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Indianapolis, Indiana
June 20, 2007
12:00 P.M. (EDT)

(Reporter marked documents for identification as Intervenor's - RC Exhibit Nos. B, C, D, E, B-R, B-Confidential, C-Confidential and E-Confidential)

(Reporter marked document for identification as Intervenor's - CAC Exhibit No. A)

(Reporter marked document for identification as Public's Exhibit No. 1)

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

Mr. Polk, it's my understanding that you have several witnesses that the parties have agreed to stipulate to the admissibility of their testimony. Go ahead and do that prior to presenting Grant Smith's

1 testimony, so please proceed.

2 MR. POLK: Okay. Thank you, Your
3 Honor.

4 The parties have agreed to
5 stipulate in the following exhibits: They're
6 sponsored by a number of clients who have
7 collectively gone under the name of
8 Residential Customers, so that's how we'll be
9 identifying the exhibits; the first being the
10 direct testimony of Bruce E. Biewald,
11 identified as RC Exhibit B with Exhibit BEB-1,
12 and that is again the direct testimony of
13 Bruce E. Biewald in this cause.

14 In addition, we have Exhibit
15 BEB-R, which is -- I'm sorry. It's B-R, which
16 is the "Submittal of Corrections to the
17 Prefiled Direct Testimony of Bruce Biewald",
18 so Exhibit RC B has the pages corrected. This
19 shows the redlining of what corrections were
20 made in the testimony.

21 We also have Exhibit RC B-
22 Confidential, which are the corrected
23 confidential pages that go with Exhibit B, the
24 testimony of Bruce Biewald.

25 We have Exhibit RC C, which is the

1 direct testimony of Robert M. Fagan on behalf
2 of CAC, Save the Valley, Valley Watch and
3 Sierra Club. This is the public redacted
4 version of his testimony including Exhibits
5 RMF-1 through RMF-11.

6 We have Exhibit RC C-Confidential,
7 which are the confidential pages and exhibits
8 that go with Mr. Fagan's testimony.

9 We have Exhibit RC D, the direct
10 testimony of Philip Mosenthal on behalf of
11 Citizens Action Coalition, Save the Valley,
12 Valley Watch and Sierra Club.

13 Exhibit RC E, which is the public
14 version of the direct testimony of David A.
15 Schlissel on behalf of Citizens Action
16 Coalition, Save the Valley, Valley Watch and
17 Sierra Club.

18 Exhibit RC E-Confidential, which
19 are the confidential pages that go with Mr.
20 Schlissel's testimony, and, at this time, Your
21 Honor, the other parties have stipulated to
22 the entry of these exhibits, and I would like
23 to offer them into the record.

24 JUDGE STORMS: We will show each
25 of the -- these exhibits admitted into this

1 cause pursuant to stipulation of the parties.

2

3 (INTERVENOR'S - RC EXHIBIT NO. B,
4 BEING THE PREFILED DIRECT
5 TESTIMONY OF MR. BRUCE E. BIEWALD;
6 INTERVENOR'S - RC EXHIBIT NO. B-R,
7 BEING A DOCUMENT ENTITLED,
8 "SUBMITTAL OF CORRECTIONS
9 TO THE PREFILED DIRECT TESTIMONY
10 OF BRUCE BIEWALD"; INTERVENOR'S -
11 RC EXHIBIT NO. C, BEING THE
12 PREFILED DIRECT TESTIMONY OF MR.
13 ROBERT M. FAGAN; INTERVENOR'S - RC
14 EXHIBIT NO. D, BEING THE PREFILED
15 DIRECT TESTIMONY OF MR. PHILIP
16 MOSENTHAL, AND INTERVENOR'S - RC
17 EXHIBIT NO. E, BEING THE PREFILED
18 DIRECT TESTIMONY OF MR. DAVID A.
19 SCHLISSEL, ADMITTED INTO
20 EVIDENCE.)

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25

1 (INTERVENOR'S - RC EXHIBIT NO.
2 B-CONFIDENTIAL, BEING THE
3 CONFIDENTIAL PAGES OF THE PREFILED
4 DIRECT TESTIMONY OF MR. BRUCE E.
5 BIEWALD; INTERVENOR'S - RC EXHIBIT
6 NO. C-CONFIDENTIAL, BEING THE
7 CONFIDENTIAL PAGES OF THE PREFILED
8 DIRECT TESTIMONY OF MR. ROBERT M.
9 FAGAN, AND INTERVENOR'S - RC
10 EXHIBIT NO. E-CONFIDENTIAL, BEING
11 THE CONFIDENTIAL PAGES OF THE
12 PREFILED DIRECT TESTIMONY OF MR.
13 DAVID A. SCHLISSEL, ADMITTED INTO
14 EVIDENCE.)

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

3 MR. POLK: Thank you, Your Honor.
4 Citizens Action Coalition of
5 Indiana would call Mr. Grant Smith.

6 JUDGE STORMS: Mr. Smith, have you
7 previously been sworn?

8 MR. SMITH: I have not.

9 JUDGE STORMS: Would you stand and
10 raise your right hand, please?

11

12 (OATH DULY ADMINISTERED TO ONE PERSON)

13

14 JUDGE STORMS: Please proceed, Mr.
15 Polk.

16 MR. POLK: Thank you, Your Honor.

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1 **GRANT S. SMITH**, a witness appearing on behalf of
2 the Intervenor, Citizens Action
3 Coalition of Indiana, Inc.,
4 having been first duly
5 sworn, testified as follows:

6

7 **DIRECT EXAMINATION,**

8 **QUESTIONS BY MR. POLK:**

9 Q Please state your name and business address
10 for the record.

11 A My name is Grant Smith. My business address
12 is Citizens Action Coalition, 5420 North
13 College Avenue, Suite 100, Indianapolis,
14 Indiana, 46220.

15 Q Are you employed by the Citizens Action
16 Coalition, and, if so, in what capacity?

17 A I am employed by CAC as Executive Director.

18 Q In front of you should be an exhibit marked
19 for identification as Exhibit CAC A. Can you
20 identify that for me?

21 A Yes, my testimony.

22 Q Okay. That would be your direct testimony in
23 this proceeding --

24 A Yes.

25 Q -- set out in question and answer format?

1 A Yes.

2 Q Do you have any corrections to that testimony
3 you would like to make today?

4 A Yes. On Page 10, Line 14, rather than Purdue
5 University, put in "SUFG", otherwise known as
6 the State Utility Forecasting Group.

7 On Line 16, after "biomass",
8 insert "for", f-o-r, and after "firing" on
9 Line 17, strike "of" and insert "in."

10 Q Mr. Smith, could you read that sentence as it
11 should read?

12 A "Furthermore, sites for methane digestion and
13 biomass for co-firing in coal plants can be
14 found in counties throughout the state."

15 Q Thank you. Do you have any other corrections
16 to make to your testimony?

17 A I do not.

18 Q If I were to ask you those same questions
19 today, would your responses be the same or
20 substantially the same?

21 A Yes, they would.

22 Q Do you adopt this prefiled testimony as
23 corrected as your sworn testimony in this
24 proceeding?

25 A Yes, I do.

1 Q Thank you.

2 MR. POLK: Your Honor, at this
3 time, I would offer into the record CAC
4 Exhibit A.

5 JUDGE STORMS: If there's no
6 objection, we'll show CAC Exhibit A admitted
7 into this cause.

8
9 (INTERVENOR'S - CAC EXHIBIT NO. A,
10 BEING THE PREFILED DIRECT
11 TESTIMONY OF MR. GRANT S. SMITH,
12 ADMITTED INTO EVIDENCE.)

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1 MR. POLK: Mr. Smith is now
2 available for cross-examination.

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

5 MR. HELMEN: Thank you, Your
6 Honor.

7

8 **CROSS-EXAMINATION OF MR. GRANT S. SMITH,**

9 **QUESTIONS BY MR. HELMEN:**

10 Q Good afternoon, Mr. Smith.

11 A Good afternoon.

12 Q I would like to turn your attention to Page 6
13 of your testimony, and starting at Line 11,
14 you are comparing the costs of IGCC technology
15 when compared to other fossil fuel
16 alternatives; correct?

17 A Correct.

18 Q And those alternatives are pulverized coal as
19 well as a combined cycle -- gas combined cycle
20 unit; correct?

21 A Correct.

22 Q And you indicate that "Without carbon
23 regulations and with the federal subsidies
24 from DOE accounted for, the IGCC appears to
25 edge out the other fossil technologies."

1 A That's what it says.

2 Q Okay. Isn't it also true not only with
3 respect to cost but that an IGCC plant will,
4 all other things being equal, have
5 significantly fewer NOx, SO2 and mercury
6 emissions?

7 A Well, as compared to a --

8 Q As compared to a PC, I'm sorry.

9 A Yes, as compared to a PC, although there seems
10 to be some question about the mercury and the
11 theoretical basis of capturing mercury in IGCC
12 as presented by other testimony in the case.

