

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. 16-0743-EL-POR
Approval of Their Energy :
Efficiency and Peak Demand :
Reduction Program Portfolio:
Plans for 2017 through 2019:

- - -

PROCEEDINGS

before Mr. Richard Bulgrin, Attorney Examiner, at the
Public Utilities Commission of Ohio, 180 East Broad
Street, Room 11-D, Columbus, Ohio, called at
10:00 a.m. on Monday, January 23, 2017.

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VOLUME I

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Monday Morning Session,

January 23, 2017.

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EXAMINER BULGRIN: This is the first day of hearing for Case No. 16-743-EL-POR, being the application of Ohio Edison, Cleveland Electric Illuminating, and Toledo Edison Companies for Approval of Their Energy Efficiency and Peak Demand Reduction Program Portfolio Plans from 2017 through 2019.

My name is Dick Bulgrin. I am the Attorney Examiner assigned to conduct this hearing.

And let's start with appearances. For the company.

MS. OSTROWSKI: Good morning, your Honor. On behalf of Ohio Edison Company, The Cleveland Illuminating Company, and the Toledo Edison Company, Erika Ostrowski, FirstEnergy Service Company, 76 South Main Street, Akron, Ohio 44308. With me today are my colleagues, Carrie Dunn with the same address; Kathy Kolich from the law firm of Kolich and Associates, 1521 Hightower Drive, Uniontown, Ohio 44685; and Michael Gladman from the law firm of Jones Day, 325 John H. McConnell Boulevard, Suite 600, Columbus, Ohio 43215. Thank you.

1 EXAMINER BULGRIN: Why don't we go
2 straight down the row here.

3 MR. HEALEY: Thank you, your Honor.
4 Christopher Healey representing the residential
5 customers of the FirstEnergy companies on behalf of
6 Bruce Weston, Ohio Consumers' Counsel, 10 West Broad
7 Street, Columbus, Ohio 43215. With me is outside
8 counsel to OCC, Dane Stinson of Bricker & Eckler.

9 EXAMINER BULGRIN: Thank you.

10 MR. PARRAM: Good morning, your Honor.
11 On behalf of the Ohio Hospital Association, Attorneys
12 Matthew Warnock, Dylan Borchers, and Devin Parram, on
13 behalf of the law firm of Bricker & Eckler, 100 South
14 Third Street, Columbus, Ohio 43215; and also Rick
15 Sites, of Counsel, on behalf of the Ohio Hospital
16 Association, 155 East Broad Street, Suite 301,
17 Columbus, Ohio 43215.

18 EXAMINER BULGRIN: Ms. Mooney.

19 MS. MOONEY: Colleen Mooney on behalf of
20 Ohio Partners for Affordable Energy, P.O. Box 12451,
21 Columbus, Ohio 43212.

22 MS. MESSENGER: On behalf of the staff of
23 the Public Utilities Commission of Ohio, Ohio
24 Attorney General Mike DeWine, by Assistant Attorneys
25 General Natalia Messenger and John Jones, 30 East

1 Broad Street, Columbus, Ohio 43215.

2 EXAMINER BULGRIN: Who's next?

3 MS. PAUL WHITFIELD: Angela Paul
4 Whitfield on behalf of the Kroger Company. I'm with
5 Carpenter, Lipps & Leland, 280 North High Street,
6 Suite 1300, Columbus, Ohio 43215.

7 MS. LEPPLA: Miranda Leppla on behalf of
8 the Ohio Environmental Council and the Environmental
9 Defense Fund, 1145 Chesapeake Avenue, Suite I,
10 Columbus, Ohio 43212.

11 EXAMINER BULGRIN: Thank you.

12 MR. OLIKER: Good morning, your Honor.
13 On behalf of Interstate Gas Supply, Inc., Joseph
14 Oliker, 6100 Emerald Parkway, Dublin, Ohio 43016.
15 Thank you.

16 EXAMINER BULGRIN: Thank you.

17 MR. PRITCHARD: On behalf of the
18 Industrial Energy Users of Ohio, I am Matt Pritchard
19 with the law firm McNees, Wallace & Nurick, 21 East
20 State Street, Columbus, Ohio 43215.

21 EXAMINER BULGRIN: Thank you.

22 MR. PERKO: On behalf of the Ohio
23 Manufacturers' Association Energy Group, James Perko,
24 Jr., and Kim W. Bojko, with the law firm Carpenter,
25 Lipps & Leland, 280 North High Street, Columbus, Ohio

1 43215.

2 EXAMINER BULGRIN: Is that everybody?

3 MS. WILLIAMS: Good morning, your Honor,
4 Samantha Williams, Natural Resources Defense Council,
5 20 North Wacker Drive, Suite 1600, Wacker is spelled
6 W-a-c-k-e-r, Chicago, Illinois 60606. I am also
7 making an appearance of Robert Dove of the Law
8 Offices of Robert Dove, P.O. Box 13442, Columbus,
9 Ohio 43213.

10 EXAMINER BULGRIN: Okay.

11 MS. FLEISHER: Good morning, your Honor.
12 Madeline Fleisher and Robert Kelter on behalf of the
13 Environmental Law and Policy Center, 21 West Broad
14 Street, Suite 500, Columbus, Ohio 43215.

15 EXAMINER BULGRIN: Thank you. Okay.
16 Does that do it? Very good. All right. Let's go
17 off the record for a minute and let anybody that
18 wants to escape, escape.

19 (Discussion off the record.)

20 EXAMINER BULGRIN: Ms. Ostrowski.

21 MS. OSTROWSKI: The witness on behalf is
22 going to be Denise J. Mullins.

23 EXAMINER BULGRIN: Okay.

24 MS. OSTROWSKI: Next will be George
25 Fitzpatrick, then Edward Miller, and finally Mr. Eren

1 Demiray.

2 EXAMINER BULGRIN: Okay. And there are
3 no preliminary matters to be addressed?

4 MR. STINSON: If I can inquire of other
5 witnesses; an order for other witnesses?

6 EXAMINER BULGRIN: I know the OCC has --
7 we are going to start tomorrow morning with
8 Mr. Spellman. And I assume staff will put theirs on
9 after that?

10 MR. JONES: After OCC, yes, your Honor.

11 EXAMINER BULGRIN: Okay. Good. All
12 right. Call your first witness.

13 MS. OSTROWSKI: The companies call
14 Ms. Denise J. Mullins.

15 (Witness sworn.)

16 EXAMINER BULGRIN: Please be seated.

17 MS. OSTROWSKI: Thank you, your Honor.

18 - - -

19 DENISE J. MULLINS

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

22 DIRECT EXAMINATION

23 By Ms. Ostrowski:

24 Q. Please state your full name for the
25 record and spell your last name.

1 A. Denise Jamison Mullins, M-u-l-l-i-n-s.

2 Q. Ms. Mullins, by whom are you employed and
3 in what capacity?

4 A. I'm employed by FirstEnergy and I work as
5 an analyst in the Retail Tariff Analysis and
6 Forecasting Department.

7 MS. OSTROWSKI: Your Honor, at this time
8 we would like to have marked an exhibit that was
9 filed in this case, the amended direct testimony of
10 Denise J. Mullins on behalf of Ohio Edison Company,
11 The Cleveland Electric Illuminating Company, and The
12 Toledo Edison Company, dated December 8, 2016. May
13 we approach the witness?

14 EXAMINER BULGRIN: Sure. And we are
15 going to mark this Company Exhibit?

16 MS. OSTROWSKI: 1.

17 EXAMINER BULGRIN: Okay. That's fine.

18 (EXHIBIT MARKED FOR IDENTIFICATION.)

19 Q. Do you have before you what has been
20 marked for identification Company Exhibit 1?

21 A. I do.

22 Q. Can you identify Company Exhibit 1,
23 please?

24 A. It is the amended direct testimony of
25 Denise J. Mullins.

1 Q. Ms. Mullins, do you have any changes or
2 corrections to your amended direct testimony that
3 need to be made for the record at this time?

4 A. I do have two changes that need to be
5 made to my direct testimony. My original filed
6 direct testimony. Those can be found on page 5,
7 lines 16 and 19. There is a citing reference. It
8 should read "4928.66(A)(2)" and then we need to
9 insert a "(a)" on both lines 16 and 19 on page 5. As
10 well as page 11, the same insert on line 9 and
11 line 12.

12 Q. Do you have any other changes?

13 A. My second change is on page 12, line 18,
14 please strike the word "ten" and change that to
15 "fourteen."

16 Q. Does that conclude the changes to your
17 testimony?

18 A. Yes, it does.

19 EXAMINER BULGRIN: Could you give me that
20 one, Karen, if you can just read that?

21 (Record read.)

22 Q. If I asked you the questions that appear
23 in Company Exhibit 1, with the amendments you've just
24 made, would your answers be the same?

25 A. Yes, they would.

1 Q. Was Company Exhibit 1 prepared by you or
2 under your direction and supervision?

3 A. Yes, it was.

4 Q. Is the information contained in Company
5 Exhibit 1 true and correct to the best of your
6 knowledge, information, and belief?

7 A. Yes, it is.

8 MS. OSTROWSKI: Your Honor, I move the
9 admission of Company Exhibit 1 subject to
10 cross-examination and any timely motions.

11 EXAMINER BULGRIN: All right.

12 MS. OSTROWSKI: Ms. Mullins is now
13 available for cross.

14 EXAMINER BULGRIN: Thank you.

15 Mr. Healey.

16 - - -

17 CROSS-EXAMINATION

18 By Mr. Healey:

19 Q. Good morning, Ms. Mullins.

20 A. Good morning.

21 Q. Do you have a copy of your initial direct
22 testimony in front of you?

23 A. Yes, I do.

24 Q. Can you please turn to page 3.

25 A. Yes.

1 Q. Starting at line 12, you state that the
2 purpose of your testimony is to describe the
3 companies' methodology for calculating their
4 respective baselines and associated benchmarks for
5 the energy efficiency requirements set forth in
6 section 4928.66 (A) (1) (a) of the Revised Code. Do
7 you happen to have a copy of 4928.66 in front of you?

8 A. I do not.

9 MR. HEALEY: Your Honor, may I approach
10 just to?

11 EXAMINER BULGRIN: Sure.

12 MR. HEALEY: Thank you.

13 Q. Ms. Mullins, I just handed you a copy of
14 Ohio Revised Code 4928.66. You are familiar with
15 this section of the Revised Code, correct?
16 Generally?

17 A. Correct.

18 Q. And we just discussed in your testimony
19 on page 3 that you refer to both baselines and
20 benchmarks. Can you look at 4928.66 (A) (2) (a). The
21 first sentence reads "The baseline for energy savings
22 under division (A) (1) (a) of this section shall be the
23 average of the total kilowatt-hours the electric
24 distribution utility sold in the preceding three
25 calender years." Can you confirm when you use the

1 word "baseline" on page 3, starting at line 12, this
2 is the baseline you are referring to?

3 A. Yes, that is correct.

4 Q. And I would like to move up to
5 4928.66(A)(1)(a) and a little ways down it says "The
6 annual savings requirements shall be, for years 2017,
7 '18, '19, and '20, one per cent of the baseline and
8 two per cent each year thereafter." Just to clarify
9 when you use the word "benchmark" in your testimony,
10 you're referring to this 1 percent annual savings
11 requirement under 4928.66(A)(1)(a), correct?

12 A. That is correct.

13 Q. Let's turn to page 4 of your initial
14 testimony, please. Starting at line 21, you mention
15 various adjustments that can be made to the baseline
16 and one of them you describe is customer opt-outs
17 permitted by Section 4928.6611 Revised Code or
18 Section 8 of the Substitute Senate Bill 310, correct?

19 A. That is correct.

20 Q. And then on page 5 of your testimony you
21 mention that the companies may reduce the value for
22 the distribution service sold by the usage for
23 customers who opts out, correct?

24 MS. OSTROWSKI: Do you have a line
25 reference, Counsel?

1 MR. HEALEY: Yes. One second. It starts
2 on line 16.

3 MS. OSTROWSKI: Thank you.

4 Q. Starting on line 16 of page 5 of your
5 initial testimony, you note that "the Companies may
6 reduce the values for the 'distribution service sold'
7 by the usage for customers opting-out of the
8 utility's portfolio plan," correct?

9 A. Yes, I state that.

10 Q. So let's say we have a customer who opts
11 out and that customer uses 500 megawatt-hours per
12 year. Those 500 megawatt-hours would be subtracted
13 from the baseline, correct?

14 A. They would be subtracted from the retail
15 sales.

16 Q. Okay. And how does retail sales differ
17 from the baseline?

18 A. If we could turn to my Exhibit DJM-1 in
19 my original testimony. Subtracting the opt-outs that
20 occurs in Column 2, right after retail sales. We
21 then make further adjustments including the weather
22 and special contract adjustments. And then we adjust
23 for the mercantile savings addbacks and the
24 additional EE beyond mercantile which gives us an
25 annual fully adjusted retail sales value. The

1 baseline is the average of the three preceding years.

2 Q. Got it. So to come back to my example of
3 a customer who opts out and uses 500 megawatt-hours,
4 that would reduce Column 7, fully adjusted retail
5 sales, by the same amount?

6 MS. OSTROWSKI: Objection. Asked and
7 answered.

8 EXAMINER BULGRIN: I'll allow it. You
9 can answer if you know.

10 A. Yes, it would.

11 Q. And then the benchmark, given that it's a
12 percentage of the baseline, would also be reduced as
13 a result of that customer opt-out, correct?

14 A. Yes, it would.

15 Q. And coming back to my example again of a
16 customer that use 500 megawatt-hours, if the
17 benchmark, which we already discussed is 1 percent
18 for 2017, '18, and '19, it would reduce the benchmark
19 by 5 megawatt-hours, correct?

20 MS. OSTROWSKI: Same objection.

21 EXAMINER BULGRIN: Overruled. You can
22 answer.

23 A. Assuming all other factors remain
24 constant, yes.

25 Q. Can you turn to page 6 of your initial

1 testimony, please. Starting at line 2, you start
2 "The Companies do not have a forecast of customers
3 who will opt-out as of or after January 1, 2017." Do
4 you see that on lines 2 to 4?

5 A. I do.

6 Q. When you say "The Companies do not have a
7 forecast," does that mean the companies did not
8 attempt to forecast opt-outs for 2017, '18, and '19?

9 A. As we stated in our testimony on page 5.
10 Any of the companies -- or any of the customers who
11 opted out of the 2015-'16 plan would be invalid, and
12 any customers would have to opt out as of January 1,
13 2017, and at the time we prepared this, we were not
14 aware of any opt-outs at that time.

15 Q. My question was, did the companies
16 attempt to forecast the number of opt-outs there
17 would be in 2017, 2018, or 2019?

18 A. No, we did not.

19 MS. OSTROWSKI: Objection. Asked and
20 answered.

21 EXAMINER BULGRIN: Overruled.

22 Q. You are not aware of any rule or law that
23 prohibits the companies from forecasting opt-outs,
24 are you?

25 A. No, I am not.

1 Q. Ms. Mullins, let's turn to your, I guess
2 it's amended testimony now, please. On page 2,
3 line 16, you state that you are incorporating by
4 reference various portions of your original testimony
5 and that includes Exhibit DJM-1, correct?

6 A. Correct.

7 Q. And then on page 3 of your amended
8 testimony, you state that Exhibit DJM-A2 is an
9 amended version of DJM-1, correct?

10 A. That is correct.

11 Q. I just want to make sure it's clear for
12 the record so DJM-A2 replaces in its entirety DJM-1,
13 correct?

14 A. Correct.

15 Q. And you prepared Exhibit DJM-A2 yourself?

16 A. I did.

17 Q. So you are familiar with all the
18 calculations underlying the numbers on DJM-2,
19 correct?

20 A. I am.

21 Q. Let's turn to that exhibit now, please,
22 Exhibit DJM-A2 to your amended testimony. This is
23 obvious, but just can you confirm that "CEI" refers
24 to Cleveland Electric Illuminating, "OE" refers to
25 Ohio Edison, and "TE" refers to Toledo Edison?

1 A. That is correct.

2 Q. Thank you.

3 I would like to walk through how the
4 numbers in the baseline column, Column No. 8, are
5 calculated. Let's look at Cleveland Electric just as
6 an example. I see that the baseline for Cleveland
7 Electric for 2017 is 18,845 gigawatts hours, correct?

8 A. Correct.

9 Q. And that number is calculated by taking
10 the average of the fully adjusted retail sales
11 numbers in Column 7 for the preceding 3 years,
12 correct?

13 A. That is correct.

14 Q. So for the 18,845 for 2017, that's the
15 average of the 2014, '15, and '16 numbers in Column 7
16 for Cleveland Electric, correct?

17 A. That is correct.

18 Q. And then the process is the same for the
19 rest of the numbers for Cleveland Electric, Ohio
20 Edison and Toledo Edison, correct?

21 A. That is correct.

22 Q. And going down to the bottom of this --
23 or near the bottom of the exhibit, you have a section
24 called "Total Ohio." I take it that the numbers in
25 the "Total Ohio" column are just the sums of the

1 respective numbers from CEI, OE, and TE, correct?

2 A. That is correct.

3 Q. Now, looking at the benchmark column,
4 Column No. 10, let's do Cleveland Electric for 2017
5 again. I see 980 gigawatt-hours as the benchmark for
6 2017 for Cleveland Electric, correct?

7 A. Correct.

8 Q. And that number is derived by multiplying
9 the baseline of 18,845 by 5.2 percent, the cumulative
10 benchmark in Column 9, correct?

11 A. That's correct.

12 Q. And the same process for the remaining
13 numbers for Cleveland Electric and all the numbers
14 for Ohio Edison, Toledo Edison, and Total Ohio,
15 correct?

16 A. That is correct.

17 Q. Now, these benchmarks in Column 10, those
18 are the cumulative benchmarks under the Ohio Revised
19 Code, correct?

20 A. That is correct.

21 Q. So earlier today we -- we don't have to
22 say "earlier today" when it was like 4 minutes ago.
23 Earlier we discussed the annual benchmarks of the
24 1 percent, correct?

25 A. Correct.

1 Q. And I just want to understand, to use
2 Exhibit DJM-2 to calculate the annual benchmarks, we
3 would take the baseline numbers in Column 8 and
4 multiply those by 1 percent, correct?

5 A. Could you please restate that question?

6 Q. Sure.

7 A. Thank you.

8 Q. To calculate the 1 percent annual
9 benchmarks under Ohio Revised Code 4928.66, you would
10 multiply the numbers in Column 8, marked "Baseline,"
11 by 1 percent, correct?

12 A. That is correct. However, we are
13 calculating a cumulative benchmark here.

14 Q. Understood. So this exhibit is
15 calculating the cumulative benchmarks, but you could
16 use the data from Column 8 to calculate the annual
17 benchmarks, correct?

18 A. Yes, that is correct.

19 Q. And we would do that the way I just
20 described, by multiplying by 1 percent.

21 A. That is correct.

22 Q. And so looking down at the Total Ohio,
23 Column 8, for example, in 2017, we see 53,523
24 gigawatt-hour baseline. If you multiply that by 1
25 percent, you get 535.23 gigawatt-hours and that would

1 be the 1 percent benchmark for the combined companies
2 for 2017, correct?

3 A. That would be 1 percent of the baseline,
4 correct.

5 Q. And the same process for 2018 and 2019
6 for Total Ohio?

7 A. That would be the same calculation.

8 Q. And this Exhibit DJM-A2 assumes, as we
9 discussed before, that there will be no opt-outs,
10 correct?

11 A. That is correct.

12 Q. So when there are opt-outs, if there are
13 any, the baselines in this sheet would be adjusted
14 downward to account for the opt-outs, correct?

15 A. Holding all other items constant,
16 correct.

17 Q. And holding all else constant, the
18 benchmarks would also be reduced in the same way we
19 discussed before, correct?

20 A. Correct.

21 MR. HEALEY: That's all I have, your
22 Honor.

23 MR. PARRAM: No questions, your Honor.

24 MS. MOONEY: No questions, your Honor.

25 MS. MESSENGER: The staff has no

1 questions.

2 MS. OSTROWSKI: Can we take a minute?

3 EXAMINER BULGRIN: Sure.

4 MS. KOLICH: Your Honor, we need to
5 clarify something with the witness to make sure the
6 record is clear.

7 EXAMINER BULGRIN: Okay.

8 MS. OSTROWSKI: Just one clarifying
9 question, your Honor.

10 EXAMINER BULGRIN: Okay.

11 - - -

12 REDIRECT EXAMINATION

13 By Ms. Ostrowski:

14 Q. Ms. Mullins, do you recall the
15 hypothetical about the 500 megawatt-hour reduction of
16 the baseline based on opt-outs that Mr. Healey asked
17 of you?

18 A. Yes, I do.

19 Q. So if you were to reduce the baseline by
20 500 megawatt-hours based on opt-outs, what would the
21 impact be on the benchmarks?

22 A. If it is 500 megawatt-hours, it would
23 reduce the benchmark as shown in my Exhibit DJM-A2
24 by .5. If it was 500 gigawatt-hours, it would
25 subtract -- reduce the benchmark by 5.

1 MS. OSTROWSKI: Thank you.

2 EXAMINER BULGRIN: Any objection to the
3 admission of Company Exhibit 1?

4 It will be so admitted.

5 (EXHIBIT ADMITTED INTO EVIDENCE.)

6 EXAMINER BULGRIN: Thank you. You may
7 step down. Let's go off the record here.

8 (Discussion off the record.)

9 MS. OSTROWSKI: The companies call
10 Mr. George Fitzpatrick.

11 (Witness sworn.)

12 EXAMINER BULGRIN: Please be seated.

13 - - -

14 GEORGE L. FITZPATRICK

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

17 DIRECT EXAMINATION

18 By Ms. Kolich:

19 Q. Good morning, Mr. Fitzpatrick.

20 A. Good morning.

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

23 A. George L. Fitzpatrick, 551 North Country
24 Road, Suite 201, Saint James, New York 11780.

25 MS. KOLICH: Your Honor, at this time I

1 would like to have marked as Company Exhibit 2 for
2 identification, the amended direct testimony of
3 George L. Fitzpatrick on behalf of The Ohio Edison
4 Company, The Cleveland Electric Illuminating Company,
5 and Toledo Edison Company, marked.

6 EXAMINER BULGRIN: Okay. It will be so
7 marked.

8 (EXHIBIT MARKED FOR IDENTIFICATION.)

9 Q. Mr. Fitzpatrick, do you have a copy of
10 your amended -- may we approach the witness?

11 EXAMINER BULGRIN: Sure.

12 Q. Mr. Fitzpatrick, do you have a copy of
13 your amended direct testimony which has been marked
14 as Company Exhibit 2 for identification?

15 A. Yes, I do.

16 Q. And do you have -- was this testimony
17 prepared by you or under your direct supervision?

18 A. Yes.

19 Q. Do you have any changes to the amended
20 direct testimony?

21 A. No.

22 Q. Now, attached to your amended direct
23 testimony is GLF-1 which is the direct testimony of
24 George L. Fitzpatrick on behalf of the companies. Do
25 you have any changes to that exhibit?

1 A. No, I do not.

2 Q. Okay. So if I asked you the same
3 questions as set forth in your amended direct
4 testimony or in the exhibit attached thereto, would
5 your answers be the same today?

6 A. Yes.

7 MS. KOLICH: Your Honor, the witness is
8 available for cross.

9 EXAMINER BULGRIN: All right.

10 MR. STINSON: Can we go off the record
11 for a minute?

12 EXAMINER BULGRIN: Sure. Let's go off
13 the record.

14 (Discussion off the record.)

15 EXAMINER BULGRIN: Ms. Kolich.

16 MS. KOLICH: Thank you.

17 Q. Mr. Fitzpatrick, do you have other
18 corrections?

19 A. I do, to the Market Potential Study which
20 was developed under my direction and control. I
21 refer to it in my amended and my original testimony.

22 Q. What's your first correction?

23 A. Okay. In order to make the peak tables
24 consistent with Table 1-3 on page 12, on page 15
25 under the heading of "State Peak Reduction Mandate

1 Percentage," I would strike out the percentages, the
2 7.75 percentage from 2021 through 2027. And
3 similarly on page 18, Table 1-9, I would strike out
4 the State -- "State Peak Reduction Mandate" of 7.75
5 starting in 2021 through 2027.

6 Q. Do you have other corrections?

7 A. I do. On page 32, it's the paragraph --
8 third paragraph on the page entitled "Customer
9 Characteristics, Behavior and Intentions." The third
10 line it says -- at the end of that line it says
11 "...another 100 commercial telephone surveys." That
12 number should be "200 commercial telephone surveys
13 per Company...."

14 And on page 39, on 4.3, third line down,
15 I would strike out the words "Internet and" and then
16 I would leave -- I would leave the word "email" and I
17 would add the words "and telephone survey responses."

18 Q. Are there any other corrections?

19 A. Yes. On page 56, under 6.0, the title
20 "Residential Mail Survey Results," I would change
21 that to be "Email and Telephone Survey Results."

22 And then I would go to page 99. In
23 Section 8.5, fourth line down it says right now "mail
24 and telephone surveys." I would change that to be
25 "email and telephone surveys." And at the end of

1 that line it says "mail and telephone" -- it says
2 "mail survey data." It should say based on "email
3 and telephone survey data."

4 And finally on page 100, under Section
5 8.7, third line down, the middle of the page, "The
6 residential survey was conducted by email and
7 telephone" instead of "mail."

8 Q. Mr. Fitzpatrick, could you turn back to
9 page 39.

10 A. Sure.

11 Q. The Market Potential Study.

12 A. I'm there.

13 Q. On -- I'm sorry, page 32.

14 A. 32. Yes.

15 Q. Where you made your correction to change
16 the 100 to 200.

17 A. Yes.

18 Q. There is a reference up above that to
19 "Completed residential internet."

20 A. Yes. I am sorry I missed that. I would
21 change "internet" to "email."

22 Q. Okay.

23 A. Sorry about that.

24 Q. Are there any other changes?

25 A. No.

1 Q. Okay. So if -- since you incorporate the
2 Market Potential Study into your testimony, if I
3 asked you the questions set forth in your amended
4 direct testimony today, with those changes, would
5 your answers be the same?

6 A. They would.

7 MS. KOLICH: Now the witness is ready for
8 cross.

9 EXAMINER BULGRIN: Thank you.

10 Mr. Healey.

11 Mr. Stinson.

12 MR. STINSON: Thank you, your Honor.
13 Just for clarification, is the Market Potential Study
14 going to be a part of Exhibit No. 2 or a separate
15 exhibit or how are we handling that?

16 MS. KOLICH: It was attached to the
17 application and it's Exhibit D in the original plan.

18 MR. STINSON: I guess my inquiry is
19 whether your Honor wants the application marked as an
20 exhibit.

21 EXAMINER BULGRIN: Ms. Kolich.

22 MS. KOLICH: Your Honor, rather than get
23 confused what's in the record and what's out from the
24 original filing, we'll have it identified and mark it
25 as its own exhibit for purposes of hearing, if that's

1 okay.

2 EXAMINER BULGRIN: Sure. Let's go off
3 the record.

4 (Discussion off the record.)

5 EXAMINER BULGRIN: Let's go back on the
6 record.

7 Q. Mr. Fitzpatrick, do you have a copy of
8 the Market Potential Study that Harbourfront prepared
9 on behalf of the companies?

10 A. I have a copy, but it has my own notes on
11 it, so.

12 Q. Okay. Hang on.

13 MS. KOLICH: Your Honor, I have a
14 document, FirstEnergy Ohio Operating Companies Market
15 Potential Study, dated April 2016. It's a multi-page
16 document with a number of exhibits. I would like
17 that to be marked Company Exhibit 3 for
18 identification.

19 EXAMINER BULGRIN: Okay. It will be so
20 marked.

21 (EXHIBIT MARKED FOR IDENTIFICATION.)

22 MS. KOLICH: Mr. Fitzpatrick -- may I
23 approach?

24 EXAMINER BULGRIN: Sure.

25 Q. Mr. Fitzpatrick, I am handing you a copy

1 of what's been marked as Company Exhibit 3 for
2 identification. Do you recognize that document?

3 A. I do, yes.

4 Q. And what is that document?

5 A. It's the April 2016 Market Potential
6 Study for the FirstEnergy Ohio companies.

7 Q. And does this document support the
8 revised plan that's before the Commission in this
9 case?

10 A. Yes.

11 MS. KOLICH: Okay. Your Honor, I would
12 move that Company Exhibit 3 for identification be
13 admitted.

14 EXAMINER BULGRIN: Any objection?

15 MR. STINSON: Pending cross, I suppose,
16 your Honor.

17 EXAMINER BULGRIN: Okay.

18 MR. KELTER: Yeah, can you speak up,
19 please, Dane?

20 MR. STINSON: Yes, I'll try. We don't
21 have microphones in this room.

22 EXAMINER BULGRIN: No, we don't.

23 Mr. Stinson.

24 MR. STINSON: Thank you, your Honor.

25 - - -

CROSS-EXAMINATION

By Mr. Stinson:

Q. Good morning, Mr. Fitzpatrick.

A. Good morning.

Q. Just a few questions for you here today.

My name is Dane Stinson. I'm representing the Office of Consumers' Counsel here, the residential customers of the state. And I do want to ask you some questions about the Market Potential Study. The cover of the study has the date April 2016. Is that the month in which the study was conducted and prepared?

A. No.

Q. What is it? What does that date signify?

A. It's the date at which the final report was edited and finished. We started the study in December of 2015. We looked at the savings estimates and the cost estimates in the December time frame. We then prepared surveys in December and then we got the surveys back which gives us information on participation in the base case and the light case. We got them back at the end of February. I got some data earlier than that, but we were finished with the study the middle of March.

Q. Do you know what date in December that

1 you began the study?

2 A. I can tell you I began -- I began doing
3 the work around November 16th, because I received --
4 I received a phone call in the end of October from
5 counsel, FirstEnergy Counsel, and a letter on I think
6 November 5th or 6th indicating they were going to
7 retain us to do this work. And then once I heard
8 that and given I know the time frame of what we had
9 to do, we started doing the -- some of the metrics
10 for quantities in terms of costs and savings. We
11 started that right away.

12 The only thing we couldn't start right
13 away was participation because we had to get that
14 from our surveys. So we had to modify our surveys,
15 send those to FirstEnergy, the design team for their
16 look and their help and their input. And those
17 surveys went out back to our -- our contractor that
18 does surveys for us in January. And we decided at
19 that point we would do a combination of telephone
20 like -- for residential, 200 property company, and
21 then internet surveys or e-mail surveys where we have
22 e-mail lists, and we did that and we turned that data
23 around in the final form in like the 26th of
24 February. I know the date because we were under a
25 time frame to get that done.

1 Q. Thank you, Mr. Fitzpatrick. Now, just
2 for some background for the -- for the next few
3 questions. Just to confirm that the Market Potential
4 Study assesses three areas, correct? Technical
5 potential, economic potential, and achievable
6 potential; is that correct?

7 A. That's correct.

8 Q. Now, I want to focus some on the economic
9 potential. Is it correct that the purpose of the
10 economic potential assessment is to determine cost
11 effectiveness?

12 A. Yes, it is.

13 Q. And in determining cost effectiveness,
14 you have used the total resource cost test, correct?

15 A. We actually present three tests in the
16 report and -- but in Ohio they rely on the total
17 resource cost test. We look at the total resource
18 cost test and we look at utility cost test as well.

19 And we also look at -- I mean I know -- I
20 think I understand some of these questions in that
21 there were certain things of an educational nature
22 that we included in these programs because the whole
23 idea of these energy efficiency programs is not only
24 to capture kilowatt-hours and kilowatt savings, but
25 also to move the market towards the next level of

1 energy efficiency, and you can't really do that
2 without having the informational programs as well.

3 Q. And is it correct that the total resource
4 cost test is applied to energy efficient measures,
5 programs, and portfolio?

6 A. It's applied to -- it's applied to energy
7 efficiency measures and programs. And we look at
8 also an overall portfolio basis. Our -- our metric
9 is to make sure that the -- at the end of the day
10 that the overall portfolio that we present in the
11 economic and certainly the achievable potential
12 passes the TRC test in toto.

13 Q. Thank you.

14 And, generally, a TRC score of less than
15 1 signifies that the measure, program, or portfolio
16 is not cost effective?

17 A. A TRC less than 1 would indicate that
18 it's not cost effective from the TRC perspective.
19 Not necessarily from the utility cost test
20 perspective, for example, or the participants.

21 Q. Thank you. My question goes to the TRC.

22 A. Sure.

23 Q. And a score of greater than 1 means that
24 a measure, program, or portfolio is not cost
25 effective, correct?

1 A. Can you repeat that?

2 Q. And a score of greater than 1 means that
3 a measure, program, or portfolio is cost effective?

4 A. It means it is cost effective in the
5 context in which it's designed, yes.

6 Q. I want to direct your attention to, I
7 believe your amended testimony at page 5. I'm sorry,
8 it's the original, I'm sorry.

9 A. My amended has three pages so. It must
10 be.

11 MS. KOLICH: Dane, I'm sorry, where are
12 you?

13 MR. STINSON: I'm on page 5 of the
14 original.

15 A. Yes, I am there.

16 Q. And there you state that "Generally,
17 Economic Potential reviews the Technical Potential
18 and screens it to identify and select only those
19 measures that pass the cost-effectiveness test,"
20 correct?

21 MS. KOLICH: Could I have a line number,
22 please?

23 MR. STINSON: I'm sorry. Line 19 and 20.

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

25 Q. And does the economic potential review,

1 as well, and select those measures and programs that
2 pass the cost effectiveness test?

3 A. I'm sorry. I apologize.

4 Q. In other words, this talks about
5 measures. I am just asking whether the economic
6 potential screens for programs that pass the
7 cost-effectiveness test?

8 A. Yeah. We basically in the Market
9 Potential Study look more at -- at measures. We do
10 roll-up to programs, but we look more at measures
11 because we are really interested in the packages of
12 measures that we put together for different sectors,
13 be they rebates, be they information programs, be
14 they educational programs and things of that nature.

15 Q. Now, we've mentioned measures, programs,
16 and a portfolio. I want to direct your attention to
17 the Market Potential Study. I will just refer to
18 that as "the study." And on page 89.

19 A. 89, I'm there.

20 Q. And am I correct those are the
21 residential programs which you screen for cost
22 effectiveness? I'm sorry. Let me restate that.
23 Those are the measures that you -- the residential
24 measures you screened for cost effectiveness.

25 A. Yeah. 31 of them, yes.

1 Q. And of those 31, 19 were considered
2 economic?

3 A. That's true.

4 Q. And as to programs, I would like to
5 direct your attention to pages 106 to 108.

6 A. I'm there.

7 Q. Are those the programs to which you
8 applied the TRC test for residential customers?

9 A. No. It says "Sub Program Name" but we
10 did apply the TRC to those elements on those tables,
11 yes.

12 Q. And just for background, page 106 is for
13 Ohio Edison, page 107 is for CEI, and page 108 is for
14 Toledo Edison, correct?

15 A. That's correct.

16 Q. Now, Column 4 of each of those pages is
17 captioned "Today's Value TRC Test." What is meant by
18 "Today's"?

19 A. It's basically when you look at the
20 present value of the TRC over the period we looked at
21 from 2017 through 2031. That's the TRC test that we
22 see, given all the escalations and other issues that
23 we account for in doing this type of a test on a
24 15-year basis.

25 Q. So "today" would be mean 2016?

1 A. It would mean when it was done, yes. It
2 would be as of today, the present value of the
3 streams of costs and benefits over the 2017 through
4 '31 time frame.

5 Q. Column 2, "RES" stands for residential,
6 correct?

7 A. Yes, it does. And "LI" stands for low
8 income.

9 Q. Okay. Thank you.

10 And for each of those residential
11 programs that have a TRC value of less than 1, those
12 would be considered not cost effective; is that
13 correct?

14 A. They would not be cost effective in and
15 of themselves, but they add tremendous value to an
16 overall portfolio. And if you look -- if you go back
17 and look at the overall portfolio for Ohio Edison,
18 for example, the Ohio Edison TRC for the package and
19 portfolio of measures that we have in the Market
20 Potential Study has a TRC of 1.69.

21 MR. STINSON: Your Honor, I would move to
22 strike everything beginning with "in and of
23 themselves" as not responsive to the question.

24 EXAMINER BULGRIN: Denied. Can you
25 explain your answer? Where are you getting that

1 number?

2 THE WITNESS: If we go to page 105, what
3 we do, your Honor, is we -- in the Market Potential
4 Study we design or we pick a set of measures and
5 programs that are -- that are current best practice.
6 Along with the ones that give rebates to get energy
7 savings and things of that nature. We also pick
8 those measures and those programs that educate
9 consumers. The most important thing to do with these
10 programs is to move the market toward the next level
11 of energy efficiency. Therefore, you need some of
12 these programs even though they don't pass the TRC
13 test.

14 EXAMINER BULGRIN: Thank you.

15 Q. (By Mr. Stinson) Just a few other
16 questions, Mr. Fitzpatrick. On what pages of the
17 Market Potential Study did you assess the energy
18 efficient homes programs?

19 A. I'm not sure I have a specific page that
20 we did that. I think that was done in our analysis,
21 in our models which were provided I believe to the
22 parties.

23 Q. Sorry.

24 A. No. They were provided to the parties, I
25 believe. I don't have anything in here where I --

1 where I actually show that.

2 Q. Do you have any reference in the Market
3 Potential Study that assesses energy efficient
4 production programs?

5 A. I'm sorry. There is a lot of things
6 here. I can look at it if you want to give me 10
7 minutes to look, but I can't recall off the top of my
8 head if it's in this big report.

9 Q. Yeah, I'll give you the time if you need
10 to look at it.

11 A. Okay. What was that again you want to
12 see?

13 Q. The energy efficient production program
14 and also the residential demand response program,
15 that would be the next question.

16 MS. KOLICH: Did you say energy efficient
17 production program?

18 MR. STINSON: Right.

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

21 (Discussion off the record.)

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

24 Dane, why don't you rephrase the question
25 and ask it again.

1 Q. (By Mr. Stinson) Again, Mr. Fitzpatrick,
2 my questions are -- there is three here. I am
3 looking for references in your Market Potential Study
4 that assesses the energy efficient homes program, the
5 energy efficient products program, and the
6 residential demand response program.

7 A. Did you say direct demand response
8 program? Is that one you mentioned?

9 Q. I said residential demand response
10 program.

11 A. We have a direct residential direct load
12 control program.

13 Q. Well, my question is a specific program
14 captioned "residential demand response program."

15 A. I don't see that. I see direct load
16 control. Residential direct load control. What was
17 the next one, sir?

18 Q. Energy -- let me get this right. Energy
19 efficient products program.

20 A. Well, the energy efficient products
21 program, there are elements of that that we look at.
22 For example, we would look at lighting. We would
23 look at consumer electronics. We look at appliance
24 turn in. We look at smart thermostat. We look at
25 appliance rebates, those kinds of things. So we look

1 at components of that in our list of measures.

2 Q. Again, my question is, is there any
3 reference in your testimony -- any assessment in your
4 testimony of that program itself?

5 A. I don't believe so, no. It's measures we
6 look at.

7 Q. And the final is the residential -- you
8 mentioned the residential. Strike that.

9 The final is the energy efficient homes
10 program.

11 A. We have -- we have a new homes program,
12 and we have a low-income new homes program. And we
13 have audits -- audits and education program which are
14 components of that.

15 Q. Again, my question is a reference in your
16 testimony to the energy efficient homes programs.

17 A. Where do you find that in my testimony?

18 Q. I don't find it. I am just confirming
19 that it's not there.

20 A. Right. It's not there. We looked -- we
21 looked at many of the elements of that, but we don't
22 build it into a program as the designers do.

23 MR. STINSON: Nothing further, your
24 Honor.

25 MR. PARRAM: No questions, your Honor.

1 EXAMINER BULGRIN: Anyone else?

2 We have -- any objections to the
3 admission of Exhibits -- Company Exhibits 2 or 3?

4 MS. KOLICH: Your Honor, do we have an
5 opportunity to redirect?

6 EXAMINER BULGRIN: Oh, I'm sorry. Yes.

7 MS. KOLICH: Could we take a break?

8 EXAMINER BULGRIN: Sure. How about 5
9 minutes?

10 (Discussion off the record.)

11 EXAMINER BULGRIN: Back on the record.
12 Ms. Kolich.

13 MS. KOLICH: Thank you, your Honor.

14 - - -

15 REDIRECT EXAMINATION

16 By Ms. Kolich:

17 Q. Mr. Fitzpatrick, Mr. Stinson asked you
18 some questions about the TRC test, and I believe you
19 indicated that the TRC test is used in Ohio. In what
20 context were you referring to the TRC test?

21 A. What I do, the TRC -- the TRC is a test.
22 We screen programs with the total resource cost test,
23 and that's what we use to screen our programs. But
24 we also present, like I said, other tests, the
25 utility cost test, as well, in the Market Potential

1 Study.

2 Q. Right, but you are -- you are not
3 conceding that the TRC test is used for every aspect
4 of the Market Potential Study, are you?

5 A. Oh, no, certainly not. I think the TRC
6 is a good test to use when you are looking at -- at
7 measures of programs that provide rebates to
8 customers and things of that nature.

9 But like I said before, I think during my
10 cross-examination, there are other programs that need
11 to be part of a Market Potential Study that would not
12 necessarily pass the TRC, like educational programs,
13 like new technology programs, like inserting new
14 technologies. I think we found LEDs, when they were
15 originally used in 2009, I remember buying LEDs and
16 they were super expensive and you have -- you could
17 not have a cost-effective program back then to
18 incentivize LEDs because they would be so expensive.
19 So you need to incentivize new technologies.

20 Q. Okay. Now, would you expect the TRC
21 values that you used for purposes of the Market
22 Potential Study to be identical to the TRC values
23 that would be reflected in the revised plans before
24 the Commission?

25 MR. STINSON: I am going to object, your

1 Honor. Outside the scope of cross.

2 EXAMINER BULGRIN: Okay. Sustained.

3 MS. KOLICH: Oh, I don't get to respond?

4 EXAMINER BULGRIN: No. I was waiting for
5 your response.

6 MS. KOLICH: Oh. Your Honor, he has
7 asked all kinds of questions about the TRC values and
8 how low they are or the low ones. And in the context
9 of the plan it is relevant as to why they are
10 different, why they could be different, or if they
11 are different.

12 EXAMINER BULGRIN: Okay. I will allow
13 it. Anything further?

14 THE WITNESS: Can I answer?

15 MS. KOLICH: Could I have the question
16 reread, please.

17 (Record read.)

18 A. No, I would not. As I stated during my
19 cross-examination, we have a 15-year present value
20 look. And so we have a present value of the TRC over
21 a 15-year period where you have escalations in costs.
22 While the savings may stay the same, your costs will
23 go up, for example, administration costs, perhaps
24 rebate costs, whatever.

25 I think when I look at what Mr. Miller

1 does, he does a three-year plan, a three-year look.
2 And the three-year look is much more granular than a
3 15-year higher-level look.

4 Furthermore, I think the revised plans,
5 if I recall, there were a few of those measures,
6 three or four of those programs actually changed, the
7 TRCs change because he has better data now and he is
8 constantly having better data; where I had data as of
9 December or January of 2015-'16.

10 Q. Okay. And just to clear the record up,
11 Mr. Stinson questioned you about if you are on
12 page 106 of the Market Potential Study. The column
13 that talks about today's value.

14 A. Yes.

15 Q. What time frame were those numbers
16 calculated?

17 A. It was a present value analysis that was
18 done in the, I guess, February time frame. Net
19 present value analysis over a 15-year period up to
20 2031 brought back to 2016 TRC or -- yeah, 2016 TRC.

21 Q. February 2016?

22 A. February 2016.

23 MS. KOLICH: That's all I have, your
24 Honor.

25 EXAMINER BULGRIN: Anything further?

1 Any objections to the admission of
2 Company Exhibits 2 and 3, I believe it was.

3 MR. STINSON: None, your Honor.

4 EXAMINER BULGRIN: It will be so
5 admitted.

6 (EXHIBITS ADMITTED IN A EVIDENCE.)

7 EXAMINER BULGRIN: You may step down.
8 Thank you.

9 THE WITNESS: Thank you.

10 MS. OSTROWSKI: Companies call Mr. Edward
11 C. Miller.

12 (Witness sworn.)

13 EXAMINER BULGRIN: Be seated.

14 - - -

15 EDWARD C. MILLER

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

18 DIRECT EXAMINATION

19 By Ms. Kolich:

20 Q. Good morning, Mr. Miller.

21 A. Good morning.

22 Q. Would you please state your name and
23 business address for the record.

24 A. My name is Edward C. Miller. Business
25 address is 800 Cabin Hill Drive, Greensburg,

1 Pennsylvania 15601.

2 MS. KOLICH: And, your Honor, at this
3 time I would like to have marked as Company Exhibit 4
4 for identification, the direct testimony of Edward C.
5 Miller on behalf of The Ohio Edison Company, The
6 Cleveland Electric Illuminating Company, and The
7 Toledo Edison Company.

8 EXAMINER BULGRIN: It will be so marked.

9 (EXHIBIT MARKED FOR IDENTIFICATION.)

10 MS. KOLICH: May we approach?

11 EXAMINER BULGRIN: Sure.

12 Q. Mr. Miller, you have just been handed
13 what's been marked as Company Exhibit No. 4 for
14 identification. Do you recognize that document?

15 A. Yes.

16 Q. And what is that document?

17 A. This is my direct testimony.

18 Q. Was that testimony prepared by you or
19 under your direct supervision?

20 A. Yes.

21 Q. And in that testimony, do you have any
22 corrections or changes?

23 A. Yes.

24 Q. What would that be?

25 A. Page 29, line 1, the "passes" should be

1 "pass" in the question.

2 Q. Are there any other changes to your
3 direct testimony?

4 A. No.

5 Q. So if I asked you the questions as
6 modified -- as you just modified today, would your
7 answers set forth in your direct testimony be the
8 same?

9 A. Yes.

10 MS. KOLICH: Your Honor, I would like now
11 marked as Company Exhibit --

12 EXAMINER BULGRIN: Company Exhibit 5?

13 MS. KOLICH: Company Exhibit 5 for
14 identification, please.

15 EXAMINER BULGRIN: It will be so marked.

16 (EXHIBIT MARKED FOR IDENTIFICATION.)

17 MS. KOLICH: Entitled the supplemental
18 direct testimony of Edward C. Miller on behalf of The
19 Ohio Edison Company, The Cleveland Electric
20 Illuminating Company, and The Toledo Edison Company.

21 EXAMINER BULGRIN: So I'm clear the
22 initial testimony is Exhibit 4 and supplemental is
23 Exhibit 5.

24 MS. KOLICH: Correct. So marked?

25 EXAMINER BULGRIN: Yes.

1 MS. KOLICH: May we approach?

2 EXAMINER BULGRIN: Sure.

3 Q. Mr. Miller, you have just been handed
4 what's been marked as Company Exhibit 5 for
5 identification. Do you recognize that document?

6 A. Yes, I do.

7 Q. And what is that document?

8 A. It's my supplemental direct testimony.

9 Q. Do you have any changes to this
10 testimony?

11 A. Yes.

12 Q. What's -- what change do you have?

13 A. Page 18, line 21, it's missing a word
14 "of." It should read "...is generally anticipated
15 before the launch of many...."

16 Q. Do you have any other changes?

17 A. Yes.

18 Q. What change would that be?

19 A. Page 20, line 2. "Savings achieved" is
20 duplicative and one "savings achieved" should be
21 stricken to read "New savings achieved delay...."

22 Q. Do you have any other changes?

23 A. I do not.

24 Q. So with those changes, if I asked you the
25 same questions as set forth in your supplemental

1 direct testimony, would your answers to those
2 questions be the same today?

3 A. Yes.

4 MS. KOLICH: Your Honor, I would move for
5 the admission of Company Exhibits No. 4 and No. 5,
6 subject to cross.

7 EXAMINER BULGRIN: Okay. Mr. Healey.

8 MR. HEALEY: Subject to cross.

9 EXAMINER BULGRIN: And we are tendering
10 the witness for cross.

11 MS. KOLICH: I am sorry, your Honor. The
12 witness is available for cross-examination.

13 EXAMINER BULGRIN: Thank you.

14 MR. HEALEY: Thank you, your Honor.

15 - - -

16 CROSS-EXAMINATION

17 By Mr. Healey:

18 Q. Mr. Miller, you are the Manager,
19 Compliance and Development in the Energy Efficiency
20 Department for FirstEnergy, correct?

21 A. Yes.

22 Q. And in that role you oversaw the
23 development of FirstEnergy's proposed energy
24 efficiency and peak-demand reduction portfolio in
25 this case, correct?

1 A. Yes.

2 Q. And in that role you also oversaw the
3 modifications to the portfolio in the settlement in
4 this case, correct?

5 A. Yes.

6 Q. And by "settlement" I am referring to the
7 December stipulation that was filed in this case,
8 which is not in the record yet, but you'll understand
9 that's what I am referring to if I say "stipulation"
10 or "settlement," correct?

11 A. Yes.

12 Q. Now, Mr. Miller, you are generally
13 familiar with the requirements under Ohio Revised
14 Code 4928.66 for energy savings benchmarks in Ohio,
15 correct?

16 A. Yes.

17 Q. And you understand that for 2017, 2018,
18 and 2019, each of the companies is required to
19 achieve energy savings of 1 percent of their
20 baseline?

21 A. Yes.

22 Q. And the combined benchmark for the three
23 companies together is about 530,000 megawatt-hours
24 for 2017, '18, and ' 19. Does that sound about
25 right?

1 A. The combined benchmark does change on an
2 annual basis. I believe it's closer to 535 in 2017
3 and then the other years are slightly less.

4 Q. Mr. Miller, do you have a copy of your
5 supplemental testimony in front of you?

6 A. I do.

7 Q. Can you please turn to page 6. Starting
8 on line 11 you state that the estimated acquisition
9 costs per kWh saved for the programs under the
10 Companies' Revised Plans is approximately --
11 approximately 16 cents per kilowatt-hour. When you
12 say "acquisition costs," you're talking about the
13 first-year cost for the energy savings, correct?

14 A. That is correct.

15 Q. And that's distinguished from the
16 lifetime costs?

17 A. Yes.

18 Q. Let's move on to page 11 of your
19 supplemental testimony, please. Starting at line 8
20 which is marked Paragraph 6, you referred to a
21 mid-stream program approach for certain items
22 including heat-pump water heaters, EnergyStar
23 products, and circulation pumps. Now a mid-stream
24 approach, that involves paying incentives to
25 retailers, correct?

1 A. Yes.

2 Q. And under the mid-stream approach, the
3 incentives are not paid directly to FirstEnergy
4 residential customers, correct?

5 A. Through a mid-stream approach, we engage
6 I'll call it market actors, could be retailers, could
7 be contractors as an example, for them to promote the
8 eligible products for the program. The incentive
9 that we provide is the -- is to the, you know, to
10 that market actor for that program.

11 There could be some passthrough where the
12 retailer or the contractor or whatnot passes some
13 portion of the incentive that we are providing on to
14 the customer, but that is up to the retailer or the
15 contractor who is engaged in the program.

16 Q. So the incentive does not go directly to
17 the customer, correct? Under a mid-stream approach?

18 A. The incentive would be to the retailer,
19 the contractor, whoever the entity is that we're
20 engaging to promote the program.

21 Q. And you mentioned that the party that you
22 were engaging may pass through some of the savings to
23 the customer. They are not required to pass any of
24 that savings through, are they?

25 A. That's correct.

1 Q. And on page 11, same lines, you also
2 refer to an upstream approach. Now, in an upstream
3 program approach, the incentives are going to
4 manufacturers; is that correct?

5 A. Manufacturers would be one of the
6 entities that upstream would represent, yes.

7 Q. And what other entities would
8 represent -- be represented in an upstream approach
9 other than a manufacturer?

10 A. Potentially distributors. I guess
11 distributors could be considered mid-stream as well.
12 So those are the parties that come to mind.

13 Q. And by "distributor" you mean kind of a
14 middleman between a manufacturer and a retailer, for
15 example?

16 A. Correct.

17 Q. And, again, under the upstream approach,
18 there's no incentive in going directly to a
19 residential customer, correct?

20 A. It would be similar to my -- my prior
21 answer, you know, in an upstream approach, we are
22 working with the manufacturer or working with the
23 distributor, you know, it's encouragement for them to
24 promote the eligible products to their customers
25 which could be contractors, could be the end-use

1 customers as well, regarding the qualified products,
2 and that entity could again pass through a portion of
3 the incentive to the customer.

4 Q. And, again, they would not be required to
5 pass through any of the incentive to the customer,
6 correct?

7 A. That is correct.

8 Q. Mr. Miller, do you have a copy of the
9 stipulation in front of you?

10 A. Yes.

11 Q. And do you have the exhibits as well?

12 A. I have Exhibit A as well as Exhibit B.

13 Q. Let's look at Exhibit A. Now, Exhibit A
14 is attached to the stipulation, and just to describe
15 it, it is a list of all of the programs, subprograms,
16 and then provides a comparison of the projected
17 energy savings and costs under these programs and
18 subprograms from the application to the settlement,
19 correct?

20 A. From the initial application to the
21 settlement, that is correct.

22 Q. And there are two columns that I would
23 like to talk about right now. The second column is
24 referred to as "Program" and the third column is
25 referred to as "Sub-Program." Do you see those two

1 columns?

2 A. Yes.

3 Q. Now, there is no column on Exhibit A that
4 is called "measures," is there?

5 A. There is no column on Exhibit A that is
6 measures. The measures would be identified in
7 Exhibit B.

8 Q. And looking at Exhibit A, we see that
9 subprograms fall within programs, that is to say,
10 there are some programs that have multiple
11 subprograms, correct?

12 A. Yes.

13 Q. So just to take an example, under the
14 energy efficient homes program, you've got school
15 education, so school education is a subprogram but it
16 is also therefore part of the energy efficient homes
17 program according to FirstEnergy's Exhibit A?

18 A. Yes.

19 Q. And in some instances the program only
20 has a single subprogram like appliance turn in as
21 only a single subprogram, correct?

22 A. Yes.

23 Q. So in that example, the subprogram and
24 the program are the same thing, correct?

25 A. Yes.

1 Q. Now, we mentioned measures briefly.
2 Measures are another level down from subprograms,
3 correct? So a subprogram can have multiple measures
4 within it?

5 A. A subprogram generally is a grouping of
6 measures based on common-end uses or activities that
7 that measure grouping includes.

8 Q. Now, in Exhibit A we see a column near
9 the top called "Budget." Do you see that? It's near
10 the right top of this exhibit.

11 A. Yes.

12 Q. And "As Filed" means the budget as filed
13 in the application on April 15, 2016, in this case,
14 correct?

15 A. Yes.

16 Q. And "Reprojection" means the new budget
17 under the December stipulation, correct?

18 A. Yes.

19 Q. And then "Delta" is just subtracting the
20 "Reprojection" column from the "As Filed" column,
21 correct?

22 A. Yes.

23 Q. And then the "Percent Change" is just
24 identifying the percentage change of the delta?

25 A. Yes.

1 Q. Now, as we see in Exhibit A, the budget
2 is done -- or the budgets identified at the
3 subprogram level; is that right?

4 A. They are shown on Exhibit A at the
5 subprogram level, that is correct.

6 Q. And then for each program I see a line
7 for "Sub-Total" and that adds up all the subprogram
8 budgets to get you a program budget, correct?

9 A. That is correct.

10 Q. Now, there is no -- let me strike that.

11 In FirstEnergy's stipulation there are no
12 specific budgets at the measure level, correct?

13 A. That is correct.

14 Q. And so in developing a budget, the
15 budgeting is largely or -- the budgeting is done at
16 the subprogram level, correct?

17 A. That is correct.

18 Q. And then to get the budget for the
19 program you just take the individual subprogram
20 budgets and add them up and that's your program
21 budget, correct?

22 A. Correct.

23 Q. Mr. Miller, there is no scientific way to
24 determine what should be a program and what should be
25 a subprogram, is there?

1 A. I'm not sure --

2 MS. KOLICH: Objection.

3 EXAMINER BULGRIN: Basis?

4 MS. KOLICH: Vague, "scientific way." In
5 what context?

6 MR. HEALEY: I'll rephrase, your Honor.

7 EXAMINER BULGRIN: Thank you.

8 Q. Mr. Miller, if you were to look at a
9 specific subprogram in isolation, is there any
10 objective way to determine whether that subprogram
11 should be a subprogram as opposed to a program?

12 A. When we design our portfolio, which would
13 include the program as well as all the measures that
14 are included, there's a lot of factors that influence
15 it.

16 You know, first off, we have implemented
17 programs, you know we have prior programs in Ohio
18 where we have had, you know, the measures, the
19 subprograms and the programs identified. We have
20 experience from operating those programs. And every
21 time we design a plan we take into account that
22 experience in terms of how best to present the
23 programs and its elements to our customers and to all
24 of our stakeholders and to the collaborative.

25 So over the years the subprogram listing,

1 as I mentioned earlier, is a -- effectively is a
2 grouping of measures that have common end uses or
3 common activities. And our grouping of the measures
4 that make up the subprograms to the program level is
5 more of a where program -- you know, where the
6 measures are targeting common objectives as an
7 example.

8 So, you know, our makeup of the measures
9 and the bundling of measures that the subprogram
10 column indicates and the alignment with the programs
11 is based on that experience.

12 Q. So is it fair to say then in developing
13 the portfolio, putting together programs, subprograms
14 and measures, you are considering a lot of factors
15 and then you, as Manager of Energy Efficiency
16 Programs, has to exercise some judgment to decide
17 where things fall in the spectrum of program,
18 subprogram, or measure?

19 A. Myself, as well as the energy efficiency
20 team.

21 Q. Mr. Miller, let's turn to page 2 of your
22 supplemental testimony, please. Now, starting on
23 line 20 of page 2 of your supplemental testimony, you
24 discuss a stipulation from Case No. 14-1297-EL-SSO
25 which you refer to as the ESP IV case. Do you see

1 that at the bottom of page 2?

2 A. Yes.

3 MR. HEALEY: Your Honor, I would like to
4 mark as OCC Exhibit 1, a copy of the December 1,
5 2015, stipulation from Case No. 14-1297-EL-SSO that
6 is mentioned at the bottom of page 2 of Mr. Miller's
7 supplemental testimony. May I approach?

8 EXAMINER BULGRIN: Sure.

9 (EXHIBIT MARKED FOR IDENTIFICATION.)

10 EXAMINER BULGRIN: This is OCC Exhibit 1.

11 Q. Mr. Miller, you have in front of you a
12 December 1, 2015 stipulation that was filed in Case
13 No. 14-1297. Is this the stipulation you referred to
14 at the bottom of page 2 of your supplemental
15 testimony?

16 MS. KOLICH: Could I have that question
17 reread, please?

18 (Record read.)

19 A. Yes.

20 Q. And Mr. Miller, this -- you are generally
21 familiar with the stipulation at least as it pertains
22 to energy efficiency, correct?

23 A. Correct.

24 Q. Let's turn to page 11 of the ESP IV
25 stipulation, please. And there's no line numbers so

1 I will do my best to direct you where I'm looking.
2 It's Section E.3.a. and it states here "The Companies
3 will reactivate in 2017 all programs suspended in
4 their EE/PDR Portfolio Plan in Case No.
5 12-2190-EL-POR...."

6 Now, by "suspended" here, the stipulation
7 is referring to the companies' decision to suspend
8 some of its program after Senate Bill 310 was passed;
9 is that correct?

10 A. Yes.

11 Q. And those programs that were suspended
12 were suspended for 2015 and 2016, correct?

13 A. Yes.

14 Q. And so this --

15 A. Yes.

16 Q. This stipulation here from the ESP IV
17 case, which has been marked OCC Exhibit 1, commits
18 the companies to reactivate all of those programs
19 beginning in 2017, correct?

20 A. Yes.

21 Q. And then let's look at the next -- next
22 subparagraph, E.3.b. in the ESP IV stipulation. This
23 notes that "The robust EE/PDR Portfolio Plan
24 offerings would strive to achieve over
25 800,000 megawatts of energy savings annually, subject

1 to customer opt outs." Do you see that, correct?

2 A. Yes.

3 Q. And 800,000, just to do very basic math,
4 800,000 megawatt-hours of energy savings annually,
5 over the three-year planned period in the settlement
6 2017 to 2019, that would be 2.4 million
7 megawatt-hours of energy savings, correct?

8 A. Yes.

9 Q. Let's go back to Exhibit A to the
10 stipulation, please. Now, at the top there is a
11 column identified as "MWH," megawatt-hours. That's
12 the projected energy savings for the programs,
13 correct?

14 A. I'm sorry. Can you repeat the question?

15 Q. Sure. At the top of Exhibit A there is a
16 column which has four subcolumns. "MWH" is
17 megawatt-hours. That heading identifies that what is
18 below is the projected energy savings for the
19 programs, correct?

20 A. Yes. There is a "As Filed" column which
21 would be the companies' initial application and the
22 reprojection represents the stipulated -- stipulated
23 plan, the revised plan.

24 Q. And so all the way at the bottom of the
25 "As Filed" column, you see a number, 2,416,670. Do

1 you see that?

2 A. Yes.

3 Q. And so is it fair to say then that this
4 2,416,670 was intended to comply with the
5 stipulation's requirement for about 2.4 million
6 megawatt-hours in energy savings?

7 A. Yes.

8 MS. KOLICH: I'm sorry. I am having a
9 little trouble hearing. Can I have that last
10 question reread?

11 (Record read.)

12 MS. KOLICH: Your Honor, I object to that
13 question on the grounds that it characterizes it as a
14 requirement. I believe the stipulation indicates
15 that the companies will strive to achieve it. It did
16 not make it a requirement.

17 MR. HEALEY: Your Honor, he has already
18 answered the question, and Counsel --

19 MS. KOLICH: I couldn't hear the question
20 to object before.

21 EXAMINER BULGRIN: Okay. Well, I'll note
22 your objection. I think he did already answer it so.

23 Q. Mr. Miller, let's go back to your
24 supplemental testimony, please. Page 3, starting on
25 line 4, you mentioned in October 12, 2016, the

1 Commission entry on rehearing in the ESP IV case
2 which says that "[T]he Commission will clarify that
3 the goal of 800,000 megawatt-hours of energy
4 efficiency savings annually...is simply a goal. The
5 Companies are expected in the energy efficiency
6 program portfolio plans to budget for the annual
7 statutory energy efficiency mandate rather than the
8 goal." Do you see that in your testimony?

9 A. Yes.

10 Q. And as we discussed before, the annual
11 stat -- statutory energy efficiency mandate is about
12 535,000 megawatt-hours for 2017, and then I believe
13 you said slightly lower than that for '18 and '19,
14 correct?

15 A. Yes.

16 Q. Now, let's look at Exhibit A to the
17 stipulation again, please. Sorry for all the
18 bouncing back and forth. Now, before we discussed
19 the 2,416,670 at the bottom of the "As filed" column
20 under megawatt-hours. Immediately next to that is a
21 number, 1,781,833. That's -- that represents the
22 total projected energy savings for all three
23 companies for 2017 to 2019 under the stipulation,
24 correct?

25 A. Yes.

1 Q. So you identified this 1,781,833
2 megawatt-hour energy savings target as a target that
3 you believed was consistent with the October 12,
4 2016, fifth entry on rehearing in the ESP IV case,
5 correct?

6 A. I wouldn't consider it a target. That is
7 the amount of energy savings that we have based on
8 our assumptions of developing the plan, with the plan
9 design achieved to meet the statutory targets that's
10 associated with it. So the number -- that number
11 there itself is not the target. When I refer to
12 "targets," it would be the statutory targets.

13 Q. Okay. So the -- so the 17 -- 1,781,833,
14 though, that would be the projected energy savings
15 under the stipulation based on the budgets as you've
16 projected them, correct?

17 A. That would be the number that would
18 result if every assumption in the plan held true to
19 the projections.

20 Q. And you believe that this 1,781,833 is
21 sufficient to achieve your statutory minimum energy
22 savings, correct?

23 A. We believe that amount is what is
24 required for us to ensure we are able to meet our
25 statutory targets.

1 Q. Now, when you say that's what is required
2 to meet your energy savings requirements, are you
3 saying that that is the only number that you could
4 possibly use that would be sufficient to reach your
5 statutory minimums?

6 A. No.

7 Q. So, for example, the number here is
8 1,781,833. 1,781,832 might also work, right?

9 A. When we designed our plans, we had an
10 amount of cushion that we felt was needed to ensure
11 that we were able to meet our targets. And that
12 number was within the amount of cushion that we felt
13 was needed.

14 Q. When you refer to the "cushion," you are
15 talking about a certain amount of energy savings
16 above the statutory minimum?

17 A. I'm referring to that when you're
18 designing a plan, we have targets to meet. You can't
19 just design the plan to just hit the targets. That
20 will never happen. That's just unreasonable from the
21 standpoint that we wouldn't be able to ensure that we
22 are able to meet the targets and it would be at a
23 much level -- or a significant amount of compliance
24 risk. And, I'm sorry, I may have forgot the question
25 while I was responding.

1 Q. I'll move on.

2 And so given that you were responsible
3 for overseeing the modifications to the programs for
4 purposes of the stipulation, you had to make a
5 judgment call on what number you believed would give
6 you an adequate cushion, correct?

7 A. It mischaracterizes it. It would not be
8 a number that I, myself, believe is necessary. It
9 would be based on the experience of the entire energy
10 efficiency department and what level of savings we
11 must design a plan that, you know, if every
12 assumption holds true, you know, would result in this
13 level of savings. But as we know, assumptions are
14 assumptions and they will not hold true.

15 Q. Let's stay with Exhibit A. Now, it's
16 clear to reduce the energy savings from 2.4 million
17 to about 1.78 million, there had to be modifications
18 to some of the programs and subprograms, correct?

19 A. Yes.

20 Q. And, for example, in some cases you
21 eliminated an entire subprogram. I see that the new
22 homes subprogram under energy efficient homes in the
23 residential sector now has a reprojected budget of
24 zero, correct?

25 A. Yes.

1 Q. And in other instances the program
2 budgets were reduced, correct?

3 A. Program budgets were revised to reflect
4 the changes that we made to the programs.

5 Q. So just, you know, looking down the list,
6 we discussed new homes, but it's clear other programs
7 have -- or well, let's say subprograms since that's
8 the term used here, other subprograms have a new
9 budget that's lower than the old budget compared to
10 the application, correct?

11 A. Some programs have a budget that is less.
12 I do note that there are a program or two that have a
13 budget increase associated with it.

14 Q. Now, in deciding which programs to
15 modify, you considered input from the intervenors in
16 this case, correct?

17 A. We considered input from the intervenors
18 as well as from the collaborative.

19 Q. And when you refer to "input from the
20 intervenors," are you talking about suggestions they
21 may have made during settlement negotiations? And I
22 don't want you to reveal those to me because I
23 understand the confidentiality issues, but is that
24 what you are referring to when you say "input from
25 intervenors"?

1 A. When I say "input from intervenors," I
2 would be referring to input that we received in the
3 direct testimony filed by several parties in the
4 case, input that we may have received at the
5 collaborative meetings, as well as input that we
6 received through the settlement discussions.

7 Q. Did you consider the objections that were
8 filed in this case back in June of 2016?

9 A. Yes, we did.

10 Q. Mr. Miller, can you turn to page 5 of
11 your supplemental testimony, please. Starting on
12 line 11, you state that the Market Potential Study
13 that was used to develop the proposed plans was also
14 used to develop the revised plans; is that correct?

15 A. Yes.

16 Q. And just so we're clear for the record,
17 when you are discussing the revised plans, we are
18 talking about the plans as they stand in the
19 stipulation from December 2016, correct?

20 A. Yes.

21 Q. And so the Market Potential Study was
22 used, at least in part, to decide which subprograms
23 to eliminate or reduce or add to, correct?

24 A. I wouldn't characterize it that way. We
25 used the Market Potential Study to perform

1 participation projections of specific measures. We
2 used it to perform the potential -- or the amount of
3 potential that the programs were designed to achieve.
4 That was done in part of our balancing effort to
5 ensure we're not unreasonably expecting any given
6 program to target a different amount of potential.

7 And we also used it to -- it was also
8 used in the original plans to establish measures that
9 we should consider as we develop our plans.

10 So it really had the three prong or three
11 primary areas of input being, you know, measure
12 considerations, potential, and participation
13 projections.

14 Q. Did you consider the Market Potential
15 Study's conclusions on -- on economically-feasible
16 energy savings when modifying the programs for
17 purposes of this stipulation?

18 A. We considered the achievable potential of
19 the Market Potential Study.

20 Q. So you did not consider the technical
21 potential or the economic potential?

22 A. That is correct.

23 Q. Did you consider the cost effectiveness
24 of the subprograms when modifying the portfolio under
25 the settlement?

1 A. We considered cost effectiveness of the
2 programs according to our cost effectiveness
3 modeling.

4 Q. And so, for example, according to your
5 cost effectiveness modeling, you looked at a
6 subprogram that had a sub-1.0 TRC score, that would
7 have made you, all else equal, more likely to reduce
8 or eliminate that program under the stipulation,
9 correct?

10 A. As we completed our modeling, when we had
11 cost -- you know, as we completed our modeling and
12 had the cost effectiveness results for the various
13 components of our plan, we did take into account the
14 cost effectiveness results in establishing our final
15 projections. It did cause us to look at components
16 of the plan to, you know, basically validate the
17 reason for continuing to include measures, and as
18 part of that, that would have also been a
19 consideration of whether we should eliminate some
20 measures.

21 Q. Okay. Let's go back to Exhibit A to the
22 stipulation, please. I would like to focus right now
23 on the residential customer action program. Do you
24 see that in the "Residential" section?

25 A. You are on Exhibit A, correct?

1 Q. Yes.

2 A. Yes, I do.

3 Q. And looking at the budget for the
4 customer action program residential, it appears to
5 have been reduced by 119,395 which is an 8 percent
6 reduction; is that correct?

7 A. That is correct.

8 Q. Now, under the settlement there were no
9 changes to the program that resulted in this
10 8 percent decrease, correct?

11 A. That is correct.

12 Q. And moving a little further to the left
13 in that same row for the customer action program, we
14 see that the energy savings projection went from
15 150,490 down to 13,681 which is a 91 percent decrease
16 in energy savings under the customer action program,
17 correct?

18 A. That is correct.

19 MR. HEALEY: Your Honor, I would like to
20 mark as OCC Exhibit 2, a copy of FirstEnergy's
21 response to OCC Set 6 Interrogatory 130. May I
22 approach, your Honor?

23 EXAMINER BULGRIN: Sure. This will be
24 marked OCC Exhibit 2.

25 (EXHIBIT MARKED FOR IDENTIFICATION.)

1 Q. Mr. Miller, you have in front of you
2 what's been marked as OCC Exhibit 2 and this is one
3 of FirstEnergy's discovery responses to an
4 interrogatory from OCC. You'll see at the top right
5 you are identified as the witness for this response.
6 Are you familiar with this interrogatory?

7 A. Yes, I am.

8 Q. And the question here asks about the line
9 that I was just discussing on Exhibit A and asks the
10 companies to describe how they arrived at the 13,691
11 megawatt-hour savings number. Do you see that in the
12 question?

13 A. Yes.

14 Q. And your response is that the updated
15 projections for the residential customer action
16 program are based on the current expectations that
17 the utility -- utility-administered programs will
18 capture the vast majority of customer projects. Do
19 you see that in your response?

20 A. Yes.

21 Q. Now, when you say that the current
22 expectations are that the utility-administered
23 programs will capture the vast majority of customer
24 projects, what you're saying is that because there
25 are programs available to customers, they are less

1 likely to do energy efficiency measures on their own,
2 correct?

3 A. That's not how I would characterize it.
4 The response is that as a result of having a robust
5 portfolio of programs and measures, as a result, it's
6 our expectation that customers will participate in
7 the programs. It's not the customers are going to do
8 less. It's that customers will participate in the
9 programs.

10 Q. So some customers who might have done
11 energy efficiency on their own if there were no
12 programs, you're saying will now participate in the
13 program instead.

14 A. That's the expectation, yes.

15 Q. Now, we discussed earlier that the scope
16 of the programs under the stipulation has been
17 reduced as compared to the application, correct?

18 A. Yes.

19 Q. And so wouldn't it have been true when
20 the application was filed and the programs were even
21 larger, that that would capture even more of the
22 customers' energy savings on their own as opposed to
23 less as is projected in Exhibit A?

24 A. I think the rest of the response to this
25 discovery request speaks to it. When we were

1 targeting 800 gigawatt-hours, our statutory
2 requirements were still the 535. As a result of the
3 Commission order to effectively budget to meet the
4 statutory targets, we had to revise our plan in the
5 programs as a result of that.

6 So given that our revised plan is now
7 designed just to meet the statutory targets, we must
8 ensure -- I mean, it says it here, we just ensure
9 that the utility-administered programs are of
10 sufficient size to ensure compliance. And that's
11 associated with the uncertainty of the amount of
12 savings that will be recognized under the CAP
13 program.

14 Q. Mr. Miller, you testified earlier there
15 were no changes to the customer action program,
16 didn't you?

17 A. No changes to the customer, that is
18 correct, in terms of the program.

19 Q. So what you're saying is under the
20 settlement --

21 MS. KOLICH: Could you let the witness
22 complete his answer?

23 MR. HEALEY: I apologize.

24 Q. Were you done? I didn't mean to cut you
25 off.

1 A. The design of the program is the same.
2 It's as part of developing the revised plans we very
3 carefully looked at all the programs that make up
4 that plan. We looked at the potential study, as I
5 mentioned earlier, across the various programs. I
6 mentioned, you know, we have to ensure that we don't
7 unnecessarily overrely on any given component. Given
8 the reduced design of the plan to meet the statutory
9 targets, we have to ensure and be very comfortable
10 with every program's ability to contract savings for
11 us to meet our targets and that includes the
12 utility-administered programs.

13 Q. I guess what I am having trouble
14 understanding is why everything you said -- just said
15 isn't also true when you filed the application.

16 A. When we filed the initial application,
17 that was a much larger robust portfolio. As a
18 result, every program had an increased level of
19 expectation associated with it. But the -- you can't
20 overlook that the statutory targets are the same in
21 both cases, the original plan and the revised plan.
22 The only difference was the original plan was
23 targeting a goal of 800 gigawatt hours so there was
24 reliance on each and every component of the plan to
25 do more.

1 Q. Okay. Let's move on, still within
2 Exhibit A, to the residential HVAC program. Do you
3 see that about halfway down the residential sector on
4 Exhibit A?

5 A. Yes.

6 Q. Now, let's run through some numbers
7 again. "As Filed" meaning under the application, the
8 residential HVAC program was projected to save 27,580
9 megawatt-hours, correct?

10 A. As filed, yes.

11 Q. And then that increases by 1,291 under
12 the settlement, correct?

13 A. Correct.

14 Q. And the as-filed budget was 8,665,309,
15 correct?

16 A. Yes.

17 Q. And then that is one of the programs we
18 discussed before that actually has an increase in the
19 budget of 3,208,743, correct?

20 A. Yes.

21 MR. HEALEY: If it's all right with your
22 Honor, I would like to ask Mr. Miller to do some very
23 basic math involving nothing more than division.

24 Q. Would that be all right, Mr. Miller? Do
25 you have a calculator on you?

1 A. If my battery is not dead. It's hanging
2 in there, so, yes, I do.

3 Q. Okay. So we notice that there is an
4 increase in the cost of 3,208,743 and an increase in
5 the energy savings of 1,291. That comes out to a
6 cost of \$2,485 for each of those additional 1,291
7 megawatt-hours. Can you confirm that, please?

8 A. So you are asking me to divide the
9 3,208,743 by the 1,291. The number is 2,485.

10 Q. And that's for megawatt-hours, correct,
11 since Exhibit A is done in megawatt-hours?

12 A. On that metric, yes.

13 Q. And then one more quick conversion.
14 \$2,485 per megawatt-hour is \$2.48 per kilowatt-hour,
15 correct?

16 A. Yes.

17 Q. And that's compared to what we discussed
18 before, the average acquisition costs under your
19 portfolio of just 16 cents per kilowatt-hour,
20 correct?

21 A. That metric, yes.

22 Q. Mr. Miller, we'll stick with Exhibit A.
23 Let's move down to the --

24 EXAMINER BULGRIN: Let's go off the
25 record for a minute.

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(Discussion off the record.)
(Thereupon, at 12:10 p.m., a lunch recess
was taken.)

- - -

Monday Afternoon Session,

January 23, 2017.

- - -

EXAMINER BULGRIN: Okay. Let's go back
on the record. And I believe Mr. Healey.

MR. HEALEY: Yes.

- - -

EDWARD C. MILLER

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

CROSS-EXAMINATION

By Mr. Healey:

Q. Mr. Miller, let's go back to Exhibit A to
the stipulation, please.

A. Okay.

Q. I would like to direct your attention to
"Small Enterprise" and then the subprogram
Custom-SCI. Do you see that?

A. Yes.

Q. Now, the SCI, that stands for "Small
Commercial and Industrial"; is that right?

A. Yes.

Q. And there's a subprogram, too, below
that, "Custom Buildings-SCI." Do you see that as
well?

1 A. Yes.

2 Q. Now, the Custom-SCI program, that's a
3 program for energy-efficient equipment for
4 nonresidential customers, correct?

5 A. The "Energy Solutions for Business
6 Program" is the program for small, commercial and
7 industrial customers.

8 Q. Okay. Sorry. Maybe I was hung up on the
9 word "program." The Custom-SCI subprogram is a
10 subprogram for energy-efficient equipment for
11 nonresidential customers, correct?

12 A. Correct.

13 Q. And the Custom Buildings-SCI subprogram,
14 in contrast with the Custom-SCI, focuses on building
15 shell improvements; is that correct?

16 A. That is correct.

17 Q. And then moving down into "Large
18 Enterprise," I see there is also "Custom-LCI." Do
19 you see that under the "Large Enterprise" section of
20 Exhibit A to the stipulation?

21 A. Yes.

22 Q. And "LCI" stands for "Large Commercial
23 and Industrial"?

24 A. Yes.

25 Q. And then same question, Custom-LCI is a

1 program for equipment -- sorry, a subprogram for
2 equipment for large nonresidential customers,
3 correct?

4 A. Yes.

5 Q. And then Custom Buildings-LCI is a
6 nonresidential subprogram for energy-efficient
7 building shell improvements, correct?

8 A. For large commercial and industrial
9 customers, yes.

10 Q. Now, let's move back to the megawatt-hour
11 columns. The -- let's start with Custom-SCI. We see
12 under the stipulation, 142,886 megawatt-hours over
13 the three-year period, correct?

14 A. For Custom-SCI, correct.

15 Q. And then for Custom Buildings, 56,855?

16 A. Correct.

17 Q. And then moving down, Custom-LCI is
18 233,208?

19 A. Correct.

20 Q. And Custom Buildings is 50,454?

21 A. Correct.

22 Q. Now, can I ask you to do some math again
23 and add those four numbers up for me, please?

24 MS. KOLICH: Which four numbers would
25 those be?

1 MR. HEALEY: Those would be the projected
2 energy savings for the Custom-SCI, Custom
3 Buildings-SCI, Custom-LCI, and Custom Buildings-LCI
4 subprograms on Exhibit A to the stipulation.

5 A. Okay.

6 Q. And what's the total for those four put
7 together?

8 A. Subject to check my calculations that I
9 didn't key a wrong number or read the wrong number,
10 the number I get by adding 142,886, with 506,855,
11 plus 233,208, plus 50,454 should be 483,403.

12 Q. And that's in megawatt-hours?

13 A. Yes.

14 Q. Thank you.

15 Mr. Miller, let's turn to page 18 of your
16 supplemental testimony, please.

17 A. I'm sorry, what page number?

18 Q. 18 of your supplemental testimony.

19 A. Okay.

20 Q. Now, on line 13 to 14 you note that there
21 was an additional hearing date scheduled for July
22 2016 in this case, correct?

23 A. What line? I'm sorry?

24 Q. 13 to 14.

25 A. Yes.

1 Q. And obviously the hearing did not take
2 place in July 2016, correct?

3 A. Correct.

4 Q. Now, the next sentence you say, "Through
5 no fault of the Companies, that schedule was
6 postponed on several occasions." Do you see that?

7 A. Yes.

8 Q. And with that statement, are you
9 referring to other parties seeking continuances of
10 the hearing in this case?

11 A. I was generally referring to the fact
12 that we filed the plans in April of this -- in April
13 of 2016. We had a procedural schedule with a hearing
14 scheduled for July, and I do know that in the docket
15 there's been several extensions of that procedural
16 schedule due to various reasons and that's what
17 that's referring to.

18 MR. HEALEY: Your Honor, I would like to
19 mark as OCC Exhibit 3, a printout of the docket from
20 this case that Mr. Miller just referenced. May I
21 approach?

22 EXAMINER BULGRIN: Sure.

23 (EXHIBIT MARKED FOR IDENTIFICATION.)

24 Q. Now, Mr. Miller, do you recognize what I
25 just handed you which has been marked OCC Exhibit 3

1 as a printout of the docket from this Case No.
2 16-743-EL-POR?

3 A. I haven't seen a printout before, so the
4 format is something that I haven't seen before. But
5 from looking at the content, I believe that's
6 correct.

7 Q. And looking at this, do you have any
8 reason to believe this is an inaccurate
9 representation of the docket in this case?

10 A. It looks like it was printed from the
11 Ohio Commission website, so I would believe so.

12 Q. Okay. Now, this is in reverse
13 chronological order, so let's start near the back,
14 actually on page 3 out of 4. There's a filing on
15 June 27, 2016. There is only one filing that date so
16 you should be able to find it. It's a "Motion For
17 Continuance and Request for Expedited Treatment and
18 Memorandum in Support filed on behalf of the Public
19 Utilities Commission of Ohio, electronically filed by
20 Ms. Tonnetta Scott on behalf of PUC." Do you see
21 that?

22 A. Yes.

23 Q. And do you see any objections to that
24 motion for continuance?

25 A. I see objections earlier in June. I'm

1 not seeing an objection following that motion for
2 continuance immediately following.

3 Q. Thank you.

4 Let's move to page 2 of OCC Exhibit 3.
5 And there is, again, a single filing on September 29,
6 "Motion to Continue Indefinitely Procedural Schedule,
7 Request for Expedited Treatment, and Memorandum in
8 Support filed by J. Jones PUCO staff." Do you see
9 that?

10 A. What was the date again? I'm sorry.

11 Q. September 29. 9-29.

12 A. "Motion to Continue Indefinitely
13 Procedural Schedule, Request for Expedited Treatment
14 and Memorandum in Support filed by J. Jones, PUCO
15 Staff," yes.

16 Q. And, again, do you see any objections to
17 this motion to continue the procedural schedule?

18 A. Not immediately following it.

19 Q. And moving up the same page 2 on
20 November 15. Again, only one filing that date and
21 this is "Unopposed Joint Motion for Continuance
22 electronically filed by Michael Gladman on behalf of
23 The Ohio Edison Company and The Toledo Edison
24 Company, and The Cleveland Electric Illuminating
25 Company." Do you see that on the 15th?

1 A. Yes.

2 Q. And based on this docket, you see that
3 was filed by the FirstEnergy companies, correct?

4 A. Yes.

5 Q. And, again, there appears to be no
6 opposition to this given that it is marked "Unopposed
7 Joint Motion" and you do not see any objections on
8 the docket to this motion for continuance, correct?

9 A. Correct.

10 Q. Let's go back to page 18 of your
11 supplemental testimony.

12 MS. KOLICH: I am sorry. What was that
13 reference?

14 MR. HEALEY: Page 18 of the supplemental
15 testimony.

16 MS. KOLICH: Thank you.

17 Q. And starting on line 20 you state, "Once
18 the Revised Plans are approved, a three-month
19 'ramp-up' is generally anticipated before the launch
20 of many of the programs." Do you see that on page 18
21 there?

22 A. Yes.

23 Q. Now, it's true that some of your programs
24 are already in place for 2017; isn't that right?

25 A. I'm aware of one program that's in place

1 and components of two other programs that are in
2 place.

3 Q. And what programs -- what program are you
4 referring to that is in place?

5 A. The Community Connections program.

6 Q. And what program are you -- what programs
7 are you referring to that there are -- well, let me
8 ask you this, can you explain what you mean when you
9 say "components of a program"?

10 A. I'm referring to certain measures within
11 certain programs.

12 Q. And which -- which programs are those?

13 A. It would be components of the energy
14 solutions for business programs small and the energy
15 solutions for business program large.

16 Q. And which components of those programs
17 are currently active?

18 A. What I am aware of is the lighting
19 measures, excluding standard CFLs, some of the custom
20 measures within both of those programs. That's what
21 I'm recalling.

22 Q. When you say "custom," are you referring
23 to the Custom-SCI, Custom Buildings, and Custom
24 Buildings subprograms in each of Small Enterprise and
25 Large Enterprise?

1 A. Yes.

2 Q. And who is the -- let me ask you this,
3 have you hired an implementation contractor for any
4 of the four custom subprograms, those being
5 Custom-SCI, Custom Buildings-SCI, Custom-LCI, and
6 Custom Buildings-LCI?

7 A. Yes, we have.

8 Q. And is it the same implementation
9 contractor for all four?

10 A. Yes.

11 Q. And is that implementation contractor an
12 entity called Sodexo?

13 A. Yes.

14 MR. HEALEY: Your Honor, I would like to
15 mark as OCC Exhibit 4, this is a printout of a
16 website for the current FirstEnergy custom programs
17 that are -- that Sodexo was hired as program
18 implementer for. May I approach?

19 EXAMINER BULGRIN: Sure. OCC Exhibit 4.

20 (EXHIBIT MARKED FOR IDENTIFICATION.)

21 Q. Mr. Miller, I just handed you what's been
22 marked as OCC Exhibit 4. Can you turn to the last
23 page of this exhibit which is marked 5 out of 5 at
24 the bottom.

25 A. Yes.

1 Q. And then in the middle of the page, the
2 name "Sodexo" is there, which we just -- you just
3 testified is the program implementer for the four
4 custom nonresidential programs. And you'll see here
5 it says "Sodexo is the designated program implementer
6 for commercial and industrial energy efficiency
7 programs for FirstEnergy's Ohio utilities. This
8 website is maintained by Sodexo." Do you see that?

9 A. Yes.

10 Q. And in light of that, and with a quick
11 review of this, do you recognize this as the website
12 for the Custom programs?

13 A. I believe it is.

14 Q. And let's look at the first page of this
15 OCC Exhibit 4. There's a bold heading called the
16 "Effective Dates." Do you see that?

17 A. Yes.

18 Q. And it says, "To qualify for incentives
19 through the program, equipment must be new and
20 installed after January 1, 2017." Do you see that?

21 A. Yes.

22 Q. And so that states that these are the
23 programs that are currently in effect, correct? In
24 other words, it's not an old website for 2015 or 2016
25 programs, correct?

1 A. Correct.

2 Q. And then if we go to page 3, there's
3 another bold heading, "Effective Dates." Do you see
4 that on page 3?

5 A. Yes.

6 Q. And that says, "To qualify for incentives
7 through the Custom Buildings program, equipment must
8 be new and installed after January 1, 2017." Do you
9 see that?

10 A. Yes.

11 Q. And so, again, that indicates that this
12 portion of the website for the Custom Buildings
13 program is also the current 2017 program, correct?

14 A. Yes.

15 MR. HEALEY: That's all I've got, your
16 Honor.

17 EXAMINER BULGRIN: Okay.

18 MR. PARRAM: I have some questions, your
19 Honor.

20 EXAMINER BULGRIN: Oh, I'm sorry, Devin.

21 - - -

22 CROSS-EXAMINATION

23 By Mr. Parram:

24 Q. Good afternoon, Mr. Miller. My name is
25 Devin Parram. I am counsel on behalf of the Ohio

1 Hospital Association and I have some questions for
2 you today with respect to the companies'
3 administrator contract with the Ohio Hospital
4 Association.

5 So, by way of background, I want to get
6 some definitions clear. Do you have Exhibit B to the
7 stipulation in front of you?

8 A. Exhibit B, yes.

9 Q. Okay. Exhibit B is the "Revised Energy
10 Efficiency and Peak Demand Reduction Program
11 Portfolio Plans"; is that correct?

12 A. Yes, sir.

13 MS. KOLICH: Your Honor, could I ask
14 Counsel to speak up. We've got this blower going.

15 MR. PARRAM: Oh, sure.

16 MS. KOLICH: Thank you.

17 Q. And could you turn to page 11 of
18 Exhibit B.

19 A. Yes.

20 Q. You're there, Mr. Miller?

21 A. Yes, sir.

22 Q. And in Section 1.4, in that paragraph, I
23 think about four sentences down, there is a
24 discussion about the companies using specific
25 organizations called, quote-unquote, administrators.

1 Do you see that?

2 A. Not yet. I'm sorry. Can you redirect
3 me?

4 Q. Sure. If you look at the -- if you go to
5 the second sentence in the very first paragraph under
6 Section 1.4.

7 A. Okay.

8 Q. It says, "Pursuant to a stipulation
9 entered into in Case No. 08-0935-EL-SSO, the
10 Companies committed to using specific organizations
11 as 'Administrators.'" Do you see that?

12 A. Yes.

13 Q. And are you familiar with the companies'
14 filing in Case No. 08-0935-EL-SSO?

15 A. I am generally aware of it.

16 Q. It's correct that in that case the
17 companies filed an application for approval from the
18 Commission with respect to a number of different
19 administrator contracts; is that correct?

20 A. That's my understanding.

21 Q. And one of those specific organizations
22 that were an administrator was the Ohio Hospital
23 Association; is that correct?

24 A. I believe so.

25 Q. And the Commission ultimately approved

1 the companies' request to -- for approval of those
2 administrator contracts; is that correct?

3 A. Yes.

4 Q. And the Commission approved of the -- of
5 OHA's specific administrator contract; is that
6 correct?

7 A. That's my understanding.

8 Q. And OHA has been acting as a contract
9 administrator throughout the companies' prior
10 portfolio program; is that correct?

11 A. Yes.

12 Q. And on December 1, 2016, the companies
13 served OHA written notification that the companies
14 intended to terminate OHA as administrator of
15 contract; is that correct?

16 A. Yes.

17 MR. PARRAM: Your Honor, I would like to
18 have marked for purposes of identification, OHA
19 Exhibit 1, which is the December 1, 2016, Notice of
20 Intent to Terminate Program Administrator Agreement.

21 EXAMINER BULGRIN: Okay. It will be so
22 marked.

23 (EXHIBIT MARKED FOR IDENTIFICATION.)

24 MR. PARRAM: May I approach the witness,
25 your Honor?

1 EXAMINER BULGRIN: Sure.

2 Q. Mr. Miller, do you have in front of you a
3 document that's been marked OHA Exhibit 1?

4 A. Yes.

5 Q. What is OHA Exhibit 1?

6 A. It's Notice of Intent to Terminate the
7 Program Administrator Agreement dated December 1,
8 2016, from the company to Ohio Hospital Association.

9 Q. And you've seen this document before?

10 A. Yes, I have.

11 Q. And in this document, the companies --
12 the companies' basis for terminating OHA as a
13 contract administrator was Section 11 of the
14 agreement; is that correct?

15 A. Yes.

16 Q. And in this notice of termination there
17 is no other basis articulated for the termination of
18 OHA; is that correct?

19 MS. KOLICH: Objection. The letter
20 speaks for itself.

21 EXAMINER BULGRIN: I'll let him answer.
22 You can answer the question.

23 A. Okay. As I read, the basis indicated is
24 Section 11 of the agreement.

25 Q. And are you familiar with Section 11 of

1 the agreement?

2 A. I am aware of Section 11 of the
3 agreement. I'm not sure I can quote it verb and
4 verse.

5 Q. Have you seen the OHA's administrator
6 contract?

7 A. I have not.

8 Q. Now, the administrator contract with OHA
9 officially terminated on December 31st of 2016; is
10 that correct?

11 MS. KOLICH: Objection. The witness
12 indicated that he had not seen the contract, so how
13 would he know when it had terminated?

14 MR. PARRAM: Well, let me rephrase, your
15 Honor.

16 Q. In OHA Exhibit 1, if you go down to the
17 second paragraph, "Accordingly, the Agreement will
18 terminate on December 31, 2016...." Do you see that?

19 A. I see the "intent to terminate the
20 Agreement effective December 31, 2016."

21 Q. Okay. So assuming this -- that OHA
22 Exhibit 1 accurately summarizes the administrator
23 contract, the companies' administrator contract with
24 OHA terminates on December 31, 2016; is that correct?

25 MS. KOLICH: Objection. The witness is

1 not an attorney as to contract -- he is not an
2 attorney. He is not an expert on contract law and --

3 EXAMINER BULGRIN: Okay. Sustained.

4 MS. KOLICH: The letter speaks for
5 itself.

6 EXAMINER BULGRIN: Sustained.

7 Q. To the best of your knowledge, prior to
8 this Notice of Intent to Terminate OHA, was OHA ever
9 terminated as a contract administrator?

10 A. Can you repeat the question?

11 Q. Sure. Prior to the companies' serving
12 this Notice of Intent to Terminate on OHA, are you
13 aware of another instance where OHA was terminated as
14 a contract administrator?

15 A. I am not aware.

16 Q. Now, I want to talk quickly about the
17 companies' prior portfolio case which would be the
18 portfolio case from 2013 to 2015. And a hearing took
19 place in 2012, where I believe you testified in that
20 case; is that correct?

21 A. I testified in the prior case. I'm not
22 certain of the timing.

23 Q. Okay. And the case -- the Case No. is
24 12-2190-EL-POR. Does that help you remember about
25 when the case was?

1 A. I'm sorry. I don't remember the prior
2 Case No. I was actually looking in our revised plan
3 to see if it was noted.

4 MR. PARRAM: Your Honor, I would like to
5 have marked, for purposes of identification, the
6 rebuttal testimony of Edward C. Miller from Case No.
7 12-2190-EL-POR.

8 EXAMINER BULGRIN: That would be OHA
9 Exhibit 2?

10 MR. PARRAM: Yes.

11 (EXHIBIT MARKED FOR IDENTIFICATION.)

12 MR. PARRAM: May I approach?

13 A. I actually found a reference in our
14 revised plan that the prior case was 12-2190-EL-POR.

15 Q. Mr. Miller, do you have in front of you
16 OHA Exhibit 2?

17 A. Yes.

18 Q. Have you seen this document before?

19 A. Brings back memories.

20 Q. Good memories, I'm sure. What is OHA
21 Exhibit 2?

22 A. OHA Exhibit 2 is rebuttal testimony of
23 Edward C. Miller on behalf of Ohio Edison Company,
24 The Cleveland Electric Illuminating Company, The
25 Toledo Edison Company, and I'm not sure of the date

1 though.

2 Q. But you do recall now testifying in that
3 case?

4 A. Yes.

5 Q. Okay. Now, if you turn to page 6 of OHA
6 Exhibit 2 and specifically lines 13 through 18, you
7 testify regarding some proposals that OHA had
8 presented in that case; is that correct?

9 A. Yes.

10 Q. And in that case you agreed that the
11 companies should provide OHA \$50,000 over the term of
12 the portfolio to assist OHA with its benchmarking
13 efforts; is that correct?

14 MS. KOLICH: Objection. Your Honor, what
15 does this have to do with the case before us? The
16 contract was terminated according to OHA Exhibit 1.
17 This is -- this is information dealing with a plan
18 that is no longer in existence. It expired last
19 year, at the end of last year, and we are not here to
20 rediscuss issues that dealt with the plan no longer
21 before this Commission.

22 MR. PARRAM: May I, your Honor? Your
23 Honor, it's relevant because in this case the
24 companies have terminated OHA as a contract
25 administrator when in the initial portfolio plans the

1 companies filed they listed OHA as a specific
2 contract administrator that they planned to
3 potentially contract with. They -- let me finish.

4 MS. KOLICH: Sorry.

5 MR. PARRAM: They specifically have
6 decided to terminate and cut ties with OHA as a
7 contract administrator. OHA, for years, has been
8 working with the companies to help its member
9 hospitals working as a contract administrator.

10 MS. KOLICH: Objection. Facts not in
11 evidence.

12 MR. PARRAM: In the --

13 EXAMINER BULGRIN: Okay. Well, I am
14 going to -- I think the question was basically that
15 they were reading this.

16 MR. PARRAM: With respect to Mr. Miller's
17 rebuttal testimony, Mr. Miller specifically testified
18 in Case 12-2190 with respect to the experience and
19 the commitment of OHA working with its member
20 hospitals and specifically agreed to a proposal to
21 support OHA to work with its member hospitals, so
22 this is past evidence of the companies' agreeing that
23 OHA is --

24 EXAMINER BULGRIN: Okay. But I don't
25 think he's denying that.

1 MS. KOLICH: Would you please direct me
2 to where he testified to all of that in this case?

3 MR. PARRAM: In this case?

4 MS. KOLICH: Yes.

5 MR. PARRAM: I'm testifying -- I am
6 directing you directly to his testimony.

7 MS. KOLICH: And I see no reference to
8 where all of that you just said was in this
9 testimony. I see a reference to a \$50,000 payment
10 made as part of a program that's no longer in a plan
11 that's before this Commission.

12 MR. PARRAM: I'm -- I am able to ask the
13 witness questions that go beyond his direct
14 testimony. If it relates to a specific part of
15 their -- part of your portfolio plans, which in this
16 case relates to the contract administrator's program
17 and OHA's performance as a contract administrator.

18 EXAMINER BULGRIN: Okay. Do you have a
19 question that relates to this case for this witness?

20 MR. PARRAM: Sure.

21 Q. (By Mr. Parram) Mr. Miller, with respect
22 to OHA as a contract administrator, are you aware of
23 OHA -- any reason why the companies have terminated
24 OHA as a contract administrator?

25 MS. KOLICH: Objection. The reasons for

1 termination are asked and answered. It's in OHA
2 Exhibit 1. He asked him. He responded that it was
3 done pursuant to Section 11.

4 EXAMINER BULGRIN: I am going to overrule
5 and let the witness answer if he can.

6 A. Can you repeat the question?

7 Q. Sure. With respect to the companies'
8 termination in this case of OHA as a contract
9 administrator, are you aware of a particular reason
10 why the companies have terminated OHA in this case?

11 A. The only reason that I am aware of is as
12 indicated in the letter, the OHA Exhibit 1.

13 Q. Are you aware if the companies have
14 previously agreed to work with OHA as a contract
15 administrator with respect to funding to OHA?

16 MS. KOLICH: Could that question be
17 reread? I'm sorry.

18 (Record read.)

19 MS. KOLICH: Objection on relevance.

20 EXAMINER BULGRIN: I don't know that the
21 question has actually been answered here. It's
22 certainly not answered in this letter.

23 MS. KOLICH: I objected on relevance.
24 Why they've done business in the past has no bearing
25 on their decision to terminate the contract.

1 MR. PARRAM: But --

2 EXAMINER BULGRIN: Do we have a question
3 pending here? Can you reread it?

4 (Record read.)

5 EXAMINER BULGRIN: You can answer.

6 A. I'm aware of the administrator agreements
7 which provided funding to OHA to act as an
8 administrator.

9 Q. Do you have a copy of the stipulation in
10 front of you, Mr. Miller?

11 A. Yes, I do.

12 Q. Can you turn to page 8 of the
13 stipulation. Are you there?

14 A. Yes, sir.

15 Q. Under paragraph R which is "Miscellaneous
16 Provisions," first bullet point. Now, in this
17 paragraph the companies are indicating that they are
18 willing to work with OHA with respect to its Energy
19 Star benchmarking program; is that correct?

20 A. Yes.

21 Q. Does the stipulation contain any
22 provision with respect to funding assistance to OHA
23 to perform these energy benchmarking efforts?

24 MS. KOLICH: Objection. The stipulation
25 speaks for itself.

1 EXAMINER BULGRIN: Sustained.

2 Q. Mr. Miller, do you have in front of you
3 Company Exhibit 4 which I believe is your direct
4 testimony?

5 A. Yes.

6 Q. And could you turn to page 8 of your
7 testimony. Are you there?

8 A. Yes.

9 Q. Okay. Pages -- or lines 9 -- I
10 apologize. Lines 10 and 11, you -- you testified
11 that -- you testified regarding the companies'
12 obligation to attempt to align and coordinate their
13 programs with other utility programs. Do you see
14 that?

15 A. Yes.

16 Q. And then on page 14 of your testimony,
17 lines 11 and 12, you indicate that the plans contain
18 a description of the efforts of the companies to
19 coordinate their programs with other public utility
20 programs. Do you see that there?

21 A. Yes.

22 Q. And you say that specifically in Section
23 3.16 of the proposed plans.

24 A. Yes.

25 Q. I am jumping around here.

1 MR. KELTER: I'm sorry, Mr. Parram, where
2 are you?

3 MR. PARRAM: Company Exhibit 4, page 14,
4 lines 11 and 12.

5 MR. KELTER: Page 14, lines 11 and 12?

6 MR. PARRAM: Yes.

7 MR. KELTER: Thank you.

8 Q. And do you still have Exhibit B in front
9 of you, Mr. Miller, Exhibit B to the stipulation?

10 A. Yes.

11 Q. So on page 24 of Exhibit B, the
12 stipulation, is where the companies describe some of
13 the steps that they took to align their programs with
14 other utility -- Ohio utility portfolio programs; is
15 that correct?

16 A. Page 24 of?

17 Q. Exhibit B of the stipulation.

18 A. Correct.

19 Q. Now, starting four lines down, you
20 indicate that in Section 3.1.6, four lines down, the
21 first paragraph, there is a sentence that starts,
22 "The Companies" -- "Additionally, the Companies
23 review other utilities' EE/PDR plans and programs to
24 determine if adopting some of these utilities' ideas
25 may improve FirstEnergy's programs."

1 My question is, did the companies review
2 DP&L's 2013 through 2015 plans and programs when they
3 were preparing their -- their portfolio plans?

4 A. Yes.

5 Q. Were the companies aware that DP&L
6 provided OHA \$75,000 in funding for years 2014 to
7 2015 to conduct energy audits?

8 MS. KOLICH: Could I have that question
9 reread, please?

10 (Record read.)

11 MS. KOLICH: Objection on relevance.
12 First of all, what DP&L does is a business decision
13 made by DP&L; and, secondly, it's for a period that's
14 not even relevant to the period that we are talking
15 about in these plans.

16 EXAMINER BULGRIN: Overruled. You can
17 answer if you know.

18 A. I can't say that I remember that specific
19 detail. When I answered yes to reviewing the other
20 utilities' plans, we are constantly looking at other
21 utilities' plans as we are developing our plans,
22 whether that be in Ohio or other jurisdictions. And
23 we are constantly looking for opportunities to
24 improve our plans.

25 So I'm -- you know, I am aware that we

1 reviewed the other Ohio utilities' plans in
2 developing our plans. But I just don't remember that
3 level of detail to be able to say that I am aware of
4 a specific payment to OHA as part of their prior
5 plans.

6 Q. In preparing your plans, did you -- did
7 you review AEP's portfolio plans for the years 2012
8 through 2014?

9 MS. KOLICH: Could I just get a
10 clarification? Reviewing -- preparing the plans,
11 which period are we talking about?

12 Q. Did the companies, in preparing their
13 current portfolio plans --

14 MS. KOLICH: Thank you.

15 Q. -- review AEP's 2012 through 2014
16 portfolio plans?

17 A. We reviewed AEP's current portfolio
18 programs, when we were designing our plans, which
19 they extended for 2015 and '16, so, by virtue, we did
20 review their prior plans.

21 Q. Were you aware that AEP provided OHA
22 \$75,000 per year in its 2012 through 2014 portfolio
23 plan?

24 MS. KOLICH: Objection on the same
25 grounds.

1 EXAMINER BULGRIN: Overruled.

2 A. That level of detail would -- the same
3 answer would apply. I don't remember that level of
4 specificity.

5 MR. PARRAM: That's all the questions I
6 have, your Honor.

7 EXAMINER BULGRIN: Staff.

8 MS. MESSENGER: Yes.

9 - - -

10 CROSS-EXAMINATION

11 By Ms. Messenger:

12 Q. Good afternoon, Mr. Miller.

13 A. Good afternoon.

14 Q. My name is Natalia Messenger. I am
15 representing the PUCO staff here. I just have a few
16 questions for you. If you could turn to page 19 of
17 your testimony -- of your supplemental testimony.

18 A. Okay.

19 Q. Beginning with line 7, you state, "...the
20 parties agreed that each Company's shared savings
21 trigger should be reduced by 14 percent for the 2017
22 program year," correct?

23 A. Yes.

24 Q. Can you explain what you mean by "shared
25 savings trigger"?

1 A. That would be the level of the annual
2 savings that are achieved under the portfolio plan
3 for the given year.

4 Q. So if the plan is -- so if the trigger is
5 reduced by 14 percent, just for an example, if the
6 original trigger as proposed in the application was
7 100 megawatt-hours, if you reduce that by 14 percent,
8 the new shared savings trigger would be 86
9 megawatt-hours, correct?

10 A. If I understood the question correctly,
11 no.

12 Q. Okay.

13 A. The shared savings trigger would be the
14 company's statutory target for that current year, so
15 it would be the annual savings target that the
16 company has by statute.

17 Q. So -- so when you are reducing the -- so
18 the trigger is a statutory target?

19 A. The trigger for shared savings is -- is
20 established based on our statutory target, correct.

21 MS. KOLICH: Your Honor, it might be
22 helpful, Mr. Demiray talks about the mechanics and
23 how it's calculated.

24 MS. MESSENGER: Right, yes.

25 MS. KOLICH: He may be a better person to

1 ask. Mr. Miller generally is here to talk about how
2 the 14 percent was determined. But how it applies to
3 the actual calculations would be better asked of
4 Mr. Demiray.

5 MS. MESSENGER: It's just trying to lay a
6 foundation for my other questions.

7 Q. (By Ms. Messenger) Okay. So let's move
8 on to the next question in your testimony. In lines
9 12 and 13, you state that the companies -- the delay
10 of the procedure schedule "will cause the companies
11 to lose the opportunity to achieve at least 75
12 gigawatt-hours of energy efficiency savings...." How
13 did you determine that number?

14 A. I didn't specifically do the calculation
15 of that number. My understanding of the calculation
16 is it was an assessment that at the time the
17 calculation was done it was an estimate of the delay
18 in the proceeding and the amount of savings that the
19 company, you know, would not be able to achieve as a
20 result of delayed program implementation for 2017.

21 And the 75 gigawatt-hours was essentially
22 a one-and-a-half month delay and applying that on a
23 linear basis to the design of the plan of 594
24 gigawatt-hours. And then when you look at 75
25 gigawatt-hours as a basis of our statutory target,

1 it's approximately 14 percent.

2 MS. MESSENGER: Your Honor, could I just
3 have a couple of minutes?

4 EXAMINER BULGRIN: Sure.

5 MS. MESSENGER: Your Honor, at this time
6 we have nothing further for Mr. Miller.

7 EXAMINER BULGRIN: Anyone else?

8 Redirect?

9 MS. KOLICH: Could we take a break?

10 EXAMINER BULGRIN: Sure. Why don't we
11 come back at 2:20.

12 (Recess taken.)

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

15 Ms. Kolich.

16 MS. KOLICH: Thank you, your Honor.

17 - - -

18 REDIRECT EXAMINATION

19 By Ms. Kolich:

20 Q. Mr. Miller, OCC's Counsel asked you
21 questions about mid-stream and upstream subjects. Do
22 you recall that line of questioning?

23 A. Yes, I do.

24 Q. Are there any reasons that -- or is it
25 beneficial to incent at the mid-stream or upstream

1 level as opposed to end-use rebates?

2 A. Yes.

3 Q. And what would those benefits be?

4 A. The benefits of a mid-stream and upstream
5 program approach is it allows you to engage market
6 actors, the manufacturers, the retailers, the
7 contractors, distributors; for them to promote the
8 eligible products to all of their customers. So
9 effectively you are reaching a very -- a much larger
10 population. As opposed to relying solely on a
11 mail-in-rebate program where only customers who are
12 knowledgeable about a rebate participate in the
13 program.

14 The mid-stream/upstream program design is
15 typically a program that targets specific measures in
16 order to overcome potential barriers to participation
17 in the measure, such as customer education, as well
18 as, you know, distributor stocking the equipment,
19 loading the equipment, having the retailers
20 knowledgeable about the energy-efficient products
21 that are qualified. So they are actively promoting
22 the program or the qualifying measures to customers.

23 Q. And turning to Exhibit A in the
24 stipulation, OCC's Counsel asked you questions about
25 whether you saw any measures defined in Exhibit A.

1 Do you recall that line of questioning?

2 A. Yes, I do.

3 Q. Are there --

4 MR. HEALEY: I'll object. I'm sorry,
5 your Honor. I am going to object as
6 mischaracterizing the prior testimony. I don't think
7 there were any questions about measures being defined
8 in Exhibit A.

9 EXAMINER BULGRIN: Ms. Kolich.

10 MS. KOLICH: I'll rephrase.

11 EXAMINER BULGRIN: Thank you.

12 MS. KOLICH: Or, actually, can we go back
13 to the beginning of his cross. I wrote it down. I'm
14 almost positive there is a question about measures in
15 Exhibit A, so let's get the characterization correct.

16 EXAMINER BULGRIN: Maybe I ought to just
17 overrule.

18 Q. Regarding measures in Exhibit A, are
19 there measures listed in Exhibit A?

20 A. Yes.

21 Q. Which ones would be characterized as
22 measures?

23 A. The educational subprograms which would
24 include "School Education," "Audits and Education,"
25 and "Behavior Allocation."

1 Q. And why is "Behavioral" considered an
2 education program?

3 A. That program specifically provides
4 information to customers to educate them on their
5 energy use and how it has changed over time, as well
6 as to provide recommendations to the customer on how
7 to become more energy efficient based on behavioral
8 science.

9 Q. And is a smart thermostat an educational
10 program as well?

11 MR. HEALEY: Objection, your Honor. This
12 is going outside the scope. There was no discussion
13 of what were and weren't educational programs. There
14 was merely a question about whether there were
15 measures identified on this document.

16 EXAMINER BULGRIN: I'll overrule. You
17 can answer.

18 A. Yes. Similarly, the smart thermostats
19 are a program -- I'm sorry, a measure that targets
20 educating customers on behavioral opportunities
21 regarding more efficient use of HVAC equipment.

22 Q. Okay. And staying with Exhibit A, OCC's
23 Counsel compared and contrasted programs versus
24 subprograms. Does the company budget at the program
25 or subprogram level when designing your plans?

1 A. When we design the plans, we create the
2 budgets at the subprogram level.

3 Q. Why is that done?

4 A. That's done to support transparency to
5 the components of the various programs. It supports
6 transparency of the components of the programs,
7 transparency to our customers, to our implementation
8 team, as well as to the collaborative and to our
9 stakeholders. So all the parties are aware of the
10 components of our program and what our projections
11 are for each of the components of the programs.

12 Q. Now, OCC's Counsel also talked to you
13 about the levels of kilowatt-hours that would be
14 generated under the current plans, and I believe your
15 answer was if all -- regarding the current level of
16 projected savings under the current plans. Do you
17 recall that line of questioning?

18 A. The current savings under the current
19 plans?

20 Q. Projected savings.

21 A. The projected savings under the revised
22 plans.

23 Q. I'm sorry, yes.

24 MR. HEALEY: Let me get that asked again.

25 EXAMINER BULGRIN: That's possibly good.

1 MS. KOLICH: Let me try that one more
2 time. Too many plans.

3 Q. OCC's counsel asked you questions about
4 the projected savings related to the revised plans
5 which are before the Commission in this case. Do you
6 recall that line of questioning?

7 A. Yes.

8 Q. And you referred to a cushion included in
9 the numbers on Exhibit A related to the reviewed
10 plans. Do you recall that?

11 A. Yes.

12 Q. Now, why -- why is that cushion
13 necessary?

14 A. That cushion is necessary -- there are
15 many assumptions that go into designing a plan.
16 Assumptions regarding what the baseline would be over
17 time, assumptions regarding participation in the
18 programs, as well as the energy savings of the
19 programs. So given the reduced level of the plan we
20 would have to design the plan with a cushion to
21 ensure that each of the programs are of sufficient
22 scale and scope in order for us to meet our statutory
23 targets.

24 Q. And are those cushions comparable to
25 other plans?

1 A. Yes. The cushion that's represented in
2 Exhibit A, the 1,781 and 833 megawatt-hours, is
3 approximately a 12 percent cushion versus the
4 statutory target over the three years of the plan.
5 That 12 percent is consistent with the companies'
6 prior plans in Ohio as well as the plans of the other
7 Ohio utilities.

8 MR. HEALEY: Your Honor, I would move to
9 strike that response. There is nothing on the record
10 on the cushions from previous plans or for other Ohio
11 utilities.

12 EXAMINER BULGRIN: I'll overrule.

13 Q. OCC's Counsel also asked you questions
14 about the Market Potential Study and how you used it.
15 Do you recall that line of questioning?

16 A. Yes, I do.

17 Q. Are the measures included in the Market
18 Potential Study the same as the measures that you use
19 in -- for purposes of designing your -- the revised
20 plans?

21 A. No, they are not.

22 Q. Could you explain the differences?

23 A. The measures included in the companies'
24 plans are more granular. As example, the Market
25 Potential Study looked at residential lighting which

1 was inclusive of CFLs and LEDs; whereas, the
2 companies' plan and our projections were based on
3 both CFLs and LEDs separately.

4 Q. And that's just one example; is that
5 right?

6 A. That's just one example.

7 Q. OCC's Counsel also asked a question
8 related to whether you reviewed the economic or
9 technical potential as opposed to just the achievable
10 potential. Do you recall that line of questioning?

11 A. Yes, I do.

12 Q. And I believe you answered that you
13 focused on achievable; is that correct?

14 A. Correct.

15 Q. Could you explain why that focus was
16 centered on achievable potential instead of the
17 economic or technical?

18 A. The achievable potential is a function of
19 a technical and economical potential that takes into
20 account customer preferences and projections
21 regarding their -- their participation among the
22 various measures. So by considering the achievable
23 potential, we, in fact, did take into account the
24 technical and economical potential.

25 Q. And OCC's Counsel also asked you

1 questions regarding the CAP program and noted that
2 there -- I believe you noted there was about an
3 8 percent change in the budgets to the CAP program
4 between what was filed originally in this case and
5 the revised plans that are before the Commission
6 today. Do you recall that line of questioning?

7 A. Yes.

8 Q. And could you explain what prompted that
9 8 percent reduction in budget?

10 A. Yes. When we followed the original plans
11 back in April, we based our budget projections on the
12 actual costs that we had at that time for the CAP
13 program. When we developed the revised plans, we had
14 actual results for the continuation of that program
15 under the prior plan that we factored into the budget
16 reduction.

17 Q. And there was some questions regarding
18 the levels of participation under the CAP program
19 when it was designed at 800,000 megawatt-hours versus
20 the designs in the revised plan. Do you recall that
21 line of questioning?

22 A. Yes.

23 Q. And you indicated that you assumed there
24 would be less participation under the revised plans;
25 is that correct?

1 A. Yes.

2 Q. And what was the basis for that
3 assumption?

4 A. The basis of that assumption is by having
5 robust portfolio plan programs available for
6 customers with incentives available to them, the
7 customers will participate in the programs directly.

8 Q. Is that because they get paid if they
9 participate under the programs and they don't get
10 paid under the CAP program?

11 A. That's correct.

12 Q. OCC's Counsel also had you do several
13 calculations; specifically one related to the HVAC
14 program. Do you recall that?

15 A. Yes.

16 Q. And according to my notes, that
17 calculation resulted in an answer of \$2.48 per
18 kilowatt-hour; is that correct?

19 A. Yes.

20 Q. In your opinion is that metric indicative
21 of the costs and savings associated with the HVAC
22 program -- subprogram? I'm sorry.

23 A. I believe that's a mischaracterization of
24 the information. There were several changes that
25 were made to the HVAC subprogram including the

1 increase of circulation pumps, the addition of 30,000
2 smart thermostats over the three-year plan period.
3 The reduction of other HVAC measures. When you look
4 at the reprojection budget and the reprojection
5 megawatt-hours at the HVAC level as presented in
6 Exhibit A, it equates to 41 cents a kilowatt-hour.

7 Q. And for a subprogram, is 41 cents a
8 kilowatt-hour still within the range of what would be
9 expected in a designed program?

10 A. That's well within the range of the
11 dollar per megawatt-hour on that metric basis among
12 the subprograms that are included in the companies'
13 plans.

14 Q. Counsel also showed you an exhibit which
15 basically portrays the filings in this docket. Do
16 you remember --

17 A. Yes.

18 Q. -- the questions related to that?

19 A. Yes.

20 Q. And he noted -- you noted to him that you
21 did not see on that exhibit anywhere where there were
22 objections to motions for continuances. Do you
23 recall that?

24 A. Yes, based on a review of the -- of the
25 exhibit.

1 Q. And were you privy to any conversations
2 that might have taken place between the parties as to
3 when those motions were proposed and whether parties
4 would object?

5 A. I was not involved in any discussions
6 regarding those motions or the companies' position
7 regarding those motions.

8 Q. Would you know why the companies chose
9 not to object?

10 MR. HEALEY: Your Honor, he just said he
11 was not part of the conversations. That calls for
12 speculation.

13 EXAMINER BULGRIN: Sustained.

14 MS. KOLICH: I didn't ask him to say what
15 he thought they were. I just asked if he was aware
16 of any.

17 EXAMINER BULGRIN: Perhaps you could
18 rephrase.

19 MS. KOLICH: Sure.

20 Q. Do you have any knowledge as to -- as to
21 why the companies may or may not have chosen to
22 object to the motions for continuance?

23 A. I do not. I'm sure management had their,
24 you know, had their positions or decisions, but I do
25 not know.

1 Q. And do you have OCC Exhibit 3 in front of
2 you?

3 A. Can you refresh me on what that is?

4 Q. That's a copy of the docket.

5 A. Okay. The case record?

6 Q. Yes.

7 A. Yes.

8 Q. Looking at page 1 of 4 on 12/09/16, do
9 you see where the Attorney Examiner issued an entry
10 continuing the hearing until December 13, 2016?

11 A. Yes.

12 Q. And then on December 14, do you see the
13 Attorney Examiner entry ordering the hearing --
14 hearing be continued until January 23?

15 A. Yes.

16 Q. Do you see any motions for continuances
17 found between those two dates on the docket?

18 A. No.

19 Q. Now, OCC's Counsel also asked you
20 questions related to certain C&I programs, small and
21 large; do you recall that line of questioning?

22 A. Yes.

23 Q. Now, those are also pertaining to some
24 programs and subprograms in those -- those
25 activities; is that correct?

1 A. Yes.

2 Q. Now, excuse me. Your discussions related
3 to programs and subprograms as they pertained to
4 residential customers. Would that discussion equally
5 apply to the programs and subprograms related to the
6 customer -- the C&I programs?

7 A. Yes.

8 Q. Going to staff's line of questioning, I
9 just want to make sure the record is clear. Staff
10 asked you questions regarding the 75 megawatt-hours
11 related to the early trigger. Do you recall that?

12 A. Yes.

13 Q. And you indicated that you took
14 14 percent of a number to get to the 75
15 megawatt-hours; is that correct?

16 A. No.

17 Q. Okay. Would you please explain?

18 A. At the time the calculation was
19 completed, it was estimated that the delay in the
20 procedural schedule would cause at least a 1-1/2
21 month delay in our ability to implement all of our
22 programs. The 1-1/2 month delay applied to the
23 companies' portfolio plan design of 594
24 gigawatt-hours. On an average annual basis it
25 equates to a 75 gigawatt-hour lost reduction. The 75

1 gigawatt-hours divided by our statutory target of
2 approximately 535 gigawatt-hours is 14 percent.

3 Q. Now, related to OHA and the hospitals, is
4 there -- can the companies work directly with
5 hospitals to get -- encourage them to participate in
6 the companies' portfolio plan?

7 A. Yes.

8 Q. Are there other ways to engage the
9 hospitals besides the companies directly dealing with
10 them?

11 A. Yes. We hire an implementation vendor.
12 It was noted earlier that Sodexo is the vendor for
13 our commercial/industrial energy solutions for
14 business programs. Our implementation vendor has the
15 responsibility to conduct outreach and marketing
16 through the customers who are eligible to participate
17 in the programs which would include hospitals.

18 They also are responsible for developing
19 what we refer to as a "program ally network" and
20 those would be entities who, you know, are, you know,
21 have customers that they support with the programs.
22 Program allies could be a distributor, for example,
23 you know, they sell equipment to customers.

24 So to the extent you work with a
25 distributor to promote the equipment, you know, they

1 are a program ally. They are benefiting us and we
2 are helping them with their business as an example.
3 OHA could be a program ally.

4 So our implementation vendors, you know,
5 again works with program allies to promote the
6 programs, but also works with customers directly.

7 Q. And there's nothing to preclude OHA from
8 reaching out to its customers -- to its membership --
9 nothing in our plan prevents OHA from reaching out to
10 its membership and educating them on the programs
11 that may be beneficial to their membership, is there?

12 A. That is correct. There is absolutely no
13 reason why they could not work with their members and
14 provide information to their members regarding our
15 programs.

16 MS. KOLICH: That's all I have, your
17 Honor.

18 EXAMINER BULGRIN: Anything further?

19 Okay.

20 MS. KOLICH: Your Honor, at this time I
21 would like to move into the -- into evidence Company
22 Exhibit No. 4 and Company Exhibit No. 5.

23 EXAMINER BULGRIN: While we are doing
24 that, is there any objection to OCC Exhibits 1, 2, 3,
25 4 or OHA Exhibits 1 or 2?

1 MS. KOLICH: Your Honor, if you could
2 just give me a second to get those organized and take
3 a quick look.

4 EXAMINER BULGRIN: Sure.

5 I think we are done with you, so you can
6 be excused.

7 THE WITNESS: Oh, thank you, your Honor.

8 MS. KOLICH: No objections to OCC's
9 exhibits, but I do object to both exhibits being --
10 that were identified by OHA. OHA Exhibit No. 1 is a
11 letter dealing with termination of administrator
12 agreement that really has no bearing on this case.
13 It's totally irrelevant to this case. And I see no
14 relevance in admitting it.

15 EXAMINER BULGRIN: And that will be
16 overruled.

17 MS. KOLICH: Okay. And OHA Exhibit 2
18 deals with testimony in a case that was before the
19 Commission on a plan that's -- has expired. I see no
20 relevance in admitting this testimony.

21 EXAMINER BULGRIN: I am going to overrule
22 that one as well.

23 MS. KOLICH: Okay.

24 EXAMINER BULGRIN: All of those exhibits
25 will be admitted.

1 MS. KOLICH: Your Honor, could I get a
2 clarification on your ruling on the second one? You
3 did sustain my objection related to page 6 and the
4 \$50,000 payment. So while it's in the record, I
5 assume your ruling on the questioning regarding the
6 50,000 payment is not part of the record; is that
7 correct?

8 EXAMINER BULGRIN: Correct.

9 MR. PARRAM: So OHA Exhibit 2 is admitted
10 into the record?

11 EXAMINER BULGRIN: Exhibit 2 is admitted
12 into the record.

13 MR. PARRAM: Thank you.

14 EXAMINER BULGRIN: The line of
15 questioning, I guess there was an objection to it, so
16 that -- the objection I believe was -- was sustained.

17 MR. PARRAM: Thank you, your Honor.

18 (EXHIBITS ADMITTED INTO EVIDENCE.)

19 EXAMINER BULGRIN: Okay.

20 MS. OSTROWSKI: The companies call
21 Mr. Eren Demiray.

22 (Witness sworn.)

23 EXAMINER BULGRIN: Please have a seat.

24 - - -
25

1 EREN G. DEMIRAY

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

4 DIRECT EXAMINATION

5 By Mr. Gladman:

6 Q. Good afternoon, Mr. Demiray.

7 A. Good afternoon.

8 Q. Could you state your name and business
9 address, please.

10 A. My name is Eren G. Demiray,
11 D-e-m-i-r-a-y. My business address 76 South Main
12 Street, Akron, Ohio 44308.

13 Q. And where do you work, Mr. Demiray, and
14 in what capacity?

15 A. I'm the Manager of Reporting within the
16 Energy Efficiency Department of FirstEnergy Services
17 Company.

18 MR. GLADMAN: Your Honor, at this time we
19 would like to mark the amended direct testimony of
20 Eren G. Demiray on behalf of Ohio Edison Company, The
21 Cleveland Electric Illuminating Company, and The
22 Toledo Edison Company, dated December 8, 2016, as
23 Company Exhibit 6. May we approach the witness, your
24 Honor?

25 EXAMINER BULGRIN: Sure.

1 (EXHIBIT MARKED FOR IDENTIFICATION.)

2 Q. Mr. Demiray, do you have before you what
3 has been marked as Company Exhibit No. 6?

4 A. I do.

5 Q. And can you identify that exhibit for us,
6 please?

7 A. This is my amended direct testimony.

8 Q. And, Mr. Demiray, do you have any changes
9 or corrections to your amended direct testimony that
10 need to be made for the record at this time?

11 A. No, I do not.

12 Q. Mr. Demiray, if I asked you the questions
13 that appear in Company Exhibit 6, would your answers
14 be the same as indicated in that document?

15 A. Yes, they would.

16 Q. Was Company Exhibit 6 prepared by you or
17 under your direction and supervision?

18 A. Yes, it was.

19 Q. And is the information contained in
20 Company Exhibit 6 true and correct to the best of
21 your knowledge, information, and belief?

22 A. It is.

23 MR. GLADMAN: Your Honor, I would move
24 for the admission of Company Exhibit No. 6, subject
25 to cross-examination.

1 EXAMINER BULGRIN: Okay.

2 MR. GLADMAN: And Mr. Demiray is
3 available for cross-examination.

4 EXAMINER BULGRIN: Thank you.

5 MR. HEALEY: Your Honor, could we go off
6 the record for a second?

7 EXAMINER BULGRIN: Sure.

8 (Discussion off the record.)

9 EXAMINER BULGRIN: Back on the record.
10 Mr. Healey.

11 MR. HEALEY: Thank you, your Honor.

12 - - -

13 CROSS-EXAMINATION

14 By Mr. Healey:

15 Q. Mr. Demiray, can we start by turning to
16 page 105 of the revised plans in the Exhibit B to the
17 stipulation. Do you have that in front of you?

18 A. I do.

19 Q. Thank you.

20 A. I'm there.

21 Q. Okay. About halfway down the page it's
22 the, I guess it's near the end of the third
23 paragraph, there is a sentence that says, "The Shared
24 Savings Mechanism is the same as approved by the
25 Commission in the Companies' Previous EE/PDR

1 Portfolio Plans except for the changes approved by
2 the Commission in Stipulated ESP IV or as listed
3 below." Do you see that?

4 A. I see that.

5 Q. Now, here when you refer to the previous
6 EE/PDR portfolio plans, you are referring to the
7 plans that were filed in Case No. 12-2190-EL-POR; is
8 that correct?

9 A. That's correct.

10 MR. HEALEY: Your Honor, I would like to
11 mark as OCC Exhibit 5, a copy of the direct testimony
12 of Eren Demiray on behalf of Ohio Edison, The
13 Cleveland Electric Illuminating Company, and The
14 Toledo Edison Company from Case No. 12-2190-EL-POR.
15 This was filed with the Commission in that docket on
16 July 31, 2012. May I approach the witness, your
17 Honor?

18 EXAMINER BULGRIN: Sure.

19 (EXHIBIT MARKED FOR IDENTIFICATION.)

20 Q. Mr. Demiray, do you recognize the
21 document in front of you that's been marked OCC
22 Exhibit 5?

23 A. Yes, I do.

24 Q. And this is your direct testimony from
25 FirstEnergy's previous energy efficiency portfolio

1 Case No. 12-2190, correct?

2 A. That's correct.

3 Q. Now, on page 105 of the portfolio plans
4 as we discussed, you mentioned that the shared
5 shavings mechanism is the same as in this previous
6 case, except for certain changes in the stipulated
7 ESP IV and as listed below. Do you recall that?

8 A. I see that, yes.

9 Q. So if we were to look at your testimony
10 in OCC Exhibit 5, this testimony would describe the
11 shared savings mechanism in the current Case No.
12 16-743 except to the extent that anything has been
13 changed in the ESP IV -- ESP IV stipulation or as
14 listed in Exhibit B to the stipulation, correct?

15 A. A lot in there, but to clarify, you said
16 OCC 5 is my testimony from a prior case?

17 Q. Yes.

18 A. That -- that would be the basis for
19 which -- for the shared savings mechanism that is in
20 this case, yes, subject to the changes that I noted
21 in Section 7.

22 Q. Great. Let's continue with page 105,
23 this is Section 7.1 of the amended plans. Now, the
24 last paragraph starts off by saying, "The Shared
25 Savings Mechanism would be triggered only if the

1 Companies exceed both their Annual and Cumulative
2 energy saving targets as set forth in R.C.
3 4928.66(A)(1)(a) in any given year."

4 And then the next sentence says that "The
5 Shared Savings Mechanism will be calculated annually
6 on an individual EDU basis, consistent with
7 information presented in each EDU's annual compliance
8 report." Do you see those two sentences there?

9 A. I do.

10 Q. So just to make sure I understand this
11 correctly, each of Ohio Edison, Toledo Edison, and
12 Cleveland Electric must exceed its individual annual
13 and cumulative energy savings targets to qualify for
14 shared savings in a given year, correct?

15 A. I'm not sure if I would characterize it
16 exactly like that. They are independent of each
17 other. It's not that all three have to pass to
18 qualify.

19 Q. Sure.

20 A. So any one company could trigger or not
21 trigger based on that company's independent
22 achievements through the year. Add to that, also,
23 this doesn't take into consideration some of the
24 language that's listed further down in the section
25 specifically regarding the trigger adjustment that's

1 proposed relative to 2017. But generally, yes.

2 Q. Understood. So just to one more
3 clarification. It's conceivable then that, you know,
4 in one year Ohio Edison could qualify for shared
5 savings, but Toledo Edison might not and Cleveland
6 Electric might not, correct?

7 A. Yes. They stand independently.

8 Q. Mr. Demiray, in the companies'
9 application they proposed an annual shared savings
10 cap of \$25 million aftertax; is that right?

11 A. I don't believe I have the application in
12 front of me, but there is language that addressed
13 that within the plan itself in Exhibit B in
14 Section 7. I'm sorry. I apologize. In the
15 application itself. The stipulation; not the
16 application. I apologize.

17 Q. Understood. Thank you.

18 Can you direct me to that in the
19 stipulation?

20 A. Relevant section, page 9 of 13, Section
21 T, the first paragraph under the "ESP IV Order." The
22 bottom half of that third bullet underneath there is
23 recognizing that within the ESP IV order "the
24 increase in the cap from \$10 million to \$25 million
25 on shared savings that the Companies may earn is

1 stayed until such time as the Companies are no longer
2 receiving revenue under rider DMR."

3 MR. HEALEY: Your Honor, I would like to
4 mark as Exhibit -- OCC Exhibit 6 the -- this is a
5 discovery response of -- it's the companies' response
6 to NRDC Set 1 Interrogatory 32. May I approach the
7 witness, your Honor?

8 EXAMINER BULGRIN: Sure.

9 (EXHIBIT MARKED FOR IDENTIFICATION.)

10 Q. Mr. Demiray, you have in front of you
11 what's been marked OCC Exhibit 6. This is one of the
12 companies' responses to an NRDC interrogatory. Do
13 you recognize this discovery response?

14 A. I do.

15 Q. And you'll note on the top right you are
16 identified as the witness for this discovery
17 response?

18 A. Noted.

19 Q. And the response refers to the \$25
20 million aftertax shared savings cap that was
21 referenced in the application and asks approximately
22 what that would be pretax. And your response was
23 that it would be "Approximately \$39 million based on
24 the Companies' current composite income tax rate."

25 A. I see that language.

1 Q. And the \$35 million pretax, becoming \$25
2 million aftertax, represents a tax rate of about
3 36 percent; does that sound right?

4 A. I'll put it in context, yes, that was
5 based on the current composite income tax rate at
6 that time. However, I don't know what that tax rate
7 will be in the future period.

8 Q. Sure. It's understood that whatever the
9 tax rate will be is what it will be, but for now you
10 are assuming 36 percent for purposes of this
11 calculation, correct?

12 A. That's correct.

13 Q. And the -- the second portion of this
14 discovery response asks: "Does the proposed cap
15 apply to the sum of shared savings from all three
16 FirstEnergy subsidiary companies?" And you say,
17 "Yes, as stated in Section 7.1 of the...Plan...."
18 Just to clarify, there is a single cap for the three
19 operating companies each year for shared savings,
20 correct?

21 A. Again, it would be the cap is applied if
22 the shared savings amount, as earned by all
23 companies, would exceed that \$25 million would be
24 capped and allocated across the companies. But,
25 again, this is responsive to a situation that's no

1 longer what's in the stipulated agreement.

2 Q. Understood. And so based on your
3 response to this discovery request, there's no
4 individual cap, say, for Ohio Edison or Toledo Edison
5 or Cleveland Electric, correct?

6 A. It depends on your definition of what a
7 cap is in particular. I would say there is a
8 limiting mechanism based on the tiers that are
9 included in the shared savings mechanism of
10 13 percent being the upper limit. So it could be
11 considered a type of cap, but not a cap as stated
12 here.

13 Q. Now, let's come back to page 9 of the
14 stipulation which you directed me to earlier and you
15 noted there under Section T that the increase in the
16 cap from 10 million to 25 million on shared savings
17 that the companies may earn is stayed until such time
18 as the companies are no longer receiving revenue
19 under rider DMR. Now, that's interpreted to me that
20 assuming nothing changes in the ESP IV case, the cap
21 will be 10 million aftertax for purposes of this
22 stipulation, correct?

23 MR. GLADMAN: Objection. It misstates
24 what's in the document.

25 EXAMINER BULGRIN: I'm sorry, I didn't --

1 I just didn't hear you.

2 MR. GLADMAN: Yeah. I think it misstates
3 what's in the stipulation in the first bullet under
4 T.

5 MR. HEALEY: That's what I am trying to
6 ask him; to explain what it means to me.

7 EXAMINER BULGRIN: I will overrule on the
8 objection.

9 THE WITNESS: I'm sorry. Could we have
10 the question reread?

11 (Record read.)

12 MR. GLADMAN: I guess maybe I would like
13 to change my objection. It's not clear exactly what
14 he's asking in that question to me. I am not sure
15 what he is asking to the extent it's interpreting by
16 whom or how.

17 MR. HEALEY: I would just respond if the
18 witness doesn't understand, he can tell me.

19 EXAMINER BULGRIN: Sure. Go ahead.

20 A. I guess how I could answer this, as I
21 understand the question would be that my
22 understanding right now of the situation is that
23 rider DMR was enacted January 1 of this year, so it's
24 expected to have a three-year life which is exactly
25 overlapping the companies' proposed '17 to '19 EE/PDR

1 plan.

2 So, as I understand it, the companies
3 would not, as it stands today, have an opportunity to
4 receive more than \$10 million through a cap,
5 aftertax, based on this provision. I can't say what
6 will or won't happen in the future.

7 Q. And using, again, the companies'
8 estimated 36 percent tax rate, the 10 million
9 aftertax, would be about 15.6 million before tax; is
10 that about right?

11 A. In total, yes.

12 Q. And the same -- the same applies under
13 the stipulation, right, that this is a single cap
14 spread across the three companies?

15 A. I don't know the characterization of a
16 "single spread across." You know, the shared savings
17 mechanism, yes, it is \$10 million in total. But to
18 say it's spread, I think I would take issue with that
19 characterization because it is allocated to the
20 companies in line with the adjusted net benefits at
21 each company -- I'm sorry, not adjusted net benefits,
22 but the -- the financial incentive shared savings
23 incentive earned by each company prior to application
24 of a cap.

25 So it's not arbitrarily thrown about, but

1 it is done on an equitable manner to ensure that each
2 company has shared savings collection aligned to the
3 company that produced those financial incentives.

4 Q. I'll ask it a little more directly,
5 hopefully, this time. If you -- if you add up the
6 amount of shared savings each of the three companies
7 get in a given year, it cannot exceed that 10 million
8 combined, correct?

9 A. On an aftertax basis, correct.

10 Q. Right. And, again, under the stipulation
11 as compared to the application, there's no separate
12 hard cap on a per-company basis aside from this \$10
13 million cap, correct?

14 THE WITNESS: I'm sorry. Could we please
15 have that reread?

16 EXAMINER BULGRIN: Sure.

17 (Record read.)

18 MR. GLADMAN: Objection. I think he
19 answered this one at least twice.

20 EXAMINER BULGRIN: Well, one more time.

21 A. Just for terminology, I am not sure, the
22 application, if I have that in front of me as opposed
23 to the stipulation itself. But, in general, I would
24 say that the Exhibit B, which is the plan itself, is
25 a continuation. So in terms of a cap as it's listed,

1 yes, it is included there. The allocation
2 methodology is also included by virtue of it being
3 the same mechanism that was approved in 12-2190.

4 Q. Let's -- you will recall earlier you
5 mentioned that it's possible, for example, for Ohio
6 Edison to qualify for shared savings in a given year,
7 but if the other two companies did not meet their
8 benchmarks, they would not qualify for shared savings
9 in that year, correct? Do you recall that?

10 MR. GLADMAN: Objection. That misstates
11 his testimony.

12 EXAMINER BULGRIN: Overruled. You can --

13 A. I recall we had a discussion along those
14 lines.

15 EXAMINER BULGRIN: -- clarify.

16 Q. And you testified that it is possible,
17 for example, if Ohio Edison meets its cumulative and
18 annual benchmarks in a given year, that it would
19 qualify for shared savings. And if Ohio Edison --
20 sorry -- and if Toledo and Cleveland Electric did
21 not, then they would not qualify for shared savings
22 in that same year, correct?

23 A. It's possible that one company would
24 trigger while the other two would not; and collection
25 then of that one company would be limited to that one

1 company's customers, that's correct.

2 Q. And in that situation where one company
3 triggered and the other two did not, that company
4 would be eligible for shared savings up to the full
5 amount of the \$10 million cap, correct?

6 A. In line with the approved mechanism, yes.
7 It would be -- it would have to flow through the
8 calculations as listed, but one company could earn no
9 more than a 13 percent share as the tiers would lay
10 out, yes. If that amount exceeded \$10 million, it
11 would be capped at \$10 million.

12 Q. Mr. Demiray, can you turn to page 6 of
13 your amended testimony, please.

14 A. I'm there.

15 Q. And on line 9 you state, "...as projected
16 for the Ohio Edison Company's benchmark calculation,
17 the Company's baseline in 2017 is 24,123
18 gigawatt-hours." Do you see that?

19 A. I see that line.

20 Q. And did you get that number from
21 Ms. Mullins' Exhibit A2?

22 A. I pulled it from Table 3 which is on
23 page 3 of the plan. It might very well be the same
24 number.

25 Q. I see. Well, let's work off of -- let's

1 work off of Table 3 then if that's where you got it.
2 Now, Table 3 on page 3 of the amended plans has the
3 baselines and benchmarks for 2017 to 2019, and these
4 are the revised benchmarks under the stipulation,
5 correct? The old ones are on page 2.

6 A. Yes.

7 Q. And -- sorry, I am going to have to
8 bounce back and forth. Okay. Let's look again -- so
9 page 6 of your testimony, you note 24,123
10 gigawatt-hours and then we see that same number on
11 page 3 of the plans; 24,123 -- 24,123,467
12 megawatt-hours. Those are just different because of
13 the units, correct?

14 A. That's correct.

15 Q. And then you state that in your testimony
16 that a 1 percent annual target therefore translates
17 into 241.23 gigawatt-hours, correct? That's on page
18 6, lines 10 to 12.

19 A. Correct.

20 Q. And just so we're clear, we get that
21 number by multiplying the 24,123 gigawatt-hours by 1
22 percent or .01, correct?

23 A. Yes.

24 Q. And then further down in your testimony
25 in the same paragraph you're discussing the

1 14 percent reduction to the annual target and you say
2 that would be reduced to 207.46. You got that number
3 by multiplying 241.23 by 0.86, correct?

4 A. That is correct.

5 Q. And it's .86 because it's a 14 percent
6 reduction, so 1 minus 14 is .86, correct?

7 A. That's correct.

8 Q. Now, according to your testimony,
9 therefore, Ohio Edison for 2017 would be eligible for
10 shared savings if it exceeds 207.46 gigawatt-hours of
11 eligible energy efficiency savings in 2017, correct?

12 A. Yes. The testimony reflects that and the
13 testimony is reflecting the stipulated terms; that's
14 correct.

15 Q. Great. Let's turn back to Section 7 of
16 the plans, page 106 -- or 7.1, rather, on page 106.
17 And here there's a table that identifies "Incentive
18 Tier," "Compliance Incentive," and "Incentive
19 Percentage." Do you see that?

20 A. I see the table, yes.

21 Q. And earlier you had mentioned a
22 13 percent incentive. That's this tier 5 here,
23 correct, at the bottom of the table?

24 A. Yeah, that's correct. If the companies
25 were to exceed 15 percent of the trigger amount.

1 Q. So to -- using the example for 2017 for
2 Ohio Edison at 207.46 gigawatt-hours as the trigger,
3 you would multiply that by 115 percent and that would
4 be the cutoff for getting the maximum incentive
5 percentage, correct?

6 A. Yes. I believe that translates to
7 238.58.

8 Q. And just so we can -- I appreciate that
9 number, that was my number as well, so I am glad we
10 are on the same page. That 238.58 is actually lower
11 than the 241.23 1 percent annual target that you
12 identify in your testimony a couple of lines earlier,
13 correct?

14 A. Yes, 238 is less than 241.

15 Q. Mr. Demiray, can you turn -- back one
16 page, 105 of the amended plans, please. Near the
17 bottom of page 105, you -- the plans state that "The
18 Shared Savings Mechanism will be determined based
19 upon discounted net lifetime benefits as calculated
20 by the Utility Cost Test." You see that, correct?

21 A. The last bullet, yes, I do.

22 Q. I would like to focus quickly on the
23 phrase "net lifetime benefits." The word "net" here
24 signifies that you take the lifetime benefits and
25 subtract the lifetime costs and you get a net amount

1 of benefits, correct?

2 A. Yes. If you take a look at the approved
3 mechanism, there is, for each program within the
4 companies' portfolio, you would determine the
5 adjusted total net lifetime benefits. You are taking
6 a look at the lifetime discounted costs and the
7 lifetime discounted benefits. Those two are netted
8 together to arrive at a total discounted net lifetime
9 benefits.

10 Q. And so if the -- if the discounted
11 lifetime benefits are greater than the discounted
12 lifetime cost, the net benefits will be positive,
13 correct?

14 A. That is correct.

15 Q. And then, conversely, if the discounted
16 net -- sorry -- if the discounted lifetime benefits
17 are less than the discounted lifetime costs, then the
18 net benefits will be negative, correct?

19 A. Generally, yes.

20 Q. Now, under the utility cost test or UCT
21 as you understand it, the costs are generally the
22 administrative costs of the programs and any rebates
23 and incentives under the programs; is that right?

24 THE WITNESS: Can I have that reread,
25 please?

1 EXAMINER BULGRIN: Sure.

2 (Record read.)

3 A. Yes, the costs under a UCT generally
4 would be program overhead costs, program installation
5 costs, as well as the direct costs of incentives or
6 rebates paid to customers.

7 Q. And are there any other costs counted
8 under the UCT other than those you just described?

9 A. No. Those are the main ones.

10 Q. I apologize. You say they are the main
11 ones. Are there others?

12 A. Those are the ones to which I am aware.

13 Q. Thank you.

14 Now, this differs from the total resource
15 cost or TRC test which also includes the costs that
16 customers pay out of pocket, correct?

17 A. TRC does look at it from a different
18 perspective so it is using different cost inputs. So
19 the ones we just talked about under the UCT, the
20 program administration and the program installation
21 costs are both the same; whereas, the TRC does not
22 take into account in any way the incentives that are
23 paid to customers. They are viewed as a zero net
24 transfer. So a cost to the companies; yet, a benefit
25 to the participants within that program. So,

1 essentially, those incentives are -- they are out of
2 the equation and they are not considered in the costs
3 of the TRC. So if it were double or triple, it would
4 have no impact on the TRC cost.

5 Q. And just to clarify, the reason that the
6 incentives are not included is because it's
7 effectively transferring money from one set of
8 customers to another set of customers so it nets out
9 to zero, correct?

10 A. Within a region, yes, that's how it's
11 considered zero net transfer.

12 Q. And under the TRC and the UCT, though,
13 the benefits calculations are the same; is that
14 right?

15 A. Under TRC and UCT, I would agree that
16 they are generally the same. They are not
17 100 percent the same though. The UCT, I'll use the
18 avoided cost of generation and capacity, those are
19 also used in the TRC calculation. TRC may include,
20 depending on the jurisdictional guidance, additional
21 benefits, which could be a number of other things,
22 but those are largely the noise in the overall
23 calculation. It's really the avoided cost of
24 generation and capacity that are the lion's share of
25 the benefits in either calculation.

1 Q. Now, this may seem obvious, but the TRC
2 score and UCT score for a given program are not
3 always going to be the same, correct?

4 A. They are not; TRC and UCT. UCT could be
5 higher or lower depending on a number of factors
6 including incentive levels.

7 Q. Now, you said sometimes the UCT will be
8 higher but sometimes it will be lower.

9 A. It could be lower, yes.

10 Q. And a -- within the context of a single
11 test, we talk about a score, a TRC score, UCT score.
12 It's understood that a score above 1 means that it's
13 cost effective, and below 1 means that it's not cost
14 effective, correct?

15 A. Yes.

16 Q. And so it's possible that you could have
17 a program that hovers around the margin of 1.0 where
18 it might be cost effective under one, but not cost
19 effective under the other, TRC and UCT, correct?

20 A. In theory, yes.

21 Q. And the UCT is used for your shared
22 savings calculation, correct?

23 A. Yeah, the UCT was approved and decided by
24 the Commission in the 12-2190 case that it is an
25 appropriate cost effectiveness measure.

1 Q. And so since we just discussed the
2 possibility that a program might be cost effective
3 under one but not the other, it's possible that you
4 could have a program that's cost effective under the
5 UCT and therefore would generate shared savings, but
6 would nonetheless be not cost effective under the
7 TRC, correct?

8 A. Again, you are talking theory, but I am
9 not aware of any situation where that's the case
10 within the companies' plan.

11 Q. But it is possible. Just on a pure
12 numbers basis, right?

13 A. I am sure you could craft a calculation
14 one way to come up with that response if you wanted
15 to.

16 Q. Let's go back to page 106 of the amended
17 plans, please. The second-to-last bullet point
18 states that "The Total Discounted Net Lifetime
19 benefits of all cost-effective energy efficiency
20 programs (as determined by the UCT) are eligible for
21 shared savings." Do you see that first sentence in
22 that bullet point?

23 A. Yes.

24 Q. And this means that if there are programs
25 that are not cost effective under the UCT, they would

1 be excluded from the calculation of the total
2 discounted net lifetime benefits, correct?

3 A. That is correct. They would be excluded
4 during the adjustments to the total discounted net
5 lifetime benefits; one of a number of adjustments
6 that are made in the approved mechanism.

7 Q. And here in this bullet point you refer
8 to "cost-effective energy efficiency programs." Can
9 you clarify that you are talking about programs and
10 not subprograms here?

11 A. "Programs" as it's used here would align
12 with "programs" as used by Company Witness Miller and
13 is used throughout this Exhibit B where programs are
14 identified. To the extent that subprograms
15 underneath a program could be cost effective or
16 ineffective, those would be netted together. So
17 that's -- it's only the program in total that passes
18 a cost-effectiveness test that would be included per
19 this language.

20 Q. So just to clarify, if you have a program
21 that is cost effective at the program level, but
22 there's a subprogram within that program that is not
23 cost effective under the UCT, the net benefits from
24 that subprogram would still be counted towards the
25 overall net benefits calculation, correct?

1 A. If you're -- let me restate it my own
2 way; make sure we are on the same page with that.
3 But, again, the subprograms that are underneath
4 program are really groupings of measures. All of the
5 measures underneath a program would be summed
6 together when determining that program's cost
7 effectiveness score so that the total program is the
8 level at which the UCT would be calculated. And only
9 if that total program, including any measure
10 underneath there that is cost effective or cost
11 ineffective, only if the balance of all of those is
12 greater than 1 would it be included in the shared
13 savings mechanism.

14 Q. Now, at the top of page 106 of the
15 amended plans attached to the stipulation, there's
16 this table that we discussed earlier showing the
17 "Incentive Tiers," "Compliance Percentage," and
18 "Incentive Percentage," correct?

19 A. The one we referred to before, yes.

20 Q. And let's talk about 2018, so we don't
21 have to worry about the 14 percent issue, just to
22 simplify things. So I just want to understand what
23 the "Compliance Percentage" column means. When you
24 say, for example, in Incentive Tier 2, 100 to
25 105 percent, that's talking about a percentage of the

1 statutory benchmark under R.C. 4928.66, correct?

2 A. You might have misstated it, but Tier 2
3 is greater than 100 to 105 percent, but that would be
4 going against the annual trigger as calculated and,
5 yes, that is -- it's annual increment that's
6 identified in 4928.66(A)(1)(a).

7 Q. Now, we just discussed that the
8 non-cost-effective programs would be excluded from
9 the calculation of total discounted net lifetime
10 benefits. My question is, do the energy savings from
11 non-cost-effective energy efficiency programs count
12 for purposes of determining what tier you are in on
13 this table?

14 A. Yes and no. The purpose of the shared
15 savings mechanism is to incent the companies to
16 exceed the statutory targets in 4928.66, thereby --
17 or I should say -- but there is one exclusion to
18 that. One of the stipulated terms would be the third
19 bullet on that same page 106. "For purposes of
20 whether determining the Companies'" -- or "For
21 purposes of determining the Companies' eligibility to
22 receive shared savings and the applicable shared
23 savings tier, the Companies shall not include energy
24 savings achieved under the Customer Action Program."

25 So in your scenario where we would be

1 talking about 2018, the companies' performance as
2 demonstrated in its annual report would be reduced by
3 any impacts from the Customer Action Program prior to
4 determining what compliance percentage the companies
5 have achieved.

6 Q. But other than the Company Action
7 Program, all programs, including non-cost-effective
8 programs, will be counted for purposes of determining
9 which tier, correct?

10 A. Again, as the shared savings mechanism
11 was designed to incent against the compliance
12 benchmarks, with the exception of CAP, yes, because
13 all those -- or all those programs would count
14 towards the companies' performance against
15 4928.66(A)(1)(a), yes, they would also be used for
16 the shared savings mechanism.

17 Q. And looking at the third -- or the
18 last -- the second-to-last bullet point on this page,
19 again, the -- after the semicolon, it says
20 "...however, the Companies may not receive shared
21 savings for the energy savings under the Customer
22 Action Program or the historic Mercantile Customer
23 Program." With respect to the "historic Mercantile
24 Customer Program," do the energy savings from that
25 program contribute to which incentive tier is

1 achieved?

2 A. Yes. As approved in the 12-2190 case,
3 historical mercantile programs do have an exclusion
4 on the net benefits side, but they do count fully
5 towards the trigger.

6 MR. HEALEY: Your Honor, I would like to
7 mark as OCC Exhibit 7 the companies' response to OCC
8 Interrogatory Set 6, No. 144. May I approach the
9 witness?

10 EXAMINER BULGRIN: Yep. OCC Exhibit 7.

11 (EXHIBIT MARKED FOR IDENTIFICATION.)

12 Q. Mr. Demiray, do you have in front of you
13 what's been marked as OCC Exhibit 7?

14 A. I do.

15 Q. And this is the companies' response to
16 OCC Set 6, Interrogatory 144, correct?

17 A. That is correct.

18 Q. And you are the witness for this
19 interrogatory response, correct?

20 A. Yes, I am.

21 Q. Now, this --

22 A. Except for the objections.

23 Q. Thank you. This interrogatory pertains
24 to the Energy Special Improvement District or ESID
25 program under the portfolio, correct?

1 A. That is correct.

2 Q. Now, does -- do the total discounted net
3 lifetime benefits -- strike that.

4 In your response here you state that "the
5 Companies will not include Energy Special Improvement
6 District program results in their calculation of the
7 Portfolios' Adjusted Net Benefits used in the Shared
8 Savings Mechanism." Do you see that?

9 A. I see that.

10 Q. And I am going to ask you the same
11 question as before, do the energy savings from the
12 Energy Special Improvement District program count for
13 purposes of determining which incentive tier is used
14 on page 106 of the portfolio plans?

15 A. Yes, similar to the historical mercantile
16 programs, the energy savings that were achieved under
17 energy special improvement districts, they are deemed
18 appropriate to count towards 4928.66(A)(1)(a), would
19 be used in the trigger calculation for the compliance
20 percentages.

21 Q. Mr. Demiray, looking at the incentive
22 tier table on page 106, within one of the operating
23 companies, say Ohio Edison, customers in each
24 customer class will pay shared savings under the same
25 tier in a given year, correct?

1 MR. GLADMAN: Could I have the question
2 read back?

3 (Record read.)

4 MR. GLADMAN: Thank you.

5 A. I don't know that I would say pay "under
6 the same tier," but if I can phrase it my way, I
7 would say that the incentive tiers as listed in the
8 table are aligned to the shared savings mechanism
9 which is to again exceed the targets set forth in
10 4928.66(A)(1)(a). In there there is a single target
11 for operating companies which is, again, at a
12 cumulative level and not anything other than that.
13 So the design of the mechanism follows that and sets
14 the compliance tier.

15 Again, in assuming that a single level is
16 set, those are translated into dollars. The dollars
17 are then sent to each of the classes within the
18 company. They are allocated in proportion to the
19 adjusted net benefits that each class's programs
20 delivered. So there is an equity between those two
21 where the programs that delivered the benefits align
22 with the dollars collected from that class. So in
23 any case that is driven by the same incentive tier.

24 Q. So it's not possible, say, in 2018 for
25 residential customers of Ohio Edison to pay in Tier 1

1 and non-residentials to pay in Tier 2?

2 A. Approved mechanism is designed to trigger
3 at a total company level.

4 Q. And just to clarify, and I apologize if
5 we covered this already, these compliance percentages
6 refer to the annual compliance, not the cumulative
7 compliance under the statute?

8 A. The cumulative compliance is a factor in
9 determining the annual compliance. If you take a
10 look at our -- my prior testimony you would see that
11 both of those are considered kind of a waterfall, you
12 have to pass both before you would be eligible to
13 trigger shared savings. There are very odd
14 situations where a cumulative deficit could impact
15 the annual amount; but in general, yes, it's
16 referring to the annual.

17 Q. And generally speaking the requirement
18 that you meet the cumulative is just a binary; you
19 met it or you didn't. If you do, then you qualify
20 for shared savings; and if you don't, then you don't,
21 right?

22 A. Yes, subject to the additional thing that
23 the cumulative could have potential impacts on the
24 annual if a prior year's deficit needs to be made up.

25 MR. HEALEY: Your Honor, I would like to

1 mark OCC Exhibit 8. This is the companies' response
2 to OCC Interrogatory Set 1, No. 12. May I approach?

3 EXAMINER BULGRIN: Sure. This is OCC
4 Exhibit 8.

5 (EXHIBIT MARKED FOR IDENTIFICATION.)

6 Q. Mr. Demiray, you have in front of you
7 what's been marked OCC Exhibit 8, and you'll see this
8 is another discovery response. It's the companies'
9 response to OCC Set 1, INT No. 12, and you are the
10 witness responsible for this discovery response,
11 correct?

12 A. That is correct.

13 Q. And this question asks how shared savings
14 will be allocated among the three operating companies
15 if the cap is reached, and your response is that if
16 the \$25 million cap is reached, the amount of shared
17 savings that will be recovered by each company will
18 be based on the proportion that the company earned an
19 incentive in the prior reporting year. Do you see
20 that?

21 A. I do see that, yes.

22 Q. Now, that response doesn't change if the
23 cap is 10 million, correct, other than the number?

24 A. Yes. I would like to just make sure that
25 it's clear what this is saying though. By prior

1 reporting year you have to interpret when the shared
2 savings calculation is determined. So, for example,
3 the 2017 mechanism would not be calculated until the
4 annual report is done in 2018.

5 So "prior year" really does mean the
6 year -- the test year for both the benchmark,
7 companies' compliance with that, and the energy
8 savings achieved as well as costs and how all those
9 flow through the shared savings mechanism within a
10 given year. So it is all tied to the achievements
11 and benefits within the reporting year.

12 Q. And maybe let's do a quick numerical
13 example just so we understand how the money is being
14 allocated to the three companies. Simple example,
15 let's assume there is a \$10 million cap and let's
16 ignore the tax issue for now so we can do the numbers
17 more easily. And let's say each of the companies
18 individually would have qualified for \$5 million in
19 shared savings. They each contributed a third of the
20 total shared savings, so then they would each get a
21 third of the 10 million, correct?

22 A. Make sure I have got your hypothetical
23 correct. You are saying there were \$15 million
24 achieved prior to application or the uncapped amount
25 of the financial incentive is done equally among all

1 three companies, in that situation as each company
2 did -- proportionately did one-third, each of them
3 would receive one-third of the financial allocation,
4 that's correct, so 3.3 repeating.

5 MR. HEALEY: Can I just have one minute,
6 your Honor?

7 EXAMINER BULGRIN: Sure.

8 MR. HEALEY: That's all I have, your
9 Honor.

10 EXAMINER BULGRIN: Great.

11 MS. MESSENGER: I just have one question
12 for clarification, if that's okay.

13 - - -

14 CROSS-EXAMINATION

15 By Ms. Messenger:

16 Q. Sure. I -- can you turn to page 106 of
17 Exhibit B.

18 A. I'm there.

19 Q. Of -- okay. That middle column is titled
20 "Compliance Percentage."

21 A. It is.

22 Q. As originally filed by the company,
23 compliance percentage refers -- and for years 2018
24 and 2019, compliance percentage refers to compliance
25 with the statutory mandate, correct?

1 A. Compliance percentage here would be a
2 calculation that would take the annual energy savings
3 achieved against the annual target that is calculated
4 as an increment in the cumulative amount as listed in
5 4928.66. So it is going against the number that is
6 calculated through that other equation. And, again,
7 for 2018 and 2019 that would not be adjusted as the
8 14 percent is listed here.

9 Q. Right. So in years 2018 and 2019, it
10 correlates with that 1 percent mandate, that
11 calculation you would make, correct?

12 A. Yes.

13 Q. And so for 2017, it would correlate to
14 that 14 percent reduction in the shared savings
15 trigger.

16 A. To be clear, the reduction in the shared
17 savings trigger is as I outlined in my testimony.

18 Q. Right.

19 A. You would calculate what the 1 percent
20 increment would be and then you would reduce that by
21 14 percent and that would set the level at which you
22 would compare annual achievements and then those
23 would flow through this calculation here on the table
24 you've identified.

25 MS. MESSENGER: That's all I have. Thank

1 you.

2 EXAMINER BULGRIN: Redirect?

3 MR. HEALEY: Can we have a break? Thank
4 you, your Honor.

5 EXAMINER BULGRIN: We'll take a 5-minute
6 break.

7 (Recess taken.)

8 MR. GLADMAN: Your Honor, thank you. We
9 have no redirect questions for Mr. Demiray.

10 EXAMINER BULGRIN: Very good. You may
11 step down. Thank you.

12 MR. GLADMAN: Your Honor, at this time
13 can we move for the admission of Company Exhibit 6?

14 EXAMINER BULGRIN: Any objections to
15 Company Exhibit 6 or OCC Exhibits I have 6, 7, and 8?

16 MR. HEALEY: There's a 5 also, your
17 Honor.

18 EXAMINER BULGRIN: 5. 5, 6, 7, and 8.

19 MR. HEALEY: No objections.

20 EXAMINER BULGRIN: No objection, they
21 will be admitted. Thank you.

22 (EXHIBITS ADMITTED INTO EVIDENCE.)

23 MR. GLADMAN: Your Honor, can we address
24 one other housekeeping matter I have discussed with
25 Mr. Healey?

1 EXAMINER BULGRIN: Sure. Do you want
2 this on the record?

3 MR. GLADMAN: Yeah, let's do that. There
4 has been references several times to the stipulation
5 that's been filed in the case, Exhibit A and B to
6 that stipulation, but I don't believe that has yet
7 been admitted into the evidence. We have got copies
8 of that ready. I think it would be a joint exhibit.
9 If we could agree to stipulate to put that into the
10 record, we would like to do so now.

11 EXAMINER BULGRIN: Sure. Let's do that.
12 This would be Joint Exhibit 1.

13 MR. GLADMAN: For purposes of
14 clarification, in addition to the stipulation and the
15 two exhibits, there are also the subsequent filings
16 we made, short ones, to show amendments to the
17 signature page and one page of the plan, so it's an
18 entire package, your Honor.

19 EXAMINER BULGRIN: Great.

20 MR. GLADMAN: Thank you.

21 EXAMINER BULGRIN: Those will be so
22 marked.

23 (EXHIBIT MARKED FOR IDENTIFICATION.)

24 EXAMINER BULGRIN: And any objections? I
25 guess we could wait until the end. Any objections to

1 the admission of Joint Exhibit 1?

2 MR. PARRAM: Just a point of
3 clarification, the most recent filing, the Notice of
4 Amendment to page 89 of the revised plan, that's just
5 incorporated?

6 EXAMINER BULGRIN: Yes, yes.

7 MR. PARRAM: Okay. Thank you, your
8 Honor.

9 EXAMINER BULGRIN: Sure.

10 MR. GLADMAN: Thank you, your Honor.

11 EXAMINER BULGRIN: That will be so
12 admitted then.

13 (EXHIBIT ADMITTED INTO EVIDENCE.)

14 EXAMINER BULGRIN: If there is nothing
15 further, I think we are adjourned for today.

16 (Thereupon, at 3:51 p.m. the hearing was
17 adjourned.)

18 - - -

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1 CERTIFICATE

2 I do hereby certify that the foregoing is a
3 true and correct transcript of the proceedings taken
4 by me in this matter on Monday, January 23, 2017, and
5 carefully compared with my original stenographic
6 notes.

7
8

Karen Sue Gibson, Registered
9 Merit Reporter.

10
11

Carolyn M. Burke, Registered
12 Professional Reporter.

13 (KSG-6304)

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Summary: Transcript in the matter of Ohio Edison Company, The Cleveland Electric Illuminating Company and the Toledo Edison Company hearing held on 01/23/17 - Volume I electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs.