

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the Matter of the :  
Application of The Dayton :  
Power and Light Company to: Case No. 20-1651-EL-AIR  
Increase Its Rates for :  
Electric Distribution. :  
:

In the Matter of the :  
Application of The Dayton :  
Power and Light Company : Case No. 20-1652-EL-AAM  
for Accounting Authority. :  
:

In the Matter of the :  
Application of The Dayton :  
Power and Light Company : Case No. 20-1653-EL-ATA  
for Approval of Revised :  
Tariffs. :  
:

- - -

PROCEEDINGS

before Ms. Patricia Schabo and Mr. Michael Williams,  
Attorney Examiners, at the Public Utilities  
Commission of Ohio, via Webex, called at 9:00 a.m. on  
Friday, January 28, 2022.

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VOLUME V

- - -

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Friday Morning Session,  
January 28, 2022.

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EXAMINER SCHABO: Let's go on the record.

Good morning, everyone. We are here on  
day five of AES Ohio's rate case. Case No.  
20-1651-EL-AIR, et al. We are conducting this  
hearing via Webex. We took appearances of counsel  
yesterday before the start of Intervenor testimony so  
we will not repeat ourselves this morning.

Who will be presenting OCC Witness  
Walters? Mr. Finnigan? Ms. Wilson?

MR. FINNIGAN: Good morning, your Honor,  
John Finnigan for OCC.

EXAMINER SCHABO: Okay. All right.  
Well, are you ready to proceed to your witness?

MR. FINNIGAN: Yes, your Honor.

EXAMINER SCHABO: All right.  
Mr. Schmidt, if you could do your magic, please.

MR. SCHMIDT: Mr. Walters, you've been  
promoted. If you can enable your audio and video.

THE WITNESS: Good morning. Can  
everybody hear me?

EXAMINER WILLIAMS: We hear you fine. I  
am looking for you to appear here. There you are.

1 Upper right in case everybody is looking at my  
2 computer. All right. Mr. Walters, would you raise  
3 your right hand.

4 (Witness sworn.)

5 EXAMINER WILLIAMS: All right. Please  
6 proceed, Mr. Finnigan.

7 MR. FINNIGAN: Thank you, your Honor.

8 - - -

9 CHRISTOPHER C. WALTERS  
10 being first duly sworn, as prescribed by law, was  
11 examined and testified as follows:

12 DIRECT EXAMINATION

13 By Mr. Finnigan:

14 Q. Good morning, Mr. Walters.

15 A. Good morning.

16 Q. Sir, could you state your full name and  
17 business address for the record.

18 A. Sure. My name is Christopher Walters.  
19 Business address is 16690 Swingley Ridge Road,  
20 Chesterfield, Missouri.

21 Q. By whom are you employed?

22 A. Brubaker & Associates.

23 Q. Are you appearing in this case as a  
24 witness on behalf of the office of the Ohio  
25 Consumers' Counsel?

1           A.    I am.

2           Q.    Do you have before you a document that's  
3 been labeled as OCC Exhibit 2?

4           A.    I do not have the exhibit number so I  
5 will take your word for that, but.  Would that be my  
6 direct testimony, I'm assuming?

7           Q.    Yes, that would be your direct testimony.

8           A.    I have it in front of me.

9           Q.    You are assuming well.

10           MR. FINNIGAN:  Your Honor, I would ask at  
11 this time that Mr. Walter's direct testimony that was  
12 prefled in this case be marked as OCC Exhibit 2 for  
13 identification.

14           EXAMINER WILLIAMS:  So marked.

15           (EXHIBIT MARKED FOR IDENTIFICATION.)

16           Q.    (By Mr. Finnigan) Mr. Walters, you have  
17 your prefled direct testimony before you.  It's been  
18 labeled as Exhibit 2 for identification purposes.  
19 Can you identify that as the prefled direct  
20 testimony that was filed in this proceeding?

21           A.    Yes, it is.

22           Q.    Did you cause that testimony to be filed  
23 in this case?

24           A.    I did.

25           Q.    Was this testimony prepared under your

1 direction and control?

2 A. It was.

3 Q. If I were to ask you the same questions  
4 today, would your answers be the same?

5 A. They would.

6 Q. Do you have any changes to the testimony?

7 A. I do not.

8 MR. FINNIGAN: Your Honor, at this time I  
9 would like to move Mr. Walters' testimony, OCC  
10 Exhibit 2, into evidence, subject to  
11 cross-examination.

12 EXAMINER WILLIAMS: Okay. Thank you,  
13 Mr. Finnigan. We'll pend your motion while we take  
14 cross-examination. I will begin with the Company.

15 MR. SHARKEY: Thank you, your Honor.

16 - - -

17 CROSS-EXAMINATION

18 By Mr. Sharkey:

19 Q. Mr. Walters, we met before. As you know,  
20 my name is Jeff Sharkey, and I represent AES Ohio.

21 A. Good morning, sir.

22 Q. Good morning. You recommend an ROE for  
23 AES Ohio of 9.3 percent, correct?

24 A. Yes. The midpoint on my range between  
25 8.9 and 9.7.

1           Q.    Okay.  You agree that an ROE for a  
2           utility needs to be high enough to allow that utility  
3           to attract capital?

4           A.    Yes.

5           Q.    And investors make decisions upon future  
6           expectations and may rely on the past to set their  
7           future expectations, right?

8           A.    I would agree with that, yes.

9           Q.    And all else equal, a riskier utility  
10          would require a higher ROE?

11          A.    I would agree with that, yes.

12          Q.    Okay.  Credit ratings are a measure of  
13          risk, correct?

14          A.    Yes.  They -- that's an independent  
15          assessment by the rating agencies that take into  
16          consideration total risk, be it business and  
17          financial.

18          Q.    And although they are bond ratings,  
19          credit ratings are commonly used to measure how risky  
20          equity investments are, right?

21          A.    Yes.  They are common proxies for total  
22          risk assessments in assessing the cost of equity,  
23          especially in the utility rate cases.

24          Q.    Turn, if you would, to page 10 of your  
25          testimony.

1           A.     10?

2           Q.     Yes, please.

3           A.     I'm there.

4           Q.     Okay. That's a chart that tracks S&P's  
5 credit ratings for utilities over the years 2009  
6 through 2021, correct?

7           A.     Yes.

8           Q.     Okay. I want to focus on the last  
9 column, 2021. You would agree that the 2021 rating,  
10 the A- is the most common?

11          A.     Yeah.

12          Q.     Okay. And 85 percent of the utilities  
13 have a rating of BBB+ or higher?

14          A.     Yeah, I would agree with that.

15          Q.     Okay. And in the investment community  
16 there is a material difference between being  
17 investment grade and being non-investment grade,  
18 correct?

19          A.     Generally, yeah, I would agree with that.

20          Q.     Okay. And BBB- is the lowest investment  
21 grade credit rating, correct?

22          A.     It is. On the S&P scale, that's true.

23          Q.     Okay. And so on your chart, we can see  
24 that 10 percent of the utilities have an investment  
25 grade rating of below BBB-, right?

1           A.     That is correct.

2           Q.     And that would sometimes be referred to  
3 as the junk bond category, right?

4           A.     Yeah, junk, high yield, below investment  
5 grade, yeah.

6           Q.     Okay. And AES Ohio's credit rating is in  
7 that below BBB- group, correct?

8           A.     As a result of their affiliate risk with  
9 their parent companies, their risk -- or their S&P  
10 rating is BB+ which is one notch below that. Absent  
11 that, their rating on a stand-alone basis would be  
12 BBB or two notches above where it is now.

13          Q.     Okay. But just so we are clear, the  
14 rating assigned to AES Ohio by S&P, considering all  
15 of its risks, is BB+.

16          A.     Considering its affiliate risk with its  
17 parent company, it is, through no fault of its own,  
18 assigned a rating of BB+.

19          Q.     Turn, if you would, to page B6.

20                 MS. GRUNDMANN: Mr. Sharkey, could you  
21 repeat that page again?

22          Q.     I said B6? I meant 6. I don't know  
23 where I get the B from.

24                 MS. GRUNDMANN: I think it was all those  
25 B ratings, Mr. Sharkey.

1           A.    I thought I had an appendix or attachment  
2   that I wasn't aware of that you found.

3           Q.    No, no.  Page 6, please.

4           A.    I'm there.

5           Q.    That's a line graph that you prepared  
6   showing history of ROEs over time, correct?

7           A.    Yeah.  It looks like it's through the  
8   first half of 2021, starting back in 2006, yeah.

9           Q.    And this is the average ROEs that have  
10  been approved by public utilities commissions?

11          A.    Yes.

12          Q.    So actual ROEs, some would be above the  
13  line and some would be below the line, correct?

14          A.    Yes.

15          Q.    Okay.  And I think you mentioned in your  
16  testimony that the trend has been decreasing since  
17  around 2009?

18          A.    Yes.  There's been a general decline  
19  since it peaked in 2009 for electric utilities.

20          Q.    We do see an uptick, though, from 2020 to  
21  2021, don't we?

22          A.    At the time you do.  If you were to  
23  update it through year end, you would actually see a  
24  one tick decline from 9.39 to 9.38, but at the time  
25  of this testimony it would be a slight uptick, but



1 considering year data, it's actually a one basis  
2 point decline.

3 Q. Turn, if you would, to page 7.

4 A. I'm there.

5 Q. Okay. This is a chart that shows average  
6 and median authorized ROEs for 2016 through 2021,  
7 correct?

8 A. Yes.

9 Q. Okay. And so then I want to focus on the  
10 last column. Share of decisions less than or equal  
11 to 9.7 percent?

12 A. Sure.

13 Q. For 2021, this reflects that 90 percent  
14 of the ROEs are less than or equal to 90 percent in  
15 2021, correct?

16 A. I think you said less than or equal to  
17 90 percent. They are less than or equal to  
18 9.7 percent.

19 Q. Thank you for clarifying.

20 So that means that 10 percent of the ROEs  
21 are greater than 9.7 percent in 2021, correct?

22 A. Yes.

23 Q. Okay. And we discussed a little bit ago  
24 that AES Ohio's credit rating was below investment  
25 grade, correct?

1           A.    You -- we had discussed that their  
2 published rating by S&P is below investment grade. I  
3 still -- but I was saying that their stand-alone  
4 rating was BBB and also that their -- they have got  
5 an investment grade rating from Moody's as well. So  
6 they have got what's called split ratings. If you go  
7 off the published, but yeah, their published rating  
8 is BB+ which is below investment grade.

9           Q.    And again, S&P, looking at the risk AES  
10 Ohio faces as a total, put them in a below investment  
11 grade rating where only 10 percent of U.S. utilities  
12 sit, right?

13          A.    Well, they hit their family rating which  
14 is directly linked to DPL Inc. I mean, to say  
15 that -- Moody's also considers their total investment  
16 risk but they don't incorporate a family rating like  
17 S&P does and they assign them a Baa2 rating so it's a  
18 difference in ratings methodologies and AES Ohio's  
19 rating is directly linked to the published rating of  
20 its parent.

21               MR. SHARKEY: Your Honor, I move to  
22 strike. I asked him what rating S&P gave and his  
23 answer was entirely unresponsive.

24               EXAMINER WILLIAMS: Mr. Sharkey, I have  
25 noticed that he's been exceeding the line of your

1 questioning as well, so I was waiting for you to make  
2 such a motion. I will let the testimony stand at  
3 this point but I will caution the witness to only  
4 address the questions asked as answered.

5 Mr. Sharkey, I will look more favorably upon a future  
6 motion to strike.

7 MR. SHARKEY: Thank you, your Honor.

8 Q. I'll repeat the question. It's true,  
9 isn't it, that S&P assigns a credit rating of BB+ and  
10 that only 10 percent of U.S. utilities have a BB+ or  
11 worse ranking.

12 MR. FINNIGAN: Your Honor, I see no basis  
13 to repeat the question. It was asked and answered.

14 EXAMINER WILLIAMS: We will let him  
15 continue in light of the fact the testimony was  
16 allowed to stand. Please proceed, Mr. Sharkey.

17 Q. (By Mr. Sharkey) Do you need me to ask  
18 that question again, Mr. Walters?

19 A. I do not. The published rating from S&P  
20 for AES Ohio is BB+.

21 Q. You understand that AES Ohio Witness  
22 McKenzie opines that AES Ohio's credit rating was  
23 lower than his group of comparables and that means  
24 that AES Ohio's approved ROE should be at the high  
25 end of his ROE range?

1           A.    Yes, I recall his testimony stating that.

2           Q.    Okay. Do you have available to you AES  
3 Ohio's exhibits?

4           A.    I would have to pull them up  
5 electronically if you can give me a moment. I don't  
6 have them printed. I don't have it by exhibit  
7 number. If you can tell me what I am looking for.

8                   EXAMINER WILLIAMS: Let's go off the  
9 record.

10                   (Discussion off the record.)

11                   EXAMINER WILLIAMS: We'll go back on the  
12 record.

13                   We were off the record for a couple of  
14 minutes while we circulated or recirculated three  
15 potential exhibits for AES to use upon cross. They  
16 have been routed to the witness. Mr. Sharkey, I  
17 believe you were going to proceed with questions  
18 regarding AES Exhibit 66.

19                   MR. SHARKEY: Yes.

20           Q.    (By Mr. Sharkey) Do you have AES Ohio  
21 Exhibit 66 open in front of you now, Mr. Walters?

22           A.    Yes, I do.

23           Q.    And there is on the front page an  
24 April 24, 2015, letter addressed to someone in the  
25 Michigan Public Service Commission that purports to

1 have attached to it testimony by you. Do you see  
2 that?

3 A. Yes.

4 Q. And do you recall testifying before the  
5 Michigan Public Service Commission?

6 A. I do.

7 Q. Okay. So if we turn in the document,  
8 I -- looks like roughly five page in, there is a page  
9 that begins "Direct Testimony of Christopher C.  
10 Walters." Do you see that?

11 A. Yes.

12 Q. Okay. And does this appear to be an  
13 accurate copy of testimony that you filed before the  
14 Michigan Public Service Commission?

15 A. It does.

16 Q. Okay. Turn, if you would, to page 11.

17 A. Page 11.

18 Q. Page 11. And I am using your internal  
19 page numbers, the ones in the upper right-hand  
20 corner.

21 A. Sure.

22 Q. Not the PDF numbers.

23 A. Understood. I'm there.

24 Q. Okay. So down there on line 21, you  
25 refer to "Consumers," and Consumers is the name of

1 the utility at issue in your testimony, correct?

2 A. Correct. It's Consumers Energy company  
3 in Michigan.

4 Q. Okay. So you say there, "Consumers' bond  
5 ratings from S&P and Moody's are both two notches  
6 higher than the average bond rating assigned to the  
7 proxy group companies." Did I read that correctly?

8 A. You did.

9 Q. Okay. Turn then if you would to page 13,  
10 line 37.

11 A. Yes.

12 Q. You say there, "As described above,  
13 Consumers has lower investment risk compared to the  
14 proxy group when credit ratings are appropriately  
15 considered. Therefore, the Commission should  
16 continue to reflect the Company's low risk in the  
17 current regulatory proceeding and authorize a fair  
18 ROE that will balance the risk of the investors and  
19 ratepayers." Did I read that accurately?

20 A. You did.

21 Q. Okay. Then turn if you would -- turn to  
22 Exhibit 67. If you would open that up.

23 A. Let me go back to that screen. Just a  
24 second, please. So we are -- you said Exhibit 67.

25 Q. Correct.

1           A.    Right?  Okay.

2                    It is open.

3           Q.    Okay.  And this appears to be another  
4 piece of testimony that you filed in front of the  
5 Michigan Public Service Commission, correct?  At  
6 least the cover letter at least mentions it.

7           A.    Yes.  The first testimony I saw was the  
8 other witness, but, yes, you are right.

9           Q.    And if you scroll through the PDF roughly  
10 halfway, you come to page 1 of a document titled  
11 "Direct Testimony of Christopher C. Walters."

12          A.    I'm there.

13          Q.    Okay.  And again, this is testimony you  
14 filed in front of the Michigan Public Service  
15 Commission?

16          A.    It is.

17          Q.    Okay.  And it -- it relates to the same  
18 utility, Consumers?

19          A.    Yes.

20          Q.    And then if you turn to page 10 of your  
21 testimony.

22          A.    I'm there.

23          Q.    You state, starting on line 4, "The  
24 market assessment of Consumers' investment risk is  
25 best described by credit rating analyst reports.

1 Consumers' current senior secured credit rating from  
2 S&P and Moody's are A and A1, respectively, with a  
3 stable outlook from both ratings." And then after a  
4 block quote, you, on line 33, you say, "S&P views  
5 Consumers as being a low risk utility. The  
6 ratemaking factors such as six-month self-limitation  
7 of rates, forward-looking test years, and automatic  
8 adjustment clauses reduces risk. These factors  
9 should be reflected in any authorized ROE." Did I  
10 read that accurately?

11 MR. MCKENNEY: I will object, your Honor.  
12 I will object, your Honor. This is IEU-Ohio, Bryce  
13 McKenney. The credit rating of Consumers Energy is  
14 completely irrelevant to this particular proceeding.  
15 If this is being used for impeachment purposes, it's  
16 an improper -- improper impeachment. I don't see why  
17 we should be going through the witness's testimony  
18 regarding the credit rating of a utility that's not  
19 at issue in this case.

20 EXAMINER WILLIAMS: Mr. Sharkey.

21 MR. SHARKEY: Yes, your Honor. This is  
22 just being offered to show that when a utility has  
23 had a very favorable credit rating, Mr. Walters has  
24 taken the position that that should be considered  
25 when setting an ROE, and as we discussed earlier,



1 Mr. McKenzie has taken sort of the same view but  
2 applied it to a utility with a very low credit rating  
3 to show that that means the ROE should be on the  
4 higher scale, and I am just showing that Mr. Walters'  
5 testimony in prior proceedings suggests that AES Ohio  
6 should get a higher credit rating using the same type  
7 of methodology that he employed in those cases.

8 EXAMINER WILLIAMS: I agree that his  
9 prior methodology and testimony is reasonable for  
10 consideration in this hearing. I will allow it to  
11 proceed.

12 Q. (By Mr. Sharkey) I asked the question,  
13 did I read that accurately. I am not sure if I  
14 received an answer or not.

15 A. I was reading along with you and I didn't  
16 see you say anything that wasn't there. I believe  
17 you read it accurately.

18 Q. Okay. Turn, if you would, to page 20 of  
19 your testimony.

20 A. I'm sorry. Are we in this particular  
21 exhibit or my direct?

22 Q. No. I am done with those two exhibits.

23 A. Understood. Thank you. And I'm sorry.  
24 You said page 2-0?

25 Q. 2-0, not page B2-0.

1           A.    I am there.

2           Q.    All right.  So here you have a chart  
3 there that tracks the Federal Reserve's federal funds  
4 rate, which is the green line, over time, correct?

5           A.    Yes.

6           Q.    Okay.  And we can see if you look at the  
7 last entry sort of towards the end, starting around  
8 March of 2020 through July of 2021, that ranking had  
9 been very flat and very low, correct?

10          A.    Yeah.  You'll see in the itemized stuff  
11 there, March 2020 was the No. 14.  That's where the  
12 Federal Reserve lowered the federal funds rate to the  
13 target range of 0 to 0 and a quarter which was the  
14 second time they lowered it in March of 2020 and it  
15 has remained there.  That's right.

16          Q.    And we talked about this chart when you  
17 were deposed back in October.  Do you recall that?

18          A.    Vaguely.

19          Q.    Vaguely, okay.  Do you recall telling me  
20 then that you expected the federal funds rate to  
21 remain at the existing level over the near term which  
22 you defined as one to two years?

23          A.    I would have to pull up my deposition.  I  
24 don't exactly know what I said.  I -- I don't know  
25 that I said it wouldn't increase at all.  I said it

1 remained relatively low for one to two years.

2 Q. All right. You at least expected it to  
3 remain flat as of October of last year?

4 A. Subject to checking my transcript of my  
5 deposition, yeah, I would agree with that.

6 Q. Okay. Open then, if you would  
7 Exhibit 93. Tell me when you have it open.

8 A. It's there.

9 Q. Okay. It is a Federal Reserve press  
10 release from two days ago, correct?

11 A. Yes.

12 Q. Okay. And you are familiar with this  
13 press release, I assume?

14 A. I am.

15 Q. Okay. Take a look at paragraph -- the  
16 third paragraph on that page.

17 A. I'm there.

18 Q. Okay. In the third sentence, the Federal  
19 Reserve states, "With inflation well above 2 percent  
20 and a strong labor market, the Committee expects it  
21 will soon be appropriate to raise the target range --  
22 range for the federal funds rate." Did I read that  
23 accurately?

24 A. You did.

25 Q. Okay. So turning back then to your

1 testimony on page 20.

2 A. I'm there.

3 Q. Okay. On line 4, you say, "While it is  
4 certainly possible that the Federal Reserve will  
5 begin raising the Federal Funds rate in coming years,  
6 it does not necessarily indicate that there will be a  
7 corresponding increase in long-term rates or the cost  
8 of utility equity." Did I read that accurately?

9 A. You did. You did.

10 Q. Okay. And then starting on line 9, you  
11 say, "As can be seen on this graph, even though there  
12 were nine step increases over that three-year period,  
13 long-term Treasury and utility bond yields did not  
14 have corresponding changes." Did I read that  
15 accurately?

16 A. You did.

17 Q. Okay. Let's go back then to page 20 and  
18 I want to ask you some questions about that.

19 A. I'm there.

20 Q. So we are clear, as I mentioned earlier,  
21 the green line is the federal funds rate as set by  
22 the Federal Reserve, correct?

23 A. It is.

24 Q. The blue -- blue line is the 30-year  
25 treasury yields, correct?

1           A.    It is.

2           Q.    And the red line is the -- is a -- is  
3 A-rated utility bond yields, right?

4           A.    It is.

5           Q.    Okay. So focusing, first of all, on the  
6 green line, from 2015 through most of 2016, the  
7 federal funds rate was very low, correct?

8           A.    You said through 2016?

9           Q.    Yes.

10          A.    I mean, if you define as being -- let's  
11 see, I mean, the federal funds rate -- you know, the  
12 target range peaked at a range of .5 to .75 percent.  
13 I would agree that is low.

14          Q.    Okay. And over that same period of time,  
15 the red line and the blue line for bonds and T yields  
16 were falling, correct?

17          A.    Over the same 2015 through 2016 time?

18          Q.    Correct.

19          A.    The end result, I believe they were flat  
20 with some falling in between. So from like the  
21 beginning to the end, it was about the same level but  
22 there was some falling in the interest rates in  
23 between that. For instance, if you look at the blue  
24 line at about mid to early 2016, you will see the  
25 30-year treasury yield fell to just between 2 and

1 2-1/2 percent.

2 Q. Okay. And then from it looks like around  
3 November of 2016 through November of 2018, the  
4 federal funds rate is increased I believe you say  
5 nine times?

6 A. I think that includes the 2015 increase.

7 Q. Oh, okay. Then let me -- fair enough.  
8 Let me withdraw that question.

9 From November -- from November of 2016  
10 through looks like November of 2018, there is a  
11 series of increases in the federal funds rate,  
12 correct?

13 A. There was.

14 Q. And it reaches its peak around -- from  
15 November 2018 to roughly July of 2019, at least its  
16 peak as you show it on your chart.

17 A. Yes, I would agree with that.

18 Q. And the A-rated utility bond and treasury  
19 yields peak looks like around November of 2018 as  
20 well, correct?

21 A. Yes.

22 Q. Okay. And from November 2018 to early  
23 2020, the federal funds rate fell significantly?

24 A. You said from November '18 to 2020?

25 Q. Yes.

1           A.    Yes.

2           Q.    Okay.  And just to -- well, in any event,  
3 in fact, it fell to a historic low, correct?

4           A.    It fell to the same low we see prior to  
5 the December '15's increase.

6           Q.    Okay.  And the ratings for A-rated  
7 utility bonds and treasury yields both hit lows at,  
8 at least as displayed on your graph, over that same  
9 period of time, correct?

10          A.    Looks like the A-rated utility yield hit  
11 a low about July '20 and the treasury yield hit a low  
12 April or May 2020.

13          Q.    Okay.  Turn, if you would, to page 22 of  
14 your testimony then.

15          A.    I'm there.

16          Q.    Okay.  This is a chart of forecasts of  
17 federal funds rate, T-bond yields, and the GDP price  
18 index, correct?

19          A.    Yes.

20          Q.    Okay.  And I am going to focus on the  
21 T-bond figure that is -- that set, and that -- those  
22 are a series of different forecasts, one in January  
23 '21, one in February '21, et cetera, correct --

24          A.    You're correct.

25          Q.    Okay.  So then let's start with the line

1 that says July of '21. That's the last forecast you  
2 have available, right?

3 A. It is.

4 Q. Okay. And just so we are clear, the  
5 "Blue Chip Financial Forecasts," how is that  
6 prepared?

7 A. It's a publication and what they do is  
8 they send out surveys to corporate executives and  
9 market participants, investment banks and the like,  
10 and they ask them a series of economic questions on  
11 their expectations, and the respondents' answers to  
12 those surveys get tabulated, if you will, and they  
13 are what they consider the consensus of the economic  
14 projections or financial forecasts.

15 Q. Okay. So we can see on that row of July  
16 '20, the forecast that you had for July of 2021, that  
17 they're projecting the T-bond yield to be increasing  
18 from second quarter of '21 of 2.3 percent to the  
19 second quarter of '22 to 2.6 percent, correct?

20 A. That's what they were expecting at the  
21 time, yes.

22 Q. Okay. And then I want to focus on the  
23 column that's the second quarter of 2022. Do you see  
24 that?

25 A. I do.



1           Q.    So if we go down that column, we see how  
2 the forecasts have changed over time, correct?

3           A.    Yes.

4           Q.    Okay.  So in January of 2021, the  
5 forecasts for the T-bond yield for the second quarter  
6 of '22 was 2.1 percent, correct?

7           A.    You said January '21 is 2.1 percent, that  
8 is correct.

9           Q.    Okay.  And that number, that forecast  
10 increases over time until at July of 2021, when they  
11 issued a new forecast for that same period of time,  
12 the new forecast showed a projected rate of  
13 2.6 percent, correct?

14          A.    Correct.

15          Q.    Okay.  Turn back, if you would, to  
16 page 9.  This is a chart of trends in common equity  
17 ratios, correct?

18          A.    It is.

19          Q.    Okay.  And it shows a median common  
20 equity ratio over the years that you have there, 2016  
21 through 2021, of 50.78, right?

22          A.    Yes.  So the 50.78 percent, are you  
23 referencing line 7?

24          Q.    Yes, I am.

25          A.    Yes.  So line 7 is the average of the six

1 years, the medians of the six years above it, that is  
2 correct.

3 Q. It's the average of the medians.

4 A. Yes.

5 Q. Okay. And you opine that because AES  
6 Ohio has an equity ratio of 53.87 percent, it  
7 includes too much equity, correct?

8 A. Will you show me where I opine that in my  
9 testimony? I take issue with it and recommend  
10 something around 52.8, I believe.

11 Q. My notes are referring me to page 32, so  
12 that's probably it, yes.

13 A. That's where I make my recommendation.

14 Q. You recommend that the Commission  
15 calculate the -- treat AES Ohio as if it had a common  
16 equity ratio of 52.89 as opposed to its actual of  
17 53.87.

18 A. I think that mischaracterizes what I did  
19 there because that is their actual equity ratio over  
20 the four quarter average ending March '20 -- or March  
21 '21. So that is an actual equity ratio, it's just  
22 observed over a different period of time.

23 Q. Okay. You don't dispute as of the time  
24 of the filing of this case it was 53.87 percent?

25 A. I do not.

1 Q. Turn, if you would, then back to page 9.

2 A. I'm there.

3 Q. You would agree that the common equity  
4 ratios have gone -- I am looking at the -- focusing  
5 on the median column, have gone from, in 2016, at  
6 49.99 percent, to 2021 to 52.07 percent, correct?

7 A. That is correct.

8 Q. Okay. So over that period of time, the  
9 common -- the approved common equity ratios  
10 approved -- increased by over 2 percent?

11 A. I would agree with that, yes.

12 Q. Okay.

13 MR. SHARKEY: Your Honor, can I have  
14 5 minutes to consult with counsel? I think I'm done,  
15 or at minimum I am close to done.

16 EXAMINER WILLIAMS: That makes sense. We  
17 will go ahead and go off camera and go off record and  
18 come back at 9:50.

19 (Recess taken.)

20 EXAMINER WILLIAMS: We're back on the  
21 record.

22 Mr. Sharkey, any further cross?

23 MR. SHARKEY: No, your Honor.

24 Thank you, Mr. Walters.

25 THE WITNESS: Thank you, Mr. Sharkey.

1 EXAMINER WILLIAMS: Next I have Walmart.

2 MS. GRUNDMANN: Yes, your Honor.

3 - - -

4 CROSS-EXAMINATION

5 By Ms. Grundmann:

6 Q. Good morning, Mr. Walters. My name is  
7 Carrie Grundmann. I represent Walmart, Inc. And I  
8 had a few questions, some of which follow-up on some  
9 questions you had from Mr. Sharkey.

10 A. Okay.

11 Q. Working our way somewhat backwards from  
12 the topics you covered with Mr. Sharkey, can we go  
13 back to that Table CCW-4 on page 22 of your direct  
14 testimony?

15 A. I'm there.

16 Q. As I look at that, the data for the  
17 30-year treasury bond, would you agree with me that  
18 essentially whether we are looking at the data from  
19 January 2021 or July 2021, going from left to right  
20 across your chart, the numbers always increase.

21 MR. SHARKEY: I am going to object, your  
22 Honor. This is friendly cross.

23 EXAMINER WILLIAMS: I am inclined to  
24 agree, Ms. Grundmann.

25 MS. GRUNDMANN: Your Honor, I believe

1 that I'm allowed to correct the record for purposes  
2 of putting forward my client's argument and the only  
3 way I can raise any issues with respect to the cross  
4 from Mr. Sharkey of this witness is to ask these  
5 questions and clarify the record as well. The only  
6 way that can be done here is through  
7 cross-examination.

8 EXAMINER WILLIAMS: It would appear to be  
9 better done on redirect on behalf of the party  
10 putting forward the witness.

11 MS. GRUNDMANN: Your Honor, I guess I  
12 would generally agree with that except for I can't  
13 question my witness about the issues raised by  
14 Mr. Walters as it relates to the arguments Walmart  
15 makes and would make in a post-hearing brief. The  
16 only way to do that is to put evidence on the record  
17 with respect to Mr. Walters here which I believe the  
18 only way I can do that without prejudice to my client  
19 is through cross-examination to answer questions that  
20 Mr. Sharkey brought up on direct.

21 EXAMINER WILLIAMS: So I will concede the  
22 lines here are a bit blurry. How much  
23 cross-examination are you contemplating?

24 MS. GRUNDMANN: Not very much, your  
25 Honor.

1 EXAMINER WILLIAMS: I will let you  
2 proceed.

3 MS. GRUNDMANN: Thank you, your Honor.

4 Q. (By Ms. Grundmann) Mr. Walters, do you  
5 need me to repeat that question?

6 A. If you would, please, just so I want to  
7 make sure I understood you correctly.

8 Q. Absolutely. So again, looking at the  
9 treasury bond, the 30-year treasury bond, Blue Chip  
10 Financial Forecasts, whether we are starting at the  
11 January 2021 estimates or the July or any of those  
12 dates in between, if we look at the estimated  
13 forecasts going from left to right, would you agree  
14 with me that they always increase?

15 A. Yes, as they are displayed in this table,  
16 it appears that they increase for every projection as  
17 you get further into the future; so, for example, it  
18 increases from 2.3 percent to 2.7 percent over time  
19 on the July '21 line, I would agree with that, yes.

20 Q. And would you say that it's -- it's  
21 relatively common in forecasts of this nature for  
22 there to be projected increases in the yields?

23 A. Yeah, it's been my experience in doing  
24 this for quite some time that economic projections  
25 tend to be increasing over time, especially as they

1 go further into the future regardless of economic  
2 conditions.

3 Q. I would like to direct your attention to  
4 the July '21 dates because I think that's the line  
5 that Mr. Sharkey had you take a look at. Just out of  
6 curiosity, do you happen to know what the actual  
7 average yield on the 30-year treasury bond was for  
8 the fourth quarter of 2021?

9 A. I do. I was just looking at that, of  
10 course.

11 MR. SHARKEY: I would object. I think  
12 our instructions -- your instructions to us were to  
13 have available to the witness only documents that  
14 were exhibits or filed or were supporting workpapers  
15 and such and we can't go pulling things off the  
16 internet or otherwise searching files to answer  
17 questions.

18 EXAMINER WILLIAMS: I will sustain the  
19 objection.

20 Mr. Walters, if you could testify from  
21 the documents you had before you or that you were --  
22 that the parties were all aware that you were using  
23 when you entered the hearing and not consult external  
24 sources.

25 THE WITNESS: Understood.

1           A.    I know that the -- just based on my  
2   experience that the treasury yields ending 2021, were  
3   around 2 percent.

4           Q.    Okay.  Then backing up, I guess I want to  
5   make sure that I clarify the record.  There was some  
6   discussion of your returns on equity numbers and I  
7   believe that's figure CCW on page 6 of your  
8   testimony.

9           A.    I'm there.

10          Q.    Was it your testimony that although the  
11   chart here ends as of June 2021 and reflects sort of  
12   ROEs it looks like on average of 9.45 for electric  
13   and 9.62 for gas, that using now actual numbers  
14   through the end of 2021, that that average is  
15   9.38 percent?

16          A.    Yes.

17               MR. SHARKEY:  Objection, your Honor.  
18   It's continuing friendly cross.

19               EXAMINER WILLIAMS:  So it's been asked  
20   and answered.  I will allow a small bit of latitude  
21   here.  Mr. Sharkey, the plan is this, I will go  
22   through the cross, I will invite redirect by OCC, and  
23   then I will invite you to have very limited recross  
24   if anything comes out in the record, okay?

25               MR. SHARKEY:  Thank you, your Honor.



1 EXAMINER WILLIAMS: Ms. Grundmann.

2 MS. GRUNDMANN: Thank you, your Honor.

3 Just one second.

4 Q. (By Ms. Grundmann) And then finally, can  
5 we take -- I guess I would like to start at page 15  
6 of your direct testimony.

7 A. I'm there.

8 Q. It appears to me as though you are  
9 describing some statements made by S&P about  
10 regulated utilities as a result of the novel  
11 coronavirus; is that accurate?

12 MR. SHARKEY: Your Honor, I am going to  
13 object again. At least the prior ones, the questions  
14 Ms. Grundmann asked were on pages I asked about or  
15 were within the scope of my cross. This is not only  
16 friendly cross but it also greatly exceeds the scope.  
17 There's no possible reason she needs to be asking  
18 about these questions to clean up a record based on  
19 my cross.

20 MS. GRUNDMANN: Your Honor, I never --

21 EXAMINER WILLIAMS: The objection is  
22 overruled. I will allow you to proceed with your  
23 questions, Ms. Grundmann.

24 MS. GRUNDMANN: Thank you, your Honor.

25 Q. (By Ms. Grundmann) Do you need me to

1 repeat that question, Mr. Walters?

2 A. If you would, please.

3 Q. Would you agree with me that your  
4 testimony beginning on line 3 of page 15 is generally  
5 describing statements made by the S&P about regulated  
6 utilities as a result of the novel coronavirus?

7 A. Yes. It was -- well, yes, I would agree  
8 with that.

9 Q. Okay. And is it -- in looking at the  
10 "Key Takeaways" from lines 10 to 15, you are  
11 testifying the number of in -- of utilities with  
12 negative outlooks increased from 18 percent at the  
13 beginning of 2020 to 36 percent at the end of 2020?

14 A. Yeah. This is a block quote directly out  
15 of the report which I provide. And, yes, it looks  
16 like the beginning of the year was around 18 percent  
17 had a negative outlook, and by the end of the year it  
18 was 36 percent.

19 MS. GRUNDMANN: Thank you, Mr. Walters.  
20 That's all the questions that I have.

21 THE WITNESS: Thank you.

22 EXAMINER WILLIAMS: Thank you,  
23 Ms. Grundmann.

24 IGS.

25 MR. BETTERTON: We have no cross for this

1 witness, your Honor.

2 EXAMINER WILLIAMS: Thank you.

3 Direct Energy?

4 MR. FYKES: No questions, your Honor.

5 EXAMINER WILLIAMS: One Energy?

6 MS. HERRNSTEIN: Thank you, your Honor --

7 - - -

8 CROSS-EXAMINATION

9 By Ms. Herrnstein:

10 Q. Good morning, Mr. Walters. I'm Kara  
11 Herrnstein, counsel for One Energy. I am going to be  
12 primarily asking you about your prefiled testimony  
13 which I believe you have in front of you?

14 A. I do.

15 MS. HERRNSTEIN: Would someone remind me  
16 what number exhibit that is? Sorry.

17 EXAMINER WILLIAMS: OCC 2.

18 MS. HERRNSTEIN: OCC 2. Sorry. I didn't  
19 have that written down.

20 Q. (By Ms. Herrnstein) All right.  
21 Mr. Walters, could you turn to page 28 of your  
22 prefiled testimony.

23 A. I'm there.

24 Q. All right. Do you -- is it your opinion  
25 that the Company's proposed cost of capital is

1 unreasonable?

2 A. It is.

3 Q. And do you agree that as of June 2020,  
4 DP&L's proposed cost -- I'm sorry. I am going to  
5 restart that.

6 Do you agree as of June 2020, DP&L  
7 proposed a capital structure that consists of  
8 46.13 percent long-term debt and 53.87 percent common  
9 equity?

10 A. Yes.

11 Q. And do you agree that DP&L's proposed  
12 total cost of capital includes the cost of long-term  
13 debt?

14 A. Yes, it does.

15 Q. Okay. Mr. Walters, could you turn to  
16 page 32 of your prefilled testimony.

17 A. I'm there.

18 Q. Am I correct that your proposed capital  
19 structure increases the proportion of the Company's  
20 long-term debt financing to 47.1 percent? I believe  
21 it would be on line 4.

22 A. Yes. I usually work in -- yes, you are  
23 correct because I am decreasing the common equity  
24 ratio, the only other way is to increase the  
25 long-term debt ratio, that's correct.

1 Q. Okay. Thank you.

2 And am I also correct that in doing so,  
3 you assumed the Company's cost of debt would remain  
4 at 4.44 percent?

5 A. Yes.

6 Q. Okay. Did -- did OCC raise any  
7 objections regarding the cost of debt?

8 A. No. I just -- I think I just observed  
9 what it is on page 33 as it was calculated and  
10 proposed by Mr. Illyes.

11 Q. So you just accepted the cost of debt  
12 that the Company set forth?

13 A. Yes.

14 Q. So going back to your proposed capital  
15 structure, am I correct that you consider  
16 47.1 percent to be an appropriate amount of debt  
17 financing?

18 A. Yeah, I believe 47.1 percent is an  
19 appropriate -- or at least it's reasonable. Yeah, I  
20 would agree with that.

21 Q. Okay. Great.

22 Could you please turn to page 30 of your  
23 prefiled testimony.

24 A. I'm there.

25 Q. Okay. Could you look at line 3. There

1 is a sentence that reads: "A capital structure too  
2 heavily financed with debt would reflect excessive  
3 financial risk and would erode the utility's credit  
4 standing and likely impair its access to capital or  
5 make it more costly to obtain capital under certain  
6 market conditions." Is that correct?

7 A. Yes.

8 Q. Okay. What did you mean when you said it  
9 would be more costly to obtain capital under certain  
10 market conditions?

11 A. If they're too heavily leveraged with  
12 debt and if they are already operating at a thin  
13 financial cushion, if economic events happen as such  
14 that they needed to maintain a healthier equity ratio  
15 or sustain certain financial metrics like their FFO  
16 to debt ratio, it might be harder to obtain equity or  
17 debt capital and if they could, it could be  
18 potentially at a higher cost. A prime example of  
19 that would have been the financial crisis back in the  
20 2008, 2009, time frame where the credit markets froze  
21 and companies across all spectrums had issues  
22 accessing capital.

23 Q. Okay. So to try to simplify, do you  
24 agree that a company's cost of debt increases as its  
25 leverage ratio increases?

1           A.    It -- yeah, in general I would agree with  
2   that.

3           Q.    Okay.  So if a company has an  
4   unreasonably high leverage ratio, the cost of its  
5   debt would likewise be unreasonably high?

6           A.    Well, I don't know -- well, the cost of  
7   debt that they would be able to obtain would be  
8   unreasonable only because of their unreasonable  
9   leverage amount.  The market is going to dictate what  
10   the cost of debt is going to be.  That's a very  
11   observable metric, if you will, or a cost, unlike --  
12   because it's stipulated in the -- in the bond  
13   covenants and everything associated with those debt  
14   issues, not so much with equity.

15          Q.    I understood.  I asked a bad question.  
16                So what you are saying is the cost of  
17   debt would be high but that would be appropriate in  
18   the market for a company with an unreasonably high  
19   leverage ratio.

20          A.    Right.

21          Q.    Okay.

22          A.    All things considered, yeah.

23          Q.    Yeah.

24                Mr. Walters, am I correct that you  
25   consider 49 percent, a 49 percent leverage ratio to

1 be typical? I'm referring to, I believe, line 16.  
2 Again, we have to do a little bit of arithmetic to  
3 get there.

4 A. Line 16 of what page? I'm sorry.

5 Q. Oh, I'm sorry. We are still on page 30,  
6 unless I have my cites screwy which is always a  
7 chance.

8 A. Okay. I see where you are at. So, yeah,  
9 here I observe that the typical common equity ratio  
10 is approximately 51 percent of being awarded to  
11 electric utilities since 2016 which is derived in my  
12 Table CCW-2. So just one minus the equity ratio of  
13 51 would give you a debt ratio of 49 percent.

14 Q. Okay.

15 A. And that would be a typical debt ratio  
16 observed over that time.

17 Q. Okay. Mr. Walters, in your opinion, what  
18 level of debt financing would be too high and would  
19 begin to impair access to capital or make it more  
20 costly to obtain capital under certain market  
21 conditions?

22 A. That's -- that's going to be very hard  
23 to -- to come up with, if you will. There is so many  
24 other things that have to be taken into  
25 consideration. You know, the Company's ability to



1 cover certain metrics, if you will, through cash flow  
2 and -- such as the FFO to debt ratio and their  
3 interest coverage ratios and stuff.

4 Q. Do you have an opinion as to DP&L  
5 specifically?

6 A. I do not have a specific debt ratio that  
7 I've identified as detrimental to their -- their --  
8 or prohibitive to them accessing capital; so no, I  
9 have not.

10 Q. Would anything over 50 percent be  
11 detrimental?

12 A. I'm not in a position to opine that. I  
13 have not taken a look at their specific FFO to debt  
14 ratios. What we've seen is as you get adjusted debt  
15 ratios as -- as rating agencies make adjustments to  
16 their own balance sheet debt, once you start getting  
17 to the 55 to 60 percent debt, you will start getting  
18 into a little bit they're operating on their cushions  
19 of their ratings, if you will. So it can be  
20 detrimental in a significant downturn.

21 Q. Okay. So in -- in the case of DP&L,  
22 would you consider 67 percent debt ratio to be  
23 unreasonable?

24 A. In my experience that would be  
25 detrimental to -- to their access to capital and

1 their financial metrics.

2 Q. And could you just clarify for me which  
3 financial metrics you are referring to?

4 A. The core ratios that would be as S&P  
5 looks at are the FFO to debt ratio. So, all else  
6 equal, even if their funds from operations stay the  
7 same, the debt ratio increases so the ratio itself is  
8 going to decrease and that's a core metric that S&P  
9 looks at for assessing ratings.

10 Similarly, they do what's called the debt  
11 to EBITDA ratio, or the earnings before interest,  
12 taxes, depreciation, and amortization. So, again,  
13 even if EBITDA stays the same and debt increases, the  
14 debt to EBITDA ratio will increase and therefore be  
15 detrimental or potentially detrimental.

16 Q. And when you say "detrimental," what are  
17 some of the consequences that you have in mind when  
18 you use that word?

19 A. You know, immediately what comes to mind  
20 would be ratings downgrades which would have an  
21 immediate impact on future debt issuances, so.

22 Q. Anything else?

23 A. No. Oh, yeah, it would probably increase  
24 the cost of equity or just the overall cost of  
25 capital in general.

1 MS. HERRNSTEIN: All right. Okay. Just  
2 one moment to check my notes to make sure I am not  
3 leaving anything. Okay. No further questions.

4 EXAMINER WILLIAMS: Thank you,  
5 Ms. Herrnstein.

6 Next, I have City of Dayton.

7 MS. SIEWE: No questions, your Honor.  
8 Thank you.

9 EXAMINER WILLIAMS: Thank you.  
10 IEU-Ohio.

11 MR. MCKENNEY: No questions, your Honor.

12 EXAMINER WILLIAMS: OEG?

13 MS. COHN: No questions, your Honor.

14 EXAMINER WILLIAMS: OMAEG?

15 MS. BOJKO: No questions, your Honor.  
16 Thank you.

17 EXAMINER WILLIAMS: Thank you, Ms. Bojko.  
18 Kroger?

19 MS. WHITFIELD: No questions, your Honor.

20 EXAMINER WILLIAMS: OPAG?

21 OHA?

22 University of Dayton?

23 Staff?

24 MS. BAIR: Staff has no questions. Thank  
25 you.

1 EXAMINER WILLIAMS: Thank you, Ms. Bair.

2 Consistent with my prior ruling, I am  
3 going to go back to OCC, allow some redirect if  
4 they -- if they deem it necessary, and then we'll  
5 grant AES the opportunity to recross on issues that  
6 appear to be more along the lines of direct as  
7 opposed to cross on the -- the questions asked by  
8 some of the other parties.

9 It seems like an appropriate time to take  
10 a short break and let the two remaining parties  
11 gather themselves. I have 10:10. Why don't we come  
12 back in 3 minutes. We can go ahead and go off  
13 camera. We will come back at 10:13. Off record.

14 (Recess taken.)

15 EXAMINER WILLIAMS: We will go ahead and  
16 go back on record.

17 We just took a short break to allow the  
18 parties to confirm whether they had redirect or  
19 recross.

20 Mr. Finnigan, any redirect?

21 MR. FINNIGAN: No, your Honor.

22 EXAMINER WILLIAMS: Mr. Sharkey, any  
23 recross?

24 MR. SHARKEY: No, your Honor.

25 EXAMINER WILLIAMS: Okay. Mr. Walters,

1     thank you for your testimony this morning. I will  
2     take up the exhibits.

3             THE WITNESS: Thanks for your time,  
4     everybody. Have a good day.

5             EXAMINER WILLIAMS: You as well, sir.

6             OCC 2, Mr. Walters' testimony and  
7     exhibits. It's already been moved for admission.  
8     Any objections? Appearing none, that's admitted.

9             (EXHIBIT ADMITTED INTO EVIDENCE.)

10            EXAMINER WILLIAMS: Any AES exhibits for  
11     consideration of admission, Mr. Sharkey?

12            MR. SHARKEY: Yeah. We move for the  
13     admission of three exhibits we used with him which  
14     were 66, 67, and 93.

15            EXAMINER WILLIAMS: Any objections? They  
16     are deemed as admitted as well.

17            (EXHIBITS ADMITTED INTO EVIDENCE.)

18            EXAMINER WILLIAMS: Mr. Finnigan, I  
19     believe that concludes OCC's witnesses, correct?

20            MR. FINNIGAN: Yes, your Honor.

21            EXAMINER WILLIAMS: Thank you,  
22     Mr. Finnigan.

23            The next Intervenor witness proposed  
24     then, I understand, is on behalf of Walmart; is that  
25     correct, Ms. Grundmann?

1 MS. GRUNDMANN: That is correct.

2 EXAMINER WILLIAMS: Please proceed and  
3 call your witness.

4 MS. GRUNDMANN: Walmart calls Alex J.  
5 Kronauer.

6 MR. SCHMIDT: Mr. Kronauer, you've been  
7 promoted. If you can enable your audio and video.

8 THE WITNESS: Yes. Good morning.

9 EXAMINER WILLIAMS: Good morning, sir.  
10 How are you?

11 THE WITNESS: Good.

12 EXAMINER WILLIAMS: Excellent. Would you  
13 raise your right hand to swear you in.

14 (Witness sworn.)

15 EXAMINER WILLIAMS: Thank you.

16 Please proceed, Ms. Grundmann.

17 - - -

18 ALEX J. KRONAUER

19 being first duly sworn, as prescribed by law, was  
20 examined and testified as follows:

21 DIRECT EXAMINATION

22 By Ms. Grundmann:

23 Q. Good morning, Mr. Kronauer. Can you  
24 please state your full name, employer, and position  
25 of employment for the record.

1           A.     Sure. My name is Alex Kronauer. My last  
2 name is spelled K-R-O, N as in Nancy, A-U-E-R. I am  
3 a Senior Manager on the Energy Services team at  
4 Walmart.

5           Q.     And, Mr. Kronauer, are you the same Alex  
6 J. Kronauer who submitted the direct testimony and  
7 exhibits of Alex J. Kronauer consisting of 12 pages  
8 and four exhibits in public version only in this  
9 docket on August 25, 2021?

10          A.     Yes, I am.

11          Q.     And was that testimony prepared by you or  
12 under your direction?

13          A.     Yes, it was.

14          Q.     Do you have any changes or corrections to  
15 that testimony?

16          A.     I do not.

17          Q.     If you were asked the same questions,  
18 would your answers be the same?

19          A.     Yes, they would.

20          Q.     Would you like to sponsor this testimony  
21 as your direct testimony in this case?

22          A.     Yes, I would.

23               MS. GRUNDMANN: Your Honor, I would ask  
24 that Mr. Kronauer's testimony, which was premarked as  
25 Walmart Exhibit 1, be marked for identification and

1 entered into the record, subject to  
2 cross-examination.

3 EXAMINER WILLIAMS: Thank you. So  
4 marked.

5 (EXHIBIT MARKED FOR IDENTIFICATION.)

6 EXAMINER WILLIAMS: And we will consider  
7 its admission into the record after we've gone  
8 through cross.

9 Q. (By Ms. Grundmann) Mr. Kronauer, do you  
10 also have a document in front of you that has been  
11 premarked for the record as Walmart Exhibit 2. It is  
12 entitled the "Objections to the Staff Report of  
13 Walmart, Inc." that was filed in this docket on  
14 August 25, 2021?

15 A. Yes, I do.

16 Q. And were you involved in the preparation  
17 of this document?

18 A. Yes, I was.

19 Q. And did this document reflect the  
20 position of Walmart, Inc. with respect to its  
21 objections to the Staff Report?

22 A. Yes, it does.

23 Q. And are you able to provide testimony  
24 today supporting those objections?

25 A. Yes.



1 MS. GRUNDMANN: Your Honor, I would ask  
2 that the document that was previously marked as  
3 Walmart Exhibit 2 be marked -- be identified for the  
4 record and entered, subject to cross-examination.

5 EXAMINER WILLIAMS: So marked.

6 (EXHIBIT MARKED FOR IDENTIFICATION.)

7 EXAMINER WILLIAMS: We will consider its  
8 admissibility after cross.

9 MS. GRUNDMANN: Thank you, your Honor.  
10 Mr. Kronauer is available for cross-exam.

11 EXAMINER WILLIAMS: Thank you,  
12 Ms. Grundmann.

13 Proceeding first then with the Company.

14 MS. WATT: Yes, your Honor. This is  
15 Melissa Watt on behalf of AES Ohio.

16 EXAMINER WILLIAMS: Good morning,  
17 Ms. Watt.

18 MS. WATT: Good morning.

19 - - -

20 CROSS-EXAMINATION

21 By Ms. Watt:

22 Q. Mr. Kronauer, my name is Melissa Watt,  
23 and I represent AES Ohio. How are you this morning?

24 A. Good. How are you?

25 Q. I am doing well. Thank you.

1                   You stated previously that you are an  
2 employee of Walmart; is that correct?

3                   A.    That's correct.

4                   Q.    And you've been employed with Walmart  
5 since August of 2019; is that right?

6                   A.    Yes.   That's correct.

7                   Q.    And I would like to direct your attention  
8 to your testimony on page 1.  Do you have your  
9 testimony in front of you?

10                  A.    I do.  Let me go to page 1.

11                  Q.    Okay.

12                  A.    Yes, I am on page 1 now.

13                  Q.    If you look at line 16 to 17, your  
14 testimony states that you have attended, since you  
15 started working for Walmart in 2019, you have  
16 attended several utility-related training seminars.  
17 Do you see that?

18                  A.    Yes, I do.

19                  Q.    When you said "several utility-related  
20 seminars," you meant two, right?

21                  A.    To the best of my recollection, yes.

22                  Q.    And those two utility training seminars  
23 were both at Michigan State University; is that  
24 right?

25                  A.    That's correct, yeah.

1           Q.    They were introductory-level training  
2 seminars, correct?

3           A.    Yeah.  I would characterize those as  
4 such, yes.

5           Q.    And you would agree that those training  
6 seminars provided only a high level overview of  
7 utility regulation, correct?

8           A.    Yeah, that's a fair statement.

9           Q.    Of those two training seminars you  
10 attended at Michigan State, one covered general  
11 regulatory principles, correct?

12          A.    Yes.

13          Q.    And that course at Michigan State is your  
14 only training in utility regulation, right?

15          A.    Correct.

16          Q.    The other utility-related training  
17 seminar you attended was a half day seminar, right?

18          A.    Yes, that's correct.

19               MS. GRUNDMANN:  Your Honor, I would like  
20 to object to this line of questioning.  Mr. Kronauer  
21 was deposed in this case and asked these questions  
22 and the Company had time to file a motion to strike  
23 and did not do so.  So I'm unclear what appears to be  
24 questions about his qualifications why those are  
25 relevant for purposes of this hearing today since the

1 Company did not file a motion to strike.

2 EXAMINER WILLIAMS: I am going to  
3 overrule the objection. There is certainly room  
4 between challenging his level of experience and  
5 training and granting a motion to strike. So I will  
6 allow some latitude to ask these questions. Please  
7 proceed.

8 MS. GRUNDMANN: Thank you, your Honor.

9 Q. (By Ms. Watt) Mr. Kronauer, the other  
10 utility-related training seminar you attended was a  
11 half day seminar, right?

12 A. Yes, that's correct.

13 Q. And you don't recall the subject matter  
14 of that half day seminar, do you?

15 A. I do not, no.

16 Q. And neither of the utility-related  
17 training seminars that we just talked about related  
18 to any state-specific utility regulations, did they?

19 A. Correct.

20 Q. Now, on page 2 of your testimony, lines 3  
21 through 5, you identify a number of proceedings where  
22 you've testified. Do you see that?

23 A. Yes.

24 Q. In those proceedings, you did not conduct  
25 an independent analysis of the appropriate ROE for

1 any of the utilities in those cases, right?

2 A. Correct. We provided context of what we  
3 are seeing around the country in terms of authorized  
4 ROEs by various state public utility and public  
5 service commissions, but I did not conduct an  
6 independent analysis of what I thought an appropriate  
7 ROE would be.

8 Q. And as to AES Ohio, you did not perform a  
9 DCF analysis of AES Ohio's proposed return on equity,  
10 right?

11 A. That's correct, yeah.

12 Q. You did not conduct a capital asset  
13 pricing model of AES Ohio's proposed ROE, did you?

14 A. I did not.

15 Q. You did not -- also did not conduct a  
16 comparable earnings analysis of AES Ohio's proposed  
17 ROE, did you?

18 A. That's correct.

19 Q. And you are not proposing an ROE in this  
20 case based upon any kind of independent analysis,  
21 right?

22 A. That's correct.

23 Q. And you don't consider yourself to be an  
24 expert on ROE, do you?

25 A. Well, it depends on what you mean by an

1 "expert." Certainly I've testified in several rate  
2 case proceedings around the country, although I am  
3 not sure I consider myself an expert.

4 Q. You would agree with me that return on  
5 equity is forward looking, right?

6 A. Correct.

7 Q. And a return on equity is necessary to  
8 attract capital; isn't that right?

9 A. Yes, I would agree with that.

10 Q. You would also agree that a return on  
11 equity measures risks, right?

12 A. Yes.

13 Q. An ROE should enable AES Ohio to recover  
14 its reasonable and prudent costs and earn a  
15 reasonable rate of return, right?

16 A. Yes, I would agree with that.

17 Q. You would also agree that credit ratings  
18 are an appropriate measure of risk, right?

19 A. Yes, absolutely.

20 Q. And you have not conducted an independent  
21 analysis of risks associated with an appropriate ROE  
22 for AES Ohio's financial condition, have you?

23 A. That's correct. My testimony focused on  
24 historical ROEs awarded by various public, state --  
25 public service commissions and public utilities

1 commissions.

2 Q. That's right. And your testimony that  
3 you -- you offer what you would characterize as  
4 comments on ROEs earned by other utilities, right?

5 A. Yes.

6 Q. And one of those comments concerns the  
7 Commission's ROE for Duke Energy, right?

8 A. Yes.

9 Q. But you have not taken any steps to  
10 compare the risks associated with Duke Energy and the  
11 risks associated with AES Ohio, have you?

12 A. That's correct.

13 Q. You've also summarized the ROEs for 126  
14 other utilities, right?

15 A. Yes.

16 Q. But you have taken no steps to compare  
17 the risks associated with any of those utilities and  
18 the risks associated with AES Ohio; is that right?

19 A. Yes, that's correct.

20 Q. And you are not recommending that the  
21 Commission compare AES Ohio's ROE with the ROEs of  
22 these other utilities, right?

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

24 Q. Sure. You are not recommending that the  
25 Commission compare AES Ohio's ROE with the ROEs of

1 these other utilities, are you?

2 A. I think the Commission should consider  
3 other historically-awarded ROEs in terms of  
4 determining the appropriate ROE for this case.

5 Q. But my question is that you are not  
6 recommending that the Commission compare AES Ohio's  
7 ROE with the ROEs of these other utilities, right?

8 A. I would recommend that, yes, they should  
9 keep in -- they should, for context, they should  
10 absolutely keep in mind what ROEs have been awarded  
11 by other commissions, yes.

12 Q. That's right. You offered the ROEs of  
13 these other utilities for context, right?

14 A. Yes.

15 Q. And when you were -- when you prepared  
16 your testimony, you were unaware that AES Ohio has an  
17 RSC charge, right?

18 A. Correct, yeah.

19 Q. I think you said this previously, but you  
20 are not making any kind of specific ROE  
21 recommendation for this particular case, right?

22 A. That's correct, yeah.

23 Q. You would also agree that a utility's  
24 rate should be based -- should be set based on that  
25 utility's cost of service, right?



1           A.     Correct, yes.

2           Q.     And you are not taking any position on  
3 the Company's proposed cost of service, right?

4           A.     That's correct.

5           Q.     And you do not oppose the Company's  
6 revenue allocation methodology, do you?

7           A.     Yes, that's correct.

8           MS. WATT: I have no further questions.  
9 Thank you, Mr. Kronauer.

10           THE WITNESS: Thank you.

11           EXAMINER WILLIAMS: Thank you, Ms. Watt.  
12 Next, I have OCC.

13           MS. WILSON: We have no cross for this  
14 witness.

15           MR. FINNIGAN: No cross, your Honor.

16           EXAMINER WILLIAMS: I heard that from  
17 both of you, so I will note for the record that OCC  
18 had no cross.

19           Next, we have IGS.

20           MR. BETTERTON: We have no cross for this  
21 witness, your Honor.

22           EXAMINER WILLIAMS: Direct Energy.

23           MR. FYKES: No cross, your Honor.

24           EXAMINER WILLIAMS: One Energy.

25           MS. HERRNSTEIN: No cross, your Honor.

1 EXAMINER WILLIAMS: City of Dayton?

2 MS. SIEWE: No cross, your Honor. Thank  
3 you.

4 EXAMINER WILLIAMS: IEU-Ohio.

5 MR. McKENNEY: No cross, your Honor.  
6 Thank you.

7 EXAMINER WILLIAMS: OEG.

8 MS. COHN: No cross, your Honor.

9 EXAMINER WILLIAMS: OMAEG.

10 MS. BOJKO: No questions. Thank you,  
11 your Honor.

12 EXAMINER WILLIAMS: Kroger?

13 MS. WHITFIELD: No questions for this  
14 witness. Thank you.

15 EXAMINER WILLIAMS: OP&E?

16 OHA?

17 University of Dayton?

18 Staff?

19 MS. BAIR: No questions, your Honor.

20 EXAMINER WILLIAMS: Any redirect?

21 MS. GRUNDMANN: Yes, your Honor. I think  
22 I have one question.

23 - - -

24

25

## REDIRECT EXAMINATION

By Ms. Grundmann:

Q. Mr. Kronauer, you were asked some questions with respect to what the Commission can or should do with the nationwide ROE data you've presented here. Do you recall those questions from the Company's counsel?

A. Not exactly. If you could repeat those, yeah, that would be great.

Q. I can. You recall the Company asked you questions about you -- about you offering this nationwide trend data for context. Do you recall that question?

A. Yes.

Q. Do you agree or do you believe that the Commission can use this historical data as one metric to gauge the reasonableness of the return on equity requested by the Company in this case?

A. Yes, absolutely.

MS. GRUNDMANN: Thank you, Mr. Kronauer. That's all the questions that I have.

EXAMINER WILLIAMS: Thank you, Ms. Grundmann.

Thank you for your testimony this morning.

1 I'll take up the exhibits.

2 THE WITNESS: Thank you.

3 MS. GRUNDMANN: Thank you, your Honor.

4 At this time, I would move for the admission of  
5 Walmart's Exhibits 1 and 2.

6 EXAMINER WILLIAMS: Any objection?

7 Hearing none, those both come into the  
8 record.

9 (EXHIBITS ADMITTED INTO EVIDENCE.)

10 MS. GRUNDMANN: Thank you, your Honor.

11 EXAMINER WILLIAMS: Thank you,  
12 Ms. Grundmann.

13 Okay. I have 10:30. I have -- let's go  
14 off the record.

15 (Discussion off the record.)

16 EXAMINER WILLIAMS: We will then proceed  
17 with Staff's first witness. Ms. Bair.

18 MS. BAIR: Your Honor, Staff calls Joseph  
19 Buckley as its witness.

20 MR. SCHMIDT: Mr. Buckley, you've been  
21 promoted. If you can enable your audio and video.

22 EXAMINER WILLIAMS: Oh, there you are.  
23 Good morning, Mr. Buckley. How are you?

24 THE WITNESS: Fine. Thanks.

25 EXAMINER WILLIAMS: Would you please

1 raise your right hand.

2 (witness sworn.)

3 EXAMINER WILLIAMS: Thank you.

4 Please proceed, Ms. Bair.

5 MS. BAIR: Thank you, your Honor.

6 - - -

7 JOSEPH P. BUCKLEY

8 being first duly sworn, as prescribed by law, was

9 examined and testified as follows:

10 DIRECT EXAMINATION

11 By Ms. Bair:

12 Q. Could you please state your name for the  
13 record.

14 A. My name is Joseph P. Buckley.

15 Q. Where are you employed and what is your  
16 position?

17 A. I am employed in Columbus, Ohio, at 180  
18 East Broad Street, the ZIP code is 43221 [sic]. I'm  
19 a Utility Specialist III.

20 Q. And what agency do you work for?

21 A. The Public Utilities Commission of Ohio.

22 MS. BAIR: Your Honor, I would like to --  
23 well, it's already been marked. I guess recognize  
24 for the record that Mr. Buckley's testimony be marked  
25 as Staff Exhibit 2.

1 EXAMINER WILLIAMS: So marked.

2 (EXHIBIT MARKED FOR IDENTIFICATION.)

3 Q. (By Ms. Bair) Mr. Buckley, could you  
4 please tell us what Staff Exhibit 2 is.

5 A. It is my prefiled testimony.

6 Q. Was this testimony prepared by you or  
7 under your direction?

8 A. It was.

9 Q. Do you have any changes, corrections, or  
10 additions that you would like to make at this time?

11 A. None at this time, no.

12 Q. And if I were to ask you the questions  
13 contained in Staff Exhibit 2, your amended testimony,  
14 today, would your answers be the same?

15 A. They would.

16 Q. And I would like to ask you about earlier  
17 testimony filed on behalf of you. Can you tell me  
18 why the amended Staff Exhibit 2 was filed?

19 A. I think a draft version was inadvertently  
20 filed instead of the final version.

21 Q. And so the amended version simply has  
22 additions to that earlier version?

23 A. Correct.

24 MS. BAIR: Thank you.

25 Your Honor, I would like to move Staff

1 Exhibit 2 into evidence, subject to  
2 cross-examination.

3 EXAMINER WILLIAMS: Thank you, Ms. Bair.  
4 Just to clarify, I only marked the amended prefiled  
5 testimony as Staff Exhibit 2. Is that your  
6 intention?

7 MS. BAIR: Yes, yes, your Honor, just to  
8 mark Staff Exhibit 2, please.

9 EXAMINER WILLIAMS: Excellent.

10 For the Company, cross-examination.

11 MR. IRELAND: Thank you, your Honor.

12 - - -

13 CROSS-EXAMINATION

14 By Mr. Ireland:

15 Q. Good morning, Mr. Buckley. My name is  
16 Jeff Ireland, and I am one of the attorneys  
17 representing AES Ohio, and I have just a few  
18 questions for you here this morning.

19 I am assuming you have read the testimony  
20 of Mr. McKenzie, the return on equity witness from  
21 the Company?

22 A. Usually with the testimony in areas that  
23 I am assigned, I will read the testimony when it's  
24 filed and then I'll read it a little bit closer, but  
25 I don't really commit it to memory; so I have read

1 it, yes.

2 Q. Okay. Well, guess what? We are not  
3 going to ask you to recall any of it. I just wanted  
4 to make sure that you had -- to see whether or not  
5 you had read it.

6 Would you agree that Mr. McKenzie is a  
7 qualified return on capital rate -- rate of return  
8 witness?

9 A. I would say he is a very good witness,  
10 yes.

11 Q. And I certainly understand that you may  
12 disagree with his conclusion, but is it fair to say  
13 you do not disagree with the methodology he employed?

14 A. I think he uses industry standards in  
15 creating his -- his ROE. I do not agree necessarily  
16 with all the aspects of that, but I think his methods  
17 are sound.

18 Q. And you did not, as part of this case,  
19 prepare an independent rate of return analysis; is  
20 that fair?

21 A. I came up with a rate of return. I am  
22 not sure I understand the question.

23 Q. You -- as I understand what you did, you  
24 came up with a rate of return by averaging the asset  
25 pricing model and the discounted cash flow model; is



1     that right?

2             A.     That's correct.

3             Q.     And you didn't prepare your own  
4     discounted cash flow model, for example; is that  
5     right?

6             A.     I did not create a unique model for this  
7     case, no.

8             Q.     Okay. And you did not prepare a unique  
9     asset pricing model, right?

10            A.     I did not, no.

11            Q.     You would agree with me, would you not,  
12     that credit ratings are an appropriate measure of a  
13     utility's risk?

14            A.     Yes.

15            Q.     And that a return on equity is a  
16     forward-looking determination based upon investors'  
17     expectations?

18            A.     Yes.

19            Q.     And investors' expectations would  
20     certainly include a -- the riskiness of a utility  
21     investment; is that fair?

22            A.     Yes.

23            Q.     And an ROE is a factor that also affects  
24     the attraction of capital?

25            A.     I don't understand that question. The

1 ROE is -- is -- the ROE set in a regulatory  
2 proceeding; is that what you are referencing?

3 Q. The ROE as set in a regulatory proceeding  
4 is going to be a factor that affects the ability of a  
5 utility to attract capital.

6 A. Correct.

7 Q. And an ROE should allow AES Ohio the  
8 opportunity to recover its reasonable costs and earn  
9 a return on investment.

10 A. Correct.

11 Q. And you understand that AES Ohio has a  
12 below investment grade bond rating; is that correct?

13 A. True.

14 EXAMINER WILLIAMS: I'm sorry. I lost  
15 the answer.

16 THE WITNESS: Correct.

17 MR. IRELAND: He said "Correct," I  
18 believe, your Honor.

19 EXAMINER WILLIAMS: Okay. Thank you.

20 Q. (By Mr. Ireland) I mean, I don't want to  
21 speak for you, Mr. Buckley, but didn't you say  
22 "Correct"?

23 A. I did.

24 MR. IRELAND: Okay. That's all I have,  
25 your Honor.

1 EXAMINER WILLIAMS: Thank you,  
2 Mr. Ireland.

3 OCC have any cross?

4 MR. FINNIGAN: Yes, your Honor. Thank  
5 you.

6 - - -

7 CROSS-EXAMINATION

8 By Mr. Finnigan:

9 Q. Mr. Buckley, good morning. My name is  
10 John Finnigan. I am an attorney with OCC. I would  
11 like to ask you a few questions.

12 Sir, there's been talk of investment  
13 grade or below investment grade credit ratings for  
14 the different entities involved in this case. Are  
15 you familiar with the credit rating for the electric  
16 distribution utility itself, Dayton Power and Light  
17 Company?

18 A. I am.

19 Q. What is that credit rating?

20 A. It is BB+ by S&P.

21 Q. Is that investment grade?

22 A. It is not.

23 Q. Please?

24 A. It is not.

25 Q. That's for The Dayton Power and Light

1 Company?

2 A. Correct, or AES Ohio.

3 Q. Are you familiar with the latest credit  
4 rating from Fitch?

5 A. I don't have access to the analysis  
6 behind the credit rating. I believe Fitch -- I don't  
7 have access to that, no.

8 Q. Without respect to looking at the  
9 analysis behind the credit rating, do you know what  
10 the credit rating is?

11 A. I'm not -- I'm not 100 percent sure what  
12 it is, no.

13 Q. Do you know if it's investment grade or  
14 below investment grade?

15 MS. BAIR: Objection.

16 EXAMINER WILLIAMS: I will let him answer  
17 the question.

18 MS. BAIR: It's been asked and answered.

19 EXAMINER WILLIAMS: He can answer whether  
20 he knows whether it's above or below investment  
21 grade.

22 A. I believe it's above it, investment  
23 grade.

24 Q. Do you know what the Moody's rating is  
25 for The Dayton Power and Light Company?

1           A.    I do not.

2           Q.    Do you know if it's above or below  
3 investment grade?

4           A.    I do not.

5           Q.    I want to direct your attention to page 7  
6 of your testimony, please, where you talk about using  
7 the 15-year average of the 10-year and the 30-year  
8 yields --

9           A.    Yes.

10          Q.    -- as the risk-free rate. Do you see  
11 that?

12          A.    I do.

13          Q.    Have you used that methodology before?

14          A.    I would have to go back and check. I'm  
15 not sure if I have used that before or not.

16          Q.    Did you do an analysis of the ROE for the  
17 recent AEP Ohio rate case?

18          A.    I have a general idea of what it is.

19          Q.    Did you use this same type of analysis in  
20 that case?

21          A.    I did not conduct that analysis. One of  
22 my colleagues did.

23          Q.    Okay. Did he use that -- this type of  
24 analysis?

25               MS. BAIR: Objection. Calls for --

1 EXAMINER WILLIAMS: To the extent the  
2 witness knows what the analysis was of his co-worker  
3 in regard to another EDU, I will allow him to answer.

4 A. I believe he used a similar method, but  
5 he added one factor. I am not exactly sure what that  
6 is.

7 Q. Now, Mr. Buckley, would you agree that,  
8 all else equal, if there is a utility that's in  
9 fragile financial condition but that resulted from  
10 poor management decisions, then the Commission should  
11 not reward the Company's poor management decisions by  
12 awarding it a higher ROE?

13 MR. IRELAND: Objection, your Honor.

14 EXAMINER WILLIAMS: Basis?

15 MR. IRELAND: It's an incomplete  
16 hypothetical. It assumes facts not in evidence.

17 EXAMINER WILLIAMS: I will allow him to  
18 answer.

19 A. I've -- I've heard the term "financial"  
20 in a fragile financial position and I struggle with  
21 defining that. So I know they are below investment  
22 grade. I would be more comfortable if the question  
23 was asked if a company that's below investment  
24 grade -- the editorializing of financial or fragile,  
25 I'm just not comfortable with saying that at this

1 time.

2 Q. I understand, Mr. Buckley. I am happy to  
3 rephrase the question. I will try to address that.

4 Would you agree with me that, all else  
5 equal, if a -- if a utility company is below  
6 investment grade, but that this resulted from poor  
7 management decisions, then the Commission should not  
8 reward those poor management decisions by awarding  
9 the Company a higher ROE?

10 MR. IRELAND: Objection, your Honor.  
11 Same objection plus "poor management decisions." I  
12 am -- that's very vague, ambiguous, and certainly not  
13 a part of the record.

14 EXAMINER WILLIAMS: I will allow him to  
15 answer. Do you need the question back, Mr. Buckley?

16 THE WITNESS: Could you please read it  
17 back.

18 EXAMINER WILLIAMS: Karen, would you do  
19 us the honor.

20 (Record read.)

21 A. I'm struggling with -- as a  
22 rate-of-return analyst, I don't want to go back and  
23 determine whether the Company was being managed  
24 appropriately or inappropriately. I can kind of give  
25 a forward-looking view of what I think the

1 appropriate ROE and rate of return should be. I  
2 would -- I would say on average that you should not  
3 reward poor management, but I'm not here to really  
4 give an opinion on whether a company has been managed  
5 appropriately, and I am not sure that I am qualified  
6 to give that opinion. But I don't think poor  
7 management should be rewarded.

8 Q. Now, in this case, as I understand it,  
9 you are recommending a range for the ROE between  
10 9.28 percent and 10.29 percent; is that correct?

11 A. That's correct.

12 Q. And do you then leave it to the  
13 Commission to decide an ROE within that range?

14 A. Yes.

15 Q. Could you please -- well, strike that.  
16 Do you have the Staff Report available to  
17 you?

18 A. I do.

19 Q. Okay. Let me ask if you could direct  
20 your attention to page 37 of the Staff Report.

21 A. I'm sorry. I only have my portion of it.

22 Q. Okay. Did you review the Staff Report?

23 A. I did.

24 Q. Okay. I am going to read a portion from  
25 the Staff Report and ask if you remember, you know,



1 the gist of this statement being in the Staff Report.  
2 So this is from page 37 and what it says is that "Per  
3 Ohio Adm. Code 4901:1-10-10(E), the Company's failure  
4 to meet the CAIDI standard for two consecutive years  
5 constitutes a violation of this rule, and the Company  
6 was issued a letter of probable non-compliance  
7 addressing the violation." Do you recall a statement  
8 to that effect in the Staff Report?

9 MS. BAIR: Objection.

10 EXAMINER WILLIAMS: Basis?

11 MS. BAIR: The basis is that  
12 Mr. Buckley's testimony relates to rate of return.  
13 This has no relevance to it whatsoever and he said he  
14 was not responsible for this part of the Staff  
15 Report.

16 EXAMINER WILLIAMS: Actually, he said he  
17 had the portion of the Staff Report that he prepared  
18 in front of him. I am going to let him answer the  
19 question regarding whether he recalls seeing this in  
20 the Staff Report.

21 A. I recall talk of that, and I don't recall  
22 the specifics, but I know I read that.

23 Q. Now, given that statement, does that  
24 appear to be something that's more consistent with  
25 good utility management or poor utility management?

1           A.    Again, I don't know the -- I don't know  
2   how that metric is calculated. I don't know -- I  
3   don't know what caused that metric to slip. I just  
4   don't know enough about it to know whether it was a  
5   factor of bad weather. I don't even know if that  
6   calculates bad weather. I don't know enough about  
7   the metric to really give an opinion on whether it  
8   was good management or bad management. I assume the  
9   metric was in place for a reason, but I don't know  
10  the specifics behind that at all.

11           Q.    Are you familiar with the Ohio Valley  
12  Electric Corporation?

13           A.    OVEC, yes.

14           Q.    Are you familiar that Dayton Power and  
15  Light owns an interest in the output from those  
16  plants?

17           A.    Yes.

18           Q.    Are you familiar with the fact that there  
19  was an amendment to an intercompany agreement in 2011  
20  where Dayton Power and Light agreed to extend its  
21  purchase of the output from the OVEC plants through  
22  2040?

23           A.    I recall that.

24           Q.    Are you aware that the OVEC plants' cost  
25  of producing electricity is substantially higher than

1 the market price?

2 A. Again, I struggle with terms like  
3 "substantially." I know that it is higher. I don't  
4 know if I would characterize it as substantial or  
5 not. I don't know how much higher, but it is higher.

6 Q. Was it good management practice or bad  
7 management practice to enter into a long-term  
8 contract through 2040 to buy electricity at greater  
9 than the market price?

10 MS. BAIR: Objection.

11 MR. IRELAND: Objection.

12 EXAMINER WILLIAMS: I will sustain the  
13 objection. The witness has already testified he is  
14 not here to opine regarding the quality of  
15 management.

16 Q. (By Mr. Finnigan) Mr. Buckley, would you  
17 agree that it's risky for small utilities like AES  
18 Ohio to be in the merchant generation business?

19 A. I don't understand the question. I'm  
20 sorry.

21 Q. Are you -- are you aware that up until a  
22 couple years ago, Dayton or AES Ohio owned merchant  
23 generation plants?

24 A. I believe historically they did, yes.

25 Q. And are you aware that AES Ohio exited

1 the merchant generation function later than some of  
2 the other electric distribution utilities in Ohio  
3 like FirstEnergy and Duke Energy?

4 MR. IRELAND: Your Honor, I am going to  
5 object to the relevance of this given this witness's  
6 testimony in this case.

7 EXAMINER WILLIAMS: I'll allow a brief  
8 bit of latitude, Mr. Finnigan.

9 A. I am aware that they didn't separate  
10 quite as quickly as the other companies.

11 Q. And is it risky for a small company like  
12 AES Ohio to be in the merchant generation business  
13 under current economic conditions?

14 MR. IRELAND: Same objection.

15 EXAMINER WILLIAMS: Overruled.

16 A. Any time you are subject to the market  
17 rates and market forces, I think you would be more  
18 riskier than not being exposed to those. I -- I try  
19 to talk about risk in the general aspect of the  
20 company and not look at each piece part of what  
21 causes risks. So I think you get into trouble if you  
22 say, you know, this -- this action makes a company a  
23 riskier, without looking at, you know, the entire --  
24 the entire company.

25 So what you have -- when you have one

1 factor, that factor is riskier because you are  
2 subject to market forces. But, again, I would -- I  
3 would -- when I evaluate companies on their risk  
4 level, I try to look at bond ratings and other kind  
5 of more global measures of risk and not just one  
6 subject. But again, if you are subject to market --  
7 market forces, that would make you -- that aspect  
8 riskier.

9 MS. BOJKO: Your Honor.

10 MR. FINNIGAN: That's all the questions I  
11 have. Thank you, Mr. Buckley.

12 EXAMINER WILLIAMS: I'm sorry. There is  
13 multiple people communicating here. Before  
14 Mr. Finnigan concludes, Ms. Bojko?

15 MS. BOJKO: My apologies. May I just  
16 have the question reread?

17 EXAMINER WILLIAMS: Karen, would you  
18 please.

19 (Record read.)

20 EXAMINER WILLIAMS: Ms. Bojko, anything  
21 to follow up?

22 MS. BOJKO: Thank you.

23 EXAMINER WILLIAMS: Okay. Anybody else?

24 Mr. Finnigan, I believe you had concluded  
25 your cross?

1 MR. FINNIGAN: Yes, your Honor.

2 EXAMINER WILLIAMS: Thank you, sir.

3 Next, I have Walmart.

4 MS. GRUNDMANN: Yes, your Honor.

5 - - -

6 CROSS-EXAMINATION

7 By Ms. Grundmann:

8 Q. Good morning, Mr. Buckley. How are you?

9 A. Good. How are you?

10 Q. I'm doing well. I just want to try to  
11 understand. I think you said you had your portions  
12 of the Staff Report with you?

13 A. Correct.

14 Q. Can you tell me what those pages are?

15 A. Yeah. I start on page 21, 22, and then  
16 it picks up again at -- the exhibits pick up again at  
17 page 117.

18 Q. Perfect. Then it sounds like you have  
19 what I would like to chat with you about. Your  
20 testimony filed in this case addresses a number of  
21 objections from parties on the rate of return  
22 including an objection from Walmart. You agree with  
23 that?

24 A. Correct.

25 Q. And you understand Walmart disagrees with

1 predominantly the high range of the ROE range that  
2 you propose in this case.

3 A. Correct.

4 Q. And the range that you propose is 9.28 to  
5 10.29 percent.

6 A. Correct.

7 Q. And if I direct your attention to page 22  
8 of the Staff Report, is it fair to say, and I want to  
9 make sure I understand, that you are proposing  
10 initially an ROE range of 9.1 to 10.158 before  
11 including an upward adjustment for what I think you  
12 phrased as "issuance and other costs"?

13 A. Correct.

14 Q. Okay. So you use the phrase "issuance  
15 and other costs," and then I believe you direct the  
16 parties to Schedule D-1.1 of the Staff Report; is  
17 that correct?

18 A. Correct.

19 Q. Can we go to D-1.1.

20 A. Yes.

21 Q. So I guess my first question is your  
22 testimony at page 22 reflects an upward adjustment  
23 for "issuance and other costs."

24 A. Correct.

25 Q. What are the other costs?

1           A.    It's a -- it's a general kind of  
2 catchall. It's mainly issuance costs.

3           Q.    Okay. So if I look at Schedule D-1.1,  
4 the only calculated basis for an adjustment is  
5 issuance costs, correct?

6           A.    Yes.

7           Q.    And so there may be some ancillary costs  
8 but you are looping -- that's all contained in  
9 what -- what has been discussed in issuance costs.

10          A.    In this case, yes.

11          Q.    And were you listening to this  
12 proceeding, I wish I could tell you for certain what  
13 day, but I believe it was Wednesday of this week when  
14 I asked some cross-examination questions of  
15 Mr. McKenzie?

16          A.    I was in and out, and I was actually  
17 trying to listen to it while I was on another call so  
18 I -- some of the things I got kind of garbled.

19          Q.    That's okay. I mean, we all have learned  
20 to multitask in the age of remote hearings. So let  
21 me ask you a few questions.

22                   Do you agree with me that the utility  
23 itself does not issue stock?

24          A.    AES Ohio does not issue stock, no.

25          Q.    And so AES Ohio does not incur issuance



1 costs directly.

2 A. They do not.

3 Q. Would you agree with me that the entity  
4 that does incur issuance costs is a parent company of  
5 AES Ohio?

6 A. Yeah. At the time of the issuance, I'm  
7 struggling with AES Ohio and Dayton Power and Light.

8 Q. You and me both.

9 A. Dayton Power and Light but now it's AES,  
10 so I agree with you but with that caveat.

11 Q. So just to try -- look, first of all,  
12 AES, AEP, the change in names, it's all very  
13 confusing for me. So I am glad to use the phrase  
14 "the utility" to refer to the utility AES Ohio, and  
15 then I will use "parent company" to refer to the  
16 entity that is publicly traded and available on the  
17 New York Stock Exchange.

18 A. That's fair.

19 Q. Okay? So the parent company incurs  
20 issuance costs. Do you agree with that?

21 A. Correct.

22 Q. Are you aware of whether the parent  
23 company owns entities other than the utility?

24 A. They do.

25 Q. And so when the parent company issues

1 stock, the equity resulting from those stock  
2 purchases could accrue to businesses other than the  
3 utility.

4 A. Correct.

5 Q. Are you aware of whether those other  
6 businesses under the parent company umbrella provide  
7 issuance costs recovery for the parent?

8 A. We don't -- we don't have purview to the  
9 financials of the other companies except the public  
10 information. So some of those -- some of that  
11 information I don't know. But typically I don't  
12 think there is a -- there is a one -- a  
13 dollar-for-dollar payback or charge.

14 Q. So as a hypothetical, if only AES Ohio's  
15 ratepayers are providing issuance costs to offset the  
16 parent company's issuance costs, are you with me so  
17 far?

18 A. I understand, yes.

19 Q. Then ratepayers are paying more than the  
20 parent company's other businesses may be paying for  
21 the cost of the parent company's issuance costs.

22 A. So we are looking at an allocated  
23 portion. So they are paying that -- the utility is  
24 paying an allocated portion. How the remainder of  
25 that is recovered, we don't know. And maybe it's not

1 recovered. Maybe it's eaten by the shareholders. We  
2 are just looking at the allocated portion of the  
3 utility as charged.

4 Q. Do you happen to know how common it is in  
5 the industry for regulated utilities to recover  
6 issuance costs from shareholders -- I'm sorry.  
7 Strike that. Let me repeat that question.

8 Do you know how common it is in the  
9 industry for regulated utilities to recover issuance  
10 costs from their captive ratepayers?

11 A. I don't know the percentages. I know  
12 that we have allowed it for a number of years, at  
13 least for the last 25 or 30 years. And we are -- we  
14 are looking at modernizing the way we calculate the  
15 ROE and the ROR. But it's very difficult to make  
16 changes like that because it -- it causes  
17 uncertainty. So when you make -- make these changes,  
18 it -- it's difficult. As you can see, it would give  
19 the -- it would be a discounted rate of a certain  
20 percentage to the ROE recommended.

21 Q. And it appears as though you have already  
22 provided that calculation on page 22 of your  
23 testimony. It would -- would you agree with me it  
24 reduces the ROE range approximately 14 basis points?

25 A. Correct, yeah.

1           Q.    And I thought I heard you correctly, but  
2   I was also -- when you said you didn't have all of  
3   the Staff testimony, I was trying to make sure you  
4   had it, you -- the Staff is not proposing a specific  
5   ROE in this case.  You are only proposing a range?

6           A.    Correct.

7           MS. GRUNDMANN:  Those are all the  
8   questions I have, Mr. Buckley.  Thank you so much.

9           EXAMINER WILLIAMS:  Thank you,  
10   Ms. Grundmann.

11                Next, I have IGS.

12           MR. BETTERTON:  IGS has no questions for  
13   this witness, your Honor.

14           EXAMINER WILLIAMS:  Thank you.

15                Direct Energy.

16           MR. FYKES:  No cross for this witness,  
17   your Honor.

18           EXAMINER WILLIAMS:  One Energy.

19           MS. HERRNSTEIN:  Thank you, your Honor.

20                - - -

21                   CROSS-EXAMINATION

22   By Ms. Herrnstein:

23           Q.    Good morning, Mr. Buckley.  I am Kara  
24   Herrnstein, counsel for One Energy.  And I would like  
25   to start today with what's been marked as Staff

1 Exhibit 2, your amended prefiled testimony. Do you  
2 have that in front of you?

3 A. I do.

4 Q. All right. Before we begin, Mr. Buckley,  
5 how long have you been at PUCO?

6 A. 36 years, I believe.

7 Q. Thank you.

8 Now, Mr. Buckley, in your prefiled  
9 testimony you testified at page -- I'm sorry. Could  
10 you turn to page 5.

11 A. Yes.

12 Q. Do you see at line 5 where you indicate  
13 that the number of potential comparable companies has  
14 declined over the last few years?

15 A. I do.

16 Q. And that's in reference to determining  
17 the peer group, correct?

18 A. Correct.

19 Q. Okay. In your opinion, what is the  
20 minimum number of companies for an appropriate peer  
21 group?

22 A. I don't look at a number of companies. I  
23 look at how close they are related. And when you  
24 start -- you can usually see because you will  
25 typically use metrics and when you see a large gap,

1 you kind of want to cut it off. So if you have a --  
2 a number of companies in mind that aren't really that  
3 related, sometimes it can get away from what -- what  
4 you want -- because you want comparable companies.

5 Q. And do you agree that in this case you  
6 looked at companies -- strike that.

7 Could you actually turn to page 7 of your  
8 prefiled testimony.

9 A. Yes.

10 Q. Okay. Could you look at Question and  
11 Answer 11, beginning at line 9 [sic] to your answer,  
12 you testify: To create the comparable companies,  
13 Staff selected companies that had an S&P's bond  
14 rating of BBB+ and below, as well as a Value Line  
15 financial strength of B+. "Both of these criteria  
16 should capture higher risk utilities. While there  
17 are not enough utilities with below investment grade  
18 bond ratings to use that metric exclusively, Staff's  
19 analysis nonetheless took into account that added  
20 risk." Is that correct?

21 A. I think you read that correctly, yes.

22 Q. Okay. So in this case there were not  
23 enough utilities with a similar below investment  
24 grade bond rating to populate a peer group?

25 A. Correct.

1           Q.    Do you remember how large the peer group  
2 was that you used?

3           A.    I think it was originally six and then  
4 one had to drop out because of the Value Line  
5 projections for it, so I think we defaulted to five.

6           Q.    And how big would the peer group have  
7 been if you limited yourself to utilities with  
8 below -- with bond ratings below investment grade?

9           A.    I believe at the time there was only one.

10          Q.    So in your experience, it's unusual for a  
11 bond rating for an electric utility to be below  
12 investment grade?

13          A.    For a parent company, it -- it is not a  
14 common occurrence.

15          Q.    And in this case, you only identified one  
16 other company with a below -- with a bond rating  
17 below investment grade?

18          A.    I believe DP&L was the -- I'm sorry, AES  
19 Ohio was the only company at the time.

20          Q.    So AES Ohio is that one company.

21          A.    Yes.

22          Q.    Correct. Understood. Thank you for  
23 clearing that up.

24          A.    There may have been -- there's other  
25 companies during the --

1 EXAMINER WILLIAMS: Mr. Sharkey, I see  
2 you -- Mr. Sharkey, are you trying to comment in this  
3 case? I am assuming he is not, so I apologize for  
4 intervening in your question. I just want to make  
5 sure I was not -- Mr. Sharkey wasn't being muted out  
6 of this case. Please proceed.

7 MS. HERRNSTEIN: Thank you.

8 A. There were other companies that were  
9 downgraded during the -- from the time it was filed  
10 to now. But at the time of the analysis I believe  
11 they were the only one.

12 Q. Okay. Thank you.

13 Mr. Buckley, do you have AES Exhibit --  
14 well, do you have the Staff Report in front of you?

15 A. Again, I have my portion to it.

16 Q. Yep. I believe that includes page 21,  
17 correct?

18 A. Correct.

19 Q. Could you turn to line 8 on page 21 of  
20 the Staff Report.

21 A. Yes.

22 Q. Do you see where Staff -- where it  
23 indicates Staff recommends a rate of return in the  
24 range of 7.05 percent to 7.59 percent?

25 A. I see that.



1           Q.    Okay.  That's the range that Staff  
2 recommends?

3           A.    It is.

4           Q.    Okay.  And do you see directly below  
5 that, you further -- you don't testify.  The Staff  
6 Report indicates that the recommended rate of return  
7 was developed using a cost of capital approach,  
8 correct?

9           A.    Yes.

10          Q.    Okay.  And that cost of capital approach  
11 would include a market-derived cost of equity and  
12 DP&L's actual cost of debt.  Correct?

13          A.    Correct.

14          Q.    Okay.  So just to make sure that I am  
15 clear, in creating your recommended range on return  
16 of equity, you utilized DP&L's 4.44 percent cost of  
17 debt.

18          A.    I did, yes.

19          Q.    Okay.  Thank you.

20                Do you agree that the Company's cost of  
21 debt would include the Company's annual interest  
22 charges on any long-term debt?

23          A.    Yes.

24          Q.    Did you review the Company's annual  
25 interest charges on its long-term debt?

1           A.    It was in the D schedules.  I don't  
2 recall what else I did.  It was in the D schedules.

3           Q.    So you -- you reviewed what the -- what  
4 they were, what the numbers were.

5           A.    Correct.

6           Q.    Okay.  Did you do any investigation into  
7 the size of those interest charges?

8           A.    I -- there's multiple cases going on and  
9 I don't recall exactly what I did with Dayton.  I  
10 know that I've looked at their financings before, but  
11 I don't recall exactly what I did.  I'm sorry.

12          Q.    Okay.  No, that's fine.

13                Let's go ahead and look at One Energy  
14 Exhibit 1 which is its objections to the Staff  
15 Report.  Do you have that available to you?

16          A.    If it was an objection of my -- is it  
17 included in my prefiled testimony, that objection?

18          Q.    I'm talking about the -- the filing  
19 itself.  You do reference it in your prefiled  
20 testimony but I am wondering if you have the actual  
21 filing.

22          A.    I don't.

23          Q.    Okay.  That's fine.

24                Have you reviewed it, that DP&L -- sorry.  
25 Have you reviewed One Energy's objections to the

1 Staff Report?

2 A. I have.

3 Q. Okay. And did you review them before you  
4 prepared your prefiled testimony?

5 A. I did.

6 Q. Okay. Now, I know you don't have it in  
7 front of you, but do you agree that DP&L raised a  
8 concern regarding the cost of -- I'm sorry. Do you  
9 agree that One Energy raised a concern regarding the  
10 cost of DP&L's long-term debt?

11 A. I don't recall that but I don't have any  
12 reason to doubt you. Subject to check, I will agree  
13 with that.

14 Q. Thank you.

15 Sorry. I am just trying to think ahead  
16 how to do this without having access to the file,  
17 without you having access to the filing because I  
18 don't want to stop us and prolong things.

19 Subject to check, would you agree that  
20 One Energy raised an objection concerning the  
21 permitted leverage ratio of 67 percent in the  
22 long-term debt agreement?

23 A. Subject to check, yes.

24 Q. Did you -- would you have reviewed that  
25 statement from One Energy?

1           A.    Yes.

2           Q.    And would you have undertaken any  
3 investigation to -- to verify what the permitted  
4 leverage ratio was in the long-term debt agreement?

5           A.    I know that we had discussions with the  
6 Company, not necessarily in this proceeding, but  
7 their -- their financings have been examined in other  
8 proceedings and that was something that we definitely  
9 looked at.

10          Q.    So you've -- you've looked at their  
11 long-term debt agreements.

12          A.    We have discussed them and I have looked  
13 at pieces of them. I am not sure I have looked at  
14 the debt agreements in their entirety but I am  
15 generally aware of some of the covenants.

16          Q.    Have you discussed the permitted leverage  
17 ratio of 67 percent with the Company?

18          A.    I don't recall if that -- if that  
19 specific number was discussed but we have had  
20 discussions with them about their covenants and --  
21 and things of that nature.

22          Q.    Do you recall if, in any of these  
23 discussions, you or Staff indicated that 67 percent  
24 was an unreasonable leverage ratio?

25          A.    I don't believe that that came up.

1 Whether -- the reasonableness, I don't think, was  
2 discussed.

3 Q. Uh-huh. Did you -- do you recall if you  
4 have ever had -- if you or anyone on Staff has had  
5 discussions with the Company regarding whether the  
6 Company has any plans of -- of moving to a leverage  
7 ratio of 67 percent?

8 A. We have not -- I have not had those  
9 discussions. Whether others on Staff had, I don't  
10 know.

11 Q. And have you had any discussions  
12 regarding whether that 67 percent allowance in the  
13 long-term debt agreement impacted the annual interest  
14 rate charge for that debt?

15 A. Could you repeat the question, please?

16 Q. Sure. Did you have any discussions with  
17 the Company regarding whether the ability to reach a  
18 67 percent leverage rate impacted the cost of that  
19 long-term debt?

20 A. I -- I have not.

21 Q. Is that something you considered in  
22 preparing your testimony or a portion of the Staff  
23 Report?

24 A. I don't think I made that link, no.

25 Q. Okay. Thank you.

1                   Now, Mr. Buckley, in your 30-plus years  
2 at the PUCO, have you worked on other cases involving  
3 DP&L?

4                   A.     Yes.

5                   Q.     Okay. About how many?

6                   A.     Very many. Over 10.

7                   Q.     Over 10. So you are familiar with the  
8 Company.

9                   A.     Correct.

10                  Q.     And have been over decades.

11                  A.     Correct.

12                  Q.     Okay. Were you listening to the  
13 testimony of Company's witness -- of its CEO,  
14 Kristina Lund?

15                  A.     Again, I've been in and out, listening to  
16 these. I heard pieces of hers but I don't think I  
17 listened to very much of hers. So I did hear some of  
18 it.

19                  Q.     Do you recall her describing the Company  
20 as having a very fragile financial condition for a  
21 long time?

22                  A.     I know that's been brought up, the term  
23 financial condition, fragile financial condition. I  
24 don't recall her saying that but I have heard that in  
25 other -- other witnesses use that terminology.

1 Q. Would you agree with that terminology?

2 A. I don't -- as I stated earlier, I don't  
3 like to characterize things as fragile or not  
4 fragile, especially in this case. To say that they  
5 are below investment grade, I think is fair and  
6 correct. But I don't -- I can't define "fragile  
7 financial position," so I would tend not to say that  
8 in this case.

9 Q. Do you believe that in reviewing the  
10 financial outlook of the Company, you and Staff has  
11 the authority, though, to consider whether a utility  
12 is in a fragile financial condition?

13 MS. BAIR: Objection. This has been  
14 asked -- Mr. Buckley does not know how to define  
15 "fragile" and this is being asked again.

16 EXAMINER WILLIAMS: The objection is  
17 sustained.

18 MS. HERRNSTEIN: Okay. Thank you, your  
19 Honor.

20 Q. (By Ms. Herrnstein) Mr. Buckley, are you  
21 familiar with the concept of a distressed utility?

22 A. A distressed utility, a  
23 financially-distressed utility or -- I guess  
24 "distressed utility" could mean many things.  
25 "Financially distressed," I have heard that

1 terminology.

2 Q. So are you -- let's go with financial  
3 distress at the moment then. So you are familiar  
4 with the concept of a financially-distressed utility.

5 A. Correct.

6 Q. Okay. And in evaluating the risk factors  
7 and the outlook for DP&L, did you consider whether  
8 the Company should be considered a distressed  
9 utility?

10 A. Again, I -- I don't know -- it's easier  
11 for me to look at utilities in terms of bond ratings  
12 and Value Line ratings and other more industry  
13 standards than calculating a rate of return. I  
14 don't -- I don't use that to create comparables or  
15 things like that. That's not a metric that I would  
16 use. I think that's more of a terminology that's --  
17 that's used to describe someone that is below  
18 investment grade.

19 Q. Oh, I understand where the disconnect is.  
20 Do you agree that the PUCO has the authority to  
21 declare a utility to be a distressed utility?

22 A. I don't know the statutes well enough to  
23 say that. I know when we are talking about emergency  
24 rate cases, I'm not sure if that terminology is used  
25 or not. But I would have to go back and look that



1 up. I just don't know well enough to comment on  
2 that.

3 Q. Do you agree that based on the financial  
4 risks and long -- or -- and outlook for a company,  
5 the PUCO has the authority to take affirmative action  
6 in monitoring the health of that company?

7 MS. BAIR: Objection.

8 Q. Whatever words you want to use for it.

9 MS. BAIR: Objection.

10 A. Yes, yes.

11 EXAMINER WILLIAMS: Hold on, hold on.

12 Basis for the objection?

13 MS. BAIR: Calls for a legal conclusion.  
14 Asking about the PUCO's authority is clearly a legal  
15 question.

16 EXAMINER WILLIAMS: I will let him answer  
17 regarding his understanding in a regulatory capacity.

18 Do you need the question back,  
19 Mr. Buckley?

20 THE WITNESS: Yes, yes, I do.

21 (Record read.)

22 A. Yes.

23 Q. Thank you.

24 Did you consider whether the PUCO should  
25 take such affirmative action in this case?

1           A.    The actions the PUCO should take are  
2 really not left up to me. In a rate case, I'm  
3 responsible for calculating the rate of return.  
4 In -- so in this case I would say no, but I could  
5 suggest in other cases or that they open another  
6 proceeding to look at something like that.

7                   And if we go back in my 30 years, we did  
8 open up a proceeding on Dayton Power and Light to  
9 look at their financial performances and financial  
10 health. I would guess it would be 20 years ago or  
11 something like that that we did that.

12           Q.    You mentioned you could make a suggestion  
13 that the Commission open a proceeding or take other  
14 actions to begin kind of advanced monitoring. Is --  
15 did you make that suggestion here?

16           A.    I did not.

17           Q.    Okay. Mr. Buckley, am I correct that in  
18 evaluating the risk factors for a company, you  
19 evaluate the -- the entire company? I believe.

20           A.    We try to focus on metrics that look at  
21 the entire company and not piece part certain aspects  
22 of the Company because we are more concerned with the  
23 overall risk.

24           Q.    Okay. And am I correct from your prior  
25 testimony today that you did not consider management

1 practices in evaluating the Company's risk level?

2 A. Those may be included in the factors that  
3 we did evaluate because it would have an impact on  
4 bond rating and financial performances -- financial  
5 performance but we didn't look at that specifically  
6 in this case.

7 Q. So you looked at -- just so I understand  
8 your testimony, you didn't look at it besides the  
9 extent that it's included in the bond rating?

10 A. The bond rating and the -- and the  
11 financial strength rating of Value Line; so where  
12 it's contained in those, yes, but individually, no.

13 Q. Okay. Thank you.

14 Now, Mr. Buckley, you agree that DP&L has  
15 been audited by the Commission in the past?

16 A. Yes.

17 Q. Okay. And you said that was probably  
18 about 20 years ago?

19 A. I'm guessing 20 years ago. And if you  
20 tell me it was 15, I would agree with you. But it's  
21 been a while. Probably 20 years ago, I'm guessing.

22 Q. Were you involved in that audit?

23 A. I was.

24 Q. Do you recall how the risk factors and  
25 financial outlook of the Company at the time of that

1     audit compared to the current risk factors and  
2     financial outlook of the Company?

3                 MS. BAIR:   Your Honor, I would like to  
4     object.

5                 EXAMINER WILLIAMS:   Basis?

6                 MS. BAIR:   Well, I don't know how far we  
7     are going with this but I don't understand the  
8     relevance to this proceeding.  I mean, if we can go  
9     back to every DP&L proceeding, the hearing would  
10    never end.

11                EXAMINER WILLIAMS:   I will allow some  
12    latitude as he was involved in the prior audit and  
13    he's involved in the current analysis.  Please  
14    proceed.

15                Do you need the question back,  
16    Mr. Buckley?

17                THE WITNESS:   Was the question completed?

18                MS. HERRNSTEIN:   It was completed.  I  
19    just had a weird inflection, I think.  It made it  
20    seem like I wasn't done.

21                EXAMINER WILLIAMS:   Ms. Herrnstein, do  
22    you want to do it again, or do you want Ms. Gibson to  
23    read it?  It's up to you.

24                MS. HERRNSTEIN:   If we could just read it  
25    back.

1 (Record read.)

2 A. The -- back when we did that audit,  
3 the -- the financial health of the Company was not  
4 necessarily in question. It was the actions of --  
5 and I can't -- I can't remember his name for the life  
6 of me. He was the CEO. His actions and what he was  
7 doing with investments of the Company were -- were  
8 the main focus of the audit, not -- not the overall  
9 financial health of necessarily the entire company  
10 because I believe at the time DP&L was fairly healthy  
11 and earning fairly healthy returns.

12 Q. Thank you.

13 Do you agree that in some cases an audit  
14 may be appropriate to -- in response to the financial  
15 health of a company?

16 A. I mean, there are over -- there are many  
17 audits that go on and many audits that look at the  
18 financial health. One of them is the SEET test. We  
19 would look at whether a company is overearning. If a  
20 company is underearning, we -- we would wait for  
21 them, for the most part wait for them to initiate a  
22 case to increase recovery. We don't necessarily go  
23 out and look for ways for a company to raise its own  
24 rates.

25 MS. HERRNSTEIN: All right. Just one

1 moment while I check my notes. Make sure I didn't  
2 miss anything.

3 Okay. No further questions.

4 EXAMINER WILLIAMS: Thank you,  
5 Ms. Herrnstein.

6 City of Dayton?

7 MS. SIEWE: No questions, your Honor.  
8 Thank you.

9 EXAMINER WILLIAMS: IEU-Ohio?

10 MR. MCKENNEY: Very briefly, your Honor.

11 - - -

12 CROSS-EXAMINATION

13 By Mr. McKenney:

14 Q. Good morning, Mr. Buckley. How are you?

15 A. Good. How are you?

16 Q. Good. It's nice to see you.

17 I want to ask you just a couple of  
18 questions regarding the capital asset pricing model  
19 analysis. You would agree generally that the  
20 risk-free rate of return is a theoretical rate of  
21 return an investor would receive for an investment  
22 with zero risk; is that correct?

23 A. Correct.

24 Q. In other words, the risk-free rate is the  
25 minimum return an investor would expect for any given

1 investment because they would not accept additional  
2 risk without additional increase in the potential  
3 rate of return, correct?

4 A. Correct.

5 Q. And when using a risk-free rate and a  
6 CAPM analysis, it is necessary and common to use a  
7 proxy because the risk-free rate itself is actually a  
8 theoretical rate of return; would you agree?

9 A. Correct.

10 Q. Investors regularly use yields on U.S.  
11 treasury bills as the proxy for the risk-free rate,  
12 correct?

13 A. Did you say yields? It came across as  
14 eels.

15 Q. Sorry. I can rephrase.

16 Investors regularly use U.S. treasury  
17 bills as the proxy for the risk-free rate; is that  
18 correct?

19 A. That's one -- yes.

20 Q. And that is because U.S. treasury bills  
21 are backed by the good faith and credit of the United  
22 States; therefore, they carry very low risk, correct?

23 A. Correct.

24 Q. You calculated a composite average of  
25 10-year and 30-year monthly closing treasury yields

1 for the period from January 2006 through January 2021  
2 to develop a risk-free rate; is that correct?

3 A. Correct.

4 Q. By "composite average," you mean you took  
5 the average yield for each year between 2006 and 2021  
6 and then divided by 15; would that be correct?

7 A. Correct.

8 Q. So you did not take the yields on 10-year  
9 treasury bills and yields on 30-year treasury bills  
10 and then divide by 2, correct?

11 A. At the end I did, yes. I believe so.  
12 Let me look -- let me check that. So, yeah, to  
13 create the composite average I took the average of  
14 the 10 and 30 and then averaged those averages to  
15 come up with the --

16 Q. So you averaged --

17 A. Sorry. Go ahead.

18 Q. No. I didn't mean to interrupt you.  
19 Sorry.

20 A. Okay.

21 Q. You averaged the averages I think is what  
22 you just said; is that right?

23 A. Correct.

24 Q. So you took the average price for each  
25 year and averaged it for each year of the past



1 15 years; would that be fair?

2 A. Yes.

3 Q. You did not average the price of 10-year  
4 treasury yields and the price of 30-year treasury  
5 yields.

6 A. Again, after I averaged the -- the  
7 composite average would be the average of the  
8 averages. I am getting kind of hung up on the  
9 question because I did, in fact, average them but not  
10 every year.

11 Q. I will try and clarify. I think I can  
12 get this.

13 A. Okay.

14 Q. For a given specific point in time, you  
15 did not take the price of 10-year treasury yields at  
16 that point in time, the price of 30-year treasury  
17 yields at that point in time, and then average them,  
18 correct?

19 A. Correct.

20 Q. Your calculation ultimately led to a  
21 risk-free rate that is higher than the yields on  
22 10-year treasury bills for any point in time during  
23 the test year, correct?

24 A. Correct.

25 Q. Your calculation also led to a risk-free

1 rate that is higher than the yields on 30-year  
2 treasury bills at any point in time during the test  
3 year, correct?

4 A. Correct.

5 Q. You would agree that using a lower  
6 risk-free rate would result in a lower capital asset  
7 pricing model estimate of the cost of common equity,  
8 correct?

9 A. I agree with that statement, yes.

10 MR. McKENNEY: Thank you, Mr. Buckley.  
11 It's nice to see you.

12 Your Honor, I have no further questions.

13 EXAMINER WILLIAMS: Thank you,  
14 Mr. McKenney.

15 Next, I have OEG.

16 MR. BOEHM: No questions, your Honor.  
17 Thank you.

18 EXAMINER WILLIAMS: Thank you.

19 OMAEG?

20 MS. BOJKO: Yes, your Honor. Thank you.

21 - - -

22 CROSS-EXAMINATION

23 By Ms. Bojko:

24 Q. Good morning, Mr. Buckley.

25 A. Hi.

1           Q.    Mr. Buckley, on page 8 of your testimony,  
2 beginning on line 13, you do address an OMAEG  
3 objection; is that correct?

4           A.    What line is that again?

5           Q.    It begins on line 4 of page 8.

6           A.    Yes.

7           Q.    Okay. And more specifically, the  
8 objection you are addressing here in your Q and A is  
9 OMAEG Objection B; is that correct?

10          A.    Correct.

11          Q.    You would agree with me that AES is the  
12 sole provider of electric distribution service within  
13 its service territory and faces no competition from  
14 other electric utilities, wouldn't you?

15          A.    AES Ohio, yes.

16          Q.    Yes. Thank you. I am sorry. I am  
17 referring to AES Ohio. I will be more specific.

18                And you would also agree with me that  
19 being the sole provider, reduces AEO -- AES Ohio's  
20 risk, wouldn't you?

21          A.    Yes, but again, as I stated earlier, we  
22 look at -- we don't look at piece parts. But  
23 everything else being equal, that would lower their  
24 risk.

25          Q.    Okay. And you would also agree with me

1 that AES Ohio has guaranteed cost recovery through  
2 various nonbypassable riders, wouldn't you?

3 A. Correct.

4 Q. And you would agree that that fact also  
5 is one item that reduces AES Ohio's risk, correct?

6 A. Everything else being equal, yes.

7 Q. And you would agree with me that  
8 nonbypassable riders enable AES Ohio to fully and  
9 quickly recover many of its costs, correct?

10 A. Correct.

11 MS. BOJKO: Thank you, Mr. Buckley.

12 That's all I have, your Honor.

13 EXAMINER WILLIAMS: Thank you, Ms. Bojko.  
14 Next is Kroger.

15 MS. WHITFIELD: No questions, your Honor.  
16 Thank you.

17 EXAMINER WILLIAMS: Thank you.

18 OP&E?

19 O&A?

20 UD?

21 Does Staff need some time to decide  
22 whether they want redirect?

23 MS. BAIR: Yes, please. Could you give  
24 us a few minutes, please?

25 EXAMINER WILLIAMS: Sure. I have 11:43.

1 Come back in 4 minutes, 11:47.

2 MS. BAIR: Okay. Thank you.

3 EXAMINER WILLIAMS: We are off the  
4 record.

5 (Recess taken.)

6 EXAMINER WILLIAMS: Okay. Let's go back  
7 on the record.

8 Ms. Bair, any redirect?

9 MS. BAIR: No, your Honor, I have no  
10 redirect, and I would like to again move Joseph  
11 Buckley's amended testimony, Staff Exhibit 2, into  
12 evidence.

13 EXAMINER WILLIAMS: Thank you.

14 Mr. Buckley, thank you for your testimony  
15 this morning.

16 Any objections to the admission of Staff  
17 Exhibit 2?

18 Hearing none, that is admitted

19 (EXHIBIT ADMITTED INTO EVIDENCE.)

20 EXAMINER WILLIAMS: Any other exhibits  
21 for consideration?

22 MS. BOJKO: Your Honor, not an exhibit,  
23 we didn't use it as an exhibit or mark it as an  
24 exhibit, but at this time I would like to ask that  
25 the Bench take administrative notice of OMAEG's

1 objections filed in this case on August 25, 2021.  
2 They've been referred to through Mr. Buckley's  
3 testimony and we intend to refer to them with future  
4 Staff witnesses, and I believe they were used in  
5 AES's, some references to them, so I think it would  
6 be appropriate to take administrative notice.

7 EXAMINER WILLIAMS: That's not been  
8 premarked?

9 MS. BOJKO: Oh, no. It wasn't a cross  
10 exhibit, your Honor.

11 EXAMINER WILLIAMS: Any objection to  
12 notice of the objections filed by OMAEG?

13 Okay. We have taken notice of those.

14 MS. BOJKO: Thank you, your Honor.

15 EXAMINER WILLIAMS: Any other procedural  
16 or housekeeping issues before Judge Schabo takes the  
17 next witness?

18 Seeing none, Judge Schabo.

19 EXAMINER SCHABO: Thank you.

20 Ms. Bair, would you like to call your  
21 next witness?

22 MS. BAIR: Yes. Thank you, your Honor.  
23 Staff calls Jason Mumma as its next witness.

24 MR. SCHMIDT: Mr. Mumma, you've been  
25 promoted. If you can enable your audio and video.

1 THE WITNESS: Okay. I think I'm good.

2 MS. BAIR: Would you please state your  
3 name and spell it for the record.

4 EXAMINER SCHABO: Sorry. Hold on. I  
5 have got to swear him in first.

6 MS. BAIR: Oh, sorry.

7 EXAMINER SCHABO: Mr. Mumma, could you  
8 raise your right hand for me.

9 (Witness sworn.)

10 EXAMINER SCHABO: Thank you.

11 - - -

12 JASON MUMMA

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

15 DIRECT EXAMINATION

16 By Ms. Bair:

17 Q. Could you please state your name and  
18 spell it for the record, Mr. Mumma.

19 A. My name is Jason Mumma, J-A-S-O-N,  
20 M-U-M-M-A.

21 Q. By whom are you employed and what's your  
22 position?

23 A. I'm employed by the Public Utilities  
24 Commission of Ohio, and my position is Utility  
25 Specialist II.

1 MS. BAIR: Your Honor, I would like to  
2 recognize at this time what has been marked as Staff  
3 Exhibit 3, Mr. Mumma's prefiled testimony.

4 EXAMINER SCHABO: So marked.

5 (EXHIBIT MARKED FOR IDENTIFICATION.)

6 MS. BAIR: Thank you.

7 Q. (By Ms. Bair) Mr. Mumma, do you have what  
8 has been marked as Staff Exhibit 3 in front of you or  
9 on your computer?

10 A. Yes.

11 Q. And could you please tell me what this  
12 document is?

13 A. It is my prefiled testimony in response  
14 to objections to the Staff Report.

15 Q. Was this testimony prepared by you or  
16 under your direction?

17 A. Yes.

18 Q. At this time do you have any changes,  
19 corrections, or additions you would like to make to  
20 Staff Exhibit 3?

21 A. I do not.

22 Q. If I were to ask you the questions  
23 contained in Staff Exhibit 3 today, would your  
24 answers be the same as those in the exhibit?

25 A. Yes, they would.



1 MS. BAIR: Thank you.

2 Your Honor, I would like to move Staff  
3 Exhibit 3 into evidence, subject to  
4 cross-examination.

5 EXAMINER SCHABO: We will defer that  
6 ruling and start with cross. I will begin with the  
7 Company.

8 MR. SHARKEY: Thank you, your Honor.

9 - - -

10 CROSS-EXAMINATION

11 By Mr. Sharkey:

12 Q. Mr. Mumma, first of all, am I pronouncing  
13 that correctly?

14 A. Yes.

15 Q. My name is Jeff Sharkey, and I am an  
16 attorney representing The Dayton Power and Light  
17 Company who is doing business as AES Ohio. So I will  
18 be referring to them as AES Ohio today.

19 You joined the Commission in April of  
20 2020, correct?

21 A. Correct.

22 Q. You joined the Staff of the Commission in  
23 April of 2020.

24 A. Correct.

25 Q. Okay. Before that time, had you done any

1 work relating to utility-related work?

2 A. Yes. I had been a manager for the Ohio  
3 Department of Taxation, overseeing the valuation of  
4 public utility tangible personal property for  
5 purposes of assessing tax liability in the State of  
6 Ohio.

7 Q. Had you done any work relating  
8 specifically to -- strike that.

9 Had you conducted any depreciation  
10 studies or analysis before you joined the PUCO in  
11 April 2020?

12 A. No.

13 Q. Can you please turn to AES Ohio  
14 Exhibit 89.

15 MS. BAIR: Could you please -- I am sure  
16 he has access to it but what is the name of it?

17 MR. SHARKEY: Sure. It's the Public  
18 Utility Depreciation Practices. It's excerpts of the  
19 manual. Four pages long is my exhibit.

20 THE WITNESS: I don't know if I have  
21 that. The NARUC, are you talking about the NARUC?

22 MR. SHARKEY: Yes.

23 THE WITNESS: I don't think I have it.

24 MS. BAIR: What number is it? 89?

25 MR. SHARKEY: 89, yes.

1 MS. BAIR: It should be in your  
2 SharePoint, Mr. Mumma, I believe.

3 THE WITNESS: Okay. Just a moment. 89?

4 MS. BAIR: 89.

5 EXAMINER SCHABO: Was I on mute that  
6 whole time that I was flapping my gums? All right.  
7 Great.

8 MS. BAIR: Mr. Sharkey. Mr. Sharkey, I'm  
9 sorry. I thought we had all the exhibits but  
10 apparently we do not have 89.

11 EXAMINER SCHABO: Karen, are we off the  
12 record? Please go off the record.

13 (Discussion off the record.)

14 EXAMINER SCHABO: Let's go back on the  
15 record.

16 We were off the record briefly just to  
17 get an exhibit in order.

18 Mr. Sharkey.

19 MR. SHARKEY: Yes, thank you, your Honor.

20 Q. (By Mr. Sharkey) Mr. Mumma, do you have  
21 Exhibit 89 available to you now?

22 A. I do.

23 Q. Okay. And it is titled "Public Utility  
24 Depreciation Practices," August 1996, and was  
25 published by the National Association of Regulatory

1 Utility Commissioners. Is this a document that -- I  
2 should step back.

3 Is NARUC considered to be a  
4 well-respected, you know, expert in the field of  
5 depreciation practices?

6 A. They're certainly well-respected. And I  
7 would consider their opinion on depreciation to be  
8 very valuable.

9 Q. Okay. If you would turn to the next page  
10 of the exhibit which is page 63 of the document, and  
11 you'll see in the middle of the page there is a  
12 heading called "Application Techniques" and it  
13 mentions two application techniques, whole life and  
14 remaining life. Do you see that?

15 A. I do.

16 Q. Okay. And can you explain for me what an  
17 application technique is?

18 A. Whole life would be where -- where you  
19 apply -- where you distribute the cost, the original  
20 cost of the asset over the entire span of the assets  
21 in the group. Remaining life would be a technique  
22 where you recover as of a point in time whatever the  
23 remaining life of the asset at the time of the  
24 depreciation study.

25 Q. Okay. So, first of all, Ohio uses a

1 whole life methodology, right?

2 A. Correct.

3 Q. And do you know if Ohio is one of the  
4 very few states in the country that uses a whole life  
5 methodology?

6 A. I do not know.

7 Q. Okay. Let me see if I can understand  
8 this correctly. Under a whole life method, if an  
9 asset was expected to have a life of 10 years but it  
10 is retired in 5 years, you stop depreciating, right?

11 A. Yes.

12 Q. Okay. And similarly, if an asset is  
13 expected to last 10 years but, in fact, lasts  
14 15 years, you keep depreciating for the full  
15 15 years, correct?

16 A. No. I mean, when it -- when it hits  
17 10 years, it's going to be fully depreciated, the  
18 cost is going to be fully depreciated.

19 Q. Well, if assets -- if you no longer take  
20 depreciation on the asset when it goes out of service  
21 early, the Company would never fully recover its --  
22 the amounts that it expended to acquire the asset,  
23 right?

24 A. That's correct.

25 Q. Turn, if you would, to page 63.

1 MS. BAIR: Of the exhibit?

2 Q. I apologize. Page 2 of the exhibit which  
3 is 63 of the document.

4 MS. BAIR: Okay. Thank you.

5 A. Okay.

6 Q. Sorry I was unclear.

7 Under "Whole life," I want to start with  
8 the second sentence in there. It says, "Whole life  
9 depreciation results in the allocation of gross plant  
10 base over the total life of the investment." Can you  
11 explain to me what you understand that to mean?

12 A. Gross plant base would be all the  
13 investment dollars flowing through the account. The  
14 total life of the investment would be the -- I assume  
15 the average service life is what that's referring to.

16 Q. I'm sorry. What -- what do you  
17 understand it to be referring to, the average service  
18 life?

19 A. Yeah, total life.

20 Q. You believe that's a reference to average  
21 service life?

22 MS. BAIR: Do we need the question  
23 reread?

24 A. I am not certain -- certain what the  
25 total life of the investment is referring to.

1           Q.    The next sentence says, "However, to the  
2    extent that the estimated average service life  
3    assigned turns out to be incorrect, (and precision in  
4    these estimates cannot reasonably be expected), the  
5    Whole Life technique will result in a depreciation  
6    reserve and balance." Can you tell me what you  
7    understand that to mean?

8           A.    As property ages and investment dollars  
9    flow in and circumstances change with the business,  
10   the consumption of the assets in the group will  
11   change, the life characteristics will change, and the  
12   further away you get from when the accrual --  
13   accruals were established, the less relevant -- the  
14   less relation to the asset base it will have. So the  
15   average service life needs to be reviewed  
16   periodically to determine if the reserve is correct  
17   and within a reasonable range.

18          Q.    Sorry. Are you done?

19          A.    Yes.

20          Q.    I don't want to interrupt you but --

21          A.    You're fine.

22          Q.    I wasn't sure.

23                In particular, can you tell me what a  
24   depreciation reserve and balance is and how one could  
25   arise?

1           A.    Depreciation analysts compute theoretical  
2 reserves or accounts based on computer programs and  
3 surviving dollars in the account, and the theoretical  
4 reserve approximate -- approximates or estimates what  
5 the reserve -- what a reserve should be. That is  
6 compared with the book reserve and most times there  
7 is a difference, an over or under reserve, or an over  
8 or under accrual in the account. That's the  
9 imbalance is the over or under accrual as compared to  
10 the theoretical reserve that's computed by the  
11 depreciation analyst. And in depreciation studies.

12           Q.    Your testimony -- your testimony, for  
13 example, on page 3 but I believe other places as  
14 well, discusses Account No. 362, correct?

15           A.    Correct.

16           Q.    Are there many subaccounts for Account  
17 362?

18           A.    Yes.

19           Q.    Okay. Do the assets in each subaccount  
20 have different life characteristics?

21           A.    It can.

22           Q.    You would agree with me -- let me step  
23 back.

24                   Vehicles would be an example of an item  
25 that would be included in account -- one of the



1 subaccounts for Account 362?

2 A. Yes.

3 Q. Okay. And not every vehicle will be  
4 retired at its average age; some will be retired  
5 earlier and some will be retired later?

6 A. Correct.

7 Q. Okay. Then you also discuss Account 396  
8 at least on page 5 and maybe on others.

9 A. Okay.

10 Q. What is the nature of the assets that  
11 might be included in Account 396? Do you know?

12 A. Power-operated equipment.

13 Q. Okay. And as with the vehicles we just  
14 described, are those -- those assets will be  
15 required -- will be retired at various ages, some  
16 earlier and some later than the average, right?

17 A. That's true.

18 MR. SHARKEY: Okay. Thank you,  
19 Mr. Mumma.

20 Your Honor, I have no further questions.

21 EXAMINER SCHABO: Thank you, Mr. Sharkey.  
22 Moving on to OCC.

23 MS. WILSON: No cross, your Honor.

24 EXAMINER SCHABO: Thank you.

25 Walmart?

1 MS. GRUNDMANN: No cross, your Honor.

2 EXAMINER SCHABO: IGS?

3 MR. BETTERTON: No cross, your Honor.

4 EXAMINER SCHABO: Direct Energy?

5 MR. FYKES: No cross, your Honor.

6 EXAMINER SCHABO: One Energy?

7 MS. HERRNSTEIN: No cross, your Honor.

8 EXAMINER SCHABO: City of Dayton?

9 MS. SIEWE: No cross, your Honor. Thank  
10 you.

11 EXAMINER SCHABO: IEU-Ohio.

12 MR. McKENNEY: No cross, your Honor.

13 EXAMINER SCHABO: OEG?

14 MS. COHN: No cross, your Honor.

15 EXAMINER SCHABO: OMAEG.

16 MS. BOJKO: No cross questions for this  
17 witness, your Honor. Thank you.

18 EXAMINER SCHABO: Kroger.

19 MS. WHITFIELD: No questions, your Honor.  
20 Thank you.

21 EXAMINER SCHABO: OPAGE?

22 OHA?

23 UD?

24 Ms. Bair, do you have any redirect?

25 MS. BAIR: May I have 2 minutes? Can I

1 have 3 since we are going in 3-minute increments?

2 EXAMINER SCHABO: Sure. We will go off  
3 the record until 12:12.

4 (Recess taken.)

5 EXAMINER SCHABO: Let's go back on the  
6 record.

7 Ms. Bair.

8 MS. BAIR: Thank you, your Honor. We  
9 have no redirect. And I would like to again move  
10 Exhibit 3 into evidence.

11 EXAMINER SCHABO: Are there any  
12 objections to the admission of Staff Exhibit 3?

13 Hearing none, it will be admitted.

14 (EXHIBIT ADMITTED INTO EVIDENCE.)

15 EXAMINER SCHABO: Are there any other  
16 exhibits to address?

17 MS. BAIR: Not from the Staff.

18 EXAMINER SCHABO: Mr. Sharkey, you are on  
19 mute.

20 MR. SHARKEY: Yes, your Honor. We would  
21 like to move for the admission of the exhibit I used  
22 with him. I have misplaced the number here. I think  
23 it was 83.

24 EXAMINER SCHABO: I believe it was 89.

25 MR. SHARKEY: 89, yes, there it is.

1                   EXAMINER SCHABO: Is there any objection  
2 to the admission of AES Exhibit 89? Seeing none, it,  
3 too, will be admitted.

4                   (EXHIBIT ADMITTED INTO EVIDENCE.)

5                   EXAMINER SCHABO: Let's go off the  
6 record.

7                   (Discussion off the record.)

8                   EXAMINER SCHABO: Let's go back on the  
9 record.

10                   We went off the record to discuss our  
11 break. It is now 12:14. We will break until 1:15,  
12 and we will pick up with the testimony of witnesses  
13 Crocker, Schaefer, and Snider. We will see you at  
14 1:15. Thank you.

15                   (Thereupon, at 12:15 p.m., a lunch recess  
16 was taken.)

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1 Friday Afternoon Session,  
2 January 28, 2022.

3 - - -

4 EXAMINER SCHABO: Let's go back on the  
5 record then.

6 We are back on the record after lunch,  
7 and we are on to Staff's next witness.

8 Ms. Kern.

9 MS. KERN: Thank you, your Honor. Staff  
10 would like to call Ms. Nicci Crocker to the stand,  
11 please.

12 MR. SCHMIDT: Ms. Crocker, you've been  
13 promoted. If you can enable your audio and video.

14 MS. KERN: Would you please state your  
15 name for the record.

16 EXAMINER SCHABO: Wait. Hold on. Just a  
17 second. I need to swear her in.

18 MS. KERN: Oh, swear her in. Yes.

19 EXAMINER SCHABO: Ms. Crocker, would you  
20 raise your right hand for me.

21 (Witness sworn.)

22 EXAMINER SCHABO: Thank you.

23 MS. KERN: Thank you.

24 - - -  
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NICCI CROCKER

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

DIRECT EXAMINATION

By Ms. Kern:

Q. Could you please state your name for the  
record, please.

A. Yes. My name is Nicci Crocker,  
N-I-C-C-I, C-R-O-C-K-E-R.

Q. And where are you employed?

A. I work for the Public Utilities  
Commission.

Q. What is your job title and responsibility  
at the PUCO?

A. I'm a Utility Specialist III, and I work  
primarily in rates and analysis. I also do capital  
expenditure programs and all rate cases I work on  
various areas including plant but primarily labor for  
the last decade or so.

MS. KERN: I would like to have marked as  
Staff Exhibit 4, the direct testimony of Nicci  
Crocker filed in this docket on January 18, 2022.

EXAMINER SCHABO: So marked.

(EXHIBIT MARKED FOR IDENTIFICATION.)

Q. (By Ms. Kern) Ms. Crocker, do you have a

1 document before you that has been marked as Staff  
2 Exhibit 4?

3 A. I do.

4 Q. And would you please identify that  
5 document for the record.

6 A. This is my prefiled testimony.

7 Q. And was your testimony prepared by you or  
8 at your direction?

9 A. Yes.

10 Q. Ms. Crocker, do you have any corrections  
11 or changes that you would like to make to your  
12 testimony?

13 A. I do. I have one minor change. On  
14 page 2, in the Question 6, the last line, I neglected  
15 to mention Objection 25. It's included in my  
16 testimony. I just omitted it from the introductory  
17 paragraph there. So line 13 should read: "Long-Term  
18 Compensation (LTC) Expense, Objection 24 - Annualize  
19 Pay Increases into STC and LTC, and Objection 25 -  
20 AES Ohio Employee Pensions and Benefits Expense."

21 Q. Thank you.

22 Do you have any further changes to make  
23 to your testimony?

24 A. I do not.

25 Q. And if I were to ask you the same

1 questions contained in Staff Exhibit 4, would your  
2 answers be the same?

3 A. Yes.

4 Q. And what is the purpose of your testimony  
5 today?

6 A. The purpose is to respond to objections  
7 related to incentive compensation, payroll tax, and  
8 various payroll labor expenditures for the rate case.  
9 Oh, and pension and benefits.

10 MS. KERN: Thank you.

11 Your Honor, the witness, Staff Witness  
12 Crocker, is available for cross-examination.

13 EXAMINER SCHABO: Thank you.

14 We will start with the Company.

15 MR. SHARKEY: Thank you. Thank you, your  
16 Honor.

17 - - -

18 CROSS-EXAMINATION

19 By Mr. Sharkey:

20 Q. Ms. Crocker, my name is Jeff Sharkey. I  
21 represent AES Ohio in this matter. How are you doing  
22 today?

23 A. Good, thank you.

24 Q. Turn, if you would, to page 3 of your  
25 testimony, please.



1           A.    I'm there.

2           Q.    Okay.  On line 12, you are describing an  
3   AES Ohio objection and you state AES Ohio "claims  
4   Staff erroneously reduced labor expense for  
5   non-jurisdictional and non-O&M expenses twice."  Did  
6   I read that correctly?

7           A.    Yes.

8           Q.    Okay.  And you would agree that those  
9   items should be removed from labor expenses only  
10   once, right?

11          A.    Correct.

12          Q.    Okay.  And when it says  
13   "non-jurisdictional," that's referring to people who  
14   are doing transmission work, correct?  Exclusively  
15   transmission work?

16          A.    I would say non-jurisdictional includes  
17   any non-distribution function so that does include  
18   transmission.  It could include other functions as  
19   well.

20          Q.    Okay.  For AES Ohio, it's principally  
21   transmission-related work, right?  Because --

22          A.    Yeah.

23          Q.    Okay.  And then -- and then you go on to  
24   say, "and non-O -- non-O&M expenses --

25               EXAMINER SCHABO:  Excuse me.  I am so

1     sorry especially in the middle of a sentence, but  
2     Ms. Wilson is having trouble so we need to go off the  
3     record for just one moment, please.

4             (Discussion off the record.)

5             EXAMINER SCHABO:  Let's go back on the  
6     record.

7             Back on the record again.

8             Mr. Sharkey, I'm sorry for interrupting  
9     you in the middle, but we had counsel for OCC  
10    dropping off unintentionally.  So we are back up and  
11    going, and if you could start your question again, I  
12    would really appreciate it.

13            MR. SHARKEY:  Okay.

14            So then, Ms. Wilson, for your benefit, we  
15    are on page 3 of her testimony, line 16.

16            MS. WILSON:  Okay.

17            Q.     (By Mr. Sharkey) And then, Ms. Crocker,  
18    when you refer to "non-O&M expenses," that's  
19    referring to people who are doing work that's  
20    capitalized, right?

21            A.     Correct.

22            Q.     Okay.  And so that's -- that's what --  
23    AES Ohio, you understand, says you removed that  
24    twice.  And you respond, "No.  Staff used AES  
25    distribution labor to calculate employee numbers and

1 used a fully loaded wage to calculate the annual  
2 wage." What's a fully loaded wage?

3 A. The data that was provided by the Company  
4 had various data points that we reviewed and a fully  
5 loaded wage includes all employee hours that were  
6 spent whether it was capitalized or -- for O&M or it  
7 also includes whether they worked for DP&L  
8 distribution or other, if they were populating  
9 various FERC accounts that were also not included in  
10 the rate case, so there were several different ways  
11 to review the data.

12 When we first had discussions with the  
13 Company and we thought we were supposed to only look  
14 at the profit center that was identified as DP&L  
15 distribution, they clarified that we also needed to  
16 remove, for example, various FERC accounts in order  
17 to purify the data for the distribution wages. So  
18 when I say "fully loaded," I mean we included the  
19 all-in dollars for the profit centers and for O&M  
20 capitalized labor.

21 Q. Okay. Do you have a copy of the Staff  
22 Report available to you?

23 A. I do.

24 Q. Turn, if you would, to page 96.

25 A. I'm there.

1           Q.    Okay.  So the fully loaded wage to which  
2   you are referring, is that on line 4, the figure of  
3   \$32,999,159?

4           A.    Yes.

5           Q.    Okay.  And then the adjustment on the  
6   next line that shows a 59.68 percent adjustment,  
7   there you are pulling out capital, correct?

8           A.    Correct.

9           Q.    And on the next line, the -- that has the  
10  adjustment associated with the 89.07 figure, you're  
11  pulling out transmission, correct?

12          A.    I'm pulling out non-jurisdictional  
13  expenses.

14          Q.    You corrected me earlier on that.  I  
15  practiced calling it transmission.  So I am not  
16  trying to trick you, that's how I am thinking of it.  
17  I apologize.

18                Okay.  Then can you refer to AES Ohio  
19  Exhibit 33 which is the confidential version of  
20  Mr. Craig Forestal's supplemental testimony.

21          A.    I have that.

22          Q.    Okay.  And are you looking at a PDF?

23          A.    I am.

24          Q.    Okay.  I direct your attention to page 42  
25  of the PDF.

1           A.    I'm there.

2           Q.    Okay.  And so we're clear, this document  
3 is a document that was provided -- I'm sorry,  
4 provided by Staff to the Company sometime after the  
5 Staff Report was prepared, correct?

6           A.    I believe so.  It is my Staff workpaper,  
7 yes.

8           Q.    It is one of your workpapers.  And there  
9 are some blue boxes at the top, correct, that  
10 identify what it is that you are searching for,  
11 right?

12          A.    That's right.

13          Q.    So, for example, pay date says multiple  
14 items, so that would include multiple dates for the  
15 pay, right?

16          A.    I believe they're multiple dates.  If you  
17 look at the data, just to clarify, it should be -- if  
18 you are talking about that first blue box, it should  
19 be the month of April, so just to clarify, yes, but  
20 it does refer to multiple pays because there would be  
21 multiple payout periods for that month.

22          Q.    Got it.

23                So if we skip down, there's a line there  
24 that says O&M/CAPEX, correct?

25          A.    That's right.

1 Q. And you've selected O&M?

2 A. For this column I did, yes.

3 Q. Okay. So that has the effect of pulling  
4 out the CAPEX, correct?

5 A. Correct. But I wonder if I could insert  
6 here, though, the SUMIF column that is used in the  
7 live Excel web -- the Excel spreadsheet references  
8 the O&M distribution employees but calculates it with  
9 the fully loaded wage, and we noticed in the dataset  
10 that there were other categories, other profit  
11 centers or other FERC accounts listed among the --  
12 the employees that when you use all the employees, in  
13 other words, if I had not clicked on O&M and did O&M  
14 and CAPEX, there were accounts in there that appeared  
15 to not be distribution accounts. So I don't know --  
16 I didn't mean to interrupt your line of questioning  
17 but for this column, yes, those are only O&M but that  
18 was to identify April employee count, the accurate  
19 April employee account, and apply it to the fully  
20 loaded wage which is what the second column does or  
21 the second analysis does.

22 MR. SHARKEY: Your Honor, could I ask to  
23 have that answer reread, please.

24 (Record read.)

25 MR. SHARKEY: Thank you.

1           Q.     (By Mr. Sharkey) Continuing in the same  
2 box, there is a line that says "Profit Center" and it  
3 looks like you've selected DPL, DIS, TR, IB, correct?

4           A.     Yes.

5           Q.     And so those would be  
6 distribution-related expenses and would pull out  
7 transmission-related expenses, correct?

8           A.     Well, as I mentioned maybe earlier --

9           Q.     I'm sorry. I said transmission again and  
10 so let me strike the question and I will start that  
11 over.

12                     So it refers to DPL, DIS, TR, IB, and  
13 that pulls out transmission and non-jurisdictional  
14 related amounts, correct?

15           A.     When we first analyzed the data, we  
16 thought that's what would happen. However, in  
17 conversations with AES Staff, they informed us that  
18 we would also need to do a selection of FERC accounts  
19 to further identify the proper -- remove codes that  
20 should not be included. So I can't say for certain  
21 that's only DP&L distribution and I can't say for  
22 certain that removed all non-jurisdictional costs  
23 because it was unclear when we were looking at the  
24 data we also had to do a FERC account search as well.

25           Q.     So the items that are in the DPL, DIS,

1 TR, IB designation, should exclude transmission and  
2 other non-jurisdictional amounts, right?

3 A. Again, I am not sure what it was supposed  
4 to exclude. However, again, we had conversations  
5 with the Company and they informed us we would also  
6 need to sub-select or deselect certain FERC accounts  
7 to supplement that or to be more specific to what  
8 would be DP&L distribution costs, so I -- we were  
9 unclear -- I was unclear what was entirely included.  
10 Our initial analysis attempted to look at only DP&L  
11 distribution, that profit center category, but again,  
12 there were additional FERC accounts that were not  
13 jurisdictional, and we were instructed, in talking  
14 with AES, that we should also make some of those  
15 sub-selections.

16 Q. Okay. Within the PDF, I want you to  
17 page -- scroll down a few lines or a few pages to PDF  
18 page 48. Tell me when you're there.

19 A. I'm there.

20 Q. Okay. There is a line on the left that  
21 says "Grand Total," correct?

22 A. I am -- yes.

23 Q. Okay. And then AES Ohio considers all of  
24 the information confidential except for the grand  
25 total, the figure there, that is 32,999,159. Do you



1 see that figure?

2 A. I do.

3 Q. And that matches the figure we started  
4 with at the very beginning on page 96 of the Staff  
5 Report, correct?

6 A. Correct.

7 Q. The figure you testified is the fully  
8 loaded figure?

9 A. Yeah.

10 Q. And I understand from your testimony that  
11 you disagree with the Company's assertion that you  
12 have pulled out non-jurisdictional and non-O&M  
13 expenses twice, correct?

14 A. Correct.

15 Q. Turn if you would, still within  
16 Mr. Forestal's testimony, to page 17, line 9.

17 A. I'm there.

18 Q. Okay. I understand you disagree with the  
19 premise of his testimony that you pulled it out  
20 twice, but he calculates that the resulting amount of  
21 the expenses that were excluded was 3,126,874. So my  
22 question to you is, if the Company was correct, which  
23 I understand you disagree with, but if the Company is  
24 correct that you pulled those amounts out twice, do  
25 you have any reason to disagree with Mr. Forestal's

1 calculation of the amount of 3,126,874?

2 A. I do, in fact. I would disagree with  
3 that. I believe that our number is -- does not  
4 double remove. And I know that, for example, for the  
5 O&M portion of that, the farthest column in that  
6 spreadsheet you had me refer to earlier is a SUMIF  
7 that multiplies, for example, the fully loaded wage  
8 by 2,080 hours and so that would be 100 percent of  
9 the person's wage, for example, and we would need to  
10 apply an O&M ratio to remove those dollars.

11 And as I already explained, the DPL  
12 distribution profit center name that was listed for  
13 that particular dataset also included other  
14 categories of labor that we were instructed to remove  
15 in our analysis that should not have been included in  
16 DP&L distribution labor and so a removal of some  
17 non-jurisdictional cost needed to take place.

18 And if you look at my Staff Report, the  
19 schedule that you had me refer to earlier, if they  
20 thought there was a double removal of  
21 non-jurisdictional, the difference would be referring  
22 to 3299 and then the 19693 number minus perhaps the  
23 17 at best, but I -- I do not agree with  
24 Mr. Forestal's assertion there is a double removal.

25 Q. Let me move on and ask you some questions

1 about bonuses. You understand that in determining  
2 what to pay an employee, AES Ohio determines what a  
3 market rate for that employee is?

4 A. I understand that AES attempts to  
5 compensate employees based on a package that mirrors,  
6 in part, a market rate. When you say "market rate"  
7 though, there are different categories of  
8 compensation that are included in that. So I'm not  
9 sure exactly what category you might be talking about  
10 or subcategory.

11 Q. Well, I'll ask it differently then.

12 You understand that AES Ohio pays to its  
13 employees both a salary and a bonus.

14 A. Correct.

15 Q. And the total of the salary and the bonus  
16 that AES pays is targeted to paying the employees a  
17 market rate for their services.

18 A. I believe, in part, that's what the  
19 Company uses, in part, to determine compensation for  
20 employees. I would say that they also include things  
21 like retirement benefits, health care benefits, other  
22 benefits that would relate to supporting dependents  
23 for health care, those kinds of things as well.

24 Q. Okay. But at the end of the day, AES  
25 Ohio's attempting -- let me step back.

1           AES Ohio has to compete with not only  
2 other utilities but also other private employers that  
3 are not utilities to hire its employees, correct?

4           A.    Correct.

5           Q.    And in the private sector, it's common  
6 for employers to provide salary, bonuses, and other  
7 types of benefits as you identified, correct?

8           MS. BOJKO:  Objection.  I think that  
9 assumes facts not in evidence and there's been no  
10 foundation that she's aware.

11          EXAMINER SCHABO:  I think she can answer  
12 whether or not she is aware.

13                 Can I have the question read back,  
14 please.

15                 (Record read.)

16          EXAMINER SCHABO:  Rephrase, please.

17          MR. SHARKEY:  I'm not sure what the  
18 problem is, your Honor.  If you could tell me, it  
19 would help me to rephrase.

20          EXAMINER SCHABO:  Okay.  Well, when I  
21 first heard that, I thought it was an "are you aware  
22 that" question.  But it was a positive assertion  
23 question.

24          MR. SHARKEY:  Okay.

25          Q.    (By Mr. Sharkey) Do you know whether in

1 the private sector it is common for employers to  
2 compensate their employees using a combination of  
3 salary, bonuses, and other benefits?

4 A. My analysis here was limited to what AES  
5 provides employees and the pertinent examples I think  
6 would be what other electric utilities or other  
7 utilities provide. And I think utilities provide a  
8 range of compensation that include -- can include  
9 things like base salary, bonus, pension, retirement,  
10 health care, and those kinds of things.

11 Q. Okay. And if you look at the total  
12 compensation that AES Ohio is paying to its  
13 employees, so salary, the bonus, and the other  
14 benefits, you don't claim in your testimony that that  
15 total package is at above-market rates, correct?

16 A. My review is not limited in scope to  
17 whether or not the package was market rate or not.  
18 And as I stated before, the market rate would apply  
19 in my mind to not just base pay and bonus pay but  
20 pension, health care, and other benefits. So I think  
21 there was, in part, a review of wages and so forth  
22 related to market rate but that is one piece of an  
23 analysis that would have been considered in reviewing  
24 the payroll. The overall question I was asked is, is  
25 this compensation reasonable.

1           Q.    And you didn't reach an assertion that  
2   the overall compensation that AES Ohio is paying to  
3   its employees was an unreasonable total, correct?

4           A.    Well, I determined that it was  
5   unreasonable for ratepayers to pay for all of it, and  
6   the reasonable allocation for ratepayers involved  
7   removing some bonus compensations as I state in my  
8   testimony.

9           Q.    Okay. Let me -- it was a poorly-worded  
10   question. Let me try it again.

11                  If you compare on one side a market rate,  
12   on the other side you are comparing what AES Ohio  
13   compensates its employees to include salary, bonuses,  
14   and various benefits, you don't make -- you don't  
15   conclude that AES Ohio is paying its employees  
16   amounts above a market rate, correct?

17           A.    I don't believe that I -- I did not do  
18   that strict analysis so I cannot answer the question.

19           Q.    Okay. The amount of the bonus that AES  
20   Ohio pays to employees, do you know what that is on  
21   average?

22           A.    I'm sorry. Subject to check, I can't  
23   remember at this moment what that number is. I can  
24   tell you percentages. But I couldn't -- I can't  
25   remember at the moment what the dollars are.

1           Q.    Sure.  If you can tell me percentages,  
2   that would be great.

3           A.    Well, yeah, I think I spoke too quickly.  
4   They have -- you are talking about short-term  
5   compensation; is that what --

6           Q.    Yes, short-term compensation, yes.

7           A.    What I meant, and I'm sorry, when I said  
8   "percentages" I was referring to your Exhibit 88 that  
9   includes those percentages so I apologize.  I can't  
10   say -- if it's all right for me to look at the Staff  
11   Report, I can tell you what we removed.

12          Q.    Sure.  That would be great.  What page of  
13   the Staff Report are you on?

14          A.    I am on page 96 where you had me earlier.  
15   For the bonus biweekly which is the short-term  
16   compensation, 25 percent was roughly 200,000, so I  
17   took that to be 800,000 would be for -- that would be  
18   for DP&L.  And then for bonus biweekly for AES,  
19   that's line 26, is 450 roughly, so multiply that by  
20   4, that would be the -- roughly the annual for that  
21   so I think that's, what, about 900,000?  So 900 plus  
22   800 would be 17 -- sorry, 1.7.  Is that right without  
23   a calculator?

24          Q.    I'll trust you.

25                To an individual employee, the bonus is

1 of a sufficient amount of dollars that it would be a  
2 material amount.

3 A. I can't answer that. I don't know what  
4 each employee considers to be material and whether or  
5 not they rely on their base pay versus bonus. I am  
6 not sure I am in a position to answer that.

7 Q. Okay. What percentage of base pay would  
8 the bonus be then?

9 A. I'm not sure I have that information or  
10 can tell you that sitting here.

11 Q. Okay. So you -- you referred earlier to  
12 the STC. That's short-term compensation is what that  
13 means?

14 A. Correct.

15 Q. That's the title of a bonus that AES Ohio  
16 makes available to its employees.

17 A. That's what I understand, yes.

18 Q. Okay. And do you know who is eligible  
19 for the short-term compensation bonus?

20 A. I think there is a combination of DP&L  
21 employees that are union, nonunion, and then certain  
22 AES service company employees.

23 Q. Okay. So it's one -- it's a bonus that's  
24 available widely within the Company unlike the LTC we  
25 will come to?



1           A.     Correct.

2           Q.     And a portion of that bonus is calculated  
3 based on achieving things like safety and operational  
4 goals, right?

5           A.     Correct.

6           Q.     Okay. And Staff has no objection to  
7 those items being recovered through rates, right?

8           A.     Correct.

9           Q.     Okay. And a portion of that bonus is  
10 also based on AES Ohio achieving certain financial  
11 metrics?

12          A.     Right, yes.

13          Q.     And you believe that the portion of the  
14 bonus relating to financial metrics should not be  
15 recovered in rates?

16          A.     Correct.

17          Q.     And the reason you believe that is it  
18 benefits shareholders and not customers?

19          A.     Correct.

20          Q.     And you conclude that 75 percent of the  
21 STC should be excluded from recovery, I believe?

22          A.     Correct.

23          Q.     Okay. And then the LTC, which is  
24 long-term compensation, is available for certain  
25 executives within AES Ohio, right?

1           A.     Correct.

2           Q.     And you believe that the entirety of the  
3 LTC is financially related and should be excluded for  
4 the same reason we just identified?

5           A.     Correct.

6           Q.     Okay. You agree with me that one way to  
7 achieve the financial components and financial  
8 benefits under those bonuses is for an employee to  
9 look for ways to lower costs, correct?

10           MS. KERN: Can I have the question  
11 reread, please?

12                     (Record read.)

13           A.     I am trying to recall from the  
14 investigation. I do believe cost savings were a  
15 component of -- of the bonus so I think -- I think  
16 that's subject to check, I think so.

17           Q.     So the short-term, if an employee figures  
18 out a way to save costs, that benefit will make AES  
19 Ohio more profitable and flow to the shareholders,  
20 right?

21           A.     Potentially.

22           Q.     Over the long term, to the extent an  
23 employee has found a sustained way to reduce costs,  
24 that benefit will flow to customers through the  
25 utility's next rate case, right?

1           A.    I am not sure I am in a position to  
2    assess what the long-term effect of those cost  
3    savings are.  I'm not seeing a quantification of the  
4    cost savings.  I've only seen dollars pertaining to  
5    the bonuses that are paid out for them.  So I am not  
6    able to really affirm that.

7           Q.    My question is more hypothetical.  If an  
8    employee identifies a way to lower costs that is a  
9    sustainable way of keeping the costs low, that will  
10   benefit customers when the utility files its next  
11   rate case, right?

12           MS. KERN:  Objection to the extent it's a  
13   hypothetical and we are asking her to opine on  
14   something she's not seen.

15           EXAMINER SCHABO:  Overruled.

16           A.    I think the answer depends on what the  
17   actual test year expenses are for that rate case.  So  
18   it's -- I am not sure I can assess whether those cost  
19   savings would be flowed -- flown through in the next  
20   test year or how they might be applied by  
21   shareholders or by the Company in some future rate  
22   proceeding.  In the current test year, however, those  
23   cost savings are not yet realized and so they are not  
24   yet a part of this assessment.

25           Q.    You do understand that the utility's

1 recoverable expenses are based on a test year  
2 concept, right?

3 A. Yes.

4 Q. And if employees can do things that lower  
5 expenses in the test year, that's a good thing for  
6 customers, right?

7 A. Well, I think the test year costs are the  
8 test year costs. If a company can operate more  
9 efficiently, there are benefits. But I'm not really  
10 sure what you are asking. If a company -- yeah, I am  
11 not sure I can answer that question.

12 Q. You don't -- just so we are clear, if  
13 there is an item in the test year expenses that an  
14 employee identifies -- there's an ongoing expense and  
15 the employee identifies a way to lower that or  
16 eliminate that during the test year, that would lower  
17 the recoverable expenses in the test year and lower  
18 the amount of rates paid by customers, right?

19 A. Well, perhaps I am not understanding your  
20 question. The test year expenses are what they are.  
21 So if there's a change in the test year, that's -- is  
22 it a future change or is it a change -- I'm not maybe  
23 understanding your question because when we see  
24 expenses in the budget and as we are analyzing the  
25 C-2.1 and the various expenses as they come up to

1 actuals, these are actual expenses so I'm not sure I  
2 can answer the question. I mean, maybe I am not  
3 understanding.

4 Q. Okay. Suppose on day one of the test  
5 year there was an ongoing expense the Company has  
6 been incurring but on day one of the test year the  
7 employee figures out a way to lower that expense that  
8 the Company has been incurring historically by a  
9 thousand dollars so that expenses during the test  
10 year are lower than they otherwise would have been  
11 under the Company's prior operations by a thousand  
12 dollars. Do you agree that's good for customers?

13 A. So long as the expenses are decreasing,  
14 it means the Company would be decreasing their  
15 overall revenue requirement need. Is it better for  
16 customers? I guess it depends on the rate design and  
17 a whole lot of other things in terms of debt cost.  
18 Debt, it's a complicated formula as you know. I  
19 don't know that there is a one-for-one that you  
20 decrease a cost in one expense category results in a  
21 dollar or some results in lower costs necessarily for  
22 a rate.

23 Q. Let me ask you to take a look at AES Ohio  
24 Exhibit 88. And I will caution you this is a  
25 confidential document and I am going to ask you very

1 narrowly about it.

2           You opine in your testimony, your filed  
3 testimony, that 75 percent of the short-term  
4 compensation is based on financial metrics, correct?

5           A.    Correct.

6           Q.    Okay. And this document here is  
7 something provided by AES Ohio to Staff and to the  
8 parties who have confidentiality agreements that  
9 outlines how the short-term compensation was  
10 calculated, correct?

11          A.    Correct.

12          Q.    Okay. And in column 2, there is a series  
13 of percentages, correct?

14          A.    Correct.

15          Q.    And you calculate your 75 percent figure  
16 by summing the items, the 45 percent and the  
17 30 percent figure that we see in that column,  
18 correct?

19          A.    Correct.

20          Q.    Okay. That is all the questions I have  
21 on that exhibit.

22                Let me direct you to page 2 of your  
23 testimony. You understand that AES Ohio objects to  
24 the way that Staff annualizes FICA tax expense,  
25 correct?

1           A.    Yes.

2           Q.    Okay.  And FICA tax expense includes  
3 Social Security expenses that the Company incurs,  
4 correct?

5           A.    Correct.

6           Q.    Okay.  And Social Security expenses are  
7 more than half the FICA expenses, correct?

8           A.    Correct.

9           Q.    Okay.  And the way Social Security works  
10 is there is a maximum contribution for an employee,  
11 and for some employees they will hit that maximum  
12 sometime in a year, October, November, whatever it  
13 may be, correct?

14          A.    Correct.

15          Q.    And so when they hit that maximum, the  
16 Company, for the remainder of the year for that  
17 employee, doesn't include any additional Social  
18 Security expenses, correct?

19          A.    I believe so.

20          Q.    Okay.  So the Social Security expense  
21 that AES Ohio incurs is front loaded into the first  
22 9, 10, 11, months, whatever it may be of a year.

23          A.    I guess it's possible.  I haven't really  
24 done that analysis.  In a sense, the FICA is a  
25 flow-through result of what's being paid to employees

1 and we look at that kind of on a month-to-month basis  
2 because wages change from month to month, so I am not  
3 sure how to answer your question.

4 Q. Well, for a particular -- for particular  
5 employees, if you look at them over the course of a  
6 year, their obligation to make contributions to  
7 Social Security will, for some of them, end during  
8 the year. I think we just discussed that, right?

9 A. Yes, I think so, yeah.

10 Q. Okay. So that also ends the Company's  
11 Social Security expenses, right, at that time?

12 A. I think so, yeah, I'm not sure but I  
13 think so.

14 Q. So that means the Company's Social  
15 Security expenses for a particular employee, if the  
16 employee stops paying it at month 10, the Company  
17 starts saving the Social Security expenses, right?

18 A. I'm not sure. I've not really done the  
19 analysis that way before.

20 Q. In any event, in calculating AES Ohio's  
21 recoverable FICA expenses, you exclude March from the  
22 calculation because AES Ohio pays its bonuses that  
23 month, correct?

24 A. Well, we excluded the month that had the  
25 highest amount of payroll tax but to a -- almost



1 double, to a large degree from the other months, in  
2 an attempt to normalize or annualize a fair payroll  
3 tax dollar amount. March was removed and annualized  
4 the other months that were part of the dataset we had  
5 so we could have a better representation of what  
6 payroll taxes could or should be.

7 Q. Okay. Let's talk about why March was  
8 anomalous. One of the reasons that March is  
9 anomalous relates to the fact that bonuses are paid  
10 by AES Ohio in March.

11 A. My understanding is --

12 Q. Is that right?

13 A. I'm sorry.

14 My understanding is that bonuses are  
15 distributed in March and then they are backpaid.  
16 There is some formula the Company applies back to  
17 January, but, yes, I believe we were instructed  
18 bonuses are distributed in March.

19 Q. Yeah. In fact, your testimony on line 20  
20 says, "No. Staff excluded March FICA tax in  
21 calculating the annualized FICA tax as the payment of  
22 short-term incentive compensation...caused March FICA  
23 taxes to be abnormally high."

24 A. Yeah.

25 Q. Okay. So to the extent the Company --

1 the Commission were to agree with the Company that  
2 the STC, the full STC should be recoverable, would  
3 you agree it would be appropriate to include March in  
4 the calculation of FICA taxes?

5 A. My analysis was to determine what would  
6 be a reasonable payroll and payroll tax recovery for  
7 ratepayers and because we've excluded portions of  
8 short-term compensation that needed to also be  
9 recognized as a flow through through payroll tax so  
10 that's not what I am recommending. I am not  
11 recommending to have all the short-term compensation  
12 accepted.

13 Q. I understand that, but I am asking you if  
14 the Commission were to agree with the Company,  
15 instead of with your recommendation, that those  
16 short-term compensation bonuses should be recoverable  
17 as an expense item, do you believe that March should  
18 be included in the calculation of FICA taxes?

19 A. Yes.

20 Q. Okay. Are you also aware that when the  
21 Company gives a ray -- when the Company implements --  
22 let me start over.

23 Are you also aware that when the Company  
24 implements raises, the raise goes into effect in  
25 March effective as of -- but it's effective as of

1 January 1 so that the employees will get a bump in  
2 pay, a larger -- a larger FICA tax then just because  
3 full raise from January to February was all paid in  
4 March?

5 A. I'm not sure I understood the question.

6 Q. Sure. I butchered it. Fair enough.

7 So here's the question, and if you don't  
8 know the Company does this, please tell me, but my  
9 understanding of what the Company does is when it  
10 becomes a new year and employees would ordinarily get  
11 a raise in January, that's not what AES does.

12 Instead what it does is come March, decides what the  
13 raise will be but then makes that raise effective as  
14 if it was effective in January so that the employee  
15 in March is paid the amounts they would have been  
16 paid in January and February to make up for the fact  
17 the raise didn't start until March. The question is,  
18 do you know whether the Company does that or not?

19 A. That sounds like what we learned in the  
20 investigation, yes.

21 Q. Okay. So that would also cause March to  
22 be unusually high in terms of the FICA tax, correct?

23 A. Correct.

24 Q. Okay. Now, when you've excluded March  
25 that more heavily weighs months -- let me make sure I

1 understood. You excluded March and then calculated  
2 an average for FICA expenses over 11 months, correct?

3 A. Yes.

4 Q. Okay. So that then more heavily weighs  
5 months like December when the Company is not  
6 incurring Social Security expenses, correct?

7 A. As I said, I did not conduct a payroll  
8 tax analysis in that way, so I'm not sure I can  
9 answer that. That's not how we looked at it. We  
10 were trying to find a -- a normalized way to  
11 represent payroll taxes excluding the portions of  
12 short-term compensation that should have been  
13 removed. So that was the intent of the calculation.  
14 And March was an anomaly, and so we removed that and  
15 then used the other remaining months to normalize  
16 what the taxes should be. So I am not sure -- we did  
17 not conduct an analysis about whether December was  
18 higher or lower based on the factors that you named.

19 MR. SHARKEY: Your Honor, can I have  
20 5 minutes to consult with my client and my  
21 co-counsel?

22 EXAMINER SCHABO: Absolutely. And we  
23 will actually take a full 5-minute break. It's 2:08  
24 and come back at 2:13, please.

25 (Recess taken.)

1 EXAMINER SCHABO: We'll go back on the  
2 record.

3 Mr. Sharkey, do you have additional  
4 cross?

5 MR. SHARKEY: Just a little, your Honor.

6 Q. (By Mr. Sharkey) Ms. Crocker, if you  
7 would turn -- you have AES Ohio Exhibit 8 in front of  
8 you?

9 A. It's opening. I apologize. It's still  
10 thinking.

11 Q. That's fine. It's a large exhibit. Tell  
12 me when it's open, please.

13 A. It is. I have it open.

14 Q. Okay. For the PDF page, could you turn  
15 to page 50 which would be Schedule C-9.1.

16 A. Just so you know, I pulled up the Excel  
17 spreadsheet. I apologize. That was the closest  
18 available to me.

19 Q. Okay.

20 A. Okay. So --

21 Q. I don't think it will make a difference.

22 A. Okay. You said the C-9.1. I'm there.

23 Q. Okay. So C-9.1, there is row -- there is  
24 row 11. It's total labor dollars, correct?

25 A. Correct.

1           Q.    And so it reflects for the test year that  
2   the total labor dollars at the end are \$58,477,293,  
3   correct?

4           A.    Correct.

5           Q.    Okay.  And then there is an adjustment  
6   below of O&M labor dollars.  Do you see that?

7           A.    Sorry.  Line -- are you talking about  
8   line 14?

9           Q.    Line 14, yes.

10          A.    Yes.

11          Q.    Okay.  Do you have an understanding of  
12   what that adjustment is doing?

13          A.    Well, in this spreadsheet it's not, I  
14   don't believe, an adjustment.  It's just a  
15   mathematical formula to demonstrate the total labor  
16   dollars and how O&M dollars are calculated.

17          Q.    Okay.  So that O&M dollars would exclude  
18   CAPEX as we've talked about previously, correct?

19          A.    Correct.

20          Q.    Okay.  And then from that figure, do you  
21   know whether you made additional exclusions for  
22   capital-related dollars?

23          A.    Well, my calculation did not start with  
24   that figure.  Staff uses sort of building blocks to  
25   recreate or build from scratch the labor calculation.

1 And so we did not start with 34.9 and go backwards.  
2 We built up by using all of the components that are  
3 part of a labor calculation such as hours and wages  
4 and things like that and build forward to determine  
5 what our labor dollars should be.

6 MR. SHARKEY: All right, your Honor. I  
7 have no further questions.

8 EXAMINER SCHABO: Thank you, Mr. Sharkey.  
9 OCC, do you have cross?

10 MR. FINNIGAN: Yes, your Honor. Just a  
11 few questions, if I may. I apologize. We did not  
12 reserve any time on the witness schedule, but I will  
13 keep it very brief.

14 EXAMINER SCHABO: No. You are entitled  
15 to cross-examination.

16 MR. FINNIGAN: Thank you, your Honor.

17 - - -

18 CROSS-EXAMINATION

19 By Mr. Finnigan:

20 Q. Good afternoon, Ms. Crocker. My name is  
21 John Finnigan. I am an attorney with OCC.

22 A. Hello.

23 Q. I have just a very few questions for you.

24 As I understand your testimony, is it  
25 your recommendation to remove the incentive-based

1 earnings from operating expenses?

2 A. The intent was to remove earnings that  
3 were based on what I call financial metrics and there  
4 are components, I believe it's a confidential  
5 document, but there are components that are  
6 identified as financial and there are other  
7 components that appear to identify things like growth  
8 and nondistribution-related items. So I am not sure  
9 if I am answering your question, but the intent was  
10 to remove in general I would call those financial  
11 metrics and, yes, that was the intent.

12 Q. And what's the policy reason for removing  
13 those from operating expenses?

14 A. In general we've spent some time  
15 discussing compensation packages can be determined by  
16 companies in a variety of ways. And when it comes to  
17 the bonuses that are paid out, Staff believes that  
18 it's reasonable to have shareholders take part in  
19 bonuses that result in benefits directly to  
20 shareholders and we believe that's a reasonable  
21 representation of what the bonus category should  
22 include. And the items such as safety and customer  
23 service and operations are better suited to be passed  
24 through to ratepayers.

25 Q. Now, would those same policy reasons



1 apply to removing earnings-based incentive  
2 compensation from base rates as well?

3 A. I'm not sure I -- my review was limited  
4 to the payroll and trying to determine what total  
5 payroll was. So when you talk about base rates, I'm  
6 not sure exactly what you are talking about.

7 Q. Well, to the extent that any incentive  
8 compensation is capitalized in base rates and -- and  
9 such compensation is based on the same kind of  
10 financial metrics that you mentioned earlier and that  
11 you exclude from operating expenses, wouldn't the  
12 same policy reasons apply and lead to the conclusion  
13 that those types of incentive compensation should  
14 also be excluded from base rates?

15 A. Yes. If we are excluding it in operation  
16 and maintenance, it should also be excluded in the  
17 capital side, yes.

18 MR. FINNIGAN: That's all I have. Thank  
19 you.

20 EXAMINER SCHABO: Thank you,  
21 Mr. Finnigan.

22 Walmart?

23 MS. GRUNDMANN: I guess maybe I have a  
24 question. I may bungle my way through this and not  
25 have a question.

## CROSS-EXAMINATION

By Ms. Grundmann:

Q. You were asked some questions by Mr. Sharkey -- well, let me back up.

As it relates to short-term compensation, you have excluded recovery of monies that you believe benefit shareholders. I think I completely bungled that; so if I have, I can repeat that

A. In general, yes, I agree.

Q. Okay. If you could directly tie sustained cost savings to employee efforts, would Staff's opinion be different?

A. I'm not sure. I did not conduct the analysis. I'm not sure how to answer that. I think we look at the payroll bucket and as I stated earlier, I am not -- we are seeing the dollars as a result of what has happened. I am not looking at the expense or the savings side of that so it's a good question. I'm not sure I have an answer.

Q. Okay. So Staff is unable to determine I guess easily, or at all, let me know which one of those is true, whether cost savings, if they are achieved, ever make it to the ratepayer benefit level; is that fair?

A. I did not make -- I did not assess. I

1 was unable to determine that that was --

2 Q. Okay.

3 A. Yeah.

4 MS. GRUNDMANN: That's what I was trying  
5 to understand. Thank you so much, Ms. Crocker. I  
6 appreciate it.

7 EXAMINER SCHABO: Thank you.

8 IGS?

9 MR. BETTERTON: No cross for this  
10 witness, your Honor.

11 EXAMINER SCHABO: Thank you.

12 Direct Energy?

13 MR. FYKES: No questions for this  
14 witness, your Honor.

15 EXAMINER SCHABO: One Energy?

16 MR. BORCHERS: Yes, your Honor.

17 - - -

18 CROSS-EXAMINATION

19 By Mr. Borchers:

20 Q. Ms. Crocker, good afternoon. Can you  
21 hear me?

22 A. Yes.

23 Q. I am Dylan Borchers, counsel for One  
24 Energy Enterprises.

25 You spoke to Mr. Sharkey about the

1 Company's compensation and bonuses to its employees.  
2 During your review of compensation, did you look for  
3 differences in base pay between men and women  
4 employed by the Company?

5 A. I did not. In fact, the Company -- no, I  
6 didn't ask that question.

7 Q. Is there any reason why not?

8 A. I think we are looking at total -- total  
9 pay. I've not ever conducted an analysis between pay  
10 for men and women. So I don't have a good reason.  
11 I've just never been asked to do that.

12 Q. Thank you.

13 And during your review of the bonuses,  
14 did you look for differences between men and women  
15 employed by the Company?

16 A. No.

17 Q. Do you have any reason to believe that  
18 the Company has achieved pay equity across genders?

19 A. I did not look at that. I can't answer  
20 that question.

21 MR. BORCHERS: Thank you. Those are all  
22 of my questions.

23 EXAMINER SCHABO: Thank you.

24 City of Dayton?

25 MS. SIEWE: No questions, your Honor.

1 Thank you.

2 EXAMINER SCHABO: IEU-Ohio?

3 MR. McKENNEY: No questions. Thank you.

4 EXAMINER SCHABO: OEG?

5 MS. COHN: No questions, your Honor.

6 EXAMINER SCHABO: OMAEG?

7 MS. BOJKO: No questions. Thank you.

8 EXAMINER SCHABO: Kroger?

9 MR. WYGONSKI: No questions, your Honor.

10 EXAMINER SCHABO: OPAE?

11 OHA?

12 University of Dayton?

13 Is there anyone I missed?

14 Ms. Kern, do you have any redirect?

15 MS. KERN: May we just have a few minutes  
16 so I can consult with my client?

17 EXAMINER SCHABO: Yeah. We'll go -- we  
18 will go off the record for a couple of minutes but  
19 stick around.

20 (Recess taken.)

21 EXAMINER SCHABO: Let's go back on the  
22 record.

23 Off the record, Ms. Kern, you indicated  
24 that you have no redirect; is that correct?

25 MS. KERN: That is correct, no redirect.

1 EXAMINER SCHABO: Thank you. Where are  
2 we on exhibits?

3 Thank you, Ms. Crocker.

4 Have you moved -- I don't think you moved  
5 Staff Exhibit 4.

6 MR. MARGARD: You're muted, Kyle.

7 EXAMINER SCHABO: Still muted. Ms. Kern,  
8 we can't hear you. You're on mute. Are you  
9 having -- Micah, can you take her off mute? Oh,  
10 there we go. Gotcha. No. Now you are back on  
11 again.

12 Karen, let's go back off the record,  
13 please.

14 (Discussion off the record.)

15 EXAMINER SCHABO: Okay. We will go back  
16 on the record.

17 Did you want to move Ms. Crocker's  
18 testimony into the record?

19 MS. KERN: Yes. Staff would move for the  
20 admission of Staff Exhibit 4.

21 EXAMINER SCHABO: Are there any  
22 objections?

23 Hearing none, Staff Exhibit 4 will be  
24 admitted.

25 (EXHIBIT ADMITTED INTO EVIDENCE.)

1 EXAMINER SCHABO: AES 33 was already  
2 admitted as part of Mr. Forestal's testimony. Did  
3 you want to do anything with Exhibit 88?

4 MR. SHARKEY: Yes. We would like to move  
5 for its admission, your Honor.

6 EXAMINER SCHABO: Are there any  
7 objections to admission of AES Exhibit 88?

8 Seeing none, it too will be admitted.

9 (EXHIBIT ADMITTED INTO EVIDENCE.)

10 EXAMINER SCHABO: Thank you.

11 Ms. Kern, to your next witness, please.

12 MS. KERN: Thank you, your Honor. Staff  
13 would call Staff Witness Ms. Krystina Schaefer.

14 THE WITNESS: Hello. Can you all hear me  
15 all right?

16 EXAMINER SCHABO: Yes. Hold on one  
17 second and I am going to swear you in. Could you  
18 raise your right hand for me.

19 (Witness sworn.)

20 EXAMINER SCHABO: Thank you very much.

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KRYSTINA SCHAEFER

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

DIRECT EXAMINATION

By Ms. Kern:

Q. Could you please state your name for the  
record.

A. My name is Krystina Schaefer.

Q. And where are you employed?

A. The Public Utilities Commission of Ohio  
on the Commission Staff.

Q. What is your job title and  
responsibilities?

A. So I am the Chief of the Grid  
Modernization and Retail Markets Division within our  
Rates and Analysis Department here. Our group works  
on a number of matters primarily related to renewable  
energy, energy efficiency, Smart Grid programs,  
retail market monitoring. Our team also audits the  
Capital Investment and Smart Grid Riders.

MS. KERN: I would like to have marked as  
Staff Exhibit 5 the direct testimony of Krystina  
Schaefer filed in this docket on January 18, 2022.

EXAMINER SCHABO: So marked.

(EXHIBIT MARKED FOR IDENTIFICATION.)



1           Q.     (By Ms. Kern) Ms. Schaefer, do you see  
2     the document before you that I just had marked as  
3     Staff Exhibit 5?

4           A.     Yes. I have it printed here.

5           Q.     And would you please identify that  
6     document for the record.

7           A.     It's my prefiled testimony in these three  
8     cases.

9           Q.     And was your testimony prepared by you or  
10    at your direction?

11          A.     Yes, it was.

12          Q.     Do you have any corrections or changes to  
13    make to your testimony?

14          A.     No, I don't.

15          Q.     And if I were to ask you the same  
16    questions contained in Staff Exhibit 5 today, would  
17    your answers be the same?

18          A.     Yes.

19          Q.     What is the purpose of your testimony  
20    today?

21          A.     So as stated in the response to  
22    Question 6 of my testimony, the purpose is to address  
23    Objection 3 made by the Ohio Environmental Council  
24    and partially address Objection E made by IGS to the  
25    Staff Report of Investigation in this case.

1 MS. KERN: Your Honor, the witness, Staff  
2 Witness Schaefer, is available for cross-examination.

3 EXAMINER SCHABO: Thank you, Ms. Kern.  
4 Does the Company have cross for this  
5 witness?

6 MR. SHARKEY: No, your Honor.

7 EXAMINER SCHABO: OCC, do you have cross  
8 for this witness?

9 MR. FINNIGAN: No, your Honor.

10 EXAMINER SCHABO: Walmart?

11 MS. GRUNDMANN: No, your Honor, no cross.

12 EXAMINER SCHABO: IGS?

13 MR. BETTERTON: Yes, your Honor.

14 EXAMINER SCHABO: Please proceed.

15 - - -

16 CROSS-EXAMINATION

17 By Mr. Betterton:

18 Q. Happy Friday afternoon, Ms. Schaefer.

19 A. Thank you. Glad to be doing this today.

20 Q. Can you hear me all right?

21 A. I can, yeah.

22 Q. Perfect. As you know, my name is Evan  
23 Betterton. I am regulatory counsel for IGS Energy.  
24 I just got a brief cross today. If, at any point,  
25 you can't hear me or I stumble or misread a question,

1 please don't hesitate to ask and we will get it all  
2 cleared up.

3 A. Great.

4 Q. So in your prefiled testimony, you are  
5 specifically responding to IGS's objection to the  
6 Staff Report regarding the lack of a new tariff  
7 option for secondary customers specifically related  
8 to their demand charge, correct?

9 A. Yeah. I think in the objections it's  
10 more broad to commercial and industrial customers,  
11 not just secondary, but yes.

12 Q. Thank you for the clarification.

13 And in that testimony you state that  
14 you're familiar with Revised Code 4928.02 which  
15 states that the policy of the State of Ohio is to  
16 encourage distributed generation and small generation  
17 facilities, correct?

18 A. Yes.

19 Q. You are also aware that AES Ohio  
20 currently calculates secondary customers' demand  
21 charge based solely upon their highest 30 minutes of  
22 usage?

23 A. Yes, that's my understanding.

24 Q. And would you agree that the qualified  
25 facility, or QF, and net metering tariffs that you

1 reference in your testimony would only benefit a  
2 secondary customer for the generation they produce?

3 A. I think for nonresidential customers it's  
4 fair to say that the incentives for DG are primarily  
5 generation related, but I point out that in the  
6 settlement in the Grid Mod I case the Company made a  
7 number of commitments to incentive DG specifically  
8 for IGS and that included an assessment of avoided or  
9 reduced distribution and transmission costs  
10 associated with DG projects contemplated in that  
11 Stipulation.

12 So I think there is an opportunity to  
13 examine that further in the future, but currently I  
14 would agree that for non-res customers the incentives  
15 are primarily either generation related or renewable  
16 attribute related in terms of the RECs those projects  
17 can produce.

18 Q. Thank you.

19 MR. BETTERTON: Your Honor, I would move  
20 to strike anything in the answer after she addressed  
21 the specific relation to the QF tariff or net  
22 metering tariffs referenced in her testimony.

23 EXAMINER SCHABO: Can I hear the question  
24 and answer back, please.

25 (Record read.)

1 EXAMINER SCHABO: It's related enough. I  
2 will let that stand.

3 MR. BETTERTON: Thank you, your Honor.

4 Q. (By Mr. Betterton) Ms. Schaefer, you have  
5 a general idea of how distributed energy projects  
6 such as solar panels operate, correct?

7 A. What do you mean "general"? Just like  
8 the technical aspects?

9 Q. Generally. Generally in the sense when  
10 the sun is shining, they are producing power; at  
11 night, they do not produce power. Just a very  
12 loose --

13 A. I understand that much, yes.

14 Q. And so, hypothetically, if I were to  
15 operate a manufacturing facility and install solar  
16 panels on the roof of that facility in order to  
17 offset my usage, with all other factors held equal,  
18 would you expect my demand for kilowatt-hours to go  
19 down during a sunny day?

20 A. Yeah, I think generally.

21 Q. And continuing with the same  
22 hypothetical, if I were to operate that facility for  
23 24 hours a day, it is possible that my highest  
24 30 minutes of demand may occur at night due to the  
25 fact that the solar panels may not be producing power

1 to offset my usage, correct?

2 A. Can you repeat that one more time, sorry,  
3 the court reporter?

4 Q. Yeah, so same hypothetical, everything  
5 held constant with my facility and solar panels on  
6 the roof. If I were to operate that facility for  
7 24 hours each day, it's possible that my facility's  
8 highest 30 minutes of usage may occur at night due to  
9 the fact, as we discussed earlier, that the solar  
10 panels may not be producing energy to offset my  
11 usage.

12 A. Generally speaking, yeah, I think that's  
13 right.

14 Q. Based on this hypothetical, is it  
15 possible that the demand charge for that -- for a  
16 customer in AES Ohio's service territory that -- is  
17 it possible that that -- sorry.

18 MR. BETTERTON: Can I strike that and  
19 start again, your Honor?

20 Q. Based on that hypothetical, is it  
21 possible that the demand charge for a customer in AES  
22 Ohio's service territory may be set at any time of  
23 day?

24 A. Again, I am not addressing the specifics  
25 of the demand charge but that's my understanding. I

1 don't know if's a 15-minute or 30-minute window  
2 exactly, but yeah.

3 Q. Perfect. Are you familiar with the term  
4 coincident peak or CP?

5 A. Yeah, generally.

6 Q. And you would agree that that term refers  
7 to the grid's highest demand during a specified  
8 period of time.

9 A. Yeah, I think that's right.

10 Q. Would you agree that by setting a  
11 customer's demand charge during AES Ohio's 1CP  
12 instead of during the customer-specific highest usage  
13 point, there would be a greater incentive for  
14 customers to deploy distributed generation resources  
15 in the AES Ohio service territory?

16 A. So, I mean, I think generally, you know,  
17 when we look at these state policies, certainly the  
18 state policy is to encourage DG, but we also have the  
19 first state policy which is to ensure adequate and  
20 reliable service. Again, Staff Witness Bremer is  
21 kind of defending the demand charge specifically, but  
22 I think it's a balance of the state policies. And my  
23 testimony was intended to point out that you have to  
24 look at the incentives more broadly and not just one  
25 rate charge specifically.

1 Q. Thank you.

2 Just moving briefly on this topic, for  
3 the next two questions, I am going to be referring to  
4 the billed demand charge which is the amount a  
5 customer would see on their bill and not the specific  
6 demand charge that would be assigned by AES. Does  
7 that make sense?

8 A. So like the total cumulative demand  
9 charges on a bill?

10 Q. The dollar amounts as opposed to the  
11 demand charge itself.

12 A. Okay.

13 Q. So would you agree that an AES Ohio  
14 customer's billed demand charge is not billed on a  
15 volumetric basis?

16 A. For nonresidential -- are you talking  
17 about specifically -- is that part of the question?

18 Q. Still for nonresidential, yes, ma'am.

19 A. That's my understanding.

20 Q. So, thus, a customer is unable to reduce  
21 the amount they are billed based on the demand charge  
22 regardless of distributed generation or energy  
23 efficiency used during that period, correct?

24 A. I think generally speaking, yeah, but as  
25 I referenced in my direct testimony, you know, the



1 cogen tariff, if you look at it, allows for contracts  
2 with the Company related to qualifying facilities and  
3 there is an option, you know, to come up with a  
4 contract that addresses the QF's availability during  
5 daily or system peaks. I think if you look at the  
6 history of PURPA, that's generally meant to be  
7 generation-related capacity but I think there is  
8 probably broad discretion and interpretation of that  
9 tariff as it stands now, but, generally speaking, I  
10 would say yes.

11 Q. Perfect. Thank you.

12 Are you familiar, again a high level,  
13 with the idea of net metering?

14 A. Yes.

15 Q. And you would agree that net metering is  
16 the ability of a customer to sell excess energy  
17 created from distributed generation or other  
18 generation sources back onto the grid?

19 A. Yeah. And offset generation charges and  
20 any other volumetric rates, yeah.

21 Q. Perfect. Getting to that next. And in  
22 order to sell power through a net metering tariff as  
23 you describe in your testimony, a distributed  
24 generation owner would need to produce excess power  
25 beyond what they are consuming at that time, correct?

1 A. On the net metering tariff, yeah.

2 Q. Yeah, specifically related to the net  
3 metering tariff.

4 A. Yes.

5 Q. So given that, is it possible that a  
6 customer with distributed generation may never sell  
7 power through a net metering tariff if their baseload  
8 usage is above that produced by the specific  
9 distributed generation asset?

10 A. Yeah. I think that's fair.

11 MR. BETTERTON: Perfect. And with that,  
12 that is all of my questions. I thank you so much.  
13 Have a good rest of your Friday.

14 THE WITNESS: Thank you. Have a good  
15 weekend.

16 MR. BETTERTON: You too.

17 EXAMINER SCHABO: Thank you.

18 On to our next contestant, Direct Energy.

19 MR. FYKES: No cross, your Honor.

20 EXAMINER SCHABO: One Energy.

21 MR. BORCHERS: Yes, your Honor.

22 - - -

23 CROSS-EXAMINATION

24 By Mr. Borchers:

25 Q. Good afternoon, Ms. Schaefer. How are

1     you?

2             A.     Good.   Nice to see you.

3             Q.     You as well.   Can you hear me okay?

4             A.     I can.

5             Q.     As you know, I am Dylan Borchers, and in  
6     this proceeding I'm representing One Energy  
7     Enterprises.

8                     So in your testimony and just now with  
9     IGS's counsel, you referenced the state policies  
10    outlined in Revised Code 4928.02.   Does Staff conduct  
11    any regular analysis on an electric utility's tariffs  
12    and how those tariffs may or may not further the  
13    state policies outlined in 4928.02?

14            A.     Again, I sort of referenced this in the  
15    previous cross, but Staff certainly looks at the  
16    state policies and all of the state policies defined  
17    in ORC 4928.02.   Certainly it's a balance of  
18    interpreting all of those in a specific case, and we  
19    also look at the other provisions of the Revised  
20    Code.   So in a distribution rate case here, we follow  
21    the guidance there.   But, yes, I would say we  
22    generally look at the state policies as we develop  
23    our Staff positions in these cases.

24            Q.     But is there any kind of scorecard that's  
25    kept or metric that's kept when developing Staff's

1 position?

2 A. For all of the state policies are you  
3 talking about?

4 Q. Correct. Any kind of scorecard or metric  
5 to track Staff's position in a case with respect to  
6 whether or not the utility's tariffs are advancing  
7 the state policies.

8 A. I don't know that we have a scorecard per  
9 se. I think in terms of quantifying DG, and  
10 especially renewable DG, in addition to utility-scale  
11 renewables, I think certainly compliance with the  
12 renewable portfolio standard is a quantitative goal  
13 that we ensure compliance is met by both the  
14 utilities, the distribution utilities and the  
15 competitive suppliers in the state. I think for all  
16 of the state policies though it's a blend of  
17 qualitative and quantitative analysis in some sense  
18 overall.

19 Q. When a new rate case is filed, does Staff  
20 conduct a review of how the existing tariffs have or  
21 have not aligned with the state policy objectives and  
22 Revised Code 4928.02?

23 A. Again, I think that's part of the  
24 analysis generally. I am not on the rates and  
25 tariffs team directly, but I have been involved with

1 the review of specific tariffs as part of this case.

2 Q. And the Staff Report in this case does  
3 not address the state policies in the context of the  
4 Company's application, correct?

5 A. I don't believe the Staff Report  
6 explicitly goes through each one line item by line  
7 item and sort of mirrors the Staff Report provisions  
8 with those specific state policies. We may reference  
9 them throughout, but it's not sort of that scorecard  
10 template that you mentioned before.

11 Q. Do you know if the Staff Report  
12 references any of these policies? And if so, could  
13 you point me to one? And if you don't know  
14 immediately, you don't need to take too much time.

15 A. I mean, I would think certainly the first  
16 state policy which is ensuring availability of, you  
17 know, adequate, reliable, safe, efficient,  
18 nondiscriminatory, and reasonably-priced retail  
19 electric service, that's sort of the intent of the  
20 Staff Report overall. But I don't know -- I read the  
21 Staff Report, but I don't know which specific page  
22 numbers have specific state policy referenced. We  
23 could certainly look that up, but I don't know the  
24 page numbers off the top of my head.

25 Q. Certainly. Fair enough.

1           So let's take a look at your testimony,  
2 page 5. And lines 4 through 7. And as you stated  
3 earlier, your testimony, in part, seeks to address  
4 IGS Objection E, correct?

5           A. Yes, that's right.

6           Q. And it's fair to say that the reason the  
7 Staff disagrees with IGS's objection is that Staff  
8 believes there are incentives outside of the demand  
9 charge rate to encourage the deployment of  
10 distributed energy resources in accordance with state  
11 policy, correct?

12          A. So I think there's two parts. One, I  
13 think -- and again, I am not directly addressing the  
14 calculation and justification for the demand charge  
15 calculation. But I think Staff generally found that  
16 that was reasonable for the Company to provide  
17 distribution service. Again, I know it's a little  
18 goofy the way it's constructed but I am simply  
19 pointing out there are other incentives and I think  
20 if we are looking at the adequacy of a specific line  
21 item, I think you -- it's better to look at the  
22 incentives that are available and on a more holistic  
23 basis, just one line item charge.

24          Q. Yeah. So let's take a look at those  
25 incentives. In your testimony in support of the

1 statement we just referenced, you identify two  
2 specific incentives, the Company tariff for net  
3 metering and the Company tariff for cogeneration and  
4 small power production, correct?

5 A. Yes. And in my mind those are the two  
6 primary and only really generation-related incentives  
7 for DG.

8 Q. And the Company's cogeneration and small  
9 power production tariff has to do with the Public  
10 Utility Regulatory Policies Act, or PURPA, correct?

11 A. It does.

12 Q. And what does PURPA require in terms of  
13 compensation to qualifying facilities?

14 A. So it requires the utilities to purchase  
15 energy from qualifying facilities. There's been some  
16 changes over the years. I think generally speaking  
17 there's a rebuttable presumption, right? You guys  
18 are the lawyers and can probably say this better than  
19 I can, a rebuttable presumption that facilities or  
20 QFs that are smaller than 5 megawatts do not have  
21 access to the wholesale market and so there is an  
22 obligation that's created under PURPA for electric  
23 distribution utilities to purchase the generation  
24 from these qualifying facilities. The FERC has since  
25 said, too, if these utilities are within certain RTOs

1 like PJM where AES Ohio is located, they do not have  
2 to purchase the capacity related to those generation  
3 resources and that the LMP rate is a proxy for the  
4 energy from the generation resources.

5 It also, I think, prescribes that there  
6 be a standard rate for any facilities that are 100 kW  
7 or below. But generally it requires the purchase  
8 of -- it requires the interconnection of these  
9 facilities. It supports distributed generation I  
10 think at the federal level for sure.

11 Q. Yeah. I think that summary is probably  
12 better than what most lawyers could do.

13 A. Well . . .

14 Q. So but you did mention non-discriminatory  
15 access to the market. So it's your understanding  
16 that in states like Ohio that are located in RTOs,  
17 that depending on whether or not a qualifying  
18 facility is deemed to have access to that broad or  
19 wholesale market, the PURPA compensation might not be  
20 available to that generator; is that correct?

21 A. So it's required for 5 megawatts or below  
22 for the energy portion of generation but not  
23 necessarily for capacity. I think I referenced this  
24 in the previous cross sort of Q and A but there is a  
25 provision in there where the Company is willing to



1 contract for other services which may include  
2 capacity. But again, I think that's no longer  
3 required per PURPA. Excuse me.

4 Q. And looking again at your testimony here  
5 on page 5, lines 13 through 15, here you identify the  
6 compensation at which qualifying facilities can sell  
7 energy which is based on the locational marginal  
8 price of PJM's day-ahead energy market at PJM's  
9 pricing node that is closest to the QF point of  
10 interconnection or at the relevant trading hub or  
11 zone, correct?

12 A. Yes.

13 Q. Do you have available to you One Energy  
14 Exhibit 9? This is the rule compliance with PURPA.  
15 I believe you have referenced to it a couple of  
16 times.

17 A. Is it the OAC rule? If you give --  
18 sorry. I closed out my tabs here.

19 Q. No problem.

20 A. I have to do my Duo Security. Just one  
21 moment, please.

22 Q. Sure.

23 EXAMINER SCHABO: We'll go off the  
24 record.

25 (Discussion off the record.)

1 EXAMINER SCHABO: All right. We'll go  
2 back on the record.

3 The witness has found the exhibit, so  
4 please continue.

5 MR. BORCHERS: Thank you.

6 Q. (By Mr. Borchers) So, Ms. Schaefer,  
7 looking at One Energy Exhibit 9, are you familiar  
8 with this rule which is entitled "Compliance with  
9 PURPA"?

10 A. Yes, I am.

11 Q. And can you go to paragraph L.

12 A. I'm there.

13 Q. Okay. And this describes the  
14 compensation rate for energy produced by a qualifying  
15 facility, correct?

16 A. It does.

17 Q. And so the price for energy in the  
18 Company's tariff, which is also based on the LMP,  
19 reflects the price set out in this rule, correct?

20 A. I think generally it does. I think if  
21 you look between the distribution companies, some of  
22 the EDUs use the day-ahead market. Some of them use  
23 the real-time market. I think it's worth noting that  
24 I believe -- I have it here. I believe that the AES  
25 Ohio cogen tariff uses the day-ahead energy market.

1 I don't know that that level of specificity is  
2 included in the rule, and it varies a little bit from  
3 distribution company to distribution company. But  
4 generally, yes, I think that's...

5 Q. Generally you would agree that the  
6 Company's tariff is designed to mirror this rule,  
7 correct?

8 A. I think generally, yeah.

9 Q. Can you also go to paragraph I. And  
10 you've referenced a couple of times the ability for a  
11 QF to execute a negotiated contract with an EDU  
12 instead of selling the electric -- electrical output  
13 at the avoided cost rate and that's included in  
14 paragraph I here, correct?

15 A. Yes, it is.

16 Q. Do you know whether any qualifying  
17 facilities within the Company's territory have  
18 elected to exercise this ability to execute a  
19 contract with the EDU instead of take the avoided  
20 cost rate?

21 A. There is not any that I am aware of.

22 Q. And PURPA is a federal law, correct?

23 A. That's my understanding.

24 Q. About when was PURPA signed into law?

25 A. 1978, '5.

1 Q. Got it right the first time.

2 A. '8. There's been amendments since,  
3 obviously, but that was when it was initially  
4 created.

5 Q. And looking at One Energy Exhibit 9,  
6 which is the rule. As the name of the rule suggests,  
7 this rule is meant to implement PURPA's requirements,  
8 correct?

9 A. Yes, I think so.

10 Q. And I understand that you're not an  
11 attorney, but based on your knowledge of this  
12 compliance with PURPA rule, does this rule have any  
13 other purpose than to meet -- meet the State's  
14 obligations under PURPA?

15 A. I think it's primarily intended to meet  
16 the compliance obligations under PURPA. I think it  
17 provides other information more specific to Ohio as  
18 well. Again, I think there is some discretion in how  
19 you interpret some of the PURPA provisions and I  
20 think this rule sort of sets out our Ohio Revised  
21 Code interpretation of those and there is a few other  
22 things like dispute resolution and other things  
23 referenced in here. But I think generally, yes, it's  
24 the compliance with PURPA.

25 Q. Do you know how long the Company has had

1 this cogeneration and small power production tariff  
2 in place?

3 A. I don't know. I don't.

4 Q. Do you know how many distributed  
5 generation facilities in the Company's territory make  
6 use of the Company's cogeneration and small power  
7 production tariff?

8 A. I know there is a very small number of  
9 qualifying facilities within the AES Ohio footprint.  
10 The data collection process for QFs is maybe a little  
11 bit imperfect since there is a self-certification  
12 process. I know One Energy always shares when they  
13 self-certify as a qualifying facility. But I think  
14 generally I don't know the number of customers that  
15 take service under the tariff, but I know there is a  
16 very small number of qualifying facilities  
17 interconnected to the distribution system overall.

18 Q. And certifying as -- strike that.

19 Self-certifying as a qualifying facility  
20 at the FERC does not necessarily mean that a gen -- a  
21 customer generator is taking service under the  
22 tariff, correct?

23 A. No, it doesn't. I think there's -- I  
24 don't know -- a customer could take service,  
25 potentially the same type of customer could take

1 service under net metering provisions or the PURPA  
2 provisions, so I think there's some overlap there  
3 too. But certainly it's not required that a QF take  
4 service under this tariff.

5 Q. For the purposes of distributed  
6 generation facilities taking service under this  
7 tariff, does the Commission Staff track that  
8 information?

9 A. We have. I believe we've data requested  
10 before. I don't have the information available now.  
11 But similar to net metering, we've asked for the  
12 number of customers on specific tariffs and all other  
13 tariffs too, I'm sure.

14 Q. Do you know about how long ago you asked  
15 the Company?

16 A. I can't recall, and I don't know if  
17 we've -- if I personally have asked AES Ohio. I know  
18 it's come up in cases before.

19 Q. Did Staff request it from the Company in  
20 the context of this case?

21 A. I did not personally. I don't know if  
22 any other Staff members did. Again, I think -- the  
23 Company sort of classifies this as a  
24 generation-related tariff. If you look at sort of  
25 their website and how the tariffs are structured, it

1 is for the sale -- or for the purchase of generation.  
2 And so since this is a distribution rate case, it was  
3 reviewed along with the full tariff book, but I think  
4 the Company views this and classifies this as a  
5 generation-related tariff.

6 Q. Let's go back to the rule provided in One  
7 Energy Exhibit 9.

8 A. I have got it up still.

9 Q. Great. So what does paragraph M require  
10 from the Company?

11 A. It says that the EDUs shall file a report  
12 in accordance with the market monitoring rules set  
13 forth and it references that section of the OAC and  
14 then it has that that report must include the  
15 following information generally: The name and  
16 address of each QF, the address or location, a brief  
17 description of the type of each Q -- a brief  
18 description of the type of each QF, date of  
19 installation and online date, design capacity, a  
20 discussion identifying any qualifying facility that  
21 was denied interconnection by the EDU, including a  
22 statement of reasons for such denial.

23 Q. Do you know if the Company has filed any  
24 such report?

25 A. Yes. So we -- we collect -- through the

1 market monitoring rule, we collect what we call the  
2 DG reports or DER reports which are quarter --  
3 quarterly reports that contain all of the facilities  
4 that have interconnected to the distributed system  
5 along with information related to the pending  
6 interconnections. And so we have the list of all  
7 interconnected facilities. I can't recall if it's on  
8 that report that they designate which facilities are  
9 QFs or not. But it is folks on my team that collect  
10 that report.

11 Q. But as you mentioned earlier, the  
12 designation of a QF does not necessarily mean that  
13 facility is taking service under this tariff,  
14 correct?

15 A. Yeah. I think that's fair. I know  
16 generally the QFs in the Company's service territory,  
17 but I am not aware if those -- those QFs are on the  
18 tariff or not. I think that's a fair statement.

19 Q. Has the Staff collected any data that  
20 would suggest whether this tariff has stimulated any  
21 additional investment in distributed generation  
22 resources?

23 A. So I think, as I mentioned before,  
24 through the market monitoring rule we do collect data  
25 on a total number of DG facilities or DER facilities



1 as we are increasingly seeing battery resources  
2 connect to, so DER facilities that connect. We have  
3 a dashboard on our website that tracks that. Again,  
4 there's a little bit of a delay with the timing of  
5 the data collection under the market monitoring rule,  
6 so I think we are just now getting the Q4 2021 data,  
7 but you can track the trends of DG. Now, whether  
8 this specific tariff was incentivizing that, you  
9 know, I can see certainly that there's been a few  
10 more recent QFs certified over the last five years,  
11 but I think probably the better picture is overall  
12 interconnections for DG activity more generally.

13 Q. And without knowing how many facilities  
14 take service under the tariff, it would be hard to  
15 conclude whether this tariff is incentivizing  
16 additional investment in distributed generation,  
17 correct?

18 A. I think, you know, we have really seen a  
19 lot of growth since about 2018 in DG overall. You  
20 know, we've quantified the incentives, the  
21 generation-related incentives, and the portion of the  
22 bills that are volumetric to see kind of the return  
23 on investment overall and the timeline for that for  
24 kind of general projects, I would say, but Ohio as  
25 compared to other states in the country has an

1 overall relatively low amount of DG interconnected.  
2 And I think there are a number of reasons for that.

3 Q. You just mentioned doing a return on  
4 investment analysis. Can you tell me more about  
5 that?

6 A. So part of this -- so with the FERC order  
7 2222 stuff that's been happening, we've just been  
8 looking more into the incentives that are available  
9 at the retail level.

10 So I think I also referenced, and I think  
11 it's come up as part of this case, but the Company  
12 generally provides two direct incentives for  
13 generation per DG, so you have net metering which  
14 they currently are crediting at the full standard  
15 offer rate which is a little over 4 cents per kWh, I  
16 think, and then you have the PURPA tariff which is  
17 similarly, I think if you look at the last '20-21 LMP  
18 rates are around \$40 a megawatt-hour on average.  
19 Again, that can vary quite a bit, hour to hour, but  
20 we looked at the amounts that were available for  
21 generation incentives and then we've also looked at  
22 the prices of RECs recently in the REC trading  
23 markets just to get an idea of sort of the payback,  
24 if you will.

25 I am not as familiar with costs on the

1 development side beyond kind of like general price  
2 per kW particularly for solar. I am not super  
3 familiar with kind of the level or the costs for  
4 projects of the One Energy scale so like the 4 to 5  
5 megawatt wind projects.

6 Q. Are you -- yeah. You may have just  
7 answered my question. But is that analysis limited  
8 to residential distributed generation systems, or  
9 does it include commercial and industrial?

10 A. So again, I think we are more looking at  
11 the revenue retail -- or the revenues available on  
12 the retail side. Obviously, as has been discussed  
13 here, residential have quite a bit larger portion of  
14 the bill that's volumetric versus not res, but I  
15 think the generation incentives that are available  
16 are pretty uniform regardless of customer class.

17 Q. So you mentioned that there is relatively  
18 low penetration of DG in Ohio. Why is that?

19 A. I don't know if I can answer that. I  
20 think there is a number of reasons. I think we have  
21 seen quite a bit of growth in the last couple of  
22 years.

23 Q. So you've mentioned net metering as one  
24 of the other incentives that the Company has in place  
25 to, as you testified, encourage deployment of

1 distributed energy resources. And you are aware that  
2 the Staff Report found that the Company has not  
3 updated its tariff to conform with Ohio  
4 Administrative -- the Ohio Administrative Code's net  
5 metering rules, correct?

6 A. Yes.

7 Q. And the Staff Report states that the  
8 Company will be filing those updates in a separate  
9 proceeding or in Case 12-2050-EL-ORD, correct?

10 A. I think --

11 Q. If you need to refer to the Staff Report,  
12 Staff Exhibit 1, page 24.

13 A. So that was the case for the rule update  
14 so that's potentially where a compliance tariff could  
15 be filed. I think if the Commission were to address  
16 the issue in this current case, it could potentially  
17 be part of this docket as well, or in lieu of that.

18 Q. Has the Company provided Staff a date  
19 certain about when those updates will be made?

20 A. I think that would be up to the  
21 Commission to decide, but I'm not aware of --

22 Q. Has Staff --

23 A. -- a specific date.

24 Q. -- provided a deadline to the Company?

25 A. Again, I think the intent was since it

1 was included in the Staff Report, that it would be  
2 addressed by the Commission in this case and so that  
3 the process would be sort of available following that  
4 Commission decision. Right now, the Company has a  
5 standard offer rate that's a bundled rate, so they do  
6 not, like the other EDUs, break out that rate for  
7 energy and capacity. So they are paying the full  
8 standard offer rate for net metering customers. And  
9 so I think the standard offer rate may also have to  
10 be amended to comply with the updated rule as well.

11 Q. And so until those updates are made at  
12 some point, the Company's filed tariffs will remain  
13 out of compliance with the Ohio Administrative Code,  
14 correct?

15 A. Yeah, I think that's right.

16 Q. And so there is the risk that customers  
17 who are interested in distributed generation and who  
18 seek information from the Company's filed tariff will  
19 rely on inaccurate or incomplete information from  
20 that tariff, correct?

21 A. Well, I think that -- the tariff is  
22 accurate and that's what the Company is paying net  
23 metering customers right now. I think once that  
24 changes, it will reflect the current rate once they  
25 break out that standard offer rate, but the SSO rates

1 generally are changing quarterly as the results of  
2 auctions are blended in, so it's never quite a static  
3 number in the same way distribution rates are static  
4 until the Company comes in for the next D case.

5 Q. Did -- strike that.

6 So you referenced earlier that  
7 distributed energy resources are becoming more common  
8 in Ohio and that there's growth in this area, and so  
9 you agree that customer interest in distributed  
10 generation is generally increasing, correct?

11 A. I would say we've seen quite a number of  
12 increases to the total interconnected DER facilities,  
13 yeah.

14 Q. Is it fair to say that this trend of  
15 increasing customer interest in distributed  
16 generation is also likely occurring in the Company's  
17 territory?

18 A. We've also seen growth in the AES Ohio  
19 territory with the number of facilities that are  
20 interconnected to the system.

21 Q. When you say you've seen growth, are you  
22 able to reference any percentages of growth, year to  
23 year?

24 A. I don't know the year to year. I think  
25 overall there are just over 1,200 facilities and just

1 over 21 megawatts of DERs that are connected to the  
2 system for AES Ohio. But we do have on our website a  
3 cool dashboard that shows the year-to-year growth.

4 Q. So your current position is as the Chief  
5 of Grid Modernization and Retail Markets Division  
6 within the Rates and Analysis Department, correct?

7 A. Yes, that's right.

8 Q. And in your role have you studied or  
9 worked on issues related to design for distributed  
10 energy resources?

11 A. What type of design do you mean?

12 Q. Design to encourage distributed energy  
13 resources.

14 A. Yeah. I mean, I work on a number of  
15 matters related to incentives for DG and renewables  
16 in particular.

17 Q. Earlier this week, Company Witness  
18 Teuscher testified rate design is an art, not a  
19 science, which is a fairly axiomatic statement about  
20 rate design, but it's one you would generally agree  
21 with, correct?

22 A. I have heard that phrase many, many  
23 times, yes.

24 Q. And governmental policies might shape  
25 rate design?

1           A.    Yes, definitely.

2           Q.    And it's true that the effect of a  
3 particular rate design can encourage the deployment  
4 of distributed generation, correct?

5           A.    I think that's right, and as I referenced  
6 earlier, I think there is a commitment by the Company  
7 to explore this matter further related to the  
8 commitments in the Grid Mod I Stipulation or the  
9 18-1875 Stipulation. And I think the data made  
10 available from that study may be useful in exploring  
11 this topic further.

12          Q.    Earlier you referenced both the increased  
13 deployment of distributed generation and battery  
14 technology -- technology onto the grid. And you  
15 would agree that deployment of those resources  
16 changes how a customer might interact with the grid,  
17 correct?

18          A.    For customers that own those types of  
19 resources; is that the question?

20          Q.    Correct.

21          A.    Yeah, I think so.

22          Q.    And do you agree that changing  
23 technologies and changes in how customers interact  
24 with the grid may result in changes to approaches in  
25 rate design?



1           A.    I'm not sure what types of rate design  
2 changes do you mean.

3           Q.    Should rate design evolve to accommodate  
4 changing technologies and changes in how customers  
5 interact with the grid?

6           A.    I think it depends on the specifics.

7           MR. BORCHERS: Your Honor, if I could  
8 have just a minute, I think I'm almost done with  
9 Witness Schaefer.

10           EXAMINER SCHABO: Sure. We will go off  
11 the record but stay -- stick around.

12           (Recess taken.)

13           EXAMINER SCHABO: Let's go back on the  
14 record.

15           Please continue your cross-examination.

16           Q.    (By Mr. Borchers) Ms. Schaefer, in your  
17 opinion can distributed generation reduce the need  
18 for utility investment in the distribution grid?

19           A.    Again, I think it could. I think it's  
20 very specific on when the DG resources -- resource  
21 produces energy and the specific -- specifics of  
22 where the facility is interconnected, but I think  
23 potentially, yes.

24           Q.    And do you believe the value of  
25 distributed generation is fully reflected by the

1 proposed tariffs?

2 A. So again, Staff Witness Bremer, if you  
3 are talking about the demand charge specifically, is  
4 testifying to that calculation. But again, this is a  
5 distribution rate case so it's the costs from a  
6 particular period as of the date certain and for a  
7 specific test year, so I think the intent for the  
8 demand charge is to develop the cost of distribution  
9 service reflected in that time period.

10 MR. BORCHERS: Ms. Schaefer, I have no  
11 further questions. Thank you for your time.

12 THE WITNESS: Thank you.

13 EXAMINER SCHABO: Thank you,  
14 Mr. Borchers.

15 City of Dayton, do you have cross for  
16 Ms. Schaefer?

17 MS. SIEWE: No questions, your Honor.  
18 Thank you.

19 EXAMINER SCHABO: IEU-Ohio?

20 MR. MCKENNEY: No questions. Thank you,  
21 your Honor.

22 EXAMINER SCHABO: OEG?

23 MS. COHN: No questions, your Honor.

24 EXAMINER SCHABO: OMAEG?

25 MS. BOJKO: No questions. Thank you.

1 EXAMINER SCHABO: Kroger?

2 MR. WYGONSKI: No questions, your Honor.

3 Thank you.

4 EXAMINER SCHABO: OPAE?

5 OHA?

6 UD?

7 Is there anyone I missed?

8 Ms. Kern, do you have redirect for your  
9 witness?

10 MS. KERN: If I could just have a minute  
11 or two, your Honor.

12 EXAMINER SCHABO: Same deal. We will go  
13 off the record but hang out.

14 (Recess taken.)

15 EXAMINER SCHABO: Let's go back on the  
16 record quickly.

17 Ms. Kern has indicated off the record  
18 that she has no redirect for the witness; is that  
19 correct?

20 MS. KERN: That's correct, no redirect.

21 EXAMINER SCHABO: All right. Would you  
22 like to address your exhibits?

23 MS. KERN: Yes.

24 EXAMINER SCHABO: Thank you,  
25 Ms. Schaefer.

1 THE WITNESS: Thank you.

2 MS. KERN: Staff would like to move for  
3 the admission of Staff Exhibit 5, the direct  
4 testimony of Krystina Schaefer.

5 EXAMINER SCHABO: Are there any  
6 objections?

7 Hearing none, Staff Exhibit No. 5 will  
8 been admitted.

9 (EXHIBIT ADMITTED INTO EVIDENCE.)

10 EXAMINER SCHABO: Mr. Borchers, did you  
11 want to do anything with One Energy Exhibit 9?

12 MR. BORCHERS: Your Honor, I will move to  
13 admit One Energy Exhibit 9.

14 EXAMINER SCHABO: Are there any  
15 objections?

16 Hearing none, One Energy Exhibit 9 will  
17 also be admitted into the record.

18 (EXHIBIT ADMITTED INTO EVIDENCE.)

19 EXAMINER SCHABO: We will take a  
20 10-minute break. We will come back at -- well, not  
21 quite. We will come back at 3:35, and we will take  
22 our last witness for the day. Thank you.

23 We are off the record.

24 (Recess taken.)

25 EXAMINER SCHABO: We are going back on

1 the record. We are back on the record.

2 Ms. Bair, your next witness.

3 MS. BAIR: Thank you, your Honor. Staff  
4 calls Matthew Snider as its next witness.

5 EXAMINER SCHABO: Mr. Snider, could you  
6 do me and favor and raise your right hand.

7 (Witness sworn.)

8 EXAMINER SCHABO: Thank you.

9 - - -

10 MATTHEW SNIDER

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

13 DIRECT EXAMINATION

14 By Ms. Bair:

15 Q. Could you please state your name and  
16 spell your name for the record.

17 A. Matthew Snider, S-N-I-D-E-R.

18 Q. Who is your employer and what is your  
19 position?

20 A. The Public Utilities Commission of Ohio  
21 is my employer, and I am a Utility Specialist III in  
22 the Rates and Analysis Department.

23 Q. Thank you.

24 MS. BAIR: Your Honor, I would like to  
25 recognize or note that Mr. Snider's prefiled

1 testimony is Staff Exhibit No. 6, his direct  
2 testimony.

3 EXAMINER SCHABO: So marked.

4 (EXHIBIT MARKED FOR IDENTIFICATION.)

5 MS. BAIR: Thank you.

6 A. I do have one small correction, Jodi, to  
7 make. I don't know if now is the time or not.

8 Q. I am going to ask you to make corrections  
9 in just a minute. Is that okay?

10 A. Yes, it is. Yep.

11 Q. Okay. That's fine. So let's talk about  
12 what's marked as Staff Exhibit 6. What is this  
13 document?

14 A. This is my prefiled testimony.

15 Q. And was that prepared by you or under  
16 your direction?

17 A. It was.

18 Q. Okay. And now I am going to ask you, do  
19 you have any changes, corrections, or additions that  
20 you would like to make?

21 A. Yes. I do. On page 10, Attachment MS-1,  
22 you see line 5 there, it --

23 Q. Hold on just a second. Let us get to  
24 page 10. Page 10. That's not marked, right?

25 A. Yeah, it's Attachment MS-1.

1 Q. Okay. Line 5.

2 A. Yeah. Where it says "Company proposed."  
3 It should be "Staff revised." And so then it should  
4 read "Staff revised Interest on Customer Service  
5 Deposits." That doesn't change the calculation at  
6 all. I just failed to update data -- that line.

7 Q. Okay. Thank you very much.

8 And I will just reiterate this is in  
9 Matt's testimony. It's Attachment MS-1 which, if you  
10 count the pages, is page 10, line 5. Instead of  
11 "Company proposed" it should say "Staff revised."

12 Do you have other changes?

13 A. No. That's all.

14 Q. Okay. And noting this change, if I were  
15 to ask you the questions contained in Staff Exhibit 6  
16 today, would your answers be the same?

17 A. They would.

18 MS. BAIR: Thank you.

19 Your Honor, I would like to move Staff  
20 Exhibit 6 into evidence, subject to  
21 cross-examination.

22 EXAMINER SCHABO: Thank you, Ms. Bair.  
23 We will come back to your exhibit after cross.

24 And I will go first to AES Ohio.

25 MR. SHARKEY: No questions, your Honor.

1 EXAMINER SCHABO: OCC?

2 MR. FINNIGAN: Yes, your Honor. Thank  
3 you.

4 - - -

5 CROSS-EXAMINATION

6 By Mr. Finnigan:

7 Q. Good afternoon, Mr. Snider. My name is  
8 John Finnigan. I'm an attorney with the OCC.

9 A. Hi, John.

10 Q. Good afternoon. I have a few questions  
11 for you, sir.

12 Sir, do you have access to the Company's  
13 schedules?

14 A. I -- when you say "schedules," like a  
15 specific part of the Staff Report or the --

16 Q. Yeah. These are some of the schedules  
17 that are referenced in the Staff Report. The first  
18 one I wanted to ask you about is C-3.24.

19 MS. BAIR: This is a Company Exhibit,  
20 Mr. Finnigan?

21 MR. FINNIGAN: No. These -- I'm sorry.  
22 These are the schedules that were part of the filing.

23 MS. BAIR: In the application.

24 MR. FINNIGAN: Yes.

25 MS. BAIR: Okay. It should be under AES



1 exhibits, I think is what it's marked for you, Matt,  
2 if you can find it.

3 A. Just a lot of exhibits. C schedules. I  
4 assume, you want the C-4, so.

5 Q. Yes. These are C schedules and the first  
6 one I wanted to ask about is 3.24.

7 A. Okay.

8 MS. BAIR: And what's the title of that,  
9 is that "Adjust Test Year Revenues," Mr. Finnigan?

10 MR. FINNIGAN: I apologize. I don't have  
11 the name of the schedule handy.

12 MS. BAIR: Okay. Because I think it's  
13 Company Exhibit 8.

14 THE WITNESS: Yeah, that's where I am at,  
15 Jodi. I am on the same page as you, Company  
16 Exhibit 8, C-3.24.

17 MS. BAIR: Yeah, adjust test year. Okay.  
18 Thank you.

19 MR. FINNIGAN: Thank you, Mr. Snider.

20 Q. (By Mr. Finnigan) Now, sir, I wanted to  
21 ask you about that schedule. Is there a difference  
22 between the amount of the C-2 revenue versus the E-4  
23 revenue?

24 A. Yes, there is. The Company proposed an  
25 adjustment on this schedule to make their test year

1 C-2 or C-2.1 revenue match the amount they calculated  
2 on the E-4.

3 Q. And what is your understanding of the  
4 reason for the difference in revenue between those  
5 two schedules, that is the C-2 and the E-4?

6 A. Yeah. My understanding is the Company  
7 based their billing determinants in this case on  
8 their long-term forecast report. And that  
9 generated -- the billing determinants then flow to  
10 the E-4 and then they made an adjustment to make --  
11 to adjust their E-4 -- the C-2 down to match the E-4.  
12 They reduced revenue in order to make the C-2 match  
13 the E-4.

14 Q. And was the nature of the adjustment one  
15 where they reduced the test year revenue to make the  
16 two numbers match?

17 A. Yes. As you'll see on that schedule, you  
18 know, the test year revenue was roughly \$239 million.  
19 And the E-4 revenue was 237 million.

20 Q. Now, sir, do you have your C-3.24  
21 schedule available?

22 A. I do.

23 Q. And looking at that, would it be accurate  
24 that you increased the test year operating revenue on  
25 C-2 on your form?

1           A.    Yes.

2                   EXAMINER SCHABO:  I'm sorry, Mr. Snider.

3                   Mr. Finnigan, where are we looking?

4                   MR. FINNIGAN:  This is on --

5                   MS. BAIR:  Staff Exhibit --

6                   MR. FINNIGAN:  I'm sorry.  I am looking  
7 at Mr. Snider's C-3.24 that he prepared.

8           Q.    (By Mr. Finnigan) Where are you pulling  
9 that from, Mr. Snider?

10           A.    I am looking at the Staff Report that  
11 that's where I would have made the adjustment.  I did  
12 not attach that because I did not revise that  
13 recommendation --

14                   EXAMINER SCHABO:  Thank you.

15           A.    -- in my testimony.

16                   MS. BAIR:  Do you have it, your Honor?  
17 It's Staff Exhibit 1, the Staff Report, back in the  
18 schedules.  It's C-3.24 titled "Adjust Test Year  
19 Revenues," page 1 of 1.

20                   EXAMINER SCHABO:  Thank you.

21           Q.    (By Mr. Finnigan) Mr. Snider, would it be  
22 true on that C-3.24 you increased the test year  
23 operating revenue on C-2?

24           A.    No.  I -- I reduced it by \$5 million on  
25 C-3.24.  And that was to account for another Staff

1 member updated two riders from the forecasted values  
2 to actuals and Staff's goal in the end is to exclude  
3 riders from base rates. So if -- if you are going to  
4 update a forecast to an actual and your goal is still  
5 to remove those revenues from base rates, Staff would  
6 have to adjust their C-2 revenue to still exclude  
7 those rider revenues.

8 Q. Okay. Thank you, Mr. Snider.

9 And were those riders, was one of them  
10 the Storm Cost Recovery Rider?

11 A. Yes, that is correct.

12 Q. And the other one is the State Excise  
13 Rider?

14 A. Yes, that's also correct.

15 Q. Now, in this case we had three months of  
16 actual data and nine months of budgeted data; is that  
17 right?

18 A. That is correct.

19 Q. Now, on the Storm Cost Rider, did you use  
20 that amount of data or did you use a different  
21 amount?

22 A. On the Storm -- on the -- can you define  
23 "data"? When you say -- the revenue that was built  
24 into the test year or the -- I am a little confused  
25 by the question.

1           Q.    Well, I am just asking when you made the  
2           adjustment that you just described, did you look at  
3           data for the Storm Cost Rider based on three months  
4           of actual data like the test year or was it some  
5           different period of actual results?

6           A.    My understanding it was updated to  
7           actuals. I did not actually propose this adjustment  
8           but I've taken it on in my testimony but, yeah, my  
9           understanding is that was updated to 12 months of  
10          actual. And the test year included, like you said,  
11          three months of actual and nine months of forecast.  
12          So that is what's generating those differences. But  
13          like I earlier said, ultimately we want to exclude  
14          any rider revenue from base rates so that is why then  
15          I had to, on Schedule 3.24, pick up the differences  
16          associated with those riders.

17          Q.    Thank you.

18                Now, sir, did you look at the amount of  
19          revenue reported for November and December of 2020 in  
20          comparison to the other months?

21          A.    I don't -- I don't know. I'm not sure.

22          Q.    Do you recall whether the amount of  
23          revenue for November and December of 2020 was  
24          unusually low as compared to the remaining months?

25                MS. BAIR:  Objection, your Honor.

1 EXAMINER SCHABO: Basis?

2 MS. BAIR: The question he asked before  
3 that is, if Mr. Snider looked at those months and he  
4 said I don't know. And he is asking --

5 EXAMINER SCHABO: This a follow-up to the  
6 question. I will let it stand.

7 A. I guess first when you are saying that,  
8 are you speaking about the riders for those months or  
9 are you speaking about test year revenues in general?

10 Q. I wanted to ask about both.

11 MS. BAIR: Could we take it one question  
12 at a time, please?

13 MR. FINNIGAN: Sure.

14 Q. Let me first ask about the test year  
15 revenues for November and December. Do you recall  
16 whether the test year revenues for those two months,  
17 that is November and December 2020, were unusually  
18 low in comparison to the remaining months?

19 A. Sitting here today, I don't know.

20 Q. Did you consider making any normalizing  
21 adjustments for the revenue for the test year?

22 A. That is not Staff's recommendation or my  
23 recommendation in this case.

24 Q. When would you consider making a  
25 normalizing adjustment?

1           A.    I don't know if there is exactly a  
2           threshold but, you know, Staff's normal review  
3           process involves comparing historical revenues and  
4           the actual revenues that come in during the test  
5           period and comparing them to the amount forecasted in  
6           the -- in the test year and if those numbers look to  
7           be of, you know, forecasted year too high or too low,  
8           Staff would often look to adjust those, but it is not  
9           our recommendation in this case.

10          Q.    Now, I want to direct your attention back  
11          to the Storm Cost Rider that we discussed a few  
12          moments ago. And I believe you said that that had  
13          more actual data than the rest of the test year  
14          revenues that were a 3 and 9. And was the Storm Cost  
15          Rider based on 12 months of actual data or 6 months  
16          of actual data?

17          A.    Like I stated earlier, I did adopt this  
18          from another Staff member and sitting here today, I  
19          do not know whether they updated it to 6 months or  
20          12 months. I assumed it was updated to the 12 months  
21          of actual but I could be incorrect and maybe that  
22          individual only updated to 6 months but, as I stated  
23          earlier, the goal is to remove riders from the  
24          revenue requirement and that's what Staff's  
25          adjustment has done.

1           So, you know, if you -- if you look on  
2     the C-2, when -- with these adjustments, you are  
3     really only left with -- with the Company's proposed  
4     adjustment of roughly, what, \$2.4 million that  
5     lowers.

6           Q.    Are you going back to that original  
7     2.4 million we talked about at the very beginning of  
8     your testimony on the C-3.24 schedule?

9           A.    Yeah, yeah, that's the one I am talking  
10    about. Ultimately, those are the only -- the only  
11    adjustment that would hit the A-1 in current  
12    operating income.

13          Q.    But didn't the adjustments have the  
14    effect of reducing test year operating revenues by  
15    about \$5 million?

16          A.    Yes. But that adjustment is -- for the  
17    riders will also be excluded. So, like I said, you  
18    would have to compare what the Company forecasted on  
19    the C-2.1 and then what Staff proposed to update for  
20    those -- those specific riders and then take into  
21    account Staff's adjustments. So once you've done  
22    that, the riders are excluded from the current  
23    operating income.

24          Q.    Okay. And where is that shown that the  
25    riders are excluded from the current operating



1 income?

2 A. That would be on your C-2. So you have  
3 an "Unadjusted" and then you have an "Adjustments"  
4 and then you have an "Adjusted" column. That  
5 "Adjusted" column on the C-2 would be any -- any  
6 adjustments the utility has proposed in this case  
7 along with removing riders from the test year.

8 Q. Now, I want to direct your attention to  
9 the other rider we talked about. So you've already  
10 explained the Storm Cost Rider. We talked earlier  
11 about the Excise Tax Rider, so I want to go back to  
12 that one for a moment.

13 A. Okay.

14 Q. And what was the amount of actual data  
15 that was used for that rider?

16 A. Likewise, I -- like I stated earlier, I  
17 did adopt this. I thought it was updated to  
18 12 months of actual. It sounds like you have earlier  
19 indicated to me that it was potentially based on  
20 6 months of actual. So sitting here right now, I do  
21 not know if it was based on 6 or 12 months of actual.  
22 I do know that like the Storm Cost Rider, it has been  
23 excluded or adjusted out on the C-2 and does not hit  
24 current operating income.

25 Q. So would it be true then that even though

1 the Excise Tax Rider was adjusted, it contained more  
2 than three months actual data, are you saying that  
3 that had no impact on the test year revenues?

4 A. Yes. That's what I am saying.

5 Q. Do you know who did adjustments to those  
6 two riders?

7 A. I believe that would be Suzanne Williams  
8 but she has taken another job within the PUCO. She's  
9 no longer in the Rates and Analysis Department.

10 Q. Are her workpapers attached to the Staff  
11 Report?

12 A. I think they would be embedded within the  
13 Excel file of the Staff Report.

14 MR. FINNIGAN: That's all the questions I  
15 have. Thank you, Mr. Snider.

16 THE WITNESS: Thank you, John.

17 EXAMINER SCHABO: Walmart.

18 MS. GRUNDMANN: No cross, your Honor.

19 EXAMINER SCHABO: IGS?

20 MR. BETTERTON: We have no cross for this  
21 witness, your Honor.

22 EXAMINER SCHABO: Direct Energy?

23 MR. WHITT: Yes, your Honor. Can you  
24 hear me okay?

25 EXAMINER SCHABO: Yes.

1 MR. WHITT: Thank you.

2 - - -

3 CROSS-EXAMINATION

4 By Mr. Whitt:

5 Q. Mr. Snider, my name is Mark Whitt, I  
6 represent Direct Energy. I have just a few questions  
7 for you.

8 Before we get started, my understanding  
9 is that prior to the hearing we circulated Direct  
10 Exhibit 1 which would be the objections to the Staff  
11 Report. Do you have that handy, Mr. Snider?

12 A. Yeah. I am going to bring it up right  
13 now.

14 Q. Okay.

15 A. I have it open.

16 Q. Okay. We are going to get to it in just  
17 a moment, but I have a question for you about page 7  
18 of your testimony, Question and Answer 17.

19 A. I'm there.

20 Q. Okay. And in your testimony at Question  
21 and Answer 17, you're addressing Direct's Objection  
22 2d, correct?

23 A. Yes.

24 Q. And that has to do with the supplier  
25 fees, correct?

1           A.     That's correct, yes.

2           Q.     And as you indicate, Staff's adjustment  
3 does not attempt to comment on the necessity of, or  
4 the policy associated with, CRES provider fees,  
5 correct?

6           A.     Yeah, but it's more that I'm not  
7 commenting on those. I don't know if -- you know, I  
8 think another Staff Witness, Craig Smith, may, but  
9 I'm not trying to comment on them.

10          Q.     But you are the Staff Witness responsible  
11 for the adjustment, correct?

12          A.     Yes, to recognize the additional revenue  
13 associated with the CRES provider fees.

14          Q.     And you go on to say that Staff's  
15 adjustment on Schedule C-3.28 simply identifies other  
16 sources of revenue collected by the Company, correct?

17          A.     Yes.

18          Q.     And it's true, isn't it, that the sources  
19 of revenue and amounts of revenue available to the  
20 Company depend on what the Commission authorizes in  
21 this case, correct?

22          A.     You know, this is an other revenue item.  
23 It's typically, when you look at an overall revenue  
24 requirement, it reduces the revenue requirement and  
25 then that revenue requirement is allocated to the

1 various classes so -- so, yeah, I mean, I guess if  
2 the Commission deems to not include this as a source  
3 of revenue, then it wouldn't be counted. But I guess  
4 I am a little confused by the -- by the question.

5 Q. Well, part of the purpose of a rate case  
6 is for the Commission to determine the amount of  
7 revenue that the Company should recover through  
8 rates, correct?

9 A. Yes. That's correct. But Staff could,  
10 you know, make recommendations on where those  
11 revenues come from, whether it be simply base rates  
12 or other sources of revenue, you know, rent is  
13 another one, you know. If a utility rents out their  
14 building, you know, those are counted as additional  
15 revenues within the revenue requirement.

16 Q. Okay. And Staff elected not to review  
17 whether supplier fees should be an appropriate  
18 revenue source; is that fair to say?

19 A. Yes. I would agree with that.

20 Q. Okay. If you go with me to Direct  
21 Exhibit 1 which were our objections, and I will draw  
22 your attention to page 5.

23 A. Okay. I'm there.

24 Q. And at the top of page 5, we have some  
25 language from proposed tariffs and then have strike

1 through in it simply to indicate our position for an  
2 objection. Hopefully you can still see through the  
3 strike through.

4 A. I believe so, yeah.

5 Q. But if you look at the last -- on the top  
6 of page 5 under the "Switching Fee" heading, the last  
7 sentence says "The AGS will be required to pay the  
8 Switching Fees on behalf of the Customer," correct?

9 A. Yes, that's correct.

10 Q. Okay. Now, if you go with me to the next  
11 page of Direct Exhibit 1, within paragraph H there  
12 are two indented paragraphs, correct?

13 A. Correct.

14 Q. And the first paragraph refers to the  
15 authorization to switch to an alternate generation  
16 supplier and provides for a \$5 fee when there is a  
17 switch from the Company's Standard Service Offer to  
18 AGS or retail supplier, correct?

19 A. Yes, that's correct.

20 Q. And in the -- well, as I think we just  
21 agreed, that fee is payable by the CRES provider on  
22 behalf of the customer, correct?

23 A. That's my understanding, yes.

24 Q. Okay. Now, the next paragraph, I am  
25 still on page 6, returning to the Standard Service

1 Offer, this provision also provides for a \$5  
2 switching fee for customers returning to the Standard  
3 Service Offer, correct?

4 A. Yes, that's what it looks like, yeah.

5 Q. And do you have an understanding of who  
6 is responsible for the \$5 fee when there is a switch  
7 from a retail supplier back to the SSO?

8 MR. SHARKEY: Objection, your Honor.  
9 This is a distribution rate case and these are  
10 generation-related tariffs and so I believe his  
11 questioning is wholly irrelevant to any of the issues  
12 in this case.

13 MR. WHITT: I'm actually quoting D34  
14 which is a distribution tariff. Moreover, nothing in  
15 Chapter 4909 distinguishes between a distribution  
16 case and a generation case or any other such  
17 distinction.

18 EXAMINER SCHABO: The objection is  
19 overruled.

20 THE WITNESS: Can I have the question  
21 reread?

22 MR. WHITT: Can I have the court reporter  
23 reread it, please.

24 EXAMINER SCHABO: Yeah. I think she's  
25 looking for it, guys.

1 (Record read.)

2 A. I am not very familiar with this tariff  
3 personally, but reading it, it looks as though it  
4 says "The Company would charge the customer a  
5 switching fee of \$5."

6 Q. And when it says "the Company will charge  
7 the customer," do you have an understanding of  
8 whether it is the AGS or AES that must pay that fee  
9 on the customer's behalf?

10 A. I don't know.

11 Q. If we look at your Schedule M-2, you have  
12 a revised adjustment to test year revenues for  
13 switching fees, correct?

14 A. Yes.

15 Q. Does the figure presented in MS-2 for the  
16 adjustment include revenue from switching that occurs  
17 from a retail supplier back to AES?

18 A. I don't believe so. In preparation for  
19 this I did review some Intervenor testimony, and it  
20 looked as though the Company had -- had no revenue  
21 associated with customer switching.

22 Q. So the \$228,200 in revenue shown in your  
23 schedule would reflect switching fees only from the  
24 Standard Service Offer to an AGS; is that correct?

25 A. Yes, that's correct.



1 MR. WHITT: I have no further questions.

2 Thank you.

3 EXAMINER SCHABO: Thank you, Mr. Whitt.  
4 One Energy?

5 MR. BORCHERS: No questions, your Honor.

6 EXAMINER SCHABO: City of Dayton?

7 MS. SIEWE: No questions, your Honor.

8 Thank you.

9 EXAMINER SCHABO: IEU-Ohio?

10 MR. MCKENNEY: No questions, your Honor.

11 Thank you.

12 EXAMINER SCHABO: OEG?

13 MS. COHN: No questions, your Honor.

14 Thank you.

15 EXAMINER SCHABO: OMAEG?

16 MS. BOJKO: No questions, your Honor.

17 Thank you.

18 EXAMINER SCHABO: Kroger?

19 MR. WYGONSKI: No questions, your Honor.

20 EXAMINER SCHABO: OPAE?

21 OHA?

22 UD?

23 Anyone I missed?

24 Ms. Bair, will you have redirect for your  
25 witness?

1 MS. BAIR: We may. And it shouldn't take  
2 very long. I promise to be shorter this time. If we  
3 could have, you know, 3 minutes, 5 minutes.

4 EXAMINER SCHABO: 3 minutes is the magic  
5 interval. We will go off the record for 3 minutes.

6 (Recess taken.)

7 EXAMINER SCHABO: Let's go back on the  
8 record.

9 Ms. Bair, do you have any redirect?

10 MS. BAIR: No, we have no redirect, and I  
11 would like to move again for Exhibit -- oh, shoot,  
12 Exhibit 6 to be moved into evidence, please.

13 EXAMINER SCHABO: Are there any  
14 objections to the admission of the Staff Exhibit 6?  
15 Seeing none, it will be admitted.

16 (EXHIBIT ADMITTED INTO EVIDENCE.)

17 EXAMINER SCHABO: Mr. Whitt, did you want  
18 to do anything with your exhibit or?

19 MR. WHITT: Yes, your Honor. I suppose  
20 it would be the appropriate time to move for the  
21 admission of Direct Exhibit 1.

22 EXAMINER WILLIAMS: Judge Schabo, we're  
23 going to admit -- deem admitted all of the objections  
24 that are timely filed, we probably don't need to  
25 admit this separately.

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1 EXAMINER SCHABO: I am going to admit it  
2 anyway because he marked it and talked about it,  
3 unless there are objections, none of which I see, so  
4 Direct Energy No. 1 will be admitted to the record.

5 (EXHIBIT ADMITTED INTO EVIDENCE.)

6 EXAMINER SCHABO: Thank you, Mr. Snider.

7 THE WITNESS: Thank you. Have a good  
8 weekend.

9 EXAMINER SCHABO: Let's go off the  
10 record.

11 (Discussion off the record.)

12 EXAMINER WILLIAMS: Back on the record.

13 We discussed a couple of procedural items  
14 while we were away and that included when we  
15 reconvene on Tuesday, we are going to take Monday off  
16 as a testimony hearing day, we will resume our  
17 hearing on Tuesday, February 1, and our witness order  
18 will be Bremer, Smith, Lipthratt, and White. Those  
19 conclude the witnesses currently known to the parties  
20 and the Bench.

21 We also discussed the potential for  
22 rebuttal testimony in the case, and we've agreed to  
23 set the deadline for the filing of rebuttal testimony  
24 by the end of business on Wednesday, February 2, and  
25 at this juncture assuming that we can bring rebuttal

1 testimony to hearing to the Bench's attention in one  
2 day, the plan would be to have the hearing for  
3 rebuttal testimony consideration on Monday  
4 February 7. And we'll circulate access for that  
5 hearing after our hearing on Tuesday, February 1.

6 So that, I believe, concludes the  
7 entirety of our off-the-record discussions as well as  
8 the procedural matters that are known to the Bench at  
9 this juncture but I will open it up to the parties if  
10 there is anything we've missed or misstated.

11 Seeing no one frantically wave or reach  
12 for their mute button, I believe that concludes our  
13 week. We want to thank the parties for frankly being  
14 incredibly well organized, very well prepared. It  
15 was a long week of taking testimony, but I believe we  
16 developed a very strong record, and I appreciate  
17 everyone's attention. Thank you.

18 We are off the record.

19 (Thereupon, at 4:27 p.m., the hearing was  
20 adjourned.)

21 - - -  
22  
23  
24  
25

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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 Friday, January 28,  
2022, and carefully compared with my original  
stenographic notes.

Karen Sue Gibson, Registered  
Merit Reporter.

(KSG-7222)

- - -

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**Case No(s). 20-1651-EL-AIR, 20-1652-EL-AAM, 20-1653-EL-ATA**

Summary: Transcript in the matter of the Dayton Power & Light Company hearing held on 01/28/22 - Volume V electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs.