BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Application of The Dayton Power and Light Company for Authority to Recover Certain Storm-Related Service Restoration Costs.	: Case No. 12-3062-EL-RDR
In the Matter of the Application of The Dayton Power and Light Company For Approval of Certain Accounting Authority.	: Case No. 12-3266-EL-AAM

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CONTINUED DEPOSITION

of Dona R. Seger-Lawson, taken before me, Karen Sue Gibson, a Notary Public in and for the State of Ohio, at the offices of Faruki, Ireland & Cox P.L.L., 500 Courthouse Plaza, S.W., 10 North Ludlow Street, Dayton, Ohio, on Friday, January 31, 2014, at 8:30 a.m.

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VOLUME II

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and

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On behalf of the Applicant.

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On behalf of the Residential Customers of The Dayton Power and Light Company.

Mike DeWine, Ohio Attorney General
By Mr. William L. Wright,
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On behalf of the Staff of the PUCO.

ALSO PRESENT:

Mr. Jeff Hecker, Staff (via speakerphone).
Mr. David Lipthratt, Staff (via speakerphone).
Mr. Greg Campbell, The Dayton Power and Light.

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Friday Morning Session,
January 31, 2014.

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STIPULATIONS

It is stipulated by and among counsel for the respective parties that the deposition of Dona R. Seger-Lawson, a witness called by the Office of Consumers' Counsel under the applicable Rules of Civil Procedure, may be reduced to writing in stenotypy by the Notary, whose notes thereafter may be transcribed out of the presence of the witness; and that proof of the official character and qualification of the Notary is waived.

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DONA R. SEGER-LAWSON

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

CROSS-EXAMINATION (Continued)

By Ms. Yost:

Q. Good morning, Dona.

A. Good morning.

Q. Do you have in front of you -- you brought your exhibit book back that you had yesterday?

A. Yes.

Q. Is it the same documents you brought with you yesterday?

A. Yes.

Q. And what did you review last night to prepare for the remainder of your deposition today?

A. I didn't. I didn't look at anything else.

Q. Nothing? Could you turn to what has been marked as Exhibit B which is your supplemental testimony.

A. Okay.

Q. Page 2 of 20.

A. Okay.

Q. Starting on line 14, there is a question

"Were the storm costs the Company incurred in 2008 and 2011 prudent?" Your answer is "Yes, the Company has policies and procedures in place to ensure that it" -- "it incurs and requests only prudent costs." The company policies that you reference in response to questions starting on line 14, are those policies in writing?

A. Some of them -- those would be. Those would be. I guess what I had in mind when I wrote that was that the policies that Bryce Nickel -- that is in place in Bryce Nickel's organization for storm restoration.

Q. When you say "Bryce Nickel's organization," what do you mean by his organization?

A. In general I think of them as service operations, the T&D organization.

Q. Do they have an official title? Is that just more specific to what they handle?

A. You would have to ask Bryce. I think he's vice president of transmission and distribution. Or he was, I'm sorry. He retired at the end of last year.

Q. And do you know how many policies they have in -- that are in writing in regard to incurring only prudent costs?

A. No, I don't.
Q. You said he retired last year?
A. Yes, I'm sorry.
Q. Would he be aware of -- would he have access to policies of the company still?
A. Yes.
Q. And how would he have that access?
A. He is a witness in this case and has a wealth of knowledge so, therefore, the company has asked him to stay on and be a witness in this case.
Q. When you say "stay on," come back from retirement?
A. Yes, as a consultant.
Q. And so he is being paid an hourly rate?
A. I don't know.
Q. I am sure he would know that, right?
A. I am sure he would.
Q. And in regard to the question starting on line 14, does the company have procedures in place in writing in regard to incurring only prudent costs?
A. I believe we have policies and procedures in place in writing that address how to function during a storm.
Q. Do you see the policies and procedures as two separate things?

A. Not necessarily.

Q. Do you know who has the responsibility currently to draft such policies and procedures since Mr. Nickels -- Nickel has retired?

A. They recently named a new person who would be taking over that role effective February 1. His name is Joe Bentley.

Q. Is Mr. Bentley currently with the company?

A. Yes. He's at AES. I believe he is at Indianapolis right now.

Q. Was Mr. Nickel with the company when it filed its application in this proceeding?

A. Yes, he was.

Q. Do you review the policies and procedures on a regular basis in regard to incurring costs from storm restoration?

A. I do not.

Q. Are you familiar with the policies and procedures in regard to storm restoration costs?

A. I know that there are policies and procedures. I don't know specifically what they say.

Q. Do you make any decisions in regard to -- strike that.

Who makes the decision in regard to

expenses for storm restoration efforts?

MR. SHARKEY: I'm sorry. Can I hear that question again?

(Record read.)

MR. SHARKEY: I am going to object to form.

A. I'm not sure.

Q. Okay. Let me rephrase it. What company personnel is responsible to make -- to -- is responsible for ensuring that the company decisions in regard to storm restoration costs are prudent?

A. That would be Bryce Nickel and his management team who are running the storm, the folks who are making decisions as to what equipment they need to bring to the jobsite and how many crews they need and things like that.

Q. Do you have any role in storm restoration efforts? And I am talking about the physical role to get the power back on, not any type of regulatory after-the-fact role.

A. Not currently, no.

Q. Have you ever had that type of role during your employment with the company?

A. I worked one storm. That was the 2005 ice storm.

Q. And you say you worked it. What does that mean?

A. I went out with an experienced -- I am not sure what his role was exactly. He was a management employee, but I went out with him, and we looked to see where the power was out and looked for causes for why the power was out during the 2005 ice storm.

Q. Do you agree that a utility has a financial incentive to get customers experiencing an outage and not using utility service back in service as quickly as possible because the utility is losing revenues?

A. That is probably less true today than it was years ago when we had bundled service because we are not supplying generation to all customers because we have customer shopping. That's not to say that the company still doesn't want to do the right thing and restore service as quickly and as efficiently and as safely as possible.

Q. But you would agree that the utility does have a financial incentive to get customers experiencing an outage back in service as quickly as possible?

A. I think it's in everyone's best interest we get people back in service as quickly and efficiently and safely as possible.

Q. Would you agree the utility does lose revenues when the power is out in regard to standard service offer customers?

A. I think that that's true but that's not the driving force behind how quickly we restore service.

Q. On page 5 of your testimony, the last question, it says "What cost recovery policies should the PUCO employ to guide utilities to restore service after a storm?" And starting with line 21 you say "Placing unknown conditions on a utility four years after the fact does not encourage a utility to restore service as safely, effectively and efficiently as possible." Does DP&L need to be encouraged to restore service safely?

A. I don't think we need to be encouraged to restore service safely. That is something that we do. That's part of our business. However, the point of that sentence is placing unknown conditions causes the company to rethink how and why and the practices and procedures that it uses for storm restoration service.

Q. Does DP&L need to be encouraged to

restore service effectively?

A. No. Again, I think that that's part of our business. That's what we do. However, if the company -- if the Commission places unknown conditions on it, it may cause us to rethink how we do things.

Q. And does DP&L need to be encouraged to restore service efficiently?

A. Same answer.

Q. Thank you. On the top of page 5 the question is "What is the financial impact on the company if Staff's recommendation to disallow recovery of 2008 storm costs is accepted by the Commission?" And your answer is, and I am going to try to make sure I properly state your edits from yesterday, "Based on the Commission Order in Case No. 08-1332-EL-AAM, DP&L has deferred $20.1 million associated with 2008, including carrying costs, and has been recording those amounts consistent with Commission authorization." The 20.1 million associated with 2008 that you reference, that 20.1 million is the amount that has already -- that has been offset by a three-year average; is that correct?

A. For 2008, yes, that's the amount. That's the total of all storms in 2008 less the three-year average.

Q. And you say -- and that includes carrying costs, correct?

A. Yes, I believe it does.

Q. And do you know what date the carrying costs are calculated up until?

A. Yes. That's effective through December 31 of 2013.

Q. We can agree that -- is it the company's intent to only collect carrying -- strike that.

Is it the company's intent that if it receives approval to collect 2008 storm costs and carrying costs, that that carrying cost calculation would end December 31, 2013?

A. I didn't understand the question.

Q. If the company is permitted to collect from customers any of the 2008 storm costs, would the -- and there's approval to collect carrying costs on those amounts, would that carrying cost amount increase after December 31, 2013?

A. The carrying costs are applied until the full amount is recovered, so assuming the company is permitted to recover this amount, depending on how long we recover it, there would be additional carrying costs incurred after December 31, 2013.

Q. Thank you. And on line 5 when you talk about that the company has been recording those amounts consistent with Commission authorization, when you say "consistent with Commission authorization," are you referring to the fact that the Commission authorized the company to defer 2008 storm costs that are offset by the three-year average?

A. When I say that it's consistent with Commission authorization, I am referring to the finding and order in Case No. 08-1332-EL-AIM which grants DP&L authority to defer costs -- all costs of 2008 less the three-year average with carrying costs.

Q. And later in your answer on page 5 you state that the "$20.1 million represents almost half of DP&L's reported net income of $40.9 million for the third quarter in 2013." Do you see that?

A. Yes.

Q. And the storm costs that you're referring to, the 20.1 million, those are from 2008, correct?

A. Yes, those are from 2008. The point of that sentence is to demonstrate that the size of those costs is significant to DP&L because it represents half of one quarter's earnings, so if the Commission were to disallow that, disallow recovery of prudently incurred costs, it would be financially harmful to the company.

Q. Do you monitor the company's earnings?

A. Yes, on a periodic basis.

Q. Are you aware that in regard to 2008 DP&L had a net income of $285.8 million?

A. I am not aware of that number. That number doesn't ring a bell with me.

Q. Are you aware in 2008 DP&L had a 20.04 percent return on equity?

A. Again, I'm not familiar with those numbers.

Q. What's your understanding of the company's earnings in 2008?

A. I believe our earnings in 2008 were higher than they are today. I do believe we had frozen distribution rates that were set by a Commission's stipulation that was signed by OCC and the PUCO and Kroger and that we did not have an earnings test in 2008. There's nothing in the stipulation nor in any Commission order that required us to maintain or not to exceed an earnings amount.

Q. Do you agree if DP&L had expensed its 2008-related storm costs in its normal course of business, then the recalculated return on equity of

2008 would be only slightly lower than the ROE reported in DP&L's financial statement for 2008?

MR. SHARKEY: Object to form.

A. I haven't done that calculation.

Q. Are you aware that DP&L's per book return on equity in 2008 was the highest of Ohio's seven major electric utilities?

A. No. I didn't know that.

Q. You read the PUCO staff report, correct?

A. Yes.

Q. Do you have your copy in front of you?

A. Yes.

Q. When I say staff report, it's titled audit report. And that's OCC Exhibit J. On page -- actually I don't want to refer to the staff's report, the staff's comments. Do you have a copy of that, the staff's comments that were filed in this proceeding?

A. I don't think I have a copy of that.

MS. YOST: I only have one copy, but we'll mark this as OCC Exhibit L.

(EXHIBIT MARKED FOR IDENTIFICATION.)

MS. YOST: Thank you.

Q. I am going to read this, and then I will hand it to you. On page 4 of OCC Exhibit L the staff

states that "the Company's equity return" -- excuse me, that "the Company's equity rate of return has been consistently above the range allowed in the Company's last rate case, which was 12.06 to 13.19 percent." Do you agree that the company's last approved equity rate of return in Case No. 91-414 was 12.06 to 13.19 -- 13.19 percent?
A. I'm not sure where those numbers came from. The number that I recall from the 1991 rate case was a return on equity of 13 percent.
MS. YOST: Could you read back her answer.
(Record read.)
Q. And do you know what you reviewed to determine that the return on equity in the '91 case was 13 percent?
A. That's just something that I know from working in my job for 20 years. It was in the -- it was in the settlement documents in the 1991 rate case.
Q. Do you know where the staff could get -- would get this -- do you know, this 12.06 to 13.19 percent range, where that would come from?
A. No, I don't.
Q. Do you agree, and I'll hand this to you,

and she can read my question over again, since 19 -- "Since 1999, the average equity rate of return has been 19.65." Do you agree with that statement?

A.   I don't know that number off the top of my head. I would have to go back and check that, but I don't think that it's at all relevant to this case.

Q.   Do you agree that the company was allowed to recover approximately 39.6 million of distribution O&M expenses per year in its base rates?

A.   No, I don't. The 1991 rate case was a black -- resulted in a black box settlement. There was an agreed upon number for -- that the company could charge through its rates. It did not have a requirement that the company spend 39 -- what was the number that you had -- 39.6 million in O&M. There is no requirement the company maintain that level of O&M spend. There's nothing in any stipulation that I'm aware of since 1991 that would require the company to spend a certain level of O&M.

Q.   So you disagree the company was allowed to recover approximately 39.6 million of distribution O&M expenses per year in base rates? And I will note that the staff cites to the '99 ETP case.

A.   What that says to me is that in the 1999 ETP case when we unbundled rates, we identified the level of distribution O&M that was assumed to be in base rates because, again, the 1991 case was a bundled case. So in 1999, we unbundled it and assigned costs to transmission, distribution, and generation. Therefore, the 39.6 was the distribution O&M that we assigned to distribution, but there is no requirement that the company maintain that level of spending.

Q. So the $39.6 million referenced on page 4 is the company's calculation?

A. I believe that was from the the ETP case and was filed in the ETP case.

Q. By the company.

A. Yes.

Q. Do you agree that any reference since that case, and I would assume that they are referring to the '99 case, the company has spent approximately 149.4 million less than the amount allowed in base rates? Do you agree with that statement?

A. No, I do not. I don't think there was a certain amount allowed in base rates. I think that the 1991 rate case was a black box settlement. It did not require that the company maintain a certain level of O&M. And, furthermore, as I have on my Exhibit A attached to my testimony, while our O&M

numbers may be lower than the 1991 rate case, our capital and depreciation expenses were significantly higher. In fact, we would have a revenue requirement in 2008 of 154 million when the 1991 rate case revenue requirement would have been only been 94 million.

Q. How much was the company allowed to recover in regard to capital costs per year in base rates per the 1999 case?

A. Again, the 1999 case did not allow for a certain level of recovery of capital. It was a black box settlement. The company and the Commission staff and I believe OCC agreed that there would be a certain level of recovery. We had to assign it in 1999 to transmission, distribution, and generation but there is not a certain allowed amount of O&M or nor an allowed amount of return on capital.

Q. Page 9 of your testimony, you agree that DP&L's O&M expenses have decreased since the 1999 -- excuse me, since the 1991 rate case, correct?

A. Yes. On page 9 I say focusing on 2008 DP&L's distribution O&M expense was 29 million where the 1991 rate case assignment was 39 million. However, the return on net plant more than doubled between 2008 and 1991 and depreciation expense more than tripled from 2008 to 1991. I guess I said that backwards, tripled from 1991 to 2008. Essentially what my Exhibit A says had the company not had a distribution rate case freeze in 2008, we could have set a distribution revenue requirement of 155 million as opposed to 94 million that was set in 1991.

Q. Do you agree that having a return on equity in 2008 is indicative -- strike that.

Do you agree that having a return on equity of over 20 percent in 2008 is indicative that the company was collecting all of its storm costs?

A. No, I do not.

Q. What do you attribute to DP&L earning such a high return on equity in 2008?

A. I have not studied that, but 2008 we still owned generation. Perhaps market prices for generation were high, and perhaps we were making larger margins on the generation side because we froze our distribution rates, and we were not recovering any additional distribution costs beyond that which was established in the 1991 rate case.

Q. On page 7 of your testimony, please, you state that "Underlying rates were cost-based" -- on line 10 in case I didn't tell you -- "Underlying rates were cost-based, established from a normalized test year of costs filed in the 1991 rate case and later 'unbundled' into Generation, Transmission, and Distribution rates," and then it goes on -- so when you're talking about "the rates were cost-based, established from a normalized test year of costs filed in the 1999" -- excuse me, "1991 rate case," you are talking about the company's application that it filed in the 1991 case, correct?

A. Yes. I am saying that in 1991 when the company filed its rate case, it had cost-based justification for the rates it was proposing. And then from there the parties agreed on a settlement that resulted in the black box settlement.

Q. Did you ever review the company's 1991 application? I know it predates your employment with the company.

A. Yes, I have read it.

Q. And yesterday when I asked you whether the company had requested storm costs, you did not know, correct?

A. I don't know. I'm pretty sure it's not specified in the application because it would have been a bundled case, and we have been having -- talking about the costs associated with the Zimmer generating station and things like that.

Q. So even if the company had sought to collect storm costs in the 1991 application, it would have not been specified, correct?

A. I don't know that it is. I don't think that it is specified.

Q. Would it have had to have been?

A. No, not necessarily.

Q. Page 14 -- I'm sorry, page 7, line 14, talks about logical reasons for DP&L's O&M spending to be different today than in 1991. You say "Yes." And then you say "Many things have changed since the 1991 rate case, the least of which is improvements in technology." And then you list some -- some types of technology you're speaking to, "the least of which is improvements in technology." You're not testifying that that's the reason for the lower amount of O&M costs spent since 1991, are you?

A. I am testifying that it is logical and that many things have changed from 1991 to 2008. There are many technologies that exist today that didn't exist in 1991. The way that DP&L operates today is much more efficient than it was in 1991 given these changes in technology.

Q. What do you attribute for the main reason -- reason that DP&L is spending less in O&M

since 1991?

A. I don't have a specific itemized list, but some of the things are listed here in my testimony.

Q. Is there anything else besides use of computers, faxes, e-mails, cell phones, and instant messaging, and GPS?

A. I'm sure there is. There is a lot of things that are different in 14 years. I believe there's different technologies on the distribution system that I am not aware of. I don't know what they are called. But I believe there are changes in technology that the company has implemented that would cause its O&M to go down and its capital to go up.

Q. Does DP&L have more employees today compared to 1991?

A. I don't know.

Q. Does DP&L have less employees today than in 1991?

A. I don't know.

Q. You would agree that employees' salaries have increased since 1991, correct?

A. Yes. And I would agree the cost of living has also increased since then. Taxes have probably increased since then. There are many things that have changed since then.

Q. On page 9 of 20, talking about the historical distribution capital investments that have increased significantly. Has DP&L received any type of government funds or grants to improve capital investment since 1991?

A. I don't know.

Q. Who would know that?

A. I'm not sure what kind of capital grants you're referring to, so I don't know if that's -- if that's the finance group or if that's specific to a service operations group. I'm just not sure. If you're asking whether or not we received federal stimulus funds for AIM SmartGRID, we did not.

Q. Have you received any stimulus money?

A. Not that I am aware of.

Q. And yet we were talking about whether or not the company had any riders to collect capital expenses since 1991. And I remember initially you said no, but then you clarified that there was something. What was the clarification?

A. The storm costs --

Q. The storm costs --

A. -- recovery in 2005.

Q. And you didn't know what that amount was, did you, at the time?
A. No. I don't know. It would be in that case.
Q. The bottom of page 9, line 20, talking about the company's distribution revenue requirement in 2008, you stated DP&L's distribution O&M expense was approximately 25 percent less than the O&M expense approved in the 1991 case and there you are talking about the $39 million or what was referred to as the 39.4 earlier?
A. Yes.
Q. You just rounded down because you have 39 on line 22, and we were talking about -- maybe it was staff's number that was 39.4.
A. It is 39.6.
Q. .6, sorry.
A. So, yes, I should have put 39.6 and then the --
Q. You have 29 million in 2008. What is that?
A. It's actually 29.9 so it's actually 30 million. But, again, the important thing to note, as I said, is on Exhibit A is that if we were setting rates in 2008 based on the 2008 test year, we would

have a revenue requirement with O&M depreciation, expense, return on rate base of 154 million compared to the 1991 number of 94 million. I can't just look at O&M.

Q. Page 10 of your testimony in regard to the question on line 12, towards the end of your answer, the end of line 20, you state "The Commission should therefore reject Staff's recommendation not to allow recovery of 2008 and 2011 storm costs and in fact should award cost recovery of prudently incurred expenses consistent with Stipulation signed by the intervening parties in this proceeding (PUCO staff, OCC and Kroger)." Could you identify the stipulation that you were referring to that OCC signed that indicates that the company should be awarded cost recovery of prudently incurred expenses?

A. I'm referring to the 2008 stipulation that would be Case No. 08-1094-EL-SSO, the stipulation that was dated the 24th of February, 2009, that was signed by Tom Lindgren of the PUCO staff, John Bentine on behalf of Kroger, and Jackie Roberts on behalf of the Ohio Consumers' Counsel. And that stipulation said that DP&L's distribution rates were frozen through 2012 with the exception of storm cost recovery that the company could seek to recover from customers.

Q. So you're speaking to paragraph 18 again?

A. Paragraph 18.

Q. So you're interpreting to seek -- so in regard to paragraph 18 of the stipulation you just referenced from the 08-1094 case, does -- are you interpreting the phrase to apply to the Commission for approval of separate rate riders to recover the cost of storm damage as meaning award cost recovery of prudently incurred expenses?

A. No. I am stating that part of the bargain that the parties who signed that stipulation agreed to was that DP&L's distribution rates would be frozen through 2012 with no opportunity for either party to adjust upward or downward.

And in addition to that the company would have the authority to seek recovery of storm re -- of storm damage. I don't think that parties would have agreed that the company could seek recovery and then somehow think that they were going to be denied right off the bat without even reviewing the costs, without even reviewing the application that the company would make.

Q. You would agree the OCC has not signed a stipulation that contains the language stated that the company should be awarded cost recovery of prudently incurred expenses?

A. I think that OCC signed a stipulation that allowed the company to put on a case such as this one to recover prudently incurred costs and those costs should not be denied and that recovery should not be denied unless those costs are found to be imprudent. There is no other requirement that the company spend a level of O&M. There is not a requirement that the company not earn a certain level of return. There is no other provision that would prohibit the company from recovering prudently incurred costs.

Q. We can agree that paragraph 18 of the 2008 stipulation, 08-1094, does not include the word "award" anywhere in paragraph 18; is that correct?

A. It does not include the word "award." It does not include any provisions for a certain level of O&M spend. It does not contain any provisions for a certain level of return on equity. In fact, paragraph 20 of that same stipulation allows for the fact that the company's SEET test did not begin until 2013 based on 2012. Therefore, the parties who signed this agreement knew that DP&L was not subject to a SEET test in 2008 or '11 or '12 until '13.

Q. I want to switch gears to the 2011 storm costs. The 2011 storm costs were fully expensed and reflected in DP&L's 2011 financial statements, correct?

A. I don't know. I believe so.

Q. What would you look at if you wanted to confirm that?

A. I would probably ask our accountants.

Q. And who would you go to first?

A. I would have gone to Greg Campbell, but he retired last year, so I'm trying to think of who I would go to. I would probably go to Craig Forstall.

Q. Would you agree that any 2011 storm-related expenses -- strike that.

Would the company have included any 2011 deferrals on its FERC Form 1 filed? Do you know?

A. Deferrals usually are represented in the FERC Form 1 and there may or may not be a line item that says storm costs. I don't know if I could look at that and tell what was in there.

Q. Do you think Mr. Campbell could help me with that?

A. I'm sure he can.

Q. In 2011, DP&L had a net income of 193.2 million, correct?

A. I don't know that number off the top of my head.

Q. And in 2011, DP&L had a 14.05 percent return on equity?

A. Again, I don't know that number off the top of my head.

Q. Are you aware in 2012 DP&L recorded a pretax writeoff of 80.8 million related to the Conesville and Hutchins -- Hutchings generating facilities?

A. Yes, I am generally aware of that.

Q. And would you agree such writeoffs are disclosed on SEC forms?

A. Yes.

Q. And would you agree that that writeoff was unrelated to any decision by the PUCO?

A. I am not sure if it's related or not related. It was related to the purchase accounting that took place when AES purchased DP&L, a difference in values.

Q. Do you agree that writeoffs of real and regulatory assets occur in the normal course of doing business for a regulated utility?

A. I would agree that writeoffs do occur. However, that was a significant writeoff. That was not something that was an everyday, run of the mill $80 million writeoff. It was a significant event. It was a significant event for the company financially, and I think that was reflected in our stock value at that time.

Q. So we can agree that writeoffs of real and regulatory assets occur in the normal course of doing business for a reg -- for a regulated utility but not at the $80 million level; is that fair enough?

A. I think that writeoffs do occur. However, that is something that the company would want to mitigate and not incur if it can help it. Any amount over a million dollars is considered significant and material.

Q. Page 11 of your testimony, please, under section V you have a heading "Retroactive Rate-Making is Bad Policy" on line 1 as indicated. What is "retroactive rate-making"?

A. As I state in my testimony at line 4, "Retroactive rate-making occurs when a Commission sets a utility's future rates based in part upon the past earnings" -- "utility's past earnings."

Q. Is retroactive rate-making a policy?

A. Retroactive rate-making is a -- I don't know that it's a policy. It's something that should not be done in Ohio. It's -- I believe that it's -- I believe that there is case law saying that Ohio does not have retroactive rate-making.

Q. Case law?

A. Uh-huh.

Q. Is that your understanding of the origin of retroactive rate-making?

A. The origin of retroactive rate-making is talked about in utility groups across the country, that some states allow for it, and I know that Ohio does not.

Q. Would you agree that you have to have a rate collected to have retroactive rate-making?

A. No. I would say that in order to have retroactive rate-making the Commission would have to decide that a future rate should be lower based on the fact of something that happened in the past.

Q. Would you agree that in order to have retroactive rate-making you have to have a rate established?

A. No. Again, you could be setting a future rate, and you could cause that rate to be lower based on past utility earnings.

Q. Can you have retroactive rate-making in regard to adjustable riders?

A. No. I think that those are two different things. An adjustment rider is something that is designed to track the costs as those costs go up and down and recovery of those costs go up and down and so that is different from establishing a distribution rate or a fixed rate that is based on a test year and a cost-based fixed rate.

Q. Is there any Ohio law that you know of that prohibits retroactive rate-making?

MR. SHARKEY: Objection. Calls for a legal conclusion but you can answer.

A. I'm aware there is Ohio Supreme Court orders that say that utility rate-making is prospective only and that present rates may not make up for dollars lost. And that's Section 4909.03 from the Ohio Revised Code, states that rates are fixed and in place until changed or modified by the Commission.

Q. Has a rate been determined for the company to collect 2008 storm costs?

A. No. That's what we are here today about. The company had as proposed a rate that would recover 2008 storm costs, and we have not yet been permitted by the Commission to establish that rate.

Q. Page 14 of your testimony, please, line 18, there is a question in regard to DP&L's 1991 rate resolved through a block box stipulation. The question was "then how can you determine that DP&L's rates do not include any recovery for major storms?" You state that "The Commission's practice of 'normalizing' expenses has been in place for many years, and was a well-established practice well before the 1991 rate case was settled." And we discussed that you weren't working for the company in 1991, correct?

A. That's correct.

Q. And you say that "The Commission's practice of 'normalizing' expenses was a well-established practice before the 1991 rate case." Could you cite a Commission opinion or order before the 1991 rate case that you rely on to show that that practice was well established?

A. I did not rely on a specific Commission order to ensure that that practice was in place for many years. I worked for -- from the beginning of my career in 1992 until 2011 with a gentleman by the name of Dick Reed who had been at the company for 35 years, and he essentially was my mentor and told me that that was the practice that he had established many, many years prior to me joining the company.

Q. You state -- the next line "any expenses that DP&L was permitted to recover in that case would have been" -- "would have included only expenses that had been appropriately normalized." Do you see that language?

A. Yes.

Q. And before you talked about this being a black box stipulation. And most of your testimony is based on the fact that because it was a black box the amounts that the company received cannot be determined; is that fair to say, for a specific expense cannot be determined?

MR. SHARKEY: I am going to object to the form of the question. Can I hear it back?

Q. I'll just move on from here. Strike that one.

I guess I'll just -- you argue it's a black box stipulation, but then you argue that the company was permitted to recover only case -- costs that would have been normalized. Those are conflicting statements.

MR. SHARKEY: I am going to object on the form of the question relating to arguments, but you can answer.

A. The 1991 rate case was settled in a black box settlement. There is limited information available as to what that -- the number that the company was authorized to recover, what made up that number. What I'm saying here is that prior to reaching the black box settlement, the company would have been required to normalize out any extraordinary expenses during the test year. And so the company's application and its case that it put before the Commission in 1991 would have had only normalized costs because that is what's required.

And then the parties settled on something out of that case which resulted in a black box settlement; so, therefore, I am drawing the conclusion that if the original case did not contain extraordinary items such as a major storm, then the settlement would not have contained a major storm.

Q. So it's your testimony that the company would have been required in its application to normalize expenses that it sought to recover; is that correct?

A. It would have been required in its application, and the parties in that case would have been -- would have taken the position that if there was an extraordinary expense in there, it should have been normalized out.

Q. You can't testify that you know that the company normalized its expenses in that application, correct?

A. That's correct.

Q. On page 15 of your testimony, the top, it's in response to a question that's on page 14 that we were just discussing but the very end of -- well, on line 3 it starts "precedent (i.e., it would not have satisfied the third prong in the Commission's three-part test for evaluating Stipulations)." What is the third prong of that test that you are referring to?

A. There's a requirement that all parties be represented by knowledge -- that all parties be represented by knowledgeable parties -- I'm sorry, that all three -- all parties be knowledgeable parties represented by counsel, that the stipulation is -- the third prong -- I can't remember the second one for some reason. The third prong is that it not violate any regulatory practice or principle.

Q. On line 5 of page 15, you state that "Further, major storms are by definition significantly large and experienced infrequently." Which definition of major storms are you referencing?

A. I'm sorry. What line was that?

Q. 5 on page 15.

A. That's not a specific definition I am referring to. Just in general major storms are major.

Q. That's not the Commission definition that you are referring to by significantly large and experienced infrequently?

A. I would have to look back at the Commission definition. That was just my general knowledge about what a major storm is.

Q. Okay. And then line 6 you say "DP&L experienced only one major storm in 2012." When you speak of a major storm in 2012, what's the definition of major storm you're using?

A. The Commission's definition.

Q. The Commission's definition. And then "two major storms in 2013," the two major storms, is that based on the Commission definition of major storms?

A. Yes.

Q. And somewhere in your testimony, maybe I'm wrong, you talk about the definition, right, the Commission one?

A. I believe that's in Bryce's testimony.

Q. Thank you. So we haven't talked about 2000 -- we might have talked about 2003 a little bit yesterday, but your testimony indicates that there were two major storms last year. I think I might have asked you the cost. Did you recall the cost of those storms?

A. I don't know.

Q. Can I have you turn to your Exhibit B as in boy, please.

A. Okay.

Q. And this is the information you used to propose your baseline, correct?

A. No. This is the information I used to propose the alternative baseline. The baseline I proposed was zero.

Q. So we'll call it alternative baseline. And is this accurate? Does this accurately reflect -- strike that.

So in regard to technically the third column, I guess, that says "Major Events O&M," that column indicates O&M expenses that the company claims it incurred in regard to major events. Do you mean -- is that the same as major storms?

A. Yes. Major storms are the same thing as major events.

Q. So in 2002, the company incurred at least one major storm; is that fair to say because there's costs indicated?

A. Yes.

Q. And 2003, again, major storms, there was at least one major storm because costs are indicated?

A. Yes.

Q. And instead of going through this line by line, we can agree that since costs are indicated for major storms for O&M that there were major -- at least one major storm since 2002; is that fair to say?

A. Yes.

Q. And then we talked about there was also a major storm in 2012, correct? It's not indicated on Exhibit B but there was one, correct?

A. Yes, that was the derecho.

Q. And then we, I guess, read where you indicated there were two major storms in 2013.

A. Yes.

Q. So we can agree though, although you say that major storms are experienced infrequently, we can at least agree that every year since 2012 DP&L has experienced at least one major storm?

A. Every year since 2002 the company has in -- has experienced a major storm per the staff's -- per the Commission's definition; and, again, what I was talking about up here was my own general knowledge about major storms is that by major storms are by definition significantly large and experienced infrequently such as the windstorm, the Hurricane Ike in 2008, the derecho in 2012, and the ice storm in 2011.

Q. Thank you for correcting. I think I said 2012, and you corrected to 2002. How do we know when you're speaking about major storms pursuant to your definition on line 5 on page 15 in -- or -- strike that again, please.

How do we know when you use the phrase major storms you're referring to the Commission's definition of major storms or your definition of major storms on page 15, line 5, of your testimony?

A. I guess -- I guess when I think of the Commission's definition, I put the quotes around it according to my testimony. I didn't realize I did that but major events, so it's got quotes around it so I'm assuming that the major event passes the PUCO test for what's a major event.

Q. But what we just discussed on line 6 when you are calling the storms in 2012 and 2011 major

storms, you were using the PUCO definition, right?
A. Yes, yes, you're right.
Q. And let's look at line 9 towards the end of that, again on page 15, you say "These storms do not meet the 'major event' criteria, but they do cause damage and consequential restoration costs. These types of storms occur relatively frequently and it is reasonable to conclude that nonmajor storm cost was included in the test year." So when you say nonmajor storm cost was included in the test year, are you using the definition of major storm costs that you provided on line 5, page 15, or the Commission definition?
A. No. I'm referring to the Commission definition. That would be the second column in my Exhibit B.
Q. Is it your testimony that the 1991 base rates do not include major storm damage, and I'll use the Commission's definition, because major storms have been infrequent?
A. No. It's my testimony that the 1991 rates do not contain major storm costs as per the Commission's definition because that would have been normalized out. Any party to the 1991 case would have said, hey, you can't include that storm because

that's not going to happen every year. You established distribution rates from a test year and you set them going forward and you want to have normalized costs in that test year. And so parties to that case would have said you can't -- you can't include that. That's not going to happen every year.

Q. Do you know when the Commission first adopted the major storm definition?

A. I believe it was either 2009 or 2010.

Q. So in 1991, there was no major storm definition; is that fair to say, that had been adopted by the Commission?

A. I do not know if this was a definition at that time. There could have been a different definition than the current definition.

MS. YOST: Could you read her answer back two answers ago.

(Record read.)

Q. So in order to know whether -- well, let's back this up.

Do you know if there were any major storms in 1991?

A. I don't know.

Q. Do you know if there were any major storms in 1990?

A. I don't know.
Q. Do you know if there were any major storms in 1989?
A. I don't know.
Q. And do you know whether there were any major storms in 1988?
A. I don't know.
Q. And when I say major storms in those years, I am being specific to that DP&L incurred costs. Your answer is the same?
A. I don't know.
MR. SHARKEY: Could we go off the record?
(Discussion off the record.)
Q. I just wanted to specify that whether you knew whether DP&L had incurred -- incurred major storm costs from 1988 to 1991, and your answer is you don't know; is that correct?
A. That's correct.
Q. Thank you. What's your definition of extraordinary expense? I believe you just used the word "extraordinary."
A. I guess to me an extraordinary expense is something that is not normal.
Q. Would you agree that an expense could be extraordinary the one period of time and then later

be deemed to be normal?

MR. SHARKEY: Objection to form.

A. I don't know.

Q. So your alternative-based -- your baseline recommendation would be zero, correct?

A. Yes. I believe that there are no costs for major storms in DP&L's base rates.

Q. When we use "baseline," is that equivalent to like a three-year average? Is that interchangeable?

A. It can be. When I calculated the alternative baseline, I used a ten-year average.

Q. So baseline is equal to an average of historical storm costs; we can agree to that. Just depends on how many years.

A. I mean not necessarily. You could establish a baseline based on anything.

Q. Okay. And your alternative baseline would be $1.1 million, correct?

A. Yes. That's what I have in my testimony.

Q. So the company's accepting of the three-year average/baseline for 2008 storms, correct?

A. No. The company deferred costs in 2008 and waited on the Commission order and backed out a three-year average based on the Commission order.

Q. So the company is seeking to collect all 2008 storms up -- strike that.

The company is seeking to collect all 2008 major storm expenses incurred with no offset; is that fair to say?

A. No. What we have in this application is we are asking for Commission authority to recover the amount in 2008 that it was deferred plus carrying costs and then in addition to that all major costs -- major storm costs for 2011 and 2012 plus carrying costs.

Q. So the company's accepting of the three-year average in regard to 2008 storms as an offset, but they're not accepting of a three-year average in regard to 2011 and '12 storms; is that fair?

A. No. I would not say the company is accepting the three-year average. I'm saying that that's what the Commission order told us to do, and we abided by the Commission order.

Q. And the 2012 Commission order also told the company to offset 2012 deferrals by a three-year average, correct?

A. Yes, and I believe that's what we've deferred.

Q. But you are seeking collection of amounts beyond the amount that the company has deferred, correct?
A. That's correct. Perhaps we should have sought recovery of all of 2008's storms.
Q. Do you recall yesterday when I asked you whether you were knowledgeable that the -- strike that.
Do you recall yesterday when I asked you whether you knew that AEP Ohio had received its storm cost recovery mechanism in an ESP proceeding? Do you recall that?
A. I recall you asking me that question, yes.
Q. And you said you didn't know?
A. Yes.
Q. Could you turn to page 16 of your testimony, please, line 9, "Are you aware of any other Commission precedent in calculating storm baselines?" You say "Yes. In Case No. 11-346-EL-SSO, Staff calculated a major storm baseline for AEP that was adopted by the Commission."
A. And that was in their ESP, yes.
Q. So you know that SSO stands for --
A. An ESP proceeding, yes.

Q. So that refreshes your recollection.

A. Yes.

Q. Page 17 of 20, line 6, you state that "Further, this treatment is inconsistent with Staff's own precedent: in Case No. 12-1682-EL-AIR, Staff excluded Hurricane Ike expenses from the average because those expenses were recovered through a separate rider." Actually strike that.

Should any baseline that's calculated be based upon most -- the most recent information regarding storm costs?

A. No, I don't think so. I'm not sure why you even need a baseline. I think the intent of a baseline is that you are subtracting out some amount that's recovered elsewhere. But as I state in my testimony, I don't think a baseline is necessary nor appropriate for DP&L. We haven't had a rate case since 1991; and, therefore, the most recent three-year average couldn't possibly be included in our distribution rates.

Q. Because of your concern you've just expressed wouldn't you agree it would be a good -- strike that.

To address your concerns that you've just stated, wouldn't you agree that the Commission should not establish a storm cost collection mechanism until DP&L's next distribution rate case?

A. No, because that would be inconsistent with Commission orders approving stipulations that the PUCO, OCC, and Kroger all signed which said DP&L's distribution rates would be frozen, and part of that bargain was the company could seek incremental recovery of storm costs.

Q. But the company is also seeking a storm cost collection mechanism for future storms that haven't even occurred, correct?

A. Yes. We think that's consistent with Commission precedent.

Q. And when you say "Commission precedent," you're using stipulations as precedent?

A. I'm using other cases that are in front of the Commission that have been ruled on and established separate storm riders for ongoing recovery.

Q. Would you turn to your Exhibit B, please. For Exhibit B you do not include the 2012 major events O&M storm damage, correct?

A. That's correct.

Q. And we talked about that the other day, and you indicated that that was one store -- one

storm in June, and the major event storm cost would be $4.5 million; is that correct?
A. That one storm would have been a derecho which was a significant event in the DP&L service territory. The amount of it I would have to double-check and look it up, but assuming that you've presented it based on what we talked about yesterday, I would agree.
Q. So if we were to include the 2012 storm costs in your Exhibit B and you used a ten-year historical average that you normalized to determine your alternative baseline, correct?
A. If we would have included 2012 in this Exhibit B, the derecho was a significant event that not every day a derecho goes through southwestern Ohio so we would have backed it out of this calculation, and I believe the calculation would result in about $1.1 million.
Q. And so if we include the 2011 storm costs and went back ten years which would take off 2002, correct? If we just used the ten-year period and then normalized it, 2002 would fall off, right?
A. 2002 would fall off, yes.
Q. Okay. So then if we used the 10 years --
A. You would have to eliminate '05, 2008,

2011, and 2012.

Q. So out of the ten years to normalize it, you would back out one, two, three, four of the ten years.

A. Yes. It's not every day a hurricane nor a derecho goes through southwestern Ohio and those items should be normalized out.

Q. Not every day but apparently four times in the last ten years. So if we were to add 2013 into the calculation, 2003 would drop off, correct?

A. Yes.

Q. And there were two storms in 2013, and you don't know those storm costs, do you?

A. No, I don't.

Q. Do you know, were they more that $1.1 million in total?

A. I don't know. I think they were around 1.1.

Q. In total?

A. Yes.

Q. Is there any documents that have been filed that would indicate those storm costs at this time?

A. Not that I'm aware of.

Q. When since 1991 -- and I know it's in your testimony, what years has the company had a storm cost recovery rider?

A. On page 3 of my original testimony on line 11, the answer that begins there, "The Company had a storm rider in place from August 2006 through July 2008" and that was designed to recover the ice storm that took place in the winter of 2004 into 2005.

Q. So the company did not collect storm costs through a rider in 1991, '92, '93, '94, '95, '96, '97, '98, '99, 2000, 2001, 2002, 2003, 2004, or 2005; is that correct?

A. That's correct. Storm costs fluctuate as do other costs year over year; and, therefore, the rates that were in place at that time the company must have found a way to recover -- to restore service within those rates.

Q. And you would agree there is no reason to bifurcate storm cost recovery into two separate pieces, correct?

A. That's correct.

Q. We're almost done. Push through?

A. Yeah.

Q. Make sure you're okay.

A. Yeah.

Q. Do you have any input in regard to mutual assistance either provided to the company or that the company provides to other utilities in regard to storms?

A. No. That's not really anything that I have any responsibility for.

Q. And I believe that Mr. Nickel would have that responsibility?

A. Yes.

Q. Do you know whether in the application there were any offsets for amounts that the company received for providing mutual assistance to other utilities?

A. No, there were not and it would not be appropriate for the company to do that. And that is because, as we talked about yesterday, if we provide assistance to another utility, that utility pays us for our costs and, therefore, that cost was not included in the company's application, and it doesn't need to be offset in the application.

Q. Do you know whether the company when it -- let me ask you a general question. Do you know that the company provided mutual assistance during Hurricane Sandy?

A. I don't know.

Q. Don't know. Do you know that when the company provides -- strike that.

Do you know of any event when the company provided mutual assistance to another utility and the company charged that utility for transportation costs?

A. I'm not familiar with how those policies work.

Q. Okay. Does the application contain any offsets for insurance proceeds that were received for storm damage claims?

A. No, but I'm not aware of the company receiving any proceeds from storm damage claims.

Q. Do you know if the company has any storm reserve accounts?

A. I don't know what you mean by that.

Q. You don't know what a -- what I mean when I say storm reserve accounts?

A. That's correct. I don't know what that means.

MS. YOST: If we can maybe take our break now and just give me a second, come back, I think I've covered everything, and then hopefully we can transition into Mr. Campbell.

MR. SHARKEY: Okay.

(Recess taken.)

(EXHIBIT MARKED FOR IDENTIFICATION.)

Q. Dona, I have just a couple of clarifying questions. The total amount that the company indicates in its application that it's seeking is how much?

A. The total amount the company is seeking, I'm not seeing that in our application. One year's worth is 22.3 million and that's on Exhibit -- on Schedule A-1.

Q. And the recovery period that was proposed by the company would be three years, correct?

A. Yes, that's correct.

Q. So you would multiply that amount by 3?

A. Yes.

Q. Is it fair to say that the company's actually seeking more money than the 22 million a year that you indicated?

A. The company is seeking an ongoing storm recovery rider.

Q. And I guess I want to be specific to the 2008, 2011, and 2012 storms because there are carrying charges that the company seeks that are not reflected in that application just because of the timing of the filing; is that fair to say?

A. No. We tried to project what those carrying costs would be over the recovery period, so those carrying costs are included in the application.

Q. But if the application was to be approved today as proposed by the company, the collection period from customers would be a three-year period, correct?

A. Yes.

Q. And three years from 2014 would be 2017, correct?

A. Yes.

Q. Did the company calculate carrying charges up until 2017?

A. I believe we calculated carrying costs up through the time that was projected at the time that would be fully recovered, so I believe it was through February of '16.

Q. So there would be more carrying costs that the company is seeking that are not reflected in the application in regard to deferrals of 2008, 2011, and 2012 storms?

A. Not necessarily. I'm not sure -- you know, our projection of carrying costs did not use the most recent debt from the 2012 so the carrying costs would go down -- it depends on what the carrying costs value is about whether or not that number would be higher or lower.

Q. Thank you. And just to confirm the application seeks all the amounts for storm recovery in 2011 and 2012, correct, without any offset?

A. All of the major storm costs of 2011 and 2012 with carrying costs without any offset.

Q. Thank you. I've asked that the court reporter mark as OCC Exhibit M the entry dated October 23, 2013, in this case. Do you have a copy of that?

A. I do not have a copy of that.

Q. I'll give it to you just it take a look at. I'm sure you've seen this entry.

A. Yes, I have.

Q. I will hand this exhibit back to you, but in this October 23, 2013, entry the Commission states that "Therefore, the Commission finds that DP&L's request to recovery capital expenditures from customers as a result of storm restoration efforts should be denied." The company was aware that the Commission denied their request to recover capital expenditures as memorialized in this October 23, 2013, entry, correct?

A. It's my understanding this is not a final order in this case. And, therefore, it's still unsettled whether or not capital costs are recoverable or not.

Q.   Whether or not it's a final order you are aware that this order stated that provision that I read though, correct?

A.   I can -- yes, I can read the words that are on the --

Q.   And the company received this entry, correct?

A.   When you say "received."

Q.   Has a copy.

A.   Yeah.

Q.   Thank you. And you're aware that both the PUCO and OCC staff opposed the collection of capital costs in this proceeding?

A.   I'm aware of their positions, yes. I'm also aware of the company's position that it should seek recovery of capital costs through this proceeding.

Q.   So we can agree that the company thinks that capital costs should be collected from customers in this proceeding, and OCC and the PUCO staff is of the opinion that capital costs should not be included in this proceeding; is that fair to say?

A. I might need the question read back.

Q. That's okay. We can move on. You're aware that the OCC has advocated that capital costs should not be determined in this proceeding; is that fair to say?

A. I'm aware of OCC's position in this proceeding.

Q. And you filed supplemental testimony in January, 2014, correct?

A. I filed supplemental testimony in this proceeding. I can't remember the date. It was in January or December.

Q. And that was after the staff filed their audit report, correct?

A. Oh, yes, that's correct. It would have been in January.

Q. And you filed supplemental testimony, and Mr. Nickel filed supplemental testimony?

A. Yes.

Q. And who else filed supplemental testimony?

A. Mr. Barrett filed testimony in response to the staff audit report.

Q. And was it -- was the company limited in any way in regard to what testimony it could file in its supplemental testimony?

A. I don't understand the question. Limited by what?

Q. Limited by the Commission order or rule.

A. I don't think so.

Q. And the company did not file any testimony in regard to capital costs -- did I say supplemental? Strike that.

And the company did not file any supplemental testimony in regard to collection of capital costs, correct?

A. That's correct but we already had testimony on that supported the capital cost standard service offer; I'm not sure we needed to.

Q. Are you of the opinion that the company could have filed testimony -- strike that.

Are you of the opinion that the company could have filed supplemental testimony in regard to capital costs?

A. Yes, I suppose we could.

Q. Have you begun drafting any rebuttal testimony?

MR. SHARKEY: I am actually going to object and instruct her not to answer that. That's a work product question.

MS. YOST: I had one more question. I can't recall it so at this time I have no further questions for Dona. Thank you for your time.

THE WITNESS: Okay. Thank you.

MS. YOST: I would ask that you read and make any and all necessary changes to your deposition. Thank you.

THE WITNESS: Okay.

(Thereupon, the deposition was concluded at 10:50 a.m.)

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State of Ohio :
: SS:
County of ____________________ :

I, Dona R. Seger-Lawson, do hereby certify that I have read the foregoing transcript of my deposition given on Friday, January 31, 2014; that together with the correction page attached hereto noting changes in form or substance, if any, it is true and correct.

____
Dona R. Seger-Lawson

I do hereby certify that the foregoing transcript of the deposition of Dona R. Seger-Lawson was submitted to the witness for reading and signing; that after she had stated to the undersigned Notary Public that she had read and examined her deposition, she signed the same in my presence on the ________ day of _______________________, 2014.

____
Notary Public

My commission expires __________________, ________.

\- - -

CERTIFICATE

State of Ohio :
: SS:
County of Franklin :

I, Karen Sue Gibson, Notary Public in and for the State of Ohio, duly commissioned and qualified, certify that the within named Dona R. Seger-Lawson was by me duly sworn to testify to the whole truth in the cause aforesaid; that the testimony was taken down by me in stenotypy in the presence of said witness, afterwards transcribed upon a computer; that the foregoing is a true and correct transcript of the testimony given by said witness taken at the time and place in the foregoing caption specified and completed without adjournment.

I certify that I am not a relative, employee, or attorney of any of the parties hereto, or of any attorney or counsel employed by the parties, or financially interested in the action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Columbus, Ohio, on this 5th day of February, 2014.

____
Karen Sue Gibson, Registered
Merit Reporter and Notary Public
in and for the State of Ohio.

My commission expires August 14, 2015.

(KSG-5815)

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