

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the Matter of the :
Application of Ohio Edison:
Company, The Cleveland :
Electric Illuminating :
Company, and The Toledo :
Edison Company for : Case No. 14-1297-EL-SSO
Authority to Provide for :
a Standard Service Offer :
Pursuant to R.C. 4928.143 :
in the Form of an Electric:
Security Plan. :

- - -

PROCEEDINGS

before Mr. Gregory Price, Ms. Mandy Chiles, and
Ms. Megan Addison, Attorney Examiners, at the Public
Utilities Commission of Ohio, 180 East Broad Street,
Room 11-A, Columbus, Ohio, called at 9 a.m. on
Monday, September 14, 2015.

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VOLUME X

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1 Monday Morning Session,
2 September 14, 2015.

3 - - -

4 EXAMINER ADDISON: The Public Utilities
5 Commission of Ohio has assigned for hearing at this
6 time and place Case No. 14-1297-EL-SSO, being in the
7 Matter of the Application of the Ohio Edison Company,
8 The Cleveland Illuminating Company, and The Toledo
9 Edison Company for Authority to Provide for a
10 Standard Service Offer Pursuant to R.C. 4928.143 in
11 the form of an Electric Security Plan.

12 My name is Megan Addison. With me are
13 Gregory Price and Mandy Chiles, and we are the
14 Attorney Examiners assigned by the Commission to hear
15 this case.

16 At this time I'd like to take appearances
17 starting with the companies.

18 MR. BURK: You want abbreviated
19 appearances, your Honor?

20 EXAMINER ADDISON: That would be fine.

21 MR. BURK: On behalf of the companies,
22 James W. Burk, Carrie M. Dunn. Also on behalf of the
23 companies, James Lang and Trevor Alexander of the
24 Calfee law firm and David Kutik of the Jones Day law
25 firm.

1 MR. SAUER: Good morning, your Honors.
2 On behalf of the residential customers of the
3 FirstEnergy companies, the Office of the Ohio
4 Consumers' Counsel, Larry Sauer, Maureen Grady, Ajay
5 Kumar, William Michael, and Kevin Moore. Thank you.

6 MR. BOEHM: Good morning, your Honors.
7 Kurt Boehm appearing on behalf of the Ohio Energy
8 Group. I'd like to also enter the appearance of Mike
9 Kurtz and Jody Kyler Cohn.

10 MR. LINDGREN: On behalf of the
11 Commission staff, Thomas Lindgren, Thomas McNamee,
12 and Steven Beeler, assistant attorneys general.

13 MR. OLIKER: Good morning, your Honors.
14 On behalf of IGS Energy, Joseph Olikier.

15 MR. SOULES: Good morning, your Honors.
16 On behalf of the Sierra Club, Michael Soules and I
17 have with me Richard Sahli.

18 MS. FLEISHER: Good morning, your Honors.
19 Madeline Fleisher on behalf of the Environmental Law
20 & Policy Center.

21 MR. SETTINERI: Good morning, your
22 Honors. On behalf of the PJM Power Providers Group,
23 the Electric Power Supply Association, the
24 Constellation NewEnergy, Incorporated, Exelon
25 Generation Company, Retail Energy Supply Association,

1 M. Howard Petricoff, Michael J. Settineri, Gretchen
2 L. Petrucci, and Steven M. Howard, the law firm of
3 Vorys, Sater, Seymour & Pease.

4 MS. HUSSEY: On behalf of the Ohio
5 Manufacturers' Association Energy Group, Kimberly W.
6 Bojko and Rebecca L. Hussey.

7 MS. HARRIS: Good morning. On behalf of
8 Wal-Mart and Sam's Club, I'm Carrie Harris with the
9 law firm of Spilman, Thomas & Battle.

10 MR. DOUGHERTY: Good morning, your
11 Honors. On behalf of the Ohio Environmental Council
12 and Environmental Defense Fund, Trent Dougherty and
13 John Finnigan.

14 MR. HAYS: Good morning, your Honor. Tom
15 Hays on behalf of NOAC and the individual
16 communities.

17 MR. PARRAM: Good morning, your Honors.
18 On behalf of the Kroger Company, Mark Yurick and
19 Devin Parram.

20 MR. DARR: On behalf of the Industrial
21 Energy Users of Ohio, Frank Darr and Sam Randazzo.

22 EXAMINER ADDISON: Is that everyone? I
23 believe we are going to start with Mr. Staub this
24 morning; is that correct?

25 MR. ALEXANDER: That's correct. Thank

1 you, your Honor.

2 (Witness sworn.)

3 EXAMINER ADDISON: You may proceed.

4 (EXHIBIT MARKED FOR IDENTIFICATION.)

5 - - -

6 STEVE STAUB

7 being first duly sworn, as prescribed by law, was
8 examined and testified as follows:

9 DIRECT EXAMINATION

10 By Mr. Alexander:

11 Q. Mr. Staub, could you please give your
12 name and business address for the record.

13 A. My name is Steve Staub. My business
14 address is 76 South Main Street, Akron, Ohio, 44308.

15 Q. And, Mr. Staub, did you prepare a
16 prefiled direct testimony in this proceeding?

17 A. Yes, I did.

18 MR. ALEXANDER: Your Honor, we have
19 previously provided the reporter a copy of
20 Mr. Staub's prefiled direct testimony which has been
21 marked as Companies' Exhibit 27 for identification.

22 Q. Mr. Staub, do you have a copy of your
23 prefiled direct testimony in front of you today?

24 A. Yes, I do.

25 Q. And do you have any changes or

1 corrections to that prefiled direct testimony?

2 A. Yes, I do.

3 Q. Could you please go through those
4 changes?

5 A. Sure. Page 9, line 14, replace "4.18"
6 with "4.05." Page 9, line 15, replace "196" with
7 "183." Page 10, line 5, replace "196" with "183."
8 Page 10, line 6, replace "12.46 percent" with
9 "12.33 percent." Page 11, line 1, replace "equity"
10 with "debt." Page 11, line 1, replace "capital" with
11 "equity."

12 MR. OLIKER: I'm sorry. On page 11, line
13 1, there is "equity" used twice. Were you replacing
14 both?

15 THE WITNESS: No. It would be to the
16 companies' 51 percent debt and 49 percent equity.
17 That's how it should read.

18 MR. SETTINERI: Your Honor, if I may, the
19 first edit, could we have that reread? I did not
20 catch that.

21 MR. HAYS: Your Honor, he was going too
22 fast for this old guy.

23 EXAMINER ADDISON: Would you mind going
24 through all the changes just one more time,
25 Mr. Staub.

1 THE WITNESS: Sure. Not a problem. Page
2 9, line 14, replace "4.18" with "4.05." Page 9, line
3 15, replace "196" with "183." Page 10, line 5,
4 replace "196" with "183." Page 10, line 6, replace
5 "12.46 percent" with "12.33 percent." Page 11, line
6 1, replace "equity" with "debt." That's the second
7 word labeled as "equity." And page 11, line 1,
8 replace "capital" with "equity."

9 EXAMINER ADDISON: Thank you.

10 Q. (By Mr. Alexander) Mr. Staub, subject to
11 those corrections, if I were to ask you the same
12 questions today as appear in your prefiled direct
13 testimony, would your answers be the same?

14 A. They would.

15 MR. ALEXANDER: Your Honor, I move for
16 the admission of Companies' Exhibit 27, and the
17 witness is available for cross-examination.

18 EXAMINER ADDISON: I will defer ruling on
19 the motion for admission until a later time.

20 Do we have someone to volunteer to begin
21 cross-examination of this witness? Mr. Soules, would
22 you like to begin?

23 MR. SOULES: No questions from Sierra
24 Club for this witness. Thank you, your Honor.

25 EXAMINER ADDISON: Mr. Kumar, would you

1 like to begin?

2 MR. KUMAR: Sure.

3 - - -

4 CROSS-EXAMINATION

5 By Mr. Kumar:

6 Q. Good morning, Mr. Staub. Am I
7 pronouncing that correctly?

8 A. Yes, you are.

9 Q. My name is Ajay Kumar, and I'm an
10 attorney for the Ohio Consumers' Counsel.

11 Now, Mr. Staub, is it your testimony that
12 FirstEnergy Solutions has a different risk profile
13 than a traditional vertically integrated utility?

14 A. Yes, it is.

15 Q. And it's your testimony that compared to
16 a traditionally vertically integrated utility,
17 FirstEnergy Solutions' risk profile is much greater?

18 A. Yes, it is.

19 Q. And this is because as a merchant
20 generator and without the rider that's been proposed
21 today, or in these hearings, FirstEnergy Solutions'
22 ability to earn a profit depends on the market price
23 of electricity and various other variables.

24 A. That is correct.

25 Q. Now, in a traditionally regulated

1 utility, the utility has an opportunity based on its
2 performance to earn its authorized return on equity;
3 isn't that true?

4 A. Repeat your question, please.

5 Q. So in a traditionally regulated utility,
6 the utility has an opportunity based on its
7 performance to earn its authorized return on equity.

8 A. I'm not a rate-making expert; but, yes, I
9 would agree with that.

10 Q. Okay. Now, rider RRS works by securing a
11 power purchase agreement between FirstEnergy's
12 electric distribution utilities, The Cleveland
13 Electric Illuminating Company, the Toledo Edison
14 Company, and The Ohio Edison Company, and FirstEnergy
15 Solutions for the generation capacity produced by
16 Sammis, Davis-Besse, and FES's portion of OVEC; isn't
17 that true?

18 MR. ALEXANDER: Could I have that
19 question read, please.

20 EXAMINER PRICE: You may.

21 (Record read.)

22 A. Yes.

23 Q. And the capacity of those facilities,
24 Sammis, Davis-Besse, FirstEnergy's portion of OVEC,
25 is that bid into PJM's markets by the electric

1 distribution utilities?

2 A. I do not know the details of how the
3 plants are bidding into the markets. I'm here to --

4 Q. They are bid into the markets.

5 A. I do not know.

6 Q. You don't know whether those plants will
7 be bid into PJM?

8 A. I do not know how they operate the
9 plants.

10 Q. Okay. Now, when those plants will turn a
11 profit, that benefit will be passed on to consumers
12 as a credit; isn't that true?

13 MR. ALEXANDER: Objection.

14 EXAMINER ADDISON: Grounds?

15 MR. ALEXANDER: Vague. He already
16 identified the benefit included in the question.

17 EXAMINER ADDISON: Care to rephrase,
18 Mr. Kumar?

19 MR. KUMAR: Sure.

20 EXAMINER ADDISON: Thank you.

21 Q. (By Mr. Kumar) When those plants turn a
22 profit, a portion of that profit will be returned to
23 consumers as a credit.

24 A. I'm not familiar with the mechanics of
25 how the transaction works. I'm here to speak on the

1 reasonableness of the ROE.

2 Q. Now, under rider RRS, the plants will be
3 recovering the ROE as approved by this Commission
4 before the credit is passed on to the customers;
5 isn't that true?

6 MR. ALEXANDER: Objection. The witness
7 has already identified the limits of his knowledge
8 regarding the flow of funds under the term sheet.

9 MR. KUMAR: Your Honor, this witness is
10 testifying about the ROE. It's reasonable to ask how
11 the ROE is going to work.

12 EXAMINER ADDISON: Overruled. He can
13 answer if he knows.

14 A. I do not know.

15 Q. Now, Mr. Staub, when you determined the
16 equity cost rate for the proposed ROE, did you
17 conduct an analysis of a proxy group of utilities?

18 A. Repeat your question again, please.

19 Q. When you determined an equity cost rate
20 for your ROE, did you conduct an analysis using a
21 proxy group of utilities?

22 A. I did not determine the equity cost rate.
23 What do you mean by that?

24 Q. Did you determine an equity cost rate for
25 your calculation of the ROE for proposed rider RRS?

1 A. I determined a reasonableness of the
2 11.15 percent by looking at a number of variables,
3 but I did not determine or calculate the 11.15.

4 Q. When you looked at a number of those
5 variables, did that involve an analysis of a proxy
6 group of utilities?

7 A. It wasn't necessary for me to do that
8 because precedent was already established in a prior
9 case for this situation.

10 MR. KUMAR: Your Honor, I move to strike
11 everything after "it wasn't necessary for me to do
12 that."

13 MR. ALEXANDER: Your Honor, I would
14 disagree. I think the witness was explaining why he
15 didn't do that; and in particular, I object to the
16 way that would read if only that limited portion of
17 the answer remained.

18 EXAMINER ADDISON: The motion to strike
19 will be denied. From now on, if you could just
20 answer the questions posed to you during
21 cross-examination, counsel will be able to provide
22 you any context that you'd like to give during
23 redirect.

24 THE WITNESS: Yes, your Honor.

25

1 Q. (By Mr. Kumar) Did you conduct a
2 discounted cash flow or DCF model analysis for
3 FirstEnergy Solutions when you calculated the return
4 on equity?

5 MR. ALEXANDER: Objection. Misstates
6 prior testimony.

7 MR. KUMAR: Your Honor, I'm simply just
8 trying to determine the analysis of how he determined
9 his ROE. That's what he's here to testify about.

10 MR. ALEXANDER: May I? The witness
11 testified he did not determine the ROE. He evaluated
12 the reasonableness of the ROE. Counsel's question
13 stated that he determined the ROE, calculated it.

14 MR. KUMAR: I'm happy to restate the
15 question.

16 EXAMINER ADDISON: Please do so. Thank
17 you.

18 Q. (By Mr. Kumar) Did you conduct a
19 discounted cash flow analysis for FirstEnergy
20 Solutions when you determined the reasonableness of
21 the ROE?

22 A. No, I did not.

23 Q. Did you conduct a capital asset pricing
24 model or CAPM analysis for FirstEnergy Solutions when
25 you determined the reasonableness of the ROE?

1 A. I did not but Witness Rose did in his
2 testimony for the 13.3 percent rate that he
3 determined for merchant generation comps.

4 MR. KUMAR: Your Honor, I move to strike
5 everything after "No, I did not."

6 MR. ALEXANDER: Your Honor, the witness
7 in his testimony expressly relies on Rose's 13.3
8 calculation. Witness Rose's testimony expressly
9 states that is based on the capital asset pricing
10 model. This is directly from his prefiled written
11 direct testimony.

12 MR. KUMAR: Then we can use Mr. Rose's
13 prefiled direct testimony.

14 EXAMINER ADDISON: I'll direct any
15 comments to be towards the Bench. Thank you.

16 Motion to strike is denied.

17 Q. (By Mr. Kumar) Mr. Staub, did you conduct
18 a risk premium equity cost rate analysis when you
19 determined the reasonableness of the ROE for proposed
20 rider RRS?

21 A. Yes, I did.

22 Q. Mr. Staub, your testimony does not
23 include a computation of the cost of debt, does it?

24 A. It does not.

25 Q. Before this proceeding, FirstEnergy

1 Solutions as a merchant generator has never had an
2 ROE that was approved by this Commission, has it?

3 A. I do not know.

4 MR. KUMAR: Thank you. I have no further
5 questions, your Honor.

6 EXAMINER ADDISON: Thank you, Mr. Kumar.

7 OEG, any questions?

8 MR. BOEHM: No questions, your Honor.

9 EXAMINER CHILES: Mr. Oliker.

10 MR. OLIKER: Thank you.

11 - - -

12 CROSS-EXAMINATION

13 By Mr. Oliker:

14 Q. Good morning, Mr. Staub.

15 A. Good morning.

16 Q. I want to -- my name is Joe Oliker, and I
17 represent IGS Energy. I want to follow up on a few
18 of the questions you received from the OCC. Is it
19 your understanding you're relying on capital
20 financing costs that were provided by Mr. Rose?

