

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 10:30
a.m. on Tuesday, November 28, 2023.

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VOLUME IX

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1 Tuesday Morning Session,
2 November 28, 2023.

3 - - -

4 EXAMINER PRICE: Let's go on the record.

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

14 My name is Gregory Price. With me are
15 Jacky St. John and Megan Addison. We are the
16 Attorney Examiners assigned to preside over today's
17 hearing. This is, I believe, day eight -- or day
18 nine of our hearing.

19 Mr. Finnigan, you may call your first
20 witness.

21 MR. FINNIGAN: Thank you, your Honor.
22 Your Honor, at this time we would like to call
23 Ms. Colleen Shutrump as our first witness.

24 EXAMINER PRICE: Nice to see you again.

25 (Witness sworn.)

1 EXAMINER PRICE: Please be seated and
2 state your name and business address for the record.

3 THE WITNESS: My name is Colleen
4 Shutrump.

5 EXAMINER PRICE: State your business
6 address, please, for the record. Business address
7 for the record.

8 THE WITNESS: Oh, business address.

9 MR. FINNIGAN: 65 East State Street,
10 Columbus, Ohio 43215.

11 THE WITNESS: Thank you.

12 EXAMINER PRICE: Please proceed,
13 Mr. Finnigan.

14 MR. FINNIGAN: Thank you, your Honor.

15 - - -

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

19 DIRECT EXAMINATION

20 By Mr. Finnigan:

21 Q. Good morning, Ms. Shutrump.

22 A. Good morning.

23 Q. Do you have with you a copy of your
24 testimony?

25 A. Yes.

1 MR. FINNIGAN: Your Honor, at this time I
2 would like to have marked for identification as OCC
3 Exhibit 4, the direct prefiled testimony of
4 Ms. Shutrump. I provided a packet of all of the OCC
5 witness testimony earlier this morning to you and
6 certain other parties.

7 EXAMINER PRICE: It will be so marked.

8 (EXHIBIT MARKED FOR IDENTIFICATION.)

9 MR. FINNIGAN: Thank you, your Honor.

10 Q. (By Mr. Finnigan) Ms. Shutrump, is your
11 testimony before you that you prefiled in this case?

12 A. Yes.

13 Q. Was that testimony prepared by you or
14 under your control?

15 A. Yes.

16 Q. If I asked you the same questions that
17 are in your testimony today, would your answers be
18 the same?

19 A. Yes.

20 Q. Do you have any changes or corrections to
21 your testimony?

22 A. Yes. On page 3, sorry, line 21, the --
23 the end quote the quotation marks are in the wrong
24 place. It should be after the end of the sentence,
25 after the word "market." So it would -- it would be

1 "consumers should be aware of and sufficiently
2 knowledgeable to explore the availability and
3 benefits of energy efficiency through the competitive
4 market."

5 Page 4, line 15, the "34.4" should be
6 "100 million for June 1, 2024, through May 31, 2027."
7 I missed two numbers.

8 And on page 5, line 6, there's a question
9 mark which should not be there.

10 And then page 7, question 10, the letter
11 "F" that's standing alone in that question should not
12 be there. And I think that's it.

13 Q. How about on page 8, line 12?

14 A. Oh, yes. Page 8, line 12, the word
15 "additional" should not be there.

16 Q. Now, as amended by the corrections that
17 you just recited, if I asked you these same questions
18 today, would your answers be the same?

19 A. Yes.

20 MR. FINNIGAN: Your Honor, at this time
21 we would like to move for admission of the testimony
22 of Ms. Shutrump, subject to cross-examination.

23 EXAMINER PRICE: We will take up the
24 motion to admit the testimony at the conclusion of
25 cross-examination.

1 OEG?

2 MS. COHN: No questions, your Honor.

3 EXAMINER PRICE: RESA?

4 MR. LONG: No questions, your Honor.

5 EXAMINER PRICE: OEC?

6 MS. NORDSTROM: Yes, your Honor, thank
7 you.

8 - - -

9 CROSS-EXAMINATION

10 By Ms. Nordstrom:

11 Q. Hi, Ms. Shutrump.

12 A. Good morning.

13 Q. Good morning. My name is Karin
14 Nordstrom. I represent the Ohio Environmental
15 Council. And you are the lead analyst and policy
16 advisor for OCC on issues like energy efficiency
17 programs and demand side management.

18 A. Yes.

19 Q. And you are not an economist.

20 A. I -- my degree is in management, my
21 undergrad degree, and my graduate degree is in
22 international studies, so, no, I did not get a degree
23 in economics.

24 Q. Okay. Are demand response programs and
25 energy efficiency products forms of demand side

1 management?

2 A. Yes.

3 Q. Okay. And do demand response programs
4 have the ability to reduce stress on the grid at peak
5 times?

6 A. Yes.

7 Q. Okay. And this reduced stress on the
8 grid can benefit more customers than just the person
9 participating in that demand response program.

10 A. Yes. It's possible it can.

11 Q. And do you know if any competitive retail
12 electric service providers, also called CRES
13 providers, are currently providing demand response
14 programs in FirstEnergy's service territory?

15 A. I don't know for sure. I don't think so.

16 Q. Okay. And so then switching to energy
17 efficiency products, do any efficiency products help
18 consumers reduce their energy usage?

19 A. From the perspective of the utilities'
20 programs?

21 Q. Just in general.

22 A. Yes.

23 Q. Okay. And do consumers benefit when they
24 are educated about energy efficiency options?

25 A. Yes.

1 Q. Does the Ohio Consumers' Counsel do any
2 energy efficiency education for consumers?

3 A. Yes.

4 Q. And OCC is taxpayer funded, correct?
5 Does OCC receive funding from the legislature, the
6 Ohio legislature?

7 A. I believe the funding comes from
8 assessments that are done within our office to the
9 utilities.

10 Q. Okay. So you are solely funded through
11 the utilities.

12 A. Well, I don't know the answer to that.
13 I'm not familiar with our budget, how it's -- yeah.

14 Q. Fair enough. But to your understanding,
15 some funding comes through the utilities.

16 A. Yes.

17 Q. Okay. Thank you. So when consumers
18 reduce their usage, does this have any benefit to the
19 electrical grid?

20 A. So I have not seen any data to suggest
21 benefit to the electrical grid as a result of energy
22 efficiency.

23 Q. Okay. So when a customer reduces their
24 energy usage, does this reduce demand for electrical
25 energy?

1 A. Well, I would say demand response
2 programs reduce usage demand as stress on the grid.

3 Q. Okay. But a customer that replaces an
4 inefficient product with an energy efficient product
5 has no change on electricity demand?

6 A. It could.

7 Q. Okay. And so if a customer reduces their
8 energy usage and this reduces demand on the grid,
9 this -- this reduced demand could lower costs for the
10 utility.

11 A. It could lower costs for the utility, but
12 I've not seen any data by the utilities to
13 demonstrate that.

14 Q. Have you seen any research that energy
15 efficiency benefits grid infrastructure?

16 A. Yes.

17 Q. Okay. And that research was in the
18 affirmative, that energy efficiency can benefit grid
19 infrastructure?

20 A. I'm not sure what you mean by the
21 "affirmative."

22 Q. I can rephrase. So the research that you
23 read -- just to confirm your answer, the research
24 that you've read has found that energy efficiency can
25 benefit grid infrastructure.

1 A. Yes, I would agree with that.

2 Q. Okay. So if a lot of customers in a
3 community replace inefficient appliances with energy
4 efficiency -- with energy efficient products, they
5 could significantly reduce the demand for electricity
6 in their community.

7 A. Of course, especially since the market
8 has a variety of products and a variety of prices.

9 Q. Okay. So a person in that community,
10 that same community, hypothetical community I just
11 talked about, who has high electricity usage, maybe
12 in this case because they rely on an electrified
13 medical device, could benefit from their neighbor's
14 reduction in energy usage even if they don't change
15 their own consumption.

16 A. I would not agree with that.

17 Q. Okay. Why not?

18 A. Because the -- the individual you
19 mentioned with the electrical device, if they don't
20 participate in the utility program, they simply pay
21 the charge to support their neighbor, but they don't
22 benefit. Only their neighbor does.

23 Q. What about the reduction in the stress on
24 the grid? Is that a benefit for them?

25 A. I don't know.

1 Q. Okay.

2 A. I mean, there is no data that I can -- I
3 don't have any data that would suggest that I can
4 rely on saying yes to.

5 Q. And when you mean data, do you mean
6 specifically from the Company, or do you mean you --
7 that you've never seen any research at all that
8 that -- that that would be beneficial?

9 A. So you are referring to a specific
10 community in a hypothetical situation.

11 Q. Yeah.

12 A. So that is my reference.

13 Q. Okay. So you've never seen any research
14 that one community ben -- member can benefit from
15 other community members reducing their energy usage.

16 A. Can you repeat that? Sorry.

17 Q. Certainly. So you've never seen any
18 research that one community member could benefit from
19 other community members reducing their energy usage?

20 A. So I have seen some data just based on my
21 research in other states and how programs are set up
22 there but not in Ohio.

23 Q. Okay. But so you are saying you have
24 seen some data that when other communities -- when
25 some community members reduce their energy usage, the

1 community benefits.

2 A. Yes.

3 Q. Okay. Thanks. So I want to switch to
4 the Home Depot press release that you mentioned in
5 your -- in your testimony.

6 A. On page?

7 Q. Page 7.

8 A. Yes.

9 Q. Okay. So you note that this Home Depot
10 press release states that it helped consumers save
11 \$2.8 billion on utility bills through the sale of
12 energy efficient products and services, correct?

13 A. Yes. I see that.

14 Q. So how many of those customers were in
15 the FirstEnergy territory?

16 A. I don't know the answer to that.

17 Q. Okay. Do you know how much money
18 FirstEnergy customers saved as a part of that -- how
19 much of that 2.8 billion FirstEnergy customers saved?

20 A. I don't know the answer to that.

21 Q. Okay. Does Home Depot have a goal
22 specific to FirstEnergy's service territory?

23 A. No. Home Depot has their own objectives
24 and goals. This is not specific to FirstEnergy.

25 Q. And they have stores -- they being Home

1 Depot have stores all over the nation, right?

2 A. Correct.

3 Q. Okay. So sitting here today, you don't
4 have any personal knowledge of whether any of that
5 \$2.8 billion in savings has benefited customers in
6 the FirstEnergy territories?

7 A. Correct.

8 Q. Okay. So then in your testimony you also
9 state on that same page 7 that Home Depot and other
10 retailers in the free market offer energy efficiency
11 because consumers demand energy efficient products
12 when no rebates are available from their utility.

13 A. Correct.

14 Q. So what percentage of consumers demand
15 energy efficient products?

16 A. I don't know the answer to that.

17 Q. Okay. Do you know how many energy
18 efficient appliances competitive retailers sold in
19 the FirstEnergy territory in just say 2022?

20 A. You would have to ask the retailers. I
21 don't know the answer to that.

22 Q. Okay. And do energy efficient appliances
23 generally cost more than appliances without energy
24 efficiency certifications?

25 A. So it's my understanding that the

majority, if not all, appliances sold by Home Depot or Menards are Energy Star certified. So I don't think a consumer walking into Home Depot if, for example, they wanted to purchase a furnace, I think all the furnaces they have in stock have some energy efficiency rating --

Q. Okay.

A. -- to it.

Q. Do the higher energy efficiency ratings -- are those as the energy efficiency increases, does the price generally increase?

A. Yes. But the market has a variety of energy efficient ratings, as you say, at a variety of prices, and so it's based on consumer choice and how energy efficient they want to be.

Q. Okay. And as OCC's energy efficiency expert, do you know if there are any residential customers that would prefer to purchase the more expensive, more efficient appliance but can't afford it?

A. Say that again.

Q. Yeah. Of course. Okay. So as OCC's energy efficiency expert, do you know if there are any residential customers that would prefer to purchase a more energy efficient appliance but cannot

1 afford it?

2 A. I mean, I don't know how you would
3 approach the answer to that question. It has nothing
4 to do with my expertise.

5 Q. Okay. But you do support the
6 low-income --

7 A. Yes.

8 Q. -- energy efficiency programs --

9 A. Yes.

10 Q. -- with the modifications suggested in
11 your testimony.

12 A. Yes.

13 Q. And who is eligible for the low-income
14 programs?

15 A. Well, I think there are some federal
16 guidelines in place that determine eligibility.

17 Q. Okay. And when you compiled your
18 testimony, did you check the current income limits
19 for those federal poverty guidelines?

20 A. So traditionally I think it's been based
21 on 200 percent of the federal poverty level or
22 standards, but I think recently programs offered
23 under HWAP, for example, include moderate income
24 consumers are eligible for those programs. I'm not
25 quite sure, but under the Infrastructure and Jobs

1 Act, there are federal dollars going to nonlow-income
2 consumers regardless of their income for rebates.

3 MS. NORDSTROM: Your Honor, I would move
4 to strike that answer as nonresponsive. I just asked
5 if Ms. Shutrump checked the current income limits
6 when compiling her testimony.

7 EXAMINER PRICE: Every witness gets
8 traditionally one bite of the apple, and she just
9 used hers.

10 I would direct you to go ahead and
11 reanswer the question directly, and we will have the
12 court reporter read back the question for you.

13 (Record read.)

14 A. No. I think I relied on my knowledge in
15 general.

16 EXAMINER PRICE: But what are -- the
17 Companies' Application, what are the guidelines for
18 the low-income programs there? What qualifies you
19 for a low-income program under the Companies'
20 Application?

21 THE WITNESS: Well, I think -- I think
22 the Application would -- would say.

23 EXAMINER PRICE: I am sure it says. I am
24 asking you.

25 THE WITNESS: No, I know. Please let me

1 finish.

2 EXAMINER PRICE: Sure.

3 THE WITNESS: I am sure the Application
4 includes those eligibility requirements. Those
5 eligibility requirements are different for each
6 application. So if -- if FirstEnergy -- well, I
7 think FirstEnergy's Application does, in fact, offer
8 more initiatives other than just a weatherization
9 program so they -- you know, that increases the
10 eligibility for low-income and moderately-incomed
11 consumers.

12 EXAMINER PRICE: But sitting here today,
13 do you recall what the threshold qualification is for
14 a low-income consumer in the Companies' Application?

15 THE WITNESS: I don't -- I don't know. I
16 don't know how to answer that question.

17 EXAMINER PRICE: Well, your -- maybe I am
18 asking it poorly. You are supporting the low-income
19 programs in the Application; is that correct?

20 THE WITNESS: Yes.

21 EXAMINER PRICE: And there's a threshold
22 for income or poverty level that will qualify
23 somebody as a low-income customer that will be
24 eligible for those programs. I am asking you sitting
25 here today, do you know what that threshold is?

1 THE WITNESS: Only part of it and that's
2 200 percent of the federal poverty guidelines. I
3 think FirstEnergy's Application includes other
4 thresholds. I don't remember specifically.

5 EXAMINER PRICE: And those -- is your
6 support limited to the 200 percent of poverty
7 threshold?

8 THE WITNESS: Absolutely not.

9 EXAMINER PRICE: Okay. What else do you
10 support?

11 THE WITNESS: I support low-income
12 programs or -- I support weatherization programs and
13 energy efficiency for consumers whose incomes are
14 considered moderate, just above the federal poverty
15 level.

16 EXAMINER PRICE: Thank you.

17 THE WITNESS: Yes.

18 EXAMINER PRICE: Thank you.

19 MS. NORDSTROM: Thanks.

20 Q. (By Ms. Nordstrom) So taking that
21 200 percent as just an example, the 200 percent of
22 the federal poverty line that you used, so someone
23 living at 201 percent of the federal poverty line
24 isn't eligible for the low income programs.

25 A. I'm sorry. Can you repeat that question?

1 Q. Of course. So using that 200 percent of
2 the federal poverty line for some of the programs as
3 you outlined, someone living at 201 percent of the
4 federal poverty line isn't eligible for that
5 particular program.

6 A. Correct. But somebody at that level
7 could still participate in low income initiatives in
8 FirstEnergy's Application.

9 Q. Okay. Which initiatives?

10 A. I think -- I think I outline them in my
11 testimony on page 9 and 10. So those initiatives
12 would be bill payment assistance, incentives and
13 education, and energy storage.

14 Q. Okay. And you are not sure what the
15 eligibility is sitting here today. You just know
16 it's some form of low income based on federal poverty
17 guidelines.

18 A. Correct.

19 Q. Okay. So someone right above that
20 wouldn't -- someone that's just above those wouldn't
21 qualify.

22 A. They wouldn't qualify for the same
23 program that -- that a consumer who is 200 percent
24 would qualify for.

25 Q. Okay. And so -- and that person has no

1 financial barriers to purchasing energy efficiency
2 products to your knowledge.

3 A. What person?

4 Q. Living just above the threshold for any
5 of the programs.

6 A. Okay. And you said wouldn't be able to
7 afford?

8 Q. I said they would have no financial
9 barriers to purchasing energy efficiency products.

10 A. I would not agree with that because
11 energy efficiency products in the market are priced
12 according to how energy efficient the consumer wants
13 to be and what they can afford.

14 Q. Okay. So there are customers in the
15 market that would prefer to purchase an energy
16 efficient appliance but cannot afford it.

17 A. I don't know the answer to that question.
18 I mean -- I mean, I don't know affordability for each
19 consumer in the State of Ohio, so I don't -- I don't
20 know.

21 MS. NORDSTROM: Okay. I have no further
22 questions, your Honor.

23 EXAMINER PRICE: Thank you.

24 ELPC?

25 MS. McCONNELL: Yes, thank you, your

1 Honor.

2 - - -

3 CROSS-EXAMINATION

4 By Ms. McConnell:

5 Q. Good morning Ms. Shutrump.

6 A. Good morning.

7 Q. My name is Erica McConnell. I am an
8 attorney with the Environmental Law & Policy Center,
9 and I have a few questions for you. Did you review
10 FirstEnergy Witness Miller's testimony in this
11 proceeding?

12 A. Yes.

13 Q. And his testimony contains the details of
14 FirstEnergy's proposed energy efficiency and demand
15 response programs, correct?

16 A. Yes.

17 Q. Do you agree that one of the programs he
18 describes is a low-income energy efficiency program?

19 A. Yes.

20 Q. And then there are additional
21 nonlow-income programs --

22 A. Yes.

23 Q. -- correct? And one of the programs he
24 describes is a residential energy efficiency rebate
25 program, right?

1 A. Yes.

2 Q. And are you generally familiar with these
3 kinds of programs?

4 A. Yes.

5 Q. And he also -- Mr. Miller also describes
6 a residential demand response program, right?

7 A. Yes.

8 Q. And do you generally understand how that
9 residential demand response program would work?

10 A. Yes.

11 Q. And Mr. Miller includes an energy
12 efficiency education program in his testimony, right?

13 A. Yes.

14 Q. Okay. Now looking at your testimony on
15 page 4, line 16 -- oh, I'm sorry. No, that is
16 correct.

17 A. I'm sorry. Where do you want me?

18 Q. Page 4, line 16, I'm sorry.

19 A. I'm there.

20 Q. Okay. And here you state in part
21 "consumers have access to energy efficiency in the
22 competitive market," correct?

23 A. Yes.

24 Q. And in answering questions from OEC's
25 counsel, you said regarding demand response programs

1 that you weren't sure if CRES providers in Ohio
2 offered them, but you didn't think so; is that right?

3 A. Correct.

4 Q. Are you aware of any specific rebate or
5 incentive programs for energy efficient appliances
6 offered by CRES providers in Ohio?

7 A. No, I'm not aware. I'm not aware of
8 that. I haven't really followed that since the
9 programs ended in 2020. I haven't really followed
10 what CRES providers are doing.

11 Q. Okay. So are you aware of any such
12 programs for -- for energy efficient heat pumps
13 offered by CRES providers?

14 A. No.

15 Q. Okay. How about any specific rebate or
16 incentive programs for smart thermostats offered by
17 CRES providers in Ohio?

18 A. I'm not aware.

19 Q. Are you aware of any residential energy
20 efficiency education programs offered by CRES
21 providers in Ohio?

22 A. So I'm certain that they educate using
23 the website on the benefits of energy efficiency.

24 Q. Are you aware of any specific, or you are
25 speaking sort of generally you believe that CRES

1 providers do that?

2 A. Generally. I mean, CRES providers have
3 an interest in educating consumers so that consumers
4 will switch over from their utility.

5 Q. All right. Let's turn to page 6 of your
6 testimony, line 8. And here you state regarding the
7 proposed nonlow-income energy efficiency programs
8 "These programs are not benefiting all consumers and
9 should not be subsidized by utility consumers"; is
10 that right?

11 A. Yes.

12 Q. Do you recall that FirstEnergy Witness
13 Miller provided analyses of the benefits and costs of
14 the proposed programs under various tests like the
15 total resource cost test, the societal cost test, and
16 the utility cost test?

17 A. I do. I think Witness Miller mentioned
18 that some of those data points are based on a study
19 which energy -- or it's Harbor View or Harbor Point
20 study. I don't recall the specific name. I tried to
21 access that study and could not, so I don't -- I
22 can't rely on the numbers presented by Mr. Miller.

23 Q. Okay. Are you familiar with the total
24 resource cost test, the TRC test?

25 A. Yes.

1 Q. And setting aside what you just stated
2 about the specific analysis Mr. Miller provided, do
3 you think that TRC test accurately measures the
4 benefits and costs of energy efficiency programs?

5 A. If the TRC test were something that was
6 statewide and required by all utilities by the PUCO,
7 then I could rely on it.

8 EXAMINER PRICE: Can I have the question
9 and answer back again, please?

10 (Record read.)

11 EXAMINER PRICE: Thank you.

12 Q. (By Ms. McConnell) So if I'm
13 understanding you correctly, you do think that it's
14 possible for the TRC test to measure the benefits and
15 cost of energy efficiency programs accurately.

16 A. If the inputs weren't controlled by the
17 utility, yes.

18 EXAMINER PRICE: So does that mean you
19 don't believe Mr. Miller's numbers?

20 THE WITNESS: I can't rely on
21 Mr. Miller's numbers.

22 EXAMINER PRICE: Fair enough.

23 Q. (By Ms. McConnell) Staying on page 6,
24 line 14, you state that "consumers benefit from
25 energy efficiency in the competitive market,"

1 correct?

2 A. Sorry. Can you say the page again?

3 Q. Sure. Sure. I'm sorry. Still on page
4 6, line 14. And you state that "consumers benefit
5 from energy efficiency in the competitive market,"
6 correct?

7 A. Yes, I -- that's part of what I say, yes.

8 Q. Are you aware -- have you read any
9 studies that estimate the energy savings from energy
10 efficiency through the competitive market in Ohio?

11 A. Can you repeat that question?

12 Q. Sure. Are you aware or have you read any
13 studies that estimate the energy savings from energy
14 efficiency through the competitive market in Ohio?

15 A. Well, I'm aware of savings that are
16 tracked by Energy Star, for example, and then as I
17 just pointed out in my testimony, the Home Depot
18 tracks savings by the consumer from the products that
19 they sell to the consumer.

20 Q. Okay. And for the Energy Star
21 information you just talked about, is that specific
22 to Ohio or is that a national -- national
23 information?

24 A. I don't know the answer to that.

25 Q. Okay. And for Home Depot, the same

1 question, do you know if it's national or if they
2 have specific to Ohio information?

3 A. I don't know.

4 Q. And you don't cite the Energy Star
5 savings information in your testimony, correct?

6 A. No. I think I've -- I've cited it before
7 in previous testimony but not -- not in this
8 testimony.

9 Q. And a smart thermostat is an example of
10 an energy efficient product that a customer might buy
11 in the competitive market, right?

12 A. Yes.

13 Q. And the primary purpose of a smart
14 thermostat is to help customers run their heating and
15 air conditioning systems less and, therefore, save
16 electricity and money, right?

17 A. I would agree with that.

18 Q. Through its proposed rebate program that
19 Mr. Miller describes, FirstEnergy would offer a
20 discount on smart thermostats, right?

21 A. Correct.

22 Q. Would you expect that more customers
23 would purchase smart thermostats if they were
24 discounted?

25 A. Certainly. That's -- that's how -- I

1 mean, Home Depot offers rebates for customers.

2 Q. And if more customers are purchasing and
3 using smart thermostats, that means together they are
4 saving more electricity, right?

5 A. I apologize. Can you repeat the
6 question?

7 Q. Sure. If more customers are purchasing
8 and using smart thermostats, then that means together
9 they are saving more electricity, right?

10 A. In general, I would agree with that.

11 Q. All right. Could you please turn to page
12 7 and I am looking at line 5. And here you state
13 that "Effective December 31, 2020, Ohio electric
14 utilities have not provided energy efficiency
15 services to non-low-income consumers," correct?

16 A. Yes.

17 Q. And with that statement, you are
18 referring to the termination of Ohio's mandated
19 utility energy efficiency programs, right?

20 A. Correct.

21 Q. And are you generally familiar with those
22 past efficiency programs?

23 A. Yes.

24 Q. Okay. All right. And then moving down
25 this page, lines 6 through 9, and you talked about

1 this with OEC's counsel, you discuss Home Depot's
2 success in selling customers energy efficient
3 products and services and saving customers money,
4 right?

5 A. Yes.

6 Q. And you cite the article in footnote 13,
7 right, the article about Home Depot touting --

8 A. Yes.

9 Q. Yes. Have you done any analysis of
10 whether the number of energy efficient products that
11 Home Depot sold in Ohio changed since Ohio
12 eliminate -- eliminated its energy efficiency
13 mandates?

14 A. I'm not employed by Home Depot, so I
15 don't conduct analysis of tracked savings or number
16 of products sold or. Home Depot does their own
17 analysis.

18 Q. Okay. So the answer is no, you have not
19 done that analysis, correct?

20 A. Correct.

21 Q. And using smart thermostats as a specific
22 example again, do you know how many customers
23 purchased smart thermostats in Ohio in the last 12
24 months?

25 A. No.

1 Q. Do you know how many customers purchased
2 smart thermostats in Ohio in 2022, the last year?

3 A. No.

4 Q. And you told counsel from OEC that you
5 realize that Home Depot has stores across the United
6 States, right?

7 A. Correct.

8 Q. And some states still have utility-run
9 energy efficiency programs, right?

10 A. That's correct.

11 Q. So at least some portion of Home Depot's
12 national savings of energy efficient products and
13 services happened in states that still have
14 utility-run energy efficiency programs, right?

15 A. I would agree with that.

16 Q. Do you recall that -- well, we talked
17 about how Mr. Miller's testimony includes a proposed
18 demand response program for residential customers,
19 right?

20 A. Correct.

21 Q. On page 7 still, line 13, you say "Home
22 Depot and other retailers offer non-subsidized energy
23 efficient products and services where only the
24 participant pays," right?

25 A. Correct.

1 Q. Do you know if Home Depot offers any
2 demand response program beyond selling smart
3 thermostats in their stores?

4 A. I don't know.

5 Q. Do you know if any retail store offers a
6 demand response program?

7 A. I don't know.

8 MS. McCONNELL: Your Honor, may I have
9 just a minute? I think I'm finished.

10 EXAMINER PRICE: Yes.

11 Q. (By Ms. McConnell) Ms. Shutrump, I just
12 have one more set of questions. We were talking
13 about the TRC test. Do you remember that?

14 A. Uh-huh.

15 Q. And you said that you couldn't rely on
16 the information in Mr. Miller's testimony because it
17 was proprietary to the utility based on data --
18 proprietary data to the utilities; is that correct?

19 A. Well, I didn't use the word proprietary.
20 I mean, they have control over the inputs.

21 Q. Okay. Have you seen anything that would
22 cause you to believe that that information in the TRC
23 test in Mr. Miller testimony is incorrect?

24 A. I wouldn't know because, again, I don't
25 know the inputs FirstEnergy used. I don't know the

1 basis for those inputs, so I wouldn't be able to
2 determine whether it's incorrect.

3 EXAMINER PRICE: Did you review the TRC
4 test performed by Mr. Miller?

5 THE WITNESS: Yes.

6 EXAMINER PRICE: Did you -- how do I say
7 that? And upon your review, you had no -- was there
8 anything that leaped out at you to say this number
9 looks unrealistic?

10 THE WITNESS: So I would just say the
11 cost and benefits of the TRC in Mr. Miller's
12 testimony is based on a study. It's not specific to
13 Ohio and FirstEnergy's distribution system and the
14 assets on that distribution system and their planned
15 date of replacing those assets which would suggest
16 cost reductions or avoided costs so that -- that is
17 something that stood out to me.

18 EXAMINER PRICE: Thank you.

19 Thank you.

20 MS. McCONNELL: One moment, your Honor.

21 Thank you. No further questions.

22 EXAMINER PRICE: Before we move on, I
23 just wanted to talk about smart thermostats briefly
24 again. Do you consider smart thermostats to be an
25 effective means for consumers to manage their load?

1 THE WITNESS: Sure.

2 EXAMINER PRICE: Thank you. Perfect.

3 Ms. Bojko?

4 MS. BOJKO: No questions, your Honor.

5 EXAMINER PRICE: Kroger?

6 MS. CADIEUX: No questions, your Honor.

7 EXAMINER PRICE: Ms. Petrucci?

8 MS. PETRUCCI: No questions.

9 EXAMINER PRICE: Mr. Dove?

10 MR. DOVE: Yes, your Honor.

11 - - -

12 CROSS-EXAMINATION

13 By Mr. Dove:

14 Q. Hello. My name is Robert Dove. I'm with
15 Kegler Brown. We represent OPAE in this case. I
16 have a few questions. I am going to try to get
17 through them quickly.

18 A. I can't hear you.

19 Q. Sorry about that.

20 A. No, no.

21 Q. Can you turn to page 13 of your
22 testimony.

23 A. I'm there.

24 Q. Do you see on line 6 where you mention
25 "The PUCO should provide much needed oversight." For

1 my own clarity, what are you opining requires much
2 needed oversight?

3 A. So I think I am referring to the
4 competitive bidding process.

5 Q. Okay. And so going with that, on line 8,
6 you talk about ensuring the compet -- competitive
7 bidding process is fair and transparent. In your
8 opinion are competitive bid processes inherently
9 unfair or opaque?

10 A. No. I think what I am saying is that the
11 program administrator for low income programs in Ohio
12 that consumers support need fair and trans --
13 fairness and transparency regarding the competitive
14 bidding process.

15 MR. DOVE: Sorry. Can I have that answer
16 reread?

17 EXAMINER PRICE: You may.

18 (Record read.)

19 MR. DOVE: Thank you.

20 Q. (By Mr. Dove) So in your opinion -- what
21 is the basis for your concern that the competitive
22 bidding process would not be fair and transparent?

23 A. Well, it would not be fair and
24 transparent if a competitive bidding process were not
25 conducted at all.

1 Q. Okay. Do you know if the Company is
2 proposing one to be conducted?

3 A. I think so. I think they are, yes.

4 Q. Is the Company proposing to take input
5 from potential bidders in that process?

6 A. No.

7 Q. Moving down on the same page to lines 14
8 through 16, you talk about an independent management
9 audit. And I apologize. This is again a clarity
10 question for me. If you could take a minute to read
11 that, I want to -- I have a question about what you
12 are recommending.

13 A. In addition to staff's review, low-income
14 programs should be subject to an independent
15 management audit that would determine whether the
16 organization and operation of program administrators
17 are prudent.

18 Q. And in the next sentence you state
19 "Recommendations made by the auditor would help
20 improve the administrative efficiency and
21 effectiveness so that more dollars can help the
22 participating customer reduce their usage and save
23 money on their bill." So is the audit of the
24 administrator's administration of the low-income
25 program, or is the audit of the management of the

1 administrator as a whole? It was unclear to me.

2 A. So the audit would audit the functions by
3 the program administrator.

4 Q. And with the goal to find cost saving
5 measures to expand the money available to serve
6 low-income customers.

7 A. Well, there could be many goals. It just
8 depends on what is of interest to the PUCO.

9 Q. Is it fair to say that's the goal you
10 identified in line 18 so that more dollars can help
11 the participating customers reduce their usage?

12 A. Yes.

13 Q. Is the audit guaranteed to uncover
14 significant saving measures?

15 A. Well, I suppose if -- in the contract the
16 requirement was to identify specific saving measures,
17 then, yes.

18 Q. So it's not possible for there to be a
19 contract to identify measures and the auditor review
20 it and find no inefficiencies?

21 A. Sorry. Can you repeat that?

22 Q. Is it possible for an auditor to have a
23 contract to identify room for improvement and come
24 back and say we've reviewed the processes; there's
25 not room for significant improvement?

1 A. I think that's possible.

2 Q. Where do you propose the funding for this
3 independent management audit come from?

4 A. Consumers.

5 Q. And would that be in addition to the
6 proposed funding for the low-income program or a
7 portion of the funding for the proposed low-income
8 program?

9 A. It could be either/or.

10 MR. DOVE: That's all the questions I
11 have. Thank you.

12 EXAMINER PRICE: Thank you.

13 Mr. Lavanga?

14 MR. LAVANGA: No questions, your Honor.

15 EXAMINER PRICE: Mr. Proano?

16 MR. PROANO: No questions, your Honor.

17 EXAMINER PRICE: Staff? FirstEnergy,
18 sorry.

19 MR. ALEXANDER: No questions, your Honor.

20 EXAMINER PRICE: I read the zero on the
21 thing.

22 Staff.

23 MS. BOTSCHNER-O'BRIEN: No questions,
24 your Honor.

25 EXAMINER PRICE: Redirect?

1 MR. FINNIGAN: No redirect, your Honor.

2 EXAMINER PRICE: Thank you, Ms. Shutrump.

3 You are excused.

4 THE WITNESS: My pleasure.

5 EXAMINER PRICE: At this time we will

6 take up OCC's motion for the admission of OCC

7 Exhibit 4. Any objection?

8 Seeing none, it is admitted.

9 (EXHIBIT ADMITTED INTO EVIDENCE.)

10 EXAMINER PRICE: Let's go off the record.

11 (Recess taken.)

12 EXAMINER PRICE: Let's go back on the

13 record.

14 Mr. Proano, you may call your next

15 witness.

16 MR. PROANO: Thank you, your Honor. We

17 would like to call Matthew Brakey to the stand.

18 EXAMINER PRICE: Mr. Brakey, raise your

19 right hand.

20 (Witness sworn.)

21 EXAMINER PRICE: Please be seated and

22 state your name and business address for the record.

23 THE WITNESS: My name is Matt Brakey. My

24 business address is 8584 East Washington Street,

25 Suite 213, Chagrin Falls, Ohio.

1 EXAMINER PRICE: Please proceed,
2 Mr. Proano.

3 MR. PROANO: Thank you, your Honor.
4 (EXHIBITS MARKED FOR IDENTIFICATION.)

5 - - -

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

9 DIRECT EXAMINATION

10 By Mr. Proano:

11 Q. Good morning, Mr. Brakey.

12 A. Good morning.

13 Q. Do you see two documents before you that
14 have been marked as OELC Exhibits 32 and 32C?

15 A. Yes.

16 Q. And do you recognize those documents?

17 A. I do.

18 Q. And what are they?

19 A. They are the public and confidential
20 versions of my direct testimony.

21 Q. And, Mr. Brakey, was your direct
22 testimony in this case prepared by you or under your
23 direction?

24 A. It was, yes.

25 Q. Do you have any corrections to make to

1 your testimony?

2 A. I do. On page 7, footnote 8, the word
3 "Energy" in "Fifth Energy on Rehearing" should be
4 struck and replaced with the word "Entry."

5 Q. Any others?

6 MS. BOJKO: I'm sorry. Could we have
7 that citation reference again?

8 EXAMINER ST. JOHN: Could you state that
9 one more time?

10 THE WITNESS: Sure.

11 EXAMINER PRICE: I've got it. Page 7,
12 footnote 8, which is a carryover footnote, it should
13 say "Fifth Entry on Rehearing" not "Fifth Energy."

14 MS. BOJKO: Thank you, your Honor.

15 EXAMINER PRICE: Any others?

16 THE WITNESS: Yes.

17 A. Page 11, footnote 22, "April 4" should be
18 replaced with "April 14."

19 Q. Any others, Mr. Brakey?

20 A. On page 20, question 35, line 4. The
21 word "meters" should be inserted after the word
22 "advanced."

23 Q. Any others, Mr. Brakey?

24 A. On page 39, question 61, line 5, the
25 phrase "at or" should be inserted before the word

1 "above."

2 Q. Thank you, Mr. Brakey. Any other
3 corrections?

4 A. Yes, two more. On page 44, footnote 65,
5 the year "2023," should be replaced with "2022."

6 And lastly, on page 49, question 80, line
7 12, the year "2023" should be replaced with "2013."

8 Q. Are there any other corrections to your
9 testimony?

10 A. There are not.

11 Q. Mr. Brakey, if I asked you the questions
12 that appear in your direct testimony, subject to the
13 corrections you just made, that have been marked as
14 Exhibits 32 and 32C, would your answers today be the
15 same as they are set forth in your direct testimony?

16 A. They would, yes.

17 MR. PROANO: Your Honor, OELC moves for
18 the admission of OELC Exhibit 32 and 32C, subject to
19 cross-examination, and also for the granting of our
20 motion for protective order to allow 32C to be filed
21 under seal, your Honor.

22 EXAMINER PRICE: We will take up the
23 motions to admit and motion for protective order at
24 the conclusion of cross-examination.

25 MR. PROANO: Thank you.

1 EXAMINER PRICE: OEG?

2 MS. COHN: No questions, your Honor.

3 EXAMINER PRICE: RESA?

4 MR. LONG: No questions.

5 EXAMINER PRICE: Consumers' Counsel?

6 MR. FINNIGAN: Yes, your Honor.

7 - - -

8 CROSS-EXAMINATION

9 By Mr. Finnigan:

10 Q. Good morning, Mr. Brakey.

11 A. Good morning.

12 Q. My name is John Finnigan. I am an
13 attorney representing the Office of the Ohio
14 Consumers' Counsel. We represent residential
15 consumers. I have a few questions about your
16 testimony.

17 A. Sure.

18 Q. I wanted to really just ask about your
19 background a little bit. Do you have your testimony
20 handy?

21 A. I do, yes.

22 Q. Could you please turn to page 1? And I
23 want to direct your attention to the Q3 and your
24 answer following that about four lines down. I am
25 looking at line 15, and you mention there that you

1 "advise customers on energy usage and management
2 issues in the Ohio market."

3 A. Yes.

4 Q. So by "Ohio market," do you mean
5 utilities operating within Ohio?

6 A. That is more directed to the locations of
7 our customers' facilities, that being in Ohio, but by
8 extension, yes, those are -- would be companies
9 served by utilities in Ohio.

10 Q. Okay. And I don't want to ask you the
11 names of any of your customers, but I just want to
12 ask you on a very general level, are you familiar
13 that there are four electric utility operating
14 companies in Ohio?

15 A. Yes.

16 Q. Are you -- do you serve customers in each
17 of those four utility companies' territories?

18 A. So the answer to that question might be a
19 little more complex than you intended because we have
20 direct client relationships, and those direct client
21 relationships are principally located in FirstEnergy
22 and AEP Ohio territory. But then we also are
23 retained by the Ohio Energy Leadership Council and
24 advise OELC members. And those customers have a
25 footprint also in those other two service

1 territories, Duke and DP&L, which our direct clients
2 don't have a presence in at the moment.

3 Q. Okay. I didn't hear what those other
4 service territories were.

5 A. Duke and Dayton Power and Light.

6 Q. Okay.

7 A. AES.

8 Q. Now, could you please turn to the next
9 page of your testimony, page 2? Now, I am looking at
10 Q5 which begins on line 2 of page 2 where you were
11 asked about what services you provide. And then
12 beginning at line 7 you talk about interruptible and
13 demand response program advice. In what service
14 territories do you provide either your clients or the
15 OELC clients with advice about interruptible
16 programs?

17 A. To the best of my knowledge, we are -- at
18 least in recent years, we have been principally
19 advising clients within the ATSI zone and AEP zone
20 for those programs.

21 Q. Okay. Are you aware of whether there are
22 any existing interruptible programs in the Duke or
23 AES Ohio service territories?

24 A. There are -- I know there are demand
25 response programs available basically in all of PJM's

1 footprint which would include those territories.

2 Q. Both from PJM and also offered by the
3 utilities?

4 A. I don't -- I don't believe in AES there
5 is a utility-sponsored interruptible program but
6 those -- those two service territories have not been
7 a focus of my expertise.

8 Q. And what about Duke? Do they have a
9 utility-sponsored load management program?

10 A. Not to my knowledge but, again, we don't
11 represent directly clients in Duke at the moment so
12 that has not been a focus of my expertise.

13 Q. Okay. So in going to your expertise, in
14 the next line you talk about you do consulting work
15 on transmission and capacity issues and costs and gas
16 and electric utility rates and tariffs; is that
17 right?

18 A. Yes.

19 Q. Is that for both your direct clients and
20 the indirect ones that you advise through OELC?

21 A. Yes. When I authored that, I was
22 principally thinking of my direct clients, but we
23 also assist OELC members to some extent in that
24 capacity.

25 Q. What are the kind of general services you

1 provide for the OELC member group as a whole?

2 A. Well, you are looking at one of them.

3 Q. Testifying.

4 A. Yes. You know, functioning as an expert,
5 working with Mr. Proano and the Baker team to do rate
6 impact analysis for members as it relates to
7 different issues -- different proposals from
8 utilities, bill audits and analysis, helping
9 determine whether to take advantage of this utility
10 program or that. That's more or less it generally.

11 Q. Okay. Thank you. Now let's jump down to
12 question 6 on page 2 and take a moment to read over
13 the answer to yourself, and then I just want to ask
14 you about your answer there.

15 A. Okay.

16 Q. Now, picking up on line 18 of page 2, you
17 talk about you have a strong working knowledge and
18 expertise on Ohio's retail energy markets and certain
19 facets of those markets, and then you also mention on
20 line 20 and tariff provisions that impact your
21 customers' energy consumption. Have I read that
22 correctly?

23 A. Yeah.

24 Q. Now jump over to the next page, page 3,
25 lines 10 through 12. And there you say "I have

1 developed a strong working knowledge of how tariff
2 rates and terms impact utility and energy charges."

3 Have I read that correctly?

4 A. Yes.

5 Q. Now, have you ever written a tariff?

6 A. No.

7 Q. And do you have -- have you taken any
8 training on how to interpret or understand tariff
9 provisions?

10 A. Just on the job.

11 Q. On the job. So kind of self-taught and
12 taught by other experts at Brakey Energy?

13 A. Yeah. My father founded the Brakey
14 Consulting, and so I learned not only from him but
15 many of our employees that actually report to me.

16 Q. Now -- and you've been in this business
17 for how long?

18 A. Almost 20 years.

19 Q. Now, does your self-training on utility
20 tariff provisions include reading over the tariffs?

21 A. Yes. That's not a core part of my job
22 functions. We have a -- particularly one analyst
23 that does that more than me but, yes.

24 Q. Okay. And you're generally aware that a
25 utility is required by law to state the services that

1 it provides in -- in a written tariff?

2 A. I'm not directly aware of that legal
3 requirement, no.

4 Q. Okay. Are you aware that the tariff
5 spells out what the terms and conditions of the
6 utilities' services and rates are?

7 A. That's my understanding, yes.

8 Q. Okay. And at one time or another have
9 you reviewed the provisions of the four electric
10 utility company tariffs?

11 MR. PROANO: Objection, vague.

12 EXAMINER PRICE: Overruled.

13 You can answer if you know.

14 A. I don't believe I have in depth reviewed
15 Duke and AES specifically. I don't -- I don't have a
16 recollection of like sitting down and reading the
17 tariffs cover to cover, but I certainly have reviewed
18 and referenced applicable provisions for our clients.

19 Q. For all four companies.

20 A. Well, excuse me, for AEP and FirstEnergy
21 in particular.

22 Q. Okay. And have you presented at the
23 Midwest Ohio Energy Conference on AES terms and
24 conditions of service?

25 A. I'm not familiar with that conference by

1 that name; and, no, I have not.

2 Q. I may have the name wrong, but
3 referencing one that's sponsored by OELC.

4 A. I think you may be referring to the
5 Manufacturers' Education Council?

6 Q. Yes. That's the one.

7 A. I have not to the best of my recollection
8 ever given a presentation on AES rates at that
9 conference.

10 MR. FINNIGAN: Okay. That's all the
11 questions I have.

12 Thank you, Mr. Brakey.

13 EXAMINER PRICE: ELPC?

14 MS. McCONNELL: No questions, your Honor.

15 EXAMINER PRICE: Ms. Bojko?

16 MS. BOJKO: Yes, your Honor. Thank you.

17 - - -

18 CROSS-EXAMINATION

19 By Ms. Bojko:

20 Q. Good afternoon, Mr. Brakey.

21 A. Ms. Bojko.

22 Q. My name is Kim Bojko. I am with the Ohio
23 Manufacturers' Association Energy Group. Today, sir,
24 you are here to testify about FirstEnergy's ESP V
25 proposal and its proposed changes to Rider NMB and

1 the ELR program; is that correct?

2 A. That is correct.

3 Q. And you are testifying today as a
4 consultant on behalf of OELC; is that correct?

5 A. That is correct.

6 Q. And that entity was formerly the
7 Industrial Energy Users of Ohio; is that correct?

8 A. That is correct.

9 Q. And you were -- I believe you were an
10 officer during ESP IV for IEU-Ohio; is that correct?

11 A. I believe there was overlap. I have been
12 an officer for quite some time.

13 Q. And you are familiar with ESP IV and the
14 ELR program that was set forth in that ESP; is that
15 correct?

16 A. That is correct.

17 Q. Turn -- let's first turn to page 12 of
18 your testimony. Do you still have that in front of
19 you?

20 A. Yes. I am getting to that page right
21 now.

22 Q. Your testimony has been marked as OELC
23 Exhibit 32. I am just going to refer to -- attempt
24 to refer to the public portions. I do not intend to
25 ask you anything confidential. If something is

1 deemed confidential, please let me know and don't say
2 it in the public record.

3 Turning to page 12, here you discuss the
4 benefits of transmission billing based on NSPL values
5 stating that transmission billing based on NSPL
6 values incentivizes customers who are able to
7 preschedule, curtail, or minimize their load. Do you
8 see that?

9 A. Can you point me to the line?

10 Q. Oh, sure. My apologies. It's -- I
11 believe it's on lines 9 through 12.

12 A. Okay. I read 9 through 12.

13 Q. It's really the entire Q and A for 24.

14 A. Okay. Would you like me to read my
15 response?

16 Q. Sure. If you are not familiar with it,
17 go ahead.

18 A. Okay.

19 Q. So you would agree with me that NSPL
20 billing incentivizes customers who are not currently
21 managing their load during the 5 CP events to invest
22 in management strategies and/or equipment to
23 facilitate load management?

24 A. Sorry. Can you repeat that one more
25 time?

1 Q. Sure. Would you agree with me that NSPL
2 billing incentivizes customers who aren't currently
3 managing their load during the 5 CP events to invest
4 in management strategies and/or equipment to
5 facilitate load management?

6 A. I believe I would agree with that, yes.

7 Q. Does the monthly demand charge offer an
8 incentive for customers to manage their power use
9 during transmission system peaks?

10 A. Minimally. I would say only by accident
11 if their individual peak demand happens to overlap
12 with grid peaks.

13 Q. Isn't it true a customer on NSPL billing
14 only pays for exactly the amount of power they use
15 during the 5 CPs?

16 MR. PROANO: Objection.

17 EXAMINER PRICE: Grounds?

18 MR. PROANO: Pays for the power, I mean,
19 if she is referring to the transmission charges,
20 that's one thing. I think it just needs to be
21 clarified, that question.

22 EXAMINER PRICE: Can you clarify, please?

23 Q. (By Ms. Bojko) Isn't it true that a
24 customer on NSPL billing only pays for exactly the
25 amount of transmission that they use during 5 CPs?

1 A. How a customer consumes power during the
2 5 CPs will set its NSPL which in turn is part of a
3 formula that produces the transmission costs
4 obligations. So to the extent that is zero, then
5 they would have negligible transmission costs.

6 Q. So you would agree with me based on what
7 you just stated that a customer on NSPL billing only
8 pays for the amount of power that they use during the
9 5 CPs?

10 MR. PROANO: Objection. Same objection,
11 amount of power versus transmission charges.

12 MS. BOJKO: He just used power, your
13 Honor, in answer to my question and explained how
14 power is determining the transmission costs. So
15 based on his clarification statement, I am asking if
16 he -- if it's true a customer on NSPL only pays for
17 exactly the amount of power they use during the 5
18 CPs.

19 EXAMINER PRICE: The objection is
20 overruled. He may answer.

21 A. That would not be correct.

22 Q. You believe that a customer on NSPL
23 billing pays for the amount of power that they used
24 based on the transmission costs calculation from PJM,
25 correct?

1 A. Transmission is one subcomponent of many
2 of an electric bill. So to the extent a customer
3 does not consume power during coincident peaks for
4 transmission, their transmission cost obligation may
5 be negligible. But it will still be paying power --
6 for power within the other subcomponents of an
7 electric bill.

8 Q. Right. But the calculation for NSPL
9 billing, as you stated before, is based in part on
10 the consumption that a customer uses; is that
11 correct?

12 A. During the 5 coincident peaks, correct.

13 Q. And that's different than if a customer
14 is on a monthly demand charge; is that correct?

15 A. That is correct.

16 Q. A monthly demand charge is not
17 determinative of the amount of power that one
18 consumes during the 5 CPs, correct?

19 A. It would be an accident if it was.

20 Q. Okay. It's true that customers can
21 implement behind the meter generation to manage their
22 5 CPs, correct?

23 A. That is correct.

24 Q. And a C&I customer could install -- you
25 understand when I say C&I customers, I mean

1 commercial and industrial. C&I customers could
2 install renewable resources, generators, or batteries
3 to manage their load, correct?

4 A. If those behind the meter resources are
5 dispatchable during times of potential coincident
6 peaks, I would agree with that.

7 Q. And customers could also invest in
8 management practices and technologies that help
9 manage power use during 5 CPs, correct?

10 A. That is correct.

11 Q. And you would agree that a customer
12 managing their load during the 5 CP produces system
13 benefits for all ratepayers, correct?

14 A. Absolutely.

15 Q. And if a customer managing their load
16 during the 5 CP produces system benefits for all
17 ratepayers, does a customer that is not actively
18 managing their load create a system cost paid for by
19 all ratepayers?

20 A. Not necessarily.

21 Q. But they could.

22 A. They could.

23 Q. On page 13 of your testimony, lines 3 and
24 4, here you mention weather-sensitive buildings. Do
25 you see that?

1 A. Yes.

2 Q. Does it take time for a weather-sensitive
3 building's temperature to change?

4 A. Can you clarify that question?

5 Q. Well, isn't it true that if a
6 weather-sensitive building's temperature is set at 80
7 degrees, for instance, and then there is a cold
8 weather event, it would take time for that
9 temperature inside the building to decrease?

10 A. So you are referring to the temperature
11 inside a building.

12 Q. Correct.

13 A. And the setting for thermostat, I assume?

14 Q. Correct.

15 A. And whether it takes time for that
16 temperature within the building to change.

17 Q. Correct.

18 A. I believe that is correct, yes.

19 Q. Do you know how long it would take for a
20 weather-sensitive building's temperature inside to
21 change?

22 A. I think that answer would be different
23 for every weather-sensitive building.

24 Q. And to your knowledge, buildings can
25 curtail their heating and their air conditioning use

1 for a period of time without the internal building
2 temperature changing; isn't that correct?

3 A. This gets a little abstract but I would
4 think there would be -- unless the temperature
5 outside is the same as the temperature inside, the
6 cessation of heating or cooling will produce a
7 temperature change even if it's a small or marginal
8 amount.

9 Q. Well, isn't it true that this is an
10 energy load management strategy used by buildings and
11 manufacturers?

12 A. It -- it is. In my experience generally
13 there is -- temperature tends to float within an
14 acceptable range when these types of measures are
15 implemented.

16 Q. On the same page you also discuss grocery
17 stores. Do grocery stores' refrigeration equipment
18 run constantly, or do they cycle?

19 A. I'm not an expert on grocery store
20 refrigeration equipment and don't know the answer to
21 that question.

22 Q. Do you know whether refrigerated
23 equipment is precooled and then whether curtailed
24 load to manage that power during -- excuse me.
25 Strike that.

1 Do you know whether refrigerated
2 equipment can be precooled and then a grocer could
3 curtail their load to manage the power during a 5 CP?

4 A. I don't know the answer to that question.
5 I could generally say that in my experience with
6 clients that have refrigerated load management during
7 the potential coincident peaks, they've communicated
8 to me is extremely disruptive, at great cost, and
9 often not feasible.

10 MS. BOJKO: Your Honor, I move to strike
11 everything after "I don't know the answer to that."
12 His response was not only beyond the scope of my
13 question but also included hearsay.

14 EXAMINER PRICE: Let's have the question
15 and answer back again, please.

16 (Record read.)

17 EXAMINER PRICE: Well, we will exercise
18 his one pass on the motion to strike at this time. I
19 would ask you if you could -- do you want him to
20 reanswer the question, Ms. Bojko?

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

22 EXAMINER PRICE: Please listen to
23 counsel's questions and answer them directly.

24 THE WITNESS: I will do my best. Thank
25 you.

1 EXAMINER PRICE: If there is additional
2 information that you think would be helpful to the
3 Commission, Mr. Proano will elicit that from you on
4 redirect.

5 THE WITNESS: Okay. Thank you for that
6 guidance.

7 Q. (By Ms. Bojko) Sir, isn't it true a
8 grocery store could install rooftop solar and many do
9 to manage their NSPLs?

10 A. They could.

11 Q. And isn't it true that some grocery
12 stores, in fact, utilize batteries to manage their
13 NSPLs?

14 A. I'm not aware of any that do.

15 Q. It's certainly possible, is it not?

16 A. I think there are inherent issues with
17 battery storage that would make that difficult.

18 Q. Have you recently polled large grocers to
19 ask the feasibility and whether they do or do not
20 have batteries behind their refrigeration?

21 A. Can you repeat that question?

22 MS. BOJKO: May I have that one reread?

23 EXAMINER PRICE: Let's have the question
24 back, please.

25 (Record read.)

1 A. I have not conducted a poll of large
2 groceries.

3 Q. And are you aware that grocery stores can
4 include mechanisms that turn their lighting on and
5 off in the refrigeration areas?

6 A. I'm not aware of that technology being
7 specific to grocers, but I am aware of that
8 technology.

9 Q. And do you -- are you aware that
10 groceries also have back-up generation on-site to
11 manage their NSPLs?

12 A. I understand some groceries have back-up
13 generation, and I also understand there is
14 limitations to that for NSPL management.

15 Q. Are you familiar with PJM and how they
16 bill the LSEs for transmission?

17 A. At a very high level.

18 Q. Do you know that FirstEnergy is billed
19 for transmission for each customer's NSPL during 5
20 CPs?

21 A. I believe the formula is slightly
22 different than how PJM bills, if I am understanding
23 your question correctly. I believe the formula is
24 slightly different for how PJM bills FirstEnergy than
25 how FirstEnergy bills its customers, but I am aware

1 that PJM bills load-serving entities for
2 transmission.

3 Q. Okay. I was just talking about how PJM
4 bills FirstEnergy. It is your understanding that PJM
5 bills FirstEnergy for transmission for each
6 customer's NSPL during the 5 CP.

7 A. I'm -- I don't believe it's -- from a PJM
8 level, I don't believe it's a 5 CP basis, but I don't
9 remember off the top of my head exactly what that
10 formula is for PJM.

11 Q. Let's assume -- let's assume a customer
12 pays less for transmission because they are on
13 monthly demand as compared to its NSPL, okay?

14 A. Okay.

15 Q. Let's assume that. Is the cost savings
16 so to speak that the customer receives from monthly
17 billing made up by other ratepayers or by
18 FirstEnergy?

19 A. Sorry. Can you repeat that question one
20 more time?

21 MS. BOJKO: Could I have that one read
22 back?

23 EXAMINER PRICE: Please.

24 (Record read.)

25 A. It is my understanding that FirstEnergy

1 is revenue neutral, so to the extent it collects less
2 from one customer, it will collect more from another
3 and vice versa.

4 Q. We discussed earlier that I believe you
5 stated that NSPL billing offers numerous system
6 benefits; is that right?

7 A. Yes.

8 Q. Does advanced interval metering
9 facilitate the ability to create system benefits with
10 the NSPL billing?

11 A. You used the word "facilitate"; is that
12 right?

13 Q. Yes.

14 A. I would say it facilitates, yes.

15 Q. And do you know who pays for the advanced
16 meters?

17 A. I don't know the exact mechanism that is
18 used to collect that, but I could guess it's
19 ratepayers.

20 Q. Good guess.

21 A. Thank you.

22 Q. Well, you would agree that ratepayer
23 benefits resulting from their investment in these
24 advanced meters should be maximized rather than
25 minimized, right?

1 A. I would agree provided it doesn't produce
2 rate shock and arbitrary and uneven billing,
3 particularly amongst competitors.

4 Q. Let's turn to page 34 of your testimony.
5 Looking at question 53, here -- are you there?

6 A. I am, yes.

7 Q. Okay. Here you testify that 5 CP will
8 become difficult to predict but does -- do you see
9 that? Sorry.

10 A. Yes, I'm there.

11 Q. Does this potential difficulty, the
12 potential difficulty of predicting power peaks, mean
13 that system load is getting flatter?

14 A. I would -- I would -- that has been a
15 byproduct of aggressive coincident peak management is
16 I describe it as a plateauing of load.

17 Q. And you would agree that fewer stark
18 power peaks are better for the system overall,
19 correct?

20 A. Yes.

21 Q. And you would agree that some customers
22 will adopt new strategies to predict and manage their
23 5 CP as time progresses.

24 A. We have -- we have certainly observed
25 that ourselves, yes.

1 Q. On page 34, you state that peak load
2 during the 5 CP is lessening by as much as
3 420 megawatts. Do you see that on line 1 through 3?

4 A. I'm sorry. Which line?

5 Q. 1 through 3.

6 A. 1 through 3. On page 34?

7 Q. Yes.

8 A. Give me a moment to look at the broader
9 context of that statement.

10 Q. Of course.

11 A. Okay. I reviewed that. Could you remind
12 me what your question was?

13 Q. Sure. I just wondered if you saw that on
14 page 34, lines 1 through 3, you state that peak load
15 during the 5 CP is lessening by as much as
16 420 megawatts.

17 A. I believe I was only referring to this
18 past summer specifically with that figure.

19 Q. Okay. And you would agree with me that
20 reducing peak load is a good thing, right?

21 A. There are many factors to weigh but in
22 the abstract, yes, I would agree with that statement.

23 Q. Does FirstEnergy's load growth impact its
24 peak loads?

25 A. Maybe.

1 Q. It's true that FirstEnergy's peak load is
2 about the same as ATSI's peak load; is that right?

3 A. Can you tell me what you mean by
4 FirstEnergy? Because it spans many states outside of
5 ATSI.

6 Q. Fair point. I'm sorry. We've been at
7 this many days, so we forget to tell each witness
8 that we're referring to -- when we refer to
9 FirstEnergy in this context, I am referring to the
10 three Ohio Operating Companies.

11 A. Okay. I believe Penn Power also is
12 within the ATSI zone which is in Pennsylvania but
13 that's a very small service territory and I don't
14 profess to be an expert on it or its impact to the
15 ATSI zone.

16 Q. Fair enough. Let me reask the question.
17 Is it -- is it true that FirstEnergy Ohio Companies'
18 peak load is about the same as the ATSI peak load on
19 a 5 CP basis?

20 A. I think that's unlikely.

21 Q. Because of the Pennsylvania piece; is
22 that what you were trying to tell me?

23 A. That and, for example, Cleveland Public
24 Power, which is a very large municipal utility, is
25 not a FirstEnergy company and their -- they

1 contribute to the 5 CP along with other -- other
2 municipal utilities.

3 Q. Would FirstEnergy's forecast of load
4 growth also increase the 5 CP if NSPL billing is in
5 place?

6 A. Sorry. Can you repeat that?

7 Q. Sure. Would FirstEnergy's forecast of
8 load growth also increase the 5 CP if NSPL billing is
9 in place?

10 A. I can't speak to the metrics FirstEnergy
11 uses to forecast load growth.

12 Q. Let's look at page 42 of your testimony
13 on line 19. Here you -- you mention that
14 interruptions are called when the electric grid is in
15 a state of emergency. Do you see that?

16 A. Yes.

17 Q. Who defines a state of emergency?

18 A. The answer to that question would really
19 depend on -- on the context of what you are asking.

20 Q. Well, I am trying to understand on line
21 19 when you say "PJM or FirstEnergy issue
22 interruption notices to the customers in that
23 program, and, in particular, when the electric grid
24 is in a state of emergency." So I am referring to
25 your use of the word "state of emergency" and

1 wondering who you are referring to as calling or
2 defining the state of emergency?

3 A. Okay. Thank you for that clarification.
4 So my testimony in response to this question is in
5 the context of FirstEnergy's ELR program, and so
6 under that program, an emergency can be declared by
7 NERC, subsequently PJM, but it can also be declared
8 by FirstEnergy itself.

9 Q. Is FirstEnergy informed by PJM of a state
10 of emergency declared by PJM or NERC?

11 A. That -- that is my -- that is my belief
12 but I have no direct knowledge of how that
13 communication works between those two entities.

14 Q. In referring to your testimony, is the
15 state of emergency only for generation limitations?

16 A. The state of emergency would be based on
17 whether NERC, PJM, or FirstEnergy elected to call.

18 Q. Based on generation limitations or
19 something else?

20 A. That would be at their discretion.

21 Q. So it could be of something else.

22 A. I believe so.

23 Q. Does PJM issue calls to all demand
24 response customers during the state of emergency?

25 A. So my company Brakey Energy is not

1 involved -- directly involved in this process. But
 2 my understanding is that curtailment service
 3 providers, or CSPs, are notified by PJM; and in the
 4 instance of ELR, FirstEnergy is functioning as an
 5 ESP, and then those CSPs notify customers.

6 Q. So you believe that the call that ELR
 7 customers receive is the same as a call that a PJM
 8 demand response customer would receive from a
 9 different CSP provider?

10 A. Unless FirstEnergy, which my
 11 understanding it has the discretion to do so, elects
 12 to call an emergency interruption independent of PJM.

13 Q. Go to page 50 of your testimony, please.
 14 On page 50 here you discuss demand response payments
 15 by PJM being lower recently. Do you see that?

16 A. Are you referring to any line in
 17 particular?

18 Q. Well, it's really your discussion on
 19 lines 10 through 14.

20 EXAMINER PRICE: Can we have the question
 21 back, please?

22 (Record read.)

23 EXAMINER PRICE: Do you want to rephrase
 24 that?

25 MS. BOJKO: Yeah. Let me rephrase, your

1 Honor.

2 Q. (By Ms. Bojko) On page 50 of your
3 testimony, I believe you were testifying that demand
4 response payments by PJM are -- are lower recently;
5 is that a fair summary of your testimony?

6 A. More broadly base residual auction
7 clearing prices are low, and as an extension,
8 emergency demand response payments are low, yes.

9 Q. Does a lower capacity price and demand
10 response payment mean that PJM has procured more than
11 its required reserve margin for capacity resources?

12 A. Can you repeat that question?

13 Q. Sure. Does a lower capacity price and
14 demand response payment mean that PJM has procured
15 more than its required reserve margin for capacity
16 resources?

17 A. I don't know the answer to that question.

18 Q. Let's assume that PJM does not need more
19 capacity resources. Would that mean that it doesn't
20 need more demand response resources?

21 A. I don't believe I'm qualified to speak to
22 PJM's capacity resource needs.

23 Q. Okay. Does a customer's ability to
24 curtail go away if it doesn't participate in ELR or
25 demand response programs?

1 A. I would think ability is independent of a
2 program.

3 Q. Sure. But it doesn't really make sense
4 for them to invest in mechanisms or management tools
5 to allow them to curtail if they are not incentivized
6 to do so by participating in some kind of program; is
7 that fair?

8 A. Absent market forces, absolutely and
9 that's been my experience with my clients.

10 Q. We talked a little bit about FirstEnergy
11 versus PJM calling an event, curtailment event. Does
12 FirstEnergy or PJM issue load curtailment calls to
13 customers in the ELR program if their transmission
14 lines are overloaded?

15 A. I don't think I'm qualified to speak to
16 the criteria that FirstEnergy and PJM internally use
17 to call these curtailments. It's not something
18 I'm -- it is not a decision-making process I'm privy
19 to.

20 Q. If there was a localized state of
21 emergency, do you know whether FirstEnergy could call
22 curtailment related to a transmission line or only a
23 distribution line?

24 A. Under -- under the context of ELR?

25 Q. Yes.

1 A. My understanding is there is --
2 FirstEnergy's vested with wide discretion on when to
3 call an emergency event, so I would think it would be
4 able to do so under either scenario.

5 Q. And do you know if FirstEnergy has a
6 process for calling for curtailment from ELR
7 customers for a localized state of emergency?

8 A. I am not aware.

9 MS. BOJKO: Thank you, sir. That's all
10 the questions I have.

11 Thank you, your Honor.

12 EXAMINER PRICE: Thank you.

13 Kroger?

14 MS. CADIEUX: No questions.

15 EXAMINER PRICE: Ms. Petrucci?

16 MS. PETRUCCI: Yes, thank you, your
17 Honor.

18 - - -

19 CROSS-EXAMINATION

20 By Ms. Petrucci:

21 Q. Good afternoon, Mr. Brakey.

22 A. Good afternoon.

23 Q. I'm Gretchen Petrucci. I am here on
24 behalf of Constellation, Intervenor in this case,
25 and I have a few questions for you. Is Brakey Energy

1 a general and opt-in member of OELC?

2 A. Technically, no. It is Brakey Energy
3 Client Group which is the general and opt-in member
4 of OELC.

5 Q. And you indicated earlier that you are an
6 officer. Is it that you are the Secretary and
7 Treasurer of OELC currently?

8 A. That is correct.

9 Q. And your testimony indicates that Brakey
10 Energy provides advice to midsize to large commercial
11 and industrial customers in Ohio on energy management
12 issues in the Ohio market on page 1. I can point you
13 to the line here in just a moment if you need that.

14 A. Sounds familiar. That is correct.

15 Q. And that advice on energy management
16 issues includes ways to control the cost of energy in
17 Ohio for those customers, correct?

18 A. It's at the very heart of it.

19 Q. And that advice on energy management
20 issues includes ways to save on the cost of energy in
21 Ohio, correct?

22 A. That is correct.

23 Q. That advice also includes advising Brakey
24 Energy clients on the utility's Standard Service
25 Offer including the FirstEnergy Ohio utilities'

1 Standard Service Offer, correct?

2 A. Yes.

3 MS. PETRUCCI: At this time, your Honor,
4 I would like to mark a few documents, exhibits. And
5 if I can get confirmation I think we need to be
6 starting at Exhibit No. 6 for Constellation?

7 MR. ALEXANDER: Your Honor, that's what I
8 have, Constellation 6.

9 MS. PETRUCCI: I'm sorry. I didn't hear
10 you.

11 MR. ALEXANDER: I believe that's correct.

12 EXAMINER PRICE: Yes.

13 MS. PETRUCCI: Okay. Great. If I can
14 just have one moment.

15 EXAMINER PRICE: Take your time.

16 MS. PETRUCCI: May I approach, your
17 Honor?

18 EXAMINER PRICE: You may.

19 MS. PETRUCCI: And, your Honor, I handed
20 out five documents. I would like to mark them as
21 Constellation's Exhibits 6 through 10. The first one
22 is -- Exhibit 6 is what is titled as Ohio Energy
23 Report August 2022.

24 EXAMINER PRICE: So marked.

25 (EXHIBIT MARKED FOR IDENTIFICATION.)

1 MS. PETRUCCI: The second from
2 Constellation, Exhibit No. 7, is Ohio Energy Report
3 September 2022.

4 EXAMINER PRICE: It will also be so
5 marked.

6 (EXHIBIT MARKED FOR IDENTIFICATION.)

7 MS. PETRUCCI: Constellation Exhibit 8
8 would be the Ohio Energy Report April 2023.

9 EXAMINER PRICE: Also be so marked.

10 (EXHIBIT MARKED FOR IDENTIFICATION.)

11 MS. PETRUCCI: Constellation Exhibit 9
12 would be the Ohio Energy Report May 2023.

13 EXAMINER PRICE: That one will also be so
14 marked.

15 (EXHIBIT MARKED FOR IDENTIFICATION.)

16 MS. PETRUCCI: Constellation Exhibit 10
17 would be the Ohio Energy Report June 2023.

18 EXAMINER PRICE: That will also be so
19 marked.

20 (EXHIBIT MARKED FOR IDENTIFICATION.)

21 Q. (By Ms. Petrucci) And each of those
22 documents that I handed to you, Mr. Brakey, are
23 Ohio -- titled "Ohio Energy Reports" that are
24 prepared by Brakey Energy; isn't that correct?

25 A. That is correct.

1 Q. And if you could turn to the first one
2 marked Constellation Exhibit 6, and on the first
3 page --

4 A. That is the August 2022?

5 Q. Yes, it is.

6 A. Sorry. I had a hard time reading the
7 number on mine.

8 Q. I apologize.

9 A. That's all right.

10 Q. And if you would look at the first page
11 and the first -- actually the second paragraph on the
12 first page. Brakey Energy is advising nonresidential
13 customers at this time to avoid aggregations as the
14 pricing would exceed the SSO rates; isn't that
15 correct?

16 A. I don't think it quite that absolutely.
17 I think we say that the aggregating pricing will
18 likely significantly exceed SSO rates. I think at
19 that time it was within the realms of possibility
20 some aggregation offers would be less than the SSO
21 but most, and specifically NOPEC which we reference
22 there, was significantly higher.

23 Q. And in the last sentence there in that
24 second paragraph, this report from Brakey Energy
25 indicates that with reference to the NOPEC program

1 this is -- and I quote, "This is more than double the
2 average SSO rate for nonresidential electric
3 customers located in NOPEC member communities." Did
4 I read that correctly?

5 A. I believe so, yes.

6 Q. And then the title of that section of the
7 report, could you read that into the -- for me?

8 A. I would be happy to, "Avoid Aggregation
9 Aggravation."

10 Q. Thank you. And if you could turn to the
11 third page in this same report and under the section
12 titled "Residential Corner."

13 A. Yes.

14 Q. Could you read the first two sentences in
15 that paragraph, please.

16 A. Of the first paragraph of that section --

17 Q. Yes.

18 A. -- is that correct? "The highly
19 competitive generation offers we highlighted in the
20 past for residential customers have long disappeared.
21 We are now recommending customers with expiring
22 contracts default to the SSO until spring 2023."

23 Q. And then you -- in this report Brakey
24 Energy also indicates you would be providing further
25 recommendations at a later time, correct?

1 A. Yes.

2 Q. If we could now turn to Constellation
3 Exhibit 7. That's the Brakey Energy Ohio Energy
4 Report from September 2022. Do you have that in
5 front of you?

6 A. I do.

7 Q. Okay. At the bottom of the first page,
8 there's a reference to an interview that I believe
9 you gave to the Crain's Cleveland Business, and this
10 report includes a quote from you. Do you see that?

11 A. I do.

12 Q. Could you please read that quote?

13 A. "The auctions that determine the standard
14 service offer...are not only going to produce higher
15 prices because market prices have risen, they're
16 going to be higher because the extreme risk of the
17 standard service offer is being laid bare for all to
18 see."

19 Q. And do you recall when that interview
20 took place?

21 A. I do not.

22 Q. Presumably it was in or before --

23 A. Likely --

24 Q. Basically before September of 2022?

25 A. Likely a month before, thereabouts, more

1 or less.

2 Q. Thank you. If you could turn to
3 Constellation Exhibit 8. And on the first page of
4 this Brakey Energy report from April of 2022 -- I'm
5 sorry, 2023, the first paragraph, can you read the
6 second sentence of it, please?

7 A. "With Standard Service Offer (SSO) rates
8 skyrocketing in June, it is imperative that you, your
9 family, friends, and neighbors execute supply
10 agreements with Certified Retail Electric Service
11 suppliers."

12 Q. Thank you. And we'll now turn to
13 Constellation Exhibit No. 9 which is the Brakey
14 Energy Ohio Energy Report from May of 2023. If you
15 could turn to page 3. This report you've identified
16 specifically for the FirstEnergy Company rate changes
17 for their SSO rates in the chart on page 3, correct?

18 A. Yes, although I will note I was not the
19 author of this chart, but I did review it.

20 Q. Okay. And with that clarification, it's
21 fair to say Brakey Energy was identifying the rate
22 increase.

23 A. Yes, that is correct.

24 Q. Okay. Thank you. And at the bottom of
25 page 2, the first sentence under the heading with

1 regard to the SSO rate changes for those three
2 utilities, can you read that first sentence, please?

3 A. "Electric costs will be increasing
4 significantly on June 1 for FE and AEP customers that
5 take electric generation service under their
6 respective electric distribution utility's Standard
7 Service Offer (SSO)."

8 Q. And then finally with respect to
9 Constellation Exhibit 10, if you could turn to page
10 5. Sorry it's not numbered at the bottom, but it is
11 the page that has an orange and green chart on it.
12 Do you see that?

13 A. Yes.

14 Q. Okay. And right underneath the green
15 chart, the sentence immediately following it, could
16 you please read that?

17 A. "Despite the decrease, SSO rates remain
18 so significantly above market that virtually all
19 customers should be competitively sourcing power."

20 Q. And by "competitively sourcing power," is
21 that another way of saying customers should be
22 shopping?

23 A. Yes.

24 Q. And then under the heading "Residential
25 Corner," can you read the first sentence in the first

1 paragraph?

2 A. "Now that SSO rates have skyrocketed, it
3 is urgent that residential customers competitively
4 source power and not default to their electric
5 distribution utility."

6 Q. Thank you. And each of these reports are
7 published by Brakey Energy; is that correct?

8 A. Yes. We publish them every month.

9 MS. PETRUCCI: Thank you. I have no
10 further questions.

11 EXAMINER PRICE: Thank you.

12 Mr. Dove?

13 MR. DOVE: No questions, your Honor.

14 EXAMINER PRICE: Mr. Lavanga?

15 MR. LAVANGA: No questions, your Honor.

16 EXAMINER PRICE: Mr. Alexander?

17 MR. ALEXANDER: No questions, your Honor.

18 EXAMINER PRICE: Staff?

19 MS. BOTSCHNER-O'BRIEN: We do have a few
20 questions.

21 - - -

22 CROSS-EXAMINATION

23 By Ms. Botschner-O'Brien:

24 Q. Good afternoon, Mr. Brakey. I am Amy
25 Botschner-O'Brien on behalf of Staff. On page 1 of

1 your testimony, you state that you are President of
2 both Brakey Energy and Brakey Energy Retail, correct?

3 A. That is correct.

4 Q. And those are separate business entities,
5 correct?

6 A. They are.

7 Q. And I believe you testified in response
8 to Ms. Petrucci that there is another related entity
9 called Brakey Energy Client Group, correct?

10 A. That is correct.

11 Q. What does Brakey Energy Client Group do
12 as distinct from Brakey Energy and Brakey Energy
13 Retail?

14 A. Brakey Energy Client Group is what's
15 known as a disregarded entity for tax purposes. It
16 is a wholly-owned subsidiary of Brakey Energy, and
17 it's principally used as a vehicle to represent our
18 clients' interests in Ohio Energy Leadership Council.

19 Q. And what are your personal
20 responsibilities on behalf of Brakey Energy Client
21 Group?

22 A. Brakey Energy Client Group has no
23 employees. It's effectively an empty vessel, so I
24 have no -- I have no like direct responsibilities for
25 Brakey Energy Client Group, the company.

1 Q. Okay. You are testifying on behalf of
2 Ohio Energy Leadership Council, also known as OELC,
3 today, correct?

4 A. Correct.

5 Q. And you've testified that you are
6 currently the Secretary-Treasurer of OELC, correct?

7 A. Correct.

8 Q. What are your responsibilities as
9 Secretary-Treasurer of OELC?

10 A. I am part of a three-person Executive
11 Committee, also the Chair and Vice Chair. And the
12 term Secretary-Treasurer would, you know, suggest you
13 have secretarial and treasurer duties. We have
14 largely structured that where we are retaining
15 counsel to handle like meeting minutes and stuff, and
16 also we retain an outside accountant to help with the
17 firm finances, the group finances. So I oversee
18 those as part of my duties and then also just help
19 with the general direction of the group.

20 Q. And you previously served two terms as
21 Chairman of OELC, correct?

22 A. Correct.

23 Q. And when did you serve those terms?

24 A. I don't remember the dates.

25 Q. Do you remember the years?

1 A. No.

2 Q. What were your responsibilities as
3 Chairman of OELC?

4 MR. PROANO: Your Honor, I think this is
5 getting well outside the ESP V for FirstEnergy. I am
6 not sure where Ms. O'Brien is going with this. I
7 don't see any relevance to his past role as an
8 officer of OELC here and has nothing to do with his
9 testimony on Rider ELR or NMB.

10 MS. BOTSCHNER-O'BRIEN: This is just from
11 his website so we are sort of exploring his duties.

12 MR. PROANO: I am not sure what's
13 relevant about those past duties.

14 EXAMINER PRICE: Well, I mean, he does
15 reference he is Secretary-Treasurer at one point, so
16 I think he kind of opened the door, but I am sure
17 that Ms. O'Brien will wrap it up quickly.

18 You can answer if you know. Do you need
19 the question back?

20 THE WITNESS: Please.

21 EXAMINER PRICE: Can we have the question
22 back?

23 (Record read.)

24 A. They were -- back then the organization
25 was structured very differently than it is now,

1 different firm, I mean different everything. Back
2 then the Chairman responsibilities were very limited
3 and largely related to being a public face of the
4 organization, particularly at the Manufacturers'
5 Education Council Energy Conference as it was
6 previously discussed.

7 Q. Thank you. Let's move on. Some of the
8 ELR program participants are OELC members, correct?

9 A. Yes.

10 Q. Do you happen to know how many?

11 A. Not off the top of my head.

12 Q. You are aware that FirstEnergy's
13 proposing to reduce credits under the ELR program,
14 correct?

15 A. Correct.

16 Q. And you do not include in your testimony
17 any quantitative analysis of whether customers would
18 drop out of the ELR program as a result of
19 FirstEnergy's proposed reductions in the credits,
20 correct?

21 A. Reduction in credits and other changes as
22 well, correct.

23 Q. Okay. Turning to page 53 of your
24 testimony.

25 EXAMINER PRICE: 53?

1 MS. BOTSCHNER-O'BRIEN: I'm sorry?

2 EXAMINER PRICE: 53?

3 MS. BOTSCHNER-O'BRIEN: 53, yes.

4 Q. (By Ms. Botschner-O'Brien) There you
5 acknowledge that -- let me know when you get there.

6 A. Yeah. Which line are we at?

7 Q. Lines 4 and 5.

8 A. Okay.

9 Q. There you acknowledge you cannot quantify
10 the reliability benefits of the ELR program, correct?

11 A. That is correct.

12 Q. And then you go on to discuss estimated
13 cost savings that FirstEnergy provided related to
14 vegetation management, correct?

15 A. Correct.

16 Q. You are not suggesting that benefits from
17 vegetation management are a proxy for benefits from
18 an ELR program, are you?

19 A. I am not suggesting that.

20 Q. Okay. Still on that page, on lines 11
21 through 13, you say even if Rider ELR produces a
22 fraction of the reliability improvements that
23 FirstEnergy projects from tree trimming,
24 FirstEnergy's investment in a Rider ELR program are
25 more than worth it. Do you see that?

1 A. Yes.

2 Q. You didn't attempt to determine what that
3 fraction would be, correct?

4 A. I did not.

5 Q. And nothing in your testimony attempts to
6 compare the costs of the ELR program to the benefits,
7 correct?

8 A. I certainly did not try to quantify that.

9 Q. Okay. Thank you. Turning to page 54,
10 line 6, of your testimony, you state that FirstEnergy
11 should not limit participation in the Rider ELR
12 program. Do you see that?

13 A. Yes.

14 Q. Is it your testimony that there should be
15 no limit whatsoever on the number of customers who
16 can participate or the total curtailable load?

17 A. Other than being subject to the program
18 rules, yes.

19 Q. Is it your testimony that there should,
20 therefore, be no cap whatsoever on the amount that
21 other customers pay to fund the program?

22 A. I don't think there should be a cap, no.

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

24 That's all we have for this witness.

25 Thank you.

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EXAMINATION

By Examiner Price:

Q. I just have one follow-up question about the requirement that ELR customers -- proposed requirement the ELR customers will have to get their own curtailment service provider. Do you have any objection to that other than just the timing involved in the Commission order, or are you generally against customers having to obtain their own curtailment service provider?

A. It was mainly a timing issue. Knowing what we know about how long it takes to enroll, we just felt it wasn't feasible. And when you consider how important the program is, it just did not seem realistic to be able to throw this on CSPs in that short period of time.

Q. What would be a more realistic time frame? Would a year, the second year of the ESP be more realistic?

A. I think that would be -- if customers had a year from the time of approval to when they would be enrolled with the CSP, I think that is a reasonable time frame.

EXAMINER PRICE: Thank you very much.

1 THE WITNESS: Thank you.

2 EXAMINER PRICE: Redirect?

3 MR. PROANO: No redirect, your Honor.

4 Thank you.

5 EXAMINER PRICE: Thank you, sir. You are
6 excused.

7 THE WITNESS: Thank you.

8 EXAMINER PRICE: At this time we will
9 take up the motions to admit OELC 32 and 32C. Any
10 objections to the admission?

11 Seeing none, it will be admitted.

12 (EXHIBITS ADMITTED INTO EVIDENCE.)

13 EXAMINER PRICE: OELC also filed a motion
14 for protective order with respect to OELC 32C. Any
15 objection to granting the protective order?

16 Seeing none, it will be granted.

17 MS. PETRUCCI: At this time, your Honor,
18 I would like to move for the admission of
19 Constellation Exhibits 6 through 10.

20 EXAMINER PRICE: Any objection to the
21 admission of Constellation Exhibits 6, 7, 8, 9, and
22 10?

23 Seeing none, they will be admitted.

24 (EXHIBITS ADMITTED INTO EVIDENCE.)

25 MS. PETRUCCI: Thank you.

1 EXAMINER PRICE: I believe that is all
2 the witnesses we have for today. Let's adjourn until
3 tomorrow at 9:30.

4 MR. FINNIGAN: Your Honor, before we go
5 off the record, I have a schedule update. Previously
6 we had OCC Witness Richard Hasselman was slated to
7 testify on December 4 and there were two parties who
8 had indicated they wanted to cross-examine him, Staff
9 and OPAC. And I have since heard that they have now
10 decided they don't need to cross-examine him, and I
11 would, therefore, ask that he be excused from
12 appearing live at the hearing and that his testimony
13 be admitted into the record.

14 EXAMINER PRICE: He will be excused from
15 attending the hearing, and when you bring in his
16 testimony, we will admit it at that time.

17 MR. FINNIGAN: I have it right here.

18 EXAMINER PRICE: Perfect.

19 MR. FINNIGAN: Your Honor, at this time I
20 would ask that Mr. Richard Hasselman's prefiled
21 testimony be marked for identification as OCC
22 Exhibit 3, and I previously distributed that.

23 (EXHIBIT MARKED FOR IDENTIFICATION.)

24 EXAMINER PRICE: Any objection to the
25 admission of OCC Exhibit 3?

1 Seeing none, it will be admitted.

2 (EXHIBIT ADMITTED INTO EVIDENCE.)

3 MR. FINNIGAN: Thank you, your Honor.

4 EXAMINER PRICE: Anything else?

5 Okay. Now at this time we will adjourn

6 for the day. We will reconvene tomorrow at 9:30.

7 We are off the record.

8 (Thereupon, at 1:02 p.m., the hearing was
9 adjourned.)

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CERTIFICATE

I do hereby certify that the foregoing is
a true and correct transcript of the proceedings
taken by me in this matter on Tuesday, November 28,
2023, and carefully compared with my original
stenographic notes.

Karen Sue Gibson, Registered
Merit Reporter.

(KSG-7552)

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**This foregoing document was electronically filed with the Public Utilities
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12/11/2023 8:42:20 AM

in

Case No(s). 23-0301-EL-SSO

Summary: Transcript of Ohio Edison Company, CEI and The Toledo Edison Company hearing held on 11/28/23 - Volume IX electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs..