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February 5, 2009

VIA FEDERAL EXPRESS

Public Utilities Commission of Ohio
Attention: Renee Jenkins
Docketing Division
180 E. Broad Street, 10th Floor
Columbus, OH 43215

PUCO

RECEIVED-DOCKETING DIV
2009 FEB -6 AM 10:28RE: DP&L ESP Filing, Case No. 08-1094-EL-SSO

Dear Ms. Jenkins:

Enclosed are: (1) fourteen (14) copies of The Dayton Power and Light's Notice of Filing Depositions; and (2) deposition transcripts of:

- a. Gonzalez, Wilson
- b. Ibrahim, Amr A. ✓
- c. Duann, Daniel J.
- d. Yankel, Anthony J.
- e. McClelland, Barry E.
- f. Pullins, Steven W.
- g. Fein, David I.
- h. Woolridge, J. Randall
- i. Bowser, Joseph G.
- j. Sawmiller, Daniel J.
- k. Murray, Kevin M.
- l. Dickstein, Shelley J. (awaiting transcript)
- m. Frye, Mark R. (awaiting transcript)
- n. Higgins, Kevin C. (awaiting transcript)

Very truly yours,

R. Holtzman Hedrick

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BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the :
 Application of The Dayton :
 Power and Light Company : Case No. 08-1094-EL-SSO
 for Approval of Its :
 Electric Security Plan. :

In the Matter of the :
 Application of The Dayton :
 Power and Light Company : Case No. 08-1095-EL-ATA
 for Approval of Revised :
 Tariffs. :

In the Matter of the :
 Application of The Dayton :
 Power and Light Company :
 for Approval of Certain : Case No. 08-1096-EL-AAM
 Accounting Authority :
 Pursuant to Ohio Rev. :
 Code §4905.13. :

In the Matter of the :
 Application of The Dayton :
 Power and Light Company : Case No. 08-1097-EL-UNC
 for Approval of Its :
 Amended Corporate :
 Separation Plan. :

DEPOSITION

of Amr A. Ibrahim, taken before me, Julieanna
 Hennebert, a Notary Public in and for the State of
 Ohio, at the offices of Ohio Consumers' Counsel, Ten
 West Broad Street, Suite 1800, Columbus, Ohio, on
 Friday, January 30, 2009, at 1:30 p.m.

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APPEARANCES:

Faruki, Ireland & Cox, P.L.L.
By Mr. Charles J. Faruki
500 Courthouse Plaza, SW
10 North Ludlow Street
Dayton, Ohio 45402
On behalf of the Applicant.
Janine L. Migden-Ostrander,
Ohio Consumers' Counsel
By Ms. Jacqueline L.
Mr. Rick Reese
10 West Broad Street, Suite 1800
Columbus, Ohio 43215

On behalf of the Residential Consumers of
The Dayton Power and Light.

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AMR A. IBRAHIM

being by me first duly sworn, as hereinafter
certified, deposes and says as follows:

EXAMINATION

BY MR. FARUKI:

Q. Good afternoon, Mr. Ibrahim.

A. Good afternoon, Mr. Faruki.

Q. Tell us your full name and where you work

A. My name is Amr A. Ibrahim. And I work

for OCC in the analytics department.

Q. Who leads the analytics department?

A. Dr. Adams, Aster Adams.

Q. Is he your boss?

A. Indeed he is.

Q. The year that you joined OCC was what?

A. 2008.

Q. When in 2008 did you join?

A. 23rd of October 2008. Probably 24.

Around that few days.

Q. Did you work in the analytics department

ever since you joined OCC?

A. This is correct.

Q. Let me show you what I had the reporter

mark as exhibits, and these are copies of documents

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Friday Afternoon Session,
January 30, 2009.

STIPULATIONS

It is stipulated by and among counsel for the
respective parties that the deposition of Amr A.
Ibrahim, a witness called by the Respondents under
the applicable Rules of Civil Procedure, may be
reduced to writing in stenotypy by the Notary, whose
notes thereafter may be transcribed out of the
presence of the witness; and that proof of the
official character and qualification of the Notary is
waived.

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that you, or your counsel rather, gave me this
morning.

MR. FARUKI: Jackie, I don't know if

you've seen these.

MS. ROBERTS: I have copies.

Q. I'm going to give you a copy of what has

been marked as DP&L Exhibit 54. That is a four-page

document. Simply ask you to tell me what it is.

A. This is my resume.

Q. And it's accurate and complete as far as

you know?

A. Accurate and complete in October 2008.

Q. Exhibit 55 is a copy of an article from

April 2006 Public Utilities Fortnightly.

A. Yes.

Q. That apparently you were one of the

authors of; is that correct?

A. Yes, this is correct.

Q. And can you tell me what pertinence or

relevance, if any, to this matter that that article

has?

A. Basically it shows that I have been

involved in rate design issues in the years of my

career. And this is one of the areas that we have

exchanged ideas and experiences, particularly when we

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DP&L EXHIBITS

IDENTIFIED

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wanted to link between the wholesale and the retail
markets in service territory IS of New England.

Independent System Operator of New England.

Q. Do the views that are expressed in that

article from 2006 still represent your views today?

A. That was a joint product and I would like

to break it down again in two parts in order to see

exactly what I did contribute to it and whether I

still agree with it or not.

Q. Exhibit 56 is a copy of an article titled

"Temporary substitution to Independent Regulation in

the Electricity Sector - Application of International

Practices."

A. Yes.

Q. It's dated in 2004.

A. Correct.

Q. Is that one that you authored, sir?

A. Yes, it is.

Q. Was that published?

A. That was published in the proceedings of

this particular conference, which is the Power

Generation Conference of the Middle East for 2004.

Q. Same question as I asked you before, what

If any pertinence does this article have to this

matter?

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1 A. It relates to my experience in the area
2 of regulation in general, including its applicability
3 in other systems outside North America.
4 Q. I think we have one more to mark.
5 (Exhibit marked.)
6 Q. The final one I have to hand you is an
7 article titled "Beyond the Single Buyer Model -
8 Towards a Functioning Competitive Electricity
9 Market."
10 Is that another that you authored?
11 A. This is correct, sir.
12 Q. And I'm sorry, what is the date of that
13 one?
14 A. 2006, February 2006.
15 Q. Was that published in connection with a
16 conference?
17 A. This is indeed Power-Gen Conference for
18 2006.
19 Q. What pertinence does that one have to
20 this matter?
21 A. Very similar to the previous article.
22 Q. Do the views you express in that remain
23 the same as those views you have today?
24 A. Generally, yes. There are other areas in
25 which maybe I would change my opinion in it.

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1 Q. And I didn't think I asked you that
2 question about Exhibit 56. Are the views that you
3 expressed in that ones that you hold today?
4 A. I would like to repeat the same answer
5 again if I may, and generally speaking, yes, although
6 there could be some areas where my experience I have
7 acquired since 2004, which is the date of this
8 particular publication, has caused me to change my
9 opinion.
10 Q. Thank you.
11 A. My pleasure.
12 Q. Do you have a copy of your own testimony
13 handy to look at?
14 A. Yes, I do.
15 Q. On page 1, couple of questions about your
16 background. When you say on line 15 you "worked as
17 an independent consultant with several entities," can
18 you tell me what those were?
19 A. Yes. In United States I worked with
20 Bearing Point, I worked with London Economics in
21 Boston, and with IFA Energy which is a Scottish firm
22 in Scotland.
23 Q. You said that you were -- this is line
24 19, that you were with Enron Corporation from 1997 to
25 2001.

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1 A. Yes.
2 Q. What were your duties there?
3 A. I was a manager, then a director in
4 Enron. My manager is divided broadly into two
5 categories. I was part of Enron International and
6 then I became part of Enron Corp., and my duties are
7 outlined very succinctly in the document that's an
8 exhibit here.
9 Q. Your resume?
10 A. Correct. I did not number but if you go
11 to page 2, if you go to director.
12 Q. I see.
13 A. It lists very succinctly the functions
14 that I have done.
15 Q. Was it the same functions when you were
16 director as when you were a manager? I ask that
17 because Exhibit 2 -- I'm sorry, Exhibit 54 on page 2
18 has the heading "Director, Regulatory Affairs."
19 A. Yes.
20 Q. And your testimony refers you to being a
21 manager.
22 A. By and large, yes, when I became a
23 director I became responsible for a group of
24 colleagues in a team to do a specific function.
25 Q. When you are in the analytics department

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1 or since you have been in the analytics department
2 within OCC, have you specialized in any areas?
3 A. I specialized in areas related to
4 aggregation and regarding the section of economic
5 development. Because of my degree and my experience,
6 I became responsible for this particular section in
7 DP&L.
8 Q. But I take it while you've been in the
9 analytics department with Consumers' Counsel you've
10 specialized in aggregation. Anything else?
11 A. I worked in aggregation in one case. I
12 am also expected to work in the near future in areas
13 that are related to rate design and cost of service.
14 Q. If you look at page 2 of your testimony?
15 A. Yes.
16 Q. And I'm looking at the answer that ends
17 on lines 8 and with the phrase "economic development
18 initiatives."
19 A. Yes.
20 Q. Can you tell me what your prior
21 experience has been with those?
22 A. In approximately 1992, '93, '94, and the
23 early part of '95, B.C. Hydro was keen to assist the
24 province of British Columbia, the state of British
25 Columbia, to see if we can extend the economic

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1 development initiatives to the industrial base in
2 British Columbia.
3 And the initiatives that I reference here
4 were related to the work I have done during that
5 particular period.
6 Q. So that was with the B.C. Hydro that you
7 reference on page 1 of your line 20?
8 A. This is one of the functions that I have
9 done when I was in British Columbia.
10 Q. And were there particular economic
11 development initiatives that you worked on or
12 developed yourself?
13 A. Yes, there were initiatives that were
14 contemplated and initiatives that were studied during
15 that particular period.
16 Q. Were these for residential consumers,
17 non-residential consumers?
18 A. For non-residential consumers.
19 Q. Did any of those initiatives take root,
20 in other words, actually get implemented?
21 A. No.
22 Q. Was your work on any of those initiatives
23 one that involved issues of cost recovery?
24 A. All of them involved addressing the issue
25 of cost recovery.

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1 Q. And did you make or develop yourself
2 proposals for cost recovery in connection with any of
3 those initiatives?
4 A. Yes.
5 Q. And what did you propose in the way of
6 cost recovery?
7 A. Basically the designs that were proposed
8 at that particular time were aiming at asking the
9 receiver of this particular benefit to pay the cost
10 of it, i.e., if customer A receives a specific
11 benefit towards the end of providing this particular
12 benefit, this customer would pay its cost.
13 Q. Is there anything else you can tell me
14 about the economic development initiatives that you
15 refer to on lines 8 and 9?
16 A. Can you be more specific, please?
17 Q. Yes. I noticed this was quite a while
18 ago. If you have other details, fine. If those are
19 lost to memory --
20 A. I do have other details in mind.
21 Q. Okay. Let me give you a better question
22 then.
23 Can you describe for me what the economic
24 development initiatives were that you worked on?
25 A. Two specific initiatives come to mind.

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1 The first initiative was trying to link the rate at a
2 given point of time that the customer is paying is
3 linked to the international price of the commodity
4 that this particular customer is producing.
5 An example, an aluminum smelter, there is
6 an international price for the ingot they produced.
7 It is cyclical and, therefore, the price that they
8 would pay is going to be cyclical following the price
9 on the border, and towards the end of the period is
10 going to be a trueing up mechanism and the customer
11 would pay at the end of the period the full cost of
12 the commodity that this particular producer used.
13 Q. Simply for the other economic development
14 initiative, can you describe that?
15 A. What do you mean, you want another
16 example?
17 Q. Yes. I thought you said in your last
18 answer there were two.
19 A. Yes, yes, there are two.
20 Q. And you gave me a good general
21 description of the first one.
22 A. The other is that this tries to follow
23 the acid conversion cycle of a producer loosely
24 defined here, require to confer cash to cash.
25 As an example, you have cash, you buy

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1 commodities, you manufacture, you assemble it, you
2 market it, you sell it, and then you collect.
3 This can take a period. If you are, for
4 instance, a ship builder, this could be a three-year
5 process.
6 Accordingly, the price of the commodity
7 would start at the low level and then go at the high
8 level towards the end of the cash conversion cycle,
9 or vice-versa as the case may be, so that to take
10 into consideration the cash flow of that activity in
11 question.
12 At the end of the cash conversion cycle,
13 i.e., when this particular producer gets the cash
14 back, there was going to be a trueing up mechanism
15 and this particular customer is going to pay the cost
16 of what he has received.
17 Q. Did either of those initiatives that
18 you've just described involve some plan or component
19 of recovery by the utility of its costs for the
20 initiative?
21 A. It was one of the objectives that the
22 other rate payors should not pay for the cost of
23 these particular plans.
24 And, therefore, the initiatives was
25 trying to be, for lack of better terms, designed or

Page 16

1 engineered so that -- to ensure that.
2 It is important to highlight --
3 Q. I'm sorry, I wasn't sure you were
4 finished. You paused, go ahead.
5 A. It is important to highlight B.C. Hydro
6 is a Crown corporation, is being owned by the
7 Province of British Columbia.
8 And, therefore, being paid by B.C. Hydro
9 or paid by the Province, these are the shareholders
10 and these particular shareholders, namely the
11 Province, are representative of the users.
12 Q. On page 2 still, line 12, you refer to an
13 affidavit being provided in the FERC docket.
14 A. Yes.
15 Q. When we were off the record you started
16 to describe something about that affidavit to me. Is
17 that affidavit available publicly?
18 A. Yes, sir. If you go to -- yes, sir. And
19 if you go to the library or what we used to call FERC
20 in the old days under the number, you should --
21 Q. Do you have a copy of it?
22 A. At the moment, no, sir.
23 Q. I don't mean with you in this room, but
24 do you have a copy accessible to you?
25 A. Yes.

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1 Q. Readily accessible?
2 A. Yes.
3 MR. FARUKI: I'll make a request for
4 that. I told Mike this morning I would just send an
5 e-mail afterwards with whatever.
6 MS. ROBERTS: Okay, thank you.
7 MR. FARUKI: With whatever requests there
8 were.
9 Q. Page 3, at the part of your answer that
10 begins on line 12, "I also reviewed parts. . ."
11 A. Yes.
12 Q. Those opinions of the Commission that you
13 are talking about on lines 12, 13, and 14, were from
14 rate cases in 1991 and 1995; is that right?
15 A. This is correct.
16 Q. You would agree with me that those cases
17 are rather old and are pre-deregulation, right?
18 A. I agree that they are pre-deregulation.
19 But I would like to say that they are relevant to our
20 case, and therefore, the term "old" to me is not
21 really clear in my mind what constitutes "old."
22 Q. You agree with me that there have been a
23 lot of changes to the economy in Ohio since that
24 period of time?
25 A. Depends upon the change. The issues that

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1 have been looked into in this particular case are
2 issues related to cost recovery of economic
3 development initiatives. When I was referencing
4 cases related to that.
5 Q. Did you make a study of the economy in
6 Ohio insofar as it was pertinent to economic
7 development initiatives in the first half of the
8 1990s compared to today?
9 A. I did not make a study. I tried to get a
10 reasonable sample of the Commission opinions and
11 orders regarding that.
12 Q. Do you know who proposed those economic
13 development programs?
14 A. It is indicated by the case and the name
15 case studies in each case in question.
16 Q. Do you know as you sit here?
17 A. As you can see from line No. 13 and page
18 No. 3, Cincinnati Gas & Electric, Cleveland Electric,
19 and Toledo Edison.
20 Q. Are you saying those utilities were the
21 ones that proposed the programs?
22 A. They proposed the programs.
23 Q. So it was proposed by the utility as
24 opposed to being mandated by state law?
25 A. I wouldn't characterize it that way.

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1 They are in relation to a specific setup that made
2 them fight for it. Put it in their application.
3 Q. I'm not sure what you mean when you say
4 that. I'm trying to simply ask you a question were
5 the programs that were involved in the cases you're
6 citing proposed by the utility, the electric
7 distribution utility, or were they required by state
8 law?
9 A. I don't think that this is what I looked
10 into. I was looking specifically into how did they
11 recover the cost.
12 Q. So you don't know.
13 A. I looked exactly on how did they recover
14 a specific program that they have put forward.
15 Q. But you don't know the answer to my
16 question; is that right?
17 I just want my record to be clear that
18 you do not know whether or not the programs that were
19 at issue in those cases were proposed by the electric
20 utility or required by state law.
21 A. I'm speculating here, and I don't think
22 that they came out of the one accord.
23 Q. But you're guessing.
24 A. The fact is that there have been requests
25 for splitting revenue.

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1 Q. Well, I'll tell you I don't want you to
2 guess in this deposition. If you know, that's fine.
3 If you don't know, that's fine. Either way, tell me.
4 But I don't want to ask questions that will cause you
5 to guess or speculate.
6 Fair enough?
7 A. Fair. Thank you.
8 Q. At the bottom of the page "What is the
9 purpose of your testimony," you say on line 22 "I
10 performed an analysis of the economic development
11 plan --"
12 A. Yes.
13 Q. "-- and the treatment of governmental
14 aggregation. . ."
15 A. Yes.
16 Q. How did you go about that analysis?
17 A. I did understand the application
18 thoroughly. For the relevant parts of it I tried to
19 break down the components economic development plan
20 in it to different components and subcomponents.
21 I tried to understand how did they come
22 up with the cost of the program. I tried to
23 understand how do they come up with the recovery
24 mechanism that they are proposing. And I tried to
25 understand to what extent the reasonableness of what

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1 the company has found.
2 Q. These were things you were doing or steps
3 you were taking based on your review of the company's
4 filing or parts of the company's filing?
5 A. Correct.
6 Q. On page 4, line 12, you refer to tariff
7 sheet G23, and your recommendation that it be
8 incorporated into this proceeding.
9 A. This is correct.
10 Q. Your thought there I take it is that it
11 would be reviewed by the parties as well as by the
12 PUCO?
13 A. When you mean -- can you rephrase the
14 question, because it means several things in my mind.
15 Q. Sure. You say on line 12 that one of
16 your recommendations is that this tariff be
17 incorporated into this proceeding. What do you mean
18 by that?
19 A. It's going to be part of this particular
20 proceeding so that it can be reviewed by the
21 Commission and the relevant parties. As well as with
22 DP&L, of course.
23 Q. Can you tell me the basis of your second
24 recommendation which begins on line 13?
25 A. Yes, and this is related to and part of

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1 my answer to question 26 on page 21, sir.
2 Q. Okay. I didn't want you to read that to
3 me, I just want you to explain to me in your own
4 words what the basis is for your second
5 recommendation about self selecting either the
6 standard service offer or the market based rate.
7 MS. ROBERTS: I'll object, I think that
8 question's asked and answered. His testimony is his
9 answer.
10 Q. Fair enough. Go ahead and answer my
11 question.
12 A. The basis of this particular
13 communication is that if the customer is paying a
14 rate stabilization surcharge, that it is actually
15 compensating the incumbent utility in this case,
16 DP&L, for the cost -- the customer, since this
17 customer was paying it, should have the option to
18 self select when they come out of service with the
19 negative reader or CRES to take service and service
20 offer or market.
21 Q. I think my question is why should they
22 have that choice.
23 A. They do have -- I'm recommending this
24 choice because they are paying the incumbent utility,
25 DP&L, a surcharge that will compensate DP&L for the

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1 risks that DP&L may see as customers coming back to
2 their standard service offer.
3 Q. Should customers that are taking service
4 by means of a government aggregation program be
5 treated differently from other customers that shop?
6 A. Similar customers should be treated
7 similarly.
8 Q. Are you saying that customers who take
9 service from government aggregation are similar to
10 some other group of customers?
11 A. If they are similar to the other group of
12 CRES taking service from CRES, does the question
13 include -- can you read me the question again please.
14 (Record read.)
15 A. Can you be more specific, what do you
16 mean "other group of customers"?
17 Q. Yes, I'm trying to figure out what you
18 mean when you say "similar customers should be
19 treated similarly."
20 How does that relate to my question as to
21 why people taking service by means of government
22 aggregation should or should not be permitted to
23 shop?
24 A. Government aggregation or a CRES, to me
25 doesn't make any difference in the sense they are

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1 taking service from a third party, alternative party,
2 vis-a-vis that DP&L, whether this party is a
3 government aggregator or a CRES.
4 This is exactly my answer. So if those
5 taking service from aggregation are similar to those
6 taking service from a CRES, they all should be
7 treated the same.
8 Q. Still on the same topic can you explain
9 to me why customers should be given the option or the
10 choice for fixed or market based rates?
11 In other words, from an economic
12 perspective wouldn't it make sense for customers to
13 know the terms and conditions at which they will be
14 returning before they decide to switch to either a
15 CRES provider or take service by means of
16 aggregation?
17 It was kind of long question, you want
18 that read back?
19 A. Yeah.
20 (Record read.)
21 A. I would like to make my answer specific
22 to what is in DP&L at the moment.
23 Q. That's fine.
24 A. A customer at the moment who is taking
25 service from a CRES or an aggregator is paying a

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1 specific rider that is a POLR charge. That should
2 give this customer the right to choose whether to go
3 back at market rate or government aggregation.
4 And since you have asked that question,
5 sir, and since you have assumed that they should know
6 the terms and conditions in which they can come back
7 to service, is that part of the question?
8 Q. Yes. I wasn't assuming that, I was
9 asking whether you thought that it made sense that
10 they should know that.
11 A. And this is one of the reasons why I'm
12 asking for tariff sheet G23 to be part of this
13 particular proceeding, so that the terms and
14 conditions with which the customer will know exactly
15 how to take service from a market base rate should be
16 known before making the decision.
17 Q. Although -- sorry, were you done?
18 A. Yes. Please, go ahead.
19 Q. But the tariff sheet for a market based
20 rate, would you expect that that tariff sheet would
21 include price terms?
22 A. I would expect that it would include how
23 the price would be determined. But not specifically
24 in terms of cents per kilowatt hour.
25 Q. We'll go back to the beginning then.

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Page 29

1 Page 4.
 2 A. On page 4.
 3 Q. Line 17, your third recommendation that
 4 "the Commission order DP&L to allow future
 5 residential customers to self select. . ."
 6 A. Yes.
 7 Q. "...if they prefer to take service from
 8 government aggregators."
 9 And tell me the basis for that
 10 recommendation.
 11 A. Basically if a customer that is now a
 12 DP&L customer is considering to take service from an
 13 alternative supply should be given the option to pay
 14 or not to pay the RSS, the surcharge.
 15 If they decide to pay, then you should be
 16 allowed to self select when they decide to come back
 17 whether they go back to a standard service offer or a
 18 market rate.
 19 Those customers who do not pay the RSS or
 20 choose not to pay the RSS and therefore not keeping,
 21 not paying for the POLR charge, DP&L should allow
 22 them to go back to take service for them only on the
 23 market base rate.
 24 Q. Some questions about economic development
 25 then.

1 A. I remember him saying that, yes.
 2 Q. On page 5, line 14, are you offering any
 3 particular opinions in this case with regard to
 4 unique arrangements? I'm using that phrase because
 5 it's in line 14.
 6 A. No.
 7 Q. The first sentence on line 6 which
 8 recites an assumption --
 9 A. You mean in page 6?
 10 Q. Yes, if I misspoke, page 6, line 1.
 11 A. Yes.
 12 Q. Reciting the assumption that the economic
 13 development plan would begin on April 1 with cost
 14 recovery beginning that day.
 15 A. Yes.
 16 Q. Do you have any criticism of the notion
 17 that cost recovery would begin on the day that the
 18 plan went into affect?
 19 A. My recommendation states clearly that
 20 DP&L should start charging for a rider when the
 21 Commission approves a specific plan with a specific
 22 cost.
 23 Q. On the next sentence on page 6 when you
 24 are talking about the rider that's described later,
 25 let me ask you sort of a high level question, I take

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1 A. Sure.
 2 Q. Sort of start from the general and move
 3 toward the specific.
 4 Did you or did OCC do any work with its
 5 customers, residential customers, to determine what
 6 customers want or would pay for commercial
 7 development?
 8 A. To my knowledge, no.
 9 Q. Do you know -- let me give you a section,
 10 if customers -- again, I'm just asking about
 11 residential customers.
 12 If the residential customers that OCC
 13 represents were asked if they were willing to pay an
 14 additional 22 cents a month on their monthly bill for
 15 creation of jobs in the Dayton area, do you know
 16 whether they'd support that?
 17 A. I'm not aware of a specific study that
 18 asks for particular customers from a potential
 19 customer list.
 20 Q. I'll ask it a little more broadly, since
 21 my question said 22 cents and you said specific
 22 study.
 23 Regardless of whether it had 22 cents in
 24 it do you know of a survey or study that was done to
 25 determine customer attitude about that?

1 it from your testimony and your last answer that you
 2 do not object to cost recovery by means of a rider
 3 for economic development costs; is that accurate?
 4 A. A rider is an acceptable way to recoup
 5 the costs permitted and approved by the Commission.
 6 Q. Go over to page 15 for a minute.
 7 A. Sure.
 8 Q. Lines 16 and 17.
 9 A. Yes.
 10 Q. The sentence that begins "Furthermore, a
 11 stable and more predictable rider. . ."
 12 A. Yes.
 13 Q. I take it you use these words to indicate
 14 that that's a goal that you think we should have that
 15 the rider be stable and predictable?
 16 A. As much as technically possible, yes.
 17 Q. Then if you go back to page 6, line 9,
 18 you suggest that "The cost recovery rider shall be
 19 revised twice a year. . ."
 20 That seems to be cutting against or
 21 working against the notion of a stable predictable
 22 rider. Why are you suggesting twice a year?
 23 A. This is a complex question and it has a
 24 lot of assumptions that I may or may not agree with.
 25 Can you please restate?

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1 A. To the best of my knowledge, no, I don't
 2 know.
 3 Q. On page 5, in lines 9, 10, 11, 12, you
 4 are reciting the different categories of customers,
 5 new customer, customers being retained and so on.
 6 Do you see that?
 7 A. Yes, I do.
 8 Q. You didn't disagree with those as
 9 analytical categories I take it; is that right?
 10 A. I am describing exactly as succinctly as
 11 possible what is in the economic development plan of
 12 DP&L.
 13 Q. And I'm asking you do you disagree with
 14 using those categories of customers to talk about
 15 economic development?
 16 A. I'm not disagreeing.
 17 Q. You were -- as I recall you attended
 18 Mr. Wagner's deposition when he was asked about
 19 economic development.
 20 A. I had the pleasure of attending it, yes.
 21 Q. And you understood from either your
 22 reading or his deposition or both, that DP&L's
 23 position with regard to economic development is that
 24 it's going to be guided by and comply with the final
 25 Commission rules?

1 Q. I'm not sure I'll make it any easier but
 2 I'll be glad to restate it.
 3 A. Please.
 4 Q. On page 6, line 9, you say you think the
 5 cost recovery rider shall be revised twice a year.
 6 A. Yes.
 7 Q. What is the reason for that?
 8 A. So that to recover the true costs
 9 associated with. . .
 10 Q. Is there any reason why you wouldn't have
 11 an annual reconciliation?
 12 A. I think that perhaps twice a year is more
 13 reasonable in this particular context.
 14 Q. You're aware that Senate Bill 221 already
 15 specifies there should be a semi annual review as
 16 part of a program?
 17 A. Yes.
 18 Q. So if there's already a semi annual
 19 review, revising the cost recovery twice in one year
 20 adds what?
 21 A. The review process has something to do
 22 with the cost. It also has something to do with the
 23 performance of those who are receiving the benefit,
 24 and therefore, it puts a regiment into the process
 25 but from the perspective of the rate design it makes

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1 it as true as possible and as close as possible to
2 the actual cost of what's being incurred.
3 Q. Since the economic development rider is
4 designed to recover the delta revenues from all
5 customers, wouldn't revising the rate once a year be
6 sufficient unless there are some large changes in
7 costs experienced by DP&L?
8 A. I think that revising it twice a year
9 would result in more accurate reflection of the true
10 cost of the program.
11 And also might be more effective in
12 reflecting changes in the program if a new customer
13 comes in, particularly if it is a relatively large
14 size customer that requires a large size
15 arrangements.
16 Q. Later on page 6 in your answer to
17 No. 10, maybe I'll start at line 19, you say "DP&L
18 suggesting the following incentives:" which you list
19 on the next page.
20 A. Yes.
21 Q. Again, you were at Mr. Wagner's
22 deposition where he said these are not DP&L's
23 suggestions because DP&L intends to follow what the
24 Commission puts out in its final rules. And he just
25 had examples. Remember that?

1 that he was in several contexts in the industry
2 including meetings with customers, that there were
3 entities who expressed interest in the economic
4 development, and I also remember Mr. Wagner saying
5 that he's not sure these customers are in the service
6 territory of DP&L.
7 Q. Do you expect there to be interest or
8 demand for these programs when they are first
9 offered?
10 A. I would like to say that I hope that
11 there's going to be interest and demand. At the end
12 of the day, I live and work in Ohio.
13 Q. As do I.
14 You have an answer running from page 8
15 onto page 9 which results in line 5 at a calculation
16 of about approximately \$2.7 million for 2009.
17 A. Yes.
18 Q. Do you have criticism of how that number
19 was calculated?
20 A. This particular number is based on the
21 assumptions that has been highlighted in the
22 testimony related to a suggested number of customers
23 and the level of the discounts.
24 Q. Yes. I was asking more about the
25 methodology. I'm not asking you the question would

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1 A. I remember that.
2 Q. Do you accept that this isn't a DP&L
3 proposal, that this was something, as he explained,
4 that was simply done for illustrative purposes?
5 A. And also used in order to come up with
6 the delta revenue and also to come up with the
7 suggested rider.
8 And accordingly I heard Mr. Wagner's
9 testimony and I heard that he said that these are
10 just examples. He used the -- just these examples to
11 come up with a cost and he was asking the different
12 rate payors to pay according to the examples.
13 Accordingly I think it's fair to -- these
14 are the figures I have at the moment although in
15 reality they could be different. But when they are
16 different, they will be different.
17 Q. You did hear the explanation that he
18 didn't have anything else to work with until the
19 rules come out but DP&L intends to conform what it
20 has proposed to the rules when they do issue.
21 A. I heard that, yes.
22 Q. Take a look at page 8, please.
23 A. Sure.
24 Q. When you say on line 14 "There are no
25 customers currently benefiting from the incentives,"

1 you tell me this is exactly the right number, but I'm
2 asking about the methodology.
3 A. As far as the level of incentive I don't
4 have a criticism and I'm not criticizing, I'm just
5 describing.
6 Q. You find the methodology acceptable?
7 A. I have the methodology accepting the
8 benefits as being a percentage of the discount but
9 applied by the number of customers.
10 Q. And that's an acceptable methodology in
11 your view; is that right?
12 A. As defined by what the delta revenue is,
13 yes.
14 Q. And again, to go to a higher level of
15 generality for a minute, you agree with me that OCC
16 supports economic development efforts, right?
17 A. Correct.
18 Q. And you agree that residential --
19 A. Can you repeat that again? Please
20 forgive me, can you repeat again.
21 Q. The last question?
22 A. Yes, the statement.
23 Q. Yes, I asked if you agree that OCC
24 supports economic development efforts. And you said
25 correct. You want to change that?

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1 you understand that that's because the rules aren't
2 definitive yet, right?
3 A. This could be part of the explanation,
4 yes.
5 Q. Maybe saying a little more simply, are
6 you criticizing DP&L in line 14 for having no
7 customers benefiting yet? Or are you just reciting
8 the rules aren't done yet?
9 A. I am stating a fact at the time of
10 writing this particular testimony is that at the
11 moment there are no customers benefiting.
12 Q. And by stating that fact are you trying
13 to criticize DP&L for not doing something? Or are
14 you just saying that's the fact at the moment?
15 A. I think that the term "criticize" is not
16 accurate. I'm just stating a fact that at the moment
17 there are no customers taking service.
18 Q. Did you happen to be present at the
19 Commission rule -- Commission meeting where the draft
20 rules were discussed?
21 A. No, I was not.
22 Q. Did you learn that at that meeting there
23 were customers expressing interest in the program and
24 even asking if they could sign up at that meeting?
25 A. I am aware from Mr. Wagner's testimony

1 A. It supports economic development efforts
2 if it benefits Ohio and the rate users and if the
3 cost is shared correctly.
4 Q. Okay. And you agree that residential
5 customers would benefit from successful economic
6 development efforts that create jobs in this state?
7 A. Indirectly, yes. After all the
8 residential customer class are not ineligible class
9 to benefit from the economic development.
10 Q. I'm sorry, say that again, they're not
11 what?
12 A. Ineligible.
13 Q. They are ineligible.
14 A. They cannot, a residential customer
15 cannot apply.
16 Q. Now you're explaining why you said
17 "indirectly." Is that what you mean?
18 A. Indirectly because they are going to be
19 either working in the entities benefiting if they
20 complied, or be second or third level economic
21 externalities out of it if they live in the area or
22 they become owners of places that benefit from that.
23 Q. As a matter of economics do you agree
24 that if the utility is not granted authority to
25 recover a hundred percent of delta revenue from

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1 economic development contracts then it's not going to
2 be very encouraged to enter into economic development
3 arrangements?

4 A. That term "delta revenue" is a composite
5 term. It is the cost of the difference in rates plus
6 the cost of other administrative costs plus an offset
7 of any benefits.

8 And if there is an offset that is a take
9 of the benefits that will accrue to the utility as a
10 result of economic development, this subtracted for
11 delta revenue and therefore delta revenue is
12 inclusive of the offset, then the utility is entitled
13 to recover that delta revenue as defined with the
14 offset.

15 (Record read.)

16 Q. You're aware that the Senate Bill 221
17 includes an amendment to Ohio law that allows
18 recovery of revenue foregone as a result of any
19 program?

20 A. Can you give me the code number so I know
21 if I can?

22 Q. 4905.31(E). I may have one with me.
23 But does that ring a bell with you?

24 A. The number started to -- there was a lot
25 in the 4928 and the 05 that maybe I'm confused. If I

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1 could have a look at it perhaps. May I have a second
2 to see it please?

3 Q. Yes. Let me direct your attention. You
4 can look at anything you want, of course, but I'm
5 looking at Exhibit 58 is a copy of 4905.31, and I'm
6 interested in directing your attention to subsection
7 E. And in particular to the fourth line.

8 See the language "including recovery of
9 revenue foregone as a result of any such program"?
10 Tell me when you've had a chance to read
11 it.

12 A. Sure.
13 Yes, I remember reading this particular
14 clause before.

15 Q. Do you see any description of recovery of
16 revenue foregone as indicating anything less than a
17 hundred percent of the lost revenue?

18 A. I am not a lawyer and it requires a very
19 close reading, again. Again, I'm not a lawyer, sir.

20 Q. Do you want my question again?

21 A. No, sir, I would like also to have a look
22 at 4928.66 mentioned in the same clause.

23 Q. Well, stick with my question first.

24 Do you see anything in .31(E) that
25 indicates in the description of recovery of revenue

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1 foregone that it's anything less than a hundred
2 percent of lost revenue?

3 MS. ROBERTS: And I would object to the
4 question is assuming facts not in evidence.

5 Q. Go ahead.

6 A. Subject and caveated to the observation
7 and the fact that I'm not a lawyer, I would be
8 speculating by saying that I don't see it.

9 Q. Now, on page 9, lines 17 and 18 you say
10 "...DP&L did not include a component to reflect any
11 savings..."

12 A. Yes.

13 Q. Are you suggesting that it should have
14 calculated some dollar figure for that?

15 A. If it was possible, yes.

16 Q. Do you think it's possible today?

17 A. On a case-by-case basis it is possible to
18 come up with estimates of possible savings.

19 Q. But those figures to do those estimates
20 aren't in existence today, are they?

21 A. It is safe to say that the Commission is
22 also aware of the complexity of arriving at these
23 particular cost savings and this is why the
24 Commission historically has taken a 50/50 split.

25 Q. You didn't answer my question. I'm going

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1 to have her read it back.

2 A. Please.

3 (Record read.)

4 Q. They aren't in existence today.

5 A. There are no figures in existence today I
6 think that the utility could have estimated averages
7 for the possible benefits.

8 Q. How would you do that?

9 A. Give you an example. In my exhibit, for
10 instance, No. AAI-2, and in my Exhibit in AAI-3, as
11 well as in my Exhibit AAI-1, the company has provided
12 estimates of the number of customers that are going
13 to be ineligible.

14 They could have, for example, estimated
15 what -- from their experience what savings would
16 accrue from an average customer of this particular,
17 and it's the estimate possible savings and try to
18 come up with a general estimate that would be subject
19 to trueling up when the case comes.

20 Q. How can that estimate be generated or
21 created?

22 A. That requires knowledge of our DP&L
23 service territory in order to taking characteristics
24 of the system where the customers are going to be,
25 where is likely going to be the industrial growth or

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1 the new customers are going to be ineligible and
2 where exactly are they going to be in the system,
3 vis-a-vis, the characteristics of the substances
4 available and et cetera to come up with that.

5 But assuming that this particular
6 knowledge, and I'm sure that it is there because this
7 is where the growth is expected, general estimates
8 could be produced.

9 Q. Can you be any more specific as to how to
10 produce an estimate of it based on current
11 information?

12 A. That would require me to go into a
13 program by program and ask a host of questions that
14 would require if I compiled them probably can get
15 that very broad and general average.

16 Q. Take a look at page 10, the question that
17 begins on line 11 and the answer that follows, are
18 you familiar with the new state mandated line
19 extension policy?

20 A. No.

21 Q. Do you know whether there's a policy in
22 effect in Ohio that requires DP&L to pay a certain
23 portion of the cost to add a new customer to the
24 system?

25 MS. ROBERTS: I would object. Asked and

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1 answered.

2 Q. Do you know?

3 A. No.

4 Q. Do you know whether or not or do you
5 know -- let me ask you a different question.

6 Based on length of time, do you know how
7 many years it would take for DP&L to recover the
8 incremental costs of adding customers to its system?
9 Have you done any study of it?

10 A. No.

11 Q. At the bottom of page 10, you talk about
12 direct and indirect affects on the business. Can you
13 give me examples of direct and indirect affects that
14 you're talking about?

15 A. You are referring to line 22 on page 10;
16 am I right?

17 Q. Yes, sir.

18 A. This particular statement is in
19 relationship to a sentence that started on line 20,
20 and it is referring to the benefits that will accrue
21 to participating and non-participating customers of
22 the economic development plan, and the plan is going
23 to benefit directly and indirectly.

24 Directly means that those who are
25 participating are going to receive a discount that

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1 they are going to use in order to improve the
2 performance of their business or employ a certain
3 amount of people.
4 And indirectly means that as they employ
5 more people, there's going to be more in demand of
6 what they produce directly or indirectly. As an
7 example.
8 MR. FARUKI: Read that back please.
9 (Record read.)
10 Q. I don't understand that last sentence she
11 just read. What do you mean "they will be more in
12 demand of what they produce"?
13 A. Economists call that supply creates
14 demand. That means as they indulge into the process
15 of production, they pay salaries and when they pay
16 salaries they who pays salaries and turn around and
17 buy back in the market what they produce directly or
18 indirectly.
19 Q. Okay, you go on to talk about in the
20 sentence that runs from page 10 onto page 11 --
21 A. And if I may add also, non-participating
22 indirect as there are more people employed in
23 section A in the industry there that were not there,
24 they're going to buy more housing, they are going to
25 consume and increase the demand in the areas.

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1 And I hope that would make my point
2 clearer to you as well.
3 Yes, sir.
4 Q. The sentence that runs from page 10 onto
5 page 11, you talk about increased sales and
6 additional revenues. Those are really the same
7 thing, aren't they? Aren't you talking about
8 additional revenues that come from increased sales?
9 A. Yes.
10 Q. And when you talk about improving the
11 utilization of the different systems and assets in
12 place on lines 1 and 2, is that something you're
13 suggesting should be quantified? Or are you just
14 describing that as sort of an economic fact?
15 A. It can be quantified.
16 Q. How do you do that?
17 A. This is an engineering study and it is
18 related to better utilization of assets as there are
19 more customers.
20 Q. On page 11 you have beginning on line 5
21 and ending on line 20, a quotation, and I take it
22 this is a quotation from Mr. Gonzalez's testimony?
23 A. This is correct, sir.
24 Q. And why are you quoting the testimony of
25 another witness from a Cleveland Electric case in

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1 2008?
2 A. I am just trying to give an example of
3 what other benefits can accrue and I found that the
4 language that my colleague said is useful and
5 succinct.
6 Q. So you're adopting points A through D as
7 your own, right?
8 A. I am agreeing with points from A to D.
9 Q. And not only are you agreeing with them,
10 but you're sponsoring them in this case. Correct?
11 A. Can you explain what "sponsoring" means
12 please?
13 Q. Yes -- I'll ask it differently.
14 Not only are you agreeing with the
15 points, you're incorporating them as part of your
16 testimony in this case.
17 A. Yes. As is clear on page 11.
18 Q. Well, then let's look at point No. A on
19 line 6. You are suggesting that the EDU will receive
20 some distribution revenue from the retained customer,
21 right?
22 A. Correct.
23 Q. Are you suggesting that this revenue be
24 credited against the delta revenues?
25 A. I'm suggesting the difference as if it is

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1 a component of the benefits that accrues to the
2 utility should be fitted back to the department that
3 revenues.
4 Q. What do you mean "the difference"?
5 A. You were a customer consuming a certain
6 level of consumption, hundred megawatt hours, hundred
7 kilowatt hours, and now because of the plan, the
8 economic development plan, you are consuming 101 or
9 you were supposed to leave the state and come back --
10 and not come back but have decided to stay.
11 Q. Yes.
12 A. There is a delta increase in revenues
13 that would not have taken place had the plan did not
14 take place. The net effect after taking the cost of
15 this particular increase in revenues should be
16 credited back to the delta revenue.
17 Q. So just so I understand your proposal,
18 what you're saying is that you -- that DP&L should
19 not only give an economic development discount to the
20 customer, but it should also pass on that customer's
21 distribution revenue to all other customers; is that
22 right?
23 A. No, I'm not saying that, sir. What I'm
24 saying is very clear in what I have written. I'm
25 saying there are going to be benefits accruing to

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1 DP&L as a result of the plan. And these particular
2 benefits if quantified properly should be netted out.
3 Q. You agree with me that the distribution
4 revenue from the retained customer is supposed to
5 cover the cost of the distribution facilities in
6 place as relevant as the cost of providing
7 distribution service to that customer; is that right?
8 A. This is not what I intend. What I intend
9 is there is going to be an incremental difference in
10 the revenues. And the incremental impact should be
11 netted. In your question you are implying that the
12 total revenues. This is not what I'm saying.
13 Q. Let me ask --
14 A. I'm speaking in terms of increments
15 change the deltas. If I may.
16 Q. So you agree with me that if the revenues
17 were not kept by the utility to cover its cost but
18 instead would be passed on to all customers by
19 netting them against delta revenues, that ultimately
20 distribution rates would go up because the utility
21 would have to get recovery of those costs from
22 someone to stay in business.
23 (Record read.)
24 A. This is not what I'm saying at all. I'm
25 saying is that there's going to be incremental

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1 changes. And the incremental changes will produce
2 benefits and costs.
3 If DP&L sees the benefits, it should be
4 incremental change that should be accounted in the
5 delta.
6 Q. Take a look at page 11, line 10, item
7 "b."
8 A. Yes.
9 Q. You understand that DP&L as the load
10 serving entity would pay PJM for transmission based
11 on the actual load?
12 A. I believe that this is the case.
13 Q. DP&L would be paying PJM for the
14 transmission service for this customer, in other
15 words, right?
16 A. This is my understanding.
17 Q. If DP&L credits the transmission revenue
18 to the delta revenue recovery, then it will not be
19 receiving any compensation for providing that
20 transmission service to the customer. True?
21 A. This particular statement is related to
22 the extent where DP&L is responsible for the assets
23 that have contributed towards the delivery of the
24 service. This is not a general statement.
25 So if DP&L does not own transmission and

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1 therefore this particular statement is not applicable
2 on DP&L in this particular case because DP&L does not
3 own the transmission facilities. Therefore, what I'm
4 saying would not be applicable.

5 It is also possible in fully deregulated
6 markets that DP&L could be doing absolutely nothing
7 but just providing the distribution wires, and then
8 there's going to be only what I'm saying applicable
9 on its share of responsibility providing the service.

10 Q. So you are not suggesting that in this
11 circumstance where DP&L has to pay PJM for the
12 transmission service that the transmission revenue
13 needs to get credited to the delta revenue recovery.

14 A. I am saying that in a case of a utility
15 that owns the transmission line and the economic
16 development plan incrementally improves the economics
17 of that recovery of the rates in the transmission
18 system, it should be taken into consideration in
19 delta revenue.

20 Q. Well, again, I want clarity. Let's deal
21 with this situation where DP&L has to pay PJM for
22 transmission costs -- let my finish my question.

23 A. Please go ahead, sir.

24 Q. DP&L has to pay for this transmission
25 service. Do you agree that in that circumstance it

1 Q. I'll subtract that term, if that helps.
2 I didn't mean to make my question unclear.

3 A. All my answers and the questions before
4 the question talks in terms of increments impact. So
5 the increment of the change because of the plan will
6 have benefits to the users as well as to DP&L.

7 These particular benefits has to be
8 shared. And the cost has to be shared. And all of
9 the what I have said so far leads to this particular
10 simple observation that if there are increments
11 changes because of the plan that was going to have
12 increment benefits and increment costs, it is shared
13 by both the shareholders and the rate payors

14 Q. But you realize that additional sales
15 create additional costs incurred by the utilities,
16 right? True?

17 A. Additional sales accrue additional costs.

18 Q. That was an easy question.

19 A. Yes.

20 Q. All my questions are easy.

21 A. Yes. For a change.

22 Q. And revenues from the new sales are

23 designed to recover the costs of providing those new
24 sales. You agree with that?

25 A. Yes.

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1 should not have to credit the transmission revenue to
2 the delta revenue recovery?

3 A. In the case that DP&L does not own
4 transmission facilities and therefore it is a
5 complete pass through, it is going to be a complete
6 pass through.

7 Q. So the answer to my question is yes, you
8 agree?

9 A. Again, if I may say, if the DP&L does not
10 own the transmission facilities and it is owned by a
11 third entity that is not part of this particular
12 filing, what I am saying would not be applicable.

13 Q. Take a look at point "c" on this page,
14 page 11.

15 A. Yes.

16 Q. I'm not sure if you're saying this. Your
17 testimony seems to suggest that payments which DP&L
18 receives for the customers for line extension should
19 be credited back to the delta revenue recovery
20 mechanism.

21 Is that your position?

22 A. If I may listen to the question again.
23 (Record read.).

24 A. No, this is not my position.

25 Q. Okay.

1 Q. If revenue from the new sales is credited
2 to the economic development delta revenue recovery
3 mechanism, then DP&L is not adequately being
4 compensated for the cost of providing those new
5 sales.

6 A. No, this is not what I'm saying, sir.

7 Q. Wait a minute, my question though is do
8 you agree with that statement?

9 A. No, I don't.

10 Q. Because?

11 A. Because what I have said previously and
12 I'm trying to make it clear, and I'm more than happy
13 to say it in a way that would make it clearer, is
14 that when we are speaking about incremental impact of
15 the economic development plan, that would result in
16 incremental benefits to the beneficiaries, the
17 participating and non-participating customers, as
18 well as to DP&L, and we would like to suggest and
19 we'd recommend the Commission to split this
20 particular cost between those who benefit; simply
21 means the participating customers, the
22 non-participating customers, and DP&L.

23 Q. Are you saying that you would split the
24 economic -- the additional revenues between the
25 company and someone else?

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1 A. My position I'm speaking in terms of
2 increments. If there are increment improvements, it
3 has to be shared.

4 Q. So you agree that or you recognize that
5 DP&L incurs costs of extending facilities to serve a
6 new customer.

7 A. Like any other utility with good utility
8 practices, yes.

9 Q. And those facility extension costs are to
10 be recovered by customer payments for line extension?

11 A. It depends upon the regulatory treatment
12 in question and state in question, territory in
13 question. Service territory in question.

14 Q. Do you know what the situation is with
15 regard to DP&L?

16 A. No, I don't.

17 Q. Go on to item "d" then.

18 A. Okay.

19 Q. If economic development initiatives lead
20 to more overall sales, are you saying that increases
21 in those sales should be somehow credited to the
22 economic development delta revenue recovery
23 mechanism?

24 A. The term "somehow" makes it extremely
25 general.

1 A. Can you be specific what do you mean
2 "additional revenues"?

3 Q. I'm talking about the same situation when
4 there are additional sales that result from an
5 economic development effort, would you split the
6 additional revenue from those sales?

7 A. The additional revenues of those
8 additional sales is going to improve efficiency
9 within DP&L. This particular -- as I explained above
10 in the language, for instance, better utilization of
11 their systems, as I mentioned above in the language.

12 This particular benefit should be
13 subtracted, quantified if possible, and subtracted
14 from the cost of the program.

15 Q. And you're saying that should be done
16 regardless of the cost to the company of the
17 additional service, the cost to provide the new
18 service?

19 A. I'm finding it difficult to follow your
20 line of repeated questions and I wonder if you would
21 be kind to repeat the question again because I feel
22 that I have said that several times.

23 Q. Okay. If the company has additional
24 sales, you have agreed with me that it's going to
25 incur additional costs.

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1 And now I'm asking in this circumstance
2 where the company has had additional sales and are
3 you suggesting that some proportion of those
4 additional sales should be shared with the customers?

5 A. What I have stated before is that there's
6 going to be increased sales that is going to result
7 in increased benefits to those who are benefiting
8 from it directly and indirectly, and that includes
9 DP&L, and the benefits and the costs should be
10 shared.

11 Q. Take a look at page 12.

12 A. Yes.

13 Q. Question 11, you are asked about some
14 past PUCO cases, right?

15 A. Question 11 on page 7, sir?

16 Q. I'm sorry, question 17, on page 12.

17 You're asking about some PUCO cases, right?

18 A. Right.

19 Q. The case numbers are 1991 and 1995 and
20 1994.

21 A. Yes.

22 Q. And then you are asked to provide a
23 synopsis of the Commission's orders, right?

24 A. Correct.

25 Q. But you told me you're not a lawyer and

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1 they are ten, 15 years ago, they are still relevant
2 today. Because at the end of the day, it is a
3 recovery of a cost of a specific practice.

4 Q. So does that mean that what you did in
5 your, to use your word, synopsis of Commission
6 orders --

7 A. There are two synopsis; is it question 18
8 or question 19?

9 Q. It's still question 18.

10 What you did is to ignore the more recent
11 4905.31 that I gave you in Exhibit 58.

12 A. I'm not ignoring, and although that this
13 is a strictly legal opinion, my understanding is what
14 I have quoted you are relevant because it's a
15 recovery of delta revenue.

16 Q. So you are calling this strictly a legal
17 opinion?

18 A. In reference to the applicability of the
19 exhibit that you gave me, of course I would consider
20 it a legal opinion.

21 Q. Do you consider what you have in your
22 synopsis in answer 18 on page 13 legal material?

23 A. It is based on my understanding and
24 reading of the Opinion and Orders cited in the
25 testimony, and I have shared my opinion with the

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1 these are legal materials, aren't they?

2 A. This is an Opinion and Order -- and an
3 Order of the Commission. And I reviewed it as an
4 economist.

5 Q. You agree with me that these are matters
6 of law that you're reciting here?

7 A. Including law, yes.

8 Q. And the cases that you're citing are from
9 the first half of the 1990s?

10 A. Correct.

11 Q. The latest case being from apparently
12 1995; is that right?

13 A. In the historical context, yes. But then
14 in the subsequent question I go to more recent.

15 Q. I'll get there in a minute.

16 A. Sure.

17 Q. But right now the latest case you're
18 talking about on 12 and 13 is 1995?

19 A. Correct.

20 Q. And so these are before the deregulation
21 law that was passed in 1999?

22 A. Correct.

23 Q. And that law changed the way retail
24 generation services were provided in Ohio, didn't it?

25 MS. ROBERTS: If you know. Don't

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1 colleagues that they are better than me in the legal
2 matter. Lawyers.

3 Q. Oh, lawyers, okay. In other words, you
4 have bounced your opinion off the lawyers, is that
5 what you're saying?

6 A. I have shared my opinion and my testimony
7 with the legal profession and OCC for an opinion.

8 Q. Are you saying that this comes from them?

9 A. No, I'm not saying that this comes from
10 them. I'm saying that this is my testimony and this
11 is my opinion.

12 Q. And then you go on page 14 to the
13 prepared testimony from 1995 of D. Howard on the
14 Commission staff?

15 A. Correct.

16 Q. Do you think there have been any
17 significant changes in the economy in DP&L's service
18 territory since this time?

19 MS. ROBERTS: I would object, it's asked
20 and answered at the beginning of the deposition.

21 Q. Go ahead.

22 A. To the extent that it affects what I am
23 recommending at this particular testimony, which is
24 how to charge for the cost of the economic
25 development plan, and the split of the delta revenue

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1 speculate is my instruction.

2 A. I would be speculating, because the term
3 changed. It's undefined.

4 Q. If you don't know, tell me you don't
5 know.

6 A. Can you rephrase the question?

7 Q. I'll have her read it back. I'm not
8 going to rephrase it.

9 (Record read.)

10 A. I don't know.

11 Q. There was a second bill then that was
12 passed, Senate Bill 221 in 2008, right?

13 A. Yes.

14 Q. Do you think in terms of your analysis
15 that the section we looked at before, 4905.31(E) that
16 allows for, quote, recovery of revenue foregone as a
17 result of any such program, end of quote, should be
18 more pertinent to your analysis than these cases from
19 13 or 14 years ago or more?

20 A. I do not think so. I am focusing on the
21 issue of the delta revenue and the recovery of delta
22 revenue. There is a specific initiative that is
23 being put forward in front of the Commission and the
24 issue of the recovery is at stake.

25 The issues are the same and although that

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1 between the shareholders and the rate payors, the
2 changes that have taken place over a period of time
3 may not have been significant.

4 Q. Let's talk about some of those. You're
5 aware that two of DP&L's major customers have
6 recently made announcements that they are shutting
7 down facilities where tens of thousands of workers
8 work?

9 A. I am not familiar with these specific two
10 customers. But I'm familiar with the economic delta
11 in the area particularly recently, and by "recently"
12 I mean the last year or so.

13 Q. Do you know about the General Motors
14 plant closings in Dayton's service territory?

15 A. I am not aware of a specific plant by
16 General Motors but I am aware that plants from in the
17 motor vehicle industry and ancillary services, the
18 backward linkages, and I think that the name of one
19 the companies that I recognize escapes me, Delphi?

20 Q. In Dayton service territory.

21 A. Yes. Is also contemplating leaving or
22 contemplating reduction in operation. I am not sure
23 about leaving to be exact but I am aware of the
24 reduction in operation.

25 Q. You're also aware that up until recently

11 (Pages 56 to 61)

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1 a large proportion of the manufacturing base in
2 DP&L's service territory has been related to the
3 automotive industry?
4 MS. ROBERTS: I don't want you to
5 speculate. I object on that basis.
6 You can answer if you know.
7 A. I cannot answer for DP&L's service
8 territory but I can answer in reference to the
9 industrial base around the city of Dayton.
10 Q. Go ahead.
11 A. There is a motor vehicle industry base
12 among others available in there.
13 Q. Maybe I can make this easier.
14 Do you think that the DP&L service
15 territory could use some economic development
16 incentives?
17 A. Almost any service territory in United
18 States of America today would work on such efforts to
19 economic development, whether related to DP&L plan or
20 not.
21 Q. I'm not asking about others. I asked you
22 a specific question. I'd like a straight answer to
23 it.
24 Do you agree that in the DP&L service
25 territory there is a need for economic development

1 Q. Start on page 18.
2 A. Yes.
3 Q. Line 10 you start out by saying "DP&L's
4 rationale for the proposed changes is related to the
5 financial risks the company sees when large groups of
6 customers leave the standard service offer and then
7 return to it."
8 A. Yes.
9 Q. Do you agree that there are such
10 financial risks?
11 A. As stated in the testimony from line 13
12 and 20, I agree with it.
13 Q. So just for clarity of my record, the
14 sentence that begins on line 13 and ends on line 16,
15 do you agree with that?
16 A. Yes.
17 Q. Same question, sir, with regard to line
18 16, the sentence that begins "Further" and ends down
19 on line 20, do you agree with that?
20 A. I agree with it. I just want to caveat
21 my answer is that the term "significant financial
22 risks," whether they are significant or not
23 significant, these are some things to be determined
24 on a case-by-case basis. However, conceptually I
25 agree.

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1 Incentives? I'm not asking about utilities in some
2 other part of the world.
3 A. If and only if the cost of this
4 particular plan and the benefits and the delta
5 revenue including the offsets of the benefits that
6 accrues to DP&L is accounted into consideration, they
7 would.
8 Q. Do you believe that limiting DP&L's
9 ability to recover delta revenues will encourage
10 additional economic development arrangements?
11 MS. ROBERTS: I'm going to object. That
12 was asked and answered, that very question.
13 Q. Go ahead.
14 A. The suggested treatment and the
15 recommendation on -- the suggested treatment of the
16 economic development plan and the recovery of the
17 rider in the recommendations put forward in my
18 testimony does not affect the ability of DP&L to
19 recover its plan.
20 Because it's trying to be fair to those
21 who benefit whether they are the participating party
22 or non-participating customers or DP&L.
23 Q. On page 15, lines 4 and 5, you talk about
24 "...the percentage of revenue recovery being
25 determined by the Commission on a case-by-case

1 Q. On page 19, you talk about DP&L's
2 treatment of customers returning from governmental
3 aggregators places the risk of market prices squarely
4 with the customer that makes a choice to participate
5 in the programs.
6 Do you see that reference, the first
7 three lines of page 19?
8 A. Yes, I see the three lines.
9 Q. Do you agree that under basic economic
10 principles customers should bear the risk of the
11 choices they make?
12 A. My recommendation is consistent with this
13 particular understanding.
14 Q. You agree with that principle though.
15 A. A customer who makes a choice to
16 participate in such programs should take the risks
17 associated with it and, thus, with these particular
18 customers pays for the risks that he is undertaking.
19 Q. On page 20 you have a reference to the
20 rate stabilization surcharge in line 16. You
21 recognize that was approved by the Commission a
22 number of years ago?
23 A. Correct.
24 Q. I think we talked about page 21 earlier.
25 Page 22, you talk around lines 11 and 12

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1 basis. . ."
2 A. This is the latest opinion by the
3 Commission that I quoted, yes.
4 Q. You agree with that position and you
5 think that's appropriate?
6 A. This is the position of the Commission.
7 Q. Answer my question. I'm asking whether
8 you think that position is appropriate.
9 A. The Commission has stated an opinion and
10 it is what it is.
11 Q. Yes, but you are entitled to have an
12 opinion. If you don't have one, again, I want a
13 straight answer. I'm asking if you think it's
14 appropriate. If you have an opinion, tell me. If
15 you don't, tell me that.
16 A. I agree with the Commission. However, I
17 also agree with the Commission's statement that it
18 has stated that in the past practice they have
19 suggested 50/50.
20 MR. FARUKI: Off the record.
21 (Off the record.)
22 MR. FARUKI: Back on the record.
23 Q. Mr. Ibrahim, I'm going to ask you some
24 questions about governmental aggregation.
25 A. Please go ahead, sir.

1 that -- about your opinion that customers should have
2 the option not to pay the RSS.
3 A. Correct.
4 Q. And if so, they would be offered power at
5 market based rates.
6 A. Correct.
7 Q. Is that your recommendation?
8 A. Yes.
9 Q. Your testimony talks about, this is
10 starting on page 23, the RSS being a POLR charge.
11 A. Correct.
12 Q. Is it -- do you have an opinion as to
13 whether the RSS should or should not be part of the
14 fuel calculation?
15 A. No.
16 Q. No, you don't have an opinion, or no, it
17 should not?
18 A. No, I don't have an opinion. My opinion
19 is stated exactly as what it is, description of the
20 RSS is that it includes the cost of providing the
21 POLR service and this is how I base my opinion.
22 As the customers are paying this
23 particular number possible charge and therefore
24 presumably are keeping the utility whole, they should
25 exercise the right to choose whether to take standard

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1 service offer or a market based rate.
 2 Q. On page 23, line 9, you talk about "The
 3 absence of necessary information embedded in the
 4 market base generation rate. . ."
 5 A. Correct.
 6 Q. What is the -- specifically what
 7 necessary information do you have reference to there?
 8 A. As I highlighted before, it's the terms
 9 and conditions for which is going to be included in
 10 G23.
 11 Q. Okay. On pages I guess it starts at the
 12 bottom of 24, all of 25, and the answer through line
 13 12 of 26, you are quoting from an Ohio Revised Code
 14 section and then from the legislative history; is
 15 that right?
 16 A. I'm actually quoting from the Opinion and
 17 Order of the Commission that itself quoted from the
 18 Ohio Revised Code. If you go to page 24, line 18.
 19 Q. Yes. Well, line 18 contains your
 20 conclusion that the recommendations are consistent
 21 with the Commission's recent Opinion and Order in the
 22 Duke case.
 23 A. Yes.
 24 Q. Then you say the relevant Revised Code
 25 Section is as follows.

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1 A. This would be one of them, yes.
 2 Q. Whose legal opinion or advice are you
 3 relying on, give me a name.
 4 MS. ROBERTS: I would object as that
 5 being privileged.
 6 MR. FARUKI: Not once he has said that
 7 he's relying on it for his testimony.
 8 MS. ROBERTS: I think he said that a
 9 couple times that he's testifying as an economist and
 10 this is his interpretation as an economist.
 11 MR. FARUKI: And then he went on, Jackie,
 12 and said that where necessary he relies on the
 13 opinion of other experts. This is one of those
 14 situations. I want to know which person.
 15 MS. ROBERTS: Why don't we ask that. I
 16 think there might be a language issue here but let's
 17 just clarify it.
 18 MR. FARUKI: I'm not asking for the
 19 advice, I'm asking for the name of the lawyer that
 20 he's talking about.
 21 A. There is a legal team that was attached
 22 to this particular case and specifically I cannot put
 23 a name of the person in this particular case.
 24 Q. Tell me the names of the group then.
 25 A. There are several, Ms. J. Roberts, Mr. G.

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1 A. No, sir, that the PUCO relied upon to
 2 reach this decision, and they quoted that rule in
 3 their law.
 4 Q. But the quote that appears on page 25,
 5 what is that a quote from?
 6 A. This is from Ohio Revised Code as quoted
 7 in the Commission order. Would you like to have a
 8 look at it?
 9 Q. Are you saying on page 25, lines 1 to 15,
 10 those are a quote from the Commission order?
 11 A. Correct.
 12 Q. And then on page 26, you have reference
 13 to the intent of the legislature regarding the
 14 statutory interpretation of standby service, on lines
 15 3 and 4.
 16 A. Yes.
 17 Q. So you're not a lawyer but you were
 18 testifying here to the intent of the legislature
 19 regarding a question of statutory interpretation and
 20 you're citing in support of that an opinion of the
 21 Commission? Is that what you're doing?
 22 A. I am not a lawyer. I have read the
 23 Opinion and the Order and I have formed my
 24 understanding of it and I have shared this particular
 25 opinion with the legal colleagues in OCC, the

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1 Poulos, Mr. Mike Idzkowski, to name three. But whom
 2 exactly is not clear.
 3 Q. Do you have any alternatives to DP&L's
 4 suggested approach that you have not set out in your
 5 testimony?
 6 A. This is a --
 7 Q. Not clear?
 8 A. Yes, very.
 9 Q. That's all right, I'm glad you said that.
 10 I'll just rephrase it.
 11 I'm trying to find out if you have other
 12 recommendations on the subjects of your testimony
 13 that are not contained in your testimony, or whether
 14 your testimony has all of it.
 15 A. My testimony has all of it. However, as
 16 I stated in my testimony, I reserve the right to
 17 incorporate new information as they become available
 18 to me.
 19 Q. I understand. But as of today this is
 20 complete. Correct?
 21 A. Yes.
 22 MR. FARUKI: Off the record.
 23 (Signature not waived.)
 24 (Deposition concluded at 3:35 p.m.)
 25 ---

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1 lawyers.
 2 Q. Okay.
 3 A. And they advised that my understanding
 4 and my use is correct.
 5 Q. So you agree with me that what you're
 6 doing here is rendering a legal opinion about the
 7 intent of the legislature regarding this statutory
 8 interpretation of the phrase "standby service."
 9 A. No, sir, I'm not rendering a legal
 10 opinion. I have shared my understanding of the law
 11 and I have put it on as an economist of how I read
 12 the law and how I understood it.
 13 Q. And then you're saying that you shared
 14 that with counsel who blessed it.
 15 A. I did not use the term "blessed it."
 16 Q. What term do you want to use?
 17 A. They have agreed that my understanding is
 18 correct.
 19 Q. Are you relying on them for any part of
 20 this?
 21 A. This is my testimony based on my
 22 experience and education, and where there are areas
 23 that I do like to take opinion of those who
 24 specialize in a specific field, I take it.
 25 Q. Is this one?

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1 State of Ohio :
 2 : SS:
 3 County of _____:
 4 I, Amr A. Ibrahim, do hereby certify that I
 5 have read the foregoing transcript of my deposition
 6 given on Friday, January 30, 2009; that together with
 7 the correction page attached hereto noting changes in
 8 form or substance, if any, it is true and correct.
 9 _____
 10 Amr A. Ibrahim
 11 I do hereby certify that the foregoing
 12 transcript of the deposition of Amr A. Ibrahim was
 13 submitted to the witness for reading and signing;
 14 that after he had stated to the undersigned Notary
 15 Public that he had read and examined his deposition,
 16 he signed the same in my presence on the _____ day
 17 of _____, 2008.
 18 _____
 19 Notary Public
 20 My commission expires _____
 21 ---
 22
 23
 24
 25

CERTIFICATE

1
2 State of Ohio :
3 : SS:
4 County of Franklin :
5 I, Julicanna Hennebert, Notary Public in and
6 for the State of Ohio, duly commissioned and
7 qualified, certify that the within named Amr A.
8 Ibrahim was by me duly sworn to testify to the whole
9 truth in the cause aforesaid; that the testimony was
10 taken down by me in stenotypy in the presence of said
11 witness, afterwards transcribed upon a computer; that
12 the foregoing is a true and correct transcript of the
13 testimony given by said witness taken at the time and
14 place in the foregoing caption specified and
15 completed without adjournment.
16 I certify that I am not a relative, employee,
17 or attorney of any of the parties hereto, or of any
18 attorney or counsel employed by the parties, or
19 financially interested in the action.

20
21 IN WITNESS WHEREOF, I have hereunto set my
22 hand and affixed my seal of office at Columbus, Ohio,
23 on this 3rd day of February, 2009.
24
25

Julicanna Hennebert, Registered
Professional Reporter, and
Notary Public in and for the
State of Ohio.

My commission expires February 19, 2013.
(JUL-1363)

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