good idea for the classes to bear the costs in
21 proper proportion or close proportion to their load
22 and to their contribution and savings. On the other
23 hand there tends to be -- there tend to be a little
24 more cost effective to get savings from some of these
25 large customers, and to the extent that you can spend

1 20 percent of the money and get 25 or 30 percent of
2 the savings from them, I don't see a big problem with
3 that.

4 EXAMINER PRICE: Which do you think is
5 more important, cost effectiveness or fairness in
6 terms of customer classes bearing the burden based on
7 their proportion of share of the load?

8 THE WITNESS: I can't say that one -- I
9 mean, it's about -- you have got to find the balance
10 between the two, your Honor.

11 EXAMINER PRICE: That's what I'm trying
12 to do.

13 THE WITNESS: I know. I appreciate that.

14 EXAMINER PRICE: Okay. Thank you.

15 Mr. Allwein, redirect?

16 MR. ALLWEIN: Your Honor, I actually
17 think I have got it ready, but I just want to check a
18 couple of things. If I may, I would like a moment
19 with the witness just to check a couple of things.

20 EXAMINER PRICE: Sure. Let's go off the
21 record.

22 (Discussion off the record.)

23 EXAMINER PRICE: Let's go back on the
24 record. Redirect.

25 MR. ALLWEIN: Yes, your Honors, thank

1 you.

2 - - -

3 REDIRECT EXAMINATION

4 By Mr. Allwein:

5 Q. Just a couple of things, Mr. Loiter.
6 Counsel for the company asked if you knew the
7 clearing price of future incremental or base residual
8 auctions. But looking back and in your experience in
9 ISO New England, how frequently do incremental
10 auctions clear at a higher price than the base
11 residual auctions?

12 A. I don't think that I've noted that they
13 have ever cleared higher than the original auction in
14 ISO New England.

15 Q. Okay. And you were asked about the
16 amount of megawatts that the Connecticut -- I'm
17 sorry, that the Connecticut entity that you
18 represented --

19 A. Sure.

20 Q. -- and your response was 5-megawatt --
21 megawatts and some change. Do you recall that?

22 A. Yes.

23 Q. What percentage of their resources does
24 that represent?

25 A. At the time, I would say that represented

1 substantially more than half of the planned resources
2 that were going to be available by the -- by the
3 delivery period, and I'll also note that that would
4 be the very first forward capacity auction in ISO New
5 England, and possibly the whole country, for that
6 matter. So even under those circumstances, we
7 committed substantially more than half of what we'd
8 have.

9 Q. Okay. And you were asked about the
10 amount of penalty increasing being in relation to a
11 higher bid amount. Do you recall that?

12 A. Yes.

13 Q. And is it also true that the greater the
14 bid, that the greater potential benefit there is for
15 customers potentially?

16 A. Certainly. The greater the bid, the
17 greater the revenue that the company would realize to
18 offset the cost of the program, and the greater the
19 likelihood of pushing the auction to clear at a lower
20 price, which would save the entire company money on
21 its -- on its obligation, it's obligation to serve
22 the load.

23 Q. And you were asked about whether you
24 talked to trade allies regarding some of your
25 recommendations, whether you talked to customers,

1 whether you had reviewed account executive info. Why
2 were or why not -- why or why isn't that important in
3 terms of your assessment and/or recommendations in
4 this case?

5 A. My recommendations in this case are, I
6 think, relatively high level program design
7 recommendations that I believe are valid in -- you
8 know, across a wide range of jurisdictions and
9 utility administrators, and while there is certainly,
10 you know, some variation in the way markets and
11 supply chains work from place to place, I don't
12 believe it's necessary to, you know, have spoken to a
13 bunch of individual trade allies to know that, for
14 example, a direct install program for small
15 commercial customers is -- is a good strategy and
16 good component of a portfolio.

17 Q. And I think you were asked about whether
18 the companies' customers should hold the company
19 harmless in the event that they were unable to
20 fulfill their future obligations in a PJM base
21 residual auction bid or future bid. Were you
22 referring to -- was that your statement in regard to
23 any circumstances, or only in particular
24 circumstances?

25 A. You know, what I was thinking was really

1 just circumstances as I think I tried to convey,
2 where the company doesn't do a good job managing
3 their effort to meet that obligation. And,
4 certainly, if there were some kind of, you know,
5 completely extenuating circumstances beyond the
6 companies' control, it seems reasonable to not unduly
7 penalize them for that but, you know.

8 To the extent that you're going to want
9 to allow some leeway, you would want to look
10 carefully, I think, at, you know, would some kind of
11 failure be related to the management or, you know,
12 something way beyond the companies' control.

13 EXAMINER PRICE: I'm confused by your
14 answer to this question. So you're saying the
15 company should be held harmless, except that they
16 shouldn't be held harmless?

17 THE WITNESS: I can give you an example
18 from my experience.

19 EXAMINER PRICE: Hold on, let me ask a
20 follow-up question.

21 THE WITNESS: Sure.

22 EXAMINER PRICE: That wasn't a very good
23 question. Are you saying that the -- you would
24 recommend holding the company harmless to losses in
25 the market subject to some sort of prudence review,

1 so that if the company had acted prudently, they
2 would be held harmless, but if it was found that they
3 had acted imprudently, then the company would bear
4 the risk?

5 THE WITNESS: Yeah. I think that's a
6 good way to think about it, based on my understanding
7 of what prudent usually means in a kind of regulated
8 utility context, yes.

9 EXAMINER PRICE: But you'd agree in that
10 case that the company is now bearing instead of the
11 direct financial risk, they are simply bearing the
12 risks of disallowance, and there is still a risk at
13 that point.

14 THE WITNESS: I guess I'm not as totally
15 up on all -- on ratemaking, what you mean by
16 "disallowance." I mean, they would have spent the
17 money to participate --

18 EXAMINER PRICE: I don't mean anything
19 highly technical. I'm just saying there is a risk if
20 the company is held harmless to some future review of
21 their actions, that the company bears a risk that the
22 Commission will step in and say, "You acted
23 imprudently in this decision, and, therefore, you
24 will bear the cost of this decision." And that's
25 just a risk to the company.

1 THE WITNESS: Sure, that is a risk to the
2 company. But I believe subjecting it to that kind
3 of, you know, potential review balances the risk
4 between the customers, the ratepayers, and the
5 company itself, instead of being all on one or the
6 other. Because for that, we were really -- it
7 sounded like we were talking about it being an all or
8 nothing. You're either going to give it all to one
9 party or to the other.

10 EXAMINER PRICE: Well, if that were the
11 case, do you think it's fair to bounce that residual
12 disallowance risk to the company? Do you think it's
13 fair to give the company, as Mr. Scheck appears to
14 recommend, we will explore later, a share of the
15 revenue so that there will be some sort of split of
16 the capacity revenue where the company could make
17 money to offset the disallowance risk while the
18 customers retain the majority or vast majority of the
19 revenue, 90/10, 80/20, something like that?

20 THE WITNESS: I hadn't given that any
21 thought prior to just now, your Honor. I'm sorry. I
22 suppose that contract could be part of some, you
23 know, overall incentive mechanism. But I think, you
24 know, you wouldn't want to look at that in isolation.
25 I think that would have to be considered in totality

1 with all the other ways the company is incented to
2 meet these objectives and things like that.

3 EXAMINER PRICE: Why is that? If you
4 think the Commission should mandate to the company
5 bid capacity into the auction, isn't that a fair way,
6 as Mr. Scheck seems to be suggesting, to balance the
7 company's risk and the customer's on this discrete
8 program?

9 THE WITNESS: I'm sorry, I'm not familiar
10 with what Mr. Scheck's testimony is directly. But if
11 he would propose -- I don't see any problem with it
12 on the face, but, you know, the idea is the
13 customers -- ratepayers are already paying for the
14 efficiency, and the company -- there is a way for the
15 company to return some of that spending to the
16 customers, and I think they should do that as much as
17 possible.

18 EXAMINER PRICE: Okay. Great. Thank
19 you.

20 Mr. Allwein.

21 MR. ALLWEIN: Thank you, your Honor. I
22 have no further questions.

23 EXAMINER PRICE: Ohio Environmental
24 Council.

25 MS. LOUCAS: I have no questions, your

1 Honor.

2 EXAMINER PRICE: OCC.

3 MS. KERN: No questions, your Honor.

4 EXAMINER PRICE: ELPC.

5 MR. VICKERS: No questions, your Honor.

6 EXAMINER PRICE: Mr. O'Brien.

7 MR. O'BRIEN: No questions, your Honor.

8 EXAMINER PRICE: Mr. Olier.

9 MR. OLIER: No questions, your Honor.

10 EXAMINER PRICE: Mr. Parram.

11 MR. PARRAM: No questions, your Honor.

12 EXAMINER PRICE: Wait, you're last.

13 Ms. Kolich.

14 MS. KOLICH: Yes, your Honor, just a
15 couple.

16 - - -

17 RECROSS-EXAMINATION

18 By Ms. Kolich:

19 Q. Mr. Loiter, your counsel asked you about
20 ISO New England clearing prices. Do you remember
21 that?

22 A. Yes.

23 Q. Does the same hold true in PJM? Did you
24 look at that?

25 A. I did look at the results of PJM auctions

1 and incremental auction results, and, you know, I
2 don't have -- I can't say with 100 percent certainty.
3 My recollection is, at the very least, the majority
4 of those incremental auctions, if not the vast
5 majority, did clear at prices equal to or lower than
6 the BRA, but there were -- you know, there is many
7 more zones in PJM to look at, so I can't say with
8 uniformity the way I can with ISO New England.

9 Q. Are there situations where the prices in
10 the incremental auctions cleared higher in PJM that
11 you are aware of?

12 A. I don't know. Sorry.

13 Q. Okay. Do you know what the PJM ATSI zone
14 is?

15 A. Only sort of superficially, that it's one
16 of the regions or LDAs within PJM -- I'm sorry, I
17 guess that stands for local delivery area or load.
18 I'm sorry, I don't know exactly what LDA stands for.
19 It's one of the zones in which PJM is broken up for
20 purposes of, you know, their market transactions, and
21 it's -- I believe it's at least partly overlapping
22 with the FirstEnergy companies' territories in Ohio.

23 Q. Okay. Capacity clearing prices in the
24 incremental auctions, they could be affected by plant
25 closures, couldn't they?

1 A. Sure. Anything that changes the
2 generation mix could affect the market, yes.

3 Q. The clearing prices?

4 A. Sure.

5 Q. So included in that would be
6 environmental changes, changes in environmental laws?

7 A. To the extent you could show that a
8 change in environmental law was the factor that
9 resulted in a plant closing, then I suppose you could
10 draw a connection between an environmental regulation
11 and an effect on the clearing price on the market.

12 Q. What if it didn't cause a plant to close;
13 it just required it to incur additional costs in
14 order to comply with the law, the environmental law?

15 A. That may or may not necessarily change
16 the clearing price because to the extent it's an
17 existing plant and the -- whoever operated that plant
18 wants to keep it running, there -- and they have to
19 take that, and they are going to keep running, they
20 are going to keep open, they could be more of a price
21 taker and, therefore, the fact that they have
22 incurred some more costs may or may not cause them to
23 change their bidding strategy.

24 Q. But is it fair to say we just don't know
25 what those clearing prices are going to do in the

1 future in PJM?

2 A. That's right, nobody knows for sure what
3 those prices will do in the future.

4 Q. Okay. I hate to ask this, but I know
5 it's going to come back to me on brief if I don't
6 clarify. Your counsel asked you a question about
7 Connecticut Muni, and you indicated that represented
8 substantially more than half of their load, I
9 believe.

10 A. No. It was substantially more than half
11 of what we -- what our planned -- total amount of
12 efficiency resource we projected that the -- the
13 organization would acquire based on their planned
14 spending from when we made the beginning of that
15 calculation to the beginning of the delivery period.
16 I'm sorry. Do you want me to try that again?

17 Q. Would you, please?

18 A. Just as we have been talking about, I
19 think, with the companies, you have to participate in
20 the auction three years before when you have to
21 deliver the capacity. And so when, again, I'll call
22 it CMEEC, which is just the abbreviation CMEEC, when
23 we were going to participate in the first auction, we
24 said, okay, whatever data was in 2006 or 2007 and
25 between now and June 1, 2010, we plan to be spending

1 X dollars on efficiency because we know that's what
2 we have to collect from customers, and we plan to get
3 a certain amount of peak reduction from -- from
4 that -- those programs.

5 And I'm saying that the 5.6 megawatts or
6 so that we committed and put into the auction and
7 cleared was substantially more than half of what that
8 plan number was. I just don't remember at the time
9 what that plan number was, whether it was 7 or 8 or,
10 you know, megawatts.

11 MS. KOLICH: Okay. That's all I have,
12 your Honor.

13 EXAMINER PRICE: Mr. Parram.

14 MR. PARRAM: Nothing, your Honor.

15 - - -

16 EXAMINATION

17 By Examiner Price:

18 Q. Why do you think the plant closure and
19 change in environmental laws would change incremental
20 auction bids? If you are a generator and you bid
21 your plant's capacity into the base residual auction
22 even if you subsequently decide to close that plant,
23 you're still on the hook for that capacity. You
24 don't get to say, "Oh, I'm not going to deliver now,"
25 do you?

1 A. That's correct, and that's not what I
2 was -- that's not what I was referring to. I didn't
3 intend to refer to it that way. What I was saying
4 is -- is, say there is an existing generator and
5 either the cost of compliance goes up -- yeah, let's
6 say the cost of compliance with environmental regs
7 goes up. But here comes the next auction window for
8 commit delivery three years now.

9 Q. We were talking about incremental
10 auctions. We weren't talking about -- I get what
11 you're saying about base residual auctions. Her
12 question, if I recall correctly, was about
13 incremental auctions.

14 A. To the extent it was, I misheard that. I
15 wasn't -- I was talking more generally about base
16 residual auctions.

17 Q. Maybe it's my error. Let me just then
18 ask the question directly. If you are restricting
19 the question to incremental auctions, would plant
20 closures and change in environmental laws necessarily
21 impact the prices of incremental auctions?

22 A. I guess -- I guess it could because --

23 Q. Still could?

24 A. Yeah, because you could decide -- I think
25 it's very difficult to determine what the strategies

1 are. There's a lot of factors, but I suppose you
2 could decide you wanted out, and you decide to shed
3 the obligation, the auction rights. Other people
4 could say, "Well, I want to get in now because I see
5 a change coming in the future," you know. There's a
6 lot of strategic --

7 Q. A lot of factors?

8 A. A lot of factors, yes, sir.

9 Q. Let me ask you a more simple question.
10 In your experience in the New England ISO, has the
11 trend of the prices and the incremental auctions gone
12 up as it approaches the delivery date, or has it gone
13 down as it approaches the delivery date, or is there
14 no discernible pattern?

15 A. I'm sorry, I didn't look at it that
16 closely to see if there was such a trend. I mean,
17 I'll also note that there's sort of two different
18 streams of auctions. There's the sort of what they
19 call the -- I forget what they call it, the bilateral
20 reconfiguration auctions, which are like incrementals
21 in PJM in that there is only two of them, you know,
22 in the subsequent years before the delivery period.

23 There is also the monthly reconfiguration
24 auctions that occurs, which actually, you know, I
25 have also looked at the data of, and I don't know

1 that I've noted a trend. My gut says, if anything,
2 on some of the monthly, it seems to go down, but
3 there's -- it depends. There are so many other
4 factors involved, in the economy and --

5 Q. We don't have monthly in PJM, in any
6 event.

7 A. Right.

8 Q. You said in your testimony that
9 Connecticut Muni put in more than 50 percent of its
10 planned resources. Do you think 50 percent of its
11 planned resources in a reasonable number? Do you
12 think that's an aggressive number?

13 A. Based on my -- what I've heard from other
14 utilities in ISO New England, I would not call that
15 particularly aggressive, no. I would think that, you
16 know, it's -- I don't have hard numbers. It comes
17 mostly from being on the phone with -- with other
18 utilities as we talk about some of the issues. There
19 is a working group where a bunch people who
20 participate talk about the issues that come from the
21 ISO when they change something, for example. And my
22 recollection from those is that, you know, most
23 people are in for, you know, 75 percent or more of
24 what they are planning.

25 Q. You think 75 is not unreasonable?

1 A. I don't think that's unreasonable, no.

2 EXAMINER PRICE: Okay.

3 Any questions, Ms. Willey Chiles?

4 EXAMINER CHILES: No questions.

5 EXAMINER PRICE: Thank you. You are
6 excused.

7 THE WITNESS: Thank you.

8 Mr. Allwein.

9 MR. ALLWEIN: Yes, your Honor, I would
10 like to call Glen --

11 EXAMINER PRICE: No, you want to move for
12 admission.

13 MR. ALLWEIN: Yes, I'm sorry. Wow. I
14 move for the admission of Sierra Club Exhibit 1,
15 Mr. Jeffrey Loiter's direct testimony and attached
16 exhibits.

17 EXAMINER PRICE: Any objection to the
18 admission of Sierra Club 1?

19 Hearing none, it will be admitted.

20 (EXHIBIT ADMITTED INTO EVIDENCE.)

21 EXAMINER PRICE: Let's go off the record
22 for one minute.

23 (Discussion off the record.)

24 EXAMINER CHILES: Let's go back on the
25 record.

1 Mr. Allwein.

2 MR. ALLWEIN: Yes, your Honors. I would
3 like to call Mr. Glenn Reed to the stand, please.

4 (Witness sworn.)

5 EXAMINER CHILES: Thank you, you may be
6 seated.

7 THE WITNESS: Thank you.

8 MR. ALLWEIN: Your Honors, I request that
9 the exhibit that I just handed you please be marked
10 as Sierra Club Exhibit 2.

11 EXAMINER CHILES: So marked.

12 (EXHIBIT MARKED FOR IDENTIFICATION.)

13 MR. ALLWEIN: Thank you.

14 - - -

15 GLENN REED

16 being first duly sworn, as prescribed by law, was
17 examined and testified as follows:

18 DIRECT EXAMINATION

19 By Mr. Allwein:

20 Q. Mr. Reed, could you state your name,
21 occupation, and position for the record.

22 A. Yes. My name is Glenn Reed. I'm a
23 partner at Energy Futures Group. My mailing address
24 is 576 Rutland Street in Carlisle, Massachusetts
25 01741.

1 Q. And do you have what's been marked as
2 Sierra Club Exhibit 2 in front of you?

3 A. Yes, I do.

4 Q. And can you please describe that exhibit.

5 A. That is my testimony that has been
6 prefiled.

7 Q. And does that also include any
8 attachments?

9 A. Yes. It includes the attachment of my
10 resume and some of the interrogatories that were
11 cited as footnotes.

12 Q. And was this testimony prepared by you or
13 under your direction?

14 A. Yes, it was.

15 Q. Now, do you have any corrections or
16 updates that you would like to make to your testimony
17 today?

18 A. I would like to make one set of
19 corrections, please, starting on page 7. I
20 incorrectly refer to the part of that that undertook
21 the evaluation of the Penelec efficiency kits
22 evaluation in Pennsylvania as the statewide
23 evaluator. In fact, it was a different firm. It was
24 ADM & Associates working for FirstEnergy in
25 Pennsylvania that undertook and completed that

1 evaluation.

2 Q. And, I'm sorry, can you direct us to a
3 line?

4 A. Certainly. So starting on page 7 on
5 line -- on 16, the Pennsylvania Statewide Evaluator,
6 wrapping around to line 17, and then the acronym SWE,
7 Statewide Evaluator, is used several times through
8 the bottom of page 7 and continuing on to the top of
9 page 8.

10 Q. All right. And I'm sorry, so what should
11 Pennsylvania Statewide Evaluator be replaced with?

12 A. ADM & Associates. And, in fact, the
13 filing itself was a company filing with the
14 evaluation having been completed on behalf of the
15 company by ADM & Associates.

16 Q. All right. And so for the acronym, can
17 you just use "ADM" in place of "SWE"?

18 A. That would work for me.

19 Q. All right. Any other corrections that
20 you need to make?

21 A. No, I do not.

22 Q. All right. If I were to ask you the same
23 questions appearing in your testimony today under
24 oath, would your answers be the same, noting the
25 corrections you just described?

1 A. Yes, they would.

2 MR. ALLWEIN: All right. Thank you.

3 And, your Honors, with that I present
4 this witness for cross-examination.

5 EXAMINER CHILES: Thank you.

6 OEC.

7 MS. LOUCAS: No questions, your Honors.

8 EXAMINER CHILES: Ms. Kern.

9 MS. KERN: No questions, your Honor.

10 EXAMINER CHILES: ELPC.

11 MR. VICKERS: No questions, your Honor.

12 EXAMINER CHILES: Mr. Olier.

13 MR. OLIER: No questions, your Honor.

14 EXAMINER CHILES: And, Ms. Dunn.

15 MS. DUNN: I have a preliminary matter.

16 I have two motions to strike relating to this
17 testimony. The first one is line -- is page 8, lines
18 5 through 14. I'll give everyone a second to get
19 there. Are you ready, your Honor?

20 EXAMINER CHILES: Yes.

21 MS. DUNN: Those lines relate to or are
22 cited from a draft DSM annual report by a Canadian
23 gas company called Enbridge Gas. First, I would like
24 to move to strike this on the basis of hearsay.

25 Second, I requested during discovery

1 documents relied upon by the experts from Sierra
2 Club. That document was not provided to the
3 companies.

4 And, third, I also requested all
5 documents relied upon by the expert to be presented
6 during his deposition. Those were not -- this was
7 not provided as well. Nevertheless, I did try to
8 search for it myself. I was unable to do so.
9 Therefore, the reliability of this portion of his
10 testimony is severely in question, and, therefore, it
11 should be stricken.

12 EXAMINER CHILES: Thank you.

13 Mr. Allwein.

14 MR. ALLWEIN: Well, I think -- sorry.
15 Your Honor, I guess we were under the impression that
16 this was something that was readily available on
17 line, so that's why we cited to it but did not
18 include it, and I will concede, I did not got provide
19 it.

20 EXAMINER PRICE: You want to defend it on
21 the hearsay basis? You want to take a crack at that?

22 MR. ALLWEIN: Sure. I think there is an
23 exception for business records, and I think that the
24 draft DSM annual report is a record that the
25 companies keeps in the normal course of their

1 business evaluating a DSM program that they run.

2 MS. DUNN: I do have a response to that.

3 EXAMINER CHILES: Go ahead.

4 MS. DUNN: There is no one here to
5 authenticate that it is actually a business record,
6 unless there is a representative from Enbridge Gas,
7 so I -- it is still hearsay and there is no
8 exception.

9 EXAMINER CHILES: Motion to strike is
10 granted. Let's strike I believe it's lines 5 through
11 14 on page 8.

12 MS. DUNN: And the second motion to
13 strike I have is on page 18 of Mr. Reed's testimony,
14 lines 12 --

15 EXAMINER CHILES: Just a moment.

16 MS. DUNN: I'm sorry.

17 EXAMINER CHILES: All right. Go ahead.

18 MS. DUNN: Sorry about that. Lines 12
19 through 15, where there is not even a cite here, but
20 he is just says that "It's worth noting that Sponsors
21 of the Northeast Energy Efficiency Partnership's
22 Efficient Products Initiative recently came to a
23 similar conclusion. In updating their 2011 regional
24 Residential Lighting Strategy they removed the
25 recommendation to consider the promotion of efficient

1 halogen lamps."

2 This is being offered for the truth of
3 the matter asserted, and it is hearsay.

4 EXAMINER CHILES: Mr. Allwein.

5 MR. ALLWEIN: Your Honors, well, we did
6 not provide the information, I'll concede that. I
7 guess our opinion was this was information that was
8 generally known or easily ascertainable.

9 MR. KELTER: Can I respond, your Honor?

10 EXAMINER PRICE: Sure, we'll take
11 arguments from anybody.

12 EXAMINER CHILES: Sure, sorry.

13 MR. KELTER: Witnesses rely on hearsay
14 all the time. The whole point is to put it in their
15 testimony. I'm confused as to whether they got a
16 data request on that that wasn't responded to.

17 MS. DUNN: I'm sorry, I don't understand.
18 A data request?

19 MR. KELTER: Did you submit a data
20 request asking for a cite to this or asking for the
21 report that he based this on?

22 MS. DUNN: Yes, I did.

23 MR. KELTER: And they didn't respond.

24 MS. DUNN: That is correct. That's
25 different than the hearsay part.

1 MR. ALLWEIN: Okay. I thought -- I
2 thought we had responded. It was ascertainable, but
3 it's possible we didn't.

4 EXAMINER CHILES: Do you want a moment to
5 try and find that or --

6 MS. DUNN: Specifically I did ask in the
7 data request for all documents relied on by the
8 expert.

9 MR. KELTER: So that was just a broad
10 request for all documents relied on by the expert,
11 and you never followed up and said, "What about this
12 one?"

13 MS. DUNN: It's not my responsibility to
14 follow up with counsel in his duties of discovery.

15 EXAMINER PRICE: I think they are dead to
16 right on the hearsay anyway. The bottom line is they
17 can't cross-examine the experts or the people that
18 made this decision, so it's -- it would be -- well,
19 even without the discovery dispute, I think it's
20 still gone on hearsay. There is no exception to
21 this.

22 EXAMINER CHILES: Do you have anything to
23 add, Mr. Allwein?

24 MR. ALLWEIN: I don't at this time, your
25 Honors.

1 EXAMINER CHILES: Okay.

2 THE WITNESS: Am I allowed to put --

3 EXAMINER PRICE: No.

4 THE WITNESS: Oh, okay.

5 EXAMINER CHILES: The motion to strike is
6 granted. I believe we are striking the portion of
7 line 12, beginning with "It is worth noting," through
8 line 15 ending with "halogen lamps." And that is on
9 page 18.

10 Is that correct, Ms. Dunn?

11 MS. DUNN: That is correct. Thank you.

12 EXAMINER CHILES: Are there any other
13 motions to strike?

14 All right, Mr. Allwein.

15 MR. ALLWEIN: Apologies, what was the
16 question from the Bench, your Honor?

17 MS. DUNN: I believe I'm.

18 EXAMINER CHILES: I was asking if there
19 were further motions to strike.

20 MR. ALLWEIN: I'm sorry.

21 EXAMINER CHILES: There were not, so you
22 may proceed.

23 MR. ALLWEIN: I presented the witness for
24 cross-examination.

25 EXAMINER CHILES: Oh, I apologize.

1 Ms. Dunn.

2 MS. DUNN: Thank you, your Honor.

3 - - -

4 CROSS-EXAMINATION

5 By Ms. Dunn:

6 Q. Good evening, Mr. Reed.

7 A. Good evening, Ms. Dunn.

8 Q. Welcome to Ohio.

9 A. Thank you.

10 Q. Very late night in Ohio. In reviewing
11 the companies' -- my name is Carrie Dunn. I'm
12 counsel for the companies in this case.

13 In reviewing the FirstEnergy plans in
14 this case, you utilized your working knowledge from
15 your involvement in energy efficiency programs and,
16 among others, Massachusetts, Rhode Island,
17 Connecticut and Vermont, correct?

18 A. That's a partial list, correct.

19 Q. And I would like to go to page 9 of your
20 testimony, lines 11 through 12.

21 A. Yes.

22 Q. And -- well, actually, I'll start, I'm
23 sorry, at line 10. One of the questions you posed,
24 "Were there other concerns with the efficiency kits?"

25 And you stated, "Yes. One of their

1 greatest drawbacks is that they circumvent the normal
2 market channels for the promotion and sale of
3 efficient lighting." Correct?

4 A. Correct.

5 Q. And when you refer to "normal market
6 channels," you are referring to retail, right?

7 A. That's correct.

8 Q. An opt-in energy efficiency program is
9 one where a customer makes a choice to participate,
10 isn't it?

11 A. That's correct.

12 Q. The company's proposed kits are opt in,
13 aren't they?

14 A. That's correct.

15 Q. And, in general, there is an average of
16 40 to 50 sockets in a residential home, isn't there?

17 A. That's a reasonable approximation, yes.

18 Q. And retailers offer a wide variety of
19 CFLs an LED lighting, don't they?

20 A. Many do, not all retailers. But, yes,
21 retailers do in general.

22 Q. And certain retailers, and I'll use an
23 example when you said some don't, like a Home Depot
24 or a Lowe's offer decorative CFLs, such as globe
25 lights, don't they?

1 A. That's correct.

2 Q. Retailers, such as a Home Depot or
3 Lowe's, also offer special LED lights, like holiday
4 lights, don't they?

5 A. That's correct.

6 Q. Now, educating a consumer regarding
7 energy efficiency programs is an important goal that
8 the companies should incorporate in their plans,
9 isn't it?

10 A. Yes, it is.

11 Q. And one approach to educate consumers is
12 with the kit, isn't it?

13 A. That's one of the companies' stated
14 goals, correct.

15 Q. Well, I guess -- I guess one approach,
16 though, to educate consumers is with a kit.

17 A. That's one -- that's one approach.

18 Q. I would like you to turn to page 7 of
19 your testimony, lines 20 to 21. And I realize before
20 you corrected "SWE" to "ADM," so I will refer to ADM.
21 "The ADM evaluator did estimate that CFLs distributed
22 by efficiency kits had an initial in-service rate of
23 70 percent." And then moving on to page 8, "but this
24 was estimated through online surveys"; is that
25 correct?

1 A. That's correct.

2 Q. And you see on footnote 8, the citation
3 for that is Pennsylvania Electric Company's Annual
4 Report to the Pennsylvania Public Utilities
5 Commission, correct?

6 A. That's correct.

7 Q. And do you recall in that report that
8 while the initial survey findings for CFL ISRs are
9 approximately 70 percent, there is evidence that it
10 may take one year or more for the ISR to reach
11 84 percent. Do you recall that?

12 A. That was a statement made by the
13 evaluator, correct.

14 Q. And that is not in your testimony, is it?

15 A. That is correct.

16 Q. And then also the report also said that
17 the ISR for CFLs for customers that received kits
18 during program year two, quarter year one, were
19 67 percent during the initial survey conducted in
20 October, 2010, but the ISR climbed to 82 percent in
21 an October, 2011, survey for the program year quarter
22 one participants. Do you recall that from the
23 report?

24 A. Yes, I do.

25 Q. And that also is not in your testimony,

1 is it?

2 A. That is correct.

3 Q. Now, we just discussed opt-in kits and
4 how the companies kits are opt in. You would assume,
5 wouldn't you, that in-service rates for kits where a
6 customer affirmatively requests a kit are higher than
7 in-service rates for kits randomly sent?

8 A. That would be a reasonable assumption.

9 Q. Now, for the kits in Ohio, you have not
10 done an analysis of what the savings assumptions for
11 the kits should be, have you?

12 A. I'm not sure what you mean by "should
13 be." Could you clarify the question, please?

14 Q. Sure. Okay. I'll strike that.

15 For the kits in Ohio, have you done an
16 assumption -- have you done an analysis of what the
17 savings assumptions are?

18 A. It's not possible from the materials
19 available in the plan.

20 Q. I didn't ask about FirstEnergy's. I said
21 in general what the assumptions should be. I guess
22 let me go to -- let me go to your deposition. That
23 will help.

24 A. Certainly.

25 MS. DUNN: Your Honor, may I approach?

1 EXAMINER CHILES: You may.

2 MR. ALLWEIN: Your Honor, I am not sure
3 the witness was given a chance to answer this
4 question. Can I have the answer read back that's in
5 question?

6 EXAMINER CHILES: Sure.

7 Could you read back the answer, please.
8 Do you want the question read back as
9 well?

10 MR. ALLWEIN: Yes, please.

11 EXAMINER CHILES: Can you read back the
12 question and answer.

13 MS. DUNN: I actually think I can ask it
14 better, or it can be read back.

15 MR. ALLWEIN: That would be fine. That
16 would be fine if you just ask it again. I just
17 wasn't sure.

18 Q. (By Ms. Dunn) I'll start over. In your
19 testimony you indicate that the companies are using a
20 modeled assumption of the ISR rate from the draft
21 Ohio TRM of 86 percent or .86; is that correct?

22 A. Well, correct. I'm using a deemed
23 number. I am not sure what you mean by "modeled
24 number."

25 Q. Okay. In the companies' modeling in

1 their plans, they use the deemed number of
2 86 percent.

3 A. From the Ohio TRM.

4 Q. That's correct.

5 A. That's correct.

6 Q. And you criticize that deemed number,
7 don't you?

8 A. Correct.

9 Q. Okay. Do you have a -- in your opinion,
10 a more -- you have not -- let's see. Have you
11 analyzed what a different number should be in the
12 Ohio TRM?

13 A. I have not proposed a single number, but
14 I have provided evidence in my testimony and my
15 deposition that the evidence available would point to
16 a lower number than the 86 percent.

17 Q. I guess my question was, though, have you
18 done an analysis on that?

19 A. Define "analysis."

20 Q. Okay. Well, now, I do have to go to your
21 deposition.

22 A. That's fine.

23 Q. If you go to page 77.

24 A. Page 77.

25 Q. Yes.

1 A. Yes, I'm almost there.

2 Q. If you look at 15, starting on line 15.

3 A. Okay.

4 Q. I asked, "What, in your opinion, is a
5 more realistic savings assumption?"

6 You said, "Well, I think one would need
7 to step through, you know, the calculations for each
8 of the -- each of the products in the kits to ensure
9 that the appropriate ESA adjustment," and then you
10 spell it out.

11 And I have said -- I said, "Have you done
12 that analysis?"

13 "No, I have not."

14 Did you see that?

15 A. Yes. But I'm confused about the
16 discussion about ISR and ESA, but go ahead.

17 Q. Well, I can go back further if you would
18 like in your testimony.

19 A. Why don't you continue.

20 Q. Do you agree that your deposition says
21 that?

22 A. Yes, it does.

23 Q. Okay. Okay. Turning to page 13 of your
24 testimony, lines 5 to 6 --

25 EXAMINER PRICE: I'm sorry, what was the

1 page number?

2 MS. DUNN: 13, lines 5 to 6.

3 Q. Now, the companies are proposing for
4 their new home construction program for residential
5 customers that the participating homes meet Energy
6 Star homes version 3.0, correct?

7 A. That's correct.

8 Q. Do you know what the current Ohio
9 building code requirement is?

10 A. I had at one point familiarized myself
11 with which version of IACC, but I cannot speak
12 definitively to the current version of the Ohio code.

13 Q. Do you know if the current code is an
14 Energy Star rated version?

15 A. I'm not aware of codes being Energy Star
16 rated, so I would say no.

17 Q. Is the Energy Star homes version 3.0
18 above Ohio's standard residential code?

19 A. Yes.

20 Q. And what standard are you proposing that
21 the Commission adopt in this case?

22 A. I'm proposing that the Commission or the
23 companies consider a standard that's potentially less
24 onerous, particularly for nonenergy requirements for
25 participants. I do recommend that the Energy Star

1 version 3.0 be retained as an option for builders,
2 but that other options be provided, particularly to
3 facilitate the entry builders, who have not
4 participated in the program in the past and that the
5 code be tied to improvements over the current or
6 future versions of the Ohio Energy Code based upon
7 establishing tiers, based upon percentage
8 improvements in terms of energy reductions relative
9 to the code.

10 Q. Have you outlined what tiers should be
11 included?

12 A. Not -- not explicitly, no, but I can cite
13 examples.

14 Q. Now, you have not done an independent
15 calculation to determine if the companies' 2013 to
16 2015 plans meet the benchmark, have you?

17 A. That's correct, I have not.

18 Q. And even though your testimony contains
19 recommendations on changes to the companies
20 residential portfolio plans, you did not complete a
21 detailed revised residential plan for the Commission
22 to consider, did you?

23 A. That's correct.

24 Q. And you have not done a Market Potential
25 Study for your recommendations in Ohio, have you?

1 A. No, but I have reviewed the existing one.

2 Q. Now, as far as the companies' planning
3 process with the plans, you don't know what the
4 companies' internal planning process was for the
5 plans, do you?

6 A. No, I do not.

7 Q. And I know one of your recommendations
8 was joint implementation, but you do not know if
9 other Ohio utilities would be receptive to joint
10 implementation with the companies, do you?

11 A. Not offhand, no.

12 Q. You do not know what the total cost for
13 the plan would be if the Commission adopted your
14 recommendations, do you?

15 A. No, I do not.

16 Q. You do not know what the cost per
17 kilowatt-hour saved would be if the Commission
18 adopted your recommendations, do you?

19 A. No, I do not.

20 Q. You do not know how much more savings
21 would be generated if the Commission adopted your
22 recommendations, do you?

23 A. No, I do not.

24 Q. And you do not know for a fact that the
25 FirstEnergy plans will not achieve the statutory

1 benchmarks, do you?

2 A. No, I do not.

3 MS. DUNN: Just one moment. Your Honor,
4 I have no further questions.

5 EXAMINER CHILES: Thank you.

6 Mr. Parram.

7 MR. PARRAM: No questions, your Honor.

8 EXAMINER CHILES: Mr. Allwein, redirect?

9 MR. ALLWEIN: Yes, I would. Can I have a
10 few minutes with the witness?

11 EXAMINER CHILES: How much time do you
12 need?

13 MR. ALLWEIN: I probably only need 3 or 4
14 minutes, at the most.

15 EXAMINER CHILES: Let's take a short
16 5-minute break.

17 (Recess taken.)

18 EXAMINER CHILES: Let's go back on the
19 record, please.

20 MR. ALLWEIN: Thank you, your Honors.

21 - - -

22 REDIRECT EXAMINATION

23 By Mr. Allwein:

24 Q. Mr. Reed, I just want to ask you a
25 question regarding the cross-examination by

1 FirstEnergy counsel.

2 A. Please do.

3 Q. You were asked a question regarding Ohio
4 building codes and your recommendations for new
5 construction, and you stated that you would like to
6 possibly cite some illustrative examples.

7 A. Yes, I would, thank you. And, again,
8 these are illustrative based upon programs in
9 Massachusetts, Connecticut, and being proposed for
10 Rhode Island, in which it examined Energy Star
11 version 3.0 and found that it represented potential
12 impediment to further participation in those states
13 in new construction programs.

14 Among several options, in addition to
15 Energy Star 3.0, are the ability to participate in
16 tiers with ever-increasing incentives and with
17 ever-increasing benefits to both the system and to
18 homeowners based upon percentage reductions using the
19 code as baseline. And typically the percentage
20 reductions start somewhere in the 20 to 25 percent
21 range and continue forward to get to the point where
22 you are at a level equivalent to what people might
23 refer to as net zero energy, which represents a
24 significant reduction from building code, and the
25 incentives are tiered to reflect the increased

1 savings and increased benefits associated with those
2 multiple tiers.

3 EXAMINER PRICE: I'm just curious, where
4 in those tiers would Energy Star 3.0 be?

5 THE WITNESS: Yeah. It depends on the
6 structure. You'll -- you may see a three or four,
7 typically a four-tiered structure. Usually the first
8 tier is a little shy of Energy Star, and, again, in
9 part because 3.0 does represent, you know, some
10 significant improvements over the prior versions,
11 energy Star sometimes being the second tier.

12 And in some cases, the criteria for
13 Energy Star, the energy criteria are established at
14 that tier, but certifications is an option because
15 there are certain nonenergy components of the Energy
16 Star version 3, such things as water management,
17 which while environmentally sound, may again be a
18 possible impediment from the purely energy
19 perspective. So you may have a 20 percent plus in
20 Energy Star tier and maybe a tier or two beyond
21 Energy Star, with the last tier being equivalent to a
22 net zero home energy tier.

23 EXAMINER PRICE: Thank you.

24 Q. (By Mr. Allwein) You were asked a
25 question regarding your statement that the kits

1 circumvent normal market channels. Do you remember
2 that?

3 A. Yes, I do.

4 Q. And -- why is your -- why -- what is the
5 basis for that statement?

6 A. One of the goals of the efficiency
7 program should be to take advantage of and grow
8 systems, market channels already in place, and there
9 certainly are, as noted in my response, as well as
10 the company's questions, a large number of retailers
11 who routinely stock, sell, and promote Energy Star
12 LEDs and CFLs.

13 By sending large amounts of CFLs directly
14 to customers, you know, in the case of the all
15 electric, and, I believe, the standard or
16 comprehensive kit, I believe there's nine CFLs being
17 sent to each home. While there may be some
18 educational component to that, I would argue that
19 that level of promotion on a per-kit basis reduces
20 the amount of CFLs that a homeowner would then likely
21 purchase at retail.

22 The programs being promoted by
23 FirstEnergy should take advantage of manufacturing
24 retailer interests in promoting these products. The
25 efficiency kits, in my opinion, do not fully take

1 advantage of those opportunities.

2 EXAMINER PRICE: Can I ask you a
3 question? I mean, isn't it kind of a standard
4 marketing tactic, you know, the deodorant people that
5 send you the deodorant for the travel bag? I mean,
6 isn't this an opportunity to break down people's
7 resistance and barriers because, okay, here is
8 something free. I wouldn't pay for this, but, yeah,
9 I'll put in my light bulb because I have no other
10 choice.

11 THE WITNESS: One of my biggest concerns
12 is just the magnitude of FirstEnergy's proposed
13 efforts. 36 percent of all the residential savings
14 that are being put forward on an aggregate annual
15 basis are attributed to the efficiency kits, and
16 that's, in my opinion, out of scale with just about
17 any other efficiency program that I am aware.

18 In my opinion, much of those moneys would
19 be better spent implementing a much more aggressive
20 program at retail. It, again, takes advantage of
21 normal market channels, transforms the market, and
22 based upon my calculations, in fact, probably at a
23 lower cost rate on a per kWh basis than the
24 efficiency kits.

25 EXAMINER PRICE: So you're not saying no

1 kits; you are saying too many kits.

2 THE WITNESS: Way too many kits, too many
3 bulbs per kit. One option might be to reduce the
4 number of bulbs per kit, and potentially working with
5 retail partners, providing some type of coupon in the
6 kit to drive consumers to retail and take -- and take
7 advantage of and reinforce those market channels, as
8 opposed to just, you know -- as you said, you know,
9 deodorant companies send you a trial size deodorant.
10 They don't send you a 12-pack.

11 EXAMINER PRICE: But if they did, I would
12 be happy.

13 THE WITNESS: Right. But they would
14 also, you know, anger, if not upset, their, you know,
15 supermarket and drugstore chain partners.

16 EXAMINER PRICE: Just to recap then, your
17 objection is perhaps too many bulbs. You knock the
18 raw number of kits, too many bulbs per kit and the
19 raw number of kits.

20 THE WITNESS: Absolutely both. You know,
21 the number of kits that are being proposed and the
22 bulbs per kit are just out of sync, you know, with
23 what, in my opinion, is good program design.

24 EXAMINER PRICE: Were you here yesterday
25 when we were talking about the school program with

1 the kits?

2 THE WITNESS: Yes.

3 EXAMINER PRICE: Do you have a similar
4 objection to the school program, or is this just the
5 opt-in kits.

6 THE WITNESS: You know, if done at a
7 reasonable level, and if done as part of a
8 broader-based energy efficiency curriculum, I think
9 those types of activities, you know, can be mutually
10 supportive. I think it's important to teach the next
11 generation of consumers good sustainable habits.

12 But to rest over a third of your entire
13 residential portfolio on a what you would still say
14 is an unproven approach to Energy Efficiency at the
15 magnitude being proposed by the companies is -- is
16 not a wise decision.

17 EXAMINER PRICE: Thank you.

18 thank you, Mr. Allwein.

19 Q. (By Mr. Allwein) And you were asked about
20 your criticism of the 86 percent TRM in-service rate.
21 Can you explain your criticism of that TRM 86 percent
22 rate?

23 A. Well, the number being cited by the
24 companies, the 86 percent TRM, is specifically for
25 bulbs at purchase at retail. It's not specific to

1 efficiency kits, at least not within the Ohio TRM.
2 There is another number in the Ohio TRM, which is
3 81 percent for direct install. You know, one could
4 argue that maybe that's a more appropriate number.

5 Similarly, you know, if one took the
6 results in Pennsylvania and insert them into the
7 approach that's put into the Ohio TRM, which
8 considers both the initial and ultimate value, you
9 would end up at a lower value than the 86 percent
10 being proposed by FirstEnergy.

11 Q. One last question, in your opinion, do
12 you need to perform a -- excuse me -- to author a
13 detailed revised plan for your own market potential
14 study to justify whether your proposals in your
15 testimony are cost-effective recommendations?

16 A. No. I think that experience in other
17 jurisdictions As well as looking at FirstEnergy's own
18 recommendations, gives you a sense as to the relative
19 level of cost effectiveness. It becomes somewhat a
20 matter of reallocating resources between different
21 programs that are currently cost effective, figuring
22 a way that better meets consumer needs, brings more
23 value to consumers, you know.

24 So any proposals could certainly be cost
25 effective, and you do not need to do a full-blown

1 redo of the plan to be able to make useful
2 recommendations as to potential changes.

3 MR. ALLWEIN: And that's all I have, your
4 Honors. Thank you.

5 EXAMINER CHILES: Thank you.

6 Recross?

7 MS. DUNN: Yes, I do have a few
8 questions.

9 - - -

10 RECROSS-EXAMINATION

11 By Ms. Dunn

12 Q. Turning to your testimony, figure 1 of
13 your testimony --

14 EXAMINER PRICE: Could I have a page
15 reference?

16 MS. DUNN: It's actually not a page.
17 It's an attachment. I'm sorry.

18 MR. ALLWEIN: It would be page 20 -- it
19 would be page 25, if there was a number on it.

20 A. Are you referring to the pie chart?

21 Q. Yes.

22 A. Yes.

23 Q. You earlier, I believe in response to
24 Examiner Price's questions, cited a 36 or 38 percent.

25 A. 36 percent.

1 Q. Were you referring to this Ohio Edison
2 number, or what was that referring to?

3 A. No. I believe in my testimony, if you
4 give me a moment, please, on line 17, on page 5 --
5 sorry, and while not all -- while not all the numbers
6 are footnoted individually, if you go to the next
7 page, page 6, that numbers comes from footnote 4,
8 Responses to Requests SE Set 1-36, Attachment 1.

9 Q. And that 36 -- excuse me. That
10 36 percent is for all three companies?

11 A. Yes. It was annual -- annual aggregate
12 savings for all three companies from 2013 to 2015.

13 Q. Okay. Thank you.

14 A. You're welcome.

15 Q. And the kits that we're proposing, do
16 they contain what you would consider standard CFL
17 bulbs?

18 A. My understanding from responses earlier
19 in the day is that they primarily contain standard
20 bulbs, but my understanding is you've also decided to
21 include a dimmable bulk at this point in time.

22 Q. Now, you were asked a question from
23 Mr. Allwein regarding the cost effectiveness of the
24 plan. You haven't calculated what the avoided costs
25 would be in Ohio for the TRC test for the companies'

1 plans, have you?

2 A. Calculated the avoided costs, no.

3 MS. DUNN: I have no further questions.

4 EXAMINER CHILES: Thank you.

5 Mr. Parram.

6 MR. PARRAM: No questions, your Honor.

7 EXAMINER CHILES: All right.

8 Mr. Allwein.

9 MR. ALLWEIN: Your Honor, may Mr. Reed
10 step down?

11 EXAMINER CHILES: Yes, I apologize.

12 Examiner Price, do you have any
13 questions?

14 EXAMINER PRICE: No, I don't.

15 EXAMINER CHILES: I don't either. You
16 may step down.

17 THE WITNESS: Thank you.

18 EXAMINER PRICE: Have a good flight.

19 THE WITNESS: Thanks, I hope.

20 MR. KELTER: The airport is a breeze.

21 MR. ALLWEIN: Your Honors, I move for
22 admission of Sierra Club Exhibit No. 2.

23 EXAMINER CHILES: Are there any
24 objections to the admission of Sierra Club Exhibit 2?

25 MS. DUNN: Not subject to the motions to

1 strike you previously granted.

2 EXAMINER CHILES: Sierra Club Exhibit 2,
3 subject to the motions to strike that were granted,
4 is admitted.

5 (EXHIBIT ADMITTED INTO EVIDENCE.)

6 EXAMINER CHILES: If there is nothing
7 else to come before you today, we will reconvene at
8 9:00 o'clock tomorrow.

9 Off the record.

10 (The hearing adjourned at 7:10 p.m.)

11 - - -

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 CERTIFICATE

2 I do hereby certify that the foregoing is a
3 true and correct transcript of the proceedings taken
4 by me in this matter on Wednesday, October 24, 2012,
5 and carefully compared with my original stenographic
6 notes.

7
8
9
10 Karen Sue Gibson, Registered
Merit Reporter.

11 (KSG-5602)

12 - - -
13
14
15
16
17
18
19
20
21
22
23
24
25

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

11/7/2012 2:37:19 PM

in

Case No(s). 12-2190-EL-POR, 12-2191-EL-POR, 12-2192-EL-POR

Summary: Transcript of Ohio Edison Company, The Cleveland Electric Illuminating Company, The Toledo Edison Company hearing held on 10/24/12 - Volume III
electronically filed by Mrs. Jennifer Duffer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs.