

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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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. :

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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 Tuesday,
October 30, 2012.

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VOLUME VI-REBUTTAL

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1 Tuesday Morning Session,
2 October 30, 2012.

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4 EXAMINER PRICE: Let's go on the record.

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

13 My name is Greg Price. With me is Mandy
14 Willey Chiles. We are the attorney examiners
15 assigned to preside over today's hearing. We'll
16 dispense appearances, as has been our practice so far
17 in this hearing. This is our sixth and final day of
18 hearing in this proceeding.

19 Before we take our first witness,
20 Mr. Lang, you have something for the Bench?

21 MR. LANG: Yes, your Honor, thank you.

22 On the second day of hearing while
23 Mr. Fitzpatrick was testifying, he referenced an AEP
24 achievable -- AEP achievable potential data, and the
25 request was to identify where that was coming from.

1 That was filed November, 2011, in Case No.
2 11-5568-EL-POR, the AEP portfolio plan proceeding,
3 and the data that he was referencing was from their
4 Plan, Volume II, Appendix B, and he drew the base
5 case and the high case for AEP from Tables 32, 36,
6 37, 40, 44, and 45, and then using figure 1, did a
7 weighted average using total kilowatt-hours sales to
8 derive the 16 percent base case and 20 percent high
9 case that he referenced in the testimony. And
10 that's -- so that's the one.

11 And then he also referenced an ACEEE
12 study, and the citation for that is Neubauer, Elliott
13 and Korane, K-O-R-A-N-E. It was 2009 study, and the
14 title was "Shaping Ohio's Energy Future, Energy
15 Efficiency Works, published Washington, D.C.,
16 American Council for an Energy-Efficient Economy.

17 EXAMINER PRICE: Thank you very much.
18 Anything else for the Bench before we take our first
19 witness?

20 Okay. Mr. Miller.

21 (Witness sworn.)

22 EXAMINER PRICE: Please be seated. State
23 your name and business address for the record again.

24 Please state your name and business
25 address for the record. There we go.

1 THE WITNESS: My name is Edward Charles
2 Miller. My business address is 631 Excel Drive,
3 Suite 200, Mount Pleasant, Pennsylvania 15666.

4 EXAMINER PRICE: Thank you.

5 Please proceed.

6 MR. LANG: Your Honors, the companies
7 would ask that Mr. Miller's rebuttal testimony be
8 marked as Company Exhibit 21.

9 EXAMINER PRICE: So marked.

10 (EXHIBIT MARKED FOR IDENTIFICATION.)

11 - - -

12 EDWARD C. MILLER

13 being first duly sworn, as prescribed by law, was
14 examined and testified on rebuttal as follows:

15 DIRECT EXAMINATION

16 By Mr. Lang:

17 Q. And, Mr. Miller, do you have your
18 rebuttal testimony in front of you this morning?

19 A. I do.

20 Q. Was this prepared by you or under your
21 direction?

22 A. Yes.

23 Q. Do you have any corrections to make to
24 your rebuttal testimony?

25 A. I do not.

1 Q. If I were to ask you the same questions
2 today that are in your rebuttal testimony, would you
3 provide the same answers?

4 A. Yes.

5 MR. LANG: Your Honor, Mr. Miller is
6 available for cross.

7 EXAMINER PRICE: Thank you.

8 Mr. Williams.

9 MR. WILLIAMS: No questions.

10 EXAMINER PRICE: Mr. Dougherty.

11 MR. DOUGHERTY: No questions.

12 EXAMINER PRICE: Mr. Allwein.

13 MR. ALLWEIN: Thank you, your Honors.

14 - - -

15 CROSS-EXAMINATION

16 By Mr. Allwein:

17 Q. Good morning, Mr. Miller.

18 A. Good morning.

19 Q. I'm Chris Allwein, and I will be asking
20 you questions on behalf of the Natural Resources
21 Defense Council and the Sierra Club this morning.

22 On page 8 of your testimony you discuss
23 the data centers beginning on line 1. Do you see
24 that?

25 A. Yes.

1 Q. And in the sentence beginning on line 6,
2 you say, "The companies will develop a sub-program to
3 specifically target data center participation in the
4 Companies' plans. Do you have a proposed timeline
5 for that development?

6 A. We would develop -- excuse me. We would
7 develop the subprogramming in conjunction with
8 implementation of the plans upon Commission approval.

9 Q. Okay. And upon Commission approval, from
10 that moment, how long do you think it will take to
11 develop the program?

12 A. I'm referring to Section 5 of our plans
13 where we provide an implementation schedule for our
14 programs, does show that for newer programs and
15 measures, the implementation timing does vary between
16 certain programs but does show roughly a three- to
17 six-month period associated with implementation of
18 new programs. I would anticipate that the
19 development of the subprogram would be completed in
20 conjunction with that timing.

21 Q. All right. And just to be clear, the
22 page you are referring to, I think it's page 77,
23 Section 5.0, correct?

24 A. Yes, sir.

25 Q. And you don't -- data centers is

1 something you're proposing that's an addition, that's
2 not in that list; is that correct?

3 A. That is correct.

4 Q. All right. I want to ask you about the
5 development of marketing materials. Do you have a
6 process for developing those marketing materials?

7 A. Marketing plans and marketing materials
8 are developed in coordination with the implementation
9 vendors that we hire to support and deliver the
10 programs. The process would be once the vendors are
11 under contract, we work with them on their proposed
12 marketing plan and then ultimately very close
13 coordination for the development of the marketing
14 materials through the course of program
15 implementation.

16 Q. Okay. And do you plan on utilizing the
17 collaborative at all to assist in the development of
18 those materials?

19 A. I don't believe that we've historically,
20 you know, reviewed marketing materials as they were
21 developed with the collaborative. I would note
22 though that we, you know, I believe, would be open to
23 receiving any input or feedback on our marketing
24 materials for the various programs.

25 Q. Okay. So do you plan on, perhaps,

1 presenting a draft of these materials to the
2 collaborative for input ahead of releasing them or
3 completing them?

4 A. I don't have an answer for that at this
5 time.

6 Q. All right. And may I ask, will you
7 solicit the collaborative's input in terms of program
8 development for this particular program? Program
9 design is what I am referring to specifically.

10 Strike that and let me ask you again.
11 Will you solicit the collaborative's input for
12 program design?

13 A. I'm not sure I understand specifically
14 what program design is referring to.

15 Q. Well, this is a new program and so
16 there -- the only detail we have about this program,
17 and correct me if I'm wrong, is from line 4 through
18 line 14 on page 8 of your testimony, correct?

19 A. Yes.

20 Q. And so in terms of details of program
21 design that you have developed with some of your
22 other programs that do appear in your proposed plans,
23 do you plan on soliciting the collaborative's input
24 for some of those program design details?

25 A. I wouldn't characterize that we are

1 developing a new program. I would comment that the
2 core foundation for the program is our commercial and
3 industrial efficient equipment program, as proposed.

4 You know, we recognize data centers are a
5 specific either end use or customer type that would
6 be eligible to participate in our programs. What
7 we're proposing is as part of implementation of our
8 commercial and industrial portfolio, the Energy
9 Efficient Equipment Program that as part of that we
10 will have a subprogram element through -- through
11 implementation we will develop specific marketing
12 materials, as well as specifically target the data
13 center uses and customers through the implementation
14 of the larger program.

15 Q. So, in your opinion, is there enough
16 information here from lines 4 through lines 14 to
17 begin or institute this subprogram?

18 A. I believe between the proposed plans, as
19 well as the information in my testimony, that there
20 is sufficient information. I note that, you know,
21 data center, you know, specific measures that are
22 provided to data centers includes HVAC type of
23 equipment, which is included in our Efficient
24 Equipment Program; includes lighting equipment,
25 again, also in the Efficient Equipment Program;

1 includes motors and drivers type applications; as
2 well as other custom measures. So we're leveraging
3 the Efficient Equipment Program design, but through
4 program implementation we will specifically target
5 data center participation in our programs.

6 Q. Are you planning to employ or utilize the
7 same implementation vendors that you are using for
8 the Efficient Equipment Program already, small and
9 large?

10 A. That will be decided when we conduct RFPs
11 for the program. We do plan on, as a portion of
12 implementing the subprogram, targeting data centers,
13 that the implementation vendor will be required
14 either to have the experience directly or through
15 their contractors and trade allies in order to
16 support data center participation in the programs.
17 Could be the same implementation vendor or it could
18 be a different implementation vendor.

19 But, again, that will be decided through
20 the RFP process based on the vendors who submit bids
21 to us in order to support the implementation
22 marketing of the programs based upon their experience
23 and expertise.

24 Q. All right. Thank you. And I want to ask
25 you about line 11 where you discuss leveraging the

1 budgets. I think you just mentioned this in your
2 previous answer as well. Is this additional money,
3 or will you be moving -- are funds from your proposed
4 commercial and industrial efficient equipment
5 programs, small and large, going to be dedicated, if
6 you will, to this subprogram? Is that what you are
7 proposing in your testimony?

8 A. It's not an addition of funds. It's a --
9 it's a utilization of the funds as proposed in the
10 plan.

11 Q. Okay. If you look at your testimony on
12 page 8, line 18 through line 20, you state that "The
13 Companies consider a Continuous Energy Improvement
14 Program as a form of customer education, marketing
15 and engagement of energy efficiency opportunities
16 within major C/I customers." Do you see that?

17 A. Yes, sir.

18 Q. And can you explain that statement,
19 what -- what do you mean when you say that they
20 "consider the Continuous Energy Improvement Program a
21 form of customer education"?

22 A. The Continuous Energy Improvement
23 Program, the typical approach is it's a methodology
24 to engage major customers and to obtain their
25 interest and commitment to performing energy

1 efficiency retrofits, et cetera, within the -- within
2 the customer.

3 Q. Okay. And, finally, I would like to ask
4 you about the Continuous Energy Improvement Program.
5 Further down beginning on line 21 on page 8, you say,
6 "The Companies plan to target their major C/I
7 customers through their implementation vendors and
8 their Customer Service Representatives." That isn't
9 anything new that you are proposing here; is that
10 correct?

11 A. I wouldn't characterize it as new. I
12 would characterize it as continued or expanded focus,
13 recognizing that the plans that we are proposing here
14 are greatly or vastly expanded over the existing
15 plans, but it continues to leverage the customer
16 service representatives and their relationships that
17 they have with our major customers.

18 Q. All right. And then I would ask you on
19 page 9, lines 1 through 3, you discuss, "The
20 Companies will engage their largest customers to
21 promote energy efficiency opportunities." Is -- is
22 that new? Is that something that you're not doing
23 now?

24 A. I would not characterize that as new.
25 Again, I would characterize that as a continued, as

1 well as an expanded focus.

2 Q. And just one final item here, on line 2
3 of page 9, the second part of that sentence you state
4 that you are going "to promote energy efficiency
5 opportunities without the added costs associated with
6 a Continuous Energy Improvement Program." What do
7 you mean by "added costs"?

8 A. What I was referring to was the increased
9 costs of administration that would be associated with
10 specifically developing a program that would organize
11 that involvement among the major C&I customers, you
12 know, from, you know -- for instance, in the AEP plan
13 I believe they have approximately \$9 million assigned
14 to that program within their plans, so it's basically
15 recognizing that by leveraging the existing
16 relationships, as well as the implementation vendors
17 that we'll be hiring for all of the programs, it
18 helps us to avoid the increased administration,
19 operations costs, such as M&V, for instance,
20 tracking, reporting that would result from having an
21 additional program on top of the existing portfolio.

22 Q. So is it your opinion that you will add
23 no additional administrative costs for this item as
24 proposed on -- that we have just been discussing on
25 pages 8 and 9 of your testimony?

1 A. It's my opinion that the costs associated
2 with those efforts will be covered by the existing
3 programs.

4 Q. But is it your testimony also that you'll
5 gain additional energy savings without any additional
6 cost? Is that your testimony?

7 A. I -- can you repeat the question?

8 Q. Yes. Is it your opinion then that you --
9 with your proposal regarding the Continuous Energy
10 Improvement Program on pages 8 and 9, that you are
11 going to generate additional savings with no
12 additional administrative costs?

13 A. The no additional administration costs is
14 specific to the approach of having a -- having a
15 dedicated program for that activity. The goal of
16 the -- of the overall plan design is to achieve
17 participation across the programs in order to meet
18 our targets.

19 The -- I mean, the additional energy
20 savings is supported through the marketing and
21 engagement activities that we are proposing.

22 Q. And by taking the steps that you outline
23 on pages 8 and 9 for this Continuous Energy
24 Improvement Program, do you have an estimate of -- an
25 estimate, excuse me, of additional energy savings

1 that you'll generate?

2 A. The projections would be as we included
3 in our plans.

4 MR. ALLWEIN: Okay. Thank you.

5 I have no further questions, your Honor.

6 EXAMINER PRICE: Thank you.

7 Ms. Kern.

8 MS. KERN: No questions, your Honor.

9 EXAMINER PRICE: Ms. Kyler.

10 MS. KYLER: No questions, your Honor.

11 EXAMINER PRICE: ELPC.

12 MR. KELTER: I do have some questions,
13 your Honor.

14 - - -

15 CROSS-EXAMINATION

16 By Mr. Kelter:

17 Q. Mr. Miller, could you please turn to page
18 3, line 14 of your testimony.

19 A. Yes.

20 Q. At line 14 you state, "The Opt-In Kit
21 program has proven successful in both Pennsylvania
22 and Maryland. It is a major source of energy savings
23 for the companies that are offered them," correct?

24 A. Yes.

25 Q. And you continue that "The kits provided

1 in both of these states are very similar to those
2 being contemplated in the Companies' Energy
3 Efficiency and Peak Demand Reduction Plans and,
4 therefore, we expect similar results in Ohio"?

5 A. Yes.

6 Q. When did you implement the Pennsylvania
7 kits program?

8 A. Line 8 of my testimony, the West Penn
9 Power opt-in case was implemented during the second
10 quarter of 2011. I believe, more specifically, it
11 was the month of May.

12 Q. What about in Maryland?

13 A. Line 12 of my testimony identifies the
14 fourth quarter of 2011. I don't remember the exact
15 timing within the fourth quarter.

16 Q. So you don't have -- refresh my
17 recollection from last week, do you have results from
18 those programs yet?

19 A. We have -- yes, we do. We have
20 participation results and energy savings results that
21 have been included as part of our reporting.

22 Q. And do you know how many CFLs the average
23 resident in Pennsylvania had at the time that you
24 implemented that program?

25 A. I don't remember the last number, exact

1 number, but I believe it's less than the six CFLs
2 that were cited in Ohio.

3 Q. Could you get that number for us?

4 A. I could.

5 Q. And the same question about how many CFLs
6 the average residents in Maryland had at the time.

7 A. I believe it's comparable, but, again,
8 don't have the exact number.

9 Q. Do you have any protections in place to
10 guard against households that already have CFLs from
11 obtaining those kits?

12 A. We do track participation in the program.
13 If a customer receives an opt-in kit from us, they
14 are only eligible to receive one.

15 Q. But before you send out the opt-in kit,
16 you don't ask them -- or strike that.

17 Before you send out the opt-in kit, do
18 you have any idea whether they -- whether that
19 household already has CFLs?

20 A. Not specific to that household.

21 EXAMINER PRICE: Could I ask a question
22 about opt-in in Maryland and Pennsylvania?

23 THE WITNESS: Okay.

24 EXAMINER PRICE: So your testimony is 55
25 percent of the customers in West Penn Power

1 affirmatively opted in to the kits?

2 THE WITNESS: That is correct.

3 EXAMINER PRICE: Did they get some sort
4 of notice -- how did that work, I guess my question
5 is?

6 THE WITNESS: The opt-in kit for West
7 Penn Power is promoted through a few methods,
8 including billing inserts, postcards that were
9 provided to customers, as well as some billboard
10 signage within the service territory.

11 EXAMINER PRICE: So the customer had to
12 initiate the contact to opt in; you were not calling
13 them or anything like that?

14 THE WITNESS: That is correct.

15 EXAMINER PRICE: And you got 55 percent
16 participation?

17 THE WITNESS: Yes.

18 EXAMINER PRICE: Is the same situation in
19 Maryland, the same sort of marketing?

20 THE WITNESS: Yes.

21 EXAMINER PRICE: Thank you.

22 Q. (By Mr. Kelter) Turning to page 4 of your
23 testimony at line 3 you stated, "The Companies'
24 conservatively included EISA impacts for all CFLs in
25 the Opt-In Energy Efficiency Kits for the entire 2013

1 to 2015 Plan Period. The savings estimate for kits
2 modeled in the Companies' plans is a constant value
3 that represents the full reduction of savings for all
4 CFLs for the entire 3-year period in accordance with
5 the baseline established under EISA, regardless of
6 the timing projections associated with the kits,"
7 correct?

8 A. Yes.

9 Q. And then you continued it, "As an
10 example, EISA reduces the baseline for 60 watt
11 incandescent with a 43 watts effective January 1,
12 2014. However, the Companies' modeling incorporates
13 the 43 watts baseline for the entire 3-year period
14 including any 60 watt equivalent CFLs distributed in
15 2013," correct?

16 A. Yes.

17 Q. And under the new EISA standard, the
18 60-watt equivalent standard goes down to a maximum of
19 43 watts, correct?

20 A. That is correct.

21 Q. And you anticipate that there will be
22 42-watt halogen, 60-watt equivalent bulbs, in 2014,
23 correct?

24 A. I can't be specific to that exact
25 question regarding the availability of halogen

1 meeting the EISA requirements. I would anticipate
2 that there will be halogen bulbs that do meet the
3 EISA requirements, but specific to wattage, I don't
4 have the wattage distribution.

5 Q. Well, you anticipate that there will be
6 some 42- or 43-watt bulbs for sale that are 60-
7 equivalent; is that correct?

8 A. I would say that's a fair assumption.

9 Q. And so based on your previous answer,
10 it's also fair to say that you don't have any
11 projections of how many of those bulbs would be
12 available on the market?

13 A. Halogen bulbs?

14 Q. Halogen, yes.

15 A. That's correct, I don't have any
16 projections.

17 Q. What about other types of bulbs that
18 would replace the 60 watt?

19 A. Other types such as?

20 Q. I don't know. Are there any other type
21 bulbs that you anticipate would be replacing the
22 60-watt bulbs under the EISA standards that meet the
23 EISA standards?

24 A. With the exception of CFLs, I can't speak
25 to the, you know, availability of other more

1 efficient, other technology bulb types that would,
2 you know, meet or exceed the 60-watt requirements.

3 EXAMINER PRICE: You don't think there
4 will be LEDs available by 2014?

5 THE WITNESS: Actually, that's a good
6 question. I would expect there would be LED
7 technologies available. I just don't know the
8 distribution among the different wattage types and
9 equivalence to the incandescents.

10 EXAMINER PRICE: Okay.

11 Q. (By Mr. Kelter) What is the equivalency
12 in terms of wattage for C -- for CFLs that would be
13 replacing the 60-watt?

14 A. I believe it's in the 13- to 15-watt
15 range.

16 Q. Do you have any projections of how many
17 customers will replace incandescent bulbs with CFLs
18 immediately upon receipt of kits?

19 A. Can you repeat the question?

20 Q. Sure. Do you have projections of how
21 many customers will replace incandescent bulbs with
22 CFLs immediately upon receipt of the kits? In other
23 words, somebody receives their kit in the mail on a
24 Tuesday, and in the next few days they replace
25 working bulbs with CFLs.

1 A. Is there something specific in my
2 rebuttal that is referencing that? I'm sorry.

3 Q. No. I'm going to the -- what you talk
4 about is the effectiveness of the kits, and you're
5 making the arguments about how effective the kits
6 are, so I'm asking a question about how quickly
7 people replace their bulbs.

8 EXAMINER PRICE: The Bench would like to
9 hear the answer to this too, so.

10 A. Okay. My statement on the success of the
11 kits was predominantly based on the levels of
12 participation, noting that we were successful in
13 obtaining a very broad participation among the
14 residential customers in the programs.

15 Specific to the question what -- what,
16 you know, the -- I think what you are referring to
17 relates to the installation rates, and I know earlier
18 in the hearing last week we did discuss various
19 installation rates associated with various kit
20 components.

21 Specific to CFLs, my recollection was the
22 program year 2 evaluation rate in Pennsylvania cited
23 a 70 percent installation rate based on surveying
24 within the first two or three months of customer
25 participation, and then increased to an 82 percent

1 installation rate within one year. So I believe the
2 replacement of the incandescents with CFLs that
3 result from the kit would follow those evaluation
4 findings.

5 Q. Could you repeat that last part of your
6 answer in terms of the statistics?

7 A. The -- that the installation rates
8 increased to I believe it was 82 percent within one
9 year of the receipt of the kit. I believe the
10 evaluation report that we discussed was a follow-up
11 survey of those customers who had participated to
12 ascertain the timing of installation, you know,
13 the -- associated with the CFLs component of the
14 kits.

15 Q. I may be wrong, but I don't think you
16 answered the question in terms of how many customers
17 receive those kits and within the first few days
18 replace working incandescent bulbs.

19 A. I don't have any insight on within the
20 first few days. I was relying on the information
21 that was available.

22 EXAMINER PRICE: So you don't have any
23 information as to whether people immediately replace
24 or just put them in the closet and as incandescents
25 bulbs fail replace them with CFLs?

1 THE WITNESS: Other than the initial
2 survey results, which was within two to three months
3 of participation, that's correct. I don't have any
4 more aggressive knowledge.

5 EXAMINER PRICE: Right. But you really
6 can't extrapolate from the information in two or
7 three months people usually have two or three or four
8 incandescent bulbs fail anyway.

9 THE WITNESS: I cannot.

10 Q. (By Mr. Kelter) Turning to your testimony
11 regarding the T8s, could you turn to page -- page 5,
12 line 1.

13 A. Yes.

14 Q. And you state, "Based on the likelihood
15 that T12 lamps remain in retail stock or customer
16 inventory, I believe that there are opportunities to
17 incent standard T8 lighting installations that
18 provide the early retirement of T12 lighting
19 installations and achieve greater participation in
20 the Companies' programs." Did I say it correct?

21 A. Yes.

22 Q. Would you also agree that there are
23 opportunities to get customers to move from T12 lamps
24 to a high performance T8?

25 A. That is correct.

1 Q. What's the average life expectancy of a
2 standard T8 fixture?

3 A. I believe in the industry the measured
4 life in technical reference manuals is approximately
5 15 years.

6 Q. Do you know the difference in price
7 between a standard T8 fixture and a high performance
8 T8 fixture?

9 A. I know there is a price premium. There's
10 a lot of variables involved just because of the
11 volume of different types of fixtures that are
12 available in the market. My understanding is for a
13 common type of T8 fixture, it would be an
14 approximately 38 percent increase. But that's my
15 understanding, again, recognizing there is a huge
16 volume of different types of fixtures.

17 Q. Is it -- is it correct that standard T8s
18 use different bulbs than the high performance T8s?

19 A. Yes.

20 Q. And are those bulbs generally less
21 efficient than the bulbs from the high standard --
22 high performance T8s?

23 A. Yes.

24 Q. Are you familiar with a manufacturer
25 called Sylvania?

1 A. Yes.

2 Q. According -- if I told you according to
3 Sylvania, the high efficiency T8s save customers 20
4 percent in energy costs over the average T8, does
5 that sound like an accurate figure?

6 MR. LANG: Your Honors, I object at this
7 time as going beyond the scope. He's asked several
8 questions, I think, straying from the point in his
9 testimony, which is simply whether it, you know,
10 should be permitted to give incentives for standard
11 T8s. Obviously, ELPC wants to spend all their time
12 talking about high efficiency T8s. That's already
13 been answered in their testimony. It's not being
14 addressed in Mr. Miller's testimony, so I believe
15 that this line is beyond the scope of what is in the
16 rebuttal.

17 EXAMINER PRICE: Overruled.

18 A. Can you repeat the question?

19 Q. I said, according to Sylvania, the high
20 efficiency T8s save customers 20 percent on average
21 in energy costs over the average standard T8. Does
22 that sound like an accurate figure to you?

23 A. Without seeing the assumptions behind
24 their calculation, it appears to be a little bit
25 high, on the surface. Standard T8 fixtures are

1 32 watts. High efficiency are in the 28-watt range
2 so there is basically a 4-watt delta, you know, on a
3 32-watt base. To me, it's closer to 10 percent, 12,
4 percent than 20 percent, so I think it all --
5 everything else being equal, such as hours of use, it
6 does appear to be on the high side. So I'm -- again,
7 without seeing the assumptions, it's hard to agree
8 with that number.

9 Q. Are you familiar with the Consortium for
10 Energy Efficiency?

11 A. Yes.

12 Q. Do you think they have reliable numbers?

13 A. I would be hard-pressed to not -- to
14 disagree.

15 Q. So if they -- if they say that the
16 lighting systems, the difference between the high
17 efficient T8 and the standard T8 are 10 to 20
18 percent, you would accept that?

19 MR. LANG: Objection, facts not in
20 evidence.

21 EXAMINER PRICE: We'll give him a little
22 bit of leeway on this one, but after this.

23 MR. KELTER: That's my last question
24 along those lines.

25 EXAMINER PRICE: Okay. Go ahead and

1 answer.

2 A. I would accept it as reasonable.

3 Q. And you would also agree that when
4 comparing the differences between standard T8s and
5 high performance T8s, you would also need to consider
6 the differences in efficiency of the bulbs that you
7 would use in each of those fixtures.

8 A. Yes.

9 Q. And you would agree that the high
10 performance -- the high performance T8s use more
11 efficient bulbs; is that correct?

12 A. They use bulbs that have less wattage, if
13 that's what you're --

14 Q. Correct. So would it be in the realm of
15 reasonableness, in your opinion, to assume that when
16 you combine the high efficiency T8 with a lower
17 wattage bulb, that the savings compared to a standard
18 T8 fixture and bulb may be in the 40 percent range?

19 A. I would recognize that the savings does
20 change by the combination of the bulbs and ballasts
21 associated with the fixtures. Whether you are
22 comparing a standard T8 or a high performance T8, I
23 do note that there are cost issues associated with
24 driving, I'll say, lower wattage bulbs or driving a
25 higher performance related to the fixtures that also

1 needs to be factored into that consideration.

2 And there's also some considerations from
3 an operations and maintenance standpoint, based on
4 hours, measured life of the bulbs themselves. But,
5 you know, you are correct in that you can -- there's
6 a lot of many different combinations of T8 lights and
7 fixtures, and depending upon the bulb and ballast
8 assumption, it does drive differences in savings, as
9 well as it does drive differences in costs.

10 Q. And could those savings be in the
11 40 percent range?

12 A. I don't have any information that I could
13 base a 40 percent on. I would be speculating on
14 that. I do acknowledge there are different energy
15 savings based on different lamp and bulb
16 configurations, but just can't put a specific number
17 to what the -- you know, what different combinations
18 would produce.

19 MR. KELTER: Can I approach the witness,
20 your Honor?

21 EXAMINER PRICE: You may.

22 Q. Could you take a look at the second
23 column over to the left down at the bottom.

24 MR. LANG: Objection. Lack of
25 foundation.

1 EXAMINER PRICE: Sustained.

2 MR. KELTER: Sorry.

3 Q. Mr. Miller, you're familiar with
4 Sylvania, correct?

5 A. I'm familiar to the point of knowing they
6 are a light bulb manufacturer and lighting fixture
7 manufacturer. I can't speak intimately regarding
8 Sylvania or their products specifically, but I am
9 familiar with them.

10 Q. And this -- this sheet is marked
11 "Sylvania" -- the title of this is Sylvania High
12 Performance T8 Systems," correct?

13 A. Yes. This appears to be a specific type
14 of lamp.

15 Q. And at the bottom in the right-hand
16 corner, it also has the Consortium for Energy
17 Efficiency logo, correct?

18 A. Yes.

19 Q. So if you -- if you take a look at this
20 paragraph at the bottom of the second column --

21 MR. LANG: Your Honors, I continue to
22 object. There is no evidence the witness has seen
23 this document before.

24 MR. KELTER: I'm just going to ask him a
25 question whether he thinks Sylvania's number is

1 reasonable.

2 EXAMINER PRICE: We'll defer ruling on
3 your objection.

4 Q. (By Mr. Kelter) As I think Sylvania is a
5 well-known manufacturer and they are part of the
6 Consortium for Energy Efficiency and use their logo
7 on this fact sheet, it says -- do you see the
8 paragraph that says. "When you couple this system
9 with highly efficient luminaries such as the Lithonia
10 Lighting ES8 luminaire (shown above), the energy
11 savings can be up to 44 percent compared to standard
12 T8 Systems"?

13 A. Yes.

14 Q. And do you have any -- any reason to
15 think that that would be an inaccurate statement by
16 Sylvania?

17 MR. LANG: Continue to object, your
18 Honor, based on the use of the document, and he is
19 essentially trying to pull hearsay in through the
20 document and assuming facts not in evidence that way.

21 EXAMINER PRICE: Sustained. It's a
22 hearsay document, I don't mean to impugn Sylvania,
23 but certainly as their interest in their savings
24 document to maximize the value of the product, so
25 this is not like a -- it's not going to come into the

1 learned treatise exception, let's put it that way.

2 MR. KELTER: Well, I -- again, your
3 Honor, I am just asking him if he thinks that's a
4 reasonable number so if he -- if he doesn't, then he
5 doesn't.

6 MR. LANG: Your Honor, he has already
7 asked -- he has been asked and answered that question
8 before he brought that document out.

9 EXAMINER PRICE: He's already said the
10 40 percent is a reasonable estimate.

11 MR. KELTER: Okay. That's all the
12 questions I have, your Honor.

13 EXAMINER PRICE: I just have a follow-up
14 question to that line of questions. Now, you intend
15 to provide incentives for both standard T8 and high
16 performance T8 systems; is that correct?

17 THE WITNESS: Yes.

18 EXAMINER PRICE: Will the incentive
19 levels be the same?

20 THE WITNESS: No, they will not. Our
21 incentive structure is on an energy-savings basis so
22 we do provide a greater incentive for customers to
23 install higher efficiency lighting fixtures.

24 EXAMINER PRICE: Have you considered
25 whether your incentive structure should also be

1 disproportionate so you get a relatively higher
2 incentive if you go with the more efficient system
3 rather than the straight line that's just based on
4 energy savings?

5 THE WITNESS: I don't know.

6 EXAMINER PRICE: You don't know whether
7 you have considered that?

8 THE WITNESS: Yeah. I don't know. I
9 know we work very closely with our implementation
10 vendors to set the incentives to drive the
11 participation, but I don't know as part of those
12 discussions if that was considered or not.

13 EXAMINER PRICE: And have you set the
14 incentives for these light bulbs yet or this program
15 yet?

16 THE WITNESS: We have our rebate strategy
17 which provides the up to value that's part of our
18 filing. Would you like me to reference it?

19 EXAMINER PRICE: If you could, just
20 identify where it is so I can find it later.

21 THE WITNESS: Okay.

22 EXAMINER PRICE: I'm sorry, I've not
23 committed your entire 1,500 pages.

24 THE WITNESS: Understood. Rebate
25 strategy is Appendix C-4 of our filing, and for

1 lineal fluorescent retrofit, it's what I was
2 referring to, is called nonstandard. It's up to 12
3 cents per kWh energy savings. The standard which is
4 for smaller retrofits is 75 percent of the
5 incremental cost, not to exceed.

6 EXAMINER PRICE: Okay. Thank you.

7 I'm sorry, Mr. Kelter, you have completed
8 your cross; is that correct?

9 MR. KELTER: Yes, your Honor.

10 EXAMINER PRICE: Mr. Olikar.

11 MR. OLIKER: No questions, your Honor.

12 EXAMINER PRICE: EnerNOC.

13 MR. POULOS: No questions, your Honor.

14 EXAMINER PRICE: Staff.

15 MR. PARRAM: No questions, your Honor.

16 EXAMINER PRICE: Redirect.

17 MR. LANG: May we have two minutes, your
18 Honor? We will do this very quickly.

19 EXAMINER PRICE: You may.

20 Let's go off the record.

21 (Discussion off the record.)

22 EXAMINER PRICE: Let's go back on the
23 record.

24 Mr. Lang.

25 MR. LANG: Thank you, your Honor. And we

1 have no redirect so the company would move Exhibit
2 21.

3 EXAMINER PRICE: Okay. Any objections to
4 the admission of Company Exhibit 21?

5 Seeing none, the exhibit will be
6 admitted.

7 (EXHIBIT ADMITTED INTO EVIDENCE.)

8 MS. KOLICH: Your Honor, before we take
9 the next witness, just to knock this off the list,
10 can we read a stipulation into the record?

11 EXAMINER PRICE: You may.

12 MR. POULOS: Your Honor, the statement
13 is, "EnerNOC and the Companies stipulate that the
14 results from a competitive request for proposal
15 enabled the Ohio Edison Company and the Cleveland
16 Electric Illuminating Company to pay less than 10
17 percent of the modeled incentive value of \$120,000
18 per megawatt in contracted demand response resource
19 incentives in 2011. The Toledo Edison Company did
20 not issue a request for proposal for contracted
21 demand response resources in 2011."

22 EXAMINER PRICE: Thank you.

23 MS. KOLICH: And to put that stipulation
24 into context, Mr. Poulous asked several questions
25 pertaining to the cost of the incentives that the

1 company deemed confidential. The companies
2 originally agreed to file that under seal. This
3 stipulation is in lieu of us filing that information
4 under seal.

5 EXAMINER PRICE: Thank you. Any
6 objections to the stipulation?

7 Seeing none, thank you.

8 MR. POULOS: Thank you, your Honor.

9 (Witness sworn.)

10 EXAMINER CHILES: You may proceed.

11 - - -

12 EREN G. DEMIRAY

13 being first duly sworn, as prescribed by law, was
14 examined and testified on rebuttal as follows:

15 DIRECT EXAMINATION

16 By Mr. Lang:

17 Q. Mr. Demiray, could you introduce yourself
18 again.

19 A. Yes. My name is Eren Glen Demiray. My
20 business address is 76 South Main Street, Akron, Ohio
21 44308.

22 MR. LANG: Your Honor, we would ask that
23 Mr. Demiray's rebuttal testimony be marked as Company
24 Exhibit 22.

25 EXAMINER CHILES: So marked.

1 (EXHIBIT MARKED FOR IDENTIFICATION.)

2 Q. Mr. Demiray, do you have your rebuttal
3 testimony in front of you?

4 A. Yes, I do.

5 Q. It was prepared by you or under your
6 direction?

7 A. Yes, it was.

8 Q. Do you have any corrections to make to
9 your testimony?

10 A. One very minor one, yes. On page 7, line
11 7, in the parentheses it has "(EGD-R4 F 18)." The
12 "R4" should say "R5," and that's my only correction.

13 Q. If I were to ask you the same questions
14 today as are in Company Exhibit 22, would, with that
15 one correction, would your answers be the same?

16 A. Yes.

17 MR. LANG: Your Honor, Mr. Demiray is
18 available for cross.

19 EXAMINER CHILES: Thank you.

20 Mr. Williams.

21 MR. LANG: I'm sorry, I have one last
22 housekeeping matter.

23 EXAMINER CHILES: Go ahead.

24 MR. LANG: Moved too quickly through
25 that.

1 Q. (By Mr. Lang) Mr. Demiray, on the first
2 day of hearing, Attorney Examiner Price asked I
3 believe it was Mr. Dargie what percentage of
4 customers prior to the May, 2012, base residual
5 auction declined to commit their resources and what
6 percentage of customers simply were unable to make a
7 decision or unable to be reached. Do you have a
8 response?

9 A. Yes, I do. Your Honors, the --
10 Mr. Dargie did testify 15 percent of customers did
11 assign their EE resources while the remaining
12 85 percent we didn't hear back from or said no. In
13 that 85 percent, essentially the companies did reach
14 out to the top customers that made up the
15 disproportionate amount of the savings, and of those,
16 9 percent of the customers said specifically no.

17 The remaining 91 percent, although our
18 customer service reps and national account reps would
19 have reached out to them to ensure they did receive
20 the letter, tried to walk them through what it
21 actually meant, the 91 percent never got back to us
22 by the time of the deadline.

23 EXAMINER PRICE: Okay. Thank you.

24 MR. LANG: And now I'm done. Thank you,
25 your Honor.

1 EXAMINER CHILES: Mr. Williams.

2 MR. WILLIAMS: No questions.

3 EXAMINER CHILES: Mr. Dougherty.

4 MR. DOUGHERTY: I have one question.

5 That question that was presented by Mr. Lang, is that
6 considered part of the rebuttal testimony, or is he
7 just answering a question that was presented to
8 another party -- to another witness? Is that
9 crossable?

10 EXAMINER CHILES: We will allow cross on
11 the statement.

12 EXAMINER PRICE: That was your one
13 question, though.

14 MR. DOUGHERTY: And I am going to leave
15 it at that. No questions.

16 EXAMINER CHILES: All right.
17 Mr. Allwein.

18 MR. ALLWEIN: Thank you, your Honors.

19 - - -

20 CROSS-EXAMINATION

21 By Mr. Allwein:

22 Q. Good morning, Mr. Demiray.

23 A. Good morning.

24 Q. My name is Chris Allwein, and I'll be
25 asking questions on behalf of the Natural Resources

1 Defense Council and the Sierra Club this morning.

2 Were you the sole author of this
3 testimony?

4 A. It was prepared by me or under my direct
5 supervision, yes.

6 Q. All right. And did you consult with
7 other folks at FirstEnergy before filing it?

8 A. Yes.

9 Q. Who did you consult with?

10 A. It would have been Diane Rapp.

11 Q. Is that R-A-P-P?

12 A. Yes.

13 Q. And can you tell me what department that
14 Diane Rapp works in?

15 A. I'm not sure the technical title, but
16 it's essentially within our energy efficiency
17 department, the EMB group.

18 Q. In your previous testimony -- I should
19 say your original direct testimony, did you testify
20 as to whether the plan was designed to meet the
21 benchmarks?

22 A. That was not part of my direct testimony,
23 no.

24 Q. Why not?

25 A. My testimony was on shared savings.

1 Q. Okay. And have you participated in the
2 preparation of the FirstEnergy companies' previous
3 portfolio status reports?

4 A. Are you saying specifically to Ohio?
5 Pennsylvania? What states are you referring?

6 Q. Sorry. I will clarify. I am referring
7 to the FirstEnergy Ohio Electric Distribution
8 Utilities Annual Benchmark Portfolio status reports.

9 A. Specific to Ohio, no, I don't believe I
10 have.

11 Q. Now, even though you haven't participated
12 in the preparation of those Ohio Electric
13 Distribution Utility Reports, are you familiar with
14 the reports of the companies' evaluators, ADM
15 Associates?

16 A. Generally, yes.

17 Q. Going to your testimony on page 2, line
18 19, you state that the three companies, The Cleveland
19 Electric Illuminating Company, The Toledo Edison
20 Company, and the Ohio Edison Company, you state that
21 the proposed plans "as filed are designed to meet or
22 exceed Ohio's statutory benchmarks for energy
23 efficiency, both on a cumulative savings and
24 additional incremental savings basis." Do you see
25 that?

1 A. Yes, I do.

2 Q. All right. And can you define, please,
3 your definition or the definition you've used for
4 "cumulative savings."

5 A. I would say that it is consistent with
6 4928.66(A)(1)(a) where it is a total savings, year
7 over year, that is increasing.

8 Q. All right. And then can you please
9 provide what definition you used or what you are
10 referring to when you state "additional incremental
11 savings."

12 A. I would say that incremental amount would
13 be the difference, year over year, between those
14 cumulative numbers.

15 Q. All right. And on page 2, beginning on
16 line -- well, beginning on line 20, your second
17 bullet point, you state that "The methodology used by
18 Mr. Sullivan in his Direct Testimony... contains
19 flaws and overstates the comparative alleged
20 benefits." Do you see that?

21 A. Yes, I do.

22 Q. All right. How would you have
23 calculated, on a ballpark basis, the net billed
24 savings and enhanced portfolio of nonmercantile
25 self-direct and nontransmission distribution programs

1 would produce?

2 A. Again, what I would say is I'm not
3 proposing that I necessarily agree with the analysis.
4 I'm just pointing out flaws that are apparent in the
5 one that was performed.

6 Q. Okay. So you wouldn't have an idea of
7 how to perform such an analysis yourself?

8 A. That analysis was not performed as part
9 of this. I was just finding fundamental errors in
10 the methodology that was employed.

11 Q. Okay. I know it wasn't done, but I guess
12 my question was, do you have an idea of how you would
13 perform the calculation?

14 A. Well, if you refer to my testimony, page
15 8, lines 16 through 19, I do state that "While
16 detailed modeling would be required to see if this
17 supposed additional savings could even be achieved in
18 the 2013-'15 period and at what ultimate cost, it is
19 clear that Mr. Sullivan's analysis focused solely on
20 long term potential benefits, without regard for the
21 near term rate impacts of such actions."

22 So I would state that to do such an
23 analysis, you would have to do, as I state, the
24 detailed modeling to see if it's achievable.

25 Q. Now, is such a -- is the detailed

1 modeling that you describe on lines 16 through 19 on
2 page 8, is that available in the companies' Market
3 Potential Study?

4 A. I think that would be one of many inputs
5 that would have to be considered as part of
6 developing a detailed modeling to see, but not the
7 sole input.

8 Q. All right. And is the determination of
9 whether those benchmarks are achievable, is that part
10 of the Market Potential Study?

11 A. I believe the definition of the Market
12 Potential Study is looking at the achievable results
13 and the economic results and the technical results,
14 so I think that that is contained within the broad
15 view of that. But to do such a detailed analysis you
16 would have to take in many other considerations,
17 including participation rates, experience the
18 companies have in these programs and the other
19 programs in other jurisdictions to create a
20 well-balanced portfolio.

21 Q. All right. And I believe you mentioned
22 Company Exhibit 15. And I apologize. I don't have a
23 line number. Hang on one second. I will look for
24 it, unless you know what it is. Okay. That was --
25 it's page 4, line 4. Do you see that?

1 A. I'm there.

2 Q. All right. And do you have a copy of
3 that exhibit with you?

4 A. The original discovery, yes.

5 Q. Did you develop this estimate?

6 A. What estimate in particular are you
7 referring to?

8 Q. I am referring to the exhibit in general.
9 Were you a part of developing the estimates that
10 appear?

11 A. In conjunction as looking at part of the
12 overall modeling, there was a -- these tables do come
13 directly from that, yes.

14 Q. All right. Okay. I want to refer
15 specifically to the 2012 cumulative annualized
16 year-end estimate, which I believe is in the top left
17 corner.

18 A. The specific operating company?

19 Q. We can -- you can choose one, if you
20 want, but if you want me to choose one, we'll look at
21 Ohio Edison's.

22 A. Okay. That's the first one.

23 Q. Okay. So did you develop that estimate?

24 A. I was involved as part of the modeling of
25 the overall portfolio. Yes, that was one thing I

1 helped prepare.

2 Q. All right. And who assisted you with
3 that?

4 A. I would say Ed Miller's team, in general.

5 Q. All right. And looking at that table,
6 can you tell me the basis or, I guess asked more
7 plainly, where did you get the annualized year-end
8 estimate for residential programs?

9 A. Would have come from internal reporting
10 that would have been through the time at which we
11 were developing the plan. At that point we took a
12 look at installed measures, month over month, to the
13 point where they would have been, I guess you would
14 say, you would take a look at the total you had under
15 the belt to the estimation of when those came in and
16 estimate the residual savings that would apply in the
17 next year based on that under partial year
18 methodology. Those two bits together would make up
19 the annualized equivalent.

20 Q. Okay.

21 A. Including also all activity to date that
22 was prior to the year 2011 -- I'm sorry, prior to the
23 year 2012, so 2011 and before, annualized results.

24 Q. Okay. And just to be clear, you say
25 "annualized results." But when you say "annualized

1 results," you mean the -- the residual pro rata that
2 extends from the beginning of that measure to the end
3 of that measured life; is that correct?

4 A. I think there's a couple of points there.
5 I mean, first off, I was talking about annualized
6 results in terms of the 2011 and prior, so we had
7 those to the companies' annual status reports on top
8 of that. You would take, again, the partial year
9 contributions you do have within the year in 2012 and
10 then an estimate for those that would apply in 2013.

11 Those were not included as part of the
12 overall portfolio because the portfolio program in
13 '13-'15, you have to ensure you have a pro rata
14 amount in there that is not influenced by activities
15 from prior years that you can say that the budgets
16 and TRC are specific to what's listed in the plan.

17 Q. Right. And I guess I just want to
18 distinguish the way that you are using the term
19 "annualized" as being different from the waiver that
20 the company was requesting -- requesting, you know,
21 in reference to pro rata versus annualized savings.
22 You are using "annualized" here differently, just to
23 refer to the beginning of the pro rata measured life
24 to the end of that pro rata measured life?

25 A. I would say under the Companies' proposal

1 for a waiver, they had requested that the savings in
2 future periods would count would have the
3 partial-year methodology. So that, regardless of the
4 point at that time within the year that you do
5 install it, it is counted as the full-year
6 equivalent. I would say that's consistent with what
7 these are suggesting.

8 Q. Okay. All right. In the annualized
9 year-end estimate for residential programs, are you
10 including the 2010, 2011, and 2012 year results of
11 the online audit program?

12 A. I would say that the savings prior to the
13 2011 -- I'm sorry, prior to 2012 would be included as
14 part of the 2011 status report. In the 2012 period
15 it would include a combination of those installations
16 that the companies were aware of at the time the
17 modeling was created, as well as a forecast of
18 activity through the end of the year.

19 Q. All right. And do the annualized
20 year-end estimates for mercantile customer-sited
21 programs, does that include projects that the
22 Commission has not yet approved?

23 A. Again, it would be in conjunction with a
24 number of things, that being prior to 2012, those
25 that were filed as part of the companies' annual

1 status report in 2012, it would have been an estimate
2 of the number that the companies had, again, under
3 their belt and those that they forecast through the
4 end of the period.

5 Q. In going back to my question, does that
6 estimate include projects that the Commission has not
7 yet approved?

8 A. It depends on, I think, the -- it would
9 include those that have been filed with the
10 Commission. Again, it would include those that have
11 been projected through the end of the year. You can
12 definitely say that those that are projected have not
13 been approved by the Commission.

14 Q. Okay. All right. And are these
15 estimates based on ex-ante or ex-post verified
16 annualized savings?

17 A. It would be consistent with the
18 information -- well, again, depends on what we are
19 talking about here. The 2011 would be consistent
20 with the information as presented in there. It would
21 be -- I don't recall off the top of my head at what
22 level that was done. I would -- I don't believe
23 that -- for terms of the forecast savings for the
24 balance of this year, it would definitely be done on
25 an ex-ante basis.

1 And I will add, I know this entire
2 process is a series of forecasts, both for the period
3 of the balance of the year from the forecast through
4 the entire '13 to '15 plan, so the companies did deem
5 that these were reasonable expectations.

6 Q. Okay. Really quickly here, I just want
7 to look at Exhibit EGD-R4, and just for reference you
8 refer to this on page 4, lines 11 through 12 -- well,
9 line 11 through 13. I just want to ask you, is it
10 your testimony that this September 6 document
11 provides the same level of detail that was provided
12 on September 24 to the collaborative?

13 A. I think it definitely provides the -- to
14 the collaborative?

15 Q. Yes. Wasn't this part of a
16 collaborative -- oh, it's a technical conference.

17 A. It's part of the technical conference
18 supporting the portfolio plan to demonstrate, again,
19 that the targets that we have would be met by what
20 was included in the portfolio plan.

21 Q. And can you just read the note that
22 appears below the table there on this page?

23 A. Yes. It says, "For discussion purposes
24 only, numbers are subject to change."

25 The reason that was included, again, at

1 the top of the page it does say it is a savings
2 forecast.

3 Q. Okay. All right. I would like to turn
4 back to your testimony now on page 5, lines 15
5 through 17. If you look, you state that
6 "Mr. Sullivan does not account for the application of
7 banked surplus energy savings the Companies are
8 estimating at the end of the 2012." Do you see that?

9 A. I do.

10 Q. All right. And according to the
11 FirstEnergy companies' proposed plans, would the
12 companies be able to comply with the 2013 to 2015
13 additional incremental benchmarks without employing
14 these banked surplus energy savings?

15 A. I disagree, first off, that there are
16 incremental and renewal benchmarks. Again, the way
17 that I have defined it is on a cumulative basis
18 consistent with 4928.66(A)(1)(a).

19 Q. And I think you are referring to your
20 testimony. Well, first, let's -- okay. Let's go to
21 page 6, line 2. You state that "The correct way to
22 calculate the additional incremental annual baseline
23 is to use the difference in yearly cumulative
24 benchmarks consistent with 4928.66(A)(1)(a). Do you
25 see that?

1 A. One more time, the line?

2 Q. Page 6, lines 2 through 4.

3 A. Yes, I see that.

4 Q. Okay.

5 A. I get that as a conflict with what I just
6 said, that it is, again, on a cumulative basis.

7 Q. And when you say "the correct way," is
8 that your opinion, or is there some -- is there some
9 statute or Commission rule that defines calculating
10 the incremental annual baseline this way?

11 A. Again, I don't think that there is
12 anything other than in 4928.66(A)(1)(a), where it
13 states specifically that on a cumulative basis, the
14 cumulative amount increases year over year.

15 Q. And so turning back to my question, using
16 this language that you present here, the additional
17 incremental annual baseline, would the companies be
18 able to comply with the 2013-2015 additional
19 incremental benchmarks without banked surplus energy
20 savings?

21 A. Again, my answer would be the same, that
22 it is based on a cumulative basis, and that those
23 cumulative savings are what is applicable, that there
24 is no separate annual incremental baseline as
25 established in 4928.66.

1 Q. So the companies haven't employed any
2 calculations to show additional incremental
3 benchmarks?

4 A. I don't think it is part of the -- their
5 requirement. No, that has not separately been done.

6 Q. Okay.

7 EXAMINER PRICE: Okay. Let's ask the
8 question a different way. Can the companies comply
9 with their 2013, '14, and '15 energy efficiency
10 benchmarks without the use of banked savings?

11 THE WITNESS: Without the use of banked
12 savings?

13 EXAMINER PRICE: Yeah.

14 THE WITNESS: I would say the way we
15 did -- complied was using a portion of the banked
16 savings that was subject to future years so I don't
17 want to argue over the semantics of it.

18 EXAMINER PRICE: I don't want to argue
19 about the legality of it. Nobody is questioning your
20 ability to use banked savings. I'm just asking if
21 banked savings were to be excluded, which they will
22 not be, but, hypothetically, if banked savings were
23 to be excluded, would the companies comply with their
24 2013, '14, and '15 benchmarks?

25 THE WITNESS: On a cumulative basis?

1 EXAMINER PRICE: On a cumulative basis.

2 THE WITNESS: I think you would have to
3 take a look at the exhibits where that would or would
4 not occur. I think it would occur in some
5 situations. It might not occur in other situations.

6 EXAMINER PRICE: Walk me through them.

7 THE WITNESS: All right. So I think we
8 can walk past Exhibit EGD-R1 because that's purely on
9 a cumulative basis. Do you think that's fair?

10 EXAMINER PRICE: Sure.

11 THE WITNESS: CK if you take a look at
12 Exhibit RD -- EDG-R2, on there you would see the --
13 the cumulative benchmark each year, and to determine
14 if you ultimately comply, and assuming for some
15 reason banked savings could not be applied, you would
16 take out what is in column 9.

17 So then it would be a combination of
18 columns 5 plus columns 8, and, for example, the first
19 year would be -- and I am referring specifically to
20 CEI here -- you would take that 839,193, plus the
21 additional 63,849, and then you would have to compare
22 that against the benchmark, which would be 608,007.

23 If you want to do that a different way,
24 you could state that the difference between the
25 cumulative benchmark year over year, for example, the

1 860,007 against the 427,846, that would be if there
2 weren't incremental benchmarks that you had to hit,
3 that that would be an equivalent of what that would
4 be compared against, the 63,849, and that's assuming
5 you had no banked whatsoever, no prior performance
6 whatsoever.

7 EXAMINER PRICE: Okay. Thank you.

8 MR. ALLWEIN: All right. Your Honors,
9 may I have the last portion of that last answer read
10 back, please.

11 EXAMINER PRICE: You may. Why don't we
12 read back the entire answer.

13 MR. ALLWEIN: That will be fine.

14 EXAMINER PRICE: Not guessing where you
15 want to start. Read back the previous answer,
16 please.

17 (Record read.)

18 Q. (By Mr. Allwein) Mr. Demiray, are you
19 aware of banked surplus energy savings referenced
20 anywhere in the law?

21 A. I don't know semantics about law versus
22 what might be ordered, things like that, but I will
23 say in 888, it's my understanding companies are
24 allowed to apply banked savings.

25 Q. All right. And do you know if any Ohio

1 utilities have used banked surplus savings to comply
2 with the additional incremental benchmarks?

3 A. I am not aware if they have exercised
4 that right.

5 Q. And do you know if any Ohio utility has
6 used banked surplus savings to comply with cumulative
7 incremental benchmarks?

8 A. I am not aware if they have exercised
9 that right.

10 EXAMINER PRICE: What we can agree,
11 however, is that you project for each company for
12 each year, the -- both on an annualized and pro rata
13 basis, that the projected banked savings balance will
14 decline steadily over the course of this three-year
15 program portfolio period.

16 THE WITNESS: I think that's fair, yes.

17 Q. (By Mr. Allwein) I'm sorry, let me find
18 one more testimony reference here.

19 Turning to your testimony on page 7,
20 beginning on line 14 and through line 17, you state
21 that "Simply keeping other errors constant and using
22 the corrected net benefits/gigawatt hour for
23 FirstEnergy rather than AEP would eliminate almost
24 53 million of the alleged additional benefits." Do
25 you see that?

1 A. Yes, I do.

2 Q. How did you calculate that?

3 A. I can walk you through on Sullivan
4 Exhibit DES-1. There are a number of errors on there
5 and which ones I corrected. Bear with me. I am
6 getting there now.

7 Q. I'm sorry, are we going to look at one of
8 your exhibits or DES-1 --

9 A. No. I would like to go to DES-1 because
10 that's how I calculated it.

11 Q. Okay. Hand on one second, please. Okay.

12 A. All right. If you are there, there are
13 11 numbers on this page, and I believe 6 of them are
14 wrong. But essentially, you know, in support of the
15 53 million, first off, the B5B 139,945 demonstrated
16 on EDG-R5, that is inappropriate noting the
17 exclusions as called out on Mr. Sullivan where that
18 would be in the range of 160 million.

19 Then you take that over -- even though
20 there is a reference in D5 that you are taking B and
21 dividing by D, that is incorrect. You are actually
22 taking B and dividing by C. In that case, the
23 126,127 per net benefit to gigawatt would change to I
24 think it's 146,000 or so.

25 Again, putting aside that E5 and then

1 ultimately E9 are wrong, you would then essentially
2 be saying that the 324, which, again, was calculated
3 in Mr. Sullivan's testimony by taking the 1,995 and
4 for some reason calculating that against AEP's net
5 benefit per gigawatt hour, which is inappropriate,
6 you would then correct that against the now correct
7 FirstEnergy one, which would be 146, again, which
8 would be the corrected value in D5. That would take
9 that down to I believe it's 231 or 239 million,
10 somewhere around there, and 184 would drop to
11 131 million.

12 Q. Okay. And you are aware some of this
13 was, I believe, corrected by Mr. Sullivan when he was
14 on the stand.

15 A. I don't have all of that.

16 Q. Okay.

17 A. Again, though, I don't believe the
18 reference to using AEP's avoided costs as opposed to
19 FirstEnergy's was.

20 Q. All right. And you state on page 8,
21 beginning on line 10 and going through line 12, "The
22 resulting adjusted budget is approximately
23 \$238 million dollars or roughly \$217,000 per gigawatt
24 hour." Do you see that?

25 A. Yes.

1 Q. And -- okay. And then on line 14 through
2 line 15 you see that it says in DES-1, the -- I'm
3 sorry. I'll back up.

4 You're referring to the "additional 898
5 gigawatts of energy savings suggested in DES-1 could
6 cost an additional \$195 million on top of The
7 companies' proposed budgets." Do you see that?

8 A. Yes, I do.

9 Q. And what would that be in terms of per
10 kWh? Do you know?

11 A. I don't know off the top of my head, no.

12 Q. All right. And --

13 A. Again, though, I think the underlying
14 analysis is flawed, and I don't think the comparative
15 nature of it is reasonable. But taking it into
16 consideration, making the same exclusions that
17 Mr. Sullivan noted, I do just show that as a rough
18 guide what that -- a way to calculate an impact, yet
19 still note on the bottom it is not a detailed
20 modeling.

21 Q. All right. One more question here and
22 then I wanted to move on to the crossable item you
23 talked about earlier but.

24 All right. On page 8, lines 17 through
25 19, you state, "It is clear that Mr. Sullivan's

1 analysis focused solely only on long term benefits,
2 without regard for the near term rate impacts of such
3 action." Do you see that?

4 A. Yes, I do.

5 Q. What is the weighted average measured
6 life of the measures in the proposed plans?

7 A. I don't know. That would be a great
8 question for Mr. Miller.

9 Q. Okay. One moment, please.

10 Okay. Regarding the -- the testimony
11 that you presented when you -- when you got on the
12 stand, I wanted to ask you, has FirstEnergy
13 experienced a significant decline in program
14 participation since April?

15 A. I don't believe the companies have seen a
16 significant decline.

17 Q. All right. And according to the Opinion
18 and Order in -- in 12-1230-EL-SSO, the FirstEnergy
19 so-called "ESP III," according to that order, if the
20 participants don't commit ownership, they are not
21 eligible for the rebates; is that correct?

22 MR. OLIKER: Can I have that question
23 read back, your Honor? I'm sorry.

24 EXAMINER CHILES: Would you read that
25 back.

1111

1 (Record read.)

2 MR. LANG: Your Honor, I would object. I
3 am trying to figure out how that's within the scope
4 of his testimony, and I'm not seeing it so I'll
5 object on that basis.

6 EXAMINER CHILES: Mr. Allwein.

7 MR. ALLWEIN: I don't think it's in the
8 scope of his rebuttal testimony, but I believe he
9 made a statement regarding ownership and
10 participation this morning to supplement something
11 that Mr. Dargie had stated. Is that correct?

12 MR. LANG: With regard to as in answering
13 a hearing examiner question, but it was -- had
14 nothing to do with ESP III and the legal
15 requirements. It was simply the factual matter of
16 who was contacted and who responded.

17 EXAMINER CHILES: Overruled.

18 A. I don't have a legal basis for that. I
19 don't think that language that you quoted is exactly
20 what the ESP III states either, though.

21 Q. Have any of the 91 percent of customers
22 that you stated did not respond responded since the
23 May auction two-year letter?

24 A. I am not aware.

25 Q. All right.

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1 EXAMINER PRICE: Excuse me, wait one
2 second, Mr. Allwein. When you say "I'm not aware,"
3 you are saying: I'm not aware of any," or "I do not
4 know one way or the other"?

5 THE WITNESS: I don't know one way or the
6 other. I do know the companies have taken, if you
7 want to call it, another shot at trying to contact
8 them and trying to get them to commit those
9 additional resources, but I don't know any of the
10 specifics about that.

11 EXAMINER PRICE: Okay. Thank you.

12 Q. (By Mr. Allwein) All right. And has the
13 company followed up, or do the companies plan to
14 follow up regarding the ownership of the 91 percent
15 of the customers to bid into, perhaps, subsequent
16 incremental auctions?

17 A. I believe I just answered that question.

18 Q. Oh, you did, I'm sorry.

19 MR. ALLWEIN: May I have the answer read
20 back?

21 EXAMINER CHILES: Please read it back.

22 (Record read.)

23 MR. ALLWEIN: Okay. I have no further
24 questions, your Honor. Thank you.

25 EXAMINER CHILES: Thank you.

1 Ms. Kern.

2 MS. KERN: I have no questions, your
3 Honor.

4 EXAMINER CHILES: Ms. Kyler.

5 MS. KYLER: No questions.

6 EXAMINER CHILES: ELPC.

7 MR. McDANIEL: No questions.

8 EXAMINER CHILES: Mr. Olier.

9 MR. OLIER: I think I have one question,
10 your Honor.

11 - - -

12 CROSS-EXAMINATION

13 By Mr. Olier:

14 Q. You mentioned a portion of the customers,
15 Mr. Demiray, that affirmatively said no, they would
16 like to retain the ownership rights of energy
17 efficiency credits.

18 A. That's correct.

19 Q. Is it possible that those customers
20 wanted to retain those ownership rights because they
21 wanted to bid those capabilities into PJM?

22 A. Yes, it is.

23 MR. OLIER: No more questions, your
24 Honor.

25 EXAMINER CHILES: Thank you.

1 Mr. Parram.

2 MR. PARRAM: Yes, your Honor. Thank you.

3 - - -

4 CROSS-EXAMINATION

5 By Mr. Parram:

6 Q. Good morning, Mr. Demiray.

7 A. Good morning.

8 Q. I have a question regarding your Exhibit
9 EDG-R2. And I'm looking specifically at column 5.
10 It's Cumulative Forecasted Savings.

11 A. I'm there.

12 Q. Do you see where I'm at? Now, the
13 cumulative forecasted savings listed in column 5 are
14 based upon an assumption that the Commission will
15 grant mercantile applications from 2013 through 2015;
16 is that correct?

17 A. That it will grant applications in 2013
18 through '15, I believe it would be based on the
19 projected results as included in the companies'
20 filings where there were some savings associated with
21 mercantile programs.

22 Q. Okay.

23 A. Mercantile sited, I apologize.

24 Q. Okay. And those savings are based upon
25 mercantile customer applications that some have been

1 approved by the Commission and some have not been
2 approved by the Commission?

3 A. I would say it doesn't specifically state
4 they would be going through the rider exemption
5 method or they would be going through the pilot
6 program. To say that some have not been approved,
7 I think is fair. But I think recent memory or
8 recent experience would show the vast majority going
9 through the pilot program have been approved, and I
10 would say that, most likely, the style of projects
11 that you would see as projected in the portfolio plan
12 are more likely those that are going through that
13 pilot mechanism which has seen a very high approval
14 rate.

15 Q. Okay. Just to be clear, these are still
16 pending applications?

17 A. They are forecasted, and then pending on
18 top of that, yes.

19 Q. And if you could, go to column 9 on the
20 same exhibit, the "Incremental pro-rata banked
21 savings applied."

22 A. Yes.

23 Q. And for these banked savings, these
24 numbers are also based upon mercantile applications
25 that are still pending before the Commission; is that

1 correct?

2 A. Again, I think it would be a blend of
3 when you're talking about specifically, I would say
4 that it includes activities as part of the 2011
5 annual status report. Those that were applied, I
6 don't know the exact status of how many were approved
7 versus pending. It would also include a forecast
8 through the balance of '12 and those that we would
9 expect to file, again, most likely under the pilot
10 program.

11 And then within specifically the future
12 period, it would probably be a combination of those
13 that you would expect in '13 and '14, depending on
14 which banked number you are specifically referring
15 to. It would probably include a forecast portion in
16 there as well.

17 Q. Are you aware of a general number of how
18 many mercantile applications have already been either
19 denied or suspended by the Commission?

20 A. I want to say that somewhere around 450
21 applications have actually gone to the Commission,
22 this was as of mid September, and I am aware of maybe
23 one or two, it would be very, very small numbers,
24 that have been suspended or not approved. Of the
25 450, the vast, vast majority of them have been

1 approved and, again, especially those that will be
2 going under the pilot program.

3 MR. PARRAM: That's all I have. Thank
4 you.

5 THE WITNESS: Thank you.

6 EXAMINER CHILES: Thank you.

7 Mr. Lang, redirect?

8 MR. LANG: Your Honors, we have no
9 redirect.

10 EXAMINER CHILES: Examiner Price.

11 EXAMINER PRICE: No questions.

12 EXAMINER CHILES: I have no questions.
13 Thank you. You may step down.

14 THE WITNESS: Thank you, very much.

15 MR. LANG: Your Honors, the companies
16 would move Exhibit 2, please.

17 EXAMINER CHILES: All right. Are there
18 any objections to the admission of Company Exhibit
19 22?

20 Seeing none, Company Exhibit 22 will be
21 admitted.

22 (EXHIBIT ADMITTED INTO EVIDENCE.)

23 MR. ALLWEIN: Your Honor, may we take a
24 brief break before the last witness here?

25 EXAMINER CHILES: Sure. Let's take a

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1 brief five-minute recess.

2 (Discussion off the record.)

3 (At 12:41 p.m. a lunch recess was taken
4 until 1:06 p.m.)

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1 Tuesday Afternoon Session,
2 October 30, 2012.

3 - - -

4 EXAMINER CHILES: Let's go on the record.

5 MR. LANG: Your Honors, the companies
6 call Eileen Mikkelsen.

7 (Witness sworn.)

8 EXAMINER CHILES: Thank you. You may be
9 seated.

10 - - -

11 EILEEN M. MIKKELSEN

12 being first duly sworn, as prescribed by law, was
13 examined and testified on rebuttal as follows:

14 DIRECT EXAMINATION

15 By Mr. Lang:

16 Q. Can you -- hit the mic first. Can you
17 introduce yourself, please.

18 A. My name is Eileen Mikkelsen.

19 Q. Business address.

20 A. My business address is 76 South Main
21 Street, Akron, Ohio 44 308.

22 MR. LANG: Your Honor, at this time I
23 would like Ms. Mikkelsen's testimony, rebuttal
24 testimony, marked as Company Exhibit 23.

25 EXAMINER CHILES: It is so marked.

1 (EXHIBIT MARKED FOR IDENTIFICATION.)

2 Q. Ms. Mikkelsen, do you have before you
3 Company Exhibit 23?

4 A. I do.

5 Q. Is this rebuttal testimony that you
6 prepared or was under your supervision?

7 A. Yes.

8 Q. Do you have any corrections to make?

9 A. I do. Page 3, line 5, the word
10 "Testified" is misspelled.

11 Q. Add an "i"?

12 A. Correct. And on page 8, line 20, the
13 word that is currently styled "W-H-A-Y" should be
14 why, "W-H-Y." That's all the corrections I have.

15 Q. Thank you.

16 A. You're welcome.

17 Q. And if I were to ask you the questions in
18 Company Exhibit 23, would those -- with those two
19 corrections, would your answers be the same?

20 A. Yes.

21 MR. LANG: Your Honor, the witness is
22 available.

23 EXAMINER CHILES: Thank you.

24 Begin with Mr. Allwein.

25 MR. ALLWEIN: Thank you, your Honors.

1 developing price quotes, or under my direction, price
2 quotes would have been developed for customers of
3 FirstEnergy Solutions.

4 Q. Did any of your activities involve the --
5 any auction participation of any kind?

6 A. When I was at the FirstEnergy's
7 consulting business, the E Group, we had clients that
8 participated in PJM demand response programs, so in
9 that capacity, discharging those responsibilities on
10 behalf of our clients, I would say yes.

11 Q. Okay. Thank you. On page 3, beginning
12 with line 1 and going through line 3, you note that
13 you "participated in internal decision making to
14 develop the strategy for the Companies' participation
15 in PJM auctions." What was your role in that
16 decision-making process, if you can speak to it
17 generally?

18 A. My role in the internal decision making
19 to help develop the strategy was probably a couple of
20 things. One, I communicated to my management
21 concerns and issues that I heard, both through the
22 collaborative process as well as in discussions with
23 staff as part of the 12-1814 docket; and in addition
24 to kind of communicating that information that I was
25 learning from various folks we were dealing with, I

1 did participate directly with the folks on the energy
2 efficiency team to put together a strategy for
3 participating in the PJM auction, which we then
4 recommended that that strategy be reviewed and
5 improved by the management of the companies,
6 specifically through our EE Steering Committee.

7 Q. Okay. And were you -- did you
8 participate in the bid into the PJM base residual
9 auction that occurred earlier this year in which the
10 companies participated?

11 A. Two questions, in what respect are you
12 using the word "participated"; and, two, are you
13 referring to the base residual auction in May or some
14 other auction?

15 Q. I am referring to the base residual
16 auction in May, and "participated" meaning that the
17 companies bid, I believe, 36 megawatts in or
18 36 megawatts cleared. Did you assist in preparing
19 and executing that bid into the PJM base residual
20 auction in May?

21 A. I participated in -- I would say I did.
22 I participated in the development of the bid.
23 Someone other than me actually executed the bid.

24 Q. Okay. Who is it in FirstEnergy that
25 actually executed the bid?

1 A. Our regulated generation strategy group.

2 Q. Is that -- is Ed Stein one of the folks
3 on this group?

4 A. Ed Stein is in a different group.

5 Q. Okay. Did he participate in -- or in the
6 preparation or execution of your bid into the
7 capacity auction, into the base residual auction this
8 year?

9 A. He may have.

10 Q. Okay. On page 3, line 8, you say that
11 the purpose of your testimony is "to rebut
12 recommendations of various parties that the Companies
13 should bid speculative positions into future PJM
14 Auctions." Do you see that?

15 A. I do.

16 Q. And I just want to ask specific -- is
17 there any specific recommendation that you are
18 rebutting here, or is this just a general rebuttal of
19 items in direct testimony?

20 A. I think a number of parties in the course
21 of this proceeding have raised the topic of whether
22 the companies should be bidding into the forward
23 market energy efficiency and demand response
24 resources that don't exist currently, so I'm
25 addressing those topics in this testimony.

1 Q. Okay. Okay. Let's move on to page 4,
2 line 6 of your testimony. You state that "Energy
3 efficiency resources must meet both" -- "the PJM
4 project requirements and be of a size where the
5 Companies "can reasonably expect the auction revenues
6 produced by the technology or project to offset the
7 cost of the incremental M&V associated with the
8 project." Do you see that?

9 A. That's not completely correct. What the
10 sentence reads is that "Energy efficiency resources
11 must meet both the minimum PJM project requirements
12 and be of a size where the Companies can reasonably
13 expect the auction revenues produced by the
14 technology or project to offset the cost of the
15 incremental M&V associated with the project."

16 Q. Thank you for that clarification.
17 Regarding that statement, what PJM requirements are
18 you referring to in that statement?

19 A. The PJM requirement that in order to --
20 the minimum bid size for an energy efficiency project
21 be 100 kW.

22 Q. And then the second half of that
23 statement, and can "reasonably expect the auction
24 revenues produced by the technology or project to
25 offset the cost of incremental M&V," is that a PJM

1 requirement?

2 A. The additional M&V requirements in order
3 to participate in the PJM auctions are a PJM
4 requirement. The practical judgment that the company
5 makes that the revenue expected to be received by
6 participation should exceed the cost of participation
7 is not, to my knowledge, a PJM requirement.

8 Q. Okay. And --

9 EXAMINER PRICE: Are there economies of
10 scale in the M&V -- the cost of the M&V requirement?

11 THE WITNESS: You are obligated to have
12 separate M&V for each project or technology, but to
13 the extent that you have many projects of a similar
14 type that you can use the same M&V, yes.

15 EXAMINER PRICE: Okay.

16 Q. (By Mr. Allwein) And do you have any
17 ballpark estimates of what the cost of incremental
18 M&V is that you mentioned, like a per kW or per
19 megawatt?

20 A. I don't.

21 Q. And earlier when you were talking about
22 your recommendations to management, did that include
23 any analysis of the cost benefits or risks of bidding
24 energy efficiency -- of bidding speculative energy
25 efficiency resources into the 2012 base residual

1 auction? And by "speculative" I mean forecast
2 savings from your plans.

3 MR. ALLWEIN: May I have that question
4 reread, please.

5 EXAMINER CHILES: Please reread.

6 (Record read.)

7 A. Yes.

8 Q. And can you describe the -- the analysis
9 that was included?

10 A. The question that you asked me addressed
11 whether we did an analysis of the risks associated
12 with -- for bidding forecasted energy efficiency
13 resources into the 2012 base residual auction. And
14 we did provide management our analysis and judgment
15 with respect to the attendant risks associated with
16 doing that.

17 Q. Okay. And can you -- let's just talk
18 about that for a minute. To the extent that you can,
19 what -- what were the risks -- the attendant risks as
20 you described them that you discussed with your
21 management?

22 A. I think those are the same risks that I
23 have outlined in my testimony.

24 Q. Any others that are not in the testimony?

25 A. Not that I recall.

1 Q. Okay. And if I didn't, I also meant to
2 inquire whether your recommendations included an
3 analysis of the costs associated with bidding
4 forecast savings or the benefits of forecast savings.
5 Did your analysis include either of those things?

6 A. Again, our analysis addressed the risks
7 associated with bidding those forecasts, but we did
8 not perform a specific numerical analysis,
9 cost/benefit analysis, and I am not sure we could
10 have simply because it would have been based on
11 future judgments which were not available at that
12 time. I should clarify that to say future auction
13 results, so merely we talked about the range of risks
14 associated with the actions.

15 Q. All right. I'm going to ask you -- let's
16 see, I want to ask you about page 4, line 13 going
17 through line 14, you state that "First, in my
18 opinion, the primary purpose for PJM capacity market
19 auctions is to provide certainty for system
20 reliability." Do you see that?

21 A. I do.

22 Q. And is it your opinion that only the
23 resources that are certain should be bid into the PJM
24 capacity market auctions?

25 A. I think PJM rules allow for bidding

1 planned resources.

2 Q. So if the PJM rules allow for the bidding
3 of planned resources and the company plans on
4 generating energy efficiency savings in order to
5 comply with the Ohio statutory benchmarks, how would
6 you distinguish that from other planned resources?

7 A. I think there is an element, as I say
8 here in my testimony, particularly with respect to
9 bidding energy efficiency resources that don't exist,
10 to the extent that those are bid into the market and
11 they are, in fact, not installed downstream, that
12 does not provide for, you know, certainty with
13 respect to the system reliability.

14 Q. Now, do you think that that holds true
15 for any form of generation or just energy efficiency
16 resources?

17 A. I think it would be incumbent upon any
18 bidder to have a great degree of certainty that the
19 planned resources they are bidding into a base
20 residual auction will be delivered in advance of the
21 delivery year.

22 MR. ALLWEIN: May I have that answer read
23 back, please.

24 EXAMINER CHILES: You may.

25 (Record read.)

1 Q. So is there a lack of certainty on your
2 part that the proposed savings to be generated by
3 your plan in 2013 to 2015 will actually be generated?

4 THE WITNESS: May I have that question
5 reread, please.

6 EXAMINER CHILES: Please reread the
7 question.

8 (Record read.)

9 A. I have a high degree of certainty that we
10 will reach the statutory mandates in the years 2013
11 through 2015. I have less certainty, as I've
12 discussed here in my testimony, about how we'll
13 achieve those mandates.

14 Q. I would like to move on to lines 16 to
15 18.

16 A. Page, please?

17 Q. I'm sorry, page 4 still. You state that
18 you "do not believe it is appropriate for regulated
19 electric utilities to take speculative future
20 positions that could subject either the utility or
21 its customers to severe financial harm." Do you see
22 that?

23 A. I do.

24 Q. And can you, with more specificity, tell
25 us what you mean by "severe financial harm"?

1 A. I think there is a couple of aspects to
2 the financial harm associated with speculative --
3 taking a speculative future position. The first is
4 in the event that the company would be unable to
5 provide that resource in the delivery year, the
6 company would be subject to penalties from PJM.

7 Secondly, I've heard it discussed in this
8 proceeding that the companies should view future
9 incremental auctions as a possible hedge or risk
10 mitigation tool for taking a future position today.
11 And not knowing what future incremental auctions will
12 clear at, to rely on that as a strategy for meeting
13 an open future position creates a situation where the
14 company may end up paying more for that resource than
15 they were compensated for that resource in the BRA.

16 Q. Well, is it your opinion that any utility
17 that bids planned resources into a future capacity
18 auction is taking a speculative position?

19 A. I have no opinion on what other electric
20 utilities do, sir.

21 Q. Okay. The only reason I asked is because
22 you said you do not believe it is appropriate for
23 regulated electric utilities. Were you only
24 referring to the FirstEnergy electric distribution
25 utilities in Ohio? That's line 16 on page 4.

1 A. Yes.

2 Q. Are you aware of the Public Utilities
3 Commission's order in the 12-814 case?

4 A. Perhaps you could describe more
5 completely what you mean by "order." I am not aware
6 there was an order in that case.

7 Q. I'm sorry. I misspoke. My apologies.
8 Are you aware of the Commission's 12 -- I'm sorry.
9 I'll start over.

10 Are you aware of the Commission's entry
11 in 12-814 from February 29, 2012?

12 A. Yes.

13 Q. And are you aware that the Commission
14 within that order requested that the FirstEnergy
15 companies consult with staff and file a report
16 detailing potential energy efficiency and peak demand
17 reduction offers into the May, 2012, PJM auction?

18 A. I'm aware that the entry requested that
19 the company consult with the staff and prepare a
20 report for the Commission with respect to the
21 Companies' plans regarding the 2015-'16 base residual
22 auction.

23 Q. Okay. Now, you follow up your statement
24 on page 4, lines 16 through 18, with a second
25 statement where you say, "This is especially true

1 given there is not a statewide directive providing
2 consistent requirements for electric utilities." Do
3 you see that?

4 A. I do.

5 Q. And when you say "directive providing
6 consistent requirements," are you referring
7 specifically to any -- are you specifically referring
8 to requirements by the Public Utilities Commission of
9 Ohio regarding bidding energy efficiency resources
10 into PJM?

11 A. I'm referring in that line to the fact
12 that there is no PUCO requirement for bidding in PJM,
13 and that there is no statutory requirement for
14 bidding in PJM, and PJM considers participation for
15 these types of resources voluntary.

16 Q. Are you aware of whether -- of whether
17 FirstEnergy has presented this item, the fact that
18 there isn't a statewide directive providing
19 consistent requirements for the electric utilities in
20 any of -- in the 12-814 docket or the ESP or some
21 other appropriate docket?

22 A. I'm not entirely clear what you mean by
23 "appropriate docket," sir.

24 Q. Well, I'll just take a couple then. Are
25 you aware of whether the companies expressed this

1 position in either the 12-814 case or the so-called
2 ESP III case?

3 A. I don't recall the company articulating
4 this in the 12-814 case, and I genuinely don't
5 remember the ESP III case, whether we did or did not.

6 Q. Okay. Are you aware of other regulated
7 utilities that bid -- that bid planned or forecast
8 energy efficiency resources into the PJM base
9 residual auction?

10 A. Can you describe to me what you mean by
11 "forecast," sir?

12 Q. Savings that have not yet been generated
13 but are planned to be generated in the future.

14 A. Can you describe to me what you mean then
15 by "plan"?

16 Q. Well, they have a -- similar to the
17 Companies' plans in this case, they have a
18 presentation on how they will generate energy
19 efficiency resources in the future.

20 A. So when you use the word "plan" in this
21 context, you are not using it in the same sense that
22 PJM uses it when they talk about a planned resource.
23 Am I correct in understanding you?

24 Q. Well, I -- I would like to follow up your
25 question with a question. Can you tell me how PJM

1 uses the word "plan"?

2 A. PJM for energy efficiency resources
3 considers a resource existing if it has an approved
4 post-implementation m&V plan that has been approved
5 by PJM. It considers the resource planned to the
6 extent that it does not have a post-implementation
7 approved M&V plan.

8 MR. ALLWEIN: All right. And may I have
9 that answer reread, please.

10 EXAMINER CHILES: You may.

11 (Record read.)

12 Q. All right. So in your understanding of
13 PJM, can a planned resource be bid into a PJM base
14 residual auction?

15 A. PJM articulates a number of requirements
16 before a resource provider can offer or bid an energy
17 efficiency resource into a PJM auction. So in order
18 to -- as long as the resource provider can satisfy
19 those requirements, they are able to offer or bid a
20 resource into. All of that would proceed well in
21 advance of the point where you reach a
22 post-implementation M&V plan.

23 Q. Okay. So your understanding is that the
24 only resources that can be bid into PJM base residual
25 auctions -- and by "resources," I mean energy

1 efficiency resources -- are those existing resources,
2 using PJM's definition that have an approved
3 post-implementation M&V plan; is that correct?

4 A. No.

5 Q. Okay. Please correct me.

6 A. Perhaps -- if you could frame a question
7 for me.

8 Q. Okay. Sure. My question is what did I
9 say that was incorrect?

10 THE WITNESS: May I have his statement
11 reread, please.

12 EXAMINER CHILES: Please read the
13 statement.

14 (Record read.)

15 MR. ALLWEIN: Thank you.

16 A. So you would like me to now correct that
17 statement? I think if I were to attempt to correct
18 that statement, I would say that I don't believe the
19 only resources that a resource provider is eligible
20 to bid into PJM are existing resources. I don't
21 believe that to be true.

22 Q. Okay. Well, my -- my question is, are
23 there forecast resources by utilities that can be bid
24 into future base residual auctions?

25 A. As I said earlier, there are specific

1 requirements that a resource provider has to satisfy
2 in order to offer an energy efficiency resource into
3 a PJM RPM auction.

4 Q. And, hypothetically, let's say these
5 resources meet those requirements that must be
6 satisfied but they haven't yet been generated, those
7 could be bid into the PJM base residual auction; is
8 that correct?

9 A. Energy efficiency resources that satisfy
10 the requirements for being offered into a base
11 residual auction as articulated by PJM can certainly
12 be offered into a PJM auction.

13 Q. Okay. And some of those resources have
14 not yet been generated. Even when they satisfy all
15 the requirements, it's possible they haven't yet been
16 generated; isn't that correct?

17 A. I apologize. I am not entire sure when
18 we talk about generated, we are talking about EE
19 resources here, so can you be clearer what you are
20 talking about generated?

21 Q. I'm sorry. I'm talking about the savings
22 from energy efficiency resources being generated.

23 THE WITNESS: I'm sorry, can you repeat
24 the question? I apologize.

25 EXAMINER CHILES: Could you read the

1 question back, please.

2 (Record read.)

3 A. Energy efficiency resources that have not
4 yet been installed but that otherwise meet the
5 requirements for being offered into the PJM auction
6 may be offered by a PJM resource -- pardon me, by a
7 resource provider.

8 Q. Okay. And just for purpose of future
9 questions, may we call those "planned resources"?

10 A. I don't think so because I think -- why I
11 am reluctant to do so because planned resources are a
12 very specific term, and I don't think using it
13 generally does a service to the discussion.

14 Q. Okay. How about if I call them "forecast
15 resources"?

16 A. I think what I'm struggling with is in my
17 mind, there may be resources and there may be energy
18 efficiency resources that are included in the plan
19 that we may forecast but that may not, in my
20 judgment, meet the requirements necessary to offer
21 those into the auction before they are installed.

22 Q. All right. I can use a longer term and
23 call them "planned resources that have not yet
24 been" -- "planned energy efficiency savings that have
25 not yet been generated." May I use that term?

1 A. I think we can use any term you want to
2 use, but what I don't want to lose in using your term
3 is a fundamental understanding of what needs to occur
4 in order to bid those in, and so I am reluctant to
5 accept your characterization because I'm afraid in
6 doing so, I've assumed it into a resource that can,
7 in fact, participate in the auction. That's where my
8 reluctance is.

9 Q. All right. Well, my question is that I'm
10 wondering whether you're aware of other regulated
11 utilities bidding in resources that meet the PJM
12 requirements to be bid into an auction but whose
13 savings have not yet been generated. Are you aware
14 of other regulated utilities bidding those resources,
15 as I just described, into base residual auctions
16 conducted by PJM?

17 A. I have no direct knowledge.

18 Q. Okay. In going back to your earlier
19 definition, would those resources being utilized by a
20 utility to be bid in a PJM be speculative?

21 A. I apologize. We had a number of
22 discussions about a number of definitions. Which
23 definition are you referring to now, sir?

24 Q. Well, you discuss on lines 16 and 17 of
25 your testimony on page 4 that you don't believe it's

1 appropriate for regulated electric utilities to take
2 speculative positions. And so what I'm asking you
3 now is, in your opinion, would utility companies that
4 bid in existing resources as defined by PJM whose
5 savings have not yet been generated would then be
6 taking a speculative position by bidding those into
7 the PJM auction?

8 A. The definition of an existing energy
9 efficiency resource for PJM means that it has an
10 approved post-implementation M&V plan. So in my mind
11 that means the resource has been installed, PJM has
12 done its due diligence with respect to validating the
13 nominated value of the energy efficiency resources
14 associated with that, and approved that M&V. So, no,
15 sir, I don't think at that point I would consider
16 that a speculative resources.

17 Q. Now, did you just say that existing is
18 defined by PJM as now something that's already been
19 installed?

20 A. An existing PJM resource is a resource
21 that has an approved post-implementation M&V plan by
22 PJM. I think I have been consistent in my
23 description of that, and yes, sir, it has to be
24 installed or implemented in order to have a
25 post-implementation M&V plan that is reviewed and

1 vetted by PJM prior to approval.

2 Q. Is it your understanding that the M&V
3 plan looks at a resource in terms of how it will be
4 installed but doesn't imply that it already has been
5 installed, according to PJM?

6 A. I think your question, perhaps, is
7 referring to an initial M&V plan that a resource
8 provider is obligated to file with PJM no later than
9 30 days before an auction, and that, sir, is an
10 entirely different M&V plan than the
11 post-implementation M&V plan I have been referring
12 to.

13 Q. Okay. We'll move on for a while. Going
14 to it -- back to page 4, line 18, you used the term
15 "severe financial harm." And did you do any kind of
16 analysis or calculation that would demonstrate the
17 severe financial harm to the company if they did bid
18 in a portion of their forecast resources as proposed
19 by this plan?

20 A. I think my testimony is that it could
21 subject the utilities, not that it would, and, no, I
22 did not make a calculation of what that severe
23 financial harm could be.

24 Q. Okay. So is it fair to say that you
25 don't really know if it would be severe?

1 A. It could be severe. I don't know that it
2 would be severe.

3 Q. Okay. Thank you. And then the next line
4 which we've discussed already, which is, "This is
5 especially true given that there is not a statewide
6 directive providing consistent requirements for
7 electric utilities," are you suggesting that if there
8 was a statewide directive providing consistent
9 requirements for electric utilities to bid into PJM,
10 that the FirstEnergy companies would then begin to
11 bid in forecast resources into these auctions?

12 A. Whether the FirstEnergy companies would
13 bid forecast resources into the PJM future auctions
14 based on a state directive would be entirely
15 dependent upon what the state directive is. But to
16 the extent that there is a state directive, whatever
17 that directive is, FirstEnergy, I believe, would
18 follow that directive.

19 Q. On page 4, beginning on line 19 and going
20 through line 21, you state that "There is -- "There
21 also is no risk protection mechanism in mass to
22 insulate each of the Companies (or their customers)
23 from such financial harm." Do you see that?

24 A. I do.

25 Q. And you just stated, and correct me if

1 I'm wrong, but you haven't calculated any potential
2 financial harm here, be it severe or otherwise; is
3 that correct?

4 A. I have not estimated a potential future
5 harm based on a speculative bid that doesn't exist
6 today, no, sir.

7 Q. Okay. And there weren't any specifics in
8 the analysis that you presented to your management;
9 is that correct?

10 A. No.

11 MR. ALLWEIN: May I have that question
12 and the answer reread, please.

13 EXAMINER CHILES: You may.

14 Thank you.

15 (Record read.)

16 Q. And just to be clear, you are saying
17 there was no specifics in that analysis as provided
18 to management?

19 A. No, I don't think that's what I'm saying.
20 I apologize. That was not what I was saying, no.

21 Q. Okay. What were you saying?

22 A. If your question to me was, were there no
23 specifics -- maybe I better have the question reread
24 back to the question about, I think, were there any
25 specific --

1 THE WITNESS: Please read the question
2 about the specifics to me.

3 EXAMINER CHILES: Thank you.

4 (Record read.)

5 A. The answer "no" meant that is not
6 correct.

7 Q. Okay. So were there specifics in the
8 analysis regarding financial harm, then, that you
9 presented to management?

10 A. I'm sorry, so now you've appended
11 "financial harm" to the question, sir?

12 MR. ALLWEIN: Can I have that question
13 reread one more time, please.

14 EXAMINER CHILES: Please.

15 (Record read.)

16 Q. In the analysis you provided to your
17 management, were there any specifics in terms of
18 calculations that bidding in forecast savings --
19 strike that.

20 In your analysis to management, were
21 there any analysis of specifics regarding the severe
22 financial harm you mentioned on line 18, page 4?

23 A. We discussed with our management in some
24 great detail risks associated with participating in
25 PJM -- or PJM base residual auctions and incremental

1 auctions. I would say we had a great deal of
2 specificity in those discussions. They were fairly
3 robust discussions.

4 Q. And so were there calculations as to what
5 the financial harm might be?

6 A. No.

7 Q. So what were the specifics in terms of
8 the financial harm that you discussed?

9 A. I think what I testified, sir, is that we
10 discussed in great detail the risks associated with
11 participating in the auctions, and the risks that we
12 talked about, as I testified earlier, are really the
13 risks that I have discussed here in my testimony.

14 Q. Okay. And did you discuss the benefits
15 to customers, your customers, in these discussions?

16 A. Can you describe to me, sir, what you
17 mean by benefits?

18 Q. Financial or otherwise.

19 A. We certainly included in the discussion
20 the fact that should a resource clear in the auction,
21 that resource would be compensated for participation
22 in the auction. And our management is aware that
23 those dollars would be credited back to customers
24 through the DSE rider. Yes, we did have those
25 discussions.

1 EXAMINER PRICE: Is that -- hold on a
2 second, Mr. Allwein.

3 Is that the only benefits to customers
4 you discussed?

5 THE WITNESS: Yes.

6 MR. ALLWEIN: I'm sorry, I didn't hear
7 the question. I apologize.

8 EXAMINER PRICE: Let's read the question
9 and answer back, please.

10 (Record read.)

11 MR. ALLWEIN: Thank you.

12 Q. Are you aware that a lower capacity price
13 is also a potential benefit to your customers?

14 A. I believe lower capacity prices are a
15 benefit to customers, yes.

16 Q. And do these bids into PJM hold the
17 potential to lower that capacity price, depending on
18 their size?

19 A. When we talk about "these bids," which
20 bids are we talking about now, sir? The bids that
21 didn't occur?

22 Q. We are talking about just hypothetical
23 bids into the PJM base residual auction of energy
24 efficiency resources.

25 A. Hypothetically speaking, energy

1 efficiency resources bid into the PJM base residual
2 auction may impact the capacity clearing price in the
3 auction.

4 Q. Impact it by lowering it?

5 A. Yes. May.

6 Q. And being aware of these benefits, did
7 the companies ask the Commission in their proposed
8 plans for any kind of risk mitigation measure to
9 protect against the financial harm you discuss in
10 your testimony?

11 A. I'm a little troubled by the "being aware
12 of these benefits" at the beginning of the statement
13 because, again, the companies have participated in
14 base residual auctions and incremental auctions with
15 demand resources and energy efficiency resources. So
16 the companies understand the benefits of
17 participating in those auctions and have done so in
18 the past.

19 The benefits of participating in an
20 auction with an uncertain resource are much less
21 clear to me because bidding a resource into a
22 capacity auction that does not ultimately get
23 installed does not, in my mind, meet the test or meet
24 really the purpose for the capacity auctions.

25 Q. All right. I guess I'm referring to you

1 discuss in a question on page 4, beginning on line 9,
2 "Do the Companies agree with the recommendation of
3 certain parties that 'planned' energy efficiency
4 resources should be bid into future PJM auctions?"

5 And you give your answer, and then you
6 discuss that you don't believe it's "appropriate for
7 regulated utilities to take speculative future
8 positions," on page 4, lines 16 to 18, because it
9 could subject the utility or the customers to severe
10 financial harm.

11 And so my question is, you talk about
12 what these unknowns and uncertainties are, and I
13 believe you -- and that's on page 5 with the question
14 beginning on line 13, but let's -- I guess
15 specifically -- and I'll actually form a question
16 here.

17 On page 4, line 2 is -- I'm sorry. Let
18 me back up. On page 4, line 19, this is what my
19 question earlier -- questions were referring to. It
20 says, "There also is no risk protection mechanism in
21 place to insulate each of the Companies... from
22 financial harm." And then you say that "Essentially,
23 the parties advocating this risk exposure are
24 suggesting that the Companies utilize the PJM
25 capacity market as a financial arbitrage

1 opportunity."

2 So going to the line beginning on line 19
3 and going through line 21, that there is also no risk
4 protection mechanism in place, that's what I am
5 referring to, that you stated there -- you state it
6 conditionally, I will concede that -- that it
7 could -- it may lower the capacity price, and that
8 any revenue realized would flow back through the DSE
9 rider.

10 So my question to you is, keeping all
11 that in mind, did the companies in their proposed
12 plans advocate any kind of a risk mitigation
13 mechanism in order to bid?

14 MR. LANG: I'm sorry, I just have to
15 object to the form of the question because I'm afraid
16 that will be a total mess in the transcript.

17 EXAMINER CHILES: Could you restate your
18 question, Mr. Allwein?

19 MR. ALLWEIN: Sure. Yep, I can.

20 EXAMINER CHILES: Thank you.

21 Q. Okay. Regarding your statement on page
22 4, lines 19 through 21, where you state there is also
23 no risk protection mechanism in place to insulate
24 each of the companies or their customers from
25 financial harm, my question to you is, did the

1 companies in their proposed plans present any kind of
2 risk mitigation mechanism?

3 A. I believe the companies did, sir. And
4 the risk mitigation mechanism that the company
5 proposed is that it would plan to bid all eligible
6 installed energy efficiency resources for which they
7 have ownership rights at the time of each base
8 residual auction or incremental auction, provided
9 that the resources are of sufficient scale and will
10 meet PJM measurement and verification standards and
11 are included in an M&V plan approved by PJM. I
12 believe, sir, that is the risk mitigation plan that
13 the companies laid out when they filed their EE/PDR
14 plan.

15 Q. Okay. And -- and that is why you
16 disagree -- or I should say, is that one of the
17 reasons that you disagree, as you state in your
18 question on page 4, lines 9 through 11, that you do
19 not agree with the recommendation of certain parties
20 that planned energy efficiency resources should be
21 bid into future PJM auctions?

22 A. As I've said here in my testimony, I
23 believe that by bidding in these forecasted
24 resources, it creates an additional level of risk for
25 the company and/or its customers.

1 Q. And did the companies propose in their
2 plan any risk mitigation measure for that?

3 MR. LANG: Objection, asked and answered.

4 EXAMINER CHILES: Mr. Allwein, do you
5 have a response?

6 MR. ALLWEIN: Well, if -- may I -- may I
7 restate the question but before I do that, have her
8 last answer read back?

9 EXAMINER CHILES: Sure. Could you read
10 back the last answer, please.

11 (Record read.)

12 Q. So to be clear, your risk mitigation
13 measures are basically to not bid in forecast
14 additional resources; is that correct?

15 A. Yes.

16 Q. Okay. Thank you. Were any other risk
17 mitigation strategies considered?

18 A. For specifically dealing with the
19 forecasted energy efficiency resources?

20 Q. Yes, ma'am.

21 A. At the time of this plan or prior to the
22 plan?

23 EXAMINER PRICE: I'm not sure if I
24 understand your request for clarification. At the
25 time -- I don't understand the distinction at the

1 time of the plan and prior to the plan?

2 THE WITNESS: Well, perhaps I can provide
3 a little clarification around that. At the time that
4 the company was meeting with the staff, as it was
5 directed to do in 12-814, we met with the staff, and
6 at that time the companies were very -- expressed the
7 position that to the extent that the Commission would
8 insulate the companies and/or its customers -- I
9 guess, the companies from the risk associated with
10 participating in the '15-'16 base residual auction,
11 that the companies may consider a different position
12 with respect to participation in that auction.

13 That did not occur, and so coming out of
14 that process as we developed our plan, I think the
15 focus was on, as we've stated here, participating in
16 these auctions to the extent that we were able with
17 existing installed resources as we've discussed.

18 EXAMINER PRICE: Thank you.

19 THE WITNESS: You're welcome.

20 EXAMINER PRICE: Pardon my interruption,
21 Mr. Allwein. She asked you for a clarification on
22 your question, so the ball's in your court.

23 Q. (By Mr. Allwein) My question involved
24 during the development of the plan or other risk
25 mitigation measures considered.

1 MR. LANG: So I believe that question was
2 answered.

3 EXAMINER PRICE: No.

4 A. During the development of the plan, I
5 think the risk mitigation measure that was considered
6 was to bid, as we have discussed, those resources
7 that are already installed that meet the PJM
8 requirements that we have ownership for. I don't
9 recall at the time of the plan development other risk
10 mitigation measures.

11 But I guess, if I could add, again, the
12 point of these capacity auctions is really to provide
13 system reliability, so to the extent that a resource
14 provider, in my mind, is offering a resource into
15 that capacity auction, there should be a high degree
16 of certainty that those resources will be available
17 for use during the delivery year in order to support
18 the overall reliability of the electrical system.

19 And so to the extent that we talk about
20 bidding future resources where there is a high degree
21 of risk, in my mind, at least, associated with those
22 resources, be implemented in accordance with the plan
23 or won't they. Will they be eligible for delivery
24 into the PJM year, or won't they? I think that
25 that's an entirely different discussion.

1 EXAMINER PRICE: But we have already
2 covered that ground, haven't we? Because PJM has
3 rules for bidding planned but uninstalled -- that
4 satisfies resources -- that satisfies PJM's interests
5 in system reliability?

6 THE WITNESS: They do. And one of those
7 requirements is that the installation -- or that the
8 project or technology is scheduled to be installed
9 prior to the delivery year. And when I think about
10 our energy efficiency plans, we have a forecast for
11 participation rates and a number of other assumptions
12 that underlie what might occur with respect to those
13 plans; and to me, that's very different than having
14 great certainty that you have that installation
15 scheduled for implementation prior to the delivery
16 year.

17 Q. (By Mr. Allwein) But following up on that
18 question and answer, you would agree that your energy
19 efficiency and peak demand reduction plans as
20 proposed for 2013 to 2015 do forecast the
21 installation of several different energy efficiency
22 measures; is that correct?

23 A. The plans include assumptions of all
24 participation in our various programs. But I think
25 experience would suggest that what our expectations

1 are going into the plan are not necessarily how that
2 plan will be implemented or how customers will choose
3 to participate at those exact same levels throughout
4 the plan period, and there are a number of resources
5 built in our plan that simply aren't eligible for
6 participation in the PJM process. And so to the
7 extent that participation in those programs exceeds
8 the level that was included in the forecast, you
9 could find yourself in harm's way.

10 Q. Aren't several of the energy efficiency
11 measures that you proposed to install or oversee the
12 installation of as a part of your plan, aren't
13 several of those potentially eligible as a PJM base
14 residual auction resource?

15 A. Yes.

16 Q. And is it your testimony today that
17 you're uncertain about whether you will install or
18 oversee the installation of enough of these resources
19 to meet your energy efficiency statutory benchmarks
20 between 2013 and 2015?

21 A. No, sir. I think I already testified to
22 the fact that I'm confident that the company will
23 meet its statutory obligations with respect to its
24 energy efficiency and peak demand reduction benefits
25 for the 2013 to 2015 period. What I'm less certain

1 about is specifically which programs or measures will
2 ultimately be implemented in what mix in order to
3 allow us to achieve those mandates.

4 So, for example, if I have contracted for
5 demand response resources in order to satisfy my peak
6 demand production mandates and I end up through the
7 '13 through '15 period using more of the contracted
8 demand resources, I could still and would still meet
9 my statutory requirements, but I would not be able to
10 bid those demand resources into a PJM auction because
11 I would assume that I don't have ownership of those
12 for PJM bidding purposes. The curtailment service
13 providers would or the individual customer would.

14 EXAMINER PRICE: Okay. I am going to
15 take one shot at this. Hopefully then we can move
16 on.

17 What your testimony is, because the
18 company has a substantial amount of flexibility in
19 the implementation plan on meeting annual targets
20 versus bidding into a PJM capacity auction three
21 years in advance, you are not certain that the
22 individual capacity resources will be eligible for
23 the PJM auction, although you are certain you will
24 hit your statutory benchmarks.

25 THE WITNESS: Yes, sir.

1 EXAMINER PRICE: I am going to ask a
2 follow-up though. Given the four-year eligibility of
3 demand -- of energy efficiency resources to be bid
4 into a capacity auction, are you confident that all
5 installed measures over the lifetime of this plan
6 that otherwise meet the PJM requirements for bidding
7 in the capacity auctions will eventually be bid into
8 a PJM capacity auction?

9 THE WITNESS: I am.

10 EXAMINER PRICE: Thank you.

11 Q. (By Mr. Allwein) Okay. I want to go to
12 page 5, lines 13 and 14, you talk about specific
13 examples of unknowns and uncertainties that you refer
14 to a little bit above the question there, lines 7
15 through 12. Do you see that?

16 A. I do.

17 Q. I think we've already kind of discussed
18 the first one. In your second example you state that
19 planned resources "may or may not qualify for
20 participation into the PJM BRAs depending on the
21 technology and the PJM rules in place at the time of
22 delivery." Do you see that?

23 A. I do.

24 Q. Is it your opinion this PJM can disallow
25 savings that were certified in an approved M&V plan

1 by changing the rules in the delivery year?

2 A. I believe once PJM approves a post
3 installation M&V plan, those nominated values will
4 not be changed. I would say that post installation
5 are subject potentially to audit by PJM as part of
6 that approval of the M&V process. But once the final
7 post-implementation M&V report is approved, then, no,
8 I don't believe those numbers are subject to change.

9 Q. So a delivery year rule change is not
10 really an uncertainty as you presented here then, is
11 it?

12 A. I think that there is always an
13 uncertainty with regard to rule changes. What I
14 testified to a moment ago was once PJM certifies the
15 installation and approves the nominated savings based
16 on their analysis of the post installation M&V plan,
17 that I believe those values are solid.

18 EXAMINER PRICE: But you're certain
19 technologies in your plan today do not qualify for
20 PJM under the PJM rules for base residual auction.

21 THE WITNESS: Correct.

22 EXAMINER PRICE: And one of those
23 examples is behavioral.

24 THE WITNESS: Correct.

25 EXAMINER PRICE: That's not a rule change

1 issue; the rules today do not apply --

2 THE WITNESS: That is correct.

3 Q. (By Mr. Allwein) And you list the example
4 of behavioral energy efficiency savings as something
5 that does not qualify for the BRAs on page 6, lines 6
6 and 7. Do you see that?

7 A. I do.

8 Q. And it's clear already that those kind of
9 resources don't qualify as a PJM resource; isn't that
10 true?

11 A. Under the rules today for PJM, behavioral
12 programs do not qualify, that's correct.

13 Q. All right. And I want to go to your
14 third example where you discuss mercantile
15 self-direct resources, and that begins on page 6,
16 line 8, and extends through line 15. Do you see
17 that?

18 A. I do.

19 Q. Now, PJM has specific rules regarding a
20 historic project. Are you familiar with those?

21 A. I'm sorry, sir. I don't understand the
22 question.

23 Q. One of the criteria -- one of the
24 criteria, one criterion -- one of the criteria in the
25 PJM Manual 18B, which I think you referred to in your

1 testimony and is an exhibit in this case, states that
2 the time period of an energy efficiency installation
3 determines whether an installation is eligible to be
4 a capacity resource for a delivery year. Do you --
5 are you familiar with that?

6 A. I am.

7 Q. All right. So anything that was
8 installed more than a year prior to the auction is
9 ineligible to be bid into that auction; isn't that
10 correct?

11 A. If by "that auction" you are referring to
12 the base residual auction, then I would agree with
13 you, sir. If you are referring more broadly to base
14 residual auctions and incremental auctions, then I
15 would not agree with you.

16 Q. I was referring to the base residual
17 auction, thank you. And so historic mercantile
18 self-direct customers, as you present there in lines
19 9 to 10 on page 6, if that historic self-direct
20 project was installed more than a year before the
21 auction, that's not going to qualify or be an
22 eligible PJM resource; isn't that correct?

23 A. Mercantile self-direct projects that
24 yielded energy efficiency resources that were
25 installed more than a year before the base residual

1 auction would not be eligible for offer into the base
2 residual auction.

3 Q. Okay.

4 A. I guess I want to be clear what I'm
5 testifying to here is really attempting to identify
6 uncertainties, right, so I wasn't suggesting
7 otherwise with the inclusion of that statement.
8 Rather, what I was saying is that from the time we
9 implemented the program through September of this
10 year, the company did not have the ownership rights
11 to those for PJM bidding purposes for the mercantile
12 self-direct programs effective in September of 2012.

13 We modified that program such that on a
14 prospective basis we would have those ownership
15 rights for participating in future PJM auctions. And
16 then just continuing the thought in discussions here,
17 in the course of this proceeding, the subject has
18 been raised again that perhaps for mercantile
19 self-direct projects on a prospective basis, the
20 company should not assume ownership, but, rather, the
21 customers participating might have the opportunity to
22 provide those ownership rights to the company for PJM
23 purposes, but they would have the obligation. So the
24 purpose of this paragraph really went to sort of
25 pointing out some of the unknown, the uncertainties.

1 Q. Right. I guess I was confused because
2 you chose to include the word "historically." So I
3 assume we are referring to historic self-direct
4 projects.

5 A. I was, sir. I was referring to the fact
6 that historic mercantile self-direct customers
7 through the end of August, 2012, the company does not
8 have the ownership rights for those projects.

9 Q. Okay. But the ownership issue has been
10 resolved; is that correct?

11 A. As of September the company is requiring
12 ownership. Whether that's resolved, I guess, remains
13 to be seen.

14 Q. But as you stated previously, if it was a
15 Commission order, in your opinion, the companies will
16 comply with Commission orders; is that correct?

17 A. That is correct.

18 Q. Okay.

19 EXAMINER PRICE: Good answer.

20 THE WITNESS: I have two kids getting
21 ready for college. It's the only answer.

22 Q. I want to ask you, that you mentioned
23 earlier that your mitigation strategy is to wait
24 until -- or to bid in resources that are already
25 installed and that you have ownership, correct?

1 MR. LANG: Objection, asked and answered.

2 EXAMINER CHILES: I'm sorry, could you
3 read back the question.

4 (Record read.)

5 EXAMINER CHILES: Sustained.

6 Q. Okay. By waiting until resources are
7 installed, would you agree that you are delaying
8 potential benefits to your customers?

9 A. By waiting until resources are installed,
10 I think we are participating in a proper fashion in
11 the capacity markets because we have some sense of
12 certainty that those resources will be available for
13 delivery when in the delivery year. I think that by
14 participating in those PJM auctions prior to that
15 really creates risk for the company and/or its
16 customers.

17 Q. All right. And just to be clear, by
18 risk, you are talking about the financial harm that
19 you mentioned in your testimony, right?

20 A. The risks that we've discussed today,
21 yes, sir.

22 Q. Okay.

23 MR. ALLWEIN: One moment, your Honor.

24 I have no further questions, your Honor.
25 Thank you.

1 EXAMINER CHILES: Let's take a brief
2 five-minute recess before we resume with cross.

3 (Recess taken.)

4 EXAMINER CHILES: Let's go back on the
5 record. I believe we are at Mr. Williams.

6 MR. WILLIAMS: No questions.

7 EXAMINER CHILES: Mr. Dougherty.

8 MR. DOUGHERTY: Yes, I just have a couple
9 of questions.

10 - - -

11 CROSS-EXAMINATION

12 By Mr. Dougherty:

13 Q. Good morning -- or afternoon now.

14 A. Good afternoon.

15 Q. Good afternoon. It's been a long day.
16 My name is Trent Dougherty, and I will be asking you
17 a couple of questions on behalf of the Ohio
18 Environmental Council.

19 Now, you mentioned, both in your
20 testimony a number of times -- I'm sorry, during
21 your -- during the answers to the questions from
22 Mr. Allwein earlier, you mentioned the discussions
23 with your management. Who are you referring to when
24 you referred to your management in those answers to
25 Mr. Allwein?

1 A. My direct management is Mr. Bill Ridmann,
2 Vice President of Rates and Regulatory Affairs for
3 the FirstEnergy companies, so some of that reference
4 was discussions directly with him.

5 The more broader discussions with
6 management I think, as I mentioned in my testimony,
7 really refer to the Energy Efficiency Steering
8 Committee for FirstEnergy.

9 Q. In those discussions, who else is in that
10 room other than those senior management? Or only
11 those senior management?

12 A. No. There would have been Mr. Dargie
13 would have been present in the room, Mr. Terosky,
14 perhaps others.

15 Q. And -- and you mentioned that they all
16 work for the FirstEnergy utilities -- the companies,
17 excuse me, as they are referred to. The companies,
18 we'll call them.

19 A. The people that participate in the Energy
20 Efficiency Steering Committee either work for the
21 FirstEnergy utility companies or FirstEnergy Service
22 Company.

23 Q. Anyone from FirstEnergy Solutions, FES?

24 A. No, sir.

25 Q. Let me go back again to another series of

1 questions that I believe Mr. Allwein had asked you.
2 Let me find it. If you go to your testimony on page
3 6, starting on line 4 through line 7, that would be
4 your second bullet point under the question that
5 begins on page 5 concerning the uncertainties and
6 unknowns. Do you see that?

7 A. I do.

8 Q. Follow up on the questions that
9 Mr. Allwein asked you, just trying to get an idea of
10 a baseline on this, are you aware of any proposed
11 changes in the qualifications in the base residual
12 auction for PJM in the May, 2013, or May, 2014, or
13 May, 2015, auctions?

14 A. As it relates to energy resources or
15 resources more generally?

16 Q. I apologize, clarify it. As it relates
17 to energy efficiency qualifications.

18 A. No, sir, I am not. In fact, I think the
19 most recent revision of the PJM capacity market
20 manual came out in September of 2012.

21 Q. And did you happen to do any analysis
22 of -- strike that.

23 MR. DOUGHERTY: No further questions.

24 EXAMINER CHILES: Thank you.

25 THE WITNESS: Thank you.

1 EXAMINER CHILES: Ms. Kern.

2 MS. KERN: Just a few, your Honor.

3 - - -

4 CROSS-EXAMINATION

5 By Ms. Kern:

6 Q. Good after, Ms. Mikkelsen.

7 A. Good afternoon.

8 Q. I'm Kyle Kern, an attorney with OCC. I
9 just have a few follow-up questions for you today.
10 What benefits do the companies attain by
11 having their energy efficiency and peak demand
12 reduction clear the PJM base residual auctions?

13 THE WITNESS: May I have that question
14 reread, please.

15 EXAMINER CHILES: You may.

16 (Record read.)

17 A. It reduces the cost of compliance with
18 the statutory mandates for energy efficiency and peak
19 demand reduction.

20 Q. Okay. Thank you. And I believe
21 Mr. Allwein went over this topic with you, I'm
22 referring to page 4, lines 18 through 19, of your
23 testimony where you state that "There is not a
24 statewide directive providing consistent requirements
25 for electric utilities?" Do you see that?

1 A. I do.

2 Q. And I believe you clarified that you
3 meant there was not a statutory directive; is that
4 correct?

5 A. I think my clarification was broader than
6 statutory. I think the discussion we had was around
7 the fact that there was no PUCO rulemaking or
8 requirement with respect to bidding in PJM. There
9 was no statutory requirement to bid into PJM, and
10 that the PJM rules consider participation for energy
11 efficiency and demand response resources as
12 voluntary.

13 Q. Okay. Thank you. And you responded, I
14 believe, earlier to Mr. Allwein that you are familiar
15 with the Commission's February 29, 2012, entry in
16 Case No. 12-814; is that correct?

17 A. Yes.

18 Q. And do you recall that the Commission
19 said in that entry that FirstEnergy has an obligation
20 to take all reasonable and cost-effective steps to
21 avoid unnecessary RPM price increases for its
22 customers?

23 A. I don't recall that language
24 specifically, but it very well may be in there.

25 Q. I have a copy of it, if I can refresh

1 your recollection if you don't recall that language.
2 Or do you recall something similar to that?

3 A. It may be helpful to see what you are
4 looking at.

5 Q. Sure, sure.

6 MS. KERN: Your Honor, may I approach the
7 witness?

8 EXAMINER CHILES: You may.

9 MS. KERN: Thank you.

10 THE WITNESS: May I just take a moment?
11 It's been awhile since February.

12 EXAMINER CHILES: Take your time.

13 CK That's my copy, I'm sorry, if I can
14 take that back. Thank you.

15 Q. All right. So you had a chance to read
16 the language that I had just expressed to you
17 earlier, correct?

18 A. Yes.

19 Q. And do -- does FirstEnergy view that
20 language as a directive? I know it doesn't fit into
21 the statutory or the P-U-C -- PUCO rule directive, as
22 you were speaking about earlier, but do you -- does
23 the company view that as a directive?

24 A. I think it might be useful -- and I
25 apologize. I no longer have the document. But I

1 know prior to that clause that you are referring to,
2 there was language about "consistent with state
3 policy."

4 Q. Uh-huh.

5 A. So I think, you know, it may behoove us
6 to take that in the broad context of that entire
7 paragraph rather than the excerpt.

8 Q. Would you agree that the entire paragraph
9 is a directive?

10 MR. LANG: Just which particular
11 paragraph number are you referring to?

12 MS. KERN: I'm referring to paragraph 4.

13 A. I don't have the document in front of me,
14 but the layman's read of that document, I think it
15 would be more of a reciting of circumstances. I
16 don't think reading it I would take it as a
17 directive. I think it would be more -- I read it
18 more as this is sort of what you are expected to do.
19 It was reciting what you were expected to do rather
20 than specifically in 812 directing us to do something
21 that perhaps hadn't been.

22 Q. So it's an expectation of the Commission,
23 you would agree with that then, for the company? And
24 I'm not asking for a legal conclusion.

25 A. Yes.

1 Q. Okay. Thank you. Switching gears, on
2 page 4, lines 19 to 20, of your testimony, you state
3 that "There also is no risk protection mechanism in
4 place to insulate the companies (or their customers)
5 from financial harm." Do you see that?

6 A. I do.

7 Q. Are you aware that parties to this
8 proceeding have suggested ways to mitigate risk?

9 A. Yes. The next sentence in my testimony,
10 in fact, talks about that a number of parties have
11 suggested that the companies manage this risk
12 exposure by participating to the extent necessary in
13 future incremental auctions to the extent that they
14 have an open forward position based on a speculative
15 position they took in a base residual auction.

16 Q. And I believe Staff Witness Scheck
17 proposed that FirstEnergy mitigate both the price and
18 performance risks by bidding in zero dollars and
19 75 percent of its projected capacity reductions; is
20 that correct?

21 A. I think that the subject of bidding in at
22 zero is a separate matter, not related to the risks
23 that I'm addressing here. And I think that
24 Mr. Scheck modified his testimony with respect to the
25 75 percent when he took the stand.

1 Q. Okay. Looking at page 9 of your
2 testimony, lines 2 through 7, you state, "Second" --
3 excuse me. Yeah, that's correct. Okay. "Second,
4 existing Rider ELR customers may have already entered
5 into contractual arrangements with the curtailment
6 service providers for the period beyond the existing
7 ESP, let alone the period beyond ESP3." Do you see
8 that?

9 A. I do.

10 Q. Okay. In your opinion, in order to
11 maximize the amount of PDR bid into the PJM base
12 residual auction, should the companies let ELR rates
13 expire and let the curtailable service providers
14 serve this market?

15 A. I don't have an opinion on that at this
16 time. The current rider ELR extends through May 31
17 of 2016, so I think that's probably a question better
18 addressed as we approach the end of that tariff
19 rather than as I sit here today because the facts and
20 circumstances, I'm certain, will be different in the
21 future than they are today.

22 EXAMINER PRICE: Doesn't that present a
23 paradox for the Commission? You have got an ESP that
24 runs for maybe two or three years and a PJM capacity
25 auction that's bid out three years in advance. How

1 can we ever reach a situation where you could bid in
2 this peak demand reduction for the whole term of your
3 three-year portfolio program when the capacity
4 auction is way out in the future?

5 THE WITNESS: I agree with you, there is
6 a timing disconnect with respect to that. I'm sure
7 there is a solution to that problem.

8 EXAMINER PRICE: And that would be?

9 THE WITNESS: Either extend the ESP or
10 extend the EE/PDR plan periods.

11 EXAMINER PRICE: Thank you.

12 MS. KERN: That's all the questions I
13 have. Thank you, Ms. Mikkelsen.

14 THE WITNESS: Thank you, ma'am.

15 EXAMINER CHILES: Thank you.

16 Ms. Kyler.

17 MS. KYLER: Yes, thank you, your Honors.

18 - - -

19 CROSS-EXAMINATION

20 By Ms. Kyler:

21 Q. Good afternoon. Turning to page 8, lines
22 11 through 19, of your testimony -- I'll wait until
23 you're there.

24 A. Thank you. Sorry, page 8, lines 11
25 through 19?

1 Q. Yes.

2 A. Thank you. I'm there.

3 Q. How much did the companies receive for
4 the 10 megawatts of interruptible load that it bid
5 into the incremental auction for the 2014-'15
6 delivery year?

7 A. It would be the resource clearing price
8 from the '15-'16 auction times the 10 megawatts -- I
9 guess that's megawatt-day. I believe the resource
10 clearing price from that auction was \$354 a
11 megawatt-day. So you would take the -- rats, like
12 most people, I hate to do math on the stand, but I
13 think you would take the \$354 per megawatt-day, times
14 the 10 megawatts, times 365 days.

15 MR. LANG: Just so the record is clear,
16 was the question about the first incremental auction
17 for 2014-'15?

18 MS. KYLER: Yes.

19 THE WITNESS: Thank you for that
20 clarification. Then my answer is wrong. I
21 apologize. Thank you.

22 Q. Do you want to correct your answer?

23 A. I do want to correct my answer. Thank
24 you very much. I do. Same calculation but the
25 incremental clearing price was \$5.54.

1 Q. \$5.54 per megawatt-hour?

2 A. Megawatt-day.

3 Q. Megawatt-day, sorry. And that revenue
4 would be passed back to customers through rider DSE?

5 A. Yes; in the '15-'16 delivery year when
6 the company receives it.

7 Q. How does --

8 A. Pardon me. I'm turned around, the
9 '14-'15 delivery year. I apologize.

10 Q. Have the companies bid rider ELR
11 interruptible load into base residual auctions in the
12 past?

13 A. Yes. I believe for the '13-'14 delivery
14 year the company bid ELR resources into the base
15 residual auction.

16 Q. Do you know if that's the only year?

17 A. Prior to that year, the company was an
18 FRR entity.

19 Q. Thank you. Do you agree that bidding
20 interruptible load into the base residual auction can
21 lower capacity prices for customers by displacing
22 higher cost capacity resources?

23 A. It may. I don't know for certainty if it
24 will. It depends where it clears on the supply
25 curve, but it may.

1 Q. Okay. Turning to page 8, lines 20
2 through 23, of your testimony, is there anything in
3 the PJM rules that would prevent the companies from
4 bidding ELR load into a base residual auction, even
5 if FirstEnergy didn't have that load under contract
6 for the delivery year?

7 THE WITNESS: May I have that question
8 reread, please.

9 EXAMINER CHILES: You may.

10 (Record read.)

11 A. PJM requires you to demonstrate ownership
12 of those demand resources in your, you know,
13 portfolio. You may not have to demonstrate that
14 ownership when you offer that resource into it, but
15 you need to demonstrate that ownership.

16 So by way of answering your question, I
17 don't believe the companies could offer those
18 ELR-related resources into a future base residual
19 auction because when the time came to demonstrate
20 ownership of those demand response resources, the
21 companies may not be able to do that, for any number
22 of reasons.

23 Q. If the companies could demonstrate
24 ownership at a later time, do PJM rules prevent the
25 company from bidding those resources into the base

1 residual auction?

2 A. No. But as I sit here today, I sent a
3 letter out to our ELR customers on August 6th of 2012
4 asking them to sign contract addendums to continue
5 participation on our rider ELR for the period of
6 June 1st of 2014 through May 31st of 2016. And I
7 asked those customers to respond as quickly as
8 possible to support the company in their efforts to
9 participate in incremental auctions but no later than
10 December 15.

11 And as I sit here today, at the end of
12 October, I've heard from 14 of those customers, so
13 that suggests to me some degree of uncertainty about
14 whether customers are going to choose to participate
15 in the ELR for the '14 to '16 period, notwithstanding
16 what uncertainty there may be with respect to their
17 desire to continue to take service beyond that
18 period.

19 Q. Do curtailment service providers bid
20 interruptible load that they don't have under
21 contract into base residual auctions?

22 A. I don't know with certainty what CSPs do
23 with respect to their bidding strategy.

24 Q. Do generation companies ever bid
25 generation that's planned but not yet built into the

1 PJM base residual auctions?

2 A. Yes.

3 Q. Isn't there a risk that the plan
4 generation won't be built?

5 A. I think if a generating company bids a
6 plan generation resource into the auction and it
7 clears, it would be a very unusual event for that
8 generating company not to complete that asset. I
9 would expect those assets would be installed prior to
10 the delivery year.

11 Q. If the generation company bids planned
12 generation into the BRA but that generation doesn't
13 get built, aren't there ways for that generation
14 company to make up the capacity shortfall in the
15 delivery year, for example, incremental auctions?

16 A. The shortfall, to the extent it exists,
17 needs to be made up in advance of the delivery year.
18 There are incremental auctions, but I think that
19 relying on incremental auctions as a hedge for
20 forward positions you take in a base residual auction
21 brings another whole set of risks to auction
22 participants.

23 Q. Okay. Turning to page 9, lines 2 through
24 5, do you know whether any existing ELR customers
25 have entered into contractual arrangements with

1 curtailment service providers for the period beyond
2 the existing ESP or ESP III?

3 A. I don't know, but as I mentioned earlier,
4 the fact that on August 6 I sent contract addendums
5 out to all the ELR customers, and as we sit here on
6 October 30 I believe have only heard back from 14, I
7 am beginning to suspect that may be the case. But
8 no, I don't know that with certainty, ma'am.

9 Q. If rider ELR were extended in this case
10 through May 2017 and customers signed up for that
11 extended ELR prior to the 2013 base residual auction,
12 would FirstEnergy be willing to bid this ELR load
13 into the 2013 BRA?

14 I'm probably confusing time periods and
15 delivery years. Do you want me to be more specific?

16 A. Sure.

17 Q. Okay. If rider ELR were extended in this
18 case through May, 2017, and customers signed up for
19 that extended ELR prior to the BRA to be held in May,
20 2013, would FirstEnergy be willing to bid that ELR
21 load into the May, 2013, base residual auction?

22 A. The company, nor any other party that I'm
23 aware of, is proposing that the rider ELR be extended
24 in this proceeding, so I'm having trouble with that
25 as a promise, ma'am.

1 Q. Just as a -- as a hypothetical then,
2 rather than a proposal by a party in this case, would
3 FirstEnergy be willing to bid the load into the 2013
4 BRA?

5 A. I guess consistent with the company's
6 strategy, to the extent that the company has
7 ownership of eligible resources that meet PJM M&V
8 requirements -- I guess in this case we wouldn't need
9 the M&V requirements -- we would bid those resources
10 into the base residual auction.

11 Q. If -- this is kind of a long question so
12 I'll try to take it slow. If current ELR customers
13 were willing to commit now to providing interruptible
14 load under a rate with the same or similar terms and
15 conditions as current rider ELR through May, 2017,
16 and the Commission were to agree to hold FirstEnergy
17 harmless from replacement capacity costs or penalties
18 or other financial obligations if some of that
19 interruptible load didn't show up in the delivery
20 year, isn't it true there would be no financial risk
21 to FirstEnergy from bidding in that ELR load?

22 A. To the extent that the Commission commits
23 to hold the company harmless for actions taking --
24 taken, you know, in the May base residual auction for
25 future outcomes, I guess as long as we are held

1 harmless, the companies have no risk. There is a lot
2 of details surrounding what "held harmless" means and
3 what have you.

4 Q. Under that scenario is there any reason
5 why FirstEnergy couldn't bid in the ELR load?

6 A. I guess I'm becoming increasingly
7 confused, and I apologize for that. But are you
8 suggesting that the company extend rider ELR, or
9 simply that it enter into -- I'm not clear what the
10 hypothetical is here. I apologize.

11 Q. Sorry. I'm sorry to interrupt you. If
12 the company had a rate -- either extended current
13 ELR or had a rate with similar terms and conditions
14 as the current ELR through May, 2017, and the
15 Commission made a hold harmless commitment, decided
16 to hold the company harmless, is there any reason why
17 FirstEnergy couldn't bid in the ELR load or
18 equivalent rate load?

19 A. Again, and I think I may have testified
20 to this earlier, as I sit here today, I'm not certain
21 from a company perspective whether the company in
22 June of 2016 would want to continue rider ELR, so I
23 don't think we're in a position to make that
24 commitment today to accept that hypothetical.

25 MS. KYLER: No further questions.

1 EXAMINER CHILES: Thank you.

2 Mr. Kelter?

3 I'm sorry, Mr. McDaniel.

4 MR. McDANIEL: Thank you, your Honor.

5 - - -

6 CROSS-EXAMINATION

7 By Mr. McDaniel:

8 Q. We have a few questions, most have been
9 answered, I think. I would like to go back to page
10 4, line 6 and 7. I think Attorney Examiner Price and
11 Mr. Allwein had a couple of questions about your
12 testimony here, but I think mine is a little -- a
13 little different.

14 So here you state that energy efficiency
15 resources must be of a size where the companies can
16 reasonably expect the auction revenues produced by
17 the technology or project to offset the cost of the
18 incremental M&V associated with the project. Do you
19 see that?

20 A. I do.

21 Q. Does the company plan to aggregate
22 individual measures in order to make this of-scale
23 calculation?

24 A. Yes.

25 Q. So can you explain that a little bit?

1 A. Yeah. I think really what we are trying
2 to get at here is the company may aggregate into
3 individual measures to be of scale with similar --
4 that all qualified under the same M&V plan, but to
5 the extent that there is a unique measure or project
6 that may not be able to be aggregated with other
7 similar projects in that it may not be of sufficient
8 scale or it may not be cost effective to perform the
9 M&V on that individual project.

10 Q. Okay. Would you agree that a purpose of
11 the PJM capacity auction is to send price signals
12 about the need for more capacity?

13 A. Yes.

14 Q. So if that was put another way, the
15 results of the auction and the clearing prices can
16 send signals about more capacity is needed in a
17 certain region, correct?

18 A. Well, it sends a price signal what the
19 market is willing to pay for the capacity. I think a
20 provider has to decide if it's a sufficient price
21 signal. But auction -- PJM conducts the auction so
22 it clears with sufficient capacity and a sufficient
23 reserve margin.

24 Q. Now, on page 4, lines 18 and 19, this has
25 been asked about a little as well, you state that

1 "there is not a statewide directive providing
2 consistent requirements for electric utilities."

3 Do you know which states have statewide
4 directives that provide consistent PJM requirements
5 for electric utilities?

6 A. I do not.

7 Q. Ms. Mikkelsen, you participated in the
8 collaborative process; is that correct?

9 A. Yes.

10 Q. And you -- that included attending
11 collaborative meetings?

12 A. Yes.

13 Q. I think you stated earlier that you had
14 no direct knowledge of other utilities bidding
15 forecasted PJM-eligible resources into the PJM base
16 residual auction; is that correct?

17 A. Yes.

18 Q. So are you aware that through the
19 collaborative it was brought to the companies'
20 attention that ComEd saved its customers \$22 million
21 by bidding forecasted PJM-eligible energy efficiency
22 resources in the most recent PJM base residual
23 auction?

24 A. I have heard discussions about ComEd in
25 our collaborative meetings, and I think, you know --

1 thank you for allowing me to clarify when I use the
2 word "direct." That is exactly what I meant, that I
3 don't have any personal knowledge. I've heard others
4 talk about it in an environment such as the
5 collaborative, but I have no direct, personal
6 knowledge whether what you have heard is correct or
7 incorrect, sir.

8 Q. Actually, I have one more question. And
9 this is kind of a clarifying question that was
10 discussed a little bit earlier as well. But it's not
11 the companies' belief that PJM would allow certain
12 measures to pass their M&V rules and be bid into the
13 auction at the time of the auction and then PJM would
14 suddenly change those M&V rules midstream to disallow
15 those savings at the time of delivery, is it?

16 A. I think that there is a requirement when
17 you offer an energy efficiency resource into PJM that
18 at the time you offer that resource, it meets the
19 then known standards for the delivery year. That's a
20 requirement simply to participate or offer.

21 I'm not sure, as I sit here today, what
22 happens if that standard changes between when you
23 offer it and when you have your post-implementation
24 or post-M&V program, and that creates a sense of
25 ambiguity for me as well, sir.

1 Q. Let me see if I can ask it a little bit
2 different way. You testified earlier that a measure
3 in order to qualify, a resource in order to qualify,
4 must have a PJM-approved post installation M&V
5 report; is that correct?

6 A. I apologize. There is a lot of M&V going
7 on here, so let me -- I apologize. In order to offer
8 a resource, an energy efficiency resource, into a PJM
9 auction, the companies need to submit an initial M&V
10 plan for approval by PJM prior to offering those
11 resources into the auction, so that's one sort of M&V
12 plan.

13 And then prior to the delivery year the
14 company has to submit a post-implementation or
15 post-installation M&V plan for review and approval by
16 PJM to sort of shore up, if you will, the nominated
17 value of that energy resource. Does that help?

18 Q. Okay. And at the time of the auction
19 when a resource is being bid in, the company would
20 know whether or not there was an approved PJM post
21 installation measurement and verification report?

22 A. I think at the time the company bids the
23 resource into a PJM auction, they would know that
24 they had an approved initial M&V plan, sir.

25 EXAMINER PRICE: Are you still on the

1 hook if at the time you do your post installation
2 M&V -- let's say a measure that you bid in at 12
3 megawatt-days only turned out to be measured at 11
4 megawatt-days. Are you still on the hook for that
5 differential?

6 THE WITNESS: Yes.

7 EXAMINER PRICE: Thank you.

8 MR. McDANIEL: That's all I have. Thank
9 you.

10 EXAMINER CHILES: Mr. Olikier.

11 MR. OLIKER: I think I have just a few
12 questions, your Honor.

13 - - -

14 CROSS-EXAMINATION

15 By Mr. Olikier:

16 Q. Good afternoon, Ms. Mikkelsen.

17 A. Good afternoon.

18 Q. First, I get you're not an attorney,
19 correct?

20 A. No, sir.

21 Q. I didn't think so. I wasn't sure if I
22 missed that in your testimony.

23 Now, there was some discussion earlier
24 about the question of whether mercantile customers
25 seeking an exemption under a rider -- do you remember

1 hearing that. And there was maybe some controversy
2 over that issue, the question of whether or not those
3 customers retain ownership to bid those capacity
4 reduction capabilities in the PJM auctions?

5 A. Yes, I addressed that topic in my
6 testimony, sir, at page 6, lines 8 through 15, yes.

7 Q. And I just wanted to make sure you are
8 not offering a legal conclusion whether the
9 Commission has directed mercantile customers seeking
10 an exemption to transfer those ownership capabilities
11 to FirstEnergy to bid those into the PJM auction,
12 correct?

13 A. No, sir. I am stating, though, that the
14 company built the plan under the assumption that that
15 would occur and changed all the participating forms
16 effective September, 2012.

17 Q. Okay. And you're not suggesting if the
18 Commission were to determine customers can retain the
19 ownership right of the ability to bid into the PJM,
20 that would in any way affect the total amount of
21 megawatts bid into the PJM auction, correct?

22 Maybe if I can state that differently,
23 the question of who owns those megawatts, whether
24 it's FirstEnergy or the customer, that doesn't
25 necessarily affect whether those megawatts are bid

1 into PJM, correct?

2 A. No. I think, if I'm understanding your
3 point, that if the company has them and bids them, or
4 if the company doesn't have them and the customer
5 bids them, the resources are still bid under either
6 circumstance?

7 Q. Correct.

8 A. Yes, yes.

9 MR. OLIKER: Okay. Thank you. I have no
10 more questions, Ms. Mikkelsen.

11 Thank you, your Honor.

12 THE WITNESS: You are welcome.

13 EXAMINER CHILES: Thank you.

14 Mr. Parram.

15 - - -

16 CROSS-EXAMINATION

17 By Mr. Parram:

18 Q. Good afternoon, Ms. Mikkelsen.

19 A. Good afternoon, sir.

20 Q. Ms. Kyler asked you a question regarding
21 whether a generation company could bid planned
22 generation into the BRA, and you indicated that it
23 could; is that correct?

24 A. Yes.

25 Q. Do you know if any FirstEnergy generation

1 affiliate bid planned generation into the most recent
2 BRA?

3 A. I do.

4 Q. Do you know how many megawatts were bid
5 into the BRA?

6 A. I don't recall.

7 Q. And what affiliate are you referring to?

8 A. FirstEnergy Solutions.

9 Q. Are you familiar with an Eastlake plant
10 in Eastlake, Ohio?

11 EXAMINER PRICE: Mr. Parram, relevance?

12 MR. PARRAM: Your Honor, it goes directly
13 to Ms. Mikkelsen's testimony as it relates to page 4.

14 EXAMINER PRICE: Okay.

15 MR. PARRAM: Lines 13 through 15, she has
16 a general discussion regarding her opinion as it
17 relates to bidding in resources or planned resources
18 to the PJM BRA. She's already had some testimony as
19 it relates to FirstEnergy's affiliate bidding in
20 planned generation resources. I would like to ask
21 her specific questions as relates to FirstEnergy's
22 affiliate bidding in the most recent BRA, although
23 that is not installed today, to show that it is
24 reasonable for the companies here today to consider
25 bidding in planned demand response resources,

1 although they are not actually installed.

2 EXAMINER PRICE: So you want to compare
3 the position of three regulated distribution
4 utilities with an unregulated generation affiliate
5 and how much risk that ungenerated -- unregulated
6 generation affiliate may or may not be willing to
7 take on in a given project?

8 MR. PARRAM: Yes, your Honor.

9 EXAMINER PRICE: That's the parallel you
10 want to draw?

11 MR. PARRAM: That is the questions I
12 would like to ask her, if she would like to point out
13 distinctions between the unregulated generation
14 affiliate as opposed to FirstEnergy companies. If
15 she is willing to do that, she could do that, but --

16 MR. LANG: Your Honor, I would note, just
17 to follow up on this, Ms. Mikkelsen has already
18 discussed and distinguished the difference between a
19 generation resource and an energy efficiency demand
20 resource.

21 EXAMINER CHILES: I think we need to move
22 on to a different line of questioning.

23 MR. PARRAM: Well, that's all I have,
24 your Honor.

25 EXAMINER CHILES: All right.

1 Mr. Lang, redirect?

2 MR. LANG: If we could have just a couple
3 of minutes, please, your Honor.

4 EXAMINER CHILES: Sure.

5 (Discussion off the record.)

6 EXAMINER CHILES: Let's go back on the
7 record.

8 MR. LANG: Yes, one question.

9 - - -

10 REDIRECT EXAMINATION

11 By Mr. Lang:

12 Q. You were asked earlier by a few of the
13 attorneys about the potential of the Commission
14 holding the company harmless for the risk that you
15 described in your testimony. If that happens, does
16 that eliminate the risk?

17 A. No, it does not eliminate the risk. It
18 merely transfers the risk to the customers.

19 MR. LANG: No further questions, your
20 Honor.

21 EXAMINER CHILES: Is there any recross,
22 Mr. Allwein?

23 MR. ALLWEIN: I have no questions, your
24 Honor. Thank you.

25 EXAMINER CHILES: Mr. Williams.

1 MR. WILLIAMS: No questions.

2 EXAMINER CHILES: Mr. Dougherty.

3 MR. DOUGHERTY: No questions.

4 EXAMINER CHILES: Ms. Kern.

5 MS. KERN: No questions

6 EXAMINER CHILES: Ms. Kyler.

7 MS. KYLER: No questions

8 EXAMINER CHILES: ELPC.

9 MR. KELTER: Give us one second.

10 MR. LANG: I heard a no.

11 MR. KELTER: It was an unauthorized no.

12 MR. McDANIEL: We do have a question,
13 your Honor.

14 EXAMINER CHILES: Go ahead.

15 - - -

16 RECROSS-EXAMINATION

17 By Mr. McDaniel:

18 Q. Mr. Mikkelsen, does it matter to the
19 companies if groups like OCC say that customers are
20 willing to accept that risk that we were just talking
21 about?

22 A. I'm not sure "what matters to the
23 companies" means, but I will say, too, in my capacity
24 as a rate-maker and responsible for regulatory
25 affairs, I am very concerned about the cost passed on

1 to our customers, and I spend really the better part
2 of my day looking at the costs that are being charged
3 to the customers and really trying to ensure that the
4 costs that are passed on to the customers are
5 reasonable.

6 MR. McDANIEL: That's all. Thank you.

7 EXAMINER CHILES: Mr. Olier.

8 MR. OLIER: No questions, your Honor.

9 EXAMINER CHILES: Mr. Parram.

10 MR. PARRAM: No questions, your Honor.

11 EXAMINER CHILES: Examiner Price.

12 - - -

13 EXAMINATION

14 By Examiner Price:

15 Q. You understand when counsel asks if the
16 Commission was willing to hold the company harmless,
17 you still will be at risk of disallowance, that you
18 may make a decision that upon review, the Commission
19 decides was imprudent and there is -- there would
20 still be a downside risk to the company, didn't you?

21 A. I didn't incorporate that into my
22 thinking, so thank you for that clarification. With
23 that clarification, my sense is no.

24 Q. I have another question, line of
25 questions, perhaps. You've been here, and we heard

1 our extensive discussion about energy efficiency
2 kits; is that correct?

3 A. I have been in and out, but I have heard
4 discussion about kits, yes, sir.

5 Q. I just wanted to clarify, energy
6 efficiency kits will produce energy savings that when
7 aggregated, will be able to be bid into the PJM base
8 residual auctions, will it not?

9 A. I believe the individual components of
10 the kits will be aggregated as a measure that would
11 be eligible, yes.

12 Q. The individual components will be
13 aggregated?

14 A. Correct.

15 Q. The CFLs will be aggregated and bid in,
16 and the furnace whistles and the LED nightlights
17 all --

18 A. To the extent that they are eligible
19 under PJM rules, yes, sir.

20 Q. Do you know if they are eligible under
21 PJM rules?

22 A. I certainly know the lights are. I'm
23 less certain about the other elements.

24 Q. Okay. But all those should pass muster
25 in terms of EM&V and be biddable into the base

1 residual auction? Not all -- all the CFLs?

2 A. Yes, sir.

3 EXAMINER PRICE: Okay. That's all I
4 have.

5 THE WITNESS: Thank you.

6 EXAMINER CHILES: I have no questions.
7 Thank you. You are excused.

8 THE WITNESS: Thank you, ma'am.

9 MR. LANG: Thank you. Your Honor, at
10 this time the companies would move Exhibit No. 23?

11 EXAMINER CHILES: Are there any
12 objections to the admission of Company Exhibit 23.

13 Hearing none, Company Exhibit 23 is
14 admit.

15 (EXHIBIT ADMITTED INTO EVIDENCE.)

16 EXAMINER CHILES: Is there anything else
17 to come before us?

18 EXAMINER PRICE: While we were off the
19 record before, we got to that -- while we were off
20 the record earlier today, we discussed briefing
21 schedules, and initial post hearing briefs will be
22 due on November 20, 2012, and reply briefs will be
23 due on November 30, 2012.

24 With that, is there anything we have not
25 already thoroughly discussed?

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1 EXAMINER CHILES: Seeing nothing, we are
2 adjourned. Thank you.

3 (The hearing concluded at 3:38 p.m.)
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1 CERTIFICATE

2 I do hereby certify that the foregoing is a
3 true and correct transcript of the proceedings taken
4 by me in this matter on Tuesday, October 30, 2012,
5 and carefully compared with my original stenographic
6 notes.

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9
10 Karen Sue Gibson, Registered
Merit Reporter.

11 (KSG-5605)

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1 CERTIFICATE

2 I do hereby certify that the foregoing is a
3 true and correct transcript of the proceedings taken
4 by me in this matter on day ,
5 month date , 2012, and
6 carefully compared with my original stenographic
7 notes.

8
9 Rosemary Foster Anderson,
10 Professional Reporter and
Notary Public in and for
the State of Ohio.

11 My commission expires April 5, 2014.

12 (RFA-)

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Summary: Transcript of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company hearing held on 10/30/12 - Volume VI Rebuttal electronically filed by Mrs. Jennifer Duffer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs.