BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO

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Case No. 16-0395-EL-SSO

In the Matter of the Application of The Dayton Power and Light Company for Approval of Its Electric Security Plan.

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Case No. 16-0396-EL-ATA

In the Matter of the Application of The Dayton Power and Light Company for Approval of Revised Tariffs.

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Case No. 16-0397-EL-ATA

In the Matter of the Application of The Dayton Power and Light Company for Approval of Certain Accounting Authority Pursuant to Ohio Rev. Code § 4905.13.

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Deposition of: CRAIG L. JACKSON
Volume II - PUBLIC RECORD

Date and Time: Friday, December 16, 2016
8:40 a.m.

Place: Faruki, Ireland & Cox, PLL
110 North Main Street
Suite 1600
Dayton, Ohio

Reporter: Maria DiPaolo Jones, RDR, CRR
Notary Public - State of Ohio

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DEPOSITION EXHIBITS

NUMBER	DESCRIPTION	IDENTIFIED
2	12/23/2013 Moody's Investors Service Rating Methodology, Regulated Electric and Gas Utilities Bates stamped DP&L-SSO 007994 - 8056	243
3	8/11/2016 Moody's Investors Service Credit Opinion, Dayton Power & Light Company Bates stamped DP&L-SSO 007657 - 7665	252

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Friday Morning Session,
December 16, 2016.
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(Witness sworn.)

MR. FARUKI: Let's go on the record for a minute. We're here and all parties participating have entered their appearance for the second day of Craig Jackson's deposition.

Toward the end of the first day, yesterday, the parties had some questions about information that was contained in DP&L's model that had been turned over to the parties that signed a confidential agreement. In the time we've had Craig has been able to identify where in the model the information that you wanted with regard to generating plants is located, so I asked him to bring that information this morning so that he can provide it to you.

And just to finalize where we are with regard to that, before he takes questions this morning I'll ask him to provide that information.

Craig.

THE WITNESS: Thank you. So in the financial model, now that's the Excel file that we were referencing yesterday, there we represented we show the net operating cash flows for the coal assets, and I'm going to give you the specific row numbers that the net cash provided by operating activities for these assets are located in. And, again, this is in the Cash Flows tab of that file.

So Conesville is located in row 520; Killen is in row 616; Miami Fort is row 648; Stuart, 680; Zimmer, 712. If you add up each of those, and those are the five coal operating plants, you will come up to the total amount of net cash from operating activities for the coal plants that was adjusted out of the FFO.

Again, just to repeat, Conesville, row 520; Killen, row 616; Miami Fort, row 648; Stuart, row 680; and Zimmer, row 712

MR. OLIKER: Mr. Jackson, just to clarify that, did you -- this is Joe Oliker speaking -- did you make the calculation from the individual generation units or can you also make that calculation from line 472 that has the total free cash flow, or actually would it be line 469?

THE WITNESS: You would add --

MR. OLIKER: I'm sorry. Actually --

THE WITNESS: You would add up the rows that I had mentioned here, 520, 612, 648, 680, and

712.

MR. OLIKER: Yeah, and actually I was moving too quickly, is that line 456, if you have the document in front of you?

THE WITNESS: I don't. I was just referencing -- I just noted, when I looked at the file last night, the specific generation plants because I want you to be able to see as well the detail that leads up to that net cash operating -- from operating activities for each of the plants. So I looked at those five lines and those are the ones that you should add up to determine the adjustment.

MR. OLIKER: Okay. We'll go into that a little more later then. Thank you.

THE WITNESS: Sure.

MR. FARUKI: So I think where we left it last night was that Chris was going to pick up this morning. Is that right?

MR. BZDOK: That's my understanding.

Can people hear me on the phone?

UNIDENTIFIED SPEAKER: Yes.

UNIDENTIFIED SPEAKER: Yes.

MR. FARUKI: So we're resuming the public version questioning.

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CRAIG L. JACKSON,

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

EXAMINATION

BY MR. BZDOK:

Q. Good morning, Mr. Jackson. My name is Christopher Bzdok, and I represent the Sierra Club in this proceeding.

A. Good morning.

Q. You indicate in your direct testimony at the very beginning positions that you hold at three different companies, correct?

A. That is correct.

Q. DPL, Inc., DP&L, AES U.S. Services, correct?

A. That is correct.

Q. Who do you report to in each those positions?

A. I report to Ken Zagzebski, who is the president of AES U.S. Services and of the U.S. market.

Q. Who do you report to at the DPL entities?

A. I report to Ken Zagzebski.

Q. Who does he report to?

A. So Ken reports to Bernerd DeSantos, and

Bernerd is the chief operating officer at the AES Corporation.

Q. Is your compensation allocated in some way -- let me rephrase that a different way.

Does your compensation have sources from each of the three companies or does it come from a single source?

A. So my compensation is allocated amongst the different businesses. So my time is allocated, and when I say I'm the CFO of AES U.S. Services, DPL, and DP&L, I'm also the CFO of IPALCO Enterprises and IPL, which is the utility. And then we have the, as I mentioned yesterday, several generation established businesses across the U.S. and my time is allocated across all of those businesses.

Q. Are you paid by AES U.S. Services?

A. I am.

Q. Is any form of your compensation tied to the financial performance of, let's start with AES Corp.?

A. There is a -- so if I can start, I'll get back to the AES Corp. if you just give me a moment.

So my comp. in the U.S. is tied to the financial performance of the U.S. market in aggregate of which DPL and DP&L are a part of. I am also --

and that I believe is weighted at 75 percent. And then 25 percent, which is just standard across AES, 25 percent is from the AES performance.

Q. So, just so I'm clear, when you say "the AES performance," are you talking about AES Corp. or AES Services?

A. AES Corp.

Q. Is your time chiefly spent -- let me say it a different way.

Is there an entity or entities in the U.S. market on which your time is predominantly spent or is it sort of distributed in a wide sense?

MR. FARUKI: Currently, you mean?

Q. The question as phrased if you can answer it.

MR. FARUKI: Well, if you need to specify a time period, you can do that.

A. I would just say generally it's spread across the multiple entities that we have.

Q. If I met you at a cocktail party, who would you tell me you work for?

A. AES U.S. Services and providing support to the businesses that I referenced earlier and hold positions in those companies.

Q. Since your compensation is tied in some way to the financial performance of these entities does the vacating of the SSR in ESP II have a potential impact to your compensation if that revenue is not replaced?

MR. FARUKI: What possible relevance to this case does his personal compensation have?

MR. BZDOK: You asked, well, your colleagues asked all our experts about their compensation arrangements so --

MR. FARUKI: Right.

MR. BZDOK: -- this is in that same vein.

Q. You can go ahead and answer.

MR. FARUKI: Well, they were people charging as professional expert witnesses. He's an employee of the company. I'll let a few questions go on this, but very few, then I'm going to start instructing him not to answer because I consider it harassing and an invasion of privacy if you can't provide a better basis for questioning him about his personal compensation.

MR. BZDOK: I understand your position. This is the last question in that vein in this outline.

THE WITNESS: Can you just read back the question to me, please.

(Record read.)

A. Yes.

Q. You indicated in some -- in your direct testimony and in some of the questions that you had with Mr. Oliker yesterday that you became the vice president/treasurer of DP&L about a year to a year and a half before May 2012. Do you recall that?

A. Yes, I do. I said I couldn't remember the exact time but I thought that that was approximately the right time, yes.

Q. So that would range somewhere from May 2011 to late-2010, roughly speaking?

A. I believe that that may be correct, yes.

Q. So you were in that position prior to the AES acquisition --

A. Yes.

Q. -- of DP&L.

A. Yes.

Q. In that position as vice president/ treasurer of DP&L during the time frame we're discussing did you also have an appointment or position with DPL, Inc.?

A. Yes.

Q. Same?

A. Same.

Q. So, just so the record's clear, you were the vice president/treasurer of DP&L and DPL, Inc. at the time of the AES acquisition.

A. That is correct. Prior to and then after the acquisition, yes.

Q. What was the nature of -- you had some questions yesterday with Mr. Oliker in which you indicated, and I'm paraphrasing and roughly speaking, that you were not directly involved in the negotiation of the terms of that acquisition, correct?

A. That's correct.

Q. Did you have any role in terms of supporting -- did you have any supporting role relative to that acquisition?

A. Yes.

Q. Describe that role.

A. Providing financial, some financial projections to our senior management team which I believe were provided then to the banks that we were working with in the transaction.

Q. What sort of projections?

A. Financial projections.

Q. Projections generally speaking of a nature like you're providing in this case?

A. Yeah, projections that would provide some type of evaluation assessment for the company.

Q. Very roughly speaking, what was the time frame of those projections?

A. I believe we did a five-year projection at that time.

Q. At the time, and I'm speaking in general terms based on what you recall, at the time of those projections was there an expectation that DPL, Inc. would be able to service its debt postacquisition?

A. So I think I'll answer that two ways so, one, the financial model that we had provided over was as a stand-alone company, all right, so it would not -- did not assume any debt or any changes, it was just this is our stand-alone company, here's the projections for that company.

Q. Subsequent to the acquisition, then, were you involved in similar long-term financial planning or projections for DP&L/DPL, Inc.?

A. Yes. Yes.

Q. And what were the nature of those projections generally and based on what you remember?

A. Long-term, just mid- and long-term planning.

Q. What do you recall, what's mid and what's long term?

A. We generally would do a five-year, sometimes a ten-year forecast, but midterm I look at anywhere between zero and five years.

Q. Was there an expectation in the early periods following the acquisition that DPL, Inc., would be able to service its debt?

A. Yes.

Q. Was there an expectation at that time that DPL, Inc. would be able to pay down its debt at a rate which would enable it to regain investment grade credit ratings?

A. I can't recall the investment -- or, the credit ratings at that point in time, but our view was that the cash flows allows us to service the debt such that we generate enough cash to service the debt, so I don't recall that there was a view on paying down debt at that point, again, because the cash flow supported it.

Q. You had a general awareness, did you not, that there were credit downgrades of DPL, Inc. at the time of the acquisition.

A. Again, I can't remember exactly where we were rated at the time of the acquisition and subsequent to the acquisition, but what I can point to is what I said, the projections at that point suggested that we could meet the debt. But I can't recall the exact credit ratings and where we were rated at that point in time.

Q. Sure. In terms of general memory, I guess my question is directional or I will ask a follow-up question that is directional. Do you have a general awareness or a memory from that time that there was a directional downgrade of credit ratings for DPL, Inc. following the acquisition?

A. Certainly since the time of the acquisition to where we are today there has been a, yes, I would agree there has been a downward move in the credit rating, yes.

Q. Can you recall from your general memory and awareness of that time whether there was any plan, I'm using that term loosely, to rehabilitate or mitigate or turn around that downward direction in credit ratings following the acquisition?

A. I can't remember the exact timing but certainly in our last ESP proceeding is where we began looking at the need for financial integrity so, yes, I do recall generally looking at ways that we can improve the overall integrity of the business.

Q. Were there plans that involved any measures other than SSR support?

A. Absolutely. In fact, we've executed on I would say several things over the last several years and I've noted them in my testimony. For example, the sale of our retail business, we sold East Bend, that was a plant that we had misaligned interests with our co-owner, exited out of that. We closed Hutchings station. So there have been specific things we have done outside of just requesting what was at that point the SSR.

Q. Any other than what's mentioned in your testimony that you just described?

A. And then the aggressiveness that we have used to pay down debt over the last, it's really since 2012 I believe is the date, we've paid down over $700 million of debt, so the utilization of things I identified, certainly the SSR that we had been collecting. So we've taken a very prudent approach to reducing our debt level to try to improve the overall position of the company.

Q. Was there an expectation during the time following the acquisition as to a time frame under which DPL, Inc. would be able to be brought back to investment grade?

A. I just don't, I don't recall at that point.

Q. Was there an expectation at the time following the acquisition that DPL, Inc. may need to rationalize capital and operating expenditures at DP&L in order to ensure that its own financial obligations can be met?

A. Certainly we've been looking at our capital expenditures, we do that very consistently relative to our cash flows. So I would say that's just part of our normal process to look at ways to incur costs prudently. Certainly, you want to -- you don't want to do anything that has an impact on service quality, reliability, you want to make, again, prudent decisions around potential costs, cost savings, and reductions to the extent they're available.

Q. Where are those decisions or plans reflected? And so let me give you a little sense of what I'm driving at with that question. I understand that there's a long-term capital plan. I understand that there's a financial plan. Where are the decisions about how much money can be allocated to the capital plan, for example, based on how much, you know, debt needs to be serviced or paid down, or both?

A. So I'll start on the process itself. We have a, what I consider to be a bottoms-up approach to capital budgeting and to our budgeting of the operating expenses, and that is -- those capital projects, and the operating expenses, are evaluated against the cash flows, as I mentioned, that we are producing from the business.

That is reviewed by the senior-level team which would include myself, Ken Zagzebski, who I mentioned earlier, our chief operating officer that we have in the U.S., so it's at the senior leadership team with our financial planning and treasury leads as well involved in that process. That's where we look at the overall budget, our capital spending plan, and how our dollars -- do we have dollars available, and how we're going to spend that cash.

Q. And then in what document or plan or model are those decisions reflected?

A. Well, the model that we have is our -- the plan that we are moving forward with. There's -- I can't reference a specific document that documents the decision that we made to not do this capital project versus this capital project. The financial model that we have presented is the plan that we propose to -- we propose in our filing.

Q. Contingent on the outcome of this case.

A. Contingent on the outcome of -- yes, that is correct. Contingent on the outcome, assuming we get the outcome we have requested, certainly that is our plan.

Q. Are there interim plans of this nature that are prepared in between cases based on circumstances at the time?

THE WITNESS: Can you repeat that question, please.

(Record read.)

A. We have drafts where we're developing the models. We have drafts -- I think we've noted we tend to do updates for commodity curves. Commodity curves tend to move, especially on the nearer term, so we're constantly evaluating changes in the forward curves and the effects that has on our cash flows. I would say that's one in particular that we evaluate frequently.

Q. Let's look at the factors that you had some discussion of with a couple of the questioners yesterday that appear on page 8 of your direct testimony. And I don't want to recapitulate the discussion yesterday, I just want to fill in a couple of additional items on each.

The first factor was, that you identified that's driving the current outlook, is that load growth has been anemic at best with a combination of a slow economic recovery and increased energy efficiency holding down demand for electricity. Correct?

A. That is correct.

Q. What was -- in the time period shortly after the acquisition, to the extent you remember and in general terms, what was the expectation about the pace of economic recovery at that time?

A. I believe at that point in time we were in the 1 to 2 percent range expectation of growth.

Q. Just for clarity, is that load growth or economic growth?

A. That is our load growth. So megawatt-hour sales from a distribution perspective.

Q. And was that expectation, did that expectation, to the extent you remember and in general terms, include the effect of energy efficiency mandates or programs?

A. I believe it did, yes.

Q. Is it fair to say, then, that that 1 to 2 percent expectation for load growth represented a fairly bullish view on economic recovery?

A. Yeah, I would have to go back to see what the view was at that point in time. I think it was just an expectation of the general economic conditions. I believe at that point, I can't remember the exact timing of when all of this was occurring, but I know Wright-Patt -- Wright Patterson Air Force Base was in the midst of an expansion. Wright-Patt, obviously, is the major growth engine in Ohio, certainly within DP&L's service territory. I do recall that that was one of the key drivers behind our assumption.

Q. Two follow-up questions, one is you said you would have to go back and look. What would you go back and look at?

A. I would just have to go back to see what information I had, just to see if we had any additional detail around the load growth.

Q. Would you be looking at an old financial forecast or would you be looking at something else?

A. I would just have to see what information we have out there. I'm not exactly sure.

Q. Was there any change subsequent to let's say early-2012 in the Air Force Base expansion plant?

A. The Air Force -- the base did expand out, and this was through the base realignment and closure process. Where we started to see the load degradation is in our actuals so that the growth was not materializing as we had anticipated.

Q.   Any sense of why?

A.   Well, certainly one, as I've noted here, the energy efficiency has been a key driver, and then secondly, it's just that we've seen just slow, slow growth especially on our commercial and industrial classes.

Q.   You said energy efficiency was a key driver but you also told me a few questions ago that energy efficiency was built into the forecast that led to an expectation of 1 to 2 percent load growth. Can you explain?

A.   Yeah. Our view is that the energy efficiency has had a bigger impact than what we were anticipating.

Q.   Any sense of why?

A.   People taking advantage of the energy efficiency opportunities whether it's through DPL programs or programs of their own.

Q.   The second factor that you describe on page 8 of your testimony is the Supreme Court of Ohio's June 2016 decision reversing ESP II, correct?

A.   That is correct.

Q. And I think you told me in a discovery response that the impact of that decision is reflected as the difference between the ESP I rate, which you're not -- the ESP I -- you have to forgive me because I don't, you know, I'm sort of a visitor so I don't always remember all the exact names of the charges.

It's the difference between the charge that was in place in ESP I and which is in place again in the SSR that was approved in ESP II, correct?

A. That is correct.

Q. And I believe the difference between the two is $47 million a year. Does that sound right?

A. I believe the SSR was on an annualized basis, approximately 110 million, and the prior charge, I can't recall the name of it either at this point, I think annualized it was 73 million. So I believe in the range of the $40 million.

Q. I'm going to show you a document that I don't, it's purely for purposes of refreshing your recollection, I don't think we need to mark it as an exhibit, but if that helps you remember, I have some notes on there but they're fairly innocuous.

MR. FARUKI: Why don't you, since you

don't want to mark it, Chris, why don't you just describe what it is.

MR. BZDOK: Oh, thank you.

MR. FARUKI: Or I can have him do it. I just want the record clear.

MR. BZDOK: Yeah, I forget about --

MR. FARUKI: If he wants to do it first, then he can do it first.

MR. BZDOK: So we're looking at an interrogatory response to Sierra Club No. 34, just for the record, which is a narrative response, we're looking at the public redacted version and I'm looking at item 2, just to refresh the witness's recollection.

Q. I don't need to enter the response if it helps you remember.

A. Yeah, the only thing I'm -- the note you've written on here, the change is 47. I think the math, 110 less 73, is -- that's why I'm saying it's 37.

Q. Got it.

And that charge was a rate stabilization charge.

A. It was the RSC, yes.

Q. So then the -- so if the net on that is

$37 million, was there an expectation -- so let me back up.

At the time of acquisition ESP I was in place, correct?

A. At that time, yes. Yes, that is correct. I'm getting the dates lined up. Yes.

Q. And so there was an ongoing collection of $73 million per year under that charge, correct?

A. I believe that that's correct given the timing. Yes, I believe that's correct.

Q. Was there an expectation shortly after the acquisition in the modeling and things that were being done that some form of charge of that nature was going to be able to be increased by $37 million a year?

A. Well, certainly we filed an ESP not long after the acquisition and we were requesting a higher amount than the 110 but, ultimately, that's what we ended up receiving.

Q. Do you remember what you requested? Sorry, finish your answer.

A. Yes. I believe it was 137-1/2 million per year for a five-year period was our original request.

Q. And do you remember when that was filed? Roughly.

MR. FARUKI: If you don't, I don't want you to guess. If you do --

A. I can't remember the exact date that we filed. It was in that -- it was in 2012 I believe. Late, yeah, it was in 2012 I believe.

Q. So in the next year or so after the acquisition there was already an identification that had been made of a shortfall that needed to be filled of $137 million per year, correct?

A. That's correct.

Q. And sitting here today the shortfall that's identified is 145 million; is that correct?

A. That's correct.

Q. So fairly early on in this process there was an expectation that existing commitments would not be able to be met postacquisition without a significant additional amount of ratepayer support; is that fair?

A. I would say between the time of the close of the acquisition, actually between the time of the announcement of the acquisition and the time of the filing of the ESP, that's where we saw the degradation.

MR. BZDOK: Can you read that answer back.

(Record read.)

Q. When you refer to the degradation, what do you mean? The degradation of what?

A. So I'm moving on to some of these other items, but the view on the market, the forward curve for gas, expectation for power, dark spreads, and then obviously the volatility in the capacity market as well. And --

Q. Go ahead.

A. One thing I did want to note, too, the specific factors that we're alluding to here, obviously what I just mentioned had an impact on that, but what I'm referencing here to in the testimony is these are also the drivers that are driving the negative outlook that the rating agencies currently have on DPL, so I just want to make that point as well.

Q. On DPL or DP&L or both?

A. On both. They're both on negative outlook.

Q. And we'll get into that some more.

Let's break down the forward curve expectations. So, as I'm understanding your testimony, the degradation of sort of forward outlook occurred relatively quickly during a time frame in 2011 and 2012; is that fair?

A. So, again, my testimony here, this is speaking to the outlook that we had -- that the ratings agencies have currently put on us but certainly, yes, the outlook did change from the time of the acquisition to the time of the ESP and then, obviously, as you roll forward to where we are today we have seen degradation in the forward markets.

Q. From your general awareness at the time and whatever you remember now was there a single or a couple of big swings that were unanticipated that drove that?

A. Probably a better question for Mr. Crusey, he's the expert. I don't recall if there was one answer or one event that specifically caused that.

Q. A couple of follow-up questions which you may also defer to Mr. Crusey, but I just want to know what you know if you remember anything.

A. Sure.

Q. Was there an outlook at the time that low natural gas prices due to shale development were not going to persist?

MR. FARUKI: This is in 2011 you're asking.

MR. BZDOK: In the time frame we're talking about where he identified a degradation, so we're talking about roughly a year after the acquisition.

A. Yeah, I wouldn't be in a position to answer that.

Q. Was there an expectation during the same time frame that capacity prices were going to -- let me strike that and start that question again.

On your third factor you indicate that the May 2016 PJM auction and prior-year auctions in PJM's RPM capacity market have produced prices well below the net cost of new entry, correct?

A. That's correct.

Q. Was there an expectation during this time frame that we've been discussing that PJM prices were going to reach or approach net CONE?

A. I don't recall that we would reach net CONE fully in the projections, but certainly I recall that at the time of the acquisition there was a view being we would see higher capacity pricing than what has materialized.

(Discussion off the record.)

Q. I want to move to page 12 of your direct testimony now. Let me just make a note.

Starting on page 12 and carrying over to page 13, and I'm paraphrasing just to try to be efficient but if I ever paraphrase incorrectly, I'll look to you or your counsel to let me know, I'm just trying to keep this somewhat streamlined. You described in general terms the DMR proposal; is that correct?

A. Yes, I do.

Q. And then you indicate that -- you indicate that, I'm on line 21 now, as to the things that the cash flow will be used for, under sub (b) you indicate that it will be used to make discretionary debt prepayments at DPL and DP&L. Do you see that?

A. Yes, I do.

Q. Expand on what is meant by "discretionary" because I thought I heard -- I thought I knew but I was a little confused by some of the answers yesterday.

A. So when we talk about making debt payments at DPL and DP&L, I'm referring to a few things. One, we have required amortizations of some of our existing debt so required principal payments that we have to make, we have maturities on some of our existing debt, and then, last, we have the ability to prepay some of that debt as well. Obviously, you want to make sure that if you're prepaying, that you're not incurring too much in terms of a prepayment penalty as sometimes is customary with some of our debt.

But when I talk about payments of debt of DPL and DP&L, I'm generally referring to those types of payments.

Q. Is it discretionary as to the amount of debt prepayment that DPL, Inc. and DP&L would do if they received the DMR as proposed?

A. So when I think of discretionary, it's we're looking to pay down debt at DP&L and DPL, Inc. The timing of when we might pay down DP&L versus DPL, Inc. debt may move a little bit but ultimately we're targeting to get to an overall adjusted FFO-to-debt as I mentioned yesterday. So when I think and talk about discretionary, it's around that avenue.

Secondly, you know, if there is an ability to use some of that cash, if the Commission were to approve it in the order, to make investments in grid modernization, there could be some discretion between paying down debt versus using that cash to invest in grid modernization. But in how we presented the financials here, we're paying down debt exclusively. So we have not assumed that we're making any grid modernization investments in my testimony.

Q. On page 16 of your direct testimony there are amounts listed, which I will not state, for how much debt will be reduced at DP&L and how much debt will be reduced at DPL, Inc. and how much debt in total would be reduced between the two, correct?

A. Yes, that is correct.

Q. So if you can answer, and I guess I'll look to your counsel as well if not, but why are those numbers confidential?

A. That's -- I'm just trying to think if there's any rationale. There may be an argument that we could provide that information. I'm not thinking of one right off the top of my head.

MR. FARUKI: Yeah, I think the reason is we didn't want to have a situation from a big picture standpoint where the total set of figures is confidential but then we start subtracting from that and sprinkling various numbers from it into the testimony and have someone argue Well, now you've waived confidentiality because the testimony has X number of figures in it. So that was the reason really.

MR. BZDOK: And my question is not an argument nor is it an attempt to, you know, extract a commitment relative to that.

MR. FARUKI: I understand.

MR. BZDOK: I was just trying to, for my own understanding, what the rationale there was.

Q. Is it your understanding -- and when I ask you these questions, it's for your understanding as a proponent of this testimony and not in any way for legal opinions or legal commitments that would be binding on the company. Is it your understanding that this proposal that you've sponsored, if those debt prepayment -- that as the company has proposed the DMR, if it prepays less overall debt, that's something that the companies would have discretion to do?

A. If the Commission ruled in this proceeding that we have the ability to use some of the funding and let's just say for sake of discussion they said a specific amount for grid modernization, then certainly there would be less debt paid down because the Commission in the ruling said use X amount of dollars for grid modernization.

If the Commission did not include that in the order and they said, "No. DMR is going to be used for debt prepayments to ensure that we can meet our interest obligations that we currently have," then that's what the use of the DMR will be for, for the debt prepayments, and to meet interest obligations we have at both DP&L and DPL, Inc.

Q. When you're saying that's what it will be used for, you're indicating that's the plan, right?

A. That is the plan, yes.

Q. If conditions change, is it fair to say that plan could change postapproval?

A. I mean, our plan is that we are using those funds for those purposes.

Q. Let me try it maybe another way. The proposal as it's framed currently in the absence of more specific Commission requirements is to receive $145 million a year and then to be able to use that somewhat flexibly among these different priorities that you've identified. Is that a fair characterization?

A. Between grid modernization, debt paydown, meeting interest obligations on debt, that is how we have proposed it, yes.

Q. On page 13 of your direct testimony starting at line 3 there's a question: "Will the proposed discretionary debt prepayments include prepaying debt associated with the generation business?" Answer: "No," and then there's an explanation. Do you see that?

A. Yes, I do.

Q. Why, in your opinion, does it matter that the discretionary debt prepayments would not include prepaying debt associated with the generation business?

A. As I mentioned yesterday, we at the DP&L level, we don't have any debt that's specific to the generation business. The debt that we raise there is supported by the assets of the utility, so it's T, D, and G, so that's the point that we are trying to make in my testimony.

Q. Sure. So I understand the basis for your position based on the answers that I heard yesterday and then you reiterated again today. I guess what my question is driving at is why do you need to make that point in connection with this request?

MR. FARUKI: Chris, that was counsel's decision. That was my decision. And the answer is it was based on some of the parties' arguments in the previous ESP about generation debt and I thought we should address it in this case. So Craig did the answer, but I did the question.

Q. Take a look at your Exhibit CLJ-7, page 7. There was some -- I'll wait till you get there.

A. Got it.

Q. There were some questions yesterday about this page of this exhibit, there were also some questions about pollution control bonds. Do you remember that discussion generally?

A. Yes, I do.

Q. I wanted to just follow up on a couple of items relative to that discussion. So look at line 3 of page 7 of Exhibit CLJ-7 and you'll see the first, I guess I'll call it a debt instrument; is that fair?

A. Sure.

Q. The first debt instrument indicates "PCB 4.80 OH FGD." Do you see that?

A. Yes, I do.

Q. And "PCB" stands for pollution control bonds?

A. Correct.

Q. And "OH" stands for Ohio?

A. Yes, it does.

Q. What is the significance of that, the "Ohio"?

A. That's just the naming of the debt that we had.

Q. Why is it named "Ohio"?

A. I don't have an answer for that. I'm not sure.

Q. Does "FGD" stand for flue gas

desulfurization?

A. Yes, it does.

Q. And that's another word for scrubbers?

A. Yes.

Q. So is that debt instrument, was that debt instrument taken out -- let me rephrase that question.

So is it fair to surmise that that debt instrument was taken out in order to help fund FGD projects on DP&L power plants?

A. As I noted yesterday, that debt was taken -- we had obviously several capital projects in that time period, that debt was taken out and was supported by all of the assets that we have at DP&L. It's not specific to any one or any generation assets that we have.

Q. Sure. I understand your answer -- sorry. Go ahead.

A. I was going to say, so, yes, part of the overall capital costs would be -- the FGD is part of our overall capital costs. It's an asset of the utility.

Q. Sure. And I understand your answer, and I heard it yesterday as well as to collateral or security. My question is more as to the purpose of those funds and what they were taken out in order to accomplish. And is it fair to infer from the designation "FGD" that they were taken out for the purpose of helping to fund required projects related to scrubbers?

A. It was taken out to help fund capital projects that we have for general corporate purposes of DP&L of which the FGD was part of that.

Q. Who is the -- who's the creditor?

A. So the debt is on behalf of DP&L.

Q. You were at the company when those pollution control, that first pollution control bond was taken out; is that correct?

A. It was issued in 2006, yes, I was with the company at that point in time.

Q. Did you have a general awareness that that was going on?

A. Yes. I believe I did at that point.

Q. Was it your understanding that those funds were being procured under a state program?

A. I was not actively involved at that time on the treasury side of the business in 2006. What I do recall is the debt was being issued, again, as I noted before, on behalf of DP&L and all the assets of DP&L. But the particulars of the program at that time and what it was being issued under, I wasn't directly involved in that.

Q. Understood. So my question was prefaced as to your just general awareness. Did you have a general awareness that those -- that that first pollution control bond was being issued under some state of Ohio program?

A. At that time, I'm not sure because I was not actively involved in the treasury side so I, unfortunately, ten years ago almost so, yeah.

Q. Do you have any awareness about that question today?

A. Again, my position is that we have issued that debt on behalf of DP&L and it's debt supported by DP&L by all the assets of DP&L which is consistent with all of the debt that we have at the utility.

Q. Do you have any understanding now or then as to whether there are certain tax-related benefits provided in connection with those bonds?

A. At the time I believe there were, yes, tax exempt related -- or, tax-related benefits to that.

Q. And do you remember why? Or do you know why?

A. Specifically at that point, not right off the top of my head, no.

Q. Do you have any awareness as to whether the funds are unrestricted in their use?

A. The funds that we raised, again, were for the general corporate purposes and for the utility; my understanding.

Q. So is that a "yes," they were unrestricted in their use?

A. It's my understanding that those were used for the general corporate purposes.

Q. So I'm not, I just, you know a lot more about this area than I do and so I'm just trying to understand if when I ask you if they were unrestricted in their use and you tell me they were for the general corporate purposes, if that's the same thing or if that's something different.

A. I guess I'm not understanding when you say the same thing or different.

Q. So I asked if they were unrestricted as to their use, and you said they were for the general corporate purposes. Is that a confirmation? Are you agreeing with me, or are you disagreeing with me?

A. I am saying that the debt was used and the debt is supported by all of the assets, it is not attributable to any specific business. Whether -- when you say was it restricted in its use, we issued the debt, we raised the debt, that debt is back by and supported by all of the assets of the company.

Q. Let me try it this way then I'll move on: Are you aware of any commitment made by DP&L as to how the funds would be used as part of the consideration or the terms of obtaining those funds?

A. At that point in time when that debt was issued I'm not really aware of that.

Q. There is a second pollution control bond line item on line 4 of Exhibit CLJ-7 on page 7 for PCB Variable Rate OH Series A and B. Do you see that?

A. Yes, I do.

Q. And those were issued in August of 2015, correct?

A. That is correct.

Q. Just to streamline this, maybe I can't streamline it, I'm just going to try to ask you the same questions and --

A. I believe that was a refinancing as well at that time.

Q. Okay. A refinancing of what?

A. I believe that was a prior debt that we had.

Q. Okay. Do you know what the prior debt --

when you say "a prior debt that we had," do you mean a prior state of Ohio pollution control bond debt or something else?

A. If I recall correctly, I think it was a prior pollution control debt that we had. Again, that would be subject to check, but I believe that's correct.

MR. BZDOK: About to switch topics. Do you guys want a break? Do you want to keep going?

MR. FARUKI: Okay. Yeah, let's go a while longer.

You speak up, Craig.

We'll go till 10 or something.

MR. BZDOK: Okay.

MR. FARUKI: Whenever it becomes a good point for you.

MR. BZDOK: Sure.

Q. (BY Mr. Bzdok) Let's take a look at page 15 of your direct testimony. Well, let's back up a minute. Let's look at page 14, item (a) that starts on line 4. In item (a) on line 4 of page 14 you're describing the methodology that you used to determine the FFO-to-debt target for the objective of the DMR. Is that a fair paraphrase?

A. Yes, it is.

Q. And you are relying on a Moody's rating methodology paper for regulated electric and gas utilities, correct?

A. Yes.

Q. And then on page 15 of your testimony starting at line 17 you are discussing whether FFO to debt is the only relevant component of an investment grade rating and you, again, mention that same rating methodology paper for the regulated electric and gas utilities; is that correct?

A. That's correct.

Q. And you go on to describe other components on page 15 carrying over to page 16 which are cited by that Moody's rating methodology paper that are considered in ratings for electric utilities, correct?

A. Yes, that is correct.

Q. Now, IEU asked you in discovery to produce a copy of that paper. Do you recall that?

A. I do recall that.

Q. I am going to provide you and your counsel -- I'm going to ask the court reporter to mark one and then provide it to you and also to your counsel of a discovery response attachment to the IEU tenth discovery that has the Bates numbers 7994 running through 8056.

(DEPOSITION EXHIBIT 2 WAS MARKED.)

Q. So you indicate in your testimony starting on line 3 of page 16 that "'Financial Strength,' which Moody's generally gives a 40 percent weight to the overall rating, typically includes more than one financial metric"; is that correct?

A. That is correct.

Q. And on this paper which we're looking at as Deposition Exhibit 2, on page 6 those financial metrics are set forth. Would you agree?

A. Could you repeat that question, please.

Q. Sure.

A. I don't think I'm in the correct place, I want to make sure.

Q. Yeah. I'll try to phrase it better.

So on page 6 of this document that we're looking at Moody's provides all of the -- provides a table, let's start there. Correct?

A. That's correct.

Q. And the table includes factors and subfactors which are used in weighting for the purpose of rating regulated electric utilities; would you agree?

A. I agree with that.

Q. And those are the -- the factors are the same factors that you cite in bullet points on pages 15 and 16, correct? So I'm looking at the Broad Rating Factors column.

A. Yes, that is correct.

Q. And then the subfactors are also included within each of those broad factors. Agreed?

A. Yes, I do.

Q. And the FFO, what you are referring to as the FFO which you -- let me try that a different way. I'm trying to ask too many questions at one time.

On page 14 of your direct testimony, line 5, you use the abbreviation "FFO" and then you have a parenthetical that says "(pre-working capital cash flow from operations) to Debt," right?

A. That is correct.

Q. And so from that phrasing I am interpreting that what you're calling FFO to debt in your testimony corresponds with the subfactor under Financial Strength and Key Financial Metrics that's abbreviated "CFO pre-WC over Debt"; is that correct?

A. Those are the comparable -- yes.

Q. So, according to this Moody's rating methodology which you've been relying on, FFO to debt has a subfactor weighting of 15 percent in the overall rating methodology that Moody's uses. Would you agree?

A. I would agree with that.

Q. And in addition to -- in addition to those rating -- in addition to those rating factors which are given various percentages of weight the table on page 6 also contains a note or a row relative to Notching Adjustments, Holding Company Structural Subordination, and a subfactor weighting of zero to minus 3, correct?

A. That's correct.

Q. And what is -- what is your understanding of what the zero to minus 3 signifies?

A. It signifies the differential in the ratings you could see between the holding company and the subsidiary. So I think you may have mentioned, maybe we can have it read back, but zero to 3 is not a weighting percentage, I think it just represents the rating differential if you're looking at the notches between a parent and a utility.

Q. So from my read of this document, I just want to tell you my understanding and you let me know if your understanding is similar or, if it's different, how it's different. There is a weighting process that is done using these various factors that include FFO to debt and then that produces an outcome, and then there is a notching adjustment that may be necessary based on holding company structural subordination; is that fair?

A. Based on the holding company, as they've noted here, holding company structural subordination, there could be a notching adjustment, that is correct.

Q. And so the zero to minus 3 mechanically signifies that depending on the outcome of the holding company structural subordination analysis, the rating for the regulated utility produced by these factors could be lower between zero and three notches.

A. That is correct.

Q. And that application of that zero to minus 3 would have the result, if it's anything other than zero, of bringing the regulated utility closer in rating to the holding company, correct?

A. That is correct.

Q. So the closer, in general terms just understanding the methodology, the closer that the regulated utility is to the holding company -- let me strike that question.

Certainly you would agree that there are instances, and I'm speaking in general terms now, where the notching adjustment that is applied has a greater impact on credit rating than a financial metric which is assigned 15 percent of the overall weight. Would you agree that that's possible?

MR. FARUKI: Let me hear that one back, please.

(Record read.)

MR. FARUKI: Okay.

A. If looking at just the utility? Yes, that could be -- that could be possible.

Q. And would you agree that that is the case relative to DP&L currently?

A. So I would say right now with DP&L having a negative outlook, I think it's uncertain right now where the rates will end up. So no, I would not necessarily say that it is purely the result of the notching differential. I think there's uncertainty in Ohio which are causing some of these other nonfinancial metrics, because that has an impact on the overall rating as well.

So you can't just look at the financial strength in that respect, you have to look at the overall condition, the regulatory environment within the state. And that's predominantly the reason, given the factors that we had discussed earlier, why we're on a negative outlook with the rating agencies at both DPL and DP&L.

Q. So what, in your understanding, is a negative outlook?

A. A negative outlook generally speaking is, you know, within a 90-day period, I'm just using round numbers, let's just say it's 30 to 90 days, it may change a little bit between the rating agencies, they are looking for something to specifically occur so they can cure that negative outlook, but it generally means that there is a negative view on conditions facing the company, that they're not willing to take action yet because they want to see if those conditions improve to which they can remove the negative outlook and the ratings that are in place at that time would continue, or if the conditions don't improve, then the expectation is you will be downgraded.

Q. So, as I understand your answer two questions ago, it is that the negative outlook is being driven by a number of factors including conditions in Ohio, correct?

A. It's the factors that I had noted on -- just going back to the page -- the factors that I had noted on page 8.

Q. Of your direct testimony.

A. Of my direct testimony, yes. I'm sorry.

Q. But the current rating, is it fair to say, is predominantly driven by the notch differential at DPL, Inc.? Would you agree with that?

A. I would say the current ratings at DPL and DP&L are based on the expectation of a reasonable outcome in this case.

Q. Understood. So my question was about DP&L.

A. I would say the same, there's an expectation of the outcome in this proceeding which is driving the current ratings, yes, there is a notching differential between DPL and DP&L at some of these rating agencies, so that is a -- the notching is a cause of some of that differential, yes.

Q. The Moody's differential is one notch, right?

A. I believe that is correct.

Q. And is it your understanding that that is driven primarily, according to Moody's, by the decision to transfer generation assets without transferring any of the associated debt?

A. You know, in my view I think the notching differential is related to the debt that is sitting at the parent company and that's, in my view that's what's driving the ratings differential.

Q. Can you explain what you mean by that, it's driven by the debt at the parent company?

A. So the holding company has debt, right, has interest obligations that it has to meet on that debt, that's what's driving the, in part, the lower rating than you have at DP&L.

By nature of that and given the notching differential that is having an impact back on DP&L's overall rating as well, so the notching rules are what's driving the lower change -- or, the lower rating between DPL and DP&L.

Q. The debt at DPL, Inc. drives the lower rating for DPL, Inc., fair?

MR. FARUKI: I'll object. That's not what he said. You're making that a single cause.

Q. Let me try to rephrase. And let me first note that I was not asking you what you said, I was asking your opinion of a proposition, but I will try to rephrase the proposition.

Is it fair to say that the current rating at DPL, Inc. is predominantly driven by the debt position that you described?

A. So the rating at DPL, Inc. is driven by there is debt at the parent company and what cash flows do we have to support that debt, whether it's in the utility or from any of the other subsidiaries that we have at DP&L, that's what's driving the rating. Obviously, the cash flows that are coming from the other subsidiaries, there's risk around those cash flows and several of those are noted in my testimony.

Q. Is it fair to say that looking only at DP&L, and so in that sense this question has a hypothetical element to it, looking only at DP&L and not making any conclusions about what should be but looking only at DP&L, it scores relatively strongly on the financial metrics outlined by Moody's in the methodology paper?

A. The calculated ratings would suggest a higher rating, I would agree with that, however -- I understand your hypothetical, but the fact is there is a parent company that has debt and there obviously is a link between DPL and DP&L. But, to answer your question, from a straight calculation, yes, it would suggest a better score than what you would otherwise expect given the rating that we have.

Q. And the one-notch differential between

DPL, Inc. and DP&L would suggest that the link that you mention between holding company and parent company is viewed by Moody's as being very tight. Is that a fair characterization?

A. Can you just define, when you say "very tight," just are you referring to there's just a one-notch differential?

Q. Yes. I was trying to use your phrasing, and maybe I was trying to be too cute so let me try it another way.

The current rating for DP&L, as I understand your testimony, is constrained by its relationship to DPL, Inc.; is that fair?

A. I think we've clearly said the notching rules between DPL and DP&L are what's causing a lower rating at DP&L.

Q. On this document -- let me show you one more document.

MR. BZDOK: I will ask to get this marked as Deposition Exhibit No. 3. This is also an attachment to an IEU request for production, it has a Bates stamp number of 7657 through 7665, it's a Moody's Investors Service Credit Opinion from August 11 of 2016.

(DEPOSITION EXHIBIT 3 WAS MARKED.)

Q. Do you generally recognize this as one of the credit rating agency reports that you reviewed in connection with preparing your testimony?

A. Yes, it is.

Q. And if you turn to page 5 of this report, there is a paragraph at the bottom that has a heading "DP&L Secured and Unsecured Rating Considerations," and I would just ask you to take a minute and review the paragraph and let me know when you're ready.

A. Okay.

Q. So, generally, and I don't want to get too caught up in paraphrasing, but I also don't want to be too blasé about this, generally I'm understanding this to indicate that Moody's is applying only one notch between DPL, Inc. and DP&L because of the plan to transfer generation assets without associated debt. Is that a fair reading of what Moody's is saying?

A. Yes, that is what they're saying.

Q. Is that, and again my question is about what Moody's is saying for now, is that an indication that there is significant structural subordination to the holding company?

A. It's an indication that their view is that once separation occurs, it's noted on here, I won't read what's at the bottom of page 5 up to five 6, or up to page 6, that it would drive a one-notch differential between the two.

Q. Is Moody's wrong about this?

A. This is their opinion.

Q. In your opinion, is Moody's wrong about this?

MR. FARUKI: About the one-notch differential?

Q. About the cause of the one-notch differential.

A. Again, in my view these are the rules that Moody's has provided in their opinion so, again, their opinion is it is a one-notch differential. When you say are they wrong in my opinion, my view is there's, as I mentioned before, we have the debt of the parent and there is risk around the cash flows from the subsidiaries that support the parent, whether it's DP&L, whether it's AES Ohio Generation, or any other subsidiary that we have, that creates some risk given the size of the debt of the parent company.

MR. BZDOK: Could we go off the record.

MR. FARUKI: Sure.

(Recess taken.)

Q. Mr. Jackson, we had been talking before the break about notching and notching adjustments between parent companies and regulated utilities. Fair?

A. Yes, that's fair.

Q. In the document we've been looking at, Deposition Exhibit 2, which is the Moody's Rating Methodology, there is some discussion on page 25 carrying over to page 26 that I would like to take a brief look at, so I would -- really starting on page 24 of this document which at the head, starting at the heading titled "Notching for Structural Subordination of Holding Companies," and I will ask you to familiarize yourself with it.

I will indicate to you that the items I plan on discussing with you are the bullet points at the bottom of page 25, so I'm not going to have a long discussion with you on sort of the narrative portion but take whatever time you need to refamiliarize yourself with this portion of the document and let me know when you're ready.

A. Okay.

MR. FARUKI: Craig, why don't you just read that section and tell him when you're done.

THE WITNESS: Okay.

A. Okay.

Q. I'm going to ask you to look at one other portion on this topic of this document which is Appendix D on page 46, "Approach to Ratings within a Utility Family," and, again, I'm interested in discussing with you the bullet points that are primarily on page 46.

A. Okay.

Q. In both of these sections the -- both of these sections have certain bullet points in common in terms of considerations that Moody's is indicating that it evaluates in determining notching differentials between a parent company and an operating company. Is that a fair characterization?

A. There are similarities, yes.

Q. One of those items which is similar in both is regulatory or other barriers to cash movements -- to cash movement from the operating company to the holding company, correct?

A. Yes.

Q. Has that been, has the implementation of any barriers like that been considered as a potential way of improving DP&L's credit position relative to DPL, Inc.?

THE WITNESS: Can you repeat the question for me, please.

(Record read.)

A. Well, today in order to move cash from DP&L to DPL, Inc. obviously requires approval from the DP&L board. There are no restrictions from the PUCO on the movement of cash. I believe if there were restrictions put in place to restrict the level of dividends that could be moved from DP&L to DPL, Inc., it would cause DPL, Inc.'s ratings certainly to fall further which, even if you only had a one-notch differential, would still move down DP&L's rating.

So I would say that we have not -- we are not looking and don't think one is needed to put in any type of a restriction on cash flow from the utility to DPL, Inc.

Q. Am I understanding your answer correctly that you believe that barriers, regulatory or otherwise, to cash movement or limits on cash movement would push DPL, Inc.'s rating down but provide no upward boost to DP&L's rating?

A. Say if there is a one-notch differential between the two, if -- if there is a one-notch differential between the two and DPL, Inc.'s gets worse because of the restriction on cash, my view is that DP&L, even if it maintained that one-notch differential, would by default move with it.

Q. Sure. So the spirit of my question and its embeddedness in these sections is intended to look at the considerations for increasing the differential between the two and so it was in that spirit that I was asking the question. Is your answer still the same?

A. I would say by not having a restriction on the dividends that we can move between the two houses to protect the, at least the differential that we currently have, since we don't have that restriction in place today, I don't believe there's anything with that that will widen it any further than where they currently have that rating or that notching difference.

Q. Would you acknowledge that the imposition of such barriers or limits could be a factor in increasing the differential between the two companies?

THE WITNESS: Can you repeat that question, please.

(Record read.)

A. I don't know that I agree with that.

Q. Why not?

A. If you, again, if you impose a barrier, it's restricting cash moving up to the parent, my view is that the rating agencies, one, would move the parent down and they're going to move the utility down right along with it. Again, it's just my view. I don't see a scenario there where they would expand the notching differential.

Q. Another one of the items that these bullet points contain in common -- another bullet point common to these two sections concerning the impact of structural subordination and the approach to ratings within a utility family is specific ring-fencing provisions. Do you see that?

A. Yes, I do.

Q. Has that been considered as a way of increasing the notch differential between DPL, Inc. and DP&L?

A. I would say I believe we do have certain ring-fencing protections in place today. For example, we have separate books and records. We have a separate board of directors between the two entities. The board of directors for DP&L makes decisions where DP&L must approve. The dividends, as I mentioned before, flow from DP&L to DPL, Inc.

These are operating as two separate entities, so I believe there are certain factors already in place to date that the company has put in place to justify the notching differential and I would say, in fact, this is a discussion that we continue to have with the rating agencies around the ring-fencing provisions that we believe are in place today. And it's something that we would continue to discuss with them. We firmly believe that those are in place.

Q. A couple follow-up questions on that. Who are the primary corporate officers who provide staffing and support to the board of DP&L?

A. So the primary officers to the board of DP&L would be myself, Tom Raga, who is the president and CEO of Dayton Power and Light, again, I'm just thinking on the officers side. From time to time Andy Horrocks, chief operating officer. I would say those are the primary officers that have the interactions with the board. Obviously, our general counsel attends the meetings as well.

Q. Just so the record's clear --

A. General counsel, Judi Sobecki.

Q. It's funny to ask questions about her while she's sitting there, but she is general counsel for who?

A. She is the, obviously, general counsel employed by AES U.S. Services, but general counsel for DP&L and DPL, Inc.

Q. And you mentioned Andy Horrocks as CEO. CEO of --

A. COO. Chief operating officer.

Q. Thank you.

-- of DPL, Inc., DP&L, or both?

A. Actually I believe his chief operating officer title is for AES U.S. Investments which he provides service then to DP&L and DPL.

Q. AES U.S. Investments is a different company --

A. I'm sorry. AES U.S. Services, LLC. Thank you for that correction.

Q. You indicated that my other follow-up question is you had indicated as part of your answer that, and I didn't write it down exactly, but to the effect that these kinds of things continue to be under consideration, more or less. Do I have that right?

A. We have discussions around ring fencing and talk to our ring-fencing provisions with the rating agencies when we meet with them every year. When I say it's under consideration, there are things that we will continue to discuss with them. I am not aware that any of the rating agencies are at the point where they're willing to make a further notching differential just specific to ring-fencing provisions that we have in place.

Q. Is there active consideration of any additional ring-fencing provisions to put into place?

MR. FARUKI: Wait a minute. Just for foundation, Chris, you haven't asked him for a complete list. He just gave a couple as examples. I mean, they have a corporate separation plan, et cetera, that he could talk about. Are you trying to get a whole list?

MR. BZDOK: Yes.

Q. I took your answer as a complete list. If it's not a complete list, can you tell me what else you can think of.

A. We're in compliance and have a corporate separation plan in place, obviously the debt at DPL, Inc. is nonrecourse back to DP&L, I mentioned the separate books, separate records that we maintain, we have the independence -- the separation of the board of directors between each entity.

Q. Any other -- anything else you can think of?

A. There may be others, but those are the ones I'm aware of at this point.

Q. So having completed the list are there any additional ring-fencing provisions that are under consideration as a way to improve the differential between -- well, scratch that.

Are there any additional ring-fencing provisions that are under consideration?

A. I'm not aware of anything further under consideration other than the ring-fencing provisions that we have in place today. And I would add that, again, we believe, as we've noted to the rating agencies, that we have significant ring-fencing provisions in place.

Q. On page 25 one of the bullets is listed as "Higher leverage at the HoldCo level." Is that -- in your opinion, does that exist in the situation of DPL, Inc.?

A. We do have higher leverage at -- a high leverage position at DPL, Inc.

Q. And would you agree that, looking at the last bullet on 25, that you also have exposure to subsidiaries with high business risk or volatile cash flows?

A. Yes, we do. And I think that goes to the point I made today and yesterday during the deposition around the reason to exclude out the adjusted FFO to debt from the -- from the FFO to debt adjust out the coal generation cash flow because of some of the volatility relating to those assets.

Q. Sure. So I understand your -- so I understand your answer, and you explained it in great detail yesterday as it concerns your adjusted FFO calculation. In terms of -- let me back up for a minute.

Has a decision been made as of today, December 16th, 2016, as to whether to go forward or not with moving the coal generation assets over to the GenCo under DPL, Inc.?

A. At the advice of counsel, no, a decision has not been made.

Q. Currently, those live in DP&L, correct? Those assets.

A. The coal generation assets, they are a part of DP&L.

Q. So to the extent that they have high business risk or volatile cash flows, that's a direct impact on DP&L, correct?

A. That is correct.

Q. If they were moved over to an affiliate GenCo under DPL, Inc. as described in the FERC application, they would still have the potential to impact the notching differential between the two companies according to the Moody's methodology that we've been discussing; would you agree?

A. When you say "impact," can you just explain that a little bit more.

Q. Sure. Impact, have an influence on the notching differential that's applied under these methodologies.

A. Yes, I believe that that is correct.

Q. Has any, and I understand we're a couple of contingent steps out in asking this question, but has any consideration been given if the generation separation plan does go forward to providing any ring fence or other barriers or protection between the subsidiary affiliate and DP&L?

MR. FARUKI: Craig, you may answer that question only if you can do so without revealing any attorney-client discussions with Judi.

A. Yeah, and I would not be able to.

MR. FARUKI: Okay.

Q. Just so that I understand, and I'm not going to ask you to reveal any attorney -- does that mean there is an answer but it's privileged or there is no answer?

MR. FARUKI: If you don't mind, Chris, let me suggest -- I would not object, because it doesn't waive the privilege, if you ask him has that been the subject of a discussion with counsel.

Q. Can you answer that question?

A. We have had those discussions.

Q. And, again, not seeking any privileged information, has any decision been made?

A. No.

Q. Speaking -- going back now to the earlier question about going forward with the generation separation or not, and I understand that no decision's been made as of today, is there a time frame present for such a decision?

A. Not that I am aware.

Q. Yesterday you had a discussion with Mr. Alexander on the phone in which you indicated that without a DMR there could be a need for DPL, Inc. to rationalize capital expenditures and O&M expenditures at DP&L. Do you recall that discussion generally?

A. Yes, I do.

Q. And Mr. Alexander asked you as part of that discussion if DP&L has sufficient revenues, is it appropriate for DPL, Inc. to withdraw funds from

DP&L that DP&L needs to provide safe and reliable service. Do you remember a question like that?

A. Yes, I do.

Q. And you answered that DP&L needs a healthy DPL, Inc. Do you recall that?

A. Yes, I do.

Q. Based on current projections and outlooks how close or far is DPL, Inc. to making a decision to withdraw funds from DP&L that DP&L needs to provide safe and reliable service?

MR. FARUKI: I'm going to have to hear that one again I'm afraid.

(Record read.)

MR. FARUKI: Go ahead.

A. Well, first, DPL, Inc. doesn't make the decision to withdraw funds from DP&L so, again, any cash that is moved from DP&L to DPL, Inc. the board of DP&L must make that decision.

I would say it's difficult to say the timing because a lot of it depends on the outcome of this proceeding as to when that impact might occur. If we were to receive no DMR in this proceeding, it could be in the very near future, very near within the next one to two -- one to two years.

Q. With my following question I am not asking for a legal opinion or to make any legally binding commitment as to the company, I'm just asking for your general understanding from the work you do and the circles you travel in this industry.

Are you aware of a regulated utility in the United States who has taken a similar position with a public utility commission as to the potential for its holding company needing funds that otherwise would be required to provide safe and reliable service?

A. I can't say that I am aware.

MR. BZDOK: That concludes my questions for you in the public session. Thank you.

THE WITNESS: Okay. Thank you.

MR. FARUKI: I believe this -- this is Charlie. I believe, Gretchen, you said earlier this morning that you had a few questions.

MS. PETRUCCI: Yes, I do.

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EXAMINATION

BY MS. PETRUCCI:

Q. Good morning, Mr. Jackson.

A. Good morning.

Q. If we could turn to page 12 and 13 in your direct testimony, specifically at the bottom where you indicate what the proposed DMR would be used for.

A. Okay. I'm there.

Q. Could funds that are collected under rider DMR as proposed by DP&L be used to develop or implement a battery-based energy storage system given your testimony there?

MR. FARUKI: This is Charlie. Did you say could they be? Was that your question?

MS. PETRUCCI: Yes.

MR. FARUKI: Okay. Thank you.

A. My testimony alludes to the DMR being used for grid modernization. I believe in the -- my understanding, in the clean energy rider I think we reference renewables, but that that would have to be addressed by another person who is a witness in this case that's talking to the clean energy rider.

Q. Would your answer be the same, then, as to whether or not funds collected under the rider DMR could be used to develop or implement renewable energy products or projects, excuse me?

A. Yes, that would be -- that would be the same response.

Q. And do you mean that any cost recovery for either a energy storage system or a renewable energy project would be collected solely through the clean energy rider?

A. As I mentioned, I think that's probably a better question for I believe it was Miss Hale, I can't remember if that's the right witness or not, but Miss Hale would be the one to address it.

Q. And just to make sure I'm following along, please, if you think that she is the person to answer, does that mean that, in fact, the proposed DMR would not -- funds collected under it would not be used for either an energy source system or renewable energy project?

A. If the Commission issued an order whereby they suggested that the DMR be used for grid modernization or renewable projects, that is the path that we would go down. Likewise, if they, as I mentioned yesterday, they just said for grid modernization and debt prepayment, we would do that, or if it's just debt prepayment alone, that that's the direction that we would go. But it's --

Q. As proposed by DP&L currently the rider DMR would not be -- its purpose would not include development or implementation of an energy storage system or renewable energy projects, correct?

A. As I've noted here, yes, the DMR would be used just for the -- to pay interest obligations on debt, make debt prepayments, and then also for grid modernization.

MS. PETRUCCI: Okay. Those are my questions. Thank you.

MR. FARUKI: Thanks, Gretchen.

Let's go off the record a minute.

(Discussion off the record.)

(Whereupon, at 10:53 a.m., the deposition was concluded and signature was not waived.)

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AFFIDAVIT

State of Ohio)
) SS:
County of _______________)

I, CRAIG L. JACKSON, do hereby certify that I have read the foregoing transcript of my deposition given on Thursday, December 15, 2016 and Friday, December 16, 2016; that together with the correction page attached hereto noting changes in form or substance, if any, it is true and correct.

____
CRAIG L. JACKSON

I do hereby certify that the foregoing transcript of the deposition of CRAIG L. JACKSON was submitted to the witness for reading and signing; that after he had stated to the undersigned Notary Public that he had read and examined his deposition, he signed the same in my presence on the ________ day of ______________________, 201__.

____
Notary Public

My commission expires _________________, ________.

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CERTIFICATE

State of Ohio)
) SS:
County of Franklin)

I, Maria DiPaolo Jones, RDR and CRR, the undersigned, a duly qualified and commissioned notary public within and for the State of Ohio, do certify that, before giving his deposition, CRAIG L. JACKSON was by me first duly sworn to testify to the truth, the whole truth, and nothing but the truth; that the foregoing is the deposition given at said time and place by CRAIG L. JACKSON; that I am neither a relative of nor employee of any of the parties or their counsel and have no interest whatever in the result of the action.

IN WITNESS WHEREOF, I hereunto set my hand and official seal of office on this 27th day of December, 2016.

Maria DiPaolo Jones

Maria DiPaolo Jones, RDR, CRR,
and Notary Public in and for the
State of Ohio.

My commission expires June 19, 2021.

(1856-MDJ-1-PUBLIC)

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Summary: Deposition of Craig Jackson (Public) Volume II electronically filed by Mr. Joseph E. Oliker on behalf of IGS Energy