

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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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. :

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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 1:00 p.m. on
Tuesday, October 13, 2015.

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VOLUME XXVII

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COMPANIES EXHIBITS	IDENTIFIED	ADMITTED
114 - 2012 PM-2.5 Area Map Green Book, US EPA	5500	--

115 - Federal Register, Volume 78	5500	--
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OMAEG EXHIBITS	IDENTIFIED	ADMITTED
17 - Direct Testimony of Edward W. Hill, Ph. D.	XXVI-5408	5545
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1 Tuesday Afternoon Session,
2 October 13, 2015.

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4 EXAMINER PRICE: Let's go back on the
5 record. Good afternoon. The Public Utilities
6 Commission has set for hearing at this time and place
7 Case No. 14-1297-EL-SSO, being in the matter of the
8 Application of Ohio Edison Company, Cleveland
9 Electric Illuminating Company and the Toledo Edison
10 Company for Authority to Provide for a Standard
11 Service Offer pursuant to Revised Code 4928.143 in
12 the form of an Electric Security Plan.

13 My name is Gregory Price. With me are
14 Mandy Willey Chiles and Meghan Addison. We are
15 Attorney Examiners assigned to preside over today's
16 hearing. This is our 27th day of hearing in this
17 matter.

18 Mr. Lang, you have a preliminary matter
19 before we continue with Dr. Hill?

20 MR. LANG: Yes, thank you, your Honor.
21 The companies have identified in the
22 cross-examination of Mr. Evans which would be in the
23 transcript Volume XIX on page 3816, 3816, a statement
24 of fact that should have been designated as
25 confidential. The companies would ask that all of

1 line 9 and line 10 up to the period on that line be
2 designated as confidential.

3 EXAMINER PRICE: Without telling me what
4 it is, is that an actual question and answer?

5 MR. LANG: That is part of Mr. Evans'
6 answer, and he refers to a fact which is specifically
7 designated as confidential in his testimony.

8 EXAMINER PRICE: Any objections to
9 placing that particular excerpt in the confidential
10 transcript? Hearing none, we will ask the court
11 reporters to place that excerpt in the confidential
12 transcript for day XIX.

13 MR. LANG: Thank you, your Honor.

14 EXAMINER PRICE: Ms. Dunn, you have
15 another motion to strike or 10?

16 MS. DUNN: Yes, your Honor. Thank you,
17 your Honor. On Thursday, we left off with the Bench
18 striking page 10, lines 8 to 18, and footnote 8. I
19 wanted to also move to strike on that page footnote 9
20 as it pertains to lines 16 and 18 which were stricken
21 on Thursday.

22 EXAMINER PRICE: Can you give me that
23 reference again?

24 MS. DUNN: Sure. Page 10, lines 16 to 18
25 were stricken on Thursday. And so I wanted to

1 confirm that footnote 9 would also be stricken as a
2 result of the Bench's ruling.

3 EXAMINER PRICE: Yes.

4 MS. DUNN: Thank you, your Honor. Moving
5 on the same subject matter as these are sections that
6 relate to those striking of EWH-2, the study that was
7 attached to Dr. Hill's testimony, the companies move
8 to strike page 11, lines 2 to 5. It references
9 EWH-2. And we would also in lines -- with that, move
10 to strike as well lines 8 to 10 as they flow from the
11 paragraph before and should be stricken as well for
12 context.

13 EXAMINER PRICE: Dr. Hill, I understand
14 that you did cite in footnote 10 to Attachment EWH-2
15 which has been stricken. But do you have any
16 independent knowledge beyond that paper as to the
17 facts in lines 2 through 10?

18 THE WITNESS: 2 through 10 on page 10?

19 EXAMINER PRICE: Page 11.

20 THE WITNESS: Page 11. I have got two
21 pieces of independent information on this. One is
22 the EPA identification of Energy Intense Energy
23 stands on its own. That was footnote 9. And the
24 second is I have done substantial work on the
25 chemicals industry, the steel industry, the auto

1 industry independently of this on my own.

2 EXAMINER PRICE: Okay. We will deny the
3 motion to strike, but we will strike footnote 10.

4 MS. DUNN: Thank you, your Honor. Also
5 on page 11, lines 12 to 14, also at least based on
6 the citation cites to EWH-2 and lines 14 to 17 which
7 flow from 12 to 14, so for context we move to strike
8 that as well.

9 EXAMINER PRICE: We will go ahead and
10 deny the motion to strike, except we will strike the
11 offending footnote.

12 MS. DUNN: Next, your Honor, for the same
13 reasons we move to strike page 11, lines 18 through
14 21 and also page 12, lines 1 to 3. That's based on
15 the reference to many pages of EWH-2 and should be
16 stricken as well.

17 EXAMINER PRICE: Dr. Hill, do you have
18 any independent knowledge of the facts contained in
19 question 18, question and answer beginning --

20 THE WITNESS: It terms of the importance
21 of the industry themselves, yes. In 2000 -- the last
22 two years of the Taft administration in the early
23 part of the Strickland administration, I wrote the
24 Economic Development Strategies for the State of
25 Ohio. The first report was called "Driving Ohio's

1 Future." And all of these industries had specific
2 chapters in them.

3 In the Strickland administration, I
4 helped draft the development strategy of Lieutenant
5 Governor Fisher. All these industries were a part of
6 that as well. And you can go back to 2000 where my
7 book, "The Role of Manufacturing Productivity in Ohio
8 Economic Future," those industries were featured in
9 the data work in that book. So you can go back from
10 2000 until almost current day I worked with these
11 data all time.

12 EXAMINER PRICE: Thank you. We will deny
13 the motion to strike.

14 MS. DUNN: Thank you, your Honor.

15 EXAMINER PRICE: Except with respect to
16 the footnote.

17 MS. BOJKO: Which footnote, your Honor?

18 EXAMINER PRICE: Footnote 13.

19 MS. BOJKO: Thank you.

20 MS. DUNN: Moving forward on page 12 as
21 well, your Honor, we move to strike lines 5 through
22 18. These portions directly referred to the research
23 done in this stricken article. It does not appear
24 that there could be any independent knowledge of a --
25 of this section given that it refers directly to the

1 results of the research done in the stricken article.
2 And for those reasons we move to strike lines 5
3 through 18 on page 12 along with the footnotes.

4 EXAMINER PRICE: We are going to grant in
5 part and deny in part the motion. We will grant the
6 motion commencing with the words on line 7 "the
7 study" and ending with the footnote including the
8 footnote. He can answer the question.

9 MS. DUNN: I understand.

10 THE WITNESS: And, your Honor?

11 EXAMINER PRICE: Uh-huh.

12 THE WITNESS: Just with the sentence that
13 starts on line 10 through 12, I've run a number of
14 price elasticity equations in the State of Ohio which
15 is using log-log form where you have the independent
16 variable being the cost factor and the dependent
17 variable being on the left-hand side of the equation.
18 These are elasticities. And so the price of
19 elasticity around the price of energy on both
20 productivity employment and gross product is well
21 established in the literature.

22 EXAMINER PRICE: Okay. We'll amend our
23 previous ruling, and we will end the stricken
24 language at line 10 with "productivity," and we will
25 leave in that final sentence but take out the

1 footnote.

2 MS. DUNN: Your Honor, if I may respond
3 to Dr. Hill for a moment?

4 EXAMINER PRICE: No. I think we just
5 need to keep plowing through these.

6 MS. DUNN: On page 12, line 14 to 18, I
7 didn't believe you ruled on that as well. That
8 refers to the study and also results of those -- the
9 actual study that was stricken. For those reasons,
10 we move to strike that as well.

11 EXAMINER PRICE: Dr. Hill, do you have
12 any independent knowledge of the facts contained in
13 response to question 14, the question on line 14?

14 THE WITNESS: I have independent
15 knowledge about what the direction of the change
16 would be. The exact estimates themselves are unique
17 to the study.

18 EXAMINER PRICE: Okay. Then consistent
19 with our prior ruling, we will grant the motion to
20 strike beginning with the words "our studies" and
21 answer the question.

22 MS. BOJKO: Your Honor?

23 EXAMINER PRICE: Yes.

24 MS. BOJKO: May I ask for clarification?
25 The last two sentences, I believe, are exactly what

1 he just discussed with the elasticity that's well
2 established since 2000. The last two sentences --

3 EXAMINER PRICE: Is it tied to the
4 previous 2.2 percent?

5 MS. BOJKO: No, the 2.2 percent is the
6 equation, the formula he just referenced. The
7 numbers in line 16 are the calculation based on the
8 study. The 2.2 percent is the well known factor of
9 the productivity decrease that the formula that he
10 just discussed in response to the Bench's prior
11 rulings, questions.

12 EXAMINER PRICE: Explain to me how that's
13 so, Dr. Hill.

14 THE WITNESS: Excuse me, your Honor?

15 EXAMINER PRICE: Explain to me how --
16 Ms. -- your counsel is arguing that the 2.2 percent
17 is not -- the negative 2.2 percent price elasticity
18 is not dependent on the previous 2.2 percent on line
19 17. Is that the case?

20 THE WITNESS: With all due respect to all
21 the people involved with this one, the point
22 estimate, the number itself, rests solely with the
23 study that's been stricken. The direction of the
24 impact is well established in the literature.

25 EXAMINER PRICE: Which is what you said,

1 and I understood that.

2 MS. BOJKO: The direction is the
3 2.2 percent.

4 EXAMINER PRICE: No.

5 THE WITNESS: The direction is the
6 negative.

7 MS. BOJKO: Oh, I see what you are
8 saying, the negative 2.2. Thank you.

9 EXAMINER PRICE: Thank you. Ms. Dunn?

10 MS. DUNN: Your Honor, moving to strike
11 as well on page 12, lines 20 to 21 and also on
12 lines -- page 13, lines 1 to 3, the study is where
13 they looked at industrial power prices for the five
14 states indicated. It is a subject area that was done
15 in the study. Therefore, for those reasons this
16 should be stricken.

17 EXAMINER PRICE: Ms. Dunn, why -- it's
18 not going to be the most logical flow ever, but why
19 can't he ask -- why can't he answer a question posed
20 at line 14 on page 13? He doesn't make any
21 references back to the study.

22 MS. DUNN: The question posed on what
23 line, I'm sorry, your Honor?

24 EXAMINER PRICE: Line 14 on page 13. Was
25 that included in your motion to strike?

1 MS. DUNN: No. No. I was only on page
2 12, lines 20 to 21 and page 13, lines 1 to 3.

3 EXAMINER PRICE: Oh, I'm sorry. I'm
4 jumping ahead.

5 MS. DUNN: I was breaking it down a
6 little bit. That's actually part of the conclusions
7 in the study and when he is saying we looked at
8 industrial power prices, that's referring to the
9 study.

10 EXAMINER PRICE: Okay. We will grant the
11 motion to strike beginning with the words "we looked
12 at" and ending with the word "Pennsylvania."

13 MS. DUNN: And, your Honor, moving
14 forward on page 13, line 5 to 12, that's also based
15 on a study that's directly discussing what was found
16 in the study. And for those reasons, those lines
17 should be stricken as well.

18 EXAMINER PRICE: Okay. We will grant
19 that motion to strike in its entirety.

20 MS. DUNN: And, your Honor, you already
21 alluded to this in your previous question to me, page
22 13, lines 14 to 23, and page 14, lines 1 to 2,
23 although this does not reference the study directly,
24 it certainly flows from the previous question which
25 is what did you find from this study and the question

1 alone doesn't have much context, and for that reason
2 it should be stricken.

3 EXAMINER PRICE: We will deny the motion
4 to strike on that one. He can testify about that
5 reference and the study.

6 MS. DUNN: Thank you. Your Honor. Those
7 are all the motions to strike based on EWH-2.

8 EXAMINER PRICE: Thank you.

9 MS. DUNN: Moving forward?

10 EXAMINER PRICE: Yes.

11 MS. DUNN: If you would turn to, please,
12 page 8, the companies move to strike figure EWH-1,
13 lines 8 to 15, footnote 5, and page 9, figure EWH-2
14 and, your Honor, if I may approach, I have a copy of
15 what is cited in footnote 5 that may be helpful for
16 the Bench.

17 EXAMINER PRICE: Sure. You may approach.

18 MS. DUNN: Your Honor, I did misspeak. I
19 am only moving to strike lines 8 to 13 on page 8, not
20 8 to 15. The reason that the companies move to
21 strike is because the figures and the sentence are
22 completely based on a blog entry from the Northeast
23 Ohio Sustainable Communities Consortium which is a
24 nonprofit organization.

25 The figure on page 1 is EWH-1. The

1 figure on page 9, EWH-2, is from the second page of
2 the blog. The citations to the blog to the EPA is
3 not where these maps came from. And, therefore, this
4 section of his testimony is based on hearsay and
5 should be stricken.

6 EXAMINER PRICE: Where did the maps come
7 from?

8 THE WITNESS: Your Honor, may I respond?

9 EXAMINER PRICE: I am asking her. What
10 is your understanding where the maps came from?

11 MS. DUNN: Your Honor, we searched the
12 EPA sections, and we actually found maps for 2006
13 that did not look like this. We found that
14 Steubenville was not a nonattainment area. We also
15 have sections from the green book that show it was
16 not. So I have no idea where the map came from.

17 EXAMINER PRICE: Dr. Hill, where did the
18 map come from?

19 THE WITNESS: The consortium itself was a
20 large research project. They took the data from the
21 EPA, and they mapped it themselves. And I took it
22 from them. So the data came from the EPA. They
23 mapped -- In fact, the consortium itself is held as a
24 national example of how to disseminate data
25 graphically through a large land use planning

1 process.

2 MS. BOJKO: Your Honor --

3 EXAMINER PRICE: It is still a blog
4 entry, isn't it?

5 THE WITNESS: Well, if you want to
6 disseminate to a large group of people putting it on
7 the web and posting on a blog is not unusual anymore.

8 MS. BOJKO: Your Honor, may I respond to
9 the motion?

10 EXAMINER PRICE: Yes.

11 MS. BOJKO: This is a two-year research
12 effort funded by the U.S. Department of Housing and
13 Urban Development. Cleveland State had a seat on the
14 board and Dr. Hill was appointed to the board and is
15 designated to participate in this consortium under
16 his direction. The report is admissible. He has
17 knowledge of it. It is a business record of this
18 group that was created by the U.S. Department of
19 Housing.

20 EXAMINER PRICE: Can you explain to me --
21 you use business record very broadly throughout this
22 proceeding. Can you explain what is not a business
23 record? If it's a record of a business -- because it
24 seems like you call everything a business record.

25 MS. BOJKO: Sure.

1 THE WITNESS: Your Honor.

2 EXAMINER PRICE: She's arguing.

3 MS. BOJKO: A nonbusiness record is one
4 that is not regularly -- regular. It's not published
5 on a regular basis. It is not regular activity
6 produced by the entity. A person that does not have
7 knowledge of that that's not present cannot attest to
8 that -- a document is, in fact, a business record.

9 Dr. Hill can attest to it. He was
10 appointed to the board and it was -- this group was
11 done under his direction. It also has to be -- a
12 business record has to be reported at or near the
13 time an act, event, or a condition. This falls under
14 the condition of the nonattainment research and what
15 was going on with the new rules that were handed
16 down.

17 We laid a foundation through Dr. Hill's
18 testimony, and he's an expert qualified to testify on
19 items that affect economics of a region and economic
20 development which environmental regulations certainly
21 do. That's under State Farm Mutual Auto Insurance
22 Company versus Anders, 2012 Ohio 824. This is a
23 business record.

24 EXAMINER PRICE: I disagree. I am sure
25 your citation is correct, but you are vastly

1 overstating what a business record is. What we are
2 going to do is we are going to grant the motion to
3 strike as to footnote 5. We are going to grant the
4 motion to strike as to the figures "EW" -- what do
5 they call it, "figure EWH-1" and "figure EWH-2."

6 However, we are going to take
7 administrative notice of the nonattainment areas for
8 five particular emissions, and we are going to take
9 administrative notice of the ozone nonattainment
10 areas. Those are all easily obtained from the USEPA
11 and the facts will prove up or they won't.

12 MS. DUNN: Thank you, your Honor.

13 MS. BOJKO: Excuse me, just for a minute,
14 just for clarity, just the figures and the footnote?

15 EXAMINER PRICE: Just the figures and the
16 footnote. The underlying USEPA data should be easily
17 verifiable. If he has misstated it, they will point
18 it out in their brief, and if he hasn't misstated it,
19 you will point it out in your brief.

20 MS. DUNN: Your Honor, moving to page 10,
21 lines 1 to 3, starting with "similarly" and footnote
22 7, if you look out to see also and the parenthetical
23 in footnote 7 relates to a magazine article and it's
24 clear that the parenthetical is where the information
25 from lines 1 to 3 came from, that's hearsay. For

1 those reasons, we move to strike those lines and also
2 footnote 7.

3 EXAMINER PRICE: Ms. Bojko.

4 MS. BOJKO: Your Honor, the Area
5 Development magazine is a trade periodical for
6 economic development professionals and it's
7 self-authenticating under Rule 902.6. The statements
8 relied upon by Dr. Hill are an exception to hearsay
9 under Rule 803.18 as a learned treatise which can be
10 a published periodical on a subject of history,
11 medicine or other science or art including economic
12 development theory.

13 It's established, reliable authority by
14 the testimony or admission of the witness or by other
15 expert testimony allowed to rely upon by the expert
16 witness which Dr. Hill does. Such statements may be
17 put into direct testimony as they are here.

18 Ohio law -- Ohio law allows experts to
19 rely on background knowledge in establishing their
20 qualifications and forming their opinions.
21 Worthington City Schools versus ABCO Insulation 84
22 Ohio at 31.4 1992, the background knowledge is in the
23 form of statements of textbooks, authors, colleagues
24 and other forms that base the expert's training and
25 his education and his analysis.

1 Dr. Hill will also explain that Area
2 Development magazine is a market data and compilation
3 for economic development, and it is used and relied
4 upon regularly by economic development experts. So
5 under that Rule 803.17, it falls under -- it
6 constitutes commercial publication and it's
7 publicized widely, used and relied upon widely by
8 experts in the economic development field. This is
9 an economic development trade publication.

10 EXAMINER PRICE: It's certainly not a
11 market report commercial publication. I think you're
12 reading that out of context.

13 MS. BOJKO: Dr. Hill's words, your Honor.

14 EXAMINER PRICE: Once again, don't
15 interrupt the Bench. Dr. Hill, do you believe that
16 the Area Development magazine is a learned treatise?

17 THE WITNESS: Area Development magazine
18 and Sites Selection magazine are two trade
19 publications that are used by my profession to keep
20 track of what's known as critical location factors.
21 They are the only two sources where the data is
22 publicly available.

23 For Area Development magazine, they poll
24 commercial real estate consultants, site location
25 consultants, and site -- Site Selection magazine,

1 they poll CEOs. I was the editor of Economic
2 Development quarterly which is a learned publication
3 for 10 years, and we accepted those data as
4 indications of what were the critical factors for
5 locations of specific types of industries.

6 So it's a trade publication, but it is a
7 trade publication that produces qualitative data
8 through surveys, and it's the only source of data on
9 those -- on the critical location factors by
10 industry.

11 EXAMINER PRICE: Ms. Dunn?

12 MS. DUNN: Your Honor, I would just point
13 to the fact that this is a magazine discussing survey
14 results and we can't cross-examine the authors about
15 survey results. A learned treatise is meant for
16 things like medical dictionaries, the Diagnostic DSM
17 manuals, things that are almost to the point where
18 they are deemed reliable widespread. Having a
19 hearsay document referring to survey results does not
20 rise to the level of a learned treatise no matter if
21 this witness relied upon it. Thank you.

22 EXAMINER PRICE: I am struggling to --
23 you are including in your motion to strike 165 in
24 footnote 7?

25 MS. DUNN: I am including that, your

1 Honor, because I don't believe that's what this
2 sentence refers to when you look at it has been
3 documented that energy costs are an important site
4 selection criteria for manufacturers. And when you
5 look at the parenthetical to the article, it's survey
6 determining energy costs are the third most important
7 factor in manufacturing. It appears that's the
8 portion that this is relied upon. But otherwise, we
9 would have the "it" at 165. I did not move to strike
10 No. 6 or footnote 6 because it's a journal of
11 international law and business.

12 EXAMINER PRICE: I understand, and that's
13 my point, is are you or are you not moving the "it"
14 at 165?

15 MS. DUNN: I am not moving to strike
16 that, but it would be standing alone without striking
17 it.

18 EXAMINER PRICE: If you are not striking
19 it, then we don't necessarily have to take out that
20 sentence. Even if I grant you the motion to strike
21 on the Area Development magazine, he contends, and
22 you can dispute that in cross or in your brief, that
23 the "it" supports -- that that reference supports the
24 sentence on page 1 through 3.

25 MS. DUNN: Fair enough, your Honor.

1 EXAMINER PRICE: So we will strike Area
2 Development magazine, but we will deny the motion to
3 strike as to the footnote, the "it" at 165, and the
4 sentence. I just -- just to close the loop on that,
5 I just cannot even under expansive view of learned
6 treatises lump the Area Development magazine into
7 that exception.

8 MS. DUNN: Moving forward, your Honor?

9 EXAMINER PRICE: Yes.

10 MS. DUNN: Page 20, lines 1 to 9, and
11 footnote 20, your Honor, this is another footnote
12 where it is unclear which source he specifically
13 relies on; however, based on all three sources
14 contained in footnote 20, this entire paragraph
15 related to an alleged \$7 billion of stranded assets
16 is based on hearsay.

17 If you look at -- and I have copies, if
18 you would like, of the EIA website -- well, normally
19 the EIA is something this bunch has looked at, the
20 website cited simply lists various cases that are
21 going on in Ohio from 2010. It does not actually
22 state that \$7 billion was granted. It's simply a
23 summary of the case that was filed by the companies.

24 Therefore, that section is hearsay and
25 should not be relied upon in any case. Also, the

1 second citation is to the former Consumer's Counsel's
2 testimony regarding Senate Bill 3. That's clearly
3 hearsay.

4 EXAMINER PRICE: Isn't she a party
5 opponent to OMAEG?

6 MS. DUNN: I don't think so in this case,
7 your Honor. In EWH-1 at 29 was already stricken.
8 Your Honor, not only is it hearsay, but this section
9 is also irrelevant based on the -- this Bench's
10 previous determination of what was relevant in this
11 case.

12 What occurred back in 2000, 2010, should
13 not apply to this case. It has nothing to do with
14 the ultimate issues. And at any rate, this is all
15 based on hearsay and not this witness's personal
16 knowledge or even review of the case documents where
17 this stems from. And, your Honor, I do have copies
18 of the EIA section if you would like to see that.

19 EXAMINER PRICE: That won't be necessary.
20 Ms. Bojko.

21 MS. BOJKO: Yes, thank you, your Honor.
22 The EIA report, this is what Dr. Hill does. He
23 researches electric issues and their effect on
24 economic development. He's been doing it for years,
25 and he takes all of his knowledge from different

1 areas and puts -- and forms his expert opinion. The
2 EIA report is a government agency that regularly
3 issues reports setting forth activities of the
4 agency. That's a hearsay exception under Rule 803.8.
5 The OCC report, I know you don't like the business
6 record exception, your Honor --

7 EXAMINER PRICE: Oh, I love the business
8 record exception. Just it's not a get out of jail
9 free card.

10 MS. BOJKO: But the -- this is also a
11 state agency. Their testimony is, in fact, a regular
12 activity of that agency, and it's published on the
13 state agency's website, so it is authenticated. And
14 Dr. Hill did review the documents of the EIA. He can
15 ascertain from the EIA what those cases are and what
16 the dollar amounts produced in all of these
17 documents.

18 He has independent knowledge of the
19 State of Ohio's deregulation as he explained to you.
20 He has participated in forums as well as books and
21 reports on Ohio's deregulation status and the history
22 of restructuring for administrations in the past, as
23 well as for research that they have conducted.

24 As for the relevancy argument, corporate
25 separation and subsidizing generating assets and how

1 we went from deregulating and spinning off the
2 generating asset to now considering reregulating and
3 putting a form of the costs of the generating assets
4 that are deregulated back under a regulated model is
5 very much at issue in this case. And that's what
6 Dr. Hill is explaining in this testimony. He does
7 have independent knowledge, and he has research and
8 been involved in the process for years. Thank you.

9 EXAMINER PRICE: We are going to deny the
10 motion to strike as to the actual testimony. We'll
11 grant the motion to strike with respect to the
12 footnote -- not the first phrase of the footnote
13 regarding the EIA but the remainder of the footnote
14 regarding Ms. Migden-Ostrander and the previously
15 stricken EWH-1. Again, consistent with our prior
16 rulings we've already determined that statements made
17 in 2007 in a different time under different statutory
18 scheme are not relevant to this proceeding.

19 MS. DUNN: Your Honor, may I proceed?

20 EXAMINER PRICE: You may.

21 MS. DUNN: On page 19 --

22 EXAMINER PRICE: We are going backwards.

23 MS. DUNN: Yes, I apologize. I did miss
24 that one. Page 19, lines 1 to 2 and footnote 19, we
25 move to strike on the basis of hearsay. It's

1 directly referencing a newspaper article which this
2 Bench has found to be hearsay several times in this
3 proceeding.

4 EXAMINER PRICE: I'm not sure that he
5 can't make his statement. I'm sure that the footnote
6 is a newspaper article. And consistent with our
7 previous decisions in the cases we cited before, we
8 will strike the newspaper article. I think it's
9 within his expertise to make the statement, though,
10 so we'll strike the footnote but not the testimony.

11 MS. DUNN: Thank you, your Honor. And I
12 am complete with the motions to strike on the direct
13 testimony.

14 EXAMINER PRICE: Okay.

15 MS. DUNN: Your Honor, I have one motion
16 to strike on the supplemental testimony.

17 EXAMINER PRICE: Okay.

18 MS. DUNN: Page 10, lines 9 to 10
19 starting after the word "no." And he references his
20 direct testimony and that direct testimony also
21 refers to the study. Based on those reasons, because
22 this is dependent on the EWH-2 study, this should be
23 stricken as well.

24 EXAMINER PRICE: We are going to deny the
25 motion to strike in part and grant in part. We will

1 take out the reference -- the phrase "as I explained
2 in my direct testimony" and we will take out the
3 footnote, but I think he is capable of testifying to
4 that correlation which, again, this is more of the
5 direction than the actual number.

6 THE WITNESS: Thank you.

7 MS. DUNN: Thank you, your Honor. That's
8 all I have for the supplemental testimony.

9 Turning to the second supplemental
10 testimony, page 25, lines 6 -- well, actually it
11 would be lines 3 through 14 and footnote 40, the
12 reference to the newspaper article from the Plain
13 Dealer, this is hearsay on hearsay. The statements
14 in lines 3 through 14 are based on hearsay. For
15 those reasons this should be stricken.

16 MS. BOJKO: Your Honor, may I respond?

17 EXAMINER PRICE: One minute. Leaving
18 aside the footnote, why can't he make the statement
19 at page 3 -- at line 3 through the beginning of line
20 6?

21 MS. DUNN: The reason I am moving to
22 strike that, your Honor, it's dependent on what -- it
23 appears to be dependent on what the newspaper article
24 says and, therefore, the basis for his statement is
25 based on the newspaper article and not his direct

1 knowledge and it's hearsay.

2 EXAMINER PRICE: He also appears to make
3 it dependent upon a number of responses to
4 interrogatories. Those are fair.

5 MS. DUNN: I believe I moved to strike
6 because it was unclear based on what he represented,
7 but, your Honor, the most important thing out of this
8 section really is lines 6 to 9 that refers directly
9 to the article and the company would be amenable to
10 striking lines 6 to 9 only.

11 EXAMINER PRICE: Ms. Bojko. Narrow it to
12 lines 6 to 9.

13 MS. BOJKO: Thank you, your Honor. I
14 understand your concern with newspaper articles in
15 general. However, this article is written by Chuck
16 Jones, the president and CEO of FE Corp. on July 28,
17 2015. It's an opinion article, so it is not hearsay
18 within hearsay. It is admissible under 801.2 as
19 admission by a party opponent.

20 Additionally, Chuck Jones' statement
21 falls under the Ohio Rule of Evidence 803.3 which is
22 the hearsay exception. The then existing mental,
23 emotional or physical condition, Mr. Jones'
24 statements in the newspaper article, his opinion
25 letter show his intent, plan and motive as the CEO of

1 FirstEnergy at the time he wrote the article. So it
2 is an opinion letter, and it is not hearsay within
3 hearsay.

4 And Mr. Jones' opinion falls under the
5 hearsay exception as an admission by party opponent.
6 Newspaper articles are also self-authenticating as
7 you know under Rule 902.6. Thank you.

8 MS. DUNN: Your Honor, if I may respond?

9 EXAMINER PRICE: You may.

10 MS. DUNN: Your Honor, there has been no
11 foundation laid by this witness that -- on how the
12 Plain Dealer handles opinion articles. We don't know
13 if this is word for word what Mr. Jones may or may
14 not have written. We don't know the policy for guest
15 columnists.

16 EXAMINER PRICE: Yes, but you could call
17 Mr. Jones and he could say, "This is not what I
18 wrote." He is your witness or he could be your
19 witness.

20 MS. DUNN: I understand that, your Honor.
21 I would just point out that the burden of
22 admissibility on an exhibit is with the witness and
23 the witness hasn't met that burden here.

24 EXAMINER PRICE: We are going to deny the
25 motion to strike. This is not a reporter recounting

1 what he heard somebody say in a newspaper article.

2 If Mr. Jones disagrees with what the Plain Dealer
3 published, he certainly could come to this Commission
4 and explain how he was misquoted.

5 MS. DUNN: Thank you, your Honor. Moving
6 forward, your Honor?

7 EXAMINER PRICE: Okay.

8 MS. DUNN: Page 25, lines 15 to 18, going
9 on to page 26, lines 1 to 3, as well as footnote 41
10 and attachment EWH-supplemental Attachment A at 8183,
11 this is classic hearsay on hearsay. This is a
12 newspaper article by John Funk reporting what
13 Mr. Jones allegedly said.

14 It's different from the article in
15 footnote 40 and also historically the Commission --
16 this Bench has struck newspaper articles quoting what
17 certain executives may or may not have said. And for
18 that reason, this is hearsay and should be stricken.

19 EXAMINER PRICE: For the reasons we set
20 forth I think around day 4 of this proceeding, we
21 cited a number of articles of cases explaining why
22 newspaper articles are hearsay within hearsay, we'll
23 grant -- we will strike this for those same reasons.

24 MS. DUNN: Thank you, your Honor.

25 MS. BOJKO: Clarification, your Honor,

1 line 15 on page 25 through page 26, line 3, is that
2 correct?

3 EXAMINER PRICE: Yes.

4 MS. BOJKO: And then the accompanying
5 footnote 41?

6 EXAMINER PRICE: Yes.

7 MS. BOJKO: Thank you.

8 MS. DUNN: Moving forward, your Honor?

9 EXAMINER PRICE: And just to be clear,
10 the article attached in EH supplemental attachment is
11 also stricken.

12 MS. DUNN: Thank you, your Honor.

13 EXAMINER PRICE: None of which should be
14 construed as a commentary on Mr. Funk's reliability.

15 MS. DUNN: Understood. Moving forward,
16 your Honor, to page 28, lines 17 to 18, also moving
17 to page 29, lines 1 to 3 and the entirety of footnote
18 45 including EWH Supplement A, pages 84 to 93.

19 The reason is that the entirety of those
20 statements is based on hearsay as well as legislative
21 testimony that is not relevant to this case. Looking
22 at Ms. Vespoli's testimony, it relates to Senate Bill
23 58 which is a bill that never came to see the light
24 of day.

25 As your Honor's ruled on Day 3 of this,

1 page 516 to 517 of which I have copies, if necessary,
2 your Honor sustained an objection on the basis of
3 relevance when ELPC asked Ms. Mikkelsen a question on
4 Senate Bill 58.

5 This testimony also falls within your
6 relevance rulings on Day 4. It does not go to any
7 issues in this case. And, again, it involves a piece
8 of legislation that never became law. In addition,
9 your Honor, the affidavit brought on Thursday for the
10 first time purporting to authenticate the document
11 does not meet the rules under Rule 901 or 902 of the
12 Rules of Evidence for authentication. It's an
13 affidavit from an individual who is not here about
14 what she was or was not told by individuals at the
15 Ohio Senate.

16 In addition, it's a late-filed exhibit
17 curing something that he did not have a basis for at
18 the time of his testimony. Your Honor, I do have a
19 couple of questions I could ask Dr. Hill if you would
20 like on that issue.

21 EXAMINER PRICE: No. That won't be
22 necessary.

23 MS. DUNN: And then just to finish
24 footnote 45, there are two newspaper articles in
25 there as well which serves as the basis for the

1 statements, and for all of those reasons, this
2 portion should be stricken.

3 EXAMINER PRICE: We are going to grant in
4 part and deny in part the motion to strike. We will
5 grant the motion to strike with respect to the
6 newspaper articles that are cited in footnote 45. We
7 will deny the motion to strike -- the remainder of
8 the motion to strike.

9 He doesn't have this testimony in there
10 with respect to construing his statement. It's not
11 necessarily the case, but it is solely with respect
12 to the company's position on Senate Bill 58.

13 Ms. Vespoli makes a number of factual claims as
14 opposed to the ruling on Day 4, her testimony was
15 under the current statutory framework. It is more
16 recent in time, and it is under this more recent
17 economic situation than we are talking about in 2007.

18 So we will deny the motion to strike on
19 those grounds; however, the newspaper articles that
20 are referenced will also be stricken, not just the
21 reference to them but their existence in the
22 Attachment A.

23 MS. DUNN: Your Honor, that completes my
24 motions to strike. Thank you very much.

25 EXAMINER PRICE: Thank you.

1 Ms. Bojko?

2 MS. BOJKO: May we go off the record,
3 please?

4 EXAMINER PRICE: Let's go off the record.
5 (Discussion off the record.)

6 EXAMINER PRICE: Let's go back on record.
7 Mr. Sauer?

8 MR. SAUER: No questions, your Honor.

9 EXAMINER PRICE: Mr. Boehm?

10 MR. BOEHM: No questions, your Honor.

11 EXAMINER PRICE: Mr. Sahli?

12 MR. SAHLI: No questions, your Honor.

13 EXAMINER PRICE: Ms. Dunn.

14 MS. DUNN: Thank you, your Honor.

15 - - -

16 EDWARD W. HILL, Ph.D

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

19 CROSS-EXAMINATION

20 By Ms. Dunn:

21 Q. And so I look polite, good afternoon,
22 Dr. Hill, again.

23 A. And once again.

24 Q. And thank you again for your patience and
25 cooperation and flexibility as well. Dr. Hill, you

1 have not testified before in front of any Public
2 Utilities Commissions of any state, correct?

3 A. That is correct.

4 Q. And in preparation of your direct
5 testimony, you did not review any discovery, correct?

6 A. That is correct.

7 Q. And in preparation -- preparation of your
8 direct testimony, you did not review Mr. Rose's
9 testimony filed on August 4, 2014, correct?

10 A. Also correct.

11 Q. And you have not seen any term sheets
12 relating to the proposed transaction, correct?

13 A. In relation to just my direct testimony
14 or to my entire testimony?

15 Q. Just your direct testimony.

16 A. No, not for the direct testimony,
17 correct.

18 Q. And you have heard of Senate Bill 221,
19 but you cannot describe the substance of the bill,
20 correct?

21 A. Could you give me the title of the bill?

22 Q. You don't understand when I say Senate
23 Bill 221, what that means?

24 A. Well, there are large numbers of Senate
25 bills, amended bills. In this particular case before

1 us, there is the bill to reregulate the industry. I
2 just don't happen to know the Senate Bill numbers.

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

4 EXAMINER PRICE: You may.

5 MS. DUNN: Ms. Bojko, do you need a copy
6 of Dr. Hill's deposition?

7 MS. BOJKO: No. Which one?

8 MS. DUNN: March 12.

9 MS. BOJKO: Your Honor, I guess I'm not
10 sure why we are passing out depositions when the
11 witness just asked for a clarification of what Senate
12 Bill 221, the title of the document was.

13 EXAMINER PRICE: Well, I have not seen
14 the deposition, but I suspect that she's going to
15 point out that he didn't need clarification at the
16 time of his deposition.

17 MS. DUNN: You are correct, your Honor.

18 EXAMINER PRICE: I was just guessing.

19 Q. Dr. Hill, do you require a copy?

20 A. Well, I have it here. Just tell me
21 where. I will find it.

22 Q. Okay. I will go ahead and point that out
23 to you. Dr. Hill, if you'll turn to page 27 of your
24 March 12 deposition transcript.

25 A. Yes.

1 Q. Line 23 to 24, I asked, "Have you ever
2 heard of something called Senate Bill 221?" Page 28,
3 answer, line 1 to 2, "I have heard of Senate Bill
4 221. I can't tell you the substance of the bill."
5 Did I read that correctly?

6 A. You read that correctly.

7 MS. BOJKO: Objection, your Honor.

8 EXAMINER PRICE: Grounds?

9 MS. BOJKO: Improper impeachment. It was
10 not her original question.

11 EXAMINER PRICE: No. She used those
12 words. Overruled.

13 Q. Dr. Hill, you are not familiar with any
14 of the companies' previous electric security plans,
15 correct?

16 A. The only way that I'm familiar with any
17 of them is that ESP III is mentioned on occasion in
18 the filings.

19 Q. You have not read any of the stipulations
20 entered into in a previous Electric Security Plan,
21 correct?

22 A. That's correct.

23 Q. And turn to your direct testimony,
24 Exhibit 17, page 5, lines 12 to 16, you describe --
25 you indicate that primary metals are an example of

1 energy intensive industries, correct?

2 A. That is correct.

3 Q. Steel is considered a primary metal,
4 correct?

5 A. It is.

6 Q. And turning to page 6, lines 9 to 11, you
7 mention regulations designed to reduce the amount of
8 carbon released into the atmosphere. You don't know
9 the details of those regulations, correct?

10 A. At the time this was written, it was
11 December, and the proposed regulations were just
12 released October 1 of this year.

13 Q. Dr. Hill, could you please -- could you
14 please turn to page 86 of your deposition. Actually
15 we will go ahead and start on page 85, line 24.

16 "Question: And other than your awareness, there are
17 regulations as you say in your testimony designed to
18 reduce the amount of carbon released into the
19 atmosphere, do you know any details of those
20 regulations?

21 "Answer: No, no more than what you would
22 know from reading a newspaper." Did I read that
23 correctly?

24 A. You read that correctly.

25 MS. BOJKO: Objection, your Honor.

1 EXAMINER PRICE: Grounds?

2 MS. BOJKO: For impeachment, you have to
3 read the entire question and entire answer. You
4 cannot pick and choose out of the question and answer
5 that you would like to read into the record. It is
6 consistent with the rest of the answer, his statement
7 here, so it's improper impeachment.

8 EXAMINER PRICE: I am going to sustain
9 the objection. He clearly indicated that at the time
10 of his testimony was filed, the rules had not been
11 issued and the rules were issued on October 1st.

12 Q. (By Ms. Dunn) Dr. Hill, you have heard of
13 Rule 111(d), but you can't tell me the specifics of
14 that, correct?

15 A. That is correct.

16 Q. And your understanding of Rule 111(d) is
17 not that deep, correct?

18 A. Well, what was your previous question?

19 Q. My previous question you answered, you
20 have heard of Rule 111(d) but you can't tell me the
21 specifics of that. You just answered no, so my other
22 question is your understanding of Rule 111(d) is not
23 that deep, correct?

24 A. Absolutely.

25 Q. And on page 6 of your direct testimony,

1 line 22, you mentioned New Source Review. Sammis did
2 not go through New Source Review, correct?

3 A. The purpose of the section is to talk --
4 is to talk about the impact that noncompliance has on
5 the siting of any economic development activity in an
6 area that's not compliant. So what I am trying to do
7 in this section is to describe the process that a
8 company has to go through to either to buy pollution
9 credits or to locate outside of the noncompliant
10 region. So everything that I've said in this
11 testimony I do know.

12 Sammis is not a new polluter or a new
13 emitter. It's been around for a long time. So it
14 would be my assumption that the Sammis plant doesn't
15 need to go through a New Source Review. But economic
16 development activity that is trying to expand or
17 locate in a de novo fashion in a noncompliant area
18 has to go through stringent -- has to go through
19 regulatory review.

20 MS. DUNN: Your Honor, I would move to
21 strike everything except the sentence relating to
22 Sammis not going through New Source Review. I asked
23 a very narrow yes or no question and the answer was
24 not responsive to that.

25 MS. BOJKO: Your Honor, if I may respond.

1 EXAMINER PRICE: Uh-huh.

2 MS. BOJKO: The witness was merely
3 explaining why the Sammis wouldn't go through a New
4 Source Review. It is not a new source. He was
5 merely explaining his answer.

6 EXAMINER PRICE: Which is an excellent
7 topic to take up on redirect. We will grant the
8 motion to strike. Dr. Hill, please listen carefully
9 to counsel's questions and answer her questions and
10 only her questions. If you feel more explanation is
11 needed to put it in context or to give the Commission
12 a history of something, Ms. Bojko will be perfectly
13 happy to ask you that on redirect.

14 THE WITNESS: Okay. Thank you.

15 Q. Turning to page 8 of your testimony
16 relating to the sentence that "Steubenville
17 Metropolitan Area is defined by the USEPA as a
18 nonattainment area for fine particulates."

19 MS. BOJKO: I'm sorry, could you
20 designate the page number again?

21 MS. DUNN: Sure. Page 8, line 9 through
22 13. Your Honor, may I approach?

23 EXAMINER PRICE: You may.

24 MS. DUNN: Your Honor, if I could go off
25 the record.

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

2 (Discussion off the record.)

3 MS. DUNN: We would like to mark as
4 Company Exhibit 114 the document that's been -- 2012
5 PM 2.5 area map, and Exhibit 115, the copy that's the
6 Federal Register.

7 (EXHIBITS MARKED FOR IDENTIFICATION.)

8 Q. (By Ms. Dunn) Dr. Hill, I handed you
9 what's been marked as Company Exhibit 114 and 115 in
10 front of you.

11 A. That's correct.

12 Q. And turning to the map, based on the EPA
13 map PM 2.5, would you agree that Steubenville is not
14 a nonattainment area for fine particulates?

15 MS. BOJKO: Objection.

16 EXAMINER PRICE: Grounds?

17 MS. BOJKO: Your Honor, this is the --
18 counsel is asking about a 2012 map. It's 2015.
19 She's asking -- She didn't ask whether the 2012 map
20 depicted the status in 2012. She's asking as if it
21 existed today, whether there is a nonattainment area
22 or not. So I object to the relevancy of the 2012
23 grounds.

24 MS. DUNN: And, your Honor, I would also
25 request this is an EPA document that the Bench can

1 take administrative notice of the 2012 nonattainment
2 area map which is the most current map.

3 MS. BOJKO: Objection, your Honor. We
4 have no -- no authentication that this is the actual
5 2015 map or the status in 2015.

6 EXAMINER PRICE: Well, your witness cited
7 the 2006 map, I believe.

8 MS. BOJKO: '14.

9 THE WITNESS: Your Honor, can I respond?

10 EXAMINER PRICE: No.

11 MS. DUNN: And, your Honor, you are
12 correct, he cited the 2006 map which was stricken,
13 and he's also -- the sentence that was kept in and
14 for administrative notice was the nonattainment area
15 for fine particulates of Steubenville.

16 EXAMINER PRICE: We are going to take
17 administrative notice of whatever the Steubenville
18 nonattainment areas for 2015, but we will allow
19 counsel to go ahead and ask the questions about 2012.

20 MS. BOJKO: Thank you, your Honor.

21 Q. (By Ms. Dunn) And, Dr. Hill, based on the
22 EPA map PM 2.5, the 2012 standard, would you agree
23 that Steubenville is not a nonattainment area for
24 fine particulates?

25 A. For fine particulates, that is correct.

1 Jefferson County is listed as a -- is not listed as
2 violating the 2010 2.5 PPM fine particulate standard;
3 however, it is in violation of the 2010 sulfur
4 dioxide standard as are the downwind counties for
5 Jefferson County.

6 Lawrence County, Pennsylvania violates
7 the 2.5 PPM 1997 2006 standard. Beaver County
8 violates sulfur dioxide 2010. The lower Beaver
9 Valley violates 2008 lead. Pittsburgh Beaver Valley
10 violates the PPM 2.5 1997 2006 standard, not the
11 2010, but it is in violation of the 8 hour ozone.

12 And Washington County which is directly
13 opposite Jefferson violates the 2.5 parts per million
14 1997 2006 8-hour ozone. And Brooktown County which
15 is in West Virginia bordering Jefferson is in
16 violation of sulfur dioxide 2010.

17 EXAMINER PRICE: What are you reading
18 from?

19 THE WITNESS: This is something I found
20 yesterday. I went to the EPA website to see if my
21 data were up to date or not and expecting I would get
22 this question. And I looked at the list.

23 MS. DUNN: And, your Honor, I would move
24 to strike everything as it was well beyond the scope
25 of my yes or no question based upon the Exhibit 114.

1 EXAMINER PRICE: Overruled.

2 MS. DUNN: And your Honor, may I review
3 the notes he read from?

4 EXAMINER PRICE: You may.

5 MS. DUNN: Thank you.

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

7 (Discussion off the record.)

8 EXAMINER PRICE: Let's go back on the
9 record.

10 Q. (By Ms. Dunn) Dr. Hill, on the last
11 answer you just gave, were you referring to the
12 document "Ohio Nonattainment Counties, Jefferson
13 County and the 2006 2.5 Parts Per Million Fine
14 Particulate Standard, and the source is the Northeast
15 Ohio Consortium article that was stricken, most
16 northeast Ohio counties fail to meet national ambient
17 air quality standards for ground level?

18 A. Actually, that's the source for the map.
19 The source for the data that I reported out is the
20 EPA Air Quality Green Book.

21 Q. And is that a source that you reviewed as
22 well?

23 A. I did.

24 Q. Yesterday?

25 A. Yesterday.

1 MS. DUNN: Your Honor, we would request
2 at the break a copy of that document, please?

3 EXAMINER PRICE: We will see to it.

4 MS. DUNN: Thank you.

5 Q. (By Ms. Dunn) And, Dr. Hill, you are not
6 terribly expert on environmental regulations,
7 correct?

8 MS. BOJKO: Objection.

9 EXAMINER PRICE: Grounds?

10 MS. BOJKO: Form of question,
11 condescending, argumentative, nondescript.

12 EXAMINER PRICE: Ms. Dunn?

13 Q. I will rephrase my question. You are not
14 an expert on environmental regulations, correct,
15 Dr. Hill?

16 A. I use data that's produced by the
17 regulations. I am not an environmental scientist
18 that understands the science that goes behind the
19 regulations. So as was pointed out when my testimony
20 began, as someone who is trained in regional
21 planning, I used the data, but I cannot tell you the
22 science that's behind the data.

23 Q. You did not do a quantitative analysis of
24 the costs to run Sammis, correct?

25 A. That's correct.

1 Q. And you did not do a quantitative
2 analysis of the cost to run Davis-Besse, correct?

3 A. That is correct.

4 Q. And on page 25 --

5 MS. BOJKO: Of the direct testimony.

6 Q. Of the direct testimony, lines 1 to 2,
7 you discuss future -- I apologize. I have the wrong
8 citation. I meant to say page 15.

9 A. I like what was on 25. Are you sure you
10 don't want to do that one?

11 Q. Page 15, lines -- line 1, you mention
12 CRES providers detriment. In those sections, you are
13 primarily concerned about merchant generators,
14 correct?

15 A. Well, your -- you are referring to the
16 questions posed on lines 4 and 5 of page 14?

17 Q. No.

18 A. And the answer -- and the answer starts
19 from line 6 through line 12 of the next page?

20 Q. No. I am referring to page 15.

21 A. Correct.

22 Q. When you state, "This will have a
23 chilling effect on future CRES provider investment,"
24 the CRES providers you are discussing there, you are
25 primarily concerned about merchant generators,

1 correct?

2 A. My primary concern is merchant
3 generators. I do have a second concern to those who
4 are retailers.

5 Q. And turning to page 16, footnote 17 and
6 18, you do not know if these footnotes are referring
7 to Rule 111(d), correct?

8 A. Well, the citations refer to fact sheets
9 and the fact sheets themselves don't refer to a
10 specific rule. So my knowledge comes from the fact
11 sheets that were delivered by the EPA.

12 Q. My question is, though, you do not know
13 if these footnotes refer to Rule 111(d) or not?

14 A. Correct. The fact sheets do not indicate
15 what specific rule they apply to.

16 Q. And turning to page 20, the first
17 paragraph, you refer to a \$7 billion figure, but you
18 do not -- you have not done anything to
19 independently -- independently verify the \$7 billion
20 figure, correct?

21 A. I used the literature and record to find
22 that \$7 billion figure. I did not do any independent
23 calculations.

24 Q. And the citation to the EIA document, you
25 did not review the filings identified by the EIA in

1 that document, correct?

2 A. Well, I could show you that I took the
3 note that was in the EIA document and corroborated --
4 and then also did a search for other sources around
5 that figure. One of the places I found condensing on
6 it has been stricken from the record, so I can't rely
7 on this in this testimony. And the second was also
8 stricken from the record.

9 Q. But to answer my question, though, the
10 note that you indicated from the EIA document, you
11 did not review the PUCO filing relating in that note,
12 correct?

13 A. That is correct.

14 Q. Turning to your supplemental testimony on
15 page 3, footnote 1, you refer to the AEP Ohio order,
16 correct?

17 A. Correct.

18 Q. And you did not read the entire order,
19 correct?

20 A. I did not read the entire order at the
21 time I wrote this testimony. I read the relevant
22 sections where the factors were laid out.

23 Q. And turning to page 5, line 1, you refer
24 to a coalition of supporters. None of the supporters
25 you are referencing here have discussed with you

1 their intent in signing the stipulation, correct?

2 A. That is correct.

3 Q. And page 3 of your supplemental
4 testimony, line 13 to 14, you mention one of the AEP
5 Ohio factors, a description of how the generating
6 plant is compliant with all pertinent environmental
7 regulations and its plan for compliance with pending
8 environmental regulations. That factor you did not
9 address in your supplemental testimony at all,
10 correct?

11 MS. BOJKO: Objection.

12 THE WITNESS: I know that --

13 EXAMINER PRICE: You have a pending
14 objection. Don't answer.

15 MS. BOJKO: She is mischaracterizing his
16 testimony, your Honor.

17 EXAMINER PRICE: Overruled. You can
18 answer if you know.

19 THE WITNESS: In -- I know that in my
20 deposition, I said that I didn't, but when I reviewed
21 the paper, the -- my supplemental testimony, note
22 that on page 17, line 3, environmental -- I mention
23 environmental factors and thinking of the forthcoming
24 CO-2 regulations, I am just going through to see if I
25 have anywhere else and made that comment there.

1 MS. DUNN: And, your Honor --

2 Q. Turning to page -- your second
3 deposition.

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

5 EXAMINER PRICE: You may.

6 MS. BOJKO: Your Honor, he already
7 admitted he didn't recall it in the deposition.

8 EXAMINER PRICE: I understand.

9 Q. Dr. Hill, do you have your August 26
10 deposition in front of you?

11 A. I do.

12 Q. Could you please turn to page 49.
13 Looking at the question on page 4, line 7 -- excuse
14 me, line 13, "What facts do you have to support your
15 opinion that the operating companies have not
16 demonstrated how the generating plants are compliant
17 with all pertinent environmental regulations?

18 "Answer: That is a subject that I didn't
19 address in this at all, so my statement that they
20 failed all of the criteria established by the PUCO
21 was incorrect." Did I read that correctly?

22 A. You read that correctly.

23 MS. BOJKO: Objection.

24 EXAMINER PRICE: Grounds?

25 MS. BOJKO: Improper impeachment. He

1 already said he didn't recall it in the deposition
2 and that he looked back and now recalls what he did.

3 EXAMINER PRICE: I think we've beat this
4 horse to the ground, so overruled.

5 Q. (By Ms. Dunn) And you have not done any
6 specific projections that would refute the companies'
7 15-year projection of the costs and benefits of the
8 Economic Stability Program, correct?

9 MS. BOJKO: Objection. Your Honor, may I
10 just have the question reread?

11 EXAMINER PRICE: Let's have the question
12 back, please.

13 (Record read.)

14 A. My testimony in the direct and the
15 supplements looks at the logic that would be behind
16 projections. I did not do any direct financial
17 projections of my own.

18 MS. DUNN: Your Honor, I would move to
19 strike the first sentence before "I didn't do any
20 projections of my own."

21 EXAMINER PRICE: We have given every
22 witness one mulligan or freebee or however you want
23 to put it, and I believe Dr. Hill has just used his.
24 Dr. Hill, please listen carefully to counsel's
25 questions, answer her questions. And then on

1 redirect, your counsel will ask you a number of
2 questions that will help you clarify or explain the
3 questions asked on cross, and that will help you get
4 up and down all the quicker.

5 THE WITNESS: Okay.

6 A. The answer is no.

7 Q. Dr. Hill, you would agree that
8 reliability of electric service is important to
9 manufacturers and businesses, correct?

10 A. Correct.

11 Q. You would agree that affordable electric
12 prices are important to manufacturers and businesses,
13 correct?

14 A. Correct.

15 Q. Page 8 --

16 A. Of?

17 Q. I'm sorry, still on your supplemental
18 testimony, page 8, lines -- Let me ask you this, you
19 don't know specifically what the effect of Sammis's
20 retirement on the PJM grid would be, correct?

21 A. I think I do.

22 Q. Dr. Hill, could you please turn to your
23 August 26 deposition, page 85, lines 24, "Do you know
24 what the effect of Sammis's retirement on the PJM
25 grid would be?

1 "Answer: Specifically no." Did I read
2 that correctly?

3 A. That is correct.

4 Q. And you also don't know specifically what
5 the effect of Davis-Besse's retirement on the PJM
6 grid would be, correct?

7 A. Specifically -- that is correct.

8 Q. You have not reviewed FirstEnergy Corp.'s
9 filings with SEC for the past year, correct?

10 A. That's correct.

11 MS. BOJKO: Objection, your Honor.

12 EXAMINER PRICE: Grounds?

13 MS. BOJKO: May I hear the reference page
14 that counsel was referring to in the deposition?

15 EXAMINER PRICE: Page 85.

16 MS. BOJKO: Which lines?

17 EXAMINER PRICE: I believe she was at
18 line....

19 MS. DUNN: I read line 24.

20 EXAMINER PRICE: 24.

21 MS. BOJKO: And over to page 86?

22 EXAMINER PRICE: Yes.

23 MS. DUNN: Yes.

24 MS. BOJKO: Objection. That was improper
25 impeachment. You have to read the complete question

1 and answer if you are going to impeach a witness.
2 Here she picked and chose which sentence she wanted
3 the court to hear for her impeachment, and that's
4 improper. The witness explained in his answer that
5 there is some information that he did have, an
6 analysis that he did do.

7 EXAMINER PRICE: I am going direct
8 counsel to read the full answer, but I don't think
9 it's going to help your witness.

10 MS. DUNN: Sure, your Honor.

11 Q. Dr. Hill, pointing to page 85 of your
12 deposition, line 24, "Question: Do you know what the
13 effect of Sammis's retirement on the PJM grid would
14 be?

15 "Answer: Specifically, no. But because
16 in the previous, there was just an auction, that I
17 don't know whether Sammis or Davis-Besse was sold out
18 as part -- as part that capacity auction or not, I
19 think that was last week there were announcements,
20 but the fact that the plants didn't clear and the
21 fact that the company is looking for a subsidy leads
22 me to reach the conclusion that there is not a
23 reliability problem here. That's actually stated in
24 my testimony. Did I answer your question? I kind of
25 forget what the question was." Did I read that

1 correctly?

2 A. That was -- Yes, you did.

3 Q. And --

4 MS. BOJKO: And the subsequent question
5 and answer as well, your Honor.

6 MS. DUNN: Your Honor, I didn't read his
7 deposition for the subsequent question. If she is
8 asking for a rereading, that's fine.

9 MS. BOJKO: I'm sorry, I thought that was
10 her subsequent question.

11 EXAMINER PRICE: No. She just asked --
12 go on.

13 Q. (By Ms. Dunn) Dr. Hill, you have not
14 reviewed FirstEnergy Corp.'s filings with the SEC for
15 the past year, correct?

16 A. Correct.

17 Q. You have not reviewed a fully detailed
18 balance sheet for FirstEnergy Corp., correct?

19 A. Correct.

20 Q. And you are not an expert in all the
21 details of a balance sheet, correct?

22 A. Correct.

23 Q. You have not personally done any studies
24 on the economic impact of the closure of the Sammis
25 or Davis-Besse plants, correct?

1 A. Correct.

2 Q. And still on your supplemental testimony,
3 page 11, lines 10 to 11, you state, "The alternative
4 would be to construct a Rose standardized model of
5 the economy." A Rose standardized model is a model
6 that one would create and build themselves, correct?

7 A. Correct. If I can just help you out with
8 just a little bit of language.

9 Q. No thank you.

10 A. All right.

11 Q. And it is very difficult and expensive to
12 construct a Rose standardized model, correct?

13 A. It is -- there is some difficulty
14 involved in calculating Rose standardized model. If
15 you have the metrics of -- If you have a
16 transaction's metrics and the input/output model, you
17 can calculate one quite easily. It is the vendor has
18 to provide you with that transaction's metrics.

19 I have been able to do it with the
20 transaction's metrics that Ben Stevens and Mike Lahr
21 provided me when I did work on the steel industry.
22 It took me about, I don't know, about six hours to
23 calculate it. It is possible to use rims 2 from the
24 Department of Commerce to calculate it. If you are
25 relying on IMPLAN or REMI, you can't do it because

1 they keep that material black boxed because that is
2 where they make the money.

3 MS. DUNN: Your Honor, I would move to
4 strike the answer as nonresponsive.

5 EXAMINER PRICE: I think you asked him a
6 pretty broad question, so I am going to deny the
7 motion to strike.

8 Q. On page 11, line 16 to 18, you mention
9 the impact of price changes on power users. You have
10 not conducted a study on the impact of price changes
11 on power users, correct?

12 A. Independently, you are correct.

13 Q. And Dr. Hill, you don't know whether OMA
14 or OMAEG has ever been part of a stipulation,
15 correct?

16 A. Correct.

17 Q. On page 15 of your supplemental
18 testimony, line 9, you reference a \$3 billion figure.
19 You obtained the \$3 billion figure from testimony
20 filed by the Office of the Ohio Consumers' Counsel,
21 correct?

22 A. Correct.

23 Q. And you have not independently verified
24 the \$3 billion figure, correct?

25 A. Correct.

1 Q. On page 15, lines 12 to 13, you state
2 Ohio businesses will be confronted with higher
3 operating costs. You have not quantified the higher
4 operating costs, correct?

5 A. I have provided a logic model in my
6 direct and supplemental that indicates the price of
7 electricity will go up if a PPA is put in place.

8 Q. And you are referring to pages 15 and 16
9 of your second supplemental testimony?

10 A. I am actually referring to almost the
11 entirety of my direct testimony is -- and let me see
12 what's on page 15 and 16 in the supplemental, as well
13 as, correct, the algebra model that is -- that begins
14 on page 15 in my second supplemental and concludes on
15 page -- on line 4 at page 17.

16 Q. And you don't have any actual numbers,
17 though, in those figures, correct?

18 A. Correct.

19 Q. For Ohio businesses, operating costs
20 would include more than just energy costs, correct?

21 A. Correct. Energy costs for energy
22 intensive users tends to be between 2 and 6 percent
23 of the total operating bill.

24 MS. DUNN: Your Honor, I move to strike
25 everything after "correct."

1 EXAMINER PRICE: Denied.

2 Q. On page 17, line 5, still on your
3 supplemental testimony, you reference future
4 environmental costs. You have not quantified what
5 the future environmental costs will be, correct?

6 A. Correct.

7 Q. Turning to your second supplemental
8 testimony, in your second supplemental testimony, you
9 are not testifying as an expert on all of the
10 rates -- or intricacies of those rates, correct?

11 A. Correct.

12 Q. And on page 3 -- I'm sorry, page 6 of
13 your testimony, line 10, you reference the open
14 access transmission tariff, but you have not read the
15 open access transmission tariff, correct?

16 A. That -- I have not read the details of
17 the tariff, that is correct.

18 Q. And you don't know how PJM allocates the
19 cost to the companies that are recovered under rider
20 NMB, correct?

21 A. Correct.

22 Q. Page 7, lines 10 to 11, you reference
23 rider GCR; however, you don't know whether rider GCR
24 exists today, correct?

25 A. The totality of my knowledge of rider GCR

1 came from Mikkelsen's testimony.

2 Q. My question is, you do not know whether
3 rider GCR exists today, correct?

4 A. Correct.

5 Q. Page 12 of your second supplemental
6 testimony, line 1 -- strike that.

7 On page 14, line 17, you start, "It will
8 only deter entry and keep prices higher than they
9 would be in a competitive market." You can't tell me
10 how much higher though, correct, with a number?

11 A. Correct. It's -- my answer is
12 directional.

13 Q. On page 20, lines 2 to 3, you mention on
14 line 2 a large ratepayer group. You consider
15 residential customers in Ohio a large ratepayer
16 group, correct?

17 A. Correct.

18 Q. And you don't believe that residential
19 ratepayers in Ohio are represented in this
20 proceeding, correct?

21 A. Not directly. There is the Office of
22 Consumers' Counsel.

23 Q. And regarding any of the stipulations,
24 you were not present during any of the negotiations,
25 correct?

1 A. Correct.

2 Q. And you don't know whether the companies'
3 met with OMA to discuss any of the stipulations,
4 correct?

5 MS. BOJKO: Objection.

6 EXAMINER PRICE: Grounds?

7 MS. BOJKO: First, foundation. You asked
8 a broad stipulations question before, so
9 clarification that you are discussing the
10 stipulations filed in this case. There's been no --
11 that foundation is lacking.

12 MS. DUNN: With the clarification that --
13 I can rephrase, your Honor, if you would like.

14 EXAMINER PRICE: Please.

15 Q. (By Ms. Dunn) When I say stipulations, I
16 am referring to just the stipulations in this case.
17 You also don't know whether the companies met with
18 OMA to discuss any of the stipulations in this case,
19 correct?

20 A. Correct.

21 Q. And turning to page 26 --

22 EXAMINER PRICE: Ms. Dunn.

23 MS. DUNN: Yes.

24 EXAMINER PRICE: Did you ask OMA or
25 OMAEG?

1 MS. DUNN: I asked OMA.

2 EXAMINER PRICE: And that was purposeful?

3 MS. DUNN: Yes.

4 Q. (By Ms. Dunn) On page 26 of your
5 testimony, footnote 42, you reference an AEP Ohio
6 case. You don't know what this case was about that
7 you cite here in footnote 42, correct?

8 A. Well, I know the content that's in the
9 footnote itself.

10 Q. Dr. Hill, could you turn to your
11 deposition, please, on August 26.

12 A. Uh-huh.

13 Q. Page 91, line 3, "Question: Do you know
14 what this case was about that you cite here in
15 footnote 42?

16 "Answer: No." Did I read that
17 correctly?

18 A. You read that correctly.

19 MS. BOJKO: Objection.

20 EXAMINER PRICE: Grounds?

21 MS. BOJKO: Improper impeachment. Not
22 inconsistent with his statement on the stand.

23 EXAMINER PRICE: Overruled. Dr. Hill,
24 was OMAEG a signatory party in the stipulation you
25 reference in footnote 42?

1 THE WITNESS: I'm sorry, I couldn't hear
2 you, your Honor.

3 EXAMINER PRICE: Was OMAEG a signatory
4 party in the stipulation you reference in footnote
5 42?

6 THE WITNESS: I have no knowledge.

7 EXAMINER PRICE: Ms. Dunn.

8 Q. (By Ms. Dunn) And the payments referred
9 to in footnote 42, you do not know what those
10 payments are, correct?

11 A. That is correct.

12 MS. DUNN: Your Honor, if I could have a
13 few minutes, also a few minutes with the document
14 that was referred to by Dr. Hill in his testimony,
15 maybe 10 minutes, if you will.

16 EXAMINER PRICE: Sure. Let's go off the
17 record for 10 minutes.

18 (Recess taken.)

19 EXAMINER PRICE: Let's go back on the
20 record. Ms. Dunn.

21 MS. DUNN: Thank you, your Honor.

22 Q. (By Ms. Dunn) Dr. Hill, a few questions
23 questions. You don't know how attainment for sulfur
24 dioxide is measured, correct?

25 A. Correct.

1 Q. You don't know how attainment for fine
2 particulates are measured, correct?

3 A. Outside of the variable that it's used to
4 describe it, no.

5 Q. And you don't know how attainment for
6 8-hour ozone is measured, correct?

7 A. That's correct.

8 Q. You don't know when the EPA regulation
9 for sulfur dioxide was issued, correct?

10 A. The sulfur dioxide measurement has
11 attached to it a 2010 standard. I can't tell you
12 whether that -- when exactly that standard was
13 issued.

14 Q. And you don't know when the EPA
15 regulation for fine particulates was issued, correct?

16 A. We know that there was -- there has been
17 a series of measurements just in -- so there's a set
18 of measurements in 2006, another set in 2000 -- when
19 was the next one? 2010, I believe -- no, 2012.

20 Q. You have not been personally responsible
21 for measuring compliance with sulfur dioxide
22 standards, correct?

23 A. Correct.

24 Q. And you have not been personally
25 responsible for measuring compliance with fine

1 particulate standards, correct?

2 A. Correct.

3 Q. And you have not personally been
4 responsible for measuring compliance with 8-hour
5 ozone, correct?

6 A. Correct. And that's the job of the EPA.

7 Q. And you don't know how sulfur dioxide is
8 dispersed from a coal plant, correct?

9 A. That is correct.

10 MS. DUNN: Just one second, your Honor.

11 EXAMINER PRICE: Please.

12 MS. DUNN: Your Honor, no further
13 questions.

14 EXAMINER PRICE: Before we go on to
15 Mr. Randazzo, I have two questions, I guess. I am
16 just generally looking at your language about the
17 redistributor coalitions. Do you know who OMAEG
18 consists of?

19 THE WITNESS: Specifically who their
20 customers are?

21 EXAMINER PRICE: Yeah.

22 THE WITNESS: No, I don't.

23 EXAMINER PRICE: You don't know who the
24 members of OMAEG are?

25 THE WITNESS: Correct.

1 EXAMINER PRICE: Okay. Mr. Randazzo
2 moved.

3 MR. RANDAZZO: Sneaky fellow.

4 EXAMINER PRICE: Mr. Randazzo.

5 - - -

6 CROSS-EXAMINATION

7 By Mr. Randazzo:

8 Q. Dr. Hill, with regard to OMAEG which you
9 mentioned at page 4, line 14 of your direct
10 testimony, your initial testimony, do you know what
11 the relationship is, governance relationship, between
12 OMAEG and OMA is?

13 MS. BOJKO: Objection.

14 EXAMINER PRICE: Grounds?

15 MS. BOJKO: Relevance.

16 EXAMINER PRICE: Overruled.

17 THE WITNESS: Repeat the question,
18 please.

19 Q. (By Mr. Randazzo) With regard to OMAEG
20 and the Ohio Manufacturers' Association, do you know
21 the governance relationship between the two entities?

22 A. I do not.

23 Q. Do you know the governance relationship
24 within OMAEG?

25 A. I do not.

1 Q. Do you know whether customers make the
2 decisions on what OMAEG is going to do or not do --

3 MS. BOJKO: Objection.

4 Q. -- in a particular case?

5 MS. BOJKO: Sorry. Objection.

6 EXAMINER PRICE: Grounds?

7 MS. BOJKO: Relevancy. I also think we
8 are verging on competitively sensitive information
9 here depending on the responses.

10 EXAMINER PRICE: Competitively sensitive?

11 MS. BOJKO: The governance of OMAEG is
12 not public. Other associations may be trying to
13 understand how they operate. Just as IEU-Ohio does
14 not publicize their governance, I don't think that
15 OMAEG has to publicize their governance.

16 MR. RANDAZZO: On the contrary, your
17 Honor, we do publicize our governance structure.

18 MS. BOJKO: Not on the specific questions
19 being asked, your Honor.

20 EXAMINER PRICE: You can answer the
21 question if you know.

22 THE WITNESS: Can you repeat the
23 question?

24 Q. (By Mr. Randazzo) Yes. Within the OMAEG
25 group, do you know if the members of that group --

1 strike that.

2 For -- for the OMA Energy Group, do you
3 know whether or not the customer members of that
4 group determine what that group is going to do or not
5 do in a particular public utility case before this
6 Commission?

7 A. I have no knowledge.

8 Q. Now, on page 8, lines 9 through 15 --

9 MR. RANDAZZO: And I am sure Ms. Dunn
10 will let me know if I stray into areas that have been
11 stricken, but I believe the text remains here?

12 MS. DUNN: Yes.

13 MR. RANDAZZO: Thank you.

14 Q. Now, you identify the Cleveland and
15 Akron-Canton consolidated statistical area. Do you
16 know how many municipal electric utilities are
17 located within that area?

18 A. I do not.

19 Q. Is the City of Cleveland -- does the City
20 of Cleveland have a municipal electric utility?

21 A. It has a department called Cleveland
22 Municipal Power.

23 Q. Well, does that suggest to you it might
24 have a municipal electric utility?

25 A. Well, they were listed on my -- I did see

1 a list of utilities, and they were listed as one.

2 Q. Do you know how many other municipal
3 electric utilities are located within that area?

4 A. I do not.

5 Q. With regard to the Steubenville
6 metropolitan statistical area, do you know how many
7 municipal electrical utilities are located in that
8 area?

9 A. I do not.

10 Q. Do you know how many municipal electric
11 utilities are located within the distribution service
12 area of Ohio Edison, Cleveland Electric Illuminating
13 Company, and Toledo Edison?

14 A. I do not.

15 Q. For purposes of the discussion about
16 average prices and trend lines that's contained in
17 your testimony, did you remove the sales and prices
18 for co-ops and municipal electric utilities that
19 happened to be located in Ohio?

20 A. Specifically you are referring to what?

21 Q. We will get to it. Let's turn to page
22 13. Now, you -- I believe the text on page 13
23 remains?

24 EXAMINER PRICE: Only after line 14.

25 MR. RANDAZZO: Okay. Thank you.

1 EXAMINER PRICE: Including line 14.

2 Q. (By Mr. Randazzo) On page 13, line 17,
3 for purposes of the analysis that -- or the
4 conclusion you reflect there, did you disaggregate
5 the results for -- to show prices distinctly between
6 investor-owned utilities, municipal electric
7 utilities, and co-ops?

8 A. Your Honor, I can't answer that one "yes"
9 or "no" because it doesn't speak directly to the
10 language he's referring to.

11 EXAMINER PRICE: Okay. Can you rephrase,
12 Mr. Randazzo?

13 Q. Sir, do you know whether or not municipal
14 electric utilities are deregulated in Ohio?

15 A. Generating capacity is deregulated but
16 not for the municipal is my understanding.

17 Q. How about for co-ops in the state,
18 electric co-ops in the state?

19 A. Those co-ops that buy their power
20 directly from merchant generators are affected by
21 whether the market is deregulated or not. If the
22 co-ops produce their own electricity, I don't know
23 the direct answer to that.

24 Q. And you don't know whether the co-ops
25 produce their own electricity?

1 A. Some do, some don't.

2 Q. That's your understanding in Ohio?

3 A. That's my understanding that some of them
4 buy electric power from merchant generators. They
5 are not 100 percent self-sufficient.

6 Q. And how about municipal electric
7 utilities, do they own their own generation or
8 purchase?

9 A. Well, if you look at Cleveland Electric
10 Power, they run a peaking plant, but they don't --
11 they purchase their -- most of their electricity on
12 the open market.

13 Q. And would they purchase on the open
14 market using a PPA?

15 A. Most long-term contracts are PPAs.

16 Q. Right.

17 A. So if they are purchasing one to three
18 years out, there will be a PPA involved.

19 Q. Okay. And for purposes of your look at
20 the effect of restructuring on the costs to Ohio
21 customers as you describe in lines 15 through 17 on
22 page 13 of your initial testimony, did you
23 disaggregate or exclude the results for those Ohio
24 customers that are served by municipal electric
25 utilities and co-ops?

1 A. That's -- that's a good question. And it
2 gets to the nature of what my testimony is, so --

3 Q. Sir, I asked you if you excluded them. I
4 believe it's a "yes" or "no" answer.

5 MS. BOJKO: Your Honor, objection. The
6 practice of this agency is not to interrupt the
7 witnesses. It's to let the witnesses answer the
8 question, and then if there is an objection, we have
9 that afterwards.

10 EXAMINER PRICE: I agree with Ms. Bojko.
11 You can finish your answer, and then we can move on
12 to the motion to strike.

13 A. Thank you. The -- my testimony is an
14 economic analysis. It's not a quantitative economic
15 analysis. What I do in my testimony is I build
16 models of the market using tools that are provided
17 both through public economics and -- and mostly
18 through public economics.

19 The models are directive -- are
20 directional. Nowhere in my testimony do I do
21 independent estimates of costs or generate
22 quantitative results. I do rely on the testimony
23 particularly in the application of AEP's employees to
24 inform my testimony.

25 So data that's provided by Ms. Mikkelsen,

1 Murley on the geographic impacts, Strah, and there's
2 another "M" I am forgetting here, are the data for my
3 testimony. So if anyone reading my testimony is
4 looking for an econometric or quantitative set of
5 impacts, they aren't going to find it.

6 What my testimony is designed to do is to
7 look at what the impact would be on the market
8 structure and the incentives if a PPA were executed
9 on entry and what prices should be relative to if
10 there were going to be a full and open market.

11 MR. RANDAZZO: Move to strike and I would
12 ask that your Honors direct the witness to answer my
13 question.

14 MS. BOJKO: Your Honor, may I be heard?

15 EXAMINER PRICE: You may.

16 MS. BOJKO: The question poses a
17 fundamental misunderstanding of his testimony. He
18 cannot answer the question "yes" or "no," and he was
19 explaining why he can't answer "yes" or "no" because
20 that quantitative analysis was not conducted and not
21 part of his testimony, so there isn't a "yes" or "no"
22 response to Mr. Randazzo's question.

23 MR. RANDAZZO: If I may.

24 EXAMINER PRICE: You may.

25 MR. RANDAZZO: I asked the witness

1 whether he disaggregated or removed the results for
2 customers served by municipal and co-ops for purposes
3 of drawing conclusions that are expressed on page 13,
4 line 15 through 18. He then went on to tell me about
5 his nonquantitative analysis.

6 Either it's in or it's out; if he didn't
7 remove it, qualitatively or quantitatively. I think
8 I deserve a straight answer to the question.

9 EXAMINER PRICE: I agree. We are going
10 to strike -- grant the motion to strike. And
11 irrespective of whether you had a quantitative or
12 qualitative analysis, can you answer counsel's
13 question whether you disaggregated or excluded
14 consideration of municipals, co-ops?

15 THE WITNESS: I did not disaggregate, and
16 I did not exclude co-ops from the model.

17 Q. Okay. With regard to page 13 again, you
18 indicate that Michigan is one of the restructured
19 states. Did I -- do I correctly understand your
20 testimony?

21 EXAMINER PRICE: That's no longer --

22 MR. RANDAZZO: Strike that. I'm sorry,
23 your Honor.

24 Q. With regard to the PJM open access
25 transmission tariff, you indicated to Ms. Dunn that

1 you had not reviewed the specifics. Have you
2 reviewed the tariff -- the PJM open access
3 transmission tariff at all?

4 A. My knowledge of the tariff is what's
5 restricted to what was presented in FirstEnergy's
6 filings. I did not read the tariff directly.

7 Q. So would it be fair to say you have no
8 independent knowledge of the content of the PJM open
9 access transmission tariff?

10 A. Correct.

11 Q. Page 12 of your second supplemental
12 testimony, lines 3 through --

13 A. Slow down.

14 Q. Yeah. Let me know when you are ready.

15 A. Line -- all right. Oops. I am on page
16 12.

17 Q. Page 12, line -- the sentence that begins
18 on line 3 and ends on line 4.

19 A. Yes.

20 Q. It's your understanding that there is no
21 longer an integrated generation transmission and
22 distribution power market; is that correct?

23 A. That's what I wrote, that's correct. I
24 believe that the generation market was deregulated.
25 There is a transmission network which is partially

1 regulated and a distribution network which is
2 regulated. From an engineering physical perspective,
3 yes, it's a physical system because electronics go
4 from one place to another. But the market itself,
5 the generation market, has been separated from the
6 other portions of the system from an economic market
7 perspective.

8 Q. So is it your understanding that the
9 generation, transmission, and distribution power
10 markets are no longer integrated from a commercial
11 perspective?

12 A. Help me on what you mean by commercial.

13 Q. Have you ever arranged for the purchase
14 and delivery of electricity?

15 A. No.

16 Q. Have you ever engaged in any commercial
17 transactions for the purchase or sale of electricity?

18 A. No.

19 Q. Are you a shopper or non-shopper for your
20 own service? Do you know?

21 A. I do know. Because I just moved, it's
22 kind of -- it gets confusing.

23 Q. Yeah.

24 A. So in my house in Lakewood, Ohio, I
25 joined the municipal aggregation. In Columbus, we

1 have been in there two weeks, and I have no idea
2 what's going on yet.

3 Q. So if you would describe shopping as a
4 commercial transaction, would you understand the
5 definition of a commercial transaction?

6 A. If shopping is comparing rates, yes.

7 Q. So from -- from the perspective of a
8 commercial transaction, is it your understanding that
9 the generation, transmission, and distribution power
10 markets are no longer integrated?

11 A. For large industrial customers, they
12 aren't integrated. A large customer can purchase
13 their own power from a power generator, a merchant
14 generator. And I have to admit that I don't know the
15 mechanics as to how the transmission fees are
16 directly executed, but PJM charges transmission fees
17 to very large buyers. So for small buyers, it would
18 be -- you know, the transmission distribution fee
19 would be bundled.

20 Q. So it's your understanding that customers
21 that get an electric bill do not see separate charges
22 for generation and distribution?

23 MS. BOJKO: Objection. Mischaracterizes
24 his testimony.

25 MR. RANDAZZO: I will withdraw the

1 question. That's all I have. Thank you, sir.

2 EXAMINER PRICE: Thank you. Mr. McNamee?

3 MR. McNAMEE: No questions, thank you.

4 EXAMINER PRICE: Ms. Bojko, redirect?

5 MS. BOJKO: May I just have 2 minutes,
6 your Honor?

7 EXAMINER PRICE: You may. Let's go off
8 the record.

9 (Discussion off the record.)

10 EXAMINER PRICE: Let's go back on the
11 Record. Ms. Bojko.

12 MS. BOJKO: Thank you, your Honor.

13 - - -

14 REDIRECT EXAMINATION

15 By Ms. Bojko:

16 Q. Dr. Hill, you -- in response to a couple
17 of questions from FirstEnergy's counsel, you stated
18 that you did not review the term sheet of Rose's
19 testimony. What did you review before filing your
20 direct testimony?

21 A. Before I filed my direct testimony, I
22 read the application. I read Mikkelsen's direct
23 testimony. I read Strah's direct testimony. I read
24 Moul's testimony and for -- and I also read Murley's
25 testimony. There was Dennis Goins from Nucor Steel,

1 I read that one as well. And that was pretty much
2 it.

3 Q. And, sir, what did you read for your
4 second supplemental testimony? What did you review
5 before filing your second supplemental testimony?

6 MR. RANDAZZO: I object.

7 EXAMINER PRICE: Grounds?

8 MR. RANDAZZO: Beyond the scope of
9 cross-examination.

10 EXAMINER PRICE: I don't recall anybody
11 asking him what he reviewed before the second
12 supplemental stipulation.

13 MS. DUNN: That's correct. That's
14 correct, your Honor. I asked a specific question
15 about one person with the direct testimony.

16 MS. BOJKO: No. She asked about the term
17 sheet. She asked about discovery. I thought she
18 asked a similar question with regard to the second
19 supplemental testimony.

20 MS. DUNN: No, I did not.

21 EXAMINER PRICE: I don't recall it.

22 Sustained.

23 THE WITNESS: Can you repeat the
24 question, please?

25 EXAMINER PRICE: No. It's gone.

1 Q. I will move on and ask another question.
2 You were asked about what analysis that you did or
3 didn't do in this proceeding. What economic analysis
4 did you do in this proceeding?

5 A. In my direct testimony I went through the
6 submissions that were made that I referenced and
7 looked at the plaus -- and looked at the plausibility
8 -- or I looked at what the impact -- directional
9 impact of what the power purchase agreement would be
10 on the price of electricity in the absence of the
11 power purchase agreement.

12 I also ran essentially a thought
13 experiment as to whether the power produced by the
14 two plants was essential for the reliability of the
15 PJM grid knowing that the plants didn't sell out and
16 also knowing that PJM keeps between a 15 and 20
17 percent electric reserve at all time, and also looked
18 at the incentives that the companies -- that
19 FirstEnergy would have. I don't make a distinction
20 between the companies -- I always look at it at the
21 level of the company the stockholders own, what
22 incentives the company would go through to file for a
23 PPA, particularly in light of their estimates that
24 there would be losses for 3 years and 15 years there
25 would be -- there was the prospect of power -- of

1 profit to be distributed to the rate holders.

2 The last step was to look at what a PPA
3 would do to the incentives to invest in new
4 generating capacity in the marketplace because new
5 generating capacity gets directly at the issue of
6 reliability as well as price. Given all that data, I
7 constructed a model, qualitative model, as to what
8 the direction of the outcomes would be if the PPA
9 were executed. This is just for the direct.

10 Q. And did you do any further economic
11 analysis for subsequent pieces of your testimony?

12 A. There was more. The other --

13 MS. DUNN: Objection. That's beyond the
14 scope of my direct.

15 EXAMINER PRICE: Overruled.

16 A. In my second supplemental, I tried to
17 probe at using public choice theory and public
18 economics, what the incentives were for different
19 companies and organizations to sign on as signatory
20 parties or nonopposing parties. And this is where I
21 used the concept of redistributive coalition and
22 tried to indicate why they would have signed on.

23 I mean, at the time of the application,
24 there were no signatories. The -- the December 22
25 submission, there was a number of signatories, some

1 institutional, some organizational, some companies.
2 At the time I filed my second supplemental, there
3 were two more signatory -- there were two more
4 non-opposing parties involved.

5 So whenever the stipulation changed, new
6 signatory parties appeared and you have to ask the
7 question why. And so the first part of my -- my
8 first submittal, the direct testimony, really focused
9 on the incentives to invest in generating capacity in
10 the State of Ohio. It also focused on the question
11 of what is the right public policy for resolving
12 generating assets that don't seem to be able to
13 compete in the marketplace.

14 And I also made comments as to what the
15 right level from an economic perspective would be of
16 managing the reliability of the electrical system.
17 It doesn't make sense to pretend that there are
18 borders for electrons around the State of Ohio or is
19 the management of what reliability really rests at
20 the level of PJM.

21 Q. You were asked --

22 EXAMINER PRICE: Ms. Bojko, I just made a
23 mistake. The mistake was really made clear to me in
24 his answer. You are correct, the question was well
25 beyond the scope of what went on in cross, and I --

1 nobody asked you any questions about public choice
2 theory on cross, so I am going to revisit my prior
3 error and grant the objection and strike the question
4 and the response.

5 MS. DUNN: Thank you, your Honor.

6 Q. (By Ms. Bojko) You were asked what
7 analysis you've conducted with regard to increase in
8 power and the effect on manufacturers. What did --
9 have you done any analysis regarding the importance
10 of electricity on the manufacturers?

11 MR. RANDAZZO: I object.

12 EXAMINER PRICE: Grounds?

13 MR. RANDAZZO: Questions that were
14 directed at this witness were quantitative in nature.
15 If we are going to have another directional answer,
16 it is -- it is beyond the scope of cross-examination.

17 MS. BOJKO: Actually, your Honor, in
18 response to one of my objections, Mr. Randazzo said
19 quantitative or qualitative and reasked his question.

20 EXAMINER PRICE: Actually he only asked
21 whether they took out the co-ops and the municipal
22 electricity. Sustained.

23 THE WITNESS: That's correct.

24 MS. BOJKO: I think Ms. -- okay. Your
25 Honor, if I may obtain a cite that was specifically

1 questioned so I have the reference.

2 EXAMINER PRICE: Sure.

3 Q. (By Ms. Bojko) While I am continuing to
4 look for that cite, my apologies, you were asked
5 whether you -- why don't you know -- you were asked
6 about OMAEG membership. Why do you not know any of
7 the OMAEG members sitting here today?

8 A. Mostly because it was irrelevant to the
9 work I did. The way in which my relationship with
10 this case developed was when I read about the power
11 purchase agreement, I became -- thought -- well, I
12 became very concerned about the economic development
13 impact on the State of Ohio if the power purchase
14 agreement was enacted.

15 So I called Eric Burkland at OMA when I
16 saw they were parties in this and volunteered to
17 perform an economic analysis of what the impact would
18 be. Frankly, the membership of OMAEG and who they
19 are just didn't make any difference to me, so I had
20 to respect OMAEG as a client, but the -- what
21 constituted their membership didn't make any
22 difference. And since I was a volunteer, it really
23 didn't make any difference.

24 MS. BOJKO: I have no further questions.
25 Thank you, Dr. Hill.

1 THE WITNESS: You're welcome.

2 EXAMINER PRICE: Okay. Mr. Sauer,
3 recross?

4 MR. SAUER: No recross, your Honor.
5 Thank you.

6 EXAMINER PRICE: Mr. Boehm?

7 MR. BOEHM: No, your Honor.

8 EXAMINER PRICE: Mr. Sahli?

9 MR. SAHLI: No, your Honor.

10 EXAMINER PRICE: Ms. Dunn?

11 MS. DUNN: No, your Honor.

12 EXAMINER PRICE: Mr. Randazzo?

13 MR. RANDAZZO: None, thank you.

14 EXAMINER PRICE: Mr. McNamee?

15 MR. MCNAMEE: No, thank you, your Honor.

16 EXAMINER PRICE: You're excused. I had
17 to let him go.

18 MS. BOJKO: Your Honor, at this time we
19 move OMAEG 17, OMAEG 18, 19, 20, 21 Confidential.
20 Also at this -- at this -- go ahead. Excuse me.

21 EXAMINER PRICE: Any objection to the
22 admission of OMAEG 17, 18, 19, 20, and 21
23 Confidential subject to my rulings on the various
24 motions to strike?

25 MS. DUNN: Your Honor, will you please

1 remind me, 20 is the errata sheet, correct?

2 EXAMINER PRICE: Yes.

3 MS. DUNN: And 21 Confidential is the
4 EWH-B confidential discovery responses?

5 EXAMINER PRICE: Yes.

6 MS. DUNN: No, your Honor, no objection.

7 EXAMINER PRICE: Thank you, those
8 exhibits will be admitted.

9 (EXHIBITS ADMITTED INTO EVIDENCE.)

10 EXAMINER PRICE: Ms. Bojko.

11 MS. BOJKO: Yes. At this time, I would
12 like to proffer Dr. Hill's testimony. I would like
13 to proffer the complete direct testimony of Edward W.
14 Hill as it was filed on December 22, 2014, the
15 complete supplemental testimony originally filed on
16 May 11, 2015, and the complete second supplemental
17 testimony originally filed on August 10, 2015.

18 Ohio Manufacturers' Association Energy
19 Group seeks to preserve its rights under Ohio Rules
20 of Evidence 103 and Rule 4901-1-15(F) of the
21 Administrative Code to raise the propriety of the
22 Attorney Examiner's ruling striking portions of
23 Dr. Hill's testimony.

24 Pursuant to Rule of Evidence 103-A-2 an
25 error may not be predicated upon a ruling which

1 admits or excludes evidence unless a substantial
2 right of the party is affected and where the ruling
3 is one excluding evidence the substance of the
4 evidence was made known to the court by proffer or
5 was apparent from the context within which questions
6 were asked.

7 Rule 4901-1-15(F) also allows any party
8 that is adversely affected by a ruling issued under
9 Rule 4901-1-14 of the Code and who files an
10 interlocutory appeal that is not certified or that
11 chooses not to file an interlocutory appeal to
12 discuss the matters of distinct issue in its initial
13 brief or any other appropriate filing with the
14 Commission.

15 The referenced publications in the
16 attachment to Dr. Hill's direct testimony which were
17 stricken were prepared under Dr. Hill's direction and
18 are relevant to Dr. Hill's testimony as an expert
19 witness in this case. At this time --

20 EXAMINER PRICE: Proffer is noted for the
21 record.

22 MS. BOJKO: I'm sorry?

23 EXAMINER PRICE: Your proffer is noted
24 for the record.

25 MS. BOJKO: Thank you, your Honor.

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EXAMINER PRICE: Ms. Dunn.

MS. DUNN: Nothing further, your Honor.

EXAMINER PRICE: Thank you. At this time, we will go off the record. We will resume tomorrow at 9 o'clock where we will take the following witnesses in the following order: Kalt, Seryak, Williams, Bossart, Schafer, Nicodemus, and Strom. Thank you all. We are off the record.

(Thereupon, at 3:42 p.m., the hearing was adjourned.)

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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 Tuesday, October 13, 2015, and carefully compared with my original stenographic notes.

Karen Sue Gibson, Registered
Merit Reporter.

(KSG-6101)

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Case No(s). 14-1297-EL-SSO

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 10/13/15 - Volume XXVII electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs.