

BEFORE THE PUBLIC UTILITIES

COMMISSION OF OHIO

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In the Matter of the :
 Application of Ohio Edison:
 Company, The Cleveland :
 Electric Illuminating :
 Company, and The Toledo :
 Edison Company for : Case No. 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. :

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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 9:30
 a.m. on Wednesday, November 29, 2023.

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VOLUME X

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ARMSTRONG & OKEY, INC.
 222 East Town Street, Second Floor
 Columbus, Ohio 43215-5201
 (614) 224-9481

- - -

1 APPEARANCES:

2 Benesch, Friedlander, Coplan & Aronoff, LLP
 3 By Mr. N. Trevor Alexander
 4 and Mr. Mark T. Keaney
 41 South High Street, 26th Floor
 4 Columbus, Ohio 43215

5 FirstEnergy Service Company
 5 By Mr. Brian Knipe
 6 and Ms. Christine E. Watchorn
 76 South Main Street
 7 Akron, Ohio 44308

8 On behalf of the Applicants.

9 Boehm, Kurtz & Lowry
 9 By Mr. Michael Kurtz
 10 and Ms. Jody Kyler Cohn
 36 East 7th Street, Suite 1510
 11 Cincinnati, Ohio 45202

12 On behalf of the Ohio Energy Group.

13 Carpenter Lipps, LLP
 13 By Ms. Kimberly W. Bojko
 14 and Ms. Emma Easley
 280 North High Street, Suite 1300
 15 Columbus, Ohio 43215

16 On behalf of the Ohio Manufacturers'
 16 Association Energy Group.

17 Hubay Dougherty LLC
 18 By Mr. Trent Dougherty
 1391 Grandview Avenue
 19 Columbus, Ohio 43212

20 On behalf of the Citizens Utility Board
 20 Of Ohio.

21 Kegler, Brown, Hill & Ritter
 22 By Mr. Robert Dove
 23 and Mr. Nicholas S. Bobb
 65 East State Street, Suite 1800
 24 Columbus, Ohio 43215

25 On behalf of the Ohio Partners for
 25 Affordable Energy.

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24
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APPEARANCES: (Continued)

Bricker Graydon LLP
By Mr. Devin D. Parram
and Ms. Rachael Mains
100 South Third Street
Columbus, Ohio 43215

On behalf of the Ohio Hospital
Association.

Spilman, Thomas & Battle, PLLC
By Ms. Carrie Grundmann
and Mr. Joseph C. Unger
110 Oakwood Drive, Suite 500
Winston-Salem, North Carolina 27103

On behalf of Walmart, Inc.

Interstate Gas Supply, LLC
By Mr. Evan Betterton,
Ms. Stacie Cathcart,
Mr. Michael Nugent,
and Mr. Joseph Olikier
6100 Emerald Parkway
Dublin, Ohio 43016

On behalf of the Interstate Gas Supply,
Inc.

Environmental Law & Policy Center
By Ms. Erica McConnell
21 West Broad Street
Columbus, Ohio 43215

On behalf of the Environmental Law &
Policy Center.

Carpenter Lipps, LLP
By Ms. Angela Paul Whitfield
280 North High Street, Suite 1300
Columbus, Ohio 43215

On behalf of The Kroger Company.

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APPEARANCES: (Continued)

One Energy Enterprises, Inc.
By Mr. James D. Dunn
12385 Township Road 215
Findlay, Ohio 45840

On behalf of the One Energy Enterprises,
Inc.
McNees, Wallace & Nurick
By Mr. Matthew R. Pritchard,
Ms. Avery L. Walke,
and Mr. Todd A. Long
250 West Street
Columbus, Ohio 43215

On behalf of the Retail Energy Supply
Association.
Baker & Hostetler LLP
By Mr. David Proano
and Mr. Paul M.M. Willison
127 Public Square
Cleveland, Ohio 44114

On behalf of the Ohio Energy Leadership
Council.
Maureen Willis, Ohio Consumers' Counsel
By Mr. John Finnigan,
Mr. William Michael,
and Mr. Robert Eubanks,
Assistant Consumers' Counsel
65 East State Street, 7th Floor
Columbus, Ohio 43215

On behalf of the Residential Utility
Consumers of Ohio Edison Company, The
Cleveland Electric Illuminating Company,
and The Toledo Edison Company.
Mr. Thomas R. Hays
8355 Island Lane
Maineville, Ohio 45039

On behalf of the Northwest Ohio
Aggregation Coalition.

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APPEARANCES: (Continued)

Vorys, Sater, Seymour and Pease, LLP
By Mr. Michael Settineri,
Ms. Gretchen Petrucci,
and Ms. Anna Sanyal
52 East Gay Street
Columbus, Ohio 43215

On behalf of the Constellation Energy
Generation, LLC, and Constellation
NewEnergy, Inc.

Bricker Graydon LLP
By Mr. Dane Stinson
100 South Third Street
Columbus, Ohio 43215

Northeast Ohio Public Energy Council
By Mr. Glenn S. Krassen,
General Counsel
31360 Solon Road, Suite 33
Solon, Ohio 44139

On behalf of the Northeast Ohio Public
Energy Council.

Stone Mattheis Xenopoulos & Brew, PC
By Mr. Michael K. Lavanga
and Mr. Joseph Briscar 1025
Thomas Jefferson St., NW
8th Floor West Tower
Washington, D.C. 20007

On behalf of the Nucor Steel Marion, Inc.

NRG Retail Companies
By Mr. Bryce A. McKenney
3060 Kent Road
Silver Lake, Ohio 44224

Calfee, Halter & Griswold LLP
By Mr. James F. Lang
and Mr. Matthew B. Barbara
1405 East Sixth Street
Cleveland, Ohio 44114

On behalf of the NRG Retail Companies.

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APPEARANCES: (Continued)

Whitt Sturtevant LLP
By Mr. Mark A. Whitt
88 East Broad Street, Suite 1590
Columbus, Ohio 43215

On behalf of the Calpine Retail Holdings,
LLC.

Law Offices of Attorney Joseph
Patrick Meissner
By Mr. Joseph Patrick Meissner
2234 West Boulevard
Cleveland, Ohio 44102

On behalf of the Utilities for All and
Citizens Coalition.

Mr. Brian Gibbs
250 West Street, Suite 150
Columbus, Ohio 43215

On behalf of the Nationwide Energy
Partners and Armada Power, LLC.

Vorys, Sater, Seymour and Pease, LLP
By Mr. Elia Woyt
50 South Main Street, Suite 1200
Akron, Ohio 44308

On behalf of the Utica East Ohio
Midstream, LLC.

Dave Yost, Ohio Attorney General
By Mr. Thomas Lindgren,
Ms. Rhiannon Howard,
and Ms. Amy Botschner O'Brien,
Assistant Attorneys General
30 East Broad Street, 26th Floor
Columbus, Ohio 43215

On behalf of the Staff of the PUCO.

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RESA/IGS EXHIBITS

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Wednesday Morning Session,
November 29, 2023.

- - -

EXAMINER PRICE: Let's go on the record.
Good morning. The Public Utilities Commission has
set for hearing at this time and place Case No.
23-301-EL-SSO, being In the Matter of the Application
of Ohio Edison Company, The Cleveland Electric
Illuminating Company, and the Toledo Edison Company
for Authority to Provide For a Standard Service Offer
Pursuant to Revised Code 4928.143 in the Form of an
Electric Security Plan.

My name is Gregory Price. With me are
Megan Addison and Jackie St. John. We are the
Attorney Examiners assigned to preside over today's
hearing. This is our tenth day of hearing in this
matter.

Before we take our first witness we had
one housekeeping matter. On November 27th, 2023, a
motion was filed on behalf of Nicholas Wallace to
appear pro hoc vice. At this time we'll grant the
motion.

MS. MC CONNELL: Thank you, your Honor.
Would you like Mr. Wallace to make a formal
appearance on the record?

1 EXAMINER PRICE: Sure.

2 MR. WALLACE: Good morning, your Honor.

3 Nicholas Wallace appearing on behalf of the
4 Environmental Law and Policy Center.

5 EXAMINER PRICE: Thank you. RESA, would
6 you like to call your next witness?

7 MR. PRITCHARD: Yes, RESA/IGS would call
8 their joint witness Mr. Matt White.

9 EXAMINER PRICE: Do you swear the
10 testimony you give is the truth, the whole truth, and
11 nothing but the truth?

12 THE WITNESS: Yes.

13 EXAMINER PRICE: Please be seated. And
14 state your name and business address for the record.

15 THE WITNESS: My name is Matthew White,
16 and my business address is 6100 Emerald Parkway,
17 Dublin, Ohio 43212. I think that's the right ZIP
18 code.

19 EXAMINER PRICE: Please proceed.

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

22 EXAMINER PRICE: You may.

23 MR. PRITCHARD: Your Honors, I'd like to
24 have the direct testimony of Mr. White marked as
25 Joint RESA/IGS Exhibit 1, and the other document,

1 which is an errata to that testimony, marked as
2 RESA/IGS Joint Exhibit 2.

3 EXAMINER PRICE: It will be so marked.
4 (EXHIBITS MARKED FOR IDENTIFICATION.)

5 - - -

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

9 DIRECT EXAMINATION

10 By Mr. Pritchard:

11 Q. Mr. White, do you have in front of you a
12 document titled the Direct Testimony of Matthew White
13 on Behalf of Interstate Gas Supply, LLC, and the
14 Retail Energy Supply Association?

15 A. Yes.

16 Q. Is this your direct testimony in this
17 matter?

18 A. Yes.

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

21 A. Yes, I do.

22 Q. Could you state those for the record?

23 A. Yes. On page 8, lines 4 through 5, I
24 deleted "but FirstEnergy only writes off the portion
25 that relates to generation charges if the customer is

1 served under the SSO."

2 On page 8, line 4, I replace the comma
3 with a period at the end of the sentence.

4 On page 9, line 3, I insert at the
5 beginning of the answer, "I support the continuation
6 of Rider NDU as proposed in the Application. If
7 Non-Distribution" -- period. "If Non-Distribution
8 Uncollectible Rider (Rider NDU) was discontinued."

9 Page 9, line 3, I replace "First" --
10 capital "First" -- "First" with a capital F,
11 with "first" with a lower case F.

12 Page 9, line 3, I replace "are" with
13 "would be."

14 Page 9, line 16 through 17, I replace,
15 "removing all uncollectible generation expenses
16 related to the SSO from distribution rates," with,
17 "continuing Rider NDU as proposed in the
18 Application."

19 Page 9, I insert in Footnote 2 at the
20 bottom of the page, "Direct Testimony of Dhara Patel,
21 at 2."

22 And page 12, line 6, I replace "out-out"
23 with "opt out."

24 Page 13, line 5, I replace "appliance"
25 with "application."

1 A. Good morning.

2 Q. My name is Nick Wallace. I'm an
3 attorney with the Environmental Law and Policy
4 Center. I'm going to ask you a few questions this
5 morning. Do you have a copy of your direct testimony
6 in front of you there?

7 A. Yes, I do.

8 Q. So let's start on page 11 of your
9 testimony. Beginning on line 11 you state, "R.C.
10 4928.02 reflects a policy that EDUs should operate as
11 'wires only' companies in providing noncompetitive
12 distribution services, and that competitive services
13 should be provided through the competitive market,"
14 correct?

15 A. Yes.

16 Q. Can you define competitive services as
17 you use it in that sentence?

18 A. I've used competitive services as any
19 service that is not a distribution service, that is
20 not appropriate to be provided by a vertically
21 integrated monopoly utility.

22 Q. Do there need to be multiple entities
23 offering a service for that service to be
24 competitive?

25 A. Generally speaking, yes.

1 Q. So FirstEnergy stopped offering its
2 energy efficiency programs to customers in Ohio at
3 the end of 2020, correct?

4 A. I'm not sure of the exact date, but that
5 sounds about right.

6 Q. Okay. So in theory, if energy
7 efficiency is a competitive service, 2021 and 2022
8 would have been a good time for CRES providers to
9 offer energy efficiency programs?

10 A. Is that a question?

11 Q. Yes. Is that correct?

12 A. Can you restate the question, please?

13 Q. So in theory, because FirstEnergy
14 stopped offering its energy efficiency programs in
15 Ohio at the end of 2020, 2021 and 2022 would have
16 been a good time for CRES providers to offer energy
17 efficiency programs?

18 A. I don't know if I can affirm or deny
19 that statement.

20 Q. Okay. Let's skip ahead to page 14 of
21 your testimony.

22 A. Okay. Go ahead.

23 Q. Beginning at line 18 you testify, "IGS
24 also offers customers, and the marketplace in
25 general, a variety of products and services to meet

1 the sustainability demands of customers," correct?

2 A. Can you repeat the question?

3 Q. Beginning at line 18 you state, "IGS
4 also offers customers, and the marketplace in
5 general, a variety of products and services to meet
6 the sustainability demands of customers," correct?

7 A. Yes.

8 Q. And then you list several examples of
9 products and services that IGS offers, correct?

10 A. Yes.

11 Q. So let's go through some of those. You
12 mention 100 percent renewable retail electric supply
13 contract, correct?

14 A. Yes.

15 Q. Are 100 percent renewable retail
16 electric supply contracts energy efficiency?

17 A. It is a product or service that meets
18 the needs -- meets the sustainability demands of
19 customers.

20 Q. But it is not energy efficiency, is it?

21 A. Generally speaking, renewable products
22 aren't considered energy efficiency.

23 Q. Sorry. Did you say renewable products
24 are not considered energy efficiency?

25 A. Generally speaking.

1 Q. Okay. And you also say that you offer
2 onsite solar solutions for residential and
3 nonresidential customers, correct?

4 A. Yes.

5 Q. And that's not energy efficiency either,
6 is it?

7 A. I would characterize that as an energy
8 efficiency product.

9 Q. You would characterize onsite solar as
10 an energy efficiency product?

11 A. Yes.

12 Q. And you state that you've also installed
13 CHP generation for a municipality that is used as a
14 place of shelter with power during emergency events,
15 correct?

16 A. Yes.

17 Q. And that is not energy efficiency, is
18 it?

19 A. That is energy efficiency. In fact, we
20 actually had a program that offered, through the
21 energy efficiency programs in Ohio, a payment to
22 install CHP because it was energy efficiency.

23 Q. So when you testified that energy
24 efficiency is a competitive service, do you
25 understand that to include something like onsite

1 solar for residential customers?

2 A. Onsite solar directly reduces the
3 demands of the customer's energy, so yes, I would
4 characterize that as energy efficiency.

5 Q. And then the other item you list is LED
6 lighting, correct?

7 A. Yes.

8 Q. Is that LED lighting for residential or
9 commercial customers?

10 A. I think LED lighting is an energy
11 efficiency product for both residential and
12 commercial customers.

13 Q. I'm sorry. To clarify, does IGS offer
14 residential -- offer LED lighting for residential or
15 commercial customers?

16 A. Currently IGS only offers for
17 commercial, although I'm aware of numerous retail
18 energy suppliers that also offer it for residential.

19 Q. So IGS only offers it for commercial?

20 A. Currently IGS only offers it for
21 commercial.

22 Q. What is IGS' budget for energy
23 efficiency programs in Ohio for 2023?

24 MR. PRITCHARD: Objection. I believe to
25 the extent the witness knows this would be a

1 confidential trade secret, that should be handled in
2 a confidential session.

3 EXAMINER PRICE: Do you have a
4 protective agreement with ELPC?

5 MR. PRITCHARD: We do not.

6 MS. NORDSTROM: Your Honor, I would note
7 that OEC reached out to IGS and offered to sign a
8 protective agreement, and they said that they didn't
9 see that as necessary.

10 MR. OLIKER: Your Honor, I
11 understand that --

12 EXAMINER PRICE: Mr. Oliker, you only
13 get one attorney per witness.

14 MR. OLIKER: I'll let him try to answer
15 it. I'm not sure if he knows the answer to the
16 response.

17 MR. PRITCHARD: So as I understand
18 counsel for OEC's response, that was in response to
19 discovery served on IGS, not RESA.

20 I understand Matt White is here on
21 behalf of both parties, but I believe the email chain
22 that was as Ms. Nordstrom indicated, that there was
23 an offer of a confidentiality agreement and that
24 there was followup communications from IGS' in-house
25 counsel, but that there was never any followup after

1 that.

2 So we're -- the discovery, as far as I'm
3 aware, left off as the last email was from IGS'
4 counsel, and I don't know -- I can't speak because I
5 wasn't on the emails about whether a confidentiality
6 agreement was or was not resolved, and how it was
7 resolved.

8 EXAMINER PRICE: Let's go off the
9 record.

10 (Discussion off the record.)

11 EXAMINER PRICE: Let's go back on the
12 record. Would you care to rephrase your question?
13 By Mr. Wallace:

14 Q. Mr. White, do you know IGS' budget for
15 residency energy efficiency programs in Ohio in 2024?

16 A. I do not.

17 Q. Thank you. Can you give us a savings
18 estimate for IGS' residential energy efficiency
19 programs in Ohio?

20 A. I have not done that analysis.

21 Q. IGS does not currently offer residential
22 customers in Ohio rebates on Smart Thermostats,
23 correct?

24 A. I know we have in the past, but I do not
25 know if we are doing it now. We may, but I'm not

1 sure.

2 Q. Does IGS currently offer residential
3 customers in Ohio the opportunity to participate in a
4 Demand Response Program?

5 A. Can you repeat the question, please?

6 Q. Does IGS currently offer residential
7 customers in Ohio the opportunity to participate in a
8 Demand Response Program?

9 A. We offer commercial customers the
10 opportunity, but I do not believe we offer
11 residential customers.

12 EXAMINER PRICE: Is there a structural
13 issue, in terms of residential customers, to the
14 ability to bid into PJM, or is this just something
15 that -- a decision you have not made yet?

16 THE WITNESS: It's from a practical
17 standpoint you can't -- IGS can't monetize the demand
18 response from residential because of PJM.

19 EXAMINER PRICE: But that could change
20 in the future?

21 THE WITNESS: Hopefully it would. You
22 know, I'm not as familiar with the ongoings of PJM,
23 but I've been aware of certain requests or asks to
24 allow for a residential demand response like Smart
25 Thermostat program, load reduction, but I don't think

1 PJM has gotten to that at this point for just a
2 market participant to be able to do that.

3 EXAMINER PRICE: Do you consider Smart
4 Thermostats to be an effective means for a customer
5 to manage their load?

6 THE WITNESS: It is one of many that the
7 customers can utilize to manage the load, but
8 certainly is not the only one that the customer can
9 use.

10 EXAMINER PRICE: Thank you. Thank you,
11 Mr. Wallace.

12 MR. WALLACE: Could I just have a few
13 seconds to talk to counsel?

14 EXAMINER PRICE: Yes.

15 (Discussion off the record.)

16 EXAMINER PRICE: Go back on the record.
17 Mr. Wallace.

18 By Mr. Wallace:

19 Q. A few more questions here. Can we turn
20 to page 12 of your testimony?

21 A. Yes.

22 Q. At line 4 you state, "In 2019, the
23 General Assembly again intervened to change the law
24 with respect to the EE/PDR mandates by providing
25 additional opt-out opportunities for customers and

1 directing the Commission to end the EDU run EE/PDR
2 portfolio plans once certain achievement criteria had
3 been achieved (cumulative EE savings of 17.5
4 percent)." Correct?

5 A. Yes.

6 Q. This is an ESP case, correct?

7 A. No, the Commission -- I mean, the
8 legislature passed the law.

9 Q. But this case, this proceeding, is an
10 ESP proceeding?

11 A. You're talking about this proceeding?
12 Yes. It's an SSO.

13 Q. Are you familiar with Section 4928.143
14 of the Ohio Revised Code which is titled "Application
15 For Approval of Electric Security Plan"?

16 A. Can you repeat that question, please?

17 Q. Are you familiar with Section 4928.143
18 of the Ohio Revised Code which is titled "Application
19 For Approval of Electric Security Plan"?

20 A. I am at a high level. I've read a lot
21 of code in my life, so I don't remember every single
22 detail of every piece of code, but yes, that sounds
23 vaguely familiar to me.

24 Q. Sure.

25 MR. WALLACE: Your Honor, I'm going to

1 walk through some sections of this code for the next
2 few questions. I have printout copies of it here to
3 refresh the witness' memory, if that would be
4 helpful.

5 EXAMINER PRICE: That's fine.

6 MR. PRITCHARD: Your Honor, I don't know
7 that I have an objection about showing him the
8 document and asking questions, but I would just note
9 that -- the standard objection that Mr. White is here
10 as a nonlawyer to testify about expert regulatory
11 opinions.

12 EXAMINER PRICE: I think I understand
13 what you're saying, and yes, although Mr. White is an
14 accomplished lawyer, he is not here to render legal
15 opinions, but he is certainly capable of testifying
16 as a regulatory expert.

17 MR. PRITCHARD: Thank you.

18 By Mr. Wallace:

19 Q. Okay. So we're looking at Section
20 4928.143 of the Ohio Revised Code. Subsection (B)
21 (2), of that code states that, "The plan may provide
22 for or include, without limitation, any of the
23 following," correct?

24 A. Excuse me, I'm trying to find it. Yes.

25 Q. And one of those subsections beneath

1 (B) (2), Subsection (i), says, "Provisions under which
2 the electric distribution utility may implement
3 economic development, job retention, and energy
4 efficiency programs, which provisions may allocate
5 program costs across all classes of customers of the
6 utility and those of electric distribution utilities
7 in the same holding company system," correct?

8 A. I have to find it. Can you repeat that,
9 please?

10 Q. Sure. And it looks like it's on page 4
11 of the printout there.

12 A. Okay. Thank you.

13 Q. So one of the subsections beneath
14 Section (B) (2), Subsection (i) says, "Provisions
15 under which the electric distribution utility may
16 implement economic development, job retention, and
17 energy efficiency programs, which provisions may
18 allocate program costs across all classes of
19 customers of the utility and those of electric
20 distribution utilities in the same holding company
21 system," correct?

22 A. Yes.

23 Q. In your opinion, does Section 4928.143
24 of the Ohio Revised Code apply to this case?

25 A. I'd have to read the entire statute and

1 do a little more legal analysis to be able to render
2 that opinion.

3 Q. So you can't say, sitting here today,
4 that that section applies to this case?

5 A. Reading two random provisions in the
6 statute, I can't in good conscious or good faith
7 render any kind of legal opinion about the statute
8 and whether or not it applies to this particular
9 case.

10 EXAMINER PRICE: So just to be clear,
11 we're not asking for a legal opinion, we're asking
12 for your opinion as a regulatory expert.

13 Nonetheless, I also acknowledge that
14 refreshing the recollection was not exactly according
15 to Hoyle there, so if you can answer the question as
16 a regulatory expert.

17 THE WITNESS: Let me think through the
18 statutes.

19 EXAMINER PRICE: Let me rephrase it.
20 Has -- set aside the statue. I mean, looking at
21 that, does that refresh your recollection as to what
22 the statute provides?

23 THE WITNESS: I do believe, yes, I think
24 there's a provision in the code that allows for a
25 utility to apply for energy efficiency, yes.

1 EXAMINER PRICE: Okay. Thank you.

2 MR. WALLACE: Thank you.

3 THE WITNESS: Whether or not it's
4 applicable to this case, whether they have done it
5 correctly, whether, you know, they met the burden or
6 the standard, I mean, there's a lot that goes into a
7 code section, so you can't make just a blanket
8 statement like that.

9 By Mr. Wallace:

10 Q. Just one more question for you here.

11 You mentioned earlier that you consider
12 onsite solar solutions for residential and
13 nonresidential customers to be energy efficiency.

14 Can you give me any ballpark of how many
15 onsite solar installations for residential customers
16 IGS has conducted?

17 MR. PRITCHARD: Before the witness --
18 objection. Before the witness answers I would
19 request that he identify for us if that is a trade
20 secret.

21 THE WITNESS: I don't think that's a
22 trade secret.

23 MR. PRITCHARD: Then I withdraw my
24 objection.

25 EXAMINER PRICE: Thank you.

1 THE WITNESS: We have done over 30,000
2 residential installs.

3 By Mr. Wallace:

4 Q. And is that in Ohio specifically?

5 A. No, throughout the country.

6 Q. Do you have that figure in Ohio
7 specifically?

8 A. I don't know the exact number in Ohio.
9 I know we're doing several hundred a year in Ohio.

10 MR. WALLACE: Thank you. That's all,
11 your Honor. Thank you.

12 EXAMINER PRICE: Thank you. OEC?

13 MS. NORDSTROM: Yes. Thank you, your
14 Honor.

15 - - -

16 CROSS-EXAMINATION

17 By Ms. Nordstrom:

18 Q. Hi, Mr. White.

19 A. Hi.

20 Q. My name is Karen Nordstrom. I represent
21 the Ohio Environmental Council. I have some
22 questions for you today.

23 So if you go to page 10, lines 21
24 through 22, and this spills into page 11, lines 1
25 through 2, you testify that distribution service is

1 commonly understood to include low-voltage wires,
2 transformer, poles, and related plant equipment,
3 correct?

4 A. Can you repeat that? I'm just now on
5 page 10, so can you point me to the specific section
6 you're referring to again?

7 Q. Of course. So it's page 10, starts at
8 Line 21, goes into page 11, lines 1 through 2.

9 A. Okay.

10 Q. And you testified that distribution
11 service is commonly understood to include low-voltage
12 wires, transformers, poles, and related plant
13 equipment?

14 A. Yes.

15 Q. And FirstEnergy has the sole
16 responsibility for that equipment?

17 A. They have -- that is their
18 responsibility. I wouldn't necessarily say it's the
19 sole responsibility of FirstEnergy.

20 Q. Okay. They have the responsibility.
21 Does IGS have responsibility for that equipment?

22 A. Generally speaking, no, we do not
23 service that equipment.

24 Q. Okay. And so FirstEnergy has the
25 responsibility for reliability on this distribution

1 equipment?

2 A. Yes, that's one of the responsibilities.

3 Q. And IGS does not have responsibility for
4 reliability on this distribution equipment?

5 A. We contribute to reliability by offering
6 energy efficiency. Whether you want to consider that
7 a responsibility or not, I would say yes, we do have
8 a responsibility.

9 Q. Okay. So let me use a hypothetical
10 here. There is a massive outage over this Christmas
11 holiday, electrical outage.

12 A. Yes.

13 Q. And a lot of people are upset, they want
14 answers about why their holiday was disrupted, they
15 demand the PUCO to do an investigation. Who does the
16 PUCO investigate?

17 A. You'll have to ask the PUCO.

18 Q. Okay. Would you expect as part of IGS
19 to be called in as part of that investigation?

20 A. I would hope not, but I don't know.

21 Q. Okay. And so going back to the
22 reliability of distribution equipment, that
23 reliability depends on a number of factors, correct?

24 A. I would say yes.

25 Q. And that includes, as you alluded to in

1 your earlier answer, the amount of electricity the
2 equipment is required to deliver at any one time?

3 MR. PRITCHARD: Objection.

4 EXAMINER PRICE: Grounds?

5 MR. PRITCHARD: Mr. White is not here as
6 a reliability expert. I understand that counsel
7 might be trying to bring this back to a hypothetical
8 of something, but at this point I don't -- asking
9 Mr. White to testify about reliability issues before
10 qualifying him as an expert on that, unless this is
11 the same hypothetical, I would just object.

12 MS. NORDSTROM: Your Honor, if I may,
13 Mr. White is a regulatory expert, he's here
14 discussing demand response program, he has in his
15 testimony specifically discussed the difference
16 between distribution and competitive services, and
17 I'm just trying to tease out what he sees as
18 distribution and the scope of responsibility of the
19 distribution.

20 EXAMINER PRICE: Objection is overruled.
21 He even said he considered reliability to be part of
22 their responsibility, so overruled.

23 MS. NORDSTROM: Thank you, your Honor.

24 THE WITNESS: Can you repeat the
25 question, please?

1 MS. NORDSTROM: Absolutely.

2 By Ms. Nordstrom:

3 Q. So we discussed that the reliability of
4 distribution equipment depends on a number of
5 factors, and those factors -- my question was those
6 factors could include the amount of electricity this
7 equipment is required to deliver at any one time?

8 A. That could be a factor.

9 Q. And too much electrical load on this
10 equipment can lead to failures and outages?

11 A. Yes.

12 Q. Okay. And one aspect that affects the
13 load on the grid is the amount of consumer demand?

14 A. Yeah, it's a matter of supply and
15 demand.

16 Q. Okay. Thank you. So staying on page
17 11, going to line 11 of your testimony, you mention
18 ORC 4928.02, which lays out the PUCO's policy,
19 correct?

20 A. Yes, I reference 4928.02.

21 EXAMINER PRICE: If you could rephrase
22 that. It's not the PUCO's policy, it's the policy of
23 the State.

24 MS. NORDSTROM: Thank you, your Honor,
25 of course.

1 By Ms. Nordstrom:

2 Q. Which -- Section 4928.02 is titled State
3 Policy, correct?

4 A. I don't remember what the title is, but
5 it's my understanding that it's identified as State
6 Policy.

7 Q. Yes. Thank you.

8 And so on line 11 you have the phrase
9 "wires only" in quotes.

10 A. Yes.

11 Q. Is that a quote from 4928.02?

12 A. I'd have to see the statute, but I don't
13 believe that's actually in the statute, I believe
14 that's just a quote, air quote, kind of how we've
15 used the phrase wires only as part of the vernacular
16 in our industry.

17 Q. Okay. Would you prefer to look at the
18 section and refresh your recollection first?

19 A. I will -- I will -- I don't believe it
20 is, but if you want me to verify it through looking
21 at the statute, you can.

22 Q. Okay. That's fine. You don't believe
23 it is?

24 A. I don't believe it's actually in the
25 statute.

1 Q. Okay. And then you discussed with
2 ELPC's counsel that Ohio law used to require
3 utilities to run energy efficiency programs, correct?

4 A. Yes, there was a requirement that was
5 repealed by the Ohio legislature that they operate --
6 utilities operate an energy efficiency program.

7 Q. And was IGS operating in Ohio during the
8 time utilities were running the programs?

9 A. Yes, we were.

10 Q. Okay. So I want to revisit a discussion
11 you were having with ELPC's counsel about onsite
12 solar.

13 So you mentioned that onsite solar is
14 energy efficiency because it directly reduces the
15 demand of a consumer's -- a consumer's demand?

16 A. Yes.

17 Q. And so the onsite solar that IGS is
18 installing, is that net metered solar for those
19 consumers?

20 A. Usually it's net metered, yes.

21 Q. Okay. So is it reducing the customer's
22 demand, or is it adding generation?

23 A. It's both.

24 Q. Okay. So it's adding generation to
25 offset the customer's demand, correct?

1 A. It's reducing the demand because most of
2 the consumption -- a large percentage of the
3 production is self-consumed, so the customer -- if
4 you look at the net demand of the customer on the
5 grid, it's reduced by having solar on the roof.

6 Although some of it is delivered back
7 into the grid when the customer is not using as much
8 as its solar panels are producing, that's when it's
9 net metered.

10 A large percentage of the power is
11 actually going towards reducing the customer's demand
12 through self-consumption.

13 Q. Okay. And you also stated to ELPC's
14 counsel that you're aware of numerous other CRES
15 providers that offer lighting for residential
16 customers, but IGS is not?

17 MR. PRITCHARD: Objection.

18 EXAMINER PRICE: Grounds?

19 MR. PRITCHARD: I believe the use of
20 numerous misstates prior testimony. I believe
21 Mr. White said that he's aware that other CRES offer
22 it, I don't know that he used the term numerous.

23 MS. NORDSTROM: Your Honor, I wrote it
24 down contemporaneously, but I'm happy to rephrase.

25 EXAMINER PRICE: Thank you.

1 By Ms. Nordstrom:

2 Q. So, Mr. White, you discussed with ELPC's
3 counsel that you were aware of other CRES providers
4 that offer LED lighting for residential customers,
5 but IGS does not?

6 A. Yes.

7 Q. Those other CRES providers, are any of
8 those in Ohio?

9 A. I don't know.

10 Q. Okay. And you have personal knowledge
11 of -- that they are providing these?

12 A. I know that there are CRES providers
13 that are providing LED lighting as a product
14 offering.

15 There are vendors that affectively allow
16 for -- to send -- we have been approached by many of
17 these vendors to basically every time there's an
18 enrollment there's an LED light bulb sent to the
19 customer's house, they offer that specifically for
20 CRES providers.

21 We have chosen not to utilize that
22 program, but there are many CRES providers that do
23 utilize that program.

24 Q. So your personal knowledge is that there
25 are vendors out there that offer this program, and so

1 you assume that other CRES providers take them up on
2 it?

3 A. Yes, CRES providers do take them up on
4 it. I go to the trade shows, I see that they are
5 practically marketing CRES providers -- to provide
6 that service to CRES providers, we just have not
7 either done it through a third party vendor or
8 through direct.

9 Q. Okay. Thanks. And so then I want to go
10 to a discussion you were having with Attorney
11 Examiner Price, and you said that you do not know
12 when PJM will be able to monetize demand response for
13 residential customers in a way that would allow IGS
14 to enter the demand response market, is that an
15 accurate --

16 A. Yes, fair summary.

17 Q. So sitting here today, you do not know
18 when IGS will be able to manage -- enter the demand
19 response market?

20 A. So to be clear, it depends -- through
21 PJM, I don't know. There's state programs that offer
22 demand response through battery technology, not in
23 Ohio, but we're working -- we're not currently
24 participating in, but we're working to get into.

25 So I don't -- you know, specifically

1 through PJM, I do not know when PJM is going to allow
2 for an entity like IGS to bid in residential demand
3 response, but not all demand response is done through
4 PJM.

5 Q. Thank you. And so then just one more
6 question.

7 So you mentioned to Attorney Examiner
8 Price that one way for customers to manage their load
9 is through a Smart Thermostat alone, just the use of
10 a Smart Thermostat?

11 A. Yes.

12 Q. So as a regulatory expert, is there any
13 additional benefit to the grid in adding an actively
14 managed demand response program in addition to
15 customers generally using Smart Thermostat?

16 A. Yes, and we have done that. Not in
17 Ohio, we have done that in other states because I
18 think another state -- Illinois, specifically,
19 allowed for like nonutility participants to
20 participate in those programs, but we have not done
21 that in Ohio.

22 Q. And what are those additional benefits?

23 A. They can respond to demand reduction
24 events.

25 Q. Okay. At specific times?

1 A. During peak periods, yes.

2 Q. Okay. Thank you very much.

3 MS. NORDSTROM: Thank you, Mr. White.

4 Your Honor, I have no further questions.

5 EXAMINER PRICE: Thank you. Kroger?

6 MS. WHITFIELD: No, questions, your
7 Honor.

8 MR. BARBARA: NRG Retail Company has no
9 questions. Thank you.

10 EXAMINER PRICE: Mr. Dove?

11 MR. DOVE: No questions from OP&E, your
12 Honor.

13 EXAMINER PRICE: One Energy?

14 MR. DUNN: No questions.

15 EXAMINER PRICE: MR. Whitt?

16 MR. WHITT: No questions.

17 EXAMINER PRICE: Company?

18 MR. ALEXANDER: No questions.

19 EXAMINER PRICE: Staff?

20 MS. BOTSCHNER O'BRIEN: Your Honor,
21 Staff has a few questions, but I think many of the
22 questions might have already been addressed by other
23 parties. Can we take a brief recess just to make
24 sure we have what we have?

25 EXAMINER PRICE: Yes. Let's go off the

1 record.

2 (Recess taken.)

3 EXAMINER PRICE: Let's go back on the
4 record. Staff?

5 MS. BOTSCHNER O'BRIEN: Thank you, your
6 Honor.

7 - - -

8 CROSS-EXAMINATION

9 By Ms. Botschner O'Brien:

10 Q. Good morning, Mr. White.

11 A. Good morning.

12 Q. I really just have a couple questions
13 for you, as some of our concerns were addressed by
14 other parties.

15 Do you know when FirstEnergy's PUCO/OCC
16 assessment expense was last established?

17 A. Can you repeat the question, please?

18 Q. Certainly. Do you know when
19 FirstEnergy's PUCO/OCC, two different things,
20 assessment expense was last established?

21 MR. PRITCHARD: Objection, vague.

22 By Ms. Botschner O'Brien:

23 Q. When were the rates last set?

24 A. I think the rates are statutory and they
25 just assign based on the consumption, at least my

1 understanding. And again, I'm not a hundred percent
2 sure because we just get a bill and we pay it
3 usually, but we also check it. But I don't do the
4 checking myself.

5 But my understanding is there's a
6 formula that each payor of the PUCO and the OCC
7 assessments based on a per kWh charge and that's --
8 it's a formula. So I don't know if they specifically
9 change that formula on a regular basis, or if it's
10 reset.

11 Q. I understand. But do you know when that
12 would have been? When was the last time that would
13 have been?

14 A. I thought it was statutory, but I don't
15 know.

16 Q. But statutory in terms of when? I'm
17 talking about a time frame. Do you know when that
18 might have been or what kind -- what kind of case
19 might that have been?

20 EXAMINER PRICE: I'm still struggling
21 with the vagueness of your question because I don't
22 understand it, so obviously Mr. Pritchard doesn't
23 understand it, I don't expect the witness to.

24 Are you asking when the Commission --
25 how often the Commission changes the assessment that

1 it bills to the utilities, or are you asking when was
2 the last time the expenses were changed in the test
3 year for the Company?

4 MS. BOTSCHNER O'BRIEN: The latter one,
5 yes, correct.

6 EXAMINER PRICE: With that
7 clarification, Mr. White, can you answer the
8 question?

9 THE WITNESS: I don't know.

10 By Ms. Botschner O'Brien:

11 Q. Does the FirstEnergy's PUCO/OCC
12 assessment expense for ratepayers vary between --
13 between the application to increase rate cases, the
14 AIR cases?

15 A. Could I have that question reread?

16 EXAMINER PRICE: You may.

17 (Record read back.)

18 MR. PRITCHARD: Objection, vague.

19 EXAMINER PRICE: He can answer if he
20 understands. Overruled.

21 THE WITNESS: Our expense changes every
22 year, so I don't -- I know what we pay, and it
23 changes every year.

24 By Ms. Botschner O'Brien:

25 Q. You know what you pay. What about

1 FirstEnergy?

2 A. What FirstEnergy pays?

3 Q. Yes. And any changes.

4 A. I think it's -- the change is based on
5 the cost of the PUCO and OCC.

6 MS. BOTSCHNER O'BRIEN: That's all I
7 have for this witness. Thank you.

8 THE WITNESS: Thank you.

9 EXAMINER PRICE: Redirect?

10 MR. PRITCHARD: Could we have just one
11 minute?

12 EXAMINER PRICE: Yes. We're off record.

13 (Recess taken.)

14 EXAMINER PRICE: Go back on the record.
15 Redirect?

16 MR. PRITCHARD: Yes, briefly, your
17 Honor.

18 - - -

19 REDIRECT EXAMINATION

20 By Mr. Pritchard:

21 Q. Mr. White, earlier on cross-examination
22 you were asked questions about what products IGS
23 provides, correct?

24 A. Yes.

25 Q. And you were asked if -- strike that.

1 IGS is not the only CRES provider in
2 Ohio, correct?

3 A. Yes, there are numerous CRES providers
4 out there in Ohio, dozens.

5 Q. And as far as entities that provide
6 energy efficiency peak demand reduction and demand
7 response products, it's not just EDUs and CRES
8 providers who provide those products, correct?

9 A. Yes, like I said, there are dozens --
10 CRES providers providing service, energy efficiency
11 service, I know NRG does a lot of that, NRG is in the
12 room, Direct Energy, you know, you could go on the
13 Apples-to-Apples website, but many of these CRES
14 providers are also offering energy efficiency
15 service. There's also nonCRES providers and
16 utilities offering energy efficiency service.

17 As I mentioned, there were vendors that
18 are willing to partner with CRES providers to provide
19 energy efficiency, and they are partnering with CRES
20 providers to provide energy efficiency service
21 including LED lighting, Smart Thermostats.

22 Almost all the products that are being
23 offered -- that would be offered through the utility
24 programs can be -- that are being offered, energy
25 efficiency is being offered either through a CRES

1 provider or a nonCRES provider vendor.

2 Q. And do you recall questions earlier
3 about the solar installations IGS has at residential
4 customers' facilities?

5 A. Yes.

6 Q. And could you describe a little bit more
7 about the technical capabilities of those onsite
8 residential solar installations?

9 A. Sure. As I mentioned, they produce the
10 energy demand of the customer on the grid because
11 most -- a large percentage of the energy is
12 self-consumed, so that's one of the benefits, and
13 also -- which provides energy efficiency, also
14 reduces line loss for -- on the distribution side and
15 transmission side.

16 We also have batteries -- we install
17 batteries in Ohio in some of our solar installs, and
18 the batteries not only provide backup generation, but
19 also potentially additional reliability on the grid.

20 Q. And you're aware, and it's established
21 in the record from FirstEnergy's witnesses, that they
22 have a proposed energy efficiency demand response
23 program.

24 Could you describe your concerns about
25 whether or not their program could interfere with the

1 programs you were discussing on cross-examination
2 earlier?

3 A. Yeah. So when a company is looking to
4 provide a new product in the market it has to invest
5 in that technology and those resources.

6 And when you have an entity that is
7 providing that either subsidized or distribution
8 rates, or it has some other competitive advantage
9 like easier access to customer data, it significantly
10 decreases the incentive of other companies to invest
11 in those products.

12 So if you have, for instance, a utility
13 offering demand response, and effectively they corner
14 the market and most of the advantages are given to
15 the utility, no other company is going to want to
16 come in and offer those type of products because the
17 utility has effectively cornered the market.

18 And products are always evolving, so
19 just because you don't have a certain specific
20 product today does not mean that's not going to be
21 there tomorrow.

22 But in order for a product to evolve you
23 need innovation and, you know, a company's
24 willingness to take risk and invest capital.

25 And over the long run, if you source --

1 even if it's just a subsidy to encourage one specific
2 entity to invest in energy efficiency, over the long
3 run it's detrimental to the deployment of energy
4 efficiency.

5 We fundamentally believe energy
6 efficiency is a good thing, and we think there should
7 be more energy efficiency, but those innovations and
8 those solutions should come to the market, and in the
9 long run if you allow the market to provide those
10 solutions you're going to get a lot more of it.

11 MR. PRITCHARD: No further questions on
12 redirect.

13 EXAMINER PRICE: Thank you. OELC?

14 MR. WILLISON: Nothing, your Honor.

15 EXAMINER PRICE: OEG.

16 MS. COHN: No, your Honor.

17 EXAMINER PRICE: OCC.

18 MR. FINNIGAN: No questions.

19 EXAMINER PRICE: ELPC?

20 MR. WALLACE: I believe so, your Honor,
21 if we could just have a minute to confer?

22 EXAMINER PRICE: Yes.

23 (Discussion off the record.)

24 EXAMINER PRICE: Let's go back on the
25 record. Please proceed.

1 MR. WALLACE: Thank you, your Honor.

2 - - -

3 RE-CROSS-EXAMINATION

4 By Mr. Wallace:

5 Q. Mr. White, just a moment ago on redirect
6 you mentioned that there are many other CRES
7 providers providing energy efficiency services. Are
8 those residential services specifically?

9 A. Yes.

10 Q. And are those services in Ohio
11 specifically?

12 A. Yes.

13 Q. Can you give us a few examples of CRES
14 providers doing residential energy efficiency
15 services in Ohio?

16 A. So I don't have every single offering on
17 the market, but I know, for example, NRG, Direct
18 Energy, offered Smart Thermostats. I don't know if
19 they are still offering them, I don't follow them all
20 the time.

21 There's -- like I said, there's numerous
22 vendors out there that are allowing CRES providers to
23 send LED light bulbs to customers as a benefit to
24 enrolling with that CRES provider.

25 So I don't follow every single CRES

1 provider, but I'm also aware just in my experience in
2 the industry that many CRES providers view adding
3 product -- additional products and services beyond
4 the commodity that is extremely important to their
5 business model, and many CRES providers, not just
6 IGS, are working hard to develop many energy related
7 products and services they can offer to customers,
8 and a lot of those are energy efficiency products and
9 services.

10 Q. But sitting here today, can you give any
11 specific examples of CRES providers providing energy
12 efficient services in Ohio?

13 A. I just listed NRG and Direct Energy that
14 offer Smart Thermostats.

15 Q. Currently?

16 A. I don't know what their day-to-day
17 offering is. I know that they are -- they do offer
18 those, or they have in the past, I just don't follow
19 their offerings every day.

20 Q. Thank you. How do you define energy
21 efficiency?

22 A. I define energy efficiency as reducing
23 the customer's demand from the grid.

24 Q. So would you consider something like a
25 diesel generator that a customer runs a few hours a

1 day, would that be energy efficiency?

2 A. It could be, and often is used as kind
3 of a demand response. It could be used as energy
4 efficiency.

5 Most people don't use diesel generators
6 as energy efficiency, it's not reducing generation
7 over the long run, it's more of a specific demand
8 reduction event.

9 So most people would not use a diesel
10 generator as energy efficiency, it would be more of
11 for backup purposes, or maybe a demand response
12 reduction, but if you theoretically wanted to run
13 your diesel generator all day, which you wouldn't,
14 but for a lot of different reasons, you could in
15 theory call that energy efficiency. I just love the
16 smell of diesel fumes in my back yard.

17 Q. Just one more question here. Does
18 FirstEnergy's energy efficiency proposal in this case
19 include onsite solar?

20 A. Can you repeat the question, please?

21 Q. Sure. Does FirstEnergy's energy
22 efficiency proposal in this case include onsite
23 solar?

24 A. I don't know.

25 MR. WALLACE: Thank you, that's all.

1 Thank you, Mr. White. Thank you, your Honor.

2 EXAMINER PRICE: OEC.

3 MS. NORDSTROM: Yes. Very briefly.

4 Thank you, your Honor.

5 - - -

6 RECROSS-EXAMINATION

7 By Ms. Nordstrom:

8 Q. So, Mr. White, you mentioned that the
9 solar installations that you provide save load on the
10 grid. So how much load does IGS save in FirstEnergy
11 territory?

12 A. I don't know.

13 Q. How much load do they save at peak
14 times?

15 A. I have not done that analysis.

16 Q. Okay. Are you familiar that there was a
17 winter storm this past 2022 in FirstEnergy's service
18 territory?

19 A. There's a lot of winter storms. If you
20 could please be more specific.

21 Q. Christmas 2022, December 24th.

22 A. Yeah, I do remember that.

23 Q. Do you remember if there were any
24 outages in the service territory?

25 A. I know there were outages, I don't know

1 specifically about FirstEnergy service territory. I
2 live in Columbus so I'm an AEP customer, so more
3 concerned about AEP from a selfish perspective, no
4 disrespect to FirstEnergy, though.

5 My home didn't experience outages, but I
6 was aware on the news that many AEP customers
7 experienced outages, but I don't know about the
8 FirstEnergy service territory.

9 Q. Do you know if IGS' technologies helped
10 to prevent or mitigate any outages?

11 A. I think to the extent that we had
12 backup -- some of our customers had batteries, yes.
13 I mean, they provided electricity to those customers
14 during those outages.

15 Q. But sitting here you can't identify any
16 specifics?

17 A. If some of our technologies reduced the
18 demand on the grid including for outages during the
19 day we were producing solar, yes, it would have
20 relieved the stress on the grid which would have
21 contributed to a reduction in the demand, which would
22 in theory reduce outages.

23 Q. Okay. And you mentioned that if a
24 utility corners a market then CRES providers can't
25 enter that market, is that a fair --

1 A. I would say it creates substantial
2 barriers. I would not say they can't, but it creates
3 substantial barriers and strong disincentives.

4 Q. Okay. And you mentioned you're aware
5 that CRES providers in other states provide EE
6 programs?

7 A. CRES providers do offer services in
8 other states through competitive offerings.

9 Q. Okay. Are you aware if any of those
10 states' monopoly electric distribution utilities also
11 offer EE programs?

12 A. There are likely certain CRES providers
13 that are offering utility -- I'm not familiar with
14 all the programs in every state, and the mechanics
15 are different because some states might make EE
16 competitive so that they provide competitively
17 neutral incentives to all companies. We have
18 participated in programs like that.

19 So in that instance there may be CRES
20 providers that are providing energy efficiency that
21 has an EE program.

22 It's not my understanding if that's
23 what FirstEnergy is proposing as a program that would
24 effectively allow competitively neutral incentives to
25 all market participants.

1 Q. But to your knowledge, there are states
2 where CRES providers are able to provide energy
3 efficiency programs at the same time as monopoly
4 utilities?

5 A. I would say there are CRES providers
6 providing energy efficiency in states that have
7 energy efficiency programs, but all energy efficiency
8 programs are different, and a lot of the distance in
9 them and the barriers are dependent on how you
10 structure the energy efficiency program and the
11 amount of disincentives to barriers occur.

12 But that being said, I never said that
13 it was impossible to provide energy efficiency in
14 a -- in a state where there's a utility program that
15 offers energy efficiency, I am just saying that there
16 is strong disincentives and barriers to offering
17 those -- those products in those markets.

18 MS. NORDSTROM: Your Honor, I move to
19 strike everything after the witness answered no -- or
20 I believe yes, I'm sorry. I asked a very simple yes
21 or no question.

22 EXAMINER PRICE: Could I have the
23 question back, please?

24 (Record read back.)

25 EXAMINER PRICE: I believe he was just

1 explaining his answer. Motion to strike is denied
2 the.

3 MS. NORDSTROM: Thank you, Mr. White.
4 Your Honor, I have no further questions.

5 EXAMINER PRICE: NRG?

6 MR. BARBARA: No questions, your Honor.

7 EXAMINER PRICE: Mr. Dove?

8 MR. DOVE: No questions, your Honor.

9 EXAMINER PRICE: Mr. Dunn?

10 MR. DUNN: No questions.

11 EXAMINER PRICE: Mr. Whitt?

12 MR. WHITT: No questions.

13 EXAMINER PRICE: Company?

14 MR. ALEXANDER: Thank you, your Honor.

15 - - -

16 RECROSS-EXAMINATION

17 By Mr. Alexander:

18 Q. Mr. White, you testified in response to
19 questions from your counsel regarding your general
20 opposition to FirstEnergy's energy efficiency
21 program. Do you recall that discussion?

22 A. Can you repeat the question, please?

23 Q. Sure. In response to questions from
24 your counsel you discussed your opposition to
25 FirstEnergy's energy efficiency program; do you

1 recall that discussion?

2 A. Generally, yes, I voiced my high level
3 opposition to the program.

4 Q. And in developing your opinion regarding
5 the energy efficiency program, did you read the
6 prefiled direct testimony of Company witness Miller?

7 A. I can't recall off the top of my head.
8 It's been a while since I've written my testimony.

9 Q. What did you review to determine your
10 understanding of what the Companies proposed
11 regarding energy efficiency?

12 A. I high level reviewed the ESP filing of
13 FirstEnergy, but I don't know every specific off the
14 top of my head since it's been a very long time since
15 I wrote my testimony.

16 Q. Did you review any of the Companies'
17 prefiled written direct testimony regarding energy
18 efficiency?

19 A. I don't remember.

20 Q. Are you aware that FirstEnergy is
21 proposing low-income energy efficiency programs?

22 A. Are they currently providing
23 low-income -- I did not know that they are currently
24 providing low-income energy efficiency programs.

25 Q. Not providing, proposing. Are you aware

1 that FirstEnergy, as part of its application in this
2 case, is proposing low-income energy efficiency
3 programs?

4 A. I am aware that typically energy
5 efficiency programs offered by utilities do offer
6 some incentives to low-income customers for energy
7 efficiency, but I specifically did not remember that
8 they are proposing low-income programs.

9 Q. Would your prior answer, given your
10 counsel regarding your position on energy efficiency
11 programs, also apply to low-income energy efficiency
12 programs?

13 MR. PRITCHARD: Objection. I didn't ask
14 anything on redirect about low-income programs, and I
15 believe --

16 EXAMINER PRICE: But you asked him about
17 the Companies' programs, and my understanding, the
18 Companies' programs has a set of low-income programs,
19 I think you opened the door.

20 THE WITNESS: I would say it's similar,
21 like there's other organizations like OPAE out there
22 that provide energy efficiency to low-income
23 customers, and just as it disincentivizes market
24 participants to provide broader energy efficiency,
25 there also becomes the utility offering incentives to

1 a specific subset of customers to disincentivize
2 market participants in those -- for those subset of
3 customers to offer those programs.

4 By Mr. Alexander:

5 Q. And when you provide that opposition to
6 the low-income energy efficiency programs, are you
7 providing that on behalf of IGS, RESA, or both?

8 A. I think you're mischaracterizing my
9 answer. I did not say I oppose energy efficiency
10 towards low-income customers, and in fact, I think
11 low-income customers -- it's important for low-income
12 customers to do energy efficiency.

13 But I think over the long run, by having
14 one single entity who is advantaged in offering those
15 services to customers, you get less energy efficiency
16 to low-income customers and all customers.

17 Q. Sure. Now I want to be very specific.
18 I'm not asking about energy efficiency generally, I'm
19 asking about the Companies' proposal in this case to
20 provide low-income energy efficiency programs.

21 And do you oppose the Companies'
22 proposal in this case to provide low-income energy
23 efficiency programs?

24 A. My testimony focuses on the Companies'
25 overall proposal. I don't comment on specific

1 proposals, and I haven't weighed in on the utility of
2 low-income or any other specific program that
3 FirstEnergy is offering. I am opposing FirstEnergy's
4 energy efficiency proposal in total.

5 Q. And so does your opposition extend to
6 the low-income portion of FirstEnergy's energy
7 efficiency program?

8 A. The proposal is made in total, and that
9 is what I oppose. There was no proposal that
10 specifically in a -- a single proposal that is being
11 asked for approval or acceptance.

12 The -- you are proposing a package, and
13 I oppose the package. If you were to propose a
14 specific element of the energy efficiency program I
15 would look at it, evaluate it, based on that specific
16 proposal.

17 EXAMINER PRICE: I'm not sure that's a
18 fair response given that you mentioned in your
19 testimony the Dominion case.

20 Dominion offered a package, and I think
21 you cite approvingly the Commission's decision to
22 deny everything except the low-income programs.

23 THE WITNESS: That was a decision that
24 the Commission made in the past based on various
25 different circumstances that may or may not exist in

1 this particular proceeding.

2 EXAMINER PRICE: Fair enough.

3 By Mr. Alexander:

4 Q. If the Companies' low-income proposals
5 in this proceeding were provided on their own without
6 the remaining elements, would you support them?

7 A. I don't know. I'd have to look at the
8 specific proposal to just provide low-income energy
9 efficiency.

10 Q. And so you haven't reviewed the
11 Companies' low-income proposals?

12 A. I reviewed at a high level the package
13 of what FirstEnergy is proposing with respect to the
14 energy efficiency programs. They have not
15 specifically proposed a program to offer only energy
16 efficiency to low-income.

17 My decision as to whether or not I would
18 propose -- I would agree or support just the
19 low-income proposal would be determined on if I
20 looked at FirstEnergy's proposal singularly to
21 provide energy efficiency to low-income, which I
22 don't have it in front of me at this time, so I
23 cannot specifically weigh in on whether or not -- if
24 you just carved that program out, whether or not that
25 would be something that I would support.

1 Q. And you don't recall whether Company
2 witness Miller specifically does carve out each
3 individual element of the low-income energy
4 efficiency program?

5 A. I do not recall, no.

6 Q. Do you support weatherization for
7 low-income customers?

8 MR. PRITCHARD: Objection. I understand
9 that your ruling was we opened the door on the
10 Companies' low-income program because it's part of
11 the overall program. Now the questions are more
12 broader about weatherization in general, so
13 objection, beyond the scope of redirect.

14 EXAMINER PRICE: I agree. Sustained.

15 MR. ALEXANDER: No further questions.

16 EXAMINER PRICE: Staff?

17 MS. BOTSCHNER O'BRIEN: No questions.

18 Thank you.

19 EXAMINER PRICE: Before I let you step
20 down, you had some questions from your counsel about
21 our providers, including providers who may not be
22 CRES providers, supplying energy efficiency program
23 devices and things.

24 If you consider Smart Thermostat to be
25 an energy efficiency device, there are dozens, if not

1 hundreds of providers of Smart Thermostats; is that
2 right?

3 THE WITNESS: You could walk into most
4 retail stores or most hardware stores and pick up a
5 Smart Thermostat, you can buy them on the internet,
6 Nest, Amazon offers them, but yes, there's plenty of
7 bases you could pick up a Smart Thermostat.

8 EXAMINER PRICE: And Nest is a great
9 example of one, and Google, and Google can offer a
10 rebate if they chose?

11 THE WITNESS: Yes, they could. And you
12 might get one -- it's close to black Friday, so I can
13 check that out.

14 EXAMINER PRICE: I think cyber Monday
15 has passed. That's all I have. You're excused.
16 Thank you.

17 (Witness excused.)

18 EXAMINER PRICE: Mr. Pritchard, at this
19 time we will take up Mr. Pritchard's motion to move
20 for admission of Joint RESA/IGS Exhibits 1 and 2.
21 Any objections to their admission? Seeing none, they
22 will be admitted.

23 (EXHIBITS ADMITTED INTO EVIDENCE.)

24 EXAMINER PRICE: At this time we'll take
25 a ten-minute break, after which we'll take up witness

1 Merola.

2 (Recess taken.)

3 EXAMINER PRICE: Let's go back on the
4 record. At this time we will take our next witness.
5 Mr. Whitt?

6 MR. WHITT: Thank you, your Honor. At
7 this time Calpine Retail Holdings, LLC, would call
8 Ms. Becky Merola.

9 EXAMINER PRICE: Please raise your right
10 hand. Do you swear to testify to the truth, the
11 whole truth, and nothing but the truth?

12 THE WITNESS: I do.

13 EXAMINER PRICE: Please state your name
14 and business address after the record, after you turn
15 on the microphone.

16 THE WITNESS: Becky Merola, I'm the
17 Director of Government Affairs -- Government and
18 Regulatory Affairs for Calpine Retail Holdings, the
19 parent of Calpine Energy Solutions, North American
20 Power, and Champion Energy Services. My address is
21 19 Ridge Road, Beaufort, South Carolina, 29907. A
22 little bit warmer there.

23 EXAMINER PRICE: Please proceed,
24 Mr. Whitt.

25 MR. WHITT: Thank you.

1 (EXHIBIT MARKED FOR IDENTIFICATION.)

2 - - -

3 BECKY MEROLA,

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

6 DIRECT EXAMINATION

7 By Mr. Whitt:

8 Q. Ms. Merola, do you have in front of you
9 a document marked Calpine Exhibit 1?

10 A. I do.

11 Q. What is that document?

12 A. That is my direct testimony on behalf of
13 Calpine Retail Holdings.

14 Q. Do you have any corrections or changes
15 to make to your testimony?

16 A. I have one small change. It is on page
17 4, line 10, and I would just replace, "last SSO
18 proceeding" -- "last SSO proceeding," I would take
19 that out and replace it with "ESP II."

20 Q. So the reference in the middle of line
21 10 should say, "FirstEnergy's ESP II proceeding,"
22 just so we're clear?

23 A. That is correct.

24 Q. Thank you. Subject to that correction,
25 if I were to ask you the questions that appear in

1 Calpine Exhibit 1 today, would your answers be the
2 same?

3 A. Yes, they would.

4 MR. WHITT: Thank you. With that the
5 witness is available for cross.

6 EXAMINER PRICE: Thank you. OELC?

7 MR. WILLISON: None, your Honor. Thank
8 you.

9 EXAMINER PRICE: OEG?

10 MS. COHN: No, your Honor.

11 EXAMINER PRICE: RESA?

12 MR. PRITCHARD: Yes, your Honor.

13 - - -

14 CROSS-EXAMINATION

15 By Mr. Pritchard:

16 Q. Good morning, Ms. Merola.

17 A. Hi, Matt.

18 Q. On page 4, and let me draw your
19 attention to lines 2 through 5. Let me know when you
20 get there?

21 A. I'm there.

22 Q. Your testimony is that the Companies'
23 proposal -- your testimony here is that the
24 Companies' proposal could limit the products and
25 services delivered to retail customers, correct?

1 A. That is correct.

2 Q. Talking about those products and
3 services, they would be products and services that
4 could assist an individual customer in reducing their
5 transmission cost, correct?

6 A. What it would do is prevent us from
7 using the wholesale market, the PJM demand base
8 charges, and helping our customers in the State of
9 Ohio.

10 Q. And those products and services you're
11 referencing are products and services that would help
12 a customer reduce their transmission cost, correct?

13 A. That could be one of the things it would
14 do in the wholesale market, amongst other things.

15 Q. And a product and service that CRES
16 providers could help a customer reduce their
17 transmission cost would be things that, if they are
18 billed on NSPL demand, reduce their NSPL, correct?

19 A. As it relates to NITS, which is just one
20 of the demand-based charges behind PJM, and there are
21 several, this would be one way to do it.

22 Q. Yes. So let's say the Companies'
23 proposal is approved. You understand that they are
24 going to expand NSPL billing to more nonresidential
25 customers over the period of the ESP, correct?

1 A. That's my understanding from reading
2 that.

3 Q. And customers that are billed on NSPL
4 demand, products and services can be offered to those
5 customers to help them manage their NSPL demand,
6 correct?

7 A. That would be within just the limits of
8 what the utility program is, as opposed to what is
9 available in the wholesale market if you're a load
10 entity on your own.

11 Q. I'm asking a slightly different
12 question. So if a CRES provider wanted to help a
13 customer reduce their NSPL demand, they could provide
14 notice day ahead of time of upcoming transmission
15 peaks, correct?

16 A. Can you repeat that?

17 Q. Sure. The NSPL demand in FirstEnergy,
18 you understand there's five hours that set the
19 customers' NSPL, correct?

20 A. Correct.

21 Q. And if a CRES provider wanted to help
22 assist their customer reduce their NSPL tag,
23 providing the customer advance notice of when those
24 likely hours would be would be one way to help a
25 customer reduce their NSPL demand?

1 A. In a very simplistic and basic form,
2 yes.

3 Q. And CRES providers can offer other
4 products and services such as onsite generation that
5 would enable a customer to reduce their NSPL demand,
6 correct?

7 A. Within -- as an LSE, a Load Serving
8 Entity behind PJM, you could use a number of
9 different products and services behind PJM, the
10 interconnect for that matter, to be able to lower the
11 cost to customers within the confines of a single
12 monopoly program, you could do that.

13 Q. So let's take FirstEnergy's proposal.
14 If it's approved, CRES -- a customer can still
15 install onsite generation that would assist it
16 reducing its NSPL demand, correct?

17 A. It's a demand -- NSPL is a demand-based
18 charge from PJM, so any type of thing, including the
19 individual circumstance that you mentioned, that
20 could be one way to reduce the demand on a customer,
21 depending on when they do it, the timing, and how the
22 risk is measured, especially by an LSE.

23 Q. So when we're talking about a customer
24 reducing NSPL tag, the customer's ability to reduce
25 the NSPL tag is not dependent on whether Rider NMB is

1 bypassable or nonbypassable, correct?

2 A. Repeat that one.

3 Q. Yes. So the NSPL was based on
4 customer's demand during five hours. A customer can
5 manage its demand during those five peak hours and
6 that is not dependent on whether the rider is
7 bypassable or nonbypassable, correct?

8 A. As an LSE behind PJM, and if you had the
9 freedom to manage that behind PJM and not assign your
10 billing line items within the confines of a utility
11 program, you would be able to do that.

12 Q. Was your answer in the context of the
13 CRES provider at the LSE helping to manage customers'
14 NSPL demands?

15 A. When we sign declarations of authority,
16 which would be in the FirstEnergy program, we have
17 assigned all of our rights that way over to the
18 utility.

19 Q. I understand the process, I'm asking a
20 slightly different question.

21 So you understand that NSPL, you
22 testified a minute ago, was the five hours coincident
23 to the five transmission peaks.

24 A customer can engage in behavioral
25 actions, install onsite generation, install battery

1 backup, there's a number of things that a customer
2 can do to manage their NSPL demand tag, correct?

3 A. Within the confines of the utility
4 program that is being -- that FirstEnergy is
5 proposing, you would have to go within those confines
6 because you basically have signed declarations of
7 authority that limit what you can do.

8 Q. So --

9 A. Including what you can bill for.

10 Q. Sorry to interrupt.

11 Again, the declaration of authority is a
12 document that governs CRES provider responsibilities
13 and billing costs, correct?

14 A. It actually is a PJM document that
15 assigns load serving entities rights over to the
16 utility. It is required in order to participate in
17 the programs in FirstEnergy.

18 Q. And those items that are signed over are
19 the transmission cost responsibilities, correct?

20 A. I actually brought it, so -- and it
21 actually is a little more extensive than that.

22 So it assigns full responsibility. It's
23 a full responsibility transfer agreement, and then
24 you assign billing line items over to the utility.

25 MR. OLIKER: Your Honor, did the witness

1 say she brought documents with her?

2 EXAMINER PRICE: I believe she did.

3 MR. OLIKER: Okay, just curious. I'll
4 wait my turn.

5 By Mr. Pritchard:

6 Q. All right. My question is not about the
7 declaration of authority, it's not about the CRES
8 process, it's just focusing on a customer. The
9 customers can take action on their own to reduce
10 their NSPL tag, correct?

11 A. Within the confines of the monopoly
12 utility's program.

13 Q. And if your proposal is adopted a
14 customer could still take independent action and
15 reduce their NSPL tag, correct?

16 A. They would have the full ability as an
17 LSE behind PJM to manage all of the demand base
18 charges behind PJM, including net switch -- what you
19 were talking about the NSPL.

20 Q. I'm talking about customers, not CRES
21 providers right now.

22 A. On behalf of customers, load serving
23 entities would be able to do that.

24 Q. And customers can independently do it
25 without any assistance from a CRES provider, correct?

1 A. An independent company can also become a
2 Load Serving Entity behind PJM.

3 Q. Even if a customer is not a Load Serving
4 Entity they can still take action on their own to
5 reduce their NSPL tag by -- taking whatever it is
6 action that they undertake to reduce the amount of
7 electricity they purchased from the grid during the
8 five peak hours, correct?

9 A. Based on how it's calculated, times the
10 formula rate, if it's based on the demand and that
11 demand is lower, and that's when it's calculated,
12 then yes, that could happen.

13 Q. So if FirstEnergy's proposal is adopted,
14 or your proposal is adopted, customers can undertake
15 the same independent actions to manage their NSPL
16 tags, correct?

17 MR. WHITT: I need to object to the
18 characterization of the witness having a proposal.
19 The witness is recommending adoption of Exeter's
20 recommendation, just so we're clear.

21 EXAMINER PRICE: With that
22 clarification, you can answer the question.

23 THE WITNESS: Repeat the question.

24 MR. PRITCHARD: Can I have the question
25 read back?

1 EXAMINER PRICE: We'll have the question
2 read back.

3 (Record read back.)

4 THE WITNESS: They can reduce their
5 demand. If they are reducing their demand they can
6 reduce it on their own which would change what
7 their -- what -- their amount that they are using, so
8 that could affect what their overall billing would be
9 to the utility under their program.

10 Our load is different from the utility's
11 load, so it could affect it differently if they are
12 being supplied by a Load Serving Entity as well.

13 By Mr. Pritchard:

14 Q. But the gist of my question is, is just
15 to focus on customers. It doesn't matter if
16 FirstEnergy bills transmission costs or a CRES
17 provider bills transmission costs, customers can
18 still, under either scenario, independently take
19 actions to reduce their NSPL tags?

20 A. But the load, including aggregated load
21 behind the -- behind NLSP is different from the load
22 that a utility has. So it could be different. There
23 could be different outcomes for that on behalf of the
24 customer.

25 Q. You understand that NSPL tags are

1 calculated customer by customer, correct?

2 A. They can be.

3 Q. They can be, or are they?

4 A. You can have accounts and subaccounts
5 behind PJM.

6 Q. Customers, an individual customer --

7 A. Can be an LSE and have their own account
8 or subaccount behind PJM.

9 Q. All right. Let's just take it as a
10 hypothetical. I'm a steel mill, and my NSPL tag,
11 based on my usage during the five transmission hours,
12 is 50 megawatts.

13 I could take actions through behavioral
14 changes, through onsite generation, and I can
15 hypothetically lower that to 20 megawatts during
16 those five hours.

17 I can undertake that action as this
18 hypothetical steel mill customer under FirstEnergy's
19 proposal, and I can take that same hypothetical
20 action to reduce my NSP weather demand from 50
21 megawatts to 20 megawatts if your proposal is
22 adopted, correct?

23 A. Yeah, the volume -- you can reduce your
24 volume.

25 Q. And -- okay. I think we have come full

1 circle on that.

2 Setting aside whether the Commission
3 should or should not adopt your proposal -- let's
4 hypothetically assume the Commission does adopt your
5 proposal and Rider NMB is eliminated. Are you
6 following?

7 A. I've got that so far.

8 Q. Current SSO generation supply does not
9 include NITS transmission cost responsibility,
10 correct?

11 A. Say it one more time. I apologize.

12 Q. Current SSO supply secured in the SSO
13 auctions does not include transmission costs,
14 correct?

15 A. It may or may not. I didn't address
16 that in my testimony. I am familiar with states
17 where -- like New Jersey where SSO costs do include
18 or don't include NITS.

19 For example, in New Jersey if you're a
20 wholesale supplier and you are providing -- you're in
21 the auction, basically you've got a 50-megawatt
22 tranche, you're in the auction providing that, they
23 are under these master sales agreements which are
24 much more restricted than, say, a retail supplier
25 that can determine the terms of their agreements, the

1 timing, how much they want to serve, who they want to
2 serve, how long the agreement is for, what the
3 agreement -- the contract actually says.

4 They are very prescriptive and
5 restricted master supply agreements. So the
6 circumstance -- kind of an apples to oranges on the
7 SSO question, I think.

8 Q. Let's focus on NITS. Is it your
9 understanding that NITS is recovered currently by
10 FirstEnergy through Rider NMB?

11 A. Yes.

12 Q. Okay. So --

13 A. It's subject to check. I mean, it's not
14 part of my testimony.

15 Q. Okay.

16 A. I didn't address default service.

17 Q. Well, the record reflects that it is, so
18 for this next question just assume that it is
19 collected in Rider NMB.

20 Do you have any understanding if NITS is
21 collected in Rider NMB whether NITS would also be
22 included in the SSO auction product?

23 A. I can't answer that question.

24 Q. On CRES provider's side of things, is
25 NITS currently -- for a FirstEnergy customer not in

1 the transmission pilot, is NITS a cost responsibility
2 for a CRES provider?

3 A. I can't speak to all the CRES providers.
4 I didn't really address that in what I'm doing. I
5 mean, I'm just basically looking at the transmission
6 rider.

7 Q. In our conversation earlier you
8 understand that under the declaration of authority,
9 Calpine is assigning transmission cost responsibility
10 that otherwise would fall on it over to FirstEnergy,
11 correct?

12 A. That is correct.

13 Q. And so your current contracts --
14 Calpine's current contracts with retail customers in
15 the FirstEnergy service territory do not include, as
16 a cost component, NITS?

17 A. I can't make a blanket statement about
18 what cost components are in CRES providers'
19 contracts.

20 Q. Okay. Hypothetically, if you assume
21 that the SSO auction products and CRES contracts
22 outside of the few customers in the NMB pilot, do not
23 currently include NITS and the other transmission
24 costs that are collected in Rider NMB, if your
25 proposal is adopted, current contracts -- let me just

1 strike that. Start over.

2 If NITS is not a cost component in the
3 SSO auctions today there would need to be some time
4 for NITS to be moved into future SSO auction
5 products, correct?

6 A. There's a number of states that already
7 have it, that a number of suppliers and CRES
8 suppliers participate in, so I'm not sure in terms of
9 the adjustment of individual contracts and CRES
10 suppliers' exposure and things of that nature what
11 that would actually entail, everybody has a different
12 contract, everybody has a different risk portfolio.

13 They manage their contracts very
14 differently, it depends on their customer base.
15 There's a lot of different moving variables that
16 you're asking me to give a definitive answer for on
17 behalf of CRES suppliers and I'm uncomfortable doing
18 that.

19 Q. Is your understanding that if an SSO
20 auction is held today it's going to be for a future
21 delivery period?

22 A. Yes.

23 Q. Okay. So if the Commission holds an
24 auction -- strike that.

25 Is it your understanding that current

1 SSO auctions sometimes have products for 12-month
2 periods, some for 24-month periods, and historically
3 there's also been 36-month auction products?

4 A. In multiple states.

5 Q. But in --

6 A. Go ahead.

7 Q. In the FirstEnergy service territory are
8 you aware that there's been auction products of 12
9 months and 24 months and 36 months?

10 A. I really didn't address that in my
11 testimony. I'm not that familiar with the default
12 service products that are there.

13 We basically do not compete necessarily
14 against the default service price, we have our own
15 products and services that we offer in the
16 marketplace.

17 Q. If, hypothetically, the Commission holds
18 an auction this fall and again in the spring for
19 delivery that would start June 1st of next year, and
20 those -- for a 12-month product, and those SSO
21 auctions did not include NITS, would your proposal
22 June 1st next year move NITS cost responsibility to
23 the SSO suppliers?

24 A. My understanding is that when there are
25 changes in the regulatory environment, and they

1 happen regularly in multiple states, both at the
2 federal level as well as within all of the 20 states
3 that we operate, that you have to accommodate for
4 that within your contractual relationship with your
5 customers.

6 As I said, the CRES suppliers would be
7 very different. If it is next June, would certain
8 contracts roll off and it would be an opportunity to
9 make all those adjustments, plus change whatever the
10 case may be -- you know, you're asking me what other
11 CRES providers have in their contract and I've told
12 you already I'm uncomfortable doing that, but I think
13 that's an adjustment period.

14 And we deal with regulatory changes --
15 regulatory law changes as well as statutory changes
16 on a regular basis in this marketplace, and that
17 would be one that suppliers -- CRES suppliers are --
18 they are in states to where this occurs, which
19 happens in all 20 of those states that we participate
20 in, then you would be familiar with that and you
21 would hopefully have adjusted for some of those
22 potential changes within your contractual
23 relationships.

24 Q. So just make sure I understand this
25 correctly. I was asking about the SSO, but we'll get

1 back to that in a second.

2 On the CRES side, if your proposal is
3 adopted is it a correct summary of your testimony you
4 just gave that CRES providers are going to need to
5 invoke regulatory out clauses because they have a new
6 cost responsibility to pass -- to adjust their
7 existing contracts?

8 A. No.

9 MR. WHITT: Objection to the extent that
10 the question calls for a legal conclusion.

11 EXAMINER PRICE: He's not asking for a
12 legal conclusion. Thank you.

13 THE WITNESS: Okay. I don't want to
14 speak about the CRES suppliers.

15 What I am saying is that there's an
16 adjustment in all the market -- in an open market
17 when you -- when there are regulatory changes, and I
18 would think that individual CRES suppliers will have
19 to look at their individual situations for that in
20 order to adjust.

21 By Mr. Pritchard:

22 Q. And if they don't adjust their contracts
23 with customers, but are assigned a new level of cost
24 responsibility from NITS, the CRES providers would
25 just be absorbing that cost without offsetting

1 revenue, correct?

2 A. I don't know what other CRES providers
3 have in their contracts.

4 Q. Hypothetically -- let's just say a
5 Calpine customer, you're not -- and let's assume this
6 hypothetical customer is not one of the few in the
7 current NMB pilot.

8 You're not being assessed NITS cost
9 responsibility for this customer. If your proposal
10 is adopted you will be -- Calpine will be responsible
11 for NITS for that customer.

12 My question is, if you don't adjust the
13 contract with that customer that's under an existing
14 contract, that would be a situation where Calpine
15 would have to absorb that NITS cost for this specific
16 customer, correct?

17 A. What I -- there is risk in every market
18 in terms of what a CRES provider decides to do,
19 that's their management decision based on the
20 contract that they willfully basically pick customers
21 and wrote those contracts with.

22 That is a risk for the market to take,
23 and every business that's in that market needs to
24 decide how they want to handle that risk, including
25 changes of law and regulatory changes as well.

1 That's a risk that is borne by the market.

2 Q. In my hypothetically -- I understand the
3 risk. In my hypothetical there's two outcomes.

4 If you are assigned a new level of cost
5 responsibility your two options are to absorb it or
6 pass it on to the customer, and so my question to you
7 is, are those the only two options, or are you saying
8 there's some third option of what a CRES provider
9 like Calpine would do?

10 A. We're not in that situation.

11 MR. PRITCHARD: I have no more
12 questions, your Honor.

13 EXAMINER PRICE: Thank you,
14 Mr. Pritchard. Mr. Oliker -- I'm sorry,
15 Mr. Finnigan?

16 MR. FINNIGAN: No questions, your Honor.

17 EXAMINER PRICE: Mr. Oliker.

18 MR. OLIKER: Thank you, your Honor.

19 - - -

20 CROSS-EXAMINATION

21 By Mr. Oliker:

22 Q. Good morning, Mrs. Merola. Good to see
23 you again.

24 A. Ms. Merola. Thank you.

25 Q. My apologies. Just a few questions. We

1 have been talking about transmission cost
2 responsibility, and that's largely NITS costs; is
3 that correct?

4 A. No, there's a number of wholesale demand
5 charges behind PJM, they are called billing line
6 items, and there's a lot of them.

7 Q. What is the biggest one?

8 A. I would say on a percentage basis NITS
9 would be one of them.

10 Q. Would you agree it can be in the range
11 of \$20 per megawatt-hour?

12 A. Not off the top of my head.

13 Q. Do you have any idea to quantify the
14 cost?

15 A. It's very much demand based. The FERC
16 formula rates are public. It would have to be
17 subject to check, Joe.

18 Q. Okay. But NITS is the biggest one,
19 right?

20 A. I think on -- I can say that.

21 Q. Do you know, generally speaking, the
22 percentage of a residential customer's bill that
23 relates to NITS?

24 A. No.

25 Q. You don't know if it's 5 percent, 20

1 percent, you haven't done any analysis in that
2 respect?

3 A. No.

4 Q. And does Calpine serve residential
5 customers in Ohio?

6 A. We do.

7 Q. And feel free to let me know if this is
8 confidential, but I'm trying to ask questions within
9 your capacity.

10 Do you have fixed-price contracts with
11 your customers that are residential?

12 A. I basically handle the regulatory policy
13 at the wholesale level behind the regional
14 transmission organizations.

15 I handle large regulatory policy and
16 legislation in multiple states. I do not price
17 contracts for my company, and I'm not on the
18 commercial side of my company.

19 Q. Okay. So I'll try to ask this
20 hypothetically. Well, maybe a little more
21 foundation.

22 Are you aware that CRES providers can
23 offer fixed-price contracts to their residential
24 customers?

25 A. Yes.

1 Q. Do you have any idea of the time period
2 of those contracts? Is it one, two, three years, if
3 you know?

4 A. Absolutely no idea.

5 Q. Okay. Hypothetically, if a CRES
6 provider offered a three-year fixed-price contract,
7 if there was a change in law that required the CRES
8 provider to take transmission cost assignment at the
9 wholesale level, which I believe is what you're
10 recommending, do you know if the CRES provider can
11 change the rate that is fixed for the customer that
12 is residential?

13 MR. WHITT: I'll object again to that
14 expressly calls for a legal conclusion about the
15 effect of a change of law and specifying a
16 hypothetical contract whose terms are unknown. It's
17 an unanswerable question.

18 EXAMINER PRICE: Mr. Olikier.

19 MR. OLIKER: I'm trying to understand if
20 the witness has the background and regulatory
21 understanding of the implications of what she's
22 recommending and how it relates to her testimony.

23 If she simply does not know the answer,
24 then that's -- I'll be comfortable with that, but I'm
25 not asking for a legal conclusion.

1 EXAMINER PRICE: Can I have the question
2 back?

3 (Record read back.)

4 EXAMINER PRICE: You're not a lawyer, is
5 that correct?

6 THE WITNESS: I'm not a lawyer.

7 EXAMINER PRICE: Understanding that
8 we're not asking you for a legal conclusion, can you
9 answer that question as a regulatory expert?

10 THE WITNESS: I don't believe it's a
11 policy question, I think it's more of a commercial
12 question from the standpoint that he's asking
13 questions about how different companies assume their
14 own risk when they make offers up into the
15 marketplace. I think it's more of a commercial
16 question.

17 EXAMINER PRICE: So you're not able to
18 answer the question?

19 THE WITNESS: No.

20 By Mr. Oliker:

21 Q. Just a couple more questions. You have
22 followed Commission proceedings over the past 10, 20
23 years, Ms. Merola?

24 A. At least.

25 Q. Do you remember a case that is

1 collectively or holistically referred to as the fixed
2 means fixed docket?

3 A. I know that around the country there
4 were a number of Commissions, after the polar vortex,
5 where perhaps their things weren't hedged and folks
6 were stuck with contracts during the polar vortex
7 that there was a question about variable rate
8 contracts in fixed is fixed proceedings. The one
9 that comes to mind is not Ohio's.

10 Q. So just to clarify that, are you
11 familiar with what is known as the fixed means fixed
12 proceeding that occurred in Ohio?

13 A. I don't know. I'm sorry. That's more
14 of a commercial style question. I did not handle
15 Ohio's regulatory during that time period, Joe.

16 Q. Okay. And did you -- I believe your
17 testimony cites to an Exeter audit in a separate
18 case, is that correct?

19 A. Yes.

20 Q. And you reviewed that audit document?

21 A. Briefly.

22 Q. And am I correct that the auditor also
23 recommends a transition mechanism in the event that
24 transmission cost responsibility is assigned directly
25 to CRES providers to ensure that fixed rate contracts

1 are not undermined?

2 A. I can look at the audit report to see if
3 that's the case, but off the top of my head I don't
4 remember that, I'm sorry.

5 Q. Did you bring the document with you,
6 Ms. Merola?

7 A. Yes, I did.

8 Q. Can you turn to page 54 of the document?

9 MR. OLIKER: And I don't want to mark it
10 as an exhibit, I'd just like to refresh her
11 recollection.

12 THE WITNESS: Is that okay, Mark?

13 MR. WHITT: Yes.

14 THE WITNESS: I'm sorry, what page, Joe?
15 By Mr. Oliker:

16 Q. Page 54. And it's the paragraph
17 starting with, "Some customers."

18 A. I don't have those pages.

19 THE WITNESS: Do you have them, Mark?

20 MR. WHITT: May I approach?

21 EXAMINER PRICE: You may. Let's go off
22 the record for one moment.

23 (Discussion off the record.)

24 EXAMINER PRICE: Go back on the record.

25 MR. OLIKER: Just to clarify, your

1 Honor, the document that we have been referring to, I
2 believe, has already been marked as OELC Exhibit 27.

3 EXAMINER PRICE: Thank you.

4 MR. OLIKER: And maybe I can streamline
5 the conversation.

6 By Mr. Oliker:

7 Q. Going to page 54, am I correct that the
8 auditor indicated that assigning additional PJM
9 billing line items to CRES or SSO suppliers without
10 sufficient prior notice to all parties can create
11 confusion and the third party supply market invoke
12 change in law provisions for existing contracts, and
13 lead to direct or indirect financial harm to
14 customers and suppliers, Exeter therefore recommends
15 the Commission adopt a graduated implementation
16 process for the above changes?

17 A. That's what it says.

18 MR. OLIKER: Thank you, your Honor.

19 Thank you, Ms. Merola, that's all I have.

20 EXAMINER PRICE: Thank you. Kroger.

21 MS. WHITFIELD: No questions for Kroger,
22 your Honor.

23 EXAMINER PRICE: Energy?

24 MR. BARBARA: No questions, your Honor.

25 EXAMINER PRICE: Mr. Dove?

1 MR. DOVE: No questions, your Honor.

2 EXAMINER PRICE: One Energy?

3 MR. DUNN: No questions, your Honor.

4 EXAMINER PRICE: OELC, did we ask you
5 already?

6 MR. WILLISON: Yes. None your Honor.

7 EXAMINER PRICE: Company?

8 MR. ALEXANDER: No questions, your
9 Honor.

10 EXAMINER PRICE: Staff?

11 MS. BOTSCHNER O'BRIEN: Just a couple
12 questions.

13 - - -

14 CROSS-EXAMINATION

15 By Ms. Botschner O'Brien:

16 Q. Good morning Ms. Merola. I'm Amy
17 Botschner O'Brien on behalf of Staff.

18 Would allowing CRES to build the
19 transmission cost lower the total ATSI zone revenue
20 requirements?

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

23 Q. Would the services offered by Calpine
24 lower the non-market-based transmission revenue
25 requirement within the ATSI zone?

1 A. Can you repeat that for me?

2 Q. Sure. Would the services offered by
3 Calpine lower the non-market-based transmission
4 revenue requirement within the ATSI zone?

5 A. The revenue requirement meaning for --
6 within PJM at FERC based on their formula rate for
7 the transmission? I'm confused, are you talking
8 about --

9 Q. The overall revenue requirement.

10 A. Within Ohio for it?

11 Q. Yes.

12 A. I can only talk about what it would do
13 with regards to efficiently using the assets within
14 PJM at the wholesale level.

15 They have FERC formula rates and based
16 on our own unique load that would determine what the
17 rates are for our customers. I'm not sure about what
18 Ohio's revenue requirement would be.

19 Q. So it would lower the cost for certain
20 customers?

21 A. We would have the ability to
22 competitively bill and offer products and services
23 like we do in all the other states, and so our load
24 does not look exactly like the utility's load, and so
25 we would be able to provide products and services to

1 our customers based on our individual load times the
2 FERC formula rate.

3 MS. BOTSCHNER O'BRIEN: Okay. That's
4 all I have for this witness. Thank you.

5 EXAMINER PRICE: Thank you. Redirect?

6 MR. WHITT: No redirect, your Honor.
7 And we would move for the admission of Calpine
8 Exhibit 1.

9 EXAMINER PRICE: Thank you, Ms. Merola,
10 you're excused.

11 (Witness excused.)

12 EXAMINER PRICE: At this time does
13 anybody object to Calpine Exhibit 1? Seeing none, it
14 will be admitted.

15 (EXHIBIT ADMITTED INTO EVIDENCE.)

16 EXAMINER PRICE: Let's go off the
17 record.

18 (Discussion off the record.)

19 EXAMINER ST. JOHN: Let's go back on the
20 record. Mr. Finnigan, I'll turn things over to you.

21 MR. FINNIGAN: Thank you, your Honor.
22 And before we begin, let me thank you again for
23 allowing Mr. Wilson to appear remotely because of his
24 circumstances.

25 EXAMINER ST. JOHN: Absolutely.

1 MR. FINNIGAN: Your Honor, at this time
2 OCC would like to call as its next witness Mr. James
3 Wilson.

4 EXAMINER ST. JOHN: Do you swear or
5 affirm the testimony you're about to give is the
6 truth?

7 THE WITNESS: I do.

8 EXAMINER ST. JOHN: And as we start
9 things off here, I just want to remind everybody to
10 please give a little extra leeway time.

11 I believe there may be some delays
12 because of the technology, so for any
13 cross-examination questions that we have just try
14 and -- things might be moving a little bit slower
15 because of the technology, but that's not a bad
16 thing, rather make sure that we get all the answers
17 to the questions that we need.

18 Mr. Wilson, please state your name and
19 address for the record.

20 THE WITNESS: James F. Wilson, 4800
21 Hampden Lane, Suite 200, Bethesda, Maryland 20814.

22 EXAMINER ST. JOHN: Thank you. And
23 please proceed.

24 MR. FINNIGAN: Thank you, your Honor.
25 Your Honor, at this time I would like to have marked

1 for identification OCC Exhibit 2, which is the direct
2 prefiled testimony of Mr. James Wilson.

3 EXAMINER ST. JOHN: That will be so
4 marked.

5 (EXHIBIT MARKED FOR IDENTIFICATION.)

6 - - -

7 JAMES F. WILSON

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

10 DIRECT EXAMINATION

11 By Mr. Finnigan:

12 Q. Good afternoon, Mr. Wilson. Do you have
13 before you a copy of your direct prefiled testimony
14 in this case?

15 A. I do.

16 Q. Was that testimony prepared by you or
17 under your control?

18 A. Yes, it was.

19 Q. If I were to ask you the same questions
20 this afternoon would you have the same answers?

21 A. Yes, I would.

22 Q. Do you have any changes or corrections
23 to your testimony?

24 A. No, I don't.

25 MR. FINNIGAN: Your Honor, at this time

1 I'd like to move for admission of OCC Exhibit 2, the
2 testimony of Mr. Wilson, subject to
3 cross-examination.

4 EXAMINER ST. JOHN: Thank you. Do we
5 have any questions from OELC?

6 MR. WILLISON: None, your Honor. Thank
7 you.

8 EXAMINER ST. JOHN: FirstEnergy?

9 MR. ALEXANDER: No, thank you, your
10 Honor.

11 EXAMINER ST. JOHN: OEG?

12 MS. COHN: No, your Honor.

13 EXAMINER ST. JOHN: RESA?

14 MR. PRITCHARD: None, your Honor.

15 EXAMINER ST. JOHN: Mr. Oliker?

16 MR. OLIKER: Thank you, your Honor.

17 Speaking with Mr. Barbara with the Calfee law firm,
18 he has drafted questions for NRG, and I think
19 allowing him to go first may be more efficient, and
20 hopefully I don't have any questions, but I reserve
21 just a couple minutes if necessary.

22 EXAMINER ST. JOHN: If I forget you at
23 the end, please jump in.

24 MR. OLIKER: Thank you.

25 EXAMINER ST. JOHN: Ms. Petrucci?

1 MS. PETRUCCI: No questions.

2 EXAMINER ST. JOHN: Kroger?

3 MS. WHITFIELD: No questions.

4 EXAMINER ST. JOHN: NRG?

5 MR. BARBARA: Yes, your Honor.

6 - - -

7 CROSS-EXAMINATION

8 By Mr. Barbara:

9 Q. Good afternoon, Mr. Wilson. Can you
10 hear me okay?

11 A. I can. I can't see you, but I can hear
12 you.

13 Q. All right. I have a few questions
14 regarding your testimony, starting with on page 8 you
15 discuss your concerns about the capacity pass-through
16 mechanism, and you state that among other things you
17 believe the mechanisms and the true-up are
18 potentially confusing, correct?

19 A. Yes.

20 Q. Is it your opinion that SSO suppliers
21 are incapable of managing the risk, and capacity
22 pricing will be higher or lower than anticipated?

23 A. They can manage the risk, but it
24 involves a risk premium, and that gets passed through
25 to consumers, so to the extent you can mitigate that

1 risk, it will save consumers some of their
2 electricity costs.

3 So yes, they can manage it, but part of
4 the managing it is probably costly, and that cost
5 will get passed through.

6 Q. Okay. Would you agree that SSO
7 suppliers have specialists who are responsible for
8 forecasting capacity pricing to be included in their
9 auction bids?

10 A. Undoubtedly they have various experts
11 working on their offers, yes.

12 Q. So it's fair to say that some SSO
13 suppliers would do a deeper dive into capacity
14 pricing than simply the averaging the last two
15 auction results, correct?

16 A. Yes.

17 Q. Is it also fair to say that some SSO
18 auction participants are equipped to forecast the
19 capacity price as an element of their bid that is
20 more nuance than averaging the last two auctions?

21 A. Yes.

22 Q. Would you also agree that SSO bidders
23 are likely to assign different values to capacity
24 costs?

25 A. Yes.

1 Q. So in other words, two SSO bidders are
2 likely to assign two different values to capacity
3 costs, right?

4 A. I think that's a very reasonable
5 assumption, yes.

6 Q. All right. Would you agree that SSO
7 suppliers have valued capacity lower, or who are more
8 willing to absorb the risk of high capacity prices,
9 will be more likely to bid lower than those who do
10 not?

11 A. Other things equal, yes.

12 Q. Would you agree that lower auction
13 prices benefit consumers by having the capacity price
14 risk assumed by the suppliers most willing to absorb
15 that risk?

16 A. Yes.

17 Q. And under that scenario customers are
18 not on the hook for higher capacity prices, correct?

19 A. Higher than what?

20 Q. I'm using it in a normative sense higher
21 as opposed to lower.

22 A. If one supplier includes a huge risk
23 premium in his offer and all the other suppliers
24 include even larger ones, then maybe that large risk
25 premium will set the price and be recovered through

1 the auction, then that's still not a benefit to
2 consumers.

3 Yes, your premise that the supplier who
4 potentially can manage that risk better is more
5 likely to win more tranches in the auction, but that
6 doesn't mean there isn't still a very large and
7 potentially unnecessary risk premium in the auction
8 price.

9 Q. All right. I'd like to switch and ask
10 you a couple of questions about CRES providers.

11 A. About which?

12 Q. Competitive Retail Electric Service,
13 CRES providers.

14 A. Okay.

15 Q. CRES providers offer fixed rate products
16 to shopping customers, right?

17 A. I understand that they offer a range of
18 products, some of which may be fixed price for some
19 period, yes.

20 Q. Do you have any knowledge as to the time
21 duration that those fixed price products might last?

22 A. I don't recall. I probably have seen
23 something in there, but I don't recall specifically.

24 Q. Do you know one way or the other if
25 those fixed rate products can be for multiple years,

1 sometimes up to 48 months, for example?

2 A. Yeah, I would imagine they could be,
3 yes.

4 Q. The fixed rate products offered by CRES
5 providers don't adjust upwards or downwards if
6 capacity prices differ from what was priced into the
7 fixed price, right?

8 A. Yes, correct.

9 Q. And CRES providers who offer fixed price
10 contracts do not shift capacity pricing risks on to
11 their customers, correct?

12 A. Correct. If that's part of the deal,
13 then yes, they would be taking on that risk.

14 Q. All right. And CRES providers manage
15 that risk, specifically the risk of capacity pricing
16 being higher or lower than anticipated, right?

17 A. They would be facing that risk, so they
18 would have to manage it or not manage it at their
19 choice.

20 Q. Would you agree that if the Commission
21 approves the capacity proxy price in this proceeding,
22 that the SSO default offer will not be a fixed rate
23 product?

24 A. Will not be -- excuse me?

25 Q. Will not be a fixed rate product.

1 A. Yeah, it will be fixed for the energy
2 portion, and for the capacity portion it will be
3 fixed once the actual capacity price is known.

4 Q. So along those lines, the Companies are
5 proposing to include true-ups, correct?

6 A. Correct.

7 Q. And those true-ups could result in an
8 increase to customer bills, correct?

9 A. Increase or decrease, yes.

10 Q. I'd like to direct your attention to
11 your testimony on page 11. On page 11 you state
12 that, "smaller customers with less to save by
13 switching are less likely to switch," correct?

14 A. Yes, generally so.

15 Q. Do you have any data to support that
16 conclusion, or is that more of an observation?

17 A. Well, I think the history of SSO in the
18 various electric distribution company service
19 territories where the residential is fairly stable
20 over time year-to-year as prices change, it's
21 seasonal, perhaps, but otherwise not very responsive
22 to market conditions.

23 Whereas, on the other hand, as I note in
24 my testimony, industrial customers are switching in
25 and out of SSO in big volumes suggests, as you would

1 expect, that in a household you have one person maybe
2 watching electric prices for their whatever
3 kilowatt-hours per month, whereas in an industrial
4 plant you probably have one person who is watching
5 the market with respect to a much larger volume.

6 So it makes more sense for that
7 industrial energy manager to be paying more attention
8 and considering the options than someone whose only
9 concern is a typical residential bill.

10 Q. You said that it might make sense for an
11 industrial customer to be following electric prices.
12 Do you have any specific data that you can point to
13 to support that conclusion?

14 A. Well, you hear about it all the time in
15 the PJM stakeholder processes, you hear of those
16 customers talking about their concerns, and again,
17 you see it in the SSO switching data.

18 Q. I'd like to move to page 14 of your
19 testimony. You state that, "SSO suppliers are likely
20 to find smaller customers less likely to switch into
21 and out of SSO service and, therefore, less risky to
22 serve," and that's at lines 6 through 8. Do you have
23 any specific data to support that conclusion?

24 A. I think that's the same question you
25 just asked me, really. You can just look at the SSO

1 data and see that customers -- residential customers
2 have not been switching in and out in large volumes.

3 Q. All right. Thank you. Would you agree
4 that the load shape for a slice of system auction
5 will be different than for a residential class
6 auction?

7 A. Yes.

8 Q. Have you studied which load shape
9 produces better SSO pricing for residential customers
10 over time?

11 A. Which load shape of -- can you clarify
12 your question, please?

13 Q. Have you done any analysis to determine
14 which load shape would produce more optimal SSO
15 pricing for residential customers over time?

16 A. And by "which," would you clarify which?

17 Q. I guess what I'm trying to get at is
18 whether you can have -- performed any analysis to
19 determine if one load shape relative to another
20 produces better or more optimal SSO pricing for
21 residential customers over time?

22 A. I think what you're asking is if you
23 presented SSO suppliers, or if you had different load
24 shapes in different SSO auctions, whether they would
25 result in different prices, is that what you're

1 trying to ask?

2 Q. I think that's a fair characterization,
3 yes.

4 A. I mean, typically flatter load shapes,
5 either hourly true days or seasonal, may be lower
6 cost to serve depending on how they do or don't line
7 up with the resources available to an SSO supplier.

8 Q. A couple of questions about your
9 testimony on page 15 where you talk about the
10 Companies' election to not propose auctions by class.

11 Would you agree that some products or
12 customer classes may garner limited or no bidder
13 interest?

14 A. That seems to be a possibility, yes.

15 Q. Then would you also agree that some
16 tranches may be unserved in the auction?

17 A. That is a possibility.

18 Q. Do you follow the auctions in different
19 states?

20 A. Not very closely, no.

21 Q. Are you aware one way or the other if
22 any FirstEnergy companies or subsidiaries in any
23 jurisdiction have had any auctions over the past
24 three years that failed to secure enough tranches?

25 A. I think that was discussed in discovery,

1 wasn't it? And there was a Duquesne instance.

2 Q. Do you recall any instances in Maryland?

3 A. I don't know. There may have been one.
4 I haven't researched these.

5 Q. Would you agree that if there are
6 unserved tranches in an SSO auction, that the prices
7 could be served at market prices?

8 A. That's the fallback in Ohio, and perhaps
9 other places, too, yes.

10 Q. Right. And those market prices could be
11 highly volatile, correct?

12 A. Well, it would be market prices. And a
13 lot of industrial customers, that's what they choose
14 to do, and they have competitive suppliers available
15 if they don't like that kind of short-term mechanism.

16 But sure, they could be volatile. They
17 are generally lower than fixed prices, but there is
18 the risk that at times they will be higher.

19 Q. Would you agree that customers have the
20 choice to be served by competitive suppliers
21 according to agreed upon pricing rules, which could
22 be fixed prices or realtime market prices, or
23 something else?

24 A. Yes.

25 Q. And you do not propose in your testimony

1 any rules placing limits on customers' rights to
2 switch into and out of the SSO, correct?

3 A. Correct.

4 MR. BARBARA: That's all I have. Thank
5 you very much.

6 EXAMINER ST. JOHN: Thank you.

7 Mr. Dove?

8 MR. DOVE: No questions, your Honor.

9 EXAMINER ST. JOHN: One Energy?

10 MR. DUNN: No questions.

11 EXAMINER ST. JOHN: Mr. Oliker?

12 MR. OLIKER: Just briefly, your Honor.

13 - - -

14 CROSS-EXAMINATION

15 By Mr. Oliker:

16 Q. Go afternoon, Mr. Wilson. I'm Joe
17 Oliker with IGS. Just some brief followup.

18 Regarding the capacity proxy you
19 discussed in your testimony, do you recommend a
20 specific price?

21 A. No.

22 Q. And just to be clear, your proposal is
23 that the Commission or FirstEnergy picks the Capacity
24 Proxy Price and the difference between the proxy and
25 the actual cost of capacity that is collected or

1 credited to customers; is that correct?

2 A. That's not -- that's not my proposal,
3 no. I think that's the Companies' proposal.

4 Q. Tell me what --

5 A. Are you asking me --

6 Q. Go ahead. Can you please correct my
7 question and clarify what your testimony states?

8 A. I think you stated it was my proposal,
9 and I think what you described was the Companies'
10 proposal.

11 Q. Okay.

12 A. But maybe I misheard.

13 Q. Explain how your proposal differs from
14 the Companies'.

15 A. I don't have a different proposal. I
16 questioned the way in which the proxy price is
17 established.

18 Q. Okay. So maybe I can come at this from
19 a different angle.

20 Would you agree that when a capacity
21 proxy price is used the risk of the price of capacity
22 is transferred from auction bidders to customers?

23 A. Yes.

24 Q. And you have not quantified the dollar
25 amount that could be transferred to customers,

1 correct?

2 A. The dollar amount of what? No, I
3 haven't. You mean how high or low capacity prices
4 might be?

5 Q. That is correct.

6 A. I've made some rough estimates, but I
7 didn't include anything in my testimony, no.

8 Q. And does your testimony recommend the
9 customers be notified that the SSO is a variable
10 price?

11 A. I didn't recommend that. I think it's
12 part of the proposal, and it's a pretty obvious part
13 of the proposal that customers need to be informed of
14 the mechanism, yes.

15 Q. And can you point me to somewhere in the
16 Application where customers would be notified that
17 their price is variable if they are on the SSO?

18 A. I don't have that in front of me. I
19 suppose that it's in there.

20 I'd be surprised if the Company was --
21 and the auction manager were not proposing to inform
22 customers of this aspect of the SSO product. I think
23 that notification is in there.

24 MR. OLIKER: Thank you, your Honor,
25 those are all the questions I have. Thank you,

1 Mr. Wilson.

2 EXAMINER ST. JOHN: Thank you. Any
3 questions from Staff?

4 MS. BOTSCHNER O'BRIEN: No questions,
5 your Honor.

6 EXAMINER ST. JOHN: Any redirect,
7 Mr. Finnigan?

8 MR. FINNIGAN: No redirect, your Honor.

9 THE WITNESS: Thank you for
10 accommodating my situation, folks. I'm sorry, 40
11 years in the consulting experience it's the only time
12 I've had to do anything like this, so thank you very
13 much.

14 EXAMINER ST. JOHN: Absolutely. Have a
15 good rest of your day.

16 (Witness excused.)

17 EXAMINER ST. JOHN: Mr. Finnigan, I
18 believe you moved for the admission of OCC Exhibit 2.
19 Are there any objections to the admission of this
20 exhibit? Hearing none, that is admitted.

21 (EXHIBIT ADMITTED INTO EVIDENCE.)

22 MR. FINNIGAN: Thank you, your Honor.

23 EXAMINER ST. JOHN: Let's get started
24 tomorrow morning at 9:30. Thank you all.

25 (Thereupon, the hearing was adjourned 12:30pm)

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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 Wednesday, November 29, 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.

**This foregoing document was electronically filed with the Public Utilities
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in

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

Summary: Transcript of Ohio Edison Company, CEI and The Toledo Edison Company hearing held on 11/29/23 - Volume X electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Grubaugh, Valerie.