

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. 12-3062-EL-RDR
for Authority to Recover :
Certain Storm-Related :
Service Restoration Costs.:
:

In the Matter of the :
Application of The Dayton :
Power and Light Company : Case No. 12-3266-EL-AAM
for Approval of Certain :
Accounting Authority. :
:

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PROCEEDINGS

before Mr. Gregory Price and Mr. Bryce 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 Thursday, June 5, 2014.

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VOLUME III

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Thursday Morning Session,
June 5, 2014.

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EXAMINER MCKENNEY: The Public Utilities Commission of Ohio calls for hearing, at this time and place, Case No. 12-3062-EL-RDR being In the Matter of the Application of The Dayton Power and Light Company for Authority to Recover Certain Storm-Related Service Restoration Costs. My name is Bryce McKenney, with me is Gregory Price, we're the attorney examiners assigned by the Commission to hear this case.

At this time we'll continue with the witness testimony in this case.

Ms. Yost, are you ready?

MS. YOST: I'm sorry. It will be Mr. Sauer.

EXAMINER MCKENNEY: Oh, I'm sorry. Mr. Sauer.

MR. SAUER: I thought we were going to take Mr. Effron out of order.

EXAMINER MCKENNEY: Yes.

MR. SAUER: Okay. Yeah. OCC very much appreciates the Bench's willingness and DPL's cooperation, and I'll ask to call Mr. Effron to

1 accommodate his travel schedule.

2 EXAMINER PRICE: No problem at all.

3 MR. SAUER: OCC calls David Effron to the
4 stand. We would like his direct testimony marked as
5 Exhibit 20.

6 EXAMINER PRICE: We'll swear him in and
7 then mark the exhibit.

8 (Witness sworn.)

9 EXAMINER PRICE: Please be seated and
10 state your name and business address for the record.

11 THE WITNESS: My name is David Effron,
12 E-f-f-r-o-n. My business address is 12 Pond Path,
13 North Hampton, New Hampshire.

14 EXAMINER PRICE: At this time we will
15 mark his prefiled direct testimony as OCC Exhibit 20.

16 (EXHIBIT MARKED FOR IDENTIFICATION.)

17 MR. SAUER: Thank you, Your Honor.

18 EXAMINER PRICE: Proceed, Mr. Sauer.

19 - - -

20 DAVID J. EFFRON

21 being first duly sworn, as prescribed by law, was
22 examined and testified as follows:

23 DIRECT EXAMINATION

24 By Mr. Sauer:

25 Q. Are you the same David Effron whose

1 direct testimony was filed in these cases?

2 A. Yes, I am.

3 Q. And on whose behalf do you appear today?

4 A. The Office of Consumers' Counsel.

5 Q. Do you have your prepared testimony with
6 you on the stand?

7 A. Yes, I do.

8 Q. And did you prepare the testimony or have
9 it prepared at your direction?

10 A. Yes.

11 Q. And do you have any changes or
12 corrections to your direct testimony?

13 A. I do not.

14 Q. And if I asked you today the same
15 questions found in your direct testimony in OCC
16 Exhibit 20, would your answers be the same?

17 A. Yes, they would.

18 MR. SAUER: Thank you. The OCC moves for
19 the admission of OCC Exhibit 20 and tenders the
20 witness for cross-examination.

21 EXAMINER PRICE: We'll defer ruling on
22 the motion for admission until the conclusion of
23 cross-examination.

24 Dayton Power and Light, cross.

25 MR. SHARKEY: Thank you, Your Honor.

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CROSS-EXAMINATION

By Mr. Sharkey:

Q. Good morning, Mr. Effron. As you know, my name is Jeff Sharkey. I represent The Dayton Power and Light Company here. It's true, isn't it, that you've not testified in a case before in which delay in seeking a deferral was the issue?

A. I don't recall having done so.

Q. Okay. Your testimony addresses only the 2011 storm expenses from The Dayton Power and Light Company?

A. Yes.

Q. You do not address prudence.

A. I do not address the prudence of the storm costs, themselves, no.

Q. Okay. And you don't address whether those 2011 storms were unusual or nonrecurring, do you?

A. I do not address that in the testimony.

Q. Okay. If you would turn in your testimony to page 9. Starting on line 6, you mention a three-prong test and, in particular, the prong about whether the terms of the stipulation violate any important regulatory principle or practice. Do

1 you see that?

2 A. Yes.

3 Q. You understand that's one of the prongs
4 that the Commission uses to evaluate stipulations?

5 A. That's my understanding, yes.

6 Q. And it's true, isn't it, your testimony
7 is limited to that prong; you don't address other
8 prongs in the three-prong test?

9 A. I do not address the other two prongs.

10 Q. Let me ask you questions about rate cases
11 in general. In your experience in rate cases,
12 unusual or nonrecurring storm costs would be
13 normalized out and thus not recoverable through base
14 distribution rates, correct?

15 A. That's one way to do it. In some
16 jurisdictions, the utilities will accrue an annual
17 expense for storms that go into a storm fund and any
18 qualifying storm costs would be charged against that
19 reserve as they're incurred. But, typically, in the
20 context of a base rate case, if there are large
21 nonrecurring storm costs in a test year in a case,
22 then there's no storm fund mechanism. Those costs
23 would be normalized in one way or another so that
24 they're not treated as a normal, ongoing expense
25 that's incurred annually.

1 Q. And that's been the rule for over 35
2 years?

3 A. Pretty much as long as I can remember
4 that would be the typical treatment.

5 Q. Okay. It's true, isn't it, that you're
6 not aware of any statute or rule establishing a
7 deadline for a utility in Ohio to seek a deferral?

8 A. I would leave the statutory
9 interpretation to the attorneys, but I'm not aware of
10 any myself.

11 Q. Okay. You're also similarly not aware of
12 any statute or rule that establishes a deadline for a
13 utility to seek recovery of storm expenses?

14 A. Again, I haven't reviewed the statutes,
15 myself, but I couldn't cite you anything as I sit
16 here, certainly.

17 Q. Okay. And, again, similarly, you're not
18 aware of any statute or rule that a utility must seek
19 approval of a deferral before taking a deferral,
20 right?

21 MR. SAUER: Could I have that question
22 read back?

23 (Record read.)

24 A. I'm not aware of any statute. I guess
25 "rule" is a little more general. I couldn't cite you

1 any administrative rule by an administrative agency
2 that says that. I think if a utility is going to
3 defer costs, just as a matter of common sense, it
4 would make the recovery -- the recovery would be more
5 likely if there were such approval, but I can't say
6 that there would be an administrative rule that
7 requires it.

8 Q. You're not aware of any earnings benefit
9 that Dayton Power and Light received by waiting to
10 take the deferral on the 2011 storms until December
11 of 2012?

12 A. I wouldn't agree with that. I believe
13 that by waiting, the recognition of the storm costs
14 were, in effect, shifted from one year to another.
15 That had the result of making the earnings in 2012
16 appear better in relation to the earnings in 2011
17 than they would have been if the deferral had taken
18 place in 2011. So I think some people would argue
19 that's a benefit.

20 Q. Well, if we look at 2011 and 2012
21 together, you're not claiming that DP&L's earnings
22 improved somehow by taking the deferral in 2012 as
23 opposed to 2011, right?

24 A. As a matter of arithmetic, if you looked
25 at the two years together, it wouldn't, no.

1 Q. You're not aware of any injury to
2 customers from the delay?

3 A. I guess it depends on your basis of
4 comparison. It wouldn't be any injury if you assumed
5 that the Company would have been authorized recovery
6 if they had sought such authorization in 2011.
7 Arguably, at some point, I think the customers,
8 assuming they file these things, would have a sense
9 that they weren't going to have to pay for those
10 storms that recede farther into the past as the
11 request for approval is delayed.

12 So to the extent that customers might
13 have thought that they weren't going to have to pay
14 for those costs and then they did have to pay for
15 those costs, some people might see it as a
16 disadvantage.

17 EXAMINER PRICE: Let me ask a similar
18 question, but not identical. Is there any prejudice
19 to the customers by the delay?

20 THE WITNESS: I would say the same thing,
21 it just depends how you define "prejudice." There's
22 no prejudice to them, again if you compare it to what
23 they -- the rates they would have paid assuming that
24 the Company sought the authorization in 2011 and it
25 was granted.

1 On the other hand, if the customers have
2 some sense of being passed it and being in a position
3 where they wouldn't have to pay for those 2011 costs
4 prospectively, arguably that's something that could
5 be looked at as prejudicial to customers.

6 EXAMINER PRICE: You think that
7 residential customers would think along those lines?

8 THE WITNESS: They probably wouldn't be
9 that aware of the details of what's going on.

10 EXAMINER PRICE: Do you think that --
11 does OCC believe that customers are any -- that OCC
12 is any less able to contest whether these expenses
13 should be recovered because of Dayton's delay?

14 THE WITNESS: You'd have to ask OCC that.

15 EXAMINER PRICE: You are OCC.

16 THE WITNESS: Well, I'm an independent
17 witness that's hired by them so --

18 EXAMINER PRICE: You have no opinion on
19 that question.

20 THE WITNESS: I'm not -- I'm not trying
21 to be evasive. The question on whether OCC feels?

22 EXAMINER PRICE: Let me rephrase it then.

23 Do you feel that customers are less able
24 to contest these charges because of the delay?

25 THE WITNESS: As far as I know, they're

1 not.

2 EXAMINER PRICE: Okay. Thank you.

3 Thank you, Mr. Sharkey.

4 MR. SHARKEY: Thank you, Your Honor.

5 Q. (By Mr. Sharkey) It's also true that if
6 carrying costs start at the time of the deferral,
7 then customers will end up paying lower carrying
8 costs due to DP&L's delay in seeking the deferral,
9 right?

10 A. If you assume that the carrying costs
11 were authorized and they would apply to all the costs
12 that they were incurring from the time they were
13 incurred, I should say from the time that recovery
14 was approved, there would be a lower level of
15 carrying charges.

16 Q. Okay. You understand that DP&L filed an
17 application to defer and recover its 2011 storm costs
18 before DP&L recorded the deferral on its financial
19 statements, right?

20 MR. SAUER: Can you repeat that question,
21 please?

22 (Record read.)

23 A. I think that's right. I wasn't there
24 when DP&L booked the deferral, but that sounds right
25 from what I've read.

1 Q. Okay. You agree that the 2011 storm
2 expenses would not be probable for recovery if DP&L
3 never asked to recover them?

4 A. Seems unlikely.

5 Q. It's also true, isn't it, that you're not
6 aware of any evidence in this case that DP&L, at any
7 time, had a subjective belief that it was not likely
8 to recover its 2011 storm expenses? Actually, strike
9 that. I'll ask that question differently.

10 You're not aware of any evidence that
11 DP&L had a subjective belief that its 2011 storm
12 expenses were imprudent or were in response to storms
13 that were not atypical or nonrecurrent?

14 A. I haven't seen any evidence of what you
15 described, but, again, I haven't interviewed all the
16 DP&L managers or executives; so I don't know what's
17 in their mind really.

18 Q. Fair enough. Just on the facts that
19 you've seen and what you know, you haven't seen any
20 such evidence.

21 A. I haven't seen anything that would
22 indicate that.

23 Q. You mentioned earlier whether expenses
24 were recorded in 2011 and 2012 and whether expenses
25 were shifted between periods. Let me ask you this:

1 You're not aware of any facts showing that, when
2 doing so, it was DP&L's intent to mislead investors?

3 A. I haven't seen any hard evidence of that.
4 The timing, though, raises questions, but I haven't
5 seen any evidence that that's what was on their minds
6 when they did that.

7 Q. And you don't claim that any investors
8 were misled by DP&L's accounting practices, correct?

9 A. Well, I would think there could be some
10 people who looked at that and saw the trend in
11 earnings and it was something other than it would
12 have been if the deferral had been booked in 2011.

13 Now, to the extent that some investors
14 might look at trends like that, I think the reported
15 earnings would not present a completely accurate
16 picture. To the extent that's material or not might
17 be debatable, but I think it did distort the reported
18 earnings from one year to the next.

19 Q. You're not claiming that, first of all,
20 DP&L accounting practices, in terms of when it
21 determined -- strike that.

22 You understand it's appropriate to record
23 a deferral when a deferral -- when an expense becomes
24 probable for recovery?

25 A. That's the standard, yes.

1 Q. Okay. And do you understand that DP&L
2 had not made a decision whether to seek recovery of
3 its expenses for the 2011 storms until sometime in
4 2012?

5 MR. SAUER: Can I have that question
6 reread?

7 (Record read.)

8 A. I would say by not recording a deferral
9 or seeking authorization in 2011, that no decision,
10 in effect, was a decision not to record a deferral or
11 to seek recovery in 2011. So there might not have
12 been an affirmative decision, but the Company decided
13 not to book a deferral to seek recovery in 2011.

14 Q. But it did decide to seek recovery in
15 2012, right?

16 A. Obviously.

17 Q. And you're not aware of any rules, we've
18 already covered, that establishes a deadline for DP&L
19 to either seek a deferral or to seek recovery.

20 A. I can't cite you any statute of that
21 nature. Again, as a matter of logic, it would seem
22 to be more prudent to seek the recovery earlier when
23 they knew the facts rather than waiting almost two
24 years.

25 Q. You can't identify any facts for me to

1 show that any actual investors were misled, can you?

2 A. I haven't interviewed investors, but,
3 again, I think the way the costs were treated did
4 have some distortive effect on the earnings from one
5 year to the next.

6 EXAMINER PRICE: Do you think they should
7 have restated their earnings?

8 THE WITNESS: The -- the -- no. The
9 accounting rules don't provide for that, when there's
10 an accounting change, they don't go back to prior
11 periods and restate earnings. They're booked in the
12 period when the accounting change is made.

13 EXAMINER PRICE: But once they're booked,
14 they would not be required to or under any obligation
15 to restate their previous earnings.

16 THE WITNESS: I think not only they're
17 under no obligation; that's not what the accounting
18 rules permit. There's some sense of finality that
19 you don't go back, as a general rule, and restate
20 earnings for subsequent accounting changes. There
21 are some exceptions, but that's the general rule.

22 EXAMINER PRICE: Can I just make one
23 question clear? You're not alleging that Dayton
24 Power and Light violated any accounting standards in
25 this, are you?

1 THE WITNESS: I am not, no. Well, no
2 accounting standards.

3 EXAMINER PRICE: Let me be very specific.
4 You're not alleging they violated any accounting
5 standards, are you?

6 THE WITNESS: I'm not saying they
7 violated accounting standards, no.

8 EXAMINER PRICE: Thank you.

9 Q. (By Mr. Sharkey) Let me ask you about the
10 First Energy case that you cited in your testimony.
11 You understand in that case that First Energy had
12 asked the Commission to defer certain MISO charges?

13 A. Yes.

14 Q. And those charges were made by MISO to
15 First Energy on a monthly basis?

16 A. Yes.

17 Q. And First Energy knew it was going to be
18 incurring those costs before it started to incur
19 them.

20 A. It knew before they started to incur them
21 and they knew after the costs were incurred as well.

22 Q. It knew -- First Energy, in effect, knew
23 those charges were going to be a continuing charge
24 that it was going to be continuing to incur, right?

25 A. I assume they knew that, as well as after

1 the charges had started they knew they'd be incurred,
2 yes.

3 Q. Okay. The Commission in that case held
4 that First Energy could recover expenses that it
5 incurred after its request to defer, but not the
6 expenses that it incurred before the request, right?

7 A. Yes.

8 Q. Here, it's true, isn't it, that DP&L did
9 not know that it was going to be incurring the 2011
10 storm expenses before the storms occurred?

11 A. They didn't know that they were going to
12 incur them before they were incurred. They knew that
13 they had been incurred shortly after they were
14 incurred, though.

15 Q. It's also true, isn't it, DP&L could not
16 seek a deferral of the 2011 storm expenses before it
17 incurred them?

18 A. It could not have sought to defer them
19 before they were actually incurred in January 2011.
20 Obviously, after they were incurred, they knew they
21 had been incurred though.

22 MR. SHARKEY: Can I have a minute, Your
23 Honor?

24 Your Honor, I have no further questions.

25 EXAMINER PRICE: Redirect?

1 I'm sorry. Mr. O'Rourke?

2 MR. O'ROURKE: No cross, Your Honor.

3 MR. SAUER: May I have a few minutes with
4 my witness?

5 EXAMINER PRICE: Let's go off the record.

6 (Off the record.)

7 MR. SAUER: Thank you, Your Honor. OCC
8 has no further questions for Mr. Effron.

9 EXAMINER PRICE: I have no further
10 questions. Mr. McKenney?

11 EXAMINER MCKENNEY: I have nothing.

12 EXAMINER PRICE: Thank you for your time.
13 Have a safe trip back.

14 Let's go off the record.

15 (Discussion off the record.)

16 EXAMINER PRICE: At this time, Dona
17 Seger-Lawson will be re-called to continue her
18 cross-examination by the Office of Consumers'
19 Counsel.

20 Ms. Seger-Lawson, I would like to remind
21 you that you are still under oath.

22 MS. SEGER-LAWSON: Okay.

23 EXAMINER PRICE: I think we have a couple
24 housekeeping matters before we start
25 cross-examination.

1 Mr. Sharkey.

2 MR. SHARKEY: Yes, Your Honor. During
3 Bryce Nickel's testimony, he identified four poster
4 boards that contained photographs of damage from 2008
5 Hurricane Ike, 2011 major storms, and the 2012
6 derecho storm. I'd ask that those be designated
7 DP&L 44, DP&L 45, DP&L 46, DP&L 47, and would move
8 that they be admitted into the record in this case.

9 (EXHIBITS MARKED FOR IDENTIFICATION.)

10 EXAMINER PRICE: Any objection to the
11 admission of DP&L Exhibits 44, 45, 46, and 47?

12 MR. SAUER: No objections, Your Honor,
13 but is it possible for the Company to provide copies
14 of those --

15 MS. YOST: Smaller.

16 MR. SAUER: -- smaller, you know, not
17 poster-sized pictures, but smaller pictures of what's
18 being admitted?

19 MR. SHARKEY: Yes, it is, Your Honor.

20 EXAMINER PRICE: Thank you.

21 MR. SHARKEY: We'll provide those to OCC
22 promptly after the hearing.

23 EXAMINER PRICE: And the Bench.

24 MR. SHARKEY: We will do that too.

25 EXAMINER PRICE: Because we will tender

1 the pictures to the docketing division. So we would
2 like copies for ourselves.

3 MR. SHARKEY: Okay.

4 EXAMINER PRICE: And just to be clear, at
5 some point somebody will mark which one is 44, 45,
6 46, and 47?

7 MR. SHARKEY: We did that during the
8 break, Your Honor.

9 EXAMINER PRICE: Oh, I'm sorry. Great.
10 Thank you. Then those exhibits will be admitted.

11 (EXHIBITS ADMITTED INTO EVIDENCE.)

12 EXAMINER PRICE: We had another issue, a
13 housekeeping matter?

14 MR. SHARKEY: We did, Your Honor. You
15 recall that Ms. Yost had moved to exclude certain
16 pieces of Ms. Seger-Lawson's testimony that related
17 to the recovery of capital in this case, and that I
18 had asked you to have time to meet with
19 Ms. Seger-Lawson and to review the particular pieces
20 to see whether any of them fell within the scope of
21 your ruling that pieces -- fell outside the scope,
22 rather, of your ruling that the capital testimony
23 would be excluded.

24 And we would argue that one piece of her
25 testimony should not be excluded that Ms. Yost

1 identified. I'm looking at Ms. Seger-Lawson's direct
2 testimony which was DP&L Exhibit 5, page 7. Let me
3 know when you're there so I can --

4 EXAMINER PRICE: We're there.

5 MR. SHARKEY: Okay. The piece that we
6 would argue should be included would be line 1
7 through line 8, ending in the word "rates." So the
8 last three words in line 8, "the Company should,"
9 we're not opposing the exclusion of those pieces and
10 the other pieces identified by Ms. Yost, but
11 essentially it's the question and line 8 through
12 "rates." We believe that description, the facts
13 described in her answer are general facts relating to
14 how a rate case occurs and aren't limited to capital
15 only and, thus, should remain in the record.

16 EXAMINER PRICE: The problem is that the
17 question -- the answer, then, would not be really
18 responsive to the question. The question is "Why is
19 it appropriate to recover capital costs," and the
20 Company has already decided to forego capital costs.
21 I think most of those facts are otherwise in the
22 record or you'll be able to elicit those on redirect.
23 Therefore, we will go ahead and grant OCC's motion to
24 strike in its entirety.

25 MR. SHARKEY: Thank you, Your Honor.

1 MS. YOST: Thank you, Your Honor.

2 EXAMINER PRICE: One more housekeeping
3 matter, Ms. Yost?

4 MS. YOST: Yes, Your Honor. Yesterday,
5 during the cross-examination, I produced an exhibit
6 which was marked 18. It was a November 6th, 1991,
7 Stipulation and Recommendation. It was then noted
8 that some copies of OCC Exhibit 18 were missing every
9 other page. So I would now like to have marked as
10 OCC Exhibit 18A as in apple, the, hopefully, complete
11 stipulation dated November 6th, 1991.

12 EXAMINER PRICE: It will be so marked.

13 (EXHIBIT MARKED FOR IDENTIFICATION.)

14 MS. YOST: Thank you, Your Honor. May I
15 approach the bench?

16 EXAMINER PRICE: You may.

17 Please proceed.

18 MS. YOST: Thank you, Your Honor. Before
19 I proceed, is it possible for Mr. Sauer, he did not
20 get the chance to move Mr. Effron's testimony or
21 ruling on Mr. Effron's testimony.

22 EXAMINER PRICE: I'm sorry, Mr. Sauer,
23 that was my mistake. Mr. Sauer, you have a motion?

24 MR. SAUER: I do, Your Honor. Thank you.
25 I'd like to move for the admission of OCC Exhibit 20,

1 the testimony of David Effron.

2 EXAMINER PRICE: Any objections?

3 MR. SHARKEY: No, Your Honor.

4 EXAMINER PRICE: The exhibit will be
5 admitted.

6 (EXHIBIT ADMITTED INTO EVIDENCE.)

7 MR. SAUER: Thank you.

8 - - -

9 DONA R. SEGER LAWSON

10 being first duly sworn, as prescribed by law, was
11 examined and testified as follows:

12 CROSS-EXAMINATION

13 By Ms. Yost:

14 Q. Good morning, Ms. Seger-Lawson.

15 A. Good morning.

16 Q. You have, in front of you, a copy of --
17 or, one copy of all three pieces of your testimony
18 that's been filed in this proceeding?

19 A. Yes.

20 Q. In front of you I've put what has been
21 previously marked as OCC Exhibit No. 5. I'll have
22 some questions in just a short time. But could you
23 please turn to -- well, let's start off: Since
24 August 2008, the Company has not had a storm rider in
25 place, correct?

1 A. I'm not sure of the month, but we had a
2 storm rider in place at least for part of 2008. I'm
3 just not sure if it was through August or not.

4 Q. Do you have a copy of your deposition in
5 front of you?

6 A. Yes.

7 MS. YOST: I'm just going to let your
8 counsel know that I am not using the deposition to
9 impeach. I'm just going to direct the witness to a
10 portion of the deposition to see if it refreshes her
11 recollection.

12 Q. Dona, if you could -- Ms. Seger-Lawson,
13 if you could, please, turn to page 25, line 6. Does
14 that refresh your recollection?

15 A. Yes, I'm sorry. It says in my testimony,
16 on page 3 of my direct testimony, line 11, "the
17 Company had a storm rider in place from August 2006
18 through July 2008. So yes, that would mean that
19 starting in August 2008 we have not had a storm rider
20 since then.

21 Q. And in regard to storm costs, is it fair
22 to say that if -- strike that.

23 Is it fair to say that if a cost can be
24 collected from customers and there is an associated
25 carrying cost, that the longer that the cost is

1 deferred, the more cost it is to customers?

2 A. Yes, the more cost there is to customers,
3 but the carrying cost represents the time value of
4 money. So if the Company incurred costs in 2008 and
5 didn't collect them until 2014, the Company was out
6 that money. The Company had expenses in 2008
7 associated with storm costs and paid those bills and
8 didn't receive the money until 2014. So there's a
9 time value of money and that's why there is a
10 carrying cost.

11 Q. So the answer to my question is "yes,"
12 correct?

13 A. I believe -- yes, I said "yes."

14 MS. YOST: At this time I would like to
15 have marked as OCC No. 21, it's the
16 December 28th cover letter filed in Case 08-1332, and
17 the application filed on December 26th, 2008.

18 EXAMINER PRICE: It will be so marked.

19 (EXHIBIT MARKED FOR IDENTIFICATION.)

20 MS. YOST: Thank you, Your Honor. May I
21 approach the bench?

22 EXAMINER PRICE: You may.

23 Q. Please take a moment to familiarize
24 yourself with this Exhibit 21 and let me know when
25 you're ready to proceed.

1 A. Okay. I'm ready.

2 Q. And you've seen this document before,
3 correct?

4 A. Yes.

5 Q. And you know this to be the application
6 that DP&L filed when it sought collection -- or,
7 excuse me, when it sought PUCO approval to defer
8 storm costs related to Hurricane Ike, and the
9 application states that windstorm began on September
10 14th, 2008?

11 A. I would not characterize it that way. I
12 would characterize it as a request for a deferral for
13 all of 2008 major storms that exceed the three-year
14 average. I believe at paragraph 3 it says "The
15 portion of the O&M expenses the Company proposes to
16 defer is the amount by which the total O&M expenses
17 associated with the Hurricane Ike-related service
18 restoration expenses and other storms experienced in
19 2008 exceeds the three-year average...."

20 Q. And this was filed, we just said,
21 December 26th, 2008, correct?

22 A. Yes, December 26th, 2008.

23 Q. And you're familiar with the standard in
24 regard to when deferrals can be sought for storm
25 costs?

1 A. I'm confused by the word "standard." I
2 don't believe there is a rule that requires any
3 utility to request deferral of storm costs by any
4 certain date.

5 Q. The phrase "probability of recovery,"
6 what does that mean to you, if anything?

7 A. Probability for recovery is an accounting
8 nomenclature that we use to determine when to record
9 a regulatory asset. In order to record a regulatory
10 asset, to take something that would have been an
11 expense and turn it into a capital asset is such that
12 you have to determine that cost is going to be
13 probable for recovery, and that has a very high
14 standard. You have to -- it can't be just 51 percent
15 probable; it has to be 75 to 85 percent probable for
16 recovery.

17 Q. So as of December 26th, 2008, the Company
18 had deemed the storm costs associated with Hurricane
19 Ike probable for recovery. Is that fair to say?

20 A. By December 26th, 2008, yes, we did. I
21 believe we had had conversations with the staff and
22 other Ohio utilities about Hurricane Ike damage and
23 how extensive it was.

24 Q. And in your application you also request
25 a carrying charge, correct? It would be under

1 paragraph 2, if that's helpful.

2 A. Yes.

3 Q. And you requested, in the application,
4 that that carrying charge applied to "the unrecovered
5 deferral balance and defer such carrying charge for
6 future recovery," correct, the last sentence of
7 line 2?

8 A. Yes, that's what it says.

9 Q. And when did -- and the Company could
10 have also sought to collect those costs in regard to
11 the 2008 storms in 2008, correct?

12 A. I don't believe so.

13 Q. Why not?

14 A. Yes, I'm sorry, we could have.

15 Q. And the Company could have sought to
16 collect the 2008 costs in 2009, correct?

17 A. Yes.

18 Q. And the Company could have sought to
19 collect 2008 storm costs in 2010, correct?

20 A. Yes.

21 Q. And the Company could have sought to
22 collect 2008 storm costs in 2011, correct?

23 A. Yes.

24 Q. But the Company did not seek to collect
25 2008 storm costs until four years later in December

1 2012, correct?

2 A. Yes, that's correct. I don't believe
3 that there's any requirement that we seek recovery
4 within a certain time frame. And, further, parties
5 such as OCC could have requested the Company to seek
6 recovery of that cost if they were concerned about
7 increasing carrying costs.

8 Q. Whose job is it to seek collection of
9 costs from customers? Is that part of the Company's
10 job?

11 A. Yes, it's the Company job, but if OCC or
12 other parties were to have a concern with the
13 Company's timing of recovery, they could have, first
14 of all, talked to the Company about it; but,
15 secondly, requested that the Company seek recovery of
16 that so the carrying costs would not have increased.

17 Q. So the Company waited almost four years
18 to the date to seek collection of 2008 costs after
19 they were deemed probable for recovery, correct?

20 A. Again, there was no requirement to -- on
21 the timing for seeking recovery of those costs.
22 There were many things going on in 2008, 2011, we
23 were filing ESP cases, we were in the middle of a
24 merger, there were a number of things that were
25 happening as to why we did not seek recovery of those

1 costs.

2 EXAMINER PRICE: I think you need to
3 answer her question first and, then, if Mr. Sharkey
4 wants to elicit further information, but I don't
5 think your answer to that question was particularly
6 responsive. Why don't we have the question back and
7 you can take another shot at it.

8 (Record read.)

9 A. Yes, the Company waited to recover the
10 costs, but that's because there were many things
11 going on at the time.

12 Q. And it was almost four years to the date,
13 correct, because the application we're discussing was
14 filed December 31st, 2012, correct?

15 A. Yes. But, again, there's no requirement
16 that we file by a certain date.

17 Q. I placed in front of you a document
18 that's been previously marked OCC Exhibit No. 5.
19 It's a set of e-mails. At the bottom right, Dona, it
20 is marked 2846, Bates stamped. Do you have that in
21 front of you? Did you locate that?

22 A. Yes, I have it.

23 Q. And could you please turn to what is the
24 second page which -- the second page, Bates stamp
25 2847. The e-mail at the bottom half of that page,

1 and you were copied on this e-mail, correct?

2 A. Yes, I was.

3 Q. And in regard to paragraph 1, you see
4 there is a question and then there's a response that
5 begins "The total amount of 2008 storms was
6 \$17,245,984...." Do you see that sentence?

7 A. Yes, I do.

8 Q. Who prepared that response?

9 A. That was probably some combination of
10 Emily Rabb and Claire Hale, and I would have reviewed
11 it before it was submitted to staff.

12 Q. So the figure on this exhibit, Bates
13 stamp 2847, OCC Exhibit 5, indicating what the total
14 amount of 2008 storms was, 17,235,984, that is a
15 correct figure in regard to what the Company
16 maintains to be the storm costs that year?

17 A. No. I believe . . .

18 Yes, I'm sorry. I believe that that's --
19 the 17-million-235 was the amount of the storms, but
20 the deferral was only the 14-8.

21 Q. Thank you. Because the deferral was 14-8
22 because the Company subtracted a three-year average
23 from the 17-million-dollar amount we just discussed,
24 correct?

25 A. Yes. The Company subtracted a three-year

1 average because that's what was in its filing for the
2 deferral in 2008, and that's what the Commission
3 granted. And, again, those were all 2008 storms so
4 that's why it's appropriate to subtract a baseline.

5 Q. And that baseline was calculated by using
6 storm costs for 2005, minus the amount of costs that
7 the Company had recovered, correct?

8 A. Yes. It's the Company's position that a
9 baseline should not apply at all, period, for 2011
10 and 2012. But if one is to calculate a baseline,
11 that baseline should reflect only that which is
12 assumed to be included in base rates.

13 So to the extent the Company incurred
14 costs in 2005 and recovered that cost from customers
15 through a separate non-base-rate rider, that cost is
16 assumed not to be in base rates. So you need to
17 subtract that out of the three-year average.

18 Q. So the Company began to defer \$14,896,538
19 in 2008, correct?

20 A. Yes, the original amount we deferred was
21 the 14,896,538.

22 Q. And then as of the deferral balance which
23 was accruing carrying costs, as of December 31st,
24 2012, that amount was up to \$18,930,217, correct?

25 A. I don't have the balance in front of me.

1 Q. Do you have any reason to dispute the
2 amount that's on Bates stamp 2847?

3 A. I'm sorry. Can you show me again where
4 you are?

5 Q. Sure. It's still in the response under
6 paragraph 1, the second sentence. It says DP&L
7 subtracted a three-year average from this amount and
8 deferred 14-million-896 -- I'm sorry, strike that.

9 Then it goes on to say "This amount then
10 accrued carrying charges, resulting in a deferral of
11 \$18,930,217 as of December 31st, 2012." Do you have
12 any reason to dispute that figure that as of
13 December 31, 2012, the deferral amount for those 2008
14 storms plus carrying costs was the \$18.9 million?

15 A. No, I do not. As we discussed before,
16 the Company incurred 17,235,984 in 2008 and it paid
17 that expense. And so, it was out cash of \$17 million
18 in 2008. And so, the carrying costs is just a time
19 value of money. So it's a payment that the Company
20 was out of the money for \$17 million for four years.

21 Q. And because of the Company's decision to
22 delay seeking collection of costs from customers,
23 customers incurred -- strike that.

24 Because the Company decided to delay
25 seeking collection of costs from customers, that

1 deferred balance increased by \$4 million in just four
2 years, correct?

3 A. Yes, it did, and that is the reflection
4 of the time value of money and the Company's cost of
5 debt.

6 Q. So what once, in 2008, was \$14.8 million
7 the Company could have sought to collect from
8 customers; as of the time they actually filed the
9 application that amount was \$18.9 million, correct?

10 A. Yes. The Company incurred \$17 million in
11 expenses in 2008.

12 Q. So for each year the Company delayed
13 seeking collection, it sought to collect an
14 additional million dollars from customers, correct?

15 A. The Company sought a deferral, was
16 granted a deferral with carrying costs from the
17 Commission, and the Company was abiding by that
18 order. We were including carrying costs because
19 that's what we were granted.

20 Q. And if you could turn to your testimony,
21 page 5.

22 MR. SHARKEY: Which testimony, Melissa?

23 MS. YOST: That would be the supplemental
24 testimony, which I believe is DP&L Exhibit 6, page 5.

25 Q. Are you there?

1 A. Yes.

2 Q. And based on your supplemental testimony,
3 you now indicate that the Company's once-deferred
4 amount of \$14.8 million in 2008, because of carrying
5 charges has now increased to \$20.1 million, correct?

6 A. Yes, that's correct.

7 EXAMINER PRICE: How can that be? If you
8 go back to OCC 5.

9 THE WITNESS: OCC 5 it was 18.9 as of
10 December 31st of '12. So by January of 2014.

11 EXAMINER PRICE: Okay. I guess I was
12 looking at the date of the data request in March of
13 2014. So I was thinking that was when it was
14 current. Okay. So the deferral was 18-9 as of
15 December 31st, 2012, not in '14.

16 THE WITNESS: Right.

17 EXAMINER PRICE: And now it's 20.1.

18 THE WITNESS: Right.

19 EXAMINER PRICE: Okay. That makes sense.
20 Thank you.

21 Q. (By Ms. Yost) And in its application, the
22 Company requested carrying charges into 2017 for some
23 storm costs, correct?

24 EXAMINER PRICE: Can you specify which
25 application? You're talking about the application

1 for this case?

2 Q. Yes, the application in this case.

3 A. I'm not sure if I have a copy of the
4 application with me.

5 Q. I have an extra one.

6 A. I do have it here.

7 Q. If I could turn your attention to -- if I
8 could turn your attention to WPC-3. In its
9 application filed in this proceeding, the Company
10 requested carrying charges calculated through
11 February 2016 as indicated on WPC-3, correct?

12 A. Yeah, WPC-3 was the calculation of
13 forecasted carrying costs that was trying to project
14 the carrying costs over the time of recovery. Again,
15 it's the time value of money. So if the Company does
16 not recover the amount in the year that it was
17 incurred, there's carrying costs associated with it.

18 Q. So is it your understanding that the
19 Company, in its application in this case, requested
20 approximately \$37 million in O&M expenses and
21 carrying costs?

22 A. No. The \$37 million was our
23 prudently-incurred costs associated with the 2008,
24 2011, and 2012 storms.

25 Q. Of O&M costs?

1 A. Yes, I believe that's right.

2 Q. And carrying costs?

3 A. Let me check that.

4 Yes, I'm sorry, the 37 million included
5 carrying costs.

6 Q. So as shown on WPC-3 for storm amounts
7 requested for years 2012 and 2011, the Company
8 requested carrying costs in the 37 million you just
9 spoke of, calculated through February of 2016,
10 correct?

11 A. Yes. That was assuming a certain level
12 of recovery was granted. So the carrying costs would
13 vary based on what amount is recovered when.

14 Q. And in regard to the 2011 storm costs,
15 the Company requested carrying costs for those
16 amounts through February 2016 when they were not
17 deferring any carrying costs on its books, correct?

18 A. Yes. Again, the purpose of time is the
19 time value of money. That's what the carrying cost
20 is for. So if the Company incurred expenses in 2011,
21 it paid that in cash and, therefore, the carrying
22 cost is the time value of money of essentially
23 reimbursing the Company for its time value of money.

24 Q. So at the bottom of WPC-3, this indicates
25 \$3.1 million, it says total carrying costs. Do you

1 see that?

2 A. Yes.

3 Q. So that \$3.1 million was included in the
4 \$37 million request, just to be clear?

5 A. Yes, I believe so. But, again, that --
6 that's for everything that's in the case. So we're
7 requesting, at that time, O&M and capital recovery,
8 and the 37 million included carrying costs on all of
9 that.

10 Q. And, again, in regard to WPC, what is the
11 carrying cost rate that is used to calculate that
12 3.9 -- I'm sorry, I switched, I apologize, I
13 switched. I meant WPC-3. The total carrying cost
14 indicated there is \$3.1 million. What does WPC-3
15 indicate that the carrying cost rate used to
16 calculate that amount was?

17 A. It indicates that -- it indicates, at
18 footnote 4, that the carrying costs for December of
19 2012 through February of '13 are at the 5.86 percent,
20 and the carrying costs for March '13 through
21 February '16 are 5.38 percent.

22 EXAMINER PRICE: And what do those
23 numbers represent?

24 THE WITNESS: 5.86 was our cost of debt
25 from our 2008 ESP stipulation. And the 5.38 was one

1 of the cost of debts from our pending ESP. When we
 2 filed this case in December of '12, our current ESP
 3 was pending and there were two different costs of
 4 debts in that case; one being the full cost of debt
 5 which is the -- let me make sure I say this right --
 6 was the 5.38 percent. And there was a lower cost of
 7 debt which I believe was 4.94 percent which reflected
 8 just the regulated cost of debt.

9 EXAMINER PRICE: And in neither case were
 10 you asking for your weighted average cost of capital.

11 THE WITNESS: That's correct.

12 EXAMINER PRICE: And just so the record
 13 is clear, all of this is premised on beginning
 14 collection on March of 2013.

15 THE WITNESS: Yes, that's correct.

16 EXAMINER PRICE: Which did not happen.

17 THE WITNESS: Which did not happen. And
 18 it also includes the full revenue requirement that
 19 the Company filed including the capital and the
 20 taxes --

21 EXAMINER PRICE: I understand.

22 THE WITNESS: -- and the depreciations.

23 EXAMINER PRICE: Thank you.

24 And as to the 2011 storm costs, the
 25 carrying costs would commence when?

1 THE WITNESS: I believe it was once
2 recovery began, but I am not finding that readily.

3 EXAMINER PRICE: It looks to me like, if
4 you look at line 4 on WPC-3, that carrying costs
5 commence March 2013, but I want to confirm that
6 because I could easily be wrong.

7 THE WITNESS: Yes, that's correct. We
8 did apply carrying costs on 2011 while we were
9 deferring it and then we assumed that the carrying
10 costs would not begin until we were granted authority
11 to recover it, which we assumed, in this case, would
12 be March of 2013.

13 EXAMINER PRICE: Not just the authority
14 to recover it, you also included in your application
15 a request for accounting authority.

16 THE WITNESS: Yes.

17 EXAMINER PRICE: So you were assuming, at
18 March of '13, the Commission would have granted the
19 request for accounting authority and granted
20 recovery.

21 THE WITNESS: Yes.

22 EXAMINER PRICE: And that's when you
23 began carrying costs.

24 THE WITNESS: Yes.

25 EXAMINER PRICE: There's no effort to

1 collect carrying costs up until the Commission grants
2 recovery.

3 THE WITNESS: Right.

4 EXAMINER PRICE: Thank you.

5 Thank you, Ms. Yost.

6 Q. (By Ms. Yost) And as of January 1 2014,
7 the Company's carrying cost rate was lowered about
8 one point, correct?

9 A. When the Commission issued an order in
10 our ESP case, we lowered the carrying cost, effective
11 January 1st of 2014, to reflect that ESP carrying
12 cost rate.

13 EXAMINER PRICE: How much is that?

14 THE WITNESS: 4.94.

15 EXAMINER PRICE: Thank you.

16 Q. And so, if you were to recalculate this
17 after January 2014, on line 14, going forward, you
18 would use the 4.94 in lieu of the 5.86, correct?

19 A. I think on this schedule, as it says in
20 footnote 4, the rate that we have on this schedule is
21 5.38. So we would have replaced 5.38 with the 4.94
22 starting in January of 2014. And, in addition to
23 that, we would adjust it for -- assuming that capital
24 is no longer collected, we would adjust all the
25 numbers for that --

1 Q. So even --

2 A. -- which would lower the carrying costs.

3 Q. So just by lowering the carrying cost
4 rate, that would have decreased the amount of
5 carrying costs after January 2014, as reflected on
6 WPC-3, correct?

7 A. Yes.

8 EXAMINER PRICE: All of that discussion
9 aside, the stipulation that's before the Commission
10 now, provides for no additional carrying costs; is
11 that correct?

12 THE WITNESS: That's correct. The
13 stipulation says that the recovery amount would be
14 the 22-3 and that includes all carrying costs. So
15 there would be no additional --

16 EXAMINER PRICE: No additional carrying
17 costs --

18 THE WITNESS: -- carrying costs.

19 EXAMINER PRICE: -- over the period of
20 recovery.

21 THE WITNESS: That's correct.

22 MS. YOST: Your Honor, could we go off
23 the record?

24 EXAMINER PRICE: I have one more
25 follow-up question. And so, by definition, since

1 2011, you have never booked carrying costs, whatever
 2 2011 recovery is in that 22.3 million, means that you
 3 will never receive any carrying costs for whatever
 4 2011 expenses you're getting recovery for.

5 THE WITNESS: That's correct.

6 EXAMINER PRICE: Thank you.

7 Now we can go off the record.

8 (Discussion off the record.)

9 (Recess taken.)

10 EXAMINER PRICE: Please proceed.

11 Q. (By Ms. Yost) Could you please turn to
 12 page 15 of your supplemental testimony which is
 13 Dayton Power and Light Exhibit 6. Do you see the
 14 sentence starting on line 7, the words "Because these
 15 storms," do you see that sentence there on line 7
 16 that continues through 8?

17 A. Yes, I do.

18 Q. It says "Because these events are not
 19 normal occurrences, costs to restore service after a
 20 'major event' are not normal costs." You're talking
 21 about -- when you say "these events," you're talking
 22 about major storms?

23 A. Yes, I'm talking about major storms.

24 Q. And you're saying they're not normal
 25 occurrences; is that correct?

1 A. Yes, major storms are defined by the
2 Commission's rules, and I believe that they're
3 identified as major events because of the criteria.

4 Q. And --

5 EXAMINER PRICE: Excuse me. When you're
6 talking about this here, you are talking about the
7 2.5 beta definition of major storms.

8 THE WITNESS: Yes.

9 EXAMINER PRICE: You're not talking about
10 your old definition; this is the 2.5 beta.

11 THE WITNESS: Right.

12 EXAMINER PRICE: Thank you.

13 Q. In that regard, you were talking about,
14 you were just asked by the Bench, the Commission's
15 definition of major event. What is your
16 understanding of when that definition was adopted by
17 the Commission?

18 A. I believe it was adopted by the
19 Commission in 2010.

20 Q. And when you speak of events and classify
21 storms as major storms, before your understanding of
22 when that rule became effective, what are you using
23 to define a major storm or a major event?

24 A. That would be calculated by Bryce Nickel.
25 I wasn't involved in identifying what a major event

1 was, and I still am not, but the transmission and
2 distribution service operations folks determine what
3 meets the criteria for a major event and they would
4 have calculated that prior to 2010 according to their
5 definition.

6 EXAMINER PRICE: Can you explain the 2.5
7 beta test?

8 THE WITNESS: No, I don't know. It's an
9 IEEE standard; that's about all I know.

10 Q. But you would agree that every year,
11 since 2002, the Company has experienced a major storm
12 event, correct? And I can turn you to your Exhibit
13 DRSL-Exhibit B, I believe, and I think that is
14 attached to, yes, this piece of testimony.

15 A. Yes, according to this exhibit, we have
16 identified major events every year since 2002.
17 However, as you can see, 2008 and 2011 and also
18 actually 2005 all stand out as outliers.

19 Q. When we look at this exhibit, it goes
20 from 2002 to 2010, and in 2010 there were five major
21 events, correct? I'm sorry, strike that.

22 A. 2011. I think you meant 2011.

23 Q. Thank you. 2011 there were five.

24 And then, although not indicated on this
25 chart, the Company is seeking major storm costs for

1 2012, correct?

2 A. Yes. 2012 is the year that we incurred
3 the derecho storm costs.

4 Q. So the Company is maintaining that a
5 major storm occurred in 2012.

6 A. Yes.

7 Q. And in regard to 2013, the Company has a
8 pending application in regard to -- in regard to a
9 deferral of major storms for 2013. Is that your
10 understanding?

11 A. Yes, that's correct.

12 Q. And do you know how many major storms
13 that the Company maintains occurred in 2013?

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

15 EXAMINER PRICE: On your exhibit,
16 DRSL-Exhibit B, you have not gone back and reassessed
17 these based upon which ones did or didn't meet the
18 new major storm definition. You just -- the break is
19 you used your old definition up until the new
20 definition came into place.

21 THE WITNESS: I believe we restated all
22 of these based on the 2.5 beta methodology.

23 EXAMINER PRICE: Okay. Thank you. So
24 these are all based upon the now-current definition
25 of major storm.

1 THE WITNESS: I believe so.

2 EXAMINER PRICE: Thank you. Great.

3 Q. (By Ms. Yost) Do you know whether a major
4 event has incurred in 2014 for Dayton Power and
5 Light?

6 A. I don't know.

7 Q. So at least seven major events have
8 occurred in the last three years, three months?

9 A. I'm not sure -- you got seven, I didn't
10 follow that.

11 Q. Five in '11, one in '12, and one in '13.

12 A. Yes, but I think it's important and I
13 think this chart shows that what the Company is
14 seeking is just those outlying years, those main
15 years where we had something significant happen.
16 2008 and 2011 are the years we're seeking recovery of
17 in this case. We didn't seek '9 and we didn't seek
18 '10, and we probably could have, but we didn't. So I
19 think the Company is being conservative in asking for
20 recovery of major storms and only identifying those
21 that we thought were significant.

22 Q. So the Company is not going to seek 2009
23 storm costs at any time?

24 A. We have no current plans to seek 2009
25 storm costs.

1 Q. And what about 2010?

2 A. Same.

3 Q. But the Company is seeking 2013 storm
4 costs, correct, or seeking to have them deferred at
5 least at this time.

6 A. We are seeking to have them deferred at
7 this time.

8 Q. Do you know if they're being deferred on
9 the books?

10 A. I do not believe so.

11 Q. And do you know what the amount is at
12 this time?

13 A. I believe it is relatively low, like,
14 around a million dollars.

15 Q. Do you recall yesterday when I asked you
16 whether you knew if AEP had received its storm costs
17 recovery mechanism in an ESP proceeding?

18 A. Yes.

19 Q. And you indicated you did not know?

20 A. I believe yesterday I did say I did know.

21 Q. You did know?

22 A. I believe so.

23 Q. Okay. But we can agree it was in an ESP
24 proceeding, correct?

25 A. Yes.

1 Q. In its application the Company sought a
2 three-year recovery period, correct?

3 A. Yes. The Company sought a three-year
4 recovery period of the total revenue requirement
5 associated with all three years of storms.

6 Q. And the stipulation has a one-year
7 recovery period?

8 A. Yes. The Company sought O&M and carrying
9 costs, as we just discussed, of \$37 million, and the
10 stipulation only allows the Company to collect
11 \$22.3 million which is about two-thirds of the total
12 cost.

13 Q. Why did the Company propose three years
14 in its application?

15 A. Because including the capital and the
16 carrying costs and the O&M in the full revenue
17 requirement, it was a rather large number.

18 Q. Is \$22.3 million from customers in one
19 year a large number?

20 A. I don't believe so. Actually, the 22.3
21 in one year is similar to the amount that the Company
22 sought to recover in one year when it filed this
23 application. In other words --

24 Q. When it filed what application?

25 A. When it filed this application, this

1 recovery application.

2 Q. Because, actually, the 22.3 is the
3 revenue requirement from the application, correct?

4 A. It was close to that number.

5 It's a coincidence, but the 22.3 is the
6 amount the Company sought to recover on annual basis
7 for three years when it filed the case.

8 Q. And now that the Company is going to
9 seek, at least through the stipulation, has agreement
10 from the PUCO staff and Kroger to collect
11 \$22.3 million from customers over a one-year period,
12 what is the bill impact of that for the average
13 residential customer? First of all, is that anywhere
14 in the stipulation?

15 A. Yes. The stipulation provides that the
16 rate design, let's see where . . .

17 On paragraph 4 of the stipulation, it
18 says DP&L will allocate the storm costs to
19 residential and nonresidential customers and private
20 outdoor lighting classes consistent with base
21 distribution revenues from the most recent calendar
22 year, and the residential storm rate would be
23 calculated by dividing the storm recovery amount by
24 the historical number of residential customers times
25 12 monthly bills to obtain a residential price per

1 bill.

2 And that results in, I'm jumping ahead
3 now, Attachment A to the stipulation contains the
4 rates DP&L will assess. And those, on Attachment A,
5 say that residential rates will be, for storm costs,
6 \$2.72.

7 Q. And under the application's proposal,
8 what was -- which had the same revenue requirement of
9 \$22.3 million, what was the monthly bill for the
10 average residential customer?

11 A. Depends on what level of usage you would
12 assume.

13 EXAMINER PRICE: Let's go with a thousand
14 kilowatt hours.

15 THE WITNESS: A thousand kilowatt hours
16 would be \$2.78.

17 Q. And for purposes of Attachment A, the
18 residential tariff class there, and the monthly
19 billed amount of 2.72, that is for all customers,
20 correct?

21 A. The 2.72 is for all residential
22 customers.

23 Q. It's a flat rate.

24 A. It's a flat rate.

25 Q. So if you were a residential customer and

1 you used 750,000 kilowatts, under the Company's
2 application proposal, what would you have paid per
3 month?

4 A. I'm sorry. I think you said 750,000
5 kilowatt hours.

6 Q. Oh, I'm sorry.

7 A. That's a lot.

8 (Laughter.)

9 Q. Yeah. Sorry. Very big house.

10 (Laughter.)

11 A. Yeah.

12 Q. 750.

13 A. I'm sorry. What was the question?

14 Q. 750, instead of a thousand.

15 A. Under the original filing?

16 Q. Yes.

17 A. 750 would be \$2.08.

18 Q. So why are residential customers paying
19 more under -- for the same yearly revenue requirement
20 under the stipulation than under the Company's
21 proposal?

22 A. It's a different rate design. The
23 Company had proposed a rate design that was different
24 from that which we ended up with in the stipulation.

25 Q. And who proposed the rate design that is

1 in the stipulation?

2 A. I believe that's privileged and
3 confidential since it was a settlement discussion.

4 MR. SHARKEY: Your Honor, if it was --
5 what Ms. Yost is asking for, I believe Dona
6 Seger-Lawson is right, occurred during the course of
7 settlement negotiations. I believe actual
8 communications during settlement should not be
9 discoverable. It's one thing just to --

10 MS. YOST: I'm not trying to go there.

11 Q. So is the rate design that is adopted in
12 the stipulation, is it any of the rate designs that
13 any of the parties advocated for in public filings?

14 A. I don't know the answer to that. I don't
15 know what public filings anybody may have made.

16 EXAMINER PRICE: Okay. Let me ask the
17 question this way: Does the class allocation
18 allocate more of the costs to residential customers
19 under the stipulation than what the Company proposed?

20 THE WITNESS: I don't believe so. I
21 think the class allocation -- so you calculate an
22 amount that you need to collect and allocate it to
23 the tariff classes. I think both were done under the
24 most recent 12 months of distribution revenue.

25 EXAMINER PRICE: So residential

1 customers, as a whole, are not paying more under the
2 stipulation than they were paying under what the
3 Company proposed.

4 THE WITNESS: That's correct.

5 EXAMINER PRICE: How it gets allocated,
6 whether an average customer is 750 or an average
7 customer is a thousand, would explain how -- some of
8 differential between those rates.

9 THE WITNESS: That's correct.

10 EXAMINER PRICE: Okay.

11 MS. YOST: Your Honor, at this time OCC
12 moves to have marked as OCC Exhibit 22, the Comments
13 Filed on Behalf of The Staff of the Public Utilities
14 Commission of Ohio in this case on June 17th, 2013,
15 please.

16 EXAMINER PRICE: It will be so marked.

17 (EXHIBIT MARKED FOR IDENTIFICATION.)

18 MS. YOST: Thank you, Your Honor. May I
19 approach the bench?

20 EXAMINER PRICE: You may.

21 Q. (By Ms. Yost) Please take a minute to
22 look at this document that I've handed you. Let me
23 know when you're ready to proceed.

24 A. Okay.

25 Q. You've seen these comments before which

1 is the exhibit I just handed you, OCC Exhibit 22?

2 A. Yes.

3 Q. And you recognize these to be the
4 comments that the PUCO staff filed in regard to the
5 application that the Company filed in this case?

6 A. Yes.

7 Q. And your supplemental testimony actually
8 addresses some of these comments. Fair enough?

9 A. Yes, I believe so.

10 Q. If I could have you turn to page 6 of the
11 comments.

12 A. Okay.

13 Q. Under the "Summary and Staff
14 Recommendations" there's two headings. The one that
15 stays "Staff recommends the following," do you see
16 that?

17 A. Yes.

18 Q. And could you read that aloud, please?

19 A. That the -- "1. That the" -- I'm sorry.
20 "That the 2008 deferred expenses for Hurricane Ike
21 and other major storms previously deferred are not
22 appropriate for recovery because the Company
23 underspent by approximately \$150 million in O&M
24 expenses and the Company's return on equity has
25 averaged 19.6 percent since 1999. In addition, DP&L

1 requests recovery for capital expenses; however, the
2 Commission did not expressly permit authority to
3 defer any capital expenditures. Capital expenses are
4 typically recovered in distribution cases."

5 Q. So it's your understanding that -- strike
6 that.

7 The settlement of \$22.3 million, does
8 that amount include costs incurred in 2008 for O&M
9 storm costs?

10 A. I'm sorry. Can you repeat the question?

11 MS. YOST: Could you read it back?

12 (Record read.)

13 A. The stipulation, as you know, is a
14 black-box settlement. So, therefore, it's not clear
15 as to what it includes or does not include, and
16 probably parties that signed the stipulation got to
17 the number different ways. So it's unclear as to
18 what's included in the 22-3.

19 Q. Does the 22.3 include capital costs from
20 the 2008 storms?

21 A. No, it does not, and that's because
22 paragraph 3 says "DP&L shall not recover its capital
23 expenditures associated with 2008, 2011, and 2012
24 storms in this case. Nothing prohibits DP&L from
25 seeking recovery of expenditures in a future

1 distribution rate case."

2 Q. So although you can't tell me what's in
3 the 22.3 million, you can tell me what's not in it?

4 A. Based on the words in the stipulation,
5 yes.

6 EXAMINER PRICE: Let's go off the record.

7 (Discussion off the record.)

8 Q. (By Ms. Yost) Do you have a copy of the
9 audit report in front of you? It was -- I can
10 provide you with a copy. It was previously marked as
11 OCC 1.

12 A. Yes, I do.

13 Q. You have a copy? Can you please turn to
14 that. You're familiar with this report, correct?

15 A. Yes.

16 Q. And on page -- bottom of page 3.

17 First, is it your understanding that this
18 report was drafted after the staff audited the 2008,
19 2009, and 2011 storm -- O&M storm expenses?

20 A. It's my understanding this was written
21 after the staff conducted its audit.

22 Q. And did the PUCO staff request
23 information of the Company during its audit?

24 A. Yes, the Commission staff requested a lot
25 of information from the Company through the audit

1 process.

2 Q. Did you respond to any of the staff's
3 requests?

4 A. Yes, I believe we responded to all the
5 staff's requests.

6 Q. I mean you personally. I'm sorry.

7 A. It's always a group effort; so yeah.

8 Q. So you may review some; you may draft
9 some.

10 A. Yes.

11 Q. Do you know approximately how many
12 requests the Company received from the staff?

13 A. I don't know. I thought maybe it --
14 maybe it said so in the audit report.

15 Q. That's okay.

16 It's your understanding that this audit
17 report was filed I believe January of 2014 -- I'm
18 sorry, I don't have the date.

19 A. It looks like it was filed on the 3rd of
20 January, 2014.

21 Q. Thank you.

22 And has the staff filed any corrections
23 or amendments to its audit report since this was
24 filed?

25 A. No, I'm not aware of that. I'm not sure

1 why they would.

2 Q. And the bottom of page 3, it's your
3 understanding that in the staff report, after the
4 audit, the staff recommended that the Company not be
5 allowed to recover 2008 and 2011 expenses as
6 referenced in the comments?

7 A. It's my understanding that staff took
8 that position because they were looking at the
9 Company's O&M expenses in past years, and as I show
10 on my Exhibit A of my supplemental testimony, that
11 would be an inappropriate way to look at things,
12 because as Exhibit A shows that in 2008 had DP&L not
13 had frozen distribution rates, it could have filed a
14 rate case and asked for \$60 million of an increase in
15 distribution rates in 2008.

16 MS. YOST: Move to strike the answer as
17 nonresponsive.

18 EXAMINER PRICE: Actually, I'm going to
19 overrule your -- deny your motion to strike, because
20 I'd ask you if you can show me where that is again,
21 please.

22 THE WITNESS: That's Exhibit A of my
23 testimony.

24 EXAMINER PRICE: Exhibit A. Okay.

25 THE WITNESS: My supplemental testimony.

1 EXAMINER PRICE: Thank you.

2 Please proceed.

3 Q. So it's your understanding that in the
4 audit report, the Company recommended -- excuse me.
5 Strike that.

6 It's your understanding that the audit
7 report, the staff recommends that the Commission not
8 allow the Company to recover 2008 and 2011 O&M storm
9 costs from customers, correct?

10 A. That's what the audit report says, but
11 that is based on an inappropriate look at what the
12 Company was earning at the time.

13 Q. If you could turn to page 4 --

14 EXAMINER PRICE: Of the staff report.

15 Q. The staff audit report, OCC Exhibit 1.
16 And do you see where the staff has calculated, on
17 page 4, that the O&M cost request of the Company is
18 \$37,021,654. Do you see that figure?

19 A. Yes, I do.

20 Q. Is that an accurate figure that's in the
21 application?

22 A. I believe that includes the O&M costs
23 that we discussed before plus carrying costs.

24 Q. Carrying costs. The carrying costs
25 calculated in the application?

1 A. I believe so.

2 Q. Because the carrying costs on actual
3 deferred amounts on the Company's books for years
4 2008 and 2014 would be less than what is reflected in
5 the application, correct?

6 A. I'm sorry. I didn't follow that.

7 MS. YOST: Could you read that back?

8 (Record read.)

9 Q. Let me break that up because I've got two
10 years. It may be confusing.

11 Would you agree that the amount of
12 carrying costs reflected in the application for 2008
13 storm costs is less than the carrying costs on the
14 books of the Company for deferrals in regard to the
15 2008 storms?

16 THE WITNESS: I'm going to have to have
17 it read back again. Sorry.

18 (Record read.)

19 A. No.

20 Q. Would you agree that the amount of
21 carrying costs for the 2012 storms is more in the
22 application than what is reflected as carrying costs
23 for 2012 on the Company's books?

24 A. Maybe it would help if I explain what I
25 believe was in the application. In the application,

1 we had actually incurred carrying costs and we had
2 projected carrying costs based on the assumptions
3 that were in that case. So the carrying costs that
4 were in the filing were higher than what the actual
5 carrying costs have been.

6 Q. So my answer would be "yes"; is that
7 correct?

8 THE WITNESS: I'm not sure. I'm going to
9 have to have it read back again.

10 Q. Let me try to be a little bit more
11 helpful. We were talking about WPC-3, if you could
12 turn to that, but also keep the staff report nearby,
13 please.

14 A. Okay.

15 Q. And the amount that is on WPC-3 for the
16 2012 storms which is the \$4.7 million on line 1,
17 under column (D). Do you see that?

18 A. Yes.

19 Q. And another column to the right shows the
20 total amount of carrying costs for the 2012 storms up
21 until February 2016, correct?

22 A. I'm sorry. Can you repeat that?

23 MS. YOST: Could you read that one?

24 (Record read.)

25 A. I believe this is carrying costs on the

1 total balance. So not just 2012 -- 2011.

2 Q. Is it too hard to tell because the two
3 are combined?

4 A. This is the forecasted carrying costs on
5 all of it. So it's all of the total revenue
6 requirement that the Company had proposed in the
7 case.

8 Q. Well, isn't it just the cost for 2012
9 storms and 2011, because 2008 has its own workpaper
10 before?

11 A. No, I don't believe so, because starting
12 on line 1 it includes the total amount which includes
13 everything.

14 EXAMINER PRICE: Line 1(C) was your
15 balance of November 2012, right, and that's 2008
16 storm costs. Maybe I'm reading it wrong. Line 1,
17 column (C), it's got the caret 1, isn't that just the
18 2008, and then you add in caret 2, the O&M costs from
19 2012?

20 THE WITNESS: Yes. And then caret 3 is
21 adding in the costs from 2011.

22 EXAMINER PRICE: So you begin with 2008,
23 and then you add in 2012, and then, later, you add in
24 2011.

25 THE WITNESS: That's correct. And so,

1 the carrying costs that's on here is the projected
2 carrying costs for all three storms.

3 Q. All three storms through February 2016?

4 A. From December of 2012 through February of
5 '16.

6 Q. So if we were to add the total amount of
7 carrying costs that the Company seeks in its
8 application, we would add the total amount at the
9 bottom of WPC-1 of 3.9; would we then add the 1.4 on
10 WPC-2, page 1 of 2; plus the 1.4 on WPC-2, page 2 of
11 2; plus the WPC-3, page 1 of 1; would we add all
12 those together to get the total carrying costs
13 requested?

14 A. Yes. Again, that's the total carrying
15 costs for all three storms and it's got projected
16 carrying costs in it, assuming that the Company was
17 authorized to recover its full revenue requirement
18 including capital costs, including depreciation
19 expense and taxes.

20 Q. Is that added up somewhere, those four
21 numbers?

22 A. These four numbers?

23 Q. Yes.

24 A. I mean I can do it in my head. I get --

25 Q. That's okay.

1 A. 3 million -- about 6 million,
2 6.1 million. But, again, the actual carrying costs
3 should be lower than that because the Company has
4 not, by the stipulation, has not agreed to recover
5 the full revenue requirement, and we've also agreed
6 to recover it over a one-year period rather than a
7 three-year period. All of those things would reduce
8 the carrying costs.

9 EXAMINER PRICE: But you're also assuming
10 that you had an order on March 2013 to begin
11 collection --

12 THE WITNESS: Yes.

13 EXAMINER PRICE: -- in WPC-3.

14 THE WITNESS: That's right.

15 EXAMINER PRICE: Which didn't happen.

16 THE WITNESS: Which didn't happen.

17 EXAMINER PRICE: Right.

18 Q. In regard to the carrying costs on the
19 Company's actual books for storm costs related to
20 O&M, do you know that amount?

21 A. As of when?

22 Q. Well, we can at least -- we know that
23 there are no carrying costs for 2011 storm costs on
24 the books for 2011, correct? Mr. Campbell confirmed
25 that. So that would be zero.

1 A. That's correct.

2 Q. We can look at OCC exhibit -- between
3 your testimony, your rebuttal testimony, I believe it
4 was on page 5, you indicated that -- actually, I
5 think it's OCC Exhibit 5. It's an e-mail
6 correspondence. Do you have that in front of you?

7 A. Yes.

8 Q. And I believe on the second page it
9 indicated the actual amount that was deferred on the
10 books and the amount of carrying costs as of
11 December 2012; the total amount including carrying
12 costs as of December 2012 on that exhibit?

13 A. Yes.

14 Q. And that would be approximately
15 \$4 million?

16 A. Yes.

17 Q. So we can attribute \$4 million of
18 carrying costs for the 2008 storms, no carrying costs
19 on the books for the 2011 storms, and that leaves us
20 with 2010 storms -- no, '12 -- thank you -- 2012
21 storms, and that deferred amount on the books is
22 barely over a million dollars, correct?

23 A. I'm not sure I have the deferred amount
24 for 2012 in front of me.

25 Q. I can get you an exhibit that would be

1 helpful. OCC Exhibit 7. Does that refresh your
2 recollection?

3 A. Yes, it looks like we have just over a
4 million dollars for 2012 deferred.

5 Q. And that's only been deferred on the
6 books since the end of 2012?

7 A. Yes, that's correct.

8 Q. So there wouldn't be much in carrying
9 costs at this point on the million dollars deferred
10 for maybe two years, correct?

11 A. It would be 5.68 percent times this
12 figure for two years.

13 Q. Half a million? Or is my math really
14 wrong?

15 A. No, not nearly that much. Fifty- or
16 sixty-thousand.

17 Q. Thank you. My math is really wrong.

18 So based on our discussion here and the
19 exhibits, there was about a little over \$4 million in
20 carrying costs on the Company's books, correct, for
21 these three storms?

22 A. Yes.

23 Q. And when I add up all those numbers, and
24 I don't necessarily ask that you do that, that would
25 be the total amount of carrying costs that the

1 Company is seeking in its application?

2 A. Seeking in its application, it was -- the
3 Company was seeking the full cost of capital -- I'm
4 sorry, not the full cost of capital -- the full
5 revenue requirement including capital and
6 depreciation and taxes.

7 Q. So that would be reflected in the total
8 carrying cost amounts we just talked about that has
9 an impact on that?

10 A. No.

11 Q. So this total carrying cost amount --
12 actually, do you have a calculator?

13 A. No, I don't.

14 Q. Maybe we can just round these and get a
15 ballpark estimate. Starting on WPC-1, 3.9 at the
16 bottom of that page, for total carrying costs, do you
17 see that? Oh, sorry, I'll slow down.

18 A. You're looking at what schedule?

19 Q. WPC-1.

20 A. WPC -- I'm sorry.

21 Q. WPC-1.

22 A. 3.9 million.

23 Q. Thank you. If we could add that to the
24 next page, total carrying cost of 1.4, that's
25 indicated on WPC-2, correct?

1 A. Yes.

2 Q. And then the next page, WPC-2, 1.5.

3 A. Okay. 1.5.

4 Q. Okay. Thank you.

5 And then WPC-3, 3.1.

6 A. Okay.

7 Q. I have approximately \$10 million in
8 carrying costs.

9 A. That's approximately right.

10 Q. Thank you.

11 A. And, again, that carrying cost is based
12 on the assumption that the Company would be
13 authorized to recover the full revenue requirement
14 associated with storms, including capital, O&M,
15 depreciation and taxes. And so, therefore, if you
16 remove capital out of that calculation, you remove
17 depreciation, and you remove taxes, the carrying
18 costs would come down; that's number one.

19 Number two, as we talked about before,
20 the carrying cost percentage has gone down because
21 the Commission ruled on our ESP stipulation.

22 So yes, that's what was in the Company's
23 original application, but if you assume there is no
24 capital authorized, and you assume that the
25 4.94 percent is the carrying cost going forward, then

1 the carrying cost is much less than that.

2 Q. I understand the distinction, but my --
3 with the change in the carrying cost rate, but my
4 question was what was requested in the application.
5 I understand that the rate would be lower.

6 EXAMINER PRICE: But the \$10 million
7 isn't really the total cost requested in the
8 application, is it, because WPC-3 begins with an
9 existing balance of \$18 million, which includes
10 carrying costs that have already been incurred since
11 2012, right?

12 THE WITNESS: It includes carrying costs
13 that have already been incurred, but the carrying
14 cost is --

15 EXAMINER PRICE: Let's just say --

16 THE WITNESS: -- compounding.

17 EXAMINER PRICE: I'm just saying it's
18 not -- the carrying costs totally, what was in the
19 application, isn't just the \$10 million you
20 identified; it's the \$10 million plus what has
21 already been incurred which was roughly 3 or
22 4 million dollars, right?

23 THE WITNESS: No. I think the
24 calculation she just sent me through, the amount that
25 had already been incurred was already included in the

1 \$10 million.

2 EXAMINER PRICE: Okay. Then I was wrong.

3 Thank you.

4 Q. (By Ms. Yost) Just to make the record
5 clear, I understand that on page 4 of the staff
6 report that the Company's original request was around
7 \$64.6 million, correct?

8 A. That sounds about right.

9 Q. And once the capital and carrying costs
10 associated with that, that removed \$27.6 million,
11 based on the audit report.

12 A. You're looking at the audit report?

13 Q. Page 4, yes. Just reading figures off
14 the top of page 4.

15 A. I see that number, but I haven't
16 recalculated -- I didn't verify that that was the
17 capital number that we would have calculated, but I
18 see that number.

19 Q. Did anyone else from the Company verify
20 that figure?

21 A. I don't know.

22 Q. Besides yourself, there were others that
23 filed supplemental testimony in response to the staff
24 report, correct?

25 A. Yes.

1 Q. Did any testimony dispute that number?

2 A. No.

3 Q. Thank you.

4 Do you have a copy of the stipulation in
5 front of you?

6 A. Yes, I do.

7 MS. YOST: And I believe that this has
8 previously been marked Joint Exhibit 1, is that
9 correct, Jeff?

10 MR. SHARKEY: That's correct, Melissa.

11 Q. Would you turn to page 2, under roman
12 numeral II, the heading "Storm Recovery," No. 3, that
13 paragraph.

14 A. Yes.

15 Q. The second sentence it says "Nothing
16 prohibits DP&L from seeking recovery of those
17 expenditures in a future distribution rate case."
18 And "those expenditures" means capital
19 expenditures; is that correct?

20 A. Yes.

21 Q. And, specifically, the capital
22 expenditures for 2011 storms, 2008 storms, and 2012
23 storms, correct?

24 A. Yes.

25 Q. Those three storms.

1 Does that provision in the stipulation
2 guarantee that Dayton Power and Light will be
3 permitted to collect any of its 2008 or 2011 or 2012
4 capital expenditures in a future distribution rate
5 case? Does that guarantee recovery?

6 A. No, it does not.

7 Q. What does it mean to you?

8 A. It says that DP&L has an opportunity to
9 seek recovery of those capital expenses.

10 Q. Is DP&L required to seek collection of
11 capital expenditures in regard to 2008, 2011, and
12 2012 storms in the next future distribution rate
13 case?

14 A. No.

15 Q. It's up to the Company to choose to
16 request recovery of those costs. Is that fair to
17 say?

18 A. Yes.

19 Q. And you would agree that OCC can oppose
20 such a request, correct?

21 A. Yes, I believe so.

22 Q. Would you also agree that the signatory
23 parties can't oppose such a request?

24 A. Yes, I believe the signatory parties
25 couldn't oppose that request.

1 Q. And that would be PUCO staff and/or
2 Kroger, correct?

3 A. Yes, that's correct.

4 Q. Dayton wouldn't oppose such a request,
5 would they?

6 A. No, we wouldn't.

7 Q. Does this language allow Dayton Power and
8 Light to collect capital costs from customers through
9 a rider?

10 A. I'm sorry. Could you repeat that?

11 MS. YOST: Could you reread that?

12 (Record read.)

13 A. It doesn't specifically allow us to
14 recover it through a rider, but it says "Nothing
15 prohibits DP&L from seeking recovery of those
16 expenditures in a future distribution rate case."

17 Further, it doesn't say this, but it also
18 doesn't not allow it, but the Company could seek it
19 through a separate rider.

20 Q. So the Company could seek collection of
21 capital costs through a rider.

22 A. Yes. Like other Ohio utilities have.

23 Q. And what would be --

24 EXAMINER PRICE: To the extent permitted
25 by law. You could collect it through a rider to the

1 extent that that rider is permitted by law.

2 THE WITNESS: Yes. There are other
3 utilities that have distribution investment riders --

4 EXAMINER PRICE: Right.

5 THE WITNESS: -- where they collect
6 capital costs.

7 EXAMINER PRICE: I'm just making the
8 point that this is not authorizing the collection of
9 some specific rider later on.

10 THE WITNESS: That's correct.

11 Q. (By Ms. Yost) And could the Company
12 collect, pursuant to the terms of the stipulation,
13 capital costs from customers related to these three
14 storms through the filing of an RDR case?

15 A. Yes, I believe the Company could do that.

16 Q. And could the Company collect -- could
17 the Company collect, again costs related to these
18 three storms, capital costs, from customers through
19 the filing of an ATA?

20 A. I'm not sure if the ATA designation still
21 exists.

22 EXAMINER PRICE: It does.

23 THE WITNESS: It does? Okay.

24 A. Yes, I suppose we could.

25 Q. Does the Company have to file an

1 application, pursuant to 4909.18, in order to collect
2 capital costs from customers -- in order to seek
3 permission to collect capital costs from customers --
4 strike that whole question because I can't remember
5 what I said.

6 Does the Company have to seek -- again,
7 strike.

8 Does the Company have to file a 4909.18
9 application in order to request authority to collect
10 capital costs related to these three storms from
11 customers?

12 A. I don't believe so. This paragraph just
13 -- it doesn't say that the Company -- it doesn't give
14 the Company authority to request anything. It just
15 says nothing prohibits them from filing such a rate
16 case to recover that cost.

17 Q. So you interpret that as the Company can
18 -- is not prohibited from seeking collection of these
19 costs in a distribution rate case which would be a
20 4909.18 filing?

21 A. That's what I believe this says.

22 Q. And that this language would also not
23 prohibit DP&L from seeking recovery of capital
24 expenditures from customers without the filing of a
25 4909.18 application, correct?

1 A. I don't believe this language prohibits
2 the Company from seeking recovery of capital costs
3 through a rider.

4 Q. So assume that the Commission approves
5 the stipulation as filed and, before the next
6 distribution rate case, the Company files an RDR
7 filing let's say in July and requests authority to
8 collect capital costs related to these three storms
9 from customers, that activity would not be
10 prohibited; is that correct?

11 A. I don't believe it would be, no.

12 EXAMINER PRICE: But, wait a second, this
13 is eminently confusing the record. An RDR is simply
14 a case suffix; an ATA is simply a case suffix. What
15 provision of Ohio law are you asking that they would
16 file that under? It's not an RDR and ATA. You're on
17 the right track with the 4909.18 as to they could
18 file for the recovery in a base distribution rate.
19 What other provision of Ohio law are you asking that
20 they could file under?

21 MS. YOST: I'm -- my questions are aimed
22 at the current filing which is an RDR filing which
23 does not indicate -- get the wording for the RDR --

24 EXAMINER PRICE: True, but --

25 MS. YOST: I'm just trying to understand

1 what the Company thinks, Your Honor. I'm not saying
2 it's correct.

3 EXAMINER PRICE: I just think your
4 questions are misleading the record. Their current
5 ESP authorized the recovery of storm damage. Their
6 current ESP was filed under 4928.143. That
7 authorizes the recovery of this rider. That is what
8 they have done.

9 And they have, to the extent that they --
10 the Commission has already said they're not going to
11 get capital costs through that rider, they can't just
12 turn around and file a new one tomorrow. Why don't
13 you ask that question if that's what you're getting
14 at.

15 MS. YOST: I think, you know, I don't
16 want to have -- I want to have a clear record, but
17 that's not a question I need to ask, Your Honor. If
18 you -- go ahead, she can answer whatever your
19 question is. I'm basically done with this line of
20 questions.

21 EXAMINER PRICE: Do you believe the
22 Company could file, under their previous ESP, to
23 recover capital in a RDR or ATA at this point in time
24 for these 2008, 2010, 2012 --

25 THE WITNESS: I don't know. I'd have to

1 consult with the legal folks about what the law would
2 allow. We don't have any intention to file for
3 capital costs under an RDR in July of this year or
4 anything like that.

5 EXAMINER PRICE: Okay. Please proceed.

6 MS. YOST: Thank you.

7 We are close to conclusion.

8 Q. (By Ms. Yost) Ms. Seger-Lawson, if you
9 could turn to your testimony, the supplemental one,
10 on page 3. I think it might be easier to use this.
11 Do you also have the 2008 ESP that's no longer in
12 effect in front of you?

13 It's my understanding that on the top of
14 page 3 of your testimony, starting with line 1, you
15 have quoted verbatim the paragraph from the
16 no-longer-in-effect 2008 ESP from lines 1 to 11; is
17 that correct? You have quotations mark around that.

18 A. Yes, it was my intent to quote it
19 verbatim.

20 Q. And you haven't found any mistakes in
21 that?

22 A. No.

23 Q. Okay. So we'll use this because it's
24 your understanding in your testimony that this is
25 what the 2008 ESP stipulation provides, correct?

1 A. Yes.

2 Q. Okay. Would you agree -- well, first of
3 all, this provision granted DP&L the ability to seek
4 emergency rate relief during that ESP, correct?

5 A. This provision, yes.

6 Q. But the Company did not seek rate relief
7 during the term of the ESP, correct?

8 A. That's correct.

9 Q. And it also says that, again, the Company
10 can "apply to the Commission for approval of separate
11 rate riders to recover the following costs." And in
12 regard to a., "The cost of complying with changes in
13 tax or regulatory laws and regulations effective
14 after the date of this stipulation." Did the Company
15 make any such filing in regard to subparagraph a.?

16 A. Not that I recall. There may have been
17 something related to PIPP that the Company filed that
18 may qualify under that.

19 Q. That's fair enough.

20 In regard to b., "The cost of storm
21 damage" which this proceeding is about, we can agree
22 that this language under paragraph 18, subparagraph
23 b., does not guarantee the Company that they will be
24 able to collect the cost of storm damage, correct?

25 A. No, it does not guarantee that the

1 Company can recover the cost of storm damage, but
 2 this is a provision that was in a stipulation, where
 3 the parties who signed it agreed on many different
 4 things, and one of those was a frozen distribution
 5 rate, that DP&L would not seek to increase
 6 distribution rates, nor would OCC and other parties
 7 who signed that stipulation seek to decrease
 8 distribution rates. And, in addition to that, the
 9 Company could seek recovery of its storm damage
 10 costs.

11 Q. And OCC signed this stipulation, but
 12 nowhere in this paragraph does it say that OCC is
 13 precluded or any other signatory party from objecting
 14 to the Company's request to collect storm damage
 15 costs, correct?

16 A. That's correct. In fact, it specifically
 17 says DP&L will not oppose OCC's intervention in that
 18 proceeding.

19 Q. And DP&L, under the terms of this
 20 paragraph 18, could have sought the cost of storm
 21 damage through the filing of a 4909.18 application,
 22 correct?

23 A. No.

24 Q. And why not?

25 A. Because this paragraph 18 says DP&L has

1 frozen distribution rates. So the Company could not
2 seek recovery of storm damage through base
3 distribution rates up until December 31st of 2012.

4 Q. So you read paragraph 18 as not being an
5 exception to the fact that the distribution base
6 rates were frozen through December 31st, 2012?

7 A. I didn't follow that.

8 MS. YOST: Could you read that again?

9 (Record read.)

10 A. No, I disagree with that. I think that
11 paragraph 18, including a. and b., say that DP&L's
12 base distribution rates are frozen; the Company
13 cannot seek a 4909.18 rate adjustment. However, in
14 addition to that, the Company can seek recovery of
15 storm damage expenses. I think this paragraph very
16 clearly says that storm damage expenses are
17 incremental to base rates.

18 Q. And if the Company could not file a
19 4909.18 application, based on what you've said, this
20 is your testimony, what would be the citation to Ohio
21 law for such an application?

22 MR. SHARKEY: I'm going to object. It's
23 a question of law.

24 EXAMINER PRICE: Oh, I think she has
25 already testified -- I understand that she is not an

1 attorney, and I don't think she's giving legal
2 testimony, but she's been certainly testifying as to
3 regulatory matters for quite some time now and she
4 can render her nonlegal opinion on that question.

5 MR. SHARKEY: Thank you.

6 THE WITNESS: Could I have the question
7 read back?

8 (Record read.)

9 A. I'm not sure what the "such an
10 application" is. I'm not sure what you're referring
11 to, what application you're referring to.

12 Q. What Ohio law would give authority for
13 such a filing to come in and request storm costs?

14 A. I don't know.

15 Q. Do you know under what Ohio law the
16 Company has filed the application pending in this
17 case?

18 A. I don't know. The application doesn't
19 say.

20 Q. Thank you.

21 Did you happen to read -- yesterday, we
22 talked about what you prepared and what you had read,
23 and you indicated you read Dr. Duann's testimony. Do
24 you recall that?

25 A. Yes.

1 Q. And when I say his testimony, you've read
2 his rebuttal testimony, correct?

3 A. Yes.

4 Q. I have a copy of it if you don't.

5 A. Yeah, I don't have it up here.

6 MS. YOST: Your Honor, at this time, OCC
7 would like to mark, for purposes of identification,
8 it will be testified to with OCC's next witness, but
9 the testimony of Daniel J. Duann, Ph.D. in Opposition
10 to the Stipulation and Recommendation. I request
11 that we mark that as OCC Exhibit 23.

12 EXAMINER PRICE: It will be so marked.

13 (EXHIBIT MARKED FOR IDENTIFICATION.)

14 MS. YOST: Thank you, Your Honor.

15 May I approach the bench, Your Honor?

16 EXAMINER PRICE: You may.

17 Q. You've seen this before?

18 A. Yes.

19 Q. And if I could have you turn to page --
20 well, I think the first item, page 6. Could you
21 please take a look at lines 13 through 18? I'm
22 sorry, 13 through 21, if you could read those?

23 A. Okay.

24 Q. And you're aware that Mr. -- or,
25 Dr. Duann's testimony indicates that the amount that

1 the Company is approved to collect, because of the
2 terms of the stipulation, is 18 times more the amount
3 of money recommended in the PUCO staff's audit
4 report? Were you aware of that statement?

5 A. I can read that statement, yes.

6 Q. And you have no reason to dispute that
7 calculation?

8 EXAMINER PRICE: Are you asking her as a
9 matter of arithmetic?

10 Q. As a matter of arithmetic, absolutely.

11 A. I don't dispute it as a matter of
12 arithmetic, but I don't agree with that statement.

13 Q. Okay.

14 A. I think that the audit report said that
15 the Company incurred a significant amount of
16 prudently-incurred costs in its storm costs -- or, in
17 its restoration efforts. I believe that it came to
18 the conclusion that perhaps \$23.4 million should be
19 recoverable and that is on page 4 of the staff
20 report. And the Company incurred over \$30 million of
21 prudently-incurred storm costs for all three storms.

22 Q. But you do understand that the staff, in
23 its audit report, recommended no cost recovery for
24 the Company for years 2008 and 2011, correct? It
25 says that, correct?

1 A. Yes, but that is an inappropriate
2 conclusion because the reasons that it gives for that
3 is because of the amount of O&M spend that the
4 Company had in 2008. And, as my exhibit shows, had
5 the Company not had a distribution rate freeze, the
6 Company would have sought a \$60 million increase in
7 distribution rates.

8 Q. So you're not disputing my
9 characterization of what the staff recommended; is
10 that correct? You're disputing the basis for that
11 recommendation of the staff. Is that a fair
12 assessment?

13 A. I think that on the bottom of page 3, it
14 says staff -- part of the sentence says staff, who
15 has performed a detailed audit of the expenses for
16 which the Company has requested recovery, recommends
17 the following adjustments, which would result in a
18 recovery of \$23.4 million.

19 Q. But we have to admit that the sentence
20 begins with "If the Commission rules that the Company
21 is allowed to recover expenses from all storms in its
22 application, Staff," and then it continues. But the
23 sentence before it says if the "Staff reiterates to
24 the Commission that the 2008 and 2011 expenses should
25 not be recovered as referenced and recommended in its

1 June 17th, 2013 Comments." I understand you don't
2 agree with that, but that is what it says.

3 A. That's what it says. I mean I can't
4 testify to what the staff was thinking or not
5 thinking or what conclusions they drew.

6 EXAMINER PRICE: Okay. But one thing you
7 can testify to is: Is that the staff's current
8 position? That may be what they recommended in their
9 audit report, but is that their current position in
10 this case?

11 THE WITNESS: No, it is not. By agreeing
12 to sign the stipulation, the staff is recommending
13 that the Company be authorized to recover the 22.3 in
14 the stipulation.

15 Q. So the \$22.3 million stipulation includes
16 O&M storm costs from 2008 and 2011; is that correct?

17 A. The stipulation is a black-box settlement
18 and parties may disagree or agree on how -- on what's
19 included in the 22.3.

20 Q. So you don't really know what the staff's
21 current position is on 2008 and 2011 storm costs.

22 A. I don't know what the staff's thinking
23 is.

24 EXAMINER PRICE: Let me ask you a
25 question: Is it possible to reach \$22.3 million just

1 on the one year's storms and carrying costs,
2 mathematically?

3 THE WITNESS: No.

4 EXAMINER PRICE: Thank you.

5 THE WITNESS: And I think, based on the
6 audit report, I think they got to 23.4 based on the
7 adjustments that they made.

8 EXAMINER PRICE: Thank you.

9 Q. Well, let's talk about that 23.4. Let's
10 go to the adjustments. Page 4 of the staff audit
11 report. We talked earlier, this 64.64 million that
12 the staff identified was the Company's total request
13 in the application. It says that's the total amount
14 including carrying costs, correct?

15 A. That's what was in the Company's
16 application, including carrying costs, including
17 capital, including depreciation and taxes.

18 Q. And then, because of the Commission
19 order, the staff took out \$27 million, including
20 carrying costs, correct?

21 A. That's what it says on page 4.

22 Q. And then what the staff report was left
23 with was \$37-million-and-some-change for O&M cost
24 request.

25 A. Yes.

1 Q. And, below that, staff made numerous
2 adjustments, correct?

3 A. Yes, they did.

4 Q. Everything was adjusted down; nothing was
5 added. Is that fair?

6 A. That is fair. But, as you know, the
7 Company had different calculations for many of those
8 numbers.

9 Q. I will accept that.

10 However, when you get down to the
11 \$23.4 million, that is along a line that says
12 "Recoverable Amount," correct?

13 A. Yes, it says that's the recoverable
14 amount.

15 Q. And then below that is a note that says
16 "Carrying charges on the recoverable amount due to
17 these adjustments need to be revised in accordance
18 with the Commission's Opinion and Order in this
19 case." Do you see that language there?

20 A. Yes, I do.

21 Q. And that language is because the staff
22 removed the actual O&M costs from its adjustments,
23 but it did not remove the associated carrying costs
24 from those adjustments, correct?

25 A. That is correct. But, again, we had many

1 settlement discussions. We had many discussions
2 about how all of these numbers are calculated, about
3 the three-year average, and about what should be
4 included, what shouldn't be included. Perhaps, after
5 this audit report was filed, the staff had a
6 different opinion.

7 Q. And if you look at Dr. Duann's testimony,
8 let's take a look at that. He made the adjustment in
9 regard to the exclusion of the carrying costs based
10 on the staff's adjustments. That would begin on
11 page --

12 MS. YOST: Your Honor, I'm sorry, I think
13 I have the wrong witness testimony. I believe that
14 was Mr. Yankel who made that adjustment.

15 EXAMINER PRICE: Are you going to restate
16 your question or are you abandoning this line?

17 MS. YOST: I'm going to strike the last
18 -- I don't even know if there was a question. There
19 wasn't a question.

20 Q. Do you have Mr. Yankel's testimony in
21 opposition to the stipulation in front of you?

22 A. No, I do not.

23 Q. This has been previously marked as an
24 exhibit. If you could turn to the page 11, please,
25 of Mr. Yankel's testimony. I believe this was

1 previously marked and moved into evidence as OCC
2 Exhibit 16. You see the bottom of page 11, line 20,
3 it states: "Furthermore, as stated above, even if
4 the PUCO allows DP&L to collect from customers the
5 total amount described in DP&L's application, less
6 the PUCO adjustments (discussed in the Audit Report)
7 plus associated historical carrying costs, DP&L would
8 collect no more than \$20 million," he has a specific
9 figure, "(\$20,048,167), which was the secondary
10 position found in the Audit Report."

11 Were you aware that Mr. Yankel had made
12 this calculation and removed the carrying charges
13 from the secondary recommendation in the audit
14 report?

15 A. I wasn't specifically aware of that. I
16 mean I did read his testimony, but I wasn't
17 specifically aware of that.

18 Q. And do you have any reason to dispute the
19 math, just the math, in regard to removal of the
20 appropriate carrying charges in regard to the
21 adjustments made by the staff?

22 A. I don't have any reason to dispute the
23 math, but, as I said before, when the audit report
24 was filed in January of 2014, we had many discussions
25 and settlement discussions from that time until the

1 stipulation was filed in May. We had discussions
2 about specific calculations. I think that the
3 Company demonstrated that the staff's calculation for
4 the baseline would not allow the Company to recover
5 its full amount of prudently-incurred costs. And I
6 think that the staff may have changed their mind from
7 the January audit report until the time that they
8 filed the stipulation in May.

9 Q. Well, I'm not asking you to disclose any
10 settlement conversations that any parties were
11 involved in any way, please.

12 So based on Tony's calculation,
13 \$20 million is the adjustments by the PUCO staff,
14 after removing carrying costs, and the settlement
15 amount is in the amount of \$22.3 million. So my
16 question to you is: What makes up the \$22.3 million
17 assuming that all the adjustments were made?

18 A. Again, the 22.3 is a black-box
19 settlement. There are parties to the stipulation
20 that may calculate it differently than the way DP&L
21 justified it. I can't tell you what was included in
22 the 22.3.

23 EXAMINER PRICE: But what you can tell
24 us, though, is does Dayton Power and Light agree with
25 all of the staff adjustments that are set forth in

1 the staff report?

2 THE WITNESS: No, we do not.

3 EXAMINER PRICE: So you would argue that
4 many of the staff adjustments were incorrect,
5 ill-advised and unsupportable.

6 THE WITNESS: Yes.

7 MS. YOST: That's tough.

8 Q. Page 7 of your supplemental testimony.
9 There's not really a line number for this testimony,
10 but under paragraph B., there's a question, and then
11 an answer indicated by A., and it indicates you are
12 testifying about the range of amounts that was
13 supported by the parties. What are the range of
14 amounts that was supported by OCC that you are
15 referencing there?

16 A. You're on the testimony in support of the
17 stipulation?

18 Q. Yes, I'm sorry. It's your last piece of
19 testimony, 7, page 7 of 8.

20 A. Okay.

21 Q. Do you see under the heading B., there's
22 no line numbers, I'm sorry, I'm trying to guide you.
23 Then there's a Q., a question, and then there's an
24 A., an answer. Do you see that?

25 A. Yes.

1 Q. And then you talk about that the amount
2 that was agreed to was within the range of the
3 amounts that was supported by the parties. Do you
4 see that?

5 A. Yes.

6 Q. What -- did you calculate the ranges to
7 know what was supported by each party?

8 A. Through settlement discussions, there
9 were many numbers that were discussed.

10 EXAMINER PRICE: I really, I'm getting
11 increasingly uncomfortable with you referencing
12 settlement discussions. Those are off the record.
13 I'm not talking to you. We just need to stick to
14 what's in the record in the staff report and in the
15 testimony. Let's not talk about settlement
16 negotiations anymore.

17 Q. Yes, my question is -- let me be a little
18 helpful. Clearly, the Company wanted 67 million --
19 or, \$64 million; is that what the request was?

20 A. That was the original request, yes.

21 Q. And then we can even be more reasonable
22 and say take it down, once the PUCO said no capital
23 in this proceeding, that amount would have been more
24 around 37 million. Fair enough?

25 A. Yes.

1 Q. That's what the Company wanted. You can
2 look at OCC, you can look at our testimony, our filed
3 position, we're less than a million dollars. Is that
4 fair?

5 A. I haven't -- I'm assuming that it is,
6 based on what your representation is.

7 Q. Well, I guess I don't want to -- when you
8 talk about the \$23 million is within the range, I was
9 trying to be helpful. Are you talking about what I'm
10 saying the range of litigated amounts? That's what
11 you're talking about, right?

12 A. I guess when I wrote that, I was thinking
13 of the staff report and the staff audit report coming
14 to the conclusion that the recoverable amount would
15 be the \$23 million.

16 Q. So you're not talking about all the
17 parties; you're just talking about the staff? Even
18 though it's plural?

19 A. Yes, I guess I was just talking about the
20 staff; parties to the stipulation. I mean the amount
21 that we settled on, the 22.3, is about two-thirds of
22 the total amount the Company was requesting.

23 Q. I understand that.

24 A. So the Company gave up a significant
25 amount in order to settle the case.

1 MS. YOST: Thank you, Dona, for your time
2 today and yesterday. I have no further questions.

3 EXAMINER PRICE: Mr. O'Rourke?

4 MR. O'ROURKE: No cross, Your Honor.

5 EXAMINER PRICE: Redirect?

6 MR. SHARKEY: Can I have -- I think I
7 need one minute with the witness.

8 EXAMINER PRICE: Let's go off the record
9 for one minute.

10 (Off the record.)

11 EXAMINER PRICE: Mr. Sharkey.

12 MR. SHARKEY: Yes, Your Honor.

13 - - -

14 REDIRECT EXAMINATION

15 By Mr. Sharkey:

16 Q. Ms. Seger-Lawson, did you wish to correct
17 a statement you made earlier relating to cost of debt
18 amounts?

19 A. Yes. I think I may have misspoke. There
20 were two different costs of debt amounts that were in
21 the ESP case; one being a full cost of debt and the
22 other being a regulated cost of debt, and I think I
23 switched them around on accident.

24 So the full cost of debt in the ESP case
25 was the 4.94 percent and the regulated cost of debt

1 was the 5.38 percent. The Company applied its full
2 cost of debt starting in January of 2014.

3 Q. In the Company's filing, did it subtract
4 a three-year baseline from its 2008 O&M expenses?

5 A. In 2008, we asked to defer all major
6 storms in 2008, less a three-year average, and that's
7 because it was all 2008. It's not appropriate to
8 back out a three-year average from a single storm.

9 So the Company incurred, let's just say,
10 for example, 2012 derecho, that was a single storm,
11 to back-out a three-year average is apples and
12 oranges. The Company incurred prudently-incurred
13 costs and I believe that the stipulation allowed for
14 us to recover that on an incremental basis. And so,
15 to back-out a three-year average of a single storm
16 doesn't make logical sense to me.

17 Q. Did you hear Mr. Nickel's testimony
18 describing the change in the definition of major
19 storm that happened between 2008 and then 2011 and
20 2012?

21 A. Yes, in 2008 the Company had its own
22 definition. Each Ohio utility has its own definition
23 for a major storm. And starting in 2010, all Ohio
24 utilities have the same definition for major storms.

25 Q. Did the change in definition of major

1 storms have anything to do with the difference
2 between the request DP&L made in its 2008 application
3 to defer O&M expenses as filed in 2008 and in the
4 application in this case in terms of the methodology
5 for calculating the amount of storm recovery?

6 A. Hang on a second. I'm not finding my
7 note here. I'm sorry.

8 EXAMINER PRICE: Could we have the
9 question read back, please? I've lost track of it.

10 (Record read.)

11 A. I think, as I testified previously, the
12 Company modified its view as to what should be
13 recoverable and what should be included in the
14 deferral over time. The definition of major storms
15 in 2008 was much more broad, and in -- starting in
16 2010 it was much more narrow.

17 So a baseline in 2008, as long as all of
18 2008 was included, a baseline seemed appropriate to
19 the Company. But, if the definition is much
20 narrower, then you don't need to back-out normal
21 storms because normal storms are not included in
22 major storms.

23 MR. SHARKEY: Thank you, Your Honor.

24 Thank you, Dona. I have no further
25 questions.

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EXAMINER PRICE: Recross?

- - -

RECROSS-EXAMINATION

By Ms. Yost:

Q. Could you explain the difference between you said the full cost of debt was 4.94 versus the regulated cost debt of 5.38? What's the difference?

A. The regulated cost of debt would remove the pollution control bond cost and those are relatively low. And, therefore, removing those costs would make the regulated return -- regulated cost of debt higher.

Q. So which one are you saying would apply to deferral amounts after January 1, 2014?

A. I believe, per the Commission order in the ESP case, we were -- we were ordered to use the 4.94.

Q. The full cost?

A. The full cost of debt.

MS. YOST: Thank you.

No further questions, Your Honor.

EXAMINER PRICE: Recross from staff?

MR. O'ROURKE: No, Your Honor.

MR. SHARKEY: No, Your Honor.

EXAMINER PRICE: You don't get another

1 shot.

2 MR. SHARKEY: Oh, I thought you asked me
3 for --

4 EXAMINER PRICE: No.

5 I have to admit, Ms. Seger-Lawson, you
6 lost me on your question regarding storms. If we
7 consider the three-year average of the previous three
8 years as some sort of a proxy for what's in base
9 rates, what difference does it make if you're
10 applying it to one major storm in a year or three
11 not-quite-so-big-but-still-major storms?

12 THE WITNESS: It's supposed to be a
13 proxy, but if there's -- if there's one major storm,
14 let's say a derecho, not every year there's a derecho
15 that comes through; so that would not be included in
16 base rates. And so, it wouldn't be appropriate to
17 take that cost, that total cost of restoring service
18 for that one storm and back out a baseline because
19 there's no way that that storm is included in our
20 base rates. And, therefore, you shouldn't subtract
21 out some amount that's included in base rates because
22 it's not in there.

23 EXAMINER PRICE: But isn't that an
24 argument for normalizing and just excluding any year
25 when you have a derecho or an ice storm or an Ike --

1 THE WITNESS: Yes.

2 EXAMINER PRICE: -- from the three years.

3 THE WITNESS: The Company's position has
4 always been if you are going to calculate a baseline
5 and do a three-year average of some sort, you should
6 pull out those extraordinary storms such as Hurricane
7 Ike or derecho or the 2011 major storms.

8 EXAMINER PRICE: But that has not been
9 staff's litigation position throughout a number of
10 proceedings.

11 THE WITNESS: That's correct.

12 EXAMINER PRICE: Thank you. You're
13 excused.

14 Mr. Sharkey.

15 MR. SHARKEY: Yes, Your Honor, I'd like
16 to move for the admission of DP&L Exhibits 5, 6, and
17 7.

18 EXAMINER PRICE: Any objection to the
19 admission of DP&L 5, 6, and 7?

20 MS. YOST: Excepting the portions that
21 were stricken.

22 EXAMINER PRICE: Subject to the motion to
23 strike.

24 Seeing none, they will be admitted.

25 (EXHIBITS ADMITTED INTO EVIDENCE.)

1 MR. SHARKEY: One other point, Your
2 Honor. I have assumed, per past practices, that when
3 we move the testimony in, we also move -- the
4 workpapers and schedules that the witness supports
5 also comes in, and I don't need a separate motion to
6 move in the schedules or workpapers, assuming we're
7 operating under the same assumption.

8 EXAMINER PRICE: We're operating under
9 the same assumption.

10 MR. SHARKEY: Thank you.

11 MS. YOST: Your Honor?

12 EXAMINER PRICE: Yes.

13 MS. YOST: With that, would our comments
14 and reply comments, we'd ask to have those
15 administratively noticed or moved into the record.

16 EXAMINER PRICE: What are you asking for?

17 MS. YOST: I'm sorry?

18 EXAMINER PRICE: I'm not sure what you're
19 asking for.

20 MS. YOST: I'm asking for our comments
21 and reply comments to be moved into evidence.

22 EXAMINER PRICE: I don't believe comments
23 are evidence. So I would deny a motion to move the
24 comments into evidence.

25 MS. YOST: Thank you, Your Honor.

1 EXAMINER PRICE: But, I mean, don't get
2 me wrong, they're in this docket. So it's not like
3 you're moving -- it's not like you need to take
4 administrative notice of them. They're in the
5 docket, but they're not evidence.

6 Do you have any other motions, Ms. Yost?

7 MS. YOST: Yes. I'd like to move OCC
8 Exhibit No. 18A into evidence, not 18, 18 is the
9 incomplete stipulation, but 18A is the complete, 19,
10 21, and 22.

11 EXAMINER PRICE: Any objections to --

12 MR. SHARKEY: OCC 22 was comments of the
13 PUCO, Your Honor.

14 EXAMINER PRICE: I understand. Let's
15 talk these one at a time.

16 Okay. We have a motion for admission for
17 18A, which was the corrected 1991 stipulation. We'll
18 take administrative notice of it, but we will not
19 admit it into the record.

20 MS. YOST: Thank you.

21 EXAMINER PRICE: 19 is?

22 MS. YOST: Discovery responses.

23 EXAMINER PRICE: Discovery responses.
24 Those will be admitted.

25 (EXHIBIT ADMITTED INTO EVIDENCE.)

1 EXAMINER PRICE: 21 is?

2 MS. YOST: Application for deferral and
3 cover letter.

4 EXAMINER PRICE: Once again, those, we'll
5 take administrative notice of, because they're in the
6 record of this proceeding.

7 And 22 is the staff comments and we will
8 not admit those as evidence because they are not
9 evidence. Let's go off the record.

10 (Discussion off the record.)

11 EXAMINER PRICE: At this time we'll break
12 for lunch until 1:15. Thank you, all.

13 Off the record.

14 (At 12:10 p.m. a lunch recess was taken
15 until 1:35 p.m.)

16 - - -

17 EXAMINER MCKENNEY: Is OCC ready to call
18 its next witness?

19 MR. SAUER: Thank you, Your Honor. OCC
20 would like to call Dr. Daniel Duann. We would like
21 to have his direct testimony marked as OCC Exhibit
22 24. Previously, his testimony in opposition of the
23 stipulation was marked as OCC Exhibit 23.

24 EXAMINER MCKENNEY: We'll mark his
25 testimony as OCC 24.

1 (EXHIBIT MARKED FOR IDENTIFICATION.)

2 EXAMINER MCKENNEY: Mr. Duann, will you
3 please raise your right hand.

4 (Witness sworn.)

5 EXAMINER MCKENNEY: Please state your
6 name and business address for the record.

7 THE WITNESS: Daniel J Duann. 10 West
8 Broad Street, Suite 1800, Columbus, Ohio.

9 MR. SAUER: Thank you, Your Honor.

10 - - -

11 DANIEL J. DUANN, Ph.D.

12 being first duly sworn, as prescribed by law, was
13 examined and testified as follows:

14 DIRECT EXAMINATION

15 By Mr. Sauer:

16 Q. You are the same Dr. Duann whose direct
17 testimony and testimony in opposition to the
18 stipulation and recommendation were filed in these
19 cases?

20 A. Yes.

21 Q. And on whose behalf do you appear?

22 A. On behalf of the Office of the Ohio
23 Consumers' Counsel.

24 Q. Do you have both pieces of your testimony
25 that have been marked as OCC Exhibit 23 and 24 with

1 you on the stand today?

2 A. Yes.

3 Q. Did you prepare both pieces of testimony
4 or have them prepared at your direction?

5 A. Yes.

6 Q. Do you have any changes or corrections to
7 your direct testimony?

8 A. Yes.

9 Q. And that was marked as OCC Exhibit 24?

10 A. Yes.

11 Q. Okay. And what are those changes or
12 corrections?

13 A. Okay. It's on page 4, line 11, the
14 5.86 percent that should be changed to 5.38 percent.

15 Q. Okay.

16 A. And also on page 13, there's a table at
17 the top of that page and the second row was missing.
18 So the -- so that row should, under "Utilities"
19 should read as "DPL" and under "2011" should read
20 14.05 percent then the next one is 19.90 percent,
21 17.93 percent, 20.04 percent, 20.82 percent,
22 20.91 percent, 19.74 percent, and the last cell, 2004
23 for DP&L is 18.71 percent.

24 And also, on the second column under
25 "2011," for the CSP, that should read "not

1 available," "N/A" and with a star footnote because
2 CSP merged with OP at the end of 2011.

3 For OP, it should, under 2011, it's
4 11.45 percent. For Duke, it's 3.66 percent. For
5 CEI, it's 5.51 percent. For Ohio Edison, it's
6 16.04 percent. For Toledo Edison, it's 9.43 percent.

7 And also on page 26, on line 10, after
8 the word "DP&L's," before the words "storm related,"
9 should add the following words: "deferred or request
10 to be deferred." So the whole sentence for the whole
11 line 10 read as: "DP&L's deferred or request to be
12 deferred storm-related O&M expenses for 2008 and 2011
13 should be disallowed." That's all the change I have.

14 Q. And do you have any changes or
15 corrections to your testimony in opposition to the
16 stipulation and recommendation as marked as OCC 23?

17 A. No.

18 Q. And if I ask you today the same questions
19 that were found in your direct testimony and in your
20 testimony in opposition to the stipulation, marked as
21 OCC Exhibits 23 and 24, would your answers today be
22 the same?

23 A. Yes.

24 MR. SAUER: The OCC moves for the
25 admission of OCC Exhibits 23 and 24, and tenders the

1 witness for cross-examination.

2 EXAMINER MCKENNEY: Thank you, Mr. Sauer.
3 We'll defer ruling on the admission of OCC 23 and 24
4 until the end of cross-examination.

5 MR. SAUER: Thank you, Your Honor.

6 EXAMINER MCKENNEY: Mr. Sharkey, are you
7 ready?

8 MR. SHARKEY: I am, Your Honor. Thank
9 you.

10 - - -

11 CROSS-EXAMINATION

12 By Mr. Sharkey:

13 Q. Good afternoon, Dr. Duann. As you know,
14 I represent The Dayton Power and Light Company in
15 this matter. As an initial matter, it's true, isn't
16 it, that you did not inspect any of the invoices that
17 DP&L provided to OCC relating to payments to
18 contractors and such?

19 A. That is true.

20 Q. Okay. Your testimony doesn't address
21 whether DP&L's expenses were actually and prudently
22 incurred, right?

23 A. Yes.

24 Q. And you didn't conduct any analysis
25 regarding whether the storms at issue were unusual or

1 atypical, did you?

2 THE WITNESS: Can I have the question
3 read back, please?

4 (Record read.)

5 A. I did not.

6 Q. And you didn't conduct any analysis
7 regarding whether DP&L's response to the storms was
8 adequate, did you?

9 A. I did not.

10 Q. I've got, I believe, six topics to ask
11 you about relating to your testimony on DP&L's 2008
12 and 2011 earnings. First of all, it is your
13 testimony that DP&L should be denied recovery of its
14 2008 and 2011 storm costs based on DP&L's return on
15 equity in those years?

16 A. I believe for the 2011, I think DP&L's
17 request for deferral is not timely filed.

18 Q. You also say 2008 and 2011 should be
19 excluded based upon DP&L's ROE in those years. Is
20 that right?

21 A. My testimony indicate that during those
22 two years, Dayton's return on equity much higher than
23 what did the Commission approve in the last Dayton
24 distribution case and also higher than those approved
25 in the last -- in the first ESP case.

1 And I -- it is my conclusion that
2 Dayton's rate in place in 2008 and 2011 already allow
3 Dayton to recover those -- all the storm-related
4 costs. And if we, right now, want to give Dayton
5 more recovery, that will result in unreasonable and
6 unjust rates.

7 Q. It's true, isn't it, that you're not
8 aware of any instance in which the Public Utilities
9 Commission of Ohio has denied recovery of
10 prudently-incurred expenses based upon a utility's
11 historic earnings?

12 A. I have not reviewed all the cases that
13 PUCO have decided in the past, and I have not
14 reviewed all the statute that are related, and I --
15 personally, I'm not aware any instance that is
16 specifically related say the Company's earning in a
17 certain year and use that as a justification to -- to
18 modify or not modify a rate.

19 And I don't think it's necessary that we
20 have any specific instance here because it is my
21 belief that the PUCO has the obligation, has the
22 obligation to the public, to the ratepayer to say --
23 to set just and reasonable rate.

24 And the PUCO was given the authority by
25 the General Assembly to set just and reasonable rate,

1 and the PUCO has done that in the past, specifically
 2 in the Duke, in the last Duke storm case, the PUCO
 3 has disallowed a significant amount of costs from
 4 Duke's storm-related expense. And those expense the
 5 PUCO has made no decision, as far as I can tell, on
 6 whether those are prudent or imprudent. But the
 7 Commission say in the Duke case, say these costs,
 8 those labor, management and labor-related costs, they
 9 are unreasonable and they disallow it.

10 So I believe, you know, you don't need
 11 any specific instance or any statute because it is my
 12 belief that the statute or the rule, they are just
 13 general, you know, they cannot cover every possible
 14 scenario and circumstance. If it can cover every
 15 scenario and circumstance then we don't need the
 16 PUCO; we don't need the hearing to decide the facts
 17 and the statute.

18 So I think yeah, I agree with you,
 19 there's no specific instance that specifically
 20 related to the earnings, is there any allowance or
 21 disallowance, and I don't think that's necessary.

22 Q. In fact, in the history of this country,
 23 you can't identify a single decision by a utility
 24 Commission, state or federal, that has denied the
 25 utility recovery of prudently-incurred expenses based

1 on considerations of its historic earnings or ROE,
2 right?

3 A. Well, I don't think it's any surprise.
4 As I've already answered, I have not reviewed every
5 statute or every case in this country. So I, you
6 know, but, as you say, personally, right now, I
7 cannot give you an instance.

8 Q. It is true that you attempted to find
9 cases in which the PUCO had denied recovery of
10 prudently-incurred expenses based upon the utility's
11 historic earnings, didn't you?

12 A. Sure. I look at what, you know, what
13 cases that are closely related, yes.

14 Q. And you didn't find any, did you?

15 A. I have not find any.

16 Q. You referred to the Duke case in one of
17 your prior answers. It's true, isn't it, that in the
18 Duke case, the Commission did not conclude that Duke
19 could not recover some of its prudently-incurred
20 costs due to its historic ROE?

21 A. I don't think the historic ROE is an
22 issue in the Duke case. In that case, the Commission
23 did disallow a significant amount of costs, and those
24 costs the Commission has not determined then to be
25 imprudent, the Commission say those costs are

1 unreasonable and they should not be allowed.

2 Q. It wasn't on the grounds based on Duke's
3 historic return on equity or earnings, was it?

4 A. The disallowance of those costs?

5 Q. Right.

6 A. No, it's not.

7 Q. Take a look at your testimony in
8 opposition to the stipulation, page 12.

9 A. Yes.

10 Q. In 2008, you have the returns on equity
11 for DP&L and Columbus Southern Power, correct?

12 A. Yes.

13 Q. Do you agree those numbers are
14 comparable?

15 A. They are close to each other.

16 Q. Okay. And you understand that the
17 Commission has authorized Columbus Southern Power to
18 recover its 2008 Hurricane Ike expenses?

19 A. I don't remember specifically what case
20 you're referring to.

21 Q. In any event, you're not aware of any
22 facts that would distinguish DP&L's request to
23 recover storm expenses from Columbus Southern Power's
24 request to recover storm expenses from 2008, right?

25 A. As I say, you know, I'm not familiar with

1 Ohio Power's request for the 2008 storm expense. I
2 don't know whether -- I don't recall exactly whether
3 they have one or they don't have one. I simply don't
4 know.

5 Q. Do you have available to you, behind you,
6 binders of documents? I would like you to open up
7 Volume I that would contain DP&L Exhibits 1 through
8 17.

9 MR. SAUER: Where are you at, Jeff?

10 MR. SHARKEY: Volume I, I'm going to DP&L
11 Exhibit No. 9.

12 Q. I should have said I'm moving to the
13 second area I'm asking you about related to DP&L's
14 historic earnings. If you would, within Exhibit 9,
15 turn to page 22. You see, in the upper right-hand
16 corner, that OCC signed that stipulation?

17 A. Yes.

18 Q. Okay. And if you would turn to page 3.
19 Under roman numeral IV, if you would take a moment to
20 read that down to the last line where it says "storm
21 damage expenses."

22 A. Yes.

23 Q. You understand that that stipulation
24 created a distribution rate freeze for DP&L with an
25 exception that DP&L's rates could be adjusted for

1 storm damage expenses?

2 A. I think that's what it say on page 3.

3 Q. And you're not aware of any earnings test
4 that's contained within the stipulation, are you?

5 A. I have -- I'm not familiar with this case
6 and I have not gone through every detail of this
7 particular stipulation.

8 Q. Okay. But, as you sit here today, you're
9 not aware of any earnings test within the
10 stipulation.

11 A. Yeah, based on my very limited knowledge
12 of this case.

13 Q. Fair enough.

14 Turn, if you would then, to DP&L
15 Exhibit 10. If you would turn, to begin, to page 18.
16 You see in the upper right-hand corner, once again,
17 Ohio Consumers' Counsel signed the stipulation,
18 right?

19 A. Yes.

20 Q. Turn then to page 11, please. At the
21 bottom of the page it discusses a rate stabilization
22 period, and you can see at the bottom there that the
23 period would run from January 1, 2006, to
24 December 31, 2008, right?

25 A. That's what it does say in that

1 paragraph.

2 Q. Hurricane Ike occurred during that
3 period, right?

4 A. Yes, in 2008, yes.

5 Q. Okay. And then on page 12, take a moment
6 to read the first sentence in subparagraph C.

7 A. Yes.

8 Q. You agree that that paragraph or that
9 sentence, rather, extends a distribution rate freeze
10 for DP&L?

11 A. Paragraph C?

12 Q. Yes.

13 A. Extend from January 1st, 2006, and ending
14 on December 31st, 2008. Is that what you're asking?

15 Q. Yes. It's a distribution rate freeze
16 during the period you just identified.

17 EXAMINER PRICE: Have you ever seen this
18 document before, Dr. Duann?

19 THE WITNESS: No. Well, in the
20 deposition, Mr. Sharkey showed this document, and
21 that's all I have. I have not read it.

22 EXAMINER PRICE: You're not familiar with
23 this document at all?

24 THE WITNESS: No, I'm not familiar with
25 it.

1 Q. Let's see if we can short-circuit this.

2 You agree that when OCC signs a
3 stipulation, OCC should abide by the terms?

4 A. I think if OCC signed a stipulation and
5 that stipulation was subsequently approved by the
6 Commission, then, of course, OCC would abide by the
7 terms of the stipulation, just like any other party.

8 Q. You're not aware of any facts suggesting
9 that DP&L has violated any of the stipulations it
10 signed that created rate plans for DP&L, are you?

11 A. I don't understand your question because
12 what rate plan you are referring to? That's just a
13 very broad question.

14 Q. That's the point. You can't testify, to
15 me, that you know that DP&L has violated any
16 obligations that it had under the various rate plans
17 that it has signed in '99 and various other cases,
18 right?

19 A. I haven't examined this particular issue
20 and I have not think about it.

21 Q. So you have no knowledge.

22 A. To the best of my knowledge I cannot cite
23 any instance that they violated any rate plan.

24 Q. And your testimony does not address the
25 stipulations that OCC signed relating to storm cost

1 recovery, does it?

2 A. Once again, I don't -- I don't understand
3 your question. When you say the stipulation, which
4 stipulation you're referring to?

5 Q. Your testimony doesn't address any
6 stipulations of any sort, does it? Well, other than
7 the stipulation in this case.

8 A. Actually, I did address the first ESP
9 stipulation.

10 Q. Okay. I'm sorry. Where is that?

11 A. That's on page 19 of my testimony in
12 opposition to the stipulation and recommendation, on
13 line 6 to line 9.

14 Q. Okay. You're not aware of any facts
15 suggesting DP&L violated that stipulation, are you?

16 A. No.

17 Q. Let me then move on. The third topic I
18 want to ask you about is what's recovered in DP&L's
19 current rates. You're aware DP&L's last rate case
20 was in 1991?

21 A. I believe so.

22 Q. And, if you would, within the binders
23 behind you, I need you to switch binders to Volume II
24 and turn to DP&L Exhibit 26.

25 EXAMINER PRICE: 26?

1 MR. SHARKEY: 26, yes, Your Honor.

2 (EXHIBIT MARKED FOR IDENTIFICATION.)

3 A. Yes.

4 Q. DP&L Exhibit 26 is a printout from
5 LexisNexis, I guess it's just Lexis now, of an
6 Opinion and Order from a 1983 Public Utilities
7 Commission of Ohio case, right?

8 A. That's what it say on the top of that
9 page.

10 Q. Okay. Have you ever seen this order
11 before to your knowledge?

12 A. No.

13 Q. Okay. Turn, if you would, to page 26 of
14 it. The first full paragraph, first two sentences
15 say "Test year operating income should be reflective
16 of the results of normal operations for the company.
17 The impact of unusual or nonrecurring events should
18 be excluded from the determination of expenses if
19 they are not reflective of what the Company is
20 reasonably expected to experience." Did I read that
21 accurately?

22 A. Yes.

23 Q. Okay. And does that accurately describe
24 your understanding of the practice of normalizing
25 expenses in a rate case?

1 A. If you -- if the word "normalizing" you
2 mean the -- the expense, the rate base, that filed by
3 a utility in a rate case and/or even the -- the usage
4 filed -- projected by a utility in a rate case, they
5 will typically be subject to adjustment and to
6 reflect the result of normal operation. If you --
7 when you use the word "normalize" if you mean that,
8 that's my understanding.

9 Q. That's what I meant so we're good.

10 Turn, if you would, then, to DP&L
11 Exhibit 27. Actually, before I ask you about that
12 document, I missed a question.

13 You understand that practice of
14 normalizing, as you've described it, has long existed
15 at the Commission?

16 A. Yes.

17 Q. And it still exists today?

18 A. I believe so.

19 (EXHIBIT MARKED FOR IDENTIFICATION.)

20 Q. Okay. Then turn, if you would, to DP&L
21 Exhibit 27. It is an Opinion and Order issued by the
22 Commission in a 1982 case filed by DP&L, right?

23 A. That say it at the top of that page.

24 Q. Is this a document you've ever seen
25 before?

1 A. No.

2 Q. Turn, if you would, to page 24 of the
3 document. Are you there?

4 A. Yes.

5 Q. Under "Storm Damage," the first sentence,
6 but ignoring the citation at the end, the first
7 sentence says "The staff proposed to reduce test year
8 operating expenses by \$1,224,032 to account for the
9 abnormally high level of storm damage expense
10 included by the company in Period II expenses." Did
11 I read that accurately?

12 A. Yes.

13 Q. And then skip down to the last full
14 paragraph, it says, quote, Based upon the record, we
15 find that the Staff's storm damage adjustment,
16 including labor, is warranted, close quote. Did I
17 read that accurately?

18 A. Yes.

19 Q. Do you understand this to be an
20 application of the normalization process to
21 distribution rates?

22 MR. SAUER: Your Honor, I'm going to
23 object. I think Dr. Duann has testified he hasn't
24 seen this order. The order speaks for itself. The
25 Company is more than welcome to cite the order and

1 make their arguments, but reading fractions of an
2 order into the record and asking Dr. Duann if that
3 segment of the order supports their argument seems
4 inappropriate.

5 And that -- and he's welcome to explore
6 Dr. Duann's knowledge of normalization and
7 normalization practices, but using an order that he
8 said he hasn't seen should not be allowed.

9 EXAMINER MCKENNEY: Mr. Sharkey?

10 MR. SHARKEY: Your Honor, certainly
11 Dr. Duann could say that he doesn't understand the
12 order or isn't able to determine what it says, but I
13 should be permitted to question him.

14 One of the points that Dr. Duann had --
15 about the order, one of the points that Dr. Duann has
16 testified is that he believes that DP&L's already
17 recovering unusual storm expenses in its distribution
18 rates, and I'm just trying to establish that the
19 long-established Commission practice was to exclude
20 unusual and nonrecurring storm expenses from rates.

21 MR. SAUER: I would also point out, Your
22 Honors, that this is not DP&L's last rate case.
23 Their last rate case was in 1991. If you want to
24 look at the order in 1991 and explore what
25 normalization adjustments might have been made to

1 establish what's in base rates, that might be more
2 appropriate. But this is a case that precedes their
3 last rate case and what they did in '82 has no
4 relevance to what's in base rates today.

5 EXAMINER MCKENNEY: Thank you, Mr. Sauer.

6 The objection is sustained. Commission
7 orders do speak for themselves. You'll be welcome to
8 address these in your brief if you wish.

9 MR. SHARKEY: All right. Thank you.

10 Q. (By Mr. Sharkey) Dr. Duann, you were in
11 Ohio in 2008, if I recall correctly from your
12 deposition?

13 A. Yes.

14 Q. Okay. And you recall that Hurricane Ike
15 was an extraordinary storm?

16 A. Yes.

17 Q. Okay. You don't recall the storms that
18 struck DP&L's service territory in 2011?

19 A. No.

20 Q. You're agreeing with me?

21 A. Right, I don't recall specifically, yeah.

22 Q. You do -- in fact, you were in DP&L's
23 service territory at the time the 2012 derecho
24 struck, right?

25 A. Yes.

1 Q. And you don't recall any bigger storms
2 than the 2012 derecho storm that hit DP&L's service
3 territory, do you?

4 A. I usually don't go to DP&L's service
5 territory so I really cannot compare, but, yeah, in
6 2012, I was there at that time and it's a pretty big
7 storm, yes.

8 Q. The next topic I want to ask you about is
9 investor reliance on a PUCO order granting a
10 deferral. You are now aware of the fact that a
11 utility cannot defer expenses on its books and
12 convert them into a regulatory asset unless the
13 expenses are probable for recovery, right?

14 A. My understanding is unless the utility
15 determine that those expenses are probable for
16 recovery, yes, then they can list as a regulatory
17 asset.

18 Q. Okay. And you don't take a position, one
19 way or the other, on whether it would be reasonable
20 or unreasonable for investors to conclude that it was
21 probable that the utility would recover amounts that
22 the Commission had authorized the utility to defer?

23 MR. SAUER: Can I have that question read
24 back, please?

25 (Record read.)

1 A. I don't think there's anything reasonable
2 or unreasonable. I think it's up to the individual
3 investor to determine whether they want to believe
4 what the utility say, whether that is probable for
5 recovery or not probable. It's up to the individual
6 investors.

7 Q. Okay. And you don't take a position on
8 whether that would be reasonable or unreasonable for
9 the investors to conclude, right?

10 A. As I said, you know, it's up to the
11 individual investors. And I believe many investors,
12 they are sophisticated investors and they -- they can
13 make whatever decision on, you know, how they -- how
14 they will evaluate the utility's accounting
15 treatment.

16 And my point is it is unreasonable to
17 base the Commission's decision on the recovery of
18 certain deferred expenses simply because some
19 customer has an expectation that would be recovered,
20 then the Commission would say oh, then we have to
21 allow those. I think that would be unreasonable.

22 Q. Let me ask you about DP&L's cost of
23 capital. You understand that utilities attract
24 capital through equity investments or taking on debt?

25 A. Yes.

1 Q. And holding all else equal, you would
2 agree with me that a lower cost of capital for a
3 utility will lead to lower prices for customers?

4 A. Not necessarily.

5 Q. You don't believe that holding all else
6 equal, a lower cost of capital for a utility would
7 lead to lower prices for customers?

8 A. I think we have gone through this
9 question in the deposition, and my answer to you is
10 simply, you know, it also, as I explained at that
11 time, Utility A has a lower cost of capital than
12 Utility B, but it also depends on how the -- how the
13 regulatory agency use those lower costs, how
14 translate those lower cost of capital into rates.

15 And I also, I give you an example that in
16 two jurisdictions where, in Jurisdiction A, the
17 Commission is a do-nothing Commission, it just give
18 everything the utility want, and the investors are
19 happy, and they -- and, consequently, this company,
20 this utility in Jurisdiction A has a lower cost of
21 capital. But because the Commission -- even the cost
22 of capital, but the Commission give them all other
23 kinds of adjustments. Then the customer actually
24 paying a higher rate.

25 Versus in Jurisdiction B, where the

1 Commission taking a more active role, taking a
2 more, you know, protecting the ratepayer and maybe
3 have very stringent requirement on what kind of costs
4 are allowed, what kind of expense are allowed, and
5 the investor may not like it and that company may
6 have higher cost of debt, a higher cost of equity.
7 But because the Commission are doing a better job in
8 protecting the customers so, in the end, what the
9 rate paid by the customer in Commission -- in the
10 Jurisdiction B are actually lower than those in
11 Jurisdiction A.

12 So I think if you want to say you hold
13 everything exactly the same, you know, say the same
14 rate treatment and everything exactly the same
15 and, you know, the rate mechanism are exactly the
16 same, yeah. And I agree with you that if they are a
17 lower cost of capital and using the same rate
18 treatment, then a utility with a lower cost of
19 capital will likely have a lower rate if you holding
20 everything exactly the same.

21 EXAMINER MCKENNEY: I'm going to direct
22 the witness, I know Mr. Sharkey is being very
23 patient, but if you can try to be please -- try to be
24 responsive just to the question that's asked of you,
25 we'd appreciate it. Thank you, Mr. Duann.

1 Mr. Sharkey.

2 Q. (By Mr. Sharkey) You know that investors
3 in utility stock tend to be risk adverse?

4 A. Once again, I think you need to give a
5 context on that. I would say in general, you know,
6 if you compare a customer that invests in utility --
7 I mean you compare investor that invest mostly in
8 utility versus that invest in nonutility, I would
9 agree with that.

10 Q. And you know that investors and lenders
11 monitor PUCO proceedings?

12 A. Yes.

13 Q. And you understand that unpredictability
14 in the ROE or the utility's ability to recover its
15 costs may -- let me strike that and start the
16 question over.

17 You understand that unpredictability in
18 the ability of the utility to cover its costs may
19 make an investor less willing to invest in that
20 utility?

21 A. Actually, I don't know what you mean,
22 "unpredictability."

23 Q. You don't understand what
24 "unpredictability" means?

25 A. In the sentence you used.

1 Q. Would you agree with me that if utilities
2 were unable, in particular jurisdictions, to recover
3 their costs, then investors would be less willing to
4 invest in those utilities?

5 A. It's likely because, you know, the
6 investor would simply conclude that this particular
7 utility are not doing a good job in managing expense,
8 you know, maybe they just incur a lot of expense, a
9 lot imprudent or unreasonable. So, you know, the
10 investor will look at both the utility's self as well
11 as the regulatory agency.

12 Q. Okay. You're not aware of any -- strike
13 that.

14 Did you read the staff report in this
15 case?

16 A. The staff audit report, yes.

17 Q. Okay. You're aware the staff identified
18 a relatively small number of purportedly imprudent
19 expenditures by The Dayton Power and Light Company in
20 this case, right?

21 THE WITNESS: Can I have the question
22 read back, please?

23 (Record read.)

24 A. Based on my review of the audit report
25 and assuming that the -- the -- as the staff

1 indicated that assuming the Commission ruled that the
2 Company be allowed to recover expense from all storm
3 described in this application, the staff did identify
4 a number of items and they indicated that those
5 should not be recoverable. And, you know, I think
6 there's, I think at least four that in -- in the
7 audit report.

8 Q. In terms of expenditures that were
9 purportedly imprudent, it's a relatively small amount
10 that's identified in the staff report as compared to
11 the dollars at issue, right?

12 A. I don't understand the word "dollar at
13 issue." What do you mean by that?

14 Q. Well, in terms of the total amount that
15 The Dayton Power and Light Company spent to respond
16 to the storms at issue in this case, the staff
17 identified only a relatively small amount of dollars
18 that are, according to the staff, imprudently
19 expended, right?

20 MR. SAUER: I'm going to object to the
21 question. Relatively small to who? What we consider
22 to be small may not be what you consider to be small.

23 EXAMINER MCKENNEY: Objection's
24 overruled. I think the witness can use his own
25 determination in making that -- in answering that

1 question.

2 Dr. Duann.

3 A. Based on the audit report, and as well as
4 the Company's application, I believe the Company's
5 application for O&M costs for 2008, 2011, and '12,
6 without carrying charges is about \$30 million. And
7 then the staff in the audit report make specific
8 adjustment for those three years and, you know, I
9 don't have the number right now, but I believe it's
10 at least 8 or 9 million dollars.

11 Q. I want to distinguish between differences
12 in methodology as to how storm recovery should be
13 calculated and a conclusion by staff that a
14 particular expense was imprudently incurred.
15 Focusing on the expenses staff thought were
16 imprudently incurred, you're looking at a copy of the
17 staff audit report, right?

18 A. Yes.

19 Q. In 2008, you understand it to be the CWG
20 expenses down through the NESCO expenses at the
21 bottom, right?

22 A. There's an item there called "CWGLLC."

23 Q. And do you understand that the staff had
24 included that sort of range of expenses to be the
25 ones that were imprudently incurred?

1 And, Dr. Duann, I don't intend this to be
2 an exercise for you comparing the staff report, if
3 you don't know off the top of your head, I'll
4 withdraw the question.

5 A. Yeah, I try to be responsive; so I need
6 to refresh my memory on this.

7 MR. SHARKEY: Tell you what, I'll
8 withdraw the question, Your Honors, and ask a new
9 question, because I think I can argue on brief this
10 point and I don't need to waste anybody's time as
11 Dr. Duann compares the numbers. I thought he might
12 know the answer off the top of his head. So I'll
13 just withdraw it.

14 EXAMINER MCKENNEY: All right. The
15 question is withdrawn.

16 Q. Okay. New topic, Dr. Duann. You, as you
17 mentioned earlier, also offered the opinion that
18 DP&L's request to defer and recover its 2011 ice
19 storm expenses should be denied because DP&L did not
20 seek permission to defer those expenses in a timely
21 manner?

22 A. Yes.

23 Q. Okay. It's true, though, isn't it, that
24 you're not aware of any requirement in any PUCO rule,
25 any statute, any PUCO order that says that a utility

1 must seek permission to defer its expenses in a
2 specific period of time.

3 A. Actually, I think OCC witness Mr. Effron
4 addressed that question and I think he cited the
5 First Energy case.

6 Q. Okay. I've already talked to him about
7 the First Energy case. So set that aside. Are you
8 aware of any other statute, rule, or Commission order
9 that imposes a deadline for a utility to seek to
10 defer expenses after those expenses have been
11 incurred?

12 A. As I said earlier, I have not read all
13 the cases and I've not read all the statute, but I'm
14 not aware of any instance. However, I think if in
15 this case, if the Commission allow that -- allow the
16 deferral and the recovery of 2011 storm-related
17 expense of Dayton Power, I think that would set a
18 very, very, very bad example.

19 That essentially means any utility can
20 come in two years, three years, five years, ten years
21 from now and just come in, say okay, we forgot to
22 defer some expense and we want to recover that right
23 now. And I think that would be -- that will create a
24 significant rate instability and I think that would
25 be a very bad example.

1 I know that rate stabilization does not
2 create a president -- precedent, but I think this is
3 a very clearcut issue, this 2011 storm-related
4 expense should not be -- should not be deferred or
5 collected. It just -- just wait -- the Company just
6 simply just wait too long to do that.

7 Q. You're not aware of any claim made by any
8 witness at OCC that OCC's ability to review DP&L's
9 2011 expenses was somehow hampered due to the fact
10 DP&L waited until December of 2012 to seek to defer
11 and recover those expenses, are you?

12 A. I personally did not review, as we
13 discussed earlier, that any of the expense or any
14 specific item. And I have not talked to -- I have
15 not asked Mr. Yankel or Mr. Effron whether they were
16 hampered or not.

17 Q. You read Mr. Yankel's testimony, right?

18 A. I read his initial testimony and I read a
19 draft of his testimony in opposition to the -- to the
20 stipulation, yes.

21 Q. And you understand that Mr. Yankel, in
22 fact, was tasked by OCC with traveling to DP&L to
23 review boxes full of invoices, right?

24 A. I believe so, yes. I don't know whether
25 they read -- he read box of invoices. I was not

1 there, I don't know, but I remember that he took
2 trip, you know, one trip or two trip to Dayton, yes.

3 Q. You'd agree there's nothing in his
4 testimony where he says that he was unable to locate
5 or identify invoices that were for amounts DP&L was
6 seeking to recover in this case, right?

7 MR. SAUER: Could I have that question
8 read back?

9 (Record read.)

10 A. To the best of my recollection, I do not
11 recall that.

12 Q. It's true, isn't it, that you're not
13 aware of any requirement that a utility seek to defer
14 expenses before it seeks to recover them?

15 A. I don't know what you mean by
16 "requirement." Can you be more specific?

17 Q. Sure. Any statute, rule, or Commission
18 order.

19 A. Well, personally, I don't think -- I
20 don't -- I'm not aware, you know, as based on my --
21 on the case that I involved or case I reviewed, not a
22 specific requirement, but I would be very hard
23 pressed to believe that the Commission will grant a
24 recovery of certain -- of a specific deferred expense
25 without first authorize the deferral.

1 And to put it in another way, in all the
2 cases, you know, maybe three, four, or five, the
3 deferral authorization case, the Commission always
4 specifically say this authorize for deferral is not
5 an authorize to collect. All future collection will
6 still be subject to Commission's review regarding the
7 prudence and the reasonableness.

8 So I would be very, you know, even though
9 I am not aware of any specific requirement, but I
10 just simply do not believe that a utility will come
11 in one day, say okay, we want to collect this
12 deferred expense even though we never received an
13 "authorization" for deferral. And I'm not aware that
14 any utility have done that.

15 Q. But the question to you was that you're
16 not aware of any requirement that a utility seek an
17 order deferring expenses -- strike that.

18 It's also true, isn't it, that you're not
19 aware of any requirement, again meaning statute, rule
20 or order, that a utility seek to recover its unusual
21 or atypical expenses by any particular deadline?

22 A. I think the utility can request to defer
23 a certain expense that is within reasonable period of
24 time after the incurrence of that expense.

25 Q. So the question to you is that you're not

1 aware of any requirement that a utility seek to
2 recover unusually or atypical expenses by any
3 particular deadline, and the answer to my question is
4 that you're not aware of any such requirement, right?

5 A. No, I'm not aware.

6 Q. Okay. It's true, isn't it, your
7 testimony doesn't identify any injury to customers
8 resulting from DP&L's decision to wait until December
9 of 2012 to seek to defer and to recover 2011 storm
10 expenses?

11 A. When you use the word "injury," you mean
12 financial impact?

13 Q. Right.

14 A. My testimony does not address that issue.

15 Q. Okay. Assuming that the Commission were
16 to have granted recovery of the 2011 storm expenses,
17 you understand that any delay by DP&L in requesting
18 to defer the 2011 expenses would lead to customers
19 saving a substantial amount of carrying costs?

20 A. No.

21 Q. I'm sorry, what was the answer?

22 A. I said no, I do not believe that a
23 customer will necessarily save a substantial amount
24 of carrying costs.

25 Q. You understand that DP&L, in its

1 application in this case, asked to start recovering
2 carrying costs around or shortly after its
3 application was filed in this case, right?

4 A. Are you referring to the 2011 storm
5 expense?

6 Q. Yes, I am.

7 A. I don't remember exactly when the
8 Commission -- when DP&L was start calculating the
9 carrying charge. But my understanding is if this
10 request for deferral was not approved by the
11 Commission, I don't think the Company can start
12 calculating the carrying charge.

13 Q. Of course, if it's not approved, there's
14 no carrying costs that would be authorized.

15 A. Right. And that's the case right now.
16 So the Commission has not approved it; so I don't see
17 how you can say there's any saving or not saving.

18 The Company -- the Commission simply did
19 not approve a deferral, and the Company simply -- the
20 Commission has not approved a deferral of the 2011
21 storm costs, the Commission has not ruled on whether
22 those deferral can have carrying charge or not.

23 Q. So assuming the Commission would approve
24 the request for 2011, it's true, isn't it, that
25 DP&L's delay in making the request resulted in

1 residential customers saving a substantial amount of
2 carrying costs?

3 A. No.

4 Q. Do you recall your deposition?

5 A. Yes.

6 Q. Do you have a copy of it available to
7 you?

8 A. No.

9 MR. SHARKEY: Your Honors, may I
10 approach?

11 EXAMINER MCKENNEY: You may.

12 Q. You recall that your deposition spanned,
13 I believe, a total of three days, Dr. Duann?

14 A. Yes.

15 Q. We were scheduling it around various
16 other items. So it was starting late and breaking at
17 different periods, right?

18 A. Yes.

19 Q. Okay. Turn, there's three volumes that I
20 provided to you and to the attorney examiners. What
21 I'd like you to do is find page 218. I apologize, my
22 volumes are all stapled together so I don't know
23 which volume that's in, but it appears to be the last
24 volume?

25 A. Yes.

1 Q. Okay. 218, starting line 2, question by
2 me. Question: "Right. As a representative of
3 residential customers, DP&L's request may have led to
4 residential customers saving a substantial amount of
5 carrying costs, correct?"

6 Answer: "Once again, that is assuming
7 that the Commission will eventually approve the
8 request for the 2011 deferral and approve the company
9 to collect that." Did I read that accurately, sir?

10 A. Yes.

11 Q. It's also true, isn't it, that your
12 testimony does not identify any benefit to DP&L from
13 delaying its request for a deferral as to the 2011
14 storm expenses?

15 A. My testimony does not address that issue.

16 Q. Okay. My last topic. Your testimony
17 cites the staff report repeatedly, right?

18 A. Yes.

19 Q. Okay. And your testimony in support of
20 the -- I'm sorry. Your testimony in opposition to
21 the stipulation states, in a number of places, that
22 staff agrees with you on certain points, right? For
23 example, pages 9 and 11, you make that claim.

24 THE WITNESS: Can I have the question
25 read back?

1 (Record read.)

2 A. Can you give me a line on page 9?

3 Q. On page 9, it's question 17. "Does the
4 PUCO staff agree that" and then it goes on.

5 A. I did not say in my testimony that staff
6 agree with me. I'm only stating what the staff said
7 in the audit report.

8 Q. You are stating, for example here, the
9 PUCO staff agrees with certain points, right?

10 A. Yeah, the staff in the audit report, the
11 staff makes certain recommendations, and I identify
12 those recommendations.

13 Q. And you agree with those recommendations
14 according to your testimony, don't you, or do you
15 disagree with them?

16 A. It depends on specific question you're
17 referring to.

18 Q. Well --

19 A. For example, on the question 17, "agree
20 that customers should not pay...for costs
21 incurred...." And as I say earlier, and you already
22 cross-examined, I do not examine the individual items
23 included in the application.

24 Q. Page 11 is another place where you claim
25 that PUCO staff agrees with certain points, right?

1 A. Are you referring to question 20?

2 Q. I am.

3 A. Yes. On question 20, the staff, in its
4 audit report say that a customer should not pay any
5 of those 2011 storm costs.

6 Q. Okay. The PUCO staff was made aware of
7 many of the arguments that you have included --
8 strike that.

9 Your initial testimony in this case
10 included extensive arguments as to why DP&L's
11 application should be rejected, right?

12 A. I think my original testimony since the
13 application, and the way it is, you know, as filed by
14 the Company, should be rejected, yes.

15 Q. And your original testimony included some
16 of the same points you've included in your testimony
17 in opposition to the stipulation relating to DP&L's
18 historic earnings and the timeliness of DP&L's
19 deferral request, right?

20 A. Yes.

21 Q. Okay. And that testimony, your initial
22 testimony, was filed before the stipulation was
23 arrived at in this case, right?

24 A. Filed on January 31st, 2014.

25 Q. And you know that the stipulation was

1 filed in this case in early May of this year?

2 A. Yes, yes. Early May, yes.

3 Q. Okay. So your testimony was filed before
4 the stipulation was signed, right?

5 A. My initial testimony, yes.

6 Q. Staff is presumably aware of the
7 arguments you made in your initial testimony before
8 it signed the stipulation, right?

9 A. I don't know what the -- whether the
10 staff is aware or not aware; I didn't ask them.

11 Q. Okay. At a minimum, the information was
12 available to the Commission staff, right?

13 A. The information was docketed and everyone
14 can have access to that and they can read it if they
15 want to read it.

16 Q. Is it your expectation that the
17 Commission staff reads testimony that's filed in
18 cases at least on which the staff members are
19 working?

20 A. Of course, I think they read everyone's
21 testimony.

22 Q. And you're aware of the fact that staff
23 signed the stipulation, right?

24 A. Yeah, staff signed the stipulation, yes.

25 MR. SHARKEY: Your Honors, no further

1 questions.

2 EXAMINER MCKENNEY: Thank you,

3 Mr. Sharkey.

4 Did staff have cross-examination?

5 MR. O'ROURKE: No, Your Honor.

6 MR. SAUER: May we have a moment with the
7 witness, Your Honor?

8 EXAMINER MCKENNEY: Certainly.

9 Let's take a five-minute break.

10 MR. SHARKEY: Thank you.

11 (Recess taken.)

12 MR. SAUER: Thank you, Your Honor. We
13 have no further questions for Dr. Duann.

14 EXAMINER MCKENNEY: All right.

15 EXAMINER PRICE: I have a question.

16 EXAMINER MCKENNEY: Mr. Price.

17 - - -

18 EXAMINATION

19 By Examiner Price:

20 Q. Dr. Duann, do you have a copy of the 2008
21 ESP stipulation with you on the stand?

22 A. No, I don't have it.

23 Q. If you could turn to Dayton's binder of
24 exhibits, I think it's at Exhibit 12. Volume I,
25 Exhibit 12.

1 A. Yes, I find it.

2 Q. If you could turn to page 11, please, 10
3 and 11.

4 A. Yes.

5 Q. Paragraph 18 has a discussion of the
6 distribution rate freeze and the ability for Dayton
7 to come in for separate riders to recover the
8 following costs; A is irrelevant; B is the cost of
9 storm damage. Do you see that?

10 A. Yes.

11 Q. I think we can agree, you and I can agree
12 that implicit in the recovery of costs of storm
13 damage are the words "prudently incurred." The
14 Commission would never approve a stip that says
15 Dayton can come in and recover any costs, prudently
16 incurred or not. And Dayton would agree they've been
17 advocating throughout this proceeding that their
18 costs are prudently incurred. Would you agree that
19 prudently incurred is implicit in that language?

20 A. My reading of that language it is the
21 Company can come and file an application to recover
22 the costs of storm damage. And I agree with you
23 totally that when the Commission approve that
24 recovery and those costs, storm damage costs, has to
25 be prudent and reasonable.

1 Q. Okay. And the "and reasonable" was the
2 part I was going to get to. Did you apply your
3 earnings test to whether or not the recovery is
4 reasonable? Can you explain for the Bench why you
5 think that's implicit in this language too?

6 A. Because I think when -- it is my
7 understanding as a regulatory economist and has been
8 involved in public utility regulation for over 20
9 years, I think it is -- I believe it is in the public
10 interest and it is in the -- a fundamental principle
11 of utility regulation that the utility can only
12 recover prudent and reasonable costs, yeah.

13 Q. Dayton has a fuel charge, do they not?

14 A. Yes.

15 Q. And that's authorized by their ESP?

16 A. Yes.

17 Q. Have you taken the position that their
18 prudently-incurred fuel costs should not be recovered
19 because of what they may be earning from year to
20 year?

21 A. No.

22 Q. Are you taking the position that their
23 prudently-incurred alternative energy costs should be
24 disallowed because they're earning too much from year
25 to year?

1 A. I don't quite understand what you mean,
2 "alternative energy costs"?

3 Q. The State of Ohio has a renewable energy
4 portfolio standard.

5 A. Yes.

6 Q. You're familiar with that?

7 A. I'm not familiar with that, but I'm aware
8 of that.

9 EXAMINER PRICE: If that's the case, it's
10 not real important. Okay. Thank you. That's all I
11 have.

12 EXAMINER MCKENNEY: Dr. Duann, you may
13 step down from the stand. Thank you.

14 Mr. Sauer.

15 MR. SAUER: Thank you, Your Honor. At
16 this time, OCC would move for the admission of OCC
17 Exhibits 23 and 24.

18 EXAMINER MCKENNEY: Any objection to the
19 admission of OCC 23 and 24?

20 MR. SHARKEY: No, Your Honor.

21 EXAMINER MCKENNEY: They will be so
22 admitted.

23 (EXHIBITS ADMITTED INTO EVIDENCE.)

24 MR. SAUER: Thank you, Your Honor.

25 EXAMINER MCKENNEY: Is there anything

1 else for the good of this proceeding?

2 MR. SHARKEY: Not from DP&L, Your Honor.

3 MR. SAUER: You said there will be a
4 separate order coming out with the briefing schedule.

5 EXAMINER MCKENNEY: Yes. Regarding the
6 briefing schedule in this case, I will issue a
7 subsequent entry in this case on the issuance of the
8 transcripts to the docket. The briefing schedule
9 will be 30 days after the issuance of the transcripts
10 and an additional 15 days for reply briefs.

11 MR. SHARKEY: Can we go off the record?

12 EXAMINER MCKENNEY: Let's go off the
13 record.

14 (Discussion off the record.)

15 EXAMINER MCKENNEY: This case is now
16 adjourned. Thank you, everyone. We're off the
17 record.

18 (Thereupon, the proceedings concluded at
19 3:03 p.m.)

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CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Thursday, June 5, 2014, and carefully compared with my original stenographic notes.

Carolyn M. Burke, Registered Professional Reporter, and Notary Public in and for the State of Ohio.

My commission expires July 17, 2018.

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Case No(s). 12-3062-EL-RDR, 12-3266-EL-AAM

Summary: Transcript in the matter of The Dayton Power and Light Company hearing - Volume III held on 06/05/14 electronically filed by Mrs. Jennifer Duffer on behalf of Armstrong & Okey, Inc. and Burke, Carolyn M. Mrs.