

1 BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO
2 IN THE MATTER OF THE
3 APPLICATION OF THE DAYTON
4 POWER AND LIGHT COMPANY CASE NO. 12-426-EL-SSO
5 FOR APPROVAL OF ITS
6 MARKET RATE OFFER.

7 IN THE MATTER OF THE
8 APPLICATION OF THE DAYTON
9 POWER AND LIGHT COMPANY CASE NO. 12-427-EL-ATA
10 FOR APPROVAL OF REVISED
11 TARIFFS.

12 IN THE MATTER OF THE
13 APPLICATION OF THE DAYTON
14 POWER AND LIGHT COMPANY CASE NO. 12-428-EL-AAM
15 FOR APPROVAL OF CERTAIN
16 ACCOUNTING AUTHORITY.

17 IN THE MATTER OF THE
18 APPLICATION OF THE DAYTON
19 POWER AND LIGHT COMPANY CASE NO. 12-429-EL-WVR
20 FOR WAIVER OF CERTAIN
21 COMMISSION RULES.

22 IN THE MATTER OF THE
23 APPLICATION OF THE DAYTON
24 POWER AND LIGHT COMPANY CASE NO. 12-672-EL-RDR
25 TO ESTABLISH TARIFF
26 RIDERS.

27 Deposition of BETH E. HIXON, Witness
28 herein, called by The Dayton Power and Light
29 Company for cross-examination pursuant to the
30 Rules of Civil Procedure, taken before me,
31 Beverly W. Dillman, a Notary Public in and for
32 the State of Ohio, at the Office of the Ohio
33 Consumers' Counsel, 10 West Broad Street, Suite
34 1800, Columbus, Ohio, on Wednesday, March 6,
35 2013, at 9:36 o'clock a.m.

1	EXAMINATION CONDUCTED	Page
2	BY MR. SHARKEY:.....	5
3	EXHIBIT MARKED	
4	(Thereupon, Hixon Exhibit 1, work papers	
5	supporting BEH-1 and BEH-2, was marked for	
6	purposes of identification.).....	38

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1 APPEARANCES:

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3 Light Company:

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16 ALSO PRESENT:

17 Mike Disotell

18 * * *

1 BETH E. HIXON
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. SHARKEY:

7 Q. Good morning, Ms. Hixon. As you
8 know, my name is Jeff Sharkey, and I represent
9 The Dayton Power and Light Company.

10 Could you state your full name for
11 the record, please?

12 A. My name is Beth E. Hixon.

13 Q. And you're employed by the Office of
14 the Ohio Consumers' Counsel?

15 A. Yes.

16 Q. And your title is assistant director
17 of analytical services?

18 A. Yes.

19 Q. What are the nature of your job
20 duties as the assistant director of analytical
21 services?

22 A. As I state in my testimony in
23 regards to the activity that I do at OCC, I chair
24 the OCC's internal electric team; and I
25 participate in regulatory projects, mainly

1 dealing with energy issues; and I'm assigned to
2 various cases.

3 Q. Okay. Your testimony I have says
4 that you have a Bachelor of Business
5 Administration degree in accounting from Ohio
6 State -- I'm sorry, from Ohio University?

7 A. Yes, from Ohio University.

8 Q. Okay. Are you a CPA?

9 A. No.

10 Q. Okay. Do you have a Ph.D.?

11 A. No.

12 Q. Okay. And from your accounting
13 degree, I take it that you're not an economist?

14 A. No, I'm not an economist.

15 Q. Okay. Have you -- let me step back.

16 Your testimony addresses whether The
17 Dayton Power and Light Company's proposed ESP is
18 more favorable in the aggregate than an MRO; is
19 that fair?

20 A. Yes, that's the purpose of my
21 testimony.

22 Q. Okay. Have you ever testified on
23 that subject matter before?

24 A. Yes.

25 Q. Okay. When?

1 A. In the recent AEP case.

2 Q. Okay.

3 A. 11-346-EL-SSO.

4 Q. Any other times?

5 A. No.

6 Q. Okay. Can you tell me what work you
7 did in advance of preparing your testimony?

8 A. Could you be a little more specific
9 about work? What exactly are you asking?

10 Q. Sure. Sure. What items did you
11 examine to prepare your testimony?

12 A. I looked at relevant portions of
13 Dayton Power and Light's applications that were
14 filed in October, that were supplemented in
15 November and filed in December, in regards to the
16 ESP versus MRO; the testimonies of Dayton Power
17 and Light; relevant portions of discovery; OCC
18 and other parties' and DP&L's responses to that
19 discovery. And I also reviewed relevant portions
20 of Commission orders related to the statutory
21 test.

22 Q. And those would be Commission orders
23 in the AEP and Duke cases?

24 A. It would have included that, yes.

25 Q. Were there others that you reviewed

1 that you think were relevant?

2 A. Those were the two primary. I think
3 I may have also looked at AEP's first ESP,
4 08-917-EL-SSO. I may have also looked at
5 FirstEnergy's ESP cases, which, off the top of my
6 head, I don't remember the numbers.

7 Q. Any other materials that you
8 reviewed that you can think of as you sit here
9 today?

10 A. I reviewed portions -- relevant
11 portions of the Ohio Revised Code that relate to
12 the ESP versus MRO.

13 Q. Did anybody assist you in preparing
14 your testimony?

15 A. Yes.

16 Q. Who?

17 A. I prepare my testimony, and then a
18 review process is done with my attorneys.

19 Q. Anybody besides attorneys for OCC
20 that reviewed your testimony before filing?

21 A. There would have been other OCC
22 analytical staff that reviewed my testimony.

23 Q. Okay. And who would those have
24 been, if you recall?

25 A. Aster Adams, Kathy Hagans.

1 Q. Do you recall any of the comments
2 you received back from Ms. Adams or Ms. Hagans?

3 A. Not specifically, no, I don't
4 recall.

5 Q. Okay. Did they provide markups or
6 revisions of your testimony to you?

7 A. During the review process they would
8 have, yes.

9 Q. But as you sit here today, you don't
10 remember what it is that they proposed?

11 A. I cannot identify specifically what
12 they -- what their comments were.

13 Q. Okay. During the course of the
14 deposition I might ask you questions about
15 whether you sponsor opinions or whether you have
16 opinions. And the -- by sponsor, what I'm asking
17 you is is it -- within your scope of your
18 prefiled testimony, do you address such a
19 subject, which would be different than opinions
20 that you may have. Does that distinction make
21 sense to you?

22 A. Let me restate it and make sure that
23 I understand. You're saying that if you use the
24 word sponsor an opinion, you're talking about
25 something that I am sponsoring within this

1 testimony that I have -- that we are discussing,
2 versus if I just have an opinion outside this
3 testimony?

4 Q. That is correct.

5 A. Okay.

6 Q. Okay. Well, let me ask you then
7 some questions about the scope of your testimony.
8 You understand that DP&L's proposed ESP goes to
9 100-percent competitive bidding faster than the
10 percentages contained in the MRO statute?

11 A. It reaches 100 percent faster.
12 There is one period of time, the first period,
13 when the percentages are the same, so that part
14 is not faster.

15 Q. Okay. The -- when we talk about the
16 competitive bidding aspect, we are talking about
17 the SSO service that would be offered to any
18 customer of The Dayton Power and Light Company
19 who has not switched?

20 A. Could you either restate the
21 question or have it reread? I don't think I
22 understand.

23 Q. I'll restate it.

24 A. Thank you.

25 Q. The competitive bidding, whatever

1 bids result from the process, would be used to
2 create an SSO service price for The Dayton Power
3 and Light Company. Is that consistent with your
4 understanding?

5 A. Under DP&L's proposal, a competitive
6 bid price is blended to arrive at a standard
7 service offer price for generation.

8 Q. And the DP&L customers who would
9 take that service at that price would be those
10 customers who have not switched to a CRES
11 provider; right?

12 A. Yes, the standard service offer
13 price is for those customers who do not have
14 alternative generation suppliers.

15 Q. Okay. Do you know whether there are
16 a significant percentage of residential customers
17 that OCC is an advocate on behalf of who have not
18 switched, and would thus be receiving the SSO
19 service that would result from the competitive
20 bidding process and blending process that you
21 described?

22 MS. YOST: Objection to the use of
23 the word significant.

24 But go ahead and answer if you can.

25 THE WITNESS: I know, generally, I'm

1 aware of the switching percentages that exist in
2 August 2012 that the company presented. I don't,
3 off the top of my head, remember the residential
4 percentage, so I couldn't judge as to
5 significant.

6 BY MR. SHARKEY:

7 Q. Okay. That's fine. Do you
8 understand that The Dayton Power and Light
9 Company has what are generally considered to be
10 different classes of customers, and I'll refer to
11 them as businesses and residential customers for
12 our purposes here; is that fair?

13 A. Well, I think that there are
14 different rate schedules -- there are different
15 definitions of rate classes. I think that,
16 generally, in talking of switching, as the
17 company presented it and the Commission presents
18 it, they refer to them as residential, commercial
19 and industrial.

20 Q. Fair enough. Do you know whether
21 the commercial and industrial customers of The
22 Dayton Power and Light Company have switched to
23 alternative generation suppliers at percentages
24 that are higher than the percentages of the
25 residential customers that switched?

1 MS. YOST: Objection, compound
2 question.

3 Answer if you can.

4 THE WITNESS: Again, based on the
5 data presented by Dayton, I believe, as of August
6 of 2012, the personal switching was greater for
7 commercial and industrial than for residential.

8 BY MR. SHARKEY:

9 Q. Okay. And as I read your testimony,
10 it appears that you agree that the fact that DP&L
11 proposes to implement a hundred percent
12 competitive bidding at a rate faster than under
13 the MRO statute is a benefit of the DP&L plan; is
14 that true?

15 A. I agree that in the comparison of
16 the ESP versus MRO, if the percentage blending is
17 greater under the proposed ESP, there is a
18 benefit associated with lower generation prices.

19 Q. And that's a benefit that
20 residential customers who have not switched would
21 receive?

22 A. If the percentages assumed by DP&L
23 in this analysis hold true. In other words, the
24 percentage switching that would receive a benefit
25 or don't receive a benefit is dependent upon the

1 level of switching.

2 Q. Okay. You opined, I believe, to a
3 percentage switching number of 70 percent for --
4 I don't know if that's for residential customers
5 or for all customers.

6 A. Okay, you have used the word
7 sponsored and have, and now you're saying opined.
8 You gave me these definitions earlier. I don't
9 want to mess up here.

10 Q. Fine. You sponsor in your testimony
11 a 70-percent --

12 A. Okay.

13 Q. -- switching number; correct?

14 A. I provide a 70-percent switching
15 number. In a scenario under that 70 percent on
16 Page 19 of my testimony, at Lines 6 and 7, I
17 recommend that the Commission, in doing the
18 statutory test, at a minimum, consider the impact
19 of a 70-percent switching during the ESP.

20 Q. Okay. And that 70-percent switching
21 is for all customer classes?

22 A. It is an aggregate or an average.

23 Q. Okay. Do you agree with me that
24 DP&L's proposal to implement competitive bidding
25 at a rate faster than that provided under the MRO

1 is a benefit to residential customers of DP&L's
2 ESP in the ESP versus MRO test?

3 MS. YOST: Objection, compound.

4 Go ahead and answer if you can.

5 THE WITNESS: I believe that to the
6 extent that, under an ESP, blending occurs faster
7 than it would under an MRO, and to the extent
8 that the CBP prices are lower than the ESP price
9 that is being blended, that there is a benefit
10 that can be measured to customers who do not
11 switch.

12 BY MR. SHARKEY:

13 Q. Do you agree that in comparing an
14 ESP to an MRO, that the Commission should compare
15 the ESP or MRO on an apples-to-apples basis,
16 meaning comparing the ESP or MRO that it would
17 have approved on the date it issues its order?

18 A. I can't agree with that. I lost
19 you, I'm sorry.

20 Q. Okay. Let me state it again.

21 A. Too many assumptions.

22 Q. Let me state it again. When the
23 Commission is evaluating whether DP&L's ESP is
24 more favorable than an MRO, that the Commission
25 should assume that the ESP and the MRO would go

1 into effect at the same time; do you agree with
2 that?

3 A. I think that if you're looking at
4 the ESP versus MRO, and you're going to look over
5 the ESP period, you have to determine, and the
6 Commission is going to have to make some
7 assumptions in terms of what an MRO, during that
8 same period of time, would have occurred.

9 Q. Let me ask differently. You would
10 agree with me that if the Commission -- step
11 back.

12 You assume that DP&L's ESP and MRO
13 would go into effect -- is it July 1 of 2013; is
14 that accurate?

15 A. On Page 10 of my testimony, I
16 discuss the starting point for the statutory
17 test, and I recommend on Page 11 that the
18 statutory tests start on July the 1st, 2013.

19 Q. So the relevant comparison would be
20 for an ESP -- an ESP that went into effect on
21 July 1st of 2013 to an MRO that went into effect
22 on July 1st of 2013; correct?

23 A. Generally, yes.

24 Q. You wouldn't compare an ESP that
25 went into effect on July 1, 2013 -- 2013 to an

1 ESP that would have gone into effect -- I'm
2 sorry -- to an MRO that would have gone into
3 effect two years ago; right?

4 A. I'm really not sure what you mean by
5 an MRO that would have gone into effect two years
6 ago. I can't come up with a scenario in my mind
7 that gives me that as a valid assumption, so I
8 don't understand what you mean.

9 Q. Well, I think we are -- I think we
10 are in agreement, but my simple question is that
11 you wouldn't compare an ESP with a start date of
12 July 1, 2013 to an MRO that had a start date of
13 July 1, 2011.

14 A. If such an MRO existed, no, you
15 wouldn't.

16 Q. Okay. That's the only point that I
17 was trying to make sure we were on the same page
18 with.

19 You reviewed the testimony of Jeff
20 Malinak in preparation of your testimony?

21 A. Yes.

22 Q. And you cited it a couple times?

23 A. Yes.

24 Q. You understand that Jeff Malinak
25 opines that the ESP is approximately \$120 million

1 more favorable than an MRO?

2 A. I understand that the benefit that
3 he calculates related to lower generation rates
4 of ESP versus MROs DP&L proposes is a \$120
5 million benefit.

6 Q. And in your testimony you disagree
7 with Mr. Malinak on a number of points that we
8 will get to; right?

9 A. Yes.

10 Q. Okay. Let me then ask you about
11 your proposed adjustments to Mr. Malinak's
12 testimony. If you turn in your testimony to Page
13 12, you discuss there certain adjustments to the
14 starting and ending dates for the ESP and MRO
15 that Mr. Malinak used; right?

16 A. Yes.

17 Q. Okay. And you understand that Mr.
18 Malinak's testimony was filed, I believe it was
19 in November, perhaps December, of last year?

20 A. His second revised testimony was
21 filed in December, mid-December.

22 Q. Okay. And at that point he used, as
23 a proposed start date, January 1 of 2013; right?

24 A. Correct.

25 Q. And you have correctly observed that

1 it is now improbable for those plans to go into
2 effect on that date; right?

3 A. Correct.

4 Q. And so you proposed certain
5 adjustments to his start date that, as you
6 discussed earlier, would result in a proposed
7 start date of June 1 of 2013?

8 A. No, I think it's July 1st, 2013, on
9 Page 11, Line 8.

10 Q. Thank you. Thank you. July -- July
11 1st?

12 A. Uh-huh.

13 Q. Okay. And then you also alter Mr.
14 Malinak's proposed end dates in the test; is that
15 right?

16 A. His end date, yes.

17 Q. Okay. And why did you alter his
18 proposed end dates?

19 A. Because the term of the ESP is --
20 ends on December 31st, 2017.

21 Q. Okay. And those adjustments are
22 shown on your testimony on BEH-1; correct?

23 A. The results of those adjustments
24 are, yes.

25 Q. Okay. And it appears to me, tell me

1 if I'm wrong, that the results of those adjust --
2 after those adjustments only, there is other
3 adjustments you made, but after those
4 adjustments, the ESP is \$112.5 million more
5 favorable than an MRO?

6 A. The 112.5 million encompasses the
7 change in dates as well as the change in load,
8 just to be clear.

9 Q. Okay. And when you're referring to
10 change in load, why did you make adjustments to
11 the change in load?

12 A. Because the load assumed by Mr.
13 Malinak assumed a longer period of time, and,
14 therefore, the load needed to be reduced.

15 Q. Okay. So just so I'm clear that I
16 understand, after you adjust for the change of
17 dates and the corresponding change of load, your
18 conclusion is that the ESP would be \$112.5
19 million more favorable than the MRO?

20 A. In regards to the difference in
21 bypassable revenue, the statutory price test.

22 Q. I understand that you have other
23 opinions --

24 A. Yeah.

25 Q. -- and other adjustments. But just

1 the result of those adjustments is \$112.5 million
2 more favorable for the ESP?

3 A. Yes, as shown on BEH-1, Line 17.

4 Q. On Page 12 of your testimony, you
5 refer to a -- Page 12, Line 20, a \$113 million
6 figure?

7 A. Yes.

8 Q. I'm assuming that that's just
9 rounding from the 112.5, but I want to make sure
10 I understand this accurately.

11 A. If you look at Line 16, Mr. Malinak
12 calculated the customers under the proposed ESP
13 would pay 120 million.

14 Q. Yes.

15 A. His number was 119.9. Since he was
16 referring to 120, I felt it appropriate at that
17 time to round mine also to 113, for the purposes
18 of that comparison.

19 Q. Okay. So the only reason it's 113
20 is because 112 -- the only reason it's 113, as
21 opposed to 112.5, is rounding?

22 A. Yes.

23 Q. I just wanted to make sure there
24 wasn't something in your testimony I was missing.

25 Then you understand that Mr. Malinak

1 calculated his test using what DP&L has referred
2 to as a frozen switching percentage of 62
3 percent; is that right?

4 A. Could you please repeat that?

5 Q. Yes. Mr. Malinak assumes a
6 switching percentage of 62 percent for the
7 purposes of conducting his testimony; is that
8 correct?

9 A. Approximately 62 percent, yes. You
10 can see that on his schedule.

11 Q. Okay. And you opine that The Dayton
12 Power and Light Company -- state this
13 differently -- you sponsor testimony that you
14 believe that DP&L's switching percentages will
15 continue to increase over the period of the ESP
16 or MRO, whichever it may be; right?

17 A. My testimony presents DP&L's opinion
18 that their switching will increase.

19 Q. Okay. And you use a figure of 70
20 percent, I believe, on -- reflected on Line 13,
21 Page 22 (sic), that you say assuming switching is
22 at 70 percent during the ESP; right?

23 A. Could you please give me that
24 reference again?

25 Q. Sure, Page 13, Line 22.

1 A. Yes, at that point I do say assuming
2 switching is at 70, the benefit of lower SSO
3 generation rate is reduced to 88.8 million.

4 (Thereupon, Mike Disotell left the
5 conference room.)

6 BY MR. SHARKEY:

7 Q. Okay. So once -- let me step back.
8 Where did you get the 70-percent switching figure
9 from?

10 A. If you look at Page 16 of my
11 testimony, at Line 17 through 19, I reference
12 Witness Jackson, who provided a methodology to
13 calculate the switching tracker, and examples of
14 the calculation, and in that DP&L used 70
15 percent.

16 Q. And then just so I'm clear, after
17 this adjustment is made, it is your conclusion
18 that the ESP is still \$88.8 million more
19 favorable than an MRO; right?

20 A. As shown on BEH-2, for the purposes
21 of comparing difference in bypassable revenue or
22 the statutory price test, it's 88.8 million, yes.

23 Q. Okay. Then I'm looking at BEH-2; we
24 can see the \$88.8 million figure about midway
25 down through the page, Line 17; correct?

1 A. Yes.

2 Q. And you continue to make adjustments
3 to that number associated with items relating to
4 the SSR, the switching tracker, the AER-N and
5 competitive retail enhancements; correct?

6 A. The second half or the bottom half
7 represents the other quantifiable provisions that
8 you have just listed.

9 Q. Okay. And you sponsor an opinion
10 that the service stability rider would not be
11 recoverable under an MRO; is that right?

12 Let me step back. Your testimony
13 assumes that the SSR would be recoverable under
14 an ESP, but not an MRO; is that right?

15 A. My testimony assumes that a service
16 stability rider would be available to a utility
17 under an ESP, but not under an MRO.

18 Q. And here there is a difference
19 between assuming something to be true and opining
20 that it's true or sponsoring testimony that it's
21 true. Just so we are clear, you are not
22 sponsoring any testimony as to whether the SSR
23 that DP&L proposes would be recoverable under an
24 ESP; right?

25 A. I don't know what you mean by the

1 term recoverable.

2 Q. Well, do you sponsor any testimony
3 that suggests that DP&L would be entitled to
4 receive an SSR under an ESP?

5 A. I have no testimony in regards to
6 whether DP&L -- I'm not sure what your term was
7 there -- my testimony is whether or not it's
8 available.

9 Q. Okay. Do you sponsor any testimony
10 as to whether an SSR would be available under an
11 ESP?

12 A. Because I consider it a cost of this
13 ESP, it's available to the company. Whether it's
14 granted or given to the company or authorized, I
15 don't offer an opinion on that. But I offer an
16 opinion that the company has it available to make
17 a request to the Commission; that's why it's a
18 cost of the ESP.

19 Q. It's true, isn't it, that you don't
20 sponsor any testimony relating to whether DP&L
21 needs an SSR to maintain its financial integrity?

22 A. No, I do not.

23 Q. It's also true, isn't it, that you
24 do not sponsor any testimony as to whether DP&L
25 needs the SSR to prevent a taking from occurring?

1 A. No, I do not.

2 Q. It's also true, isn't it, that you
3 do not sponsor any testimony as to whether DP&L
4 needs the switching tracker to maintain its
5 financial integrity?

6 A. No, I do not.

7 Q. And you do not sponsor any testimony
8 relating to whether or not DP&L needs a switching
9 tracker to avoid a taking from occurring?

10 A. No, I do not.

11 Q. I have used the phrase taking a
12 couple of times. Are you generally familiar with
13 Commission precedent and the law relating to what
14 is a taking?

15 A. No, not really.

16 Q. Okay. Have you ever heard whether a
17 taking occurs depends upon whether a utility has
18 an opportunity to earn a return on equity
19 comparable to other businesses of comparable
20 risks?

21 A. I am not familiar with that.

22 Q. So you're not sponsoring any
23 testimony on that subject whatsoever?

24 A. No, I'm not.

25 Q. Okay. You are not sponsoring any

1 testimony relating to whether an SSR or switching
2 tracker would be recoverable -- break that down
3 so it's not compound.

4 You are not sponsoring any testimony
5 as to whether or not the SSR would be recoverable
6 under the MRO statute; is that true?

7 A. I think you used the word
8 recoverable again. I'm just not sure what you
9 mean by that. My testimony is that it's my
10 understanding that the SSR would not be available
11 under the MRO.

12 Q. Okay. Is that a -- what I'm trying
13 to determine is if that's an opinion that you're
14 sponsoring or if that's something that you have
15 assumed for the purposes of your analysis. And
16 let me break this down. Your lawyers may be
17 arguing to the Commission that DP&L, as a matter
18 of law, is not entitled to recover an SSR under
19 the MRO statute. Do you understand they may be
20 making that argument?

21 MS. YOST: Objection. That's going
22 into attorney-client privilege information. We
23 are not even at that phase of briefing, so don't
24 answer that.

25 BY MR. SHARKEY:

1 Q. Do you intend to sponsor any
2 opinions of law in your testimony?

3 A. No. I'm not an attorney.

4 Q. Okay. So I think we can see from
5 your BEH-1 that assuming that the service
6 stability rider was available under the ESP, but
7 not under the MRO, then that would result in
8 \$687.5 million in adjustments to Mr. Malinak's --
9 I'm sorry -- to your \$88.8 million figure; right?

10 A. As shown on Line 28, assuming that
11 an ESP has an SSR, and it's 687.5 million, that
12 is another cost or a quantifiable provision.

13 Q. And for the switching tracker, you
14 assume a -- I'm sorry -- you sponsor a \$65.7
15 million adjustment, again, to your \$88.8 million
16 number; right?

17 MS. YOST: Could you repeat that
18 question?

19 (Record read.)

20 THE WITNESS: On schedule BEH-2, at
21 Line 29, an additional cost of the switching
22 tracker at 70-percent switching is 65.7 million.

23 BY MR. SHARKEY:

24 Q. Okay. If the Commission were to
25 reject your contention that those two adjustments

1 should be made, then would you agree that DP&L's
2 proposed ESP is more favorable in the aggregate
3 than an MRO?

4 MS. YOST: Objection. Incomplete
5 hypothetical.

6 Answer if you can.

7 THE WITNESS: Your term my
8 contention of these adjustments, I'm assuming in
9 answering this question that you're saying that
10 the other quantifiable provisions for the SSR and
11 the switching tracker that I have identified on
12 Line 28 and 29, that the Commission decides that
13 those are for some reason not applicable, if you
14 take those numbers out, then the statutory price
15 test exceeds the other costs of the ESP.

16 BY MR. SHARKEY:

17 Q. I think I understood what you said,
18 but let me just be sure. If -- let's go back.

19 We have already established that the
20 \$88.8 million figure on Line 17 of BEH-1 is --
21 for the adjustments made that far, shows that the
22 ESP is \$88.8 million more favorable than an MRO;
23 correct?

24 A. Under the statutory price test, yes.

25 Q. Okay. Then you propose to subtract

1 from that benefit amounts associated with the
2 service stability rider, the switching tracker,
3 the alternative energy rider and competitive
4 retail enhancements; correct?

5 A. Generally, yes. The other
6 quantifiable provisions offset -- more than
7 offset the benefits of the price test.

8 Q. Okay. But if the Commission were to
9 reject your assumption that the service stability
10 rider and the switching tracker were not
11 available under the MRO, then the only
12 mathematical adjustments remaining on BEH-2 would
13 be the \$3 million associated with the alternative
14 energy rider and a \$2.5 million adjustment
15 associated with the competitive retail
16 enhancements; correct?

17 A. Mathematically, that would be
18 correct, if the assumption is made that a service
19 stability rider and a switching tracker, under an
20 MRO, would be equal to whatever is available
21 under an ESP.

22 Q. Okay.

23 A. That's the assumption that Mr.
24 Malinak made.

25 Q. Okay. You don't sponsor any

1 testimony that disagrees with that assumption, do
2 you?

3 A. Disagrees with what assumption?

4 Q. You said that Mr. Malinak assumed
5 that the SSR and the ST -- switching tracker
6 would be equal under the ESP and the MRO.

7 A. (Witness nodding head up and down.)

8 Q. And I'm asking you, do you sponsor
9 any testimony that disagrees with that
10 assumption?

11 A. Yes.

12 Q. Where?

13 A. My testimony says that neither is
14 available under an MRO.

15 Q. Okay. Well, if you take the
16 assumption that they would be available -- you
17 understand that Mr. Malinak assumes that the SSR
18 and the ST would be available under both; right?

19 A. Yes.

20 Q. Okay. You don't assume that that's
21 right and then disagree with his contention that
22 they would be equal under the SSR -- I'm sorry,
23 under the ESP and MRO; right?

24 MS. YOST: Objection as to the form
25 of the question.

1 You can answer if you can.

2 THE WITNESS: No, I don't agree with
3 his assumptions.

4 BY MR. SHARKEY:

5 Q. The question is: Do you sponsor any
6 testimony that says, for example, even if an SSR
7 and a switching tracker were available under an
8 ESP and an MRO, I disagree with Mr. Malinak's
9 contention that they would be equal for X, Y, Z
10 reasons?

11 A. No, I don't.

12 Q. There is nothing in your testimony
13 about that; right?

14 A. No.

15 Q. Okay. I asked the follow-up
16 question just because my initial question was
17 framed in the negative. I just wanted to make
18 sure that we were on the same page.

19 Okay. Let's assume that the
20 Commission agrees with all of the opinions that
21 you sponsor, and that DP&L's proposed ESP was
22 \$758.7 million worse than a hypothetical MRO. Do
23 you believe that Dayton Power and Light Company
24 should withdraw its ESP application and file an
25 MRO application?

1 THE WITNESS: Could I have the
2 question reread?

3 (Record read.)

4 THE WITNESS: I'm not sure about the
5 number that you used in your question of 758.8
6 (sic), I'm not sure exactly what you were
7 referring to. I just want to make that clear
8 before I answer the question.

9 BY MR. SHARKEY:

10 Q. If I said 758.8, I misspoke. I
11 meant to refer to the \$758.7 million figure on
12 Line 33 of BEH-2.

13 A. Okay. If your question asks whether
14 or not the Commission agrees with the position as
15 shown on BEH-2 that the costs of the ESP are
16 758.7 million versus the benefits of 88.8, with
17 that understanding, you're asking me whether I
18 think -- I missed the last part of the question.
19 I'm sorry.

20 Q. The last part?

21 A. I think I was focusing on the first
22 part.

23 Q. The last part is if the Commission
24 agrees with you and the positions you take in
25 your testimony, would you believe that The Dayton

1 Power and Light Company should withdraw its ESP
2 application and file an MRO application?

3 A. I believe that if the Commission
4 found that the ESP as proposed was not more
5 favorable in the aggregate, that it should not
6 approve the ESP proposed, and then the burden is
7 back to the company to come forward with a
8 standard service offer, either under an MRO or an
9 ESP, that can be approved by the Commission.

10 Q. Okay. Would you support an MRO
11 filing by The Dayton Power and Light Company in
12 that assumption?

13 MS. YOST: I'm going to object as an
14 incomplete hypothetical.

15 THE WITNESS: I think whether I
16 personally could support an MRO filing by Dayton
17 under that assumption would depend on what Dayton
18 would file in terms of an MRO.

19 BY MR. SHARKEY:

20 Q. Okay. Turn if you would to Page 4
21 of your testimony. You identify on Page 4 three
22 items that you say are part of the Commission's
23 MRO versus ESP test; correct?

24 A. Yes.

25 Q. Okay. Item Number 3 is

1 nonquantifiable elements; do you see that?

2 A. Yes.

3 Q. You understand that in the
4 Commission's order that you reviewed in the AEP
5 case, that it considered nonquantifiable benefits
6 of AEP's ESP proposal; right?

7 A. Yes, that's what I footnoted on Page
8 4.

9 Q. Okay. And in AEP's case, do you
10 recall that the Commission concluded that the
11 value of the nonquantifiable benefits that it
12 identified exceeded the figure of \$386 million?

13 A. I don't remember the exact numbers.

14 Q. Do you remember that that's
15 approximately correct?

16 A. I'm not even sure of approximately,
17 but I know that the nonquantifiable benefits were
18 determined by the Commission to be greater than
19 the quantifiable costs.

20 Q. Okay. I am going to hand to you,
21 and I apologize I have only one copy of it, but
22 I'm going to hand you a copy of the Commission's
23 August 8th, 2012 entry -- opinion and order,
24 rather, in that AEP case.

25 MS. YOST: It's the entire order, by

1 the way, for clarification.

2 MR. SHARKEY: I believe it to be,
3 Melissa, but I haven't paged through it to make
4 sure that our printer or our copier didn't miss a
5 page.

6 BY MR. SHARKEY:

7 Q. Take a moment to look through that
8 and let me know if that's the opinion and order
9 that you have reviewed in the past.

10 A. It seems to be.

11 Q. Okay. Turn, if you would, to Page
12 75 million dollars -- I'm sorry, Page -- good
13 luck with that instruction.

14 Turn if you would, please, to Page
15 75. Take your time to review as much or as
16 little of that page or the entire order, if you
17 would like, but what I'm directing your attention
18 to is the \$386 million figure in the last line of
19 the paragraph that begins "our analysis does not
20 end here"; do you see that?

21 A. I see the paragraph "our analysis,"
22 and at the end, approximately 386 million.

23 Q. Okay. It says: We find an MRO is
24 more favorable by approximately \$386 million; do
25 you see that?

1 A. Yes.

2 Q. Okay. Does that refresh your
3 recollection that the Commission concluded, in
4 this opinion and order, that the nonquantifiable
5 benefits of AEP's ESP exceeded \$386 million?

6 A. (Examining document.)

7 MS. YOST: Could you please read
8 back the question?

9 (Record read.)

10 THE WITNESS: No.

11 BY MR. SHARKEY:

12 Q. What is your conclusion, then, based
13 upon your reading of that order?

14 A. On Page 76 of the order, at the
15 bottom of the page, it says: Accordingly, we
16 believe these nonquantifiable benefits
17 significantly outweigh any of the costs. I
18 believe it's there that the Commission makes that
19 conclusion.

20 Q. Okay. I want to make sure I
21 understand your answer. You're agreeing with me
22 that the Commission concluded that the
23 nonquantifiable benefits outweighed the \$386
24 million figure, but that it was on a different
25 page and place of the opinion and order?

1 A. Yes.

2 Q. Okay. Do you sponsor any testimony
3 regarding nonquantifiable benefits of DP&L's ESP?

4 A. No.

5 Q. Before the deposition started, your
6 counsel handed to me a document that she
7 described -- I don't want to mischaracterize it,
8 but I believe she described them as your work
9 papers. Do you have a copy of those in front of
10 you?

11 A. Yes.

12 Q. Okay. I'm going to mark those as
13 Hixon 1.

14 (Thereupon, Hixon Exhibit 1, work
15 papers supporting BEH-1 and BEH-2, was marked for
16 purposes of identification.)

17 BY MR. SHARKEY:

18 Q. What are those?

19 A. Those are work papers that support
20 BEH-1 and BEH-2.

21 Q. Okay. Some of them have yellow
22 figures on them, and -- I'm sorry, yellow
23 highlighting, and some of them don't. Can you
24 tell me what the purpose of the yellow
25 highlighting is, and why some is highlighted and

1 why some isn't?

2 A. Generally, the yellow highlighting
3 represents those points in the company's
4 interactive spreadsheets where I modified items.
5 Not every one is -- is marked, every line is
6 marked, but I attempted to at least identify
7 where changes were made and why those changes
8 were made.

9 Q. Okay. So I'm looking at the first
10 page of Hixon 1, and it appears -- tell me if I'm
11 wrong -- that the adjustments you were making to
12 this page deal with certain date adjustments that
13 you made to DP&L's ESP versus MRO test; am I
14 right about that?

15 A. Yes, as noted at the top, it's --
16 changes were made for the date -- date adjusted.

17 Q. Are those all of the adjustments
18 that you made to this page -- to the first five
19 pages of Hixon 1?

20 A. My order may not be the same as
21 yours, so --

22 MS. YOST: (Tendering document.)

23 THE WITNESS: Okay. Thank you.

24 Actually, TFM-2 is, of course, a
25 DP&L interactive spreadsheet, and this shows the

1 changes that were made and the points at which
2 changes in other schedules carried forward to
3 that. As you know, DP&L's schedules are
4 connected, so, for example, the proxy auction
5 price for the term in work paper 13.1, if a
6 change was made there, a change occurred here,
7 and the highlighting was at least my attempt to
8 identify where those changes are.

9 Q. Okay. Then starting on the sixth
10 page of the document, that has the title at the
11 top scaling factors?

12 MS. YOST: This one (indicating)?

13 MR. SHARKEY: Yes, Melissa.

14 MS. YOST: I think it's five -- one,
15 two, three, four, five -- nope, it's six.

16 BY MR. SHARKEY:

17 Q. What is shown there?

18 A. These are the scaling factors that
19 DP&L determined for evaluating the other auctions
20 in Ohio, and are supported by the work papers, WP
21 13.3 through 13.5, that are behind it.

22 Q. Okay. And did you make any
23 adjustments to those scaling factors?

24 A. I made no adjustments to work papers
25 13.2 through 13.5.

1 Q. Okay. DP&L's work papers, sponsored
2 by Ms. Marrinan, contain various conclusions as
3 to Ohio auction results. And, for example,
4 looking at Page 13.5, Page 1 of 2 -- actually,
5 strike that. Let me start over.

6 You understand that Ms. Marrinan
7 sponsors -- or did sponsor, rather, opinions
8 regarding what the probable results of auctions
9 in DP&L's service territory would be; right?

10 A. Yes, generally, I understand that.

11 Q. Okay. Did you undertake any effort
12 to determine whether Ms. Marrinan's projections
13 of future auction results were reasonable and
14 appropriate?

15 A. No, I did not.

16 Q. Okay. So you didn't -- you're
17 not -- you don't agree, disagree; you have no
18 opinion whatsoever?

19 A. For the purposes of my analysis, I
20 accepted DP&L's assumptions related to auction
21 prices.

22 Q. Okay.

23 MR. SHARKEY: Let's go off the
24 record.

25 THE WITNESS: (Witness nodding head)

1 up and down.)

2 (Thereupon, an off-the-record
3 discussion was held.)

4 (Recess taken.)

5 BY MR. SHARKEY:

6 Q. Okay. Ms. Hixon, did you provide
7 drafts of your testimony to anyone outside of
8 OCC?

9 A. No.

10 Q. Why didn't you address
11 nonquantifiable benefits in your testimony?

12 MS. YOST: I'm going to advise you
13 that to the extent that involves attorney-client
14 privileged information, that you do not disclose
15 that information.

16 THE WITNESS: (Indicating.)

17 MS. YOST: Everything would involve
18 attorney-client privilege information?

19 THE WITNESS: (Witness nodding head
20 up and down.)

21 MS. YOST: Then I'll instruct you
22 not to answer then.

23 MR. SHARKEY: I have no more
24 questions. We can go off the record.

25 MS. YOST: Okay. Mr. Sharkey has

1 concluded his deposition of Ms. Hixon. Does
2 anyone on the phone have any questions for her?

3 (Negative responses.)

4 MS. YOST: Okay. Well, OCC -- I
5 will just advise that Ms. Hixon will be reading
6 and making any and all necessary corrections to
7 her transcript if it is ordered and transcribed.

8 Do you intend to order it and
9 transcribe it?

10 MR. SHARKEY: (Nodding head up and
11 down.)

12 MS. YOST: Okay. All right. We are
13 off the record. Thank you.

14 (Thereupon, the deposition was
15 concluded at 10:44 o'clock a.m.)

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1 I, BETH E. HIXON, do hereby certify
2 that the foregoing is a true and accurate
3 transcription of my testimony.
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8 Dated -----
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1 STATE OF OHIO)

2 COUNTY OF MONTGOMERY) SS: CERTIFICATE

3 I, Beverly W. Dillman, a Notary Public
4 within and for the State of Ohio, duly
5 commissioned and qualified,

6 DO HEREBY CERTIFY that the above-named
7 BETH E. HIXON, was by me first duly sworn to
8 testify the truth, the whole truth and nothing
9 but the truth.

10 Said testimony was reduced to writing by
11 me stenographically in the presence of the
12 witness and thereafter reduced to typewriting.

13 I FURTHER CERTIFY that I am not a
14 relative or Attorney of either party, in any
15 manner interested in the event of this action,
16 nor am I, or the court reporting firm with which
17 I am affiliated, under a contract as defined in
18 Civil Rule 28(D).

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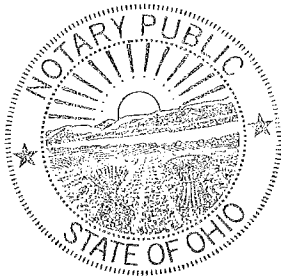
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1 IN WITNESS WHEREOF, I have hereunto
2 set my hand and seal of office at Dayton, Ohio,
3 on this 12th day of March , 2013.

Beverly W. Dillman



BEVERLY W. DILLMAN, RPR, CRR
NOTARY PUBLIC, STATE OF OHIO
My commission expires 3-6-2017

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Case No(s). 12-0426-EL-SSO, 12-0427-EL-ATA, 12-0428-EL-AAM, 12-0429-EL-WVR, 12-0672-EL-RDR

Summary: Deposition of Beth Hixon electronically filed by Mr. Jeffrey S Sharkey on behalf of
The Dayton Power and Light Company