

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the Matter of the :
Application of Ohio Edison:
Company, The Cleveland :
Electric Illuminating :
Company, and The Toledo :
Edison Company for : Case No. 23-301-EL-SSO
Authority to Establish a :
Standard Service Offer :
Pursuant to R.C. 4928.143 :
in the Form of an Electric:
Security Plan. :

- - -

PROCEEDINGS

before Mr. Gregory Price, Ms. Megan Addison, and
Ms. Jacky Werman St. John, Attorney Examiners, at the
Public Utilities Commission of Ohio, 180 East Broad
Street, Room 11-A, Columbus ohio, called at 9:18 a.m.
on Thursday, November 9, 2023.

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VOLUME III

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1 Thursday Morning Session,
2 November 9, 2023.

3 - - -

4 EXAMINER PRICE: Good morning. The
5 Public Utilities Commission of Ohio has set for
6 hearing at this time and place Case No.
7 23-301-EL-SSO, being in the Matter of the Application
8 of Ohio Edison Company, The Cleveland Electric
9 Illuminating Company, and The Toledo Edison Company
10 for Authority to Establish a Standard Service Offer
11 Pursuant to Revised Code 4928.143 in the Form of an
12 Electric Security Plan.

13 My name is Gregory Price. With me are
14 Megan Addison and Jacky St. John. We are the
15 Attorney Examiners assigned to preside over today's
16 hearing.

17 This is day three of our hearing in
18 this -- day three of hearing in this matter. I
19 believe our next order of business is the continued
20 cross-examination of Mr. McMillen.

21 Mr. McMillen, I remind you you are still
22 under oath.

23 Mr. Finnigan, please proceed.

24 MR. FINNIGAN: Thank you, your Honor.

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BRANDON S. McMILLEN

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

CROSS-EXAMINATION

By Mr. Finnigan:

Q. Good morning, Mr. McMillen.

A. Good morning.

Q. My name is John Finnigan. I am an
attorney with OCC.

A. Good morning.

Q. Mr. McMillen, I wanted to follow up on
some questions about your job responsibilities. You
mentioned that you were responsible for managing
certain riders in Ohio; is that right?

A. Yes.

Q. Would those be the riders that you
describe in your testimony, the DCR, the AMI, energy
efficiency, and VMC?

A. Yes.

Q. Are there any other ones in addition to
those?

A. Yes.

Q. Which would those be?

A. Rider DSE, Rider PIR, Rider LGR, Rider
SGF.

1 Q. And you've been responsible for managing
2 these riders since what year?

3 A. It would vary when the riders would
4 have -- would have come into effect and throughout
5 my -- my time in the rates department.

6 Q. What year did you assume your current
7 position where you became responsible for managing
8 riders?

9 A. I became the manager of Ohio Rates and
10 Regulatory Affairs in 20 -- October 2022.

11 Q. Before that, did you have any
12 responsibility for managing individual riders?

13 A. I would be the lead analyst on individual
14 riders.

15 Q. Which individual riders would you be the
16 lead analyst on?

17 A. It would be the ones in my testimony and
18 the ones I previously mentioned.

19 Q. And you were employed as a lead analyst
20 during what years?

21 A. I would have been an analyst in the Ohio
22 Rates and Regulatory Affairs departments from 2012 to
23 2022 until I became manager of Ohio Rates and
24 Regulatory Affairs.

25 Q. Now, when you say that you are the lead

1 analyst, does that mean you were the person who had
2 the primary responsibility within the Rates and
3 Regulatory department for analyzing the riders and
4 preparing the rider filings and so forth?

5 A. Yes.

6 Q. And in terms of analyzing these riders,
7 which one of these riders involve annual audits?

8 A. Rider DCR would go under -- would have
9 annualized, Rider AMI --

10 Q. Slow down. I am not as fast as you are.
11 DCR and AMI you mentioned?

12 A. DSE goes under an annual review.

13 Q. Just those three?

14 A. And the other riders I mentioned would be
15 like Rider LGR and SGF, those are inputs provided by
16 the PUCO Staff.

17 Q. Now, could you just generally describe
18 the process that happens when there's an audit
19 involved in one of these types of riders? How does
20 that work? What's the procedure?

21 A. So it's different for different riders.
22 So for -- so for Rider DCR, that rider is audited
23 usually December of -- December or January is when
24 that audit kicks off. With that, the audit starts as
25 the PUCO Staff issues an RFP for an audit or to

1 conduct the audit.

2 Q. I apologize. My question probably wasn't
3 clear. I wanted to ask more about what is the
4 process in terms of how you become aware of the audit
5 report, when you review it, what you're looking for?
6 So that's the kind of information I am looking for.
7 If you could walk me through that on one of these
8 typical riders.

9 A. So on a typical rider during the audit,
10 the auditor, whoever that may be, would ask for Data
11 Requests that we would provide on the -- on the
12 inputs and rider calculations. And then once that
13 audit process is conducted, it may not just be
14 limited to Data Requests. It may be interviews with
15 company employees or -- or site visits to Company
16 facilities to see if plant in service has been -- has
17 been -- has been put in.

18 And then once that is conducted, the
19 auditor would issue a report on the -- on the rider
20 of which we would -- the Companies would review.

21 Q. Anything else?

22 A. And then depending on the audit, there
23 may be a comment period where -- where interested
24 parties could issue comments on the -- on the audit
25 reports. Audits could go to hearings, and then

1 eventually a Commission decision could be made on the
2 audit report.

3 Q. When you say parties could issue
4 comments, do you mean after the audit report is
5 docketed at the Commission and it's published?

6 A. That is my understanding when that
7 comment period could happen. I don't know if it
8 happens with every audit report but that would depend
9 on the Commission.

10 Q. So let's just walk through the process a
11 little bit. So you said that there are some Data
12 Requests. Now, if you are the lead analyst, are you
13 the person who is responsible for coordinating the
14 Companies' response to the Data Request from the
15 auditor?

16 A. Under my direction, yeah, the Data
17 Request would come from -- from the auditor and the
18 rates and regulatory affairs group would read that
19 Data Request and -- and determine who best in the
20 company would be able to respond, provide the Data
21 Request, able to respond, and subsequently would be
22 replied back to the auditor.

23 Q. If it's an audit where you are the lead
24 analyst, are you typically the point of contact
25 between the auditor and the Company employees who are

1 say the subject matter experts?

2 A. Yes.

3 Q. And do you arrange for the interviews?
4 So if the auditor says I want to interview this
5 subject matter expert, do you coordinate that?

6 A. Myself or someone under my direction
7 would, yes.

8 Q. And do you monitor what happens during
9 those interviews? In other words, do you typically
10 attend or listen in?

11 A. From time to time depending on
12 availability.

13 Q. And then at some point all of this
14 culminates in an audit report that the auditor
15 prepares, right?

16 A. Yes.

17 Q. Now, is there a draft report that comes
18 to the Company?

19 A. I think it depends on which audit you are
20 referring to.

21 Q. Which ones have a draft report associated
22 with them?

23 A. So for the Rider DCR audits, the auditor
24 has in the past provided the Companies with a draft
25 audit report to review the facts within that audit

1 report.

2 Q. Any other one?

3 A. I don't know.

4 Q. Now, what happens when a draft audit
5 report comes in?

6 A. So, for example, for Rider DCR when a
7 draft audit report comes in, the Companies would
8 review it to make sure the -- the facts are correct
9 so there may be several individuals that would review
10 just to make sure if the auditor included or if the
11 Companies responded to a Data Request, the auditor is
12 interpreting that Data Request correctly would be one
13 example.

14 Q. Now, I think you mentioned that you've
15 been the lead analyst on the Rider DCR?

16 A. I have.

17 Q. So when that draft audit report comes in
18 for Rider DCR, are you responsible for coordinating
19 the Companies' effort to respond to the draft report
20 and check for accuracy?

21 A. Yes.

22 Q. So does that require you to read through
23 the audit report?

24 A. Yes.

25 Q. Okay.

1 EXAMINER PRICE: Do you also screen the
2 draft audit reports for confidential information?

3 THE WITNESS: Yes. That would be another
4 part of that.

5 EXAMINER PRICE: Suggest redactions for
6 things that you are claiming confidentiality?

7 THE WITNESS: Yes. That's occurred.

8 Q. (By Mr. Finnigan) Yes. That's a good
9 point. So there is really two purposes for your
10 review of the draft. One is for confidentiality as
11 Attorney Examiner Price mentioned, and the other is
12 for accuracy of information, so two general
13 objectives that you have.

14 A. Yes.

15 Q. And I guess how do you determine what's
16 confidential?

17 A. It would depend on just the type of
18 information. If there's critical energy
19 infrastructure being described in the -- in the audit
20 report, that that may be something the Companies
21 would deem as confidential.

22 Q. Okay. So I guess you have got to go
23 through it pretty carefully to make sure there's no
24 confidential information anywhere throughout the
25 report.

1 A. The Companies would -- would review the
2 audit report, yes.

3 Q. When you say the Companies, does that
4 mean you?

5 A. I among others that would have inputs,
6 would have helped with inputs into the -- into the
7 items that are put into the audit report.

8 Q. Okay. And then once you go through and
9 you do that check for confidentiality and accuracy,
10 then you send that back to the auditor.

11 A. We would provide our comments, yes.

12 Q. And then the auditor comes out with a
13 public version of the report where any of that
14 confidential information is redacted and if there
15 have been any errors that you point out or
16 inaccuracies, then those are corrected too.

17 A. Yes.

18 Q. Now, do you -- after the public version
19 of the audit report is available on the Commission's
20 docket, are you then required to go through and make
21 sure that the auditor correctly redacted all the
22 matters that you told the auditor were confidential
23 and corrected any errors or inaccuracies that you
24 pointed out?

25 A. We would review the document again, yes.

1 Q. When you say we, that would include you.

2 A. The Companies. The Companies and I would
3 be part of that review, yes.

4 Q. Okay. And so I guess you again would
5 have to go over it pretty carefully to make sure that
6 the auditor corrected those inaccuracies and redacted
7 all that confidential information.

8 A. I would review it, yes.

9 Q. You would review it pretty carefully for
10 that, right?

11 A. Yes.

12 Q. So any time we are talking about one of
13 these DCR audit reports, you don't really just glance
14 at them, do you?

15 A. There may be sections I glance over.
16 There is a lot of -- I know like the audit report
17 there is a lot of history in it upfront and such.

18 Q. Are there any sections that you just
19 don't bother to review?

20 A. I don't recall.

21 Q. It sounds like you probably have a pretty
22 thorough knowledge of what's in these DCR audit
23 reports based on what you just described.

24 A. Yes.

25 Q. All right. Now I would like to ask you

1 to turn your attention to the VMC Rider. And I
2 believe that you discuss that beginning on page 19 of
3 your testimony.

4 A. I'm there.

5 Q. Now, you reference Mr. Standish's
6 testimony in here; is that right?

7 A. Yes.

8 Q. And he's the primary witness who explains
9 and supports the rider, and you talk about the rate
10 implications.

11 A. Yeah. He discusses the cost of the
12 program, and I discuss the rider.

13 Q. Now, one of the things mentioned in his
14 testimony is that the VMC Rider is expected to result
15 in some improvement in the CAIDI and SAIFI scores.
16 And let me first ask you, did you review his
17 testimony?

18 A. I generally reviewed it.

19 Q. Okay. And do you recall that improvement
20 that he described in the CAIDI and SAIFI scores?

21 A. I recall he discussed CAIDI and SAIFI
22 scores in his testimony.

23 Q. Okay. And he explains that that is going
24 to occur over the eight years of the program; is that
25 correct?

1 A. I don't recall the exact time period
2 of -- in his testimony, if it's over the entire
3 eight-year period.

4 Q. Are there other programs of the companies
5 which could lead to improvements in CAIDI and SAIFI
6 scores besides the proposed VMC Rider?

7 A. Investments made as part -- that are
8 included in Rider DCR and AMI may impact CAIDI and
9 SAIFI scores.

10 Q. Not only may impact but the Company
11 expects that they would improve SAIFI and SAIDI -- or
12 CAIDI; isn't that correct?

13 A. I don't know.

14 Q. Has the Company claimed in any AMI filing
15 that there would be any improvement in the CAIDI or
16 SAIFI scores as a result of the AMI investments?

17 A. I don't recall.

18 Q. Has the Company claimed that they expect
19 there to be any improvement in the CAIDI or SAIFI
20 scores as a result of the DCR investment?

21 MR. KEANEY: Mr. Finnigan, are you
22 referring to something in his testimony that he could
23 look at?

24 MR. FINNIGAN: Yes, the VMC Rider at this
25 point.

1 MR. KEANEY: Is there a specific page or
2 line citation you are referring to?

3 MR. FINNIGAN: Yes. It begins on page
4 19.

5 MR. KEANEY: Thank you.

6 A. I don't recall.

7 Q. So let's say that eight years from now
8 there is a reduction or an improvement in the CAIDI
9 and SAIFI scores of 6 or 7 percent. How would we
10 know whether that resulted from spending on the VMC
11 program or spending on the DCR program or spending on
12 the AMI program?

13 A. I don't know.

14 Q. Okay. So when the Company purports that
15 there will be a 6 to 7 percent improvement in CAIDI
16 or SAIFI as a result of the VMC Rider, how do we know
17 that results from the VMC Rider spending?

18 A. I don't know.

19 EXAMINER PRICE: Is there a Company
20 witness that would know?

21 THE WITNESS: Witness Standish discusses
22 the CAIDI and SAIFI improvements for VMC. And then
23 Witness Richardson discusses our CAIDI and SAIFI
24 standards.

25 EXAMINER PRICE: So they may.

1 THE WITNESS: They may, yes.

2 Q. (By Mr. Finnigan) Sir, I would like to
3 ask you to turn your attention to Rider DCR which
4 begins on page 3 of your testimony.

5 A. Okay.

6 Q. Now, as I understand the Company's
7 proposal, the Company proposes that the DCR would be
8 in effect throughout the entire term of ESP V; is
9 that correct?

10 A. Yes.

11 Q. Has the Company done any study or
12 projection to determine whether there will be a need
13 for the DCR beyond that point?

14 A. I don't know.

15 Q. Who might know that?

16 A. I don't know.

17 Q. Now, has the Company -- well, strike
18 that.

19 When's the last time the Company has
20 conducted a depreciation study?

21 A. The Companies conducted a depreciation
22 study on June -- June 2023.

23 Q. And did the Company perform that
24 internally, or was there some outside vendor who did
25 that?

1 A. The Companies hired a consultant to
2 conduct that depreciation study.

3 Q. Who was that consultant?

4 A. Gannett Fleming.

5 Q. Is that -- well, strike that.

6 Is that the firm that Mr. Spanos is
7 associated with?

8 A. Yes.

9 Q. Do you have any responsibility for
10 dealing with Mr. Spanos and his firm on the
11 depreciation setting?

12 A. I would have provided him the inputs to
13 the depreciation setting, sent him those.

14 Q. And did he provide a completed report to
15 you when he was done with his work?

16 A. He provided a completed report to the
17 Companies, yes.

18 Q. Did you review it?

19 A. Generally reviewed it.

20 Q. Did you have any discussion with
21 Mr. Spanos or others within your company about using
22 that report for the upcoming May 2024 rate case?

23 MR. KEANEY: Your Honor, objection. To
24 the extent this calls for the witness to disclose
25 privileged communication, we would instruct the

1 witness not to answer. Thank you.

2 EXAMINER PRICE: Answer to the extent it
3 does not disclose privileged information.

4 A. I don't know.

5 Q. Now, would the results of that
6 depreciation study affect the plant in service
7 balances that are currently included within Rider
8 DCR?

9 THE WITNESS: May I have that reread,
10 please?

11 (Record read.)

12 A. No.

13 Q. And why not?

14 A. So the Companies in Rider DCR include
15 plant in service -- incremental plant in service from
16 its last distribution rate case. The depreciation
17 study wouldn't affect that plant in service balances.

18 Q. Okay. So is it your expectation then
19 that even though this depreciation study has been
20 conducted earlier this year, that it will not have
21 any effect on the plant in service balances that are
22 in the DCR over the term of ESP V?

23 A. Not in the plant in service balances.

24 Q. I'm sorry. I didn't hear you what you
25 said.

1 A. Not with the plant in service balances.

2 Q. How about with other account balances?

3 A. If this depreciation study that was
4 conducted by the companies would be used in its base
5 distribution rate case, those depreciation rates
6 would then flow through Rider DCR and affect the
7 reserve balances going forward based off of those new
8 depreciation rates.

9 Q. When -- when the Commission approves this
10 ESP V proposal, do you expect that base rate case to
11 be decided by that time?

12 A. No.

13 Q. So when the Commission rules on this
14 ESP V proposal, how will they know whether you are
15 going to include that depreciation study in your
16 May 2024 rate case?

17 A. So I don't think -- as of today, I don't
18 know if that specific distribution study will be used
19 in the next rate case. There will be an updated one
20 used in the rate case though as part of those
21 filings.

22 Q. So it might be a different one than the
23 one prepared by Mr. Spanos?

24 A. It could.

25 Q. Why would you not use the one he just did

1 in June of this year?

2 MR. KEANEY: Objection. This calls for
3 speculation and privilege.

4 EXAMINER PRICE: Overruled as to
5 speculation. You can answer to the extent you don't
6 disclose privileged information.

7 A. So the depreciation study conducted was
8 part of the Grid Mod I Stipulation where the
9 Companies conducted a depreciation study on the
10 balances as of December 31, 2022. I don't know if
11 there is going to be an additional depreciation study
12 to use more current balances since then between --
13 between then and the rate case.

14 Q. Okay. That's fair. Now I would like to
15 change the subject, and I want to talk about the most
16 recent Blue Ridge audit in the Companies' DCR
17 filings, so the Case No. is 22-892. Do you recall
18 that?

19 A. Yes.

20 Q. And could you please check and see if you
21 have before you a copy of that audit report or an
22 excerpt from that report? And I believe that may be
23 marked as OCC Exhibit 8.

24 A. I don't have that in front of me.

25 MR. FINNIGAN: Your Honor, may I approach

1 the witness, please?

2 EXAMINER PRICE: You may.

3 MR. KEANEY: Your Honor, Mr. Finnigan,
4 are you going to provide him a complete copy?

5 Q. Now, sir, do you now have before you what
6 appears to be a complete copy of that Blue Ridge
7 audit report, Case No. 22-892?

8 A. Yes.

9 Q. And you've seen that before.

10 A. Yes.

11 Q. And you would have gone through the same
12 kind of review that you normally do where you get a
13 draft, you reviewed it for accuracy and
14 confidentiality, and you turn it back in; and then
15 when they publish it, you make sure that they
16 corrected any errors and redacted all the
17 confidential information.

18 A. Yes.

19 Q. Could you turn to page 9 of that report?

20 EXAMINER PRICE: Mr. Finnigan, we don't
21 have a copy on the Bench of that report.

22 MR. FINNIGAN: Your Honor, I have an
23 excerpt that I passed out the other day.

24 MR. ALEXANDER: Your Honor, may I
25 approach?

1 EXAMINER PRICE: You may.

2 MR. ALEXANDER: The extra copies ended up
3 over here.

4 Q. Now, sir, could you turn to page 9 of
5 that report, please.

6 A. I'm there.

7 Q. Now, do you see the heading under
8 "Processes and Controls" in the middle of the page?

9 A. Yes.

10 Q. And then the third paragraph down it
11 talks about "However, an audit conducted by FERC"?

12 A. Yes.

13 Q. Take a moment and read through that
14 paragraph.

15 A. Okay.

16 Q. Now, about halfway down the paragraph it
17 says "In response, effective in the first quarter of
18 2022, FirstEnergy implemented a new methodology." Do
19 you see that?

20 A. Yes.

21 Q. Now that part, in response, is that in
22 response to the FERC audit report?

23 A. Yes.

24 Q. So if you implemented this new
25 methodology in response to the FERC audit report and

1 you implemented this new methodology in the first
2 quarter of 2022, does that tell us when the FERC
3 audit report must have occurred?

4 A. I don't know when the FERC audit
5 occurred.

6 Q. But it would have been sometime before
7 the end of the first quarter of 2022 because you
8 couldn't implement the new methodology in response to
9 the report unless it had happened earlier than that
10 day.

11 A. Yes.

12 Q. Have you seen this FERC audit report to
13 which this paragraph refers?

14 A. I have not reviewed the FERC audit
15 report.

16 Q. How did you become aware of this?

17 A. I can't recall.

18 Q. How did you know this paragraph in this
19 the draft audit report was accurate?

20 A. When reviewing the Rider DCR audit, we do
21 rely on others within the Companies to review.

22 Q. And then as you were reviewing it and you
23 read this paragraph, did you go out and investigate
24 within the Company for some information about this
25 FERC audit report?

1 A. No.

2 Q. So how did you know whether this
3 paragraph was accurate?

4 A. I relied on others in the company.

5 Q. To review this paragraph?

6 A. Yes.

7 Q. Who was that that you relied on?

8 A. I can't recall.

9 Q. And how is it that you remember that you
10 relied on somebody else for this paragraph?

11 A. Since I didn't review the FERC report, I
12 wouldn't have known if this was accurate.

13 EXAMINER PRICE: Do you know the
14 department or working group or which part of the
15 organization that you would have -- the person
16 employed in that you would have relied upon?

17 THE WITNESS: It would have been our
18 finance group.

19 EXAMINER PRICE: So somebody in the
20 finance group.

21 THE WITNESS: Yes, yes.

22 Q. (By Mr. Finnigan) Do you know whether
23 there were any findings in the FERC audit report that
24 affected the DCR filings?

25 MR. KEANEY: Objection, asked and

1 answered.

2 EXAMINER PRICE: Overruled.

3 A. Yes.

4 Q. And what do you know about that?

5 A. There would have been plant in service
6 removed from the Rider DCR revenue requirement
7 calculation.

8 MR. FINNIGAN: May I have that answer
9 read back, please?

10 EXAMINER PRICE: Let's have the question
11 and the answer, please.

12 (Record read.)

13 Q. Do you do those plant in service reviews?

14 A. Oh, did I say -- I meant removed.

15 Q. Oh, I'm sorry. I thought you said
16 review. You said removed.

17 A. Yes.

18 Q. Okay. So what you are saying then is
19 that as a result of the FERC audit, there were
20 certain amounts removed from the plant in service
21 balance that was reflected in Rider DCR.

22 A. As a result of the Companies' new
23 methodology for allocating corporate support costs as
24 described in this paragraph.

25 Q. What was the result of the new

1 methodology, that plant in service balances were
2 adjusted?

3 A. Yes.

4 Q. Did you review the adjustments as part of
5 your responsibility as -- well, strike that.

6 At the time of this audit report, this
7 was in May of 2023. Were you the Director at that
8 time?

9 A. No.

10 Q. So you were promoted after this report
11 came out.

12 A. I was the Manager at the time.

13 Q. Manager, sorry.

14 A. Not Director.

15 Q. Mr. Fanelli is the Director.

16 A. Yes.

17 Q. I didn't mean to usurp Mr. Fanelli. But
18 you were Manager at the time this report came out.

19 A. Yes.

20 Q. So as manager in the Rates and Regulatory
21 Department with responsibility for this DCR rider,
22 did you have any involvement in these adjustments to
23 the plant in service balances that were required as a
24 result of the FERC audit report?

25 A. Not directly the adjustment to the plant

1 in service balances but whatever that adjustment was
2 determined, I would be responsible for implementing
3 it in the Rider DCR calculation.

4 Q. So after the adjustments were made by
5 someone else, you received the new adjusted amounts,
6 and you inputted those new plant in service balances
7 into the DCR filings.

8 A. Yes.

9 Q. Now, this case which we've been
10 discussing, 22-892, when did you make the filing in
11 this case?

12 A. Sorry. I don't understand your question.

13 Q. Is there a normal time of year when you
14 initiated the annual update to the DCR rate?

15 A. Yes. So like I mentioned before, the
16 DCR -- excuse me. The -- the DCR audit is conducted
17 either in December or January of a given year, so the
18 Companies would have made a filing effect -- or I
19 think the Companies would have made a filing at the
20 beginning of January in which the auditor uses as
21 part of their process to conduct the audit.

22 Q. Okay.

23 EXAMINER PRICE: When would the -- is it
24 in January that the filing -- okay. Obviously there
25 was a rate impact of \$108 million on the GCR rate.

1 When was -- I would assume there was a rate impact on
2 the removal of the \$108 million on the DCR rate.

3 THE WITNESS: There was not a revenue
4 impact by removing that.

5 EXAMINER PRICE: Okay.

6 Q. (By Mr. Finnigan) So how did the --
7 strike that.

8 Do you know how the auditor became aware
9 of the FERC audit report?

10 MR. KEANEY: Objection, your Honor. It
11 calls for the witness to speculate about what the
12 auditor was doing or thinking.

13 MR. FINNIGAN: Well, your Honor, I said
14 do you know how the auditor became aware.

15 EXAMINER PRICE: He has no way of knowing
16 how the auditor became aware. Sustained.

17 MR. FINNIGAN: Well, if he communicated
18 with the auditor about it, he would have a way of
19 knowing that.

20 EXAMINER PRICE: That doesn't mean if he
21 communicated with the auditor the auditor didn't
22 already know about it. Mr. Finnigan, I sustained the
23 objection. Please ask another question.

24 Q. (By Mr. Finnigan) Now, the -- this
25 paragraph we've been reviewing in the audit report

1 talks about the audit report included a finding and
2 recommendation on FESC's methodology of allocation of
3 certain corporate support costs. Do you see that?

4 A. Yes.

5 Q. Did you understand that to mean that the
6 audit report referred to the FERC audit report?

7 A. Yes.

8 Q. And then further down it says that "In
9 response, effective in the first quarter of 2022,
10 FirstEnergy implemented a new methodology for
11 allocation of these corporate support costs." Do you
12 see that?

13 A. Yes.

14 Q. So why was a new methodology needed?

15 A. I don't know.

16 Q. Who developed this new methodology?

17 A. I don't know.

18 Q. When it says "new methodology for the
19 allocation of these corporate support costs," did
20 that lead you to conclude there might be a problem
21 with the old methodology for allocation of corporate
22 support costs?

23 A. I don't know.

24 Q. Now, then at the end it says that
25 FirstEnergy determined necessary the reclassification

1 of \$108 million of certain distribution capital
2 accounts to Account 186, Miscellaneous Deferred
3 Debits, for the audit period in 2022. Do you see
4 that?

5 A. Yes.

6 Q. Who made that determination at
7 FirstEnergy?

8 A. I don't know.

9 Q. Do you expect that that has or will have
10 any impact on Rider DCR filings going forward?

11 A. No.

12 Q. The 108 million of distribution capital
13 assets, was that removed from the plant in service
14 balance of the rate base that's covered within Rider
15 DCR?

16 A. There would have been an adjustment in
17 Rider DCR associated with -- with this.

18 Q. Why would that not affect the revenue
19 requirement?

20 A. It would affect the revenue requirement.

21 Q. Would it cause it to be lower?

22 A. Yes.

23 Q. And was this adjustment to the plant in
24 service balance which we're discussing, was that
25 implemented during this time period covered by this

1 case, that is, 22-892?

2 A. Yes.

3 Q. And does the Companies' revenue
4 requirement calculation in the 22-892 case reflect
5 the impact of the adjustment to the plant in service
6 balance resulting from the FERC audit?

7 A. The adjustment would have been made in a
8 subsequent Rider DCR filing that was -- that was
9 filed within the period of this audit being
10 conducted.

11 Q. So walk through the cycle of these
12 filings. So just give me one moment here. I just
13 want to talk about how the adjustment would have
14 impacted the Rider DCR filing which was the subject
15 of this audit review. Now, you discussed this
16 timetable earlier in your testimony, and you said
17 that there's typically some filing you make in
18 January of the year?

19 A. Yes.

20 Q. Now, this audit report was filed in May,
21 right?

22 A. Yes.

23 Q. Does the DCR rider cover some 12-month
24 period?

25 A. Sorry. I don't think I understand your

1 question.

2 Q. What period of time does this DCR rider
3 that is the subject of Case No. 22-892, what time
4 period does that rider adjustment cover?

5 A. So the auditor would review plant in
6 service balance -- balance activity from December 31
7 through November 2022.

8 EXAMINER PRICE: I'm confused. We have
9 an audit case.

10 THE WITNESS: Yes.

11 EXAMINER PRICE: Do you not -- you make
12 quarterly updates to the DCR; is that correct?

13 THE WITNESS: That's right.

14 EXAMINER PRICE: And you make them
15 effective what days of the year?

16 THE WITNESS: September, December, March,
17 and June.

18 EXAMINER PRICE: Okay. And then we also
19 have an audit case.

20 THE WITNESS: Yes.

21 EXAMINER PRICE: But you do not make a
22 rate adjustment in the audit case, do you? You don't
23 file a rate adjustment in the rate case. You take
24 the results of the audit and apply them in the next
25 rate adjustment case.

1 THE WITNESS: Whichever -- yeah,
2 subsequent -- yes, a subsequent Rider DCR filing
3 after -- after the report would be filed.

4 EXAMINER PRICE: Okay.

5 THE WITNESS: Yeah.

6 EXAMINER PRICE: And have you made an
7 adjustment based on the \$108 million reallocation to
8 the Rider DCR yet?

9 THE WITNESS: Yes.

10 EXAMINER PRICE: When did you make that
11 to the best of your knowledge?

12 THE WITNESS: So in April of 2023, the
13 Companies would have filed their -- their Rider DCR
14 mechanism that would go into effect for June 1.
15 That's where it would have been included.

16 EXAMINER PRICE: Thank you.

17 Q. (By Mr. Finnigan) Now, we talked a little
18 bit yesterday about the DCR Rider and what happens
19 when the revenue requirement is above the cap. Do
20 you recall that?

21 A. Yes.

22 Q. And I believe you testified that for any
23 year that the Companies' spending would produce
24 revenue in excess of that period cap, the overage
25 amount gets recovered in the following period subject

1 to that period's cap.

2 A. Yes.

3 Q. So what happens at the end of the term?

4 So at the end of the ESP, let's say there's excess
5 revenue that hasn't been collected in some prior
6 period because of these revenue caps. Does that all
7 get collected after the ESP term ends?

8 A. The Companies' proposal is to continue to
9 look at the -- compare the Companies' cumulative
10 revenue requirements and their cumulative revenue
11 caps, so if at the end of the period there would be
12 excess revenue requirements that weren't recovered,
13 those overages would continue to roll over and be
14 potentially recovered in subsequent periods subject
15 to those periods' revenue requirements.

16 Q. What if there's no more Rider DCR at the
17 end of the ESP term?

18 A. The Companies aren't deferring that
19 excess. That wouldn't be recovered.

20 Q. Wouldn't they recover that excess revenue
21 requirement amount?

22 A. No.

23 Q. So when the Company calculates this
24 revenue requirement amount, it's calculating a return
25 on the DCR rate base, right?

1 A. There's a return component included in
2 the revenue requirement associated with Rider DCR.

3 Q. Okay.

4 EXAMINER PRICE: I have a quick
5 follow-up. If there were excess revenue that had not
6 been recovered and there is no Rider DCR going
7 forward, wouldn't the Company recover that in their
8 next distribution rate case?

9 THE WITNESS: The revenue requirements
10 would roll into the rate base distribution rate case,
11 yes.

12 EXAMINER PRICE: Thank you.

13 Q. (By Mr. Finnigan) Now, is this rollover
14 process -- do you know what I am talking about, the
15 rollover of the revenue requirement in DCR, the
16 excess?

17 A. Okay. Yes.

18 Q. Call it rollover.

19 A. Okay.

20 Q. And does this rollover happen
21 automatically under the terms of the rider?

22 A. Yes.

23 Q. Now, is there any forecast or projection
24 amount associated with the Rider DCR calculation?

25 A. The Companies would have forecasted

1 revenue associated with Rider DCR.

2 Q. Okay. So let's turn to page 140 in that
3 audit report.

4 A. What was the page number?

5 Q. 140.

6 A. My copy ends at 120.

7 Q. That's a problem.

8 EXAMINER PRICE: I have a copy of 140.

9 THE WITNESS: Thank you.

10 MR. FINNIGAN: Thank you, your Honor.

11 Q. (By Mr. Finnigan) Do you see that page
12 140 where it says projections at the top?

13 A. Yes.

14 Q. And why don't you take a moment to read
15 that page.

16 MR. KEANEY: Your Honor, if I may. Are
17 we just going to ask -- the witness needs a full copy
18 to answer any of these questions. Just want to make
19 sure he is provided that opportunity. Thank you.

20 EXAMINER PRICE: Mr. Finnigan, do you
21 have a full copy of your audit report?

22 MR. FINNIGAN: I do on my computer.

23 EXAMINER PRICE: You are not going to
24 give your computer to the witness.

25 Mr. Alexander, do you have a full copy of

1 the audit report?

2 MR. ALEXANDER: I do not, your Honor.

3 MR. FINNIGAN: Your Honor, I don't expect
4 to refer to -- well, let me just ask -- disregard
5 that report. Let me just ask a couple of questions.

6 Q. (By Mr. Finnigan) Now, is it true that
7 the way this DCR Rider works is that you include
8 projections for the first two months in 2023 when you
9 make your filing?

10 A. So for the filing that was part of this
11 Rider DCR audit, that would include actual plant in
12 service balances through November 30, 2022. And as
13 part of the Rider DCR filing, to estimate what the
14 revenue requirements would be as of February 28,
15 2023, it would include estimated plant in service
16 balances as of then so there would be estimated plant
17 activity for December, January, and February.

18 Q. Okay. And let me ask you if this is an
19 accurate description of how this rider works. So the
20 quarterly filings will be based on estimated balances
21 as of August 31, November 30, February 28, and
22 May 31, respectively, with any reconciliation between
23 actual and forecasted information being recognized in
24 the following quarter; is that an accurate
25 description of how the rider works?

1 A. Yes.

2 Q. Now, is the purpose of that providing two
3 months of forecasted data to help avoid any
4 regulatory lag?

5 A. That in combination with gradualism for
6 rate impacts from period -- from time to time when
7 caps go up, it would help mitigate rate impacts.

8 Q. Is regulatory lag a bad thing for a
9 utility company?

10 A. I don't know.

11 Q. What is regulatory lag?

12 A. My understanding is the Companies would
13 incur a cost and then that cost would be recovered in
14 the future, so there would be a gap of when that cost
15 is incurred and between when -- between when it's
16 incurred and when it's recovered.

17 Q. Why is there a gap -- strike that.

18 When there is a gap between when the cost
19 is incurred and when it's recovered, and this is
20 regulatory lag, what's the financial impact on the
21 Company when that happens?

22 A. There may be cash impacts.

23 Q. And the cash impact would mean the
24 Company spent the money, but it can't collect any
25 return on that investment.

1 A. Or recover its expenses.

2 Q. Yeah. Now, when the Company files a base
3 distribution rate case, does the Company use this
4 same kind of two months' forecasted data in that rate
5 case filing?

6 A. So in a rate case, there would be a date
7 certain and then a test year as part of that.

8 Q. Okay. And the date certain is some
9 historical period that has occurred before you come
10 in and file your application in the rate case.

11 A. I can't recall within the distribution
12 rate case if you can file a projected date certain,
13 but I know if there is, the projected date certain
14 would be trued up to actuals within the filing
15 period.

16 Q. Okay. Now, I want to change the subject.
17 I want to ask about the rates of return on these
18 different riders. Now, do you recall the discussion
19 yesterday where you talked about Rider AMI and the
20 rate of return on those investments?

21 A. Yes.

22 Q. Now, according to my notes, you said that
23 there was a 10.38 percent embedded ROE for Rider AMI
24 investments; is that right?

25 A. That's the ROE to -- that's currently

1 used to collect costs associated with the Companies'
2 Grid Mod I that's included in the Rider AMI.

3 Q. And what I'm not clear about from
4 yesterday is that do you contemplate that that
5 10.38 percent return on equity for AMI will be in
6 effect for the entire term of ESP V for AMI
7 investments?

8 A. It's the Companies' proposal to continue
9 Grid Mod I cost recovery based off of the terms and
10 conditions as approved in its Stipulation.

11 EXAMINER PRICE: The 10.38 percent rate
12 of return only applies to gridSMART I costs?

13 THE WITNESS: Grid Mod I, yes.

14 EXAMINER PRICE: And it's not been
15 determined what rate of return will be for Grid Mod
16 II.

17 THE WITNESS: In that case we proposed
18 10.38, but it has not yet been determined.

19 Q. (By Mr. Finnigan) And when you say this
20 is in accordance with the Stipulation, do you mean in
21 the Grid Mod I case?

22 A. The 10.38 percent was set as part of the
23 ESP IV.

24 Q. And what's the remaining term of the Grid
25 Mod I program?

1 A. Sorry. I don't know what you mean by
2 term.

3 Q. How many years are left?

4 A. So as I discussed yesterday, so the
5 Companies have implemented the Grid Mod I investments
6 based off of the Grid Mod I approval. The Companies
7 are continuing to recover those costs as they are
8 depreciated.

9 Q. Over a period of many years.

10 A. Different investments would have
11 different depreciation rates but.

12 Q. Some as long as 20 years?

13 A. Yes.

14 Q. So for all those investments, is the
15 Company going to collect a 10.38 percent return?

16 A. Unless otherwise directed by the
17 Commission to move those balances into the Companies'
18 next base distribution rate case, that's the
19 Companies' proposal, to continue that ROE.

20 Q. Now, if there were no Rider AMI and the
21 Company came in for a base distribution rate case,
22 wouldn't those AMI investments be subject to whatever
23 rate of return is determined in the base rate case?

24 A. If those balances were moved into the
25 rate case, yes.

1 Q. But under the Companies' proposal in the
2 ESP V, you're proposing that 10.38 percent rate of
3 return will remain in effect for the AMI investments
4 until all of those investments are recovered
5 regardless of any rate cases.

6 A. The Companies' ESP proposal is an
7 eight-year proposal. The Companies proposed to
8 extend Rider AMI through the ESP and continue to
9 recover those investments through Rider AMI at the
10 terms and conditions that they are currently being
11 recovered.

12 EXAMINER PRICE: Let's go off the record
13 for a moment.

14 (Discussion off the record.)

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

17 Mr. Finnigan.

18 MR. FINNIGAN: Thank you, your Honor.

19 Q. (By Mr. Finnigan) So just to wrap up this
20 particular line, when the Company comes in for this
21 May 2024 distribution rate case filing, that won't
22 have any impact on the 10.38 percent return on equity
23 for AMI investments under the Companies' proposal.

24 A. As part of Rider AMI, yes.

25 Q. Now let's turn to DCR and I would like to

1 direct your attention to page 8 of your testimony,
2 please.

3 A. I'm there.

4 Q. Now, do you see the question on line 6
5 and 7 where you are asked "How will Rider DCR be
6 affected after the Companies' base distribution rate
7 case"?

8 A. Yes.

9 Q. Now go to the top of the next page. This
10 is page 9 where it talks about the return impacts.
11 Do you see? Read those top three lines on page 9.

12 A. "Additionally, Rider DCR will incorporate
13 all applicable inputs that were approved in the base
14 distribution case, including return on equity, cost
15 of debt, capital structure, depreciation rates,
16 revenue requirement allocations, and FESC allocation
17 factors."

18 Q. And when you say will incorporate all
19 those applicable inputs, that's from the May 2024
20 rate case.

21 A. The inputs that would be approved in that
22 subsequent rate case, yes.

23 Q. What if there is another rate case filing
24 during the term of ESP V?

25 A. In regards to DCR?

1 Q. Yes.

2 A. The same thing would occur, whatever was
3 approved in that rate case would then subsequently
4 change the inputs included in the Rider DCR revenue
5 requirement calculation.

6 Q. Where does it talk about additional rate
7 case filings possibly occurring in addition to the
8 May 2024 case?

9 A. I don't think I discuss that in my
10 testimony.

11 Q. Okay. But you are saying here that
12 that's the Companies' proposal as part of ESP V that
13 if there is another rate case after the May 2024
14 case, which occurs within the eight-year term of the
15 ESP V, then the same inputs that you describe here on
16 page 9 would also be updated to reflect the results
17 of that other rate case.

18 A. Yes.

19 Q. And the update for DCR would include
20 return on equity and cost of debt and capital
21 structure; is that right?

22 A. And depreciation rates.

23 Q. Okay. Now let's turn to the rate of
24 return on VMC. Please turn to page 19.

25 A. I'm there.

1 Q. Now, do you see the section that begins
2 "Section VII. Vegetation Management Cost Recovery"?

3 A. Yes.

4 Q. Now, where do you discuss the return or
5 the revenue requirement calculation? Is it at page
6 19, line 17?

7 THE WITNESS: I'm sorry. Can I have that
8 question reread?

9 EXAMINER ADDISON: You may.

10 (Record read.)

11 Q. (By Mr. Finnigan) Let me strike that.
12 Let me just direct your attention to page 19, line 17
13 to 21, of your testimony and ask you to take a moment
14 to review that.

15 A. Okay.

16 Q. And I'm just simply asking if the same
17 thing would apply to the VMC Rider if there are
18 additional rate case filings in the future after the
19 2024 filing.

20 A. If approved within the ESP period, those
21 inputs would be updated.

22 Q. Okay. Just like you described moments
23 ago for Rider DCR.

24 A. Yes.

25 Q. Now I want to ask you about this DCR

1 process. You've been involved with this ever since
2 these DCR filings began back in 2012?

3 A. No.

4 Q. Since when?

5 A. I think it was 2017 is when I started
6 getting involved in Rider DCR.

7 Q. And how often have there been hearings
8 held in these Rider DCR filings?

9 A. I don't know.

10 Q. Are you aware of any?

11 A. Are you speaking to the audit filings or?

12 Q. I'm speaking to a hearing which would --
13 which would be like what we are doing here today,
14 this evidentiary hearing where you bring in people
15 and they have prefiled testimony and then they come
16 in and people have an opportunity for
17 cross-examination. That's what I mean by a hearing,
18 an evidentiary hearing.

19 A. Sorry. I understood what you meant by
20 hearing, but I don't understand what filing you are
21 talking about. Sorry.

22 Q. For the DCR.

23 A. From 2017, I am not aware of any.

24 Q. Now how about with a rate case? Is there
25 a hearing associated with the rate case process?

1 A. Yes.

2 EXAMINER PRICE: When you say yes, that's
3 to the best of your knowledge but you are not a
4 lawyer.

5 THE WITNESS: Yes. Thank you.

6 Q. (By Mr. Finnigan) Now, I want to turn
7 your attention to this Rider ELR. And I believe the
8 discussion starts on page 11 of your testimony. If
9 you could turn there for a moment.

10 A. I'm there.

11 Q. Now, on the next page, page 12, beginning
12 on line 5, do you see that?

13 A. Yes.

14 Q. And you are asked a question "What is the
15 Companies' proposal for Rider ELR and ESP V?" And
16 then you discuss it in the next few lines, right?

17 A. Yes.

18 Q. And then beginning on line 12 through
19 line 15 of page 12, it says "The Companies believe
20 this proposal strikes a reasonable balance." When
21 you say "the Companies believe," does that mean you
22 believe?

23 A. Yes.

24 Q. And how did you determine that this
25 proposal struck a reasonable balance between these

1 competing factors?

2 A. So the Companies' proposal as part of the
 3 ESP V for Rider ELR is to continue the program with
 4 its current 24 customers. As part of that, they
 5 provide credits. They have been providing credits
 6 since 2009 at a certain level. Other customers have
 7 been paying through other riders of the companies.
 8 As part of this proposal, the Companies plan to
 9 gradually step down those credits so -- so what the
 10 Companies would have looked at is comparing the
 11 impacts to nonparticipating customers and
 12 participating customers on their -- on their bills
 13 and those impacts with maintaining the -- the ability
 14 to be able to call these customers during emergency
 15 events either initiated by PJM or the Companies.

16 Q. Now, in that answer here on lines 12
 17 through 15, you say "participating and
 18 nonparticipating customers." The participating
 19 customers would be industrial customers?

20 A. The 24 current customers that are
 21 receiving credits through the Rider ELR program, yes.

22 Q. And just those 24, right?

23 A. Just the 24.

24 Q. Because as I understand your proposal,
 25 are those the only ones that are eligible to

1 participate in a continuation of the program?

2 A. So as of right now, there are 24
3 customers participating. Those eligible would have
4 to be participating up to May 31 of 2024. And then
5 that number could change then but currently there is
6 24.

7 Q. Well, in other words, how would a new
8 industrial customer become a participant in that
9 program?

10 A. As part of the Companies' proposal, they
11 could not.

12 Q. And why does the Company believe that
13 that's a reasonable balance between other industrial
14 customers who are not currently enrolled in the
15 program?

16 A. What I mean nonparticipating customers, I
17 mean customers that are paying for the credits that
18 those cus -- that those ELR customers receive.

19 Q. Don't the other industrial customers who
20 aren't participating in Rider ELR pay any amount for
21 the credit?

22 A. Yes.

23 Q. Now, when we talk about nonparticipating
24 customers, that also includes residential consumers?

25 A. Yes.

1 Q. And how much is the amount allocated to
2 all customers on an annual basis for this Rider ELR?

3 A. So as I discuss in my testimony,
4 there's -- annual credits total approximately 50 to
5 60 million dollars a year.

6 Q. And how is that amount allocated to
7 residential consumers?

8 A. So the way the recovery works for that,
9 it's in twofold. So part of it is recovered in Rider
10 DSE1 and that is charged on a dollar per kWh basis,
11 so it's essentially you take the credit -- the total
12 credits associated with the Rider ELR credit and that
13 is just divided by the total kilowatt-hour sales, so
14 all customers would pay the same rate.

15 And then there's another component
16 collected through the Companies -- the other half of
17 the credit is recovered through the Companies' Rider
18 EDR(e), and within that Rider EDR(e) there is a
19 provision 2 at which rider -- or which residential
20 customers would pay which is the credits associated
21 with additional curtailable load that was added as
22 part of ESP IV.

23 Q. Now, in your answer here, you say that
24 the current proposal strikes a reasonable balance
25 among participating and nonparticipating customers.

1 So I take it you have some knowledge of what the rate
2 impact would be to different customer groups.

3 A. Yeah. Yes. Since the credits are
4 gradually decreasing, those subsequent rates would
5 decrease as well.

6 Q. Okay. And to make that judgment that
7 it's a reasonable balance among these different
8 groups, I take it you would need to know how much
9 money is collected from residential consumers every
10 year of this 50 to 60 million total?

11 A. I didn't evaluate it on a -- on a dollar
12 amount that's recovered by each rate schedule or rate
13 class.

14 Q. Okay. So you have no idea of how much of
15 this 50 to 60 million a year is collected from
16 residential consumers.

17 A. RESA Exhibit 2 on the second page would
18 have the DSE revenue associated with each operating
19 companies and rate class.

20 Q. Okay. And what schedule was that again?
21 I'm sorry. I didn't hear you.

22 A. Sorry, RESA Exhibit 2.

23 Q. Could you say that again, please? I
24 apologize.

25 A. RESA Exhibit 2.

1 Q. Okay. So referencing RESA's Exhibit 2,
2 what is the amount that is collected from residential
3 consumers under Rider ELR on an annual basis?

4 A. So this exhibit would just be the portion
5 recovered through Rider DSE1.

6 Q. And -- I'm sorry. I didn't mean to
7 interrupt you.

8 A. So from 2009 to 2022, the revenue
9 collected from residential customer class ranges from
10 3.3 million to 12.98 million.

11 Q. Okay. Could you turn to page DSE2 of
12 that document.

13 A. Yes.

14 Q. And do you see the lines at the bottom of
15 the page where it says "Total by Rate Schedule"?

16 A. Yes.

17 Q. And do you see the one for RS?

18 A. Yes.

19 Q. Is that the residential class?

20 A. That would be the residential -- RS would
21 be the residential rate schedule for revenue
22 collected through Rider DSE2.

23 Q. Where would be the revenue collected
24 under Rider ELR?

25 A. So the credit received through Rider ELR

1 is recovered through Rider DSE1.

2 Q. Is that shown on this RESA Exhibit 2?

3 A. That would be the second page.

4 Q. Is it the one you are referring to,
5 DSE1 --

6 A. Yes.

7 Q. -- at the bottom?

8 A. Yes.

9 Q. Okay. And you have totals at the bottom
10 beginning in 2009, right?

11 A. Yes.

12 Q. And those are the annual amounts that
13 you've collected under Rider ELR from the residential
14 class beginning in 2009 and then year over year
15 through 2022; is that right?

16 A. Yes.

17 Q. And so we would be looking at the total
18 amount, so it starts in 2009 with about \$3.2 million,
19 correct?

20 A. Yes.

21 Q. And then it goes up to 2022 and the
22 amount there is 10.6 million.

23 A. 10.7, yes.

24 Q. 10.7. And those are the amounts that are
25 collected from residential consumers under Rider ELR.

1 A. For those years, yes.

2 Q. And do you have any calculation of what
3 the projected amounts would be that would be
4 collected from residential consumers under the
5 proposal that would be in effect during ESP V?

6 A. I don't have that.

7 Q. Would it be by order of magnitude
8 something close to what you show for 2022?

9 A. So these would be -- in 2022 would be
10 revenue, all else equal, associated with credits at
11 the current \$5 that the ELR customers currently
12 receive through Rider ELR. Subsequently as -- as in
13 the Company's proposal as though -- as that \$5 credit
14 goes down, the revenue collected from all customers
15 would -- would coincide with that decrease.

16 Q. Okay. So it would be a proportionate
17 decrease.

18 A. All else equal.

19 Q. So -- and what is the Companies' proposal
20 for the amount of the credit under the Rider ELR in
21 ESP V?

22 A. Starting in June 1, 2025, the credit --
23 just speaking of the ELR-specific credit would
24 decrease 50 cents and then to decrease 50 cents
25 through the term of the ESP.

1 Q. So we would do a ratio of that amount of
2 decrease every year as compared to what it is at the
3 \$5 level shown here, and we can use that to calculate
4 what the expected revenue collected from residential
5 consumers would be going forward, all else equal, as
6 you said.

7 A. Yes.

8 Q. Okay. Now, do you have any studies as to
9 how many times you expect you will need to interrupt
10 these industrial customers during the ESP V period?

11 A. I don't know.

12 Q. Who would know that?

13 EXAMINER PRICE: Would Mr. Miller know?

14 THE WITNESS: I don't know if Mr. Miller
15 or Mr. Stein would know, but I know Witness Stein
16 discusses ELR and PJM participation, and Mr. Miller
17 discusses demand response and energy efficiency.

18 MR. FINNIGAN: Your Honor, at this time I
19 would like to have marked for identification as OCC
20 Exhibit 9, a response to a discovery request and I'll
21 represent that this is the same one which Ms. Bojko
22 marked yesterday as OMAEG Exhibit 12C confidential.
23 And it appears that the only confidential information
24 in that document was Attachment 2 at the end or on
25 the third page. And so what I have here is a

1 redacted version which my belief is this does not
2 include any confidential information and this is what
3 I would like to have marked for identification as OCC
4 Exhibit 9.

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

7 EXAMINER ADDISON: Yes. Let's go off the
8 record.

9 (Discussion off the record.)

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

12 Mr. Finnigan.

13 MR. FINNIGAN: So just for reference
14 purposes, what's the RESA exhibit number?

15 Q. (By Mr. Finnigan) Okay. So,
16 Mr. McMillen, do you have RESA Exhibit 4?

17 EXAMINER ADDISON: Sorry, Mr. Finnigan.
18 Just to be clear, you are not marking any exhibits at
19 this time.

20 MR. FINNIGAN: No. Yes, your Honor,
21 that's correct.

22 EXAMINER ADDISON: Thank you very much.

23 MR. FINNIGAN: I will not be marking
24 Exhibit 9 at this time.

25 EXAMINER ADDISON: Thank you. Please

1 proceed.

2 Q. (By Mr. Finnigan) So, Mr. McMillen, could
3 you take a moment to look at the documents before you
4 and see if there is one that's marked as RESA
5 Exhibit 4.

6 A. I have it.

7 Q. And you were discussing this yesterday in
8 response to questions by Mr. Pritchard. Do you
9 recall that?

10 A. Yes.

11 Q. So I want to direct your attention to
12 page 1 and the question (g) and that question asks
13 "Since the beginning of ESP IV, how many times have
14 the Companies called on ELR participants to interrupt
15 each year," right? That's the question.

16 A. Yes.

17 Q. Okay. Then the answer on the back of
18 that page it says "See the following table," right?

19 A. Yes.

20 Q. Okay. So let's take a look at this
21 table. Now, it's got months of every year, but it
22 doesn't say which year is which. So if we look at
23 the entry with two asterisks in the middle, do you
24 see that?

25 A. Yes.

1 Q. Where it was zero interruptions that
2 year?

3 A. June '19 through May '20 -- June 2019
4 through May 2020, there was zero interruptions.

5 Q. Okay. Okay. And so the years are, you
6 know, 2016 through 2017 is the first year on the far
7 left hand of the column.

8 A. June through May, yes.

9 Q. Okay. And then it progresses all the way
10 up to June 2022 through May of 2023.

11 A. Yes.

12 Q. Okay. Now, the only interruption with
13 the two asterisks is the one that occurred in this
14 PJM year 2019 through 2020 associated with COVID,
15 right? And there were no interruptions at that time.

16 A. Yes.

17 Q. And it says the reason there was no
18 interruptions was because there was some waiver of
19 the ELR testing requirements. Do you see that?

20 A. Yes.

21 Q. What is the ELR testing requirement?

22 A. So within the Companies' Rider ELR, there
23 are -- there are testing requirements if events
24 haven't been called during that period.

25 Q. That's what this refers to to your

1 knowledge?

2 A. Yes.

3 MR. KEANEY: Your Honor, could we go off
4 the record for a minute?

5 EXAMINER ADDISON: Let's go off the
6 record.

7 (Recess taken.)

8 EXAMINER ADDISON: Let's go ahead and go
9 back on the record.

10 Mr. Finnigan.

11 MR. FINNIGAN: Thank you, your Honor.

12 Q. (By Mr. Finnigan) Mr. McMillen, we were
13 talking about interruptions under Rider ELR. Do you
14 recall that?

15 A. Yes.

16 Q. Now I want to ask you about the ELR
17 tariff sheet. Now I notice that you sponsor the
18 tariff revisions for Rider ELR; is that right?

19 A. Yes.

20 Q. And why is it that you are the sponsor
21 for these tariffs?

22 A. As the manager of rates and regulatory
23 affairs, I'm familiar with our rates and tariffs that
24 are included in our tariff book.

25 Q. Is this one of the ones that you're

1 responsible for that you discussed at the outset of
2 your testimony?

3 A. Yes.

4 Q. Now, could you just walk us through these
5 ELR tariff changes? And the first thing I would like
6 you to do is just turn to where the Rider ELR tariff
7 begins.

8 A. I'm there.

9 Q. Okay. And then why don't you just
10 generally explain what the different versions are
11 that you've attached and then I have some questions
12 about the specific language changes.

13 A. So I'm on Attachment BSM-1 for Cleveland
14 Electric Illuminating Company, page 1 of 7. So under
15 the Applicability section, the first section of Rider
16 ELR, based on the Companies' proposal in this case,
17 the Companies propose to update this Applicability
18 section to -- to -- to apply to the Companies'
19 proposal.

20 Q. Okay. I didn't mean to ask you to go
21 through the whole tariff. What I wanted to start
22 with is do you see the numbering system in the upper
23 right-hand corner of that document pertaining to
24 applicability?

25 A. Yes.

1 Q. And do you see where it has a "5th
2 Revised Page" crossed out and now it says "6th
3 Revised Page"?

4 A. Yes.

5 Q. And then proceeding further, it's a
6 series of descending numbers and explain what that
7 means and why you have those different versions of
8 that page.

9 MR. KEANEY: Objection, your Honor. If
10 he could be more specific with what he is actually
11 asking right now. The question is imperceptibly big.

12 MR. FINNIGAN: Sure.

13 Q. (By Mr. Finnigan) So the page you were
14 just discussing on applicability, the page right
15 after the point where your testimony ends at page 22.

16 A. Yes.

17 Q. Okay. And do you see in the upper
18 right-hand corner where it says 6th and then 5th
19 Revised Page is stricken out?

20 A. Yes.

21 Q. And then the next one says the same
22 thing, but then it goes down. So the third page says
23 "5th Revised Page" and then 4th is stricken out and
24 so on and so forth. Do you see what I mean?

25 A. Yes.

1 Q. And can you explain what those different
2 iterations are?

3 A. So when the Companies update or there's
4 changes to their tariff, it will mark each of their
5 tariff pages on the version that has subsequently
6 been updated. So there may be differences on each
7 individual page but when the timing of those get
8 updated, so, for example, this is the 6th Revised --
9 first page is the 6th Revised Page and the -- and the
10 third page is the 5th Revised Page, those are just
11 timings of when changes have actually occurred on
12 those specific pages.

13 Q. So what you've done here with all these
14 different iterations is you've allowed us to trace
15 all the changes in Rider ELR since the inception.

16 A. Previous Rider ELR tariffs would be --
17 would be marked as such. You should -- you would be
18 able to trace the versions.

19 Q. And, you know, sticking with that upper
20 right-hand corner, so the page you were just
21 discussing says "6th Revised Page" and then 5th is
22 stricken out. Do you see that?

23 A. Yes.

24 Q. Now, is the 5th Revised Page the one
25 which is currently in effect today?

1 A. Unless the 6 is a typo, yes, it would be.

2 Q. I apologize. I didn't hear your answer.

3 A. I am just saying if the -- what we have
4 marked here, the 6th Revised Page, unless that's a
5 typo, the 5th Revised Page should be the one that's
6 the currently active tariff.

7 Q. And is the 6th the one you are proposing
8 for approval in the ESP V?

9 A. Yes.

10 Q. And the way you show your proposed
11 changes here is that they are all in red. Any change
12 would be reflected in red, correct?

13 A. There would be underlined changes and
14 text stricken. My copy is not red but it -- it would
15 be -- it would be those.

16 Q. And I'm just asking the general process
17 for reflecting changes any time you do an update. So
18 is the general process one where if you are making an
19 insertion of new language in the tariff, that new
20 language would be shown in red and it would be an
21 underline.

22 A. Yes.

23 Q. And if you are striking language from the
24 existing tariff, then that would also be shown in red
25 but it would have a strike through.

1 A. Yes.

2 Q. And the language that you are proposing
3 to carry forward from the existing tariff would be
4 shown in black, black font.

5 A. Yes.

6 Q. Now, with that in mind --

7 MR. FINNIGAN: Your Honor, just give me a
8 moment, please.

9 EXAMINER ADDISON: Absolutely.

10 Q. (By Mr. Finnigan) Now, are you familiar
11 with any PJM test requirement for the industrial
12 customers who are on this Rider ELR tariff?

13 A. There are testing requirements for PJM.

14 Q. What's the purpose of the test?

15 A. The purpose is in the event that an
16 emergency is initiated by PJM during the applicable
17 delivery year, the Companies or CSP are required to
18 test the -- to test their customers that are
19 registered within PJM.

20 Q. In other words, they don't want to wait
21 until an emergency happens. PJM wants to do a test
22 in advance of the emergency to make sure that the
23 customer actually can be interrupted.

24 A. Yes.

25 EXAMINER PRICE: Could customers have

1 advanced notice of the test, or do they call it just
2 randomly like an emergency?

3 THE WITNESS: So previously before this
4 delivery year, the Companies were able to determine
5 when the test was and let -- let customers know.
6 Starting in this delivery year, June 2023 through
7 May 2024, PJM changed their testing requirements
8 where they -- they decide when the test is held. So
9 the way the process works is the PJM within -- within
10 their -- within their timing parameters would let the
11 CSP know that, hey, within this two-week window a
12 test is going to occur. And the Companies would
13 inform their customers that a test would occur within
14 that two-week period.

15 Then subsequently PJM the day before the
16 test would say, hey, we are going to have a test the
17 next day which the Companies would inform their
18 customers and then that following day PJM would issue
19 a test during that day at a time unknown. There is a
20 time window but PJM doesn't disclose that until the
21 test event actually happens. So there is advanced
22 notice.

23 EXAMINER PRICE: If a customer fails to
24 interrupt in a test, do they pay the applicable --
25 the otherwise applicable ECE charge or are ECE

1 charge --

2 MR. FINNIGAN: Your Honor, I apologize.
3 I didn't hear your question.

4 EXAMINER PRICE: I didn't say it very
5 well either. If a customer on the test fails to
6 interrupt, are they liable for the ECE charge in the
7 tariff?

8 THE WITNESS: Yes. If they fail, yes.

9 EXAMINER PRICE: Thank you.

10 Q. (By Mr. Finnigan) And just to follow up
11 on that, so where in the tariff is the charge they
12 would be liable for?

13 A. So the part of the penalty that Attorney
14 Examiner Price was referencing was the ECE charge.

15 Q. And what page is that on?

16 A. So that starts on page 1 and continues
17 from page 2 through page 3 of the CEI tariff that we
18 were referencing.

19 Q. Okay. And this test requirement is a PJM
20 test, right?

21 A. It's a PJM requirement, yep.

22 Q. Okay. The ECE, does that stand for
23 emergency curtailment?

24 A. Emergency curtailment event.

25 Q. Is that an event called by the Company

1 and not PJM?

2 A. So as part of ELR, PJM informs the
3 Companies that they are calling an event or a test,
4 and then the Companies inform the customers. So PJM
5 doesn't directly inform the customers; the Companies
6 do. So with that the Companies would be telling
7 their customers to curtail sub -- or as directed by
8 PJM.

9 Q. Okay. And has any of the 24 customers on
10 this tariff ever had to pay this ECE charge?

11 A. I don't know.

12 Q. When there is an ECE charge that would
13 apply, is that credited against the amount that's
14 charged to non-participating consumers?

15 A. It would flow through the rider.

16 Q. I apologize.

17 A. Yeah, it would flow through Rider DSE1.

18 Q. Where does it say that?

19 A. Page 2.

20 Q. Page 2 of 7?

21 A. Yeah.

22 EXAMINER PRICE: If the Company proposal
23 that they no longer be the CSP were approved by the
24 Commission, how would the communication flow go? Is
25 it PJM to the Company to the CSP to the customer, or

1 are you then out of the loop and it will be PJM to
2 the CSP to the customer?

3 THE WITNESS: The latter.

4 EXAMINER PRICE: Thank you.

5 Q. (By Mr. Finnigan) So going back to this
6 Data Request that was marked as RESA Exhibit 4, which
7 we were discussing a few moments ago, and we were
8 looking at that table under item (g) on the back of
9 the page, do you see that?

10 A. Yes.

11 Q. So it looks like from that table the only
12 interruptions which have occurred during the seven
13 years of ESP IV under Rider ELR would be an
14 interruption when PJM just has to test the equipment
15 to make sure that the customer could be interrupted.

16 A. No.

17 Q. I'm sorry. I didn't hear your answer.

18 A. No.

19 Q. Okay. So when it says, for example,
20 starting in June of 2016 through 2017 and it lists
21 one interruption and there was an asterisk PJM test
22 event, does that one not indicate that the
23 interruption was due to the PJM test event?

24 A. That one would, yes.

25 Q. Okay. And wouldn't all the other ones?

1 A. All but the one from June 2022 through
2 May 2023.

3 Q. Okay. So all the entries in this table
4 would indicate that the interruptions were for PJM
5 doing its annual test event except that last one for
6 June 2022 through 2023, correct?

7 A. Yes.

8 Q. And what was that interruption
9 attributable to for June '22 through May of '23?

10 A. That was the event called by -- initiated
11 by PJM for December 24, 2022.

12 Q. Initiated for what?

13 A. Winter Storm Elliott.

14 Q. Okay. But in any event, that event was
15 initiated by PJM.

16 A. Yes.

17 Q. Now, did PJM's interruption for Winter
18 Storm Elliott also affect industrial customers who
19 were located in Duke's service territory?

20 A. I don't know.

21 Q. Would you expect that it would?

22 A. I don't have an opinion.

23 Q. Duke doesn't have one of these
24 interruptible tariffs, do they?

25 A. I don't know.

1 Q. Now, is it your contention that this ELR
2 that was in effect at this time for June '22 through
3 May of 2023 resulted in more reliable service for
4 FirstEnergy customers than Duke customers?

5 A. I don't know.

6 EXAMINER PRICE: If you had an industrial
7 customer in FirstEnergy's service territory and they
8 are not a part of this program and they are not a
9 part of a PJM program with a CSP, they are under no
10 obligation to interrupt even if they could in the
11 event of an emergency; is that correct?

12 THE WITNESS: They have no obligation,
13 yes.

14 Q. (By Mr. Finnigan) Your current proposal
15 for ESP V calls for all the ELR customers must be on
16 a PJM load management tariff.

17 A. Yes.

18 Q. So if there is another Winter Storm
19 Elliott and PJM calls a curtailment under their load
20 management tariff, then the people on Rider ELR would
21 automatically be interrupted.

22 A. If it's called for their specific zone,
23 yes.

24 MR. FINNIGAN: Okay. That's all the
25 questions I have. Thank you.

1 EXAMINER ADDISON: Thank you,
2 Mr. Finnigan.

3 ELPC?

4 MS. McCONNELL: No questions, your Honor.

5 EXAMINER ADDISON: Kroger?

6 MS. WHITFIELD: Yes. Thank you.

7 - - -

8 CROSS-EXAMINATION

9 By Ms. Whitfield:

10 Q. Good morning, Mr. McMillen. My name is
11 Angie Paul Whitfield. I represent The Kroger
12 Company.

13 A. Good morning.

14 Q. Good morning. I just have a few
15 follow-up questions about Rider EEC which is the
16 Energy Efficiency Cost Recovery Rider, correct?

17 A. Yes.

18 Q. Do you have your testimony in front of
19 you? I think it's Company Exhibit 3.

20 A. Yes.

21 Q. Can you turn to page 17 of your
22 testimony?

23 A. Yes.

24 Q. And starting on line 16, you testified
25 that the revenue requirement for Rider EEC will be

1 split between residential and nonresidential
2 customers based on the cost of the programs, correct?

3 A. Yes.

4 Q. And there are five programs that the
5 Companies are proposing as part of the energy
6 efficiency demand response plan, correct?

7 A. I know that's in Witness Miller's
8 testimony. I can't recall the number of programs.

9 Q. Do you know if there's only one program
10 that relates to commercial or nonresidential
11 customers?

12 A. I can't recall.

13 Q. Okay. But it's true that commercial
14 customers are not liable for the cost of any of the
15 residential programs, correct?

16 A. Correct.

17 Q. And, vice versa, residential customers
18 are not liable for the cost of the nonresidential
19 programs, correct?

20 A. Correct.

21 Q. Okay. Now, on that same page, line 19,
22 you referred to the opt-out option available to
23 certain customers. Do you see that?

24 A. I reference that customers that are --
25 that are eligible to opt out and do, their estimated

1 kWh would be removed from the rate calculation.

2 Q. Okay. And so just to be clear on that,
3 if a nonresidential customer opts out, it does not
4 have to pay any of the costs of the energy efficiency
5 programs that FirstEnergy is proposing in ESP V,
6 correct?

7 A. If an eligible customer opts out, they
8 would be exempt from paying Rider EEC.

9 Q. And do you know what those eligibility
10 requirements are for opt-out or is that a better
11 question for Witness Miller?

12 A. That would be a better question for
13 Witness Miller.

14 Q. Okay. And just to be clear, Witness
15 Miller does not report to you, correct?

16 A. He does not.

17 Q. He is actually in a completely separate
18 department from you, correct?

19 A. Yes.

20 Q. All right. Now, if you turn to page 18
21 of your testimony, starting around line 13, do you
22 see where you talk about the estimated bill impacts
23 for a standard residential customer from Rider EEC?

24 A. Yes.

25 Q. Okay. And that, I believe, is reflected

1 in the chart that's on page 5 of your Attachment
2 BSM-2, correct?

3 A. Yes.

4 Q. And did you do a similar analysis as to
5 what's on page 5 of Attachment BSM-2 for
6 nonresidential customers?

7 A. I did not.

8 Q. Is that because the impacts will depend
9 on the number of opt-outs?

10 A. Yes.

11 Q. And on the other pages of Attachment
12 BSM-2, did you make any assumptions about the number
13 of opt-outs in your preparation of that attachment?

14 A. No.

15 Q. Did you assume there were zero opt-outs?

16 A. For purposes of Attachment BSM-2, I did
17 not exclude megawatt-hours -- megawatt-hour sales
18 associated with nonresidential customers associated
19 with opt-out.

20 Q. Okay. So you assumed there were zero
21 opt-outs because you didn't exclude any of their kWh
22 hours.

23 A. Yes.

24 MS. WHITFIELD: Okay. Thank you.

25 All right. That's all the questions I

1 have. Thank you.

2 EXAMINER PRICE: I have one follow-up
3 question while we are on this topic. Can you turn to
4 page 19, lines 4 and 5. You say "As described above,
5 the proposed rate design of Rider EEC supports
6 customer affordability and mitigates initial rate
7 impacts to customers by spreading out the recovery
8 over 8 years"; is that correct?

9 THE WITNESS: Yes.

10 EXAMINER PRICE: If you have to cut --
11 spread the costs of running the program over eight
12 years, isn't that kind of an indication the program
13 is too expensive?

14 THE WITNESS: As part of my testimony,
15 what I -- what I looked at for -- at least for a
16 standard residential customer was to compare the
17 costs that -- that Miller provides in his testimony
18 for the energy efficiency program and how those
19 would -- would impact a residential customer based
20 off of the standard usage being recovered both as
21 incurred and spread over a longer period. So it was
22 the Companies' proposal to spread those costs out to
23 help limit that impact.

24 EXAMINER PRICE: So you felt it necessary
25 for customer affordability to spread each year's

1 costs over eight years.

2 THE WITNESS: Yes.

3 EXAMINER PRICE: Thank you.

4 EXAMINER ADDISON: Thank you.

5 NRG?

6 MR. LANG: No questions, your Honor.

7 EXAMINER ADDISON: OP&E?

8 MR. DOVE: No questions, your Honor.

9 EXAMINER ADDISON: Walmart?

10 MR. UNGER: No questions.

11 EXAMINER ADDISON: NO&C?

12 MR. HAYS: Just a few, your Honor.

13 - - -

14 CROSS-EXAMINATION

15 By Mr. Hays:

16 Q. Mr. McMillen, I am Tom Hays from NO&C,
17 the Northwest Ohio Aggregation Coalition. Are you
18 familiar with NO&C? Have you heard the term before?

19 A. I was present when you -- when you
20 discussed it with Witness Fanelli's testimony.

21 Q. Okay. Can you tell me how many jobs were
22 created by the 24 companies, and I will also add the
23 2 companies you talked about, that are in the ELR
24 program during the period of time they have been in
25 the program?

1 A. I don't have that information.

2 Q. Do you know if -- if any of the companies
3 that are in there have closed plants in Ohio during
4 the period that they have been in this program?

5 A. So as part of the start of ESP IV, there
6 were 26 participants participating in ELR. Since
7 then two of them are no longer in service. However,
8 I don't know the reasons or -- behind why they are no
9 longer in service.

10 Q. Does Rider ELR require the participating
11 companies to create jobs in Ohio?

12 A. There was no such requirement.

13 Q. Does the Rider ELR program require the
14 participating companies to retain jobs in Ohio?

15 A. There is no such requirement.

16 Q. Would you agree with me that companies in
17 direct competition to the participating companies in
18 Rider ELR are at a cost disadvantage because they
19 cannot get the same Rider ELR credits?

20 A. I can't -- I don't know what other
21 arrangements they may have elsewhere.

22 Q. Would you agree that a -- a new
23 company -- let's assume there is a large
24 electrical -- a company that makes widgets but it's a
25 large user of electricity. And in your program

1 currently there is a large widget company that's
2 receiving the Rider ELR credits. Would you agree
3 with me that the Company that is seeking to move into
4 Ohio would not be able to get credits under the Rider
5 ELR program as proposed in the Application?

6 A. The Companies are proposing not to --
7 sorry. The Companies are proposing to continue Rider
8 ELR with the current participating customers.

9 Q. I missed a part of what you said but does
10 that condense down to, no, the Company that's trying
11 to move in won't be able to get those credits?

12 A. Yes.

13 Q. Thank you. Would you -- sorry. Do you
14 need a moment?

15 A. No. I'm good. Thank you.

16 Q. Would you agree with me that the cost --
17 the costs of these riders -- excuse me, the cost of
18 Rider ELR is -- is imposed on suppliers that, you
19 know, have -- the cost comes into the ELR, and then
20 it's spread to the customer classes. So what I am
21 asking you to do is look at a company that
22 supplies -- that seeks to supply 1 of the 24
23 companies. In that supplier's electric bill, would
24 there be a charge for the credits that go to -- their
25 fair share, if you will, of the credits that are

1 given to the 24 companies?

2 A. So the Rider ELR credits are recovered
3 through Rider DSE1 and ED -- and the subsequent
4 EDR(b) credit recovered through Rider EDR(e) which
5 are recovered through nonparticipating customers.

6 Q. Okay. So a supplier company that's not
7 part of it is actually helping to foot the bill of
8 the person he is supplying to; is that a fair
9 summary?

10 A. Sorry. I am getting confused when you
11 say supplier company. But through those riders for
12 nonparticipating customers, they pay for the credits.

13 Q. Right. So it raises their bill, correct?
14 It raises the supplier's bill.

15 A. Those would be charges on their bill.

16 Q. Thanks. I was -- the question was kind
17 rambly, so I apologize. Would you agree with me that
18 residential customers in Ohio have experienced rate
19 shock following the June SSO auction?

20 A. Sorry. I don't know what you mean by
21 June SSO auction.

22 Q. Are you familiar with that First --
23 excuse me, that First -- are you familiar with the
24 residential and small commercial auction that
25 FirstEnergy conducts where it --

1 MR. HAYS: Your Honor, ever once in
2 awhile you have like a mental gap, but you know what
3 I mean.

4 EXAMINER ADDISON: Take your time,
5 Mr. Hays.

6 MR. HAYS: Pardon me?

7 EXAMINER ADDISON: Take your time.

8 MR. HAYS: Okay.

9 Q. (By Mr. Hays) You heard Mr. Fanelli
10 describe that there was -- you were here for
11 his testimony, correct?

12 A. I was present.

13 Q. And do you recall that he talked about
14 that for the MRO and for the Companies' ESP proposal
15 that there was the same auction process for obtaining
16 electricity services, generation, for -- at an SSO
17 auction, standard service auction.

18 A. I generally remember that.

19 Q. Are you aware that in June of this year,
20 that there was a -- when they went to auction, there
21 was a very large price increase for the cost of
22 generation?

23 A. I don't think there was an auction that
24 occurred in June of this year.

25 EXAMINER ADDISON: Mr. Hays, are you

1 asking if an auction that was conducted in June of
2 last year or when prices went into effect based on
3 previous auctions?

4 MR. HAYS: When prices went into effect.
5 Thank you, your Honor.

6 EXAMINER ADDISON: Thank you.

7 A. So the rider -- the Companies' Rider GEN
8 prices which are -- which recover the cost of the
9 Companies to offer Standard Service Offer, those
10 approved prices did increase on June 1 of 2023.

11 Q. And would you agree with me it was a very
12 significant cost increase?

13 A. As compared to the previous prices, there
14 was a large increase.

15 Q. Okay. And isn't that what we mean by
16 rate shock, if there was a real shock at that time?

17 MR. KEANEY: Your Honor, if I could
18 object here. It is asking the witness to speculate.

19 MR. HAYS: I believe I am asking him if
20 that fit his definition of rate shock.

21 EXAMINER ADDISON: I don't think you have
22 asked him to define rate shock in his opinion, so
23 perhaps we could start with that question.

24 MR. HAYS: Okay. Thank you, your Honor.

25 Q. (By Mr. Hays) Could you define rate shock

1 for me?

2 A. I would define rate shock as unforeseen
3 increases, large increases to rates that I would be
4 paying.

5 Q. Going back then to this increase in June,
6 would you describe -- would that fit your definition
7 of rate shock?

8 A. For customers that were taking service
9 under the Companies' Standard Service Offer, they
10 would see large increases.

11 Q. Are there other Ohio agencies and
12 companies that offer incentives to -- to companies
13 that will create jobs or retain jobs in Ohio, if you
14 know?

15 A. I don't know.

16 Q. Are you familiar with Jobs Ohio?

17 A. I've heard the term.

18 Q. But you are not familiar with it.

19 A. No.

20 Q. How about local port authorities? Are
21 you familiar with those?

22 A. No.

23 Q. Are you familiar with their requirements
24 for companies coming in who seek loans or other
25 benefits?

1 MR. KEANEY: Your Honor, the witness has
2 just testified he doesn't know, and he continues to
3 ask questions.

4 EXAMINER ADDISON: Mr. Hays, let's move
5 on. He has already indicated he is not aware of
6 those agencies.

7 Q. (By Mr. Hays) Are you aware of the
8 Inflation Reduction Act?

9 A. No. No.

10 Q. Are you aware of federal programs that
11 offer financial assistance to large companies who
12 undertake PDR programs?

13 A. No.

14 Q. Are you aware of any federal programs
15 that offer large companies -- large users of
16 electricity grants or other financial incentives to
17 reduce their electric use, just reduce their actual
18 usage?

19 A. No.

20 MR. HAYS: Thank you. You have been
21 through a long day and a half. Appreciate you
22 coming.

23 THE WITNESS: Thank you.

24 EXAMINER ADDISON: Thank you, Mr. Hays.
25 One Energy?

1 MR. DUNN: No questions, your Honor.

2 EXAMINER ADDISON: OEC?

3 MS. NORDSTROM: No questions, your
4 Honors.

5 EXAMINER ADDISON: Nucor?

6 MR. LAVANGA: If I can move over here.

7 EXAMINER ADDISON: You may.

8 - - -

9 CROSS-EXAMINATION

10 By Mr. Lavanga:

11 Q. Good morning, Mr. McMillen.

12 A. Good morning.

13 Q. I'm Mike Lavanga. I am an attorney for
14 Nucor Steel Marion. Get organized here.

15 EXAMINER ADDISON: Take your time,
16 Mr. Lavanga.

17 MR. LAVANGA: Thank you.

18 Q. (By Mr. Lavanga) Mr. Finnigan -- sorry.
19 You see where I'm going. Mr. McMillen, Mr. Finnigan
20 asked you a series of questions about the number of
21 interruptions that have happened per year under ELR
22 over the course of the current ESP, correct?

23 A. Yes.

24 Q. And it was about once a year.

25 A. Yes.

1 Q. There's no indication that just because
2 there has been one per year about, approximately,
3 that that's going to continue into the future if the
4 program is continued.

5 A. There is no indication.

6 Q. There could be many more.

7 A. There could.

8 Q. In fact, if you went beyond -- back
9 beyond the current ESP, there were years where there
10 were multiple interruptions under ELR for ELR
11 customers.

12 A. Yes.

13 Q. And I think we established yesterday in
14 Mr. Proano's cross-examination that there are no
15 limits on the number of interruptions that could be
16 called under ELR.

17 A. Correct.

18 Q. And there is no limit on the duration of
19 interruptions?

20 A. Correct.

21 Q. In fact, on the Winter Storm Elliott
22 interruption, that interruption lasted almost 10
23 hours; is that correct?

24 A. I don't recall the exact length, but it
25 was a long event.

1 Q. Pretty long.

2 A. Yes.

3 Q. Now, the -- the total Rider ELR credits
4 that the Rider ELR customers receive are paid for by
5 other customers through Rider DSE1 and EDR(e),
6 correct?

7 A. Yes.

8 Q. Do you know what the current DSE1 charge
9 for the residential -- actually for anybody because
10 it's the same charge, but do you happen to know what
11 the current DSE1 charge is?

12 A. I can't recall that.

13 Q. Okay. And same question for EDR(e), do
14 you happen to know what that charge is?

15 A. I can't recall that.

16 MR. LAVANGA: Your Honor, I actually have
17 the tariffs here. I don't necessarily want to make
18 them an exhibit, but I want to show them to the
19 witness to refresh his memory. Can I approach?

20 EXAMINER ADDISON: Please approach.

21 MR. LAVANGA: Your Honor, if you would
22 like?

23 EXAMINER ADDISON: If we can have a copy.
24 Thank you.

25 Q. (By Mr. Lavanga) Okay. Mr. McMillen,

1 let's start with the DSE1 first.

2 A. Okay.

3 Q. So the current DSE1 charge is 0.0066
4 cents per kilowatt-hour, correct?

5 A. Yes.

6 Q. Now, would you agree with me, subject to
7 check, that if you take a hypothetical residential
8 customer that uses 750 kilowatt-hours a month and
9 apply that charge, it comes out to 4.95 cents?

10 A. Subject to check.

11 Q. Okay. Let's do the same on EDR. Go to
12 EDR(e).

13 A. I'm there.

14 Q. And the current EDR(e) charge for RS is
15 0.269 cents per kilowatt-hour, correct?

16 A. For Ohio Edison, yes.

17 Q. For Ohio Edison, I'm sorry. Thank you
18 for that clarification. And if you take that same
19 750 kilowatt-hours and apply that charge, you get,
20 subject to check, 20.175 cents per kilowatt-hour --
21 or per month, I'm sorry.

22 A. Subject to check.

23 Q. And if you add those two together, you
24 have 25 cents a month.

25 A. Subject to check.

1 Q. Subject to check. Okay. Thank you. You
2 received some questions both yesterday and today
3 about the availability of Rider ELR to other
4 customers, specifically new customers coming to the
5 state.

6 A. Yes.

7 Q. And under your current proposal, new
8 customers would not be allowed to take service under
9 ELR, correct?

10 A. Yes.

11 Q. Okay. Would you agree with me that you
12 have other mechanisms, other rate mechanisms, that
13 advance economic development that could be used by
14 new customers, for example, reasonable arrangement?

15 A. Yes, we do have a reasonable arrangement
16 tariff.

17 Q. Okay.

18 EXAMINER PRICE: Just to follow up, are
19 you familiar with the ELR provisions in -- as ordered
20 by the Commission in ESP IV?

21 THE WITNESS: Yes.

22 EXAMINER PRICE: And as originally
23 stipulated by the parties, Rider ELR was closed to a
24 certain group of customers, correct?

25 THE WITNESS: Yes.

1 EXAMINER PRICE: And the Commission
2 ordered if a new customer wanted to participate in
3 Rider ELR, they could enter into -- they could
4 propose a reasonable arrangement and enter ELR that
5 way; is that correct? If you don't know, that's
6 fine.

7 THE WITNESS: Yeah. I can't recall that.

8 EXAMINER PRICE: Okay. But you would
9 agree that if the Commission ordered, they could
10 allow a customer that wanted to participate in Rider
11 ELR, even if we approved your Application as
12 proposed, through a reasonable arrangement?

13 THE WITNESS: Yes.

14 EXAMINER PRICE: Thank you.

15 MR. LAVANGA: Thank you, your Honor.

16 Q. (By Mr. Lavanga) Mr. McMillen, do you
17 agree that Rider ELR provides important reliability
18 benefits?

19 A. During extreme events on the transmission
20 or distribution systems, these customers are
21 available to help alleviate those -- those conditions
22 to help the system maintain reliability.

23 Q. Okay. So that's a yes?

24 A. Yes.

25 Q. Okay. And you would also agree that

1 economic -- that ELR provides economic development
2 and job retention benefits?

3 A. For the participating customers, yes.

4 Q. Okay. Thank you. Would you agree as a
5 general proposition that in order to secure these
6 benefits, the credits under ELR have to be high
7 enough to incentivize customers to participate?

8 A. While I can't speak to the level of
9 credit that would incentivize an individual customer,
10 the Companies as proposed are decreasing the current
11 ELR customers' credits that are received through
12 Rider ELR and EDR -- R(b). And also the Companies'
13 proposal is to have the participating customers
14 participate through a CSP to be able to gain
15 additional revenue streams through either -- or
16 through the capacity market and other markets such as
17 energy markets and synchronized reserve markets,
18 ancillary services, and such.

19 Q. Understood. Thank you. Let me ask you
20 another question. As part of your proposal, you
21 would no longer be the CSP for Rider ELR customers,
22 correct?

23 A. With participation in PJM, correct.

24 Q. Right. So you would -- you would no
25 longer bid in the Rider ELR load yourselves.

1 A. That would be done through their
2 respective CSP.

3 Q. Okay. Okay. Would it be possible for
4 FirstEnergy to continue bidding in the Rider ELR but
5 allow participation in those other markets you just
6 mentioned like the ancillary services? Would that be
7 possible?

8 A. Through the current Companies' Rider ELR,
9 customers are able to participate in those markets.

10 Q. They are? So it's just the capacity
11 market you can't participate in? You are allowed to
12 participate in all those other markets?

13 A. Yes.

14 Q. Okay. Now, you testified that the
15 proposed step down in the credits better aligns with
16 the cost of -- better aligns the cost of the program
17 with market pricing. When you refer to market
18 pricing here, you are referring to PJM capacity
19 price, right?

20 A. I think I refer to Witness Stein's
21 testimony. It might be a better question asked of
22 Witness Stein.

23 Q. Okay. Well, would you -- if you know,
24 would you agree with me that market pricing over the
25 term of ESP V could change dramatically, or just

1 change?

2 A. Market prices could change over the ESP
3 period.

4 Q. Could go up? Could go down?

5 A. Yes.

6 Q. Did you do any study or analysis to
7 determine what level of credits ELR customers may
8 choose to no longer participate in the program?

9 A. No.

10 Q. Let's go back to that CSP issue again.
11 You recall questions from yesterday regarding the
12 costs FirstEnergy -- the FirstEnergy Companies have
13 incurred in acting as the CSP, and I think the amount
14 you gave was 1.6 million --

15 A. Yes.

16 Q. -- in costs, correct?

17 A. Yes.

18 Q. That's over the term of the entire ESP
19 IV, right?

20 A. That was for the ESP IV period up
21 until -- I can't recall the timing on that, maybe
22 through 2022.

23 Q. Let me refresh your memory here. OLEC
24 Exhibit 1 -- I'm sorry, OELC Exhibit 1 which is
25 Nucor's Data Request 1.

1 A. Thank you.

2 Q. Are you there?

3 A. Yes.

4 Q. Yes. So if you go down, it says from
5 June 2016 through May of 2023?

6 A. Yes. That would be the period.

7 Q. Okay. Okay. And at page 14 in your
8 testimony, you say the PJM offsets that flow through
9 DSE1 averaged 2 million per year over the course of
10 ESP IV, right?

11 A. Yes.

12 Q. So is that 2 million per year figure net
13 over the 1.6 million in costs?

14 A. No.

15 Q. But you would agree with me the revenue
16 received from PJM more than offsets the costs.

17 A. I agree that \$2 million per year is
18 greater than 1.6 million over that time period.

19 Q. Okay. Okay. And just going back to the
20 capacity -- or the market price issue, again, if
21 capacity prices go up from where they are now, you
22 are going -- that \$2 -- or that 2 million per year
23 figure could be much higher.

24 A. If the Companies were the CSP and market
25 prices went up and they were the ones that bid in the

1 ELR capabilities --

2 Q. Okay.

3 A. -- the revenue received from PJM would go
4 up, all else equal.

5 EXAMINER ADDISON: Let's go off the
6 record for a moment.

7 (Discussion off the record.)

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

10 Q. (By Mr. Lavanga) Okay. Mr. McMillen, you
11 also got questions yesterday about the 11.4 million
12 in payments that companies received from PJM for
13 Winter Storm Elliott curtailment events?

14 MR. KEANEY: Counsel, could you provide
15 him a citation to the exhibit you are looking at?

16 Q. (By Mr. Lavanga) I believe this one would
17 be OELC Exhibit 2. And there is a Data Request
18 OELC-1-14.

19 A. Thank you. I found it.

20 Q. Got it? Okay. And 80 percent of this is
21 going to be flowed back to customers in DSE1,
22 correct? Can I correct that? Through DSE.

23 A. Yes, both DSE1 and DSE2.

24 Q. Okay. The 2 million per year average
25 offset figure on page 14 of your testimony, does that

1 reflect any of that 11.4 million?

2 A. I don't think those revenues were known
3 at the time that the number was created.

4 Q. So they would not include -- that
5 2 million would not include --

6 A. Correct.

7 MR. LAVANGA: Okay. That's all I have.
8 Thank you, Mr. McMillen.

9 THE WITNESS: Thank you.

10 EXAMINER ADDISON: Thank you,
11 Mr. Lavanga.

12 With that we will go ahead and take our
13 lunch break. We will meet again in an hour a little
14 after 1:00. Thank you all.

15 Let's go off the record.

16 (Thereupon, at 12:04 p.m., a lunch recess
17 was taken.)

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1 Thursday Afternoon Session,
2 November 9, 2023.

3 - - -

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

6 Ms. O'Brien, any questions?

7 MS. BOTSCHNER-O'BRIEN: I do.

8 - - -

9 BRANDON S. McMILLEN
10 being first duly sworn, as prescribed by law, was
11 examined and testified as follows:

12 CROSS-EXAMINATION

13 By Ms. Botschner-O'Brien:

14 Q. Good afternoon, Mr. McMillen. I am Amy
15 Botschner-O'Brien on behalf of Staff. I have a few
16 follow-up and wrap-up questions for you.

17 A. Good afternoon.

18 Q. Yesterday you were asked some questions
19 about the PJM demand response events on December 23
20 and 24 of 2022. Do you recall that?

21 A. Yes.

22 Q. And you testified that FirstEnergy did
23 not initiate an emergency curtailment event for Rider
24 ELR customers on December 23, 2022, correct?

25 A. For the subset of customers initiated,

1 yes.

2 Q. If FirstEnergy had initiated a
3 curtailment event for December 23, 2022, would it
4 have received additional revenues from PJM?

5 A. I don't know.

6 Q. So you wouldn't know how much or? You
7 just don't know?

8 A. Yeah, I wouldn't know.

9 Q. Okay. You also testified that
10 FirstEnergy did not pay any penalties as a result of
11 failing to initiate a curtailment event on
12 December 23, 2022, correct?

13 A. Correct.

14 Q. If FirstEnergy was serving as a
15 curtailment service provider, also known as a CSP, in
16 2022, and failed to initiate a curtailment event on
17 December 23, 2022, why wasn't it assessed any
18 penalties?

19 A. The question might be best asked of
20 Witness Stein.

21 Q. You don't know?

22 A. I don't know.

23 Q. Okay. You also testified yesterday
24 regarding PJM revenues generated for December 2022.
25 Do you recall that?

1 A. Yes.

2 Q. And there were about 11 million in PJM
3 revenues for curtailment events in December 2022,
4 correct?

5 A. Received for a certain period. I don't
6 think it was March through -- I can't remember the
7 other -- what the table said.

8 MS. BOTSCHNER-O'BRIEN: Your Honor, may I
9 approach?

10 EXAMINER ADDISON: You may.

11 MR. HAYS: Your Honor, we are having a
12 little trouble hearing him.

13 EXAMINER ADDISON: Thank you, Mr. Hays.

14 Mr. McMillen, if you could speak into
15 your microphone. Thank you.

16 THE WITNESS: Sorry.

17 MR. HAYS: Thank you.

18 MS. BOTSCHNER-O'BRIEN: I don't need to
19 approach.

20 Q. (By Ms. Botschner-O'Brien) Okay. We are
21 looking at the document that was marked OELC
22 Exhibit 2. Do you see that?

23 A. Yes.

24 Q. And do you see the 11.4 million amount
25 indicated in that table?

1 A. Yes.

2 Q. Okay. Why is this 11 million amount so
3 much higher than the 2 million historical average you
4 testified to?

5 A. I don't know.

6 Q. Okay.

7 EXAMINER PRICE: Well, Mr. McMillen, what
8 factors would influence that number?

9 THE WITNESS: They were a result of an
10 emergency curtailment being called and the Companies
11 receiving bonus payments for those. I just don't
12 know how those are settled and calculated.

13 EXAMINER PRICE: Okay. Thank you.

14 Q. (By Ms. Botschner-O'Brien) Under ESP IV,
15 Mr. McMillen, there are currently 24 customers
16 participating in the ELR program, correct?

17 A. Yes.

18 Q. Do you know what the total curtail --
19 curtailable load is for those 24 customers in the
20 aggregate? And if you don't know, perhaps you could
21 give me a range. Is it more than 400 megawatts?
22 More than 500 megawatts?

23 A. I can't recall the exact number, but it
24 would be the Companies -- or the customers' max
25 curtailable load used to provide credits would be

1 above 500.

2 Q. Okay. Do you have a copy of OMAEG
3 Exhibit 11 in front of you which was -- which is the
4 Companies' response to OCC Set 5-INT-006?

5 A. Yes.

6 Q. In response to question G, the Companies
7 state that for the 2022-2023 delivery year you
8 reported 199.5 megawatts of expected load reduction
9 which is shown on the table on the left page. Do you
10 see that?

11 A. Yes.

12 MS. COHN: I was just checking which was
13 the public version or confidential.

14 EXAMINER ADDISON: I think OMAEG
15 Exhibit 11.

16 MS. COHN: Okay. Okay. Sorry.

17 Q. (By Ms. Botschner-O'Brien) Do you see
18 that on what is page 14 of the document?

19 A. Yes.

20 Q. Okay. Why is that number so much lower
21 than the amount of curtailable load under the ELR
22 program?

23 A. Well, I don't know exactly how this
24 number is derived. So what the max curtailable load
25 included in Rider ELR, that's based off of customers'

1 demand usage, whereas, the value shown in Exhibit
2 OMAEG 11 would be based off of the customers' PLCs
3 and firm service level.

4 Q. Okay. Thank you. Let's turn to your
5 testimony page 15.

6 A. Okay.

7 Q. Beginning on page 15, line 9, you discuss
8 inactive riders, correct?

9 A. Yes.

10 Q. On line 10, you say these balances are
11 associated with "inactive or expired riders, or
12 otherwise not currently included in active tariffs."
13 Do you see that?

14 A. Yes.

15 Q. So tariffs associated with the balances
16 listed are not currently being charged or credited to
17 customers, correct?

18 A. Correct.

19 Q. On line 12, you say the list of balances
20 are "as of December 31, 2022." Do you see that?

21 A. Yes.

22 Q. Do any of the listed balances need to be
23 reconciled past December 31, 2022?

24 A. So the table shown is this, my testimony,
25 are the balances as of December 31, 2022. What the

1 Companies' proposal is is to move those balances into
2 the Companies' Rider VMC at the time the ESP is
3 approved. So once the ESP goes into effect June 1 of
4 2024, whatever the balances are at that time would be
5 moved into Rider VMC.

6 Q. So would the balances change as a result
7 of anything that happened after December 31, 2022?

8 A. Yes.

9 Q. Which ones?

10 A. There will be ones that are -- that
11 include a carrying cost.

12 Q. And which ones? Which ones are those?
13 I'm sorry.

14 A. What I can recall all EDR provision (g)
15 and municipal distribution tax would include a
16 carrying cost.

17 Q. Just those two?

18 A. As I remember today.

19 MS. BOTSCHNER-O'BRIEN: Okay. Thank you.
20 That's all I have of this witness.

21 EXAMINER ADDISON: Thank you very much,
22 Ms. O'Brien.

23 Mr. Keaney, redirect?

24 MR. KEANEY: If I could have one moment,
25 your Honor.

1 EXAMINER ADDISON: Absolutely. Let's go
2 off the record.

3 (Discussion off the record.)

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

6 Mr. Keaney, any redirect?

7 MR. KEANEY: Yes, your Honor, just very
8 briefly.

9 EXAMINER ADDISON: Please proceed.

10 - - -

11 REDIRECT EXAMINATION

12 By Mr. Keaney:

13 Q. Mr. McMillen, do you recall earlier
14 Attorney Examiner Price asking about a hypothetical
15 situation where the DCR revenue caps increase by
16 15 million each year during a two-year period?

17 A. I do.

18 Q. And do you have any clarifications
19 regarding your answer to that hypothetical?

20 A. I do.

21 Q. And what are those?

22 THE WITNESS: Sorry. I misinterpreted
23 your question.

24 EXAMINER PRICE: Probably a bad question.
25 Go ahead.

1 THE WITNESS: As I thought about it, yes,
2 yesterday. So in your hypothetical in year one, you
3 had caps increasing \$15 million, in year two
4 increasing \$15 million to \$30 million. So on a
5 cumulative basis from year one and year two, the
6 total cap for those two years would be \$45 million.

7 I believe in your example you said in
8 year one what if your revenue requirement was
9 \$15 million. If the Companies recovered \$14 million
10 in year one, the Companies would be able based off
11 their currently approved Rider DCR and proposal be
12 able to collect \$31 million the second year to total
13 \$45 million, subject to the Companies having revenue
14 requirements supporting that \$31 million.

15 EXAMINER PRICE: Thank you.

16 MR. KEANEY: No further questions, your
17 Honor.

18 EXAMINER ADDISON: Thank you.

19 EXAMINER PRICE: I have about a couple
20 questions, two or three, similar to what I asked you
21 yesterday. If you could turn to page 7 of your
22 testimony.

23 EXAMINER ADDISON: Just quickly, just to
24 clear the air, we'll go through recross real quick.

25 OELC?

1 MR. WILLISON: None, your Honor.

2 EXAMINER ADDISON: Thank you.

3 OEG?

4 MS. COHN: No, your Honor.

5 EXAMINER ADDISON: RESA?

6 MR. PRITCHARD: None, your Honor.

7 EXAMINER ADDISION: OCC?

8 MR. FINNIGAN: None unless there are any
9 further matters that are brought up.

10 EXAMINER ADDISON: You will not be given
11 that opportunity so.

12 MR. FINNIGAN: Then I have none.

13 EXAMINER ADDISON: Thank you.

14 OMAEG?

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

16 EXAMINER ADDISON: Kroger?

17 MS. WHITFIELD: No, thank you, your
18 Honor.

19 EXAMINER ADDISION: NRG?

20 MR. LANG: No, your Honor.

21 EXAMINER ADDISION: OPAC?

22 MR. DOVE: No, thank you, your Honor.

23 EXAMINER ADDISION: Walmart?

24 MR. UNGER: No.

25 EXAMINER ADDISION: NOAC?

1 MR. HAYS: No.

2 EXAMINER ADDISION: OEC?

3 MS. NORDSTROM: No.

4 EXAMINER ADDISION: Nucor?

5 MR. LAVANGA: No, thank you.

6 EXAMINER ADDISON: Thank you.

7 EXAMINER PRICE: Thank you.

8 - - -

9 EXAMINATION

10 By Examiner Price:

11 Q. Okay. Now to turn page 7 of your
12 testimony.

13 A. I'm there.

14 Q. You talk about Rider DCR promoting
15 gradualism in setting customers' rates including
16 annual rate in -- revenue increases through the Rider
17 DCR revenue caps. Do you believe that adjustable
18 rate mechanisms which include revenue caps such as
19 you propose promote rate certainty?

20 A. Yes.

21 Q. Do you believe they promote rate
22 stability?

23 A. Yes.

24 Q. Do you believe they promote
25 predictability?

1 A. Yes.

2 EXAMINER PRICE: Thank you. I'm done.

3 - - -

4 EXAMINATION

5 By Examiner Addison:

6 Q. I have just a few additional questions,
7 Mr. McMillen, if you'll indulge me. On page 4 and 5
8 of your testimony where you discuss these annual
9 aggregate revenue cap increases for Rider DCR tied to
10 the Companies' reliability performance metrics, do
11 you see that?

12 A. Yes.

13 Q. These caps are based on the existing
14 CAIDI and SAIFI metrics, correct?

15 A. The Companies' current standards, yes.

16 Q. Do you happen to know what those are off
17 the top of your head?

18 A. They are in Witness Richardson's
19 testimony, so sorry I don't have it off the top of my
20 head.

21 Q. Thank you. That's fine. If there is any
22 portion of my questioning that would be better
23 answered by Witness Richardson, just let us know.

24 A. Okay.

25 Q. Do you know if the Companies currently

1 have an Application before the Commission requesting
2 revision of those performance -- those reliability
3 performance metrics?

4 A. I'm aware there is an Application.

5 Q. And if the Commission were to modify the
6 existing metrics, those would then be the metrics
7 upon which the Company would base the amount of the
8 aggregate annual revenue cap increase for Rider DCR;
9 is that correct?

10 A. Yes.

11 Q. And very quickly do you know if -- if any
12 of the three operating companies have failed to meet
13 the existing -- the existing reliability performance
14 metrics during the term of ESP IV?

15 A. I think that's in Witness Richardson's
16 testimony. I just can't recall.

17 EXAMINER ADDISION: That's fine. Thank
18 you very much. Those are all the questions I had.
19 You are excused.

20 THE WITNESS: Thank you.

21 EXAMINER ADDISON: Thank you very much
22 for your testimony.

23 I believe, Mr. Keaney, you had previously
24 moved for the admission of Company Exhibit 3.

25 MR. KEANEY: Yes, your Honor.

1 EXAMINER ADDISON: Are there any
2 objections to the admission of that exhibit at this
3 time?

4 Hearing none, it will be admitted.

5 (EXHIBIT ADMITTED INTO EVIDENCE.)

6 EXAMINER ADDISON: Let's go off the
7 record.

8 (Discussion off the record.)

9 EXAMINER ADDISON: Let's go back on the
10 record.

11 OELC, will you be moving any exhibits
12 into the record?

13 MR. WILLISON: Yes, your Honors. OELC
14 moves for the admission of OELC Exhibits 1 and 2, and
15 at this time OELC will not move for admission of
16 Exhibit 3. We may still use that exhibit, the PJM
17 report on Winter Storm Elliott, for other witnesses.

18 EXAMINER ADDISON: Thank you. That's
19 noted. Are there any objections to the admission of
20 OELC Exhibits 1 and 2 at this time?

21 MR. KEANEY: None from the Companies,
22 your Honor.

23 EXAMINER ADDISON: Thank you. Hearing no
24 other objections, we will be admitting those at this
25 time.

1 (EXHIBITS ADMITTED INTO EVIDENCE.)

2 EXAMINER ADDISON: Mr. Pritchard.

3 MR. PRITCHARD: Yes. At this time I
4 would move for the admission of RESA Exhibits 1
5 through 8. I do have one clarification for the
6 record. When I marked RESA Exhibit 5, I identified
7 it for the record as the response to PUCO-DR-6
8 Attachment 1. My exhibit is one of three pages of
9 the Excel file. This was the summary page. Just
10 wanted to make the record on that clear.

11 EXAMINER ADDISON: Thank you. I believe
12 that was the exchange we had regarding OMAEG --
13 what's been marked as OMAEG Exhibit 12C; is that
14 correct, Mr. Pritchard?

15 MR. PRITCHARD: 12C had DR-6 Attachment
16 2. But their -- their Attachment 1 was also just the
17 summary sheet that I had. The other two were
18 voluminous pages of an Excel file not easily
19 printable.

20 EXAMINER ADDISON: Thank you very much,
21 Mr. Pritchard. We appreciate the clarification.

22 Are there any objections to RESA
23 Exhibits 1 through 8 at this time?

24 MR. KEANEY: Yes, your Honor. The
25 Companies object to RESA Exhibit No. 6.

1 EXAMINER ADDISON: Do you have any
2 objections to the other exhibits noted?

3 MR. KEANEY: No, your Honor.

4 EXAMINER ADDISON: Thank you.

5 Any other objections to RESA Exhibit 1
6 through 5 or 7 and 8?

7 I will be admitting those exhibits at
8 this time.

9 (EXHIBITS ADMITTED INTO EVIDENCE.)

10 EXAMINER ADDISON: Mr. Keaney, what's
11 your objection as to RESA Exhibit 6?

12 MR. KEANEY: So the Commission has
13 scheduled -- and RESA Exhibit 6 is Mr. McMillen's
14 Grid Mod II testimony. The Commission has scheduled
15 an evidentiary hearing in that case for about two
16 months from now and that case would consider
17 Mr. McMillen's previous filed testimony.

18 Given that the evidentiary hearing is
19 forthcoming, the Companies have not been afforded an
20 opportunity in Grid Mod II to modify that testimony
21 to the extent the Companies would deem necessary.
22 The determination as to whether that exhibit --
23 whether Mr. McMillen's testimony ought to be admitted
24 should be made in that proceeding in Grid Mod II. It
25 would be premature and unfairly prejudicial to the

1 Companies to admit that testimony in this case before
2 the Companies have an opportunity to present it to
3 the Commission in a completely separate proceeding
4 which, again, is scheduled in less than two months
5 from now.

6 I would also just like to note that RESA
7 Exhibit 6 is not the full testimony of Mr. McMillen
8 in Grid Mod II. It is only a portion of it. It is
9 missing 26 pages from Exhibit B. So under -- again
10 under Rule 106 of the Ohio Rules of Evidence, we are
11 entitled to a full copy of that exhibit.

12 And then last but not least, if the
13 parties are willing to seek the admission of
14 Mr. McMillen's Grid Mod II testimony in this case, if
15 parties are willing to stipulate that into the record
16 and we can stipulate into the record in Grid Mod II,
17 of course, they wouldn't have an opportunity for
18 cross-examination but that's also an option. Thank
19 you, your Honor.

20 EXAMINER ADDISON: Thank you, Mr. Keaney.

21 EXAMINER PRICE: Great option.

22 EXAMINER ADDISON: Mr. Pritchard.

23 MR. PRITCHARD: Yes. As the testimony
24 the first two days as indicated including
25 voluminously on the cross of Mr. McMillen, the

1 Companies have proposed Rider AMI in this case to
 2 collect costs of Rider Smart Grid I and if approved
 3 Smart Grid II. I believe when we get to Ms. Patel
 4 maybe this afternoon, the record will be clear the
 5 Grid Mod II costs are not reflected in her testimony.
 6 I asked Mr. McMillen questions including their
 7 projected revenue requirements that would -- and he
 8 testified they would, in fact, flow through Rider AMI
 9 during the term of ESP V if Grid Mod II was approved.

10 Now, the Company elected not to reflect
 11 these potential hypothetical costs in their bill
 12 impacts in this case, but just because the Company
 13 decided to omit them because the Commission has not
 14 yet authorized them, I believe we should be entitled
 15 to indicate that there are alternative views to the
 16 bill impacts of Rider AMI, shouldn't be approved in
 17 this case to flow through these other costs.

18 And as far as whether there is errors,
 19 corrections, I think the Commission is well versed in
 20 knowing that the Companies' proposed Application and
 21 proposed costs are not necessarily determinative of a
 22 final outcome, but I think understanding the
 23 magnitude of the Companies' proposed revenue
 24 requirements would be helpful to the Commission's
 25 consideration in this case, and I would note that the

1 witness answered questions about my exhibit on the
2 transcript, so it's not just this exhibit but there's
3 cross-examination on the record. Thank you.

4 EXAMINER ADDISON: Thank you,
5 Mr. Pritchard.

6 Mr. Keaney, last word.

7 MR. KEANEY: Yes. To be clear the
8 \$626 million that counsel is referring to is already
9 in the record.

10 I would also like to just point out that
11 although Rider AMI is being proposed to be continued
12 in this proceeding, the total costs are actually
13 populated in these other proceedings. And as a
14 result, it would be unfair again for the -- the
15 admission of Mr. McMillen's testimony in that case
16 before the hearing has even commenced and giving the
17 Companies an opportunity to make corrections to it.

18 EXAMINER PRICE: Where in the record is
19 the \$606 million [SIC] you referenced?

20 MR. KEANEY: Mr. McMillen testified to
21 that, your Honor, to our understanding.

22 EXAMINER PRICE: So you are not objecting
23 to his testimony here, just the admission of the
24 document.

25 MR. KEANEY: Correct, your Honor.

1 EXAMINER PRICE: Mr. Pritchard, different
2 question, you did not use this testimony to impeach
3 him on a prior inconsistent statement or anything
4 like that, did you?

5 MR. PRITCHARD: No. I was just using it
6 for the fact of the proposed revenue requirements in
7 the other case, and I also had asked him questions
8 about the Grid Mod I costs when we were going through
9 this that he testified to on the record. And I did
10 have one iss -- item on the completeness.

11 MR. KEANEY: Mr. Pritchard, can you speak
12 up?

13 EXAMINER ADDISON: Thank you.

14 MR. PRITCHARD: As to completeness, I
15 agree with Mr. Keaney that there is a rule addressing
16 completeness. It doesn't prohibit admissibility. It
17 allows the adverse party when there is an incomplete
18 document, if they believe the complete document would
19 help the fact finder, they can move for the admission
20 of the complete document. What was not included in
21 my exhibit are bill impacts that were attached in
22 Exhibit B. I have absolutely no objection to
23 including the full document which were again just
24 omitted bill impacts.

25 EXAMINER ADDISON: Thank you,

1 Mr. Pritchard.

2 At this time we will not be admitting
3 RESA Exhibit 6 into the record.

4 OMAEG.

5 MS. BOJKO: Thank you, your Honor. At
6 this time OMAEG moves the admission of OMAEG
7 Exhibit 4, OMAEG Exhibit 5, OMAEG 6, I would like to
8 come back to 7 in a minute, OMAEG Exhibit 8, 9, 10,
9 11, 12. These are all Data Responses -- Data Request
10 Responses from the Company.

11 EXAMINER ADDISON: Thank you. Any
12 objections to the admission of OMAEG Exhibits 4, 5,
13 6, 8, 9, 10, 11, or 12C?

14 MR. KEANEY: Yes, your Honor, the
15 Companies object to OMAEG Exhibit 9.

16 EXAMINER ADDISON: No other objections?

17 MS. BOJKO: And, your Honor, for 12C you
18 asked that we redact Attachment 2 for confidentiality
19 purposes. I have done that redaction but brought
20 copies today and shared with FirstEnergy's counsel,
21 and they have agreed to the redactions, so I am not
22 sure if we want to do like an OMAEG Exhibit 12 being
23 the public version and then 12C being the
24 confidential version.

25 EXAMINER ADDISON: I think that makes the

1 most sense, Ms. Bojko. So we will go ahead and mark
2 the redacted version of OMAEG Exhibit 12C as OMAEG
3 Exhibit 12.

4 (EXHIBIT MARKED FOR IDENTIFICATION.)

5 EXAMINER ADDISON: And just to clarify,
6 you will be moving both of those exhibits.

7 MS. BOJKO: Oh, sorry. Yes, your Honor.
8 Thank you. OMAEG moves OMAEG Exhibit 12 and OMAEG
9 Exhibit 12C.

10 EXAMINER ADDISON: All right. Thank you.
11 With that clarification, did you have any additional
12 objections, Mr. Keaney, to any of those exhibits?

13 MR. KEANEY: No, your Honor.

14 EXAMINER ADDISON: Thank you. Any other
15 objections to OMAEG Exhibits 4 through 6, 8, 10
16 through 12 and 12C?

17 MS. BOTSCHNER-O'BRIEN: Your Honors,
18 could we get a copy of redacted 12? We don't have
19 that.

20 MS. BOJKO: Yes. I will take care of
21 that.

22 EXAMINER ADDISON: Yes.

23 MS. BOTSCHNER-O'BRIEN: Thank you.

24 MS. BOJKO: May I do that at a break or
25 she wants to see it now?

1 EXAMINER ADDISON: Would you like to see
2 that before we move these into the record,
3 Ms. O'Brien?

4 MS. BOTSCHNER-O'BRIEN: That's fine.
5 Thank you.

6 EXAMINER ADDISON: Thank you very much.

7 All right. Hearing no objections, we
8 will be moving OMAEG Exhibits 4, 5, 6, 8, 10, 11, 12,
9 and 12C into the record.

10 (EXHIBITS ADMITTED INTO EVIDENCE.)

11 EXAMINER ADDISON: Mr. Keaney, what's
12 your objection to OMAEG Exhibit 9?

13 MR. KEANEY: Thank you, your Honor. The
14 Companies would reassert the objections that are
15 stated in response to this particular interrogatory
16 from OCC. There are three principal objections at
17 issue here. One is privilege. The second is over --
18 is overbroad and unduly burdensome. And the third is
19 relevance.

20 Just to start with relevance, this
21 operational benefits assessment survey which is the
22 subject of this particular interrogatory was filed in
23 a completely separate proceeding. Since that report
24 was issued, numerous parties, most of whom are in
25 this room today, filed comments concerning that

1 operational benefits assessment in Grid Mod I. The
 2 Commission is currently considering those comments.
 3 The reply comments were only filed most -- as
 4 recently as August 25, 2023. No opinion or order has
 5 been issued in that proceeding. And so this is not
 6 the appropriate forum to take a second, third, and
 7 fourth bite at the apple on those issues that are
 8 being litigated in that particular proceeding.

9 Also would just like to mention the
 10 Companies did answer the discovery responses but they
 11 answered them subject to those objections. And the
 12 Companies have made a very honest and transparent
 13 attempt to accommodate Intervenor discovery requests
 14 throughout this proceeding. We've had over 800
 15 discovery requests without even mentioning the
 16 multiple subparts, some as many as 9, 10 subparts on
 17 one request. And out of all those requests -- the
 18 Companies have had one discovery request that has
 19 been brought before this Commission in a motion to
 20 compel, and in that case the Commission sided with
 21 the Companies saying they had answered the request.

22 We are -- we are committed to trying to
 23 be as transparent and accommodating as possible, but
 24 we also want to assert our right to those objections,
 25 and so we would ask that the Bench consider those

1 objections that are stated in the interrogatory and
2 preserve them for the record and reasserted here.

3 Thank you, your Honor.

4 EXAMINER ADDISON: Thank you, Mr. Keaney.

5 EXAMINER PRICE: What's the basis of your
6 claim of work product or privilege?

7 MR. KEANEY: There were communications
8 made. Obviously I can't reveal the contents of those
9 communications between attorneys and Mr. McMillen
10 regarding the very question at the heart of that --
11 the very topic at the heart of that question which,
12 your Honor, is why we couldn't fully explain because
13 those communications are, in fact, privileged.

14 EXAMINER PRICE: But the part after the
15 word objections, is there anything privileged in
16 that -- the rest of that sentence?

17 MR. KEANEY: Oh, no, your Honor. The
18 privileged information was withheld. We didn't put
19 any privileged information in the response itself.

20 EXAMINER PRICE: So what's your
21 privilege -- the phrase or sentence fragment, "the
22 only recommendation in the audit report regarding
23 implementation of Rider AMI," what is your privileged
24 claim to that phrase?

25 MR. KEANEY: The discussions about the

1 recommendations in the audit report between counsel
2 and Mr. McMillen.

3 EXAMINER PRICE: But that's not what we
4 are talking about here. We are just talking about a
5 simple fact.

6 MR. KEANEY: I'm sorry. What simple fact
7 are you referring to?

8 EXAMINER PRICE: There is only
9 recommendation -- I mean, there's nothing privileged
10 about that -- the second half of that sentence, is
11 there?

12 MR. KEANEY: No, your Honor. Our
13 objection is to relevance of the survey still stands.

14 EXAMINER PRICE: Thank you.

15 EXAMINER ADDISON: Ms. Bojko, do you want
16 to respond to the relevance?

17 MS. BOJKO: Yes. Right. As far as the
18 other two, the privilege, I agree. I said I am
19 confident that they wouldn't disclose anything, and I
20 am not trying to elicit any confidential information
21 by admitting this document.

22 As far as relevance, the Company is
23 requesting that AMI Grid I costs be passed on through
24 Rider AMI through the term of ESP V. The witness
25 specifically cites to this proceeding on page 9 of

1 his testimony on lines 11 through 14 and goes on to
 2 explain under ESP IV Rider AMI Grid Mod I, what it
 3 was authorized to do, and the witness was on the
 4 stand and he was subject to cross-examination on this
 5 issue of what recommendations that they will carry
 6 forward in their proposal under ESP V. So they are
 7 asking to continue Rider AMI, they are asking to
 8 continue to collect costs from Grid Mod I in the
 9 ESP V, and then they are also asking to increase
 10 those costs through Grid Mod II. So I think we are
 11 able and should be allowed to ask questions regarding
 12 the audit proceedings that occurred and what flows
 13 through the AMI Rider during the ESP V period which
 14 are the questions that I asked yesterday. Very
 15 relevant.

16 EXAMINER ADDISON: Thank you.

17 MR. KEANEY: If I could just make one
 18 quick one. I want to mention the relevance standard
 19 in discovery is likely to lead to the admissible
 20 evidence in this hearing. Here there is a higher
 21 standard for relevance. It's not just, you know,
 22 likely. It has to be admissible. And so I just want
 23 that to be considered as part of our relevance
 24 objection. Thank you.

25 EXAMINER PRICE: Mr. Keaney, the deemed

1 savings which, subject to Commission review, if the
2 Commission orders, it will be flowed through Rider
3 AMI, right?

4 MR. KEANEY: That's my understanding,
5 yes.

6 EXAMINER PRICE: And so that does have an
7 impact on the amount of Rider AMI that we're
8 authorizing in this proceeding, right?

9 MR. KEANEY: Yes, your Honor. I think
10 the concern though is that these issues, these very
11 issues with operational benefits, the recommendation,
12 all that is being considered separately. Our concern
13 is that, one, it's not the appropriate forum and,
14 two, there could be duplicative rulings.

15 EXAMINER ADDISON: But these will be
16 costs running through Rider AMI, correct?

17 EXAMINER PRICE: Right now, we are
18 talking about the narrow question of the deemed
19 savings for years four through six. We are not
20 talking about anything else in that audit report.

21 MR. KEANEY: The only point I would just
22 respond to that the discovery response goes beyond
23 just that point. It asks for all recommendations,
24 your Honor.

25 EXAMINER ADDISON: Thank you all for your

1 comments. We will be admitting OMAEG Exhibit 9 into
2 the record.

3 (EXHIBIT ADMITTED INTO EVIDENCE.)

4 MS. BOJKO: Thank you, your Honor. One
5 last, OMAEG Exhibit 7, I'm asking that administrative
6 notice be taken with regard to the Daymark audit
7 report. We attempted to ask some questions about
8 that yesterday. Even though the witness cites to the
9 case and he is listed as the responsible party for
10 the -- for the audit report and the discovery
11 surrounding the audit report, again, these are going
12 to be costs that are passed on through Rider AMI and
13 any savings will be passed on through Rider AMI
14 during the ESP V period.

15 So we think that administrative notice is
16 important because these -- the result of these audits
17 will have to be passed on. The Companies have
18 admitted that they will implement the recommendations
19 in ESP V. So I did -- because of the counsel's
20 concern about admissibility yesterday which was an
21 incomplete report, I don't think that stops
22 questioning in the hearing, but it goes to
23 admissibility, and I have brought full copies of the
24 audit report today for counsel and the Bench for
25 admissibility purposes so that there is a complete

1 document for administrative notice to be taken.

2 EXAMINER ADDISON: Thank you, Ms. Bojko.

3 Are there any objections?

4 MR. KEANEY: Yes, your Honor. The

5 Companies have an objection to OMAEG Exhibit 7.

6 EXAMINER ADDISON: I don't believe she is
7 moving. I believe she is moving for administrative
8 notice.

9 MR. KEANEY: I'm sorry. We have an
10 objection.

11 EXAMINER ADDISON: Full audit report.

12 MR. KEANEY: Yes. We were objecting to
13 the administrative notice being taken as it has not
14 met the standard.

15 EXAMINER ADDISON: Correct me if I am
16 wrong with that, Ms. Bojko.

17 MS. BOJKO: That's correct, your Honor,
18 admin notice.

19 EXAMINER ADDISON: Thank you.

20 Do you want to add anything to that,
21 Mr. Keaney?

22 MR. KEANEY: Yeah. I would just like to
23 say that part of administrative notice, and I think
24 the Bench referred to this yesterday, are things like
25 market indices, things that are not reasonably in

1 dispute. If you look at the Grid Mod I operational
2 benefits assessment, not only do the Companies
3 dispute some of the findings in that case but other
4 parties do as well. So to claim that it meets the
5 high standard of administrative notice where if it's
6 reasonable -- it reasonably cannot be questioned, it
7 does not meet that standard. Thank you, your Honor.

8 EXAMINER PRICE: Ms. Bojko, I ask you the
9 converse question I asked Mr. Keaney, the only thing
10 relevant in the audit report is the deemed savings --
11 in terms of Rider AMI is the deemed savings the
12 Commission may or may not require the Company to pass
13 through. You've already got OMAEG 9 in the record.
14 Why do you need the audit report?

15 MS. BOJKO: Sure, your Honor. Thank you
16 for that question. OMAEG Exhibit 7, the audit
17 report, is no different than the Rider NMB audit
18 report you took administrative notice of yesterday as
19 well as the Blue Ridge audit report that you took
20 administrative notice of yesterday.

21 But the importance of the audit report is
22 the auditor's recommendations. This rider is going
23 to continue, and this rider is going to collect costs
24 from Grid Mod I. It's going to collect costs that
25 have already been incurred, and it's going to

1 continue to collect costs from Grid Mod I so there
2 are other recommendations in this audit report that
3 before the Commission approves Rider AMI, they need
4 to be aware of because we now have a Grid Mod II
5 proceeding and we need to make sure that the Company
6 is taking care of their books, doing the proper
7 tracking and accounting. And that is the
8 administrative notice of the audit report that's
9 important as we continue a rider and then also add
10 additional costs to that rider.

11 So I think this particular audit report
12 is very important for the Commission as they move
13 forward because they could condition any Rider AMI
14 approvals to making sure that the Company is
15 following the proper accounting and regulatory
16 tracking that the auditor recommends in this case.

17 EXAMINER PRICE: Well, as to the rider in
18 the pilot program audit report, the whole point of
19 that report was to inform the Commission and the
20 parties for this very proceeding which is why we took
21 administrative notice. That's why it was originally
22 ordered way back when in 2016 was so that when we had
23 this proceeding, we could have some facts as to what
24 we were talking about.

25 MR. KEANEY: Your Honor, if I could just

1 respond one very briefly.

2 EXAMINER PRICE: Yes.

3 EXAMINER ADDISON: You may.

4 MR. KEANEY: There is a big difference
5 between the DCR audit report in that the Companies
6 didn't take a position with respect to the findings
7 in that report. That is not the same as OMAEG
8 Exhibit 7. That is a material difference. Thank
9 you.

10 EXAMINER ADDISON: Thank you. We agree
11 with the Companies. We believe the information that
12 would have been relevant to this proceeding is
13 contained in OMAEG Exhibit 9 which has already been
14 admitted, so we will deny your motion for
15 administrative notice of OMAEG Exhibit -- I'm sorry,
16 of the audit report filed in Case 16-481-EL-UNC on
17 November 14, 2022.

18 MS. BOJKO: Thank you, your Honor. I
19 have nothing further.

20 EXAMINER ADDISON: Thank you very much.

21 Let's go ahead and go off the record.

22 (Discussion off the record.)

23 EXAMINER ST. JOHN: All right. Let's go
24 back on the record.

25 Mr. Alexander, would you like to call

1 your next witness?

2 MR. ALEXANDER: Thank you, your Honor.

3 The Companies call Ms. Patel.

4 EXAMINER ST. JOHN: Good afternoon,

5 Ms. Patel.

6 (Witness sworn.)

7 EXAMINER ST. JOHN: Thank you. Please be

8 seated.

9 MR. ALEXANDER: Your Honor, I have asked
10 to be -- may I have marked for identification as
11 Companies' Exhibit 4, the Direct Testimony of Dhara
12 Patel.

13 EXAMINER ST. JOHN: You may.

14 (EXHIBIT MARKED FOR IDENTIFICATION.)

15 - - -

16 DHARA PATEL

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

19 DIRECT EXAMINATION

20 By Mr. Alexander:

21 Q. Ms. Patel, could you please state your
22 name for the record.

23 A. Dhara Patel.

24 COURT REPORTER: Her mic is not on.

25 A. Dhara Patel.

1 Q. And did you cause to be filed prefiled
2 written direct testimony in this proceeding?

3 A. Yes.

4 Q. Do you have any changes or corrections to
5 that testimony today?

6 A. No.

7 Q. And if I were to ask you the same
8 questions as appear in that testimony again today,
9 would your answers be the same?

10 A. Yes.

11 MR. ALEXANDER: Your Honor, the Companies
12 move for the admission of Company Exhibit 4, subject
13 to cross-examination, and the witness is available
14 for cross.

15 EXAMINER ST. JOHN: Thank you.

16 OELC.

17 MR. WILLISON: Yes, your Honor.

18 - - -

19 CROSS-EXAMINATION

20 By Mr. Willison:

21 Q. Good afternoon, Ms. Patel.

22 A. Good afternoon.

23 Q. My name is Paul Willison, and I represent
24 OELC in this case, an Intervenor party. I have a few
25 questions for you that relate to the volumetric risk

1 cap and Generation Cost Reconciliation Rider,
2 otherwise known as Rider GCR.

3 But before we begin, I just have a few
4 baseline questions just to make sure -- just to make
5 sure we are all on the same page. Have you had a
6 chance to review all of the relevant discovery and
7 filings in this case?

8 MR. ALEXANDER: Objection.

9 EXAMINER ST. JOHN: Grounds?

10 MR. ALEXANDER: Vague. Which discovery
11 counsel considers relevant is unknowable for the
12 witness.

13 EXAMINER ST. JOHN: Would you like to
14 point the witness to a more specific document or set
15 of documents?

16 MR. WILLISON: I'll rephrase, your Honor.

17 EXAMINER ST. JOHN: Thank you.

18 Q. (By Mr. Willison) Ms. Patel, have you had
19 a chance to review all relevant inter -- responses to
20 interrogatories and responses to requests for
21 production of documents that relate to your direct
22 testimony that you filed in this case on April 5,
23 2023?

24 A. Yes.

25 Q. And can you think of any reason why you

1 can't testify truthfully today?

2 MR. ALEXANDER: Objection.

3 EXAMINER ST. JOHN: Foundation for your
4 objection?

5 MR. ALEXANDER: The witness is under
6 oath, sworn oath, to testify truthfully. It's
7 argumentative.

8 EXAMINER ST. JOHN: Sustained.

9 MR. WILLISON: Withdrawn, your Honor.

10 Q. (By Mr. Willison) Ms. Patel, during my
11 questioning, I'll refer to the three Companies, that
12 is, Ohio Edison Company, the Cleveland Electric
13 Illuminating Company, and The Toledo Edison Company
14 as FirstEnergy or the Companies. Do you understand?
15 I may occasionally reference FirstEnergy Service
16 Corporation, but I will note that explicitly. Do you
17 understand?

18 A. Yes.

19 Q. And like my colleagues, I try to be as
20 clear and concise as possible, so with that in mind,
21 unless I hear you ask for a reclarification or ask me
22 to reask the question, I will assume that you
23 understand the question. Do you understand?

24 MR. ALEXANDER: Objection.

25 EXAMINER ST. JOHN: Grounds?

1 MR. ALEXANDER: Instructions to the
2 witness is inappropriate. She's asking questions
3 [SIC].

4 EXAMINER ST. JOHN: I will overrule this
5 one but let's go ahead and move the questions
6 forward.

7 MR. WILLISON: Absolutely, your Honor.

8 Q. (By Mr. Willison) Ms. Patel, do you have
9 before you a copy of your direct testimony filed in
10 this case?

11 A. Yes.

12 Q. And, Ms. Patel, on page 2, lines 2 to 19,
13 do you begin to discuss how FirstEnergy will recover
14 the costs of Standard Service Offer generation costs
15 or generation rates?

16 A. Sorry. Can you repeat the question,
17 please?

18 Q. On page 2, lines 2 through 19, you begin
19 to discuss how FirstEnergy will recover the costs of
20 Standard Service Offer generation rates, correct?

21 A. On page 2, beginning on line 2, I discuss
22 how FirstEnergy Ohio Companies recover the costs of
23 SSO service.

24 Q. And you generally state on lines 2 --
25 excuse me, page 2, lines 4 to 7 that "The Companies

1 recover the costs associated with SSO service through
2 the Generation Service Rider ("Rider GEN"), the
3 Generation Cost Reconciliation Rider ("Rider GCR"),
4 the Alternative Energy Resource Rider ("Rider AER"),
5 and the Non-Distribution Uncollectible Rider ("Rider
6 NDU"), correct?

7 A. Yes.

8 Q. So just to confirm, will FirstEnergy
9 recover the costs of SSO service through any other
10 riders in ESP -- during ESP V?

11 A. No.

12 Q. You then state "Rider GEN is updated
13 annually and is designed to recover the costs of
14 Companies' purchase power expense resulting from the
15 competitive bidding process ("CBP") for SSO
16 customers," correct?

17 A. Yes.

18 Q. And you also say two sentences later on
19 page 2, lines 11 through 13, "The Companies' actual
20 purchase power expenses and Rider GEN revenues are
21 reconciled in Rider GCR," correct?

22 A. Yes, that is stated on line 12.

23 Q. What does the term "actual purchase power
24 expenses" mean as used in your testimony?

25 A. Actual purchase power associated with

1 generation service.

2 Q. And whose actual purchased power are you
3 referencing?

4 A. I'm sorry. Could you please rephrase the
5 question?

6 Q. I'll move on. What does the term
7 "reconcile" mean as used in your testimony?

8 A. Rider GEN revenues are reconciled in
9 Rider GCR.

10 Q. And in the answer that you just gave,
11 what does the term "reconcile" mean?

12 A. It gets trued up.

13 Q. Trued up with?

14 A. With actual purchased power expense.

15 Q. Okay. And so in that answer you just
16 gave, actual purchased power expenses, how will the
17 Companies' actual purchase power expenses and Rider
18 GEN revenue be reconciled? How will they be trued up
19 in Rider GCR?

20 A. The Rider GCR revenue requirement is
21 calculated based on Rider GEN revenues and actual
22 purchased power expenses. The rates for Rider GCR
23 are derived based on the difference of these
24 components.

25 Q. Thank you. Ms. Patel, on page 2, lines

1 22 to 23, you state "The Companies are not proposing
2 any changes to these SSO cost recovery riders in
3 ESP V," correct?

4 A. Yes.

5 Q. And in that phrase "these SSO cost
6 recovery riders" refers to Riders GEN, GCR, AER, and
7 NDU, correct?

8 A. Yes.

9 Q. Ms. Patel, two sentences later on page 3,
10 lines 1 to 2, you state that "costs associated with
11 the proposed CBP changes described in the testimony
12 of Companies' Witness Lee will be included in these
13 riders," correct?

14 A. Yes.

15 Q. And again, here these riders as used in
16 this sentence means Rider GEN, GCR, AER, and NDU,
17 correct?

18 A. Yes, and specifically Riders GEN and GCR.

19 Q. By incorporating costs associated with
20 the proposed CBP changes, will the SSO cost recovery
21 riders be changed?

22 MR. ALEXANDER: Objection.

23 EXAMINER ST. JOHN: Grounds?

24 MR. ALEXANDER: Does the question relate
25 to the rider or the cost to be included in the rider?

1 MR. WILLISON: Your Honors, the cost to
2 be included in the rider.

3 MR. ALEXANDER: Thank you.

4 MS. BOJKO: Your Honor, we are having
5 trouble hearing. I'm sorry. I know -- maybe try it
6 again. Thank you.

7 MR. WILLISON: Yes. So can you please
8 reread the question and costs to be included in the
9 rider. Thank you.

10 EXAMINER ST. JOHN: Please, can you
11 reread the question?

12 (Record read.)

13 A. The Companies are not proposing any
14 changes to these riders.

15 Q. Okay. Let's talk a bit about the
16 volumetric risk cap. You testify on page 3, lines 5
17 through 7, that "the Companies propose a volumetric
18 risk cap on load migration back to SSO service,
19 whereby excess load migration would be served at
20 market prices and not under the terms of the SSO
21 auctions," correct?

22 A. I'm sorry. Can you please repeat the
23 question?

24 Q. Sure. On page 3, lines 5 through 7, you
25 testify that "the Companies propose a volumetric risk

1 cap on load migration back to SSO service, whereby
2 excess load migration would be served at market
3 prices and not under the terms of the SSO auctions,"
4 correct?

5 A. Yes.

6 Q. Ms. Patel, what does the term "excess
7 load migration" mean as used in your testimony?

8 A. That is discussed in Witness Lee's
9 testimony.

10 Q. So --

11 A. I don't -- I'm generally familiar with
12 it. I would defer to what -- Mr. Lee and the details
13 around it.

14 Q. Ms. Patel, with your understanding of
15 this program, can you explain how this program will
16 work, the excess load migration?

17 A. I'm generally familiar with the excess
18 load migration. The details around it I would defer
19 to Witness Lee that is part of his testimony.

20 Q. Okay. To the extent that you are able,
21 why would FirstEnergy serve excess migrant load at
22 market prices and not the terms of the SSO auctions?

23 MR. ALEXANDER: Objection.

24 EXAMINER ST. JOHN: Grounds?

25 MR. ALEXANDER: The witness has twice

1 answered and indicated in her direct testimony she is
2 just referencing a proposal by Companies' Witness Lee
3 who will be testifying in this proceeding and can
4 answer all these questions.

5 EXAMINER ST. JOHN: I'll let the witness
6 answer this last question if she knows but then let's
7 go ahead and move on from there.

8 MR. WILLISON: Thank you, your Honor.

9 THE WITNESS: May I have it repeated,
10 please?

11 EXAMINER ST. JOHN: Yes, please.

12 (Record read.)

13 A. I defer to Witness Lee on the details.

14 Q. Ms. Patel, did you conduct any analysis
15 concerning the likelihood of excess load migration?

16 MR. ALEXANDER: Objection.

17 EXAMINER ST. JOHN: Grounds?

18 MR. ALEXANDER: It's the same issue.
19 This is stuff all covered in Witness Lee's testimony,
20 and per the Bench's last direction, this topic should
21 be directed to Witness Lee.

22 EXAMINER ST. JOHN: I will go ahead and
23 sustain that objection. Even, you know, in the
24 witness's testimony, this is couched as discussed by
25 Witness Lee. The witness has answered three times

1 now that Witness Lee would be the proper person to
2 ask these questions to.

3 MR. WILLISON: Absolutely, your Honor.
4 I'll move on.

5 Q. (By Mr. Willison) One final line of
6 questioning, Ms. Patel. I would like to discuss your
7 attachment in DP-1 attached to your testimony.
8 Ms. Patel, do you have before you Attachment DP-1?

9 A. Yes.

10 Q. Are you aware that for ESP V, FirstEnergy
11 has proposed changes to FirstEnergy's
12 Non-Market-Based Services Rider?

13 A. Yes. I'm generally familiar with it.

14 Q. And are you aware that FirstEnergy
15 proposed a new rider called Rider NMB 2 that would
16 charge nonresidential customers with advanced or
17 interval meters for certain transmission charges
18 based on their network service peak load, or NS --
19 excuse me, NSPL?

20 A. No.

21 Q. Ms. Patel, for bill impact summaries for
22 nonresidential customers, did you specifically
23 calculate or incorporate in your summaries any of the
24 impacts of Rider NMB 2?

25 A. No.

1 Q. And why not?

2 A. The -- my understanding is that the
3 overall non-market-based transmission costs incurred
4 by Companies from PJM is not changing. I understand
5 Witness Lawless has proposed vague design changes to
6 either NMB -- the typical bill impacts in Attachment
7 DP-1 is intended to isolate ESP V proposed changes
8 and any known changes, and the format of the typical
9 bills does not incorporate rate design changes.

10 MR. WILLISON: No further questions.

11 EXAMINER ST. JOHN: Thank you.

12 Any questions from Direct Energy?

13 MS. PETRUCCI: So I'm here on behalf of
14 Constellation.

15 EXAMINER ST. JOHN: My apologies.
16 Questions on behalf of Constellation?

17 MS. PETRUCCI: Mr. Lang is down at the
18 other end. He has Direct Energy.

19 No questions. Thank you.

20 EXAMINER ST. JOHN: Thank you. OEG?

21 MS. COHN: No, your Honor.

22 EXAMINER ST. JOHN: RESA?

23 MR. LONG: Yes, thank you, your Honor.

24 - - -

25

CROSS-EXAMINATION

By Mr. Long:

Q. Hi, Ms. Patel.

A. Hello.

Q. My name is Tom Long, and I represent RESA. In your testimony you address the capacity proxy price mechanism, correct?

A. Sorry. Could you please repeat the question?

Q. Certainly. In your testimony you address the capacity proxy price mechanism, right?

A. Yes. In my testimony I address capacity proxy price mechanism, how it will be reflected in retail rates.

Q. But it's Witness Lee that provides the specifics on how the proxy price would be determined, right?

A. Yes, that's correct.

Q. And it's also Witness Lee that provides the rationale the Companies are relying upon to support approval for that change, right?

A. Sorry. Could you please repeat that?

Q. Yes. It's Witness Lee who supplies the rationale for the proposed change, correct?

A. Yes.

1 Q. Okay. But your testimony addresses how
2 the capacity proxy price, if utilized, would flow
3 into the SSO riders, right?

4 A. How the capacity proxy price will be
5 reflected in SSO rates, yes.

6 Q. Okay. But you are not providing any
7 independent rationale to support the proxy or the
8 capacity proxy price, right? You don't supply
9 independent rationale for that, correct?

10 A. No. The details of the mechanism is
11 discussed as part of Witness Lee's testimony.

12 Q. The way the capacity proxy price
13 mechanism is proposed is that if the PJM capacity
14 price is not known, would the delivery period
15 associated with an SSO auction, the Company would
16 utilize a proxy value for capacity and provide that
17 proxy number to the SSO suppliers for use in an SSO
18 auction, right?

19 A. The details are -- on the mechanism, I
20 would defer to Witness Lee on that.

21 Q. Have you look at page 3, lines 3 through
22 14, of your direct testimony. I'm sorry, 13 through
23 14, page 3. You indicate that once the actual price
24 is known, the proxy price will still be utilized
25 until an interim Rider GEN filing is approved, right?

1 A. Sorry. Could you please repeat that?

2 Q. Yes. You indicate that once the actual
3 price is known, the proxy price will still be
4 utilized until an interim Rider GEN filing is
5 approved, right?

6 A. Are you referencing a specific line?

7 Q. From your knowledge, once the actual
8 price is known, would the proxy price still be
9 utilized until an interim Rider GEN filing is
10 approved?

11 A. So line 13 states that "any true-ups
12 between the CPP and actual capacity prices would be
13 reconciled in Rider GCR until an interim filing for
14 Rider GEN is approved that reflects the actual
15 capacity price" which means if the actual capacity
16 price is not known, Rider GEN would be filed
17 utilizing the CPP price, and once the capacity price
18 is known, Companies will file a Rider GEN filing
19 which reflects actual capacity price.

20 Q. When would you file the interim Rider GEN
21 update that you just mentioned?

22 A. Once the actual capacity price is known.

23 Q. So would you seek expedited approval for
24 that filing?

25 A. The intent to have the actual capacity

1 price to be reflected in Rider GEN since that is
2 where capacity charges are, so once the actual
3 capacity price is known, the objective would be to
4 file Rider GEN to have that reflected in the Rider
5 GEN. And until then any true-up between the CPP and
6 actual capacity price will flow to Companies' current
7 reconciliation mechanism, Rider RGC.

8 Q. Okay. When would you file the update
9 with the actuals though?

10 A. Once the actual capacity price is known.

11 Q. So like within a day?

12 MR. ALEXANDER: Objection, calls --
13 sorry. Objection.

14 EXAMINER ST. JOHN: On what grounds?

15 MR. ALEXANDER: Calls for speculation and
16 a legal conclusion as to how quickly the Companies
17 would choose to make that filing, that hypothetical
18 future filing, based on facts which are currently
19 unknown.

20 MR. LONG: Your Honor, if I may respond,
21 the witness indicated that the witness would take the
22 actual, file it so it could be trued up. I am asking
23 the timing of it. It's the mechanics. It's not a
24 legal conclusion. It's not a legal opinion, and if
25 she knows, she knows.

1 EXAMINER ST. JOHN: I will overrule the
2 objection, and the witness can answer if she knows.

3 A. I don't know.

4 Q. Well, how will the adjustment between the
5 proxy capacity price and the actual capacity price
6 occur? How does that work?

7 A. The Companies have not determined that
8 yet.

9 Q. Will you be truing up to the PJM base
10 residual auction clearing price of the actual
11 delivery year price?

12 A. The Companies have not determined that
13 yet.

14 Q. Let's assume that a proxy capacity price
15 is used for an SSO auction, okay? If the actual PJM
16 capacity price is known before the SSO delivery
17 period, will the actual capacity price be utilized in
18 calculating the SSO generation rate applicable during
19 the SSO delivery period?

20 A. Yes, if the actual capacity price is
21 known prior to filing Rider GEN.

22 Q. How soon before a delivery year is Rider
23 GEN filed?

24 A. I don't remember a specific order
25 language.

1 Q. Based on your own experience?

2 A. To the best of my knowledge, 30 days
3 prior to rates going into effect which is June 1.

4 Q. Let's talk about bill impacts. Your
5 testimony addresses the bill impacts from the
6 proposed proceeding meaning the ESP V, right?

7 A. Yes.

8 Q. Okay. As a starting point, you began
9 with actual tariff rates as of April 1, 2023, but
10 then conducted an estimated annualization for some
11 components, right?

12 A. Could you please provide me a reference
13 to my testimony?

14 Q. Sure. If you don't recall, it's page 4,
15 lines 3 to 4.

16 A. Page 4, line?

17 Q. Lines 3 to 4 in your testimony.

18 A. Yep. I'm here.

19 Q. On April 1, 2023, were the SSO generation
20 rates higher or lower than current rates?

21 MR. ALEXANDER: Could I have that
22 question read, please?

23 EXAMINER ST. JOHN: Yes, please.

24 (Record read.)

25 A. So the Companies' estimated prices based

1 on the current tariff pricing as of April 1, 2023,
2 with updates for any pricing changes that are known
3 or able to be estimated such as changes to Rider GEN
4 to incorporate the Companies' most recent SSO auction
5 results for generation prices to be effective for the
6 period June 2023 through May 2024. So they are
7 estimated as of May 2024 for purposes of this typical
8 bill analysis.

9 Q. Okay. I am not sure that answered my
10 question. My question was on April 1, 2023, were SSO
11 generation rates higher or lower than current rates?

12 A. On April 1, 2023, Rider GEN rates were
13 lower compared to June 1, 2023.

14 Q. Do you have a rough estimate of what the
15 SSO generation rate was on April 1, 2023?

16 A. No.

17 Q. Do you have a rough estimate of what the
18 SSO generation rate is today?

19 A. Yes.

20 Q. And what is it?

21 A. Around 11 cents, 12.

22 Q. Have the Companies conducted any SSO
23 auctions for delivery starting June 1 of 2024?

24 A. That is ESP V proposed period.

25 Q. ESP V is proposed to start June 1, 2024;

1 is that right?

2 A. The Companies are proposing that.

3 Q. Would the Companies need to conduct an
4 SSO auction for delivery before that period
5 commences?

6 MR. ALEXANDER: Objection.

7 EXAMINER ST. JOHN: Grounds?

8 MR. ALEXANDER: Witness Lee covers the
9 upcoming auctions and the anticipated auction for
10 June 1, 2024, at some length. And the witness has
11 already testified she's not familiar with those
12 details. I think those questions could be directed
13 to Mr. Lee.

14 EXAMINER ST. JOHN: I will go ahead and
15 overrule the objection for now, and the witness can
16 answer if she knows.

17 THE WITNESS: May I have it reread,
18 please?

19 EXAMINER ST. JOHN: Yes, you may.

20 (Record read.)

21 A. Yes.

22 Q. Okay. What were the results of that
23 auction? Did you say yes?

24 A. Yes, for that Companies will have to
25 conduct the SSO auctions for delivery period starting

1 June 1, 2024.

2 EXAMINER ADDISION: But no auctions have
3 been conducted for that delivery period to date,
4 correct?

5 THE WITNESS: Yes.

6 Q. (By Mr. Long) Page 4 of your testimony,
7 direct your attention to lines 4 through 8. Just
8 take a look at that, please.

9 A. I'm here.

10 Q. In utilizing the SSO auction results,
11 will the SSO generation delivery period of June 1,
12 2023, through May 31 of 2024, did you blend the
13 April 1, 2023, rate with these auction results or
14 simply use the auction results in your analysis?

15 A. I'm sorry. Could you please help me
16 understand your question?

17 Q. Well, you utilized the SSO auction
18 results for the SSO generation delivery period of
19 June 1, 2023, through May 31, 2024, right?

20 A. Yes.

21 Q. Okay. Did you blend the April 1, 2023,
22 rate with these actual auction -- these auction
23 results or just simply use the auction results in
24 your calculations?

25 A. I estimated Rider GEN as of May 2024

1 utilizing the most recent SSO auction results for
2 generation prices for delivery year June 2023 through
3 May 2024.

4 Q. Walk through some of the charges that you
5 included. Let's go back to your workpapers
6 Attachment DP-1 starting at page 32. Are you there?

7 A. I'm here.

8 Q. At page 32, it says "Work Papers: Ohio
9 Edison Company Typical Bill Assumptions" at the top,
10 correct?

11 A. Yes.

12 Q. Okay. It's two pages relating to the
13 Ohio Edison Company, correct, pages 32 and 33?

14 A. Yes.

15 Q. You have similar workpapers for the
16 Cleveland Electric Illuminating Company, correct,
17 pages 34 and 35?

18 A. That's correct.

19 Q. And then again for Toledo Edison,
20 correct?

21 A. Yep, pages 36 and 37 for the Toledo
22 Edison Company.

23 Q. Okay. Let's just go to page 32. There's
24 a portion that states the period as ESP IV. Do you
25 see that?

1 A. Yes.

2 Q. What is this section trying to reflect?

3 A. Could you please provide me a reference
4 to which section you are referring to?

5 Q. I am talking about the table directly
6 underneath the words "Period ESP IV." Do you see the
7 table underneath period ESP IV? That table has lines
8 16 through 29? Do you see that?

9 A. Yes.

10 Q. Okay. So what is that table with those
11 lines trying to reflect?

12 A. These are riders as of May 2024,
13 estimated as of May 2024 in ESP IV, which are going
14 to be changing, moving onto another table which has
15 year one ESP V for period June 2024 through May 2025.

16 Q. And that table you just referenced, the
17 period of June 2024 to May 2025, that's just
18 immediately below the ESP IV period, right?

19 A. Yes.

20 Q. Okay. Now, in the ESP IV period, you did
21 not list Rider AMI, correct?

22 A. I did not since it is staying flat over
23 the term of ESP V. The table with ESP IV only has
24 riders which are going to be changing which represent
25 any known changes or any new ESP V proposals.

1 Q. So you are saying your bill impact --
2 these are your workpapers, correct, for your bill
3 impacts? Right?

4 A. Yes.

5 Q. Okay. So does your bill impacts exclude
6 Rider AMI costs since it's not reflected in your
7 workpapers?

8 A. No. Sorry. The workpapers here starting
9 on page 32 only has riders which are going to be
10 changing over the term of the ESP V or any riders
11 that are known changes. And starting on page 1 of 37
12 in my Attachment DP-1 where you see the Current Bill,
13 column C, has all the other riders which are staying
14 flat.

15 Q. I'm sorry. Can you tell me again what
16 page that is you referenced?

17 A. Page 1 37 -- of 37.

18 Q. Page 1 of 37.

19 A. Yes. Attachment DP-1.

20 Q. Okay. Rider AMI has a current rate,
21 correct?

22 A. Yes. Current bills are used as starting
23 point for the nonshopping customers as of May 2024.

24 Q. And the authorized Grid Mod I plan costs
25 are currently being collected in Rider AMI, right?

1 A. I'm sorry. Can you please repeat the
2 question?

3 Q. Sure. The authorized Grid Mod I plan
4 costs are currently being collected through Rider
5 AMI, right?

6 A. I'm generally familiar with Rider AMI.
7 My understanding is yes.

8 Q. Okay. You are aware that the Companies
9 have proposed a Grid Mod II plan in Case
10 22-704-EL-UNC, right? You are aware of that?

11 A. Yes, I am aware of that.

12 Q. Are you aware that the Grid Mod II case
13 is scheduled to go to hearing in a couple of months?

14 A. Yes, I am aware of that.

15 Q. Are you aware that if Grid Mod II is
16 approved in some form, there will be additional costs
17 that flow into Rider AMI, right?

18 A. Yes, I'm generally familiar with that.

19 Q. But you chose in your bill impacts for
20 each year of ESP V to not reflect any costs proposed
21 with the Grid Mod II proposal, right?

22 A. Yes. Since the Application is still
23 pending before the Commission and the outcome is
24 currently unknown, so for the purpose of this
25 analysis, they are staying flat.

1 Q. Okay. So you made the choice not to
2 include those proposed costs, right?

3 A. The outcome is unknown.

4 Q. So on energy efficiency costs, do your
5 bill impacts reflect the Companies' proposal to
6 amortize the proposed EE/PDR portfolio plan costs
7 over eight years?

8 A. Rider EEC costs or rates which are prices
9 which are reflected in my attachment are based on
10 Witness McMillen's testimony.

11 Q. Okay. But do your bill impacts reflect
12 the proposal to amortize the EE/PDR plan costs over
13 eight years?

14 A. My bill impact analysis includes Rider
15 EEC price inputs from Witness McMillen's testimony.

16 Q. You've reviewed Witness Miller -- I'm
17 sorry, Witness McMillen's testimony, correct?

18 A. Sorry. The question was have I reviewed
19 it?

20 Q. Yes.

21 A. I briefly reviewed it.

22 Q. Okay. But you use some of --

23 A. Price inputs.

24 Q. -- the price inputs?

25 A. Yes.

1 Q. So from Witness McMillen's price inputs,
2 did you use proposed Rider EEC annual bill impacts or
3 the annual bill impacts with costs recovered in years
4 spent?

5 MR. ALEXANDER: This isn't an objection,
6 just a clarification. Are you referring to the page
7 33, Rider EEC impacts? I am just trying to track
8 where you are.

9 MR. LONG: It's Exhibit -- Companies'
10 Exhibit 3 Attachment BSM-2, page 5.

11 MR. ALEXANDER: Okay. So you are in the
12 McMillen testimony.

13 MR. LONG: Correct.

14 MR. ALEXANDER: Oh, okay. Thank you.

15 Q. (By Mr. Long) Ms. Patel. Let me make
16 things a little more clear. On the desk there should
17 be Companies' Exhibit 3. It's Mr. McMillen's direct
18 testimony. Do you have that?

19 A. Yes.

20 Q. Okay. So if you flip to the back to
21 Attachment BSM-2, you can scroll on over to page 5.

22 MR. ALEXANDER: Maybe to fast forward
23 this, if you look at DP-1, page 33, that may not have
24 to have her talk about someone else's testimony. You
25 may be able to ask her about hers. I'm sorry. I am

1 not attempting to interrupt, but I thought it might
2 get us where you are going.

3 MR. LONG: Well, I appreciate it. If you
4 want to testify, you can hop up there. You said page
5 33?

6 MR. ALEXANDER: Yes.

7 Q. (By Mr. Long) Ms. Patel, looking at
8 BSM-2, page 5, there is a table on the left. It's
9 titled "Proposed Rider EEC Annual Bill Impacts." Do
10 you see that?

11 A. Yes.

12 Q. And on the right is another table. It's
13 titled "Annual Bill Impacts with Cost Recovered in
14 Years Spent. Do you see that?

15 A. Yes.

16 Q. Which of those two tables, if either, did
17 you use in your calculations?

18 A. I have used Attachment BSM-2, page 2
19 through 4, the column with dollar per kilowatt-hour
20 price inputs.

21 Q. Okay. Are you aware that Witness
22 Miller's testimony has an alternative and larger bill
23 impact if the proposed EE/PDR portfolio plan costs
24 were recovered over a four-year term of the proposed
25 plan? Are you aware of that?

1 A. No.

2 Q. So your bill impacts do not reflect the
3 higher four-year collection period impacts, right?

4 A. Sorry. Could you please remind me which
5 rider we are referring to here?

6 Q. I am talking about the EE/PDR portfolio
7 plan costs.

8 A. Oh, Mr. McMillen's, not Mr. Miller's?

9 Q. Reflected on the document that I have
10 drawn your attention to, page 5 of BSM-2, table on
11 the right.

12 A. Sorry. May I have a read back, please?

13 Q. It's okay. We'll move on. You did not
14 include any projected increases for the generation
15 component of bills, correct? Put another way you
16 kept the generation component static on your bill
17 impact analysis?

18 A. Yes. Rider GEN is estimated as of
19 May 2024 and staying flat over the eight-year
20 proposed period of ESP V.

21 Q. Did you conduct any analysis to support a
22 conclusion that generation rates would not increase
23 over the term of ESP V?

24 A. Generation costs are costs which are
25 outside of the Companies' control. We don't have

1 forecasts for that.

2 Q. So is your answer no?

3 A. Can you repeat the question?

4 Q. Yeah. Did you conduct any analysis to
5 support a conclusion that generation rates would not
6 increase over the term of ESP V?

7 A. No.

8 Q. Okay. You did not include any projected
9 future year increases in the transmission component
10 of -- for the bill -- of the bill impacts either,
11 right?

12 A. Yes. These are components of customers'
13 bills which are costs outside of the Companies'
14 control.

15 Q. Okay. Do you know if Rider AMI rates are
16 expected to increase, decrease, or stay the same
17 under the current Grid Mod I authorization?

18 A. I don't know. That's not something I
19 analyzed as part of my testimony.

20 Q. If Grid Mod II is approved, the costs
21 flowing through Rider AMI would increase, right?

22 A. I don't know.

23 MR. LONG: Thank you, Ms. Patel. I have
24 no further questions.

25 EXAMINER ST. JOHN: Let's go off the

1 record.

2 (Recess taken.)

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

5 Ms. Bojko.

6 MS. BOJKO: Thank you, your Honor.

7 - - -

8 CROSS-EXAMINATION

9 By Ms. Bojko:

10 Q. Good afternoon, Ms. Patel.

11 A. Good afternoon.

12 Q. My name is Kim Bojko. I represent the
13 Ohio Manufacturers' Association Energy Group. Nice
14 to see you today. I'm assuming you still have your
15 testimony --

16 A. Likewise.

17 Q. -- that you filed on April 5, 2023, that
18 the Company has marked as Company Exhibit 4? 4.

19 A. Yes, I do.

20 Q. Can you turn to page 3 of that testimony,
21 please.

22 A. I'm here.

23 Q. Lines 19 through 20, you state that
24 Attachment DP-1 shows the estimated annual rate
25 impact of the proposed ESP V on nonshopping customers

1 at various usage levels; is that correct?

2 A. Yes.

3 Q. And then beginning on page 4, lines 1 --
4 line 1, all the way through to page 5 of line 8 of
5 your testimony, you list the primary assumptions used
6 in the development of the estimated typical bills for
7 nonshopping customers; is that correct?

8 A. Yes.

9 Q. And you specifically exclude -- in your
10 assumptions you specifically exclude any assumptions
11 related to the base rate case that will be filed in
12 May 2024, correct?

13 A. Yes.

14 Q. The results of that rate case will impact
15 components of the ESP V, will it not?

16 A. I don't know.

17 Q. Well, do you know that many of the
18 components are -- many of the riders are allocated
19 based on percent of base distribution revenue?

20 A. Yes.

21 Q. So if the allocations are based on a
22 percent of base distribution revenue and the base
23 distribution revenue increases, the allocations would
24 also increase; is that correct?

25 A. I don't know.

1 Q. You did say you do know there are riders
2 with allocations based on the base D; is that
3 correct?

4 A. I'm aware that there are riders where
5 allocation is based on the base distribution revenue.

6 Q. Okay. But you didn't do any kind of
7 analysis to consider the bill impacts with the --
8 with any increased allocations due to increased base
9 distribution rates, did you?

10 A. No, since the Companies are filing a
11 distribution base rate case in May 2024 and the
12 outcome of the filing is unknown.

13 Q. And you stated to prior questioning that
14 you also excluded assumptions related to the Grid
15 Modernization Phase II case; is that correct?

16 A. Yes.

17 Q. And I know you stated earlier that you
18 did that because the outcome is unknown, but isn't it
19 true that Rider AMI is continued part -- is continued
20 as part of ESP V?

21 A. I don't know.

22 Q. Do you know whether Rider AMI will be
23 directly impacted by the outcome of the Grid Mod II
24 case?

25 A. I am generally familiar with that Rider

1 AMI. I don't know how it would impact Rider AMI and
2 the details around it.

3 Q. So is it fair to say you didn't conduct
4 any analysis to consider the bill impacts with
5 various projected Grid Mod costs approved in the Grid
6 Mod II case?

7 A. Since the Application is pending before
8 the Commission, the outcome is currently unknown.

9 Q. But they -- but the Company is requesting
10 an increase in Grid Mod II costs, isn't that correct,
11 additional costs in Grid Mod II?

12 A. I don't know.

13 Q. And when you estimated the typical bills,
14 what assumption did you include with regard to the
15 DCR increase?

16 A. Rider DCR rates are estimated based on
17 proposed revenue cap amounts as described in Witness
18 McMillen's testimony.

19 Q. Sure. But Mr. McMillen testified that
20 the Rider DCR increase could be 15 million to
21 21 million per year so which number did you use in
22 your rate -- your typical bill analysis?

23 A. I don't know the details around the Rider
24 DCR proposal. I used the estimated given by Witness
25 McMillen.

1 Q. But Mr. McMillen gave us a range. So
2 which number in the range? Which increase did you
3 assume when calculating your bill impacts?

4 A. The prices -- price inputs were provided
5 by Witness McMillen.

6 Q. So you don't know what Mr. McMillen
7 assumed in the numbers that he provided you, do you?

8 A. Yes. I used the price inputs only. I
9 don't know what went into the proposal calculating
10 the Rider DCR rates.

11 Q. Okay. You don't know what went into the
12 DCR Rider rate provided to you by Mr. McMillen.

13 A. Yes.

14 Q. And as I understood your testimony
15 earlier today, you estimated the monthly bill impacts
16 for nonshopping customers assuming that the
17 generation component of that bill remained constant;
18 is that correct?

19 A. Rider GEN rates are estimated as of
20 May 2024.

21 Q. And they remain constant through the term
22 of the ESP in your bill impact calculations?

23 A. Yes.

24 Q. And is it true that you also estimated
25 the transmission component, and it remained constant

1 throughout the ESP term?

2 A. Yes.

3 Q. And did you provide an estimate of the
4 monthly bill impacts of the ESP V on distribution
5 service only without the generation and transmission
6 components?

7 A. I'm sorry. Could you please repeat the
8 question?

9 Q. Sure. Did you estimate the monthly bill
10 impacts of ESP V on distribution service only without
11 the generation and transmission components?

12 A. These are monthly bill impacts for
13 nonshopping customers.

14 Q. They are total bill impacts. You did not
15 do a calculation to show the bill impacts of
16 distribution service only, did you?

17 A. No, total bill impacts.

18 Q. And you didn't estimate the monthly bill
19 impacts of ESP V on shopping customers, did you?

20 A. No.

21 MS. BOJKO: Thank you, your Honor. I
22 have no further questions.

23 EXAMINER ADDISON: Thank you, Ms. Bojko.

24 Mr. Michael, any questions?

25 MR. MICHAEL: No, your Honor.

1 EXAMINER ADDISON: Ms. Whitfield?

2 MS. WHITFIELD: No questions, your Honor.

3 EXAMINER ADDISON: Mr. Lang?

4 MR. LANG: Yes, thank you, your Honor.

5 - - -

6 CROSS-EXAMINATION

7 By Mr. Lang:

8 Q. Good afternoon, Ms. Patel.

9 A. Good afternoon.

10 Q. I'm Jim Lang. I'm representing the IGS
11 Energy and NRG Retail Companies. I have a couple of
12 questions for both. The -- I want to go back to page
13 3 of your testimony where you talk about first the
14 additional costs of the volumetric risk cap that flow
15 through Rider GCR. And it's -- kind of putting aside
16 how the mechanism works, your testimony is specific
17 to those costs flowing through or being reconciled
18 through Rider GCR, correct?

19 A. Yes.

20 Q. And have you -- for purposes of the
21 testimony that you prepared, did you estimate what
22 those additional costs might be?

23 A. No.

24 Q. And similar question on page 3, you also
25 talk about the capacity proxy price mechanism. And

1 again, that will be reconciled through Rider GCR for
2 purposes of your testimony including the estimated
3 billing impact, did you do any estimates of what the
4 additional costs or credits of the capacity proxy
5 price mechanism might be?

6 A. No.

7 Q. Now, your testimony on page 2, I am
8 looking at lines 13, 14, you refer to Rider NDU, and
9 you refer to Rider NDU recovers nondistribution
10 uncollectible expenses associated with the provision
11 of SSO service. I want to ask you about that. So
12 does that mean that the -- when we are referring to
13 uncollectible expense, is that like customer debt
14 that's written off?

15 A. No bad debt is included in Rider NDU.

16 Q. Okay. And so what is the -- what is the
17 uncollectible expense that you are describing here on
18 page 2, line 13?

19 A. Uncollectible expenses that are
20 associated with SSO service.

21 MR. ALEXANDER: Could I have that
22 question and answer reread, please?

23 EXAMINER ADDISON: You may.

24 (Record read.)

25 MR. ALEXANDER: Thank you.

1 Q. (By Mr. Lang) Ms. Patel, I am trying to
2 get a better understanding of what -- you know, what
3 could -- what could make up that uncollectible
4 expense. Is there -- is there an example of, you
5 know, your -- you know, to the extent that you know
6 kind of what flows through as an uncollectible
7 expense?

8 A. The total uncollectible expense is
9 booked. The way it gets allocated is based on how
10 much of it is from SSO and how much of it is
11 nonbypassable.

12 Q. And I -- I had asked you earlier about
13 the debt that is written off. And so is it accurate
14 that if -- you know, if we have a nonshopping
15 customer, they owe the Companies for SSO generation,
16 the Companies write that off, that -- whatever amount
17 is written off, that gets recovered through Rider
18 NDU; is that right?

19 A. Could you please rephrase the question?

20 Q. So the question is specific to a
21 nonshopping customer, so a customer who's taking
22 generation service under the SSO. If they say that
23 customer falls on a hardship, they can't pay their
24 bills, the Companies try to collect, but they end up
25 writing off that -- that amount that's owed for SSO

1 generation service, obviously there's -- you know,
2 there is a dollar amount there that they can't
3 collect, is that dollar amount recovered by the
4 Companies through Rider NDU?

5 A. I don't recall.

6 Q. Okay. Change topics a little bit, you
7 had several questions today about Rider GEN and how
8 it kind of is -- the Rider GEN numbers are carried
9 throughout the ESP term. I -- is there -- and
10 there's -- you would agree that Rider GEN has both,
11 you know, a default -- default rates for -- for
12 customers, summer and winter rates, and then there is
13 also the time-of-day options that are also in Rider
14 GEN, right?

15 A. Yes.

16 Q. Yes. When you are --

17 EXAMINER ADDISON: Mr. Lang, I'm sorry.
18 Can we just go off the record for a minute?

19 (Discussion off the record.)

20 EXAMINER ST. JOHN: Let's go back on the
21 record and please proceed.

22 Q. (By Mr. Lang) Ms. Patel, when you are
23 preparing your estimated bill impacts that are in
24 your testimony, were there any assumptions that you
25 made with regard to the time-of-day option

1 residential customers?

2 A. No.

3 Q. Are the time-of-day residential options
4 customers taken into account in any way in your
5 estimated bill impacts?

6 A. No.

7 Q. Do you know whether the Companies have
8 considered making the time-of-day option that's in
9 Rider GEN the default option for customers so that
10 more nonshopping customers can receive the benefits
11 of time varying rates?

12 A. I don't know.

13 Q. Do you -- hypothetical question, if the
14 time-of-day option became the default option, so you
15 substitute the time-of-day option for residential
16 customers instead of the kilowatt-hours summer and
17 winter rates that are currently the default, do you
18 know what impact that may have on your estimated bill
19 impacts?

20 MR. ALEXANDER: Objection.

21 EXAMINER ST. JOHN: Grounds?

22 MR. ALEXANDER: It's an incomplete
23 hypothetical, vague, calls for speculation. A
24 time-of-use rate can be designed in a variety of
25 ways, and the details of the time-of-use rate

1 included in the hypothetical would be critical for
2 the witness to actually answer.

3 And then the second ground is that this
4 witness does not testify as to the SSO auction
5 procurement process. In general that's Mr. Lee, and
6 instead this witness is just focused on the mechanics
7 of how the riders work.

8 EXAMINER ST. JOHN: I would agree, and I
9 will sustain the objection.

10 MR. LANG: And, your Honor, I'll
11 rephrase. I will point out though this witness, her
12 Rider GEN rates and her time -- and her estimated
13 bill impacts have nothing do with the SSO auction.
14 They are the existing rates carried forward for eight
15 years. So I will reask the question, but I will
16 clarify to Mr. Alexander's point.

17 Q. (By Mr. Lang) What I am asking, if you
18 substituted the time-of-day option residential in
19 favor of the default, I am asking that question with
20 regard to the rider as it exists today and the rates
21 that exist today. And those -- those you are
22 testifying continue forward unchanged for the next
23 eight years of ESP for purposes of your bill impacts.

24 So my question, Ms. Patel, is if
25 essentially you would switch up, make that -- make

1 that existing time-of-day option residential the
2 default for residential customers, whether you know
3 what impact that might have on those -- on the
4 estimated bill impacts for those residential
5 customers.

6 MR. ALEXANDER: Objection.

7 EXAMINER ST. JOHN: Grounds?

8 MR. ALEXANDER: I believe the
9 hypothetical is still incomplete in that the current
10 competitive bidding process includes tranches,
11 slice-of-system based tranches based on the current
12 design of rates, and a different rate design,
13 time-of-use design, is expressly intended to reduce
14 during peak times may have material impacts on the
15 clearing price on that auction. The hypothetical is
16 incomplete and calls for the witness to speculate as
17 a result of that auction.

18 MR. LANG: And, your Honor, the
19 hypothetical again has nothing to do with what
20 Mr. Alexander has just described. The hypothetical
21 is if you switch the two rates that are in Rider GEN,
22 does she have an opinion on whether that would impact
23 the bill impacts that she uses to estimate Rider GEN
24 throughout the next -- the next eight years. That
25 has nothing to do with anything that Mr. Alexander

1 described. But putting his testimony aside, if she
2 wants to answer that that would be an issue, that she
3 would have a problem, then she can certainly say
4 that.

5 EXAMINER ST. JOHN: I will go ahead and
6 overrule the objection, and to the extent that there
7 are matters that you would have to speculate on or
8 would not know, you know, could vary, certainly make
9 sure and state that in your answer.

10 THE WITNESS: Okay.

11 A. That is not something I analyze as part
12 of my testimony.

13 MR. LANG: Your Honor, those are all the
14 questions I have. Thank you.

15 Thank you, Ms. Patel.

16 EXAMINER ST. JOHN: Thank you.

17 Any questions from OP&E?

18 MR. DOVE: No questions, your Honor.

19 Thank you.

20 EXAMINER ST. JOHN: Walmart?

21 MR. UNGER: No questions, your Honor.

22 Thank you.

23 EXAMINER ST. JOHN: Ohio Environmental
24 Council?

25 MS. NORDSTROM: Yes, your Honor, very

1 briefly.

2 EXAMINER ST. JOHN: Go ahead.

3 - - -

4 CROSS-EXAMINATION

5 By Ms. Nordstrom:

6 Q. Hello, Ms. Patel. My name is Karin
7 Nordstrom. I represent the Ohio Environmental
8 Council. I have just a couple of questions. I would
9 like you to go to page 1 of Attachment DP-1.

10 A. I'm here.

11 Q. Okay. Great. So just to make sure we
12 are on the same page, this is a comparison of bill
13 impacts for the Ohio Edison Company?

14 A. Yes.

15 Q. And so on the left-hand corner you have
16 the bill data and then in the following columns you
17 go through ESP year 5 -- or ESP V years 1 through 8.

18 A. Yes.

19 Q. And it says this is for residential
20 service-standard. In parentheses it says "Rate RS."

21 A. Yes.

22 Q. What is standard referring to in this
23 circumstance?

24 A. A standard residential customer.

25 Q. Okay. And if you go to page 2, all of

1 the column headings are the same as the previous page
2 except -- except this is for residential service-all
3 electric and then in parentheses again it says "Rate
4 RS." What is "all electric" referring to in this
5 case?

6 A. Customers receiving electric credits.

7 Q. Okay. So let's go back to page 1 and in
8 the first column you have current bill data in column
9 C and level of usage in column B, correct?

10 A. Yes.

11 Q. And then if you go forward to ESP year 1,
12 there's the rate at different usage levels and then
13 the percent change at different usage levels.

14 A. Yes.

15 Q. Thank you. And so looking at that ESP V
16 year 1 column, as the level of usage increases, the
17 rate of change or the change in the rate goes down;
18 is that correct?

19 A. The first line change is going down.

20 Q. Yes.

21 A. Yes.

22 Q. So as a residential customer on Ohio
23 Edison Company territory increases their usage, the
24 percent change experienced by that customer in their
25 rate impact lowers.

1 A. Yes.

2 Q. Okay. And then as we go down to this --
3 we've been talking about the tables for Ohio Edison.
4 However, in your testimony in the following -- in the
5 following pages, it has similar columns with similar
6 rate headings -- or, excuse me, column headings for
7 both Cleveland Electric Illuminating Company and
8 Toledo Edison Company; is that correct?

9 A. That the column headings are similar?

10 Q. Yes. The tables are the same; the
11 numbers are different.

12 A. Yes.

13 MS. NORDSTROM: Okay. Thank you.

14 I have nothing further, your Honor.

15 Thank you, Ms. Patel.

16 THE WITNESS: Thank you.

17 EXAMINER ST. JOHN: Thank you.

18 Any questions from Staff?

19 MS. BOTSCHNER-O'BRIEN: No questions.

20 EXAMINER ST. JOHN: Any redirect?

21 MR. ALEXANDER: Could we have just a
22 moment, your Honor?

23 EXAMINER ST. JOHN: Yes. Let's go off
24 the record.

25 (Recess taken.)

1 EXAMINER ST. JOHN: Let's go back on the
2 record.

3 MR. ALEXANDER: No redirect, your Honor.

4 EXAMINER ST. JOHN: Okay. Thank you.

5 And with that I believe we have one
6 exhibit that's pending, FirstEnergy Exhibit 4,
7 Ms. Patel's direct testimony. Do any parties have
8 any objection to the admission of this exhibit?

9 Hearing none, it is so admitted.

10 (EXHIBIT ADMITTED INTO EVIDENCE.)

11 EXAMINER ST. JOHN: Thank you, Ms. Patel.

12 THE WITNESS: Thank you.

13 EXAMINER ADDISON: You can leave it.

14 EXAMINER ST. JOHN: Would the Companies
15 like to call their next witness?

16 MR. ALEXANDER: Yes. The Companies call
17 Ed Miller.

18 EXAMINER ST. JOHN: Let's go ahead and go
19 off the record for a moment.

20 (Discussion off the record.)

21 EXAMINER PRICE: Go back on the record.

22 Please raise your right hand.

23 (Witness sworn.)

24 EXAMINER PRICE: Please be seated and
25 state your name and business address for the record.

1 THE WITNESS: Good afternoon. Good
2 afternoon. My name is Edward Miller. My business
3 address is 800 Cabin Hill Drive, Greensburg,
4 Pennsylvania 15601.

5 EXAMINER PRICE: Please proceed.

6 MR. ALEXANDER: Your Honor, may I have
7 the prefiled Direct Testimony of Edward C. Miller
8 marked for identification as Companies' Exhibit 5?

9 EXAMINER PRICE: So marked.

10 (EXHIBIT MARKED FOR IDENTIFICATION.)

11 - - -

12 EDWARD C. MILLER
13 being first duly sworn, as prescribed by law, was
14 examined and testified as follows:

15 DIRECT EXAMINATION

16 By Mr. Alexander:

17 Q. Mr. Miller, did you cause to be filed
18 prefiled written direct testimony in this proceeding?

19 A. Yes.

20 Q. Do you have any changes or corrections to
21 that testimony today?

22 A. I do not.

23 Q. And if I were to ask you the same
24 questions as here in your testimony again today,
25 would your answers be the same?

1 A. Yes, they would.

2 MR. ALEXANDER: Your Honor, the Companies
3 move for the admission of Companies' Exhibit 5,
4 subject to cross-examination, and the witness is
5 available for cross.

6 EXAMINER PRICE: We'll defer ruling on
7 Company Exhibit 5 until after cross-examination.

8 Do we have any motions to strike?

9 MR. PRITCHARD: Yes, your Honor.

10 EXAMINER PRICE: Please proceed,
11 Mr. Pritchard.

12 MR. PRITCHARD: Request the opportunity
13 to ask a few questions on voir dire?

14 EXAMINER PRICE: Please proceed.

15 - - -

16 VOIR DIRE

17 By Mr. Pritchard:

18 Q. Good afternoon, Mr. Miller.

19 A. Good afternoon.

20 Q. Your testimony includes both costs and
21 benefits associated with your proposed energy
22 efficiency plan, correct?

23 A. Yes.

24 Q. And to project the monetary value --
25 dollar value of the benefits, your testimony includes

1 a projection of energy market prices, correct?

2 A. My testimony includes projections of
3 avoided electric energy capacity, avoided
4 transmission and distribution cost, yes, and they are
5 provided as workpapers to my testimony.

6 Q. And those avoided energy costs are one of
7 the components that you looked at when you calculated
8 the -- what you testified to as benefits of the
9 program, correct?

10 A. Yes.

11 Q. And you are not an expert in energy
12 market price forecasts, correct?

13 A. While I am not an expert in what I would
14 call forecasting energy or market pricing, I am quite
15 familiar with the development and use of voided
16 energy and capacity projections in the evaluation of
17 energy efficiency programs.

18 MR. PRITCHARD: Your Honor --

19 Q. (By Mr. Pritchard) Mr. Miller, we -- I
20 took your deposition about a week ago, correct?

21 A. Yes.

22 Q. And do you recall whether I asked you
23 questions about whether you were an expert in energy
24 market prices?

25 A. Yes.

1 MR. PRITCHARD: Your Honor, may I
2 approach?

3 EXAMINER PRICE: You may.

4 Q. (By Mr. Pritchard) Mr. Miller, do you
5 have in front of you what appears to be the
6 transcript of the deposition I took of you
7 approximately a week ago?

8 A. Yes.

9 Q. Will you turn to page 127, line 24. Let
10 me know when you are there.

11 A. Is the page number at the beginning or
12 the bottom?

13 Q. The beginning.

14 A. The beginning. Okay. I'm there.

15 Q. Do you see the question from me that
16 begins you are not an expert?

17 A. Yes, I do.

18 Q. Let me know if I read this question and
19 answer correctly. Question -- "Question: You are
20 not an expert in energy market price forecasts,
21 correct?

22 "Answer: Correct." Did I read that
23 correctly?

24 MR. ALEXANDER: Objection.

25 EXAMINER PRICE: Grounds?

1 MR. ALEXANDER: This is literally what
2 the witness just said. He just testified he is not
3 an expert in energy price forecast, but then we're on
4 to define what it is that he is familiar with. It is
5 improper impeachment.

6 EXAMINER PRICE: I'll let you follow-up
7 with the witness if that additional -- I'll let you
8 follow up with the witness regarding what's in that
9 transcript after Mr. Pritchard is done.

10 Mr. Pritchard.

11 MR. PRITCHARD: Yes.

12 Q. (By Mr. Pritchard) Mr. Miller, are you
13 aware of whether RESA served a request for admission
14 on the Company about whether you are an energy market
15 price expert?

16 MR. ALEXANDER: Objection.

17 EXAMINER PRICE: Grounds?

18 MR. ALEXANDER: The witness just
19 testified he is not an energy market price expert,
20 and the voir dire regarding discovery responses is
21 unnecessary.

22 MR. PRITCHARD: Your Honor, I would
23 represent to the Bench that I have an admission from
24 the Companies stating he is not an energy price
25 expert. I asked him that question, and he went on to

1 talk about his other experience rather than the
2 admission he gave me in deposition and they gave me
3 in discovery.

4 EXAMINER PRICE: Why don't you provide
5 the Bench with a copy of the admission and we will go
6 from there? Are you complete with your voir dire?

7 MR. PRITCHARD: I have several more
8 questions, your Honor.

9 EXAMINER PRICE: Please proceed.

10 Q. (By Mr. Pritchard) Mr. Miller, will you
11 turn to Attachment ECM-4, Workpaper 2, Avoided
12 Energy.

13 A. Okay.

14 Q. This is the workpaper that has the future
15 energy market prices that you utilized in part to
16 calculate what you identify elsewhere in your
17 testimony as the benefits of the program, correct?

18 A. One component of the benefits, that is
19 correct.

20 Q. And for the -- at the top in the
21 narrative part here, it identifies that for the first
22 few years of this forecast the information comes from
23 forward prices available on ICE as of February 8,
24 2023, correct?

25 A. That is correct.

1 Q. And you did not pull those prices from
2 ICE, correct?

3 A. I did not directly pull those forecasts.
4 Those forecasts were pulled by the individuals that
5 worked with me on the development of the avoided
6 energy pricing.

7 Q. Since February 8, 2023, you have not
8 looked at ICE forwards, correct?

9 A. I have not.

10 Q. For years 2026 to 2028, this table
11 reflects blended ICE forwards from February 8 of this
12 year with another forecast, correct?

13 A. That is correct, with the other forecasts
14 being the U.S. Energy Information Administration
15 forecasts for Henry Hub as stated also on this
16 workpaper.

17 Q. The Henry Hub price forecast is a price
18 point for natural gas at the Henry Hub in Louisiana,
19 correct?

20 A. That is correct.

21 Q. And the narrative part of this workpaper
22 indicates that a conversion was taken from the EIA
23 forecast to convert the Henry Hub pricing to a
24 Dominion South geographical point, correct?

25 A. That is correct. There is a conversion

1 from the Henry Hub location in Louisiana to Dominion
2 South based on historical known pricing ratios
3 between the two locations.

4 Q. The energy price forecast here is stated
5 in dollars per megawatt-hour, correct?

6 A. That is correct.

7 Q. And the EIA forecast is not stated in
8 dollars per megawatt-hour, correct?

9 A. While the EIA forecast, the Energy
10 Administration Information -- or Administration
11 forecast is based -- is not based on dollars per
12 megawatt-hour. There is also a conversion from
13 Dominion South to ATSI also based on historical known
14 relationships between the ATSI electric pricing on a
15 dollar per megawatt basis and the cost of gas at the
16 Dominion South location.

17 MR. PRITCHARD: Your Honor, I move to
18 strike everything after -- I mean the question is
19 just is this a dollars per megawatt-hour; is the EIA
20 not dollars per megawatt-hour. That's where I am
21 going. The explanation is not responsive.

22 EXAMINER PRICE: I am going to deny the
23 motion to strike. I think his testimony is helpful
24 to the Bench.

25 Q. (By Mr. Pritchard) The EIA forecast is

1 going to be a dollar per Mcf or dollar per Ccf
2 number, correct?

3 A. Dollar per Mcf.

4 Q. And you are not an expert on natural gas
5 price forecasts, correct?

6 A. While I am not an expert on natural gas
7 forecasts, I relied on the U.S. Energy Information
8 Administration which is a public source that I
9 believe a well-regarded entity and the use of their
10 natural gas forecast in the development of our
11 avoided energy pricing. The purpose of using a
12 public source is to provide transparency to all of
13 our stakeholders and to the Commission in regards to
14 how we quantify the benefits of our programs.

15 MR. PRITCHARD: Your Honor, I move to
16 strike the response.

17 EXAMINER PRICE: Well, as is our
18 tradition here, everybody gets one free bite at the
19 apple, and this witness just used his.

20 Going forward, please listen to counsel's
21 question; answer counsel's question directly. If you
22 have more information you think would be helpful for
23 the Commission or the Bench, I am sure that
24 Mr. Alexander will elicit that information from you.

25 THE WITNESS: Yes, sir.

1 Q. (By Mr. Pritchard) All right. To clarify
2 you are not an expert on natural gas price forecasts,
3 correct?

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

6 EXAMINER PRICE: I think he is trying to
7 narrow the witness down so overruled.

8 A. I am not an expert in -- I forget the
9 question. I'm sorry. Can you repeat it?

10 Q. You are not an expert on natural gas
11 price forecasts, correct?

12 A. I am not.

13 Q. And you didn't do the conversion of Henry
14 Hub to Dominion South base adjustments mentioned here
15 on this table, correct?

16 A. Not -- I did not do the conversion
17 myself.

18 Q. And that conversion was not done by
19 someone that directly reports to you, correct?

20 A. While it was not done by someone that
21 directly reports to me, it was done under my
22 supervision.

23 MR. PRITCHARD: Your Honor, move to
24 strike.

25 EXAMINER PRICE: Granted. Answer the

1 question directly, please.

2 Can we have the question back?

3 (Record read.)

4 EXAMINER PRICE: Please answer that
5 question.

6 A. That is correct.

7 Q. The conversion of Henry Hub prices to
8 Dominion South was done by someone in a group at
9 FirstEnergy that does energy market price forecasts,
10 correct?

11 A. That is correct.

12 Q. And the person that did the conversion is
13 not a witness in this case, correct?

14 A. That is correct.

15 Q. Next step of this analysis per the
16 information on this chart is related to the heat rate
17 conversion was calculated using history -- excuse
18 me -- slash forward average six-year monthly basis
19 adjustment and applied to the EIA HH monthly
20 forecast. Do you see that reference?

21 A. Yes, I do.

22 Q. You are not an expert in heat rate
23 conversions, correct?

24 A. I am not.

25 Q. And you are not an expert in converting

1 natural gas price forecasts -- forecasts to energy
2 market price forecasts, correct?

3 A. Can you repeat the question?

4 Q. You are not an expert in converting
5 natural gas price forecasts to energy market price
6 forecasts, correct?

7 A. Correct.

8 Q. And the next -- so for years 2026 to
9 2028, this EIA Henry Hub converted to Dominion South
10 converted to energy prices, that was blended in with
11 the ICE forwards for 2026, 2027, 2028, correct?

12 A. That is correct.

13 Q. And then this chart indicates that for
14 the remaining -- remaining years, 2029 to 2050, that
15 this EIA Henry Hub converted to Dominion South
16 converted to energy price forecast is what was used
17 for the information in those years, correct?

18 A. That is correct.

19 MR. PRITCHARD: Your Honor, I am done
20 with the voir dire and if you will now entertain my
21 motion to strike.

22 EXAMINER PRICE: We are going to give
23 Mr. Alexander an opportunity to question the witness
24 too.

25 MR. ALEXANDER: Thank you, your Honor.

VOIR DIRE

By Mr. Alexander:

Q. Mr. Miller, in response to I think it was Mr. Pritchard's first question, you had indicated that you are not an expert in creating energy price forecasts, but then you provided some -- some description regarding your experience in using public data to evaluate energy efficiency programs. Can you please expand on that a bit more?

A. Yes. I've been involved with energy efficiency program development for 15 years. And during that time, I have oversaw the completion of cost/benefit analysis or programs including the development of avoided energy and capacity price projections to use in the estimation of the benefits of the programs.

So I am very familiar with the development of avoided energy and capacity pricing that's used in cost/benefit analysis of energy efficiency per using public sources. One of our objectives in developing these price forecasts are to use public reputable sources of energy forecasts as I mentioned to provide transparency to all parties.

The use of the United States Energy Information Administration's price forecast I believe

1 is highly reputable in terms of the source and in
2 terms of the quality of the work product that was
3 used as the basis of our projections going forward as
4 described on this workpaper.

5 Q. And, Mr. Miller, Mr. Pritchard asked you
6 several questions regarding the people who assisted
7 you in compiling this information. Were all those
8 people working at your direction?

9 A. Yes, sir.

10 Q. And are all the sources that -- the
11 public sources that you relied on listed in your
12 workpaper, ECM-4, Workpaper 2?

13 A. Yes.

14 Q. And are all the assumptions that you
15 included in creating your forecasts also included in
16 that workpaper?

17 A. For avoided energy, yes.

18 Q. And that workpaper references ratios
19 between those public sources and the energy price
20 that you calculated. Are you personally familiar
21 with those ratios?

22 A. Yes.

23 Q. Mr. Miller, are you familiar with the
24 Companies' POR filings?

25 A. Yes. Our prior energy efficiency plans

1 were filed under POR filings.

2 Q. And did those prior energy efficiency
3 plans include a projection of future energy prices?

4 A. Yes.

5 Q. And were you involved in the creation of
6 those POR filings?

7 A. Yes.

8 EXAMINER PRICE: Were you involved in the
9 creation of each of the ones that you reference on
10 page 3, lines 3 through 6, of your testimony?

11 THE WITNESS: I was not involved in the
12 first Case 09-1947, 1948, 1949. However, I was
13 involved beginning in -- with the cases starting '12
14 for the '13 through '15 plans, '16 for the '17
15 through '19 plans.

16 EXAMINER PRICE: In those cases was there
17 an avoided energy cost projection?

18 THE WITNESS: Yes. Both of those cases
19 included avoided energy and capacity price
20 projections as part of the analysis of the programs.

21 EXAMINER PRICE: Did you present those
22 yourself or did another witness from FirstEnergy?

23 THE WITNESS: I believe I would have. I
24 don't specifically remember though.

25 EXAMINER PRICE: Anything else,

1 Mr. Alexander?

2 MR. ALEXANDER: Nothing further, your
3 Honor.

4 EXAMINER PRICE: Mr. Pritchard?

5 MR. PRITCHARD: Can I ask one extra
6 question voir dire?

7 EXAMINER PRICE: You may, but I may allow
8 Mr. Alexander a chance to follow up.

9 MR. PRITCHARD: That's fine.

10 - - -

11 VOIR DIRE (Continued)

12 By Mr. Pritchard:

13 Q. Mr. Miller, do you recall discussing a
14 document with me during your deposition that related
15 to one of those prior energy market price forecasts
16 from one of those prior portfolio plan cases?

17 A. I remember being presented a price
18 forecast that wasn't labeled. I don't recall that we
19 specifically discussed which of the forecast was
20 provided or even if it was specific to Ohio or
21 another jurisdiction.

22 Q. And in that prior energy price forecast
23 we discussed, it did not use the same energy price
24 forecast methodology you use in this case, correct?

25 A. My recollection is that it was under a

1 different methodology.

2 MR. PRITCHARD: That's the last of my
3 voir dire questions.

4 EXAMINER PRICE: Mr. Alexander,
5 follow-up?

6 MR. ALEXANDER: No, your Honor.

7 EXAMINER PRICE: Make your motion to
8 strike, Mr. Pritchard.

9 MR. PRITCHARD: As to Attachment ECM-4,
10 Workpaper 2, Avoided Energy, the Commission -- I move
11 to strike on grounds of hearsay. The Commission in a
12 recent case the Attorney Examiner struck information
13 for hearsay. It was briefed and the Commission ruled
14 upon it in Case 14-375, and the operative paragraph
15 was paragraph 47 of that order. And the Commission
16 concluded that where a witness was merely acting as a
17 conduit of the knowledge, that it was appropriate to
18 strike as hearsay.

19 I would also note that in the last ESP
20 proceeding for FirstEnergy, they made a motion to
21 strike market data where they noted that it wasn't --
22 wouldn't have qualified for the hearsay exception as
23 a market compilation and that where a party had taken
24 information and then done their own manipulation and
25 analysis, that that would be hearsay and improper to

1 use.

2 And so I believe here that while an EIA
3 natural gas forecast might be something the
4 Commission had taken administrative notice of in the
5 past, he is not an expert on how a natural gas
6 forecast would have translated into these numbers,
7 and he's indicated he's not an energy market price
8 expert, so I can't cross-examine this witness on the
9 validity or accuracy of the energy price, and its not
10 a type of government publication that we would -- or
11 the Commission has sometimes taken notice of.

12 EXAMINER PRICE: And what all do you want
13 stricken?

14 MR. PRITCHARD: Depending on how you rule
15 here, there are -- it flows into other pieces and
16 parts. I could go through them all now.

17 EXAMINER PRICE: That's okay.

18 Mr. Alexander, response?

19 MR. ALEXANDER: Yes, your Honor, a few
20 things. First, could I inquire of the Bench to
21 inquire of counsel on whether these citations in Case
22 No. 14-375 was a reference to Mr. Cawley? The
23 citation didn't have a name.

24 EXAMINER PRICE: Well, he said paragraph
25 47.

1 MR. KEANEY: Did you say 47 or 44?

2 MR. PRITCHARD: Paragraph 47. There is
3 two witnesses that had testimony stricken. The
4 discussion about striking for person acting as
5 conduit of knowledge is at the middle of paragraph 47
6 on page 19 that flows over to the top of page 20.

7 MR. ALEXANDER: Yes, your Honor. Thank
8 you. I can speak to that case because I litigated
9 that case, so I am very familiar with the facts. In
10 that case the witness was attempting to pass through
11 employment data to which he had no background
12 knowledge whatsoever. It had simply been given to
13 him by the entity who had retained that expert. He
14 had no independent knowledge and not done any
15 research into whether that information was true.

16 Here it's a completely different factual
17 situation as shown from the voir dire. The witness
18 testified that on behalf of the Companies, he
19 directed individuals to pull relevant data. He is
20 familiar with the sources of that relevant data as
21 you heard from his answers. And so the Companies
22 upon whom he is representing here today did
23 collectively work together to provide that
24 information. It's not some outside party who had no
25 knowledge. Again, this witness testified he

1 personally has knowledge.

2 As to the next point Mr. Pritchard
3 raised, hearsay, hearsay is an out-of-court statement
4 offered for the truth of the matter asserted. Here
5 we have a witness who is in court who is available to
6 testify as to what he and his team did in compiling
7 this information, who testified that he personally is
8 familiar and participates in these sorts of projects
9 on a regular basis, who clearly identified each of
10 his assumptions. These are not someone else's
11 assumption. He is not passing along someone else's
12 forecast. This is his. This is his work product.
13 He is in court, and he is subject to
14 cross-examination. Therefore, this is not hearsay.

15 Finally, there are elements of his
16 calculation which are not his own. Those elements
17 are publicly known PJM prices, and they are EIA data.
18 I struggle to contemplate anything more reliable than
19 PJM actual prices and EIA data.

20 Not only are those authoritative sources
21 the Commission has acknowledged many times in the
22 past, but they are publicly available. And so if
23 Intervenor want to ask questions about those
24 assumptions, those inputs, they are available to the
25 Intervenor and available to use in their

1 cross-examination. Therefore, the motion to strike
2 should be denied.

3 EXAMINER PRICE: I think it is a
4 motion -- you haven't made a motion to strike yet. I
5 think he is moving to disqualify the witness as an
6 expert.

7 MR. PRITCHARD: On the avoided energy
8 which will then lead to several motions to strike.

9 EXAMINER PRICE: Is that it?

10 MR. ALEXANDER: Yes, your Honor.

11 EXAMINER PRICE: Okay. We are going to
12 deny the motion to disqualify the witness as an
13 expert. His education and experience based upon his
14 testimony is certainly consistent with the education
15 and experience of many people who claim to be experts
16 before this Commission. Perhaps he was a little
17 self-deprecating in denying he was an expert, but he
18 certainly has testified as to these matters at the
19 Commission before.

20 The methodology is transparent. It's
21 based on publicly available information. And I don't
22 believe that he is acting solely as a conduit for
23 this. In many cases the actual calculations are
24 performed by somebody else in the organization via --
25 at the witness's supervision and no reason to doubt

1 that that's true here. Therefore, the motion is
2 denied.

3 MR. PRITCHARD: Thank you. One very
4 brief voir dire on the next page, and I think it will
5 just take a couple seconds.

6 Q. (By Mr. Pritchard) Mr. Miller, you are
7 not an expert on capacity prices, correct?

8 A. That is correct.

9 MR. PRITCHARD: Your Honor, the same
10 discussion we had before. I understand your ruling
11 but just wanted to put on the record that this
12 disqualified him as an expert on capacity price
13 forecasts which are the next page of his attachments.

14 EXAMINER PRICE: We are going to deny the
15 motion there also. It appears the source is PJM, and
16 certainly PJM knows their avoided capacity forecasts.
17 If the numbers are not accurate, you have an
18 opportunity to cross-examine him on that basis.

19 MR. PRITCHARD: With that understanding
20 that the witness is not disqualified as an expert of
21 avoided capacity, avoided energy, I do not have a
22 further motion to strike portions of his testimony.
23 Thank you.

24 EXAMINER PRICE: Thank you. Since you
25 have the microphone, you might as well go first on

1 cross.

2 MR. PRITCHARD: I've talked with
3 Mr. Alexander. I have a lengthy cross, so he had --
4 he had suggested maybe makes sense someone that might
5 be up and down today, but if it's the Bench's
6 prerogative for me to go, I don't mind.

7 EXAMINER PRICE: We'll move -- keep
8 moving down the thing, see if we have a volunteer.

9 Mr. Michael?

10 MR. MICHAEL: No volunteer here, your
11 Honor.

12 EXAMINER PRICE: Do you have cross?

13 MR. MICHAEL: I do not.

14 EXAMINER PRICE: Ms. Bojko?

15 MS. BOJKO: Yeah, I do, but I thought
16 OELC already passed out their exhibits. I think he
17 was intending to be first.

18 EXAMINER PRICE: Okay. Honestly I was
19 trying to work around the absence of his partner.

20 MS. BOJKO: I think he wants to go first.

21 EXAMINER PRICE: We will tell Mr. Proano
22 you did a much better job than he would have done.
23 Please proceed.

24 MR. WILLISON: Thank you, your Honor.

25 - - -

CROSS-EXAMINATION

By Mr. Willison:

Q. Hi, Mr. Miller. My name is Paul Willison, and I represent OELC. How are you doing today?

A. Nice to meet you. Thank you. I'm doing well.

Q. Fantastic. Mr. Miller, just a few -- just a few things I wanted to address up front. During my cross-examination, I might refer to the three companies, those being Ohio Edison, Cleveland Electric Illuminating, and Toledo Edison as FirstEnergy or possibly the Companies. Do you understand?

A. Yes.

Q. And so if I reference FirstEnergy Service Corporation, I'll note that explicitly, but otherwise it will be the Companies or FirstEnergy. Understand?

A. Yes.

Q. Fantastic. So, Mr. Miller, FirstEnergy proposes in ESP V an energy solutions for business program, correct?

A. Yes.

Q. And this program is only available to FirstEnergy's commercial or industrial customers,

1 correct?

2 A. Yes.

3 Q. And you testified on page 22, lines 14
4 through 17, that this program has three components,
5 correct?

6 A. Yes.

7 Q. And, Mr. Miller, what are those three
8 components?

9 A. The three components are -- is a
10 prescriptive equipment rebate component.
11 Prescriptive rebates are available for common
12 commercial grade measures where the energy savings
13 and the costs are relatively not highly variable to
14 where we provide prescriptive rebates.

15 The program also includes a custom
16 rebates component which applies more to measures
17 where the application for the equipment is variable
18 in terms of the energy savings. As such, we provide
19 a custom or performance-based rebate for those types
20 of measures. That could also be specialized
21 processes that some of our customers have as well.

22 And in the third component is an energy
23 audits component which is aimed at working with our
24 commercial/industrial customers to support the
25 completion of energy audits and other analysis to

1 help them with their energy market strategies and
2 energy efficiency projects.

3 Q. Thank you. Let's start first with the
4 prescriptive equipment rebate program, or rebate
5 component. So you state on page 22, lines 8
6 through -- 18 through 19, that this program will
7 operate in "essentially the same manner as the
8 Residential Rebate," correct?

9 A. That is correct. The intent of that
10 language was effectively to say that rebate
11 application processes will be made available to
12 customers, in this case commercial/industrial
13 customers, but essentially it's very similar, if not
14 the same, processes in terms of providing the
15 applications and the information, you know, the
16 customers submit or how they apply to the program for
17 achieving a rebate for qualified equipment.

18 Q. Is that a yes, Mr. Miller?

19 A. Yes.

20 Q. Thank you. So on page 11, line 5, you
21 testify that the program will incentivize adoption of
22 appliances which are energy efficient, correct? The
23 program, you are referring to the residential rebate
24 program.

25 A. That is correct, residential. Line 5 on

1 page 11 is regarding the residential rebate program,
2 yes.

3 Q. And so will the prescriptive equipment
4 rebate program or component specifically incentivize
5 the adoption of prescriptive equipment that is energy
6 efficient for commercial and industrial customers?

7 A. Can you repeat the question?

8 Q. Sure. So the residential rebate program
9 will incentivize the adoption of appliances which are
10 energy efficient and so will the prescriptive
11 equipment rebate component incentivize the adoption
12 of prescriptive equipment for commercial and
13 industrial customers that is energy efficient?

14 A. Yes.

15 Q. What does "prescriptive equipment" mean
16 as used in your testimony?

17 A. The term prescriptive equipment refers to
18 equipment that commercial and industrial customers
19 have that is -- this gets back to what I was
20 communicating earlier, that the equipment is more
21 common. The application is more standard. The size
22 of the equipment is highly variable to where the
23 energy savings is relatively consistent from
24 application to application or from equipment to
25 equipment or type of equipment to type of equipment.

1 Q. That equipment might be more common; is
2 that another way to say it?

3 A. Yes.

4 Q. Why does FirstEnergy limit rebates under
5 this first component to only prescriptive equipment?

6 A. Can you repeat the question?

7 Q. Why does FirstEnergy limit rebates under
8 this first component of the energy solutions for the
9 business program to only prescriptive equipment?

10 A. I don't understand the term limit.

11 Q. Mr. Miller, the prescriptive equipment
12 component only -- rebate program only applies to as
13 you termed common equipment, correct, for commercial
14 and industrial customers?

15 A. When I say common equipment, I am
16 referring to equipment that's relatively standard
17 among customers, not that it's limiting the type of
18 equipment that is eligible for participation in the
19 program. I do provide a listing of measures in the
20 appendices to my testimony which item -- which lists
21 all the measures under the energy solutions for
22 business program.

23 Q. You do. Let's turn to that right now. I
24 believe you are referencing Attachment ECM-3 Ohio
25 ESP V-Measure Assumptions; is that correct?

1 A. That is correct.

2 Q. Mr. Miller, are the -- are the line items
3 listed in Attachment ECM-3 with the component
4 notation EE equipment the only energy efficient
5 prescriptive equipment that FirstEnergy would rebate?

6 A. No.

7 Q. Mr. Miller, how did you account for the
8 possible participants or other columns of information
9 that you have listed here for the line items that are
10 not included in this table?

11 A. Can you rephrase the question?

12 Q. Yes. So, Mr. Miller, this table includes
13 your Ohio ESP V measure assumptions, correct?

14 A. Yes.

15 Q. And you use this to develop your
16 testimony for the energy solutions for business
17 prescriptive equipment component, correct?

18 A. Yes.

19 Q. And you use that to forecast the costs of
20 the different programs, correct?

21 A. Among other things, yes.

22 Q. And you testified just now that this does
23 not include all of the different prescriptive
24 equipment that could be rebated under the energy
25 solutions for business program, correct?

1 A. Correct.

2 Q. And so is there any place in your
3 testimony that captures additional costs that would
4 arise from those other pieces of prescriptive
5 equipment for the energy solutions for business
6 component -- excuse me, program?

7 A. The Companies' modeling of our programs
8 relies on these assumptions in this workpaper, or
9 this attachment.

10 Q. Mr. Miller, how did FirstEnergy select
11 the items that are listed on this Ohio ESP V measure
12 assumptions prescriptive equipment list?

13 A. We selected the measures that are shown
14 on this measure assumptions attachment based on the
15 experience of FirstEnergy Service Company energy
16 efficiency programs in other states where we provide
17 prescriptive equipment rebates. We relied on input
18 from our implementation team as well in developing
19 this list of measures.

20 Q. What does the term "emerging or other"
21 mean as used as a line item in this table? I believe
22 it's roughly halfway down under the column labeled
23 measure of Ohio ESP V measure assumptions.

24 A. I know the emerging other measure that's
25 listed in that workpaper is referenced in my

1 testimony. I'm not finding it specifically, so for
2 the sake of time, I'll answer the question that the
3 emerging and other measure that's included under the
4 energy solutions for business EE equipment component
5 program or the component of the energy solutions for
6 business program is intended to allow the conditions
7 throughout the implementation of the program to the
8 extent that there are other energy efficient
9 prescriptive equipment type measures that become
10 available in the market. But to the extent we have
11 program budgets available, that we would have the
12 opportunity to include them in the program. It's
13 intended not only for developing new or emerging
14 measures in the market that have verifiable energy
15 savings but also for potentially other measures which
16 were not specifically identified above.

17 Q. And why is the average annual
18 participants for that line item indicated with the
19 No. 1 and not some other figure?

20 A. It's listed as one to provide an
21 eligibility but not to create a reliance on it in
22 terms of the projections in the plan. Said another
23 way we are not putting a projection on something that
24 may come to development over the four-year term of
25 the plan. They create I'll say to inflate either the

1 energy savings or the budgets of a plan beyond what
2 we are initially planning.

3 Q. Wouldn't those forecasts be helpful in
4 anticipating the cost of this program for ESP V?

5 A. Can you repeat the question?

6 Q. Sure. So you stated that you hadn't
7 conducted any forecasts as to the emerging equipment
8 or other equipment that might develop during ESP 5
9 that could be rebated under the prescriptive
10 equipment component of the energy solutions for
11 business program. And I'm asking wouldn't those
12 forecasts be helpful in considering the costs that
13 would be associated with this component of the energy
14 solutions for business program?

15 A. We do not have a list of what those other
16 measures may be. As such, the budgets and the
17 projections that we are -- that we are putting forth
18 are what we are establishing as our program goals
19 both in terms of energy savings and budgets.

20 Q. Thank you. Also just as an aside, what
21 does the term "strip curtains" mean as used in your
22 testimony?

23 A. Those are -- if you ever go to beer
24 Shearers where they keep the beer cold in a separate
25 refrigerated cooler, those are the plastic strips

1 that hang down that you walk through to get to the
2 refrigerated compartment.

3 Q. Thank you.

4 A. You're welcome.

5 Q. So, Mr. Miller, did you rely on any of
6 the Energy Star efficiency certifications to
7 determine which prescriptive equipment would qualify
8 for rebates?

9 A. Yes. We do rely on Energy Stars, one of
10 the eligibility parameters for many measures in our
11 plan. Not necessarily all measures have Energy Star
12 certification or ratings associated with them but we
13 do rely on Energy Star in many regards.

14 Q. And you testified on -- in footnote 2 of
15 your testimony, page 5, as to the credibility of
16 Energy Star; is that correct?

17 A. Yes.

18 Q. And so would you agree that Energy Star
19 certifications on equipment can help denote energy
20 efficiency characteristics?

21 A. Yes.

22 MR. WILLISON: Your Honors, may I
23 approach?

24 EXAMINER PRICE: You may.

25 MR. WILLISON: These are the screenshots

1 for the Energy Star website which OELC will mark as
2 Exhibit 4.

3 EXAMINER PRICE: So marked.

4 (EXHIBIT MARKED FOR IDENTIFICATION.)

5 MR. WILLISON: Thank you, your Honors.

6 Q. (By Mr. Willison) Mr. Miller, do you have
7 before you what has just been marked OELC Exhibit 4?

8 A. Mine does not have the 4 on it. Should I
9 mark it?

10 Q. If you would like. Do you have before
11 you an exhibit which contains screenshots of the
12 Energy Star website and at the top it says "Energy
13 Efficient Products for Consumers"?

14 A. Yes.

15 Q. Mr. Miller, on page 3 -- excuse me.
16 Strike that. Mr. Miller, do you agree that Energy
17 Star certifies various equipment as energy efficient?

18 A. Yes.

19 Q. And, Mr. Miller, would different pieces
20 of Energy Star equipment qualify under the
21 prescriptive equipment rebates program?

22 A. Yes.

23 Q. And so, Mr. Miller, if you turn to page 3
24 of that exhibit, at the top it says "Building
25 Products." Do you see where it says "Residential

1 Windows," as well as "Doors and Skylights, Seal and
2 Insulate, Storm Windows"? Do you see that?

3 A. Yes.

4 Q. Mr. Miller, if a -- if a commercial or
5 industrial customer wanted to install energy
6 efficient windows, would they be allowed to do that
7 with a rebate from the prescriptive equipment
8 component?

9 A. We do not have that as a measure under
10 the prescriptive equipment program.

11 Q. But it is certified as something that can
12 be energy efficient under Energy Star, correct?

13 MR. ALEXANDER: Objection.

14 EXAMINER PRICE: Grounds?

15 MR. ALEXANDER: Actually I withdraw the
16 objection.

17 EXAMINER PRICE: Thank you.

18 A. What I see here is a residential windows
19 indication from Energy Star's efficient product. You
20 are referring to, I believe, the energy solutions for
21 business program which applies to commercial and
22 industrial customers.

23 Q. Absolutely. And so if you look a little
24 bit further down, there also includes a section there
25 labeled "Office Equipment" and beneath that it

1 includes "Computers, Monitors, Imaging Equipment."
 2 Would a commercial or industrial customer be allowed
 3 to obtain a prescriptive equipment rebate for energy
 4 efficient computers, monitors, or imaging equipment?

5 MR. ALEXANDER: This time I will object,
 6 your Honor.

7 EXAMINER PRICE: Grounds?

8 MR. ALEXANDER: We have not laid a
 9 foundation for this document with this witness and
 10 the last question did not relate to the document and
 11 so I withdrew the objection, but clearly the witness
 12 answered with regard to what was on the page and now
 13 we are directing the witness to look further at the
 14 document. And so I would ask that a foundation be
 15 laid or these questions be asked to the witness
 16 without the document and asked of his own knowledge.

17 MR. WILLISON: Your Honor, Mr. Miller
 18 testified as to the credibility of Energy Star and
 19 how it can be used to qualify equipment as energy
 20 efficient. I presented before him screenshots from
 21 the Energy Star website that notes different pieces
 22 of equipment and --

23 EXAMINER PRICE: But he -- he has not
 24 acknowledged that he has seen that website, and he
 25 can't authenticate that is where these were received

1 from. And I don't --

2 MR. WILLISON: Understood, your Honor. I
3 will ask without referencing the document.

4 EXAMINER PRICE: Perfect.

5 Q. (By Mr. Willison) Mr. Miller, would
6 commercial or industrial customers be allowed to
7 obtain prescriptive equipment rebates for computers
8 or monitors or printers under the prescriptive rebate
9 component of the energy solutions for business
10 program?

11 A. We did not include a measure specifically
12 for business customers to purchase monitors or the
13 equipment that you listed, monitors, computers,
14 printers. The reason we didn't is because in our
15 experience when with offering prescriptive programs
16 with our affiliates in other states, that these --
17 those measures have had very limited interest from
18 customers in that space, and one of the reasons that
19 we see that is many customers don't necessarily buy
20 the equipment. They lease it. However, we did
21 include a measure under our custom rebates portion of
22 this program that specifically applies to electronics
23 to where if a business customer is purchasing
24 electronics that are energy efficient, that they
25 would have the opportunity to apply for a rebate

1 through that component of the program.

2 Q. Understood. You would agree that
3 computers, printers, monitors may be energy
4 efficient?

5 A. Yes.

6 Q. And that many businesses use computers?

7 A. Yes.

8 Q. And that the prescriptive equipment
9 rebate program is intended to incentivize use of
10 energy efficient equipment such as computers,
11 correct?

12 A. No. The program does not include a
13 measure for prescriptive computers.

14 Q. Mr. Miller, are the rebates under the
15 prescriptive equipment -- prescriptive equipment
16 rebate component, are those in addition to rebates
17 offered for those same products through separate
18 channels?

19 EXAMINER PRICE: Can I have the question
20 back again, please?

21 (Record read.)

22 A. I'm not aware of rebates through other
23 channels.

24 Q. Are you aware that cities such as
25 Columbus may offer rebates for equipment that is

1 energy efficient such as energy efficient windows?

2 A. I am not aware of that.

3 Q. Let's move on to the custom equipment or
4 projects' rebate component of the energy solutions
5 for business program. You state on page 23, line 3,
6 that another component of FirstEnergy's energy
7 solutions for business program will provide
8 incentives for custom equipment or projects, correct?

9 A. Yes.

10 Q. You then state that custom equipment
11 includes equipment or projects where the energy
12 savings are variable for the equipment or project on
13 an application or case-by-case basis, correct?

14 A. Yes.

15 Q. Can you please explain what the term
16 "application" means as used in this sentence?

17 A. The application as used in this sentence
18 refers to the use of a piece of equipment or how the
19 equipment is being used.

20 Q. Okay. Later in that paragraph you state
21 "Performance incentives, an incentive per
22 kilowatt-hour of energy savings, will be provided to
23 customers for the installation of energy efficient
24 custom equipment and projects," correct?

25 A. Yes.

1 Q. What does the phrase "energy savings"
2 mean as used in your testimony?

3 A. Energy savings refers to an engineering
4 calculation that looks at the piece of equipment, the
5 project, or the application establishing a baseline
6 condition that's applicable for the equipment,
7 project, or installation and then calculates what the
8 energy savings are on a kWh basis associated with the
9 piece of equipment or project.

10 Q. And so, Mr. Miller, will FirstEnergy
11 track how much energy is saved by the installation of
12 each piece of custom equipment?

13 A. Energy savings will be tracked -- our
14 tracking and reporting will track participation in --
15 of each measure. When it comes to custom projects,
16 it's a project-based calculation and incentive that
17 the program will also track, and the energy savings
18 will then be tracked, you know, not only based on the
19 measure level of participation but up to the program
20 component or program level then based on all the
21 participation across all the measures in the program.

22 Q. And measures refer -- can be distinct,
23 correct? Just as you testified earlier, strip
24 curtains is one measure?

25 A. That is correct.

1 Q. And so how will FirstEnergy distinguish
2 between the energy efficient -- efficiency savings
3 for each measure?

4 A. I am not sure I understand what you mean
5 distinguish.

6 Q. Sure thing. Let me break it down. And
7 so how will FirstEnergy determine how much energy is
8 saved for each measure for a customer assuming that a
9 customer has multiple energy efficiency measures?

10 A. The energy savings per measure is
11 provided under Attachment ECM-3 measure assumptions.
12 What this shows is that for each measure that's shown
13 here, what the anticipated energy savings are per
14 unit. In terms of single measures that are shown,
15 the energy savings is based on, you know, the
16 calculated energy savings associated with the measure
17 as shown on this attachment. When it comes to custom
18 projects, we have estimates of what the custom
19 projects will produce. However, we will track and
20 capture the calculated energy savings for each
21 project.

22 Q. However, you also testified though that
23 there is some -- there is some energy efficiency
24 let's call them projects that customers might
25 implement that would not be -- not be subject to a

1 rebate that could dilute the energy efficiency that
2 that customer experiences, correct?

3 A. I don't see how it dilutes the energy
4 savings the customer achieves. If the customer
5 adopts a measure, whether it's rebated or not, they
6 are going to achieve the energy savings.

7 Q. Okay. Mr. Miller, I would like to direct
8 you to -- back to Attachment ECM-3 Ohio ESP V-Measure
9 Assumptions. Let me know when you are there.

10 A. I'm there.

11 Q. Towards the end of that attachment, there
12 are multiple rows labeled "Custom Projects," correct?

13 A. Yes.

14 Q. Does this table include every custom
15 project measure that FirstEnergy customers can use in
16 FirstEnergy's energy solutions for business custom
17 rebates component?

18 A. No, it does not.

19 Q. And how did you account for those other
20 measures in developing your testimony?

21 A. By nature of a customer having a custom
22 project, the application can be -- you know, the
23 number of applications can be endless. Varies based
24 on the customer, the customer type,
25 commercial/industrial process associated with the

1 customer. The custom program does not limit the
 2 projects that are eligible to apply to the program.
 3 The purpose of the custom measures that are shown
 4 here is more in developing our projections where we
 5 focused on categorizing types of custom projects.
 6 The intent is not to limit the custom projects.

7 Q. Understood. And so how did FirstEnergy
 8 choose which measures to include in this table?

9 A. This again was based on our experience
 10 operating programs for affiliates in other states
 11 where we have experience with types of custom
 12 projects that we are seeing coming through the
 13 program. So in terms of developing our projections
 14 for the program in an effort to develop what we would
 15 characterize as good projections, we did the more
 16 granular approach of rather than having a single
 17 custom measure that applies to everything, we did a
 18 granular approach by compartmentalizing the custom --
 19 different types of custom projects as shown on this
 20 table.

21 So I'm forgetting the question. I
 22 apologize.

23 Q. No worries. I think you -- I think you
 24 answered it.

25 A. Okay.

1 Q. Mr. Miller, I would like to direct your
2 attention to ECM-2 Workpaper 2. Are you there?

3 A. Yes.

4 Q. Okay. This table includes a column
5 labeled "Component," correct?

6 A. Yes.

7 Q. And towards the bottom of that column
8 there is a row marked "Custom Projects," correct?

9 A. Yes.

10 Q. And does this row reflect the projected
11 performance year one costs for custom projects in
12 FirstEnergy's energy solutions for business program?

13 A. Yes.

14 Q. Based on your projections, how much will
15 custom projects cost for performance year one?

16 A. In program year one, Attachment ECM-2
17 Workpaper 2 identifies a total budget across all cost
18 categories of approximately 15 million.

19 Q. And -- excuse me. And, Mr. Miller, how
20 much of that cost arose from incentives?

21 A. 8.7 million.

22 Q. And how did FirstEnergy project the cost
23 of those incentives?

24 A. The incentives for custom is based on a
25 cents per kWh savings, so essentially the development

1 of the incentive -- incentives' budgets look at our
2 projects for how many custom projects we are going to
3 have. It looks at what our projected energy savings
4 are across all the custom projects, and then it -- we
5 use a model rebate amount of what we are budgeting to
6 pay for custom projects on a cents per kWh basis to
7 sum to the \$8.7 million that are shown here for
8 program year one participation.

9 Q. And then shifting over a little bit
10 further left on that table, based on your
11 projections, how much will the program administration
12 of the custom projects component cost for performance
13 year one?

14 A. The program administration is \$4,365,522
15 on ECM-2 Workpaper 2.

16 Q. And how did FirstEnergy calculate that
17 cost?

18 A. Our modeling of program uses estimates of
19 what the program delivery costs are which includes
20 everything from the administration of the program,
21 the, you know, development and processing of the
22 applications to the program, performing the necessary
23 calculations, processing rebates, also includes
24 support to entities such as distributors, you know,
25 technical support to customers I should say to help

1 them participate in the program among other things.

2 Q. Will some of this program administration
3 costs be paid to an implementation vendor?

4 A. Yes.

5 Q. And how much?

6 A. I believe the information is
7 confidential.

8 Q. Mr. Miller, has FirstEnergy researched
9 which -- without naming the implementation vendor,
10 has FirstEnergy researched which implementation
11 vendor it would use to administer the custom projects
12 rebate component?

13 A. We have not.

14 Q. And so is it fair to say -- well, strike
15 that.

16 But you testify on page 24, lines 12 to
17 14, that the implementation vendor will provide
18 support and assistance with retailers and
19 distributors to support identification and promote --
20 and promotion of eligible energy efficiency
21 equipment, correct?

22 A. What line again? I'm sorry.

23 Q. Lines 12 to 14.

24 A. Yes.

25 Q. And so these im -- the implementation

1 vendor could determine additional equipment would
2 warrant inclusion in that rebate program, correct?

3 A. Yes.

4 Q. That could affect the projected costs
5 including the costs of administration and incentives,
6 correct?

7 A. Repeat the question.

8 Q. Sure. Let's break it down. The
9 implementation vendor can identify based on your
10 testimony page 24, lines 12 to 14, additional
11 eligible energy efficiency equipment, correct?

12 A. Yes.

13 Q. And based on information of that
14 additional equipment, that could affect the costs for
15 implementing or administering the custom projects
16 rebate component, correct?

17 A. Only to the extent that it's something
18 that the Company elects.

19 Q. Mr. Miller, what's the purpose of
20 including an implementation vendor or stating you
21 will include an implementation vendor to select
22 energy efficient equipment if you won't agree with
23 their selected equipment, agree to rebate their
24 selected equipment?

25 A. To clarify, the implementation vendor may

1 identify potential additional technologies to include
2 under the program. They are not selecting equipment,
3 per se. I guess I'm not understanding the question.

4 Q. Will additional energy efficiency
5 equipment identified by the implementation vendor
6 potentially increase the costs of implementing the
7 custom projects' rebate component?

8 A. I don't know.

9 MR. WILLISON: Your Honors, may we go off
10 the record?

11 EXAMINER PRICE: You may.

12 (Discussion off the record.)

13 EXAMINER PRICE: At this time we will
14 adjourn for the day. We will resume next Thursday at
15 9:15 a.m. Thank you all.

16 Off the record.

17 (Thereupon, at 5:00 p.m., the hearing was
18 adjourned.)

19 - - -

CERTIFICATE

I do hereby certify that the foregoing is
a true and correct transcript of the proceedings
taken by me in this matter on Thursday, November 9,
2023, and carefully compared with my original
stenographic notes.

Karen Sue Gibson, Registered
Merit Reporter.

(KSG-7547)

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Summary: Transcript of Ohio Edison Co., CEI and Toledo Edison Co. hearing held on 11/09/23 - Volume III electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs..