

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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

- - -

PROCEEDINGS

before Mr. Gregory Price and Ms. Megan Addison,
Attorney Examiners, at the Public Utilities
Commission of Ohio, 180 East Broad Street, Room 11-A,
Columbus, Ohio, called at 9:00 a.m. on Thursday, July
28, 2016.

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REHEARING VOLUME IX

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1421

1 Thursday Morning Session,
2 July 28, 2016.

3 - - -

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

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

14 My name is Megan Addison and with me is
15 Gregory Price, and we are the Attorney Examiners
16 assigned to preside over this hearing.

17 We will dispense taking appearances this
18 morning.

19 Are the companies ready to proceed?

20 MR. ALEXANDER: Yes, your Honor. The
21 companies call Sarah Murley.

22 EXAMINER ADDISON: Welcome back,
23 Ms. Murley.

24 THE WITNESS: Thank you.

25 (Witness sworn.)

1 EXAMINER ADDISON: Thank you. Please be
2 seated.

3 You may proceed.

4 MR. ALEXANDER: Thank you, your Honor.

5 - - -

6 SARAH MURLEY

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

9 DIRECT EXAMINATION

10 By Mr. Alexander:

11 Q. Ms. Murley, did you prepare rebuttal
12 direct testimony in this proceeding?

13 A. Yes.

14 MR. ALEXANDER: Your Honor, we have
15 provided the court reporters with Ms. Murley's
16 prefiled testimony. We also provided courtesy copies
17 for the Bench that have been marked as Companies'
18 Exhibit 205.

19 EXAMINER ADDISON: It will be so marked.

20 (EXHIBIT MARKED FOR IDENTIFICATION.)

21 Q. (By Mr. Alexander) Ms. Murley, do you
22 have copies of your prefiled testimony in front of
23 you today?

24 A. Yes.

25 Q. Do you have any changes or corrections to

1 your prefiled testimony?

2 A. No.

3 Q. If I asked you the same questions today,
4 would your answers be the same?

5 A. Yes.

6 MR. ALEXANDER: Your Honor, the witness
7 is available for cross-examination.

8 EXAMINER ADDISON: Thank you,
9 Mr. Alexander.

10 Mr. Stinson?

11 MR. STINSON: No questions, your Honor.

12 EXAMINER ADDISON: Mr. Pritchard?

13 MR. PRITCHARD: No questions, your Honor.

14 MR. SOULES: Your Honor, would the Bench
15 entertain motions to strike at this point?

16 EXAMINER ADDISON: Absolutely.

17 MR. SOULES: Thank you, your Honor.

18 Your Honors, Sierra Club moves to strike
19 the entirety of Ms. Murley's testimony because it is
20 improper rebuttal testimony. Her testimony fails to
21 meet the standards for rebuttal testimony for two
22 independent reasons.

23 First of all, Ms. Murley's testimony does
24 not refute any prior testimony in the record.
25 Commission precedent established a proper rebuttal

1 testimony must fall within the standard of being new
2 evidence refuting prior testimony. The Commission
3 made this clear in its December 17, 1985, rehearing
4 entry in Case No. 84-1272.

5 Here, Ms. Murley's testimony does not
6 even attempt to refute any prior testimony. The only
7 witness mentioned at all in her testimony is Staff
8 Witness Joseph Buckley. And that single mention on
9 page 2, lines 3 to 4, of her written testimony simply
10 notes that Mr. Buckley did not address the topic
11 discussed in her testimony.

12 There is not a single statement in
13 Ms. Murley's testimony that disputes any opinion
14 offered by Mr. Buckley. The fact that Ms. Murley's
15 testimony does not refute Mr. Buckley's testimony was
16 further confirmed at the deposition that was taken on
17 Tuesday of this week.

18 At the deposition, Ms. Murley confirmed
19 that her testimony addresses the economic impacts of
20 the FirstEnergy Corp. headquarters and that this
21 topic is not addressed in Mr. Buckley's testimony.
22 She also confirmed that there is no specific
23 statement in his testimony that she disagrees with.

24 And I do have copies of the deposition
25 transcript if your Honors would like to see those

1 passages.

2 EXAMINER ADDISON: Thank you.

3 MR. SOULES: Would you like to see those
4 now?

5 EXAMINER ADDISON: That's fine at this
6 time.

7 Mr. Alexander, do you have a response?

8 MR. ALEXANDER: Yes, your Honor. I have
9 a fundamental disagreement with the premise of the
10 question because Ms. Murley does directly refute
11 Mr. Buckley. Specifically, Mr. Buckley proposes a
12 quantification of rider DMR. Ms. Murley disagrees
13 with the manner in which Mr. Buckley made that
14 quantification because Mr. Buckley omitted something
15 from that quantification.

16 So while Ms. Murley does not take issue
17 with some of the quantifications done by Mr. Buckley,
18 that's Ms. Mikkelsen's testimony, she takes issue
19 with his omission, his failure to address that issue.

20 And this is not solely something which
21 was addressed by Mr. Buckley. This was also
22 addressed in his prefiled written direct testimony.
23 This is also addressed on the stand in hearing, in
24 response to questions from Mr. Sauer, Mr. Buckley
25 testified that there would be an economic benefit

1 from headquarters, but he didn't quantify that
2 amount. Similarly, in response to questions from
3 Ms. Bojko, he testified the same thing.

4 He also testified in response to
5 Mr. Sauer that -- that the headquarters' impact on
6 property taxes was a valuable benefit but, again, he
7 never quantified that.

8 Those are the issues that Ms. Murley
9 addresses, found to be in error, and addresses it in
10 her testimony.

11 Also, Dr. Choueiki and Mr. Kahal also
12 testified to the economic impact as well. And with
13 regard to the timing here, rider DMR was proposed for
14 the first time in Staff Witness Buckley's testimony.
15 This is the first time the companies have had the
16 opportunity to address the complication of rider DMR.
17 There was no prior chance for the companies to do
18 this and so it's perfectly appropriate for the
19 companies to respond at this point.

20 EXAMINER PRICE: Mr. Soules, why is this
21 different from Mr. Baron's testimony that we heard
22 last week? Last week, Mr. Baron testified on rate
23 design in light of the fact that Ms. Turkenton had
24 not taken a position in her prefiled testimony on
25 rate design.

1 MR. SOULES: Well, your Honor, I don't
2 know if Mr. Baron's testimony was the subject of a
3 motion to strike or not.

4 EXAMINER PRICE: It doesn't have to be
5 the subject. Why are you moving to strike this one
6 and not that one?

7 MR. SOULES: Well, your Honor, we -- my
8 client was not taking a position at that time on the
9 rate design issue that Mr. Baron was presenting
10 testimony on.

11 But this notion, your Honors --

12 EXAMINER PRICE: Let me ask you in a
13 different situation.

14 MR. SOULES: Yeah.

15 EXAMINER PRICE: Why is this different
16 from Mr. Duann's testimony that took a position on
17 how SEET should be addressed when staff had not taken
18 a position on how SEET should be addressed in their
19 testimony?

20 MR. SOULES: Your Honor, I -- I think the
21 danger of these -- of permitting rebuttal testimony
22 that purports to address an omission, a topic that
23 wasn't actually addressed by any prior testimony, you
24 are really opening the door to a situation where
25 parties can improperly supplement the record.

1 EXAMINER PRICE: Go back and strike all
2 of Mr. Duann's testimony, then, since if we strike
3 this, to be fair?

4 MR. SOULES: Your Honor, Sierra Club
5 would not take a position on striking Mr. Duann's.

6 MR. MICHAEL: May OCC join in this
7 conversation, your Honor?

8 EXAMINER PRICE: I was directing it to
9 him, his motion to strike.

10 MR. MICHAEL: I would like an
11 opportunity, when your Honor sees fit, because I am
12 going to support the motion to strike.

13 MR. SOULES: There is actually another
14 critical point, your Honors, is that there are two
15 independent reasons why this is improper rebuttal
16 testimony. The first being that it's not refuting
17 anything.

18 And I would note that although
19 Mr. Alexander noted that, you know, Mr. Buckley
20 mentioned that there was a benefit to headquarters,
21 he did not address -- he did not attempt to quantify
22 what the economic impact of the headquarters is.

23 But, secondarily, your Honors, this is
24 improper rebuttal because it could have been
25 presented long ago in this hearing. The third

1 supplemental stipulation and testimony that was
2 submitted by Dynegy with regards to the third
3 supplemental stipulation addressed the issue of
4 headquarters remaining in Akron. That was his
5 specific provision in the stipulation.

6 The companies had ample opportunity, if
7 it -- if they had wanted to, in the testimony filed
8 in December of 2015, or they could have also
9 submitted rebuttal testimony in January of 2016,
10 addressing the purported economic and revenue impacts
11 of the headquarters. You know, they chose not to do
12 so, and it's Sierra Club's position they should be
13 held to that litigation choice on an issue that has
14 been at play for eight months.

15 EXAMINER PRICE: Go back to your first
16 point. Isn't it the company's position, as expressed
17 in Ms. Mikkelsen's testimony, that staff did not
18 properly value the headquarters in their calculation
19 for rider it DMR?

20 MR. SOULES: Yes. She was proposing an
21 alternative number, yes.

22 EXAMINER PRICE: So isn't this witness's
23 job to present the information to the Commission that
24 supports that alternative number? I mean, we are not
25 expecting Ms. Mikkelsen to put on economic

1 development testimony. That's not within the cope of
2 her expertise. Sorry, Ms. Mikkelsen.

3 MR. SOULES: Well, your Honor, I think
4 there, again, the issue is, you know, Ms. Murley's
5 testimony itself is addressing a topic that no other
6 witness has talked about in this hearing.

7 And if you could cure improper rebuttal
8 testimony by cross-referencing it in another
9 witness's rebuttal testimony, again, I believe you
10 would be opening the door to, you know, all matter of
11 topics to be brought up in what purports to be
12 rebuttal testimony.

13 MR. MICHAEL: Your Honor, may I go ahead
14 and add just a couple of brief codas to what
15 Mr. Soules said? I think it's important to note
16 Ms. Mikkelsen, at her deposition yesterday, testified
17 the commitment to keep FirstEnergy's headquarters and
18 nexus of operations is no different than the
19 commitment made in the third supplemental
20 stipulation. It's no different than the commitment
21 made in the proposal and it's no different than the
22 commitment that the PUCO already ruled upon.

23 So not only is Mr. Soules's correct that
24 the commitment to have the headquarters remain in
25 Akron has been a part of this case from the original

1 Opinion and Order, FirstEnergy has had the
2 opportunity to address it. Ms. Mikkelsen
3 acknowledges that that commitment is the same, but
4 they failed to acknowledge it.

5 I just wanted to tie that point to the
6 rehearing statute, your Honor, as I argued previously
7 in connection with another witness, the companies
8 should not be able to provide any testimony with
9 reasonable diligence, they should have been -- they
10 should have provided earlier under 4903.10.

11 And for those reasons, your Honor, OCC
12 joins and supports the motion to strike. Thank you.

13 MS. PETRUCCI: Your Honor, I would also
14 note we support the motion to strike. This is not
15 testimony that's disagreeing with anything in Staff
16 Witness Buckley's testimony. It's additional
17 information. It may be that folks think it's nice to
18 have added at this point, but it is simply additional
19 information. It's not proper rebuttal testimony.

20 MS. GHILONI: OMAEG would also join in
21 the motion to strike.

22 EXAMINER PRICE: Should we strike
23 portions of Lause's testimony because it's things he
24 could have given months ago and, in fact, had given
25 months ago, to be fair, if we strike this?

1 MS. GHILONI: I believe we did strike.

2 EXAMINER PRICE: We struck some of it,
3 but should we strike all of it since it's testimony
4 he could have given way back when?

5 MS. GHILONI: He was responding directly
6 to what was being provided by the companies and by
7 staff.

8 EXAMINER PRICE: That's the companies'
9 position is they are responding directly what was
10 provided by staff.

11 MS. GHILONI: And we disagree with that.

12 EXAMINER ADDISON: Mr. Alexander, last
13 word.

14 MR. ALEXANDER: Thank you, your Honor. I
15 will try to be brief. I think the Bench understands
16 this.

17 First, with regard to Mr. Michael's
18 summary of how Ms. Mikkelsen testified yesterday. I
19 think we may have a disagreement about that. There
20 is no transcript of that deposition, yet, but from my
21 discussion with co-counsel, we would disagree with
22 the characterization how she testified.

23 Second, with regard to the concept that
24 this could have been provided earlier, I think the
25 Bench understands this. Rider DMR was created the

1 first time in staff's testimony. There was no prior
2 chance for the companies to address this.

3 And with regard to the concept that we're
4 not refuting anything in staff's testimony; with all
5 due respect, yes, we are. We are refuting the
6 quantification of rider DMR.

7 Rider DMR has, I think of it as two
8 categories of benefits; the headquarters-related
9 benefits and the stability-related benefits. We
10 believe that Witness Buckley didn't quantify one part
11 of that. With regard to Ms. Murley's testimony we
12 believe Mr. Buckley didn't quantify that
13 appropriately.

14 With regard to the arguments regarding
15 the headquarters provision being in the third
16 supplemental stipulation, that is partially correct
17 and partially incorrect which is, of course, the key.
18 In the third supplemental stipulation there was an
19 eight-year headquarters provision tied to rider RRS.
20 The companies' original proposal in this case was
21 tied to modified rider RRS. Staff has taken the
22 position that should be rejected and has proposed
23 rider DMR including what is now a new headquarters
24 provision.

25 That headquarters provision is not simply

1 eight years similar to RRS, and it's not tied to the
2 duration of rider DMR as RRS was. Instead, it's
3 three years without any refund obligation if the
4 headquarters moves at any point during the eight-year
5 period. It's a different mechanism. It's a
6 different funding stream.

7 So, for those reasons, we believe this is
8 different and that's why we have offered Ms. Murley's
9 testimony here.

10 EXAMINER ADDISON: Thank you, all. I
11 believe --

12 MR. ROYER: Your Honor, may I be heard on
13 this subject?

14 EXAMINER ADDISON: I believe we have
15 heard enough. At this time we are going to deny the
16 motion to strike. The Commission can give this --
17 give Ms. Murley's testimony the appropriate weight it
18 deserves so. Let's move on.

19 Mr. Soules, did you have any additional
20 motions to strike?

21 MR. SOULES: No, your Honor.

22 EXAMINER ADDISON: Thank you.

23 MS. GHILONI: Your Honor, we do have a
24 second motion to strike. But first, I would like to
25 conduct a voir dire of the witness.

1 EXAMINER ADDISON: I'm sorry?

2 MS. GHILONI: First, I would like to
3 conduct a voir dire of the witness, please, some
4 questions.

5 EXAMINER ADDISON: Okay. Go ahead.

6 - - -

7 VOIR DIRE EXAMINATION

8 By Ms. Ghiloni:

9 Q. Good morning, Ms. Murley.

10 A. Good morning.

11 Q. Ms. Murley, could you please turn to
12 Attachment A of your rebuttal testimony. Just let me
13 know when you're there.

14 A. Yes.

15 Q. Did you create Attachment A?

16 A. Yes.

17 Q. Was the information in Attachment A
18 provided to you?

19 A. Yes.

20 Q. So the information was provided to you
21 and you compiled it into the attachment, correct?

22 A. Correct.

23 Q. Okay. And it was provided to you by
24 FirstEnergy Corp., correct?

25 A. It was provided to me by the legal

1 department.

2 Q. Okay. Before it was provided to you, did
3 you have any independent knowledge of the information
4 contained therein?

5 A. No, not before it was provided to me.

6 Q. Okay. And the information in the table
7 at the top of Attachment A, that table presents
8 employment, payroll, and covered dependents, correct?

9 A. Yes.

10 Q. Okay. And did you independently verify
11 the information contained in the table at the top of
12 Attachment A?

13 A. I did ask the legal department where that
14 information came from. And I understand that it came
15 from the same human resource database that is used
16 for SEC filings, but that particular information
17 specific to Shared Services, specific to the State of
18 Ohio, does not exist in any printed document and,
19 therefore, had to be provided specially by the legal
20 department.

21 Q. So you did not independently verify that
22 information to get those numbers on your own.

23 A. There's no secondary source to verify
24 that information for that specific subsidiary
25 specific to the State of Ohio.

1 Q. Okay. You relied entirely on FirstEnergy
2 for the accuracy of those figures.

3 MR. ALEXANDER: Objection, asked and
4 answered.

5 A. Yes.

6 Q. Did you independently verify the
7 information stating that the FirstEnergy corporate
8 groups occupy all or parts of 15 separate buildings
9 that encompass more than 1 million square feet of
10 space?

11 A. No.

12 Q. Did you independently -- independently
13 verify the information in the bullet below that one
14 that says "In 2015, Ohio employees are engaged in
15 over 2,000 activities spread across 715 community
16 organizations, including over 700 leadership roles.
17 The senior executive leadership team has leadership
18 roles with 23 local organizations"?

19 A. No, I did not believe there would be a
20 secondary source for me to verify that information.

21 Q. And did you independently verify the
22 information contained in the bullet point below that
23 one that starts with "FirstEnergy Corp.'s Ohio
24 employees raised \$1.7 million for United Way in 2015"
25 and then goes on from there? Did you independently

1 verify any of that information in that bullet point?

2 A. No, I do not believe there would be a
3 secondary source for me to verify that information.

4 Q. And did you independently verify the
5 information contained in the following bullet point
6 which states "FirstEnergy Corp. annually spends over
7 \$10 million in local sponsorships such as the All
8 American Soap Box Derby"?

9 A. No. I do not believe there would be a
10 secondary source for me to verify that information.

11 Q. Did you independently verify the
12 information contained in the next bullet point
13 stating that "FirstEnergy Corp. paid almost \$400,000
14 to Ohio based colleges and universities" and goes on
15 from there?

16 A. No. I do not believe there would be a
17 secondary source for that information.

18 Q. Did you independently verify the
19 information contained in the following bullet point
20 that starts "In 2015, FirstEnergy Corp. spent over
21 \$2.5 billion spread across" and then goes on from
22 there? Did you independently verify that
23 information?

24 A. No. I do not believe there would be a
25 secondary source for that information. And just to

1 clarify, that information was used to support the
2 value of having a corporate headquarters in Akron.
3 The information that I used in my economic impact
4 calculations is contained in the table at the top of
5 Attachment A.

6 Q. Thank you. And we will get to that.

7 The following bullet points, did you
8 independently verify that information, the sentence
9 starting "There are" -- "There are 264 generation
10 support employees with an annual payroll" and then
11 goes on from there? Did you independently verify
12 that information?

13 A. No. There's no secondary source to
14 verify that specific information.

15 Q. And the final bullet point, did you
16 verify that the information contained in that bullet
17 point that "FirstEnergy Corp. has no employees" and
18 then the -- that goes on from there? Did you verify
19 any of the information in that bullet point?

20 A. No, I did not independently verify that
21 information.

22 Q. Did you use the information contained in
23 the bullet points in Attachment A as inputs in your
24 economic impact analysis of the headquarters?

25 A. The numerical inputs that I used in my

1 economic impact calculation are in the table at the
2 top of Attachment A, but all of the information in
3 Attachment A appears in my report.

4 Q. So the bullet points were included in
5 your -- are you saying that the bullet points were
6 included in your model?

7 A. They were included in my report, not in
8 my numerical calculations.

9 Q. Not in your numerical calculation.

10 MS. GHILONI: Your Honor, at this time, I
11 move to strike Attachment A. The information is
12 classic hearsay, under Rule 801(c), and should be
13 stricken. It was provided to Ms. Murley by
14 FirstEnergy Corp. and it's being offered to prove the
15 truth of the matter asserted.

16 Ms. Murley has stated she has no
17 independent knowledge of this information. She
18 stated that she did not independently verify the
19 information and we have no way to cross-examine the
20 individual who is responsible for providing that
21 information.

22 Further, there is no foundation with
23 respect to Attachment A. The witness has no
24 knowledge of how the information was obtained. She
25 has no independent knowledge of that information or

1 the truth of the information. And as she indicated,
2 she did not independently verify that information.
3 She cannot testify to the accuracy or authenticity of
4 the information contained therein.

5 Additionally, the bullet points that are
6 listed in the attachment should be stricken on
7 relevancy grounds pursuant to Rule 401 and 402 as the
8 information was not even used as part of her economic
9 impact analysis. It was not used as part of her
10 calculation. It's, therefore, not relevant to her
11 testimony in this proceeding.

12 MR. SOULES: Your Honor, just very
13 briefly, Sierra Club would join that motion and would
14 further move to strike the repetition of those --
15 that same information on pages 3 to 4 of Attachment
16 SM-R-1.

17 MR. MICHAEL: And, your Honor, OCC would
18 join the motion as well, and simply add that
19 Ms. Mikkelsen testified yesterday that she had no
20 involvement in the economic development study done by
21 Witness Murley. She is the only other witness that
22 has testified at this stage and, therefore, there is
23 absolutely no ability, as Ms. Walter pointed out, for
24 the intervenors to cross-examine the numbers on the
25 Attachment A.

1 And I think it's important for your
2 Honors to note that what Ms. Mikkelsen and the
3 companies are trying to do is translate a benefit
4 into rates because they want to include the benefits
5 in rider DMR, and the intervenors have absolutely no
6 opportunity to cross-examine the figures on
7 Attachment A. Thank you.

8 EXAMINER ADDISON: Thank you.

9 Mr. Alexander?

10 MR. ALEXANDER: Thank you, your Honor.

11 Sort of take things in order. First,
12 with regard to the voir dire, I think it's important
13 to note what the witness said in response to, I think
14 it was the first or second question, which is where
15 the information came from. And she -- the witness
16 testified she followed up with the legal department,
17 the information comes from the companies' HR records,
18 which are the same HR records which support the SEC
19 filings and all the operations of the company.

20 And the witness also testified that there
21 was no public source for this data. That's correct.
22 If you look at the FirstEnergy SEC filings for
23 FirstEnergy Service Company, you will find a number.
24 The problem is, that's the global FirstEnergy Service
25 Company number. It's a little over 4,000 employees.

1 What Ms. Murley was testifying about is
2 the value of the headquarters, which is obviously a
3 subset of that. So she didn't want to use the
4 global, publicly-available number. She wanted to use
5 the smaller correct number. So she asked for that
6 from the legal department and it was provided; 1,360
7 employees.

8 Next, with regard to the relevance
9 issues. The relevance of the testimony is the
10 benefit of an HQ to the community. That has a
11 monetary and nonmonetary aspect. With regard to the
12 monetary, that's Ms. Murley quantification of the
13 568 million. With regard to the noneconomic impact
14 benefits, that's things like charitable
15 contributions, involvement in community activities,
16 things of that nature.

17 And that is the relevance of this sort of
18 series of bullet points here. It shows how
19 FirstEnergy's headquarters provides real value to the
20 Akron area and Ohio as a whole.

21 With regard to the hearsay issues and
22 challenges thereto; this is an expert witness. The
23 expert is relying on the business records of the
24 corporation, just like every other witness, to
25 testify in these proceedings on behalf of a utility

1 including every witness to testify in this case.
2 They have had to rely on company business records
3 they may not --

4 EXAMINER PRICE: Mr. Alexander, she
5 didn't do anything to verify the information that was
6 given to her. She did not go and look for -- she did
7 not ask for any information -- at least it is being
8 represented that she did not ask for any information
9 to verify that the numbers given to her were correct.
10 She simply took it at face value.

11 MR. ALEXANDER: Well, but I think she
12 did, your Honor, and that was her first point. When
13 the company -- she went to the company and asked for
14 this information to do her analysis. There is no
15 document they could have given her that had this
16 number. It's the company HR payroll records that
17 they use for all the company activities. It had to
18 be limited to just service company employees and just
19 Ohio in order to get her the right number.

20 EXAMINER PRICE: They could have given
21 her a spreadsheet, right? This is the service
22 company employees; this is the number in Ohio. How
23 about the \$1.7 million raised for United Way? You
24 know, did she do anything to verify that was -- was
25 there any documentation given to her to verify that

1 that's the correct number?

2 MR. ALEXANDER: Well, the company gave
3 her the information, but, again, the company had to
4 compile that for the right kind of employees. So
5 what I think this objection is implying there is some
6 document somewhere we could have given her and that
7 document simply doesn't exist. This is something
8 pulled from larger categories of information.

9 EXAMINER PRICE: How can they
10 cross-examine her on that \$1.7 million figure? How
11 can they say "Are you sure it wasn't a half a million
12 dollars?" if she can't answer that question?

13 MR. ALEXANDER: Well, your Honor, I would
14 point to Commission practice here. Whenever a
15 utility witness testifies, and here let's use
16 Mr. Lisowski, for instance? He had to testify to all
17 the cost figures which were provided by the companies
18 for the two plans. He had personal knowledge of the
19 companies' estimate, right, but those estimates had
20 been created by engineers at each of the plants
21 responsible for each of their sub areas of expertise.

22 So, as a company witness just like
23 Ms. Murley, Mr. Lisowski testified as to the
24 companies' business records. That's what Ms. Murley
25 is doing. These are the companies' records. They

1 can ask questions about the facts contained therein.
2 And Ms. Murley is going to say she relied on the
3 company for this, just like every other utility
4 witness has to rely on company records.

5 EXAMINER PRICE: She is not -- she is not
6 a company employee.

7 MR. ALEXANDER: I am going to come back
8 to that.

9 EXAMINER PRICE: Those records weren't
10 compiled at her direction or her supervision. That's
11 the difference. Mr. Lisowski says these records were
12 compiled at my supervision and my direction.

13 MR. ALEXANDER: Well, I think
14 Mr. Lisowski testified they are compiled in the
15 normal course of business.

16 But with regard to the normal practice at
17 the Commission, the normal practice is these facts of
18 this type are available for discovery. Ms. Murley's
19 direct testimony and supplemental direct testimony
20 both included, at the minimum, the top paragraph, the
21 charitable stuff is additional, but the top table
22 were in both of those testimonies, without objection
23 from anyone. And then with regard to the facts
24 therein, they are available for discovery.

25 Now, here, just to anticipate what I

1 expect to be an intervenor argument, there wasn't the
2 ability to do document discovery and interrogatories
3 because of the timing of the hearing we are in.
4 That's just the nature of rebuttal testimony, your
5 Honor. I mean, it's like that with any corporate
6 records, so I don't think that should be held against
7 the companies.

8 And then finally, with regard to
9 Mr. Michael's point with regard to the availability
10 of a witness to testify as to these facts, again, we
11 don't have a transcript from Ms. Mikkelsen's
12 testimony, but what I would suspect is Ms. Mikkelsen
13 testified she didn't have knowledge, as your Honor
14 pointed out, of how to do an economic impact
15 analysis, which is different from saying she does not
16 have knowledge of the companies' records which
17 contain these facts. Different thing. One is doing
18 the analysis and one is considering the underlying
19 facts. So I don't think it's correct to say there is
20 no company witness who could be asked about these
21 facts. Ms. Mikkelsen has not testified and has not
22 been asked that question yet.

23 MS. PETRUCCI: Your Honor, I would like
24 to weigh in, if I could, please?

25 EXAMINER ADDISON: Certainly.

1 MS. PETRUCCI: I also support the motion
2 to strike, but Mr. Alexander just emphasized right
3 now how this witness doesn't have the knowledge. She
4 personally accepted what was given from FirstEnergy.
5 She didn't investigate it. She is just regurgitating
6 what they told her. She isn't an expert espousing an
7 opinion about that's -- the information that's
8 contained on Attachment A and pages 3 and 4 of her
9 rehearing attachment SM-R-1. She isn't an employee
10 of FirstEnergy. She doesn't have this knowledge.
11 It's classic hearsay and she isn't espousing an
12 opinion about the veracity of this, so it should be
13 stricken.

14 EXAMINER ADDISON: Thank you.

15 Ms. Ghiloni, did you have anything to
16 add?

17 MS. GHILONI: Your Honor, I think that
18 the hearsay issue is one that was actually directly
19 discussed with our witness, Mr. Lause, last week.
20 And it was the very similar information where he was
21 provided information from his staff and it was
22 stricken based on hearsay.

23 Here, this information wasn't even
24 provided from her staff. It was provided from
25 FirstEnergy. And as I mentioned previously, it was

1 not independently verified for her -- by her, and
2 there's no opportunity to cross-examine her on all of
3 this information. So, for that reason, the entire
4 attachment should be stricken.

5 EXAMINER ADDISON: Thank you.

6 MR. ALEXANDER: Your Honor, just the new
7 points?

8 EXAMINER ADDISON: Certainly,
9 Mr. Alexander.

10 MR. ALEXANDER: With regard to
11 Ms. Petrucci's argument on regurgitating information.
12 That's not true. The witness took that information
13 and then conducted an analysis with it. So that's
14 just simply not true.

15 With regard to the argument that she did
16 not independently, I guess, create the information,
17 yeah, that's true. That's why she disclosed it on
18 Attachment A as assumptions provided by FirstEnergy.
19 She then used those assumptions to conduct her
20 analysis. That's the point of her putting all this
21 information on Attachment A, to make very, very clear
22 what information was provided by FirstEnergy, and
23 then the remainder of her testimony was stuff that
24 she created.

25 And then, finally, with regard to the

1 business records issue, under the hearsay rules for
2 business records, you do not need the person who
3 created the record or the custodian of the record to
4 testify to authenticate the business record. All you
5 need is one with knowledge of the process.

6 Here, Ms. Murley testified, today, she
7 has knowledge that she got the information from the
8 legal department. She asked where it came from. The
9 legal department told her it's the HR records, the
10 same HR records which were used to create the SEC
11 filings. If she would have used those SEC filings,
12 it would have overstated the impact and she didn't
13 want to do that. She I think she should be commended
14 rather than criticized for that.

15 EXAMINER ADDISON: Thank you.

16 At this time, we will be granting in part
17 and denying in part the pending motion to strike.

18 Turning to page 3 of Attachment SM-R-1,
19 we will be granting the motion to strike beginning
20 with "Other Community Impacts" to page 4 ending with
21 the paragraph entitled "Tuition Reimbursement."

22 Moving on to Attachment A of Ms. Murley's
23 testimony, we will be granting the motion to strike
24 beginning after the table at the top of the page, so
25 all of the bullet points will be stricken.

1 MR. ALEXANDER: Your Honor, one point of
2 clarification. Ms. Walter's -- I almost used her
3 maiden name there, Ms. Walter's examination on this
4 point I think purposefully and correctly started with
5 the second bullet point. The witness did
6 independently verify the first bullet point, and so
7 Ms. Walter didn't ask her about the first one I think
8 based on her deposition. Ms. Walter, was that
9 correct? Or, excuse me, your Honor, I believe that
10 to be correct.

11 EXAMINER ADDISON: Is that correct,
12 Ms. Walter?

13 MS. GHILONI: I did not ask her about the
14 first bullet point, no.

15 EXAMINER ADDISON: Thank you for that
16 clarification. So the motion to strike will be
17 granted starting with the second bullet point to the
18 end of that page.

19 Did you have any other motions to strike,
20 Ms. Walter?

21 MS. GHILONI: No, I did not, your Honor.

22 MR. MICHAEL: Your Honor, in light of
23 your ruling, OCC believes that it may make sense to
24 take some time to go through the testimony and
25 consider the cross-examination and how your Honors'

1 ruling might impact that. So we would request a
2 brief recess to do that.

3 EXAMINER ADDISON: I think that's fair.
4 We will go ahead and take a 10-minute recess. I want
5 to keep things going as much as we can today. We
6 will return at 9:50.

7 MR. MICHAEL: Thank you, your Honor.

8 EXAMINER ADDISON: Thank you.

9 Let's go off the record.

10 (Recess taken.)

11 EXAMINER ADDISON: Let's go back on the
12 record.

13 Mr. Soules.

14 MS. PETRUCCI: If I may, based on the
15 ruling you issued, there are some additional spots,
16 within the Attachment SM-R-1, that are exactly
17 relying upon the portions that are contained in the
18 bullets that were stricken from Attachment A to that
19 attachment.

20 So, for instance, if we turn to page 2 of
21 Attachment SM-R-1, the second paragraph on that page,
22 the last two sentences beginning with the word
23 "However," that's precisely the same information that
24 was stricken in the second-to-last bullet on
25 Attachment A.

1 EXAMINER ADDISON: Mr. Alexander.

2 MR. ALEXANDER: I'm sorry, Ms. Petrucci,
3 are you done?

4 MS. PETRUCCI: I have a couple of other
5 spots. I just want to give you a chance to take a
6 look at each.

7 EXAMINER ADDISON: Certainly. Let's go
8 through each instance and then we will provide
9 Mr. Alexander an opportunity to respond.

10 MS. PETRUCCI: Then the next one that I
11 quickly found here is on page 5 of Attachment SM-R-1,
12 that first paragraph, the second half of it beginning
13 with "This is actually" also relies again on the same
14 information that was stricken in Attachment A.

15 The next example is on page 6 under the
16 "Community Benefits" section of Attachment SM-R-1
17 that carries over to the top of page 7.

18 EXAMINER PRICE: What are you moving,
19 Ms. Petrucci? You are not giving us very pinpoint
20 cites.

21 MS. PETRUCCI: I had 10 minutes, your
22 Honor. I'm trying.

23 EXAMINER PRICE: Should we reconsider our
24 ruling?

25 MS. PETRUCCI: What I'm suggesting is

1 that in other parts of the report she has included
2 the same information that the Bench just struck, and
3 what I am trying to quickly point out to you is that
4 if it's inappropriate as part of Attachment A, it's
5 not appropriate to continue to keep it on the other
6 parts of the attachment.

7 EXAMINER PRICE: I understand you are
8 just pointing us to general paragraphs and saying I
9 think some of this is probably wrong instead of
10 actually making -- if you are going to make a motion,
11 make a motion, have a beginning and an end.

12 MS. PETRUCCI: Under the heading
13 "Community Benefits."

14 EXAMINER PRICE: Can we go back to the
15 previous one, first?

16 MS. PETRUCCI: On page 5, the sentence in
17 the middle of the first paragraph that begins with
18 "This is actually" and to the end of that paragraph.
19 That relies on the same information that was in the
20 second-to-last bullet on Attachment A.

21 EXAMINER PRICE: What's wrong with her
22 saying "This is actually a conservative
23 estimate...."?

24 MS. PETRUCCI: Because if you continue
25 reading, it's because her conclusion is based on

1 exactly the information you just struck.

2 EXAMINER PRICE: What's your motion on
3 page 6?

4 MS. PETRUCCI: And then page 6, beginning
5 with the heading "Community Benefits" and all the way
6 through that page and to the first two lines on
7 page 7. Again, this basis is that this is
8 information that she received that you -- from
9 FirstEnergy, that you struck in Attachment A.

10 MR. ALEXANDER: I guest, first, a
11 question, your Honor. A motion was made; it
12 identified areas to strike. Your Honors ruled on
13 that motion and then were kind enough to grant a
14 recess in order for people to hopefully cut down
15 their crosses. Are your Honors inclined to rule on
16 Ms. Petrucci's motion at this point?

17 EXAMINER PRICE: There is no time limit
18 on motions to strike. FirstEnergy was granted a
19 motion to strike at the end of somebody's testimony
20 the other day. I mean, so no, there is no -- it
21 wasn't like they waived because we called on
22 Mr. Soules.

23 MR. ALEXANDER: I will take that as an
24 answer, your Honor.

25 MR. MICHAEL: Well advised, Counselor.

1 MR. ALEXANDER: And with regard to the
2 substance, I would disagree with the deletion at
3 page 6. I believe it is overbroad. At most, I
4 believe the provision should be stricken, in the
5 first paragraph, begins with the word "In 2015"
6 through the end of that paragraph. The rest of the
7 information, the "Community Benefits" paragraph is
8 not related to Attachment A, so I believe that
9 portion of the motion was overbroad.

10 EXAMINER ADDISON: At this time we will
11 be granting in part and denying in part the motion to
12 strike. Beginning on page 2 of Attachment SM-R-1,
13 beginning in the second paragraph, the third line
14 down, beginning with the word "However" to the end of
15 that paragraph, we will be granting the motion to
16 strike.

17 Moving to page 5 of that same attachment,
18 we will be granting the motion to strike beginning on
19 the sixth line down of the first paragraph starting
20 with the word "because" and ending on that same
21 paragraph before Figure 2 with "in this analysis."

22 MR. McNAMEE: Which page is that?

23 EXAMINER ADDISON: That was page 5 of
24 that same attachment.

25 MR. McNAMEE: A.

1 MS. PETRUCCI: So then just to be clear,
2 the sentence, as it remains, "This is actually a
3 conservative estimate of the headquarters impact."

4 EXAMINER ADDISON: That's correct.

5 And moving on to page 6 of that same
6 attachment, under the headings "Community Benefits"
7 the first paragraph we will be granting the motion to
8 strike beginning with "In addition" in that first
9 line to the fifth line "their local communities."

10 We will be denying the motion to strike
11 for the last three sentences of that paragraph
12 beginning with the words "In 2015" and -- oh, I'm
13 sorry. I reversed that. My apologies.

14 We will be granting the motion to strike
15 beginning with line 5 starting with the words "In
16 2015" to the end of that paragraph, ending with
17 "Harvest for Hunger program."

18 MR. McNAMEE: So does the first part
19 stay?

20 EXAMINER ADDISON: Yes. As to the
21 remaining portion of that particular motion to
22 strike, under the heading "Community Benefits," the
23 motion will be denied.

24 MS. PETRUCCI: Thank you, your Honor.

25 EXAMINER ADDISON: Thank you.

1 MR. MICHAEL: Your Honor, OCC has one
2 motion to strike that I would like to make very
3 quickly.

4 EXAMINER ADDISON: Certainly,
5 Mr. Michael.

6 MR. MICHAEL: Thank you, your Honor.

7 OCC would like to strike Ms. Murley's
8 testimony in its entirety. It's only relevant to the
9 extent that Ms. Mikkelsen asks that the Commission
10 include the economic benefits of the headquarters in
11 Akron be included in rider DMR.

12 However, as a matter of law, under the
13 ESP statute, the Commission cannot possibly include
14 the economic benefits in rider DMR. Under 4928.143,
15 the only conceivably applicable provision is
16 (B)(2)(i). And as your Honor no doubt knows, it
17 provides "Provisions under which the electric
18 distribution utility may implement economic
19 development, job retention, and energy efficiency
20 programs, which provisions may allocate program costs
21 across all classes of customers."

22 There is absolutely no dispute but that
23 Ms. Murley is testifying to purported economic
24 benefits. There is absolutely no dispute that
25 Ms. Mikkelsen asks the Commission to include those

1 purported benefits in rider DMR.

2 The Commission, as a matter of law,
3 simply doesn't have the authority to do that. It's
4 costs and only costs. There is no testimony about
5 costs. It's all economic benefits. And, therefore,
6 your Honor --

7 EXAMINER PRICE: Can I ask a question?

8 MR. MICHAEL: Excuse me, your Honor?

9 EXAMINER PRICE: Can I ask a question?

10 MR. MICHAEL: Absolutely.

11 EXAMINER PRICE: Did you think this up in
12 the 10-minute break? I am thinking I should have
13 said if you didn't make the motion to strike, you
14 waived it. I mean, this was something we addressed
15 earlier in the motions to strike the testimony in
16 entirety. Why are you bringing this up now?

17 MR. MICHAEL: I'm sorry, your Honor, but
18 I don't recall anybody citing to the ESP statute.

19 EXAMINER PRICE: I didn't say -- I didn't
20 say people made this argument. I said we took the
21 motion to strike on her testimony in their entirety
22 and now you are coming back, after we've started
23 doing individual pieces, with another broad motion to
24 strike, and I am asking why are you bringing this up
25 now.

1 MR. MICHAEL: Because now is the time I
2 have the opportunity to do so. Mr. Soules made the
3 first motion. Ms. Walter made the second motion.
4 And now it's my opportunity to make my motion.

5 And the motion to strike in its entirety
6 is based on, I think as your Honor acknowledged,
7 different grounds and those are statutory grounds,
8 and the statute is clear and unambiguous. Economic
9 development may be included in an ESP, but only
10 program costs can be considered.

11 The testimony is all about economic
12 benefits. And because the Commission cannot possibly
13 award recovery of economic benefits through rider DMR
14 as a matter of law, Ms. Murley's testimony is
15 completely irrelevant and should be stricken. Thank
16 you.

17 EXAMINER ADDISON: Thank you,
18 Mr. Michael.

19 At this time we are going to deny the
20 motion to strike. You can make that argument in your
21 brief. Thank you.

22 Are there any additional motions to
23 strike?

24 Okay. Just checking.

25 Mr. Soules.

1 MR. SOULES: Thank you, your Honor.

2 - - -

3 CROSS-EXAMINATION

4 By Mr. Soules:

5 Q. Good morning, Ms. Murley. My name is
6 Michael Soules, and I represent Sierra Club in this
7 case. How are you today?

8 A. Fine, thank you.

9 Q. Great. Before we talk about your
10 rehearing testimony, I wanted to quickly cover just a
11 few preliminary points. First of all, if I refer to
12 the companies' proposed modifications to rider RRS as
13 the "proposal," will you understand what I mean?

14 A. Are you referring to modified rider RRS?

15 Q. Yes.

16 A. Yes, I understand.

17 Q. Okay. And you're aware that the
18 Commission staff has proposed a distribution
19 modernization rider, correct?

20 A. Yes.

21 Q. If I refer to that proposed rider as the
22 "staff proposal" or as the "DMR," will you understand
23 what I mean?

24 A. Yes.

25 Q. Great. Now, you've filed three rounds of

1 written testimony in this case thus far, correct?

2 A. Yes.

3 Q. And your rebuttal rehearing testimony was
4 filed last Friday, correct?

5 A. Yes.

6 Q. If I refer to your rebuttal rehearing
7 testimony simply as "your testimony," will you
8 understand what I mean?

9 A. Yes.

10 Q. Great. Your testimony presents an
11 analysis of both the economic impact and tax revenue
12 impact of FirstEnergy Corp.'s headquarters, correct?

13 A. Yes.

14 Q. Could you please turn to page 2 of your
15 testimony. Starting on line 3, there's a sentence
16 that reads "Staff witness Buckley failed to address
17 the economic and revenue impacts of the HQ." Do you
18 see that reference in your testimony?

19 A. Yes, I see that.

20 Q. So Mr. Buckley's testimony does not
21 discuss the economic impact of FirstEnergy Corp.'s
22 headquarters, correct?

23 A. Correct. He omitted that discussion.

24 Q. And it's your understanding that
25 Mr. Buckley did not quantify any of the economic and

1 revenue impacts of the headquarters, correct?

2 A. Correct. He did not quantify the
3 economic and revenue impacts of the headquarters.

4 Q. So your testimony addresses what you
5 believe to be an omission in his testimony, correct?

6 A. Correct. I believe he failed to quantify
7 that.

8 Q. And there's not any specific statement in
9 Mr. Buckley's testimony that you are disagreeing with
10 in your testimony, correct?

11 A. Correct.

12 Q. Thank you.

13 Ms. Murley, are you aware that the staff
14 proposal includes a recommendation that FirstEnergy
15 Corp. must keep its corporate headquarters and nexus
16 of operations in Akron, Ohio, for the entire term of
17 the electric security plan?

18 A. Yes.

19 MR. ALEXANDER: Can I have that
20 question --

21 EXAMINER ADDISON: Do you still want the
22 question?

23 MR. ALEXANDER: No, your Honor.

24 EXAMINER ADDISON: Thank you.

25 Please proceed.

1 MR. SOULES: Thank you.

2 Q. And, Ms. Murley, you are not offering an
3 opinion or recommendation to the Commission about
4 whether this should be a condition of the staff
5 proposal, correct?

6 A. I'm offering an opinion that the benefit
7 of keeping the headquarters in Akron should be
8 accounted for in rider DMR.

9 Q. Can you point me to anywhere in your
10 written testimony where you discuss rider DMR?

11 A. I'm addressing Staff Witness Buckley's
12 testimony, the subject of which is rider DMR.

13 MR. SOULES: Could I have the
14 second-to-last answer read?

15 EXAMINER ADDISON: Absolutely. Let's
16 have the question and answer read.

17 (Record read.)

18 Q. (By Mr. Soules) So, Ms. Murley, you're
19 not specifically opining on whether the Commission
20 should approve the staff recommendation that the
21 headquarters must remain in Akron, correct?

22 A. Correct.

23 Q. Okay. It's your understanding that if
24 the Commission approves the staff proposal, customers
25 will pay charges to the companies under the DMR,

1 correct?

2 A. Correct.

3 Q. And you're not offering any opinions
4 about whether those DMR payments should be refunded
5 if FirstEnergy Corp. moves its headquarters and nexus
6 of operations out of Akron, correct?

7 A. Correct.

8 Q. And you're not offering any opinions
9 about whether the Commission should approve the staff
10 proposal, correct?

11 A. Correct.

12 MR. ALEXANDER: Objection.

13 EXAMINER ADDISON: I believe she just
14 answered.

15 MR. ALEXANDER: Could I have the question
16 and answer reread then, your Honor?

17 EXAMINER ADDISON: You may.

18 (Record read.)

19 MR. ALEXANDER: Your Honor, I'm still
20 going to make the objection because I think that
21 question was vague. The witness has been very clear
22 she disagrees with Mr. Buckley's quantification of
23 the staff proposal, and I don't think that question
24 identified the difference between quantification of
25 the staff proposal and the nature of the staff

1 proposal including rider DMR.

2 EXAMINER ADDISON: Thank you. You can
3 certainly bring that up on redirect.

4 MR. SOULES: Thank you, your Honor.

5 Q. (By Mr. Soules) Ms. Murley, you're not
6 offering any opinions about the level of funding that
7 would be needed to provide adequate credit support to
8 the companies, correct?

9 A. I am not offering an opinion about the
10 calculation of rider DMR with respect to the credit
11 support.

12 Q. So you are also not offering any opinion
13 about the level of funding that would be needed to
14 provide adequate credit support to FirstEnergy Corp.,
15 correct?

16 A. Correct.

17 Q. So for your -- for your rebuttal
18 testimony you filed six pages of written testimony as
19 well as the report that's labeled Attachment SM-R-1,
20 correct?

21 A. Correct.

22 Q. And your written testimony summarizes the
23 results of the analysis that's described in
24 Attachment SM-R-1, correct?

25 A. Correct.

1 Q. And all of the analytical results that
2 are presented in your testimony can also be found in
3 Attachment SM-R-1, correct?

4 A. Correct.

5 Q. Okay. Could we look at page 5 of
6 Attachment SM-R-1. In looking at Figure 2, the table
7 in Figure 2 summarizes your estimate of the annual
8 economic impact of FirstEnergy Corp.'s headquarters
9 on the State of Ohio, correct?

10 A. Correct.

11 Q. So if we set aside the tax revenue
12 impacts for a moment, you estimated that the total
13 economic impact of the headquarters is \$568 million
14 annually, correct?

15 A. Correct.

16 Q. And that \$568 million figure includes the
17 \$244.6 million personal income figure that's also
18 shown in Figure 2, correct?

19 A. Correct, by definition, personal income
20 is a component of output.

21 Q. Okay. Thank you.

22 Ms. Murley, you're not offering any
23 opinions about the likelihood that FirstEnergy Corp.
24 might move its headquarters out of Akron if the
25 Commission rejects the companies' proposal, correct?

1 A. Correct.

2 Q. And you're not offering any opinions
3 about the likelihood that FirstEnergy Corp. might
4 move its headquarters out of Akron if the Commission
5 rejects the staff proposal, correct?

6 A. Correct.

7 Q. And you're not offering any opinions
8 about the likelihood that FirstEnergy Corp. might
9 move its headquarters out of Akron prior to May 31,
10 2024, correct?

11 A. Correct.

12 Q. And, Ms. Murley, you have not reviewed
13 the rebuttal and surrebuttal testimony that
14 FirstEnergy Witness Eileen Mikkelsen filed on Monday
15 of this week, correct?

16 A. Correct.

17 Q. No one employed by the companies has told
18 you that FirstEnergy Corp. might move its
19 headquarters out of Akron, correct?

20 A. Correct.

21 Q. And no one employed by FirstEnergy
22 Service Company has told you that FirstEnergy Corp.
23 might move its headquarters out of Akron, correct?

24 A. Correct.

25 Q. And no one employed by FirstEnergy

1 Solutions has told you that FirstEnergy Corp. might
2 move its headquarters out of Akron, correct?

3 A. Correct.

4 Q. And you don't have any reason otherwise
5 to think that FirstEnergy Corp. might move its
6 headquarters out of Akron in the foreseeable future,
7 correct?

8 A. Correct.

9 Q. And you're not offering any opinion about
10 the level of funding that the DMR should be set at,
11 correct?

12 A. I'm not offering an opinion as to how the
13 amount should be calculated, but I am offering the
14 opinion that it should account for the benefit of
15 keeping the headquarters in Akron.

16 MR. SOULES: Your Honor, could I have
17 that last answer read back?

18 EXAMINER ADDISON: You may.

19 (Record read.)

20 MR. SOULES: Your Honor, may I approach?

21 EXAMINER ADDISON: You may.

22 Q. (By Mr. Soules) Ms. Murley, you have been
23 handed a copy of the transcript for your deposition
24 that was taken on July 26. Do you recall having your
25 deposition taken two days ago?

1 A. Yes.

2 Q. And you were under oath for that
3 deposition, correct?

4 A. Yes.

5 Q. Could you please turn to page 18 of the
6 deposition transcript. Please let me know when
7 you're there.

8 A. Yes.

9 Q. Starting on line 19, it states "Question:
10 Are you offering an opinion about the level of
11 funding that Rider DMR should be set at?"

12 "Answer: No, I am not."

13 Did I read that correctly?

14 MR. ALEXANDER: Objection.

15 EXAMINER ADDISON: Grounds?

16 MR. ALEXANDER: I would have to hear it
17 repeated to be sure, but I believe the first
18 question, which is the foundation for this
19 impeachment, was not limited to the quantification of
20 the DMR, but also included the concept of whether the
21 economic impact of the headquarters should be
22 included. I believe the question from the deposition
23 is limited to level of funding which is a sole
24 quantification issue.

25 I think the witness's answer was clear,

1 she is not providing an opinion as to the
2 quantification, but is providing an opinion as to the
3 inclusion of the concept. So I think the questions
4 are very slightly different and, therefore, improper
5 impeachment.

6 EXAMINER ADDISON: I think you asked the
7 same question, so overruled.

8 Q. (By Mr. Soules) So, Ms. Murley, did I
9 read that correctly?

10 A. Are you asking did you read the statement
11 in the deposition correctly?

12 Q. Yes.

13 A. Yes.

14 Q. Okay. Thank you.

15 FirstEnergy Service Company provided
16 several of the inputs you used for your economic
17 impact analysis, correct?

18 A. Correct.

19 Q. And those inputs are presented in
20 Attachment A to Attachment SM-R-1, correct?

21 A. Correct.

22 Q. If we could please turn to Attachment A.
23 Are you there?

24 A. Yes.

25 Q. Great. Thank you.

1 If we could look at the table that's at
2 the top of that page, this table presents employment,
3 payroll, and covered dependent information from 2015,
4 correct?

5 A. Correct.

6 Q. And these figures are for Shared Services
7 employees that work within the State of Ohio,
8 correct?

9 A. Correct.

10 Q. And you don't know those employees' exact
11 location, except that they are somewhere within Ohio,
12 correct?

13 A. Yes, and since I am looking at the
14 impacts on the State of Ohio, that's the only
15 relevant criteria.

16 MR. SOULES: Your Honor, I would move to
17 strike everything after the word "Yes" as being
18 nonresponsive to the question.

19 EXAMINER ADDISON: Mr. Alexander?

20 MR. ALEXANDER: Your Honor, it's a
21 misleading question. The witness was explaining why
22 she looked at that data; she had to, in light of the
23 nature of the misleading question.

24 EXAMINER ADDISION: I'll deny the motion
25 to strike.

1 Please continue, Mr. Soules.

2 MR. SOULES: Okay. Thank you, your
3 Honor.

4 Q. (By Mr. Soules) Ms. Murley, you don't
5 know if there are 1,360 employees that were working
6 out of the FirstEnergy Corp. headquarters in 2015,
7 correct?

8 MR. ALEXANDER: Objection, asked and
9 answered. We had a lengthy voir dire of this witness
10 on just these facts.

11 MR. SOULES: Your Honors, I believe the
12 voir dire was directed towards other parts of
13 Attachment A and not to this specific question.

14 EXAMINER ADDISON: I'll allow the
15 question. You may answer.

16 THE WITNESS: Could you repeat the
17 question?

18 MR. SOULES: Could we have that question
19 reread?

20 EXAMINER ADDISON: Yes, please.

21 (Record read.)

22 A. The information that I was provided from
23 the legal department from human resources indicated
24 these employees worked in Ohio.

25 Q. (By Mr. Soules) Your Honor, I would move

1 to strike that answer as nonresponsive to the
2 question which was asking about headquarters, not the
3 entire State of Ohio.

4 MR. ALEXANDER: Your Honor, what the
5 question did not ask was do the FirstEnergy Service
6 Company employees in the State of Ohio work at the
7 headquarters. There's actually two questions
8 embedded in that question; the number and the work
9 location.

10 EXAMINER ADDISON: Thank you.

11 Would you mind just rephrasing your
12 question, Mr. Soules? Just to make sure the record
13 is clear.

14 MR. ALEXANDER: Mr. Soules, could you
15 turn on your microphone, please.

16 MR. SOULES: It keeps going out. Yeah,
17 thank you.

18 Could I have my last question reread?

19 EXAMINER ADDISON: You may.

20 (Record read.)

21 MR. SOULES: I am going to strike my
22 question and move on. Thank you, your Honor.

23 EXAMINER ADDISON: Thank you.

24 Q. (By Mr. Soules) Ms. Murley, could you
25 please turn to page 3 of your testimony.

1 A. Okay.

2 Q. Great. Starting on line 10, there is a
3 sentence that reads "The direct output of the HQ is
4 therefore defined as the value of the services
5 produced." Do you see that sentence in your
6 testimony?

7 A. Yes, I see that.

8 Q. Okay. Great. Now, if we could turn back
9 to Attachment SM-R-1 to page 5. Are you there?

10 A. Yes.

11 Q. Great. Thank you. In looking again at
12 Figure 2, the number that's reported in the first row
13 and first column is \$295.5 million. Do you see that
14 figure in your report?

15 A. Yes, I see that.

16 Q. And that figure represents the direct
17 output of FirstEnergy Corp.'s headquarters
18 operations, correct?

19 A. That's correct.

20 Q. So it's your testimony that the value of
21 the services provided by the headquarters operations
22 is \$295.5 million annually, correct?

23 A. Yes, based on the definition of "output."

24 Q. And just to be clear, for your rehearing
25 testimony you did not review any payroll or

1 employment information for any year prior to 2015,
2 correct?

3 A. Correct.

4 Q. And you didn't review any such
5 information for 2016, correct?

6 A. Correct. I did my analysis based on data
7 for 2015.

8 Q. Great. In looking again at this \$295.5
9 million figure, that number is generated by dividing
10 the \$151.3 million payroll figure by an IMPLAN
11 multiplier; is that correct?

12 A. Yes. The direct personal income
13 multiplier.

14 Q. So under your analysis, the value of the
15 services provided by the headquarters is directly
16 tied to the compensation being paid to the Shared
17 Services employees, correct?

18 A. Correct.

19 Q. So using that same approach, if
20 FirstEnergy Corp. hypothetically doubled the salaries
21 of everyone working in Shared Services, the direct
22 output of the headquarters would also double to
23 approximately \$590 million; is that correct?

24 A. I used the approach of the personal
25 income multiplier in this case because IMPLAN has an

1 expected average wage for that particular industry in
2 Ohio, which is only slightly higher than the actual
3 average wage for FirstEnergy, and since those to
4 numbers are consistent, it was appropriate to use the
5 personal income multiplier to estimate direct output.

6 However, if those numbers were
7 inconsistent, as they would be if you doubled the
8 salaries of these people, I would have used the
9 employment multiplier as a way to estimate direct
10 output.

11 MR. SOULES: Your Honor, I would move to
12 strike that answer as being nonresponsive to my
13 question which was asking about the way that these
14 numbers work. I was not asking for a discourse about
15 other ways direct output could be calculated.

16 EXAMINER ADDISON: Mr. Alexander.

17 MR. ALEXANDER: Well, your Honor, the
18 first question related to how the numbers work with
19 regard to the division and the multiplier.

20 The second question asked if you doubled
21 the payroll for the Shared Services employees in
22 Ohio, would that then double the output? The witness
23 said no, it would not. Why? Because the FirstEnergy
24 salaries are below the average used by IMPLAN. And
25 if you doubled the FirstEnergy salaries, she would

1 have no longer used that, therefore, it would not
2 have doubled the output. She would have used the
3 employment number -- the 13,000 -- 1,360. So she was
4 directly responsive, explaining why it would not have
5 doubled the direct output.

6 EXAMINER ADDISON: I believe he phrased
7 it as a hypothetical, though.

8 MR. ALEXANDER: Right. And she -- I am
9 sorry, your Honor. May I respond?

10 EXAMINER ADDISON: Yes. Absolutely.

11 MR. ALEXANDER: She answered the
12 hypothetical by saying no, because if you make the
13 salaries unreasonable at this point, you go to the
14 1,360 employment number to do the calculation; you
15 wouldn't use the unreasonable salary number. So she
16 answered the hypothetical by saying no.

17 EXAMINER ADDISON: I'll deny the motion
18 to strike. Thank you.

19 MR. SOULES: I'm sorry, your Honor, what
20 was that?

21 EXAMINER ADDISON: I am denying the
22 motion to strike.

23 MR. SOULES: Okay. Thank you, your
24 Honor.

25 Q. (By Mr. Soules) Ms. Murley, do you still

1 have a copy of your deposition transcript in front of
2 you?

3 A. Yes.

4 Q. Could you please turn to page 34 of the
5 transcript.

6 A. Yes.

7 Q. Starting on line 3, it states "Question:
8 Just so I understand how this direct output figure is
9 developed, if FirstEnergy Corp. were to double the
10 salaries of everyone working in the Shared Services
11 department, the direct output of headquarters would
12 also double to approximately \$590 million; is that
13 correct?"

14 "Answer: Based on the way that I have
15 applied the multipliers, if personal income were to
16 double, output would also double."

17 "However, it's also possible to estimate
18 output based on employment, and if the personal
19 income doubled that, would provide a fairly
20 unreasonable income per employee."

21 Did I read that correctly?

22 MR. ALEXANDER: Objection, your Honor.

23 EXAMINER ADDISON: Grounds?

24 MR. ALEXANDER: It's exactly what she
25 testified to today.

1 MR. SOULES: Your Honor, Ms. Murley,
2 today, did not provide a direct answer to the
3 question and, instead, just offered an opinion about
4 other ways to calculate, so it is inconsistent.

5 EXAMINER ADDISON: Didn't she offer the
6 same opinion in her deposition?

7 MR. SOULES: She did, after answering my
8 question. She did offer an opinion about another way
9 to calculate.

10 EXAMINER ADDISON: Thank you. We will
11 just let the record stand on its own and we will move
12 on from this point.

13 MR. SOULES: Okay. Thank you, your
14 Honor.

15 Q. (By Mr. Soules) Ms. Murley, the \$295.5
16 million figure is not directly tied to the
17 profitability of FirstEnergy Corp., correct?

18 A. Correct.

19 Q. In preparing your rehearing testimony,
20 you did not conduct any investigation to ascertain
21 the value of the services that were being provided by
22 the Shared Services employees within FirstEnergy
23 Corp., correct?

24 A. I relied on the IMPLAN assumptions that
25 are contained in the multipliers to make those

1 calculations.

2 Q. And apart from the IMPLAN multiplier, and
3 the numbers that were provided by FirstEnergy Service
4 Company, you didn't look at any other data or
5 information, correct?

6 A. Correct.

7 Q. If we could look at the "Vendor
8 Purchases" row in Figure 2. The figures that are
9 reported in this row were generated using an IMPLAN
10 multiplier as well, correct?

11 A. That's correct.

12 Q. And you did not take any steps to verify
13 whether actual vendor purchases are \$110 million --
14 \$110.2 million annually, correct?

15 A. Correct, because there are inherent
16 difficulties in obtaining data in the format that
17 would be needed by IMPLAN. For example, oftentimes
18 where an invoice is sent to pay for a good or
19 services not for the good or services produced; and
20 for the purpose of IMPLAN, where it was produced is
21 the relevant fact.

22 MR. SOULES: Your Honor, I would move to
23 strike everything after "Correct" as being
24 nonresponsive; perhaps a subject for redirect, but
25 not responsive to this question.

1 EXAMINER PRICE: Could I have the
2 question and answer back again, please.

3 (Record road.)

4 MR. ALEXANDER: Your Honor?

5 EXAMINER ADDISON: Mr. Alexander.

6 MR. ALEXANDER: I think these questions
7 are a little bit repetitive. The first question is
8 did you rely on IMPLAN to create this row; answer,
9 yes. Second question, isn't it true that you didn't
10 look at actual vendor purchases. She already said
11 she looked at IMPLAN to create that row. So the only
12 logical answer -- or reason why the second question
13 would have been asked is to ask why and so she
14 explained the why. The point was just to see if she
15 relied on IMPLAN. That was the answer in response to
16 the first question.

17 MR. SOULES: Your Honor, the question was
18 about verifying actual numbers versus a number that's
19 generated by a multiplier.

20 EXAMINER ADDISON: Thank you.

21 I am going to grant the motion to strike.

22 Mr. Alexander, you can bring that up
23 during redirect. Thank you.

24 MR. SOULES: Thank you, your Honor.

25 Q. (By Mr. Soules) Ms. Murley, you did not

1 take any step to verify whether actual vendor
2 purchases support 736 jobs, correct?

3 MR. ALEXANDER: Objection.

4 EXAMINER ADDISON: Grounds?

5 MR. ALEXANDER: I believe Counsel
6 misspoke.

7 MR. SOULES: Thank you.

8 EXAMINER ADDISON: Would you please
9 restate your question.

10 Q. (By Mr. Soules) Ms. Murley, you did not
11 take any steps to verify whether actual vendor
12 purchases support 756 jobs, correct?

13 A. Correct. I relied on the IMPLAN
14 assumptions, because verifying that would have
15 required me to interview each vendor regarding how
16 many employees they had, and how much of their
17 employees could be attributed to the purchases made
18 by FirstEnergy.

19 MR. SOULES: Your Honor, I move to strike
20 everything beginning with the word "because."

21 EXAMINER ADDISON: Motion to strike will
22 be granted.

23 Ms. Murley, I will instruct you just to
24 listen to Counsel's question and answer only his
25 question. Mr. Alexander can raise any other

1 additional issues you believe would be relevant or
2 helpful to the Commission during redirect.

3 THE WITNESS: Yes, ma'am.

4 EXAMINER ADDISON: Thank you.

5 MR. SOULES: Thank you, your Honor.

6 Q. (By Mr. Soules) Ms. Murley, you did not
7 take any steps to verify whether actual vendor
8 purchases generate \$39.8 million in personal income,
9 correct?

10 A. Correct.

11 Q. Looking down at the third row entitled
12 "Local Employee Spending," you did not take any steps
13 to independently verify whether the output,
14 employment, and personal income figures reported in
15 that row are reflective of actual output, employment,
16 and personal income, correct?

17 A. Correct. I relied on the IMPLAN
18 multipliers.

19 Q. Ms. Murley, you are familiar with the
20 phrase "opportunity costs," correct?

21 A. Yes.

22 Q. And you would agree that, generally
23 speaking, opportunity costs means if you were giving
24 up spending on Activity A in order to spend on
25 Activity B, there's an opportunity cost to doing

1 Activity B, because you couldn't do Activity A.

2 A. Correct.

3 Q. It's your understanding that under the
4 staff proposal, the companies' customers would pay
5 \$131 million to the companies annually for three
6 years, correct?

7 A. Correct.

8 Q. And it's your understanding that under
9 the staff proposal, the DMR would end after three
10 years, correct?

11 A. I understand that the amount of the
12 payment could end after three years.

13 Q. It's your understanding, under the staff
14 proposal, that the DMR would end after three years,
15 correct?

16 A. At the time of my deposition, that was my
17 understanding. Subsequent to that, I read Witness
18 Buckley's testimony, and I understand that there are
19 options to continue in year four and five.

20 Q. Under the staff proposal, customers could
21 pay \$393 million to the companies over a three-year
22 period, correct?

23 A. Correct.

24 Q. And customers would bear an opportunity
25 cost if they were forced to pay the DMR to the

1 companies, correct?

2 A. Just to clarify, are you saying there
3 would be an opportunity cost because it would
4 increase their cost of their utilities?

5 Q. Correct. Customers would suffer --
6 customers would face opportunity costs because they
7 would be paying more to the companies if the DMR were
8 approved, correct?

9 A. Correct.

10 Q. And the analysis presented in your
11 testimony does not address any of the opportunity
12 costs of the DMR, correct?

13 A. Opportunity costs is a concept that's
14 related to cost/benefit analysis; and I did an
15 economic impact analysis.

16 Q. So you would agree with me that your
17 testimony does not address opportunity costs of the
18 DMR, correct?

19 A. I address one of the benefits of the DMR.

20 MR. SOULES: Your Honor, move to strike
21 as nonresponsive.

22 EXAMINER ADDISON: Motion granted.

23 Please provide a straightforward answer
24 to Mr. Soules's question or explain why you cannot
25 provide such an answer.

1 THE WITNESS: Yes, ma'am.

2 EXAMINER ADDISON: Thank you.

3 Could we have that last answer read back.

4 Thank you.

5 (Record read.)

6 A. I did not specifically address
7 opportunity costs in my analysis.

8 Q. Did you indirectly address opportunity
9 costs in your analysis somehow?

10 A. Are you including costs and benefits in
11 your definition of "opportunity costs"?

12 Q. An opportunity cost is a cost, not a
13 benefit, correct?

14 A. I believe it includes both.

15 Q. And why is that?

16 A. Because you are looking at giving up
17 something to get something. The giving up is the
18 cost. The getting is the benefit.

19 Q. And isn't giving up something the
20 opportunity cost part of that equation?

21 A. It wouldn't be a cost if there were no
22 alternative benefit.

23 Q. The analysis presented in your testimony
24 does not address costs of the DMR in any way,
25 correct?

1 A. Correct.

2 Q. And you have not analyzed either direct,
3 indirect, or induced impacts to customers resulting
4 from their payment of the DMR to the companies,
5 correct?

6 MR. ALEXANDER: Could I have that
7 question reread, please.

8 EXAMINER ADDISON: You may.

9 (Record read.)

10 A. Correct. I have not done an economic
11 impact analysis of their payment to the companies.

12 Q. And the analyses presented in your
13 testimony do not address any costs that might be
14 associated with keeping the FirstEnergy Corp.
15 headquarters in Akron, correct?

16 A. Are you referring to the costs identified
17 in rider DMR?

18 Q. So shifting gears, not asking about DMR,
19 asking about costs associated with keeping the
20 FirstEnergy Corp. headquarters in Akron.

21 A. Okay. Could you clarify an example of
22 what you mean by the cost of keeping the headquarters
23 in Akron, aside from rider DMR?

24 Q. Ms. Murley, your testimony does not
25 provide any opinions about the cost of keeping -- the

1 costs, whatever they are, of keeping the headquarters
2 in Akron, correct?

3 MR. ALEXANDER: Objection. The witness
4 asked for clarification and now we are simply
5 repeating the question which the witness asked to be
6 clarified.

7 EXAMINER PRICE: I don't understand your
8 question either. If you could help me out.

9 MR. SOULES: I would be happy to, your
10 Honor. Thank you.

11 Actually, strike my question, so thank
12 you.

13 Q. (By Mr. Soules) Ms. Murley, the analyses
14 presented in your testimony does not address
15 opportunity costs at all, correct?

16 A. I would have to have done a cost/benefit
17 analysis to address opportunity costs, and I did not
18 so, no.

19 Q. And apart from whatever is presented in
20 your testimony, you did not perform any sort of
21 cost/benefit analysis as part of the work that
22 ultimately went into your rehearing testimony,
23 correct?

24 A. Correct.

25 Q. You were only asked to look at the

1 economic and recommended impact of the FirstEnergy
2 Corp. headquarters, correct?

3 A. Correct.

4 Q. And prior to filing your written
5 testimony, you did not review the rehearing testimony
6 of either Staff Witness Choueiki or Staff Witness
7 Turkenton, correct?

8 A. Correct.

9 Q. And you began working on your testimony
10 in early July of 2016, correct?

11 A. Correct.

12 Q. And you don't know how many hours you
13 spent preparing the report that's contained in
14 Attachment SM-R-1, correct?

15 A. I am not able to give an exact estimate
16 of the hours.

17 Q. And you don't have a ballpark sense of
18 how many hours you spent preparing that report,
19 correct?

20 A. I would be -- I would not be comfortable
21 giving a ballpark estimate at this time.

22 Q. And you don't know how many hours you
23 spent preparing your written testimony, correct?

24 A. I am not able to give an exact number at
25 this time.

1 Q. And you are also not able to give a
2 ballpark sense of how many hours you spent preparing
3 your written testimony, correct?

4 A. Correct.

5 MR. SOULES: No further questions. Thank
6 you, your Honor.

7 Thank you, Ms. Murley.

8 EXAMINER ADDISON: Thank you, Mr. Soules.
9 Ms. Walter?

10 MS. GHILONI: I believe we -- I'm sorry,
11 your Honor. We already have -- the intervenors
12 already have an order. Is that okay with you?

13 EXAMINER ADDISON: Oh, absolutely.

14 Who is next? Please proceed.

15 MS. PETRUCCI: Thank you.

16 - - -

17 CROSS-EXAMINATION

18 By Ms. Petrucci:

19 Q. Good morning, Ms. Murley.

20 A. Good morning.

21 Q. You believe that economic development
22 includes the retention of a company, correct?

23 A. Correct.

24 Q. And, therefore, you also believe that
25 economic development includes retaining the

1 headquarters of a company, correct?

2 A. Correct.

3 Q. And you believe that maintaining the
4 FirstEnergy Corp.'s headquarters in Akron, Ohio,
5 constitutes economic development, correct?

6 A. Correct.

7 Q. And you also agree economic development
8 also includes attraction of new companies, correct?

9 A. Correct.

10 Q. And do you also agree with me that
11 economic development includes expansion of existing
12 companies, correct?

13 A. Correct.

14 Q. Your analysis was specific only to the
15 economic and revenue impacts of the FirstEnergy Corp.
16 headquarters in Akron, Ohio, correct?

17 A. Correct.

18 Q. You -- you were only asked, for purposes
19 of this rehearing, to conduct an economic and revenue
20 impact analysis of the existing FirstEnergy Corp.
21 headquarters, correct?

22 A. Correct.

23 Q. And you were not asked, for purposes of
24 this rehearing, to analyze the economic and revenue
25 impacts of any potential development project,

1 correct?

2 A. Correct.

3 Q. And can you tell me where in the
4 testimony that you've presented today, that's been
5 marked as Company Exhibit 205, you've indicated your
6 opinion that the benefit of the headquarters should
7 be accounted for in rider DMR?

8 A. I did not use those exact words when I
9 said Staff Witness Buckley failed to address it. I'm
10 implying it should have been addressed in the
11 testimony.

12 MS. PETRUCCI: I have nothing further.
13 Thank you.

14 EXAMINER ADDISON: Thank you.

15 Mr. Michael?

16 MR. MICHAEL: Thank you, your Honor.

17 - - -

18 CROSS-EXAMINATION

19 By Mr. Michael:

20 Q. How are you, Ms. Murley?

21 A. I'm fine, thank you.

22 Q. Good. You don't know if Witness Buckley
23 considered the benefits of keeping the headquarters
24 in Akron in connection with this testimony, correct?

25 A. I know that it's not addressed in his

1 testimony.

2 MR. MICHAEL: Move to strike, your Honor.

3 EXAMINER ADDISON: I think she was trying
4 to answer your question. Motion denied.

5 Q. (By Mr. Michael) Okay. So Buckley, in
6 his testimony, Ms. Murley, the thrust of it is that
7 keeping the headquarters in Akron is a condition for
8 receiving the \$131 million per year for rider DMR
9 credit support, right?

10 A. Correct.

11 Q. So, Ms. Murley, you can't rule out that
12 Mr. Buckley, in fact, did value the headquarters
13 staying in Akron in an amount not to exceed the rider
14 DMR, correct?

15 MR. ALEXANDER: Could I have that
16 question reread, please your Honor?

17 EXAMINER ADDISON: You may.

18 (Record read.)

19 A. It's my understanding, from reading the
20 testimony, that amount related to credit support.

21 Q. Okay. But the condition for keeping the
22 headquarters in Akron is a part of Mr. Buckley's
23 testimony, correct?

24 A. Correct.

25 Q. Okay. So Mr. Buckley in -- suggested, on

1 staff's behalf, that in return for the \$131 million,
2 the utilities, FirstEnergy Corp., has to maintain its
3 headquarters in Akron, correct?

4 A. Correct.

5 Q. Okay. So you don't know, as a fact, that
6 Mr. Buckley did not consider the value of the
7 headquarters, staying in Akron, being equivalent to
8 an amount not to exceed \$131 million a year under
9 rider DMR, correct?

10 MR. ALEXANDER: Objection, both to form
11 and calls for speculation.

12 MR. MICHAEL: Your Honor, if FirstEnergy
13 wants to speculate that they cannot say whether or
14 not Mr. Buckley considered the value of the
15 headquarters staying in Akron, I would accept that
16 stipulation.

17 EXAMINER ADDISON: Objection sustained.

18 Q. Ms. Murley, if the cost of maintaining
19 the headquarters in Akron is \$568 million, wouldn't
20 that net out the \$568 million purported economic
21 benefits that you include in your direct -- or your
22 testimony?

23 A. Are you referring here to rider DMR?

24 Q. Yes.

25 A. There are two benefits in rider DMR; the

1 economic benefits of retaining the headquarters, and
2 the credit support benefits of retaining an
3 investment grade bond grading. So I would not say
4 that it nets out.

5 Q. But you're only testifying about the
6 economic-development portion of the potential rider
7 DMR, correct?

8 A. I am testifying relative to the value of
9 the headquarters which is an economic-development
10 related benefit.

11 Q. Okay. So focusing only on the purported
12 economic benefit of keeping the headquarters in
13 Akron, were the costs of keeping the headquarters in
14 Akron \$568 million, then that would net out the
15 purported \$568 million economic benefit you found in
16 your testimony, correct?

17 MR. ALEXANDER: Objection.

18 EXAMINER ADDISON: Grounds?

19 MR. ALEXANDER: The witness testified
20 there are actually two benefits, so the analysis
21 didn't work, and he has instructed the witness to
22 ignore one of those two benefits. I think that's an
23 improper question.

24 MR. MICHAEL: I am only doing that
25 because the witness, as she admitted, is only

1 testifying to the purported economic benefits. She
2 is not testifying to the credit amount.

3 EXAMINER ADDISON: Thank you.

4 With that, with her earlier explanation
5 already on the record, I believe Mr. Michael was
6 phrasing his question as somewhat of a hypothetical.
7 Is that correct, Mr. Michael?

8 MR. MICHAEL: It depends, if that means
9 you are going to require her to answer.

10 MR. ALEXANDER: Well, your Honor, I guess
11 if we can get a little more clarity as to the
12 hypothetical, because I don't understand it. Is
13 Mr. Michael asking the witness to assume there are no
14 credit support benefits?

15 EXAMINER ADDISON: Thank you,
16 Mr. Alexander.

17 Please rephrase your question to make the
18 question as clear as possible.

19 MR. MICHAEL: Thank you, your Honor.

20 Q. (By Mr. Michael) Ms. Murley, you are not
21 offering an opinion of any purported benefit of the
22 credit support, right?

23 A. I am acknowledging that there are
24 benefits of credit support. I am not offering an
25 opinion about how DMR is calculated relative to

1 credit support.

2 Q. Okay. Your testimony is focused on, A,
3 the purported economic benefits of the headquarters
4 in Akron; and, B, that they should be included in
5 rider DMR, correct?

6 A. Yes.

7 Q. Okay. So setting aside the purported
8 benefits of the credit support which you're not
9 testifying to, isn't it true that if the cost of
10 keeping the headquarters in Akron is \$568 million,
11 then that would net out the \$568 million in purported
12 economic benefits that you are testifying to?

13 MR. ALEXANDER: Just to be clear, your
14 Honor is instructing the witness to accept this
15 hypothetical?

16 EXAMINER ADDISON: Accept the
17 hypothetical.

18 MR. ALEXANDER: Making clear on the
19 record she does not agree with the hypothetical.

20 EXAMINER ADDISON: That's clear on the
21 record.

22 MR. ALEXANDER: Thank you, your Honor.

23 A. You're asking me to answer a question
24 framed in the context of a cost/benefit analysis. I
25 do not believe that the payment of customers is

1 exactly equivalent in terms of who and how it is --
2 who it impacts and how it impacts them, to the
3 economic benefits of the company remaining in Akron.

4 Q. Well, you stated earlier, though, on
5 cross-examination, that you're testifying to the
6 economic impact on the region, correct?

7 A. My testimony regards the economic benefit
8 on the State of Ohio.

9 Q. Okay. And if charging customers takes
10 \$568 million out of the Ohio region, then each dollar
11 would then net out each purported dollar of the
12 \$568 million economic benefit, correct?

13 A. If you're asking me are those two amounts
14 the same, yes, those two amounts are the same. If
15 you are asking me if the impact to the economy is the
16 same, no.

17 Q. Okay. Tell me why the impact to the
18 economy isn't the same.

19 A. Looking at the impact -- I think I've
20 covered what's involved in the economic impact of the
21 company being in Ohio. To look at the economic
22 impact of an increase in utility rates would -- from
23 a cost/benefit perspective, would require me to
24 understand how the utility rates would impact
25 different classes of customers, and what their price

1 elasticity is to increases in utility prices, and
2 what their propensity is to substitute other fuels
3 for electricity, and how they might respond given the
4 magnitude and expected link of the increase in
5 utility prices, how much of those prices might be
6 passed on from commercial and industrial customers to
7 residential customers, what other ancillary issues
8 might be created in general by higher utility prices
9 such as economic-development-related issues relative
10 to attracting other companies to Ohio. The scope of
11 that analysis would be so broad as to not be
12 meaningful specifically to the question at hand.

13 Q. Okay. So you didn't do any of that
14 analysis, correct, that you just described?

15 A. Correct.

16 Q. Ms. Murley, since you didn't do a
17 cost/benefit analysis, you can't rule out that the
18 cost of keeping FirstEnergy's headquarters in Akron
19 may exceed the benefits, correct?

20 A. When you talk about the "costs," are you
21 referring to rider DMR?

22 Q. Ms. Murley, you have a copy of your
23 deposition transcript with you, correct?

24 A. Yes.

25 MR. ALEXANDER: Objection.

1 EXAMINER ADDISON: Grounds?

2 MR. ALEXANDER: She simply asked to
3 clarify what costs he is referring to. We went
4 through this same exact analysis with Mr. Soules,
5 trying to clarify what costs there were with the
6 headquarters. She simply asked for clarification.
7 That's not grounds for impeachment.

8 EXAMINER ADDISON: Please provide some
9 clarification. If we need to resort to her
10 deposition at a later time, we can do so.

11 MR. MICHAEL: Okay. The clarification is
12 the costs associated with rider DMR.

13 MR. ALEXANDER: Could I have the question
14 reread after that clarification, your Honor?

15 EXAMINER ADDISON: Absolutely.

16 (Record read.)

17 A. Are you asking me to stipulate whether
18 the \$131 million a year in rider DMR is greater or
19 lesser than the economic impact of the headquarters?

20 Q. No, Ms. Murley. Staff has recommended
21 the \$131 million in credit support, right?

22 A. Correct.

23 Q. You're recommending that the purported
24 economic benefits of keeping the headquarters in
25 Akron should be in rider DMR, correct?

1 A. Yes; although, I am not offering an
2 opinion as to exactly how that should be calculated.

3 Q. Okay. So I want you, for purposes of my
4 question, to include, in rider DMR, the credit
5 support and an amount regarding the purported
6 economic benefits, okay?

7 A. Are you stipulating what that amount
8 should be?

9 Q. I am not.

10 A. Okay.

11 Q. I think it should be zero. Would you
12 agree to stipulating to that?

13 A. No.

14 Q. Okay. So for -- with that clarification,
15 I will reread my question. Since you don't know --
16 you didn't do a cost/benefit analysis, you can't rule
17 out that the cost of keeping FE's headquarters in
18 Akron may exceed its benefits, correct?

19 A. I am unable to answer that because I
20 didn't do that analysis.

21 Q. Okay. And the question I asked you was
22 you can't rule out, because you didn't do the
23 cost/benefit analysis.

24 MR. ALEXANDER: Objection, asked and
25 answered.

1 EXAMINER ADDISON: Sustained.

2 Q. Ms. Murley, you don't know if Shared
3 Service employees in Akron provide service to
4 operating companies outside of Ohio, correct?

5 A. Correct. I do know there are Shared
6 Service employees in other states.

7 MR. MICHAEL: Move to strike everything
8 after "Correct," your Honor.

9 MR. ALEXANDER: Your Honor, the question
10 asked whether they provide services in other states,
11 and the witness was clarifying she knows they exist
12 in other states, but does not know whether the
13 headquarters provide service. It's directly
14 responsive.

15 EXAMINER ADDISON: Motion to strike will
16 be denied.

17 Q. (By Mr. Michael) Ms. Murley, you don't
18 know if some of the value created by the Shared
19 Service employees in Akron is created by them
20 providing services to operating companies outside of
21 Ohio, right?

22 A. No. And it doesn't matter for my
23 economic impact analysis.

24 Q. Well, you're including in your economic
25 impact analysis the value of the services that those

1 Shared Services employees provide to the companies,
2 correct?

3 A. I am, because economic impact analysis is
4 based on where those employees are located, not where
5 their customers are located.

6 Q. Okay. So if the Shared Service employees
7 are providing shared services to a FirstEnergy entity
8 in Pennsylvania, you are including that in your
9 economic impact analysis, correct?

10 A. If those services are provided by Shared
11 Service employees working in Ohio, I am including the
12 value of the services they provide in my analysis.

13 Q. Okay. And by recommending that some of
14 the value of the headquarters being in Akron should
15 be included in rider DMR, you're necessarily
16 recommending that customers in Ohio should pay for
17 shared services that are being provided to
18 FirstEnergy entities in other states, correct?

19 MR. ALEXANDER: Objection.

20 EXAMINER ADDISON: Grounds?

21 MR. ALEXANDER: We have now gone to -- we
22 are combining two concepts. The first concept is the
23 way in which Shared Services employees are
24 compensated. They are compensated based on operating
25 entities and they allocate their time and all that

1 good stuff.

2 The question Ms. Murley is testifying to
3 is the economic impact. Those are separate issues.
4 Economic impact has to do with where those employees
5 work, which could be Pennsylvania, Ohio, any other
6 state, right? And so we have now improperly combined
7 two concepts into one question.

8 MR. MICHAEL: But importantly, your
9 Honor, she is also testifying that value should be
10 included in rider DMR which is going to be paid by
11 Ohioans, and I think the Commission should know
12 whether or not the utilities are asking Ohioans, Ohio
13 Consumers, to pay for services provided to entities
14 in other states.

15 EXAMINER ADDISON: Perhaps you could try
16 rephrasing your question.

17 MR. MICHAEL: Could I have the question
18 read back?

19 EXAMINER ADDISON: Your previous
20 question?

21 MR. MICHAEL: Yes, ma'am.

22 EXAMINER ADDISON: Please.

23 (Record read.)

24 Q. (By Mr. Michael) Okay. Ms. Murley, are
25 you recommending to the Commission that they include

1 in rider DMR the value of Shared Services employees
2 even if they are providing services to utilities in
3 other states?

4 A. I don't know if they are providing
5 services to other states, but the way that economic
6 impacts are calculated, it accounts for where the
7 services will be created, not where the customers were.

8 EXAMINER PRICE: Let me try to -- so I
9 have this correct in my head. If a Shared Services
10 employee, located in Akron, performs services on
11 behalf of a Pennsylvania utility, where does the
12 economic value accrue? Ohio or Pennsylvania?

13 THE WITNESS: Ohio.

14 EXAMINER PRICE: And you're saying
15 Pennsylvania accrues no value whatsoever for them
16 performing that duty?

17 THE WITNESS: If the entire service was
18 performed in Ohio, then that would be correct.

19 Q. (By Mr. Michael) Ms. Murley, you don't
20 know if the utilities recover the cost of Shared
21 Services through their base rates, correct?

22 A. I'm not familiar with exactly how the
23 base rates reflect the cost of Shared Services.

24 Q. And you don't even know if they do
25 reflect the cost of Shared Services, correct?

1 A. I believe we discussed that the day
2 before yesterday.

3 Q. Indeed we did.

4 EXAMINER PRICE: Please don't reference
5 your deposition. If you could just answer the
6 question.

7 MR. ALEXANDER: Could I have the question
8 reread, your Honor?

9 EXAMINER ADDISON: You may.

10 MR. MICHAEL: Your Honor, if I might, I
11 think it would be necessary to read the previous two,
12 for full context, if that's all right.

13 (Record read.)

14 A. I am not familiar with the details of the
15 base rates.

16 MR. MICHAEL: Your Honor, I would move to
17 strike that. That's a "yes" or "no" question. Your
18 Honor has given instructions to this witness,
19 previously, to provide an answer in response to the
20 question that Counsel has asked. So I would request,
21 your Honor, that your Honor strike that response and
22 direct the witness to answer the question that I have
23 asked.

24 EXAMINER ADDISON: I'll deny the motion
25 to strike, but I will instruct the witness to answer

1 "yes" or "no."

2 MR. MICHAEL: Thank you, your Honor.

3 THE WITNESS: Could you repeat the
4 question?

5 EXAMINER ADDISON: Could we have the last
6 question read back. Thank you.

7 (Record read.)

8 A. Correct.

9 Q. Thank you.

10 MR. MICHAEL: Your Honor, at this point,
11 if I can, I would like to move the Bench to take
12 administrative notice of the Application and the
13 Staff Report in FirstEnergy's last base rate case;
14 that is Case No. 07-0551-EL-AIR. Those documents
15 were obviously filed in Commission dockets. They are
16 public record. They are not subject to dispute. And
17 therefore, I would ask that the Bench takes
18 administrative notice of those documents.

19 EXAMINER ADDISON: Any objections?

20 MR. ALEXANDER: Yes, your Honor. Two, in
21 fact. One, there needs to be a point to
22 administrative notice, and I understand this is a
23 different standard than admissibility, but there does
24 need to be a point.

25 Two, I think there are significant issues

1 with taking administrative notice of an application
2 and a staff report. I disagree with Mr. Michael's
3 contention those are beyond dispute. I can think of
4 many proceedings, including this one, where people
5 have disagreed with things in applications and things
6 in staff reports.

7 So, yes, I do disagree with
8 administrative notice of both of those things.

9 MR. MICHAEL: And, your Honor, I would
10 simply point out on the latter point that in
11 connection with this particular subject matter, we
12 would also be in a position to cite and discuss the
13 Opinion and Order in that case just as a legal
14 matter. It's an Opinion and Order of the Commission,
15 but in order to have the foundation, we would like
16 the application and the staff report.

17 And the point is, your Honor, this
18 witness just testified that she doesn't know whether
19 or not the -- the cost of the Shared Services
20 employees are recovered in base rates. Mr. Alexander
21 knows and everybody else know that, in fact, they
22 are. The companies make -- the Shared Service
23 company makes an allocation, charges it to the
24 distribution utilities, and then the distribution
25 utilities recover that through their rates.

1 EXAMINER ADDISON: Care to respond,
2 Mr. Alexander?

3 MR. ALEXANDER: Just very briefly, your
4 Honor.

5 Obviously, no objection to the Commission
6 order. It happens all the time; no problem there.

7 But with regard to these two things. The
8 witness has testified that where the Shared Service
9 employee is located does not matter. And this can be
10 seen, by your Honors, again, with regard to
11 Pennsylvania. If that employee moves to Harrisburg,
12 Harrisburg gets the economic impact of that employee
13 regardless of who pays that Shared Service employee's
14 salary. So since the witness has already testified
15 this just doesn't matter, I see no point to take
16 administrative notice of these two.

17 MR. MICHAEL: I appreciate Mr. Alexander
18 trying to preempt what the issue I would be
19 discussing is. The issue isn't paying outside. The
20 issue is I think the Commission could -- should
21 consider whether or not including the purported
22 economic benefits would require FE's customers to pay
23 twice for the same service.

24 EXAMINER PRICE: I don't understand the
25 relevance of the point you are making.

1 MR. MICHAEL: Because, your Honor, the
2 way that Ms. Murley calculated the purported economic
3 benefits was based on the value of the services that
4 the Shared Service employees provide to the company.

5 My point is, is that customers are
6 already paying for that value through base rates. So
7 to the degree that Ms. Murley is advocating including
8 the economic benefits in rider DMR, I think
9 intervenors should be in a position, and that the
10 Commission should consider the extent to which that
11 would cause customers to pay twice for the value of
12 those services.

13 EXAMINER PRICE: But you can't testify to
14 what -- the factual statements you are making, you
15 can't testify to, so I don't understand the relevance
16 to cross-examining her about this.

17 MR. MICHAEL: Well, first off, that's why
18 I wanted your Honors to take administrative notice of
19 the Application, the Staff Report, and the Opinion
20 and Order. And the questioning to Ms. Murley is to
21 confirm that she doesn't know whether or not they are
22 recovered in base rates.

23 And through the Application, Staff
24 Report, and Opinion and Order, intervenors will be
25 able to show that, in fact, those costs are recovered

1 through base rates, and that would present the
2 Commission with the opportunity to decide whether or
3 not customers should pay twice for the same services.

4 EXAMINER ADDISON: We are going to defer
5 on ruling on taking administrative notice of the
6 Application and Staff Report in Case No.
7 07-0551-EL-AIR. Mr. Michael, you can proceed. We'll
8 see where this goes and we can revisit these
9 arguments.

10 MR. MICHAEL: Okay. Thank you, your
11 Honor.

12 Q. (By Mr. Michael) Ms. Murley, because you
13 are not familiar with the recovery, through rates, of
14 Shared Services costs, you can't rule out that your
15 recommendation would require customers to pay twice
16 for the same Shared Services, once through base rates
17 and once through rider DMR, correct?

18 A. I don't believe I can answer that because
19 I'm just not familiar enough with what you are
20 asking.

21 Q. (By Mr. Michael) Your Honor, at this
22 point in time, given that question, would it be
23 appropriate for me to reask that the Bench takes
24 administrative notice of the filings I asked earlier?
25 Or you want to continue deferring on that?

1 EXAMINER PRICE: Why would we revisit it
2 now?

3 MR. MICHAEL: Because she just admitted
4 she can't say whether or not her proposal would
5 require customers to pay twice.

6 EXAMINER PRICE: She said she couldn't
7 answer your question.

8 MR. MICHAEL: Because she didn't know
9 enough.

10 EXAMINER PRICE: Why don't you try a
11 follow-up on your question.

12 MR. MICHAEL: Okay. Thank you.

13 EXAMINER PRICE: I didn't understand your
14 question either, so I am very sympathetic with the
15 witness.

16 MR. MICHAEL: Can you reread the
17 question, please?

18 EXAMINER PRICE: Rereading it is not
19 going to help.

20 MR. MICHAEL: It will help my memory. It
21 will help my memory about what the follow-up would
22 be, your Honor.

23 EXAMINER PRICE: Okay.

24 MR. MICHAEL: Apparently the witness
25 could understand it because she answered it.

1 (Record read.)

2 MR. MICHAEL: Thank you.

3 Q. (By Mr. Michael) Ms. Murley, if you would
4 please turn to SM-R-1 at page 2.

5 A. Yes.

6 Q. And I want to direct your attention
7 specifically to the last paragraph and the sentence
8 that reads "Locally headquartered companies are more
9 likely to purchase from local vendors." Do you see
10 that?

11 A. Yes.

12 Q. You didn't do anything to test that
13 assertion specific to FirstEnergy's headquarters,
14 correct?

15 A. Not specific to FirstEnergy's
16 headquarters. I have done research on this topic.

17 Q. Okay. Thank you.

18 Ms. Murley, you have never analyzed
19 whether or not there is a variance between IMPLAN's
20 assumptions and actual results, correct?

21 A. No, because it would be impossible.

22 MR. MICHAEL: Your Honor, I move to
23 strike everything after "no." Mr. Alexander can do
24 that on redirect if he chooses to.

25 EXAMINER ADDISON: Mr. Alexander?

1 MR. ALEXANDER: Your Honor, this question
2 was actually already addressed by Mr. Soules. The
3 witness is being forced to answer a question which
4 doesn't make sense and she is trying to explain the
5 question doesn't make sense. I don't understand why
6 we have reasked the same question and been surprised
7 when the witness gave the exact same answer. So
8 Mr. Michael chose to retrod this ground, he is
9 subject to the witness actually answering this
10 question.

11 EXAMINER ADDISON: Thank you.

12 Motion to strike will be denied.

13 MR. MICHAEL: Thank you, your Honor.

14 Q. (By Mr. Michael) And sticking with your
15 page 2 of SM-R-1, you've never analyzed whether or
16 not there is a variance between the assumptions
17 associated with the supply chain spending and IMPLAN
18 and actual outcomes, right?

19 A. No, because it would not be possible.

20 Q. Okay. And you have never analyzed the
21 degree to which the estimated economic impacts with
22 IMPLAN varies with actual results, right?

23 A. Are you talking about the total direct,
24 indirect, and induced impacts?

25 Q. Yes.

1 A. No.

2 Q. FirstEnergy is your only utility client
3 in Ohio, right?

4 A. Correct.

5 Q. Okay. Let me back up. I think I need a
6 clarification, Ms. Murley. In connection with my
7 previous question, you answered "no." Does that mean
8 you have analyzed the degree to which the estimated
9 economic impacts based on IMPLAN varies with actual
10 results?

11 MR. ALEXANDER: Could I have that reread,
12 please?

13 EXAMINER ADDISON: You may.

14 (Record read.)

15 A. No.

16 Q. Okay. I don't want to beat this horse,
17 Ms. Murley. I am going to ask the question because I
18 don't understand your answer yet. I am not convinced
19 that the record is clear. You have never analyzed
20 whether or not the estimated economic impacts based
21 on IMPLAN varies with actual results, right?

22 A. No, because it would not be possible.

23 Q. You've constructed impact models that
24 FirstEnergy can use in Ohio and all of their other
25 states, right?

1 A. Yes, for economic development purposes.

2 Q. And you've updated those models at least
3 once, dating back to the more than 10 years when you
4 created the first model, right?

5 MR. ALEXANDER: Objection, compound.

6 EXAMINER ADDISON: Please try rephrasing
7 the question, Mr. Michael.

8 MR. MICHAEL: Sure. Thank you.

9 Q. Ms. Murley, you have updated those models
10 periodically that you created for FirstEnergy,
11 correct?

12 A. Yes, just to clarify, there is different
13 models for each state and all of them have been
14 updated once; some of them have been updated multiple
15 times.

16 Q. And the first model you created for them
17 was dating back to about 10 years, right?

18 A. Approximately, yes.

19 Q. Additionally, you have done reports for
20 FirstEnergy Services company where you created your
21 own model and wrote a report based on your results,
22 correct?

23 A. Yes.

24 Q. And in connection with providing those
25 services, FirstEnergy asks you to prepare the cost

1 estimate and you provide that cost estimate to them,
2 correct?

3 MR. ALEXANDER: Objection, relevance. We
4 are not talking about models. It is well beyond this
5 proceeding.

6 EXAMINER ADDISON: Mr. Michael.

7 MR. MICHAEL: I think it goes to the bias
8 of the witness, your Honor, all the work she has done
9 for FirstEnergy and that it's limited to FirstEnergy
10 in Ohio.

11 EXAMINER ADDISON: Mr. Alexander.

12 MR. ALEXANDER: The witness testified, at
13 the beginning of her testimony, she testifies
14 nationally. Mr. Michael is very careful to phrase
15 his first question "your only utility client in
16 Ohio." So the very nature of the question limited it
17 to a section of just utilities just in Ohio. I think
18 relevance is a real issue here.

19 EXAMINER ADDISON: I'll provide a little
20 leeway.

21 MR. MICHAEL: Thank you, your Honor.

22 EXAMINER ADDISON: You may answer the
23 question.

24 THE WITNESS: Could you repeat the
25 question?

1 MR. MICHAEL: Could you repeat the
2 question, please? Thank you.

3 EXAMINER ADDISON: Yes.

4 (Record read.)

5 A. So to clarify, when we talk about "those
6 services," we're talking about when I would prepare a
7 report on some topic related usually to an economic
8 impact analysis for FirstEnergy Service Company?

9 Q. Correct.

10 A. As with all my clients, they ask me for
11 something, I prepare a cost estimate in the form of a
12 proposal letter, I submit it, and then they decide
13 whether they want to proceed.

14 Q. Okay. You don't respond to a public RFP
15 in connection with the services you provide to
16 FirstEnergy Services, correct?

17 A. No. Those are more typical in the public
18 sector.

19 Q. Okay. Thank you.

20 Ms. Murley, the analysis you did in
21 connection with the headquarters is based on
22 hypothetical assumptions, current tax policies, and a
23 current economic structure of the region, right?

24 A. Is there a reference in the document?

25 MR. MICHAEL: Your Honor, I am going to

1 refer the witness -- the answer is -- I am going to
2 refer you to your deposition testimony on page 91.
3 Please let know me know when you have an opportunity
4 to get there.

5 EXAMINER ADDISON: Mr. Michael, I think
6 she was again just asking for clarification. If you
7 have a specific reference in her testimony, please
8 point it out. If not --

9 MR. MICHAEL: It's not.

10 EXAMINER ADDISON: -- just tell her.

11 MR. MICHAEL: It's not in the rebuttal
12 rehearing testimony.

13 THE WITNESS: Could you repeat the
14 question?

15 EXAMINER ADDISON: Could we have that
16 last question read back, please.

17 (Record read.)

18 A. Yes, defining "hypothetical assumptions"
19 as the IMPLAN assumptions.

20 Q. And those assumptions, Ms. Murley,
21 include spending patterns, correct?

22 A. Yes.

23 Q. And they -- the assumptions include the
24 types of goods and services that are required by
25 industries in the electric generation sector,

1 correct?

2 A. In this case we are looking at industries
3 in the headquarters sector.

4 Q. May I direct your attention to page 91 of
5 your deposition testimony, Ms. Murley.

6 A. Yes.

7 Q. And I am going to direct your attention
8 to lines 13 through 17. "Question: And those
9 assumptions are assumptions about the types of goods
10 and services that are required by industries in the
11 electric generation sector, correct?"

12 "Answer: Among other things, yes."
13 Did I read that correctly?

14 A. Yes, you read that correctly.

15 Q. Thank you.

16 And the assumptions in connection with
17 your analysis include the share of the just-mentioned
18 purchases that can be made locally, correct?

19 A. Yes. In this case, "locally" being
20 defined as in Ohio.

21 Q. And the assumptions include what
22 particular goods and services that the headquarters
23 buys, correct?

24 A. Correct.

25 Q. And the assumptions include the amount of

1 output per employee, correct?

2 A. Correct.

3 Q. And the assumptions include the amount of
4 personal income per employee, correct?

5 A. For indirect and induced employees,
6 correct.

7 Q. And the assumptions include different
8 industries that are included in the vendor
9 industries, correct?

10 A. Correct.

11 Q. And the assumptions include different
12 industries from which employees make purchases,
13 correct?

14 A. Correct.

15 Q. In fact, IMPLAN is a very complex model,
16 correct?

17 A. Correct.

18 Q. And you cannot comprehensively state all
19 of the assumptions that are inherent in the IMPLAN
20 multipliers, correct?

21 A. Correct.

22 Q. You don't even know how many assumptions
23 are in the IMPLAN model, correct?

24 A. I do not have a count, that is correct.

25 Q. And it's true, Ms. Murley, that even if

1 the assumptions outlined in your headquarters' report
2 were to occur, there will usually be differences
3 between the estimates and the actual results, because
4 events and circumstances frequently do not occur as
5 expected, correct?

6 A. Correct.

7 Q. The multipliers for headquarters that you
8 used are for headquarters irrespective of the
9 industry at issue, correct?

10 A. Yes, that's how a headquarters are
11 defined in the IMPLAN.

12 Q. Ms. Murley, are you aware that
13 FirstEnergy is wanting to collect from Ohio consumers
14 all or a portion of the total economic impact that
15 you describe in your report through rider DMR?

16 A. I'm not familiar as to how exactly it is
17 being proposed that the economic impact be
18 incorporated in rider DMR.

19 Q. Okay. But, so you are aware that
20 FirstEnergy is asking to recover some or all of the
21 purported economic benefits through rider DMR?

22 A. I'm aware that they are asking the
23 economic benefits of the headquarters be included in
24 rider DMR.

25 Q. Okay. Was that your understanding at the

1 time you did your report?

2 A. Yes.

3 Q. Ms. Murley, if I could turn your
4 attention to your direct testimony at page 3, lines
5 15 through 16.

6 A. Yes.

7 Q. In your analysis did you do anything to
8 segregate the inputs of -- that are listed in that
9 line?

10 A. Are you referring to the sentence that
11 starts with "These inputs include total payroll...."?

12 Q. Yes, ma'am.

13 MR. ALEXANDER: Objection as to
14 "segregates," I believe is the word he used.

15 MR. MICHAEL: It was indeed.

16 MR. ALEXANDER: Vague.

17 Q. So you are describing there, Ms. Murley,
18 several data inputs that you were -- that you used to
19 calculate the headquarters' economic benefit,
20 correct?

21 A. Yes.

22 Q. One of those was total payroll, correct?

23 A. Yes.

24 Q. One of those was number of employees,
25 correct?

1 A. Yes.

2 Q. And one of those was charitable and
3 philanthropic spending, correct?

4 A. Those are all inputs to my analysis.

5 Q. Okay. And my question is in your
6 analysis were you able to tell how much of the
7 purported economic impact was due to total payroll
8 alone?

9 A. Well, that would be the result listed as
10 personal income.

11 Q. Okay. Were you able to, in your
12 analysis, determine the amount of the purported
13 economic impact based on number of employees alone?

14 A. I'm not sure I really understand your
15 question.

16 Q. Okay. Well, you give an opinion about
17 the total economic impact of the headquarters in
18 being in Akron, correct?

19 A. Yes.

20 Q. And what I want to know is whether or not
21 you can isolate the amount of that impact due to
22 charitable and philanthropic spending.

23 MR. ALEXANDER: Objection, your Honor. I
24 think we have got some confusion in terms. When we
25 are referring to "economic impact," are you referring

1 to the \$568 million number?

2 MR. MICHAEL: I am referring to what she
3 says in her testimony.

4 MR. ALEXANDER: Well, therein lies the
5 issue with the objection, your Honor. The testimony
6 addresses more than just the \$568 million number.
7 There are some inputs which go to just the
8 568 million and some which goes to the entirety of
9 the testimony. I think the question is unclear as to
10 what she is being asked about right now.

11 MR. MICHAEL: If I could follow-up, your
12 Honor?

13 EXAMINER ADDISON: Absolutely.

14 Q. (By Mr. Michael) So, Ms. Murley, when you
15 are referencing charitable and philanthropic spending
16 on page 3, did those inputs go to the \$568 million
17 purported economic impact?

18 A. No, they were not part of the calculation
19 of the \$568 million.

20 MR. MICHAEL: Okay. Thank you.

21 May I have just a quick minute, your
22 Honor?

23 EXAMINER ADDISON: You may.

24 MR. MICHAEL: Thank you.

25 EXAMINER ADDISON: Let's go off the

1 record.

2 (Discussion off the record.)

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

5 Mr. Michael.

6 MR. MICHAEL: Thank you.

7 Q. (By Mr. Michael) Last line of
8 questioning, Ms. Murley. I appreciate your time.
9 Thank you.

10 When you talk approximate total payroll,
11 does that include -- that includes salary, correct?

12 A. Yes.

13 Q. And that includes benefits, correct?

14 A. No. It's just payroll.

15 Q. Okay. Does that -- that includes
16 overhead of the employees?

17 A. I'm not sure I understand your question.

18 Q. So let me ask it this way, does total
19 payroll only include the salary paid to FirstEnergy
20 Shared Services employees?

21 A. The number I was given was gross payroll.

22 Q. And I'm a lawyer, I am not an economist,
23 so that's why I need to ask you this question. Is
24 gross payroll limited to the dollar salary received
25 by these employees or does it include other forms of

1 compensation?

2 A. It includes withholding, which they don't
3 directly receive.

4 Q. Okay. Does it include the benefits that
5 that employee receives?

6 A. No.

7 Q. Okay. And does it include any allocation
8 for overhead due to that employee working there?

9 A. No, that would be separate from what they
10 receive in their paycheck.

11 MR. MICHAEL: Okay. Thank you,
12 Ms. Murley.

13 Thank you, your Honor. I have no further
14 questions.

15 EXAMINER ADDISON: Thank you.

16 At this time, we'll take a brief 5-minute
17 break. Come back at around 11:40. Let's go off the
18 record.

19 (Recess taken.)

20 EXAMINER ADDISON: Let's go ahead and go
21 back on the record.

22 Ms. Walter.

23 MS. GHILONI: Thank you, your Honor.

24 - - -

25

CROSS-EXAMINATION

By Ms. Ghiloni:

Q. Good morning, Ms. Murley.

A. Good morning.

Q. I just want to clarify, first, something you just discussed with Mr. Michael on page 3 of your testimony. Again, that sentence beginning on line 15 and going to line 16, you state "These inputs include total payroll, number of employees, charitable and philanthropic spending." So you testified that the charitable and philanthropic spending are not part of the 568 million, correct?

A. Correct.

Q. But you list it as an input in this sentence; is that correct?

A. That information is included in my testimony.

Q. If it's an input, how is it not part of the 568 output? 568 million-dollar output? That you testified to?

A. When I use the word "input," just to clarify, I'm not limiting it to numbers that I use to calculate the results in Figure 1 of my testimony. I am including all of the information that I presented in my testimony.

1 Q. So does the 5 -- the 568 million-dollar
2 output, you're saying it's considered, but it's
3 not -- but it's not an actual input into that number.

4 A. Charitable and philanthropic spending is
5 presented in my testimony. It's not used in that
6 particular calculation of the \$568 million total
7 output.

8 Q. Okay. Thank you.

9 Okay. Moving on to a different topic.
10 Ms. Murley, are you aware of the companies' third
11 supplemental stipulation filed on December 1, 2015?

12 A. I am aware of its existence.

13 Q. Are you aware that that stipulation
14 includes a commitment by FirstEnergy Corp. to
15 maintain its corporate headquarters and nexus of
16 operations in Akron, Ohio, for the duration of rider
17 RRS?

18 A. Yes.

19 Q. And this information was not included in
20 your economic impact analysis, correct?

21 A. Correct. I am addressing rider DMR.

22 Q. Are you aware that the Public Utilities
23 Commission of Ohio issued an Order and Opinion in
24 this case, approving the provisions in the
25 stipulation that requires FirstEnergy Corp. to

1 maintain its headquarters and nexus of operations in
2 Akron?

3 A. To clarify, are you saying am I aware if
4 rider RRS is in effect?

5 Q. I am saying are you aware that the
6 Commission issued an opinion adopting that provision
7 that FirstEnergy Corp. maintain its corporate
8 headquarters and nexus of operations in Akron, Ohio?

9 A. I'm not specifically familiar with that
10 opinion.

11 Q. Okay. Are you aware that on May 21,
12 2015, FirstEnergy announced it signed an 8-1/2 year
13 lease-extension agreement to keep its headquarters
14 until 20 -- or until 2025 in Akron, Ohio?

15 MR. ALEXANDER: Objection, assumes facts.
16 No foundation for that assumption.

17 EXAMINER ADDISON: Ms. Walter.

18 MS. GHILONI: Your Honor, this actually
19 does not assume any facts. This was actually
20 included in direct testimony that's already been
21 filed and admitted in this case. It was the direct
22 testimony of Dean Ellis filed on December 30, 2015.

23 EXAMINER ADDISON: Mr. Alexander?

24 MR. ALEXANDER: But there's -- okay.

25 EXAMINER ADDISON: Thank you. You can

1 answer the question.

2 MR. ALEXANDER: I withdraw my objection,
3 your Honor.

4 EXAMINER ADDISON: Thank you.

5 THE WITNESS: Could you repeat the
6 question?

7 MS. GHILONI: Yes. Karen can you repeat,
8 please?

9 (Record read.)

10 A. I am not familiar with that.

11 Q. And if you are not familiar with it, it
12 was not included in your analysis, correct?

13 A. No. My analysis was looking at the new
14 stipulation in rider DMR about the headquarters'
15 location.

16 Q. If you could please turn to page 6 of
17 your testimony.

18 A. Yes.

19 Q. Line 4. You state there "The HQ provides
20 high paying jobs with benefits to thousands of
21 workers, supports the local and state economies with
22 millions of dollars in vendor purchases...and
23 benefits local governments and school systems through
24 tax payments." Do you see that sentence?

25 A. Yes, I see that.

1 Q. Okay. Isn't it true that when you use
2 the phrase "high paying jobs" in this sentence, you
3 were referring to the jobs at the headquarters as
4 high-paying because the average wage is significantly
5 above the average wage for Ohio?

6 A. Yes.

7 Q. And to arrive at that average wage, you
8 took the total payroll of FE Corp. and divided it by
9 the number of employees, correct?

10 MR. ALEXANDER: Objection. I think the
11 question is a little bit vague. "Average wage" had
12 two different definitions in the preceding sentence.
13 One was the average for Ohio, one was the average for
14 FE Corp., and this question doesn't specify which she
15 is asking for.

16 EXAMINER ADDISON: Thank you.

17 Would you care to clarify, Ms. Walter?

18 MS. GHILONI: Sure.

19 Q. (By Ms. Ghiloni) So to arrive at the
20 average wage for the jobs at the headquarters, you
21 took the total payroll of FE Corp. and divided it by
22 the number of employees, correct?

23 A. Yes.

24 Q. Just those employees residing in Ohio or
25 all employees of FE Corp.?

1 A. Just the employees and payroll in Ohio.

2 Q. Okay. And did your average wage
3 calculation include the salaries of executive
4 leadership team members?

5 A. If they were Shared Services employees in
6 Ohio, yes.

7 Q. Did your average wage calculation compare
8 the salaries of executive leadership team members at
9 it -- for Shared Services employees in Ohio for
10 FirstEnergy Corp. with other executives at other
11 utility holding companies?

12 A. I didn't look at salaries for individual
13 employees within Shared Services in Ohio.

14 Q. You didn't compare those with other
15 regulated utilities?

16 A. No, I did not have information on
17 salaries of individual employees.

18 Q. Can you turn to page 2 of your testimony,
19 please.

20 A. Yes.

21 Q. Line 7 -- I'm sorry -- yes, line 7
22 beginning with "Those Shared Service employees." You
23 obtained this information from legal, correct?

24 A. Yes.

25 Q. You have no independent knowledge of this

1 fact, correct?

2 A. Correct.

3 Q. And then the final sentence beginning on
4 line 9, page 2, line 9, beginning with "In the event
5 FirstEnergy Corp." you also obtained this information
6 from legal, correct?

7 A. Since the Shared Service employees are
8 the headquarters' employees, if the headquarters
9 moved, by definition, those employees would move. I
10 was able to reach that conclusion.

11 Q. But the basis for your knowledge is from
12 legal, correct? The basis for your conclusion, I
13 apologize.

14 A. In that the headquarters' employees are
15 Shared Services employees, yes.

16 Q. You have no independent knowledge of this
17 consequence, correct?

18 MR. ALEXANDER: Objection, asked and
19 answered, and I don't know what "this consequence"
20 means.

21 EXAMINER ADDISON: Sustained.

22 Q. (By Ms. Ghiloni) So you are assuming if
23 FirstEnergy Corp. moves its headquarters from Akron,
24 Ohio all of the Shared Service employees will
25 relocate out of the State of Ohio, correct?

1 A. All of the Shared Service employees
2 currently working in Ohio, yes.

3 Q. You are assuming that none of the
4 employees will decide to keep their families where
5 they currently reside and find alternate employments?

6 A. I apologize. I misunderstood your
7 question. If you are asking whether I assumed that
8 employees maybe took jobs with other companies as
9 opposed to relocate to go wherever their headquarters
10 moved to, it is not standard practice to look at
11 where employees would be rehired by other companies
12 when looking at the impacts of moving or closing a
13 facility.

14 MS. GHILONI: Can I have that answer
15 reread, please.

16 EXAMINER ADDISON: You may.

17 (Record read.)

18 MS. GHILONI: Your Honor, I move to
19 strike as nonresponsive, because I asked if she
20 assumed that none of the employees would decide to
21 keep their families where they currently reside and
22 find alternate employment, and she responded with
23 standard practice. I'm asking what her assumption
24 was in this analysis.

25 EXAMINER ADDISON: I think she was

1 providing clarification from her earlier answer, so
2 perhaps maybe you could just follow-up to the answer
3 she has provided.

4 MS. GHILONI: Certainly.

5 Q. (By Ms. Ghiloni) So in this statement,
6 beginning on line 9, you state "In the event
7 FirstEnergy Corp. moves its headquarters
8 the...employees would be relocated," correct? The
9 Shared Services employees would be relocated,
10 correct?

11 A. Yes, that's what it says.

12 Q. So by making that statement, you are
13 assuming that none of the employees will decide to
14 keep their families where they currently reside.

15 A. I need to clarify that their jobs would
16 move to the -- a different location. Whether that
17 individual person stayed in that job or whether they
18 chose to stay in Ohio, to me, are two different
19 questions. Perhaps I could ask for clarification.

20 Q. Thank you. That clarifies. I understand
21 where you were going now.

22 Your analysis assumes that FirstEnergy
23 Corp. retains current ownership of the company and
24 that there's no change in ownership; is that correct?

25 A. Yes. I did not look at a change in

1 ownership.

2 Q. Okay. And can you turn to Attachment A
3 of your testimony, please.

4 A. Yes.

5 Q. The table at the top of Attachment A.
6 You indicate there, the amount of -- the amount of
7 current 2015 regular employees, correct?

8 A. Yes.

9 Q. Do you know the amount of current
10 employees at FE Corp.?

11 A. As we sit here today, no. But I did
12 inquire, when I was working on the analysis, if this
13 number was similar to the current number of
14 employees, and I was told that, yes, it is.

15 Q. Are you aware of whether FirstEnergy
16 Corp. has taken any staffing reductions since that
17 time?

18 A. I would assume, no, since I was told that
19 this is similar to the number of current employees.

20 Q. Assume that if staffing reductions were
21 taken, and the total number of employees was reduced,
22 then the total economic impact would also be reduced;
23 is that correct?

24 A. Could I clarify that if the number of
25 staff were reduced, that also the gross payroll would

1 be reduced?

2 Q. Yes.

3 A. Under that assumption, yes, the economic
4 impact would be reduced.

5 Q. Thank you.

6 The first bullet point on Attachment A,
7 have you done an analysis of the impact of staff's
8 proposal on the six other Fortune 500 companies in
9 northeast Ohio?

10 A. No.

11 Q. Have you done an analysis on the impact
12 of staff's proposal on other manufacturers in the
13 State of Ohio?

14 A. No.

15 Q. And you would agree that staff's proposal
16 will result in an increased cost to customers,
17 correct?

18 A. Yes, but it's unclear what the impact of
19 that would be.

20 Q. But it will be an impact, you would
21 agree, correct?

22 A. I haven't done that analysis. I
23 understand that there would be an increased cost to
24 customers.

25 Q. Have you done an analysis on whether the

1 increase in costs to customers will impact their
2 ability to invest additional dollars in the State of
3 Ohio?

4 A. No, I have not done that analysis.

5 Q. Have you done an analysis on whether the
6 increase in costs to customers will impact their
7 ability -- customers' ability to expand their
8 companies in the State of Ohio?

9 A. No, I have not done that analysis.

10 Q. Have you done an analysis on whether the
11 increase in costs to customers will impact those
12 customers' ability to fund other community projects
13 in the State of Ohio?

14 A. No, I have not done that analysis.

15 Q. Have you done an analysis on whether the
16 increase in costs to customers will affect whether
17 new companies decide to locate in Ohio?

18 A. No, I have not done that analysis.

19 MS. GHILONI: Your Honor, if I could just
20 have a few moments?

21 EXAMINER ADDISON: Of course.

22 Let's go off the record.

23 (Discussion off the record.)

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

1 MS. GHILONI: I have no further
2 questions, your Honor.

3 EXAMINER ADDISON: Thank you, Ms. Walter.
4 Mr. Dougherty?

5 MR. DOUGHERTY: No questions.

6 EXAMINER ADDISON: Mr. Kurtz?

7 MR. KURTZ: Yeah. Thank you, your Honor.

8 - - -

9 CROSS-EXAMINATION

10 By Mr. Kurtz:

11 Q. Page 5 of your testimony, please line 3,
12 Ms. Murley, the output multiplier of 1.92.

13 A. Yes.

14 Q. So for every million dollars of
15 economic -- of goods and services created by
16 FirstEnergy, there is an additional 920,000 of
17 economic activity. Is that the essence of what the
18 multiplier is?

19 A. Yes, for output.

20 Q. And --

21 EXAMINER ADDISON: Mr. Kurtz, would you
22 mind turning on your mic. Thank you.

23 Q. And the 1.92 is specific to corporate
24 headquarters?

25 A. Yes, in Ohio.

1 Q. There would be different multipliers for
2 different industries. Auto steel would be different
3 then big box retailers, for example?

4 A. Yes.

5 Q. Okay. Now, if there is a \$1 million rate
6 increase, wouldn't that be a million dollars of goods
7 and services that could not be -- a million dollars
8 that could not be spent on other goods and services?

9 A. So you're referring to the impact on
10 customers' spending?

11 Q. Yes, of a rate increase in utility rates
12 of a million dollars, hypothetically.

13 A. I didn't analyze changes in customer
14 spending as a result of a change in utility rates.

15 Q. Well, I am not asking for a specific
16 number. But if utility rates go up by a million
17 dollars, that's a million dollars people don't have
18 to spend on something else, wouldn't you agree?

19 A. Yes, their spending would need to be
20 reallocated.

21 Q. Okay. Is there a negative output
22 multiplier associated with utility rate increases?

23 A. Multipliers are not negative. I would
24 typically use a cost/benefit analysis to evaluate the
25 impact of changes in utility rates.

1 Q. So under, whether it's a negative
2 multiplier or a cost/benefit, the impact to the
3 economy is greater than the \$1 million rate increase
4 because there is -- that money can't work its way
5 through the economy the same way you have on a
6 positive basis here; isn't that correct?

7 A. If I would address your question in the
8 context of economic impact analysis, you would look
9 at how much consumers spend in each sector, and how
10 that translates into jobs and personal income in
11 those sectors.

12 Q. My question is more basic. Isn't
13 there -- isn't there a multiplier effect going the
14 other direction from utility rate increases?

15 MR. SOULES: I am sorry. Could I have
16 that last question reread?

17 EXAMINER ADDISON: You may.

18 (Record read.)

19 A. So the customers are actually increasing
20 their spending on utilities. You are asking about
21 the impact of decreasing their spending on other
22 items?

23 Q. Yes.

24 A. So the way that economic impacts work, it
25 just translates whatever the amount of spending is on

1 those other items into jobs, income, and output in
2 those other sectors.

3 Q. So there would be a multiplier effect,
4 though; isn't that correct?

5 A. Yes. Those other sectors have suppliers
6 and those employees and those other sectors shop and
7 that would be the essence of the multiplier effect.

8 Q. Okay. That would be a negative
9 multiplier effect in terms of economic progress and
10 economic development?

11 A. Well, you're asking a question about
12 comparing the impact of spending at one point in time
13 in a nonutility sector, versus at some other point in
14 time in a nonutility sector?

15 Q. Let me ask you this, suppose the
16 Commission granted a \$10 billion dollar rate increase
17 and half the businesses went out -- went out of
18 business and people's homes went into foreclosure.
19 Isn't there a greater impact on the economy than the
20 \$10 billion rate increase?

21 MR. ALEXANDER: Objection.

22 Q. Isn't there a multiplier effect?

23 MR. ALEXANDER: Objection, assumes facts.
24 Incomplete hypothetical.

25 MR. KURTZ: It's a hypothetical.

1 EXAMINER ADDISON: It's a hypothetical,
2 she can answer, but I will allow her plenty of leeway
3 in her answer.

4 MR. ALEXANDER: Thank you, your Honor. I
5 think the question was also compound.

6 MR. KURTZ: I think she understood.

7 MR. ALEXANDER: Which one?

8 EXAMINER ADDISON: Any comments should be
9 direct towards the Bench.

10 MR. ALEXANDER: I'm sorry.

11 EXAMINER ADDISON: Ms. Murley, can you
12 answer that hypothetical as it's been posed to you?

13 THE WITNESS: Could you repeat the
14 question?

15 EXAMINER ADDISON: Absolutely.

16 Q. (By Mr. Kurtz) If this Commission or any
17 Commission issues a gigantic rate increase,
18 hypothetically, \$10 billion, isn't the effect on the
19 economy more than just the \$10 billion? Isn't there
20 a multiplier effect throughout the economy on the bad
21 side, just like there's a multiplier effect if this
22 was a rate reduction on the good side?

23 A. Economic impact analysis doesn't measure
24 good and bad that way. It just translates an amount
25 of expenditures into jobs and income and output. You

1 would really have to do a cost analysis or a
2 comparison of the impacts over time to be able to
3 make that kind of judgment.

4 Q. Okay. Can you turn to page 2 of your
5 attachment, Attachment 1. Are you there?

6 A. Yes.

7 Q. Okay. The "Applied Economics
8 Background," this is your company. What is
9 socioeconomic modeling?

10 A. Modeling of factors such as income and
11 employment. For example, we do enrollment
12 projections for school districts, looking at the
13 number of students by grade, by geography, and often
14 by race that may occur within a particular time
15 period, and I would classify that as socioeconomic
16 projections.

17 Q. Okay. Let's go to Table 4 -- Table --
18 Figure 1, page 4 of your testimony.

19 A. Yes.

20 Q. Where you summarize the economic benefits
21 of the jobs and so forth.

22 MR. ALEXANDER: And, your Honor, just one
23 point of clarification. Did you mean the attachment?

24 MR. KURTZ: No. Of the testimony,
25 page 4, Figure 1.

1 Q. The summary table in your testimony. Do
2 you have that?

3 A. Are you referring to Attachment SM-R-1?

4 Q. No, no. Your testimony, page 4,
5 Figure 1.

6 A. Yes.

7 Q. Okay. These are big numbers and big jobs
8 and so forth, but I want to try to get it into
9 perspective. Would it make a difference -- I guess
10 it doesn't make a difference in the analysis you've
11 done whether the corporate headquarters are located
12 in a small, depressed town, versus a large town that
13 it could absorb the job losses more, that didn't get
14 factored into your analysis?

15 A. Since I was looking at the impacts on the
16 whole State of Ohio, it wasn't specific to the
17 location being in Akron.

18 Q. In the real world, though, wouldn't it be
19 more of a hardship on the Akron economy to lose this
20 many jobs and this much money versus a large economy
21 like Columbus, for example?

22 MR. SOULES: Objection.

23 EXAMINER ADDISION: Grounds?

24 MR. SOULES: Friendly cross.

25 MR. KURTZ: This witness is -- we haven't

1 taken a position on staff's position. She's
2 testifying on the economic benefits of applying the
3 staff's recommendation. What I am cross-examining on
4 is whether this witness has overestimated or
5 underestimated those economic benefits.

6 The first line of questions tended to
7 show that maybe she was overestimating the benefits
8 because the rate increase wasn't factored, and a lot
9 of counsel asked that question.

10 Here, the line of questioning is whether
11 or not these numbers would be the same in a depressed
12 area like Akron, versus Columbus, and that would tend
13 to show that these benefits are understated.

14 But, in either event, it's not friendly.
15 It's informative, because we haven't taken a position
16 on staff's recommendation.

17 MR. SOULES: Your Honor, two points.

18 No. 1, Ms. Murley is not testifying in
19 support of the staff recommendation. She's
20 testifying in support of the companies' modification
21 of the staff proposal.

22 secondarily, I don't believe there is
23 evidence in the record as to whether Akron is
24 economically depressed, versus, or otherwise, you
25 know, so, you know, Mr. Kurtz has not submitted

1 testimony on Akron's economic condition, and so we
2 would object on those additional grounds.

3 MR. KURTZ: I'll rephrase.

4 EXAMINER ADDISON: Thank you, Mr. Kurtz.

5 Q. (By Mr. Kurtz) Aren't these economic
6 benefit numbers, Figure 1, page 4 of your testimony,
7 wouldn't they -- if a -- if a locality lost those
8 benefits and the locality was already economically
9 depressed, wouldn't that be a greater hardship than
10 if these economic losses were incurred in a big
11 metropolitan area that could absorb them, absorb the
12 losses better?

13 A. So if I understand your question
14 correctly, the magnitude of the impacts here allow
15 vendor purchases to be made anywhere in Ohio, for
16 example. So the amount of vendor purchases made in a
17 specific community would be assumably less than
18 state-wide; although, it would be a bigger percentage
19 of the total output in that community than it is of
20 the total output in Ohio. So, in that sense, the
21 impact would be felt more strongly in that community.

22 Q. So if FirstEnergy was located in Columbus
23 versus Akron, wouldn't the Columbus economy be able
24 to absorb these losses greater than the Akron
25 economy?

1 MR. SOULES: Objection, friendly cross.

2 EXAMINER ADDISON: Sustained.

3 Q. Does it make a difference where -- where
4 these -- let's look at these numbers. You've got
5 local employee spending, so that's a local -- that's
6 a local benefit, correct?

7 A. By "local" I really mean in Ohio;
8 although, most of their spending probably occurs
9 close to where they live.

10 Q. And utility headquarters' operation,
11 those are people who live -- who work at the
12 headquarters.

13 MR. MICHAEL: Your Honor, I am going to
14 object at this point in time. Ms. Murley has been
15 very clear. Her model is based on impacts of the
16 State of Ohio and, therefore, questions about, you
17 know, local impact are beyond the scope of what her
18 testimony was and, therefore, inappropriate.

19 MR. KURTZ: I think it's very clear that
20 the people who work at FirstEnergy, live in -- live
21 in the Akron vicinity. I doubt very much live in
22 Cincinnati and work in Akron. So that was the nature
23 of my question.

24 EXAMINER ADDISON: I'll provide a little
25 leeway.

1 Q. (By Mr. Kurtz) The utility headquarters'
2 operation, that's the payroll numbers, isn't that --
3 tend to be local around Akron?

4 A. All that payroll is paid to people at the
5 headquarters. The spending, if that's what you are
6 asking, is likely to be largely close to where they
7 live.

8 Q. Okay. If -- if the headquarters left
9 Akron for whatever reason, would there be an effect
10 on local property values?

11 MR. SOULES: Objection.

12 EXAMINER ADDISON: Grounds?

13 MR. SOULES: This is friendly cross.

14 EXAMINER ADDISON: Sustained.

15 Q. (By Mr. Kurtz) If the headquarters left
16 Akron for any reason, would there be an effect on
17 downtown office rents?

18 MR. SOULES: Objection.

19 EXAMINER ADDISON: Sustained.

20 Q. (By Mr. Kurtz) When you -- when -- I've
21 seen studies where plants close and so forth, and
22 there's higher incidents of high school dropout
23 rates, increased crime rates. Is that something
24 you're -- I know you didn't do it here, but does your
25 firm do that type of analysis?

1 MR. MICHAEL: Objection, relevance.

2 EXAMINER ADDISON: Mr. Kurtz?

3 MR. KURTZ: Well, I am inquiring as to --
4 as to the scope of her study. If there were other
5 impacts that I think maybe were left out.

6 MR. MICHAEL: Friendly cross.

7 MR. SOULES: Your Honor, I would join
8 that objection, and further note Mr. Kurtz's question
9 referred to "plants," not to headquarter operations.

10 EXAMINER ADDISON: Thank you. Objection
11 sustained.

12 Q. (By Mr. Kurtz) Let's assume that the
13 benefits on Figure 1, page 4, are exactly accurate,
14 you are exactly correct that these are the benefits.
15 From the State of Ohio's economic well-being
16 perspective or to maximize the value of the value to
17 the State of Ohio, if the Commission had to award a
18 rate increase to get these values, wouldn't the
19 smallest rate increase possible to get that value be
20 the optimal level of rate increase?

21 MR. SOULES: Your Honor, could I have
22 that question reread.

23 EXAMINER ADDISON: You may.

24 (Record read.)

25 MS. PETRUCCI: Objection. This witness

1 is not here to -- I'm sorry. This witness isn't here
2 to opine, and she indicated earlier she is not here
3 to opine on the calculation of the rate. She is not
4 here for a rate-level debate.

5 MR. ALEXANDER: I join in that objection,
6 your Honor.

7 MR. KURTZ: I can understand why the
8 company objects. I can't understand why they object,
9 but.

10 EXAMINER PRICE: At least this one is not
11 friendly.

12 MR. KURTZ: Yeah, right, it wasn't
13 intended to be. But I do think it's within the scope
14 of her testimony. She's testifying about these
15 benefits and economic development and so forth, and
16 the question is pretty simple.

17 MR. SOULES: Your Honor, I would further
18 object that it's compound.

19 EXAMINER ADDISON: Thank you. I am going
20 to allow the question.

21 You can answer if you hold an opinion.

22 MR. ALEXANDER: Your Honor, was there a
23 ruling on Mr. Soules's compound objection?

24 EXAMINER ADDISON: I am going to allow
25 the question. If she needs further clarification, we

1 can address it then.

2 MR. ALEXANDER: Thank you. Could we have
3 the question read?

4 EXAMINER ADDISON: Absolutely.

5 Thank you, Karen.

6 (Record read.)

7 A. The question is phrased in the context of
8 a cost/benefit analysis rather than an economic
9 impact analysis. And I didn't analyze -- I didn't do
10 a cost/benefit analysis of changes in rates which
11 goes beyond just the amount of the rate increase.

12 Q. From the State's perspective, to get
13 these values, wouldn't it be better to pay \$1 million
14 versus \$100 million?

15 MR. SOULES: I object, your Honor, to the
16 premise of the question, which suggests that a rate
17 increase would be necessary to get these values, so I
18 do believe it's friendly cross.

19 EXAMINER ADDISON: I'll allow the
20 question.

21 A. I'm sorry. Could you repeat the
22 question?

23 Q. From the State of Ohio's perspective, if
24 you assume a rate increase is necessary to achieve
25 these benefits, wouldn't a \$1 million rate increase

1 be preferential to \$100 million rate increase?

2 MR. ALEXANDER: Objection. On two
3 grounds. One, beyond the scope of the witness's
4 testimony. She has been very clear she didn't do a
5 quantification.

6 Two, asked and answered. The witness
7 just testified that would require a cost/benefit
8 analysis, which she didn't do. This is literally the
9 exact same question.

10 MR. KURTZ: It is, because she didn't
11 answer it. I think she can. It's pretty obvious
12 what the answer is.

13 EXAMINER ADDISON: I'll allow it.

14 A. I am sorry. Could you repeat the
15 question one more time?

16 Q. It's essentially down to this: If these
17 benefits can be achieved by a \$1 million rate
18 increases versus \$100 million rate increase, wouldn't
19 the \$1 million rate increase be better for the State?

20 A. Without having done a cost/benefit
21 analysis, I would assume customers would prefer a
22 lower rate increase.

23 Q. And, of course, the rub or the question
24 is, the Commission doesn't know what the right level
25 of rate increase to achieve these benefits would be.

1 MR. SOULES: Objection.

2 EXAMINER ADDISON: Sustained.

3 Q. Do you agree with that?

4 MR. SOULES: Objection.

5 EXAMINER ADDISON: The objection was
6 sustained, Mr. Kurtz.

7 Q. (By Mr. Kurtz) Have you ever advised,
8 worked for a Commission, Public Utilities Commission?

9 A. No.

10 MR. KURTZ: Those are all my questions.
11 Thank you, your Honor.

12 EXAMINER ADDISON: Thank you, Mr. Kurtz.
13 Mr. McNamee?

14 MR. McNAMEE: No questions, thank you.

15 EXAMINER ADDISON: Thank you.

16 Mr. Alexander, redirect?

17 MR. SOULES: Your Honor, before we shift
18 to redirect, there's one additional application of
19 your prior ruling with respect to the motion to
20 strike that I wanted to ask be applied.

21 And I am looking specifically at page 6,
22 lines 11 through 12, of Ms. Murley's testimony.
23 There's a sentence that states "This analysis is
24 conservative because it does not take into account
25 the 264 additional local employees," et cetera, et

1 cetera.

2 Virtually, that same statement was
3 stricken under your prior ruling, and we would
4 request that everything beginning with the word
5 "because" be stricken consistent with that ruling.

6 EXAMINER ADDISON: Did you have anything
7 to add to that, Mr. Alexander?

8 MR. ALEXANDER: Just a question, your
9 Honor, are you planning to entertain motions to
10 strike still?

11 EXAMINER ADDISON: Yes.

12 MR. ALEXANDER: All right. Then no.

13 EXAMINER ADDISON: We will be denying in
14 part and granting in part the motion to strike. We
15 will be granting to the extent it states an actual --
16 the actual number, "264." The remainder of the
17 sentence, the motion to strike will be denied.

18 MS. PETRUCCI: Just so I'm clear, the
19 number "264" is what is being stricken, and the rest
20 of the sentence remains?

21 EXAMINER ADDISON: Exactly, yes.

22 MR. SOULES: Thank you, your Honor.

23 EXAMINER ADDISON: Thank you.

24 Mr. Alexander, redirect?

25 MR. ALEXANDER: Could I have 5 minutes,

1 your Honor?

2 EXAMINER ADDISON: You may.

3 Let's go off the record

4 (Discussion off the record.)

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

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8 REDIRECT EXAMINATION

9 By Mr. Alexander:

10 Q. Ms. Murley, in response to, first,
11 Mr. Soules's, but then continuing through the
12 remaining cross-examination, you were asked about
13 the -- your analysis, whether you had compared the
14 results of your analysis to actual costs and actual
15 jobs created. Do you recall those questions?

16 A. Yes.

17 Q. And you've testified in response to, I
18 think it was Mr. Michael, that it was impossible to
19 do that. Do you recall that?

20 A. Yes.

21 Q. Why is it impossible for you to compare
22 the results of your analysis to actual results?

23 A. So in the case of the indirect or vendor
24 purchase impacts, it would require me to interview
25 each one of FirstEnergy's vendors to verify how much

1 they had spent with those vendors. And in the case
2 of the indirect impacts, also to talk to each one of
3 their employees about how much they spent.

4 So assuming that part is possible, from
5 there, I would have to also ask each vendor how many
6 people they employed and what percent of their
7 workforce was devoted to servicing FirstEnergy's
8 needs, and also who their suppliers were and what
9 portion of their suppliers they would attribute or
10 would their supply purchases they would attribute to
11 FirstEnergy's purchases.

12 And for the employees, I would not only
13 have to ask them how much they spent, but where they
14 spent it. And then I would need to talk to all of
15 those retailers and personal service providers and
16 ask them how many people they employed and what
17 percent of their workforce could be attributed to the
18 sales to FirstEnergy employees, and the same for the
19 employees of the supplier businesses. So it becomes
20 a fairly untenable task.

21 Q. Okay. And with regard to how you conduct
22 an economic impact analysis, and this is again in
23 response to questions from Mr. Michael, why does
24 economic impact analysis focus on the state where the
25 work is performed?

1 A. If I could use an example for
2 manufacturing, I think it would be easier to
3 understand. So let's say, for example, that there's
4 a company that produces a manufactured product in
5 Akron. And machine parts let's just say. And they
6 sell those machine parts to customers all over the
7 world, but they produce the parts in Akron. Their
8 vendor purchases, they have a certain share of vendor
9 purchases that are in Akron, their employees
10 primarily live in that area and re-spend their
11 payroll in that area. The economic impact is in the
12 location where the product is produced.

13 This is a service and so it's different
14 than a manufactured product, but the concept and the
15 foundation of how economic impact analysis is
16 performed is exactly the same.

17 MR. ALEXANDER: No further questions,
18 your Honor.

19 EXAMINER ADDISON: Thank you
20 Mr. Alexander.

21 Mr. Soules?

22 MR. SOULES: Thank you, your Honor.

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24 RE CROSS-EXAMINATION

25 By Mr. Soules:

1 Q. Just a couple of brief questions,
2 Ms. Murley. A moment ago you testified with -- in
3 response to a question from Mr. Alexander, about
4 actual costs and benefits versus estimated costs and
5 benefits. Do you recall that discussion?

6 A. I believe I was referring to economic
7 impacts, not costs and benefits.

8 Q. For your -- for the analysis that you
9 presented in your testimony, you did not look at any
10 actual costs, correct?

11 MR. ALEXANDER: Objection, asked and
12 answered.

13 MR. SOULES: Your Honor, the very first
14 question that Mr. Alexander posed to the witness
15 referenced actual costs.

16 MR. ALEXANDER: Your Honor, this has been
17 addressed in great detail by all these counsel,
18 including Mr. Soules.

19 EXAMINER ADDISON: I'll allow the
20 question.

21 Do you need that question reread?

22 THE WITNESS: Yes.

23 EXAMINER ADDISON: Please, Karen. Thank
24 you.

25 (Record read.)

1 A. Could I clarify what you are referring to
2 when you say "actual costs"?

3 Q. Actual costs associated with the rider
4 DMR. With that clarification, do you understand the
5 question?

6 A. No. I'm sorry, I don't.

7 Q. Your analysis did not consider or
8 attempt -- strike that.

9 Shifting gears, in your career as an
10 economist, have you ever taken the steps that you
11 described in response to Mr. Alexander's question
12 with regard to interviewing vendors or speaking to
13 employees about their spending activities?

14 A. No.

15 Q. You always just rely upon the IMPLAN
16 multipliers, correct?

17 A. I have had situations where companies
18 have given me information on their vendor purchases,
19 which is why I'm familiar with the inherent
20 difficulties in getting that information in the
21 correct format, regarding where invoices are sent
22 versus where products and services are produced, and
23 also distinguishing between manufactured purchases,
24 purchases from wholesalers and purchasers at retail,
25 which that distinction is very important in the

1 impact model.

2 MR. SOULES: No further questions, your
3 Honor.

4 EXAMINER ADDISON: Thank you, Mr. Soules.
5 Ms. Petrucci?

6 MS. PETRUCCI: No questions.

7 EXAMINER ADDISON: Thank you.
8 Mr. Michael?

9 MR. MICHAEL: No questions.

10 EXAMINER ADDISON: Thank you.
11 Mr. Stinson?

12 MR. STINSON: No questions, your Honor.

13 EXAMINER ADDISON: Mr. Dougherty?

14 MR. DOUGHERTY: No questions.

15 EXAMINER ADDISON: Mr. Pritchard?

16 MR. PRITCHARD: No questions, your Honor.

17 EXAMINER ADDISON: Ms. Walter?

18 MS. GHILONI: No questions, your Honor.

19 EXAMINER ADDISON: Mr. Kurtz?

20 MR. KURTZ: No questions.

21 EXAMINER ADDISON: Mr. McNamee?

22 MR. McNAMEE: No. Thank you.

23 EXAMINER ADDISON: I have no additional
24 questions. Ms. Murley, you are excused.

25 THE WITNESS: Thank you.

1 EXAMINER ADDISON: Thank you very much.

2 MR. ALEXANDER: Your Honor, at this time,
3 the companies would move the admission of Company
4 Exhibit 205, Ms. Murley's testimony.

5 EXAMINER ADDISON: Are there any
6 objections to the admission of Company Exhibit 205,
7 subject to the motions to strike?

8 Hearing none, it will be admitted.

9 (EXHIBIT ADMITTED INTO EVIDENCE.)

10 EXAMINER ADDISON: At this time, we will
11 adjourn for the day. We will reconvene on Monday
12 morning at 10:00 a.m. Thank you, all.

13 Let's go off the record.

14 (Thereupon, at 12:34 p.m., the hearing
15 was 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 Thursday, July 28,
5 2016, and carefully compared with my original
6 stenographic notes.

7
8
9 Karen Sue Gibson, Registered
Merit Reporter.

10
11 Carolyn M. Burke, Registered
12 Professional Reporter.

13 (KSG-6229)

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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 07/28/16 - Volume IX electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs.