

1 Indianapolis, Indiana  
2 August 25, 2008  
3 9:30 A.M. (EDT)

4 (Reporter marked documents for  
5 identification as Petitioner's  
6 Exhibit Nos. A and G, including  
7 all attachments)

8  
9 JUDGE STORMS: This is an  
10 evidentiary hearing before the Indiana Utility  
11 Regulatory Commission in a cause docketed  
12 before the Commission as Cause No. 43114  
13 IGCC-1 captioned as, "The Verified Petition of  
14 Duke Energy Indiana, Incorporated (1) seeking  
15 authority to reflect costs incurred for the  
16 Edwardsport integrated gasification combined  
17 cycle generating facility (IGCC Project)  
18 property under construction in its rates and  
19 authority to recover external costs through  
20 its integrated coal gasification combined  
21 cycle generating facility cost recovery  
22 adjustment, Standard Contract Rider No. 61  
23 pursuant to Indiana Code Sections 8-1-8.8-11  
24 and -12; (2) seeking an expedited approval of  
25 an updated cost estimate for the IGCC Project,

1 including approval of an ongoing review  
2 progress report pursuant to Indiana Code 8-1-  
3 8.7; and (3) seeking approval of and cost  
4 recovery associated with the study of carbon  
5 capture, sequestration and/or enhanced oil  
6 recovery for the IGCC Project pursuant to an  
7 Alternative Regulatory Plan under Indiana Code  
8 8-1-2.5-6."

9 Notice of the time and place of  
10 the hearing was given as provided by law by  
11 publication in Marion County in the  
12 Indianapolis Star; Knox County in the Sun  
13 Commercial; Monroe County in the Herald Times;  
14 Vanderburgh County in the Courier and Press,  
15 and Hendricks County in the Weekend Flyer and  
16 the Republican.

17 Each of said newspaper is a  
18 newspaper of general circulation, printed and  
19 published in the English language in their  
20 respective counties, and said publications  
21 were made ten days prior to the date of the  
22 evidentiary hearing.

23 The proofs of publication of these  
24 notices have been received by the Commission  
25 and are now incorporated into the record of

1       this cause by reference and placed in the  
2       official files of the Commission.

3               Notice has also been given to the  
4       Office of the Utility Consumer Counselor and  
5       other interested parties.

6               May we have appearances of  
7       counsel, please.

8               MR. DuMOND:  Thank you, Your  
9       Honor.  William DuMond, 1000 East Main,  
10      Plainfield, Indiana, and James Pope of Baker &  
11      Daniels, Indianapolis, Indiana, on behalf of  
12      the Petitioner.

13              MR. HARTLEY:  Your Honor, Robert  
14      Hartley of Locke Reynolds, Indianapolis, along  
15      with Carrie Doehrmann, appearing on behalf of  
16      the Intervenors CATF and IWF.

17              Your Honor, it came to my  
18      attention that we had not filed a Petition to  
19      Intervene in this subdocket; although, we had  
20      participated in the main docket.  This  
21      morning, just before coming here, I filed a  
22      late-filed Petition to Intervene upstairs, and  
23      we would ask that the Commission exercise its  
24      discretion to overlook the five-day  
25      requirement on that given our participation in

1       the underlying docket, and the other parties  
2       have pretty much treated us as de facto  
3       Intervenors so far in this subdocket. We've  
4       been served with everything and participated  
5       up until now.

6                   JUDGE STORMS: Is there any  
7       objection to the intervention?

8                   MR. DuMOND: No objection.

9                   JUDGE STORMS: We'll go ahead and  
10      reflect for the record that the intervention  
11      is granted. Thank you.

12                  MR. STEWART: Thank you, Your  
13      Honor. Tim Stewart on behalf of the Indiana  
14      Industrial Group from Lewis & Kappes.

15                  MR. POLK: Thank you, Your Honor.  
16      On behalf of Intervenor, Citizens Action  
17      Coalition of Indiana, Jerome Polk of the firm  
18      Polk & Associates, LLC, 101 West Ohio Street,  
19      Suite 2000, Indianapolis, Indiana 46204.

20                  MS. BECKER: Anne Becker with the  
21      law firm of Stewart & Irwin on behalf of Nucor  
22      Steel, a division of Nucor Corporation. Our  
23      address is 251 East Ohio Street, Suite 1100,  
24      Indianapolis, Indiana 46204.

25                  MR. HELMEN: Thank you, Your

1 Honor. On behalf of the Public, Randall  
2 Helmen from the OUCC.

3 JUDGE STORMS: Okay. Before we  
4 get started, I just want to clarify a couple  
5 of things. One is I heard through the  
6 grapevine last week that perhaps Duke does not  
7 have any questions for Intervenors' witnesses?

8 MR. DuMOND: That is correct.

9 JUDGE STORMS: Okay. Mr. DuMond,  
10 how do you propose to present your case? Do  
11 you want to combine the rebuttal with the  
12 direct or do you want those to be separate?

13 MR. DuMOND: We wish to proceed in  
14 the order of the witnesses as set forth in the  
15 prefiled testimony starting with Mr. Turner,  
16 Mr. Womack, Ms. Jenner, Ms. Douglas -- I'm  
17 sorry -- Mr. Julius and then Ms. Douglas and  
18 Kent Freeman.

19 Mr. Turner does need to be back to  
20 Charlotte this afternoon. So, we are willing  
21 to proceed and have him cross-examined on his  
22 direct as well as rebuttal testimony. For the  
23 other witnesses, we prefer to submit them on  
24 direct and then later on rebuttal.

25 JUDGE STORMS: Okay. Will all

1       those who know themselves to be witnesses,  
2       please, stand and raise your right hand to be  
3       sworn.

4

5               (OATH DULY ADMINISTERED TO EIGHT PEOPLE)

6

7                       JUDGE STORMS:   Petitioner, you may  
8       proceed.

9                       MR. STEWART:   Your Honor, a quick  
10       question before we go further.   With respect  
11       to the other witnesses, Mike Gorman is waiting  
12       to hear from me with respect to whether he  
13       needs to come tomorrow.   I know that the  
14       Petitioner doesn't have any questions.   I  
15       don't believe any of the Intervenors do or the  
16       OUCC, but we wanted to make sure for all of  
17       our witnesses, if the Bench is releasing those  
18       witnesses so that we can let them know and  
19       finish their travel plans.

20                      JUDGE STORMS:   Okay.   Why don't we  
21       wait, and we'll let you know later today.

22                      MR. STEWART:   That's great;  
23       thanks.

24                      JUDGE STORMS:   We'll do that with  
25       respect to as many witnesses as possible

1           today.

2                               Please proceed.

3

4   **JAMES L. TURNER**, a witness appearing on behalf of  
5                               the Petitioner, on Direct and  
6                               Rebuttal, having been first duly  
7                               sworn, testified as follows:

8

9   **DIRECT EXAMINATION,**

10       **QUESTIONS BY MR. POPE:**

11   Q   Would you state your name, please?

12   A   James L. Turner.

13   Q   And by whom are you employed and in what  
14       capacity?

15   A   Duke Energy Corporation; I currently serve as  
16       Group Executive, President and Chief Operating  
17       Officer of our U.S. Franchised Electric and  
18       Gas business.

19   Q   Mr. Turner, for purposes of this proceeding,  
20       has your direct testimony been reduced to  
21       written question and answer form?

22   A   Yes, it has.

23   Q   Do you have a document in front of you, sir,  
24       that's been marked for purposes of  
25       identification as Petitioner's Exhibit A?

1 A Yes.

2 Q And I'll ask you if that is your prepared  
3 direct testimony?

4 A Yes, it is.

5 Q Do you have any corrections or changes that  
6 need to be made to that testimony?

7 A I do, just two very small changes. On Page 2,  
8 Line 3, strike "will attend" and insert  
9 "completed".

10 Q And have you made that change in the record  
11 copy, sir?

12 A I have.

13 Q Did you initial and date it?

14 A I didn't date it.

15 Q And you said two changes?

16 A Yes. On Page 5, Line 16, strike "May" and  
17 insert "June"; strike "plans to sign" and  
18 insert "signed".

19 Q And have you made that change in the record  
20 copy, sir?

21 A I have.

22 Q And did you initial and date it?

23 A I did.

24 Q Okay. Let's go back to Page 1 of your Exhibit  
25 A, please.



1 A Yes.

2 Q Is there -- Are you still employed by Duke --

3 A Oh, thank you, Mr. Pope. On Line 6 on Page 1,

4 strike the word "Shared" in Duke Energy Shared

5 Services and insert "Business Services";

6 Also, strike "Inc." and insert "LLC".

7 Q Have you made --

8 A At the end of that line, strike "Shared" and

9 insert "Business"; so, it reads Duke Energy

10 Business Services.

11 And then related to that, down on

12 Line 8, strike "Shared" and insert "Business";

13 again, Duke Energy Business Services.

14 Q And have you made those changes, sir?

15 A I have.

16 Q Does your prepared testimony also include two

17 sub-exhibits, Exhibits A-1 and A-2?

18 A Yes, it does.

19 Q Mr. Turner, if I were to ask you these same

20 questions on the Stand today, would your

21 answers be the same?

22 A Yes, they would.

23 Q Do you adopt Petitioner's Exhibit A along with

24 Sub-Exhibits A-1 and A-2 as your testimony in

25 this proceeding?

1     A    I do.

2                     MR. POPE:   Your Honor, at this  
3     time, Petitioner would offer Petitioner's  
4     Exhibit A with Sub-Exhibits A-1 and A-2.

5                     JUDGE STORMS:   Is there any  
6     objection?

7                     If not, we'll show Petitioner's  
8     Exhibit A with Sub-Exhibits A-1 and A-2  
9     admitted into this cause.

10

11                    (PETITIONER'S EXHIBIT NO. A, BEING  
12     THE PREFILED DIRECT TESTIMONY  
13     OF MR. JAMES L. TURNER,  
14     WITH EXHIBIT NOS. A-1 AND A-2  
15     ATTACHED THERETO, ADMITTED INTO  
16     EVIDENCE.)

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1                   MR. POPE: Does everyone prefer  
2       that we go ahead and put the rebuttal in now  
3       too and do it all at once?

4                   JUDGE STORMS: I do, if that's how  
5       you're going to do it.

6    Q   (Mr. Pope continuing) Mr. Turner, for  
7       purposes of this proceeding, have you reduced  
8       your rebuttal testimony to written question  
9       and answer form?

10   A   Yes, I have.

11   Q   Do you have before you a document that's been  
12       marked as Petitioner's Exhibit G?

13   A   Yes.

14   Q   Is that your prepared rebuttal testimony?

15   A   Yes, it is.

16   Q   Are there any corrections or changes that need  
17       to be made to Petitioner's Exhibit G?

18   A   No, there are not.

19   Q   If I were to ask you these same questions  
20       today on the Stand, would your answers be the  
21       same?

22   A   Yes, they would.

23   Q   Do you adopt Petitioner's Exhibit G as your  
24       rebuttal testimony?

25   A   I do.

1                   MR. POPE: Your Honor, at this  
2           time, we'll offer Petitioner's Exhibit G.

3                   JUDGE STORMS: Is there any  
4           objection?

5                   If not, we'll show Petitioner's  
6           Exhibit G admitted into this cause.

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8                   (PETITIONER'S EXHIBIT NO. G, BEING  
9           THE PREFILED REBUTTAL TESTIMONY  
10          OF MR. JAMES L. TURNER, ADMITTED  
11          INTO EVIDENCE.)

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1                   MR. POPE: The witness is  
2     available.

3                   JUDGE STORMS: Thank you.  
4     Mr. Hartley, your witness.

5                   MR. HARTLEY: No questions, Your  
6     Honor.

7                   JUDGE STORMS: What does that  
8     mean?

9                   MR. HELMEN: I'm sorry, Your  
10    Honor, I've offered to go first.

11                  JUDGE STORMS: Okay.  
12    Mr. Helmen?

13                  MR. HELMEN: Thank you, Your  
14    Honor.

15                  JUDGE STORMS: That works better.  
16    I don't understand pointing.

17

18    **CROSS-EXAMINATION OF MR. JAMES L. TURNER,**

19    **QUESTIONS BY MR. HELMEN:**

20    Q Good morning, Mr. Turner.

21    A Good morning, Mr. Helmen.

22    Q Welcome back to Indiana.

23    A Thank you very much.

24    Q You outline several objectives in your  
25    testimony, one of which is to update the cost

1 estimate for the Edwardsport IGCC Project; is  
2 that correct?

3 A Yes.

4 Q And, in fact, you're not only updating the  
5 cost estimate, but you're asking the  
6 Commission to find in this proceeding that  
7 that updated cost estimate is reasonable and  
8 should be approved; correct?

9 A Yes, that's correct.

10 Q And it is my understanding that in its  
11 November 20, 2007 Order, the Commission  
12 approved the \$1.985 billion cost estimate, and  
13 as of February '08, some three months later,  
14 that estimate is now or, at least, was now  
15 \$2.35 billion, and according to my math,  
16 that's about an 18 percent increase; is that  
17 correct?

18 A Yes, the request in this case is to take the  
19 estimate up to 2.35 billion.

20 Q You did read the Commission's order in the  
21 underlying cause?

22 A I did.

23 Q And you, obviously, read Ms. Soller's  
24 testimony in this proceeding?

25 A Yes.

1 Q And as Ms. Soller points out, the Commission  
2 in its November 20th Order noted the "very  
3 high level of confidence the Company has in  
4 the final estimated cost of \$1.985 billion."  
5 Do you recall reading that in that Order?

6 A Yes, I do.

7 Q Was the Commission correct, did the Company  
8 have a very high level of confidence in that  
9 final estimate?

10 A Well, I would maybe challenge the premise of  
11 your question just for a moment, Mr. Helmen.  
12 We had a very high level of confidence in the  
13 FEED study that we had before us. I wouldn't  
14 characterize that as a final estimate. It was  
15 a FEED study, a Front End Engineering and  
16 Design study, that had been prepared by  
17 Bechtel and GE in conjunction with our people,  
18 but I wouldn't characterize that as a final  
19 cost estimate.

20 Q Now -- So did the Commission misspeak when it  
21 talked about its final cost estimate and the  
22 Company's confidence in its final cost  
23 estimate?

24 A There may be subtlety in people's  
25 understanding of what a final estimate is and

1        what a FEED study is. I wouldn't say that the  
2        Commission misspoke. I think the Commission  
3        was using words without, perhaps, attaching  
4        significance to them.

5    Q   Also in that Order the Commission stated,  
6        "Several Company witnesses expressed the  
7        belief that the estimate was very accurate."  
8        Do you remember reading that in the Order?

9    A   Yes, and we believed it was.

10   Q   And I notice that none of the witnesses from  
11        that original case who discuss the costs are  
12        present here to answer those questions about  
13        the inaccuracies, Mr. Roebel, Mr. Zupan,  
14        Mr. Moreland, Ms. Pashos.

15                    I'm wondering why those witnesses  
16        weren't brought back for us to discuss this  
17        with?

18   A   Well, first of all, I would, again, challenge  
19        the premise of your question, Mr. Helmen. I  
20        don't think the estimate -- the FEED study was  
21        inaccurate. It was accurate at that time  
22        based on the information that we had at that  
23        time. So, I would certainly not agree to any  
24        characterization of what we presented and what  
25        the Commission approved as inaccuracies.



1                   Beyond that, the team -- some of  
2     the members of the team that testified in the  
3     initial case were focused on developing the  
4     FEED study, developing the project. We've  
5     moved into the project execution mode now, and  
6     so you have as one of our witnesses, in fact,  
7     the lead witness, on the cost estimate itself,  
8     which is Mr. Womack or Mr. Womack. I learned  
9     last night after calling him Womack for ten  
10    years that he pronounces it Womack, but  
11    everyone else in the Company calls him Womack  
12    so you can call him whatever you want to call  
13    him this morning. Mr. Womack is here because  
14    he's leading the project execution.

15   Q   For the record, is that W-o-m --

16   A   -- m-a-c-k.

17   Q   -- a-c-k?   Thank you.

18                   Mr. Turner, do you pledge to  
19    personally return and testify if there is  
20    another 18 percent increase in the cost  
21    estimate?

22   A   If I'm still employed by the Company.

23   Q   Now, you would agree with me that an  
24    18 percent cost increase is material, would  
25    you not?

1 A Absolutely.

2 Q And especially since the factors that you  
3 mentioned as causing those increases were  
4 discussed at length in the original cause; for  
5 example, unprecedented global competition for  
6 construction-related commodities and  
7 engineering, equipment and materials as well  
8 as increased labor costs?

9 These were items that were  
10 discussed at length in the underlying cause,  
11 were they not?

12 A I believe they were. I did not attend the  
13 hearings, Mr. Helmen, but my understanding is  
14 they were and, in fact, were discussed in the  
15 Commission's order as well.

16 Q I'd like to turn your attention to the -- your  
17 rebuttal testimony, if I may. You testify --  
18 excuse me for a minute -- You testify that the  
19 Company is supportive and willing to pursue  
20 carbon capture and sequestration studies but  
21 only if the Commission preapproves such  
22 studies and associated cost recovery. Did I  
23 get that right?

24 A Yes, that's generally correct.

25 Q Now, you are a lawyer by education, if not

1 practice?

2 A Yes, I'm a recovering lawyer.

3 Q Okay; very good.

4 Tell me -- And you actually attach  
5 portions of the Indiana clean coal technology  
6 statutes to your testimony, do you not?

7 A Yes.

8 Q I direct your attention to Petitioner's  
9 Exhibit G-1. Now, if we look at that  
10 statute -- Let's start by looking at IC  
11 8-1-2-6.1.

12 Is carbon capture and  
13 sequestration technology clean coal technology  
14 as that term is defined in the Indiana law?

15 A We believe it is.

16 Q Okay. As it states there in the code section,  
17 it is defined as technology that reduces  
18 airborne emissions of sulfur or nitrogen based  
19 pollutants. It doesn't mention carbon.

20 What's the basis of your opinion  
21 that carbon capture and sequestration  
22 constitutes clean coal technology?

23 A Well, we believe that the Indiana clean coal  
24 technology statute is broad enough, Mr.  
25 Helmen, to encompass existing regulated

1 pollutants as well as pollutants that become  
2 regulated over time. We believe that carbon  
3 dioxide will be regulated over time; so, we  
4 think the statute is certainly broad enough to  
5 encompass CO2.

6 Q Okay. Now, you mentioned the concept  
7 throughout your rebuttal testimony of used and  
8 useful, and you take Ms. Soller to task for  
9 suggesting that Duke should not recover the  
10 cost of a study until after the project is put  
11 into effect; isn't that correct?

12 A Well, yes, but what I really take Ms. Soller  
13 to task on is the idea of saying that we only  
14 get to recover the cost of the study if we  
15 actually install CCS technology at the  
16 project.

17 Q And you understand that the OUCC supported  
18 this \$2 billion project so long as carbon  
19 capture and sequestration was part of the  
20 equation?

21 A I do understand that.

22 Q And when we talk about used and useful, you  
23 would agree with me, would you not, that  
24 traditional utility regulation requires a  
25 project to be used and useful before cost

1 recovery is allowed?

2 A Generally speaking, but I think this statute  
3 and the associated rules create a significant  
4 exception to that.

5 Q Absolutely, and you pointed out in your  
6 testimony quite eloquently, at least with  
7 respect to clean coal technology, that the  
8 Indiana Legislature has provided for CWIP cost  
9 recovery -- well, recovery of not only capital  
10 costs but O&M expenses, the opportunity for  
11 accelerated depreciation and the opportunity  
12 to return -- receive an enhanced return for  
13 clean coal technology; isn't that correct?

14 A Yes.

15 Q And to receive those before the property is  
16 deemed used and useful?

17 A That's correct.

18 Q And Duke is taking advantage of those statutes  
19 in this very proceeding, are you not?

20 A Well, I would say we're following the  
21 Commission's order.

22 Q And I would share with you that there are many  
23 gas company executives in the State that are  
24 very envious of those of you in the coal  
25 business to have the opportunity to recover

1       these costs for capital projects in an  
2       expedited manner like that.

3                   You wouldn't find that surprising,  
4       would you?

5   A   I wouldn't really have an opinion on it.

6   Q   Now, as we've discussed, because of the  
7       favorable Indiana law with respect to clean  
8       coal technology, and I don't think anybody  
9       challenged the fact that the IGCC plant was  
10      clean coal technology, and as a result of  
11      those favorable statutes, Duke is now  
12      guaranteed cost recovery of up to, if the  
13      Commission approves it, \$2.35 billion of  
14      capital costs; is that correct?

15   A   Well, the 2.35 includes AFUDC.

16   Q   Okay. But the point is the shareholders  
17      aren't at risk for any of that money;  
18      ratepayers are going to pay it if it is built?

19   A   Well, I think the shareholders are at risk if,  
20      during the course of these update proceedings  
21      and the management of the project, there is a  
22      finding that we haven't managed the project  
23      prudently; so, I think clearly shareholders  
24      are at risk.

25   Q   Thanks for sharing that.

1                   Now, the carbon capture and  
2       sequestration study that we're talking about,  
3       as best I can tell, is a \$17 million venture?  
4   A   I don't know about venture.  Roughly speaking,  
5       the estimate we have for doing that, and this  
6       is the carbon capture piece and not the  
7       sequestration piece, is in the \$16 to  
8       \$17 million range.

9   Q   And that is -- I'm not very good at math, but  
10       that's seven-tenths of 1 percent of the total  
11       project cost; does that sound about right?

12   A   I share your math abilities, Mr. Helmen.  I'll  
13       take your word for it if you've done the  
14       calculation.

15   Q   And Duke is saying that they will not do these  
16       studies if the Commission doesn't preapprove  
17       the cost of that study?

18   A   Well, what I would say, Mr. Helmen, is this is  
19       a very significant project to build this power  
20       plant.  We think that carbon capture and  
21       sequestration at an IGCC plant holds great  
22       promise for actually demonstrating the  
23       efficacy of CO2 capture and sequestration, and  
24       we think it is important over time to find  
25       ways to capture and store carbon dioxide from

1 coal burning plants.

2 Whether we would do that kind of a  
3 thing on this project, given the cost of the  
4 project, in the absence of a clear  
5 understanding and agreement by all the parties  
6 and the Commission that this makes sense for  
7 this project going forward, we might not make  
8 that decision independently. What we're  
9 trying to do is build a very good power plant  
10 for our customers here in Indiana, a very good  
11 base-load resource that will be one of the  
12 cleanest base-load resources in the --  
13 cleanest coal plants in the nation.

14 We would like and we would propose  
15 to further study whether we can do even more  
16 with this plant by capturing and eventually  
17 storing carbon dioxide, but that's a decision  
18 that we want everybody in on this with us, and  
19 that's why we're asking for the Commission to  
20 approve it, and in our mind this study and any  
21 associated work that gets done following on to  
22 this study is part and parcel of this project.

23 Q But Duke assured the Commission and the  
24 parties that it was going to pursue this study  
25 in the underlying action?



1 A Yes, and we will.

2 Q But only if you're preapproved for the cost?

3 A And I believe, Mr. Helmen, without going back  
4 to the testimony in the case, that that has  
5 been our position all along. We've never  
6 waived from the position that we will pursue  
7 this study so long as the Commission agrees  
8 that we should pursue this study.

9 Q Let's go back and revisit some of this  
10 favorable legislation that we were talking  
11 about before.

12 Again, I go to Indiana Code  
13 8-1-2-6.1 that you cite, and it does, in fact,  
14 allow for recovery of design and engineering  
15 studies but only after a Certificate of Need  
16 has been granted by the Commission; at least,  
17 that's what Section (d) seems to infer or  
18 expressly state.

19 Has Duke sought a Certificate of  
20 Need for its carbon capture and sequestration  
21 project?

22 A Well, I think, in essence, that's -- in  
23 effect, that's what we're trying to do with  
24 this proceeding is get the Commission to  
25 approve or ask the Commission to approve

1 moving forward with the study of carbon  
2 capture and sequestration on this project.

3 Q As I read your testimony and your filings in  
4 this case, I don't see anywhere where it  
5 appears that you are actually seeking a  
6 certificate -- a CPCN for a carbon capture  
7 project. Did I miss that?

8 A Well, and I'll let the lawyers argue about  
9 whether a CPCN for a carbon capture project is  
10 required as part of this proceeding.

11 I think, as I said, we view the  
12 study of CCS as part and parcel of this  
13 Edwardsport IGCC Project.

14 Q If cost recovery is guaranteed, where is the  
15 motivation for Duke to keep the costs down or  
16 keep the costs reasonable?

17 A Are you talking about for the feasibility  
18 study?

19 Q Yes, I'm talking about for the feasibility  
20 study.

21 A I mean, the feasibility study, we're already  
22 in very hard negotiations with parties on the  
23 cost of the feasibility study. The  
24 feasibility study is going to be a fixed fee.  
25 It is not going to be something that can

1 fluctuate in price over time. It is going to  
2 be a dollar amount, and we will hit the dollar  
3 amount for that study.

4 Q Is Duke willing to cap the FEED study cost at  
5 this time at say \$17 million?

6 A You know, I -- The answer to that generally is  
7 I'm not concerned about the idea of capping  
8 the FEED study estimate, but I don't want to  
9 put us in a position where we are a million or  
10 two away from some really good information,  
11 and we decide nope, we've got to live within  
12 the cap.

13 I really -- You know, the whole  
14 idea of a cap, Mr. Helmen, is troubling to me  
15 because it is saying no matter how prudently  
16 we manage the project, no matter how hard we  
17 work to deliver whatever it is we're doing at  
18 the costs that -- at the lowest cost possible  
19 to consumers, we're at risk if costs trend  
20 above that number, and I would find that a  
21 very troubling precedent.

22 Q But the statute already allows that if you go  
23 forward with the project, if you go forward to  
24 get a Certificate of Need, you can recover  
25 these cost studies as a part of that.

1                   The only thing you're talking  
2     about here is if you do the study and then you  
3     don't go forward, that the shareholders might  
4     be at some risk, and you're not willing -- the  
5     ratepayers are paying \$2.35 billion, and  
6     you're saying the shareholders won't take a  
7     risk that you might not do this, a risk of  
8     \$1 million?

9    A   Well, again, my hope is that we do move  
10   forward with actual capture and storage  
11   technology at this project over time so that  
12   the point we're debating is moot, but, again,  
13   our focus, our primary mission here, is to  
14   build the cleanest coal plant in the U.S., and  
15   we think CCS would be a great enhancement to  
16   that and would be a great demonstration of how  
17   coal can stay in the mix for generations to  
18   come, but we view that -- the decision to move  
19   forward with the study of that feasibility as  
20   part and parcel of moving forward with this  
21   project, and the costs ought to be treated in  
22   a similar fashion.

23   Q   Will Duke agree on the record today that if  
24       they do the study and they don't go forward  
25       with the project that the shareholders will

1       pay 50 percent of the cost of the FEED study?

2    A   I don't think I would be prepared to commit to  
3       that on the Stand today, Mr. Helmen.

4    Q   Because that's what your company and my office  
5       agreed to in the underlying FEED study for the  
6       IGCC plant; correct?

7    A   I think that's correct, as I understand it,  
8       but I'm not going to -- I'm not prepared to  
9       agree to that on the Stand today. I'm sure  
10      our office or our company and your office will  
11      continue to have conversations about that.

12   Q   If you get pre-approval for cost recovery,  
13      what would keep Duke from taking the results  
14      of that study and using it in a different  
15      state?

16   A   I can assure you that that's not anywhere on  
17      anyone's drawing board at Duke at this point.

18   Q   If you got pre-approval for the study, what  
19      would keep Duke from selling it to another  
20      utility?

21   A   I've not contemplated the question, but there  
22      is certainly no contemplation that we would  
23      sell the results of the study. We're doing  
24      this study for this project, and this project  
25      alone, and you're talking -- ultimately, if

1       you move beyond capture to sequestration,  
2       you're talking about, obviously, very site  
3       specific geological conditions that exist here  
4       that may not exist in other areas.

5   Q   As I listen to you testify today, Mr. Turner,  
6       I would not characterize it, and I doubt if  
7       the Commission would characterize it, that you  
8       have a high level of confidence that this  
9       project is going to be built in Indiana; is  
10      that fair?

11   A   Which project is that?

12   Q   The carbon capture and sequestration.

13   A   No, I wouldn't say that at all. I have a  
14      level of -- I have as high a level of  
15      confidence knowing what we know today as I  
16      can that we will move forward with carbon  
17      capture and sequestration at this project.

18                   It is our hope, our desire, that  
19      we can install carbon capture and  
20      sequestration technology at the Edwardsport  
21      IGCC Project.

22                   MR. HELMEN: That's all I have.  
23      Thank you, Mr. Turner.

24                   WITNESS TURNER: Thank you,  
25      Mr. Helmen.

1 JUDGE STORMS: Ms. Becker, your  
2 witness.

3 MS. BECKER: No questions, Your  
4 Honor.

5 JUDGE STORMS: Okay.

6 WITNESS TURNER: Thank you, Ms.  
7 Becker.

8 JUDGE STORMS: Mr. Polk?

9 MR. POLK: Thank you, Your Honor.  
10

11 **CROSS-EXAMINATION OF MR. JAMES L. TURNER,**

12 **QUESTIONS BY MR. POLK:**

13 Q Good morning, Mr. Turner.

14 A Good morning, Mr. Polk.

15 Q Now, I think Mr. Helmen already covered with  
16 you that you are an attorney, but you're not  
17 testifying as an attorney today; you're not  
18 offering any legal opinions today, are you?

19 A No, and, in fact, I'm on inactive status in  
20 Indiana. So, if I were testifying as an  
21 attorney, I could be disbarred.

22 Q Well, we wouldn't want that to happen.

23 Can you briefly explain to me what  
24 the differences between Duke Energy Business  
25 Services and Duke Energy Shared Services are,

1       and what responsibilities changed when you  
2       went from one to the other?

3     A   I don't know that I went from one to the  
4       other.  I think we're clarifying the actual  
5       name of the company that provides shared  
6       services among the different parts of the  
7       business.

8     Q   So --

9     A   So, there would be no change in my  
10       responsibilities, and to the extent that other  
11       witnesses follow me and make a similar  
12       amendment to their testimony, no change in  
13       their responsibilities are precipitating that  
14       amendment.

15    Q   So where you on Page 3 of your testimony, Line  
16       8, say that you have overall profit and loss  
17       responsibility for Duke Energy's Franchised  
18       Electric and Gas business, that's still the  
19       case; correct?

20    A   That's correct.

21    Q   All right.  And does it still represent about  
22       80 percent of the Company's earnings?

23    A   Yes, roughly speaking.

24    Q   All right.  And I would suspect that means  
25       that you can speak to the Company's financial



1 health more or less; that you've been involved  
2 in conference calls and earnings reports and  
3 that kind of thing?

4 A Well, I'm not the chief financial officer, but  
5 I have a general sense of how we're doing.

6 Q Have you been involved in any conference calls  
7 with investors?

8 A Yes, I have.

9 MR. POLK: May I approach the  
10 witness, Your Honor?

11 JUDGE STORMS: Yes, you may.

12  
13 (Reporter marked document for  
14 identification as Intervenor's -  
15 Residential Customers Exhibit No.  
16 CX-1)

17  
18 Q Now, Mr. Turner, I've handed you what,  
19 hopefully, is being marked for identification  
20 as Residential Customers' Cross Exhibit 1. It  
21 is a --

22 A Mr. Polk, there is no marking of an exhibit on  
23 this document that I'm holding.

24 Q And that is a copy of a press release I  
25 downloaded from the Duke web site of "Duke

1       Energy Increases Quarterly Dividend".

2                   Do you know how many consecutive  
3       years Duke has paid quarterly cash dividends  
4       on its common stock?

5   A   I don't know the number, but I'm certain it's  
6       quite a few years.

7   Q   All right.  The press release says, "This is  
8       the 82nd consecutive year that Duke Energy has  
9       paid a quarterly cash dividend on its common  
10      stock."

11                   Would that seem about right to  
12      you; not, you know --

13   A   Are you asking me if that's in this document?

14   Q   Yes.  It is about the third paragraph down.

15   A   Oh, yes.  Yes, that's what it says, and I have  
16      no reason to quarrel with that.

17   Q   All right.

18                   MR. POLK:  Your Honor, at this  
19      time, I'd like to move for admission of CAC  
20      Cross Exhibit No. 1.

21                   JUDGE STORMS:  Is there any  
22      objection?

23                   MR. POPE:  No objection, Your  
24      Honor.

25                   JUDGE STORMS:  Okay.  We'll

1 show -- How is this marked, Mr. Polk, CAC or  
2 Residential Customers? Mr. Polk?  
3 MR. POLK: Pardon me?  
4 JUDGE STORMS: How was that  
5 marked?  
6 MR. POLK: I'm sorry, Residential  
7 Customers.  
8 JUDGE STORMS: Residential  
9 Customers' CX-1, we'll show that admitted into  
10 this cause.  
11  
12 (INTERVENOR'S - RESIDENTIAL  
13 CUSTOMERS EXHIBIT NO. CX-1, BEING A  
14 DOCUMENT ENTITLED "DUKE ENERGY  
15 INCREASES QUARTERLY DIVIDEND",  
16 DATED JUNE 24, 2008, ADMITTED INTO  
17 EVIDENCE.)  
18  
19  
20  
21  
22  
23  
24  
25

1 Q (Mr. Polk continuing) Now, from your  
2 knowledge, I know you can't speak to all of  
3 the Company's or you may not be able to speak  
4 to all of the Company's divisions, but it is  
5 pretty healthy, wouldn't you say, Duke's  
6 earnings right now?

7 A At this point in time, we're doing okay.

8 MR. POLK: Your Honor, may I  
9 approach the witness?

10 JUDGE STORMS: Yes, you may.

11

12 (Reporter marked document for  
13 identification as Intervenor's -  
14 Residential Customers Exhibit No.  
15 CX-2)

16

17 Q Mr. Turner, I've handed you a document that's  
18 been marked for purposes of identification as  
19 Residential Customers' Cross-Examination  
20 Exhibit No. 2. This is another press release  
21 from the Duke web site. This is a little more  
22 robust this time, "Duke Energy Reports  
23 Second-Quarter 2008 Results".

24 Have you seen that press release  
25 before?

1 A Yes, I have.

2 Q Now, adjusted diluted earnings per share total  
3 27 cents in the second quarter of 2008  
4 compared with 24 cents in the second quarter  
5 of 2007; is that correct?

6 A That's correct, that's what the press release  
7 says.

8 Q All right. If you could turn to Page 3 of  
9 that press release, in the text section that  
10 says "Business Unit Results", "U.S. Franchised  
11 Electric and Gas".

12 Now, those would be the results of  
13 the part of the company that you're  
14 responsible for; correct?

15 A Yes. I note in the copy that I have that Page  
16 3 is out of order with Page 2, but I'm sorry,  
17 what was your question, Mr. Polk?

18 Q The question was -- Well, that press release  
19 goes on to say that the U.S. Franchised  
20 Electric and Gas Division reported second  
21 quarter 2008 segment earnings before interest  
22 and taxes from continuing operations of \$503  
23 million compared with \$452 million for the  
24 second quarter in 2007; correct?

25 A Yes, that's what it says.

1 Q So that's what, \$51 million?

2 A It looks about right.

3 Q So your division did pretty well, didn't it?

4 A Franchised Electric and Gas, yes, it showed  
5 growth year over year.

6 Q And that is, again, only for the second  
7 quarter alone, isn't it?

8 A That's correct. That's what the press release  
9 is talking about here is the second quarter.

10 MR. POLK: Your Honor, at this  
11 time, I'd like to move into the record  
12 Residential Customers' CX-2.

13 JUDGE STORMS: Any objection?

14 MR. POPE: No objections.

15 JUDGE STORMS: We'll show  
16 Residential Customers' CX-2 admitted into this  
17 cause.

18

19 (INTERVENOR'S - RESIDENTIAL  
20 CUSTOMERS EXHIBIT NO. CX-2, BEING  
21 A DOCUMENT ENTITLED "DUKE ENERGY  
22 REPORTS SECOND-QUARTER 2008  
23 RESULTS", DATED AUGUST 5, 2008,  
24 ADMITTED INTO EVIDENCE.)

25

1 A Mr. Polk, what was -- This was marked CX-1.  
2 Should I change that to CX-2?

3 Q I believe the Court Reporter has the official  
4 exhibit up there.

5 A You marked it as CX-1. I'll mark mine as  
6 CX-2.

7 Q I guess my math -- my number skills need work.  
8 So, Mr. Turner, again, how much is  
9 the carbon capture study supposed to cost?

10 A At this point, the carbon capture study that  
11 we've proposed is, I believe, \$16 or  
12 \$17 million. I had the number 16 in my mind.  
13 Mr. Helmen said 17. So, I'll go with the 17.

14 Q And the Company believes ratepayers should pay  
15 for that rather than paying out of its second  
16 quarter earnings increase?

17 A The Company believes that as part of this  
18 Edwardsport IGCC Project that customers -- we  
19 should include this in the cost recovery for  
20 the project just as we are other project  
21 costs, the cost of the CCS study or the C  
22 study, the capture study, at this point.

23 Q Does the Company believe that the capture  
24 study has value?

25 A Absolutely.

1 Q Do you believe --

2 A We wouldn't -- We would not propose a

3 \$17 million expense for our customers that we

4 think has no value.

5 Q Do you believe the capture study has value?

6 A I absolutely do.

7 Q Do you believe it is important?

8 A I absolutely do.

9 Q Does Mr. Rogers believe it is important?

10 A I believe he does.

11 Q How important is the study to you and to Mr.

12 Rogers?

13 A Well, Mr. Polk, I can't really characterize

14 how important it is to Mr. Rogers. You'd have

15 to ask him that question yourself. I -- You

16 know, I've listened to Jim talk about this

17 project as a whole, and he is very, very

18 committed to the Edwardsport project and

19 believes it is a very important project for

20 this company.

21 Q Okay.

22 A I believe that the Edwardsport project --

23 asking about me, I believe that the

24 Edwardsport IGCC Project is a critically

25 important project for our company and our



1 customers, not our ratepayers, our customers,  
2 and I believe that this project will bring on  
3 line one of the cleanest coal plants in the  
4 U.S., possibly in the world for that matter,  
5 when you're talking about the scale that this  
6 plant will be. We have an opportunity here  
7 with this project to move beyond just building  
8 one of the cleanest coal plants in the nation  
9 to do something very extraordinary with  
10 carbon, the carbon dioxide, an emission that  
11 all of us believe that some day will be  
12 regulated by the federal government.

13 It is very important that we move  
14 beyond talking about solutions to carbon and  
15 getting to actually doing something about CO2,  
16 and that's what the next step of this project  
17 involves. That's why we are moving forward  
18 with this study. We think it is important to  
19 do. It is not just important for us though,  
20 Mr. Polk. It is important for our customers.  
21 It is important for the customers of Duke  
22 Energy to know whether we can find a way to  
23 generate electricity using coal as a fuel  
24 resource but also minimize the environmental  
25 footprint beyond the regulated emissions that

1       we have today but including an emission that

2       we all believe will be regulated some day.

3   Q   So you believe the study is important?

4   A   I believe it is important for us and our

5       customers, yes.

6   Q   But customers are expected to pay the full

7       share of the study -- the full share of the

8       cost of the study whether capture is done or

9       not?

10  A   Yes, that's correct.  We believe that the

11       study itself has benefits for our customers if

12       not with this project than with future

13       projects potentially here in Indiana, and

14       we -- and so we believe that yes, it does have

15       value for our customers, and it is something

16       that we need to do, and I think it is quite

17       appropriate, especially as I think of it as

18       part and parcel of this project, that

19       customers pay for the study just as customers

20       are paying for the project itself.

21  Q   I know you keep coming back to the fact that

22       you believe it is important to customers and

23       that's why customers should pay for it.

24                       Does that mean that it is not

25       important to you?

1 A Well, clearly, it is important to me. It  
2 should be important to you and your  
3 constituents. It should be important to  
4 Mr. Stewart and his constituents and  
5 Mr. Helmen and his constituents and Ms.  
6 Becker. It is important to the State, I  
7 believe, that we conduct this research and  
8 find a way to keep a low-cost fuel resource  
9 competitive and beneficial for customers.

10 One of the reasons that Indiana  
11 has enjoyed such low electricity rates for so  
12 many years is because of coal-fired  
13 generation, and it seems to me that if we're  
14 going to regulate carbon dioxide that could  
15 have a potentially significant impact on coal,  
16 the whole State ought to be engaged in the  
17 idea of trying to figure out how do we  
18 minimize not only the environmental impact of  
19 CO2 but the cost impact, and that's exactly  
20 what this study, I think, will give us some  
21 indication on.

22 Q Well, if the study is so important to you and  
23 to Duke's executive Jim Rogers, how come the  
24 two of you don't pay for it?

25 A Well, I think the study is important not just

1 to me and Jim Rogers, but I think the study is  
2 important to, like I said, your constituents  
3 and the constituents of everybody in this  
4 room.

5 Q What was your compensation last year?

6 MR. POPE: Objection, Your Honor.  
7 That has no relevance to this proceeding.

8 JUDGE STORMS: I'll sustain the  
9 objection.

10 A You'd have to ask my wife.

11 Q Well, actually, I have a trade journal article  
12 here with your and Mr. Rogers' salary listed  
13 in there. It is public information.

14 Now, you said you thought the  
15 project was good for Indiana. I think you  
16 also said that it is good for the nation?

17 A I believe it is, yes.

18 Q So one of the main reasons to do this study is  
19 the basic public policy goal of furthering  
20 general R&D on carbon capture?

21 A No. The basic reason we're doing this is to  
22 see whether we can capture and sequester  
23 carbon at the Edwardsport IGCC facility.

24 Q I believe --

25 A That's our primary focus and our primary

1 mission. I do believe it holds benefits, and  
2 one of the reasons why we believe costs are  
3 recoverable and should be recoverable,  
4 independent of whether this particular study  
5 shows that it is a good idea to put it on at  
6 this project or not, is that it does hold  
7 benefits for consumers in this state long term  
8 to understand what the opportunities are in  
9 terms of capturing and sequestering carbon  
10 dioxide from coal-fired plants.

11 Q To your knowledge, does Duke have a contract  
12 signed and a firm price for the combined cycle  
13 power block?

14 A Well, you'd have to ask very specific  
15 questions about the estimate and what we've  
16 signed and what we haven't signed of Mr.  
17 Womack who will be on after me, but we have  
18 certainly, as I recall from his testimony,  
19 firmed up about 30 percent of the work with  
20 General Electric on the equipment that they're  
21 going to sell us, but you really ought to  
22 defer those questions to Mr. Womack.

23 Q Okay. So if I wanted to know if there was a  
24 contract for the air separation unit, again, I  
25 would need to ask Mr. Womack?

1 A I believe we have signed that contract.

2 Q Okay. How about the contract for the

3 gasifier?

4 A I believe we have signed that one as well.

5 Q And the contract for the labor to construct

6 the project?

7 A Well, the labor to construct the project is

8 going to be ongoing over four years. There is

9 not just a specific labor contract that says

10 labor on a single-lined invoice; so, I don't

11 know if I can answer your question. Again,

12 Mr. Womack is the best person to walk through

13 the specific details of the cost estimate.

14 Q Now, one of the major contractors on this

15 project is Bechtel; correct?

16 A That's correct.

17 Q Bechtel is also a major contractor for the or

18 are you aware of whether Bechtel was a major

19 contractor on the Boston so-called Big Dig

20 Tunnel?

21 A I have no idea, Mr. Polk. That may be true.

22 They do a lot of projects all over the world

23 every single day.

24 Q Now, turning to Page 11 of your testimony,

25 Line 9, you indicate that you're committed to

1 providing customers with electricity that is  
2 affordable, reliable and clean.

3 Do you believe -- Well, is it  
4 Duke's primary business to sell electricity?

5 A I think it is Duke's primary business to  
6 provide our customers with electrical service,  
7 yes, to meet their needs.

8 Q Now, when you say electrical service, does  
9 that mean selling electricity?

10 A Yes; generally speaking, that's a good way to  
11 say it.

12 Q So the Company is really focused on selling  
13 kilowatt hours and megawatt hours?

14 A Our company is primarily focused on meeting  
15 our customers' needs, Mr. Polk. Sometimes  
16 that means energy efficiency, and sometimes  
17 that means renewable resources, and sometimes  
18 that means non-renewable resources. It is a  
19 mix of resources. It is not about just  
20 selling. It is about meeting our customers'  
21 needs.

22 Q Now, do you believe that with future carbon  
23 regulation, that capturing 15 to 18 percent of  
24 the CO2 from the Edwardsport IGCC will be  
25 sufficient to meet future carbon regulations?

1 A I'm not sure I know exactly what you mean. I  
2 think it will be a -- it is a great mitigating  
3 strategy against whatever potential future  
4 carbon regulation comes into being.

5 Q Is it possible that the Edwardsport plant  
6 might be required to capture and store more  
7 than 18 percent?

8 A Anything is possible, Mr. Polk. I don't know  
9 how to answer that question.

10 Q Do you believe the Company should plan for  
11 that possibility?

12 A Well, at this point, what we want to do is  
13 demonstrate the efficacy of capture and  
14 potentially the efficacy of storing or  
15 sequestering CO<sub>2</sub> at a plant site, and moving  
16 in the direction of 15 to 18 percent falls  
17 under the category of getting started and  
18 getting at it rather than waiting for  
19 prescriptive federal legislation to come into  
20 place and tell us exactly what the answer is,  
21 and our belief is, combined with all of our  
22 other portfolio choices and given our focus on  
23 affordability for customers over the long run,  
24 and I'm talking over 20, 30, 40 years, that  
25 this is an excellent place to start.



1 Q And if the Edwardsport facility is required to  
2 mitigate more than 15 to 18 percent of its  
3 carbon emissions, would the proposed capture  
4 study be adequate to provide the information  
5 needed to upgrade the facility to that higher  
6 level of compliance?

7 A Well, we're into the world of hypothesizing,  
8 and I don't know -- I've never seen in recent  
9 past Congress mandating plant by plant  
10 controls which is sort of what your question  
11 is presupposing, but if federal environmental  
12 regulations regarding carbon dioxide are  
13 ultimately implemented that would lead us in a  
14 direction of capturing and sequestering more  
15 than 15 to 18 percent at Edwardsport, is that  
16 what you're asking me?

17 Q Yes.

18 A My judgment is that the 15 to 18 percent  
19 positions us for that additional step sometime  
20 down the road, but we believe that this is the  
21 place that we need to get started. We think  
22 it has the best chance of succeeding in the  
23 near term, and if I came in asking for more  
24 money for more capture and sequestration, Mr.  
25 Helmen is going to hit me even harder with

1        questions about why are we going after 50 to  
2        60 when we don't even have federal legislation  
3        yet.

4                    So, what we're trying to do is  
5        find the right balance here based on a very  
6        uncertain future regarding CO2 by taking steps  
7        to get at understanding what we can get done  
8        at this plant and making it happen over time.

9    Q   Now, I believe somewhere in your answer you  
10       said that the Company plans on a 20-, 30-, 40-  
11       year time horizon?

12   A   Well, our hope is that this plant is running  
13       30 or 40 years from now.

14   Q   And you also said that you're not in the  
15       business of hypothesizing?

16   A   No, I didn't say that. I said you were  
17       hypothesizing.

18   Q   If you could turn to your rebuttal on Page 5,  
19       Line 10?

20   A   I'm sorry, which line?

21   Q   It doesn't matter. I'm not going to ask that  
22       question.

23   A   Oh, okay.

24   Q   It was a test to see if you were listening.

25   A   And clearly I wasn't.

1 Q Now, on Page 6 of your rebuttal, Line 8, you  
2 say that you're hopeful that the FEED study  
3 will lead to the installation of CCS at  
4 Edwardsport.

5 Is the Company committing to  
6 carbon capture at this point?

7 A At this project?

8 Q At this point in time at this project, yes.

9 A Yes, we are very committed to carbon capture  
10 in general, and that's why we want to study  
11 whether we can feasibly install it at the  
12 Edwardsport project. To say that we're making  
13 a commitment to install it no matter what that  
14 study says doesn't strike me as a prudent way  
15 to move forward.

16 Q Is it possible that study could say that it is  
17 not feasible?

18 A I would certainly say that that's possible.

19 Q And how much risk are the shareholders facing  
20 if that study comes back and says capture is  
21 not possible?

22 A Well, what we're trying to do, Mr. Polk, by  
23 proposing the study is to make sure that we  
24 don't simply move blindly into the world of  
25 beginning to design and construct facilities

1       for capture that would be very expensive if we  
2       ultimately concluded that it wasn't possible  
3       or wasn't feasible at the Edwardsport site.

4                       So, I think what we're trying to  
5       do here is proceed in a very prudent, I would  
6       say almost cautious manner, by taking this  
7       step first and understanding what impacts  
8       capture and sequestration, capture first and  
9       ultimately sequestration, will have on our  
10      plant and the effectiveness of that plant, and  
11      then we will move forward, depending on the  
12      outcome of that study, to actually seek  
13      approval from the Commission and work with the  
14      parties on moving forward on a possible  
15      approach for CCS.

16   Q   Can you tell me what an EPC contract is?

17   A   Yes.  It is an engineering, procurement and  
18       construction contract.

19   Q   Has that contract been signed yet?

20   A   Where we are, and, again, Mr. Womack is the  
21       best witness to give you details on that, is  
22       we have, essentially, what we would call a  
23       limited notice to proceed with Bechtel on an  
24       EPC-type agreement which means that we've  
25       agreed on material terms and conditions.

1       We've given them the go-ahead to start moving  
2       forward with the project, but in the meantime,  
3       we have folks still working to finalize all  
4       the specific terms and conditions that go into  
5       a long legal document and let lawyers earn  
6       their living.

7   Q   Does that term sheet cap the cost of the  
8       Bechtel portion of the project?

9   A   Again, you should direct all questions about  
10      the Bechtel scope and costs to Mr. Womack, but  
11      I can tell you that it does not cap.  You  
12      can't get a capped EPC agreement in this  
13      market today.

14                   MR. POLK:  No further questions,  
15      Your Honor.

16                   JUDGE STORMS:  Thank you, Mr.  
17      Polk.

18                   Mr. Stewart, your witness.

19                   MR. STEWART:  Thank you, Your  
20      Honor.

21  
22  
23  
24  
25

1     **CROSS-EXAMINATION OF MR. JAMES L. TURNER,**

2             **QUESTIONS BY MR. STEWART:**

3     Q   Good morning, Mr. Turner.

4     A   Good morning, Mr. Stewart.

5     Q   I remember you were having a discussion with  
6         Mr. Helmen, and you were looking at one of the  
7         statutes that references, I think, nitrogen  
8         and sulfur specifically, and he asked how you  
9         came to the conclusion that it also covered  
10        carbon, and you, I believe, indicated that you  
11        just thought that it was pretty broad.

12                I know that you attended law  
13        school. Do you remember a phrase to the  
14        effect of inclusio unius est exclusio  
15        alterius?

16    A   I think, Mr. Stewart, yes, I generally  
17        remember that phrase.

18    Q   Thank you. Now, is it correct --

19    A   But, you know, Mr. Stewart, we've already been  
20        across that bridge, I think, with the  
21        Commission's finding in the November Order in  
22        terms of what is and what is not covered.

23    Q   Well, we weren't talking about the Order, Mr.  
24        Turner. We were talking about the statute and  
25        what's included in that, and, of course, the

1 Latin phrase is once the Legislature makes a  
2 list of things and includes that, anything  
3 that is not in that list is specifically  
4 excluded; correct?

5 A I think that's generally what that Latin  
6 phrase means.

7 Q Did I hear earlier you say that -- Let me ask  
8 it this way: Is Duke Energy Indiana, Inc.  
9 building the IGCC plant?

10 A It's broader than that, Mr. Stewart. Yes, we  
11 are building it from the standpoint of the  
12 responsibility for bringing this plant in,  
13 hopefully, on time and on budget in 2012, but  
14 we have a lot of help. It is not just Duke  
15 Energy employees who are working on the  
16 project, if that's what your question is.

17 Q Well, who is going to own it?

18 A Duke Energy will own the plant when it is  
19 completed.

20 Q And that's Duke Energy Indiana, Inc.?

21 A Yes, that's correct.

22 Q And I think I heard you say earlier that the  
23 Duke Energy Indiana, Inc. customers would be  
24 paying for the project; correct?

25 A That's correct.

1 Q And you're also asking that Duke Energy  
2 Indiana, Inc. customers pay for the capture  
3 study?

4 A Yes.

5 Q And there is not one Duke Energy Indiana, Inc.  
6 witness testifying in this proceeding today?

7 A Mr. Stewart, to the outside world, that may be  
8 significant. For us, it is not terribly  
9 significant. I view myself as very much a  
10 Duke Energy Indiana, Inc. employee as I sit up  
11 here today supporting moving forward with the  
12 request that we have before the Commission.

13 Q And when you said that the customers of Duke  
14 Energy Indiana, Inc. are paying for the  
15 project, I take it, then, that it is not  
16 Duke's position that customers pay for service  
17 or for electricity and don't pay for projects  
18 that we hear sometimes?

19 A I think that -- Are you talking about my  
20 colloquy with Mr. Polk?

21 Q No. I'm just asking you a question.

22 A Okay. You'll have to restate the question.

23 Q Let's move on.

24 Look at Page 5 of your testimony,  
25 at the very bottom, you reference the



1        fabrication queue?

2    A    Yes.

3    Q    How many IGCC plants have been canceled or put  
4        on hold since this one came forward?

5    A    I don't know with specificity, Mr. Stewart.  
6        I'm aware that TECO canceled one in Florida,  
7        and AEP, I don't think it has officially  
8        canceled its plant in West Virginia, but I  
9        think given the order they got from Virginia,  
10       that that is probably -- it is less likely  
11       that they're going to build that plant.

12   Q    When you say the fabrication queue, how many  
13        IGCC plants in the United States are in the  
14        queue?

15   A    Well, the fabrication queue that we're  
16        speaking of isn't just for IGCC plants. In  
17        the fabrication queue, we're competing for  
18        boiler space; we're competing for piping;  
19        we're competing for commodities; we're  
20        competing for a number of different  
21        components, CTs, CCs, HRSGs. A number of  
22        different parts of this project are needing to  
23        be fabricated, and we're competing for that  
24        space. So, it is not just an IGCC that we're  
25        in a queue for.

1 Q All that's the IGCC, isn't it? Doesn't all of  
2 that make up the IGCC?

3 A Yes, but the fabrication queue includes others  
4 looking for their CTs, their CCs, their  
5 piping, their different components of the  
6 plant. An air separation unit or a gasifier  
7 might be a specific queue related to the IGCC,  
8 but many of the other things that we're  
9 competing with -- space with many other  
10 companies who are looking to build  
11 infrastructure.

12 Q Now, on Page 6 of your testimony, you indicate  
13 that the anticipated in-service date is now  
14 nine months further than it was at the time of  
15 the last hearing; is that correct?

16 A I actually didn't count the months, but yes,  
17 we are expecting a June 2012 in-service date  
18 at this time.

19 Q Now, getting out there to when you thought it  
20 was going to come in, somewhere around  
21 October 2011, and now knocking it out about  
22 nine months, do you have any idea how much  
23 that is going to cost ratepayers or customers,  
24 that nine-month delay?

25 A I don't have that calculation in front of me,

1       Mr. Stewart.  Again, one of the things that --  
2       I mean, the delay is attributable to a number  
3       of different factors, including the time that  
4       this proceeding was pending as well as the  
5       negotiations with our vendors; so, I've not  
6       made a specific calculation of what that would  
7       cost.

8    Q   Well, I didn't really ask the reasons for the  
9       delay.  I'm curious about the impact on the  
10       customers who you've acknowledged are going to  
11       be paying for this project, and if I put  
12       myself out there to 2011 when it was supposed  
13       to be done in October, and assume now that  
14       we're at 2.35 billion or whatever it is, if  
15       we're only 2 billion into it, and I assume a  
16       return on weighted cost of capital of  
17       7 percent instead of what you're asking for in  
18       this case, I come up with about \$140 million  
19       for a year or for nine months about \$105  
20       million more that the ratepayers are going to  
21       have to pay because there is a nine-month  
22       delay from what you told us just a few months  
23       ago.  Does that seem reasonable?

24   A   Mr. Stewart, the in-service date that we  
25       projected in the underlying CPCN case was

1       based on the best understanding we had at the  
2       time, and it also made some different  
3       assumptions about things like the date that  
4       the order on the CPCN would be issued.

5                   Those understandings -- Now that  
6       we've gotten to the point of firming up some  
7       of the contract terms, we got the order from  
8       the Commission, that understanding has  
9       evolved, but it wasn't that we've done  
10      something wrong to delay the plant. It is  
11      simply a factor of we had an estimate in place  
12      at the time we put the CPCN case on as to when  
13      we thought the project would come on line, but  
14      future circumstances proved that that was too  
15      soon.

16   Q   Well, if I was being -- If somebody was trying  
17       to sell me something, and they came in a  
18       little bit later and said, by the way, it's  
19       not our fault, but you owe me an extra \$105  
20       million, I think I would be concerned.

21   A   Well, I'm not agreeing to your number,  
22       Mr. Stewart. I understand you've done a back-  
23       of-the-envelope. I have no idea whether that  
24       number is an accurate number, but, again, the  
25       estimate that was before the Commission when

1       it approved the order last November was just  
2       an estimate based on a number of different  
3       factors, and those factors and circumstances  
4       have changed since that order.

5   Q   You weren't curious when this all happened and  
6       you found out from the people that work for  
7       you that we're now 18 percent higher, and  
8       we've got another delay of nine months, not  
9       our fault, but you didn't say well, how much  
10      is that going to cost my customers that I care  
11      about?

12  A   I'm sure I had that conversation at some  
13      point, Mr. Stewart, asking how much the  
14      incremental delay would cause --

15  Q   But you never got an answer?

16  A   I'm sure I got an answer.  I have no idea what  
17      that answer was.

18  Q   It wasn't important enough to remember?

19  A   It was certainly important, Mr. Stewart.  The  
20      whole project is important to us.  We're  
21      trying to be realistic in the context of this  
22      update proceeding of when we really think we  
23      can get this plant in service in Indiana for  
24      our customers.

25  Q   From all the discussions that you've had, the

1 confidential discussions with your staff, is  
2 the price that's been presented in this case  
3 still the price that you believe is the most  
4 accurate today as we sit here?

5 A Are you talking about the \$2.35 billion?

6 Q Yes, I am, sir.

7 A Yes, it is.

8 Q Now I want to turn to Page 9 of your  
9 testimony, and actually if you start at the  
10 bottom of 8 and go to 9, you reference the  
11 EPRI-based range here. Do you see that?

12 A Yes, I do.

13 Q And you comment that the increased Edwardsport  
14 IGCC cost is within the range of the EPRI  
15 range.

16 You're not seriously proposing  
17 that that's a basis for this Commission to  
18 approve your request here or, in fact, even  
19 relevant to the Commission's decision, is it,  
20 as long as you stay within the range that EPRI  
21 comes up with?

22 A How relevant it is, I think, is up to the  
23 Commission to decide.

24 What we did, Mr. Stewart, when we  
25 saw the increased cost of building this plant,

1       we, obviously, recognized that it was very  
2       significant for our customers and very  
3       troubling for that reason. We then began to  
4       gather a lot of different data points to make  
5       sure -- essentially, to do a sanity check on  
6       the reasonableness of moving forward with this  
7       project. We did a lot of discussion, a lot of  
8       internal discussion, a lot of work. Ms.  
9       Jenner, whom you'll get to cross-examine  
10      later, did some sensitivities around it. We  
11      spent a lot of time trying to understand does  
12      it still make sense; does this plant still  
13      make sense in the context of what we know is a  
14      very significant increase in the estimated  
15      cost?

16                   EPRI is simply one data point. It  
17      wasn't being offered as the deciding factor  
18      for the Commission. It is simply a data  
19      point. Whether the Commission attributes any  
20      significance to that is up to the Commission.

21   Q   Who is EPRI? Who funds EPRI?

22   A   EPRI is the Electric Power Research Institute,  
23      and it is funded by a number of different  
24      sources, including, you know, utilities,  
25      investor-owned utilities, as well as municipal

1       and cooperative utilities. It includes an  
2       advisory council that includes members of  
3       state commissions. In fact, Chairman Hardy is  
4       on that advisory council.

5   Q   Is there anybody from Duke on it?

6   A   On the board or on the advisory council? Yes,  
7       I believe we do have a member on the -- No, we  
8       have members on the research advisory council.

9   Q   Now, you indicate that the increased cost is  
10       within that range.

11               Well, \$3 billion is within that  
12       range too, isn't it?

13   A   Well, clearly, it would be.

14   Q   I want to go back to the last case for a  
15       moment. We had Mr. Shilling in here  
16       testifying. Mr. Shilling indicated that  
17       Bechtel and GE had formed an alliance to offer  
18       a turnkey nominal 630 megawatt reference  
19       plant, and he said that the reference plant  
20       offered customers, such as Duke, a single  
21       point of responsibility for a turnkey product  
22       spanning from the coal pile to the power grid,  
23       and he said that the reference plant focused  
24       on reducing customer risk through one supplier  
25       for performance, price and scheduling



1       guarantees, and then Duke witnesses, as you'll  
2       recall, testified that they concluded that, I  
3       guess I would phrase it as, they could do  
4       better than that; that they didn't want to buy  
5       that package plant at a fixed price, and  
6       instead they were going to manage larger  
7       portions of the project themselves.

8               In fact, the Commission notes in  
9       its order in the last case, "We also find that  
10      the Company's proposed contracting approach,  
11      whereby it will actively manage the project,  
12      is reasonable based on the facts presented in  
13      this matter. A lump sum turn key approach  
14      with one primary contractor or contractors  
15      taking on price and other risks necessarily  
16      means that the contractor will build large  
17      contingency amounts into the contract to  
18      ensure it will cover all possible costs and  
19      make a profit. Although such an approach  
20      could (assuming the contract is truly all  
21      encompassing and provides a fixed price)  
22      provide greater certainty of costs to the  
23      owner, it could also increase the total  
24      project cost."

25              That's where we were at the end of

1       the last case, and I look at your testimony  
2       here on Page 10. Now, in the very first line,  
3       you indicate, and you stated earlier here  
4       today, that Bechtel under the current  
5       construction market does not offer fixed price  
6       contracts for major construction projects such  
7       as this.

8                       Did we miss the boat on that one?

9   A   Mr. Stewart, I'm sorry that I'm not as  
10       familiar with Mr. Shilling's testimony as I  
11       could be. I do know in this market there  
12       is -- I'm not aware of any vendor who would be  
13       prepared to offer a lump sum contract for a  
14       project like this.

15   Q   You note that Bechtel has a strong record of  
16       meeting budget and schedule on major  
17       construction projects at Lines 7 and 8 there.

18   A   Yes.

19   Q   Duke took over this one, and we're 18 percent  
20       higher after just a few months.

21   A   Well, I wouldn't agree to Duke took over this  
22       one. We're working in collaboration with  
23       Bechtel as the primary EPC vendor on this  
24       project. We're looking to Bechtel for project  
25       management expertise, for engineering

1 expertise. There is -- It is probably not an  
2 accurate characterization to say that Duke has  
3 taken over this project.

4 Q Would you agree that they took over  
5 significantly more portions of the management  
6 than they would have had they gone with the  
7 turnkey offered plant?

8 A Again, I'm not as up to speed on whatever  
9 Mr. Shilling was testifying as you're  
10 representing. I don't quarrel with what you  
11 read, but what we're doing on this project is  
12 not dissimilar to what we've been doing on our  
13 environmental construction projects for many  
14 years which is working in collaboration with  
15 our project contractor, our EPC vendor, to  
16 build -- to work cooperatively to build a  
17 plant.

18 Q The same page, at Lines 13 and 14, you say --  
19 12, 13 and 14 -- you have a high degree of  
20 confidence that your revised estimate of \$2.35  
21 billion is achievable.

22 Does that mean that you're  
23 confident -- you have a high degree of  
24 confidence that you'll be able to spend that  
25 much?

1 A I don't understand the last part of your  
2 question, Mr. Stewart. I have a high degree  
3 of confidence that we can deliver this project  
4 for our customers at this price and not go  
5 above this price. I'm very hopeful that we  
6 will not go above that price.

7 Obviously, if it comes in below  
8 that price, that's a good thing for all of us.

9 Q Now, at the top of 11, Mr. Turner, you say,  
10 "The Company remains strongly committed to  
11 this Project.", and then on Line 4, "even at  
12 the increased price"; is that right?

13 A Yes.

14 Q Well, how is Duke hurt by the increased price?  
15 Duke Energy Indiana, Inc., how is it hurt by  
16 the increased price?

17 A Well, Mr. Stewart, we're all in a market where  
18 raising capital in the market is a challenge,  
19 and having capital that increases  
20 significantly is a significant challenge for  
21 the Company, and, obviously, if you're in a  
22 position where it is hard to finance all the  
23 projects that you need to finance as a  
24 corporation, that is a -- that is a  
25 significant problem for the Company and would

1       be a significant problem for Duke Energy  
2       Indiana. Mr. Stewart, we have no interest in  
3       hitting our customers with higher rates  
4       associated with an increased cost estimate.

5                       How are we hurt by it? If you  
6       want a very tangible way to think about it,  
7       increased prices cause elasticity in the way  
8       that customers behave. So, if you want to  
9       think about a specific cause and effect, you  
10      can know that if our rates go up, customer  
11      behavior will adjust, as you've seen with  
12      gasoline prices, to that increase.

13    Q   Well, you collect all the costs through the  
14        tracker, and, in fact, the more the project  
15        costs, the more you collect; isn't that  
16        correct?

17    A   The more the project costs up to a point.  
18        There is a credibility issue here,  
19        Mr. Stewart, with this Commission, with the  
20        parties, with the customers ultimately, that  
21        we have to face as well. We are not in the  
22        business of just hitting our customers with  
23        large increases. What we're trying to do is  
24        build this project in the most prudent way we  
25        possibly can.

1 Q Well, do you recognize that from the last rate  
2 case through the environmental projects that  
3 you've done through this project, you have hit  
4 your customers with a long series of large  
5 increases?

6 A Well, I wouldn't agree to the  
7 characterization. I know that we've had a  
8 series of increases associated with ratemaking  
9 protocols that Indiana has decided is  
10 important for this state. I also know that if  
11 customers are able to -- If we can have these  
12 increases occur in a gradual manner, as the  
13 CWIP statutes permit, that is certainly a  
14 softened impact, I think, on customers because  
15 what is really hard for customers, I know your  
16 clients as well as other customers, is when  
17 you have very, very significant increases hit  
18 all at one time.

19 So, we think that the proceedings  
20 that you've discussed, while difficult, are  
21 better than the alternative of hitting  
22 customers with very significant step changes  
23 in their rates.

24 Q You're not here testifying on behalf of my  
25 customers or my clients, are you?

1 A Well, in a sense, they are our customers; your  
2 clients are our customers, and if they're not  
3 economically successful in this state, that  
4 has a very dramatic impact on us and on  
5 everybody else; so, in a sense, yes, holding  
6 the cost of this project down is critically  
7 important to us.

8 Q I was going back to what you were suggesting,  
9 I thought, that customers -- industrial  
10 customers liked the way that the trackers ease  
11 the costs in over time, and I suspect that you  
12 probably just haven't read the testimony on  
13 their behalf that indicates that they're not  
14 in favor of --

15 A I don't think you'd ever hear me say that  
16 customers like -- you used the word like; I  
17 didn't use that word -- that customers like  
18 rate increases, but as between rate increases  
19 that occur gradually over time and rate  
20 increases that occur very suddenly and in a  
21 very significant way, I would think that most  
22 customers prefer the former to the latter.

23 Q That's just your thought; right?

24 A That's my opinion.

25 Q Now, you say you're strongly committed even at

1       this increased price. Would you be strongly  
2       committed to it at \$3 billion?

3    A   I don't know, Mr. Stewart. I'd have to know  
4       what else is going on in the world at that  
5       point.

6    Q   So you can see -- you can envision that you  
7       would be strongly committed to it at \$3  
8       billion depending on what else was going on?

9    A   Well, obviously, it is depending on what else  
10       is going on. If gas prices are at 25, and the  
11       price goes to \$3 billion, I think we'd have to  
12       continue taking a hard look at it, about  
13       whether it continued to make sense.

14                   Obviously, we believe very  
15       strongly that it isn't going to get anywhere  
16       near 3, as you'll hear in more detail from Mr.  
17       Womack in his testimony. I think we can  
18       deliver this project at 2.35 billion, but to  
19       sit here today and say I would or would not be  
20       strongly committed to it at 3 without knowing  
21       what else is happening in the world is  
22       impossible, and it would be, frankly,  
23       irresponsible for me to say that. I think it  
24       would be -- Well, we're committed to  
25       delivering it at 2.35, and I don't think your



1 scenario is going to come into effect anyway.

2 Q Well, had you been a testifier in the previous  
3 case when -- Well, let me go back just for a  
4 moment.

5 Are you aware that the original  
6 estimate of this project was around 1.3, and  
7 then it went to around 1.6, and it ended up at  
8 1.98 in the case? Do you remember that  
9 history?

10 A Yes. That was dating back, I think, to as far  
11 back as 2004, if I'm not mistaken.

12 Q And had you testified in the original cause  
13 here when it was 1.98 billion, had I asked  
14 you: Gee, would you still be committed to do  
15 it at 2.35 billion, would you have said well,  
16 that would be irresponsible and unconscionable  
17 for me to do that as well?

18 A I probably would have said that I would have  
19 to know how it continues to look against a lot  
20 of different data points.

21 Q You say right there in that same paragraph,  
22 the last line, Line 7, reliability is one of  
23 the factors, and we had a lot of discussion  
24 about that in the past.

25 Are there any guarantees from Duke

1 to the ratepayers in this proceeding that if  
2 this project does not perform as promised,  
3 that somehow they will compensate the  
4 ratepayers for the expenditure that they've  
5 incurred?

6 A I don't know about compensating the customers,  
7 Mr. Stewart, but, obviously, if the Commission  
8 were to find at some point in the future that  
9 Duke Energy had acted imprudently in the  
10 management and construction of this project,  
11 the Commission can make whatever determination  
12 it deems appropriate at that point.

13 Q Well, what if it doesn't find that you acted  
14 imprudently, but the thing just doesn't work  
15 right, is there any compensation or recovery  
16 back to the ratepayers for everything that  
17 they've invested?

18 A Well, we have agreements with General  
19 Electric, in particular, that you can get into  
20 with Mr. Womack, make-right guarantees and the  
21 like, where we think we can force them to get  
22 it to the point where the plant does work  
23 right, and with a project this large, probably  
24 with every power plant that the Company has  
25 ever brought on line or any company has

1 brought on line, you're going to have issues  
2 at the beginning when you first start running  
3 the plant that get corrected and sorted out  
4 over time. So, I guess I'm not worried, as I  
5 sit here today, that the plant is not going to  
6 work.

7 MR. STEWART: I've got very little  
8 left, Your Honor.

9 JUDGE STORMS: Okay. I think we  
10 have very little paper; so, I think we have  
11 about five minutes, and then we'll need to  
12 take a break.

13 Q Mr. Turner, I'm going to get into it with,  
14 perhaps, one of the other witnesses later with  
15 respect to cancellation costs, or I'm not sure  
16 what the phrase that you guys have used in  
17 your testimony is, but I know on Page 17 of  
18 your testimony, you say that, "Equipment that  
19 is already released for fabrication would  
20 still have to be paid for.", and I guess I'm  
21 just curious, given that there is a big queue,  
22 and I think you're talking about things like  
23 the generator or whatever, you know, the  
24 turbine, wouldn't there be other people -- I  
25 remember when there was a queue for gas

1        peakers, and people who got in line first were  
2        able just to turn around and sell them to  
3        other people for a lot more than they were  
4        going to pay for them.

5                        So, what kind of recovery might  
6        you be able to get on some of this equipment  
7        if you ended up still having to pay for it?

8    A    It's a good question, Mr. Stewart, and, in  
9        fact, I think to -- I don't know how accurate  
10       your description of what happened with gas  
11       peakers is, but I do know that to the extent  
12       that it is accurate about what happened in the  
13       past, GE has closed that loophole and has made  
14       it clear that resale at a mark-up,  
15       particularly, but resale is not going to  
16       happen, and if you do resell it, you're going  
17       to resell a lot of this equipment with no --  
18       none of the GE guarantees, warranties, reps,  
19       going with it; so, GE does not want us  
20       arbitraging their equipment.

21                        MR. STEWART:    Thank you.

22                        WITNESS TURNER:    Thank you.

23                        JUDGE STORMS:    Do you have any  
24        redirect?

25                        MR. POPE:    Yes.

1 JUDGE STORMS: Let's take about a  
2 ten-minute break.

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(RECESS)

(HEARING IN RECESS UNTIL 11:15 A.M., SAME DAY)

1 Indianapolis, Indiana  
2 August 25, 2008  
3 11:15 A.M. (EDT)

4 JUDGE STORMS: Let's go back on  
5 the record.

6 Mr. Pope, you may redirect.

7 MR. POPE: Thank you, Your Honor.  
8 First of all, I think I omitted to formally  
9 offer Exhibit G-1 attached to Mr. Turner's  
10 rebuttal testimony, although he's been asked  
11 questions about it, but just for the record, I  
12 think I probably ought to formally offer it.

13 JUDGE STORMS: If there is no  
14 objection, we'll show Petitioner's Exhibit G-1  
15 admitted into this cause as well.

16 MR. POPE: Thank you, Your Honor.

17

18 (PETITIONER'S EXHIBIT NO. G-1,  
19 BEING A ONE-PAGE DOCUMENT ATTACHED  
20 TO PETITIONER'S EXHIBIT NO. G AND  
21 CONSISTING OF VARIOUS STATUTES,  
22 ADMITTED INTO EVIDENCE.)  
23  
24  
25

1 JUDGE STORMS: Please proceed.

2

3 REDIRECT EXAMINATION OF MR. JAMES L. TURNER,

4 QUESTIONS BY MR. POPE:

5 Q Mr. Turner, Mr. Helmen asked you some  
6 questions that started out that in November,  
7 the Commission approved an estimate of \$1.985  
8 billion for the plant, and then a few months  
9 later, the Company updated it to the current  
10 2.350.

11 The 1.985 was not prepared in  
12 November of last year, was it?

13 A That is correct, and to the extent that my  
14 answer suggested that, that would be  
15 inaccurate.

16 Q I think it was his question that suggested it  
17 and not your answer, sir.

18 A In fact, that FEED study, I believe, was  
19 issued in March or April of 2007.

20 Q Considerably before the November Order?

21 A Yes.

22 Q Was that based on the best information that  
23 was available at the time?

24 A Yes, it was.

25 Q Did you, in fact, not necessarily you but

1 management, present that 1.985 estimate to the  
2 Duke Energy Board of Directors?

3 A Yes, we did.

4 Q So you were comfortable with it?

5 A Yes.

6 Q Mr. Helmen also said something to the tune of  
7 where is Mr. Zupan. Is Mr. Zupan still  
8 working on the Edwardsport project?

9 A Yes, he is.

10 Q I think everybody here knows, but the record  
11 doesn't, is Mr. Zupan, in fact, in the hearing  
12 room today?

13 A Yes, he is.

14 Q Okay; thank you.

15 Could you turn, please, to  
16 Residential Customers' Cross-Examination  
17 Exhibit No. 2, which is the August 5th press  
18 release?

19 A Yes, I have it.

20 Q And on Page 3, which is really the second page  
21 of it, it refers to U.S. Franchised Electric  
22 and Gas, and Mr. Polk asked you a bunch of  
23 questions about the earnings for USFE&G.

24 You are responsible for USFE&G; is  
25 that correct?



1 A That's correct.

2 Q It includes considerably more than Duke Energy  
3 Indiana, does it not?

4 A It does.

5 Q Did you participate in the negotiations with  
6 General Electric after the November Order from  
7 the Commission?

8 A Yes, I did.

9 Q Did GE at any time offer to build the  
10 Edwardsport project for a lump sum turnkey  
11 fixed price?

12 A Well, GE is the equipment -- the major  
13 equipment vendor, not the constructor of the  
14 project.

15 Q So they did not make such an offer?

16 A No, they did not. Nor did Bechtel.

17 Q Mr. Helmen also referred to Ms. Pashos not  
18 testifying.

19 Is Ms. Pashos in the hearing room  
20 today?

21 A Yes, she is.

22 MR. POPE: That's all I have.  
23 Thank you, Mr. Turner.

24 WITNESS TURNER: Thank you.  
25

1     **QUESTIONS OF MR. JAMES L. TURNER,**

2             **BY COMMISSIONER LANDIS:**

3     Q    Good morning, Mr. Turner.

4     A    Good morning, Commissioner Landis.

5     Q    In the course of your colloquy earlier this  
6            morning, you referred to a queue of materials  
7            that go into and are various components for a  
8            plant such as this.

9                        I wonder if you could tell us what  
10            changes, if any, there may have been in the  
11            nature of that queue over the course of this  
12            proceeding and the prior proceeding? Has that  
13            market changed significantly during that  
14            period of time?

15    A    If I understand your question correctly,  
16            Commissioner, I would say that the queue for  
17            the manufacturer of and fabrication of major  
18            pieces of equipment, such as we will use at  
19            the Edwardsport project, has -- that queue has  
20            only tightened, i.e., filled up more, through  
21            the course of this project up to and including  
22            through last November and the early part of  
23            this year.

24                        I think the place in my testimony  
25            where I reference that, what I was referring

1       to was the importance of getting the order  
2       from this Commission, which we got in  
3       November, and then placing orders as quickly  
4       as we could to get our spot in the queue.  
5       With the concern being that if we didn't line  
6       up spots in the fabrication queue at that time  
7       and waited, we would get bumped to the end of  
8       the line in terms of priority with other  
9       customers of those fabricators. So, that was  
10      what I was trying to make reference to in my  
11      testimony.

12    Q   Would it be fair to say that this is a more  
13          global queue than it was a year ago?

14    A   Oh, absolutely. The fabrication that we're  
15          speaking of will all be done off-shore.

16    Q   So there would be a greater competition for  
17          any resources that would go into the  
18          fabrication process, for example?

19    A   That's absolutely true. You saw Beijing over  
20          the last ten days, and we are very much in  
21          competition with China, with India, with other  
22          parts of the world, in the investment and  
23          infrastructure that is happening globally.

24    Q   You also referenced a reluctance on the part  
25          of many of the key players to offer a fixed

1 price arrangement just recently, in the past  
2 few moments, for example, mentioning GE  
3 specifically.

4 Is that likely to continue for the  
5 foreseeable future?

6 A I would say yes and no. Yes, in a general  
7 sense, in the sense that it -- because of the  
8 global demand for construction and some of the  
9 inflationary pressures that we've seen in the  
10 construction market, I would expect, and Mr.  
11 Womack will have a better sense of this, but I  
12 would expect that that dynamic would continue.

13 Specifically with regard to this  
14 project and with regard to General Electric,  
15 and, again, Mr. Womack can testify  
16 specifically to this, we have begun to firm up  
17 prices for some of the major equipment on the  
18 project now. So, it won't continue with  
19 regard to that specific equipment that we now  
20 have firm prices on, but for construction  
21 projects, generally speaking, including the  
22 construction of this project, yes, I would  
23 expect that dynamic would continue or could  
24 continue.

25 Q What would you indicate were the early

1 warnings that you began to see to suggest that  
2 prices might no longer be valid based on the  
3 original cost?

4 A It was literally around the time that this  
5 order came out last November that I began  
6 having conversations with General Electric  
7 because I think General Electric saw what they  
8 were seeing in their world in terms of global  
9 prices and commodities, steel and copper and  
10 concrete and the like, and they were seeing  
11 something that was going to be impacting the  
12 price of this project, and they knew once we  
13 had the CPCN Order that we were going to need  
14 to firm up prices and get some equipment  
15 ordered, and it was literally almost  
16 contemporaneous with this Commission's order  
17 that we began to see significant pressure from  
18 General Electric that made me start to be  
19 concerned about the efficacy of the 1.985 that  
20 the Commission previously approved.

21 What we didn't understand and  
22 appreciate at that point in November was the  
23 extent to which some scope changes that GE  
24 made at that time in addition to the pricing  
25 changes on some of the equipment would impact

1       Bechtel's estimates as well; so, it was  
2       earlier this year trending into the Spring  
3       when we began to really understand all of --  
4       what all of the data inputs were telling us  
5       about the total cost of the project versus our  
6       estimate.

7                       What we wanted to do was spend  
8       some time working very hard with General  
9       Electric and getting as much committed as we  
10      could, and working as hard as we could with  
11      Bechtel to try to get to a term sheet of  
12      material terms and conditions, before we came  
13      forward with a revised estimate because we --  
14      recognizing that we put a lot of significance  
15      into the FEED study estimate in the underlying  
16      case, we didn't want to come back to the  
17      Commission until we had something that we had  
18      a lot of confidence in because we knew that,  
19      again, it is an 18 percent increase; it is  
20      significant. We wanted to know that what we  
21      were submitting to the Commission was  
22      something that we felt very good about in  
23      terms of how solid the estimate is, and not  
24      good about it in terms of the increase, and we  
25      got to that point, and when we got to that

1 point, we filed this update proceeding.

2 Q To what extent would commodity prices be a  
3 major driver in the fabricated portion of the  
4 contract that you're already beginning to  
5 contract for? Would that be a major driver?

6 A They have been a major driver. I think they  
7 will continue to be a major driver to the  
8 extent that it is on equipment that we have  
9 not had firm prices for from the vendor. Mr.  
10 Womack is -- can talk to it in more detail,  
11 but it will impact to the extent that we  
12 haven't locked in the price, but, again, we've  
13 locked in the price now on a lot of the major  
14 pieces of equipment on the project.

15 So, our hope is that we're  
16 reducing the -- as time goes on, every day  
17 we're reducing the impact that commodities  
18 will have on the ultimate cost of the project  
19 versus what our estimate is today.

20 Q Would you say that the 31 percent, I believe  
21 that you mentioned, applies across the board  
22 to fabricated equipment or to more basic  
23 components, the basic componentry that is  
24 necessary to fabricate the facility, the  
25 steel, the concrete, that sort of thing?

1   A   If I understand your question, what I would  
2       say is it is locking in prices, it is fixing  
3       prices, for certain pieces of equipment that  
4       include the fabrication queue risk and include  
5       the commodity risk associated with fabricating  
6       the equipment that we're speaking of.

7                   Is that -- I'm not sure I'm  
8       getting to your question.

9   Q   What I'm getting at is there will be certain  
10       components that are integral to the  
11       whole -- to the total generation facility, and  
12       then there are components that will go into  
13       the building and the housing surrounding  
14       that -- those components, basic -- more basic  
15       raw materials closer to the raw materials  
16       themselves.

17                   If commodity prices are a major  
18       driver, and if commodity prices are continuing  
19       to escalate, and we're in a global market,  
20       then, how can you be comfortable that the  
21       commodity prices underlying the steel, the  
22       concrete and so on, will not exceed the  
23       18 percent that you're here advocating today?

24   A   I understand now what you're asking.  It is an  
25       excellent question.  I would say, and, again,



1       Mr. Womack -- I hope you'll pursue this with  
2       him, but I think there is less risk and less  
3       exposure to price volatility and price  
4       increases on the commodities related to the  
5       other -- the other facilities and equipment  
6       that you're speaking of versus the major  
7       pieces of equipment that we now have placed  
8       orders on with the vendor.

9                       So, I think, No. 1, there is -- we  
10       have less inherent risk in that, in terms of  
11       the magnitude of how much things can move,  
12       versus the major pieces of equipment, and,  
13       again, Mr. Womack can speak in a more  
14       sophisticated way, but beyond that, we've also  
15       factored in an escalation rate into this  
16       project that we bumped up from the original  
17       case of 4 percent to 6 percent today.

18                      We thought in the original case  
19       with the FEED study and what we had seen in  
20       looking in the rearview mirror in terms of  
21       inflation that 4 percent represented a  
22       relatively conservative estimate of inflation.  
23       We now recognize that that wasn't conservative  
24       enough given what we've seen in the  
25       marketplace.

1                   So, in the construction estimate,  
2     in the 2.35 billion, is included some amount  
3     associated with potential escalation and  
4     inflationary pressures that we expect to see  
5     through the balance of this project. So, that  
6     helps gives us some confidence, a high degree  
7     of confidence, I would say, that we've got  
8     this estimate in about the right place.

9    Q Did you explore, as a part of that process  
10   that you described earlier, as you began to  
11   see the cost concerns, you know, emerging, did  
12   you explore any other alternatives for cost  
13   containment or for not exactly risk management  
14   but I guess risk management to try to suppress  
15   those cost increases before determining that  
16   you needed to come to the Commission with the  
17   revised cost estimate?

18   A We did, Commissioner. I think the No. 1 thing  
19   that we did was we started locking in  
20   equipment orders and pricing with General  
21   Electric. So, we weren't talking about it in  
22   theory anymore. We were getting to the point  
23   of locking them into a price and a schedule  
24   that they could deliver on. That was, in my  
25   opinion, the most important step that we took

1 right at the end of last year. So, within a  
2 month of the Commission's order, essentially,  
3 we had made significant equipment orders with  
4 General Electric so we could start putting a  
5 lid on and hedging the risk of further  
6 escalation on the project.

7 With regard to Bechtel, that was a  
8 little more challenging in the sense that,  
9 again, some of the changes -- GE made some  
10 scope changes late last year in that November/  
11 December time frame that impacted Bechtel, and  
12 we didn't understand all the -- the scope of  
13 those changes until earlier this year, and in  
14 addition, as I mentioned earlier, this is not  
15 a market in which you can get a firm price  
16 contract from Bechtel. They're simply not  
17 going to do it.

18 Now, we are working on the terms  
19 and conditions of our contract with Bechtel to  
20 try to get them to have some skin in the game  
21 in terms of opportunity as well as risk on  
22 overruns, but it is -- it would overstate it  
23 to say that we are firmly in control of that  
24 contract and it is a buyer's market. It has  
25 become more of a seller's market for EPC

1 providers.

2 We think we're getting the Bechtel  
3 arrangement to a place where it needs to be in  
4 order to deliver on this, and we think we've  
5 got -- despite Mr. Polk's question earlier, we  
6 think we've got the premier construction  
7 vendor in the world working on this project.

8 Q You mentioned the contracts as an attempt to  
9 hedge given the circumstances in which you  
10 find yourself.

11 Did you consider, for example, the  
12 possibility of hedging materials costs?

13 A Yes, we've looked at that, and, again, I think  
14 the best hedge that we thought we could  
15 develop as we head to the end of the year was  
16 to get orders placed with GE rather than  
17 trying to go out and make a bet on market  
18 prices and commodity markets. We don't have a  
19 lot of people who spend a lot of time every  
20 day making those kinds of decisions and trying  
21 to make bets on commodities futures. We  
22 thought the best way we could hedge the risk  
23 was to start locking up some prices and some  
24 place in the fabrication queue. That was the  
25 way we could most prudently do it without

1 taking a lot of risk that we're not  
2 necessarily sophisticated with taking when  
3 you're talking about commodities hedging.

4 Q In the 18 percent overall, as a general  
5 statement, would it be fair to say that the  
6 increase for those remaining elements which  
7 are not under contract in your revised  
8 estimate is higher than for those elements  
9 that are under contract at this point?

10 A I would probably defer that question to Mr.  
11 Womack who will have a very good answer. I  
12 can tell you that the increases are roughly  
13 about a third from GE, about a third from  
14 Bechtel and about a third from the higher  
15 assumed escalation rate, roughly speaking.

16 COMMISSIONER LANDIS: I have no  
17 further questions. Thank you.

18 WITNESS TURNER: Thank you.

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1     **QUESTIONS OF MR. JAMES L. TURNER,**

2             **BY COMMISSIONER ZIEGNER:**

3     Q   Good morning, Mr. Turner.

4     A   Good morning, Commissioner Ziegner.

5     Q   You had an exchange with Mr. Helmen regarding  
6         the issue of the FEED study on the carbon  
7         capture, and let me be clear, this study is  
8         only for the capture, not the sequestration;  
9         is that correct?

10    A   Yes, at this point, it is for the capture  
11         only. Our expectation is that we waited -- we  
12         wanted to wait to see how the Commission  
13         viewed the capture study first in this  
14         proceeding before moving full speed ahead on  
15         the sequestration piece of it.

16    Q   I don't want to put words in your mouth, but  
17         would it be -- Mr. Helmen referred to the FEED  
18         study in the original case and the fact that  
19         as part of the settlement Duke agreed to share  
20         50 percent of the cost of that.

21                 Would it be fair to say that that  
22         is still an open issue for this particular  
23         FEED study?

24    A   That is still what, I'm sorry?

25    Q   Still an open issue.

1 A We will, obviously, give due consideration to  
2 whatever the Commission ultimately decides  
3 with regard to the request that we've made.

4 Again, our judgment is that this  
5 study is part and parcel of the project, and  
6 if we go forward with it, it is an appropriate  
7 cost for customers to pay, but if you would  
8 like me to remain open-minded about that, I'm  
9 certain I could.

10 Q With respect to the second part of the  
11 equation, the storage, study of the storage  
12 thing, do you anticipate, assuming for the  
13 moment that the Commission would approve the  
14 FEED study for the capture portion, fairly  
15 quickly after that following with the study  
16 for the storage?

17 A Yes, we would, and, in fact, I think our  
18 witness Mr. Julius has a proposed possible  
19 schedule for how we might proceed and how the  
20 Commission might think about proceeding that  
21 includes a filing very soon after the  
22 resolution of this matter, probably later this  
23 Fall, that would make a request for a study of  
24 the feasibility of capture or of sequestration  
25 at the site.

1 Q Is Duke also pursuing -- You had mentioned in  
2 your testimony some Department of Energy  
3 grants that you received, and --

4 A Yes.

5 Q -- is Duke involved in studying the  
6 availability of funds from the FutureGen  
7 project also that might become available?

8 A We are absolutely doing that. I'm not  
9 personally participating in that, but we have  
10 people all over it.

11 In fact, Commissioner, I would say  
12 one of the reasons that we've, perhaps, not  
13 been bashful about asking for customers to pay  
14 for 100 percent of the FEED study costs going  
15 forward, whether it is for capture or for  
16 storage, is our orientation from the very  
17 beginning of this project has been to try to  
18 leverage as many different sources of money as  
19 we can to make this project viable and to help  
20 us get through the R&D and help us understand  
21 what the possibilities are around this  
22 project.

23 It started with the very  
24 significant tax benefits that the Commission  
25 noted in its order last November, and it



1 continues through today working with the  
2 Midwest Regional Carbon Sequestration  
3 Partnership, working with the DOE, working to  
4 go get some of that FutureGen money to the  
5 extent that it gets carved up into individual  
6 projects, working with EPRI to leverage some  
7 EPRI money on R&D at this site as well. So,  
8 we are very actively -- and we're putting some  
9 of our own money into EPRI projects across the  
10 nation where they're looking at carbon capture  
11 and sequestration and other types of  
12 technology.

13 So, we have been focused from Day  
14 1 on leveraging as much money and resources  
15 from other sources other than our customers as  
16 we possibly can which is one of the reasons  
17 why we don't think that asking for full  
18 recovery of the FEED study cost here is an  
19 aggressive approach to our strategy.

20 COMMISSIONER ZIEGNER: That's all  
21 I have.

22  
23  
24  
25

1     **QUESTIONS OF MR. JAMES L. TURNER,**

2             **BY JUDGE STORMS:**

3     Q   I have just a couple of questions for you,  
4         Mr. Turner, and I think maybe Mr. Freeman is  
5         the one that I need to ask this question of,  
6         but there was a lot of discussion regarding  
7         tax benefits and tax incentives from various  
8         counties and state at the last proceeding, and  
9         I think the range was somewhere in the \$400  
10        million range, if I remember correctly.

11    A   What I have in my mind is the -- I have the  
12         total number, and then I've got the federal  
13         incentives sort of segregated, but I don't  
14         know the specifics on the local taxing bodies.

15    Q   Can you explain for me how those fit together?  
16         The number that you have now is 2.35; the old  
17         number is 1.985 -- the approved number I mean.

18                 Those tax incentives, are those on  
19         top of that number or are they driving that  
20         number down potentially for the eventual  
21         ratemaking treatment?

22    A   The tax incentives help reduce the customer  
23         burden of the 2.35 which is, I think, the way  
24         that we described it on the 1.985 when that  
25         was the original estimate.

1                   Now, some of those incentives, as  
2     I understand it, will grow with the cost of  
3     the project. In other words, to the extent  
4     that there is property tax abatements, if the  
5     cost is going up, you're reducing the property  
6     tax, and the incentive on the property tax  
7     goes up in a corresponding manner. So, the  
8     430 number that we've used or the 450 number  
9     that we've used is probably higher, but for  
10    purposes of this proceeding, that's the number  
11    that we've continued to talk about.

12   Q   And when does that show up? I mean, when do  
13       those numbers start showing up overall? When  
14       do these sort of start fitting together?

15   A   I'm pretty certain that the federal tax  
16       incentives actually get awarded and start  
17       reducing the costs of the project sometime out  
18       around the time it goes into service, but  
19       Mr. Freeman might be the better person to ask  
20       these questions to.

21   Q   My second question is, and this is more  
22       conceptual, I see the increase from the prior  
23       case that brought you here today.

24                   I guess, just conceptually, of  
25       what value is it for the Company to come in at

1       this juncture or six months from now or a year  
2       from now and ask for that underlying number to  
3       be adjusted? We're not to a pinch point,  
4       obviously. These are primarily, if not --  
5       well, primarily at this juncture projected  
6       costs.

7                   I guess my initial question is of  
8       what value is it to have the Commission  
9       approve this number in this proceeding moving  
10      forward?

11    A   That's an excellent question, Mr. Storms.  
12       When we started seeing what we were seeing in  
13       late November or early December of last year,  
14       I began to develop a concern about the cost of  
15       the project and the estimate that the  
16       Commission had approved.

17                   As we got into the January/  
18       February time frame and really began to piece  
19       together what we were seeing from General  
20       Electric, what we were seeing from Bechtel,  
21       what we were seeing in terms of inflationary  
22       pressures, the 4 percent versus the 6 percent,  
23       my view was, and it was really my decision,  
24       that it was important for us to let the  
25       Commission know everything we knew about the

1       proposed cost of this project.

2                   We could have come in and said  
3       simply let's get the rider going at the  
4       original cost estimate, but what I didn't want  
5       to do was lead the parties to believe, in the  
6       context of a proceeding like that, that the  
7       1.985 estimate that we no longer believed to  
8       be valid was still valid which, in effect,  
9       would seem to be the import of a case had we  
10      not updated the estimate. We wanted the  
11      Commission and all the parties to see  
12      everything that we were seeing in terms of the  
13      cost of this project and make a decision eyes  
14      wide open about the merits of going forward  
15      with the project.

16                   We got to the conclusion in the  
17      context of our own internal decision-making  
18      that there were still great benefits for our  
19      customers going forward with this project even  
20      at the increased price, but we certainly  
21      wanted to make sure everybody else agreed with  
22      that conclusion before we moved forward with  
23      constructing it.

24                   JUDGE STORMS: Thank you.

25                   WITNESS TURNER: Thank you.

1    **QUESTIONS OF MR. JAMES L. TURNER,**

2           **BY CHAIRMAN HARDY:**

3    Q   I guess it's no longer morning; so --

4    A   Fifteen more minutes.

5    Q   When you talk about your presentation to the  
6       Board of Directors, and you presented to them,  
7       as I recall your testimony, the 1.985 number,  
8       did they embrace that or did they reluctantly  
9       approve it or what sort of a presentation did  
10      you make to your Board? Was it the same as  
11      you presented to us or different or truncated?

12   A   Well, they didn't cross-examine exactly, but  
13      they did have a number of questions. There  
14      was -- You know, this isn't the only major  
15      construction project that Duke Energy  
16      Corporation has going; so, there were a number  
17      of questions about all of the projects that we  
18      have going.

19                There were questions about this  
20      project just in terms of they've heard a lot  
21      from us about coal and the future of coal and  
22      the potential for carbon regulation. There  
23      were a lot of questions to understand how this  
24      fits in with our fleet modernization strategy  
25      and our determination going forward to make

1       sure we keep coal in the mix as an important  
2       resource but do it in a way that minimizes the  
3       environmental impacts. So, most of the  
4       questions were -- in the initial presentation,  
5       were around the decision to build this plant  
6       versus something else.

7                   As far as the estimate goes, they  
8       had questions about the estimate, but I think  
9       we're comfortable with where we got to in the  
10      presentation.

11   Q   Were they discomfited, then, when you  
12       returned with the 2.350 number?

13   A   I would say the answer to that is yes, and  
14       they were concerned, as we were concerned,  
15       about the increase in costs. Again, it is not  
16       the only project that we're building, and so  
17       capital expenditures for the Company need to  
18       be managed aggressively at this point in our  
19       history. So, going in with an increase this  
20       significant particularly so soon after the  
21       Board's approval -- I believe the Board's  
22       approval was in October right before the CPCN  
23       Order came out -- so, it was something that I  
24       certainly didn't look forward to to go in and  
25       explain to them what had happened between the

1       time that they initially approved the 1.985  
2       and the time that we needed them to approve an  
3       increased amount.

4                   In that meeting, most of the  
5       questions were focused on the costs, how we're  
6       managing the costs, how we're managing the  
7       project, as opposed to the efficacy of the  
8       project itself, and maybe in that meeting, it  
9       was a little more like cross-examination, but  
10      the Board wanted to be satisfied with many of  
11      the same things that some of the questions  
12      have implied this morning about are you -- how  
13      comfortable are you that you can really do it  
14      at this price and that this won't be the first  
15      in a series of other cost increases.

16                   I hope we satisfied the Board, and  
17      I hope we satisfied this Commission that we  
18      feel confident in the estimate. It is not a  
19      guarantee that they won't go up, but I feel  
20      very confident that we've gotten this project  
21      to a place where we can manage it at the  
22      estimate that we now have in front of you.

23    Q   How many of your Board members are Indiana  
24       residents?

25    A   Michael Browning is an Indiana resident, and



1 Phil Sharpe is a former Indiana resident,  
2 obviously, is a former Congressman; so, one is  
3 a resident, and I think one has very strong  
4 ties continuing to Indiana out of, I think, 11  
5 members today.

6 Q Not to imagine what your Board might have  
7 said, but did anybody on the Board say: Is  
8 this the last time we need to examine this  
9 issue?

10 A Yes, I had that question in presenting to the  
11 Board. They were concerned about whether this  
12 would continue, and in a very truncated  
13 fashion, our presentation to them included  
14 many of the same kinds of things that we  
15 submitted here today to this Commission, and I  
16 think we satisfied the Board that we were at  
17 the point where we don't anticipate coming  
18 back for more.

19 Q Well, of course, the Company always controls  
20 ultimately the cost by its submission.

21 Have you taken an internal  
22 decision that at some point you will not ask  
23 for recovery from the ratepayers or pursuant  
24 to statute of an incurred cost on the project?

25 A We haven't, Mr. Chairman, because we -- our

1 view is we've got the project where we think  
2 we can deliver it. I think the question that  
3 we ask ourselves is not so much at what point  
4 do we not ask customers for more. I think the  
5 question is at what point do we not generally  
6 ask for more; at what point do we not think it  
7 is prudent to go forward with building the  
8 plant. That's the -- And, quite frankly,  
9 that's the question we asked ourselves through  
10 the November/December/January/February time  
11 frame is we want to understand that this  
12 plant -- does it still make sense for us and  
13 for our customers to go forward with this  
14 plant. So, I don't think we've thought about  
15 it in terms of what do we not ask customers  
16 for. I think we've thought about it more in  
17 terms of when does it not make sense to go  
18 forward with this project. That's the context  
19 in which we've looked at it.

20 We knew that asking for -- And it  
21 gets back to Judge Storms' question, we knew  
22 that an 18 percent increased estimate was  
23 very, very significant. Yes, it is a  
24 forecast. The number could be higher. The  
25 number could be lower. We don't think it will

1       be higher. We hope it will be lower, but it  
2       is our best judgment about where this thing is  
3       today.

4                   If the project were to disappoint  
5       us further and go significantly above or look  
6       like it is going to go significantly above the  
7       estimated increase that we're here talking  
8       about, then, I think we have a hard decision  
9       as a company about whether it makes sense to  
10      go forward with the project. We do not  
11      believe that will happen, and we wouldn't be  
12      here today in the context that we're here  
13      today if we did believe it would happen. We  
14      feel confident that we can deliver this  
15      project at the increased estimate now that  
16      we've begun to firm up some of the contracts  
17      with GE and we started to get Bechtel under  
18      contract as well.

19    Q   At what point in the sequence do you get to a  
20       higher confidence level that whatever number  
21       it is that is the result of your various  
22       combinations of actual, projected, that you  
23       get to, and I don't know what percent of  
24       confidence you're at now with the proposal of  
25       2.350, but is that 50/50, 80/20?

1 A I would put myself more in the 80/20 range if  
2 I had to put a thumb on it. Mr. Womack, who  
3 has got a lot of construction experience,  
4 probably has a sense as well of what his  
5 confidence level is.

6 In my testimony, I described it as  
7 high, and so, I would say that's, you know,  
8 80 percent confident that we can deliver at  
9 the price that we've got in front of you.

10 Q Do things get clearer quicker if we came back  
11 in two months? Would you have a better sense  
12 of 80/20 if we came back in six months? Is  
13 there a time associated with this confidence  
14 level?

15 A Unfortunately, in terms of buttoning down  
16 confidence as we go forward, it gets pretty  
17 incremental from this point forward. The  
18 confidence that we've been able to secure to  
19 this point comes from being able to lock in  
20 some of the large pieces of equipment and  
21 getting Bechtel under a contract where they've  
22 got a little bit of skin in the game.

23 Going forward, our confidence will  
24 increase on an incremental basis as we  
25 actually start constructing and building, and

1       it will be more of a -- there is not going to  
2       be any step change in confidence that happens  
3       between now and the end of the project. It is  
4       now truly day by day, month by month, as we go  
5       forward and build this thing.

6                       So, again, it's the nature of the  
7       kind of contract that we have with Bechtel.  
8       There is not going to be a clear revolution  
9       that happens two months from now or six months  
10      from now that says, "We've got it nailed. It  
11      is a lock at this price."

12    Q   Well, the Commission is not unmindful that the  
13       difficulty of projecting a price four years  
14       from today is no easier for you than for us,  
15       and it's a shared awkwardness, but to some  
16       extent, it is also something that the passage  
17       of time may enhance our ability to either  
18       accept or in your case develop that estimate,  
19       and it just may be something that you can't  
20       ever do until all the costs are assembled and  
21       the plant is in service.

22                       Is that a deficiency in the  
23       statute? Is there a better way to proceed?  
24       Is there a way we can develop an additional  
25       degree of confidence that this is, in fact,

1 the number?

2 A It's an excellent question, Mr. Chairman, and  
3 one that we've wrestled with, frankly,  
4 internally over the last half year.

5 Again, it goes back a little bit  
6 to Judge Storms' questions. We thought about  
7 coming in with the estimate left alone at the  
8 Commission-approved level and simply starting  
9 the rider -- using this as an update and  
10 starting the rider proceeding. We just  
11 internally believed it is the elephant in the  
12 room to come in with that estimate and know  
13 that that estimate does not to us appear to be  
14 something that we can achieve any longer.

15 We spent a lot of time over the  
16 last six months -- over the six months after  
17 the Commission's decision working to come to  
18 you with something that we thought was  
19 reasonable and appropriate. We knew that it  
20 was a big number. We knew that people would  
21 have concerns about the size of the number.  
22 We knew that you would legitimately have  
23 questions and concerns about is this all there  
24 is, and we tried to take all of that into  
25 consideration and put together what is

1       admittedly a forecast but what we think is a  
2       very good forecast of where we think this  
3       project will land at the end of the day.

4                       It is the Commission's prerogative  
5       as to how it deals with an increased estimate  
6       at this point. I simply want to make sure  
7       that the Commission's own decision-making  
8       reflects our best judgment about where we are  
9       today, and that's why we've come in to you  
10      with the estimate that we've come in with.

11   Q   What's your degree of confidence that the  
12       1.985 cannot be achieved?

13   A   Higher than 80 percent.

14   Q   How much higher?

15   A   Trending towards 100 percent at this point.

16   Q   Well, let me amplify Judge Storms' question as  
17       to just exactly -- and let's stay with the  
18       1.985 as a number.

19                       If, for example, as you testify on  
20       Page 17, you have a federal tax credit  
21       incentive of \$133 and-a-half million, would  
22       that say, then, that we should be approaching  
23       the 1.985 number on both a gross and a net  
24       basis? So, from one aspect, 1.985 would be a  
25       gross number from which you would subtract,

1       for example, \$133 and-a-half million? So, a  
2       number that you might well be looking at for  
3       the net cost of the completed plant, and  
4       assuming that I've ciphered this correctly,  
5       would, in fact, be 1.851 and-a-half?

6   A   Again, you might save those questions for  
7       Mr. Freeman. My understanding is that it  
8       will -- for the federal tax incentives, it  
9       will work in that manner. You ought to  
10      confirm that with Mr. Freeman.

11                 We've tried to keep this purely in  
12      the context of our construction cost estimate  
13      and not try to confuse the record by --  
14      because you get into an apples and oranges  
15      issue if you've got incentives built into some  
16      estimates and incentives netted and grossed in  
17      different ones.

18                 What we want the Commission to see  
19      is what we see happening on the construction  
20      estimate itself. The tax incentives will be  
21      what they are as we work through the riders  
22      that we implement going forward with the  
23      project. So, we didn't want to confuse and  
24      muddy the estimate record with how the tax  
25      incentives work.



1                   My understanding is, though, that  
2     the federal tax incentive does enure directly  
3     to the benefit of consumers in terms of what  
4     their burden is at the end of the day when it  
5     comes to paying rates on this project when it  
6     is in service.

7    Q   Then there is a direct tie to this expenditure  
8       and this plant and that federal tax incentive?  
9       It doesn't simply go to Duke as a whole?  It  
10      is specifically for the benefit of Indiana  
11      consumers?

12   A   That's correct, on this project.

13   Q   Similarly, with respect to contributions for  
14      research that come from the federal government  
15      either through the Midwest sequestration  
16      cooperative, and I'm sure that's not its  
17      correct name, do those amounts get netted  
18      against the 1.985?

19   A   I don't think of them as getting netted  
20      against the 1.985 because those are relating  
21      to the capture and sequestration part of what  
22      we're proposing to the Commission, but they  
23      certainly would -- they help us not incur  
24      costs in connection with studying capture and  
25      sequestration technology that otherwise we

1       would incur and then pass along to consumers.

2                       So, the way I look at it, it is a  
3       further mitigation of what the consumer  
4       expectation is in studying capture and  
5       sequestration and ultimately implementing  
6       capture and sequestration at the site.

7    Q   To the extent that, perhaps, the federal  
8       government will become interested in funding a  
9       variety of demonstration projects, and I  
10       believe that the first IGCC plant in Indiana  
11       was done under precisely this kind of model  
12       when you all did it years ago at Wabash River,  
13       are you seeing any enthusiasm or even interest  
14       from the federal government towards becoming  
15       more of an active financial participant in  
16       that kind of endeavor?

17   A   The federal government is a big entity, and it  
18       depends on whom you ask. I think there are  
19       people in the DOE who are quite interested,  
20       but I think we're in a little bit of a holding  
21       period now, post-FutureGen/pre-new  
22       administration, in trying to understand where  
23       dollars will go from the federal government to  
24       help fund research around this kind of  
25       technology.

1                   The one thing I can tell you and  
2       assure you is we have a lot of people chasing  
3       those dollars very, very hard to help mitigate  
4       consumer impact.

5    Q   And to the extent that some contribution is  
6       made by the federal government, will that work  
7       to reduce the cost of the plant?

8    A   It would go to reduce any costs that we might  
9       otherwise incur in doing the kind of research  
10      and development -- technological research that  
11      the government might perform for those  
12      dollars; so, in an indirect way, the answer to  
13      your question is yes.

14                   JUDGE STORMS:  Mr. Turner, thank  
15      you very much for your testimony --

16                   WITNESS TURNER:  Thank you.

17                   JUDGE STORMS:  -- you're excused.  
18      As promised, let's break for lunch, and we'll  
19      return at 1:15.  You can leave things in here.  
20      We'll lock the room up.

21

22                   (WITNESS JAMES L. TURNER EXCUSED ON  
23                   DIRECT AND REBUTTAL)

24

25                   (HEARING IN RECESS UNTIL 1:15 P.M., SAME DAY)

\$	3	accelerated [1] 21/11
\$1 [1] 28/8	30 [3] 48/24 50/10 50/13	accept [1] 109/18
\$1 million [1] 28/8	30 percent [1] 45/19	according [1] 14/15
\$1.985 [3] 14/12 15/4 79/7	31 percent [1] 87/20	accurate [7] 16/7 16/21 60/24 62/4 67/2 76/9 76/12
\$105 [2] 59/19 60/19	4	achievable [1] 67/21
\$133 [2] 111/21 112/1	4 percent [3] 89/17 89/21 100/22	achieve [1] 110/14
\$140 [1] 59/18	40 [3] 48/24 50/10 50/13	achieved [1] 111/12
\$140 million [1] 59/18	430 [1] 99/8	acknowledged [1] 59/10
\$16 [2] 23/7 39/11	43114 [1] 1/12	across [3] 54/20 87/21 97/9
\$17 [5] 23/3 23/8 27/5 39/12 40/3	450 [1] 99/8	acted [2] 74/9 74/13
\$17 million [5] 23/3 23/8 27/5 39/12 40/3	46204 [2] 4/19 4/24	action [2] 4/16 24/25
\$2 [1] 20/18	5	active [1] 114/15
\$2.35 [5] 14/15 22/13 28/5 62/5 67/20	50 [2] 50/1 107/25	actively [2] 65/11 97/8
\$3 [4] 64/11 72/2 72/7 72/11	50 percent [2] 29/1 94/20	actual [3] 28/10 32/4 107/22
\$3 billion [1] 72/2	50/50 [1] 107/25	actually [11] 19/4 20/15 23/22 26/5 41/15 44/11 52/12 58/16 62/9 99/16 108/25
\$400 [1] 98/9	5th [1] 80/17	addition [2] 85/24 91/14
\$452 [1] 37/23	6	additional [2] 49/19 109/24
\$452 million [1] 37/23	6 percent [2] 89/17 100/22	address [1] 4/23
\$503 [1] 37/22	6.1 [2] 19/11 25/13	adequate [1] 49/4
\$51 [1] 38/1	60 [1] 50/2	adjust [1] 69/11
\$51 million [1] 38/1	61 [1] 1/22	adjusted [2] 37/2 100/3
'	630 [1] 64/18	adjustment [1] 1/22
'08 [1] 14/13	7	ADMINISTERED [1] 6/5
1	7 percent [1] 59/17	administration [1] 114/22
1.3 [1] 73/6	8	admission [1] 34/19
1.6 [1] 73/7	8-1 [1] 2/2	admitted [10] 10/9 10/15 12/6 12/10 35/9 35/16 38/16 38/24 78/15 78/22
1.851 [1] 112/5	8-1-2-6.1 [2] 19/11 25/13	admittedly [1] 111/1
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