BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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IN THE MATTER OF THE APPLICATION OF DOMINION ENERGY UTAH TO INCREASE DISTRIBUTION RATES AND CHARGES AND MAKE TARIFF MODIFICATIONS) Docket No. 22-057-03

PHASE I HEARING (DAY 1)

ADVANCED REPORTING SOLUTIONS

Taken on October 19, 2022

9:01 a.m. to 4:49 p.m.

Reported by: Michelle Mallonee, RPR, CCR

APPEARANCES

Commissioners:
Chairman Thad LeVar
Commissioner David R. Clark
Commissioner Ron Allen

For Dominion Energy Utah:

JENNIFFER NELSON CLARK, ESQ.
DOMINION ENERGY UTAH
333 South State Street
P.O. Box 45433
Salt Lake City, Utah 84145-0433
jenniffer.clark@dominionenergy.com

CAMERON L. SABIN, ESQ.
MAYER BROWN, LLP
10 West Broadway, Suite 700
Salt Lake City, Utah 84101
(801) 907-2715
csabin@mayerbrown.com

For the Division of Public Utilities:

PATRICIA E. SCHMID, ESQ.
UTAH ATTORNEY GENERAL'S OFFICE
160 East 300 South, 5th Floor
Salt Lake City, Utah 84114
(801) 366-0353
pschmid@agutah.gov

For the Office of Consumer Services:

ROBERT J. MOORE, ESQ.
UTAH ATTORNEY GENERAL'S OFFICE
160 East 300 South, 5th Floor
Salt Lake City, Utah 84114
(801) 366-0353
rmoore@agutah.gov

For Utah Association of Energy Users:
PHILLIP J. RUSSELL, ESQ.
JAMES DODGE RUSSELL & STEPHENS
10 West Broadway, Suite 400
Salt Lake City, Utah 84101
(801) 363-6363
prussell@jdrslaw.com

For Federal Executive Agencies:
MAJOR HOLLY L. BUCHANAN, ESQ.
DEPARTMENT OF THE AIR FORCE
139 Barnes Drive, Suite1
Tundall Air Force Base, Florida 32403
(850) 283-63347
holly.buchanan1@us.af.mil

For Nucor Steel - Utah(Nucor Corp.):
LAURA W. BAKER, ESQ. (Appearing telephonically)
DAMON E. XENOPOULOS, ESQ.
STONE MATTHEIS XENOPOULOS & BREW, PC
1025 Thomas Jefferson Street, NW
8th Floor, West Tower
Washington, DC 20007-5201
(202) 342-0800
dex@smxblaw.com

For American Natural Gas Council:
STEPHEN F. MECHAM, ESQ.
STEPHEN F. MECHAM LAW, PLLC
1180 East 1st Avenue
Salt Lake City, Utah 84103
(801) 359-4165
smecham@comcast.net

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I N D E X

E X H I B I T S

P R O C E E D I N G S

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CHAIRMAN LEVAR: Okay. We are on the record. Good morning, everyone. We're here for the Public Service Commission hearing, the first day of the Phase 1 hearing in Docket 22-057-03, the application of Dominion Energy Utah to increase distribution rates and charges and make tariff modifications.

Why don't we start with appearances for Dominion Energy Utah.

MS. CLARK: Thank you. I'm Jenniffer Clark. I'm counsel for Dominion Energy, and I've brought with me Cameron Sabin, my co-counsel.

We also have Phase 1 witnesses for the Company, Jennifer Nelson, Kelly Mendenhall, and Jordan Stephenson with us.

CHAIRMAN LEVAR: Thank you.

For the Division of Public Utilities.

MS. SCHMID: Good morning. Patricia E. Schmid with the Utah Attorney General's Office for the Division of Public Utilities.

Our Phase 1 witnesses are Mr. Casey Coleman, Mr. Eric Orton, Mr. Jeff Einfeldt, and Mr. Doug Wheelwright. Thank you.

CHAIRMAN LEVAR: Okay. Thank you.

Mr. Moore.

MR. MOORE: Robert Moore, assistant attorney general, representing the Office of Consumer Services. Our cost of capital witness is Daniel Lawton.

CHAIRMAN LEVAR: Thank you.

For the Utah Association of Energy Users.

MR. SABIN: Good morning. Phillip Russell on behalf of UAE. Our Phase 1 revenue requirement witness is Kevin Higgins.

CHAIRMAN LEVAR: Thank you.

American Natural Gas counsel.

MR. MECHAM: Good morning, Mr. Chair and Commissioners. Steve Mecham representing American Natural Gas Council. We have not sponsored a witness in this phase, so I don't expect to participate much. I'm just monitoring. If it's okay, I'll be coming and going.

CHAIRMAN LEVAR: Okay. Thank you for letting us know that.

Federal Executive Agencies.

MAJOR BUCHANAN: Good morning. Major Holly Buchanan on behalf of the Federal Executive Agencies. And our Phase 1 witness is Mr. Christopher Walters.

CHAIRMAN LEVAR: Okay. Thank you.

I think we have some attorneys who are going to participate by telephone. Do we have anyone on the phone from Nucor Steel?

MS. BAKER: Yes, good morning. This is Laura Baker with the law firm Stone Mattheis Xenopoulos & Brew, appearing on behalf Nucor Steel Utah. I'd also like to enter an appearance for my partner, Damon Xenopoulos.

We don't have any witnesses in this phase of the hearing. And when it would be a good time, we have a motion for a request before the hearing gets started.

CHAIRMAN LEVAR: Okay. We'll get to that in just a moment.

Is there anyone in the room or on the phone for the Utah Asphalt Pavement Association?

Okay. Why don't we go, Ms. Baker, to your motion next, then.

(Court reporter interruption.)

CHAIRMAN LEVAR: Ms. Baker, I'm sorry, the court reporter is having a little trouble hearing you. If there's a way you could speak a little louder or closer to your phone.

MS. BAKER: Yes, you sound not very loud on my end, either. Is this better?

CHAIRMAN LEVAR: This is better for us. We can hear you clearer now.

MS. BAKER: Perfect. We would move, or respectfully request that we be excused from this phase of the hearing. As I said earlier, we don't have any witnesses in this phase, and we don't plan to do any cross-examination.

CHAIRMAN LEVAR: Okay. Let me just see if anyone objects in the room. I'm looking around the room and not seeing any objection.

So I'm not sure a motion is necessary for that, but we recognize your desire not to participate in this hearing. So we appreciate you letting us know.

MS. BAKER: Okay. Wonderful. And we will be attending for Phase 2 with a witness in that phase, as well.

CHAIRMAN LEVAR: Certainly. We'll look forward to that.

MS. BAKER: Thank you very much.

CHAIRMAN LEVAR: We had some materials that were left on our desk before the hearing started. We probably should identify those for the transcript.

Were they all left by Dominion? We have a binder and three documents that were on my desk.

Were they all from you, or were some from --

MS. CLARK: No, not all are from me. And two of them -- well, one of them pertains to a preliminary matter. We provided courtesy copies in the binder of all of the Dominion Energy witnesses and their exhibits, with the confidential and highly confidential at the back so they're easily segregated.

And then we will offer when it's the appropriate time as a preliminary matter, a statement of uncontested issues.

CHAIRMAN LEVAR: Okay. And then let's just identify the other two lists -- documents. Looks like one is from the Office of Consumer Services, and one is from the Division of Public Utilities.

So Ms. Schmid, if you would just identify the document that was left on the desk.

MS. SCHMID: Yes. The document is the Division's exhibit list for Phase 1 of this proceeding.

CHAIRMAN LEVAR: Okay. Thank you.

Mr. Moore?

MR. MOORE: Yes. And our document is also the Office of Consumer Services exhibit list.

CHAIRMAN LEVAR: Okay. I'll go back to you, Ms. Nelson. Do you have a -- you said you had a motion.

MS. CLARK: We have two preliminary matters, Chairman. The first is pertaining to the order of witnesses. We have collaborated all of the parties to accommodate out-of-town cost of capital revenue witnesses. I believe the Office has a second consultant, and we'd like to put some of those folks first in the lineup so that they can go ahead and get out of town.

So we would propose that the order of witnesses begin with Ms. Nelson, our expert witness, and proceed through the consultants on revenue requirement for the other parties, and then thereafter, move on to the revenue requirement witnesses. So that is, I think, the first preliminary matter.

CHAIRMAN LEVAR: Okay. Is there any objection to moving forward that way?

So we'll go to each party's cost of capital witnesses before we move on to the other revenue requirement issues.

Is that common understanding? Okay. I'm seeing affirmative gestures from everyone in the room, so we'll plan to move forward that way.

MS. CLARK: Thank you. The second matter is document you find before you --

CHAIRMAN LEVAR: Mr. Moore, did you have something to add to that?

MR. MOORE: Yes. I wanted to clarify that our revenue requirement, our second revenue requirement consultant will not be here until tomorrow.

CHAIRMAN LEVAR: Okay. But your cost of capital witness is here today?

MR. MOORE: Cost of capital witness is here today.

CHAIRMAN LEVAR: Okay. Thank you.

Go ahead.

MS. CLARK: Thank you. Pertaining to the document you find before you entitled, "Statement of Uncontested and Contested Issues," the Company and the parties who have revenue requirement issues have agreed upon this list of contested and uncontested issues. And you can see from the attachment how we've characterized those issues.

If you look at Appendix A, you'll see on the left a list of the issues. The top block are the uncontested issues, and the bottom block are the contested issues. The shaded boxes in the table are meant to indicate which parties expressed or offered testimony on those matters.

If you look at the pleading that precedes it, you will see that the parties have agreed to a revenue requirement adjustment that encompasses a number of uncontested issues shown in that first block.

And the Company would move to have this admitted to the record.

CHAIRMAN LEVAR: Okay. If there's any objection to that motion to admit this Statement of Uncontested and Contested Issues into the record, please indicate your objection.

I'm not seeing any objection from anyone in the room, so that motion is granted. Thank you.

MS. CLARK: Thank you. And we have no further preliminary matters.

CHAIRMAN LEVAR: Okay. Thank you.

Anything else preliminarily from anyone? I'm not seeing anything.

So Ms. Clark, why don't you go ahead with your first witness.

MS. CLARK: The company calls Jennifer Nelson.

CHAIRMAN LEVAR: Good morning, Ms. Nelson.

THE WITNESS: Good morning.

CHAIRMAN LEVAR: Do you swear to tell the truth?

THE WITNESS: I do.

CHAIRMAN LEVAR: Thank you.

MR. SABIN: Mr. Chairman, I'll be doing direct examination on Ms. Nelson.

CHAIRMAN LEVAR: Thank you.

JENNIFER NELSON,

was called as a witness, and having been first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. SABIN:

Q. Ms. Nelson, would you please state your full name for the record.

A. Sure. My name is Jennifer E. Nelson.

Q. Where are you employed?

A. I am employed as an assistant vice president at Concentric Energy Advisors.

Q. And can you just provide the Commission with a brief background of your education and professional pursuits.

A. Sure. Concentric is a management consultancy and advisory firm that focuses on the North American regulated energy and water industries.

I have nearly 15 years' experience in the energy industry, with approximately 12 of those in the regulated utility sector.

In my role as a consultant, I provide consulting services and expert witness testimony on economic, financial, and regulatory issues, including the cost of capital.

Prior to my experience as a consultant, I was a staff economist at the Massachusetts Department of Public Utilities, and a petroleum economist for the State of Alaska.

I have a bachelor's degree in business economics and a master's degree in resource and applied economics. And I am also a certified rate of return analyst, as awarded by the Society of Utility and Regulatory Financial Analysts.

Q. Thank you very much. I have record of both direct and rebuttal testimony that you submitted in this proceeding. I have your direct testimony as Dominion Energy Utah Exhibit 2.0, with attached Exhibits 2.01 through 2.09. And then your rebuttal testimony is DEU Exhibit 2.0R with attached Exhibits 2.11R through 2.27R.

Is that your understanding?

A. Yes.

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

A. No, I do not.

Q. The materials that you've provided in your direct and rebuttal testimony, if you were asked to present those materials in this hearing today in full, would they be the same as what you've presented in your direct and rebuttal testimony?

A. Yes, they would.

Q. Thank you.

MR. SABIN: Before we have her do her summary, Mr. Chairman, we have a -- she's created a handout, which is from her direct and rebuttal testimony, that we think would be helpful. So if you'd excuse me, I'd just like to give everybody a copy.

CHAIRMAN LEVAR: Sure. Do any of the parties have one?

MR. SABIN: They received an electronic copy, but this is a hard copy just for today's purposes.

Q. (BY MR. SABIN:) All right. Ms. Nelson, you have prepared a summary of your testimony; is that right?

A. I have.

Q. Would you go ahead and share that with the Commission.

A. Good morning, Chair LeVar, Commissioner Clark, Commissioner Allen. I appreciate the opportunity to give you a summary of my testimony today.

My testimony in this proceeding addresses the cost of capital. My role is to provide the Commission with an estimate of the Company's cost of equity, and to assess the reasonableness of its requested capital structure and cost of debt to be used for ratemaking purposes.

As explained in my testimony, I concluded that DEU's cost of equity is 10.3 percent, within a range of 9.6 percent to 10.75 percent. I developed my recommendation using three widely used market-based financial models. Those include the discounted cash flow, or DCF model; the capital asset pricing model, or CAPM, or Bond Yield Plus Risk Premium model. Variations of these models were used by the intervenor ROE witnesses in this proceeding.

Importantly, my recommendation considers the current capital market environment of increasing capital costs, inflation, and market risk. It also considers the environment the Company operates in -- the regulatory environment the Company operates in, and the increase in financial leverage and, therefore, risk associated with its capital structure.

In this proceeding, the Company requests a capital structure consisting of 53.21 percent of common equity and 46.79 percent long-term debt, which is more leveraged, or it contains more debt, than its current authorized capital structure of 55 percent common equity and 45 percent long-term debt. Further, it requests a cost of long-term debt of 4 percent.

If approved, customers will receive significant cost savings of DUE's more leveraged requested capital structure and lower cost of debt in this proceeding relative to its current authorized capital structure and cost of debt.

The cost savings from its more leveraged capital structure and lower cost of debt is equivalent to approximately 47 basis points of equity costs. For example, the Company's current weighted average cost of capital is 7.18 percent -- its current authorized weighted average cost of capital is 7.18 percent. A ROE of 9.97 percent with 47 basis points above its current authorized ROE of 9.5 percent would produce the same weighted average cost of capital, 7.18 percent. In other words, if the Commission were to authorize an ROE between the Company's current authorized ROE of 9.5 percent and 9.97 percent, it would reflect a lower overall rate of return than the Company's current authorized rate of return.

Moreover, the proposed weighted average cost of capital in this proceeding, which includes my recommendation of 10.3 percent ROE is 7.35 percent, only 17 basis points higher than its current authorized weighted average cost of capital, which is, as I'll discuss in a moment, is quite modest and reasonable, considering the significant increase in capital costs since the Company's last rate cases.

So now I'm going to turn to the handout. In my direct and rebuttal testimonies, I provided observable and undisputed market evidence that indicates capital costs have significantly increased since the Company's last rate case. Specifically, this evidence includes higher treasury and utility bond yields, the highest inflation in the last 40 years, higher beta coefficients, and higher equity market volatility.

So turning to the handout, the first figure is from Figure 5 of my rebuttal testimony, which shows the significant increase in treasury bond and utility bond yield since the Company's last rate case.

If you look to the dark, black solid line, which is the bottom line, that is the 30-year treasury bond yield between February of 2020 and August of 2022. As this shows, the 30-year treasury bond yield has increased 147 basis points between the time at the Commission's order of DEU's last rate case, issued February 25th of 2020 and August 31st. The 30-year treasury bond has risen from 1.8 percent to 3.27 percent. And that is as of August 31, 2022.

The top two lines are utility bond yields. The solid gray line is Moody's Baa-rated utility bond index. And the dashed black line is Moody's A-rated utility bond index.

The A-rated utility bond index has risen from 2.99 percent in February of 2020 to 4.93 percent in August of 2022. That's a 194-basis point increase. Similarly, Moody's Baa-rated utility bond yields rose from 3.31 percent to 5.25 percent, also a 194-basis point increase.

Additionally, the difference between these two lines, as opposed -- between the top two lines and the bottom line -- reflects the spread between utility bond yields and treasury bond yields. And the spread between those lines has widened between February of 2020 and August of 2022.

Widening credit spreads indicate that investors requiring a higher premiums for utility debt over government bonds to compensate them for additional risk. The significant increase in treasury and utility bond yields is, in part, a result of considerable monetary tightening by the Federal Reserve bank to combat the highest inflation the U.S. has seen in 40 years.

The Commission noted in its order in DEU's last rate case that monetary policy tightening was a factor that would support higher cost of capital. The Federal Reserve has increased the Federal Funds rate by 300 basis points since March of 2022, and is unwinding an unprecedented level of assets on its balance sheet that it purchased to support the economy during the COVID-19 pandemic.

The second figure of this handout reproduces Figure 6 of my rebuttal testimony and speaks to inflation rates. As this figure shows, three primary measures of inflation are all significantly higher than at the time of the Commission's order in DEU's last rate case.

As I explained in my direct testimony, higher inflation increases capital costs because inflation erodes the purchasing power of future interest payments an investor expects to receive over the duration of the bond. As a result, investors require higher yields to compensate for increased risk of inflation, which means utility debt costs increase, which you can see in the first figure that we just discussed.

Because equity investors require a premium over the returns they require from debt investments, their return requirements for equity investments also increase.

The third figure of this handout reproduces Figure 21 in my direct testimony and shows increase in the proxy group average beta coefficients, reported by Value Line and Bloomberg. The proxy group average beta coefficients were largely unchanged from my direct testimony to my rebuttal testimony.

Beta coefficients measure the relative risk of the subject company and the overall market. Higher proxy group data coefficients indicate that investors perceive the proxy group's risk relative to the overall market has increased. And as risk increases, investors require a higher return to compensate them for taking on higher risk.

Lastly, the fourth figure of this handout reproduces Figure 8 of my rebuttal testimony, which illustrates the level broad market volatility as measured by the VIX, V-I-X. As this figure shows, the average VIX during the Company's last rate case was 15.17, which is below the historical average of the VIX, which is typically in a range of 19 to 20.

Since February of 2020, when the Commission issued its order in DEU's last rate case, the VIX has been 67 percent higher. Higher equity market volatility is an indication of increased market risk for which investors require higher returns.

Individually, each of these factors indicate a higher capital cost environment and support a higher authorized ROE. Combined, that evidence provides even more support.

Despite this undisputed evidence of higher capital costs since the Commission's order in DEU's last rate case, the intervenor ROE witnesses in this proceeding disregard this evidence and recommend the Commission reduce the authorized ROE by 10 to 30 basis points. The intervenor witnesses that performed independent ROE analyses in this proceeding recommend the

Commission authorize ROEs ranging from 9.2 to 9.4 percent.

The fact that their recommendations are narrow and are similar within a narrow range is due to their reliance on similar inputs that contradict academic literature and financial theory, producing unreasonably low estimates that are inconsistent with this evidence of rising capital costs.

As demonstrated in my high rebuttal testimony, modest adjustments to the intervenor witnesses' analyses produce more reasonable ROE estimates in the range of 9.8 percent to 10.2 percent, and are more consistent with academic and financial theory and the market-based indicators of higher capital costs.

The intervenor ROE witnesses in this proceeding refer to average authorized ROEs for natural gas utilities to support their recommendations. As the Commission has noted, while authorized ROEs are informative, there are limitations to comparisons to authorized ROEs in other jurisdictions because utility and -- each utility and jurisdiction differs with respect to the factors that affect utility risk. Reliance on the average authorized ROE over a given period obscures those unique factors and the nuances on each rate case.

Notably annual averages are a function of the number and timing of utility rate case decisions in a given percent. A jurisdiction may have had more rate case decisions influencing that average, and the number of utility rate case decisions over that time may vary.

Lastly and most importantly, whereas the cost of equity is forward looking, authorized ROEs are backward looking and reflect a lag in the market conditions at the time of each rate case.

As Mr. Coleman has acknowledged in his surrebuttal testimony, the Hope and Bluefield standards recognize at that a return that may be correct or right at one time may become higher or lower by changes in the economy. Authorized ROEs and 2020 or 2021 or even the beginning of this year reflect market conditions that are markedly different than what is occurring right now.

While I agree authorized ROEs are relevant to investors, it is important that the authorized ROE in this proceeding consider it the context of the prevailing market environment.

Turning the DEU's capital structure, I demonstrated that the Company's requested capital structure of 53.21 percent common equity and 46.79 percent long-term debt was reasonable and consistent with the long-term capital that finances the natural gas operations within the proxy group.

Of the intervenor witnesses in this proceeding, only Mr. Lawton proposes a specific capital structure recommendation that differs from the Company's proposal. Mr. Lawton recommends a hypothetical capital structure of 51 percent common equity and 49 percent long-term debt, and his recommendation is dependent upon his 9.2 percent ROE recommendation.

Importantly, Mr. Lawton has not demonstrated that the Company's requested capital structure deviates substantially from sound utility practice. Barring that demonstration, in my opinion, there is no basis to support an imputed or hypothetical capital structure, as Mr. Lawton proposes. Less than three years ago, this Commission found a 55 percent equity ratio to be reasonable for the Company. And there's no evidence to support the conclusion that its proposed lower equity ratio is now unreasonable.

As I explain in my rebuttal testimony, utility capital structures vary widely due to each utilities' individual unique circumstances and risk profile. And Mr. Lawton acknowledges that there is no set definitive relationship in the capital structure for all firms or all industries in terms of leveraging. And the fact that a utility's capital structure differs from the average does not indicate that it is unreasonable or inappropriate.

Moreover, comparisons to utility-holding company capital structures are not a relevant or appropriate metric to compare DEU's capital structure. Instead, the proper comparison is to the capital that finances the regulated natural gas operations of the operating companies within the proxy group. That analysis shows that the Company's requested capital structure is more leveraged but well within the industry standards. If anything, the increase in the Company's financial leverage supports an increase in the ROE, not a decrease, as Mr. Lawton and FEA witness Mr. Walters recommend. This is because increasing the proportion of debt in the capital structure increases the financial risk of a company, and investors require higher returns to compensate them for more risk.

In summary, it is essential that the Commission's decision in this proceeding consider the importance of a supportive regulatory environment and the Company's need to maintain a strong financial profile as it executes its capital expenditure program, particularly during uncertainly market environments, as we are currently facing.

Because DEU has an obligation to serve in all market environments, it cannot time its investments or its need to access capital to occur only during favorable market environments.

I showed in my direct testimony, the Company relies more heavily on external capital than its peers do; therefore, it is critical that the Commission's decision in this proceeding maintain its perception of a supportive regulatory environment and enable the Company to access capital in favorable terms at all times.

As we've seen in the 2008 Great Recession, the COVID-19 pandemic, and recent severe weather disruptions in the U.S., uncertain and adverse events can occur during stress market environments. Only utilities with sufficient financial strength will be able to withstand those events and access capital at the most reasonable and cost-effective terms for customers.

The authorized ROE and capital structure are two important signals of the supportiveness of the regulatory environment. The intervenor witnesses' recommendation to reduce the authorized return is at odds with increasing capital market environment and would jeopardize investors' perception of Utah's regulatory climate, and in my opinion, fail to satisfy the Hope and Bluefield standards for a fair rate of return.

And this concludes my opening statement. Thank you.

Q. Thank you, Ms. Nelson.
MR. SABIN: Mr. Chairman, we move to admit DEU Exhibits 2.0 through 2.09, and then 2.0R through 2.27R.
CHAIRMAN LEVAR: Okay. Thank you.
If anyone objects to that motion, please indicate your objection.
I'm not seeing any objection in the room, so motion is granted.
MR. SABIN: Thank you.
And Ms. Nelson is now available for cross-examination.
CHAIRMAN LEVAR: Thank you.
Ms. Schmid?
MS. SCHMID: May I have just one moment?
CHAIRMAN LEVAR: Certainly.
MS. SCHMID: Thank you.

CROSS-EXAMINATION

BY MS. SCHMID:
Q. Good morning, Ms. Nelson.
A. Good morning.
Q. A lot of the prefiled testimony dealt with models, inputs, and analysis of those models. I'm not going to ask you questions about those, because the prefiled testimony examined them in minute detail and

presented comprehensive information for the Commission to analyze. But I do have a few questions for you.

A. Okay.

Q. Do you have your direct testimony in front of you?

A. I do.

Q. I'd like you to read just a few lines into the record.

A. Okay.

Q. Could you please turn to Line 71 of your direct testimony and read the sentence that starts with, "The Cost of Equity is."

A. Sure. "The Cost of Equity is an opportunity cost that cannot be precisely quantified. Therefore, it must be estimated through the use of various financial models."

Q. Then, if you could turn to Line 72 --

A. How far would like me to go? Maybe I should have asked that.

Q. That's okay. I was going to ask you to read the next sentence, but you just did it, so we're good.

So then could you please read the sentence at Lines 220 to 222 of your direct that starts with, "... although quantitative models are used" through the last word of that sentence, which is "exercise."

A. "... although quantitative models are used to estimate the ROE, it cannot be precisely quantified through a strict mathematical exercise."

Q. Thank you. With that as background, I'm going to ask Mr. Coleman to distribute some cross-examination exhibits. And that will take just a minute to get those out.

These -- the set of cross-examination exhibits that is being handed out now is from Mr. Coleman's surrebuttal testimony, and it's been marked as Exhibit 2.07SR. So just letting you know where it comes -- but we're passing this out just as a convenience.

Thank you, Mr. Coleman.

Q. Could you please turn to page 3 of what has been handed out.

A. Okay. I'm there.

Q. Do you see where the paper shows that the 2020 mean is 9.47?

A. Yes.

Q. Do you agree, subject to check, that 9.47 is 83 basis points lower than your recommended 10.3 ROE?

A. You said 83 basis points?

Q. Yes. And again, subject to check. I did my own math.

A. Sure. Subject to check, I would agree with that difference. As discussed in my summary, it's an entirely different capital market from 2020 to today.
Q. And the Commission can look at your testimony.
A. Sure.
Q. Let's just focus on what I'm asking you, please.
A. Yep.
Q. If you'll turn to page 6, do you see where it shows the 2020 mean is 9.56?
A. 2021 mean? 9.56?
Q. Yes, thank you.
A. Yes, I see that.
Q. And do you agree, subject to check, that 9.56 is 74 basis points lower than your recommended 10.3 ROE?
A. Yes, I'll accept that, subject to check.
Q. Next, if -- I'll have -- could we please mark that as DPU Cross Exhibit 1, and I will move for the admission of that.
CHAIRMAN LEVAR: If there's any objection to that motion, please indicate your objection.
I'm not seeing any in the room, so the motion is granted.
(Exhibit DPU Cross 1 was entered into the record.)
Q. (BY MS. SCHMID:) Mr. Coleman is passing out another cross-examination exhibit, and this one is from

his direct testimony, and it's DPU 2.7. And this is information published by S&P Global Market Intelligence Rate Case History (Past Rate Cases) for year-to-date 2022.

Do you see where this shows that the 2022 year-to-date mean is 9.42?

A. I see that.

Q. You have to sort of fold the sheets over. I'm sorry.

A. Yeah. I -- actually, I'm going to separate those.

Q. That's what I did to my own copy. I'm sorry. I should have done it for yours.

A. So I see that reported number, 9.42 percent. I will say that I did look at S&P's data more recently, and there have been two more cases that have issued an authorized ROE, and those were at 9.6 percent for both. So that would push up the mean slightly for the year.

Q. Okay. Can you point me to where those are in your testimony, your references to those two additional cases?

A. So they're not in my testimony.

Q. They're not in your testimony.

A. I happened to look at it online.

Q. But it's not in your prefiled testimony?

A. It's not in my prefiled testimony, correct.
Q. Okay. We'll just note that.
Do you agree that 9.42 is 88 basis points lower than your recommended 10.3 -- again, subject to check?
A. Subject to check, I'll accept the math.
Q. Thank you. And finally, Mr. Coleman will pass out one more.
And if we could mark the second cross exhibit that was handed out as DPU Cross Exhibit 2, I'd like the move for the admission of that.
CHAIRMAN LEVAR: If anyone objects to that motion, please indicate your objection. I'm not seeing any in the room, so the motion is granted.
(Exhibit DPU Cross 2 was entered into the record.)
Q. (BY MS. SCHMID:) And finally, just to wrap things up, you've been handed what I would ask you to mark as DPU Cross Exhibit 3.
Would you agree that when we look at this information, the DPU -- sorry, the DEU requested return on equity is much higher -- and I realize that could be a subjective quantification -- than the other returns of equity shown on this page?
A. So what I'm looking at on this page -- I'll make a couple of observations.
First, I do agree that 10.3 percent is higher

than what's shown. I'll note that the DPU's recommendation is below 10 of the 16 or so --

Q. And I'll stop you right there, because I believe that your counsel can cross Mr. Coleman on this exhibit, as it's part of his testimony.

A. So do you not want my answer? I'd like to give a full, complete answer for the Commission, if that's possible.

CHAIRMAN LEVAR: I think where the witness is going is within the scope of the question.

MS. SCHMID: Okay. Thank you.

THE WITNESS: So I would say that, again, the DPU's recommendation is below 10 of the 16 or so cases that have been issued so far. So I think it shows that his recommendation is somewhat below what has been issued.

And again, turning back to my summary, you know, authorized ROEs must be considered in a context of the market environment. And we think about these rate case, many of them were filed at the beginning of the year or prior to, or even last year prior to the Federal Reserve drastically increasing interest rates, prior to them unwinding the balance sheet, prior to the heightened inflation that we've seen. And so I think that they are backward looking. They're interesting information, so I will say that. They're information. They are a data point, and I agree, and I used that information.

Q. (BY MS. SCHMID:) And I'll just --

A. They are backward looking. And so when we're looking at the cost of equity, it's forward looking. So we need to be considering that. Looking forward, what is the market telling us?

And there's a lag. So it's possible that we might be at a little bit of an inflection point in the authorized ROEs. And because of that lag between the time of market environment and the data that's presented during rate cases and Commission's decisions, I would expect to see the average come up as interest rates come up.

Q. But nonetheless, this does show 2022 return on equity points?

A. They are data points.

Q. And it is from this year, correct?

A. That's what it says, it's from this year, yeah.

Q. Thank you.

MS. SCHMID: I'd to move for the admission of DPU Cross-Examination Exhibit No. 3.

CHAIRMAN LEVAR: If anyone objects to that, please indicate your objection. I'm not seeing any, so the motion is granted. Thank you.

(Exhibit DPU Cross 3 was entered into the record.)

MS. SCHMID: Those are all my questions. Thank you.

CHAIRMAN LEVAR: Thank you, Ms. Schmid.

I'll go to Mr. Moore next.

CROSS-EXAMINATION

BY MR. MOORE:

Q. Good morning, Ms. Nelson.

A. Good morning.

Q. To recap: You recommend an ROE of 10.3 percent, and a capital structure of 53.21 percent equity and 46.79 percent debt; is that correct?

A. That is my recommendation.

Q. May I direct your attention to pages 4 and 5 of your direct testimony, Lines 63 to 68 and ask you to read those lines to yourself.

A. I'm sorry, can you repeat the lines again.

Q. Yes, 63 to 68.

A. "In addition to the analytical results" --

Q. You can just read those to yourself. I was going to summarize them, but I wanted you to look at them first.

A. Okay.

Q. Your testimony you just read provides that, in addition to the analytical models described in your testimony, you considered, one, the Company's capital investment requirements; two, the regulatory environment; three, the increase in financial leverage associated with requested capital structure; four, current economic and capital market conditions; and five, recent ROEs from similar gas utilities in the United States.

Does that summarize your testimony?

A. That sounds accurate, yes.

Q. Looking first at the authorized ROEs, on page 12 of your rebuttal testimony, in rebutting Mr. Coleman's testimony, you acknowledge that the authorized ROEs for gas utilities from January to June -- June 2022, is 9.33 percent; isn't that correct?

A. That was what Mr. Coleman reported in his testimony, correct.

Q. And in your rebuttal testimony, you stated Mr. Coleman should not rely on this number because of the small sample size of the nine gas utility cases, and because three of those cases came from one jurisdiction, New York; isn't that true?

A. Those were reasons, examples of reasons why relying on an average might not be appropriate.

Q. However, you often note that since Mr. Coleman's testimony in June and August of 2022, there have been seven additional ROE decisions; isn't that correct?

A. As of August 31, 2022, there were seven more.

Q. All right. Thank you. Now, may I point you to Mr. Lawton's surrebuttal testimony on page 20, Lines 428 to 432.

A. I'm sorry, surrebuttal?

Q. Surrebuttal testimony, page 20.

A. Page 20. Okay. Page 20 I'm there.

Q. Lines 228 to 432, where he provides a chart listing ROEs and equity ratios for all 16 cases that you've referenced in the -- that you reference. And this chart is from January through August 2022.

The average industrial authorized ROE is 9.4; and the equity ratio, excluding jurisdictions that include noninvestor funds in their capital structure, is 50 percent; is that correct?

A. I see those numbers in the chart. I would note that Indiana is in a jurisdiction that authorizes ratemaking capital structures with noninvestor-supplied capital. And there is one rate case from Indiana in this chart. That would slightly push up the average.

But again, I think the Company's request is within this range. Atmos Energy was authorized an equity ratio of 54.5 percent. And Atmos Energy is a proxy company that myself and Mr. Lawton rely on.

Q. Thank you. The fact that we now have 16 cases resolves your concerns of the small sample size relied on by Mr. Coleman; isn't that true?
A. No, I wouldn't say that's true. I think it's still a small sample size. I think -- and it could have been even one of Mr. Coleman's surrebuttal exhibits, but I think RRA/S&P is expecting there to be more than 100 outstanding rate cases that are set to be decided in the fourth quarter of this year. So I think 16 rate cases is probably a small sample size.
Q. As I stated before, on page 12 of Lines 185 to 186 of your rebuttal testimony.
A. Page 12?
Q. Can I go back for a second?
A. Sure.
Q. I'm sorry. Didn't the RRA article state that that was an extraordinary amount of rate cases?
A. Sixteen is an extraordinary amount?
Q. No, the rate cases that are pending.
A. It may -- I honestly don't have that exhibit in front of me. I don't know if --
Q. I have a copy of that exhibit that I was going to use in cross. Maybe I should hand it out now.
Would you look to page 4 of this exhibit.
A. Okay.

Q. And read into the record the second paragraph, which I believe is just one sentence.
A. The second paragraph on the page, starting with, "amid ongoing COVID challenges"?
Q. Yes, please.
A. "Amid ongoing COVID challenges, 2021 was a record year in terms of rate-case activity, which neared all-time highs with over 150 decisions issued by state public utility commissions -- the highest level since the early 1980s."
Q. Thank you. Now, as I stated before, on page 12, Line 185 to 186 of your rebuttal testimony, you also criticize Mr. Coleman's reliance on the 9.33 figure because three of his nine cases are from New York, and you stated, "... a jurisdiction that routinely authorizes ROEs and equity ratios well before the [sic] national average [sic] based on a formula unique to the New York jurisdiction."
Did I read your testimony correctly?
A. I think that's an accurate characterization.
Q. Returning to OCS Cross Exhibit 1, the RRA Regulatory Focus article. Could you please turn to page 6 of that exhibit under the heading, "Major Energy Rate Case Decisions" and read the first paragraph into the record.

A. "The full-year averages in recent years are at the lowest levels ever witnessed in the industry. The electric ROE average in 2021 was weighed down by three ROE determinations in Illinois and Vermont that were calculated using [sic] a formulaic approach tied to U.S. Treasury bond yields. Excluding these three ROE determinations, the average return authorized for electrics in 2021 was 9.47 percent."

Q. Isn't it true that although the RRA Regulatory Focus article noted that the formulaic approach in Illinois and Vermont and provided ROEs with these jurisdictions -- without these jurisdictions, the article makes no mention any support -- formulaic approach in New York?

A. It doesn't discuss New York, I'll agree with that. I think the unique approach in New York I'm discussing is somewhat different than what they do in Illinois and Vermont for the electric utilities.

So in New York -- and this really speaks to why you really need to understand the nuances of each individual observation when you're looking at an average. In New York, the utilities there operate under three-year multiyear rate plans that typically include an annual increase in the revenue requirements for each year. It may include different capital structure and cost of debt in each year of those three-year plans. Sometimes it does; sometimes it doesn't. So I don't want to make a blanket estimate that it does increase -- they increase or change the capital structure. But they often update the cost of debt. And then they also -- the Commission there typically uses a formulaic approach in the weights given to the models.

So whereas, in Illinois and Vermont, the electric side, their ROEs are a formula that is tied to the U.S. Treasury bond yields. So they're somewhat different.

But you're right that this article does not speak to the New York jurisdiction. But it's important to really understand those nuances. I don't think this -- this report gives a nice summary, but it really doesn't speak to all of the individual differences in each jurisdiction that are considered in each rate case when discussing averages.

Q. But whatever specific approach is applied to New York, the RRA Regulatory Focus did not think that the approach was significantly impactful enough to note in the article or exclude it from the ROE average calculation; isn't that true?

A. No, it doesn't exclude it from the calculation. And I'm not necessarily suggesting that. What I'm saying is when you look to an average, you need to understand all of the individual nuances. An average obscures those nuances, obscures those differences. Where, if you're just going to look to the authorized ROE in New York -- which, as I did note in my rebuttal testimony, even New York, who is routinely perceived as --

Q. Mrs. Nelson, I'm going to stop you there. I don't mean to interrupt you. I'm just going to get to that question in a bit, so you'll have your time to address that issue.

A. Okay. Well, my response is that, you know, when you're looking to an average, which obscures the individual nuances of each rate case, it's helpful to understand what the data points are underlying that average.

Q. Isn't it true that you also criticized the New York cases simply because these cases came from the same jurisdiction?

A. Well, my point there is that if we're going to talk about the nine cases that are covered in this report between January and June of 2022 -- as I mentioned, there are nine cases from, probably -- let's see. Let's look at the different jurisdictions that are authorized in Mr. Coleman's exhibit that he handed out here. So between January and June, looking to Mr. Coleman's DPU

Exhibit 2.07 page 6 of 7, we have --

Q. I'm going to stop you there. I think that's outside of the scope. We're discussing New York.

A. Well, I'm trying to answer your question to New York, because this lists the three New York cases that you're asking about.

CHAIRMAN LEVAR: This is a close one, but I think your question about New York warrants letting the expert witness go into the other exhibits that were about New York.

I do intend to offer the same kind of latitude to all parties' experts in cross-examination as a general rule, of course, so --

THE WITNESS: So I'll just say, my point is for the nine cases in 2021, which the report, the RRA report that you handed out covers, there are decisions from Kentucky, North Carolina, Nevada, and New York. That's four jurisdictions. So we have seven -- or excuse me, nine cases from four jurisdictions. And you want to rely on the average from that very small sample size from a very small number of jurisdictions and claim that it is comparable to DEU or to the Utah regulation.

And my opinion is that it is not comparable, that it's not reasonable to rely on such a small data point from only four jurisdictions.

Q. (BY MR. MOORE:) However, you note on page 13 of your rebuttal testimony, and it's demonstrated by Mr. Lawton's table, these cases reached different results, indicating the cases were decided and individual (inaudible) --

(Court reporter interruption.)

Q. (BY MR. MOORE:) Indicating that these cases were deciding on individual circumstances and should be considered in the average ROEs; do you dispute this?

A. I'm sorry, I'm not sure I understand your question. Could you repeat it one more time?

Q. Yes, let me see if I can read it slower.

You noted on page 13 of your rebuttal testimony, and it's demonstrated in Mr. Lawton's table, these cases reached different results, indicating that these cases were decided on individual circumstances, and therefore should be considered in the average authorized ROEs; do you dispute this?

A. Well, so my point is that I'm not sure the average is a relevant point of comparison.

I do agree that looking to the individual data points, it's interesting information. It's a data point. Each of them provides a data point, and it's information. It's publicly available information. Investors do rely on it. And the range is somewhat wide. So I think the highest ROE thus far in 2022 is 9.9 percent. That's within my recommended range.

So my opinion is I think the average is not the relevant metric to be looking at. It's -- particularly in this market environment.

Q. Mrs. -- Ms. Nelson, may I return to the five factors you relied on in making your ROE determination examine the factor of regulatory climate.

A. Regulatory climate, sure.

Q. On page 44, Lines 754 to 755, I believe of your direct testimony --

A. Page 44, yeah. Okay, I'm there.

Q. You state, "The regulatory environment is one of the most important factors investors consider when assessing a utility's risk, as it is a significant driver of earnings and cash flow." Did I read that correctly?

A. Yes.

Q. On that same page, Line 758 to 760, you testified that, "Moody's considers a utility's regulatory environment to be so important that 50 percent of the factors that weigh in its ratings determinations are related to the nature of regulations"; isn't this correct?

A. Yes.

Q. Now, on page 47 of your direct testimony Lines

827 to 829, you testified, "... I conclude that DEU's regulatory risk is comparable to its peers. Therefore," the regulatory risk to its -- "relative to its proxy group is not reduced as a result of its rate structure." I'm sorry I fumbled over that.

A. I'm with you.

Q. Now, if I understand your testimony, you state that the impact of this very important factor is neutral on DEU's regulatory risk, and therefore, it is not argued that DEU is less or more risky than the proxy group; isn't that correct?

A. Right. When we talk about risk, it's on a relative basis. And if we're looking to the Company's rate structures and its cost-recovery mechanisms, the Company's risk is comparable to its peers.

Q. You reach this conclusion based on the similarity of regulatory mechanisms available to both DEU and the proxy group; isn't that true?

A. That's right.

Q. May I direct your attention to the -- to the -- oh. On page 47 of your direct testimony, you list the regulatory mechanisms shared by DEU and the proxy group; isn't that true?

A. Yes.

Q. May I direct your attention to the third factor on page 47, full or partial decoupling.

DEU meets this factor as well as 88 percent of the proxy group, correct?

A. Correct.

Q. DEU has full decouplings through a CET tariff; isn't that correct?

A. That's my understanding.

Q. Is it your understanding that full decoupling has a greater beneficial effect on the utility's cash flow than partial decoupling?

A. Not necessarily on its own in a vacuum. So when we look at these rate structures, we have to look at the totality of them and the costs that are recovered and the extent to which the utility has an opportunity to earn its authorized return.

So the objective of all of these different types of mechanisms that have been implemented by utilities is to improve the timeliness of cost recovery. That's the overall objective. The way they get implemented in each individual utility is going to differ. The mechanics of them are going to differ. It's going to depend on each utility's unique circumstances, their needs, and the regulatory lag within each jurisdiction.

So I think, overall, the objective is to improve the timeliness of cost recovery. So I don't think you could say that the details, per se, make one more or less risky. You have to look at them combined, and that's what I did.

So I looked at all the different rate structures and determined that DEU is comparable to its peers. It has a similar opportunity to have timely recovery of its costs and the stabilization of its revenues.

Q. Do you know how this CET tariff functions in Utah?

A. I'm not averse -- well-versed on the particulars of -- and the details of how it operates. I do understand it's a full decoupling mechanism.

Q. Is your testimony that, under some circumstances, partial decoupling will have a more beneficial effect on cash flow than full decoupling?

A. No. No, that's not my testimony. No.

Q. Could you look at exhibit -- at your Exhibit 2.07 and to your direct testimony?

A. Yes. Okay.

Q. Isn't it true -- are you there?

A. Yes. Yes, sorry go ahead.

Q. Isn't it true that only 2 of the 24 of the proxy group operating companies have full decoupling?

A. Yes, only two have full decoupling. But I will say that eight have formula-based rates or annual rate review mechanisms, which allow the utility to file an annual rate filing in which the earnings will be adjusted. Rates are adjusted if earnings are outside of that band, a predetermined band around the authorized ROE. So rates could be adjusted.

So that is another form of stabilizing a utility's revenue, which speaks to my earlier point around, you have to look at the totality of mechanisms that are available.

Q. Turning back to page 47 of your direct testimony.

A. My directed.

Q. I believe so.

A. Okay. I'm there.

Q. Other factors that DEU employs is the cost recovery for energy efficient programs, and partial/full test years are only shared by proxy companies in a percentage of 63 and 54 percent, respectively; isn't that true?

A. That's the calculation that I made, yes. Sixty-three percent of the operating companies within the proxy group have a cost-recovery mechanism to recover costs associated with energy efficiency or conservation programs similar to DEU, and 54 percent have a partially- or fully-forecast test year.

Q. Ms. Nelson, may I direct your attention to page 29 to 31 of Mr. Lawton's direct testimony.

A. Twenty-nine. Okay. In this testimony, he reviews three rating agency opinions on DEU's regulatory risk. On Line 522 to 524, he testifies that, "In a March 2022 Fitch Ratings, Inc., Credit Outlook Report for" -- and I'm going to do an ellipsis here, "Fitch describes how DEU (Questar) has a low risk profile and enjoys significant customer growth. On the issue of a 'Supportive Regulatory Environment,' Fitch states: 'Utah implemented numerous rider mechanisms, including weather normalization, revenue decoupling, infrastructure replacement and purchased gas adjustment that serve to reduce regulatory lag and stabilize credit (inaudible)'" --

(Court reporter interruption.)

Q. (BY MR. MOORE:) How about I start with, "Utah implements numerous rider mechanisms, including weather normalization, revenue decoupling, infrastructure replacement and purchased gas adjustment that serves to reduce regulatory lag and stabilized credit metrics."

You did not dispute this contention in your rebuttal testimony, did you?

A. No, that's the same -- that's what my Figure -- or my Exhibit 2.07 shows.

And again, when we're talking about risk, it's relative. So this -- Fitch doesn't talk about relative to the other -- its peers.

So I agree with Fitch's characterization of Utah's supportive regulatory environment. The credit rating agencies expect that to continue, and it's important that that continue. But this doesn't speak again, to the relative comparison to those mechanisms available to DEU's peers.

Q. No, but it takes, rather, an industry look; isn't that correct?

A. Well, it speaks to Utah's regulatory environment.

Q. As compared to the industry?

A. I don't see where it speaks to its assessment of the comparison to the industry in the piece that you just read.

Q. All right.

A. So maybe it's somewhere else.

Q. On Lines 530 to 532 in Mr. Lawton's direct testimony, he states that, S&P Global Ratings report on Questar Gas Co. risk assessment, and states Questar is a low-risk regulated natural gas distribution business of above-average size and effectively manages regulatory risk.

You do not dispute this contention, do you?

A. I see that quoted in Mr. Lawton's direct testimony. Again, when we're speaking of risk, it's on a relative basis. And so when you say low risk, relative to what? And the credit rating agencies, they assess utilities using their corporate methodology. So typically when they're talking about low risk, they're talking about relative to other corporate sectors. This doesn't speak to relative to the proxy group or other industry gas companies.

Q. Moving on, Lines 539 to 540, Mr. Lawton testified that Moody's investor service views the company's credit profile supported by its, again, open quotes, "low-risk gas distribution operations and supportive regulations."

You did not dispute this testimony either, did you?

A. No. And I would repeat my prior comment.

Q. Thank you. These reports from the three agencies establish that DEU, in relation to the natural gas industry, is a low-utility industry with supportive regulatory environment; isn't that true?

A. It's low risk relative to other corporate sectors, other corporate businesses. And Utah does have a supportive regulatory requirement. And the credit rating agencies' ratings are dependent upon that, and they expect that to continue.

Q. Mrs. Nelson -- I'm sorry, Ms. Nelson, I apologize, returning again to the five factors you considered in making your ROE determination. It is correct that, given your testimony, that DEU's regulatory risk is comparable to its peers, and the three credit agencies' statements that DEU is the lowest utility that enjoys a supportive regulatory environment, the substantial difference between the ROE of 10.3 percent and the national authorized ROE in 2020 of 9.4 percent, which we got from Mr. Lawton's table, cannot be explained by the regulatory environment in Utah; isn't that correct?

A. No, I agree that the regulatory risk was comparable. The basis for my recommendation is, first, my model results support a 10.3 percent ROE. And second, they market current market environment.

Q. Let's turn to another factor of your five factors you list as impacting your decision of the ROE on DEU, the company's capital investment requirements.

A. Okay.

Q. On page 43, Lines 746 and 747 of your direct testimony, you stated that, "The Company is planning approximately 1.53 billion in capital expenditures, which is approximately 59 percent of its net utility plant."

Did I read that correctly?

A. I'm sorry, can you repeat what page you're on?

Q. Yes, that's page 43, Line --

A. Of my direct testimony?

Q. Of your direct testimony, unless I got that wrong. Lines 746 to 747.

A. No. I'm not seeing a discussion on that. Let me -- oh, maybe, you know what? I'm on my rebuttal testimony. I'm so sorry. Going back to my direct. Okay. So I'm with you now.

1.53 billion in capital expenditures, yes.

Q. Moving back to Mr. Lawton's testimony, his direct testimony, on page 35 to 36 -- I'm sorry, 35, yes, 35 to 36, he states that major portions of this proposed 1.53 billion is initially paid or recovered through the infrastructure tracking mechanism and depreciation recovery. Do you remember this testimony?

A. I'm there, yes. I see his testimony.

Q. In fact, 26 percent, or 405 million of the expected system investments will be recovered through the infrastructure tracker and depreciation. A non-cash expense provides capital recovery of expected system investment of about 35 percent, or about 538.9 million over the five years, 2022 to 2026 investment period.

You did not dispute these numbers in your rebuttal testimony, did you?

A. I didn't. And as I mentioned, the importance of timely cost recovery is important. And all utilities have mechanisms, such as DEU's CET to recover capital costs. So on a comparative basis, DEU's ability to recover its capital costs is similar to its peers.

Q. All right. Turning back to the five factors you relied on in determining your recommendation, the Company has failed to demonstrate that DEU's capital investment requirements makes DEU more risky than the proxy group; isn't that true?

A. No, that's not really what I was saying in my testimony. What I'm pointing out is the Company has a substantial capital investment plan, and it's important -- and we discussed, the regulatory environment is very important, and the ability of the Company to recover those costs is important to investors.

And so to the extent to which the Company's mechanisms improve that timely cost recovery and provide a greater opportunity to recover its costs than it would without those mechanisms, it's important to the credit rating agencies, it's important to investors, and it's important that the Commission continue those mechanisms.

As I mentioned, all of the utilities in the proxy group have similar mechanisms. And so if that regulatory support were no longer available to the Company, the Company would certainly be more risky. But when I'm talking about the capital investment requirement, I'm discussing it in context with the regulatory environment and how important it is that that supportive environment be maintained.

Q. You didn't dispute Mr. Lawton's conclusion on Lines 650 to 654, where he testified, "This leaves about" -- referring to the tracker and the depreciation expense -- "This leaves about $117.1 million per year investment requirements that exceed the tracker in depreciation. An investment requirement of $117 million per year given an asset base of $2,563,697,020 represents about 4.6 percent per year and is no a larger risky investment requirement."

You did not dispute this in your rebuttal testimony, did you?

A. I don't dispute the numbers. But again, I will say that, compared to the proxy group, the proxy companies have similar mechanisms to recover capital costs outside of base rates.

Q. Therefore, is it fair to say that the factor of DEU's capital investment requirements does not explain the significant difference between your requested ROE of

10.3 percent and the national average ROEs for 2022 of 9.4 percent, provided by Mr. Lawton's table; isn't that correct?

A. On its own, it's not a significant risk factor that is within -- for my recommendation. Again, I take all of those five factors in combination.

Q. Now, let's turn to another factor you relied on in making your recommendation, the increase in financial leverage associated with the requested capital structure. Let's look to DEU's financial condition. And I'm going to ask you to turn to page 16 of your direct testimony --

A. Okay.

Q. -- Lines 298 to 300.

A. Yes, I'm there.

Q. Where you testify, "The screening criterion" -- this is screening criterion for your proxy group -- "requiring an investment grade credit rating ensures that the proxy companies, like DEU, are in sound financial condition."

Did I read that correctly?

A. You did.

Q. You testified that DEU is in sound financial condition?

A. I did.

Q. Now, may I direct your attention to the chart on

the top of page 15 of your direct testimony.
A. Okay.
Q. This chart provides that DEU's credit rating is as follows: S&P, BBB plus; Moody's, A3; Fitch, A minus; isn't that correct?
A. It is.
Q. Now I'd like to direct your attention to your rebuttal testimony on page 78, Footnote 107.
A. Seventy-eight, did you say?
Q. I said 78, Footnote 107.
A. Okay.
Q. You cite Mr. Walters regarding his testimony establishing that DEU's standalone credit profile from S&P is an A minus; isn't that correct?
A. Yes, that's from Mr. Walters' testimony.
Q. In Mr. Walters' direct testimony on page 23, he testified that due to S&P's group ratings methodology, S&P ranked DEU the same as DEU's parent company, DEI's, credit rating, but argued that the appropriate credit rating is a standalone credit rating, which again, is an A minus; did he make that argument?
A. What page are you on again?
Q. Twenty-three.
A. So yes, I see Mr. Walters' testimony speaking to that.

And that's fairly common for S&P to rate the affiliates similarly with the parent. Moody's tends to take a different approach and rates the subsidiaries different than the parent.

Q. You did not dispute Mr. Walters' contention in your rebuttal testimony, did you?

A. I didn't.

Q. Now, may I direct you to your direct testimony on page 15.

A. Okay.

Q. Lines 276 to 280.

A. Okay.

Q. I'm going to paraphrase your testimony.

You testified as part of your screening criteria for your proxy group that, "All companies in my proxy group (or their primary regulated natural gas subsidiaries) have investment grade ... senior unsecured bond and/or corporate credit ratings from S&P and Moody's"; i.e., B minus or higher from S&P and Fitch ratings, and Baaa or higher from Moody's Investment Service.

Is that a fair characterization of your testimony?

A. Yes. Triple B minus or higher from S&P and Fitch, or Baaa3 or higher from Moody's. That's usually the -- that's the threshold of what's considered investment grade.

Q. Isn't it true that according to the -- I'm sorry. Isn't it true that some members of the proxy group, while having investment-grade ratings have ratings below DEU's at the lower end of the investment-grade ratings?

A. So I looked at this last night, in my proxy group. I reviewed my proxy group's screening criteria again last night. And DEU's rating is in the middle. It's -- at least looking at their Moody's rating. We'll focus on that, since that speaks to the subsidiary level as opposed to S&P, which gives more weighting to the parent rating.

For Moody's, if we look at its A3 rating, it's in the middle. It's the median. So there are some companies that are rated higher and some that are rated lower.

Q. Now, may I direct your attention to page 17 of your rebuttal testimony, Lines 271 -- I'm sorry.

A. Okay. Page 17. I'm there.

Q. Lines 271 to 272.

A. Okay.

Q. Where you testify that 50 percent of natural gas utility industry credit ratings have fallen to a BB minus credit rating; isn't that true?

A. No. No. Sorry, that's not the right characterization. Let me step back a little bit.

So this piece of my testimony is speaking to Mr. Walters' table CCW3. And what I am explaining here is that the percentage of A-rated utilities fell from 67 percent to 51 percent. And the percentage of triple B-rated natural gas utilities increased from 33 percent to 50 percent. So it should not read -- it should not be read as triple B minus rated. It means utilities rated in a triple B rating category. Apologies for that confusion there.

Q. Is it true that DEU's credit rating of BB plus or a standalone credit rating of A minus from S&P, A3 credit rating for Moody, and A minus credit rating from Fitch, places DEU in the top half of the industry credit rating?

A. Let me just turn to Mr. Walters' CCW3, just so I can refresh my memory of how that was. So it's on page 8 of his direct testimony, Table CCW3.

And if you look at -- and this speaks only to S&P ratings, which the company is rated as triple B plus.

So in 2022, it was roughly in the 50 percentile. Twenty-five percent of natural gas utilities were rated triple B plus, 25 percent were rated triple B minus, and the remaining 50 percent or so were rated higher than DEU.

Q. But DEU's standalone credit -- standalone credit rating is A minus, and they have an A3 credit rating from Moody's, and an A minus credit rating from Fitch; isn't that true?

A. They do have an A3 rating from Moody's and an A minus rating from Fitch. I'm aware of their standalone risk profile -- excuse me, standalone credit profile of A minus from S&P. But their rating is triple B plus.

Q. Now, Mrs. Nelson -- Ms. Nelson, given your testimony that DEU is on strong financial footing, and the fact that DEU's credit ratings are comparable with the proxy group in the industry as a whole, there's nothing concerning DEU's financial condition that would explain the substantial difference between your recommendation of 10.3 and the national authorized ROE in 2022 of 9.4; isn't that correct?

A. Well, again, we look to the market conditions. And again, I testified earlier I'm not sure that an average, based on 16 or 18 outcomes in 2022 is the right metric. But I agree with you that 10.3 is above that value.

Q. Okay. Now we're going to turn to capital structure.

CHAIRMAN LEVAR: Mr. Moore, I think that might be a good point for us to take a hearing break to give everyone a little rest. So we'll break for 15 minutes. We'll return to you.

And just to let everyone know, I think after Mr. Moore concludes, we'll go to Major Buchanan next and then Mr. Russell, if there's no objection to that order. Okay.

MS. SCHMID: Pardon me.

CHAIRMAN LEVAR: Yes.

MS. SCHMID: If I might, it was brought to my attention that I forgot to introduce one cross-examination exhibit that had been provided to the parties earlier. If I may have the Commission's indulgence to introduce that at the end of Mr. Moore's cross-examination and just ask a very few questions about that before we move to the next party.

CHAIRMAN LEVAR: Okay. When we get to that point, I'll see if anyone objects to that.

MS. SCHMID: Thank you. I believe that DEU does not, but, of course, we'll follow your lead. Thank you.

CHAIRMAN LEVAR: Okay. Thank you.

We'll return at 10:45 by that clock.

(A break was taken from 10:30 a.m. to 10:48 a.m.)

CHAIRMAN LEVAR: We'll go back on the record.

I will just inform everyone that the Internet is out in this building, which is affecting this hearing in a way that we can't stream. When we started, we were able to stream, and it went out while -- at some point during the morning session. So we will resume the streaming whenever we can.

We provide that as a courtesy. We still have a transcript of the hearing, and we don't have anyone participating remotely, so I don't think that's a reason not to proceed.

But if you have people who are relying on the streaming elsewhere, you can let them know that we'll get it up as soon as we're able.

It was a good day for the Internet to go down in the building. I'm told it's more than just this building. It's with the state network. So hopefully it won't take too long.

Did you have a matter you wanted to address before we --

COMMISSIONER CLARK: I think just for the record clarity, future generations who may be interested in what we're doing today, on this Statement of Contested and Uncontested Issues, Lines 7 through 24, I think -- the footnote says the blue indicates the issues on which the parties took a position.

I think DEU has a position on all those items, 7 through 24.

MR. SABIN: I see your point, yeah. I'm just looking at them quickly. I think the problem is in the note.

The blue indicated that there was actually an adjustment to that issue for a dispute about that issue. We could clarify, though. Maybe we'll come back after lunch, if that's okay, with a revised version that clarifies that note. Because I take your point, Commissioner Clark, that's not very clear, so ....

COMMISSIONER CLARK: Either that, or a witness could clear it up or something. But thank you for doing that.

MR. SABIN: Yeah, thank you for pointing that out.

CHAIRMAN LEVAR: Okay. Mr. Moore, we'll go to you to continue your cross-examination of Ms. Nelson.

You're still under oath.

Q. (BY MR. MOORE:) Turning to capital structure, may I direct your attention to page 6, Lines 98 to -- well, page 6 of your direct testimony.

A. Okay. I'm there.

Q. Lines 98 to 99.

A. Okay.

Q. Citing the order from DEU's last rate case, you noted that, "... the Commission recognizes the fundamental 'symbiotic' relationship between the capital structure and the ROE." That's correct, isn't it?

A. Yes. That cites to the Commission's order in DEU's last rate case, as well as Docket No. 20-035-04, which was issued December 30th, 2020, and if I recall, is the Rocky Mountain Power order.

Q. Now, may I direct your attention to page 65 of your direct testimony.

A. Okay.

Q. You testified, again, citing to the last rate case order, "As the Commission has recognized, the capital structure affects the subject company's overall level of risk, and the ROE and the capital structure 'cannot be considered in isolation from each other.'"

Did I read that correctly?

A. That was the Commission's finding in Docket No. 20-035-04, yes.

Q. This symbiotic relationship is evidenced by the fact that if ROE remains the same and the equity percentage is adjusted upward, the weighted cost of equity increases, which has an upward impact on the revenue requirement. Conversely, if the ROE remains the same, and the equity percentage is adjusted downward, the weighted cost of equity decreases, which has a downward impact on the revenue requirement; isn't this true?

A. So I agree with the math, that what you're saying.

But the other component that you have to remember when you talk about capital structure and risk is that the more leverage you introduce through the capital structure, the more risk, financial risk, which indicates a higher cost of equity.

So -- and I believe Mr. Lawton talks about this in his direct testimony as well.

Q. Yes. I'm just asking about the math.

A. Yes, I understand the math. You are correct.

Q. I'm going to pose a hypothetical question dealing solely with the weighted cost of equity, the math, excluding all issues dealing with the weighted costs of debt and the ultimate weighted cost of capital, so I'm just asking about the equity percentage and the math in connection with that; do you follow me?

A. Okay. I think so. Get to your hypothetical, and then we'll see.

Q. The weighted cost of equity is derived from multiplying the equity percentage by the ROE percentage; isn't that true?

A. That's true.

Q. Under my hypothetical, I will use an industry acreage authorized equity percentage in 2022 of 50 percent, which was taken from Mr. Lawton's chart. You don't have to agree that that's the correct equity percentage, but that's equity percentage I'm using in my hypothetical.

A. Okay. I'm with you.

Q. And then I will, from the same chart, I will use the ROE in 2022 of 9.4 -- again, you don't have to agree that that's the correct ROE. That's just the math I'm using.

Multiplying this equity percentage by the ROE percentage leads to a hypothetical weighted cost of equity of 4.7 percent; does that seem correct to you?

A. I'll accept your math, subject to check.

Q. I had -- I had our expert check my math.

A. Okay. I'll accept his math, subject to check.

Q. Now, under this hypothetical, if we hold the weighted costs of equity at 4.7 percent and divide it by the number of 53.21 percent, which reflects DEU's requested equity percentage, the resulting ROE, as a matter of math, would be below 9.4 percent; isn't that true?

A. I'm sorry you're going to have to repeat that.

Q. Okay. If we hold the 4.7 weighted cost of

equity and divide this number by the 53.21, which is the equity percentage that DEU is requesting, as a matter of math, the resulting ROE would be below the 9.4 percent; isn't that correct?
A. So let me just see if I understand your question. So you want to hold the weighted cost of equity constant?
Q. Yes.
A. And you're increasing the equity ratio, which would be the denominator?
Q. Yes.
A. And so your question is: Does the ROE that's in the calculation of the weighted cost of equity, what direction does that move, and you're saying it moves down?
Q. Yes.
A. Okay. So I agree with that relationship. I understand what you're saying.
Q. Sitting here today, can you do the math to determine the hypothetical ROE under these circumstances as a matter of math?
I'm going to represent to you that I got 8.83. Does that seem correct to you, subject to check? Or if you want to do it --
A. I'll accept your math. Again, you gave me the

option to not accept your premise, but I'll agree to the math.

Q. Under this hypothetical, an ROE of 8.83 is less than the ROE that you're requesting of 10.30, using your hypothetical -- using your requested equity percentage of 53.21; isn't that correct?

A. So 8.87, if I have that number right, is lower than 10.3, I agree. But again, I'm not making a comparison to a change between a 50 percent equity ratio and a 53 percent equity ratio.

Q. Thank you. Now, Ms. Nelson, you and Mr. Lawton have a disagreement of the appropriate equity percentage you use when analyzing capital structure in this case; specifically, there are two areas of disagreement.

First, Mr. Lawton uses the capital structure of the holding companies, and you use the capital structure of the subsidiary gas companies.

Second, Mr. Lawton recommends a capital structure of 51 percent, which is consistent with the average authorized capital structure from 2021 of 50.92 percent and the last month of January through August 2022 of 50 percent.

On the other hand, your direct testimony uses equity data on the average from the years 2018 to 2020; is that correct?

A. That is correct, yes. My analysis uses actual capital on the balance sheets that finance the regulated natural gas operations of the proxy group over those three years. I believe I did update it in my rebuttal testimony to be through 2021, so it would be the three years ending 2021, but there was no material change.
Q. Now, let's examine your disagreement relating to the distinction between the subsidiaries and the holding company's capital structure.
You agree with me that by necessity, the data needed for the ROE model are taken from the holding companies because the subsidiary companies are not publicly traded; is that true?
A. That is true. I agree with that.
Q. Therefore, your opposition to using the subsidiaries for your capital structure analysis and the holding companies for your ROE analysis breaks the symbiotic relationship between capital structure and ROE, violating the PSC's admonition that ROE and capital structure do not be considered in isolation from each other; is that correct?
A. No, I disagree with that characterization.
So my opinion is that it's more appropriate to look to the regulated natural gas operations of the proxy group when looking to capital structure. And that's

because we do have the data for that.

If you're looking at the holding company, the holding company finances a variety of business segments, both regulated and unregulated. And to suggest that the Commission should consider the capital that finances those operations when trying to assess the reasonable capital structure for DEU, which is a regulated natural gas company in this proceeding, I think is just a fundamentally incorrect comparison. Because we have the data, I think it's reasonable that we should use it.

I recognize we don't have the data for stock prices and beta coefficients and that type of market data at the operating company level. I wish we did; we don't. So we use the data that's available to us. And I think that to ask the Commission to ignore how regulated natural gas utilities are actually capitalized and how they're actually financing their operations, it's not an appropriate recommendation.

So I believe it is more appropriate to use the capital that actually finances the regulated natural gas operations of the proxy group.

Q. Even though that breaks the symbio- -- you would agree with me, though --

A. I don't know that -- I don't think it does break the symptomatic relationship. Because here we're looking to set the cost of capital for DEU, we're not setting it for its parent, Dominion Energy. So again, we'll use the data that's available to us. And it's a two-part test in my mind.

So first, I look to the models, and I agree that we only have market data at the parent company level for that. And so I look to the models to see what do the models say the appropriate ROE is?

And then when we look to the capital structure, as I mentioned in my summary statement and in my rebuttal testimony, there are a very wide range of capital structures that could be considered reasonable. And capital structure really is utility specific and utility dependent.

And so what I attempt to do is, I think it's reasonable to look at the range of the capital structures for the proxy group and assess, do I need to make an adjustment for my ROE recommendation if the capital structure is outside or beyond industry standards?

And so in my analysis, I said the Company's requested capital structure, it's within the range, it's consistent with industry standards, and so I did not believe I needed to make an adjustment to my overall recommendation, my ROE recommendation, on account of the capital structure.

Now, the Company's request is more leverage than its current authorized ROE, and it's slightly more leveraged than the proxy group when you look to the capital that finances the regulated natural gas companies. So it is more leverage, but I did not make an explicit adjustment in my ROE recommendation.

Q. On page -- I think this is what you're speaking of -- on page 65 of your direct testimony, Lines 1116 to 1118, you summed up your view of the capital structure, and you stated, "DEU's requested capital structure is comparable to, albeit slightly more leveraged (and therefore slightly more risky [sic]) than the proxy group on average."

Did I read that correctly?

A. Yes. Yes.

Q. Turning to the different time periods used to determine the equity ratios, are you aware that it's described by Mr. Lawton's direct testimony on page 8 and 9?

A. Okay. Page 8 of his testimony. I'm there.

Q. Lines 135 to 146, the last DEU rate case was preceded by a capital structure settlement in Docket 18-057-23 to address the effect of the Tax Cuts and Jobs Act of 2017. This act reduced corporate tax breaks from 35 to 20 percent to 25 percent, which constitutes a

40 percent reduction.

You do not disagree with this statement, do you?

A. No. I'm aware of the Tax Cuts and Jobs Act.

Q. Mr. Lawton goes on to state that the purpose of this settlement was to increase DEU's equity percentage to address the fact that the tax cut lowered the amount of deferred taxes, reducing cash flows to DEU, and a higher equity percentage was thought to be needed to avoid a credit downgrade.

You did not disagree with this statement either, did you?

A. I'll say that I'm not familiar with the specifics of that proceeding. But I'll accept your characterization -- or Mr. Lawton's characterization in his testimony.

Q. Mr. Lawton goes on to state that the impact of the tax cut on cash flow has lessened over time.

You did not dispute this fact in your rebuttal testimony, did you?

A. I didn't address it in my rebuttal testimony, but I'm not sure that I've really prepared an analysis of, at this point in time, four years after the passage of that act, what -- how cash flows, whether they continue to be impacted.

I do know that even several years after the Tax

Cuts and Jobs Act was passed, many utilities continue to be downgraded for a variety of factors. And I think that's evident in Mr. Walters' table that we discussed earlier. But I will say that the Company was still downgraded, despite its -- that 55 percent equity ratio was downgraded in 2019, after the -- that proceeding.

Q. Excuse me for a moment. I have missed my questions on that. I'm taking some time, so I'll go on.

Given what we've discussed with the financial aspect of DEU and the capital structure and your statement that DEU is only slightly more leveraged than the proxy group, this factor, again, does not explain the significant difference between your ROE of 10.3 percent and the industry average of 9.4 percent; isn't that true?

A. No, I think I considered the increase in financial risk, and I said that. What I said was, I looked to the models to develop my 10.3 percent recommendation, but I didn't make an explicit upward adjustment to that to reflect its more leveraged capital structure. But 10.3 percent does reflect the increase in leverage.

Q. The final factor you identify you relied on in making an ROE determination is the current economic and capital market conditions; isn't that true?

A. Correct.

Q. Isn't it true that the current economic and capital market conditions impact the proxy group, DEU, the industry as a whole?

A. So certainly all natural gas utilities, and I suppose all utilities in general, would -- many of the factors would impact the model results. So for example, an increase in interest rates would impact the capital as a pricing model and the bond yield plus risk premium model. So they would show up in the model results.

Q. Given that it is undisputed that DEU is on strong financial footing, has a supportive regulatory environment, has comparative credit ratings, is identified as a low-risk utility, and has a capital investment requirement of about 4.6 percent which has not been challenged as being not large or risky, isn't it unlikely that DEU will be more negatively impacted by adverse market conditions than the industry as a whole?

A. So let me see if I understand your question. Your question is, is DEU not as impacted by the market conditions as other utilities?

Q. Wouldn't the same -- there is nothing that we've identified that makes DEU more risky than the peer group or the market as a whole, I would assert. And therefore, the final factor you listed, the economic and capital market conditions, would impact DEU -- would not impact

DEU more negatively than they would impact the proxy group or the industry as a whole. Did you understand that?

A. I think we agreed that they do impact the industry as the whole and the proxy group as a whole. And it's a significant impact. And so as I talked about in my summary and in my direct testimony, the Commission has often looked to changes in market conditions from the prior rate case. And so part of my testimony is to demonstrate what those changes are.

And I think Mr. Coleman agreed in his direct testimony that, not only changes in risk, but changes in market environment would support a change in the ROE.

And so my testimony is, is that the market environment is vastly different than what was experienced in February of 2020.

Q. So your statement is that current market conditions explain why your ROE is 10.3 percent?

A. Absolutely.

Q. What do you mean by "current"?

A. "Current," as in "current market conditions"?

Q. Yes.

A. So in my -- my testimony covers a study period, at least the exhibits that have been filed in my testimony cover a study period through the end of August of this year.

But we continue to look at -- those conditions have continued to increase in terms of interest rates have continued to increase. The 30-year Treasury yield yesterday hit 4 percent. And we haven't seen that level of 30-year Treasury bond yield since 2014. And even before then, was 2011 was the last time we saw 30-year Treasury bond yields at 4 percent.

So I would say to you that I think it's a very different market environment than in 2020, when the Commission's order came out probably two to three weeks before the U.S. shut down, and we saw enormous market support from the Federal Reserve that brought interest rates down to near 0 percent or below 1 percent for the 30-year Treasury yield.

And so it's a very different environment. And that is why I believe all of the market indicators that I discussed this morning show that capital costs have increased, and those costs are a cost to the utility. And so I believe that it's appropriate to increase the authorized ROE in this proceeding for those reasons.

Q. Those factors, however, affect the industry as a whole and the proxy group as well?

A. They do. And they show up in the model results. And that's why I use a proxy group to estimate the ROE.

Q. You calculated your ROE at 10.3 percent in May of 2022, correct?
A. My recommendation that was in my direct testimony was filed in May, and it relied on data through, I believe, the end of February.
Q. Ms. Nelson, I'd like to turn to your models. Let's start with your DCF model.
A. Okay.
Q. Are you aware or are you not that on page 50- -- 65 of Mr. Lawton's direct testimony --
A. I'm sorry 55 or 65?
Q. Sixty-five.
A. Okay.
Q. Lines 1190 to 1195. He criticized your failure to exclude outliers in the results in the ROE as high as 14.19 percent, with additional outliers in your results between 13.43 percent and 13.97 percent; isn't that true?
A. I see his testimony there. I don't know that I would say that I -- I reviewed the growth rates for outliers, and I discussed that in my direct testimony, and I did not exclude any for outliers. But I see Mr. Lawton's testimony there.
Q. Do you have any reason to doubt his numbers?
A. Well, what I understand him to be saying is that the high DCF results, in his opinion, are beyond some

threshold that he considers to be appropriate. And so the way that I understand Mr. Lawton's analysis, I understand that he reviews his results for outliers, his ROE estimates from his models.

I reviewed the growth rates, and I presented -- for outliers, and I did not find that any of the growth rates were considered to be outliers in the DCF model.

Q.   Did you --

A.   So then what I did was, how I present my DCF analysis is I calculate a range of results. The low end of the range uses the lowest growth rate for each individual company. The high end of the range uses the highest DCF growth rate. So it provides a spectrum of results for the Commission to consider.

My overall 10.3 recommendation, though, does not give weight -- or does not rely exclusively on the high end of that range. So it's somewhere in between. 10.3 would fall within the range of the mean and high.

Q.   Isn't it true that there hasn't been an ROE in the range of 13 to 14 percent since 1992, over 30 years?

A.   That's probably true. I'll accept your characterization there. I don't know off the top of my head.

Q.   Now Mrs. Nelson -- well, I'll skip that.

Now, let's turn to your CAPM and ECAPM models.

On page 16 of Mr. Lawton's surrebuttal testimony --

A. Page 16, you said?

Q. Yes.

A. Okay.

Q. He states -- oh, on Lines 319 to 321. He states, the basic issue that Ms. Nelson attempts to calculate an expected market return by applying a constant growth DCF to all companies, dividend paying companies and nondividend companies in the S&P 500; is this correct?

A. I see the testimony that you're reading from.

Q. Part your response to this argument is your claim on page 99 of your rebuttal testimony.

A. Okay.

Q. You testify, quote, "DEU Exhibit 2.4 (both for the Bloomberg analysis and the Value Line analysis) show that for every company in the S&P 500, the growth rate in Column 5 is less than the DCF result in Column 6"; did I read that correctly?

A. I see the text that you're saying there, yes.

Q. Is that a mistake?

A. Well, I wouldn't say that it's a mistake. What I'll say is if we look to Mr. Lawton's direct testimony that I'm responding to here in this section, I think it's page 67 -- and maybe I'll just provide a little more clarification on this comment, on this text.

But page 67, he says at Line 1230 -- the end of 1231 to 1232. He says, "The discount rate, i.e., the ROE, should be greater than the growth rate."

So what I did is I checked for every company whether the discount rate was greater than the growth rate. In all cases, that was true.

Now, what Mr. Lawton -- and I understand that's somewhat different than in every case, that the growth rate was -- well, I'll say this: The growth rate was not greater than the discount rate, so that's what I'm saying. The growth rate is not greater.

In some cases, for all of the nondividend paying companies, they were the same. But the growth rate was not greater.

Q.   That's not your testimony, is it?

A.   So I'm just adding that clarification. So I see the confusion with that and how it was interpreted and how it was explained.

But what I'll say is, I understand Mr. Lawton's position on applying the constant growth DCF to all 500 companies.

MR. MOORE: I'm going the object as nonresponsive or outside of the question. I'm just asking about a mistake in her testimony.

CHAIRMAN LEVAR: I'm going to allow the witness to continue a little further.

THE WITNESS: So I wouldn't characterize it as a mistake, probably a misinterpretation of what was being discussed there and how I looked at the relative growth rates to each -- to the ROE for each company.

But really, what I think about is, what is the purpose of the analysis? The purpose of the analysis is to develop a market return for the market as a whole. When we think about it, all models are subject to constraints and various assumptions. And Mr. Lawton has discussed certain constraints within the DCF model that may not hold for every single company in the S&P 500.

But what I think is the bigger problem is, if you start now assessing each individual growth rate for each of the 500 companies for some threshold growth rate, or you start removing companies because they do not pay dividends, then you start developing an estimate or a subset of the market. And that's really not what the objective of the analysis is. The objective is to come up with an estimate for the market as a whole.

And so I agree that when you look at it on an individual company basis, some of the results may appear to be not in keeping with what the constant growth DCF is. But you look at it on balance. There are some very high growth rates, I agree; and there are some very low growth rates, and those offset each other. And over time, the S&P 500 is meant to reflect -- and I think most of the financial community would agree that the S&P 500 reflects a broad, overall group of the market. So I understand Mr. Lawton's concerns, but I think the bigger problem becomes when you start pulling companies out.

I mentioned in my rebuttal testimony that the nondividend paying companies reflect 30 percent of the market capitalization for the S&P 500.

And so my question is, is it now reflective of the overall market to exclude 30 percent of the market when you're coming up with that estimate? And I disagree with that. I don't think that that is an appropriate approach. And so I recognize his concerns, but I think once you start removing companies, you get into bigger problems.

Q. (BY MR. MOORE:) I'm going to read that sentence again, and you tell me what mistake I'm making.

DEU exhibit -- I'm going to, or I'm causing OCS Cross Exhibit 2 to be handed out. This is a copy of your Exhibit 2.04. Now, I'm going to read Line 1652 to Line 1655, and tell me if I typed this wrong, which I might have.

A. Okay.

Q. DEU, Exhibit 2.04, which is what we've just handed out, "(both for the Bloomberg analysis and the Value Line analysis) shows that for every company in the S&P 500, growth rates in Column 5 is less than the DCF results in Column 6."

Is that what you testified to?

A. That is my testimony. And the only cases where they're equal is in nondividend paying companies. But in every other company, they're less.

Q. Well, we'll go on. Finally, Ms. Nelson, may I direct your attention to page 19 of your rebuttal testimony.

A. Okay. I'm there.

Q. Starting on page 308, you note that Mr. Walters' assertion that robust valuations are evidence that utilities can access capital markets at relatively low costs, and therefore robust evaluations argues in favor of low ROEs.

Did I state Mr. Walters' position correctly?

A. That's my understanding of his position, yes.

Q. In response, on page 21 of your rebuttal testimony, Line 333, you state that there is an inverse relation between gas utility valuations and interest rates, and historically utility valuations have often declined as interest rates rise; isn't that correct?

A. That's correct.

Q. Therefore, your testimony argues that as interest rates rise, utility values decline and ROEs should be higher; isn't that correct?

A. I'm sorry. I agree with what you're saying, that historically -- now, again, if you look at chart -- Figure 7 on page 20 of my testimony, which I'm trying to demonstrate that relationship over time. If you look at the general trend between the two lines, they move in opposite directions. So that would support the inverse relationship that I'm discussing. And I think, you know, we see more recently that that is held true.

Now, in every data point, is that true? Do they move in opposite directions? No. But the general trend is they move in opposite directions.

But if we look more recently, as interest rates have continued to increase, we have seen utility valuations come down over the last month or two. So I think that relationship continues to hold.

Q. Resulting in higher ROEs -- or resulting, for argument, for a higher ROE, as utilities valuations go down and interest rates raise?

A. Well, one way that utility valuations are affected in ROE models is through the DCF model. So declining utility valuations would mean declining stock prices, which would mean increasing dividend deals. So that would show up in the models.

At the same time, rising interest rates would show up in the CAPM model as higher ROEs, all else equal.

Q. On page -- on that same page, 21, Line 330 to 332, you testify that low interest rates are often associated with high market volatility, which suggest an increase in the cost of equity, not a decrease?

A. Right. So what I'm explaining there is the low interest rate environment that we saw at the beginning of COVID. So we had enormous market support by the Federal Reserve that deliberately pushed down interest rates and intervened into the Treasury market. And what happened was we saw a flight to safety. And when that happens, investors are evaluating the relative risk in returns between Treasury bonds and utility yields.

And so what I'm saying is, you can't often look to just the movement, but the reason behind the movement. And so as interest rates decline, investors are moving into safer government bonds, which means equities are now more risky, requiring a higher return.

So as I mentioned, it's not always the case that that's a reason. But when we look to the interest rate environment immediately after COVID happened -- and this happened in the 2008 Great Recession as well -- you have a crisis-induced market environment, and Treasury yields were abnormally low and deliberately pushed that way from the Federal Reserve. So to me, that suggests that equities now require an even higher return to compensate for that additional risk in market volatility.

Q. In fact, on that same page -- in fact, that same paragraph, you showed both, that low interest rates result in higher ROEs, and high interest rates result in higher ROEs; isn't that correct?

A. I think both can be true, yes. It depends on the market environment.

Q. You'll be glad to know that I am finished. Thank you very much.

A. Thank you for your questions.

CHAIRMAN LEVAR: Thank you, Mr. Moore.

Major Buchanan.

CROSS-EXAMINATION

BY MAJOR BUCHANAN:

Q. Good morning, Ms. Nelson. I just have a few brief questions for you.

You commented earlier in your discussion with OCS counsel regarding the Fitch report reference by Mr. Lawton that you believe Utah is a supportive regulatory jurisdiction; is that correct?

A. Yes.

Q. And do you have in front of you Mr. Lawton's Exhibit OCS 3.13?

A. No, I don't have that that exhibit, unless -- what is the name of the exhibit? Maybe I have it, but I don't have it marked as that. Is it one of the credit rating reports?

Q. It contains the Fitch report.

A. I do have the Fitch report.

Q. I was specifically going to ask you about page 66 of Lawton Exhibit OCS 3.13.

A. Let me see if I have the Fitch report.

So what I have is the Fitch report dated March 30th of 2022, "Fitch Affirms IDRs of Dominion Energy, Select Subs." Is that what you're referring to?

Q. I apologize. If I could just have a moment.

A. Sure. Sorry. If you do have a copy, I would take your copy.

Q. I apologize. I do not have a copy. I thought during your cross you may have had a copy of his exhibits.

A. I have all of his other exhibits. I apologize. I don't have that one.

MS. SCHMID: Pardon me, if you could repeat the exhibit number, I can check to see if I have a copy.

MAJOR BUCHANAN: Okay. 3.13.
MS. SCHMID: Thank you. I do not.
MAJOR BUCHANAN: Okay. If I could just have one moment, please. I'll just move on.
Q. (BY MAJOR BUCHANAN:) Would you agree that the low end of your recommended range of 9.6 is higher than the current reported average ROE for gas utilities in 2022?
A. Yes, I believe we've established the average for 2022.
Q. Would you agree that Mr. Walters' recommendation of 9.4 percent ROE is largely consistent with the year-to-date average ROE?
A. I agree it's roughly similar to the average year-to-date. Again, I don't think it's appropriate to place weight on an average of, for, say, 16 or 18 outcomes thus far, but I agree that it's roughly consistent with that.
Q. Thank you. That's all I have.
CHAIRMAN LEVAR: Okay. Thank you.
Before we go to Mr. Russell, I think Ms. Schmid had a motion for an exhibit to enter that we need to circle back to.
MS. SCHMID: Yes, if I may, I'd like to introduce and discuss what I'd like to identify as DPU

Cross Exhibit 4. And while I am providing some introductory information, Mr. Coleman will pass this out.

CHAIRMAN LEVAR: Is there any objection to allowing Ms. Schmid to continued her cross-examination at this point?

MR. SABIN: We do not object.

CHAIRMAN LEVAR: Okay. Thank you.

MS. SCHMID: Thank you.

CROSS-EXAMINATION (RESUMED)

BY MS. SCHMID:

Q. Ms. Nelson, if you would please read back the portions of your summary where you addressed the weighted average cost of capital and changes in basis points.

A. Sure.

MR. SABIN: Trisha, can I ask a question? Is this the same as you sent us yesterday -- on Monday?

MS. SCHMID: On Monday, yes, it is.

MR. SABIN: Okay. Thank you. No, it's not. The one we got on Monday does not have a green line on it. This is new. The one on Monday just had two lines, a yellow and a black line. So this is not what we were delivered before.

MS. SCHMID: I believed that it was. In that case, could we, perhaps, delay my examination concerning this exhibit while I check to see what I sent?

CHAIRMAN LEVAR: Sure. Why don't we go to Mr. Russell at this point, then.

MS. SCHMID: Thank you.

MR. RUSSELL: I don't have any questions for the witness. I will note, for whoever's benefit, the one I have has a green line on it. So I don't know if you maybe sent two of them?

MR. SABIN: Trish, you can just go ahead. I think it's okay. I'm not sure what exactly -- I just wanted to make sure we have the right one, that everybody has the right one.

MS. SCHMID: Thank you. I did send two. The first one didn't have the source of the information.

MR. SABIN: Yeah, I was looking, I think, at your earlier email, and I think you sent a follow-up email, is my understanding. So that's okay. Go ahead.

MS. SCHMID: Thank you.

Q. (BY MS. CLARK:) So could you read back the provisions of your summary dealing with the weighted average cost of capital and changes in the basis points.

A. So I'll read the whole section here.

"In this proceeding, the Company requests a capital structure consisting of 53.21 percent common equity, and 46.79 percent long-term debt, which is more leveraged, contains more debt, than its current authorized capital structure of 55 percent common equity and 45 percent long-term debt. Further, it requests a costs of long-term debt of 4 percent. If approved, customers will receive significant cost savings of DEU's more leverage requested capital structure and lower cost of debt in this proceeding relative to its current authorized capital structure. The cost savings from its more leveraged capital structure and lower costs of debt is equivalent to approximately 47 basis points of equity costs."

Am I covering the right --

Q.   Yes. And so your statement only addressed DEU's information points; is that correct?

A.   That's correct, yep.

Q.   If we can now look at what has been passed out, and I'd like to characterize as DPU Cross Exhibit 4, I'll provide just a little bit of background.

The information was gathered from, as represented, on the cross exhibit DPU Exhibit 2.07SR.

2.7SR gives capital structures and reported equities -- return on equities for the various companies depicted in the chart. The chart assumes -- the chart assumes a weighted average cost of capital of 4 percent, 4.25 percent, and 4.5 percent for illustrative purposes.

So just looking at the chart, do you agree that the top line represents DEU's weighted average cost of capital?

A. So I guess I need a little more context to understand the data. So when you say weighted average cost of capital at 4 percent, 4.25 percent, 4.5 percent, is that --

Q. I'm sorry. I misspoke. Cost of debt. That was a big error on my part. I apologize.

A. Okay. That's one question.

And so did you say that each of these use the authorized capital structures for each of these decisions, or does it use some other capital structure?

Q. If you can turn to what has been previously admitted as one of DPU's cross exhibits, the one that is the year-to-date 2022, and if we look on the second page of that exhibit -- it's the one that we sort of have to fold over.

A. Okay.

Q. You'll see a column that is "Common Equity to Total Capital"?

A. I see that, okay.

Q. And the chart uses that and the "Return on Equity" in the next column to the right for each of the listed companies.

A. And then, I guess, calculates using these various costs of debt?

Q. Yes, that is correct.

A. Okay. And so -- so from the -- and this data in 2.7SR is present S&P Global?

Q. S&P Global Market Intelligence, yes.

A. And so the common equity ratio that's presented in the column on page 2, that says, "Common Equity to Total Capital," right? So we're going to have various jurisdictions that include more sources of capital in their ratemaking capital structure than is the case in this proceeding, which only includes long-term debt and common equity. So several of these jurisdictions will include short-term debt.

Q. Could you please identify which ones those would be for me?

A. So I believe North Carolina includes short-term debt. Kentucky includes short-term debt. Minnesota -- oh, I'm sorry.

The other point was these determinations don't list what jurisdiction these outcomes are in. But I did look them up. And so maybe I'll just go by company here.

So Public Service Company of North Carolina includes short-term debt. Southwest Gas Corp., both of those are for Nevada. The capital structure there includes 50 percent total debt, so includes short-term debt. Atmos Energy Corporation, Kentucky, includes short-term debt. Northern Indiana Public Service Company includes short-term debt and noninvestor supplied capital at zero cost. And CenterPoint Energy Resources includes short-term debt.

Q. Even if we take that into account, there are several companies listed that do not include short-term debt; is that right?

A. There are some, but again, this gets to the point of trying to understand what are the nuances for each corporation -- for each utility and each jurisdiction. And so to say that the weighted average cost of capital for DEU, which includes only long-term debt and common equity, is comparable to a jurisdiction that includes other sources of capital, I don't think is really this right comparison that we should be doing.

Q. So if we were to revise this chart and take out the ones where you say there is short-term debt, there would still be several companies that had the same, sort of, input as DEU has; is that correct?

A. It would be a more consistent comparison. I would agree with that. But again, you know, there still are 11 of these observations that are above the DPU's recommended weighted average cost of capital. More of them are above the OCS' weighted average cost of capital. And so again, I agree that the recommendation in this case is 7.35 percent. That includes my 10.3 recommendation. So I presume that's the yellow line.

But that is very -- a very reasonable increase, given all of the market condition changes that I discussed earlier.

Q. Going back to your comments on short-term debt, could you explain how short-term debt impacts the weighted average cost of capital?

A. It would produce a lower weighted average cost of capital. So if you were to remove that from -- if you were to remove short-term debt from the capital structure, and you were to present the common equity percentages that are in this 2.7SR, the common equity percentages would go up.

Q. Okay. Returning to our chart, could you tell me how many of the companies listed have a weighted average cost of capital above DEU's?

A. Well, that raises another good point, that these aren't the actual authorized weighted average costs of capital because they presume different --

Q. Cost of debt?

A. -- somebody else's cost of debt. So we don't know that these were the costs of debt. So I can't really say.

But again, we're still talking about market conditions and changes in market conditions. So I agree, the yellow line is above the weighted average costs of capital that are presented in this chart. But I'm not sure what type of point -- what the point is. It's just a lot of different comparisons there.

Q. It provides additional data for the Commission to consider.

MS. SCHMID: With that, the Division would like to move for the admission of DPU Cross Exhibit 4.

CHAIRMAN LEVAR: If anyone objects to that --

MS. SCHMID: Oh.

CHAIRMAN LEVAR: Sorry, was there something else, Ms. Schmid?

MS. SCHMID: Sorry, there apparently is.

With that, the Division would like to move for the admission of Cross Exhibit 4.

CHAIRMAN LEVAR: Okay. If anyone objects to that motion, please indicate your objection.

I'm not seeing any in the room, so the motion is granted.

MS. SCHMID: Thank you.

(Exhibit DPU Cross 4 was entered into the record.)

MS. SCHMID: That's all I have. Thank you for the indulgence.

CHAIRMAN LEVAR: Okay. Thank you.

Any redirect?

MR. SABIN: Yes, we do. I'll start, and you tell me, just let me know if you want me to stop at any point. I don't think it will be lengthy, but I do think it will be more than ten minutes.

CHAIRMAN LEVAR: Yeah, you know, we started back a little late after the break. So I think -- if there's no objection to going a half an hour or so before we break, that was my plan.

MR. SABIN: I'll be efficient, but I just didn't want to upset anybody if they had specific time plans for that.

REDIRECT EXAMINATION

BY MR. SABIN:

Q. Ms. Nelson, I wanted to cover a couple of quick things. You have in front of you an exhibit that was marked as OCS Cross Exhibit 1. It's a "Major energy rate case decisions in the US" document. Let me know when you have that one.

A. I have it.

Q. I'd like you just to -- you made a point during your answers to the OCS' counsel on the number of rate case decisions, and I don't remember exactly how you said it, but you said something like, that 16 rate case decisions was not very many in comparison to the number that one would expect.

And I'd just like you to turn, if you could, to page -- let me find it here. Sorry. Page 10 at the bottom. The number 10 at the bottom, not the one in the top left-hand corner. And you'll see a chart there on the bottom of that exhibit.

Can you tell me what you understand that chart to represent?

A. Sure. So this chart is showing both the number of rate cases decided, which I believe are the bar graphs corresponding to the right vertical axis. And then the authorized ROE, I presume is the annual -- calendar year annual average authorized ROEs and medians for the electric and gas utilities, beginning in 1990 through the first half of 2022.

Q. And on the right-hand side, what do you understand the numbers along the right-hand side of that chart to represent?

A. So this would represent the number of outcomes, the number of rate case determinations in a particular period.

Q. Okay. So we've said, I think there were 16 that were in the RRA report that you were shown earlier; is that right?

A. For natural gas companies, yes. So I think this would be electric and gas companies.

Q. Right. So the total number of rate cases on an annual basis, would you say -- and at least, if you look at the last ten years, for example, from 2012 through 2022, about how many rate cases would you say, or more, do you see there?

A. Most years approaching 100 rate cases or more.

Q. Okay. So 16 decisions relative to 100, how would -- how would you characterize the number we've received so far this year versus the number we would expect by the end of the year?

A. So I think it's certainly been a much slower year for rate cases filed relative to normal.

Q. Okay. Let's -- and just one other thing while you're there. Mr. Moore was pointing out on page -- I think it was page 10 -- no, excuse me, 6, page 6. You might remember he read you that top paragraph and was commenting about New York, versus Illinois and Vermont.

The 9.47 there at the bottom, what does that relate to?

A. So this is on first paragraph?

Q. Yes, uh-huh.

A. So the 9.47 percent relates to electric utility ROEs, the average.
Q. Not gas utility?
A. Not gas.
Q. Okay. Thank you. You can put that one away.
I want to talk quickly about Mr. Moore asked you some questions about the weighted average cost of capital and how the -- or the weighted equity, I should say, and how that moves relative to the ROE and relative to the capital structure.
Do you remember that line of questions?
A. I do. Yep.
Q. Can you just explain, how is it that that figure, that -- if we held -- he had you hold constant the weighted equity at, I think he said 5.225 percent for both 2020 and 2022; do you recall that?
A. Yes.
Q. If I were to take -- and maybe you want to put this on a piece of paper and help me understand this. If you take 9.5 percent, which is the authorized ROE from the 2020 decision, and you multiply that by 55 percent, that's how we got to the 5.225 percent Mr. Moore gave you. Do you follow my math?
A. I do, yep.
Q. So if I'm going to solve now for the ROE in

2022, and I have 5.225 percent on the one side of the equation, and I know the Company is now requesting a 53.21 percent equity percentage, would you solve for and tell us what the ROE would have to be to equal the 5.225 that Mr. Moore was holding constant?

A. I should have brought my calculator.

Q. You can borrow my phone, if you'd like.

A. I do have a calculator in my bag, which I could do. Whatever --

MR. MOORE: I'm going to object. Just to clarify, Mr. Sabin, I believe what I held constant was a 4.7 weighted cost of equity.

MR. SABIN: Okay. Well, that's fine.

Q. (BY MR. SABIN:) But I've calculated the weighted equity as of the last rate case to be 5.225, which is 9.5 times 55 percent.

A. Right. I understand that, yes.

Q. Just to achieve that same weighted equity here and using a 53.21 percent equity percentage, let me just say I calculated that it would be a 9.819 percent ROE.

A. That makes sense to me, and I would accept that math.

Q. When you say "that makes sense to me," why would that make sense to you?

A. Because you're now dividing the weighted cost of equity by a lower number. So the denominator is lower, pushing the overall number higher.

Q. Okay. So we would expect -- and so you made a comment -- Mr. Moore had you reread it. I don't need you to read it again.

But you made a comment in your opening statement about how to achieve just the same weighted average cost of capital in this case as we have -- as resulted from the last case. You'd have to have an ROE, and I don't remember what the number was --

A. I calculated 9.97 percent, and that also includes the lower cost of debt.

Q. And why is it that the ROE -- could you explain the relationship between why you would expect the ROE to go up in the environment here to accommodate for the same weighted average cost of capital?

A. Well, so my illustration in my summary this morning was just to show mathematically that relationship between the cost of equity and the cost of debt and that the Company has proposed a lower equity ratio and a lower cost of debt, which will produce capital cost savings for customers.

Now, if we were to hold its weighted -- current authorized weighted average cost of capital constant, that would mean a 9.97 percent ROE would keep that constant.

My testimony is that, given the market environment, and given the fact that capital costs are increasing both debt and equity, that a weighted average cost of capital should increase. And the proposed weighted average cost of capital in this proceeding is 7.35 percent, which is only 17 basis points above its current authorized rate of return.

Q. And what is your understanding of what the Company's proposed relative to the equity percentage in this proceeding versus the last proceeding, and the cost of debt in this proceeding versus the last proceeding?

A. So it requests a lower equity percentage in this proceeding and a lower cost of debt.

Q. And what does that mean for customers if there's a lower cost of debt?

A. Well, customers pay that cost, and so it's a cost savings to customers.

Q. Okay. I'd like to have you turn, if you could, to page 65 of your direct testimony. Just put your finger there. I have one question before I have you read that.

Mr. Moore talked to you about the industry as a whole. And I want to just focus on the utility industry as a whole.

Relative to how utilities were doing in 2020, how is the utility industry doing at present in 2022? And by "at present," I mean the last several months.

A. So if we look to how the utility industry has performed over the last, say, two-and-a-half years from the Commission's order in the last rate case, as I mentioned, shortly after, we saw the market dislocation as a result of COVID. Both utilities and the S&P 500 lost similar value, I would say about 30 percent. They both lost 30 percent of value within the month of March of 2020.

If you use that as your starting point, utilities have not recovered; whereas the S&P 500 has recovered since that time.

I know that since the beginning of this year, perhaps even beginning the end of last year, but if you take a time period, starting mid-2021 through the beginning and first half of this year, utilities outperformed the overall market. But they didn't catch up to the S&P 500.

And if you look at how the utilities have performed in the last, say, month, they have underperformed, so they've lost value relative to the S&P 500.

Q. And what does that tell you relative to what investor expectations would be for utility returns?

A. So what it tells me is that investors, at least if we look to the most recent activity, the investors are moving away from utilities, so they're finding other investments to be more attractive. And in order to compensate them to entice them to invest in utilities, the return needs to be higher.

Q. Okay. Thank you. Now, on page 65 of your testimony, Mr. Moore read a sentence, but he didn't read the second sentence after the one he read. There at the top partial paragraph, there's a last sentence that starts with "Consequently."

A. Yes, I see that.

Q. Can you read that sentence, and then I have a question about it.

A. "Consequently, the Commission should consider the effects of the Company's higher financial leverage in its requested capital structure in determining the authorized ROE."

Q. Okay. Why is that true, in your opinion?

A. So we've discussed that relationship, the symbiotic relationship between the authorized ROE and the capital structure. And "higher financial leverage" means higher risk for which investors must be compensated. And so, you know, as we talk about the hypothetical that Mr.

Moore presented, I disagreed -- although I agree with the math and how it works. The authorized -- the cost of equity that investors require is a function of the capital structure and leverage. So the two are not independent of each other. So as you increase debt and increase leverage, as I mentioned, it increases financial risk. And more risk means higher costs of debt and equity. So the authorized ROE -- or the return investors require from equity also goes up.

Q. Thank you. Just one other area I want to follow up on.

Do you remember Mr. Moore asking you about your five considerations, or five factors you considered in making a recommendation in this case?

A. Yes.

Q. Would you turn to those five recommendations, or those five factors. And I just have a couple of questions about them.

And could you just remind the Commission, what are the five factors you're talking about?

A. So he was referring me to my direct testimony at page 4 and 5, where I listed the factors that I considered in making my recommendation.

So my recommendation considers the Company's significant capital investment requirements, the regulatory environment in which it operates, and the increase in financial leverage associated with its requested capital structure. I also consider the current economic and capital market conditions and recent authorized ROEs for similar natural gas utilities in the United States.

Q.   So if we take those and we look at 2020, February -- put yourself, your head on in February 2022, and then we're going to compare that to what your recommendations is here and why you're recommending what you're recommending, can you walk through those with me?

Mr. Moore spent a long time talking about regulatory risk. As between 2020 and 2022, do you see much of a difference between the state of the regulatory risk in 2020 for the Company versus the state of the regulatory risk for the Company in 2022?

A.   No, I think it's remained the same.

Q.   Okay. And as it relates to capital structure, how has that -- how would you compare 2020 to 2022 and what that would -- whether that favors a change in -- from what was done in 2020 or not?

A.   So as we discussed, more leverage in the capital structure would increase the cost of equity.

Q.   So that factor --

A.   So that's a change.

Q. So that factor has a tendency, in your opinion, to push ROE up?
A. Correct.
Q. Now, let's go to the next point, which was, I think, capital expenditures?
A. Correct.
Q. How do you see that 2020 to 2022?
A. So I haven't compared the level of investment by the Company. But what I looked at was the ability for utilities to recover capital investment. And I see that it's comparable across the proxy group. So I would say there's no risk reduction or increase in risk, so no change.
Q. So like the regulatory risk factor, you see that as a neutral --
A. A neutral, correct.
Q. Okay. And the last two we have are the models in the market change, and the changes in the existing market.
So how do you see the market changes moving from 2020 to the present for purposes of a recommended ROE?
A. So for the four figures that I presented this morning and discussed in my direct and rebuttal testimony, all four factors point to higher capital costs would support a higher authorized ROE.

Q. Okay. Then finally, the modeling, would you just comment on what you think the models are showing relative to what the environment was like or what you reviewed from 2020?

A. Sure. So I would say the models are a reflection of the capital markets. You know, we discussed earlier that a reduction in utility valuations would show up in the DCF model as higher dividend yields and a higher DCF model result. And higher interest rates would show up in the CAPM and Bond Yield Risk Premium model as higher ROE results.

Q. Okay. Thank you very much. Give me a second.

All right. That's all I have. Thank you.

CHAIRMAN LEVAR: Thank you. I think we will go ahead and take a break now. Why don't we go ahead and break until 1:30. And then we'll come back and continue with any recross.

(A break was taken from 12:08 p.m. to 1:29 p.m.)

CHAIRMAN LEVAR: Okay. We will go ahead and begin. Just for your information, it looks like the Internet issues have improved a little bit. We think we'll be able to start streaming. Our conference line, though, is still down, and we're unsure of why that's connected to the Internet issue because it should be two different things. The only people who were using it were the representatives of Nucor, who were continuing to listen, even though they had said they weren't participating. So I hope we're not prejudicing Nucor in any way by continuing. I'm not sure what else we can do other than continue, so we'll just go ahead that way.

Ms. Nelson, you're still under oath. And I think we'll go to Ms. Schmid for any recross.

MS. SCHMID: No recross. Thank you.

CHAIRMAN LEVAR: Thank you.

M. Moore?

MR. MOORE: Just very briefly.

RECROSS-EXAMINATION

BY MR. MOORE:

Q. Ms. Nelson, I wanted to talk to you about the graph on page 5 of OCS Cross Exhibit 1.

A. This is the RRA report?

Q. Yes.

A. Page 5.

Q. Page 5. I believe this is the graph that you testified to that it looked like, by your reading of the graph, there were 100 gas cases in 2021.

Do I remember your testimony correctly?

A. No, there's 100 or more total cases, electric and gas.

Q. More total cases.

Can you tell from this graph how many gas cases there were?

A. I can't tell the exact number, but I'll say looking at 2021, for example, it looks, to me, to be about half, so ....

Q. How about 42?

A. Forty-two. I'll accept that number.

Q. Thank you. I have no further questions.

CHAIRMAN LEVAR: Okay. Sorry. Our switches have been mislabeled for decades, but I still don't get used to it.

Major Buchanan, do you have any recross?

MAJOR BUCHANAN: No recross.

CHAIRMAN LEVAR: Mr. Russell?

MR. RUSSELL: No.

CHAIRMAN LEVAR: Commissioner Clark, do you have any questions for Ms. Nelson?

COMMISSIONER CLARK: I have no questions. Thank you.

CHAIRMAN LEVAR: Commissioner Allen?

COMMISSIONER ALLEN: I have one question, and I'll see if I can articulate this because I may have forgotten part of it during lunch.

CROSS-EXAMINATION

BY COMMISSIONER ALLEN:

Q. When you were summarizing some of the testimony you had in answering questions, you indicated that you could have upward pressure, I believe -- I don't want to put words in your mouth -- you could have upward pressure on the rate of return in an increasing interest rate environment or even a decreasing interest rate environment.

Is that because there's so many variables, it's not just a one-to-one relationship?

A. I agree that's part of it. And you just have to think about what is the reason for the change in interest rates. So when I was talking about the low interest rate environment that we saw in 2020, that was a result of a couple of factors, one, the Federal Reserve deliberately pushing down rates.

We also had high market volatility, and when that happens, there's a flight to safety. So you get investors moving from equities into treasuries. As they move to treasuries, they bid up the price of Treasury bonds, and the yields decline.

But because there's that flight to safety, there's that inherent assumption that investors are viewing equity as more risky, so they need more return to stay in equities than they would. So that would be my explanation of that.

Q. That's what I thought you said, and I just wanted to make sure I understood. Thank you.

A. You're welcome.

CHAIRMAN LEVAR: Thank you. I just have one question.

CROSS-EXAMINATION

BY CHAIRMAN LEVAR:

Q. I think it was during your cross-examination from Ms. Schmid. If I remember correctly, you referred to the high level to looking to your models as a forward-looking evaluation, and to looking at other jurisdiction ROE determinations as a historical, or backwards looking.

Again, without analyzing each one of those and the reasoning for each of the other cases, should we presume, though, that, to some extent, at least, those other jurisdictions are basing their evaluations and basing their decisions on forward-looking models?

A. I think that is a good question. I think that is generally the objective. You know, as we all participate in these proceedings across the country, we're under that same impression that the cost of equity should be set using forward-looking information. And it's a forward-looking exercise.

Now, of course, we have historical data that is being used as the inputs. And so my comment was for any given rate case, the evidence in the record is going to be backwards looking and lagged between the time of the proceeding and then the ultimate ROE decision by the Commission.

And it's my experience that I think most Commissions do consider both forward-looking and backward-looking data, but recognizing that the ultimate objective should be forward-looking. I hope that answers your question.

Q. Yeah, no, thank you. I appreciate that answer. Thank you for your testimony today.

A. Okay. Thank you very much, Mr. Chair.

MR. SABIN: Can I raise just one matter, Mr. Chairman?

CHAIRMAN LEVAR: Certainly.

MR. SABIN: So we, during the lunch hour, prepared, in response to Commissioners Clark's earlier comment about the contested and uncontested summary. We prepared a Revised Exhibit A to replace the one that was attached to the other. And if I could just bring -- everybody else has a copy. If I could bring you a copy.

CHAIRMAN LEVAR: You've decided not to concede all those issues on there?

MR. SABIN: Tempting. So tempting.

So here three copies here one. Here's one for the -- so that will just -- you'll keep the first page. That will just be the Exhibit A for that document. We'd ask that, as corrected, be submitted into the record.

CHAIRMAN LEVAR: Okay. If there's any objection to that motion, please indicate your objection. I'm not seeing one from anyone so that motion is granted.

(Exhibit DEU Revised A was entered into the record.)

CHAIRMAN LEVAR: So for the cost of capital portion of the hearing, since we're kind of splitting this up, is there anything further from Dominion?

MR. SABIN: So among the parties, because there are some experts from out of town, to accommodate their flight schedules, the preference was -- they've asked us to wait to have Mr. Mendenhall go on, even though he has some cost of capital testimony; in lieu of that, to let the FEA call their witness now, because he has a flight, I think, at 5:00 p.m. tonight. And then the Office's witness has a flight, I think tomorrow, but we want to make sure he gets home.

So that was what the parties had discussed, and unless you -- and that's, of course, subject to whatever you want to do.

CHAIRMAN LEVAR: Sure. That makes sense.

Just one mechanical question: Are we intending to split up Mr. Higgins' testimony, then, since we're doing cost of capital separate, and then going back to other revenue requirement issues? Are we planning to put him on the stand twice or ...?

MR. RUSSELL: No. Mr. Higgins' testimony does include a placeholder for cost of capital. He's not offering a particular opinion about it. It's mostly just an effort to -- he's going to include something for his revenue requirement model. And so he just used some numbers that were out there. He's not offering an affirmative opinion in the same way that these other witnesses have. So we don't intend to put him on for cost of capital specifically.

CHAIRMAN LEVAR: Okay. Thank you. That clarifies that.

Okay. But you don't have anything else at this point?

MR. SABIN: So at this point, we wait until Mr. Mendenhall to finish up on all of our cost of capital, and we go to the FHA's witness.

CHAIRMAN LEVAR: Major Buchanan.

MR. RUSSELL: Yes. Federal Executive Agencies calls Mr. Walters.

CHAIRMAN LEVAR: Good afternoon, Mr. Walters.

THE WITNESS: Good afternoon.

CHAIRMAN LEVAR: Do you swear to tell the truth?

THE WITNESS: I do.

CHAIRMAN LEVAR: Thank you.

CHRISTOPHER C. WALTERS,

was called as a witness, and having been first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MAJOR BUCHANAN:

Q. Good afternoon, Mr. Walters. Can you please state your full name for the record.

A. Christopher C. Walters.

Q. Where are you employed and in what capacity?

A. I'm employed as an associate at the firm of Brubaker & Associates in Chesterfield, Missouri.

Q. Did you provide direct and surrebuttal testimony in this case?

A. Yes.

CHAIRMAN LEVAR: I think we can all in the room hear you very well, but I'm not sure you're on the microphone for streaming purposes. If the green light is on, you're good.

THE WITNESS: Does not look to be on. Is that better?

CHAIRMAN LEVAR: Yes, thank you.

THE WITNESS: Apologies.

Q. (BY MAJOR BUCHANAN:) Mr. Walters, do you have in front of you FEA Exhibits 1 through 1.16?

A. Yes.

Q. Just to clarify, that would be your direct testimony as well as the attached exhibits?

A. Yes.

Q. And do you also have what has been marked as FEA Exhibit 3.0 and the attached FEA Exhibit 3.1?

A. Yes.

Q. And is that your surrebuttal testimony and the attachment to your surrebuttal testimony?

A. It is.

Q. Do you have any -- do you have any corrections or additions you would like to make to that testimony?

A. I have one correction that I would like to make. On my FEA Exhibit 1.03, Line 8 Column 7, there was a cell reference error. This should read "5.81 percent," so the median growth rate under Column 7 should be 5.81 percent, I believe it read previous to this, "FEA Exhibit 1.0."

Q. Thank you, Mr. Walters.

Now, if I were to ask you all the questions in your testimony while you're under oath today, would your answers be the same?

A. Yes.

MAJOR BUCHANAN: Mr. Chairman, I move to admit FEA Exhibits 1.0 through 1.16 and FEA Exhibits 3.0 and 3.01?

CHAIRMAN LEVAR: Thank you.

Please indicate if anyone has an objection to that motion.

I'm not seeing any, so the motion is granted.

COMMISSIONER CLARK: Mr. Chair, can I ask question of a witness.

CHAIRMAN LEVAR: Yes.

COMMISSIONER CLARK: I just want to make sure I replaced the right number on your chart. Could you just state what number previously existed there.

THE WITNESS: The version I was looking at did not have a number. It said "FEA Exhibit 1," I believe, and it should be 5.81.

COMMISSIONER CLARK: So it's immediately above that "FEA Exhibit 1"?

THE WITNESS: Yeah. So strike that line. So

Line 8 under Column 7, so the median of average of growth rates would be 5.81 percent.

COMMISSIONER CLARK: Thank you. I've got it. Sorry for the digression.

THE WITNESS: No, you're fine.

MAJOR BUCHANAN: At this point, Mr. Walters is available for cross-examination.

CHAIRMAN LEVAR: Thank you. I'll go to Mr. Russell first. Do you have any questions for Mr. Walters?

MR. RUSSELL: I do not. Thank you.

CHAIRMAN LEVAR: Ms. Schmid?

MS. SCHMID: No questions. Thank you.

CHAIRMAN LEVAR: Mr. Moore?

MR. MOORE: No questions. Thank you.

CHAIRMAN LEVAR: Ms. Clark or Mr. Sabin.

CROSS-EXAMINATION

BY MR. SABIN:

Q. I have one brief question for you, or series of questions.

Good afternoon, Mr. Walters. Thank you for being here, and we'll hopefully get you out of here quickly so you can catch your flight.

A. Sure. Thank you.

Q. In your testimony, Mr. Walters, if you could just refer to your direct testimony. It's on page 20 of your direct testimony. I just want to ask you a couple of questions about that.

You'll see on that page, there's a question that starts with, "In light of higher levels." Do you see that question?

A. I do.

Q. So if you wouldn't mind just reading the question, and then we're going to read the answer into the record. And then I'll ask you about that.

A. You want me to read Lines 12 through 20 right now?

Q. Lines 12 through 20, and then we'll go over to -- you have Figure CCW-4 on the next page. So we'll stop there, if that's okay.

A. Sure.

Question: "In light of higher levels of inflation, expectations of higher interest rates, and the war on Ukraine, how has the market perceived utilities as investment options?"

Answer: "Since the end of the second quarter 2021, utilities in general, as measured by the S&P 500 Utilities index, have significantly outperformed the market as measured by the S&P 500, as well as the NASDAQ

Composite. This is presented below in Figure CCW-4. This is indicative that utility valuations remain robust, even during a period of elevated inflation, rising interest rates, and uncertainty as a result of geopolitical events around the world."

Q. Okay. Thank you very much. And then on the next page, Figure CCW-4, you have a chart there, which is representative of what you just spoke about in that answer, right?

A. Correct.

Q. This data goes from June 30, 2021, it looks like through June 28, 2022; is that correct?

A. No. If you look at the top of the figure, it indicates that it goes through July 8th, 2022.

Q. I saw the difference. I didn't see on the bottom where it had July. I was wondering.

A. It's just the way the axis labels are -- because there's so many observations there.

Q. No problem.

It's true, isn't it, Mr. Walters, that that has not been the case from June through the present, right? That utility -- the utility stocks have substantially underperformed the rest of the market since then?

A. They have underperformed. They certainly have not made up for the -- they have not closed the gap, if you will, that's depicted in this figure or in the figure that's at the back of this testimony.

Q. We'll talk about that.

I've handed you a cross-examination exhibit from S&P Capital IQ. You would agree with me, would you not, that all of the parties' experts in this case have relied on numerous position places on the S&P Capital IQ data?

A. Yes. Sorry, yes.

Q. And this is a -- let me just represent, this is a printout from S&P Capital IQ dated October 5th. So it was still a few days ago, but it's closer in time to the hearing than what we were looking at in your data, right?

A. Correct.

Q. And here I'd just like to read --

A. Can I clarify something real quick?

Q. Sure.

A. So this data is only a subset of the continuation of an exhibit. So like it's -- this is only -- I think this only represents the third quarter of 2022, whereas the other chart that we were referencing covers a year prior to that as well.

Q. We'll come to that. I'm going to cover all of that information.

So just at the very top of this, the title of this is, "Gas utility stocks slumped in Q3," which is what you're pointing out, 2022, "as pricey sector entered correction."

And then we go down to the first sentence. And it says, "Gas utility stocks ended a streak of outperformance as central bank policy and other market forces weighed on the utility sector."

And the second paragraph says, "A group of nine ... utility operators selected by S&P Global Commodity Insights plunged 13.3 percent in the third quarter, sharply accelerating losses sustained in the prior quarter."

So wouldn't you agree they're noting that there were losses in the second quarter as well?

A. That's the way that would read, yes.

Q. Okay. And then it says, "Meanwhile, the S&P 500 fell 5.3 percent and the S&P 500 Utilities sector decreased 6.7 percent in the third quarter."

Did I read that correctly?

A. Yes, you did.

Q. And there in the chart below that, that shows a number of gas utilities, not utilities generally but gas utility stocks in the third quarter and their performance, right?

A. Yes, plus the S&P 500.

Q. Right. And you can see that the gas utility

stocks are performing well below the S&P 500, correct?
A. Correct.
Q. Okay. Now, you pointed out that there were -- that there was a correction, or that there has been performance earlier that was outperforming the S&P, 500 correct? Is that what you were saying?
A. What I'm saying, if you were to continue my chart on Figure CCW-4 to even accommodate this data in this chart, the gas index would still be outperforming the market since June 30 of 2021. So if you were to continue the data presented in Figure CCW-4, and similarly, the figure at the back of my testimony, Figure CCW-7 -- and I can go over the differences between the two, if you would like -- but the fact would remain the same, that both charts in my testimony, if you carried it through the data as of this chart -- or this cross exhibit you gave me, they would still be outperforming the market.
Q. Do you have a chart showing that in your testimony in the record? I should just say: Do you have anything in the record that demonstrates that?
A. I mean, we can just take a look at the --
Q. I'm just asking if you -- in your testimony or in the record there's someplace we can go to find that?
A. Yeah, you could take the performance of this

chart right here, shown here, and line it up with the chart on here, and it would show that that's still not going to be enough.

Q. I think you're just misunderstanding my question, or maybe I'm not being clear.

In the record, you have this chart that we've looked at in your direct testimony. You don't provide a further chart that updates that to the present, do you?

A. No, I've not provided that in testimony.

Q. Right. And I just want to go a little further here into this document, if you could flip to page 2.

Do you see that chart on the second page there?

A. The one of the, "Gas utility stocks underperform"?

Q. Yeah.

A. Yep, I'm there.

Q. To me, that demonstrates, Mr. Walters, that of the three indices, the gas utility index that they're talking about here underperformed both of the others by a substantial margin; wouldn't you agree?

A. So they underperformed. They fell 13.3 percent relative to 5.3 percent for the S&P, or 6.7 percent for the utilities -- S&P 500 utilities sector in general.

Q. So they performed more than -- they were worse by more than double, right?

A. Well, they were worse by 8 percentage points, relative to being --

Q. One was -- the S&P was at 5, right? Where are you looking? I'm sorry.

A. What I'm trying to say, to answer a previous question you asked, if we look at the July 8th figure here on my testimony, where it shows that the index is up 10.33 percent and the S&P 500 is down 9.26, so if you just take the minus 13.3 from there, and it would just show that the gap is not closed and the utilities are still outperforming.

Q. I guess we're referencing two different numbers. On the first page, the S&P fell 5.3 percent in the third quarter, and the S&P 500 utilities fell 6.7.

A. That's correct.

Q. The utilities fell 13.3, so more than double in the third quarter. It fell more than double over the other two?

A. Yes. And that's what I said, they fell 8 percentage points more.

Q. Okay. Now, if we look at the second page again, I want to read one more thing, and it's the paragraph that is underneath that chart.

It says, and I'll quote, "Utilities provided a safe haven earlier in 2022, but their outperformance has faded, even as investors remain defensive." And this is the part I want to focus on. "Critically, the 10-year U.S. Treasury yield surpassed the dividend yield for the utility sector, which serves as a bond proxy, Ghaussy," this guy, "said. Utility stocks were also richly valued and outperforming fellow defensive sectors healthcare consumer staples before the sell-off."

So it is a -- it is a significant development, is it not, that the ten-year U.S. Treasury yield has now surpassed the yield for the utility sector. That demonstrates that bonds -- a ten-year bond would be a better investor choice than to go to a gas utility stock right now?

A. I also believe that the ten-year Treasury yield is at or higher than that 30-year Treasury yield, which is another significant thing.

Q. I understand. Just answer my question.

That's true, isn't it, that if you're a rational investor wanting your best return and the ten-year has now exceeded the utility index, you'd rather go -- the utility yields, you'd rather go to the ten-year Treasury note?

A. If all you're investing in is yield, yes.

Q. Okay. That's all I have. Thank you.

CHAIRMAN LEVAR: Thank you.

Major Buchanan, any redirect?

MR. SABIN: I'm sorry. I forgot to move to admit DEU Cross Exhibit 1 into the record.

CHAIRMAN LEVAR: Thank you. If anyone objects to that motion please indicate your objection.

I'm not seeing any, so the motion is granted.

(Exhibit DEU Cross 1 was entered into the record.)

CHAIRMAN LEVAR: Major Buchanan?

MAJOR BUCHANAN: I do not have any redirect.

CHAIRMAN LEVAR: Thank you.

Commissioner Allen, do you have any questions?

COMMISSIONER ALLEN: No questions. Thank you.

CHAIRMAN LEVAR: Commissioner Clark?

COMMISSIONER CLARK: Just a couple of questions to understand the charts a little better.

CROSS-EXAMINATION

BY COMMISSIONER CLARK:

Q. Looking at your Figure CCW-4, which addresses capital appreciation returns over a given period, is that measuring something different than the dividend yield?

A. So the capital appreciation return would not account for dividend yield or dividend return at all. The dividend yield or dividend return component of it would be captured in the total return, which I have provided in that Figure CCW-7 at the back of my direct.

So -- and that's why you will also see a wider disparity or a wider outperformance of the utilities index relative to the market because the utilities index pays a higher dividend yield than the market.

Q. So these appreciation returns are a measuring change in stock price?

A. Exactly.

Q. That's my only line of questioning. Thank you.

A. Thank you for your time.

CROSS-EXAMINATION

BY COMMISSIONER LEVAR:

Q. I think you answered my questions, too. As I'm looking at -- comparing the exhibit that was passed out, the chart on page 2 with your CCW-4, obviously they're measuring two different things. But since this chart starts all at zero, so it's only comparing performance in one quarter, right?

The exhibit that was handed out is looking at performance in one quarter, starting at a baseline of zero at the beginning of that quarter, right?

A. Yeah. It's -- I want to say it's exactly the same as my Figure CCW-4 minus the previous year. So mine starts at June 30, 2021. This chart that was handed to us today starts at June 30, 2022, with zero being the baseline or the starting point.

Q. So if I were to -- if I were to just on the -- through napkin calculations try to compare these two -- tell me if I'm doing this wrong. If I took the red line on your CCW-4 that is up 10.33 and then subtracted 13.3 from that, would that get the results of where things are and then do similar changes to the blue and green line?

A. Yeah, so that should be a pretty close approximation.

Q. Okay. Thank you. That answers my question.

CHAIRMAN LEVAR: Thank you for your testimony this afternoon.

THE WITNESS: Thank you, everyone. Have a good day.

CHAIRMAN LEVAR: Major Buchanan, anything else from you?

MAJOR BUCHANAN: Nothing further.

CHAIRMAN LEVAR: Are we going to the Office of Consumer Services next? Is that everyone's understanding?

Okay. Mr. Moore?

MR. MOORE: The Office of Consumer Services calls Daniel Lawton to the stand and ask that he be sworn.

CHAIRMAN LEVAR: Good afternoon, Mr. Lawton.
THE WITNESS: Good afternoon.
CHAIRMAN LEVAR: Do you swear to tell the truth?
THE WITNESS: I do.
CHAIRMAN LEVAR: Thank you.
THE WITNESS: Thank you.

DANIEL J. LAWTON,

was called as a witness, and having been first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. MOORE:
Q.   Mr. Lawton, could you please state and spell your full name for the record and give your business address.
A.   My full name is Daniel J. Lawton. And my name is spelled Daniel, D-A-N-I-E-L, Lawton, L-A-W-T-O-N.
Q.   Could you give your business address, please.
A.   Oh, I'm sorry. I didn't hear that part.
My business address is 12600 Hill Country Boulevard, Suite 275, Austin, Texas 78738.
Q.   On whose behalf are you testifying today?
A.   The OCS.

Q. What is the purpose of your testimony?
A. To provide expert testimony on the current cost of capital.
Q. Did you prepare direct testimony, together with OCS Exhibits 3.1D through 3.113D, and cause this testimony and accompanying exhibits to be filed with the Commission on August 26, 2022?
A. I did, yes. August -- that is my direct testimony, filed August 26.
Q. Did you also prepare surrebuttal testimony, together with OCS Exhibits S1S through -- I mean 3.1S through 3.2S, and cause this testimony and accompanying exhibits to be filed with the Commission on October 13, 2022?
A. I did. That would be my surrebuttal.
Q. Do you have any changes to this testimony you'd like to make at this time?
A. None that I'm aware of.
Q. If I asked you the same questions that are contained in your written testimony, would your answers be the same?
A. They would indeed.
MR. MOORE: The Office would move to admit the testimony and accompanying exhibits of Mr. Lawton.
CHAIRMAN LEVAR: Thank you. Please indicate if

anyone has an objection to the motion.

Not seeing any, the motion is granted.

Q. (BY MR. MOORE:) Have you prepared a summary of your position you'd like to give at this time?

A. Yes, I have.

Q. Please proceed.

A. Thank you. Commissioners, thanks for having me this afternoon. It's been a couple of years, and we're still talking cost of capital. So I'll try to keep it brief.

In this case, I address two, what I think are fundamental issues that you need to decide to determine revenue requirements in this case. The first issue is the cost of equity. What profit level should we allow DEU to earn and embody in the rates? The second issue is cost is the capital structure, and should that be adjusted in this case before setting rates? So those are the two main prongs, or issues, that I bring forward today.

Now, as to the first issue, I recommend a 9.20 percent cost of equity. That cost of equity is based on fundamental, tried-and-true models for the determining equity returns. They're used, not only at this commission, but commissions around the country.

Combined with those models are current market data. I think my surrebuttal shows the current market data goes through, I think it was October 10th.

Now, why current market data is important is you've heard a lot, and you will continue to hear a lot, about inflation and rising interest rates. Well, if you're using current market data, you're incorporating those changes in your models. And I think every witness in this case has employed current models and current data.

Now the DEU, the Company in this case, has requested a 10.3 percent return on equity. I think that's somewhat high, and I don't think it can be supported. And what I did is, in my direct testimony at around page 64, I laid out all the factors that I believe are problems in Ms. Nelson's analysis. For example, if you look at her constant growth DCF and quarterly compounded DCF models, they support an ROE closer to 9.4 to 9.6, or on average about 9.5. I explain that in my testimony. Certainly, they do not go as far as 10.3 percent.

The other issue was with regard to her -- Ms. Nelson's capital asset pricing model, where I believe there are fundamental errors. And if you just look at the range that Ms. Nelson points out as a reasonable range of 10.6 -- excuse me, 9.6 to 10.75, and she picks a

10.3 final analysis, many of her capital asset pricing model results are well above that range. So her own analysis excludes her capital asset pricing model. I point that out in my testimony.

Finally, with regard to her risk premium analysis, there is something fundamentally wrong. I address it. When interest rates are going up, cost of capital is going up; when interest rates are going down, cost of capital is going down. It does not make intuitive sense.

If you look at it generally, when interest rates are rising, loans cost more. Cost of capital is rising. When cost of capital increases, the cost of equity increases. I know Ms. Nelson tried to explain it, I think, in a question to the -- to the Bench here. And it's just fundamentally wrong to conclude that, as interest rates go up, the cost of capital goes up. I agree. But when interest rates go down, cost of capital also goes up, that's just fundamentally wrong. So that, I point out in my testimony with regard to Ms. Nelson's risk premium analysis.

To be brief, I'm going to go to cost of -- I mean the capital structure. In the last case, I sat in this very chair and supported the 55 percent equity ratio that was part of a settlement for the Company. And the reason is, we had a Tax Cuts and Jobs Act change, which caused deferred taxes to decline rapidly. And the Company relies upon deferred taxes as cash flow for their financial metrics. Well, that was going to go away. So what this Commission did, what the parties did, was everybody got together and agreed on a higher equity ratio to solve that problem.

Well, since then, a lot of things have happened. One, they don't have the cash flow problem they had. Because when the tax act changed, that meant rate base, this Company's investment capital for which it earns a return on, will grow more rapidly. I point that out in my testimony. And so their earnings base that you're going to apply the return to in this case is much higher today than it would have been but for the Tax Act changes.

So it's my opinion that the extra equity in the capital structure that this Commission provided in response to a problem created by the tax act is no longer necessary.

And the cost to consumers of maintaining that is roughly $6.3 million a year in higher rates and millions in profits for shareholders. It's just not necessary.

So that is the conclusion of my introduction. And I thank you for taking the time to listen to me.

Thank you.

MR. MOORE: Mr. Lawton is now available for cross and questions from the Commission.

CHAIRMAN LEVAR: Thank you, Mr. Moore.

Ms. Schmid, do you have any questions for Mr. Lawton?

MS. SCHMID: No questions. Thank you.

CHAIRMAN LEVAR: Thank you.

Major Buchanan?

MAJOR BUCHANAN: No questions.

CHAIRMAN LEVAR: Thank you.

Mr. Russell?

MR. RUSSELL: No questions. Thank you.

CHAIRMAN LEVAR: Thank you.

Mr. Sabin?

MR. SABIN: Yes, I do have some questions.

CROSS-EXAMINATION

BY MR. SABIN:

Q. Hello, Mr. Lawton. Good to see you again.

A. Good to see you, sir. How are you?

Q. Great. I want to start with -- there's been a lot said about these RRA results that we get across the nation.

Do you agree, first of all, with Ms. Nelson, that the RRA data, to some extent, is outdated?

A. No, it's actually up to date. I mean, Ms. Nelson put forth an exhibit that brought forth the latest data that RRA has. I believe it was through August 31th.

Q. That was a poor question. What I meant by that is that it's taking into account historical data that is usually several months old from where we are today.

A. Yeah, that's the way it works when you have historical data. I mean, they can't forecast the future. We wouldn't trust it.

Q. Right. Right. And you would also agree, wouldn't you, that there are times in our economy, in particular the last three years have been a good example, where we've had very sharp changes in economic outlook because of world events?

A. I think it's more than because of world events.

Q. World events, and what would you add to that?

A. Well, the pandemic.

Q. Okay. I was thinking that was a world event.

A. Okay. I was thinking about it localized to the United States. I was being selfish.

Q. Well, I think other people around the world would consider it a world event, as well.

A. Yes, sir, you are correct.

Q. In any event -- and I want to emphasize something. As we talked today, you said something in your opening that I totally agree with. And that is that --
A. Thank you.
Q. -- what we care about the most right now in this proceeding is talking about what the current market data shows. And that was a quote from you that you said current market data is what we should be focused on.
Do you agree with that?
A. I don't agree with those exact words. I said current market data is what we all have employed. I don't know if I said, We should all be focused on it. I think it's important, absolutely.
Q. Do you agree that we should be focused on current market data?
A. Absolutely. We don't ignore it.
Q. All right. Great. So I want to just run through a couple of exhibits, and Mr. Mendenhall has kindly agreed to walk these around for me.
And the first thing I want to talk about, Mr. Lawton, is in your -- if you could open your direct up to Lines 491 to 494.
A. Do you have a page number?
Q. I can get you one. Give me one second.

A. Oh, I got it. I think it's page 28.

Q. So in your direct, page 28, if you'd go there.

A. I'm there.

Q. Are you there? Okay, great. I just want to focus in.

When you are talking about the RRA report in your direct, you have a note there on Line 491. You say, "As noted above, regulatory authority cost of equity decisions for gas utility rate cases for calendar years 2020 - 2021 averaged about 9.47% - 9.56%." And then you say, "During the first six-months of 2022, the average authorized gas utility equity return declined to 9.33%."

Did I read that right?

A. You did.

Q. And then you're citing to an RRA report there in the footnote; is that correct?

A. I am.

Q. I've just handed you a -- this is an updated version that goes -- of the same data from RRA. Let me represent to you that this goes through the end of September of 2022. And I'd just ask you to look down at the bottom, and tell me that the year-to-date there shows.

A. The year-to-date there, there's two numbers. What would you like?

Q. Just the year-to-date -- sorry, year-to-date September average, and then we'll talk about the other one in a minute.
A. Okay. The year-to-date September average says 9.42 -- 9.42 percent.
Q. Okay. And you would agree with me, would you not, that that average is higher than 9.33 percent?
A. By nine basis points.
Q. We're moving along great here.
And then the next number below that, which you highlighted, would you read -- that's the average post-June 30th number. What does that say?
A. It says 9.52 percent.
Q. Okay. Also an increase from 9.33. We can agree on that, right?
A. Well, I think they are two different numbers.
Q. They are. They are. I'm saying those averages are higher. If you take the six months since June at 9.52, that's higher than the prior six months at 9.33.
A. It is, indeed.
Q. Okay. Now, if you'd flip to your surrebuttal testimony, and we're going to go to Lines 491 -- that same one, hang on. It's 33 and 34, which is on page 2 of your surrebuttal testimony.
A. Did you say 33?

Q. Lines 33 and 34.
A. Got it.
Q. Are you there?
A. Yep.
Q. Okay. That shows that the -- again, you say that, to point out Ms. Nelson's differential, you cite, again, to the same 9.33 average.
And the Footnote 1 goes to the January to June numbers, right?
A. It does indeed. Do you want me to say thing the same thing with these new numbers?
Q. No. No. I think we've got those numbers. Because the point is, they're the same, aren't they?
A. Yes.
Q. And this -- your surrebuttal came, even after we had more current data through September, right?
A. That is correct.
Q. But you didn't update that number in your report?
A. I didn't move it up nine basis points, you are correct.
Q. Okay. And then I'm going to do the same -- we pulled the more current, the most current we could find by the deadline, for cross exhibits. And I'm going to give you that one as well.

MR. SABIN: While we're passing that around, Mr. Chair, I move for admission of DEU Cross Exhibit 2.

MS. SCHMID: I do have one question. It's a clarifying question. And if I may ask that.

CHAIRMAN GILL: Go ahead.

MS. SCHMID: If I heard Mr. Sabin correctly, he said the average post-June 30th to now was six months.

Did I hear that correctly?

MR. SABIN: No, I just said -- I intended to say the average from June 30th to the present. If I didn't say that, I meant that.

MS. SCHMID: And so that's about three months; is that right?

MR. SABIN: I assume that's right.

MS. SCHMID: Okay. That was just my question.

I have no objection.

CHAIRMAN LEVAR: Thank you. If anyone else has an objection, please indicate it.

I'm not seeing any, so the motion is granted.

(Exhibit DEU Cross 2 was entered into the record.)

Q. (BY MR. SABIN:) I've handed you DEU Cross Exhibit 3, which is the -- it's the rate case history from the same source through October -- I believe this is through October 14th. They don't show the date on here, but I think it was through October 14th. You'll see there's a couple of rate case decisions that came out on October 10th and October 12th that are at the bottom that have been added to this from the September 1. I'll just point that out for you.

Do you see there's one --

A. Are you referring to two settled cases for your numbers?

Q. I'm referring to the date. If you look at the date, you'll see --

A. I see the dates, but you're going to refer to the settled cases to --

Q. No, I was just telling you that there's been two additions added to this. The other one had settled cases, too. The ones you were using, they have litigated and settled cases.

A. I understand. But the two recent cases you're referring to were settled. I'm trying to clarify that. It's your document, I'm trying to clarify. That's all.

Q. That's right.

A. Okay. All right.

Q. October 10th, 2022, and October 12th, 2022. Do you see those?

A. I see it.

Q. Okay. All I'm wanting to point out for you and have you confirm is that the 2022 average now, as of the date of this document, has gone up to 9.44 percent. And then the July to October has gone up to 9.53 percent; do you see that?

A. I see your numbers, but your methodology seems to have changed a bit.

Q. This isn't my methodology. I just printed this -- we just got this from RRA. This is their methodology.

A. And I don't recall RRA posting a number of average post-June versus average post-July. Your prior exhibit had average post-June, now you have average post-July. And if you're trying to make them comparable, you've got apples and elephants.

Q. I'm not trying to make them comparable, sir.

A. Okay. I'm just clarifying. The numbers say what they say.

Q. Let me just ask this: Do you have any reason to dispute any of this data?

A. Well, I haven't studied it all. And so your recent ones with the settled cases I wanted to look at a little more closely, that -- this recent settlement. That's all.

Q. Okay. Any --

A. No other disputes.

Q. Okay. So what I want to ask you is: It's true, is it not, that because of -- to some extent, because of the world in which we live and the market we have, these numbers have started to shift back up; isn't that right?
A. Temporarily we've seen a change. For example, in your last exhibit, you see a two basis point change. In your prior exhibit to that, you saw a nine-basis-point change from the 9.33, which was based on six months of data.
Q. Right --
A. And if we look at -- if we look at what happened in 2021, the numbers are still lower because I think '21 -- 2021 for the year was 9.47?
Q. It was 9.47 to 9.56. That's what you have.
A. Yeah. And these numbers are lower than what we had in the previous year. So you're trying to take a couple of incremental months of little changes back and forth and make a case, and I don't see it.
Q. I think we just established you had agreed with me that we would -- the more current the data, the better for our purposes, right?
A. True. But if you're going to take one data point, or as you did in your last exhibit, two data points on settled cases to make your case, I don't think it does it.

Q. I don't think I've even referenced the settled cases. I'm just pointing out this is RRA data. That's all, sir.
A. Yep.
Q. Okay. So back to my original question. You would agree with me, would you not, that the -- since June of this year, the trend has gone back up. It's on an upward slope?
A. It's moved from -- well, what's your starting point?
Q. Well, I just said from June to the present. At least, from these documents -- it was at a 9.33, according to your testimony, which we just looked at in two places, and now it's moved up from 9.33 to -- the yearly average is at 9.44?
A. 9.44.
Q. And the last three months, it's at 9.53?
A. Yes.
Q. And you agree with me that that's an upward trend?
A. Upward trend from the June of 2022 number, a downward trend from 2021.
Q. But an upward trend from when you submitted your direct?
A. That is true.

Q. Okay. Now, why didn't you, in your surrebuttal testimony, update your RRA information to use the most current data, even though you reference it?

A. I had the document that I put in my testimony. I didn't have the next RRA.

Q. Okay.

A. And I'll try to get that for you.

Q. All right.

MR. SABIN: Mr. Chair, I'd like to move for the admission of DEU Cross Exhibit No. 3.

CHAIRMAN LEVAR: Please indicate if anyone objects to that motion.

I'm not seeing any objection, so the motion is granted.

(Exhibit DEU Cross 3 was entered into the record.)

Q. (BY MR. SABIN:) All right. Would you agree with me, Mr. Lawton, that that trend has turned at the same time we've seen other economic indicators turn more negative in the market?

A. Which indicators are you speaking of?

Q. For example, inflation. Treasury yields are going up. Federal interest rates are going up. Quite markedly, inflation is going up.

A. The premise to your question is incorrect.

If the trend -- if we look at inflation; for example, if you look at the July numbers for inflation, they were, what, 8.4, 8.3. I think the more recent one was 8.2 annualized basis. So if you say inflation is going up, the answer was technically, it didn't. It actually ticked downward.

So if you have another metric you want me to look at, I'll look at it.

Q. I think I was asking for all -- taking all of those into consideration.

A. Taking them all into consideration, inflation went down. Some other financial indicators or metrics might have become more negative. And you've shown that nine basis point change in two months.

Q. Okay. Let's go -- I'm going to show you another cross exhibit that Mr. Mendenhall will bring around.

I'm showing you a volatility index. It was updated through October 13th, 2022. This comes from the Federal Reserve.

A. I see it.

Q. You see it?

A. Yes.

Q. And I just want you to -- there is this similar report in Ms. Nelson's testimony, but this one goes out further than hers does. This is the most current we could get before the deadline for cross exhibits.

If I look at February 2020, sir -- you were here when that was going on -- and I look at the volatility index on that on approximately that date, it's -- I think she represented it was at 14 or 15. Do you see that on the left-hand side there?

A. Yeah. I would see it at the bottom of that largest peak on that page.

Q. I agree. Yeah. Same spot, right around there.

About 14 or 15, right?

A. I don't know the answer to that. My eyes aren't that good. I've even tried using these glasses, and they're not working, either.

Q. All right. We can agree, can we not, that today, September 2022, the VIX index is reporting more than double the volatility from that February of 2020 period?

A. Yeah.

Q. Okay. So --

A. But not necessarily for utilities. They're reporting it -- this is based on the S&P 500.

Q. I didn't say it was just for utilities.

A. Okay. I just wanted to --

Q. I'm pointing out to you that the VIX index is double the volatility, overall, what it was in 2020.

A. Absolutely.

Q. Okay. So you were asking me a minute ago what things have changed. That has changed, has it not, between 2020 and now?

A. It has changed. What you haven't shown or what I can tell you, it's not relevant to the utilities. You show me a utility whose volatility has doubled. I don't think you can, sir.

Q. I don't think anybody's representing the volatility has caused utilities to -- volatility to double. I think we're trying to --

A. Well, we're here on a utility case to set the rate of return for your client. And why we're talking about the volatility of some private corporation out there, that's fine, but it's not relevant to what we're doing.

Q. Okay. That's your position. I understand it.

We're going to show you another exhibit.

MR. SABIN: I should move -- make sure I move --

Mr. Chair, I move the admission of DEU Cross Exhibit No. 4 into evidence.

CHAIRMAN LEVAR: Please indicate if you object to that motion.

I don't see any objections, so the motion is granted.

(Exhibit DEU Cross 4 was entered into the record.)

Q. (BY MR. SABIN:) All right. Mr. Lawton?
A. Yes, sir.
Q. I'm just going to point out a few things.
You would agree with me that the U.S. bond market is relevant to what we're doing here; isn't that true?
A. It is.
Q. And the volatility in that sector, according to this document from S&P Capital IQ, is at its highest point in volatility since the pandemic in March of 2020, right?
A. Based on the ending date on this chart of -- I don't know what the ending date is.
Q. I think it's -- this report is as of September 30th, 2022, so a few days ago.
A. Okay. Then as of the date of this report, because it looks like the numbers go beyond the last date I have on the chart.
Q. Right. This appears to show that on September 28th, this is what the -- the date of this volatility index was reporting.
Do you see that in the second paragraph?
A. I do.
Q. Okay. So that is relevant to us, is it not, that the bond market volatility is significantly higher

than it has been since the pandemic?
A. That is. But on a new day, what you're worried about is the market in which you approach and what the yield spreads are going to be and when you need to --
Q. Well, speaking of that, let's turn the page on that document.
A. Okay.
Q. You'll see there's a chart there on page 2 that talks about Treasury yields. And you incorporated Treasury yields into your analysis, did you not?
A. I did.
Q. Right. And Treasury yields over, from 2022 to the present, to September of -- it's -- the bottom of the chart says, "through September 28, 2022." They have quote, "soared in 2022." Do you agree with that?
A. Where is the quote, sir?
Q. Up at the very top of the page, at --
A. "Treasure yields have soared 22 (basis points)." Yes.
Q. And what they're reporting there on the first paragraph under the chart is that, "U.S. government bond yields have soared this year as the Fed has hiked rates by 300 basis points and plans to continue hiking into 2023 in its ongoing battle to curb the highest inflation in 40 years."

So first -- you weren't looking at that, so I was going to ask you if I read that correctly, but --

A. I agree with it because I'm familiar with the numbers. And by the way, it's in my direct testimony in one of my exhibits I talked about.

Q. Well, you don't use the -- we'll come to that in a minute. You don't use the current increases in the Federal bond yields. You use an older version?

A. I'm sorry.

Q. We'll come to that.

A. No, I need to answer that question.

I believe I used that as of October 10th in my risk premium analysis in my surrebuttal testimony.

Q. We'll look at it. And you can correct me if I've misread your testimony, but I don't believe I have.

Wouldn't you agree with me that a 300-basis-point increase in government bond yields is a significant change in the economy?

A. Well, compared to where they were, absolutely.

Q. Right. And that means, as you said a moment ago, that when yields are going up in the government bond market, that tends to drive up these equity returns, as well, right?

A. Not equity returns, but the cost of equity.

Q. The cost of equity.

A. Equity return is dependent upon what the utility does with its expenses and gets a return.

Q. Fair point. Do you agree that we're in the middle of the Fed dealing with the highest inflation in 40 years?

A. Well, that's a fact.

Q. Okay. I'm going to read that second paragraph under the chart with you, if you can look at that. It says, "As yields have risen, inflation appears to have peaked, even though it remains well above the Fed's 2% target. The consumer price index, the market's preferred inflation metric, jumped 8.3% from August 2021 to August 2022."

You would agree with me that that is a significant negative change in the market, to have inflation increase that much in that period of time?

A. Yes, it's a concern, inflation. But we've also seen, as I pointed out earlier in this cross-examination, that it has not kept increasing at those levels. Actually, it's ticked downward.

Q. But that is a relevant factor, that inflation increase, which you've taken into account and so has Ms. Nelson and so have others. That's a significant market change that tends to drive costs up for the utility?

A. Right. And as I said in my introduction of the testimony, we all looked at current market data. We all employed current market data. I came out at 9.2 percent, using that data and those models. Your witness has different ideas.

Q. Okay. Let's go down to -- last thing I want to cover on this document is just on liquidity.

Under the -- you'll see there's a statement there about liquidity issues?

A. I see it.

Q. It says, "With volatility high and the dollar strengthening to record heights, liquidity in the $23.7 trillion Treasury market is under severe pressure."

That means, sir, does it not, that the Fed is essentially not -- it's getting out of keeping interest rates low by buying up government bonds?

A. It's getting out of that.

Q. Right.

A. The "quantitative" means --

Q. That's what I mean.

A. -- that it's quantitative tightening, yes.

Q. Yes.

A. And so that limits the liquidity in that market.

Q. Right. And liquidity impacts us here, because with the drop in liquidity, that funnels through the entire market, does it not, and affects everybody?

A. It does in the Treasury market. If you're implying that suddenly your client, DEU, has less liquidity, I think you're wrong. I mean you're --

Q. No --

A. Okay.

Q. -- I'm talking --

A. You're talking about --

Q. -- the bond market.

A. I'm sorry. I didn't mean to talk over you, sir.

Q. That's okay.

MR. SABIN: Mr. Chair, I move to admit Cross Exhibit No. 5.

CHAIRMAN LEVAR: Please indicate if you object to that motion. I don't see any, so the motion is granted.

(Exhibit DEU Cross 5 was entered into the record.)

Q. (BY MR. SABIN:) All right. Just a couple more. All right.

Mr. Lawton, I'm showing you what is a news release from the Bureau of Labor Statistics.

A. I see it.

Q. We've marked this DEU Cross Exhibit 6.

Do you recognize this report? Is this something you have reviewed?

A. It is.

Q. Would you agree with me that it's one of the authoritative sources we look to when we talk about inflation?

A. No.

Q. No?

A. No. It's an authoritative source when you're talking about the Consumer Price Index. There are other measures of inflation, where you would have to go to other agencies.

Q. Fair enough. The Consumer Price Index?

A. Yes, sir.

Q. I'm just going to point out one thing -- two things.

Under the -- at the end of the first paragraph, you'll see that last sentence. It says, "Over the last 12 months, the all items index increased 8.2 before seasonal adjustment."

A. Yes. That's the one I mentioned earlier when I said it had ticked downward.

Q. And I think you're referring to that. So we're clear, down in that fourth paragraph, is this what you were referring to, where it says, "The all items index increased 8.2 percent for the 12 months ending September, a slightly smaller figure than the 8.3 increase for the period prior to August"?

A. Not only referring to that, but the July number as well.

Q. Well, the point is, between August and September, you had 8.2 percent, 8.3 percent to 8.2 percent, still above an 8 percent increase in the Consumer Price Index?

A. That is correct, and it ticked down from July as well, as I pointed out earlier.

Q. All right.

MR. SABIN: Mr. Chair, I move to admit DEU Cross Exhibit 6.

CHAIRMAN LEVAR: Please indicate if you object to the motion. I don't see any, so the motion is granted.

(Exhibit DEU Cross 6 was entered into the record.)

Q. (BY MR. SABIN:) Okay. One last chart about the economy I want to talk with you about. And then I'll refer you to your testimony. But let me have -- we'll pass this out first.

We're going to mark this as DEU Cross Exhibit No. 7. I'll just ask you, Mr. Lawton, if you -- let me represent to you, this is a printout from the Fed dated October 14, 2022, so just a couple of days ago.

A. Yes.

Q. Would you agree with me that this is their formal printout of the interest rates as of that date?
A. This is the daily printout of the H.15 database.
Q. Correct. So that shows the interest rates for that day on various Federal funds, Treasury, maturities, and, you know, other items?
A. Yes, as well as inflation index funds, which you find on the bottom.
Q. Correct. Okay. If you could now open your surrebuttal to Lines 69 to 71, which should be on page 4.
Lines 69 to 71. Could you just read that first sentence for us?
A. Into the record, sir?
Q. Please.
A. Okay. "Yes."
Q. Go ahead, the next sentence.
A. "Since the August 26, 2022 filing of my direct testimony interest rate yields for 30-year U.S. Treasury bonds have increased from about 3.20% (August 26, 2022) to about 3.67% (October 4, 2022)."
Q. Okay. So first thing I want to point out is it's true, is it not, that as of October 14th, that number has increased up to -- for the 30-year Treasury rate, has increased up to 3.97 percent, and I think we heard this morning from Ms. Nelson that it's now above

4 percent?
A. This data is probably from -- what did you say? This is the --
Q. This is October 14th on this exhibit.
A. I thought I saw a number of 4 percent, but it may be.
Q. And you would agree with me that the 3.97 percent and 4 percent are both above the numbers you just read in your surrebuttal testimony?
A. They're both above 3.67 percent.
Q. Right. As much as -- more than .30 percent, right?
A. No.
Q. 3.67 to 4 percent?
A. Yeah. And that would be 3.33 percent, right, to 4?
Q. I'm sorry. I'm just trying to point out the difference between 3.67 and 4 percent.
A. Didn't I just say it, .33?
Q. I see what you're saying. Yes, .33, thank you. Yes. I'm following you.
So the number you used in your direct, you note that there has been an increase, in your surrebuttal. But I note that you didn't include any of the October data that you noted -- it had gone up even further in

your 30-year government bond yields analysis, in you surrebuttal.

A. I'm not understanding that question.

Q. Go to Table 3, which is on next page, if you will.

A. Yes.

Q. Do you see there that you use July, August, and September data, and you don't use the October data that says gone up .33 percent more?

A. Yes. There's a reason.

Q. I understand there's a reason. I'll come to that in a second.

What I'm wondering is, when I look at these, would you agree with me that since the time you filed your direct, that government -- government bond yields or Treasury yields have gone up, they're on an upward trend?

A. The trend, there's certainly an upward trend from where they were currently at that point in time. But you referred me to my Table 3, which is monthly data. I did not have the month of October, because the month of October was not finished yet. It still isn't finish. So I could not put in a comparable full month of interest rate data. The last month available was September.

Q. I understand. That wasn't what I was asking. So let's go back to my question.

Let's do this. Go to your direct and go to Table 12, which is on page 50, please.

A. I'm there.

Q. Okay. You see in Table 12 your May 30-year U.S. government bond yield number is 3.07.

A. Hold on a second. I was on the wrong table.

Q. That's okay. No trouble. Table 12.

A. Table 12?

Q. Yeah.

A. I'm there. Go ahead.

Q. The May number you used for May of '22 is 3.07 percent --

A. Right.

Q. -- for the very same 30-year U.S. government bond yield, right?

A. Yes.

Q. Now, if we look at your surrebuttal, it's gone up from there in this full month of September to 3.56, which is .49 percent higher, correct?

A. I don't know what you're talking about. Hold on.

Q. Sorry.

A. I'm now -- I've got Table 12 open from page 50 on my direct. I've got Table 3 open from surrebuttal.

Now you asked me to look at the May number of

3.07.

Q. You see that, and we agree that that's the number you used, right?

A. Yes.

Q. Now, if you go to your Table 3 on your surrebuttal testimony for September of 2022, it's gone up to 3.56; do you agree with me?

A. I agree. Those are the numbers.

Q. Okay. So that's a .49 percent increase there.

A. Yeah. I mean, you're skipping over a couple of months. I mean first of all, these are monthly sequential numbers. And what I use is a three-month average. You seem to be taking it out of context and want to grab a month from one period and compare it to three more periods away. It makes no sense to me.

Q. If I were to draw a line from May on a chart -- if I charted all these numbers and I drew a line from May to September, you would agree with me, would you not, that the line would be an upward trend?

A. It would be an upward trend with a downward part in July.

Q. Okay. And if we added October through today, or through the current numbers in October for the 30-year Treasury, that would even be -- the line would even go up higher than that, up to 3.9 percent?

A. What is your October number, sir?
Q. I said if we're using through the current daily rate, from 3.07 percent in May, that trend would go up even higher, I said; that's correct, isn't it?
A. No, because you're, again, comparing apples and elephants. One, this is a monthly number. And now you want me to look and compare monthly numbers to daily changes in your Exhibit 7?
Q. So if I -- sir, I'm -- I understand why you're fighting me on this.
A. I'm not fighting. I'm trying to --
Q. If I just take the Treasury and I plot it from May of 2022 to October 14th or 15th or 16th of 2022, that line is going to go way up?
A. It's going to go up, and it's going to go down in parts and go up in parts.
Q. But from the beginning where it started to where it ended, where it ended is going to be much higher than where it started?
A. Right. It's, like, the rate of return that's been authorized in our first exhibit, the RRA numbers, they continue to decline downward. We talked about that, the 3.46 percent down to the 9.33 percent. But even your updated numbers are lower than last year, so we have a declining trend there.

Q. So let me just represent and see if you will agree with me, that from May of 2022 to the present, there's been a .9 percent increase in the 30-year Treasury yield; that's true, is it not?
A. I'm not following that question. Say it again.
Q. From May, when you submitted your direct testimony, to the present, there has been an increase in the 30-year Treasury yield of, essentially, .9 percent?
A. Yes.
Q. Okay.
A. From 3.97 down to 3.07, is what you were talking about -- or 3.07 up to 3.97, using the date of October 13th.
MR. SABIN: All right. Mr. Chair, I move to admit that exhibit as DEU Cross Exhibit 7.
CHAIRMAN LEVAR: Please indicate if anyone objects to the motion.
I'm not seeing any, so the motion is granted.
(Exhibit DEU Cross 7 was entered into the record.)
Q. (BY MR. SABIN:) Now, you criticize Ms. Nelson because you say that her numbers are unrealistic or too high, the ones she uses for the 30-year Treasury yield.
Isn't it true that the numbers we're looking at at present are higher than the numbers she uses in her report to calculate her -- that she uses for her

risk-free rate?

A. I think you've asked three questions that I figured out there. And could you break it down to one at a time, sir.

Q. I think I asked one question.

A. I think it was three, but go ahead.

Q. Okay. You criticize Ms. Nelson --

A. Yes.

Q. -- for saying that her risk-free rate is too high?

A. Yes.

Q. Isn't it true that the risk-free rate using these figures is higher than the number she uses in her direct and rebuttal testimonies?

A. It is true. But can you point to me where I criticized her for her risk-free rate was too high? I'm trying to recall.

Q. She was using a forward-looking figure, and you said she shouldn't be using an estimated figure, that that estimated figure was not correct?

A. That is true.

Q. That was right, correct?

A. I did not criticize her for using a too high a number. I criticized her for using a forecasted number with no relevant background to support that forecast.

Q. Okay. And thank you for that clarification. And I'll just follow it up by saying: She was not only right in her estimate, she was even less than what the market's actually done; that's true, right?

A. That's true. And she came up with 3 point -- I mean, 9 point -- 10.3 percent back in February before any of this happened.

Q. All right. So I just -- I just want to talk with you a little bit about, if I took your risk-free rate, and we factored in the current number -- and I get you didn't do that. And I get you disagree that we should do that. You use a three-month average, Ms. Nelson disagrees with your using of a three-month average. I don't want to get into that debate.

What I want to know is just, if I use the risk-free rate that is in place today, it's true, is it not, that that would move your numbers significantly upward?

A. Well, "significant" is a relevant term. Why don't we look at the numbers?

Q. It would move you from your direct, from 3.14, up to 4 percent?

A. Up to 4 percent, if you use the daily spot, yes.

Q. Right. And if --

A. And I did that, and we have the number. I did that on my exhibit -- it would be in my surrebuttal testimony. I did the calculation, at least close to your 3.9 or 4 percent. If you look at OCS -- this is surrebuttal, 3.2 and --

Q. Let me follow you. Let me get there. Exhibit 3.2?

A. Yes, sir.

Q. Okay. I'm there. Go ahead.

A. Okay. And if you look at the bottom in Column D, it says, "Spot." I use a 3.8 percent --

Q. Hang on. I need to find out where you're at. I'm looking at that exhibit. Where in that exhibit are you referring to?

A. At the bottom of the page, you'll see a "G," a "D," and a "D."

Q. Hang on. I'm looking at OCS 3.2?

A. Yes, in the surrebuttal, sir.

Q. Oh. I must have the direct. Give me one second. I apologize. I'm trying to follow you.

Okay. There it is. So 3.02?

A. If you look at the middle column at the bottom, you'll see that it says, "Spot." That's a 3.8 percent Treasury yield. And I also use a three-month Treasury yield that was updated at 3.3 percent. Ends up at 10.08 percent at the bottom, and 9.97 percent range.

So yeah, it does have an impact. And when you factor it into the other models; overall, what the surrebuttal shows, it doesn't change much.

Q. In fact, from your direct, your surrebuttal, despite these market conditions we've just reviewed, you didn't change your recommendation at all?

A. Nobody in this case did. I didn't, because the models don't support changing it. I would have to, you know, assume all the work I had done was for not and make up a number. I wouldn't do that.

Q. Let me go back to my question and make sure we have it clear on the record.

Between your direct and your surrebuttal, and despite all of these conditions we've just reviewed in all of these cross exhibits getting worse and worse over these months, between your direct and your surrebuttal, you didn't change your recommendation one iota?

A. That is correct, because all the models -- and if you look at the summary -- and I updated it and provided it to you, sir -- it doesn't support changing it. And if you look at page 3 of the surrebuttal ....

Q. All right. We're going to move on.

All right. Could you refer, please, with me to your direct testimony.

A. Okay.

Q. And I just accidentally closed it, so let me open it back up.
And we're going to go in your direct testimony to Line 399, which is on page --
A. Page 23.
Q. -- page 23.
I want to make sure I understand the position you take in this and your surrebuttal testimony. I think you were explaining it in your opening with the Commissioners, but I want to make sure I understand.
I take it from your Table 8 there that what you're trying to represent is that when the U.S. Treasury bond -- U.S. Treasury -- the 30-year U.S. Treasury bond yield is moving, it does impact the ROE, but it impacts returns lesser -- to a lesser extent than the actual movement of the bond yield; is that correct?
A. Yes. That's based on 40 years of history.
Q. Right. And if I'm looking at your chart, it looks like, where you've got the bond yield moving, your representation is that, I think, that the returns move about half or less than half of the movement you see in the bond yields?
A. Correct. We see since 1981 interest rates falling many times precipitously. Equity returns, as authorized by commissions around the country, have gone

down, but at a much lower rate. They've been sticky, and they don't move in tandem. And so debt cost goes down about 58 basis points. I think equity costs went down over the same time period about 28 basis points.

Q. Okay. So I think you make your point here at the bottom, which I want to make sure we all see.

At the bottom of page 23, you explain that. And there's two sentences at the bottom there, which I'll read to you and then would like to ask you about a couple sentences.

You say, "For the period 1981 through 2021 the average of the absolute value change in 30-year U.S. Treasury bond yields is about 58 basis points."

A. Correct.

Q. "For authorized gas utility equity returns over the same period, the average absolute value rate of change is about 26 basis points or" just slightly less than half.

A. Yes.

Q. Right? That's your point there?

And then you make this comment, "Thus, while it may be correct to conclude that [sic] debt costs will increase over the short-term - equity cost increases should be of a smaller magnitude."

A. If history is to hold. If we're to learn from

40 years of recent history.

Q. I'm just reading what you're saying. That's your position, right?

A. Yeah.

Q. That if bond yields are moving, equity returns are moving about half or just less than half than that, right?

A. Well, over a 40-year time span. I haven't analyzed the amount of movement in any given year to coordinate or calculate what if we see interest rates change today, what would be the expectation in the next period?

Q. Well, you're --

A. Let me --

MR. MOORE: Excuse me --

THE WITNESS: -- finish my answer --

(Court reporter interruption.)

MR. SABIN: You finish your answer, and then I'll ask mine.

CHAIRMAN LEVAR: Let me hear Mr. Moore's objection before Mr. Lawton continues.

MR. MOORE: Mr. Sabin is not allowing my witness to finish his testimony. And I was under the impression from earlier today that you would give all witnesses some latitude in addressing the questions.

CHAIRMAN LEVAR: Yes. I do intend to give latitude to the expert witnesses.

So Mr. Lawton, please continue.

THE WITNESS: All right. And I'll be careful not to talk over, Ms. Reporter.

As I was saying, over a 40-year history, those numbers we just discussed, 58 basis points for debt on average, and 26 basis points for equity.

Now, I have not -- I have not analyzed the direct impacts I would expect in today's market. I'm just telling you a global trend over 40 years of history. And that completes my answer.

Q. (BY MR. SABIN:) Thank you for putting that in so that I don't talk over you.

On your chart, you do, do an -- it's an annual number you're representing there from 1981 to 2021, right? Annually, you're showing the trend lines on both of those?

A. Yes. And if I might -- and this might help even more. If you look at OCS 3.11, 3.11.

Q. Hang on one second. Is that, sir -- 3.11 is your -- that's your direct? Give me one second.

A. Let me know when you're there.

Q. I'm getting there. It's opening. Okay.

A. All right. And you'll see the numbers -- the

years in the first column. The interest rate, or Treasury yield, from '81 downward is in the next column. And then the authorized ROE --
Q. Sorry. Hang on one second. I'm getting there. You have it in tab form. Go ahead.
A. You see the years, starting in '81 through 2021. The next column would be the Treasury yield all the way for those corresponding years. And then the next column in Column B is the authorized equity return.
Q. That's very helpful, actually.
A. So what I did is took the absolute value of the equity return and the absolute value of the change in bond return to calculate those numbers. These numbers are the basis of the graph you were looking at.
Q. Okay. That's helpful.
So the point is, you've taken the data for every year over that 40-year period, and you're seeing the same correlation over that period of time?
A. No. It's not the same correlation. It's the average over 40 years. We might have different numbers for different segments of this 40-year history, depending upon what happened in those periods.
I was making the point, if you look at the history of the data over 40 years, on average, these are the results.

Q. Yes. And I think we agree that that's what I was talking about, too. I wasn't talking about anything else but that.

A. Okay. I'm glad we're clear.

Q. All right. So now your surrebuttal, if you'd go there, sir, to Lines 119 to 127. 119, you'll see it's on page 6.

A. I'm there.

Q. Oops. Let me make sure I've got that right.

A. Seven. Page 7, isn't it?

Q. Hang on. I'm sorry. I opened the wrong document. Okay. 119, Line 119, it's on page --

A. Seven.

Q. -- 7. Yep.

And you're making, are you not, the same point here when you, in that second full sentence -- or first full sentence that starts, "The annual decline." You say, "The annual decline in equity costs is much slower, while debt costs have declined by larger margins annually. For the period 1981 through 2021 the average cost of the absolute value change in the 30-year U.S. Treasury bond yields is about 58" points, and then you go through and talk about the 26.

That's the same point you're making here, right?

A. Yes.

Q. And then you make this different. You add one sentence here that's not in your direct. On Line 126, you say, "The result of this comparative analysis is that while debt cost may be increasing in the short-term any expected equity cost ... is less than half of the level of the debt rate changes," right?

A. Yes, that's what it says. And I disagree with your question of that I didn't mention that in my direct. I think I did mention that it was about half in my direct.

Q. No. I just mean that sentence, the way you say that is different. You added that sentence to the other.

A. Yeah. I didn't copy my direct. I wrote this fresh.

Q. I didn't suggest that you were. All right.

So here's the point I want to make with that. We've kind of gone through both your direct and your surrebuttal on that point.

A. Yes, sir.

Q. If we took your logic and applied it to what's happened over the last year -- or actually, since 2020. We take February of 2020 to the present, and we've had this substantial increase in U.S. Treasury bond yields, and I think we have established in just this year, it's been a 200-basis-point increase.

A. That's incorrect. I think it's 300.
Q. In the 30 -- I'm sorry. In the 30-year, it's been, I believe -- I could be wrong. I thought it was a 200-basis-point increase, but --
A. Okay.
Q. -- if you want to say 300, I'll take 300.
A. I'll take yours. You're the expert.
Q. So if we have that, that would be 150-basis-point increase, right?
A. Yes.
Q. And so even if I take 40 percent of that number, it's still more than a full percent increase, right?
A. It is.
Q. Okay. So if I -- if I take that increase and I apply it on top of what was the prior risk-free rate, that puts us right near -- that puts us -- if I take the number just -- I'm asking this poor, but let me try this again.
A. Yeah.
Q. If I just take the period from when you did your direct to now --
A. Yes, sir.
Q. -- and I do 80 percent of that, that we -- we'd said earlier it's a .9 percent?
A. Umm-hmm.

Q. I take 40 percent of that, your number moves up significantly from where you are; isn't that true?
A. No. It would be -- I think if you took 40 percent of that, that would be -- what would that be, of 80 or the 90? Which one are you -- number? You've mentioned many.
Q. Let me try that again, because I want to make sure we're clear. So I have -- and maybe I've -- excuse me. Give me one second.
A. Sure.
Q. I'm trying to -- oh, excuse me. I remember where they got the number from. From the last rate case to this rate case, there's been a 200-basis-point increase in the U.S. Treasury yields for the 30-year?
A. I don't recall the number in the last rate case. And when in the last rate case are you speaking of?
Q. Well, the numbers that we -- at the date of the Commission's order, that's what the number was. We're 200 basis points higher than that.
A. That, I'm not sure of. It was in February 2020, the Commission came out with an order. Do any of your numbers show that Treasury -- oh, we can go to my direct testimony. I had appointed the number -- my direct testimony 2020 shows about 1.53. I wish I knew what it was in February 2020.

Q. You're showing 1.53 percent?
A. It's an annual number, yeah.
Q. Okay. So between then and now, we're more than a 200-point-basis increase, then?
A. Yes. If you compare the annual number from 2020 at that point to a spot yield today.
Q. So I'm just going to use -- let's just use a round number at 200 basis points.
A. Got it.
Q. If I take 80 percent of that -- or sorry, 40 percent of that, that's an 80-basis-point increase. Do you agree with me?
A. Forty percent would be 80 basis points.
Q. So from a 9.5 percent, that speaks that we would be up above 10 in just that increase alone.
A. Well, you know, doing your approach -- I think I started at the beginning of this as you've been going down this trail, that I said, You've got to look at the data for intervening periods. The basis point analysis that I did is over a 40-year history. If you want to look closer and use that kind of historical data and determine what kind of adjustments should be made, we can do that.
Q. I don't think you're answering my question.
A. I think I did.

Q. Don't you agree that, if we tack on an 80-basis-point increase from where we were in 2020, that puts you above 10 percent?

A. If I -- no. I don't think so.

Q. From --

A. Let's go through it.

Q. I thought we just did that.

A. No.

Q. 9.5 percent was the rate in 2020, February of 2020?

A. Yes, it was. It was the ROE.

Q. And I'm suggesting, and I think you're agreeing, that we're over a 200-basis-point increase --

A. Correct.

Q. -- in that 30-year Treasury yield?

A. Correct.

Q. If, by my math, we took 40 percent of that, that's 80 basis points?

A. Yes.

Q. I'd add 80 basis points to 9.5?

A. You'd be at 10.3.

Q. 10.3?

A. Yes, sir, that's where you'd be at. But we don't set return on equity by taking the Commission's last decision and start adding things to it. We start over, as every witness has done in this case.

Q. I understand.

A. I mean, your approach is nonsensical. Nobody would do it.

Q. Let's do another one, which is your opening rate in your direct testimony was, I think we just established, was 3.07 in May?

A. Yes, sir.

Q. That's the number, right?

A. The month of May.

Q. The month of May, right?

A. Yes.

Q. From that to now, we agreed was a 90 percent increase, a .9 percent increase?

A. .9 percent increase.

Q. Right. So if we take and do 40 percent, even half of 40 percent of that, your number should move up --

A. Thirty-six basis points.

Q. Right. And --

A. If that's what you want to use as the metric.

Q. And I'm just saying, if I take your 9.4 and I tack onto that the .36 basis points, you're up almost to 9.8 percent?

A. No, sir, you start me off at 9.4. Now you're adding numbers to my own testimony. I started off at

9.2. You've got me up to 9.4. Where did that come from?

Q. Excuse me. You're right, 9.2. I apologize. You're absolutely right.

But if you have that, you're above 9.5 percent at that point?

A. If you want to add 36 basis points to my 9.2 percent recommendation, that's the end result. It would be wrong, but that's okay.

Q. But that's what the market is telling us in yields; is it not --

A. The market isn't telling us to do that, the historical average analysis shows that result. There's no market telling you to do that. There's no market model telling you to do that. And there's no model in finance that tells you to do that.

Q. What I'm meaning -- and I appreciate it. This will be the last -- we'll move on.

What I mean is, you've just shown us, as we looked in your direct and your surrebuttal testimony, that they move about -- that the yield and ROEs move together, but the ROE moves just about half or just less than half.

A. Historically, that was it. Yes, sir.

Q. And that's your position?

A. That's my report of historical data.

Q. Right. And if we just apply what's happened this year, according to that data you're reporting, that would mean the ROE should be much higher than what you're recommending?

A. "Much higher" is a relative term. You established a moment ago, using that analysis, it would be at 9.5. Combined with the other models in this analysis, we'd still be back at 9.2. It's not getting you there.

Q. You agree with me, though, that it would change your numbers in your surrebuttal testimony up from where they are?

A. I think I might have to say no to that. Just give me a moment.

I would say no, it would lower them.

Q. It would --

A. It would lower the numbers, yeah. Because if you look at OCS Exhibit No. 2 from my surrebuttal, it shows a risk premium result. And I think you wanted to substitute your 9.56 with the numbers here, and these numbers indicate an ROE of 9.79 to 10.08. If I substitute 9.56 instead of this model, my ROE comes down.

Q. That's not what I meant. What I meant is if you substituted in the increase through the present in your modeling -- which you did not include all of them, you included only a three-month average -- your number would go up higher than it is for ROE; isn't that right?

A. Your question is wrong, sir. If you look at this exhibit we just looked at, you said I only used the three-month average? We went over this earlier. I used a spot yield of 3.8 and a three-month average of 3.3. I used both. I did not limit it to a three-month average.

I used the spot yield as of October 4th, 2022, while I was writing this testimony and submitting it to my client.

Q. And all I'm -- and my only response to that, sir, is that in your direct and surrebuttal testimony, you don't mention 9.8 at all. You only mention -- sorry, not -- 3.8. You only mention the three-month average. You don't mention that you account for the other anywhere.

A. Let's go. Number one, if you look at that exhibit that I just pointed you to, which is Exhibit 2, it says, "Spot yield, 3.8." The note at the bottom of the payment tells you the spot yield is from the Federal Reserve on October 10th, 2022. If you look at the table on page 5 -- 10, Table 5, it shows the 9.79 to 10.06 risk premium results from that analysis. I believe, if you look at -- let's see. We're going to talk about that in a second.

Q. Sir, I'm going to take you just to your testimony where I was referring to. We just went over this in both your direct and surrebuttal testimonies, Table 3 in your surrebuttal testimony, and I think it was Table -- let me find the other table -- it was Table 12 of your direct testimony. In both of those cases, you use a three-month average. You don't mention anything about using any other numbers in calculating your risk-free rate.
A. Which did you refer to in my direct testimony?
Q. Table 12 --
A. Okay.
Q. -- in your direct testimony, and Table 3 in your surrebuttal testimony. That's where you represent how you calculated the -- in fact, the question above in your direct on Line 911 is, "What risk-free value did you employ in your CAPM estimate?"
And you say, "I used the three-month average of the 30-year Treasury bond rates." And you have the chart below it. You have nothing in here or in your surrebuttal that say you used any other rate.
A. Okay. Can I respond now? Are you done?
Q. Yes, please.
A. Please go to OCS 3.11. Let me know when you're there.

Q. I am at 3.11.

A. If you see in Column D at the bottom, it says, "Spot, 3.2." The three-month average is to the right of it at 3.14. And the note tells you that the spot was compiled from the Federal Reserve data as of August -- August 19th, if my eye's catching it. So yes, it's in my direct, both the spot and the three-month average.

If you go back to my surrebuttal, Exhibit No. 2, 3.12R, I guess it's called, you'll see the spot yield of 3.8 percent and the three-month average of 3.3 percent, both producing different results. They're in the testimony. They're addressed. So the premise of your question is somewhat incorrect.

Q. Can you tell me in your direct --

CHAIRMAN LEVAR: Let's take a quick break right now. We're a little overdue. Why don't we come back at 3:20. Thank you.

(A break was taken from 3:06 p.m. to 3:20 p.m.)

CHAIRMAN LEVAR: Okay. We're ready to go back on the record.

Mr. Sabin.

Q. (BY MR. SABIN:) All right. I just want to wrap up this topic.

So we have had lots of disagreements, and it wasn't my intention. But I just want to sum up. I want to make sure, as I understand your direct and surrebuttal testimonies, you're saying that history has demonstrated that the 30-year Treasury yield, when it moves, ROEs move about half or less than half of that figure, historically speaking?

A. Yes.

Q. And so whatever the increase in the basis has been over this period of time from your direct to the present or from 2020 to the present, that you would expect that the ROEs in this case would be consistent with that 40-year-old principle?

A. Yes.

Q. Okay. And so if we were to go back and look at February of 2020, and we looked at the analyses that were done, and we looked at what the ROE that came out was relative to the Treasury yields in 2020, and I fast-forwarded to now, I should see that same correlation coming forward, if the ROE in this case was -- if we set the ROE appropriately in this case, we should see that same correlation?

A. Yes. And we established that, if we used that correlation and applied it with my models, that the number would come down from what I presented in the updated surrebuttal.

Q. No, I don't think we do agree with that, but that's because you and I have a disagreement about which numbers are being used where. But that's okay. I don't want to get into that. I understand your position.

CHAIRMAN LEVAR: Let me just ask, Mr. Lawton, for purposes of the streaming to try to stay close to your microphone. I think the streaming is not picking it up. We can all hear you fine, but I want those who are listening remotely to make sure they can hear you, too.

THE WITNESS: I got it, sir. Thank you.

Q. (BY MR. SABIN:) So I know we have a disagreement about what numbers go where, and whether you've included them or not in your analysis, and I understand your position, sir. I think we've got the principle on the record.

And as just a final point, if this Commission applied your theory and they were wanting to figure out how to do that, they could do just what I said. They could look at what were we at? What was the Treasury yield in 2020?

MR. MOORE: I'm going to object. This has been asked and answered several times.

CHAIRMAN LEVAR: Mr. Sabin, do you want to respond to the objection?

MR. SABIN: This is my last question. I was trying to sum up, but if you think it's been asked and answered, I don't want to offend anybody.

CHAIRMAN LEVAR: I think there's a good argument that it has, but we've been -- considering the leeway I'm trying to give to witnesses, I think I want to give a little leeway on asking the question one more time.

So if you want to phrase it a little differently.

MR. SABIN: I'm happy to.

Q. (BY MR. SABIN:) I guess what I want to do is make it practical for the Commission that has a decision to make in this case.

A. Yes, sir.

Q. If they were to go back and look at what equity premiums were when they made a decision in 2020, and they would compare that to the equity premiums that are in place now, or whenever they make their decision, they could apply your principle and do that calculation themselves. And, according to your testimony, they should be able to come up with a number that would be consistent with that principle, right?

A. That is correct. And we established it. You may not agree with the result. But using your own numbers, it was 9.36 percent.

Q. We don't agree on that. I think we were using a different time frame. But that's okay.

Last thing I want to talk about is, you have a chart in both your direct and surrebuttal testimonies where you report your model results.

A. I have a couple charts that do that, I think. But go ahead.

Q. You have one in your direct and one in your rebuttal. And if you want to -- I'd like to take you there, if you can. Just want to point out a couple of things.

So in your surrebuttal testimony, sir, the chart that I'm referring to is on page 3, and it's Table 1.

A. Yes. That's the chart from the direct testimony, which is before the updates.

Q. Correct. And then you have an updated one further down in the testimony, if you look, that is Table 5; do you see that?

A. Not yet. Now I do. Yes, on page 10.

Q. What I want to point out is, as I understand your surrebuttal testimony, you did not redo your DCF model at all as part of your surrebuttal; is that correct? You didn't redo calculations at that point?

A. Right. They were up-to-date with the Value Line data. There would be no real changes to DCF or the internal rate -- or the two-stage DCF. So I did not update those.

Q. Right. So those first two wouldn't have changed, those first two boxes, right?

A. Yes, sir.

Q. And then the CAPM, the ECAPM, and the equity bond risk premium, you did update those models, and those models all showed increased numbers, correct?

A. Yes. Very small for CAPM and ECAPM, a little larger for the risk premium because I used the October yield, spot yield.

Q. Right. And so despite the fact that all three of those went up, including the equity bond risk premium going up a decent amount, that didn't change your recommendation here. You stayed at the same ROE recommendation you did in your direct, correct?

A. Yes. Just like Ms. Nelson stated her same recommendation.

Q. Thank you. That's all I have.

A. Thank you, sir.

CHAIRMAN LEVAR: Thank you, Mr. Sabin.

Mr. Moore, any redirect?

MR. MOORE: Just a couple of questions.

REDIRECT EXAMINATION

BY MR. MOORE:

Q. Mr. Lawton, would you turn to page 9 of your

surrebuttal.
A. Just give me a moment. I'm there, sir.
Q. Now, there's been some discussion about whether you use a spot yield in your testimony.
Could you please read the last sentence of the first paragraph?
A. Yes, sir. "The resulting risk premium is combined with the updated 30-year U.S. Treasury yields through September 30th, 2022," the ten year -- "the 30-year U.S. Treasury ... recent 3-month average yield and the October 10, 2022, spot yield of 3.80% percent to determine the range of risk premium estimates of equity costs."
Q. Thank you. Now, there's been a lot of talk about recent events affecting your analysis.
Does your analysis take into account these recent events? And if so, how?
A. It does, indeed. As I said at the start in my presenting to the Commissioners when I started, everybody updated the data to current data. As I point out on that page you just asked me to read, it's through October 10th. It's taken into account updated inflation and impacts on Treasury yields.
So I think all witnesses in this case did that. I did that. There should be no dispute. It's what the

facts are.

Q. Thank you. I have no further questions.

CHAIRMAN LEVAR: Thank you.

Ms. Schmid, any recross?

MS. SCHMID: None. Thank you.

CHAIRMAN LEVAR: Major Buchanan?

MAJOR BUCHANAN: No, thank you.

CHAIRMAN LEVAR: Mr. Russell?

MR. RUSSELL: No questions. Thank you.

CHAIRMAN LEVAR: Thank you.

Mr. Sabin?

MR. SABIN: No questions.

CHAIRMAN LEVAR: Okay.

Commissioner Allen?

COMMISSIONER ALLEN: No questions, thank you.

CHAIRMAN LEVAR: Thank you.

Commissioner Clark?

CROSS-EXAMINATION

BY COMMISSIONER CLARK:

Q. Mr. Lawton, you testified in the last case as well; am I correct?

A. Yes, sir. Yes, Commissioner.

Q. Mr. Sabin's questions about our order in that case and how it might relate to current facts and your modeling led me to wonder what your recommendation was to us in last case. I can't remember what it was. Do you happen to recall?

A. It was probably approximately 9 to 9.1 percent, if my recollection is correct. I think it was there, and -- because part of that case also was -- included the settlement of the parties on capital structure to move that equity ratio up. And that has an impact. Every witness in this case will tell you that equity ratio, if it's increased, reduces risk; and therefore, a lower return should be authorized. And I think you Commissioners stated that in your last order in the rate case.

Q. That's my only question. Thank you.

A. Thank you, Commissioner.

CHAIRMAN LEVAR: Thank you.

CROSS-EXAMINATION

BY CHAIRMAN LEVAR:

Q. We seem to have some history of rate cases from Dominion Energy Utah about every three years.

A. Yes, sir.

Q. You've been involved in, I think, more than one. The last one, and I think the one before, too.

A. Yes, sir.

Q. When we look at the risk-free rate for the portion of this, would the three-year Treasury yield be more appropriate than the 30-year, or is there a logical hole in that?

A. I don't know that it's a logical hole. But most analysts would look at the longer-term Treasury yield as a better estimate of the risk-free rate. It used to be, historically, a lot of times people looked at the 20-year Treasury bill and a Treasury yield. And most have now gone to pretty much the 30-year Treasury yield as the good estimate for the risk-free rate.

Q. Okay. Changing topics, just to follow up on Commissioner Clark's question a little bit.

A. Yes, sir.

Q. The authorized return equity we adjudicated in February 2020, there's maybe a maximum of three people in this room who think that was the right decision, but putting that --

A. I hope you're not including me there.

Q. Putting that aside, if you were to say a total of the economic -- all the economic indicators that you think reflect on an ROE, where would you say they are today compared to February 2020?

A. Well, we're talking early February 2020?

Q. Sure.

A. And the economic indicators, obviously, today are worse, because we -- right after February 2020, as you know, we had to shut down. We had a grand recession -- a Great Recession that really hit the economy hard because of the shutdown and then all the spending to get back. And now we're like most countries around Europe, we have high inflation. And it's impacting interest rates. You see that every day. So that's where we are.

The question for you, Commissioners, in your decision-making process, is: Where are we going to end up? And it's likely -- I think most analysts -- for when these rates are in effect, because that's what you're looking at. And I think we're going to be in a recessionary time period for a bit. All the estimates seem to lead us there. And that's when indicators turn around for the better, after you take a hit. And that seems to be what's happening, not only in the real estate market, but with the push -- through the push in interest rates, and a lot of business earnings you're seeing start to slow down and come down. Those are the things that are going to slow the economy down.

And so that's the period these rates will be in effect. That is what's likely to happen.

CHAIRMAN LEVAR: Okay. Thank you. And thank you for your testimony this afternoon.

THE WITNESS: Thank you, Commissioners. Have a great day, and thank you for welcoming me back.

CHAIRMAN LEVAR: So in terms of how we've agreed to go forward on witnesses, is there an agreement for where we go next? Should we go to Mr. Coleman before we start going to witnesses on other issues, or was there some other understanding?

MR. SABIN: I think it was to Coleman next.

MS. SCHMID: If you'd rather we go to Mr. Mendenhall, that is fine with us, too. But Mr. Coleman is here.

CHAIRMAN LEVAR: No, unless there's other time considerations. Obviously, Mr. Mendenhall has some ROE testimony, too. But I think considering where we've been today, it's probably best to go to Mr. Coleman next, if there's no objection from anyone.

MS. SCHMID: Sounds good.

CHAIRMAN LEVAR: Are we through the travel restrictions, by the way? Do we have anyone else that needs to get their testimony done before a flight?

MS. SCHMID: Okay.

CHAIRMAN LEVAR: Okay. If that's -- if anyone finds out that's not the case, just let us know before we wrap up today so we'll know to deal with that tomorrow.

MS. SCHMID: Thank you.

CHAIRMAN LEVAR: Good afternoon, Mr. Coleman.

THE WITNESS: Hello.

CHAIRMAN LEVAR: Do you swear to tell the truth?

THE WITNESS: Yes.

CHAIRMAN LEVAR: Thank you.

CASEY J. COLEMAN,

was called as a witness, and having been first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MS. SCHMID:

Q. Good afternoon, Mr. Coleman.

A. Good afternoon.

Q. Could you please state and spell your full name for the record.

A. My name is Casey J. Coleman, C-A-S-E-Y, J, and then C-O-L-E-M-A-N.

Q. By whom are you employed, and what is your title?

A. I'm employed by the Division of Public Utilities, and my title is "utility technical consultant."

Q. For the record, what is your business address?

A. Business -- my business address is 160 East 300 South, Salt Lake City, Utah 84114 -- subject to check.

Q. Indeed.

In conjunction with your employment by the Division, have you participated on behalf of the Division in this docket?

A. Yes.

Q. Did that participation include participating in the preparation and filing of what has been premarked and filed as DPU Exhibit 2.0 Direct with Exhibits 2.01 through 2.07 Direct, and Exhibit 2.0SR, with its accompanying exhibits, 2.01SR through 2.08SR?

A. Yes.

Q. Do you have any changes or corrections to those prefiled exhibits?

A. Yes. If you look at DPU 2.05, which was our CAPM analysis in the direct testimony, there's two tables that are there. One was using the equity risk premium from Kroll, and then the table below it is using the equity risk premium from Dr. Damodaran. And in there, I believe it shows 2.87 for the risk-free rate, and that should change to 3.5 percent, which is the normalized risk-free rate that we had used for Kroll. So that would be -- I'm not sure of the table, but it's No. 1, I believe.

And that will impact the final ROE calculations. And I can read those off, if the Commissioners and others would like me to read that. This was provided to all parties as a reply to a data request. Dominion Energy did ask this in a data request, and we updated it. But I don't believe the Commissioners would have that. So I can give you those updated numbers, if you would like.

CHAIRMAN LEVAR: Seems like it would be good for the record to have those stated.

THE WITNESS: So in Column 4, when you're looking at average beta for all analysts, the updated number -- so Column 1 will all be 3.5 percent in there, just to make sure that makes sense. The beta coefficients and the equity risk premium doesn't change.

But then the ROE calculations will go to 6.51 percent for the average for all betas. The average Value Line beta will go to 7.92. The average Zacks beta will go to 5.97. And the average Yahoo Finance would be 5.82 percent. And the mean of all of those would be 6.51 percent.

Q. (BY MS. SCHMID:) With those corrections, if I were to ask you the same questions that are present in your prefiled testimony, would your answers today be the same as those contained in your prefiled testimony?

A. Yes.

MS. SCHMID: With that, the Division would like to move for the admission of DPU Exhibit 2.0 Direct with its Exhibits 2.01 through 2.07 Direct, and Exhibit 2.0SR, for surrebuttal, with accompanying Exhibits 2.01SR and 2.08SR.

CHAIRMAN LEVAR: Please indicate if anyone objects to that motion.

I'm not seeing any objection, so the motion is granted.

MS. SCHMID: Thank you.

Q. (BY MS. SCHMID:) Mr. Coleman, have you prepared a summary to present today?

A. I have.

Q. Please proceed.

A. Thank you, Chair LeVar, Commission Clark, and Commission Allen for the opportunity to discuss my position and analysis regarding the cost of capital for Dominion Energy Utah.

As noted in the testimony in this docket, we find ourselves in a changing economy with varied expectations for capital markets moving forward. My work in this case is focused on balancing long-term financial models with other market data and judgment to ascertain a reasonable cost of capital that leads to just and reasonable rates. In my testimony, I completed and included the calculations for the various models and recommended and appropriate cost of equity for Dominion Energy Utah.

The Division of Public Utilities' recommendation is based on an evaluation using the discounted cash flow model, the capital asset pricing model, and risk premium models, along with experienced judgment on other factors that must be considered in Dominion Energy Utah's cost of capital recommendation.

Based on my analysis, the appropriate cost of equity for Dominion Energy Utah is 9.3 percent, with an overall weighted average cost of capital of 6.82 percent. My recommended return on equity and its cost of capital estimate is within the Division of Public Utilities' calculated range of 8.93 percent to 9.73.

My testimony evaluated risks, such as interest rate risk, business risk, regulatory risk, financial risk, and liquidity risk. I find Dominion Energy Utah is less risky than the broader market, and similarly or less risky than regulated natural gas utilities.

The average allowed return on equity for 2022 is 9.42 percent. My recommendation of 9.3 percent return equity fits the Hope and Bluefield standards of capital attraction, comparable earnings, and financial integrity.

Company critiques of my data and models are incorrect. The Company has argued, because of a number of economic factors and increased risks to Dominion Energy Utah, to adequately compensate investors for return on equity on 10.3 percent is just and reasonable. The Company used many of the same financial models that the Division of Public Utilities used to analyze the financial markets to support its recommendation of 10.3. The Commission should put little weight on the financial calculations of the Company because of its flawed analysis, using the discounted cash flow model, the capital asset pricing model, and risk premium models.

The record before the Commission does not support a 10.3 percent cost of equity, and the Commission should set the appropriate cost of equity for Dominion Energy Utah at 9.3 percent, with an overall weighted average cost of capital at 6.82 percent.

Q. Thank you.

MS. SCHMID: Mr. Coleman is now available for cross-examination questions and questions from the Commission.

CHAIRMAN LEVAR: Thank you.

Mr. Moore, do you ever any questions for Mr. Coleman?

MR. MOORE: No questions. Thank you.

CHAIRMAN LEVAR: Thank you.
Major Buchanan?
MAJOR BUCHANAN: No questions. Thank you.
CHAIRMAN LEVAR: Thank you.
Mr. Russell?
MR. RUSSELL: No questions. Thank you.
CHAIRMAN LEVAR: Mr. Sabin?
MR. SABIN: Yes, thank you.

CROSS-EXAMINATION
BY MR. SABIN:
Q. Good afternoon, Mr. Coleman.
A. Good afternoon.
Q. I want to just start with a couple of, what I think are fairly basic things we hopefully can agree upon.
When we are attempting to establish an ROE for the Company, the law and cases that have developed over the years, tell us that what we're looking at, I think, if you agree with me, is we're trying to quantify the risk that an investor would be taking, if kind of put in this situation of investing; do you agree with that?
A. I don't know the legal analysis, but my testimony did talk about the risks and the opportunity costs of an investor that would be -- that they would

look at to determine the appropriate investment for them.

Q. Yeah. This might help. I think it's in your surrebuttal testimony at 13. If you want to go there with me, I can just point to you what I'm looking at.

MS. SCHMID: Page 13?

MR. SABIN: Give me one second. I'm sorry. I'll get there.

Q. (BY MR. SABIN:) So I have -- okay, yes. At page 13. And I'll just point you to your statement that I'm asking. It starts on Line 312, Mr. Coleman.

And you say there, "When determining the cost of capital and the appropriate return on equity" --

A. Sorry, I'm not there yet.

Q. I apologize. Page 13, Line 312?

A. Okay.

Q. Would you just go ahead and read into the record Lines 312 and 313.

A. "When determining the cost of capital and the appropriate return on equity for a utility, parties and the Commission are attempting to quantify the risk investors are taking."

Q. So if I understand what you're saying, when you're doing your assessment, you're trying to look at all these factors to determine what the appropriate return would be for an investor, were the investor brought in and asked to invest here, what would that investor pay for -- what would they expect for a return; is that a fair statement?

A. I think what it talks about is the risks of different investors, and there's a variety of different risks that would be analyzed by an investor to determine if it's appropriate for them to invest their capital with the Company or not.

Q. Exactly, right? They're looking at -- if we take all the factors today, and we took a representative investor, knowing all the things you and I know and looking at all the other options in the market, we're trying to set a rate -- an ROE at a point where that investor would be willing to invest here?

A. Yes, but you need to clarify which risks you're talking about. Because I said "risks," but there are different risks that are going to be appropriate there. So I would need to know what risks you're talking about.

Q. I'm just saying all the risks that an investor would take into account.

A. I believe there's five risks that an investor will take into account, which I talk about in my testimony.

Q. You do. So with those being defined that way, do you agree with that statement?

A. If you're saying the risks that I'm talking about there, those five that I included in my testimony, then I would say those are probably the risks that most rational investors would look at.

Q. Okay. Thank you. And you agree with me, given those risks, that the return we're talking about is the return that that investor would expect for taking those five risks?

A. Comparable to companies with the same level of risk. So it's not just risk, you have to look at comparable companies and what we're getting as far as their return, because an investor is trying to look at what risk is going to compensate them fairly for the risk that they're taking within that company.

So for example, if I'm investigating in Tesla, I may expect a different rate of return than I am in a utility because the risk of that investment is going to be different.

Q. Right. And when we're trying to set an ROE, we're trying to establish a return that would be sufficient to cause the investor to want to invest in this specific utility, right?

A. Considering the risk profile, yes.

Q. Yeah. And if you look -- just go to the next page. On page 14 of your testimony, you cite Dr. Morin in New Regulatory Finance, and you include a quote. And that's what you're saying there, isn't it? That's what we're doing?

A. According to investors and what Mr. Morin says there, is there's going to be five different elements of risk that you would analyze to determine the appropriate equity risk premium or what needs to be compensated for an investor for their opportunity costs of investing somewhere else.

Q. Okay. So I think we're in agreement there.

Now, I'd like you to go to page 4 of your surrebuttal testimony. And there, you -- you're citing to -- you're responding to Ms. Nelson, and you're talking about the Commission's order in the last rate case. And we're going to start on page 4. It's the bottom half of that page. And what I'd like to do is just read a couple of paragraphs, then ask you a couple questions about that. So tell me, sir, when you get there.

A. Do you have a line number?

Q. Yeah. We're going to start on Line 95.

A. Okay.

Q. Okay. And what you say there is -- and I should say, you're responding to a point here where you're addressing Ms. Nelson and explaining in response what the Commission did in the last rate case. At least that's

how I understand your surrebuttal testimony.
Is that what you're attempting to do here?
A. Yeah, so I was trying to explain past Commission practices and what had been done historically.
Q. Right. So what you say here, is you say, "DEU filed a rate case in 2019 requesting an increase in rates and revenues. Many factors were considered by the Commission and ultimately a rate decrease of 30 basis points was ordered for DEU. This reduced the cost of equity to its current level of 9.5 percent."
And then you go on to say, "In its Order, the Commission discussed its 'starting point for this evaluation is our most recently approved ROE for DEU.'"
Would you agree that that's Commission practice in the state of Utah, that they begin by looking at what the past approved ROE is for the particular utility?
A. I think the Commissioners can decide what the past appropriate is. I just quoted what they had said in their last order. So I'm not going to tell them what they've done or what they haven't done.
Q. Is that your understanding of their practice?
A. For that last order. I'm not going to say what the history has been forever, but saying from that last order, that's what they did say.
Q. Okay. And then you go on to say, "the

Commission continued its evaluation by 'considering the extent to which financial conditions have changed since that decision, and the impacts those changed conditions should have on DEU's authorized ROE.'"

Again, you're describing what the Commission said in its order. Do you agree that that's what the Commission did in the last rate case?

A. Yeah. That's what they quoted in there, yes.

Q. Okay. So now I want to just go to the next page here. You say, "In that order the Commission recognized that some factors and conditions would positively impact the authorized ROE, and some would negatively impact the ROE. This point is illustrated by the following comment made by the Commission."

Then you include a quote, where you say -- and you're quoting the Commission here, "Issues that can be viewed as 'credit negative' for DEU, potentially leading to an increase in its authorized ROE, include federal tax reform enacted in late 2017 and the Federal Reserve's cessation of injecting capital into the market. Conversely, declining U.S. Treasury rates since February 2014 could indicated a need to reduce DEU's authorized ROE."

Then you quote them. They talk about a couple of the recovery mechanisms that they take into account in their order.

So what I want to know is, do you agree that the Commission, in setting ROEs, should consider the market conditions and the -- let's just start there. Should consider the market conditions as they have changed from the prior rate case to the present one?

A.   When you look at the five elements that Dr. Morin talked about as far as what should be evaluated by investors in the financial aspect of it, none of those five talk about market risk.

Q.   So are you suggesting the Commission got it wrong when they looked at market conditions in the last rate case?

A.   I'm not suggesting the Commission did anything. My testimony talks about the five things that investors are going to look at, which are those five elements. And none of those five talk about market risk.

Now, having said that, part of the reason why I would suggest that you don't look at market risk or why it's not as important, is market risk is going to apply to every single stock within the investing community. So inflation is going to impact in different ways a company differently. How it impacts Dominion Energy Utah, which is what I talked about, and it's in my direct testimony, could also be different than how it's going to impact a grocer, say like Kroger or Walmart or something like that, as well.

And so the market risk is something that would be factored, but generally from investors, that's already going to be captured in the models and in what they're assessing, because those are known. And what they're trying to do is to say, How is this specific company going to be different than all the others when I'm creating my portfolio to minimize that risk for me?

And so am I saying the Commission got it wrong? They can do what they want to. But I'm saying, with the financial information and what's out there, primarily we're looking at five of those risks, one of which is not the market risk, because that's applicable to all the stocks within the market.

Q. I appreciate your clarification. So let me ask it this way.

Do you believe that -- in what you have done, have you taken into account the market changes that have occurred in the last, say, 12 months in coming up with your recommended ROE?

A. Yes.

Q. Okay. And you would say you've included them in your modeling, then?

A. Yes.

Q. And they have not been factored in, in any other way?

A. Other than -- I'm not sure what you're trying to get at with that question. "Factored in, in any other way," it's way too broad.

Q. Well, I think you were just saying that that's where it's incorporated for you is in a modeling only; is that right?

A. No. I'm saying that investors are looking at five different risks, but you're asking me if those considerations, as far as the market, was part of what was in my financial models. The answer to that is because I'm looking at an equity risk premium from Kroll that looks into a variety of different things. That's part of what's included in their equity risk premium.

Q. And all I'm asking is, in your other factors, your five factors, if you take out the modeling, you're not including any market risk anywhere else in what you're doing; do I understand you correctly?

A. Are you saying in my return on equity, the estimates that I'm making to the Commission, are you saying that I'm not taking any of the marketing -- I don't understand -- I'm not trying to be difficult, but I don't understand what I'm doing. There's a lot of ways that we've discussed things here. What I'm doing is very general, and I don't know how to answer that specifically enough to provide value to the Commission or to the parties in this docket.

Q. That's fine. We'll move on.

Going back to your surrebuttal testimony, Line 115 to 119, you say, "From these statements, it is obvious that the Commission weighed current market conditions, analyzed whether these conditions would be either negative or positive for DEU's ROE, and ultimately decided to lower DEU's ROE. The Commission simply stated, '[a]s we consider the totality of these high-level issues, we find that a reduction in DEU's ... ROE is appropriate.'"

And then to conclude, you say on Line 121, "the Commission has shown that as market conditions warrant, it will decrease or" -- I think you mean "increase a utility's ROE."

So I just want to make sure I'm clear on what -- I think I understand what you're doing.

Do you have any qualm with the way the Commission comes up with its ROE? Are you saying that it would be inappropriate for them to consider the changes in the market conditions to move the ROE up and down, as those conditions may warrant?

A. So I think if you look back at Line 118, the important element there, and word that they talk about there -- and again, we're quoting the Commission, so I'm a little uncomfortable quoting the Commission with them sitting here.

But it does talk about the totality of these high-level issues. It's not talking specifically just about the market risk. "Totality" means that they're looking at a variety of different elements. And I don't believe the Commission has directly said, We weighed market factors 5.25 percent, and then we weighed the other factors by 5.25 percent.

When they make their determination, which is also what we did with the Division, is we look at totality of the situation. What's the market situation? Because that's going to impact our ROE determination. To say that it doesn't have any impact would be naive, right?

But having said that, you look at everything that's coming together to come up with a recommendation that's going to adequately compensate Dominion Energy for the risk -- sorry, let me say that differently. It's going to adequately compensate investors in Dominion Energy for the risk that they -- their risk profile that's going to be comparable to all of the other utilities or all of the other investments that are available in the market for investors so that they can attract that capital and be able to get what they perceive to be fair value for their money and their investment.

Q. I understand.

Do you agree that it would be appropriate for the Commission, as market conditions warrant, to decrease or increase the ROE, based upon whatever market conditions they believe should move the ROE up or down? Do you believe that's appropriate?

A. Again, I believe the Commission can do what they want to. And I am not going to say what the Commission should or shouldn't do.

Q. I'm not asking what they should do. I'm asking if you agree that that's appropriate.

A. Okay. Sorry. For this slight deviation. Outside of my working as a Division of Public Utilities employee, I am an umpire in softball. And when I umpire, there's one opinion that matters: Mine. The coach can tell me something, or someone else can tell me something. But ultimately, my opinion is the only one that matters as an umpire.

What I feel the Commission should or shouldn't do, their opinion is what matters.

Q. I agree with that, Mr. Coleman. I appreciate that. I'm trying to understand whether you think it's appropriate to consider changing market conditions or not in establishing an ROE. That's all. I just want to know what you think.

A. I already told you in my testimony that there are five elements that we look at with that as well. And that's what I said would be the factors that you would look at for the risk element of that. I don't know how else you want me to say that. I've answered that. And that's what I believe are the elements, as well.

If the Commission looks at something different, that's their prerogative. That's what they have the ability to do.

Q. Okay. I'll let that stand, however people want to take that.

I'd like to talk about some of those market factors because, at least as I understand your quoting of the Commission's decision, these factors do appear to matter. So I want to cover just a couple of these factors again. And I don't want to read through everything I did with Mr. Lawton, but we can do it that way, if you want. I'm just going to show you a few things and ask you a few questions to see if you agree that these circumstances have, in fact, changed.

So first off, I'm going to ask Mr. Mendenhall to take around one cross exhibit. This will be marked as DEU Cross Exhibit No. 8.

(Exhibit DEU Cross 8 was entered into the record.)

Q. (BY MR. SABIN:) Okay. So do you see that document? This is a Bloomberg article, Mr. Coleman, and I'll just reference that. And it's dated -- I think it's -- I don't see the date all of a sudden. Oh, there it is.

October 14, 2022; do you see that?

A. Yes.

Q. This article is talking about the Federal Reserve's decision to cease injecting capital into the market, bringing about a -- reducing the liquidity that exists in the market.

And so if you look, for example, on the first page down at the second full paragraph, the second sentence says, "Liquidity is quickly evaporating. Volatility is soaring. Once unthinkable, even demand at the government's debt auctions is becoming a concern. Conditions are so worrisome that Treasury Secretary Janet Yellen took the unusual step Wednesday of expressing concern about a potential breakdown in trading, saying after a speech in Washington that her department is 'worried about a loss of adequate liquidity' in the $23.7 trillion market for US ... securities. Make no mistake, if the Treasury market seizes up, the global economy and financial system will have much bigger problems than elevated inflation."

So Mr. Coleman, do you have any reason to disagree that, in the current economy, liquidity is evaporating, as this article is saying? It's becoming very tight, there's not a lot of liquidity in the current market?

A. So if you look at this, looking at the very top, it shows that it's an opinion from one person, Robert Burgess. I don't know who Robert Burgess is. So this is coming from Bloomberg, it's just his opinion. So he's talking about the way that he sees the liquidity in the market and how it's going to impact that as well, right?

Q. I'm asking you: Do you have any reason to disagree with Mr. Burgess' view that liquidity is quickly evaporating in the market?

A. Liquidity in the Treasuries?

Q. Yes.

A. That's what he says. I'm not going to -- that's what his opinion is.

Q. I understand that's his opinion. I'm asking you, Mr. Coleman: Do you disagree with that view?

A. I don't know in my testimony where I talked about Treasuries in my rebuttal or surrebuttal testimony.

Q. I didn't say you did. I'm asking you whether you disagree with this view.

MS. SCHMID: In that case, I would object on the basis that it is beyond the scope of his prefiled testimony.

CHAIRMAN LEVAR: Unless you can identify where it's in his testimony.

MR. SABIN: He's quoting you, "you," the royal "you," to say that Federal Reserve cessation of injecting capital into the market is a reason why you might increase ROE. That's what this is about. It's getting him to acknowledge that that is what's going on in the market. So I think it's directly relevant to what he's relying on you for.

CHAIRMAN LEVAR: Okay. So --

MS. SCHMID: I would.

CHAIRMAN LEVAR: Can I ask Mr. Sabin one more?

MS. SCHMID: Yes.

CHAIRMAN LEVAR: To better under Ms. Schmid's objection, when you were reading from this article, I didn't find the paragraph you were reading from.

MR. SABIN: I apologize. It's the second full paragraph at the bottom.

CHAIRMAN LEVAR: The first page?

MR. SABIN: Of the first page, starting with the word "liquidity." It's right -- the first line.

CHAIRMAN LEVAR: Oh, there we go.

MR. SABIN: It's that through the end of the paragraph, Mr. Chair.

CHAIRMAN LEVAR: Okay. Ms. Schmid, did you want to add something to your objections?

MS. SCHMID: I would add that there are many things also mentioned in the quoted paragraph that Mr. Sabin's is not addressing.

CHAIRMAN LEVAR: So --

MR. SABIN: I believe -- oh, go ahead.

CHAIRMAN LEVAR: Well, if you want to add anything, I'm just about prepared to rule on the objection.

MR. SABIN: Go ahead.

CHAIRMAN LEVAR: I'm not convinced that Mr. Coleman's quotation of a paragraph from our order, that the paragraph includes "capital injection in the market by the Federal Reserve," he doesn't, then, in his own words go into that issue any further.

So I think I'm not going to conclude that he opened the door in his testimony to questions about market liquidity. So I'm going to sustain the objection.

MR. SABIN: All right. I will move to admit the Cross Exhibit 8 into the record.

CHAIRMAN LEVAR: Okay. Is there any objection to that motion?

MS. SCHMID: Yes. I would object as to its relevance, given your ruling on the paragraph quoted and the question related to that.

MR. SABIN: Mr. Chairman, I'm sorry, but it's obvious to me he is a talking about market conditions throughout much of his surrebuttal, at least, if not his direct.

These are market conditions that are relevant to the question that is before you, as evidenced by your prior order. So I don't know how we can say these are not relevant. And he has in here a summary of what market conditions this Commission considered. This is one of those market conditions contained in the quote he's talking about. I don't know how this can't be either relevant -- relevant and directly on point to what we're looking at here.

CHAIRMAN LEVAR: I'm going to think out loud for a moment.

Considering, also, that this is an opinion piece and not an economic analysis, I think I'm agreeing with the objection. As an opinion piece, it also implicates a little bit whether the author should be subjected to questions on it rather than more of an objective financial analysis, like we've been seeing from the S&P article. So I'm going to sustain the objection.

Q. (BY MR. SABIN:) All right. You do talk about volatility in your testimony, do you not, Mr. Coleman?

A. I do talk about the VIX, yes.

Q. And you would agree with me, would you not, that since 2020, the VIX has gone up to its highest point since COVID-19; isn't that right?

A. Yes. And also in my testimony, I talk about -- and Mr. Lawton brought this up -- I'm not sure how that translates to utilities and the value of just the fact that the overall market is more volatile.

Q. I understand your position. My question was just simply: It has gone up to its highest point since COVID, correct?

A. I don't know if it's the highest point since COVID.

Q. Let's look at Cross Exhibit 5. It's in front of you in the pile of exhibits, hopefully.

A. I might have moved them. Sorry.

MS. SCHMID: May I approach the witness with that exhibit?

MR. SABIN: Sure, thank you. Oops, sorry. I thought --

CHAIRMAN LEVAR: That's all --

MR. SABIN: I didn't mean to take that -- I thought she was going to give him the copy. That's fine. I don't object.

CHAIRMAN LEVAR: Neither do I.

Q. (BY MR. SABIN:) Mr. Coleman, do you not have any of the cross exhibits that were left there?

A. I moved them.

Q. It would probably be good to get the whole stack, actually.

A. Okay.

Q. Okay. You have Cross Exhibit 5 in front of you?

A. Yes.

Q. Do you see on the first page that "US government bond market volatility at early pandemic levels," that's the title that's above the chart?

A. Okay.

Q. And do you see the chart? If you look at March of 2020 and you look at the volatility today, they're roughly equal?

A. Remind me what your question was.

Q. Do you disagree that the volatility in the market is at the same level, roughly the same level as it was during the pandemic?

A. I agree with that. I think you asked me if it was higher before, and that's not -- the way you characterize now is correct. But I think you asked me if it was higher than before the pandemic.

Q. If I asked it that way, I didn't mean to.

Would you also agree that if we look for February of 2020, that the VIX is much higher than during the last rate case?

A. Again, yes. But I want to clarify again what the VIX talks about. This is actually talking about the S&P 500, but it's also options on the S&P 500 for a short-term time period. So there is volatility, and that's what this is showing. But it's options on the S&P 500 that's being traded. And most of us in the financial market know that if you're talking about an option, it's going to be way more volatile than the actual stock itself because of the way that leverage happens and the way that those options work.

And so I know that Ms. Nelson uses this, and it's put out there. But again, in my testimony, I talk about this. I don't know how this is valuable to a regulated utility, because it's dealing with the options of the S&P 500.

And so yes, I'll agree with what you're saying, but I don't understand the relevance or the value of this information to a regulated utility.

Q. Is it Dominion, Incorporated, in the S&P 500?

A. We're not dealing with Dominion, Incorporated. We're dealing with Dominion Energy Utah.
Q. I understand. But they're a -- the utility stocks are in -- there are utility stocks in the S&P 500?
A. The Commission is setting rates for Dominion Energy Utah, which is going to be specific for the ratepayers of Utah and for what that company is there, not for Dominion Energy, Incorporated.
Q. Okay. If you'll turn the page.
A. And again, that gets back to what I was saying. You're talking about the stock. This is talking about options and the options in the market, which is vastly different than the stock itself. And the volatility of an option is going to be greater than the stock itself.
Q. Are you aware of whether there are utility options at issue in this?
A. Sure. That's not what we're talking about. You're asking about the volatility and the value of the volatility. And I'm saying, when you look at an option, that's vastly different than looking at a regular stock. And so I don't understand the value of this index.
Q. Let's go to page 2. On page 2, you'll see the same chart I showed to Mr. Lawton.
Do you have any reason to disagree that Treasury yields have, quote, soared in 2022 up -- for some of them

up as high as 300 basis points?

A. Again, I don't know where I talked about Treasury yields in my --

Q. In setting your risk-free rate, you rely on the Treasury yields?

A. No, I rely on the normalized rate from Kroll.

Q. Right. But that comes from the Treasury yields.

A. I relied on the normalized rate for Kroll.

CHAIRMAN LEVAR: I think I agree that the Treasury yields are relevant to that, so I think it's a fair question.

THE WITNESS: Okay. Do you want to repeat your question?

Q. (BY MR. SABIN:) Yes, do you agree, or have any reason to disagree that in 2022, Treasury yields are substantially higher than they were at the beginning -- now than they were at the beginning of 2022?

A. Will you clarify what you mean by "substantially higher"?

Q. Three hundred basis points is what this article talks about. For some of them, it's --

A. I could agree to 300 basis points. That's what the article shows.

Q. Okay. Thank you.

The article also talks about that we're going

through a period of the highest inflation in 40 years.
Do you have any reason to disagree that that's going on?

A. That's what the article says. And we've talk about inflation in this, and also in my direct testimony. So I would say that that's accurate, that that statement characterizes what's going on in the market.

Q. Okay. Thank you. Now, you mentioned your Kroll data.

A. Correct.

Q. Can you just briefly explain how you came up with your risk-free rate using the Kroll data? Would you just walk us through what you did.

A. Kroll puts out their recommendation of what they believe the risk-free rate would be. It's going to be dependent on what's happening in the market. So they suggest that the normalized risk-free rate would be 3.50 percent, which is what I used in my models.
If the spot rate is higher than 3.5 percent, then their recommendation is to use the spot rate, according to when you're doing the analysis. So I used -- because at the time that I did the analysis, the 3.5 percent normalized risk-free rate from Kroll.

Q. Great. Thank you very much.
So in your stack, would you find DEU Cross

Exhibit No. 7.

A. You'll probably have to give me a little more direction than that, because I don't know that -- they're not --

Q. It will be the selected interest rates, the H.15. Yes, that document.

A. Well, it was right on top. How fortunate is that?

Q. We're all happy that that's easy to find.

A. Well, let me fumble for a second. I've got it.

Q. My understanding is that, if we look down this document, down about halfway, you'll see the Treasury maturities, and then it will go from one month all the way to 30 year; do you see that?

A. Yes.

Q. And the one you use, I think is the 20 year, correct?

A. That's the one that Kroll suggests to use.

Q. Yeah. And you've used that for your risk-free calculation, correct?

A. I've used Kroll's recommended risk-free rate.

Q. But it's pegged on the 20 year, right?

A. I would have to look at the information, but subject to check, I believe that's accurate.

Q. Well, let's go there. I think it's in your DPU

Exhibit 2.04S. Would you pull out DPU Exhibit 2.04S.

A. 2.04S?

Q. That's what I show, yes. The top it, it says "Kroll" in letters on the right?

A. Give me a second to get there.

Q. SR, I guess it is. SR, not S.

A. 2.04?

Q. SR?

A. Yes. So I'm looking at basically Kroll's risk-free rates over -- what they recommended over a period of time.

Q. Yeah and you see in the middle -- you see in the middle of your document, it says the "20-year U.S. Treasury yield"?

A. Yeah.

Q. So if we look on Exhibit 7, the 20-year Treasury yield is 4.25 percent as of October 14th, 2022, right? If you look on the right-hand column?

A. Yes.

Q. Okay. So, and you used -- I think you just referenced you used 3.5 percent because that's what Kroll has there in the column, R -- the top of the column is R with a little F below it, right?

A. Yeah, that's how they're indicating what the risk-free rate should be, yes.

Q. And you used -- I take it you used that top line that is in red; is that right?
A. Yes, because at the time, when we were doing the analysis, the risk-free rate was below 3.5 percent. And so we had used the normalized rate, risk-free rate of 3.50 percent, as recommended by Kroll.
Q. Right. Now, that's true for both your surrebuttal and your direct. You didn't change that? You used the 3.5 for both; isn't that right?
A. In the surrebuttal, we basically had indicated that there could be some minor adjustments. But we didn't make any major adjustments in rebuttal or the surrebuttal, as far as our financial calculations. So if that was what you were asking, the answer is yes.
Q. More specifically, all I mean is you were using the same 3.5 in your direct and your surrebuttal, right? You didn't change that number?
A. Where in my surrebuttal would you want me to change that number?
Q. I'm saying that you didn't, in your surrebuttal, update to use a different number than 3.5?
A. Correct. Because in my surrebuttal, we didn't redo any of the analysis because we felt that that information was still going to give us a reasonable, allowed rate of return, which is what our recommendation

was of 9.3.
Q. Right. Now, at the bottom of that exhibit that we're looking at, DPU 2.04SR, do you see the red language there at the bottom of the page?
A. Yes.
Q. Would you please read that quote.
A. "We recommend using the spot 20-year U.S. Treasury yield as the proxy for the risk-free rate, if the prevailing yield as of the valuation date is higher than our recommended U.S. normalized risk-free rate of 3.5 percent. This guidance is effective when developing USD-denominated discount rates as of June 16th, 2022 and thereafter."
Q. Now, it's true, is it not, that after your direct testimony, the yield went above 3.5 percent on the 20-year Treasury?
A. Possibly, yes. I didn't look at every individual spot rate with that, but that is a possible characterization.
Q. And you would agree today, or within the last several -- on that document we're looking at, it shows October 7th, 10th, 11th, 12th, and 13th, that in all of those instances, the spot was always above 4 percent?
A. Yeah. And an important element of that, as well, is if you look at our CAPM model, which is where

this is primarily used in a couple of different ones, our analysis of the CAPM model is returning. We talked about the average, just with what I updated at 6.51 percent. And so our recommendation of 9.3 percent is still different than that recommendation. So even if I went and updated it to, say, 4 percent or something different, it's not going to vastly change our analysis with the CAPM. Sorry. It will change our analysis with the CAPM, but it's not looking at the totality of all of the different elements going to change what our recommendation was to the Commission.

So yes, they have changed. Yes, our CAPM analysis and some of the other ones using the risk-free rate would most likely come up some. But at the end of the day, if you look at our recommendations and our analysis, it wouldn't change it to where we're going to be extremely different than what we had calculated, and it's not going change our recommendation of the 9.3 percent.

Q. You haven't run that calculation, it sounds like; is that right?

A. I could do it right now, if you wanted me to.

Q. I'm just asking.

A. I haven't, no, but I could. If that's something valuable for the Commission, I'd be happy to do the analysis and calculation right now.

Q. We may get there. Let me get through some questions first.

What I'm trying to understand is Kroll told you to use the higher number, and you were relying on Kroll data for your calculation of the risk-free rate. Despite that comment, you did not use the spot market number, as of the date you filed your surrebuttal, right?

A. I would have to see what the spot market numbers are, because obviously, we're trying to pick a point in time when we have to turn this information in. And so the risk-free rate was -- I'd have to know the specific point as far as what it was on the date when we turned in the information to say if it was higher or lower.

Today, is it higher? Yes, I'm not arguing that at all. But I'm also saying to the Commission, if we did put those numbers in -- and I'm happy to do it. I have my computer right here. I can put the numbers in and do that with today's numbers, if that is something that is going to be valuable to the Commission to help them have a more accurate record.

What I am saying, though, is if I -- sorry. I'll slow down. I apologize.

What I am saying, though, is if we do that analysis, it will increase our CAPM numbers somewhat, but it's not going to change significantly the overall analysis that we would recommend something different than 9.3.

So on that day, it might have been different. It could have been .36 or something a little bit different. But it's not going to be a material enough calculation or change that would undermine our recommendation of the 9.3 percent.

Q. And I'll just -- I appreciate that answer. I'll just point out that your surrebuttal testimony was submitted -- what date did you submit that? You submitted it on --

A. Let's see. The 13th, is that when surrebuttal was due?

Q. October 13th. And so if I look at this sheet we're looking at right here, on October 13th, it was 4.25 percent.

A. Okay. Having said October 13th -- and I think the Commission can respect this, and Dominion Energy Utah can also respect this. We have a review process that the Division has to go through. And so just because we submitted something on October 13th, I have to have a cutoff date before that, so that other people, supervisors and others who are going to be looking at that, are going to be able to review it and to say, yes, this looks fine.

So we try to provide the most accurate and up-to-date information that we can. But was it, as of October 13th? No, because that's when we had to file it, and I had to have a review with our internal staff and other people to make sure that that information was correct.

So do you have what it was, say, like at the end of September?

Q. I don't right in front of me.

A. So I don't, either. So I don't know how to answer that question.

Q. I understand your position. I'm just --

A. Okay.

Q. -- pointing out, we have more current numbers than the 3.5, which was back in June. And Kroll is telling you to use the spot number?

A. Correct. And I've offered. Right now, if you would like to, I can do the calculation for you with today's number, if you would like.

Q. The problem I have is I don't have any way of looking at what you're doing and how you're running it through. I don't have anything in paper to review and ask you about.

MS. SCHMID: And if I may, I think that this question has been asked and answered and almost beaten to death. So perhaps the Commission may choose to ask DEU to move on.

Q. (BY MR. SABIN:) I would be happy to review what you can do. And if I had the opportunity to ask you about it, I would be happy to do that. I just don't -- can't do it here when I don't know what you're reviewing.

A. It's a pretty straightforward mathematical calculation with CAPM, and all I would have to change is the risk-free rate in the table that I provided.

Q. Yeah. And perhaps we can talk after and see if there's a way to get that submitted where we can review it and ask you about it.

A. Okay.

Q. Would you go to your direct testimony, please. And this is on page 16 of your direct testimony.

A. Do you have a line number?

Q. I do. We're going to start on Line 380.

A. Starts with "Actions"?

Q. Umm-hmm. Would you read that down to Line 385, please, into the record.

A. Okay. "Actions from the Federal Reserve over the last few months have led to a tightening of monetary policy and an increase in the various treasury rates."

Q. So just stop there. I appreciate you stopping there.
You did speak about a tightening of monetary policy there, didn't you?
A. I was basically quoting Ms. Nelson and how she was talking about the tightening of the monetary policy.
Q. By it's referencing -- my point is it's referenced in your direct testimony. You're talking about it, right?
A. In reply to what Ms. Nelson said.
Q. Go on and read the next sentences.
A. "As indicated in Ms. Nelson's testimony, the projected trend is for those rates to continue to increase from a 30-day average of 2.20 percent as of February 28, 2022, to 3.40 percent on average over the five year period from 2023 to 2027."
Q. Okay. So first of all, I think you agree, do you not, that the trend right now is that Treasury rates are on an increasing -- they're on -- they're increasing?
A. Short-term, there has been an increase in Treasury rates, yes.
Q. Okay. Do you have any basis to believe that that will not continue through the test period?
A. Generally, we don't try to project where interest rates are going to go -- and I talk about that

in my testimony -- because projected interest rates have been very difficult. And I believe I bring out Chairman Powell, where he was just saying two to three years ago there is no way we're going to raising interest rates -- I'm paraphrasing. Obviously, I can go to my direct testimony, if you'd like the exact lines. But he was saying, We're not going to increase rates. There's no way that we're going to even consider increasing rates. But yet two years later, we are in this situation.

So we don't try to project the rates because who knows where they're going to go? And it's petty difficult to know for sure which way they're going to head. So I haven't projected the rates and haven't done that in any of my analyses.

Q. My question is a different one, Mr. Coleman.

A. Okay. Sorry about that. I apologize.

Q. That's okay. My question was: Do you have any reason or -- any evidence or any reason to believe that interest rates are not projected to continue to increase by people not in this room?

A. Projections have always been wrong and have overstated where they're going. So I don't have any reason to believe that people would project they're going up. I just don't know the validity or value of those projections when they -- there are numerous articles out there, which we bring out again in our direct testimony, talking about the value of projections.

Q. So --

A. And --

Q. Go ahead and finish, if you need to finish.

A. That's okay.

Q. I'm going to have Mr. Mendenhall hand across Cross Exhibit No. 9.

Mr. Coleman, I'm handing you what's been marked as DEU Cross Exhibit No. 9. This is a Thursday, September 22, 2022, S&P Capital IQ article on the Fed. It's talking about interest rates and where they're expected to be.

Do you agree with me that the test period here is a forecasted test period through the end of 2023?

A. Yes.

Q. Okay. So let's go down to the bottom of page 1. And it says there, "Since March, the Fed has boosted rates by 300 basis points, including three straight 75-basis-point hikes, after leaving them near 0% for roughly two years in response to the pandemic."

A. Sorry, where were you at?

Q. Bottom of the first page, and then we're going over to the second page.

A. So the "Feds median 2022 forecast," or is that page 2?

Q. No, I was on page 1.

A. Okay. Sorry. Now I got you.

Q. That's okay. I read the very bottom paragraph, now I'm at the top of page 2.

Top of page 2 says, "Powell gave no indication during his press conference that central bank officials had any plans to slow down this push for higher rates and said with this latest 75-point-basis-point hike, the Fed may now be at just the 'very lowest level' of what may be now be considered restrictive monetary policy."

And then there's a chart there. Do you see where it says the, "Fed now forecasts ending 2022 at 4.4% percent, 2023 at 4.6%"?

A. I see that at top, yes.

Q. And that's coming from the Federal Reserve, right?

A. This is an S&P Capital IQ. And I suspect that they're quoting the Federal Reserve accurately.

Q. Okay.

A. I mean, I -- this report isn't coming from the Federal Reserve, but I won't protest too loudly.

Q. Okay. So that's -- that's compiled -- that data was compiled as of September 21, 2022, right? And it represents the forecast you see under the chart. The,

"Forecast represents the median views of participants in the Federal Open Market Committee." Do you see that?
A.   Page 3?
Q.   No that was right under the chart we just looked at.
A.   Okay.
Q.   Just wanting -- you just said you weren't sure, you thought it may come there. I'm just pointing out --
A.   "Federal Reserve's Summary of Economic Projections," yes.
Q.   So back to my original question.
That's what the Fed is estimating right now, is that interest rates will continue to rise until we get to 4.6 percent by end of 2023?
A.   And you're saying this is valuable because of the test period of 2023?
Q.   I'm just pointing out that it aligns with the test period of 2023, that we have an increasing interest rate environment, right?
A.   Okay. Can I talk about test periods for a second?
Q.   Go ahead.
A.   So I know that there's been a lot of discussion, and this was even in a cross exhibit that was provided. I don't know exactly which one. But looking at --

Actually, to give you context on this, Ms. Nelson talked about the historical numbers from the Regulatory Research Associates and how that's looking backwards. And I think Commissioner -- sorry, Chair LeVar, you'd asked this a little bit, as far as aren't there forward test projections that's going to be happening with that?

I think if you look at the data on many of those cases, those Commissioners are setting rates for forward test years. Now, there are some that are going to be -- are going to be set for past, some for current, and some for forward. And so the characterization that it's just going to be historical information, I believe, is not accurate because they are going to be setting it. And there are some of them that look for 2023 and forward.

And so Mr. Sabin is asking me questions about the importance of test year. Well, when looking at that information and trying to determine the importance of an average and how valuable it is, you have to also look at -- which is what we've been saying the whole time, is you have to look at the each individual company and the risk profile of a specific company to be able to determine what the appropriate rate of return is for investors.

And so there is many of these companies there that had a projected test year and had rates that were higher than what the Commission had done at the time.

So sorry for a little bit of a deviation there. But you were talking about the test year and how it's important. And I think that that is an element that hadn't necessarily been brought out that the Commission would want to consider when looking at that average for the rates of return.

She talks about how it's historical, but I don't know that I necessarily agree with that characterization, because many of those are going to have historical test years, just like we do. And they're trying to set it for 2023.

Q. Thank you. All right. So back to your Kroll data. Now that we've talked about that and where the Fed thinks interest rates are going, you arrived using your risk-free rate and your -- the two portions. I'm blanking all of a sudden on the other portion.

A. Equity risk premium.

Q. Equity risk premium.

A. If you're talking CAPM model.

Q. Yeah. In your CAPM model, you came to a 9 percent number; isn't that right? And how you got there was your premium 5.5 percent and your market -- your --

A. No, the CAPM would never be at 9 percent.
Q. I'm sorry, did say that? I meant --
A. It would be below 9 percent.
Q. Help me understand. When you use the Kroll data of 3.5 percent, you put that -- you added that to a 5.5 percent premium, right?
A. Yes. Okay. Sorry, I thought you were talking two different things.
In the CAPM model, when we did our analysis, it's not going to get at 9 percent. And the reason why is you're multiplying it by a beta. But if you're looking at the total market return, your return of the entire market, then the Kroll data is at 9 percent. And if that's what you're asking --
Q. That's what I was asking.
A. -- I will agree that it's at 9 percent.
Q. And if you factored in -- if you factored in the correct or the current, the spot market for the 20-year number we looked at, the 4.25 percent, that would move that figure from 9 percent up to 9.75 percent; that's right, isn't it?
A. Subject to check, yes.
Q. Okay. Now, would you go back to your direct testimony at 17. We're going to go down from where we were reading, and we're just going to go to one more

section.

A. Can I -- and I know I'm probably belaboring this point, but that's a total market amount for the CAPM. That's not for -- specific for a regulated utility. That's what the market premium would be for the entire market. And I think that's an important distinction that needs to be brought out there, as well, is that -- that we're talking about the entire market.

And I think all of us here would agree that utilities are less risky than the entire market. So it would be 9.75 for entire market, but what would apply to utilities, and specifically Dominion Energy Utah, would probably be less than that number because they are less risky.

Q. We'll come back to that position.

A. I hope so.

Q. We will.

Go to the bottom of page 17, if you will, in your direct testimony. Would you mind doing that?

A. Direct. Okay.

Q. Yep. Line 407 is where I am.

A. Okay.

Q. You say here, "The increase of interest rates as a result of the tightening" -- I think it was supposed to say, "of monetary policy can have an impact on utilities.

The impact to the financial analysis done for these utilities will be minimal until the 20-year U.S. Treasury yield is above 3.5 percent. As shown in the information discussed by Ms. Nelson, the projected rates for 2023 to 2027 are not estimated to be above 3.5 percent. So the financial impact to DEU will be minimal and the need for a higher cost of capital as a result of the tightening monetary policy is not supported."

Now, couple questions. You agree with me that when you say when the impact doesn't result in the Treasury yield going above 3.5 percent, the impact of -- any increases will be minimal; right, is what you're saying?

A. That's what the testimony said.

Q. Right. The implication being that when it goes above 3.5 percent, it will be material; isn't that true?

A. There will be an impact. I don't know as far as material.

Again, an important point to look at this, as well, and it's been brought out numerous times -- I don't know this, and so I'm going to go off of the reference. But I think the risk-free rate, when we were looking at Dominion Energy Utah's case before, was extremely low. And it was at 1 percent or something lower than that, as well. And I don't remember Dominion Energy Utah arguing that that should be the risk-free rate that we use, and that we should set the elements off of that, as well. And so we're in an interesting economic period, which we have -- our testimony has talked about that, as well.

So the spot rate is at 4.75 percent. But is that going to continue in 2023? There's some information that says that, as well. And if the Commission is comfortable with that, then they can look at that.

But what we have not seen is that when the interest rates are extremely low, there hasn't been a reduction in the ROE that goes along with that reduction consistently with what the risk-free rate has been.

It seems the utility commissions throughout the country has been much slower in bringing down that allowed rate of return than what has been happening in the market, and then moving it up much slower as well, which is partly what I think Mr. Lawton was trying to get to in his testimony as well.

And so yes, there's going to be an impact, but with the overall looking at every element that goes into an allowed rate of return, what is the impact of that going to be? And that's what the Commission and all of us here are trying to determine, is how to deal with that element of it.

Q. Thank you. At least we can say that what you're saying here is that it will only -- the impact will only be minimal when it's below the 3.5. When it goes above, we don't know exactly, but it's not going to be minimal.

A. The impact would be whatever the spot rate is when you decide to do that.

Q. Exactly.

A. And having said that, there's two elements of that. When you look at Kroll's cost of capital, you use the spot rate and then whatever their equity risk premium is at the time. So there's a possibility that that equity risk premium -- and as I showed in my exhibit that we talked about before, that equity risk premium will also adjust to try to show what the total market return is and what's going to be fair for investors with that, as well.

So what happens a lot of times is that equity risk premium will come down as the bond and risk-free rate goes up. And so you get to the point to where there's an element of it.

So will there be an impact? Sure. But how will that affect equity risk premium and the other elements of it? You have to look at both of those elements of it. And we don't know what the impact of the equity risk premium is going to be.

We do have a spot point today. I'm not arguing that at all. But there are so many other elements that go into the cost of capital and aspects of that, as well, that the Commission needs to consider.

Q. And then just a couple other points on this quote.

You agree that you -- at the time you did your direct, you said rates were not projected for 2023 to 2027 to be above 3.5 percent. And here we are just a couple months later, and we're way above that, right?

A. Which I think supports the reason why I'm not comfortable with projected rates, because it's hard to know for sure what's going to happen. So we have not, as a division, usually been comfortable with projected rates because I could project them completely the other way and project them to be 3.6, and we can go back to the 1.4 percent, or whatever.

So we have consistently been uncomfortable with projected rates because it's hard to accurately get that number right.

Q. And it's true, is it not, the reason you were making that argument was you were -- you were criticizing Ms. Nelson for her projected rates, right? That's why you had this quote in there -- or this comment in there?

A. So if I understand correctly, Ms. Nelson's rate was projected from BlueChip Financial?

Q. I don't know where it came --

A. 3.6 percent?

Q. -- I don't know where it came out.

No, her rates are -- the 30-year, which she projected at 2.2 percent. And 30-year, she projected at 3.13.

A. Okay.

Q. So my point is, we're way beyond where she was projecting. We're way beyond where you were estimating at this point in the market, right?

A. Sure.

Q. Okay. Just a couple more questions, and I think I'm done.

As it relates to the -- I want to come back to the five --

A. Can you point to me where the 3.21 was at as far as her projections and where she did those calculations?

Q. Yeah. It's -- it comes from -- hers is at 28 -- excuse me, her direct at 28.

A. And is she using BlueChip financial numbers?

Q. Off the top of my head, I just don't know.

A. Okay.

Q. That would be something we would have to ask her. I don't know.

So I want to just go back to your five risk points. And I just want to ask a couple of questions on this.

I asked Ms. Nelson earlier whether she, looking at 2020 and looking at 2022, whether she saw any evidence of significant regulatory risk changes between February of 2020 and now. And I just -- I've read your testimony, both your direct and surrebuttal, and all of the elements that the Commission -- certainly the Commission looked at it in 2020 -- are the same today. There is these recovery -- there's these recovery mechanisms that are all same. They all --

Would you agree with that, that we have the same recovery mechanisms today that we did in 2020?

A. I'll agree with that. But are you saying that's what makes up the regulatory risk?

Q. I'm saying that's a component. Don't you agree that's a component?

A. Sure. That's part of the regulatory risk, yes.

Q. So you would agree with me -- I think that that hasn't really changed, right, from 2020 to 2022?

A. They haven't changed what their -- the way that they're dealing with Dominion Energy Utah as far as the coupling and the infrastructure, tracking those elements. So that is accurate, yes.

Q. Okay. And as I read your testimony, if I understand you correctly, you're saying that the regulatory risk has not gotten worse between 2020 and 2022; is that accurate?

A.   I think what my testimony says is that, for you to accept the 10.3 percent recommendation of Dominion Energy Utah, is that you have to be able to agree that the risks to Dominion Energy Utah is greater now than what would be compared to similar utilities or similar investments in the market today.

And our position is that Dominion Energy Utah is less risky or the same risk as those utilities today.

Q.   So let me ask my question now and see if you can answer that one.

From 2020 to now, do you believe there has been a change in the risk profile of DEU relative to those two time frames?

A.   Which risk profile?

Q.   The regulatory risk. Are they more or less risky today than they were then? Do you have an opinion on that view?

A.   I believe that their regulatory risk is the same. It's not riskier. I believe it's either the same, or I would argue even less risky than a comparable set of companies.

Q.   Okay. That's all I need to know.

MR. SABIN: Mr. Chair, I failed to move into -- move to admit Cross Exhibit 9, DEU Cross Exhibit 9 into evidence. I would move for that now.

CHAIRMAN LEVAR: That's the S&P Capital IQ "Rate hike pain"?

MR. SABIN: Correct, yes.

CHAIRMAN LEVAR: If anyone objects to that motion, please indicate your objection.

Not seeing any. The motion is granted.

(Exhibit DEU Cross 9 was entered into the record.)

MR. SABIN: That's all I have for now. Thank you.

CHAIRMAN LEVAR: Okay. Thank you.

Ms. Schmid, if you have more than two or three questions on recross, it might be good to end for the day and -- I'm sorry, redirect, not recross. If you have just one or two, we can do them now. But if you have more, it might be good to start first thing in the morning.

MS. SCHMID: I have just one.

CHAIRMAN LEVAR: Okay. Well, go ahead.

REDIRECT EXAMINATION

BY MS. SCHMID:

Q. Mr. Coleman, isn't it often said that the thing that is most true about a forecast is that it will be wrong?

A.   Yes.

Q.   Thank you. That was my only question.

CHAIRMAN LEVAR: Thank you.

Any recross from that question?

MR. SABIN: Thankfully, no. We're good.

CHAIRMAN LEVAR: Okay. I think we will recess for the day. We'll see everyone at 9:00 a.m. tomorrow.

You know what? It's been a long day. Recess is over.

Commissioner Allen, do you have any questions for Mr. Coleman?

CROSS-EXAMINATION

BY COMMISSIONER ALLEN:

Q.   I do have one simple question, just to make sure that I understand the Cross Exhibits No. 1 and 2, to make sure that we have -- we have the first one, which is -- it's the S&P Global Report on past rate cases, and it goes back to 2020. And then the second one is much shorter, it's just 2022. The first one also includes 2022.

And it's just maybe something you need to check, or maybe you remember what is going on here.

But for 2022, the larger report has nine cases. And for the 2022 in the short form, it includes 17. And it looks like it might be a date issue. And the only reason I'm asking is it's at the very bottom of the spreadsheet, so there's a possibility that some cases got truncated. Or do you remember if they were two separate reports?

A. They're two separate reports, giving you much of the same information. But let me explain why I did that.

So the first report, we were talking about settled versus litigated cases. And Mr. Mendenhall talked about the value of a settled case. And then Ms. Nelson provided a scatter graph that showed you a bunch of different rates that had been -- she was trying to show basically a trend analysis in there.

So in the first example, it has the variety of pages. I just took the information that Ms. Nelson had provided, but gave to the Commission what she didn't show, which were settled and which were litigated. So all I did was take her information and just add that other column so that you would be able to see.

And then on my direct testimony -- or sorry, surrebuttal testimony, I talk about 126 of the 184 of those cases that these graphed were settled. And so that's the reason why there's no calculations or anything on there. It was just trying to add to the record what she had done.

Q. That helps. Thank you.

A. Okay. And the other one is just the calculation of what -- we were trying to update what the most accurate and complete information as of the allowed rate of return was.

Q. Great. Thank you.

CHAIRMAN LEVAR: Thank you, Commissioner Allen. I apologize for my brain freeze.

Commissioner Clark, do you have any questions for Mr. Coleman?

COMMISSIONER CLARK: No questions. Thank you.

CHAIRMAN LEVAR: I don't, either. Thank you for your testimony this afternoon.

We'll see everyone at 9:00 a.m. tomorrow.

(The matter concluded at 4:49 p.m.)

CERTIFICATE

State of Utah)
ss.
County of Salt Lake)

I, Michelle Mallonee, a Registered Professional Reporter in and for the State of Utah, do hereby certify:

That the proceedings of said matter was reported by me in stenotype and thereafter transcribed into typewritten form;

That the same constitutes a true and correct transcription of said proceedings so taken and transcribed;

I further certify that I am not of kin or otherwise associated with any of the parties of said cause of action, and that I am not interested in the event thereof.

WITNESS MY HAND at Salt Lake City, Utah, this 27th day of October 2022.

Michelle Mallonee

Michelle Mallonee, RPR, CCR
Utah CCR #267114-7801
Expires May 31, 2023

(E) Submission to Witness; Changes; Signing. Within 28 days after being notified by the officer that the transcript or recording is available, a witness may sign a statement of changes to the form or substance of the transcript or recording and the reasons for the changes. The officer shall append any changes timely made by the witness.

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