

FILE

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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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1 BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO
2 IN THE MATTER OF THE
3 APPLICATION OF THE Case No. 08-1094-EL-SSO
4 DAYTON POWER & LIGHT
5 COMPANY FOR APPROVAL OF
6 ITS ELECTRIC SECURITY PLAN
7 IN THE MATTER OF THE
8 APPLICATION OF THE Case No. 08-1095-EL-ATA
9 DAYTON POWER & LIGHT
10 COMPANY FOR APPROVAL OF
11 ITS REVISED TARIFFS
12 IN THE MATTER OF THE
13 APPLICATION OF THE Case No. 08-1096-EL-AAM
14 DAYTON POWER & LIGHT
15 COMPANY FOR APPROVAL OF
16 CERTAIN ACCOUNTING
17 AUTHORITY PURSUANT TO
18 ORC SECTION 4905.13
19 IN THE MATTER OF THE
20 APPLICATION OF THE Case No. 08-1097-EL-UNC
21 DAYTON POWER & LIGHT
22 COMPANY FOR APPROVAL OF
23 ITS AMENDED CORPORATE
24 SEPARATION PLAN

* * *

17 Deposition of SHELLEY J. DICKSTEIN,
18 Witness herein, called by The Dayton Power & Light
19 Company for cross-examination pursuant to the
20 Rules of Civil Procedure, taken before me,
21 Caryl L. Blevins, a Notary Public in and for the
22 State of Ohio, at the offices of Faruki, Ireland &
23 Cox, 500 Courthouse Plaza, S.W., 10 N. Ludlow
24 Street, Dayton, Ohio, on Thursday, the 5th day of
25 February, 2009, at 1:36 o'clock p.m.

Page 2

1 EXAMINATION CONDUCTED PAGE

2 BY MR. FARUKI;..... 5

3

4 EXHIBITS MARKED

5 (Thereupon, DP&L Dickstein Deposition

6 Exhibit 59, Ms. Dickstein's prefile

7 testimony with attachments, was marked

8 for purposes of identification.)..... 6

9 (Thereupon, DP&L Dickstein Deposition

10 Exhibit 60, City of Dayton's response

11 to DP&L's production of documents

12 request, first set, and responsive

13 documents, was marked for purposes of

14 identification.)..... 44

15

16 QUESTION AND ANSWER MARKED

17 Q. You agree with me that if there are

18 programs that allow low-income customers either

19 not to pay their bills or to pay only fractions of

20 their bills, those programs are relevant to the

21 circumstances of the at-risk population, are they

22 not?

23 A. I imagine that they are. Not having

24 the details as to how this filing will impact

25 their situation further causes concern.

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1 SHELLEY J. DICKSTEIN

2 of lawful age, Witness herein, having been first

3 duly cautioned and sworn, as hereinafter

4 certified, was examined and said as follows:

5 CROSS-EXAMINATION

6 BY MR. FARUKI:

7 Q. I'm Charlie Faruki. We met before

8 the deposition.

9 A. Uh-hum.

10 Q. Would you tell us your full name and

11 where you work.

12 A. Shelly Jane Dickstein. I work at the

13 City of Dayton.

14 Q. And have you been deposed before?

15 A. No.

16 Q. All right. Briefly, you'll need to

17 keep your voice up since this is a telephone

18 deposition and we have some other people on the

19 phone.

20 A. Okay.

21 Q. And they'll break in if they can't

22 hear either one of us. If you need to take a

23 break at any time other than when a question is

24 pending, let me know.

25 If you don't understand any of my

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1 REQUEST FOR DOCUMENT

2 Q. This is a screen shot of something

3 that the New York Times had in its online edition?

4 A. Uh-hum.

5 Q. Yes?

6 A. Yes.

7 Q. And the page is titled Vacant Homes

8 Abundant in Buffalo. What was the article from

9 which this came?

10 A. It was an article that was discussing

11 the cities across the country with the most

12 vacancies.

13 Q. Do you know when it was published?

14 A. I do not.

15 Q. Do you have the article?

16 A. I do not have it with me.

17 Q. But you do have one?

18 A. Uh-hum. Yes.

19 MR. FARUKI: I'll make a request for

20 that.

21 MS. BECK: Sure..... 26

22

23

24

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1 questions, let me know that. Is all that

2 agreeable?

3 A. Yeah.

4 (Thereupon, DP&L Dickstein Deposition

5 Exhibit 59, Ms. Dickstein's prefile testimony with

6 attachments, was marked for purposes of

7 identification.)

8 BY MR. FARUKI:

9 Q. I'll give you a copy of what our

10 reporter has marked as Exhibit 59 (providing), a

11 copy of your prefile testimony in this case.

12 Did you bring anything else with you

13 today?

14 A. No, I did not.

15 Q. Okay. What was your involvement with

16 writing this testimony?

17 A. I was involved with the staff members

18 who pulled the -- the data and the statistics

19 together to answer the questions.

20 Q. Did you write some of the testimony

21 yourself?

22 A. No, I did not.

23 Q. Who wrote it?

24 MS. BECK: If you know, you can

25 answer.

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1 APPEARANCES:

2 On behalf of The Dayton Power & Light Company:

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20 and

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1 THE WITNESS: I'm not certain who

2 composed the answers to all of the questions after

3 the group meeting.

4 BY MR. FARUKI:

5 Q. Well, who was in the group, then?

6 A. Diane Shannon in our management

7 budget office; John Gower, our director of

8 planning; myself, and I can't remember. I know

9 someone from the law department was there. I

10 can't remember if it was Suzanne or John Danish.

11 Q. Is that the whole group?

12 A. Uh-hum.

13 Q. She needs an audible response.

14 A. Oh, yes. I'm sorry. Yes.

15 Q. Okay. And so am I correct that

16 you're sponsoring this testimony, but you did not

17 write it?

18 A. Correct.

19 Q. And you don't know who the author is?

20 A. I do not.

21 Q. What did you read before you decided

22 to adopt or sponsor this testimony?

23 A. Well, the information the answers are

24 based on I'm very well aware of because it's

25 information we've been talking about for years at

Page 8

1 the City of Dayton, so the data that was gathered
 2 I read and then the testimony as it was drafted I
 3 read.
 4 Q. And by the data, you mean the things
 5 that are contained in it and attached to it?
 6 A. Correct.
 7 Q. Did you look at any portions of
 8 DP&L's filing in this case?
 9 A. I did look at a few.
 10 Q. Which portions did you look at?
 11 A. I believe it was the overview of the
 12 filing and the economic development portions.
 13 Q. By the overview, you mean the
 14 executive summary?
 15 A. Yes.
 16 Q. And economic development, what did
 17 you read there?
 18 A. I read about the -- the three factors
 19 for -- or the three programs, new programs, that
 20 they were looking at introducing. Book I, I
 21 believe, was what was cited.
 22 Q. Did you look at testimony about that
 23 or the chapter?
 24 A. I did also look at testimony from
 25 Mr. Wagner.

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1 Q. Did you read any other testimony in
 2 the case besides that of Mr. Wagner?
 3 A. I did not.
 4 Q. Did you look at any other portion of
 5 the filing besides the economic development piece
 6 and the overview, or executive summary piece?
 7 A. I don't believe so.
 8 Q. Whom do you report to within the
 9 city?
 10 A. Rashad Young.
 11 Q. The city manager?
 12 A. Correct.
 13 Q. And who reports to you?
 14 A. I have the Office of Economic
 15 Development that directly reports to me.
 16 Q. Any other group or department that
 17 reports to you?
 18 A. No.
 19 Q. How many people are in the Office of
 20 Economic Development?
 21 A. Approximately fourteen.
 22 Q. Are you aware that DP&L has had a
 23 relationship with the city over the years other
 24 than simply billing for electricity?
 25 A. Yes.

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1 Q. Were you involved in that
 2 relationship?
 3 A. Not directly.
 4 Q. What does that mean?
 5 A. The relationship was garnered by
 6 individuals higher than me. I've only been in my
 7 position for the last year and a half, so the
 8 relationship -- my director and the city manager
 9 staff managed that relationship more directly than
 10 myself.
 11 Q. When you say my director, who would
 12 that be?
 13 A. Norm Essman.
 14 Q. And what's his position?
 15 A. He's retired from the city.
 16 Q. Who's his successor, if there is one?
 17 A. I am the successor.
 18 Q. Oh, okay. So it would have been
 19 Mr. Essman and the city manager that you're saying
 20 would be responsible for the relationship?
 21 A. Yes.
 22 Q. Anybody else?
 23 A. No, not that I'm aware of.
 24 Q. Was there any contact with DP&L other
 25 than by the filing of this testimony, of course,

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1 in the course of deciding to file it?
 2 A. Contact by DP&L?
 3 Q. Between DP&L and the city.
 4 A. Okay. I believe there was at least
 5 one conversation with Mr. Young and
 6 Miss Strasburg.
 7 Q. And would you identify
 8 Miss Strasburg?
 9 A. Jenny Strasburg at DP&L.
 10 Q. Are you aware she's not a DP&L
 11 employee?
 12 A. No. I'm just aware she's connected
 13 somehow.
 14 Q. Okay. Was there any contact with
 15 anybody in DP&L's management?
 16 A. Not to my knowledge.
 17 Q. Are you aware of the purposes of the
 18 filing of this case?
 19 MS. BECK: Can you be more specific?
 20 Do you mean the intervention or the original
 21 filing?
 22 MR. FARUKI: No, the company filing.
 23 THE WITNESS: Yes.
 24 BY MR. FARUKI:
 25 Q. What are they?

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1 A. The -- as it relates to -- I believe
 2 it's Senate Bill 221 and the impacts of that bill,
 3 my understanding is the filing addresses how they
 4 will address or meet the goals of that bill and
 5 identify cost recovery as it relates to revenue
 6 loss meeting those goals.
 7 Q. Have you looked at the Senate bill
 8 itself?
 9 A. No, I have not.
 10 Q. So you haven't read any of the law
 11 that required this filing?
 12 A. No.
 13 Q. Have you done any analysis of the
 14 costs that DP&L will incur to comply with the
 15 bill?
 16 A. No, I have not.
 17 Q. Have you done any analysis of the
 18 programs that DP&L is proposing to implement?
 19 A. No, I have not.
 20 Q. Have you done any analysis of the
 21 costs of those programs?
 22 A. No.
 23 Q. Was your testimony based on any other
 24 previous -- well, I shouldn't say previous.
 25 Was your testimony based on any other

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1 testimony in any proceeding?
 2 A. No, not to my knowledge.
 3 Q. And you don't offer opinions with
 4 regard to Books II and III of the case; is that
 5 right?
 6 A. That's correct.
 7 Q. Do you know what Book II deals with?
 8 A. No.
 9 Q. Do you know what Book III deals with?
 10 A. Not specifically.
 11 Q. Generally?
 12 A. No.
 13 Q. You don't know, then, I take it,
 14 what -- I'll withdraw that.
 15 Are you aware that there are certain
 16 targets that the legislation sets that DP&L needs
 17 to meet?
 18 A. Generally speaking, I am.
 19 Q. And do you know what it will cost in
 20 dollars for DP&L to meet those targets?
 21 A. I do not.
 22 Q. Are you aware of the programs that
 23 are available for low-income customers of the
 24 company to assist them with paying their bills?
 25 A. I am generally aware that there is

<p style="text-align: right;">Page 14</p> <p>1 assistance made to those needing help paying 2 bills. 3 Q. Do you know any of the details? 4 A. No. 5 Q. Do you know any of the programs? 6 A. Not specifically, other than utility 7 assistance. 8 Q. Do you know the types of assistance? 9 A. Not specifically. 10 Q. Generally? 11 A. Just that -- I just know that when 12 there are situations of -- where an individual has 13 difficulty paying their bills, that there is some 14 relief provided, but I don't know the details of 15 how it's provided and to what extent. 16 Q. Or what type of relief? 17 A. Correct. 18 Q. Same question with regard to 19 potential shutoffs of service. Are you aware of 20 the programs that are available to people in that 21 circumstance? 22 A. Again, generally, not specifically. 23 Q. What do you know generally about 24 that? 25 A. That there are -- when hardships or</p>	<p style="text-align: right;">Page 17</p> <p>1 the details as to how this filing will impact 2 their situation further causes concern. 3 MR. FARUKI: Read that back to me. 4 (Record read.) 5 MR. FARUKI: If you'd mark that 6 answer. 7 BY MR. FARUKI: 8 Q. I'll get to that answer in a minute, 9 but just so my record is clear, you agree with me 10 that the availability of programs for low-income 11 electric customers -- I'm not dealing with gas -- 12 A. Uh-hum. 13 Q. -- low-income electric customers is 14 pertinent to the circumstances of the at-risk 15 population that you address in your testimony? 16 A. Yes. 17 Q. And then with regard to the answer 18 that I just had the reporter read back, when you 19 say not having the details as to how this filing 20 will impact their situation further causes 21 concern, I think my question is when you are 22 saying you don't have the details as to how this 23 filing will impact their situation, what do you 24 mean? 25 A. It is -- not having the specifics as</p>
<p style="text-align: right;">Page 15</p> <p>1 extenuating circumstances are presented, that the 2 company does try and work with individuals. 3 Q. Do you know what DP&L's Smart Grid 4 plan is? 5 A. Not -- no. 6 Q. Do you know what DP&L's AMI, or 7 Advanced Metering Infrastructure, plan is? 8 A. Not specifically. I've read about 9 both of those things in the filing. 10 Q. Do you know what they cost? 11 A. I can't say off the top of my head. 12 I know I've read it. 13 Q. The subject of your testimony deals 14 with the effect of a rate increase on the at-risk 15 population within the city; is that right? 16 A. As well as the city itself. 17 Q. Okay. And if you are going to be 18 rendering opinions about the effect of a rate 19 increase on the at-risk population, why did you 20 not do an investigation of what services and 21 programs are available to that population with 22 regard to their electric bills? 23 A. Part -- partly because of the timing 24 of the -- this deposition came on rather quickly, 25 so it was difficult to do a lot of extenuating</p>	<p style="text-align: right;">Page 18</p> <p>1 to how the cost recovery is going to occur or the 2 impact as it relates to the rate causes concern 3 that it will exacerbate the situation for many of 4 our citizens in the city. 5 Q. Did you seek to learn these specifics 6 as to how the cost recovery will occur? 7 A. Based on conversation with counsel, 8 it was presented to me that they were not clearly 9 defined in the filing. 10 Q. Are you aware that the filing 11 contains them? 12 A. No. 13 Q. Did you look yourself? 14 A. I looked at the summary and the 15 economic development section. 16 Q. Well, the summary that you're talking 17 about is the executive summary, right? 18 A. Uh-hum, uh-hum. 19 Q. She needs a yes. 20 A. Yes. 21 Q. And you wouldn't expect to find all 22 of the detail of something in an executive 23 summary, would you? 24 A. No. 25 Q. Did you look beyond the executive</p>
<p style="text-align: right;">Page 16</p> <p>1 investigation. 2 Two, partly because any kind of rate 3 increase certainly adds to the hardship that has 4 been increasing exponentially in the City of 5 Dayton on its residents and existing businesses. 6 Q. Let's take those one at a time. You 7 say the deposition came on quickly, but before you 8 filed your testimony in this case -- 9 A. Uh-hum. 10 Q. -- as opposed to the deposition 11 that's occurring right now today -- 12 A. Uh-hum. 13 Q. -- why didn't you do an investigation 14 of the programs that were available to people who 15 are in the at-risk population with regard to their 16 electric bills? 17 A. I guess I didn't think about doing 18 that prior to the testimony. 19 Q. You agree with me that if there are 20 programs that allow low-income customers either 21 not to pay their bills or to pay only fractions of 22 their bills, those programs are relevant to the 23 circumstances of the at-risk population, are they 24 not? 25 A. I imagine that they are. Not having</p>	<p style="text-align: right;">Page 19</p> <p>1 summary to find the answer to the question as to 2 how the cost recovery would occur? 3 A. I did not. 4 Q. When you say that you don't have, to 5 use your words, the details as to how this filing 6 will impact their situation, what you mean is that 7 you don't know how DP&L's filing would impact the 8 situation of the at-risk population; is that 9 right? 10 A. Could you repeat that, please? 11 Q. I'll have her read it back. She'll 12 do a better job. 13 (Record read.) 14 THE WITNESS: Correct. 15 BY MR. FARUKI: 16 Q. Take a look at your prefile 17 testimony. Did you bring a set with you? 18 A. Uh-hum. 19 Q. She needs a yes. 20 A. Yes. 21 Q. Am I correct that before writing 22 this, you did not read any of the DP&L testimony 23 in the case beyond that of Mr. Wagner? 24 A. Correct. 25 Q. Does the utility rate section of the</p>

Page 20

1 city government report to you?
 2 A. It does not.
 3 Q. Where is that utility rate section or
 4 group in the city organization?
 5 A. I believe that reports to our
 6 Department of Finance.
 7 Q. Who heads that?
 8 A. That's headed by Cheryl Garrett.
 9 Q. I'm sorry. What was the first name?
 10 A. Cheryl.
 11 Q. Cheryl?
 12 A. Uh-hum.
 13 Q. And does Cheryl Garrett report to
 14 you?
 15 A. No, she does not.
 16 MR. MILLER: Charlie, this is Chris.
 17 For clarification, can we ask the question of
 18 whether there is a utility rate department? You
 19 referred to it that way.
 20 MR. FARUKI: Yeah. I was getting to
 21 that, Chris.
 22 MR. MILLER: Thank you.
 23 BY MR. FARUKI:
 24 Q. And who does Cheryl Garrett report
 25 to?

Page 21

1 A. Stanley Earley.
 2 Q. And Stanley Earley is an assistant
 3 city manager?
 4 A. Deputy city manager.
 5 Q. Deputy. Thank you. And what is
 6 Cheryl Garrett's department or group called?
 7 A. Director of finance.
 8 Q. And then is there some formally named
 9 unit within the finance department that deals with
 10 utility rates?
 11 A. I'm not aware of what that unit would
 12 be.
 13 Q. Or even if there is one. It may be
 14 just that they're employees of the finance
 15 department?
 16 A. Correct.
 17 Q. When you read the portion of DP&L's
 18 filing that deals with economic development, did
 19 you form any opinions about the economic
 20 development plans of DP&L?
 21 A. No, I didn't. I did not.
 22 Q. Do you know anything about the
 23 history of DP&L's economic development efforts
 24 with the city?
 25 A. I do.

Page 22

1 Q. What do you know about that?
 2 A. I know about their brownfield
 3 funding, recovery -- or funding that they've
 4 provided in the past.
 5 I know about some of the programs
 6 they had related to business retention and
 7 expansion. We've worked with DP&L on a variety of
 8 business expansions or issues related to
 9 utilities.
 10 Q. You're not offering opinions in this
 11 case with regard to DP&L's business retention or
 12 expansion programs; is that right?
 13 A. That's right.
 14 Q. If you take a look at the bottom of
 15 page three of your testimony --
 16 A. Uh-hum.
 17 Q. -- you have a question that you
 18 respond to at lines twenty and twenty-one where
 19 you're asked the purpose of your testimony.
 20 A. Uh-hum.
 21 Q. And you say the purpose of my
 22 testimony is to describe current conditions in the
 23 city and the potential impact of an increase in
 24 DP&L's rates on the city as well as at-risk
 25 residential and commercial citizens.

Page 23

1 The purpose of your testimony was not
 2 to offer opinions on the merits of DP&L's
 3 application in this case; is that right?
 4 A. That's correct.
 5 Q. The question on page four that begins
 6 at line three asks what materials and information
 7 you reviewed.
 8 Was everything that you personally
 9 reviewed, then, attached as your exhibits?
 10 A. Yes.
 11 Q. Were those exhibits developed for
 12 this case or were they preexisting materials that
 13 you had within the city?
 14 A. Preexisting materials.
 15 Q. Why don't we look at those for a
 16 minute starting with your SJD-3.
 17 A. Uh-hum.
 18 Q. This looks to me as if it is pieces
 19 of a presentation, whether that's a PowerPoint
 20 presentation or something else; is that right?
 21 A. Correct, correct.
 22 Q. I know that these are separately
 23 numbered, but are there parts of this that are all
 24 one presentation?
 25 A. The majority of these are indeed

Page 24

1 slice -- slides pulled from a variety of
 2 presentations that we have made throughout the
 3 years.
 4 Q. Just from formatting, it looks like 3
 5 through 15 of the SJD pages are similar in format.
 6 A. Uh-hum.
 7 Q. Was this from one presentation or
 8 more than one?
 9 A. I can't say with any certainty
 10 because we -- like I say, we use a lot of this
 11 information in a variety of different ways.
 12 Q. Just again focused on 3 through 15,
 13 why were they originally created?
 14 A. Many times they're created as bond
 15 presentations so that we can depict the economic
 16 conditions in the city as well as regular updates
 17 to the City Commission of our economic impact.
 18 Q. And in 3 through 15 I didn't see
 19 anything in that information or in these charts
 20 and graphs regarding electric utilities costs
 21 except for page three; is that right?
 22 A. Correct.
 23 Q. So SJD-4 through 15 are various facts
 24 about Dayton and its residents, but you're not
 25 commenting on 4 through 15 on electric rates; is

Page 25

1 that correct?
 2 A. That's correct.
 3 Q. And then looking at SJD-3, it has the
 4 annual electric utility costs. Do you know why
 5 the number decreased from '07 to '08?
 6 A. I do not.
 7 Q. It looks like there was an over three
 8 million dollar decrease between those two years;
 9 is that right?
 10 A. Uh-hum.
 11 MS. BECK: Yes or no.
 12 BY MR. FARUKI:
 13 Q. Is that a yes?
 14 A. Yes. I'm sorry.
 15 Q. And maybe I can shorten this up. For
 16 any of these years, '05, '06, '07, and '08, do you
 17 know why the bills were at the level they were?
 18 A. I do not.
 19 Q. Do you know anything about the city's
 20 electric usage other than what is on this page?
 21 A. No, I do not.
 22 Q. Have you looked at -- I'll withdraw
 23 that.
 24 Do you know whether the city takes
 25 power pursuant to a contract or a tariff?

Page 26

1 A. No.
 2 Q. The average of ten million two
 3 hundred fifty-eight thousand eight hundred
 4 forty-nine dollars that is on SJD-3 is simply an
 5 average of the four figures shown above?
 6 A. Correct.
 7 Q. You're not offering an opinion in
 8 this case, I take it, that whether it's eight
 9 million, ten million, or eleven million, that
 10 that's an unreasonable number to pay for the power
 11 that the city uses, are you?
 12 A. No, I'm not.
 13 Q. If you go back, then, to pages that
 14 begin SJD -- maybe we'll take them one at a time.
 15 SJD-16.
 16 A. Uh-hum.
 17 Q. That's headed Vacant Homes Abundant
 18 in Buffalo and appears to be a reproduction of
 19 something from the New York Times.
 20 A. Correct.
 21 Q. I take it from the print, the New
 22 York Times online?
 23 A. Correct.
 24 Q. This is a screen shot of something
 25 that the New York Times had in its online edition?

Page 27

1 A. Uh-hum.
 2 Q. Yes?
 3 A. Yes.
 4 Q. And the page is titled Vacant Homes
 5 Abundant in Buffalo. What was the article from
 6 which this came?
 7 A. It was an article that was discussing
 8 the cities across the country with the most
 9 vacancies.
 10 Q. Do you know when it was published?
 11 A. I do not.
 12 Q. Do you have the article?
 13 A. I do not have it with me.
 14 Q. But you do have one?
 15 A. Uh-hum. Yes.
 16 MR. FARUKI: I'll make a request for
 17 that.
 18 MS. BECK: Sure.
 19 BY MR. FARUKI:
 20 Q. Did the article attribute any of
 21 these vacancy problems to electric rates, either
 22 in Dayton or some other city?
 23 A. Not that I recall.
 24 Q. You're not offering an opinion here
 25 that the vacancy -- it's described here as vacant

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1 units per one hundred people, but I'll just call
 2 it the vacancy rate.
 3 You're not offering an opinion here
 4 that the vacancy rate in Dayton is caused by DP&L,
 5 are you?
 6 A. No, I am not.
 7 Q. Is the figure of 2.0 accurate for
 8 Dayton, or was it at the time?
 9 A. Yes.
 10 Q. SJD-17, I take it, comes from another
 11 city presentation that you had for another
 12 purpose; in other words, it wasn't prepared just
 13 for this case?
 14 A. Correct.
 15 Q. Do you know what purpose this was
 16 prepared for? Looks like it might be a budget
 17 piece, but do you know?
 18 A. It could have been a budget update or
 19 an update to other groups that we do throughout
 20 the city.
 21 Q. Were any of the issues shown on this
 22 page something that you are saying that DP&L
 23 caused?
 24 A. No.
 25 Q. SJD-18 is designed to show what?

Page 29

1 A. That's the percentage of population
 2 change that shows the migration from the center
 3 core to the exurbs.
 4 Q. Center core meaning the legal
 5 boundaries of the city?
 6 A. Correct.
 7 Q. The source of this data was what?
 8 A. Typically when we're dealing with
 9 population change within Montgomery County, we're
 10 looking at MSA and census data.
 11 Q. You say typically. Do you know if
 12 that was done here or are you guessing?
 13 A. I do not. I am assuming that we used
 14 the same source.
 15 Q. But that's a guess?
 16 A. Correct.
 17 Q. The regional decentralization, or
 18 sprawl, title refers to the phenomenon of people
 19 moving away from an incorporated central city?
 20 A. Correct.
 21 Q. You're not offering an opinion that
 22 DP&L caused that, are you?
 23 A. No.
 24 Q. In fact, it is widely recognized that
 25 regional decentralization, or sprawl, has a host

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1 of causes; isn't that right?
 2 A. Yes.
 3 Q. And what are those causes?
 4 A. Obsolete housing, perceptions of
 5 safety, retail and -- retail and shopping. I'm
 6 trying to remember.
 7 (Pause in proceedings.)
 8 BY MR. FARUKI:
 9 Q. You paused. I wasn't sure if you
 10 were done.
 11 A. I was done.
 12 Q. Okay. With regard to those three
 13 phenomena that you just listed, obsolete housing,
 14 perceptions of safety, and retail and shopping
 15 issues, you're not offering an opinion here that
 16 DP&L has caused any of those, are you?
 17 A. No.
 18 Q. Perhaps to shorten this up, with
 19 regard to your exhibits that follow page SJD-3, in
 20 other words, from SJD-4 through 18, where you list
 21 various facts and events that affect Dayton,
 22 you're not offering an opinion in this case that
 23 DP&L has caused these various facts and events,
 24 are you?
 25 A. No.

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1 Q. Okay. If you'd go back to your
 2 prefile testimony, do you know what consideration
 3 of the at-risk population DP&L made in putting
 4 together its filing?
 5 A. I do not.
 6 Q. On pages four and five -- actually,
 7 four, five, and six, you have questions, the same
 8 sort of question on page four going to population;
 9 page five, line eleven, going to employment; page
 10 five, line twenty-two, going to housing; and then
 11 page six, line seven, going to the economy. Do
 12 you see those questions?
 13 A. Yes, I do.
 14 Q. So what you are doing is commenting
 15 sort of question by question on the issues that
 16 you see regarding population, employment, housing,
 17 and economy in those questions?
 18 A. Correct.
 19 Q. With regard to the issues that you
 20 see concerning population, you're not expressing
 21 here an opinion that DP&L is contributing to the
 22 city's population loss, are you?
 23 A. No.
 24 Q. Same question, ma'am, with regard to
 25 page five, line eleven. You are not offering an

<p style="text-align: right;">Page 32</p> <p>1 opinion that DP&L is contributing to any 2 degradation in employment within the city of 3 Dayton, are you? 4 A. No. 5 Q. You recognize that DP&L is itself a 6 large employer in this area? 7 A. Yes. 8 Q. You recognize that DP&L has a good 9 number of union jobs in this area? 10 A. Yes. 11 Q. And that DP&L also has a significant 12 number of white-collar jobs within Dayton? 13 A. Yes. 14 Q. At the bottom of page five, the 15 question is asked on page five and answered on 16 page six, you are not offering an opinion that 17 DP&L has contributed to the state of affairs 18 regarding housing that you describe, are you? 19 A. No. 20 Q. The same question on page six with 21 regard to the state of affairs regarding the 22 economy. The question at line seven, you are not 23 offering an opinion that DP&L has contributed to 24 that, are you? 25 A. No.</p>	<p style="text-align: right;">Page 35</p> <p>1 programs that will help to attract and retain 2 businesses, did you consider those programs in 3 formulating this opinion? 4 A. I did not have information related to 5 those programs prior to the testimony filing. 6 Q. Did you seek it? 7 A. No. 8 Q. So you formulated an opinion that a 9 rate increase would negatively affect efforts for 10 economic development without even considering 11 whether there are programs available that would 12 mitigate that problem; is that correct? 13 A. Not exactly. Not understanding, 14 again, the mechanisms for the cost recovery and 15 not understanding all of the details related to 16 the programs would still cause concern if there 17 were increases to the city itself, given our 18 financial crisis, or to the general community at 19 large. 20 Q. So to use your language, you're 21 rendering this opinion on page seven without 22 understanding either the mechanisms for cost 23 recovery or the details of the programs; is that 24 true? 25 A. Yes.</p>
<p style="text-align: right;">Page 33</p> <p>1 Q. On page six, lines sixteen and 2 seventeen, you have a sentence running from 3 sixteen onto seventeen that says any increase in 4 electricity rates would be an unreasonable burden 5 upon Dayton's at-risk population. 6 A. Uh-hum. 7 Q. Given that you've told me that you 8 don't know the details of the programs that are 9 available to the members of that at-risk 10 population, you really don't have a basis to make 11 this conclusion, do you? 12 A. Yes, because I believe these last few 13 pages illustrate a very dire situation in the city 14 of Dayton, and I believe that any rate increase or 15 any increase increases the burden. 16 Q. You're aware that many people in the 17 at-risk population never pay their utility bills 18 so that for those people, whether their bill is 19 ten dollars, a hundred dollars, or a thousand 20 dollars doesn't make any difference? 21 A. Are you asking me to agree with that 22 or -- 23 Q. I'm asking you if you are aware of 24 that. 25 A. No.</p>	<p style="text-align: right;">Page 36</p> <p>1 Q. And do you know whether there would 2 be an increase to the city if the rates proposed 3 by DP&L were implemented? 4 A. No. 5 Q. At the bottom of page seven you say 6 that the departure of jobs from the city and an 7 increase in DP&L's rates would make the city of 8 Dayton a less attractive area for economic 9 development. Do you see that? 10 A. Yes. 11 Q. First of all, the fact that jobs are 12 leaving the city, you would agree with me, is not 13 something that you can lay at the feet of DP&L; is 14 that right? 15 A. Correct. 16 Q. And a reliable electric distribution 17 system is something that either an existing or a 18 new or an expanding business would have to 19 consider because businesses require reliable 20 service, too, correct? 21 A. Correct. 22 Q. So let me back up a step. You are 23 aware from reading the executive summary that part 24 of the reason for filing this case -- I'll 25 withdraw that. Let me give you an easier</p>
<p style="text-align: right;">Page 34</p> <p>1 Q. You are making your conclusion here 2 about an increase in electricity rates being an 3 unreasonable burden without having examined the 4 extent to which programs for the at-risk 5 population would ameliorate that problem; is that 6 correct? 7 A. Yes. 8 Q. Forgive me if I asked this already. 9 On the question at the bottom of page six with 10 regard to economic development efforts, you are 11 not offering criticisms of the piece of the filing 12 that you said that you read with regard to 13 economic development; is that correct? 14 A. I'm sorry. Can you repeat that? 15 Q. I'll have her do that. 16 (Record read.) 17 THE WITNESS: Correct. 18 BY MR. FARUKI: 19 Q. The question on page seven on lines 20 eighteen and nineteen, you render the opinion that 21 an increase in rates would negatively impact 22 efforts for economic development. Do you see 23 that? 24 A. Yes. 25 Q. If there are economic development</p>	<p style="text-align: right;">Page 37</p> <p>1 question. 2 The Book II of the filing was not a 3 book that you read; is that correct? 4 A. Correct. 5 Q. An aging, unmodernized distribution 6 system for an electric utility is also something 7 that would make the city of Dayton a less 8 attractive area for economic development; is that 9 true? 10 A. True. 11 Q. You don't know the extent to which 12 the filing that we're dealing with here contains 13 in Book II a plan for improvement and 14 modernization of DP&L's distribution system, do 15 you? 16 A. I don't know to the extent or details 17 of that. 18 Q. On page eight the question that 19 begins at line five has an answer that lists some 20 of the obstacles to economic development efforts. 21 A. Uh-hum. 22 Q. That's right? 23 A. Yes. 24 Q. That answer does not list poor 25 service or a lack of reliability from DP&L, right?</p>

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1 A. Correct.
 2 Q. But if there was a high degree of
 3 poor service or lack of reliability from DP&L,
 4 would you list that as an obstacle to the economic
 5 development efforts?
 6 A. Yes.
 7 Q. When you are talking about DP&L
 8 customers in your testimony, are you limiting it
 9 to residential customers or residential as well as
 10 nonresidential?
 11 A. Residential and commercial,
 12 nonresidential.
 13 Q. And with regard to commercial
 14 customers, before preparing your testimony, or
 15 adopting it, did you talk to any commercial or
 16 industrial customers?
 17 I'm leaving aside residential. Did
 18 you talk to any commercial or industrial
 19 customers?
 20 A. Specifically about this filing or in
 21 general?
 22 Q. Well, we'll start with that.
 23 A. Not about the filing.
 24 Q. Did you talk with any nonresidential
 25 customers about DP&L's service?

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1 A. Yes. I interact frequently with
 2 business or commercial industrial users of DP&L.
 3 Q. And did you talk to any of them in
 4 preparation for your testimony or in preparation
 5 of this written testimony?
 6 A. No.
 7 Q. And in lines eighteen through twenty
 8 on page eight, I take it that opinion is supposed
 9 to include residential as well as nonresidential
 10 customers?
 11 A. Yes.
 12 Q. And, again, leaving aside residential
 13 for a minute, what is the basis for that with
 14 regard to commercial or industrial customers?
 15 A. Commercial and industrial customers
 16 are equally concerned with the increase of costs
 17 for doing business and routinely come to us asking
 18 for assistance in reduction of costs related to
 19 utilities.
 20 Q. And how does the city assist them?
 21 A. The city has various incentive
 22 programs that we can help for extenuating
 23 circumstances or improvements to buildings that
 24 require additional service, electrical service.
 25 Q. Do you know the extent to which DP&L

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1 has similar efforts?
 2 A. Generally, yes.
 3 Q. And what do you know about that?
 4 A. Again, I know that in working with
 5 companies and DP&L, that there are -- there is
 6 assistance provided through engineering and
 7 through reduction of costs for particular --
 8 particular situations.
 9 Q. So again staying on commercial and
 10 industrial customers as opposed to residential
 11 ones, your opinion is that an increase of even one
 12 cent a month would be detrimental to the
 13 commercial and industrial customers?
 14 MS. BECK: I'll object just to the
 15 extent it doesn't indicate a month in there on
 16 line nineteen.
 17 MR. FARUKI: Well, I'll ask that
 18 question.
 19 BY MR. FARUKI:
 20 Q. When you say even an increase of one
 21 cent in line nineteen, what is that supposed to
 22 mean in terms of time?
 23 A. I believe that the intent of the
 24 testimony is that any increase exacerbates or
 25 creates further hardship.

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1 Q. So when you say one cent, you weren't
 2 thinking monthly or annually, you're just thinking
 3 anytime?
 4 A. Monthly would probably be the
 5 reference.
 6 Q. So let me ask my question that I
 7 asked before again. Focusing on the commercial
 8 and industrial group of customers, your opinion is
 9 that even an increase of one cent would harm the
 10 commercial and industrial customers?
 11 A. Yes.
 12 Q. And have you talked to any commercial
 13 and industrial customer who said that they could
 14 not pay one penny more per month?
 15 A. No.
 16 MR. FARUKI: Off the record.
 17 (Thereupon, an off-the-record
 18 discussion was had.)
 19 BY MR. FARUKI:
 20 Q. Let me ask you a few questions about
 21 the first of your exhibits, SID-1.
 22 A. Uh-hum.
 23 Q. The first paragraph of that is headed
 24 qualifications, and there's nothing listed here
 25 about either utility rates or utility analysis; is

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1 that right?
 2 A. That's right.
 3 Q. You're not claiming expertise in
 4 those subjects?
 5 A. Correct.
 6 Q. Under the professional experience
 7 section of this, there is nothing listed about
 8 utility rates there; is that correct?
 9 A. Correct.
 10 Q. If you turn to page two under
 11 education, I didn't see anything listed there
 12 about electric utility rates. Is that correct?
 13 A. Correct.
 14 Q. And just so my question is adequate,
 15 am I correct that your education did not include
 16 any component regarding utility rates?
 17 A. You are correct.
 18 Q. Your employment history section of
 19 this makes no reference to utility rates. Do I
 20 take it that your employment history has not had
 21 electric rate responsibilities?
 22 A. Correct.
 23 Q. Same question with regard to the
 24 professional development and service section of
 25 your biography. Am I correct that there is none

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1 with regard to electric utility rates?
 2 A. Correct.
 3 Q. Do you know to what extent DP&L's
 4 filing is designed to recover costs of programs
 5 that DP&L must implement to meet targets in the
 6 new legislation?
 7 THE WITNESS: Can you repeat that?
 8 (Record read.)
 9 THE WITNESS: Just in the --
 10 generally from the readings of the executive
 11 summary and the economic development portions.
 12 BY MR. FARUKI:
 13 Q. And what did you learn there?
 14 A. That while the programs may reduce
 15 costs or usage, that there would be an investment
 16 necessary for DP&L to make to implement those
 17 programs and that recovery of costs was needed.
 18 Q. And you're not expressing an opinion
 19 that that's unreasonable, are you?
 20 A. No.
 21 Q. I looked at the documents that were
 22 produced this morning in response to a document
 23 request.
 24 Did you participate in gathering
 25 documents in response to that question?

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1 A. I'm not certain I understand what
 2 document request you're talking about.
 3 (Thereupon, DP&L Dickstein Deposition
 4 Exhibit 60, City of Dayton's response to DP&L's
 5 production of documents request, first set, and
 6 responsive documents, was marked for purposes of
 7 identification.)
 8 MR. FARUKI: For the people on the
 9 phone, Exhibit 60 is the City of Dayton's
 10 responses to DP&L's document request, and there
 11 were documents that were produced accompanying
 12 that, so I've marked both the document request
 13 responses and the documents themselves that
 14 accompanied it as one exhibit.
 15 BY MR. FARUKI:
 16 Q. Let me give you Exhibit 60
 17 (providing).
 18 A. Uh-hum.
 19 Q. And I'll tell you that -- I'll
 20 represent to you that that's the set of responses
 21 that the city made to DP&L's request for
 22 production of documents in this case, and then
 23 after that are all of the documents that came with
 24 it.
 25 A. Uh-hum.

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1 MR. POULOS: I do not. Thank you,
 2 though.
 3 MR. FARUKI: Okay. Did anybody else
 4 join on the line while I was examining? Okay. I
 5 think we're done.
 6 (Thereupon, the deposition was
 7 concluded at 2:33 o'clock p.m.)
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1 Q. Take a minute and look at that and
 2 tell me if you've seen it before.
 3 (Pause in proceedings.)
 4 THE WITNESS: I've not seen this
 5 prior to --
 6 BY MR. FARUKI:
 7 Q. And when you say that, you're looking
 8 at the document request responses itself. Turn
 9 past that to the documents.
 10 A. Uh-hum.
 11 Q. And there is maybe a quarter of an
 12 inch or so of documents. Did you participate in
 13 gathering any of those?
 14 A. Yes.
 15 Q. When I looked through those, I didn't
 16 see any of them that related to or discussed
 17 electric rates.
 18 Instead, they discussed the same
 19 subjects basically as the attachments to your
 20 testimony concerning population, flight from the
 21 city, and things like that; is that right?
 22 A. Correct.
 23 MR. FARUKI: Thank you. I --
 24 MR. POULOS: Charlie, I'm sorry.
 25 This is Greg. Could you tell me what's on the

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1 I, SHELLEY J. DICKSTEIN, do hereby certify
 2 that the foregoing is a true and accurate
 3 transcription of my testimony.
 4
 5
 6 -----
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 8 Dated -----
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1 first page of the attachment? Is it 000683?
 2 MR. FARUKI: You mean the -- yes, it
 3 is. At the top of the page, 000673.
 4 MR. POULOS: 673?
 5 MR. FARUKI: And the title of the
 6 document, Greg, is the City of Dayton's responses
 7 to DP&L's request for production of documents to
 8 the City of Dayton, first set.
 9 MR. POULOS: Okay. I have it.
 10 Because the first actual document in response is
 11 00683. I got you. I just wanted to make sure I
 12 had the right thing.
 13 MR. FARUKI: Yeah, you do. The
 14 documents themselves which follow the certificate
 15 of service begin with 683.
 16 MR. POULOS: Okay. Thank you.
 17 MR. FARUKI: What I did was mark
 18 Bates numbers 683 through 740 as Exhibit 60.
 19 MR. POULOS: Okay. Thank you.
 20 MR. FARUKI: Ms. Dickstein, that's
 21 all I have. I'm not sure if anybody else has a
 22 question. Thank you.
 23 THE WITNESS: All right.
 24 MR. FARUKI: Greg, do you have any
 25 questions?

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1 STATE OF OHIO)
 2 COUNTY OF MONTGOMERY) SS: CERTIFICATE
 3 I, Caryl L. Blevins, a Notary
 4 Public within and for the State of Ohio, duly
 5 commissioned and qualified,
 6 DO HEREBY CERTIFY that the
 7 above-named SHELLEY J. DICKSTEIN, was by me first
 8 duly sworn to testify the truth, the whole truth
 9 and nothing but the truth.
 10 Said testimony was reduced to
 11 writing by me stenographically in the presence
 12 of the witness and thereafter reduced to
 13 typewriting.
 14 I FURTHER CERTIFY that I am not a
 15 relative or Attorney of either party, in any
 16 manner interested in the event of this action,
 17 nor am I, or the court reporting firm with which
 18 I am affiliated, under a contract as defined in
 19 Civil Rule 28(D).
 20
 21
 22
 23
 24
 25

1 IN WITNESS WHEREOF, I have hereunto set
2 my hand and seal of office at Dayton, Ohio, on
3 this _____ day of _____, 2009.
4
5

6 CARYL L. BLEVINS, RPR, CRR
7 NOTARY PUBLIC, STATE OF OHIO
8 My commission expires 7-16-2013
9
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