21 A. I'm relying on his study that determined
22 the 13.3 percent rate for merchant generation comps.

23 Q. And that's contained in his workpaper,
24 correct? If you know.

25 A. It was in his testimony.

1 Q. Maybe we'll come back to that later.
2 When you were talking about financing costs for
3 FirstEnergy Solutions, you would agree that they are
4 very low right now for both equity and debt?

5 A. There's a number of variables that you
6 have to take a look at to make that decision.

7 Q. But it's your testimony that those costs
8 will rise in the future?

9 A. Yes.

10 Q. Both the equity and the debt portion?

11 A. I generally believe interest rates are
12 going to rise. So that would mean both equity and
13 debt costs would rise with it.

14 Q. Okay. And that's why when you look at
15 page 8, line 17, you agree interest rates are near
16 all time lows.

17 A. Please restate the page.

18 Q. Page 8, line 17.

19 A. I would say that interest rates were more
20 at an all time low in July of 2012 when the ten-year
21 was at 6.1 percent on July 2 of 2012 versus today.
22 The ten-year treasury is trading around 2.2 percent.
23 So they're a little higher today.

24 Q. But still low, right?

25 A. Still low.

1 Q. And as we're talking about the capital
2 structure of FES, would you agree that with a lower
3 percentage of debt, a higher movement in interest
4 rates will have a larger effect on FES than another
5 company with a 50/50 capital structure?

6 THE WITNESS: Could I have that question
7 read, please.

8 EXAMINER ADDISON: You may.

9 (Record read.)

10 Q. And that's all else being equal.

11 A. I don't necessarily agree with that
12 because in your assumption, in your statement, you're
13 assuming that the company has refinancing activities
14 or has to go out and raise incremental debt, which
15 would be resetting at a different interest rate than
16 what we would have in the weighted average cost of
17 debt.

18 Q. Maybe we can walk through an example.
19 Let's assume we have two companies, both have about
20 \$3 billion in invested capital. One has got a 50/50
21 capital structure so about 1.5 billion in debt. The
22 other one had about 33 percent funded by debt. So we
23 have 1.5 billion and 1 billion. Assuming that both
24 companies have to go out to the capital markets and
25 make an expenditure of approximately \$250 million at

1 7 1/2 percent debt, if their starting point for
2 long-term debt is 4.5 percent, would you agree there
3 will be a bigger increase on the long-term debt
4 average for the company that is financed with less
5 debt?

6 A. Please repeat your question.

7 MR. OLIKER: Could the court reporter
8 please read it back.

9 (Record read.)

10 A. That's a really long question. I would
11 have to sit there and do the calculation, run through
12 it, and think about all the variables that could
13 impact it. So I'm reluctant to provide an answer on
14 something that I can barely understand because of the
15 length of the question.

16 Q. What else would you need?

17 A. I would just need a short example.

18 Q. What was wrong with my example that you
19 couldn't answer the question?

20 A. I couldn't follow it.

21 Q. Okay. So maybe we can make it really
22 simple. If there is an increase in the debt rate and
23 we apply it to one -- if one company has \$1.5 billion
24 in debt and the other company has a billion dollars
25 in debt, if we increase that debt to 1.25 billion for

1 the smaller amount of debt and 1.75 billion for the
2 company that had more debt and if the starting rates
3 for both companies are the same and then you apply
4 your higher debt rate for both companies, wouldn't
5 you agree it will have a larger impact on the company
6 with a smaller amount of debt?

7 A. I agree the changes in interest rates,
8 whether they go up or down, will impact the weighted
9 average cost of long-term debt calculation.

10 Q. But the question is, which company is
11 affected more?

12 A. The company that has a lower debt
13 percentage.

14 Q. Thank you.

15 MR. OLIKER: Trevor, do you have a copy
16 of Mr. Rose's workpapers?

17 MR. ALEXANDER: Just a moment.

18 EXAMINER ADDISON: Let's go off the
19 record.

20 (Discussion off the record.)

21 EXAMINER ADDISON: Let's go back on the
22 record.

23 MR. OLIKER: Thank you. May I approach,
24 please?

25 EXAMINER ADDISON: You may.

1 Q. (By Mr. Oliker) Mr. Staub, I've presented
2 to you a workpaper from Mr. Judah Rose, and I believe
3 this document is public. You spoke of a 13.3 percent
4 equity rate for merchant generation. Is this the
5 workpaper that contains those figures?

6 A. Yes.

7 Q. And this is what you were referencing in
8 your earlier testimony today?

9 A. Yes.

10 Q. And you would agree that the debt rate is
11 also listed as 7.8 percent for a merchant generator.

12 A. This is the rate that was determined by
13 Witness Rose.

14 MR. OLIKER: Okay. Thank you. And,
15 Trevor, that's all I have on that. We can move on.

16 Q. Thank you, Mr. Staub, for that.

17 Mr. Staub, you regularly participate in
18 earnings calls for FirstEnergy, correct?

19 A. Define what you mean by regularly.

20 Q. From time to time.

21 A. Yes, for the past couple of years.

22 Q. Okay. And one of the subjects that often
23 comes up in those earnings calls is FirstEnergy's
24 plans for transmission investment, correct?

25 A. A lot of things come up on those calls,

1 among other things.

2 Q. But transmission investment does come up,
3 yes?

4 A. It will.

5 Q. And would you agree that the company has
6 indicated to its investors that it plans to invest a
7 billion dollars a year in transmission within the
8 ATSI zone?

9 MR. ALEXANDER: Objection, irrelevant.

10 EXAMINER ADDISON: Mr. Oliker.

11 MR. OLIKER: It's a relevant issue in
12 this case, your Honor, and this witness has
13 information.

14 EXAMINER ADDISON: Objection overruled.

15 A. I do not know the answer. I'm not
16 responsible for investor relations.

17 Q. Just so we're clear, you do not remember
18 what FirstEnergy has told to the investment community
19 about its intentions for transmission investment?

20 A. I do not know the exact numbers that
21 you're referring to.

22 Q. When you say you do not know the exact
23 number, do you remember hearing FirstEnergy indicate
24 that it intends to invest a billion dollars a year,
25 or do you have no idea?

1 A. As treasurer of the company, I know we're
2 investing in transmission. I have to finance it. To
3 the extent we make investments beyond 2015, it is
4 outside of my area. I'm responsible for the 2015
5 budget and forecast data. So I don't know what we
6 would be planning to do beyond '15 with respect to
7 transmission.

8 Q. Does the company intend to invest a
9 billion dollars in 2015 in transmission?

10 A. Just under a billion dollars.

11 Q. And I'm just trying to clarify your
12 answer. You cannot speak to the companies'
13 intentions with transmission investment beyond 2015.

14 MR. ALEXANDER: Objection. And with
15 regard to the last question, solely with regard to
16 the naming conventions that we've established in this
17 proceeding where we've established the companies to
18 mean the distribution utilities and FirstEnergy
19 Corporation to mean the parent company.

20 MR. OLIKER: I'm fine with that.

21 Q. So rephrasing that --

22 MR. ALEXANDER: Could we go back to the
23 prior question and answer so the record is clear? I
24 think everyone in the room understood but if we could
25 clarify the record.

1 EXAMINER ADDISON: Yes.

2 (Record read.)

3 MR. OLIKER: Maybe the easiest way to do
4 it is for the witness to clarify which entities make
5 that investment.

6 A. Sure. So it would be basically the
7 transmission segment which would include ATSI, TRAIL,
8 and part of the transmission investments that would
9 fall at some of our distribution utilities.

10 Q. And to follow up that question, do you
11 have knowledge regarding the intentions of
12 FirstEnergy utilities that own transmission assets to
13 invest beyond 2015?

14 MR. ALEXANDER: Objection again as
15 irrelevant.

16 EXAMINER ADDISON: Mr. Oliker?

17 MR. OLIKER: I'm trying to start broad,
18 your Honor, and then come down to the ATSI zone, but
19 I'm trying to keep my terminology correct.

20 EXAMINER ADDISON: Objection overruled.
21 Try to narrow it down just a little bit.

22 A. Please rephrase your question.

23 Q. I think you have to answer the first
24 question.

25 EXAMINER ADDISON: If you can.

1 MR. ALEXANDER: Could you have it reread,
2 your Honor?

3 EXAMINER ADDISON: Yes, we may.

4 (Record read.)

5 A. I do believe there are plans, but I don't
6 know any of the specific details.

7 Q. Would you agree that there are plans to
8 invest in transmission within the ATSI zone beyond
9 2015?

10 A. I do not know.

11 Q. Is there another witness, if you know,
12 that's testifying in this case that could better
13 answer that question?

14 A. I do not know.

15 Q. As you understand the transmission that
16 has been presented to the Commission, the FirstEnergy
17 utilities that hold the ATSI transmission assets are
18 not making any representation that they will not
19 invest in transmission in the ATSI zone, correct?

20 A. I do not know.

21 Q. Mr. Staub, are you familiar with the
22 current long-term debt rate of the FirstEnergy
23 Solutions?

24 A. I am not familiar with it.

25 Q. If FirstEnergy Solutions made an

1 investment financed by debt, would you be involved in
2 that decision?

3 A. Yes.

4 Q. FirstEnergy Solutions made a very large
5 investment at the Mansfield plant this year, correct?

6 MR. ALEXANDER: Objection to relevance.

7 EXAMINER ADDISON: Mr. Oliker.

8 MR. OLIKER: We've established that the
9 long-term debt rate of FES is very important, your
10 Honor, and this is relevant to that issue.

11 MR. ALEXANDER: Your Honor, he testified
12 he didn't know FirstEnergy Solutions' long-term debt
13 rate, so I don't understand the relevance with this
14 witness.

15 MR. OLIKER: And then we also talked
16 about investments made by FirstEnergy Solutions, and
17 he just said he knows about one.

18 EXAMINER ADDISON: Objection overruled.
19 I'll give you a little leeway.

20 MR. OLIKER: Thank you.

21 A. The investment decisions that I was
22 thinking of was the remarketing of 339 million of
23 taxes and bonds that we did in June of this year.

24 Q. There have been no capital investments at
25 Mansfield?

1 A. I'm not familiar with the capital --

2 MR. ALEXANDER: Objection. Mansfield is
3 not one of the plants at issue in this case, and
4 other FES plants are not appropriate for
5 cross-examination in this manner.

6 EXAMINER PRICE: Mr. Alexander.

7 MR. ALEXANDER: Yes, your Honor.

8 EXAMINER PRICE: On page 6, line 18, he
9 talks about the business risk for FES.

10 MR. ALEXANDER: Yes, your Honor.

11 EXAMINER PRICE: If he's talking about
12 the business risk for FES generally, hasn't he put
13 all the plants at issue?

14 MR. ALEXANDER: Your Honor, no. And this
15 is the difference between Mr. Kumar's questions
16 earlier which the witness answered without objection
17 and Mr. Oliker's questions here. Mr. Kumar asked
18 about the business risk for FES generally. The
19 witness talked about that. Mr. Oliker's question is
20 with regard to a specific capital investment at a
21 specific FES plant which is not the subject of this
22 proceeding.

23 EXAMINER PRICE: But don't all the
24 business risks from each plant one by one combine to
25 form the overall FES business risk?

1 MR. ALEXANDER: They would be part of the
2 overall FES business risk, your Honor, just as
3 Mr. Kumar pointed out, like energy prices,
4 fluctuations in the market, and those various items.
5 But I think it's inappropriate to seek to conduct
6 unlimited discovery as to all FES assets, including
7 assets which are not in Ohio, not relevant to this
8 case, simply because the witness made a general
9 statement as to the overall business risk differences
10 between a merchant generator and a vertically
11 integrated utility.

12 EXAMINER PRICE: That was no passing
13 statement. That was a question, how does the risk
14 profile for FES compare to the risk profile for Ohio
15 electric distribution utilities. That's not a
16 passing comment. He's trying to explain in his
17 testimony why they have a higher business risk.
18 Mr. Oliker is trying to explore why they have a
19 higher business risk.

20 MR. OLIKER: And how it may impact the
21 debt rate.

22 MR. ALEXANDER: The debt rate which is
23 also -- your Honor, the debt rate is not part of this
24 witness's testimony. I think what the witness's
25 testimony at page 6 is referring to is the difference

1 between the risk of a merchant generator and the risk
2 of the vertically integrated utility. I think that's
3 an important distinction, your Honor.

4 MR. OLIKER: Your Honor, Mr. Lisowski
5 didn't know about the debt rate either, and he
6 deferred it.

7 EXAMINER PRICE: He deferred it to this
8 witness?

9 MR. OLIKER: He deferred it to other
10 individuals.

11 MR. ALEXANDER: That's not true.

12 MR. OLIKER: He didn't identify this
13 witness, but he also didn't answer these questions.

14 EXAMINER ADDISON: Mr. Staub, do you know
15 of any witness coming in this proceeding who could
16 answer questions about the debt rate?

17 MR. ALEXANDER: Your Honor, I think I may
18 be able to speak to this better than the witness
19 could. Mr. Lisowski testified that the debt rate
20 included in his testimony is FES actual debt rate.
21 The things he said he didn't know were the specific
22 debt instruments which were included in that overall
23 FES debt rate. He did have knowledge of the overall
24 FES debt rate. It's included in his direct
25 testimony. What Mr. Oliker is referring to is the

1 next level of detail down which are the terms and
2 specification of the specific FES debt instruments.
3 Just to be clear here, we have sponsored a witness
4 who did have knowledge of the total FES debt rate as
5 part of his position in the accounting department of
6 the company.

7 EXAMINER ADDISON: I'll overrule the
8 objection. Mr. Oliker, if he doesn't know, we'll
9 just move on to another line of questioning.

10 MR. OLIKER: I was almost there. Thank
11 you, your Honor.

12 EXAMINER ADDISON: Thank you.

13 MR. OLIKER: Could I have my last
14 question reread.

15 EXAMINER ADDISON: You may.

16 (Record read.)

17 Q. (By Mr. Oliker) Could you please -- I'll
18 ask the question again, and maybe we'll see the rest
19 of your answer.

20 Do you know if any capital investments
21 have been made at Mansfield in 2015?

22 A. I'm not familiar with the capital plan
23 for the generation segment in terms of where they
24 allocate their dollars.

25 Q. Okay. Fair enough.

1 Over the next five years, are you
2 familiar with the expiration date of any long-term
3 debt that FES may hold?

4 A. I don't know the exact numbers, but there
5 will be remarkings on the tax-exempt side.

6 Q. And is that an indication that FES will
7 have to refinance a portion of its long-term debt
8 over the next five years?

9 A. Remarkings are a little bit different
10 than refinancing. The underlying security has a long
11 date of maturity, let's say 2030 or 2035, but
12 depending on the mode that you issue your tax-exempt
13 bond in, it could reset. Whether it's a one-year put
14 bond, a five-year put bond, or invariable mode, and
15 depending on when those resets occur, you would have
16 a remarking event which would adjustment the interest
17 rate.

18 Q. So is it your understanding that a
19 portion of those bonds are tied to a variable
20 interest rate?

21 A. Only 92 billion are tied to a variable
22 interest rate.

23 Q. And is there any long-term debt that the
24 company holds that will expire in the next five years
25 completely -- that will mature? Maybe that's a

1 better way to say it.

2 MR. ALEXANDER: Objection with regard to
3 the company in the question.

4 Q. I'm sorry. Clarify FES.

5 MR. ALEXANDER: Could we have the
6 question reread with that clarification, please.

7 EXAMINER ADDISON: You may.

8 (Record read.)

9 A. I don't know for certain when the first
10 taxable debt maturity would take place.

11 Q. Mr. Staub, you talk about risk in your
12 testimony. Would you agree that FES is riskier than
13 FirstEnergy Ohio, the utility?

14 A. When you say FirstEnergy Ohio, the
15 utility, do you mean the companies in this
16 proceeding?

17 Q. Yes.

18 A. Yes.

19 Q. So if the company and FES both had to
20 finance \$100 million, for example, would you agree
21 that FES would probably experience a higher interest
22 rate?

23 A. Yes, because that has a riskier credit
24 profile.

25 Q. So over the long-term, would you expect

1 that the long-term debt rate of FES to average higher
2 than the FirstEnergy companies in this proceeding?

3 A. I don't know what the long-term debt rate
4 is for the Ohio companies for me to make that
5 statement.

6 Q. Based upon the principles you discuss in
7 your testimony, do you find it to be reasonable that
8 FES would have a higher long-term debt rate?

9 A. If FES was to issue debt today, it would
10 incur a higher cost versus the Ohio companies.
11 That's what I know.

12 MR. OLIKER: That's all the questions I
13 have, your Honor. Thank you, Mr. Staub.

14 EXAMINER ADDISON: Thank you, Mr. Oliker.
15 Ms. Fleisher, any questions?

16 - - -

17 CROSS-EXAMINATION

18 By Ms. Fleisher:

19 Q. Mr. Staub, my name is Madeline Fleisher.
20 I represent the Environmental Law & Policy Center. I
21 believe you testified earlier that you're only here
22 to speak to the reasonableness of the 11.15 percent
23 return on equity; is that correct?

24 A. Yes.

25 Q. And you had no role in negotiating that

1 11.15 percent figure as part of negotiating the
2 proposed transaction; is that correct?

3 A. That is correct.

4 Q. And do you know who did propose or
5 negotiate that 11.15 percent figure?

6 A. It was a negotiated rate between the two
7 teams. Who on the team did, I don't know.

8 MS. FLEISHER: That's it. Thank you.

9 EXAMINER ADDISON: Thank you.

10 Ms. Petrucci, any questions?

11 MS. PETRUCCI: Yes. Thank you.

12 - - -

13 CROSS-EXAMINATION

14 By Ms. Petrucci:

15 Q. Mr. Staub, isn't it true that the
16 FirstEnergy EDUs have not presented in this case the
17 usual rate of return testimony that a cost-of-service
18 utility would present in Ohio that represents the
19 risks of similarly publicly-traded companies that
20 have similar risks in order to set a return on
21 equity?

22 THE WITNESS: Could you repeat that
23 question, please.

24 (Record read.)

25 A. I do not know.

1 Q. Does that mean you have not reviewed any
2 of the other testimony that's been presented other
3 than your own?

4 A. That is -- well --

5 MR. ALEXANDER: Objection. Counsel's
6 prior question asked for other Ohio proceeding ROE
7 testimony. So I'm objecting just to the form of this
8 question, and it's not clear if she's referring to
9 the testimony filed by the company in this proceeding
10 or if she's referring to testimony filed by other
11 applicants in other proceedings involving return on
12 equity.

13 MS. PETRUCCI: Clarify.

14 Q. My original question was with respect to
15 the testimony that's been presented in this case.
16 Did you understand that when you answered originally?

17 A. Yes.

18 Q. Okay. Then my follow-up question was,
19 have you reviewed any of the other testimony that's
20 been presented in this case?

21 A. I've reviewed pieces of Witness Rose's
22 testimony to support the 13.3 percent ROE that he
23 developed, but outside of that, I did not review
24 other testimony.

25 Q. Do you agree that the AEP case that you

1 refer to in your testimony, the capacity case, was
2 decided based on the specific situation with respect
3 to AEP Ohio and the set of risks it had as a firm
4 resource requirements provider of capacity?

5 THE WITNESS: Can you repeat that
6 question, please.

7 (Record read.)

8 A. I don't know.

9 Q. Do you know whether or not the AEP Ohio
10 case that you refer to, the capacity case, at that
11 time whether AEP was an FRR company?

12 A. Did you say FRR?

13 Q. Yes, firm resource requirement.

14 A. No.

15 EXAMINER PRICE: Isn't it fixed resource
16 rates?

17 MS. PETRUCCI: It's -- I thought it was
18 firm resource. I'm sorry, fixed.

19 EXAMINER PRICE: I want to make sure that
20 wasn't the confusion by the witness. Why don't you
21 ask him the alternative.

22 MS. PETRUCCI: Okay.

23 Q. (By Ms. Petrucci) At the time the
24 capacity case for AEP Ohio was decided, was AEP a
25 fixed resource requirement company?

1 A. I don't know.

2 EXAMINER PRICE: Do you know what a fixed
3 resource requirement company is?

4 THE WITNESS: I do not.

5 Q. Then maybe I already know the answer to
6 this next question, but do you know if the
7 FirstEnergy EDUs in this case are FRR companies?

8 A. I do not know.

9 Q. Do you know if FES is an FRR company?

10 A. I do not know.

11 Q. Do you know if the FirstEnergy EDUs
12 receive transition money when the generation units
13 were transferred to FES?

14 A. I do not know.

15 Q. Do you know if AEP Ohio owned generation
16 units during the time that the ROE was established in
17 the capacity case that you refer to in your
18 testimony?

19 THE WITNESS: Repeat that question again,
20 please.

21 (Record read.)

22 A. I know generation assets were involved.
23 I'm not entirely sure which companies owned them.

24 Q. Isn't it true that under the proposed PPA
25 in this proceeding, FES will not be at risk for its

1 operating costs so long as those operating costs are
2 not unreasonable during the period of the PPA?

3 A. I do not know the answer to that
4 question.

5 Q. Do you know whether in Ohio a cost of
6 service utility that is allowed to -- let me start
7 again.

8 Is a rate of return utility in Ohio --
9 I'm sorry, a cost of service utility in Ohio
10 permitted to come back into the Public Utilities
11 Commission and obtain a rate supplement if it does
12 not cover its reasonable cost of -- after the
13 established ROE is put into place?

14 MR. ALEXANDER: Objection to the phrase
15 electric service utility, I believe it was. I
16 don't -- I think that's vague.

17 EXAMINER ADDISON: Would you mind
18 rephrasing?

19 Q. Can a cost-of-service utility come back
20 to the PUCO and obtain a supplement to recover
21 reasonable costs outside of the designated ROE?

22 MR. ALEXANDER: Again, objection.
23 Cost-of-service utility, vague.

24 EXAMINER PRICE: Did you understand what
25 she meant by cost-of-service utility?

1 THE WITNESS: Not my area. I don't know
2 the response to the question.

3 Q. Do you know whether the FirstEnergy EDUs
4 are permitted to come back to --

5 MR. ALEXANDER: Hold on. Just so the
6 record is clear, did your Honor overrule my
7 objection?

8 EXAMINER PRICE: She's rephrasing.

9 MR. ALEXANDER: I'm sorry, your Honor.

10 EXAMINER PRICE: She's rephrasing it.

11 MS. PETRUCCI: He indicated he didn't
12 know, and so I'm trying again.

13 MR. ALEXANDER: Thank you. I'm sorry.

14 Q. (By Ms. Petrucci) Are the FirstEnergy
15 EDUs permitted to come back to supplement the rate of
16 recovery of costs that are beyond the reasonable
17 costs established under a designed or designated ROE?

18 A. I don't know.

19 Q. With the proposed PPA, will FES be at
20 risk for its operating costs?

21 MR. ALEXANDER: Could I have that
22 question read, please, your Honor.

23 EXAMINER ADDISON: You may.

24 (Record read.)

25 A. I do not know.

1 MS. PETRUCCI: I have no further
2 questions. Thank you.

3 EXAMINER ADDISON: Thank you.
4 Ms. Hussey.

5 MS. HUSSEY: Thank you, your Honor.

6 - - -

7 CROSS-EXAMINATION

8 By Ms. Hussey:

9 Q. Good morning, Mr. Staub.

10 A. Good morning.

11 Q. On page 2 of your testimony, you
12 testified that compensation of FES for the output
13 under the proposed transaction would be comprised of
14 two components; first, all costs associated with the
15 plants in OVEC plus a return on capital investments
16 in the plants including an 11.15 percent return on
17 equity; is that correct?

18 THE WITNESS: Repeat the question,
19 please.

20 (Record read.)

21 A. Yes.

22 Q. Thank you. And is it your testimony that
23 Commission precedent shows that an 11.15 percent ROE
24 is reasonable for the purpose of those transactions?

25 A. Yes.

1 Q. Okay. If you could turn to page 3. At
2 line 7, you testified that the AEP capacity case's
3 cost-based pricing mechanism bears similarities to
4 the recovery of capital investments in the proposed
5 transaction because the mechanism in the AEP capacity
6 case was primarily intended to compensate AEP Ohio
7 for its capital investments in its generation
8 resources. Did I read your testimony accurately?

9 A. Yes.

10 Q. At the time the AEP capacity case order
11 was issued, had AEP Ohio fully divested its
12 generation assets?

13 A. I do not know the timeline of the
14 divestiture.

15 Q. Okay. And, to your knowledge, was there
16 a power purchase agreement transaction with a
17 merchant generator at issue in the AEP capacity case?

18 A. I do not know.

19 Q. Turning to page 6 you state that the
20 Companies' ROE is relevant because it provides a
21 benchmark to measure against and also shows that
22 recent Ohio precedent supports an ROE in the 11.15
23 range. Is the precedent you're referring to the
24 Commission-approved ROE for Ohio electric
25 distribution utilities?

1 A. Yes.

2 Q. Is FES an electric distribution utility?

3 A. No.

4 Q. To your knowledge, does the Commission
5 have the authority to approve an ROE for, say, IGS
6 Energy?

7 A. I do not know.

8 Q. To your knowledge, is one of the reasons
9 the companies have sought recovery of the costs of
10 the proposed transaction through rider RRS stability
11 for customers?

12 THE WITNESS: Repeat that question,
13 please.

14 (Record read.)

15 A. I do not know.

16 Q. Assuming that stability for customers is
17 one aim of rider RRS in the proposed transaction,
18 thereby doesn't stability for customers assure FES an
19 11.15 percent ROE?

20 MR. ALEXANDER: Could I have that
21 question read, please?

22 EXAMINER ADDISON: You may.

23 (Record read.)

24 MR. ALEXANDER: Objection to form.

25 EXAMINER ADDISON: Were you confused by

1 her question?

2 THE WITNESS: Yes. I don't understand
3 it.

4 EXAMINER ADDISON: Would you mind
5 rephrasing it.

6 MS. HUSSEY: Sure.

7 Q. (By Ms. Hussey) I'm going to ask you to
8 assume stability for customers is one of the bases
9 upon which the companies have asked the Commission to
10 approve rider RRS, and rider RRS comprises the
11 proposed transaction. Do you understand that?

12 A. No.

13 Q. Do you understand that rider RRS is
14 designed in one form or another to recover the costs
15 of the proposed transaction?

16 A. Yes.

17 Q. Would you assume for me that one of the
18 reasons rider RRS has been proposed by the companies
19 is stability for ratepayers?

20 A. I don't want to make an assumption that I
21 don't fully understand.

22 Q. Okay. If the customers are forced to pay
23 FES a return on equity pursuant to -- or, excuse me,
24 an ROE through rider RRS -- strike that. Let me try
25 again.

1 If customers are forced to pay FES an ROE
2 through rider RRS, wouldn't a lower ROE arguably be
3 better for them?

4 MR. ALEXANDER: Objection. The proposed
5 transaction between FES and the companies is not
6 before the Commission. What's before the Commission
7 is rider RRS. So under no circumstances will
8 customers be paying funds directly to FES.

9 MS. HUSSEY: Your Honor.

10 EXAMINER ADDISON: Care to rephrase?

11 MS. HUSSEY: Sure.

12 EXAMINER ADDISON: Thank you.

13 Q. (By Ms. Hussey) If through rider RRS
14 customers are funding an ROE for FES, wouldn't a
15 lower ROE arguably be better for customers?

16 A. I'm not here to negotiate the
17 transaction. I'm here to speak on the reasonableness
18 of the ROE.

19 Q. Okay. Would the most recently approved
20 ROE in the companies last distribution rate case,
21 10.5 percent, be a reasonable ROE?

22 MR. ALEXANDER: Objection for failure to
23 identify the context. More reasonable ROE for the
24 distribution utilities or a more reasonable ROE for
25 the proposed transaction?

1 MS. HUSSEY: Let me clarify.

2 Q. I'm asking about the ROE for FES that's
3 going to inure to them through the proposed
4 transaction, thereby be charged to customers through
5 rider RRS.

6 MR. ALEXANDER: Your Honor, could I ask
7 that counsel repeat that question with that
8 clarification? And thank you.

9 EXAMINER ADDISON: Yes. Would you mind
10 repeating the question, Ms. Hussey.

11 MS. HUSSEY: Sure.

12 Q. To your knowledge, would FES consider the
13 ROE approved in the companies most recent
14 distribution rate case, 10.5 percent, to be
15 reasonable for the proposed transaction?

16 A. Again, I'm not here to negotiate the ROE.
17 I'm just here to determine the reasonableness.

18 Q. Okay. From my understanding, you are the
19 witness that determined the reasonableness and that
20 someone has proposed that 11.15 percent is reasonable
21 and you've opined that that is, in fact, reasonable,
22 correct?

23 A. That is correct.

24 Q. Okay. So you will not offer any
25 testimony as to whether a lower ROE would be

1 reasonable in this case?

2 A. That is correct.

3 Q. Have you entertained the possibility of a
4 lower ROE being reasonable in this case?

5 MR. ALEXANDER: Objection, asked and
6 answered.

7 EXAMINER ADDISON: Overruled.

8 A. FES requires an ROE that will attract
9 capital. 11.15 percent ROE was determined to be
10 reasonable and fair and a level that will allow it to
11 attract capital. Anything lower is unacceptable.

12 Q. Okay. So 11.15 percent is the threshold
13 ROE under which FES would consider going forward with
14 the proposed transaction?

15 A. 11.15 percent ROE is reasonable.

16 MS. HUSSEY: I'm sorry. Your Honor,
17 could you direct him to answer my question?

18 EXAMINER ADDISON: Please answer
19 counsel's question. Would you like it reread?

20 THE WITNESS: Please reread it.

21 (Record read.)

22 A. Yes.

23 Q. Thank you. To your knowledge, does this
24 Commission approve returns on equity for other
25 companies that are not electric distribution

1 utilities?

2 A. I do not know.

3 Q. If the Commission approves the proposed
4 rider RRS -- strike that.

5 If the Commission approves rider ROE, FES
6 would be assured 11.15 percent ROE for 15 years,
7 correct?

8 THE WITNESS: Repeat the question again,
9 please.

10 (Record read.)

11 A. Yes. It was a negotiated rate of
12 11.15 percent for 15 years.

13 Q. Thank you. And would the benefits FES
14 reaps through approval of rider RRS inure to all of
15 FES or just FES's Ohio holdings?

16 A. What do you mean by FES's Ohio holdings?

17 Q. What we are talking about, plants located
18 for the most part in Ohio, correct?

19 A. We are talking about plants located in
20 Ohio.

21 Q. Okay. So is there any limitation on the
22 benefits that FES would obtain through the proposed
23 transaction just to Ohio, say, for instance?

24 A. I do not know.

25 Q. Thank you. And aside from the proposed

1 transaction, what other methods exist by which FES
2 could secure an 11.15 percent return on equity for a
3 15-year period?

4 A. I do not know.

5 Q. To your knowledge, did FES explore any
6 other methods of securing an 11.15 percent ROE before
7 proposing the transaction at issue?

8 A. I do not know.

9 MS. HUSSEY: Thank you very much. No
10 further questions.

11 EXAMINER ADDISON: Thank you.

12 Mr. Dougherty.

13 MR. DOUGHERTY: Just a couple of
14 questions.

15 - - -

16 CROSS-EXAMINATION

17 By Mr. Dougherty:

18 Q. Trent Dougherty, I'll ask you a few
19 questions on behalf of Ohio Environmental Council and
20 Environmental Defense Fund. Just to clarify, when
21 did you conduct your analysis of the reasonableness
22 of the ROE?

23 A. I was approached by our legal department
24 in July of 2015.

25 Q. And, to your knowledge, was this during

1 the negotiations of this proposed transaction?

2 A. The term sheet had already been
3 negotiated.

4 Q. And the 11.15 ROE was negotiated in that
5 term sheet?

6 A. Yes.

7 Q. Did you supply your analysis to what has
8 been described in this proceeding as the EDU team in
9 that negotiation?

10 A. I provided my reasonableness analysis to
11 Jim Burk in our legal department.

12 Q. So you're not aware whether that
13 reasonable analysis was ever provided to the EDU
14 team; is that correct?

15 A. I believe Jim Burk was on the EDU team.

16 MR. DOUGHERTY: Thank you. That's all I
17 have.

18 EXAMINER ADDISON: Mr. Hays.

19 MR. HAYS: I have a number of questions;
20 but if we could have a break, I'd appreciate it.

21 EXAMINER ADDISON: Let's go ahead and
22 take a five-minute break. Let's go off the record.

23 (Recess taken.)

24 EXAMINER ADDISON: Let's go back on the
25 record.

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Mr. Hays.

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CROSS-EXAMINATION

By Mr. Hays:

Q. Good morning, Mr. Staub. My name is Tom Hays, and I represent the Northwest Ohio Aggregation Coalition and the individual communities which are communities like Toledo, Lucas County and smaller places like Perrysburg and even smaller like Lake Township.

I have to ask because you are a Pitt graduate.

A. Yes.

Q. And a Pitt Business School graduate.

A. Yes, sir.

Q. Hail to Pitt. Did you have on your Pitt hat while they beat Akron over the weekend?

A. I did.

Q. Me too.

If you could turn to page 1 of your testimony. Are you there?

A. Yes, sir.

Q. Okay. And if you look at line 17 to the bottom at line 23. I'll give you a second to look it over.

1 A. Okay.

2 Q. What does the -- first of all, you are
3 the head of the treasury department for the companies
4 and FirstEnergy Solutions and also the parent corp.?

5 A. I'm the treasurer for FirstEnergy Service
6 Company.

7 Q. FirstEnergy Service Company.

8 A. And I'm named as the treasurer for the
9 majority of all the operating companies that are
10 owned by FE Corp., including the companies here.

11 Q. So you would be the treasurer for both
12 FirstEnergy Solutions and also the -- what would the
13 different hat be, treasurer for The Toledo Edison,
14 the Ohio Edison, and Cleveland Illuminating --
15 Electric Illuminating?

16 A. Yes, that is part of my fiduciary
17 responsibilities.

18 Q. Okay. I just want to be certain about
19 that. What are the duties of the treasury
20 department?

21 A. To fight finance to business -- the
22 businesses and the operations associated with each of
23 the businesses, to raise liquidity, to manage the
24 financing documents, to manage cash.

25 Q. What does the -- is there a controller in

1 FirstEnergy Solutions? Let me rephrase.

2 Mr. Lisowski, I believe, said that he was
3 the assistant controller. Do you know if that's
4 correct?

5 A. Yes.

6 Q. Is the controller's office separate from
7 the treasury at FirstEnergy Solutions?

8 A. Yes.

9 Q. What does the controller do? What does
10 the controller function do at FirstEnergy Solutions?

11 A. I do not know.

12 Q. But if I'm understanding your testimony,
13 normally the treasury would be involved with the
14 items you mentioned, like investment management and
15 cash management, capital markets?

16 A. They would account for those matters.

17 Q. You mean the controller would account for
18 those matters?

19 A. Account for a document, yes.

20 Q. Yes, they would account for a document.
21 In terms of actually going out into the investment
22 community, that would be a function that would be
23 under your purview?

24 A. What do you mean by going out into the
25 investment community?

1 Q. Well, let's say you wanted to get a loan
2 and let's say that FirstEnergy Solutions needed to
3 get a loan of \$400 million. Would the treasury
4 department normally -- would the treasury department
5 handle that transaction?

6 A. Yes, that would be part of my
7 responsibility.

8 Q. What would it do if FirstEnergy Solutions
9 needed to go out for a \$400 million loan?

10 MR. ALEXANDER: Could I ask that question
11 be reread, please?

12 EXAMINER ADDISON: You may.

13 (Record read.)

14 A. What do you mean by what would it do?

15 Q. Well, let's say that the management of
16 FirstEnergy Solutions came to you and said, look,
17 we'd like -- let me step back. I'll try again.

18 Assume that there is a need for a
19 \$400 million loan for FirstEnergy Solutions. What is
20 the ordinary process the treasury would follow to see
21 if it could secure such a loan?

22 A. There is no reason for FES to go out and
23 obtain a \$400 million loan.

24 Q. Did you read the terms of the term sheet
25 in this matter before the PUCO today?

1 A. I reviewed the term sheet as a whole
2 quickly and focused primarily on the ROE and cap
3 structure terms.

4 Q. Are you aware that the proposed term
5 sheet would require FirstEnergy to pay approximately
6 \$400 million more than market rate for electricity
7 for the next three years?

8 MR. ALEXANDER: Objection on two grounds.
9 One, that is nowhere in the term sheet; two, we're
10 treading dangerously close to confidential waters.
11 So I want to make sure that all parties are aware of
12 the difference between confidential and public
13 information. So objection on both of those grounds.

14 EXAMINER ADDISON: Sustained. I'll ask
15 that you tread a little lightly around confidential
16 matters. If there are any confidential questions, we
17 can raise those in an additional confidential
18 session.

19 MR. HAYS: I think all these are going to
20 end up being confidential, your Honor, so I need a
21 minute to look through the second area I wanted to
22 ask questions about.

23 EXAMINER ADDISON: Certainly. Take your
24 time.

25 MR. ALEXANDER: Counsel, just to be

1 clear, you're done with all public questions?

2 MR. HAYS: I'm saying because of the
3 caution from the Bench, I want to move away from this
4 because it is possible they will go into
5 confidential.

6 MR. ALEXANDER: Thank you.

7 MR. HAYS: Now, I want to take a moment
8 and look down through the remainder of my questions
9 so I can make sure I ask all the ones that will be
10 asked in the public session now.

11 MR. ALEXANDER: Thank you.

12 Q. (By Mr. Hays) I believe I asked about --
13 would the treasury functions that you perform be
14 similar for FirstEnergy Solutions and also similar
15 for FirstEnergy?

16 A. When you say "FirstEnergy," do you mean
17 FE Corp., the holding company?

18 Q. Yes.

19 A. Well, they're separate legal entities.
20 They have their own stand-alone financing documents,
21 their own financial statements. So I don't think I
22 could say that they're similar.

23 Q. Okay.

24 A. They have different credit ratings.

25 Q. Would you do similar activities, like if

1 a loan or financial transactions needed to be
2 performed, would you perform a similar function, do
3 similar things, understanding the differences you
4 just outlined?

5 A. Yes.

6 Q. Would the same also be true for the
7 companies?

8 A. A little more regulatory-related matters
9 in terms of financing arrangements. We'd have to go
10 out and secure that authority from both the state and
11 FERC. So there would be different procedures we
12 would be following, but yes.

13 Q. Okay. Do you know what a pass-through
14 contract is?

15 A. Not familiar with it.

16 Q. Would you agree that the term sheet and
17 the materials you read, the portions of the materials
18 you read from Mr. Rose, indicate that commodities
19 such as natural gas are involved in this transaction?

20 MR. ALEXANDER: Objection, compound. The
21 question asks for both whether the term sheet
22 includes that information and whether Mr. Rose's
23 testimony includes that information.

24 EXAMINER ADDISON: Would you mind
25 separating into two different questions, Mr. Hays?

1 Q. Are you aware if from the term sheet that
2 the proposed transaction between the companies and
3 FirstEnergy Solutions depends upon commodity prices?

4 A. I am not aware.

5 Q. Do you know from the materials you
6 reviewed from Mr. Rose if the proposed transaction
7 between FirstEnergy and FirstEnergy Solutions
8 involves commodities such as natural gas?

9 A. I do not know.

10 Q. Same question from any other source of
11 your general knowledge.

12 A. What do you mean?

13 Q. Well, are you aware, as you sit there
14 today on the stand, that the transaction between the
15 companies and FirstEnergy Solutions involves
16 commodity prices?

17 A. Generally, yes. To what extent, no. The
18 purpose of my testimony is really to speak to the
19 reasonableness of the ROE.

20 Q. If there were a 15-year transaction
21 between FirstEnergy Solutions and an unrelated third
22 party, would you be involved in such transactions?

23 A. I don't know.

24 Q. I believe on page 1 you indicate that at
25 one point you worked for Allegheny Energy.

1 A. That is correct.

2 Q. And there was a merger proposed with
3 FirstEnergy; am I correct?

4 A. That's why I'm here now.

5 Q. And would you agree with me that the
6 treasury departments in both companies were heavily
7 involved with that transaction?

8 A. I do not agree with that. I was not
9 aware of the merger transaction until it became
10 publicly announced.

11 EXAMINER PRICE: That's got to be a fun
12 day.

13 THE WITNESS: I went through it twice in
14 my career.

15 MR. HAYS: Been there myself.

16 Q. Is treasury ever involved in the purchase
17 of coal or other commodities?

18 A. Define what you mean by purchase.

19 Q. Well, I sort of feel like Bill Clinton
20 defining is, but buy contracts to purchase coal.

21 A. No.

22 Q. Would treasury be involved in the
23 decisions about closures of plants?

24 A. No.

25 MR. HAYS: Your Honor, if I could take a

1 minute. I want to check with a colleague to make
2 sure I'm not about to step into confidential, but I
3 do have things I want to get in the public record.

4 EXAMINER ADDISON: Why don't we go off
5 the record right now.

6 (Discussion off the record.)

7 EXAMINER ADDISON: Let's go back on the
8 record.

9 Q. (By Mr. Hays) Are you familiar with
10 commodity markets such as natural gas and coal?

11 A. No.

12 Q. Let me ask the question more broadly. In
13 fulfilling your duties in the treasury department,
14 are there members of the treasury department who work
15 on issues such as commodity prices in your evaluation
16 of deals, potential deals, or other matters under the
17 treasury department?

18 A. Not in my area.

19 Q. From your experience is there a
20 difference in the risk in long-term contracts versus
21 short-term contracts? And let me define short-term
22 contracts as being three years or less and long-term
23 contracts being longer than that.

24 A. Yes. Typically in longer-term contracts,
25 there are term premiums.

1 Q. I'm sorry?

2 A. In longer-term contracts, there are term
3 premiums that the parties typically pay.

4 Q. Why are there premiums that are paid?

5 A. Because you're shifting the risk from one
6 party to another in terms of interest rate
7 fluctuations. So the party that is responsible for
8 filling the obligation under a 15-year contract is at
9 a fixed rate regardless of what happens to the
10 general interest rate environment.

11 Q. Are there other risks that can vary over
12 15 years in a contract?

13 A. There's a lot of risks that a party could
14 be subjected to over 15 years; weather risk, customer
15 risk, environmental risk, regulatory risk.

16 Q. Do you know what a sensitivity analysis
17 is in a forecast?

18 A. Define what you mean by sensitivity
19 analysis.

20 Q. Let's say you were evaluating a proposed
21 15-year transaction and interest rates were one of
22 the items that you were looking -- that was of
23 concern in the deal. Could you do a sensitivity
24 analysis that says, hey, let's take my best case
25 projection that is going to be, for example, assume

1 2.5 percent, that would be your baseline case. Have
2 you heard of the term baseline case?

3 MR. ALEXANDER: I'm a little bit lost. I
4 believe the question was what is the definition of
5 sensitivity analysis, and we've now switched to
6 something else.

7 MR. HAYS: I believe he replied "I'm not
8 sure what you mean," and I was trying to clarify.

9 MR. ALEXANDER: So the question to the
10 witness is have you heard of a baseline case?

11 MR. HAYS: The current question is.

12 A. I have not.

13 Q. Was treasury ever asked during the past
14 two years if it could go to the market to secure
15 additional funding for FirstEnergy Solutions?

16 A. I do not recall being asked.

17 Q. Has treasury ever gone out and evaluated
18 whether or not it could raise \$400 million for
19 FirstEnergy Solutions from the financial market or
20 banks?

21 A. I don't understand your question. Please
22 rephrase it.

23 Q. Sure. Has treasury ever gone to the
24 financial markets to try to see if it could raise
25 \$400 million for FirstEnergy Solutions?

1 A. Outside of our normal financing plan
2 where we just do refinancings, we have not gone out
3 to raise new debt.

4 MR. HAYS: Your Honor, could I have
5 the -- excuse me. I needed to get the last answer
6 read again.

7 EXAMINER ADDISON: Could we have the last
8 answer read, please.

9 (Record read.)

10 Q. When you say "we," who do you mean by
11 "we"?

12 A. I'm sorry. FES.

13 MR. HAYS: Your Honor, I think the
14 remainder of my questions are either dangerously
15 close to the line or any follow-up question would
16 take it into confidential after discussing it with
17 Mr. Alexander and Mr. Burk.

18 EXAMINER ADDISON: At this time, we'll
19 just move right into a confidential session. I would
20 advise any parties that haven't completed a
21 confidentiality agreement with the companies to
22 please exit the room at this time, absent staff as
23 well.

24 (CONFIDENTIAL PORTION EXCERPTED.)

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(OPEN RECORD.)

EXAMINER PRICE: Mr. Lisowski, at long last, you're excused.

THE WITNESS: Thank you, your Honor.

EXAMINER PRICE: Mr. Alexander.

MR. ALEXANDER: The company would move for the admission of Company Exhibit 21 which is Mr. Lisowski's public testimony; Companies' Confidential Exhibit 22 which is Mr. Lisowski's confidential testimony; Companies' Exhibit 23, Mr. Lisowski's public errata; Companies' Confidential Exhibit 24, which is Mr. Lisowski's confidential errata; Companies' Confidential Exhibit 25. I believe it was already admitted via stipulation, but I'm not sure about that. I think the record is

1 clear, so I'm raising it again now which is
2 Mr. Lisowski's confidential workpapers and Companies'
3 Confidential Exhibit 26 which is the exhibit we were
4 just discussing.

5 EXAMINER PRICE: Let's break these up.
6 Any objections to the admission of Companies'
7 Exhibits 21 through 24?

8 Seeing none, those exhibits will be
9 admitted.

10 (EXHIBITS ADMITTED INTO EVIDENCE.)

11 EXAMINER PRICE: Any objection to the
12 admission of Company Exhibit 25? To the extent we
13 had not already, it will be admitted.

14 (EXHIBIT ADMITTED INTO EVIDENCE.)

15 EXAMINER PRICE: Any objection to the
16 admission of Company Exhibit 26?

17 MR. OLIKER: Your Honor, I have
18 objections that I previously indicated to the Bench
19 based upon the information not being provided to the
20 parties. Based upon what is actually in the record,
21 I don't know if it makes a large amount of
22 difference, but I would object based on principle
23 alone.

24 EXAMINER PRICE: Any of the parties care
25 to weigh in?

1 MS. FLEISHER: Your Honor, I'd just like
2 you to clarify that we'll be able to cross-examine
3 any upcoming witnesses about this exhibit to the
4 extent they have personal knowledge of it.

5 EXAMINER PRICE: You can cross-examine
6 any witness on any exhibits that have been admitted.

7 MS. FLEISHER: All right.

8 EXAMINER PRICE: Anybody else?

9 MS. HUSSEY: I would object to the
10 admission of this document based on the fact it was
11 introduced late Friday from my understanding. At
12 least for purposes of the initial realms of
13 confidential cross-examination was not available for
14 several of the individuals here, and to that extent,
15 I would object to its admission at this point.

16 EXAMINER PRICE: Mr. Alexander?

17 MR. ALEXANDER: Your Honor, to take them
18 in reverse order, with regard to when the exhibit was
19 first introduced, she means first marked, that was,
20 in fact, on Friday, but all counsel today had the
21 opportunity to cross-examine Mr. Lisowski regarding
22 the exhibit.

23 With regard to Mr. Olikier's objection, I
24 wasn't actually sure if he was objecting to the
25 admission of the document or not.

1 MR. OLIKER: I am, your Honor. I mean,
2 there is so many issues with this document. They say
3 this is a workpaper. There is clearly other
4 workpapers associated with this. There is 100
5 questions I could ask about this document.

6 MR. ALEXANDER: Okay. So with that
7 clarification, thank you, Mr. Olikier, to respond to
8 the substance, his concern as to the state of the
9 record, I believe the Commission would benefit from
10 having this information which provides exact dollar
11 amounts in a full complete record. Right now, most
12 of this information is in already. There is very
13 limited amounts of this information which is not
14 currently in, and I feel the Commission would benefit
15 from its development.

16 With regard to Ms. Fleisher's objection,
17 I think it's the companies' position that any
18 document which has been admitted will be fair game
19 for the future cross-examination with the caveat the
20 witness would have personal knowledge about that
21 exhibit.

22 EXAMINER PRICE: Company Exhibit 26
23 confidential will not be admitted. I agree with
24 Mr. Olikier that the parties have had no chance to
25 prepare adequately for this exhibit. The information

1 that was read into the record was read into the
2 record, but the exhibit itself will not come in.

3 MR. ALEXANDER: Thank you, your Honor.

4 EXAMINER PRICE: Let's take five minutes.

5 I'm sorry, you're right. Mr. Soules.

6 MR. SOULES: Thank you, your Honor.

7 Sierra Club would move for the admission of Sierra
8 Club Exhibits 26 through 41 and Sierra Club Exhibits
9 43 through 45. And the only other thing I would note
10 is in regards to Sierra Club Exhibit 37 confidential,
11 Sierra Club and the companies have stipulated to the
12 admission of that entire discovery response,
13 including not only Attachment 1 of that response
14 which was the subject of cross-examination on Friday,
15 but Attachments 2 and 3 which we believe will make
16 the record somewhat cleaner, particularly when
17 subsequent witnesses testify regarding the contents
18 of that discovery response. And we do have copies of
19 those attachments we can distribute.

20 EXAMINER PRICE: When we take a break,
21 please go ahead and serve the copies with
22 attachments. Can you give me your list again? You
23 went too fast for me.

24 MR. SOULES: Absolutely. So we are
25 moving for the admission of Sierra Club Exhibits 26,

1 27, 28 confidential, 29 confidential, 30
2 confidential, 31 confidential, and 32 confidential,
3 33 confidential, 34 confidential, 35 confidential, 36
4 confidential, 37 confidential, which is the subject
5 of the stipulation, Sierra Club Exhibit 38
6 confidential, 39 confidential, 40 confidential, 41
7 confidential, 43 confidential, 44 confidential, and
8 45 confidential.

9 EXAMINER PRICE: Any objection to the
10 admission of those exhibits?

11 MR. ALEXANDER: With the caveat that
12 Mr. Soules accurately provided with regard to the
13 exhibit where we're including the attachment, no,
14 your Honor.

15 EXAMINER PRICE: Those exhibits will be
16 admitted at this time.

17 (EXHIBITS ADMITTED INTO EVIDENCE.)

18 MR. SOULES: Thank you, your Honor.

19 EXAMINER PRICE: Ms. Fleisher.

20 MS. FLEISHER: Your Honors, I'd like to
21 move the admission of Exhibit ELPC 6 Confidential,
22 which is Discovery Response IGS 1 Interrogatory 3 and
23 Attachment 1.

24 EXAMINER PRICE: Any objection to the
25 admission of this exhibit?

1 MR. ALEXANDER: No objection, your Honor.

2 EXAMINER PRICE: Hearing none, it will be
3 admitted.

4 (EXHIBIT ADMITTED INTO EVIDENCE.)

5 MR. OLIKER: I believe there was only one
6 IGS exhibit and I think it was Exhibit 7. The issue
7 with this exhibit is the witness itself had not seen
8 it, but as I understand, the document is part of the
9 Sierra Club set of attachments that were recently
10 just marked RPD 49, I believe, Attachment 1
11 confidential.

12 MR. ALEXANDER: That's correct.

13 MR. OLIKER: But because the witness was
14 questioned within the context of IGS 7, I would move
15 for its admission so the record is clear.

16 EXAMINER PRICE: Any objection?

17 MR. ALEXANDER: No objection, your Honor.

18 EXAMINER PRICE: Hearing none, it will be
19 admitted.

20 (EXHIBIT ADMITTED INTO EVIDENCE.)

21 MR. MICHAEL: Your Honor, we had an
22 exhibit, OCC No. 6.

23 EXAMINER PRICE: I already marked it as
24 admitted. I was just correcting my error. Any
25 objections to the admission of OCC 6?

1 MR. ALEXANDER: Yes, your Honor. This
2 document had literally no foundation laid. There was
3 no acknowledgment from the witness. There was no
4 identification of relevance. There was almost no
5 discussion of this document. So the companies do
6 object to the admission of this document.

7 EXAMINER PRICE: Consumers' Counsel.

8 MR. MICHAEL: That is exactly wrong, your
9 Honor. As a matter of fact, it was your Honor that
10 asked the witness as to whether or not he was
11 familiar with it, if he had seen it. He responded to
12 both of your Honor's questions as yes. The witness
13 also testified that the document was not one of the
14 legacy cost components which is very relevant to this
15 case, and Mr. Alexander's objection should be
16 overruled forthwith and the document admitted.

17 EXAMINER PRICE: I don't know about the
18 forthwith part, but we're going to admit the
19 document. He's correct, Mr. Alexander.

20 MR. ALEXANDER: Your Honor, if I could
21 respond.

22 EXAMINER PRICE: Sure.

23 MR. ALEXANDER: I understand it may be
24 too late, but what happened with this document was
25 counsel presented the document and asked the witness

1 if he was familiar with it. The witness said, no, he
2 did not know. Then the Bench clarified as far as
3 whether this contract could be included as a legacy
4 cost component. That question was asked. The
5 witness was able to answer that question not because
6 he was familiar with the underlying agreement. The
7 witness was able to answer it because nothing like
8 that could be a legacy cost component because it
9 could not have incurred costs after December 31,
10 2013.

11 EXAMINER PRICE: The key part is he was
12 able to rule it out as a legacy cost component, and
13 that's the part that needs to be kept on the record,
14 is that he ruled this out, that, no, this is not one
15 of the legacy cost components.

16 MR. ALEXANDER: That is on the record,
17 your Honor. What they're trying to get in is the
18 document itself for I don't know what purpose, but
19 without a foundation and without a witness who can
20 provide context to the document or even identify if
21 the document is what they claim it is, there has been
22 no foundation that this is, in fact, a true and
23 accurate copy of the document they claim it is. And
24 without that, I don't know how they can admit this
25 document.

1 MR. MICHAEL: The objection is too late,
2 your Honor. I can respond --

3 EXAMINER PRICE: I can always change my
4 mind.

5 MR. MICHAEL: I don't think you should on
6 this occasion. First off, they're exactly wrong
7 again. I asked the witness initially whether or not
8 the deferred prosecution agreement would be
9 considered in the legacy costs. That's when
10 Mr. Alexander objected with reference to the
11 discovery responses that actually listed the
12 contracts to be included, and Mr. Lisowski said I
13 just want to confirm and look at that list.

14 So then the following day, we put the
15 document in front of him and I pursued that line of
16 questioning and that's when your Honor said you've
17 seen the document, you're familiar with it, and
18 Mr. Lisowski said yes to both questions. I don't see
19 how it could be even conceivably possible that
20 Mr. Lisowski could rule that contract out as a legacy
21 cost but not be familiar with it or not believe it's
22 authentic or not believe it is what it says it is.

23 EXAMINER PRICE: The easiest solution to
24 this I will temporarily change my mind and defer
25 ruling on this, and we'll look at the overnight

1 transcript and see what it says.

2 MR. MICHAEL: The other thing that I
3 would add, your Honor, I believe the document is
4 self-authenticating, it's a public record, it's
5 subject to easy confirmation. It's a contract
6 between the United States Government and FENOC so,
7 your Honor, could take administrative notice of it
8 too, in addition to the fact that it went in the
9 old-fashioned way with the witness.

10 EXAMINER PRICE: Now, you're hedging on
11 your argument that I properly laid the foundation.

12 MR. MICHAEL: I'm just covering all my
13 bases, your Honor.

14 EXAMINER PRICE: I'm just kidding. We
15 will take a look at the transcript and see what took
16 place between the Bench and witness, and we'll make a
17 decision based on that.

18 MR. ALEXANDER: Thank you, your Honor.

19 EXAMINER PRICE: However, remind me if we
20 don't come back until after break or tomorrow if we
21 don't raise this again. I don't want this to get
22 lost in the shuffle.

23 MR. MICHAEL: Your Honor, is your Honor
24 in a position notwithstanding what the record says to
25 admit it based on the fact that it's taking

1 administrative notice of it?

2 EXAMINER PRICE: I want to take a look at
3 what happened in the transcript.

4 MR. MICHAEL: Thank you, your Honor.

5 EXAMINER PRICE: Okay. Now, at this time
6 we will take a six-minute break until 2:45, at which
7 time we will take Mr. Moul. Thank you all. We're
8 off the record.

9 (Recess taken.)

10 EXAMINER PRICE: Let's go back on the
11 record. I'd just like to correct a mistake that I
12 made. In the previous transcript we did not go back
13 to the public record, so everything that begins with
14 "Mr. Lisowski, you're long last excused" through the
15 admission of all the documents will be on the public
16 transcript rather than the confidential transcript.

17 Okay. At this time call your next
18 witness.

19 MR. LANG: Thank you. The companies
20 called Mr. Moul.

21 EXAMINER PRICE: Just to be clear, we are
22 on the public transcript now.

23 (Witness sworn.)

24 EXAMINER PRICE: Please state your name
25 and business address for the record.

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THE WITNESS: My name is Donald Moul. My business address is 341 White Pond Drive, Akron, Ohio 43220.

EXAMINER PRICE: Please proceed, Mr. Lang.

(EXHIBITS MARKED FOR IDENTIFICATION.)

MR. LANG: Thank you, your Honor. And, your Honor, we have premarked Company Exhibits 28, 29, and 30, and we'll have Mr. Moul explain what each is.

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DONALD MOUL

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

DIRECT EXAMINATION

By Mr. Lang:

Q. Mr. Moul, can you identify what has been marked in front of you as exhibits -- Company Exhibits 28, 29, and 30 confidential, please.

A. Yes. Exhibit 28 is my direct testimony. 29 is my supplemental testimony in the public version, and 30 is my supplemental testimony in the confidential version.

Q. And do you have any corrections to make to these three documents? And let's start with your direct testimony.

A. Yes. In my direct testimony, there's a change in my title. So if you go to page 1, and it would be line 3, following "I am," the title is "Senior Vice President, Fossil Operations and Environmental at FirstEnergy Generation, LLC, a Subsidiary of FirstEnergy Solutions."

Moving on, on line 20 on that same page, strike the word after "my current." So strike "current," and then at the beginning of the next sentence, "as Vice President of Commodity Operations"

1 in place of "in my current position, I" and then
2 strike "am" and replace with "was."

3 Q. Are those all the corrections you have to
4 make to your direct testimony, Exhibit 28?

5 A. Yes.

6 Q. Let's go to your supplemental testimony.
7 Would you make the same change on page 1, line 3 of
8 your supplemental as you made in your direct
9 testimony?

10 A. Yes, I would.

11 Q. And then skipping for a moment page 3,
12 can you go to page 5 and identify what corrections
13 you have made.

14 A. On page 5, lines -- well, starting at
15 line 15, following the word "FERC," I would strike
16 everything in the remainder of that answer and
17 replace after "FERC" the words "approved a modified
18 capacity performance plan in August of 2015."

19 MR. LANG: And, your Honor, we have one
20 correction to make in his supplemental testimony in
21 the confidential section of his supplemental
22 testimony, which will require an identification of
23 two numbers which would require us, I believe, to go
24 in the confidential portion of the transcript. I
25 think that doesn't mean changing anything in the

1 room. I think everyone here is on the
2 confidential -- has signed a confidentiality
3 agreement. I just want to make clear that for the
4 transcript we're switching for one minute to a
5 confidential discussion.

6 EXAMINER PRICE: Let's just do that -- is
7 it going to prejudice the parties' public cross if we
8 do that before we do the confidential cross?

9 MR. LANG: And so they understand it,
10 it's a change to figure 3.

11 MR. FISK: Which page?

12 MR. LANG: Page 3.

13 MS. GRADY: Is it a correction?

14 MR. LANG: Yes.

15 EXAMINER PRICE: Okay. Let's just go to
16 confidential. At this time we're going to go back in
17 the confidential portion of our transcript.

18 (CONFIDENTIAL PORTION EXCERPTED.)

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(OPEN RECORD.)

Q. (By Mr. Lang) Mr. Moul, if I ask you the same questions that are in your direct testimony and your supplemental testimony, Exhibits 28, 29, and 30 as modified and corrected by you this afternoon, would you provide the same answers?

A. Yes.

MR. LANG: Your Honor, Mr. Moul is available.

EXAMINER PRICE: Thank you. Let's go off the record for a moment.

(Discussion off the record.)

EXAMINER PRICE: Let's go back on the record. Ms. Grady.

MS. GRADY: Thank you, your Honor.

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CROSS-EXAMINATION

By Ms. Grady:

Q. Good afternoon, Mr. Moul.

A. Good afternoon.

Q. Now, on your testimony at page 2, specifically I want to direct your attention to lines 17 through 18, and there, Mr. Moul, you state the reasons that the plants' economic viability is in doubt. Do you see that reference?

A. You said lines 17 and 18?

Q. Yes.

A. Yes.

Q. And you attribute the plants' economic viability as being in doubt because of the historic lows and the fact that the revenue is insufficient to permit FES to continue operating the plants and to make the necessary investments, correct?

A. Yes.

Q. Now, the plants you were referring to there, those would be Davis-Besse and Samsis, correct?

A. Yes.

Q. And the OVEC plants are not included in that statement.

A. The OVEC plants are included as part of

1 the proposal, at least our portion of the OVEC
2 plants, as that was the base of what we are offering
3 to the companies, but when I specifically mentioned
4 it here, it's about the plants, Davis-Besse and
5 Sammis.

6 Q. You are not stating that the OVEC
7 plants -- that the economic viability of the OVEC
8 plants is in doubt.

9 A. The OVEC plants are subject to the same
10 market conditions that our Sammis and Davis-Besse
11 plant are. So while we don't make a lone retirement
12 decision for those plants, they are still under the
13 same market stresses. This specific section is
14 talking about Sammis and Davis-Besse.

15 Q. Have you talked to the other owners --
16 let me strike that.

17 Now, you state on lines 19 and 20 that
18 the "Near-term forecasts for energy and capacity
19 prices are unfavorable." Do you see that reference?

20 A. Yes.

21 Q. And that reference is unfavorable from
22 the perspective of FirstEnergy Solutions, correct?

23 A. Unfavorable for the plants that we're
24 discussing which are part of the FirstEnergy
25 Solutions' portfolio.

1 Q. Now, you have evaluated the economic
2 viability of the plants by looking at two things,
3 correct? You've looked at the profit and loss
4 statements for the plants, and you've looked at the
5 market trends of energy and capacity, correct?

6 A. Yes. I've looked at the P&Ls for the
7 plants. I've looked at market projections which
8 include a variety of market indicators.

9 Q. Now, Mr. Moul, your analysis focused not
10 only on the forecasts -- focused not only on past but
11 on also forecasted profits and losses for the plants;
12 is that right?

13 A. Yes. As referenced in my testimony, you
14 see that it refers to Witness Rose's forecasts for
15 market prices of energy and capacity.

16 Q. And your analysis was also focused on the
17 forecasted market trends; is that correct?

18 A. Yes. The general market trends which I
19 see is part of my day-to-day function of FirstEnergy
20 Solutions.

21 Q. And, again, the information you were
22 focusing on was an analysis by Judah Rose; is that
23 correct?

24 A. No. It was an input from Judah Rose that
25 factored into the workpapers that Jason Lisowski

1 provided.

2 Q. So the impact to Judah Rose is what is
3 contained in Mr. Lisowski's schedules; is that
4 correct?

5 A. Yes.

6 Q. Now, it's your understanding, is it not,
7 that Mr. Lisowski presents the profit and loss
8 statements for Davis-Besse and Sammis in his
9 testimony?

10 A. Yes.

11 Q. And that would be presented in JYL-1
12 through 3?

13 A. I'm not -- you're talking the specific
14 numbers, the workpaper numbers?

15 Q. Yes, the schedules actually.

16 A. Yes.

17 Q. And those would show the projected
18 profits and losses from 2016 through 2031?

19 A. Yes.

20 Q. Now, in your supplemental testimony, Mr.
21 Moul, you present Figures 1, 2, and 3 that are
22 showing the historic profits and losses for
23 Davis-Besse, Sammis, and OVEC; is that right?

24 A. Yes.

25 Q. Are the profits and losses that you show

1 in your supplemental testimony calculated consistent
2 with the profits and losses that are shown in
3 Mr. Lisowski's testimony?

4 A. May I have a copy of Mr. Lisowski's
5 testimony?

6 MS. GRADY: If counsel could provide
7 that, please, for the witness.

8 MR. LANG: You're asking about
9 Attachments JLL-1 through 3?

10 MS. GRADY: I would think the entire
11 testimony, yes.

12 MR. LANG: One minute, your Honor.

13 Counsel, he has Mr. Lisowski's testimony
14 in front of him.

15 MS. GRADY: Thank you.

16 THE WITNESS: Could I have the question
17 read back again.

18 EXAMINER PRICE: You may.

19 (Record read.)

20 A. No. If you look at -- actually, let me
21 see if this is in the public section or in the
22 confidential.

23 Q. And certainly if you can, answer my
24 question. That's why I'm trying to be very careful
25 because I do have questions for the confidential

1 section, but I thought we could handle these here in
2 the public section.

3 A. The tables in Figures 1 and 2 as well as
4 Table 4 don't include interest, expense, or return on
5 equity, so that's the difference between the two.

6 Q. Thank you.

7 EXAMINER PRICE: Can I have that answer
8 back, please.

9 (Record read.)

10 Q. Now, Mr. Moul, it's your understanding
11 that profit and loss statements are done on a normal
12 course of business basis for all of FirstEnergy
13 Solutions' plants?

14 A. We will typically look at profit and
15 losses on an aggregate basis, not necessarily break
16 them down to specific plant by plant.

17 Q. Could you tell me as we sit here today
18 how Sammis and Davis-Besse stack up against the
19 remaining FES plants in terms of historic profits and
20 losses?

21 MR. LANG: Objection, your Honor.

22 EXAMINER PRICE: Grounds?

23 MR. LANG: With regard to testimony
24 concerning other plants that are not at issue in this
25 case, the ground is relevance and outside the scope

1 of his testimony. Mr. Moul is talking about the
2 proposal involving Sammis and Davis-Besse and the
3 interest in OVEC, not other plants in the FES fleet.

4 EXAMINER PRICE: Ms. Grady.

5 MS. GRADY: Your Honor, I believe Mr.
6 Moul also has testimony that he believes that
7 FirstEnergy Solutions may not be able to sustain or
8 may not be interested in sustaining and continuing to
9 operate these plants and so this question goes to the
10 profitability and the viability of other units and
11 why those other units aren't being proposed as part
12 of the PPA.

13 EXAMINER PRICE: Overruled.

14 THE WITNESS: Could you read the question
15 back again, please.

16 (Record read.)

17 A. When I think of the overall portfolio
18 without going into confidential values, there's a
19 range of performance. It varies by year. I would
20 say Sammis and Davis-Besse are amongst the middle of
21 the pack associated with that portfolio.

22 Q. And you can't tell me as we sit here
23 today how Sammis and Davis-Besse stack up against
24 other FES plants in terms of forecasting profits and
25 losses, correct?

1 A. I have not reviewed forecasts for the
2 other FES plants.

3 Q. Now, on page 2 of your testimony,
4 specifically I want to direct your attention again to
5 lines 17 through 19, and you state there that
6 market-based revenues for energy and capacity are
7 insufficient to permit FES to continue operating the
8 plants and to make necessary investment. Do you see
9 that?

10 A. Yes.

11 Q. And FES would measure revenues sufficient
12 to permit it to continue to operating the plant as --
13 let me strike that.

14 When you say that they need market
15 revenues necessary to continue operating the plants,
16 you're talking about the revenues that would cover
17 the total costs, the fully loaded costs of the
18 plants, correct?

19 A. Yes, plus at least some rate of return.

20 Q. And those fully-loaded costs would
21 include interest and depreciation?

22 A. Yes.

23 Q. Now, let's focus a moment on the term you
24 call "necessary investment." By necessary
25 investment, you mean capital investments to ensure

1 reliable service?

2 A. It can be capital investments, O&M,
3 whatever is needed to support and improve reliability
4 of the system -- of the plants. I'm sorry.

5 Q. And by reliable service, you mean
6 operating at or better than the previous equivalent
7 forced outage rate values?

8 A. Yes, at least holding ground on where
9 you're at.

10 Q. Can you tell me where in the companies'
11 filing we would see that FES has identified the
12 necessary investment on a per unit basis for Sammis
13 and Davis-Besse?

14 A. I think that may be part of Mr. Harden's
15 testimony as far as capital investments that are
16 planned for the units.

17 Q. Now, on page 3 of your testimony,
18 specifically lines 4 through 8, you talk about market
19 pricing, and you refer back to 2008. Do you see that
20 reference?

21 A. Yes.

22 Q. And you testified there that when we look
23 at the data for Davis-Besse and Sammis and we look at
24 the trends, since 2008 to present, that you conclude
25 the economic viability of Davis-Besse and Sammis has

1 been in doubt; is that right?

2 A. I don't specifically call out the trends,
3 but the values that we have seen through that time
4 frame would lead to my conclusion that the future of
5 the plants is in doubt.

6 Q. Now, your supplemental testimony Figures
7 1, 2, and 3, those would show the trends in market
8 pricing for energy and capacity; is that correct?

9 A. No. They would show the actual
10 performance, but I wouldn't say that they would show
11 necessarily a trend. There are some up years. There
12 are some down years.

13 Q. Now, let's go to page 6 of your
14 testimony. There you're talking about the Powering
15 Ohio's Progress, and you testified that as part of
16 Powering Ohio's Progress, if that were supported --
17 let me strike that.

18 You testified on page 6 that as part of
19 the Powering Ohio's Progress plan, that the economic
20 stability program would stabilize and provide
21 certainty as well as resource diversity. Do you see
22 that?

23 A. Could you give me a line reference,
24 please?

25 Q. That would be lines 7 and 8 on page 6 of

1 your initial testimony.

2 A. Yes, I see that.

3 Q. Now, then in the following answer, you go
4 on to describe what you believe is resource
5 diversity. Do you see that?

6 A. Yes.

7 Q. And in that answer, when you speak of
8 resource diversity, you are speaking of the
9 importance of diversity for not only Ohio but for
10 diversity across the PJM grid; is that correct?

11 A. Yes, the importance of resource diversity
12 would be equally important not just in Ohio but
13 across the generation footprint in PJM.

14 Q. Now, if Davis-Besse and Sammis were
15 retired, you don't know how that would affect the
16 generation mix in Ohio or across PJM; is that
17 correct?

18 A. No. What I do know is if Davis-Besse and
19 Sammis were retired, the generation mix in Ohio would
20 be more dominated and supply stacked by gas-fired
21 generation, and you would have a reduction obviously
22 in nuclear as well as coal generation in the state of
23 Ohio.

24 Q. Now, on page 4 of your testimony, lines
25 10 through 12, you discuss the planned retirements

1 and the megawatt center at risk of retirement. Do
2 you see that reference?

3 A. Could you give me the line numbers again?

4 Q. That would be lines 10 through 12 on page
5 4 of your direct testimony.

6 A. Yes, I see that reference.

7 Q. Would you agree with me that the capacity
8 additions that are planned for PJM could offset some
9 of the losses but that will be dependent on the size
10 of the planned additions?

11 A. No, and the reason I say that is most of
12 the PJM queue is natural gas-fired generation that is
13 susceptible to interruptions during peak demand
14 times, particularly in the winter; whereas, the
15 plants that we're offering which go back to the value
16 of resource diversity provide in the case of the
17 Sammis plant 30 days of fuel on site that's
18 controlled at the site.

19 In the case of Davis-Besse, up to two
20 years of fuel in the reactor core after refueling
21 that's available without interruption to provide
22 reliable power 24/7. So the reliability value of a
23 natural gas plant that has an interruptible fuel
24 supply isn't equivalent to that of a coal plant like
25 Sammis or that of Davis-Besse.

1 MS. GRADY: Could I have the question and
2 answer reread, please?

3 EXAMINER PRICE: You may.

4 (Record read.)

5 Q. Your answer is really going to the
6 reliability of what comes on queue. My question
7 specifically asked you whether you would agree that
8 the planned additions would offset some of the
9 losses, not whether the -- what your opinion was on
10 the reliability of new planned additions. So, again,
11 let me try to ask you my question. My question is,
12 would you agree that the capacity additions that are
13 planned for PJM would offset some of the losses that
14 you refer to in your testimony?

15 MR. LANG: And, your Honor, I would
16 object to the preamble. I believe he was trying to
17 answer the question. I do not object to the last
18 part of that that did sound like a question.

19 EXAMINER PRICE: Overruled.

20 THE WITNESS: Could you read the question
21 back to me again.

22 (Record read.)

23 A. With respect to what's planned for all of
24 PJM, which is where this reference is from, I would
25 say it depends on the plant location and the resource

1 that's being put back into the marketplace. Location
2 matters for being able to compensate for retiring
3 plants, particularly with where they are on the
4 transmission system, so I think some subset of what's
5 in the queue might be able to replace what has been
6 retiring, but what's in the queue typically only
7 about 7 percent gets built, so it will be some small
8 portion, I would say.

9 Q. Now, Mr. Moul, Davis-Besse, Sammis, and
10 OVEC are must-offer units for purposes of the PJM
11 capacity performance proposal?

12 A. Yes. Actually, all units, unless you've
13 got an exemption from the market monitor, have a
14 must-offer requirement into the capacity performance
15 proposal.

16 Q. Now, under the PPA, if FES incurs a
17 penalty under the capacity performance program, that
18 would be -- that penalty would be a cost of the plant
19 under the PPA rider; is that correct?

20 A. Well, first of all, the PPA is a
21 bilateral contract between the FirstEnergy Solutions
22 and the companies. And so when that occurs, the
23 capacity benefits and/or costs would flow through to
24 the companies' account.

25 Q. So if you received a penalty, that would

1 flow through as part of the PPA rider and eventually
2 be charged to customers, correct?

3 MR. LANG: Objection. Just to be clear,
4 when you say when you receive a penalty, are you
5 talking about FES or the companies?

6 Q. Let me correct. I'm sorry. Under the
7 PPA, if FES incurs a penalty or the plant related to
8 capacity performance, that penalty would become part
9 of the costs that would go into the charges to FE,
10 correct?

11 MR. LANG: Could I have that read back,
12 please.

13 EXAMINER PRICE: You may.

14 (Record read.)

15 A. So if I understand your question, I think
16 there's a bit of a nuance here.

17 Q. Okay.

18 A. Because were the proposed transaction
19 approved and the PPA in place between FirstEnergy
20 Solutions and the companies, the companies would
21 control capacity. They would dispatch the units
22 while FirstEnergy Solutions would operate the units.
23 Any capacity benefit and/or cost associated with
24 capacity performance would flow through the
25 companies' account.

1 Q. Correct. But it is the units that are
2 owned by FES; isn't that correct?

3 A. Yes, that's correct.

4 Q. And the capacity performance, the
5 penalty, would come from the performance of the units
6 related to offering them into PJM, correct?

7 A. Yes.

8 Q. Now, let's move to your supplemental
9 testimony, Mr. Moul. You state on page 4 that the
10 owners of the plants must make capital investments to
11 keep the plants running, correct?

12 A. Could you give me a line reference?

13 Q. That would be lines 6 and 7.

14 A. Yes.

15 Q. Now, it is your belief, Mr. Moul, that
16 the First -- that FirstEnergy Corporation could
17 borrow money to invest in these plants; isn't that
18 correct?

19 A. Yes, that's possible.

20 Q. And you are not testifying, are you, that
21 you believe FirstEnergy Corporation would be unable
22 to finance the necessary capital investments if the
23 economic stability program is not approved, correct?

24 A. No, I'm not.

25 Q. Mr. Moul, are you familiar with the

1 Davis-Besse steam generator replacement and refueling
2 efforts that took place in the spring of 2014?

3 A. Yes, I understand the scope of those
4 outages. I wasn't directly involved in them, but as
5 part of FirstEnergy Solutions, I'm cognizant of them.

6 Q. And you have a background dealing with
7 nuclear plants and nuclear outages, correct?

8 A. Yes, I do.

9 Q. Do you understand that two generators
10 were replaced and that refueling occurred and that
11 outage maintenance took place as well?

12 A. Yes.

13 Q. Can you tell me how often steam
14 generators are replaced at Davis-Besse?

15 A. Well, typically at a nuclear unit, you
16 will replace steam generators once in its lifetime,
17 and originally they were designed to go for, you
18 know, 40 years on their normal operating cycle and
19 going into extended plant life. Some of the material
20 performance through the years and operating
21 experience show that some of the steam generators
22 need to be replaced before that 40- or 60-year
23 timeline, and so you'll typically have that happen
24 once in the lifetime of a reactor. So it's behind
25 the Davis-Besse plant right now.

1 Q. Can you tell me how often refueling
2 occurs?

3 A. Yes. Right now, Davis-Besse is on a
4 two-year refueling cycle. So once it refuels, that
5 plant can operate at 100 percent power for up to two
6 years.

7 Q. And can you tell me how often outage
8 maintenance is conducted?

9 A. All things in a perfect world at
10 Davis-Besse, you would really only do your typical
11 large-scale outage-related maintenance on that
12 two-year frequency, but the work management process
13 allows for you to take equipment outages while the
14 plant is online. You do a lot of preventative
15 maintenance, any minor or corrective maintenance at
16 that time, and you do a lot of surveillance testing
17 in the nuclear industry to make sure all of your
18 equipment is operating to meet your technical
19 specification requirements and in top form. So it's
20 a very rigorous process to do maintenance continually
21 as risk and system conditions allow.

22 Q. Now, I'm going to turn back to your
23 original testimony, that's Company Exhibit 28, and
24 specifically direct your attention to page 4 of your
25 testimony, lines 1 through 3. Do you have that

1 reference?

2 A. I do, yes.

3 Q. And there you state that "Simply put, FES
4 may not be able to continue incurring losses by
5 continuing to run the Plants in the near term in
6 order to incur the long-term benefits associated with
7 the Plants." Do you see that?

8 A. Yes.

9 Q. And by that, you mean that FES may not be
10 willing to have greater expenses than revenues for
11 the plants?

12 A. What I mean by that is depending upon
13 market outlooks, actual energy prices in the near
14 term, FirstEnergy Solutions may reach a point where
15 these plants aren't covering their avoidable costs,
16 at which point we would have to make a decision as to
17 whether to continue to invest in them and to keep
18 them online or choose to shut the units down.

19 Q. Would you agree with me that FES may not
20 be willing to take losses to get to the long-term
21 gains associated with these units?

22 A. Yes.

23 Q. And the factors that will determine if
24 FES can continue to incur losses would include the
25 costs of the units and the earnings expectations for

1 the corporation; is that correct?

2 A. It would be -- let me start again. I
3 disagree. I think it's other things than that. It
4 would be the actual performance of the plants. It
5 would be any required expenditures associated with
6 the plants. It would be balancing that against the
7 revenues that they're gaining through energy and
8 capacity markets and seeing if they're making their
9 avoidable costs, covering their avoidable costs at
10 least.

11 Q. It would at least include the earnings
12 expectations for the corporation; isn't that correct?

13 A. This is a smaller portion of that. I
14 mean, it would be a drag. If it wasn't covering its
15 avoidable costs, it would be potentially a drag on
16 the earnings of the corporation.

17 Q. Now, you're familiar, are you not, with
18 the term competitive energy services as it's used to
19 describe the reportable operating segment of
20 FirstEnergy Corporation?

21 A. Yes.

22 Q. Do you understand that FirstEnergy
23 Corporation is the owner of FES and the FE Ohio
24 companies?

25 A. Yes.

1 Q. And that the competitive energy services
2 segment of FE Corporation consists of two entities,
3 FirstEnergy Solutions and AES Supply?

4 A. Could you repeat that question again?

5 Q. Is it your understanding, Mr. Moul, that
6 the competitive energy services segment of
7 FirstEnergy Corporation consists of two entities
8 which are FirstEnergy Solutions and AES Supply?

9 A. Meaning Allegheny Supply, Allegheny
10 Energy Supply?

11 Q. Yes.

12 A. Yes.

13 Q. Now, the competitive energy segment
14 supplies electricity to end-use customers through
15 retail and wholesale arrangements; is that correct?

16 A. Yes.

17 Q. And the retail arrangements would include
18 competitive retail sales to customers in Ohio?

19 MR. LANG: Can we stop for a minute.
20 Could you ask that again?

21 Q. The competitive energy services segment
22 supplies electricity to end-use customers through
23 retail and wholesale arrangements?

24 A. Yes.

25 Q. And the retail arrangements would include

1 competitive retail sales to customers in Ohio,
2 correct?

3 A. Yes.

4 Q. In your former position as vice
5 president, commodity operations at FES, you would be
6 responsible for retail structuring and pricing of
7 wholesale transactions for FES; is that correct?

8 MR. LANG: Objection, your Honor.

9 EXAMINER PRICE: Grounds?

10 MR. LANG: Objection, your Honor. She
11 hasn't established a relevance to this line of
12 questioning to his testimony and the Sammis and
13 Davis-Besse plants being at risk, which is what his
14 testimony is about. It matters with regard to other
15 FES issues. Retail wholesale supply is outside of
16 what's at issue in this case.

17 EXAMINER PRICE: Can I have the last
18 question back, please.

19 (Record read.)

20 EXAMINER PRICE: Ms. Grady?

21 MS. GRADY: Your Honor, he testified
22 going back to his testimony on page 4, lines 1
23 through 3, that FES may not be able to continue
24 incurring losses, and one of the factors that he
25 testified to was that part of whether they would

1 continue to do that was the earnings expectations of
2 the corporation. So I'm exploring that a little bit
3 in terms of what the earnings expectation -- what
4 actions he has taken in his position related to other
5 avenues to shore up the earnings of FES Corporation.

6 EXAMINER PRICE: We'll give Ms. Grady
7 some leeway here.

8 MS. GRADY: Thank you, your Honor.

9 THE WITNESS: So can I have the question
10 again? I'm sorry.

11 MS. GRADY: We'll have to have that
12 reread. Thank you.

13 (Record read.)

14 A. As part of my responsibilities that I had
15 at FirstEnergy Solutions, transactions in the
16 wholesale marketplace as well as instructing and
17 pricing was really more of retail contracts, so yes.

18 Q. Now, you were aware, Mr. Moul, the action
19 that's been taken over the last several years to
20 reposition the competitive energy services segments
21 of FE Corporation?

22 A. If what you're referring to is changing
23 our strategies towards how much we sell in the
24 marketplace, yes, I am familiar with that.

25 Q. Is it your understanding that the

1 repositioning we were talking about has reduced the
2 risks and better enabled FES to capture market
3 opportunities?

4 MR. LANG: Objection again, your Honor.
5 I believe you were giving her some leeway. There is
6 still no relationship to Sammis or the Davis-Besse
7 plant, however.

8 EXAMINER PRICE: Overruled.

9 THE WITNESS: Could I hear that question
10 again, please.

11 (Record read.)

12 A. The repositioning of the FirstEnergy
13 Solutions was really about reducing risk to the
14 business and to provide greater certainty of results,
15 not necessarily drive higher earnings, but to provide
16 greater certainty and limit potential downside.

17 Q. And how did you reduce in the
18 repositioning -- how did your repositioning efforts
19 reduce the risks to FirstEnergy Solutions?

20 A. This really kind of goes towards our
21 strategic positioning at FirstEnergy Solutions. I
22 don't know if this is something that should be in the
23 confidential section or not. We have talked about
24 some of this in the public domain.

25 Q. And are you aware of efforts to talk

1 about it in terms of your annual report? Do you
2 understand that there are statements in the annual
3 report with respect to your repositioning?

4 A. They focus on reducing the risk and
5 providing a more predictable outcome.

6 Q. And so I guess my question again is how
7 do you reduce the risks for FES Solutions by your
8 repositioning in the marketing efforts?

9 MR. LANG: Objection, your Honor. I
10 believe the annual report is already in the record so
11 the public statements are in the record. They can
12 refer to that in their brief. To the extent that
13 she's asking for confidential discussion of
14 explanations of strategies behind what is in the
15 annual reports, No. 1, it's not relevant, and No. 2,
16 even if it were relevant, should certainly be in the
17 confidential portion of the transcript.

18 EXAMINER PRICE: Go ahead.

19 MS. GRADY: Your Honor, I'm not asking
20 anything -- I mean, we could go to the statements in
21 the annual report. That's all I'm asking for. If we
22 need to go into confidential, if the witness feels
23 that there's a need to put this on the confidential
24 portion of the record, I'd be happy to save my
25 questions for that.

1 MR. LANG: Your Honor, if all she wants
2 is the statements in the annual report, it's in the
3 record. Let's move on.

4 MS. GRADY: I'm tying up the statements
5 in the annual report to give them context.

6 MR. LANG: The statements are the
7 statements.

8 EXAMINER PRICE: She'll make it all clear
9 to us in due course.

10 MS. GRADY: Thank you.

11 EXAMINER PRICE: Very quickly.

12 MS. GRADY: There was a question pending.

13 EXAMINER PRICE: There is.

14 A. So at a high level, our approach has been
15 to not sell more than we generate and to provide a
16 cushion for when there are extreme conditions that
17 cause load to rise in the customers we're serving.
18 We focus mostly on non-weather sensitive customers
19 and high load factor. They're much more attractive
20 because of their stability of usage. We also have
21 more going into the wholesale marketplace because
22 it's not weather sensitive, and it hedges forward
23 your generation to provide a certainty of earnings.

24 Q. Would you agree with me that FES is no
25 longer selling electricity to medium-sized companies

1 and industries as part of their repositioning efforts
2 and as part of their efforts to reduce the risks to
3 FES?

4 A. Medium commercial industrial was the
5 channel that we would refer to that as, and we
6 discontinued our sales in that channel in order to
7 derisk the business, yes.

8 Q. And as part of your efforts, you also
9 laid off a number of employees, is that correct, in
10 the sales and support staff of that commercial
11 segment?

12 MR. LANG: Objection, your Honor. There
13 is no tying together. This is just argumentative
14 issues about a side issue with regard to some other
15 aspect of FES's operations. It's not about the
16 generation of Sammis and Davis-Besse.

17 EXAMINER PRICE: Well, I think the
18 problem is if you look at his testimony on 23 -- or
19 page 3, line 23 and carrying on to page 4, he's
20 talking generally about what FES can't -- the losses
21 FES can and can't bear and, likewise, I think our
22 last witness had some testimony that it wasn't just
23 focused on the plants themselves. It was the other
24 plants in their fleet. I think the companies can't
25 have it both ways.

1 MR. LANG: I believe, your Honor, the
2 last witness talked about how each plant has to stand
3 on its own.

4 EXAMINER PRICE: That might have been two
5 witnesses ago. It's been a long morning. I think
6 that was referring to Mr. Staub actually. Sorry
7 about that.

8 MR. LANG: I stand corrected.

9 EXAMINER PRICE: So go ahead and answer
10 the question.

11 THE WITNESS: I need it read back again,
12 if I could, please.

13 (Record read.)

14 A. Yeah, as part of repositioning our
15 strategy going forward, we had a reduction in force
16 and a restructuring of our organization of
17 FirstEnergy Solutions.

18 Q. Can you tell me how the repositioning
19 allows you to hedge generation more effectively?

20 A. As I said earlier, we're focusing more on
21 non-weather sensitive load to serve and there is more
22 wholesale transactions in the marketplace that we're
23 involved with. We still do serve some weather
24 sensitive load, but we've chosen a balance between
25 weather sensitive and non-weather sensitive load, and

1 we've maintained a percentage of our generation that
2 we do not sell forward to provide a cushion should
3 there be extreme load conditions.

4 Q. Can you tell me what a committed position
5 would be for FES?

6 A. I guess I would ask you what are you
7 defining as a committed position?

8 Q. In the annual report, it's reported that
9 CES, the commercial energy sales, retail sales
10 position in 2014 was 30 percent committed. Can you
11 tell me what that means?

12 A. Yeah. In that context, the percentage
13 that's committed is what's locked in to a sale at a
14 known price.

15 Q. And that that commitment was reduced from
16 2013, correct, where you were at 60 percent
17 committed?

18 A. I'd have to see the different references
19 you're talking about and for which years you're
20 talking about because it varies based on how much you
21 commit ahead of time before getting into a delivery
22 year.

23 Q. And as part of risk mitigation, you would
24 want to bring your commitment down, is that correct,
25 as part of the repositioning and risk mitigation for

1 FirstEnergy Solutions?

2 A. Let me put it this way, you're selling
3 less of your generation, but you want to sell it as
4 promptly as you can before the delivery year to
5 eliminate price risk in the marketplace.

6 Q. And so a move to have less commitment is
7 a move to reduce risk; is that correct?

8 A. Yes, when compared to your total
9 generation, but I want to be clear, you want to close
10 and commit those sales as promptly as you can to
11 eliminate market price risk for that open position.

12 MR. HAYS: Your Honor, could I ask for
13 that to be read back?

14 EXAMINER PRICE: You may.

15 MR. HAYS: Thank you.

16 (Record read.)

17 Q. Did the repositioning reduce FES's
18 exposure to weather sensitive load in certain sales
19 channels?

20 A. Yes.

21 Q. And would you agree with me that the
22 repositioning was in response to the polar vortex?

23 A. Yes.

24 Q. Would you agree with me that FES
25 maintains a smaller open position in order to take

1 advantage of the upside opportunities resulting from
2 volatility in the markets?

3 A. You said a smaller open position?

4 Q. Yes.

5 A. No. We maintain a larger open position.
6 As I said, we sell less of our available generation.

7 Q. Thank you for that.

8 A. You're welcome.

9 Q. Maintaining a larger open position allows
10 you to take advantage of those upside opportunities
11 and the volatility in the market?

12 A. More than anything, it protects you
13 against those blowout days when load is extremely
14 high and customer usage goes up.

15 MS. GRADY: Your Honors, that's all the
16 cross-examination I have that is in the public
17 portion. I do have confidential questions.

18 Thank you, Mr. Moul.

19 THE WITNESS: You're welcome.

20 EXAMINER PRICE: Thank you.

21 Mr. Stinson.

22 MR. STINSON: No cross, your Honor.

23 EXAMINER PRICE: Mr. Oliker.

24 MR. OLIKER: Thank you, your Honor.

25 - - -

1 CROSS-EXAMINATION

2 By Mr. Oliker:

3 Q. Good afternoon, Mr. Moul. My name is Joe
4 Oliker with IGS. I have a few questions for you.
5 You talked a little bit about the capacity
6 performance obligation with Ms. Grady. Would you
7 agree that under the capacity performance product it
8 eliminates the natural gas unit's ability to avoid
9 its obligation to perform?

10 A. Yes. Under the capacity performance
11 proposal, there is no excuses structured to it, so
12 regardless of what type of generation, whether it's
13 natural gas or any other type, it gets no excuse if
14 it doesn't perform for its commitment.

15 Q. And as part of the capacity performance
16 product, a natural gas unit can now include the cost
17 of obtaining firm transportation in its offer,
18 correct, in with the capacity market?

19 A. Yes, amongst other things, as well as a
20 risk adder associated with the penalties.

21 Q. Okay. And if a natural gas power plant
22 procures firm pipeline transportation and enters into
23 a long-term contract for its fuel, it can operate as
24 reliable baseload generation, correct?

25 A. I would disagree. When I look at, for

1 example, the 2015 PJM winter report, I see gas
2 interruptions during those emergency times of about
3 30 percent of natural gas plants being unable to get
4 their gas supply. And while some of them were behind
5 the local distribution company, the LDC, there's a
6 fair number of those that were on the interstate
7 pipeline with day-ahead reserves. So by its very
8 nature, just because you have a contract doesn't mean
9 the contract can't be breached.

10 Additionally, a pipeline typically
11 doesn't have the defense and depth that an electric
12 grid or transmission system does. There is one
13 pipeline coming to a plant, so a mechanical failure
14 anywhere on that system could render that plant
15 incapable of performing and expose it to potential
16 penalties.

17 EXAMINER PRICE: Does PJM share your
18 concerns?

19 THE WITNESS: I can't speak for PJM,
20 although in some of the different conferences I've
21 been to, that concern has been discussed. And that's
22 kind of why the structure of this capacity
23 performance has this no excuse portion to it.
24 They're trying to drive through with the large
25 penalty payments the right behavior from all of the

1 generators to get as firm a supply as possible.

2 EXAMINER PRICE: I guess I didn't phrase
3 that properly. It's my fault. Does PJM somehow
4 discount natural gas generation because it's not as
5 reliable as coal or nuclear?

6 THE WITNESS: No. PJM looks at
7 generation as generation is generation, and so when
8 you clear as capacity performance, you're held to the
9 same standard as any other fuel source.

10 EXAMINER PRICE: PJM doesn't distinguish
11 between the different types?

12 THE WITNESS: That's correct.

13 MR. OLIKER: Your Honor, may I please
14 approach the witness?

15 EXAMINER PRICE: You may.

16 Q. Mr. Moul, did you have your deposition
17 taken on June 24, 2015?

18 A. Yes.

19 Q. Could you please turn to page 130. And
20 starting on line 4, the question from myself: "Okay.
21 And if a natural gas power plant does, in fact,
22 procure firm pipeline transportation and secures a
23 long-term contract for natural gas, it can operate as
24 reliable baseload generation?

25 "Answer: Is that a question?

1 "Question: Yes.

2 "Answer: Are you asking do I believe
3 that?

4 "Question: Yes.

5 "Answer: I believe it can, yes."

6 Did I read that correctly?

7 A. Yes.

8 Q. Thank you. And, Mr. Moul, would you
9 agree that during the winter of 2014-15, this past
10 winter, the FirstEnergy Solutions' generation that
11 did, in fact, have firm pipeline transportation had
12 no problem getting gas?

13 A. Yes.

14 Q. And that was also in part because FES
15 hedges out their gas in advance?

16 A. Yes.

17 Q. And I believe this is on page 6 of your
18 testimony, supplemental testimony.

19 A. Supplemental.

20 Q. Actually, I may have it backwards. I'm
21 sorry. Let me make sure I get this correct.

22 On pages 5 and 6, you indicate that if
23 the capacity performance is approved, there are
24 additional problems regarding PJM markets and that
25 relates to price formation, correct?

1 A. Yes, that's one of the issues that it
2 relates to.

3 Q. And the other issue is the production
4 tax credit.

5 A. Yes, with respect to depressing energy
6 prices in the marketplace for intermittent resources
7 that don't typically operate when peak demand occurs.

8 Q. Regarding price formation, you're
9 referring to uplift, correct?

10 A. Yes.

11 Q. And would you agree that uplift relates
12 to the dispatch of generation out of merit order?

13 A. Yes.

14 Q. And during the polar vortex we saw a
15 large amount of uplift payments, correct?

16 A. Historic levels, yes.

17 Q. And during this past winter of 2014, the
18 uplift payments were nowhere near where they were in
19 the polar vortex, correct?

20 A. Yes. If you look at the comparisons
21 between the PJM 2014 winter report and the PJM 2015
22 winter report, you'll see really the generation fleet
23 as a whole operated better than it did in 2014.

24 Q. And you would also agree that one of the
25 anticipated consequences of the capacity performance

1 product is to further reduce the amount of uplift
2 payments that may occur.

3 A. I understand that that's one of the
4 stated goals of capacity performance and I'll be
5 waiting to see how it performs.

6 Q. In your responsibility as the vice
7 president of commodity operations, do you typically
8 receive forecasts from outside vendors of the future
9 price of natural gas?

10 A. Not typically in my role as vice
11 president of commodity operations.

12 Q. Have you in the past, though?

13 A. I have seen the results of or some input
14 on natural gas forward projections from, for example,
15 our business services department that really
16 essentially are the keepers of our long-term price
17 forecasts for FirstEnergy.

18 Q. What outside vendors does that department
19 rely upon?

20 A. I don't know.

21 Q. When was the last time you looked at one?

22 MR. LANG: Just for point of
23 clarification, looked at one what?

24 Q. A forecast of future natural gas prices
25 provided by an outside vendor.

1 A. It's probably been about a year for a
2 long-term price forecast. I look at the Henry Hub
3 forwards which is a four-year look.

4 Q. Do you look at the EIA?

5 A. Not on a regular basis.

6 Q. When was the last time?

7 A. I don't remember.

8 Q. Was it the long-term outlook provided by
9 the EIA this summer or longer ago than that?

10 A. As I said, I don't remember.

11 Q. Okay. Do you ever look at the short-term
12 EIA energy outlook?

13 A. I typically stay focused on the hubs in
14 which our generation is located. So it would be
15 Henry Hub. It would be Dominion South Point. We
16 keep track of Leidy on a daily basis. So these are
17 the areas that we would look at in commodity
18 operations on a regular basis.

19 Q. Do you look at Chicago City Gate at all?

20 A. No, it's not really in one of the areas
21 that we typically serve or that really is directly
22 affecting our generation.

23 Q. And that's because Chicago City Gate
24 isn't located in close proximity to where your
25 Ohio-based generation is, correct?

1 A. We just find a closer correlation to the
2 Dominion South Point really than any other point.

3 Q. In your testimony, you described two
4 options that FES has to continue to operate
5 Davis-Besse and Sammis or close it, correct?

6 A. I think my testimony really focuses on
7 the futures in doubt, and the discussion is about the
8 potential that these plants could retire. I don't
9 think I break it down into options.

10 Q. Okay. I'm sorry. I didn't mean to
11 interrupt you.

12 A. I'm just saying specifically I don't
13 think I break it down into -- there are options.

14 Q. And a third option would be to sell the
15 plants, right?

16 A. While a sale of the plants could be a
17 potential, it would all depend on what prospective
18 buyers would be out there and whether there would be
19 an offer that would be indicative of the true value
20 of the station.

21 Q. And in evaluating FES's future options,
22 one of the things FES would consider is the plant
23 closure cost, correct?

24 A. You would consider all of the costs
25 associated with either decision, either continuing to

1 operate or choosing to close or fielding an offer of
2 purchase from a potential buyer.

3 Q. For example, with a nuclear plant, the
4 accretion expense would still exist if you closed the
5 plant, correct?

6 A. Yes.

7 Q. And, likewise, the depreciation expense,
8 that wouldn't necessarily go away if you close the
9 plant, correct?

10 A. No. It gets written off. I mean, right
11 away it's gone, right. We've had experience with
12 other plants that we shut down, like the Hatfield
13 plant.

14 Q. Thank you. That was my next question.

15 A. Was there a question there or not a
16 question?

17 Q. No. You're doing great.

18 MR. OLIKER: If I could have one minute.
19 The rest of my questions might be in the confidential
20 section, but I want to make sure.

21 EXAMINER PRICE: You may.

22 MR. OLIKER: Those are all the questions
23 I have in the public section.

24 Thank you, Mr. Moul.

25 THE WITNESS: You're welcome.

1 EXAMINER PRICE: Thank you.

2 Mr. Fisk.

3 MR. FISK: Your Honor, I probably have
4 about an hour. I believe Ms. Fleisher has about 15
5 minutes.

6 MS. FLEISHER: I have more than 15
7 minutes, but I think I have a good chunk of 15
8 minutes.

9 EXAMINER PRICE: We'll start with
10 Ms. Fleisher. Ms. Fleisher, you have ten minutes.

11 MS. FLEISHER: I'll speak quickly.

12 - - -

13 CROSS-EXAMINATION

14 By Ms. Fleisher:

15 Q. Mr. Moul, look at your direct testimony,
16 page 1, line 22.

17 A. Okay.

18 Q. So am I correct in interpreting this as
19 in your former position, you were involved with
20 retail load forecasting at FES?

21 A. There was a group within FES that
22 reported to me that did our retail load forecasting,
23 yes.

24 Q. Okay. So that group did load forecasting
25 for areas served by FES generation; is that correct?

1 A. Really more for areas where we had
2 customer load that we were serving. That's really
3 what it was about. It's setting up our offers or our
4 bids into the PJM market on a daily basis.

5 Q. Okay. So just to confirm, you used the
6 load forecast in planning your bidding as you just
7 testified, correct?

8 A. Yeah. It was a transactional daily kind
9 of load forecasting. It wasn't any long-term load
10 forecasts.

11 Q. Okay. You answered my next question.

12 A. Sorry.

13 Q. And in coming up with that load
14 forecasts, what inputs would you look at?

15 A. Off the top of my head, I can't give you
16 an exhaustive list, but I can give you some of the
17 major inputs we would look at, if that's okay. Our
18 load forecasting group would look at typical customer
19 profiles and the different type of loads that we
20 would serve. They would look at weather forecasts
21 and whether it's short-term or long-term. They would
22 do an analysis of PJM's daily load forecasts and take
23 a look at the energy delivery units that we were
24 serving in to see what the bias and differences were.

25 We were actually working to predict how

1 the primary settlements from different energy
2 delivery units would be wrong for the first
3 settlement so that we could be as close as possible
4 and not have some discontinuity in our earnings.

5 So the load forecasting group was very
6 good, usually within about 5 percent or less of our
7 actual load for a given day, and those are some of
8 the inputs they would look at.

9 Q. And when you talk about customer
10 profiles, can you just describe that a little more?

11 A. Well, for like -- we would call it
12 provider-of-last-resort customers, or residential
13 customers that were still part of our portfolio.
14 There is not a specific profile. It's kind of one of
15 the energy delivery companies that they're within
16 gives you a sample shape to their load shape, and
17 that's what you apply to the customers' load.

18 Q. And does that, to use your term, load
19 shape incorporate in some respect the level of energy
20 efficiency and demand response for those customers?

21 A. You're beyond my level of in-depth
22 knowledge on this. I would have to refer to some of
23 my technical experts before I could give you a good
24 answer on that one.

25 Q. Okay.

1 A. Sorry.

2 Q. And in your former role, you had worked
3 with the business development unit; is that correct?

4 A. From time to time. It wasn't a regular
5 working relationship. But from time to time, we
6 would work with them.

7 Q. Okay. And would you ever get their input
8 regarding asset valuation?

9 A. Yes. Actually, when we had to make some
10 retirement decisions, we worked with them. You know,
11 specifically my experience was with our retirement
12 decisions for the Hatfield and the Mitchell stations.
13 And so they would help provide some of the analytics
14 for us and coordinate between us and PJM's market
15 monitor for that review.

16 Q. And what information would they provide
17 you? And we can talk about those particular
18 decisions or more generally if that's getting into
19 confidential.

20 A. It's not confidential. I mean, in a
21 general sense, they would provide an evaluation of
22 whether we were covering our avoidable costs based on
23 current market forwards. When you're making a
24 retirement decision, you're not required to do 20, 30
25 years of asset valuation. It's for the upcoming

1 capacity auction. If you want to be excluded from
2 that auction, then file for deactivation. It's a
3 one-year snapshot.

4 Q. And when they were giving you -- I guess
5 is it okay if I describe that as a valuation
6 forecast, or what term would you prefer?

7 A. I think it's just -- I mean, I don't know
8 if I would call it a forecast. It's just a
9 valuation.

10 Q. Okay. And would that valuation be a
11 single number, or would it have a range of values?

12 A. When they would do that type of analysis
13 for us, it was really towards answering the market
14 monitor's questions, and whether or not we were
15 covering our avoidable costs. It gets a lot of
16 scrutiny from PJM's independent market monitor. And
17 they're really just looking to see are you exercising
18 excessive market power by choosing to shut the unit
19 down. And they look to see are you making a rational
20 business decision of shutting the plant down that's
21 not covering its avoidable costs.

22 So it's just -- it's kind of go/no go.
23 Am I covering my avoidable costs for that year based
24 on -- and typically the market monitor will look for
25 just energy forwards. They won't look for any

1 forecasts or fundamental analysis. They're just
2 looking for what's in the marketplace.

3 Q. Okay. And would you -- I guess to better
4 understand your answer, so when you're looking at,
5 say, those energy forwards, would that be a single
6 value of, you know, here's the P&L for the plant?

7 A. Typically it would be a single value,
8 round-the-clock annual energy value.

9 Q. And would you ever get an asset valuation
10 that would be in the form of a range?

11 A. That type of asset valuation would only
12 be associated with if we were looking to purchase an
13 asset. We haven't done a lot of that in recent
14 times. While we keep our eye on what's available in
15 the marketplace based on our current balance sheet,
16 we're not really looking to buy or build anything
17 right now. And they give a value with a certain
18 assumption of forward market and economic conditions.

19 So while they may have different
20 scenarios, they would typically choose the one that
21 is the most appropriate based on our current outlook
22 for economic conditions and apply that for a single
23 value. You could get a range if you wanted it to say
24 tell me what is the worst case, tell me what is the
25 blue sky best case, but typically when we get a

1 valuation from them, it's a single value based on
2 their best estimate of economic conditions

3 Q. Okay. Do you have a copy of your
4 deposition?

5 A. I do.

6 Q. Okay. And can you turn to page -- sorry.
7 Your original deposition, Volume 1.

8 A. Give me just a second. From January 15?

9 Q. Yes, January.

10 MS. FLEISHER: May I approach?

11 EXAMINER PRICE: You may.

12 By Ms. Fleisher:

13 Q. Can you turn to page 156?

14 A. Okay.

15 Q. So I think I have the wrong copy here. I
16 apologize.

17 All right. And I'm down on line 22.

18 MR. LANG: Counsel, I'm sorry. The page
19 reference again, please?

20 MS. FLEISHER: Page 156.

21 Q. (By Ms. Fleisher) I'm on 22. It reads,
22 "You were discussing with Mr. Soules that you would
23 get energy price forecasts from the business
24 development unit or that you have on occasion gotten
25 those and that they would provide you with the range.

1 "Answer: A range of an asset value.

2 "Question: Okay. And the asset value
3 would be based on energy price forecasts; is that
4 correct?

5 "Answer: Yes.

6 "Question: And do you know how they
7 would come up with that range of value?

8 "Answer: No.

9 "Question: Would you give any guidance
10 in asking for a particular range, or would they
11 decide that internally to the business development
12 group?

13 "Answer: Could you rephrase that
14 question?

15 "Question: Sure. I guess would you just
16 say I would like an asset value for this particular
17 asset, or would you ever offer any further guidance
18 make any -- have any more details than such a
19 request?

20 "Answer: Hypothetically, I would have
21 asked for an asset value. If I had questions about
22 the range, I would ask questions after I saw what the
23 value was."

24 Did I read that correctly?

25 A. Yes.

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MS. FLEISHER: Your Honor, should I pause now?

EXAMINER PRICE: Sounds good. At this time we will go off the record, and we will adjourn for the evening until tomorrow at 9:00. Thank you all. We're off the record.

(Thereupon, the hearing was adjourned at 4:11 p.m.)

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CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Monday, September 14, 2015, and carefully compared with my original stenographic notes.

Carol A. Kirk, RPR, RMR.

(CAK-79301)

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Summary: Transcript In the Matter of the application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company hearing held on 09/14/15 - Volume X electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs.