

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

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Case No. 14-1277-EL-CSS

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In the Matter of Complaint of Direct Energy  
Business, LLC,

Complainant,

vs.

Duke Energy Ohio, Inc.,

Respondent.

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Deposition of: ROBERT KENNELLY

Date and Time: Tuesday, April 21, 2015  
1:11 p.m.

Place: Direct Energy  
21 East State Street  
19th Floor  
Columbus, Ohio

Reporter: Julieanna Hennebert, RPR, RMR  
Notary Public - State of Ohio

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1 APPEARANCES:

2 On behalf of Complainant:

3 MR. GERIT F. HULL  
4 Eckert, Seamans, Cherin & Mellott, LLC  
5 1717 Pennsylvania Avenue NW  
6 12th Floor  
7 Washington, DC 20006  
8 202.659.6657

7 MR. JOSEPH M. CLARK  
8 Direct Energy  
9 21 East State Street  
10 19th Floor  
11 Columbus, Ohio 43215  
12 614.220.4369

11 On behalf of Respondent:

12 MS. AMY B. SPILLER  
13 Duke Energy Corporation  
14 139 East Fourth Street  
15 Cincinnati, Ohio 45201-0960  
16 513.419.5908

15 Also Present:

16 Ms. Jennifer Seamon (via phone)

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ROBERT KENNELLY

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## KENNELLY EXHIBITS

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IDENTIFIED

1 Notice of Deposition

8

2 6.10.2013 Email Thread

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3 Complaint

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4 Discovery Request DEO-INT-01-021

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ROBERT KENNELLY,  
being by me first duly sworn, as hereinafter  
certified, deposes and says as follows:  
  
EXAMINATION  
  
BY MS. SPILLER  
  
Q. Good afternoon, Mr. Kennelly.  
A. Good afternoon.  
Q. And to be clear, am I pronouncing your  
name correctly?  
A. Yes, that's fine.  
Q. You say "that's fine." I just want to  
make sure I get it right.  
A. Sometimes I get Ken-nelly, sometimes I get  
Ken-nally. It works either way.  
Q. Sir, have you had your deposition taken  
before?  
A. No.  
Q. You listened in on the deposition or part  
of the deposition of Mr. Vance earlier today.  
A. Part of it, yes.  
Q. And so the same sort of ground rules, if  
you will, that I had shared with Mr. Vance prior to  
your joining that deposition I'll just reiterate here  
this afternoon: While we are on the record Julieanna  
will be taking down everything that is said.

1           **A.**       Okay.

2           **Q.**       So it's important to use verbal responses.

3           **A.**       Right.

4           **Q.**       Although we sometimes have a tendency for  
5 nonverbal responses or even something like "uh-huh"  
6 or "huh-uh," those sorts of responses are not helpful  
7 for us to have a clear transcription of your  
8 testimony this afternoon.

9           **A.**       Okay.

10          **Q.**       And if throughout the process this  
11 afternoon I should ask you a question that you don't  
12 understand, please let me know and I will rephrase  
13 that question for you.

14          **A.**       Okay.

15          **Q.**       And if you should need to take a break for  
16 any reason, just let me know --

17          **A.**       Okay.

18          **Q.**       -- and I will accommodate your request.  
19 My only caveat being that if I have asked a question,  
20 I would ask that you answer the question before we  
21 take a break, okay?

22          **A.**       Sure.

23          **Q.**       And can you state your name for the record  
24 please, sir?

25          **A.**       Robert Kennelly.



1       **Q.**       And your business address?

2       **A.**       1001 Liberty Center, Pittsburgh, PA.

3       **Q.**       And by whom are you employed, sir?

4       **A.**       Direct Energy.

5       **Q.**       And what is your position there?

6       **A.**       I'm a Senior Revenue Assurance Analyst.

7       **Q.**       In your position as a senior revenue  
8 assurance analyst for Direct Energy, what are your  
9 job responsibilities?

10       **A.**       Overall it's to ensure confidence in the  
11 billing systems, so we can do a number of things  
12 which involve trueups, analyzing billing volumes  
13 versus our customer files, making sure all customers  
14 got billed completely, timely, and accurately.

15               We get into some special projects,  
16 sometimes it's questions by Finance or questions from  
17 our Customer Care Center, just because we have a  
18 unique set of skills amongst the team where we can do  
19 different data analysis for some of the other groups  
20 for the company.

21       **Q.**       And when you say "to ensure confidence in  
22 the billing systems," how many billing systems does  
23 Direct Energy have?

24       **A.**       So there's, as we speak now there's five.  
25 At the time that we're discussing most of the SunCoke

1 there were three. But I can go over all of them.

2 So the main one that we'll be talking  
3 about is ERM that handles most of our power billing  
4 for industrial customers, commercial size business  
5 that is from the legacy and Direct Energy Business.

6 We have another billing system it's called  
7 Nirvana Soft which is also power billing which is our  
8 legacy; Hess, we bought the Hess about a year and a  
9 half ago, we inherited that billing system. There's  
10 still some customers on there.

11 We have a small business billing system  
12 called Discovery, and then we have two gas platforms,  
13 one of them is P2C, and the other one is Apollo.

14 **Q.** And which systems, sir, were in place in  
15 the 2013 timeframe?

16 **A.** ERM, Discovery, and P2C.

17 **Q.** And so your responsibility is to ensure  
18 that those systems that bill Direct Energy retail  
19 customers are accurate.

20 **A.** Correct. They're functioning as designed.  
21 Meaning that we're able to get our invoices out to  
22 the customer timely, accurately, and completely is  
23 our goal. So any processes that affect that.

24 So it's the data that feeds into those  
25 systems and other information that comes into play

1 later. So anything that touches the billing system  
2 would be within our scope. Like I said, sometimes we  
3 get special requests that are outside of that scope  
4 just because of the skill set of the team.

5 Q. Okay.

6 (KENNELLY EXHIBIT 1 WAS MARKED.)

7 Q. And, sir, you have before you what has  
8 been marked as Kennelly Deposition Exhibit 1, which  
9 is a notice of deposition concerning your deposition  
10 this afternoon. Have you seen this document before?

11 A. No.

12 Q. And you do not have any documents with you  
13 this afternoon, correct?

14 A. No.

15 MR. CLARK: It's all here, if you need it.

16 Q. Okay. So you were not aware that Duke  
17 Energy Ohio had asked that you bring with you certain  
18 documents to your deposition this afternoon?

19 A. No.

20 Q. Sir, what have you done to prepare for  
21 this deposition?

22 A. So I just reviewed the information I had  
23 on hand with my files, the history of the case, and  
24 read through my testimony and the other testimonies  
25 that were provided to me through the document



1 gathering. So the items that were provided for  
2 discovery, the answers to discovery questions.

3 Q. Have you read Mr. Abbott's testimony?

4 A. I have.

5 Q. How long have you been in your position as  
6 the senior revenue assurance analyst for Direct  
7 Energy?

8 A. Since January of 2013.

9 Q. And what was your -- strike that.  
10 Was that your first position at Direct  
11 Energy?

12 A. Yes.

13 Q. And where were you employed prior to  
14 becoming employed with Direct Energy?

15 A. Black Box Corporation.

16 Q. And what is the business of Black Box  
17 Corporation?

18 A. They're a telecommunications  
19 infrastructure company.

20 Q. What was your position there please?

21 A. I was a divisional controller.

22 Q. And your responsibilities were what?

23 A. Financial reporting, internal controls,  
24 process improvements.

25 Q. And Black Box would not have had any

1 association or interaction with PJM, correct?

2 A. No.

3 Q. And how long were you at Black Box, sir?

4 A. Eight years.

5 Q. And your position before that?

6 A. I was a controller for a company called  
7 Castle Cheese.

8 Q. And what was the nature of the business  
9 of, did you say Castle Cheese?

10 A. Yes.

11 Q. Okay.

12 A. They made cheese. Food manufacturer.

13 Q. Is the billing system at Direct Energy  
14 fully automated?

15 A. Yes. Let me add a caveat to that. It's  
16 fully automated in the sense that an account is  
17 normal. Meaning something out of the ordinary has to  
18 happen where manual interventions need to be done,  
19 but normally it's a fully automated system, for  
20 99 percent of our customers it would be a fully  
21 automated.

22 Q. But as an account goes through the  
23 automated system, there may be a trigger that  
24 prompts --

25 A. If it's a special handling, so if we have

1 a customer that says oh, yeah, on our bill we also  
2 want certain support schedules to go with it, our  
3 systems won't produce those support schedules, so the  
4 process would be then we'd have to pull the invoice,  
5 generate in some other, like an Excel spreadsheet the  
6 support schedules, put them with the invoice and send  
7 them out.

8 So the main invoicing is automated; it  
9 would be support schedules that go with it would be a  
10 separate breakout process. And if there was a  
11 customer that had a special format they needed, we  
12 would get that formatting done, but those are special  
13 cases.

14 Q. So the majority of the billing would be  
15 handled via an automated process but there are  
16 circumstances, unique circumstances that require some  
17 manual intervention.

18 A. Right.

19 Q. Sir, are you familiar with Ohio's  
20 regulatory -- the regulatory process?

21 A. No.

22 Q. You've not had prior occasion to  
23 interact --

24 A. No.

25 Q. -- before the PUCO?

1           **A.**       No.

2           **Q.**       And I take it by your response, sir, that  
3       you are -- would not, as a senior revenue assurance  
4       analyst, have reason to know the details of Duke  
5       Energy Ohio's certified supplier tariff.

6           **A.**       Correct.

7           **Q.**       Did you have any responsibility, sir, in  
8       setting up the SunCoke account when it became a  
9       retail customer of Direct Energy in January of 2013?

10          **A.**       No.

11          **Q.**       Are you familiar with the process that's  
12       involved when Direct Energy began serving new retail  
13       customers?

14          **A.**       Vaguely from a very macro level. There's  
15       a lot of details that I'm sure I'm not familiar with  
16       because I typically don't get involved in that part  
17       of the business.

18          **Q.**       Can you tell me about your macro  
19       understanding?

20          **A.**       When they have an opportunity, they will  
21       look to price the customer. So before they do  
22       pricing they would have to obtain some type of  
23       historical usage, whether it be getting it from the  
24       customer or requesting it from the utility, there's a  
25       couple different ways to get there.

1           And based on that they have an expected  
2 volume that will help them determine a price and then  
3 they would present that to the customer. And if we  
4 win the deal, that price that they bid, so to speak,  
5 would become part of the contract.

6           **Q.**       And so in terms of the historical usage of  
7 a customer's facility, that information can be made  
8 available to Direct Energy either from information  
9 from the utility company, the local distribution  
10 company --

11          **A.**       Correct.

12          **Q.**       -- or it could also be made available from  
13 the customer, correct?

14          **A.**       I think so. I think there have been times  
15 when they've gotten it straight from the customer  
16 from obtaining historical bills.

17          **Q.**       Okay. And the expected volume  
18 calculations that are performed by Direct Energy, are  
19 those used only for purposes of soliciting  
20 prospective customers?

21          **A.**       They have load forecasting too. So I  
22 believe load forecasting based on what we have under  
23 contract looks out and based on our expected volumes  
24 for those customers projects out what our load's  
25 going to be going forward.



1           **Q.**       And in your position as a senior revenue  
2 assurance analyst do you have any need to use  
3 expected volumes?

4           **A.**       No.

5           **Q.**       Do you have any reason in your position,  
6 sir, to use load forecasting information that Direct  
7 may prepare?

8           **A.**       No.

9           **Q.**       And what were the quality assurance  
10 processes that existed at Direct Energy in January of  
11 '13 to ensure that it was invoicing customers timely,  
12 accurately, and completely?

13          **A.**       Well, there was a few things and I'll kind  
14 of go through them off memory. So the first thing we  
15 do is what we call a load or a usage variance. So  
16 what we do is it's a query that as we get usage in  
17 for customers, it compares that to the prior months.  
18 And if the variance is greater than a certain  
19 percentage, then it needs to get researched. So it's  
20 researched until we're comfortable with why that  
21 variance exists or maybe there's an error and we have  
22 the utility resend it.

23                   After that there's, it's called a  
24 post-billing dollar variance. So this is after  
25 something gets past the usage variance it goes into a

1 process we call rating, which is generating the  
2 dollar amounts for the bill based on the rate that's  
3 in the system and the volumes that we had.

4 Then that produces a variance report  
5 that's a dollar variance. So we're looking for --  
6 very similar to the usage variance, we are looking  
7 for dollar variances that are greater than a certain  
8 percentage. And if we find things on there that were  
9 not identified in the usage variance, then it's  
10 something other than volume that's driving that  
11 variance, whether it be a rate or a price plan  
12 problem or something like that.

13 And then those things, anything that's  
14 pulled, that query needs to be resolved, cleared one  
15 way or the other, either its invoice is rejected and  
16 go back and fix something on the account or there's a  
17 reason why there is a variance, and so then it's  
18 approved and it's moved along.

19 Then we also do some -- that pulls in  
20 everything that's within the batch for that day. And  
21 then there's some other validations that are a little  
22 more big picture so we'll look at just like the ten  
23 largest invoices looking for something really crazy  
24 coming through; a million dollar invoice going to  
25 someone that we know is a very small customer or a

1 very large credit that we want to say why are we  
2 giving money back, that's out of ordinary.

3 And we also look for any manual invoices  
4 that we've done. Most of our invoicing is through a  
5 batching process. The batch is completed overnight  
6 so when we come in about 8:00 in the morning, it  
7 should be finished. So any invoicing that's done  
8 between 8:00 a.m. and say 5:00 p.m. there would have  
9 to be a manually-generated invoice.

10 One of the things we want to know is why  
11 was it manually generated, why didn't it go through  
12 the batch? So sometimes it's for a large  
13 consolidation but there would have to be a reason for  
14 something to be generated off batch.

15 So those are some of the high level  
16 things. We have other rate reviews that validate  
17 rates on a regular basis that's backed up, get into  
18 the billing system, we're validating rates and  
19 realtime and day-ahead billing rates for energy.

20 There's also processes in place for when  
21 we get a thousand through EDI from the utilities  
22 there's a series of validations that before it gets  
23 into our billing system. So there's two intermediary  
24 processes standalone systems, one's call File Check  
25 and the other is called BizTalk. And I don't know

1 which one is first in the process. I think File  
2 Check may come first.

3 But the data passes from EDI to File  
4 Check, then in the BizTalk, and then into ERM, the  
5 billing system. And each one of those two  
6 intermediary systems service to just validate the  
7 data. And I'm not certain of the specifics of what  
8 it's validating. Someone in our Transaction area  
9 would probably be better to speak to that.

10 Q. And so the usage variance that you  
11 discussed, sir, what is the percentage that will  
12 trigger a further -- percentage of variance that will  
13 trigger a further review?

14 A. 115 percent different. So if the volume  
15 the prior month was 10,000, if the volume coming in  
16 this month is more than 25,000, we would flag it and  
17 say that's a pretty big jump, wonder what's going on.  
18 Sometimes it makes sense if you're dealing with  
19 different industries we see different patterns and  
20 that's fine. And we do the same thing on the slide,  
21 if we see a large drop in volume, take a look at that  
22 as well.

23 Q. So that's a month over month?

24 A. It's a month over month, right. So that  
25 has been revamped a little bit because there's

1 inherent flaws in that. Which we're going to get to  
2 with SunCoke, it's a new customer, there was no prior  
3 month which is one of the things that the issue with  
4 SunCoke actually teased out a flaw in that  
5 validation.

6 Q. Could you not have used the historical  
7 information for purposes of usage variance?

8 A. Right. That was one of the things that we  
9 later took into consideration is what we would either  
10 do, use historical. There's some issues with the  
11 databases as far as where the historical's at and  
12 where the actual is and being able to pull them onto  
13 the same. So what we've done is actually modified it  
14 so that all new accounts get reviewed for the first  
15 month. Second month we then have an actual to  
16 compare it to.

17 Q. Okay.

18 A. But there were some database issues  
19 pulling in historical. I'm not an IT person but  
20 that's kind of what I got from them.

21 Q. But certainly learned that systems have  
22 their own unique limitations.

23 A. Right.

24 Q. Okay. And so for the new accounts, you  
25 said that all new accounts are reviewed.



1           **A.**       As of now they are, correct. At the time  
2 that we're talking about, no, they were not.

3           **Q.**       But they're reviewed against what, sir?

4           **A.**       So we look at that versus what we priced  
5 it for. So we have the historical usage so it's a  
6 manual lookup, so it's not a system pulled. So if we  
7 know they're new, then we can go back to the correct  
8 table in that system and find the usage. It's a --  
9 pulling that usage onto the reports became clumsy for  
10 the report writers, so we just decided to make that  
11 manual.

12          **Q.**       And so, Mr. Kennelly, the different  
13 validations that you just described, was that sort of  
14 auditing of controls that existed in January of 2013  
15 or were there additional controls?

16          **A.**       So we have some other -- those are all  
17 the, I guess would be the formal controls that were  
18 on the billing process at that time. We have other  
19 things that might indicate to us, other circumstances  
20 if we see something happen that might tell us that  
21 there's a problem somewhere else.

22               For instance -- these would be like  
23 indirect flags of a problem -- if you're getting a  
24 lot of calls from a customer or from a group of  
25 customers about a certain topic, then we may have a

1 problem in our billing systems about that particular  
2 topic. So maybe they're calling about a certain cap  
3 tag or a certain zone, maybe we have a problem with  
4 our tags.

5 We've got a trueup process for any of our  
6 customers that are on a market-to-market plan and if  
7 we're seeing that the actual amounts that we're  
8 trueing up to are greatly different than the  
9 estimates that we used for billing purposes, then  
10 there's probably a problem there and either the  
11 market swung unpredictably, which we saw in the east  
12 in January of '14, or there's a problem with how  
13 they're building our estimated rates.

14 Someone changed our methodology of  
15 building rates and they don't match as closely and we  
16 can call the Pricing group and say how are you  
17 building these rates because we used to have a small  
18 variance, now we have a large variance, did you  
19 change something.

20 So there's little things like that that  
21 are kind of indirect flags that something had to  
22 change and we may have a problem and we can monitor  
23 it that way.

24 Q. And what about system outputs, how were  
25 they monitored in January of 2013?

1           **A.**       Could you be more specific on the types of  
2       outputs?

3           **Q.**       And, sir, I'm not going to mark this as an  
4       exhibit to your deposition, this is your testimony  
5       that was filed in this case on April 14 of 2015 and  
6       I'm looking when you talk about your job  
7       responsibilities.

8           **A.**       Got it. In that case it would be more in  
9       the lines of if there's reports, just validate it  
10      that the reports are accurate, the queries are  
11      pulling the data we expect them to pull, if there's  
12      calculations in those reports that the calculations  
13      are being made properly.

14                   That would be most of the system output.  
15      The other output of course is the actual invoices  
16      themselves and that's more of knowing that if we got  
17      the data points going into the billing system  
18      correct, then the bill's probably correct. The  
19      billing system is more or less a glorified calculator  
20      so if the inputs are right, the output will be right.  
21      So a lot of them are the reports.

22                   A lot of things we're looking at different  
23      analysis are based off of reports that are pulled out  
24      of the system. If the data in those reports isn't  
25      what we think it is, it's not complete or maybe it's

1 pulling more than we want, or if there's calculations  
2 built into numbers there and those calculations  
3 aren't correct, then it could -- that leads to bad  
4 data which leads to bad analysis. So that's what we  
5 would be looking at.

6 Q. And in your position as senior revenue  
7 assurance analyst with Direct Energy, have you had  
8 occasion, sir, to directly interact with PJM?

9 A. I have not. There's been members of my  
10 team that have interacted directly with PJM. It  
11 would be, more specifically it would be for a  
12 specific question normally regarding the treatment or  
13 calculation of a pricing component.

14 Q. To your knowledge, sir, have members of  
15 your team interacted with PJM in connection with the  
16 SunCoke issues that give rise to Direct Energy's  
17 complaint against Duke Energy Ohio?

18 A. Actually let me correct my prior  
19 statement. I did contact them once to inquire about  
20 the volume. When we first were made aware there was  
21 a volume difference, we contacted them and said hey,  
22 we're seeing a large spike in volume, and they had  
23 directed me to that. I had to contact Duke Energy  
24 for that.

25 Q. And did you do so?

1           **A.**       Yes, I did.

2           **Q.**       And who would you have contacted at Duke  
3 Energy?

4           **A.**       At Duke? I think the -- I think it would  
5 have been Danny Fawcett, if I'm not mistaken. I was  
6 provided a number by Utility Operations because I  
7 first reached out to them. They're the group within  
8 Direct Energy that usually communicates with the  
9 utility.

10                   So Andy Vance is the first person I had  
11 engaged, I think he had reached out to them, and I  
12 think when he was on vacation the person that was  
13 covering for him provided me the name of Danny, I  
14 believe it was Danny Fawcett and I reached out to  
15 him. But aside from me contacting PJM on the initial  
16 call for this, no one else on my team would have  
17 contacted PJM for this matter.

18           **Q.**       And you understand, sir, that PJM bills  
19 Direct Energy for services used by Direct Energy  
20 provided by PJM, correct?

21           **A.**       Correct.

22           **Q.**       And do you understand how that billing is  
23 derived?

24           **A.**       I do more now than I did. I think after  
25 reading through some of the other testimonies, I



1 think that description of the billing process became  
2 a little clearer.

3 Q. But as a senior revenue assurance analyst  
4 in 2013, approximately May of 2013 when you became  
5 involved in this matter, did you understand at that  
6 point that PJM settlement process?

7 A. Not entirely, no. I was very dependent on  
8 other subject matter experts within the company.  
9 Remember, at that point when I had got involved with  
10 this, I had been in the energy industry for about  
11 four months.

12 So it was the industry was new and it's a  
13 very particular industry. So I was very reliant on  
14 some other individuals to help me make sense of the  
15 information and know where to go and who to contact  
16 for different things.

17 Q. And so in terms of ensuring the accuracy  
18 of systems for Direct Energy Business, your  
19 responsibility, sir, did it extend to those systems  
20 that enable interaction between Direct Energy and  
21 PJM?

22 A. No. Other than the EDI that we get for  
23 billing purposes, that falls under our area. The  
24 information that comes in, that's more settlement  
25 related, is initially outside of our area of focus.

1           That was -- our involvement there in this  
2 case falls under that special request that I  
3 mentioned earlier. We had brought -- had got brought  
4 in because the people that were looking at it could  
5 not understand why we -- there was such a large  
6 variance in our settled load. So they reached out to  
7 our team.

8           **Q.**       Do you know if the data through EDI is fed  
9 into the system that enable interaction between  
10 Direct Energy Business and PJM?

11          **A.**       My understanding would be that the EDI  
12 feeds into ERM through those other two marketing  
13 systems through File Check and BizTalk and ERM. ERM  
14 feeds some other systems within Direct Energy that  
15 are used for Margin Management and Load Forecasting.

16          **Q.**       And are the Load Forecasting and Margin  
17 Management, are those involved for purposes of the  
18 PJM -- are those systems relevant to the PJM  
19 settlement process?

20          **A.**       I don't know. So I have very limited  
21 understanding of what they use those systems for. I  
22 can't say for sure how they use them.

23          **Q.**       Have you, in your tenure with Direct  
24 Energy, had reason, sir, to read PJM's tariff?

25          **A.**       I've only read small parts of it that

1 dealt specifically with ancillary components but I  
2 haven't read the entire tariff.

3 Q. And when you say "ancillary components,"  
4 is that like ancillary services?

5 A. Yes.

6 Q. So not resettlement.

7 A. Right. The only resettlement information  
8 from PJM that I read was some of the materials that  
9 Andy had from the class he took there were some  
10 PowerPoint materials that he had he had given to me  
11 just as hey, if you want to understand a little bit,  
12 maybe look through this stuff, and if you have  
13 questions. So that was the extent of the information  
14 that I looked at.

15 Q. So the world of PJM condensed into a few  
16 PowerPoints?

17 A. Yes. Some magical PowerPoints.

18 Q. I was going to say very magical  
19 PowerPoints.

20 So you don't know simply because of your  
21 particular position at Direct, do you know whether  
22 PJM's tariff discusses the settlement process?

23 A. I don't know firsthand. From what I  
24 understand it does but I don't know that firsthand.

25 Q. And do you recall having reviewed the dec

1 that Andy shared with you whether PJM's tariff  
2 discusses the Settlement C process?

3 A. I don't recall. I think the part that he  
4 had on Settlement C literally was a PowerPoint just  
5 on -- it wasn't like a cut-and-paste from a tariff,  
6 it was just a PowerPoint on here's how Settlement C  
7 works. So that would be no different than if someone  
8 outside of PJM would prepare it to tell someone else.  
9 That was just a very broad overview of how the  
10 process works. I think it was a total of three  
11 slides.

12 Q. And do you know, Mr. Kennelly, when Duke  
13 Energy Ohio became a member of PJM? Do you know when  
14 that happened?

15 A. So Duke Energy Ohio, no, I don't. For  
16 some reason I want to say it was 2011 but I could be  
17 off by a year. But I know they were in MISO and  
18 moved over but I don't know when.

19 Q. And to your knowledge when you joined  
20 Direct Energy, at that point Duke Energy Ohio was a  
21 member of PJM, correct?

22 A. Correct.

23 Q. And you would not have been involved, sir,  
24 simply because you weren't yet at Direct Energy, you  
25 would not have been involved in setting up any of the

1 Direct Energy subaccounts with PJM.

2 A. Correct.

3 Q. You would not have been involved in any  
4 agreements that would have been executed as between  
5 Direct Energy and Duke Energy Ohio relative to  
6 membership in PJM.

7 A. That's correct.

8 Q. And in your position as a senior revenue  
9 assurance analyst, you are not the individual at  
10 Direct Energy responsible for knowing the terms and  
11 conditions set forth in Duke Energy Ohio's certified  
12 supplier tariff, are you?

13 A. Right, I'm not.

14 Q. Have you ever read that document, sir?

15 A. No.

16 Q. Are you familiar with the term "buyer  
17 unilateral contract for schedule confirmation"?

18 A. (Shakes head.)

19 Q. No?

20 A. No.

21 Q. Just want to make sure.

22 Have you had reason, sir, in your position  
23 with Direct Energy to access PJM's eSchedule tool?

24 A. No, I have not.

25 Q. Do you know what that tool does?



1           **A.**       Not firsthand. It sounds like it's to  
2 manage the load that's being scheduled versus what's  
3 needed. But I wouldn't know, I've never -- outside  
4 of my area.

5           **Q.**       And what group within Direct Energy is  
6 responsible for sort of managing/accessing the  
7 eSchedule tool?

8           **A.**       Load Forecasting.

9           **Q.**       And is that the same group, sir, that's  
10 responsible for receiving PJM invoices?

11          **A.**       No. The group that receives PJM invoices  
12 is Settlements. They interact frequently but they're  
13 two distinct groups. I believe Load Forecasting uses  
14 Settlements' information.

15          **Q.**       So then the Settlements group receives the  
16 invoices and pays the invoice.

17          **A.**       Right. That's also the starting point of  
18 the data flow from -- so you figure two data points:  
19 There's a billing data point and there's a settlement  
20 data point, and then those entry points then start a  
21 flow.

22                    So we talked about the big data coming in  
23 through EDI and going into ERM which feeds some other  
24 systems. Same thing on the settlement side: The  
25 settlement information comes into our Settlements

1 department, they pay the bill but they also enter  
2 into that information from the settlement as far as  
3 volumes and dollars and that then populates out and  
4 that's what Pricing ends up using that information to  
5 update the pricing models, Load Forecasting would use  
6 that information as well.

7 So it then just spreads throughout our  
8 various systems.

9 Q. And the information that's input by your  
10 Settlement group, the settlement information, is that  
11 on an aggregate basis or is that broken down?

12 A. "On aggregate," you mean for the whole  
13 market?

14 Q. For your retail, for Direct Energy's  
15 retail load in the, for example, in the Duke Energy  
16 Ohio territory.

17 A. Right, so it's not broken down by  
18 customer, it's everything for Direct Energy all  
19 together, yes.

20 Q. Could the information be broken down to  
21 individual accounts?

22 A. I don't know. My understanding is no but  
23 I don't know that.

24 Q. And do you know what information is  
25 available to Direct Energy on the PJM eSchedule tool?

1           **A.**       No.

2           **Q.**       And do you know the frequency with which  
3 PJM updates or populates the eSchedule tool?

4           **A.**       No.

5           **Q.**       Do you know the frequency with which PJM  
6 bills load serving entities for their load ratio  
7 share?

8           **A.**       Weekly.

9           **Q.**       And the billing, the bills are derived or  
10 based upon what information, sir?

11          **A.**       It would be the energy used. Yeah, the  
12 energy that we would be using from the utility.

13          **Q.**       And to your knowledge is that actual or  
14 estimated information?

15          **A.**       It's my understanding is it's actual but  
16 the actuals get revised from time to time.

17          **Q.**       And what would cause the actuals to get  
18 revised?

19          **A.**       Could be corrections of meter reads, could  
20 be if you're looking at the dollar amount of the  
21 invoice it could be rates changing. Rates change for  
22 some of the ancillary costs maybe up to four months  
23 out, three or four months out. The energy rates  
24 usually don't change more than a month, 60 days out.

25          **Q.**       What causes you to believe that the weekly

1 invoices are based upon actual information?

2 A. That was just always my assumption it was  
3 based on actual.

4 Q. And would you anticipate, Mr. Kennelly,  
5 that that actual information that forms the basis of  
6 weekly invoices is available for review by Direct  
7 Energy?

8 A. Yes. We get the information weekly and we  
9 have it.

10 Q. So there's a physical PJM invoice that  
11 comes weekly, correct?

12 A. Yes.

13 Q. And are there details accessible to Direct  
14 Energy? Can Direct Energy go behind the invoice and  
15 look at details that support it?

16 A. I don't know about the weeklies. I know  
17 on the monthly summary so there's -- we get one every  
18 week and at the end of the month you get one that is  
19 the entire month and has whatever amount is left to  
20 be paid there. So on that monthly one we've seen the  
21 details behind that before.

22 Q. And those details would be what, sir?

23 A. The intervals mainly. That's what I was  
24 looking at was it was a spreadsheet or at least maybe  
25 it was data that was dumped into a spreadsheet by the

1 time I got it that had the interval usage and the  
2 interval rates and the interval costs then broken out  
3 and summed up to tie back to the invoice.

4 Q. And then what groups would have read that  
5 monthly or had access to that monthly detail? Would  
6 it be Load Forecasting and Settlements?

7 A. Right. Settlements would get it, they  
8 then, the information they have goes into a system  
9 called nMarkets which then feeds load forecasting and  
10 pricing and those applications.

11 Q. And you talked, sir, about the variances,  
12 the controls with respect to the billing --

13 A. Right.

14 Q. -- and information going from EDI through  
15 the two, to File Check and the other system to ERM.

16 A. Right.

17 Q. And the different usage variances and the  
18 like that were performed. What were the controls in  
19 respect of the information that came in from PJM and  
20 pursuant to which Direct Energy was paying weekly  
21 invoices?

22 A. So they would get the data in and they  
23 would compare that to previous payments and look for  
24 things that seemed to be an anomaly to them. Because  
25 this was on the Settlement side, not an area I dealt



1 with.

2 And then the data would then go -- as it  
3 went to Load Forecasting they compared our realtime  
4 load versus what we had scheduled. So if we  
5 scheduled the day-ahead this amount, okay, what did  
6 we use historically and see what the realtime  
7 percentage was. And if that percentage was  
8 significant, they might drill down to figure out why  
9 that's the case.

10 Q. And when the Settlements group compared  
11 data to previous payments for purposes of looking for  
12 anomalies, were they just looking at the invoice or  
13 did they go behind to the details?

14 A. My understanding is they look at the  
15 invoice. I'm not sure if they went behind or not.

16 Q. And what would be characterized as an  
17 anomaly that prompted further review?

18 A. I'm not sure what the threshold is.

19 Q. And is that comparison of an invoice to  
20 prior payments, is that automated?

21 A. I believe it is.

22 Q. Okay. And then on the Load Forecasting  
23 side was there a particular threshold that would have  
24 prompted further review?

25 A. We've seen them ask us if it's over

1 10 percent. I don't know if that's hardline for  
2 them, but, or if they have a line that's lower than  
3 that that they don't come to us. But by the time  
4 anything that comes to -- that's elevated to Revenue  
5 Assurance, it's been over 10 percent variance. And  
6 it kind of moves depending on the size of the market.

7 So if a certain utility is with a small  
8 presence in that market, then they're more tolerant  
9 of a low deviation of a higher percentage than if it  
10 was a much larger. So, for instance, the piece that  
11 is large market for us they might say okay, maybe 5  
12 percent there is significant and if this other  
13 utility is very small, they might say 30 percent is  
14 tolerable. So there's no hard and fast rule.

15 **Q.** Okay. How did you first become involved  
16 in this matter with SunCoke, the matter that gives  
17 rise to the complaint?

18 **A.** So Load Forecasting or Margin Management,  
19 one of the groups, I can't remember which one, was  
20 seeing a load deviation with respect to Duke Energy.  
21 A load deviation was about 95 percent, which means  
22 our actual load was just about double what our  
23 scheduled load was.

24 So by the time they contact us -- so they  
25 were seeing there for flow month January and they

1     contacted me I believe it was early May, May 6 I  
2     think. By then they had gone through the  
3     resettlement process and we had actualized the month.

4             So from an accounting standpoint we  
5     actualized the month four months after it ends. By  
6     then all the ancillaries are pretty much done moving  
7     around. And all of our billings for that period  
8     should be in by then.

9             So at that point they're still seeing this  
10    large load deviation so what they were expecting to  
11    see come through in the February, March, and April  
12    time was some billings that would catch up to this  
13    realtime load deviation.

14            Our thought was we must have got in a  
15    customer and we haven't billed them yet so they  
16    weren't in our forecast but if we bill them, they  
17    should be good. And the billings never came around.  
18    So when they brought it to us, it was a billing  
19    question: Why aren't we billing our customers?

20            So since that was in our area of remit, we  
21    were assigned to look at it and as we looked at it  
22    there was nothing that told me that we weren't  
23    billing our customers completely. It looked like we  
24    were.

25            So since I couldn't find a billing problem

1 and everything that I saw from the billing standpoint  
2 showed us about 99 percent billing complete, we  
3 started looking back at the data they were looking  
4 at. So what they're seeing is settlement information  
5 had spiked.

6 So I started thinking maybe it's not a  
7 billing problem at all, maybe it's a settlement  
8 problem, so we started moving on that path and that's  
9 what led me just to call Duke and say -- not Duke,  
10 rather I called PJM and said we're seeing this large  
11 realtime spike, just curious as to what happened, why  
12 our load suddenly doubled, and they said you have to  
13 talk to Duke Energy.

14 That's when I reached out to Andy Vance to  
15 get a contact at Duke Energy where we could start  
16 getting some information. At that point it was just  
17 trying to understand what happened because we weren't  
18 quite sure.

19 **Q.** And when you say the settlement info  
20 spiked, that settlement info spiked beginning when?

21 **A.** Well, we were working at that point on the  
22 January flow month. So as we started getting into  
23 it, I got some of the information from Duke, Danny  
24 Fawcett was able to provide me the intervals. So as  
25 I laid out the intervals of the actuals versus what



1 our forecast was for the intervals, what I saw was on  
2 the midnight hour of January 4th the load spiked.

3 So for the first three days everything  
4 looks normal, looks very similar to December, it  
5 looks similar to our forecast, and then all of a  
6 sudden on January 4th the load just jumps up at the  
7 midnight hour.

8 So I figured something had to happen on  
9 January 4th, so my first question was back to a  
10 group within Direct Energy that handles our large  
11 customers and said did you guys sign anybody up,  
12 we've got some volume, meaning that was whatever our  
13 gap was. And the gentleman that handles that says  
14 no, the largest customer we had is SunCoke that was  
15 new but they're a fraction of that. So I kind of  
16 dismissed that and went back to Danny and said what  
17 would have changed here.

18 So we started going through the data to  
19 try to better understand if was there a problem, was  
20 it incorrect data, was it doubling a meter was kind  
21 of our thoughts. And if I recall, he was very  
22 adamant that the information was the data was  
23 correct. I said okay, and I believed him, must be  
24 right, I mean, he sounded pretty convincing.

25 So I went back to the gentleman that



1 handles large accounts and we had a team of some  
2 other people, someone from EDI, someone from Billing,  
3 and just trying to see what happened on this account.  
4 So we went back and looked at historical usage that  
5 we had for the pricing and so we looked at that.

6 We have another facility of SunCoke's in a  
7 different zone, different utility in Ohio that's  
8 about 50 percent larger and so their usage was more  
9 in line with what we were expecting to see for  
10 SunCoke, so the conversation went back around to the  
11 SunCoke thing again.

12 And Danny had indicated that, well, your  
13 load spiked because you guys added SunCoke. And they  
14 were about, I can't remember the exact number without  
15 looking through the reports, but they were a certain  
16 megawatt per hour and when he said that, I'm thinking  
17 Chuck said it was like a tenth of that. So I said  
18 okay, I think that might be where our break is  
19 because I don't think we have that level of volume,  
20 so let me get back to you.

21 So that's when I got my team and we  
22 started going through the SunCoke information we had,  
23 historical pricing, we went through what the other  
24 facility was using as power, and it looked like our  
25 original estimates, which is a much smaller number,

1 would have been correct. But we weren't certain, we  
2 didn't have anything that told us that adamantly.

3 So we reached out to SunCoke and said you  
4 guys are dual billed, do you have an invoice from  
5 Duke Energy that you can send us? And they said  
6 sure, how about January. So they sent us the January  
7 invoice. That number was the lower number which is  
8 what we were expecting. So that's when I went back  
9 to Danny and said hey, we have a copy of a Duke  
10 invoice sent to SunCoke with the correct usage, it's  
11 not what you told me, it's a tenth of that roughly, I  
12 think that's where the problem is.

13 At that point Danny didn't respond to that  
14 so I never heard back from him after that.

15 **Q.** The Load Forecasting group, do they have  
16 access to the historical usage?

17 **A.** I don't know.

18 **Q.** Does the Margin Management group have  
19 access to the historical usage?

20 **A.** I don't know.

21 **Q.** And you were present for a good portion of  
22 Mr. Vance's deposition, and did you hear him testify,  
23 sir, that interval data for SunCoke was provided to  
24 Direct via a spreadsheet?

25 **A.** Correct. So that would be billing

1 interval data. That was provided I believe in May of  
2 2013. So the initial usage we got for billing  
3 purposes for the January, February, and March months,  
4 and maybe April as well, was summary data. So it's  
5 just a summary of the usage for the month.

6 We would have to de-aggregate that for  
7 billing purposes because the part they were on needed  
8 interval information to bill correctly.

9 Q. Okay.

10 A. Accurate interval data would be preferred  
11 over de-agged summary. So either way it needs to be  
12 broken down to an interval.

13 So the summary data we received to bill  
14 those months initially was reasonably correct, and  
15 when I say "reasonably correct" that means it may  
16 have changed a little bit later but it was in the  
17 right ballpark of where I expected the deviation  
18 would be immaterial. So January and February were  
19 billed out using interval data, as was March. Or  
20 using summary data, my mistake, those would have been  
21 billed using summary data.

22 And then in May we received the interval  
23 data on a spreadsheet and for some reason Duke was  
24 unable to produce the interval information through  
25 the EDI. It was I think a heavily manual process for

1 that to be done.

2 So what was agreed upon was if you can at  
3 least give us a spreadsheet, we can upload that. So  
4 we did a manual upload of the spreadsheet information  
5 in order to get accurate intervals in there.

6 The intervals that came in -- let me back  
7 up a step, I missed something in the timeline there.

8 Q. Uh-huh.

9 A. We had this summary data billed out for  
10 those months; the summary data was correct. Duke  
11 attempted to send interval data through EDI. That  
12 interval data that came in through the EDI was  
13 inflated the same way our settlement information was  
14 inflated.

15 So with our automated billing systems that  
16 usage comes in and it automatically triggers a  
17 cancel/rebill, so it cancels out the old information  
18 in the system and puts in newer.

19 The account was supposed it be on hold in  
20 our systems, meaning we didn't want any invoices  
21 going out because we knew we were in discussions with  
22 some issues with regards to the usage. The invoice  
23 went out anyway. So it was an embarrassing moment in  
24 our sense that we invoiced a customer for a large  
25 number instead of a small number.

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Summary: Deposition Duke Energy Ohio is filing Robert Kennelly deposition Part 1 of 2 electronically filed by Mrs. Debbie L Gates on behalf of Duke Energy Ohio Inc. and Spiller, Amy B and Watts, Elizabeth H