

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. 12-627-EL-RDR
25 TO ESTABLISH TARIFF
26 RIDERS.

27 Deposition of MATTHEW S. WHITE, 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 Caryl L. Blevins, a Notary Public in and for the
32 State of Ohio, at the offices of Whitt Sturtevant,
33 88 E. Broad Street, Columbus, Ohio, on Saturday,
34 the 16th day of March, 2013, at 11:34 o'clock a.m.

35 * * *

1 APPEARANCES:

2 On behalf of the Dayton Power and Light
3 Company:

4 Faruki, Ireland & Cox

5 By: Jeffrey S. Sharkey (Via Telephone)
6 Attorney at Law
7 500 Courthouse Plaza, S.W.
8 10 N. Ludlow Street
9 Dayton, Ohio 45402

10 On behalf of Interstate Gas Supply:

11 Whitt Sturtevant

12 By: Mark A. Whitt
13 Gregory L. Williams
14 Attorneys at Law
15 The KeyBank Building
16 88 E. Broad Street
17 Suite 1590
18 Columbus, Ohio 43215

19 * * *

1 MATTHEW S. WHITE
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. Hello, Mr. White. My name is Jeff
8 Sharkey, and as I believe you know, I represent
9 the Dayton Power and Light Company in this matter.

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

12 A. Matthew White.

13 Q. And you're a licensed attorney,
14 Mr. White?

15 A. Yes.

16 Q. Where is your office?

17 A. 6100 Emerald Parkway, Dublin, Ohio
18 43016.

19 Q. When did you graduate from law
20 school?

21 A. 2007, May of 2007.

22 Q. Did you have any prior careers or
23 experience -- relevant experiences before you
24 graduated from law school?

25 A. Yeah. I worked in West Virginia,

1 state governor's office for a year between my
2 undergrad degree and law school.

3 Q. What did you do in the governor's
4 office?

5 A. I worked in constituent services. I
6 organized events for the governor and also helped
7 manage, you know, constituent inquiries for the
8 governor.

9 Q. So up to 2007, your basic educational
10 career path would have been undergraduate, then a
11 year working for the governor, and then law
12 school?

13 A. Yeah. Joint -- I got a joint law and
14 MBA program, so it took me four years to get
15 through.

16 Q. Okay. Have you ever testified
17 before?

18 A. No.

19 Q. Have you ever submitted written
20 testimony before?

21 A. No.

22 Q. And have you ever had your deposition
23 taken before?

24 A. No.

25 Q. As I read your testimony, it appears

1 that you practice as a regulatory attorney at IGS.

2 A. Yes.

3 Q. When did you begin your regulatory
4 practice?

5 A. At Chester Willcox in 2007 when I
6 began working for them and then IGS.

7 Q. What kind of work did you do at
8 Chester Willcox in regulatory law?

9 A. We represented a number of different
10 clients, electric generators. IGS was a client,
11 so we were involved in natural gas and electric
12 rate cases.

13 I was involved in power siting cases,
14 I was involved in power sales transactions. I --
15 mainly natural gas and electric regulatory work.

16 Q. And when did you join IGS?

17 A. At the very beginning of 2011.

18 Q. Okay. Have you appeared as counsel
19 on behalf of IGS before various utility regulating
20 bodies?

21 A. Yes.

22 Q. Have you appeared as counsel
23 previously in PUCO cases?

24 A. Yes.

25 Q. About how many?

1 A. You know, a half dozen maybe.

2 Q. Have you appeared as counsel before
3 FERC?

4 A. I've never appeared as counsel before
5 FERC.

6 Q. Have you appeared as counsel on
7 behalf of IGS before any other regulatory body?

8 A. Not that I can think of off the top
9 of my head, although I participated in some
10 proceedings through other counsel.

11 Q. Okay. Just so we're clear, IGS may
12 have had attorneys representing it, and you were
13 working with those attorneys on the case but not
14 appearing yourself?

15 A. Yeah. I'm only licensed in Ohio, so
16 generally -- well, I'm licensed in West Virginia,
17 too, but only in Ohio.

18 Q. On page two of your testimony, line
19 two, there's a sentence there that says, as a
20 regulatory attorney, I participated in the
21 development of fair, open, and competitive
22 restructured energy markets at Public Utility
23 Commission proceedings throughout the United
24 States.

25 A. Yeah.

1 Q. What does that mean? Maybe a better
2 question is, can you add some more detail to that?

3 A. Yeah. Essentially, IGS is involved
4 in a number of cases in different utility
5 commissions. For instance, in Michigan, we are
6 involved in a rate case for -- a natural gas rate
7 case for DTE Energy.

8 So I generally work through our
9 counsel in those states where I'm not licensed to,
10 you know, help prepare testimony, to help, you
11 know -- help draft briefs, you know, consult,
12 advise.

13 Also, you know, legislatively I, you
14 know, meet with -- at times I meet with lawmakers,
15 policymakers to help further, you know,
16 restructuring in utility markets.

17 Q. Do you have any duties at IGS that do
18 not involve the practice of law?

19 A. Yeah. I mean, I do other stuff
20 that's probably not legally-related, including I
21 work with our, you know, advanced energy
22 initiatives, including compressed natural gas,
23 station development from time to time, and I --
24 you know, so --

25 Q. Anything else that you would describe

1 as work you do that doesn't involve the practice
2 of law?

3 A. I've done some work for our
4 rewards -- our customer rewards program. Some of
5 that's legal work, some of it's not. It all
6 blends sometimes.

7 Q. I understand. Do you have any
8 responsibilities as to rate setting at IGS?

9 A. I am aware of our process, but I
10 don't directly set our prices.

11 Q. I understand you may be aware of it,
12 but my question is, do you have any involvement
13 actively in any of those processes?

14 A. No, not directly.

15 Q. The question, I guess, wasn't
16 precisely clear. When I was referring to rate
17 setting, I was referring to setting of regulated
18 rates.

19 Is that how you understood it?

20 A. No. I understood it as our pricing.
21 We don't have regulated rates. IGS doesn't do
22 regulated --

23 Q. IGS has no regulated rates?

24 A. No.

25 Q. Okay. And so your prior answers were

1 to general pricing in the market, and you don't
2 have responsibility for that; is that right?

3 A. No, I don't have direct
4 responsibility for pricing in the market.

5 Q. Do you have any management
6 responsibilities as to IGS' competitive
7 activities?

8 A. I'm not sure I understand the
9 question.

10 Q. Well, IGS has various competitive
11 arms that are selling electricity and gas and
12 stuff, right?

13 A. Yes.

14 Q. And there's people who are out there
15 actively working on doing that, right?

16 A. Yes.

17 Q. Do you have any management
18 responsibility for those activities or those
19 people?

20 A. I don't directly manage anybody.

21 Q. Okay. And you don't have any direct
22 responsibility for any of the sales processes that
23 IGS engages in?

24 A. No.

25 Q. Okay. Do you have any responsibility

1 for preparing financial analysis such as analysis
2 of what might happen if -- strike that and start
3 over.

4 I assume, first of all, that you're
5 not responsible for preparing IGS' accounting
6 books and records?

7 A. No.

8 Q. Do you have any responsibility for
9 engaging in any type of financial analysis at all
10 at IGS?

11 A. Financial analysis from time to time
12 is part of my job.

13 Q. What type of responsibilities do you
14 have for financial analysis?

15 A. I mean, I look -- I analyze
16 different -- you know, in regulatory proceedings,
17 you know, I look at, you know, what the price to
18 compare is, you know. That's often -- you know,
19 what are the cost components that go into the
20 price to compare, so it's necessary for me to do
21 some financial analysis on that part.

22 Q. Okay. Is it true that you had
23 originally entered an appearance as an attorney in
24 this case?

25 A. I believe so.

1 Q. And that you withdrew that appearance
2 before submitting testimony?

3 A. I believe so.

4 Q. Do you understand that there will be
5 many attorneys involved in this case who have for
6 many years practiced regulatory law?

7 A. Yes.

8 Q. Do you have any qualifications that
9 make you more qualified as a witness, in your
10 view, than those attorneys?

11 MR. WHITT: This is Mark Whitt. I'll
12 object to that question. Witness can answer if he
13 can.

14 THE WITNESS: Since I don't know what
15 everybody's qualifications are, I can't answer
16 that question.

17 BY MR. SHARKEY:

18 Q. Fair enough. Do you have any
19 particular qualification that you believe makes
20 you more qualified than a regulatory attorney of
21 ordinary skills and abilities?

22 MR. WHITT: I'll object again.

23 THE WITNESS: I think because I've
24 been in -- I've participated in a number of
25 different markets throughout the country,

1 including -- on all levels of the restructuring
2 process, including Texas, where they're completely
3 restructured, down to states like Michigan, where
4 they're just starting to restructure, I do have
5 some unique experience that likely a lot of the
6 regulatory attorneys in the proceeding would not
7 have.

8 BY MR. SHARKEY:

9 Q. IGS is a CRES provider, right?

10 A. Yes.

11 (Thereupon, the Notary interrupted
12 the proceedings.)

13 BY MR. SHARKEY:

14 Q. Does IGS bid at competitive auction?

15 A. We do -- we do bid in natural gas
16 auctions.

17 Q. That's a poor question. You're aware
18 of the fact that there have been a number of
19 auctions in other electric utility service areas
20 in Ohio, correct?

21 A. Yes.

22 Q. Has IGS bid into those auctions?

23 A. For electricity?

24 Q. For electricity.

25 A. No.

1 Q. Do you know whether it's part of IGS'
2 business plan to bid into competitive auctions if
3 they occur in DP&L's service territory?

4 A. I'm not able to answer that question.
5 I don't know. That's something our management
6 decides.

7 Q. In any event, it's fair to say that
8 in Ohio, IGS has participated actively as a CRES
9 provider but not as a wholesale bidder at
10 competitive auctions?

11 A. As of this date, yes.

12 Q. Is IGS a customer of DP&L?

13 A. Not that I'm aware of, other than,
14 you know, we -- you know, we're a CRES provider
15 and you're a distribution utility, and our
16 customers use your distribution facilities.

17 Q. That I understand. I was just asking
18 if you're aware of whether IGS had any plants or
19 facilities within the Dayton Power and Light
20 Company's service territory that would make it
21 also a customer.

22 A. Oh, no, we're not, no.

23 Q. Now, if you turn to page two of your
24 testimony, line eleven --

25 A. Yes.

1 Q. -- it states there that you are
2 advocating for a responsible transition to
3 competition for DP&L, right?

4 A. Yes.

5 Q. And one of the items that you propose
6 is that the Commission reject DP&L's request for
7 an SSR and switching tracker, right?

8 A. Yes.

9 Q. Is it your recommendation that those
10 items be rejected in their entirety as in
11 recovered from no customers?

12 A. I generally would not have a problem
13 if they were bypassable, if DPL was recovering
14 those charges through bypassable means.

15 Q. Turn if you would, then, to page four
16 of your testimony.

17 A. Yeah.

18 Q. You described there your reasoning
19 for why you believe the SSR and the SSR tracker,
20 as you call it, should be rejected, right?

21 A. Yes.

22 Q. It appears to me, but I don't want to
23 mischaracterize your testimony -- it appears to me
24 that that's the only Q&A in your testimony that
25 analyzes why the Commission should reject those

1 riders.

2 Let me know -- take a minute to look
3 through your testimony and let me know if you
4 agree with that.

5 A. I agree that that's the only specific
6 question that addresses the rationale for
7 rejecting DP&L's request, although there may be
8 other answers that indirectly address that
9 request.

10 Q. Okay. Fair enough. And the reason
11 you conclude that the Commission should reject
12 those riders is based upon your interpretation and
13 understanding of Ohio Revised Code Section 4928.38
14 and Section 4928.141; is that right?

15 A. That is -- yes, that is part of my
16 rationale.

17 Q. Is there some part of your rationale
18 included in those answers that's not based upon
19 those statutory sections? I guess it all -- let
20 me say it differently.

21 It appears that what your opinion is,
22 is that those items -- strike that.

23 It appears to me that what you're
24 saying in your answer is that DP&L's proposed
25 riders are transition costs and transition cost is

1 defined under those statutes and is not
2 recoverable under those statutes.

3 Is that a fair summary of the opinion
4 that you're sponsoring?

5 A. Those statutes do not allow for the
6 recovery of the transition cost.

7 Q. My question just is, is it fair to
8 say that your opinion, first of all, that the SSR
9 and switching tracker are transition costs is
10 based upon your interpretation of those two
11 statutes you cite?

12 A. They are either transition charges or
13 any revenues equivalent -- any equivalent revenues
14 to transition charges.

15 Q. Okay. Is it your opinion that
16 they're transition charges or revenue equivalent
17 to transition charges based upon your
18 understanding and interpretation of the two
19 statutes you cite?

20 A. Yes.

21 Q. And then your further conclusion that
22 they're not recoverable is also based upon your
23 understanding and interpretation of the two
24 statutes that you cite, right?

25 A. That is part of my rationale for them

1 not being -- why they should not be recoverable
2 through nonbypassable charges.

3 Q. Are there additional rationales that
4 you sponsor in your testimony besides those based
5 on the statutes?

6 A. The statute is the basis for it, but
7 it goes beyond just the statute.

8 Q. Well, that's what I'm trying to
9 figure out is what's there beyond the statute, if
10 you could identify, explain that to me.

11 A. That shopping customers should not be
12 paying nonbypassable charges related to
13 generation.

14 Q. Can you point me to where that is in
15 your testimony?

16 A. I believe it's implicit in my
17 testimony.

18 Q. Do you have available to you a copy
19 of Ohio Revised Code 4928.143?

20 A. Yes, I do.

21 Q. I'd like to call your attention to
22 subsection (B)(2)(c) that begins with the phrase,
23 terms, conditions, or charges. Do you see that?

24 A. Yes.

25 Q. It's true, isn't it, that -- let me

1 step back.

2 When I use the phrase sponsor
3 testimony or sponsor opinion, it's a different
4 opinion than opinions you have. When I say
5 sponsor, I'm talking about things that are
6 included in your pretrial testimony.

7 Does that make sense?

8 A. I'm sorry. Can you say that again?

9 Q. Sure. I'm going to ask you about
10 whether you sponsor some opinions, and what I'm
11 really meaning by the word sponsor is, are they in
12 your prefile testimony.

13 There's opinions that you have and
14 there's opinions that you sponsor, and I'm
15 interested in opinions that you sponsor in front
16 of the Commission. Okay?

17 A. Okay. Yep.

18 Q. Do you sponsor any testimony
19 regarding whether the SSR and the ST are a term,
20 condition, or charge?

21 A. I state in my testimony that it's a
22 charge.

23 Q. Okay. Do you sponsor any testimony
24 regarding whether that charge relates to -- and
25 I'm reading from the statute here -- limitations

1 on customer shopping for retail electric
2 generation service, bypassability, standby backup
3 or supplemental power service, default service,
4 carrying costs, amortization period, and
5 accounting or deferrals, including future recovery
6 of such deferrals?

7 A. I do not believe I discuss those
8 specific issues in my testimony.

9 Q. And it's also true, isn't it, that
10 you don't sponsor any testimony regarding whether
11 the proposed SSR and switching tracker would have
12 the effect of stabilizing or providing certainty
13 regarding retail electric service?

14 A. I do not testify that the trackers
15 will provide stability or certainty to retail
16 electric service. That is not my testimony.

17 Q. Just so we have a clear answer, you
18 don't address that topic one way or the other,
19 right?

20 A. No, I don't believe so.

21 Q. Turning back to your opinion that the
22 switching to tracker and the SSR were stranded
23 costs, do you know whether DP&L has previously had
24 a case in which it's recovered stranded costs?

25 A. It is my understanding, yes, they

1 have.

2 Q. Are you aware that's the 1999 ETP
3 case that DP&L filed?

4 A. Yes.

5 Q. Do you know how stranded costs were
6 calculated for DP&L in that case?

7 A. Off the top of my head, no.

8 Q. Well, is it true that you don't know
9 whether to compare -- step back.

10 You understand that the company
11 witness, Dr. Chambers, has sponsored testimony
12 that the levels of the proposed SSR are
13 reasonable, right?

14 A. Yes, I believe that's his testimony.

15 Q. And I'm not asking you whether you
16 agree with his testimony. I'm just asking if
17 you --

18 A. No. Yeah. I believe that that's
19 what he testified to, although --

20 Q. Okay.

21 A. -- I'd have to check to confirm.

22 Q. And you're also aware that he
23 sponsors testimony regarding DP&L's need for the
24 switching tracker to maintain its financial
25 integrity?

1 A. Yes, I believe that that's what he
2 testified to.

3 Q. You don't know if the methodology
4 used in the 1999 case to establish DP&L's stranded
5 costs are the same as or even similar to the
6 method used by Dr. Chambers?

7 A. I'm not aware one way or another.

8 Q. Turn to page five of your testimony,
9 if you would.

10 A. Okay.

11 Q. Starting on line eighteen, as I read
12 your testimony, you advocate that DP&L should not
13 have a wholesale competitive bidding process if
14 it's to receive the SSR and switching tracker,
15 right?

16 A. If the Commission's going to allow
17 DPL to recover its stranded costs, whether that's
18 through the SSR or the switching tracker or some
19 other mechanism, I do not believe DPL should
20 transition to wholesale options.

21 Q. As an additional matter, you
22 understand that the purpose of the wholesale
23 option would be to establish the rate that DP&L's
24 SSO customers will be paying?

25 A. That's my understanding.

1 Q. So that's a rate that IGS will
2 neither charge nor receive?

3 A. I -- yes, the SSO rate is not.

4 Q. Do you know whether DP&L's SSO
5 customers are supportive of the proposition that
6 their rates should be set through some type of
7 competitive bidding process?

8 MR. WHITT: I'll object. Calls for
9 speculation.

10 BY MR. SHARKEY:

11 Q. Just to be clear, the only question
12 is --

13 A. I -- I -- I imagine that there's all
14 kinds of different opinions because there's a lot
15 of different customers. So you can't just say one
16 SSO customer is or isn't. I just don't think
17 it's -- it's possible to make that determination.

18 Q. Fair enough. Have you read testimony
19 filed by any customers or customer representatives
20 in this case?

21 A. I have read testimony from -- from
22 parties that represent or purport to represent
23 customers in this case.

24 Q. For example, have you read testimony
25 filed by witnesses of the office of the Ohio

1 Consumers' Counsel?

2 A. Yes.

3 Q. Did you see that there are witnesses
4 for OCC that advocate that DP&L should have
5 competitive bidding and, in fact, should have
6 competitive bidding at a more rapid pace than DP&L
7 has proposed?

8 A. Yes.

9 Q. Can you explain -- strike that.
10 If DP&L and its SSO customers wish to
11 have competitive bidding, can you identify for me
12 any reason that you believe that the Commission
13 should not permit those parties --

14 (Thereupon, the Notary interrupted
15 the proceedings.)

16 (Record read.)

17 BY MR. SHARKEY:

18 Q. -- to establish the rates set between
19 them using competitive bidding?

20 A. My position is that if DPL recovers
21 stranded costs or can recover stranded costs paid
22 by all rate payers, including shopping customers,
23 then competitive bidding should not be -- they
24 should not transition to competitive bidding
25 process because that will increase the stranded

1 costs that DPL incurs, thus increasing --
2 increasing the nonbypassable charges that all
3 customers, including shopping customers, have to
4 pay.

5 My position is that if the Commission
6 should allow DPL to recover stranded costs, they
7 should reduce the number of stranded costs they
8 recover through a nonbypassable rider rather than
9 transition customers to competitive auction, which
10 would increase their stranded cost.

11 Q. It's true, isn't it, that -- step
12 back.

13 You understand that market rates are
14 currently lower than DP&L's SSO rates?

15 A. That is my understanding.

16 Q. Is it your expectation that if DP&L
17 were to implement competitive bidding, that would
18 result in a lowering of its SSO rates?

19 A. I don't know one hundred percent
20 because a lot goes into bidding, and it would
21 require me to forecast future rates, which I
22 can't -- I'm not qualified, nor is anybody else
23 qualified to forecast what rates are going to be
24 in the future. I can only tell you what they are
25 now.

1 Q. I understand that rates could, in
2 fact, change dramatically tomorrow and the price
3 point at which they are could change dramatically.

4 All I'm asking you is your
5 expectation, and, in fact, I believe you testified
6 earlier, in your prefile testimony, that you
7 believe DP&L's SSO rate would be lowered as a
8 result of competitive auction and increasing
9 DP&L's need for an SSR, right?

10 A. I don't know if that's what I
11 testified to. At current market -- at current
12 market rates, if you auction them today, because
13 the wholesale markets are lower, then likely it
14 would lower the SSO rate.

15 Q. As a CRES provider seeking to do
16 business in DP&L's service territory, it's true,
17 isn't it, that IGS is better off if DP&L's SSO
18 rates are higher?

19 A. I -- I don't know if -- I don't
20 think -- I don't think I can answer that question.

21 Q. Does IGS compete in DP&L's service
22 territory by attempting to offer customers a lower
23 price for generation than DP&L currently offers
24 under its SSO rates?

25 A. IGS offers prices in the DPL service

1 territory, and so does DPL --

2 Q. I understand.

3 A. -- whether it's an affiliated or
4 nonaffiliated company.

5 Q. My only question to you is, do you
6 know whether IGS is offering generation to
7 customers in DP&L's service territory at prices
8 that are below DP&L's current SSO rate?

9 A. That is my understanding.

10 Q. Do you know whether IGS uses the fact
11 that its rates are lower than DP&L's current SSO
12 rates to market or otherwise try to persuade
13 customers to switch to IGS?

14 A. I'm not sure how we're currently
15 marketing to customers in DPL's service territory.

16 Q. Turn, if you would, to page seven of
17 your testimony.

18 A. Yep.

19 Q. You sponsor testimony there regarding
20 DP&L's reconciliation rider proposal, right?

21 A. Yes.

22 Q. First let's -- I want to see if we
23 have a common understanding of DP&L's proposal,
24 then I'm going to ask some questions about your
25 critique of it.

1 A. Okay.

2 Q. First of all, do you understand that
3 DP&L currently has certain bypassable riders that
4 are, in fact, listed on page seven, line ten of
5 your testimony?

6 A. Yes.

7 Q. Do you understand that in a number of
8 those riders, DP&L has deferral balances
9 associated with the fact that in particular
10 periods, it has not been able to collect the full
11 amount due under those various riders?

12 A. That's what I believe that DPL
13 testified to, although I'm not aware of how much
14 or what the deferral balances are.

15 Q. I understand that you don't have
16 factual knowledge of what DP&L said. I'm just
17 asking you for what you understand DP&L's
18 rationale to be.

19 A. Yeah. To the extent that's what's in
20 the testimony, that's what I can go on.

21 Q. Okay. Then you understand DP&L to be
22 concerned that as customers switch, DP&L starts to
23 recover an increasing deferral balance over a
24 decreasing number of customers?

25 A. Can you repeat the question?

1 Q. Sure. Do you understand that part of
2 DP&L's concern is that as customers switch, it
3 runs the risk that it will be recovering an
4 increasing deferral balance over a decreasing
5 number of customers?

6 A. To the extent that's in your
7 testimony, then I understand that that's what
8 DPL's testified to.

9 Q. Okay. Do you further understand that
10 the -- strike that.

11 Do you further understand that there
12 is a risk that if the riders remain fully
13 bypassable and DP&L continues to recover deferrals
14 associated with those riders in subsequent
15 periods, that it may be in a position of
16 attempting to recover a very large deferral
17 balance over a very small group of customers?

18 A. In my testimony, I address that and
19 what could be done in the event that occurs to
20 reduce -- or to eliminate those deferrals and
21 allow DPL to recover that money if that is the
22 case.

23 Q. I understand that. We'll come to
24 your proposed resolution in a minute, but right
25 now I just want to ask you, do you agree with me

1 that that is a genuine risk of the way those
2 riders currently operate?

3 A. I don't agree that it's a risk. If
4 you take the appropriate measures to ensure that
5 that doesn't take -- take the measures in my
6 testimony, then there is no risk.

7 Q. At this point, I understand that you
8 sponsor certain testimony.

9 A. Uh-hum.

10 Q. I just want to ask regarding proposed
11 changes, and I'll come to those, but I just want
12 to ask you about the state of affairs as they
13 exist right now.

14 My question to you is, in the state
15 of affairs as they exist right now, do you agree
16 that what we've discussed about increasing
17 deferral balances to be recovered over a smaller
18 and smaller group of customers creates the risk
19 that we've been discussing?

20 A. I think I don't know what the actual
21 deferrals are. I don't know what the -- I don't
22 know how that correlates to, you know, the
23 number -- the costs, so I can't tell you one way
24 or another whether there is a risk or not, but I
25 can tell you if there is a risk and it does occur,

1 then I address in my testimony how to address that
2 risk.

3 Q. As I understand it, your proposed
4 resolution relates to conducting retail auctions?

5 A. Yes.

6 Q. How would a retail auction work?

7 A. As -- the way I would propose it is
8 that customers that remain on default service, for
9 those customers, competitive suppliers will have
10 an opportunity to bid a fixed amount to serve
11 those customers at a fixed rate; for instance, a
12 certain percentage below the price that -- DPL's
13 base generation rates.

14 Once those customers are served by
15 the competitive supplier, those customers will be
16 served at that specific rate for a year or a fixed
17 period of time, at which point the customers
18 remain with the competitive supplier at a
19 market-based variable rate which is published
20 always on the PUCO Apples to Apples website, and
21 those customers would have the ability to switch
22 to another competitive supplier at all times
23 without cancellation fee.

24 Q. What's the advantage -- strike that.

25 Is there any advantage to customers

1 of a retail auction as compared to a wholesale
2 auction?

3 A. Yes.

4 Q. And what is that?

5 A. It would -- it would cause the
6 customer to engage in the marketplace, which is
7 beneficial to customers.

8 Q. Is there any reason to expect that
9 customers' pricing would be lower under a retail
10 auction than under a wholesale auction?

11 A. I don't know. I can tell you that on
12 a retail auction, you can -- A, my proposal -- the
13 other benefit of my proposal to customers is that
14 my proposal -- the revenues from the retail
15 auction would go to reduce not -- some of the
16 deferred costs -- the deferred costs or other
17 nonbypassable charges that the Commission is
18 levying on customers.

19 So that is a benefit to all customers
20 for a retail auction, and again, I can't tell you
21 what the price is going to be in retail auctions
22 versus wholesale auctions because that would be
23 just speculation, but what I can say is, you know,
24 it's potential to structure the bidding to come in
25 below DPL's base generation rates.

1 Q. Let me ask you about your testimony
2 that the revenues -- really, I'm on page eight,
3 line twenty-one.

4 A. Yeah.

5 Q. The revenues received from the
6 bidders in the retail auction could go toward
7 paying down the deferred costs that result from
8 customer switching and any other legacy costs
9 associated with serving the default load.

10 A. Yes.

11 Q. Let me ask you about how that would
12 work.

13 A. Okay.

14 Q. Suppose IGS was the winning bidder at
15 a retail auction --

16 A. Uh-hum.

17 Q. -- and DP&L -- okay. So IGS is the
18 winning bidder and wins the load to serve
19 particular customers.

20 A. Yeah.

21 Q. IGS would then receive the revenue
22 paid by those customers?

23 A. IGS would serve those customers at a
24 rate, at a set price. The revenue that IGS would
25 pay money to serve those customers, that money

1 would go into a pool and that money would be used
2 to -- used to -- any deferred -- any deferred
3 costs that DPL experiences from these legacy
4 generation riders, it would go to pay off that,
5 any other legacy costs that the Commission may
6 approve, for instance, the SSR if the Commission
7 approves a rider SSR, pay down that, and in
8 general, reduce the costs to all ratepayers.

9 Q. Well, is it your proposal that IGS
10 would have an obligation to pay into that pool for
11 as long as it's serving the customers?

12 A. It would be a one-time payment.

13 Q. And how would the amount of that
14 payment be established?

15 A. Through a bid. So you have -- let's
16 just say as an example you have a thousand
17 customers still on default rate. I know that's
18 low, but just for simplification purposes.

19 There would be a number of suppliers
20 that would like to have those customers, so you
21 start the bid at, let's say, fifty dollars a
22 customer. The first supplier bids -- it's an
23 ascending clock auction. The next supplier says,
24 I'll serve those customers for sixty dollars. The
25 next supplier will say, I'll serve those customers

1 for seventy dollars, and you go -- the amount --
2 you go as high as a supplier is willing to pay to
3 serve those customers given that you would propose
4 some kind of, you know, tranche -- you know, load
5 cap, if you will, so that no supplier would be
6 serving a hundred percent of the customers.

7 Q. Okay. So the winning bidder,
8 let's -- suppose for me that the winning bid would
9 be a hundred dollars to serve those thousand
10 customers.

11 A. Yeah.

12 Q. What happens to that hundred dollars?

13 A. That hundred dollars goes into a
14 pool, and I would propose that, you know, the
15 money goes to paying off first the deferred costs
16 that DP&L suggests or represents could occur from
17 rider fuel and all the other riders, the deferred
18 costs from all the other riders that go into rider
19 RR, pay down those costs first.

20 Next the money would go to -- after
21 those costs are paid down, it would go to paying
22 off any kind of legacy costs that are incurred
23 from serving the default load, including, if
24 approved by the Commission, rider SSR, and if
25 those costs aren't there, flowing those costs back

1 to customers -- flowing the remaining money back
2 to customers, although there's other -- I mean, I
3 haven't gotten into the detail of where all that
4 money is going to go, but that's just off the top
5 of my head.

6 Q. Okay. You don't sponsor any
7 testimony that suggests or establishes that the
8 amount providers would be willing to bid in a
9 retail auction would be sufficient to pay off the
10 amounts that you've identified, do you?

11 A. Not in my testimony.

12 Q. Are you aware of any other utility in
13 the country that has a similar retail auction
14 program to what you've proposed?

15 A. Connecticut has proposed to do that
16 auction, but it hasn't been approved. It's in
17 law. The proposal is in the budget in
18 Connecticut.

19 Q. The proposal's in what in
20 Connecticut?

21 A. A similar proposal is in the budget
22 in Connecticut to help, you know, pay off some of
23 their deficit, I believe.

24 Q. Whose budget is that included in?

25 A. It's a budget proposal in

1 Connecticut.

2 Q. Is that a proposal for a utility or a
3 budget for the state?

4 A. For all utilities in the state. It's
5 a law, a proposed law.

6 Q. Proposed law?

7 A. Yeah.

8 Q. Other than that proposed law, are you
9 aware of anyplace else where a similar retail
10 option has been implemented?

11 A. Not exactly similar to what I've
12 proposed, but there's different ways. There's
13 been different auctions.

14 Q. Are you aware of any other states who
15 have had retail auctions of any form?

16 A. Natural gas in Ohio. There's a
17 similar proposal in the Columbia stipulation.
18 Once Columbia Gas of Ohio reaches a certain
19 threshold of shopping similar to -- it's not an
20 auction, but it's a transition of customers. So
21 it's not actually an auction in Columbia, it's
22 assigning customers, but it's similar.

23 Q. Is the Columbia situation and what
24 you were referring to about natural gas in Ohio,
25 are those the same things or different things?

1 A. Columbia natural gas in Ohio, yes.

2 Q. Okay. So that's one thing that
3 you're referring to, not two different things?

4 A. Yes.

5 Q. And that's in a stipulation that's
6 been agreed to?

7 A. Yes.

8 Q. Are you aware of any provision in the
9 Ohio Revised Code that authorizes or requires
10 retail auctions?

11 MR. WHITT: Counsel, specific to
12 energy, gas, electric?

13 MR. SHARKEY: Yes.

14 THE WITNESS: I'm aware of --

15 BY MR. SHARKEY:

16 Q. Actually, strike that. Let's make it
17 clear. The question is electric. Are you aware
18 of any law in the Ohio Revised Code that
19 authorizes or requires electric utilities to have
20 a retail auction similar to what you propose?

21 A. I'm aware of the policy of the state,
22 and I can't think off the top of my head what the
23 Revised Code section is, to support and promote
24 competition and transition in competitive markets,
25 and the retail auctions are fully in line with

1 those policies and laws.

2 Q. Other than the policies of the State
3 of Ohio, are you aware of any specific statutory
4 section that authorizes or requires retail
5 auctions?

6 A. I don't have a specific knowledge of
7 every single statute that's in the Ohio Revised
8 Code to reference -- to point you to at this time,
9 but I believe that it is definitely authorized
10 within the Commission's power.

11 Q. But you can't point me to any
12 specific code section that authorizes or requires
13 retail auctions?

14 A. Again, I don't have the Ohio Revised
15 Code section in front of me. If I had time to
16 review something, you know, I could point you to
17 something.

18 Q. Let me turn to your purchase of
19 receivables proposal --

20 A. Okay.

21 Q. -- that I believe starts on page nine
22 of your testimony.

23 A. Yeah.

24 Q. Are you aware of any section in the
25 Ohio Revised Code or Commission rules that

1 requires DP&L to offer a purchase of receivables
2 program?

3 A. Again, I don't have the Ohio Revised
4 Code section in front of me, so I'm unable to say
5 precisely whether there is a rule or law that
6 requires DPL to offer purchase of receivables.

7 Q. I understand it's not in front of
8 you, but do you recall ever having seen either a
9 statute or a rule that requires DP&L to have a POR
10 program?

11 A. I don't recall seeing something that
12 specifically requires DPL to offer a purchase of
13 receivables, although implicitly there may be
14 parts of the code that do.

15 Q. Is it your opinion that DP&L's
16 proposal to implement a competitive bidding
17 practice is the equivalent of DP&L offering a POR
18 program to CRES providers?

19 A. I testify that not the competitive
20 bidding proposal per se, but the mechanism by
21 which the winning bidders receive payments for
22 electricity delivered into the system that are
23 trued up through the CBT rider, is essentially a
24 POR for wholesale suppliers.

25 Q. It's your understanding that as a

1 result of the competitive bidding process,
2 wholesale suppliers will be selling generation to
3 DP&L and then DP&L will be in turn selling that
4 power to retail customers?

5 A. I'm not aware one way or another if
6 that's the process that works -- how it works.

7 THE WITNESS: Can I take a break?

8 MR. WHITT: Jeff, can we take a brief
9 break?

10 MR. SHARKEY: Sure. Take ten
11 minutes?

12 MR. WHITT: That's -- that would be
13 plenty.

14 (Recess taken.)

15 MR. WHITT: Counsel, before we get
16 started, I just wanted to bring to your attention
17 that after conferring with the witness, I think we
18 need to clarify an answer in response to your
19 question about prior testimony, and I'll let
20 Mr. White explain that.

21 THE WITNESS: Yeah.

22 MR. SHARKEY: So do you want to go on
23 the record and make a clarifying statement?

24 MR. WHITT: We're on now.

25 THE WITNESS: I believe you had asked

1 me had I testified in other proceedings before. I
2 should mention that I filed testimony in the Duke
3 natural gas distribution rate case; however, that
4 case is still in process. There hasn't been a
5 hearing. So I filed testimony, although I haven't
6 gone through the whole process of testifying.

7 BY MR. SHARKEY:

8 Q. Thank you for that clarification. I
9 want to ask you some questions about what we were
10 discussing before we went off the record; namely,
11 whether the competitive bidding process that DP&L
12 proposes is the equivalent of a purchase of
13 receivables program.

14 A. Okay.

15 Q. And I want to start with an example.
16 You understand, for example, that many businesses
17 purchase products at wholesale and then resell
18 those products at retail, right?

19 A. Generally, it is my understanding
20 that that is a practice that occurs in the
21 business world.

22 Q. For example, Walmart purchases
23 numerous products from wholesale suppliers and
24 then resells them to retail customers?

25 A. Is that a question?

1 Q. Just your understanding.

2 A. That Walmart purchases -- purchases
3 wholesale products and sells to retail customers?

4 Q. Yes.

5 A. Yes.

6 Q. Do you think that Walmart's offering
7 a purchase of receivables program?

8 A. I don't know what Walmart's offering.

9 Q. Do you think that Walmart's practice
10 of purchasing products at wholesale and then
11 selling them at retail is the equivalent of a
12 purchase of receivables program?

13 A. I haven't studied Walmart's business
14 practices enough to be able to make that
15 determination.

16 Q. Do you consider the general practices
17 of businesses in the economy of buying products at
18 wholesale and selling them at retail to be the
19 equivalent of a purchase of receivables program?

20 A. I haven't thought of that to the
21 extent I am able to make that determination.

22 Q. Is there something about -- well,
23 strike that.

24 Is there a feature of DP&L's
25 competitive bidding process proposal that you

1 believe would make it a POR program that is
2 somehow different than a typical process where
3 businesses buy things at wholesale and sell them
4 at retail?

5 A. Off the top of my head, the fact that
6 all customers pay distribution rates and there is
7 a default rate and, that I'm aware of, no other
8 industry has that kind of scenario where all
9 customers pay distribution rates and also there's
10 a default rate service.

11 Q. I want to focus on the relationship
12 between, on the one hand, the winning bidder and
13 DP&L and, on the other hand, a wholesale seller of
14 ordinary products and a buyer of those products
15 that would then sell them at retail.

16 Is there any difference in the nature
17 of those relationships of which you are aware that
18 would indicate that one was a POR program and the
19 other was not?

20 A. I don't think I understand the
21 question.

22 Q. Fair enough. I want to compare two
23 relationships.

24 A. Okay.

25 Q. The first relationship would be the

1 relationship between a wholesale seller of goods
2 and a buyer of -- from that wholesaler. Okay?

3 A. Okay.

4 Q. The second relationship would be the
5 relationship between a winning bidder at an
6 auction and the Dayton Power and Light Company.

7 A. Okay.

8 Q. What I'd like to know is if there is
9 a difference between those two relationships that
10 would indicate that one of those relationships was
11 a POR program and the other was not.

12 A. I'm sorry. I don't understand what
13 you're asking.

14 Q. Well, you have told me that you
15 consider DP&L's practice of conducting a wholesale
16 auction would constitute a POR program, right?

17 A. I said that allowing -- paying
18 wholesale suppliers for delivery upon delivery and
19 truing up the over/under recovery through the CBT
20 would essentially be a POR for wholesale
21 suppliers.

22 Q. Okay. The CBT rider is charged to
23 customers, right?

24 A. I believe it is being proposed to be
25 charged to customers.

1 Q. Okay. What I'm trying to figure
2 out -- I'm focusing on the relationship between
3 the wholesale seller and the buyer --

4 A. Uh-hum.

5 Q. -- and what I'm trying to determine
6 is if there is something different in the
7 relationship between DP&L and the winning bidder
8 at a wholesale auction on the one hand as compared
9 to an ordinary wholesale transaction on the other
10 hand that would support your contention that
11 the -- strike that -- that would support an
12 argument that one is a POR program and the other
13 is not.

14 A. I don't think I have enough
15 information at this time to answer that question.

16 Q. You're not aware of any differences
17 between the two relationships that would suggest
18 that one is and one isn't a POR program?

19 MR. WHITT: Objection. Asked and
20 answered.

21 THE WITNESS: That's my answer. I
22 already answered.

23 BY MR. SHARKEY:

24 Q. I'm just seeking clarity. Is the
25 answer to my most recent question yes?

1 A. My answer is I don't have enough
2 information at this time to answer that question.

3 Q. What information are you missing?

4 A. I don't know.

5 Q. IGS is concerned about the risk that
6 its retail customers won't pay it? Is that the
7 reason that IGS is proposing a POR program?

8 A. There is a risk, but also, there's a
9 cost to collecting, including payment of
10 infrastructure, as I state in my testimony.

11 Q. Focusing on the risks, it's true,
12 isn't it, that IGS has voluntarily elected to do
13 business with those customers?

14 A. Yes, IGS chooses to serve its
15 customers.

16 Q. IGS could eliminate that risk; that
17 is, the risk of nonpayment, by not doing business
18 with those customers, couldn't it?

19 A. Yes.

20 Q. IGS could also eliminate the risk
21 that it wouldn't be paid by requiring those
22 customers to make an appropriate deposit at IGS
23 before IGS agreed to provide services to those
24 customers?

25 A. That would not eliminate the risk

1 or -- nor the cost of collections.

2 Q. A deposit in advance would mitigate
3 the risk, wouldn't it?

4 A. It has potential to mitigate the
5 risk, but it would not eliminate the risk or the
6 cost of collections.

7 Q. That risk, that risk being the risk
8 of nonpayment by a customer, is going to exist for
9 somebody under any and all proposals, right?

10 A. Yes, there's always a risk of
11 nonpayment.

12 Q. It's true, isn't it, that your
13 testimony does not address whether or not DP&L
14 could maintain its financial integrity under the
15 proposals that you make?

16 A. I do not explicitly address DPL's
17 financial integrity in my testimony.

18 Q. Nor do you address whether DP&L could
19 provide reliable service if it were compelled to
20 implement the proposals made in your testimony?

21 A. I do not explicitly address the
22 reliability of DPL's service in my testimony.

23 Q. Do you agree with me that the
24 customer -- strike that.

25 Do you agree that it's in DP&L's

1 customers' interests that it be able to provide
2 reliable service?

3 A. I don't think I could answer that
4 question because the definition of reliable
5 service is vague.

6 Q. If you define reliable service as
7 reliable distribution service and that it has
8 enough money to operate its distribution system,
9 then would you agree that it's in the interests of
10 all of DP&L's customers that it be able to provide
11 reliable service?

12 A. I'm not aware that the distribution
13 infrastructure is a subject matter of this case.

14 Q. That's not my question. The question
15 just is, do you agree that it is in the interests
16 of all of DP&L's distribution customers that it
17 have enough money to provide reliable distribution
18 service?

19 A. I agree that in a distribution case,
20 it's necessary for reliability to be taken into
21 consideration.

22 Q. I don't think that's responsive to my
23 question. My question is, in general, do you
24 agree that it is in the interests of DP&L's
25 customers that DP&L be able to provide reliable

1 service?

2 A. I believe it's in the interests of
3 DPL's distribution customers.

4 Q. Do you believe that it's in the
5 interests of DP&L's customers that DP&L be able to
6 maintain its financial integrity?

7 MR. WHITT: Again, are we referring
8 to distribution customers?

9 MR. SHARKEY: Yes.

10 THE WITNESS: I have no opinion on
11 that question.

12 MR. SHARKEY: Let's go off the
13 record.

14 (Thereupon, an off-the-record
15 discussion was had.)

16 (Recess taken.)

17 MR. SHARKEY: I don't have anything
18 else.

19 MR. WHITT: Okay. We don't have any
20 redirect. We will read, and I think that's it.

21 MR. SHARKEY: We should check to make
22 sure there's nobody else who's joined by phone who
23 has questions.

24 MR. WHITT: Good idea. Is there
25 anybody else?

1 MR. SHARKEY: I think the answer
2 would certainly be no, but --

3 MR. WHITT: We will assume by silence
4 that there isn't, and I think we're done.

5 MR. SHARKEY: Okay. Well, thanks for
6 your time.

7 (Thereupon, the deposition was
8 concluded at 1:03 o'clock p.m.)

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1 I, MATTHEW S. WHITE, 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, 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 MATTHEW S. WHITE, was by me first duly

8 sworn to testify the truth, the whole truth and

9 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).

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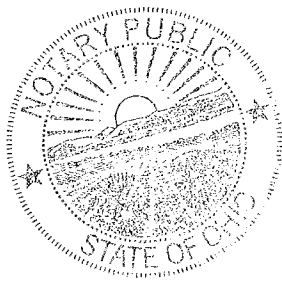
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1 IN WITNESS WHEREOF, I have hereunto set
2 my hand and seal of office at Dayton, Ohio, on
3 this 19th day of March , 2013.



Caryl L. Blevins

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

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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 Matthew S. White electronically filed by Mr. Jeffrey S Sharkey on behalf of The Dayton Power and Light Company