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 Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Electric Security Plan.	:	Case No. 23-301-EL-SSO

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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 Monday, December 4, 2023.

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VOLUME XIII

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Monday Morning Session,
December 4, 2023.

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EXAMINER PRICE: Let's go ahead and 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 the Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Authority to Establish 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 Jacky St. John. I believe this is our 13th day of hearing in this matter.

Mr. Pritchard, you may call your first witness.

MR. PRITCHARD: Thank you, your Honor. At this time I would like to call Mr. John Smith.

EXAMINER PRICE: Mr. Smith, if you could raise your right hand.

(Witness sworn.)

EXAMINER PRICE: Please state your name and business address for the record.

THE WITNESS: John Smith. I work with Vistra Corp, 6555 Sierra Drive, Irving, Texas 75039.

EXAMINER PRICE: Please proceed, Mr. Pritchard.

MR. PRITCHARD: Yes.

- - -

JOHN SMITH

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

DIRECT EXAMINATION

By Mr. Pritchard:

Q. Mr. Smith, do you have a copy of your prefiled direct testimony in front of you?

A. Yes.

MR. PRITCHARD: At this time, your Honor, I would like to mark the direct testimony of John Smith on behalf of the Retail Energy Supply Association as RESA Exhibit 16.

EXAMINER PRICE: It will be so marked.

(EXHIBIT MARKED FOR IDENTIFICATION.)

Q. (By Mr. Pritchard) Mr. Smith, do you have any corrections to this prefiled testimony?

A. Yes.

Q. And could you identify the change for us?

A. Yes. There was one typo on page 13, line

19, the first word reads "charges" and that should read "chargers," so just adding an R to the -- to the word.

Q. And with that correction, if I asked you the same questions in your prefiled direct testimony, would your answers be the same?

A. Yes.

MR. PRITCHARD: With that, I would move for the admission of the direct testimony of Mr. Smith, subject to cross-examination.

EXAMINER PRICE: Thank you. We will take up your motion to admit the testimony following cross-examination.

OCC?

MR. FINNIGAN: No questions, your Honor.

EXAMINER PRICE: Mr. Lang?

MR. LANG: No questions. Thanks.

EXAMINER PRICE: Ms. Bojko?

MS. BOJKO: No questions. Thank you.

EXAMINER PRICE: Kroger?

MS. WHITFIELD: No questions, your Honor.

EXAMINER PRICE: ELPC?

MR. KELTER: Yes, we have a few questions.

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CROSS-EXAMINATION

By Mr. Kelter:

Q. Mr. Smith, can you hear me?

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

Q. I'm Rob Kelter. I'm the attorney for the Environment Law & Policy Center. Mr. Smith, could you please turn to page 5, line 16, of your testimony.

A. Okay.

Q. And you state there that "FirstEnergy indicates it will cost customers $288,400,000 over the first 4 years of the proposed ESP, or an average annual cost of $72.1 million." Have you reviewed the programs Mr. Miller describes in his testimony?

A. I have reviewed parts of it, yes.

Q. Do you believe that when customers purchase energy efficiency products and services, that those products and services generally save customers money on their bills?

A. It can, yes.

Q. Do you believe that when FirstEnergy customers use less energy, it leads to lower costs to build and maintain the grid?

A. I believe that's possible, yes.

Q. Do you know what FirstEnergy claims the TRC is for these programs?

A. I do not.

Q. So then is it fair to say you don't take issue with Mr. Miller's TRC evaluation?

A. I think that's fair to say other than the fact I don't really recall it at this point in time -- so I would have to go back and review that actual evaluation.

Q. FirstEnergy stopped running its energy efficiency programs at the end of 2020, correct?

A. I believe that's correct, yes.

Q. At page 6, line 11, you state "FirstEnergy has proposed to implement products and services available and delivered by the market," and then you state that "Some of these products are items that Vistra and other CRES providers already offer to customers," correct?

A. Correct.

Q. Can you tell us specifically which products that FE -- FirstEnergy proposes to offer that are currently offered by Vistra and other CRES providers in Ohio?

A. We do not offer thermostat programs and rebates in Ohio today now for residential customers.

1 We do offer some various programs on the commercial
2 side, but we do not offer -- Vistra does not offer
3 thermostat programs in -- in Ohio today.
4 Q. Thanks. That wasn't exactly the
5 question. Let me reread it. Can you tell us
6 specifically which products and -- that FirstEnergy
7 proposes to offer in its current plan that are
8 currently offered by Vistra and other CRES providers
9 in Ohio?
10 A. Vistra does not have a program in Ohio
11 today.
12 Q. Do you know how much Vistra and other
13 CRES providers are spending on their energy
14 efficiency programs that duplicate the FirstEnergy
15 energy efficiency programs?
16 A. I do not know.
17 Q. You also state at line 15 "This would
18 have a chilling effect on suppliers' desire to
19 develop or continually -- or continue offering the
20 diverse array of products and services that can
21 benefit customers in the grid." Which products and
22 services is Vistra currently offering in Ohio that it
23 plans to stop offering if the Commission approves
24 FirstEnergy's program?
25 A. We don't have any programs today to

discontinue. I think it's more around we would not be able to bring these different products and services into the market.

Q. Can you please turn to Mr. Miller's testimony. ECM-4, workpaper 4, which should be at the back.

A. Okay.

Q. So there's an analysis there of -- of T&D avoided transmission and avoided distribution, correct?

A. Correct.

Q. Has Vistra or the CRES providers done a similar analysis of savings that you project from the CRES and Vistra programs in terms of avoided transmission and avoided distribution?

A. For the state of Ohio?

Q. Yes.

A. No.

Q. Turning to page 8 of your testimony.

A. Okay.

Q. At line 13, you state "Finally, through a Rooftop Solar plan we offer customers the opportunity to participate in net metering through Vistra." Does Vistra offer that rooftop solar plan in Ohio currently?

A. No.

Q. At page 9, line 9, you state "Vistra also offers numerous Energy Management Solutions." Does Vistra offer these in Ohio currently?

A. We do offer some programs for our commercial side of the house in Ohio, yes.

Q. But you don't offer any to residential customers?

A. No.

Q. Do you have any savings analysis from energy management solution programs that Vistra plans to run in Ohio?

A. No.

MR. KELTER: That's all the questions I have.

EXAMINER PRICE: Thank you.

Mr. Dove?

MR. DOVE: No questions, your Honor. Thank you.

EXAMINER PRICE: Nucor?

MR. BRISCAR: No questions.

EXAMINER PRICE: Mr. Hays?

MR. HAYS: No questions, your Honor.

EXAMINER PRICE: One Energy?

MR. TAVENOR: OEC.

EXAMINER PRICE: OEC, okay.

MR. TAVENOR: I do have some questions.

- - -

CROSS-EXAMINATION

By Mr. Tavenor:

Q. Can you hear me, Mr. Smith, or do I need to grab one of these mics?

A. I can hear you.

Q. Great. Excellent. Thank you. My name is Chris Tavenor. I am with the Ohio Environmental Council, so I just have a few questions for you. So on page 10 of your testimony, you mention two demand response programs, one with a smart thermostat rebate and one called bring your own smart thermostat. Vistra does not currently offer these programs to Ohio residential customers, correct?

A. I believe you said we are not offering these in Ohio; was that your question?

Q. Yes.

A. Correct. We are not offering these in Ohio today.

Q. Thank you. Then you also state that Vistra's smart thermostat program in Texas provides a discounted or free smart thermostat in exchange for enrollment in a demand response program, correct?

A. Correct.

Q. And then you also state that Vistra's bring your own thermostat program in Texas provides a $50 incentive in exchange for enrollment in a demand response program, correct?

A. Correct.

Q. And you just mentioned previously you had reviewed Mr. Miller's testimony in this case, yes?

A. Some of it, yes.

Q. Okay. Do you understand the demand response program he proposes for this ESP V?

A. I'm not sure.

Q. Okay. Well, let's see if -- you may understand the basic of these questions. Does the FirstEnergy demand response program include any financial incentive to customers for their participation?

A. I do not believe so.

Q. And is Vistra able to offer financial incentives because at least in part when it reduces customers' energy usage, it can then bid that reduced load back into the ERCOT market?

A. Yes, in part. I mean, it also allows us to do various things across, you know, various customers. But, yes, that is part of it.

1 Q. And does the compensation Vistra gets
2 from ERCOT offset the money it loses from selling
3 less electricity to the customer?
4 A. Not necessarily. So there are two
5 different programs in Texas where ERCOT offers demand
6 response incentives to participate. There's also
7 programs where because of the price -- the wholesale
8 price signaling that we have access to, that we are
9 able to curtail usage when the wholesale market goes
10 up, so it is more of an assumed savings on our part
11 versus an earned revenue, if you will.
12 Q. Okay. So if the price Vistra can get in
13 the market is less than the money Vistra loses by
14 selling less electricity, does it make a profit for
15 that particular event?
16 MR. PRITCHARD: Can I have --
17 A. Yes.
18 MR. PRITCHARD: Never mind.
19 Q. Does whether the company decides to
20 expand demand programs to new markets depend at least
21 in some part on the market prices available in a
22 particular regional transmission market for energy
23 load reductions?
24 A. Could you repeat your question?
25 Q. Yes. Does whether the Company decides to

1 expand demand programs to new markets depend at least
2 in some part on the market prices available in a
3 particular regional transmission market for energy
4 load reductions?
5 A. Yes, in some part.
6 Q. And so Ohio is in the PJM regional
7 transmission market, correct?
8 A. Yes.
9 Q. So since ERCOT and PJM are different
10 markets, each has different wholesale electricity
11 prices, correct?
12 A. Correct.
13 Q. Are you generally familiar with ERCOT's
14 market prices?
15 A. Yes.
16 Q. Are you generally familiar with PJM
17 market prices?
18 A. Not as familiar but, yes, I am familiar.
19 Q. Do you know if on average ERCOT's
20 wholesale market price in 2022 was higher than PJM's
21 wholesale market prices?
22 A. I do not know.
23 Q. And do you know if PJM capacity prices
24 have been declining on average over the past year?
25 MR. PRITCHARD: Just a second, John. Can

I have the question reread?

EXAMINER PRICE: Yes, please.

Q. Do you know if PJM capacity prices have been declining on average over the past year?

A. I do not know.

MR. TAVENOR: All right. Thank you. No more questions.

EXAMINER PRICE: Thank you.

Mr. Willison?

MR. WILLISON: None from OELC, your Honor.

EXAMINER PRICE: Company?

MR. ALEXANDER: No questions.

EXAMINER PRICE: Staff?

MS. BOTSCHNER-O'BRIEN: No questions.

EXAMINER PRICE: Mr. Kurtz, I skipped you.

MR. KURTZ: No questions. Should have got me first and then Staff.

EXAMINER PRICE: Mr. Meissner, any questions?

MR. MEISSNER: No questions, your Honor.

EXAMINER PRICE: Redirect?

MR. PRITCHARD: None, your Honor.

EXAMINER PRICE: Thank you, sir. You are

excused.

At this time we will take up the motion to admit RESA Exhibit 16. Any objections?

Seeing none, it will be admitted.

(EXHIBIT ADMITTED INTO EVIDENCE.)

EXAMINER PRICE: Staff, you may call your next witness.

MS. HOWARD: Thank you, your Honor. Staff would call Jonathan Borer.

EXAMINER PRICE: Mr. Borer, please raise your right hand.

(Witness sworn.)

EXAMINER PRICE: Please be seated. State your name and business address for the record after you turn your microphone on.

THE WITNESS: My name is Jonathan Borer. My business address is 180 East Broad Street, Columbus, Ohio 43215.

- - -

JONATHAN J. BORER

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

DIRECT EXAMINATION

By Ms. Howard:

Q. Good morning, Mr. Borer.

1 MS. HOWARD: I previously placed on the
2 Bench and passed around what I have marked -- what I
3 would like to have marked as Staff Exhibit 2.
4 EXAMINER PRICE: It will be so marked.
5 (EXHIBIT MARKED FOR IDENTIFICATION.)
6 Q. (By Ms. Howard) Mr. Borer, do you have in
7 front of you what has been marked as Staff Exhibit 2?
8 A. Yes.
9 Q. What is it?
10 A. It's a copy of my testimony.
11 Q. Was it prepared by you or under your
12 direction?
13 A. Yes.
14 Q. Have you had the opportunity to review
15 this document before taking the stand today?
16 A. I have.
17 Q. Is it a true and accurate copy?
18 A. It is.
19 Q. Do you have any changes or corrections to
20 make?
21 A. I have one small correction to make on
22 page 6 at line 18. It's the reference to the Ohio
23 Administrative Code section, the first "hyphen 1"
24 after 4901 should be stricken so it should read
25 4901:1-10-01(T).

Q. Do you have any other changes to make?

A. No.

Q. If I were to ask you the same questions found in your testimony, subject to that change, would you provide the same answers today?

A. Yes.

MS. HOWARD: I would ask to have Staff Exhibit 2 moved into the record, subject to cross, and I offer this witness for cross-examination.

EXAMINER PRICE: We will take up the admission of Staff Exhibit 2 after cross-examination.

Mr. Meissner?

MR. MEISSNER: No questions, your Honor

EXAMINER PRICE: Mr. Kurtz?

MR. KURTZ: No questions, your Honor.

EXAMINER PRICE: RESA?

MR. PRITCHARD: No questions, your Honor.

EXAMINER PRICE: Mr. Finnigan?

MR. FINNIGAN: No questions, your Honor.

EXAMINER PRICE: Mr. Lang?

MR. LANG: No questions.

EXAMINER PRICE: Ms. Bojko?

MS. BOJKO: No questions, your Honor.

EXAMINER PRICE: Kroger?

MS. WHITFIELD: No questions, your Honor.

EXAMINER PRICE: ELPC?

MR. KELTER: No questions.

EXAMINER PRICE: Mr. Dove?

MR. DOVE: No questions, your Honors.

EXAMINER PRICE: Nucor?

MR. BRISCAR: No questions.

EXAMINER PRICE: NOAC?

MR. HAYS: No questions, your Honor.

EXAMINER PRICE: OEC?

MR. TAVENOR: No questions, your Honor.

EXAMINER PRICE: Mr. Willison?

MR. WILLISON: None, your Honor.

EXAMINER PRICE: Mr. Alexander?

MR. ALEXANDER: Yes, your Honor.

- - -

CROSS-EXAMINATION

By Mr. Alexander:

Q. Good morning, Mr. Borer.

A. Good morning.

Q. I would like to start at page 3 of your testimony where you discuss the Companies' proposal for Rider SCR. Now, in your testimony you mentioned that the Companies have been deferring storm expenses since 2009 and continue to defer additional expenses; is that correct?

A. That's correct.

Q. Okay. Now, in 2019, as part of the Companies' last distribution rate case, the Commission granted the Companies' authority for the deferral, correct?

A. I believe that to be correct, yes.

Q. And Staff did not oppose the request for storm deferral expense in that rate case, correct?

A. I can't recall if Staff had a specific position or what that may have been.

Q. And the Commission later extended that deferral authority as part of the Companies' ESP II proceeding, correct?

A. I believe so, yes.

Q. And Staff did not oppose the extension of the storm expense deferral authority in ESP II, correct?

A. I am not aware of what Staff's position was.

Q. Staff actually joined a Stipulation in ESP II which approved the storm expense deferral authority, correct?

A. I believe so.

Q. And in ESP II, Staff and the Companies agreed that the expenses subject to the storm

1 deferral would meet the current definition proposed
2 by the Companies in this case, correct?
3 A. I believe that's the case. I kind of
4 forget specifically which ESP that came out of, but I
5 will take your word for it maybe.
6 Q. Now, after ESP II, the Commission again
7 extended the Companies' storm deferral authority in
8 ESP III, correct?
9 A. I believe so.
10 Q. And that ESP III storm deferral authority
11 used the same definition of storm expense as ESP II,
12 correct?
13 A. I can't recall the specifics.
14 Q. Staff did not oppose the extension of the
15 Companies' storm expense deferral in ESP III,
16 correct?
17 A. I'm not aware of Staff's specific
18 position.
19 Q. And Staff joined the Stipulation in ESP
20 III that authorized the continuance of the Companies'
21 storm expense deferral, correct?
22 A. I believe that to be true.
23 Q. Now, for the third time the Commission
24 extended the Companies' storm cost deferral authority
25 in the Companies' ESP IV case, correct?

A. I believe that to be true, yes.

Q. And the Commission ultimately -- strike that.

Staff joined the Stipulation in the ESP IV case which addressed the storm expense deferral, correct?

A. I believe so, yes.

Q. And the definition of eligible storm expense costs was the same from the base rate case through ESP IV, correct?

A. From the -- I believe the definition changed where -- I believe in the original base rate case they could defer any storm restoration expenses sometime. It may have been ESP II that the definition changed to what is currently in place.

Q. I asked a poor question. You are correct. So I'll rephrase it. So since ESP II the definition of storm expense stayed the same through ESP IV, correct?

A. I believe so, yes.

Q. Okay. Thank you. Now, in none of those prior proceedings did Staff take the position that the Companies' existing deferral authority should cease as it does in this case, correct?

A. I'm not aware of that, no.

Q. Now, turning to page 7 of your testimony, it's lines 5 and 6, if you would like to refresh yourself. Staff recommends that the Companies' existing deferral authority cease at the time ESP V becomes effective, correct?

A. Correct.

Q. So just so I understand the proposal, is it Staff's proposal that there is no change to the existing deferral methodology until the end of the ESP IV term on May 31, 2024?

A. Correct.

Q. Now I would like to talk about the definition of major events as used in your testimony. Staying on page 7, Staff's proposal to limit Rider SCR to major events would then start at the beginning of the ESP V term on June 1, 2024?

A. Correct.

Q. And under Staff's proposal, the Companies would be able to defer storm costs under the new definition of major events starting at the beginning of the ESP V term?

A. Correct.

Q. And Staff recommends that the existing criteria be modified such that Rider SCR would only recover expenses related to storms considered major

1 events as defined in the Ohio Administrative Code?
2 A. That's correct.
3 Q. Now, the defined term major event was
4 added to the Ohio Administrative Code in 2009,
5 correct?
6 A. I am not aware of when it was added.
7 Q. Do you know if the defined term "major
8 event" was added prior to the beginning of ESP II?
9 A. I'm not aware of that, no.
10 Q. Do you know whether the defined term
11 existed prior to the beginning of ESP III?
12 A. I am not aware of that, no.
13 Q. You just don't know the timing?
14 A. Yeah. I don't know at all.
15 Q. I didn't know if you knew a general
16 range.
17 A. No. I know it's there now, but when it
18 came about, no, I don't know.
19 Q. Okay. So you have reviewed the
20 definition of major event you cite in your testimony?
21 A. Yes.
22 Q. And there's no reference to storms or
23 storms deferral in the actual definition of major
24 event in the Administrative Code, correct?
25 A. I believe that to be correct but the

1 definition is just referencing outage durations and
2 not the cause but I can't be totally certain on that.
3 Q. Okay. So to your knowledge, as a
4 regulatory expert, the defined term major event is
5 not used at all in reference to storm deferral
6 amounts anywhere in the Ohio Administrative Code
7 Chapter 4901, correct?
8 A. No. I don't believe it references storm
9 deferrals specifically.
10 Q. And, similarly, the defined term major
11 event is not used in reference to storms or storm
12 cost recovery in Title 49 of the Revised Code,
13 correct?
14 A. I don't believe it references storm
15 recovery.
16 Q. So Staff -- turning to a slightly
17 different topic, Staff believes that storm riders
18 like Rider SCR should only recover for major events
19 while nonmajor events should be recovered through
20 base distribution rates; is that correct?
21 A. That's correct.
22 Q. And you believe that because major events
23 are "highly unpredictable and have potential to cause
24 significant harm to the utility," correct?
25 A. That's correct.

1 Q. Do you believe that storms which do not
2 rise to the level of a major event are more
3 predictable than major events?
4 A. I haven't done that analysis.
5 Q. Do nonmajor event storms have the
6 potential to cause significant financial harm to a
7 utility?
8 A. I haven't done that analysis.
9 Q. Now turning to page 18 of your testimony,
10 beginning on line 19, you address why Staff believes
11 the audit of the deferrals should be resolved in a
12 separate proceeding. Do you see that?
13 A. Yes.
14 Q. And beginning at line 7, you say "Because
15 the Companies have requested recovery of the deferral
16 in this ESP case, Staff has begun to audit the
17 expenses deferred through June 2023, and Staff
18 believes the best approach would be to continue the
19 current audit process with a goal of completing the
20 audit sometime in the middle of 2024 (in a separate
21 proceeding) once all amounts deferred through May 31,
22 2024, are known." Did I read that correctly?
23 A. Yes.
24 Q. When did Staff begin to audit the
25 expenses deferred through June 2023?

A. I can't recall the specific dates, sometime middle of 2023 roughly.

Q. And that was part of the discovery process in this case?

A. Correct.

Q. Is that audit still ongoing?

A. Yes.

Q. What period of time is Staff's audit?

A. It's -- so the data we have is currently from 2009 through sometime in the middle of 2023.

Q. And Staff's auditing that entire period of time right now?

A. At the moment, yes. Staff will also audit the expenses after that, so we will audit the full period through May of 2024.

Q. Now, in -- strike that.

In the quote I read from page 19 you referenced a separate proceeding. Is the separate proceeding you have in mind currently pending before the Commission?

A. I don't believe so, no.

Q. Does Staff anticipate the Companies would file another proceeding immediately after the conclusion of this case where the results of Staff's ongoing audit would be provided?

A. That is one option, yes.

Q. And you may have mentioned this in a prior answer, but just to be sure, does Staff anticipate expenses through June 1, 2024, would be provided in that new subsequent proceeding?

A. Yes.

Q. And now I would like to discuss the proposed caps. The Companies propose the creation of annual caps to Rider SCR, the amounts of which are based on the maximum incremental storm damage expense incurred and deferred between 2016 and 2022, correct?

A. I believe that to be the case, yes.

Q. And under the Companies' proposal, any amounts not recovered in a given year due to these caps would be deferred and recoverable in the following year subject to an annual cap, correct?

A. Correct.

Q. Now, if Staff's proposal with respect to limiting Rider SCR to major events is adopted, Staff believes the Companies' proposed revenue caps would be unnecessary?

A. That's correct.

Q. However, if the Commission rejected Staff's proposal and -- strike that.

If the Commission rejected Staff's

1 proposal to change Rider SCR to be limited to only be
2 major events and adopted the Companies' Rider SCR
3 proposal, Staff believes that caps would be
4 necessary?
5 A. Yes.
6 Q. And to the extent the Commission rejects
7 Staff's proposal to limit storm costs to major events
8 only, Staff believes it would be premature to
9 establish those caps in this case?
10 A. That's correct.
11 Q. Now I would like you to assume that the
12 Commission adopts the Companies' Rider SCR proposal
13 except for the Companies' proposed caps and regarding
14 the caps agrees with your proposal that the caps
15 could be changed in a future proceeding. Do you
16 understand that hypothetical?
17 A. Yes.
18 Q. If the Commission ultimately decided to
19 change the caps in a future proceeding, do you
20 believe that would be a modification of the
21 Companies' ESP?
22 MS. HOWARD: Objection.
23 EXAMINER PRICE: Grounds?
24 MS. HOWARD: Calling for a legal
25 conclusion.

EXAMINER PRICE: Mr. Alexander?

MR. ALEXANDER: Mr. Borer is testifying as a regulatory expert. The modification of the caps in a later proceeding would have material impact on the Companies. And I would like to know Staff's position as to whether a modification of an ESP term in a later proceeding would be considered a modification of the ESP.

EXAMINER PRICE: I agree this calls for a legal conclusion. Sustained. Staff can let you know in their brief their position.

Q. (By Mr. Alexander) Changing topics, on page 18 beginning at line 22 of your testimony, you claim that the Companies' storm deferral includes 337.5 million through June of 2023, correct?

A. Could you repeat that question?

Q. Certainly. Page 18, line 22, you claim that the Companies' storm deferral includes 337.5 million through June of 2023?

A. So that number is the total line item expenses. So the deferral itself is offset by the incremental storm expenses in base rates -- or the baseline amounts in base rates so that's just the total. If you look at all the expenses within the data, it's 337.5 million.

Q. You saved yourself six questions. I will just ask you the last one, you agree to calculate the -- the total storm costs for the deferral, one would need to subtract the amount recovered in base rates?

A. Correct.

MR. ALEXANDER: No further questions. Thank you, Mr. Borer.

EXAMINER PRICE: Thank you.

Walmart?

MS. GRUNDMANN: No questions, your Honor.

EXAMINER PRICE: Redirect?

MS. HOWARD: May we have a few moments?

EXAMINER PRICE: You may.

(Discussion off the record.)

EXAMINER PRICE: Now we are back on the record. Redirect?

MS. HOWARD: No redirect, your Honor. We renew our motion for admission of Staff Exhibit 2.

EXAMINER PRICE: Any objections to the admission of Staff Exhibit 2?

Seeing none, it will be admitted.

(EXHIBIT ADMITTED INTO EVIDENCE.)

EXAMINER PRICE: Mr. Borer, you are excused.

Mr. Kelter, would you care to make an appearance today?

MR. KELTER: Yes, thank you, your Honor. Robert Kelter on behalf of the Environmental Law & Policy Center, 21 West Broad Street, Suite 800, Columbus, Ohio.

EXAMINER PRICE: Thank you very much. And thank you.

MS. GRUNDMANN: Mr. Price, would you like me to make an appearance? I've been here previously, but I was gone last week, so I didn't know.

EXAMINER PRICE: No. We are not retaking appearances.

MS. GRUNDMANN: Perfect.

EXAMINER PRICE: Thank you.

Mr. Finnigan.

MR. FINNIGAN: Mr. Collins is standing by. Is now a good time?

EXAMINER PRICE: Yes. We are going to go off the record and get Mr. Collins hooked in here and shift change on the Bench.

MR. FINNIGAN: Thank you.

(Discussion off the record.)

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

Mr. Finnigan, you may call your next witness.

MR. FINNIGAN: Thank you, your Honor. At this time I would like to call Brian Collins.

EXAMINER ADDISON: Welcome, Mr. Collins. Please raise your right hand.

(Witness sworn.)

EXAMINER ADDISON: Thank you. Please state your name and business address for the record, please.

THE WITNESS: My name is Brian C. Collins. My business address is 16690 Swingley Ridge Road, Suite 140, Chesterfield, Missouri 63017.

EXAMINER ADDISON: Thank you.

Mr. Finnigan.

MR. FINNIGAN: Thank you, your Honor.

- - -

BRIAN C. COLLINS

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

DIRECT EXAMINATION

By Mr. Finnigan:

Q. Good morning, Mr. Collins.

A. Good morning.

Q. Mr. Collins, this is John Finnigan on

1 behalf of OCC. Do you have before you a document --
2 strike that.
3 MR. FINNIGAN: Your Honor, at this time I
4 would like to mark as OCC Exhibit 1 the prefiled
5 direct testimony of Greg Meyer.
6 EXAMINER ADDISON: It will be so marked.
7 (EXHIBIT MARKED FOR IDENTIFICATION.)
8 Q. (By Mr. Finnigan) Mr. Collins, do you
9 have before you a document that is the prefiled
10 direct testimony of Greg Meyer?
11 A. I do.
12 Q. And have you reviewed that document?
13 A. I have.
14 Q. Are you prepared to adopt the testimony
15 of Greg Meyer as your own?
16 A. I am.
17 Q. What is your relationship to Mr. Meyer?
18 A. I am a managing principal at Brubaker &
19 Associates and Mr. Meyer is a consultant principal
20 here at the firm and he has been here since 2008. I
21 have been here since 2001, so we have worked together
22 quite often.
23 Q. If I were to ask you the same questions
24 today, would you give the same answers?
25 A. I would. The only difference would be

the introduction questions there on pages 1 and 2 asking for your name and I believe educational background and experience so.

Q. Could you briefly state your educational background?

A. Yes. My educational background is I have a Bachelor's Degree in electrical engineering from Southern Illinois University Carbondale. I graduated in 1993. I have an MBA from the University of Illinois Springfield Campus and received that in 2000.

Q. You previously mentioned your working relationship with Mr. Meyer, but could you give a brief summary of your work experience?

A. Certainly. Certainly. From 1994 until 1998, I was employed with Staff of the Illinois Commerce Commission as the agency in Illinois that regulates the rates of public utilities. From 1998 until 2001, I was a planning engineer with a municipal electric utility in Springfield, Illinois, City Water, Light, and Power. And then in 2001, I became employed with Brubaker & Associates as a consultant, and I have been continuously employed with them since 2001. And I have testified on behalf of large industrial customers, institutional users of

electricity, and other government agencies that used large quantities of electricity and natural gas as well as water and wastewater.

Q. Do you have any changes or corrections to make to the testimony of Mr. Meyer other than, as you mentioned, your work experience and educational background?

A. No, I do not.

MR. FINNIGAN: Your Honor, at this time I would like to tender the prefiled testimony of Mr. Meyer as adopted by Mr. Collins for admission as OCC Exhibit 1, subject to cross-examination.

EXAMINER ADDISON: Thank you very much, Mr. Finnigan. We will defer ruling on the motion for admission following cross-examination.

Mr. Meissner, any questions?

MR. MEISSNER: No questions, your Honor. Thank you.

EXAMINER ADDISON: OEG?

MR. KURTZ: No questions.

EXAMINER ADDISION: RESA?

MR. PRITCHARD: Yes, your Honor.

- - -

CROSS-EXAMINATION

By Mr. Pritchard:

Q. Good morning, Mr. Collins. My name is Matt Pritchard on behalf of the Retail Energy Supply Association.

A. Good morning.

Q. One of the areas you address in your testimony is FirstEnergy's transmission rider, the non-market-based services rider, correct?

A. Yes, that's correct.

Q. And we'll find that in your testimony on page 40, correct?

A. That's correct.

Q. And in general terms your testimony references certain audit recommendations made by an auditor in Case 22-391, correct?

A. That is correct.

Q. And that audit report was addressing a transmission pilot program where nonresidential customers with demand response capabilities can curtail their transmission peaks, correct?

A. I believe that's correct.

Q. And your testimony recommends to the Commission here that Rider NMB be eliminated, correct?

A. That's correct, consistent with the report findings with Exeter.

Q. And you understand today that transmission costs for all customers except those in the transmission pilot are collected by FirstEnergy through Rider NMB, correct?

A. I believe that's correct.

Q. And so it's your understanding that if a customer is served by a competitive supplier in Ohio, that those transmission costs would not be borne by the supplier for the customers currently under contract, correct?

A. I believe as the rider is eliminated, those costs would have to be collected by the customers' suppliers.

Q. If a customer is under contract today, those costs are not going to be reflected in their current CRES contract, correct?

A. Right. To the extent those costs are included in contracts existing now, that's correct.

Q. And so if your recommendation is adopted, you would agree that there needs to be some sort of transition mechanism to allow suppliers the ability to reflect that change in transmission costs responsibility in their contracts, correct?

1 A. Correct.
2 Q. And I believe in part of the background
3 discussion you were giving Mr. Finnigan, you
4 indicated that you previously testified on behalf of
5 large energy users including commercial/industrial
6 customers, correct?
7 A. That's correct.
8 Q. And in your experience have you had any
9 reason to review PJM capacity markets?
10 A. I have. It's been a while since I looked
11 at that, but I have in the past.
12 Q. Are you familiar with PJM's base residual
13 auctions for capacity?
14 A. Just -- some extent, yes.
15 Q. Are you aware that demand response
16 resources can participate in the capacity auction?
17 A. That is my understanding.
18 Q. Have you reviewed -- strike that.
19 Are you aware that after each base
20 residual auction, PJM issues a report that includes
21 information and detailed analysis of the results of
22 each of those base residual auctions?
23 A. That's my understanding.
24 Q. Have you reviewed those base residual
25 auction result reports from PJM in the past?

A. I have in the past, yes.

Q. Have you reviewed the report issued by PJM for the base residual auction for the current 2023 to 2024 PJM delivery year?

A. At a very high level.

MR. PRITCHARD: Your Honor, at this time I would like to mark -- approach the Bench and mark an exhibit.

EXAMINER ADDISON: Certainly.

MR. PRITCHARD: I believe I am now up to RESA's Exhibit 17.

EXAMINER ADDISON: I believe that's correct, Mr. Pritchard.

Let's go off the record for a second.

(Discussion off the record.)

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

Q. (By Mr. Pritchard) Mr. Collins, do you have in front of you a document your counsel provided that's the PJM report on the 2023/2024 RPM Base Residual Auction Results?

A. I do have that before me.

Q. And --

EXAMINER ADDISON: And just to be clear, Mr. Pritchard, this is the document you would like

1 marked as RESA Exhibit 17, correct?
2 MR. PRITCHARD: Yes, thank you, your
3 Honor.
4 EXAMINER ADDISON: Thank you. It will be
5 so marked.
6 (EXHIBIT MARKED FOR IDENTIFICATION.)
7 Q. (By Mr. Pritchard) And all right. I want
8 to walk through some of the details here in this
9 document. You understand that, as reflected here on
10 page 1, that when PJM conducts a base residual
11 auction, sometimes they model local deliverability
12 areas or LDAs, correct?
13 A. Correct.
14 Q. And are you aware that in the past the
15 ATSI zone has been modeled as a local deliverability
16 area?
17 A. I believe that is correct.
18 Q. And we'll see here on page 1 in the
19 second paragraph that PJM identified the constrained
20 areas in the auction, and we'll notice that ATSI is
21 not identified as one of the constrained LDAs,
22 correct?
23 A. I believe that's correct.
24 Q. And when PJM's conducting an auction,
25 it's looking to secure enough capacity resources to

1 meet projected load plus a reserve margin, correct?
2 A. That's correct.
3 Q. And this result -- or this report
4 identifies that kind of information of resources
5 needed, the reserve margin, and what bid in to the
6 auction, correct?
7 A. Correct.
8 Q. And if we turn to page 3 of this
9 document, we have here in the summary of results at
10 the bottom PJM cleared 144,870.6 megawatts, correct?
11 A. That's correct.
12 Q. And if we flip to the next page, right --
13 right about in the middle of the page PJM identifies
14 of that total, 8,096.2 megawatts represent demand
15 response, correct?
16 A. I'm sorry. Was that about the fourth
17 paragraph, counsel?
18 Q. Yeah. It starts "The total Unforced
19 Capacity of DR" and that's just over 8,000 megawatts,
20 correct?
21 A. That's correct.
22 Q. Okay. Will you flip now to page 10 of
23 this document?
24 A. I'm there.
25 Q. All right. This chart is a comparison of

1 demand response resources that were both offered and
2 cleared in the 2021/2022 BRA as well as the 2023/2024
3 BRA, correct?
4 A. That's my understanding.
5 Q. And if we look at about two-thirds of the
6 way down this chart, you'll see an LDA labeled ATSI,
7 correct?
8 A. Correct.
9 Q. And if we look at the column -- or the
10 cell for the ATSI row and in the offer column for the
11 '23/'24 delivery year, we will see that
12 1,100.1 megawatts of demand response in the ATSI zone
13 were offered into the base residual auction, correct?
14 A. That's correct.
15 Q. And if we looked at what was cleared
16 further to the right, it's 851.5 megawatts of demand
17 response cleared in the auction, correct?
18 A. That's correct.
19 Q. And so, in essence, that means there's
20 250 megawatts of demand response resources in the
21 ATSI zone that had bid in but did not clear the
22 auction.
23 A. Correct, approximately 250 megawatts.
24 Q. And backing up just at a high level, if
25 the -- to the discussion we had from page 1, if a

1 local delivery area is not a constrained zone in PJM,
2 it pays the rest of RTO capacity price, correct?
3 A. I believe that's correct.
4 Q. And if we look further in this report on
5 page 14, there's also a discussion of another type of
6 demand response resource that participates in the
7 auction called price responsive demand, correct?
8 A. Correct.
9 Q. And price responsive demand rather than
10 participating in the supply side of the PJM capacity
11 auction, it participates on the demand side, all else
12 equal, requiring PJM to procure less demand in an
13 auction, correct?
14 A. Correct.
15 Q. All right. Flipping another page
16 further, this page contains a title -- or a table
17 titled "RPM Base Residual Auction Clearing Results in
18 the LDAs." Do you see the table?
19 A. Yes, Table 4.
20 Q. Yes. And you'll notice one of the local
21 delivery areas in this table is labeled "ATSI." Do
22 you see that reference?
23 A. I do.
24 Q. And you'll see that in this base residual
25 auction here on the first row that in the ATSI zone

10,043.2 megawatts were offered in, correct?

A. Correct.

Q. And the row below identifies what was cleared and that's 9,531.4 megawatts, correct?

A. Correct.

Q. So what that's saying is in the ATSI zone there was more megawatts of total capacity resources offered into the auction than what PJM needed to clear, correct?

A. Correct.

Q. And so the way to sort of interpret this chart here, these two numbers, is that in the ATSI zone there was an extra 500 or so megawatts of capacity resources locally that had bid into the base residual auction but were not needed, correct?

A. Correct.

Q. If you flip to page 17, in the second paragraph on this page, PJM identifies that there's 205,607.8 megawatts of installed capacity that had been eligible to be offered into the auction, correct?

A. Correct.

Q. All right. One more number to go through with you. Will you turn to page 18 and look at the table on this page.

A. Yes. Table 5?

Q. Yes. And this table is labeled "RPM Base Residual Auction Generation, Demand, and Energy Efficiency Resource Information in the RTO," correct?

A. Correct.

Q. And there is a line item towards the bottom of the table labeled "DR Offered," correct?

A. Correct.

Q. And if you look across, you'll see that in the 2015-16, the base residual auction for that delivery year, that there's a little over 19,000 megawatts of demand response offered in the auction, correct?

A. Correct.

Q. And it shows that the next year it dropped to 13,900 and change, and then in the 2017/18 delivery year and thereafter it's been roughly 10,000 megawatts that have offered into the -- of DR into the base residual auction, correct?

A. Yes.

Q. Are you aware when PJM implemented the capacity performance rules?

A. I am not aware of the exact date.

Q. Would it have been in response to the 2014 polar vortex?

A. I believe it may have been because of that.

Q. So the capacity performance rule changes would have been after calendar year 2014, correct? Or I should say after the beginning of calendar year 2014?

A. Yes, approximately.

Q. And so if we look at this chart, do you have any opinion on whether changes to regulatory rules such as capacity performance rules affect the amount of commercial and industrial customers that are willing to deploy their demand response resources in the market?

A. I really don't have an opinion on that. I have really not delved into that.

Q. Okay. Setting aside this table, in your general work in which you indicated earlier includes past representation of commercial/industrial customers, would you say that if -- if a regulatory body changed its market rules and took away the ability of a commercial and industrial customer to save money from using their demand response capabilities if that commercial/industrial customer would cease deploying that capability?

A. If the -- if the customer no longer sees

a benefit financially or economic, I would think it would no longer want to offer its, you know, demand into the program.

Q. And so if we look at the Rider NMB proposal, would you agree with me that for -- well, let me strike that.

You would agree with me that the Company has proposed a proposal that would expand NSPL billing to additional nonresidential customers, correct?

A. Correct.

Q. And you would agree with me that commercial/industrial customers having access to transparent price signals, all else equal, is a good thing, correct?

A. It is.

Q. And so as part of your recommendation here, are you recommending that as to the outcome of Rider NMB, that you would support an outcome that sends transparent price signals to nonresidential customers?

A. I think that would be a positive outcome. I believe, if I remember correct from the Exeter, that was one of the things they were concerned about so -- with the rider.

MR. PRITCHARD: I don't have any further questions. Thank you, your Honor.

EXAMINER ADDISON: Thank you very much, Mr. Pritchard.

Mr. Lang?

MR. LANG: No, thank you.

EXAMINER ADDISION: Ms. Bojko?

MS. BOJKO: No questions. Thank you.

EXAMINER ADDISION: Ms. Whitfield?

MS. WHITFIELD: No questions, your Honor.

EXAMINER ADDISION: ELPC?

MR. KELTER: No questions. Thank you.

EXAMINER ADDISION: Mr. Dove?

MR. DOVE: No questions, your Honor. Thank you.

EXAMINER ADDISION: Walmart?

MS. GRUNDMANN: No questions, your Honor.

EXAMINER ADDISION: Nucor?

MR. BRISCAR: No questions, your Honor.

EXAMINER ADDISION: NOAC?

MR. HAYS: No questions. Thanks.

EXAMINER ADDISION: OEC?

MS. NORDSTROM: No questions, your Honor. Thank you.

EXAMINER ADDISON: Thank you.

OELC?

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

EXAMINER ADDISION: Mr. Alexander?

MR. ALEXANDER: Thank you, your Honor.

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CROSS-EXAMINATION

By Mr. Alexander:

Q. Mr. Collins, I know you can't see me because you're virtual, but my name is Trevor Alexander, and I represent FirstEnergy in this case. It's good to meet you.

A. Good morning. Nice to meet you.

Q. Your counsel provided an appendix with your background to the parties. It indicated you have testified before the Public Utilities Commission of Ohio previously; is that correct?

A. I testified before the Public Utilities Commission of Ohio, yes, on behalf of the Federal Executive Agencies.

Q. How many times have you testified in Ohio?

A. I believe just one time.

Q. Now, you are adopting the testimony of Witness Meyer. Could you please describe the steps

1 you took prior to adopting Mr. Meyer's testimony?
2 A. Yes. I reviewed Mr. Meyer's testimony.
3 I also reviewed the documents that he referred to in
4 his testimony including the Company witness testimony
5 that he referred to as well as sort of the orders
6 that he mentioned in his testimony.
7 Q. Did you review all of the Ohio cases and
8 stipulations cited by Mr. Meyer?
9 A. I'm sorry. Could you repeat the
10 question? It was difficult to hear you.
11 Q. Certainly. I will try and get a little
12 closer to the microphone as well. Did you review all
13 of the Ohio cases and stipulations cited by
14 Mr. Meyer?
15 A. I believe I did.
16 Q. Did you meet with Mr. Meyer to discuss
17 the testimony?
18 A. I'm sorry. You cut out a little bit.
19 Q. Did you meet with Mr. Meyer to discuss
20 the testimony?
21 A. I did.
22 Q. How long did you meet with Mr. Meyer?
23 A. Probably for about an hour.
24 Q. Did Mr. Meyer have any workpapers that
25 you reviewed?

A. I did not review any of his workpapers.

Q. Now, starting at page 6 -- I guess just a rule for this, as we go forward, when I say your testimony, I am referring to the prefiled testimony of Mr. Meyer which you are adopting. Do you understand that?

A. Yes.

Q. Okay. Starting at page 6 of your testimony, you discuss what you describe as special regulatory mechanisms. Do you see that?

A. I do.

Q. Now, you have personally worked with what you deem as special regulatory mechanisms in the past. For example, when you were at the ICC, you worked on fuel adjustment clause cases, correct?

A. That's correct.

Q. Do you believe that a fuel adjustment clause is an appropriate type of special regulatory mechanism for a state commission to approve?

A. Yes. A fuel rider is -- it's usually three criteria that a rider must meet. One is that the expense applicable to the rider is, you know, out of the utility's control. The second is that it's, you know, volatile. And three is that, you know, the amount of the expense linked to the rider is so large

if the Company did not recover it, it could cause financial harm to the Company.

MR. ALEXANDER: Could I have just the first sentence of his answer read, please?

EXAMINER ADDISON: Absolutely.

Thank you, Karen.

(Record read.)

EXAMINER ADDISON: Thank you.

Q. (By Mr. Alexander) Do you believe that all riders must meet those three criteria?

A. I do.

Q. Okay. Let's explore that a bit. Pages 7 and 8 of your testimony you discuss some of the various reasons a Commission may adopt a special regulatory mechanism. Do you agree that a special regulatory mechanism can be structured to be beneficial to both the utility and its customers?

A. I think it can be.

Q. Do you have any reason to believe that PUCO has approved special regulatory mechanisms which are not beneficial for both the utility and its customers?

A. I'm sorry. Could you repeat the question again?

Q. Certainly. Do you have any reason to

1 believe that the PUCO has approved the special
2 regulatory mechanisms which are not beneficial for
3 both a utility and its customers?
4 A. I have no reason to believe that.
5 Q. Now, at page 10 of your testimony, you
6 cite two statements by Missouri PSC regarding the use
7 of riders, correct?
8 A. Yes, that's correct.
9 Q. And the first case you cite is from 2012?
10 A. That's correct.
11 Q. And the second case is from 2014?
12 A. That's correct.
13 Q. The Missouri Commission has approved
14 special regulatory mechanisms for utilities
15 repeatedly since 2014, correct?
16 A. I believe it has.
17 Q. Are you aware of any cases in which the
18 Ohio Commission expressed similar concerns about
19 riders to the Missouri concerns cited in your
20 testimony?
21 A. I'm not aware.
22 Q. Changing topics, at page 10, line 22, you
23 claim that FirstEnergy has an average of 54 riders.
24 Do you see that?
25 A. I do.

Q. And then at page 11, line 5, you conclude that riders reduce the incentive for cost control by the utility. Do you see that as well?

A. I do.

Q. Now, do you believe that each of those riders is what you would deem to be a special regulatory mechanism?

A. I think a special regulatory mechanism could also includes riders. It could include other items as well.

Q. So all riders are special regulatory mechanisms?

A. I would agree with that statement.

Q. Okay.

MR. ALEXANDER: Your Honor, may I approach?

EXAMINER ADDISON: You may.

Q. (By Mr. Alexander) Mr. Collins, do you have a copy in front of you of a document which I provided to your counsel last evening labeled Attachment SLF-1?

A. Yes, I have it.

Q. Okay.

MR. ALEXANDER: Your Honor, I am not going to mark this. This has been previously marked

and admitted as part of Companies Exhibit 2. So this is already in the record but I thought it would facilitate the discussion with this witness so I made a demonstrative for all of us to follow along and make this a bit easier.

EXAMINER ADDISON: I think that's helpful, Mr. Alexander. Thank you.

Q. (By Mr. Alexander) Mr. Collins, I would like to drill down here to understand the nature of your objections to certain riders because I suspect you may actually support many of these riders. Would you agree that of the Companies' riders shown here on Exhibit SLF-1, that some of those riders are for specific customer programs such as time-of-use rates?

A. Yes.

MS. WHITFIELD: Excuse me.

Q. Do you propose first --

EXAMINER ADDISON: Mr. Alexander.

MS. WHITFIELD: Do you have any more of these? We don't have any at this end.

EXAMINER ADDISON: Do you have a copy of Mr. Fanelli's testimony with you?

MS. WHITFIELD: Oh, is that the chart you are using?

MR. ALEXANDER: Your Honor, could we go

1 off the record?
2 EXAMINER ADDISION: Let's go off the
3 record.
4 (Discussion off the record.)
5 EXAMINER ADDISON: Let's go back on the
6 record.
7 Apologies, Mr. Alexander.
8 MS. WHITFIELD: Yes. Sorry.
9 Q. (By Mr. Alexander) I am going to repeat a
10 question. I apologize. I am not 100 percent sure
11 where I left off, Mr. Collins. Did you agree that
12 rows 6, 27, and 28 show time-of-use rates?
13 A. I'm sorry. You said row 6, 7, and 8?
14 Q. 28. 6, 27, and 28.
15 A. 6, 27, and 28, yes.
16 Q. Okay. And do you oppose FirstEnergy
17 making available time-of-use rates to its customers?
18 A. No, I do not.
19 Q. Okay. Now, focusing your attention on
20 row 3, do you know what that rider is?
21 A. It says automated meter opt-out Rider
22 AMO.
23 Q. Do you oppose FirstEnergy providing its
24 customers with the ability to opt out of receiving an
25 advanced meter?

A. No, I do not oppose that.

Q. Focusing your attention on row 8, do you know what that rider is?

A. The Consumer Rate Credit Rider, CRC; is that correct?

Q. Yes. Do you oppose the Company using a rider to provide approximately $300 million in credits to customers?

A. I have not reviewed that, that rider in particular, so I really don't have an opinion on that one.

Q. Okay. Focusing your attention on rows 17, 38, and 44, do you know what that those riders do?

A. I'm sorry. You said 17, 38 --

Q. And 44.

A. Yeah. I believe those are riders related to uncollectible expense.

Q. And do you oppose utility collection of uncollectible costs?

A. I do not.

Q. Focusing your attention on rows 19 to 25, do you know what those riders do?

A. Economic development.

Q. Do you oppose Commission-approved credit

for residential customers who face rate impacts associated with utilizing space heaters?

A. Again, I have not really reviewed that rider in detail or, you know, the basis for it, so I really don't have an opinion on that.

Q. Okay. Do you oppose Commission-approved credits for large auto makers operating in the State of Ohio?

A. Again, that is, you know, a mechanism that has been offered by the utilities and, yeah, I do not think that would be a bad thing to offer to customers in the utility's service territory.

Q. Okay. Finally, rows 30 and 31, do you know what those riders do?

A. Generation Cost Reconciliation, Rider GCR, is row 30; is that correct?

Q. Uh-huh.

A. And 31 is Generation Service, Rider GEN? I'm not sure if I am familiar with those riders.

Q. Do you oppose the Company recovering the costs associated with procuring power to serve customers via Commission-approved competitive auctions?

A. I believe those costs are currently incurred and those would be appropriate for recovery

by the Company.

Q. Are you aware that several of the Companies' riders are bypassable?

A. Yes, that's my understanding.

Q. And are you further aware that many of the customers' [SIC] riders are optional for customers?

A. I believe that's correct.

Q. And are you aware that many of the Companies' riders are mandated under Ohio rules and regulations?

A. I believe that is correct as well.

Q. So in the interest of efficiency, I won't continue through these line by line, but would it be fair to say it can be appropriate for the Commission to approve riders intended to address specific policy goals?

A. I would agree with that statement.

Q. Now, let's go back to cost control. Would you agree that not all of the Companies' riders address the recovery of costs?

A. I would agree.

Q. Do you know whether the Commission Staff audits any of the Companies' riders?

A. I'm not sure if they do formal audits.

I'm sure the recovery of those costs are reviewed by Staff.

Q. But you don't know if Staff conducts formal audits of the Companies' riders?

A. I am not aware.

Q. Would you agree that if Staff does conduct audits of the Companies' riders, that would allow the Commission to ensure the specific programs are operating correctly?

A. I would agree with that.

Q. Okay. And then at page 10, line 25, of your testimony, you state the Companies are proposing to discontinue "a few" riders. Do you see that?

A. You said that was on page 10, which lines again, please?

Q. It's line 25.

A. Yes, I see that.

Q. Okay. And, in fact, the Companies are proposing to discontinue 18 riders, correct?

A. Yes. According to the exhibit you provided, yes, it looks like they have proposed to eliminate or remove about 18.

Q. So I would like to discuss Rider SCR at this point which you discuss starting at page 12 of your testimony. Are you there?

A. I am.

Q. Okay. Now, it's your position that the Commission should reject significant cost riders in ESP cases and instead direct the Companies to pursue a base distribution rate case, correct?

A. Yes.

Q. Are you aware that the Ohio General Assembly has specifically authorized single-issue ratemaking as part of Electric Security Plan cases?

A. I am not sure that I am aware of that.

Q. Okay. Are you familiar with any Commission decisions where the PUCO authorized a single-issue ratemaking plan? I will rephrase that. That was a poor question. I will rephrase that.

EXAMINER ADDISON: Thank you.

Q. You cite the Commission decisions in the AEP, AES, and Duke Energy Electric Security Plan case, correct?

A. Yes.

Q. The Commission approved single-issue ratemaking in each of those proceedings, correct?

A. That's my understanding.

Q. And the Commission approved a Storm Cost Recovery Rider for each of those three utilities, correct?

A. That's my understanding.

Q. And the Commission approved a Distribution Investment Rider for each of those three utilities?

A. That's my understanding.

Q. Would you agree that Distribution Investment Riders avoid the regulatory lag associated with the recovery of investment in a base rate case?

A. Yes. It's my understanding those riders provide recovery between rate cases of those costs.

Q. And would you agree by avoiding regulatory lag, distribution riders encourage investment to proactively address reliability?

A. Yes. I am aware that utilities have used those riders to do investment for reliability.

Q. And I asked you this generally with regard to all riders, but I will ask it specifically, do you know whether the Commission conducts audits of Distribution Investment Riders in Ohio?

A. I believe it does.

Q. And as part of the audit of Distribution Investment Riders, utilities are required to demonstrate why the recovery sought is not unreasonable, correct?

A. That's my understanding.

1 Q. And are you aware that in Ohio riders are
2 typically subject to regular update and
3 reconciliation?
4 A. That's my understanding.
5 Q. And based on those reconciliations,
6 utilities could be required to refund amounts to
7 customers?
8 A. That could be a possibility.
9 Q. And so is it fair to say that even in the
10 absence of a rate case, utilities are still at risk
11 of disallowance for costs recovered via riders?
12 A. I would agree.
13 Q. And would you agree that reconciliations
14 which include refunds ensure utilities only recover
15 amounts which are actually invested?
16 A. I would agree.
17 Q. And would you agree that ensuring
18 customers only pay for actual expenses prevents
19 overrecovery from those customers?
20 A. For those particular expenses?
21 Q. Yes.
22 A. Yes, I would agree.
23 Q. Now, in Ohio, riders are often subject to
24 revenue caps, correct?
25 A. That's correct.

Q. Are you familiar with the concept of gradualism?

A. I am.

Q. Is it fair to say that revenue caps limit the amount utilities can recovery from customers over a given period?

A. I would agree.

Q. And is it also fair to say that limiting increases in rates promotes gradualism in those rates?

A. I believe you could characterize that as gradualism, yes.

Q. Now, you are aware of the Companies' intent to file a base rate case in May of 2024, correct?

A. That's my understanding, yes.

Q. And would you agree the Companies are not required under Ohio law to file base rate cases on any particular schedule?

MS. BOJKO: Objection.

A. I believe that's correct.

Q. Would you agree that in a base rate case the Commission reviews a number of issues and expenses?

A. Yes. Typically in a rate case, all

1 costs, expenses, revenues are examined in a base rate
2 case.
3 Q. Whereas, for a rider the Commission's
4 review is solely focused on the issues and expenses
5 relevant to that rider?
6 A. That's my understanding.
7 Q. So is it fair to say that the
8 Commission's -- strike that.
9 Is it fair to say that the Companies'
10 distribution investments would be reviewed more
11 frequently under a rider approach than they would be
12 if the Companies were required to seek recovery for
13 those investments as part of base rates?
14 MR. FINNIGAN: Objection, calls for
15 speculation.
16 EXAMINER ADDISON: He can answer to the
17 extent he has an opinion.
18 A. Typically those costs are looked at in
19 the annual rider proceedings as well as in the base
20 rate cases, so I think they would be, you know,
21 looked at more frequently, you know, in between rate
22 cases and as well in the rate case.
23 Q. Now, for several of the Companies' riders
24 in your testimony, you recommend the Companies defer
25 cost recovery in a future base rate case, correct?

A. That's correct.

Q. Do you agree that utilities should limit the risk of rate shock for their customers?

A. I believe that is one consideration that a utility should take into consideration when determining customers' rates.

Q. If there is a prolonged period of time between base rate cases and the utility does not have riders, then it is possible a substantial amount of deferred costs could accumulate, correct?

A. I think that could be a possibility.

Q. And those accumulated costs would then need to be included in the Companies' next base rate case, correct?

A. Right. Those costs would need to be examined in, you know, the next rate case. Depending on the circumstances, there could be other expenses, you know, that decrease between rate cases that would offset the increase due to the deferred expense.

Q. And if there was a large deferral balance, then the next base rate case could lead to a sudden increase in customer rates, correct?

MR. FINNIGAN: Objection, calls for speculation.

EXAMINER ADDISON: Again, he can answer

if he has an opinion.

A. It could, but again, in a rate case all expenses and costs are examined so there could be some, you know, offsetting expenses due to the declines in those certain expenses that would offset the increase caused by the deferred expense included in the base rate case.

Q. So focusing on Rider SCR for now, the amounts the Companies proposes to recover would be subject to annual caps, correct?

A. I believe that's correct.

Q. And in your proposal -- I am looking at page 13, line 3.

A. Yes, I'm there.

Q. Your proposal is that the utility could file what you call an AAO if there is a significant storm, correct?

A. That's correct.

Q. Under your proposed mechanism the utilities' baseline storm expense would be established in the test period, correct?

A. That's correct.

Q. So I would like to explore a hypothetical. Suppose that in the year following the test period storm expense is significantly lower than

1 the test period baseline. Do you understand that
2 hypothetical?
3 A. Yes. I believe you are saying that in
4 the base rate case there is baseline storm costs
5 included, and then the following year the outside --
6 after the base rate case is approved, the expense --
7 the actual expense declines.
8 Q. Correct, significantly, a significant
9 decline.
10 A. Okay.
11 Q. So under the Companies' proposed Rider
12 SCR, customers would receive a credit for the
13 difference between the baseline and the actual
14 incurred storm expense, correct?
15 A. I believe that's correct.
16 Q. And under your proposal, customers would
17 not receive a credit in that hypothetical, correct?
18 A. Correct. That -- that expense would
19 decline as opposed to the level of base rates but
20 there could be some other, you know, increases that
21 the Company has, you know, following the year that
22 would, you know, basically offset that credit that
23 would arise due to the increase in the storm expense.
24 So, you know, it could be, you know, revenue neutral
25 essentially depending on the circumstances and the

1 expenses the utility actually sees in that year
2 following the end of the base rate case.
3 Q. Okay. Now, I would like to shift the
4 hypothetical a bit and suppose that in the year
5 following the test period expenses are much higher
6 than was seen in the test period. Do you understand
7 that hypothetical?
8 A. Yes.
9 Q. So under your proposal, the utility could
10 file an AAO to recover those costs, correct?
11 A. Correct.
12 Q. So under your proposal, utilities have
13 some protection from unusual weather through their
14 ability to file an AAO but there is no similar
15 automatic mechanism for customers to receive that
16 same protection, correct?
17 A. That's correct.
18 Q. I would like to focus on your table --
19 it's page 14, your Table GRM-1.
20 A. Okay. I'm there.
21 Q. Now, in this table you compare the
22 Companies' proposed revenue caps for Rider SCR with
23 the Companies' total O&M expenses, correct?
24 A. That's correct.
25 Q. And you base your estimate of the

1 Companies' total O&M expenses on each of the
2 Companies' FERC Form 1s?
3 A. That's correct.
4 Q. And are you aware of the amounts you
5 relied on from the FERC Form 1 include more than
6 distribution-related costs?
7 A. Subject to check, I would agree.
8 Q. Those values from the FERC Form 1 include
9 a mix of distribution, generation, transmission, and
10 other passthrough costs?
11 A. Yes. Total O&M would include those
12 items.
13 Q. Now turning to page 21 of your testimony
14 where you discuss Rider DCR. You can focus your
15 attention at lines 12 and 13.
16 A. Yes, I'm there.
17 Q. Now, here you say Rider DCR should be
18 defined to include a "return on distribution rate
19 base;" is that correct?
20 A. That's correct.
21 Q. On the following page, lines 1 to 7, you
22 state Rider DCR should be limited to FERC Accounts
23 360 to 374; is that correct?
24 A. That's correct.
25 Q. Now, isn't it true that other categories

of costs outside of FERC Accounts 360 to 374 support the provision of distribution service?

A. Do you have any particular accounts in mind that you could provide?

Q. Tax, general plant, intangible plant.

A. Yes, I would agree.

Q. And isn't it true that those other categories we just discussed would be included in the Companies' rate base, in a base rate case proceeding?

A. They would.

Q. And are you aware that the Companies currently provide distribution service to industrial customers who take service at transmission voltage?

A. I'm sorry. Could you repeat the question?

Q. Absolutely. Are you aware that the Companies currently provide distribution service to industrial customers who take service at transmission voltage?

A. If you are asking me if a company that uses distribution service also takes transmission service, I would agree.

Q. No, slightly different. Are you aware that the FirstEnergy Companies have industrial customers who take service at transmission voltage?

A. Yes.

Q. And the Companies' investments in serving transmission voltage customers would be reflected in FERC Account Nos. 350 to 359?

A. Could you remind me what those specific accounts are?

Q. Yeah. 350 to 359.

A. Yes.

Q. And staying on page 22 at line 13, you discuss some concerns regarding ATSI costs. Do you see that?

A. Yes.

Q. Now, ATSI has its own accounting books which are separate from the Companies, correct?

A. I believe that's correct.

Q. And ATSI's costs are already included as part of ATSI's rates, correct?

A. I believe that's correct.

Q. And the Companies' transmission assets are distribution assets, not ATSI assets, correct?

A. I believe that's correct.

Q. Okay. Turning to page 24 of your testimony where you discuss property tax.

A. Yes, I'm there.

Q. Property tax is currently calculated

1 based on gross plant, not net plant, correct?
2 A. I believe that's correct.
3 Q. And are you familiar with the Companies'
4 most recent base rate case manner of addressing
5 property tax?
6 A. I am not.
7 Q. So you wouldn't know whether that case
8 directed the Companies to calculate property tax
9 based on gross plant?
10 A. You know, I have not reviewed that --
11 that portion of the order, so I am not familiar with
12 what the order says.
13 Q. Okay. And you have though read the
14 Companies' prior -- I will ask that a different way.
15 Have you read the Companies' prior DCR filings?
16 A. I have not.
17 Q. Do you know whether the Companies' prior
18 DCR filings calculate property tax based on gross
19 plant?
20 A. I do not.
21 Q. Moving down the page you state the
22 Companies should be required to file the 2023
23 depreciation study in their May 2024 base rate case,
24 correct?
25 A. Yes. My testimony states it was my

1 understanding that a study was to be completed by
2 2023; and, yes, at line 16 and 17, I recommend a new
3 depreciation study should be included in the upcoming
4 rate case.
5 Q. Are you familiar with the Gannett Fleming
6 firm?
7 A. I am.
8 Q. And John Spanos?
9 A. Yes. I am aware of John and that he
10 testifies for many utility companies as a member of
11 Gannett Fleming.
12 Q. Did you read the 2023 depreciation study?
13 A. No, I did not.
14 Q. Why do you believe the Company should be
15 required to utilize this specific study instead of
16 having the opportunity to potentially file a new
17 study in 2024?
18 A. I'm sorry. Could you repeat your
19 question again?
20 Q. Certainly. If you haven't read the 2023
21 study, why do you believe the Companies should be
22 required to use that study instead of potentially
23 using an updated study in 2024?
24 A. I think it would be good to have the most
25 recent information available and from a, you know,

very up-to-date study to be included in the rate case.

Q. So if there was a more updated study, you would support the Companies using that instead of the 2023?

A. I think always having, you know, updated information is a good thing, so I would support a newer study.

Q. Okay. Turning to page 26 of your testimony, you recognize the methodology for calculating the pretax return and gross-up rate for Rider DCR, correct?

A. That's correct.

Q. Now, the Companies are responsible for both federal and local income tax expense, correct?

A. I believe that's correct.

Q. And are you aware including local income tax expense in the composite tax rate used for the tax gross-up would be consistent with the Companies' last base rate case and previous DCR filings?

A. I have not looked at that particular issue from the last base rate case, so I really can't answer that question.

Q. Do you know whether it would be consistent with the previous DCR filings?

A. I do not.

Q. Turning to page 27 of your testimony where you state any new Rider DCR revenue caps should be tied to the Companies' reliability performance. Do you see that?

A. I do, yes.

Q. Are you aware that the Companies are already proposing to tie Rider DCR revenue caps to their reliability performance?

A. I am not.

Q. Staying on page 27, you state that the annual Rider DCR revenue cap increases should be limited to 3 percent. Do you see that?

A. I do.

Q. What was the basis for the 3 percent limit?

A. It was my understanding that -- that amount again would just be a good -- good number to use to limit, you know, the impacts on ratepayers so.

Q. So that was -- that was just your judgment?

A. That was the judgment call, yes.

Q. Okay. Did you review the Companies' proposed annual revenue caps?

A. I'm sorry. Could you repeat the

1 question?
2 Q. Certainly. Did you review the Companies'
3 proposed annual revenue caps?
4 A. Oh, was that included in the Companies'
5 testimony?
6 Q. Specifically the testimony of Company
7 Witness McMillen.
8 A. I believe -- I believe I did review
9 Company Witness McMillen's testimony if you wanted to
10 point me to that section of his testimony.
11 Q. I don't think that's necessary. But you
12 are familiar with the Companies have proposed revenue
13 caps between 15 and 21 million dollars?
14 A. I believe that's correct. Again, I
15 reviewed his testimony, and I just don't recall the
16 exact number, but I will agree, subject to check.
17 Q. Okay. Did you conduct any analysis to
18 determine what percentage of the Companies' current
19 base distribution revenue those proposed caps would
20 equal?
21 A. I did not.
22 Q. And you testify at some length about
23 other utilities' Distribution Investment Riders, so I
24 assume you've reviewed those riders?
25 A. I'm sorry. Can you repeat the question?

Q. Certainly. You testify at some length regarding the other Ohio utilities' Distribution Investment Riders, so I assume you reviewed those riders?

A. I looked at those riders, yes.

Q. Are you aware that the other Ohio utilities' Distribution Investment Riders -- and I guess let's pause. When I reference the other Ohio utilities, do you understand I am referring to AEP Ohio, AES Ohio formerly Dayton Power and Light, and Duke Energy Ohio?

A. Yes.

Q. Okay. I just wanted to make sure we were on the same page.

A. Right. Thank you.

Q. Are you aware that the other utilities' Distribution Investment Riders are also subject to annual revenue caps?

A. I believe that's my understanding, they are subject.

Q. Have you done any analysis to compare the Companies' proposed annual cap increases with those of the other three utilities?

A. I have not.

Q. Are you aware that the AES Ohio

1 Distribution Investment Rider that you cite
2 approvingly is above your proposed 3 percent limit?
3 A. I am not aware.
4 Q. And so you haven't done any analysis to
5 compare the caps used for the Distribution Investment
6 Riders you cite against your 3 percent limit?
7 A. I have not performed that analysis, no.
8 Q. Isn't it true even if the reliability
9 targets are met, the Companies' proposed increases
10 are less than 2 percent annually?
11 A. I believe that's correct.
12 Q. Turning to page 28, starting at line 7.
13 Let me know when you are there.
14 A. 28, line 7?
15 Q. Correct.
16 A. Yes, I'm there.
17 Q. So it's your recommendation that Rider
18 DCR caps should be hard caps, correct?
19 A. That's correct.
20 Q. Are you aware that the Companies
21 currently do not have a deferral mechanism in place
22 for Rider DCR?
23 A. I am not aware.
24 Q. And are you also aware that the Companies
25 are not seeking to implement a deferral mechanism in

this case?

A. I am not aware.

Q. Turning to page 33 of your testimony where you discuss the depreciation offset mechanism.

A. Yes, I'm there.

Q. Are you aware that Rider DCR already includes a depreciation offset?

A. I am not.

Q. Shifting topics, I would like to discuss Rider VMC. Did you review the testimony of Company Witness Shawn Standish?

A. I did review his testimony at a high level, yes.

Q. And so you are aware that Witness Standish proposes an eight-year enhanced vegetation management program?

A. I believe that's my understanding, yes.

Q. And under the enhanced vegetation management program proposed by the Companies, the Companies would conduct vegetation maintenance beyond the minimum regulatory requirement, correct?

A. I believe that's correct.

Q. And at pages 17 and 18 of your testimony, you state that Rider VMC would not account for certain cost savings, correct?

A. That's correct.

Q. Are you aware that the cost savings referenced in your testimony are solely from improvements in reliability performance?

A. I am not.

Q. Okay. Do you believe those cost savings relate to something other than reliability performance?

A. Typically, you know, with those cost savings, they may include some savings due to O&M expense.

Q. Yeah. And that's addressed separately in Mr. Standish's testimony where he testifies that vegetation management expenses under the enhanced plan would decrease by 21 percent in year five of the program. Do you recall that testimony from Mr. Standish?

A. I believe I do, yes.

Q. Okay. And then the expenses are expected to decrease by another 24 percent starting in year nine?

A. I believe that was what he said, yes.

Q. And so if the Companies' incremental expenses decrease as projected by Mr. Standish, then the amounts recovered from customers via Rider VMC

1 would also decrease, correct?
2 A. Well, I believe the cost would be subject
3 to the rider. I think the savings would be captured
4 in the next base rate case.
5 Q. You don't believe the savings associated
6 with decreased vegetation management expense in year
7 five and then again in year nine would flow through
8 the rider?
9 A. I don't think it would.
10 Q. Are you aware that other Ohio utilities
11 have received Commission approval as part of their
12 Electric Security Plans to recover vegetation
13 management costs via a rider?
14 A. I have not looked into that, so I am not
15 aware.
16 Q. Rider VMC would be subject to annual
17 audit, correct?
18 A. I believe it would be, yes.
19 Q. And Rider VMC would be subject to annual
20 reconciliation?
21 A. I believe it would be.
22 Q. And as proposed, recovery under Rider VMC
23 would be capped over the term of the ESP V, correct?
24 A. I believe that's correct.
25 Q. So at page 18, line 4, you argue the

1 Companies should potentially spend the additional
2 vegetation management costs without seeking recovery
3 through Rider VMC. Do you see that?
4 A. Which line is that again, please?
5 Q. Line 4.
6 A. Yes, I see it.
7 Q. So in your hypothetical where the
8 Companies conducted the enhanced vegetation
9 management work without seeking recovery through
10 Rider VMC, how would the Companies recover those
11 costs?
12 A. Well, those costs would be recovered in
13 the next base rate case. Again, you know, with the
14 rider, you know, not reflecting the savings and not
15 looking at, again, you know, other expenses that are
16 being incurred, you know, other expenses are going up
17 or going down, you know, the utility may be no worse
18 off by increasing their spending or continuing the
19 spending, you know, for the vegetation management
20 expense that you are referring to.
21 MR. ALEXANDER: Can I have that answer
22 reread, please?
23 EXAMINER ADDISON: You may. Thank you.
24 (Record read.)
25 Q. (By Mr. Alexander) So, Mr. Collins, if

the Companies conducted enhanced vegetation management expense over a period of years, would that be classified as O&M?

A. It could be. You know, if they wanted to recover it, it may have to be capitalized.

Q. Do you believe the Companies can capitalize the enhanced vegetation management program?

A. I'm aware the utilities have tried to do that. I am aware.

Q. I notice you emphasized tried. You didn't say they did so successfully.

A. You know, I think there was a utility in North Carolina that did have a similar vegetation management expense they wanted to capitalize, and I think they did get approval from the Commission to do so.

Q. Would that be Duke?

A. I think that would be, yes.

Q. Would you support the capitalization of enhanced vegetation management expense?

A. I'm sorry. You cut out a little bit there.

Q. Certainly. Do you support the capitalization of enhanced vegetation management

expense?

A. I believe in that rate case with Duke, I did not support the capitalization. I think I -- my position was to continue as an expense.

Q. Okay. Would that be your position with regard to the Companies as well?

A. Yes.

Q. And so if it was categorized as an expense, then the Companies would not be able to recover the full amount of the enhanced vegetation management program to the extent that spending was not fully reflected in the test year, correct?

A. Again, but again without looking at other costs, and we don't know if a utility would be any worse off or not, so again, this is just looking at the expense related to vegetation management expense. There may be some other costs that are decreasing that would offset that increased expense that the Company would incur.

Q. Okay. Turning to page 40 of your testimony. Rider NMB which you discussed with Mr. Pritchard earlier today.

A. Yes. That was page 40; is that correct?

Q. That's correct.

A. Yes, I'm there.

Q. Now, Rider NMB is a passthrough mechanism that recovers non-market-based transmission-related charges imposed on the Companies by PJM, correct?

A. I believe that's correct.

Q. Those charges include NITS and RTEP costs?

A. I believe that's correct.

Q. And the NITS and RTEP costs are not set by the Companies, correct?

A. That's correct.

Q. And the Companies do not set the revenue requirement for transmission expense, correct?

A. I believe that's correct.

Q. And the companies have no control over giving customers NSPL value, correct?

A. I believe that's correct.

Q. And the Companies pass through those PJM costs without markup, correct?

A. That's my understanding.

Q. So elimination of Rider NMB would require that transmission costs be billed to the load-serving entities, correct?

A. That's correct.

Q. And here the load-serving entities would be CRES suppliers and competitive auction bidders?

A. I believe that's correct, yes.

Q. Do you have any experience pricing competitive retail customers?

A. No, not -- not any experience pricing them. We have represented large customer loads where we have gone out and helped them with requests for proposal from third-party suppliers. You know, we received bids from those suppliers and helped the customer, you know, select an economic supply option, so we have done that as a firm.

Q. So the load-serving entities similar to the Companies would not be able to control the customers' NSPL value, correct?

A. I believe that's correct.

Q. And the load-serving entities would also not be able to control the NITS or RTEP charges?

A. Right. I mean, they are subject to the customers' actions so that's correct.

Q. Yeah. And I think you might have answered a different question. The customer controls the NSPL tag, but the amount of NITS and RTEP charges is set by PJM, not the load-serving entity, correct?

A. That's correct.

Q. Okay. Do you have any experience in pricing costs which cannot be mitigated on a

1 multi-year forward-looking basis?
2 A. Could you be more specific?
3 Q. Certainly. So under your proposal, the
4 load-serving entity would be required to price the
5 forward-looking cost of NITS and RTEP charges but has
6 no ability to control the amount of those charges,
7 correct?
8 A. That's correct, yeah. I had not tried
9 to, you know, price those out. Again, we do assist
10 customer loads with looking at supply options, you
11 know, going forward; but, you know, we get bids from
12 suppliers and that would contain the suppliers'
13 estimates of those costs going forward.
14 Q. Do you anticipate competitive suppliers
15 may include a risk premium to account for the risk of
16 increases to NITS or RTEP charges?
17 A. I would expect that they would.
18 Q. And so as the Companies currently pass
19 through those costs without markup, would you agree
20 that your proposal could increase costs for
21 residential customers?
22 A. I guess that could be a possibility
23 depending on the circumstances.
24 Q. Okay. Now turning to page 41 of your
25 testimony where you discuss the benefits which we

1 realized as compared to an MRO. Do you see that?
2 A. I see that, yes.
3 Q. So you claim the benefits of the
4 Companies' proposed energy efficiency and demand
5 response programs could also be accomplished in a
6 rate case. Do you see that?
7 A. I see that.
8 Q. Now, outside of 4928.143, which is the
9 statute which governs Electric Security Plans, are
10 you aware of any Ohio authority that authorizes
11 utilities to implement energy efficiency and demand
12 response programs in a rate case?
13 A. I am not aware.
14 Q. And turning to page 42, lines 1 to 7, you
15 claim the Companies' proposal ignores the fact that
16 customers will pay for the proposed energy efficiency
17 and demand response programs; is that correct?
18 A. What lines are you referring to, please?
19 Q. Lines 1 to 7.
20 A. Yes, I see that.
21 Q. So when you say the Companies ignored the
22 cost, did you review the testimony of Company Witness
23 Miller?
24 A. I don't know if I reviewed Miller -- the
25 Witness Miller's testimony.

Q. Okay. Continuing you discuss the Companies' proposed commitment of $52 million in shareholder funds, correct?

A. I'm sorry. Which page?

Q. I believe it's still on the same page.

A. On 40?

Q. 41.

A. 41. Apologize. I see that, yes.

Q. So you are aware the Companies are not proposing to recover from customers any part of the proposed $52 million commitment, correct?

A. I believe that's correct.

Q. And isn't it true the Companies are under no regulatory obligation to make the proposed $52 million commitment?

A. I believe that's correct.

Q. And that's a voluntary commitment being offered by the Companies?

A. I believe that's correct.

Q. And would you agree that if the Companies' proposed commitment of shareholder dollars is approved as part of this ESP, then at that point the Companies' voluntary commitment will become mandatory?

A. I'm sorry. Could you repeat the

1 question?
2 Q. Certainly. Would you agree if the
3 Companies' ESP V proposal is approved as filed, then
4 at that point the shareholder contribution of
5 $52 million would transition from voluntary to
6 mandatory?
7 A. I believe that would be correct.
8 MR. ALEXANDER: Thank you, Mr. Collins.
9 I appreciate the time. No further questions.
10 EXAMINER ADDISON: Thank you very much.
11 Any questions from Staff?
12 MS. BOTSCHNER-O'BRIEN: Yes, just a few
13 questions. Thank you.
14 - - -
15 CROSS-EXAMINATION
16 By Ms. Botschner-O'Brien:
17 Q. Good morning, Mr. Collins.
18 A. Good morning.
19 Q. I know you can't see me, but my name is
20 Amy Botschner-O'Brien, and I'm representing Staff in
21 this case. Just coincidentally I believe our time at
22 the Illinois Commission might have overlapped some 20
23 plus years ago, but it's nice to formally meet you.
24 A. Yes. Nice to see you -- or nice to hear
25 you.

Q. Starting on page 6 of the testimony that you have adopted from Mr. Meyer, you have a discussion of what you refer to as "special" regulatory mechanisms, correct?

A. Yes.

Q. And you provide various examples, correct?

A. I do.

Q. Okay. You use the word "special." Would a non-special regulatory mechanism be recovered through base rates?

A. Yes. When we've used the term special, we are referring to mechanisms that occur outside of a base rate case.

Q. Are there any other regulatory mechanisms that you do not consider to be special?

A. No, nothing comes to mind.

Q. And one instance where you say that a special regulatory mechanism might be appropriate is for an "extraordinary" storm, correct?

A. Correct.

Q. Okay. And that's from page 8, lines 3 to 5, of your testimony. On page 13, lines 3 to 6, you state "If a major storm occurs, the utility would have the opportunity to compare storm costs included

in base rates to that level of current storm costs and determine if an AAO should be sought." Do you see that?

A. I do.

Q. And AAO stands for accounting authority order; is that correct?

A. That's correct.

Q. AAO is another way of saying deferral; is that correct?

A. I would agree with that, yes.

Q. You would agree with that, correct?

A. Yes.

Q. Okay. So your testimony on page 13, lines 3 to 6, is that after a major storm occurs, the utility would then ask the Commission for approval of a deferral for costs related to that major storm; is that correct?

A. Correct.

Q. Okay. Do you know whether the Ohio Commission has authority to grant a deferral for the recovery of costs after those costs are already incurred?

A. I do not know.

Q. Okay. Turning to page 21 of your testimony on lines 12 to 18, you provide language for

how you believe Rider DCR should operate; is that correct?

A. Yes, that's correct.

Q. Okay. Where do you propose that this language be included? For example, in the Commission order in this case? In the tariff? What would you be suggesting there?

A. I believe you could include it both in the order and also in the tariff.

Q. Okay. Thank you. You are aware that Staff is proposing various modifications to the ESP as proposed by FirstEnergy; is that correct?

A. Yes. I'm aware.

Q. And some of these modifications would lower the costs that residential customers would pay as compared to what is in FirstEnergy's application; is that correct?

A. I believe that's correct.

Q. You testify that you believe that FirstEnergy's proposed ESP is less favorable in the aggregate than a Market Rate Offer; is that correct? And that's page 40 from your testimony.

A. Page 40. Which lines, please?

Q. Starting at line 2 and continuing through page 42.

A. Yes, I see that.

Q. You have not performed an ESP versus MRO test regarding ESP V as modified by Staff; is that correct?

A. That's correct. I have not performed such analysis.

MS. BOTSCHNER-O'BRIEN: Okay. That's all we have for this witness.

Thank you, Mr. Collins.

THE WITNESS: Thank you.

EXAMINER ADDISON: Thank you very much.

Redirect, Mr. Finnigan?

MR. FINNIGAN: No redirect, your Honor.

EXAMINER ADDISON: Thank you.

We have no additional questions for you at this time, Mr. Collins. We appreciate your testimony this morning.

THE WITNESS: Thank you very much.

EXAMINER ADDISON: All right. We will take up OCC's motion to admit OCC Exhibit 1. Does anyone have any objection to the admission of that exhibit at this time?

It will be admitted.

(EXHIBIT ADMITTED INTO EVIDENCE.)

MR. FINNIGAN: Thank you, your Honor.

EXAMINER ADDISON: Mr. Pritchard?

MR. PRITCHARD: Yes. At this time I would move for the admission of RESA Exhibit 17.

EXAMINER ADDISON: Any objection?

Hearing none, it will be admitted.

(EXHIBIT ADMITTED INTO EVIDENCE.)

EXAMINER ADDISON: Let's go off the record.

(Discussion off the record.)

EXAMINER ST. JOHN: Let's go back on the record.

The next thing we would like to take up, Mr. Gibbs, would you like to introduce an exhibit?

MR. GIBBS: Yes, your Honors. Thank you. Brian Gibbs for Armada Power. I have the direct prefiled testimony of Kathleen McManus which we have premarked as Armada Exhibit 1 which we would move for admission.

EXAMINER ST. JOHN: Thank you. That will be so marked.

(EXHIBIT MARKED FOR IDENTIFICATION.)

MR. GIBBS: And would your Honors like a copy?

EXAMINER ST. JOHN: We do not need a copy but please bring a copy up for the court reporter.

1 Thank you. Are there any objections to
2 the admission of this exhibit?
3 Hearing none, it is admitted.
4 (EXHIBIT ADMITTED INTO EVIDENCE.)
5 EXAMINER ST. JOHN: Thank you.
6 And at this time I would like to move
7 forward with a different portion of our hearing.
8 This portion of the hearing will be to receive
9 testimony regarding the Application from those in the
10 local community who are affected by the Application
11 but who are not parties to the case.
12 To all of those members of the public
13 that are here, if you have a prepared -- if you have
14 prepared a written statement, it would be helpful if
15 you provide a copy of that to the court reporter
16 after you are done testifying and that will help
17 ensure that the record -- excuse me, that the
18 transcript is accurate.
19 Once you finish testifying or if you are
20 here just to observe, you may leave the hearing at
21 any time you wish. And as we requested at the prior
22 public hearings, please keep your statement to a
23 reasonable length of no more than 5 minutes.
24 So with that, at this time we can begin
25 with the testimony. Would the first member of the

public like to step forward and provide their testimony?

Good morning.

MR. BRESLER: Good morning.

EXAMINER ST. JOHN: Please take a seat. Please raise your hand.

(Witness sworn.)

EXAMINER ST. JOHN: Thank you. And please state and spell your name for the record.

THE WITNESS: Sure. My name is Lawrence Bresler, B-R-E-S-L-E-R.

EXAMINER ST. JOHN: Thank you. Please provide your address.

THE WITNESS: 22725 Westchester Road, Shaker Heights, Ohio.

EXAMINER ST. JOHN: Thank you. And do you reside or work within the FirstEnergy territory?

THE WITNESS: Yes, I do.

EXAMINER ST. JOHN: Thank you. And please proceed with your testimony.

- - -

LAWRENCE BRESLER

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

DIRECT EXAMINATION

THE WITNESS: My name is Larry Bresler. I have been a social worker since 1973. I am currently Executive Director of Organize Ohio, a member of the Utilities for All Coalition, and a founding and coordinating member of the Ohio Poor People's Campaign. I have also been teaching at Case Western Reserve University School of Applied Social Sciences for the past 18 years.

Lower-income residents in Northern Ohio are facing daunting challenges with the cost of housing, food, and other basic needs greatly increasing. Their incomes have only been increasing marginally. At the same time FirstEnergy's energy usage rate went up from 5.88 cents per kilowatt to 12.39 cents. Now there is another proposed rate increase that will begin in June 2024. This portends to a large increase in shutoffs of FirstEnergy customers.

The programs provided by FirstEnergy ESP V -- ISP V -- ESP V will not improve this prospect for reducing shutoffs and in many respects make it worse. Therefore, I am asking for the

following: No. 1, increase the amount of the fuel fund from 2 million to 4 million. I recognize that the fuel fund has not been fully used in recent times. However, that has been at a time when COVID-related funds were available to low-income customers, and now with the electric costs have increased dramatically, the need to assist low-income customers from having their electricity turned off is almost certainly going to increase as well. Additional fuel funds are needed.

No. 2, increase the maximum awarded for the fuel fund from 500 to 750 for a family. With the very substantial increase in the fuel energy utility rates, an increase is warranted for the maximum support that a family can receive.

3, FirstEnergy should not put out for a bidding process for contracting for the fuel fund. When persons are seeking utility assistance, it is important that they -- that they are working with an agency that is known, knowledgeable, and respected in the community by the residents to be served as has been the case with Step Forward and CHN Housing Partners in -- in the Cleveland area.

By opening the fuel fund to a bidding process, we potentially no longer are contracting

with an experienced local -- local nonprofit agency, and we are jeopardizing the service provided in order to save some money.

No. 4, FirstEnergy should continue to fund the Consumer Advisory Program. FirstEnergy intends to defund the Consumer Advisory Program which provides electric utility savings advice to low-income FirstEnergy customers. It has been funded at 1 million per year. At a time with greatly increasing utility rates, it is more important than ever to continue to fund this program.

Furthermore, to ensure that -- its success, FirstEnergy should set measurable contractual expectations as to what is expected of the contracting partners so as the services provided can be maximized to low-income residents.

And, fifthly, the new senior citizen discount program is unsatisfactory as it's been proposed. FirstEnergy is proposing a new senior citizen discount program which would be funded at 2 million a year. Under this program low-income seniors will receive a discount of $5 a month on their bills. As set up, this is problematic. Seniors who -- seniors who are not going to be eligible for the PIPP Plus program or -- seniors who

are on the PIPP Plus program would not be eligible for this $5 discount. To the best of my knowledge, there's no legal requirement for this restriction.

Furthermore, any PIPP Plus program senior customer would almost certainly be saving much more by staying on the PIPP Plus program rather than -- rather than -- excuse me. I'm sorry. People would almost certainly be saving a whole lot more staying on the PIPP Plus program than taking a $5 discount. Consequently, its usage almost certainly is going to be fairly small unless they are not even aware of the PIPP Plus program.

I -- so since this program -- if -- if such a program is implemented, it almost certainly is going to be heavily unused. Therefore, if you continue to put this forward -- program forward, there is certainly going to be a large amount of money that's going to be left over. My -- my understanding of the plan was that it will be used -- if any money that's used -- unused in year to year will be used for low-income programs but is not specified in the plan whatsoever, and it needs to be specified.

In conclusion, we all share the interest in FirstEnergy customers being able to meet their

energy needs and not facing shutoffs. To that end, it is important to continue and expand the Fuel Fund Program operated by the agencies who have experience and knowledge to run such programs. At the same time we need to maintain the Consumer Advisory Program to maximize low-income customers get the most efficient use out of their electricity. And, finally, the Senior Discount Program needs to be rethought out in a way that actually helps low-income seniors.

Thank you for listening to me.

EXAMINER ST. JOHN: Thank you. And before I go ahead and ask you to step down from the stand, are there any questions for this individual from counsel?

All right. Thank you very much for your testimony.

EXAMINER ADDISON: Thank you.

EXAMINER ST. JOHN: Would the next member of the public like to step forward at this time?

Good morning. Please raise your right hand.

(Witness sworn.)

EXAMINER ST. JOHN: Thank you. And please state and spell your name for the record.

THE WITNESS: Okay. It's Don Bryant,

D-O-N B-R-Y-A-N-T.

EXAMINER ST. JOHN: And please provide your address.

THE WITNESS: 4053 Akins Road, A-K-I-N-S Road, North Royalton, Ohio 44133.

EXAMINER ST. JOHN: And do you reside or work within the FirstEnergy territory?

THE WITNESS: Yes, I do.

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

- - -

DON BRYANT

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

DIRECT EXAMINATION

THE WITNESS: Thank you. This is my statement to the Public Utilities Commission of Ohio regarding FirstEnergy Electric Service Plan No. 5.

I am Don Bryant, a participant with Utilities for All and coordinating committee member of the Ohio Poor People's Campaign. I served as Cuyahoga County's Soil and Water Board supervisor for three three-year terms. I am Co-Director of the Greater Cleveland Immigrant Support Network. I have assisted seniors, immigrants, and people of meager

means with utility services concerns. My work with Utilities for All since 2019 relates to policy, education, and direct assistance. Education outreach policy issues and direct assistance have been achieved through canvassing, phone calls, the media, and social media.

I have come before you today to speak for the many FirstEnergy customers I have related to who are struggling between paychecks or between jobs to keep theirself or families fed, clothed, housed, healthy, and to keep the lights on.

In our presumed post-pandemic period, people are still getting back on their feet from the economic setbacks and inflation on costs of all commodities -- commodities and services. As people are living close to the edge of homelessness, health crisis, or hunger, I suggest we avoid this calamity by putting utility service before -- putting utility service before excessive profit.

It has been reported that Ohio's electric utilities made record profits during the coronavirus pandemic and that was Channel 5 WEWS News that issued that report. In fact, the programs and services that I request -- that I request should be considered as costs of doing business in Ohio and not as a

reduction in profit. The fuel fund credit has been helpful in keeping the lights on for many utility customers with a $500 credit once annually. I ask that this be increased by granting eligibility to twice annually at a minimum of $500 per credit.

I also ask that FirstEnergy continue to provide direct customer service or utilize trusted community partners and not contract out the administration of the fuel fund to another firm. To add a third-party intermediary is an unnecessary dilution of customer accessibility and consumer services.

Finally, FirstEnergy's initiative Senior Citizen Discount Program to help seniors with electric service affordability is welcome but not enough. A $5 credit on a monthly electric bill would be negligible, especially with another rate increase.

I ask that this amount be increased. This plan should not limit access to other assisted plans such as the Percentage of Income Payment Plan known as PIPP. We must increase service and affordability to seniors, not decrease it. Let's keep the lights on for the elderly and the disadvantaged people in the community.

Thank you.

EXAMINER ST. JOHN: Thank you for that testimony. Before you step down, are there any questions for this witness from counsel?

I have one question for you. You noted that you are affiliated with at least one or more organizations, one of which Utilities for All. Are you testifying today on behalf of that organization or on behalf of yourself as an individual?

THE WITNESS: This is on behalf of the organization, Utilities for All. I'm sorry. Actually no. This is on behalf of myself.

EXAMINER ST. JOHN: Okay. All right. Thank you.

EXAMINER ADDISON: Thank you.

EXAMINER ST. JOHN: Would the next member of the public like to step forward at this time?

Good morning.

LOH: Hi.

EXAMINER ST. JOHN: Please raise your right hand.

(Witness sworn.)

EXAMINER ST. JOHN: Thank you. And please state and spell your name for the record.

THE WITNESS: The name is Loh, L-O-H.

EXAMINER ST. JOHN: All right. And

please provide your address.

THE WITNESS: 3631 Perkins Avenue. That's in Cleveland, Ohio.

EXAMINER ST. JOHN: And do you reside or work within the FirstEnergy territory?

THE WITNESS: Yes.

EXAMINER ST. JOHN: Thank you. Please proceed with your testimony.

EXAMINER ADDISON: I have a quick question before you begin. Did you provide testimony at the local hearing conducted in Cleveland, Ohio, for this proceeding?

THE WITNESS: I did attend the meeting at -- which was held at the City Hall.

EXAMINER ADDISON: Did you provide a statement at that time?

THE WITNESS: No. The reason I didn't provide a written testimony at that time.

EXAMINER ADDISON: Did you stand up, did I swear you in, and did you provide a statement at the time of that local hearing conducted at Cleveland, Ohio, for this proceeding?

THE WITNESS: Yes.

EXAMINER ADDISON: Mr. Meissner?

MR. MEISSNER: Yes, your Honor. There

were public statements made at the hearing in Cleveland, and Ms. Loh did make a statement. It was a very general statement, did not focus on particulars of the testimony, particularly Mr. Fanelli's testimony, which was only given to this body on November 8. So today's --

EXAMINER ADDISON: That is incorrect, Mr. Meissner. That testimony has been fully filed since April.

MR. MEISSNER: Yes, I know that, but a lot of the witnesses don't realize how they can get that or that it is available to them. So a lot of the people that are here today only really recognized what Mr. Fanelli was saying when he actually presented it and they were able to get a copy of his testimony. Ms. Loh's testimony will not repeat a single word of what she said back in September.

EXAMINER ADDISON: However, she was already given an opportunity to present a statement, correct?

MR. MEISSNER: Yes, that is true, your Honor, but today is focused, succinct statement by her on materials that should actually be helpful to this Commission and even to the Company itself in formulating the programs that it is proposing for

1 low-income people.
2 I would ask your Honor just to take
3 advantage of the fact she is here and give her the 3
4 or 4 minutes she would like to have to state how the
5 programs for the poor could be improved. That's
6 brand new testimony from her. It has not been
7 repeated anywhere else and would be helpful to
8 everyone here.
9 EXAMINER ADDISON: We will allow her to
10 provide a statement, but I will note for the record
11 this is highly inappropriate. We were under the
12 impression that these were witnesses that have not
13 provided testimony at the local hearings previously,
14 and I will just note that for the record.
15 MR. MEISSNER: All right. Thank you very
16 much.
17 EXAMINER ADDISON: You may provide your
18 testimony.
19 - - -
20 LOH
21 being first duly sworn, as prescribed by law, was
22 examined and testified as follows:
23 DIRECT EXAMINATION
24 THE WITNESS: Sorry about the confusion.
25 I myself I state not only I reside in Cleveland,

1 Ohio, I have been the lead advocate for Homeless
2 Congress for 10 years. I'm also a member of
3 Utilities for All, Ohio Poor People's Campaign, and I
4 also have been serving as a voting members in
5 different advisory boards, advisory committees, and
6 with City of Cleveland and Cuyahoga County.
7 Since I have been working mostly on the
8 people with low income or even housed, I have
9 recognized the very strong relations between housing
10 and utilities. After I realized the detail of the
11 ESP V, that particular plan with more of the detail,
12 I realized that PUCO definitely should have the power
13 and responsibility to ensure FirstEnergy has
14 accountability to actually follow the plan they
15 submitted.
16 Here are a couple points that previous
17 two people did not mention. For all the good
18 programs actually helping the community, actually
19 FirstEnergy's are going to discontinue them or alter
20 them to actually make their helpfulness less than
21 before. For example, they alter the details or they
22 want to get rid of the whole program completely.
23 That's the reason why fuel fund, that particular
24 program, and the Citizen Advisory Programs, these are
25 the good examples that they are actually helping

1 people, and we need them not only be existing, we
2 also need them to be expanded.
3 On the other hand, the program took in
4 people -- it doesn't matter, senior or any other age
5 group of people, you give them the monthly credit
6 doesn't matter how much the dollar amount is actually
7 is a very hurtful to income -- low-income people.
8 Because of the recession and COVID-19 right now, lots
9 of people do need housing assistance, especially
10 public housing assistance.
11 When you give a monthly credit for HUD,
12 all the housing voucher programs, they considered
13 this as an income. That actually will hurt their
14 eligibility to receive the housing assistance to the
15 full possible amount or the type of voucher they
16 should have in order to transition their life to get
17 on their feet eventually.
18 On the other hand, if you set up the
19 program to offer discount, for example, you have a
20 senior discount rate, the discount rate for people
21 with disabilities, these are helpful but for them to
22 say we would offer a big amount of money, to give
23 people just a $5 credit, please don't fall into that
24 trap. That would not help our citizens or residents
25 and I don't understand why FirstEnergy or any other

electricity companies keep producing the program for their ordinary residential customers with a lower quality and not really provide good customer service.

It seems like they only consider the business customers are the customers which is wrong thing to do. While I understand they are not public service, they cannot give up everything for free, but if they do have the funding, why they cannot comply with all other regulations instead of making up things to trap people into a worse situation.

And this is the reason why I am here today to make this statement. Last time unfortunately we did not know all the detail information yet so please for all the people listening today, make sure that you know the distinction between the type of program they offer and the program which you actually help low-income residents in any areas to stabilize their housing and their health care and the job needs. Don't forget without electricity, low-income residents, their powered medical equipment cannot be long. This will be really horrible. This actually put on a burden on the emergency room, not only just winter. It is also summer. The severe weather zones, actually we have two, not just one. This is the reason why I

definitely agree the fuel funds, the system should have at least twice a year with minimum $500 as an example. Because all the rules and all the program should face the reality, not just by the good wording on the paper which they do not utilize it, and they can say they don't know later, but the damage will be done to all the customers they have. What kind of business is that?

Thank you.

EXAMINER ST. JOHN: Thank you. And before you step down, are there any questions from counsel?

I will repeat the same question that I asked the prior individual. You stated you are affiliated with Utilities for All. Are you testifying on behalf of that organization or on behalf of yourself as an individual?

THE WITNESS: Since I represent many different ones, I will just say statement I made is from myself.

EXAMINER ST. JOHN: Okay. Thank you.

THE WITNESS: Thank you.

EXAMINER ADDISON: Thank you.

EXAMINER ST. JOHN: Are there any additional members of the public here who would like

to make a statement at this time?

MS. RYAN: I have something to say. My name is Giahoa Ryan, and I am very glad --

EXAMINER ST. JOHN: Would you, please?

MS. RYAN: Do I need to come up?

EXAMINER ST. JOHN: Please raise your right hand.

(Witness sworn.)

EXAMINER ST. JOHN: Thank you. Please state and spell your name for the record.

- - -

GIAHOA RYAN

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

DIRECT EXAMINATION

THE WITNESS: Okay. My name is Giahoa Ryan spelled G-I-A-H-O-A and the last name Ryan. And my address 2234 West Boulevard, Cleveland, Ohio. And my job I work with many communities, and I also served the Community Relations Board in Cleveland, Ohio, for 26 years.

I work with many, many Asian communities and many of them poor. I am very glad my friend today she was able to speak for all of us. You know, usually we don't have the opportunity to tell each

1 and every one of you do the service, and I hope you
2 take that into consideration and look into it.
3 We got many poor people minority and not
4 able to speak the language or they are not able to
5 communicate with anyone, and usually they shameful to
6 say something about it. They came to this country to
7 educate themselves and the children, and they don't
8 want to go on welfare and so on and so forth. They
9 have a lot of hard times.
10 I have been here over 50 some years.
11 Never -- I am a single person for 30 some years,
12 never one time to ask for assistance from anyone. I
13 work very hard. I work seven days a week. Sometimes
14 I work more than 24 hour day. So many of us do it
15 like that.
16 And again, thank you, my friend over
17 there. I met her this morning, and I am so glad she
18 able to bring out to each and every one of you and
19 each and every one of you work with our public
20 community. Please pay attention. Thank you so much.
21 Thank you for giving me the opportunity to speak
22 today.
23 EXAMINER ST. JOHN: Absolutely. Thank
24 you.
25 Are there any questions of this witness?

THE WITNESS: Oh, sorry.

EXAMINER ST. JOHN: Hearing none, thank you very much.

THE WITNESS: Thank you.

EXAMINER ST. JOHN: You may step down.

EXAMINER ADDISON: Thank you.

EXAMINER ST. JOHN: Are there any other members of the public that would like to make a statement at this time?

Hearing none, we will conclude the public testimony portion of the hearing.

And at this time we will also go off the record for our lunch break.

(Thereupon, at 12:15 p.m., a lunch recess was taken.)

- - -

Monday Afternoon Session,
December 4, 2023.

- - -

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

Staff, you may call your next witness.

MS. HOWARD: Thank you, your Honor. We would next call Kristin Braun.

EXAMINER PRICE: Ms. Braun.

(Witness sworn.)

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

THE WITNESS: My name is Kristin Braun, B-R-A-U-N. Address is 180 East Broad Street, Columbus, Ohio 43215.

EXAMINER PRICE: Please proceed.

MS. HOWARD: Thank you. I had previously placed on the bench and passed around what I would like to have marked as Staff Exhibit 3, the direct testimony of Kristin Braun.

EXAMINER PRICE: It will be so marked.

(EXHIBIT MARKED FOR IDENTIFICATION.)

- - -

KRISTIN BRAUN

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

DIRECT EXAMINATION

By Ms. Howard:

Q. Ms. Braun, do you have before you what has been marked as Staff Exhibit 3?

A. I do.

Q. What is it?

A. This is my testimony.

Q. Was it prepared by you or under your direction?

A. Yes.

Q. And have you had the opportunity to review it today before taking the stand?

A. Yes.

Q. Is it a true and accurate copy?

A. Yes.

Q. Do you wish to make any changes or corrections?

A. No.

Q. If I were to ask you the same questions found in your testimony, would you be able to provide the same answers today?

A. Yes.

1 MS. HOWARD: I would ask to have Staff
2 Exhibit 3 moved into the record, subject to cross,
3 and I offer this witness for cross-examination.
4 EXAMINER PRICE: We will take up the
5 admission of Staff Exhibit 3 upon the conclusion of
6 the cross-examination. Mr. Kurtz?
7 MR. KURTZ: No questions.
8 EXAMINER PRICE: RESA?
9 MR. PRITCHARD: Yes, your Honor.
10 - - -
11 CROSS-EXAMINATION
12 By Mr. Pritchard:
13 Q. Good afternoon, Ms. Braun.
14 A. Hi.
15 Q. Staff Witness Nicodemus's testimony
16 addresses reliability issues, correct?
17 A. I have not reviewed his testimony.
18 Q. Okay. Were you asked in -- strike that.
19 Your testimony does not include any
20 reliability analyses, correct?
21 A. Correct.
22 Q. Are you a reliability expert?
23 A. I am not.
24 Q. On your education background, did you
25 have any college classes where you received

1 specialized training in market -- energy market price
2 projections?
3 A. Can you repeat the question?
4 Q. Yes. While you were attending college,
5 did you have any college classes that specialized in
6 training on energy market price projections?
7 A. No.
8 Q. And did you have any college classes that
9 specialized in providing education on how to
10 determine the kilowatt-hour and kilowatt reductions
11 from various energy efficient products?
12 A. I did not.
13 Q. And your testimony indicates you've
14 undergone post-graduate classes, correct?
15 A. Correct.
16 Q. And that degree is related to city and
17 regional planning, correct?
18 A. Correct.
19 Q. Have you had any post-graduate classes
20 where you've received specialized training in
21 market -- energy market price projections?
22 A. No.
23 Q. Have you had any post-graduate classes
24 that provided any specialized training on determining
25 a kilowatt-hour or kilowatt reductions from energy

efficient products?

A. I have not.

Q. And setting aside formal college classes, have you participated in any sort of professional training seminars where you've received specialized training on how to conduct energy market price projections?

A. I have not.

Q. And have you received any professional training where you've received specialized instructions on how to determine the kilowatt-hour and kilowatt reduction of energy efficient products?

A. I'm sorry. Can you repeat the question?

Q. Sure.

EXAMINER PRICE: Do you want her to read it back?

MR. PRITCHARD: Yes, please.

EXAMINER PRICE: Can I have the question back, please.

(Record read.)

A. I have participated in various energy efficiency workshops. I don't know the extent that it was explicit to determining energy savings for particular products.

Q. Would you be an expert on if someone

identified a -- the energy savings and kilowatt-hours that could be achieved by purchasing an energy efficient appliance, would you be able to conduct that expert analysis to determine savings from the energy efficient appliance over some benchmark?

A. I think in general, yes. I think there are resources that we have available; and, yes, looking at the particular product and the energy savings and we would have -- I would be able to evaluate those savings.

Q. Have you ever prepared an independent analysis yourself?

A. No.

Q. Have you ever testified at the PUCO before?

A. Yes.

Q. And have you ever been deposed before?

A. I have not.

Q. And in preparing your testimony, did you review discovery re -- requests and responses?

A. I did some.

Q. Some.

A. Yes.

Q. And did you review them prior to filing your testimony?

A. I believe so, but I can't recall.

Q. Do you recall before filing your testimony whether you reviewed RESA Discovery Requests that asked the Company to identify any analysis they had done regarding reliability improvements for the demand response for residential customers?

A. I'm sorry. Can you repeat the question?

MR. PRITCHARD: Can I have that read back?

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

(Record read.)

A. Thank you. No, I did not.

Q. Since filing your testimony, have you reviewed the Companies' response to RESA's Discovery Request that asked the Company to identify whether -- strike that.

In preparing your testimony, were you aware that the Company had not done any analysis regarding potential reliability improvements from the demand response for residential program?

A. No, I was not.

Q. And your testimony doesn't contain any analysis or study about any reliability improvements

from the demand response for residential program, correct?

A. Correct.

MS. HOWARD: Objection, asked and answered.

EXAMINER PRICE: Overruled.

A. Correct.

Q. And you are aware that House Bill 6 changed Ohio's energy efficiency mandate requirements, correct?

A. Correct.

Q. And you are aware that one of the provisions of House Bill 6 related to a cumulative energy savings goal of 17-1/2 percent, correct?

A. Correct.

Q. And you are aware that Staff did an analysis of whether -- following the passage of House Bill 6 of whether the utilities had cumulatively met or exceeded that 17-1/2 percent, correct?

MS. HOWARD: Objection.

EXAMINER PRICE: Grounds?

MS. HOWARD: Outside the scope of this witness's testimony. No foundation has been laid for this line of questioning.

EXAMINER PRICE: He asked if she had

reviewed -- if she was aware of the eliminated mandates. Nonetheless, I will sustain your objection on relevance grounds. We are talking about a post-House Bill 6 world here.

Q. (By Mr. Pritchard) You are aware today that there is no energy efficiency mandate that would apply during the term of the proposed ESP V, correct?

A. Correct. Well, I don't -- let me correct that. There is no energy efficiency mandate today. I can't speak to whether or not there is an energy efficiency mandate tomorrow.

Q. And are you aware that under FirstEnergy's prior energy efficiency portfolio mandates that Staff had opposed the Companies' plan because it did not contain a cost cap mechanism?

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

(Record read.)

MR. PRITCHARD: Let me rephrase that.

Q. (By Mr. Pritchard) Under the -- the Staff of the Commission opposed FirstEnergy's last portfolio plan and proposed their own lower cost cap mechanism, correct?

MS. HOWARD: Objection, relevance.

EXAMINER PRICE: Mr. Pritchard.

MR. PRITCHARD: I am going to Staff's overall position on -- and the Commission's recent position on the cost of energy efficiency.

EXAMINER PRICE: I understand that, but I agree with Staff. Just deal with the current status quo. We've had workshops, we've had line downs, and we have a new world in front of us. Sustained.

Q. (By Mr. Pritchard) You are aware that the -- this year the Commission issued an order in the Dominion alternative regulation case addressing Dominion's proposed energy efficiency programs, correct?

A. I am aware there was an order.

Q. Have you reviewed the language in that order?

A. Not recently.

Q. Have you ever reviewed it?

A. Yes, I am sure I have.

Q. And are you aware that one of the items flagged in the Commission's order was affordability?

A. I don't remember that specifically from that order. I just don't remember the details.

Q. In your testimony, you cite the Commission's approval of the Columbia rate case, correct?

A. Correct.

Q. The outcome in the Columbia rate case was that the Commission only approved a low-income energy efficiency program, correct?

A. That is correct.

Q. And as recommended in your testimony, Staff is recommending programs beyond low income, correct?

A. That is correct.

Q. And the Commission issued an order this year approving DP&L's Electric Security Plan, correct?

A. That's correct.

Q. And the resolution of DP&L's Electric Security Plan was that the Commission only approved energy efficiency for low-income customers, correct?

A. Yes, that's correct.

Q. Now, if the Commission wanted to improve affordability of the -- let me strike that.

On page 4 -- the bottom of page 4 of your testimony, you identified the three energy efficiency programs you are recommending for approval, correct?

A. Correct.

Q. And they total up to $15.6 million per year, correct?

A. Yes.

Q. And these numbers are based on Company Witness Miller's average annual cost of the three identified programs, correct?

A. Yes.

Q. And if the Commission wanted to improve the affordability for any individual residential customer, would you agree that making the program cost recovery bypassable would be one mechanism the Commission could achieve that outcome?

A. That wasn't proposed in the Application.

Q. Setting aside whether the Company proposed that or not, do you agree that if the Commission wanted to improve affordability on an individual residential customer basis, that making the cost recovery bypassable would achieve that affordability outcome?

A. I don't know that I can speak to that.

Q. You don't have an opinion --

A. I do not.

Q. Did you not understand part of the question or? I am just trying to --

MS. HOWARD: Your Honor, objection, argumentative. The witness --

EXAMINER PRICE: I don't think he is

trying to be argumentative. He is obviously trying to figure out where he went wrong.

A. I understand the question. I didn't do that analysis and that's not a piece of the scope of my testimony here, so I don't feel like that's something that I can address.

Q. In general, if a customer had the option to pay for a specific program, they could opt out or choose not to opt in, and it would lower how much they pay on their electric bill, correct?

MR. ALEXANDER: Objection.

EXAMINER PRICE: Grounds?

MR. ALEXANDER: Asked and answered.

EXAMINER PRICE: She hasn't answered it yet. Overruled.

A. It would lower the cost for that customer but potentially not other customers paying that rider.

Q. And you've done no analysis of whether it would be beneficial for residential customers to be able to receive these three programs on an opt-in basis, have you?

A. I have not.

Q. Have you done any analysis of whether it would be beneficial for residential customers to

1 receive these programs on an opt-out basis?
2 A. I have not.
3 Q. At the top of page 4, your testimony
4 indicates that "Staff confirmed there was no company
5 shareholder incentive or shared savings mechanism
6 included in the EE/PDR budget." Do you see that
7 testimony?
8 A. Yes.
9 Q. Are you aware that the Companies'
10 proposal is to collect the annual cost of the energy
11 efficiency program spread out over eight years with
12 interest?
13 A. Yes.
14 Q. And you understand that the carrying
15 charge is calculated on both a debt and an equity
16 component?
17 A. I believe that's addressed by another
18 Staff in their testimony. That was not a piece of my
19 testimony.
20 Q. But do you understand that the Companies'
21 proposal was to include a carrying charge on what
22 they didn't collect in year one spread over eight
23 years?
24 A. I do.
25 Q. And do you understand that that carrying

1 charge had a debt and equity component?
2 A. Loosely.
3 Q. And if it has an equity component, would
4 you agree that that would be a financial incentive
5 for the Company?
6 A. I don't know that I know enough about it
7 to speak to that part.
8 Q. Do you generally understand that a return
9 on equity provides a profit to a utility?
10 A. Generally.
11 Q. Okay. So generally if the carrying
12 charge on -- if it had an ROE component, the
13 utilities could earn a profit component, correct?
14 A. Correct.
15 Q. And you understand that some carrying
16 charges are set at Commission-authorized debt rate,
17 correct?
18 A. I loosely, but again, this was not part
19 of my testimony. It was -- the evaluation on that
20 side was done by other Staff.
21 Q. And I understand that there is another
22 Staff witness testifying that Staff opposes this.
23 But I am going to your testimony on whether the
24 Company proposed a mechanism that they would have an
25 incentive on. So do you understand that if the

1 Company has -- carries a cost on their books at an
2 approved debt rate but can actually borrow money
3 for -- borrow that money for less, that difference
4 could provide financial profit to a company?
5 A. That is not my specialty, I'm sorry. I
6 can't speak to that.
7 Q. But hypothetically if I am authorized to
8 defer a cost at 5 percent interest and my actual cost
9 to borrowing is 1 percent, I have made 4 percent.
10 A. I understand your point.
11 MS. HOWARD: Your Honor, I am going to
12 object to this line of questioning. She has
13 established that this is some other Staff witness
14 that would have this information. She doesn't have
15 it. She's not sure. And we are continuing with this
16 line of questioning.
17 EXAMINER PRICE: Maybe we can cut through
18 some of the difficulty here. Can you explain page 4,
19 line 1, what you meant by "shareholder incentive or
20 shared savings mechanism" when you refer to the fact
21 there is none in the budget?
22 THE WITNESS: Yes. So the shareholder
23 incentive, or another word for that would be a shared
24 saving mechanism, was specifically a mechanism that
25 was used in previous portfolio programs that was -- I

1 am trying -- it's been a while since I reviewed it to
2 even walk through the calculation of the shared
3 savings mechanism but basically that is the piece
4 that Staff confirmed was not a part of the energy
5 efficiency budget.
6 EXAMINER PRICE: And in your testimony,
7 you were not addressing the fact that the Company is
8 seeking weighted average cost of capital for its
9 carrying charges or spreading the costs out over
10 eight years.
11 THE WITNESS: I did not address that
12 because that was being addressed by another Staff.
13 Q. (By Mr. Pritchard) Let me just come full
14 circle then, so when you say that there is no Company
15 shareholder incentive, your testimony is not -- is
16 not applied to the overall all aspects of the
17 recovery of the energy efficiency cost. Yours is
18 just limited to the narrower scope of just the budget
19 dollars.
20 A. Yes.
21 Q. Okay.
22 A. Exactly.
23 Q. And would Staff oppose the Company
24 earning a profit component -- just strike that.
25

EXAMINER PRICE: Which Staff witness addresses this?

THE WITNESS: Devin.

EXAMINER PRICE: Mackey?

THE WITNESS: Mackey, thank you.

EXAMINER PRICE: Thank you.

Q. (By Mr. Pritchard) Drawing your attention back to the three budgets at the bottom of page 4 on lines 17, 18, and 19. Question --

A. I'm sorry. Where are you?

Q. Page 4, lines 17, 18, and 19.

A. Oh, yes, yes.

Q. And I asked you a question, and your answer was these are the average annual figures from Mr. Miller's testimony for these three programs, correct?

A. Correct.

Q. And you understand that these budgets include costs associated with energy measurement verification, EMMV, tracking and reporting costs, and marketing costs, correct?

A. That is correct.

Q. And Company Witness Miller's testimony earlier in the case was that's the same kind of tracking and reporting that they did when they had

the energy efficiency portfolio plans. If that is the level of tracking and reporting costs, do you believe that that same level of cost is necessary for ESP V if we no longer have energy efficiency/peak-demand reduction mandates in place?

MR. ALEXANDER: Can I have that question read, please?

EXAMINER PRICE: Yes. Can we have the question back, please?

(Record read.)

A. Are you asking about the specific dollar amounts, or are you asking if that type of tracking and reporting -- I feel like that kind of trafficking -- tracking and reporting is necessary.

Q. Let's start with the latter and then we will go to the former. So do you think they need to track and report their energy efficiency savings to the same degree as they used to given that there are no energy efficiency and peak-demand reduction mandates any more?

A. Yes.

Q. So you believe that the same statistical -- the cost of the statistical analysis to determine energy efficiency savings from each of the measures is a prudent cost?

A. I do.

Q. And you understand one of the programs is school education, correct?

A. Yes.

Q. And that they are going to at school assemblies or some other avenue at schools they are going to hand out like a goodie bag that has LED lightbulbs and low flow aerators in it, correct?

A. Yes.

Q. And you understand that there's hundreds of thousands of dollars in cost tracking and reporting for the Company to determine if those LED lightbulbs and low flow aerators went home with the kids and installed them, correct?

A. I can't speak to the amounts that is going to go to the tracking and reporting for each of the programs. I think that some level of tracking or reporting, yes, is valuable to determine whether or not the programs are beneficial or should be continued.

Q. On school education, do you think that any level of tracking and reporting to figure out if the school -- the school students took that home and installed it is necessary?

A. Yes.

Q. And do you have a budget in mind of what you think would be a reasonable amount of expenditures?

A. I do not.

Q. Did you review Mr. Miller's testimony where he identifies what the Company projects as the cost of the tracking and reporting for each of these programs?

A. I did review his testimony.

Q. Do you have that testimony with you, or is it up at the Bench?

A. I do not know. I did not bring it to the Bench with me. I don't see it.

MR. PRITCHARD: Your Honor, can we go off the record for one minute?

EXAMINER PRICE: Yes.

(Discussion off the record.)

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

Q. (By Mr. Pritchard) Ms. Braun, will you turn to the attachments to the written part of the testimony. I believe they are labeled real small in the bottom corner but Attachment ECM-2 Workpaper 2.

A. Okay.

Q. And do you see the first table which at

1 the top ends in PY 1 for planning year one?
2 A. Yes.
3 Q. And let's just take the school education
4 budget. You'll see in planning year one there is a
5 tracking and reporting cost of $50,235.
6 A. Yes.
7 Q. Were you aware that that was the order of
8 magnitude of the tracking and reporting costs of
9 school education when you prepared your testimony?
10 A. I did review these, so I was aware. I
11 think part of that analysis was looking at the
12 projected costs going forward which were much lower
13 for that tracking and reporting, so essentially maybe
14 some startup costs were included in year one.
15 Q. Okay. Are you aware that the school
16 education budget for year one has $31,712 in the
17 marketing area?
18 A. Yes.
19 Q. And were you aware that the Company
20 determined that figure based on the total marketing
21 budget of the entire portfolio plan in general for
22 general marketing and allocated then that general
23 marketing cost to specific programs?
24 A. Can you rephrase that?
25 Q. Sure. Are you aware that the Company for

1 the marketing costs specific to the energy education,
2 that those are total portfolio plan general marketing
3 costs that were not specific to these programs but
4 allocated across all the programs including these
5 two?
6 A. I was not familiar with the -- the
7 specific way they broke out their marketing costs.
8 Q. And if -- your testimony eliminates a
9 number of other specific programs that Mr. Miller
10 proposed, correct?
11 A. Yes.
12 Q. And do you think the Commission and if it
13 were to adopt your recommendations should limit any
14 sort of marketing, tracking, reporting costs that
15 might have been incurred at portfolio level and
16 allocated to the various programs that should be
17 either reduced or a specific directive that be
18 limited to only these three items?
19 A. I'm sorry. I am not following that. Are
20 you saying -- I guess if you can rephrase that.
21 Q. Sure. So let's take energy education.
22 If they were going to market the energy efficiency
23 rebate program as part of the total portfolio
24 planning costs, and those costs you recommend an end
25 to that program, you would -- are you recommending

the Commission reduce this budget to eliminate any of those top level costs that were allocated to these specific programs?

A. I -- Staff recommended removal of the costs associated with any program that we do not recommend moving forward on.

Q. And so if there was a general cost like a general marketing cost that was not specific to energy education but which Mr. Miller testified was being allocable -- allocated to this budget, your position is that should also come out?

A. I don't know that that was Staff's recommendation. I think the -- Staff's recommendation to continue the energy education program, those costs included the marketing and the tracking and reporting costs.

Q. But regardless of let's say is in or not, your recommendation to the Commission that -- is if you eliminated and the Commission adopts your recommendation to eliminate, for example, the C&I program, that any costs that -- that you are not recommending any costs for the C&I marketing could be included in these budgets, correct?

A. That's correct, yes.

Q. Are you aware of the magnitude of

1 megawatt-hour and megawatt savings that Mr. Miller
2 projected for the demand response for residential
3 program?
4 A. I -- not off the top of my head.
5 Q. Did you review his testimony where he
6 identified those -- that information?
7 A. Yes.
8 Q. And since you still have his testimony in
9 front of you, it's the prior page than what we just
10 discussed which is I believe just labeled Attachment
11 ECM-2. There's a table at the top of it it says
12 "Attachment ECM-2 ESP V Projections" and then there
13 is a table of the programs with the identified demand
14 savings, for example, he projects for the different
15 programs.
16 A. Attachment ECM-2. Yes.
17 Q. And in preparing your testimony, did you
18 review the line where Mr. Miller projects that the
19 demand response for residential program would have
20 demand savings of 29.7 megawatts?
21 A. Yes.
22 Q. In preparing your testimony, did you do
23 any analysis of whether the market could produce
24 demand savings in excess of 29.7 megawatts?
25 A. I did not.

Q. And in preparing your testimony, did you review whether the market could provide demand savings in excess of the 5.8 megawatts associated with energy education?

A. I did not.

Q. And same question except for the 0.8 megawatts for the low income energy efficiency program.

A. No, I did not.

MR. PRITCHARD: Those are all the questions I have, your Honor. Thank you.

EXAMINER PRICE: Mr. Finnigan?

MR. FINNIGAN: No questions, your Honor.

EXAMINER PRICE: Mr. Lang?

MR. LANG: No, thank you.

EXAMINER PRICE: Ms. Bojko?

MS. BOJKO: Yes, thank you, a couple of clarifying questions.

- - -

CROSS-EXAMINATION

By Ms. Bojko:

Q. Good afternoon, Ms. Braun.

A. Hello.

Q. I -- can you turn to page 3 of your testimony. On lines 14 through 17, you are

recommending that the energy efficiency program be approved for three years; is that correct?

A. Yes. That was kind of piggybacking on the testimony from Chris on the approval of the programs for three years -- I'm sorry, for the overall ESP V proposals to be approved for six year versus the eight. And so, yes, we recommend that if that were adopted by the Commission, that instead of approving a four-year energy efficiency program, we would suggest approving a three-year energy efficiency program.

Q. Okay. Is Staff's proposal to end the energy efficiency program at the end of three years if no subsequent approval has been granted?

A. We don't -- we don't, I guess, address that in our testimony; but, yes, if there were -- Staff's recommending approval of those three years and if there were no additional approvals at the end of that time, there would be no approval moving forward.

Q. And then if you go to page 4, your recommendation is the 15.6 million per year; is that correct?

A. I'm sorry. Can you repeat the question? I didn't hear you.

Q. On page 4, your recommendation for the new budget is 15.6 million for each year; is that correct?

A. Correct. That's correct.

Q. On line 15 you say "for the duration of the four-year plan." If it is a three-year plan, you are suggesting that the budget would be 15.6 for each year for three years.

A. That's correct.

Q. And who is Staff recommending pay for the three -- or four energy -- three energy efficiency programs that you have listed on page 4?

A. Who are we recommending pay for those programs?

Q. Pay for the programs, pay the $15.6 million.

A. Those would be -- as part of the Application, those were to be recovered through the Energy Efficiency Rider for the residential.

Q. Okay. So your recommendation is that the 15.6 is collected through the EE/PDR Rider from residential customers because the programs are residential programs?

A. Yes, that's correct. And I would just add that the -- again, another Staff might be -- they

have better details on the recovery through that rider. That wasn't necessarily part of my testimony.

MS. BOJKO: Okay. Thank you. That's all I have.

EXAMINER PRICE: Ms. Whitfield?

MS. WHITFIELD: Yes. I just have a couple questions.

- - -

CROSS-EXAMINATION

By Ms. Whitfield:

Q. So just following up on those questions about your testimony on page 4, now, the three programs you are recommending continue are all residential, correct?

A. Yes.

Q. Now, if the Commission doesn't adopt Staff's recommendation and includes some sort of C&I EE/PDR program, would Staff be supportive of an opt in for customers into that program?

A. I did not review the options of an opt in.

Q. And I understand you didn't review it but does -- do you have an opinion or a position if the Commission does not adopt your recommendation that the energy solutions for business be removed?

A. Without doing any like analysis, Staff -- I think Staff would -- the Application proposes an opt out so Staff -- I guess I don't really have an answer for that, you know. The opt out was proposed in the Application so that's where we would assume the program would follow that, but the Commission could make any decision that they choose.

MS. WHITFIELD: Okay. Fair enough. Thank you. That's all I have.

EXAMINER PRICE: ELPC?

MR. KELTER: Yes, I do have some questions.

- - -

CROSS-EXAMINATION

By Mr. Kelter:

Q. Good afternoon, Ms. Braun.

A. Hello.

Q. At line -- at page 1, line 22, of your testimony, you state that in 2012, you were promoted to a Public Utilities Administrator in the Department of Energy & Environment. Can you describe your duties in that position?

A. That was a long time ago but essentially I was supervisor and worked on, you know, energy-related activities in the Department of Energy

& Environment at that time.

Q. And then in -- you state in August of 2015, you were promoted to your current position as a Public Utilities Administrator 2 within the Department of Rates and Analysis. And can you describe your duties in that position including what you did related to different utility energy efficiency programs?

A. As a -- well, I guess in general, again, in a supervisory position within the Department of Rates and Analysis, my area of focus was on renewable energy and energy efficiency-related topics. So depending on what those topics were during that time, myself or my staff would address those applications or whatever type of, you know, responsibilities need to be taken care of at that time; so, you know, those things fluctuate over the years.

Q. So turning to page 4 of your testimony, at line 9, you state the Staff recommends removal of the $17,883,228 for -- for residential rebate programs, correct?

A. Yes.

Q. Did you review Mr. Miller's testimony before making this recommendation?

A. Yes.

Q. And can you turn to Mr. Miller's testimony Attachment ECM-2?

A. Yes.

Q. And do you see at the bottom there under energy -- do you see the column entitled "Energy Savings"?

A. I do. Yes, I do.

Q. And at the bottom it says "Plan Total 253,332 megawatt-hours savings," correct?

A. Yes, it does.

Q. Do you disagree with that savings estimate?

A. No, I don't disagree with that. I would need to run the math through, but I don't disagree right now.

Q. And do you see the column that says "Demand Savings Megawatt"?

A. Yes.

Q. And at the bottom it says "67.6 megawatts" of demand savings?

A. Yes.

Q. Do you disagree with that estimate?

A. Again, no. Without running the math through, I do not disagree.

Q. And can you please turn to ECM-4

1 Workpaper 2. And at the top it says "Avoided
2 Energy." Let me know when you are there because I
3 know there are a lot of workpapers here.
4 A. You said ECM-4 Workpaper 2?
5 Q. Yep. And then "colon Avoided Energy"?
6 A. I'm there.
7 Q. Do you disagree with any of FirstEnergy's
8 estimates of avoided generation costs?
9 MR. PRITCHARD: Objection.
10 EXAMINER PRICE: Grounds?
11 MR. PRITCHARD: I asked this witness if
12 she had any training or expertise on avoided energy
13 costs, and her answer to several of my questions were
14 she has had no training on or expertise on energy
15 market price projections.
16 EXAMINER PRICE: I am --
17 MR. KELTER: Can I respond?
18 EXAMINER PRICE: No. I am going --
19 MR. KELTER: That doesn't mean that --
20 EXAMINER PRICE: You are going to win
21 this point.
22 MR. KELTER: Never mind.
23 EXAMINER PRICE: I am going to overrule
24 your objection. The Bench is comfortable with her
25 expertise given her education and her training and

employment history with the Staff.

A. Can you repeat the question?

Q. Sure. I don't think I -- yes. Do you disagree with FirstEnergy's estimates on this page of its avoided generation costs?

A. I did not evaluate their -- I tried to recalculate these; but, no, I don't disagree.

Q. Generally speaking do you believe that if customers use less energy, it drives down the market price that FirstEnergy customers pay?

A. I think generally speaking I could agree with that.

Q. So turning to Workpaper 3, I also have to find it, that one is entitled "Avoided Capacity." Are you there?

A. No, not yet. I'm sorry. What did you say?

Q. "Attachment ECM-4, Workpaper 3: Avoided Capacity." It's on the next page.

A. Sorry. I went back. Yes. I'm there.

Q. Do you agree with FirstEnergy's estimates for avoided capacity?

MR. PRITCHARD: Objection.

EXAMINER PRICE: Grounds?

MR. PRITCHARD: Same grounds as earlier.

The witness indicated to me she doesn't have any training on energy market price forecasts.

EXAMINER PRICE: The objection is noted. Thank you. Overruled.

Q. (By Mr. Kelter) And now if you could turn one page to "Workpaper 4: Avoided T&D" Cost.

MR. ALEXANDER: Can I have the last question and answer reread?

EXAMINER PRICE: You may. I'm not sure she answered the question.

MR. ALEXANDER: That was my intention there.

MR. KELTER: Sorry.

Q. (By Mr. Kelter) I asked if you disagreed with FirstEnergy's estimates of avoided capacity costs.

A. I did not do an analysis on these numbers, but I did not agree. I'm sorry. I did not disagree. Sorry.

Q. And turning to the next page, Workpaper 4: Avoided T&D, are you there?

A. Yes.

Q. Do you disagree with these estimates on avoided T&D costs?

A. Again, I didn't recreate these numbers

independently. I did not disagree.

Q. At page 2, turning to page 2, line 16.

A. Of my testimony or?

Q. Of your testimony.

A. Okay.

Q. You note that the total budget for the program is approximately $72.1 million per year. Have you conducted a cost/benefit analysis of the programs?

MR. PRITCHARD: Objection.

EXAMINER PRICE: Grounds?

MR. PRITCHARD: Actually I will withdraw that. Sorry.

EXAMINER PRICE: Thank you.

A. The cost/benefit analysis was included in the Application from FirstEnergy.

EXAMINER PRICE: But did you perform an independent cost/benefit analysis?

THE WITNESS: I did not.

Q. And has anyone on Staff conducted a cost/benefit analysis to your knowledge?

A. I guess it depends on the definition of the cost/benefit analysis. If you're speaking specifically for like total resource cost test or Staff did analyze a cost to ratepayers, so I would

say I don't know that someone did a specific cost analysis using the TRC, but I will say that Staff analyzed costs associated with the programs.

Q. So did Staff analyze the cost but not the benefits?

A. I can't -- I can't recall specifically what was included in the numbers that were analyzed.

Q. Well, can you turn to page 28 of Mr. Miller's testimony, please?

A. Okay.

Q. At line 12, he says that "the EE/PDR plan is projected to be cost-effective at the portfolio level, having a benefit cost ratio of 1.3 under the TRC, and 2.1 under both the SCT and UCT." Does Staff disagree with those numbers?

A. No. Staff -- we did not disagree with those numbers, but Staff also evaluated programs -- no, we didn't disagree with those numbers.

Q. Turning to your testimony at page 4, line 9.

A. Okay.

MR. KELTER: Can you give me one second, your Honor?

EXAMINER PRICE: Yes.

Q. (By Mr. Kelter) Ms. Braun, at page 4,

1 line 9, when you say Staff recommends removal of the
2 17,883,228 of the residential rebates program, is
3 Staff's recommendation based on your personal opinion
4 about the value of energy efficiency programs?
5 MS. HOWARD: Objection.
6 EXAMINER PRICE: Don't answer that. She
7 is not here to present her personal opinion. If she
8 wants to present her personal opinions, she would
9 have testified at the public hearing or earlier today
10 when we had public testimony. She is here to testify
11 to Staff's opinion. You can ask her Staff's opinion
12 but not her personal opinion.
13 MR. KELTER: So I am not allowed to ask
14 an expert witness whether something is their personal
15 opinion, or it's the opinion of Staff?
16 EXAMINER PRICE: She is here to present
17 the opinions of the Staff.
18 Q. (By Mr. Kelter) Turning to page 4, line
19 18, of your testimony, you state that you support a
20 $3,456,539 budget for demand response; is that
21 correct?
22 A. That is correct.
23 Q. Are you familiar with the AEP settlement
24 regarding demand response in its recent ESP case?
25 A. I don't remember the specifics in that

1 Stipulation for that demand response.
2 Q. Do you recall the -- subject to check,
3 that the budget for that AEP DR program was 5 million
4 per year?
5 MR. PRITCHARD: Objection.
6 EXAMINER PRICE: Grounds?
7 MR. PRITCHARD: The witness just
8 indicated she didn't know the specifics, and the
9 question also includes facts not in evidence.
10 MS. HOWARD: Staff would also object to
11 relevance.
12 EXAMINER PRICE: I am going to overrule
13 the objection.
14 MR. KELTER: I am trying to refresh her
15 recollection and --
16 EXAMINER PRICE: Do you have -- do you
17 have a copy of the AEP Stipulation for her to look at
18 to refresh her recollection?
19 MR. KELTER: I don't. But the question
20 was does she remember that the budget was 5 million.
21 EXAMINER PRICE: We will give Mr. Kelter
22 some leeway.
23 MS. HOWARD: Objection. The counsel is
24 using a settlement that he signed to try to set
25 precedent in this case.

MR. KELTER: They signed it too.

MS. HOWARD: But this witness is not familiar with the specifics of the settlement.

EXAMINER PRICE: Well, we don't know that yet. That's why he is trying to refresh her recollection. However, frequently -- I don't know this to be true. Frequently settlement includes the provision that it is not precedent by any of the signatory parties. Does the AEP settlement include that?

MS. HOWARD: Yes, it does.

EXAMINER PRICE: You are sure? You are not just agreeing with me.

MS. HOWARD: No, I am not just agreeing, your Honor.

MR. KURTZ: It says that after it has been approved by the Commission.

EXAMINER PRICE: Oh, Mr. Kurtz made an excellent point. Overruled.

You may answer the question after all that.

A. Can you please reread the question?

MR. KELTER: I'm sorry. Can the court reporter read it back, please?

EXAMINER PRICE: Yes, please.

(Record read.)

THE WITNESS: Thank you.

A. No. I do not recall the specifics of the DR program.

Q. Is there a reason that FirstEnergy's DR program would not be proportionate to the number of customers that it has?

A. I don't know that I can answer that question. We evaluated what's presented in the Application.

Q. So did you take the number of customers that FirstEnergy has compared to the number of customers AEP has into consideration when you set this budget for FirstEnergy?

A. There was -- there was consideration, yes. I wouldn't say explicitly for the demand response programs.

EXAMINER PRICE: What does that mean?

THE WITNESS: So more so we evaluated the overall cost for the energy efficiency programs in total.

EXAMINER PRICE: Now, in the AEP settlement, am I correct that the energy education budget was only a million dollars?

THE WITNESS: I --

EXAMINER PRICE: Do you know?

THE WITNESS: I don't recall. Sorry.

EXAMINER PRICE: In setting the education budget in this case, did you consider any factors relative to the size of FirstEnergy versus AEP?

THE WITNESS: Again, yes, in a manner that we looked at number of customers and overall costs and that they were reasonable so comparing to the AEP Stipulation to that -- the Application, yes.

EXAMINER PRICE: Thank you.

Thank you, Mr. Kelter.

Q. (By Mr. Kelter) Do you recall Mr. Pritchard asking you a series of questions regarding FirstEnergy's energy education programs?

A. Yes.

Q. And would you agree that energy education programs are common components of energy efficiency programs run by utilities around the country?

MR. PRITCHARD: Objection.

EXAMINER PRICE: Grounds?

MR. PRITCHARD: Friendly cross.

EXAMINER PRICE: It hasn't been very friendly so far.

Can I have the question back again?

(Record read.)

EXAMINER PRICE: Objection sustained on this topic. It appears to be friendly.

Q. (By Mr. Kelter) Do you think there is societal value to educating kids about energy efficiency?

MR. PRITCHARD: Same objection.

EXAMINER PRICE: Mr. Kelter?

MR. KELTER: He opened the door.

EXAMINER PRICE: You can't rehabilitate the witness on this issue. That is up to Staff's counsel if they choose to. It's manifestly unfair to let you rehabilitate the witness and Staff counsel has no redirect and Mr. Pritchard is not getting a chance to recross.

MR. KELTER: Okay. Thank you. That's all the questions I have.

EXAMINER PRICE: Mr. Dove?

MR. DOVE: No questions, your Honor.

EXAMINER PRICE: Walmart?

MS. GRUNDMANN: No questions.

EXAMINER PRICE: Nucor?

MR. BRISCAR: No questions, your Honor

EXAMINER PRICE: Mr. Hays?

MR. HAYS: Fearfully, yes, one, your Honor.

CROSS-EXAMINATION

By Mr. Hays:

Q. I know you can't see me very well.

A. I can see you now.

Q. I'll wheel over to say hello. Thank you for your testimony today. I'm Tom Hays with NOAC. Would you agree with me that when you have things like a school education program where kids bring home a bag that says "FirstEnergy," that there is an advertising component in that where the Company can get goodwill, and so within a certain sense, they are getting, if you will, free advertising that they are good people? If you didn't understand the question --

A. No. I am trying to remember the beginning of the question.

Q. Okay. I did ramble. I apologize. I asked if you thought there might be a PR value to the Company to give school kids a bag of goodies to take home and that PR value -- well, first, is there a PR value?

A. There could be.

Q. I'm sorry?

A. There could be.

MR. HAYS: That's the only question I

have. Thank you. I did say one.

EXAMINER PRICE: Thank you.

OEC?

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

- - -

CROSS-EXAMINATION

By Ms. Nordstrom:

Q. Hi, Ms. Braun. You can't see me, but my name is Karen Nordstrom. I represent the Ohio Environmental Council. You spoke with Mr. Pritchard about FirstEnergy's proposal to include tracking and reporting on their energy efficiency programs, correct?

A. Correct.

Q. And you said Staff supports FirstEnergy providing tracking and reporting on these programs.

A. Correct.

Q. And to your knowledge, has PUCO Staff ever received any tracking or reporting data from any CRES providers in Ohio on their energy efficiency programs?

MR. PRITCHARD: Objection.

EXAMINER PRICE: Grounds?

MR. PRITCHARD: Vague and assumes that --

1 vague as to there's no mandate for the CRES providers
2 to track and report.
3 MS. NORDSTROM: I can set some additional
4 foundation, your Honor.
5 EXAMINER PRICE: Thank you.
6 Q. (By Ms. Nordstrom) Ms. Braun, are you
7 aware that RESA submitted testimony in this case from
8 a Mr. White and a Mr. Smith?
9 A. I am aware that they filed testimony.
10 Q. And are you aware that in their testimony
11 they stated that they provide energy efficiency
12 programs in the competitive market?
13 A. I do not recall reading that.
14 Q. Okay. So you are not aware of whether or
15 not CRES providers provide any of the programs
16 proposed in FirstEnergy's proposal in the competitive
17 market.
18 A. That -- that's correct. I am not
19 familiar with the specific CRES programs being
20 offered.
21 Q. And you are not aware if there even are
22 any being offered.
23 A. I was -- I can't recall specifically. I
24 was under the impression that there were, but I don't
25 remember specifics on -- on where those programs are

and if they were in the FirstEnergy territory.

MS. NORDSTROM: Okay. Thank you very much.

I have no further questions, your Honor.

EXAMINER PRICE: Thank you.

OELC?

MR. PROANO: Yes, your Honor.

- - -

CROSS-EXAMINATION

By Mr. Proano:

Q. Just one question, Ms. Braun. On page 3, lines 8 and 10, you say that Staff does not support the inclusion of the energy solutions for business program in the EE/PDR plan. Now, you don't describe why that is but is there -- what's the reason for Staff's not supporting the inclusion of that program?

A. In general Staff looked to previous energy efficiency programs that have been proposed in front of the Commission recently, and the Commission has provided a framework of what they felt was an appropriate level of energy efficiency. Staff also agrees that it's, you know, to reduce the costs being recovered through ratepayers, so basically kind of looked at those two things, Commission precedent, recent energy efficiency portfolio plans that have

been proposed.

MR. PROANO: All right. Thank you.

No further questions, your Honor.

EXAMINER PRICE: Companies?

MR. ALEXANDER: Very briefly, your Honor.

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CROSS-EXAMINATION

By Mr. Alexander:

Q. Hello, Ms. Braun.

A. Hi.

Q. With regard to the programs which Staff is recommending not be authorized, I want to delve a little bit into the PUCO precedent that you mentioned. The Columbia Gas case cited in your testimony and then the AES case we discussed earlier today, the scope of those energy efficiency programs was both set via Stipulation, correct?

A. Yes.

MR. ALEXANDER: Okay. No further questions, your Honor.

EXAMINER PRICE: Redirect?

MS. HOWARD: Can we have a few minutes?

EXAMINER PRICE: You may.

Let's go off the record.

(Recess taken.)

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

Redirect?

MS. HOWARD: Staff has no redirect. We would just renew our motion to admit Staff Exhibit 3.

EXAMINER PRICE: Any objection to the admission of Staff Exhibit 3?

Seeing none, it will be admitted.

(EXHIBIT ADMITTED INTO EVIDENCE.)

EXAMINER PRICE: Thank you, Ms. Braun. You are excused.

Ms. Grundmann.

MS. GRUNDMANN: Yes, thank you, your Honor. At this time Walmart would move to admit the direct testimony of Lisa V. Perry.

EXAMINER PRICE: Have we marked it?

MS. GRUNDMANN: I don't believe we have. Can we mark it and admit it into the record?

EXAMINER PRICE: Walmart which number?

MS. GRUNDMANN: I think it would be Exhibit 1. I don't think I have had any prior exhibits.

EXAMINER PRICE: It will be marked as Walmart 1.

(EXHIBIT MARKED FOR IDENTIFICATION.)

EXAMINER PRICE: Any objection to its admission?

Seeing none, it will be admitted.

(EXHIBIT ADMITTED INTO EVIDENCE.)

EXAMINER PRICE: Staff may call your next witness.

MS. HOWARD: Thank you, your Honor. Staff would next call Staff Witness Krystina Schaefer.

(Witness sworn.)

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

THE WITNESS: Hello. My name is Krystina Schaefer. My business address is 180 East Broad Street, Columbus, Ohio 43215.

EXAMINER PRICE: Please proceed.

MS. HOWARD: Thank you. I had previously placed on the Bench and passed around what I would like to have marked as Staff Exhibit 4, the direct testimony of Krystina Schaefer.

EXAMINER PRICE: It will be so marked.

(EXHIBIT MARKED FOR IDENTIFICATION.)

- - -

KRYSTINA SCHAEFER

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

DIRECT EXAMINATION

By Ms. Howard:

Q. Ms. Schaefer, do you have before you what has been marked as Staff Exhibit 4?

A. I do.

Q. What is it?

A. It's my direct testimony in this proceeding.

Q. Was it prepared by you or under your direction?

A. Yes, it was.

Q. Have you had an opportunity to review this document before getting on the Bench today?

A. I have.

Q. Is it a true and accurate copy?

A. Yes.

Q. Do you wish to make any changes or corrections?

A. I do not.

Q. If I were to ask you the same questions found in your testimony, would you provide the same answers today?

A. Yes.

MS. HOWARD: I would ask to have Staff Exhibit 4 moved into the record, subject to cross, and I offer this witness for cross-examination.

EXAMINER PRICE: We will defer ruling on the admission of Staff Exhibit 4 until the conclusion of cross-examination.

Mr. Kurtz?

MR. KURTZ: No questions, your Honor.

EXAMINER PRICE: RESA?

MR. PRITCHARD: Yes, briefly, your Honor.

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CROSS-EXAMINATION

By Mr. Pritchard:

Q. Good afternoon, Ms. Schaefer. One of the items you discuss in your testimony is the Companies' proposal to use shareholder funding for a battery project, correct?

A. That's correct.

Q. And your testimony addresses in part about that -- I don't want to put words in your mouth but being conditional on funding from the Department of Energy, correct?

A. Yes, that's correct.

Q. And you are aware that the Company did

not receive funding from Department of Energy, correct?

A. I am. However, there is another funding opportunity that's available that I believe I updated my testimony to address but, yes, generally.

Q. And were you aware the Company indicated at the first day of hearing that they are not moving forward with the battery project given that they did not receive the funding?

A. I listened to Company Witness Fanelli's cross-examination, and I believe he generally stated that, though it wasn't clear to me if they would present some sort of modified proposal for this next funding opportunity.

Q. Fair enough. You are aware that a battery can provide generation and ancillary market services, correct?

A. Are you speaking generally, or are you talking about the DOE proposal that the Companies have contemplated?

Q. Generally.

A. Yes, generally.

Q. And so if the Commission were to address any battery in the context of its ability to provide distribution service, would you agree with me that

there needs to be parameters around the line of demarcation between distribution, generation, and ancillary services the battery can provide?

A. I think it would depend on the specifics of the proposal.

Q. For example, in Ohio we have regulated distribution utilities, correct?

A. We do.

Q. And those distribution utilities today are not providing any generation service to their customers, correct?

A. They provide generation service through the Standard Service Offer but not otherwise, generally, yes.

Q. And SSO suppliers are ultimately responsible for the procuring that supply of generation service, correct?

A. That's right.

MR. PRITCHARD: And so if -- if FirstEnergy were to move forward -- let me just strike that.

That's all I have. Thank you.

EXAMINER PRICE: Thank you.

Mr. Finnigan?

MR. FINNIGAN: No questions, your Honor.

EXAMINER PRICE: Mr. Lang?

MR. LANG: Yes, your Honor.

- - -

CROSS-EXAMINATION

By Mr. Lang:

Q. I do have a few questions. And I was -- Ms. Schaefer, I was looking at page 11 and 12 of your testimony discussing time varying rates. And you refer to several riders that -- that currently exist that include time varying rates and you --

MS. HOWARD: Your Honor, I'm sorry. Could you speak a little closer to your microphone? We are having trouble hearing you.

MR. PRITCHARD: Ms. Schaefer also, if you wouldn't mind.

THE WITNESS: Is this better?

EXAMINER PRICE: Yes.

Q. (By Mr. Lang) With respect to the time varying rates that are referenced in your testimony, it is Staff's position that Staff is generally supportive of those time varying rates, correct?

A. It's State policy to support time varying rates, so Staff is supportive of implementing the State policy; but, yes, we have generally been supportive time-of-use rates.

Q. And I noticed in your testimony you did not reference the time-of-day options, the residential and nonresidential time-of-day options, that are in Rider GEN. Are you also familiar with those time varying rates?

A. I am. In Case 20-50 the Commission approved a time varying rate in support of the Companies' Grid Modernization I proposal that was approved by the Commission.

Q. That is -- is Staff also generally supportive of the implementation of those -- those -- the two time-of-day options that are in Rider GEN?

A. Yes. Staff filed a Staff Report in that case that I referenced, Case No. 20-50, that was later approved, and Staff was supportive of implementation of that rate.

Q. Has Staff considered whether customers should have time varying rates such as the time-of-day options that are in Rider GEN as the default for Rider GEN?

A. It's been discussed internally as I know a number of parties have presented it within the context of ESP proceedings.

Q. And does Staff have a position?

A. That's outside of the scope of my

1 testimony currently.
2 Q. Does Staff recognize -- take a little
3 step back. You refer in your testimony to
4 encouraging participation in the Companies' different
5 time varying rates and that there would be benefits
6 to customers from that. What -- what does Staff
7 understand those benefits to be?
8 A. So, namely, having a time-differentiated
9 rate in support of a Smart Grid program would further
10 State policies defined in 4928.02. I think to the
11 extent and depending on the specific design of the
12 time-of-use rate, there could be benefits in terms of
13 reduced usage during on-peak periods or specifically
14 targeted reduced usage or demand in areas of high
15 congestion on the distribution system. Potentially a
16 generation- or distribution-related benefit could be
17 possible depending on the specific time-of-use rate
18 design and objectives.
19 MR. LANG: Thank you. That's all I have.
20 EXAMINER PRICE: OMAEG?
21 MS. BOJKO: No questions, your Honor.
22 EXAMINER PRICE: Kroger?
23 MS. WHITFIELD: No questions, your Honor.
24 EXAMINER PRICE: Thank you.
25 ELPC?

MR. KELTER: No questions.

EXAMINER PRICE: Mr. Dove?

MR. DOVE: No questions, your Honor.

EXAMINER PRICE: Walmart?

MS. GRUNDMANN: Yes, your Honor.

- - -

CROSS-EXAMINATION

By Ms. Grundmann:

Q. Good afternoon, Ms. Schaefer. How are you?

A. I am doing well.

Q. Did you in the course of preparing for your testimony today review the testimony of Walmart Witness Perry?

A. Yes.

Q. And so she has put forth a proposal for rate design particularly for C&I customers with DCFC charging?

A. I recall that was the recommendation. I don't recall the details of the rate design proposal at this time though.

Q. Does Staff think that it's appropriate for a distribution utility to engage in rate design for EV infrastructure charging?

A. Yes, we've been supportive of specific

rate designs around EV charging.

Q. And so we -- obviously we have this ESP case, and then are you also participating on behalf of Staff in the currently pending Grid Mod II case that the Company has?

A. Yes.

Q. And are you likely to also be a lucky participant in the distribution rate case scheduled for next year?

A. Maybe, probably.

Q. Do you have or does Staff have any opinions as to which of these three dockets is the best docket to take up the issue of EV rate design?

A. I think generally Staff has been supportive of cost-based rates for EV charging or more generally technology neutral rates for customers with low load factors. Generally speaking an electric distribution rate case is the best place to look at the cost to serve those types of customers. But we've considered it in other cases depending on the context and specifics of those cases.

Q. And did you happen to just notice -- I know you said you didn't look at the specifics. But you do notice that Walmart put forward -- Ms. Perry put forward information about an Eversource tariff

that was in place for Massachusetts and Connecticut that Walmart believes addresses the sort of load factor issues of EV charging?

A. I don't recall the specifics. If you have it, I can look at it, but I don't recall the specifics off the top of my head.

Q. So you can't -- sitting here today you don't know whether Staff supports that proposal, opposes that proposal, or is neutral on it?

A. My testimony is not taking a position on either intervening party testimony in this current proceeding.

Q. I understand your testimony itself didn't, but I am just asking separately does Staff sort of -- are you able to say whether Staff has a position on that proposal?

A. We don't have a position today on that proposal specifically.

Q. And is there any other Staff witness I should ask if Staff as a position on that proposal?

A. I don't believe so.

Q. And you are aware that the Company here has proposed an eight-year ESP term, correct?

A. Yes.

Q. Do you think that it is -- just in terms

of the length of the ESP term, if adopted, do you think it's appropriate that EV rate design occurs sooner or later in this eight-year ESP term?

A. I don't take a position on that in my testimony. The Company has offered to contribute shareholder funding on EV issues that were somewhat vague and broad as proposed. So I think there's an opportunity for future discussion on it within the context of this proceeding regardless of the time period of the ESP itself, but I don't have a position on the specific time period when that should occur.

Q. But you do understand, do you not, that the Company itself didn't put forward anything in its Application about EV rate design, correct?

A. Not specifically, no.

Q. But nothing prohibits an intervening party from making a proposal for the Commission's consideration notwithstanding the fact it was never addressed in the Companies' original Application?

A. I think that's fair.

Q. And so where would an intervening party glean Staff's position on an Intervenor proposal if it is not set forth anywhere in Staff's testimony?

A. Just one second. I would like to refer back to a page in my testimony.

On page 6, lines 8 through 13, of my testimony

Q. Bear with me one second while I get there.

A. Yep.

Q. Tell me what lines again, please?

A. Lines 8 through 13 on page 6.

Q. Okay. I see that.

A. So in this area if the Commission were to accept the recommendations by Staff on EV shareholder funding, Staff directs the Commission to require the Companies to meet with interested parties within 90 days of a decision in this current case. I believe that would be an appropriate forum to discuss specific rate design options that may be able to be implemented as part of this proceeding.

Q. Am I correct that the proposal to spend customer -- to -- strike that.

The proposal from the Companies to spend shareholder dollars is in part to provide, and I see you listed in line 5 "customer education about rate options for EVSE site hosts, shareholder funded credits to encourage charging during times of low localize distribution system demand, or improvements to the siting and interconnection process for EVSE,"

correct?

A. Yes. Those were examples that were offered that Staff believes would be appropriate.

Q. But the Company couldn't, as we sit here today, provide education about a rate option for DCFC charging other than its preexisting tariffs?

A. Yes. I am not aware of the Companies having a current tariff specific for DC fast charging.

Q. And the Companies aren't proposing to use those shareholder dollars to develop a tariff specific for DCFC charging?

A. I don't believe so, no.

MS. GRUNDMANN: Thank you. Those are all the questions I have.

EXAMINER PRICE: Ms. Grundmann kind of let you off the hook shockingly. Can you answer her question more directly regarding whether things -- whether Staff believes that rate design should be addressed sooner rather than later?

THE WITNESS: I think generally Staff believes sooner would be better than later. I think the distribution rate case is the appropriate forum so that a more holistic view of the cost to serve all of FirstEnergy Ohio customers can be reviewed.

Nothing prohibits the Companies from filing an EL-ATA case for DC fast charging service to the extent there is not an increased cost or a component of cost recovery, if you will. But generally speaking, yes, sooner is better. We've tended to defer to distribution rate cases when possible though is the appropriate forum to establish new rates.

EXAMINER PRICE: And your understanding is there will be a distribution rate case.

THE WITNESS: In May of 2024.

EXAMINER PRICE: Nucor?

MR. BRISCAR: No questions, your Honor.

EXAMINER PRICE: Mr. Hays?

MR. HAYS: No questions, your Honor.

EXAMINER PRICE: OEC?

MS. NORDSTROM: No questions, your Honor.

EXAMINER PRICE: OELC?

MR. PROANO: No questions, your Honor.

EXAMINER ST. JOHN: Companies?

MR. ALEXANDER: No questions.

EXAMINER PRICE: Redirect?

MS. HOWARD: Can we have just a minute?

EXAMINER PRICE: Let's go off the record.

(Discussion off the record.)

EXAMINER PRICE: Let's go back on the

record.

Redirect?

MS. HOWARD: No redirect, your Honor. We would renew our motion to admit Staff Exhibit 4.

EXAMINER PRICE: At this time we will take up the motion. Any objection to the admission of Staff Exhibit 4?

Seeing none, it will be admitted.

(EXHIBIT ADMITTED INTO EVIDENCE.)

EXAMINER PRICE: Ms. Schaefer, you are excused. Thank you.

THE WITNESS: Thank you.

EXAMINER PRICE: Mr. Nicodemus is next?

MS. HOWARD: Yes.

EXAMINER PRICE: Let's go off the record.

(Discussion off the record.)

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

EXAMINER ADDISON: Place raise your right hand.

(Witness sworn.)

EXAMINER ADDISON: Thank you. Please be seated. Turn on your mic. State your name and business address for the record, please.

THE WITNESS: My name is Jacob Nicodemus

and N-I-C-O-D-E-M-U-S. My business address is 180 East Broad Street, Columbus, Ohio.

EXAMINER ADDISON: Thank you. Please proceed.

MS. HOWARD: Thank you. I previously placed on the Bench and passed around what I would like to have marked as Staff Exhibit 5, the direct testimony of Jacob Nicodemus.

EXAMINER ADDISON: It is so marked.

(EXHIBIT MARKED FOR IDENTIFICATION.)

- - -

JACOB NICODEMUS

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

DIRECT EXAMINATION

By Ms. Howard:

Q. Mr. Nicodemus, do you have before you what's been marked as Staff Exhibit 5?

A. I do.

Q. What is it?

A. It's my testimony prepared and filed in this case.

Q. Was it prepared by you or under your direction?

A. Yes, it was.

Q. Have you had the opportunity to review the document before you took the Bench today?

A. Yes, I have.

Q. Is it a true and accurate copy?

A. Yes.

Q. Do you wish to make any changes?

A. No.

Q. And if I were to ask you the same questions found in your testimony today, would you provide the same answers?

A. Yes.

MS. HOWARD: I would ask to have Staff Exhibit 5 moved into the record, subject to cross, and I offer this witness for cross-examination.

EXAMINER ADDISON: Thank you very much. We will defer ruling on the motion for admission of Staff Exhibit 5 following cross-examination.

Mr. Kurtz, any questions?

MR. KURTZ: No questions, your Honor.

EXAMINER ADDISION: RESA?

MR. PRITCHARD: No questions, your Honor.

EXAMINER ADDISION: Mr. Finnigan?

MR. FINNIGAN: No questions, your Honor.

EXAMINER ADDISION: Mr. Lang?

MR. LANG: No questions.

EXAMINER ADDISION: Ms. Bojko?

MS. BOJKO: No questions. Thank you.

EXAMINER ADDISION: Ms. Whitfield?

MS. WHITFIELD: No questions, your Honor.

EXAMINER ADDISION: Ms. McConnell?

MS. McCONNELL: No questions, your Honor.

EXAMINER ADDISION: Mr. Dove?

MR. DOVE: No questions, your Honor.

EXAMINER ADDISION: Ms. Grundmann?

MS. GRUNDMANN: No questions, your Honor.

MR. BRISCAR: Briscar.

EXAMINER ADDISION: Briscar. I'm so sorry.

MR. BRISCAR: No questions. Thank you very much.

EXAMINER ADDISION: Ms. Nordstrom?

MS. NORDSTROM: No questions, your Honor.

EXAMINER ADDISON: Thank you.

Mr. Proano?

MR. PROANO: No questions, your Honor.

EXAMINER ADDISION: Mr. Alexander?

MR. ALEXANDER: No questions, your Honor.

EXAMINER ADDISON: Mr. Settineri?

MR. SETTINERI: No questions.

EXAMINER ADDISON: Let's go off the

record.

(Discussion off the record.)

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

Mr. Nicodemus, you are excused. Thank you very much.

THE WITNESS: Thank you.

MR. DOVE: Wait, your Honor.

MR. HAYS: I have no questions.

EXAMINER ADDISON: Thank you, Mr. Hays.

MS. HOWARD: Staff would renew its motion to move Staff Exhibit 5 into the record.

EXAMINER ADDISON: Thank you.

Any objections to the admission of Staff Exhibit 5?

It will be admitted.

(EXHIBIT ADMITTED INTO EVIDENCE.)

EXAMINER ADDISON: Let's go off the record for a second.

(Discussion off the record.)

(Witness sworn.)

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

THE WITNESS: My name is Craig Smith. My business address is 180 East Broad Street, Columbus,

Ohio 43215.

EXAMINER PRICE: Turn your microphone on. Please proceed.

MS. HOWARD: Thank you. We just passed around and I would like to have marked as Staff Exhibit 7, the direct testimony of Craig Smith.

EXAMINER PRICE: It will be so marked.

(EXHIBIT MARKED FOR IDENTIFICATION.)

- - -

CRAIG SMITH

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

DIRECT EXAMINATION

By Ms. Howard:

Q. Mr. Smith, do you have before you what has been marked as Staff Exhibit 7?

A. I do.

Q. What is it?

A. It is my direct testimony in this current ESP V proceeding.

Q. It was prepared by you or under your direction?

A. Yes, it was.

Q. And have you had the opportunity to review this document before you took the stand today?

A. Yes.

Q. Is it a true and accurate copy?

A. Yes, it is.

Q. And do you have any changes or corrections to make?

A. No, I do not.

Q. If I were to ask you the same questions found in your testimony today, would you provide the same answers?

A. Yes, I would.

MS. HOWARD: I would like to have --

EXAMINER PRICE: Mr. Smith, if you could project your voice.

THE WITNESS: Yes, I will.

MS. HOWARD: I would like to have what's been marked as Staff Exhibit 7 moved into evidence, subject to cross, and I offer this witness for cross-examination.

EXAMINER PRICE: We will defer ruling on admission of Staff Exhibit 7 until the conclusion of cross-examination.

Mr. Kurtz?

MR. KURTZ: No questions.

EXAMINER PRICE: RESA?

MR. PRITCHARD: No questions, your Honor.

EXAMINER PRICE: Mr. Finnigan?

MR. FINNIGAN: No questions, your Honor.

EXAMINER PRICE: Mr. Lang?

MR. LANG: No, thank you.

EXAMINER PRICE: OMAEG?

MS. BOJKO: Yes, your Honor. Just one.

- - -

CROSS-EXAMINATION

By Ms. Bojko:

Q. Good afternoon, Mr. Smith. On page 3 of your testimony, you talk about affordability. I will wait until you are there. Do you see that?

A. Yes, I do.

Q. And the question posed is generally asking if you believe that the plan proposed rates are affordable, and you state no, but then you talk about residential customers. Is -- is your -- your testimony also -- does it also apply to commercial customers?

A. No, it does not. I didn't look at -- I didn't look at it from a perspective of commercial customers. They would be way too difficult to do. They are all individual. They are all different. It would be too hard to look at each one.

Q. I'm sorry. Your mic is not real --

A. I'm sorry. I didn't look at the commercial customers.

Q. So you're not opining at all one way or the other.

A. Not on commercial customers' affordability, no.

MS. BOJKO: Nothing further, your Honor.

EXAMINER PRICE: Ms. Whitfield?

MS. WHITFIELD: No questions.

EXAMINER PRICE: ELPC?

MS. McCONNELL: No questions, your Honor.

EXAMINER PRICE: OPAE?

MR. DOVE: No questions, your Honor.

EXAMINER PRICE: Nucor?

MR. BRISCAR: No questions, your Honor.

EXAMINER PRICE: NOAC?

MR. HAYS: No questions, your Honors.

EXAMINER PRICE: OELC?

MR. PROANO: No questions, your Honor.

EXAMINER PRICE: Companies?

MR. ALEXANDER: Very briefly, your Honor.

- - -

CROSS-EXAMINATION

By Mr. Alexander:

Q. Hi, Mr. Smith.

A. Hello.

Q. For -- the affordability you discuss in your testimony, did the calculations used include cost of generation?

A. Yes, they did. It was based on what the Company projected as the first year bill which was 190 point something, $190 a month, and that includes SSO generation, I imagine, which is why it's 190 instead of something substantially lower.

Q. And so you utilized the Companies' generation pricing from its testimony?

A. From its Application, yes.

MR. ALEXANDER: That's all I had, your Honor.

EXAMINER PRICE: Mr. Settineri?

MR. SETTINERI: No questions, your Honor.

EXAMINER PRICE: Redirect?

MS. HOWARD: No redirect, your Honor. We renew our motion to enter in Staff Exhibit 7 into the record.

EXAMINER PRICE: Thank you.

Mr. Smith, you are excused.

THE WITNESS: Thank you.

EXAMINER PRICE: At this time we will take up the admission of Staff Exhibit 7. Any

1 objection to its admission?
2 Seeing none, it will be admitted.
3 (EXHIBIT ADMITTED INTO EVIDENCE.)
4 EXAMINER PRICE: Let's go off the record.
5 (Discussion off the record.)
6 EXAMINER PRICE: Okay. Let's go on the
7 record.
8 Staff can call their next witness.
9 MS. BOTSCHNER-O'BRIEN: Thank you, your
10 Honor. At this time Staff would like to call Mr. Tim
11 Benedict to the stand, please.
12 EXAMINER PRICE: Mr. Benedict.
13 (Witness sworn.)
14 EXAMINER PRICE: Please be seated and
15 state your name and business address for the record.
16 THE WITNESS: My name is Timothy
17 Benedict. Business address is 180 East Broad Street,
18 Columbus, Ohio 43215.
19 MS. BOTSCHNER-O'BRIEN: Your Honors, I
20 placed before the Bench, the court reporter, and the
21 witness a multi-page document captioned "Direct
22 Testimony of Timothy W. Benedict" and request it be
23 marked for purposes of identification as Staff
24 Exhibit 6.
25 EXAMINER PRICE: So marked.

(EXHIBIT MARKED FOR IDENTIFICATION.)

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

- - -

TIMOTHY W. BENEDICT

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

DIRECT EXAMINATION

By Ms. Botschner-O'Brien:

Q. Mr. Benedict --

MR. ALEXANDER: Are we on 6 or 7?

EXAMINER PRICE: We are on 6. Let's go off the record.

(Discussion off the record.)

EXAMINER PRICE: Back on the record.

MS. BOTSCHNER-O'BRIEN: So this is 6.

Q. (By Ms. Botschner-O'Brien) Do you have before you what's been marked as Staff Exhibit No. 6?

A. Yes, I do.

Q. And can you identify that for us, please?

A. That is my prefiled direct testimony in this proceeding.

Q. And it was prepared by you or at your direction?

A. Yes, it was.

Q. And have you had an opportunity to review this document prior to taking the stand today?

A. Yes, I have.

Q. And as a result of your review, do you have any changes, corrections, amendments of any kind?

A. No, I do not.

Q. If I were to ask you the questions contained in Staff Exhibit 6 today, would your answers be the same?

A. They would.

Q. And in your opinion, are those responses truthful and reasonable?

A. Yes, they are.

MS. BOTSCHNER-O'BRIEN: Your Honors, I respectfully move for the admission of Staff Exhibit 6, subject to cross-examination, and tender this witness available for cross.

EXAMINER PRICE: We will defer ruling of Staff Exhibit 6 to the conclusion of cross.

Mr. Kurtz?

MR. KURTZ: No questions.

EXAMINER PRICE: RESA?

MR. PRITCHARD: No questions, your Honor.

EXAMINER PRICE: Mr. Finnigan?

1 MR. FINNIGAN: No questions, your Honor.
2 EXAMINER PRICE: Mr. Lang?
3 MR. LANG: Yes, your Honor.
4 - - -
5 CROSS-EXAMINATION
6 By Mr. Lang:
7 Q. Good afternoon, Mr. Benedict. A couple
8 of questions. I wanted to start on your testimony on
9 the volumetric risk cap, pages 3 and 4 of your
10 testimony. And is it fair to say that if the 20
11 megawatt cap that is part of the volumetric risk cap,
12 if that is exceeded, that would likely be -- that
13 would likely be because substantial load is moving
14 from shopping to the SSO offer because market prices
15 are higher than the SSO price?
16 A. I suspect that would be the reason.
17 Probably not exclusively but it stands to argue that
18 if we did -- did exceed the cap, that would be caused
19 by a large migration from shoppers to the SSO load
20 which most likely we would see that because of high
21 energy prices at the time.
22 Q. I want to ask you about on page 4 of your
23 testimony down around lines 17, 18, you're -- you're
24 recommending publishing the daily PLC value as
25 expeditiously as possible. I'm interested to hear

what benefit that might provide as to why you are recommending it.

A. I would say it's generally for informational purposes so Staff and other interested parties can evaluate how this cap is working should it be implemented and know as soon as possible how close we are to that cap being exceeded.

Q. And to follow up on that, you -- you refer on page 4, line 19, of your testimony to "interested parties." What -- what interested parties do you have in mind?

A. I guess I wouldn't limit it, everyone in this room, the suppliers, the Commission Staff. I don't know that I would place a limit on who might be an interested party.

Q. And on the next page on page 5, lines 5 through 8, you are recommending if the cap is exceeded, that the Commission examine whether real-time market purchases are prudent. What is your concern there?

MR. SETTINERI: Just object at this time. We've ventured in the realm of friendly cross. We know what IGS's position is. He's not asking about initiating a process. He's asking about his concerns and that is friendly cross, your Honor.

1 EXAMINER PRICE: I am not convinced that
2 IGS is entirely friendly with the Staff. However, I
3 do believe the friendly cross is -- concerns in this
4 instance are mitigated because he is going first, so
5 he is not -- as opposed to what we had before where
6 you had potentially a witness being rehabilitated.
7 In fact, even if he is bordering on friendly, it's
8 not going to be -- prejudice anybody who would have
9 been before him. Overruled.
10 Can we have the question back again?
11 (Record read.)
12 A. So the Company's proposal is should the
13 cap be exceeded, the Company would meet that load
14 through real-time purchases in the wholesale market,
15 real-time LMPs. Those prices historically have been
16 very volatile. Under the existing market design, SSO
17 auction design, the Company procuring LMP is
18 literally the last resort in the event of a supplier
19 default or if we fail to procure that energy at
20 auction.
21 And for good reason it's literally the
22 last resort. It's a very volatile price that exposes
23 customers to all risks inherent in wholesale energy
24 markets. And so it occurred to me that should we see
25 the cap exceeded, and we know it's going to be

exceeded for some time, perhaps we can do this a little bit more thoughtfully than simply procuring at real-time LMP. So I wanted to make the sure the Commission had the possibility to explore that question, should the cap be exceeded, what's the best way really to procure this? Is real-time LMP really our best option here?

Q. I wanted to ask you a couple of questions about your testimony regarding the capacity proxy. And you are recommending that FirstEnergy and the Companies here, that they do adopt a capac -- a capacity proxy, correct?

A. That's correct.

Q. Have -- have you and the Staff been following the FERC proceedings that are currently pending involving PJM capacity auction design?

A. Yes.

Q. And so you are aware that PJM has capacity market reforms that are pending before the FERC?

A. That's correct.

Q. Does Staff have a position on whether those market reforms will mitigate or reduce the risk here of a -- of a capacity proxy price being needed?

A. So Staff through the Federal -- Federal

1 Energy Advocate, the office I work for, we have
2 repeatedly recommended to FERC to limit the delays to
3 the extent possible, to remove the need for
4 implementing a proxy rate. We've been less than
5 successful in achieving that I would say.
6 Q. All right. Now, if there isn't a
7 capacity proxy price mechanism, a different option
8 would be holding the SSO auctions, and if capacity
9 pricing is not known, simply have SSO bidders include
10 their own estimates of capacity pricing in their
11 bids, right?
12 A. I suppose that could be done. I
13 certainly wouldn't advocate for it.
14 Q. And because if capacity price is unknown
15 at the time of an SSO auction or, you know, for some
16 point of the delivery period, in that case the SSO
17 bidders would have to estimate capacity costs as a
18 component of their bid; is that fair?
19 A. That's fair.
20 Q. And does -- does it make sense to you
21 that in that situation, if the capacity price is not
22 known, that SSO bidders would likely assign different
23 values to capacity costs?
24 A. Yes. The SSO suppliers would be in the
25 position of having to independently estimate what the

capacity cost ultimately would be, and I don't envy them if they were in that position because historically those prices have been very volatile.

Q. And with regard to volatility, the -- the SSO suppliers who would value capacity lower or who are more willing to absorb the risk of higher capacity prices, they would be the ones more likely to bid lower in the auctions, also fair?

A. I guess I have to ask a clarifying question. Bid lower relative to what?

Q. Lower compared to other SSO participants who may place a higher value on capacity costs.

A. I would suspect then in all instances the bids would be higher than if the capacity price were known but certainly there may be suppliers who price that risk differently than others and perhaps produce a lower bid as a result.

EXAMINER PRICE: Why do you think prices would be higher if they were known?

THE WITNESS: If they are known, there is no risk. It's a simple passthrough. If they are unknown, not only do you have to guess what you think they are going to be, and historically they have been highly volatile, you would have to build in some risk premium that you are wrong. And as Mr. Lang already

1 mentioned, these -- the rules governing the capacity
2 market are currently under consideration at FERC. We
3 don't even know what they are going to be going
4 forward.
5 So again, I suspect that a supplier
6 facing an unknown risk is going to build in a pretty
7 large premium to account for that relative to a price
8 that's known well in advance and can be simply passed
9 through at cost.
10 EXAMINER PRICE: Thank you.
11 Q. (By Mr. Lang) And to that last response,
12 the supplier -- the supplier who builds in kind of
13 the least amount of risk as compared to the other
14 suppliers, that supplier is more likely to be an
15 auction winner and to set the price -- set the SSO
16 price based on that winning bid; is that fair?
17 A. Yes, that's fair.
18 Q. And in that case -- let me strike that.
19 Now, CRES providers providing retail
20 products are doing kind of that -- are going through
21 that process now and have been to the extent that
22 they offer longer-term products, a 36-month or
23 48-month products today in the Ohio market, correct?
24 A. Yes. CRES providers are facing a similar
25 challenge as the SSO suppliers in not knowing what

1 their true capacity value will be which inhibits
2 their ability to offer fixed long-term products.
3 Q. Well, and like I was -- I looked on the
4 Apples to Apples website recently. I saw Energy
5 Harbor currently has a 48-month fixed price product
6 that's on Apples to Apples. For that kind of
7 product, Energy Harbor is managing the risk of
8 capacity pricing in those out years and not shifting
9 that capacity price risk to customers, correct?
10 A. I can't speak for Energy Harbor or what's
11 embedded in their offer.
12 Q. But certainly kind of looking at more
13 generally a 48-month product that's out there, you
14 know, that I could purchase -- that I could, you
15 know, shop for from the Apples to Apples website,
16 that product today would not include all of the --
17 what I would call the out years of the capacity
18 pricing, right? Because not all years' capacity
19 pricing are known going out four years, right?
20 A. That's correct. The capacity price is
21 not known beyond the '24-'25 delivery year.
22 Q. And then also fair to say that the
23 capacity -- the capacity proxy price mechanism, it's
24 easier just to say CPP, that CPP mechanism, that --
25 that could result in an increase on customer bills

depending on how it comes out, correct?

A. I guess I have to ask a clarifying question again. An increase relative to what?

Q. Well, the -- fair question. Let me break it in two parts. So if the -- if the capacity proxy pricing mechanism is used, it's your understanding that there will be Rider GEN rates that will be more or less fixed, correct?

A. Are you saying after the capacity price is known or?

Q. The way -- let me turn that back on you. Do you have an understanding of how the cost of the CPP mechanism will be recovered from customers?

A. I know that the Company is entitled to recover its prudently incurred implementation costs of administering SSO service. I'm not exactly sure through what mechanism they do that.

Q. All right. One -- one last topic related to this on --

EXAMINER PRICE: Mr. Lang, if I could interrupt you before you move on. In any case we use capacity proxy, before day one of power flow, we would know what capacity would be, wouldn't we?

THE WITNESS: That's correct. The rider rate would be trued up to actuals and before the

1 actual start of the delivery year in any event.
2 EXAMINER PRICE: So one would assume the
3 Company would reset their rates, even perhaps at the
4 last second, to be the actual true-up capacity and
5 price; isn't that right? So they could incur no
6 costs.
7 THE WITNESS: That would be my
8 expectation.
9 EXAMINER PRICE: Okay. Thank you,
10 Mr. Lang.
11 Q. (By Mr. Lang) All right. On page 8 of
12 your testimony, you reference a mass-market customer
13 migration risk. Do you remember that part of your
14 testimony?
15 A. Yes, page 8, line 7.
16 Q. Does Staff agree that the Commission's
17 minimum stay order earlier this year will mitigate
18 that risk related to large governmental aggregations?
19 A. If I understand the minimum stay order
20 correctly, it would mitigate the risk of
21 reaggregation because it places limitations on the
22 governmental aggregations reaggregating the customers
23 once they have returned to SSO service. So I would
24 agree that it does mitigate somewhat the migration
25 risks, certainly doesn't eliminate it.

MR. LANG: Thank you, Mr. Benedict. No further questions.

EXAMINER PRICE: Let's go off the record.

(Discussion off the record.)

EXAMINER ST. JOHN: Let's go back on the record.

Any questions from Kroger?

MS. WHITFIELD: No questions, your Honor.

EXAMINER ST. JOHN: ELPC?

MS. McCONNELL: No questions, your Honor.

EXAMINER ST. JOHN: Mr. Dove?

MR. DOVE: No questions, your Honor.

EXAMINER ST. JOHN: Nucor?

MR. BRISCAR: No questions.

EXAMINER ST. JOHN: NOAC?

MR. HAYS: No, your Honor.

EXAMINER ST. JOHN: OELC?

MR. PROANO: No questions.

EXAMINER ST. JOHN: Companies?

MR. ALEXANDER: No questions, your Honor.

EXAMINER ST. JOHN: Mr. Settineri?

MR. SETTINERI: Yes, your Honors.

- - -

CROSS-EXAMINATION

By Mr. Settineri:

Q. Good afternoon, Mr. Benedict.

A. Good afternoon.

Q. I am going to follow up on one question you were asked earlier about the "interested party" phrase in your testimony at page 4, line 19. Do you see that?

A. Yes, I'm there.

Q. Okay. There you talk about interested parties evaluating migration levels, and I paraphrased that. Interested parties can be industrial customers, correct?

A. Sure.

Q. Okay. Interested parties could also be energy consultants that advise industrial customers, correct?

A. Absolutely.

Q. You agree that SSO suppliers face a number of risks related to serving default service load, correct?

A. Yes, they do.

Q. And you agree that one way a supplier can offset the risk of serving default service load is to include a risk premium in the supplier's pricing,

1 correct?
2 A. That's correct.
3 Q. And sitting here today, you don't know
4 how each SSO supplier prices risk premiums when a
5 supplier participates in FirstEnergy's default
6 service auction, correct?
7 A. Correct. There's a diversity of
8 suppliers and they all come from different
9 perspectives and I suspect they all perceive cost of
10 that risk differently.
11 Q. And you would agree that if winning SSO
12 suppliers are including risk premiums when bidding on
13 tranches, then SSO customers would be paying for
14 those risk premiums within the SSO price, correct?
15 A. Yes, they would.
16 Q. And when it comes to risk and the risk
17 premiums are built into the SSO price, SSO customers
18 are paying for those risk premiums regardless of
19 whether the risk ever materializes for the supplier,
20 correct?
21 A. That's correct.
22 Q. So turn to page 2 of your testimony, line
23 19, please.
24 A. I'm there.
25 Q. There you say actually starting line 17,

1 "This auction structure has been adopted by each of
2 the Commission's regulated EDUs and has proven over
3 time to be an effective mechanism to leverage
4 competitive forces and allow wholesale market
5 conditions to determine the rate for default
6 service." Do you see that?
7 A. Yes, I do.
8 Q. Okay. When you say "has been proven over
9 time," what's -- what period of time are you talking
10 about when you say over time?
11 A. So to their credit, the Companies were
12 the first EDUs in Ohio to implement a declining clock
13 auction structure for their SSO service, and then the
14 other companies in Ohio followed suit. I believe
15 that's -- it's been since 2009, so we are looking at
16 about 14 years' worth of experience.
17 Q. Okay. And so you would agree then over
18 that 14-year period that any risk premiums included
19 in SSO prices would have been paid by SSO customers,
20 correct?
21 A. Yes.
22 Q. And your testimony today on behalf of
23 Staff is that SSO customers should continue to pay
24 for any risk premiums associated with customer
25 migration, correct?

A. I'm sorry. Could you rephrase that? I don't think I fully followed you.

Q. I will read it slower. Your testimony on behalf of Staff today is that SSO customers should continue to pay for any risk premiums associated with customer migration, correct?

A. So to the extent that SSO suppliers are still facing migration risk, they will incorporate that risk into their bids and that risk premium in their bid will be borne by SSO suppliers.

Q. And you are not recommending -- Staff is not recommending anything to the contrary in your testimony, correct?

A. Well, the Company is proposing a 20 megawatt volumetric risk cap that would transfer some of those risks over a certain threshold away from suppliers. Staff has not supported or opposed that proposal. We have provided some context and some recommendations to the Commission should they find that proposal is in the public interest.

Q. So to be clear, what I just heard Staff neither opposes nor supports the recommendation at this time.

A. That's correct.

Q. Now, if you turn to page 3 of your

1 testimony, please. And you have a sentence line 17
2 to 20, "Staff recognizes that this proposal is
3 intended to cap the" mitigation -- sorry, "migration
4 risk exposure of SSO suppliers, which should
5 theoretically translate into lower risk premiums in
6 SSO auction bids and therefore lower SSO auction
7 clearing prices." Do you see that sentence?
8 A. Yes, I'm there.
9 Q. Okay. And essentially what you are --
10 there, in part, you are giving Staff's perspective on
11 the Companies' volumetric risk cap proposal, right,
12 when you reference "proposal" in that sentence?
13 A. Yes, that's what I meant by "this
14 proposal" is the Company's volumetric risk cap
15 proposal.
16 Q. And in that sentence you are recognizing
17 that capping migration risk exposure for SSO
18 suppliers could result in -- in let's say a better
19 auction clearing price, correct?
20 A. That's correct. If you limit the risk
21 exposure of the suppliers, then theoretically they
22 will have less risk priced into their bids and
23 produce lower results, better results.
24 Q. Right. And the reason we distinguish
25 lower and better is that the commodity market could

1 drop and the ACPs could lower, but you can get a
2 better price by reducing the risk premiums, correct?
3 A. I guess I would agree that there are many
4 factors that go into the auction clearing prices, and
5 risk premium is just one of them.
6 Q. Right. But the distinction between a
7 better price and -- you can have low ACPs and still
8 have risk premiums built into the ACP, correct?
9 A. Sure, yes.
10 Q. Okay. Now, at the bottom of page 3,
11 staying there, continuing on line 20, you say "This
12 would come at the expense, however, of transferring
13 market and migration risk from suppliers to SSO
14 ratepayers, who would now be exposed to market prices
15 rather than a fixed auction price should the cap be
16 exceeded." Do you see that sentence that carries
17 over to the top of page 4 of your testimony?
18 A. Yes, I'm there.
19 Q. Now, you agree that if the volumetric
20 risk cap is not exceeded, there would be no market
21 exposure for SSO customers, correct?
22 A. No. They would have exposure to
23 real-time LMPs for the duration of the delivery year,
24 even if that had not yet been exceeded. There is a
25 possibility it will be exceeded over the course of

the delivery year so they do have exposure even if we haven't reached the 20 megawatt target quite yet.

Q. I understand. And if we don't reach the 20 megawatt target, they would not -- the procurement at market prices would not be triggered, right?

A. Correct.

Q. Now, any procurements at market, whether it's by the Companies or the SSO suppliers, for the amount that exceeds the cap, I understand the Companies are proposing that the Companies procure that, those costs would be spread across all of the SSO customers for all three FirstEnergy utilities, correct?

A. I don't think that's necessarily true.

Q. Well, let me -- so let's start first if there is an exceedance of the cap, there will be a market procurement by the Companies, okay? The Companies incur the cost. We also know that SSO price is the same for all three utilities; is that true?

A. I'm not really familiar with the retail ratemaking process, so the way that auction price gets allocated amongst the Companies and the customer classes, so I don't know that I can really answer that last part.

Q. All right. The auctions -- there is an -- auctions procure default service for all three utilities, correct?

A. That's correct, yes.

Q. And the tranche includes all three utilities, correct?

A. Yes.

Q. Okay. So if there is an exceedance that requires a market procurement, you would expect that the costs then would be allocated amongst all default service customers, correct?

A. Not necessarily. And I guess I should explain.

Q. Go ahead and explain, please.

A. So at some point the Company is going to incur those costs and is going to come in to populate I believe it's Rider GEN with those expenses to recover. Now, I don't see why any party can't advocate in that proceeding that those costs be appropriately allocated amongst various customer classes.

Q. Okay.

A. So if you feel like it was industrial customers who caused the cap to be exceeded, I would think that any party when the Company comes in to

1 populate that Rider GEN can make that case and try to
2 convince the Commission that those costs ought to be
3 allocated to the customer class that caused them to
4 be incurred in the first place.
5 Q. And is that -- that's not in the
6 Company's proposed Application currently, right?
7 A. Well, the Company is proposing to recover
8 their auction costs through a GEN Rider.
9 Q. Okay. And if we implement class
10 auction -- you are familiar with Constellation's
11 proposal for class auctions, correct?
12 A. Yes, I am.
13 Q. And under a class auction proposal, if
14 there was a market procurement, it would be for that
15 specific class, correct?
16 A. Yes. That's my understanding.
17 Q. Okay. Now, at page 4, line 8, of your
18 testimony, please. You say that each tranche for the
19 most -- I will paraphrase, each tranche in the
20 Companies' most recent SSO auction was approximately
21 100 megawatts. Do you see that?
22 A. Yes, I'm there.
23 Q. All right. Now, do you agree that 100
24 megawatts includes both SSO and shopping customers,
25 correct?

A. That's correct, yes.

Q. That's unique for the Companies' auction compared to other utility auctions in Ohio for default service, correct, the fact that they are including shopping and nonshopping in the tranche size?

A. So I know on the bidder information websites some of the utilities do that differently where some only include the nonshopping load. Some of them include all wires customers. And FirstEnergy does include for the purposes of bidder information all wires-connected customers which is the 100 megawatt number that you spoke to.

Q. And so SSO suppliers would need to account for this when participating in the Companies' default service auction, correct?

A. That's correct.

Q. Now, in your example at page 4, you -- you do this actually by -- you account for this by assuming an 80 percent shopping rate, right?

A. That's right.

Q. So that 100 megawatts, we have 80 megawatt shopping, 20 megawatt not shopping, correct?

A. Correct.

Q. All right. And so in that example you

1 give, you have basically a 20 megawatt tranche, and
2 they have a -- the amount for another 20 megawatts of
3 shopping customers to return to SSO before the cap
4 would be exceeded, right? Which is where you get
5 your 40 from.
6 A. That's right.
7 Q. So that would mean that basically
8 25 percent of the 80 megawatt shopping would have to
9 return to SSO and even then the cap would not be
10 exceeded. It would be right at the cap, right?
11 A. Right. So 20 megawatts of the 80
12 megawatts that was shopping at the time would have to
13 return. That would be 25 percent and that would be
14 at the cap.
15 Q. Exactly right. Now, you say on 4, page
16 4, line 12, "This leaves 60 percent of the Companies'
17 load without a fixed default service price, which
18 would be subject to being procured at market prices
19 should the customer migration cap be exceeded." Now,
20 in order for the remaining 60 percent of the
21 Companies' load to be subject to the cap, every
22 shopping customer would have to return to SSO,
23 correct?
24 A. Yes. That's the edge case, the most
25 extreme scenario possible.

Q. Okay. Now -- now, in your testimony at page 7, lines -- let's say lines 15 to 18, do you see that? Let me know when you get there.

A. Yes, I'm there.

Q. Yeah. So you say there residential customers likely also have a lower load factor which means their load is peakier, I am paraphrasing there, but you generally believe that residentials have a peakier load; is that your opinion?

A. That's typical of residential load is it's peakier.

Q. Now, regardless whether residential load is peaky, you agree that residential load is much more predictable for SSO suppliers, correct?

A. Yes, I would agree with that.

Q. Now, you also agree here the volume -- going back to the volumetric risk cap changing a little bit, that it's -- it's based on a PLC value, right?

A. When the Company said it was based upon peak load contribution, I assumed that meant peak load contribution as defined by PJM.

Q. Okay. So the -- whether the cap is exceeded or not depends on customers migrating -- migrating to and from the SSO, right?

A. Correct. That should be the only way in which the cap can be exceeded.

Q. But the key data point in that analysis is each customer's PLC.

A. Right. So each customer carries with it a fixed PLC that's determined prior to the delivery year, and as that customer moves between shopping and SSO service, they should bring that fixed PLC tag with them.

Q. All right. And then as you look -- that contributes to the daily PLC which can be compared to the benchmark.

A. Right. The aggregation of all individual customer PLCs on SSO service should constitute that daily PLC number.

Q. So, for example, let's say December through January, we have zero migration, okay? But December '22 we have a very, very cold event like we had previously with Winter Storm Elliott, usage peaks, skyrockets, right? But with no migration occurring, the daily PLC should stay the same and there would be no cap -- there would be no change to what the daily PLC would be versus the cap, correct?

A. That's correct. The PLC per customer should be fixed for the entire delivery year and

1 should not be affected by weather.
2 Q. Page 8 of your testimony, going back to
3 class auctions, you note that -- line 15 that
4 "According to the Commission's switch statistics,
5 over 97 percent of industrial load in the Companies'
6 service territories was shopping as of August 2023."
7 Do you see that?
8 A. Yes, I'm there.
9 Q. Now, let me ask you this question, the
10 risk -- so then continuing on actually, you then say
11 "This makes a separate procurement for these
12 customers problematic, as the product will be
13 comprised of a small amount of load paired with a
14 large risk of potential migration." Do you see that?
15 A. Yes.
16 Q. Okay. Now, when you say a large risk of
17 potential migration, that could be muted or offset
18 with a volumetric risk cap if it was applied to that
19 class, correct?
20 A. Yes. It could be mitigated through a
21 risk cap or volumetric risk cap, correct.
22 Q. And then you say at lines 19, 20, there
23 is sentence that starts "Staff would expect to see
24 limited interest from suppliers in serving this
25 load." The "load" you are referencing there, is that

1 the industrial load; is that correct?
2 A. Yes.
3 Q. And that statement, in writing that
4 statement or testifying today as to that, you are not
5 assuming a volumetric risk cap would be in place. In
6 other words, when writing that sentence, you wrote it
7 assuming the volumetric risk cap would not be in
8 place, correct?
9 A. That's fair.
10 Q. Okay. Now, the Commission is not
11 required to accept the results of SSO auctions,
12 correct?
13 A. That's correct. They have 48 hours after
14 the auction results are in to accept or reject. If
15 they do nothing, they are automatically accepted.
16 Q. Are you familiar with the Companies' SSO
17 auction process?
18 A. Yes.
19 Q. Okay. What option does the auction --
20 let me ask, what option does the auction manager have
21 if a -- the auction manager -- let me see, if an
22 auction is undersubscribed?
23 A. There's a few options. One is a reserve
24 price so basically to reject the results of the
25 auction if it's not -- doesn't meet a reserve price.

1 Second would be a tranche target reduction. So
2 instead of procuring say 50 tranches, we are not
3 seeing the results we would like to see, we can lower
4 that tranche target to say 20 tranches and hope to
5 procure those missing tranches in some subsequent
6 auction.
7 Q. Any other?
8 A. Nothing off the top of my head.
9 Q. On page 9, lines 9 through 11, there is a
10 sentence. You say there, again, I believe this is
11 regarding the class auctions, "As each supplier may
12 value these risks differently, there is no guarantee
13 that separating out products by customer class will
14 produce a lower auction price," correct? Do you see
15 that?
16 A. Yes, you read that correctly.
17 Q. And so you agree that by not separating
18 out, by not doing auctions by class, we are
19 guaranteeing that residential customers are paying
20 the risk premiums associated with lower migration
21 risk associated with industrial customers, correct?
22 I can read that again if it helps.
23 A. No. I wouldn't agree with that.
24 Q. Okay. You agree in a client's auction
25 with industrial -- we do a class auction with

1 industrial customers having their own class, that the
2 load and migration risk associated with industrial
3 customers should be isolated to the industrial class,
4 correct?
5 A. That's correct.
6 Q. And that you would not expect to see risk
7 premiums associated with those load migration risks
8 to be paid by residential consumers if a class
9 auction is in place, correct?
10 A. Right. All the idiosyncrasies associated
11 with serving that particular customer class would be
12 isolated in that auction.
13 MR. SETTINERI: Right. No further
14 questions. Thank you, your Honor.
15 Thank you, Mr. Benedict.
16 EXAMINER ST. JOHN: Thank you.
17 Any redirect from Staff?
18 MS. BOTSCHNER-O'BRIEN: Can we just have
19 a few minutes?
20 EXAMINER ST. JOHN: Yeah. Let's go off
21 the record. Take a 5-minute break.
22 (Recess taken.)
23 EXAMINER ST. JOHN: Let's go back on the
24 record.
25 Any redirect from Staff?

MS. BOTSCHNER-O'BRIEN: Staff has no redirect for Mr. Benedict, and I renew my motion for admission for Staff Exhibit 6.

EXAMINER ST. JOHN: All right. Thank you.

Are there any objections to the admission of Staff Exhibit 6?

Hearing none, that is admitted.

(EXHIBIT ADMITTED INTO EVIDENCE.)

EXAMINER ST. JOHN: Thank you very much.

EXAMINER ADDISON: I believe that concludes the planned witnesses for today.

MS. BOTSCHNER-O'BRIEN: Your Honor, could we go off the record for a minute?

EXAMINER ADDISON: Let's go off the record.

(Discussion off the record.)

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

We will adjourn for today and reconvene on Wednesday, December 6, at 9:30 a.m. Thank you all.

(Thereupon, at 4:00 p.m., the hearing was adjourned.)

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CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Monday, December 4, 2023, and carefully compared with my original stenographic notes.

_____
Karen Sue Gibson, Registered Merit Reporter.

(KSG-7556)

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