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February 9, 2009

VIA FEDERAL EXPRESS

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

RECEIVED-DOCKETING DIV
2009 FEB 10 AM 9:54
PUCO

RE: DP&L ESP Filing, Case No. 08-1094-EL-SSO

Dear Ms. Jenkins:

Enclosed are deposition transcripts of Shelley J. Dickstein and Mark R. Frye, for filing in the above-captioned matter. These depositions were recently received by DP&L, and are being filed pursuant to DP&L's Notice of Filing Depositions, which was filed on February 6, 2009.

Very truly yours,

R. Holtzman Hedrick

R. Holtzman Hedrick

RHH/tes
Enclosures

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BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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

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

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

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

DEPOSITION

of Mark Frye, taken before me, Julieanna Hennebert, a
 Notary Public in and for the State of Ohio, at the
 offices of Vorys, Sater, Seymour and Pease, 52 East
 Gay Street, Columbus, Ohio, on Friday, February 6,
 2009, at 9:00 a.m.

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APPEARANCES:

Faruki, Ireland & Cox, P.L.L.
By Mr. Jeffrey S. Sharkey
500 Courthouse Plaza, SW
10 North Ludlow Street
Dayton, Ohio 45402
On behalf of the Applicant.

Vorys, Sater, Seymour and Pease
By Mr. M. Howard Petricoff
52 East Gay Street
Columbus, Ohio 43216

On behalf of Honda of America.

Mr. Craig I. Smith
2824 Coventry Road
Cleveland, Ohio 44120
On behalf of Cargill, Inc..

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Friday Morning Session,
February 6, 2009.

STIPULATIONS

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

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MARK FRYE

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

EXAMINATION

BY MR. SHARKEY:

Q. Mr. Frye, as you know, my name is Jeff Sharkey. I represent the Dayton Power and Light Company in this matter.

Your direct testimony says that you are an energy consultant and the president of Palmer Energy Company. Let me just start by asking you what do you mean by saying you're an energy consultant?

A. I assist commercial, industrial, governmental entities in the acquisition of natural gas and electricity and work with them on various matters, including acquisition of electrical products, natural gas supplies, working on them, making recommendations in the commodities market, and over the years have become very involved in various cases before the PUCO as an expert witness on behalf of governmental aggregations and other customers.

Q. How long have you worked for Honda?

A. I was retained by Honda and Cargill a few months ago.

Q. So before that retention had you done

work for Honda or Cargill?

A. No.

Q. Who are -- if you had to list your largest four or five clients in the state over the last five years, who would those be?

A. Probably the Northwest Ohio Aggregation Coalition, or NOAC, which is the governmental aggregation in Northwestern Ohio, Cleveland Schools, Toledo Public Schools, the Northeast Ohio Public Energy Counsel, or NOPEC.

Q. Is the bulk of your work testifying or consulting?

A. Consulting.

Q. Have you done any consulting work aside from testimonial-related work, for either Honda or Cargill?

A. No.

Q. Who have you done the most consulting work for in the last few years?

A. Define "most." Monetarily or time-wise?

Q. Time-wise.

A. NOAC, the Northwest Ohio Aggregation Coalition.

Q. And Palmer Energy Company, how many employees does it have?

A. Seven.

Q. How many employees does it have that aren't secretarial or other support type staff?

A. Five.

Q. Are you the owner of Palmer Energy Company?

A. I am.

Q. Is anybody else a partial owner?

A. No, not at this time.

Q. What did you review to prepare your testimony?

A. I generally reviewed the entire case that was put forward by DP&L, reviewed responses to questions, various information on the market. I reviewed the -- briefly reviewed the annual report and some financial data on the DP&L website.

Obviously I reviewed 221 -- Senate Bill 221, excuse me.

Q. I knew what you meant.

A. I know you did but with the court reporter I wanted to make sure it was clear.

Let's see, those are the things that come to mind. I've probably reviewed other things as well but I can't recall anything else off the top of my head.

Q. Did you offer testimony in other utilities' ESP cases?

A. Yes, I did.

Q. Which other ones?

A. In the both First Energy and AEP cases.

Q. On whose behalf was that testimony offered?

A. The First Energy ESP case it was on behalf the NOAC, Northwest Ohio Aggregation Coalition, and NOPEC. And on the case of AEP, that was on behalf of the school groups or what's called the school pool.

Q. Have you offered testimony in Ohio previously on any of the electric transition plan cases of the Ohio electric utilities that were back in the 1999-2000 time frame?

A. No, I have not.

Q. Did you offer testimony in any electric utilities rate stabilization period cases that happened in the sort of mid-2000 time frame?

A. Yes, I did.

Q. For which utility's cases did you offer testimony?

A. The First Energy RSP case I offered testimony.

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1 Q. And on whose behalf was that testimony
2 offered?
3 A. That was also on behalf of NOAC and
4 NOPEC.
5 Q. Have you ever offered testimony
6 previously in any DP&L case of any kind?
7 A. No, I have not.
8 Q. Did you review DP&L's ETP stipulation or
9 the Commission's order approving that stipulation?
10 A. No, I did not.
11 Q. Did you review DP&L's 2003 RSP
12 stipulation from the 2002 case or the Commission's
13 order approving that stipulation?
14 A. No, I did not.
15 Q. Did you review DP&L's 2005 RSP
16 stipulation or the Commission's order approving that
17 stipulation?
18 A. Yes, I did.
19 Q. What did you do to become familiar with
20 Honda's business to prepare your testimony in this
21 case?
22 A. I spoke with counsel about generally what
23 Honda consumed and various formats held, what level
24 of voltage did they consume the electricity at from
25 the DP&L system. And spoke with them about generally

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1 about consumption, demand, things like that.
2 MR. PETRICOFF: I will interpose an
3 objection here at this time. I will not object to or
4 move to strike this answer, but we are in the area
5 now we're getting close to attorney/client privilege
6 or work product, and Mr. Frye is retained by me, not
7 Honda.
8 MR. SHARKEY: Are you asserting that
9 communications -- let me step back.
10 MR. PETRICOFF: The answer he just gave
11 is that he had talked to me. And I think I'm not
12 going to object to that, but I wanted to indicate
13 that we are drawing the line here and if we went
14 further into what did counsel tell you, what kind of
15 information that you got, what did you discuss, that
16 would probably cross the line.
17 MR. SHARKEY: I'm not sure that it would,
18 since he's a testifying witness and I don't believe
19 he's your client.
20 MR. PETRICOFF: It's attorney/client
21 privilege for work preparation. But let's continue
22 on because let's see what the next question is.
23 MR. SHARKEY: It may not matter.
24 BY MR. SHARKEY:
25 Q. What did you do to prepare for your

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1 testimony here on behalf of Cargill?
2 A. I spoke with counsel and one
3 representative of Cargill in regards to similar
4 matters; voltage levels, what they produce at the
5 various facilities, the locations of the facilities
6 and the like in the DP&L service territory.
7 Q. Do you have a copy of your testimony in
8 front of you?
9 A. I do.
10 Q. Can you turn please to page 6, line 11.
11 There's a sentence there it says there are times when
12 rate stability may be so critical that the problems
13 deferrals create are outweighed by the need to phase
14 in cost.
15 Can you tell me what that means?
16 A. In my opinion that means that power
17 prices and fuel costs can be high enough that the
18 impact on customers -- the incremental increase if
19 there were not deferrals would be sufficient to cross
20 a threshold of a percentage increase that consumers
21 would not be comfortable with and the Commission
22 would not be comfortable in instituting, and in that
23 light they may choose to institute deferrals.
24 Q. Do you consider deferrals to promote rate
25 stability or to undermine rate stability?

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1 A. Depends on the circumstances. They could
2 do either one depending on the individual set of
3 circumstances.
4 Q. In what circumstances do you believe that
5 a deferral would promote rate stability?
6 A. If the deferral term was long enough and
7 the impact on the customers was going to be
8 substantial enough, in that light there may be
9 stability promoted.
10 Q. And when you said that the impact was
11 significant enough, my words paraphrasing what you
12 had said, what do you mean by that?
13 A. What percentage increase the customers
14 would otherwise see.
15 Q. And at what point would that criterion be
16 triggered in your mind?
17 A. I don't know, it's not that simple a
18 thought process. Because you need to evaluate not
19 just what the impact of the increase is, you have to
20 also look at the costs of those increases over the
21 long term and how they're collected later.
22 Q. You said earlier that deferrals may
23 sometimes undermine rate stability. In what
24 circumstances do you believe deferrals undermine rate
25 stability?

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1 A. Deferrals can undermine rate stability
2 when you have a structure that creates a substantial
3 impact in later years on consumers' costs and
4 effectively you're borrowing short-term cost control
5 for longer term problems.
6 Q. So rate stability -- trying to understand
7 your answer here.
8 Deferrals undermine rate stability when
9 there is a subsequent recovery that results in a
10 substantial short-term increase?
11 A. It can.
12 Q. Are there other circumstances in which a
13 deferral could undermine rate stability?
14 A. Sure. To the extent that -- it would
15 depend on who it applies to. For instance as I
16 mentioned in my testimony, that the deferral applies
17 to all customers and those charges for somebody who's
18 shopping, like Cargill and Honda, and acquiring their
19 third-party supply, if those customers were paying
20 those charges today and then would have to pay
21 somebody else's charges in the future, that would
22 undermine their rate stability.
23 Q. So you're saying if it's a fuel deferral
24 as DP&L has proposed, it's your opinion that it
25 should be avoidable when it's to be recovered later?

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1 A. I think my testimony says that if a
2 customer is shopping, if there's a third-party
3 supplier who is serving that customer and they are
4 being billed for that consumption, that fuel is going
5 into the input of the plants or what have you, then
6 the net result is they're consuming that fuel today,
7 they are not consuming fuel that's generating the
8 power to go to non-shopping customers.
9 Q. Is it your understanding that Honda and
10 Cargill are currently shopping customers and don't
11 take generation service from the Dayton Power and
12 Light Company?
13 A. It's my understanding that they accept
14 third-party supply.
15 Q. And is it your understanding that they
16 will be accepting third-party supply in 2009 and
17 2010, barring some unforeseen circumstance default by
18 a supplier or otherwise?
19 A. That's my understanding, yes.
20 Q. For customers that take generation
21 service from the Dayton Power and Light Company in
22 2009 and 2010, do you have an opinion regarding
23 whether they should pay the deferral, assuming it's
24 granted, starting in 2011 if they were to switch in
25 2011 to an alternative supplier?

<p style="text-align: right;">Page 14</p> <p>1 A. Could you repeat that question please?</p> <p>2 Q. Yeah, the idea is customers taking</p> <p>3 generation service from the Dayton Power and Light</p> <p>4 Company in 2009 and 2010, but as the fuel costs'</p> <p>5 deferred, 2011 they switch to a CRES provider, the</p> <p>6 Dayton Power and Light Company is now seeking to</p> <p>7 recover its costs from 2009 and 2010, the question is</p> <p>8 do you have an opinion as to whether or not such a</p> <p>9 customer should be required to pay the deferral or</p> <p>10 not?</p> <p>11 A. To the extent that the Commission would</p> <p>12 grant the deferral and the customer under the</p> <p>13 circumstances you've provided accepted standard</p> <p>14 service offer supply, if the Commission granted a</p> <p>15 deferral to the company and the customer shopped in</p> <p>16 2011, then yes, they should be obligated to repay</p> <p>17 those charges.</p> <p>18 Q. You said earlier that you reviewed Senate</p> <p>19 Bill 221. Do you remember which sections of Senate</p> <p>20 Bill 221 that you reviewed?</p> <p>21 A. The entire thing.</p> <p>22 Q. I'm going to show you a copy of 4928.143?</p> <p>23 A. Are you asking me to review the entire</p> <p>24 section, Mr. Sharkey, or are you going to point out a</p> <p>25 section to me?</p>	<p style="text-align: right;">Page 17</p> <p>1 statute was enacted had incurred any significant</p> <p>2 increases in costs to provide standard service offer?</p> <p>3 A. Could you repeat the question again</p> <p>4 please?</p> <p>5 Q. Setting aside fuel costs.</p> <p>6 A. Okay.</p> <p>7 Q. The question is, are you aware whether</p> <p>8 the Dayton Power and Light Company has incurred</p> <p>9 significant increases in any other cost item that the</p> <p>10 DP&L needs to provide standard service offer to its</p> <p>11 customers between 2005 and a time Senate Bill 221 was</p> <p>12 enacted?</p> <p>13 A. I'm aware that DP&L has made various</p> <p>14 statements in the application that they have incurred</p> <p>15 other charges.</p> <p>16 As to whether those -- to the extent</p> <p>17 those are significant, I don't know whether they are</p> <p>18 significant, but I know -- it's my understanding that</p> <p>19 DP&L has asked for charges due to the what I think</p> <p>20 you could characterize or DP&L characterized as</p> <p>21 significant increases.</p> <p>22 Q. What other cost items are you referring</p> <p>23 to?</p> <p>24 A. There was commentary about various other</p> <p>25 components that would go into power plants,</p>
<p style="text-align: right;">Page 15</p> <p>1 Q. Everybody in the room will be glad to</p> <p>2 know that I'm not going to ask you to review all of</p> <p>3 4928.143.</p> <p>4 I would like to turn your attention to</p> <p>5 4928.143(D), which is on page 3 of the document that</p> <p>6 I've handed to you.</p> <p>7 Q. Are you familiar with the subsection to</p> <p>8 which I've pointed to?</p> <p>9 A. Yes, I am.</p> <p>10 Q. That subsection provides that it applies,</p> <p>11 and I'm reading from the end of the first line, to</p> <p>12 "electric distribution utility that has a rate plan</p> <p>13 that extends beyond December 31, 2008."</p> <p>14 MR. SMITH: Mr. Sharkey, can we stipulate</p> <p>15 that Mr. Frye is not a lawyer?</p> <p>16 MR. SHARKEY: We can certainly stipulate</p> <p>17 that he's not a lawyer. And I intend to ask him a</p> <p>18 factual question, I'm not going to ask him to</p> <p>19 interpret that section.</p> <p>20 Q. The factual question to you is are you</p> <p>21 aware of any electric distribution utility in Ohio</p> <p>22 other than the Dayton Power and Light Company that</p> <p>23 had an electric distribution rate plan that extended</p> <p>24 beyond December 31, 2008 at the time this section was</p> <p>25 enacted?</p>	<p style="text-align: right;">Page 18</p> <p>1 limestone, urea, various other components that would</p> <p>2 be included in an operation of coal-fired power</p> <p>3 plant.</p> <p>4 Q. And you understand the Dayton Power and</p> <p>5 Light Company considers those to be fuel-related</p> <p>6 costs?</p> <p>7 A. Generally.</p> <p>8 Q. Do you agree with or disagree with that</p> <p>9 characterization?</p> <p>10 A. They are related to generating the</p> <p>11 electricity in the facilities that Dayton Power and</p> <p>12 Light owns.</p> <p>13 Q. Any other cost increases of which you are</p> <p>14 aware subject to the description of the prior</p> <p>15 question?</p> <p>16 A. My recollection is that the company's</p> <p>17 application also mentioned increases in purchased</p> <p>18 power costs as well.</p> <p>19 Q. Anything else?</p> <p>20 A. Not in regards to generation service.</p> <p>21 Q. Are you aware of any increases the Dayton</p> <p>22 Power and Light Company has incurred as to</p> <p>23 transmission or distribution service?</p> <p>24 A. I don't recall anything in the</p> <p>25 application regarding transmission. I do recall</p>
<p style="text-align: right;">Page 16</p> <p>1 A. No, I'm not.</p> <p>2 Q. You would agree with me that at the time</p> <p>3 this was enacted, DP&L did in fact have such a rate</p> <p>4 plan.</p> <p>5 A. It's my understanding that is a fact.</p> <p>6 Q. And would you agree with me that the</p> <p>7 Dayton Power and Light Company will incur fuel costs</p> <p>8 to provide a standard service offer to its customers?</p> <p>9 A. Directly or indirectly it would incur</p> <p>10 fuel costs to standard service offer customers.</p> <p>11 Q. When you say "directly," for the plants</p> <p>12 that it owns or partially owns it's going to have to</p> <p>13 acquire coal or natural gas or other items to fuel</p> <p>14 those plants, correct?</p> <p>15 A. Correct.</p> <p>16 Q. And when you say "indirectly," to the</p> <p>17 extent the Dayton Power and Light Company needs to</p> <p>18 make purchases in the market to supply its standard</p> <p>19 service offer customers, there's going to be some</p> <p>20 cost component presumably in that amount that would</p> <p>21 cover fuel from whoever the seller is.</p> <p>22 A. Correct.</p> <p>23 Q. Other than fuel costs, set those aside</p> <p>24 for a moment, are you aware whether the Dayton Power</p> <p>25 and Light Company from 2005 until the date this</p>	<p style="text-align: right;">Page 19</p> <p>1 various expenditures that were mentioned in the</p> <p>2 application regarding distribution.</p> <p>3 Q. Are you referring to the expenditures the</p> <p>4 Dayton Power and Light Company states that it will</p> <p>5 incur to comply with the alternative energy and</p> <p>6 renewable energy targets in Senate Bill 221?</p> <p>7 A. Will incur or have already incurred I</p> <p>8 believe. The application mentions that some of that</p> <p>9 work was already underway.</p> <p>10 Q. As to DP&L's request for a fuel deferral,</p> <p>11 were there any factors or matters that you considered</p> <p>12 and then but are not addressed in your testimony?</p> <p>13 A. Not that I can think of, no.</p> <p>14 Q. If you could turn your testimony to</p> <p>15 page 4.</p> <p>16 A. Page 4 you said?</p> <p>17 Q. Please. There's a question on line 21,</p> <p>18 your answer begins on line 23, and in that</p> <p>19 testimony -- in that answer rather, you discuss</p> <p>20 DP&L's costs comparing a 2007 number of 2 cents to a</p> <p>21 1.64 cents figure for 2008, both figures being based</p> <p>22 on nine months.</p> <p>23 Do you see that?</p> <p>24 A. I do.</p> <p>25 Q. And my question to you is, do you know</p>

<p style="text-align: right;">Page 20</p> <p>1 whether DP&L's coal -- strike that -- whether DP&L's 2 fuel costs have increased since 2005? 3 A. I've not reviewed any data that would 4 indicate that it has or hasn't. 5 Q. In making this cost comparison did you 6 look only at DP&L's costs for the first nine months 7 in 2007 and compare it to DP&L's costs for the first 8 nine months in 2008? 9 A. Could you repeat that question again 10 please? 11 Q. Let me rephrase it. Poorly worded. 12 Did you make any other comparisons of 13 DP&L's costs in other periods? For example, did you 14 look at DP&L's fuel costs for the first nine months 15 in 2006 or 2005? 16 A. No, I did not. 17 Q. So your opinion relating to whether the 18 Dayton Power and Light Company has experienced a 19 large increase in fuel costs is limited to a 20 comparison of what happened to DP&L's fuel costs for 21 the first nine months in 2007 to DP&L's fuel costs 22 for the first nine months in 2008? 23 A. No, I wouldn't characterize it that way. 24 Q. How would you characterize it? 25 A. That sentence merely is intended to point</p>	<p style="text-align: right;">Page 23</p> <p>1 attachment, it's labeled appendix A. 2 A. Uh-huh. 3 Q. And if what -- if I understand this 4 correctly, you show here the financial affect of a 5 hypothetical annual deferral of \$10 million in 2009 6 and an additional \$10 million deferral in 2010, 7 correct? 8 A. Correct. 9 Q. And if I understood your testimony 10 correctly, to calculate the amounts shown on 11 appendix A, you started with the Dayton Power and 12 Light Company's 13.32 percent carrying charge, gross 13 that amount up for taxes, and then perform these 14 calculations resulting in the \$52 million total 15 recovery; is that correct? 16 A. That's correct. 17 Q. And I believe in your testimony you opine 18 that if DP&L is to defer fuel costs, it should be at 19 a carrying cost of 9.36 percent; is that right? 20 A. My recollection of the testimony is that 21 I took the position that DP&L should be consistent 22 with its carrying costs. 23 Q. Can you explain what you mean by that? 24 A. Well, in the IIR it's my recollection or 25 understanding of the application that DP&L is going</p>
<p style="text-align: right;">Page 21</p> <p>1 out that DP&L in its application discusses large 2 increases in fuel costs, and it's my understanding in 3 the application they aren't asking for an increase 4 for 2008, they're asking for increases in 2009 and 5 2010 for fuel costs. 6 What that is intended to point out is 7 that from 2007 to 2008 during those two nine month 8 snapshot periods that fuel costs had actually 9 decreased in DP&L and not risen and that, generally 10 speaking, as I go on to discuss later on in my 11 testimony, that fuel costs in general, natural gas 12 costs, and other commodity costs, have actually 13 declined in general over the last 12 months rather 14 than risen. 15 Q. Why didn't you look at DP&L's 2005 fuel 16 costs? 17 A. I didn't review 2005 fuel costs because 18 this is about 2009 and 2010, not about 2005. 19 Q. Did you consider it relevant to whether 20 DP&L has experienced a long-term trend of increasing 21 fuel costs? 22 A. In reviewing the application it was clear 23 to me that the stipulation that DP&L entered into in 24 2005 I believe in the RSP case indicated that it 25 already anticipated fuel cost increases in 2009 and</p>	<p style="text-align: right;">Page 24</p> <p>1 to overcollect at the beginning of the collection 2 period and then undercollect later, and that it was 3 providing interest or providing value through that 4 9.32 percent carrying charge and grossing up those 5 collections for later. 6 It seems to me that if they're going to 7 provide consumers 9.32 percent benefit for 8 overcollection, then they should be consistent with 9 that when they were asking for carrying charges on 10 any deferral that might be granted by the Commission. 11 Q. So the record's clear, you said 12 9.32 percent? 13 A. I believe that's what it was. That's my 14 recollection. 15 Q. Your testimony says 9.36 percent. 16 A. My apologies, my recollection was subject 17 to check. I'm sure that my testimony is accurate, 18 9.36 percent. 19 Q. So you would -- if the Dayton Power and 20 Light Company were to propose the deferral at a 21 9.36 percent carrying cost, what conclusion would 22 that lead you to? 23 A. That the request would at least be 24 consistent with what they were providing consumers on 25 the IIR carrying cost.</p>
<p style="text-align: right;">Page 22</p> <p>1 2010 and understood that going into that stipulation 2 at that point in time they knew that trend was 3 coming. 4 Q. The question to you is did you consider 5 whether the Dayton Power and Light Company had 6 experienced a long-term trend in fuel costs above the 7 fuel costs DP&L experienced in 2005? 8 A. No, I did not consider that. 9 Q. Have you made any effort to determine the 10 amount of fuel cost recovery that is included in the 11 Dayton Power and Light Company's current rates? 12 A. It's my understanding that currently 13 there are two fuel-related charges or partially 14 related charges totaling, according to the 15 application, about 1.8 cents, although one-half of 16 one cent per kilowatt hour of that is the RSS charge 17 and part of that is fuel related and part of that is 18 POLR related -- provider of last resort related, 19 excuse me. 20 Q. Everybody reading this testimony will 21 know what POLR is. 22 A. I understand. 23 Q. For the court reporter it's P-O-L-R. 24 If you could turn to the appendix to your 25 testimony, I want to discuss with you the first</p>	<p style="text-align: right;">Page 25</p> <p>1 Q. In that circumstance you would not object 2 to -- strike that. 3 Your testimony doesn't cover 4 appropriate -- strike that again. 5 Your testimony does not address whether a 6 9.36 cents is or is not an appropriate carrying cost, 7 correct? 8 A. My testimony doesn't discuss whether 9 9.36 percent is an appropriate carrying cost. 10 Q. So if the Dayton Power and Light Company 11 proposed to defer fuel costs at the 9.36 cents, you 12 would not object to the least carrying cost that it 13 was using, correct? 14 A. Not correct. 15 Q. Can you explain? 16 A. Sure. In reviewing the testimony, it's 17 still unclear to me what Dayton Power and Light is 18 going to request or project in fuel cost recovery. 19 So to the extent that at least in my 20 opinion I don't believe that deferrals are beneficial 21 over the long term for customers at all to the extent 22 that the Commission elected or determined in their 23 minds that it was appropriate to have such carrying 24 costs, then a consistent carrying cost between DP&L's 25 deferrals and any overcollections should be applied.</p>

<p style="text-align: right;">Page 26</p> <p>1 Q. Do you know whether DP&L's 13.32 percent 2 carrying charge had already been grossed up for 3 taxes? 4 A. It's my recollection from the application 5 that it had not been. 6 Q. If I told you that it had been, would you 7 agree that the numbers shown on your appendix A, in 8 particular the \$52 million, was overstated? 9 A. Could you clarify the question please? 10 Q. Sure. If I told you that the Dayton 11 Power and Light Company in fact intended to use a 12 carrying cost of 9.32 percent and grossed that amount 13 up for taxes to 13.32 percent, would you agree with 14 me that the amounts shown on your appendix A, and in 15 particular the \$52 million figure, were overstated? 16 A. With that stipulation, yes, I would agree 17 to that. 18 Q. And from your testimony, page 5, line 14, 19 it appears that the total collection would drop 20 34 percent; is that correct? 21 A. That's what the testimony says. 22 Q. In fact that's also shown on appendix A, 23 isn't it? 24 A. Yes, it is. 25 Q. On your testimony, page 7, line 11, you</p>	<p style="text-align: right;">Page 29</p> <p>1 Q. If the Commission were to determine that 2 there should be some recovery of fuel-related costs 3 for the Dayton Power and Light Company, do you 4 believe that the Commission -- strike that -- would 5 you recommend that the recovery should be by deferral 6 or by a current charge? 7 A. For what time period? 8 Q. For the recovery aspect of the question 9 it would be 2009-2010, for the deferral aspect of the 10 question it would be as DP&L proposed deferring costs 11 incurred in 2009 and 2010 and deferring them -- 12 recovering those costs over ten years. 13 A. At what carrying charge? And how much 14 would the deferral be? How much money are we talking 15 about here? 16 Because that's still unknown in the 17 application as far as I see it, if magnitude of money 18 makes a difference in your question. 19 Q. As to the carrying charges let's assume 20 it's at 9.36 percent, and for magnitude let's assume 21 it's at the 10 million in 2009 and 10 million in 2010 22 increase that you propose -- not that you propose, 23 that you use in your hypothetical. 24 A. And your base question is do I think that 25 should be deferred?</p>
<p style="text-align: right;">Page 27</p> <p>1 refer to deferring a distribution cost rather than a 2 generation cost. 3 Can you tell me what it is that you've 4 got in mind? What it is that you're describing in 5 that piece of testimony? 6 A. Sure. A shopping customer by taking 7 power from a CRES supplier, C-R-E-S, a CRES supplier, 8 is not obviously taking SSO service. 9 To the extent that the Commission elects 10 to grant a deferral, and to the extent that the 11 Commission decides that the deferral should be 12 non-bypassable for consumers, and to the extent that 13 should be non-bypassable for consumers beginning in 14 2011 as proposed in the application, then what this 15 refers to is a potential structure that would 16 maintain consistency for consumers who were shopping 17 or who were electing to take CRES supplier power 18 supplies rather than SSO. 19 And that would create a level playing 20 field so that if there was going to be a credit -- or 21 a deferral, excuse me, a deferral in 2009 and 2010, 22 that that deferral would apply both to shopping 23 customers and SSO supplied customers. 24 This is supposed to be one potential 25 mechanism that might be used to create the level</p>	<p style="text-align: right;">Page 30</p> <p>1 Q. Or recovered in 2009-2010. 2 A. It should be recovered in 2009 and 2010. 3 Q. Why? 4 A. To the extent that the Commission allows 5 incremental charges, and I believe that was the basis 6 of the question, \$20 million in 2009 and 2010 would 7 not increase rates to the point where I think that 8 it's worthy of a ten-year carrying charge at 9 9.36 percent plus federal tax gross up. 10 Q. Suppose instead of 10 million a year it 11 was 25 million a year, would that change your 12 opinion? 13 A. No. 14 Q. Why not? 15 A. I don't believe that that's a large 16 enough incremental charge in order to make it worth 17 carrying the deferral. 18 Q. At what point do you believe the 19 incremental costs would be sufficient to warrant a 20 deferral? 21 A. Provided the Commission were to permit 22 it? 23 Q. Correct. 24 A. Would customers shopping in 2009 and 2010 25 be able to avoid those charges in 2011 through the</p>
<p style="text-align: right;">Page 28</p> <p>1 playing field for those customers electing to take 2 CRES supplier status in 2009 and 2010. 3 Q. Do you have any particular distribution 4 costs in mind that would be deferred in circumstances 5 you just described? 6 A. No, I do not. 7 Q. Do you believe that the Dayton Power and 8 Light Company's proposed deferral in this matter 9 would promote rate stability? 10 A. No. 11 Q. Why not? 12 A. By creating a deferral today of an 13 unknown size and basically recovering it over ten 14 years, what that does in my opinion is create an 15 increased potential for a price spike in 2011 and 16 impacting customers with greater instability in the 17 future. 18 To me price stability is not -- should 19 not be a two-year snapshot evaluation, it should be 20 looked at over a longer term. 21 Q. If the deferral was to be recovered over 22 a period longer than ten years, do you believe that 23 the deferral the Dayton Power and Light Company 24 proposes in this case would promote rate stability? 25 A. I don't know.</p>	<p style="text-align: right;">Page 31</p> <p>1 next ten years? 2 Q. Yes. 3 A. Probably -- deferral may start 4 becoming -- you're asking for my opinion, correct? 5 Q. Correct. 6 A. I'd have to give that a lot of thought. 7 I don't know at what level that it would rise to 8 that -- would create enough of a rate impact to in my 9 opinion create a situation where deferral would be 10 appropriate at those kind of carrying charges. 11 MR. SHARKEY: Take a quick break. 12 (Off the record.) 13 Q. I'm going to show you a copy, Mr. Frye, 14 of the stipulation and recommendation from DP&L's 15 05-276-EL-AIR case. 16 I believe you testified earlier that 17 you've read this document before? 18 A. Mr. Sharkey, are you stipulating this is 19 what was in the application, that was included in the 20 application? 21 Q. No, I don't believe this was included in 22 the application. 23 MR. SMITH: It was Exhibit 2, sir. 24 A. Believe it was. 25 Q. Is it?</p>

<p style="text-align: right;">Page 32</p> <p>1 A. If you're stipulating it was included in 2 the application, I would stipulate that I read it. 3 Q. Counsel's corrected me, it is included in 4 the application. 5 You in fact discuss this document in your 6 testimony, don't you? Starting on page 7, line 27. 7 A. Yes. 8 Q. Do you recall the particulars of the 9 05-276-EL-AIR stipulation? 10 A. Generally. 11 Q. Are there any provisions in that 12 stipulation that expressly prohibit a deferral? 13 A. I would have to review the document. I 14 can't recall anything but I would have to review the 15 document to verify that. 16 Q. Please do. 17 (Pause.) 18 A. Now could you repeat that question again, 19 Mr. Sharkey? 20 Q. Yes. Are there any provisions in the 21 stipulation and recommendation from case No. 05-276 22 that expressly prohibit a deferral of fuel costs? 23 A. During what term? 24 Q. As proposed by the Dayton Power and Light 25 Company in this matter.</p>	<p style="text-align: right;">Page 35</p> <p>1 negotiations to modify the agreement if the 2 legislation had affected its terms and rates. 3 Do you see that testimony? 4 A. I see that. 5 Q. And your clients Honda and Cargill were 6 both parties to the 2005 stipulation we were just 7 looking at, correct? 8 A. Yes, it's my understanding they were. 9 Q. Can you tell me what it is that you 10 believe should occur under the section of that 2005 11 stipulation that you're discussing? 12 A. I think the document speaks for itself; 13 good faith negotiations to modify the agreement for 14 subsequent legislation. 15 Q. And how do you believe that relates to 16 DP&L's request for a fuel deferral in this case? 17 A. The rates are and terms are being 18 modified that's put forward in the application. It's 19 my understanding from counsel that negotiations did 20 not occur. 21 Q. Is it your opinion that if -- strike 22 that. 23 If Senate Bill 221 creates new costs for 24 the Dayton Power and Light Company in 2009 and 2010 25 beyond what were provided for in the 2005 rate</p>
<p style="text-align: right;">Page 33</p> <p>1 A. It's my understanding that this 2 stipulation sets the rates for 2009 and 2010. So to 3 the extent that DP&L agreed to in this stipulation 4 set the prices for 2009 and 2010, deferrals shouldn't 5 be necessary, because they've already agreed to them. 6 Q. Do you know whether -- strike that. 7 Do you consider a deferral of costs for a 8 certain period to be the same as a recovery of costs 9 and rates during the same period? 10 A. I believe that if you defer something in 11 the future, that doesn't eliminate the liability and 12 the obligation to repay it. 13 So it the extent that DP&L would defer 14 costs for generation in 2009 and 2010 for later 15 collection, those costs would be impacting 2009 -- 16 they would be 2009 and 2010 costs collected at a 17 later date. 18 Q. I don't think that answers my question. 19 The question is, do you consider a 20 recovery of costs in a certain period to be the same 21 as deferring those costs, recovering them in a 22 subsequent period? 23 A. Define "the same." 24 Q. I'm not sure I understand why you need 25 the word "same" defined. Identical.</p>	<p style="text-align: right;">Page 36</p> <p>1 stabilization stipulation we were looking at, do you 2 believe that Honda and Cargill would have an 3 obligation to negotiate with the Dayton Power and 4 Light Company to restore to DP&L the benefit of its 5 bargain under the 2005 stipulation? 6 A. Could you repeat that question again 7 please? 8 Q. Yes. If Senate Bill 221 imposed new 9 costs upon the Dayton Power and Light Company beyond 10 the costs imposed by the 2005 stipulation and 11 recommendation we were looking at, do you believe 12 Honda and Cargill would have an obligation to enter 13 negotiations with DP&L to restore to DP&L the benefit 14 of its bargain from the '05 stipulation? 15 A. To the extent that DP&L was seeking 16 additional money, the initiation of the negotiations 17 in my judgment should occur from the DP&L side. 18 Q. Not asking you about who should initiate 19 the negotiations, the question is would Honda and 20 Cargill have such a responsibility under the 2005 21 stipulation? 22 MR. SMITH: I object to the extent it 23 asks for legal conclusion. The document speaks for 24 itself what the obligations are. 25 THE WITNESS: Is counsel instructing me</p>
<p style="text-align: right;">Page 34</p> <p>1 A. They're not identical because there's 2 other charges that would be applied and they would be 3 collected later from other customers. So are they 4 costs incurred in 2009 and 2010 collected later? 5 They are, based upon the applications put forward. 6 Q. So you -- 7 A. But they're collected from different 8 consumers in later years presumably based upon my 9 understanding of the application, with interest. 10 Q. Do you consider a deferral -- strike 11 that. 12 Do you consider DP&L's request to defer 13 cost it incurs in 2009 and 2010 for recovery starting 14 2011 to be a rate increase in 2009? 15 A. Would not be a rate increase in 2009 but 16 it would incur incremental liability and obligation 17 on behalf the consumers for the extended time frame 18 in 2011. 19 Q. On page 8, line 25 -- 20 A. Are you still looking at the stipulation? 21 Q. No, I apologize, from your testimony. 22 A. Okay. 23 Q. You refer to, starts on line 24, the 24 stipulation providing that if it was modified by 25 legislation, the parties would enter in good faith</p>	<p style="text-align: right;">Page 37</p> <p>1 not to answer? 2 MR. SMITH: No, I'm not instructing you 3 not to answer. 4 THE WITNESS: Okay. 5 MR. SMITH: I am instructing you not to 6 provide legal advice. 7 A. Could you repeat the question again 8 please, Mr. Sharkey? 9 MR. SHARKEY: Can you reread the second 10 question I asked? 11 (Record read.) 12 A. I believe that would force me to draw a 13 legal conclusion, and since I am not an attorney, I'm 14 uncomfortable in drawing such a conclusion. 15 Q. If you defer to your testimony, page 9, 16 line 1, you opine "DP&L simply attempts to circumvent 17 provisions in the stipulation approved by the 18 Commission that specifically calls for negotiations." 19 You offer an opinion there, haven't you, 20 that the Dayton Power and Light Company has an 21 obligation to enter into negotiations with your 22 clients Honda and Cargill, correct? 23 A. I provide an opinion there, I don't 24 believe that crosses the line to a legal conclusion 25 in my judgment.</p>

<p style="text-align: right;">Page 38</p> <p>1 Q. How does the question I asked you cross 2 the line into a legal opinion in your estimation 3 different than your answer on page 9, line 1, as I 4 referred you to? 5 A. Which question are you referring to, 6 Mr. Sharkey? 7 Q. The question that I've asked you and that 8 the court reporter had read to you. 9 A. In reviewing that, the question that you 10 asked me and my opinion, it called for me to draw 11 specific legal conclusion, and I'm not an attorney. 12 I don't believe that my statements there in the 13 testimony do that. That's my opinion. 14 Q. Let me ask you this, if the facts were as 15 I described in my prior questions, namely that the 16 Senate Bill 221 imposed new costs upon the Dayton 17 Power and Light Company above and beyond those 18 provided for in the 2005 stipulation we looked at, do 19 you believe any obligation would be triggered on 20 behalf of Honda and Cargill under stipulation 21 paragraph G cited in footnote 7 in your testimony on 22 page 8? 23 A. What costs? What type of costs? 24 Q. Question doesn't identify any particular 25 costs. If you feel you needed to qualify your answer</p>	<p style="text-align: right;">Page 41</p> <p>1 have left DP&L's service should pay the RSS charge 2 and should be permitted to return to DP&L at the 3 fixed SSO price from the 2005 stipulation? 4 A. It's my understanding that the DP&L 5 tariff under certain circumstances provides for that 6 as it currently stands today and that the application 7 proposes to amend that. 8 Q. I'm trying to figure out what it is that 9 you propose. 10 A. What I propose is that that continues. 11 Q. Let me ask you some questions about your 12 testimony about DP&L's proposed IIR rider. 13 You testify that Honda and Cargill 14 currently have their own realtime metering, correct? 15 A. That's my understanding, that's correct. 16 Q. Do you know whether the Dayton Power and 17 Light Company has its own meters in addition for the 18 Honda and Cargill facilities? 19 A. I presume that in order to invoice 20 customers that Dayton Power and Light has meters 21 attached to be able to read customers' consumption, 22 yes. 23 Q. So do you know what Honda and Cargill do 24 with the information they receive from the meters 25 they own?</p>
<p style="text-align: right;">Page 39</p> <p>1 by identifying costs, that would be -- that would 2 make a difference to your answer, please do. 3 THE WITNESS: Could you repeat that 4 question back again please? 5 (Record read.) 6 A. I believe that that would require me to 7 draw a legal conclusion because you're citing the 8 stipulation in that regard and I'm uncomfortable 9 drawing that conclusion, Mr. Sharkey. 10 Q. You offer on page 8 in your answer 11 starting on line 22 an opinion regarding obligations 12 the Dayton Power and Light Company has under 13 stipulation paragraph G, don't you? 14 A. I offer my opinion of the simple reading 15 of the document. 16 Q. Can you give me your opinion of the 17 simple reading of the document the obligations that 18 section imposes upon Honda and Cargill? 19 A. My simple reading of that would be that 20 if DP&L requested negotiations, that Cargill and 21 Honda would have the obligation to negotiate. 22 Q. Let me ask you a question I meant to ask 23 you at the very beginning but forgot. 24 Do you have any corrections or changes to 25 your testimony?</p>	<p style="text-align: right;">Page 42</p> <p>1 A. No, I do not. 2 Q. Based on your experience in the industry, 3 what would you do with that kind of information if it 4 was available to you? 5 A. I would attempt to optimize the 6 operations to maintain a balance between power supply 7 costs and operational characteristics as necessary to 8 make particular products that Cargill and/or Honda 9 would be making. 10 I would review that data for various 11 things depending on the individual circumstances that 12 the operations might need. 13 And every customer is different in that 14 regard. Some customers are very concerned about 15 power quality, for instance. Some customers aren't 16 as concerned about those types of things. 17 I would review the data for any factors 18 that would impact the costs of the operations 19 negatively relative to the charges in the tariffs 20 DP&L provides for or that the CRES supplier might 21 have various charges included in the agreement that 22 might cost them additional monies and that they could 23 by controlling the operational status and the 24 consumption thereby control their charges. 25 Q. Would -- do you understand that for the</p>
<p style="text-align: right;">Page 40</p> <p>1 A. No, I do not. 2 Q. Let me switch topics on you. 3 Starting on page 9 of your testimony 4 there's a heading that says "Return to SSO," and on 5 page 12, line 17 of that testimony, you refer to a 6 stay out provision in the Duke ESP case. 7 Do you see that? 8 A. Yes. 9 Q. Can you tell me what you've got in mind 10 there? 11 A. It's my understanding that in the Duke 12 Ohio case -- in the Duke Ohio ESP case as I cited 13 there, 08-920, that customers who elect to take CRES 14 service would be able to avoid certain charges in 15 return for agreeing to stay away and not purchase SSO 16 supplies for a specific period of time. 17 And in return for that they were able to 18 bypass certain charges, they were able to avoid 19 certain charges. 20 MR. SHARKEY: Can you read that answer 21 back to me. 22 (Record read.) 23 Q. If I understand your testimony on the SSO 24 points we've -- that are covered in pages 9 to 12 of 25 your testimony, is it your opinion that customers who</p>	<p style="text-align: right;">Page 43</p> <p>1 Dayton Power and Light Company to implement 2 time-of-use and critical peak pricing for Cargill and 3 Honda, that DP&L intends to install its own meter for 4 those facilities -- advanced meters for those 5 facilities I should say? 6 A. I understand from the application that 7 DP&L intends to install new meters for all customers. 8 Q. And as to Honda and Cargill, that new 9 meter would presumably replace the existing DP&L 10 meter? 11 A. Presumably it would replace the existing 12 DP&L meter. 13 Q. Are you proposing that DP&L not install 14 advanced meters for Honda and Cargill? 15 A. It's unclear to me from the application 16 of exactly what incremental benefit the companies 17 would get or Honda and Cargill would get out of 18 changing the meters from the existing meter 19 structures which, my understanding, have interval 20 meter capabilities and other information already 21 provided, to the advanced metering that is 22 contemplated by the companies, whatever those 23 specifically might be. 24 Q. If it were true that DP&L needed to 25 install new meters for Honda and Cargill to implement</p>

<p style="text-align: right;">Page 44</p> <p>1 time-of-use pricing and critical peak pricing, would 2 you agree then that it was appropriate for DP&L to 3 install new advanced meters for Honda and Cargill? 4 A. Can you repeat that question again 5 please? 6 Q. Yeah, if the Dayton Power and Light 7 Company in fact needed to install new advanced meters 8 for Honda and Cargill to implement time-of-use 9 pricing and critical peak pricing for Honda and 10 Cargill, would you agree that it was appropriate for 11 the Dayton Power and Light Company to install new 12 advanced meters for Honda and Cargill? 13 A. Would the companies Cargill and Honda 14 have requested these critical peak pricing changes? 15 Or not? 16 Q. Why don't you answer that question both 17 ways; assuming they have and assuming they haven't. 18 A. To the extent that Cargill and Honda 19 requested a meter change, to that extent, yes. To 20 the extent that they didn't -- sorry, I'm getting 21 lost in my own train of thought. Could you repeat 22 that one more time, Mr. Sharkey, please? 23 Q. Sure. Suppose DP&L needed to install 24 advanced meters to implement time-of-use and critical 25 peak pricing for Honda and Cargill.</p>	<p style="text-align: right;">Page 47</p> <p>1 not be made up in other ways by utilizing that 2 capacity for other purposes, no. 3 Q. And can you explain to me the basis of 4 your objection for the Dayton Power and Light 5 Company's recovery of lost generation revenues? 6 A. Sure. The generation is never purchased 7 by the companies or it is sold to other providers to 8 the extent that it's generating electricity itself, 9 and in that regard those revenues should not be 10 recovered from customers. 11 Q. I'm not sure I understood your answer so 12 perhaps these questions would help me to understand. 13 Is your answer limited to switching 14 customers? 15 A. No. 16 Q. Explain then if you would, please, the 17 basis of your objection to the Dayton Power and Light 18 Company recovering lost generation revenues from 19 customers that have not switched. 20 A. If a customer conserves electricity, a 21 portion of the supplies that are purchased by the 22 companies are power supply related purchases. 23 If a customer conserves one kilowatt 24 hour, that generation is not purchased by the 25 company, no liability is created and no recovery of</p>
<p style="text-align: right;">Page 45</p> <p>1 Would you agree that it was appropriate 2 for the Dayton Power and Light Company to install new 3 meters for Honda and Cargill? 4 A. Are we stipulating that the Commission 5 has ordered those implementation of those procedures 6 and rates? 7 Q. Yes. 8 A. Are we stipulating that the existing 9 meters do not have that capability today? 10 Q. Yes. 11 A. Then, yes, they would need to install new 12 metering capacity with those stipulations. 13 Q. Nothing in your testimony addresses 14 whether the company should or should not on a 15 system-wide basis implement AMI or Smart Grid, 16 correct? 17 A. Correct. 18 Q. I'll refer you to page 13 of your 19 testimony. There's a question and answer there at 20 which you address lost revenues. 21 A. I see that. 22 Q. Do you oppose the recovery by the Dayton 23 Power and Light Company of lost distribution revenues 24 that are lost associated with the CCEM programs? 25 A. Define "distribution revenues."</p>	<p style="text-align: right;">Page 48</p> <p>1 revenue should be permitted. 2 If it is generated by the companies in a 3 similar light, the companies either don't incur the 4 costs of generating that power directly or sell that 5 power to some other third party. 6 So to that extent the revenue that the 7 companies would otherwise receive is not lost, it is 8 just sold to somebody else. 9 Q. Let's assume the Dayton Power and Light 10 Company was not able to sell the generation -- strike 11 that. 12 Let's assume the Dayton Power and Light 13 Company was not able to sell all of the freed up 14 generation that resulted. 15 As to the portion that was not sold would 16 you support the Dayton Power and Light Company's 17 recovery of fixed costs that were not saved? 18 A. Can we stipulate this is not purchased 19 power? 20 Q. Yeah, we're not talking about purchased 21 power. 22 A. Just about facilities that are owned by 23 the Dayton Power and Light Companies. 24 Q. Correct, yes. 25 A. We're talking about fixed assets for</p>
<p style="text-align: right;">Page 46</p> <p>1 Q. Are you familiar with the fact that the 2 Dayton Power and Light Company has a distribution 3 rate in its tariffs? 4 A. I am. 5 Q. And that DP&L -- strike that. 6 Also familiar with the fact that the 7 proposed CCEM programs that DP&L would implement 8 would reduce consumption of generation by DP&L's 9 customers? 10 A. That is what's proposed in the 11 application, I'm familiar with that, yes. 12 Q. And that if that reduction happens, DP&L 13 would recover less distribution revenue under the 14 distribution rate we mentioned, correct? 15 A. Correct. 16 Q. That's what I mean by lost distribution 17 revenues. 18 A. For the distribution revenue portion I'm 19 not opposed to collection of the revenue that would 20 be created off the distribution rates. Not 21 generation or transmission. 22 Q. Do you oppose the recovery of lost 23 transmission revenues by the Dayton Power and Light 24 Company? 25 A. To the extent that those revenues would</p>	<p style="text-align: right;">Page 49</p> <p>1 generation that we stipulate could not be sold. 2 Q. That's correct. 3 A. No, I wouldn't support the recovery of 4 generation in that regard. 5 Q. Why not? 6 A. The generation facilities are owned by 7 the Dayton Power and Light Company and the people who 8 are conserving the electricity, to the extent that 9 that is occurring, are already paying for that gen -- 10 those fixed costs in the existing rate structures. 11 Q. But if the customer as a result of these 12 programs reduced its generation usage, the costs DP&L 13 would recover to compensate it for those fixed costs 14 would be reduced, wouldn't they? 15 A. No, I think those charges would still be 16 recovered through the rate structures. 17 Q. How? 18 A. The fixed costs would be billed to other 19 customers as an ongoing basis. 20 Q. How? 21 A. It would be recovered on a charge per 22 kilowatt hour, cost per kilowatt hour, demand 23 charges, whatever might be in the individual demand 24 rate structures that would be recovered from 25 customers.</p>

<p style="text-align: right;">Page 50</p> <p>1 Q. For that to happen there would have to be 2 a rate increase, so should generation, wouldn't 3 there? 4 A. Are we presuming that this power couldn't 5 be sold anywhere else? This can't be sold? 6 Q. Yeah, presumably some of the power DP&L 7 will sell. I'm not asking about that power. I'm 8 talking about power that DP&L was unable to sell. 9 A. Has the facility been completely paid off 10 or not? 11 Q. The question didn't include an assumption 12 on that. If you think that that matters, go ahead 13 and explain why it does in your answer. 14 A. With the stipulations that you're 15 providing, presuming of course that if the facility's 16 been paid off, then -- by the consumers through the 17 recovery of rates, then, no, I don't believe so. 18 To the extent the facility has not been 19 paid off by the rate payors and to the extent it 20 can't be resold, theoretically, yeah, there would be 21 potentially some liability there. 22 Q. In that circumstance would you support 23 the recovery of lost revenue for fixed generation 24 costs for the Dayton Power and Light Company? 25 A. That's an awful lot of stipulations for</p>	<p style="text-align: right;">Page 53</p> <p>1 those customers were all shopping. 2 Q. The rates on line 7 and line 9, are those 3 the same rates that would apply to shopping customers 4 and non-shopping customers? 5 A. No, the point that the comparison is to 6 show is what is the revenue collected by DP&L as 7 proposed if the customers were shopping versus the 8 revenue DP&L collects to propose in their estimate on 9 schedule C5.1, line 8. 10 Q. Then can you walk me through what's shown 11 on lines 42 through 46? That's just the same 12 calculation but for high voltage customers; is that 13 correct? 14 A. That's correct. 15 Q. Then what's shown on line 48 through line 16 54? 17 A. Line 48 is the summation of all the 18 various rates from residential 111, residential 141 19 and 151, commercial/industrial rates, secondary, 20 primary, and primary with substation, and the high 21 voltage. 22 The sum of those lost revenues between 23 all those different rate categories is about \$909,000 24 a lost kilowatt hour, line 49 is the sum of all those 25 kilowatt hours.</p>
<p style="text-align: right;">Page 51</p> <p>1 me, Mr. Sharkey. 2 Potentially. I would have to see the 3 specifics. 4 Q. There is attached to your testimony a 5 document that's labeled MRF-2. 6 A. Uh-huh. 7 Q. Can you describe for me what MRF-2 is 8 intended to show? 9 A. It's intended to show the differential 10 between what was proposed by the companies for 11 revenue recovery under the CCEM -- under the EER 12 rider effectively, the monies going to be collected 13 over the term in the document, against what otherwise 14 would be recovered under what the companies 15 identified is their shopping rate recovery level. 16 And just a comparison between the two that created a 17 differential in revenue collections. 18 Q. If you could turn to MRF-2, can you walk 19 me through what's shown on lines 1 through 10? For 20 just 2009. 21 A. For just 2009 lines 1 through 10? 22 Q. Yes. 23 A. Basically line 1 as I mention here in the 24 first column -- the second column technically, since 25 the line number is the first column, energy</p>	<p style="text-align: right;">Page 54</p> <p>1 Q. Okay. 2 A. Line 50 is basically the \$909,000, which 3 is the lost revenue if everybody was shopping, 4 divided by the lost kilowatt hours or the conserved 5 kilowatt hours that you are proposing for 2009, 6 creating the average if everybody was shopping the 7 average lost revenue would be about 1.7 cents per 8 kilowatt hour. 9 Q. Then line 52 through 54? 10 A. Lines 52 through 54 is basically that's 11 what DP&L proposes to collect, their expectation of 12 lost revenues as proposed in schedule C5.1. The lost 13 kilowatt hours are the same, and the difference 14 basically line 52 which is the proposed lost revenue 15 divided by the lost kilowatt hours, or the conserved 16 kilowatt hours I should say, is about 6.3 cents. 17 Q. And what conclusion does this chart lead 18 you to? 19 A. That if everybody was shopping, that the 20 collection to the companies would be substantially 21 lower because it is attempting to collect for 22 generation revenues in addition to distribution 23 revenues in the proposed EER rider. 24 Q. Would be or should be? 25 A. That's what you're proposing.</p>
<p style="text-align: right;">Page 52</p> <p>1 efficiency net revenue requirements of \$13 million, a 2 little over \$13 million, and the lost revenue is a 3 little less than \$3.4 million, that is 26 percent of 4 the total. It's basically line 2 divided by line 1. 5 Over on the far right-hand column it 6 shows where specifically in the application those 7 documents occur. Those are the lost revenues that 8 are created through conservation. 9 The residential rate 111, your 10 application projects a little over 1.8 11 million-kilowatt hours of lost revenue. The shopping 12 lost revenue or average rate if a customer who was a 13 residential rate 111 customer was shopping, they 14 would be about 3 cents a kilowatt hour is what the 15 companies are proposing to recover if they were 16 shopping those kilowatt hours basically on an 17 annualized basis then. 18 So effectively the non-summer months 19 would be 18.4 million-kilowatt hours approximately. 20 Once again, the average revenue in the non-summer 21 months if a customer were shopping of a little over 3 22 cents a kilowatt hour, once again creating a 23 basically a lost revenue calculation of line 6 times 24 line 7 plus line 8 times line 9, creates 612, almost 25 \$613,000 of lost revenue in residential rate 111 if</p>	<p style="text-align: right;">Page 55</p> <p>1 Q. What do you believe is appropriate? 2 A. I believe that DP&L should be able to 3 recover for lost distribution revenues for 4 conservation. 5 Q. Let me ask you about your testimony on 6 page 14, line 22, regarding the mercantile customer 7 opt out in 4928.56. 8 A. I see that. 9 Q. Are you familiar with the Commission's 10 rule-making process associated with the mercantile 11 customer opt out? 12 A. Generally. 13 Q. I assume that you, like me, don't know 14 what the result of that rule-making process is going 15 to be? 16 A. No, I don't have a crystal ball in that 17 regard. 18 Q. I assume you don't object to the Dayton 19 Power and Light Company complying with the final 20 rules once they're promulgated. 21 A. If the Commission issues final rules and 22 to the extent that there's no appeals, I obviously 23 have no problem with them complying with those rules. 24 Q. Do you believe that there's something 25 that the Dayton Power and Light Company can and</p>

1 should be doing now regarding the mercantile opt out
2 that it hasn't done?

3 A. What has it done? It's hard for me to
4 say whether they should be doing something if I don't
5 know what they have been doing.

6 Q. Let's suppose they've done what's
7 contained in their filing, which is described
8 generally the plan and nothing else. What do you
9 think they should have been doing?

10 *Strike the question. Strike the whole*
11 *line.*

12 Let me ask you this, in light of the fact
13 the -- strike that

14 In light of the fact the Commission has
15 not promulgated its final rules, what do you believe
16 a utility in Ohio should be doing currently relating
17 to implementation of the mercantile customer opt out?

18 A. I don't know.

19 MR. SHARKEY: Let's go off the record.
20 (Off the record.)

21 MR. SHARKEY: Go back on the record.

22 Q. I have just a little more for you.

23 A. Okay.

24 Q. We had provided a document request that
25 requested -- let me hand it to you. It's paragraph 1

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

1 at the top of the response that your counsel provided
2 to me earlier.
3 Do you see that?
4 A. Yes.
5 Q. Can you take a moment to read it?
6 (Pause.)
7 A. I've read it.
8 Q. To the best of your knowledge have all
9 such documents been provided?
10 MR. SMITH: Well, I object because you're
11 mischaracterizing your own question. You're saying
12 could you identify those documents. Let the record
13 show that we identified the documents.
14 Q. Fair enough, I'm not asking you for parts
15 of DP&L's filing, for example.
16 A. You want the Duke Ohio filing? I mean,
17 we cited it where it was at.
18 Q. No, I know how to find that.
19 A. A copy of 221?
20 Q. No, I know how to find that too.
21 A. That's it.
22 Q. I'm trying -- the goal is to find out if
23 there's some other documents that you've used as
24 source documents that are in your office, in your
25 computer, that aren't publicly available.

1 CERTIFICATE
2 State of Ohio : SS:
3
4 County of Franklin
5 I, Julieanna Hennebert, Notary Public in and
6 for the State of Ohio, duly commissioned and
7 qualified, certify that the within named Mark Frye
8 was by me duly sworn to testify to the whole truth in
9 the cause aforesaid; that the testimony was taken
10 down by me in stenography in the presence of said
11 witness, afterwards transcribed upon a computer; that
12 the foregoing is a true and correct transcript of the
13 testimony given by said witness taken at the time and
14 place in the foregoing caption specified and
15 completed without adjournment.
16 I certify that I am not a relative, employee,
17 or attorney of any of the parties hereto, or of any
18 attorney or counsel employed by the parties, or
19 financially interested in the action.
20
21 IN WITNESS WHEREOF, I have hereunto set my
22 hand and affixed my seal of office at Columbus, Ohio,
23 on this 7th day of February, 2009.
24
25
26 Julieanna Hennebert, Registered
27 Professional Reporter, and
28 Notary Public in and for the
29 State of Ohio.
30 My commission expires February 19, 2013.
31 (JUL-1367)
32
33
34
35
36
37
38
39
40

1 A. No.
2 Q. Do you agree that your testimony does not
3 address the reliability of DP&L's distribution
4 system?
5 A. I agree.
6 Q. I think I have no more questions at this
7 time.
8 A. Great.
9 Q. Thanks for your time.
10 A. Thank you.
11 (Signature not waived.)
12 (Deposition concluded at 11:00)

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