

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the :
Application of The East :
Ohio Gas Company dba :
Dominion Energy Ohio for :
Approval of an Alternative:
Form of Regulation to : Case No. 19-468-GA-ALT
Establish a Capital :
Expenditure Program Rider :
Mechanism. :

- - -

WEBEX PROCEEDINGS

before Ms. Greta See and Ms. Anna Sanyal, Attorney
Examiners, at the Public Utilities Commission of
Ohio, called at 10:45 a.m. on Tuesday, September 15,
2020.

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On behalf of the Northeast Ohio Public
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- - -

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 By Mr. John Jones,
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On behalf of the Staff of the PUCO.

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1 Tuesday Morning Session,
2 September 15, 2020.

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4 EXAMINER SANYAL: Good morning, everyone.
5 The Public Utilities Commission of Ohio has set for
6 hearing at this time and place Case No. 19-468-GA-ALT
7 which is captioned in the Matter of the Application
8 of the East Ohio Gas Company dba Dominion Energy Ohio
9 for Approval of an Alternative Form of Regulation to
10 Establish a Capital Expenditure Program Rider
11 Mechanism.

12 My name is Anna Sanyal. And along with
13 me is Greta See. We are the Attorney Examiners
14 assigned by the Commission to hear this case.

15 At this time let's do -- let's take
16 appearances. The Company.

17 MR. KENNEDY: On behalf of the Company,
18 Mark Whitt and Christopher Kennedy from the law firm
19 of Whitt Sturtevant, LLP, 88 East Broad Street, Suite
20 1590, Columbus, Ohio 43215.

21 EXAMINER SANYAL: Thank you, Mr. Kennedy.
22 Staff.

23 MR. MARGARD: Thank you, your Honor. On
24 behalf of the Staff of the Public Utilities
25 Commission, Dave Yost, Attorney General, John Jones,

Section Chief, Public Utilities Section, by Assistant Attorney General Werner L. Margard, 30 East Broad Street, 16th Floor, Columbus, Ohio 43215.

EXAMINER SANYAL: Thank you, Mr. Margard. Office of the Ohio Consumers' Counsel.

MR. HEALEY: Good morning, your Honor. On behalf of the Consumers' Counsel, Christopher Healey and William Michael, 65 East State Street, Columbus, Ohio 43215. And also with us is special counsel for the Office of the Ohio Consumers' Counsel Kimberly W. Bojko, with the law firm Carpenter Lipps & Leland, 280 North High Street, Columbus, Ohio 43215. Thank you.

EXAMINER SANYAL: Thank you, Mr. Healey. And Northeast Ohio Public Energy Council which for the record we will be referring to as NOPEC.

MR. STINSON: Yes, your Honor. Thank you. On behalf of NOPEC, the firm of Bricker & Eckler, LLP, by Glenn Krassen, 1001 Lakeside Avenue, Suite 1350, Cleveland, Ohio 44114 and Dane Stinson, 100 South Third Street, Columbus, Ohio 43215.

EXAMINER SANYAL: Thank you, Mr. Stinson.

So as you know, we are doing this hearing virtually, so I have some standard language that I would like to go over. I know we've discussed many

1 before, many of these issues, but I would like to go
2 over them again.

3 So due to the COVID-19 emergency which
4 remains in effect, pursuant to Executive Order
5 2020-01D issued by the Governor of the State of Ohio
6 and consistent with Amended Substitute House Bill
7 197, this hearing is being held through Webex which
8 enables parties to participate by video conference
9 while also affording public access to the hearing by
10 telephone or video via the internet.

11 As I noted earlier, I would like to
12 address some preliminary issues which we've also
13 discussed off the record. First, if counsel or
14 witnesses experience technical activities during the
15 hearing, please immediately let AE See or me know via
16 e-mail, some of you have our cell phone numbers so
17 use that wisely. You can also contact our Legal
18 Department via the Webex Chat which Heather Chilcote
19 has already been using, and she has also put the
20 Legal Department phone number in there. Another
21 option is for you to raise your hand within Webex.

22 While using the Chats, please be aware
23 that the Chats are recorded. They are part of the
24 public record, and they are not private. They are
25 also not part of the official record of this case.

For those of you watching or listening as an attendee, while you may observe the hearing, your microphones will be muted.

Let's briefly chat about how this hearing will be conducted. So in most -- almost all aspects, this virtual hearing will proceed in much the same way as an in-person hearing before the Commission. However, due to the remote nature of the hearing, here is some general ground rules and reminders. So as we just found out, to avoid unnecessary background noise, I would ask that counsel keep their microphones on mute unless they are speaking or to be prepared to speak quickly as is the case when raising objections or during cross-examination of a witness.

The microphones of witnesses who will join as attendees will be kept on mute until it is their time to testify. With respect to your video, please keep your video on unless we are on a break. You can also turn your video off if you need to step away from the hearing when your co-counsel is taking the lead. Please remember to turn your camera back on when you return. Witnesses will need to turn on their cameras when they begin their testimony.

Please be mindful of our court reporter, Ms. Gibson. Please speak clearly and at a reasonable

1 speed so the court reporter can accurately transcribe
2 the hearing. Ms. Gibson, feel free to interrupt us
3 if you need more clarity.

4 Please, please, you know, try your best
5 or let's completely avoid speaking over each other.
6 And then let's try and pause when we speak so people
7 can jump in if they can't hear you, et cetera.

8 During their testimony, witnesses will
9 have access only to the filings in this case docket
10 as well as other documents that have been identified
11 as potential exhibits that have already been
12 exchanged among the parties and shared with the
13 Bench. Witnesses should not access or seek other
14 information in documents while testifying nor should
15 they communicate through any means with anyone
16 privately during their testimony.

17 So any questions about these ground
18 rules?

19 Okay. Hearing none, as we also discussed
20 off the record, we do have a pending motion to strike
21 that we have to issue a ruling on. So on
22 September 8, OCC and NOPEC jointly filed a motion to
23 strike portions of Ms. Friscic's testimony in support
24 of the Stipulation. Dominion filed a response
25 yesterday. Upon review of the Motion to Strike and

1 the Memorandum Contra, the Bench will be denying the
2 OPEC and -- NOPEC and OCC's motion. You know, we
3 believe Dominion was not a party in the Columbia CEP
4 case and, therefore, is not bound by the Stipulation
5 so that's our ruling.

6 Any questions?

7 Okay. Hearing none, I believe
8 Ms. Friscic is our first witness. So if the Company
9 is ready to proceed.

10 MR. KENNEDY: The Company is ready to
11 proceed. Is Ms. Friscic on camera?

12 MS. CHILCOTE: She has been promoted to a
13 panelist and should be able to turn on her video and
14 speak at this time.

15 MS. FRISCIC: Good morning.

16 EXAMINER SANYAL: Good morning. We can
17 see and hear you so success.

18 MS. FRISCIC: That's a good thing.

19 EXAMINER SANYAL: Yes. Will you please
20 raise your right hand.

21 (Witness sworn.)

22 EXAMINER SANYAL: Okay. You may proceed,
23 Mr. Kennedy.

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VICKI FRISCIC

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

DIRECT EXAMINATION

Q. Good morning, Ms. Friscic.

A. Good morning, Mr. Kennedy.

Q. Please state your name and address for
the record, please, business address.

A. My name is Vicki Friscic, and I am
employed by Dominion Energy Ohio at 1201 East 55th
Street, Cleveland, Ohio 44103.

Q. Do you, Ms. Friscic, do you have in front
of you what was marked previously as Joint
Exhibit 1.0 which is the Stipulation and
Recommendation that was filed on August 31 in this
Docket 2020?

A. Yes, I do.

Q. And then attached to that Stipulation is
Joint Exhibit 2.0 and Joint Exhibit 3.0?

A. Yes, I have those, yes.

EXAMINER SANYAL: Mr. Kennedy, are we
also marking those exhibits at this point just for --

MR. KENNEDY: For identification the
Stipulation will be marked as Joint Exhibit 1 and
then the two exhibits behind it are previously marked

1 Joint Exhibit 2 and then Joint Exhibit 3. And that's
2 the way it appears on E docket -- or on the PUCO's
3 website.

4 EXAMINER SANYAL: Thank you.

5 (EXHIBITS MARKED FOR IDENTIFICATION.)

6 Q. (By Mr. Kennedy) Ms. Friscic, do you also
7 have a copy of -- in front of you of the Application
8 that Dominion filed in this docket on May 1, 2019?

9 A. Yes, I do.

10 MR. KENNEDY: For purposes of
11 identification we'll be identifying this document as
12 DEO Exhibit 1.0.

13 EXAMINER SANYAL: It is so marked.

14 (EXHIBIT MARKED FOR IDENTIFICATION.)

15 Q. (By Mr. Kennedy) Ms. Friscic, do you also
16 have a copy in front of you of your direct testimony
17 that was filed on May 1, 2019, in this docket?

18 A. Yes, I do.

19 Q. Now, was this testimony prepared by you
20 or prepared under your direction?

21 A. Yes.

22 Q. And if I were to ask you the same
23 questions today, would you provide the same answers?

24 A. I would.

25 Q. And do you have any corrections to this

1 testimony?

2 A. I do not.

3 MR. KENNEDY: For purposes of
4 identification, the Company will be marking or ask
5 that this testimony be identified as DEO Exhibit 2.0.

6 EXAMINER SANYAL: It is so marked.

7 (EXHIBIT MARKED FOR IDENTIFICATION.)

8 Q. (By Mr. Kennedy) Ms. Friscic, do you also
9 have a copy in front of you of the testimony you
10 filed in support of the Stipulation on August 31,
11 2020?

12 A. Yes.

13 Q. And was this prepared by you or prepared
14 under your direction?

15 A. Yes, it was.

16 Q. And if I were to ask you the same
17 questions today, would you provide the same answers?

18 A. Yes, I would.

19 Q. And do you have any corrections to this
20 testimony?

21 A. I do not.

22 MR. KENNEDY: The Company would request
23 this testimony be marked, which it was previously
24 marked, as DEO Exhibit 4.0, so we'll continue
25 designating it as such.

1 EXAMINER SANYAL: It is so marked.

2 (EXHIBIT MARKED FOR IDENTIFICATION.)

3 MR. KENNEDY: There will not be a 3.0 so
4 we will just skip that number.

5 EXAMINER SANYAL: Thank you for the
6 clarification and DEO Exhibit 4.0 has been so marked.

7 MR. KENNEDY: These are the only exhibits
8 that we have for the direct examination of
9 Ms. Friscic, so subject to cross-examination by OCC
10 and NOPEC, we would move for admissibility of these
11 four exhibits, subject to that cross.

12 EXAMINER SANYAL: Thank you, Mr. Kennedy.
13 Mr. Stinson?

14 MR. MARGARD: Your Honor, before
15 Mr. Stinson begins his cross and for a little clarity
16 in the record, I would like to mark the Staff
17 exhibits that are referenced in Joint Exhibit 1.

18 EXAMINER SANYAL: Absolutely. Thank you.

19 MR. MARGARD: Thank you. Joint Exhibit 1
20 identifies as Staff Exhibit 1.0 the Staff Report
21 filed on May 11 of 2020 and identifies as Staff
22 Exhibit 2.0 the Blue Ridge Consulting Services, Inc.,
23 Plant in Service and Capital Spending Audit filed
24 April 27 of 2020.

25 I merely wanted to note that for the

1 convenience of the parties as we go through the
2 examination should that occasion arise.

3 EXAMINER SANYAL: Thank you, Mr. Margard.
4 Those two exhibits have been so marked.

5 (EXHIBITS MARKED FOR IDENTIFICATION.)

6 EXAMINER SANYAL: And I guess, you know,
7 do you have any questions of Ms. Friscic before?

8 MR. MARGARD: I do not. Thank you, your
9 Honor.

10 EXAMINER SANYAL: Okay. And I think I
11 called Mr. Stinson. Are you?

12 MR. STINSON: Your Honor, OCC and NOPEC
13 arranged for OCC to lead the cross-examination so.
14 If we are at cross, we would go to OCC.

15 EXAMINER SANYAL: So is it Mr. Healey?
16 Ms. Bojko?

17 MR. HEALEY: That would be me, your
18 Honor.

19 EXAMINER SANYAL: Okay. You may proceed.

20 MR. HEALEY: Thank you.

21 - - -

22 CROSS-EXAMINATION

23 By Mr. Healey:

24 Q. Ms. Friscic, your counsel just discussed
25 several documents that you have in front of you. Can

1 you tell me whether you have any other documents
2 printed out in front of you other than the ones your
3 counsel identified?

4 A. I do not.

5 Q. And do you have any -- sorry. Go ahead.

6 A. Sorry. I removed some documents from my
7 desk and put them upside-down on the floor.

8 Q. Okay. Documents from another case or
9 something else, I assume?

10 A. Yes.

11 Q. And do you have any documents up on your
12 computer screen that you can see right now?

13 A. I do not.

14 Q. And you are aware that yesterday
15 afternoon OCC sent some documents to your counsel
16 that might be used for your cross-examination today,
17 correct?

18 A. Yes, I'm aware.

19 Q. And you have those documents available to
20 you should we need to discuss them today during your
21 cross-examination?

22 A. I do.

23 Q. And did you review any of those documents
24 yesterday or this morning before your
25 cross-examination?

1 A. Yes, I did do a quick review of those
2 documents.

3 Q. Did you review all of them?

4 A. Yes.

5 Q. Just one kind of clarifying point but
6 most of my cross today will be based on your
7 testimony in support of the Stipulation which has
8 been marked DEO 4, so if I refer to your testimony
9 and just say testimony, can we assume that I will be
10 referring to that piece of testimony? Is that okay
11 as a convention for your cross-examination?

12 A. Yes, that's fine.

13 Q. Now, you are not an attorney, correct?

14 A. I am not.

15 Q. And you are aware that Dominion filed a
16 Stipulation and Recommendation in this case on
17 August 31, 2020, correct?

18 A. Correct.

19 Q. And I may refer to that either as the
20 stipulation or the settlement, so if I say
21 stipulation or I say settlement, I am talking about
22 the same thing, that document. Is that okay with
23 you?

24 A. Yes.

25 Q. Are you testifying as an expert witness

1 today?

2 A. I am.

3 Q. Are you a rate of return expert?

4 A. I am not a rate of return expert.

5 Q. Are you a rate design expert?

6 A. I work with rate design. Whether I would
7 be called an expert or not is not certain.

8 Q. And you are aware that OCC and NOPEC
9 jointly filed the testimony of Dr. Daniel Duann last
10 week in this case, correct?

11 A. Correct.

12 Q. And you are also aware that OCC and NOPEC
13 jointly filed the testimony of Kerry Adkins last
14 week, correct?

15 A. Correct.

16 Q. And did you review Dr. Duann's testimony?

17 A. I did review it briefly.

18 Q. When you say "briefly," does that mean
19 you did not review the entire thing?

20 A. Not in significant detail.

21 Q. Okay. Are there portions of his
22 testimony you did not read at all?

23 A. Yes. That's true.

24 Q. And so not having read them, you wouldn't
25 be in any position to opine on whether you agree with

1 them or disagree with those parts, correct?

2 A. That's correct.

3 Q. And with respect to Mr. Adkins'
4 testimony, did you review his testimony?

5 A. Yes, I did.

6 Q. Did you read his testimony in its
7 entirety?

8 A. I did.

9 Q. Let's turn to page 4 of your testimony,
10 please. And on line 2, you note that the agreed-upon
11 CEP revenue requirement under the Stipulation is
12 82.68 million, correct?

13 A. Correct.

14 Q. And then on the next line you note that
15 the amount that you propose in your application was a
16 slightly higher at 82.92 million, correct?

17 A. Correct.

18 Q. So you would agree just simple math that
19 that's a reduction of \$240,000?

20 A. Yes.

21 Q. And you would also agree then that the
22 revenue requirement in the Stipulation would be
23 99.7 percent of what you asked for in your
24 application; is that right?

25 A. I have not calculated that percentage.

1 Q. Would you consider a \$240,000 reduction
2 on merely \$83 million to be a major concession by the
3 Company in this settlement?

4 A. It is what resulted from the Blue Ridge
5 Consulting audit of Dominion's CEP application.

6 Q. Sure. That's the basis for that
7 reduction. Would you consider that to be a major
8 concession on your part agreeing to that?

9 A. Yes, I would.

10 Q. The settlement proposes using a
11 9.91 percent pretax rate of return, correct?

12 A. Correct.

13 Q. And that rate of return is based on the
14 rate of return that was approved in your last base
15 rate case, correct?

16 A. That's correct, adjusted for the
17 reduction in the federal income tax rate.

18 Q. And it uses a 10.38 percent return on
19 equity? Does that sound right to you?

20 A. Yes.

21 Q. And a 6.50 percent cost of debt?

22 A. Yes.

23 Q. Now, Dominion's current cost of debt is
24 not actually 6.50 percent, correct?

25 A. That is -- well, yeah. We recently went

1 through an external issuance of debt for the first
2 time and that did result in a lower rate as of a
3 recent date.

4 Q. Great. I would like to turn now to one
5 of the documents that was provided to your counsel
6 yesterday. In producing it, it was OCC H if you have
7 that electronic file.

8 A. Yes, I have that in front of me now.

9 Q. Okay.

10 MR. HEALEY: Your Honor, at this time I
11 would like to mark as OCC Exhibit 3, I would like to
12 reserve OCC 1 and 2 for our witness testimony, so if
13 we could mark as OCC Exhibit 3, it's the Report of
14 the East Ohio Gas Company dba Dominion Energy Ohio
15 filed on July 2, 2020, in Case No. 20-175-GA-AIS.

16 EXAMINER SANYAL: That is so marked.

17 (EXHIBIT MARKED FOR IDENTIFICATION.)

18 Q. (By Mr. Healey) Now, Ms. Friscic, when
19 you just mentioned now that you recently refinanced,
20 does this document reflect that refinancing that you
21 mentioned?

22 A. Yes, it does.

23 Q. And you are familiar with this document,
24 correct?

25 A. Correct.

1 Q. And if we could take a look at the second
2 page of what's now been marked OCC Exhibit 3, please.
3 It says at the top "Exhibit A."

4 A. Yes, I have that.

5 Q. Okay. Thank you. And you would agree
6 based on this document, that there are three
7 series -- series A, series B, series C and that the
8 weighted average interest rate is 2.25 percent,
9 correct?

10 A. That is correct. It's the Company's
11 position though that this is not an appropriate rate
12 to use in our alternative regulation case, however.

13 Q. And prior to this refinancing that's
14 referenced here, your cost of debt was 4.23 percent;
15 is that right?

16 A. Yes. It has decreased over time, yes.

17 Q. Now, according to page 2 of OCC
18 Exhibit 3, Dominion stated here that the approximate
19 interest cost savings is \$34.4 million, correct?

20 A. Yes, that's what it states.

21 Q. And that would be savings as a result of
22 reducing the interest rate from the 4.23 percent down
23 to the 2.5 percent, correct?

24 A. Yes, on a going-forward basis.

25 Q. And it says "interest cost savings,"

1 that's cost savings for Dominion, correct?

2 A. At this point in time. Customers will
3 get the benefit of that when the returns are reset in
4 the next rate case, base rate case.

5 Q. Right. But as of right now, customers
6 are not receiving any benefit from that reduction in
7 cost of debt, correct?

8 A. Not at this time but they will get the
9 benefit of that.

10 Q. And you -- you've committed to filing a
11 rate case by October of 2024, correct?

12 A. That's correct.

13 Q. And based on your experience, you would
14 expect new rates in that case to go in effect
15 sometime in 2025, correct?

16 A. Correct.

17 Q. And so for at least the next four years
18 or so, Dominion will continue to save \$34.4 million
19 per year without you passing any of that on to
20 customers, correct?

21 A. Well, it's our view that the return that
22 was authorized in Dominion's last base rate case is
23 the appropriate return to use in an alt reg case such
24 as the CEP case. We're not aware of any times, or I
25 am not aware of any times where the Commission has

1 reduced one component of a return without examining
2 other components such as the capital structure and so
3 forth and without a full review of the costs and so
4 forth as it's done on a base rate case. So we feel
5 that's the appropriate setting in which a review
6 and -- and perhaps a change in components are -- are
7 more properly determined.

8 Q. Sure. I think we understand that's your
9 position. My question was actually based on your
10 requirement that you file a rate case in 2024 and
11 that we just agreed that those rates wouldn't go into
12 effect until 2025, that the \$34.4 million in savings
13 reflected on OCC Exhibit 3 will continue to accrue to
14 Dominion and not to customers for at least the next
15 four years, correct?

16 A. That would be correct.

17 Q. Okay.

18 A. However, between rate cases, costs go up,
19 costs go down. Different components of costs change
20 in different ways which is why we think a base rate
21 case is the right place to examine those.

22 MR. HEALEY: Your Honor, I move to strike
23 everything after her confirming that the answer to my
24 question was that I was correct.

25 EXAMINER SANYAL: Overruled.

1 Q. (By Mr. Healey) And we've discussed your
2 new rate of 2.25 percent and the previous rate of
3 4.23 percent. But it remains true that through base
4 rates, at least, customers continue to pay the
5 6.5 percent cost of debt, correct?

6 A. Correct.

7 Q. And so given that -- and you are
8 proposing customers continue to pay -- or that
9 customers pay 6.5 percent cost of debt through the
10 CEP Rider, correct?

11 A. That's correct, because it would be -- to
12 do otherwise would be to change one component of a
13 return without looking at the entire picture.

14 Q. And so as a result of customers paying
15 6.5 percent but Dominion only paying 2.25 percent,
16 the difference between those two is money that's
17 going to accrue to Dominion, correct, as a result of
18 the CEP Rider?

19 A. That's correct. But again, that may be
20 offset by other cost increases since the last rate
21 case.

22 Q. Sure. And it may also likewise not be
23 enough if there were cost decreases since the last
24 rate case, correct?

25 A. Costs go up and costs go down between

1 rate cases, that's correct.

2 Q. Right. In this case we haven't evaluated
3 the extent to which any costs have gone up or down
4 since your last rate case, correct?

5 A. Other than the specific costs here with
6 regard to the CEP and to other rider cases, that's
7 right.

8 Q. And as a result of customers paying a
9 cost of debt that's higher than your actual cost of
10 debt, in effect, that's increasing your return on
11 equity, correct?

12 A. If you look at it that way, it is, but
13 again, we believe a rate case which we've now
14 committed to is the right place to determine the
15 appropriate return components and capital structure.

16 Q. You said you've now committed to a rate
17 case. You had already committed to a rate case prior
18 to filing this stipulation in this case, correct?

19 A. Yes, and that's what I meant by now. We
20 did commit to it in our Tax Reform case, and we've
21 made refinements to that commitment in this
22 stipulation.

23 Q. I would like to turn to the stipulation
24 now, in particular the Joint Exhibit 2.0.

25 A. Yes. I have it.

1 Q. Just for reference, we see that under the
2 "Adjusted" column, I guess first question, adjusted
3 on this Joint Exhibit 2.0 means what you are agreeing
4 to in the stipulation, correct?

5 A. That's correct.

6 Q. And we see about two-thirds of the way
7 down maybe, the impact per bill for residential
8 customers is \$3.86, correct?

9 A. Correct.

10 Q. And so each resident customer, if the
11 stipulation is approved as filed, would pay 3.86 per
12 month initially, correct?

13 A. That's correct.

14 MR. HEALEY: I would like to mark the
15 next OCC exhibit, OCC Exhibit 4. This would be
16 Dominion's response to OCC Interrogatory 4-003 which
17 can be found in the electronic file OCC A.

18 A. Yes. I have that now.

19 EXAMINER SANYAL: Give me one moment to
20 locate it myself.

21 MR. HEALEY: Sure. And it would be page
22 5 of the PDF if you are opening it electronically.

23 EXAMINER SANYAL: So I'm looking -- never
24 mind. I have it. So just for identification
25 purposes, the document was served, it looks like,

1 September 8, 2020. Is that the fourth set of
2 interrogatories?

3 MR. HEALEY: Correct.

4 EXAMINER SANYAL: Okay. That is so
5 marked.

6 (EXHIBIT MARKED FOR IDENTIFICATION.)

7 MR. HEALEY: And we are just marking
8 Interrogatory 4-003 as OCC Exhibit 4.

9 EXAMINER SANYAL: And what page is that
10 on?

11 MR. HEALEY: It's on page 5 of the PDF.

12 EXAMINER SANYAL: Okay. Thank you. That
13 is so marked.

14 MR. HEALEY: Thank you.

15 Q. (By Mr. Healey) Ms. Friscic, you are
16 identified as the answerer of this interrogatory,
17 correct?

18 A. Correct.

19 Q. And you, in fact, provided the response
20 to this?

21 A. Yes.

22 Q. And in this question OCC refers to the
23 Joint Exhibit 2 to the settlement that we just talked
24 about and the 3.86 rate that the residential
25 customers will pay, correct?

1 A. Yes.

2 Q. And OCC asked the Company to provide
3 supporting calculations showing how that \$3.86 charge
4 was derived, correct?

5 A. That's correct.

6 Q. And in response to this interrogatory,
7 you provided two attachments which are -- you denoted
8 INT-04-003_Attach 1 and INT-04-003_Attach 2, correct?

9 A. That's correct.

10 Q. And I would like you to open now or look
11 at the first one of those which is INT-04-003
12 Attachment 1 which was provided as OCC B in the
13 electronic files.

14 EXAMINER SANYAL: Are you marking those
15 as separate exhibits? Are they just part of OCC
16 Exhibit 4?

17 MR. HEALEY: I would like to mark OCC
18 Exhibit 5 would be INT-04-003 Attachment 1.

19 EXAMINER SANYAL: And there's two tabs on
20 that spreadsheet. Which tab?

21 MR. HEALEY: It would be both -- both
22 tabs, your Honor, would be the exhibit.

23 EXAMINER SEE: Mr. Healey, this is
24 Attorney Examiner See. If you could give me just a
25 minute, please.

1 MR. HEALEY: I'm sorry, your Honor. What
2 was your request?

3 EXAMINER SEE: Give me just a minute to
4 get that exhibit, please.

5 MR. HEALEY: Yes, of course.

6 EXAMINER SANYAL: And those are the Excel
7 spreadsheets.

8 (EXHIBIT MARKED FOR IDENTIFICATION.)

9 EXAMINER SEE: Okay. Thank you,
10 Mr. Healey.

11 MR. HEALEY: Thank you.

12 Q. (By Mr. Healey) I would like to look at
13 the second tab, the rate design tab, please.

14 A. Okay.

15 Q. And I want to walk through with you the
16 derivation of this 3.86 rate just so we understand
17 how it's calculated for purposes of the stipulation.
18 So we start at the top. We see the revenue
19 requirement \$82,679,047.47. Do you see that?

20 A. Yes.

21 Q. And that would be the revenue requirement
22 that you are proposing as part of the stipulation,
23 correct?

24 A. That's correct.

25 Q. And just for purposes of rounding, I will

1 probably call that the \$82.7 million requirement.

2 A. Okay.

3 Q. And to determine the revenue requirement
4 that will be paid by residential customers, you
5 multiply the \$82.7 million by 63.34 percent, correct?

6 A. I'm sorry. Would you restate the
7 question?

8 Q. Sure. To determine the revenue
9 requirement for residential customers, you would take
10 the \$82.7 million revenue requirement and multiply
11 that by 62.34 percent, correct?

12 A. That's correct.

13 Q. And then that would give you the number
14 that appears near the middle of this page, the
15 \$52,371,453, correct?

16 A. Yes, that's correct.

17 Q. And then to get the monthly rate for
18 residential customers, you would take that
19 \$52.4 million number and divide it by the number of
20 bills, correct?

21 A. That's correct.

22 Q. And the number of bills is the
23 13,558,168, correct?

24 A. Correct.

25 Q. And that would be annual bills?

1 A. Number of bills issued during the year,
2 yes.

3 Q. Great. And so when you divide the
4 52.4 million by the 13.5 million bills, you get the
5 \$3.86 charge, correct?

6 A. That's correct.

7 Q. And so we could do that in reverse as
8 well, right? If we know the rate, the 3.86, and we
9 know the number of bills, then we can just multiply
10 those together and that would get you back to the
11 residential revenue requirement, correct?

12 A. Would you restate that, please, or repeat
13 it?

14 Q. Sure. If you wanted to do it in reverse,
15 say you only knew the rate, the 3.86 and you knew the
16 number of bills, then you could calculate the revenue
17 requirement by multiply the number of bills by the
18 rate, correct?

19 A. Correct.

20 Q. And I want to look real quick back at
21 Joint Exhibit 2.0. And I just wanted to confirm the
22 revenue requirement there in the stipulation, the
23 82,679,047 is the same revenue requirement from OCC
24 Exhibit 5, correct?

25 A. That's correct.

1 Q. And when you -- at the bottom of Joint
2 Exhibit 2 with your note -- when you note that it's
3 based on total bills and volumes for the 12 months
4 ending December 31, 2019, that would be the
5 13,558,168 residential bills, correct?

6 A. That's correct.

7 Q. Can you turn to the stipulation page 4,
8 please.

9 A. Yes, I'm there.

10 Q. And I direct your attention to the bottom
11 paragraph, 9, and then the table showing rate cap.
12 Do you see that?

13 A. I do.

14 Q. And under the settlement the proposal for
15 October 1, 2021, to September 30, 2022, is a rate cap
16 of \$5.51 per month, correct?

17 A. That's correct.

18 Q. Now, if we wanted to figure out the
19 potential revenue requirement for residential
20 customers during that period as we just discussed,
21 you would take this 5.51 and multiply it by the
22 number of bills, correct?

23 A. For that two-year period in this case,
24 yes. No. I correct that. You would multiply it by
25 the number of bills over the period, yes, one-year

1 period over which that rate would be collected,
2 that's correct.

3 Q. Correct. And do you have a calculator in
4 front of you by any chance?

5 A. No, I don't. No.

6 Q. Okay. So without doing the calculation,
7 we can still walk through the methodology. As we
8 just confirmed, you would take that 5.51, multiply it
9 by the 12 months of bills and that would get you a
10 revenue requirement for that year, maximum revenue
11 requirement, correct?

12 A. Maximum revenue requirement, yes.

13 Q. And on the next page of the stipulation,
14 page 5, there are rate caps for future years 6.31,
15 6.96, and 7.51, correct?

16 A. That's correct.

17 Q. And so for those years, could you do the
18 same thing, multiply the rate cap by the number of
19 bills and that would get you a maximum revenue
20 requirement for each of those years as well, correct?

21 A. That's correct.

22 Q. Can you tell me what -- what was the
23 basis for the 5.51 rate cap in the stipulation?

24 A. The basis for the 5.51 is just a
25 negotiated number that would cover the maximum

1 investment DEO could make for those years '19 and '20
2 that would be covered by that rate increase.

3 Q. And so you would expect that based on the
4 investments you have made in 2019 and will make in
5 2020, that this 5.51 rate cap will be sufficient to
6 collect all of those charges, correct?

7 A. We believe that this is what we are
8 committing to in terms of investment, yes.

9 Q. And do you know how much CEP capital
10 investment you can make in 2019 and 2020 while still
11 staying under this cap?

12 A. I do not have those numbers in front of
13 me, no.

14 Q. Now, we understand that the 5.51 is for
15 investment years 2019 and 2020, correct?

16 A. That's correct.

17 Q. And 2019 is already over, correct?

18 A. That's correct. And so based on the
19 timing and how long this case has taken to work its
20 way through, it makes sense that the next filing
21 be -- we are agreeing to April 1, so April 1 of 2021.
22 So it makes sense to cover both '19 and '20 in that
23 filing, and after that, we will be on the annual
24 schedule.

25 Q. Now, given that 2019 is over, Dominion

1 is -- already knows how much CEP investment it made
2 in 2019, correct?

3 A. That's correct.

4 MR. HEALEY: And I would like to mark the
5 next exhibit. This would be OCC Exhibit 6 and this
6 would be the document marked OCC D. It's another
7 Excel file. It will be your response to
8 Interrogatory 04-011, and it's Attachment 3.

9 A. Would you tell me again which one we are
10 looking at?

11 Q. Sure. This is the Excel file that is
12 Interrogatory 04-011 Attachment 3.

13 A. 011, 3.

14 EXAMINER SANYAL: That exhibit is so
15 marked.

16 (EXHIBIT MARKED FOR IDENTIFICATION.)

17 MR. HEALEY: Thank you, your Honor.

18 EXAMINER SANYAL: Just --

19 A. I am not sure which of the documents in
20 front of me that is.

21 EXAMINER SANYAL: Ms. Friscic, it's a
22 spreadsheet, and on top it says "Capital Expenditure
23 Program CEP Rider Revenue Requirement."

24 Q. (By Mr. Healey) It has three columns, one
25 for cumulative 2018 and then 2019 activity and then

1 cumulative through 12-31-2019.

2 A. Okay. Are we talking about OCC D?

3 Q. Yes.

4 A. Okay. I'm sorry. I have that in front
5 of me now.

6 MR. HEALEY: Great. And let's also --
7 let's mark as OCC Exhibit 7 the corresponding
8 interrogatory request which would be Interrogatory
9 4-11 which is found on page 14 of OCC A. Page 14 to
10 15 actually.

11 EXAMINER SANYAL: Okay. I've located
12 that and that exhibit shall be so marked.

13 (EXHIBIT MARKED FOR IDENTIFICATION.)

14 MR. HEALEY: Thank you.

15 Q. (By Mr. Healey) Ms. Friscic, in response
16 to OCC's Interrogatory 11 of -- 4-11, you produced a
17 spreadsheet which you describe as providing a
18 preliminary calculation of the CEP revenue
19 requirement for the CEP investment year ending in
20 December 30, 2019, correct?

21 A. That's correct.

22 Q. And just a minor point that would be
23 December 31, correct?

24 A. Yes.

25 Q. And let's look at the spreadsheet that's

1 been marked OCC Exhibit 6. And we see there's three
2 columns. The second column is called "2019
3 Activity," correct?

4 A. That's correct.

5 Q. And the first number in that column is
6 "Capital Additions," \$137 million and change,
7 correct?

8 A. That's correct.

9 Q. And so that would be the amount of
10 capital investment you made in CEP assets in 2019,
11 correct?

12 A. Yes.

13 Q. And based on that -- I'm sorry. Did you
14 have --

15 A. Yeah, gross capital investment, that's
16 correct.

17 Q. And this shows at the very bottom that
18 the cumulative through 2019 would result in a revenue
19 requirement of about \$100.9 million, correct?

20 A. That's correct.

21 Q. And have you calculated what the CEP
22 Rider rate for residential customers would be with
23 this revenue requirement?

24 A. I believe we did calculate that, and it
25 would be \$4.71.

1 Q. And the way you have calculated that
2 would be just to take the \$100.9 million revenue
3 requirement and divide it by the customer bills for
4 12 months, correct?

5 A. That's correct.

6 Q. And so if the 2019 activity resulted in
7 an increase to about 4.71, then to get to the rate
8 cap of 5.51, it would need to be another 80 cent
9 increase, correct?

10 A. That's correct.

11 Q. And if -- go ahead.

12 A. Well, I was just going to say the 4.71 is
13 an 85 cent increase over the initial rate of 3.86.

14 Q. Right. And if -- strike that.

15 You track your CEP investments monthly,
16 correct?

17 A. Yes. There's a group that does that,
18 that's correct.

19 Q. And so you would know how much you've
20 spent on CEP capital investments for at least the
21 first seven or eight months of 2020, correct?

22 MR. KENNEDY: Objection, personal
23 knowledge. She said there's a group that does it. I
24 don't think there is foundation laid that she
25 personally would know that. I don't know what you

1 meant by "you," if you were talking about the Company
2 or Ms. Friscic.

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

4 EXAMINER SANYAL: Thank you.

5 Q. (By Mr. Healey) Ms. Friscic, do you know
6 whether the Company is aware of how much CEP
7 investment has been made in 2020 through July or
8 August?

9 A. I believe the Company is aware of that.
10 Now, it hasn't run through all of the review it would
11 go through in the course of preparing a rate
12 calculation, but I believe the Company has
13 information as to what has been spent.

14 Q. And do you personally know how much has
15 been spent through, let's say, July of 2020?

16 A. I personally do not know.

17 Q. Do you know -- do you know it roughly?
18 Within -- is it more than 100 million?

19 MR. KENNEDY: Objection, calls for
20 speculation.

21 EXAMINER SANYAL: Overruled. You may
22 answer to the extent you know, Ms. Friscic.

23 A. Through mid-year I do not believe that
24 it's over 100 million.

25 Q. Do you know if it's more than 50 million?

1 A. I am not sure of that number.

2 Q. How far in advance does Dominion plan its
3 capital investments for CEP?

4 A. Dominion prepares a plan annually. Now,
5 there are projections for a five-year plan, but those
6 projections change continually throughout each year,
7 so they're not the official plan until just prior to
8 the new year.

9 Q. And so you said they prepare -- Dominion
10 prepares an annual -- would it be an annual budget a
11 year in advance?

12 MR. KENNEDY: I am going to object to
13 this line of questioning. I don't think there has
14 been foundation laid that she is a part of the
15 planning for the company on the investment. If you
16 would like to lay some foundation on that, perhaps it
17 would be a better question.

18 MR. HEALEY: Yeah, this is foundation. I
19 am asking if she knows.

20 EXAMINER SANYAL: I'm going to allow
21 Mr. Healey to ask that question so overruled.

22 THE WITNESS: Overruled. So the question
23 is what now?

24 EXAMINER SANYAL: You may answer the
25 question, Ms. Friscic, and then if you don't remember

1 the question, we can have the court reporter read it
2 back to you.

3 THE WITNESS: Okay. Could you please
4 have the question read back to me.

5 EXAMINER SANYAL: Absolutely.

6 (Record read.)

7 A. The Company prepares a five-year
8 financial plan. And that plan gets updated
9 frequently throughout each year. The annual plan,
10 for example, for 2021 is in the process of being
11 determined at this time.

12 Q. Okay. So based on your five-year plan,
13 you at least -- you would agree you at least have a
14 rough idea of about how much CEP investment you will
15 make for the next five years?

16 MR. KENNEDY: Objection. Again, I don't
17 know if you are talking you as Ms. Friscic or you as
18 the Company.

19 MR. HEALEY: I am talking about Dominion
20 and Ms. Friscic's knowledge about Dominion's
21 knowledge as Dominion's witness.

22 EXAMINER SANYAL: And I think with that
23 clarification, Ms. Friscic, can you answer -- are you
24 able to answer the question?

25 A. The Company has a rough idea. As I said,

1 the plans continually change as they look at what the
2 business needs are going forward. And I do not
3 personally know those amounts at this time.

4 Q. Did you personally look at the five-year
5 plan in evaluating the settlement in this case?

6 A. No.

7 Q. Did you, Ms. Friscic, perform any
8 calculations to derive the 5.51 rate cap found in the
9 stipulation?

10 A. No. That wasn't based on calculations.

11 Q. And did you do any analysis to determine
12 how much CEP investment you could make while staying
13 under the 5.51 rate cap?

14 A. I believe that we -- the 5.51 is not
15 based on a specific calculation of investment that
16 would be identified in Dominion Energy Ohio.

17 Q. You say it's not based on a specific
18 calculation. Is it based on a general calculation?

19 A. No. It's really working backwards from
20 trying to settle based on we had agreed or proposed
21 to agree with the Staff Report that recommended a cap
22 of a dollar per year for an increase, a rate cap
23 increase of a dollar per year, and we were -- we knew
24 that '19 would take at least 85 cents, and we thought
25 we could stay within a cap of 5.51 for the two years.

1 Q. So you don't expect to go over that cap,
2 correct?

3 A. We do not expect to go over that cap.

4 Q. And, likewise, the cap for the next year
5 is 6.31. Do you expect to go over that cap?

6 A. We are committing to not go over that
7 cap, correct.

8 Q. Sure. Are you committing to not make
9 investments in an amount that would cause you to go
10 over that cap?

11 A. We do not anticipate making investments
12 that would cause us to go over that cap.

13 Q. And then same question for the next year,
14 the 6.96 cap, do you anticipate making investments
15 that would make you go over that cap?

16 A. We do not anticipate making investments
17 that would cause us to go over the cap.

18 Q. And for the 7.51 cap for the last year,
19 do you anticipate making investments that would go
20 over that cap?

21 A. We do not anticipate making investments
22 that would go over that cap.

23 Q. Let's turn to page 15 of your testimony,
24 please.

25 A. Okay.

1 Q. And on line 23 you refer to something you
2 call a circuit breaker. Do you see that language?

3 A. Yes, I do.

4 Q. And the circuit breaker would be that you
5 lose your deferrals if your investments cause you to
6 go over the cap; is that accurate?

7 A. We would lose our deferrals on any
8 portion of the investment that caused us to go over
9 the cap.

10 Q. And if you could turn to page 16 of your
11 testimony, lines 7 to 9, you state that this circuit
12 breaker represents another compromise in the
13 stipulation as well as another factor that will
14 mitigate the bill impact of CEP rates. Do you see
15 that language?

16 A. That's right. We believe it controls the
17 amount of spending in CEP that Dominion can make.

18 Q. And this circuit breaker, which refers to
19 the loss of deferrals for amounts over the cap, only
20 applies if Dominion actually goes over the cap,
21 correct?

22 A. That's correct.

23 Q. And as we just discussed a couple minutes
24 ago, you don't anticipate making investments that
25 would cause you to go over the cap, correct?

1 A. That's correct. Because if we do, we
2 would not be able to defer costs or recover them at
3 any point later in terms of the portion of the
4 investment that was over the cap.

5 Q. So your expectation would be that this
6 circuit breaker will not be triggered, correct?

7 A. That's our expectation, yes. But it's a
8 control nonetheless over what Dominion Energy Ohio
9 can spend.

10 Q. Dominion can spend whatever it wants;
11 this is just a control on how much you can charge
12 customers, correct?

13 A. Well, that's correct, yes.

14 Q. The signatories to the settlement are
15 Dominion and the PUCO Staff, correct?

16 A. That's correct.

17 Q. And I would like to look at page 8 of
18 your testimony, please.

19 A. Yes.

20 Q. And question 24 says "Is the Stipulation
21 supported by parties representing a range of
22 interests," and then you answer "Yes. The
23 Stipulation is signed by the Company and the
24 Commission's Staff." Do you see that?

25 A. I do see that.

1 MR. HEALEY: I would like to mark OCC's
2 next exhibit. This would be OCC Exhibit 8 and it's
3 found again in OCC A and it would be your response to
4 Interrogatory 4-007. And that's on page 10 of the
5 PDF if you are looking electronically.

6 EXAMINER SANYAL: That exhibit is so
7 marked.

8 (EXHIBIT MARKED FOR IDENTIFICATION.)

9 Q. (By Mr. Healey) Now, Ms. Friscic, you are
10 identified again as the answerer of this
11 interrogatory, correct?

12 A. That's correct.

13 Q. And you, in fact, provided the answer
14 found here?

15 A. Yes, I did.

16 Q. And you believe that answer is accurate?

17 A. Yes. We believe the Commission Staff
18 represents a wide range of interests there, all
19 customer classes, and they balance the interests of
20 the utilities with the interests of the customers and
21 other parties.

22 Q. I would like to talk about some of the
23 words you use. In the testimony you state the
24 Stipulation is supported by parties representing a
25 range of interests, and then in the interrogatory you

1 state that Staff balances the interests. Do you
2 consider those to be the same?

3 A. Would you repeat the question, please?

4 Q. Sure. In your testimony on page 8 you
5 respond to a question asking about the interests
6 represent -- sorry. I'll start over.

7 On page 8, question 24 asks whether the
8 Stipulation is supported by parties representing a
9 range of interests, and then in your response to the
10 interrogatory you note that Staff balances the
11 interests of various parties. Do you consider
12 representing an interest and balancing an interest to
13 be the same thing?

14 A. I think there are shades of difference
15 there. I believe the Commission's Staff does
16 represent a range of interests that they have to
17 balance.

18 Q. Now, in the response to the
19 interrogatory, you state that Staff balances the
20 interests of utility companies, all customer classes
21 including residential customers, and other
22 stakeholders. Do you see that?

23 A. Yes, I do.

24 Q. Is it your position that Staff represents
25 Dominion when it takes a position in a PUCO case?

1 A. No. Staff is not representing Dominion,
2 but they do balance the interests of Dominion with
3 the parties to the case which would be stakeholders,
4 the interests of customers, and so forth.

5 Q. I would like to consider a hypothetical.
6 If Staff were to sign a Stipulation with various
7 parties and that did not include the utility, would
8 it be your view that Staff's involvement meant that
9 the utility's interests were adequately represented
10 by the settlement?

11 A. Would you repeat the question again? I
12 think it is a matter of semantics here.

13 Q. I think the semantics matter. That's why
14 I am asking. My question is if Staff were to sign a
15 settlement with parties and those parties did not
16 include Dominion, would you consider Staff's
17 signature to mean that Dominion's interests were
18 adequately represented by the settlement?

19 A. I would take that to mean that Staff
20 balanced interests and felt that signing the
21 Stipulation accomplished that. Whether Dominion
22 felt -- would feel that's adequate or not is another
23 matter.

24 Q. But you certainly wouldn't say that Staff
25 speaks for Dominion by signing that settlement,

1 correct?

2 A. I will not say that, correct.

3 Q. And you would agree, therefore, Staff
4 when it signs a settlement speaks for Staff, correct?

5 A. That's correct.

6 Q. Do you have a copy of the Blue Ridge
7 report in front of you? I believe it was marked
8 Staff Exhibit 2.

9 A. I think I do.

10 Q. And if you could turn to page 45 of the
11 Blue Ridge report, please.

12 A. Yes.

13 Q. And under the heading "Detailed
14 Transactional Testing," there's a line that says "In
15 addition, the Company provided a list of major
16 additions or replacements," and then it's got five
17 bullet points. Do you see the bullet points?

18 A. I do.

19 Q. And the first bullet point refers to a
20 pig launcher and receiver. Do you see that?

21 A. Yes.

22 Q. Can you tell me what a pig launcher does?

23 A. A pig is a device that's pushed through
24 pipelines. It will clean the lines as well as in --
25 in many cases if it's what they call a smart pig will

1 determine or provide information on the condition of
2 the pipe as it goes through. So the pig launcher is
3 equipment that would set that pig in motion.

4 Q. Now, this refers to installing a pig
5 launcher. Prior to this was there no pig launcher?

6 A. I don't know the details of that
7 particular project and whether there was a pig
8 launcher or not a pig launcher there.

9 Q. Do you know why Dominion installed the
10 pig launcher and receiver?

11 A. I do not. Those are the kinds of things
12 that Blue Ridge looked into as they looked at the
13 capital expenditures during the audit.

14 Q. The third bullet point on this page
15 refers to replacing aging equipment. Do you see
16 that?

17 A. I see that.

18 Q. And would you agree that all else equal,
19 newer equipment requires less maintenance than aging
20 equipment?

21 A. I don't know that I am in a position to
22 make that kind of determination.

23 Q. So you are saying it's possible that you
24 could replace aging equipment with new equipment and
25 it still requires the same amount of maintenance?

1 MR. KENNEDY: Objection. There hasn't
2 been foundation laid that she is someone from
3 operations that would weigh in on the increase or
4 decrease in maintenance expense for any particular
5 investment that you are talking about right now,
6 whether it's a pig or not a pig.

7 EXAMINER SANYAL: I am going to overrule
8 that objection.

9 Ms. Friscic, you may answer to the extent
10 you know and if you don't know, say that.

11 A. Okay. Mr. Healey, would you repeat the
12 question, please?

13 MR. HEALEY: Can I have the question
14 reread, please, by the court reporter.

15 (Record read.)

16 A. And not being in operations and not
17 familiar with the particular project that resulted in
18 this audit bullet point, I can't say what impact
19 replacing aging equipment would have on costs.

20 Q. So you -- you wouldn't know whether it
21 improved any operational efficiencies then, correct?

22 A. I believe that the replacement was done
23 because it was necessary, and Blue Ridge determined
24 that the investments that they reviewed were found to
25 be necessary, but I am not able to make a

1 determination of -- with regard to that particular
2 project. Certainly if the investment was made, it
3 was a necessary investment.

4 Q. I would like to look at this next bullet
5 point which refers to construction of a new training
6 center to offer comprehensive classroom and hands-on
7 learning experiences for DEO field personnel and
8 emergency responders. Do you see that?

9 A. I do see that.

10 Q. Would you agree that if your employees
11 are receiving this new comprehensive hands-on
12 learning experience, that they should be able to do
13 their jobs more efficiently?

14 A. I believe they'll be better trained for
15 their jobs through training provided by -- or through
16 the new training facilities. The intent of that is
17 to ensure our field workforce is properly trained.

18 Q. And would you -- I think my question was
19 would you agree they can do their jobs more
20 efficiently as a result of this training.

21 MR. KENNEDY: Objection. I mean, there
22 has been no foundation laid that she is an expert in
23 this area, Mr. Healey.

24 MR. HEALEY: Your Honor, I'm a little
25 confused by the foundation objections. All questions

1 are subject to a witness saying "I don't know," so if
 2 she doesn't know the answer, the answer is "I don't
 3 know." The foundation objection is intended to
 4 address, you know, a document or subject where I am
 5 trying to force the witness to answer questions
 6 about -- I am just asking her. She's the Company
 7 witness. This is -- this is the audit in this case.
 8 The Company is not putting another witness on.

9 EXAMINER SANYAL: Thank you, Mr. Healey.
 10 I am going to overrule the objection. I tend to
 11 agree. If Ms. Friscic doesn't know the response, she
 12 can indicate -- she can indicate that, and she's the
 13 Company witness so.

14 A. Okay.

15 EXAMINER SANYAL: And then, Ms. Friscic,
 16 do you need the question read back again?

17 THE WITNESS: No. I know this question.

18 EXAMINER SANYAL: Okay.

19 A. I would say that I don't know whether
 20 ensuring employees are well trained to do their jobs
 21 makes them more efficient. It certainly helps them
 22 do the job well. Does that create efficiencies? I
 23 don't know the answer to that.

24 Q. So in your -- to your knowledge, it's
 25 possible that you both built a new training center

1 and employees are working less efficiently?

2 A. No, that is not my opinion. I believe
3 they are working efficiently.

4 Q. Let's turn to page -- back to your
5 testimony. Let's look at page 4, please. And on
6 line 5, line 5 to line 6, you refer to a depreciation
7 offset. Do you see that.

8 A. I do.

9 Q. And you state that the revenue
10 requirement under the settlement includes a
11 depreciation offset to represent the portion of the
12 depreciation expense that has been collected from
13 customers through base rates, but not yet recognized
14 as an offset to rate base. Do you see that?

15 A. Yes.

16 Q. And can you also look at joint
17 Exhibit 2.0 again which is attached to the
18 settlement.

19 A. Yes, I have that.

20 Q. And about the fifth line down are the
21 words "Depreciation Offset." Do you see those?

22 A. Yes.

23 Q. And is that the same depreciation offset
24 you are referring to on page 4 of your testimony?

25 A. Yes, it is.

1 Q. And there's a column on Joint Exhibit 2
2 that's called "As-Filed." That would be your
3 application, correct?

4 A. That's correct.

5 Q. And your application shows a \$310 million
6 depreciation offset, correct?

7 A. Correct.

8 Q. And then under "Adjusted," that would be
9 the settlement, correct?

10 A. The adjustments are the adjustments
11 resulting from the audit which Dominion accepted.

12 Q. Accepted as part of the settlement,
13 correct?

14 A. Yes. That's correct.

15 Q. And the depreciation offset in your
16 application is the same as the adjusted depreciation
17 offset, correct?

18 A. That's correct.

19 Q. Dominion didn't agree to any change of
20 the depreciation offset as a result of the
21 settlement, correct?

22 A. None were identified, no adjustments were
23 identified that we would need to agree to.

24 Q. Can you look at page 12 of your
25 testimony, please.

1 A. Yes, I'm there.

2 Q. And then line 8 you state "The
3 Stipulation mitigates the bill impact of the CEP
4 rates in a number of ways. First, as noted above,
5 the agreed-upon CEP revenue requirement includes a
6 depreciation offset." Do you see that?

7 A. I do.

8 Q. Now, the depreciation offset was already
9 a part of your application; isn't that right?

10 A. Yes, it was, and it stayed in as part of
11 the Stipulation.

12 Q. Sure. And so that wouldn't be a benefit
13 of the settlement. It would just be a benefit that
14 you already agreed to as part of your application,
15 correct?

16 A. Well, it's a benefit of the settlement in
17 that we've agreed that that depreciation offset would
18 be used to decrease the CEP rate base which lowers
19 the rate, has the impact of a lower rate to
20 customers.

21 Q. Now, as you discussed earlier in your
22 testimony, the depreciation offset is a depreciation
23 expense that customers have already paid through
24 their base rates, correct?

25 A. Correct.

1 Q. So if you -- if you didn't provide a
2 depreciation offset, they would pay it twice; isn't
3 that accurate?

4 A. That is not necessarily accurate. The
5 offset would normally come into play when things were
6 determined in the next base rate case. But rather --
7 and so that's not necessarily a duplication of a
8 depreciation they would pay on new CEP assets, but
9 rather than wait for the rate case, we have agreed to
10 include this offset now to mitigate the rates
11 customers have to pay under CEP.

12 Q. And if you --

13 A. That's why we see it as a benefit.

14 Q. And if you were to file a rate case now,
15 you would -- let me take that back.

16 If you had filed a rate case, say,
17 instead of the CEP case, customers would have gotten
18 that same \$310 million benefit, correct? Your
19 next --

20 A. That's correct. They are getting it
21 sooner now.

22 Q. They are also getting charged sooner for
23 for CEP assets, correct?

24 A. That's correct. But had we not had -- if
25 we were not to have CEP, we may have filed a rate

1 case sooner, in which case customers would have paid
2 sooner.

3 Q. Sure. And in that rate case, customers
4 would have had an opportunity to evaluate all of your
5 O&M expenses and other capital investments, and
6 everything would be taken all at once and not just
7 your CEP investments, correct?

8 A. That's correct.

9 Q. You've been with Dominion since 1997; is
10 that right?

11 A. That's correct.

12 Q. And when you first began working for
13 Dominion, was Dominion providing safe and reliable
14 service to its Ohio customers?

15 A. Yes, it was.

16 Q. And at any point between 1997 and now
17 2020, was Dominion not providing safe and reliable
18 service to its Ohio customers?

19 A. Dominion has continued to provide safe
20 and reliable service throughout.

21 Q. And you would agree that Dominion has
22 furnished necessary and adequate service and
23 facilities throughout that entire period as well,
24 correct?

25 A. That's correct. But that includes as

1 well investment in its distribution system and
2 facilities.

3 Q. In the early part of your career at
4 Dominion, there was no CEP, correct?

5 A. That's correct.

6 Q. The CEP started in 2011; is that right?

7 A. That's right.

8 Q. And you -- you cite the CEP statute in
9 your testimony, RC 4929.111, correct?

10 A. Correct.

11 Q. And you are generally familiar with that
12 statute?

13 A. Yes.

14 Q. And you are aware that specific provision
15 became effective in 2011, correct?

16 A. Yes.

17 Q. Let's turn to page 10 of your testimony,
18 please. And on line 7 you discuss what you say are
19 ways that the Stipulation benefits customers and the
20 public interest. And the first one in line 9 says
21 "Supporting DEO's obligation under RC 4905.22 to
22 furnish necessary and adequate service and facilities
23 by allowing for recovery of CEP assets" and so on.
24 Do you see that?

25 A. I do.

1 Q. And since you cite RC 4905.22, I assume
2 you are familiar with it?

3 A. Yes.

4 Q. I know -- I'm sorry?

5 A. Yes, I'm generally familiar with it.

6 Q. And are you aware that that statute has
7 been effective since 1953?

8 A. I did not know that.

9 Q. If you would like to look, I provided a
10 copy of the statute as OCC F. I am not going to mark
11 it as an exhibit because it's a statute, but if you
12 could take a look just so we can get on the same
13 page.

14 MR. KENNEDY: The Company will stipulate
15 to the effective date of the statute, if that helps,
16 Mr. Healey.

17 MR. HEALEY: Sure. Thank you.

18 Q. (By Mr. Healey) Is it your testimony if
19 the PUCO does not approve the settlement, Dominion
20 will stop furnishing necessary and adequate service
21 and facilities in Ohio?

22 A. Dominion will not stop providing adequate
23 and necessary services. But it does take investment
24 in the business to ensure that we are providing the
25 best service that we can and that we're updating as

1 needed the system and facilities.

2 Q. And you made those types of investments
3 to ensure that you had adequate facilities and
4 provided safe and reliable service before the CEP,
5 correct?

6 A. To whatever extent was needed at that
7 time, yes.

8 Q. Let's look at page 12 of your testimony
9 starting on line 14. And there's a sentence
10 beginning with the word "Finally" where you say "the
11 proposed CEP Rider would become effective nearly nine
12 years after CEP investments commenced." And then you
13 go on to say on line 17 "the fact that the Company is
14 only now on the verge of recovering those costs has
15 benefited customers greatly." Do you see that?

16 A. Yes, I do.

17 Q. Now, the -- that nine-year period has
18 nothing to do with the settlement, correct? That's
19 just a function of when you filed this case, correct?

20 A. That's correct, and the time it has taken
21 to get through this case.

22 Q. Let's look at page 16 of your testimony,
23 please.

24 A. I'm there.

25 Q. And on line 19 there is a question about

1 whether there are other factors that mitigate the
2 rate impact of the CEP Rider. Do you see that
3 question?

4 A. Yes.

5 Q. And on line 24, you use the phrase
6 "external factors that can mitigate the total bill
7 impacts." Do you see that language?

8 A. Yes, I do.

9 Q. When you say external factors, you are
10 referring to things that are not part of the
11 settlement, correct?

12 A. That's correct.

13 Q. And one of those that you refer to is
14 commodity rates that customers are currently paying?

15 A. That's right.

16 Q. And so your view is that whenever
17 commodity rates are low, that makes it more
18 acceptable to increase distribution rates?

19 A. It certainly mitigates the impact on
20 customers to be paying low gas costs at the time
21 other charges are incurred.

22 Q. And so if commodity rates were to rise,
23 does that mean Dominion would agree to lower its
24 distribution rates?

25 A. I'm not sure I can say that Dominion

1 would agree to that.

2 Q. Sure. So your testimony is --

3 A. It is something to be determined in a
4 future proceeding certainly.

5 Q. Sure. So if in a future proceeding you
6 filed a rate case or CEP case and commodity rates
7 happen to be high, we should expect to see testimony
8 from Dominion recommending a lower increase to
9 mitigate that, correct?

10 A. I can't make that statement at this time.

11 EXAMINER SANYAL: Mr. Healey, we've been
12 here for about an hour and a half. Does Ms. Friscic,
13 do you need a break? How are we doing?

14 THE WITNESS: Thank you very much. I am
15 doing fine at the moment.

16 EXAMINER SANYAL: Okay. I believe we
17 need a break, so I hope we will be taking about 5
18 minutes. Is this a good -- yep, Ms. Bojko. Let's
19 come back at 12:15 sharp, please, so we can continue
20 moving, and then at that time we'll discuss lunch and
21 how the rest of the day we would like to -- how we
22 would like to see that, okay? So let's come back at
23 12:15.

24 (Recess taken.)

25 EXAMINER SANYAL: Let's go back on the

1 record.

2 Mr. Healey, you may proceed.

3 MR. HEALEY: Thank you, your Honor.

4 Q. (By Mr. Healey) Ms. Friscic, I would like
5 to come back briefly to the discussion we had about
6 the circuit breaker. Do you recall that?

7 A. I recall that we had a conversation about
8 a circuit breaker.

9 Q. And just as a refresher, that was the
10 provision that says if you go over the cap, then you
11 lose the deferrals on the investment that causes you
12 to go over the cap; is that correct?

13 A. That's correct.

14 Q. Now, a clarifying point that I didn't
15 address before, when you do file your rate case in or
16 before 2024, all of those investments of that used
17 and useful will still be in rate base, in that rate
18 case, correct?

19 A. Yes. The investments will still be
20 because they are used and useful. They will go into
21 rate base and be part of that. But we will not
22 recover any deferrals associated with that
23 investment.

24 Q. And we had a discussion before as well
25 about the depreciation offset. Do you recall that,

1 the 310 million?

2 A. Yes, uh-huh.

3 Q. And you testified that -- you testified
4 that in the rate case, customers would benefit from
5 that \$310 million depreciation offset, correct?

6 A. What I said is that in the rate case all
7 things are -- rate base is determined as to what's
8 appropriate at that time. And so changes in the
9 amount of depreciation or in the composition of the
10 rate base itself will be determined then.

11 But in this case we are pulling forward
12 that reduction in rate base because naturally as the
13 rate base investments depreciate, that reduces rate
14 base and we are putting that in a CEP now as a
15 benefit to the customers.

16 Q. Okay. And then CEP investments by the
17 same token when you do file your rate case, the
18 amount that goes into rate base will be whatever is
19 used and useful on the date certain in that rate
20 case, correct?

21 A. That's correct.

22 Q. Let's turn back to your testimony at page
23 3, please. And on line 5 to 8, you refer to \$721
24 million in gross capital investments which is an
25 adjusted amount from 2011 to 2018, correct?

1 A. That's correct.

2 Q. And then you say on line 8, you refer to
3 a \$204 million of deferred expenses, correct?

4 A. That's correct.

5 Q. And can you just confirm that 204 million
6 is not included in the 721, correct?

7 A. It is not included in the 721.

8 Q. Can you turn to the stipulation, please,
9 page 3.

10 A. Yes, I'm there.

11 Q. And at the top on paragraph 4 the
12 stipulation provides that Dominion will file annual
13 applications to update the CEP rider on or before
14 April 1 of each year, and then it says with rate
15 effective date on or before the start of the first
16 billing cycle of October. Do you see that?

17 A. Yes.

18 Q. Can you explain to me why it says "on or
19 before the start of the first billing cycle of
20 October"?

21 A. Typically we implement fixed rates at the
22 start of billing cycle 1. There are 21 billing
23 cycles in a given month and they're not exactly lined
24 up with the calendar days of the month. And so we
25 would start this at the start of billing cycle 1 for

1 October. And that date changes from year to year
2 slightly.

3 Q. Sure. The language of the stipulation
4 says "The rates will be in effect on or before the
5 start of the first billing cycle." My question is
6 could they go into effect in August?

7 A. If the rates were approved before
8 October, yes, they could go in sooner.

9 Q. So it's your intent that under the
10 settlement you could file an annual application early
11 in the year and request approval any time before
12 October, correct?

13 A. I'm not sure I follow your question.

14 Q. Sure. So I'm just trying to understand
15 this language. My understanding is that the intent
16 is that you'll file an application in April with new
17 rates to go into effect in October; is that fair?

18 A. That's fair. That's what we anticipate.

19 Q. Sure. And so what I am trying to
20 understand is by using the words "on or before," that
21 seems to suggest that maybe you'll file an
22 application in February instead, and you'll say we
23 want rates to go in effect in May instead of October
24 and the stipulation would allow that, correct?

25 A. Well, I suppose the wording of the

1 stipulation would allow that. The intent is that by
2 April 1 and that by the time the process goes through
3 with review of the application, it's likely to be
4 October when the rates would go into effect.

5 Q. Right. So what I am trying to understand
6 is, you know, one of the benefits you are claiming
7 for consumers is these rate caps which, you know,
8 won't go into effect until October of each year but
9 then here you're saying they could go into effect
10 before October.

11 A. Based on the wording in the stipulation,
12 they could.

13 Q. So that would -- that would increase
14 rates earlier and not provide as much protection to
15 consumers then, correct?

16 A. We could potentially put the rate into
17 effect sooner, but the anticipated timing is
18 application by April 1, and rates into effect first
19 billing cycle of October.

20 Q. Staying on page 3 but moving on to
21 paragraph 5, paragraph 5 discusses your -- the
22 proposed true-up process for the CEP Rider, correct?

23 A. Yes. Yes.

24 Q. And maybe you can help me walk through
25 just a basic example. Under the settlement the first

1 year revenue requirement as we discussed earlier is
2 about 82.7 million, correct?

3 A. Correct.

4 Q. And so if, for example, Dominion were to
5 collect 80 million instead of 82.7, then the
6 following year you would increase the revenue
7 requirement by 2.7 million; is that accurate?

8 A. That's accurate.

9 Q. And let's suppose that that's what
10 happens in this hypothetical and that 2.7 million
11 were to push the rate over the 5.51 rate cap for the
12 second year. What would happen then?

13 A. That reconciliation adjustment would not
14 impact the rate cap mechanism.

15 Q. When you say it would not impact it, does
16 that mean that the rate could be higher than the 5.51
17 as a result of the reconciliation?

18 A. That's how I view it, yes.

19 Q. Okay. So 5.51 is not actually the
20 highest amount that a residential customer would pay
21 in the second year of the CEP Rider, correct?

22 A. It would be based on the investment in
23 there, that's correct.

24 Q. Okay. And so --

25 A. That particular year. So we would

determine the revenue requirement based on the investment for the new year, and then the reconciliation adjustment is just intended to enable Dominion to recover the full revenue requirement that was approved in the preceding case, so it would potentially increase the rate over the cap.

Q. Okay. And then same would be true for the future years of the rate cap as well, the numbers -- whatever they are -- I apologize. For example, in the second year where it would be 6.31, the reconciliation could cause the rate to be higher than that; is that what you are saying?

A. Yes, that's correct.

Q. And the same for the last two years as well?

A. Yes.

Q. On -- let's go back to the settlement page 7 now, please. I'm sorry, page 3.

A. Okay.

Q. And paragraph 7 provides that Dominion will file an application to adjust its base rates no later than October of 2024, correct?

A. That's right.

Q. And by saying "no later than October of 2024, that means Dominion might decide to file a rate

1 case earlier than that, correct?

2 A. That's correct.

3 Q. And nothing in the Stipulation prohibits
4 an earlier rate case, correct?

5 A. That's right.

6 Q. I would like to look now at the
7 Stipulation but this time in Joint Exhibit 3, which
8 is the tariff sheets. And it will be the very, very
9 last page, Original Sheet CEP 2.

10 A. Yes.

11 Q. And this is your proposed tariff sheet
12 for the CEP Rider under the stipulation and this
13 Original Sheet No. CEP 2 has I think what many of us
14 have been referring to as refund language, or at
15 least I do. And the second sentence says that the
16 "reconciliation or adjustment shall be limited to:
17 (1), the twelve-month period of expenditures upon
18 which the rates were calculated" and then goes on.
19 Do you see that?

20 A. Yes, yes.

21 Q. And you would agree that the initial rate
22 under the settlement of 386 pertains to expenditures
23 from 2011 to 2018, correct?

24 A. That's correct.

25 Q. And that would be more on a 12-month

1 period of expenditures?

2 A. That's true.

3 Q. And so would you agree then that at least
4 initially this language would need to be modified to
5 account for that?

6 A. Yes.

7 Q. And then likewise your first annual
8 update of the rider is going to include investments
9 from 2019 and 2020, correct?

10 A. That's correct. This language was
11 anticipating an annual application covering the
12 preceding year, and we could alter that language to
13 remove reference to a 12-month period which I think
14 would take care of the concern.

15 Q. I would like to turn back to your
16 testimony now and page 12.

17 A. Yes, I'm there.

18 Q. And on line 17, you state the fact that
19 "the Company is only now on the verge of recovering
20 those costs has benefited customers greatly." Do you
21 see that?

22 A. Yes, I do.

23 Q. And that's in reference to the
24 investments having been made since 2011 but only now
25 being charged to customers, correct?

1 A. That's correct. So the customers have
2 not yet had to pay for this significant investment
3 that Dominion has made.

4 MR. HEALEY: And I would like to mark the
5 next OCC exhibit. This would be OCC Exhibit 9. This
6 is found in OCC A again, the fourth set of discovery,
7 and it would be OCC Interrogatory 4-10.

8 EXAMINER SANYAL: What page is that on?

9 MR. HEALEY: It's on page 13 of the PDF.

10 EXAMINER SANYAL: That is so marked.
11 That exhibit is so marked.

12 (EXHIBIT MARKED FOR IDENTIFICATION.)

13 MR. HEALEY: Thank you.

14 Q. (By Mr. Healey) Now, Ms. Friscic, you'll
15 see this, what has now been marked OCC Exhibit 9, is
16 another interrogatory that you are identified as the
17 answerer, correct?

18 A. That's correct.

19 Q. And you provided a truthful answer to
20 this interrogatory, correct?

21 A. Yes, I did.

22 Q. Now, this interrogatory asks about that
23 portion of your testimony we just talked about where
24 you say that the -- that the fact that the Company is
25 only now on the verge of recovering those costs has

1 benefited customers greatly, correct?

2 A. Correct.

3 Q. And in your response where OCC asks you
4 to quantify what those benefits are, you identify the
5 fact that customers have not paid for the
6 \$204 million in deferrals as of yet, correct?

7 A. That's correct.

8 Q. And you -- you calculated here that
9 customers, if they were to pay the deferral, it would
10 be \$1.20 per month, correct?

11 A. That's correct. The question -- or the
12 interrogatory asked us to quantify a benefit to the
13 customers. And the only calculated quantification
14 that we had at that point is the calculation of what
15 the deferrals would result in in terms of a charge
16 and that's filed as part of every annual
17 informational filing that we had made to date on CEP
18 investments. We have a quantification of recovery of
19 the deferrals themselves if they were charged to
20 customers because provisions that we agreed to in the
21 CEP deferral cases were not to accumulate deferrals
22 beyond the point at which they would have an impact
23 of \$1.50 per customer per month.

24 So that quantification has been included
25 in every annual informational filing so that's what

1 we have. Customers have also benefited by not paying
2 the other components of the revenue requirement which
3 are in addition to the \$204 million.

4 Q. And so given that your response here is
5 that customers have benefited greatly by not paying
6 \$1.20 per month for the deferrals, then on the flip
7 side you would agree that charging them more than
8 three times that amount would cause them to be harmed
9 greatly, correct?

10 A. I do not agree with that statement. I do
11 not believe that would cause great harm to customers.

12 Q. So -- so when they save \$1.20, that's of
13 great benefit but when they are charged 3.86 that is
14 also a benefit to customers?

15 A. Customers have gotten the benefit of
16 Dominion's continued investment in its system and
17 facilities, and we believe that 3.86 is just and
18 reasonable.

19 Q. Let's turn to page 21 of your testimony,
20 please.

21 A. Yes.

22 Q. And on page 14 you note that Dominion has
23 been investing in its CEP and deferring CEP costs
24 since October 2011, and DEO has not recovered a
25 single dollar of that investment. Do you see that?

1 A. Which page of my testimony are we on?

2 Q. 21.

3 A. Okay. You are referring to line 14,
4 okay.

5 Q. Yes.

6 A. All right. That's correct.

7 Q. And your reference to Dominion not having
8 recovered a single dollar of that investment seems to
9 imply that Dominion has been harmed as a result of
10 that.

11 A. Yes. There's harm in -- in terms of cash
12 flow that's not coming in. We're expending money for
13 investments that are necessary, but we're not
14 recovering those investments so that has a financial
15 harm to the Company.

16 Q. And if Dominion had filed a rate case
17 between 2011 and 2020, then any used and useful CEP
18 assets as of the date certain in that rate case would
19 be included in rates, correct?

20 A. That's correct.

21 Q. And so any harm you might claim as a
22 result of the delay is your own doing because you
23 chose not to file a rate case; isn't that right?

24 A. We have an opportunity in the legislation
25 for alternative regulation plans and that was the

1 choice we made for CEP was to file in that way and
2 not a rate case.

3 Q. And you chose the timing of your CEP
4 filing as well; isn't that right?

5 A. That's correct.

6 Q. Nothing prohibited you from filing a CEP
7 recovery case in 2015 or 2014 or 2016 if you thought
8 the financial harm was so great you couldn't bear it,
9 correct?

10 A. That's correct.

11 MR. KENNEDY: Objection. Objection as to
12 the form of the question. It's a compound question.

13 EXAMINER SANYAL: Mr. Healey, do you care
14 to break it up?

15 MR. HEALEY: I think she already
16 answered, so I'll move on.

17 EXAMINER SANYAL: She did.

18 MR. HEALEY: I would like to mark OCC's
19 next exhibit. This would be also found in the OCC A,
20 and this one would be Interrogatory 4-16. And that's
21 on page 22 of the PDF.

22 EXAMINER SANYAL: That exhibit will be so
23 marked.

24 (EXHIBIT MARKED FOR IDENTIFICATION.)

25 MR. HEALEY: Thank you.

1 Q. (By Mr. Healey) Ms. Friscic, you are
2 again the answerer of this interrogatory, correct?

3 A. That's correct.

4 Q. And this interrogatory asks for some
5 information about your energy share program, correct?

6 A. That's correct.

7 Q. And we see that from March to September
8 of this year so far the amount of payout for a
9 customer who participated in energy share was \$273?

10 A. That's right.

11 Q. And I think you also would agree the
12 average payout each month has gone up since March,
13 correct?

14 A. Correct. Provisions of that program
15 increase the payment allowed for customers due to the
16 COVID situation.

17 Q. Now, normally you wouldn't see more
18 customers participating for a higher amount in the
19 summer months, correct?

20 A. I don't know the pattern for energy share
21 payouts beyond what we are showing in this response
22 to your interrogatory.

23 Q. Sure. And just a clarifying point too,
24 you identify nine customers for September and that
25 would just be because you only had partial data since

1 we are still in September, correct?

2 A. That's correct.

3 Q. And in the settlement Dominion
4 shareholders are providing \$750,000, is that correct,
5 for the energy share?

6 A. Yes. In our view, targeting that benefit
7 to customers who are most in need we think is more
8 beneficial to customers.

9 Q. And if we -- if we want to figure out
10 about how many customers could benefit from that
11 additional energy share amount, we could divide that
12 by about -- by the average payout and that would get
13 you about the number of customers that might benefit
14 from that 750,000?

15 A. Approximately, yes.

16 Q. And then just using the interrogatory
17 response you provided, that would be less than 3,000
18 customers; is that right?

19 A. I haven't made that calculation.

20 Q. Okay.

21 A. I don't have a calculator in front of me.

22 Q. Okay. Do you have your phone in front of
23 you?

24 A. No, I do not.

25 MR. HEALEY: Okay. Your Honor, I think

1 that's all I have. Would it be all right to take a
2 5-minute recess to consult offline with my co-counsel
3 just to see if there is any wrap-up issues?

4 EXAMINER SANYAL: Absolutely. Come back
5 at 12:50.

6 (Recess taken.)

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

9 Mr. Healey, do you have any additional
10 questions?

11 MR. HEALEY: OCC has no further questions
12 for the witness. Thank you very much, Ms. Friscic.
13 Appreciate it.

14 EXAMINER SANYAL: Okay. So let's go off
15 the record again.

16 (Discussion off the record.)

17 EXAMINER SANYAL: Let's go ahead.

18 - - -

19 CROSS-EXAMINATION

20 By Mr. Stinson:

21 Q. Good afternoon, Ms. Friscic.

22 A. Good afternoon.

23 Q. My name is Dane Stinson. I'm
24 representing NOPEC in this proceeding. I've
25 submitted four documents last night either as

1 exhibits or for the Examiners to take administrative
2 notice. Have you received those four documents?

3 A. Yes, I have.

4 Q. And have you reviewed those?

5 A. Yes, I have. Yes.

6 Q. All of my questions to you are going to
7 be from your testimony in support of the stipulation.
8 So if I refer to your testimony, please be advised
9 that that's what I am referring to. I would like to
10 draw your attention, first of all, to page 25 of your
11 testimony. I'm sorry, page 21. And there you begin
12 to address some of -- or all of NOPEC's objections
13 filed in -- to the application -- or to the Staff
14 report.

15 A. Excuse me. Tell me again where you want
16 me to look, please.

17 Q. Page 21, line 9.

18 A. Thank you. Okay. Yes.

19 Q. And you do recall NOPEC's objections to
20 the application -- the Staff Report; is that correct?

21 A. Correct.

22 Q. And just to recount those generally,
23 those objections were that the application failed to
24 adjust the rate of return from the 2007 Dominion rate
25 case; was that correct?

1 A. Yes. I believe that is one of your
2 objection, yes.

3 Q. And another objection was that there was
4 no adjustments made to net plant in-service.

5 A. I'm sorry. Would you repeat that? I
6 don't have your objections right in front of me.

7 Q. I can go through your testimony and --
8 just to make it simpler for you. Page 27, question
9 61, go to the Blue Ridge recommendation.

10 A. Yes.

11 Q. Adjustments to base rates.

12 A. I'm sorry. Was there a question there
13 that I missed?

14 Q. Let me -- let me break each one down.
15 First, you've identified that one of NOPEC's
16 objections was that the Company failed to adjust the
17 rate of return from the 2007 rate case.

18 A. Yes.

19 Q. Did the Company or the stipulation
20 compromise with NOPEC on that objection?

21 A. Dominion feels that the appropriate place
22 to determine the return is in a base rate case
23 proceeding in which all the factors affecting that
24 return can be considered. And the alternative
25 regulation case is not the right place for any

1 components of the return to be adjusted.

2 Q. So is your answer that the Stipulation
3 does not compromise with NOPEC on that issue on that
4 objection?

5 A. That's correct.

6 Q. Again, page 27, question 61, regarding
7 the Blue Ridge recommended adjustments to base rates.
8 NOPEC -- is it correct that NOPEC's objection with
9 those adjustments should be recognized in this
10 proceeding?

11 A. Those adjustments were base rate
12 adjustments in the last rate case. Actually nearly
13 all of those adjustments were made on the books
14 subsequent to the rate case, and the agreement of
15 Dominion in the stipulation is that we will certainly
16 look at the time we file the next rate case at those
17 adjustments and any others that may need to be made
18 at that time that are appropriate.

19 Q. But you did not recommend or make
20 those -- the stipulation does not make those
21 adjustments in this CEP proceeding, correct?

22 A. That's correct. As I said, most of those
23 adjustments were already made on the books.

24 Q. But they are not recognized in the CEP
25 proceeding, correct?

1 A. Correct. That's correct.

2 Q. Another objection was the application --
3 the stipulation failed to adjust for operational
4 savings?

5 A. Yes, that's correct.

6 Q. And does the stipulation compromise with
7 that NOPEC objection?

8 A. It does not because the CEP program
9 covers a broad range of assets in various categories,
10 so unlike Dominion's pipeline infrastructure
11 replacement program where the activities are very
12 specific in the cost categories in which savings are
13 being determined, there's a direct link there. With
14 the broad base of CEP assets, it's not possible to
15 specifically determine which O&M expenses have gone
16 up as a result of CEP investment or which ones have
17 gone down that could potentially offset one another.
18 There isn't the same causality, if you will, between
19 the O&M expenses for the CEP asset categories as
20 there was with the DIR.

21 MR. STINSON: Your Honor, I move to
22 strike the testimony, everything after it does not,
23 as nonresponsive.

24 MR. KENNEDY: I mean, your Honor, he
25 asked an open ended question, does it compromise, and

1 she provided an answer that I think was responsive to
2 that.

3 EXAMINER SANYAL: Yeah. That's denied.
4 Mr. Stinson, move on.

5 Q. (By Mr. Stinson) The final objection
6 related to the application, failure to recover CEP
7 costs through a distribution rate proceeding, and you
8 address that on page 27, question 63; is that
9 correct?

10 A. Yes. We addressed it, yes, for question
11 63, correct.

12 Q. And the Company in the stipulations did
13 not compromise with NOPEC on that issue; is that
14 correct?

15 A. The Company has already agreed in a prior
16 stipulation to the timing of a rate case in October
17 of 2024. And we filed an alternative regulation case
18 for CEP recovery, so we did not compromise on NOPEC's
19 recommendation.

20 Q. Thank you. Turning to page 19 of your
21 testimony in support of the stipulation, you do refer
22 to Dominion's commitment to file a base rate
23 application by October 2024; is that correct?

24 A. That's correct.

25 Q. I believe we've already covered some of

1 this, but for the ease of going through this, there
2 may be some repetition. Just bear with me.
3 Dominion's last base rate proceeding was in 2007,
4 correct?

5 A. That's right. It settled in late 2008.

6 Q. All right. The Commission issued its
7 order in I believe December 2008.

8 A. Yeah, the final entry on rehearing in
9 December 2008.

10 Q. Isn't it true that Dominion had the
11 discretion to file base rate applications, say, for
12 any of the years from 2010 through 2020?

13 A. That's true.

14 Q. And it also has the discretion to file a
15 base rate application for the years from 2021 through
16 2023, correct?

17 A. That's correct. We've chosen to use the
18 alt reg provisions for our CEP application, however.

19 Q. Now, isn't it true as well in a base rate
20 proceeding the Commission can make adjustments, in
21 other words, increase or decrease Dominion's base
22 rate? Rate base, I'm sorry.

23 A. In a base rate proceeding, rate base and
24 rates are determined, yes.

25 Q. The Company's allowable expenses could be

1 increased or decreased?

2 A. They're generally determined based on the
3 test year chosen for the rate case, and appropriate
4 adjustments can be made, that's correct.

5 Q. But all of the company's expenses are
6 considered in a base rate proceeding?

7 A. That's true. Yes, that's correct.

8 Q. And by the same token the Company's cost
9 of debt and equity is considered in a base rate
10 proceeding?

11 A. Yes, that's correct.

12 Q. And those costs can be increased or
13 decreased in those proceedings?

14 A. Based on the circumstances in that
15 proceeding, yes.

16 Q. Thank you. Also on page 19 of your
17 testimony, I believe it's question and answer 46.

18 A. Yes.

19 Q. You refer to the stipulation in the
20 Commission's December 2019 order in the Tax Cut and
21 Jobs Act case, correct?

22 A. That's correct.

23 Q. And that's case 18-1908-GA-UNC?

24 A. Yes.

25 Q. Now, if you could look at what I have

1 marked as NOPEC Exhibit 1.

2 A. Yes, I have that.

3 Q. And paragraph 2.

4 EXAMINER SANYAL: Mr. Stinson, I don't
5 think we've actually marked any NOPEC exhibits.

6 MR. STINSON: Well, I would ask that
7 exhibit be marked as NOPEC Exhibit 1.

8 EXAMINER SANYAL: Okay. And, I'm sorry,
9 it's the December 4, 2019, finding and order?

10 MR. STINSON: No. This is -- hold on.
11 It's the stipulation in the Tax Cut and Jobs Act
12 case.

13 EXAMINER SANYAL: In Case No. 18-1908?

14 MR. STINSON: Right.

15 EXAMINER SANYAL: And then that's NOPEC
16 Exhibit 1?

17 MR. STINSON: Right.

18 EXAMINER SANYAL: Okay. That exhibit is
19 so marked.

20 (EXHIBIT MARKED FOR IDENTIFICATION.)

21 Q. (By Mr. Stinson) And I just want to draw
22 your attention again to paragraph 2 of that
23 stipulation.

24 A. Okay.

25 Q. And in that paragraph Dominion makes the

1 commitment to file an increase -- or an application
2 to increase base rates no later than October 2024?

3 A. That's correct.

4 Q. And I would also like to mark as NOPEC
5 Exhibit 2 the finding and order in that case
6 December 4 of 2019. Do you have that before you,
7 Ms. Friscic?

8 A. Tell me again, please, which document we
9 are looking at.

10 Q. It's what I sent last night. I would ask
11 it be marked as NOPEC Exhibit 2, finding and order
12 from the Tax Cut and Job Acts' case.

13 A. Oh, yes, I have that. Thank you.

14 EXAMINER SANYAL: And for the record that
15 exhibit has been marked as well.

16 (EXHIBIT MARKED FOR IDENTIFICATION.)

17 Q. (By Mr. Stinson) I would like to draw
18 your attention to paragraph 31 of that case and the
19 last sentence, and I will just refer you to the
20 sentence that states "However, in order to ensure
21 proper calibration with market conditions and other
22 factors, we note that, as provided in the
23 stipulation, DEO should file an application to
24 establish new base rate distribution rates by
25 October -- October 2024, unless otherwise ordered by

1 the Commission." Did I read that correctly,
2 Ms. Friscic?

3 A. You did.

4 Q. And isn't it true then that the
5 Commission has retained jurisdiction as to when
6 Dominion should file its next base rate case?

7 MR. KENNEDY: Objection, calls for a
8 legal conclusion. The order speaks for itself.

9 MR. STINSON: I think with her experience
10 she can state what the order -- what she believes the
11 order states, your Honor.

12 MR. KENNEDY: I mean, the order speaks
13 for itself. The order states what it states, and you
14 are asking Ms. Friscic to interpret what the legal
15 ramifications of the order are.

16 MR. HEALEY: You were muted. Anna, you
17 are muted.

18 EXAMINER SANYAL: Thank you, Mr. Healey.
19 I'm sorry. I had overruled the objection.

20 Ms. Friscic, you may answer to the extent
21 you know.

22 THE WITNESS: Can I have the question
23 reread, please?

24 MR. STINSON: If the court reporter could
25 reread the question.

1 EXAMINER SANYAL: Yeah. I think
2 Ms. Gibson is getting to it.

3 (Record read.)

4 A. I believe the Commission has the
5 authority to make a determination if it's warranted,
6 yes.

7 Q. Thank you. Moving on in your testimony
8 to support the stipulation, you refer to the Columbia
9 Gas alt reg case in several spots and that's Case No.
10 17-2202-GL -- GA-ALT; is that correct?

11 A. That's correct.

12 Q. And I would like what I've provided as
13 NOPEC Exhibit 4 marked as NOPEC Exhibit 4. And that
14 would be the opinion and order in that case.

15 A. So we are looking at the opinion and
16 order in Case No. 17-2202?

17 Q. Right.

18 A. Okay. I have that in front of me.

19 EXAMINER SANYAL: Give me one moment. I
20 don't have that in front of me. Mr. Stinson, was
21 this attached to your e-mail?

22 MR. STINSON: Yes, ma'am.

23 EXAMINER SANYAL: One moment.

24 MR. STINSON: I listed it as NOPEC
25 Exhibit 4 opinion and order in Case No. 17-2202-GA

1 ALT.

2 EXAMINER SANYAL: Okay. That exhibit
3 shall be so marked.

4 (EXHIBIT MARKED FOR IDENTIFICATION.)

5 MR. STINSON: Thank you.

6 Q. (By Mr. Stinson) I would like to draw
7 your attention to page 29 of the order, Ms. Friscic.

8 A. I'm sorry. Which paragraph, please?

9 Q. Paragraph 29.

10 A. Okay. Is that on page 9 of the order?

11 Q. Bear with me.

12 EXAMINER SANYAL: I think he meant
13 paragraph 29.

14 EXAMINER SEE: Paragraph 29 does indeed
15 start on the bottom of page 9 of the order and
16 carries over to page 10.

17 THE WITNESS: Okay.

18 MR. STINSON: Give me just a minute, your
19 Honor. There's a -- it's a different paragraph.
20 There's paragraphs to the order and paragraphs to the
21 stipulation which is causing some confusion.

22 Q. (By Mr. Stinson) Okay. It's paragraph 29
23 on page 9. And just to confirm on the bottom of that
24 page is that Columbia's most recent base rate case
25 was filed in 2000 -- was filed in 2007?

1 A. That's what it says, yes.

2 Q. And going to page 23, and it's paragraph
3 17 of the stipulation, and do you see that?

4 A. Yes, I do.

5 Q. And isn't it true that the stipulation
6 and the order -- in the stipulation and the order
7 Columbia commenced to filing its next base rate case
8 by July 2021?

9 A. Yes. And that's the commitment Columbia
10 made. They filed their CEP case well before East
11 Ohio did. And they have a different commitment as to
12 the timing of their next rate case than we have. Our
13 comparisons with the Columbia docket were merely to,
14 first of all, show reasonableness of the provisions
15 of our settlement and to point out the similarity in
16 the program, in Dominion's CEP program, with that of
17 Columbia's and those are the only points we're making
18 there.

19 MR. STINSON: Again, your Honor, I move
20 to strike the language beginning with our comparisons
21 to Columbia. Beyond the scope of the question.

22 EXAMINER SANYAL: Denied.

23 Q. (By Mr. Stinson) I would like to draw
24 your attention to page 20 of your testimony and the
25 energy share program.

1 A. Yes.

2 Q. Is this a program that's funded annually
3 by Dominion?

4 A. It is funded annually by Dominion as well
5 as by customers, employees, others would donate to
6 the program. Dominion provides funding of 230,000 a
7 year, shareholder funded.

8 Q. Do you know the number of jobs lost in
9 Ohio during the COVID-19 pandemic beginning in
10 roughly March?

11 A. I do not know that.

12 Q. Do you know the number of jobs lost in
13 the Cleveland Metropolitan statistical area during
14 that period?

15 A. I do not know.

16 Q. On page 21, line 2, of your testimony,
17 you state that "the Company contributed an additional
18 \$150,000 to the program in 2020" -- I'm sorry.

19 A. Yes, yes. The program year normally runs
20 from December 1 through May 31, so to keep that
21 program going longer in light of the COVID pandemic,
22 an additional 150,000 was contributed already to the
23 program here in 2020.

24 Q. So the amount already contributed before
25 the 150,000 was roughly 300,000?

1 A. Yes. The annual contribution for -- made
2 by Dominion, I believe, is normally made in November
3 of each year. So last November we made 230,000.
4 That would have been used up through approximately
5 May of this year and then another 150,000 was
6 contributed. So this coming November, we'll make
7 another \$230,000 donation. On top of that we have in
8 the stipulation offered another -- or committed to,
9 rather, another 750,000 to help those customers most
10 in need.

11 Q. And will that money then be available
12 through May 31 of 2021?

13 A. Yes, or until it runs out.

14 Q. I would like to draw your attention to
15 page 25 of your testimony, line 3.

16 A. Yes.

17 Q. And there you state "A feature of Ohio's
18 alternative regulation for gas utilities, however, is
19 that the utility does not have to update every cost
20 component of the revenue requirement." Did I read
21 that correctly?

22 A. You did.

23 Q. On what authority do you base that
24 statement?

25 A. I base that statement in that the

1 alternative regulation provisions in the Revised Code
2 enable the utilities to file plans such as the CEP
3 recovery and to do that without having a base rate
4 case. And to my knowledge, in alternative regulation
5 cases, I'm not aware of the Commission adjusting a
6 given component of the return, for example.

7 Q. Now, isn't it correct that gas utilities
8 that file an alt rate application must also comply
9 with the standard filing requirements?

10 A. That's true. And we did.

11 Q. And those standard filing requirements
12 would also include rate of return?

13 A. I believe they do, yes, and we did file
14 the required schedules.

15 Q. Dominion eventually sought a waiver of
16 that.

17 A. A portion of the requirement we filed a
18 waiver for. It was denied, and we've subsequently
19 filed those schedules.

20 Q. You -- Dominion requested that it not be
21 required to file the SFRs for rate of return,
22 correct?

23 A. I would have to go back and look at
24 exactly what that waiver request stated.

25 MR. STINSON: I provided to the parties

1 last night what I marked as NOPEC Exhibit 3. It's
2 captioned workpapers, but actually I believe it's the
3 updated standard filing requirements. And, your
4 Honor, if I could have that marked as NOPEC
5 Exhibit 3.

6 EXAMINER SANYAL: That is so marked.

7 (EXHIBIT MARKED FOR IDENTIFICATION.)

8 EXAMINER SEE: Mr. Stinson, this is
9 Attorney Examiner See. Could you repeat what you
10 want marked as NOPEC Exhibit 3, please?

11 MR. STINSON: NOPEC Exhibit 3, what I
12 sent last night I marked as workpapers Case No.
13 19-468-EL-AT -- ALT, August 23, 2019.

14 EXAMINER SANYAL: And, AE See, it also
15 says NOPEC Exhibit 3 in the title.

16 EXAMINER SEE: Okay.

17 EXAMINER SANYAL: It's about a 75-page
18 document with the Whitt Sturtevant cover letter.

19 EXAMINER SEE: Thank you. Go ahead,
20 Mr. Stinson.

21 MR. STINSON: Thank you.

22 Q. (By Mr. Stinson) Ms. Friscic, do you
23 recognize this document?

24 A. Yes. These are the additional
25 supplemental schedules in accordance with the

1 standard filing requirements that Dominion was
2 required to file.

3 Q. And if I could turn your attention to
4 Schedule D-1. I believe it appears on page 38 of 75.
5 Do you see that?

6 A. Yes.

7 Q. Now, when Dominion filed this updated SFR
8 for rate of return, isn't it correct that Dominion
9 just adopted the cost of debt and equity from its
10 prior 2007 rate case?

11 A. I don't understand the question when you
12 say just adopted.

13 Q. Well, let me draw your attention to the
14 footnote. It states "Rate of return approved in Case
15 No. 07-828-GA-AIR."

16 A. I may be --

17 Q. Pardon me?

18 A. I'm sorry. I didn't mean to interrupt.
19 I may not be on the right page. Could you please
20 tell me again where you want me to look?

21 Q. It's Schedule D-1, page 1 of 1. It says
22 "Witness Responsible VH Friscic."

23 A. Okay. I'm sorry. I was on the wrong
24 page. I have it in front of me, yes.

25 Q. Okay.

1 A. You are correct about what that schedule
2 says.

3 Q. And that -- those are the long-term debt
4 and common equity is the same long-term debt and
5 common equity as adopted in the 2007 rate case.

6 A. That's correct.

7 Q. And those figures weren't adjusted from
8 the time of filing the application until filing this
9 standard filing requirement, correct?

10 A. Filing the application in the CEP case?

11 Q. Yes.

12 A. Yes. Those -- the rate of return has not
13 been changed, that's correct.

14 Q. Bear with me. I may be just about
15 finished. I think a final question on page 25 of
16 your testimony, line 18.

17 A. Yes, I'm there.

18 Q. And you indicate there "But requiring the
19 litigation of rate of return issues year after year
20 is simply not efficient regulation." Did I read that
21 correctly?

22 A. Yes, you did. And to -- by that we're
23 referring to the purpose of the -- or one of the
24 purposes of the alternative regulation provisions
25 that enable us to file an alternative rate plan

1 without going through a rate case proceeding.

2 Q. And isn't it correct that the issues in
3 an alt reg proceeding for the Commission's
4 determination are framed by the objections to the
5 application and to the Staff Report?

6 A. I'm not sure I understand what you mean
7 by are framed by.

8 Q. Well, in this proceeding Dominion filed
9 its application and then the Staff filed its report
10 and then NOPEC and OCC, even Dominion filed
11 objections to that report. And those are the issues
12 before the Commission, correct?

13 MR. KENNEDY: I mean --

14 A. Correct.

15 EXAMINER SANYAL: Okay. I feel like the
16 witness already started answering, but would you like
17 to make that objection?

18 MR. KENNEDY: No. That's fine. I will
19 withdraw the objection.

20 EXAMINER SANYAL: Okay. Thank you.

21 You may respond, Ms. Friscic.

22 A. I agree with the process that we've gone
23 through in this case as outlined by Mr. Stinson and
24 that certainly the objections of OCC and NOPEC are
25 before the Commission. Dominion continues to

1 believe, however, that any component of the return
2 should not be adjusted in isolation from the other
3 components or by the totality of the costs and
4 revenues and so forth determined in a base rate
5 proceeding.

6 Q. Well, let me frame it this way, that if a
7 rate of return is approved in a base rate proceeding,
8 it is possible that in a subsequent alt reg
9 proceeding in a year or two that the parties may not
10 file objections to that rate of return; is that
11 correct?

12 A. That the parties may not file objections?

13 Q. Yes.

14 A. It's true that the parties may not file
15 objections a few years down the road.

16 MR. STINSON: Thank you, Ms. Friscic, and
17 thank you, your Honor. I don't have any further
18 questions.

19 EXAMINER SANYAL: Okay. So how long --
20 let's go off the record.

21 (Discussion off the record.)

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

24 The Company Dominion has indicated that
25 it does not have any redirect, so we have several

1 outstanding exhibits. So let's just kind of take
2 care of them in chunks. So Joint Exhibits 1, 2, and
3 3, any objections to those being admitted?

4 MR. HEALEY: Your Honor, OCC has one
5 objection on Joint Exhibit 1. On page 7, it states
6 that -- in the stipulation the parties are agreeing
7 to the admission of DEO Exhibit 3.0, the testimony of
8 Celia B. Hashlamoun filed May 1, 2019. The Company
9 did not call that witness so that should not be
10 admitted as part of the stipulation.

11 EXAMINER SANYAL: Thank you, Mr. Healey.
12 I think we indicated earlier we will not be having
13 that exhibit, correct?

14 MR. KENNEDY: Yeah. I am getting a
15 little feedback, but correct. The Company is not
16 offering that exhibit into testimony.

17 EXAMINER SANYAL: Okay. So with that
18 clarification, is OCC okay with the admittance of
19 Joint Exhibit 1?

20 MR. HEALEY: Yes, your Honor.

21 EXAMINER SANYAL: Okay. So Joint Exhibit
22 1 is admitted with the clarification that DEO
23 Exhibit 3.0 is not part of the record.

24 (EXHIBIT ADMITTED INTO EVIDENCE.)

25 EXAMINER SANYAL: And then any objections

1 to Joint Exhibits 2 and 3?

2 MR. HEALEY: No, your Honor. Subject to
3 the cross-examination including, you know, the one
4 change in the tariff sheets that I discussed with the
5 witness, I have no further objections.

6 EXAMINER SANYAL: Okay. So those two are
7 admitted.

8 (EXHIBITS ADMITTED INTO EVIDENCE.)

9 EXAMINER SANYAL: And then I have DEO
10 Exhibits 1, 2, and 4. Any objection to those
11 exhibits being admitted?

12 MR. HEALEY: Just reiterate we would
13 object based on our motion to strike DEO Exhibit 4,
14 but subject to that motion to strike, no further
15 objections.

16 EXAMINER SANYAL: Thank you, Mr. Healey.
17 And for the record, that motion to strike was denied.
18 Are there any other objections?

19 MR. STINSON: On behalf of NOPEC, your
20 Honor, no objections.

21 EXAMINER SANYAL: Okay. Hearing none,
22 DEO Exhibits 1, 2 and 4 are admitted.

23 (EXHIBITS ADMITTED INTO EVIDENCE.)

24 EXAMINER SANYAL: Then we have Staff
25 Exhibits 1 and 2. Any objections?

1 MR. HEALEY: No, your Honor.

2 MR. STINSON: None, your Honor.

3 EXAMINER SANYAL: Okay. Hearing none,
4 those are admitted.

5 (EXHIBITS ADMITTED INTO EVIDENCE.)

6 EXAMINER SANYAL: And then we have OCC
7 Exhibits 1, 2 -- well, 1 and 2 are not here yet, so
8 we have 3, 4, 5, 6, 7, 8, 9, and 10. Any objections
9 to those exhibits?

10 MR. KENNEDY: No objections from the
11 Company, your Honor.

12 EXAMINER SANYAL: Hearing none, those
13 exhibits are admitted.

14 (EXHIBITS ADMITTED INTO EVIDENCE.)

15 EXAMINER SANYAL: And then finally we
16 have NOPEC Exhibits 1, 2, 3, and 4.

17 MR. KENNEDY: No objections to the NOPEC
18 exhibits being admitted into the record from the
19 Company.

20 EXAMINER SANYAL: Thank you. Those
21 exhibits are admitted.

22 (EXHIBITS ADMITTED INTO EVIDENCE.)

23 EXAMINER SANYAL: So one thing I did
24 forget to do is ask my co-Attorney Examiner if she
25 had any questions for the witness. So I personally

1 do not have any, but I do want to give AE See that
2 opportunity.

3 EXAMINER SEE: AE See did not have any
4 questions for Ms. Friscic, and I will pipe up and
5 make sure if I do, I have the opportunity to ask
6 questions.

7 EXAMINER SANYAL: I knew you would, but I
8 just wanted to make sure.

9 EXAMINER SEE: Much appreciated.

10 EXAMINER SANYAL: Thank you.

11 Okay. So let's go off the record.

12 (Discussion off the record.)

13 EXAMINER SANYAL: We will be back at 2:30
14 p.m. Thank you and let's go off the record.

15 (Thereupon, at 1:40 p.m., a lunch recess
16 was taken.)

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1 Tuesday Afternoon Session,
2 September 15, 2020.

3 - - -

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

6 I note for the record that it may not
7 reflect that we had released Ms. Friscic, but we do
8 appreciate her participation in this case, and she is
9 dismissed from the stand.

10 Mr. Kennedy, does that conclude the
11 Company's presentation in support of the stipulation?

12 MR. KENNEDY: Yes, your Honor, that is
13 the conclusion of the Company's case.

14 EXAMINER SEE: Thank you.

15 Mr. Stinson, are you on mute? Could you
16 please mute.

17 Let's go ahead. I believe OCC and
18 NOPEC's next witness.

19 MR. HEALEY: Yes, your Honor. At this
20 time OCC and NOPEC would call Kerry Adkins.

21 EXAMINER SEE: If Ms. Chilcote could
22 promote Mr. Adkins.

23 MS. CHILCOTE: He has been promoted, and
24 his microphone is off -- or his microphone is on, so
25 he is okay to speak now. Thank you.

1 MR. ADKINS: Can you hear me okay?

2 EXAMINER SEE: I can hear you,
3 Mr. Adkins, but I am looking for you in the screen.

4 Aha. Okay. Mr. Adkins, if you would
5 raise your right hand.

6 (Witness sworn.)

7 EXAMINER SEE: Thank you.

8 Mr. Healey.

9 MR. HEALEY: Yes, your Honor. At this
10 time I would like to mark as OCC/NOPEC Joint
11 Exhibit 1 the direct testimony of Kerry J. Adkins
12 which was filed on the docket in this case on
13 September 11, 2020.

14 EXAMINER SEE: OCC/NOPEC Exhibit 1 is so
15 marked.

16 MR. HEALEY: Thank you.

17 (EXHIBIT MARKED FOR IDENTIFICATION.)

18 EXAMINER SEE: Am I getting feedback?
19 Can everyone else hear me okay?

20 MR. HEALEY: I can hear you just fine.

21 EXAMINER SEE: Okay. The exhibit is so
22 marked.

23 Go ahead, Mr. Healey.

24 MR. HEALEY: Thank you, your Honor.

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KERRY ADKINS

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

DIRECT EXAMINATION

By Mr. Healey:

Q. Mr. Adkins, do you have a copy in front
of you what has now been marked OCC/NOPEC Exhibit 1?

A. Yes.

Q. And is that a copy of your testimony that
was prefiled in this case on September 11?

A. It is.

Q. And did you draft this testimony
yourself?

A. Yes.

Q. And do you have any corrections to that
testimony this afternoon?

A. I do. There is one minor correction on
page 34 of the direct testimony at line 10. After
the period in the last sentence in that paragraph
after the word "approved," there is an extraneous
"e." That should be deleted. That is the only
correction.

Q. Thank you. And with that correction, if
I were to ask you the same questions found in your
prefiled testimony today, would your answers be the

1 same?

2 A. Yes.

3 MR. HEALEY: Thank you. At this time,
4 your Honor, OCC moves for the admission of OCC/NOPEC
5 Joint Exhibit 1, subject to cross-examination. Thank
6 you.

7 MR. WHITT: Your Honor, before I begin my
8 examination, I would like to make a motion to strike.

9 EXAMINER SEE: And go ahead, Mr. Whitt.

10 MR. WHITT: Yes, your Honor. The motion
11 to strike pertains to the question -- to question and
12 answer No. 12 which begins on page 15 and goes
13 through page 16. The entire question and answer is
14 essentially a protest of correct Ohio law and a
15 recommendation by the witness that the Commission do
16 something the Commission is prohibited from doing
17 which is reject an alternative -- an alternative rate
18 plan because merely in this witness's opinion that
19 plan is inferior to consumers to what would be
20 available in the base rate case. To be candid, no
21 one who is on this call's opinion about Ohio law is
22 relevant in this proceeding and would ask that the
23 testimony, therefore, be stricken.

24 EXAMINER SEE: And just so we are clear,
25 Mr. Whitt, you are asking that the entirety of

1 question 12 be stricken?

2 MR. WHITT: Your Honor, the testimony
3 begins on page 13, line 9, through the bottom of page
4 15.

5 EXAMINER SEE: So the question and answer
6 to No. 12.

7 MR. WHITT: Question and answer 12.

8 EXAMINER SEE: Okay. Is there a reply,
9 Mr. Healey?

10 MR. HEALEY: Yes, your Honor. I would
11 disagree with Mr. Whitt's characterization of this
12 question and answer. Mr. Adkins is not in any way
13 advocating that the Commission violate any law. He
14 is providing some background information on the law
15 as it exists and his expert opinion on the impact of
16 this law is having on consumers. It's very relevant
17 to this case. He is giving the Commission a
18 reference point with which to compare the
19 stipulation. What he is saying through this
20 testimony is this law is already bad for consumers.

21 The Commission should do what it can
22 within the confines of this law to protect consumers
23 from any negative impact by rejecting the settlement.
24 In particular, Mr. Adkins makes reference to Revised
25 Code 4905.22 which rebuts testimony from Ms. Friscic

1 who said in the same statute on 10, 11, and 28 of her
2 testimony. So given her citation to that statute and
3 reliance upon it, Mr. Adkins is providing his expert
4 opinion which is contrary to hers and this is all
5 within the context of why the Commission should
6 reject or modify the settlement.

7 EXAMINER SEE: Are there -- would anyone
8 else like to add comments?

9 The motion to strike question 12 of
10 Mr. Adkins' testimony which goes from page 13 to the
11 bottom of page 15 is denied.

12 Mr. Whitt, do you want to go ahead with
13 your cross-examination of Mr. Adkins?

14 MR. WHITT: Yes, your Honor. Thank you.

15 - - -

16 CROSS-EXAMINATION

17 By Mr. Whitt:

18 Q. Good afternoon, Mr. Adkins. Can you hear
19 me okay?

20 A. I can hear you well, Mr. Whitt.

21 Q. Great. Now, we are here today obviously
22 because the Company has filed an application to begin
23 recovering its CEP investments that it began making
24 in toward the end of 2011, correct?

25 A. Yes.

1 Q. And my takeaway from your testimony is
2 that OCC doesn't necessarily object to allowing the
3 Company to recover the investments that it's made,
4 but the issue for OCC is really a matter of the
5 timing and method of recovery; would that be fair?

6 A. I think the objections that I have to the
7 Company's application are all contained within the
8 body of my direct testimony.

9 Q. And the Company's proposal is to begin
10 recovering the historical CEP investment essentially
11 now, correct, or when it files its application next
12 year? Correct?

13 A. My understanding is that the initial --
14 the 2011 through 20 -- all of 2018, the bet -- the
15 CEP Rider rates for that would be in effect once the
16 Commission approves the application, if it approves
17 the application in this case.

18 Q. Okay. And OCC's preference would be that
19 those investments be recovered as part of a base rate
20 proceeding, correct?

21 A. That's the preference, yes. If a base
22 rate proceeding is better and more fair to customers
23 than the alternative ratemaking process is, yes.

24 Q. Okay. And OCC is not contending that any
25 CEP investment made to date is not used or useful,

1 correct?

2 A. No. We are not making that claim, no.

3 Q. Nor is OCC claiming that any CEP
4 investment made to date was not prudently incurred,
5 correct?

6 A. It is almost impossible for an outside
7 party such as OCC to prove imprudence, so we're not
8 making that claim.

9 Q. Okay. Let's talk about the rate case
10 process in general for just a minute. You're
11 familiar obviously with the Chapter 4909 rate setting
12 process in Ohio, right?

13 A. I am.

14 Q. And one of the things that we do in a
15 rate case is determine the fair value of rate base at
16 some date certain, correct?

17 A. Yes.

18 Q. And generally all prudent and used and
19 useful investment that is as of the date certain is
20 included in rate base, correct?

21 A. Less requirements, yes.

22 Q. And we don't carve out portions of used
23 and useful investment that exist as of the date
24 certain for phase in to rates at some point in the
25 future, correct?

1 A. There has -- I am aware of at least one
2 case where there has been a rate phase-in for plant
3 additions.

4 Q. Well, I'm familiar with the case where
5 the Supreme Court reversed, but absent some special
6 statutory provision, generally rate base is
7 determined by the level of investment that exists,
8 that exists as of the date certain, correct?

9 A. I'm sorry, Mr. Whitt. You skipped. The
10 audio portion you skipped during that. I didn't
11 catch all the question.

12 Q. Well, we'll move on. It's not that
13 important. One of the other things we do in a rate
14 case is determine the fair return on investment, on
15 the utility's investment in the rate base, correct?

16 A. The rate of return is determined in a
17 rate case, yes.

18 Q. And that's where -- when we are talking
19 about the return, that's where we're looking at the
20 return on equity and the cost of debt, correct?

21 A. Yes. Both of those are looked at in a
22 rate case, yes.

23 Q. Okay. Now, another thing we do in a rate
24 case is look at the expenses incurred by the utility
25 during the test period, correct?

1 A. Yes.

2 Q. And would you agree it's generally
3 improper to look at expenses incurred either before
4 or after the test period?

5 A. I'm not sure I understand your question.
6 I mean, expenses are looked at after a rate case all
7 the time in deferral cases, for example, so I'm not
8 sure I understand your question.

9 Q. Well, I'm still on during the process of
10 setting rates in a base rate case and determining the
11 test year revenue requirement, we generally limit our
12 inquiry to the test year revenue and expenses,
13 correct?

14 A. Generally. There could be adjustments
15 made to either one, but yes.

16 Q. Sure. And once we've gone through all of
17 the exercises we just discussed, we look at rate
18 base, we look at the return on investment, we look at
19 the test period expenses, then we can figure out the
20 revenue requirement, correct?

21 A. Generally, yes.

22 Q. And the revenue requirement refers to the
23 amount of money that the utility needs to collect in
24 order to recover its test year expenses, correct?

25 A. Expenses and taxes and its rate of

1 return, yes.

2 Q. Sure. And, well, you mentioned the cost
3 includes rate of return and every other revenue or
4 expense item, correct?

5 A. Well, when I say rate of return, I am
6 talking about an opportunity to earn, not a
7 guaranteed rate of return, but the rates are
8 generally set to recover expenses and to give a
9 utility an opportunity to earn its rate of return or
10 its allowable rate of return.

11 Q. And once rates are set in a rate case and
12 approved by the Commission, whether the expenses or
13 revenues we looked at in the rate case to set those
14 rates, whether those revenues and expenses vary in
15 the future, doesn't impact what the customer actually
16 pays, correct?

17 A. I disagree completely. I mean, customers
18 pay riders all the time. So customer --

19 Q. No.

20 A. What actually comes out of a customer's
21 pocket is -- you know, customers don't care if it's
22 paid through a rate or rider. The end result is
23 there is money coming out of the customer's pocket so
24 rates do go up.

25 Q. No. I'm talking about base rates that

1 are set in a base rate proceeding. Once the rates
2 are set, whether the revenues or expenses that form
3 the basis of those rates fluctuate doesn't impact
4 what the customer pays.

5 A. Unless there is an alternative rate
6 proceeding that allows the utility to recover either
7 deferred -- deferred expenses or deferred capital, I
8 guess I am disagreeing with you because riders --
9 single issues do allow utilities to recover more from
10 customers through rates than -- than just the base
11 rates.

12 Q. Those -- the alternative regulation
13 proceedings that you alluded to and the one that
14 we're talking about today, that involves a proceeding
15 that is separate from a base rate case, correct?

16 A. It is a separate proceeding, yes.

17 Q. And the fact of whether any revenues or
18 expenses that were used to determine the Company's
19 base rates in 2007 and 2008, those rates have not
20 changed even though revenues or expenses have
21 fluctuated since then, correct?

22 A. The base rates have not changed but what
23 customers are paying has most definitely changed.

24 Q. And there's no line item on customers'
25 bills that says, for example, this is how much of

1 your bill this month is going to serve as the cost of
2 DEO's debt. We don't do bills like that, right?

3 A. It is not that granular, no.

4 Q. Okay. And would it be fair to say that
5 customers are more likely to be concerned about what
6 their bill is than what Dominion's underlying costs
7 are in any given month?

8 A. I would agree that what -- a customer's
9 total bill, and that's just separated between
10 distribution charges which would include base rates
11 plus riders is very important to customers. That's
12 the point I have been trying to make. That's why I
13 have been so insistent on pointing out base rates
14 plus riders.

15 Customers are indeed concerned about
16 their bill. But in terms of what I think customers
17 would be very much interested to know that Dominion
18 could -- could be providing rates cheaper or less
19 than they are right now. And that's why we advocate
20 a rate case so we can determine are customers paying
21 more than they should be paying.

22 Q. But I -- I think we're agreeing that the
23 customer's concerned with what they are paying, and
24 they don't really care what Dominion's costs are.

25 A. I guess I would disagree with that. I

1 think if Dominion's costs impact how much customers
2 are paying, they do care what's driving those costs.

3 Q. Can you think of an occasion since you've
4 been at OCC where anyone has called OCC and asked
5 what Dominion's cost of debt is?

6 MR. HEALEY: Objection, relevance, your
7 Honor. There's no relevance in this case.
8 Mr. Adkins is providing his expert opinion, and
9 whether a customer called OCC to complain or commend
10 Dominion for its cost of debt has no bearing on
11 whether the stipulation should be approved. And I
12 would also note for the record that OCC is
13 statutorily prohibited from hosting a call center
14 which would further make the question irrelevant.

15 MR. WHITT: I'll make it easy, I will
16 withdraw the question.

17 Q. (By Mr. Whitt) Mr. Adkins, I think you
18 previously made the point that when the Commission
19 approves rates for a utility, there's no guarantee
20 for the utility that it will actually recover
21 whatever the revenue requirement was found to be in
22 the rate proceeding, correct?

23 A. That is correct.

24 Q. The utility could recover more, or it
25 could recover less, correct?

1 A. It's possible, yes.

2 Q. And again, with respect to base rates, we
3 don't allow refunds or surcharges so that the amount
4 the utility collects exactly matches a revenue
5 requirement, correct?

6 A. Again, I am not sure I agree 100 percent
7 because there are expense deferrals that expenses
8 that ordinarily wouldn't be recovered are deferred
9 for future recovery. There are alternative
10 ratemaking proceedings where you took things that
11 ordinarily would have been included in base rates are
12 now recovered outside of that, outside of the base
13 rates. So what customers are paying goes up single
14 issue by single issue and so it -- customers' rates
15 do go up outside -- outside of base rate cases.
16 That's a verifiable fact.

17 Q. Well, but again, you've recommended the
18 Commission follow a process where it treats the
19 applications as if it were a base rate application or
20 that we have a base rate case. And my questions are
21 limited to the base rate case process. And my
22 question is -- or would you agree with me that with
23 respect to base rates, there is no refund or
24 surcharge process to ensure that the utility only
25 recovers its revenue requirement or its return dollar

1 for dollar? That's not how ratemaking works, right?

2 MR. HEALEY: Objection, compound. There
3 was about four or five questions in there, your
4 Honor.

5 EXAMINER SEE: Mr. Whitt, did you want to
6 break up the question?

7 MR. WHITT: No. Let me move on.

8 Q. (By Mr. Whitt) We've agreed that the
9 rates established in the Company's last rate case did
10 not guarantee that the Company achieve any specific
11 level of profit in any given year, correct?

12 A. That is correct.

13 Q. In some years it may earn more; some
14 years it may earn less, correct?

15 A. It may. I don't think -- I think
16 Dominion has pretty much, you know, recovered its
17 well -- well past its authorized rate of return most
18 years since the last rate case.

19 Q. Well, when we talk about a utility's
20 earned return, that is a calculation where we just
21 divide net income by book equity. That will give us
22 our return figure, correct?

23 A. I am going to defer this question to
24 Dr. Duann who is the OCC witness --

25 Q. I am asking --

1 A. -- responsible for rate of return.

2 Q. I am asking you. Do you know the answer
3 to that question?

4 A. And I am going to defer the question to
5 Mr. Duann.

6 Q. Well, you can't do that because I'm
7 asking you. If you don't know, you don't know, but
8 you can't just avoid it because you don't feel like
9 answering it.

10 A. Could you ask the question again, please?

11 Q. When we talk about earned return, the
12 earned return on equity is a calculation that's
13 derived by dividing net income by book equity,
14 correct?

15 MR. HEALEY: Objection, asked and
16 answered, your Honor. If counsel doesn't like his
17 answer, he can feel free to move to strike or ask for
18 an instruction from the ALJ, but Mr. Adkins has
19 provided an answer.

20 MR. WHITT: His answer was "I don't feel
21 like answering."

22 EXAMINER SEE: And the objection is
23 overruled.

24 Mr. Adkins, you can answer the question
25 to the best of your ability or indicate that you

1 don't know.

2 A. I'm not certain; therefore, I am going to
3 say I don't know.

4 Q. Do you know whether the authorized return
5 that's determined in a rate case is an estimate of
6 the return necessary to attract investor capital?

7 MR. HEALEY: Objection. Your Honor, this
8 is outside the scope of Mr. Adkins' testimony which
9 is on the second prong of the stipulation in this
10 case and the benefits to customers. Dr. Duann is
11 OCC's witness on rate of return. These questions are
12 all seemingly hypothetical questions about how a rate
13 of return is determined and what it means in a rate
14 case.

15 EXAMINER SEE: Any response, Mr. Whitt?

16 MR. WHITT: The witness has testified
17 that the charges proposed in this case are too high
18 and that they ought to be determined in a rate case.
19 And I'm asking him based on the witness holding
20 himself out as an expert in Chapter 4909 what certain
21 basic rate of return principles mean as applied to
22 this case.

23 EXAMINER SEE: And provided they are
24 general questions, I am going to allow the witness to
25 answer the question to the best of his ability.

1 Objection overruled.

2 Mr. Adkins, answer the question.

3 THE WITNESS: Thank you, your Honor.

4 A. I am not a rate of return expert. I've
5 never held myself out to be a rate of return expert.
6 My 29 years at the PUCO I never was specifically
7 assigned to review the rate of return, and so I
8 don't -- I am going to say I don't know with
9 certainty the answer to your question.

10 Q. Fair enough. Would it be fair to say
11 that Dominion's operating expenses likely have
12 changed since its last base rate proceeding?

13 A. Yes.

14 Q. And as OCC has pointed out, the most
15 recent debt issuance by the company, the interest
16 rate was lower than the rates at the time the -- of
17 the last rate case, correct?

18 A. As pointed out in Dr. Duann's testimony,
19 yes.

20 Q. Okay. Would it be reasonable to assume
21 that some of the other costs incurred by the company
22 have increased?

23 MR. HEALEY: Objection, calls for
24 speculation. This witness has no personal knowledge
25 of whether Dominion's costs have increased or

1 decreased.

2 MR. WHITT: I just asked if it would be a
3 reasonable assumption.

4 EXAMINER SEE: And the objection is
5 overruled.

6 Mr. Adkins, answer the question.

7 THE WITNESS: Thank you, your Honor.

8 A. The answer is it is likely that some
9 expenses have gone up, and some other expenses have
10 gone down since the last -- the test year of the last
11 base rate case.

12 Q. And the only way we would know the net
13 effect of those increases and decreases would be in a
14 base rate proceeding, correct?

15 A. And that is one of the reasons we are
16 advocating that a base rate case is more protective
17 for consumers, yes.

18 Q. Now, your testimony seems to be heavily
19 influenced by the circumstances surrounding the
20 COVID-19 pandemic which is the reason we're
21 conducting this hearing by video; is that fair?

22 A. That is one -- one of the items in my
23 testimony that I object to, yes.

24 Q. And the pandemic obviously is something
25 outside of Dominion's control, correct?

1 A. The pandemic is what it is.

2 Q. And if there was a -- if Dr. Fauci or
3 somebody announced later this afternoon that a
4 vaccine had been found, would that change any of your
5 recommendations?

6 MR. HEALEY: Objection, relevance.

7 MR. WHITT: Your Honor, the witness is --

8 EXAMINER SEE: Go ahead, Mr. Whitt.

9 MR. WHITT: If you were going to overrule
10 the objection, then I'll be quiet.

11 EXAMINER SEE: Before I give any
12 decision, I am willing to hear what you have to say.

13 MR. WHITT: Well, the witness has
14 testified that any CEP surcharge be deferred until at
15 least October of next year because of the pandemic.
16 And I am just curious whether that opinion might
17 change if circumstances change.

18 EXAMINER SEE: The objection is
19 overruled. The witness can answer the question.

20 THE WITNESS: Your Honor, may I have the
21 question reread, please? Your Honor, may I request
22 it be reread?

23 EXAMINER SEE: Yes, you may.

24 Ms. Gibson.

25 (Record read.)

1 A. No, because -- it's our opinion that the
2 effects from the financial hardships on customers
3 caused by efforts to mitigate the coronavirus
4 pandemic will linger well past, you know, this
5 afternoon and beyond.

6 Q. And you've testified about the effects
7 of -- that COVID-19 has had on the economy and
8 at-risk populations. I assume that you're familiar
9 with efforts taken by various levels of government to
10 address the hardships folks are facing?

11 A. I'm generally aware but I'm also aware
12 that, for example, the City of Cleveland, the largest
13 municipality in Dominion's territory, the recovery
14 has been very slow. I mean, for example, last month
15 the Cleveland State University put out a study on the
16 City of Cleveland's recovery, and it showed from back
17 in April the City of Cleveland had the single largest
18 job loss in any municipality in the state of 184,000
19 jobs lost directly due to COVID. By July the
20 recovery was only -- they still had over \$130,000 --
21 130,000 jobs lost as a direct result of COVID.

22 Also that same Cleveland State study
23 looked at job postings as a measure of recovery and
24 it showed that Cleveland was the worst in the nation
25 at job postings. So the City of Cleveland the

1 economic effects are -- they are large and are
2 measurable, and it's -- that recovery is very, very
3 slow. Now is not a good time to be adding large
4 costs on the customer's bills.

5 Q. And all of those things you just talked
6 about, that's one of the reasons the Federal
7 Government has issued \$1,200 stimulus payments to
8 folks, correct?

9 A. Presumably that was -- I mean, the
10 financial hardships the federal government has, you
11 know, issued, you know, relief. I doubt it's enough
12 for customers, not nearly enough for customers when
13 you think of how much costs have increased. I mean,
14 jobs have been lost. Job recovery is lagging,
15 especially in Cleveland.

16 Q. And although the Commission can't be
17 expected to solve this issue, it has done its part by
18 issuing the -- extending shutoff moratoriums,
19 correct?

20 A. Well, I would point out the moratoriums
21 have lapsed, and customers are being shut off as we
22 speak, No. 1. No. 2, I would say that I'm not sure I
23 would agree fully the Commission has done its part.
24 I think the discretion moratorium certainly helped,
25 but I think the Commission is in a position here to

1 do more by simply allowing -- by delaying
2 implementation of the CEP Rider for a year.

3 Q. Can you go to page 11 of your testimony.

4 A. I'm there.

5 Q. At lines 13 and -- well, beginning at
6 line 13, you testified that the other failings in the
7 settlement that leave it short of protecting
8 consumers and lead consumers to paying too much,
9 including and then you have a list of items. Do you
10 see where I am?

11 A. Yes.

12 Q. And you refer to the initial charge of
13 \$3.86 per month you believe is too much, correct?

14 A. I do.

15 Q. What would be the -- the appropriate
16 charge in your opinion?

17 A. I think the appropriate charge would
18 include the adjustments that Dr. Duann recommends. I
19 think it would -- the rate should be adjusted to
20 reflect the O&M savings that I recommend.

21 Q. Have you done those adjustments?

22 A. I have not done the exact calculations,
23 no.

24 Q. So you can't say what an appropriate rate
25 would be, correct?

1 A. I'm making the recommendations that I'm
2 making but, remember, the burden of proof is not on
3 me.

4 Q. Well, you say that 3.86 is too much. All
5 I want to know is can you tell me how much is not too
6 much?

7 A. It would be the 3.86 less the
8 recommendations by Dr. Duann less the amounts that
9 I'm recommending in my prefiled direct testimony.

10 Q. On page 12, you indicate at line 8 that
11 "The rate caps are set too high." Do you see that?

12 A. What line number again, please?

13 Q. Line 8.

14 A. Yes, I see that.

15 Q. Can you give me a specific figure for a
16 rate cap that would not be too high?

17 A. I'm not specifically recommending an
18 actual rate cap. I'm recommending an investment cap
19 in my testimony. And so the investment cap that I
20 recommend is -- is Dominion's annual investment in
21 capital should not exceed \$73 million.

22 Q. And the consequence of that investment
23 cap would result effectively in a rate cap, would it
24 not?

25 A. The gross capital investments would

1 ultimately get converted into a rate, yes.

2 Q. And you can't tell me what that rate
3 would be?

4 A. In my opinion it should be something, you
5 know, less than -- less than what's being proposed,
6 and it should be based on a maximum \$73 million per
7 year, or something less.

8 Q. And, Mr. Adkins, you point out that
9 Dominion is and has always been, at least since
10 passage of Section 4905.22 of the Revised Code, that
11 the Company is under an obligation to provide safe
12 and adequate service, correct?

13 A. It is required by 4905.22 to provide
14 necessary and adequate facilities to serve customers,
15 yes.

16 Q. Can we agree that the Company has that
17 obligation regardless of whether it agrees with that
18 Revised Code section or not?

19 A. That is the law. Dominion is obliged to
20 follow the law.

21 MR. WHITT: Thank you. I have no further
22 questions.

23 EXAMINER SEE: Mr. -- thank you,
24 Mr. Whitt.

25 Mr. Margard?

1 MR. MARGARD: I do not have questions.
2 Thank you, your Honor.

3 EXAMINER SEE: Okay. I believe
4 Mr. Healey already moved for the admission of
5 OCC/NOPEC Exhibit 1. Are there any objections to the
6 admission of OCC/NOPEC Exhibit 1?

7 MR. HEALEY: Your Honor, if I may, I was
8 hoping to do a brief redirect, if that's possible.

9 EXAMINER SEE: Nah. With videoconference
10 we've done away with all that.

11 I'm sorry, Mr. Healey. Would you like to
12 do redirect?

13 MR. HEALEY: Yes, I would, your Honor.

14 EXAMINER SEE: Okay. Do you need some
15 time beforehand?

16 MR. HEALEY: No, I do not.

17 EXAMINER SEE: Okay. Go ahead and do
18 redirect.

19 MR. HEALEY: Thank you.

20 - - -

21 REDIRECT EXAMINATION

22 By Mr. Healey:

23 Q. Mr. Adkins, do you recall during your
24 cross-examination being asked some questions about
25 the coronavirus and the ensuing financial emergency?

1 A. Yes.

2 Q. And you recall making reference to a
3 Cleveland State study; is that right?

4 A. Yes. It was a study that was published
5 last month.

6 MR. HEALEY: At this time OCC would like
7 to mark the next OCC exhibit. This would be OCC
8 Exhibit 11. This is the Cleveland State study that
9 Mr. Adkins referred to in his cross-examination.
10 This was provided to all parties and the Attorney
11 Examiners yesterday as OCC P in my e-mail.

12 EXAMINER SEE: Okay.

13 (EXHIBIT MARKED FOR IDENTIFICATION.)

14 Q. (By Mr. Healey) Mr. Adkins, do you now
15 have a copy of what's been marked OCC Exhibit P in
16 front of you?

17 A. I do.

18 EXAMINER SEE: Just a moment, Mr. Healey.

19 MR. HEALEY: Yes, your Honor.

20 EXAMINER SEE: Thank you. Okay, Mr.
21 Healey.

22 Q. (By Mr. Healey) Mr. Adkins, you have in
23 front of you what's now been marked OCC Exhibit 11,
24 correct?

25 A. Yes.

1 Q. And is this the Cleveland State study
2 that you were referring to during your
3 cross-examination?

4 A. Yes.

5 Q. And can you for counsel and the Attorney
6 Examiners identify the portions of this study that
7 you were referencing in your cross-examination.

8 A. Yes.

9 MR. WHITT: Objection.

10 EXAMINER SEE: I'm sorry. Was there an
11 objection, Mr. Whitt?

12 MR. WHITT: I objected based on hearsay.
13 I don't have a problem asking him if it's -- the
14 document is the study he was referencing. As you
15 might guess, we will be objecting to admission of the
16 study into evidence. But any questions beyond their
17 identification that get into the substance of the
18 study are hearsay. And these were not questions
19 elicited from the witness. They were offered during
20 the filibuster, you know, to interject extraneous
21 issues in the case but that doesn't provide a
22 foundation for admission of hearsay into evidence.

23 MR. HEALEY: May I respond, your Honor?

24 EXAMINER SEE: Yes, you may, Mr. Healey.

25 MR. HEALEY: Thank you, your Honor. Two

1 responses. One, Mr. Adkins is testifying as an
2 expert today. And under Rule of Evidence 703, he is
3 allowed to rely on facts or data received by the
4 expert or admitted in the evidence at the hearing.
5 The Supreme Court of Ohio in Beard versus Meridia,
6 106 Ohio St. 3d 237, found that under Rule of
7 Evidence 703 information that would not be admissible
8 at trial may serve as the basis for an expert's
9 background knowledge without violating that rule.

10 This would also fall under Rule of
11 Evidence 803(18) which is an exception to hearsay
12 that allows expert witnesses to rely on published
13 treatises, periodicals, or pamphlets as long as the
14 witness establishes it is a reliable authority which
15 Mr. Adkins has done.

16 MR. WHITT: And, your Honor, the fact
17 that counsel -- the fact that counsel has case law
18 ready to go in support of the admission of this
19 document suggests that, you know, something less than
20 being forthcoming in the disclosure of evidence.

21 If this was an important enough document
22 for the witness to rely on, he would have done so in
23 his testimony and included it in his testimony, and
24 they didn't. So now the plan is, well, we'll just
25 ambush people with it at hearing by figuring, you

1 know, some question where we can mention it, and by
2 us mentioning it then we can get it in that way --

3 MR. HEALEY: I would object.

4 MR. WHITT: -- to begin with and it's
5 prejudicial.

6 MR. HEALEY: I would certainly object to
7 counsel's characterization of our motives.

8 MR. WHITT: Am I wrong?

9 MR. HEALEY: Your Honor, may I finish?

10 MR. WHITT: Am I wrong?

11 MR. HEALEY: Your Honor, may I finish,
12 please?

13 EXAMINER SEE: Thank you, gentlemen.
14 Thank you both. Gentlemen, I am going to take a
15 brief recess where -- while I consider the admission
16 of the Cleveland State study. So off the record for
17 a moment and we'll resume at 3:25.

18 (Recess taken.)

19 EXAMINER SEE: Let's go back on the
20 record.

21 I believe just prior to us leaving
22 counsel for OCC, Mr. Healey, had asked to mark an
23 exhibit, the Cleveland State University case study
24 and Mr. Whitt had objected. Is that how the parties
25 recall? Mr. Healey? Mr. Whitt?

1 MR. HEALEY: Yes. He objected to me
2 asking the witness questions about this document.

3 EXAMINER SEE: Okay. And, Mr. Whitt, you
4 are objecting to?

5 MR. WHITT: Yes.

6 EXAMINER SEE: Please state your
7 objections, please.

8 MR. WHITT: My objection was to a
9 question about a specific portion of the document. I
10 don't think we got to that portion, whatever it is.
11 Any questions that quote from or go to specific
12 portions of that study as well as the study itself we
13 would object to.

14 EXAMINER SEE: Okay. Then let me start
15 here, Mr. Healey, had you -- what was your question
16 again, please, or would you like for the court
17 reporter to read it back?

18 MR. HEALEY: I would like the court
19 reporter to read it, please. Thank you.

20 (Record read.)

21 EXAMINER SEE: And your objection again,
22 Mr. Whitt, is?

23 MR. WHITT: Hearsay. And the witness
24 hasn't established any qualifications to even
25 determine the reliability of the study or expressed

1 any expertise in the subject matter of the study.

2 And, moreover, it's cumulative in the
3 sense that the testimony generally about the effects
4 of COVID-19 has been allowed to stand. I didn't
5 object when he answered one of my questions and
6 started talking about some study I didn't ask about.
7 But at this point, you know, the combination of the
8 unfairness of allowing the hearsay document into
9 evidence is just compounded by the fact that there
10 really is no need for it and no prejudice at all to
11 OCC by its exclusion.

12 MR. HEALEY: May I, your Honor?

13 EXAMINER SEE: Briefly. Go ahead.

14 MR. HEALEY: Thank you. In addition to
15 my responses before regarding the Rules of Evidence,
16 if, as Mr. Whitt now just stated, this is in his
17 opinion cumulative, that would suggest that it is
18 substantially similar and along the same lines of
19 things that are already in his testimony and,
20 therefore, would likewise provide no prejudice to the
21 Company if it were admitted. So if there is no
22 prejudices to OCC by keeping it out, then the same
23 goes for them, that this is the same subject matter
24 as things in his testimony and, therefore, is highly
25 relevant and should be -- the question should be

1 allowed.

2 MR. WHITT: And somehow it couldn't be
3 attached to testimony filed last Friday.

4 EXAMINER SEE: Thank you, gentlemen.
5 That's enough. The objection is sustained.

6 Move on, Mr. Healey.

7 MR. HEALEY: Thank you, your Honor. I
8 have nothing further for this witness.

9 MR. WHITT: We have no recross, if that's
10 even allowed.

11 EXAMINER SEE: I'm sorry, Mr. Whitt?

12 MR. WHITT: I said no recross, assuming
13 that we are even allowing it.

14 EXAMINER SEE: Okay. Thank you.

15 I believe Mr. Healey had already marked
16 and moved for the admission of OCC/NOPEC Exhibit 1,
17 the testimony of Kerry Adkins. Are there any
18 objections?

19 MR. MARGARD: None.

20 MR. WHITT: None other than the previous
21 one made and ruled on by the Company.

22 EXAMINER SEE: Okay. And given that we
23 ruled on the motion to strike and denied it, if there
24 is nothing further on that issue, OCC/NOPEC Exhibit 1
25 is admitted into the record.

1 (EXHIBIT ADMITTED INTO EVIDENCE.)

2 EXAMINER SEE: I believe AE Sanyal has
3 the next witness.

4 MR. HEALEY: Your Honor, before we get to
5 that, I did not actually move for admission of OCC
6 Exhibit 11, and I would like to do that now. Despite
7 your not allowing me to ask the witness about it, I
8 would like a formal ruling on the admissibility of
9 the exhibit, please.

10 MR. WHITT: And I'll offer a formal
11 objection at this time as well.

12 EXAMINER SEE: Your motion to move OCC --
13 are there any objections other than Mr. Whitt's to
14 the admission of OCC Exhibit 11?

15 OCC motion to admit OCC Exhibit 11 is
16 denied.

17 MR. HEALEY: Thank you, your Honor. In
18 light of the denial and to preserve any right we
19 might have on appeal, I would like to make a proffer
20 under Rule 103(a) with respect to OCC Exhibit 11.

21 EXAMINER SEE: Okay.

22 MR. HEALEY: Thank you, your Honor. OCC
23 Exhibit 11 has been marked but not allowed into the
24 record. It is a study entitled The Future of Growth
25 Series, Volume 1, "COVID-19 and Its Impact on

1 Employment in Cleveland" by Richey Piiparinen and
2 Joshua Valdez. It is available online at the
3 futureofgrowth.com/series, and it was provided to all
4 parties on September 14, 2020, by counsel for OCC.
5 We are proffering this to preserve any rights we
6 might have on appeal. Thank you.

7 EXAMINER SEE: Okay. Thank you,
8 Mr. Healey.

9 And as I was saying, AE Sanyal is up
10 next, and OCC/NOPEC can call their next witness.

11 EXAMINER SANYAL: Thank you.

12 MR. HEALEY: Thank you, your Honor.
13 Sorry.

14 EXAMINER SANYAL: It's fine.

15 MR. HEALEY: At this time OCC would call
16 OCC/NOPEC joint witness Dr. Daniel -- Daniel J.
17 Duann.

18 EXAMINER SANYAL: Ms. Chilcote, would you
19 let us know when Mr. Duann has been promoted.

20 EXAMINER SEE: I'm sorry.

21 MS. CHILCOTE: Dr. Duann has been
22 promoted, and his microphone is on.

23 EXAMINER SEE: AE Sanyal, forgive me.
24 Did you have any questions for Mr. Adkins?

25 EXAMINER SANYAL: I did not. And I too

1 would have chimed in if I had any.

2 EXAMINER SEE: Thank you.

3 Mr. Adkins, you can step down. Thank you
4 very much.

5 THE WITNESS: Thank you, your Honor.

6 EXAMINER SANYAL: Okay. Mr. Duann, you
7 are now, I believe, able to turn on your microphone
8 and your video camera.

9 Hello, Mr. Duann. I am going to swear
10 you in so if you will just raise your right hand.

11 (Witness sworn.)

12 EXAMINER SANYAL: Okay. And, Mr. Healey,
13 will you be handling this witness?

14 MR. HEALEY: Yes, yes, your Honor.

15 EXAMINER SANYAL: Okay.

16 MR. HEALEY: Your Honor, at this time I
17 would like to mark as OCC/NOPEC Joint Exhibit 2 the
18 testimony of Daniel J. Duann, Ph.D., filed in this
19 case on September 11, 2020.

20 EXAMINER SANYAL: This testimony is so
21 marked.

22 (EXHIBIT MARKED FOR IDENTIFICATION.)

23 MR. HEALEY: Thank you your Honor.

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DANIEL J. DUANN, PH.D

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

DIRECT EXAMINATION

By Mr. Healey:

Q. Dr. Duann, do you have a copy in front of
you what has been marked OCC/NOPEC Exhibit 2?

A. Yes, I do.

Q. And can you tell me what OCC/NOPEC
Exhibit 2 is.

A. It's the testimony of Daniel J. Duann,
Ph.D.

Q. And did you draft this testimony
yourself?

A. Yes.

Q. And do you have any corrections to this
testimony today?

A. Yes. I have several corrections. My
first correction is on the Table of Contents. On the
Roman Numeral IV "Summary and Conclusion," that
should be deleted and it should be replaced by the
"PUCO should reject the settlement to protect
Dominion's customers." And after that, it should be
page 21.

And then on --

1 EXAMINER SANYAL: Hang on, Mr. Duann.
2 Could you please -- will you please repeat that
3 heading, Dr. Duann.

4 THE WITNESS: Oh, thank you. Roman
5 number IV is "The PUCO should reject the settlement
6 to protect Dominion's customers."

7 EXAMINER SANYAL: Thank you.

8 THE WITNESS: And after that it should be
9 the page -- should be 21. That's the page number
10 referred to that heading.

11 EXAMINER SANYAL: Got it. Thank you.

12 THE WITNESS: Then on the line below that
13 it should be Roman numeral No. V it is to be -- after
14 that it should be "Summary and Conclusion." And the
15 last page 31.

16 EXAMINER SANYAL: Thank you.

17 A. And my second correction is on page 15,
18 line 13. After the word "crisis.," it is incomplete
19 sentence. That sentence should be deleted so start
20 with "Given the strong financial position of Dominion
21 and its parent company." That line should be
22 deleted.

23 EXAMINER SANYAL: I'm sorry. I did not
24 locate that. So what page are you on?

25 THE WITNESS: Line -- page 15.

1 EXAMINER SANYAL: Okay.

2 THE WITNESS: Line 13.

3 EXAMINER SANYAL: Okay.

4 THE WITNESS: After the word "crisis."
5 That's the whole sentence. That's an incomplete
6 sentence that should be deleted.

7 EXAMINER SANYAL: Okay. Thank you.

8 THE WITNESS: And page 21, line 9, after
9 the word "Settlement," there should be a comma. So
10 it reads "the Settlement, must be considered."

11 EXAMINER SANYAL: Okay.

12 THE WITNESS: And page 31, line 2, that
13 Roman numeral No. IV, that should be replaced by
14 Roman numeral No. V.

15 EXAMINER SANYAL: Okay.

16 THE WITNESS: And then the last
17 correction is page 24, at the bottom of Table 1 in
18 the middle part "OCC/NOPEC Recommendation" and for
19 the residential rate that should be \$3.28, not 29
20 cents. And that's the all the corrections I have.

21 EXAMINER SANYAL: Okay. Did everyone
22 else get those corrections as well? Is there any
23 questions?

24 THE WITNESS: No.

25 EXAMINER SANYAL: Okay. I was just

1 asking the other parties too.

2 THE WITNESS: Oh, sorry.

3 EXAMINER SANYAL: And I think everyone
4 has those corrections.

5 Okay. Mr. Healey, you may proceed.

6 MR. HEALEY: Thank you, your Honor.

7 Q. (By Mr. Healey) Dr. Duann, with those
8 corrections you just made, if I were to ask you the
9 same questions found in your testimony today, would
10 your answers be the same?

11 A. Yes.

12 MR. HEALEY: Thank you. Your Honor, at
13 this time Dr. Duann is available for
14 cross-examination, and we move for the admission of
15 his testimony, subject to that cross-examination.

16 EXAMINER SANYAL: Thank you, Mr. Healey.
17 Mr. Kennedy or Mr. Whitt?

18 MR. WHITT: Dr. Duann, I'm sorry to have
19 made you put on a tie today because we have no
20 questions for you.

21 EXAMINER SANYAL: Excellent.

22 Mr. Margard.

23 MR. MARGARD: No questions. Thank you,
24 your Honor.

25 EXAMINER SANYAL: Well, Mr. Duann, thank

1 you very much. You may step down. Thank you for
2 joining us.

3 THE WITNESS: I am very disappointed.

4 MR. WHITT: I thought you might be.
5 Maybe next time.

6 EXAMINER SANYAL: If you would like to
7 chat with us for a few minutes, we could do that off
8 the record.

9 MR. HEALEY: I could find some document
10 to get in on redirect.

11 EXAMINER SANYAL: No. I think we're
12 okay, Mr. Healey. Thank you though.

13 Thank you, Dr. Duann.

14 And, Ms. Chilcote, you can take Mr. Duann
15 off as a panelist.

16 THE WITNESS: Thank you, your Honor.

17 EXAMINER SANYAL: Okay. Well, let's go
18 off the record for a moment.

19 Oh, nevermind. Let's not. Ms. See.

20 EXAMINER SEE: Let's go off the record.
21 I am agreeing with you.

22 EXAMINER SANYAL: Okay. Okay. Let's go
23 off the record.

24 (Discussion off the record.)

25 EXAMINER SANYAL: Let's go back on the

1 record.

2 And, Mr. Healey, would you like to move
3 for OCC Exhibit 2?

4 MR. HEALEY: Yes, I would. OCC moves for
5 the admission of OCC/NOPEC Exhibit 2.

6 EXAMINER SANYAL: Okay. Any objections?
7 Hearing none, OCC/NOPEC Exhibit 2 is
8 admitted.

9 (EXHIBIT ADMITTED INTO EVIDENCE.)

10 EXAMINER SANYAL: Okay. Now let's go off
11 the record.

12 (Discussion off the record.)

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

15 The parties -- we've kind of briefly
16 discussed a briefing schedule while we were off the
17 record. We anticipate the transcript to be in by
18 September 17. Initial briefs will be due October 5,
19 and reply briefs will be due October 19.

20 Do we have any questions?

21 MR. KENNEDY: No questions from the
22 Company, your Honor.

23 EXAMINER SANYAL: Okay. Any other
24 questions? Are there any other issues we need to
25 discuss before we go off the record?

1 MR. KENNEDY: None from the Company's
2 perspective, your Honor.

3 MR. HEALEY: No, your Honor.

4 EXAMINER SANYAL: Staff? NOPEC?
5 Attorney Examiner See?

6 EXAMINER SEE: No.

7 EXAMINER SANYAL: Okay. Well, hearing
8 none, thank you very much.

9 This case will be submitted to the
10 record, and the Commission will issue a decision
11 after reviewing the briefing.

12 Thank you very much. Have a great
13 evening.

14 EXAMINER SEE: We're off the record now.

15 (Thereupon, at 4:01 p.m., the hearing was
16 adjourned.)

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CERTIFICATE

I do hereby certify that the foregoing is
a true and correct transcript of the proceedings
taken by me in this matter on Tuesday, September 15,
2020, and carefully compared with my original
stenographic notes.

Karen Sue Gibson, Registered
Merit Reporter.

(KSG-6958)

- - -

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in

Case No(s). 19-0468-GA-ALT

Summary: Transcript IMO: Application of The East Ohio Gas Company dba Dominion Energy Ohio for Approval of an Alternative Form of Regulation to Establish a Capital Expenditure Program Rider Mechanism. electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs.