



ODX

presents **2009 Outstanding Director**

Robert D. Biggs

Biggs stepped in to lead scandal-plagued DPL back to a position of financial soundness and respect.

DIRECTOR'S SNAPSHOT

Born

November 14, 1942,
in Valparaiso, Ind.

Education

BS, Manchester College

Family

Wife Katie, 2 children,
4 grandchildren

Current hometown

Bonita Springs, Fla.

Most memorable summer job

Mowing grass and trimming
tombstones in a cemetery

Best book this year

April 1865 by Jay Winik

All-time favorite movie

The In-Laws (the original, with
Peter Falk and Alan Arkin)

Favorite charities

Salvation Army and United Way

Idea of bliss

Golfing with my sons and
grandson

Most admired historical figure

Thomas Jefferson

Favorite saying

"God grant me the serenity
to accept the things I cannot
change, the courage to change
the things I can, and the wisdom
to know the difference."

— Reinhold Niebuhr

Public Directorship

DPL, Inc.



Biggs with his BMW M3. Wife Katie says, "That car shakes my liver."

Back on Track: Bob Biggs Takes the W

Dayton Power & Light was a shambles. Bob Biggs single-handedly turned it around into a respected company," says Gus Hillenbrand, former audit committee chair of the DPL board and principal of Hillenbrand Capital Partners.

In late 2003, Bob Biggs was retired in Bonita Springs, Fla. The former managing partner of PricewaterhouseCoopers enjoyed racing his BMW M3 in a high-level amateur circuit. Though he was once put on 13 months probation for aggressive driving, things were going smoothly.

Then he received a call from Hillenbrand, a former client, asking him to join the board of DPL as the designated financial expert. DPL is the parent company of Dayton Power & Light, a regulated utility with more than 515,000 customers in West Central Ohio.

After doing his research, Biggs signed on in February of 2004. Roughly one month later, the wheels fell off.

On March 10, 2004, company controller Daniel Thobe sent a nine-page memo to audit committee chair Hillenbrand. "I do not want there to be a perception that I may be participating in, or allowing to go unmentioned, unethical behavior," Thobe stated. He alleged that DPL's chairman, interim chief financial officer and CEO were using the company's \$1 billion investment portfolio for personal gain, that they had submitted expenses for reimbursement with insufficient backup, and that personal trips on the company's plane were being billed as business use.

"When a public company receives a memo like that, you have to act on it immediately," says Biggs. The audit committee hired Cincinnati law firm Taft, Stettinius & Hollister to conduct an independent investigation. In addition, the Public Utilities Commission of Ohio (PUCO), the SEC, the

IRS, the FBI and the Justice Department all opened their own investigations.

The law firm presented a report on April 26, 2004, that was critical of the three executives' conduct. After a seven-hour board meeting on Sunday, May 16, the chairman and CFO resigned, and the CEO retired. At the same meeting, Biggs was asked to serve as executive chairman. Jim Mahoney, head of DPL's commercial operations, was named CEO.

Biggs Accepts the Challenge

"Bob was chosen for his qualifications as a financial expert because many of the allegations were of a financial nature," explains Paul Bishop, DPL director, and chairman and CEO of H-P Products. Plus, Biggs was retired and could devote the time to the job.

"What struck me was that, in spite of how new he was, there was tremendous respect for Bob," says General Lester Lyles (Retired), DPL director and the former commander of the Air Force Materiel Command.

The first order of business was to file the company's financials. "We were under tremendous pressure to get the accountants to sign our 10K," says Biggs. Without the timely issuance of DPL's 10K, the company faced the threat of delisting from the New York



PHOTOS BY: LOUIS VENNE

heel After Crisis Hits DPL

Stock Exchange. The rating agencies had downgraded DPL's corporate debt to below investment grade, which raised liquidity concerns. "We had long-term debt coming due that had to be refinanced, and we couldn't access the capital markets," Biggs explains. "Wall Street analysts became spooked, the stock price dropped, and we lost four board members for various reasons."

In addition, the three executives had taken \$33 million out of the company's defined compensation plan years ahead of schedule, and DPL owed \$9.5 million in taxes on that money. To make matters worse, "There was a barrage of negative press, and we were concerned about getting sideways with our regulator, which approves our rates," Biggs points out. Despite the myriad problems, he was convinced that DPL was a financially sound utility.

Biggs began spending most of the week in a small rental apartment in Dayton, flying home to Florida on weekends. "And when I was in Florida, I was on the phone all day," he adds. KPMG had become DPL's auditors in 2003, replacing PricewaterhouseCoopers. To file the 10K for 2003, both firms had to approve the financial results for the prior three years. "These two firms didn't see things the same way," says Biggs.

"Bob talked to both of the audit firms," says Hillenbrand. "They respected him. They knew that when he said something, it was the truth."

Biggs and DPL spent considerable time meeting the auditors' requests for information. The financials for 2002 and 2001 had to be restated but without any material impact. But by early November of 2004, KPMG and PricewaterhouseCoopers signed off on the 2003 10K. DPL then paid a dividend, which had been suspended, and has increased its dividend every year since.

"Bob walked into a very tough situation at DPL," says John Lathrop, partner at KPMG. "It was a very stressful period, but Bob didn't let his or others' emotions get in the way of making good business decisions."

Restoring DPL's Credibility

In December 2004, DPL held its long-delayed annual meeting and hired John Gillen as the new CFO. "A company of that size and complexity can't be without a CFO for too long," notes Biggs. Gillen and Biggs traveled repeatedly to New York to meet with Wall Street analysts. "We had to explain in a credible way what the company's financial condition was, to counter false perceptions," Biggs continues.

DPL faced another hurdle when the three former executives sued the company for \$130 million in compensation they said they were owed. DPL counter-sued over the \$33 million the executives had taken out of the deferred compensation plan. The lawsuits would drag on for nearly three years.

At the same time, the board had to make a decision about the company's private equity investment portfolio, which was worth roughly \$1 billion. Rating agencies viewed the portfolio with suspicion, and it contributed to their downgrades of DPL's debt. "It's pretty uncommon to put an investment company inside a utility," Biggs says.

"There was a serious debate about whether to keep the portfolio because cash flow from these funds was becoming considerable, or whether we should get back to our knitting as a utility," says Glenn Harder, current non-executive chairman of the DPL board and president of GEH Advisory Services.

The discussion took several turns. Ultimately, says Lyles, "We all realized with Bob's stewardship that it had to be sold." The board was able to liquidate the portfo-

lio at a profit in February of 2005. The rating agencies responded, moving DPL back to investment grade.

The board redeployed the proceeds of the sale into a \$400 million stock buyback program and reduced debt by \$500 million. DPL was also able to refinance \$200 million in pollution control bonds at a significant interest savings.

By July of 2005, PUCO ended its investigation, stating that the company had made significant changes to its board and management and had improved internal controls and

two years," he says.

The company and the former executives reached a settlement in May of 2007 that paid the executives \$25 million — considerably less than the \$130 million they had sought. "The settlement was the proper thing to do to move on," Lyles concludes.

Despite Biggs's successful tenure as chairman, he attracted some criticism from the *Dayton Daily News*. In 2005, the paper objected to his salary and bonus, as well as to his use of the DPL jet to transport him between Dayton and his Florida home. "They

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Gus Hillenbrand, CEO, Hillenbrand Capital Partners

corporate governance. That year also saw the company undertake a major recapitalization, which put it on firmer financial footing. DPL's credibility had been restored in the eyes of Wall Street, the regulators, state government and the Dayton community.

A Smooth Transition to New Leadership

Biggs and Mahoney determined that the crisis had passed and began the search for new leadership in mid-2006. Biggs stepped down as executive chairman, becoming a director once more. Harder, whom Biggs had recruited to the board in 2004, was named non-executive chairman. "I wasn't the best person to manage the company on an ongoing basis," says Biggs. "I didn't even pay the utility bills — my wife did!" Mahoney left to fulfill other ambitions, and a search firm helped the board find Paul Barbas, an experienced utility executive, who became president and CEO in October of 2006.

Meanwhile, Biggs saw the lawsuit with the three former executives taking time and talent away from running the company. "I felt that we couldn't let this drag on for another

considered me a Florida carpetbagger," Biggs says. Biggs and Lyles met with the paper's editorial board and explained their point of view. "They patiently listened, and then largely wrote the article they wanted to write," shrugs Biggs.

During Biggs' two-year stint as executive chairman, DPL's stock had a total return of approximately 65% and market value increased 40%. The corporate governance quotient in 2004 was 31% versus the overall corporate index and 20% versus the utility index. In 2008, the figures had risen to 89% and 77% respectively.

"I am most proud of DPL's reputation as a reliable, cost-effective, well run utility," says Biggs. "We've put in place a wonderful management team and one of the best boards I've ever seen."

— Karen Murray

Bob Biggs will be speaking about "Internal Investigation and Litigation — Navigating the Minefields" on Oct. 7, 2009 at ODX New York. Please call 212.542.1255 for details.

Congratulations to the
2009 Outstanding Directors

These six independent directors have been recognized by their peers as leaders who have gone above and beyond the call of duty, demonstrating judgment, courage and integrity while acting in the interests of shareholders.

Robert D. Biggs

H. Raymond Bingham

William V. Campbell

Ursula O. Fairbairn

Jerre L. Stead

Douglas A. Warner III



Outstanding Directors Exchange

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