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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.

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VOLUME III

- - -

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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?



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EXAMINER PRICE: You may.  
MR. KELTER: We don't have any.  
EXAMINER PRICE: Thank you.  
Mr. Kurtz.  
MR. KURTZ: None, your Honor.  
EXAMINER PRICE: Ms. Kern.  
MS. KERN: No, your Honor.  
EXAMINER PRICE: Mr. Allwein.  
MR. ALLWEIN: Yes, your Honors.

- - -

RECROSS-EXAMINATION

By Mr. Allwein:

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

A. Yes.

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

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

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

MS. DUNN: Objection, asked and answered.

EXAMINER PRICE: I don't understand your 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.

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EXAMINER PRICE: No problem.

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EXAMINATION

By Examiner Price:

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

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

Q. That would be Witness Demiray, okay.

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

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

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

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

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.)

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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.

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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           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. Oliker.

20 MR. OLIKER: Thank you, your Honor.

21 Q. (By Mr. Oliker) 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. OLIKER: 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. OLIKER: 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. Olikier.

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. Oliker 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. Oliker.

19 MR. OLIKER: Maybe one question, your  
20 Honor.

21 - - -

22 RECROSS-EXAMINATION

23 By Mr. Oliker:

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. OLIKER: 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 incents 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. Oliker.

9 MR. OLIKER: 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 CMEEEC, which is just the abbreviation CMEEEC, 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. Oliker.

13          MR. OLIKER: 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 get 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.)

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CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Wednesday, October 24, 2012, and carefully compared with my original stenographic notes.

\_\_\_\_\_  
Karen Sue Gibson, Registered  
Merit Reporter.

(KSG-5602)

- - -

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**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.