

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of the)
Application of Dayton Power and Light) Case No. 18-1875-EL-GRD
Company for Approval of Its Plan to)
Modernize Its Distribution Grid.)

In the Matter of the Application of the)
Dayton Power and Light Company for) Case No. 18-1876-EL-WVR
Approval of A Limited Waiver of Ohio)
Adm. Code 4901:1-18-06(A)(2).)

In the Matter of the Application of the)
Dayton Power and Light Company for) Case No. 18-1877-EL-AAM
Approval of Certain Accounting Methods.)

In the Matter of the Application of the)
Dayton Power and Light Company for)
Administration of the Significantly) Case No. 19-1121-EL-UNC
Excessive Earnings Test under R.C.)
4928.143(F) and Ohio Adm. Code 4901:1-)
35-10 for 2018.)

In the Matter of the Application of the)
Dayton Power and Light Company for A)
Finding That Its Current Electric Security) Case No. 20-680-EL-UNC
Plan Passes the Significantly Excessive)
Earnings Test and More Favorable in the)
Aggregate Test in R.C. 4928.143(E).)

In the Matter of the Application of the)
Dayton Power and Light Company for)
Administration of the Significantly) Case No. 20-1041-EL-UNC
Excessive Earnings Test under R.C.)
4928.143(F) and Ohio Adm. Code 4901:1-)
35-10 for 2019.)

**DIRECT TESTIMONY
OF
DANIEL J. DUANN, Ph.D.**

On Behalf of
The Office of the Ohio Consumers' Counsel
65 East State Street, 7th Floor
Columbus, Ohio 43215

December 17, 2020

TABLE OF CONTENTS

	PAGE
I. INTRODUCTION	1
II. PURPOSE AND ORGANIZATION OF TESTIMONY	4
III. SUMMARY OF RECOMMENDATIONS	5
IV. THE 2018 SIGNIFICANTLY EXCESSIVE EARNINGS TEST AND REFUND DUE TO CUSTOMERS	9
V. THE 2019 SIGNIFICANTLY EXCESSIVE EARNINGS TEST AND REFUND DUE TO CUSTOMERS	16
VI. THE PUCO SHOULD REJECT THE SETTLEMENT TO PROTECT DP&L'S CUSTOMERS.....	20
VII. SUMMARY AND CONCLUSION	26

LIST OF ATTACHMENTS

Attachment DJD-1

Attachment DJD-2

I. INTRODUCTION

Q1. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND POSITION.

A1. My name is Daniel J. Duann. My business address is 65 East State Street, Columbus, OH 43215. I am the Assistant Director of Analytical Services with the Office of the Ohio Consumers' Counsel ("OCC").

Q2. PLEASE DESCRIBE YOUR PROFESSIONAL EXPERIENCE AND EDUCATIONAL BACKGROUND.

A2. I joined OCC in January 2008 as a Senior Regulatory Analyst. I was promoted to the position of Principal Regulatory Analyst in November 2011 and to my current position in June 2018. My primary responsibility is to assist OCC by participating in proceedings before the Public Utilities Commission of Ohio ("PUCO") and the Federal Energy Regulatory Commission ("FERC"). These proceedings include, among others, rate cases, cost of capital, fuel adjustment clause, standard service offer, and infrastructure replacement riders.

Prior to joining OCC, I was an independent consultant. Before that, I was a Senior Institute Economist at the National Regulatory Research Institute ("NRRI") at The Ohio State University. NRRI has been a policy research center funded by the National Association of Regulatory Utility Commissioners and state public utilities commissions since 1976. NRRI is currently located in Washington, DC and no longer a part of The Ohio State University. My work at NRRI involved research, publishing, and public

*Direct Testimony of Daniel J. Duann, Ph.D.
On Behalf of the Office of the Ohio Consumers' Counsel
PUCO Case No. 18-1875-EL-GRD et al.*

1 services in areas of utility regulation and energy policy. Before NRRI, I held various
2 positions with the Forecasting Section of the Ohio Division of Energy (the Forecasting
3 Section was later transferred to the PUCO), the Center of Health Policy Research at the
4 American Medical Association, and the Policy Analysis and Research Division of the
5 Illinois Commerce Commission.

6
7 I received my Ph.D. degree in Public Policy Analysis and M.S. degree in Energy
8 Management and Policy from the University of Pennsylvania. I also have an M.A. degree
9 in Economics from the University of Kansas. I completed my undergraduate study in
10 Business Administration at the National Taiwan University, Taiwan, Republic of China. I
11 have been a Certified Rate of Return Analyst by the Society of Utility and Regulatory
12 Financial Analysts since 2011.

13
14 ***Q3. HAVE YOU PREVIOUSLY SUBMITTED TESTIMONY OR TESTIFIED BEFORE***
15 ***THE PUBLIC UTILITIES COMMISSION OF OHIO AND OTHER AGENCIES OR***
16 ***LEGISLATURES?***

17 ***A3.*** Yes. I have submitted expert testimony or testified on behalf of the OCC before the
18 PUCO in numerous proceedings. A list of these proceedings is included in Attachment
19 DJD-1. I am familiar with the applicable law regarding the Significantly Excessive
20 Earnings Test (“SEET”) codified in R.C. 4928.143(F). I have participated extensively in
21 the SEET Workshop proceeding (PUCO Case No. 09-786-EL) on the initial
22 implementation of the SEET statute in Ohio. Additionally, I have filed testimony in Ohio
23 Power’s 2010, 2014, 2016 and 2018 SEET Applications, Ohio Edison’s 2017 SEET

*Direct Testimony of Daniel J. Duann, Ph.D.
On Behalf of the Office of the Ohio Consumers' Counsel
PUCO Case No. 18-1875-EL-GRD et al.*

1 Applications, and on SEET-related provisions in FirstEnergy's ESP II (PUCO Case No.
2 12-1230-EL-SSO) and ESP III (PUCO Case No. 14-1297-EL-SSO) proceedings.

3
4 I have also testified before the Illinois Commerce Commission regarding a proposed
5 divestiture of three nuclear power plants by the Commonwealth Edison Company in
6 1987. Additionally, I testified in 1989, as an independent expert from NRRI, before the
7 California State Legislature (specifically, the Senate Committee on Energy and Public
8 Utilities) regarding a legislation banning "sweetheart deals" between electric utilities and
9 their non-regulated affiliates (SB 769).

10
11 ***Q4. HAVE YOU PREVIOUSLY PUBLISHED OR PRESENTED IN ACADEMIC***
12 ***JOURNALS, TRADE PUBLICATIONS, AND PROFESSIONAL CONFERENCES?***

13 ***A4.*** Yes. I have published in several academic journals and trade publications, and also
14 presented in many professional conferences on topics related to utility regulation, energy
15 policy, and emerging technology. A selected listing of these publications and
16 presentations is included as Attachment DJD-2.

II. PURPOSE AND ORGANIZATION OF TESTIMONY

Q5. WHAT ARE THE PURPOSES OF YOUR TESTIMONY?

A5. My testimony has two purposes. First, it supports my analysis and recommendation that refunds are due to customers for the profits earned by DP&L in 2018 and 2019 from its electric security plan because the profits earned were “significantly excessive.”¹ Second, it supports my analysis and recommendation that the PUCO should protect consumers by rejecting the Stipulation and Recommendation (“Settlement”) filed by Dayton Power and Light Company (“DP&L” or “Utility”) and others on October 23, 2020.²

Q6. HOW IS YOUR TESTIMONY ORGANIZED?

A6. I will first explain my analysis regarding DP&L’s 2018 and 2019 profits. DP&L did have significantly excessive earnings in 2018 and 2019 and the PUCO should order DP&L to refund approximately \$150.6 million (\$62.9 million applicable to the 2018 SEET refund and \$87.7 million applicable to the 2019 SEET refund) to customers as required by Ohio law.³ Then, I will explain why the Settlement, which deprives customers of any refund for DP&L’s too high profits and allows DP&L to collect a Rate Stability Charge (“RSC”)

¹ See *In the Matter of the Application of the Dayton Power and Light Company for Administration of the Significantly Excessive Earnings Test under R.C. 4928.143(F) and Ohio Adm. Code 4901:1-35-10 for 2018*, Case No. 19-1121-EL-UNC (May 15, 2019). (“2018 SEET Application”) and *In the Matter of the Application of the Dayton Power and Light Company for Administration of the Significantly Excessive Earnings Test under R.C. 4928.143(F) and Ohio Adm. Code 4901:1-35-10 for 2019*, Case No. 20-1041-EL-UNC (May 15, 2020). (“2019 SEET Application”).

² *In the Matter of The Application of The Dayton Power and Light Company for Approval of Its Plan to Modernize Its Distribution Grid*, Case No. 18-1875-EL-GRD et al., Stipulation and Recommendation (October 23, 2020). (“Settlement”).

³ \$150.6 million = \$62.9 million (2018 SEET refund) + \$87.7 million (2019 SEET refund).

1 over approximately the next four years, is not reasonable or in the public interest. The
2 Settlement does not meet the three-prong test used by the PUCO and should be rejected.

3
4 **III. SUMMARY OF RECOMMENDATIONS**

5
6 ***Q7. WHAT IS YOUR RECOMMENDATION REGARDING WHETHER DP&L'S***
7 ***CONSUMERS SHOULD GET REFUNDS FOR THE 2018 AND 2019 EARNINGS***
8 ***DP&L ACHIEVED UNDER ITS ELECTRIC SECURITY PLAN?***

9 ***A7.*** Based on the testimonies and financial statements filed by DP&L (discussed later in my
10 testimony), I calculate that DP&L had a SEET-adjusted profit (as measured by return on
11 equity or "ROE") of 24.55% in 2018 and 26.67% in 2019.⁴ Comparing these profits with
12 the SEET earnings threshold of 12.00% previously approved by the PUCO,⁵ I
13 recommend that the PUCO find DP&L had significantly excessive earnings in 2018 and
14 2019. The PUCO should order DP&L to provide a \$62.9 million refund to customers for
15 its 2018 profits and another \$87.7 million refund to customers for 2019 profits.⁶ I
16 recommend these SEET refunds be returned to customers within six months after the
17 PUCO order so that customers in this particularly needy time get refunds as soon as
18 possible.

⁴ The detailed calculation of these SEET-adjusted ROEs is shown in Table 1 and Table 3.

⁵ See PUCO Case No. 16-395-EL-SSO et al. (ESP III), Opinion and Order at 7 (Oct. 20, 2017).

⁶ The detailed calculation of the SEET refunds is shown in Table 2 and Table 4.

1 ***Q8. WHAT IS YOUR UNDERSTANDING OF THE THREE-PRONG TEST THAT THE***
2 ***PUCO COMMONLY USES IN EVALUATING A SETTLEMENT?***

3 ***A8.*** I understand that the PUCO typically analyzes a settlement using a three-prong test.
4 Specifically, the PUCO will consider:

- 5 (1) Is the settlement a product of serious bargaining among capable,
6 knowledgeable parties?⁷
- 7 (2) Does the settlement, as a package, benefit customers and the public
8 interest?
- 9 (3) Does the settlement package violate any important regulatory
10 principle or practice?

11 If the PUCO determines, based on evidence presented in this proceeding, that a
12 proposed settlement does not meet each of the three criteria outlined above, the
13 settlement is rejected. In deciding to adopt or reject a settlement, the PUCO “may
14 take the stipulation into consideration, but must determine what is just and
15 reasonable from the evidence presented at the hearing.”⁸

16

17 ***Q9. WHAT IS YOUR RECOMMENDATION REGARDING THE SETTLEMENT?***

18 ***A9.*** I recommend that the PUCO reject the Settlement because it does not meet the PUCO
19 settlement standard. First, the Settlement does not benefit customers or the public

⁷ I also understand that when considering the first prong, the PUCO has found that a diversity of interests among signatory parties is a relevant factor. *See, e.g., In re Columbia Gas of Ohio, Inc.*, Case No. 17-2202-GA-ALT, Opinion & Order ¶ 45 (Nov. 28, 2018) (settlement met first prong, in part, because it was “the product of serious bargaining among capable, knowledgeable parties representing interests ranging from consumers and community groups to commercial and industrial sectors, not to mention Staff and Columbia”).

⁸ *See OCC v. PUCO*, 64 Ohio St.3d 123, 125 (1992).

Direct Testimony of Daniel J. Duann, Ph.D.
On Behalf of the Office of the Ohio Consumers' Counsel
PUCO Case No. 18-1875-EL-GRD et al.

1 interest. The Settlement, if approved, would harm many Ohioans during this difficult and
2 challenging time by imposing substantially higher and unreasonable rates over an
3 extended period of time. For example, the Settlement would require the PUCO to
4 approve DP&L's 2018 and 2019 SEET Applications with no refund to customers in spite
5 of DP&L's significantly excessive profits in 2018 and 2019.⁹ This settlement provision
6 alone would cost customers approximately \$150.6 million. The Settlement will also allow
7 DP&L to continuously collect an RSC, a financial stability charge estimated to be \$75-80
8 million per year¹⁰ for approximately four more years (until around October 2024, one
9 year after the possible filing of "ESP V").¹¹ These RSC-related provisions will impose
10 approximately \$300 million additional costs on DP&L's customers.¹²

11
12 The Supreme Court of Ohio and the PUCO have repeatedly found a financial stability
13 charge, such as the RSC or DP&L's Distribution Modernization Rider ("DMR"), to be
14 not allowed under Ohio law. Specifically, in its November 2019 decision terminating
15 DP&L's DMR, the PUCO concluded:

16
17 "The line of cases from Columbus S. Power Co., 2011-Ohio-1788, to Ohio Edison
18 demonstrates that nonbypassable riders, established to promote the financial

⁹ See Settlement, Paragraph 19.c.iii.

¹⁰ See SEC Form 8-K filed by DPL Inc. and Dayton Power and Light Company on November 22, 2019 in <https://d18rn0p25nwr6d.cloudfront.net/CIK-0000874761/9752c12e-4388-44d5-b7c5-6fdc988a402c.pdf>.

¹¹ See Settlement, Paragraphs 19.a, 19.c.i, and 20.a.

¹² See Supplemental Direct Testimony of Matthew I. Kahal (Dec. 14, 2020).

Direct Testimony of Daniel J. Duann, Ph.D.
On Behalf of the Office of the Ohio Consumers' Counsel
PUCO Case No. 18-1875-EL-GRD et al.

1 integrity of EDUs, are unlawful and are not authorized by R.C. 4928.143, the
2 statute creating electric security plans.”¹³

3
4 Second, I have found that the Settlement violates important regulatory principles and
5 Ohio law and policies. For example, the collection of the RSC over the next four years
6 and the forced forfeiture of 2018 and 2019 SEET refunds owed by DP&L to its
7 customers would result in unreasonable and substantially higher utility rates than
8 justified. Thus, the Settlement violates the fundamental regulatory principle that all rates
9 for monopoly utility services must be reasonably priced.¹⁴ This fundamental regulatory
10 principle has been codified in Ohio law since 1953. Specifically, the Settlement violates
11 Ohio law that requires:

12
13 Every public utility shall furnish necessary and adequate service and
14 facilities, and every public utility shall furnish and provide with respect to
15 its business such instrumentalities and facilities, as are adequate and in all
16 respects just and reasonable. All charges made or demanded for any
17 service rendered, or to be rendered, shall be just, reasonable, and not more
18 than the charges allowed by law or by order of the public utilities
19 commission, and no unjust or unreasonable charge shall be made or

¹³ *In re Application of The Dayton Power and Light Co. to Establish A Standard Service Offer in the Form of An Electric Security Plan*, Case No. 16-395-EL-SSO et al., Supplemental Opinion & Order ¶¶ 104-108 (Nov. 21, 2019).

¹⁴ This is sometimes referred by regulatory economist as cost-based regulation. In other words, the rates of utility services provided by a monopoly, such as DP&L, should be based on the prudently-incurred costs of providing these utility services. *See*, for example, James C. Bonbright, *Principles of Public Utility Rates*, Columbia University Press, New York (1961) at 240-241.

1 demanded for, or in connection with, any service, or in excess of that
2 allowed by law or by order of the commission.¹⁵

3
4 To put it in another way, the Settlement forces many Ohioans to provide hundreds of
5 millions of dollars of subsidies, through an illegal financial stability charge and forfeiture
6 of mandated refunds, to DP&L and its owners. The Settlement, if approved, will
7 adversely affect the livelihood of many Ohioans and the Ohio economy. Additionally, as
8 discussed later in my testimony, the Settlement directly contradicts many Ohio policies
9 on competitive retail electric service that are delineated in Revised Code 4928.02.

10
11 **IV. THE 2018 SIGNIFICANTLY EXCESSIVE EARNINGS TEST AND REFUND**
12 **DUE TO CUSTOMERS**

13
14 ***Q10. PLEASE BRIEFLY EXPLAIN THE ANNUAL PROFITS REVIEW THAT THE***
15 ***PUCO MUST UNDERTAKE EACH YEAR TO PROTECT CUSTOMERS FROM***
16 ***PAYING TOO MUCH FOR ELECTRIC SECURITY PLAN RATES.***

17 ***A10.*** Under the Significantly Excessive Earnings Test (“SEET”) enacted in the 2008 energy
18 law, if an electric utility is found to have “significantly excessive earnings” resulting
19 from its electric security plan (“ESP”), the excess earnings are to be returned to
20 customers.¹⁶ The purpose of the SEET is to provide an after the fact protection for

¹⁵ See R.C. 4905.22. This requirement has been effective since October 1, 1953.

¹⁶ See R.C. 4928.143(F). Specifically, (if a utility’s ESP resulted in “significantly excessive earnings,” the PUCO “shall require the electric distribution utility to return to customers the amount of the excess by prospective adjustments”).

*Direct Testimony of Daniel J. Duann, Ph.D.
On Behalf of the Office of the Ohio Consumers' Counsel
PUCO Case No. 18-1875-EL-GRD et al.*

1 consumers when the rates approved under the electric security plan allow the utility to
2 earn significantly excessive profits. The annual earnings (SEET) review examines the
3 totality (“in the aggregate”) of the earnings that the electric distribution utility was able to
4 achieve under all provisions of its electric security plan, including all the rates, riders, and
5 conditions and terms of service approved.¹⁷

6
7 ***Q11. PLEASE SUMMARIZE DP&L’s 2018 PER-BOOK EARNINGS AND AVERAGE***
8 ***COMMON EQUITY EARNED UNDER DP&L’S ELECTRIC SECURITY PLAN.***

9 ***A11.*** According to the testimony and financial statements filed by DP&L, the per-book
10 earnings in 2018 were approximately \$86,695,000 and the per-book average common
11 equity \$387,863,000.¹⁸ The 2018 per-book return on equity was 22.35%.¹⁹ These per-
12 book financial statements are considered the most reliable and fair representation of the
13 financial performance of a business including public utilities such as DP&L.²⁰

14
15 Consequently, I will use the per-book (or “reported”) net income (or “earnings”) and
16 common equity included in the audited financial statements of DP&L as the starting point
17 of my SEET analysis.

¹⁷ See R.C. 4928.143 (F) (specifically, with regard to the provisions that are included in an electric security plan under this section, if the PUCO “finds that such adjustments, in the aggregate, did result in significantly excessive earnings”).

¹⁸ See PUCO Case 19-1121-EL-UNC, Direct Testimony of Craig A. Forestal, Exhibit CAF-1, page 1 of 1 (May 15, 2019).

¹⁹ $22.35\% = \$86,695,000 / \$387,863,000$.

²⁰ These per-book earnings and common equity are included in the audited financial statements filed by DP&L with the Securities and Exchange Commission (Form 10-K), the Federal Energy Regulatory Commission (Form 1), and the PUCO (Annual Report).

1 ***Q12. PLEASE SUMMARIZE DP&L'S CALCULATION OF ITS 2018 SEET EARNINGS***
2 ***AND AVERAGE COMMON EQUITY.***

3 ***A12.*** In testimony, DP&L makes several adjustments which drastically reduce its profits
4 (SEET-adjusted ROE) to 3.5%. DP&L made three adjustments to its per-book earnings
5 and two adjustments to its common equity in its 2018 SEET Application filed on May 15,
6 2019. DP&L calculated a 2018 SEET-adjusted earnings of \$13,842,000 and a 2018
7 average common equity of \$392,722,000, resulted in a 2018 SEET-adjusted ROE of
8 3.5%.²¹ The three earnings adjustments are: a deduction of the Distribution
9 Modernization Rider ("Rider DMR") earnings (after-tax) of \$82,570,000; the adding
10 back of a penalty of \$17,000 (after-tax) recorded in FERC Account 426.3; and the adding
11 back of an after-tax loss of \$9,700,000 on the disposal of previously retired generation
12 assets.²² The two adjustments to its 2018 year-end common equity are the flow-through
13 impact of the FERC Account 426.3 penalty and the loss of disposal of generation assets.²³
14

15 ***Q13. DO YOU AGREE WITH DP&L'S CALCULATION OF PROFITS EARNED IN 2018***
16 ***UNDER ITS ELECTRIC SECURITY PLAN?***

17 ***A13.*** No. DP&L excluded \$82.6 million of its so-called distribution modernization rider
18 revenues that were paid by its customers during 2018. Because the DMR was an
19 approved provision of DP&L's electric security plan, the law requires the earnings
20 resulting from that provision to be included in the profits review. There is no exception

²¹ See Direct Testimony of Forestal at 4-5 and Exhibit CAF-2, page 1 of 1.

²² *Id.*

²³ *Id.*

*Direct Testimony of Daniel J. Duann, Ph.D.
On Behalf of the Office of the Ohio Consumers' Counsel
PUCO Case No. 18-1875-EL-GRD et al.*

1 under the law that allows DP&L to cherry pick some of its earnings for exclusion from
2 the profits test. The SEET-adjusted ROE of 3.5% calculated by DP&L is unlawful and
3 unreasonable and should be rejected.

4
5 Recently, the Supreme Court of Ohio ruled that the PUCO was wrong in excluding
6 revenue from FirstEnergy's similar DMR charge when measuring the 2017 profits of
7 Ohio Edison.²⁴ The Court found that the PUCO lacked authority to do so, and the
8 PUCO's order was reversed and remanded.²⁵ The Court also opined that the PUCO was
9 required to include the DMR when determining whether the plan resulted in excessive
10 earnings.²⁶ DP&L's DMR is substantially identical to Ohio Edison's. The PUCO itself
11 has recognized this because after the Ohio Supreme Court struck down Ohio Edison's
12 DMR, the PUCO relied on that ruling to eliminate DP&L's DMR as well.²⁷

13
14 ***Q14. WHAT IS YOUR CALCULATION OF DP&L'S 2018 SEET-ADJUSTED RETURN***
15 ***ON EQUITY?***

16 ***A14.*** Consistent with the recent decision of the Supreme Court of Ohio and my long-held
17 position, I incorporated only the adjustments (proposed by DP&L) associated with the
18 FERC Account 426.3 penalty and the loss of disposal of generation assets. These two
19 items are not related to the terms and provisions of the ESP and they are one-time, non-

²⁴ See *In re Determination of Existence of Significantly Excessive Earnings for 2017 Under the Elec. Sec. Plan of Ohio Edison Co.* Slip Opinion No. 2020-Ohio-5450 (Dec. 1, 2020).

²⁵ *Id.*, at 2.

²⁶ *Id.*, at 11.

²⁷ See *In re Application of the Dayton Power & Light Co. to Establish a Standard Service Offer in the Form of an Electric Security Plan*, Case No. 16-395-EL-SSO, Supplemental Opinion & Order (Nov. 21, 2019).

*Direct Testimony of Daniel J. Duann, Ph.D.
On Behalf of the Office of the Ohio Consumers' Counsel
PUCO Case No. 18-1875-EL-GRD et al.*

recurring items. They were already deducted in calculating the per-book profits and they should be added back in calculating the profits for SEET purpose. My calculation indicated the 2018 SEET-adjusted earnings of DP&L was \$96,412,000 and the 2018 SEET-adjusted average common equity \$392,722,000. The 2018 SEET ROE is 24.55%.
See Table 1.

**Table 1
Calculation of 2018 SEET Adjusted Return on Equity**

		Per Book	Proposed by DP&L	Proposed by OCC
2018 Reported Earnings	(1)	\$86,695,000	\$86,695,000	\$86,965,000
Adjustment 1: Rider DMR Earnings	(2)	\$0	-\$82,570,000	\$0
Adjustment 2: Penalty in Account 426.3	(3)	\$0	\$17,000	\$17,000
Adjustment 3: Loss on Previously Retired Assets	(4)	\$0	\$9,700,000	\$9,700,000
2018 Adjusted Earnings	(5)= (1)+(2)+(3)+(4)	\$86,695,000	\$13,842,000	\$96,412,000
2017 year-end Common Equity	(6)	\$330,582,000	\$330,582,000	\$330,582,000
2018 Year-end Common Equity	(7)	\$445,143,000	\$445,143,000	\$445,143,000
Equity Adjustment for DMR Earnings	(8)	\$0	\$0	\$0
Equity Adjustment for Penalty in Account 426.3	(9)	\$0	\$17,000	\$17,000
Equity Adjustment for Loss on Retired Assets	(10)	\$0	\$9,700,000	\$9,700,000
Adjusted 2018 Year-end Common Equity	(11) = (7)+(8)+(9)+(10)	\$445,143,000	\$454,860,000	\$454,860,000
Average Common Equity	(12) = ((6)+(11))/2	\$387,863,000	\$392,722,000	\$392,722,000
Return On Equity	(13) = (5)/(12)	22.35%	3.52%	24.55%

1 ***Q15. WHAT ARE THE LEVEL OF PROFITS THAT TRIGGER A REFUND FOR***
2 ***CUSTOMERS FOR BEING “SIGNIFICANTLY EXCESSIVE” IN 2018?***

3 ***A15.*** DP&L proposed to use a SEET ROE threshold of 12%.²⁸ I agree that this is a reasonable
4 threshold to protect consumers from paying for significantly excessive earnings. This
5 SEET ROE threshold of 12% (as a part of the stipulation signed by DP&L and other
6 parties) was previously approved by the PUCO. There is no reason to change this
7 approved SEET ROE threshold and no party has proposed to change this SEET ROE
8 threshold.

9
10 ***Q16. DID DP&L HAVE SIGNIFICANTLY EXCESSIVE EARNINGS AS A RESULT OF***
11 ***THE ELECTRIC SECURITY PLAN RATES PAID BY CUSTOMERS IN 2018?***

12 ***A16.*** Yes. DP&L did have significantly excessive earnings in 2018 because it had a SEET-
13 adjusted ROE of 24.55%, which far exceeded the PUCO approved SEET ROE Threshold
14 of 12%.

15
16 ***Q17. HOW MUCH MONEY SHOULD BE RETURNED TO DP&L’S CUSTOMERS***
17 ***GIVEN THE SIGNIFICANTLY EXCESSIVE EARNINGS OF DP&L IN 2018?***

18 ***A17.*** DP&L should refund its customers approximately \$62.9 million for its significantly
19 excessive earnings in 2018. This calculation is consistent with the method of calculating
20 customer SEET refund previously approved by the PUCO.²⁹ The Tax Gross-Up Factor of

²⁸ See Direct Testimony of Forestal at 7.

²⁹ See PUCO Case No. 11-4571-EL-UNC, Opinion and Order at 28 (Oct. 23, 2013).

*Direct Testimony of Daniel J. Duann, Ph.D.
On Behalf of the Office of the Ohio Consumers' Counsel
PUCO Case No. 18-1875-EL-GRD et al.*

1.2755 is calculated by using a tax rate of 21.6% indicated by DP&L.³⁰ See Table 2.

Given the challenging economic conditions facing DP&L's customers at this time, I also recommend this 2018 SEET refund be returned to customers as soon as possible, preferably over no more than a six-month period after the PUCO order on this matter is issued.

Table 2
Calculation of 2018 SEET Refund to DP&L's Customers

SEET-adjusted Earnings	(1)	\$96,412,000
SEET-adjusted Average Common Equity	(2)	\$392,722,000
SEET ROE Threshold	(3)	12.00%
Allowed Earnings at ROE Threshold	(4) = (2) * (3)	\$47,126,640
Excessive Earnings Above ROE Threshold	(5) = (1) – (4)	\$49,285,360
Tax Gross-up Factor	(6)	1.2755
Pre-tax Revenue To Be Refunded to Customers	(7) = (5) * (6)	\$62,863,477

³⁰ See Direct Testimony of Forestal, Exhibit CAF-4.

**V. THE 2019 SIGNIFICANTLY EXCESSIVE EARNINGS TEST AND REFUND
DUE TO CUSTOMERS**

***Q18. PLEASE SUMMARIZE DP&L'S 2019 PER-BOOK EARNINGS AND AVERAGE
COMMON EQUITY.***

A18. According to the testimony and financial statements filed by DP&L, the per-book earnings in 2019 was \$125,042,000 and the per-book average common equity \$459,324,000.³¹ The 2019 per-book return on equity was 27.22%.³²

***Q19. PLEASE SUMMARIZE DP&L'S CALCULATION OF ITS 2019 SEET EARNINGS
AND AVERAGE COMMON EQUITY.***

A19. By making several earnings and common equity adjustments, DP&L calculated a 2019 SEET-adjusted earnings of \$54,484,000 and a 2019 average common equity of \$469,060,000.³³ DP&L, then, calculated a 2019 SEET-adjusted ROE of 11.6%.³⁴ DP&L made two adjustments to its reported earnings in calculating its 2019 SEET-adjusted earnings: a deduction of the "Rider DMR" earnings (after-tax) of \$70,596,000 and the adding back of an after-tax loss of \$38,000 on the disposal of previously retired generation assets.³⁵ DP&L also adjusted to its 2019 year-end common equity to reflect

³¹ See Direct Testimony of Karin M. Nyhuis at 4 and Exhibit KMN-1, page 1 of 1 (May 15, 2020).

³² $27.22\% = \$125,042,000 / \$459,324,000$.

³³ See Direct Testimony of Nyhuis at 5 and Exhibit KMN-2, page 1 of 1.

³⁴ $11.62\% = \$54,484,000 / \$469,060,000$.

³⁵ See Direct Testimony of Nyhuis at 5 and Exhibit KMN-2, page 1 of 1.

*Direct Testimony of Daniel J. Duann, Ph.D.
On Behalf of the Office of the Ohio Consumers' Counsel
PUCO Case No. 18-1875-EL-GRD et al.*

1 the cumulative flow-through impact of the FERC Account 426.3 penalty in 2018 and the
2 loss of disposal of generation assets in 2018 and 2019.³⁶

3
4 ***Q20. DO YOU AGREE WITH DP&L'S CALCULATION?***

5 ***A20.*** No. As discussed previously, The Supreme Court of Ohio has directed that Rider
6 DMR earnings should be included in calculating the earnings for SEET purpose.
7 DP&L's 2019 SEET Application has failed to do so. The SEET-adjusted ROE of
8 11.6% calculated by DP&L is unreasonable and not allowed by Ohio law.

9
10 ***Q21. WHAT IS YOUR CALCULATION OF DP&L'S 2019 SEET-ADJUSTED RETURN***
11 ***ON EQUITY?***

12 ***A21.*** By including the 2019 Rider DMR earnings as earnings and adding back of an after-tax
13 loss of \$38,000 on the disposal of previously retired generation assets as earnings for
14 SEET purpose, I have calculated the 2019 SEET-adjusted earnings of DP&L to be
15 \$125,080,000 and the 2019 average common equity \$469,059,500. The 2019 SEET ROE
16 for DP&L would be 26.67%. *See* Table 3.

³⁶ *Id.*

*Direct Testimony of Daniel J. Duann, Ph.D.
On Behalf of the Office of the Ohio Consumers' Counsel
PUCO Case No. 18-1875-EL-GRD et al.*

Table 3
Calculation of 2019 SEET Adjusted ROE of DP&L

		Per-Book	Proposed by DP&L	Proposed by OCC
2019 Reported Earnings	(1)	\$125,042,000	\$125,042,000	\$125,042,000
Adjustment 1: Rider DMR Earnings	(2)	\$0	-\$70,596,000	\$0
Adjustment2: Loss on Previously Retired Assets	(3)	\$0	\$38,000	\$38,000
2019 Adjusted Earnings	(4)= (1)+(2)+(3)	\$125,042,000	\$54,484,000	\$125,080,000
2018 year-end Common Equity	(5)	\$445,143,000	\$454,860,000	\$454,860,000
2019 Year-end Common Equity	(6)	\$473,504,000	\$473,504,000	\$473,504,000
Equity Adjustment for DMR Earnings	(7)	\$0	\$0	\$0
Equity Adjustment for Penalty in Account 426.3	(8)	\$0	\$17,000	\$17,000
Equity Adjustment for Loss on Retired Assets	(9)	\$0	\$9,738,000	\$9,738,000
Adjusted 2019 Year-end Common Equity	(10) = (6)+(7)+(8)+(9)	\$473,504,000	\$483,259,000	\$483,259,000
Average Common Equity	(11) = (5)+(10))/2	\$459,324,000	\$469,060,000	\$469,059,500
Return On Equity	(12) = (4)/(11)	27.22%	11.62%	26.67%

Q22. SHOULD THE 12% SEET EARNINGS THRESHOLD BE USED FOR THE 2019 SEET REVIEW?

A22. Absolutely. This 12% ROE threshold has been previously approved by the PUCO for ESP III. Further, DP&L proposed a 12% ROE threshold for 2018 as I mentioned above.

*Direct Testimony of Daniel J. Duann, Ph.D.
On Behalf of the Office of the Ohio Consumers' Counsel
PUCO Case No. 18-1875-EL-GRD et al.*

1 The 12% ROE threshold should still be applicable to the 2019 SEET review because
2 DP&L was under the ESP III rate plan for more than eleven months in 2019.³⁷
3

4 ***Q23. DID DP&L HAVE SIGNIFICANTLY EXCESSIVE EARNINGS AS A RESULT OF***
5 ***THE ELECTRIC SECURITY PLAN RATES PAID BY CUSTOMERS IN 2019?***

6 ***A23.*** Yes. DP&L did have significantly excessive earnings in 2019 because it had a SEET-
7 adjusted ROE of 26.67%, which exceeded the PUCO approved SEET ROE Threshold of
8 12%.
9

10 ***Q24. HOW MUCH MONEY SHOULD BE RETURNED TO DP&L'S CUSTOMERS***
11 ***BASED ON ITS SIGNIFICANTLY EXCESSIVE EARNINGS IN 2019?***

12 ***A24.*** DP&L should refund its customers approximately \$87.7 million for its significantly
13 excessive earnings in 2019 and this 2019 SEET refunds should be returned to customers
14 quickly (within six months of the PUCO Order) similar to what I recommended regarding
15 the 2018 SEET refund. *See* Table 4.

³⁷ DP&L requested to withdraw from ESP III on November 25, 2019 and the PUCO granted the request on December 18, 2019. Rider DMR was removed from DP&L's tariffs on November 29, 2019. DP&L and the PUCO Staff also proposed to use a SEET ROE threshold of 12% for DP&L's 2017 SEET Application when DP&L was under ESP I rate plan for the first ten months and under ESP III rate plan for the remaining two months in 2017. *See* PUCO Case No. 18-0873-EL-UNC, Direct Testimony of Craig A. Forestal at 13 (May 15, 2018) and Prefiled Testimony of Joseph P. Buckley at 3 (Oct. 9, 2018).

*Direct Testimony of Daniel J. Duann, Ph.D.
On Behalf of the Office of the Ohio Consumers' Counsel
PUCO Case No. 18-1875-EL-GRD et al.*

Table 4
Calculation of 2019 SEET Refund to DP&L's Customers

SEET-adjusted Net Income	(1)	\$125,080,000
SEET-adjusted Average Equity	(2)	\$469,059,500
SEET ROE Threshold	(3)	12.00%
Allowed Net Income at ROE Threshold	(4) = (2) * (3)	\$56,287,140
Excessive Net Income Above ROE Threshold	(5) = (1) – (4)	\$68,792,860
Tax Gross-up Factor	(6)	1.2755
Pre-tax Revenue To Be Refunded to Customers	(7) = (5) * (6)	\$87,745,293

VI. THE PUCO SHOULD REJECT THE SETTLEMENT TO PROTECT DP&L'S CUSTOMERS

Q25. DOES THE SETTLEMENT BENEFIT CUSTOMERS AND THE PUBLIC INTEREST AS REQUIRED UNDER THE SECOND PRONG OF THE PUCO'S STANDARD FOR REVIEWING SETTLEMENTS?

A25. No. The Settlement benefits neither customers nor the public interest. Based on my calculations, under the Settlement, DP&L's customers are denied a refund of approximately \$150.6 million. The refund is appropriate because DP&L earned significantly excessive profits under the rates its customers paid that were approved in DP&L's the electric security plan in the 2018 and 2019 and this refund to customers should not be denied. Denying customers \$150 million in refunds that the law requires them to receive is the very definition of harm to customers.

*Direct Testimony of Daniel J. Duann, Ph.D.
On Behalf of the Office of the Ohio Consumers' Counsel
PUCO Case No. 18-1875-EL-GRD et al.*

1 Additionally, under the Settlement, DP&L's customers are required to continue paying
2 approximately \$75-80 million for an unjustified financial stability charge (in the form of
3 RSC) over approximately the next four years (assuming DP&L files its ESP IV no later
4 than October 1, 2023 and the ESP IV is approved one year after that).³⁸ This will add
5 additional charges of approximately \$300 to 320 million on DP&L's customers' bills. So,
6 the Settlement would impose at least \$450-470 million additional costs (other than those
7 associated with the Smart Grid Plan ("SGP") over the next four year on DP&L's half-
8 million customers.

9
10 ***Q26. SHOULD THESE COSTS TO CUSTOMERS BE INCLUDED IN EVALUATING***
11 ***THE SETTLEMENT?***

12 ***A26.*** Yes. They should be included. However, the Settlement and the testimony supporting the
13 Settlement make no mention of these \$450-470 million non-SGP costs to customers over
14 the next four years. The Settlement's Exhibit 4 only presents the cost benefit summary of
15 DP&L's SGP. As OCC witness Kahal has testified, the \$450 million (or more) cost that
16 customers will pay under the Settlement for the RSC and in the form of denied refunds
17 far outweighs any benefits to customers under the Settlement.³⁹ Any evaluation of the
18 Settlement will need to consider these non-SGP costs. Otherwise, the results of the
19 evaluation will be unreasonable and irrelevant.

³⁸ See Settlement Paragraphs 19(a) and 20(a).

³⁹ See Kahal Supplemental Testimony.

Q27. DOES THE SETTLEMENT VIOLATE ANY IMPORTANT REGULATORY PRINCIPLES?

A27. Yes. As discussed previously, the RSC is an illegal financial stability charge without any cost basis. The Settlement, if approved with the continuation of RSC for four years and the forfeiture of SEET refunds, will lead to substantially higher and unreasonable rates. In doing so, the Settlement violates the fundamental principle in monopoly utility services that the rates should be just and reasonable. Further, by denying customers refunds to which they are entitled under the SEET, the Settlement violates R.C. 4928.143(F) (which is the statute requiring such refunds) and the Supreme Court's recent ruling that DMR funds are included when calculating a utility's ROE for purposes of the SEET. Any settlement that violates a statute and Supreme Court precedent is contrary to the regulatory principle that the PUCO's decisions must follow the law.

Additionally, contrary to the claims by DP&L's witness,⁴⁰ the Settlement will inhibit instead of advancing Ohio's competitive retail electric services set forth in R.C. 4928.02. The Settlement violates the state policies in at least three areas. First, the Settlement will not "Ensure the availability to consumers of adequate, reliable, safe, efficient, nondiscriminatory, and reasonably priced retail electric service"⁴¹ because it will impose unreasonable and non-cost-based costs on customers and at the same time place unfair cost burden on residential customers.

⁴⁰ See Testimony of Sharon R. Schroder at 32-38 (Nov. 30, 2020).

⁴¹ See R.C. 4928.02 (A).

*Direct Testimony of Daniel J. Duann, Ph.D.
On Behalf of the Office of the Ohio Consumers' Counsel
PUCO Case No. 18-1875-EL-GRD et al.*

1 Second, the Settlement will not “Protect at-risk populations, including, but not limited to,
2 when considering the implementation of any new advanced energy or renewable energy
3 resource”.⁴² It is well known that the economy in DP&L’s service territory has been
4 struggling in recent years and the poverty rates in the Dayton area have always been
5 among the highest in Ohio. Allowing DP&L to keep the \$450-470 million unwarranted
6 charges, to impose substantial additional costs of a Smart Grid Plan and coupled with a
7 pending \$121 million distribution rate increase⁴³ is no way to protect the “at risk”
8 population.

9
10 Third, the Settlement will not “Facilitate the state's effectiveness in the global
11 economy.”⁴⁴ The Settlement forces many Ohioans to provide hundreds of million
12 subsidies, through an illegal financial stability charge and forfeiture of mandated refunds,
13 to DP&L and its owners. The Settlement, if approved, will adversely affect the livelihood
14 of many Ohioans and the Ohio economy. Residential customers, small business owners,
15 and manufacturing plants will be required to pay a higher monthly electricity bills than
16 they otherwise would and the money that could be spending on other daily expenses,
17 investing in new machines, or hiring new employees are diverted to DP&L. There are
18 numerous studies indicating that energy costs are a significant factor in retaining and
19 attracting new business into a particular region. The dramatic and unjustified additional
20 cost of electric service being imposed on the DP&L’s customers, as a result of the

⁴² See R.C. 4928.02 (L).

⁴³ See Case No. 20-1651-EL-AIR.

⁴⁴ See R.C. 4928.02 (N).

1 Settlement, will not promote economic development in DP&L's service territory. Thus,
2 this Settlement will not advance Ohio's competitiveness and effectiveness in the new
3 global economy.

4
5 ***Q28. SHOULD DP&L'S EXISTING MONTHLY BILL BE USED TO JUSTIFY THE***
6 ***SMART GRID PLAN AND THE SETTLEMENT?***

7 ***A28.*** No. I do not agree with the implication advanced by DP&L's witness that currently "low"
8 customer rates at DP&L's service territory somehow justify the adoption of the Smart
9 Grid Plan or the Settlement.⁴⁵ The Smart Grid Plan or the Settlement must stand on its
10 own and clearly demonstrate the net benefits of implementing the Smart Grid Plan or
11 adopting a Settlement. And as OCC witnesses Alvarez has testified, the Smart Grid Plan
12 is critically flawed and will, among other things, cost far more than any benefits that
13 customers will receive from grid modernization, with little accountability for DP&L to
14 deliver those benefits.⁴⁶

15
16 As discussed earlier, a fundamental regulatory principle governing the rates of services
17 provided by a monopoly such as DP&L must be just and reasonable or based on
18 prudently incurred costs of providing such services. So, a currently low monthly bill may
19 simply indicate the current costs of providing the monopoly services are relatively low.
20 DP&L's argument here is from a page out of the utility playbook, when revenues streams

⁴⁵ See Testimony of Schroder at 30.

⁴⁶ See Direct Testimony of Paul Alvarez (Dec. 17, 2020).

*Direct Testimony of Daniel J. Duann, Ph.D.
On Behalf of the Office of the Ohio Consumers' Counsel
PUCO Case No. 18-1875-EL-GRD et al.*

1 are down that is viewed by the utility as an opportunity to fill the valley with more
2 charges to consumers. Consumers would prefer instead to just enjoy the lower charges.

3
4 As noted earlier in my testimony and worth repeating again, the law of Ohio requires that
5 “Every public utility shall furnish necessary and adequate service and facilities, and every
6 public utility shall furnish and provide with respect to its business such instrumentalities
7 and facilities, as are adequate and in all respects just and reasonable.”⁴⁷ So it is the
8 responsibility of DP&L as a regulated utility service monopoly to provide necessary and
9 adequate service within its service territory. This is the only justification for DP&L to
10 propose and implement a Smart Grid Plan. A currently “low” monthly bill is not a
11 justification for DP&L to propose a Smart Grid Plan or for the PUCO to approve such a
12 plan.

13
14 Furthermore, Ohio law requires that “All charges made or demanded for any service
15 rendered, or to be rendered, shall be just, reasonable, and not more than the charges
16 allowed by law or by order of the public utilities commission, and no unjust or
17 unreasonable charge shall be made or demanded for, or in connection with, any service,
18 or in excess of that allowed by law or by order of the commission.”⁴⁸ This means a Smart
19 Grid Plan should be approved only after it has been demonstrated (by DP&L and its
20 proponents) that such a Plan would provide tangible and measurable net benefits to
21 customers and the approval of a Smart Grid Plan shall not result in unjust and

⁴⁷ See R.C. 4905.22.

⁴⁸ *Id.*

unreasonable charges. In other words, the need and approval of a Smart Grid Plan, even if it has been demonstrated, does not justify the imposition of additional costs such as the \$450-470 million in RSC and denied 2018 and 2019 SEET refunds.

VII. SUMMARY AND CONCLUSION

Q29. PLEASE SUMMARIZE YOUR TESTIMONY.

A29. Based on my review and analysis, I recommend the PUCO reject the Settlement because it does not benefit customers, is not in the public interest, is unlawful, and is unreasonable. The Settlement, if approved, would impose at least \$450-470 million in non-SGP costs on customers over the next four years alone. Additionally, the Settlement, if approved, would violate important regulatory principles and Ohio State Policy by allowing an illegal financial stability charge such as RSC to continue and to return in the future even after a new ESP has been approved. Denying customers \$150.6 million in SEET refunds—which the law requires DP&L to provide—is especially appalling during this particularly challenging time when many residents in DP&L's service territory have been struggling financially in recent years, and even more now during the coronavirus pandemic and financial emergency.

Q30. DOES THIS CONCLUDE YOUR TESTIMONY?

A30. Yes. But I reserve the right to supplement my testimony in the event that additional testimony is filed, or if new information or data in connection with this proceeding becomes available.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Direct Testimony of Daniel J. Duann, Ph.D. on Behalf of the Office of the Ohio Consumers' Counsel was served via electronic transmission to the persons listed below on this 17th day of December 2020.

/s/ Christopher Healey

Christopher Healey
Assistant Consumers' Counsel

SERVICE LIST

Case No. 18-1875-EL-GRD, et al.

steven.beeler@ohioattorneygeneral.gov
Robert.eubanks@ohioattorneygeneral.gov
Bethany.allen@igs.com
Joe.oliker@igs.com
Michael.nugent@igs.com
dstinson@bricker.com
kherstein@bricker.com
jspottswood@bricker.com
jdunnlegal@gmail.com
kevin.oles@thompsonhine.com
stephanie.chmiel@thompsonhine.com
cmooney@opae.org
whitt@whitt-sturtevant.com
glover@whitt-sturtevant.com
drinebolt@opae.org
nvijaykar@elpc.org
glpetrucci@vorys.com
dparram@bricker.com
dstinson@bricker.com

ccox@elpc.org
Michael.schuler@aes.com
jsharkey@ficlaw.com
djireland@ficlaw.com
chollon@ficlaw.com
fdarr@mwncmh.com
mpritchard@mwncmh.com
mfleisher@dickinsonwright.com
cpirik@dickinsonwright.com
mkurtz@bkllawfirm.com
kboehm@bkllawfirm.com
jkylercohn@bkllawfirm.com
Bojko@carpenterlipps.com
Dressel@carpenterlipps.com
Paul@carpenterlipps.com
Dutton@carpenterlipps.com
slessor@beneschlaw.com
talexander@beneschlaw.com
mkeaney@beneschlaw.com

Attorney Examiners:

Patricia.schabo@puco.ohio.gov
gregory.price@puco.ohio.gov

Case No. 19-1121-EL-UNC

steven.beeler@ohioattorneygeneral.gov
Michael.schuler@aes.com
mkurtz@bkllawfirm.com
kboehm@bkllawfirm.com
talexander@beneschlaw.com

jkylercohn@bkllawfirm
bojko@carpenterlipps.com
paul@carpenterlipps.com
mpritchard@mcneeslaw.com
rglover@mcneeslaw.com

Attorney Examiners:

Patricia.schabo@puco.ohio.gov
gregory.price@puco.ohio.gov

Case No. 20-1041-EL-UNC

steven.beeler@ohioattorneygeneral.gov
Michael.schuler@aes.com
Bojko@carpenterlipps.com
Paul@carpenterlipps.com

mpritchard@mcneeslaw.com
rglover@mcneeslaw.com
talexander@beneschlaw.com

Attorney Examiners:

Patricia.schabo@puco.ohio.gov
Michael.williams@puco.ohio.gov

Case No. 20-680-EL-UNC

thomas.lindgren@ohioattorneygeneral.gov
dparram@bricker.com
dstinson@bricker.com
jspottswood@bricker.com
bojko@carpenterlipps.com
Bethany.allen@igs.com
Joe.oliker@igs.com
Michael.nugent@igs.com
Fdarr2019@gmail.com
paul@carptenterlipps.com
kevin.oles@thompsonhine.com
stephanie.chmiel@thompsonhine.com

jsharkey@ficlaw.com
djireland@ficlaw.com
chollon@ficlaw.com
michael.schuler@aes.com
mkurtz@bkllawfirm.com
kboehm@bkllawfirm.com
jkylercohn@bkllawfirm.com
mpritchard@mcneeslaw.com
rglover@mcneeslaw.com
slessor@beneschlaw.com
talexander@beneschlaw.com
mkeaney@beneschlaw.com
khehmeyer@beneschlaw.com

Attorney Examiners:

Patricia.schabo@puco.ohio.gov
Michael.williams@puco.ohio.gov

Daniel J. Duann, Ph.D.
List of Testimonies Filed Before PUCO

1. *Application of The Dayton Power and Light Company for Approval of Its Electric Security Plan*, Case No. 08-1094-EL-SSO (January 26, 2009).
2. *Application of Ohio American Water Company to Increase Its Rates for Water and Sewer Service Provided to Its Entire Service Area*, Case No. 09-391-WS-AIR (January 4, 2010).
3. *Application of Aqua Ohio, Inc. for Authority to Increase its Rates and Charges in its Masury Division*, Case No. 09-560-WW-AIR (February 22, 2010).
4. *Application of Aqua Ohio, Inc. for Authority to increase its Rates and Charges in its Lake Erie Division*, Case No. 09-1044-WW-AIR (June 21, 2010).
5. *In the Matter of the Fuel Adjustment Clauses for Columbus Southern Power Company and AEP Company*, Case Nos. 09-872-EL-FAC and 09-873-EL-FAC (August 16, 2010).
6. *In the Matter of the Application of Columbus Southern Power Company for Approval of an Electric Security Plan; an Amendment to its Corporate Separation Plan; and the Sale or Transfer of Certain Generating Asset (Remand)*, Case Nos. 08-917-EL-SSO et al (June 30, 2011).
7. *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio for Approval of Tariffs to Modify and further Accelerate its Pipeline Infrastructure Replacement Program and to Recover the Associated Costs et al.*, Case Nos. 11-2401-GA-ALT and 08-169-GA-ALT (July 15, 2011).
8. *In the Matter of the Application of Columbus Southern Power Company and AEP Company for Authority to Establish a Standard Service Offer Pursuant to 4928.143, Ohio Rev. Code in the Form of an Electric Security Plan (ESP)*, Case Nos. 11-346-EL-SSO, et al (July 25, 2011).
9. *In the Matter of the Application of Columbus Southern Power Company and AEP Company for Authority to Merge and Related Approval (ESP Stipulation)*, Case Nos. 10-2376-EL-UNC, et al (September 27, 2011).
10. *In the Matter of the 2010 Annual Filing of Columbus Southern Power Company and AEP Company Required by Rule 4901:1-35-10, Ohio Administrative Code*, Case Nos. 11-4571-EL-UNC and 11-4572-EL-UNC (October 12, 2011).
11. *In the Matter of the Application of Ohio American Water Company to Increase Its Rates for Water and Sewer Service Provided to Its Entire Service Area*, Case No. 11-4161-WS-AIR (March 1, 2012).

12. *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to 4928.143, Ohio Rev. Code in the Form of an Electric Security Plan (Modified ESP), Case Nos. 11-346-EL-SSO, et al (May 4, 2012).*
13. *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company For Authority to Establish a Standard Service Offer Pursuant to R.C. § 4928.143 in the Form Of an Electric Security Plan, Case No. 12-1230-EL-SSO (May 21, 2012).*
14. *In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in Electric Distribution Rates, et al. Case Nos. 12-1682-EL-AIR (February 19, 2013).*
15. *In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in Gas Rates, Case Nos. 12-1685-GA-AIR, et al (February 25, 2013).*
16. *In the Matter of the Application of Dayton Power & Light Company for Authority to Establish a Standard Service Offer in the Form Of an Electric Security Plan Pursuant to R.C. 4928.143, Case No. 12-426-EL-SSO et al. (March 1, 2013).*
17. *In the Matter of the Application of The Dayton Power and Light Company for Authority to Recover of Certain Storm-related Service Restoration Costs, Case Nos. 12-3062-EL-RDR, et al. (January 31, 2014).*
18. *In the Matter of the Application of The Dayton Power and Light Company for Authority to Recover of Certain Storm-related Service Restoration Costs, Case Nos. 12-3062-EL-RDR, et al. (May 23, 2014).*
19. *In the Matter of the Application of Aqua Ohio, Inc. to Increase Its Rates and Charges for Its Waterworks Service, Case No. 13-2124-WW-AIR (August 4, 2014).*
20. *In the Matter of the Application Seeking Approval of AEP Company's Proposal to Enter into an Affiliate Power Purchase Agreement for Inclusion in the Power Purchase Agreement Ride, Case No. 14-1693-EL-RDR, et al. (September 11, 2015).*
21. *In the matter of the Application of Duke Energy Ohio, Inc. for Approval of an Alternative Rate Plan Pursuant to R.C. 4929.05, Revised Code, for an Accelerated Service Line Replacement Program, Case No. 14-1622-GA-ALT (November 6, 2015).*
22. *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.141 in the Form of an Electric Security Plan, Case No. 14-1297-EL-SSO (June 22, 2016).*

23. *In the Matter of the Application of Ohio Power Company for Administration of the Significantly Excessive Earnings Test for 2014 under Section 4928.143 (F), Revised Code, and Rule 4901:1-35-10, Ohio Administrative Code, Case No. 16-1105-EL-UNC (August 15, 2016).*
24. *In the Matter of the Application of Ohio Power Company for Administration of the Significantly Excessive Earnings Test for 2014 under Section 4928.143 (F), Revised Code, and Rule 4901:1-35-10, Ohio Administrative Code, Case No. 16-1105-EL-UNC (September 19, 2016).*
25. *In the Matter of the Application of Aqua Ohio, Inc. for Authority to Increase Its Rates and Charges for Its Waterworks Service. Case No. 16-0997-WW-AIR (December 19, 2016).*
26. *In the Matter of the Application of Ohio Power Company for Administration of the Significantly Excessive Earnings Test for 2016 Under Section 4928.143(F), Revised Code, and Rule 4901:1-35-10, Ohio Administrative Code, Case No. 17-1230-EL-UNC (January 12, 2018).*
27. *In the Matter of the Annual Application of Duke Energy Ohio, Inc., for an Adjustment to Rider AMRP Rates. Case No. 17-2318-GA-AIR (April 5, 2018).*
28. *In the Matter of the Application of the Dayton Power and Light Company for an Increase in Electric Distribution Rates. Case No. 15-1380-EL-AIR (April 11, 2018).*
29. *In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in Distribution Rates. Case No. 17-0032-EL-AIR et al., (June 25, 2018).*
30. *In the Matter of the Determination of the Existence of Significantly Excessive Earnings Test for 2017 Under the Electric Security Plan of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company. Case No. 18-0967-EL-UNC, (October 16, 2018).*
31. *In the Matter of the Application of Suburban Natural Gas Company for an Increase in Gas Distribution Rates. Case No. 18-1205-GA-AIR et al., (March 8, 2019).*
32. *In the Matter of the Application of Suburban Natural Gas Company for an Increase in Gas Distribution Rates. Case No. 18-1205-GA-AIR et al., (June 21, 2019).*
33. *In the Matter of the Application of Northeast Ohio Gas Corp. for an Increase in Gas Distribution Rates. Case No. 18-1720-GA-AIR et al., (July 25, 2019).*

34. *In the Matter of the Application of Northeast Ohio Gas Corp. for an Increase in Gas Distribution Rates.* Case No. 18-1720-GA-AIR et al., (September 5, 2019).
35. *In the Matter of the Application of Ohio Power Company for Administration of the Significantly Excessive Earnings Test for 2018 Under Section 4029.143(F), Revised Code, and Rule 4901:1-35-10, Ohio Administrative Code.* Case No. 19-1098-EL-UNC, (August 30, 2019).
36. *In the Matter of the Application of Ohio Power Company for Administration of the Significantly Excessive Earnings Test for 2018 Under Section 4029.143(F), Revised Code, and Rule 4901:1-35-10, Ohio Administrative Code.* Case No. 19-1098-EL-UNC, (November 5, 2019).
37. *In the Matter of the East Ohio Gas Company d/b/a Dominion Energy Ohio for Approval of an Alternative Form of Regulation.* Case No. 19-458-GA-ALT, (September 11, 2020).

Selected Publications of Daniel J. Duann, Ph.D.**Journal Articles**

Regulation: The Cato Review of Business & Government, "Turning up the Heat in the Natural Gas Industry," Vol. 19, 1996, (with Kenneth W. Costello).

Managerial and Decision Economics, "Designing a Preferred Bidding Procedure for Securing Electric Generating Capacity," Vol. 12, 1991.

The Journal of Energy and Development, "Direct Gas Purchases by Local Distribution Companies: Supply Reliability and Cost Implications," Vol. 14, 1989.

Public Utilities Fortnightly, "Alternative Searching and Maximum Benefit in Electric Least-Cost Planning," December 21, 1989.

Research Reports and Presentations

The National Regulatory Research Institute, **Pricing Local Distribution Services in A Competitive Market**, 1995.

Ninth NARUC Biennial Regulatory Information Conference, Ohio State University, **The Unbundling and Restructuring of Local Distribution Services in the Post-636 Gas Market**, 1994.

The National Regulatory Research Institute, **A Survey of Recent State Initiatives on EPACT and FERC Order 636**, 1994 (with Belle Chen).

The National Regulatory Research Institute, **Restructuring Local Distribution Services: Possibilities and Limitations**, 1994.

The National Regulatory Research Institute, **The FERC Restructuring Rule: Implications for Local Distribution Companies and State Public Utilities Commissions**, 1993.

The National Regulatory Research Institute, **A Synopsis of the Energy Policy Act of 1992: New Tasks for State Public Utility Commissions**, 1993.

International Symposium on Energy, Environment & Information Management, Argonne National Laboratory, **Natural Gas Vehicles: Barriers, Potentials, and Government Policies**, 1992.

The National Regulatory Research Institute, **Natural Gas Vehicles and the Role of State**

Public Service Commissions, 1992 (with Youssef Hegazy).

The National Regulatory Research Institute, **Incentive Regulation for Local Gas Distribution Companies under Changing Industry Structure**, 1991 (with Mohammad Harunuzzaman, Kenneth W. Costello, and Sung-Bong Cho).

The National Regulatory Research Institute, **Discussion Papers on Competitive Bidding And Transmission Access and Pricing issues in the Context of Integrated Resource Planning**, 1990 (with Robert E. Bums, Kenneth Rose, Kevin Kelly, and Narayan Rau).

The National Regulatory Research Institute, **Gas Storage: Strategy, Regulation, and Some Competitive Implications**, 1990 (with Peter A. Nagler, Mohammad Harunuzzaman, and Govindarajan Iyyuni).

The National Regulatory Research Institute, **State Gas Transportation Policies: An Evaluation of Approaches**, 1989 (with Robert E. Bums and Peter A. Nagler).

The National Regulatory Research Institute, **Direct Gas Purchases by Gas Distribution Companies: Supply Reliability and Cost Implications**, 1989, (with Robert E. Bums and Peter A. Nagler).

The National Regulatory Research Institute, **Competitive Bidding for Electric Generating Capacity: Application and Implementation**, 1988 (with Robert E. Bums, Douglas N. Jones, and Mark Eifert).

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

12/17/2020 1:26:37 PM

in

Case No(s). 18-1875-EL-GRD, 18-1876-EL-WVR, 18-1877-EL-AAM, 19-1121-EL-UNC, 20-0680-EL-UNC

Summary: Testimony Direct Testimony of Daniel J. Duann, Ph.D. on Behalf of The Office of The Ohio Consumers' Counsel electronically filed by Mrs. Tracy J Greene on behalf of Healey, Christopher