

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the Matter of the :
Application of The Dayton :
Power and Light Company : Case No. 12-426-EL-SS0
for Approval of its :
Electric Security Plan. :

In the Matter of the :
Application of the Dayton :
Power and Light Company : Case No. 12-427-EL-ATA
for Approval of Revised :
Tariffs. :

In the Matter of the :
Application of the Dayton :
Power and Light Company : Case No. 12-428-EL-AAM
for Approval of Certain :
Accounting Authority. :

In the Matter of the :
Application of the Dayton :
Power and Light Company : Case No. 12-429-EL-WVR
for the Waiver of Certain :
Commission Rules. :

In the Matter of the :
Application of the Dayton : Case No. 12-672-EL-RDR
Power and Light Company :
to Establish Tariff Riders:

- - -

PROCEEDINGS

before Mr. Gregory A. Price and Mr. Bryce A.
McKenney, Hearing Examiners, at the Public Utilities
Commission of Ohio, 180 East Broad Street, Room 11-C,
Columbus, Ohio, called at 10:00 a.m. on Monday,
March 25, 2013.

VOLUME VI

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Monday Morning Session,

March 25, 2013.

- - -

EXAMINER PRICE: Let's go on the record.

Mr. Darr.

MR. DARR: Thank you, your Honor. IEU
calls Kevin Murray.

(Witness sworn.)

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

THE WITNESS: My name is Kevin Murray.
My business address is 21 East State Street,
Columbus, Ohio, 43215.

EXAMINER PRICE: Thank you.

Mr. Darr.

MR. DARR: I request that we have two
exhibits marked IEU Exhibits 2 and 2A, the first
being the public testimony of Mr. Murray that was
filed on March 1, the second being the confidential
version of the testimony that was also filed March 1
with the Commission.

EXAMINER PRICE: The exhibits will be so
marked.

(EXHIBITS MARKED FOR IDENTIFICATION.)

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KEVIN M. MURRAY

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

DIRECT EXAMINATION

By Mr. Darr:

Q. Mr. Murray, do you have in front of you
what's been marked as IEU Exhibit 2 and 2A?

A. Yes.

Q. Could you identify those for us, please?

A. Those are the prefiled written testimony
that I submitted in this docket, both the
confidential and public versions.

Q. Do you have any corrections or additions
to either of those documents?

A. Yes, I do.

Q. Could you provide those for the record,
please?

A. The first correction would be on page 5,
line 17, the month May should be changed to December,
and the year 2016 should be changed to 2017. And I
would add a footnote immediately following to read:
"DP&L Witness Robert J. Lee proposes a competitive
bid process to secure standard service offer
generation supply through May 31st, 2018."

The second correction is on page 12, line

1 15, the word "retail" should be "retained."

2 The third correction are Exhibits KMM-14,
3 15, 16, and 17. Shortly after my prefiled testimony
4 was filed I discovered some errors in the, both the
5 line numbers and source references, so those were
6 corrected in the revised exhibits.

7 Q. With the corrections you've noted, if
8 asked the questions contained in Exhibits 2 and 2A,
9 would your answers be the same?

10 A. Yes.

11 MR. DARR: Move the admission of 2 and 2A
12 and the witness is available for cross-examination.

13 EXAMINER PRICE: We will defer admission
14 of 2 and 2A until after cross-examination.

15 Mr. Howard?

16 MR. HOWARD: No questions, your Honor.
17 Thank you.

18 EXAMINER PRICE: Mr. Berger?

19 MR. BERGER: No cross-examination, thank
20 you.

21 EXAMINER PRICE: Mr. Williams?

22 MR. WILLIAMS: No questions, your Honor.

23 MR. SINENENG: No questions, your Honor.

24 MR. HAYDEN: No questions.

25 EXAMINER PRICE: Mr. Yurick.

1 MR. YURICK: No questions, your Honor.

2 Thank you.

3 EXAMINER PRICE: Major?

4 MAJOR THOMPSON: No questions, thank you.

5 EXAMINER PRICE: Anybody else I missed?
6 Company?

7 MR. FARUKI: Thank you, your Honors.

8 - - -

9 CROSS-EXAMINATION

10 By Mr. Faruki:

11 Q. Good morning, again, Mr. Murray.

12 Your background is that of an engineer;
13 is that right?

14 A. Yes.

15 Q. You are not an accountant; is that
16 correct?

17 A. That is correct.

18 Q. Nor a lawyer.

19 A. That is correct.

20 Q. Nor an economist.

21 A. That is correct.

22 Q. And is it correct that IEU has been a
23 registered CRES provider since approximately 2000?

24 A. Approximately.

25 Q. It has approximately 44 members; is that

1 right?

2 A. Yes.

3 Q. The companies that are its members that
4 are interested in this case are Appleton Papers,
5 AirGas, Martin Marietta, PlastiPak, and Marathon Oil;
6 is that right?

7 A. That's correct.

8 Q. Those are all industrial customers?

9 A. Yes.

10 Q. And a word about IEU activities. It acts
11 as an advocate on behalf of its members both in
12 regulatory cases before this Commission and FERC and
13 also on various issues that arise in the legislature;
14 is that right?

15 A. That is correct.

16 Q. In addition to its advocacy work it also
17 provides consulting services to its members, correct?

18 A. That's correct.

19 Q. Some of those consulting services involve
20 assisting members in negotiation of both electricity
21 and natural gas supply contracts; is that right?

22 A. That's correct, but I should clarify.
23 The consulting services would be provided typically
24 by McNees, Wallace & Nurick.

25 Q. That's the law firm that employs you.

1 A. The law firm. But oftentimes there would
2 be consulting services to members of IEU-Ohio.

3 Q. And you are the executive director of
4 IEU-Ohio, correct?

5 A. Yes.

6 Q. As I understand IEU's structure and
7 operations, even though you serve as executive
8 director, you don't get a paycheck from that; is that
9 right? Instead your paycheck comes from the law
10 firm?

11 A. That's correct.

12 Q. And in this case IEU-Ohio is primarily
13 concerned with the proposed nonbypassable charges
14 because the majority of IEU's members are shopping;
15 is that right?

16 A. That's correct.

17 Q. Your definition of "financial integrity"
18 is that a company would have the financial
19 wherewithal to be viable as a continuing business; is
20 that right?

21 A. That's correct.

22 Q. As part of your work in this case,
23 however, you did not do an analysis of DP&L's
24 financial integrity; is that right?

25 A. That's correct.

1 Q. In your records, financial integrity is
2 important because a business has to have financial
3 integrity to be viable as a continuing business,
4 right?

5 A. That's correct.

6 Q. And, in addition, you agree that
7 financial integrity as to a utility would include the
8 utility's ability to meet its financial obligations?

9 A. Financial obligations meaning service the
10 debt? I think I had a similar question in my
11 deposition and I think that's how I responded.

12 Q. And if we define "financial obligations"
13 as servicing the debt, the answer is yes?

14 A. Yes.

15 Q. You have read the testimony of the DP&L
16 witnesses who testified that the purpose of the
17 proposed service stability rider, or SSR, is to
18 maintain DP&L's financial integrity and to have an
19 opportunity to earn a reasonable rate of return?

20 A. I have reviewed the testimony.

21 Q. And you've also reviewed testimony that
22 showed DP&L's calculations of ROEs for the projected
23 ESP period; is that right?

24 A. Yes.

25 Q. But you do not offer opinions in this

1 case on the reasonableness of DP&L's projected ROEs;
2 is that right?

3 A. That's correct.

4 Q. That's beyond the scope of your
5 testimony?

6 A. Yes.

7 Q. And, more particularly, you have not done
8 an analysis of whether or not the switching tracker
9 is needed to protect DP&L's financial integrity, have
10 you?

11 A. That's correct.

12 Q. As to the SSR, you have not done an
13 analysis of whether or not the SSR is needed to
14 protect DP&L's financial integrity; isn't that true?

15 A. That's correct.

16 Q. From the standpoint of maintaining stable
17 and reliable service it's also true that you have not
18 analyzed either the switching tracker, the SSR, or
19 both of them together, from the standpoint of whether
20 or not they are needed to maintain stable, reliable
21 service; isn't that right?

22 A. That's correct.

23 Q. Let me see if I can shorten up this next
24 line a minute.

25 Do you remember recently at your

1 deposition I put in front of you a copy of Revised
2 Code Section 4928.143 and we looked at part of it
3 together?

4 A. I recall that.

5 Q. Okay.

6 A. I don't have a copy of that with me.

7 Q. I can give you one if you need it. Let's
8 see how this goes, so we can do this the short way or
9 the long way.

10 With regard to the SSR, I've got a few
11 questions about that. You agree with me, first of
12 all, that as proposed by DP&L the SSR is a charge,
13 right?

14 A. Yes.

15 Q. And you are not offering an opinion in
16 this case with regard to whether DP&L's proposed SSR
17 is, as a factual matter, a charge that relates to
18 limitations on customer shopping for retail electric
19 generation service bypassability, standby, backup, or
20 supplemental power service; is that right?

21 A. That's correct.

22 Q. And, likewise, you are not offering an
23 opinion in this case on whether or not, as a factual
24 matter, the SSR would have the effect of stabilizing
25 or providing certainty regarding retail electric

1 service; is that correct?

2 A. That's correct.

3 Q. Let me ask you a few questions, then,
4 about transition costs. You have some testimony
5 about transition costs in your prefiled testimony,
6 right?

7 A. That's correct.

8 Q. And you recall -- withdraw that.

9 You have been executive director of IEU
10 for about 15 years; is that right?

11 A. No, that's not correct.

12 Q. Okay. How long have you been executive
13 director?

14 A. A little over two years.

15 Q. Two years. And what was your previous
16 position with IEU?

17 A. I didn't have a position with IEU. I,
18 again, as I stated in my testimony, am employed by
19 McNees, Wallace & Nurick as a technical specialist.
20 I provide service through the law firm for IEU-Ohio.

21 Q. For how long have you been employed as a
22 technical specialist by that law firm?

23 A. I've been employed by McNees, Wallace &
24 Nurick since 1997 and I held a similar position with
25 another law firm since 1994.

1 Q. Was the other law firm the predecessor
2 firm of the McNees firm?

3 A. I don't know if it was a predecessor firm
4 but two attorneys that were partners in that firm
5 left to open the Columbus, Ohio, office of McNees,
6 Wallace & Nurick.

7 Q. And when they left, you went with them;
8 is that right?

9 A. Yes.

10 Q. Okay. And during that period of time you
11 have been active or IEU has been active in a number
12 of DP&L cases at the Commission?

13 A. Yes.

14 Q. You personally have been involved in a
15 number of cases that DP&L has filed at this
16 Commission; is that right?

17 A. Yes, that's correct.

18 Q. And you remember that the transition cost
19 recovery was permitted under a law that was passed in
20 1999; is that right?

21 A. It was permitted, yes.

22 Q. More recently you know, in 2008, that
23 Senate Bill 221 was passed, and that's the statute
24 that contains the ESP provision 4928.143; is that
25 correct?

1 A. That's correct.

2 Q. You know that in this case DP&L has made
3 application for approval of an ESP under that .143
4 statute, right?

5 A. That's my understanding.

6 Q. Your recollection is that IEU was
7 involved in some of the transition cost cases,
8 although it may have relied not on testimony from you
9 but of outside consultants in those cases; is that
10 right?

11 A. That's correct.

12 Q. You also recall that the nature of those
13 cases, or the nature of the analysis in those cases,
14 was that if the market value of a utility's assets
15 was less than book value, then a utility would have
16 been considered to have stranded costs; is that
17 right?

18 A. That's correct.

19 Q. And you agree with me that we can use
20 transition costs and stranded costs interchangeably?

21 A. I tend to do that too, yes.

22 Q. And you have reviewed DP&L's filing in
23 this case and know that such a comparison of book
24 value to market value of assets is not an analysis
25 that is being used in this case?

1 A. That's correct.

2 Q. Take a look at page 9, if you would, of
3 your testimony. In the answer that begins on line 15
4 you have two opinions that I want to ask about. Do
5 you see on line 17 that you are talking about, you
6 use the word "precludes," and you say that it's your
7 understanding that Senate Bill 3 precludes the
8 Commission from regulating rates and charges for
9 competitive services provided by CRES providers? Do
10 you see that?

11 A. Yes.

12 Q. And then right below that, line 20, you
13 use the word "precludes" again in a sentence in which
14 you say it's your understanding that SB 3 precludes
15 an electric distribution utility from providing a
16 competitive and a noncompetitive service unless the
17 competitive service is provided through a
18 structurally separated affiliate. Do you see that?

19 A. Yes.

20 Q. Those two opinions are legal opinions
21 that you got from IEU's counsel; is that right?

22 A. It's based upon my discussions with IEU's
23 counsel.

24 Q. And these two opinions underlie much of
25 your testimony in the rest of this exhibit; is that

1 right?

2 A. They certainly underlie my testimony
3 regarding DP&L's relationship with its affiliate. I
4 wouldn't characterize them as underlying my testimony
5 that deals with the ESP versus MRO analysis.

6 Q. Okay. I agree with you. Thank you for
7 that clarification.

8 Now, you have testimony beginning at page
9 10 about DP&L's corporate separation plan; is that
10 right?

11 A. That's correct.

12 Q. And you recall that DP&L has implemented
13 functional separation.

14 A. That's my understanding of the current
15 state of affairs for the company.

16 Q. But you don't remember if the original
17 corporate separation plan of DP&L discussed or
18 allowed functional separation; is that right?

19 A. That's correct. When I went back to
20 review the history, I relied upon the Commission's
21 order in the ETP case, how it characterized the
22 company's plans.

23 Q. Okay.

24 MR. FARUKI: Your Honor, may we go off
25 the record for a minute?

1 EXAMINER PRICE: You may.

2 (Discussion off the record.)

3 EXAMINER PRICE: Go back on the record.

4 MR. FARUKI: Your Honors, let me repeat
5 what I said prior to beginning the cross-examination
6 of Mr. Murray. For the record, we have premarked a
7 number of exhibits and we're simply starting with
8 DP&L Exhibit 100, 101, et cetera, so that obviously
9 we haven't used 99 exhibits yet but that seemed the
10 most convenient.

11 EXAMINER PRICE: At this time we will go
12 ahead and mark all of those Exhibits as DP&L Exhibits
13 100 through 109.

14 MR. FARUKI: Thank you, your Honors.

15 (EXHIBITS MARKED FOR IDENTIFICATION.)

16 Q. (By Mr. Faruki) Mr. Murray, these will be
17 familiar to you since they came from your deposition
18 exhibits.

19 Let me start with the point we left and
20 take a look at Exhibit 100, DP&L Exhibit 100. You
21 recognize this, again, as the corporate separation
22 plan in its initial form that DP&L filed?

23 A. Yes.

24 Q. And if you would look with me at page 14,
25 there's a section Roman III, Implementation of

1 Corporate Separation Plan, headings A Corporate
2 Reorganization, and then the first No. 1 under A is
3 Transfer of Business and Assets to Separate Corporate
4 Entities. Do you have that page?

5 A. I do.

6 Q. And then the second heading under III.A
7 is actually at the bottom of page 14 that deals with
8 functional separation, right?

9 A. I see that.

10 Q. Okay. And if you look under III.A.1, the
11 fourth paragraph begins "Organization charts showing
12 how DPL, Inc. and its affiliates" will be organized
13 based on present planning are attached as Exhibits 2A
14 and 2B. Do you see that?

15 A. Yes.

16 Q. And if you turn the page to the section
17 2 on functional separation, you see that there's a
18 two-paragraph description of what DP&L's -- DP&L was
19 doing at the time about functional separation.

20 A. Yes.

21 Q. The second paragraph contains, in the
22 last couple of lines, a section or a parentheses (b)
23 where DP&L was explaining that it was internally
24 charging costs of employees and other resources to
25 the account and books of the appropriate business

1 units. Do you see that?

2 A. I see that.

3 Q. And it's not clear to me, is this one of
4 the -- is this a plan that you reviewed before you
5 put your testimony together?

6 A. No, I did not review this prior to
7 preparing my testimony.

8 Q. You do recall from your review of the
9 Commission orders and materials that the decision to
10 implement functional separation by DP&L was approved
11 by the Commission, right?

12 A. That's my understanding.

13 Q. And functional separation was implemented
14 by DP&L at the time?

15 A. Yes.

16 Q. So if you would mark that page or leave
17 that open, if you will, and then look with me at what
18 was called the Second Amended Corporate Separation
19 Plan which is DP&L Exhibit 101. That one's dated
20 October 1, 2008. Do you have that?

21 A. Yes, I do.

22 Q. And let's compare these. If you would
23 look, again, at page 14 of this one, page 14 of the
24 second amended corporate separation plan, Exhibit
25 101, again has a heading Roman III, Implementation of

1 Amended Corporate Separation Plan, A, Corporate
2 Reorganization, and 1, Transfer of Businesses and
3 Assets to Separate Corporate Entities; is that right?

4 A. That's correct.

5 Q. But if you compare III.A.1. on page 14 of
6 Exhibit 101, the second amended plan, with III.A.1 on
7 page 14 of Exhibit 100, the original plan, what you
8 see is that the section on transfer of business and
9 assets is substantially cut down; is that right?

10 A. It's much shorter.

11 Q. Yes. And, again there is a III.A.2 on
12 functional separation, correct?

13 A. Correct.

14 Q. That III.A.2 section begins "DP&L's
15 various operations have been functionally separated
16 for a number of years. Functional separation is used
17 where legal separation is not feasible or necessary."
18 Is that correct? Did I read that correctly?

19 A. You read that correctly.

20 Q. It's your recollection then that the
21 second amended corporate separation plan was approved
22 by the Commission and implemented by the company.

23 A. Yes.

24 Q. Then if you look at Exhibit 102 -- you
25 won't need to keep those other pages -- page 14s

1 marked, we'll just turn to Exhibit 102. You
2 recognize that as the stipulation and recommendation
3 in DP&L's 2008 case in which the company had applied
4 for approval of its electric security plan.

5 A. It appears to be.

6 Q. Were you executive director of IEU-Ohio
7 then?

8 A. No.

9 Q. If you look at page 21, we see that
10 IEU-Ohio was a signatory of this stipulation, so you
11 would have known of this stipulation at the time,
12 right?

13 A. At the time. During my deposition I
14 recall you asking me whether or not IEU was a
15 signatory to the stipulation and I could not remember
16 that until you reminded me with this document. Too
17 many years.

18 Q. I understand. Too many stipulations.

19 So you recall from looking at these
20 documents that the corporate separation plan of DP&L
21 was amended in order to revise substantially the
22 section that dealt with transfer of assets to a
23 separate company, right?

24 MR. DARR: Objection, your Honor.

25 EXAMINER PRICE: Grounds?

1 MR. DARR: I believe at this point we've
2 crossed the line between what's permissible under the
3 use of the stipulation and what is not.

4 EXAMINER PRICE: Could I hear --

5 MR. DARR: The stip itself provides it
6 can't be used for purposes of supporting a position
7 by any party.

8 EXAMINER PRICE: Let's have the question
9 and answer back.

10 MR. DARR: We've clearly established that
11 we've got a party here.

12 MR. FARUKI: I'll rephrase it.

13 EXAMINER PRICE: Okay.

14 MR. FARUKI: Thank you, your Honors.

15 Q. (By Mr. Faruki) Don't look at the
16 stipulation, just look at the two corporate
17 separation plans, and with regard to those you recall
18 from reading these documents, DP&L Exhibits 100 and
19 101, that the section of the corporate separation
20 plan that dealt with structural separation of assets
21 was substantially revised from the original plan,
22 right?

23 A. Again, that particular section of the
24 plan that we discussed a few minutes ago was
25 substantially revised. I had not done a side-by-side

1 of the two entire documents to identify any other
2 material changes.

3 Q. And your understanding is that DP&L is
4 operating under a Commission order that approved a
5 corporate separation plan which has functional
6 separation requirements, right?

7 A. That's my understanding. The document
8 that's been marked as DP&L Exhibit 101 is my
9 understanding of the current corporate separation
10 plan.

11 Q. And when you were studying the Commission
12 orders in this case as well as the corporate
13 separation plan, you refreshed your memory that, to
14 use your words, DP&L's functional separation plan was
15 reauthorized as part of DP&L's rate stabilization
16 plan case, correct?

17 A. That's correct.

18 Q. Why don't you turn to Exhibit 108.
19 Sorry, 106. Do you have 106 in front of you?

20 A. Yes, I do.

21 Q. That, sir, is -- the cover page is a
22 letter from Doris McCarter to the Docketing Division
23 of the Commission, but the second page is a report by
24 the staff of the Public Utilities Commission of Ohio
25 dated October 4, 2010; is that right?

1 A. That's correct.

2 Q. I've got a couple of questions about
3 this. We reviewed this document at your deposition
4 as well.

5 A. That's my recollection.

6 Q. The plan or the report says at the bottom
7 of page 13 a heading that reads -- as a topic from
8 the Ohio Administrative Code, and that heading is "A
9 list identifying and describing the financial
10 arrangements between the electric utility and all
11 affiliates"; is that right?

12 A. Not following your reference, Mr. Faruki.
13 Can you --

14 Q. Sure. It's page 13.

15 A. Okay.

16 Q. And the bottom paragraph that begins "A
17 list identifying and describing." Do you see that?

18 A. I see that.

19 Q. Okay. And the text under that heading, I
20 won't read all of it, but do you see the sentence
21 that runs from 13 onto 14 which reads "DP&L believes
22 any such action to separate or insulate the regulated
23 from unregulated functions of DP&L would be subject
24 to the approval of the bondholders, which consent
25 would be tremendously difficult to obtain. In

1 addition the company stated that the cost of secured
2 financing is less than the cost of unsecured
3 financing. Finally, DP&L's functional separation has
4 been acknowledged by the Commission."

5 Have I read that correctly?

6 A. You have read that correctly.

7 Q. That statement remains true today, right?

8 MR. DARR: Objection, your Honor. There
9 were three statements made there. Which one are we
10 referring to?

11 MR. FARUKI: That's a fair criticism of
12 my question, your Honor. Let me rephrase it.

13 Q. The statement that DP&L's functional
14 separation has been acknowledged by the Commission
15 remains true today, doesn't it?

16 A. Well, as I previously indicated, my
17 understanding is the current corporate separation
18 plan is reflected in what has been marked as DP&L
19 Exhibit 101 which provides for functional separation.

20 Q. Is the answer to my question yes?

21 THE WITNESS: Can I have that question
22 reread.

23 EXAMINER PRICE: Please.

24 (Record read.)

25 A. Yes.

1 Q. While I'm on this subject, isn't it true
2 that your testimony does not contain any opinions or
3 recommendation about a timeline for structural
4 separation by DP&L?

5 A. That's correct.

6 Q. Now, in the period from 2005 to 2009 you
7 recall that the Commission staff was encouraging
8 utilities to offer what were called rate
9 stabilization plans? Do you remember that?

10 A. I recall that. Whether or not the
11 Commission staff was encouraging that, they would
12 have to speak for themselves. I recall the
13 Commission issuance of orders encouraging utilities
14 to continue rate stabilization plans.

15 Q. Then let's look at your deposition. Do
16 you have one of your depositions with you?

17 A. Yes.

18 Q. Okay. Let's start at page 23.

19 MR. FARUKI: I've got one for your
20 Honors.

21 EXAMINER PRICE: Thank you.

22 MR. FARUKI: One for each.

23 Q. If we look at page 23, line 19, I asked
24 you: "Do you know, and this is on the subject of
25 transfer of assets, what conversations there were

1 between DP&L and the staff in the period of time from
2 approximately 2005 through 2009 with regard to
3 transfer of distribution and transmission assets?"

4 Answer: "No, I don't know."

5 Question: "Same question with regard to
6 transfer of generation assets."

7 "I don't specifically know what those
8 discussions were with staff.

9 Question: "You say specifically. Do you
10 know generally?"

11 Answer: "Well, that was during a period
12 where the Commission was encouraging utilities to
13 offer what are called rate stabilization plans."

14 Question: "And the purpose of those rate
15 stabilization plans was what?"

16 "I would say generally it was to avoid
17 the going to or the cut to market-based rates that
18 was scheduled to take place at the end of 2005."

19 Have I read that correctly?

20 A. Yes.

21 MR. DARR: Objection, your Honor. The
22 question I believe related to discussions with staff.
23 He has answered with regard to the Commission and I
24 think is identical to what's in the deposition so
25 it's improper impeachment.

1 EXAMINER PRICE: Sustained. You had
2 asked about staff and then came back and you asked
3 about Commission.

4 MR. FARUKI: Okay.

5 Q. And you recall in this period of 2005
6 through 2009, that the Commission was encouraging
7 offering an implementation of rate stabilization
8 plans?

9 A. That's my recollection.

10 Q. And the purpose of those plans was to
11 avoid a sudden move to market-based rates that would
12 have taken place at the end of 2005, right?

13 A. That was one of the purposes.

14 Q. Market prices for power were higher then
15 than they are now, correct?

16 A. I don't recall.

17 Q. Do you remember that the IEU members
18 wanted to avoid or minimize rate increases from the
19 higher cost of power that would have occurred at the
20 end of '05 or early-'06?

21 A. Well, again, one of the purposes of the
22 rate stabilization plan was to provide I think
23 predictability in terms of rates. I think the
24 expectation was that going to market-based rates at
25 the end of 2005 would have resulted in higher rates

1 than what occurred under the rate stabilization plan.

2 Q. And, well, one of the considerations was
3 to try to avoid rate shock at the time, right?

4 A. Yes.

5 Q. And you would agree with my definition of
6 "rate shock" as a sudden increase or spike in
7 electricity prices?

8 A. Yes.

9 Q. Do you recall that DP&L had a rate
10 stabilization plan case as well?

11 A. Yes, it did.

12 Q. And you understood that the reason for
13 trying to avoid the cut to market-based rates at the
14 end of 2005 was that the transition to a competitive
15 market had not matured at the pace that was expected
16 at the time the legislation was enacted in 1999,
17 right?

18 A. That's correct, but I believe in the case
19 of Dayton Power & Light its transition to market may
20 have actually been scheduled to take place sooner
21 than 2005.

22 Q. Initially it had a shorter market
23 development period, you're right.

24 A. Yes.

25 Q. But the point I'm driving at, of course,

1 is that in the 2003, 2004, 2005, 2006 period of time
2 the market was not developing in terms of competition
3 as quickly as had originally been anticipated,
4 correct?

5 A. That's correct.

6 Q. Let me ask you some questions about your
7 more favorable in the aggregate testimony. I believe
8 that begins on page 28 if you need that reference.

9 A. Are we done with the exhibits?

10 Q. I believe so. At least for the moment.

11 You agree with me that the more favorable
12 in the aggregate test needs to be done on the basis
13 of an apples-to-apples comparison; is that correct?

14 A. Yes.

15 Q. And that is that to do this test one
16 would compare the ESP as DP&L has filed it with a
17 hypothetical MRO that would be filed at the same
18 time; is that right?

19 A. Yes, but presuming that the hypothetical
20 MRO would comply with whatever statutory requirements
21 exist.

22 Q. Yes. And your testimony on this test
23 rests on some assumptions, one of which is that the
24 SSR proposed by DP&L would not be approved; is that
25 correct?

1 A. Do you have a specific reference in my
2 testimony you can point to?

3 Q. I have a specific reference in your
4 deposition, but before we get there let me ask it
5 this way: You remember that in your deposition I was
6 trying to get you to express on that record what the
7 assumptions were that you used for your application
8 of the more favorable in the aggregate test, right?

9 A. Yes.

10 Q. Okay. One of the assumptions you
11 specified, you correct me if I'm wrong, that the SSR
12 that was proposed by DP&L would not be approved;
13 isn't that right?

14 A. That's correct.

15 Q. Okay.

16 A. And, again, perhaps my confusion is based
17 upon the fact that I actually do four different
18 scenarios of the ESP versus MRO test.

19 Q. I understand. And I'll come to that
20 point in a minute.

21 Another of your assumptions is that there
22 would be no switching tracker; is that right? In
23 other words, that the switching tracker would not be
24 approved.

25 A. Well, again, I do four scenarios; in two

1 of the scenarios I assume there would be no switching
2 tracker, in the other two scenarios I assume -- I
3 test what the impact would be with the assumed
4 switching level at 70 percent.

5 Q. Okay. And isn't it true that none of the
6 scenarios that you constructed for the more favorable
7 in the aggregate test contain an analysis of DP&L's
8 financial integrity?

9 A. That's correct.

10 Q. And to extend that point, none of your
11 four scenarios for the more favorable in the
12 aggregate test were done with any consideration of
13 whether DP&L's financial integrity could be
14 maintained under any of your four scenarios; isn't
15 that true?

16 A. That's correct, I didn't test that.

17 Q. At the top of page 32 of your testimony,
18 specifically at line 2, you have a sentence that is
19 talking about the MRO, not the ESP, and you reference
20 a provision of the statute that allows the Commission
21 to address an EDU's financial emergency. Do you see
22 that?

23 A. Yes.

24 Q. But your testimony in this case is not
25 offering opinions on whether any of these conditions

1 are or are not met; is that right?

2 A. That's correct.

3 Q. Okay. As I understand your testimony,
4 still on this test now, you are not objecting to
5 consideration of a faster transition to market being
6 considered as a nonquantifiable benefit under this
7 test; is that right?

8 A. That's correct.

9 Q. Let me switch subjects and ask you a few
10 questions about generation separation.

11 Mr. Murray, you are in agreement with me
12 that transfer of generation assets would require
13 several steps including restructuring of DP&L's debt;
14 is that right?

15 A. That's my understanding.

16 Q. You have not studied either the list of
17 steps that would be required or the complexity of
18 those steps, have you?

19 A. That's correct.

20 Q. And you don't offer any opinions in your
21 testimony how easy or difficult it would be for DP&L
22 to restructure its debt, do you?

23 A. That's correct.

24 MR. FARUKI: Your Honor, let me have a
25 minute to look at my notes. I think I'm almost done.

1 EXAMINER PRICE: Thank you.

2 MR. FARUKI: Thank you, your Honors.

3 That's all I have.

4 EXAMINER PRICE: Thank you.

5 Mr. McNamee?

6 MR. McNAMEE: No questions, thank you.

7 EXAMINER PRICE: Mr. Darr, redirect?

8 MR. DARR: May we have a few minutes,
9 your Honor?

10 EXAMINER PRICE: You may.

11 MR. DARR: Thank you.

12 EXAMINER PRICE: Let's go off the record
13 for now.

14 (Recess taken.)

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

17 Redirect?

18 MR. DARR: Thank you, your Honor.

19 - - -

20 REDIRECT EXAMINATION

21 By Mr. Darr:

22 Q. Mr. Murray, you were asked a series of
23 questions about the purpose of the SSR and whether or
24 not it applied to -- or, whether it guaranteed
25 financial integrity or provided an opportunity to

1 provide financial integrity. Do you remember that
2 line of questions?

3 A. Yes.

4 Q. And in terms of the definition of
5 "financial integrity," you also mentioned that at
6 another place of your testimony. Is your definition
7 of financial integrity the same as that offered by
8 the company in its testimony in this case?

9 A. No, it's not.

10 Q. Again, you talked about cash flow,
11 correct?

12 A. My definition would be what I would
13 characterize as breakeven or net positive cash flow
14 in a sufficient quantity to be able to service your
15 debt. So it's entirely possible under that scenario
16 you might have negative income but still have
17 positive cash flow.

18 Q. In a series of questions presented to you
19 or provided to you by Mr. Faruki today, he asked you
20 whether or not the company still is operating under a
21 provision that allowed for functional separation. Do
22 you recall that line of questions?

23 A. Yes.

24 Q. And I believe your answer to Mr. Faruki's
25 questions was yes, that functional separation was

1 currently authorized. Am I also correct on that?

2 A. That's correct.

3 Q. Now, do you believe that the company is
4 currently operating under the requirements of its
5 functional separation?

6 A. No, I do not.

7 Q. And why do you believe that they are not
8 in compliance with their functional separation
9 requirements?

10 A. If you refer to what has been marked as
11 DP&L Exhibit 101, on page 7 it talks about
12 maintaining -- subsection C, it talks about
13 maintaining separate accounting records. Based upon
14 the responses that I saw to interrogatories, it does
15 not appear the company is maintaining separate
16 accounting records for its transmission,
17 distribution, and generation business units.

18 In addition to that, as I identify in my
19 testimony, I don't believe that their relationship
20 with DP&L Energy Resources is consistent with the
21 corporate separation requirements.

22 Q. And why do you believe that -- why do you
23 believe that to be the case?

24 A. Because, as I indicate in my testimony,
25 they are providing -- DP&L the utility is selling

1 generation service to DPLER at less than a
2 fully-allocated cost.

3 Q. And specifically can you point to
4 evidence in this hearing as to the basis for that
5 belief?

6 A. As I discuss in my testimony beginning at
7 page 13, the transfer prices associated with DP&L
8 sales of generation to DP&L Energy Resources reflects
9 what have been characterized by the company as a
10 market-based price, and this was a change to the
11 prior supply agreement that was implemented in 2010.

12 Q. And that would be roughly contemporaneous
13 with the time in which the staff performed its review
14 of the corporate separation plan, correct? I'm
15 looking specifically at what would be DP&L Exhibit
16 106.

17 A. My recollection is a change in transfer
18 prices that was effective January 1, 2010; the date
19 on the report by the staff is October 4th, 2010.

20 Q. Finally, you were asked a series of
21 questions with regard to whether or not you performed
22 a financial integrity review when you performed the
23 ESP versus MRO test. Do you recall that line of
24 questions?

25 A. Yes.

1 Q. And I believe you indicated that you did
2 not; is that correct?

3 A. That's correct.

4 Q. Could you explain for the record why you
5 did not conduct that analysis?

6 A. Well, as I indicated in my testimony, I
7 believe one of the root causes of the company's
8 financial integrity claims are their relationship
9 with DP&L Energy Resources, and that if they changed
10 the transfer pricing mechanism to reflect
11 fully-allocated costs, it would fix the claims of
12 impaired financial integrity.

13 MR. DARR: Nothing further, your Honor.

14 EXAMINER PRICE: Redirect?

15 Any intervenors?

16 The company?

17 MR. FARUKI: Thank you, your Honors.

18 - - -

19 RECROSS-EXAMINATION

20 By Mr. Faruki:

21 Q. Mr. Murray, with regard to transfer
22 pricing, your work in this case has shown that the
23 transfer prices of power from DP&L to DPLER are
24 market-based prices; is that right?

25 A. That's correct.

1 Q. And because you believe, based on the
2 legal advice that you got from IEU's counsel that
3 transfers of electricity must be at fully-allocated
4 cost, it is your view that if a transfer from DP&L to
5 DPLER were to be made at fully-allocated cost, but
6 the result would be that DPLER would earn no net
7 income, then that result is acceptable, that's fine,
8 right?

9 A. That's correct.

10 Q. Okay. In the Staff Report that we looked
11 at -- do you have Exhibit 106 handy to you?

12 A. Yes.

13 Q. The staff did look at DP&L's allocation
14 of costs; is that correct?

15 A. Do you have a specific reference in the
16 report?

17 Q. We can start with page 4, allocation
18 methods. Top of the page, sir.

19 A. I see that.

20 Q. And let's start with this: In this Staff
21 Report there was no staff finding that was critical
22 of the process that DP&L was using to sell power to
23 DPLER; is that right?

24 A. That's correct.

25 Q. And, in fact, if you look at the end of

1 the report, the staff is -- on page 16, is stating
2 its findings from its investigation. Tell me when
3 you have 16.

4 A. I have that.

5 Q. That Findings section starts out with the
6 sentence "In general the Staff's investigation did
7 not uncover any major areas of noncompliance with the
8 Corporate Separation Rules." Did I read that
9 correctly?

10 A. You did.

11 Q. Then it makes three findings; one dealing
12 with vacant subsidiaries, another dealing with risk
13 management, and another dealing with making sure that
14 all union employees receive code of conduct training;
15 is that right?

16 A. That's correct.

17 Q. There's no finding made here with regard
18 to transfer prices.

19 A. That's correct.

20 Q. Now, you and I looked at the statute that
21 deals with corporate separation in your deposition.
22 Do you remember that?

23 A. I recall that.

24 Q. Okay. And you remember that that statute
25 has a section that deals with the fact of when a

1 utility loans either personnel or tools, equipment,
2 vehicles, hard goods, if you will, to an affiliate,
3 right?

4 A. I don't have a copy of the statute with
5 me.

6 Q. Do you recall that?

7 A. If you're going to ask me about the
8 statute, I'd prefer to have a copy to reference.

9 Q. Okay. Take a look at DP&L Exhibit 105,
10 and in particular -- and 105 is a copy of 4928.17
11 which we looked at in your deposition, right?

12 A. Yes.

13 Q. Okay. And I'm going to see if I can
14 phrase this without asking you a question of law.

15 If you take a look at .17(A)(3) for a
16 minute with me, that's the section that I was
17 referencing that deals with the provision by a
18 utility to its affiliate, if you look at line 3, of
19 "utility resources such as," and then it lists a
20 whole bunch of things beginning with trucks, tools,
21 and office equipment. Do you see that reference?

22 A. Yes.

23 Q. And in the next line it also deals with
24 personnel, or lists personnel, right?

25 A. Yes.

1 Q. Have you either been present in the
2 hearing room or seen in the testimony that DP&L
3 allocates time from its managers and executives if
4 they spend time on an affiliate, that time is
5 actually charged to that affiliate?

6 A. I recall hearing that in both testimony
7 here as well as in depositions.

8 Q. Okay. The fully-loaded embedded cost
9 language follows in A.3. that laundry list that we
10 were just looking at, right? It follows the "utility
11 resources such as" clause.

12 A. Yes.

13 Q. When you say "fully-allocated costs,"
14 it's the same thing as fully-loaded embedded costs,
15 right?

16 A. That's how I used the term.

17 Q. Okay. And your criticism, if I can put a
18 finer point on this, of the transfer prices that DP&L
19 is using today or formulating today for sales to ER
20 is based upon the legal advice that you got that this
21 fully-loaded embedded cost language applies to those
22 transfer prices; is that right?

23 A. To the extent that the affiliate is
24 relying upon generation assets owned by the utility,
25 yes.

1 Q. Okay. I think I have only one other
2 question. On page 5 of the Staff Report, if you go
3 back to Exhibit 106, the staff did review the
4 allocations of -- or, the methods of allocation of
5 both assets and services on pages 5 and 6; is that
6 right?

7 A. Yes, but if you go back to page 3, it
8 talks about the cost allocation philosophy.

9 Q. Yes, sir.

10 A. And DP&L is using a fully-allocated cost
11 methodology. And as we discussed, that doesn't
12 appear to be the present arrangement between DP&L and
13 DPL-ER. The report doesn't appear to recognize that
14 circumstance.

15 Q. Well, you're pointing to the cost
16 allocation philosophy language on page 3, right?

17 A. Yes.

18 Q. Lower paragraph? Correct?

19 A. Yes.

20 Q. And that cost allocation philosophy
21 paragraph is dealing with -- go down five lines,
22 there's a sentence that says "Under a fully allocated
23 cost methodology, all direct operation and
24 maintenance expenses such as labor, materials, and
25 other related expenses are included in the cost of

1 the various business activities performed." Is that
2 right?

3 A. That's correct.

4 Q. And then it goes on to talk about
5 indirect charges. So this section is not dealing
6 with transfer pricing, is it?

7 A. My understanding would be the
8 fully-allocated cost methodology would apply equally
9 to transfer pricing.

10 MR. FARUKI: I'll move to strike, your
11 Honor, I asked him if this section was dealing with
12 transfer pricing.

13 EXAMINER PRICE: Sustained -- or granted,
14 please respond to the question.

15 THE WITNESS: Could I have the question
16 reread?

17 EXAMINER PRICE: You may.

18 (Record read.)

19 A. Actually, this section talks about direct
20 O&M expenses on line 6.

21 Q. And you think that's a reference to
22 transfer pricing? Is that your testimony?

23 A. If you're operating a generating asset,
24 you're going to have direct operating and maintenance
25 expenses associated with that. So my understanding

1 would be that this would apply to generation service
2 as well.

3 Q. And, again, when you express an opinion
4 in your testimony about transfer pricing being in
5 violation because it is not based upon
6 fully-allocated costs, you're relying upon the
7 interpretation of the statute that we looked at, .17,
8 that was provided to you by IEU's counsel; is that
9 right?

10 A. That's correct.

11 MR. FARUKI: That's all I have, your
12 Honors. Thank you.

13 - - -

14 EXAMINATION

15 By Examiner Price:

16 Q. Let's go back to page 5 of the Staff
17 Report, Exhibit 106. Can you, not out loud, but can
18 you read the first sentence of the bolded area called
19 "Service Transfers."

20 MR. FARUKI: I'm sorry, your Honor, I
21 didn't hear that.

22 EXAMINER PRICE: Page 5 of 106. Exhibit
23 106.

24 Q. Let me know when you've had a chance to
25 read that.

1 A. I've read it.

2 Q. Do you agree that providing wholesale
3 generation is electric services as contemplated in
4 the first sentence of that section?

5 A. It would appear to be, but also broader
6 in that this talks to providing electricity for
7 street lights for Miami Valley Lighting. So that, I
8 am assuming, would actually be a retail electric
9 service.

10 Q. Right. But we're not talking about that,
11 I mean, we're talking about, if anything, we're
12 talking about the second -- the third sentence,
13 right, the cases where services are not regulated?

14 A. Yes.

15 EXAMINER PRICE: Okay. I've asked this
16 question several times of many witnesses so I'll try
17 you too.

18 Do you know whether the wholesale
19 generation that Dayton provides to its affiliate is
20 done pursuant to a FERC approved tariff.

21 A. I believe it is.

22 Q. You believe it is.

23 A. Yes.

24 EXAMINER PRICE: Okay. Thank you.

25 That's all I have.

1 Mr. McNamee?

2 MR. McNAMEE: No questions, thank you.

3 EXAMINER PRICE: Mr. Darr?

4 MR. DARR: Move IEU Exhibits 2 and 2A,
5 your Honor.

6 EXAMINER PRICE: Objections to the
7 admission of IEU Exhibits 2 and 2A?

8 MR. FARUKI: No. Your Honor.

9 I would move also the exhibits that I
10 used on examination with him, in particular, maybe
11 take these one at a time, DP&L Exhibit 100, the
12 corporate separation plan.

13 MR. DARR: No objection.

14 MR. FARUKI: DP&L Exhibit --

15 EXAMINER PRICE: Let's let the rulings
16 catch up. First, we'll go ahead and admit IEU 2 and
17 2A.

18 (EXHIBITS ADMITTED INTO EVIDENCE.)

19 EXAMINER PRICE: Second, will admit DP&L
20 100.

21 (EXHIBIT ADMITTED INTO EVIDENCE.)

22 EXAMINER PRICE: Next one.

23 MR. FARUKI: DP&L Exhibit 101, the second
24 amended.

25 EXAMINER PRICE: Any objection to the

1 admission of DP&L 101?

2 EXAMINER PRICE: Seeing none, it will be
3 admitted.

4 (EXHIBIT ADMITTED INTO EVIDENCE.)

5 MR. FARUKI: DP&L Exhibit 102, the
6 stipulation.

7 MR. DARR: Objection, your Honor.

8 MR. FARUKI: Your Honor, I think I know
9 the basis of the objection, but my question to him
10 was not to show a position that they took but,
11 rather, to show that IEU was a party in the case and
12 that he could have had knowledge of this at the time.
13 That's the purpose for which it's offered.

14 EXAMINER PRICE: Mr. Darr.

15 MR. DARR: I'd still object, your Honor,
16 either way it's being used for purpose of supporting
17 their position and therefore it would violate the
18 terms of the agreement.

19 MR. FARUKI: I don't think so, your
20 Honor. I offered it for a limited purpose.

21 EXAMINER PRICE: The parties can argue
22 about it on brief. We'll go ahead and take
23 administrative notice of the stipulation in Case
24 No. 08-1094-EL-SSO that is contained in DP&L Exhibit
25 102.

1 MR. FARUKI: And, your Honor, finally, I
2 offer Exhibit 106, which was the Staff Report we were
3 just looking at, dated October 4, 2010.

4 MR. DARR: No objection.

5 EXAMINER PRICE: We're not going to admit
6 it but we will take administrative notice of that
7 exhibit.

8 MR. FARUKI: Thank you, your Honor.

9 EXAMINER PRICE: Thank you.

10 You're excused, Mr. Murray.

11 EXAMINER MCKENNEY: At this time is OCC
12 ready to call its witness?

13 MR. BERGER: Yes. OCC calls Jim Williams
14 to the stand an I would like his direct testimony
15 marked as OCC Exhibit No. 19.

16 EXAMINER MCKENNEY: I'm sorry, what
17 number did you say?

18 MR. BERGER: I believe it's No. 19.

19 EXAMINER MCKENNEY: It will be so marked.

20 (EXHIBIT MARKED FOR IDENTIFICATION.)

21 MR. BERGER: Thank you, your Honor.

22 EXAMINER MCKENNEY: Mr. Williams, please
23 raise your right hand.

24 (Witness sworn.)

25 EXAMINER MCKENNEY: Thank you. You may

1 be seated.

2 THE WITNESS: Thank you, your Honor.

3 MR. BERGER: Your Honor, at this time I'm
4 going to provide the court reporter with a copy of
5 the testimony. Does the Bench have copies of the
6 testimony? Thank you.

7 EXAMINER MCKENNEY: The Bench does.

8 - - -

9 JAMES D. WILLIAMS

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

12 DIRECT EXAMINATION

13 By Mr. Berger:

14 Q. Mr. Williams, would you please state your
15 full name and business address for the record?

16 A. Yes. My names is James Williams. My
17 business address is 10 West Broad Street, Suite 1800,
18 Columbus, Ohio, 43215.

19 Q. And are you the same James Williams whose
20 direct testimony was filed in these cases?

21 A. I am.

22 Q. And on whose behalf are you appearing in
23 this proceeding?

24 A. I'm appearing on behalf of the Office of
25 the Ohio Consumers' Counsel.

1 Q. Do you have your prepared direct
2 testimony with you on the stand?

3 A. I do.

4 Q. Did you prepare that testimony or was it
5 prepared under your direct supervision?

6 A. Yes, it was.

7 Q. Do you have any changes or corrections to
8 your direct testimony at this time?

9 A. No, I do not.

10 Q. If I asked you today the same questions
11 found in your direct testimony in OCC Exhibit No. 19,
12 would your answers be the same?

13 A. Yes.

14 MR. BERGER: Your Honor, at this time we
15 would move for the admission of OCC Exhibit 19 and we
16 would tender the witness for cross-examination.

17 EXAMINER MCKENNEY: Thank you. We'll
18 reserve our determination on the admission of OCC 19
19 until after cross-examination.

20 MR. BERGER: Thank you, your Honor.

21 EXAMINER MCKENNEY: Mr. Howard?

22 MR. HOWARD: No questions. Thank you,
23 your Honor.

24 MR. SINENENG: No questions, your Honor.

25 MR. HAYDEN: No, thank you.

1 MR. OLIKER: No questions, your Honor.

2 MAJOR THOMPSON: Nothing, sir.

3 EXAMINER MCKENNEY: Mr. Faruki?

4 MR. FARUKI: Thank you, your Honor.

5 - - -

6 CROSS-EXAMINATION

7 By Mr. Faruki:

8 Q. Good morning, Mr. Williams.

9 A. Good morning.

10 Q. I just have a few questions for you, I
11 believe.

12 You agree with me that DP&L's financial
13 performance is a factor in considering affordability
14 issues; is that right?

15 A. Yes.

16 Q. You have some testimony in which you talk
17 about increases in DP&L's electric rates over time.
18 Do you remember that?

19 A. I do.

20 Q. In making that analysis you did not look
21 at the rate of inflation during that six-year period
22 to see how it compared to the increase in electric
23 rates, did you?

24 A. No, sir. What I relied upon was what --
25 a comparison of DP&L bills in 2008 with bills in

1 2013.

2 Q. As part of your work you did not make any
3 examination or investigation of DP&L's costs when
4 customers need to be disconnected, did you?

5 A. I did not.

6 Q. You are talking in your testimony in part
7 about low-income customers; is that right?

8 A. Yes, sir.

9 Q. Yes. And those low-income customers, you
10 would agree with me, would be generally identified as
11 those below a certain percentage of the federal
12 definition of poverty?

13 A. Generally but not all.

14 Q. Well, you're familiar with the concept of
15 a self-sufficiency level?

16 A. Yes.

17 Q. Okay. What is that as you understand it?

18 A. Well, in terms of assistance that's
19 provided through the federal government through Home
20 Energy Assistance Program, customers that have
21 incomes at or below 200 percent of the poverty level
22 could qualify for home energy assistance on an annual
23 basis. So 200 percent is generally -- would be that
24 level.

25 Q. So the self-sufficiency level refers to a

1 level of income that would provide enough income to
2 meet housing, food, and utilities; is that right?

3 A. Yes.

4 Q. Generally speaking, that level, then, is
5 set at 200 percent of the federal poverty line?

6 A. Well, that's the level where federal
7 assistance is provided for heating assistance.

8 Q. And what you would call median income
9 customers would be above that self-sufficiency level;
10 is that right?

11 A. Not necessarily. It could vary by area.

12 Q. You mean by area of the country?

13 A. By area even within the state or even
14 within a region, the service territory.

15 Q. All right. Have you made any examination
16 of that subject with regard to DP&L's service area?

17 A. Not specifically.

18 Q. Okay.

19 A. I did provide some comparison information
20 of the median income in some of the different
21 counties that are served by DP&L.

22 Q. I saw that. But you did not make an
23 examination of the needs of median versus low-income
24 customers in DP&L's service area, did you?

25 A. I did not.

1 EXAMINER MCKENNEY: Mr. Williams, I'll
2 ask you to speak up just a little bit. Thank you.

3 THE WITNESS: Thank you.

4 MR. FARUKI: Thank you, sir.

5 Your Honors, that's all I have for him.

6 EXAMINER MCKENNEY: Thank you.

7 Staff?

8 MR. McNAMEE: No questions.

9 EXAMINER MCKENNEY: Redirect, Mr. Berger?

10 MR. BERGER: No, your Honor. Thank you.

11 EXAMINER MCKENNEY: Thank you.

12 Mr. Williams, you're excused.

13 Mr. Berger.

14 MR. BERGER: May we move OCC Exhibit 19
15 into the record, please?

16 EXAMINER MCKENNEY: Any objection?

17 (No response.)

18 EXAMINER MCKENNEY: It will be so
19 admitted.

20 (EXHIBIT ADMITTED INTO EVIDENCE.)

21 EXAMINER PRICE: Let's take 10 minutes
22 and then we'll take Mr. Benedict before lunch.

23 (Recess taken.)

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

25 Mr. McNamee.

1 MR. McNAMEE: At this time, your Honor,
2 the staff would call Timothy Benedict.

3 EXAMINER PRICE: Mr. Benedict.
4 (Witness sworn.)

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

7 THE WITNESS: My name is Timothy
8 Benedict. Business address is 180 East Broad Street,
9 Columbus, Ohio, 43215.

10 EXAMINER PRICE: Thank you.

11 Mr. McNamee.

12 MR. McNAMEE: Thank you, your Honor.

13 - - -

14 TIMOTHY W. BENEDICT

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

17 DIRECT EXAMINATION

18 By Mr. McNamee:

19 Q. Mr. Benedict, by whom are you employed?

20 A. I'm employed by the Public Utilities
21 Commission with the State of Ohio.

22 Q. In what capacity?

23 A. I'm a utility specialist within the
24 Department of Energy and Environment, Division of
25 Planning and Market Analysis.

1 MR. McNAMEE: Your Honor, at this time
2 I'd ask to have marked for identification as Staff
3 Exhibit 3 the redacted testimony of Timothy W.
4 Benedict.

5 EXAMINER PRICE: So marked.

6 (EXHIBIT MARKED FOR IDENTIFICATION.)

7 MR. McNAMEE: And as 3A the confidential
8 testimony of Mr. Benedict.

9 EXAMINER PRICE: That will also be so
10 marked.

11 (EXHIBIT MARKED FOR IDENTIFICATION.)

12 MR. McNAMEE: I would suspect, your
13 Honors, that most of the cross-examination of
14 Mr. Benedict would be on the confidential record, I
15 suspect.

16 EXAMINER PRICE: I don't know. That's
17 what I thought of our last witness, too.

18 MR. McNAMEE: That's true. You never
19 know, I guess. But just a warning I guess.

20 Q. (By Mr. McNamee) Mr. Benedict, do you
21 have before you -- you do have before you what's been
22 marked for identification as Staff Exhibits 3 and 3A,
23 do you not?

24 A. Yes, I do.

25 Q. Good. What are they?

1 A. 3 is my, I believe that's my redacted
2 prefiled testimony in this proceeding and 3A is the
3 confidential version of my prefiled testimony.

4 Q. Were those prepared by you or under your
5 direction?

6 A. Yes, they were.

7 Q. Okay. Do you have any corrections to
8 make to either of those documents?

9 A. One minor typographical error I noticed.

10 Q. What is that?

11 A. Actually, in the final question, page 10,
12 question 16, the first word in the question, the
13 "does" is missing an S, so although I think it's
14 pretty sure in the record I'm not referring to the
15 Department of Energy or a female deer, I did notice
16 that was wrong.

17 Q. Okay. With that correction are the
18 contents of what's been marked for identification
19 Staff Exhibits 3 and 3A true to the best of your
20 knowledge and belief?

21 A. Yes, they are.

22 Q. If I were to ask you the questions
23 contained in what's been marked for identification as
24 Staff Exhibit 3 and 3A here again this morning, would
25 your answers today be as represented therein?

1 A. Yes, they would.

2 Q. Do you adopt, then what's been marked for
3 identification as Staff Exhibits 3 and 3A as your
4 direct testimony in this case?

5 A. I do.

6 MR. McNAMEE: With that, your Honors, the
7 witness is available for cross-examination.

8 EXAMINER PRICE: Thank you.

9 Mr. Howard?

10 MR. HOWARD: No questions. Thank you,
11 your Honor.

12 EXAMINER PRICE: Consumers' Counsel?

13 MS. YOST: No questions, your Honor.
14 Thank you.

15 MR. SINENENG: No questions, your Honor.

16 EXAMINER PRICE: FES?

17 MR. HAYDEN: No questions.

18 EXAMINER PRICE: IEU-Ohio?

19 MR. DARR: Briefly, your Honor.

20 - - -

21 CROSS-EXAMINATION

22 By Mr. Darr:

23 Q. Mr. Benedict, could you identify for us
24 what materials or documents you used to prepare your
25 testimony?

1 A. Sure. I reviewed the company's latest
2 10-Q filing, the SEC filing. I reviewed the
3 company's 2012 long-term forecast report. I also
4 reviewed the workpapers that were provided to staff
5 in support of Mr. Craig Jackson's testimony. I
6 believe these workpapers were earlier introduced as
7 an exhibit by our friends at FirstEnergy Solutions
8 during Mr. Jackson's cross-examination. Nothing else
9 comes to mind.

10 Q. On page 2 of your testimony you refer to
11 Dayton Power & Light. Now, when you refer to Dayton
12 Power & Light, are you referring to the electric
13 distribution utility?

14 A. I am.

15 Q. And if you were referring to any of the
16 affiliates, would those be specifically noted?

17 A. Yes.

18 Q. And if you were referring to any of the
19 parent entities of Dayton Power & Light, would those
20 also be separately noted?

21 A. They should be, yes.

22 Q. In response to my first question
23 concerning what you reviewed, one of the things you
24 identified was the Form 10-Q. Would that be for
25 third quarter 2012?

1 A. Third quarter or fourth quarter, I don't
2 recall. Probably the third quarter, correct.

3 MR. DARR: May I have an exhibit marked
4 as IEU Exhibit 28.

5 EXAMINER PRICE: So marked.

6 (EXHIBIT MARKED FOR IDENTIFICATION.)

7 MR. DARR: And again, in hopes of saving
8 a few trees, what we've done is, we have a full copy
9 of the 10-K and then as to specific pages, I'll
10 provide those separately for the various parties.

11 EXAMINER PRICE: Fine.

12 Q. Do you have in front of you what's been
13 marked as IEU Exhibit 28?

14 A. I do.

15 Q. And could you identify this for us,
16 please?

17 A. Although I haven't reviewed the entire
18 document, this does appear to be the Form 10-Q for
19 the third quarter 2012 of Dayton Power & Light
20 Company and DPL, Inc.

21 Q. Now, on page 5 of your testimony you
22 state that, beginning on line 3, that according to
23 the company's 10-Q filed on 11/6/2012, the Hutchings
24 facility was -- has a damaged rotor. And I take it
25 this is the 10-Q that you relied upon for that

1 statement; is that correct?

2 A. I believe it is, yes.

3 Q. Did you review all of the 10-Q for
4 purposes of preparing your testimony?

5 A. No.

6 Q. Now, is it fair to say that staff had
7 some concerns about the forecast generation output
8 that was provided by DP&L?

9 A. I think that's fair, yes.

10 Q. And what were those concerns?

11 A. I think upon inspection, the company's
12 forecasts don't seem to match the way that their
13 generating units have historically operated.

14 Q. How did you come to the conclusion which
15 you just stated, that you felt that the forecast was
16 inconsistent with how the units historically
17 operated?

18 A. I compared the company's forecast to the
19 last ten years of historical data and how those units
20 have operated, on what their output was. I also
21 compared to the results of our own internal modeling
22 of how those units will operate in the future.

23 Q. So you looked backward and then you
24 looked forward.

25 A. That's correct.

1 Q. For the backward information, would that
2 have been information provided in the 2012 long-term
3 forecast?

4 A. No.

5 Q. What did you use for backward analysis?

6 A. We subscribe to a data aggregation
7 service called Ventyx Velocity Suite and that is
8 where I pulled the data. The data itself was
9 aggregated by the software vendor but I believe it
10 came from U.S. EPA.

11 Q. And then on the going forward, what did
12 you use to model the going forward generation that
13 led you to the concern that the generation levels
14 were not accurate?

15 MR. FARUKI: I'm going to object.
16 Friendly cross.

17 MR. DARR: I think it will be clear in a
18 moment, your Honor, where I'm going with this, if
19 you'll give me a couple degrees of freedom here.

20 EXAMINER PRICE: I'll give you a couple
21 questions.

22 MR. FARUKI: May I take a continuing
23 objection, your Honor?

24 EXAMINER PRICE: You may. Overruled.

25 A. The forward generation was modeled using

1 the Ventyx PROMOD software.

2 Q. Was the PROMOD modeling done by you?

3 A. Yes, it was.

4 Q. Was your work supervised by anyone?

5 A. Yes.

6 Q. Who was it supervised by?

7 A. My division chief, Dan Johnson.

8 Q. And do you consider yourself an expert in
9 the use of the PROMOD software?

10 A. I do.

11 Q. What training did you receive on that
12 software?

13 A. I've been using the software for over
14 three years. Our original contract included training
15 from the software vendor themselves. I've also
16 participated in work group meetings which are usually
17 held semiannually; most recently I traveled to the
18 offices of MISO in St. Paul, Minnesota, to attend a
19 PROMOD users group meeting.

20 In fact, I've been invited by the
21 software vendor to present the results of a PROMOD
22 study at their annual conference. So I do consider
23 myself a somewhat sophisticated user of the software.

24 Q. So based on your understanding of the
25 PROMOD software, is it -- do you understand the kinds

1 of different things that can be modeled using that
2 software, for example, the transactions of the
3 company that can be modeled?

4 A. Yes.

5 Q. And would those transactions include
6 forward contracts?

7 A. The model wouldn't capture the price at
8 which those transactions took place. What it would
9 model would be the dispatch of where that generating
10 output was intended to go under the contract.

11 Q. And when you say that the model would not
12 accommodate or track the forward contracts, what
13 information would it not pick up?

14 A. Price in this case is an output of the
15 model, so the model itself would -- it would simulate
16 the generation that occurred subject to a contract,
17 but it wouldn't capture the price at which that
18 contract was transacted.

19 Q. What prices would it capture?

20 A. The nodal locational marginal prices.

21 Q. So essentially it would give you a
22 projection of what the nodal price was but not
23 necessarily the contract price.

24 A. That's correct.

25 Q. Now, the dataset that you were using, if

1 I understand your testimony correctly, at -- or,
2 excuse me, the modeling that you were using was based
3 on the Eastern Interconnection Reliability Assessment
4 Group, Multiregional Model Working Group, did I have
5 that correct?

6 A. That is correct.

7 Q. Would you describe for us what you mean
8 by the models that are being provided by that, and
9 I'm not going to repeat it again, we'll just call it
10 the working group, okay?

11 A. Sure. These models are essentially the
12 transmission topography so all of the load buses all
13 of the transmission lines, all of the generating
14 units across the eastern interconnection. So this
15 provides a foundation upon which to begin a model.

16 Q. And are you familiar with the procedures
17 used by the working group to develop their power flow
18 base cases and dynamic simulation studies?

19 A. Only in a very general sense. I'm not a
20 power flow engineer by any means. I approached this
21 more from a -- more of an economics background than
22 someone who is familiar with how wholesale markets
23 operate. But personally I'm not a power flow
24 engineer so we rely upon their expertise in that
25 regard.

1 Q. So that I understand it correctly, make
2 sure I understand it correctly, you took the Ventyx
3 model which gives you LMP prices, correct?

4 A. That's one of the outputs, correct.

5 Q. And you applied that to what you
6 described as the topography but basically the
7 structure of the eastern interconnect; is that
8 correct?

9 A. That's correct.

10 Q. And you modeled the whole eastern
11 interconnect.

12 A. We actually modeled a subset for the
13 purposes of LMP reporting. Now, the model does
14 consider the entire eastern interconnection but for
15 the purposes of what we were interested in, we
16 decided to only model essentially PJM and MISO
17 region, and the reason why is because this is a very
18 bulky, large model, it takes two to three days to
19 run, so to the extent that we can limit the amount of
20 information that we're trying to pull out of the
21 model, we can limit that run time.

22 Q. And the end goal here, if I understand it
23 correctly, was to model the MISO and PJM regions so
24 that you could better understand the expected
25 generation specifically for DP&L, correct?

1 A. That's correct.

2 Q. Now, you made one modification to this
3 model; is that correct?

4 A. Yes.

5 Q. And that was with regard to forward gas
6 prices?

7 A. Yes, it was.

8 Q. Did you attempt to make any modifications
9 as to forward energy prices? Any other forward
10 energy prices?

11 A. Only to the extent that the gas prices
12 would affect the forward energy prices, but no.

13 Q. But nothing with regard to, for example,
14 for coal.

15 A. No.

16 Q. Now, you're aware, are you not, that a
17 portion of the DP&L generation is contracted to an
18 affiliate?

19 A. Yes, I understand that.

20 Q. And, based on what we have just
21 discussed, you have not attempted to model the
22 contract prices with regard to those transactions; is
23 that correct?

24 A. No, the output of Dayton's generating
25 units will be valued at the generating node

1 locational marginal price when they're sold into PJM,
2 so I believe that's the correct price to use. That's
3 what I've used and that's what the company has done
4 as well.

5 Q. Am I correct that the methodology that
6 you used assumed that all DP&L's energy sales were
7 made into PJM's day ahead or hourly spot market?

8 A. Not necessarily.

9 Q. What is incorrect with that statement?

10 A. There's a bright line distinction between
11 the price that generating units will receive in PJM
12 versus the contract prices that Dayton Power & Light
13 may have with an affiliate, for instance. So you're
14 talking about Dayton Power & Light's obligations as a
15 load serving entity in PJM or, perhaps, a retail
16 arrangement, and that's a question that's
17 essentially, I'm going use the word irrelevant to the
18 price that's received by Dayton's generating units
19 within PJM construct.

20 Q. So I think, if I understand it correctly,
21 the modeling that you did basically looked at the
22 transactions that would occur within the PJM market,
23 correct?

24 A. I would disagree with the word
25 "transactions." It's essentially the merit order

1 dispatch of generating units to serve load in a least
2 cost way within the PJM and MISO wholesale markets.

3 Q. Okay. With that qualification what
4 you're telling me is, is that the bilateral contracts
5 between DP&L and any affiliate or any other third
6 party were relevant for purposes of the dispatch
7 model; is that correct?

8 A. Did you use the word "relevant" or
9 "irrelevant"?

10 Q. "Irrelevant."

11 A. Irrelevant, correct.

12 Q. Now, once you conducted your dispatching
13 model, you concluded that DP&L's forecasts of
14 generation output was too low; is that correct?

15 A. Generally speaking, yes.

16 Q. And then you calculated an annual revenue
17 per megawatt-hour for each unit and applied it to
18 staff's model generation output; is that also
19 correct?

20 A. Yes. That was calculated using
21 information provided to us in the company's
22 workpapers.

23 Q. And are those the same workpapers that
24 we've been talking about which have been I think
25 identified as FES Exhibit 1?

1 A. Yes, that's correct.

2 Q. Were there any other documents used to
3 calculate the revenue effects of your changes?

4 A. They were incorporated into the testimony
5 of Staff Witness Mahmud, but other than that, no.

6 Q. You lost me with that answer. What was
7 incorporated?

8 A. My projected revenues.

9 Q. What I'm asking is in terms of your
10 calculating the projected revenues, was there
11 anything else that you used other than the generation
12 projections which you secured through the operation
13 of the Ventyx model and the revenue calculation which
14 you made as a result of using what's been identified
15 as FES Exhibit 1?

16 A. I'm sorry if I misunderstood your
17 question. No. There was no other information used.

18 Q. No need to apologize, it might have been
19 my question.

20 What specifically did you use out of FES
21 Exhibit 1, the internal work product -- the internal
22 workpapers, for calculating the revenues?

23 EXAMINER PRICE: Before you answer that
24 question, are you going to answer that in a way
25 that's going to tend to release confidential

1 information? Because if you are, we're going to go
2 onto the confidential transcript. Or can you answer
3 it generally without releasing any specifics?

4 THE WITNESS: I believe I can answer it
5 generally.

6 EXAMINER PRICE: Okay. That would be
7 best.

8 A. The company provided us estimates of
9 their unit -- generation end unit costs by month and
10 by year, so what I did using the company's
11 projections was to impute an effective annual revenue
12 per megawatt-hour for each unit, essentially dividing
13 revenues by output to come up with an average annual
14 effective revenue rate for each unit. And I applied
15 that effective annual revenue rate to the differences
16 in my modeled dispatch.

17 Q. And would it be fair to say that you did
18 basic -- used basically the same process for
19 calculating the expenses associated with that output?

20 A. Yes, that's fair.

21 Q. Now, in making your calculation of
22 revenues and expenses are you aware that, at least
23 for calendar year 2013, that the projected budget for
24 DP&L has been modified or has been -- let me see if I
25 can phrase this correctly -- that there are potential

1 additional expense reductions of \$45 million?

2 A. Yes, I am aware of that.

3 Q. Was any of that modeled in your
4 calculations?

5 A. No, it was not.

6 Q. Given that you've indicated that you
7 scaled up the expenses, can you explain why the table
8 on page 10 of your testimony shows a negative value
9 of the change in O&M expenses for 2013?

10 A. You have an astute eye, and I noticed
11 that myself and considered it strange at first
12 glance, and I think what's really driving that is the
13 fact that I have less output coming out of the
14 OVEC-owned units, and the company has essentially
15 treated the output of the OVEC units as a purchased
16 power contract.

17 So what that reduction in O&M really is
18 is essentially a reduction in the costs associated
19 with the purchased power contract.

20 Q. Had you modeled the reduction in
21 expenses, can you tell us directionally what effect
22 it would be on your projections?

23 A. I'm sorry, could you repeat the question?

24 Q. Sure. Had you modeled the reduction in
25 expenses of \$45 million, can you tell us

1 directionally what the effect on your projections it
2 would have been for 2013?

3 A. No.

4 Q. What's your understanding of the proposed
5 ESP term recommended by the staff?

6 THE WITNESS: Could I have that read
7 back, please?

8 (Record read.)

9 A. Staff is proposing an ESP duration of
10 three years which are consistent with the three
11 planning years in PJM, '13-'14, '14-'15, '15-'16.

12 Q. You have done projections all the way out
13 to 2017, correct?

14 A. I have run the model to dispatch the
15 units through 2017 but I haven't run the analysis of
16 what our recommended adjustment would be. As you can
17 see in my drafts, I have modeled those unit outputs
18 through 2017 but I haven't run the analysis of what
19 the ultimate adjustment would be.

20 Q. Are we to understand that the expense
21 adjustments and revenue adjustments that you proposed
22 are for calendar years 2013, '14, and '15? Is that
23 correct?

24 A. Yes, it is.

25 Q. And that doesn't match up with the

1 proposed ESP period, correct?

2 A. That's correct. So there was always
3 going to be a discrepancy in this regard. Ideally, I
4 would have liked to have modeled the planning years,
5 and I fought hard to do that, however, all the
6 information -- the financial information provided to
7 us by the company was by calendar year, so in order
8 for Mr. Mahmud to incorporate my adjustments in his
9 testimony, I was required to look at calendar years.
10 So that's why my testimony reflects calendar years
11 versus staff's recommendation of three planning
12 years.

13 Now, when rates go into effect is when
14 the Commission issues an order in this proceeding.
15 It probably won't be June 1st, 2013, and I'm
16 willing to bet it won't be January 1st, 2013.

17 Q. Yeah, that's probably a fair bet at this
18 point. Either that or we're going to have another
19 legal problem.

20 Now, did you test the modeling outputs
21 that you produced through your modeling with DP&L's
22 financial forecast?

23 A. I'm trying to understand your question.
24 I'm getting hung up on how -- test my model against
25 their forecast?

1 Q. Sure. Let me be more specific. Did you
2 compare DP&L's average projected sales price for spot
3 sales into the PJM market against the sales prices
4 reflected in your simulated dispatch?

5 A. Yes, I did.

6 Q. And how did those results come out?

7 A. Our simulated dispatch prices were
8 slightly lower, I believe, for both peak and off-peak
9 prices in years 2013 and 2014, and I believe they
10 were a little bit higher in 2015, so I guess what I'm
11 trying to say is they were actually very consistent
12 with each other, which gave me some comfort in having
13 adopted the company's wholesale revenue forecast
14 prices.

15 Q. But you also indicate that, in your
16 testimony, that Dayton's model optimizes the
17 company's assets in isolation, correct?

18 A. Yes. That's correct.

19 Q. Are you saying that as a result of that
20 it doesn't affect the output of the model? At least
21 with regard to LMP prices.

22 A. Dayton's forecasts don't affect my model
23 at all.

24 Q. Does the fact that it optimizes on a
25 generation-only basis result in discrepancies between

1 the two models?

2 A. That is one difference between the two
3 models.

4 Q. But what you're saying is it doesn't seem
5 to affect the LMP prices generated by those models;
6 is that correct?

7 A. I don't believe that Dayton's model
8 produced LMPs. The forward price curves was an input
9 to the company's model by my understanding.

10 Q. So going back to my first question in
11 this series, when you say that the results of your
12 model generally were consistent with the forward
13 prices, what you're saying is it's generally
14 consistent with the forward prices that DP&L used in
15 its model.

16 A. That's correct.

17 Q. Now, the model that Dayton used -- DP&L
18 used, excuse me, did you have access to that model?

19 A. No, I did not.

20 Q. So is it fair to say that you didn't
21 review many of the model inputs used by the company?

22 A. I reviewed some of them to the extent
23 that they were provided to us in the company's
24 workpapers.

25 Q. Do you know whether or not you had the

1 full set?

2 A. I don't know.

3 Q. So you don't know what you were missing
4 either, correct?

5 A. I don't recall if there was anything
6 missing. I think they had most of the important
7 stuff covered.

8 Q. Well, let's go back to my original
9 question. You don't have access -- you didn't have
10 access to the model itself, correct?

11 A. No, I didn't.

12 Q. So in terms of knowing all the parameters
13 of the inputs, you don't know what they used,
14 correct?

15 A. That's correct.

16 Q. Are you familiar with the term "net
17 hourly RTO accounting"?

18 A. No.

19 Q. Did you investigate as to whether or not
20 DP&L utilizes net hourly accounting? Net hourly RTO
21 accounting, excuse me.

22 A. No.

23 Q. Can you give us a timeframe for when you
24 ran your model? And I'm speaking now specifically of
25 the Ventyx runs that you're testifying to.

1 A. I believe it was late-December probably
2 carrying over into early calendar year 2013.

3 Q. So the pricing information that was used
4 for that model would have been collected when, if you
5 know?

6 A. I believe it was August of 2012.

7 Q. So it would have been contemporaneous
8 with the information that you received -- that's
9 contained in the original filing by DP&L, correct?

10 A. That's correct.

11 Q. The updating on gas prices, what's the
12 parentage of that information? What was the date
13 associated with that information?

14 A. December 5th, 2012.

15 EXAMINER PRICE: Could I have that answer
16 again, please?

17 (Record read.)

18 EXAMINER PRICE: Thank you.

19 MR. DARR: I have nothing further, thank
20 you.

21 EXAMINER PRICE: Thank you.

22 Mr. O'Brien?

23 MR. O'BRIEN: No questions, your Honor.

24 EXAMINER PRICE: Mr. Williams?

25 MR. WILLIAMS: No questions, your Honor.

1 EXAMINER PRICE: Mr. Yurick?

2 MR. YURICK: No questions. Thank you,
3 your Honor.

4 EXAMINER PRICE: Major?

5 MAJOR THOMPSON: Nothing, sir.

6 EXAMINER PRICE: Company?

7 MR. FARUKI: Thank you, your Honor.

8 - - -

9 CROSS-EXAMINATION

10 By Mr. Faruki:

11 Q. Mr. Benedict, I'm Charlie Faruki, I
12 represent DP&L in this matter.

13 MR. DARR: I need to request that you
14 speak up.

15 MR. FARUKI: Sorry.

16 MR. DARR: The blower came on and we're
17 struggling back here.

18 MR. FARUKI: Will do.

19 Q. Will you take a look at page 8 of your
20 testimony. In the answer to question 12 you say
21 that --

22 EXAMINER PRICE: Mr. Faruki, do we need
23 to go on the confidential transcript?

24 MR. FARUKI: Actually, most of mine is
25 probably going to be there, yes.

1533

1 EXAMINER PRICE: Let's go on the
2 confidential transcript. We'll ask anybody who has
3 not signed a confidentiality agreement with the
4 company to please excuse themselves at this time.

5 Sorry, Steve.

6 MR. HOWARD: That's all right.

7 (Confidential portion excerpted.)
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(Open record.)

EXAMINER PRICE: Mr. McNamee, any
redirect?

MR. McNAMEE: No, I have no questions,
your Honor. I would ask to move the admission of
Staff Exhibits 3 and 3A.

EXAMINER PRICE: Mr. Benedict, you're
excused.

Any objection to the admission of Staff
Exhibits 3 and 3A?

MR. FARUKI: No, your Honor.

EXAMINER PRICE: Seeing none, they'll be
admitted.

(EXHIBITS ADMITTED INTO EVIDENCE.)

MR. DARR: We marked IEU Exhibit 28, I
move that, move admission of 28 at this time.

EXAMINER PRICE: Any objections to the
admission of IEU Exhibit 28?

MR. FARUKI: No, your Honor.

MR. McNAMEE: No.

EXAMINER PRICE: It will be admitted.

(EXHIBIT ADMITTED INTO EVIDENCE.)

EXAMINER McKENNEY: Mr. Siegfried, please

1 raise your right hand.

2 (Witness sworn.)

3 EXAMINER McKENNEY: Please state your
4 name and address for the record.

5 THE WITNESS: My name is Stuart
6 Siegfried, last name is S-i-e-g-f-r-i-e-d, and
7 business address is 180 East Broad Street, Columbus,
8 Ohio, 43215.

9 - - -

10 STUART M. SIEGFRIED

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

13 DIRECT EXAMINATION

14 By Mr. McNamee:

15 Q. Mr. Siegfried, by whom are you employed?

16 A. By the Public Utilities Commission of
17 Ohio.

18 Q. In what capacity do you work for the
19 Public Utilities Commission of Ohio?

20 A. I work as a utility specialist.

21 Q. Thank you.

22 MR. McNAMEE: Your Honors, at this time
23 I'd ask to have marked for identification as Staff
24 Exhibit 4 the prefiled testimony of Stuart M.
25 Siegfried.

1 EXAMINER MCKENNEY: It will be so marked.

2 (EXHIBIT MARKED FOR IDENTIFICATION.)

3 Q. Mr. Siegfried, you have before you what's
4 been marked for identification as Staff Exhibit 4.

5 A. Yes, sir.

6 Q. What is it?

7 A. It is my prefiled testimony in this
8 proceeding.

9 Q. Do you have any corrections to make to
10 that document?

11 A. No, sir.

12 Q. Okay. Was what's been previously marked
13 for identification as Staff Exhibit 4 prepared by you
14 or under your direction?

15 A. Yes, it was.

16 Q. Are the contents true to the best of your
17 knowledge and belief?

18 A. Yes.

19 Q. Okay. If I were to ask you the questions
20 that are contained within what's been marked for
21 identification as Staff Exhibit 4 again here this
22 afternoon, would your answers today be as represented
23 therein?

24 A. Yes, sir.

25 Q. Do you adopt the contents of what's been

1 marked for identification as Staff Exhibit 4 as your
2 direct testimony in this case?

3 A. I do.

4 MR. McNAMEE: With that, your Honor, the
5 witness is available for cross-examination.

6 EXAMINER MCKENNEY: Mr. Howard?

7 MR. HOWARD: No, thank you, your Honor.
8 No questions.

9 EXAMINER MCKENNEY: Ms Bojko?

10 MS. BOJKO: Yes, your Honor, thank you.

11 - - -

12 CROSS-EXAMINATION

13 By Ms. Bojko:

14 Q. Mr. Siegfried, are you familiar with
15 Mr. Parke's testimony that was filed in this
16 proceeding on behalf of the company?

17 A. Yes.

18 Q. And on page 4 of your testimony you
19 describe the company's methodology that was supported
20 by Mr. Parke. Do you see that?

21 A. Yes.

22 Q. And is that your understanding that this
23 methodology is the company's methodology for the
24 3 percent cost cap that was supported by Mr. Parke?

25 A. I believe that's the methodology they

1 proposed in this proceeding.

2 Q. And do you agree with the company's
3 methodology of establishing the 3 percent cap by
4 increasing the per kW price based on one auction by
5 the 3 percent?

6 MR. McNAMEE: Could I ask to have the
7 question reread, please?

8 (Record read.)

9 A. It's not that -- the methodology that I
10 would have advocated but I do think there are
11 questions about the methodology and I think that
12 there are proceedings that will be evaluating
13 different options for determining the methodology and
14 I think that those could have some relevant outcomes.

15 Q. So in this proceeding you're not
16 supporting the adoption of the 3 percent cost cap as
17 calculated by the company.

18 A. I am not.

19 MS. BOJKO: Thank you.

20 I have no further questions, your Honor.

21 EXAMINER McKENNEY: Thank you.

22 OCC?

23 MS. YOST: No questions, your Honor.

24 Thank you.

25 EXAMINER McKENNEY: Mr. Williams?

1 MR. WILLIAMS: No questions, your Honor.

2 MR. SINENENG: No questions, your Honor.

3 EXAMINER MCKENNEY: Mr. Darr?

4 MR. DARR: No questions, your Honor.

5 MR. YURICK: No questions, your Honor.

6 EXAMINER MCKENNEY: Major?

7 MAJOR THOMPSON: Nothing, sir.

8 EXAMINER MCKENNEY: Mr. Faruki?

9 MR. FARUKI: Thank you, your Honor.

10 - - -

11 CROSS-EXAMINATION

12 By Mr. Faruki:

13 Q. Good afternoon. I'm Charlie Faruki and I
14 represent DP&L in this matter.

15 First of all, you agree with me that
16 there are costs to comply with the alternative energy
17 portfolio requirements in Ohio, right?

18 A. Yes, sir.

19 Q. And you are also in agreement, as I
20 understand it, with the point that DP&L should
21 recover its reasonable costs of compliance with those
22 portfolio requirements; is that right?

23 A. Yes, sir.

24 Q. And if you look at question 7 and the
25 answer to question 7 where you're reciting the fact

1 that the company has proposed to adjust the AER on a
2 seasonal quarterly basis with new rates becoming
3 effective on March 1, June 1, September 1, and
4 December 1, you find that approach reasonable, don't
5 you?

6 A. Yes, sir.

7 Q. If you go over to page 4, is it accurate
8 that you do not oppose a cost threshold in theory,
9 but, as you state on I think line 15, you think it
10 may be premature to develop it in this case? Is that
11 right?

12 A. I do not disagree with the concept.

13 Q. Yes, sir.

14 A. How you get the number underlying the
15 concept I think is still being considered in a few
16 proceedings.

17 Q. And what proceedings are those?

18 A. There is an ongoing case 11-5201-EL-RDR
19 where 3 percent methodology is one of the items being
20 evaluated, and there is also a docket recently opened
21 that will be looking at Chapter 40 of the Ohio
22 Administrative Code. Chapter 40 covers the
23 alternative energy portfolio standard.

24 Q. So do you believe that the cost recovery
25 should be implemented yet this year; 2013?

1 A. I'm sorry, when you say "cost
2 recovery" --

3 Q. Yeah, let me rephrase that. Are you
4 thinking that the mechanism by which the AER operates
5 should await both of the proceedings you identified,
6 the 11-5201 case and the more recently opened case,
7 before anything is done?

8 A. Not necessarily. It's my understanding
9 that the company does not believe it has reached the
10 3 percent under their current calculation at this
11 point. I believe that they had a calculation that
12 showed that to be a concern, perhaps before these
13 other proceedings were resolved, and perhaps that is
14 something that the Commission should consider.

15 Q. Well, that's where I was going. If that
16 3 percent level is met or exceeded and the other
17 proceedings haven't produced something definitive,
18 you are not necessarily proposed -- opposed to the
19 company coming to the Commission for relief, right?

20 A. For Commission consideration?

21 Q. Yes.

22 A. I'm not opposed to that, no.

23 Q. You are aware that Ohio Revised Code
24 Section 4928.64(C)(3) does contain a 3 percent cost
25 threshold?

1 A. It includes language pertaining to a
2 3 percent provision, yes.

3 Q. And you are also aware that that statute
4 contains language that says that a utility need not
5 comply with a benchmark to the extent that its
6 reasonably expected costs of compliance exceed its
7 reasonably expected costs of otherwise producing or
8 acquiring the electricity by 3 percent or more,
9 right?

10 A. I don't have it memorized but I think
11 that conveys the concept.

12 Q. Okay. Since the 3 percent that is in
13 DP&L's proposal is also in the statute, if DP&L's
14 proposal were to be adopted, the 3 percent level and
15 the propriety of the 3 percent level can be
16 considered in different proceedings for different
17 companies concurrently, right?

18 MS. BOJKO: Objection, your Honor.

19 EXAMINER MCKENNEY: Grounds?

20 MS. BOJKO: I think it assumes facts not
21 in evidence. Counsel stated that DP&L's threshold is
22 in the law, and I don't believe that that
23 interpretation is accurate.

24 MR. FARUKI: That's not what I said, your
25 Honor. My question was since -- I explicitly

1 referred to DP&L's 3 percent being in its proposal
2 but the statute has a 3 percent provision.

3 EXAMINER MCKENNEY: Can I have the
4 question read back.

5 (Record read.)

6 EXAMINER MCKENNEY: The objection is
7 overruled.

8 If the witness knows the answer, he can
9 answer the question.

10 A. I'm afraid I don't understand that
11 question.

12 Q. (By Mr. Faruki) All right. Let me ask --
13 let me approach it this way: You agree with me that
14 DP&L's proposed 3 percent cost cap is consistent with
15 the 3 percent cap in the law.

16 MR. McNAMEE: Objection. I think it asks
17 fairly clearly for a legal conclusion. This witness
18 is not a lawyer.

19 MR. FARUKI: Consistent with your
20 previous rulings about that, he said he is familiar
21 with the statute and I think the question's proper.

22 EXAMINER MCKENNEY: The objection is
23 overruled.

24 The witness can answer the question if he
25 knows it.

1 MR. FARUKI: Can you read it back to him,
2 please?

3 (Record read.)

4 A. Again, I agree that there is a 3 percent
5 provision in the statute, and I agree that Dayton has
6 proposed a methodology for reaching that, I don't
7 necessarily agree that the methodology they proposed
8 is appropriate.

9 Q. But you're not saying it's inconsistent
10 with the statute as you understand the law; is that
11 right?

12 A. Actually, I believe it is inconsistent.

13 Q. Tell me why.

14 A. Because the statute refers to, I don't
15 know if the language is "produce" or "acquire," so my
16 nonlegal interpretation would be that would be
17 inappropriate to rely exclusively on cost of
18 acquisition if you are not a company that is, say,
19 100 percent underbid; under a scenario where they're
20 bidding out a hundred percent of their electricity.

21 MR. FARUKI: Can you read that back?

22 (Record read.)

23 EXAMINER PRICE: Mr. Siegfried, then what
24 you're saying is if a company owns generation assets
25 and partially provides its own generation in some

1 sort of blend situation, it wouldn't simply be the
2 competitive bid, it was some mix of the blend and its
3 own generation costs.

4 I'm sorry, I butchered that question.

5 It would be some combination of the
6 competitive bid and its own cost of generation.

7 THE WITNESS: That would be my position
8 here now. Again, I think there are --

9 EXAMINER PRICE: Today.

10 THE WITNESS: -- ongoing proceedings
11 where this would be considered, but, yes.

12 EXAMINER PRICE: Thank you.

13 Q. (By Mr. Faruki) In view of what you just
14 told the examiner, when you say "it would be my
15 position now," are you saying that this is a staff
16 position that's still being formulated?

17 A. As I believe I tried to relay in my
18 testimony here, I was not proposing a specific
19 methodology, but rather saying that a methodology
20 that they -- that the company proposed, that it did
21 not support that and that it was premature to
22 determine this specific methodology.

23 Q. So you're not sponsoring or proposing a
24 particular methodology now.

25 A. No, sir.

1 Q. Do you agree that the 3 percent cost cap,
2 as DP&L has proposed it, could benefit customers?

3 A. Not necessarily.

4 Q. Do you see any customer benefits?

5 A. I did not run a calculation using a
6 different methodology, so it's difficult for me to
7 compare the proposed methodology versus the result of
8 a different scenario and, therefore, come up with I
9 guess a benefit from one versus the other.

10 Q. Well, you agree that if customer
11 switching increases, then the deferral balances in
12 the bypassable riders, such as the AER, would
13 continue to grow, right?

14 A. I'm not sure about the deferral balance
15 part. I think that if customers continue to switch,
16 I think the company will be attempting to recover
17 their compliance costs over a smaller customer base.
18 Maybe that's saying the same thing, but --

19 Q. I think we're getting to the same point,
20 yes.

21 And if the company is in the position,
22 then, of trying to recover these balances from a
23 smaller customer base, that problem worsens as
24 each -- if there's increasing switching, that problem
25 worsens as each true-up comes along, right?

1 MS. BOJKO: Objection, your Honor.
2 We're, again, assuming facts not in evidence. There
3 are many other factors that go into the level of RPS
4 requirements that pass through this rider that
5 counsel is not alluding to.

6 MR. FARUKI: Your Honor, this is an
7 all-else-being-equal type of question. It's simply
8 asking what would be the effect assuming increased
9 switching. He can answer that.

10 EXAMINER MCKENNEY: The objection is
11 overruled.

12 If the witness knows the answer, he can
13 answer.

14 THE WITNESS: Could I have the question
15 repeated?

16 EXAMINER MCKENNEY: Sure.

17 MR. FARUKI: Let me reask it, maybe I can
18 simplify it.

19 Q. (By Mr. Faruki) If switching is
20 increasing over time, then this is one of the rates
21 that would be trued up, right? Under the company's
22 proposal.

23 A. I think I'm having trouble with the first
24 part of your question. I think it's something that
25 they would propose to true up --

1 Q. Right.

2 A. -- regardless of customer switching.

3 Q. Yes, I agree. I didn't mean to confuse
4 you. That's fine.

5 A. Okay.

6 Q. And so with each successive true-up in a
7 situation where there is increased switching, then
8 the problem that you described of having fewer
9 customers to bear the cost would worsen, wouldn't it?

10 A. I'm not sure that I can answer that. I
11 mean, I think the numbers would be trued up and
12 adjusted quarterly. So how that's tracking past
13 recoveries and how that might incorporate any sort of
14 true-up going forward, what that would mean to an
15 increment, I'm not sure.

16 Q. Well, you agree with me that the amounts
17 that result from the true-ups would end up burdening
18 the customers that are left on SSO service, right?

19 A. Meaning if there's an unrecovered amount
20 in the AER, would it --

21 Q. Yes. Sir.

22 A. -- continue to be assigned to bypassable,
23 to customers who remain with Dayton?

24 Q. Yes.

25 A. That's my understanding.

1 Q. And as those balances increase, if there
2 is switching, you have fewer customers that are
3 responsible for an increasing amount; isn't that
4 correct?

5 MS. BOJKO: Objection. Asked and
6 answered three times now.

7 MR. FARUKI: I don't think it's clear on
8 the record yet, your Honor.

9 EXAMINER MCKENNEY: Objection's
10 overruled.

11 MR. FARUKI: Do you want the question
12 again?

13 THE WITNESS: Please.

14 MR. FARUKI: Could you read it back to
15 him, please?

16 (Record read.)

17 A. I believe that's correct, yes.

18 Q. Okay. Did you review the testimony of
19 Nathan Parke, DP&L's witness?

20 A. Yes, I did.

21 Q. As I understand it, there's no specific
22 defect that you can identify on this record today
23 with regard to how DP&L suggests calculating the
24 3 percent cost cap; is that right?

25 A. I don't believe that's accurate.

1 Q. Okay. Tell me what the criticism is
2 then.

3 A. I think there are different
4 methodologies, again, that I would likely propose,
5 but I think it's premature to do so at this point.

6 Q. Maybe you misunderstood my question. I'm
7 asking not about other methodologies but about the
8 one DP&L has proposed. And my question is: Do you
9 have a particular criticism of it or are you,
10 instead, saying I would just like more time to
11 evaluate other methodologies?

12 A. Okay, I understand. I apologize.

13 I do think there are at least a couple of
14 items that I think would warrant specific
15 consideration, one of which is I believe the use of a
16 fixed number for the life of the -- or, for the term
17 of the ESP. The other is a strict reliance on the
18 bid, projected bid price.

19 EXAMINER PRICE: When you say "warrant
20 further consideration," do you have a problem with
21 those? Do you disagree with those? Or you think the
22 Commission should mull it over.

23 THE WITNESS: Well, I don't know if there
24 is a formal staff position. Personally, yes, I would
25 not --

1 EXAMINER PRICE: You're the one on the
2 stand today.

3 THE WITNESS: I would not utilize the
4 approach they proposed.

5 EXAMINER PRICE: Either of those two
6 approaches.

7 THE WITNESS: Correct.

8 Q. (By Mr. Faruki) And what do you mean,
9 when you say "fixed number for the life of the ESP,"
10 what's your concern there?

11 A. I think that this is something that
12 should be revisited more frequently than once at the
13 beginning of this term. I think costs will be
14 changing and, therefore, I think it would be more
15 appropriate to reflect the changing prices.

16 Q. What was the second criticism again?

17 A. I believe a strict reliance on just the
18 competitive bid price.

19 Q. What would you suggest there?

20 A. I would suggest some sort of blend, a
21 proportional blending considering not only the price
22 to -- excuse me, the cost to acquire electricity, but
23 also the cost of producing electricity.

24 EXAMINER PRICE: Mr. Siegfried, do you
25 think the proxy should be the standard service offer

1 generation rate that the company has which might
2 change over time with CBP results?

3 THE WITNESS: I think I would need to
4 know what all is involved or goes into driving that
5 particular cost.

6 EXAMINER PRICE: Okay. So, no, that's
7 not specifically what you're talking about.

8 THE WITNESS: Not specifically.

9 EXAMINER PRICE: Okay.

10 Q. (By Mr. Faruki) Do you have concerns over
11 what the level of the AER rate would become over
12 time?

13 A. Yes.

14 Q. Okay. Tell me what those concerns are.

15 A. There is statutory language discussing a
16 cost provision. There are different interpretations
17 as to the, I guess the implementation of that
18 provision, but I do think there is statutory
19 language, at least I mean addressing the cost and
20 raising that as a concern.

21 Q. Okay. That doesn't quite answer my
22 question.

23 Would you be -- let me ask it this way:
24 Would you be concerned if the AER rate becomes 1 cent
25 per kilowatt-hour?

1 A. And it's consistent with the 3 percent
2 calculation or just in general?

3 Q. Well, take them both. Let's try in
4 general first.

5 A. If that's what the rate is and yet it's
6 deemed to be consistent with the statute, then I
7 don't think I would have a problem with that.

8 Q. Well, would you be concerned if the AER
9 rate becomes 3 cents a kilowatt-hour?

10 A. And it's consistent with the statute?

11 Q. Yes.

12 EXAMINER PRICE: I'm sorry. When?
13 3 percent per kilowatt-hour in 2013 or 3 cents per
14 kilowatt-hour in 2022? As the percentages go up
15 surely we all expect the rate is going to go up.

16 MR. FARUKI: Yes. What I was trying to
17 get at, your Honor -- I understand your question.
18 What I was trying to get at is it's another way of
19 trying to get a fix on the staff position here and
20 that is I wasn't trying to project that out over
21 time.

22 Given current conditions I was trying to
23 figure out in this evolving staff position which is,
24 frankly, a bit hard to pin down, where the level of
25 concern comes in about costs. So I was really

1 thinking of 2013.

2 EXAMINER PRICE: Fair enough.

3 Q. (By Mr. Faruki) So my question: Would
4 you have a concern if it were at 3 cents?

5 A. I think as it goes up, it raises concern,
6 but if, I mean, if it's still consistent with the
7 statute, I guess it's a question of how you perceive
8 those concerns I guess.

9 MR. FARUKI: May I have a minute, your
10 Honor?

11 EXAMINER McKENNEY: You may.

12 MR. FARUKI: Thank you, Mr. Siegfried.
13 Your Honors, that's all I have.

14 EXAMINER McKENNEY: Thank you.
15 Redirect?

16 MR. McNAMEE: If I might have a minute.

17 EXAMINER McKENNEY: You may. Let's go
18 off the record.

19 (Recess taken.)

20 EXAMINER McKENNEY: Let's go back on the
21 record.

22 Mr. McNamee.

23 MR. McNAMEE: No questions, your Honor.

24 Staff would move the admission of Staff
25 Exhibit 4.

1 EXAMINER PRICE: Not so fast.

2 You're familiar with the company's
3 proposal for a placeholder rider to recover the costs
4 of the Yankee Solar Facility?

5 THE WITNESS: Yes, sir.

6 EXAMINER PRICE: Does staff have a
7 position on that rider?

8 THE WITNESS: I did not address it in my
9 testimony.

10 EXAMINER PRICE: I know, that's why I
11 thought I better ask you while you're on the stand.

12 THE WITNESS: We did not contest it as a
13 zero dollar placeholder I think with the expectation
14 that there would be a separate future proceeding
15 where any number of legal requirements and cost
16 issues would be considered --

17 EXAMINER PRICE: Okay.

18 THE WITNESS: -- prior to any amount
19 going into the placeholder.

20 EXAMINER PRICE: Okay. Perfect. Thank
21 you.

22 EXAMINER McKENNEY: Mr. Siegfried, you're
23 excused.

24 And Mr. McNamee previously moved the
25 admission of Staff 4. Any objection to that?

1567

1 (No response.)

2 EXAMINER MCKENNEY: It will be so
3 admitted.

4 (EXHIBIT ADMITTED INTO EVIDENCE.)

5 EXAMINER MCKENNEY: Let's go off the
6 record and take a recess until 2:15.

7 (Lunch recess taken.)

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1 Monday Afternoon Session,
2 March 25, 2013.

3 - - -

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

6 Mr. Margard.

7 MR. MARGARD: Thank you, your Honor.
8 Staff would call Victor Gallina to the stand.

9 (Witness sworn.)

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

12 THE WITNESS: Victor Gallina, 180 East
13 Broad Street, Columbus, Ohio, 43215.

14 MR. MARGARD: Your Honor, I would
15 respectfully request to be marked as Staff Exhibit
16 No. 5 for purposes of identification the prefled
17 testimony of Victor Gallina filed in this case on
18 March 11th, 2013.

19 EXAMINER PRICE: So marked.

20 (EXHIBIT MARKED FOR IDENTIFICATION.)

21 - - -

22 VICTOR P. GALLINA

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

25 DIRECT EXAMINATION

1 By Mr. Margard:

2 Q. Mr. Gallina, do you have before you what
3 has been marked as Staff Exhibit 5?

4 A. Yes.

5 Q. Could you identify that for us, please?

6 A. That is my prefiled testimony in this
7 proceeding.

8 Q. And was this prepared by you or at your
9 direction?

10 A. Yes, it was.

11 Q. Have you had a chance to review your
12 testimony before taking the stand this afternoon?

13 A. Yes.

14 Q. Do you have any changes, corrections,
15 additions, or modifications of any kind?

16 A. No.

17 Q. And if I were to ask you the questions as
18 posed herein, would your answers be the same?

19 A. Yes.

20 Q. And to the best of your knowledge and
21 belief are they true and reasonable?

22 A. Yes.

23 MR. MARGARD: Your Honor, I would
24 respectfully move for the admission of Staff Exhibit
25 No. 5 subject to cross-examination and I tender

1 Mr. Gallina for that purpose.

2 EXAMINER PRICE: Thank you.

3 Mr. Howard?

4 MR. HOWARD: No questions. Thank you,
5 your Honor.

6 EXAMINER PRICE: Consumers' Counsel?

7 MS. YOST: Yes. Thank you, your Honor.

8 - - -

9 CROSS-EXAMINATION

10 By Ms. Yost:

11 Q. Good afternoon, Mr. Gallina.

12 A. Good afternoon.

13 Q. If I could have you turn to page 4 of
14 your testimony, sir.

15 A. Okay.

16 Q. Starting on line 9, the first sentence,
17 full sentence starts "Staff's proposal is to follow
18 the same methodology as is currently used, but to
19 exclude DPLER load."

20 My question to you, sir, is: What effect
21 would it have on the fuel rate if the same
22 methodology is used but the DPLER load is excluded?

23 A. The effect on the fuel rate would be that
24 the fuel rate would be lower than it otherwise would
25 be.

1 Q. Thank you.

2 Sir, in front of you I've laid a document
3 that's been previously marked as FES Exhibit No. 9.
4 Could you please take a moment to review that
5 exhibit, please.

6 A. Okay.

7 Q. Have you seen this document before, sir?

8 A. I cannot say for certain. I don't recall
9 looking at FES interrogatories, but it does kind of
10 look familiar so some of this looks familiar.

11 Q. Sir, I will just convey to you that this
12 is not an FES interrogatory, it was pursuant to a
13 staff request.

14 A. Okay.

15 Q. FES just introduced it as an exhibit. So
16 I don't want that to confuse you.

17 A. All right.

18 Q. This document here shows, the first page
19 shows two charts, one chart regarding the system
20 average fuel rate, the second chart in regard to the
21 least cost fuel rate. Do you see those two separate
22 charts, sir?

23 A. Yes, on page 1.

24 Q. And if you look, each chart is identified
25 by years, 2013, 2014, 2015, 2016, to 2017. My

1 question to you, sir, is it is indicated that in the
2 year 2016 -- if you could compare those two
3 methodologies for the year 2016.

4 A. Okay. I see that. Is there a question?

5 Q. Thank you. And based upon what the
6 company represents, in the year 2016 the least cost
7 fuel rate is higher than the system average fuel
8 rate. Do you see that, sir?

9 A. Yes, I do.

10 Q. And if you compare that to years 2013,
11 '14, and '15, for those three years the least cost
12 fuel rate is lower than the system average fuel rate;
13 is that correct, sir?

14 A. According to this chart, yes.

15 Q. Do you know why the least cost fuel rate
16 is indicated as being higher than the system average
17 fuel rate in 2016?

18 A. I cannot explain that.

19 Q. Would you expect that any fuel rate that
20 is based on the least cost methodology would always
21 be lower than the system average fuel rate?

22 A. I would expect that, yes. The only thing
23 I would point out is these are all projections which,
24 by definition, are not actual costs and so the way
25 these numbers are calculated would certainly be

1 different than an actual cost calculation.

2 MS. YOST: Thank you. I have no further
3 questions.

4 Thank you, Mr. Gallina.

5 EXAMINER PRICE: Mr. Williams?

6 MR. WILLIAMS: No questions, your Honor.

7 EXAMINER PRICE: Mr. Hayden?

8 MR. HAYDEN: No, thank you.

9 EXAMINER PRICE: Mr. Oliker?

10 MR. OLIKER: No questions, your Honor.

11 EXAMINER PRICE: Mr. Yurick?

12 MR. YURICK: No, thank you, your Honor.

13 EXAMINER PRICE: Major?

14 MAJOR THOMPSON: No, sir.

15 EXAMINER PRICE: Mr. Sharkey?

16 MR. SHARKEY: Yes, your Honor.

17 EXAMINER PRICE: Actually, before

18 Mr. Sharkey -- I take that back, you go first,

19 Mr. Sharkey.

20 - - -

21 CROSS-EXAMINATION

22 By Mr. Sharkey:

23 Q. Mr. Gallina, as you know, my name is Jeff
24 Sharkey and I represent The Dayton Power & Light
25 Company.

1 Your testimony addresses the fuel rider
2 that DP&L charges to SSO customers, correct?

3 A. That DP&L proposes to charge, yes.

4 Q. That fuel rider, will it phase out as
5 competitive bidding is implemented in DP&L's service
6 territory?

7 A. It will phase out in that the percent of
8 SSO load that is -- the fuel rider is allocated to
9 reduce over time, yes. There will be a fuel rider,
10 you know, through, it was '16.

11 Q. Once DP&L's reached a hundred percent
12 competitive bidding there will no longer be these
13 fuel rate issues that we're about to talk about.

14 A. Correct. There would be no fuel rider if
15 the proposal is approved as submitted, yes.

16 Q. You understand that DP&L acquires fuel
17 from various different sources under various
18 different contracts that are signed at various
19 different times.

20 A. Yes, sir.

21 Q. Okay. So the fuel that DP&L uses costs
22 different amounts depending upon the source of the
23 fuel and when the contract was signed?

24 A. Yeah. Among other factors, yes.

25 Q. I think there's been three different

1 methods discussed in this case for allocating fuel
2 costs to SSO customers is at the fuel rate and I want
3 to talk through those.

4 First of all you understand that DP&L
5 proposes to use in this case a system average cost
6 methodology.

7 A. Yes.

8 Q. And under DP&L's proposed method DP&L
9 would determine how much fuel it needed to serve all
10 of its customers, including SSO load, DPLER, and
11 other wholesale customers, for a given period and
12 would then take an average of that cost and then
13 would use the average of that amount to set the fuel
14 rider that's charged to SSO customers.

15 A. That's my understanding, yes.

16 Q. It would be a calculation based upon
17 total -- all customers and all fuel to calculate an
18 average.

19 A. Yeah, the only thing I would add to that
20 is that I believe purchased power costs are
21 includable in that calculation, although the
22 discussions during the case I was never totally clear
23 about how purchased power was treated.

24 Q. You weren't clear how DP&L treated
25 purchased power for purposes of its proposal?

1 A. Yes.

2 Q. The second methodology at least as to
3 fuel costs is that you proposed a least cost
4 methodology, right?

5 A. Least cost to SSO customers, yes.

6 Q. Right. So that the least cost fuel that
7 DP&L needs to serve its customers would be allocated
8 to the SSO customers and then the fuel rider would be
9 calculated based upon an average of that least cost
10 fuel allocated to SSO customers.

11 A. Yes.

12 Q. Okay. And then you've opined that that's
13 going to result in a lower fuel rate than the system
14 average cost since retail customers pay least cost
15 not average cost, right?

16 A. Yes, that's correct. I believe
17 mathematically that is the only possible result.

18 Q. Though that might depend upon how
19 purchased power is treated in different situations,
20 but only looking at fuel mathematically, I think
21 you're right.

22 Strike that because that was just a
23 statement, not a question.

24 Let's turn to the third methodology. You
25 understand that DP&L currently uses a variation of

1 your least cost method that includes DPLER in the
2 least cost stack, right?

3 A. That's my understanding of what is the
4 situation now, but I -- you describe it as the third
5 methodology but I don't know that it's been put
6 forward as a proposal in the case by any party.

7 Q. I'm not aware any party's put it forward
8 either, but it is the current methodology that's in
9 place, right?

10 A. Yes.

11 Q. And just so we're clear, that
12 methodology -- strike that.

13 Do you know whether DP&L sells generation
14 to DPLER at market rates?

15 A. I know DP&L sells generation to DPLER; I
16 have not personally investigated the price at which
17 that transaction takes place. I've seen data request
18 responses that indicate that the sales are at market
19 rates.

20 Q. So the fuel rider calculation that is
21 currently in place doesn't have anything to do with
22 the prices that DP&L charges to DPLER for generation
23 as you understand it; is that true?

24 A. That is true. In the course of perhaps a
25 prior case a question was proposed or put forth to

1 DP&L as to whether DP&L charges DPLER a fuel rider at
2 some -- in some way, shape, or form, and the answer
3 that I was given was no. So I don't believe there
4 was any explicit charge -- it's my understanding
5 there's no explicit charge from DP&L to DPLER for
6 fuel.

7 Q. Okay. But DPLER is included in the least
8 cost stack for calculating what amount will be
9 charged to SSO customers for the fuel rider pursuant
10 to their SSO rates, correct?

11 A. DPLER's load is, yes.

12 Q. Okay.

13 A. Today.

14 Q. So the current methodology would result
15 in a rate charged SSO customers somewhere in between
16 your proposed methodology, meaning a pure least cost
17 methodology to SSO customers, and DP&L's proposed
18 methodology that would be a system average cost,
19 wouldn't it?

20 A. I would expect that to be the case, yes.

21 Q. The current method will be greater than
22 yours because there is more load included in the
23 least cost stack, meaning both SSO load and DPLER
24 load, right?

25 A. That would -- the math would follow that

1 result, yes.

2 Q. And it would be lower than The Dayton
3 Power & Light Company's because the higher cost fuel
4 would end up being allocated to pure wholesale
5 transactions, so the average of DPLER and SSO
6 customers would be lower than system average, in your
7 expectation?

8 A. You started the sentence off with "it"
9 and I wasn't sure what "it" went toward.

10 Q. Okay. Well, then I -- let me rephrase.

11 The current methodology with DPLER
12 included in the least cost stack will result in a
13 fuel rate that is lower than DP&L's system average
14 cost because under the current methodology that's
15 being used the highest cost fuel at least is being
16 allocated to pure wholesale customers.

17 A. I would agree that should be the
18 mathematical result, yes.

19 Q. In your testimony it's true, isn't it,
20 that you don't cite any statutory obligation that
21 DP&L has to allocate least cost fuel to retail
22 customers?

23 A. I do not cite any statutory basis for my
24 recommendation. If in 15 or 20 years there was an
25 electric fuel clause for which there were statutes

1 and administrative code provisions and those were
2 rescinded, I believe as part of SB 3, but I can tell
3 you that we have used those -- the Ohio
4 Administrative Code Sections 4901:1-12 -- 11 as
5 guidelines in our audits, and the auditors always
6 include a letter in their report in those cases, and
7 they state the same.

8 Q. I'm not sure I understood your answer
9 completely. The statutory sections that you're
10 mentioning were, in fact, repealed as a part of the
11 deregulation legislation. Did I understand that
12 accurately?

13 A. That is my understanding, so, yes.

14 Q. So you -- but you continue to use them as
15 guidelines despite the fact that they've been
16 repealed?

17 A. Yes. And I will also say that the
18 Commission, in issuing the RFPs for audit services
19 for fuel riders, has -- it's stated that the audit
20 sections of those rules be used as a guide for
21 conducting the audit. So the Commission has
22 explicitly adopted those rules for fuel purposes, but
23 it did make a step in that direction in the RFPs.

24 Q. Has the Commission in any of its orders
25 mandated a least cost fuel methodology like you

1 proposed be implemented for DP&L?

2 A. For fuel classes since the fuel clause
3 expired, what I'll call the second generation fuel
4 clause?

5 Q. Exactly.

6 MR. MARGARD: I presume that counsel's
7 asking for the witness's understanding of those
8 orders. Obviously, the Commission's orders speak for
9 themselves.

10 Q. It's a fair point, and I would agree, I'm
11 just asking for your understanding of what the orders
12 say.

13 A. Not that I'm aware. I'm personally
14 involved in two DP&L fuel cases and both cases were
15 settled, so there was no -- and the settlement was
16 adopted both times by the Commission without
17 modification, so but there was no finding in that
18 regard, there was no litigated issue either.

19 Q. You're not aware of any currently binding
20 agreement upon The Dayton Power & Light Company to
21 allocate least cost fuel to retail customers, are
22 you?

23 A. Currently binding?

24 Q. Correct.

25 A. Yes, the stipulation Case 08-1094.

1 Q. That stipulation used DPLER in the least
2 cost stack, didn't it?

3 A. It did. All right. I stand corrected.

4 Q. Are you aware of any other Commission
5 authority that requires DP&L to -- sorry, strike
6 that.

7 Are you aware of any other currently
8 binding agreement that Dayton Power & Light Company's
9 entered into that would require it to use least cost
10 stacking on a going-forward basis?

11 A. No.

12 Q. It's true, isn't it, that you don't cite
13 any materials in your testimony to support your
14 opinion that the least cost fuel should be allocated
15 to retail customers?

16 A. I'm sorry, I don't cite any what?

17 Q. You don't cite any materials or authority
18 to support your opinion that least cost fuel should
19 be allocated to retail customers?

20 A. I do not. My opinions are primarily a
21 matter of public policy recommendation.

22 Q. Let me ask you about DP&L's system
23 average cost methodology. As an initial matter,
24 would you agree that if DP&L was using a system
25 average cost methodology, then it would recover all

1 of its fuel costs either from retail customers or
2 from wholesale transactions by selling the
3 generation, the related generation at market prices?

4 A. Not necessarily.

5 Q. Why not?

6 A. For costs recovered from SSO customers
7 DP&L would recover those costs that were allocated to
8 the fuel rider for the balance of the dollars in any
9 fuel bucket. If the sales are at market or on some
10 other noncost based basis, then, you know, one could
11 not specifically identify what costs are recovered
12 through those market rates.

13 Q. Do you know whether competitive providers
14 who sell power in the wholesale market allocate their
15 least cost fuel to any particular group of customers?

16 A. I'm not aware of any such arrangement.

17 Q. Under your proposal charges to retail
18 customers are lower, you believe, than the system
19 average cost, right? You've explained that.

20 A. Based on these cost methodologies, yes.

21 Q. Do you know how much less?

22 A. I have not seen -- I have not seen
23 information that was put forward in this case outside
24 of settlement so I'm not going to disclose any
25 information I became aware of during settlement so my

1 answer is going to be no.

2 The only thing I would add to that is
3 that as time goes on and the least cost bucket is
4 reduced because of the amount of SS load being
5 reduced each year, I would expect that the percentage
6 of difference between these costs compared to average
7 to increase over time because of the smaller these
8 cost buckets in 20 years.

9 Q. And just to be clear, first of all, I
10 don't want you to divulge anything that was
11 communicated in settlement negotiations, but my
12 question, I think you've answered this but I want to
13 be sure, you don't know either on a price per
14 kilowatt-hour basis or on a total for a year basis
15 what the differences in the amounts would be
16 comparing a system average to a least cost fuel
17 methodology.

18 A. I am aware of information but, like I
19 said, I became aware of it during settlement so I do
20 know but I can't say.

21 Q. Fair enough.

22 Your methodology, then, allocates -- your
23 proposed methodology, rather, allocates the higher
24 cost fuel to wholesale customers?

25 A. No. It allocates the least cost to

1 retail and whatever remains is in the
2 nonjurisdictional bucket and, you know, I wouldn't
3 say it's allocated to any particular other customer
4 class because it's, you know, all the focus is on the
5 jurisdictional SSO customers, the jurisdiction's
6 SSO's the same.

7 Q. So, first of all, there's two buckets of
8 fuel, right, least cost fuel, and you're proposing
9 that to be allocated to SSO customers, right?

10 A. All right, I'll go with you for that, for
11 a moment anyway.

12 Q. Okay. So if you take out the least cost
13 fuel, there's another bucket of fuel sitting over
14 here that's the higher cost fuel, right?

15 A. Yes.

16 Q. And we have the SSO customers that Dayton
17 Power & Light serves, right?

18 A. Yes.

19 Q. And The Dayton Power & Light Company also
20 serves wholesale customers, right?

21 A. That's correct, nonjurisdictional
22 wholesale customers.

23 Q. Okay. Are you aware of any other
24 customers that The Dayton Power & Light Company
25 serves besides the retail SSO customers and wholesale

1 customers?

2 A. There may be some special contracts but I
3 am not -- there may be, I don't know one way or
4 another.

5 Q. Okay. So even if your methodology
6 doesn't expressly allocate the higher cost fuel to
7 the wholesale customers, that's the fuel that's left
8 over to serve those customers if you're allocating
9 least cost fuel to retail customers, right?

10 A. Yes.

11 Q. Are you aware of any ability that The
12 Dayton Power & Light Company would have to go to
13 wholesale customers and ask them to pay market rates
14 plus an additional amount to account for the fact
15 that higher cost fuel has been allocated to them by
16 the Commission?

17 A. When you're talking about a market
18 transaction, any market transaction DP&L and any
19 willing buyer agree to cobble together can be done.

20 Q. Well --

21 A. That would be beyond, you know, certainly
22 beyond the scope of this proceeding and beyond the
23 Commission's jurisdiction.

24 Q. I understand that a wholesale customer
25 could agree to pay DP&L additional amounts, but --

1 strike that.

2 If the market price in the PJM market is
3 \$50 for generation, are you aware of any ability that
4 The Dayton Power & Light Company could -- any way The
5 Dayton Power & Light Company could sell its
6 generation for \$51 to account for both the market
7 price plus an additional dollar to make up for the
8 fact that it's using a higher cost of fuel that's
9 been allocated to the wholesale market?

10 A. I will admit I am not an expert on PJM
11 and how those transactions occur, but from what I do
12 understand, the price you get is the price you get.
13 There's no extra fees for fuel costs --

14 Q. Okay.

15 A. -- that are high.

16 Q. I want to ask you some questions about
17 DP&L's financial integrity. You understand that DP&L
18 filed this case and made calculations of the amount
19 of SSR it would need based upon an assumption they
20 would be using a system average fuel cost?

21 A. I will be honest with you, I don't know
22 how the system average fuel cost numbers play into
23 the SSR, so I'm generally aware of what you just
24 said, but the SSR and the implications for that are
25 not something I'm acquainted with.

1 Q. In any event, your proposal would lower
2 DP&L's revenue because least cost fuel results in
3 lower prices to SSO customers, right?

4 A. That is my belief but I don't know that
5 that is the position the company took in describing
6 the benefits of the system average cost methodology.
7 As a matter of fact, I, you know, there were several
8 iterations of filing in this case and I may be
9 getting confused between the various ones, but I
10 thought the company's position was the system average
11 cost would actually be lower for ratepayers resulting
12 in less revenue.

13 Q. Your view is that the system average cost
14 will result in lower revenues to the company, though?

15 A. Yes.

16 Q. I'm sorry, I misstated that. Your view
17 is that the least cost fuel would result in lower
18 revenues to the company, right?

19 A. I misspoke in answering your question,
20 so, yes, least cost fuel would result in lower fuel
21 rates which would result in lower fuel revenues.

22 Q. We had a screwed up question and a
23 screwed up answer to it, didn't we?

24 EXAMINER PRICE: You're both on the same
25 page.

1 MR. SHARKEY: We were.

2 Q. Do you know if Staff Witness Mahmud, and
3 I apologize if I mispronounced his name, but do you
4 know if he included in his calculations your
5 adjustments to the company's proposed fuel rider?

6 A. I do not know.

7 EXAMINER PRICE: Mr. Gallina, do you have
8 adjustments? Have you ever quantified the impact of
9 what you're recommending?

10 THE WITNESS: No, I have no adjustments.
11 My -- what I am recommending is more of a methodology
12 and --

13 EXAMINER PRICE: But you've never
14 quantified the impact.

15 THE WITNESS: No.

16 MR. SHARKEY: No further questions, your
17 Honor.

18 EXAMINER PRICE: Thank you.

19 Redirect?

20 MR. MARGARD: No redirect, your Honor.
21 Thank you.

22 EXAMINER PRICE: Mr. Gallina, you're
23 excused.

24 THE WITNESS: Thank you.

25 MR. MARGARD: And I would respectfully

1 renew my motion to admit Staff Exhibit 5.

2 EXAMINER PRICE: Any objections to the
3 admission of Staff Exhibit No. 5?

4 (No response.)

5 EXAMINER PRICE: Seeing none, it will be
6 admitted.

7 (EXHIBIT ADMITTED INTO EVIDENCE.)

8 MR. MARGARD: Staff would call David
9 Lipthratt.

10 (Witness sworn.)

11 EXAMINER McKENNEY: Please state your
12 name and business address for the record.

13 THE WITNESS: David Lipthratt, 180 East
14 Broad Street Columbus, Ohio, 43215.

15 MR. MARGARD: Your Honor, I respectfully
16 request that the prefiled testimony of David
17 Lipthratt filed in this case on March 11th, 2013,
18 be marked for purposes of identification as Staff
19 Exhibit No. 6.

20 EXAMINER McKENNEY: It will be so marked.

21 (EXHIBIT MARKED FOR IDENTIFICATION.)

22 - - -

23 DAVID M. LIPTHRATT

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

DIRECT EXAMINATION

By Mr. Margard:

Q. Mr. Lipthratt, do you have before you what has been marked as Staff Exhibit No. 6?

A. Yes, I do.

Q. Can you identify that document for us, please?

A. It's my testimony, prefiled testimony.

Q. And was this prepared by you or at your direction?

A. Yes, it was.

Q. Have you had an opportunity to review your testimony prior to taking the stand today?

A. Yes, sir.

Q. And after doing so do you have any changes, corrections, additions or modifications of any kind?

A. No, sir.

Q. And if I were to ask you the questions contained in this document, would your responses be the same?

A. Yes.

Q. And, in your opinion, are they true and reasonable to the best of your knowledge and belief?

A. Yes.

1 MR. MARGARD: Your Honor, I respectfully
2 move for the admission of Staff Exhibit No. 6 subject
3 to cross-examination and I tender the witness for
4 that purpose.

5 EXAMINER MCKENNEY: Mr. Sharkey?

6 MR. SHARKEY: Yes, your Honor. We'd like
7 to move to strike Mr. Lipthratt's testimony, basis
8 being that there is currently pending a storm rider
9 case for The Dayton Power & Light Company in which it
10 has sought both recovery of historic storm costs and
11 establishing a methodology to recover storm costs in
12 the future, that's Case No. 12-3266.

13 Dayton Power & Light Company has already
14 filed three pieces of testimony within that case
15 regarding both historic and future storm costs,
16 there's discovery that's ongoing in that case and a
17 number of parties have already moved to intervene.

18 I'd submit to your Honors that this case
19 is already complicated enough without bringing into
20 it the various matters that would be necessary for
21 the Commission to resolve to determine whether or not
22 there should be a storm rider established for The
23 Dayton Power & Light Company and, if so, the amount.

24 EXAMINER MCKENNEY: Mr. Sharkey.

25 Response?

1 MR. MARGARD: Thank you, your Honor. The
2 issue before us in this matter relates primarily to
3 the baseline for that rider. The actual mechanics of
4 the rider and so forth are, in fact, the subject of
5 another proceeding and Mr. Lipthratt's testimony is
6 fairly limited and acknowledges the impact of the
7 other case in his testimony. So we believe that it
8 does fairly balance the two cases.

9 EXAMINER MCKENNEY: Thank you.

10 We'll deny the motion to strike. At this
11 time we'll let the Commission decide whether they
12 want to address the issue here or in the other
13 pending case.

14 MR. SHARKEY: Thank you, your Honor.

15 EXAMINER MCKENNEY: At this time we'll
16 proceed with cross-examination.

17 Mr. Howard?

18 MR. HOWARD: No questions, your Honor.

19 EXAMINER MCKENNEY: Ms. Bojko?

20 MS. BOJKO: No questions, your Honor.

21 EXAMINER MCKENNEY: OCC?

22 MR. BERGER: Just a couple of questions.

23 - - -
24
25

CROSS-EXAMINATION

By Mr. Berger:

Q. Mr. Lipthratt, does your storm recovery recommendation affect the company's recovery of costs related to Hurricane Ike?

A. No, it doesn't.

Q. Does it affect costs related to the 2011 ice storms?

A. No, sir.

Q. Under your proposal when would the deferral of costs begin to occur pursuant to this proceeding?

A. Upon Commission ruling, once this matter has been ruled upon, it would be on a going-forward basis as of that point in time.

Q. And would it continue for the term of the ESP or would it continue beyond that? What is your recommendation on that?

A. I would leave that up to the Commission. I actually have not addressed that in my testimony. To be honest with you, I have not given that aspect much thought. I would think once it's been established, it would perhaps make sense to have it on an ongoing basis past the ESP, but, again, that's, you know, that's me sitting here today giving that

1 question thought for the first time.

2 Q. And in terms of the carrying costs
3 associated with the storm costs, are you proposing a
4 weighted cost of debt? Do you have any proposal
5 here?

6 A. I have no proposals on that.

7 Q. But you would agree that any -- with
8 respect to your proposal that the deferral would
9 apply to both over- and undercollections of the
10 \$4 million, would you agree that any carrying charges
11 should apply in both directions?

12 A. I would think so, yes.

13 MR. BERGER: Thank you. That's all I
14 have.

15 EXAMINER MCKENNEY: Mr. Williams?

16 MR. WILLIAMS: No questions, your Honor.

17 EXAMINER MCKENNEY: Mr. Hayden?

18 MR. HAYDEN: No questions.

19 EXAMINER MCKENNEY: Mr. Oliker?

20 MR. OLIKER: No questions, your Honor.

21 EXAMINER MCKENNEY: Mr. Yurick?

22 MR. YURICK: No questions. Thank you,
23 your Honor.

24 EXAMINER MCKENNEY: Major?

25 MAJOR THOMPSON: No questions, sir.

1 EXAMINER MCKENNEY: Mr. Sharkey?

2 MR. SHARKEY: Yes. Thank you, your
3 Honor.

4 - - -

5 CROSS-EXAMINATION

6 By Mr. Sharkey:

7 Q. Mr. Lipthratt, my name is Jeff Sharkey
8 and I represent The Dayton Power & Light Company.

9 It's true, isn't it, that your testimony
10 addresses DP&L's recovery of storm costs for major
11 event storms on a going-forward basis?

12 A. Yes, sir.

13 Q. And a major event is a term that's
14 identified by Commission rules to identify storms of
15 a certain size.

16 A. I'm not sure if it's defined by
17 Commission rules. There is a standard that we rely
18 upon in order to recognize those expenses being a
19 major storm. I refer to it in my testimony, it is --
20 I apologize, let me get to that.

21 Q. On page 6 I think you're looking for.

22 A. Yes, it is the IEEE Guide for Electric
23 Power Distribution set forth in, yes, you're correct,
24 4901:1-10-10B.

25 Q. And without going through all the details

1 of what is a major or a nonmajor storm, it includes
2 things like the length of outages and the number of
3 outages that result from a storm?

4 A. That's my understanding, yes.

5 Q. You're aware, aren't you, that DP&L
6 currently has a storm case pending?

7 A. Yes.

8 Q. Okay. And DP&L proposes in that case a
9 mechanism for addressing its recovery of future storm
10 costs for major event storms?

11 A. Is that in case number -- the most recent
12 case number, 12 -- can you provide me the case
13 number?

14 Q. The case number I have in my notes is
15 12-3266-EL-AAM.

16 A. My understanding or my recollection of
17 that case was dealing with -- I do not recall the
18 going-forward basis, setting up a mechanism to
19 recover on a going-forward basis. I recall the
20 request to -- there's some deferral of recovery costs
21 from prior years.

22 Q. You do know that DP&L's filed testimony
23 from three witnesses in that case?

24 A. It's been a while since I looked in that
25 docket so I'd have to take your word for that. I

1 have not checked it in some time.

2 Q. Do you recall that there was testimony
3 filed by any witnesses for DP&L in that case?

4 A. Yes.

5 Q. And do you recall that DP&L's filed
6 schedules and cost support and related materials in
7 that case?

8 A. Yes.

9 Q. Okay. Do you know whether any parties
10 have moved to intervene in that case?

11 A. I believe OCC has. Again, it's been a
12 while since I looked at that docket.

13 Q. I'll represent to you that you're right,
14 that OCC has, and Kroger has as well.

15 You agree with me -- strike that.

16 Are you familiar with the issues that are
17 pending in this case related to, among other things,
18 DP&L's proposal for financial integrity charges?

19 A. Yes.

20 Q. Okay. Do you agree with me that this
21 case is already very complicated?

22 A. Complicated?

23 Q. Yes.

24 A. I mean, that's --

25 EXAMINER PRICE: Not his part.

1 A. I mean, that's, you'd have to compare
2 that to other cases and things of that nature. It
3 would be difficult to sit here today and say this
4 case is any more difficult than any -- or complex,
5 I'm not sure what word you used, but I think that
6 would be one's personal opinion. I don't know if I
7 can stand here and say "yes" or "no" to that.

8 Q. Okay. In any event, your proposal would
9 add a issue that until a couple of weeks ago hadn't
10 been raised in this case, wouldn't it?

11 A. Until my testimony I would say that would
12 be fair.

13 Q. Okay.

14 A. When the testimony was filed.

15 Q. As you stated in DP&L's pending case, it
16 seeks recovery of certain historic storm costs,
17 right?

18 A. Yes, sir.

19 Q. Your testimony doesn't address that
20 request one way or the other.

21 A. No, sir.

22 Q. Let me ask you some questions about how
23 your proposal would work. You propose that the
24 Commission establish a \$4 million baseline for a
25 storm cost recovery rider, right?

1 A. Yes, sir.

2 Q. Is it your proposal that DP&L actually
3 recover \$4 million per year to compensate it for
4 storm expenses?

5 A. My understanding from previous case
6 history and Commission orders is that the company
7 may -- the reason -- to open up prior or to refer to
8 previous cases, typically the Commission has ruled
9 that any deferral be reduced by a three-year average
10 due to the fact that there may be recovery.

11 To cite Commission ruling in Case
12 No. 12-2281-EL-AAM: Accordingly, the Commission
13 finds that it would be inconsistent with Commission
14 precedent to allow DP&L to defer the full amount and
15 that deferral of that full amount may result in
16 double recovery of the O&M expense. Therefore, based
17 upon that, my understanding is that they're already
18 being compensated for some amount of those storm
19 damage expenses.

20 Q. It's your expectation that DP&L's current
21 rates currently include some compensation for major
22 storm events; is that right?

23 A. That is my understanding.

24 Q. Okay. We'll come back to that point.
25 Right now I'm just trying to determine how your

1 proposal on a going-forward basis would work.

2 A. Okay.

3 Q. And you proposed a \$4 million baseline,
4 correct?

5 A. Yes, sir.

6 Q. And my question to you is: Would -- is
7 it your proposal that DP&L actually recover
8 \$4 million per year subject to a look back and
9 numbers higher or lower depending on whether actuals
10 are higher or lower?

11 A. What I'm saying is anything over the 4
12 million would be recovered, anything less would be
13 refunded.

14 Q. But there would not be a \$4 million
15 baseline payment each year to the Dayton Power &
16 Light Company.

17 A. No. What I tried to state in my
18 testimony is that, as I referred to earlier, the
19 Commission's precedent has been to reduce the
20 deferral or recovery by a three-year average. That
21 \$4 million attempts to, in a sense, try to replicate
22 what that three-year average would be or, you know,
23 likely to be on a going-forward basis.

24 Q. You told me a couple of questions ago
25 that it's your belief that The Dayton Power & Light

1 Company currently has some amount in its current
2 rates that it's recovering associated with major
3 storm events, right?

4 A. That's my understanding.

5 Q. And your attempt to estimate that amount
6 resulted in this \$4 million figure?

7 A. Yes, sir.

8 Q. So it's your estimate that there's
9 currently \$4 million per year sitting in DP&L's
10 current rates associated with major storms.

11 A. No. That's difficult to answer because
12 given the last distribution case is 20 years old,
13 approximately, it was a black box settlement, I have
14 looked back to that case, I have even prior to this
15 case tried to identify what was built into those
16 rates. It is -- I have not been able to pinpoint
17 that number, however, I'm trying to rely on
18 Commission precedent in other cases when they've come
19 before the Commission seeking deferral recovery to
20 try to follow the Commission's precedent and to use
21 that as a guideline.

22 Q. So you can't -- you've just ticked off a
23 bunch of questions off of my outline so this has sped
24 things up, which is good, but I want to make sure
25 that I understand.

1 You can't calculate from DP&L's past
2 stipulation in the 1991 case you're referring to how
3 much is in DP&L's current rates so you've used this
4 alternative methodology to attempt to estimate that
5 amount.

6 A. I've used the methodology as closely as I
7 could that has been -- let me rephrase that.

8 As closely as possible I tried to
9 replicate the Commission's methodology in allowing
10 deferral and/or recovery of these -- of these
11 dollars. Again, as I mentioned earlier, the
12 Commission has historically reduced the request by a
13 three-year average.

14 So I looked at the past ten years, I
15 looked at, as I described in my testimony, I looked
16 at the past three years to try to take an average and
17 I came up with those averages as illustrated in
18 Attachment A, they're roughly in the ballpark with
19 other companies' baselines or proposed baselines, so
20 I felt it was a reasonable number to use.

21 Q. Let's turn to Attachment A to your
22 testimony.

23 A. Okay.

24 EXAMINER PRICE: Can I ask a question
25 first, Mr. Sharkey? Can I ask a question first?

1 MR. SHARKEY: You're the judge, your
2 Honor, you can do whatever you want. You don't need
3 my permission.

4 EXAMINER PRICE: Is there a typo on your
5 second average? Should that be the 2011 average?

6 THE WITNESS: Yes, sir, I apologize. I
7 just now caught that after many reviews. It's kind
8 of embarrassing.

9 EXAMINER PRICE: Okay.

10 THE WITNESS: Never fails.

11 EXAMINER PRICE: No problem.

12 MR. SHARKEY: I apologize, where was that
13 typographical error?

14 EXAMINER PRICE: Attachment A, the second
15 average he lists as \$3.7 million.

16 MR. MARGARD: There's a ten-year average
17 and then below it there's a 2009 to 2001 and your
18 Honor's noting that should be 2009 to 2011.

19 MR. SHARKEY: Thank you, your Honor.

20 EXAMINER PRICE: Thank you.

21 Q. (By Mr. Sharkey) DP&L's major event O&M
22 is the second column in your chart, right?

23 A. Yes, sir.

24 Q. The third column, nonmajor events O&M,
25 are O&M expenses that Dayton Power & Light Company

1 incurred for storms but the storms were not of a
2 sufficient size to qualify as major events, right?

3 A. That's my understanding, yes.

4 Q. And then the third column just sums --
5 I'm sorry, the fourth column just sums the prior two?

6 A. Yes, sir.

7 Q. And you use the major events O&M column
8 to make your recommendation of a \$4 million baseline,
9 right?

10 A. Yes, sir.

11 Q. If I look at the ten items in that
12 column, it appears to me that DP&L's major event O&M
13 has been fairly consistent over the years with three
14 outliers for 2005, 2008, and 2011; would you agree
15 with that?

16 A. Yes.

17 Q. Okay. It shows here that for 2005 DP&L
18 incurred a little over \$6 million in major event
19 storms, right?

20 A. Yes.

21 Q. Okay. Have you been involved in a
22 ratemaking proceeding before the Public Utilities
23 Commission of Ohio?

24 A. Yes.

25 Q. Have you been involved in calculating a

1 utility's O&M in such a ratemaking proceeding?

2 A. O&M. I'm trying to think back. I don't
3 believe that I've had that particular assignment.

4 Q. Do you know if the Commission currently
5 has a practice when it's setting rates of excluding
6 major or unusual events from a utility's expenses
7 when those events have occurred in the test year?

8 A. To normalize?

9 Q. Yes.

10 A. Yes.

11 Q. Would it be your expectation, if The
12 Dayton Power & Light Company had filed a rate case
13 such that its test year was 2005, that the Commission
14 would have allowed DP&L to include the full
15 \$6 million in major event storm O&M in its rates on a
16 going-forward basis?

17 A. In order to answer that question what I
18 would attempt to do is to look at perhaps their most
19 recent storm case, which is Case No. 12-2281-EL-AAM,
20 I believe that's the one, where you sought or the
21 company sought to defer the costs for the last three
22 years, 2009, 2010, and 2011, and the Commission ruled
23 that in that case to reduce that request by the
24 three-year average which, in that instance, the last
25 year was -- would, in your scenario, be described as

1 an outlier. Yet the Commission reduced it by the
2 three-year average, the same approach I used here.

3 So I felt that my methodology or approach
4 was appropriate in this scenario, in this situation.

5 EXAMINER PRICE: Could I have the
6 question and answer back.

7 (Record read.)

8 MR. SHARKEY: Move to strike as
9 nonresponsive, your Honor.

10 MR. MARGARD: Your Honor, I would submit
11 that while it's not directly responsive and perhaps
12 Mr. Lipthrott will get to the direct response, that
13 it nonetheless does elucidate the methodology that he
14 testifies to.

15 EXAMINER MCKENNEY: Motion to strike is
16 granted.

17 THE WITNESS: Yes, please repeat.

18 MR. SHARKEY: Can you reread it, please?

19 (Record read.)

20 A. You know, I'd have to speculate as to
21 what the Commission would allow. I've spoken to
22 earlier that's common practice is to normalize, but
23 would we attempt to normalize in that situation? I
24 can only speculate, I can't sit here today and give
25 you an affirmative "yes" or "no."

1 Q. Let me ask you about 2008. You see there
2 that DP&L has \$15.9 million in expenses associated
3 with major event O&M, right?

4 A. Yes.

5 Q. You understand that those were O&M
6 expenses associated with Hurricane Ike?

7 A. Most of them, yes.

8 Q. Okay. Are you aware of any storm that's
9 had the extent of the damage upon DP&L's system as
10 Hurricane Ike has?

11 A. Not that I know of.

12 Q. Do you expect that if Dayton Power &
13 Light Company had filed a distribution -- strike
14 that.

15 If The Dayton Power & Light Company had
16 filed a distribution rate case such that 2008 was its
17 test year, would you recommend that the Commission
18 permit DP&L to recover that full \$15.9 million in O&M
19 expenses in rates?

20 A. In a base rate case, no, I would not.

21 Q. You would recommend they be normalized,
22 wouldn't you?

23 A. Yes.

24 Q. And if we look at 2011, again, you'd
25 agree that number is out of line with the other

1 numbers in the chart perhaps excluding 2005 and 2008?

2 A. Can you repeat the question, please?

3 Q. Well, when first we spoke, you told me
4 that 2005, 2008, and 2011 were outliers in terms of
5 numbers under DP&L's major event O&M, right?

6 A. I don't know, to be honest, they have
7 three years of outliers, I wouldn't go as far -- '8 I
8 might comfortably say is an outlier, but when you're
9 experiencing peaks and valleys every three years, ups
10 and downs, I'm not so sure I'm comfortable using the
11 word "outlier" for each of those three years.

12 Q. I'll represent to you that the average
13 for the other seven years is \$1.1 million. Does that
14 look, ballpark, right to you if you look at the other
15 seven years?

16 A. I think that might be fair, without doing
17 the math.

18 Q. You agree with me that 2005 is more than
19 five times that figure?

20 A. Yes.

21 Q. 2008, hard to do math on the fly, but
22 it's at least ten times that figure?

23 A. Yes.

24 Q. And 2011 is at least nine times that
25 figure.

1 A. Yes.

2 Q. You mentioned, didn't you, that you
3 believed that the Commission precedent for the Ohio
4 Power Company is consistent with your
5 recommendations?

6 A. I believe there -- I referenced that.
7 Now, granted, some of the mechanisms may be -- let me
8 rephrase.

9 Is your question specific to the baseline
10 amount or the mechanism in which it would be deferred
11 and recovered? I'm not quite clear on your question.

12 Q. Fair enough. You mentioned the DP&L --
13 the \$4 million baseline that you propose for The
14 Dayton Power & Light Company is consistent with the
15 \$5 million baseline that the Commission set for Ohio
16 Power Company, right?

17 A. I said that was in the ballpark, yes.

18 Q. Okay. Do you have a copy of DP&L's
19 exhibits available to you on the -- it doesn't appear
20 that you do.

21 I handed you a copy of The Dayton Power &
22 Light Company exhibits, if you could turn to Exhibit
23 109.

24 A. Okay.

25 Q. That's testimony filed by Mr. Hecker in a

1 Columbus Southern Power and Ohio Power Company case,
2 right?

3 A. Yes.

4 Q. And you understand those two entities are
5 frequently referred to as AEP?

6 A. Yes.

7 Q. Who is Mr. Hecker?

8 A. He is a staff member here, a utilities
9 specialist 2 I believe. Works in the utility
10 accounting division.

11 Q. If you would turn to page 2 of his
12 testimony starting at line 11 --

13 A. Okay.

14 Q. -- do you see there there's a question:
15 "How much does staff recommend be included in this
16 mechanism?" And there's an answer: "Staff has
17 determined that an appropriate amount to be included
18 is \$5,050,000 (1.3 million for CSP and 3.7 million
19 for OP) instead of the 8.9 million requested." Do
20 you see that?

21 A. Yes, sir.

22 Q. Okay. Your testimony refers to
23 establishment of a baseline for Ohio Power Company
24 but the \$5 million was actually set for both
25 utilities, right?

1 A. Yes, Yes, that is correct.

2 Q. Okay. And then in the next -- let me
3 step back.

4 Did you read this testimony before you
5 filed your testimony?

6 A. I have read this testimony, yes.

7 MR. OLIKER: Your Honor, objection. I
8 believe this testimony was filed but never endorsed
9 by a witness taking the stand. I believe this was
10 filed prior to the stipulation in AEP's ESP case, it
11 may not have actually been submitted under oath.

12 MR. SHARKEY: It's, your Honors, it's
13 still reflective of a methodology, I should be
14 entitled to ask him about it whether it was submitted
15 under oath or not. He admitted it's an item he read
16 in preparing his testimony.

17 EXAMINER MCKENNEY: The objection is
18 overruled.

19 MR. SHARKEY: Thank you, your Honor.

20 Q. (By Mr. Sharkey) I'd now like you to
21 refer to question 7, it says: "How did you calculate
22 that amount?" And it says: "The Companies
23 calculated the requested amount, \$8.9 million, by
24 averaging the amount of expenses incurred for major
25 storm repairs per year over the years 2005 through

1 2009. In the transaction detail provided in response
2 to data request, one of the years in the calculation
3 of the average, 2009, had an unusually high level
4 expenditures. Staff finds that this would be an
5 exception and as such has excluded that amount from
6 the calculation."

7 Did I read that accurately?

8 A. Yes.

9 Q. You, nonetheless, in your methodology
10 have included the major event O&M expenses for 2005,
11 2008, and 2011, in your ten-year average, right?

12 A. Yes.

13 Q. And you included the 2011 figure of
14 \$10 million in your three-year average, didn't you?

15 A. Yes.

16 Q. Do you know whether AEP is a much larger
17 utility than DP&L?

18 A. I really don't have a, you know, I don't
19 have a good handle to know. If you're talking about
20 number of customers or -- you know, I'm not sure to
21 be honest with you.

22 Q. Did you make any effort to compare the
23 relative sizes of AEP and DP&L to determine if the
24 ratios you're supporting, namely a \$5 million storm
25 rider for AEP and a \$4 million storm rider for DP&L,

1 were reasonable?

2 A. Based upon the number of customers
3 each --

4 Q. Based upon the number of customers, the
5 miles of lines, the amount of O&M, any such basis.

6 A. No. I looked at it as your -- I looked
7 solely -- let me rephrase.

8 I looked at the baseline number being
9 similar to -- in the ballpark, in a similar range
10 between Duke, AEP, and I looked at your historical
11 expenses and felt it was reasonable, a reasonable
12 baseline.

13 Q. My question is really focusing on the
14 comparison to AEP.

15 A. Okay.

16 Q. And it's true, isn't it, that you don't
17 sponsor any testimony that compares The Dayton
18 Power & Light Company to AEP on a number of
19 customers, miles of line, dollars of O&M, or other
20 similar basis to support the reasonableness of the
21 \$5 million figure for AEP's storm rider as compared
22 to the proposed \$4 million rider for DP&L?

23 A. No, I did not do that analysis.

24 Q. You also cite to the fact that Duke has
25 proposed a \$4.4 million rider, don't you?

1 A. Yes.

2 Q. Again, you haven't done any analysis that
3 compares the relative size of the utilities to
4 support the reasonableness of the charges of The
5 Dayton Power & Light Company.

6 A. I think the reasonableness comes in in
7 the actual recognition of the expenses, those dollar
8 amounts. That's what my analysis was built upon. I
9 mean, those are the -- the expenses on an annual
10 basis, I mean, I felt my approach was reasonable on
11 that. But, granted, I did not compare the rate
12 impact given the number of customers or other factors
13 to the other utilities.

14 Q. I'm looking here, the reason I'm asking
15 is if you turn to page 6 of your testimony, line
16 10 --

17 A. Okay.

18 Q. You say starting there "Additionally, a
19 \$4 million baseline," that's for The Dayton Power &
20 Light Company, right?

21 A. Uh-huh.

22 Q. Is "consistent with other utilities'
23 storm recovery rider baselines, (Ohio Power Company's
24 baseline is 5 million and Duke Energy Ohio's baseline
25 is \$4.4 million)." Do you see that?

1 A. Yes.

2 Q. I'm asking you in particular now about
3 your reference to the Duke Energy Ohio's baseline of
4 \$4.4 million and my question is you have not done any
5 analysis that compares Duke in terms of number of
6 customers, miles of line, annual O&M expenses, or any
7 other basis to DP&L to determine whether the
8 \$4.4 million for Duke is analogous to the \$4 million
9 figure for DP&L.

10 A. I looked at it, again, based upon the
11 baselines that had been established or proposed in
12 other -- with other utilities. No, I did not compare
13 those baselines on a per-customer basis. But, having
14 said that, I do feel the -- I still stand behind the
15 fact that the methodology used in calculating that
16 baseline is reasonable.

17 EXAMINER PRICE: Could I ask you a
18 question.

19 THE WITNESS: Yes.

20 EXAMINER PRICE: The Duke proposed
21 baseline, is that the baseline which the utility
22 proposed or is that a baseline that's been included
23 in the Staff Report in that case?

24 THE WITNESS: I believe, if I'm recalling
25 correctly, it was proposed, and I don't recall if

1 there was a staff adjustment, but -- to adjust that
2 number up or down, but it is the number that
3 currently stands in the staff's recommendations.

4 EXAMINER PRICE: That's the number from
5 the Staff Report.

6 THE WITNESS: Yes, sir.

7 Q. (By Mr. Sharkey) Do you know whether
8 Duke's proposed \$4.4 million baseline includes
9 expenses for both major and nonmajor storms?

10 A. My understanding is it's only for major
11 storms.

12 Q. If it was for both, you would agree that
13 that's not an apples-to-apples comparison, wouldn't
14 you?

15 A. Yes.

16 MR. SHARKEY: No further questions, your
17 Honor.

18 EXAMINER McKENNEY: Redirect?

19 MR. MARGARD: Can I have a moment,
20 please?

21 EXAMINER McKENNEY: You may.

22 MR. MARGARD: Thank you.

23 EXAMINER McKENNEY: Let's go off the
24 record.

25 (Recess taken.)

1 EXAMINER MCKENNEY: Let's go back on the
2 record.

3 Redirect?

4 MR. MARGARD: No, I have no redirect,
5 your Honor, thank you very much. And I renew my
6 request that Staff Exhibit 6 be admitted into the
7 record.

8 MR. SHARKEY: Your Honor, Dayton Power &
9 Light Company renews its objection to the exhibit.

10 EXAMINER MCKENNEY: The objection is --
11 remains overruled.

12 Mr. Lipthratt, you are excused.

13 It will be so admitted as Staff 6 with
14 DP&L's objection noted.

15 (EXHIBIT ADMITTED INTO EVIDENCE.)

16 EXAMINER PRICE: Do you have one more
17 item for us to deal with before we end for today?

18 MR. FARUKI: Yes, your Honor. Let me
19 explain. This is in connection with DP&L's witness
20 Robert Lee who is from Charles River Associates and
21 who sponsors the competitive bid plan in the
22 company's filing in this case.

23 Parties did not indicate that they wanted
24 to examine Mr. Lee, except that FES did, and in
25 conversations with FES I think we've reached a

1 stipulation that would avoid having to fly Mr. Lee
2 here and calling him live.

3 So in advance of offering the Lee
4 testimony let me explain what that stipulation is and
5 offer the stipulation.

6 In a case that FE has at this Commission,
7 it's their 10-388 case, a statement was made about
8 the CBP manager, and the competitive bid process
9 manager in that case is also Charles River
10 Associates, the firm for which Mr. Lee works. That
11 statement is, I'll read it in full and that's the
12 substance of the stipulation that if we were to call
13 Mr. Lee live, FirstEnergy would use -- make this
14 point and use this stipulation in his examination.

15 The statement is as follows: "The CBP
16 manager believes that a load cap imposed on the
17 competitive bidding process is unnecessary, risks the
18 level of bidding participation in the auction, and is
19 detrimental to the bidding process and its
20 objectives." End of quote.

21 We're not offering the stipulation or any
22 part of it in the FE case, but we're offering this
23 statement. We offer to stipulate to that statement
24 in order to acknowledge that FES would use that in
25 cross-examining Mr. Lee and argue it to the

1 Commission.

2 Let me ask Mr. Hayden first if I've
3 accurately recited this.

4 MR. HAYDEN: Yes, your Honors, Mr. Faruki
5 accurately represented the nature of our agreement on
6 the stipulation and our willingness to not
7 cross-examine Mr. Lee.

8 MR. FARUKI: Let me ask your Honors if
9 other parties have any objection to that stipulation.

10 EXAMINER PRICE: Any objection?

11 (No response.)

12 EXAMINER PRICE: No.

13 MS. YOST: No, your Honor.

14 MR. FARUKI: In reliance on that, then,
15 your Honor, I would ask that Mr. Lee's testimony be
16 designated as DP&L Exhibit 13.

17 EXAMINER PRICE: It will be so marked.

18 (EXHIBIT MARKED FOR IDENTIFICATION.)

19 MR. FARUKI: Thank you. And I offer into
20 evidence the prefiled testimony of Robert Lee,
21 Prefiled Exhibit No. 13.

22 EXAMINER PRICE: Any objections?

23 (No response.)

24 EXAMINER PRICE: It will be admitted.

25 (EXHIBIT ADMITTED INTO EVIDENCE.)

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1 MR. FARUKI: Thank you, your Honors.

2 EXAMINER PRICE: Thank you.

3 Anything else that needs to be addressed
4 before we go off the record?

5 (No response.)

6 EXAMINER PRICE: We will resume tomorrow
7 at 9:00 o'clock. Thank you.

8 (Hearing adjourned at 3:40 p.m.)

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CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Monday, March 25, 2013, and carefully compared with my original stenographic notes.

Maria DiPaolo Jones, Registered
Diplomate Reporter and CRR and
Notary Public in and for the
State of Ohio.

My commission expires June 19, 2016.

(71889-MDJ-PUBLIC)

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in

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

Summary: Transcript in the matter of Dayton Power & Light Company hearing held on 03/25/13 - Volume VI - Public Version electronically filed by Mrs. Jennifer Duffer on behalf of Armstrong & Okey, Inc. and Jones, Maria DiPaolo Mrs.