

1 Indianapolis, Indiana
2 April 6, 2010
3 9:30 A.M. (EDT)

4 (Reporter marked documents for
5 identification as Petitioner's
6 Exhibit Nos. A; A-1; A-2; A-2
7 Confidential; A-3; A-4; A-4
8 Confidential; A-5 Confidential;
9 A-6; B; B-1; B-2; B-2
10 Confidential; B-3; B-4; C; C-1
11 through C-4, inclusive; D and D-1
12 through D-5, inclusive)

13
14 (Reporter marked document for
15 identification as Public's Exhibit
16 No. 1)

17
18 (Reporter marked document for
19 identification as Intervenor's -
20 Residential Customers Exhibit No.
21 A)

22
23 JUDGE STORMS: This is an
24 evidentiary hearing before the Indiana Utility
25 Regulatory Commission in a cause docketed

1 before the Commission as Cause No. 43114
2 IGCC-4, captioned as "The Verified Petition of
3 Duke Energy Indiana, Incorporated seeking (1)
4 approval of an ongoing review progress report
5 pursuant to Indiana Code 8-1-8.5 and 8-1-8.7;
6 (2) authority to reflect costs incurred for
7 the Edwardsport integrated gasification
8 combined cycle generating facility property
9 under construction in its rates and authority
10 to recover applicable related costs through
11 its integrated coal gasification combined
12 cycle generating facility cost recovery
13 adjustment, Standard Contract Rider No. 61
14 pursuant to Indiana Code 8-1-8.8-11 and -12;
15 and (3) establishment of a subdocket
16 proceeding to review the cost estimate for the
17 IGCC Project."

18 Notice of the time and place of
19 the hearing was given as provided by law by
20 publication in Marion County in the
21 Indianapolis Star and Hendricks County in the
22 Weekend Flyer and the Republican.

23 Each of said newspaper is a
24 newspaper of general circulation, printed and
25 published in the English language in their

1 respective counties, and said publications
2 were made ten days prior to the date of the
3 evidentiary hearing.

4 The proofs of publication of the
5 notices have been received by the Commission
6 and are now incorporated into the record of
7 this cause by reference and placed in the
8 official files of the Commission.

9 Notice has also been given to the
10 Office of the Utility Consumer Counselor and
11 other interested parties.

12 May we have appearances of
13 counsel, please?

14 MR. DuMOND: Good morning, Your
15 Honor. On behalf of the Petitioner, Duke
16 Energy Indiana, William DuMond and Kelley
17 Karn, 1000 East Main, Plainfield, Indiana.

18 MR. POLK: Thank you, Your Honor.
19 On behalf of Intervenor, Citizens Action
20 Coalition, Save the Valley and Valley Watch,
21 Jerome Polk of the firm Polk & Associates,
22 LLC, 101 West Ohio Street, Suite 2000,
23 Indianapolis, Indiana 46204.

24 MR. HELMEN: Thank you, Your
25 Honor. On behalf of the Public, Randall

1 Helmen from the OUCC.

2 JUDGE STORMS: Okay. Will all
3 those who know themselves to be witnesses,
4 please stand and raise your right hand to be
5 sworn.

6

7 (OATH DULY ADMINISTERED TO NUMEROUS PEOPLE)

8

9 JUDGE STORMS: Petitioner, you may
10 call your first witness.

11 MR. DuMOND: Petitioner calls
12 Mr. Mike Womack.

13

14 **W. MICHAEL WOMACK**, a witness appearing on behalf
15 of the Petitioner, having been
16 first duly sworn, testified as
17 follows:

18

19 **DIRECT EXAMINATION,**

20 **QUESTIONS BY MR. DuMOND:**

21 Q Good morning.

22 Please state your name for the
23 record.

24 A Good morning.

25 My name is W. Michael Womack,

1 W-o-m-a-c-k.

2 Q Please identify your employer.

3 A Duke Energy Business Services.

4 Q And what is your employment position with that
5 company?

6 A Vice President of the Edwardsport IGCC
7 Project.

8 Q You have several documents before you
9 including a volume that has been marked for
10 identification purposes as Petitioner's
11 Exhibit A.

12 Is that a copy of your prefiled
13 direct testimony in this proceeding?

14 A Yes.

15 Q And that document includes several sub-
16 exhibits.

17 Do you find in that volume
18 Petitioner's Exhibit A-1 consisting of
19 photographs of the Edwardsport integrated
20 gasification combined cycle plant?

21 A Yes.

22 Q Do you find also a reference to Confidential
23 Exhibit A-2 --

24 A Yes.

25 Q -- which is redacted and relates to portions

1 of the cost estimate in this case?

2 A Yes.

3 Q Do you find also Petitioner's Exhibit A-3
4 which involves a graph of future cancellation
5 costs?

6 A Yes.

7 Q Mr. Womack, I would like to direct your
8 attention to another document before you in a
9 sealed or in an envelope.

10 If you could remove that, and
11 specifically, I wish to direct your attention
12 to Petitioner's Exhibit A-4.

13 A A-4? Yes, I have it here.

14 Q And does that document consist of the
15 confidential portions of Exhibit A-4 to your
16 testimony?

17 A Yes.

18 Q And does that document relate to some of the
19 information requested by the Commission in its
20 prior rulings in the IGCC proceedings?

21 A Yes, it does.

22 Q If I could back up for a moment.

23 If you'd look at the first volume
24 that you were looking at, does the first
25 volume also contain the redacted provisions of

1 Exhibit A-4?

2 A Yes.

3 Q Now, directing your attention to the second
4 envelope, is that a copy of Petitioner's
5 Confidential Exhibit A-5?

6 A Yes.

7 Q And does the contents of that volume also
8 include information requested by the
9 Commission in prior proceedings?

10 A Yes, it does.

11 Q And now directing your attention back to the
12 first document, do you find there Petitioner's
13 Exhibit A-6 consisting of a copy of the
14 Verified Petition in this proceeding?

15 A Yes.

16 Q Mr. Womack, I may have skipped one of the
17 exhibits.

18 If you would look at the first
19 document with Confidential Exhibit A-2?

20 A Yes, this is the Confidential Exhibit A-2.

21 Q Related to the cost estimate information?

22 A Yes.

23 Q Now, Mr. Womack, do you have any changes or
24 corrections to your testimony?

25 A My testimony by its nature is a snapshot in

1 time; so, the information in my testimony was
2 accurate at the time that it was filed, but,
3 of course, the Project has been ongoing. So,
4 many of the details, such as percent completes
5 and ongoing activities, are different than at
6 the time of the filing, but I'm not planning
7 to update the entire document because it was
8 accurate at the time of the filing.

9 There are, however, a couple of
10 places where I felt would be important to make
11 a change.

12 Q Okay. Can you identify those in your
13 testimony?

14 A Yes. The first one is on Page 4 of my
15 testimony, lines -- starting on Line 12. Page
16 4, Line 12, there is a sentence which starts
17 with the words "Although this date is later
18 than", I would strike that entire sentence,
19 and in its place, I would add a sentence, and
20 the sentence that I would add says, "As of
21 April the 6th, 2010, the in-service date is
22 projected to be August 27, 2012." And then an
23 additional sentence which says, "Our goal now
24 is to be advanced enough with the start-up
25 activities and performance testing that we

1 will be able to run the plant in the summer of
2 2012 to meet peak demand periods even though
3 we are not officially complete."

4 Q Thank you, Mr. Womack.

5 MR. DuMOND: And for the record,
6 Your Honor, we have distributed copies of
7 those changes to counsel in this proceeding
8 and to the Commission.

9 Q (Mr. DuMond continuing) Do you have other
10 changes?

11 A There is one more change. On Page 7, Line 4,
12 the sentence reads "We expect the final
13 modified air permit to be issued in
14 March 2010."

15 I would change that sentence to
16 read "The final modified air permit was issued
17 March 1, 2010."

18 Other than that, I have no changes
19 to my testimony.

20 Q And do you adopt Exhibit A as modified as your
21 sworn testimony in this cause?

22 A Yes.

23 MR. DuMOND: Your Honor, at this
24 time, Petitioner offers into evidence
25 Petitioner's Exhibit A together with all of

1 the sub-exhibits that have been previously
2 identified including Petitioner's Exhibit A-1;
3 Petitioner's Confidential Exhibit A-2;
4 Petitioner's Exhibit A-3; Petitioner's
5 redacted Exhibit A-4; Petitioner's
6 Confidential Exhibit A-4; Petitioner's
7 Confidential Exhibit A-5 and Petitioner's
8 Exhibit A-6.

9 JUDGE STORMS: Mr. DuMond, just to
10 be clear from my perspective, A-2 in the
11 public version has some information.

12 Is it your intention to simply
13 offer the confidential version or the public
14 version and the confidential version of A-2?

15 MR. DuMOND: I guess my intent was
16 to offer both the -- thank you for bringing
17 that to my attention -- both the public
18 version and the confidential version.

19 JUDGE STORMS: Okay. Is there any
20 objection?

21 MR. HELMEN: No objection.

22 MR. POLK: No objection.

23 JUDGE STORMS: We'll show
24 Petitioner's Exhibit A; A-1; A-2 Confidential;
25 A-3; A-4; A-4 Confidential; A-5 Confidential

1 and A-6 admitted into this cause.

2

3 (PETITIONER'S EXHIBIT NO. A, BEING
4 THE PREFILED TESTIMONY OF MR. W.
5 MICHAEL WOMACK, WITH PETITIONER'S
6 EXHIBIT NOS. A-1, A-3, A-4 AND A-6
7 ATTACHED THERETO, ADMITTED INTO
8 EVIDENCE.)

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1 (PETITIONER'S EXHIBIT NO. A-2
2 CONFIDENTIAL; PETITIONER'S EXHIBIT
3 NO. A-4 CONFIDENTIAL AND
4 PETITIONER'S EXHIBIT NO. A-5
5 CONFIDENTIAL, ALL CONSISTING OF
6 THE CONFIDENTIAL EXHIBITS
7 SPONSORED BY WITNESS WOMACK,
8 ADMITTED INTO EVIDENCE ON A
9 CONFIDENTIAL BASIS.)

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1 MR. DuMOND: Your Honor, Mr.
2 Womack is available for cross-examination.

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

5 MR. POLK: Thank you, Your Honor.

6

7 **CROSS-EXAMINATION OF MR. W. MICHAEL WOMACK,**

8 **QUESTIONS BY MR. POLK:**

9 Q Good morning, Mr. Womack.

10 A Good morning.

11 Q Now, if we could -- I know you indicated that
12 lots of things change; that's the nature of
13 your testimony, and what was current when it
14 was filed may not be current now, and you
15 didn't update all of your testimony, but I'd
16 like to go over some of those things that
17 didn't get updated just to clarify where we
18 stand today.

19 Is there engineering work for the
20 Project that still remains to be done?

21 A Yes.

22 Q Okay. How much of the engineering remains to
23 be done?

24 A As a whole, the Project engineering work is 94
25 complete -- 94 percent complete right now.

1 Q Okay. Has the Company conducted the
2 engineering necessary for carbon captures at
3 levels necessary to comply with future carbon
4 emission limits?

5 A We are in the process of conducting
6 engineering in compliance with the
7 Commission's order that we study that subject.
8 I wouldn't have any way to judge whether it is
9 in compliance with future regulations since I
10 don't, you know, know what that would be, but
11 we are in the process. We have not completed
12 the engineering study, but we are in the
13 process.

14 Q All right. Is there any witness in this
15 proceeding competent to testify as to whether
16 that engineering would provide for facilities
17 that would meet future carbon limitations?

18 A To my knowledge, there is not.

19 Q And that engineering study is for capture of
20 carbon at what percent?

21 A We are studying -- We're trying to capture as
22 much as we can given the technology that we're
23 planning to use, and we expect that that
24 percent of capture right now, the way the
25 study is going, and it's not done yet, but it

1 would be in the 20 to 25 percent range.

2 Q Would that require modification of the

3 existing facilities?

4 A Very minor modifications to the existing

5 facilities.

6 Q And does the Company have an estimate of how

7 much those modifications would cost?

8 A No, we do not at this time. That is part of

9 the ongoing study.

10 Q Okay. Can you tell me what percentage of

11 construction has been completed?

12 A The construction is 37 percent complete at

13 this time.

14 Q Okay. And would I be correct that since the

15 engineering for carbon capture hasn't been

16 completed yet, that the construction necessary

17 for carbon capture hasn't been started yet?

18 A No, there is no work done on construction.

19 Q Okay. If the plant is required to capture

20 carbon in order to comply with future carbon

21 limitations, can you tell me what additional

22 construction will be needed?

23 A Not without knowing what the regulations would

24 be. There is various stages of construction

25 that will be required depending on how much

1 carbon dioxide we are attempting to capture.

2 Q Okay. Would it be fair to say, then, that it
3 would be impossible to or, at least, difficult
4 to estimate how long it would take to complete
5 that construction?

6 A You could put a range on it because, you know,
7 it's not -- I mean, there is bounds to how
8 long it could possibly take. We're not
9 building a, you know, a European cathedral.

10 So, it wouldn't take that long,
11 just as an example, but yes, it could vary by
12 a year or two depending on the extent of the
13 construction necessary.

14 Q Now, you indicated in your prefiled testimony
15 that procurement progress was only 53 percent
16 complete.

17 Can you tell me what that
18 percentage of completion would be now?

19 A Right now, it is 72 percent complete. Now,
20 that includes not only what people might
21 typically think of as procurement, which is
22 just the act of buying stuff, but it includes
23 the fabrication and delivery of the material.

24 Q Am I correct that you have testified that
25 design modifications have been necessary as

1 you move from the engineering phase into full
2 construction?

3 A Yes.

4 Q Okay. What engineered components required
5 modification?

6 A There is -- It depends on what you mean by
7 modification.

8 What I would mean by modifications
9 would be virtually every aspect of the plant
10 had some modifications to it. Some are minor;
11 some are significant. The basic process has
12 not changed, but the details necessary to
13 implement that process have changed.

14 Q Okay. Have you provided testimony or
15 information in your testimony with respect to
16 the significant modifications that were made?

17 A We believe we have provided significant
18 examples of modifications that were made in my
19 testimony, and what we've attempted to do
20 is -- in those examples is to provide the most
21 significant examples that we could think of.

22 Q All right. Were those modifications due to
23 flaws in the engineering?

24 A They were due to a change in the assumptions
25 that were necessary. I wouldn't call them

1 flaws. I would say it was changing -- a
2 change in the understanding of what was
3 necessary as we became more familiar with the
4 details of the work.

5 Q Now, when you say we, do you mean the Company;
6 do you mean --

7 A I'm using --

8 Q -- GE; do you mean all of the folks involved
9 in the Project?

10 A -- the collective we, yes, the Project team as
11 a whole which would include not only Duke
12 Energy but our major vendors and contractors.

13 Q Were any of those modifications due to changes
14 in customer demand, environmental regulations
15 or other changes in state, local or federal
16 laws?

17 A Some were due to a change in how we are
18 implementing some environmental laws. I'm
19 trying to think of how to answer that. I'm
20 not aware of any actual law changes that have
21 affected us or any customer demand issues that
22 have affected us, but there have been some
23 environmental -- some changes due to
24 implementing our air permit requirements.

25 Q Okay. Do you have knowledge of whether that

1 air permit is still under appeal?

2 A To my -- I have been told that it is. People
3 I have consulted with have told me it is still
4 under appeal.

5 Q Okay; thank you.

6 So, getting back to the
7 modifications, they were due to changes in
8 assumptions that the Company or the engineers
9 had made at some point?

10 A Yes.

11 Q All right. Have any of those modifications
12 been due to oversights or errors or
13 miscalculations?

14 A I couldn't -- I couldn't give a blanket no to
15 that. You know, there is -- When you have
16 over 400 engineers involved in designing a
17 plant this size, there are bound to be some
18 errors and omissions, but I would say I have
19 not seen anything in my judgment that was
20 beyond the range of normal engineering
21 practice.

22 Q Was the range of normal engineering practice
23 taken into account when the Company submitted
24 its first cost estimates for the Project?

25 A To the best of our attempt -- of our ability

1 to do so at that time, yes, it was. We
2 certainly did attempt to do that.

3 Q Now, moving on a little bit to Page 5, you
4 talk about steam turbine installation and
5 interconnection piping in the power island and
6 say ". . .While not yet a critical sequence of
7 activities, this path needs to be managed
8 closely."

9 I was hoping you could clarify for
10 me what you mean by critical sequence of
11 activities and why it's not yet there.

12 A Every project is a sequence of activities or
13 is thousands of activities that have to be
14 performed to complete the construction of the
15 Project. Some of it can be done in parallel.
16 Some of them must be done sequentially. I
17 can't put the top layer of steel on until I
18 put the lower layers of steel on. It just
19 would be physically impossible.

20 So, when you plan a project, there
21 are some things that you do independently of
22 each other, and there are some things that
23 must follow sequentially. So, there are a
24 multitude of sequential paths through the
25 construction process that lead from the

1 beginning to the end of the Project, a
2 multitude -- hundreds of independent paths of
3 construction.

4 One of those paths is the steam
5 turbine installation and all the activities
6 that come before it and all the activities
7 that come behind it sequentially. At the time
8 that we filed this testimony, that sequence of
9 activities was not the longest path through
10 the construction of the Project. So, it was,
11 therefore, not what we would call a critical
12 path. It's not critical to the completion
13 date of the Project. If we stumbled and
14 missed a day, it wouldn't extend the length of
15 the Project.

16 That's what the word critical
17 means. This is -- The word critical here is
18 used in a scheduling language sense. Critical
19 path means the longest sequence of activities
20 through a construction project.

21 Q So, then, is the steam turbine installation
22 and interconnection piping currently on
23 schedule, and when do you expect that to
24 happen or be completed?

25 A I don't have -- I don't have a memory of the

1 dates. I can't memorize all the dates. So, I
2 don't know the date that that was scheduled to
3 be completed, but in terms of whether it is on
4 schedule or not, it is still not the critical
5 path of the Project. I would say that.

6 Q Okay. And can you remind me of what an HRSG
7 is?

8 A It's the heat recovery steam generator. It's,
9 basically, a horizontal boiler, if you will,
10 to convert water to steam.

11 Q All right. And have those been erected?

12 A They are in the process of being erected, yes.

13 Q Are those one of the areas where there has
14 been changes in assumptions or --

15 A Nothing has changed of any significance in the
16 HRSGs.

17 Q Has GE's RSC erection subcontractor completed
18 the final welding and hydro testing?

19 A No.

20 Q Have they started?

21 A No.

22 Q When do you anticipate they will begin?

23 A The first step is to erect the radiant syngas
24 cooler or RSC vessels into their supporting
25 structure. So, the first one is scheduled to

1 be erected on a Sunday afternoon in the second
2 half of May. We haven't finalized the date
3 yet, but it will be either May 16th, May 18th,
4 something in that range, on a Sunday
5 afternoon, and then the second one will follow
6 closely behind, and then the internals will
7 be -- the boiler tubes and equipment will be
8 installed, and then the cap will be set on,
9 and then the welding process will begin, and
10 then the hydro testing will happen.

11 That is a, you know, six-month,
12 roughly, sequence of events. So, starting in
13 May and completing sometime near the end of
14 the year.

15 Q Of this year, 2010?

16 A Of this year, yes.

17 Q Now, moving on to Page 6, at Line 8, you begin
18 a discussion of the increased quantities of
19 basic work --

20 A Yes.

21 Q -- such as wire and cable and pipe, steel and
22 concrete.

23 Were all of those identified in
24 the engineering studies that have been
25 completed to date?

1 A Were all of the -- I'm sorry, I'm not sure I
2 understand your question.

3 Q The quantities of basic work, such as wire and
4 cable, pipe, steel and concrete.

5 A Are you asking were the basic quantities
6 contained in the original estimate or are you
7 asking about whether the current quantities
8 have been developed in the engineering work
9 that's going on? I'm not clear what you're
10 asking.

11 Q Well, let me rephrase it then.

12 Have the quantities of basic work,
13 such as wire and cable, pipe, steel and
14 concrete, increased over the amounts
15 identified in the original engineering
16 studies?

17 A Yes.

18 Q Did the original engineering studies include
19 an escalation factor or a range or bandwidth
20 in which they expected those quantities of
21 wire and cable, pipe, steel and concrete might
22 fluctuate?

23 A Yes.

24 Q All right. And is it correct that the amount
25 that's been needed to date exceeds the amount

1 that was projected to be needed by date in the
2 engineering studies previously performed?

3 A Yes.

4 Q All right. I think we've already covered a
5 couple of these.

6 Oh, yes, the structural steel is
7 coming from China; correct?

8 A The majority of it is coming from China, yes.

9 Q All right. Who made the decision to buy
10 Chinese steel over steel manufactured in
11 America; perhaps, even by customers of Duke
12 Energy?

13 A Well, we have a series of approval levels
14 within the Company, but I would say it was
15 myself and my supervisor, Rick Haviland.

16 Q So why Chinese steel and not American steel?

17 A We believe that we are under an obligation to
18 customers to provide the most cost-effective
19 project we can, and the cost difference to use
20 Chinese steel was significant.

21 Q All right. Are you aware of the problems with
22 the Chinese drywall which has been used in New
23 Orleans to rebuild after Hurricane Katrina?

24 A Only what I've read lately in the paper. I've
25 not followed that issue.

1 Q All right. Are you aware, then, that there is
2 a recommendation that some of those homes need
3 to be gutted and have the drywall replaced?

4 A Yes.

5 Q All right. Are you also aware of past
6 instances where lead and cadmium were used in
7 children's jewelry exported from China to the
8 U.S.?

9 MR. DuMOND: Your Honor,
10 objection. This goes well beyond the scope of
11 this proceeding.

12 JUDGE STORMS: Your response?

13 MR. POLK: Your Honor, this series
14 of questions, I'm about to get to the last one
15 on this, and it will all make sense at that
16 last question.

17 JUDGE STORMS: I'll sustain the
18 objection.

19 You can proceed to your last
20 question.

21 A Yes, I am aware of that.

22 Q All right. Can you tell me what testing
23 procedures the Company has put in place to
24 ensure that the Chinese steel it chose over
25 American steel is manufactured to the

1 necessary requirements?

2 A We have used a Chinese steel vendor that our
3 design and procurement services contractor,
4 Bechtel, uses routinely and with success --
5 repeated success on past projects. So, the
6 first thing we've done is selected a Chinese
7 vendor who has a really, really good track
8 record of supplying high quality steel to U.S.
9 projects.

10 Secondly, we have placed
11 inspectors in their shop around the clock to
12 watch every step of their fabrication and
13 manufacturing processes to ensure that they're
14 meeting the specifications and following the
15 specifications for the Project, and then
16 before it ever leaves China, we have a final
17 inspection of, you know, testing the
18 metallurgy and testing the strength of the
19 material to make sure that it's meeting our
20 specifications.

21 Q Thank you, Mr. Womack.

22 MR. POLK: I have no further
23 questions for this witness, Your Honor.

24 JUDGE STORMS: Thank you, Mr.
25 Polk.

1 Mr. Helmen?

2 MR. HELMEN: Thank you, Your
3 Honor.

4

5 **CROSS-EXAMINATION OF MR. W. MICHAEL WOMACK,**

6 **QUESTIONS BY MR. HELMEN:**

7 Q Mr. Womack, if I heard you correctly, I
8 thought you indicated that some of the
9 changes, updates or amendments to the Project
10 or its costs had to do with errors and
11 omissions?

12 A That's entirely possible, yes.

13 Q And I'm wondering, have any disputes been
14 submitted for arbitration or mediation?

15 A No.

16 Q Has Duke made a claim against or made a claim
17 to an insurance company whether it's the
18 generals or one of your subcontractor's
19 insurance companies?

20 A No; no.

21 Q Has Duke made a claim to its own insurance
22 company for any cost overruns?

23 A Not that I'm aware of, no.

24 Q Thank you.

25 MR. HELMEN: That's all I have.

1 JUDGE STORMS: Redirect for this
2 witness?

3 MR. DuMOND: Yes.

4 JUDGE STORMS: Please proceed.

5

6 **REDIRECT EXAMINATION OF MR. W. MICHAEL WOMACK,**
7 **QUESTIONS BY MR. DuMOND:**

8 Q Mr. Womack, Mr. Polk asked you whether there
9 were any changes in design due to changes in
10 environmental laws.

11 In your direct testimony, you
12 discuss the -- what we call the grey water
13 issue; is that correct?

14 A Yes.

15 Q And are there increased costs associated with
16 the change in the way to dispose of grey
17 water?

18 A Yes.

19 Q And as described in your testimony, do those
20 costs relate to a difference in interpretation
21 between Duke Energy Indiana and the EPA
22 related to environmental regulations?

23 A Yes.

24 MR. DuMOND: Nothing further, Your
25 Honor.

1 JUDGE STORMS: Thank you,
2 Mr. DuMond.

3 Just for clarification, I've just
4 had a discussion with the Court Reporter, and
5 with respect to the exhibits that were
6 admitted, I think I went down this list, but
7 A-2 is not reflected in the record, and I want
8 to make sure that A-2 and A-2 Confidential are
9 accurately reflected in the record as being
10 admitted into this cause as separate exhibits.

11
12 (PETITIONER'S EXHIBIT NO. A-2,
13 BEING A DOCUMENT ENTITLED "IGCC
14 COST ESTIMATE CONFIDENTIAL NOT FOR
15 PUBLIC ACCESS", ADMITTED INTO
16 EVIDENCE.)

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1 **QUESTIONS OF MR. W. MICHAEL WOMACK,**

2 **BY JUDGE STORMS:**

3 Q Mr. Womack, I just have a couple of questions
4 for you, and the first one goes to Page 4 of
5 your testimony --

6 A Okay.

7 Q -- down toward the bottom there, you talk
8 about -- I just want to get some clarification
9 because I know we have this proceeding, and
10 then we have a subdocket proceeding to deal
11 with costs that are escalating and how those
12 are to be addressed, but in this portion of
13 your testimony, on Lines 21 and 22, you talk
14 about \$2.35 billion and then \$150 million
15 more --

16 A Yes.

17 Q -- is that to be considered in this proceeding
18 or is that to be considered in the subdocket,
19 the additional \$150 million?

20 A It is to be considered in the subdocket is my
21 understanding.

22 Q Okay. Take a look at Page 13 of your
23 testimony, and there you talk about, right in
24 the middle there, the status of the air
25 permit.

1 Do you have any more information
2 about the particulars of the original air
3 permit and when that might be finalized or
4 where it is in the process, I guess?

5 A The original air permit, as we've testified
6 previously, was granted in January of 2008,
7 and there were subsequent appeals from
8 Intervenors; principally, the Sierra Club, and
9 there has been a lot of activity on that which
10 we've testified to, but my understanding is
11 that in the -- after consulting with our
12 attorneys, who are following this, just before
13 this proceeding, there really has been no
14 change since this testimony was filed.

15 We are still waiting on the
16 Administrative Law Judge to rule on some
17 summary judgments that we had requested, and
18 so there has been no further action on that,
19 and there has been no case management order
20 issued or finalized and no timetable for
21 evidentiary hearings or anything else along
22 those lines. So, it's really where it was six
23 months ago.

24 Q So, there is really no update, and if I were
25 to ask you, you would just be speculating with

1 respect to how it might proceed?

2 A Exactly, yes.

3 Q How do you view that as impacting the overall
4 schedule and the construction of the Project
5 itself? It seems like an important
6 requirement that needs to be finalized.

7 Where does that fit in your
8 planning or does it?

9 A Well, it doesn't really because until there is
10 an order to the contrary, the permit that has
11 been issued is fully implementable or it is
12 final until there is a change; you know,
13 unless a judge or somebody vacates that
14 permit. So, we have all of the required
15 permissions and abilities to fully complete
16 the Project. We can finish the Project,
17 complete it, operate the plant with absolutely
18 no restrictions due to the air permit.

19 So, it does not enter into our
20 thinking at all until such time as something
21 different would happen, and then we would have
22 to adjust to whatever the reality of that was.

23 Q Okay. Take a look at Page 15 of your
24 testimony. Just looking at the bottom section
25 of -- This is your cost estimate section. Do

1 you see that?

2 I'm just looking at the bottom
3 part. Mr. Polk asked you about this quite a
4 bit, but, you know, I see numbers at the
5 bottom here that quantities have been growing
6 60 percent; 25 percent for concrete;
7 25 percent for manual valves; electrical cable
8 is 10 percent, and then it looks like at Line
9 20, you forecast the quantity increases to be
10 77 percent for structural steel; 50 percent
11 for piping; 39 percent for concrete --

12 A Yes.

13 Q -- how does all that happen? I mean, we
14 started way back when with -- and I think you
15 were, perhaps, involved in this, but we
16 started with a FEED study, and --

17 A Yes.

18 Q -- isn't that designed to capture these types
19 of things?

20 A It is designed -- It is planned to do that,
21 yes, but, obviously, it didn't. So, you know,
22 how this happens is that the -- It's hard to
23 think about how to explain it.

24 We struggle even internally to
25 evaluate ourselves what's going on here, but I

1 think the simplest way to say it is this is a
2 unique technology. We thought we had done all
3 of the steps that it would take to be able to
4 understand what quantities would be involved,
5 and, you know, reacting off of Mr. Polk's
6 question awhile ago, he asked, you know, was
7 there some kind of a design allowance
8 included -- that's not the word he used, but
9 that's the way I would phrase his question --
10 was there some kind of allowance included for
11 maybe the fact that these quantities might
12 grow some, and the answer is yes, but it was
13 nowhere near the amount that it turned out
14 that we really needed for this.

15 So, you know, without doing a full
16 design which would have cost maybe 50
17 million -- well, the full design would have
18 cost even more, but in order -- you know, in
19 order to really understand these quantities,
20 we might have -- maybe we should have spent 50
21 or 80 million, but because of the nature of
22 the Project being so unique, we thought we had
23 included factors which would account for the
24 uniqueness, but we misjudged that, obviously,
25 from the original study.

1 So, you know, we really just
2 didn't understand all of the drivers that were
3 going to be causing these quantities to
4 increase, and it's been a surprise to all of
5 us including the people doing the design,
6 Bechtel.

7 Q Is the FEED study even useful to you at this
8 point? I mean, if you had to do it all over
9 again, would you have used that same approach?
10 If you were to pull the FEED study out, does
11 it have any resemblance to what's actually
12 constructed at this point?

13 A The process does. I mean, the basic --
14 There's two parts to this FEED study. One is
15 to design the processes. You know, how does a
16 molecule proceed through this whole thing to
17 take it from a molecule of coal and turn it
18 into a molecule of synthetic natural gas?

19 So, all of those chemical
20 processes and physical processes, okay, you
21 know, now we run it through a pump; now we run
22 it through a fan; now we run it through a
23 piece of pipe over here, all of that is -- has
24 really not changed in any significant way from
25 the FEED study. So, the FEED study -- that

1 portion of the FEED study was extremely useful
2 and necessary.

3 Then the second part of the FEED
4 study is to say okay, now let's take that
5 process design, and say okay, if I'm going to
6 run that molecule over here to a pump now,
7 what kind of pump is it; what size pump is it?
8 That is where the misjudgments have come into
9 play where we have not -- as it's turned out,
10 we were not able to predict the size of those
11 components, the size of the pipes needed. The
12 metallurgy of the pipes have changed
13 significantly. The amount of pipe that we
14 thought would be kind of conventional carbon
15 steel pipe that you could buy off the shelf,
16 the actual design is much less percentage than
17 we had in our original study, and we have a
18 lot more exotic stainless steel, and, you
19 know, we have the distinction, unfortunately,
20 of being the largest single user that anybody
21 has ever heard of of what's called a Super-
22 Duplex stainless, and so there is just a lot
23 of that more than we thought.

24 That's the -- The only thing I can
25 tell you is that the FEED study, parts of it

1 were very useful; in hindsight, parts of it
2 were not done to the level that we thought
3 they were being done to; in hindsight, what it
4 would have required. We thought -- At the
5 time, we thought it was adequate. It turns
6 out not to have been adequate.

7 Q Mr. Womack, thank you.

8 Commissioner Ziegner?

9

10 **QUESTIONS OF MR. W. MICHAEL WOMACK,**

11 **BY COMMISSIONER ZIEGNER:**

12 Q Mr. Womack, I wanted to follow up on Judge
13 Storms' questions to you.

14 I thought I heard you indicate
15 that you could have conducted, for lack of a
16 better term, and don't let me put words in
17 your mouth, a more detailed FEED study by
18 spending an additional 50 million?

19 A Yes.

20 Q Did I hear you correctly?

21 A Yes. In hindsight -- What I'm saying is at
22 the time that we were doing the FEED study, we
23 didn't think that was necessary. We -- You
24 know, I think you were on the Commission at
25 that time; so, you may recall that we did come

1 with a request for approval to do a FEED
2 study, and we laid out what we thought was a
3 very adequate plan and an adequate budget to
4 do that. So, at the time that we originated
5 that FEED study and FEED study request, we
6 thought we had a very good plan, but in
7 hindsight, just being very honest about it, in
8 hindsight, we really would have had to have
9 done a much more detailed study and spent much
10 more money really understanding how to
11 translate the process design into a physical
12 design.

13 Q I certainly don't want to get into any issues
14 in the subdocket, but given the projected cost
15 increases that you outlined in your testimony
16 here, might not the 50 million have been well
17 spent?

18 A In hindsight, it might have been well spent,
19 yes. It's -- That's all 100 percent
20 hindsight. At the time, everything we did at
21 the time was reasonable and was appropriate
22 from our understanding of the needs at that
23 time.

24 Q But is this because -- The amount of changes,
25 is that being driven primarily because of the

1 newness of the technology?

2 A In our judgment, it is, yes.

3 Q But I recall, I believe, at the time of the
4 original petition, GE had a lot of experience,
5 certainly not on this scale, but it had a lot
6 of experience with this technology --

7 A Yes.

8 Q -- what -- was it the ramping up of the size
9 of it, the scale of it, that --

10 A I think there are multiple factors. I think
11 that GE -- I'm going to give you the long
12 explanation, you know; so, the history of IGCC
13 is that it's always been a marriage of the
14 chemical process side, the gasification piece
15 of it, and the power generation piece, and
16 that was always two different companies and
17 two different market segments.

18 If you look at the plant that we
19 built in Wabash -- at the Wabash River station
20 in the early '90s over in Terre Haute, we
21 built -- we designed -- using Sargent & Lundy,
22 we designed and built the power block. There
23 was a fence next to our piece, and then on the
24 other side of the fence, a company called
25 Destec built the gasification piece, and they

1 held their design close to the vest like this,
2 and we held ours like this, and so there was
3 always a suspicion among people in the
4 industry that geez, you know, if we could ever
5 just work together more closely on this, you
6 could really get some efficiencies out of
7 integrating these processes better.

8 That was one of the main drivers
9 behind GE buying this technology in 2004 from
10 Texaco. Now, for the first time in 2004, you
11 have one company owning both the power
12 technology and the gasification technology,
13 and so what they did was they set out to marry
14 those two in an integrated fashion, and so
15 even though there have been plants built
16 using -- like the Tampa Electric plant that we
17 refer to frequently, using the -- what is now
18 the GE technology, it was not GE at that time;
19 it was Texaco.

20 Even though there have been plants
21 built, there has never been until now this
22 marriage of the two and the heavy integration
23 of the two, and so, there was a judgment
24 applied as to what would be involved in that
25 integration, but when they really got down to

1 it and began implementing this, it is a much
2 stronger integration than we anticipated.

3 There is going to be benefits to
4 that. There is, you know, heat rate
5 improvements; there is performance
6 improvements. The level of availability and,
7 you know, the lack of down time that we think
8 we're going to see from this plant is going to
9 be a significant step forward for IGCC
10 technology much better than the Tampa Electric
11 plant or the Wabash River plant or anything
12 else on the market.

13 So, there are benefits to this
14 high level of integration, but the downside
15 is, you can't integrate the two well without a
16 lot of pipes running back and forth and wires
17 and so forth; so, you know, all of that as it
18 developed, as the details began to emerge in
19 the design, led to these quantity increases
20 that we see which leads to the initial capital
21 cost of the Project being higher than
22 anticipated.

23 I don't know if that fully
24 answered your question, and it's kind of a
25 long answer, but that's all I can come up

1 with.

2 Q No, and thank you for the answer.

3 You mentioned something in the
4 course of answering my question about the
5 engineering.

6 Is it typical for a project of
7 this size to -- based on your experience, that
8 the engineering is just now being completed?

9 A You know, it just so happens that I re-read my
10 testimony from six months ago, and I think you
11 asked a very similar question, and at the
12 time, I said this is typical because this is
13 what was planned. At that time, we were
14 80 percent complete with engineering, and our
15 plan was to be 80 percent complete.

16 I would say since then, the
17 engineering has dragged on more than what we
18 had planned. So, getting this last 20 percent
19 of the engineering done is taking longer and
20 is more complicated than what we had planned.
21 So, I think lately, it has been longer than we
22 expected.

23 It's, again, a function of -- a
24 function of the level of integration between
25 the GE engineers and the Bechtel engineers,

1 and on a normal project, you can -- the
2 engineer can just, basically, throw the
3 information into the computer model, and it's
4 so standard and so typical that it's
5 99.whatever percent accurate, and nobody needs
6 to fool with it, but now, after -- on this
7 job, after the information is initially in
8 there, then, the GE engineers do a thorough
9 review on what Bechtel has designed, and they
10 have comments and questions. That points up
11 problems with what the engineer designed
12 because he was maybe, you know, implementing
13 what he understood to be the specification,
14 but since it is a new specification and the
15 first time ever, there are some twists on the
16 interpretation that GE wants to apply.

17 So, there is a higher level of
18 changes after the review than there is on a
19 typical job, and so we see a lot of back and
20 forth between GE and Bechtel on small changes
21 in the engineering. Some of it is simple
22 stuff like the paint code, you know, and that
23 piece of pipe should have a different kind of
24 paint on it. Well, that's not really a big
25 impact to us, but some of it is, though. You

1 misunderstood how and where to interpret -- to
2 apply this certain metallurgy requirement; so,
3 your initial design is for carbon steel, but
4 we need it to be something else.

5 So, it is taking longer -- I would
6 have to say it is taking longer to finish the
7 engineering. The initial 75, 80, 85 percent
8 happened in about the time frame that we
9 thought it should happen; although, it was
10 delayed in the beginning. It started a little
11 later and got off to a little slower start
12 than we wanted, but the bulk of it happened
13 right when we thought it would happen. It is
14 winding down slower than we thought.

15 Q One last area. You discussed on Page 4 of
16 your testimony the in-service date of
17 July 8th, and then you updated that with us
18 and now are projecting an in-service date of
19 August 27th.

20 That's -- While not an eternity,
21 that's a significant amount of time --

22 A Yes.

23 Q -- upwards of six weeks. What's driving that?

24 A Basically, you know, and we'll answer this
25 more fully in the subdocket proceeding, but

1 what's driving it is the initial -- I would
2 say, as I referred to awhile ago, the initial
3 kind of slow start on getting vendor
4 information in the early designs. You know,
5 the first thing you do in design is you go out
6 to buy the equipment, and so we were buying
7 equipment in Summer -- Spring/Summer, early
8 Fall of 2008 when there was a big -- before
9 the recession, a big building boom. Vendors
10 were slow responding. Vendor information and
11 details were slower getting in than we
12 imagined. That led to a little bit slower
13 start in engineering. That delayed some of
14 the pipe design.

15 That was a factor but not the
16 biggest factor. The biggest factor was,
17 again, these increased quantities. So, with
18 the quantities increasing, it takes longer to
19 design, you know, 50 percent more pipe than it
20 would if you had 50 percent less. That leads
21 to later than you would like to see start of
22 the piping fabrication. So, then, the piping
23 fabrication takes a little longer. The change
24 in metallurgy from carbon steel to more exotic
25 materials takes longer to actually get the

1 material in order to be able to use it for
2 fabrication. That all culminates in having
3 piping and steel delivered to the job later
4 than you really had planned originally. Now
5 you've got a later start on construction than
6 you really had planned. On top of that, with
7 50 percent more pipe, 80 percent more steel
8 and so forth, now it takes longer to build all
9 that too.

10 So, once the design became fully
11 known, the quantities became fully known, the
12 scope of this became fully known, and we had
13 awarded the contracts, and the actual -- the
14 contractors that were actually going to be
15 building it began to firm up their
16 construction plans, and we were able to do a
17 lot of the studies and analysis that you do
18 around all those things, we came to the
19 conclusion in February that construction work
20 is going to take about five months longer than
21 we planned. So, the -- what we call
22 mechanical completion date, the date at which
23 the construction itself is finished, has now
24 been pushed out five months from what we were
25 planning as recently as, you know, last Fall.

1 So, this all happened in just the January/
2 February time frame that we came to realize,
3 geez, we cannot build this thing as fast as we
4 would like. That got pushed out.

5 Now, we're able to pull the end
6 date a little closer to that by shortening up
7 start-up activities. There was some
8 activities during the start-up and testing
9 that we were able to run in parallel rather
10 than in sequence, and we think we're able to
11 do some of it faster than we originally
12 planned by bringing on more resources and so
13 forth; so, we extended the construction
14 portion of the schedule five months, but we've
15 pulled back the test and start-up portion by
16 two months, and that leads to a three-month
17 longer schedule than planned, and that's where
18 we come to the August 27th date.

19 You know, as I -- The sentence
20 that I added in my testimony is important to
21 note, though, because what we're attempting to
22 plan now is that even though we will not be
23 substantially complete until probably the end
24 of the August -- I mean, there is some
25 opportunity to improve it, but it's not --

1 it's not as good of an opportunity as I would
2 like. What we're planning to do is to get the
3 plant in good enough shape by the Summer of
4 2012 that we can interrupt testing and tuning
5 of the equipment and run the plant to make
6 load for customer demand that summer during
7 high peak demand periods. There is a lot of
8 details to be worked out in that game plan, a
9 lot of interaction with MISO that we have to
10 figure out as far as how that would exactly
11 work, but we're pursuing that plan so that we
12 can provide power even in the summer -- during
13 that summer even though we're not officially,
14 substantially complete.

15 Q And just so I'm clear, that would be prior to
16 the August 27th new in-service date?

17 A Yes; yes. The August 27th date that we're now
18 projecting is the, if you will, substantial --
19 formal, official, substantial completion date
20 has the meaning that it always had. It would
21 be what we call the in-service date. It would
22 be the date at which we would hand the plant
23 over and tell MISO it's fully dispatchable; do
24 with it whatever you want; turn it on; turn it
25 off, whatever. So, that date is the

1 August 27th date.

2 We will be able to make power --
3 in fact, we will be making power for the
4 entire ten months prior to that at various
5 times as we test and tune things. So, the
6 plan is that we will try to find a way of
7 working with MISO to be able to produce power
8 that summer to meet the peak demands even
9 though we're not substantially complete. We
10 will just postpone our work while we're
11 running.

12 COMMISSIONER ZIEGNER: Thank you.

13 JUDGE STORMS: Mr. Womack, thank
14 you very much for your testimony. You're
15 excused.

16 WITNESS WOMACK: Thank you.

17

18

19

20 (WITNESS W. MICHAEL WOMACK EXCUSED)

21

22

23

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25

1 JUDGE STORMS: Petitioner, you may
2 call your next witness.

3 MR. DuMOND: Your Honor,
4 Petitioner calls Ms. Diana Douglas.

5 JUDGE STORMS: Please proceed.

6
7 **DIANA L. DOUGLAS**, a witness appearing on behalf
8 of the Petitioner, having been
9 first duly sworn, testified as
10 follows:

11

12 **DIRECT EXAMINATION,**

13 **QUESTIONS BY MR. DuMOND:**

14 Q State your name for the record.

15 A My name is Diana L. Douglas.

16 Q Please identify your employer.

17 A I'm employed by Duke Energy Business Services
18 LLC.

19 Q And what is your position with your employer?

20 A I'm Director of Rates.

21 Q You have a document before you that has been
22 marked by the Court Reporter as Petitioner's
23 Exhibit B. Do you see that?

24 A Yes.

25 Q Is that a copy of your prefiled direct

1 testimony in this proceeding?

2 A Yes, it is.

3 Q And does your testimony also include several
4 sub-exhibits labeled B-1 through B-4?

5 A Yes, it does.

6 Q And if I could walk you through those for just
7 a moment.

8 Does Petitioner's Exhibit B-1
9 consist of the new Rider 61 for which the
10 Petitioner is requesting approval in this
11 proceeding?

12 A Yes, it does.

13 Q And directing your attention to Petitioner's
14 Exhibit B-2, does that consist of a variety of
15 schedules used in the calculation of the new
16 Rider 61 adjustment factor?

17 A Yes, it does.

18 Q And Petitioner's Exhibit B-3, does that
19 consist of an indication of the impact on the
20 average residential customer if the new Rider
21 61 is implemented?

22 A Yes.

23 Q And finally, Petitioner's Exhibit B-4, is that
24 a red-line version of Rider 61 which shows the
25 changes from the prior Rider 61?

1 A Yes, it is.

2 Q Now, are there also some confidential pages
3 associated with Petitioner's Exhibit B-2?

4 A Yes, there are.

5 Q And if you could look in the envelope or has
6 the envelope been marked as Petitioner's
7 Confidential Exhibit B-2?

8 A Yes, it has.

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

11 A No, I don't.

12 Q And do you adopt Petitioner's Exhibit B as
13 well as the sub-exhibits previously identified
14 as your sworn testimony in this proceeding?

15 A Yes, I do.

16 MR. DuMOND: Your Honor,
17 Petitioner offers into evidence Petitioner's
18 Exhibit B, including Sub-Exhibits B-1 through
19 B-4 and including Petitioner's Confidential
20 Exhibit B-2.

21 JUDGE STORMS: Okay. Is there any
22 objection?

23 If not, we'll show Petitioner's
24 Exhibits B, B-1, B-2, B-3, B-4 and B-2
25 Confidential admitted into this cause.

1 (PETITIONER'S EXHIBIT NO. B,
2 BEING THE PREFILED TESTIMONY OF
3 MS. DIANA L. DOUGLAS, WITH
4 EXHIBIT NOS. B-1 THROUGH B-4,
5 INCLUSIVE, ATTACHED THERETO,
6 ADMITTED INTO EVIDENCE.)

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1 (PETITIONER'S EXHIBIT NO. B-2
2 CONFIDENTIAL, BEING A CONFIDENTIAL
3 EXHIBIT SPONSORED BY WITNESS
4 DOUGLAS, ADMITTED INTO EVIDENCE ON
5 A CONFIDENTIAL BASIS.)
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1 MR. DuMOND: Your Honor, Ms.
2 Douglas is available for cross-examination.

3 JUDGE STORMS: Thank you.
4 Mr. Polk?

5 MR. POLK: Thank you, Your Honor.

6

7 **CROSS-EXAMINATION OF MS. DIANA L. DOUGLAS,**

8 **QUESTIONS BY MR. POLK:**

9 Q Good morning, Ms. Douglas.

10 A Good morning, Mr. Polk.

11 Q Now, am I correct that what the Company is
12 requesting in this proceeding is authorization
13 to recover the amount of Duke Indiana's
14 expenditures for the IGCC facility that was
15 incurred through September 30, 2009 plus
16 regulatory filing costs and a return on that?

17 A The Company is asking recovery on the
18 expenditures -- recovery of return on the
19 expenditures that were incurred through
20 September 30th as well as the miscellaneous
21 operational expenses that you mentioned, Black
22 & Veatch costs, some depreciation and external
23 expenses incurred for regulatory support.

24 Q Okay. And that's only for those expenses
25 through September 30th of 2009?

1 A Yes.

2 Q Okay. Now, at the time that you filed your
3 testimony, and I'm looking at Page 7, Line 7,
4 you stated that currently, the only portion of
5 the Project or portions of the Project which
6 have been placed in service and are being
7 depreciated are the transmission line
8 relocation projects.

9 Would I be correct that
10 irrespective of whether they're being
11 depreciated or not, the only portion of the
12 Project which has been placed in service is
13 the transmission line relocation?

14 A Yes.

15 Q So, no other portion of the Project is being
16 used or useful at this time, is it?

17 A The rest of the Project is in the process of
18 construction. It has not been determined to
19 be used and useful other than through the
20 periodic IGCC tracker filings -- the approval
21 of the inclusion of the costs in the periodic
22 IGCC tracker filings.

23 Q Okay, but no other portion of the Project is
24 providing service at this date; correct?

25 A That's correct.

1 Q Now, how much of an increase in the annual
2 revenue requirement is the Company seeking in
3 this proceeding?

4 A It's about 49 million of a six-month revenue
5 requirement, \$49,090,920 over a six-month
6 period. That's the total revenue requirement.

7 Q Okay. So, over a year, that would be around
8 \$98 million, \$99 million?

9 A Yes.

10 Q Okay. And the only portion of the Project
11 that is providing any service to customers
12 today that you're requesting that \$90 million
13 or, you know, \$98 million a year for is the
14 transmission relocation; correct?

15 A That's correct.

16 Q That's pretty expensive transmission, wouldn't
17 you say?

18 A Pretty expensive facility that we're building
19 and a long time period over which to build it.

20 Q Now, you divided the total jurisdictional
21 revenue requirement by actual kilowatt hour
22 sales for the six-month period ending
23 December 30, 2009; correct?

24 A Yes.

25 Q All right. Who provided the actual kilowatt

1 hour sales numbers to you, do you recall?

2 A They were from our customer billing system,
3 from reports that are produced by our customer
4 billing system.

5 Q Now, if kilowatt hour sales for the industrial
6 customer class declined more significantly
7 than kilowatt hour sales for residential
8 customers, then the Company's requested
9 increase would be allocated to a greater
10 extent to residential customers than to
11 industrial customers; correct?

12 A No, I don't believe so because the allocation
13 between customer classes is done on the basis
14 of demand from our last rate case; so,
15 residential customers regardless of what their
16 kWh sales level was for this period will
17 receive the same percentage of the total
18 revenue requirement that they were allocated
19 in the last rate case.

20 Q I'm sorry, in the last rate case, the
21 allocations were done based on test year
22 kilowatt hour sales; correct?

23 A No. They were done on peak demand --
24 coincident -- non-coincident peak demand.

25 Q And here the jurisdictional revenue

1 requirement for all groups was divided by
2 actual kilowatt hour sales. So, is that the
3 same amount per kilowatt hour for every
4 customer?

5 A No. The total revenue requirements are
6 allocated to each of the customer groups using
7 the demand from the last rate case, and then
8 once the total dollar amounts per customer
9 group are determined, then you divide by kWh
10 sales to get the price per kWh for each
11 customer within that customer group, and for
12 industrial customers that are in the HLF,
13 which tend to be our larger industrial
14 customers, instead of using kWh sales, we use
15 kW demands to allocate or to develop their
16 rate.

17 Q So any change in kilowatt hour sales between
18 rate groups would have no impact on how much
19 of the revenue requirement was assigned to
20 that rate group?

21 A That is correct.

22 Q Now, moving on to Page 12 of your testimony,
23 at Line 18, you state that ". . .because the
24 Project expenditures do not exceed \$1.985
25 billion, deferred taxes have been excluded

1 from the capital structure for purposes of the
2 IGCC revenue requirements calculation."

3 Can you explain for me what the
4 impact is of excluding deferred taxes from the
5 capital structure for the purpose of the
6 revenue requirement?

7 A Excluding the deferred taxes tends to increase
8 the rate of return that is used to determine
9 the return that the Company may collect on the
10 Project expenditures in the early years when
11 the deferred taxes are excluded from the
12 calculation.

13 Q Am I correct that the current -- the Company
14 currently projects that expenditures for the
15 facility will, in fact, exceed \$1.985 billion?

16 A Yes.

17 Q So, even though the Company projects that the
18 costs will exceed \$1.985 billion, even though
19 the Commission has approved more than \$1.985
20 billion, the Company is allowed to exclude its
21 deferred taxes and increase the rate of return
22 it's allowed to receive on the portions that
23 it spent so far?

24 A Yes. That's been the Commission's order in
25 the IGCC-1 tracker, and it's consistent with

1 the orders in the subsequent tracker filings
2 as well.

3 Q Thank you, Ms. Douglas.

4 JUDGE STORMS: Mr. Helmen?

5 MR. HELMEN: We have no questions,
6 Your Honor.

7 JUDGE STORMS: Redirect?

8 MR. DuMOND: No questions, Your
9 Honor.

10 JUDGE STORMS: Ms. Douglas, thank
11 you very much for your testimony. You're
12 excused.

13

14

15 (WITNESS DIANA L. DOUGLAS EXCUSED)

16

17

18 JUDGE STORMS: Let's take about a
19 15-minute break.

20

21

22 (RECESS)

23

24

25 (HEARING IN RECESS UNTIL 11:00 A.M., SAME DAY)

1 Indianapolis, Indiana
2 April 6, 2010
3 11:00 A.M. (EST)

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

6 If you turned on your electronic
7 device during the break, if you could take a
8 moment to turn that back off.

9 Does Petitioner rest their
10 case-in-chief testimony?

11 MR. DuMOND: We do, Your Honor.

12 JUDGE STORMS: Mr. Helmen, you may
13 call your first witness.

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

16 It is my understanding that the
17 parties have waived cross-examination and
18 stipulate to the admissibility of the OUCC's
19 witness; so, with the Court's permission, we
20 would offer Public's Exhibit 1, the prefiled
21 testimony of Wes R. Blakley, with Exhibit
22 WRB-1 attached thereto.

23 JUDGE STORMS: Okay. We'll show
24 Public's 1 along with Exhibit WRB-1 attached
25 admitted into this cause.

1 MR. HELMEN: Thank you, Your
2 Honor.
3
4 (PUBLIC'S EXHIBIT NO. 1, BEING THE
5 PREFILED TESTIMONY OF MR. WES R.
6 BLAKLEY, WITH EXHIBIT NO. WRB-1
7 ATTACHED THERETO, ADMITTED INTO
8 EVIDENCE.)
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1 MR. HELMEN: The Public rests.

2 JUDGE STORMS: Mr. Polk?

3 MR. POLK: Thank you, Your Honor.

4 At this time, on behalf of the Citizens Action
5 Coalition of Indiana, Save the Valley and
6 Valley Watch, collectively Residential
7 Customers, we'd like to offer into the record
8 the testimony of Grant Smith.

9 It's my understanding that all the
10 parties have waived cross-examination of
11 Mr. Smith and have agreed to stipulate his
12 testimony into the record, and that's
13 designated as Residential Customers' Exhibit
14 No. A.

15 JUDGE STORMS: We'll show
16 Residential Customers' Exhibit No. A admitted
17 into this cause.

18

19 (INTERVENOR'S - RESIDENTIAL
20 CUSTOMERS EXHIBIT NO. A, BEING THE
21 PREFILED DIRECT TESTIMONY OF MR.
22 GRANT S. SMITH, ADMITTED INTO
23 EVIDENCE.)

24

25

1 JUDGE STORMS: Okay. Mr. DuMond,
2 you may call your first rebuttal witness.

3 MR. DuMOND: Thank you, Your
4 Honor.

5 We'd call to the Stand Dr. Richard
6 Stevie.

7
8 **RICHARD G. STEVIE**, a witness appearing on behalf
9 of the Petitioner, on
10 Rebuttal, having been first
11 duly sworn, testified as
12 follows:

13

14 **DIRECT EXAMINATION,**

15 **QUESTIONS BY MR. DuMOND:**

16 Q Please state your name for the record.

17 A My name is Richard Stevie.

18 Q Please identify your employer.

19 A My employer is Duke Energy Business Services.

20 Q And what is your position with Duke Energy
21 Business Services?

22 A Managing Director, Customer Market Analytics.

23 Q Do you find before you a document that has
24 been marked for identification purposes as
25 Petitioner's rebuttal Exhibit C?

1 A Yes.

2 Q Is that a copy of your prefiled rebuttal
3 testimony in this proceeding?

4 A Yes, it is.

5 Q Does your testimony include Sub-Exhibits C-1
6 through C-4?

7 A Yes.

8 Q And do you have any changes or corrections
9 either to your testimony or the sub-exhibits?

10 A No, I do not.

11 Q And if I were to ask you the questions set
12 forth in your testimony, would your answers be
13 the same?

14 A Yes.

15 Q Do you adopt Petitioner's rebuttal Exhibit C
16 as your sworn testimony in this proceeding?

17 A Yes.

18 MR. DuMOND: Your Honor,
19 Petitioner offers into evidence Petitioner's
20 rebuttal Exhibit C including Sub-Exhibits C-1
21 through C-4.

22 JUDGE STORMS: Okay. Is there any
23 objection?

24 MR. HELMEN: No objection, Your
25 Honor.

1 MR. POLK: No objection, Your
2 Honor.

3 JUDGE STORMS: We'll show
4 Petitioner's rebuttal Exhibit C with
5 Sub-Exhibits C-1 through C-4 admitted into
6 this cause.

7
8 (PETITIONER'S EXHIBIT NO. C, BEING
9 THE PREFILED REBUTTAL TESTIMONY OF
10 DR. RICHARD G. STEVIE, WITH
11 EXHIBIT NOS. C-1 THROUGH C-4,
12 INCLUSIVE, ATTACHED THERETO,
13 ADMITTED INTO EVIDENCE.)

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1 MR. DuMOND: Your Honor, Dr.
2 Stevie is available for cross-examination.

3 JUDGE STORMS: Thank you,
4 Mr. DuMond.

5 Mr. Polk?

6 MR. POLK: Thank you, Your Honor.

7

8 **CROSS-EXAMINATION OF DR. RICHARD G. STEVIE,**

9 **QUESTIONS BY MR. POLK:**

10 Q Good morning, Dr. Stevie.

11 A Good morning, Mr. Polk.

12 Q I think it is a rare privilege that we get to
13 you in these hearings on the morning of the
14 first day of the hearings.

15 JUDGE STORMS: We can continue
16 that, Mr. Polk.

17 MR. POLK: Your Honor, it is my
18 goal to have us out of here before lunch, but
19 it may be a later lunch than some.

20 JUDGE STORMS: Take as much time
21 as you need.

22 Q Dr. Stevie, on Page 6 of your testimony, at
23 Line 15, it appears that you actually agree
24 with Mr. Smith that weather -- that
25 electricity use on a weather normal basis was

1 lower during the October 2008 through
2 October 2009 period; is that correct?

3 A That's correct. My -- The point that I was
4 trying to get across is that just looking at
5 the absolute change from one -- from a month
6 in one year to a month in another year can
7 lead to incorrect assessments because of the
8 effects of weather, but once you adjust for
9 that, actually sales were lower as of October
10 '09.

11 Q All right. And on a weather-normalized basis,
12 do you know what sales were like comparing
13 December 2009 to December 2008?

14 A On my Exhibit C-2, I show the year over year
15 percent changes for total retail sales for
16 each month from June '07 up through
17 February 2010.

18 So, that number is there, a minus
19 6.8 percent.

20 Q I'm sorry, so was energy use down for December
21 or up from the previous year?

22 A Total retail sales were down in December '09
23 relative to December '08.

24 Q Is that gross or was that on a weather-
25 normalized basis?

1 A On a weather-normal basis.

2 Q Okay. Do you recall how much industrial
3 demand is down now compared to a year ago?

4 A Off the top of my head, I don't recall.

5 The thing that I have noticed is
6 that in this particular business cycle, what
7 we've seen going into the business cycle is
8 that industrial sales fell off first and now
9 are starting to come back, and, in fact, in
10 January and February of this year, sales are
11 up -- actually up 10.6 percent from January
12 and February of '09. So, we're seeing now the
13 beginnings of the rebound that we've been all
14 anxiously awaiting for some time.

15 Q Now, residential demand is determined by the
16 number of customers multiplied by the usage
17 per customer; is that correct?

18 A In the development or the methodology that's
19 used to project residential sales, I think
20 that's an accurate statement that we generally
21 forecast customers and we forecast use per
22 customer to get to a forecasted total
23 residential sales.

24 Q Okay. Have the number of Duke's customers --
25 residential customers declined, stayed the

1 same or increased from where they were before
2 the recession?

3 A I actually don't have the residential customer
4 numbers with me. I believe that they might be
5 down a little bit, but I don't have the actual
6 numbers with me to confirm that.

7 Q All right. Has average use per customer on
8 the Duke Indiana system remained the same,
9 increased or decreased from where it was
10 before the recession?

11 A It's been relatively flat.

12 Q Now I'm going to read you a statement. It may
13 be a familiar statement to you, and I want to
14 see if you agree with it.

15 The key ingredients that impact
16 energy use per customer are per capita income,
17 real electricity prices and the combined
18 impact of numerous other determinants. These
19 include the saturation of air conditioners,
20 electric space heating, other appliances, the
21 efficiency of those appliances and weather.

22 A You're asking me if I agree with that
23 statement?

24 Q Yes, sir.

25 A Okay. That sounds like a statement from our

1 Integrated Resource Plan describing our model.

2 Q It is, sir. You have a good memory.

3 Has customer per capita income
4 increased or decreased in the last two years?

5 A That's hard to say because the income data
6 that is released by the federal government
7 comes with quite a bit of a lag; so, we would
8 need to wait yet a little while to see what is
9 happening with real income to determine
10 whether or not on an actual basis, income per
11 capita has gone up or gone down for our
12 service area.

13 Q Certainly if inflation were to increase, that
14 would have a real impact on per capita income;
15 correct?

16 A That's correct, but inflation has been rather
17 benign of late.

18 Q But if the economy rebounds, it is a fear
19 among some, at least, that inflation will
20 increase; correct?

21 A I think that's true that there is a concern
22 that inflation could accelerate not just from
23 an economic rebound but from a variety of
24 different factors.

25 Q All right. And would you agree that real

1 electricity prices are projected to increase
2 over the next several years?

3 A Yes. In fact, that's reflected in our
4 forecast, and our projection of sales would
5 incorporate those impacts.

6 Q And does that -- does the electricity price
7 included in your forecast or used to develop
8 your forecast of projected sales, is that
9 electricity price based on Duke's projected
10 electricity prices assuming approval of all
11 the CWIP proceedings that we'll see every six
12 months for awhile and include the increase in
13 costs that would be anticipated from the Duke
14 rate case which folks have indicated is coming
15 in the next one to two years?

16 A That's my understanding that the projection of
17 electric prices would include those items. We
18 receive the projection of revenues -- revenue
19 requirements from the department that prepares
20 those types of projections; so, I have to
21 believe those are in there.

22 Q When you say the department that prepares
23 those projections, are you referring to a
24 department at Duke or a department to the
25 federal government or --

1 A At Duke.

2 Q Okay. Can you tell me if there have been
3 changes in the saturation level of air
4 conditioners within the Duke service territory
5 in the last two years?

6 A There have. I don't have those numbers in
7 front of me, but we conduct a survey of
8 customers every three years to capture
9 information on what is the saturation of a
10 number of appliances, whether it's air
11 conditioning, electric heat, refrigerators,
12 televisions, a variety of different items, and
13 all that gets captured in our forecast for
14 residential sales.

15 Q Do you develop those numbers or are those
16 developed for you by another department in the
17 Company?

18 A The survey is conducted internally by the
19 Market Analytics group.

20 Q Now, a projection of future electric space
21 heating need would be related to the cost of
22 alternatives to electric space heating;
23 correct?

24 A That's correct.

25 Q So if gas prices were to drop significantly

1 from one year to the next and long-term
2 projections of gas commodity prices were to
3 drop significantly from one year to the next,
4 that could affect the projected electric space
5 heating need going into the future; correct?

6 A It would be one factor that would affect that,
7 that's true, as well as the efficiency of
8 those appliances.

9 Q Can you tell me when your demand forecast that
10 you provided to Ms. Jenner for her analysis
11 was completed?

12 A It was completed in the September/October time
13 frame of 2009.

14 Q Okay. And, Dr. Stevie, do you recall what
15 percentage of annual energy savings was
16 supposed to be generated by the Save-a-Watt
17 settlement?

18 A As a percent of retail sales, is that --

19 Q Yes, sir.

20 A Off the top of my head, I would have to
21 actually -- I don't know. I would have to
22 actually compute that. The information on the
23 projected impacts is in our latest Integrated
24 Resource Plans. So, it would be just a matter
25 of taking the megawatt hour numbers that are

1 in there and dividing it by the Fall forecast
2 of retail sales.

3 Q Thank you, Dr. Stevie.

4 MR. POLK: No further questions,
5 Your Honor.

6 JUDGE STORMS: Thank you, Mr.
7 Polk.

8 Mr. Helmen, your witness.

9 MR. HELMEN: Your Honor, I have no
10 questions for this witness.

11 JUDGE STORMS: Okay. Redirect?

12 MR. DuMOND: We have no questions,
13 Your Honor.

14 JUDGE STORMS: Dr. Stevie, thank
15 you very much for your testimony. You're
16 excused.

17 WITNESS STEVIE: Thank you.

18

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21 **(WITNESS RICHARD G. STEVIE EXCUSED ON REBUTTAL)**

22

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1 MR. DuMOND: Your Honor, at this
2 time, we call Ms. Diane Jenner.

3
4 **DIANE L. JENNER**, a witness appearing on behalf of
5 the Petitioner, on Rebuttal,
6 having been first duly sworn,
7 testified as follows:

8

9 **DIRECT EXAMINATION,**

10 **QUESTIONS BY MR. DuMOND:**

11 Q Please state your name.

12 A Diane L. Jenner.

13 Q Please identify your employer.

14 A Duke Energy Business Services.

15 Q And what is your position with Duke Energy
16 Business Services?

17 A Director of Regulatory Strategy.

18 Q Do you have a document before you that has
19 been previously marked as Petitioner's
20 rebuttal Exhibit D?

21 A Yes.

22 Q And is that a copy of your prefiled rebuttal
23 testimony in this proceeding?

24 A Yes.

25 Q Does your testimony include Sub-Exhibits D-1

1 through D-5?

2 A Yes, it does.

3 MR. DuMOND: Your Honor, Ms.

4 Jenner does have a few changes to her
5 testimony, and I believe I provided the
6 Commission with a copy of those changes, but
7 if I did not, I have a copy now.

8 JUDGE STORMS: We don't have that.

9

10 (Mr. DuMond handed a document to
11 the Bench)

12

13 JUDGE STORMS: Thank you.

14 MR. DuMOND: And, Your Honor, I
15 previously provided the changes that I have
16 now given the Commission to counsel.

17 Q (Mr. DuMond continuing) Ms. Jenner, do you
18 have changes or modifications to your
19 testimony?

20 A Yes.

21 Q Will you, please, identify them?

22 A The first one is on Page 9 which deals with
23 Lines 18 and 19. The sentence that begins
24 "The settlement has been submitted to Judge
25 McKinney", the words "The settlement has been

1 submitted to" should be deleted.

2 In the next line, the words "in"
3 and "form of a" should be deleted, and the
4 sentence should read "Judge McKinney signed
5 the consent decree on March 18, 2010."

6 Q Do you have any other changes?

7 A Yes. The next one is on Page 12, the footnote
8 at --

9 MR. DuMOND: And if I could
10 interrupt for just a moment. This change is
11 not depicted in what I distributed to counsel
12 and to the Commission. I apologize.

13 Q Please continue.

14 A Footnote No. 8, at the end of the first
15 sentence of that footnote, the words "and
16 rehearing was granted" should be inserted.

17 Q Any other changes?

18 A Yes. Page 13, Lines 15 through 22, everything
19 should be deleted except for the word "Yes" at
20 the beginning of the answer, and that also
21 deletes Footnote No. 9.

22 And then continuing with the
23 answer on the top of Page 14, the words "In
24 addition" should be deleted, and the "i" in
25 "it" should be capitalized.

1 Q And have you marked and initialed the changes
2 that you've testified to on the official
3 testimony before you?

4 A Yes.

5 Q If I were to ask you the questions set forth
6 in your testimony, would your answers be the
7 same taking into account the changes and
8 corrections that you just referred to?

9 A Yes.

10 Q Do you adopt Petitioner's rebuttal D with the
11 changes that you've made as your sworn
12 testimony in this proceeding?

13 A Yes.

14 MR. DuMOND: Your Honor,
15 Petitioner offers into evidence Petitioner's
16 rebuttal Exhibit D including Sub-Exhibits 1,
17 2, 3, 4 and 5.

18 JUDGE STORMS: Okay. If there is
19 no objection, we'll show Petitioner's rebuttal
20 Exhibit D with Sub-Exhibits 1 through 5
21 admitted into this cause.

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1 (PETITIONER'S EXHIBIT NO. D, BEING
2 THE PREFILED REBUTTAL TESTIMONY OF
3 MS. DIANE L. JENNER, WITH EXHIBIT
4 NOS. D-1 THROUGH D-5, INCLUSIVE,
5 ATTACHED THERETO, ADMITTED INTO
6 EVIDENCE.)

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1 MR. DuMOND: Your Honor, Ms.
2 Jenner is available for cross-examination.

3 JUDGE STORMS: Thank you,
4 Mr. DuMond.

5 Mr. Polk, your witness.

6 MR. POLK: Thank you, Your Honor.

7

8 **CROSS-EXAMINATION OF MS. DIANE L. JENNER,**

9 **QUESTIONS BY MR. POLK:**

10 Q Good morning, Ms. Jenner.

11 A Good morning.

12 Q Now, on Page 6 of your testimony, at Line 6,
13 you state that ". . .neither the CAC et al.
14 nor any other party seriously questioned the
15 need for the IGCC plant prior to or at the
16 time of the August 22, 2008, hearing. . ."; is
17 that correct?

18 A I believe so.

19 MR. POLK: May I approach the
20 witness, Your Honor?

21 JUDGE STORMS: Yes, you may.

22

23

24

25

1 (Reporter marked document for
2 identification as Intervenor's -
3 Residential Customers Exhibit No.
4 CX-1)
5

6 Q Now, Ms. Jenner, I've handed you what's been
7 marked for identification purposes as
8 Residential Customers' Cross-Examination
9 Exhibit No. 1. It is an excerpt from the
10 prefiled testimony of Grant Smith on behalf of
11 the Citizens Action Coalition of Indiana in
12 Cause Nos. 43114 IGCC-1, and it's dated
13 July 25, 2008.

14 Do you have that before you?

15 A Yes, I do.

16 Q All right. And if you flip to the back side
17 of that page, there is an answer starting
18 there at Line 1 from Mr. Smith's testimony.

19 Before we do that, would you agree
20 with me that July 25th, 2008 is prior to
21 August 22nd, 2008?

22 A Yes, I would.

23 Q All right. Can you read Mr. Smith's answer
24 there starting at Line 1?

25 A "First, the Commission should order Duke to

1 put the Edwardsport project on hold in light
2 of the risks that forecasted demand may not
3 materialize, that costs will continue to
4 increase, and that future carbon regulations
5 may make Edwardsport uneconomic."

6 Q Okay. Can you read the next line too?

7 A "At a minimum, the Commission should order
8 Duke to put the Edwardsport project on hold
9 until Duke can demonstrate that it can
10 technically and economically capture and
11 sequester carbon sufficiently to, at a
12 minimum, prevent any increase in system carbon
13 emissions. In addition, ratepayers should not
14 be made responsible for recent and future cost
15 increases that were clearly foreseeable and
16 Duke should be made to live by its commitments
17 that costs would not increase significantly."

18 Q All right. Now, am I correct that you read
19 Mr. Smith's answer as not seriously
20 questioning the need for the IGCC plant?

21 A I think the operative word here is seriously.
22 People can always postulate that demand can be
23 higher; demand can be lower, but I don't
24 remember that any evidence was presented that
25 the load forecast that Dr. Stevie presented

1 was wrong.

2 Q Do you recall the -- Okay. I'm sorry.

3 So, you are equating the load
4 forecast presented by Dr. Stevie that there is
5 a need to meet some demand as equivalent to
6 needing the Edwardsport IGCC plant and not
7 allowing for any possibility that other
8 alternatives could be used to meet that
9 demand?

10 A Well, let me answer that question in a number
11 of ways since you included a lot of things in
12 there.

13 The need for the Project is
14 determined based on the projected load
15 forecast, the reserve margin requirements that
16 we are required to carry, the amount of
17 capacity that we have on our system and
18 looking at the different alternatives that are
19 available to us.

20 Q So, if somebody said that that demand could be
21 met through energy efficiency rather than
22 building the Edwardsport plant, that would be
23 seriously challenging the need for that
24 particular plant, wouldn't it?

25 A Well, if you will allow me to refer to my

1 testimony in that case --

2 Q Well, I'm sorry, I thought I asked a yes or no
3 question.

4 MR. DuMOND: Your Honor, she
5 should be permitted to respond to the
6 question.

7 JUDGE STORMS: Yeah, I believe she
8 should be able to respond to the question, Ms.
9 Jenner, that Mr. Polk asked you. If there are
10 additional information that needs to be
11 conveyed, your counsel can pick that up on
12 redirect.

13 A Could you repeat the question, please?

14 MR. POLK: Could the Court
15 Reporter read it back, please?

16
17 (Reporter read back the preceding
18 question as follows: "So, if
19 somebody said that that demand
20 could be met through energy
21 efficiency rather than building the
22 Edwardsport plant, that would be
23 seriously challenging the need for
24 that particular plant, wouldn't
25 it?")

1 A Not necessarily.

2 If I may continue, I believe that
3 just saying that energy efficiency could fill
4 the need of the Edwardsport plant without
5 presenting any evidence that that could,
6 indeed, occur, to me, is not a serious
7 challenge.

8 Q So, in your mind, it is not a serious
9 challenge if you don't like the evidence the
10 other party puts in?

11 MR. DuMOND: Objection. That
12 mischaracterizes her testimony.

13 JUDGE STORMS: I'll sustain the
14 objection.

15 Q Would you agree that it is the -- for the
16 Commission to determine the weight of the
17 evidence when it makes its decision?

18 A Yes, and I believe that the Commission did
19 make a ruling in IGCC-1.

20 Q Has the demand forecast that was used in
21 IGCC-1 been revised?

22 A Yes.

23 Q It was revised downward?

24 A Yes.

25 Q So that the original forecast was wrong;

1 correct?

2 A I wouldn't say that. Forecasting is done
3 using the best information that you have
4 available to you at the time.

5 Q And if at the time someone had forecasted that
6 demand would not be there, and your company's
7 forecast said that demand would be there, and
8 your company's forecast was incorrect, does
9 that make the Company's forecast not a serious
10 forecast?

11 A No. I believe that even though our forecast
12 has, indeed, been revised since IGCC-1, we did
13 in my testimony here take a fresh look at the
14 need for this project, and there is still a
15 need shown.

16 Q Do you recall in those original proceedings
17 that the CAC and others forecasted that demand
18 would not increase the way the Company had
19 projected?

20 A I don't recall the exact numbers.

21 Q Okay. Do you recall the exact -- Do you
22 recall generally the direction?

23 A I don't remember the load forecast numbers
24 that the CAC presented, and I believe that Dr.
25 Stevie was the one that examined that and

1 testified concerning that in his rebuttal
2 testimony in that cause.

3 Q Do you recall whether the CAC, Save the
4 Valley, Valley Watch and Sierra Club presented
5 testimony indicating a strong potential for
6 wind generation in Indiana?

7 A Yes, and I also recall that your clients said
8 that the IGCC could be replaced by 50 percent
9 energy efficiency and 50 percent wind
10 generation which we dealt with in rebuttal in
11 that cause.

12 Q And isn't it true that wind generation has, in
13 fact, increased significantly in Indiana since
14 the CPCN was granted?

15 A Yes, it has, and at the same time, the Midwest
16 ISO has reduced down from 20 percent to
17 8 percent the amount of capacity credit that
18 they will give to wind generation.

19 So, in order to meet the peak
20 load, the amount of capacity that the IGCC
21 will provide, it takes a lot of wind capacity,
22 as discussed in my testimony.

23 Q And do you recall the CAC, Save the Valley,
24 Valley Watch and Sierra Club providing
25 testimony that indicated that there was a

1 significant potential for energy efficiency
2 above and beyond what the Company had
3 proposed?

4 A I recall something to that effect.

5 Q All right. And do you have an understanding
6 as to whether the targets in the Commission's
7 order in 42693 issued in December of 2009,
8 whether those targets of 2 percent annual
9 energy savings is greater or less than what
10 the Company projected at the time it filed its
11 CPCN?

12 A It's greater.

13 Q Okay. So, would you agree that despite your
14 feeling that CAC's testimony and the other
15 testimony was not seriously questioning the
16 need for the IGCC, that, in fact, with respect
17 to the increase in wind, the increase in
18 energy efficiency, the decrease in demand,
19 they were actually correct on some of those,
20 weren't they?

21 A Not to the extent that they -- that those
22 things would obviate the need for the IGCC.

23 Q Isn't it true that part of the basis for the
24 need for the IGCC plant that the Company is
25 making in the current case is premised on the

1 decommissioning of other power plants which it
2 had not planned to decommission at the time of
3 the CPCN?

4 A Part of the need is due to that.

5 Q What is the current Midwest ISO reserve
6 margin, do you know?

7 A No.

8 Q Do you recall what it would have been back in
9 2008, 2009?

10 A No.

11 MR. POLK: May I approach the
12 witness, Your Honor?

13 JUDGE STORMS: Yes, you may.

14

15 (Reporter marked document for
16 identification as Intervenor's -
17 Residential Customers Exhibit No.
18 CX-2)

19

20 Q Now, Ms. Jenner, I've placed in front of you
21 what's been marked for identification purposes
22 as Residential Customers CX-2.

23 I'll represent to you that it is
24 selections from the Midwest Independent System
25 Operator 2009 Long-Term Assessment Reliability

1 Report.

2 Do you recognize that report at
3 all?

4 A I don't remember ever seeing it before.

5 Q Is it the type of document that you would come
6 across in your IRP days?

7 A I don't remember looking at the -- these MISO
8 reports, no.

9 Q Was there somebody else at the Company who
10 would have looked through MISO reports and
11 information or did some of that come to you
12 and some of it go somewhere else?

13 A Some of it came to me, and some went somewhere
14 else.

15 Q Okay. Well, if you flip to the first page
16 there, and it's actually marked Page 3, and
17 I'm sorry, but --

18 JUDGE STORMS: Mr. Polk, do you
19 intend to offer Residential Customers' CX-1
20 and CX-2?

21 MR. POLK: At this time, Your
22 Honor, I would like to offer into the record
23 Residential Customers' CX-1.

24 JUDGE STORMS: CX-1? Is there any
25 objection?

1 MR. DuMOND: No objection.

2 JUDGE STORMS: We'll show
3 Residential Customers' CX-1 admitted into this
4 cause.

5
6 (INTERVENOR'S - RESIDENTIAL
7 CUSTOMERS EXHIBIT NO. CX-1, BEING
8 A ONE-PAGE DOCUMENT WITH THE FIRST
9 PAGE ENTITLED "DIRECT TESTIMONY OF
10 GRANT S. SMITH ON BEHALF OF
11 CITIZENS ACTION COALITION OF
12 INDIANA, INC. CAUSE NOS. 43114
13 IGCC 1", DATED JULY 25, 2008, AND
14 CONSISTING OF PAGE 13 ONLY,
15 ADMITTED INTO EVIDENCE.)
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1 JUDGE STORMS: What about CX-2?

2 MR. POLK: I may, Your Honor. I'd
3 like to ask a couple of questions of the
4 witness to --

5 JUDGE STORMS: Please proceed to
6 offer the exhibit, and then you may question
7 the witness on the exhibit.

8 MR. POLK: Well, Your Honor, it's
9 my understanding that if the exhibit makes a
10 statement, she might not be able to
11 authenticate the statement or the exhibit, but
12 I can certainly ask her opinion of whether she
13 agrees or disagrees with that statement
14 without having to offer the --

15 JUDGE STORMS: I agree. You can
16 offer -- You can ask any number of questions
17 with respect to information that's in the
18 exhibit.

19 To the extent you're going to
20 utilize the exhibit and not offer it, then I
21 find that problematic.

22 If you just want to address issues
23 in your questions that go through that
24 exhibit, that's certainly fine, and the
25 witness can attempt to answer those questions,

1 but I think if you're going to utilize the
2 exhibit, it needs to be offered and have the
3 opportunity for parties to object to its
4 admissibility.

5 MR. POLK: Your Honor, at this
6 time, I would like to offer into the record
7 Residential Customers' Exhibit -- Cross-
8 Examination Exhibit CX-2.

9 JUDGE STORMS: Okay. Is there any
10 objection?

11 MR. DuMOND: Your Honor, we do
12 object. The witness has stated that she has
13 not seen this exhibit before.

14 JUDGE STORMS: Okay. We will show
15 Residential Customers' CX-2 not admitted into
16 this cause. The witness did not identify the
17 exhibit and indicated she had not seen it
18 previously.

19 Mr. Polk, you may continue to ask
20 questions, but the exhibit is not admitted in
21 this proceeding.

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1 (INTERVENOR'S - RESIDENTIAL
2 CUSTOMERS EXHIBIT NO. CX-2, BEING
3 A DOCUMENT ENTITLED "MIDWEST
4 INDEPENDENT SYSTEM OPERATOR 2009
5 LONG-TERM ASSESSMENT RELIABILITY
6 REPORT" AND CONSISTING OF PAGES 1
7 THROUGH 5, NOT ADMITTED INTO
8 EVIDENCE.)

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1 Q (Mr. Polk continuing) Ms. Jenner, if you
2 heard that the Midwest ISO reserve margin
3 ranges from 31.9 percent in 2009 to 25.5
4 percent in 2018, and that that information
5 came from the Midwest ISO, would you find that
6 information surprising or contrary to the
7 information that you have?

8 A I don't have any basis to make such an
9 opinion.

10 Q As to whether the Midwest ISO's reserve margin
11 is 31.9 percent to 25.5 percent?

12 A I don't have any independent basis to make
13 that decision.

14 Q So, in preparing the Company's IRP, is it your
15 testimony, then, that you had no independent
16 basis on which to know what the Midwest ISO
17 reserve margin was?

18 A In the first place, I don't do IRPs anymore.

19 Q Were you involved in the 2009 IRP?

20 A No.

21 Q But you relied on that information?

22 A Yes.

23 Q Okay.

24 A I helped review the IRP, but I did not -- The
25 analysis was not performed under my direction.

1 Q But you testified here today with respect to
2 the Midwest ISO reserve margin requirements;
3 correct?

4 A I've testified to what the reserve margin
5 requirements are for the upcoming planning
6 year, as discussed in my testimony.

7 Q And is it also your testimony, then, that you
8 have no independent basis on which to know
9 what those Midwest ISO reserve margins would
10 be?

11 A I don't -- I have not looked at long-term
12 reserve margins from the Midwest ISO.

13 Q Thank you, Ms. Jenner.

14 MR. POLK: I have no further
15 questions, Your Honor.

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

18 Mr. Helmen?

19 MR. HELMEN: No questions, Your
20 Honor.

21 JUDGE STORMS: Redirect for this
22 witness?

23 MR. DuMOND: One moment, please.

24

25

1 **REDIRECT EXAMINATION OF MS. DIANE L. JENNER,**

2 **QUESTIONS BY MR. DuMOND:**

3 Q Ms. Jenner, do you know if the CAC ever
4 presented any testimony on load forecasts in
5 prior IGCC proceedings?

6 A I don't know.

7 Q And is it correct that in your testimony in
8 this proceeding you have focused on the
9 reserve margin requirements for Duke Energy
10 Indiana?

11 A Yes.

12 MR. DuMOND: Nothing further, Your
13 Honor.

14 JUDGE STORMS: Thank you.

15 Ms. Jenner, thank you very much for your
16 testimony. You're excused.

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20 **(WITNESS DIANE L. JENNER EXCUSED ON REBUTTAL)**

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1 JUDGE STORMS: Does the Petitioner
2 rest with respect to rebuttal?

3 MR. DuMOND: Yes, we do, Your
4 Honor.

5 JUDGE STORMS: Let's go off the
6 record.

7

8 (Off-the-Record Discussion)

9

10 JUDGE STORMS: Let's go back on
11 the record.

12 The parties have reached an
13 agreement with respect to the schedule for the
14 submission of proposed orders.

15 Mr. DuMond, can you enter the
16 parties' agreement into the record, please?

17 MR. DuMOND: Yes. The Petitioner
18 would submit its proposed order on or before
19 April 30th.

20 The OUCC and the Intervenorors would
21 submit their proposed order or exceptions on
22 May 21st.

23 The Petitioner would file its
24 reply, if any, on or before June 4th.

25 JUDGE STORMS: Okay. Is that the

1 parties' agreement as well?

2 MR. HELMEN: Yes, sir.

3 MR. POLK: Yes, sir.

4 JUDGE STORMS: Is there anything
5 else that we need to discuss today?

6 MR. HELMEN: No, Your Honor.

7 MR. POLK: No, Your Honor.

8 JUDGE STORMS: Mr. Polk, thank
9 you; you kept us right on schedule just like
10 you said. It's about noon. You can have as
11 much time as you want, of course, but it is
12 nice to be able to conclude these things in an
13 expedient manner when possible.

14 So, thank you very much, and this
15 matter is hereby adjourned.

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25 (HEARING ADJOURNED)

\$	30th [3] 56/20 56/25 101/19 31.9 percent [2] 98/3 98/11	across [2] 70/4 93/6 act [1] 16/22
\$1.985 [4] 60/24 61/15 61/18 61/19	37 percent [1] 15/12	action [5] 3/19 32/18 65/4 84/11 94/11
\$1.985 billion [2] 61/15 61/18	39 percent [1] 34/11	activities [12] 8/5 8/25 20/7 20/11 20/12
\$150 [2] 31/14 31/19	4	20/13 21/5 21/6 21/9 21/19 48/7 48/8
\$150 million [1] 31/14	400 [1] 19/16	activity [1] 32/9
\$2.35 [1] 31/14	42693 [1] 91/7	actual [8] 18/20 37/16 47/13 58/21 58/25
\$2.35 billion [1] 31/14	43114 [3] 2/1 84/12 94/12	60/2 72/5 73/10
\$49,090,920 [1] 58/5	46204 [1] 3/23	actual -- the [1] 47/13
\$90 [1] 58/12	49 million [1] 58/4	actually [11] 36/11 46/25 47/14 69/23 70/9
\$90 million [1] 58/12	4th [1] 101/24	71/11 72/3 76/21 76/22 91/19 93/16
\$98 [2] 58/8 58/13	5	actually -- I [1] 76/21
\$98 million [2] 58/8 58/13	50 [2] 35/16 35/20	add [2] 8/19 8/20
\$99 [1] 58/8	50 million [2] 38/18 39/16	added [1] 48/20
\$99 million [1] 58/8	50 percent [6] 34/10 46/19 46/20 47/7 90/8	addition [2] 80/24 85/13
'	90/9	additional [5] 8/23 15/21 31/19 38/18
'07 [1] 70/16	53 percent [1] 16/15	87/10
'08 [1] 70/23	6	address [1] 95/22
'09 [3] 70/10 70/22 71/12	6.8 [1] 70/19	addressed [1] 31/12
'90s [1] 40/20	60 percent [1] 34/6	adequate [4] 38/5 38/6 39/3 39/3
.	61 [6] 2/13 52/9 52/16 52/21 52/24 52/25	adjourned [2] 102/15 102/25
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.neither [1] 83/13	7	adjustment [2] 2/13 52/16
.While [1] 20/6	72 percent [1] 16/19	ADMINISTERED [1] 4/7
1	75 [1] 45/7	Administrative [1] 32/16
10 percent [1] 34/8	77 percent [1] 34/10	admissibility [2] 63/18 96/4
10.6 percent [1] 71/11	8	admitted [22] 11/1 11/7 12/8 30/6 30/10
100 percent [1] 39/19	8 percent [1] 90/17	30/15 53/25 54/6 55/4 63/25 64/7 65/16
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101 [1] 3/22	8-1-8.7 [1] 2/5	96/15 96/20 97/7
11 [1] 2/14	8-1-8.8-11 [1] 2/14	adopt [4] 9/20 53/12 67/15 81/10
11:00 [2] 62/25 63/2	8.5 [1] 2/5	advanced [1] 8/24
12 [5] 2/14 8/15 8/16 60/22 80/7	8.7 [1] 2/5	affect [2] 76/4 76/6
13 [3] 31/22 80/18 94/14	80 [1] 45/7	affected [2] 18/21 18/22
14 [1] 80/23	80 million [1] 35/21	after [5] 25/23 32/11 44/6 44/7 44/18
15 [3] 33/23 69/23 80/18	80 percent [3] 43/14 43/15 47/7	afternoon [2] 23/1 23/5
15-minute [1] 62/19	85 percent [1] 45/7	again [3] 36/9 43/23 46/17
16th [1] 23/3	8th [1] 45/17	against [1] 28/16
18 [3] 60/23 79/23 80/5	9	ago [5] 32/23 35/6 43/10 46/2 71/3
18th [1] 23/3	94 [1] 13/24	agree [8] 69/23 72/14 72/22 73/25 84/19
19 [1] 79/23	99.whatever [1] 44/5	88/15 91/13 95/15
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2 percent [1] 91/8	A	agreement [3] 101/13 101/16 102/1
20 [2] 15/1 34/9	A-1 [5] 1/6 5/18 10/2 10/24 11/6	agrees [1] 95/13
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2004 [2] 41/9 41/10	A-3 [5] 1/7 6/3 10/4 10/25 11/6	32/5 33/18 72/19 75/3 75/10
2008 [10] 32/6 46/8 70/1 70/13 83/16 84/13	A-4 [12] 1/7 1/7 6/12 6/13 6/15 7/1 10/5	al [1] 83/13
84/20 84/21 92/9 94/13	10/6 10/25 10/25 11/6 12/3	all [53] 4/2 9/25 12/5 13/15 14/14 17/22
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2010 [8] 1/1 8/21 9/14 9/17 23/15 63/1	A.M [3] 1/2 62/25 63/2	26/22 28/25 33/14 33/20 34/13 35/2 36/2
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2012 [3] 8/22 9/2 49/4	ability [1] 19/25	47/2 47/8 47/18 48/1 58/25 60/1 65/9 70/11
2018 [1] 98/4	able [13] 9/1 35/3 37/10 47/1 47/16 48/5	71/13 72/7 73/25 74/10 75/13 84/16 84/23
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25.5 [1] 98/3	absolutely [1] 33/17	allowance [2] 35/7 35/10
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27 [1] 8/22	account [3] 19/23 35/23 81/7	along [2] 32/21 63/24
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3	accurately [1] 30/9	also [11] 3/9 5/22 6/3 6/25 7/7 26/5 52/3
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		always [5] 40/13 40/16 41/3 49/20 85/22
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