

1 A Well, within the class, within the
2 non-demand metered classes, OEG does not object
3 to the company's proposed rate design.

4 MR. BOEHM: Excuse me, I don't want
5 to testify for the witness, but, to clarify,
6 our understanding of this is that your
7 testimony means that within the primary
8 substation and primary rate classes, once
9 you're in there it's going to be all demand
10 allocated.

11 Now, if that's wrong, then we need to
12 maybe amend our testimony or have Steve note
13 that. But what we are concerned about is how
14 you allocate to those rate classes, and that's
15 what we claim ought to be the 1 CP.

16 Is that right, Steve, or, rather,
17 Lane?

18 THE WITNESS: Yes. And also within
19 the rate class itself.

20 MR. BOEHM: Right.

21 THE WITNESS: It would be all
22 considered a demand cost instead of a
23 combination of charges.

24 MR. BOEHM: Right.

25 MR. FARUKI: Off the record.

1 MR. BOEHM: Yeah.

2 (Recess taken.)

3 MR. FARUKI: Back on the record.

4 BY MR. FARUKI:

5 Q Mr. Kollen, forgive me if I asked
6 you, I just don't recall. Did you have any
7 changes or corrections you wanted to make to
8 your prefiled testimony?

9 A No.

10 Q The way we received the testimony, we
11 have pages 1 through 14 printed out with page
12 numbers and then numbered lines. And then
13 after that is a segment of testimony that
14 starts on Page 2 and goes to Page 8. It's in Q
15 and A form but without numbered lines.

16 Is that how you submitted it?

17 A That's what my copy shows as well. I
18 would say there was a problem with the final
19 document preparation. The page numbers are
20 incorrect and there is no line numbering.

21 MR. BOEHM: You know, that's funny
22 because I've got a draft copy right before that
23 and my copy wasn't collating to some of the
24 lines you were giving. So maybe we should --

25 MR. FARUKI: Well, since we're on the

1 record, I'm not going to make a big deal out of
2 this. I just want to make sure I understand
3 what I'm looking at.

4 BY MR. FARUKI:

5 Q If we go back to Page 2, the second
6 Page 2, which is on the paper that's not with
7 numbered lines.

8 I take it, Mr. Kollen, there was a
9 Page 1, or do I have everything?

10 A No, you do have everything. And the
11 page numbering should have continued on from
12 Page 14 to Page 15 instead of Page 2 and then
13 Page 16 instead of Page 3.

14 Q I see. Okay, that's fine. I just
15 want to make sure that I'm not missing
16 something.

17 A No.

18 Q So I'll call it the second segment of
19 the testimony which we have with Pages 2
20 through 8 would be all of your -- the rest of
21 your testimony; is that correct?

22 A Yes, that's correct, and the pages
23 should be numbered sequentially.

24 MR. BOEHM: For the record for a
25 moment here, Charlie.

1 MR. FARUKI: Yeah.

2 MR. BOEHM: I wasn't aware of this
3 problem. Did we send that out to you or, Lane,
4 did you guys?

5 THE WITNESS: Well, we probably
6 should have a private discussion, Dave, on
7 this, but I asked that that be fixed.

8 MR. BOEHM: My office is sending a
9 corrected copy for you.

10 THE WITNESS: I kind of hate to point
11 the finger here.

12 MR. FARUKI: That's quite all right.
13 Are we ready to go back on the record?

14 MR. BOEHM: Yes.

15 MR. FARUKI: Okay.

16 BY MR. FARUKI:

17 Q Let me ask you about -- some more
18 questions about your comparison of DP&L's
19 actual historical ROEs.

20 As I understand what you did, you
21 compared DP&L's actual historical ROEs to
22 historical authorized ROEs of other companies;
23 is that right?

24 A Yes, that's correct.

25 Q Now, that we looked back at your

1 second segment of your testimony, I think I
2 lost my page number.

3 Where is that, sir?

4 A Well, actually, it isn't a second
5 segment. It's unfortunate that that pagination
6 problem exists, but it's really a continuous
7 testimony, it's not a second segment.

8 And you can see, for example, that
9 the Roman section starts on Page -- well, it
10 starts earlier. I'm trying to find it.

11 But, in any event, it --

12 Q That's okay, I don't want you -- I'm
13 not trying to confuse you about this.

14 There is a graph that is titled
15 Dayton Power and Light Company versus National
16 Average Authorized Return on Common Equity.

17 Is that what you're looking for?

18 A Well, that would be on what should be
19 correctly numbered as Page 15, but I think your
20 question went to where do I discuss this or
21 where did it start or something like that, and
22 it started on a prior page.

23 For example, on Page 14, I have a Q
24 and A that introduces this whole concept and
25 then provides a table that shows by year the

1 computation of the earned return for DP&L
2 compared to the national average of the
3 authorized returns as reported by SNL.

4 Q That's what I was looking for. Thank
5 you.

6 So am I correct that you were looking
7 at DP&L's actual earned returns there?

8 A Yes.

9 Q And you were comparing those to the
10 average authorized returns; is that right?

11 A Yes.

12 Q And that strikes me as an apple and
13 oranges comparison because you did not compare
14 DP&L's actual ROEs to the actual ROEs of these
15 other firms, right?

16 A No, I don't think it's an apples and
17 oranges thing at all. What I was attempting to
18 do was compare authorized returns as a proxy
19 for a regulated rate of return.

20 And that is an appropriate comparison
21 then to what the company earned, because my
22 framework, my analytical framework, was were
23 the earned returns of the company supra-normal
24 compared to an average of authorized returns
25 for regulated utilities.

1 Q You did not compare DP&L's actual
2 returns to other firm's actual returns; is that
3 correct?

4 A No. And I don't think it would be an
5 appropriate comparison, not for the purposes
6 that I was attempting here, which was to
7 compare the company's earned returns with the
8 national average of authorized returns as the
9 proxy for a regulated return for a
10 vertically-integrated utility.

11 Q Okay, I understand your -- the reason
12 you're asserting, but is it accurate you did
13 not make a comparison of DP&L actual returns to
14 other companies' actual returns?

15 A And I answered that, no, I did not do
16 that.

17 Q Okay.

18 A I did answer no and then I explained,
19 so...

20 Q And did you take a look at DP&L's --
21 the level of risk of DP&L in those years?

22 A I'm not really sure I understand the
23 question.

24 Q Well, let me ask it this way. If
25 DP&L was riskier than average, then its

1 shareholders were entitled to higher ROEs; is
2 that right?

3 A I don't think there's any entitlement
4 involved here. Not with respect to the
5 unregulated generation activities.

6 Q I'll rephrase my question.

7 If DP&L was riskier than average,
8 then you would expect that its ROEs would not
9 be -- I'll withdraw that question.

10 Go up to Page 14, Line 6, when you're
11 talking about market prices were higher.

12 A Yes.

13 Q What is the period of time you're
14 saying market prices were higher?

15 A Well, this is a -- I'm talking
16 generally for the time period 2001 through
17 2012. And I'm generally talking there about
18 the factors that resulted in the supra-normal
19 returns.

20 Q But my question is, are you saying
21 that market prices were higher during the 2001
22 through 2012 period?

23 A That's one factor. And I didn't
24 attempt to identify that as a cause of the
25 supra-normal returns in each one of the years.

1 I'm just saying that was a general factor over
2 those years.

3 Q So if instead of the results that --
4 instead of the market conditions that existed
5 in those years, had market conditions been bad
6 for the utility and DP&L, had poor results from
7 '01 through 2012, would you argue that higher
8 rates would be justified to make up for those
9 results?

10 A I wouldn't probably argue
11 affirmatively for that, but I may not have
12 opposed it depending upon the circumstances and
13 depending upon where in the market development
14 period the company was at the time.

15 Q Go back to Page 8, the question that
16 begins on Line 3. You say on Lines 7 to 9 that
17 DP&L's projected financial statements include
18 the unregulated generation assets and the
19 related revenues and costs. Do you see that?

20 A I do.

21 Q And did you do any quantitative
22 analysis to determine to what extent the SSR
23 was tied to generation as opposed to all of
24 DP&L's operation?

25 A I did the quantitative analysis and

1 qualitative analysis that I previously
2 described to you. And that logical process was
3 that the wires portion of the business is
4 regulated activities, and so those are cost
5 based.

6 And thus, any deterioration or
7 substantial deterioration below, let's say, a
8 10 or 11 percent authorized rate of return on
9 equity necessarily is caused by the unregulated
10 generation assets. And I mean, that's
11 something that the company itself admits.

12 Q On Page 8, Line 13, you say: There
13 would be no effect on the projected financial
14 statements from its unregulated generation
15 activities if the Company had divested its
16 generation assets to an affiliate or sold the
17 assets to a third party in the same manner that
18 the FirstEnergy companies have.

19 Is that right? And you're using
20 20/20 hindsight, are you not?

21 A No, I'm just stating a fact. I mean,
22 it's a fact that if the unregulated generation
23 assets are not, were not, never were, or never
24 will be. I mean, we can -- we don't even have
25 to put a time boundary around this.

1 But if the unregulated generation
2 assets are not included in the utility, then
3 there would be no effect on the utility's
4 financial statements of whatever the market
5 pricing is.

6 Q At the bottom of Page 8 you're saying
7 there are no customer rate reductions to reduce
8 the returns in the 2001-2012 period.

9 You're not suggesting customer rate
10 reductions were required, are you?

11 A No. And that's exactly the point.
12 I'm certain that the company would have argued
13 that they weren't even legal, let alone
14 required if somebody had come in and brought a
15 complaint.

16 And that's why I'm arguing that the
17 company's position in this case, where now that
18 it projects sub-normal returns somehow entitles
19 it to the SSR or the ST seems to me to be very
20 inconsistent and very inequitable.

21 Q Is there some regulatory principle
22 that you can identify for the proposition that
23 a number of years of prior ROEs should be
24 considered by the Commission in looking forward
25 during a period during which rates are going to

1 be set?

2 A Well, there's always the matter of
3 rate making equity, and that is, you've got a
4 situation where you have unregulated generation
5 assets where the customers couldn't touch the
6 supra-normal returns in the earlier years and
7 now the company wants to be subsidized for the
8 sub-normal returns.

9 The important regulatory principle
10 there is No. 1 equity; No. 2, that the
11 unregulated activities are not entitled to
12 cost-based regulation. That is done. And so
13 those would be the two obvious rate-making
14 principles that I would say apply.

15 Q Take a look at Page 9, Line 4.
16 You're talking there about distribution rate
17 increases. Do you see that?

18 A I do.

19 Q With regard to that subject, you
20 agree with me that you cannot predict the
21 outcome of a future distribution rate case at
22 this point, can you?

23 A A specific case, that's true.
24 However, I have been involved in financial
25 modeling and projection modeling and simulation

1 of financial statements since the beginning of
2 my career in the mid-1970s.

3 And I can tell you that as a modeling
4 construct when you're projecting into the
5 future, if you project cost increases, this is
6 for a utility, if you project cost increases,
7 for example, distribution cost increases, you
8 also project rate increases to match those cost
9 increases.

10 And the fact that there were no
11 increases at all to reflect or to match those
12 cost increases at all is a fundamental flaw in
13 that model.

14 And there's another fundamental flaw,
15 too, and that is that there's an assumption of
16 no sales growth. They didn't even mention that
17 in the prefilled testimony.

18 Q You are unable to determine or to try
19 to figure out the impact of a future rate case
20 on DP&L's revenues at this point; is that
21 correct?

22 A In order to do that -- that's
23 correct. But in order to do that you need to
24 be able to disaggregate the unregulated
25 generation assets from the company's wires

1 business.

2 Mr. Jackson was asked about that in
3 his deposition. He said, oh, no, we can't do
4 that, we don't do it and we won't do it.

5 So if Mr. Jackson can't do it, who is
6 the gatekeeper to the data, then I certainly
7 can't do it.

8 Q On Line 19, let me ask you about that
9 answer on Page 9. You saw that DP&L's witness,
10 Phil Chambers, made adjustments in which he
11 considered a 50/50 capital structure?

12 A He did. But he did that only in the
13 first year, in 2013. After that he let all of
14 the growth in capitalization be financed or
15 almost all of it through common equity.

16 And so he did not keep a 50/50
17 capital structure throughout the five-year
18 projection period. He only started out with
19 that.

20 Q Do you agree with the 50/50 capital
21 structure?

22 A Well, I agree with the adjustment to
23 reduce it down from the actual level of common
24 equity. I would have gone somewhat further,
25 but I understand that this is a company

1 witness, not a consumer or a customer witness.

2 I would say that would be a bare minimum of
3 50/50.

4 Q Page 10, the answer or part of the
5 answer beginning on Line 5, let me ask you
6 about this, and I'll try not to repeat what
7 we've talked about earlier.

8 You are referring there to cost
9 reduction initiatives in your language that
10 were or are under consideration by the company;
11 is that right?

12 A Yes, that's correct.

13 Q And did you make any attempt at a
14 year-by-year analysis of those potential cost
15 reductions?

16 A They were not disclosed as far as I'm
17 aware. And Mr. Jackson was not allowed to talk
18 about them at his deposition. Even as to the
19 status of the cost reduction initiatives.

20 So, you know, I couldn't do a
21 quantitative assessment of the year-by-year
22 opportunities that the company had identified.

23 Q Did you tell me earlier that you had
24 not read all of the Jackson deposition?

25 A I read most of it. I don't think I

1 read every page of it. I may have skipped over
2 his qualifications or whatever because I had
3 already read that in his testimony, prefiled
4 testimony. But I think I read most -- I think
5 I did read most of it.

6 Q Page 11, you say beginning on Line 8:
7 The utility's projected financial statements
8 and financial integrity could be transformed
9 and improved instantaneously simply by
10 transferring the generation assets to an
11 affiliate or selling them to a third party.

12 Are you suggesting that the transfer
13 of generation assets could be done
14 instantaneously?

15 A That isn't my testimony. My
16 testimony is that because the projected
17 deterioration in the company's financial
18 statements is due solely, not in the way they
19 modeled it, but in the real world, would be due
20 solely to the retention of the unregulated
21 generation assets.

22 If they weren't owned by the utility,
23 then that would not be the cause of any
24 financial deterioration, and all else being
25 equal there wouldn't be any financial

1 deterioration.

2 Q So when you're using the word
3 "instantaneously," you are referring to the
4 effects of a generation asset transfer after
5 it's accomplished, do I have that right?

6 A Yes. If the unregulated generation
7 assets were not -- no longer held or owned by
8 the utility, then they would no longer be a
9 factor in the financial statements.

10 Q On Page 12, Line 3, you predict that
11 the company, "Likely will ask for rate
12 increases." That ends on Line 4.

13 Aren't you speculating there?

14 A It's a very high -- yes, because we
15 don't know anything about the future for
16 certain with few exceptions. But based upon my
17 knowledge and experience in the utility
18 industry, if there's a series of cost increases
19 and those cost increases are eligible for
20 recovery through the rate-making process, the
21 utility, as a matter of prudent management,
22 would come in for a rate increase.

23 So the likelihood is there's an
24 attached probability that approaches 100
25 percent on that likelihood.

1 Q Oh, so you think, your testimony is
2 that it is nearly a 100 percent likelihood that
3 DP&L is going to ask for a distribution rate
4 increase over the next five years?

5 A Well, I said that it's nearly a 100
6 percent probability that to the extent there
7 are cost increases in the distribution portion
8 of the company's business, there will be rate
9 increases.

10 Q But you don't know to what extent or
11 to what level those cost increases are, do you?

12 A No, because in order to make that
13 assessment you would have to be able to
14 disaggregate the projected financial statements
15 on a functional basis. And Mr. Jackson
16 asserted that he couldn't do that, which I find
17 very surprising, but nevertheless that is what
18 he said.

19 Q And your counsel could have pursued
20 that in discovery to get you the data to
21 determine that, right?

22 A Well, he could have or I could have,
23 but the fact of the matter is that presumably
24 the company would have objected to that.

25 Q And so you're guessing about that,

1 too?

2 A No. I know that the company would
3 have refused or been unable to provide that
4 information on a functional basis, according to
5 Mr. Jackson's deposition testimony.

6 Q At the bottom of that paragraph,
7 Lines 9, 10 and 11, you're saying that the
8 Company's returns -- I'm sorry, I'll withdraw
9 that.

10 On Page 12, Lines 9, 10 and 11,
11 you're saying that the Company would be able to
12 retain the enhanced returns, all else equal.
13 Do you see that reference?

14 A Yes.

15 Q Are you aware of the significantly
16 excessive earnings test that's now in the Ohio
17 statutes?

18 A Yes, but that requires a return to
19 exceed the upper threshold or the threshold for
20 the significantly excessive earnings. And I
21 don't think that anybody is projecting or
22 expecting for that matter that the company
23 would exceed that threshold. It's not a
24 factor, in other words.

25 Q I'm going to what would be marked or

1 paginated as Page 14, but what we have in your
2 exhibit as the second Page 2. Do you have
3 that?

4 A You know, my pagination must be a
5 little bit different.

6 Q I have a page that says, in the upper
7 right corner, Lane Kollen Page 2.

8 A Oh, okay.

9 Q First thing on the page is a graph.

10 A Yes, I have that. Yes, uh-huh, okay.

11 Q And this graph shows for -- on the
12 right side, if you will, of the graph, the
13 downward trend in ROE in recent years?

14 A Yeah, that's what we had discussed
15 previously that the company's earned return has
16 declined over the last two years, 2011 and
17 2012, by comparison to the prior nine years.
18 Or 10 years, I should say.

19 Q On Page 3 the -- I'm going to make
20 sure we have the same pagination -- the last
21 sentence on Page 3, this is the second Page 3,
22 which would, I take it, be Page 16 if it were
23 repaginated, has a sentence that says: In
24 short, the Company's position would result in
25 retained overrecoveries, et cetera.

1 Do you see that language?

2 A I do, yes.

3 Q Are we on the same sheet of music; in
4 other words, is that sentence on the page in
5 your copy?

6 A We're on the same sheet of testimony,
7 yes.

8 Q Okay. You're not using retained
9 overrecoveries in an accounting sense, are you,
10 there?

11 A No, that doesn't have an accounting
12 connotation.

13 Q And on the next page, your sentence
14 begins -- or the page begins with a full
15 sentence that says: In contrast, the OEG
16 position would result in overrecoveries of
17 "only" \$0.5 billion from 2001 through 2017, all
18 else equal.

19 Have I read that correctly?

20 A Yes.

21 Q How did you calculate that 0.5
22 billion?

23 A Well, I just took the company's
24 request, and it's probably 137.5 million times
25 five, I roughly estimated at seven -- plus the

1 Switching Tracker at \$700 million.

2 And so the 1.2 billion of
3 overrecoveries in years 2001 through '12, minus
4 the 700 million, if the company didn't get it,
5 because that's what the company claims is its
6 deficiency, if you will, would result in a half
7 a billion dollars of quote/unquote excessive
8 recoveries for the 18-year period.

9 MR. FARUKI: Off the record.

10 (Off the record.)

11 (Recess taken.)

12 MR. FARUKI: Let's go back on the
13 record.

14 And I will tell you what I told you
15 off the record, David. I do not have further
16 questions for Mr. Kollen.

17 And Mr. Kollen, thank you for your
18 time.

19 THE WITNESS: Thank you.

20 MR. BOEHM: Off the record again.

21 (Off the record.)

22 MR. BERGER: Are we ready to go back
23 on the record, Mr. Kollen?

24 THE WITNESS: I'm ready, yes.

25 EXAMINATION

1 BY MR. BERGER:

2 Q Mr. Kollen, my name is Tad Berger.
3 I'm with the Ohio Consumers Counsel. And my
4 questions primarily will be focused on your
5 rate design testimony with respect to the
6 design of the Service Stability Rider rate in
7 the event that any of those costs or any end
8 dollars are permitted to be recovered.

9 Am I correct, Mr. Kollen, that most
10 of your testimony as an expert witness has
11 generally been about revenue requirement
12 issues?

13 A I would say probably more than half
14 of it has been, yes.

15 Q Do you also address public -- or
16 regulatory policy and public policy issues in
17 your testimony --

18 A Yes, I have.

19 Q -- generally?

20 A Yes, I have.

21 Q And when was the last time you
22 testified concerning a utility's methodology
23 for preparing a cost of service study?

24 A Probably more than five years ago.

25 Q Does Mr. Baron, is he the person

1 primarily in your firm who analyzes cost of
2 service issues and rate design issues?

3 A We have a number of folks that
4 primarily do that. But Mr. Baron frequently
5 testifies on that, among other issues. But
6 frequently Mr. Baron is the witness from our
7 firm on behalf of our various clients
8 addressing cost allocation and rate design
9 issues.

10 Q What was the last case that you
11 testified in concerning cost allocation and
12 rate design?

13 A I would have to look at my list of
14 expert appearances. Do you want me to do that?

15 Q Yeah. Sure.

16 A Actually, I think that in terms of
17 quantification of rates, I have had a little
18 bit more recent testimony than five years.

19 For example, in the Case No. 40604,
20 October of 2012, I believe that in that
21 testimony I did do some quantification of rates
22 which required various assumptions, of course,
23 as to the allocation of those costs.

24 Q What jurisdiction was that?

25 A Texas.

1 Q What page of your exhibit is that on?

2 A It's on the last page of Exhibit

3 LK-1.

4 There are several of these
5 testimonies where I would have made
6 recommendations with respect to how refunds or
7 costs would be recovered that have inherent
8 cost allocation or rate design proposals.

9 Q So the recommendation in the case
10 that you just referenced, your recommendation
11 there was what?

12 A I believe it was on a per kilowatt
13 charge. These are transmission costs.

14 Q Did you perform a cost allocation
15 study?

16 A No, I did not.

17 Q When was the last time you performed
18 a cost allocation study?

19 A I haven't done that probably for at
20 least five or more years. I don't -- as we've
21 discussed, I don't normally address cost
22 allocation or rate design issues within our
23 firm.

24 Q What's your understanding,
25 Mr. Kollen, of the term "functionalization of

1 use" for purposes of cost allocation study?

2 A That would be your production
3 distribution transmission.

4 Q And what's your position in J.
5 Kennedy & Associates? Partner?

6 A Yes, I'm a vice president and
7 principal in the firm.

8 Q And Mr. Baron's position there?

9 A He's the president and a principal in
10 the firm.

11 Q And you indicated earlier that he
12 prepared the draft testimony?

13 A That's correct.

14 Q Did you make modifications to that
15 testimony?

16 A Yes, I made editing changes.

17 Q Is there a reason that he prepared
18 the testimony in particular and did not testify
19 as to it?

20 A Yes, counsel for OEG decided that one
21 witness would be appropriate rather than two.
22 And based upon my time availability, I was the
23 one that selected the short straw.

24 Q In most cases, though, don't you and
25 Mr. Baron both provide testimony together as a

1 team?

2 A We have in the past. I don't know if
3 I would say most cases, but we have in the
4 past.

5 Q In how many cases in the last five
6 years would you say that you and Mr. Baron have
7 both testified for a client in the same case?

8 A Probably 20 or so.

9 Q And how many cases have you testified
10 without Mr. Baron in a case in the last five
11 years?

12 A Maybe 50 or 60.

13 Q One of the exhibits we provided you
14 was a case where you testified before the
15 Kentucky Public Service Commission concerning
16 Big Rivers Electric Corporation. Do you
17 remember that case?

18 A I do remember it.

19 Q You testified on behalf of Kentucky
20 Industrial Utility Customers; is that correct?

21 A I did.

22 Q Did you testify on revenue
23 requirement issues in that case?

24 A I did.

25 Q Did Mr. Baron testify on those cost

1 allocation issues in that case?

2 A He did.

3 Q Did he testify on the cost of service
4 study?

5 A He did.

6 Q Do you recall if Mr. Baron testified
7 in that case that an electric utilities
8 production plant should be functionalized
9 between the demand and energy functions?

10 A I don't recall that.

11 Q Do you have that exhibit there that
12 was sent to you?

13 A I do.

14 Q There are three exhibits there. Do
15 you have them?

16 A Yes, I have Mr. Baron's testimony in
17 that Big Rivers proceeding.

18 Q And he was the one who testified,
19 didn't he, as to the functionalization of the
20 production plant?

21 A Yes, that's correct.

22 Q Would you look at his testimony
23 there.

24 A I have it before me.

25 MR. BERGER: Why don't we mark that

1 as OCC Exhibit 1.

2 (OCC Exhibit 1 marked.)

3 MR. FARUKI: While Judi is marking
4 that, which one is Exhibit 1? I have two
5 pieces here.

6 MR. BERGER: Mr. Baron's testimony.

7 MR. FARUKI: Okay. Thank you.

8 BY MR. BERGER:

9 Q Do you see on Page 11 of Mr. Baron's
10 testimony, Mr. Kollen?

11 A I have it.

12 Q Where he says that the cost of
13 service studies are functionalized into
14 production and transmission function by the
15 Company's witness, and production functions are
16 then classified as either demand related or
17 energy related?

18 A Yes, that's what he says.

19 Q And does Mr. Baron agree with that
20 functionalization and classification in the
21 next paragraph?

22 A Yes. This would be his agreement
23 with the company's functionalization and
24 classification methodology, yes.

25 Q For production plant, yes?

1 A No, it says production costs, not
2 production plant. And that's an important
3 distinction. Because the production costs
4 include both demand-related costs and
5 energy-related costs.

6 Q Do you recall if Mr. Baron testified
7 in this case that the demand portion of
8 production plant should be allocated among
9 customer classes using six coincident peaks,
10 free winter peaks and free summer peaks? And
11 you can refer to Page 21 of his testimony
12 there.

13 A Yes, he did.

14 Q Do you recall if the utility in that
15 case recommended using 12 coincident peaks to
16 allocate demand-related portion of production
17 plants among the customer classes?

18 A Yes, it did.

19 Q Now, did you or Mr. Baron prepare a
20 cost of service study with respect to DP&L's
21 claim for the Service Stability Rider?

22 A No, but we did obtain from the
23 company in the settlement discussions an
24 analysis on that basis, on the basis of the
25 company's proposal compared to a 1 CP. So we

1 didn't prepare it but we have that.

2 Q And where would that be located?

3 A I don't know. I have it personally,
4 a copy of it, that was provided to me by
5 counsel.

6 Q Would that be in a discovery
7 response? Do you have that with you?

8 MR. BOEHM: Excuse me, Tad, perhaps,
9 you missed part of this discussion earlier.

10 That document was provided to us, to
11 OEG, by counsel in connection with the
12 settlement discussions of this case and it's
13 confidential.

14 MR. BERGER: Okay. I wasn't certain
15 if that was the same document that you were
16 talking about.

17 MR. BOEHM: Yeah. Yeah, that's it.

18 BY MR. BERGER:

19 Q So you're saying that was a cost of
20 service analysis based upon a 1 CP rate
21 design -- or, I'm sorry, cost of service
22 allocation; is that right?

23 A Yes. I guess you could view it that
24 way.

25 Q Well, how do you view it?

1 A That's why I said that. I guess you
2 could view it that way, and I do.

3 Q Okay. Did you functionalize
4 production plant costs for DP&L in this case?

5 A I did not. Essentially what I did
6 was, No. 1, concluded that this retail -- the
7 SSR was caused by the unregulated generation.
8 So by definition then it's functionalized to
9 production.

10 And then I concluded that it was
11 because of the deficiency or the sub-normal
12 returns on equity which obviously are demand
13 driven because it's plant investment.

14 And I concluded from that that this
15 should be classified as demand, demand-related
16 costs, and recovered then on that basis.

17 That's the extent of the analysis or
18 cost of service analysis that I performed.

19 Q You believe all of these costs are
20 generation-related costs that are associated
21 with the SSR; is that right?

22 A Sure, they have to be, otherwise
23 there wouldn't be a sub-normal return on
24 equity, all else being equal, because the wires
25 business still remains regulated.

1 Q And you'd agree with me that
2 generation costs are generally part of the
3 utility's production classification?

4 A Could you say that again?

5 Q Generation costs are part of the
6 utility's production classification?

7 A Production function.

8 Q Functionalization?

9 A Yes. With that clarification, yes,
10 function.

11 Q Are any generation costs properly
12 functionalized as anything other than
13 production in a cost of service study, to your
14 understanding?

15 A It seems like an identity to me.
16 Other than that, I don't know what you're
17 asking.

18 Q You're saying that speaks for itself?

19 A Yes.

20 Q Generation as production?

21 A Right.

22 MR. BOEHM: Excuse me here, Tad. Are
23 we talking about generation plant or generation
24 costs?

25 MR. BERGER: Generation costs.

1 MR. BOEHM: Okay.

2 BY MR. BERGER:

3 Q If he has a breakdown between
4 production and something else for generation
5 costs, I guess, that is the question?

6 A No, I think it's an identity.
7 Generation and production costs I would view as
8 equivalent, just different terms.

9 Q And you believe all -- do you believe
10 that all generation-related costs should be
11 allocated to customer classes using a single
12 coincident peak?

13 A No. I've never testified to that and
14 I don't think anybody in our firm has testified
15 to that. Generation plant, generation plant,
16 on the other hand, yes, but generation costs
17 generically, no.

18 Q Is there some way you have of
19 breaking down the generation-related costs that
20 you believe are being recovered through the
21 Service Stability Rider between plant and other
22 costs, and other generation-related costs, for
23 purposes of doing a cost of service study?

24 A Well, sure. I think it's a simple
25 logical process. And that is that the

1 predicate for the SSR is a deficiency in the
2 earned rate of return.

3 It's not a lack of recovery of fuel
4 costs because there's a fuel adjustment clause.
5 It's not a lack of recovery of this variable
6 cost or that variable cost. It's a deficiency
7 in the rate of return compared to what the
8 company believes is a reasonable rate of
9 return.

10 You compute the revenue impact of a
11 deficiency on the rate of return by looking to
12 the plant. Plant costs by definition are
13 demand related, production plant costs.

14 Q So basically it was your
15 determination that all of the
16 generation-related costs that are the subject
17 of the Service Stability Rider are plant costs
18 and that there aren't other generation-related
19 costs that are not plant costs included in the
20 Service Stability Rider because they're all
21 return related; is that correct?

22 A Well, the -- I'm not sure I can
23 answer that is that correct, yes or no, because
24 it's kind of a mixture.

25 Basically, the genesis of the SSR is

1 a deficient return on equity and the company's
2 claim that it needs more revenues in order to
3 bring it into a reasonable range of return on
4 equity.

5 And so that by definition then has to
6 logically follow that it's a return on plant
7 dollars. And we do know that the transmission
8 distribution, the wires portion of the business
9 remains regulated.

10 So if the deficiency is in the return
11 on the production plant costs, that's a
12 demand-related cost. There's no energy-related
13 aspect to that whatsoever.

14 Q You testified, Mr. Kollen, that
15 whatever portion of these costs are demand
16 related, which you think should be a hundred
17 percent, should be allocated among customer
18 classes using a single coincident peaked demand
19 method; is that right?

20 A Yes.

21 Q And how did you determine that a
22 single CP methodology was appropriate for
23 demand-related costs as opposed to some other
24 methodology, such as the fixed CP methodology
25 Mr. Baron used in the Kentucky case we talked

1 about?

2 A Well, I think there's, first of all,
3 the availability of the 1 CP data and that's, I
4 have been informed, is a reasonable proxy for
5 the 5 CP used for PJM allocation purposes to --
6 for cost allocation to load serving entities.

7 The 6 CP that Mr. Baron proposed in
8 Kentucky was consistent with Kentucky
9 historical rate making practice, and I believe
10 is also consistent with MISO as opposed to the
11 5 CP approach in PJM.

12 Q So you're saying the 1 CP is used in
13 MISO and you're saying it's consistent with
14 that?

15 A No, no, no. The 1 CP is something
16 that -- for which the company has data readily
17 available as a proxy for the 5 CP generally
18 used within PJM.

19 If the data's available for 5 CP,
20 that's fine. But I'm led to believe that the
21 data that is readily available is the 1 CP
22 data.

23 Q And you have not looked at the 5 CP
24 data or 6 CP data for DP&L with respect to
25 these charges, have you?

1 A First of all, I don't believe that I
2 had the 5 CP data available. And with respect
3 to the 6 CP, I don't see a basis for doing
4 that. You know, you have differences in rate
5 making and precedent in different state
6 jurisdictions. And Big Rivers, of course, is
7 in MISO, not PJM.

8 So it's more appropriate to look at
9 the RTO with respect to the utility involved.
10 And in this case it's PJM, not MISO. And look
11 to the allocation methodology within that RTO.

12 Q When was the last case that you used
13 the 1 CP methodology in to allocate production
14 plants?

15 A As a firm, I don't know. Me
16 personally, I have not -- I just don't recall
17 making a recommendation with respect to 1 CP,
18 5, 6 or 12.

19 Q When was the last time that you
20 proposed an allocation methodology that
21 allocated production plant?

22 A I don't know. I would have to go
23 back and check.

24 Q Would it be more than five years?

25 A Generally, I think most likely it

1 would be.

2 Q Do you recall ever having testified
3 to a 1 CP methodology prior to this testimony?

4 A As I said before, I don't recall
5 having testified as to the propriety of 1, 5, 6
6 or 12 previously.

7 Q Do you recall testifying on any
8 methodology for the allocation of production
9 plant previous?

10 A Well, we've already gone over that
11 and I said I would have to go back and check.

12 Q Now, on Page 6 of your testimony,
13 and, again, on Page 21, which would be what you
14 have as Page 8, the second part of Page 8. I
15 put Page 21 on it. You state that you don't
16 oppose DP&L's residential rate design for the
17 SSR or the Switching Tracker; is that right?

18 A Yes.

19 Q Would I be correct in saying that
20 you're not really taking a position on the
21 intraclass residential rate design in this
22 proceeding?

23 A That's a correct statement.

24 Q And you haven't assessed what would
25 be most suitable for residential customers in

1 terms of the rate design?

2 A That's correct.

3 Q Are you aware that OCC has
4 recommended that any SSR or ST that's approved
5 in this case should be collected within the
6 residential class through an energy charge?

7 A No, I haven't read OCC's testimony on
8 this issue.

9 Q Would you oppose if there is any
10 collection of the SSR or ST, if any is approved
11 from residential customers through an energy
12 charge, or would you just take no position on
13 that issue?

14 A I'm sorry, it was a little bit
15 garbled. Could you repeat the question?

16 Q Yes.

17 Would you oppose the use of a energy
18 charge for recovery of any approved costs to be
19 recovered through a Service Stability Rider or
20 Switching Tracker?

21 A Within the residential class, I think
22 was part of the original question?

23 Q Yes.

24 A No, we wouldn't oppose that, within
25 the class itself.

1 Q And for a customer class without a
2 demand charge, would you agree that it would be
3 reasonable to recover demand-related costs
4 through an energy charge such as the
5 residential class which does not have a demand
6 charge?

7 A Well, that's sort of a self-answering
8 question. If there's no demand component, then
9 necessarily it has to be an energy-based
10 charge.

11 Q And would you agree with me that it
12 would be difficult to establish a demand charge
13 for the residential class within the
14 residential class because residential customers
15 don't have demand meters to enable that kind of
16 evaluation of their usage?

17 MR. BOEHM: Excuse me, Tad, with all
18 due respect, I think we're getting pretty far
19 afield of what his testimony is. I don't see
20 the relevance of this to his testimony.

21 MR. BERGER: Well, I'm probably going
22 to be moving on from here, so if he could just
23 answer maybe one or two more questions, Dave.

24 MR. BOEHM: Okay.

25 Go ahead, Lane, if you can.

1 A Could you repeat the question,
2 Mr. Berger?

3 BY MR. BERGER:

4 Q Would you agree that it would be --
5 well, the question was, would you agree with me
6 that given the fact that residential customers
7 don't have a demand meter, that it would be
8 difficult to determine for purposes of
9 allocating or allocating on an interclass basis
10 any demand charge, it would be difficult to
11 have a demand charge for that class?

12 A Yeah, if that was a non-demand
13 metered residential customer class. Of course,
14 there are some that are demand metered. Maybe
15 not on DP&L's system, but on some utility
16 systems there are.

17 Q Do you know whether residential
18 customers on DP&L's system have any demand
19 meters?

20 A I just said I didn't. I said maybe
21 there aren't any on DP&L's system. But I used
22 to be on the Toledo Edison system, for example,
23 and we had a demand meter. I had an all
24 electric home. So that's why I was just
25 drawing the distinction.

1 Because I think your question had
2 embedded an assumption or premise that there
3 were no demand metered residential customers.
4 I'm just saying that may not be true, I don't
5 know.

6 Q Would you agree with me, Mr. Kollen,
7 that residential rate design, interclass rate
8 design, would have no impact on your clients?

9 A That's true. And that's why we don't
10 take a position on it. It's of no real concern
11 to us within the class itself.

12 Q Have you ever previously testified on
13 residential rate design?

14 A Not that I'm -- not that I recall.

15 Q Do you know if Mr. Baron has
16 testified in the last five years on residential
17 rate design?

18 A I just don't know.

19 Q And do you know whether he's
20 testified in the last five years on rate design
21 for a customer class that does not have a
22 demand charge?

23 A I really don't know.

24 Q Did you personally prepare any work
25 papers in performing your cost allocation or

1 rate design analysis in this case, or did
2 Mr. Baron prepare all of those work papers?

3 A Neither one of us did. The analysis
4 that I have in my possession was prepared by
5 the company and provided, I believe, counsel to
6 counsel. And then my counsel provided it to
7 me.

8 Q And Mr. Baron didn't prepare any
9 analysis subsequent to that?

10 A No quantitative analysis, that's
11 correct. Not to my knowledge, anyway.

12 Q Was any quantitative analysis
13 performed by you or Mr. Baron to determine
14 whether the 1 CP method appropriately
15 represented each customer class's
16 responsibility for generation-related costs?

17 A We didn't do a quantitative analysis.
18 We believe that the facts dictate that result
19 for the reasons that we previously discussed in
20 this deposition.

21 Q And when you say the facts dictate
22 that result, would you just please tell me what
23 you mean by that.

24 A Sure. The reason for the SSR and for
25 the ST is because of the sub -- the company's

1 projection of sub-normal returns on equity.

2 And then from that it backed up into the
3 increase that would be necessary for the SSR.

4 And that then is any return is
5 necessarily a function of rate base, and in
6 this case generation plant. That would be a
7 demand-related cost.

8 That's a logical analysis that we
9 went through. And I describe that in my
10 testimony. I don't -- we didn't do any more
11 in-depth analysis than that nor do I think any
12 further analysis is merited or would be even
13 relevant.

14 Q Was any analysis performed by you or
15 Mr. Baron to show how your cost allocation
16 results are different from what the company has
17 proposed?

18 A This goes back to my prior answer.
19 We didn't perform any independent analysis of
20 that, of the effects, of the company's proposal
21 compared to our proposal of 1 CP.

22 But I do have that quantification
23 that was provided, as I understand it, from the
24 company's counsel to OEG's counsel and then
25 OEG's counsel provided me a copy of it.

1 Q And so you relied on the company's
2 work paper to support your assessment, but that
3 work paper, as I understand it, is
4 confidential?

5 MR. BOEHM: Wait a minute. Wait a
6 minute. I'm going to object. I don't think he
7 has said that.

8 THE WITNESS: No.

9 MR. BOEHM: I think that's a
10 mischaracterization. I thought his testimony
11 was that he did not rely on that
12 settlement-generated piece to support his
13 opinions. So I'm going to object to the form
14 of the question.

15 BY MR. BERGER:

16 Q Well, you can answer the question.

17 A I think your question was did
18 Mr. Baron or I perform an independent
19 quantification of the effects of our
20 recommendation -- my recommendation. And the
21 answer is, no.

22 But I did have a quantification of
23 the effects of the recommendation in the form
24 of this confidential document that my counsel
25 provided to me.

1 Q But you're saying you didn't rely on
2 it; is that right?

3 A Not for purposes of my
4 recommendation. I simply know that what the
5 effect of it is, but I did not rely upon it for
6 purposes of my recommendation.

7 My recommendation is what is laid out
8 in my testimony and the reasons for that
9 recommendation are laid out in the testimony.
10 There's no quantification of the effect of this
11 set forth in the testimony nor did it influence
12 in any way my recommendation.

13 Q And you'd agree with me that your
14 testimony doesn't show a particular allocation,
15 you haven't designed rates that show the
16 allocation that you're proposing here; is that
17 correct?

18 A Well, I have designed rates to the
19 extent that the charge would be recovered on a
20 demand-only basis. First of all, allocated --
21 whatever revenue results from this. And I
22 mean, who knows what that will be, if anything.
23 And that would be driven to class on a 1 CP
24 basis under my recommendation.

25 And then within the demand metered

1 classes would be allocated -- or used as far as
2 the rate design is concerned and recovered
3 through a per kilowatt charge. So to that
4 extent, yes, I have addressed the rate design.

5 If your question really goes to the
6 dollar amount within each one of the rate
7 classes, I haven't done that.

8 Q You haven't shown what the result is
9 of your 1 CP methodology or your rate design
10 proposal by developing rates that reflect that
11 outcome?

12 A True. I can't do that unless I know
13 what the outcome is.

14 Q Well, you haven't done any analysis
15 assuming any outcome with respect to the
16 Service Stability Rider?

17 A I haven't made any -- I haven't
18 performed any quantitative analyses in the form
19 of a spreadsheet, you know, that would, A,
20 quantify the effect on OEG members; or, B,
21 actually develop the rates. Any quantitative
22 analysis that I have seen was performed by the
23 company.

24 Q And what, Mr. Kollen, is the purpose
25 of a customer charge in your viewpoint?

1 A I mean, I guess there's differing
2 opinions on that, but it's like a --
3 essentially a minimal cost to serve a customer.

4 Q Would it be appropriate in your
5 opinion to recover demand-related charges
6 through a customer charge?

7 A It could be in certain circumstances.
8 I haven't really given it much thought.

9 Q You don't have an opinion as to
10 whether it's appropriate if the company has
11 proposed here to allocate a portion of the SSR,
12 if any amount is approved, to a customer charge
13 rather than recovering it entirely through an
14 energy charge?

15 A Well, remember, there are two levels
16 of allocation. The first one is among the
17 classes. And if you're going to embed the
18 existing rate design and the revenues that are
19 generated from that rate design, if you're
20 going to use that as the pattern to develop the
21 interclass allocation, then there would be a
22 customer charge component of that.

23 I don't agree with that because
24 that's just a number of customers. It's X
25 dollars divided by number of customers.

1 There's no indication here that that's
2 appropriate. There's no support for it
3 whatsoever.

4 What I'm proposing is a size-based
5 allocator based upon demand, not number of
6 customers and not energy to allocate to the
7 classes.

8 Q Well, maybe I could have asked that
9 question a little better.

10 With respect to the intraclass rate
11 design, you've already indicated -- for the
12 residential class you've already indicated that
13 you aren't making any recommendations. I'm
14 sure you're aware --

15 A Excuse me, did you say intraclass
16 residential rate design?

17 Q Yes.

18 A Okay. I'm sorry. I just wasn't sure
19 I heard you correctly. I wanted to make sure
20 that I had before we went any further, so...

21 Q With respect to the intraclass
22 residential rate design, I'm sure you're aware
23 that the company has proposed to have a
24 customer charge associated with the Service
25 Stability Rider. Are you aware of that?

1 A Yes.

2 MR. BOEHM: Tad, again, with all
3 respect, he isn't testifying about any of this
4 stuff. And I know you would like to get some
5 support for your position on this, but that's
6 not really his testimony.

7 BY MR. BERGER:

8 Q Mr. Kollen, have you ever seen a
9 customer charge for a nonbypassable charge such
10 as proposed in this case for production-related
11 costs?

12 A Well, I suppose you could make that
13 argument if you went back and looked at the
14 genesis of the existing RFC.

15 Q Thank you.

16 MR. BERGER: Just give me a minute
17 here to go over my notes. Why don't we take
18 five minutes.

19 MR. BOEHM: Okay, great.

20 MR. BERGER: I'm just about done.
21 Thank you.

22 (Recess taken.)

23 MR. BERGER: Judi, would you read
24 back the last question, please.

25 THE COURT REPORTER: Sure.

1 (Whereupon, the requested portion of
2 the record was read by the reporter.)

3 BY MR. BERGER:

4 Q Mr. Kollen, you answered that
5 question by saying that the rate stabilization
6 charge for DP&L was an example.

7 Wouldn't you agree with me that the
8 rate stabilization charge for DP&L does not
9 have a customer charge?

10 A I think that's correct, but the
11 genesis of it was an allocation to customer
12 class on revenues that did include a customer
13 charge and that was the point I was relying on.

14 MR. BERGER: That's all I have.

15 Thank you.

16 Thank you, Mr. Kollen.

17 THE WITNESS: You're welcome.

18 MR. FARUKI: This is Charlie. I just
19 got one question, I believe.

20 FURTHER EXAMINATION

21 BY MR. FARUKI:

22 Q Mr. Kollen, in addition to the
23 methodology that you're sponsoring about which
24 Mr. Berger was asking you questions, did you
25 examine other possible methodologies for rate

1 design to be used with regard to the customer
2 class in which you're interested?

3 A No, not beyond what the company
4 proposed and what I propose.

5 Q Yes, sir, I understand.

6 MR. FARUKI: Thank you.

7 Dave, I don't have anything else.

8 MR. BOEHM: Okay. Tad, I guess
9 you're finished. Is there anybody else on the
10 line?

11 Okay.

12 MR. BERGER: Mark Yurick, is he not
13 on the line?

14 MR. BOEHM: Yeah, that's what I
15 thought. I thought Mark was on. I think he
16 may have lost interest in this.

17 MR. FARUKI: I think he may have been
18 called away by lunch.

19 THE WITNESS: I'm shocked, I tell you
20 shocked.

21 MR. FARUKI: Which is beckoning me
22 right now.

23 This is Charlie. Let me tell Judi,
24 we'll order a copy.

25 THE COURT REPORTER: All right.

1 Anybody else?

2 MR. BOEHM: I suppose we ought to
3 have one. Thank you.

4 MR. BERGER: Judi, this is Tad.
5 Would you contact Deb Bingham in our office and
6 provide a price for the transcript, please.

7 THE COURT REPORTER: Definitely will.

8 (Off the record.)

9 (Deposition concluded at 12:14 p.m.)

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C E R T I F I C A T E

STATE OF GEORGIA:

FULTON COUNTY:

I hereby certify that the foregoing transcript was taken down, as stated in the caption, and the colloquies, questions, and answers were reduced to typewriting under my direction; that the transcript is a true and correct record of the evidence given.

I further certify that I am not a relative or employee or attorney of any party, nor am I financially interested in the outcome of the action.

This 20th day of March, 2013.

Judith L. Leitz Moran, CCR-B-2312

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Case No(s). 12-0426-EL-SSO, 12-0427-EL-ATA, 12-0428-EL-AAM, 12-0429-EL-WVR, 12-0672-EL-RDR

Summary: Deposition of Lane Kollen (Part 2 of 2) electronically filed by Mr. Jeffrey S Sharkey on behalf of The Dayton Power and Light Company