

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the Matter of the :
Application of Ohio Edison:
Company, The Cleveland :
Electric Illuminating :
Company, and The Toledo : Case No. 22-0704-EL-UNC
Edison Company for :
Approval of Phase Two of :
Their Distribution Grid :
Modernization Plan. :

- - -

In the Matter of the :
Application of Ohio Edison:
Company, The Cleveland :
Electric Illuminating : Case No. 18-1647-EL-RDR
Company, and The Toledo :
Edison Company for Review :
of Rider AMI (2019). :

- - -

In the Matter of the :
Application of Ohio Edison:
Company, The Cleveland :
Electric Illuminating : Case No. 19-1903-EL-RDR
Company, and The Toledo :
Edison Company for Review :
of Rider AMI (2020). :

- - -

In the Matter of the :
Application of Ohio Edison:
Company, The Cleveland :
Electric Illuminating : Case No. 20-1672-EL-RDR
Company, and The Toledo :
Edison Company for Review :
of Rider AMI (2021). :

- - -

PROCEEDINGS-VOLUME II

before Ms. Jacky Werman St. John and Ms. Megan
Addison, Administrative Law Judges, at the Public
Utilities Commission of Ohio, 180 East Broad Street,
Room 11-A, Columbus, Ohio, called at 10:00 a.m. on
Tuesday, July 2, 2024.

- - -

APPEARANCES:

Benesch, Friedlander, Coplan & Aronoff, LLP
By Mr. N. Trevor Alexander
41 South High Street, 26th Floor
Columbus, Ohio 43215

and

FirstEnergy Service Company
By Ms. Christine E. Watchorn
76 South Main Street
Akron, Ohio 44308

On behalf of Ohio Edison Company, The
Cleveland Electric Illuminating Company,
and The Toledo Edison Company.

Carpenter Lipps LLP
By Ms. Kimberly W. Bojko
280 North High Street, Suite 1300
Columbus, Ohio 43215

On behalf of the Ohio Manufacturers'
Association Energy Group.

Boehm, Kurtz & Lowry
By Ms. Jody Kyler Cohn
and Mr. Michael L. Kurtz
36 East Seventh Street, Suite 1510
Cincinnati, Ohio 45202

On behalf of the Ohio Energy Group.

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

On behalf of the Northeast Ohio Public
Energy Council.

Baker & Hostetler, LLP
By Mr. Paul Willison
200 Civic Center Drive, Suite 1200
Columbus, Ohio 43215

On behalf of the Ohio Energy Leadership
Council.

APPEARANCES: (Continued)

Maureen Willis, Ohio Consumers' Counsel
By Mr. William J. Michael
and Mr. Donald J. Kral,
Assistant Consumers' Counsel
65 East State Street, Suite 700
Columbus, Ohio 43215

On behalf of the Residential Consumers of
Ohio Edison Company, The Cleveland
Electric Illuminating Company, and The
Toledo Edison Company.

Isaac Wiles
By Mr. Gareth A. Whaley
2 Miranova Place, Suite 700
Columbus, Ohio 43215

On behalf of The Northwest Ohio
Aggregation Coalition.

Interstate Gas Supply
By Ms. Stacie E. Cathcart
6100 Emerald Parkway
Dublin, Ohio 43016

On behalf of the Interstate Gas Supply,
LLC.

Environmental Law & Policy Center
By Ms. Erica McConnell
21 West Broad Street, 8th Floor
Columbus, Ohio 43215

On behalf of the Environmental Law &
Policy Center.

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

On behalf of Walmart, Inc.

- - -

APPEARANCES: (Continued)

McNees, Wallace & Nurick LLC
By Mr. Matthew R. Pritchard
250 West Street, Suite 550
Columbus, Ohio 43215

On behalf of the Retail Energy Supply
Association.

Hubday Dougherty
By Mr. Trent A. Dougherty
1391 Grandview Avenue
Columbus, Ohio 43212

On behalf of the Citizens Utility Board
of Ohio.

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

On behalf of The Kroger Company.

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

On behalf of the Staff of the PUCO.

- - -

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX

- - -

WITNESS	PAGE
Paul J. Alvarez	
Direct Examination by Mr. Michael	178
Cross-Examination by Mr. Alexander	233
Cross-Examination by Ms. Bojko	233
Cross-Examination by Mr. Pritchard	247
Redirect Examination by Mr. Michael	261
Recross-Examination by Mr. Alexander	266

- - -

APPLICANTS EXHIBITS	IDENTIFIED	ADMITTED
5 Supplemental Stipulation and Recommendation, 16-481-EL-UNC, 17-2436-EL-UNC, 18-1604-EL-UNC, and 18-1656-EL-ATA	187	268
6 Stipulation and Recommendation, 16-481-EL-UNC, 17-2436-EL-UNC, 18-1604-EL-UNC, and 18-1656-EL-ATA	192	268

- - -

OCC EXHIBITS	IDENTIFIED	ADMITTED
5 Direct Testimony of Paul J. Alvarez	177	268
6 Direct Testimony of Paul J. Alvarez Opposing Stipulation and Recommendation	177	268

- - -

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Tuesday Morning Session,
July 2, 2024.

- - -

ALJ ADDISON: All right. Let's go ahead
and go on the record.

Good morning, everyone. The Public
Utilities Commission of Ohio has scheduled for
hearing at this time and place consolidated Case Nos.
22-704-EL-UNC, being in the Matter of the Application
by Ohio Edison Company, The Cleveland Electric
Illuminating Company, and The Toledo Edison Company
for Approval of Phase II of their Distribution Grid
Modernization Plan; as well as Case Nos.
18-1647-EL-RDR, 19-1903-EL-RDR, 20-1672-EL-RDR, which
are captioned in the Matter of the Application of
Ohio Edison Company, The Cleveland Electric
Illuminating Company, and the Toledo Edison Company
for Review of Rider AMI.

My name is Megan Addison. With me is
Jacky St. John. We are the Administrative Law Judges
assigned to preside over this hearing. We are
continuing our hearing initially commenced on June 5,
2024. I believe we have one witness to take today.

Mr. Michael.

MR. MICHAEL: Yes, thank you, your Honor.

1 OCC calls Paul Alvarez.

2 ALJ ADDISON: Oh, Mr. Alvarez, if you
3 want to sit on this side. I'm so sorry. That's a
4 little deceiving.

5 MR. ALVAREZ: That's okay.

6 ALJ ADDISON: Thank you very much. Would
7 you please raise your right hand.

8 (Witness sworn.)

9 ALJ ADDISON: Thank you. If you could
10 turn on your microphone for me. You may have to hold
11 onto it. Maybe one more. There you go. Got it.

12 THE WITNESS: Check.

13 ALJ ADDISON: Thank you very much.

14 Mr. Michael.

15 MR. MICHAEL: Your Honor, if we could
16 have marked as OCC Exhibit 5, the direct testimony of
17 Paul J. Alvarez dated October 20, '23, and marked as
18 Exhibit 6, the direct testimony of Paul J. Alvarez
19 dated June 11, 2024.

20 ALJ ADDISON: They will be so marked.

21 (EXHIBITS MARKED FOR IDENTIFICATION.)

22 MR. MICHAEL: May I approach, your Honor?

23 ALJ ADDISON: You may.

24 - - -

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PAUL J. ALVAREZ

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

DIRECT EXAMINATION

By Mr. Michael:

Q. Would you state your name, please?

A. Paul J. Alvarez.

Q. And where are you employed, Mr. Alvarez?

A. I lead the Wired Group.

Q. Mr. Alvarez, do you have before you what
was previously marked as OCC Exhibit 5?

A. I do.

Q. Can you identify that document, please?

A. That's my original testimony, direct
testimony, in this case.

Q. Dated October 20, 2023?

A. That's correct.

Q. And, Mr. Alvarez, do you have before you
what was previously marked as OCC Exhibit 6?

A. I do.

Q. And can you identify that document?

A. That's my testimony in the Stipulation.

Q. Dated June 11, 2024?

A. That's correct.

Q. And, Mr. Alvarez, do you have any

1 corrections or edits to either OCC Exhibit 5 or OCC
2 Exhibit 6?

3 A. I do not.

4 Q. And were those documents prepared,
5 Mr. Alvarez, by you or at your direction?

6 A. They were.

7 Q. And if I were to ask you the same
8 questions that are reflected in OCC Exhibit 5 and OCC
9 Exhibit 6, would your answers be the same?

10 A. They would.

11 MR. MICHAEL: Your Honors, I move for the
12 admission of OCC Exhibits 5 and 6, subject to
13 cross-examination.

14 ALJ ADDISON: Thank you. We will defer
15 ruling on the admission of these exhibits until after
16 cross-examination this morning.

17 Did we have any volunteers as to who
18 would like to go first this morning?

19 MR. ALEXANDER: Yes, your Honor.

20 ALJ ADDISON: Please proceed,
21 Mr. Alexander.

22 MR. ALEXANDER: I'm just not -- your
23 Honor, may we go off the record for one moment?

24 ALJ ADDISON: Let's go off the record.

25 (Discussion off the record.)

1 ALJ ADDISON: Let's go back on the
2 record.

3 Mr. Michael, if you would like to make a
4 clarification as to the purpose for moving for
5 admission of OCC Exhibit No. 5, you may proceed.

6 MR. MICHAEL: Thank you, your Honor.
7 Yes. OCC Exhibit 5 is the direct testimony of Paul
8 Alvarez dated October 20, '23. Mr. Alvarez filed
9 that testimony in response to the application. In
10 OCC Exhibit 5, Mr. Alvarez has his credentials and
11 has his CV, and I am submitting OCC Exhibit 5 to
12 reflect his credentials and CV.

13 I would also add, your Honor, that in his
14 direct testimony dated June 11, he does represent his
15 October 20 direct testimony for a certain purpose as
16 it relates to that settlement. And OCC has no
17 intention to cite the October 20 testimony except for
18 as it relates to the Settlement and his credentials
19 to the extent those should be at issue.

20 ALJ ADDISON: Thank you very much.

21 MR. MICHAEL: Thank you.

22 ALJ ADDISON: With that, Mr. Alexander,
23 please proceed.

24 MR. ALEXANDER: Thank you.

25 - - -

CROSS-EXAMINATION

By Mr. Alexander:

Q. Good morning, Mr. Alvarez.

A. Good morning.

Q. My name is Trevor Alexander. I'm one of the lawyers representing the Companies in this proceeding. And I would like to start out today with some background information that I suspect you and I are going to agree on, and then we will move on to some things we may not agree.

A. Okay.

Q. So AMI meters record both the amount and timing of customer energy use, correct?

A. Correct.

Q. And utilities set timing parameters called intervals which are used to track energy use over time.

A. That's correct.

Q. And most utilities set intervals in ranges from 5 to 15 minutes?

A. I would say that's correct.

Q. And knowledge of usage with this level of granularity relative to time can help educate customers as it helps them equate the use of certain loads such as air conditioners, clothes dryers, et

1 cetera, to time-based energy records.

2 A. I would agree with that.

3 Q. Interval data can be used to build
4 time-of-use rates designed to reduce coincident peak
5 demand.

6 A. I would agree with that but I would -- I
7 want -- what would you call it -- to have a little
8 bit of a caveat to that. I don't think traditional
9 time-of-use rates really have a demand reduction
10 component, you know, relative to those hot several
11 peak days of the summer, you know, where -- I think
12 you mentioned demand response as part of your --
13 actually, let me ask you, can you repeat the
14 question?

15 Q. Certainly. Interval data can also be
16 used to bill time-of-use rates designed to reduce
17 coincident system peak demand.

18 A. Yeah. I would say, yes, they are used to
19 develop time-of-use rates, but they are not that
20 effective at reducing coincident peak demand.

21 MR. ALEXANDER: Your Honor, move to
22 strike everything after "but."

23 ALJ ADDISON: Mr. Michael.

24 MR. MICHAEL: I have nothing to add, your
25 Honor.

1 ALJ ADDISON: Nothing to argue?

2 MR. MICHAEL: I do not.

3 ALJ ADDISON: All right. Motion to
4 strike granted.

5 Q. (By Mr. Alexander) Once usage is
6 associated with time intervals, electricity can be
7 priced differently for different times.

8 A. Correct.

9 Q. Interval data has been put to other good
10 uses in retail choice markets as well.

11 A. That's correct.

12 Q. One example of the good use of interval
13 data is require energy and capacity markets to settle
14 by hour based on market prices and the aggregated
15 actual usage of all individual customers of each
16 load-serving entity.

17 A. That is one use, yes.

18 Q. And several states have required
19 settlement by hour such as Texas and Ohio, correct?

20 A. I am aware of that, yes.

21 Q. Do you believe that holding each retailer
22 economically responsible for its customers' use of
23 energy has spurred lots of innovations?

24 A. I would agree with that.

25 Q. By 2013, there was also evidence from

1 retail choice markets that AMI market data was being
2 used successfully by retail energy suppliers to
3 increase their market share.

4 A. I have no reason to doubt that.

5 Q. For example, retail energy suppliers in
6 Texas offer rate discounts for installing
7 controllable thermostats, real-time pricing, and
8 other innovations.

9 A. Yes.

10 Q. In Texas, retail energy suppliers have
11 used free Tuesdays and free Saturdays offers to grow
12 market share.

13 A. That's my understanding.

14 Q. And those competitive products in Texas
15 cannot be offered without the interval usage data
16 available from AMI meters.

17 A. That's correct.

18 Q. And you also believe that research
19 indicates that the time-varying rates AMI meters make
20 possible can reduce both system peak demand and
21 energy use.

22 A. I would argue that a certain type of
23 time-use rate with the critical peak-pricing feature
24 is designed to reduce coincident peak demand.
25 However, I would agree that time-use rates have been

1 shown to reduce energy use.

2 Q. Now I would like to turn to your
3 testimony in this case. Your testimony includes a
4 lengthy discussion of the FirstEnergy Grid Mod I
5 proceeding, Case No. 16-481, correct?

6 A. Correct.

7 Q. I direct you to page 8 if you are looking
8 for a cite.

9 ALJ ADDISON: Just to be clear,
10 Mr. Alexander, you are looking at OCC Exhibit 6?

11 MR. ALEXANDER: That's correct, your
12 Honor.

13 A. I'm at page 8.

14 Q. Mr. Alvarez, my questions today are going
15 to be targeted to OCC Exhibit 6 so if you could keep
16 that in front of you. So at page 8, line 4, you
17 claim the Commission should not have approved Grid
18 Mod I while FirstEnergy was still receiving DMR
19 revenue; is that correct?

20 A. I'm sorry. Your question again?

21 Q. Sure. At page 8, line 4.

22 A. Yes.

23 Q. You claim the Commission should not have
24 approved Grid Mod I while FirstEnergy was still
25 receiving DMR revenue, correct?

1 A. I don't know that you can infer that from
2 that statement. It's more of an observation. I
3 think your question was more the Commission should
4 not have, and I think this is more of just an
5 observation.

6 Q. Okay. OCC was a signatory/nonopposing
7 party to the Grid Mod I Stipulation, correct?

8 A. That's correct.

9 Q. And at page 8, line 9 continuing through
10 line 13, your testimony provides what you claim to be
11 a quote from the Grid Mod I Supplemental Stipulation
12 and Recommendation?

13 A. Correct.

14 Q. I would like to specifically draw your
15 attention to the italicized language at page 8, line
16 10 --

17 A. Yes.

18 Q. -- where you claim the operational
19 benefits assessment was required to be completed in
20 advance of the Companies' anticipated Grid Mod II
21 plan application. Do you see that language?

22 A. I do.

23 MR. ALEXANDER: Your Honor, may we
24 approach?

25 ALJ ADDISON: You may.

1 MR. ALEXANDER: Your Honor, may I have
2 marked for identification as Company Exhibit 4, the
3 Grid Mod I Supplemental Stipulation?

4 ALJ ADDISON: Mr. Alexander, I believe
5 you are on Company Exhibit No. 5.

6 MR. ALEXANDER: Oh. Thank you, your
7 Honor.

8 ALJ ADDISON: Yes, and it will be so
9 marked.

10 (EXHIBIT MARKED FOR IDENTIFICATION.)

11 MS. WHITFIELD: Which number did you mark
12 that?

13 MR. ALEXANDER: 5.

14 Q. (By Mr. Alexander) Mr. Alvarez, the Grid
15 Mod I proceeding had an original and then
16 Supplemental Stipulation, correct?

17 A. That's correct.

18 Q. And is this a true and accurate copy of
19 the Supplemental Stipulation that you discuss in your
20 testimony?

21 A. It is.

22 Q. Isn't it true that the purported quote in
23 your testimony, specifically the italicized language
24 we just discussed at page 8, line 11, does not appear
25 in the Supplemental Stipulation?

1 A. There does appear to be a slight
2 transcription error there, interpretational error,
3 but I would argue the sentiment is the same. But,
4 yes, I would agree with you.

5 Q. Let's delve into that sentiment. Staying
6 in Company Exhibit 5, the Supplemental Stipulation,
7 please direct your attention to the bottom of page 5.
8 In there the Supplemental Stipulation provides that
9 implementation will not begin until after the
10 operational benefits assessment is complete, correct?

11 A. Correct.

12 Q. And turn to the top of page 6 of the
13 Supplemental Stipulation. It states "If, through no
14 fault of the Companies, the audit process is not
15 resolved in a fashion that supports a timely
16 transition between Grid Mod I and Grid Mod II, the
17 Companies may seek Commission authorization to move
18 forward with Grid Mod II, subject to the results of
19 the Commission audit."

20 A. It does.

21 Q. And there is nothing in the Supplemental
22 Stipulation which prohibited the Companies from
23 filing their application in this proceeding before
24 the operational benefits assessment was complete,
25 correct?

1 A. I believe that's correct.

2 Q. Turning back to your testimony, OCC
3 Exhibit 6, please focus your attention on page 39,
4 row 17.

5 A. I've got it.

6 Q. In here you claim the Supplemental
7 Stipulation clearly requires delivery "on planned
8 specifications" before Grid Mod II could move
9 forward, correct?

10 A. Yes.

11 Q. As you use the phrase "planned
12 specifications" in your testimony, what do you
13 understand that to mean?

14 A. To me it means the Company delivered on
15 the benefits it projected in its Grid Mod I
16 application.

17 Q. Turning your attention back to the
18 Supplemental Stipulation, Company Exhibit 5, can you
19 please show me where the Supplemental Stipulation
20 requires delivery of each Grid Mod I planned
21 specification before Grid Mod II can move forward?

22 A. I would argue the bottom of page 5, the
23 quotation mentioned earlier, beginning with "There
24 shall be no approval to begin," I believe that that
25 cited page 39, line 17, reference refers back to this

1 component of the Supplemental Stipulation.

2 Q. Okay. And so the remainder of that
3 sentence at the bottom of page 5, it says "There
4 shall be no approval to begin the implementation of
5 Grid Mod II and no approval of costs or charges to
6 customers for Grid Mod II, until after an independent
7 Commission audit according to ratemaking standards
8 and other standards is filed and the Commission
9 resolves issues in a decision."

10 A. Correct. That's the one. Thank you.

11 Q. The only use of the phrase "planned
12 specifications" in the Supplemental Stip -- strike
13 that.

14 Turning your attention to page 10, line
15 5, of the testimony.

16 A. I've got it.

17 Q. Here you say "the operational benefits
18 assessment did not indicate that the capabilities and
19 benefits FirstEnergy projected from Grid Mod I had
20 been realized, thus violating the Supplemental
21 Stipulation." Do you see that?

22 A. I do.

23 Q. Can you please show me where in the
24 Supplemental Stipulation it says that certain
25 capabilities and benefits must be achieved or it will

1 be a violation of the Supplemental Stipulation?

2 A. To me, that's the reference back to that
3 planned specifications wording, language.

4 Q. Okay. So it's the same sentence we just
5 read?

6 A. Yes.

7 Q. Are you aware the Commission has issued
8 its decision in the Grid Mod I proceeding on
9 November 16, 2023?

10 A. I am aware of a decision, yes.

11 Q. And the Commission in the November 16,
12 2023, decision did not find that FirstEnergy violated
13 the Supplemental Stipulation, correct?

14 A. I have not reviewed that order in detail.

15 Q. Turning your attention to page 11, line
16 14, of your testimony, here you state "the settlement
17 authorizes other programs to continue largely as
18 originally proposed, including customers energy
19 management reports, data access improvements (for
20 CRES and aggregators), and DER hosting capacity
21 maps." Do you see that?

22 A. I do.

23 Q. First, focusing on the "DER hosting
24 capacity maps," the Companies' Grid Mod II
25 application did not include any provision for the

1 creation of those maps, correct?

2 A. I do not recall.

3 Q. And similarly for the data access
4 improvements for CRESSs and NOAC, that was also
5 created as part of the Stipulation in this case,
6 correct?

7 A. That may be correct, yes.

8 Q. Turning to page 11, line 8, please, here
9 you state that the obligation to offer a time-of-use
10 rate expires once three CRESSs offer such rate options
11 or three types of time-varying rate options are
12 provided. Do you see that?

13 A. I do.

14 Q. Are you aware that the Companies'
15 commitment regarding time-of-use rates arises from
16 the Grid Mod I proceeding?

17 A. I would not be surprised of that.

18 MR. ALEXANDER: Your Honor, may we
19 approach?

20 ALJ ADDISON: You may.

21 MR. ALEXANDER: Your Honor, may I have
22 marked for identification as Company Exhibit 6, the
23 Grid Mod I Stipulation?

24 ALJ ADDISON: It will be so marked.

25 (EXHIBIT MARKED FOR IDENTIFICATION.)

1 Q. (By Mr. Alexander) Mr. Alvarez, earlier
2 we discussed there was an original and Supplemental
3 Stipulation in Grid Mod I. Is what's been marked as
4 Company Exhibit 6 a true and accurate copy of the
5 original Stipulation from that proceeding?

6 A. It is.

7 Q. Please turn your attention to the
8 original Grid Mod I Stipulation, Company Exhibit 6,
9 the bottom -- excuse me, the top of page 18.

10 A. I have it.

11 Q. And is this the ability to withdraw
12 provision that you reference in your testimony?

13 A. Yes.

14 Q. And this -- this provision from Grid Mod
15 I does not allow the Companies to unilaterally
16 terminate their time-of-use program, correct?

17 A. That's right. Conditions must be met it
18 appears.

19 Q. And one of those conditions is Commission
20 approval, correct?

21 A. Yes.

22 Q. And so you would agree that the provision
23 in the Grid Mod II settlement maintains the same
24 obligation?

25 A. Yes.

1 Q. And so if there are three qualifying
2 offers which are made by CRES providers, the
3 Companies must seek Commission approval before
4 modifying their time-of-use offering?

5 A. That's how I read this, yes.

6 Q. And so you would agree that the
7 Commission can make whatever determination regarding
8 the Companies' time-of-use offering they would like
9 to at that future date?

10 A. I would agree.

11 Q. Turning back to your testimony, page 11,
12 line 10, here you claim the Grid Mod II Stipulation
13 prohibits the use of energy usage data to target
14 time-of-use rate provisions to customers most likely
15 to benefit from those rates. Do you see that?

16 A. I do.

17 Q. Please turn your attention back to the
18 Grid Mod II Stipulation previously marked as Company
19 Exhibit 1.

20 MR. ALEXANDER: And, your Honor, may I
21 approach?

22 ALJ ADDISON: You may.

23 MR. ALEXANDER: I believe the exhibits
24 are over here.

25 Q. (By Mr. Alexander) Mr. Alvarez, I have

1 just handed you what's been previously marked and
2 admitted in this proceeding as Company Exhibit 1. Is
3 that a true and accurate copy of the Grid Mod II
4 Stipulation you reviewed in this case?

5 A. It is.

6 Q. Okay. So focusing your attention on page
7 9, paragraph H6, please.

8 A. Yes.

9 Q. Isn't it true that after the Companies'
10 time-of-use offering is terminated, the Companies may
11 utilize customer AMI data including through CEM
12 reports to notify customers they may benefit from a
13 time-of-use offering and direct those customers to
14 the Commission's Apples to Apples website?

15 A. Yes, upon approval of the withdrawal,
16 that is permissible.

17 Q. Thank you. Turning back to your
18 testimony page 45, line 10, please.

19 A. I have it.

20 Q. Okay. Here you provide your position
21 that rider cost recovery and the associated advance
22 investment plan review practice violates important
23 regulatory principles and practices. Do you see
24 that?

25 A. I do.

1 Q. The Ohio Commission has approved rider
2 cost recovery in advance -- advance investment plans
3 in prior cases, correct?

4 A. Correct.

5 Q. For example, you provided testimony in
6 opposition to The Dayton Power and Light Company's
7 Grid Mod I proceeding on exactly this issue, correct?

8 A. Yes.

9 Q. Did you review the Commission's order
10 regarding this argument from the recent ESP V case
11 for the Companies? It's Case No. 23-301.

12 A. I have not.

13 Q. And did you review Staff Witness Healey's
14 testimony from the ESP V proceeding?

15 A. I have not.

16 Q. Do you believe the Commission violated
17 important regulatory principles in each past
18 circumstances where it approved cost recovery via a
19 rider?

20 A. I wouldn't characterize it as violated.
21 I think I would characterize it as doing so without
22 recognition of the unintended consequences that I
23 have described here in this testimony, in other
24 words, not willfully but without understanding of
25 these particular impressions and potential unintended

1 consequences of rider cost recovery.

2 Q. And that answer would apply to each prior
3 proceeding where the Commission approved grid
4 modernization cost recovery through a rider?

5 A. Correct.

6 Q. Now I would like to drill into the
7 details of some of your objections to rider cost
8 recovery a bit. Do you agree that investments
9 recovered via rider are still audited?

10 A. They can be, yes.

11 Q. And at page 43, line 10, you state that
12 regulators are practically prohibited from ordering
13 disallowances. Do you see that?

14 A. I do.

15 Q. So the Companies recover the costs
16 associated with grid modernization through Rider AMI,
17 correct?

18 A. That's correct.

19 Q. Are you aware the Ohio Commission has
20 disallowed costs recovered via Rider AMI in the past?

21 A. I'm not aware, but I'll take your word
22 for that.

23 Q. Are you aware the Companies file an
24 annual proceeding where Rider AMI costs are
25 evaluated?

1 A. Yes.

2 Q. And Rider AMI costs are still evaluated
3 for prudence?

4 A. Yes.

5 Q. And parties have the ability to contest
6 the results of the Rider AMI audit in those
7 proceedings, correct?

8 A. That's correct.

9 Q. And OCC and NOAC have the ability to
10 intervene in Rider AMI audit proceedings?

11 A. They do.

12 Q. And OCC has, in fact, intervened and
13 participated in those proceedings, correct?

14 A. Correct.

15 Q. Now, the case we are here for today
16 includes the Grid Mod II application as well as three
17 Rider AMI proceedings for the years 2019, 2020, and
18 2021, correct?

19 A. Correct.

20 Q. And in those audits, Staff has made
21 numerous recommendations and adjustments, correct?

22 A. I'm not aware, but I am not surprised.

23 Q. Are you aware that Staff has recommended
24 for disallowance of certain costs in those
25 proceedings?

1 A. Again, I am not aware, but I would not be
2 surprised.

3 Q. And at page 43, line 11, you state the
4 utilities argue against disallowance because the
5 Commission has approved the investment plan, and
6 "This eminently logical argument will almost
7 assuredly prevail on appeal." Do you see that?

8 A. I do.

9 Q. In their comments in the Rider AMI
10 dockets in response to Staff proposed adjustments,
11 have the Companies, in fact, made that argument?

12 A. I'm not aware, but I would -- I would add
13 that the size of the disallowances matters. I think
14 you may have a disallowance here, disallowance there,
15 but I think the Commission is going to have a
16 difficult time, for example, when it comes to AMI
17 where the capital investments are in the hundreds of
18 millions of dollars. The Commission is going to have
19 a hard time -- and this is the point I'm making here
20 in this testimony. The Commission is going to have a
21 hard time disallowing that cost recovery because what
22 would happen in that instance is that cost to
23 capital, the Companies' cost to capital, will go up,
24 and customers would pay for that.

25 So the point I am trying to make here is

1 that significantly sized disallowances are not really
2 going to be permissible from a practical perspective.

3 MR. ALEXANDER: Your Honor, I move to
4 strike --

5 MS. BOJKO: I was going to ask for the
6 question to be reasked first.

7 ALJ ADDISON: Let's have the question
8 reread for the benefit of everyone.

9 (Record read.)

10 MR. ALEXANDER: Your Honor, I move to
11 strike everything after the words "but I would add."

12 MS. BOJKO: Your Honor, we would support
13 that motion to strike.

14 ALJ ADDISON: Anyone else?

15 Mr. Michael.

16 MR. MICHAEL: I do have an argument on
17 this one, your Honor.

18 ALJ ADDISON: Please proceed.

19 MR. MICHAEL: I think what Mr. Alexander
20 was trying to do was shoehorn Mr. Alvarez's testimony
21 into a place where it didn't belong. I think
22 Mr. Alvarez's testimony is about riders and the
23 implications more broadly, and Mr. Alexander asked
24 him about one of his assertions regarding that
25 argument being made. And Mr. Alvarez is pointing out

1 the circumstances under which they would be made but
2 also acknowledging the circumstances under which they
3 would not be made. So it actually provides context
4 for both this line of questioning from Mr. Alexander
5 and Mr. Alvarez's testimony that he referred back to
6 explicitly in responding to the question.

7 ALJ ADDISON: Thank you. I think it's
8 more appropriate for you to bring that up on
9 redirect, so I will grant the motion to strike after
10 the phrase "but I would add."

11 Mr. Alvarez, and I will direct you please
12 listen to counsel's question very carefully. Try to
13 answer only that question. Mr. Michael will have the
14 opportunity to bring out additional information on
15 redirect.

16 THE WITNESS: Thank you, your Honor.

17 ALJ ADDISON: Thank you.

18 Q. (By Mr. Alexander) Mr. Alvarez, now
19 turning to the second part of this objection
20 regarding submitting investment plans for advanced
21 regulatory review, I would like to focus on the
22 practical impact of your proposal here. So is it
23 your position that policy would be better served if
24 utilities simply made investment without seeking
25 advanced regulatory review?

1 A. I think it avoids a lot of the unintended
2 consequences the testimony describes.

3 Q. When you say it there, you are referring
4 to utilities making investments without advanced
5 regulatory review?

6 A. Yes.

7 Q. I want to make sure we are on the same
8 page.

9 A. Yeah, yeah.

10 Q. So if the Companies had simply made the
11 grid modernization investments without the input of
12 Staff and other stakeholders, then those parties
13 would not have had the ability to weigh in on the
14 merits of those investments before they were made,
15 correct?

16 A. That's correct.

17 Q. You think it appropriate for utilities to
18 simply guess as to the investments the Commission and
19 other stakeholders would like them to make?

20 A. I think utilities are held responsible
21 for making the investments required for safe and
22 reliable service and that they should not be guessing
23 about those investments but that they should make
24 those investments that they deem required for safe
25 and reliable service.

1 Q. So if the utilities shouldn't guess and
2 then shouldn't seek advanced regulatory review, what
3 is your proposal for how utilities should make these
4 investments?

5 A. If the utility believes that the, for
6 example, in this case advanced meter infrastructure
7 delivers a benefit-cost analysis, then they should go
8 ahead and make those investments and be prepared to
9 defend those upon review.

10 Q. And if the review determines that the
11 Commission did not agree with the Companies'
12 analysis, what would happen then?

13 A. Well, I think the Commission would have
14 multiple options at that point. Certainly cost
15 disallowance would be one of those options.

16 Q. And one of the things you reference in
17 your testimony is the cost to capital to utilities,
18 correct?

19 A. Correct.

20 Q. And one of the elements of cost to
21 capital is the risk faced by that utility, correct?

22 A. Correct.

23 Q. And if utilities were at risk of major
24 disallowances, would that increase the risk profile
25 of the utility?

1 A. I think it depends on the quality of the
2 utility's defense or justification of those
3 investments.

4 Q. So the Stipulation has lowered the
5 proposed capital investment in Grid Mod II from
6 626 million to approximately 421 million, correct?

7 A. That's correct.

8 Q. And the Stipulation also agreed to delay
9 making certain types of investment for things like
10 distribution, automation, and integrated Volt/VAR
11 control.

12 A. That's correct.

13 Q. Wouldn't you agree the process where a
14 variety of parties can give their feedback upfront
15 and agree to a Stipulation that they agree provides
16 value to customers is better?

17 A. I think what you are hitting on here is
18 the -- is the challenge of presenting investment
19 plans in advance. It sounds so appealing. It sounds
20 so intuitively appealing, but in the complicated
21 world of utility regulation, what it does is offer
22 these unintended consequences that my testimony
23 describes. And so through that process utilities
24 have the kind of -- in my opinion utilities seeking
25 rider cost recovery have kind of this moral hazard

1 where they want to propose more investments than they
2 would feel comfortable making under a traditional
3 ratemaking structure for the very risk reason that
4 you mentioned. So I don't know if that answers the
5 question but that was my intention.

6 Q. Okay. Changing topics, Mr. Alvarez,
7 please turn to page 12, line 2, of your testimony.
8 And here you state that operational savings are
9 unlikely to survive the next base rate case. Do you
10 see that?

11 A. I do.

12 Q. So, first, let's define our terms a bit.
13 Would operational savings include things like a
14 reduction in the number of meter readers?

15 A. Yeah. Actually the operational savings I
16 am referring to here are the stipulated amounts, not
17 the actual --

18 Q. Yeah. I want to start with the
19 categories before we get to the specific numbers.

20 A. Okay. Can you just give me a second to
21 read this?

22 Q. Oh, certainly.

23 A. We are on page 12 at line 4?

24 Q. Line 2.

25 A. Line 2. Oh, yes, okay. I'm sorry. Can

1 you repeat the question?

2 Q. Certainly. Would operational savings
3 include things like a reduction in the number of
4 meter readers?

5 A. Yes.

6 Q. And a reduction in the number of meter
7 service employees?

8 A. Correct.

9 Q. And the reduction in back office
10 employees?

11 A. Correct.

12 Q. And revenue assurance?

13 A. Ideally, yes.

14 Q. So for those categories for operational
15 savings we just discussed, those each reflect a
16 reduction in the costs incurred by the utility,
17 correct?

18 A. Yeah. I think the question -- the
19 question though is will they be as great, will those
20 reductions be as great as the utility may have
21 projected, as the Company may have projected in its
22 application. I think that's the challenge.

23 Q. Sure. We will get to the quantification
24 later, but right now I want to stay focused on the
25 categories and how that works with the rate case and

1 that's what you are discussing at this part of your
2 testimony.

3 A. Uh-huh.

4 Q. So I'm not sure if you answered the last
5 question or not. Would you agree that each of those
6 categories of savings we just discussed reflects a
7 reduction in the costs incurred by the utility?

8 A. To the extent the utility actually
9 follows through on those, yes.

10 Q. So for each of those categories when the
11 Company comes in for its next base rate case, it
12 would have less costs than it otherwise would,
13 correct?

14 A. Right. Or in the case of the -- you
15 mentioned revenue assurance; I think, you know,
16 increased sales volumes but, yes, same concept.

17 Q. Yes. Thank you for the clarification.
18 And you reference -- excuse me. You raised this same
19 issue on the continuing viability of operational
20 savings in your testimony in the AES Grid Mod I
21 proceeding, correct?

22 A. Yes. This is a common smart meter issue.

23 Q. Now turning your attention to time of
24 use. Please turn to page 15, line 4, please.

25 A. I have it.

1 Q. Okay. So in this section of your
2 testimony, you take issue with the expected
3 time-of-use adoption rate. However, 69 percent of
4 customers shop for a CRES or via an aggregation. And
5 so my question is isn't AMI required for CRESSs to
6 offer a time-of-use rate?

7 A. Yes.

8 Q. And in Ohio, CRESSs are permitted to offer
9 time-of-use rates, correct?

10 A. Yes.

11 Q. And in Ohio, aggregators are permitted to
12 offer time-of-use rates?

13 A. Yes.

14 Q. And you state FirstEnergy projects
15 140,000 of its customers will be billed on
16 time-of-use rates within 12 years. Do you see that?

17 A. Yep.

18 Q. Do you know who NOPEC is?

19 A. Yes.

20 Q. And isn't it true NOPEC is a consortium
21 of over 240 communities serving more than 500,000
22 customers?

23 A. That's my understanding.

24 Q. And so if only NOPEC decided to pursue a
25 time-of-use offering, that alone would exceed the

1 Companies' projection, correct?

2 A. If they made it mandatory, correct.

3 Q. Okay. And are you aware the Companies
4 have other governmental aggregators operating in
5 their service territory?

6 A. Yes.

7 Q. And so to the extent those other
8 governmental aggregators chose to pursue a
9 time-of-use offering, that would also increase
10 participation in time of use.

11 A. Assuming they made it mandatory, yes.

12 Q. At page 30, in footnote 46, you
13 acknowledge there is a possibility in the future more
14 customers adopt electric vehicles. Do you see that?

15 A. I do.

16 Q. Holding all else constant then, it's your
17 position that customers with an electric vehicle are
18 more likely to choose a time-of-use rate?

19 A. Yes.

20 Q. Page 16, line 2, you reference a Brattle
21 report. Do you see that?

22 A. I do.

23 Q. The Brattle report examines customers
24 participating in utility programs and does not
25 include customers participating in time-of-use

1 programs offered by a CRES, correct?

2 A. Correct.

3 Q. Please turn to page 17, line 7, where you
4 discuss alleged lack of creativity in the time-of-use
5 program.

6 A. Yes.

7 Q. Are you aware that in Case No. 20-50 OCC
8 suggested the time-of-use marketing education plan be
9 shared not just with Staff but with the Grid Mod
10 collaborative for input?

11 A. I am not aware of that.

12 Q. Are you aware that the Companies have
13 collaborated on the time-of-use marketing plan with
14 the Grid Mod collaborative?

15 A. I am not aware. I am not surprised, but
16 I am not aware.

17 Q. Do you believe that the time-of-use
18 marketing education plan was created by the
19 collaborative process?

20 A. I would not be surprised if that were the
21 case.

22 Q. Do you know if OCC or NOAC participated
23 in the collaborative process?

24 A. I believe they typically do, but I cannot
25 validate that for sure.

1 Q. And so you don't know if OCC made any
2 suggestions in the collaborative?

3 A. I don't.

4 Q. Do you know if NOAC made any suggestions?

5 A. I do not, no.

6 Q. Turning to the Grid Mod II proceeding,
7 the Stipulation calls for the Companies to continue
8 working with the collaborative to evaluate and
9 consider potential enhancements to the design and
10 marketing plan, their time-bearing rates for SSO
11 customers, correct?

12 A. Yes.

13 Q. And even though OCC and NOAC are not
14 signatory parties, they will still be permitted to
15 participate in the collaborative process?

16 A. Correct.

17 Q. Please turn to page 19, line 5.

18 A. Yes.

19 Q. Here you provide your opinion that the
20 Companies assume 100 percent of customers will review
21 the customer energy marketing e-mails. Do you see
22 that?

23 A. I think it says 50 percent here. Yeah.
24 FirstEnergy assumes that 50 percent of the customers
25 will review their reports.

1 Q. Sorry. I had the wrong reference there.
2 It's line 10.

3 A. Oh, okay. And of those 50 then 100 would
4 go on to -- oh, I see. 50 percent will have e-mails
5 and 100 percent of those will review their reports,
6 yes.

7 Q. Okay. Did you read -- starting with this
8 assumption that 100 percent of customers for whom the
9 Companies have an e-mail address will read it, did
10 you read the testimony of Company Witness Miller in
11 support of the Stipulation?

12 A. I believe so, yes.

13 MR. ALEXANDER: Your Honor, may we
14 approach?

15 ALJ ADDISON: You may.

16 MR. ALEXANDER: Your Honor, providing the
17 witness with a copy of Company Exhibit 3, the Miller
18 direct testimony.

19 ALJ ADDISON: Thank you.

20 Q. (By Mr. Alexander) Mr. Alvarez, could you
21 please -- I guess, first, is this a true and accurate
22 copy of the direct testimony of Mr. Miller that you
23 reviewed?

24 A. Yes.

25 Q. Please turn to page 7, row 14. And isn't

1 it true Mr. Miller testified that the Companies have
2 e-mail addresses for 75 percent of their customers?

3 A. That appears to be an update from earlier
4 testimony that I may have missed. Yes, that's what
5 it says.

6 Q. Okay. And then staying on that same
7 page, row 5.

8 A. Yes. I'm sorry. Is there a question?

9 Q. No. I think I have the wrong row
10 reference. Row 7, excuse me. Here Mr. Miller
11 testifies that he estimated participation represents
12 approximately 50 percent of the Companies'
13 residential customers who will have advanced meters
14 and have provided the Company with their e-mail
15 address, correct?

16 A. Correct.

17 Q. Turning back to your testimony, page 19,
18 line 21, here you claim the Companies assume
19 customers will take action to reduce usage by
20 4 percent, correct?

21 A. That's correct.

22 Q. What was your source for that 4 percent
23 assumption?

24 A. The Excel spreadsheets with the -- where
25 the Company shows all its assumptions and multiplies

1 them through.

2 Q. So let's look at that. Could you please
3 turn to your Attachment 1, page 16 of 36, please.
4 Focus your attention on row 17 when you are there.

5 A. I have it.

6 Q. And can you focus your attention on row
7 17, please?

8 A. Yes.

9 Q. And the Companies, they are projecting an
10 average reduction of 93 kilowatt-hours annually,
11 correct?

12 A. Yes.

13 Q. And the average annual residential
14 kilowatt-hours assumption the Companies utilize in
15 this case is 9,300 kilowatt-hours held constant over
16 the 20-year study period, correct?

17 A. I'm sorry. I don't see that on here.

18 Q. If you look at page 3 of 36, row 19.

19 A. Yes. There is the 4 percent on line 20.
20 Average kilowatt-hour savings 4 percent I see on line
21 20 there.

22 Q. That's the time-varying rate program
23 though, Mr. Alvarez.

24 A. Ah, yes.

25 MR. KELTER: Could you speak up a little?

1 We can't hear down here.

2 ALJ ADDISON: If we could just speak up.

3 MR. ALEXANDER: Me as well?

4 ALJ ADDISON: Yes, everyone. Thank you.

5 Q. (By Mr. Alexander) So, Mr. Alvarez,
6 sorry. I lost track a bit. The 4 percent assumption
7 was for the time-varying rate program, correct?

8 A. Correct.

9 Q. And the customer energy management
10 program actually has a 1 percent assumption, correct?

11 A. That's correct.

12 Q. And the Companies base that 1 percent
13 energy reduction as 50 percent of the findings of a
14 Nest research paper, correct?

15 A. I'll take your word on that. I don't
16 know specifically but, yes.

17 Q. Okay. Please turn to page 21, line 6,
18 please. Here you take issue with the average benefit
19 associated with energy conservation.

20 A. Yes.

21 Q. So the Companies assumed 12 cents per
22 kilowatt-hour savings as the sum of the volumetric
23 portion of the generation, transmission, and
24 distribution rates, correct?

25 A. Correct.

1 Q. And you agree that that 12 cents is the
2 actual savings customers will see until the next base
3 rate case.

4 A. That's correct.

5 Q. And that savings will only be provided to
6 customers who take action through time of use or
7 customer energy management to reduce their usage,
8 correct?

9 A. Correct.

10 Q. And if rates do increase as a result of
11 the next base rate case, the incentive for customers
12 to conserve would increase, correct?

13 A. That's correct.

14 Q. Could that incentive cause more customer
15 interest in time-of-use rates?

16 A. It could.

17 Q. And could that incentive cause more
18 customer interest in opening and reacting to customer
19 energy management e-mails?

20 A. It's possible.

21 Q. Turning to page 22, line 4, please, and
22 here you argue the capacity price utilized by the
23 Companies is overstated with the Companies using a
24 price of \$128.53 as compared to the most recent
25 clearing price of \$34.13, correct?

1 A. Correct.

2 Q. And you would agree that the PJM capacity
3 market is volatile, correct?

4 A. Yes, I would agree with that.

5 Q. For the '15-'16 delivery year, the ATSI
6 region was a constrained zone that cleared at \$357
7 per megawatt-day, correct?

8 A. Subject to check. It's one year though.

9 Q. And the PJM RTO price for the '21-'22
10 delivery year was \$140 per megawatt-day?

11 A. Subject to check, I would agree with
12 that.

13 Q. And the ATSI zone was constrained in
14 '21-'22, and the clearing price was \$171.33?

15 A. It may have been.

16 Q. In light of the volatility in the PJM
17 market, why would the Companies use a capacity price
18 assumption based on a single year?

19 A. You know, I don't know where the
20 Company -- you know, I did not review the
21 calculations behind the estimate, the starting point,
22 for example, of 128.53. I did not review how many
23 years is that an average of or any of that kind of
24 justification for that number.

25 Q. Would it surprise you the 10-year average

1 ending with the '23-'24 delivery year was \$131?

2 A. It would surprise me somewhat.

3 Q. FERC has recently ordered significant
4 revisions to the PJM capacity process, correct?

5 A. I am not aware of those.

6 Q. Turn to page 22, row 16, please. Here
7 you argue that there may not be transmission and
8 distribution savings. Do you see that?

9 A. I do.

10 Q. Have you done any engineering studies to
11 support your assumption that the estimated
12 \$110 million in transmission and distribution
13 capacity cost savings is overstated?

14 A. I have not done any research, no, but
15 based on my experience, I would argue that those
16 savings were largely illusory as I testify here.

17 Q. Well, I asked if you had done a study,
18 and you said research, so I just want to clarify have
19 you done an engineering study?

20 A. No.

21 Q. Do you know if other Ohio utilities
22 included avoided transmission distribution benefits
23 in their AMI or energy efficiency program proposals?

24 A. I would not agree with it; but, yes, I
25 would say it's a common practice.

1 Q. And do you know that other states
2 recognize avoided transmission and distribution
3 benefits in their AMI and energy efficiency
4 proposals?

5 A. Some do.

6 Q. For example, Pennsylvania has adopted
7 standardized transmission and distribution benefits?

8 A. I'm not familiar with Pennsylvania
9 specifically, but I would argue in states that have
10 kind of a history of energy efficiency programs,
11 those numbers typically are included. Other states
12 don't -- don't recognize those kind of benefits
13 typically. Varies by state.

14 Q. So turning to page 23, we discuss
15 greenhouse gas emission benefits.

16 A. Uh-huh.

17 Q. You claim they don't provide any direct
18 economic benefits to customers, and we are in row 20.
19 I apologize. I don't think I gave the row number.
20 Do you see that?

21 A. Yes.

22 Q. You agree that greenhouse gas reductions
23 are valuable in society generally, correct?

24 A. Yes.

25 Q. And are you aware that the United States

1 government has established a cost of carbon?

2 A. I am aware of that.

3 Q. And the United States government's
4 calculations were supported by 14 different
5 governmental agencies including the Department of
6 Energy and the Environmental Protection Association?

7 A. Yes, but the point here is those don't
8 impact customers is my point here.

9 Q. The benefits identified by the United
10 States government include agricultural productivity,
11 human health effects, property damage from increased
12 flood risk, disruption of energy systems, and more,
13 correct?

14 A. That's my understanding, yes.

15 Q. So wouldn't an impact on agricultural
16 production impact the food prices that are charged to
17 Ohio customers?

18 A. Potentially, yes.

19 Q. Do you know if other utilities have
20 included greenhouse gas reduction benefits as part of
21 their grid modernization proceedings?

22 A. Some do, yes.

23 Q. For example, AES Ohio included a
24 greenhouse gas benefit in its grid modernization
25 proceeding which you opposed in your testimony,

1 correct?

2 A. Correct.

3 Q. You also take the position that indirect
4 costs to customers should be considered in the
5 cost-benefit analysis, correct?

6 A. Can you give me an example of that?

7 Q. Page 25.

8 A. Anything more specific where I say
9 "indirect costs"?

10 Q. You know, Mr. Alvarez, I only had one
11 question on it, and it's not worth finding it, so
12 we'll move on.

13 Staying on page 25 of your testimony at
14 line 4, you state that smart meters depreciate over
15 15 years, and so the CBA should be 15 years, correct?

16 A. Correct.

17 Q. Do you believe the CBA for advanced
18 metering infrastructure should be conducted over the
19 expected useful life of the meters?

20 A. Yes.

21 Q. And can you please just high level
22 describe what useful life means in this context?

23 A. The way I understand it -- I am not a
24 depreciation expert. The way I understand it it's
25 the average useful life of the equipment, so on

1 average how long will that piece of equipment remain
2 in service.

3 Q. And the 15-year depreciation life for the
4 meters in this case was actually created as part of
5 the Grid Mod I Stipulation, correct?

6 A. Subject to check; but, yes, I imagine
7 that's correct.

8 Q. You know, I don't -- I don't want to ask
9 you to subject to check this. Could you look at
10 Company Exhibit 6, page 11, please.

11 A. I have it.

12 Q. Focusing on romanette iii where it states
13 that the costs associated with AMI investments,
14 including advanced meters and supporting
15 communications networks, will be recovered over a
16 depreciable life of 15 years. Do you see that?

17 A. I do.

18 Q. Okay. Are you aware that the Companies
19 have proposed to use Itron meters for the Grid Mod II
20 meter deployment?

21 A. I am not aware but that's a common one.

22 Q. And are you aware the actual estimated
23 useful life of an Itron meter is 20 years?

24 A. I was not aware of that, no. Many
25 utilities do use 15 years.

1 Q. Have you conducted any studies as to the
2 useful life of the Itron smart meter?

3 A. No.

4 Q. And now going to the second point you
5 raised on what other utilities do, the Duke grid
6 modernization proceeding used a 20-year CBA, correct?

7 A. Subject to check, I wouldn't -- 15 -- 15
8 or 20 is the standard most utilities use.

9 Q. And in the Duke grid modernization
10 proceeding, Case No. 17-32, you testified, correct?

11 A. Yes.

12 Q. And you testified that Duke should use a
13 15-year estimated life instead of the 20-year CBA
14 that you proposed, correct?

15 A. Correct.

16 Q. And in the Dayton Power and Light grid
17 modernization proceeding, Dayton Power and Light also
18 used a 20-year CBA, correct?

19 A. Subject to check, but I don't doubt you.

20 Q. And in the DP&L testimony, you argued
21 that AMI should be considered with a 12- to 15-year
22 life, correct?

23 A. Correct.

24 Q. Please turn to page 26, line 8.

25 A. Yes.

1 Q. Here you argue that the CBA should
2 include the carrying charges that customers must pay
3 for return on equity and income taxes thereby raising
4 the costs from 421 million to 729 million, correct?

5 A. Correct.

6 Q. You raised this same argument in the
7 Dayton Power and Light grid modernization, correct?

8 A. I did.

9 Q. And you raised the same argument in the
10 Duke grid modernization proceeding, correct?

11 A. I believe so.

12 Q. Please turn to page 27, line 17, where
13 you discuss the 144 million of legacy meter costs.

14 A. Yes.

15 Q. In your cost-benefit analysis, you have
16 included that 144 million in costs, correct?

17 A. Correct.

18 Q. And no state has required stranded meter
19 costs to be included in the AMI benefit-cost
20 analysis, correct?

21 A. No, but again, many commissions have
22 considered this cost as they looked at the
23 applications.

24 Q. Is it your position that utilities should
25 only install advanced meters gradually as the old

1 meters reach the end of their useful life?

2 A. I think it's a -- an approach that
3 doesn't receive adequate consideration, let's put it
4 that way.

5 Q. Because these metering systems require
6 receivers to transmit the billing data, correct?

7 A. Correct.

8 Q. And so if the legacy meters were only
9 replaced at the end of their useful lives, there
10 would be a 20-year period between the initiation of
11 the program and when the advanced meters were fully
12 operational, correct?

13 A. Actually most of the meters have -- you
14 can put multiple communications cards in them so they
15 can work both for the existing metering system, for
16 example, it could be walk by, it could be drive-by,
17 but then at a later date be converted to a wireless,
18 you know, wireless data communications, you know,
19 infrastructure.

20 Q. Is the modification you are proposing the
21 modification to the current meter the customer has?

22 A. No, no. You can buy smart meters that
23 have the interval data capability but have two types
24 of communications vehicles in them, right? One for
25 the existing methodology, walk by, drive-by, whatever

1 the utility is using, and then at the appropriate
 2 time when you get a critical mass or what have you,
 3 you install the over-the-air network and start
 4 recording the data. That way thereby alleviating
 5 the -- you know, the cost of the walk by meter
 6 readers or the drive-by meter readers so you kind of
 7 get the best of both worlds. But there is the
 8 consideration you bring up, you know, it takes longer
 9 but it can be done; and, therefore, you don't have
 10 this big lump, this huge chunk of cost at the
 11 beginning.

12 Q. Could you please turn to page 31, line
 13 18.

14 A. I have it.

15 Q. And here you argue 89 percent of smart
 16 meters will be installed on residential premises and,
 17 therefore, the percentage of AMI costs to be assigned
 18 to the residential class will approach 89 percent,
 19 correct?

20 A. Correct.

21 Q. Now, the Stipulation in this case states
 22 that the Companies will utilize the allocation
 23 methodology currently approved for Rider AMI until
 24 the Commission issues its Opinion and Order in the
 25 2024 base rate case, correct?

1 A. You would have to point that out to me.

2 Q. Page 26 of the Stipulation.

3 A. This is the original or supplement?

4 Q. Grid Mod II Stipulation so there is just
5 one of those. It's labeled Company Exhibit 1.

6 A. Oh.

7 Q. And it's page 26.

8 A. Yes, I see that.

9 Q. Okay. And so then after the Companies'
10 2024 base rate case is concluded, the allocation will
11 be updated to match the allocation approved in the
12 2024 base rate case, correct?

13 A. Correct.

14 Q. So it's your position that if we followed
15 cost-to-service principles, then approximately
16 89 percent of Rider AMI costs should be allocated to
17 the residential class?

18 A. Yes.

19 Q. And do you --

20 A. If I can clear that up for a second.
21 When I say should, I'm saying that's how it is likely
22 to occur, not that that should be the intention, if
23 that makes any sense.

24 Q. Did you know that the average current
25 allocation to residential customers between the three

1 operating utilities allocates 56.7 percent of the
2 costs to residential customers?

3 A. Subject to check. But that number would
4 go up once \$400 million in extra metering expenses
5 are added to the rate base, and most of that is
6 residential, you would expect that number to go up,
7 right, in the next rate case according to the
8 standard cost-of-service approaches.

9 Q. Well, but let's delve into that a bit
10 because these costs would be recovered through Rider
11 AMI rather than through base rates, correct?

12 A. Yes.

13 Q. And so residential customers will pay
14 only 56 percent of the costs instead of the
15 89 percent that you calculated.

16 A. Until the next base rate case when they
17 will be recalculated, right?

18 Q. Are you assuming the costs from Rider AMI
19 are transitioned into base rates?

20 A. Yes, that would be my assumption, yeah.

21 Q. Does your testimony propose an
22 alternative allocation methodology?

23 A. It does not.

24 Q. Traditional utility ratemaking costs
25 allocation is done based on cost to service rather

1 than benefits received, correct?

2 A. That's correct.

3 Q. And if cost allocation based on benefits
4 received is taken to its logical extreme, then
5 customers most in need of reliable power, somebody on
6 a ventilator, should have to pay higher rates than
7 customers that don't have that need?

8 A. Assuming one takes it to the extreme,
9 yes.

10 Q. And you raised the same cost allocation
11 argument about the benefits received by commercial
12 and industrial customers in your Dayton Power and
13 Light testimony, correct?

14 A. I did, yes.

15 Q. So your testimony states that you
16 modified the Companies' CBA based on the issues
17 discussed in your testimony but doesn't have sort of
18 a list of here is all the changes you made.

19 A. Yes.

20 Q. So I believe you've made seven
21 adjustments, and I would just like to go through
22 those and make sure I have the comprehensive list.

23 A. Yes.

24 Q. So the first is the 15-year term?

25 A. Yes.

1 Q. The second is you modified the benefit
2 for time-varying rate from 12 cents to 5 cents?

3 A. Correct.

4 Q. The third is for customer energy
5 management, you reduced the participation assumption
6 by 50 percent?

7 A. That sounds right.

8 Q. The next is for customer energy
9 management, you reduced annual savings from 93
10 kilowatt-hours to 47 kilowatt-hours annually?

11 A. Correct.

12 Q. For customer energy management, you
13 reduced the benefit from 12 cents to 5 cents?

14 A. Yes.

15 Q. You eliminated the carbon benefit to
16 customers?

17 A. Correct.

18 Q. And you included 144 million in legacy
19 meter costs?

20 A. Correct.

21 Q. Is that the entire universe of the
22 adjustments you made to the Companies' CBA?

23 A. I think the only one you might be missing
24 is the cost to capital. The customers pay the cost
25 to capital.

1 Q. And so you are referring -- please turn
2 to page 30 of your testimony.

3 A. Yes.

4 Q. And looking at the table at row 13, are
5 you referring to the increase of capital shown in the
6 third line down of 420 million?

7 A. Yes.

8 Q. Okay. Thank you. Delving into some of
9 those assumptions, for the customer this energy
10 management participation assumption --

11 A. Yes.

12 Q. -- you reduced the Companies' assumption
13 in half. You know what? Strike that.

14 Could you please turn to page 32, line
15 17.

16 A. I'm there.

17 Q. Here you provide your opinion that the
18 Companies should create a peak-time rebate program
19 for residential customers?

20 A. Yes.

21 Q. Peak-time rebate programs require
22 advanced meter infrastructure, correct?

23 A. They do.

24 Q. Changing topics, you are aware the
25 Commission has approved full smart meter

1 implementation for all customers of AEP Ohio,
2 correct?

3 A. I am not aware of that, but I'll take it
4 subject to check.

5 Q. And are you aware the Commission has
6 approved full smart meter installation for all
7 customers of Duke Energy Ohio?

8 A. Yes.

9 Q. And are you aware the Commission has
10 approved full smart meter installation for 95 percent
11 of the customers of AES Ohio?

12 A. Subject to check, I would agree with
13 that.

14 Q. That was the proceeding you testified in,
15 correct?

16 A. Yeah, yeah. I just don't recall the
17 order.

18 Q. And are you aware AES Ohio has a
19 proceeding open right now seeking approval to install
20 smart meters for their remaining 5 percent?

21 A. I was not aware of that but.

22 Q. And you are aware the Companies have
23 already installed smart meters for more than 700,000
24 customers?

25 A. Correct.

1 Q. In light of this Ohio precedent, is it
2 your professional opinion that the Companies'
3 remaining \$1.4 million customers should not receive
4 smart meters?

5 A. I think they should not receive smart
6 meters until the Company has demonstrated that the --
7 they are getting the benefits projected from the
8 initial 700,000.

9 MR. ALEXANDER: No further questions,
10 Mr. Alvarez. Thank you.

11 THE WITNESS: Thank you.

12 ALJ ADDISON: Thank you, Mr. Alexander.

13 Let's go ahead and take a quick 5-minute
14 break. Come back at 11:25.

15 (Recess taken.)

16 ALJ ADDISON: Let's go back on the
17 record.

18 Ms. Bojko.

19 MS. BOJKO: Thank you, your Honor.

20 - - -

21 CROSS-EXAMINATION

22 By Ms. Bojko:

23 Q. Good morning, Mr. Alvarez.

24 A. Good morning.

25 Q. As you may remember, my name is Kim

1 Bojko. I represent the Ohio Manufacturers'
2 Association Energy Group. I have a few clarifying
3 questions following up on Mr. Alexander today. You
4 are testifying today as a consultant on behalf of the
5 Ohio Consumers' Counsel and NOAC; is that correct?

6 A. That's correct.

7 Q. And they are residential customer
8 advocates; is that correct?

9 A. That's correct.

10 Q. So your testimony today is on behalf of
11 residential consumers, correct?

12 A. That's correct.

13 Q. And you are the sole witness in this case
14 testifying for OCC and NOAC; is that correct?

15 A. I believe so, yes.

16 Q. And isn't it true that there are two
17 other residential advocates that have signed the
18 Stipulation in support?

19 MR. MICHAEL: Objection.

20 ALJ ADDISON: Grounds?

21 MR. MICHAEL: Vague. What does she mean
22 by "residential advocates"? We are the statutory
23 residential advocate. I don't know who she is
24 talking about.

25 ALJ ADDISON: Maybe you can elaborate a

1 little more, Ms. Bojko.

2 MS. BOJKO: Sure, your Honor.

3 MR. MICHAEL: Thank you, your Honor.

4 Q. (By Ms. Bojko) Sir, you are aware that
5 NOAC is not a statutory residential -- or residential
6 advocate; is that correct?

7 A. That's correct.

8 Q. And there are two other parties in this
9 case, CUB and NOPEC, the Citizens Utility Board and
10 NOPEC; is that correct?

11 A. That's my understanding, yes.

12 Q. And is your understanding they are
13 representing residential -- they state in their
14 interventions they are representing residential
15 interests in this case?

16 A. Yes.

17 Q. And it's your understanding that they
18 have signed the Stipulation in support; is that
19 correct?

20 A. Yes.

21 Q. Could you go to page 2 of your testimony
22 filed on June 11. So, sir, for most of my
23 questioning, it's just going to be on the June 11
24 testimony that's opposing the stipulation. Do you
25 have that in front of you? It's been marked as OCC

1 Exhibit 6.

2 A. I do.

3 Q. Okay. On page 2 of that testimony, line
4 1, you state that it's your understanding that the
5 Commission applies a three-part test. Do you see
6 that?

7 A. I do.

8 Q. And, sir, that understanding was obtained
9 by OCC; is that a fair statement?

10 A. Yes.

11 Q. And you are not a lawyer; is that
12 correct?

13 A. That's correct.

14 Q. And let's turn to pages 8 and 9 of your
15 testimony, Exhibit -- OCC Exhibit 6, question and
16 answer 12.

17 A. Uh-huh.

18 Q. Do you see that?

19 A. I do.

20 Q. Okay. Here you discuss the audit of Grid
21 Mod II, and you discussed that a little bit with
22 Mr. Alexander this morning. Do you recall that?

23 A. I do.

24 Q. The Stipulation in this case, the Grid
25 Mod II case, that requires FirstEnergy to implement

1 the recommendations from the Grid Mod I audit report;
2 is that correct?

3 A. That's correct.

4 Q. And the Stipulation in this case requires
5 that FirstEnergy implement those same recommendations
6 for Grid Mod II investments; is that correct?

7 A. That's correct.

8 Q. And you agreed with Mr. Alexander that
9 the Stipulation reduced the total estimated capital
10 cost from 626 million to approximately 421 million,
11 correct?

12 A. Correct.

13 Q. And of that 421 million, 418 million is
14 for capital costs of installing 1.4 million meters to
15 residential customers, correct?

16 A. Correct.

17 Q. Let's turn to page 12 of your testimony.
18 On page 12 of your testimony -- and you discussed
19 with Mr. Alexander the operational benefits. Here
20 you state that -- oh, strike that. I apologize.

21 So look at page 12, lines 1 to 2. Here
22 you discussed some operational benefits and the
23 impact on the rate case earlier this morning and
24 that's what you are stating in lines 1 and 2; is that
25 correct?

1 A. Yes.

2 Q. Okay. On the top of page 12, line 1 --

3 ALJ ADDISION: Let's go off the record.

4 (Discussion off the record.)

5 ALJ ADDISON: Let's go back on the

6 record.

7 Q. (By Ms. Bojko) I'll start over. On page

8 12, the top of page 12, line 1, you talk about

9 FirstEnergy's next base rate case. Do you see that?

10 A. I do.

11 Q. Okay. The reference here, are you

12 talking about a base distribution rate case filed by

13 the FirstEnergy Companies?

14 A. Yes.

15 Q. Okay. Then on the next line you state

16 that's anticipated by May 31, 2028. Do you see that?

17 A. I do.

18 Q. Where did you get that date? Are you

19 just speculating when they might file their next rate

20 case?

21 A. I don't remember honestly.

22 Q. Are you tying the May 31, 2028, date to

23 their Electric Security Plan case, the ending of

24 their current one?

25 A. Or is it the AMI deployment? I don't

1 remember.

2 Q. So you -- sitting here today you don't
3 know when exactly FirstEnergy is going to file its
4 next base rate case, do you?

5 A. That's true. That's certainly true.

6 Q. Turn to page 13 of your testimony. On
7 line 17, you defined benefit-cost analysis as an
8 acronym BCA. Do you see that?

9 A. Yes.

10 Q. Throughout the questioning of
11 Mr. Alexander, he referred to something called CBA
12 which I believe was the cost-benefit analysis?

13 A. Yes.

14 Q. Is that correct?

15 A. Yes, same.

16 Q. That was your understanding?

17 A. Yes.

18 Q. So when Mr. Alexander referred to CBA and
19 you answered accordingly, it's the same as the BCA in
20 your testimony?

21 A. Correct, that's correct.

22 Q. Let's turn to page 14 of your testimony,
23 please. Here you -- you discuss the stated benefits
24 of various components of Grid Mod II. But is it fair
25 to say you do not discuss the benefits of the hosting

1 capacity maps that are contained in the Stipulation
2 in this case?

3 A. Yes, that's fair.

4 Q. And you didn't analyze the hosting
5 capacity maps as part of your testimony, did you?

6 A. I did not.

7 Q. You would agree with me, sir, though that
8 you think that hosting capacity maps would be
9 beneficial to customers looking to place new or
10 expanded load on the system?

11 A. I would agree with that.

12 Q. Let's turn to page 32 of your testimony.
13 Here you describe a peak demand rebate program. Do
14 you see that?

15 A. I do.

16 Q. And on page 33 on line 10, you say that a
17 peak-time rebate program offers a bill credit to
18 consumers who reduce their energy consumption during
19 periods in which capacity is in short supply. Do you
20 see that?

21 A. I do.

22 Q. And under your proposal, who pays for
23 these bill credits?

24 A. I mean, the Companies reserve -- the
25 distribution company is required to reserve capacity

1 and energy, right, for their customers. And so the
2 concept is that they won't be using all that that
3 they have reserved because they've got these
4 peak-time rebate demand response activities going on.
5 And they can sell that. They can sell that in the
6 market and use those proceeds -- sell it in the spot
7 market, use those proceeds to pay these rebates.

8 Q. So you are suggesting that the
9 distribution utilities would sell available leftover
10 capacity into --

11 A. Or energy.

12 Q. -- the spot -- or energy into the spot
13 market.

14 A. Yes.

15 Q. And then the utility would then in turn
16 take those proceeds and use it to give customers bill
17 credits?

18 A. Yes.

19 Q. So the distribution utility would be
20 responsible for the bill credits regardless of the
21 revenue they received from the proceeds of selling
22 the energy and capacity into the spot market?

23 A. Yes. There is some work that needs to go
24 on there to figure out what is the appropriate amount
25 to pay, right? You don't want to pay too much

1 because then -- you have got to balance that, what do
2 you expect you might be able to get from those
3 profits, right, and how many credits are you going to
4 have to pay. Yes, that is a, you know -- something
5 that has to be taken into account, you know, in the
6 rate design process.

7 Q. So if the bill credits exceed the
8 proceeds received by the utility, who pays for the
9 differential? Are the shareholders responsible or
10 other customers?

11 A. I mean, it depends so much on rate
12 design, right, as we just discussed. Ideally what
13 you want to do is not pay out maybe 100 percent of
14 that so that non-participating customers can benefit
15 too, right? The rebate payouts are somewhat less
16 than what the Company is able to secure from selling
17 their excess, right?

18 So in an ideal situation, all
19 participants are benefiting, not just participating
20 customers if that -- all customers benefit, not just
21 participating customers to some degree. So if that's
22 the case, then I guess one could make the argument
23 that those customers should also then pay if, you
24 know, the rebate amounts exceed what was able to be
25 raised by selling those, right? But some might argue

1 that, well, to the extent there is generation in the
2 market, you know, the supply and demand impact those,
3 and so maybe the Company should take some of that.
4 It's all based on the rate design.

5 Q. So you don't have a specific proposal in
6 this case, do you?

7 A. No. Correct.

8 Q. Okay. And so this is -- you are just
9 discussing a typical program; you are not actually
10 recommending a program for this particular case, are
11 you?

12 A. I'm recommending that this kind of a
13 program be implemented. Should the Commission decide
14 that they want to approve smart meters, you know,
15 approve the Stipulation and the 1.4 million smart
16 meters, that this would be a program they should
17 order in order to maximize the benefits of the smart
18 meters. Now, what the exact design of that program
19 is, I do not provide that recommendation.

20 Q. Okay. And so the Commission would have
21 to figure that out --

22 A. Yes.

23 Q. -- and do a design of the program if they
24 were to order this type of program be implemented by
25 the utilities?

1 A. Or the utility, yes.

2 Q. Well, in this case the utility hasn't
3 proposed such a program, so the Commission in its
4 order would have to modify its current program and
5 then also set forth the design parameters and the
6 cost allocation and the credits and everything we --
7 the rate design, everything we just talked about, the
8 Commission would have to do that in its order,
9 correct?

10 A. Or ask the Company to put in a proposal
11 to do so within so many days, months, year. Some
12 reasonable amount of time could be provided for them
13 to come up with the parameters of such a program.

14 Q. Okay.

15 A. That would be one option.

16 Q. Let's turn to -- let's go back to page 16
17 of your testimony. On page 16 of your testimony, you
18 talk about the cost of recruiting people to use
19 time-of-use rates. It's -- starts on line 12. And
20 you talk about how the cost of recruiting people
21 outweighs the benefits. You didn't perform an
22 analysis to determine how much it would cost
23 FirstEnergy to market or recoup -- recruit
24 participants for a peak-time rebate program, did you?

25 A. No.

1 Q. And under a peak-time rebate program, the
2 utility notifies customers when there are
3 opportunities to earn rebates; is that correct?

4 A. That's correct.

5 Q. Did you perform an analysis to determine
6 how much it would cost to establish, maintain, and
7 use this notification system that you suggest?

8 A. No, I did not.

9 Q. And the peak-time rebate program that you
10 describe on page 32, is that just for residential
11 customers?

12 A. It could conceivably be, I think, for all
13 customers, certainly small commercial at a minimum.
14 I would argue largest customers typically have, you
15 know, demand response -- what would you call them,
16 capacity limiting, demand limiting programs underway.
17 So this is certainly designed or considering smaller
18 customers who don't have the wherewithal, you know,
19 to do that kind of thing.

20 Q. Okay. But again, you haven't proposed
21 any specifics with regard to this peak-time --

22 A. Rebate.

23 Q. -- rebate program; is that fair?

24 A. That's fair.

25 Q. Okay. And let's turn to page 46 of your

1 testimony. Beginning on page 46, you describe
2 recommended modifications of the settlement. I think
3 you went through about seven or eight of those with
4 Mr. Alexander. Do you recall that?

5 A. I do.

6 Q. So if an item is not listed in your list
7 of modifications, then is it fair to say you are
8 supporting how it is defined and listed in the
9 Settlement?

10 A. I think failing to oppose would probably
11 be a better way to describe it because I have not
12 evaluated all of them, so rather than support, I
13 would say failed to oppose.

14 MS. BOJKO: Fair enough. Okay. Thank
15 you.

16 No further questions, your Honor.

17 ALJ ADDISON: Thank you very much.

18 Kroger.

19 MS. WHITFIELD: No questions, your Honor.

20 ALJ ADDISON: OEG.

21 MS. COHN: None, your Honor.

22 ALJ ADDISON: RESA.

23 MR. PRITCHARD: Yes, your Honor.

24 - - -

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CROSS-EXAMINATION

By Mr. Pritchard:

Q. Good morning, Mr. Alvarez. My name is Matt Pritchard on behalf of the Retail Energy Supply Association. The line of questioning and answers you just went through with Ms. Bojko, your answer was framed from the context that the utility would have additional capacity that it could go and sell in the market to help fund your rebate program. Do you remember that line of questioning and answers?

A. I do.

Q. Are you aware that FirstEnergy's service territory includes retail competition?

A. Yes.

Q. And so if a customer is shopping, FirstEnergy would not be in the business of securing any generation for those shopping customers, correct?

A. That's correct.

Q. And are you aware that for default service customers served under the SSO, that there is a competitive auction process to secure generation service for SSO customers?

A. Yes.

Q. And so when you said that FirstEnergy had secured capacity it could sell, what capacity has it

1 secured?

2 A. So in that auction process, the Company
3 is securing capacity, correct?

4 Q. My question for you is do you know -- so
5 let me strike that.

6 So we both agree that you are aware that
7 there is an SSO auction to supply generation service
8 to default SSO customers, correct?

9 A. Correct.

10 Q. Are you aware that in the auction there
11 are competitive market entities that win the auction
12 and if they win an auction, they are responsible for
13 serving the portion of the load that they win in the
14 auction?

15 A. Yes.

16 Q. And are you aware of -- that the supply
17 obligation on the auction winners is for a tranche or
18 a full requirement slice of the system?

19 A. Yes.

20 Q. And so it is the SSO auction winners that
21 have the energy and capacity supply obligation,
22 correct?

23 A. Correct.

24 Q. And are you aware that FirstEnergy, the
25 distribution utility, does not win load in the

1 auctions?

2 A. I am aware.

3 Q. Okay. So setting forth that framework,
4 what is your understanding of the capacity resources
5 that FirstEnergy has secured that it could sell?

6 A. Yeah. As I explained to OP&E?

7 MS. BOJKO: OMAEG.

8 A. OMA, obviously there is no specific
9 proposal here for this particular program. It's an
10 observation that such programs exist in other states
11 and that it's an opportunity to improve, you know,
12 the benefits delivered by AMI. The specifics still
13 clearly need to be worked out, and I don't propose
14 those specifics in this testimony.

15 Q. And those other states you reference,
16 does the incumbent utility have the role of securing
17 generation service for some or all of its customers?

18 A. Yes.

19 Q. And so in those other states, the utility
20 had procured either on a short- or long-term basis
21 capacity.

22 A. That's correct. That was my presumption.

23 Q. Okay.

24 A. That may have been an error in
25 presumption for Ohio.

1 Q. And if we don't have that sort of
2 foundation in Ohio where FirstEnergy could sell
3 capacity to fund the credits, you walked through with
4 counsel for OMAEG about how the other money would
5 have to be funded, correct?

6 A. Correct.

7 Q. And so in a situation where there is no
8 capacity to sell from FirstEnergy, it would have to
9 charge its customers to fund these rebates, correct?

10 A. You know, there might be other
11 opportunities. You know, I know there is an
12 obligation, right? You mentioned the obligation, the
13 overall obligation, right? The capacity has to be
14 made available.

15 As just one example, once the program is
16 underway and capacity reductions are experienced,
17 right, the amount that has to be procured goes down
18 and that certainly serves -- benefits everyone when
19 that happens, right? So there are other potential
20 sources of value to use to pay rebates.

21 Q. If the -- in your answer there when the
22 capacity goes down, are you referring to the if the
23 total demand --

24 A. Sorry, demand, sorry.

25 Q. If the total demand in the PJM market is

1 lower, you are talking about wholesale capacity
2 energy markets could be lower and benefiting
3 everyone.

4 A. Yes.

5 Q. That doesn't provide an actual cash flow
6 to FirstEnergy, the utility, to fund your rebates,
7 correct?

8 A. Right. But nonetheless the total amount
9 purchased would go down.

10 Q. Again, I am trying to focus on how is
11 FirstEnergy going to get money to give to customers.

12 A. Right.

13 Q. Lower wholesale energy market cost does
14 not produce any positive cash flow to the
15 distribution utility, correct?

16 A. Correct.

17 Q. And so if FirstEnergy, the distribution
18 utility, doesn't have capacity resources to sell,
19 even if wholesale energy markets are assumed to go
20 down and do go down, there is still no cash flow at
21 FirstEnergy, and so the only way for them to get the
22 cash flow is to charge customers and collect through
23 a rider whatever -- whatever rebate they are going to
24 provide to customers.

25 A. I see your point.

1 Q. Is that last part about them having to
2 charge customers to fund the rebates then correct?

3 A. I think it's potentially correct.

4 Q. How else would FirstEnergy obtain the
5 revenue to provide the rebates to customers?

6 MR. MICHAEL: Your Honor, I am going to
7 object at this point. Mr. Alvarez testified that
8 this was an observation about how the Commission
9 could improve the Grid Mod II Settlement. He said he
10 wasn't making any specific proposals. It's apparent
11 that he is not, and I think these questions are
12 getting onerous and overly burdensome. He already
13 said he is not making any specific proposals.

14 ALJ ADDISON: I disagree. Overruled.
15 You can answer the question.

16 A. Can you repeat the question?

17 MR. PRITCHARD: Can I have the question
18 read back?

19 ALJ ADDISON: You may.

20 (Record read.)

21 A. I agree there is no cash flow that
22 FirstEnergy could use to pay those rebates. There
23 are sources of value that could be tapped, but to
24 answer your question, I agree with you. There is no
25 immediate cash flow used to pay those rebates.

1 Q. And so is it your experience that
2 utilities provide -- are going to provide a positive
3 rebate to a specific customer and not have an ability
4 to collect the rebate they just paid? Is that -- let
5 me strike that.

6 A. No.

7 Q. Let me strike that. Is your
8 recommendation here that FirstEnergy should provide
9 the rebate regardless of whether it can collect
10 the -- from customers the amount of the rebate it is
11 providing?

12 A. No, that's not my recommendation.

13 Q. And so if FirstEnergy is limited from a
14 cash flow basis, if it can only collect the money
15 through a rider, is your recommendation in this
16 proposal that it should move forward with FirstEnergy
17 collecting whatever the total aggregate rebate value,
18 that cost should be collected through one of
19 FirstEnergy's riders?

20 A. I mean, there are ways to address this
21 problem, right? As I mentioned, the total capacity
22 obligation in the market will go down. That will
23 save customers. There's a source of value there.
24 How we or the Commission or the Company comes up with
25 a way to establish a regulatory asset for that or,

1 you know, how to get that process started initially
2 until it becomes self-funding through the reduction
3 in capacity that maybe the entire market saves, I
4 haven't thought through all those specifics for Ohio
5 given the understanding you have helped me with as to
6 how that happens in Ohio.

7 Q. When the market has a lower price -- as
8 you walked through with Mr. Alexander earlier, there
9 is a PJM capacity auction, prices go up, prices have
10 gone down, correct?

11 A. Correct.

12 Q. If the market price goes up, what value
13 stream -- I am just trying to figure out what --

14 A. Supply and demand.

15 ALJ ADDISON: Mr. Alvarez, allow
16 Mr. Pritchard to finish his question.

17 THE WITNESS: Thank you, your Honor.

18 Q. (By Mr. Pritchard) Let me start over. So
19 your proposal, if there is no way to create a cash
20 flow from the market to FirstEnergy, is your
21 recommendation then that FirstEnergy should be able
22 to collect the costs through a rider of the rebates?

23 A. That would be one way to do it.

24 Q. And if -- your recommendation is that
25 this program should be available to all customers,

1 correct?

2 A. Yes. That's how I observed it in other
3 markets, yes.

4 Q. And in situations where the utility
5 provides a service to both SSO and nonshopping -- or
6 SSO and shopping customers, traditionally the
7 recovery mechanism is a nonbypassable charge,
8 correct?

9 A. Correct.

10 Q. And so you would envision that
11 FirstEnergy would be providing this rebate and
12 implementing either a new nonbypassable charge or
13 increased costs in an existing nonbypassable charge,
14 correct?

15 A. Correct.

16 Q. And your recommendation as we got through
17 earlier about FirstEnergy could sell its capacity
18 into the market, you are not recommending here today
19 that FirstEnergy should get back into generation
20 procurement, correct?

21 A. I am not.

22 Q. Switching to a slightly different
23 topic --

24 ALJ ADDISON: Before we switch,
25 Mr. Pritchard, could we go off the record just for a

1 second?

2 MR. PRITCHARD: Sure.

3 (Discussion off the record.)

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

6 Thank you, Mr. Pritchard.

7 Q. (By Mr. Pritchard) In your conclusion you
8 have several recommendations and your fifth
9 recommendation you walked through with Mr. Alexander
10 earlier and it addressed whether FirstEnergy should
11 after it has -- there is several qualified offers
12 withdraw its SSO TOU program. Do you recall that
13 discussion?

14 A. I recall a discussion. I don't recall it
15 in quite those terms but, yes.

16 Q. And as you walked through with
17 Mr. Alexander, you are aware that there was a
18 Supplemental Stipulation in Grid Mod I and an
19 original Stipulation in Grid Mod I, correct?

20 A. Correct.

21 Q. Do you have Company Exhibit 5 still in
22 front of you, the Supplemental Stipulation?

23 A. I do.

24 Q. And if you turn to page 2, the first
25 paragraph here addresses the rate design for tax

1 credits, correct?

2 A. Yes.

3 Q. And so that -- when we are referring to
4 the Stipulation in the Grid Mod I proceeding, it's
5 your understanding that the Stipulation combined with
6 the Supplemental Stipulation addressed more than just
7 Grid Mod provisions, correct?

8 A. Yes.

9 Q. And as you walked through with
10 Mr. Alexander, the language that's in this
11 Stipulation about FirstEnergy following through to
12 make a filing with the Commission to withdrawal its
13 SSO TOU offering, if there is the qualifying offers,
14 your understanding is that language comes from the
15 original Grid Mod I Stipulation that was incorporated
16 into the Supplemental Stipulation you cite, correct?

17 A. Yes.

18 Q. And so your recommendation here that the
19 Commission remove that proposal from this
20 Stipulation, you understand that that would be
21 modifying FirstEnergy's commitment in the Grid Mod I
22 case?

23 A. I mean, I had not fully thought through
24 that way, but I would agree with you.

25 Q. And so you understand that there is a

1 number of provisions that might benefit certain
2 parties, OCC included, reflected in that
3 comprehensive Stipulation, Supplemental Stipulation,
4 in the Grid Mod I case, correct?

5 A. Correct.

6 Q. And so is it your general understanding
7 that when settlements get modified, that people can
8 withdraw from them and that the provisions perhaps
9 otherwise agreed to might disappear?

10 A. Yes.

11 Q. And so sitting here today, are you
12 advocating that the Commission undo the Grid Mod I
13 Settlement?

14 A. Only to the extent of the recommendations
15 here.

16 Q. And so you -- with this recommendation,
17 you believe you're taking the position that the
18 Commission should, in fact, modify the Grid Mod I
19 Settlement with respect to withdrawing the TOU
20 offering.

21 A. Although, as Mr. Alexander pointed out,
22 the Commission must still approve the withdrawal of
23 the TOU offerings that you are referring to here,
24 right? I agree that's what this recommendation says,
25 yes.

1 Q. And so are you aware that OCC indicated
2 it was joining that Settlement in exchange for, for
3 example, the changes in the credit allocation of the
4 tax rider?

5 A. Yes.

6 Q. And you are aware that OCC in the Grid
7 Mod I case agreed to the entire package of terms and
8 conditions, correct?

9 A. That's correct.

10 Q. Do you think it's unreasonable for OCC to
11 now seek to undo some of the provisions it previously
12 agreed to?

13 A. Perhaps with respect to this one singular
14 recommendation.

15 Q. One final line of questioning, earlier --
16 let me just ask it directly, part of your testimony
17 criticizes FirstEnergy for not reviewing your
18 original testimony and following through with the
19 recommendations you had in your original testimony,
20 correct?

21 A. It does.

22 Q. Did you review the original testimony
23 filed by other parties in this case?

24 A. Some, not all, and not in detail.

25 Q. Are you aware that RESA Witness Smith

1 testified about market-provided rebate programs?

2 A. No.

3 MR. PRITCHARD: No further questions.

4 ALJ ADDISON: Thank you very much.

5 IGS.

6 MS. CATHCART: No, thank you.

7 ALJ ADDISON: Thank you.

8 OELC.

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

11 ALJ ADDISON: Thank you.

12 And before I ask if you have any
13 questions, would you like to make an appearance? I
14 am not sure -- on behalf of Walmart. I am not sure
15 if your co-counsel included you in the last round.

16 MR. UNGER: Sure. Joseph Unger, it's
17 Spilman, Thomas & Battle, for Walmart, Inc.

18 ALJ ADDISON: Thank you very much,
19 Mr. Unger. Do you have any questions?

20 MR. UNGER: No, your Honor.

21 ALJ ADDISON: Thank you.

22 Mr. Stinson.

23 MR. STINSON: None, your Honor. Thank
24 you.

25 ALJ ADDISON: Thank you.

1 Anything on behalf of Staff?

2 MS. BOTSCHNER O'BRIEN: No, thank you.

3 ALJ ADDISON: Redirect?

4 MR. MICHAEL: If we could have a moment.

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

7 (Recess taken.)

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

10 Redirect, Mr. Michael?

11 MR. MICHAEL: Thank you, your Honor.

12 - - -

13 REDIRECT EXAMINATION

14 By Mr. Michael:

15 Q. Mr. Alvarez, do you recall your
16 discussion with counsel with FirstEnergy utilities
17 about time-of-use rates and demand response?

18 A. I do.

19 Q. Are time-of-use rates an effective demand
20 response tool?

21 A. I mean marginally. I think the question
22 is how much can they really reduce demand, and I
23 think there are more effective rate designs, as I
24 mentioned those with a critical peak-pricing feature
25 that do more for demand response than a simple

1 time-of-use rate would. They are just not granular.
 2 The pricing just isn't granular enough to impact
 3 those very hot, you know, summer afternoon time
 4 periods, those may be 10 to 12 days a year, but not
 5 very effective for that.

6 Q. Thank you, Mr. Alvarez. Do you recall
 7 your discussion with counsel for FirstEnergy
 8 regarding advanced regulatory review of proposals by
 9 utilities?

10 A. I do.

11 Q. And could I ask you to turn to page 43 of
 12 your testimony, please?

13 A. I have it.

14 Q. And if I could draw your attention to Q
 15 and A 47, and particularly the last sentence in that
 16 first paragraph in answer 47, this "eminently logical
 17 argument." Do you see that?

18 A. I do.

19 Q. And do you recall talking with counsel
 20 for the FirstEnergy utilities about that?

21 A. I do.

22 Q. Could you please explain for the
 23 Commission regarding disallowance and the threat of
 24 disallowance and what goes into those subject
 25 matters?

1 A. Well, certainly I think -- as I recall,
2 Mr. Alexander's question was something along the
3 lines of did indeed the Commission disallow some of
4 the Companies' costs and that may have been the case.
5 My point in this whole discussion about the challenge
6 of a reduction in cost disallowance risk when plans
7 are reviewed in advance has to take the size of the
8 disallowance into account. So, for example,
9 Mr. Alexander pointed out that this -- this AMI cost
10 may have been removed, and this AMI cost may have
11 been removed. You know, that's not going to change
12 customer cost to capital the customers have to pay
13 for.

14 And so I am not arguing there is no cost
15 disallowance risk. I'm arguing that it's reduced and
16 particularly with regard to very large disallowances.
17 So, you know, \$40,000 disallowance here, \$100,000
18 disallowance there is not going to change customer
19 cost -- Company cost to capital. Customers won't
20 have to pay much increase, but when it comes to a
21 \$400 million AMI cost disallowance, the Commission's
22 hands are going to be practically tied. It's going
23 to be very difficult for them to disallow that kind
24 of a cost without significant cost-to-capital
25 increases that customers are going to have to pay.

1 So that's the basis for my -- for my
2 theory that advance review of regulatory plans
3 reduces cost disallowance risk.

4 Q. Thank you, Mr. Alvarez. Do you recall
5 also talking to counsel for FirstEnergy about
6 marketing time-of-use rates and the collaborative --
7 collaborative's involvement in that marketing
8 process?

9 A. I do.

10 Q. Okay. And does the fact that there is a
11 collaborative process and that, for example, OCC
12 might participate in that process change your
13 analysis -- or I should say your testimony that --
14 about the expense of that marketing effort?

15 A. Yeah, or the effectiveness of it. I
16 mean, just because collaborators are involved doesn't
17 mean that the marketing plan is going to be excellent
18 or creative or -- or effective. It just means that
19 it was collaborative.

20 And so when it comes to time-of-use
21 rates, admittedly a rate that is difficult to get
22 consumers to adopt, right, I mean, that has -- if you
23 are trying to get customers or consumers to do
24 something that is difficult for them to buy into,
25 that's going to be a marketing challenge and it

1 requires the best marketing minds that are available
2 to get that kind of participation in those kinds of
3 circumstances so.

4 Q. Thank you, Mr. Alvarez. Do you recall
5 your discussion with counsel for FirstEnergy
6 regarding the depreciation period for smart meters
7 and the associated purported benefits of those smart
8 meters?

9 A. I do.

10 Q. Could you please provide the Commission
11 with additional insight as to the relationship
12 between the depreciation period and measuring the
13 benefits?

14 A. Yeah. I think my primary -- my primary
15 point here, the testimony, is the benefit period and
16 the cost period should be the same. So if you use a
17 15-year depreciation period for meters, then you
18 should use a 15-year benefit period. If you use a
19 20-year benefit -- depreciation period for meters,
20 you should use a 20-year benefit period. You should
21 not use a 20-year benefit period and a 15-year
22 depreciation period. That inconsistency does not
23 make sense to me.

24 MR. MICHAEL: Thank you, Mr. Alvarez.

25 I have no further questions, your Honor.

1 ALJ ADDISON: Thank you very much,
2 Mr. Michael.

3 Mr. Alexander, any questions?

4 MR. ALEXANDER: Yes, your Honor.

5 - - -

6 REXCROSS-EXAMINATION

7 By Mr. Alexander:

8 Q. On the last point, that 15- versus
9 20-year depreciation period, do you know the
10 depreciation period which would be applicable to the
11 Itron meters at issue in this case if there were not
12 a Stipulation to use 15-year depreciable life?

13 A. I'm sorry. Can you repeat that?

14 Q. Certainly. Do you know --

15 MR. ALEXANDER: Actually may the question
16 be reread?

17 ALJ ADDISON: It can.

18 (Record read.)

19 A. I do not.

20 Q. And I believe we may have covered this
21 earlier, but do you know the estimated useful life
22 for these meters?

23 A. I think earlier you asked about the
24 manufacturer's recommendation; is that what you are
25 referring to? I do not know.

1 MR. ALEXANDER: No further questions,
2 your Honor.

3 ALJ ADDISION: Thank you.
4 Ms. Bojko.

5 MS. BOJKO: No, your Honor. Thank you.

6 ALJ ADDISION: Kroger.

7 MS. WHITFIELD: No, your Honor. Thank
8 you.

9 ALJ ADDISION: OEG.

10 MS. COHN: No, your Honor.

11 ALJ ADDISION: RESA.

12 MR. PRITCHARD: None, your Honor.

13 ALJ ADDISION: IGS.

14 MS. CATHCART: No, your Honor.

15 ALJ ADDISION: Mr. Willison.

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

18 ALJ ADDISION: Mr. Unger.

19 MR. UNGER: None, your Honor.

20 ALJ ADDISION: Mr. Stinson.

21 MR. STINSON: No, your Honor. Thanks.

22 ALJ ADDISION: Ms. Botschner O'Brien.

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

24 Thank you.

25 ALJ ADDISION: All right. The Bench has

1 no additional questions at this time. You are
2 excused, Mr. Alvarez. Thank you very much.

3 THE WITNESS: Thank you, your Honor.

4 ALJ ADDISON: OCC had previously moved
5 for the admission of Exhibits 5 and 6 pending
6 cross-examination. Are there any objections to the
7 admission of those exhibits at this time, recognizing
8 Mr. Michael made the clarification as to the purpose
9 of moving OCC Exhibit No. 5 into the record?

10 Any objections?

11 MR. PRITCHARD: No, your Honor.

12 ALJ ADDISON: Hearing none, those will be
13 admitted.

14 (EXHIBITS ADMITTED INTO EVIDENCE.)

15 ALJ ADDISON: Mr. Alexander.

16 MR. ALEXANDER: Yes, your Honor. The
17 Companies move for admission of Companies Exhibits 5
18 and 6.

19 ALJ ADDISON: Are there any objections to
20 the admission of Companies Exhibits 5 and 6?

21 Hearing none, they will be admitted.

22 (EXHIBITS ADMITTED INTO EVIDENCE.)

23 ALJ ADDISON: Let's go ahead and go off
24 the record.

25 (Discussion off the record.)

1 ALJ ADDISON: Let's go ahead and go back
2 on the record.

3 After a brief discussion regarding the
4 briefing period in this case, the Bench will adopt
5 the suggested time frame noted by the parties for
6 July 31 as the deadline for initial briefs and
7 August 21 for the deadline for reply briefs.

8 Is there anything else we need to address
9 before we adjourn for today?

10 All right. Then we are adjourned. Thank
11 you all.

12 (Thereupon, at 12:22 p.m., the hearing
13 was adjourned.)

14 - - -

15

16

17

18

19

20

21

22

23

24

25

CERTIFICATE

I do hereby certify that the foregoing is
a true and correct transcript of the proceedings
taken by me in this matter on Tuesday, July 2, 2024,
and carefully compared with my original stenographic
notes.

Karen Sue Gibson, Registered
Merit Reporter.

(KSG-7642)

- - -

**This foregoing document was electronically filed with the Public Utilities
Commission of Ohio Docketing Information System on**

7/17/2024 9:21:50 AM

in

Case No(s). 22-0704-EL-UNC, 18-1647-EL-RDR, 19-1903-EL-RDR, 20-1672-EL-RDR

Summary: Transcript July 2nd 2024 Volume 2 In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Approval of Phase Two of Their Distribution Grid Modernization Plan. - - - In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Review of Rider AMI (2019). - - - In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Review of Rider AMI (2020). - - - In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Review of Rider AMI (2021). electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs..