

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

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

- - -

PROCEEDINGS

before Mr. Gregory Price, Ms. Mandy Chiles, and
Ms. Megan Addison, Attorney Examiners, and
Commissioner Asim Z. Haque at the Public Utilities
Commission of Ohio, 180 East Broad Street, Room 11-A,
Columbus, Ohio, called at 9:00 a.m. on Wednesday,
January 20, 2016.

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VOLUME XXXIX

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1 Wednesday Morning Session,
2 January 20, 2016.

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4 EXAMINER ADDISON: Let's go on the
5 record.

6 The Public Utilities Commission of Ohio
7 has set for hearing at this time and place Case No.
8 14-1297 EL-SSO being In the Matter of the Application
9 of the Ohio Edison Company, The Cleveland Electric
10 Illuminating Company and The Toledo Edison Company
11 for Authority to Provide for a Standard Service Offer
12 pursuant to Revised Code 4928.143 in the Form of an
13 Electric Security Plan.

14 My name is Meghan Addison, and with me is
15 Gregory Price and Mandy Chiles, and we are the
16 attorney examiners assigned to hear this case. And
17 also with us today is Commissioner Asim Haque.

18 We will dispense taking appearances this
19 morning.

20 EXAMINER PRICE: Mr. Kutik.

21 MR. KUTIK: Yes, your Honor. We have
22 been in discussions with counsel for Dr. Bowring and
23 other of the signatory parties participating in this
24 hearing. We are at this time, your Honor, prepared
25 to stipulate to the admission of Dr. Bowring's First

1 Supplemental Testimony and waive cross-examination.

2 EXAMINER PRICE: At this time on my own
3 motion we will mark Dr. Bowring's First Supplemental
4 Testimony as IMM-2.

5 (EXHIBIT MARKED FOR IDENTIFICATION.)

6 EXAMINER PRICE: Any objections to the
7 admission of Exhibit IMM-2?

8 Seeing none, it will be admitted.

9 (EXHIBIT ADMITTED INTO EVIDENCE.)

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

11 (Discussion off the record.)

12 EXAMINER PRICE: Let's go back on the
13 record.

14 Consumers' Counsel, you may call your
15 next witness.

16 MR. KUMAR: OCC calls Scott Rubin to the
17 stand and would like to mark his direct testimony as
18 OCC Exhibit 35.

19 EXAMINER PRICE: Mr. Rubin, if you would
20 raise your right hand.

21 (Witness sworn.)

22 EXAMINER PRICE: Please state your name
23 and business address for the record.

24 THE WITNESS: Scott Rubin, R-U-B-I-N, 333
25 Oak Lane, Bloomsburg, Pennsylvania.

1 EXAMINER PRICE: At this time we will
2 mark his testimony, his supplemental testimony, as
3 OCC Exhibit 35.

4 (EXHIBIT MARKED FOR IDENTIFICATION.)

5 EXAMINER PRICE: Please proceed.

6 - - -

7 SCOTT J. RUBIN

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

10 DIRECT EXAMINATION

11 By Mr. Kumar:

12 Q. Are you the same Scott Rubin whose
13 supplemental testimony was filed in these cases?

14 A. Yes.

15 Q. On whose behalf do you appear?

16 A. The Office of the Ohio Consumers'
17 Counsel.

18 Q. Do you have your prepared testimony with
19 you on the stand?

20 A. Yes, I do.

21 Q. Do you have any changes or corrections to
22 your supplemental testimony?

23 A. No.

24 Q. If I asked those same questions to you
25 today that are found in your supplemental testimony,

1 OCC Exhibit 35, would your answers be the same?

2 A. Yes, they would.

3 MR. KUMAR: The OCC moves for the
4 admission of OCC Exhibit 35 and tenders the witness
5 for cross-examination.

6 EXAMINER PRICE: We will defer ruling on
7 the admission of OCC Exhibit 35 until the conclusion
8 of cross-examination.

9 Ms. Fleisher?

10 MS. FLEISHER: No questions, your Honor.

11 EXAMINER PRICE: Mr. Dougherty?

12 MR. DOUGHERTY: No questions.

13 EXAMINER PRICE: Mr. Pritchard?

14 MR. PRITCHARD: No questions, your Honor

15 EXAMINER PRICE: Mr. Olikar?

16 MR. OLIKER: No, thank you, your Honor.

17 EXAMINER PRICE: Sierra Club?

18 MR. FISK: No questions.

19 EXAMINER PRICE: Ms. Bojko?

20 MS. BOJKO: No questions.

21 EXAMINER PRICE: Mr. Settineri?

22 MR. SETTINERI: No questions, your Honor.

23 EXAMINER PRICE: Mr. Kurtz?

24 MR. KURTZ: No questions, your Honor.

25 EXAMINER PRICE: Mr. Lang?

1 MR. LANG: Thank you, your Honor.

2 - - -

3 CROSS-EXAMINATION

4 By Mr. Lang:

5 Q. And good morning, Mr. Rubin.

6 A. Good morning, Mr. Lang.

7 Q. Now, your supplemental testimony focuses
8 specifically on paragraph V.F, of the third
9 supplemental stipulation, correct?

10 A. Yes. And I think there was one other
11 paragraph in the third supplemental stipulation that
12 refers to paragraph V.F that I also mention in my
13 testimony.

14 Q. And then in preparing your testimony, you
15 reviewed the third supplemental stipulation and then
16 Ms. Mikkelsen's testimony in support of the third
17 supplemental stipulation; is that correct?

18 A. Yes.

19 Q. Now, the stipulation and Ms. Mikkelsen's
20 testimony were filed on December 1st of 2015; is that
21 your understanding?

22 A. I don't have the date in front of me.

23 Q. With respect to the third supplemental
24 testimony, you were retained in mid December, is that
25 correct, to provide testimony on the third

1 supplemental stipulation?

2 A. I am really not sure I know what you mean
3 by "retained." I was retained by the Consumers'
4 Counsel, I believe it was, back in June or July.

5 Q. And, however, you signed a contract
6 addendum in mid December specific to the third
7 supplemental testimony; is that correct?

8 MR. KUMAR: Objection, your Honor.
9 Relevance.

10 EXAMINER PRICE: Overruled.

11 A. The contract addendum was to provide
12 additional funding in the contract in case I was
13 asked to provide -- well, to perform work on the AEP
14 case which was occurring at the same time. An
15 addendum was not necessary for me to work on the
16 third supplemental stipulation. There was enough
17 funding remaining in that contract and enough time
18 remaining in the contract so the addendum would not
19 have been required solely to work on the third
20 supplemental stipulation.

21 Q. Okay. With respect to the third
22 supplemental stipulation, did you obtain a copy from
23 the Commission's website or some other way?

24 A. I believe it was e-mailed to me by
25 counsel at the Office of Consumers' Counsel.

1 Sometimes they e-mail it to me. Sometimes they
2 suggest I go on the website and get it. I'm not sure
3 which, but I certainly found out about it through
4 them.

5 Q. And do you remember when you received a
6 copy?

7 A. I do not, no.

8 Q. Now, at the top of page 5 of your
9 testimony, you include a quote that you attribute to
10 the stipulation that says, "The companies agree to
11 implement the following straight fixed variable cost
12 recovery mechanism..." followed by an ellipsis, and
13 there's underlining there. Is that underlining that
14 you added, or was that in the original?

15 A. That was underlining I added. There
16 should have been a notation to that effect. I
17 apologize for that.

18 Q. And do you have Company Exhibit 154 on
19 the desk in front of you? That would be the third
20 supplemental stipulation.

21 A. Yes.

22 Q. Looking at Company Exhibit 154, could you
23 please turn to page 12 of that document?

24 A. Yes, I have it.

25 Q. And you see on page 12 there's a section

1 F and then paragraph 1, and in section F, paragraph
2 1, it says, "The Companies agree to file a case
3 before the Commission by April 3, 2017." Do you see
4 that?

5 A. Yes, I do.

6 Q. And nowhere in this section of the
7 stipulation does it contain the quoted language in
8 your testimony that's at the top of page 5; is that
9 correct?

10 A. You are correct. This language is
11 different from the language that I was working from.

12 Q. So the stipulation does not say the
13 companies agree to implement, whether underlined or
14 not, correct?

15 A. You are correct.

16 Q. And you would agree that a commitment to
17 file a case is different than a commitment to
18 implement a rate mechanism, correct?

19 A. Yes.

20 Q. Now, on page 4 of your testimony, line 17
21 through 18, you state that paragraph V.F does not say
22 that a filing would occur in April of 2017. Do you
23 see that part of your testimony?

24 A. I do, yes.

25 Q. And on Company Exhibit 143, the third

1 supplemental stipulation, in paragraph V.F.1, it does
2 say specifically the companies agree to file a case
3 by April 3, 2017, correct?

4 A. Yes.

5 Q. Now, also on page 5 of your testimony,
6 starting on line 8, you testify that there is nothing
7 in the actual text of the stipulation about the
8 "principle of gradualism and the effect of the
9 decoupling on various usage levels."

10 So if you could, please, on Company
11 Exhibit 154, if you could look now on page 13, the
12 second paragraph, and there it says, "The companies
13 agree to be cognizant of the principle of gradualism
14 and the effect of decoupling on various usage
15 levels." Do you see that?

16 A. Yes, I do. And, again, this is different
17 from the version I was given.

18 Q. So is it fair to say in preparing your
19 testimony you did not have the third supplemental
20 stipulation that is part of the record in this case?

21 A. Obviously not.

22 Q. Is it also fair to say that in terms of
23 the third supplemental stipulation that is part of
24 the record in this case, you did not review it until
25 our exchange this morning?

1 A. That's correct.

2 Q. Now, you are aware that the companies'
3 existing customer charge for distribution service is
4 \$4 per month.

5 A. Correct.

6 Q. And when we talk about a customer charge
7 as part of the distribution bill, that's the fixed
8 part of the distribution rates, correct?

9 A. Yes.

10 Q. And because it's \$4 per month, you would
11 expect that the companies' customer charge does not
12 recover all of the customer-related costs of the
13 companies here, correct?

14 A. I have not done the analysis, but I would
15 expect that to be the case.

16 Q. Now, on page 2 of your testimony, lines
17 10 through 13, you reference an article that you
18 recently published, correct?

19 A. Yes.

20 Q. And in that article you say you looked at
21 several alternatives to the all-kilowatt-hour option,
22 correct?

23 A. Yes.

24 Q. And the all-kilowatt-hour option that you
25 discuss in that article that you published is what

1 you would consider to be the default option that's
2 the predominant residential rate design today,
3 correct?

4 A. For most utilities, yes.

5 Q. And in the article that you prepared, the
6 default all-kilowatt-hour option has a customer
7 charge of \$13.25 cents; is that your understanding?

8 A. That was correct. That was an
9 illustration based on some hypothetical rates and so
10 on.

11 Q. And that was -- when you say it was based
12 on hypothetical rates -- get the reference. That was
13 based on what's on your page 29, footnote 9, the
14 article by Larry Blank and Doug Gegax?

15 A. Correct. That was a rate that they had
16 developed in their paper, which I used in my paper.

17 Q. Now, as proposed in the third
18 supplemental stipulation, you understand that any
19 adoption of the straight fixed variable rate design
20 in a future proceeding by the companies would be
21 revenue neutral to the companies, correct?

22 A. That's what the stipulation, yes.

23 Q. Now, I am going to ask you to look at
24 page 19 of your testimony.

25 A. Excuse me a minute. I'm sorry, I am

1 fighting a little cold. Sorry, page 19.

2 Q. It's that time of the year.

3 A. It is.

4 Q. Page 19.

5 A. I have that, yes.

6 Q. Now, on question 32 there, it asked about
7 your opinion regarding Ohio regulatory policy.

8 However, you do not hold yourself out as an expert on
9 Ohio regulatory policy, correct?

10 A. That's correct.

11 Q. Now, if I could take you back to page 9
12 of your testimony, there you begin a discussion of
13 the straight fixed variable rate design and the
14 Commission's order in Case No. 10-3126. With regard
15 to that case, you did not participate in that case;
16 is that right?

17 A. That's right.

18 Q. And your knowledge of that case is based
19 on your after-the-fact review of the Commission's
20 orders and some of the party comments, correct?

21 A. That's correct.

22 Q. However, you do not believe you reviewed
23 the Office of Consumers' Counsel's comments in that
24 case, correct?

25 A. I really don't recall. I might have.

1 I'm just not certain. I have an understanding of the
2 Consumers' Counsel position in that case, and I don't
3 recall if that's from reading the Commission order or
4 from actually reading their comments.

5 Q. Now, the opinions in your testimony
6 regarding Ohio regulatory policy are not based on any
7 particular Ohio statute, correct?

8 A. Correct.

9 Q. Now, you understand that this proceeding
10 that we are in is an electric security plan or ESP
11 proceeding, correct?

12 A. Yes.

13 Q. And your belief is as stated in your
14 testimony that the -- that distribution rate design
15 issues, including provisions regarding revenue
16 decoupling, are wholly unrelated to an ESP
17 proceeding, correct?

18 MR. KUMAR: Objection, your Honor. It
19 calls for a legal conclusion. The witness is not
20 here in his capacity as an attorney but rather as a
21 rate design expert.

22 EXAMINER PRICE: Overruled. I don't
23 think he is asking as an attorney. I think he is
24 asking as a regulatory expert.

25 MR. LANG: I am not, and I am asking him

1 as a witness. We can say that.

2 A. When I stated that the issues regarding
3 revenue decoupling and base rate -- rate design were
4 not appropriate in this case, I was basing that on
5 the way in which this case had been filed, the
6 application that was submitted, all the testimony,
7 and discovery, and so on.

8 I do not know whether those issues might
9 be lawfully part of an ESP case. I know that they
10 were not part of this ESP case until the language
11 appeared in the third supplemental stipulation, and
12 that was the basis for my statement.

13 MR. LANG: Your Honor, may I approach?

14 EXAMINER PRICE: You may.

15 Q. Mr. Rubin, you were deposed on January
16 12th of 2016, which I think was just last week.

17 A. Yes.

18 Q. Do you have a copy of your deposition
19 transcript?

20 A. I have it in my briefcase.

21 Q. Let me give you a copy. Mr. Rubin, in
22 your deposition on January 12, do you remember there
23 was a court reporter there and you were sworn in,
24 agreed to tell the truth?

25 A. Yes.

1 Q. And you were also asked by me at the
2 beginning of that deposition whether you had any
3 corrections to make to your hearing testimony. You
4 indicated you did not, correct?

5 A. Correct.

6 Q. Now, if I could have you turn to page 31
7 of the deposition transcript.

8 A. Yes.

9 Q. And starting at line 8, I asked you the
10 question: "And your belief is the distribution rate
11 design is wholly unrelated to an ESP proceeding." Is
12 that correct?

13 And your answer was "Yes." Did I read
14 that correctly?

15 MR. KUMAR: Objection, your Honor,
16 improper impeachment.

17 EXAMINER PRICE: Overruled.

18 You may answer the question.

19 A. That question and answer appear there,
20 but I believe those have to be taken in context. The
21 colloquy, I believe, begins on page 30 where I talk
22 about my understanding of this case. And then we go
23 on and talk about the statute, and I explained that I
24 hadn't reviewed the ESP statute in quite some time
25 and don't have an opinion about what issues may or

1 may not be in an ESP case under the statute. I was
2 talking about what was actually in this case from the
3 time it was filed.

4 MR. LANG: Your Honor, I would move to
5 strike after the response "that's what's in the
6 transcript" starting with the word "but."

7 MR. KUMAR: Your Honor, may I have the
8 answer reread?

9 EXAMINER PRICE: You may.

10 (Record read.)

11 MR. KUMAR: Your Honor, Mr. Rubin is
12 providing an essential amount of context to his
13 answer he provided in the deposition. There was, if
14 I remember correctly, a five- to six-minute
15 discussion about this in the deposition, and to
16 simply take this out of context is improper
17 impeachment.

18 EXAMINER PRICE: I totally disagree. If
19 you have -- if you have testimony you would like to
20 present on redirect regarding the context of the
21 question, then that's a fair discussion on redirect.
22 But there is nothing wrong with Mr. Lang's
23 cross-examination.

24 I am going to strike the entire answer
25 and direct the witness to answer the question "yes"

1 or "no," did Mr. Lang read that testimony -- your
2 deposition transcript correctly?

3 THE WITNESS: Yes, he did.

4 EXAMINER PRICE: Thank you.

5 Q. (By Mr. Lang) Mr. Rubin, with regard to
6 your understanding and your statements of Ohio
7 regulatory policy in your testimony, you are aware
8 that there is a statute in Ohio addressing or
9 authorizing electric security plans, correct?

10 A. Yes.

11 Q. And at some point you have read that
12 statute, correct?

13 A. Yes.

14 Q. You do not have any specific knowledge of
15 what's in that statute, correct?

16 A. Not sitting here today without the
17 statute in front of me, no.

18 Q. And you do not know what the statute
19 states with regards to what may be included in an
20 electric security plan, correct?

21 A. The same answer, I don't have the statute
22 in front of me.

23 MR. KUMAR: Objection, your Honor, asked
24 and answered.

25 EXAMINER PRICE: Overruled.

1 Q. (By Mr. Lang) Mr. Rubin, you did not
2 review the third -- the third supplemental
3 stipulation in terms of compliance with that statute
4 or the ESP statute or with any other Ohio statute,
5 correct?

6 A. Correct.

7 Q. Now, on page 16 of your testimony, you
8 make reference to an ATA case. Is it fair to say you
9 don't have any experience with ATA proceedings in
10 Ohio?

11 A. That's correct.

12 Q. Now, not including this case, you do not
13 know whether in any other ESP proceeding in Ohio
14 there has been a stipulation submitted to the
15 Commission in which the parties agreed that the
16 distribution utility would initiate a future
17 proceeding for approval of a decoupling mechanism?

18 A. I do not know.

19 Q. And you also do not know whether in any
20 ESP proceeding in Ohio the Commission authorized a
21 distribution utility to file an application for a
22 decoupling mechanism in a future proceeding; is that
23 correct?

24 A. That is correct.

25 MR. LANG: No further questions.

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1 Thank you, Mr. Rubin.

2 Thank you, your Honors.

3 EXAMINER PRICE: Thank you.

4 Mr. McNamee?

5 MR. McNAMEE: My questions have already
6 been asked. Thank you.

7 EXAMINER PRICE: Redirect?

8 MR. KUMAR: Your Honor, may we have a few
9 minutes?

10 EXAMINER PRICE: You may.

11 Let's go off the record.

12 (Discussion off the record.)

13 EXAMINER PRICE: Let's go back on the
14 record.

15 Mr. Kumar.

16 MR. KUMAR: I have no questions, your
17 Honor.

18 EXAMINER PRICE: Ms. Addison?

19 EXAMINER ADDISON: No questions.

20 EXAMINER PRICE: Ms. Chiles?

21 EXAMINER CHILES: No questions.

22 EXAMINER PRICE: Commissioner Haque?

23 COMMISSIONER HAQUE: No, thank you.

24 EXAMINER PRICE: I just had one question
25 just to clarify the record in this case. In your

1 testimony every reference to the third supplemental
2 stipulation was based upon an incorrect version of
3 the stipulation; is that correct?

4 THE WITNESS: Apparently, yes.

5 EXAMINER PRICE: Thank you. You are
6 excused.

7 Mr. Kumar.

8 MR. KUMAR: I believe we have already
9 moved for the admission of OCC Exhibit 35.

10 EXAMINER PRICE: Any objections to its
11 admission?

12 MR. LANG: No, your Honor.

13 EXAMINER PRICE: It will be admitted.

14 (EXHIBIT ADMITTED INTO EVIDENCE.)

15 EXAMINER ADDISON: Mr. Fisk, you may call
16 your next witness.

17 MR. FISK: Thank you, your Honor. Sierra
18 Club calls Tyler Comings to the stand. And we would
19 ask that the public version of Mr. Comings' third
20 supplemental testimony be marked as Sierra Club
21 Exhibit 95, and the competitively sensitive
22 confidential version of Mr. Comings' third
23 supplemental testimony be marked as Exhibit 96C.

24 EXAMINER ADDISON: They will be so
25 marked.

1 (EXHIBITS MARKED FOR IDENTIFICATION.)

2 MR. FISK: Thank you.

3 (Witness sworn.)

4 EXAMINER ADDISON: Thank you. Please
5 proceed, Mr. Fisk.

6 MR. FISK: Thank you.

7 - - -

8 TYLER COMINGS

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

11 DIRECT EXAMINATION

12 By Mr. Fisk:

13 Q. Mr. Comings, do you have your proposed
14 testimony on the stand?

15 A. My third supplemental testimony, yes.

16 Q. And do you have any corrections to that
17 testimony?

18 A. Yes, I have a couple.

19 Q. Okay. What's the first one?

20 A. If you turn to page 3, lines 7 and 8, I
21 would like to remove the word "has" on line 7 and
22 replace with "is proposing to do so again."

23 On line 8, I would like to replace that
24 phrase with the word "did," so it should read, "In
25 addition, PJM lowered its load forecast in 2015 and

1 did so again in 2016."

2 Q. Okay.

3 A. Next is on page 10, footnote 14 should
4 read "Id." and then "Confidential workpapers of Judah
5 Rose, Supra footnote 11."

6 Page 11 I am updating the expected
7 operation date in this table based on more updated
8 info from the PJM Interconnection Queue, which said
9 that Lordstown was expected to come online in 2019,
10 not 2018, so I would like to replace that, and the
11 Southfield's expected operation date to 2019.

12 The last one, last correction, is to
13 footnote 17. I would like to change that to say
14 instead of "Id." should say Supra footnote 15, and
15 that's it.

16 Q. Okay. Thank you, Mr. Comings. So with
17 those corrections, if I asked you all of the
18 questions contained in your testimony -- in your
19 third supplemental testimony today, would your
20 answers be the same?

21 A. Yes, they would.

22 MR. FISK: Sierra Club moves for the
23 admission of Sierra Club Exhibits 95 and 96C and
24 tenders the witness for cross-examination.

25 EXAMINER ADDISON: Thank you, Mr. Fisk.

1 We will defer ruling on the admission of Sierra Club
2 Exhibits No. 95 and 96C upon the completion of
3 cross-examination.

4 Are there any motions to strike?

5 MR. KUTIK: Yes, your Honor. Your Honor,
6 the companies would move to strike Mr. Comings' third
7 supplement testimony starting on page 7, line 18,
8 that's section No. 3, the entire section No. 3, which
9 goes all the way to the end of page 18.

10 The grounds, your Honor, the motion or
11 the testimony is beyond the scope of the hearing. As
12 we've discussed in previous proceedings in this part
13 of the hearings, the scope of this case relates to
14 the changes brought about by the third supplemental
15 stipulation to the companies' ESP, the effect of
16 those changes, and the settlement process that
17 brought forth the third supplemental stipulation.

18 Using updates is not within the scope of
19 those changes and is really a backhanded way as
20 surrebuttal to Mr. Rose's testimony. So for those
21 reasons, your Honor, we move that that portion of
22 Mr. Comings' testimony be stricken.

23 EXAMINER ADDISON: Mr. Fisk.

24 MR. FISK: Thank you, your Honor. We
25 would, of course, oppose that motion with regards to

1 the testimony. This is directly addressing
2 Ms. Mikkelsen's testimony in her fifth -- I believe
3 it's the fifth supplemental testimony she filed
4 projecting a net revenue and costs that would be
5 passed through rider RRS under the eight-year
6 stipulation that is at issue in this hearing. She
7 provided a specific number on that, provided a
8 workpaper supporting that.

9 Mr. Comings's testimony directly
10 addresses the use of that number and questions
11 various inputs that went into that number and those
12 projections for the third supplemental stipulation.
13 I believe Mr. Comings's testimony also updates
14 certain numbers with regards to gas prices, capacity
15 prices, et cetera, that I believe your Honors ruled
16 just yesterday with regards to Mr. Wilson's testimony
17 was an appropriate thing to do in this hearing.

18 And as for rebuttal of points raised by
19 Mr. Rose in his rebuttal testimony, there is nothing
20 in Mr. Comings's third supplemental testimony that
21 even sites to Mr. Rose's testimony, and he doesn't
22 specifically address any points that Mr. Rose made in
23 his rebuttal testimony in a way of rebutting them.
24 It simply focused on Ms. Mikkelsen's testimony and
25 her projection of costs and revenues under rider RRS,

1 so we believe it's fully appropriate for this
2 hearing.

3 MR. KUTIK: Calculations that
4 Ms. Mikkelsen presented were unchanged except for
5 certain features related to the third supplemental
6 stipulation, and so updating information has nothing
7 to do with Ms. Mikkelsen's calculations. The further
8 notion that this isn't a rebuttal to Mr. Rose's
9 testimony can be demonstrated or can be done away
10 with by just looking at Mr. Comings's testimony where
11 he cites or mentions ICF or Mr. Rose 15 times.

12 EXAMINER ADDISON: Mr. Fisk, last word.

13 MR. FISK: Ms. Mikkelsen does rely on the
14 initial outdated forecasts that -- the initial
15 forecasts that the company used. She's then modified
16 them to reflect the eight-year value of this proposed
17 stipulation, and it is perfectly appropriate for
18 Mr. Comings to point out in his testimony here that
19 those numbers are outdated and to update his
20 testimony just as Mr. Wilson did yesterday.

21 EXAMINER ADDISON: At this time we are
22 going to deny the motion to strike, just as we did
23 for Mr. Wilson's testimony. We don't find there is
24 anything improper with referencing updated
25 information.

1 MR. FISK: Thank you.

2 EXAMINER ADDISON: Did you have another
3 motion to strike?

4 MR. KUTIK: No, your Honor. That's our
5 motion.

6 EXAMINER ADDISON: Thank you.

7 Ms. Fleisher?

8 MS. FLEISHER: No questions, your Honor.

9 EXAMINER ADDISON: Mr. Dougherty?

10 MR. DOUGHERTY: No questions, your Honor

11 EXAMINER ADDISON: Ms. Bojko?

12 MS. BOJKO: No, thank you, your Honor.

13 EXAMINER ADDISON: Mr. Settineri?

14 MR. SETTINERI: No questions, your Honor.

15 EXAMINER ADDISON: Ms. Willis?

16 MS. WILLIS: No questions, your Honor.

17 EXAMINER ADDISON: Mr. Olikar?

18 MR. OLIKER: No questions, your Honor.

19 EXAMINER ADDISON: Mr. Pritchard?

20 MR. PRITCHARD: No questions, your Honor.

21 EXAMINER ADDISON: Mr. Kurtz?

22 MR. KURTZ: No questions, your Honor.

23 EXAMINER ADDISON: Mr. Kutik?

24 MR. KUTIK: Thank you, your Honor.

25 - - -

CROSS-EXAMINATION

By Mr. Kutik:

Q. Good morning, Mr. Comings.

A. Good morning, Mr. Kutik.

Q. Would it be fair to say your testimony addresses issues raised in the rebuttal testimony of Mr. Rose?

A. My testimony was focused on Ms. Mikkelsen's testimony and the projections of revenues and costs. Mr. Rose provided the underlying information for those in the -- in his direct testimony in this case. So my third supplemental testimony updates information on issues I have raised previously in my other rounds of testimony and Mr. Rose raised in his testimonies, but I do not cite to Mr. Rose's rebuttal and I did not review the rebuttal when I was preparing this round of testimony.

MR. KUTIK: Your Honor, I move to strike.

EXAMINER ADDISON: Mr. Fisk.

MR. FISK: Mr. Kutik -- Mr. Comings offered an answer that was directly responsive to what Mr. Kutik asked, which was whether Mr. Comings's testimony was focused on the issues addressed by Mr. Rose, and Mr. Comings's offered an explanation of

1 what issues he was addressing in his testimony.

2 MR. KUTIK: The question was capable of a
3 "yes" or "no," and he did neither.

4 EXAMINER ADDISON: Motion to strike will
5 be denied.

6 Q. (By Mr. Kutik) Mr. Comings, do you have
7 your deposition transcript?

8 A. I don't.

9 MR. KUTIK: May I approach, your Honor?

10 EXAMINER ADDISON: You may.

11 Q. (By Mr. Kutik) Mr. Comings, I took your
12 deposition on January 11, 2016, correct?

13 A. Yes.

14 Q. And you were in your offices in
15 Cambridge, Massachusetts?

16 A. Yes.

17 Q. And there was a court reporter there.

18 A. Yes.

19 Q. And you took an oath to tell the truth.

20 A. Yes.

21 Q. And you also took the opportunity to have
22 the -- to review the transcript, did you not?

23 A. I did.

24 Q. And let me now refer you to page 6 of
25 your deposition transcript. Are you there?

1 A. Yes.

2 Q. And did I not ask you the following
3 question and did you not give the following answer
4 starting at line 11:

5 "Question: So your testimony in some way
6 responds to the rebuttal testimony filed by the
7 companies. Fair to say?"

8 And there is an objection by Mr. Fisk.

9 "Answer: It addresses the issues, some
10 of the issues, raised in the rebuttal testimony of
11 the companies."

12 Do you see that?

13 MR. FISK: And I would just first note
14 that the objection made during the deposition was
15 that the questions had already been asked and
16 answered, and I would also object as this is improper
17 impeachment.

18 MS. WILLIS: I would join in that
19 objection.

20 EXAMINER ADDISON: Mr. Kutik, response?

21 MR. KUTIK: Your Honor, I asked him a
22 simple question whether the testimony he is giving
23 today responds to the issues raised in Mr. Rose's
24 rebuttal testimony. He gave an answer that was --
25 neither "yes" nor "no," neither affirmative nor

1 negative, and this is a clear answer to the question
2 which is different than the answer he gave today,
3 which is he says affirmatively it addresses the
4 issues, some of the issues, raised in the rebuttal
5 testimony of the companies.

6 EXAMINER ADDISON: At this time I am
7 going to overrule the objection.

8 Please proceed, Mr. Kutik.

9 Q. (By Mr. Kutik) That was your testimony at
10 your deposition, correct?

11 A. Yes. And when I said "addresses the
12 issues," some of the issues are natural gas prices,
13 capacity prices. These are issues that have been --
14 these have been issues throughout the case, so when I
15 said that response, that was what I was talking
16 about.

17 And, as I said above, I did not review
18 rebuttal testimony before writing this testimony, and
19 I didn't cite to it at all.

20 MR. KUTIK: I move to strike everything
21 after the word "yes."

22 EXAMINER ADDISON: Granted.

23 You can raise that during redirect,
24 Mr. Fisk.

25 MR. KUTIK: And, your Honor, I renew my

1 motion to strike the third section of his testimony
2 given that it is a response to the rebuttal testimony
3 of the companies by his own admission.

4 EXAMINER ADDISON: Mr. Fisk.

5 MR. FISK: Your Honors, Mr. Kutik is
6 taking one portion of the deposition out of context.
7 There was a series of Q and As here about this issue.
8 Mr. Comings made clear that his testimony in this
9 hearing was not designed to respond to the rebuttal
10 testimony. He makes clear that he never cited to the
11 rebuttal testimony of Mr. Rose. He made clear that
12 he didn't review the rebuttal testimony of Mr. Rose
13 right before writing the last round.

14 His testimony here is that the purpose of
15 his testimony was to address the third supplemental
16 stipulation, and simply his point about the issues is
17 simply these are issues that have been at issue.
18 We've had natural gas prices, capacity prices, et
19 cetera, that have been issues throughout this
20 proceeding.

21 So, yes, there are some issues that were
22 addressed by Mr. Rose or other witnesses previously
23 that are addressed in his testimony doesn't mean he
24 is directly rebutting anything in Mr. Rose's rebuttal
25 testimony.

1 EXAMINER ADDISON: Thank you. At this
2 time I am going to deny the motion to strike.

3 Q. (By Mr. Kutik) Now, you have done no
4 computer modeling to forecast natural gas prices,
5 correct?

6 A. No, not in this case.

7 Q. So what I said was correct.

8 A. Correct.

9 Q. And you've done no study of the
10 relationship of natural gas futures to natural gas
11 spot prices, correct?

12 A. Correct.

13 Q. You would agree with me that natural gas
14 prices are volatile.

15 A. They can -- I think they have been
16 volatile historically. The last for years they have
17 been more volatile daily, not monthly or annually. I
18 think there are daily fluctuations of temperatures
19 that can be volatile.

20 Q. Okay. Well, you reviewed Mr. Rose's
21 rebuttal testimony, did you not?

22 A. I reviewed it, yes, when it was filed.

23 MR. KUTIK: May I approach, your Honor?

24 EXAMINER ADDISON: You may.

25 Q. Mr. Comings, I would like to hand you

1 what's been previously admitted in this case as
2 Company Exhibit 151, which is Mr. Rose's rebuttal
3 testimony. You recognize that, correct?

4 A. Yes.

5 Q. Mr. Comings, I would like to hand you
6 what's been previously admitted in this case as
7 Company Exhibit 151 which is Mr. Rose's rebuttal
8 testimony. He provided some information about the
9 volatility of Henry Hub prices, did he not, natural
10 gas prices?

11 MR. FISK: Your Honors, I guess I would
12 note an objection. Mr. Kutik's two motions to strike
13 were both based on the fact that the rebuttal
14 testimony of Mr. Rose, which is not what is at issue
15 in this hearing. If Mr. Kutik would like to ask
16 Mr. Comings about his testimony in this hearing, that
17 would be appropriate.

18 EXAMINER ADDISON: Mr. Kutik.

19 MR. KUTIK: Your Honor, this goes to his
20 statement just now about natural gas price
21 volatility. I am showing him some information about
22 natural gas volatility that's in the record.

23 EXAMINER ADDISON: I will allow it.

24 Q. (By Mr. Kutik) Mr. Comings, I refer you,
25 Mr. Comings, to page 31 of Mr. Rose's rebuttal

1 testimony, particularly Figure 1.

2 A. Okay.

3 Q. And you see that there are -- there is
4 data there with respect to natural gas price
5 volatility with the Henry Hub, correct?

6 A. Yes.

7 Q. Okay. And it shows that for 2014 the
8 volatility was over 60 percent?

9 A. Yes; and then significantly dropped in
10 2015.

11 Q. Okay. And you don't know whether that
12 2015 represented the entire year, do you?

13 A. It says in the footnote that it reflects
14 trades as of May 22, 2015.

15 Q. So it reflects about less than five
16 months of a year, correct?

17 A. Less than six months of the year.

18 Q. Okay. And in mid December of 2015, the
19 Henry Hub spot price of natural gas was in the
20 neighborhood of \$1.65 per MMBtu?

21 A. I think that's right.

22 MR. KUTIK: And, your Honor, I would like
23 to have marked at this time two exhibits. First as
24 Company Exhibit 173 I would like to have marked the
25 Natural Gas Weekly Update for the week ending

1 December 18, 2015, from the U.S. Energy Information
2 Administration.

3 EXAMINER ADDISON: So marked.

4 (EXHIBIT MARKED FOR IDENTIFICATION.)

5 MR. KUTIK: And for Company Exhibit 74, I
6 would like to have marked as the Natural Gas Weekly
7 Update for the week ending January 6, 2016, from the
8 EIA as well.

9 MR. FISK: I'm sorry, did you mean 174?

10 MR. KUTIK: I did, yes. I'm sorry.

11 EXAMINER ADDISON: It will be so marked.

12 (EXHIBIT MARKED FOR IDENTIFICATION.)

13 Q. (By Mr. Kutik) Mr. Comings, I have handed
14 you what's been marked for identification as Company
15 Exhibits 173 and 174. First, would it be fair to say
16 EIA is one source you have relied upon for your
17 natural gas price information and for natural gas
18 price trends?

19 A. Yes.

20 Q. And the EIA does an update of weekly gas
21 prices, correct?

22 A. Yes.

23 Q. And you recognize Company Exhibit 173 as
24 the EIA's natural gas weekly update for the week
25 ending December 18, 2015?

1 A. Yes.

2 Q. And you recognize Company Exhibit 174 as
3 the EIA's Natural Gas Weekly Update for the week
4 ending January 6, 2016, correct?

5 A. Yes.

6 Q. Now, referring to Exhibit 173, I would
7 like to refer you to page 4 of 11.

8 A. Okay.

9 Q. On that page we see a table which
10 includes spot prices for Henry Hub for the weekdays
11 starting December 10 and ending Wednesday, December
12 16, correct?

13 A. Yes.

14 Q. And we see a low price as of
15 December 15th of \$1.65.

16 A. Yes.

17 Q. Now, let's go to Exhibit 174 and go again
18 to pages 4 -- to page 4 and also to page 5.

19 A. Okay.

20 Q. Are you there?

21 A. Yes.

22 Q. And on that page we see -- those pages we
23 see a series of tables showing Henry Hub spot prices
24 for the week days starting December 17 and ending
25 January 6, excluding -- well, it does show Christmas

1 day as a holiday.

2 A. Yes, and New Year's day, correct.

3 Q. So my description was correct?

4 A. Yes.

5 Q. And we see that the low price for that
6 period of time was a \$1.54 on December 24.

7 A. Yes.

8 Q. And the highest price was on Monday,
9 January 4 at \$2.39, correct?

10 A. Yes.

11 Q. And the last price we see was on -- was
12 January 6th for \$2.35, correct?

13 A. Yes.

14 Q. And would it be fair to say the week
15 after that, the week in which I took your deposition,
16 Henry Hub prices were in the \$2.40 range?

17 A. I think that's right.

18 Q. So it would be fair to say in looking at
19 this data, in the space of seven days prices jumped
20 over 50 percent, say from December -- the space of
21 seven business days?

22 A. Oh, okay.

23 Q. It jumped over 50 percent from
24 December 24 to January 6, for example.

25 A. If you are taking the lowest price of

1 these days and the highest price, then that's an
2 accurate statement.

3 Q. Now, the mid December price, that was a
4 16-year low, was it not?

5 A. Yes.

6 Q. And you would not use that price going
7 forward, correct?

8 A. No.

9 Q. What I said was correct?

10 A. Yes, it was correct.

11 Q. And I want to talk to you a little bit
12 about the reasons why it was so low. Natural gas
13 prices are influenced by natural gas demand, correct?

14 A. Yes.

15 Q. And one of the factors relating to
16 natural gas demand is weather, particularly
17 temperature, correct?

18 A. Yes. When I was talking about
19 fluctuations day-to-day, that's one of the reasons.

20 Q. Okay. December was one of the warmest
21 Decembers on record in the lower 48 states, was it
22 not?

23 A. I'm not sure. It does discuss
24 warmer-than-average temperatures in this document.

25 Q. I asked you whether December was the

1 warmest December on record in the lower -- in the
2 lower 48 states.

3 A. I don't know.

4 Q. Would it be fair to say that in the
5 eastern half of the U.S., 29 states had the warmest
6 December on record?

7 A. I don't know.

8 Q. Would it be fair to say that there
9 were -- that the maximum temperatures were a record
10 for the eastern half of the nation in December?

11 A. I don't know.

12 Q. And would it be fair to say for the same
13 region, the minimum temperatures in December were a
14 near record?

15 A. I don't know.

16 Q. Okay. Would you agree with me the
17 National Oceanic and Atmospheric Administration would
18 be a reliable source of weather information?

19 A. Yes.

20 MR. KUTIK: Your Honor, at this time I
21 would like to have marked as Company Exhibit 175 a
22 document entitled "National Overview - December of
23 2015," from the National Oceanic and Atmospheric
24 Administration, National Centers for Environmental
25 Information.

1 EXAMINER ADDISON: So marked.

2 (EXHIBIT MARKED FOR IDENTIFICATION.)

3 MR. KUTIK: May I approach, your Honor?

4 EXAMINER ADDISON: You may.

5 Q. (By Mr. Kutik) Mr. Comings, I've shown
6 you what's been marked for identification as Company
7 Exhibit 175. Do you recognize this as the National
8 Overview from December of 2015 -- relating to the
9 December 2015 from the National Centers for
10 Environmental Information of the National Oceanic and
11 Atmospheric Administration?

12 A. I haven't seen this before so I don't
13 recognize it.

14 MR. KUTIK: Your Honor, at this time we
15 ask that the Bench take administrative notice of the
16 information that appears on the first page of this
17 document, particularly under temperature, and
18 particularly the first three bullet items. I would
19 like to read now into the record.

20 EXAMINER ADDISON: Any objections?

21 MR. FISK: No objection.

22 EXAMINER ADDISON: Hearing no objection,
23 we will take administrative notice.

24 MR. KUTIK: All right. May I read the
25 specific parts of the document that I would like to

1 have in the record?

2 EXAMINER ADDISON: You may.

3 MR. KUTIK: All right. "The average
4 contiguous U.S. temperature during December was 38.6°
5 F, 6.0° F above the 20th century average. This was
6 the warmest December on record for the Lower 48.
7 This bested the previous record of 37° F set in 1939.
8 The average maximum (daytime) temperature was 48.1°
9 F, 5.3° F above the 20th century average, the second
10 highest maximum value on record behind 1939. The
11 average minimum temperature was 29.2° F, 6.6° F above
12 average. This bested the previous record set in
13 2014."

14 That's the first point. The second point
15 reads, "Record warmth engulfed the eastern half of
16 the nation, where 29 states had the warmest December
17 on record. Near- to below-average December
18 temperatures were observed in the West. No state was
19 record cold."

20 That's the second point. The third
21 point, "Both maximum and minimum temperatures were
22 record and near-record high for the eastern half of
23 the nation. Maximum and minimum temperatures were
24 near- to below average across the West."

25 MS. WILLIS: Your Honor, I am going to

1 object at this time as to relevance, on the basis of
2 relevance.

3 EXAMINER ADDISON: Overruled.

4 Please continue, Mr. Kutik.

5 Q. (By Mr. Kutik) Now, you are also aware,
6 are you not, that in December there were a record
7 level -- a record level high gas inventories.

8 A. I wouldn't be surprised. I'm not
9 positive.

10 MR. KUTIK: Your Honor, I would like to
11 approach the witness and show him what has been
12 marked yesterday as Company Exhibit 167, which was
13 the EIA's Short-Term Energy Outlook for January, '16.
14 I can provide the Bench a copy if you don't have that
15 with you.

16 EXAMINER ADDISON: I believe we have
17 copies.

18 Mr. Fisk, would you like to look at the
19 document?

20 MR. FISK: I have a copy here. Thank
21 you.

22 MR. KUTIK: May I approach the witness?

23 EXAMINER ADDISON: You may.

24 Q. (By Mr. Kutik) Mr. Comings, I am showing
25 you what has previously been marked and admitted in

1 this case as the Short-Term Energy Outlook for
2 January, 2016 for the EIA. You recognize this as
3 that document, do you not?

4 A. Yes.

5 Q. And it's this type of document that you
6 look at regularly in your work, correct?

7 A. I've reviewed it before.

8 Q. Okay. And let me refer you to page 10 of
9 this document.

10 A. I'm there.

11 Q. And you see there's a paragraph that says
12 "Natural Gas Prices"?

13 A. Yes.

14 Q. Around in the third line of that
15 paragraph, there is a reference to "record inventory
16 levels." Do you see that?

17 A. Yes.

18 Q. You have no reason to dispute that, do
19 you?

20 A. No, I don't.

21 Q. Would it also be fair to say that the EIA
22 also projects that natural gas production growth will
23 slow as natural gas prices and the -- "as low natural
24 gas prices and declining rig activity begin to affect
25 production"?

1 A. Can you point me to a reference?

2 Q. Yes. Let me refer you back to page 10.

3 A. Thank you.

4 Q. And let me refer you to the paragraph
5 that says "Natural Gas Production and Trade." Are
6 you there?

7 A. Yes.

8 Q. And if we can look at the third sentence
9 that begins on the fourth line of that paragraph, it
10 reads, "EIA projects growth will slow 0.7% in 2016,
11 as low natural gas prices and declining rig activity
12 begin to affect production." Do you see that?

13 A. Yes.

14 Q. And you have no reason to dispute that
15 either, do you?

16 A. No.

17 MR. KUTIK: Can we go off the record for
18 a minute?

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

21 (Discussion off the record.)

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

24 Please proceed, Mr. Kutik.

25 Q. (By Mr. Kutik) Now, in your testimony,

1 you've focused a great deal on natural gas prices,
2 but would it be fair to say that a more direct
3 variable went into the companies' revenue forecasted
4 energy prices?

5 A. The natural gas prices feed into those
6 energy price forecasts, and they are a key
7 assumption. So I don't think that's fair to say.

8 Q. All right. Isn't it true that what
9 actually went into the forecasts of the companies'
10 revenue was energy price, not natural gas price?

11 A. Directly, yes. However, those energy
12 price forecasts are reliant on natural gas prices.

13 Q. All right. Now, the difference between
14 Mr. Rose's forecasted energy prices and energy
15 futures is less than the difference between
16 Mr. Rose's natural gas forecast prices and natural
17 gas futures?

18 A. The difference is less for energy prices
19 wouldn't -- regarding the actual 2015 price. I don't
20 know about futures.

21 Q. Okay. Let me refer you back to your
22 testimony in your deposition, sir. Can you please
23 turn to page 27. Are you there?

24 A. Yes.

25 Q. And did you not answer the following

1 questions the following way starting at line 11:

2 "Question: Do you know whether the
3 difference between Mr. Rose's energy forecast and
4 current energy futures are more or less than the
5 difference between Mr. Rose's natural gas price
6 forecasts and natural gas futures currently?

7 "Answer: When you say more or less, I
8 don't know by what metric they are different measures
9 so...

10 "Question: Well, as a percentage.

11 "Answer: Aah. Well, the fluctuation in
12 terms of percentage for energy prices, the percentage
13 differences are likely to be lower than the
14 percentage difference in capacity -- I'm sorry --
15 natural gas price in comparison."

16 That was your deposition testimony,
17 correct?

18 A. Yes. I say in my deposition I said
19 "likely" because I was not affirmative.

20 Q. That was your deposition testimony,
21 correct?

22 A. That's correct.

23 Q. Now, would it also be fair to say the
24 total bid or price would not fluctuate as much as
25 fuel price?

1 A. That is fair to say because there are
2 other elements of the bid price that do not fluctuate
3 as much.

4 Q. Would it also be fair to say that the
5 ratio of energy prices to natural gas prices is not
6 constant over time?

7 A. That's fair to say.

8 Q. One of your criticisms of Mr. Rose's
9 capacity price forecast is that the levels he
10 predicts are not borne out by historical trends of
11 natural gas prices -- excuse me, for capacity prices
12 of PJM, correct?

13 A. Yes.

14 Q. And capacity prices are less sensitive to
15 gas prices than changes -- than energy, to gas price
16 changes than energy prices are?

17 A. Yes, that's fair to say.

18 Q. You would agree with me, would you not,
19 that if demand for capacity is less, that will have a
20 downward pressure on capacity prices, all else being
21 equal?

22 A. Yes.

23 Q. You would also agree with me that if the
24 supply of the capacity is less, that will have an
25 upward pressure on capacity prices, again all

1 things -- all else being equal?

2 A. Yes.

3 Q. And PJM capacity performance requirements
4 will increase by 25 percent in the next 16 months,
5 correct?

6 A. If you are talking about the 2020-2021
7 auction compared to the most recent auction 2018-'19,
8 the capacity performance is going to go from 80
9 percent to 100 percent.

10 Q. So the answer to my question is yes.

11 A. Yes.

12 Q. And demand for capacity performance will
13 increase by 25 percent.

14 A. Yes.

15 Q. Now, I want to refer you to your Exhibit
16 TFC-45.

17 A. Okay.

18 Q. Which is the 2016 PJM Load Forecast
19 Report that we previously marked in this case and
20 admitted as Company Exhibit 171. Now, with respect
21 to this document, there is a Summary Table on page 3,
22 correct?

23 A. Yes.

24 Q. Let's look at the lines devoted to PJM
25 RTO. We see on kind of the first line that has in

1 bold PJM RTO, there are certain figures that are
2 shown there, correct?

3 A. Yes.

4 Q. And take an example, we see the RTEP year
5 2021, we see a figure of 157,358, correct?

6 A. Yes.

7 Q. And that is either a gross or an
8 unrestricted peak that's been projected by PJM,
9 correct?

10 A. Yes.

11 Q. And then they take out a number for
12 demand resources, correct?

13 A. Yes.

14 Q. And then we see a number that's labeled
15 "Restricted," correct?

16 A. Yes.

17 Q. And this would be the load that
18 generation resources would have to meet, correct?

19 A. Yes, that's fair to say.

20 Q. Now, let me refer you to page -- to Table
21 B-7 of this document. I believe that starts on page
22 65. Are you there?

23 A. Yes.

24 Q. And if we go to the end of that table
25 which is on page 70, we see some numbers for "Total

1 Load Management," correct?

2 A. Yes.

3 Q. And those numbers that we see on the
4 total line there would tie back to the numbers on the
5 Summary Table that we just looked at for demand
6 resources, correct?

7 A. Yes.

8 Q. And the numbers we see on Table B-7,
9 those are PJM's projection for demand response that's
10 going to for some of this period qualify for capacity
11 performance, correct?

12 A. Yes.

13 MR. KUTIK: Now, I would like to approach
14 the witness, your Honor. May I?

15 EXAMINER ADDISON: You may.

16 MR. KUTIK: Your Honor, I would like to
17 show the witness what has previously been marked in
18 this case as Sierra Club Exhibit 15, and we had
19 marked it yesterday -- admitted as Sierra Club 15.
20 We had marked it yesterday as Exhibit 170. It's the
21 PJM Load Forecast Report for January, 2015.

22 The Bench still has copies, or I can
23 provide additional copies to the Bench.

24 EXAMINER ADDISON: I believe we have
25 copies.

1 Mr. Fisk?

2 MR. FISK: I have a copy.

3 MR. KUTIK: May I approach the witness,
4 your Honor?

5 EXAMINER ADDISON: You may.

6 Q. (By Mr. Kutik) Mr. Comings, I've handed
7 you a document that's the PJM Load Forecast Report
8 for January, 2015, correct?

9 A. Yes.

10 Q. And if we look at page 3, we see a
11 similar Summary Table that we just looked at with
12 respect to the January, 2016, report, correct?

13 A. Yes.

14 Q. In addition to the fact that some of the
15 numbers are different, some of the years are
16 different, the calculation to get to restricted peak
17 load also is different in that PJM takes out not only
18 demand resources but energy efficiency, correct?

19 A. That's right.

20 Q. And if we go back to Table B-7 of the
21 2015 report, which starts on page 61 and ends on page
22 64, we some data for PJM RTO, correct?

23 A. Yes.

24 Q. And that is -- what's shown with respect
25 to that part of the table are the projections for

1 demand response for the years shown, correct?

2 A. Yes. And then with the addition of
3 energy efficiency on Table B-8.

4 Q. All right. And if we look at the numbers
5 for Total Load Management that appear in B-7 of the
6 2015 report, would you agree with me that they are
7 all larger than the numbers that appear on Table B-7
8 in the 2016 report for the PJM RTO?

9 A. Yes.

10 Q. In other words, the forecasts for demand
11 response that were used for part of this calculation
12 in 2016 went down.

13 A. Yes. And the restricted load forecasts
14 also in 2016 is still lower for most years.

15 MR. KUTIK: Your Honor, I move to strike
16 everything starting with the word "and."

17 EXAMINER ADDISON: Granted.

18 Mr. Fisk, you can bring that up during
19 redirect.

20 MR. FISK: Thank you, your Honor.

21 Q. (By Mr. Kutik) Now, I want to go back to
22 looking at the 2016 Load Forecast Report. I think we
23 spotted a number earlier in the Summary Table for the
24 RTEP year 2020-21. And there was a figure for the
25 restricted forecast or restricted load forecast of

1 153,934, correct?

2 A. Yes.

3 Q. And RTEP year, that's the year beginning
4 June 1, 2021, correct?

5 A. Yes, I believe that's true.

6 Q. Now, you as part of your work in this
7 case reviewed Mr. Rose's workpapers, did you not?

8 A. Yes, I did.

9 MR. KUTIK: Your Honor, at this time we
10 would like to have marked as Company Exhibit 176
11 Mr. Rose's public -- the public version of Mr. Rose's
12 workpapers.

13 EXAMINER ADDISON: It will be so marked.

14 (EXHIBIT MARKED FOR IDENTIFICATION.)

15 MR. KUTIK: May I approach?

16 EXAMINER ADDISON: You may.

17 Q. (By Mr. Kutik) Mr. Comings, I handed you
18 what has been marked as Company Exhibit 176. Do you
19 recognize this as Mr. Rose's workpapers, at least the
20 public version of workpapers?

21 A. I do.

22 Q. And let me have you turn to I guess the
23 third page of this document. And it says at the top
24 "Zonal Coincident Peak Demand and Energy
25 Assumptions." Are you there? Essentially what I am

1 referring to is the first page with any tables on it.

2 A. Yes.

3 Q. And at the top it says "Zonal Coincident
4 Peak Demand and Energy Assumptions." Do you see
5 that?

6 A. Yes.

7 Q. And this indicates that it's for gross
8 peak, correct?

9 A. Yes, it does.

10 Q. At the top there are two tables. One at
11 the top says "Gross Peak," right?

12 A. Yes.

13 Q. That would be another term for
14 unrestricted peak?

15 A. Yes.

16 Q. And the number we see there for 2021 for
17 the PJM RTO looks like about 170,026?

18 MS. WILLIS: Objection.

19 EXAMINER ADDISON: Grounds?

20 MS. WILLIS: Your Honor, this is not a
21 document that this witness -- although he may
22 recognize it as a workpaper, he cannot identify and
23 authenticate it, and he does not have the ability to
24 testify as to what assumptions were made, what this
25 document is.

1 Clearly this is a document by another
2 witness that this witness cannot identify, verify,
3 and authenticate, and so I object. There is no
4 foundation laid. We are just now trying to get this
5 workpaper in through a different witness because it
6 didn't come in earlier. I do object.

7 EXAMINER ADDISON: Mr. Kutik.

8 MR. KUTIK: Your Honor, this witness is
9 talking about certain assumptions that were made by
10 Mr. Rose. We are examining those assumptions. It's
11 fair game for me to put them before the witness.

12 EXAMINER ADDISON: Overruled.

13 Q. (By Mr. Kutik) So I believe the question
14 before you, Mr. Comings, was does it appear that
15 Mr. Rose is showing that for 2021 for the PJM RTO the
16 number is 170,026?

17 A. Yes, which is almost 13,000 more than the
18 2016 forecast for that year.

19 MR. KUTIK: Move to streak everything
20 after "Yes."

21 EXAMINER ADDISON: Granted.

22 Q. Let me now have you turn to the next
23 page. Are you there?

24 A. Yes.

25 Q. And there are -- there is a table there

1 that says "Demand Response," correct?

2 A. Yes.

3 Q. And the number there for demand response
4 for 2021 for the PJM RTO is 11,366, correct?

5 A. Correct.

6 Q. It also has energy efficiency numbers in
7 the second table on that page, correct?

8 A. Correct.

9 Q. And if we look at 2021 for PJM RTO, the
10 number is 1,386, correct?

11 A. Yes.

12 Q. So if we took Mr. Rose's numbers using
13 the gross peak and took out demand response, the
14 number would be 158,660; would you accept that?

15 A. Subject to check.

16 Q. And if we took out both demand response
17 and energy efficiency from the gross peak assumption,
18 the number would be 157,274, correct?

19 A. Subject to check.

20 Q. Okay. And with respect to the restricted
21 numbers then, they would be about 2 to 3 percent
22 difference than what was shown in the 2016 load
23 forecast report for RTEP year 2021 PJM RTO; would you
24 accept that?

25 A. They are about 2 to 3 percent higher, I

1 would say, yes.

2 MR. KUTIK: No further questions. Thank
3 you, Mr. Comings.

4 THE WITNESS: Thank you.

5 EXAMINER ADDISON: Thank you, Mr. Kutik.

6 Any questions, Mr. Beeler?

7 MR. BEELEER: No, thank you, your Honor.

8 EXAMINER ADDISON: Redirect, Mr. Fisk?

9 MR. FISK: May we have five minutes, your
10 Honor?

11 EXAMINER ADDISON: You may.

12 Let's go off the record.

13 (Discussion off the record.)

14 EXAMINER ADDISON: Let's go back on the
15 record.

16 Redirect, Mr. Fisk?

17 MR. FISK: Yes, just a few. Thank you,
18 your Honors.

19 - - -

20 REDIRECT EXAMINATION

21 By Mr. Fisk:

22 Q. Mr. Comings, do you recall Mr. Kutik was
23 asking you about temperatures, weather temperatures,
24 in December?

25 A. Yes.

1 Q. Okay. And he was asking you about those
2 temperatures with regards to Henry Hub natural gas
3 spot prices in December; do you recall that?

4 A. Yes.

5 Q. And do you recall Mr. Kutik also asking
6 you about Henry Hub natural gas spot prices in early
7 January of 2016?

8 A. Yes.

9 Q. And I believe it was your testimony that
10 those prices had gone up compared to the December
11 Henry Hub spot prices; is that right?

12 A. Yes.

13 Q. And if you could -- do you have Company
14 Exhibit 174 in front of you?

15 A. Yes, I do.

16 Q. And if you could turn to the second page
17 of that document.

18 A. Okay. I'm there.

19 Q. And do you know whether this EIA document
20 discusses temperatures in the eastern half of the
21 United States in January of 2016?

22 A. Yes, it does. It says that they were
23 colder than average for the eastern half of the
24 United States.

25 Q. Okay. And in your opinion, is that --

1 those colder-than-average temperatures play into the
2 natural gas prices that had been seen in the early
3 parts of January, 2016?

4 A. Yes. As I testified earlier, natural gas
5 prices fluctuate daily with temperature. Part of the
6 reason they were low in December, as Mr. Kutik
7 pointed out, was that there were warmer-than-average
8 temperatures -- or I should say EIA pointed out -- in
9 degrees. And there were colder-than-average
10 temperatures in the eastern half of the United States
11 in January, which led to higher prices for those
12 days.

13 Q. Okay.

14 A. I should say they also -- sorry. I'm
15 done.

16 Q. Okay. And with regards to the increase
17 in natural gas prices from December, 2015, to
18 January, 2016, how do those January, 2016, prices
19 compare to what Mr. Rose projected for 2016?

20 A. Mr. Rose projected a price of 4.28.
21 These prices in January were in the 2.30, 2.40 range.
22 I would say his were significantly higher.

23 Q. Okay. Thank you. Okay. And do you
24 recall Mr. Kutik asking you about the EIA's
25 Short-Term Energy Outlook from January, 2016?

1 A. Yes.

2 Q. Okay. And Mr. Kutik pointed you to
3 certain statements on page 10 of that document
4 regarding natural gas inventory levels and
5 production.

6 A. Yes.

7 Q. Okay. And is it your understanding that
8 those -- the inventory levels and production issues
9 addressed in the Short-Term Energy Outlook play into
10 EIA's projections of natural gas prices for 2016 and
11 '17?

12 A. Yes.

13 Q. Okay. And does the Short-Term Energy
14 Outlook provide EIA's forecasted Henry Hub natural
15 gas prices for 2016 and '17?

16 A. Yes, it does. On page 9 it lists -- it
17 says, "Forecast Henry Hub spot prices average
18 \$2.65/MMBtu in 2016 and 3.22/MMBtu in 2017."

19 Q. Okay. And those -- how do those prices
20 compare to what Mr. Rose used in this proceeding?
21 And be careful not to -- I believe the 2017 number
22 might be confidential so don't state that on the
23 record.

24 A. For 2016 they are -- EIA forecast is
25 significantly lower.

1 Q. Okay. And are those -- the updated --
2 are the EIA forecast in the Short-Term Energy Outlook
3 for natural gas Henry Hub prices for 2016 and '17
4 lower than what EIA included in its 2015 Energy
5 Outlook natural gas projection?

6 MR. KUTIK: May we have the question
7 read, please.

8 (Record read.)

9 A. Yes.

10 Q. And do you recall Mr. Kutik asking you
11 about PJM's 2016 load forecast?

12 A. Yes, I do.

13 Q. Okay. And I believe Mr. Kutik also asked
14 you about the PJM's 2016 forecast of demand response;
15 am I right?

16 A. Yes.

17 Q. And if you add together PJM's gross load
18 forecast and the demand response, you then get PJM's
19 restricted load forecast; is that right?

20 MR. KUTIK: May I have the question read,
21 please.

22 EXAMINER ADDISON: You may.

23 (Record read.)

24 MR. KUTIK: Did you mean to say add? Did
25 you mean to say add?

1 MR. FISK: Add?

2 MR. KUTIK: Add, A-D-D.

3 MR. FISK: Yes.

4 Q. (By Mr. Fisk) Well, add the two figures
5 together or subtract out the demand response from the
6 load forecast?

7 A. Correct, subtract, yes.

8 Q. Okay. Thank you. And Mr. Kutik had you
9 compare the PJM's 2016 forecast of restricted load
10 for the year 2021 to the forecast of load for 2021
11 that Mr. Rose used; is that correct?

12 A. Yes.

13 Q. Okay. And for 2021, PJM's 2016
14 restricted load forecast was lower than the -- than
15 what Mr. Rose used; is that right?

16 A. Yes. I believe it's actually lower in
17 all years compared to Mr. Rose's, which Mr. Rose uses
18 the 2014 PJM load forecast. If you account for
19 demand response, subtract it out to get the
20 restricted load, it's lower in all the years of the
21 transaction, 2016 through 2024, using the 2016 load
22 forecast.

23 MR. FISK: Okay. I have nothing further.

24 EXAMINER ADDISON: Thank you, Mr. Fisk.

25 Ms. Fleisher?

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1 MS. FLEISHER: No questions, your Honor.

2 EXAMINER ADDISON: Mr. Dougherty?

3 MR. DOUGHERTY: No questions, your Honor.

4 EXAMINER ADDISON: Miss Bojko?

5 MS. BOJKO: No questions, your Honor.

6 EXAMINER ADDISON: Ms. Willis?

7 MS. WILLIS: No questions, your Honor.

8 EXAMINER ADDISON: Mr. Oliker?

9 MR. OLIKER: No, thank you, your Honor.

10 EXAMINER ADDISON: Mr. Pritchard?

11 MR. PRITCHARD: No questions, your Honor.

12 EXAMINER ADDISON: Mr. Kurtz.

13 MR. KURTZ: No questions, your Honor.

14 EXAMINER ADDISON: Mr. Kutik?

15 - - -

16 RECROSS-EXAMINATION

17 By Mr. Kutik:

18 Q. Would you agree with me, Mr. Comings,
19 that with respect to the Short-Term Energy Outlook
20 that EIA prepares that it's influenced, in some part,
21 by futures?

22 A. Yes.

23 Q. And you took your futures information as
24 of December 29?

25 A. Yes.

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1 MR. KUTIK: No further questions. Thank
2 you.

3 EXAMINER ADDISON: Thank you, Mr. Kutik.
4 Mr. Beeler?

5 MR. BEELER: No questions, thank you.

6 EXAMINER ADDISON: Thank you.

7 Any questions?

8 EXAMINER PRICE: No.

9 EXAMINER ADDISON: Examiner Chiles?
10 No.

11 EXAMINER ADDISON: Commissioner Haque?

12 COMMISSIONER HAQUE: No, thank you.

13 EXAMINER ADDISON: I have no questions.
14 You are excused, Mr. Comings.

15 THE WITNESS: Thank you, your Honor.

16 EXAMINER ADDISON: I believe you
17 previously moved for admission of Sierra Club
18 Exhibits 95 and 96 Confidential, Mr. Fisk.

19 MR. FISK: Yes.

20 EXAMINER ADDISON: Are there any
21 objections at this time to the admission of those two
22 exhibits?

23 MR. KUTIK: No, your Honor.

24 EXAMINER ADDISON: Hearing none, they
25 will be admitted.

1 (EXHIBITS ADMITTED INTO EVIDENCE.)

2 EXAMINER ADDISON: Mr. Kutik.

3 MR. KUTIK: Your Honor, the companies
4 move for the admission of Company Exhibits 173 and
5 174.

6 EXAMINER ADDISON: Are there any
7 objections to the admission of Companies' Exhibit 173
8 and 174?

9 MR. FISK: No objection.

10 MS. WILLIS: Your Honor, I would object.

11 EXAMINER ADDISON: On what grounds?

12 MS. WILLIS: I don't believe that
13 that's -- I don't think, first of all, a proper
14 foundation was established, and I believe they are
15 hearsay and they are not within the exception of
16 hearsay.

17 EXAMINER ADDISON: Mr. Kutik, care to
18 respond?

19 MR. KUTIK: Yes, your Honor. This is a
20 government report.

21 EXAMINER ADDISON: We are going to
22 overrule the objections and admit Companies' Exhibits
23 173 and 174 into the record.

24 (EXHIBITS ADMITTED INTO EVIDENCE.)

25 EXAMINER ADDISON: Let's go ahead and go

1 off the record.

2 (Discussion off the record.)

3 EXAMINER CHILES: Let's take a 10-minute
4 break at this time. Thank you.

5 (Discussion off the record.)

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

8 Ms. Bojko.

9 MS. BOJKO: Thank you, your Honor. At
10 this time the Ohio Manufacturers' Association Energy
11 Group would like to call Dr. Edward W. Hill to the
12 stand.

13 (Witness sworn.)

14 EXAMINER CHILES: Thank you.

15 - - -

16 EDWARD. W. HILL, PH.D.

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

19 DIRECT EXAMINATION

20 By Ms. Bojko:

21 Q. Could you please state your name and
22 business address for the record?

23 A. Edward Hill, business address is 1810
24 College Road, Columbus, Ohio.

25 Q. Are you the same Dr. Hill that previously

1 testified in this proceeding?

2 A. I am.

3 Q. Did you file or cause to be filed
4 additional testimony opposing the stipulated ESP IV
5 in this case?

6 A. I did.

7 MS. BOJKO: Your Honors, at this time I
8 would like to mark as OMAEG Exhibit 26 Dr. Hill's
9 testimony titled Corrected Third Supplemental
10 Testimony of Edward W. Hill on behalf the Ohio
11 Manufacturers' Association Energy Group.

12 EXAMINER CHILES: So marked.

13 (EXHIBIT MARKED FOR IDENTIFICATION.)

14 Q. Sir, was your testimony original filed on
15 December 30, 2015?

16 A. It was.

17 Q. And was it corrected and refiled on
18 January 13, 2016?

19 A. It was.

20 Q. And do you have in front of you, sir,
21 what has been marked as OMAEG Exhibit 26, your
22 corrected supplemental testimony?

23 A. Oh, I have the corrected in front of me.
24 I didn't have an exhibit number on it. Sorry.

25 Q. And your third corrected supplemental

1 testimony that's been marked as OMAEG 26 includes
2 Attachments EWH-1 and EWH-2; is that correct?

3 A. That's correct.

4 Q. Do you recognize this document as your
5 corrected third supplemental testimony?

6 A. It is.

7 Q. And was this testimony prepared by you or
8 under your direction?

9 A. It was.

10 Q. And on whose behalf are you testifying
11 today?

12 A. Ohio Manufacturers' Association Energy
13 Group.

14 Q. And since filing the corrected version of
15 your testimony, do you have any additional changes?

16 A. To the testimony, no.

17 Q. If I were to ask you the same questions
18 today as they appear in your corrected testimony,
19 would your answers be the same?

20 A. They will.

21 MS. BOJKO: At this time, your Honor, I
22 would like to move OMAEG Exhibit 26, subject to
23 cross-examination, and I tender the witness for
24 cross.

25 EXAMINER CHILES: Thank you. We will

1 defer ruling on the motion for admission until
2 cross-examination is complete.

3 MS. BOJKO: Thank you, your Honor.

4 EXAMINER CHILES: Ms. Fleisher?

5 MS. FLEISHER: No questions, your Honor.

6 EXAMINER CHILES: Mr. Dougherty.

7 MR. DOUGHERTY: No questions, your Honor.

8 EXAMINER CHILES: Mr. Mendoza?

9 MR. MENDOZA: No questions, your Honor.

10 EXAMINER CHILES: Ms. Willis?

11 MS. WILLIS: No questions your Honor.

12 EXAMINER CHILES: Mr. Pritchard?

13 MR. PRITCHARD: No questions, your Honor.

14 EXAMINER ADDISON: Mr. Kurtz?

15 MR. KURTZ: I do have a few questions.

16 - - -

17 CROSS-EXAMINATION

18 By Mr. Kurtz:

19 Q. Good Morning, Dr. Hill.

20 A. Good morning.

21 Q. Will you turn to page 22 of your
22 testimony, Table 1.

23 MR. ALEXANDER: Mr. Kurtz, was that page
24 reference to the corrected testimony or to his
25 original testimony?

1 MR. KURTZ: Well --

2 THE WITNESS: Table 1 on page 21 is of
3 the corrected testimony.

4 Q. (By Mr. Kurtz) Is it the same table?

5 A. It is the same table.

6 Q. Okay, table 1 then. Here you do a
7 historical comparison of residential, commercial, and
8 industrial prices for various cities in the state to
9 make certain conclusions; is that right?

10 A. Could you repeat the question, please?

11 Q. Basically you look at 2004 through 2014
12 residential, commercial, industrial electric prices
13 based upon some staff report for various cities and
14 then draw conclusions about stable rates?

15 A. That's correct.

16 Q. Okay. Now, will you turn to the
17 second -- the January '04 through December, '08 batch
18 of cities.

19 A. January '04 to December 08, yes.

20 Q. The second batch.

21 A. Right.

22 Q. Look at Toledo. Do you see the line for
23 Toledo?

24 A. I do.

25 Q. Okay. The industrial electricity price

8323

1 you have here -- and this is in real dollars, right?
2 These are not nominal?

3 A. The mean -- the mean prices, the columns
4 labeled "Average" or "(Mean)," those are
5 inflation-adjusted prices.

6 Q. Okay. By the way, what discount rate did
7 you use to present them?

8 A. I used the Consumer Price Index for all
9 consumers, the electricity component.

10 Q. Okay. Now, for the industrial customers
11 in this '04 through '08 time period, the real or
12 inflation-adjusted price you have here is 17 cents
13 per kilowatt-hour?

14 A. Correct.

15 Q. Okay. Now, that's higher than the
16 commercial price of \$16 per --

17 A. 16 cents?

18 Q. Well, yes, 16 cents per kilowatt-hour.

19 A. Correct.

20 Q. And it's higher than the residential
21 price of 15 cents per kilowatt-hour?

22 A. Correct.

23 Q. Have you ever seen electric rates for
24 industrial customers that are above residential
25 customers?

1 A. The only data series where I looked over
2 time were the data series here. I will confess I was
3 surprised by that piece of data.

4 Q. Did it cause you to call into question
5 the accuracy of the data?

6 A. No, because it was consistent over the
7 time period. The Toledo data for industrial were
8 high throughout the entire first half, almost
9 enormously so, but as time went on, it approached the
10 average for the group.

11 Q. Now, do you know what load factor was
12 used to calculate the industrial price?

13 A. If I can go to the report that I drew
14 from, it's there.

15 Q. 41 percent?

16 A. No. That report is in a different binder
17 so I would have to it pull out.

18 Q. Can you calculate the load factor? I
19 think it's 20 megawatt load they assume will be
20 6 million kilowatt-hours a month.

21 MS. BOJKO: Objection, your Honor. The
22 witness has said he would like to reference another
23 document. I think that's appropriate.

24 Q. Yeah, go ahead.

25 EXAMINER CHILES: Thank you.

1 A. I apologize. I didn't bring the data
2 document with me.

3 Q. Can you just do the math in the staff --
4 this is based upon a staff report?

5 A. Correct.

6 Q. They used 20 megawatts of average -- of
7 demand and 6 million kilowatt-hours a month for the
8 industrial category.

9 A. Correct.

10 Q. Can you calculate a load factor? Will
11 you accept, subject to check, 41 percent?

12 A. What I did was I took the data because
13 it's consistent across all regions and places, and
14 used the data that was produced by the staff.

15 Q. Do you think 41 percent is a
16 representative load factor for industrial customers?

17 A. I'm not in a position to comment.

18 Q. Do you think 17 cents per kilowatt-hour
19 over the five-year period, right? Over the five-year
20 period in real dollars, is that representative of the
21 real world, do you think?

22 A. It was -- it is what was collected in the
23 dataset itself.

24 Q. But my question is do you think it's
25 representative of what --

1 A. Well, I think it also reflected the
2 standard service offer in the Toledo region. It may
3 be the largest industrial customers may not have been
4 taking SSO.

5 Q. Well, back in '04 through '08 time
6 period --

7 A. There weren't any, right.

8 Q. Everybody was basically on the tariff and
9 no one was shopping, right?

10 A. Correct.

11 Q. So do you think it represents, 17 cents a
12 kilowatt-hour, represents what industrial customers
13 were really paying in that time period?

14 A. There was no information in the survey
15 that I used that indicated the staff found a mistake,
16 and the data were consistent. If you go to Figure 3,
17 I think it's Figure 3, yeah, you'll see that the
18 Toledo data in the early part of the time period from
19 2004 up until 2009 was enormously high. It then
20 dipped late in 2008 and the Toledo rates looked much
21 more in norm than the others.

22 Q. Are you familiar -- are you familiar with
23 the FERC Form 1s that each investor-owned utility is
24 required to file at FERC every year?

25 A. I'm sorry, I can't hear you.

1 Q. The FERC Form 1.

2 A. Form 1?

3 Q. Yes.

4 A. I'm not familiar with that.

5 Q. Never looked at it?

6 A. No.

7 Q. Let me show you -- this is a report that
8 every investor-owned utility is required by law to
9 file with FERC annually.

10 MR. KURTZ: And may I approach?

11 EXAMINER CHILES: You may.

12 MR. KURTZ: This is the sales schedule
13 for the FERC Form 1.

14 EXAMINER CHILES: Do you intend to mark
15 this?

16 MR. KURTZ: Yeah. OEG exhibit something.
17 I apologize, I don't know where we are in the
18 exhibits.

19 MR. ALEXANDER: Your Honor, I believe it
20 might be OEG Exhibit 2.

21 EXAMINER CHILES: Exhibit 2. So marked.

22 (EXHIBIT MARKED FOR IDENTIFICATION.)

23 MS. FLEISHER: Are there copies?

24 Q. (By Mr. Kurtz) My database only went back
25 10 years. We will start with 2005 FERC Form 1. Do

1 you see that up in the top right-hand corner?

2 A. Correct.

3 Q. Okay. Just go to the Industrial Service,
4 line 36. You see 5.1 million megawatt-hours sold to
5 the industrial class?

6 MS. BOJKO: Objection.

7 EXAMINER CHILES: Grounds?

8 MS. BOJKO: Your Honor, the witness has
9 already said he's not seen a FERC Form 1. There's
10 been no foundation laid that he's seen this exact
11 FERC Form 1. We are jumping into reading from the
12 document without laying the proper foundation. I
13 think that it's inappropriate and it lacks
14 foundation.

15 MR. KURTZ: This is a -- this is a
16 document filed by every investor-owned utility in the
17 United States with FERC under penalty of law, and
18 it's a document -- obviously, a government records
19 document, and it goes to the pricing of electricity
20 for Toledo Edison in the time period covered by
21 Dr. Hill's report, and I am just going to contrast
22 the real prices versus the numbers he used.

23 MS. BOJKO: Well, I object to the
24 characterization of his testimony, and I would say
25 that just because it might be an exception to

1 hearsay, which I think counsel is alluding to, it
2 doesn't create the foundation, and you can't ask
3 witnesses questions on a document that he has never
4 seen and create that foundation.

5 EXAMINER CHILES: I am going to sustain
6 the objection.

7 Q. (By Mr. Kurtz) How can you hold yourself
8 out as an expert in public utility regulation if you
9 have never reviewed a FERC Form 1?

10 MS. BOJKO: Objection. Argumentative.

11 Q. Are you an expert in public utility
12 regulation?

13 A. I consider myself to be an expert in
14 public policy and in the understanding of industrial
15 markets, not in public utility regulation. All of my
16 testimony was submitted with that in mind.

17 Q. Okay. Let me ask you about your
18 testimony, in particular on pages 10 through 15, 16.
19 You address the assertion among the signatory parties
20 that the stipulation will stabilize rates; is that
21 correct?

22 A. Excuse me, I was finding where -- the
23 pages you were at.

24 Q. 10 through 16.

25 A. Okay. Just long-term stable predictable

1 retail prices?

2 Q. Yes. You are addressing that assertion
3 of the signatory parties?

4 A. Correct.

5 Q. Okay. You conclude -- let's see page 12,
6 line 1, that under the stipulation "retail electric
7 prices may be somewhat more predictable under the
8 affiliate PPA than under an unregulated generating
9 market based on how the algebra of the PPA works.
10 However, consumers will be negatively impacted by
11 higher prices." Did I read that right?

12 MS. BOJKO: Objection, your Honor. I
13 think counsel is not working off of the correct
14 version of his testimony, and it's creating citation
15 errors.

16 MR. KURTZ: I apologize.

17 Q. Is that sentence still in your testimony?

18 A. I just found it, so...

19 Q. Okay. Where would it be?

20 A. We are at page 11 in the corrected. I
21 think you started reading at line 18, but you
22 definitely concluded on page 12, line 2.

23 Q. Okay. So as I understand your testimony,
24 you continue with this same theme, that because of
25 the fixed component of the PPA, the fixed cost

1 recovery component, including a locked-in return on
2 equity, that the PPA will be more stable but will be
3 higher priced.

4 A. More stable than?

5 Q. Well, you say -- let me find it in the
6 new one.

7 A. Let me say -- let me save you the bother
8 of finding it. I do say consistently that the
9 stability that the signatories are asking for may --
10 has a high probability of occurring, but the price
11 that results, including the charge that would come
12 from the affiliate PPA, would be higher than a market
13 price would be in a fully competitive market.

14 Q. Okay. Let me -- let's just by way of
15 background under the PPA, you understand that it's
16 about 3,200 megawatts?

17 A. That's correct.

18 Q. Do you know that the load of the
19 FirstEnergy operating companies is in the 10,000 to
20 11,000-megawatt range?

21 A. I've seen a number in that range. I
22 can't speak authoritatively on it.

23 Q. Is this the way you understand the PPA
24 would work, customers will shop for 100 percent of
25 their physical electric needs through a CRES or SSO,

1 but then there will be this charge or credit, the RRS
2 rider, on the bill as sort of -- on a financial
3 basis. Is that the way you understand it works?

4 A. I didn't understand the tail end of what
5 you said, so can I restate it and see if we are in
6 agreement, okay?

7 So it's my understanding that the result
8 of the RRS will be either a credit or a charge that
9 should appear on the person's bill because it is a
10 nonbypassable rider.

11 Q. So is your understanding that the
12 customer will shop for 100 percent of their physical
13 needs, but because of the RRS, the financial end
14 result will be that approximately 30 percent of their
15 pricing will be at cost of service from the PPA units
16 and 70 percent at market?

17 MS. WILLIS: Objection.

18 EXAMINER CHILES: Grounds?

19 MS. WILLIS: Your Honor, this is
20 cross-examination that is way beyond the scope of, at
21 this stage, the proceeding. This is -- this has been
22 an issue, whether it be the PPA functions as a
23 limitation on customer shopping, as a financial
24 limitation, this has been an issue since day one, and
25 it is consistent with the rulings throughout this

1 proceeding in this phase, we are focusing on new
2 issues, not issues that have been explored and
3 reexplored and all addressed in 35 days of hearing.

4 MR. KURTZ: Your Honor, the witness
5 spends five pages of testimony explaining why the PPA
6 will be more stable but higher price than the market
7 portion of the bill, and my questions go directly to
8 that. He explains that because of the fixed return
9 and the stable capital structure and the fact that
10 the PPA rate base doesn't change radically from year
11 to year that he expects the fixed component of the
12 PPA to be more stable than market. And that's
13 exactly what these questions go to.

14 EXAMINER CHILES: The objection is
15 overruled. I will allow the question.

16 Q. (By Mr. Kurtz) Do you understand that the
17 financial end result of the RRS is that customers
18 will have 70 percent of their pricing at market and
19 approximately 30 percent at cost of service? And
20 I'll add if the cost of service is above market, the
21 RRS would be a charge. If the cost of service is
22 below market, the RRS will be a credit.

23 A. With what's presented in the third
24 stipulation, that is largely true, and the math that
25 you are going through is accurate. The reason why I

1 hesitate is that there is -- in the third stipulation
2 there is a loosely described affiliate PPA dealing
3 with renewable energy that covers an additional
4 100 megawatts. So if we put those two things
5 together, we are in agreement.

6 Q. Okay. I hadn't thought about the
7 renewable piece. That's still subject to Commission
8 approval, right?

9 A. Correct.

10 MS. BOJKO: Objection. I think that
11 mischaracterizes the stipulation.

12 Q. The 100 megawatts of renewable, the
13 Commission has to approve some sort of application to
14 build the capacity. Is that your understanding,
15 Dr. Hill?

16 MS. BOJKO: Objection, still
17 mischaracterizes the stipulation.

18 EXAMINER PRICE: How?

19 MS. BOJKO: There is nothing about
20 building anything in the stipulation, first of all.
21 Secondly, the stipulation requires a nonbypassable
22 rider to be established at zero, so Commission
23 approval prior to that is not exactly correct. So
24 there's some nuisances to the stipulation language
25 that the signatory parties should know about.

1 MR. KURTZ: I'll move on, your Honor.

2 EXAMINER CHILES: Okay. Thank you.

3 Q. (By Mr. Kurtz) Let's talk about, as you
4 discuss in your testimony, the fixed cost component
5 of the PPA portion. Essentially the 10.38 percent
6 return on equity plus the long-term cost of debt of
7 the 50/50 capital structure -- is that your
8 understanding?

9 A. That's my understanding.

10 Q. -- times the net book cost of the PPA
11 units, the rate base?

12 A. The last part of your statement goes into
13 accounting, and that is beyond my understanding.

14 Q. Okay. But your belief is the fixed
15 component of the -- fixed cost component of the PPA
16 is more stable than market-based capacity, correct?

17 A. Correct.

18 Q. Okay. You are familiar with the RPM?
19 It's a three-year -- or one-year PJM capacity
20 product, correct?

21 A. Correct.

22 Q. And do you understand that that RPM
23 capacity number has been subject to significant
24 fluctuation since the -- since 2007 when the capacity
25 market went into effect?

1 A. It's my understanding, I don't have the
2 data in front of me, that the capacity market has
3 been -- has been volatile, and in recent history,
4 capacity charges have been increasing, particularly
5 in the northeastern part of the state.

6 Q. Do you know in the first -- in the ATSI
7 zone what the low RPM number was versus the high?

8 A. I do not know that.

9 Q. Do you know what it currently is?

10 A. I do not know that.

11 Q. Do you know that the low was in the \$20
12 per megawatt-hour range?

13 A. I don't recall the exact number.

14 Q. Let's talk about the energy -- the energy
15 component. The energy component of the PPA will be
16 based upon the actual fuel, variable O&M cost of the
17 PPA units, correct?

18 A. That's correct.

19 Q. No profit, no markup, just the actual
20 cost, correct?

21 A. To an economist that's a very difficult
22 question to answer. As to an economist, many things
23 are very difficult to answer. So the formula has the
24 rate of return assessed to the capital costs and
25 equity in the plant itself. And the variable cost is

1 largely fuel and consumable items, and the 10.38
2 percent does not -- my understanding does not apply
3 to that.

4 Q. Right. They don't mark up their variable
5 costs. They only get a profit margin on the invested
6 capital at 10.38 percent, correct?

7 A. The 10.38 percent is calculated on fixed
8 costs, that's return on debt and equity. If they
9 didn't produce any power --

10 Q. They would still get the same fixed
11 return.

12 A. They would still get it.

13 Q. But --

14 A. But so --

15 Q. My point --

16 MS. BOJKO: Your Honor, may the witness
17 finish?

18 Q. Go ahead and answer. My only question is
19 on the -- on the fuel, the energy component, there is
20 no markup or added profit. It's just simply the
21 actual costs from the PPA units, correct?

22 A. I have to retreat to being a two-handed
23 economist on this one, which is not satisfying.
24 There is a strict discussion of the transactions
25 between the generating company and the distribution

1 companies which creates a lot of confusion as to
2 actually what takes place in the market. So the
3 generating company sells the electricity to the
4 operating companies.

5 The operating companies then sells
6 that -- I am assuming that. It's unclear -- but
7 either in the day-ahead or the real-time energy
8 markets by PJM. And through that sale they get a
9 rate of return -- they get a rate of return or rate
10 of loss.

11 Q. Let's back up. The generating company,
12 FES, sells to the operating companies under -- under
13 the PPA rate for wholesale rate.

14 A. Correct.

15 Q. And the energy component is at cost.

16 A. Correct.

17 Q. Okay. Let's talk about market energy
18 pricing in the PJM 13-state footprint. Do you
19 understand that the market energy pricing is a
20 marginal cost calculated number?

21 A. Well, it's a market clearing price. The
22 markets are designed in such a way so it should
23 reflect marginal cost pricing.

24 Q. Right. And every kilowatt-hour in the
25 PJM footprint gets the same marginal costs, the last

1 clearing unit, for any hour or five-minute real-time
2 period adjusted for congestion and losses. Is that
3 your understanding?

4 A. That's my understanding. It's actually
5 part of the beauty of what PJM does. To an
6 economist, this is a work of art.

7 Q. Well, I'll talk to you about that. But
8 the marginal cost of energy, there's -- is there a
9 limit to how high it can go in any hour or day or
10 period?

11 A. It is -- in the increment we are talking
12 about, it is a perfectly inelastic product. You
13 can't make any more of it. You can't make any less
14 of it; so, therefore, its price is set purely by
15 auction. So as the -- if there is a very large
16 spike, mostly at the at-once portion of the market,
17 and we've seen that in a couple of events, and
18 pricing get very, very high.

19 Q. It goes as high as \$1,000 a
20 megawatt-hour, can't it?

21 A. There is no -- my understanding there is
22 not a legal limit. There is no price ceiling. It's
23 a pure auction.

24 Q. Now, contrast that to the -- to the
25 actual costs of the PPA units for energy, do you have

1 an opinion as to which is more volatile, the PPA
2 energy component or the PJM marginal cost clearing
3 price for energy?

4 MS. BOJKO: Objection, your Honor,
5 assumes facts not in evidence.

6 MR. KURTZ: I think the PJM energy market
7 has got to be in evidence somewhere in this 40 day
8 hearing.

9 EXAMINER CHILES: Could I have the
10 question read back, please.

11 (Record read.)

12 EXAMINER CHILES: Overruled. The witness
13 can answer if he knows.

14 THE WITNESS: Excuse me. Remember, where
15 I flunked my hearing test last week.

16 EXAMINER CHILES: I'm sorry. You can
17 answer if you know. The objection is overruled.

18 THE WITNESS: Okay. Thank you.

19 A. The auction price in any very small
20 increment where there is no elasticity of supply will
21 be volatile, as it is in any commodity. But the way
22 in which I would be looking at the prices would be
23 looking at a smooth average over a longer time
24 period.

25 Q. Okay. But let's talk about a short-time

1 period, a day, a week. Do you agree that the market
2 energy is more volatile?

3 A. Hourly, daily, yes. Monthly, maybe not.

4 Q. Let's talk about the capacity
5 determination, the RPM, the base residual auction.
6 Are you familiar with how that works?

7 A. Roughly.

8 Q. Would you call that an administratively
9 determined market price for capacity or an actual
10 competitive price?

11 MS. BOJKO: Objection, your Honor. I
12 have given a lot of leeway, but we are now going back
13 over old ground. All these questions were asked in
14 the first phase of the hearing.

15 MR. KURTZ: I haven't asked this witness
16 that, and it's directly relevant to his testimony.
17 He explains how the fixed component of the PPA is
18 stable compared -- and now I want to talk about
19 compared to the -- how the RPM is calculated.

20 MS. BOJKO: That's not -- those are not
21 his questions, and it's beyond foundation at this
22 point, and, actually, I think Dr. Hill was asked
23 these questions in the first phase of the hearing.

24 MR. KURTZ: Let me move on to a different
25 topic.

1 EXAMINER CHILES: Thank you.

2 Q. (By Mr. Kurtz) Do you understand that the
3 PJM market pricing and cost-of-service pricing can
4 both be just and reasonable under the Federal Power
5 Act, as you're -- not as a legal opinion.

6 A. I confess, I don't really understand the
7 question, and I don't know if I ever really will
8 because I'm not familiar with the intricacies of
9 FERC.

10 Q. Would you agree that the marginal cost
11 pricing in the PJM market is a different product than
12 the cost-based product -- pricing in the PPA?

13 A. Yes.

14 Q. Your belief is that consumers would be
15 better off if the Commission did not approve the
16 stipulation and went with 100 percent marginal cost
17 pricing versus this 70/30 blend of marginal cost and
18 cost of service; is that correct?

19 A. That's correct.

20 MR. KURTZ: Thank you, Dr. Hill. No more
21 questions.

22 EXAMINER CHILES: Thank you, Mr. Kurtz.
23 Mr. Alexander?

24 MR. ALEXANDER: Thank you, your Honor.

25 - - -

1 CROSS-EXAMINATION

2 By Mr. Alexander:

3 Q. Mr. Hill, your supplemental -- your third
4 supplemental testimony discusses the concept of the
5 redistributed coalition; is that correct?

6 A. That is correct.

7 Q. And that concept was also discussed at
8 length in your prior testimonies?9 A. That -- not all my prior testimony. In
10 some of it, yes.11 Q. And none of your beliefs regarding that
12 concept have changed since you filed that prior
13 testimony; is that correct?14 A. None of my beliefs about the concept have
15 changed. The specifics have, as the case has
16 evolved.17 Q. By "specifics" you mean the membership of
18 the signatory parties has changed, but your beliefs
19 regarding the redistributive coalition have not
20 changed; is that correct?21 A. Are you referring to the operation and
22 function of a redistributive coalition?

23 Q. Yes.

24 A. That has not changed.

25 Q. And at page 6, line 17, of your corrected

1 third supplemental testimony.

2 A. 6, line 17?

3 Q. Yes. Are you there?

4 A. I am there.

5 Q. There you discuss the expanded coalition
6 of supporters for the third supplemental stipulation.
7 Do you see that?

8 A. Yes, I see it.

9 Q. And there when you discuss the expanded
10 coalition of supporters in the redistributive
11 coalition, you are including all signatory parties
12 other than staff; is that correct?

13 A. That is correct.

14 Q. You don't believe that staff represents
15 the interest of the general public, correct?

16 A. That is correct.

17 Q. And you believe that staff instead
18 represents their own preferences and career
19 self-interest, correct?

20 A. Among other things. That's part of a
21 subset.

22 Q. And you have no facts supporting your
23 contention that staff was acting in their own
24 self-interest when they signed the stipulation,
25 correct?

1 A. Can you repeat the question, please?

2 Q. Certainly. You have no facts supporting
3 your contention that staff was acting in their own
4 self-interest when they signed the stipulation,
5 correct?

6 A. I think my statement and understanding is
7 that I cannot interpret what the signature of staff
8 means to the document because I have no idea as to
9 what the motivation was and I can't -- and refuse --
10 I can't interpret it, and I really am reluctant to
11 try to interpret it because there is no data in the
12 stipulation that indicates why they signed.

13 Q. My question was, you have no facts
14 supporting your contention that staff was acting in
15 their own self-interest when they signed the
16 stipulation, correct?

17 MS. BOJKO: Objection, asked and
18 answered.

19 MR. ALEXANDER: Your Honor, the witness
20 did not answer the question. My question was whether
21 the witness had facts. The witness instead talked
22 about what staff's signature on the stipulation
23 meant.

24 MS. BOJKO: Your Honor, he specifically
25 said what he did have available to him and how he

1 drew the conclusions he did, given what was available
2 to him, so he did explain what facts he had or didn't
3 have.

4 EXAMINER CHILES: I am going to sustain
5 the objection.

6 MR. ALEXANDER: Okay. Your Honor, may I
7 approach the witness?

8 EXAMINER CHILES: You may.

9 Q. Do you have a copy of your deposition?

10 A. I do.

11 Q. Please turn to page 33, line 7. Let me
12 know when you're there.

13 A. I am at page 33, line 7.

14 Q. Dr. Hill, do you recall being deposed in
15 this proceeding most recently on January 12?

16 A. I do.

17 Q. And was your counsel present?

18 A. Counsel was present.

19 Q. And did you swear to tell the truth as
20 part of that deposition?

21 A. I did.

22 Q. And was a court reporter present?

23 A. A court reporter was present.

24 Q. And did you have the opportunity to make
25 any changes or corrections you deemed necessary to

1 that transcript?

2 A. I did.

3 Q. Okay. So at page 33, line 7, I asked you
4 question: "I am asking what facts you have knowledge
5 of. Do you have any facts that support the
6 intention" -- I believe that should have been
7 "contention -- "that staff was acting in their own
8 self-interest when they signed the Stipulation.

9 "Ms. Bojko: Objection.

10 "Answer: I have no facts at all."

11 Did I read at that correctly?

12 A. You did read that correctly.

13 MS. BOJKO: Objection, your Honor.
14 That's improper impeachment. The objection in this
15 context of the deposition can not be ignored. This
16 was the fourth time that counsel asked the same exact
17 question. If you go to page 31 of the deposition
18 line 17, then again on page 32, line 1, the third one
19 is on page 32, line 13, and then finally again on
20 page 33, line 7. So he asked the question four
21 times, and after he was browbeating the witness, he
22 finally answered a specific way. You cannot ignore
23 the objections and the circumstance because it was
24 asked and answered four times.

25 MR. ALEXANDER: And, your Honor, what was

1 going on here, the witness made assertions regarding
2 what staff -- why staff signed the stipulation. I
3 asked whether the witness had facts supporting that
4 contention that staff was acting in their own
5 self-interest. The witness didn't give me a clear
6 answer, and so I asked the question until I got a
7 clear answer.

8 Here I think the witness very clearly
9 says he has no facts supporting the contention that
10 staff was acting in their self interest. If the
11 witness has such facts, we can hear them right now.
12 If not, I think it is a very clear question with a
13 very clear answer.

14 EXAMINER CHILES: Thank you. The
15 objection is overruled.

16 Q. (By Mr. Alexander) Dr. Hill, in addition
17 to the phrase "redistributive coalition" your
18 testimony also uses the phrase "signatory parties,"
19 and I believe you use it for the first time at page
20 7, line 16; is that correct?

21 Actually, I'm sorry, I think that
22 reference changed. It's actually the first time is
23 page 6, line 14; is that correct?

24 A. The term "signatory parties" does appear
25 in that place.

1 Q. And the difference between the
2 redistributive coalition and the signatory parties in
3 your testimony is the signatory parties include
4 staff?

5 A. The signatory parties include staff.

6 Q. Okay. So at page 7, line 17, you say the
7 signatory parties are somewhat diverse. Do you see
8 that?

9 A. I say they represent a "somewhat diverse,
10 ad hoc, collection of corporate and institutional
11 interests," yes.

12 Q. Sure. And so to classify the signatory
13 parties as completely diverse, you believe they would
14 need to represent all customers in the service
15 territory; is that correct?

16 A. They need to represent all customers of
17 the territory or act and represent all members of
18 their class, and specifically the benefits that flow
19 to the signatory parties, and most importantly,
20 should flow to all members of the class.

21 Q. Okay. So let's start by discussing a
22 group like COSE. You are aware that COSE represents
23 more than 1,000 members?

24 A. Correct. I think they represent 14,000
25 members. That's more.

1 Q. And your position is that since COSE
2 doesn't represent every small business in the service
3 territory, that it shouldn't be considered part of a
4 diverse coalition?

5 A. Now, that's actually not quite correct,
6 but it may reflect fuzziness in the way I answered
7 the question. COSE and any party doesn't necessarily
8 reflect -- represent everybody, but the benefits that
9 COSE extracted for its members should flow to all
10 similar members.

11 I am trying to remember where it was. In
12 my August -- my second submission before this body in
13 August, I had specifically answered this question and
14 had a series of responses for each of the parties.
15 So I answered that before. I would be happy to go
16 back and read exactly what I submitted at that time
17 if that would help.

18 MR. ALEXANDER: Your Honor, move to
19 strike everything after "and."

20 EXAMINER CHILES: Could I have the
21 question and answer read back, please.

22 (Record read.)

23 MR. ALEXANDER: Your Honor, the motion to
24 strike from "I am trying to remember." There was an
25 "and" in the first portion of the response, and I

1 thought there was a second one, but it's when he said
2 "I am trying to remember."

3 EXAMINER CHILES: Ms. Bojko, do you have
4 a response?

5 MS. BOJKO: Yes, your Honor. He is
6 explaining why the question is not correct. He asked
7 him if it was correct. He said no and went on to
8 explain why and gave him examples of places in his
9 previous testimony where he explained why he wasn't
10 correct.

11 EXAMINER CHILES: Thank you. I am going
12 to deny the motion to strike.

13 MS. BOJKO: Thank you.

14 THE WITNESS: If I may --

15 MR. ALEXANDER: No.

16 MS. BOJKO: No.

17 THE WITNESS: Okay.

18 Q. (By Mr. Alexander) Dr. Hill, I want you
19 to focus your attention right now on your point on
20 diversity of membership. That's the topic I would
21 like to stay on right now.

22 And I believe you just testified that you
23 believe to be a diverse group, the group must
24 represent all members of the class or negotiate
25 benefits on behalf of the entire class; is that

1 correct?

2 A. That is correct.

3 Q. Okay. When you say the group must
4 represent all members of the class, is it your
5 contention that a group like COSE must represent all
6 members of the class?

7 MS. BOJKO: Objection, asked and
8 answered.

9 EXAMINER CHILES: There is an objection
10 pending.

11 THE WITNESS: Thank you. It's that
12 hearing. I apologize.

13 EXAMINER CHILES: I understand.
14 I am going to overrule the objection
15 .You can go ahead and answer.

16 THE WITNESS: Could you repeat the
17 question, please?

18 EXAMINER CHILES: Could we have it read
19 back, please.

20 Thank you, Karen.

21 (Record read.)

22 A. I am just trying to find some language in
23 my own testimony so I make certain I'm consistent.
24 So my contention is that they -- and it's consistent
25 with what is put forward as part of the test. The

1 signatory parties are supposed to represent a variety
2 of diverse interests. I believe that's the language
3 that's in the stipulation itself, which to me means
4 that the signatory parties have a burden to represent
5 all members of the interest that they are there for
6 or included to purport to represent, even if they are
7 not members or direct members.

8 So the contention that I've had
9 throughout this entire hearing -- well, not
10 throughout the entire hearing -- since my August
11 submission is the signatory parties were representing
12 their members but not the diverse interest as a
13 whole.

14 Q. It's your contention, and I believe you
15 say this at page 7, line 21, that the signatory
16 parties did not bargain on behalf of a large class of
17 customers; is that correct?

18 A. The full sentence, "The Signatory Parties
19 did not bargain on behalf of large classes of
20 customers or a diverse group." I then follow-up by
21 saying, "They did not secure benefits for all
22 individuals or businesses that were not direct
23 participants in the bargaining, a particular type of
24 participant, or members of organizations that
25 participated in the bargaining."

1 So I am expecting the signatory parties
2 to represent not only their members but the benefits
3 should also flow to similar members, member firms, or
4 residents that are not their direct members.

5 MR. ALEXANDER: Your Honor, I move to
6 strike everything starting with "I then followed."

7 EXAMINER CHILES: Ms. Bojko, do you have
8 a response?

9 MS. BOJKO: I am not sure exactly what
10 the original question was, but he asked him about a
11 statement in his testimony, if he said that, and he
12 said -- he read it correctly because it wasn't read
13 properly, and he read the rest of it and said why he
14 believed the signatory parties do need to do that, so
15 I think it was a complete response to the question.

16 EXAMINER CHILES: I agree. I am going to
17 deny the motion to strike.

18 MS. BOJKO: Thank you.

19 Q. (By Mr. Alexander) And you don't feel
20 that the residents of the City of Akron, Ohio, are a
21 large class of customers, correct?

22 MS. BOJKO: Objection.

23 EXAMINER CHILES: Grounds?

24 MS. BOJKO: Well, I'm not sure -- I'll
25 withdraw the objection.

1 EXAMINER CHILES: Thank you.

2 A. With the City of Akron, there are a
3 couple of issues with Akron being a signatory party.
4 First, Akron is not helping all residents of all
5 central cities in the territory. The second issue is
6 that the benefits that are derived by the City of
7 Akron are circumscribed and limited only to residents
8 of the city of Akron, so similar-situated customers
9 in Lorain, Warren, Youngstown, possibly even Cuyahoga
10 Falls, do not receive the benefits that were
11 extracted.

12 MR. ALEXANDER: Your Honor, I move to
13 strike the entire response, nonresponsive.

14 EXAMINER CHILES: Could I have that
15 question and answer read back, please.

16 (Record read.)

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

18 EXAMINER CHILES: You may.

19 MS. BOJKO: The reason why I object to
20 the question was because I was struggling with it as
21 well, is that the -- I mean, Dr. Hill knows what the
22 City of Akron has filed with regard to their
23 intervention, but I would question the false premise
24 that the City of Akron represents residents as
25 opposed to the municipality and the municipality's

1 interest.

2 So I think that it was a fair explanation
3 of why he didn't understand the question. I,
4 frankly, didn't understand the question in the
5 beginning and I objected as well.

6 MR. ALEXANDER: Your Honor, as to the
7 false-premise issue, the City of Akron intervened on
8 behalf of the City of the Akron and the residents.
9 That can be seen from the City's motion to
10 intervention.

11 MS. BOJKO: Your Honor, the intervention
12 can stand for itself, but I don't agree with that
13 characterization.

14 EXAMINER CHILES: Thank you. I am going
15 to deny the motion to strike.

16 However, I am going to direct the witness
17 to please listen carefully to the question and answer
18 only the question asked.

19 THE WITNESS: Thank you.

20 Q. (By Mr. Alexander) Okay. Dr. Hill,
21 please turn to your deposition page 52, line 8. Let
22 me know when you are there.

23 A. I am there.

24 Q. I asked a question: "Do you feel all the
25 residents of the city of Akron, Ohio, are a large

1 class of customers?

2 "Ms. Bojko: Objection.

3 "Answer: As a fraction of the population
4 of the entire footprint of the service corporation,
5 no, they're not terribly large."

6 Did I read that correctly?

7 A. You did.

8 MS. BOJKO: Objection, your Honor.
9 That's improper impeachment. That is not
10 inconsistent with one of the prongs that he said
11 sitting here today.

12 EXAMINER CHILES: Overruled.

13 Q. Dr. Hill, you don't know whether staff
14 bargained on behalf of all customers, correct?

15 A. I have no idea from the stipulation on
16 what issues staff was bargaining for or whose -- or
17 what particular issues they were bargaining on. So I
18 have been consistent in my testimony, and I believe
19 throughout the deposition, to try to not characterize
20 the staff's bargaining.

21 Q. My question didn't relate to the issue.
22 My question was, you don't know whether staff
23 bargained on behalf of all customers, correct?

24 A. Correct.

25 Q. Turning to page 8, line 1 --

1 A. Of what?

2 Q. Of your testimony. You say the signatory
3 parties "did not secure benefits for individuals or
4 businesses that were not direct participants." Do
5 you see that?

6 A. Line 1 is, "They did not secure benefits
7 for all individuals or businesses that were not
8 direct participants in the bargaining," yes.

9 Q. Yes, that section right there. Isn't it
10 true that all customers in the service territory will
11 be participating in the ESP?

12 MS. BOJKO: Objection.

13 EXAMINER CHILES: Grounds?

14 MS. BOJKO: Again, your Honor, that is
15 a -- has a false premise, false basis. Customers do
16 not participate in an ESP. There is no
17 participation. There's no choice of participation.

18 EXAMINER CHILES: Overruled.

19 A. Can you repeat the question, please?

20 Q. Sure. Isn't it true that all customers
21 in the service territory will be participating in the
22 ESP?

23 A. All customers will be participating in
24 the ESP through rider RRS.

25 Q. Well, you have added a caveat in the

1 words "through rider RRS." My question was, isn't it
2 true that all customers in the service territory will
3 be participating in the ESP?

4 MS. BOJKO: Objection, your Honor. It
5 assume facts not in evidence. Customers don't
6 participate in an ESP.

7 MR. ALEXANDER: I believe your Honor has
8 already ruled on this objection.

9 EXAMINER CHILES: Overruled.

10 MS. BOJKO: Well, then asked and
11 answered.

12 MR. ALEXANDER: Your Honor, the witness
13 added a caveat to his answer. He limited it just to
14 rider RRS. My question was, isn't it true all
15 customers will participate in the ESP as a whole, not
16 just rider RRS.

17 EXAMINER CHILES: Overruled.

18 You may answer.

19 A. All customers will be affected by some
20 part of the ESP, that is correct.

21 Q. Now, Dr. Hill, you believe that rider RRS
22 would constitute a subsidy to FirstEnergy Solutions,
23 correct?

24 A. Correct.

25 Q. Now, I would like you to assume as a

1 hypothetical that rider RRS will have a net present
2 value of a \$100 million credit to customers at the
3 beginning of year one. Do you understand that
4 hypothetical?

5 A. I do.

6 Q. Now, so the record is clear, I am not
7 asking whether you agree with that hypothetical. Do
8 you understand that?

9 A. Correct.

10 Q. Okay. So under the hypothetical that
11 rider RRS is projected to have a \$100 million net
12 present value credit to customers at the beginning of
13 year one, you would agree that rider RRS would not be
14 a subsidy, correct?

15 MS. BOJKO: Objection, your Honor. As
16 we've done throughout the hearings, the hypotheticals
17 have to have some kind of basis in fact, and there
18 has been no record to show that in year one there
19 would be a net present value of \$100 million in
20 credits flowing through customers.

21 MR. ALEXANDER: Your Honor, the record
22 shows 260 million net present value credit to
23 customers. I just picked a round number easier for
24 the witness. I can change it to 260 million if you
25 would like.

1 EXAMINER CHILES: Ms. Bojko?

2 MS. FLEISHER: Your Honor --

3 MS. BOJKO: Go ahead.

4 MS. FLEISHER: I was going to say I think
5 that's, at the very least, unclear in terms of
6 flowing through in year one. To me that suggests
7 that's how much net present value of the credits they
8 will receive in year one, which at the very least
9 that seems like we should clarify that.

10 MS. BOJKO: Yeah. It's a misleading
11 hypothetical and it will prejudice the record,
12 frankly.

13 EXAMINER CHILES: Mr. Alexander, could
14 you rephrase for clarity?

15 MR. ALEXANDER: Certainly.

16 EXAMINER CHILES: Thank you.

17 Q. (By Mr. Alexander) Dr. Hill, when I say
18 net present value credits in year one, did you
19 understand me to be calculating that credit based on
20 the projected credits for years one through eight,
21 net present value, back to the beginning of year one?

22 A. I did.

23 Q. Okay. So I am going to change the
24 hypothetical to address Ms. Bojko's objection to be a
25 \$260 million credit at the beginning of year one,

1 which is, again, the sum of the eight years net the
2 present value back to the expected credit as of year
3 one. Do you understand that?

4 A. I understand that.

5 Q. Okay. So under the hypothetical that
6 rider RRS is projected to have a \$260 million net
7 present value credit to customers at the beginning of
8 year one, you would agree that rider RRS is not a
9 subsidy, correct?

10 A. Without making any statement about the
11 plausibility of the hypothetical, I am trying to come
12 up with a snotty answer, but I can't.

13 That implausible hypothetical is correct.

14 Q. And you have not quantified the amount of
15 any alleged subsidy to FirstEnergy Solutions,
16 correct?

17 A. Correct.

18 Q. And turning to your Figures 1 through 5,
19 the prices in those figures are standard service
20 offer prices, correct?

21 A. That is correct.

22 Q. And the standard service offer rate is
23 the retail rate paid by nonshopping customers,
24 correct?

25 A. That's the SSO, correct.

1 Q. And, therefore, the figures quoted in
2 your testimony are retail prices which include
3 generation, transmission, and distribution charges,
4 correct?

5 MS. BOJKO: Your Honor, I'm sorry. May I
6 have the citation, the reference, page reference?

7 MR. ALEXANDER: The witness has been
8 making speeches when I give page references so I've
9 stopped.

10 MS. BOJKO: You just talked about prices
11 in his testimony. I think it's fair, your Honor, to
12 direct the witness to a page.

13 MR. ALEXANDER: Figures 1 through 5, your
14 Honor. There was no page references.

15 EXAMINER CHILES: Thank you.

16 MS. BOJKO: Thank you.

17 Q. (By Mr. Alexander) So, Dr. Hill, would
18 you like me to repeat the question?

19 A. Please.

20 Q. The figures quoted in your testimony are
21 retail prices which include generation, transmission,
22 and distribution charges, correct?

23 A. The Figure 1 --

24 Q. 1 through 5, all of them.

25 A. Well, it would be 1, 2, and 3. Figures 4

1 and 5 deal with natural gas prices.

2 Q. And the natural gas prices also include
3 the transmission, distribution of the gas, correct?

4 A. That's correct.

5 Q. Okay. And you are aware that during a
6 portion of your sample period, standard service offer
7 prices were set via a regulated ratemaking process at
8 the Public Utilities Commission?

9 A. I am.

10 Q. And you are not aware of a bill known as
11 Senate Bill 3?

12 A. Well, during my deposition I was very
13 confused about the numbers of different bills, so.
14 And since the deposition I went and reviewed to
15 refresh to make certain I was aware of the different
16 bills, so today I am aware of Senate Bill 3.

17 MS. BOJKO: Your Honor, may I have the
18 prior question read, please?

19 EXAMINER CHILES: You may. The question
20 beginning with "Okay."

21 (Record read.)

22 Q. Add, Dr. Hill, we have just been informed
23 we may not have gotten something clearly into the
24 record I think you and I agreed on. Figures 1
25 through 3 that had electric prices, you agree those

1 figures include retail prices which include
2 generation, transmission, and distribution, correct?

3 A. That was my understanding when I put
4 together the figures and read the document where the
5 data came from.

6 Q. Now, back to Senate Bill 3.

7 A. Yes.

8 Q. You were not aware of Senate Bill 3 at
9 the time then you drafted your testimony, correct?

10 MS. BOJKO: Objection. That
11 mischaracterizes his testimony. That's not what he
12 just explained. He said he didn't know what the bill
13 number was.

14 MR. ALEXANDER: Your Honor, the witness
15 can answer the question for himself.

16 EXAMINER CHILES: I agree. Overruled.

17 A. At the time of my deposition I was very
18 confused about Senate Bill 3, Senate Bill 221. I was
19 aware of the impacts that those bills had without
20 being able to know the title of the bill on the
21 market. On the structuring of electric rates.
22 Around since the time of our deposition, I went and
23 refreshed my knowledge on that bill.

24 Q. So would you say that you understood the
25 impact Senate Bill had on the Ohio electric industry

1 at the time you drafted your testimony?

2 A. I would say that I was aware that between
3 1999 and 2001 the State had embarked on a journey to
4 introduce competition in the generating markets. And
5 I was also aware at the time this began local
6 governments were aware -- were allowed to aggregate
7 customers so that's -- that was my knowledge and
8 understanding.

9 MS. BOJKO: Dr. Hill, could you turn your
10 microphone back on, please.

11 THE WITNESS: Oh, I'm sorry. Thank you.

12 Q. (By Mr. Alexander) But you don't know
13 whether any Ohio utilities were at market before the
14 year 2008, correct?

15 A. I know that the first offering was by
16 FirstEnergy in 2009.

17 Q. So my answer -- my -- your answer to my
18 question is correct?

19 A. Could you repeat the question again?

20 Q. Certainly. You don't know whether Ohio
21 utilities were at market prior to 2008, correct?

22 MS. BOJKO: Objection. I am not sure
23 what at market means. He just explained that
24 competition began in 2001.

25 A. So the --

1 EXAMINER CHILES: There is an objection
2 pendinging.

3 THE WITNESS: I'm sorry.

4 EXAMINER CHILES: Mr. alexander, can you
5 clarify?

6 MR. ALEXANDER: Certainly, your Honor.

7 Q. (By Mr. Alexander) Isn't it true you are
8 not aware whether any Ohio utility had its SSO rate
9 set by market forces prior to 2008?

10 A. The reason why I am hesitating is I don't
11 know how to characterize the actions of the community
12 aggregators that were in -- in the marketplace
13 between, I guess, about 2001 through 2008. But I
14 agree that the SSO offerings were not at market
15 before 2009.

16 Q. Please turn to page 93, line 4, of your
17 deposition. Let me know when you are there.

18 A. I am there.

19 Q. Did I ask you: "Question: Okay. Do you
20 know whether Ohio utilities were at market at any
21 point prior to 2008?

22 "Answer: What I did for the data -- the
23 short answer is no. Long answer is that there's an
24 event that shows up in the data in 2009 that the
25 behavior changed."

1 Did I read that correctly?

2 A. You read that correctly.

3 MS. BOJKO: Objection, your Honor. That
4 is not improper -- proper impeachment. It is not
5 inconsistent with what he said. He said there was an
6 event in 2009, and that's exactly what he just said
7 on the stand.

8 MR. ALEXANDER: No, it's not. What he
9 said on the stand was he doesn't know what happened
10 with community aggregation prior to that point, which
11 was also a different period.

12 MS. BOJKO: Your Honor, if you read
13 before, shat he said was, what I don't know is how to
14 characterize community aggregation. But he said
15 before that that FirstEnergy went to market with
16 their SSO in 2009.

17 EXAMINER CHILES: The objection is
18 overruled.

19 Q. (By Mr. Alexander) And you have heard of
20 Senate Bill 221, but you don't know the substance of
21 that bill, correct?

22 A. Today I know more of the substance of the
23 bill. I was unaware -- I was confused during the
24 deposition as to exactly what the title of the bill
25 was.

1 Q. Do you know the title of the bill today?

2 A. No. I actually still have it as Senate
3 Bill 221. But I do know that during the -- and I
4 knew then -- that during the Strickland
5 administration that a bill was passed, and I knew the
6 rough contents of the bill.

7 Q. And you didn't know -- or you do not know
8 in what year Senate Bill 221 passed, correct?

9 A. Today I do, more important, when it took
10 effect.

11 Q. But you did not know that at the time of
12 your deposition, correct?

13 A. All I knew is it took place during the
14 time -- during the Strickland administration, and I
15 didn't know what exact year.

16 Q. Okay. Let's turn to page 93, line 22 of
17 your deposition.

18 A. Line 22.

19 Q. Yes. Did I ask: "Okay. Are you aware
20 of whether or not that bill passed in approximately
21 2008?

22 "Ms. Bojko: Objection.

23 "Answer: I have no idea."

24 Did I read that correctly?

25 A. You read that correctly.

1 MS. BOJKO: Your Honor, I still have the
2 same objection. Throughout this at the deposition I
3 asked Mr. Alexander to explain to him what the bill
4 number meant, and he refused, and now we are taking
5 his answers completely out of context.

6 If you would like to ask him exactly the
7 questions that he did in the deposition, including
8 the contextual ones before, I think that that is more
9 proper than just picking sentences out of the
10 deposition when that objection was specifically made
11 at the deposition.

12 MR. ALEXANDER: Your Honor, two points.
13 First, there is no requirement of that. Second, if
14 the witness doesn't know what Senate Bill 221 is,
15 that's fine. He can just say that, and we can move
16 on.

17 But here the timing is particularly
18 important. It's important to establish whether the
19 witness knows at what point that bill went into
20 effect.

21 EXAMINER CHILES: The objection is
22 overruled. Thank you.

23 Q. (By Mr. Alexander) Dr. Hill, you do not
24 know when Ohio utilities started the transition to
25 market-based pricing, correct?

1 A. I now know the dates at which the SSO
2 offers were made, and I was aware that the movement
3 towards a competitive market for electricity began
4 somewhere around 2000, and I have been aware of that
5 throughout.

6 Q. Did you say 2000 or 2009?

7 A. I am saying 2000 was when the journey
8 began for the State to move towards competitive
9 energy markets. The SSO auction themselves began in
10 2009.

11 Q. And you don't know what Ohio utility
12 first used a competitive bid process to procure
13 energy for nonshopping customers, correct?

14 A. At the time of the deposition, that was
15 correct -- or that is correct.

16 Q. And you don't know when an Ohio
17 utility -- you know, I think you did just say that.

18 You would agree an Ohio utility first
19 used a competitive bid process to procure energy in
20 2009, correct?

21 A. Correct.

22 Q. And you also don't know whether all Ohio
23 utilities were using competitive bid processes
24 starting in 2009, correct?

25 MS. BOJKO: Objection. Are you asking

1 him if he knows today?

2 MR. ALEXANDER: Yes.

3 MS. BOJKO: Okay. Just so we're clear, I
4 think Dr. Hill is reading his deposition, and I think
5 he needs to answer your questions.

6 EXAMINER CHILES: With that
7 clarification.

8 A. Can you repeat, please?

9 Q. Certainly. You don't know whether all
10 Ohio utilities were using competitive auctions
11 starting in 2009, correct?

12 A. As of today, I now that -- I know that in
13 2009 there was one utility that was using competitive
14 auction. That was FirstEnergy.

15 Q. Okay. And do you know when AEP Ohio
16 first started using competitive auctions?

17 A. 2015.

18 Q. Do you know when the Dayton Power and
19 Light Company first started using competitive
20 auctions?

21 A. January 1, 2016.

22 Q. And do you know when Duke Energy Ohio
23 first start using competitive auctions?

24 A. 2012.

25 Q. And to the extent there were utilities --

1 and you just testified you believe there were --
2 which were not using competitive bid processes in
3 2009, you don't know how their retail nonshopping
4 rates were set in 2009, correct?

5 MS. BOJKO: Objection.

6 EXAMINER CHILES: Grounds?

7 MS. BOJKO: May I have the question
8 reread?

9 EXAMINER CHILES: You may.

10 THE WITNESS: Can we wait for the sirens
11 to stop?

12 EXAMINER CHILES: Let's wait for that.

13 MS. BOJKO: That was my concern, your
14 Honor.

15 EXAMINER CHILES: Okay, with that
16 clarification.

17 THE WITNESS: I missed what the point was
18 because the siren went off just as you hit the
19 critical word.

20 EXAMINER CHILES: Mr. Alexander, would
21 you mind restating that question?

22 MR. ALEXANDER: Certainly.

23 Q. (By Mr. Alexander) Dr. Hill, to the
24 extent there were utilities that were not using
25 competitive bidding processes in 2009 --

1 A. Okay.

2 Q. -- you do not know how they set their
3 nonshopping rates in the year 2009, correct?

4 A. Do you want me to wait?

5 Q. No.

6 A. You can hear? Correct.

7 Q. And for utilities that had a competitive
8 bid process in place, you don't know whether those
9 auctions used a ladder auction product of varying
10 terms, correct?

11 A. That is correct.

12 Q. And you don't know whether any
13 competitive bidding process used a staggered auction
14 schedule with multiple auctions, correct?

15 MS. BOJKO: Objection. Just for
16 clarification purposes, we are still talking about
17 the SSO rate?

18 MR. ALEXANDER: Yes.

19 MS. BOJKO: Thank you.

20 A. Before 2009?

21 Q. No. For utilities that had a competitive
22 bidding process in place, so I believe you testified
23 for the FirstEnergy utilities that started in 2009,
24 correct?

25 A. Correct.

1 Q. Okay. But I want to expand this for all
2 Ohio utilities once they put a competitive bidding
3 process in place. Do you understand that?

4 A. Correct.

5 Q. And so for the Ohio utilities, once they
6 put a competitive bidding process in place, you don't
7 know whether they used a ladder auction product of
8 varying terms, correct?

9 A. As -- that is correct. The reason why I
10 am hesitating a bit, that there are CRES suppliers
11 that are involved, and I am aware that the CRES
12 suppliers were going into the energy markets, which
13 is not a PJM action, and executing effectively PPAs
14 for time periods of one, two, and three years, and so
15 my assumption is they blend them, but I just have no
16 knowledge.

17 Q. Okay. You don't know whether the Ohio
18 utilities utilized a competitive bidding process
19 which used a staggered auction schedule with multiple
20 auctions, correct?

21 MS. BOJKO: Objection, your Honor. This
22 is leading to the confusion. He is not saying a
23 competitive process for what. Is it for the SSO, or
24 is it for shopping customers? That's the confusion.

25 MR. ALEXANDER: Sure. I thought we just

1 clarified that, but under those circumstances --

2 Q. (By Mr. Alexander) Let me ask you this,
3 Dr. Hill. Under what circumstance would a utility be
4 procuring service for a shopping customer?

5 A. Well, the -- there -- the shopping
6 customer, they execute contracts with providers to
7 provide them with baseload energy.

8 Q. The customer does. The utility does not
9 sign those contracts on behalf of shopping customers,
10 correct?

11 A. That's correct.

12 Q. Okay.

13 A. Unless the contract is directly with the
14 utility. If the utility is the one that's providing
15 the power, there is a contract.

16 Q. So right now I am asking you about
17 standard service offer procurement through a
18 competitive bidding process. Do you understand that?

19 A. I am really confused as to what -- if you
20 are talking about shopping or nonshopping. If they
21 are nonshopping, they get the SSO.

22 Q. Correct. Your counsel is the one that
23 raised this point. I don't think it applies either.
24 So the question --

25 MS. BOJKO: Objection, your Honor.

1 Clearly there is confusion because nobody knows if
2 he's talking about the SSO or the market in general.

3 EXAMINER CHILES: I think he just
4 clarified he is talking about the SSO.

5 MR. ALEXANDER: Thank you, your Honor.

6 MS. BOJKO: And that's all I asked.

7 Q. (By Mr. Alexander) I will rephrase the
8 question so we are all on the same page.

9 A. Thank you.

10 Q. You don't know whether the Ohio utilities
11 using a competitive bidding process to procure
12 service for nonshopping customers used a staggered
13 auction schedule with multiple auctions, correct?

14 A. I don't know as a matter of fact, but my
15 assumption would be that since the capacity markets,
16 which is not the generating market, is staggered over
17 a four-year period and they -- and that there are
18 multiple-year auctions, that that's a possibility,
19 but I don't know for a fact.

20 Q. And you don't believe that staggered and
21 laddered auctions would necessarily have the effect
22 of more stable pricing, correct?

23 A. That is correct. And I have a reason for
24 it, but that is correct.

25 Q. And you don't know whether distribution

1 service is less volatile than generation service,
2 correct?

3 A. I do not know.

4 Q. And you don't know whether transmission
5 service is less volatile than generation service,
6 correct?

7 A. That would be an empirical question. I
8 don't have the data, but transmission service through
9 FERC is -- there is capacity that's auctioned through
10 the transmission lines, and so the capacity on the
11 transmission side could, in theory, operate in
12 similar ways as capacity auctions for the generating
13 side.

14 MR. ALEXANDER: Your Honor, could I have
15 that question reread, please.

16 EXAMINER CHILES: You may.

17 (Record read.)

18 Q. And, Dr. Hill, you don't know when any of
19 the geographic regions you cite first had rates set
20 by market forces, correct?

21 MS. BOJKO: Objection.

22 EXAMINER CHILES: Grounds?

23 MS. BOJKO: Again, I don't know what
24 rates we're talking about, "set by market forces."

25 MR. ALEXANDER: I will rephrase the

1 question, your Honor.

2 EXAMINER CHILES: Thank you.

3 Q. Dr. Hill, you don't know when any of the
4 geographic regions you cite first had standard
5 service offer rates set by market forces, correct?

6 A. I am going to ask you for just a tad of
7 forbearance to tell me which regional markets we are
8 talking about. Are we talking about states, or are
9 we talking about the figures again?

10 Q. We are still on Figures 1 through 5.

11 A. Okay. The only information I have, and I
12 didn't have it at the time I drafted the data, would
13 be when the SSO auctions took place. Take, for
14 example, Cleveland is a complicated market because
15 FirstEnergy has part of it and then Muni Light has
16 part of it, and these are over the entire municipal
17 area.

18 But the straight answer to your question
19 is I do not know exactly when full SSO auctions
20 affected each of the metropolitan areas.

21 Q. Okay. So focusing your attention on
22 Figure 4 regarding natural gas prices, let me know
23 when you are there.

24 A. Yes. I am at Figure 4.

25 Q. Now, the natural gas prices you set are

1 retail prices as opposed to wholesale prices,
2 correct?

3 A. That's correct.

4 Q. And the wholesale price of natural gas
5 may not correspond exactly with the retail price
6 changes you discuss in this figure, correct?

7 A. Correct. It's frequently the case.

8 Q. Dr. Hill, you have not performed any
9 quantitative analysis of rider RRS on retail rates,
10 correct?

11 A. That is correct.

12 Q. And you have not done any quantitative
13 analysis of the alleged impact of rider RRS on
14 wholesale market prices, correct?

15 A. I have done qualitative -- my testimony
16 is qualitative; it's not quantitative, so that's
17 correct.

18 Q. And you don't have any knowledge of the
19 content of settlement discussions which occurred
20 prior to the third supplemental stipulation being
21 signed, correct?

22 A. That is correct. The only information I
23 gleaned is what's in the stipulations.

24 Q. And you were not present at any
25 settlement meetings relating to any stipulation in

1 this case, correct?

2 A. That is correct.

3 Q. Dr. Hill, you would agree that CRES
4 providers have to compete with standard service offer
5 pricing, correct?

6 A. That is correct.

7 Q. And you would agree that CRES providers
8 also have to compete with other CRES providers.

9 A. That is correct.

10 Q. And you believe that staff's rationale
11 for signing on to the third supplemental stipulation
12 is not contained in the third supplemental
13 stipulation, correct?

14 A. Correct.

15 MR. ALEXANDER: Nothing further.

16 EXAMINER CHILES: Thank you,
17 Mr. Alexander.

18 Mr. McNamee?

19 MR. McNAMEE: No questions. Thank you.

20 EXAMINER CHILES: Ms. Bojko, redirect?

21 MS. BOJKO: May we have a few minutes,
22 your Honor?

23 EXAMINER CHILES: Yes, you may.

24 Let's go off the record.

25 (Recess taken.)

1 EXAMINER CHILES: Go ahead and go back on
2 the record.

3 Ms. Bojko, redirect?

4 MS. BOJKO: Yes, your Honor. Thank you.

5 - - -

6 REDIRECT EXAMINATION

7 By Ms. Bojko:

8 Q. Dr. Hill, do you recall being asked some
9 questions from I think both counsel about competition
10 and deregulation of the Ohio energy market?

11 A. I do.

12 Q. When do you believe competition began?

13 A. The competition, if we are talking about
14 all classes of customers, began about 2001.

15 Q. And what would you believe is
16 available -- or what do you believe was available to
17 customers at the onset of competition per Senate Bill
18 3 starting 1/1/01?

19 A. Well, the first thing is clear is that
20 governmental aggregation was involved so that
21 municipalities could join and shop the customers in
22 their district. That was competitive. In fact,
23 that, I believe, is one of the reasons why you saw
24 rates in the northeastern part of the state to start
25 moving, start decreasing. There was no SSO or

1 anything like that in existence at that point in
2 time, but there were CRES suppliers.

3 So commercial and industrial customers
4 were using CRES suppliers before 2008, 2009, and that
5 also provided a competitive market. There was
6 testimony that I read that indicated that the amount
7 of the market that was supplied by the municipal
8 aggregators really depended on how high the utility
9 rates were because you could always stay with the
10 utility, so the utility base rate was always there.
11 And in the central part of the state, rates were
12 lower than the northeast, and the aggregators were
13 less active.

14 So long story short, there were municipal
15 aggregators in the market. There were CRES suppliers
16 in the market, and large commercial/industrial
17 customers could shop directly themselves.

18 Q. Okay. So if a customer wasn't shopping,
19 what was your understanding of what they would be
20 taking service pursuant to?

21 A. They would be just taking the meter rate
22 provided by their utility. But, you know, the point
23 is that things like the SSO didn't exist until 2009,
24 but the intent of the State of Ohio and the timeline
25 of administrative actions indicated there was a

1 strong interest in developing a market at the
2 generating end beginning in 2001.

3 MS. BOJKO: Your Honor, at this time I
4 would like to have marked as OMAEG Exhibit 27 a
5 timeline of Ohio's electric restructuring.

6 EXAMINER CHILES: So marked.

7 (EXHIBIT MARKED FOR IDENTIFICATION.)

8 Q. Dr. Hill, do you have in front of you
9 what has been marked as OMAEG Exhibit 27?

10 A. I do.

11 Q. Did you create a timeline of Ohio's
12 electric restructuring to assist you in answering or
13 to assist you in your understanding of the statutory
14 mandates of Ohio's electric market?

15 A. I did. I'm sorry, my -- this thing is
16 off. I did using the sources that are footnoted in
17 the table.

18 Q. And OMAEG Exhibit 27 is your
19 understanding of the Ohio's electric restructuring
20 market today?

21 A. It is.

22 Q. In response to Mr. Alexander, I believe
23 you stated that no one was shopping from 2004 to 2008
24 because they were all taking from a tariff. Do you
25 recall that discussion?

1 A. Not completely.

2 Q. Well, is it your understanding that
3 nonshopping customers were taking service pursuant to
4 a tariff during 2004 to 2008?

5 A. That's correct.

6 Q. But is it your understanding that
7 customers could shop for service during that period?

8 A. How fully --

9 MR. ALEXANDER: Objection, leading.

10 EXAMINER CHILES: Ms. Bojko, could you
11 rephrase?

12 MS. BOJKO: Sure, your Honor.

13 Q. (By Ms. Bojko) Is it your understanding
14 that all customers needed to take service pursuant to
15 a tariff during that period discussed by
16 Mr. Alexander?

17 MR. ALEXANDER: Objection, leading.

18 EXAMINER CHILES: Sustained.

19 Could you please rephrase?

20 MS. BOJKO: Sure.

21 Q. (By Ms. Bojko) What's your understanding
22 of what customers had available to them during the
23 2004-2008 time frame discussed by Mr. Alexander?

24 A. During that time period, the data, as
25 well as the sources that I referenced in the exhibit

1 that you just entered, were clear -- were very clear
2 that the municipal aggregators were active during
3 this time period. CRES providers were in the market.

4 My intent when I was responding to
5 Mr. Alexander's questions was to state for those that
6 weren't municipal aggregators or -- and I was
7 assuming -- and I was talking about -- in my mind, I
8 thought residential customers were taking the tariff
9 rates. But large industrial customers were -- were
10 executing direct contracts at that time period.
11 CRESs were in the marketplace, and, most importantly,
12 in the northeastern part of the state, the municipal
13 aggregators were active.

14 Q. And from your timeline -- strike that.

15 Do you recall speaking with Mr. Alexander
16 about the hypothetical of if a credit would result in
17 net present value in year one, whether that would be
18 a subsidy or not?

19 A. I do recall that conversation.

20 Q. In that context, what type of subsidy
21 were you referencing?

22 A. Straight financial subsidy.

23 Q. Are there other subsidies?

24 A. There were. In fact, there's a very
25 large one sitting through this entire case by

1 guaranteeing the rate of return at 10.38 percent, and
2 in the stipulations there's another transmission
3 rider, which I believe would end up with a guaranteed
4 rate of return of 10.8 percent, and then there's also
5 hints of another affiliate PPA for alternative
6 energy.

7 Because those are nonavoidable, the
8 Commission will have created a risk-free financial
9 instrument. That's a subsidy. So that would mean
10 that the 10.38 percent would be an extraordinarily
11 high risk rate -- risk-free rate of return from
12 market risk, and that's a direct subsidy.

13 So if you compare a 10.38 percent rate of
14 return on a -- on an instrument that's financially
15 risk-free with the rate of return on a government
16 bond of similar length of time, it's extraordinarily
17 high.

18 MR. ALEXANDER: Your Honor, could I have
19 that question and answer reread, please.

20 EXAMINER CHILES: You may.

21 (Record read.)

22 MR. ALEXANDER: Thank you.

23 Q. (By Ms. Bojko) Do you recall questions
24 from counsel about the redistributive coalition and
25 signatory parties --

1 A. I do.

2 Q. -- constituting the redistributive
3 coalition?

4 A. I do.

5 Q. And you were also asked about how diverse
6 does the class have to be. Do you recall that?

7 A. I do.

8 Q. With regard to the signatory parties and
9 the diversity of the class, have you learned anything
10 about the signatory parties that would affect your
11 position on what diverse means in the context of the
12 signatory parties and redistributive coalition?

13 A. Yeah. Some concern, I first noticed that
14 some of the signatory parties, particularly those
15 that -- or those that deal with anti-poverty issues
16 and low-income households, were represented by the
17 same attorney, so I was wondering about the
18 independence of the signatories.

19 And I am very familiar with two of the
20 three signatories. In fact, I'm a fan -- I am a
21 large fan of the Cleveland Housing Network. It's an
22 extraordinary group. And I am optimistic about the
23 recovery from the financial problems and leadership
24 problems that the Council for Economic Opportunities
25 in Greater Cleveland had. So that was good.

1 But I was really puzzled -- I'm from
2 Cleveland, just moved down, civically active, and I
3 hadn't heard of the Consumers Protection Association,
4 so that led me to look at the Consumers Protection
5 Association so I could learn more of it to see what
6 function it provided.

7 And I first went to the website and found
8 out the website for the organization was down. Then
9 I did a news search to look at its activity, and the
10 news search revealed that the organization closed its
11 doors on August 15 and is subject to a federal
12 investigation, and its funding by the Social Security
13 Administration has been lifted and the ADAMH Board,
14 the director of the ADAMH Board is on tape stating
15 that starting in 2011, the organization had
16 managerial problems, and he also stated that there's
17 probably -- that there was fraud in the
18 administration of the organization.

19 So the question is, the Consumer
20 Protection Association still may exist as a legal
21 entity, but as a direct service organization
22 representing low-income households, the fact that
23 it's being subject to a federal investigation leads
24 me to really wonder what group it's currently
25 representing.

1 The other part that I found really
2 confusing was I went to the Council for Economic
3 Opportunities' website where they listed the --
4 the -- oh, what was that group? The citizens' group?
5 I have to go and check one more signatory to make
6 certain I get this right.

7 Oh, that's it, the Citizens Coalition
8 because that's another group I had never heard of it.
9 Now, the Citizens Coalition is represented by the
10 same attorney, and the members of that coalition are
11 the other signatories, so CEOG, the Cleveland Housing
12 Network, and the Consumer Protection Association form
13 the Consumers Coalition. So, in reality, they
14 managed to sign twice, with one-third of that
15 coalition currently being in very difficult straits
16 of operation.

17 So I had -- so if you think about -- and
18 it's also interesting that the C -- well, I want to
19 make sure I get it right, the Council for Economic
20 Opportunities in Greater Cleveland lists the Citizens
21 Coalition as a partner organization when really it's
22 them.

23 So this amount of confusion makes it
24 really interesting to me as to who is representing
25 the interest of low-income renters and occupants in

1 Cleveland since this is a large portion of the notion
2 of diversity of interests. So I admit I was confused
3 and disappointed at the scrutiny that the signatory
4 parties were put through.

5 MS. BOJKO: Thank you.

6 MR. ALEXANDER: Your Honor, I have a
7 motion to strike. I move to strike that entire
8 response on three grounds. The first ground, that's
9 beyond the scope of my cross-examination. I didn't
10 ask him about any of those parties or this concept.

11 Two, even if it was within the scope of
12 my cross-examination, this is not any information
13 within the direct knowledge of Dr. Hill. This is
14 hearsay.

15 And, three, even if this was not hearsay,
16 even if he had the ability to present this evidence,
17 this is evidence that would -- should have been
18 presented in his direct case. Redirect is not the
19 appropriate time for new evidence of this type,
20 particularly when it is beyond the scope of cross.

21 EXAMINER CHILES: Ms. Bojko.

22 MS. BOJKO: First of all, it is not
23 beyond the scope. He asked about the redistributive
24 coalition. He asked about who was included, who
25 wasn't. Then he went on a series of questions asking

1 about how diverse the class has to be.

2 The redirect is, is one class of
3 customers of the signatory parties truly a diverse
4 class if the members don't represent different
5 entities and if they are represented by the same
6 person or if they don't exist at all.

7 I think that this information, although
8 it just came to light, is very important to this
9 Commission's decision, that a signatory party had
10 closed its doors yet they somehow managed to sign a
11 document. I think that is something that the
12 Commission would want to know and should know, and it
13 absolutely goes into the diversity of class and
14 whether the low-income class is truly being
15 represented

16 And Mr. Alexander did, in fact, touch on
17 this and raise questions about the residential class,
18 the muni class, and industrial class, so it's very
19 responsive to the cross-examination.

20 MS. WILLIS: Your Honor, I might add that
21 he had a whole section of cross on diversity of
22 interest. That's what we are talking about, and
23 that's what this witness is answering questions on
24 redirect about.

25 EXAMINER CHILES: Anyone else want to

1 weigh in before Mr. Alexander's last word?

2 MR. ALEXANDER: Yes, your Honor. On this
3 topic the redistributive coalition, I asked the
4 witness about COSE, whether you needed an entire
5 100 percent of the class to be included. The witness
6 said no. What mattered was whether you negotiated
7 for diversity of interest. And I asked the same
8 question throughout about the City of Akron. None of
9 these entities were mentioned. The words low-income
10 customers were never used. This is simply a
11 last-minute attempt to get new facts into the record.

12 EXAMINER CHILES: Thank you. The motion
13 to strike will be granted on the basis it was beyond
14 the scope of the cross-examination.

15 MS. BOJKO: Thank you, your Honor. I
16 have no further questions, your Honor.

17 EXAMINER CHILES: Thank you, Ms. Bojko.
18 Recross, Ms. Fleisher?

19 MS. FLEISHER: No questions, your Honor.

20 EXAMINER CHILES: Mr. Dougherty?

21 MR. DOUGHERTY: No questions.

22 EXAMINER CHILES: Mr. Mendoza?

23 MR. MENDOZA: No questions, your Honor.

24 EXAMINER CHILES: Ms. Willis?

25 MS. WILLIS: No questions, your Honor.

1 EXAMINER CHILES: Mr. Pritchard?

2 MR. PRITCHARD: No questions, your Honor.

3 EXAMINER CHILES: Mr. Olikier?

4 MR. OLIKER: No, thank you, your Honor.

5 EXAMINER CHILES: Did you say "no"?

6 MR. OLIKER: No questions, your Honor.

7 EXAMINER CHILES: Thank you.

8 Mr. Kurtz?

9 MR. KURTZ: No questions, your Honor.

10 EXAMINER CHILES: Mr. Alexander?

11 MR. ALEXANDER: Oh, absolutely. Thank
12 you, your Honor.

13 - - -

14 RECROSS-EXAMINATION

15 By Mr. Alexander:

16 Q. Dr. Hill, when did you create -- strike
17 that. Did you create OMAEG Exhibit 27?

18 A. I did.

19 Q. Are you the person who actually created
20 the document, or did somebody do it under your
21 direction?

22 A. Two parts, parts of the document began
23 with one of the cited sources, and everything else on
24 it I did.

25 Q. So it appears there are two different

1 typefaces.

2 A. Correct. I did that on purpose.

3 Q. Okay. And what do the different
4 typefaces represent?

5 A. The fainter typeface, is a little bit
6 larger, came from the original document that's
7 sourced, and the smaller, darker typefaces were
8 the -- was the information that I entered.

9 Q. Okay.

10 A. Supplemented.

11 Q. When you say "the original document that
12 was sourced," what was the original document used as
13 the source for this?

14 A. There are three documents created by
15 Choueiki, if I pronounced that name right. So it's
16 the last of the three History of Regulation Ohio, was
17 a presentation of the National Association of
18 Regulatory Utility Commissioners presented in June --
19 on June 19, 2014.

20 So everything that's faint with the
21 larger typeface came from that document. The
22 headings on top were mine. The time periods the
23 auctions took place were mine. The notes underneath
24 Senate Bill 221 are mine. The applications that were
25 filed in late 2014 are mine.

1 Q. When did you create this document?

2 A. Last night. Actually, to be honest, I
3 have been working on creating this document since the
4 end of my deposition, but it culminated last night.

5 Q. At the time of your deposition, the only
6 thing that appeared on this document that you knew
7 was the date FirstEnergy had filed its proposed ESP,
8 correct?

9 MS. BOJKO: Objection. Mischaracterizes
10 his testimony.

11 A. That's incorrect.

12 MS. BOJKO: I will withdraw the
13 objection.

14 THE WITNESS: Oh, I'm sorry. It's that
15 hearing thing again.

16 EXAMINER CHILES: Ms. Bojko, could you
17 turn on your microphone.

18 MS. BOJKO: Yes. It turned off. I'm
19 sorry.

20 Q. (By Mr. Alexander) What else on this
21 document did you know at the time of your deposition?

22 A. I was aware and cognizant of the facts --
23 oops, yeah, I'm on -- of the movement towards market,
24 which covered large parts of the period 2001 to 2009.
25 I was unaware of the exact title of Senate Bill 3. I

1 was aware of opt-out aggregation at a personal level
2 because I was an early opt-out aggregator in my home
3 in Lakewood, Ohio, and so I was aware of government
4 aggregation beginning. I didn't know the exact date.

5 I was not aware of the notations on
6 12/31/2005, underrecovery of generation standard
7 costs, when exactly that ended. I was unaware of the
8 exact date of the recovery of regulatory standard
9 costs, where that ended.

10 I was aware of the movement towards ESPs.
11 I was generally aware of Senate Bill 221, but not the
12 title. I was absolutely aware of the existence of
13 the energy efficiency requirements and renewable
14 portfolio requirements in the Strickland
15 administration. I was aware of the -- of the
16 existence of ESP and MRO plans, but I wasn't aware of
17 the exact date at which they came into being.

18 And through the submissions on the case,
19 everything that's listed from 2/20/10 on, I was aware
20 of. But I was embarrassed by my lack of specific
21 knowledge of the Senate bills, and that cased me to
22 go back and construct it so that I had a stronger
23 knowledge.

24 Then I should also point out a lot of
25 this information was also in Choueiki's prefiled

1 testimony that was in the record as of September 18,
2 2015, and I apologize if I'm murdering this guy's
3 last name but --

4 EXAMINER PRICE: How do you feel?

5 THE WITNESS: I grew up in a Polish
6 neighborhood.

7 Q. Okay. Dr. Hill, you would agree that
8 government aggregation has nothing to do with the
9 calculation of standard service offer rates for
10 nonshopping customers, correct?

11 A. That is correct.

12 Q. And you have not quantified the amount of
13 government aggregation which took place between 2001
14 and 2008, correct?

15 A. I didn't. It's very carefully cited in
16 the prefiled testimony, September 18, 2015.

17 Q. And you have relied on Dr. Choueiki's
18 previous testimony --

19 A. I thank you for the pronunciation,
20 though.

21 Q. Certainly. You have relied completely on
22 Dr. Choueiki's previous presentations with regard to
23 your knowledge regarding Ohio's timeline restructure?

24 A. I relied on his -- on his timeline
25 because it was also consistent with other things that

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1 I knew.

2 Q. Okay. And so would you say you relied on
3 Dr. Choueiki's timeline with the exception of the
4 items you marked in the separate font on the
5 timeline?

6 A. I have already testified that everything
7 that is in larger type and a lighter typeface was
8 taken from Dr. Choueiki's presentation.

9 EXAMINER CHILES: Let's go off the record
10 for a moment.

11 (Discussion off the record.)

12 EXAMINER CHILES: Back on the record.

13 Q. (By Mr. Alexander) Dr. Choueiki, you have
14 not --

15 A. I am not Dr. Choueiki.

16 Q. Now I've made the mistake.

17 Dr. Hill, you have --

18 A. You've seen one doctor, you've seen them
19 all.

20 Q. You have not reviewed the revised term
21 sheet between FES and the companies, correct?

22 A. Correct.

23 MR. ALEXANDER: Nothing further, your
24 Honor.

25 EXAMINER CHILES: Thank you.

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1 Mr. McNamee?

2 MR. McNAMEE: No questions, your Honor.

3 EXAMINER CHILES: Attorney Examiner

4 Addison?

5 EXAMINER ADDISON: No questions.

6 EXAMINER CHILES: Attorney Examiner

7 Price?

8 EXAMINER PRICE: No questions.

9 EXAMINER CHILES: Commissioner Haque?

10 COMMISSIONER HAQUE: No questions, thank
11 you.

12 EXAMINER CHILES: Thank you very much.
13 You are excused.

14 THE WITNESS: Thank you, your Honor.

15 MS. BOJKO: Thank you, your Honor. At
16 this time I am going to wait to move OMAEG Exhibit 26
17 pending final copying of a corrected version.

18 EXAMINER CHILES: Thank you.

19 MS. BOJKO: But I would like to move
20 OMAEG Exhibit 27.

21 EXAMINER CHILES: Are there any
22 objections to the admission of OMAEG Exhibit 27?

23 MR. ALEXANDER: Yes, your Honor, three
24 objections -- two, I guess. The first in my
25 direct -- cross-examination the witness discussed at

1 length he didn't know what Senate Bill 3 was, he
2 didn't know what Senate Bill 221 was at the time of
3 his deposition. He had no idea on any of those
4 topics. We went through that in pretty great detail.

5 The witness testified on recross that he
6 was embarrassed by his lack of knowledge regarding
7 those bills, so he educated himself, which is fine.
8 But what he did was he relied on Dr. Choueiki's
9 knowledge of the restructuring of Ohio's electric
10 industry, which is not something he has personal
11 knowledge of. He relied on Dr. Choueiki's knowledge.

12 While this might be perfectly appropriate
13 for Dr. Choueiki to introduce into the record, I
14 don't believe it's appropriate for Dr. Hill to
15 produce into the record because, as he, himself, has
16 admitted, he didn't have knowledge of this prior to
17 his deposition or prior to the fact of him looking it
18 up in preparation for the hearing today.

19 EXAMINER CHILES: Ms. Bojko.

20 MR. ALEXANDER: This addition -- for my
21 second point, your Honor, I don't think it adds
22 anything to the record. The point of bringing up
23 this history was to talk about how meaningful
24 Dr. Choueiki's comparisons were of today's market
25 prices to formerly set regulated prices -- or

1 Dr. Hill. Excuse me, Dr. Choueiki. So that
2 comparison was what was important.

3 This -- first of all, as lawyers, we can
4 all look at the statute. It adds nothing to that
5 conversation. It adds nothing to any fact at issue.

6 So for those two reasons I would object.

7 EXAMINER CHILES: Thank you.

8 MS. BOJKO: Your Honor, to the first
9 point, the depositions are not part of the record,
10 and I strongly disagree. When the same questions
11 were posed to Dr. Hill today, he was able to answer
12 those questions, and he did answer them. He stated
13 that he didn't know the bill numbers. He did not
14 state in his deposition that he didn't know the
15 content of all of the bills that were discussed here
16 today.

17 The deposition is not evidence. The
18 hearing is today. He did bring these up. I
19 continued to object to Mr. Alexander's questions
20 because I thought it was very confusing of whether he
21 was talking about the standard service offer or
22 whether he was talking about a market in general and
23 whether there was competition since January 1, 2001.

24 This document is very helpful as it
25 clears up that confusion and I think frankly

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1 misrepresentation in the record of what did exist or
2 didn't exist at the various points of time. So
3 Dr. Hill said that he didn't -- he was embarrassed by
4 not know the Senate Bill numbers. He didn't say he
5 didn't know the state of deregulation, and he was
6 able to answer those questions very well today.

7 But given the questions that were asked,
8 this is a proper redirect exhibit. It is exactly
9 everything that Mr. Trevor asked Dr. Hill about and
10 it shows -- Mr. Alexander asked about, and it shows
11 the state of the market. I think it's very valuable
12 to this Commission.

13 So I would also suggest that the portion
14 of the document that I think Mr. Alexander is
15 objecting to is actually a state document. It's
16 produced by the PUCO, and it is available as a public
17 record. So if that was one of his objections, I
18 disagree with that, but it is very relevant to the
19 case. He created the document and it does add to the
20 record and it should be considered by the Commission
21 to clarify some of the questions that were not clear
22 with regard to default service SSO versus competitive
23 market and when those competitive markets actually
24 occurred.

25 EXAMINER CHILES: Thank you, Ms. Bojko.

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1 I believe we are going to defer ruling on
2 the admissibility of this document until we reconvene
3 tomorrow unless someone has an issue with that.

4 MS. WILLIS: Your Honor, I just want to
5 quickly point out that with response to
6 Mr. Alexander's argument this witness has no personal
7 knowledge, an expert witness need not have personal
8 knowledge of facts. It is they are entitled to rely
9 on facts and data, and so the fact he did not reach
10 the conclusions that Mr. Choueiki reached is no basis
11 for excluding that information.

12 EXAMINER CHILES: Thank you, Ms. Willis.

13 We will make our ruling when we reconvene
14 tomorrow.

15 At this point we will adjourn for the
16 day, and we will reconvene at 9 o'clock tomorrow
17 morning. Thank you.

18 (Thereupon, at 1:22 p.m., the hearing was
19 adjourned.)

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1 CERTIFICATE

2 I do hereby certify that the foregoing is
3 a true and correct transcript of the proceedings
4 taken by me in this matter on Wednesday, January 20,
5 2016, and carefully compared with my original
6 stenographic notes.

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11 Karen Sue Gibson, Registered
Merit Reporter.

12 (KSG-80067)

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

Summary: Transcript in the matter of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company hearing held on 01/20/16 - Volume XXXIX electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs.