

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 9:15
a.m. on Friday, November 17, 2023.

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VOLUME V

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1 Friday Morning Session,
2 November 17, 2023.

3 - - -

4 EXAMINER PRICE: Go on the record. Good
5 morning. The Public Utilities Commission of Ohio has
6 set for 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 Provide for 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 Jackie St. John. We're the
15 Attorney-Examiners assigned to preside over the
16 hearing. This is day five of our hearing in this
17 proceeding.

18 We will resume the cross-examination of
19 Mr. Miller. Mr. Miller, again I remind you you are
20 still under oath. Mr. Pritchard, please proceed.

21 MR. PRITCHARD: Thank you.

22 - - -

23 EDWARD C. MILLER,
24 being first duly sworn, as prescribed by law, was
25 examined and testified as follows:

1 CROSS-EXAMINATION (Continued)

2 By Mr. Pritchard:

3 Q. Good morning, Mr. Miller.

4 A. Good morning.

5 Q. In your testimony, page 30, you
6 identified that for the energy efficiency resources
7 you plan to bid the permanent demand -- the permanent
8 peak demand reductions associated with energy
9 efficiency into the PJM capacity market, correct?

10 A. Yes.

11 Q. And the Company proposes to retain 20
12 percent of the revenue received from PJM, correct?

13 A. Correct.

14 Q. And you don't know what FirstEnergy's
15 cost to bid into PJM is, correct?

16 A. Correct.

17 Q. FirstEnergy did not undertake any
18 analysis of the ability of market to deliver
19 residential demand response programs, correct?

20 A. I have not done any analysis.

21 Q. As proposed, your plan does not
22 explicitly provide that CRES providers could sign up
23 customers into your Residential Load Control program,
24 correct?

25 A. Can you repeat the question?

1 Q. Yes. As proposed, your plan does not
2 explicitly provide that CRES providers could sign
3 customers up into your Residential Load Control
4 program, correct?

5 A. That is correct, enrollment in the
6 program is through the third party implementation
7 vendor.

8 Q. Does your proposal prohibit CRES
9 providers from signing up a customer into the -- into
10 your Residential Load Control program?

11 A. I don't know.

12 Q. For the load control program for
13 residential customers, you would agree with me that a
14 CRES provider could verify that a specific homeowner
15 is a customer of FirstEnergy, correct?

16 A. Correct.

17 Q. And a CRES provider could also undertake
18 the steps necessary to determine that the homeowner's
19 Smart Thermostat would be an eligible Smart
20 Thermostat under your Residential Load Control
21 program, correct?

22 A. I believe so.

23 Q. Now, yesterday we were talking about the
24 type of information that the implementation vendor is
25 going to have to verify and -- let me strike that.

1 Yesterday we were talking about how the
2 Company was going to provide -- would make available
3 certain information to implementation vendors,
4 correct?

5 A. That is correct.

6 Q. And FirstEnergy is going to provide the
7 implementation vendor all the raw customer data out
8 of your system so the implementation vendor can then
9 do the various steps and actions that your plan calls
10 upon them to take, correct?

11 MR. ALEXANDER: Objection.

12 EXAMINER PRICE: Grounds?

13 MR. ALEXANDER: Vague as to all the raw.

14 EXAMINER PRICE: Can I have the question
15 again, please?

16 (Record read back.)

17 EXAMINER PRICE: Overruled.

18 THE WITNESS: Which program are you
19 referring to?

20 By Mr. Pritchard:

21 Q. Let's start with the home energy report.

22 A. For home energy reports the
23 implementation vendor will have access to the
24 customer's billing data that's necessary to do the
25 data analytics to provide the customized reports,

1 tips, and recommendations that educate the customer.

2 Q. But it's not just the billing data, it's
3 all your raw data on -- that you contain in your
4 Customer Information System for the residential
5 customers, correct?

6 A. I don't know.

7 MR. PRITCHARD: Your Honor, may I
8 approach?

9 EXAMINER PRICE: You may.

10 By Mr. Pritchard:

11 Q. Mr. Miller, I've handed you a copy of
12 the deposition transcript again. Will you just look
13 at the first couple pages and confirm that this is
14 the transcript we have been utilizing yesterday and
15 now today?

16 A. Okay.

17 Q. Will you turn to page 35? And let me
18 draw your attention to Line 21. Let me know when
19 you're there.

20 A. I'm there.

21 Q. Let me know if I read this question and
22 answer correctly.

23 Question: "Okay. So to make the home
24 energy reports have more impact for the AMI meters
25 you will provide all the -- I guess for a better

1 term, all the raw data out of your information
2 systems, but they are going to -- they are the ones
3 who are going to have to do the analytics to refine
4 the data and figure out which customers it makes
5 sense to provide which customized tips to?"

6 Answer: "Yes."

7 Did I read that correctly?

8 A. You did read that correctly.

9 Q. Does your plan provide that CRES
10 providers will receive all of the raw Customer
11 Information System data like implementation vendors
12 would receive?

13 A. Can you repeat the question?

14 MR. PRITCHARD: Can I have that question
15 reread?

16 EXAMINER PRICE: Please.

17 (Record read back.)

18 MR. ALEXANDER: Objection.

19 EXAMINER PRICE: Grounds?

20 MR. ALEXANDER: Assumes facts. It
21 assumes that all the -- with the term all the raw
22 data regarding customers in the implementation system
23 will be provided to the vendor.

24 The witness didn't testify to that, and
25 there is no evidence in the record that all the

1 information from the Companies' CIS system will be
2 provided to the implementation vendor.

3 EXAMINER PRICE: Can you rephrase the
4 question a little more narrowly?

5 MR. PRITCHARD: Yes.

6 By Mr. Pritchard:

7 Q. Yes, let me ask it this way. We have
8 been discussing that there's going to be a lot of
9 information provided to the implementation vendors as
10 part of your program.

11 Whatever data you're going to provide
12 the implementation vendors, would CRES providers have
13 access to that same information under your proposal
14 to develop their own market-based energy efficiency
15 demand response products?

16 A. Is there a specific program you're
17 referring to?

18 Q. All of them.

19 A. All of -- all the implementation vendors
20 do not receive the customer data from the billing
21 system.

22 EXAMINER PRICE: That's not what he
23 asked. He asked if the CRES providers will get the
24 same information -- whatever you provide to the
25 implementation vendors, would the CRES providers get

1 the exact same information?

2 THE WITNESS: That's not our proposal.

3 By Mr. Pritchard:

4 Q. If residential customers could opt out
5 of your program it would be more difficult for
6 FirstEnergy to implement your proposal in your
7 testimony, correct?

8 A. I think I've highlighted there would be
9 cost implications, there would be difficulty
10 regarding educating customers and the customer
11 experience with the programs, and I believe I also
12 cited difficulties with program delivery and
13 marketing to customers. I'm sorry, was that the
14 question?

15 Q. Let me rephrase it a different way.

16 If your program was voluntary you'd have
17 to put more work into ensuring you could still
18 operate it in the same manner you propose, correct?

19 A. I'm not sure voluntary would even be
20 workable or practical.

21 Q. And one of the difficulties is it would
22 be harder and more effort to develop projections and
23 budgets for programs when customers have the
24 opportunity to choose whether to participate?

25 A. If not impossible.

1 EXAMINER PRICE: Instead of an opt out,
2 could you run a program that only applied to Standard
3 Service Office customers, customers who were with
4 CRES providers would not be eligible to participate?

5 THE WITNESS: I believe there would
6 still be difficulties with that. I'm not entirely
7 knowledgeable on the -- how the change in the
8 standard service customers versus the CRES supply
9 customers, how that population changes on a daily,
10 weekly, monthly basis.

11 I think there would still be
12 difficulties with it, but I haven't -- you know, it
13 would take some more thought to be able to answer
14 that, but I do believe it would be difficult, it's
15 just recognizing that population would still be
16 variable to some degree.

17 EXAMINER PRICE: Not an option you'd
18 consider?

19 THE WITNESS: No, I haven't.

20 EXAMINER PRICE: Thank you.

21 By Mr. Pritchard:

22 Q. All right. Switching to a different
23 line of questions. In your testimony, one of the
24 attachments you have is projected energy market
25 prices, correct?

1 A. Can you repeat the question?

2 Q. Yes. Attached to your testimony, one of
3 the attachments is a projection of energy market
4 prices, correct?

5 A. Attachment ECM-4, Workpaper 2 provides
6 projected avoided energy costs.

7 Q. And those are energy market prices,
8 correct?

9 A. They are energy price projections.

10 Q. And to project the monetary value of
11 benefits from the Energy Efficiency program in your
12 testimony, you rely on that attachment to calculate
13 monetary savings, correct?

14 A. The avoided energy component of the
15 programs use these rates as the avoided energy
16 component of all the benefits.

17 Q. You are not an expert in energy market
18 price forecasts, correct?

19 A. Can you repeat the question?

20 Q. You are not an expert in energy market
21 price forecasts, correct?

22 A. I don't consider myself an expert in
23 what I call energy forecasting.

24 Q. And if we look at Attachment ECM-4,
25 Workpaper 2, for the first few years of the forecast,

1 the energy prices in this chart, you indicate come
2 from forward prices available on ICE as of
3 February 8th, 2023, correct?

4 A. Yes.

5 Q. And you did not pull these price
6 forecasts, correct?

7 A. I did not pull these forecasts.

8 Q. Someone in a group at FirstEnergy that
9 is familiar with pulling this type of data -- this
10 type of information was the one who gave you this
11 information, correct?

12 A. That is correct.

13 Q. And since February 8th, 2023, you
14 haven't looked at the ICE forwards, correct?

15 A. That is correct.

16 Q. For years 2026 to 2028, are the energy
17 price forecasts that you blended the ICE forwards in
18 February 8th with another forecast, correct?

19 A. That is correct.

20 Q. The second forecast you identify is the
21 EIA natural gas forecast for Henry Hub with a
22 Dominion South geographic basis adjustment, correct?

23 A. Yes.

24 Q. And the energy price forecast here in
25 these columns is stated in dollars per megawatt-hour,

1 correct?

2 A. Yes.

3 Q. The EIA forecast is not stated in
4 dollars per megawatt-hour, correct?

5 A. That is correct.

6 Q. It would be on a dollar per Mcf basis,
7 correct?

8 A. Yes.

9 Q. And that's because the EIA forecast is a
10 natural gas forecast, correct?

11 A. That is correct.

12 Q. And you are not an expert on natural gas
13 price forecasts, correct?

14 A. Can you repeat the question?

15 Q. You are not an expert on natural gas
16 price forecasts, correct?

17 A. I don't claim to be an expert.

18 Q. You did not do the conversion of Henry
19 Hub to Dominion South basis adjustment, correct?

20 A. I did not do the conversion myself.

21 Q. And that was not done by someone that
22 directly reports to you, correct?

23 A. The person does not directly report to
24 me, but it was done under my direction.

25 Q. Again, the person -- sorry. Strike

1 that.

2 The conversion of Henry Hub prices to
3 Dominion South was done by someone in the group at
4 FirstEnergy that does energy market price forecasts,
5 correct?

6 A. That is correct.

7 Q. And the person that did the conversion
8 is not a witness in this case, correct?

9 A. That is correct.

10 Q. And this next step of the EIA analysis
11 is reflected here, and that's a heat rate conversion
12 using historical/forward average on-peak, off-peak,
13 monthly prices for ATSI/DS and applied to the
14 appropriate forecast, correct?

15 A. That is correct.

16 Q. You are not an expert in heat rate
17 conversions, correct?

18 A. I don't claim to be an expert.

19 Q. And you are not an expert in converting
20 natural gas price forecasts to energy market price
21 forecasts, correct?

22 A. Can you repeat the question?

23 Q. You are not an expert in converting
24 natural gas price forecasts to energy market price
25 forecasts, correct?

1 A. I don't claim to be an expert.

2 Q. And for years 2029 to 2050, someone in a
3 different department of FirstEnergy that doesn't
4 report to you did the calculation of energy price
5 forecasts, correct?

6 A. It was the same person. They don't
7 report to me directly, but again, it was done under
8 my direction.

9 Q. The next page in your testimony,
10 Attached ECM-4, Workpaper 3 is avoided capacity,
11 correct?

12 A. That is correct.

13 Q. You are not an expert on capacity market
14 price forecasts, correct?

15 A. Can you repeat the question?

16 Q. You are not an expert on capacity market
17 price forecasts, correct?

18 A. I don't claim to be an expert.

19 Q. You did not prepare the capacity market
20 forecast yourself, correct?

21 A. I did not create it myself. Again, it
22 was the same individual who performed it under my
23 direction.

24 MR. PRITCHARD: Your Honor, if I might
25 have just a minute to review my -- see if I'm

1 complete with the public section?

2 EXAMINER PRICE: Yes, please.

3 (Pause.)

4 MR. PRITCHARD: Your Honor, those are
5 all the questions I have on the public section.

6 EXAMINER PRICE: Thank you. At this
7 time we will move to the confidential portion of our
8 transcript.

9 MR. ALEXANDER: Your Honor, may I have
10 just one moment to check the other room?

11 EXAMINER PRICE: If the Attorney
12 Generals could close the doors so that nobody could
13 enter, that would be helpful.

14 MR. ALEXANDER: I think we're good to
15 go, your Honor.

16 BEGIN CONFIDENTIAL PORTION

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(END OF CONFIDENTIAL TRANSCRIPT.)

EXAMINER PRICE: Mr. Finnigan, any
questions for the witness?

MR. FINNIGAN: No questions, your Honor.

EXAMINER PRICE: ELPC?

MS. MC CONNELL: No questions, your
Honor.

EXAMINER PRICE: Ms. Bojko?

MS. BOJKO: Yes, your Honor.

CROSS-EXAMINATION

By Ms. Bojko:

Q. Good morning, Mr. Miller.

A. Good morning.

Q. Referring to your -- back to your
testimony on page 4. Here your testimony is --

1 you're testifying in this case about a proposed
2 energy efficiency and peak demand response plan
3 included in the ESP V; is that correct?

4 A. That is correct.

5 Q. And you're generally summarizing that on
6 page 4 of your testimony; is that correct?

7 A. Yes, I summarize my testimony on page 4.

8 Q. And the EE plan is a four-year plan as
9 proposed, correct?

10 A. That is correct.

11 Q. And given that the ESP V is -- it's your
12 understanding that ESP V is an eight-year plan?

13 A. I do.

14 Q. Given that the ESP V is an eight-year
15 plan, does the Energy Efficiency Peak Demand Response
16 Plan end at the end of year four unless the Company
17 requests an extension and it's approved?

18 A. I see at lines 14 and 15 on page 4 I
19 state that, "After the Companies complete" -- well,
20 the beginning on line 12 is the we'll evaluate the
21 performance of the plan prior to the end of the
22 initial four-year term, including through discussions
23 with the collaborative.

24 After we complete the evaluation of the
25 performance then we may make a separate filing with

1 the Commission seeking approval to extend, modify, or
2 cease these programs, or to implement additional
3 programs. This was designed as a four-year plan.

4 Q. I'm trying to figure out if the proposal
5 is that the plan is only four years and it ends
6 unless you make this filing, or if it's your
7 testimony that the Company will continue the plan
8 until it makes the filing and the Commission decides
9 what to do. What happens at the end of year four?
10 What is the default?

11 A. I'm not sure there is a default. I
12 believe that can be -- there's multiple scenarios
13 there, but our intent is to review the performance,
14 discuss it with the collaborative, and to make that
15 decision at that time.

16 EXAMINER PRICE: At the end of year
17 four, if the Company, for whatever reason does not
18 make a filing, what happens? Do the programs go
19 away?

20 THE WITNESS: I would have to discuss
21 that with other individuals. I don't recall having
22 that precise discussion.

23 By Ms. Bojko:

24 Q. And so you don't know if -- what happens
25 if you make a filing and the Commission doesn't rule

1 on it by the end of year four either, do you?

2 A. That would be correct.

3 Q. The plan, as I understand it, includes
4 five programs; is that correct?

5 A. Yes.

6 Q. And only one of those programs is
7 commercial and industrial, and the other four are for
8 residential?

9 A. That is correct.

10 Q. You state on page 4 that the plan has an
11 anticipated annual cost of 72.1 million every year of
12 the plan's four year term; is that correct?

13 A. That's a simple average over the
14 four-year period. I do note my workpapers do provide
15 annual projections.

16 I believe there is a slight increase
17 over the four-year period, but the overall average is
18 the 72.1 million.

19 Q. I'm sorry, I just didn't hear you. Did
20 you say a slight increase over the four-year period?

21 A. Let me check.

22 Q. Could you direct us to what you're
23 reviewing?

24 A. This would be Attachment ECM 2,
25 Workpaper 2, and -- which does provide annual plan

1 budget projections.

2 For instance, in program year 1 the
3 projected budget is 69.9 million that year. And from
4 my review there is a slight increase year over year,
5 again resulting in the average of 72.1 million.

6 Q. And the one program, that's the C&I
7 program, that's the Energy Solutions For Businesses
8 program; is that correct?

9 A. That is correct.

10 Q. And the Company is proposing 38.5
11 million, approximately, for that program on an annual
12 basis?

13 A. Attachment ECM-2 does provide the total
14 budget by sector and program, and it does show the
15 Energy Solutions for Business program, on an average
16 annual basis, to be 38.6 million, rounded.

17 Q. And who pays for the Energy Solutions
18 for Business program?

19 A. I believe that's covered by witness
20 McMillen.

21 Q. Do you know if C&I customers pay for it,
22 or all customers pay for it?

23 A. I do not know his cost recovery
24 methodologies.

25 Q. Or the allocation of costs?

1 A. I do not know.

2 Q. And is it your understanding that 8.6
3 million approximately is for the low-income Energy
4 Efficiency program?

5 A. That is correct. That's also on
6 Attachment ECM-2.

7 Q. And if I were to ask you the same
8 questions about who pays for the residential program,
9 would your answers be the same, that you do not know?

10 A. I do not know.

11 Q. Turning to pages 8 and 9 of your
12 testimony. Here you opine that the EE/PDR plan that
13 FirstEnergy is proposing encourages various state
14 policies; is that correct?

15 A. Yes, I see on page 8 that the -- I state
16 that the plan advances both Revised Code 4905.70 and
17 the state's energy policy in Revised Code 4928.02.

18 And there's additional references to the
19 Revised Code and the encouragement regarding
20 conservation of energy and reduction in growth of
21 energy consumption.

22 Q. And on page 9, at the bottom row of the
23 table, you state that the program facilitates the
24 state's effectiveness in the global economy by
25 contributing to economic development through a focus

1 on reducing the cost of energy efficiency products
2 and services improving the energy efficiency of
3 businesses, and making customers more competitive; is
4 that correct?

5 A. That is correct. That is one of the
6 benefits of the Energy Efficiency programs.

7 Q. And, sir, you had some questions
8 yesterday, I just want to ask some clarifying
9 questions. You're the witness that is sponsoring
10 FirstEnergy's EE plan in this ESP V; is that correct?

11 A. Yes.

12 Q. And you are the EE manager; is that
13 correct?

14 A. I am manager of the Energy Efficiency
15 compliance and development team.

16 Q. And you have been that manager since
17 when?

18 A. Since the merger with FirstEnergy, I
19 believe, in 2011. I performed the -- effectively the
20 same role with the former utilities owned by
21 Allegheny Energy starting in 2009.

22 Q. And on page 1 of your testimony you
23 state that you've overseen the Ohio EE program since
24 2013; is that correct?

25 A. Yes, that is correct. Post merger, that

1 would have been the next Energy Efficiency Plan that
2 was developed following the merger between
3 FirstEnergy and Allegheny Energy.

4 Q. So given that you've overseen the Ohio
5 EE program since 2013, you are familiar with the
6 Energy Efficiency program that was contained in ESP
7 IV; is that correct?

8 A. I was not involved in the ESP IV
9 development or the Energy Efficiency program that was
10 included until last year when energy efficiency was
11 engaged regarding the programs that are now being
12 provided as a result of the ESP IV program.

13 Q. Well, that's why I'm confused, because
14 on page 1 of your testimony you say you've overseen
15 the program since 2013, but you didn't oversee the
16 ESP IV program until 2022.

17 A. My role in energy efficiency was
18 specific to the Energy Efficiency programs that we
19 were developing to meet the State's mandates for
20 energy efficiency. I did not oversee or have
21 involvement in the prior ESPs.

22 Q. So are you stating that the ESP IV EE
23 program did not meet compliance mandates?

24 A. I was not involved in that. I didn't
25 mean to say that it doesn't -- I can't speak to the

1 ESP IV, I guess, another way.

2 My involvement in energy efficiency was
3 specifically around our Energy Efficiency program
4 plans, not the ESP IV plan.

5 Q. So who oversaw the ESP IV EE program,
6 then?

7 A. I don't know.

8 Q. Do you know that FirstEnergy agreed to
9 contribute 3 million annually in shareholder dollars,
10 for a total of 24 million, to fund energy
11 conservation programs in FirstEnergy's service
12 territories and for economic development and job
13 retention in the ESP IV?

14 A. I was made aware of that commitment,
15 again, it was sometime I believe in 2022, and I think
16 it's 24 million over the eight-year term of ESP IV,
17 if I remember correctly.

18 Q. And it's your understanding that the ESP
19 V plan that you're supporting today also funds the
20 energy conservation programs in the Companies'
21 territories and economic development job retention
22 programs, correct?

23 MR. ALEXANDER: Could I have that
24 question reread, please?

25 EXAMINER PRICE: You may.

1 (Record read back.)

2 MR. ALEXANDER: Objection, vague.

3 EXAMINER PRICE: Can you rephrase and
4 try to break it up into separate components?

5 MS. BOJKO: Sure.

6 By Ms. Bojko:

7 Q. I thought we talked about on pages 8 and
8 9 of your testimony that ESP V is intended to do
9 several things; one including energy conservation
10 programs in the Companies' service territories; is
11 that correct?

12 A. Yes.

13 Q. And it is -- also ESP V is for economic
14 development, job retention program purposes; is that
15 correct?

16 A. I can't speak to the economic
17 development and job retention.

18 Q. Well, I thought we discussed earlier
19 that you stated it improved energy efficiency of
20 businesses and making customers more competitive, did
21 you not?

22 A. My testimony at page 9 is referring to
23 that energy efficiency contributes to economic
24 development.

25 Q. Right. The Energy Efficiency Plan

1 contributes to economic development and encourages
2 job retention; is that correct?

3 A. My testimony is that energy efficiency
4 contributes to economic development through a focus
5 on reducing the cost of the energy efficiency
6 products and services, improving the energy
7 efficiency of businesses, and making customers more
8 competitive. I recognize that helping customers
9 become more competitive does support job retention.

10 Q. Okay.

11 A. When you refer to economic development
12 and job retention, I thought you were referring to
13 other initiatives that I'm not involved in.

14 Q. I see. I was referring to ESP V
15 economic -- Energy Efficiency and PDR plan. Just so
16 we're on the same page, I'm sticking with the plan
17 that you're supporting.

18 A. Okay.

19 Q. And so it does sound like you do believe
20 that one of the purposes is for economic development
21 and to make customers more competitive, which would
22 help with economic development?

23 A. Absolutely. Helping our customers
24 become more energy efficient and competitive helps
25 their bottom lines, helps the customers, helps the

1 communities in which they are located, and helps
2 their employees. And I mean, there's just -- it just
3 goes on and on.

4 Q. And that would have been true for the
5 ESP IV Energy Efficiency PDR plan that the Company
6 operated; is that correct?

7 EXAMINER PRICE: Can I have that
8 question back, please?

9 MR. ALEXANDER: Objection.

10 EXAMINER PRICE: Let me hear the
11 question and then you can make your objection.

12 (Record read back.)

13 EXAMINER PRICE: Still have an
14 objection?

15 MR. ALEXANDER: I do. The PDR plan,
16 there's been no foundation laid for a peak demand
17 reduction component of ESP IV.

18 MS. BOJKO: I'll rephrase, your Honor.
19 By Ms. Bojko:

20 Q. Your statements regarding economic
21 development would have been true for the Energy
22 Efficiency program that the Company has operated
23 under ESP IV, correct?

24 A. My testimony applies to the benefits of
25 Energy Efficiency programs. I don't have the --

1 again, the knowledge of the ESP IV's development.

2 Q. Well, you mentioned the 24 million total
3 over the eight-year plan in the ESP IV. Isn't it
4 true that as of July 31st, 2023, FirstEnergy has only
5 spent 2.1 million of that \$24 million that it
6 committed?

7 A. I recall seeing an interrogatory
8 yesterday that -- it indicated a \$2 million number.
9 I don't precisely remember the number or how it was
10 characterized.

11 EXAMINER PRICE: Other than the
12 interrogatory, do you have any personal knowledge of
13 the implementation of the Companies' commitments to
14 ESP IV to spend \$24 million?

15 THE WITNESS: I do. I became aware of
16 the ESP IV commitment in -- sometime in 2022 and was
17 aware of the Companies' development of the Energy
18 Efficiency programs that we reviewed yesterday --

19 EXAMINER PRICE: Okay.

20 THE WITNESS: -- since that time.

21 EXAMINER PRICE: But you -- prior to
22 looking at the interrogatory you had no knowledge
23 that the Company had spent \$2.1 million as of July --
24 or the date that Ms. Bojko mentioned?

25 THE WITNESS: I did see drafts of the

1 response to the interrogatory. I'm not sure that I
2 saw the final draft. So I was aware that there was a
3 level of spending that was in the interrogatory.

4 EXAMINER PRICE: Okay.

5 By Ms. Bojko:

6 Q. So does FirstEnergy intend to credit the
7 new ESP V Energy Efficiency Plan with the unused
8 dollars committed in ESP IV that were never spent?

9 A. I don't know.

10 Q. As the EE witness in this case, did you
11 have the opportunity to review Staff witness
12 Schaefer's recommendations regarding the proposed
13 Energy Efficiency Plan of the Company?

14 A. I reviewed portions of the testimony. I
15 may not recall all of it.

16 Q. Are you aware that Staff witness
17 Schaefer recommended in this case that the unused
18 shareholder dollars from ESP IV be credited to
19 customers through the EDR Rider or Consumer Rate
20 Credit Rider adjustment filing after an order is
21 issued in this case?

22 A. I don't remember the specifics. I
23 generally remember the recommendation, but not the
24 specifics.

25 Q. In ESP V, unlike ESP IV, FE is not

1 proposing to contribute shareholder dollars toward
2 the annual cost of 72.1 million, is it?

3 A. I believe that would be witness
4 McMillen. I'm not aware of the cost recovery
5 methodologies.

6 Q. You're not even aware of whether
7 FirstEnergy is committing shareholder dollars versus
8 customer dollars to the program?

9 A. I'm not.

10 Q. Given that you got involved with the
11 current program in 2022, I guess I'm trying to
12 understand, FirstEnergy didn't spend the committed 3
13 million annually of shareholder dollars in the last
14 ESP, but now you're requesting to spend \$72.1 million
15 annually of customer dollars; is that right?

16 MR. ALEXANDER: Objection.

17 EXAMINER PRICE: Grounds?

18 MR. ALEXANDER: The question conflates
19 two very different programs, and it assumes that the
20 \$24 million commitment from ESP IV related solely to
21 energy efficiency.

22 It did not, it included other
23 components, and these are just two completely
24 different programs, they are dissimilar.

25 MS. BOJKO: Your Honor, I think the

1 witness could have testified to that, not
2 Mr. Alexander. I mean, he is the energy efficiency
3 manager and has been since 2013.

4 EXAMINER PRICE: I'm going to sustain
5 the objection. I'm struggling to understand the
6 witness' knowledge of this ESP IV commitment.

7 I'm not -- it's not clear to me what his
8 involvement is in the implementation or how much
9 knowledge he has of this commitment.

10 MS. BOJKO: But, your Honor, with all
11 due respect, he was an Energy Efficiency manager
12 since 2013, he's been the EE manager and said he
13 specifically was involved in this in 2022.

14 We now learned that he read draft DR
15 responses that were not allowed to -- questions to be
16 asked about it yesterday.

17 I mean, he's clearly familiar with these
18 issues and he should be able to testify to it, and we
19 should be able to test his knowledge on them.

20 EXAMINER PRICE: I don't disagree. I'm
21 just saying if you can lay a little better foundation
22 as to his state of knowledge, it might move the ball
23 a little bit.

24 By Ms. Bojko:

25 Q. All right. So you are aware that only

1 2.1 -- I guess only 2.17 million of the committed
2 shareholder dollars of 24 million were spent in ESP
3 IV, correct?

4 A. I'm aware that the level of spending was
5 approximately 2 million. I became aware of that
6 through the interrogatory as discussed. I was not
7 previously aware of that.

8 Q. Well, you did say you were previously
9 aware of it. You were made aware of it in 2022, I
10 thought was your testimony.

11 A. I was brought in and made aware of the
12 energy efficiency portion of the ESP IV in 2022,
13 which led to the development of the Energy Efficiency
14 programs that was --

15 EXAMINER PRICE: I'm sorry.

16 THE WITNESS: That led to the
17 development of the Energy Efficiency programs for --
18 under the ESP IV commitment at that time.

19 EXAMINER PRICE: But do you have
20 knowledge of the Energy Efficiency programs that have
21 been created to implement the commitments for the ESP
22 IV?

23 THE WITNESS: The ones that were created
24 in 2022, yes.

25 EXAMINER PRICE: Okay.

1 By Ms. Bojko:

2 Q. And let's go back to the 2.1 million.
3 Is it your understanding that \$2.1 million that was
4 spent, was spent in ESP IV for the purpose of funding
5 energy conservation programs and economic development
6 and job retention programs?

7 A. Can you repeat the question?

8 Q. Sure. Let me try again.

9 Is it your understanding that the ESP IV
10 program, that you're aware of, was intended to fund
11 energy conservation programs and economic development
12 job retention programs?

13 A. I'm sorry, can you repeat the question?

14 EXAMINER PRICE: Let's have the question
15 back, please?

16 (Record read back.)

17 THE WITNESS: I don't remember all of
18 the components of the commitment. I do remember
19 economic development and job retention was one, and I
20 remember that energy efficiency was one. I can't say
21 there were other parts of that commitment or not.

22 By Ms. Bojko:

23 Q. And that commitment, or the \$24 million,
24 that was for all customers; is that correct? I mean,
25 it was for all -- it was for residential and

1 commercial customers, it wasn't specified just for
2 low-income or residential, was it?

3 A. I don't remember there being any
4 distinctions as to targeting or limiting customers.

5 EXAMINER PRICE: Do you have any
6 knowledge to the efficiency energy part of the
7 spending on economic development and job retention
8 commitments of the \$24 million?

9 THE WITNESS: Other than that
10 interrogatory, I haven't seen any other information
11 on the spending of that commitment.

12 EXAMINER PRICE: You were not involved
13 with spending that money?

14 THE WITNESS: I am not involved in
15 implementation of it, no.

16 EXAMINER PRICE: As the job retention --

17 THE WITNESS: Or the energy efficiency
18 component.

19 EXAMINER PRICE: I thought you testified
20 earlier you helped develop the Energy Efficiency
21 program.

22 THE WITNESS: I developed the -- I
23 helped develop the programs, but I'm not involved in
24 the implementation or the spending.

25 EXAMINER PRICE: So you helped develop

1 the programs, and the actual administration of
2 programs was being done by somebody else?

3 THE WITNESS: Yes, the actual
4 implementation is being done for the Energy
5 Efficiency programs by implementation teams.

6 EXAMINER PRICE: And who are they?

7 THE WITNESS: They are teams within the
8 Energy Efficiency Department.

9 EXAMINER PRICE: Do they report to you?

10 THE WITNESS: They do not.

11 EXAMINER PRICE: Who do they report to?

12 THE WITNESS: Yesterday I mentioned
13 having two directors in Energy Efficiency, one over
14 compliance and reporting activities, which includes
15 development, tracking and reporting, and evaluation
16 of the programs.

17 The second director oversees the
18 implementation and the activities associated to
19 support the implementation of the programs,
20 accounting, invoice processing.

21 That's the other -- I report to the one
22 director, and the other director is where the
23 implementation is conducted.

24 EXAMINER PRICE: Do you have any
25 knowledge of whether the Companies will spend the

1 remaining balance of the \$24 million by the end of
2 ESP IV?

3 THE WITNESS: I believe the intent is to
4 spend the 24 million by the end of ESP IV.

5 EXAMINER PRICE: I'm not asking intent.
6 Do you have any knowledge that you're on track to do
7 that?

8 THE WITNESS: I do not. I have not seen
9 that.

10 EXAMINER PRICE: Who would know that?
11 Do any witnesses that FirstEnergy is providing today
12 have that knowledge -- in this hearing, not today,
13 that will have that knowledge?

14 THE WITNESS: I don't know.
15 By Ms. Bojko:

16 Q. Given that you were the developer of it,
17 do you know how the money was supposed to be spent on
18 an annual basis? Was it designated to be 2 million a
19 year, 3 million a year?

20 MR. ALEXANDER: Objection.

21 EXAMINER PRICE: Grounds?

22 MR. ALEXANDER: There's no evidence he
23 was the developer of the ESP IV \$24 million
24 provision.

25 MS. BOJKO: I think he did actually

1 testify that he was. He was the developer, not the
2 implementer.

3 EXAMINER PRICE: When you say you were
4 the developer, you became the developer in 2022; is
5 that correct?

6 THE WITNESS: And to be clear --

7 EXAMINER PRICE: Answer my question
8 first, and then you can add on.

9 THE WITNESS: Yes, in 2022.

10 EXAMINER PRICE: Now you have something
11 else you wanted to add?

12 THE WITNESS: And just for clarity, my
13 role was to develop Energy Efficiency programs to
14 spend a desired amount of money.

15 So they would be for program designs
16 that were targeted on a budget amount that we were
17 to -- to spend to meet the commitment.

18 EXAMINER PRICE: Is that budget amount
19 confidential?

20 MR. ALEXANDER: Your Honor, these budget
21 amounts are in the documents that have already been
22 marked and used with this witness.

23 EXAMINER PRICE: So the answer is no,
24 it's not confidential?

25 MR. ALEXANDER: Yeah, I just wanted you

1 to be aware they were.

2 EXAMINER PRICE: How much were you
3 intending to spend in the programs you were
4 developing?

5 THE WITNESS: I don't remember if I gave
6 a number, I'd be speculating right now. I don't
7 remember the precise amounts.

8 EXAMINER PRICE: But it may be in the
9 documents?

10 THE WITNESS: There were budgets
11 provided by program in the documents that were
12 exhibited yesterday.

13 EXAMINER PRICE: Okay.

14 By Ms. Bojko:

15 Q. Well, you already agreed with me a few
16 minutes ago that it was 3 million annually, over an
17 eight-year program for a total of \$20 million,
18 correct?

19 A. I was remembering what was reviewed
20 yesterday, which had a \$24 million total commitment
21 made up of a calculation which assumed 3 million by
22 year to get to a 24 million total commitment.

23 Q. And currently the number we have is
24 approximately \$2.17 million that's been suspended --
25 that has been spent over the seven years that has

1 occurred, correct?

2 MR. ALEXANDER: Objection. Asked and
3 answered.

4 EXAMINER PRICE: Overruled.

5 THE WITNESS: What I'm aware of is there
6 at a point in time, I forget the date of the
7 interrogatory, there was an approximate 2 million
8 number provided for the spend that included both
9 economic development projects, I believe, as well as
10 the energy efficiency.

11 I highlight that the Energy Efficiency
12 programs were not approved by the Companies until I
13 believe the date of the -- that's on the exhibits
14 that were the executed approvals for us to move
15 forward with the Energy Efficiency programs in
16 October of 2022.

17 By Ms. Bojko:

18 Q. Okay. Let's turn to the Energy
19 Solutions for Business program, specifically. I want
20 to follow up on a couple of questions asked of you in
21 the last couple days.

22 On page ---well, first of all --

23 MR. ALEXANDER: Actually, may we go off
24 the record for just a moment?

25 EXAMINER PRICE: Off the record.

1 (Discussion off the record.)

2 EXAMINER PRICE: Go back on the record.

3 Ms. Bojko, please proceed.

4 MS. BOJKO: Thank you, your Honor.

5 By Ms. Bojko:

6 Q. Before the break, Mr. Miller, we were
7 talking -- or going to switch to talk about the
8 Energy Solutions for Business program. This is on
9 page 25 of your testimony.

10 I want to follow up on a couple opt out
11 type questions that were asked of you yesterday.
12 First, on page 25 you refer to an EE surcharge,
13 Energy Efficiency Surcharge.

14 That is the amount that a customer would
15 pay if they participate in the Energy Efficiency
16 program; is that correct?

17 A. The opt out of the surcharge that I'm
18 referring to is the surcharge that's charged to
19 customers on that rate schedule of that particular
20 customer.

21 Q. And the surcharge is the EEC Rider, is
22 that correct?

23 A. I believe that's the name.

24 Q. Okay. So if a large customer, under
25 your definition, opts out, they avoid paying the EEC

1 Rider, is that correct?

2 A. If that's the Energy Efficiency Rider
3 covered by witness McMillen, that is correct.

4 Q. And large customers have to
5 affirmatively opt out and take an action in order to
6 avoid the harm you refer to of paying the EEC Rider;
7 is that correct?

8 A. A large customer to opt out would need
9 to apply to opt out.

10 Q. And if we look at page 25 of your
11 testimony on line 14, here you state that your,
12 "process will entice greater efficiency gains and
13 better advance the state policy objectives outlined
14 earlier in," your testimony compared to an opt-in
15 approach. Do you see that?

16 A. I do see that.

17 Q. But the Companies have not actually
18 created that opt-out process yet, have they?

19 A. We have not developed the opt-out
20 process yet.

21 Q. So there isn't a proposed opt-out
22 process as listed on line 14, correct?

23 A. As shown on line 6, we propose to
24 develop and offer an opt-out process.

25 Q. So the answer is correct, there's not a

1 proposed opt-out process today, correct?

2 A. We have not developed the process,
3 correct.

4 Q. And one of the reasons you state for
5 proposing an opt-out program is because customers may
6 not be aware of an opt-in period; is that correct?

7 A. That is correct. Customers may be
8 unaware and miss the opportunity to participate,
9 budgets may be undersized and unable to support
10 participation.

11 Q. Isn't it true that customers may be
12 unaware of an opt-out period as well?

13 A. It is potential some customers may be
14 unaware.

15 Q. And until a customer affirmatively opts
16 out, they would be charged for the Energy Efficiency
17 PDR programs through the EEC Rider, correct?

18 A. Can you repeat the question?

19 Q. Sure. Until a customer opts out they
20 would be charged for the EE/PDR programs through the
21 EEC Rider; is that correct?

22 A. To the -- only in the event that the
23 surcharge begins and the customer has not opted out
24 prior to the surcharge beginning.

25 Q. Right. So a customer can miss the

1 opt-out period, be charged the EEC Rider until they
2 figure it out, and then subsequently opt out,
3 correct?

4 A. Can you repeat that? You had a
5 couple --

6 Q. That's a bad question, I'll try again.
7 I'll withdraw that question.

8 A customer that misses the opt-out
9 period will be in the program and will be charged the
10 Energy Efficiency Surcharge until a period in which
11 they opt out; is that correct?

12 A. If the customer doesn't opt out prior to
13 the surcharge being implemented, they will be charged
14 a surcharge until such time that they choose to opt
15 out.

16 EXAMINER PRICE: Okay. One second. Do
17 you envision a rolling opportunity to opt out, or
18 will it be a you have two weeks and if you don't opt
19 out in the two weeks you're in forever?

20 THE WITNESS: I don't believe we intend
21 for there to be a limited opt-out period to where
22 you're in forever. We have not developed, I'll say
23 the timing of the opt-out periods though, however.

24 Opt-out periods could be offered, you
25 know, potentially on an annual basis as an example.

1 I don't believe it would be limited to a two-week and
2 you're in forever, though.

3 EXAMINER PRICE: But it may be you have
4 a month every year, and if you don't hit that month,
5 you're in for a year?

6 THE WITNESS: It could be along those
7 lines, yes.

8 EXAMINER PRICE: Do the Companies intend
9 to forego imposing the surcharge until there's been a
10 reasonable opportunity for companies to opt out -- or
11 customers to opt out?

12 THE WITNESS: We intend to
13 communicate -- to develop the process to communicate
14 with customers through various channels to inform
15 them on the opportunity to opt out prior to the
16 implementation of the programs.

17 By Ms. Bojko:

18 Q. But that's not what Mr. Price asked. He
19 asked if there would be -- if the Company is
20 proposing to not charge the EEC Rider, the Energy
21 Efficiency Surcharge, until such time as customers
22 have been made aware of the opportunity to opt out
23 and then given a reasonable period to opt out.

24 MR. ALEXANDER: Was that a question?

25 MS. BOJKO: Yes. And he was responding.

1 MR. ALEXANDER: Then objection.

2 EXAMINER PRICE: Grounds?

3 MR. ALEXANDER: Vague.

4 EXAMINER PRICE: I think she's
5 attempting to clarify my vague question, so
6 overruled. Witness seemed like he had an answer.

7 THE WITNESS: Can you repeat the
8 question?

9 MS. BOJKO: Can I have that read back,
10 please?

11 (Record read back.)

12 THE WITNESS: I can't speak to the
13 timing of the surcharge, that's covered by witness
14 McMillen.

15 However, I can say that it's our intent
16 to communicate and provide the opportunity prior to
17 implementation of the programs.

18 By Ms. Bojko:

19 Q. Is there anything in your testimony that
20 speaks to the Energy Efficiency Surcharge being
21 delayed after the start of ESP V in June 1st, 2024?

22 A. Not in my testimony.

23 Q. And the process is not yet developed is
24 my understanding; is that correct?

25 A. We have not developed the process for a

1 customer to opt out, which would include the
2 application form and information required sufficient
3 to verify eligibility and to enact the opt out from
4 the surcharge, but also from program participation
5 going forward.

6 Q. And presumably you wouldn't start an
7 education effort until the Commission has actually
8 approved your proposal, correct?

9 A. I believe that's correct.

10 Q. And -- Strike that.

11 But you are seeking approval here today
12 of your Energy Efficiency PDR plan without that
13 process being determined; is that correct?

14 A. We are seeking approval of an energy
15 efficiency, and of our five Energy Efficiency
16 programs, including their budgets, as well as the
17 opportunity to provide an opt-out process to our
18 large customers.

19 Q. And it is your understanding that
20 Mr. McMillen did testify that initial Rider EEC rates
21 will go into effect June 1st, 2024, correct?

22 A. I was not aware of the timing of the
23 surcharge.

24 MS. BOJKO: Your Honor, at this time I
25 would like to mark as OMAEG Exhibit 13 interrogatory

1 response -- it's OMAEG Set 02-INT-017.

2 EXAMINER PRICE: So marked.

3 (EXHIBIT MARKED FOR IDENTIFICATION.)

4 MS. BOJKO: May I approach?

5 EXAMINER PRICE: You may.

6 By Ms. Bojko:

7 Q. Do you have in front of you what's been
8 marked as OMAEG Exhibit 13?

9 A. Yes.

10 Q. And this data request and response was
11 prepared by you; is that correct?

12 A. That is correct.

13 Q. This interrogatory asks how Large
14 Customers will be notified when the opt-out option
15 begins; is that correct?

16 A. That's correct.

17 Q. And here you state that the Companies
18 anticipate informing customers through various means
19 such as direct contact by account reps, direct mail,
20 and/or notification by means of a program website; is
21 that correct?

22 A. That is correct.

23 Q. And, sir, these means could also be used
24 as a way to inform customers of opt -- an opt-in
25 program, could they not?

1 A. I believe so.

2 Q. And if you turn to the next
3 interrogatory, it's OMAEG 02-INT-019, and you're also
4 the responsible party for that interrogatory; is that
5 correct?

6 A. That is correct.

7 Q. And here you're informing what might be
8 part of the process that the Company creates after
9 approval of this program; is that correct?

10 A. Can you repeat the question?

11 Q. Sure. I just said in this response
12 you're stating that -- how the Companies intend for
13 customers to complete the opt-out process once that
14 process is -- strike that.

15 In this interrogatory you are stating
16 things that could be done in an opt-out process if
17 your EE/PDR plan is approved by the Commission; is
18 that correct?

19 A. We're looking at OMAEG Set 2-INT-019?

20 Q. Yes.

21 A. The question you're asking I'm not sure
22 it aligns.

23 Q. Well, you told me earlier that you have
24 not established the exact opt-out process yet; is
25 that correct?

1 A. That is correct.

2 Q. So in this response you're stating what
3 you are assuming might occur once that opt-out
4 process is established, and that wouldn't include an
5 application form and a request in writing to opt out;
6 is that correct?

7 A. It was -- our intent in these responses
8 was that while we didn't develop an opt-out process,
9 the specifics of an opt-out process, we did want to
10 communicate with our stakeholders and be transparent,
11 and the result of this answer is such as what we
12 anticipate of having an application process completed
13 in writing with documentation that we would then use
14 to verify eligibility and to process the opt out.

15 Q. Right.

16 A. Does that help?

17 Q. So this is what you're thinking a
18 proposed opt-out process might look like after
19 Commission approval of the program; is that correct?

20 A. I wouldn't want to limit it to this, but
21 I would say that this was what we anticipate. That's
22 not to say that that is precisely what will be the
23 process.

24 Q. Okay. And assuming this is part of the
25 process and eligibility is confirmed, as you stated

1 earlier, while all that is going on, if it occurs
2 after June 1st, 2024, the customer will pay the EEC
3 Rider until eligibility is determined and they opt
4 out; is that correct?

5 MR. ALEXANDER: Objection, asked and
6 answered.

7 EXAMINER PRICE: Overruled.

8 THE WITNESS: Can you repeat the
9 question?

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

12 (Record read back.)

13 THE WITNESS: If the opt out is
14 processed after June 1st, then June 1st is the date
15 established as the start of surcharge, then that is
16 correct.

17 By Ms. Bojko:

18 Q. And having completed an application form
19 and submitting a written request and documentation to
20 the Company could also be an opt-in process, could it
21 not?

22 A. I've not designed an opt-in process or
23 have any knowledge of an opt-in process, nor am I
24 aware of an opt-in process. I don't know.

25 Q. And just -- could you turn to the last

1 page of this packet, which is a response to OMAEG
2 02-INT-021. You are the responsible party; is that
3 correct?

4 A. Yes.

5 Q. And here you paused earlier when I asked
6 you this question. You did respond here that a
7 customer will -- a large customer will be charged
8 through the EEC for Energy Efficiency program costs
9 incurred prior to opting out, correct?

10 A. Yes.

11 Q. And the energy efficiency -- excuse me.
12 The Energy Solutions for Business program has three
13 components; is that correct?

14 A. That is correct.

15 Q. There is a rebate program for
16 perspective equipment, incentives for custom
17 equipment, and energy audits; is that right?

18 A. I refer to the last one as energy
19 management, but it includes energy audits and other
20 analysis to educate customers.

21 Q. Okay. As for the rebate program, will
22 this be a rebate paid to customers for an energy
23 efficiency product?

24 A. I don't understand the question. It is
25 a rebate program for energy efficient equipment.

1 Q. So there's -- like what equipment do you
2 envision getting a rebate for?

3 A. Attachment ECM-3 does provide a list of
4 measures that we are planning for the Energy
5 Solutions for Business program. It ranges from HVAC
6 equipment to lighting, to water heating, to food
7 service equipment.

8 Q. So the rebate is an energy efficiency
9 equipment or product; is that right?

10 A. Yes.

11 Q. And are these the same type of energy
12 efficiency products that can be offered by a
13 competitor?

14 A. Rebates for products by a competitor?
15 I'm not aware of that.

16 Q. No, I asked if this energy efficiency
17 product are the same type of equipment or product
18 that can be offered on the open market?

19 A. I'm not offering products. I'm confused
20 by the question.

21 Q. I'm asking if the product associated
22 with the rebate is an ENERGY STAR product, for
23 example, that is offered in the competitive market?

24 A. If the question is are -- is this
25 equipment commercially available in the market, the

1 answer is yes.

2 We select energy efficient products that
3 are available for customers to purchase, and the
4 purpose of the rebate is to help customers overcome
5 the initial cost barrier to buy the higher efficient
6 piece of equipment versus equipment that meets the
7 minimum efficiency levels.

8 Q. And is the equipment purchased directly
9 from a retailer under your program?

10 A. When you go into the -- into commercial
11 equipment, availability of it really depends more on
12 the type of equipment. There's distributors
13 associated with certain equipment, where the
14 equipment would be purchased, as an example, so it's
15 not necessarily just retailers, there's other
16 channels for the equipment to be purchased.

17 Q. But the equipment will not be purchased
18 through FirstEnergy directly, will it?

19 A. No, the program is not to provide
20 equipment, the program is to encourage the adoption
21 of the higher efficient equipment in the market.

22 Q. And once a customer purchases the
23 equipment, then they would have to do a rebate form
24 and process through FirstEnergy, and then receive a
25 rebate from FirstEnergy, is that how it would work?

1 A. The rebate process can be through
2 various means. There can be rebates that are
3 provided as you described, which is more of an after
4 the fact application processing of an application to
5 issue a rebate.

6 Rebates can also be delivered more at,
7 I'll call it instant or point of sale where the
8 manufacturer can discount it directly to the
9 customer. Effectively it's a point of purchase type
10 rebate offering to simplify the customer
11 participation.

12 And we're probably forgetting, but I'm
13 sure there's other opportunities for rebates as well.
14 It may not just be a complete an application and get
15 a rebate in a few weeks.

16 Q. So let's talk about the second
17 component, which is incentives for custom equipment.
18 The -- what form will the incentives be in? If it's
19 not a rebate, will it be a per kWh energy savings?
20 What will it be?

21 A. Custom projects tend to be incented on
22 what we call performance basis, which recognizes the
23 variability of the equipment, the processes, the
24 applications that we're encouraging energy efficiency
25 in. Typically it's a per kWh basis.

1 Custom projects are more involved. It
2 does require more information from the customer to
3 verify eligibility as a custom project, and does --
4 as part of that application, the program needs to
5 capture sufficient information in order to confirm
6 the energy savings calculations associated with the
7 application.

8 Q. You said tended to. Is that the
9 Companies' proposal in this case?

10 A. I'm sorry, tended to?

11 Q. You said typically or they intend to do
12 X, to be offered X. Is that the -- is what you just
13 described the Companies' proposal in this case?

14 A. Our proposal is to offer a custom
15 program, and I'll say the standard process for
16 rebates is a custom application process as I
17 described.

18 Q. And the energy audits you referred to in
19 energy management, are those performed by FirstEnergy
20 or an outside vendor?

21 A. Those are performed by qualified third
22 party entities with performing, I'll say the required
23 level of energy audit for analysis.

24 Q. And then is FirstEnergy paying the
25 auditor, or is FirstEnergy paying the customer to

1 have the audit performed?

2 A. The rebate or the discount of the audit
3 can either be paid to the customer for the customer
4 to complete the audit or analysis, or it can be paid
5 to the entity that's doing it as an offset to the
6 cost and to provide the customer with the benefit.
7 It could be either means.

8 Q. And does the customer select the
9 auditor, or does FirstEnergy select the auditor?

10 A. The customer can select the auditor.
11 The auditor will need to meet qualifications
12 regarding their expertise in performing the audit,
13 but the -- the customer has the option to select the
14 auditor.

15 Q. Who establishes the qualifications for
16 the auditor?

17 A. The program does. Typically it's going
18 to be a -- you know, a certain level of audit that
19 the auditor is qualified to perform.

20 Q. When you say the program does, would
21 this be something done by the vendor that you have
22 mentioned?

23 A. It's what I would call a program term or
24 requirement that would be developed in conjunction
25 with the expert third party implementation vendor.

1 Q. What is the timeline for hiring the
2 implementation vendor?

3 A. I don't know.

4 Q. Presumably after Commission approval of
5 your plan to hire an implementation vendor?

6 A. I don't know.

7 Q. On page 8 of your testimony, here you
8 talk about -- going back to our prior discussion,
9 about the state policy objective, and you talk about
10 how your plan advances those objectives.

11 Isn't it true that in 2019, the
12 legislature mandated electric utilities to terminate
13 their previously required Energy Efficiency program?

14 A. I'm aware there was provision to align
15 the Commission order that I think was referred to was
16 the wind down.

17 Q. Okay. And do you know that that was
18 enacted by House Bill 6 of the 133rd General
19 Assembly, the mandate to terminate or wind down the
20 Energy Efficiency programs?

21 A. If you would ask me what was the
22 legislation that led to it, I wouldn't have been able
23 to cite it. But I can't cite that that was the
24 legislation that caused the wind down.

25 Q. Okay.

1 A. Without reviewing it I can't say I know
2 that off the top of my head.

3 Q. Referring to your terminology wind down,
4 there was language in that legislation that included
5 an end to charges on customer's bills with regard to
6 Energy Efficiency programs, correct?

7 MR. ALEXANDER: Objection.

8 EXAMINER PRICE: Grounds?

9 MR. ALEXANDER: There's been no
10 foundation that this witness knows anything about
11 that legislation. In fact, he just testified he
12 couldn't identify it.

13 MS. BOJKO: He couldn't identify the
14 name, but he said he was familiar that there was a
15 wind down.

16 EXAMINER PRICE: Can I have the question
17 back again?

18 (Record read back.)

19 EXAMINER PRICE: You can answer if you
20 know.

21 THE WITNESS: I don't know.

22 By Ms. Bojko:

23 Q. When you say wind down, does that mean
24 winding down the Energy Efficiency programs and
25 ending charges to customers?

1 A. I don't remember. What I remember is
2 interrogatories -- or interrogatory response related
3 to, I think the Commission order regarding the wind
4 down of programs as a result of legislation, but I
5 don't remember any specific details beyond that.

6 Q. And winding down the program, do you
7 mean ending the Energy Efficiency programs, correct?

8 A. I can't speak to that.

9 Q. What do you think the term wind down
10 that you've used several times this morning means?

11 A. To me the wind down is the -- was
12 referring to the ending of the programs that were
13 implemented at that time.

14 Q. Okay. And in 2020, the Commission
15 ordered FirstEnergy and all electric utilities to set
16 their Energy Efficiency Riders at zero and conduct a
17 final reconciliation; is that correct?

18 A. I don't know.

19 Q. You don't know whether the Commission
20 set the riders to zero?

21 A. I don't.

22 Q. Do you recall if there was a final
23 reconciliation of the Energy Efficiency program
24 Rider?

25 A. I don't know.

1 Q. Am I to understand that you weren't
2 involved in the wind down in the Commission decision
3 in 2020, then?

4 A. I was not.

5 Q. Are you aware that the Commission has
6 recently determined that Ohio law largely limits
7 Energy Efficiency programs to competitive and
8 customer-owned initiatives rather than utility-owned
9 programs, except for certain low-income programs?

10 A. Can you repeat the question?

11 Q. Sure. Are you aware that the Commission
12 has recently determined that Ohio law largely limits
13 Energy Efficiency programs to competitive and
14 customer-owned initiatives rather than utility-owned
15 programs, with the exception of low-income programs?

16 A. I'm not aware of that level of detail
17 that you just communicated.

18 Q. Are you aware that the Commission has
19 only recently approved low-income Energy Efficiency
20 programs?

21 A. No, I'm not.

22 Q. Are you aware that other utilities have
23 limited their Energy Efficiency programs that they
24 are implementing, to low-income initiatives?

25 A. I'm aware other utilities in Ohio have

1 limited their programs. I can't say if it was only
2 low-income.

3 Q. Are you aware that they have limited
4 them to certain residential customer programs?

5 A. I can't say.

6 Q. Are you aware that Staff has proposed to
7 reduce FirstEnergy's Energy Efficiency Plan in this
8 case to three years?

9 A. I don't remember.

10 Q. Are you aware that Staff does not
11 support the inclusion of the Residential Rebate
12 program or the Energy Solutions for Business program?

13 A. I am aware of that.

14 Q. And are you aware that with the
15 elimination of those programs, the overall spend that
16 Staff is supporting in this case is significantly
17 reduced?

18 A. I remember there's a reduction in
19 spending. I don't remember the exact reduction.

20 MS. BOJKO: If I could have one minute,
21 your Honor.

22 EXAMINER PRICE: You may.

23 MS. BOJKO: I have nothing further.
24 Thank you, your Honor. Thank you, Mr. Miller.

25 EXAMINER PRICE: Ms. Whitfield?

1 MS. WHITFIELD: No questions from
2 Kroger, your Honor.

3 EXAMINER PRICE: IGS.

4 MR. BARBARA: Yes your Honor.

5 - - -

6 CROSS-EXAMINATION

7 By Mr. Barbara:

8 Q. Good morning, Mr. Miller.

9 A. Good morning. I was actually just
10 looking at the clock to say it is morning.

11 Q. I had to double-check as well.

12 On page 5 of your testimony you refer to
13 energy efficiency and you state that the Companies
14 fully support energy efficiency.

15 Do you agree that energy efficiency
16 means activity that reduces electricity usage and
17 saves on electric bills?

18 A. Yes.

19 Q. On that same page 5 you reference ENERGY
20 STAR'S statement regarding energy efficiency. The
21 ENERGY STAR statement you quote is a reference from
22 the ENERGY STAR website, right?

23 A. That is correct.

24 Q. And when you reference the ENERGY STAR
25 statement, is it your understanding that ENERGY STAR

1 is talking about an electric -- customer's reduction
2 of his or her usage of electricity?

3 A. Yes.

4 Q. Is it fair to say that the ENERGY STAR
5 label on a product means a project -- strike that.

6 Is it fair to say that the ENERGY STAR
7 label on a product means that product meets certain
8 energy use requirements.

9 A. Energy use, and there could be other
10 requirements in addition to just energy use.

11 Q. On page 10 of your testimony you mention
12 that the Companies will incentivize an average of
13 over 2,000 efficient heat pump installations, and
14 1,400 heat pump water heaters for residential
15 customers annually.

16 On that same page you also mention heat
17 pump clothes dryers and induction cooking as
18 upgrades, correct?

19 A. Yes.

20 Q. When you discuss the Companies'
21 incentivizing of heat pump installations, water
22 heater installations, heat pump clothes dryer
23 purchases, induction cooking, are you referring to
24 the replacement of gas appliances with electric
25 appliances?

1 A. No. The primary factor is that the
2 program is designed to encourage the customer to buy
3 the more efficient electric option as opposed to the
4 standard efficiency electric option.

5 Q. So are you referring to the replacement
6 of electric appliances with more efficient electric
7 appliances?

8 A. That is correct.

9 Q. And you are not referring to the
10 replacement of gas appliances with electric
11 appliances, correct?

12 A. That is correct. I would have to check
13 the protocols regarding this equipment on any
14 underlying assumptions, but the program design is for
15 the customer to choose the more efficient electric
16 option.

17 Q. Okay. So as I understand your
18 testimony, it's fair to say that the Companies'
19 proposed replacement of appliances does not relate to
20 their the replacement of gas with electric?

21 A. The incentives are not designed for fuel
22 switching, if that's the question.

23 Q. Thank you. Isn't it true that one of
24 the effects of the Companies' residential rebate
25 programs will be to incentivize the installation of

1 EV chargers in homes that previously did not have EV
2 chargers?

3 A. Can you repeat the question?

4 Q. Sure. Isn't it true that one of the
5 effects of the Companies' residential rebate program
6 will be to incentivize the installation of EV
7 chargers in homes that previously did not have EV
8 chargers?

9 A. The rebate for EV chargers in the
10 program is for the customers to buy an ENERGY STAR
11 rated EV charging cord.

12 Q. So you're talking about the replacement
13 of an existing EV charging cord with an ENERGY STAR
14 compliant EV charging cord, correct?

15 A. It could be replacement of existing or
16 purchase of new, but it's for an ENERGY STAR rated
17 charging cord, and the incentive is for the
18 incremental cost of that over one that's not ENERGY
19 STAR rated.

20 Q. Okay. When you talk about the purchase
21 of an ENERGY STAR rated EV charging cord, are you
22 talking about the replacement of a cord, or the
23 purchase of a cord for a new EV charging station in a
24 home that previously did not have an EV charging
25 station?

1 A. It could be either. Effectively, the
2 customers in the market find a charging cord, and
3 we're promoting them to buy the more efficient
4 charging cord.

5 It could be they are buying a first time
6 charging cord, or it could be they are -- you know,
7 for whatever reason looking to replace their existing
8 cord.

9 Q. Would you agree that a customer's
10 installation and use of an EV charging station in his
11 or her home will increase that customer's electricity
12 usage, all else being equal?

13 A. No. Again, we're incenting the customer
14 to buy a more efficient charging cord over one that
15 is not as efficient. In this case that's a reduction
16 in usage.

17 Q. But didn't you just testify that the
18 incentive could also be for the purchase of an EV
19 charging cord by a customer that previously did not
20 have an EV charging station in his or her home?

21 A. A customer who is buying an EV charging
22 cord because they need to charge an EV, we're
23 incenting them to buy a more efficient one.

24 Again, it's a reduction in usage. The
25 customer was buying an EV charging cord in both

1 cases. Under our program we're incenting the
2 efficient purchase.

3 Q. Wouldn't you agree with me that if a
4 customer installs an EV charging station in his or
5 her home, and that customer did not previously have
6 an EV charging station installed in his or her home,
7 all else being equal, that customer's energy usage
8 will increase?

9 MR. ALEXANDER: Objection.

10 EXAMINER PRICE: Grounds?

11 MR. ALEXANDER: Relevance.

12 EXAMINER PRICE: Please answer the
13 question.

14 THE WITNESS: Assuming the customer
15 charges at home, the addition of an electric vehicle
16 and charging of it will increase customer usage.
17 By Mr. Barbara:

18 Q. I'd like to ask you about Attachment
19 ECM-2 to your testimony. Do you have a copy of that
20 in front of you?

21 A. Okay.

22 Q. Under Residential Rebates there's an
23 estimated energy savings of 44,296 MWh and demand
24 savings of 7.3 MW, correct?

25 A. I'm sorry, what attachment are you

1 referring to? I missed that.

2 Q. I believe it was ECM-2.

3 A. Okay. I'm there now, I'm sorry, what
4 was the question, please?

5 Q. Under Residential Rebates there's an
6 estimated energy savings 44,296 MWh, and a demand
7 savings of 7.3 MW, correct?

8 A. That is correct.

9 Q. What did the Companies compare to
10 generate those claimed savings?

11 A. Attachment ECM-3, Workpaper 1, provides
12 the source of our savings assumptions that we used in
13 developing our Energy Efficiency Plan.

14 As you can see, the majority of the
15 source of the savings assumptions are relating to
16 what's referred to as technical reference manuals
17 that have been developed by various jurisdictions.

18 These technical reference manuals are
19 developed by experts of the industry in terms of the
20 calculation and the protocols to calculate the energy
21 savings of efficient equipment and products, and
22 those are the -- the underlying source of our savings
23 estimates across our portfolio programs.

24 Q. Try and clarify that a little bit. When
25 the Companies are generating these savings figures

1 are they comparing efficient electric appliances such
2 as ENERGY STAR appliances, versus less efficient
3 electric appliances such as appliances that may not
4 be ENERGY STAR rated?

5 A. The protocols include, as part of the
6 calculation, a determination of what's considered the
7 baseline condition which is, I'll say, an easy way
8 to -- a typical baseline would be the current federal
9 minimum standard equipment, and it compares that to
10 an efficient condition, which often times is ENERGY
11 STAR, may also be a consortium of energy efficiency
12 references as well, but there's -- so in the
13 calculation that these protocols provide, there's
14 both the baseline condition, which is what the
15 efficient condition is compared to, to determine the
16 energy savings.

17 Q. And in the baseline condition do the
18 protocols look at only electric appliances, or do
19 they also look at appliances that may also be gas
20 powered?

21 A. The protocols do vary. It depends on
22 the measures that you're specifically looking at.

23 In some cases protocols, you know, may
24 include like, for instance, Smart Thermostats, you
25 know. As part of the protocol for Smart Thermostats

1 there's recognition of gas savings for gas heated
2 homes as an example, and there -- as part of the
3 protocol they factor that into the calculation to
4 recognize that there's different fuel uses in the
5 home, but it does vary by measure.

6 Q. All right. Thank you. When we're
7 talking about these residential rebates, can you rule
8 out the possibility that the savings analysis
9 includes the conversion from gas appliance to an
10 electric appliance?

11 A. In many cases I believe there's only
12 efficient -- or there's only electric appliances, so
13 in those cases, yes.

14 I'm just looking down the list to see if
15 anything sticks out as to where there may have been
16 other fuel assumptions as part of the baseline
17 condition.

18 Without looking at the protocols I'm not
19 able to say, but generally speaking, the efficient
20 condition recognizes the standard electric product.

21 Q. In generating these savings figures did
22 the Companies assume that products would be installed
23 that were not replacing an existing product in the
24 home, for example, an EV charger being installed in a
25 home that previously did not have EV charger?

1 A. Can you repeat the question?

2 MR. BARBARA: Can I have that read back,
3 please?

4 (Record read back.)

5 THE WITNESS: Can you rephrase the
6 question?

7 By Mr. Barbara:

8 Q. Sure. When the Companies were
9 generating their proposed savings figures, did the
10 Companies include in that analysis an assumption that
11 products would be installed that were not being
12 replacements of an existing product, for example, an
13 EV charging station being installed in a home that
14 did not previously have an EV charging station?

15 A. If the question is did we factor in that
16 some products that are purchased may be new
17 installations as opposed to replacements, the answer
18 is no, and the reason being is because the protocol
19 is based on the customer -- and the program design is
20 based on the customer buying a more efficient product
21 versus a standard efficiency product, and the rebates
22 are designed to pay for or contribute to a portion of
23 the incremental cost.

24 EXAMINER PRICE: If I built a new house
25 in your service territory, and I picked all ENERGY

1 STAR appliances, would I be eligible for rebates
2 under your program?

3 THE WITNESS: Yes.

4 By Mr. Barbara:

5 Q. Referring to EV chargers, did the
6 Company perform any analysis to determine if
7 nonENERGY STAR certified or rated EV chargers were
8 common in the marketplace?

9 A. Our inclusion of EV chargers is based on
10 our awareness that ENERGY STAR rated EV chargers are
11 available. In fact, we have implemented rebates for
12 ENERGY STAR rated EV charging cords in other
13 jurisdictions.

14 Q. Are you aware of whether nonENERGY STAR
15 rated EV charging systems exist?

16 A. Yes.

17 Q. Please turn to Attachment ECM-3 of your
18 testimony, and I'm going to refer you to a line about
19 20 lines down where under the measure heading it says
20 EV Charging-RES. Do you see that reference?

21 A. I do.

22 Q. And then does this reference refer to
23 the replacement of an existing EV charger with a more
24 efficient EV charger, or does it refer to something
25 else?

1 A. It refers to the purchase of a more
2 efficient EV charger versus a standard EV charger.

3 Q. And when you say purchase of a more
4 efficient EV charger, you're referring to the
5 purchase of an EV charger to replace an existing
6 system, correct?

7 MR. ALEXANDER: Objection, asked and
8 answered.

9 EXAMINER PRICE: Sustained.

10 By Mr. Barbara:

11 Q. Slightly further down in this chart
12 under the same measure heading there's several
13 references to heat pumps. Do you see those
14 references?

15 A. I do.

16 Q. Do the Companies assume that these heat
17 pumps would be installed in homes that previously did
18 not have heat pumps, or is the Company assuming that
19 the heat pumps would be installed to replace existing
20 heat pumps?

21 A. The Companies' assumption for these is
22 based on the customers purchasing a more efficient
23 heat pump as opposed to a standard efficient heat
24 pump.

25 Q. And when you say the purchase of a heat

1 pump, you're referring to a purchase to replacing an
2 existing heat pump, not a purchase to buy a heat pump
3 for a home that previously did not have a heat pump,
4 correct?

5 MR. ALEXANDER: Objection.

6 EXAMINER PRICE: Grounds?

7 MR. ALEXANDER: Asked and answered.

8 MR. BARBARA: I'm asking him, your
9 Honor, to define what he means by the term of
10 purchase. It's a modification of the original
11 question, so I can understand.

12 EXAMINER PRICE: I'll allow it.

13 THE WITNESS: The energy savings and the
14 assumption is based on the customer buying a more
15 efficient heat pump versus a standard efficient heat
16 pump with the incentive being paid to cover a portion
17 of the incremental cost of the more efficient heat
18 pump.

19 It doesn't take -- it's irrelevant as to
20 whether the customer is replacing a heat pump or some
21 other piece of equipment.

22 EXAMINER PRICE: Go back to my question
23 I asked earlier. If I am building a new house and
24 put an ENERGY STAR heat pump in, I'm available for
25 the incentive, right?

1 THE WITNESS: Yes.

2 EXAMINER PRICE: Likewise, if I have an
3 older house, which I do, and I put in an ENERGY STAR
4 heat pump, I'm eligible for the -- replacing the old
5 heat pump, I'm eligible for the incentives?

6 TH WITNESS: Correct. And if you build
7 a new house and you put in standard heat pump, you're
8 not.

9 By Mr. Barbara:

10 Q. I'd like to work off the hypothetical
11 you just discussed for a moment. If a new home is
12 being built and an efficient heat pump is being
13 installed in that new construction, there would be a
14 rebate, correct?

15 A. If it's an efficient heat pump, yes.

16 Q. Would the builder get the rebate, or
17 would the homeowner get that rebate?

18 A. The rebate would be issued to the
19 customer.

20 Q. And in that case the customer is the
21 homeowner, right?

22 A. The homeowner, yes.

23 Q. For purposes of the rebate, does it
24 matter who purchases the heat pump in this case?

25 A. I believe the application process

1 requires proof of purchase for the eligibility of the
2 incentive.

3 MR. BARBARA: One moment, please.

4 (Pause.)

5 MR. BARBARA: I have nothing further.

6 Thank you.

7 EXAMINER PRICE: Before we move on, I'm
8 confused about one issue. Could you go back to your
9 testimony?

10 Counsel directed you to line 14, 2,000
11 efficient heat pump installations and 1,400 heat pump
12 water heaters for residential customers, and then the
13 question came up about fuel switching.

14 So if I'm an all electric home and I put
15 in a new efficient heat pump, I'll get a rebate?

16 THE WITNESS: Yes.

17 EXAMINER PRICE: But if I have a gas
18 home, do I not get the rebate?

19 THE WITNESS: If you're a gas home but
20 you choose to purchase an energy efficient heat pump,
21 you would still be eligible for the rebate.

22 We don't restrict participation, but the
23 reason why is because the key factor is the customer
24 made their decision that they were buying a heat
25 pump. We're merely incenting them to spend a lot

1 more.

2 Let's face it, heat pumps are very
3 expensive. I've looked at pricing. Energy efficient
4 heat pumps are very expensive. We're merely giving
5 them an incentive to take that step up to that
6 efficiently level.

7 EXAMINER PRICE: So the fuel switching
8 is irrelevant?

9 THE WITNESS: Correct.

10 EXAMINER PRICE: Wal-Mart?

11 MS. GRUNDMANN: I've already gone, your
12 Honor.

13 EXAMINER PRICE: Nucor? Changing seats.
14 Nucor?

15 MR. BRISCAR: Yes, your Honor.

16 - - -

17 CROSS-EXAMINATION

18 By Mr. Briscar:

19 Q. Good morning, Mr. Miller.

20 A. Good morning.

21 Q. Barely.

22 A. May be checking.

23 Q. My name is Joseph Briscar. I represent
24 Nucor Steel Marion in this proceeding. How are you?

25 A. I'm good. How are you today?

1 Q. I'm well, thank you. I just have a few
2 questions for you. You have a copy of your direct
3 testimony, correct?

4 A. Yes, sir.

5 Q. Would you please turn to page 29 and 30
6 of your testimony?

7 A. I'm there.

8 Q. And on these pages you are discussing
9 the additional benefits of the Energy Efficiency
10 program; is that correct?

11 A. Yes, I recognize, starting on page 29,
12 that there are additional benefits that were not
13 included or quantified as part of our
14 cost-effectiveness testing associated with Energy
15 Efficiency programs.

16 Q. And as part of that discussion on page
17 30 you say how the Companies proposed to offer the
18 qualifying energy efficiency resources into PJM's
19 Forward Capacity Market or FCM; is that correct?

20 A. That is correct.

21 Q. And if you look at page 30, lines 15
22 through 17, you say, and I quote, "offering these
23 qualifying EE resources into the PJM FCM may help
24 reduce the overall PJM Capacity price, which could
25 reduce electric supply costs for all customers."

1 Correct?

2 A. That is correct.

3 Q. Are you familiar with the Companies'
4 Rider ELR?

5 A. I am not.

6 Q. Rider ELR is the type of Demand Response
7 Or Interruptible Rider, does that refresh your
8 memory?

9 A. I don't know. I recall hearing ELR, but
10 details and specifics, I don't know.

11 Q. Well, similar to the Energy Efficiency
12 Resources you discussed, are you aware that
13 FirstEnergy bids start in demand response loads into
14 PJM's Capacity marking?

15 MR. ALEXANDER: Objection.

16 EXAMINER PRICE: Grounds?

17 MR. ALEXANDER: He just testified he's
18 not familiar with Rider ELR.

19 MR. BRISCAR: Your Honor, I was not
20 referencing Rider ELR, I was discussing demand
21 response programs generally.

22 EXAMINER PRICE: I'll allow it.

23 THE WITNESS: I'm not aware.

24 By Mr. Briscar:

25 Q. So you are not aware of any other types

1 of loads of customers that the Companies bid into the
2 PJM Capacity markets other than these EE resources
3 you discussed?

4 A. I'm not.

5 Q. If you know, can you answer whether, if
6 the Company were to offer some types of other
7 resources such as demand response programs, would
8 they similarly reduce the overall capacity price in
9 PJM?

10 A. I don't know.

11 MR. BRISCAR: Thank you. Nothing
12 further.

13 EXAMINER PRICE: All right. NOAC.

14 MR. HAYS: Yes, your Honor, I'm going to
15 move over there. I can't see the witness.

16 CROSS-EXAMINATION

17 By Mr. Hays:

18 Q. Mr. Miller, I'm Tom Hays with NOAC,
19 Northwest Ohio Aggregation Coalition.

20 A. Good morning. Nice to meet you.

21 Q. We are up in the Toledo Edison
22 territory. Are you familiar with the Toledo Edison
23 territory?

24 A. I will say not very well.

25 Q. I should mention that hail the Pitts.

1 We're both Pitt graduates. They won last night,
2 surprisingly.

3 A. It is a surprise.

4 Q. So I'm familiar with your home
5 territory. I'd like to, if you wouldn't mind, to go
6 to page 20 of your testimony, and ask if you could
7 read the first two sentences that begin at line 11?

8 A. Page 20, correct, line 11?

9 Q. Yes.

10 A. "Unlike the Behavioral Demand Response
11 component that targets customers with AMI, the Load
12 Control Demand Response component targets customers
13 with program eligible connected devices and does not
14 require AMI."

15 Q. And the next sentence, please.

16 A. "Customers who elect to join the program
17 will agree that a vendor selected by the Companies
18 will be permitted to control, cycle and/or optimize
19 the use of their air conditioner or potentially other
20 equipment through a program eligible connected
21 device."

22 Q. So when it says customers who elect to
23 join, does that mean this is an opt-in program?

24 A. Yes, this is an opt-in program.

25 Q. Okay. So contrary to some of your

1 earlier testimony, I take it you are familiar with
2 opt-in programs?

3 MR. ALEXANDER: Objection.

4 EXAMINER PRICE: Grounds?

5 MR. ALEXANDER: The earlier testimony
6 was completely unrelated to this topic, misstates
7 facts.

8 EXAMINER PRICE: Sustained.

9 By Mr. Hays:

10 Q. Could you turn then to page 21 -- could
11 you turn to page 21 and read out loud the lines 8 to
12 14?

13 MR. ALEXANDER: Objection.

14 EXAMINER PRICE: Grounds?

15 MR. ALEXANDER: There's no reason to
16 require the witness to read the testimony out loud,
17 it's already in his testimony, it's in the record.
18 Counsel can proceed with his questions.

19 EXAMINER PRICE: He's sworn to his
20 testimony. Just ask your question, Mr. Hays.

21 By Mr. Hays:

22 Q. Would you agree with me that on page 21,
23 lines 8 to 14 of your testimony, it says the
24 implementation vendor for the Load Control Demand
25 Response component, "will develop an implementation

1 plan that involves marketing activities to target and
2 conduct outreach to customers to inform them of the
3 program offering, components, benefits, and to
4 achieve program buy-in and participation"?

5 A. That is correct.

6 Q. And do you believe this program, that is
7 an opt-in program, will be successful in getting
8 customers to opt in?

9 A. I believe that the marketing plan for
10 this program, which is very similar to the marketing
11 plans for any Energy Efficiency program, will be
12 successful in terms of achieving customer education
13 and participation in programs such as this program.

14 Q. So in other words, you believe for this
15 opt-in program you'll be able to get enough customers
16 to sign into the program?

17 A. I'm not sure I refer to this as an
18 opt-in program. I mean, this is a program that a
19 customer chooses to participate no different than
20 choosing to participate in any Energy Efficiency
21 program.

22 Q. That was kind of a long sentence. If
23 you were to shorthand it, what would you call that,
24 then?

25 MR. ALEXANDER: Objection.

1 EXAMINER PRICE: Overruled.

2 THE WITNESS: I see a big difference
3 being that it's different when you're marketing to a
4 group of eligible customers to participate in energy
5 efficiency, versus I'll say in providing specific
6 program opportunities to the customers versus what
7 was previously being discussed as an opt-in process
8 to even be eligible.

9 It's two different things. One is
10 marketing a program, another one is marketing to --
11 or I shouldn't say marketing, it's to communicate an
12 opt-in approach to programs in general. I think it's
13 different.

14 MR. HAYS: Your Honor, I believe that
15 was not really responsive to my question. Could I
16 have the question read back and ask you to ask him to
17 answer the question?

18 EXAMINER PRICE: Can I have the question
19 back again.

20 (Record read back.)

21 EXAMINER PRICE: Please answer counsel's
22 question directly. He can give whatever answer he
23 wants, Mr. Hays will have to live with it.

24 THE WITNESS: Can you repeat the
25 question?

1 EXAMINER PRICE: Yes.

2 (Record read back.)

3 THE WITNESS: I'd call what? I'm sorry.

4 MR. HAYS: Could you read back -- your
5 Honor, could she also read back his last answer?

6 EXAMINER PRICE: No, I think we have
7 beaten this dead horse enough.

8 MR. HAYS: All right. Thank you, your
9 Honor.

10 By Mr. Hays:

11 Q. I would like to go back to where we were
12 looking starting at line 11 on page 20 of your
13 testimony, just so you have it there for your
14 reference if you need to use it.

15 The second line that you read, it says
16 that, "Customers who elect to join the program will
17 agree that a vendor selected by the Companies will be
18 permitted to control, cycle and/or optimize the use
19 of the air conditioner or potentially other equipment
20 through a program eligible connected device.

21 "The program will initially include
22 customers' Smart Thermostats for control of air
23 conditioning, and potentially electric vehicle
24 charging or other equipment to optimize the use of
25 and reduce load of connected devices during peak

1 demand." Do you see that sentence?

2 A. Yes.

3 Q. Are we talking about existing devices
4 that they already have, or are these devices that
5 they have to -- that have to be purchased?

6 A. This program targets existing devices.
7 The customer can purchase a device and then elect to
8 participate at any time, but it's conditioned on the
9 customer having the device.

10 EXAMINER PRICE: Certain Smart
11 Thermostats are an eligible device, is that right?

12 THE WITNESS: I'm sorry, certain Smart
13 Thermostats are a known --

14 EXAMINER PRICE: Would be a program
15 eligible connected device?

16 THE WITNESS: Yes.

17 EXAMINER PRICE: Are all Smart
18 Thermostats, or is it a subset of them?

19 THE WITNESS: The vast majority would be
20 considered eligible. There are a few thermostats
21 that are, I'll say manufacture customized to the
22 equipment that I believe is a potential for not being
23 eligible, but based on my --

24 EXAMINER PRICE: Like Carrier Cor Smart
25 Thermostats are potentially not eligible?

1 THE WITNESS: I'm not familiar with that
2 one, but that is a potential. There are some unique
3 thermostats.

4 EXAMINER PRICE: You operate a rebate
5 program for devices including Smart Thermostats. I
6 assume that all the Smart Thermostats that you
7 provide a rebate for would be an eligible device?

8 THE WITNESS: I don't know. Our Smart
9 Thermostat program does require ENERGY STAR
10 certification for rebate.

11 I've not crosschecked the ENERGY STAR
12 certification with the eligible thermostats, but
13 again when I say that it's your vast majority, it's
14 my understanding that it's really the vast majority
15 would be eligible.

16 EXAMINER PRICE: Sorry about that, Mr.
17 Hays.

18 MR. HAYS: That actually shortened up my
19 list of questions. Thank you.

20 By Mr. Hays:

21 Q. When -- let's assume that somebody buys
22 a new furnace, will that furnace -- a new furnace for
23 their house or a heat pump, either one. Would you
24 agree with me that those ordinarily also come with a
25 thermostat from the manufacturer?

1 A. I know some do. I don't know how
2 prevalent that is.

3 Q. Let me ask you to assume that it's
4 fairly prevalent, can you do that?

5 MR. ALEXANDER: Objection.

6 EXAMINER PRICE: Grounds?

7 MR. ALEXANDER: The witness just
8 testified he didn't know.

9 EXAMINER PRICE: He's asking a
10 hypothetical.

11 By Mr. Hays:

12 Q. I'm asking a hypothetical. So you
13 understand the first part, I'm just asking you to
14 assume that when people buy a new heat pump or a new
15 furnace for their home, that normally a thermostat is
16 included. Could you do that, make that assumption?

17 A. I don't know if that's a realistic
18 assumption, but I can.

19 Q. Okay. Would you agree that all furnaces
20 kind of have a life span, so there's a cycling of
21 these things from, you know, you buy one new,
22 eventually it gets old, you've got to replace it,
23 would you agree with that?

24 A. Yes, equipment does effectively come of
25 age and has to be replaced for various reasons.

1 Q. As an energy efficiency expert, about
2 how often does a heat pump have to be replaced, what
3 is the normal lifespan?

4 A. The measure life for heat pumps ranges
5 from 18 to 20 years.

6 Q. And for furnaces?

7 A. I don't have furnaces in my plan.

8 Q. All right. Have you ever looked at that
9 information or have general knowledge of it?

10 MR. ALEXANDER: Objection.

11 EXAMINER PRICE: Grounds?

12 MR. ALEXANDER: Relevance of the furnace
13 to the witness' testimony?

14 EXAMINER PRICE: We'll give him a little
15 bit of leeway.

16 THE WITNESS: Based on my personal
17 experience, I would say 30 years potentially.

18 By Mr. Hays:

19 Q. Could it be less for other people, too?

20 A. It can be anything. I mean, I'm -- my
21 heat pump measure life is based on industry protocols
22 which do a lot include input from experts in the
23 industry regarding the efficient equipment.

24 You know, a furnace, my personal
25 experience, and I know that some people -- you know,

1 it varies.

2 Q. Are you familiar with the term SEER,
3 S-E-E-R?

4 A. Yes.

5 Q. What is SEER?

6 A. Seasonal Energy Efficiency Ratio. It's
7 one of the specs that's used for HVAC equipment that
8 is one of the specs that helps to establish the
9 energy use or information -- or efficiency of the --
10 of the equipment.

11 EXAMINER PRICE: Let's go off the
12 record. We're going to take a break right now.

13 (Recess taken.)

14 EXAMINER PRICE: Go back on the record.
15 Mr. Hays, please proceed.

16 MR. HAYS: Your Honor, could I ask to
17 have the last question and answer read back?

18 EXAMINER PRICE: Yes.

19 (Record read back.)

20 By Mr. Hays:

21 Q. Would you agree with me that over the
22 years the federal government has been mandating
23 higher SEERs for furnaces, heat pumps, and room air
24 conditioners?

25 A. Yes.

1 Q. Do you know if the current
2 administration is reviewing these SEER ratings to
3 increase them further, or proposing to increase them
4 further?

5 A. I'm aware that the federal government
6 adopted new federal baselines for certain HVAC
7 equipment, I believe effective January 1st of 2023.
8 I'm not aware that they are looking at additional
9 changes at this time.

10 Q. Thank you. Would you agree with me that
11 a component of companies being able to achieve the
12 SEER numbers requires, if you will, thermostats and
13 computer chips and other equipment to get the
14 equipment to perform up to the SEERs specification?

15 A. I'm not aware of thermostats being part
16 of the equipment's certification to a specific SEER
17 or what manufacturers need to do to achieve the
18 efficiency levels that are not required by the
19 federal minimums.

20 Q. An unartful question by me, let me try
21 again.

22 Is the thermostat a part of the system
23 that --

24 MR. HAYS: I'm going to just move on,
25 your Honor.

1 By Mr. Hays:

2 Q. Do you believe that there are any
3 manufacturers who may have warranty limitations
4 regarding replacing the thermostat that comes with
5 their heat pump, room air conditioner, or furnace?

6 A. I am not.

7 Q. Does that mean you don't know one way or
8 the other?

9 A. I don't know.

10 Q. Now, if I understood your earlier
11 testimony and your written testimony, this program is
12 going to use people's existing thermostats; is that
13 correct?

14 A. Existing program eligible connected
15 thermostats.

16 Q. Okay. And again, this program does not
17 require AMI?

18 A. That is correct.

19 Q. So whether Grid Mod II is built or Grid
20 Mod II is not built, people would still be eligible
21 for this program?

22 A. The program is not contingent on Grid
23 Mod II.

24 Q. Just so we're keeping in tune with where
25 I'm at, I'm now on page 20 down to line 19. It

1 indicates customers will be provided an incentive for
2 initially enrolling in the program. What will that
3 incentive be?

4 A. That incentive will be a financial
5 incentive.

6 Q. What would a financial incentive be?

7 A. Attachment ECM-3 measure assumptions
8 provides our modeling assumption for the rebate, and
9 the modeling assumption for the enrollment is \$75.

10 Q. Who pays that \$75?

11 A. The program pays the rebate.

12 Q. And who pays for the program?

13 A. The surcharge cost recovery is covered
14 by Brandon McMillen, witness McMillen.

15 Q. Would you agree with me that the cost is
16 socialized into all of the electric bills of other
17 customers?

18 A. I'm aware the surcharge does collect
19 costs from customers, I can't speak to the details of
20 that methodology.

21 Q. Okay. And then there's an additional
22 incentive for the ongoing enrollment and
23 participation in the program. What is the additional
24 incentive?

25 A. The additional incentive is to encourage

1 the customer to continue to participate recognizing
 2 seasonality, that -- it's an opportunity to engage
 3 the customer prior to a new program year, to touch
 4 base regarding their continued enrollment.
 5 Attachment ECM-3 identifies that as a \$25 incentive.

6 Q. Okay.

7 A. And that's our modeling assumption.

8 Q. And similarly, at a high level, you know
 9 that would be socialized back into other customers'
 10 bills?

11 A. I know it's recovered from customers,
 12 I'm not aware of the methodology.

13 Q. Okay.

14 EXAMINER PRICE: I think Mr. Hays makes
 15 an interesting point. If a customer does not have a
 16 Smart Thermostat they can't participate in this
 17 program; is that correct?

18 THE WITNESS: If they don't have a Smart
 19 Thermostat or any other program --

20 EXAMINER PRICE: For the remainder of
 21 the questions when I say Smart Thermostat I mean
 22 program eligible device, or program eligible Smart
 23 Thermostat. If they don't have a Smart Thermostat
 24 they can't participate, right?

25 THE WITNESS: That is correct.

1 EXAMINER PRICE: But if they do have a
2 Smart Thermostat, then any marketer in the
3 competitive market could provide the same program;
4 isn't that right?

5 THE WITNESS: I believe so.

6 EXAMINER PRICE: Without charging the
7 other customers in the rate base, in the service
8 territory?

9 THE WITNESS: I believe so, but I'm not
10 aware that that is occurring.

11 EXAMINER PRICE: Are you aware that it's
12 not occurring?

13 THE WITNESS: I haven't seen anything is
14 all I'm acknowledging.

15 EXAMINER PRICE: Thank you. Thank you,
16 Mr. Hays.

17 MR. HAYS: You keep cutting my question
18 list down and down.

19 EXAMINER PRICE: I gave you credit, you
20 were on the right track.

21 MR. HAYS: That may never be said again.
22 If I can take one minute, your Honor, I want to kind
23 of get rid of the questions I don't need to ask.

24 (Pause.)

25 By Mr. Hays:

1 Q. Do you believe that in the Toledo Edison
2 territory there are customers who don't have air
3 conditioning?

4 A. Yes.

5 Q. If there was a -- I believe there may be
6 an air conditioning component to this program, am I
7 correct, air conditioners may be included?

8 A. The load control component of the
9 residential -- or demand response for residential
10 program, the design of it is to control and cycle a
11 customer's air conditioner.

12 Q. Okay. Isn't the overall effect of that
13 that people who can't afford air conditioning end up
14 subsidizing those who do have air conditioning?

15 A. I'm not sure I see it that way. I mean,
16 there's -- across the portfolio of programs I
17 testified earlier about, you know, one of our design
18 objectives was to provide a broad portfolio of
19 programs and measures to permit all customers to
20 participate, so while there may be measures that a
21 customer may not have, and can't participate in a
22 given measure, there are numerous other measures for
23 them to participate.

24 One example is freezer recycling. It's
25 a great measure, has a lot of energy savings with it,

1 but not all customers have freezers.

2 Q. Would you agree with me that many people
3 who live in apartments that don't have air
4 conditioning also don't have freezers that can be
5 recycled?

6 A. I think that applies to everyone. You
7 could probably look at the list of measures and say
8 that, you know, it applies to all of them, but again,
9 our objective was to have a comprehensive portfolio
10 of measures such that the customer has opportunities
11 to participate.

12 Q. If we stay confined just to this
13 specific subprogram, the load reduction program,
14 would you agree with me within the confines of just
15 this subprogram, without looking outside of it, that
16 people who do not have air conditioning end up
17 subsidizing those who do have air conditioning?

18 A. You're calling out one specific measure.
19 I struggle with the word subsidization because,
20 conversely, another customer may not have a freezer
21 but has air conditioning, so it's -- in my mind the
22 broad portfolio measures mitigates that.

23 Q. You can't just look at this program
24 alone and see that what I'm saying is accurate, that
25 that cost is --

1 A. I don't think you can look at one
2 program in isolation. We proposed a portfolio of
3 programs.

4 EXAMINER PRICE: But you have a budget
5 for this program in isolation on page 21, right?
6 Line 21, average annual cost, \$3.5 million. That's
7 just this program?

8 THE WITNESS: Yes.

9 EXAMINER PRICE: And so is his point
10 true for the \$3.5 million, people who do not have air
11 conditioning will be subsidizing people who do have
12 air conditioning?

13 I don't want to use subsidize, I'll use
14 load pressure. Isn't it true that people who do not
15 have air conditioning are not eligible to benefit
16 from this \$3.5 million program, but people who do
17 have air conditioning are eligible to benefit from
18 the program?

19 THE WITNESS: No, this program also
20 includes the behavioral response program which
21 customers can participate and take any action to
22 generate energy savings and demand savings. There's
23 no prerequisite for Behavioral Demand Response
24 program on --

25 EXAMINER PRICE: But they have to be

1 eligible AMI customers?

2 THE WITNESS: That is correct. That
3 program -- that component does require AMI.

4 EXAMINER PRICE: And how many
5 residential customers currently have eligible AMI in
6 your service territory?

7 THE WITNESS: Approximately 700,000.

8 EXAMINER PRICE: Out of?

9 THE WITNESS: Out of approximately 1.7
10 million residential customers.

11 EXAMINER PRICE: Thank you.

12 By Mr. Hays:

13 Q. For people -- for customers who do not
14 participate in this load reduction program, can they
15 opt out of the program?

16 A. If you're referring to the opt-out
17 process that we are proposing to offer for large
18 customers --

19 Q. No -- I'm sorry, I didn't mean to
20 interrupt. But no, I'm not referring to that.

21 A. Okay.

22 Q. What I'm asking is, if I understand this
23 correctly -- and we'll go step-by-step. If I
24 understand, all residential customers will pay for
25 the load reduction program; is that correct?

1 A. I don't know the cost recovery
2 methodology.

3 Q. I think you agreed with me that the
4 cost -- the costs of the program are socialized into
5 all customer bills; is that correct?

6 A. I understand cost recovery includes
7 recovery from the Companies' customers. I'm not
8 aware of the allocations across the customers or
9 schedules.

10 Q. Those customers who cannot receive a
11 benefit, and those customers who don't have, for
12 example, air conditioning, can they avoid in any way
13 paying these costs?

14 A. The Companies' proposal is only to have
15 an opt out for large customers.

16 MR. HAYS: Your Honor, again, thank you
17 for shortening up my questions considerably, and
18 Mr. Miller, hail to Pitt, nice to see you again.

19 EXAMINER PRICE: One Energy?

20 MR. DUNN: No questions.

21 EXAMINER PRICE: OEC?

22 MS. NORDSTROM: No questions.

23 EXAMINER PRICE: Staff?

24 MS. HOWARD: No questions, your Honor.

25 EXAMINER PRICE: Redirect?

1 MR. ALEXANDER: Yes, your Honor.

2 - - -

3 REDIRECT EXAMINATION

4 By Mr. Alexander:

5 Q. Mr. Miller, you received some questions
6 from Mr. Pritchard regarding the budgets proposed in
7 your testimony. Do you recall those questions?

8 A. Yes.

9 Q. And one of the questions that
10 Mr. Pritchard asked was whether the budgets are a
11 hard cap. Do you recall that?

12 A. I do.

13 Q. Can you please explain in maybe a bit
14 more detail how the caps for those programs work
15 within the five program categories?

16 A. Yes. The Companies' proposal in our
17 plan is that we would manage to each of the budgets
18 for the five programs -- the total budgets to each of
19 the five programs consistent with past practice in
20 Ohio, which is that, you know, between some of the
21 components the budgets -- you know, the actual
22 expenditures may vary from the Companies'
23 projections, however, we will manage to the total
24 budget as approved by the Commission.

25 So to ensure clarity, the proposal would

1 be Attachment ECM-2, which provides the five
2 programs, and the total budgets on the far right is
3 that we will manage the program to be within the
4 total budget as shown on this attachment for each of
5 the five programs.

6 Q. Thank you. And again, in questions from
7 Mr. Pritchard, he asked you about the retail
8 marketing of ENERGY STAR appliances. Do you recall
9 those questions?

10 A. Yes.

11 Q. Are ENERGY STAR appliances always
12 labeled as such in retailers?

13 A. It's our experience that that is not the
14 case.

15 Q. And do the Companies work with retailers
16 on that issue?

17 A. We do.

18 Q. And can you please explain in detail the
19 nature of that involvement?

20 A. Yes. Our residential rebates program
21 includes appliance rebates, and part of our program
22 design, which is also consistent with many other
23 utilities across the United States, is that we engage
24 national retailers in the delivery of our programs.

25 Our engagement of the retailers such as

1 Home Depot is that we will work with Home Depot and
 2 the local stores to where we'll go into the stores,
 3 we will review the ENERGY STAR or other energy
 4 efficient equipment and products that energy -- or
 5 that Home Depot is providing or has available in
 6 their stores, and we will encourage and promote and
 7 help with the placement of signage in the stores, not
 8 only to identify the energy efficient products, but
 9 also the availability of program rebates where they
 10 are available.

11 In addition to the focus on the
 12 identification and the marketing and awareness that
 13 that type of engagement provides, we will also
 14 conduct training sessions in the stores with the
 15 salespeople on the floor to educate them on the
 16 energy efficient products that they are selling in
 17 the store, but also the availability of program
 18 rebates.

19 Q. Again, in questions from Mr. Pritchard,
 20 you testified as to some information which would be
 21 provided to implementation vendors selected by the
 22 Companies. Do you recall those questions?

23 A. Yes.

24 Q. And one of the questions related to the
 25 information made available to CRES providers. Do you

1 recall that as well?

2 A. Yes.

3 Q. Is customer information made available
4 to CRES providers who have a letter of authorization
5 from the customer?

6 A. Yes.

7 Q. And then Ms. Bojko asked a series of
8 questions regarding the termination of the program
9 after year four. Do you recall those questions?

10 A. Yes.

11 Q. Could you please explain a bit more what
12 will occur at the end of the fourth year and how the
13 Companies anticipate the program moving forward after
14 that fourth year?

15 A. Yes. The Companies anticipate that at
16 the end of four years that we will stop enrolling and
17 accepting applications into the programs.

18 However, we do recognize that customers
19 may have participated in the program, and later in --
20 I'll say later in program year four where they may
21 not have submitted their applications or all the
22 information needed in order to achieve -- obtain the
23 rebate from the program, so while the program will
24 effectively cease new participation, the program will
25 continue to honor those -- that participation that

1 occurred up through the end of the year.

2 We also anticipate that through the
3 collaborative group, the evaluation of the programs,
4 that we will at that time make the decision regarding
5 the filing of, as discussed in my testimony, whether
6 to modify, expand, you know, add new programs, and
7 submit for, you know, the Commission approval for
8 either continuation, modification, expansion, or any
9 other changes that is decided at that time.

10 Q. And so the Company -- do the Companies
11 intend that the program, as you proposed it, would
12 extend for years five to eight without Commission
13 approval?

14 A. No. Commission approval will be needed
15 for any budgets for activity that occurs after
16 program year four.

17 MR. ALEXANDER: Thank you, Mr. Miller.

18 EXAMINER PRICE: Any questions for
19 redirect on confidential session?

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

21 EXAMINER PRICE: Recross, Mr. Proano?

22 MR. PROANO: Thank you, your Honor.

23 - - -

24 RECROSS-EXAMINATION

25 By Mr. Proano:

1 Q. Real briefly, on redirect you testified
2 on the ECM-2 budgets that you would, quote, manage to
3 the total budget approved by the Commission.

4 What does that mean? Does that mean
5 you'll stop spending money when you hit the annual
6 budgetary amounts, or some other action?

7 A. It means that we will manage each
8 program to each program's total budget over the
9 four-year period, and then we will not spend beyond
10 the total budget without getting Commission approval
11 for any increased funding.

12 Q. Okay. So on an annual basis there's not
13 going to be a hard cap, correct?

14 A. That is correct. We view it as a
15 four-year budget at the program level.

16 Q. So then you'd have to actually go to
17 ECM-4 for the totals, correct -- I'm sorry, let me
18 get the right --

19 A. ECM-2 does provide the total program
20 budget for each of the five programs.

21 Q. Great. What page are you on?

22 A. It's just Attachment ECM-2. I
23 apologize, there's no page number, but there's only
24 one Attachment in ECM-2.

25 Q. Okay. I'm actually going to draw your

1 attention to the ECM Workpaper 2, which actually has
2 the totals.

3 A. Yes, that also provides the total.

4 Q. Okay. Specifically, it's the very last
5 page of Attachment ECM-2, Workpaper 2. It's called
6 "Ohio ESP V Total Budgets by Cost Category," correct?

7 A. That is correct.

8 Q. And if you look at the Energy Solutions
9 for Business line item, the total budget there is
10 154,327,143, correct?

11 A. That is correct.

12 Q. Of which over 34 million is for program
13 administration, correct?

14 A. That is correct.

15 Q. That's what you would consider the hard
16 cap then over the four years, those numbers -- those
17 numbers shown on ECM-2, Workpaper 2?

18 A. The hard cap for the Energy Solutions
19 for Business program would be the \$154.3 million as
20 shown in the total.

21 Q. And if you somehow spend more than that
22 because you're honoring enrollments, you would not
23 seek to recover those amounts over that amount?

24 A. We would not. We would manage the
25 program to not spend over those amounts, and we would

1 seek Commission approval for any increase in funding.

2 Q. You were also asked on redirect by
3 Mr. Alexander whether or not retailers always labeled
4 energy efficient products as ENERGY STAR products.
5 Do you recall that question?

6 A. Yes, I do.

7 Q. And you said, "In my experience not
8 necessarily," right?

9 A. That is correct. It's my experience and
10 it's also the experience of the Companies, our
11 implementation team and our implementation vendors,
12 that when you go into retailers, the signage that
13 identifies efficient products is not always
14 available.

15 And one of the items that I failed to
16 mention that we also work with retailers on is to put
17 products in more prominent locations so that they are
18 easily identified by customers, again, to help their
19 awareness of both -- of the energy efficient product,
20 but of the rebate opportunity for its purchase.

21 Q. Do you have any kind of study that
22 quantifies or measures how many energy efficient
23 products should have a label that don't, versus they
24 do?

25 A. I wish I kept track of all the times

1 I've been to Lowe's and Home Depot and have observed
2 and looked at and noticed that in some cases you see
3 it and in some cases you don't, and I will say that
4 changes.

5 Q. But you don't, correct?

6 A. I did not keep a log of that.

7 Q. And to your knowledge, FirstEnergy
8 doesn't have any kind of empirical study on that,
9 correct?

10 A. I don't have a study for that. I think
11 it's very well observed.

12 Q. This is just your personal observation,
13 right?

14 A. It's just not my personal observation,
15 it's the feedback from our implementation team, our
16 implementation vendors, and the experience of
17 actually doing this in stores.

18 Q. But you can't give us any statistics
19 sitting here today, correct?

20 A. I don't have statics.

21 Q. Okay. Why do you think it's
22 FirstEnergy's role as the EDU to go in and give
23 training at Home Depot?

24 MR. ALEXANDER: Objection.

25 EXAMINER PRICE: Grounds?

1 MR. ALEXANDER: Beyond the scope of the
2 redirect.

3 EXAMINER PRICE: Sustained.
4 By Mr. Proano:

5 Q. When Ms. Bojko asked you about the
6 end -- what happened at the end of four years -- do
7 you remember that question by Ms. Bojko?

8 A. Yes.

9 Q. Okay. And I pretty clearly recall you
10 said I don't know; does that sound correct?

11 A. My response was that the program in our
12 plan contemplated that we would have a collaborative,
13 and our decision regarding what we do at the end of
14 four years was to be -- was going to be decided at
15 that time.

16 Q. Okay. But you also were pressed by Ms.
17 Bojko on this issue pretty hard, and you eventually
18 said I don't know what's going to happen, I don't
19 know if the program is going to stop or going to
20 continue, isn't that true?

21 A. I don't remember what I precisely said.
22 I attempted to clarify that a few minutes ago when I
23 said what our intent is, what our proposal is.

24 Q. Okay. But what happened between your
25 cross-examination and your redirect testimony to

1 refresh your recollection on what happens at the end
2 of the program?

3 A. I spoke to counsel.

4 MR. PROANO: No further questions.

5 Thank you.

6 EXAMINER PRICE: Thank you. Mr. Kurtz?

7 MR. KURTZ: No questions.

8 EXAMINER PRICE: Mr. Pritchard?

9 MR. PRITCHARD: Thank you.

10 - - -

11 RECROSS-EXAMINATION

12 By Mr. Pritchard:

13 Q. Mr. Miller, in response to counsel's
14 question on redirect you indicated that CRES
15 providers have access to certain information through
16 a LOA, correct?

17 A. Yes.

18 Q. What does LOA stand for?

19 A. Letter of Authorization.

20 Q. And when did you learn that CRES
21 providers could have access to information under a
22 LOA?

23 A. I remember some activities -- I remember
24 that dating back to the late '90s where as customer
25 choice has been adopted across utilities, that

1 utilities would have processes to make customer data
2 available to the retail suppliers, and I have heard
3 that, you know, at FirstEnergy as well.

4 I'm not directly involved in the
5 process, but I am aware there is a process and letter
6 of authorization to receive the customer's usage data
7 by the CRES providers.

8 Q. And between when I was asking questions
9 earlier today and your redirect, what refreshed your
10 recollection on whether there was an LOA process that
11 existed?

12 MR. ALEXANDER: Objection.

13 MR. PRITCHARD: I'm done.

14 EXAMINER PRICE: I didn't hear all of
15 his question, so let's have the question back,
16 please.

17 (Record read back.)

18 EXAMINER PRICE: Grounds?

19 MR. ALEXANDER: Misstates facts, your
20 Honor. There was no question earlier today on
21 whether a letter of authorization was available to
22 provide information to CRESS providers, the
23 questioning earlier today was on whether the
24 information provided to the implementation vendor was
25 also going to be provided to CRES providers.

1 And so the new question that I asked was
2 whether there was a mechanism for CRES providers to
3 get the information, therefore the question misstates
4 facts.

5 EXAMINER PRICE: Sustained.

6 By Mr. Pritchard:

7 Q. As we discussed earlier, the
8 implementation vendor is going to get data
9 transferred to it, correct?

10 MR. ALEXANDER: Objection.

11 EXAMINER PRICE: Grounds?

12 MR. ALEXANDER: Beyond the scope of the
13 redirect.

14 MR. PRITCHARD: Your Honor, I'm just
15 going to lay a little foundation, if I could have
16 leeway, between the difference between what we
17 discussed earlier and the LOA process.

18 EXAMINER PRICE: Overruled.

19 THE WITNESS: I don't know how the
20 information is provided to the implementation vendor.
21 By Mr. Pritchard:

22 Q. Is the implementation vendor going to --
23 strike that.

24 For an LOA a CRES has to obtain
25 authorization from each individual customer, correct?

1 A. I believe that's correct.

2 Q. And will an implementation vendor need
3 to go obtain authorization from each individual
4 customer before they obtain the data that you're
5 going to transfer to them?

6 MR. ALEXANDER: Objection.

7 EXAMINER PRICE: Grounds?

8 MR. ALEXANDER: My only question was
9 whether customer information is made available
10 pursuant to a letter of authorization, so it's beyond
11 the scope of redirect.

12 EXAMINER PRICE: Mr. Pritchard?

13 MR. PRITCHARD: Your Honor, he's
14 testifying that CRES are going to get information
15 under the LOA process. I'm just trying to understand
16 if it's the same as what the implementation vendors
17 are going to get.

18 I think Mr. Alexander opened the door on
19 redirect about asking if CRES were going to get
20 information through the LOA. I think it would be
21 helpful for the record to understand what process
22 each have to follow.

23 EXAMINER PRICE: I disagree. I think
24 the record is clear that the vendors are getting all
25 this information, and there's no -- nothing in the

1 record about an LOA from vendors, so I'm going to
2 sustain the objection.

3 By Mr. Pritchard:

4 Q. Is there a Commission rule that governs
5 CRES providers obtaining the type of information
6 available in an LOA?

7 A. I don't know.

8 Q. And under the LOA process, do you know
9 if a CRES provider has to manually download each
10 customer's data?

11 A. I don't know.

12 Q. And are you aware that if a CRES
13 provider does get an LOA, that they cannot obtain
14 interval data through EDI transactions?

15 A. Can you repeat the question?

16 Q. Yes. If a CRES provider gets an LOA,
17 are you aware that a CRES provider cannot obtain
18 interval data through an EDI transaction?

19 A. I understand that some certain customers
20 may have load control signals where they are capping
21 their interval data and would have that available to
22 provide. I'm not aware of the EDI transaction or
23 restrictions that you're citing.

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

1 EXAMINER PRICE: You may.

2 By Mr. Pritchard:

3 Q. Mr. Miller, you're aware that RESA
4 served discovery on the Company in this case,
5 correct?

6 A. I am.

7 Q. And throughout my cross-examination and
8 others we have referenced various responses that you
9 helped to prepare, correct?

10 A. Yes.

11 Q. And in front of you is a data request
12 from RESA regarding the availability of EDI --
13 availability of residential customer interval data
14 through EDI transactions.

15 A. Yes.

16 Q. Have you reviewed that document before?

17 A. I have not seen this document.

18 Q. Were you made aware of our -- of RESA's
19 request regarding the availability of residential
20 customer interval data through EDI transactions?

21 A. I was not.

22 Q. And outside of RESA's discovery
23 requests, do you have any independent knowledge of
24 whether the Company makes residential customer
25 interval data available through the EDI transaction?

1 A. The only additional information I'm
2 aware of is that there is ongoing working group
3 regarding providing data. I don't know the data or
4 the processes or transactions that are used or being
5 discussed.

6 Q. And as we're discussing the letter of
7 authorization process, what entities does the LOA
8 apply to?

9 EXAMINER PRICE: I'm not sure I
10 understand your question.

11 MR. PRITCHARD: Let me rephrase.
12 By Mr. Pritchard:

13 Q. An LOA applies to a CRES provider,
14 correct?

15 A. Yes.

16 Q. And there are other participants in the
17 competitive marketplace that offer energy efficient
18 products outside of CRES providers, correct?

19 A. Can you repeat the question?

20 Q. Yes. A customer could obtain energy
21 efficiency products and services beyond a CRES
22 provider, correct?

23 MR. ALEXANDER: Objection. Beyond the
24 scope of the redirect. My question was limited
25 solely to CRES providers.

1 EXAMINER PRICE: You asked him about
2 LOA, so I'll allow it. You can answer if you know.

3 THE WITNESS: I'm not aware of
4 competitive parties providing products in the sense
5 of providing rebates for efficient equipment as an
6 example, as we proposed.

7 I am aware of PJM curtailment service
8 providers who may be providing services to customers
9 regarding potential -- regarding the customer's usage
10 in various forms.

11 By Mr. Pritchard:

12 Q. Do you believe an LOA applies to a
13 curtailment service provider?

14 A. I don't know.

15 Q. And do you know if a curtailment service
16 provider has access to data through an LOA process?

17 A. I'm aware that some curtailment service
18 providers receive customer data from the customer.
19 I'm not aware of other processes beyond the LOA that
20 I'm aware of.

21 MR. PRITCHARD: Your Honor, may I
22 approach?

23 EXAMINER PRICE: You may.

24 By Mr. Pritchard:

25 Q. Mr. Miller, I've handed you another RESA

1 data request that asked about the availability of
2 residential interval meter data to a curtailment
3 service provider. Were you part of the FirstEnergy
4 team involved in preparing the response to RESA?

5 A. I was not.

6 Q. And outside of the preparation of that
7 response -- actually, strike that.

8 MR. PRITCHARD: I have no further
9 questions.

10 THE WITNESS: For clarification, I was
11 not aware of this response. I was involved in other
12 RESA interrogatories, just to clarify.

13 By Mr. Pritchard:

14 Q. So with that clarification, you were not
15 aware that RESA had asked the Company about the
16 availability of interval meter data for curtailment
17 service providers?

18 A. I was not.

19 MR. PRITCHARD: With that clarification,
20 no further questions, your Honor.

21 EXAMINER PRICE: Consumers' Counsel.

22 MR. FINNIGAN: No questions.

23 EXAMINER PRICE: ELPC?

24 MS. MC CONNELL: No questions, your
25 honor.

1 EXAMINER PRICE: OMAEG?

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

3 EXAMINER PRICE: Kroger?

4 MS. WHITFIELD: No, thank you, your
5 Honor.

6 EXAMINER PRICE: IGS?

7 MR. BARBARA: None, your Honor.

8 EXAMINER PRICE: Wal-Mart?

9 MS. GRUNDMANN: Yes, your Honor, very
10 briefly.

11 - - -

12 RECROSS-EXAMINATION

13 By Ms. Grundmann:

14 Q. Good afternoon. I briefly want to go
15 back to the response to the question that you gave to
16 Mr. Proano with respect to refreshing your
17 recollection concerning what will happen in years
18 five through eight. How was your recollection
19 refreshed?

20 A. I remember --

21 MR. ALEXANDER: Objection to the extent
22 the question calls for the disclosure of
23 attorney/client communications, but no objection to
24 the extent he can answer without disclosing those
25 communications.

1 MS. GRUNDMANN: Your Honor, in this case
 2 I believe, as with respect to any case in a
 3 deposition or another proceeding, when a witness who
 4 is on the stand and under oath walks out of the room
 5 and speaks to their counsel, that is subject to
 6 questions by counsel, and in this case I'm entitled
 7 to explore whether it was through communications with
 8 counsel or otherwise, whether in fact his
 9 recollection, i.e., his memory was refreshed or he
 10 was given new information that allowed him to change
 11 his answer, which is incredibly different.

12 So in this particular case I think that
 13 the door has opened to explore in totality how he was
 14 able to change his answer in this particular case.

15 EXAMINER PRICE: Regardless of whether
 16 it happens in other jurisdictions, we have never
 17 imposed that rule. I mean, a lot of things go on
 18 here where witnesses answer, you know, how do you
 19 know this, by advice of counsel, we don't allow
 20 people to explore that, but if you can narrow your
 21 question to nonprivileged --

22 MS. GRUNDMANN: In this case the issue
 23 is, your Honor, that I'm trying to understand how he
 24 came into possession of knowledge that he did not
 25 have in response to Ms. Bojko's questions.

1 EXAMINER PRICE: Ask him that.

2 By Ms. Grundmann:

3 Q. How did you come into possession of
4 knowledge as to what would happen in years five
5 through eight of the DSM EE program that allowed you
6 to answer the question differently than you did in
7 response to questions from Ms. Bojko?

8 A. What I remembered was that in
9 development of the plan and, you know, we had
10 numerous meetings internally regarding the term of
11 the plan and, you know, the four years of what
12 happens at the end of the four years, and it was
13 through my discussion with counsel that I remembered
14 our prior discussions surrounding, you know, the
15 program and what the intent was of what I was
16 testifying to regarding what will happen at the end
17 of the four years.

18 Q. So your response, because I feel like we
19 meandered our way down the path of answering my
20 actual question, so your response is that in response
21 to discussions with counsel, you were reminded of
22 prior meetings that you had been involved in that
23 discussed what would happen in years five through
24 eight of the plan; is that correct?

25 A. Of what --

1 MR. ALEXANDER: Objection, your Honor.
 2 Your Honor, the witness testified to Ms. Bojko in
 3 response to her specific question. The witness has
 4 also testified directly in his direct testimony
 5 regarding the termination and Commission approval.

6 That testimony specifically addresses
 7 what happened at the end of year four, but does not
 8 address what the witness testified to today regarding
 9 this potential carryover period, and that was the
 10 nature of his testimony today. So questions which he
 11 communicates with counsel I feel like are
 12 inappropriate.

13 EXAMINER PRICE: I don't think she's
 14 seeking communications with counsel, she's just
 15 asking him to clarify the statement he just made.

16 MS. GRUNDMANN: That is correct.
 17 By Ms. Grundmann:

18 Q. So I'm going to try to ask it again
 19 instead of having it asked, and let me be clear,
 20 because I don't want to interrupt you when you're
 21 answering, but I would appreciate if you would listen
 22 to the question I'm asking so that hopefully you
 23 could answer it so that I don't have to repeat your
 24 answer so that maybe you and I can be on the same
 25 page. Let me see if I can go back through and try to

1 remember it.

2 How did you come to have your memory
3 refreshed -- so I am focusing specifically on the
4 time when Ms. Bojko asked you questions on her direct
5 exam, and then when you came back on the stand for
6 redirect.

7 So how was your recollection refreshed
8 as to what would happen in years five through eight
9 of the EE DSM plan?

10 A. To help ensure we're not talking past
11 each other as you're striving for, I'm confused by
12 the reference to years five through eight. I thought
13 the question was what happens at the end of four
14 years.

15 Q. I'm talking about for the latter half of
16 the ESP term, that's my focus, is that you're
17 proposing a four year DSM plan, right?

18 A. Yes.

19 Q. And so that Ms. Bojko's questions had to
20 do with what happened in the second half and its
21 continuation and would it need a Commission
22 proceeding, or would it automatically terminate, or
23 would it continue, she asked you a number of
24 questions about that, do you recall?

25 A. I recall the questions being what

1 happens at the end of the four years, and I
2 referenced my testimony where I cited that the
3 Companies -- regarding the filing, regarding making a
4 decision at that time, regarding the continuation,
5 the expansion, modification, addition of new programs
6 that is referenced in my testimony with a filing to
7 occur at that time.

8 Q. Do you recall that in response to
9 Ms. Bojko's question about what would happen after
10 year four, that your ultimate answer to her was I
11 don't know.

12 A. I remember the question being what
13 happens at the end of program year four, not beyond
14 program year four.

15 Q. But do you recall that with that caveat
16 that your ultimate answer was I don't know?

17 MR. ALEXANDER: Objection.

18 EXAMINER PRICE: Grounds?

19 MR. ALEXANDER: The record is what it
20 is. This has no probative value.

21 MS. GRUNDMANN: Your Honor, I'm really
22 struggling here in response to this because I'm
23 trying to understand how we have a completely
24 different record when the questions are asked by his
25 counsel, versus when they are asked by opposing

1 parties.

2 And I feel like I'm really trying to
3 make what should be a very simple question for him to
4 explain to me how his memory was refreshed, and so
5 that's my question, and I guess I'm really confused
6 as to why that is so difficult to answer.

7 EXAMINER PRICE: Well, as to the
8 probative value, Ms. Bojko was doing her best and
9 doing a very capable job of trying to narrow him
10 down, but the Bench took his comment to be it was I
11 can't predict the future, and that was all I took his
12 comment to be is I don't know what's going to happen
13 in the future.

14 I think the record is clear at this
15 point that the Company is going to come in with an
16 application and the Commission will rule or not, and
17 the Commission will rule on it.

18 MS. GRUNDMANN: Thank you, your Honor.
19 I won't have any more cross then.

20 EXAMINER PRICE: Thank you. NUCOR?

21 MR. BRISCAR: No questions.

22 MR. HAYS: None, thank you.

23 EXAMINER PRICE: Staff?

24 MS. HOWARD: No questions, your Honor.

25 EXAMINER PRICE: Mr. Miller, you are

1 excused --

2 EXAMINER ADDISON: One quick question,
3 it you'll indulge me.

4 - - -

5 EXAMINATION

6 By Examiner Addison:

7 Q. If you can turn to what's been marked as
8 OMAEG Exhibit 13, I just had a few follow-up
9 questions from Ms. Bojko's cross earlier today.

10 A. I'm not sure I have that -- I do have
11 that, I'm sorry.

12 By Examiner Addison:

13 Q. No, you're fine. On the third page you
14 had indicated, and I believe the response -- you had
15 indicated the response to the question a large
16 customer will be charged through the EEC for Energy
17 Efficiency program costs incurred prior to opting
18 out, you answered that "Yes," correct?

19 A. Yes.

20 Q. On the second page, it's OMAEG Set 2,
21 Interrogatory 19, then it -- and it's recognizing
22 that this opt-out process is not solidified and the
23 details require some hashing out, the answer to the
24 question is that the Companies anticipate customers
25 will need to complete an application form and submit

1 the request in writing which require documentation
2 for the Companies to verify eligibility of customer
3 accounts, is that correct?

4 A. Yes.

5 Q. Do you anticipate -- or do the Companies
6 anticipate the opt out to be effective at the time of
7 the application, or when the eligibility has been
8 verified?

9 A. I believe it would have to be at the
10 time that the eligibility is verified prior to being
11 able to effectuate the opt out.

12 Q. So if, for instance, a large customer
13 completes an application and submits it on May 1st,
14 the Companies don't verify eligibility until May
15 25th, May 25th would be the date upon which the opt
16 out would be effective, and that customer would no
17 longer be incurring or be charged through the EEC for
18 those program costs, correct?

19 A. I don't anticipate that the verification
20 of eligibility would be that lengthy. I anticipated
21 it would be shorter.

22 Hearing the example that you provided,
23 though, I wasn't directly involved in the prior
24 opt-out process to know what the start date was, to
25 be honest with you.

1 Q. What do you anticipate the verification
2 process -- how long do you anticipate that to be
3 then, recognizing again the process is not solidified
4 yet?

5 A. I would anticipate it -- and again, I
6 don't have firsthand knowledge of how that process
7 worked previously to know how lengthy of a process it
8 would be, but I would anticipate it would be a week
9 or two. I would not anticipate it to be lengthy.

10 Q. Okay. And then do you intend to consult
11 with Staff regarding the creation of the opt-out
12 process?

13 A. That's not anything we have discussed.

14 Q. And that would also apply to the
15 creation of the application form to opt out of the
16 program?

17 A. That is correct, but I don't know.

18 Q. If the Commission were to direct you --
19 assuming that they adopt your proposal, if the
20 Commission were to direct you to consult with Staff
21 during the creation of that opt-out process, the
22 Companies will do that then, correct?

23 A. Yes.

24 EXAMINER ADDISON: Thank you. That's
25 all I have.

1 EXAMINER PRICE: I have no further
2 questions. You are excused.

3 Mr. Alexander, you renew your motion to
4 admit Companies' Exhibit 5.

5 MR. ALEXANDER: Yes, thank you.

6 EXAMINER PRICE: Any objection to
7 admission of Company Exhibit 5? Seeing none. It
8 will be admitted.

9 (EXHIBIT ADMITTED INTO EVIDENCE.)

10 EXAMINER PRICE: Before moving to the
11 other exhibits, there are a number of OELC exhibits
12 the Company agreed to stipulate and I just want to
13 make sure I have the correct numbers, so Mr. Proano,
14 if you can go over those with me.

15 MR. PROANO: Sure. Thank you, your
16 Honor. Your Honor, the ones that were the subject of
17 a prior agreement to stipulate to their admission was
18 OELC Exhibits 8, 9, 17, 18, 19, and 20.

19 EXAMINER PRICE: Your list did not
20 include Exhibit 7, is that right?

21 MR. PROANO: I'm sorry, I should have
22 and included 7. Yes, Exhibit 7, your Honor.

23 And then we'll also admit -- move for
24 admission Exhibits 5 and 6 from our Miller cross.

25 EXAMINER PRICE: Any objections to the

1 admission of OELC Exhibits 5 and 6?

2 MR. ALEXANDER: No, your Honor.

3 EXAMINER PRICE: They will be admitted.

4 (EXHIBITS ADMITTED INTO EVIDENCE.)

5 MS. WHITFIELD: Is OELC moving for the
6 admission of Exhibit 4?

7 MR. PRAONO: Yes. We'll now move for
8 the admission of OELC 7, 8, 9, 17, 18, 19, and 20,
9 your Honor.

10 EXAMINER PRICE: Those were admitted.

11 MR. PROANO: Okay. Thank you, your
12 Honor.

13 MS. WHITFIELD: What about, I have OELC
14 Exhibit 4.

15 MR. PROANO: We're not going to move to
16 admit that exhibit. Thank you.

17 EXAMINER PRICE: Mr. Pritchard.

18 MR. PRITCHARD: Yes, at this time I'd
19 move for the admission of RESA Exhibits 9, 10, 11,
20 12, and 13C.

21 EXAMINER PRICE: Any objection to the
22 admission of those exhibits?

23 MR. ALEXANDER: No, your Honor.

24 EXAMINER PRICE: They will be admitted.

25 (EXHIBITS ADMITTED INTO EVIDENCE.)

1 EXAMINER PRICE: Ms. Bojko?

2 MS. BOJKO: Thank you. At this time I'd
3 like to move the admission of OMAEG Exhibit 13.

4 EXAMINER PRICE: Any objection?

5 MR. ALEXANDER: No, your Honor.

6 EXAMINER PRICE: It will be admitted.

7 (EXHIBIT ADMITTED INTO EVIDENCE.)

8 EXAMINER PRICE: Mr. Alexander, you may
9 call your next witness. Let's at least get the
10 document marked and admitted before we break for
11 lunch.

12 MR. PRITCHARD: Your Honor, before the
13 witness takes the stand, can I retrieve my two
14 documents that aren't exhibits?

15 EXAMINER PRICE: Yes, please.

16 (Discussion off the record.)

17 EXAMINER PRICE: Let's go back on the
18 record. Please raise your right hand. Do you swear
19 the testimony you'll give will be the truth, the
20 whole truth, and nothing but the truth.

21 THE WITNESS: I do.

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

24 THE WITNESS: Juliette Lawless, 76 South
25 Main Street, Akron, Ohio.

1 EXAMINER PRICE: Thank you. Please
2 proceed, Mr. Alexander.

3 MR. ALEXANDER: Your Honor, may I have
4 marked for identification as Companies' Exhibit 7 the
5 direct testimony of Juliette Lawless?

6 EXAMINER PRICE: So marked.

7 (EXHIBIT MARKED FOR IDENTIFICATION.)

8 - - -

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

12 DIRECT EXAMINATION

13 By Mr. Alexander:

14 Q. Ms. Lawless, did you cause to be filed
15 prefiled written direct testimony in this proceeding?

16 A. I did.

17 Q. And do you have any changes or
18 corrections to that testimony here today?

19 A. I do.

20 Q. And what is that correction?

21 A. There are a couple. The first is
22 Attachment JL-2. They are not numbered, this is the
23 tariff sheet for Rider SCR. But the second page of
24 it is Ohio Edison Company's tariff, and the unit for
25 Rate GSU, the billing unit, should be kVA as opposed

1 to kW, and then on the next page, the Toledo Edison
2 Company, Rider SCR tariff page, same change should be
3 made, it should be per kVA for Rate GSE.

4 MS. BOJKO: I'm sorry, I'm having
5 trouble hearing you.

6 THE WITNESS: I'm so sorry. The tariff
7 pages for Ohio Edison Company and the Toledo Edison
8 Company for Rider SCR, the billing units for Rate GSU
9 should be per kVA not per kW.

10 EXAMINER PRICE: Is that true for CEI as
11 well?

12 THE WITNESS: No.

13 MS. BOJKO: Just for GSU?

14 THE WITNESS: Yes.

15 EXAMINER PRICE: Any other corrections?

16 THE WITNESS: Yes. My next change is
17 Attachment JL-4, Exhibit A, page 1 of 5, it's also
18 billing units, so on line 11, Columns F and G for
19 Rate GSU, the billing unit should be kVA.

20 EXAMINER PRICE: I'm sorry, you have to
21 back up, I am so lost right now. Which attachment
22 was it?

23 THE WITNESS: Attachment JL-4.

24 EXAMINER PRICE: Page 1 of 5?

25 THE WITNESS: Yes.

1 EXAMINER PRICE: Now proceed.

2 THE WITNESS: It's Rate GSU's billing
3 units in Columns F and G, it's on line 11, that
4 should also be kVA as opposed to kW. And then on
5 line 43, for Toledo Edison Company, Rate GSU, those
6 billing units in Columns F and G should be per kVA
7 and kVA.

8 EXAMINER PRICE: That's for F and G?

9 THE WITNESS: Yes, Columns F and G.

10 MR. PROANO: What was that line?

11 THE WITNESS: Line 43 and the first was
12 line 11.

13 MR. PROANO: Thank you.

14 THE WITNESS: You're welcome. And then
15 I have one more correction, sorry. In the same
16 exhibit -- Attachment JL-4, Exhibit A, page 2 of 5,
17 the header says "Demand Allocators Excluding Expected
18 Pilot Participants." It should just say "Demand
19 Allocators", it is not excluding anybody. And that's
20 it.

21 By Mr. Alexander:

22 Q. So, Ms. Lawless, with those corrections,
23 if I were to ask you the same questions today as
24 appear in your prefiled written direct testimony,
25 would your answers be the same?

1 A. Yes.

2 MR. ALEXANDER: Your Honor, the
3 Companies move for admission of Companies' Exhibit 7,
4 subject to cross-examination.

5 EXAMINER PRICE: We'll defer ruling on
6 admission of the Companies' Exhibit 7 until the
7 conclusion. We'll have cross-examination and we'll
8 take cross-examination after lunch. We'll break at
9 this time. Let's go off the record.

10 (Lunch recess from 1:30 to 2:30.)

11 EXAMINER PRICE: Let's go back on the
12 record. Mr. Proano, please proceed.

13 MR. PROANO: Thank you, your Honor.

14 - - -

15 CROSS-EXAMINATION

16 By Mr. Proano:

17 Q. Good afternoon, Ms. Lawless.

18 A. Hey, David.

19 Q. Nice to see you in person. We have
20 spoken before, correct?

21 A. Yes, we have.

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

24 A. I do.

25 Q. Go a little bit over your background,

1 page 1, please?

2 A. Okay.

3 Q. You do have a BS in accounting and
4 financial services, correct?

5 A. Two separate BS.

6 Q. Do you have a CPA license?

7 A. I do not.

8 Q. And then page 1, line 15, you talk about
9 your experience?

10 A. Yes.

11 Q. And you say including the
12 Non-Market-Based Services Rider, do you see that?

13 A. Yes.

14 Q. And you call it Rider NMB?

15 A. Yes, that is correct.

16 Q. When I refer to Rider NMB throughout
17 this examination you understand I'm referring to the
18 Non-Market-Based Services Rider?

19 A. Yes.

20 Q. And you call yourself a lead analyst
21 responsible for preparation and management of various
22 riders, and then you list Rider NMB?

23 A. Yes. I formerly was, I'm no longer in
24 the department.

25 Q. As of when?

1 A. As of January 3rd of this year.

2 Q. So are you no longer a person -- lead
3 analyst responsible for Rider NMB?

4 A. There hasn't been anybody else assigned,
5 but it will not be me for this year's preparation.

6 Q. But are you currently the lead analyst
7 for Rider NMB?

8 A. No.

9 Q. Is there anyone else who has taken over
10 that role?

11 A. No.

12 Q. Are you the person most knowledgeable on
13 Rider NMB at the Companies?

14 A. Yes. Sorry to interrupt.

15 Q. No problems.

16 EXAMINER PRICE: What is your current
17 position?

18 THE WITNESS: I'm an analyst in the
19 long-term planning department.

20 EXAMINER PRICE: Thank you.
21 Congratulations.

22 THE WITNESS: Thanks.

23 By Mr. Proano:

24 Q. Okay. Let's turn to page 8 of your
25 testimony, please.

1 A. I'm there.

2 Q. We're going to talk about the costs that
3 are recovered through Rider NMB, and beginning on
4 line 1 of page 8, that first full sentence that
5 starts, "Costs," you describe what kind of costs are
6 recovered through that rider, correct?

7 A. That is correct.

8 Q. And you list NITS, RTEP charges among
9 other charges, is that correct?

10 A. Yes, that is correct.

11 Q. And you say those are allocated to the
12 Companies' rate schedules based on the four
13 coincident system peaks, the 4 CPs; correct?

14 A. Yes.

15 Q. What does that mean?

16 A. So we -- I can actually show you in
17 Exhibit JL-1 -- I'm sorry, JL-4, my apologies. We
18 calculate an overall revenue requirement for each one
19 of the operating companies, which you can see to the
20 left, and then we allocate those for the rate
21 schedules based on the 4 CPs, and those demand
22 allocators in Column B are from the 4 CPs, which you
23 can see on page 2 of 5, the next page, where these
24 percentages come from.

25 Q. And just for the record, what is a 4 CP?

1 A. 4 CP are four coincident peaks, so those
2 are the four times in the -- so PJM sets a 1 CP for
3 the year, which is the highest time of load, highest
4 hour of load for the entire year. It's either
5 summer, winter months. And then we calculate, as a
6 Company, four other times in that time period that
7 are the highest peaks.

8 Q. And they have to be on different days,
9 correct?

10 A. Yes. You know what? Honestly, I
11 shouldn't answer that, I would defer it to Ed Stein
12 on that.

13 Q. And you understand that the 4 CPs are
14 selected in the summer, if the 1 CPs are in the
15 summer and they are selected in the winter, it's the
16 1 CPs in the winter?

17 A. Yes.

18 Q. And FirstEnergy is almost always a
19 summer peaking territory, correct?

20 A. As far as I've known, yes.

21 Q. The CPs are measured in kilowatt load,
22 correct, for each customer?

23 A. Yes.

24 Q. And then that's aggregated, for purposes
25 of FirstEnergy territory, for PJM billing purposes?

1 A. Aggregated -- by aggregated do you
2 mean --

3 Q. Added up to come up with a load for
4 FirstEnergy.

5 A. Averaged.

6 Q. Okay.

7 EXAMINER PRICE: Is it a weighted
8 average?

9 THE WITNESS: I don't believe so. So
10 the 5 CPs I believe are averaged, and then they are
11 scaled to match the 1 CP at PJM. Company witness Ed
12 Stein could explain that much further.

13 EXAMINER PRICE: Okay.
14 By Mr. Proano:

15 Q. Okay. So let's just make sure we're all
16 talking about the same thing. For a customer to come
17 up with their NSPL value, you average the 1 CP in PJM
18 plus the 4 CPs in FirstEnergy territory, correct?

19 A. Yes, that is correct.

20 Q. Now, when PJM bills FirstEnergy these
21 NITS charges, RTEP charges, and other PJM line items
22 charges, that's done on a holistic level with all the
23 customers' NSPLs added together, correct?

24 A. Yes, that is correct.

25 Q. Now, FirstEnergy, they don't -- setting

1 aside carrying costs, which we'll talk about later,
2 FirstEnergy doesn't make any revenue on Rider NMB,
3 correct?

4 A. Correct, this is a pass-through charge.

5 Q. It's meant for FirstEnergy just to
6 recovery on a dollar-for-dollar basis the charges
7 from PJM, correct?

8 A. Yes, that is correct.

9 Q. And how long has Rider NMB been in
10 existence, to your knowledge?

11 A. I actually talk about that in my
12 testimony, and I will find that so I don't misspeak.
13 So it was initially authorized in the second ESP
14 plan. I believe it went into effect in 2011.

15 Q. And Rider NMB charges have been
16 calculated since 2011 to customers based on their
17 monthly demand, correct?

18 A. The revenue -- the revenue requirement
19 has been allocated to customers based on the 4 CP, is
20 that what you were asking?

21 Q. No.

22 A. I'm sorry.

23 Q. So the way Rider NMB revenue
24 requirements are allocated to the different rate
25 classes and different customers, since 2011 that's

1 been done based on the monthly billing demand,
2 correct?

3 A. No, the allocation is done on the 4 CP.

4 Q. Okay. The allocation is done on the 4
5 CP?

6 A. Yes.

7 Q. But what the customer actually sees in
8 terms of the charges are done on their monthly
9 billing?

10 A. Yes, their energy usage. So for
11 lighting and residential that's kilowatt-hour, and
12 then for commercial/industrial that's demand.

13 Q. Okay. And just focusing on commercial
14 and industrial, what they actually get billed, not
15 allocated, that's based on their highest load in that
16 billing month in kilowatts, correct?

17 A. To my understanding, for almost all
18 commercial/industrial rate classes it's the 30
19 highest minutes -- or 30 highest minutes of load for
20 that month.

21 But again, I don't actually calculate
22 demand, so I would be more comfortable with somebody
23 else in the Company explaining that. But it is, yes,
24 based on the individual -- each individual customer's
25 usage in the month.

1 Q. Okay. So whatever -- whatever the
2 highest 30-minute integrated load for that billing
3 month is will determine the billing determinant for
4 Rider NMB charges for those commercial customers,
5 correct, under the current term?

6 A. When you say billing determinants, you
7 mean what the rate is calculated?

8 Q. Correct.

9 A. Yeah.

10 Q. The answer is yes?

11 A. To ensure I'm answering correctly, can
12 you repeat the question?

13 Q. Absolutely. You understand that in your
14 tariffs you have an NMB demand charge, correct?

15 A. Yes.

16 Q. That's a dollar value, correct?

17 A. Yes.

18 Q. And then you multiply that by the
19 highest integrated 30-minute load for that billing
20 month in kilowatts, correct?

21 A. For each customer's highest 30 minutes.

22 Q. Correct.

23 A. In kilowatt or kVA.

24 Q. Correct. It depends on the tariff,
25 right? Some is kilowatt, some is kVA, correct?

1 A. Yes, that is correct.

2 Q. So a customer then -- whatever their
3 highest 30 minutes is that specific month will
4 determine what their Rider NMB charge will be for
5 that month, correct?

6 A. Yes, that is correct. I do believe in
7 Toledo Edison it's based on a 15-minute period, but I
8 could be misspeaking there. Again, like I said, I'm
9 not a specialist on that, so I would have somebody
10 else in the Company explain.

11 Q. And so when you say here in line 7 of
12 page 8, monthly billing demand, that's exactly what
13 we were just talking about, correct?

14 A. Yes.

15 Q. Let's talk about demand allocation. You
16 had mentioned 4 CP is used to come up with the
17 allocations --

18 A. Yes.

19 Q. -- of the revenue requirements, correct?

20 A. Yes, that is correct.

21 Q. Now, are the charges from PJM to the
22 FirstEnergy operating companies done on an NSPL basis
23 or a 4 CP basis?

24 A. It depends on the charge, but --

25 Q. Walk me through the main ones.

1 A. So for -- as you pointed out, the NITS
2 and the RTEP charges, those are based on NSPL.

3 Q. And you would agree that the NITS
4 charges by far are the largest component of the PJM
5 charges that get billed as Rider NMB, correct?

6 A. Yes, absolutely.

7 Q. So the NITS charge and RTEP charge
8 among -- those are the ones you gave, are billed to
9 the FirstEnergy operating companies on NSPL, but then
10 the demand allocation for those charges are done in 4
11 CP, correct?

12 A. Yes.

13 Q. Why is that?

14 A. Well, I honestly can't speak to why that
15 was chosen. I wasn't with the Company in 2011.
16 Although the 4 CPs are part of the customer's NSPL
17 allocation, so their NSPLs are based on the 5 CPs.

18 So using the 4 CPs, one would assume
19 would be very similar to using the 5 CPs, and would
20 tie back to the 1 CP at PJM.

21 Q. But they are not exact, correct?

22 A. Correct. Correct, they are not exact.

23 Q. And when you're calculating demand
24 allocation based on the 4 CPs, are those average the
25 4 CPs for that demand allocation?

1 A. Yes, you can see them in my exhibit as
2 well.

3 Q. Does PJM bill FirstEnergy as one
4 company, or three separate operating utilities?

5 A. One. It does not separate by EDU.

6 Q. It doesn't separate by entity the PJM
7 bills?

8 A. Right, by operating company.

9 Q. Let's make sure the record is clear.
10 When PJM bills the charges that are passed on to
11 customers through Rider NMB, does PJM send those
12 bills one for each operating company, or does it just
13 send one consolidated?

14 A. Well, first I would like to clarify that
15 Company witness Ed Stein could answer that much
16 better, I actually don't see the PJM bill.

17 To my knowledge there is just one bill,
18 but I believe there are possibly one to two billing
19 items that are separated by operating company.

20 What they are, I don't know, and I could
21 be not a hundred percent correct on that, but I
22 believe I am. But like I said, Company witness Ed
23 Stein could explain that very well.

24 EXAMINER PRICE: I have a question. How
25 does ATSI fit into this revenue flow? Does PJM bill

1 the Company directly, or does PJM bill ATSI and ATSI
2 bills the Company?

3 THE WITNESS: I believe PJM bills ATSI,
4 but Ed would know.

5 EXAMINER PRICE: Ed would know?

6 THE WITNESS: Yes.

7 EXAMINER PRICE: Fair enough. Thank
8 you.

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

10 EXAMINER PRICE: You may.

11 By Mr. Proano:

12 Q. I've handed you a packet of
13 documentation. I'm going to mark them now for the
14 record.

15 The first one will be marked as OELC
16 Exhibit 22. It's identified as responses to PUCO DR
17 10. Next document will be marked OELC 23. It's
18 identified as responses to OHA Set 1-INT-001.

19 MR. KURTZ: Excuse me, do you have an
20 extra copy? Thank you.

21 MS. BOJKO: Do you have another extra
22 copy?

23 MR. PROANO: I emailed them last night.
24 That's all my copies.

25 MS. WHITFIELD: Can you repeat what 22

1 was again?

2 MR. PROANO: Sure. OELC 22 was
3 responses to PUCO DR 10. OELC 23, responses to OHA
4 Set 1-INT-1, et cetera. OELC 24 is marked as
5 responses to PUCO DR 20. OELC 25 are responses to
6 PUCO DR 16.

7 EXAMINER PRICE: Slow down, please. The
8 Bench is not that fast. So DR 20 is OELC 24, DR 16
9 is OELC 25.

10 MS. BOJKO: Your Honor, can we go off
11 the record for a minute?

12 EXAMINER PRICE: Yes.

13 (Discussion off the record.)

14 EXAMINER PRICE: Back on the record.

15 MR. PRAONO: I just identified OELC
16 Exhibit 25 as PUCO DR 16. Next Exhibit will be OELC
17 26. It is a compilation of discovery responses that
18 start with OELC Set 1-INT-001.

19 EXAMINER PRICE: All the exhibits will
20 be marked as described.

21 (EXHIBITS MARKED FOR IDENTIFICATION.)

22 MR. PROANO: Thank you, your Honor.

23 By Mr. Proano:

24 Q. Ms. Stein, if you could turn to OELC 25
25 which is the response to --

1 A. Ms. Lawless.

2 Q. My apologies.

3 A. Sorry, which page?

4 Q. What did I call you?

5 A. Ms. Stein.

6 Q. At least I didn't call you Mr. Trevor.

7 My apologies.

8 Ms. Lawless, would you turn to OELC 25,
9 that's PUCO DR 10?

10 A. Yes.

11 Q. I'm sorry, PUCO DR 16.

12 A. I'm sorry.

13 Q. Now, Staff asked the Companies to
14 provide a description detailing how PJM bills each
15 billing line item that passes through Rider NMB to
16 the FirstEnergy Companies, and it goes on.

17 We're going to turn to the second page
18 there where the responses from the Company start.
19 Look at Subpart B.

20 A. Okay.

21 Q. It says, "Direct billed charges from PJM
22 to each of the FirstEnergy Ohio Operating Companies
23 include NITS, Transmission Enhancement, and Reactive
24 Supply. All other billing line items are charged to
25 the Companies in aggregate and allocated to the

1 individual Companies based on the previous month's
2 energy load share." Did I read that correctly?

3 A. Yes, you did.

4 Q. So what this response to Staff's data
5 request states is for the NITS charge, Transmission
6 Enhancement charge, and Reactive Supply charge, PJM
7 bills lowest line items separately to each of the
8 three operating companies, correct?

9 A. Yes, that is correct.

10 Q. And for all other items they are
11 aggregated and then allocated internally among
12 FirstEnergy Companies, correct?

13 A. That's what the -- well, it doesn't
14 specifically say that, but generally.

15 Q. Did I paraphrase correctly?

16 A. Ed Stein would be able to answer that
17 better.

18 Q. Do you have any reason to believe this
19 is incorrect, this statement?

20 A. No.

21 Q. Now, if you look at items 2 and 3 on
22 that chart, PJM Integration Costs and MISO Exit Fees,
23 and then on the next page, items 7 and 8, the PJM
24 integration expenses and MISO exit fee expenses,
25 those aren't included in the line items that get

1 billed to customers, correct?

2 A. That is correct.

3 Q. Do you know what happens with those
4 charges at FirstEnergy, whether or not they are
5 recovered elsewhere or just swallowed by the Company?
6 Do you have any knowledge on that issue?

7 A. I do not know that. I do know that they
8 are excluded from Rider NMB.

9 Q. Look at the last page of this exhibit,
10 I'm sorry, Exhibit OELC 25, there is an item 17
11 listed here, "Unaccounted For Energy," do you see
12 that?

13 A. I do see that.

14 Q. And you have testimony on that item,
15 correct?

16 A. Brief testimony, yes.

17 Q. What is your understanding of what that
18 line item is?

19 EXAMINER PRICE: Have you seen this
20 document before?

21 THE WITNESS: I have seen it, but I did
22 not prepare it.

23 EXAMINER PRICE: But you have seen it?

24 THE WITNESS: I've seen it, yes,
25 briefly. I did not study it and as I said --

1 EXAMINER PRICE: You're not responsible
2 for preparing it?

3 THE WITNESS: Correct, yes. So in my
4 testimony I explain that we are proposing to include
5 unaccounted for energy, UFE, which is what line 17
6 is.

7 By Mr. Proano:

8 Q. And if you go back to OELC 25 in
9 FirstEnergy's response to this data request, it says
10 in that third column, "This item is not billed by
11 PJM," do you see that?

12 A. I do see that.

13 Q. And currently that cost is actually
14 allocated to the competitive suppliers, correct?

15 A. I see that the response in the discovery
16 question says it is allocated to suppliers.

17 EXAMINER PRICE: Answer on your personal
18 knowledge, not what the document says.

19 THE WITNESS: I would not know the
20 answers to that. I do not know much about
21 unaccounted for energy, which is why I don't speak to
22 it in my testimony. Company witness Ed Stein would
23 be able to explain it.

24 By Mr. Proano:

25 Q. Well, if you look at page 10 of your

1 testimony you do talk about unaccounted for energy,
2 correct, lines 18 through 20?

3 A. Yes, where I talk about we are proposing
4 to include it, yes.

5 Q. Okay. But you don't have any other
6 knowledge beyond this one sentence about that issue?

7 A. Not that I would feel comfortable
8 recounting here.

9 Q. Turn one exhibit to OELC 24, please.

10 A. I'm sorry, I didn't have a pen to mark
11 these.

12 Q. Sure. This is PUCO DR 20.

13 A. Thank you. I'm there.

14 Q. Now, for the NMB charge we're going to
15 talk about in some detail shortly, the Companies are
16 proposing to have a single combined rate, right, for
17 all three service territories?

18 A. Yes, that is correct.

19 Q. And if you look at the response 1a, the
20 Staff asks, "An explanation on why NMB 2 NSPL rate is
21 a combined rate for all the Companies and GS, GP, GSU
22 and GT classes." Do you see that 1a question from
23 Staff?

24 A. Yes, I see that.

25 Q. And 1a response from the Companies was,

1 "The proposed NMB2 rate is a combined rate in order
2 to align how the transmission costs are assigned by
3 PJM, which are allocated based on NSPL, not by
4 Operating Company or rate schedule." Do you see that
5 answer?

6 A. I do see that, yes.

7 Q. You're the witness on the NNB2 rate
8 we're going to talk about shortly, correct?

9 A. I am.

10 Q. You would say you're the one that is
11 presenting that proposal to the Commission, correct?

12 A. I am with the support of company witness
13 Ed Stein.

14 Q. Now, based on what we just saw in
15 Exhibit OELC 25, this response is not completely
16 accurate, correct, because there are some charges
17 that are allocated to the different operating
18 companies like NITS charges, correct?

19 MR. ALEXANDER: Objection.

20 EXAMINER PRICE: Grounds.

21 MR. ALEXANDER: Lack of foundation with
22 the document. Still have not determined whether the
23 witness prepared this response and is capable of
24 speaking to it.

25 EXAMINER PRICE: Sustained.

1 By Mr. Proano:

2 Q. Do you have any knowledge about -- have
3 you seen this document before today, Ms. Lawless?

4 A. Yes, I have.

5 Q. Okay. And did you have any role in its
6 preparation?

7 A. I did assist in preparing the responses
8 with Company witness Ed Stein.

9 Q. Let me ask the question again then.

10 We had just seen OELC Exhibit 25 in
11 which the Company explained that there are surcharges
12 like NITS charges that are billed by PJM to each of
13 the different operating companies.

14 And now with DR 20 there's an answer
15 that suggests that the PJM charges are just charged
16 to all three at once and not by operating company.
17 Is response 1a in DR 20 accurate or not?

18 MR. ALEXANDER: Objection.

19 EXAMINER PRICE: Grounds.

20 MR. ALEXANDER: I believe the witness
21 testified that the response to DR 16 was prepared by
22 witness Stein, and I believe witness Stein also
23 prepared response DR 20, and so I believe these are
24 questions that are better directed to who actually
25 prepared the responses, Mr. Stein.

1 MR. PROANO: Your Honor, Ms. Lawless
2 just said she helped Mr. Stein prepare this and she'd
3 seen it before. If she's the one talking about the
4 combined rate for NMB2, she should have the knowledge
5 to be able to answer these questions.

6 EXAMINER PRICE: Well, the difficulty
7 she displayed only passing understanding of OELC 25.
8 Nonetheless, we'll allow the witness to answer if she
9 knows.

10 THE WITNESS: So can you repeat the
11 question?

12 (Record read back.)

13 THE WITNESS: I did not actually prepare
14 response 1a in DR 20, and as I just stated, I did not
15 prepare anything for PUCO DR 16, so I would feel more
16 comfortable with Company witness Stein responding to
17 that.

18 By Mr. Proano:

19 Q. But do you know which one is accurate
20 sitting here today?

21 A. I do not know.

22 Q. Do you have any view on which one
23 appears the most accurate based on your experience
24 and knowledge, personal knowledge?

25 MR. ALEXANDER: Objection.

1 EXAMINER PRICE: Grounds?

2 MR. ALEXANDER: Asked and answered.

3 EXAMINER PRICE: It was a different
4 question, but I think there's still an inadequate
5 foundation to ask that question. Sustained on those
6 grounds.

7 By Mr. Proano:

8 Q. Okay. Go back to your testimony,
9 please, Ms. Lawless, and turn to the bottom of page
10 10 of your testimony, please.

11 A. Okay, I'm there.

12 Q. If you look at line 20, there's a
13 question -- there's a sentence that starts in the
14 middle of line 20, it says, "Further." And it says,
15 "Further, the Companies propose to change the rate
16 design of Rider NMB to better align with how PJM
17 assigns costs by adding a second rate, NMB2, for
18 commercial and industrial customers who have interval
19 or advanced meters." Do you see that?

20 A. Yes, I do.

21 Q. Okay. Now, that, you would agree with
22 me, is the major change that FirstEnergy is proposing
23 to Rider NMB?

24 A. Yes, this is it, correct.

25 Q. And this has never been done before in

1 the Ohio FirstEnergy Service Territory, correct?

2 A. Charging based on NSPL?

3 Q. Correct, Rider NMB charges being based
4 on NSPL.

5 A. Well, we do have a pilot which is --
6 which is not Rider NMB. So for customers who are on
7 the pilot, they no longer pay Rider NMB, but
8 beginning this year we did implement a manual billing
9 process, and in that manual billing process the
10 Companies are charging pilot customers for their
11 transmission charges, and those are partially based
12 on the NSPL.

13 Q. Okay.

14 A. So it has not been arranged, but --

15 Q. So there was a time period in late 2022
16 and into 2023, where some pilot participants in the
17 NMB Rider pilot dropped back to SSO and were manually
18 billed by FirstEnergy for the Rider NMB charges,
19 correct?

20 A. Yes, that is correct.

21 Q. Other than that exception, is the NMB2
22 rate the first time that FirstEnergy is proposing to
23 bill Rider NMB charges based on NSPL values of the
24 customer?

25 A. As far as I know. I did not work on ESP

1 IV where the pilot was created, so I'm not aware of
2 any proposals that could have been made at that time
3 or in any other situation prior to my being in the
4 department.

5 Q. And when did you join that department?

6 A. I joined -- I believe that's in my
7 testimony. Yeah, 2018. August 2018 is when I joined
8 the rates department.

9 Q. So we know at the very least since 2018
10 Rider NMB charges have not been billed to
11 commercial/industrial customers based on NSPL,
12 correct?

13 A. Prior to the manual billing.

14 Q. During your time period and your
15 knowledge, it's all been based on monthly billing
16 demand, correct?

17 A. For commercial and industrial, yes.

18 Q. And this would be a rather significant
19 change to how Rider NMB charges are billed to those
20 customers, correct?

21 A. I guess that depends on your definition
22 of significant, but it is a change, yes.

23 Q. Now, not all commercial and industrial
24 customers will be billed this rate called Rider NMB2,
25 correct?

1 A. That is correct.

2 Q. What FirstEnergy is proposing to do is
3 keep the current Rider NMB monthly demand billing
4 mechanism, call it NMB1, but only apply that to
5 commercial/industrial customers who do not have
6 interval or advanced meters, correct?

7 A. Yes, that is correct.

8 Q. Then there will be a second group of
9 customers, commercial and industrial, who do have
10 interval or advanced meters, who now, if this
11 proposal is adopted by the Commission, will be billed
12 a rate called NMB2, correct?

13 A. At the time of implementation.

14 Q. But yes, is that a good summary?

15 A. Yes.

16 Q. So you're going to have Rider NMB with
17 two different types of rate mechanisms, correct?

18 A. Yes.

19 Q. You're going to have Rider NMB1, which
20 is the current way billing is done based on monthly
21 billing demand, and Rider NMB2 that will be billed
22 based on NSPL value, correct?

23 A. Yes. But I would like to point out that
24 as we discussed, we are proposing to include charges
25 for UMB, so NMB1 would not be exactly the same as it

1 is today, if approved.

2 Q. Other than that exception, NMB1 will
3 look similar or very much the same as how Rider NMB
4 is currently charged to commercial and industrial
5 customers today?

6 A. Yes, that is correct.

7 Q. Now, the delineation between Rider NMB1
8 charges based on monthly billing demand, and Rider
9 NMB2 charges based on NSPL, is based on the type of
10 meter the customer has, correct?

11 A. I apologize. You're using the word
12 delineation, assuming means that divide between the
13 two and what separates them? Yes, it is meter type.

14 Q. And there's no other characteristic that
15 FirstEnergy is proposing to use other than meter type
16 to determine whether or not a commercial and
17 industrial goes in NMB2 versus NMB1, correct?

18 A. Correct, in this proposal.

19 Q. Now, this proposal, just to be clear, it
20 doesn't apply to residential customers, correct?

21 A. Or lighting.

22 Q. Or lighting?

23 A. Residential or lighting.

24 Q. We're just talking about the four
25 commercial/industrial rate classes, GS, GP, GSU, and

1 GT, correct?

2 A. Yes. And I know you identified that
3 earlier, I just wanted to continue the clarification.

4 Q. And under this proposal, FirstEnergy's
5 proposing to begin this two different rate design,
6 one with NMB2, one with NMB1, effective April 1st,
7 2025, correct?

8 A. Yes, that is correct.

9 Q. And as of that date, FirstEnergy's
10 proposing to eliminate the Rider NMB pilot and all
11 reasonable arrangements to be billed under the Rider
12 NMB pilot as of April 1st, 2025?

13 And to summarize, the Companies'
14 thinking is these pilot participants, or at least
15 most of them, are going to move into this NMB2 rate
16 based on NSPL, correct?

17 A. Yes.

18 Q. Okay. So let's talk about the meters.
19 Go to OELC Exhibit 22, which is PUCO DR 10. And just
20 so the record is clear, this was -- there's an
21 original response at the bottom of page 1 dated
22 September 19th, 2023, and if you look at the very
23 last page of this exhibit, OELC 22, there was a
24 supplemental response on October 20th, 2023, do you
25 see that?

1 A. Yes.

2 Q. Have you seen this document before
3 today?

4 A. I have. I did not prepare all of this.

5 Q. Are you familiar with what's inside of
6 it?

7 A. To an extent, yes.

8 Q. Now, let's look at the very last page.
9 There's a chart on the bottom of page --

10 EXAMINER PRICE: Excuse me, Mr. Proano,
11 I just have a question on that. Can you -- listen to
12 the questions. Can you tell the Bench which
13 questions that you participated in preparing the
14 answers to?

15 THE WITNESS: Yes. Part 1, part 2, part
16 6, part 8, part 9, and that's it.

17 MR. PROANO: Thank you.

18 By Mr. Proano:

19 Q. Let's look at the supplemental response
20 to part 9. Just so the record is clear, there had
21 been a prior response on part 9 on page 3, correct?

22 A. Correct.

23 Q. And then the Companies had supplemented
24 that chart --

25 A. Yes.

1 Q. -- later?

2 A. Correct.

3 Q. Now, part 9, Staff asked, "How many
4 customers will qualify for NMB2 rates versus the
5 number of customers who will not?" And subpart A
6 was, "Please break the customers out by service
7 territory and class," do you see that?

8 A. Yes.

9 Q. And FirstEnergy provided its
10 supplemental response in the last page of these
11 exhibits providing the chart of the commercial and
12 industrial customers who would be on NMB1, and those
13 who would be NMB2 as of September 26th, 2022,
14 correct?

15 A. Well, the additional customers who were
16 added in the supplemental response were as of
17 September 26, 2023.

18 The original customers who were provided
19 in the original response were as of August 24th,
20 2023. Those numbers were not updated.

21 Q. Okay. So the chart on the last page is
22 the most accurate and up to date chart that you have,
23 correct?

24 A. That I personally have. The Company
25 could provide a more updated.

1 Q. Sure. But that you personally know
2 about and that you helped prepare, correct?

3 A. Yes.

4 Q. So let's look at the chart. OE stands
5 for Ohio Edison; is that correct?

6 A. Yes.

7 Q. CE stands for the Illuminating Company,
8 correct?

9 A. Yes.

10 Q. And TE standing for Toledo Edison,
11 correct?

12 A. Yes.

13 Q. And the different rate classes, General
14 Secondary, GS, General Primary, GP, GSU,
15 subtransmission, and GT the transmission, correct?

16 A. Yes.

17 Q. Now, NMB1 would include those
18 commercial/industrial customers that as of the date
19 of this response did not have an interval or advanced
20 meter installed, correct?

21 A. Yes, that is correct.

22 Q. NMB2 would only include those
23 commercial/industrial customers who do have advanced
24 meters installed, correct?

25 A. Yes. At that time, yes.

1 Q. Now, just focusing on one territory,
2 Ohio Edison, the majority of secondary voltage
3 customers do not have an advanced or interval meter,
4 correct?

5 A. Yes.

6 Q. And so there would only be a section --
7 a subsection of those customers under this proposal
8 would begin to get billed based on NSPL values in
9 April 2025, correct?

10 A. Yes.

11 Q. And the same is true for the primary
12 voltage customers in Ohio Edison territory, there are
13 more -- I'm sorry, the reverse is true, but about 652
14 primary voltage customers in Ohio Edison territory
15 would qualify for the NMB2 rate and 509 would not,
16 correct?

17 A. Yes, that is correct. More for NMB2
18 than NMB1.

19 Q. And so you would have two customers
20 that, for all intents and purposes, look the same,
21 that would be billed completely different based on
22 whether or not they had one type of meter installed
23 or not, correct, under this proposal?

24 A. I wouldn't say they look the same.

25 Q. Well, in your bill impact analysis you

1 kind of group together customers based on their load
2 profile and usage, correct?

3 A. Can you repeat that?

4 Q. Yeah, let me give you an example. A
5 grocery store that has an advanced meter under this
6 proposal now is going to have to be billed in NSPL,
7 but a competing grocery store down the road that
8 hasn't had an advanced meter installed will stay on
9 monthly billing demand.

10 Those are similar types of customers,
11 let's assume they are a similar size, one would get
12 billed on NSPL and one would be under NMB billing
13 under this proposal?

14 A. I don't see them as similarly situated.

15 Q. Because of what?

16 A. Because one has an advanced meter and
17 one does not. One is able to control -- have the
18 opportunity to control their NSPLs, one does not.

19 One has NSPLs which are based on a load
20 profile, one is NSPLs which are based on their actual
21 interval usage.

22 Q. Let's talk about that. Now, an advanced
23 meter or an interval meter, it doesn't necessarily
24 help a customer curtail load, correct? Let me ask a
25 better question.

1 A. Okay.

2 Q. There's nothing special about an
3 advanced or interval meter that, for example, helps a
4 customer forecast if there's going to be a 4 CP
5 event, correct, or 5CP event, correct?

6 A. I wouldn't say that absolutely.
7 Obviously it's not a crystal ball. It's not going to
8 say on July 24th at 7:00 p.m., but by paying
9 attention to loads at certain times and paying
10 attention to PJM's website and other factors, I think
11 you could familiarize yourself with peak times and
12 then possibly be able to have a general idea as to
13 when peak times could be, or at least know when you
14 are peaking, what you're peaking at, what you can do
15 to curtail that.

16 So yeah, where it's not going to exactly
17 tell you, I don't think that you can a hundred
18 percent say that it doesn't help.

19 Q. That wasn't my question, though.

20 A. I apologize.

21 Q. An advanced or interval meter does not
22 have the capability to forecast peak load, correct?

23 A. That is correct, yes.

24 Q. If a customer is looking to manage their
25 peak load they are going to have to consult other

1 sources like PJM's website, correct?

2 A. That was an example that I gave, that is
3 a possibility.

4 Q. Okay. A customer with an old meter
5 versus an advanced meter, they are still going to
6 have to do the leg work even if you have an advanced
7 meter to forecast peak load and curtail, correct, if
8 you want to manage your peak load, correct?

9 MR. ALEXANDER: Could I ask that
10 question be reread, please?

11 MR. PROANO: Let me actually rephrase
12 it, it's kind of messy.

13 By Mr. Proano:

14 Q. I'm just trying to establish -- let me
15 ask it this way. An interval meter is a meter that
16 can measure blocks of load that have occurred,
17 correct?

18 A. To the extent of my knowledge.

19 Q. I'm sorry?

20 A. And from what I've seen in discovery
21 responses.

22 Q. A Smart Meter has that same technology,
23 but also has two-way communication with FirstEnergy,
24 correct?

25 A. Can I refer to one of your exhibits to

1 know that for certain?

2 EXAMINER PRICE: No. You can answer
3 based upon your personal knowledge.

4 THE WITNESS: I know there's some type
5 of communication. When you say to FirstEnergy, I
6 don't -- I don't know exactly that.

7 By Mr. Proano:

8 Q. Let's refer back to an answer you
9 prepared.

10 A. Okay.

11 Q. If you look at OELC 26?

12 A. Which is?

13 Q. I'm sorry, it's the compilation that
14 starts with OELC Set 1 INT-1.

15 A. Okay, I'm there.

16 Q. What I'd like you to do, before you look
17 at this, I want you to look through these pages and
18 just verify that your name is at the top of each
19 separate interrogatory as one who prepared the
20 answer, and sometimes it's with other people, but
21 your name is always at the top of one of these
22 interrogatories. Just take your time and look
23 through the exhibit and confirm that.

24 A. OELC Set 1 RPD-7 has no name at the top.
25 But yes for the others, my name is there.

1 Q. Thank you.

2 A. You're welcome.

3 Q. Let's turn to the third page, which is
4 OELC Set 1 INT-002.

5 A. I'm there.

6 Q. And if you look at the second page of
7 that response, there's a chart that has some meters
8 identified. Do you see that chart? It says page 8
9 at the bottom.

10 A. Yes, I see that.

11 Q. And then there's an answer b) that
12 describes what interval meters are and what advanced
13 meters are. Could you read that answer just to
14 yourself.

15 A. Yes.

16 Q. Is that an accurate description of
17 interval meters and advanced meters?

18 MR. ALEXANDER: Objection.

19 EXAMINER PRICE: Grounds?

20 MR. ALEXANDER: Lack of foundation this
21 witness prepared this portion of the response.

22 EXAMINER PRICE: Did you prepare this
23 portion of the response?

24 THE WITNESS: I did not.

25 EXAMINER PRICE: Can you answer whether

1 the -- based on your personal knowledge it is
2 accurate?

3 THE WITNESS: My personal knowledge
4 actually came from this answer.

5 EXAMINER PRICE: Sustained.

6 MR. PROANO: Okay.

7 By Mr. Proano:

8 Q. But other than this the answer here in
9 subsection b), you don't have any personal knowledge
10 of what an interval meter is and a Smart meter is?

11 A. No.

12 Q. And if you look at the names at the top
13 of the prior page, is it Robert Greene or Chris
14 Harris that has that personal knowledge?

15 A. They both worked on it.

16 Q. Do you have any reason to dispute the
17 accuracy of that response?

18 A. No. Can I point out though, it does say
19 two-way communication. It doesn't say with who,
20 which is where my knowledge was.

21 Q. Okay. Going back to where I was going
22 with this before we went down this rabbit hole,
23 hadn't a Smart meter or interval meter, based on your
24 personal knowledge -- and if you don't know, just say
25 you don't know -- it doesn't necessarily give the

1 customer with that meter better ability to forecast
2 peak load and thus curtail their load, correct?

3 A. I think there are multiple parts to that
4 question you just asked. If it gives them better
5 ability to forecast in the way I described earlier
6 about how I think they can better learn, then I would
7 say that an interval or advanced meter does provide
8 all of those opportunities, I said in your question.
9 But forecasting saying the exact date and time, no.

10 But when you continued your question
11 and -- forgive me, I don't remember the exact wording
12 right now, but you continued to speak about
13 curtailing loads. I do believe an interval or
14 advanced meter does help a customer to curtail load.

15 Q. All right. I'm a little lost because on
16 one hand you're telling me you don't understand what
17 interval and advanced meters are other than what is
18 written here, but then you're saying they do have the
19 ability to help a customer. I'm just trying to
20 understand your knowledge of advanced meters.

21 Sitting here today, based on your
22 personal knowledge, do you have personal knowledge of
23 the capabilities and the information provided by
24 interval meters or advanced meters?

25 A. Can I clarify my response?

1 Q. No, you've got to answer the question.

2 EXAMINER PRICE: Answer counsel's
3 question directly, please. And I'm going to caution
4 this witness, you need to listen to counsel's
5 questions and answer counsel's questions and only
6 counsel's questions.

7 If there's additional information that
8 you think would be helpful to the Commission
9 Mr. Alexander will elicit that from you on redirect.

10 THE WITNESS: Okay. Thank you. Can you
11 please read back the question?

12 (Record read back.)

13 THE WITNESS: The capabilities and
14 information provided by advanced meters, my knowledge
15 is what is in this response.

16 By Mr. Proano:

17 Q. Based on what you've read somebody else
18 prepared, correct?

19 A. Correct.

20 Q. You don't have personal knowledge of
21 those capabilities, correct?

22 A. I don't have an advanced meter, no.

23 Q. So the answer is you don't have personal
24 knowledge of the capabilities of interval or advanced
25 meters, I'd have to ask someone else, correct?

1 A. Yes, correct.

2 Q. So you couldn't answer the question then
3 whether or not there's capabilities in those meters
4 that would help a customer curtail or forecast peak
5 load, correct?

6 A. I believe my definition of capabilities
7 exceeds beyond the specific capability of what an
8 advanced meter can do when you're discussing two-way
9 communication data provided to the customers.

10 I'm seeing that capability of what a
11 customer is capable of doing because they have that
12 meter, so it's providing capabilities to the
13 customer.

14 The specific capabilities of what the
15 meter does on its own, I only know what's in this
16 response. But the capabilities it provides -- so my
17 definition of capability I think exceeds beyond what
18 you're trying to ask.

19 MR. PROANO: Your Honor, could I move to
20 strike that answer?

21 EXAMINER PRICE: Can I have the question
22 back, please?

23 (Record read back.)

24 EXAMINER PRICE: I think she gave you
25 her understanding of the situation. Motion to strike

1 is denied.

2 By Mr. Proano:

3 Q. When you talk about broader
4 capabilities, I guess I don't understand what -- your
5 answer, so let me -- hopefully you can clarify.

6 You just told me you don't have personal
7 knowledge of the capabilities of interval or advanced
8 meters, and your knowledge comes from these responses
9 that are in front of you, correct?

10 A. Correct.

11 Q. And then when I asked you the last
12 question you said well, my understanding of
13 capabilities is broader than that, correct?

14 A. When you asked your first question it
15 was very specific to what an advanced meter is doing
16 in itself as a meter.

17 Q. Okay. Let me ask you a follow-up
18 question.

19 A. Okay.

20 Q. When you say broader capabilities, what
21 are you talking about?

22 A. So broader capabilities, similar to what
23 I discussed earlier. So an advanced meter or an
24 interval meter, a customer can actually see their
25 loads at specific times.

1 They can see the impact of their usage
2 on those loads, their behavior on those loads, they
3 can see when they are using the most loads, when they
4 are using lesser load, and therefore, they have more
5 capabilities from having these meters to manage their
6 loads by having those capabilities that are provided
7 by the interval or advanced meter of seeing their
8 actual loads at specific times.

9 And in addition to that, the way their
10 NSPLs are calculated are based on those specific
11 usage -- a customer's specific usage as opposed to a
12 load profile. So it gives them capability of being
13 able to manage their NSPLs because they are able to
14 see what their behaviors are doing to their loads.

15 And I don't want to say -- so they can
16 try to figure out when peaks will be, and by being
17 able to see what their behavior is along the way,
18 which they can see because they have the capability
19 because they have these meters, so they can know that
20 during what could be a peak time, what they need to
21 do to curtail their load.

22 Q. Do you know -- I'm sorry, are you done?

23 A. Yes.

24 Q. Do you know whether the interval and
25 advanced meters provide realtime load data or not?

1 Do you know that?

2 A. I do know that there is a way to receive
3 realtime data I believe with an advanced meter. I'm
4 not certain with an interval meter.

5 Q. If you look back at OELC Exhibit 26, it
6 says page 11 at the bottom.

7 A. Can I maybe mark these?

8 THE WITNESS: I don't have a pen.

9 MR. ALEXANDER: Your Honor, may I?

10 EXAMINER PRICE: You may.

11 THE WITNESS: Thank you. This is

12 OELC --

13 By Mr. Proano:

14 Q. So the document that is OELC Set 1
15 INT-1, start there. That's OELC 26.

16 A. Thank you.

17 Q. And if you turn to the page that's
18 marked as 11 at the bottom, there's an f). See the
19 f)?

20 A. f), yes.

21 Q. And I had requested in discovery, "A
22 detailed description of the frequency with which
23 interval kilowatt-hour energy usage and kilowatt
24 demand data from interval or advanced meters in
25 FirstEnergy's service territory is uploaded to a

1 FirstEnergy customer's online account portal." I'd
2 ask that, dot, dot, dot. Now, were you responsible
3 for responding to this question?

4 A. No, but I am familiar with the
5 responses.

6 Q. You're familiar with them, but other
7 than reading them, do you have any personal knowledge
8 of this response f)?

9 A. I did speak with Company witness Ed
10 Stein about these.

11 Q. Okay. So -- and the response is,
12 "currently, interval data is updated to the customer
13 portal daily after it has gone through verification
14 processes and no longer than two days after the day
15 of operation." Do you see that?

16 A. I do see that.

17 Q. Do you have any reason to dispute the
18 accuracy of that response?

19 A. Not in responding to the specific
20 question f).

21 Q. Thank you. Let's talk about how NSPL
22 values are established. Do you have familiarity with
23 how NSPL values are established?

24 A. I do have general familiarity, but I
25 would say that Company witness Ed Stein would be able

1 to give a much more detailed and thorough explanation
2 than I could.

3 Q. Let's explore your knowledge, okay?

4 A. Okay.

5 Q. You understand that an NSPL value, at
6 least in ATSI's service territory for the FirstEnergy
7 Operating Companies, is established the prior year
8 based on the customer's load during the 5 CP hours or
9 the 5 hours with the highest load in that whole
10 service territory, correct?

11 MR. ALEXANDER: Just for clarity --
12 objection. Just to clarify, we're just asking for
13 the witness' knowledge and not the knowledge she may
14 have -- or what she may understand what witness Stein
15 states, the last question --

16 EXAMINER PRICE: She should testify to
17 her personal knowledge.

18 MR. ALEXANDER: Thank you, your Honor.

19 MR. PROANO: I'm not asking her to
20 testify for Mr. Stein. I just want to understand
21 what Ms. Lawless understands about these issues.

22 THE WITNESS: Can you please read it
23 back?

24 By Mr. Proano:

25 Q. Sure, I'll just ask it. Do you

1 understand how NSPL values are established?

2 A. Yes, to an extent.

3 Q. Could you explain how they are
4 established?

5 A. Yes. So as you had explained, I just
6 wanted to make sure that I had heard it clearly, the
7 NSPLs are based upon the customer's load at the 5
8 CPs. The 5 CPs are the 1 CP which is established by
9 PJM, (or the), and then the Companies' four highest
10 loads during that season that the PJM 1 CP is
11 established.

12 So yes, those amounts are averaged to
13 give the customers an NSPL, and then scaled to match
14 PJM's 1 CP.

15 Q. And you understand there's a measurement
16 year that runs November 1st through October 1st for
17 that NSPL value measurement year, right? Do you have
18 that knowledge on that issue?

19 A. I'm sorry, can you repeat that?

20 Q. You understand that PJM uses a November
21 1st to October 1st measurement year for purposes of
22 establishing that NSPL?

23 A. I do that PJM does not use a calendar
24 year. The specifics of the year I do not know.

25 Q. And a customer's NSPL is assigned

1 January 1st of each year, correct?

2 A. Yes, that's -- Yes.

3 Q. And it's based on the prior measurement
4 year's load contributions, correct?

5 A. Yes, that is correct.

6 Q. Now, a customer with an interval or
7 advanced meter for that specific customer, PJM or
8 FirstEnergy, would know exactly their load
9 contribution during the 5 CP events, correct?

10 MR. ALEXANDER: Objection, compound.
11 Question asks for both FirstEnergy and PJM and the
12 answer may differ.

13 EXAMINER PRICE: Please break up
14 question.

15 By Mr. Proano:

16 Q. We're just talking about FirstEnergy.
17 In establishing an NSPL value --

18 MR. PROANO: Can you have that question
19 read back -- let me scratch it, okay?

20 By Mr. Proano:

21 Q. For a customer with the interval or
22 advanced meter, FirstEnergy will know their load
23 during the 5 CP events in the prior year of that
24 NSPL, correct?

25 A. To my knowledge, yes.

1 Q. Now, a customer that does not have an
2 interval or advanced meter is there an NSPL value
3 assigned to that customer?

4 A. Yes.

5 Q. Do you understand how that value is
6 assigned?

7 A. I know that it's based on load profile.
8 Further than that, no.

9 Q. And what do you mean by load profile?

10 A. I don't know. I just know that it's a
11 load profile.

12 Q. Is that the extent of your knowledge on
13 the issue?

14 A. Yes.

15 Q. So under this proposed NMB2 rate the
16 Company is proposing to move the commercial and
17 industrial customer into the NMB2 rate the billing
18 month after an interval or advanced meter is
19 installed, correct?

20 A. Yes.

21 THE WITNESS: Can I go back to a last
22 question about the load profile?

23 EXAMINER PRICE: No.

24 THE WITNESS: Okay.

25 EXAMINER PRICE: That's a matter for

1 redirect.

2 THE WITNESS: My apologies.

3 EXAMINER PRICE: No problem.

4 By Mr. Proano:

5 Q. For a commercial or industrial customer
6 that does not have an interval or advanced meter
7 currently, but that will get one during the ESP V if
8 this proposal is adopted, under FirstEnergy's plan
9 they would move from NMB1 to NMB2 the next billing
10 month after that meter is installed, correct?

11 A. Correct.

12 Q. How will FirstEnergy bill the NSPL value
13 to that customer since they haven't had an interval
14 or advanced meter to establish an NSPL value based on
15 their actual usage during the 5 CP event?

16 A. As I said, they will have an NSPL. They
17 do have an NSPL assigned to them which is based upon
18 a load profile.

19 I cannot explain further to that, but
20 the Company witness Ed Stein could explain it. I
21 know it's a sophisticated process.

22 Q. Do you know whether or not load profile
23 is based on the actual demand by that customer in
24 those 5 CP events? Do you know that one way or the
25 other?

1 A. I don't know what load profile means.

2 Q. Okay. Did the Company consider moving
3 customers that have been upgraded to an interval or
4 advanced meter, having those customers transition to
5 NMB2 once a year? Was that considered at the
6 Company?

7 A. We did consider many things. I'm not
8 sure if specifically that was considered. I know we
9 made our proposal based off of conversations with our
10 IT department, and what seemed to be the most
11 efficient way to go about it.

12 So to say whether or not we considered
13 that specific, I don't remember, but we did consider
14 many different ways to approach this.

15 Q. Do you recall whether or not you
16 considered, for example, an April 1st each year
17 having an update where customers move from NMB1 to
18 NMB2?

19 A. Again, I don't remember specifics of
20 what we considered. Maybe some I do remember, but I
21 don't believe that was one item that we considered.

22 Q. Now, the Company has proposed rolling
23 out additional interval or advanced meters in the
24 Grid Mod II case, correct?

25 A. Correct.

1 Q. Currently the majority of
2 commercial/industrial customers do not have interval
3 or advanced meters, correct? And you can look back
4 at the chart if you want that you helped prepare.

5 A. Can you repeat that?

6 Q. Currently the majority of commercial and
7 industrial customers in FirstEnergy territory do not
8 have an interval or advanced meter, correct?

9 A. I would have to do the math.

10 Q. Sure. It's not hard math to do. If you
11 look at OELC 22 where you had prepared the response
12 to answer --

13 A. Can you tell me which one OELC 22 is?

14 Q. PUCO DR 10, that's OELC 22. And you
15 testified in response to Attorney Examiner Price's
16 question that you had helped prepare the response to
17 the question 9, correct?

18 A. Yes. And I can see that in totality,
19 yes, the majority of the customers do not have an
20 interval or advanced meter.

21 Q. And as your plan is proposed, if Grid
22 Mod II gets approved you would roll out an additional
23 set of interval or advanced meters to FirstEnergy
24 customers, correct?

25 A. Yes.

1 Q. And as those customers get an interval
2 or advanced meter, the very next month they would be
3 moved to NMB2; is that correct?

4 A. Yes, that is correct.

5 Q. Will that customer that gets
6 transitioned from one month to the next based on the
7 meter upgrade have an ability to have -- to manage
8 their peak load before that transition?

9 A. Well, I actually asked Ed Stein one
10 question which was a customer whose NSPL is based on
11 a load profile, if they were to cut back operation by
12 half, would that impact their NSPL, and he said yes.

13 So I don't know the extent of how a
14 customer could manage their NSPL. Obviously it would
15 be much more difficult than an interval or advanced
16 meter, but by asking that one simple question to Ed I
17 know that there is a possibility.

18 So for further details Ed would have to
19 answer that. But I know that one specific. That was
20 one specific I did ask Ed.

21 Q. Do you think it's reasonable to ask
22 commercial customers who don't have advanced meters
23 yet to cut their usage by half?

24 A. That was just a question I asked Ed.
25 Reasonable or not -- honestly, maybe it is reasonable

1 for a customer. I can't speak for every customer.

2 Q. Do you really think it's reasonable for
3 a commercial/industrial customer facing this
4 potential upgrade to anticipate it by cutting their
5 usage in half?

6 A. I understand what you're saying, and in
7 general I would think that is not reasonable.

8 EXAMINER PRICE: At this time we're
9 going to take a five-minute break. Let's go off the
10 record.

11 (Discussion off the record.)

12 EXAMINER PRICE: At this time we're
13 going to adjourn for the day. We'll take up our
14 hearing on Monday at 9:15. Thank you all. We are
15 off the record.

16 (Thereupon, the hearing was
17 adjourned at 4:00 p.m.)

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CERTIFICATE

I do hereby certify that the foregoing
is a true and correct transcript of the proceedings
taken by me in this matter on Friday, November 17,
2023, and carefully compared with my original
stenographic notes.

Valerie J. Grubaugh,
Court Reporter and Notary
Public in and for the State
of Ohio.

My commission expires August 11, 2026.

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Summary: Transcript of Ohio Edison Company, CEI and The Toledo Edison Company hearing held on 11/17/23 - Volume V - Public electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Grubaugh, Valerie.