

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the :
Application of The Dayton :
Power and Light Company : Case No. 12-426-EL-SS0
for Approval of its :
Electric Security Plan :

In the Matter of the :
Application of the Dayton :
Power and Light Company : Case No. 12-427-EL-ATA
for Approval of Revised :
Tariffs :

In the Matter of the :
Application of the Dayton :
Power and Light Company : Case No. 12-428-EL-AAM
for Approval of Certain :
Accounting Authority :

In the Matter of the :
Application of the Dayton :
Power and Light Company : Case No. 12-429-EL-WVR
for the Waiver of Certain :
Commission Rules :

In the Matter of the :
Application of the Dayton : Case No. 12-672-EL-RDR
Power and Light Company :
to Establish Tariff Riders:

- - -

PROCEEDINGS

before Mr. Gregory A. Price and Mr. Bryce A.
McKenney, Hearing Examiners, at the Public Utilities
Commission of Ohio, 180 East Broad Street, Room 11-C,
Columbus, Ohio, called at 9:00 a.m. on Wednesday,
April 3, 2013.

VOLUME XII - PUBLIC

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1 Wednesday Morning Session,
2 April 3, 2013.

3 - - -

4 EXAMINER PRICE: Let's go on the record.
5 Good morning. The Public Utilities Commission has
6 set for hearing at this time and place Case No.
7 12-426-EL-SSO, et al., being In the Matter of the
8 Application of The Dayton Power & Light Company for
9 approval of an electric security plan and related
10 matters.

11 My name is Gregory Price, with me is
12 Bryce McKenney, we are the Attorney Examiners
13 assigned to preside over today's hearing. This is
14 our 12th day of hearing in this proceeding.

15 Seeing no preliminary matters, let's go
16 ahead and call our next witness.

17 Mr. Faruki.

18 MR. FARUKI: Thank you, your Honors.
19 Good morning. We call Craig Jackson to the stand on
20 rebuttal.

21 (Witness sworn.)

22 EXAMINER PRICE: Please state your name
23 and business address for the record.

24 THE WITNESS: My name is Craig Jackson,
25 business address, 1065 Woodman Drive, Dayton, Ohio,

1 45432.

2 EXAMINER PRICE: Thank you.

3 Mr. Faruki.

4 MR. FARUKI: Thank you, your Honor.

5 - - -

6 CRAIG L. JACKSON

7 being first duly sworn, as prescribed by law, was
8 examined and testified as follows:

9 DIRECT EXAMINATION

10 By Mr. Faruki:

11 Q. Mr. Jackson, good morning again.

12 A. Good morning.

13 Q. Do you have before you a copy of your
14 prefiled rebuttal testimony?

15 A. I do.

16 MR. FARUKI: Your Honors, I would ask
17 that we mark the confidential version, I'm sorry, the
18 public version of that as DP&L Exhibit 16.

19 EXAMINER PRICE: So marked.

20 (EXHIBIT MARKED FOR IDENTIFICATION.)

21 MR. FARUKI: And the confidential version
22 of that rebuttal testimony as DP&L Exhibit 16A.

23 EXAMINER PRICE: It will also be so
24 marked.

25 (EXHIBIT MARKED FOR IDENTIFICATION.)

1 Q. Mr. Jackson, when I asked you about any
2 changes or clarifications, I believe you had one with
3 regard to Exhibit CLJ-6. Get that in front of you.
4 I think you had a clarification with regard to the
5 columns that are labeled "PY" for planning year.
6 Would you explain that?

7 A. Yes. The columns, as you indicated, are
8 labeled "PY" for planning year. The planning years
9 represent June 1 through May of the following year.
10 So it represents a planning year versus a calendar
11 year which, obviously, is January through December.

12 Q. So the planning year, just for clarity of
13 the record, the planning year that is in the first
14 column, PY '13/'14, would be June 1, 2013, through
15 May 31, 2014?

16 A. That's correct.

17 Q. Okay. No other clarifications or
18 corrections? Is that it?

19 A. I'm sorry, yes. No other clarifications.

20 Q. If I were to ask you each of the
21 questions contained in your rebuttal testimony, would
22 your answers be as they appear there?

23 A. Yes.

24 Q. Are they true?

25 A. Yes, they are.

1 MR. FARUKI: Thank you, sir.

2 Your Honors, I offer Exhibits 16 and 16A,
3 and tender him for cross-examination.

4 EXAMINER PRICE: Thank you.

5 We will take up admission of Exhibits 16
6 and 16A at the conclusion of cross-examination.

7 OCC.

8 MS. GRADY: Thank you, your Honor.

9 - - -

10 CROSS-EXAMINATION

11 By Ms. Grady:

12 Q. Good morning, Mr. Jackson.

13 A. Good morning.

14 Q. Can you turn to your testimony on page 5.
15 I want you to focus on line 14, and you are stating
16 there that staff's position, that is, using a
17 three-year ESP term, restricts "the certainty of
18 future cash flows." Do you see that?

19 A. Yes, I do.

20 Q. What specific cash flows are you speaking
21 of there?

22 A. Well, in our filing we had filed and
23 requested a five-year term that extended out through
24 the end of 2017 in our filing, and with the staff's
25 proposal, obviously it was a three-year term, so

1 there were cash flows that we had included in our --
2 the last two years of our filing, those are the cash
3 flows that I'm referring to, as well as cash flows
4 that are impacted by the accelerated time to market.

5 Q. Would those cash flows be the cash flows
6 from the SSR as well as the switching tracker?

7 A. Yes.

8 Q. If the five-year ESP plan is adopted,
9 will there be a certainty of those future cash flows?

10 A. There is certainly, if the five-year
11 filing, as we filed, was approved, there is more
12 certainty around -- you can never say that there's a
13 hundred percent certainty, but there would be more
14 certainty around cash flows.

15 Q. Now, if we go to page 7 of your
16 testimony, on that page you're talking again about
17 the, and I'm looking at lines 11 and 12, you're
18 talking about the five-year term and you're also
19 using the phrase the "certainty of future cash
20 flows." Do you see that reference?

21 A. Yes, I do.

22 Q. And with respect to the future, the
23 "certainty of future cash flows" you're referring to
24 there, those would include the SSR and the switching
25 tracker, correct?

1 A. Yeah. It would be similar to my prior
2 response and, you know, when I say "certainty,"
3 again, it's more certainty around the future cash
4 flows.

5 Q. Is it your testimony, Mr. Jackson, that
6 the revenues associated with the SSR will provide the
7 necessary cash flows to allow the company to separate
8 its generating units?

9 A. I look at our filing in total and the
10 cash flows that are -- we believe that would be a
11 result of the filing, so it's the SSR, the switching
12 tracker, the time to market, so I look at it as the
13 overall cash flows of the filing.

14 Q. And so your response is all the cash
15 flows that are associated with your electric security
16 plan will provide you with the necessary cash flows
17 to allow the company to corporately separate; is that
18 fair?

19 A. That is fair.

20 Q. Now, on page 7, at the very bottom of the
21 page, line 20 and lines 21, you indicate that DP&L
22 has not requested "that its financial integrity be
23 guaranteed." Do you see that?

24 A. Yes, I do.

25 Q. Would you agree with me that DP&L has

1 requested that the SSR revenues be guaranteed as well
2 as switching tracker revenues?

3 A. Certainly, the level of the SSR in our
4 filing is a stated dollar amount, and the switching
5 tracker, obviously, will move depending on where the
6 pricing ultimately ends up, but the level of the SSR,
7 you know, with the exception of some movements in
8 volume, because it's my understanding that the way
9 that the SSR, the rate would be developed would be on
10 a dollar per megawatt-hour basis, so to the extent
11 that you have some downward movement in the volume,
12 you would see a reduction in the amount of SSR that
13 you would collect over that year.

14 So to say that the full amount would be
15 "guaranteed," I can't say that that would be the
16 case.

17 EXAMINER PRICE: Have you built into your
18 assumptions compliance with the energy efficiency
19 requirements of the state?

20 THE WITNESS: Yes, we have.

21 EXAMINER PRICE: So those were built in.
22 So just the mere fact that you're complying is not
23 going to -- that's already built into your
24 projections.

25 THE WITNESS: That's right, yes.

1 EXAMINER PRICE: Thank you.

2 Q. (By Ms. Grady) Mr. Jackson, with respect
3 to the SSR, is there a reconciliation mechanism
4 associated with that?

5 A. Not that I'm aware. I don't believe
6 there is.

7 Q. And is there a reconciliation for the
8 switching tracker, or is that just self-reconciling?

9 A. Well, the switching tracker, as was
10 proposed, is based on the level of, you defer the
11 amount for a particular year, so it's based on the
12 switching level that occurred in that year, and then
13 you collect that in the following year. So that
14 there is a lag on the deferral versus the recovery.

15 Q. And is it your understanding in that lag
16 period that the company would be collecting a cost of
17 capital or a carrying cost on that?

18 A. Yes. I guess let me just rephrase that.
19 In that period we won't be collecting the carrying
20 charge, the carrying charge that is applicable to
21 that deferral period, and then you recover that in
22 the following year.

23 Q. So that carrying charge is added to the
24 deferral and then recovered during the --

25 A. Yes.

1 Q. -- recovery period.

2 A. Yes.

3 Q. Now, would you agree with me, generally,
4 that revenues subject to a rider are considered
5 guaranteed revenues?

6 A. No, I wouldn't say that that's always the
7 case.

8 Q. And -- I'm sorry, go ahead. Explain
9 that.

10 A. Just as an example, you know, I think
11 another witness in this case has talked about, we
12 have some bypassable riders, that obviously,
13 depending on the level of shopping, we seem to be not
14 collecting, you know, the full amount that we've
15 deferred. So I would say that that's not always the
16 case.

17 Q. If it's a nonbypassable rider, would you
18 agree with me that the revenues, then, would be
19 guaranteed?

20 A. Again, if it's based on the volume on a
21 dollar per megawatt-hour basis, again, it's going to
22 be tied to your volume, so to the extent you have an
23 economic downturn and you have lower volumes in that
24 particular year, you're not going to collect as much
25 on that rider.

1 Q. And you're assuming that rider doesn't
2 have a true-up in my question, correct?

3 A. Correct. Correct.

4 Q. Now let's talk about some of the riders
5 that you have included as part of your SSR, or as
6 part of your ESP plan. You have a rider that would
7 collect the alternative energy costs of Yankee
8 station; is that correct?

9 A. I don't have my schedule that has all of
10 the different rates under the different revenues that
11 we are collecting. I can't recall if we have the
12 Yankee embedded in our financials or not. I don't
13 have that schedule in front of me.

14 Q. Do you understand that there is a rider
15 to collect energy costs for Yankee station that is
16 nonbypassable?

17 A. Are you asking embedded in the financial
18 projections?

19 Q. I'm asking in terms of your electric
20 security plan.

21 A. Yes. Yes, I believe that is the case.

22 Q. And you have a, what is called a "CBP
23 rider" that's nonbypassable as well?

24 A. The competitive bid rider, it's my
25 understanding that that is part of the -- yes,

1 that -- ultimately, that's what ends up getting
2 blended in with the SSO rate, the competitive bid
3 rate.

4 Q. And that's nonbypassable, correct?

5 A. Well, that would be applied to -- so I'm
6 thinking of this incorrectly.

7 The competitive bid rate that gets
8 blended in with the SSO rate, that would be applied
9 to your SSO customers.

10 EXAMINER PRICE: So it would be
11 bypassable.

12 THE WITNESS: It would be bypassable.

13 Q. Bypassable. Thank you.

14 So also you are proposing a
15 reconciliation rider, and that would be a
16 nonbypassable charge?

17 A. Yeah. I mean, that's -- certain of these
18 riders, like the reconciliation rider, I probably
19 would defer that to another witness in the case.

20 Q. Now, do you know, on the transmission
21 side, whether you have a nonbypassable rider to
22 collect your transmission costs?

23 A. We have, as I mentioned earlier,
24 currently today as it exists, our TCRR; that is a
25 bypassable charge.

1 Q. And your proposal is to make it
2 nonbypassable, correct, for purposes of your ESP?

3 A. Yeah. Again, I would defer to the other
4 witnesses, but I know there's a bypassable and a
5 nonbypassable portion that we've got included in the
6 filing.

7 Q. On the distribution side of your
8 business, are you familiar with the nonbypassable
9 riders that exist for the company?

10 A. Yes.

11 Q. And would the USF rider be one of those?

12 A. Yes, it is.

13 Q. And you have an energy efficiency rider
14 or a smart grid rider that's nonbypassable as well?

15 A. That's energy efficiency, yes.

16 Q. And you have an economic development cost
17 recovery rider that's nonbypassable?

18 A. That's correct.

19 Q. And you have an excise tax rider that's
20 nonbypassable, correct?

21 A. That's correct.

22 Q. Can you tell me what percent of your
23 revenues on the generation side are collected through
24 a nonbypassable rider?

25 A. What percentage of our generation

1 revenues?

2 Q. Yes.

3 A. Generation revenues are bypassable
4 charges as they exist today. Obviously, I'm not
5 including the, you know, when I think of the -- our
6 current rates, the rate stabilization charge, I'm
7 looking at that as not part of, or not specific to
8 generation, so I'm looking at just the other
9 generation related riders, they're all bypassable
10 charges.

11 MR. OLIKER: Could I have the answer
12 again?

13 EXAMINER PRICE: You may.
14 (Record read.)

15 MR. OLIKER: Thank you.

16 EXAMINER McKENNEY: Mr. Jackson, if you
17 can try to speak up.

18 THE WITNESS: I will. Sorry.

19 EXAMINER McKENNEY: Thank you.

20 Q. (By Ms. Grady) Do you know what
21 percentage of revenues on the distribution side are
22 revenues collected through a nonbypassable rider?

23 A. I think we just mentioned that all the
24 distribution revenues are nonbypassable, so that
25 would be 100 percent.

1 Q. And can you tell me what percentage of
2 revenues on the transmission side are nonbypassable,
3 are collected through nonbypassable riders?

4 A. I don't have the percentage. As we had
5 mentioned, the transmission cost recovery rider, if
6 you assume that that's a transmission-related charge,
7 that's a bypassable charge, but I don't know what the
8 percentage is.

9 Q. Would you agree with me, Mr. Jackson,
10 that there is no rider that would -- that is tied to
11 cost savings that the company might experience over
12 the period of the ESP term?

13 A. No.

14 Q. Meaning there is no rider.

15 A. There is no rider that's tied to that,
16 no.

17 MS. GRADY: That's all the questions I
18 have, Mr. Jackson. Thank you.

19 THE WITNESS: Thank you.

20 EXAMINER PRICE: Ms. Bojko?

21 MS. BOJKO: No questions, your Honor.

22 EXAMINER PRICE: Mr. Williams?

23 MR. WILLIAMS: No questions, your Honor.

24 EXAMINER PRICE: Mr. Lang?

25 MR. LANG: Thank you, your Honor.

CROSS-EXAMINATION

By Mr. Lang:

Q. Good morning.

A. Good morning.

Q. I want to start at pages 2 and 3 of your testimony, looks like here you have two options for addressing the mortgage, the first and refunding mortgage, and those two options are, I guess the -- a) is to defeasement of the mortgage, and b) is release of generation assets from the mortgage; is that right?

A. Yes, that's correct.

Q. Now, which one of these options will the company employ at the end of 2017?

A. Well, at the -- actually, we have not decided that just yet. So we will be looking to file a generation separation plan by the end of this year, but at this point in time have not made that decision.

Q. Do you consider both of these options to be valid options for corporate separation at the end of 2017?

A. I think these are valid options for the company.

Q. Now, the, let's see, page 4, lines 17 and

1 18. Your opinion is that the nonregulated generation
2 business, so when you refer there to the
3 "nonregulated generation business," that would be the
4 Gen Co. that takes the generation assets after
5 corporate separation; is that right?

6 A. It would be, yes, the nonregulated entity
7 that has the generation assets.

8 Q. And so that entity could not raise debt
9 in the capital markets and -- with regard to that
10 statement you're referring to today, it could not
11 raise debt in the capital markets?

12 A. As this statement here, that would be
13 today, and as well as I look -- this was really in
14 relation to "could the company separate its
15 generation assets sooner," that was referring back to
16 some of the testimonies of various witnesses.

17 So it would be today and, obviously,
18 continue into a portion of the future going forward.
19 I believe the time that we would be able to do it,
20 both from a structural standpoint as well as a
21 financial standpoint, is in 2017.

22 Q. Well, could that new affiliate raise debt
23 in the capital markets in 2015? Is that something
24 you've analyzed?

25 A. I believe we need the cash flows over the

1 period that was included in our ESP filing in order
2 to allow for separation, so I'm looking at, I believe
3 it's a five-year period.

4 Q. All right. So you need the full five
5 years of the SSR and the ST in order to afford or in
6 order to have the generation assets to have the,
7 what, financial support to be separated at the end of
8 that five-year period, right?

9 A. Yes. We need the five-year support of
10 our ESP filing, so all the cash flows, which include
11 the SSR and the ST.

12 Q. Okay. So, as we sit here today, the
13 generation assets do not have a value which could be
14 used to support debt.

15 A. I do not believe that the generation
16 assets could support debt today.

17 Q. So what value do existing bondholders
18 place on the generation assets?

19 A. I'm not aware of the value that
20 existing -- I do not know what the value is that they
21 assign to it.

22 Q. Is there any -- do the generation assets
23 have a net book value?

24 A. Yes, the generation assets do have a net
25 book value.

1 Q. And what is that?

2 A. I do not know the number off the top of
3 my head, what that number is.

4 Q. Is it something you'd be able to tell me
5 to the closest billion?

6 MR. LANG: And we're whispering if it --
7 that might be confidential if he knows the answer.

8 A. Yeah, I don't know what the answer would
9 be. I'd have to look back and see what that is.

10 Q. So is it fair to say you've not
11 discussed, with any bondholders, the release of the
12 generation assets from the mortgage?

13 A. That's correct.

14 Q. Do you know whether bonds or some
15 percentage of the bonds are held by institutional
16 investors?

17 A. Yes, there are bonds that are held by
18 institutional investors. I do not know the exact
19 percentage of each of the bond issuances.

20 Q. Do you know how many institutional
21 investors?

22 A. There's, you know, I don't know the
23 number, but there are a number of institutional
24 investors who are bondholders.

25 Q. Do you know if it's more or less than

1 five?

2 A. Across the board, across all of our
3 bonds, I would say that it's more than five, but,
4 beyond that, I don't know how many there would be.

5 Q. Now, the mortgage supports an indenture,
6 correct?

7 A. The first and refunding mortgage is what
8 backs all the \$884 million of bonds at DP&L.

9 Q. Well, is there a -- is there an
10 individual indenture document associated with the
11 mortgage or do you have individual indentures for
12 each bond issuance?

13 A. I believe we have indentures, I believe
14 there are individual documents for each bond.

15 Q. And that -- for each bond issuance would
16 there be an amended indenture, a second amended, a
17 third amended, is that what you're familiar with?

18 A. To the extent that there are amendments
19 to it, yes, I believe that is the case.

20 Q. What is the bonding ratio in the
21 indenture?

22 A. I would have to look.

23 Q. Do you know what a bonding ratio is?

24 A. Again, I would just have to go back and
25 confirm what you're referring to there.

1 Q. I'm sorry, you have to speak up.

2 A. I said I would just have to look back at
3 what the bonding ratio, what that is.

4 Q. Do you know, generally, what a bonding
5 ratio is that would be in an indenture?

6 A. Again, I would have to just go back and
7 look back at what that's referring to.

8 EXAMINER PRICE: I think you need to
9 answer his question. Do you know what --

10 THE WITNESS: That's what I'm saying, no,
11 I would have to go back and look at what that is.

12 EXAMINER PRICE: Not off the top of your
13 head.

14 THE WITNESS: Not off the top of my head.

15 Q. So looking at your testimony, putting
16 aside, as you describe it, the need for cash flow,
17 the company could complete corporate separation on
18 September 1, 2016; is that right?

19 A. Under the assumption that you put aside
20 the cash flow, yes.

21 Q. And the bond issuance, there is one bond
22 issuance that can't be called until September 1,
23 2016; is that right?

24 A. That's correct.

25 Q. And that's a, let's see, that is

2912

1 confidential.

2 MR. LANG: If we can enter the
3 confidential portion before I say that word.

4 EXAMINER PRICE: At this time we'll go to
5 the confidential portion of our transcript. Thank
6 you.

7 (Confidential portion excerpted.)

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(Open record.)

EXAMINER PRICE: Mr. Olier.

MR. OLIER: Thank you, your Honor.

- - -

CROSS-EXAMINATION

By Mr. Olier:

Q. Good morning, Mr. Jackson.

A. Good morning.

Q. Good to see you again.

A. As always, likewise.

Q. I guess to start, did you receive any assistance in drafting your rebuttal testimony?

A. I prepared my rebuttal testimony, so this was at my -- I'm the one that prepared this testimony.

Q. Did anybody else have input into your testimony?

A. I had members of my team review my

1 testimony, so that -- they report directly in to me,
2 they did review my testimony.

3 Q. Did any other witness in this case review
4 your testimony or provide input?

5 A. Not that I'm aware of, no.

6 Q. What documents did you review in
7 preparation of filing rebuttal testimony?

8 A. So I read through numerous testimonies
9 from witnesses, from other witnesses, I believe I
10 have them listed out on page 1, so I reviewed
11 their -- read through portions of their testimony as
12 well as the related exhibits that would apply to the
13 portions that I reviewed.

14 In addition to that, obviously I went
15 back and reviewed through my testimony and my
16 exhibits that were then used as the basis for some of
17 the analysis that was provided in my exhibits here.

18 EXAMINER PRICE: Both counsel and the
19 witness need to raise their voices. I'm sure it's
20 very difficult to hear, because I'm having trouble
21 hearing both of you, and I can only imagine the other
22 people in the room.

23 MR. OLIKER: I'll do my best, your Honor.

24 THE WITNESS: Same here.

25 Q. Mr. Jackson, are you familiar with the

1 PJM manuals?

2 A. I am familiar with some of the PJM
3 manuals, not -- there's certainly a lot of manuals --
4 not all of them, but I am familiar there are PJM
5 manuals.

6 Q. Have you read them, Mr. Jackson?

7 A. I have read some of the PJM manuals
8 before, yes.

9 Q. Which ones?

10 A. In my prior day -- I was involved in the
11 settlement process. There are manuals associated
12 with settlement within PJM. I have reviewed, at
13 times, the OATT as well.

14 Q. I'm sorry, I couldn't hear you.

15 A. I think it's called the "OATT," if I'm
16 not mistaken, but I have looked through various
17 manuals. I can't recall the exact names of what the
18 manuals are. But it has been on the settlement side
19 of things.

20 Q. What do you mean by "the settlement
21 side"? I'm sorry, I'm not understanding your answer.

22 A. So when I refer to "settlements," one of
23 the areas that rolls up to me, and many years ago I
24 had direct responsibility for settlement of the PJM
25 bill, and there are manuals and documents within PJM

1 that go through the various components of the
2 different charges that you would see on a PJM bill.

3 And we, as a company, obviously have to
4 set up a process to shadow and make sure that what
5 we're being charged from PJM, we agree with it and
6 it's accurate. That's what I -- that's what I've
7 read and that's what I'm referring to.

8 EXAMINER PRICE: Excuse me, Mr. Olikier.

9 This is my mistake. We are still on the
10 confidential transcript. So let's roll back to the
11 public transcript from the beginning of Mr. Olikier's
12 questioning and stay on the public transcript.

13 Thank you, Mr. Olikier.

14 Q. (By Mr. Olikier) Have you ever been
15 involved in submitting a bid in the PJM capacity
16 market directly?

17 A. I have reviewed recommendations on
18 submitting our units into the PJM market. I have not
19 actually been involved in doing the submission of the
20 capacity or submitting into the capacity auction.

21 Q. You have not reviewed PJM manual 18 or
22 18A related to the capacity markets?

23 A. Not that I recall.

24 MR. OLICKER: Don't worry, I won't put it
25 into evidence, your Honor.

1 Q. Okay. You state, on page 8, that the
2 switching tracker and SSR are designed to support the
3 total company ROE of DP&L. Would you agree that you
4 previously testified that the total company ROE of
5 DP&L is only at risk of being too low, in the
6 company's eyes, due to the generation function not
7 receiving adequate revenue?

8 MR. FARUKI: Could I have a page and line
9 reference again, your Honor?

10 EXAMINER PRICE: Why don't you reread the
11 question, please.

12 (Record read.)

13 A. When we refer to the ROE in here, we are
14 referring to the ROE of the total company. That
15 said, I have indicated, actually earlier in response
16 to one of Mr. Lang's questions, that if you look over
17 the 2010, I think there was a graph that we had
18 shown, I think it was Exhibit CLJ-1, that shows the
19 decline in the ROE, and the reasons that we had
20 indicated were more generation related.

21 So it was due to those three factors that
22 I had mentioned earlier.

23 Q. Okay. Just to follow up, you agree
24 DP&L's receiving adequate distribution revenue,
25 correct?

1 MR. FARUKI: I'll object. Adequate for
2 what? Whether that's in terms of a return or cost or
3 something else, the question is vague and overbroad.

4 EXAMINER PRICE: Overruled. The witness
5 can answer if he understands the question.

6 A. Yeah, I think as I've indicated in my
7 prior cross, yes, I do believe that, currently, the
8 distribution revenues are adequate to cover the
9 costs.

10 Q. Okay. And you agree that if DP&L fails
11 to provide adequate distribution service to
12 customers, the Commission can assign DP&L's
13 distribution service area rights to an entity that
14 will provide adequate service. If you know.

15 A. I do not know that.

16 Q. I believe you testified previously that
17 DP&L's generation function is not regulated by the
18 Public Utilities Commission of Ohio, correct?

19 A. I believe my response was we have SSO
20 rates, so customers that remain on tariff, those are
21 generation rates and those are set by the PUCO. Now,
22 to the extent that, obviously, customers have
23 shopped, that portion of generation is not -- is not
24 regulated.

25 Q. Also, on page 8 of your testimony, you

1 state that the service stability rider and the
2 switching tracker are not subsidies. The SSR and ST
3 are critical components to the enterprise, which
4 consists of the transmission, distribution, and
5 generation businesses, to maintain its financial
6 integrity.

7 Mr. Jackson, isn't it true that the
8 Commission previously directed DP&L to insulate its
9 regulated lines of business from the risks associated
10 with its unregulated lines of business?

11 THE WITNESS: Can I have that question
12 read back to me, please?

13 EXAMINER PRICE: You may.

14 (Record read.)

15 A. There is a -- I'm not sure if I'll be
16 answering your question, maybe I'm not fully
17 understanding it, but there is a corporate separation
18 between distribution -- the transmission,
19 distribution, and the generation side of the
20 business.

21 So yes, I believe that at one point in
22 time, in some prior proceeding before the Commission,
23 there has been a ruling to make sure that there's a
24 separation between generation and the transmission
25 and distribution business. I don't know what

1 proceeding that would have been in, but I believe
2 that was the case.

3 Q. If I showed you the entry, would that
4 help your memory?

5 A. It may, sure.

6 MR. OLIKER: Your Honor, I'd like to mark
7 an exhibit, please.

8 EXAMINER PRICE: Sure.

9 MR. OLIKER: May I please approach?

10 EXAMINER PRICE: You may approach. What
11 number are these, Mr. Oliker?

12 MR. OLIKER: The exhibit, I believe, is
13 No. 34.

14 EXAMINER PRICE: Thank you. So marked.

15 (EXHIBIT MARKED FOR IDENTIFICATION.)

16 Q. (By Mr. Oliker) Mr. Jackson, I've put in
17 front of you IEU-Ohio Exhibit 34 which is an entry in
18 Case No. 04-486-EL-COI, and looking at the title of
19 that document, you agree it says "In the Matter of
20 the Commission Investigation into the Financial
21 Condition of The Dayton Power & Light Company"?

22 A. Yes, that's what this says.

23 Q. Does this entry seem to ring a bell
24 regarding our previous discussion about the regulated
25 lines of business versus unregulated lines of

1 business of DP&L?

2 A. Again, this is going back to, this looks
3 like it was an entry in 2004. Certainly I wasn't
4 involved in the role that I am today, so I wasn't
5 necessarily involved in, you know, at the time, with
6 DP&L, when this entry was issued.

7 Q. Turn to page 3.

8 EXAMINER PRICE: Could I have the last
9 question and answer back again, please?

10 (Record read.)

11 EXAMINER PRICE: Do you have a present
12 recollection of ever seeing this entry before?

13 THE WITNESS: Honestly, I think this may
14 be the first time that I'm actually looking at the
15 entry itself.

16 EXAMINER PRICE: So the answer to my
17 question is no --

18 THE WITNESS: No.

19 EXAMINER PRICE: -- you have no present
20 recollection of seeing this.

21 THE WITNESS: Right.

22 EXAMINER PRICE: Okay.

23 Q. (By Mr. Olikar) On page 3, if you look at
24 line 5, the first sentence starting with "The," could
25 you read those two sentences?

1 A. "The companies should develop and submit
2 to the Commission a comprehensive plan of protection
3 to insulate the regulated utility operations and
4 ratepayers from any untoward impacts of the
5 relationship between DP&L and its parent and/or any
6 nonregulated affiliated companies."

7 Q. And the next sentence, please.

8 A. "The plan of protection should describe
9 the companies' organization structure and any
10 safeguards that separate the regulated utility
11 operations from nonregulated company activities."

12 Q. And would you agree that this entry
13 referenced a protection plan that DP&L should put in
14 place?

15 MR. FARUKI: I'm going to object to the
16 lack of foundation since he's never seen it before
17 and obviously hasn't had time to read the whole
18 thing.

19 EXAMINER PRICE: Sustained.

20 Q. Would you like some time to look at the
21 entry, Mr. Jackson, and familiarize yourself?

22 A. Sure.

23 MR. OLKER: Your Honor, for the sake of
24 time, I'd be willing to stipulate -- take
25 administrative notice of the docket and the

1 protection plan, if that would move us along.

2 MR. FARUKI: I would not agree to that,
3 your Honor. This plan of protection entry had
4 nothing to do with generation.

5 EXAMINER PRICE: You're going to have to
6 do a better job of laying a foundation, Mr. Olikar.
7 I'm not seeing the connection between this proceeding
8 and 04-486-EL-COI at this point either.

9 MR. OLIKER: I can continue further then.

10 Q. (By Mr. Olikar) Have you had time to
11 review the entry, Mr. Jackson?

12 A. Just going through the last page now.

13 Okay. I've read it.

14 Q. Mr. Jackson, earlier I had you read a
15 sentence that talked about a protection plan, and
16 wouldn't you agree that this entry directed the
17 company to submit a protection plan to describe
18 safeguards that will be in place to insulate the
19 regulated lines of business from the risks associated
20 with the unregulated lines of business?

21 MR. FARUKI: Objection.

22 EXAMINER PRICE: Grounds?

23 MR. FARUKI: He has -- two grounds, your
24 Honors. First, he has said that today is the first
25 time he's seen it. He was not involved with or a

1 participant in that proceeding.

2 And, second, his question, I think at the
3 moment, is another reading of the sentence, and he's
4 already answered that question, so it's asked and
5 answered.

6 EXAMINER PRICE: Mr. Olikar.

7 MR. OLICKER: I asked him, he said he's
8 not familiar with the document, yet he knew that
9 there was a proceeding that was in place earlier.

10 EXAMINER PRICE: He said he never read
11 the document. He didn't say he -- this was the first
12 time he had seen it. He didn't say he wasn't
13 familiar with the proceeding.

14 MR. OLICKER: He said he was familiar with
15 the proceeding, your Honor, and then he had a chance
16 to read the document to see if it was a similar
17 proceeding or if it is that proceeding. And I'm
18 trying to ask him if -- I'm trying to gather his, I
19 hope, understanding from what was required of the
20 company.

21 EXAMINER PRICE: This is a preliminary
22 entry in a proceeding. If you've got documents from
23 this proceeding that you want to mark and seek their
24 admission, you should do that. If there was a plan
25 that was filed and you want to move that submission,

1 if there was a Commission order adopting the plan
2 that you want to seek admission, that's fine, but
3 we're not getting anywhere.

4 Again, he's not necessarily familiar with
5 this document. Simply reading two sentences out of
6 context isn't moving the ball forward here.

7 MR. OLIKER: That's exactly what I wanted
8 to do, your Honor, is move on to the protection plan.
9 I wasn't under the impression I was able to do that
10 yet, but I would be happy to.

11 EXAMINER PRICE: Well, try.

12 Q. (By Mr. Olikar) Mr. Jackson, you're aware
13 that this entry identifies a protection plan that
14 DP&L was required to submit, correct?

15 MR. FARUKI: Same objections.

16 EXAMINER PRICE: I'll allow it. He can
17 answer if he knows.

18 A. I can only go by what's written in the
19 document here which says that -- the two sentences
20 that I just read.

21 Q. And you agree those sentences reference a
22 "protection plan"?

23 MR. FARUKI: Same objection.

24 EXAMINER PRICE: Show him the plan. See
25 if he's seen it before.

1 MR. OLIKER: Thank you.

2 I'll mark for identification IEU-Ohio
3 Exhibit 35.

4 EXAMINER PRICE: So marked.

5 (EXHIBIT MARKED FOR IDENTIFICATION.)

6 Q. Mr. Jackson, the document that's been
7 placed in front of you, Case No. 04-486-EL-COI, would
8 you agree it's the same case caption?

9 A. Yes, I agree.

10 Q. And does the document state that this is
11 the "Protection Plan of The Dayton Power and Light
12 Company"?

13 A. Yes, that's what it states.

14 Q. This appears to be the document that's
15 referenced in the entry?

16 MR. FARUKI: I'll object. Calls for
17 speculation by this witness who has said he has no
18 personal knowledge.

19 EXAMINER PRICE: Have you ever seen this
20 document before?

21 A. No, I haven't.

22 MR. FARUKI: Object on that basis as
23 well.

24 Q. Mr. Jackson, are you aware of whether the
25 company is operating under a protection plan that was

1 approved by the Commission?

2 A. Again, this is the first time that I've
3 seen this, this document here, so to say whether
4 we're operating under this plan or not, I just can't
5 speak to it because I don't know the contents of the
6 plan.

7 Q. Are you aware of whether, at one point,
8 the company was operating under a protection plan
9 that was approved by the Commission?

10 MR. FARUKI: I'll object. He's already
11 indicated he has no knowledge of this.

12 EXAMINER PRICE: I'll allow this
13 question.

14 THE WITNESS: Could you repeat that
15 question, please?

16 EXAMINER PRICE: Please.

17 (Record read.)

18 A. Again, I have not reviewed through this
19 document here.

20 EXAMINER PRICE: That's not what he
21 asked. What he asked is whether you're aware, at any
22 point, the company was operating under a protection
23 plan approved by the Commission.

24 THE WITNESS: I can't say that I am aware
25 of that.

1 EXAMINER PRICE: Okay.

2 Q. And it's fair to say that when you
3 drafted your testimony you didn't consider this
4 document.

5 A. That's correct.

6 Q. And I guess I have one more question on
7 this document. Would you turn to Exhibit 2 in this
8 document. Page 2 of 2.

9 EXAMINER PRICE: Exhibit 2, what was the
10 page reference, Joe?

11 MR. OLIKER: Page 2 of 2 in Exhibit 2.
12 Two of 3, I'm sorry.

13 A. Yes, I'm there.

14 Q. Is it fair to say that in drafting your
15 testimony you did not consider the fact that DP&L has
16 listed or considered The Dayton Power & Light Company
17 T and D and The Dayton Power & Light Company G as
18 separate affiliates?

19 MR. FARUKI: I'll object for lack of
20 foundation. The question is "Has he considered that
21 DP&L has listed that in this document," and he said
22 he's never seen it before.

23 EXAMINER PRICE: Sustained.

24 Q. Is it fair to say, Mr. Jackson, that in
25 drafting your testimony you did not consider the fact

1 that DP&L has treated its T and D business and
2 generation business as separate affiliates?

3 A. In my -- in drafting my rebuttal
4 testimony, I treated T, D, and G as part of DP&L and
5 not as -- not as separate affiliates. So all -- it's
6 all part of one entity; DP&L.

7 Q. So the answer to my question is: You did
8 not consider the fact that DP&L has treated its
9 generation business as being a separate affiliate
10 from its distribution and transmission business.

11 MR. FARUKI: Asked and answered.

12 EXAMINER PRICE: Let's have the question
13 back again, please.

14 (Record read.)

15 EXAMINER PRICE: We'll give Mr. Olikar a
16 little leeway here. You can answer the question.

17 A. Sure. No, I treated transmission,
18 distribution, and generation all as part of DP&L.

19 Q. Mr. Jackson, isn't it true that for
20 purposes of corporate separation, DP&L's generation
21 function is treated as a separate affiliate?

22 MR. FARUKI: Could I hear that back
23 before I object to it?

24 EXAMINER PRICE: Let's have the question
25 again.

1 (Record read.)

2 MR. FARUKI: I'll object unless it's
3 clarified. Is he talking about the current corporate
4 separation plan or is that a question that relates to
5 this IEU Exhibit 35 that's been marked?

6 EXAMINER PRICE: We will ask Mr. Olier
7 to rephrase his question, clarifying that point.

8 Q. Mr. Jackson, isn't it true that for
9 purposes of corporate separation, since the enactment
10 of Senate Bill 3 until now, DP&L's generation
11 business has been treated as a separate affiliate?

12 EXAMINER PRICE: Mr. Olier, there are,
13 at least, three corporate separation plans in the
14 record of this proceeding since the enactment of
15 Senate Bill 3. You need to specify which one you're
16 talking about.

17 MR. OLIER: Your Honor, I'm not
18 exclusively referencing the corporate separation
19 plan. I'm referring to his understanding of how DP&L
20 operates under the Commission's rules of corporate
21 separation.

22 EXAMINER PRICE: Then your question's too
23 vague.

24 Q. Mr. Jackson, would you agree that in each
25 of its corporate separation plans, DP&L has

1 maintained that its generation function be treated as
2 a separate affiliate from the distribution and
3 transmission assets?

4 A. Again, I would have to review through the
5 corporate separation plans. What I can tell you is
6 that, from my understanding, we have been
7 functionally separated. So the generation is
8 functionally separated from T and D, and that's what
9 we have been operating under, functional separation.

10 Q. Mr. Jackson, I'm not sure that quite
11 answers my question. Would you agree that although
12 DP&L's been operating under functional separation,
13 for purposes of corporate separation DP&L has treated
14 its generation business as a separate affiliate from
15 its transmission and distribution assets?

16 MR. FARUKI: I object. Two grounds.
17 One, it's been asked and answered and, second, it's
18 got the same deficiency your Honor pointed out with
19 regard to which of the plans. Evidence in the record
20 shows there were changes among the plans as they were
21 amended.

22 EXAMINER PRICE: Objection's sustained on
23 the grounds that it's been asked and answered.

24 Q. Mr. Jackson, isn't it true that in the
25 rulemaking process for electric transition plans,

1 DP&L specifically requested that the generation
2 function of the utility owning generating assets be
3 treated as a separate affiliate so that DP&L could
4 proceed with functional separation?

5 MR. FARUKI: Objection. Lack of
6 foundation as to this witness being able to answer
7 that.

8 EXAMINER PRICE: Sustained.

9 MR. OLIKER: I'm just asking if he knows,
10 your Honor.

11 EXAMINER PRICE: Ask him if he
12 participated in the rulemaking function.

13 Q. Mr. Jackson, are you familiar with the
14 rulemaking process for electric transition plans?

15 A. I'm not.

16 Q. Do you know --

17 EXAMINER PRICE: Were you employed with
18 Dayton Power & Light at the time of the rulemaking
19 for electric transition plans?

20 THE WITNESS: I've been employed with
21 Dayton Power & Light since 2000. There was a brief
22 period, from 2002 to 2004, that I wasn't with the
23 company. But I was not involved in any of the
24 rulemaking processes from the company's standpoint.

25 EXAMINER PRICE: What day did you begin

1 employment in 2000?

2 THE WITNESS: It was February,
3 Valentine's Day, February 14th, 2000.

4 EXAMINER PRICE: Thank you.

5 Q. (By Mr. Oliker) Did you receive corporate
6 separation training when you joined DP&L?

7 A. You know, we had corporate separation
8 training, you know, I can't remember how far back in
9 time it goes but, yes, I've had, I believe, corporate
10 separation training over the years.

11 Q. Would you agree that DP&L participated in
12 the rulemaking process?

13 MR. FARUKI: Objection. Said he wasn't
14 involved in that. No foundation.

15 EXAMINER PRICE: Sustained.

16 MR. OLIKER: Your Honor, for purposes of
17 briefing, my understanding would be that any entries
18 that are public would be fair game without --

19 EXAMINER PRICE: Commission entries speak
20 for themselves and all of their -- from the first
21 word to the last word. If you define that as "fair
22 game," then yes.

23 MR. OLIKER: I'd like to take
24 administrative notice, also, of the comments that
25 were filed by DP&L in the rulemaking docket of

1 99-1141.

2 EXAMINER PRICE: Mr. Faruki.

3 MR. FARUKI: I object. There's no -- not
4 only are they not before us now, but there is no
5 assertion or explanation of their pertinence to this
6 proceeding.

7 EXAMINER PRICE: Mr. Olikar, what's their
8 pertinence to this proceeding?

9 MR. OLIKER: The purpose is this
10 witness -- for one, it shows context of any entries
11 the Commission issued in that docket regarding DP&L's
12 treatment of affiliates and its generation function.

13 The company has put this issue in the
14 foreground of this case by saying they were entitled
15 to a total company ROE. There's evidence that says
16 they're supposed to insulate their regulated lines of
17 business from the unregulated lines of business, and
18 it seems to be in contradiction of what the company
19 has previously --

20 EXAMINER PRICE: What's the probative
21 value of what they said in a rulemaking 12 years ago
22 versus what their actual, approved corporate
23 separation plan is? That document is in the record
24 of this case.

25 MR. OLIKER: The document is in the

1 record, but the comments and the entry provide the
2 context of what those provisions mean.

3 EXAMINER PRICE: What if they changed
4 their mind? Is there some requirement that they, I
5 mean, it's clear in the record of this case that
6 there were changes from their first corporate
7 separation plan to their second revised corporate
8 separation plan. That's in the docket. They're
9 entitled to change their mind.

10 I'm not seeing the probative value of
11 what their comments were. And I'll also note that,
12 whatever their comments were, predated Senate Bill
13 221. So there was a significant legislative change
14 in between the corporate separation rulemaking and
15 today.

16 MR. OLIKER: I can lay further foundation
17 to show that the aspects that I'm talking about have
18 not changed at all.

19 EXAMINER PRICE: That would be fine.

20 MR. OLIKER: Okay. I'd like to mark two
21 documents, please, your Honor. Or first, I can ask,
22 in talking --

23 EXAMINER PRICE: Just to be clear, by the
24 way, at this time your administrative notice of the
25 comments is denied.

1 MR. OLIKER: Okay.

2 Q. (By Mr. Olier) Earlier, Mr. Jackson, you
3 testified that DP&L is operating under functional
4 separation, correct?

5 A. Yes. Correct.

6 Q. Did you consider whether the Commission's
7 rules require that the affiliate standards apply to
8 the internal merchant function of a utility?

9 MR. FARUKI: Objection as to foundation
10 with this witness, number one; and, number two, the
11 question is vague. "Did you consider." I don't know
12 whether that means at the time the plan was prepared
13 or if he had some responsibility for the plan or with
14 regard to his testimony or with regard to something
15 else.

16 EXAMINER PRICE: Overruled. He can
17 answer if he knows.

18 THE WITNESS: Can I have that question
19 read back, please?

20 EXAMINER PRICE: You may.

21 (Record read.)

22 A. Myself, no, I did not.

23 Q. Have you reviewed any of the rules
24 pertaining to corporate separation?

25 EXAMINER PRICE: In preparation for his

1 rebuttal testimony?

2 Q. Have you ever? Let's start with that.

3 A. I have relied on our counsel and our
4 regulatory folks, so I have not read through the
5 corporate separation documents.

6 Q. If I showed you the rules, would that
7 help our discussion?

8 MR. FARUKI: Objection. In view of what
9 he just said, that he's not read them, how is it
10 going to help our discussion if he shows him
11 something he hasn't read?

12 MR. OLIKER: I wanted to give him an
13 opportunity to look at it, your Honor.

14 MR. FARUKI: This is the wrong witness to
15 be asking these questions of.

16 EXAMINER PRICE: First, let's go ahead
17 and let him hand him the rules, and then we'll hear
18 what his questions are, and we'll go from there.

19 MR. OLIKER: I have some more, do you
20 want copies for the Bench as well?

21 EXAMINER PRICE: Yes, please.

22 Q. (By Mr. Oliker) Mr. Jackson, I've put two
23 rules in front of you from 4901:1-20-16 and also
24 4901:1-37-01. And do you see the definition of
25 "affiliates"?

1 A. Yes.

2 Q. Could you look at those two definitions?

3 A. Did you say "two definitions"?

4 Q. On the two different rules that I put in
5 front of you.

6 A. Oh.

7 Q. "Affiliates" are defined twice.

8 A. Okay, I see those.

9 Q. Do you agree that they're defined the
10 same?

11 A. Yes, they appear to be defined the same.

12 Q. And particularly focus on the second half
13 of the sentence, the second sentence about the
14 "affiliate standards." Would you agree that no one
15 has ever informed you that the affiliate standards
16 apply to the internal merchant function of DP&L?

17 A. I don't recall having any conversations
18 like that, that's correct.

19 Q. And so, to take that further, you didn't
20 consider that in your testimony.

21 A. Again, I haven't had any conversations
22 around this so, no, there wasn't anything that I
23 considered in my testimony.

24 Q. And you don't know if DP&L was involved
25 in crafting this provision of the Commission's rules.

1 MR. FARUKI: Objection.

2 EXAMINER PRICE: Sustained. The
3 Commission crafted the Commission rules, thank you.

4 MR. OLIKER: Of course, your Honor.

5 Q. You're not aware of whether, in crafting
6 these rules, the Commission considered positions
7 taken by DP&L.

8 MR. FARUKI: Objection. Asked and
9 answered.

10 EXAMINER PRICE: Sustained.

11 Q. Would you agree that if DP&L had taken a
12 position regarding the definition contained in these
13 rules, it would be contained in the Commission's
14 rulemaking docket?

15 MR. FARUKI: Objection.

16 EXAMINER PRICE: He has no basis for that
17 whatsoever. He wasn't involved with the rulemaking
18 process. You need to move off the rulemaking process
19 at this point.

20 MR. OLIKER: Your Honor, although he was
21 not involved, I do believe the rulemaking process is
22 relevant to these rules and positions DP&L may have
23 taken, that's why I would like to take administrative
24 notice.

25 EXAMINER PRICE: You've not demonstrated

1 that it's relevant. You may believe it's relevant,
2 but you have not demonstrated to the Bench that it's
3 relevant.

4 Q. Mr. Jackson, at page 10 of your rebuttal
5 testimony you discuss the O&M expense reductions or
6 potential O&M expense reductions, correct?

7 Let me rephrase that.

8 EXAMINER PRICE: Mr. Olikar, at this time
9 if we're going to page 10, there's confidential
10 information on there. Are you planning on asking
11 something which would tend to elicit confidential
12 information and a reply?

13 MR. OLICKER: I don't think I'm going to
14 have to talk about a number at all.

15 EXAMINER PRICE: Then we'll stay on the
16 public record for as long as we can.

17 Q. Mr. Jackson, you agree that the purpose
18 of the analysis that led to cost-saving measures was
19 to determine how DP&L could reach a targeted ROE
20 after DP&L receives an outcome in this case.

21 THE WITNESS: I didn't hear all that
22 question. Can you repeat it for me?

23 EXAMINER PRICE: Let's have the question
24 again, please.

25 (Record read.)

1 A. The cost-savings analysis, as I've
2 mentioned before, it was in discussion with counsel
3 as to the expected outcome of the case. We looked at
4 opportunities, potential opportunities, that would
5 get us back, I don't want to say it was to any
6 specific target. I think I've indicated it was, you
7 know, within a reasonable range of where our filing
8 case was.

9 MR. OLIKER: I'm sorry, I couldn't hear.
10 Could I just have the answer read back, please?

11 EXAMINER PRICE: Please.

12 (Record read.)

13 Q. Mr. Jackson, you also make the statement
14 that "If all the saving measures were implemented,
15 the operational performance of the Company's
16 generating fleet would deteriorate...." Now,
17 Mr. Jackson, would you agree you do not have an
18 engineering degree?

19 A. Can you just point me to what line you're
20 looking at real quick?

21 Q. It's on page 10, I don't have the exact
22 reference in front of me.

23 MR. FARUKI: Line 2.

24 MR. LANG: Two and 3.

25 Q. My question is, though, you don't have an

1 engineering degree, correct?

2 A. That's correct.

3 Q. You're not familiar with the operation of
4 the distribution, transmission, and generation
5 facilities from an engineering standpoint?

6 A. From an engineering standpoint, that's
7 correct.

8 Q. So you cannot conclusively tell me how
9 any potential cost reduction will impact a DP&L
10 facility, correct?

11 A. I cannot specifically tell you that.
12 That said, I've had conversations with Dennis Lantzy
13 who is in charge of the generating facilities, and
14 he, on numerous occasions, has mentioned to me
15 significant cost reductions like this have
16 consequences. There are risks associated with that.
17 So I am basing that off of discussions that I've had
18 with him.

19 MR. OLIKER: Your Honor, I'd move to
20 strike everything after his initial answer of "yes."

21 MR. FARUKI: If you read the question
22 again, you'll see it was broad enough to encompass
23 that answer.

24 MR. OLIKER: It's also hearsay, your
25 Honor.

1 MR. FARUKI: Well, if the door's opened,
2 then hearsay comes in.

3 EXAMINER PRICE: Let's hear the question
4 and the answer again and then we'll rule.

5 (Record read.)

6 EXAMINER PRICE: I think Mr. Olikier asked
7 a perfectly targeted question. The motion to strike
8 is granted.

9 MR. OLIKER: Thank you, your Honor.

10 Q. (By Mr. Olikier) Turning to CLJ-2 --

11 EXAMINER MCKENNEY: Mr. Olikier, CLJ-2 has
12 a lot of confidential information.

13 MR. OLIKER: Yes, it does, your Honor.
14 Thank you.

15 EXAMINER MCKENNEY: Do we need to move to
16 the confidential docket?

17 MR. OLIKER: That would probably be a
18 good idea.

19 EXAMINER PRICE: Let's go confidential at
20 this time.

21 Anybody who does not have a
22 confidentiality agreement with the company should
23 excuse themselves at this point.

24 (Confidential portion excerpted.)
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(Open record.)

Q. (By Mr. Olier) Do you agree that
Mr. Murray -- strike that. Let me get a page cite
for you.

Page 8 of your testimony, you talk about
Mr. Murray's testimony. Do you agree that Mr. Murray
has testified that DP&L makes generation sales to

1 DPLER at market-based rates?

2 A. Yes, I believe that was included in his
3 testimony.

4 Q. Do you agree that witnesses for DP&L have
5 also testified that DP&L makes sales to DPLER at
6 market-based rates?

7 A. Yes, I would agree.

8 Q. So you'd agree that the issue of whether
9 DP&L makes sales to DPLER at market-based rates,
10 that's not a factual issue that's in dispute in this
11 proceeding.

12 A. I agree with that.

13 Q. Page 9 of your rebuttal testimony,
14 beginning at page 11 [verbatim], you state,
15 "Therefore, the only transfer price makes sense
16 under...ORC 4928.17(A)(3) is the market price, which
17 is the basis of the current transfer pricing." Is
18 that correct?

19 A. Did you say page 9 or page 11?

20 EXAMINER PRICE: He said page 9 at line
21 11.

22 MR. OLIKER: I meant to, at least.

23 THE WITNESS: Sorry about that. Could
24 you repeat that question back for me?

25 Q. Page 9, line 11, you state, "Therefore,

1 the only transfer price that makes sense under the
2 ORC 4928.17(A)(3) is the market price, which is the
3 basis of the current transfer pricing."

4 Now, you're not a lawyer, correct?

5 A. I'm not a lawyer.

6 Q. Have you reviewed 4928.17(A)(3)?

7 A. I have looked at that, yes.

8 Q. Do you have a copy of that statute with
9 you?

10 A. I do.

11 Q. You do. Great. It makes this easier.

12 Now, looking at that section, do the
13 words "market based" appear anywhere within the words
14 of that section?

15 EXAMINER PRICE: One second, please. I
16 know the statute's in this. What tab is that?

17 Thanks, Mr. Olier.

18 MR. SHARKEY: Actually, your Honor, there
19 are two versions in our binder, there's the 1999
20 version and the 2008 version. The 2008 version of
21 those amendments is tab 105.

22 EXAMINER PRICE: Thank you. Thank you.
23 Okay.

24 Q. (By Mr. Olier) I can restate my
25 question. Do the words "market based" appear

1 anywhere in the words in 4928.17(A) (3)?

2 A. No, they do not.

3 Q. And do the words "without compensation
4 based on fully-loaded embedded costs charged to the
5 affiliate" appear in that section?

6 THE WITNESS: Can you tell me the words,
7 again, that he's looking for?

8 (Record read.)

9 A. Yes, that is included in there.

10 Q. Okay. Have you reviewed any of the
11 Commission's rules on affiliate transactions,
12 Mr. Jackson?

13 A. I have read through -- this is the
14 document that I have read through, 4928.17(A) (3) is
15 the portion that I was looking at.

16 Q. So you've looked, just so I understand,
17 you've looked at the statute, but not at the rules.

18 A. Again, this is -- I've looked at section
19 (A) (3), that's the piece I've looked at.

20 EXAMINER PRICE: So the answer to his
21 question is yes --

22 THE WITNESS: No.

23 EXAMINER PRICE: -- you've looked at --

24 THE WITNESS: I've looked at this
25 statute, yes.

1 MR. OLIKER: Can I have a minute, your
2 Honor?

3 EXAMINER PRICE: You may.

4 MR. DARR: Your Honor, given that we've
5 been at this for about two hours, could we have five
6 minutes?

7 EXAMINER PRICE: Sure. Let's go off the
8 record for five minutes.

9 MR. DARR: Thank you.

10 (Recess taken.)

11 EXAMINER PRICE: Let's go back on the
12 record.

13 Mr. Oliker.

14 MR. OLIKER: Just a few more questions.

15 Q. (By Mr. Oliker) Mr. Jackson, did you
16 oversee the decision to use no-call bonds to
17 refinance in the 2005-2007 timeframe?

18 A. No.

19 Q. You agree that -- this is going back to
20 the transition plan, you agree that the company did
21 not write off the portion of its generation costs
22 that were determined to be stranded and which were
23 recovered through customer transition charges.

24 A. Back at what point in time?

25 Q. This would be 1999 to 2005, I guess it

1 would have been -- if you know -- in 2001.

2 A. Yeah, I don't recall.

3 Q. But if the company had written off its
4 stranded costs, you agree that it would not have
5 included it in the equity balance of DP&L?

6 MR. FARUKI: I'll object since he said he
7 doesn't recall. I think this calls for speculation.

8 MR. OLIKER: It's a hypothetical, your
9 Honor. It's a question of accounting.

10 EXAMINER PRICE: Any objections to the
11 hypothetical?

12 MR. FARUKI: I'll object that it's
13 incomplete and there's no showing that it matches the
14 real world.

15 EXAMINER PRICE: We have lots of
16 hypotheticals.

17 Do you have enough information to answer
18 the hypothetical based on what's been posed to you?

19 A. I believe that is correct, what you
20 stated, Mr. Olier.

21 Q. I'm sorry?

22 A. I said I believe that how you phrased
23 that was correct, that there would be an offset to
24 the equity balance. And the reason I say that, too,
25 just to clarify, we just recently wrote off some of

1 the assets at DP&L via the impairment, and that
2 obviously had an impact of reducing the equity
3 balance.

4 Q. And this might be my last question:
5 Earlier, you testified that DP&L's return on equity
6 deficiency is being driven by its forecast of
7 generation sales. Actually, strike that. One
8 second.

9 MR. OLIKER: I think that's all I have,
10 your Honor.

11 Thank you, Mr. Jackson.

12 THE WITNESS: Thank you.

13 EXAMINER PRICE: Mr. Yurick?

14 MR. YURICK: No questions. Thank you,
15 your Honor.

16 EXAMINER PRICE: Mr. McNamee.

17 MR. McNAMEE: I have some. Thank you.

18 - - -

19 CROSS-EXAMINATION

20 By Mr. McNamee:

21 Q. Good morning --

22 A. Good morning.

23 Q. -- Mr. Jackson. I only have three things
24 to talk to you about this morning, so it shouldn't
25 take long.

1 A. Okay.

2 Q. Let's turn to CLJ-6.

3 A. Sure.

4 Q. Which is confidential, but I don't intend
5 to ask about confidential information, okay?

6 A. Sure.

7 Q. I'm not interested in what's there, I'm
8 interested in what's not there, okay. So hopefully
9 we won't have a problem with that.

10 CLJ-6, when we look at line 25 -- do you
11 see that?

12 A. Yes, I do.

13 Q. Okay. What you've done in line 25 is
14 recast adjustments suggested by Staff Witness
15 Benedict from calendar years to planning years,
16 correct?

17 A. That is correct.

18 Q. Okay.

19 A. So if I can just give you an example, I
20 won't tell you the number, but -- since it is
21 confidential and we're trying to stay off of that.
22 We basically took, if you look at the number that he
23 had in 2000 -- the first year and second year, we
24 took 7/12th of one, plus 5/12th of another, to take
25 the planning year blended number.

1 Q. I was going to ask you that very
2 question. Okay. So you did that for -- all right,
3 so, for example, for planning year '13-'14, you took
4 the last seven months of Staff Witness Benedict's
5 proposed adjustment for fiscal year -- calendar year
6 2013 and added it to the first five months of Staff
7 Witness Benedict's proposed adjustment for calendar
8 year 2014, and that was how you derived what appears
9 there, correct?

10 A. That's correct.

11 Q. Okay.

12 A. Yes.

13 Q. You did the same thing for the number
14 that's listed, that we don't want to speak it, for
15 what's listed there under line 25 for planning year
16 '14-'15, right?

17 A. That's correct.

18 Q. Okay. Now, when we get to planning year
19 '15-'16, you took the last seven months of Staff
20 Witness Benedict's proposed adjustment for calendar
21 year 2015 and what did you add to it?

22 A. We just took the 7/12th.

23 Q. You did.

24 A. Of that last year.

25 Q. Just what I needed. Thank you.

1 A. I just want to clarify one thing. So
2 without giving the numbers, if you added the numbers
3 that are on CLJ-6 for all three years, it gives you
4 the total on that last column, then you compare that
5 back to the total that was on Benedict's schedule,
6 there is a slight difference, but the numbers are
7 pretty comparable.

8 Q. Yes. Thank you. That's the first point.

9 Now let's look at your Exhibit CLJ-2 and,
10 again, it's confidential, but I'm not interested in
11 the numbers that are there, the confidential numbers
12 that are there, I'm interested in what's not there.
13 So let's look at line 33. Do you see that?

14 A. I do.

15 Q. Okay. The numbers that are there do not
16 reflect the adjustment of the company's debt level to
17 a 50/50 debt equity split, correct?

18 A. That's correct. This is based on the
19 original Second Revised CLJ-2, so you're correct.

20 Q. That was even easier. That's point
21 No. 2.

22 Let's turn to point No. 3. You mentioned
23 earlier in your cross-examination that you were --
24 have been somewhat involved in the company's capacity
25 sales in the PJM market I believe.

1 A. Yes, I've been involved in some review
2 and a recommendation on how to bid the units into and
3 what we would offer the units into the capacity
4 market, in that process.

5 Q. All right. So you're familiar, or you're
6 aware, I guess, then, that it's been Dayton Power &
7 Light's practice to bid all of the capacity that it
8 owns into the PJM BRA.

9 A. Yes, I am.

10 Q. Okay.

11 EXAMINER PRICE: Are you going to get
12 into any confidential?

13 MR. McNAMEE: No. No, no, I shouldn't
14 think so. I avoid that as much as possible.

15 Q. Now, are you -- are you aware that Dayton
16 Power & Light bid into the BRA capacity for the
17 planning years 2013 to '14, planning year 2014 to
18 '15, and the planning year 2015 to '16?

19 A. Yes, I am.

20 Q. Okay. And some, but not all, of the
21 company's capacity cleared in those three auctions,
22 right?

23 A. That's correct.

24 Q. Okay. Do you know how much did not
25 clear?

1 A. I do not have the number in front of me,
2 but there is a certain number of megawatts that did
3 not clear. I don't know what that number is, though,
4 off the top of my head.

5 Q. But that's true of each of those three
6 planning years that I just listed, right?

7 A. That's correct. And one, I'll give you
8 an example, in, I think it was the '15-'16 year,
9 hutch -- our Hutchings station, for example, that
10 unit, I can't remember if one of the units cleared or
11 a few of them, but I know all of the units did not
12 clear in that auction. So that's just one example.

13 Q. Okay. All right. But that's one
14 example, but there were -- or, there was capacity
15 owned by Dayton Power & Light that was bid into the
16 auction that didn't clear in each of those three
17 planning years.

18 A. Yes, I believe that is correct.

19 Q. Okay. You're aware, are you not, that it
20 is possible to sell capacity in markets other than
21 the BRA?

22 A. Yes. Well, I know in, so you have the
23 BRA, right, and that's set -- that happens three
24 years in advance of the market, leading up to, let's
25 just take the one that's coming up, the '16-'17

1 auction. Once that auction clears, then there are
2 three incremental auctions that occur between when
3 the BRA happens and then when the actual planning
4 year occurs. There are incremental auctions that
5 occur within PJM related to that specific capacity
6 year.

7 Q. Okay. It's also possible, is it not, to
8 do bilateral transactions in capacity?

9 A. Yes.

10 Q. Outside the PJM markets.

11 A. It is. From what I understand, it's a
12 little more uncommon but, yes, that is possible.

13 Q. Okay. We may be finished. One second.

14 MR. McNAMEE: That's all I have. Thank
15 you.

16 EXAMINER PRICE: Mr. Faruki.

17 MR. FARUKI: Thank you, your Honor.

18 - - -

19 REDIRECT EXAMINATION

20 By Mr. Faruki:

21 Q. Mr. Jackson, I've just got a few
22 questions for you. You were asked with regard to
23 your testimony, I'll give you a page reference in a
24 moment, I think it was pages 4 to 5, a question by
25 Mr. Lang that asked you about a hypothetical where

1 would you put aside cash flow and consider what date
2 all of the outstanding bonds of the company could be
3 called and refinanced. Do you remember that subject?

4 A. Yes, I do.

5 Q. Is it possible to put aside cash flow
6 concerns when the company considers its refinancing
7 efforts?

8 A. No. You have to consider both the
9 structural and the financial, the cash flow
10 considerations as well.

11 Q. What do you mean by "structural"
12 considerations here?

13 A. So "structural" are what I had discussed
14 with Mr. Lang around defeasement or amending the
15 mortgage, I consider that to be the structural
16 component, how soon we can call bonds, and then,
17 obviously, you have the cash flow impact as well. So
18 I don't think you can just set aside the cash flow
19 and look just at the structural component on that.

20 Q. And if you take a look at page 10,
21 please, at lines 2 and 3, Mr. Olier asked you some
22 questions about your statement that "If all of the
23 savings measures were implemented, the operational
24 performance of the Company's generation fleet would
25 deteriorate." Do you recall that subject?

1 A. Yes, I do.

2 Q. Before writing your testimony, did you
3 inquire of the relevant DP&L engineering personnel as
4 to the likely effect of implementation of the savings
5 measures in the generation area?

6 MR. OLIKER: Your Honor, I object.
7 Hearsay.

8 EXAMINER PRICE: Mr. Faruki.

9 MR. FARUKI: I'm just asking the basis of
10 his statement. I'm not asking him to repeat what he
11 was told by any of these personnel.

12 EXAMINER PRICE: I'll allow it.

13 A. Yes, I did.

14 Q. And does the statement, at lines 2 and 3,
15 reflect what you learned?

16 A. Yes, it does.

17 MR. OLIKER: Object. Hearsay.

18 EXAMINER PRICE: I'll grant that one.
19 Objection sustained.

20 Q. Mr. McNamee asked you about capacity
21 auctions and the fact that not all of DP&L's capacity
22 cleared in those auctions. Let me ask you about
23 that. Do DP&L's revenue projections include revenue
24 associated with capacity that did not clear?

25 A. No. What's reflected in the projections

1 are revenues associated with the generation that
2 cleared in the market.

3 Q. And why is the revenue --

4 MR. McNAMEE: Excuse me. Can I have that
5 answer reread, please? There was some noise in the
6 hallway.

7 EXAMINER PRICE: Let's have the question
8 and answer again, please.

9 (Record read.)

10 Q. And can you tell me why these revenue
11 projections do not include revenue associated with
12 capacity that did not clear?

13 A. Yes. Before I go there, I should
14 clarify, too, that when I say -- when I say it's
15 "generation that cleared in the market," obviously
16 that's for the period where the auctions have
17 actually cleared, and then there's a projection in
18 the last -- for the last two auctions of how much
19 generation would clear.

20 We offer the units in at a capacity -- at
21 a price and if those units do not clear at that
22 price, then there is no basis to include any revenue
23 for that.

24 I would also add, too, when you look at
25 the incremental auctions that have occurred, I

1 believe all of the incremental auctions, with the
2 exception of one, have cleared lower than what the
3 original BRA price was.

4 So to assume that you should include
5 additional revenues in the future for those
6 generation assets that haven't cleared or megawatts
7 that haven't cleared, I think, based on what we've
8 seen historically, and the history is relatively
9 recent, I don't think that's a reasonable assumption
10 to make.

11 EXAMINER PRICE: Are you saying that you
12 received, over the last several years, no revenue
13 from incremental auctions from units that did not
14 clear in the original base -- from units that did not
15 clear in any given planning year's base residual
16 auction?

17 THE WITNESS: There have been, you know,
18 we, and I'd have to look back, but we have purchased
19 back some capacity. So if we know a unit's E-4
20 rating has increased, that affects its capacity
21 rating and that has an effect that, you know, in the
22 future we're not going to be able to meet the
23 capacity that cleared, we put an offer in to buy back
24 some capacity. So that has occurred.

25 For the assets that didn't clear, the

1 megawatts that didn't clear previously, no, there are
2 no additional revenues.

3 EXAMINER PRICE: There are no additional
4 revenues.

5 THE WITNESS: That's right, for those
6 megawatts that have not cleared.

7 MR. OLIKER: I couldn't hear Mr. Jackson.
8 Could I hear his last two answers read back?

9 EXAMINER PRICE: Please.

10 (Record read.)

11 EXAMINER PRICE: Thank you.

12 MR. FARUKI: Your Honors, that's all I
13 have.

14 EXAMINER PRICE: Ms. Grady?

15 - - -

16 RECROSS-EXAMINATION

17 By Ms. Grady:

18 Q. Mr. Jackson, in your last response to the
19 question, you had said you don't believe it's a
20 reasonable assumption, and I just want to make sure I
21 understood which assumption you're talking about.
22 Are you talking about an assumption that there will
23 be units that don't clear or the assumption that
24 there will be revenues associated with sales from
25 those units that don't clear?

1 A. So I guess the best way to answer that is
2 let's just take a hypothetical example. Let's say we
3 have a unit that we bid in at a \$30 price and the
4 auction cleared, the BRA cleared at \$16. That asset
5 did not clear that auction, so there's no revenue
6 included.

7 What we've seen through the incremental
8 auctions is that the price for that capacity year is
9 clearing below what the original BRA was. So if our
10 price going in was higher than the original BRA
11 clearing price, I don't think it's reasonable to
12 assume you should apply additional revenues when the
13 expectation is the incremental auction will clear
14 lower than where the original BRA --

15 MS. GRADY: I'm going to have to have
16 that reread. I missed --

17 EXAMINER PRICE: Go ahead and reread the
18 question and answer.

19 MS. GRADY: Thank you.

20 THE WITNESS: I'll try and speak up.

21 (Record read.)

22 Q. Were you finished? I'm sorry, I didn't
23 mean to interrupt.

24 A. The last word was going to be "cleared."
25 "...where the BRA cleared."

1 Q. So you're saying it's not -- you don't
2 believe it's reasonable to include revenues from
3 incremental auctions where -- for purposes of your
4 revenue calculations, your projections in this case.

5 A. If the -- no, because if the incremental
6 auction clears, the assumption is it's going to clear
7 lower than the BRA clearing price, then it would have
8 been in the projections to begin with.

9 MS. GRADY: That's all the questions I
10 have.

11 EXAMINER PRICE: Thank you.

12 Ms. Bojko?

13 MS. BOJKO: No questions, your Honor.

14 EXAMINER PRICE: Mr. Williams.

15 MR. WILLIAMS: No questions, your Honor.

16 EXAMINER PRICE: Mr. Lang?

17 MR. LANG: Just a couple following up on
18 that point.

19 - - -

20 RE CROSS-EXAMINATION

21 By Mr. Lang:

22 Q. You talked about bidding in at a
23 particular price. You're using the avoidable costs
24 of the units to determine the price to bid in?

25 A. You know, again, the specifics around how

1 that price is determined probably -- that is not -- I
2 reviewed through some of that, but I'm probably not
3 the expert to answer that question.

4 Q. Do you know whether, when units are bid
5 in but they don't clear, use Hutchings as an example,
6 that means that those units are, relative to the
7 market, are higher cost and more inefficient?

8 A. Correct.

9 MR. LANG: That's all I have, your Honor.
10 Thanks.

11 EXAMINER PRICE: Mr. Olikier.

12 MR. OLICKER: I have no questions, your
13 Honor. But at this time I would like to move to
14 strike a portion of his testimony based on his
15 responses earlier. On page 10 --

16 EXAMINER PRICE: Why don't we take that
17 up when we take up the admission of the exhibit.

18 MR. OLICKER: I want to make sure I didn't
19 waive that. Thank you.

20 EXAMINER PRICE: You haven't waived it.
21 Mr. Yurick?

22 MR. YURICK: No questions, your Honor.
23 Thank you.

24 EXAMINER PRICE: Mr. McNamee?

25 MR. MCNAMEE: Mr. Lang asked my

1 questions.

2 MR. LANG: Sorry.

3 EXAMINER PRICE: You're excused. Thank
4 you.

5 THE WITNESS: Thank you.

6 EXAMINER PRICE: Actually, before you
7 leave, you're unexcused.

8 To follow up on Mr. Lang, then, Dayton
9 Power & Light does not reassess, after the base
10 residual auction, whether it should lower its price
11 for any given units in order to bid it into the base
12 residual auction?

13 THE WITNESS: No, I would not say that's
14 the case. We do look at, because the incremental
15 auctions occur after the fact, so we are relooking at
16 the costs and how does that compare relative to
17 what -- the original costs that we bid in. So we do
18 relook at that.

19 EXAMINER PRICE: But you've not been
20 successful.

21 THE WITNESS: We have not.

22 EXAMINER PRICE: Now you're excused.
23 Thank you.

24 MS. BOJKO: Your Honor, could you read
25 the first part of his response back? "No, da-da-da."

1 I didn't hear that.

2 (Record read.)

3 EXAMINER PRICE: Mr. Faruki.

4 MR. FARUKI: Your Honor, I offer DP&L
5 Exhibits 16 and 16A, which are the public and
6 confidential version of Mr. Jackson's rebuttal
7 testimony.

8 EXAMINER PRICE: Mr. Olikar.

9 MR. OLIKAR: Your Honor, I'd like to move
10 to strike on page 10, lines 2 through 6, regarding
11 the impact of O&M expense reductions. The witness
12 has testified he's not an engineer, he relied on
13 hearsay, he's also testified he's not reviewed PJM
14 manual 18 and 18A related to capacity transactions,
15 so he cannot testify on the impact of forced outages.
16 So I would move to strike those portions of his
17 testimony.

18 EXAMINER PRICE: Motion to strike is
19 denied. The Commission will consider the issues
20 you've raised in considering the weight to give that
21 particular portion of the testimony.

22 MR. OLIKAR: Thank you.

23 (EXHIBITS ADMITTED INTO EVIDENCE.)

24 EXAMINER PRICE: Mr. Olikar. Are you
25 standing up?

1 MR. OLIKER: Yes. I would move for the
2 admission of IEU-Ohio Exhibit 35, the DP&L protection
3 plan.

4 EXAMINER PRICE: Mr. Faruki.

5 MR. FARUKI: Object.

6 EXAMINER PRICE: Grounds?

7 MR. FARUKI: Multiple grounds. No
8 showing of pertinence or relevance to this case. No
9 foundation for its use with this witness who
10 testified that he had not -- not only not worked on
11 it, hadn't seen it before, and when you review the
12 substance of it, it is not relevant to this case.

13 MR. OLIKER: Your Honor, if I may be
14 heard.

15 EXAMINER PRICE: You may respond.

16 MR. OLIKER: This witness testified that
17 the company's requesting a ROE based on total
18 company. He also said that, while that problem is
19 being driven by the generation business which is
20 being caused by unregulated factors, and he was not
21 aware that DP&L has treated its generation function
22 as a separate affiliate for corporate separation
23 purposes, he also testified he didn't consider the
24 fact that the Commission previously directed them to
25 insulate their regulated businesses from unregulated

1 forces, and this is in contradiction to his
2 testimony.

3 EXAMINER PRICE: I don't think that you
4 are accurately or, at least, you've demonstrated
5 that -- you're tying in 04-486 which dealt with
6 Dayton Power & Light's relationship with its parent
7 company to -- I don't think you've demonstrated the
8 relevance to Dayton Power & Light's, how it's
9 handling its functional separation.

10 MR. OLIKER: Your Honor, I don't believe
11 the order was narrowed so narrowly. From the
12 sentences I had him read and from the protection plan
13 that was submitted by DP&L, it wasn't --

14 EXAMINER PRICE: If you read the first
15 finding of that order, it says: "By entry dated
16 April 7th, 2004, the Commission initiated this
17 proceeding to review the financial condition of The
18 Dayton Power & Light Company (DP&L), and to assess
19 whether certain unregulated activities by DPL Inc.
20 (the parent company of DP&L) have or will negatively
21 impact" Dayton Power & Light -- "DP&L and, if so, how
22 this might be both rectified and prevented in the
23 future."

24 It's clear the proceeding was directed at
25 Dayton Power & Light's relationship with its

1 affiliates -- or, with its parent company.

2 Now, you certainly had the opportunity in
3 this proceeding to bring your own witness in and to
4 tie this case to this proceeding, but you didn't do
5 so, and I don't think you've shown the relevance in
6 this proceeding.

7 MR. OLIKER: Your Honor, that was not the
8 provision that I was referencing. I was focusing
9 more on page 3, on additional aspects that the
10 Commission was reviewing.

11 And if you look at the protection plan,
12 it was not limited to the parent company, it was
13 limited to all of the operations of DP&L, with
14 affiliates, including its own generation business.
15 Most of the protection plan was focused on those
16 aspects, not on the relationship with the parent.

17 EXAMINER PRICE: Your disagreement with
18 my ruling is noted for the record. Thank you.

19 MR. OLIKER: Your Honor, I would proffer
20 IEU Exhibit 35.

21 EXAMINER PRICE: We will accept the
22 proffer.

23 Anything else?

24 MR. FARUKI: No, your Honor.

25 EXAMINER PRICE: Okay. We are adjourned

1 at the conclusion of -- just to reiterate, again, for
2 the record, initial briefs are due 30 days after the
3 filing of the transcript for today's hearing or
4 whichever transcript is filed last. Reply briefs are
5 due 15 days after that. On the filing of briefs, the
6 case will be submitted on the record. Thank you all.

7 MR. FARUKI: Before you go off the
8 record.

9 EXAMINER PRICE: Before we go off the
10 record.

11 MR. FARUKI: May I express the
12 appreciation of the company, Ms. Sobecki, and
13 Mr. Sharkey, and myself, to the Bench for the way
14 you've moved this hearing along, and to the counsel
15 in the case for their hard work and professionalism.

16 EXAMINER PRICE: Thank you.

17 MR. OLIKER: Your Honor, one more issue.
18 I believe this may have been addressed in an entry
19 but, if not, would the Bench agree that E service or
20 e-mail service of pleadings is fine?

21 EXAMINER PRICE: I think we've been
22 operating on e-mail service of pleadings throughout
23 this proceeding and I don't see any reason that
24 should change.

25 MR. OLIKER: Thank you.

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1 EXAMINER PRICE: Okay. Thank you. We're
2 off the record.

3 (Hearing concluded at 11:40 a.m.)

4 - - -

5 CERTIFICATE

6 I do hereby certify that the foregoing is a
7 true and correct transcript of the proceedings taken
8 by me in this matter on Wednesday, April 3, 2013, and
9 carefully compared with my original stenographic
10 notes.

11
12 Maria DiPaolo Jones, Registered
13 Diplomate Reporter and CRR and
Notary Public in and for the
State of Ohio.

14 My commission expires June 19, 2016.

15 (71998-MDJ-PUBLIC)

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Summary: Transcript in the matter of The Dayton Power and Light Company hearing held on 04/03/13 - Volume XII - Public Version electronically filed by Mrs. Jennifer Duffer on behalf of Armstrong & Okey, Inc. and Jones, Maria DiPaolo Mrs.