13 Q Were you present during Mr. Cortez's
14 testimony?

15 A Yes, I was.

16 Q And do you agree with him that an IGCC plant
17 can capture carbon less expensively than a PC?

18 A Well, I've run across a report which I have
19 here from the Massachusetts Institute of
20 Technology which cautions against determining
21 any one technology is the winner with respect
22 to carbon capture and sequestration at this
23 point in time, and I have this study here now.
24 It's from 2007. I have the summary report;
25 it's called The Future of Coal, and it was

1 published this year.

2 Q My question, though, is: Do you agree with
3 Mr. Cortez that IGCC can capture carbon less
4 expensively than a PC? It's a yes or no
5 question.

6 A That remains to be seen. I think the issue is
7 that there's a lot of speculation with this
8 technology with respect to carbon capture with
9 the regulatory framework of carbon capture and
10 what it entails, and the indication is that
11 there needs to be a lot more study on what
12 this actually means, what the costs are, what
13 technologies might be best suited for that.

14 Q It's your opinion that -- Well, you oppose
15 coal-fired generation for Indiana, don't you?
16 I mean, that's a fair statement, is it not?

17 A I would say our emphasis has been to look at
18 the least-cost approaches, and I think our
19 expert witnesses laid that out in terms of
20 efficiency being least cost compared to
21 practically any -- probably any other
22 resource. Wind, in certain circumstances,
23 even in Indiana, being less expensive.
24 Combined heat and power projects possibly
25 being less risky, less expensive, and we seem

1 to be gravitating towards central station
2 power plants before these other resources are
3 exhausted and the potential for those
4 resources are determined.

5 Q Okay. If we set aside for a moment the cost
6 and simply look at it environmentally, you
7 would not ever agree that a coal-fired
8 generation plant should be built in Indiana;
9 correct?

10 A Well, in terms of the environmental impact and
11 the other options we have in the near term,
12 no.

13 Q Let's assume for a moment that this Commission
14 thinks that a power plant burning Indiana coal
15 is in the public interest. Wouldn't you
16 prefer a power plant that has fewer pollutant
17 emissions and greater potential for carbon
18 capture and sequestration to one that does
19 not?

20 A Well, theoretically, yes, but then there are
21 the questions about the technology and its
22 ability to sequester and the option of
23 sequestration and that we've never done
24 sequestration on a very large scale, and it's
25 quite different than using it in oil fields or

1 beneficial uses in manufacturing. I mean,
2 where we are now is at a very speculative
3 state with respect to carbon capture and
4 sequestration.

5 Q Do you agree that carbon regulation is
6 inevitable?

7 A Yes.

8 Q If you turn to Page 7 of your testimony, on
9 Lines 6 and 7, you say ". . .Duke will most
10 likely be able to choose how much carbon
11 dioxide they want to capture up to that
12 amount.", and that amount, as you reference
13 above, is 86 percent.

14 I guess I'm curious: Are you
15 suggesting that Duke won't have a choice to
16 follow whatever restrictions the government
17 places on carbon emissions?

18 A I think this is in the context of the state of
19 the regulation itself, and in terms of one of
20 the issues pointed out by MIT and others is
21 that you might come up with a perverse
22 incentive whereby if you build these plants
23 prior to having the proper technology in place
24 for carbon capture and sequestration and that
25 allowances are simply given to them, that they

1 won't have to do much to reduce carbon dioxide
2 from their facilities at all, and now we're at
3 a stage where Duke is determining how much it
4 will be able to -- wants to capture or not.

5 Q Are you suggesting that Duke should be
6 obligated to capture more carbon or deal with
7 carbon emission issues more stringently than
8 the law requires?

9 A I'm suggesting that the plant shouldn't be
10 built until we understand fully the
11 technological and cost implications of carbon
12 capture and sequestration in general and
13 specifically at this site.

14 Q Let's go to the bottom of Page 7. You
15 indicate that ". . .Duke and Vectren have not
16 adequately considered the potential for
17 greenhouse gas regulations in their economic
18 analyses of the proposed IGCC Project." What
19 do you mean by that?

20 A That goes -- that draws on our expert
21 testimony with respect to the modeling that
22 was done, and that testimony has been filed,
23 and the details are available to you.

24 Q Do you think a commitment to pursue carbon
25 capture and sequestration is adequately

1 considering the potential for greenhouse gas
2 regulations?

3 A It may or may not. We have heard testimony
4 that -- in terms of going up to 20 percent.
5 There might be slight engineering changes
6 going beyond that; there might be more, so
7 that commitment is relative.

8 Q Do you think a 20 percent reduction in carbon
9 emissions is better than a zero percent
10 reduction in carbon emissions?

11 A Well, compared to the current plant, which
12 albeit small, runs only 30 percent of the
13 time, we're going to get net increases in
14 carbon dioxide emissions in the state.

15 Q Can you turn to Page 8, please? There
16 starting on Line 12 through Line 15, you're
17 talking about emission increases, and I'm
18 curious what your source for those are.

19 A Actually, we have -- we put out a document.
20 We were using the air emission permit
21 submittals by Duke in calculating the
22 increases that would occur over the operation
23 of the current plant.

24 Q So those would be workpapers that CAC
25 witnesses have prepared?

1 A Not CAC witnesses. We had a staff person
2 prepare it, and we had other folks review it,
3 so we think they're reasonably accurate.

4 Q Are those source -- were those source
5 documents submitted to the Commission as
6 workpapers?

7 A They were not.

8 Q What is the emission source being compared to
9 to an IGCC plant? In other words --

10 A This is the current plant, the current
11 Edwardsport facility.

12 Q Okay, but it says with the IGCC technology --
13 or while the IGCC technology will reduce some
14 emissions, it will increase others, and I
15 guess I'm wondering, increase from what?
16 Compared to what?

17 A I would say some of these will be decreased
18 with respect to the operation of the current
19 plant; some will increase.

20 Q Well, for example, for an IGCC plant, the lead
21 emissions will increase by 14,555 percent.
22 Will increase from what, from a normal coal
23 plant or just from nothing --

24 A From the operation of the Edwardsport plant.

25 Q Okay, thanks.

1 You talk about wind power, in
2 general, and I'm just wondering: Can you
3 quantify for me the cost of the electric
4 infrastructure that would be needed to bring
5 wind power into the electric grid?

6 A Well, I cannot calculate the exact cost. I
7 know from our expert testimony and also the
8 Utility Wind Integration Group that 20 to
9 25 percent capacity of the grid could be
10 integrated with wind without substantial
11 alterations or impacts on the grid.

12 Q I don't know either, by the way.

13 Turning to Page 10 and starting on
14 Line 23, you reference a report by Steve Nadel
15 entitled "Energy Efficiency Resource
16 Standards: Experience and Recommendations
17 (2006)." Do you see that there?

18 A Yes, I do.

19 Q And one of the things from that report that
20 you quote is that the "U.S. Department of
21 Energy's national laboratories estimate that
22 increasing energy efficiency throughout the
23 economy could cut national energy use by about
24 20% in 2020." Do you see that there?

25 A Yes.

1 Q Do you consider Mr. Nadel an expert in the
2 area of energy efficiency resources?

3 A Yes. He's with the American Council for an
4 Energy-Efficient Economy, and they have done
5 numerous reports on energy efficiency.

6 Q Have you read that entire report that you cite
7 there?

8 A I've read portions of it.

9 Q Let me ask you this, if you remember this from
10 the report, and I'll quote: "However, energy
11 efficiency alone will not solve our energy
12 problems. Even with aggressive actions to
13 promote energy efficiency, U.S. energy
14 consumption is likely to rise for more than a
15 decade, and this growth, combined with
16 retirements of some aging facilities, will
17 mean that some new energy supplies and energy
18 infrastructure will be needed." Do you
19 remember that from the report?

20 A Yes.

21 Q Do you agree with that comment?

22 A Oh, yes. It depends on what sort of energy
23 resources are available, both technologically
24 and economically.

25 Q Thank you, Mr. Smith.

1 MR. HELMEN: I have no other
2 questions.

3 JUDGE STORMS: Ms. Becker, your
4 witness.

5

6

7 **CROSS-EXAMINATION OF MR. GRANT S. SMITH,**

8 **QUESTIONS BY MS. BECKER:**

9 Q Hi, Mr. Smith.

10 A Hello.

11 Q I just have a real quick clarification
12 question.

13 On Pages 5 and 6 of your
14 testimony, you discuss rate impacts of the
15 proposed IGCC plant.

16 A Yes, I do.

17 Q The CAC is concerned about the rate impacts on
18 all consumers, is it not?

19 A Yes, we are.

20 Q Does that also include large industrial
21 customers?

22 A Yes. We're very concerned about the state of
23 the economy.

24 MS. BECKER: Thank you very much.

25 JUDGE STORMS: Mr. Stewart? Ms.

1 Dodd.

2 MS. DODD: He punted to me.

3

4

5 **CROSS-EXAMINATION OF MR. GRANT S. SMITH,**

6 **QUESTIONS BY MS. DODD:**

7 Q Mr. Smith, I believe Mr. Helmen asked you a
8 question about did you believe that the
9 Company should be required to do more carbon
10 control than what the law requires. Do you
11 remember that?

12 A Yes.

13 Q Currently, is there any law requiring carbon
14 emissions?

15 A No, there's no carbon regulations at this
16 point in time.

17 MS. DODD: Thank you. No further
18 questions.

19 JUDGE STORMS: Mr. Hartley?

20 MR. HARTLEY: No questions.

21 JUDGE STORMS: Ms. Karn, your
22 witness.

23 MS. KARN: Thank you, Your Honor.

24

25

1 **CROSS-EXAMINATION OF MR. GRANT S. SMITH,**

2 **QUESTIONS BY MS. KARN:**

3 Q Hello.

4 A Hello.

5 Q I want to just start by following up on a
6 couple of questions that Mr. Helmen was asking
7 you about.

8 Specifically, the CAC is concerned
9 about the CO2 increasing in the atmosphere and
10 global warming generally; is that right?

11 A That's correct.

12 Q Do you agree with me that currently, coal is
13 used to meet a large portion of the energy
14 needs within the United States, generally?

15 A Certainly, yes.

16 Q If we think from, you know, not a specific
17 Duke Energy Indiana perspective at this point
18 but from an energy industry standpoint, do you
19 believe that it's prudent and wise to continue
20 the study of various carbon capture and
21 sequestration technologies?

22 A I believe that's ongoing at this point in
23 time. I'm not sure that ratepayers should be
24 asked to foot that bill at this point in time.

25 Q But you agree it's a good thing and a right

1 thing for the country to be looking at
2 generally?

3 A Generally, yes.

4 Q You were also talking with Mr. Helmen on Page
5 8 of your testimony about these emissions --
6 Page 8, Lines 12 to 15, to refer you back
7 there -- and you said CAC put together a
8 report on some of this; is that right?

9 A Yes.

10 Q Before publishing that report, did you ever
11 ask Duke to either review or approve any of
12 these emission claims?

13 A We had some of our expert witnesses review
14 them. We did not ask Duke.

15 Q Okay, thank you.

16 Let's turn to Page 7 of your
17 testimony, please.

18 A 7?

19 Q 7, yes.

20 At the top on Lines 2 through 4
21 there, you say that even then, they -- meaning
22 Duke Energy -- will only add the carbon
23 capture equipment if it proves to be less
24 expensive than paying for carbon dioxide
25 allowances, defeating the stated purpose of

1 reducing carbon emissions. Do you see that?

2 A Yes.

3 Q Are you generally familiar with the cap and
4 trade systems that have been put in place for
5 SO₂, NO_x and mercury?

6 A Generally.

7 Q Do you have an opinion as to whether the cap
8 and trade system for at least SO₂ and NO_x have
9 been successful at reducing SO₂ and NO_x
10 emissions from power plants?

11 A They seem to work, yes. There is some issue
12 with respect to increased emissions from
13 specific plants in certain areas, but
14 generally they appear to have.

15 Q Okay. Turn to Page 8, please. On Lines 3
16 through 5, you say there that "Adding
17 additional coal capacity at this time is
18 inconsistent with sound planning for a carbon
19 constrained world, and it is inconsistent with
20 statements made by James Rogers and Duke
21 Energy."

22 To your knowledge, are you aware
23 of statements that Duke Energy or Jim Rogers
24 have made that specifically say that, you
25 know, in light of carbon regulations that may

1 be coming down the pike, that no new coal
2 plants should be built?

3 A Not specifically, no.

4 Q Are you familiar with the organization U.S.
5 Climate Action Partnership? I think they go
6 by USCAP.

7 A Yes, somewhat.

8 Q Okay.

9 MS. KARN: Can I approach, Your
10 Honor?

11 JUDGE STORMS: Yes, you may.
12 Kelley, do you have one for us up here?

13 MS. KARN: Yes, I do.

14

15 (Reporter marked document for
16 identification as Petitioner's
17 Exhibit No. CX-1)

18

19 Q I guess first of all, have you reviewed this
20 before?

21 A No, I have not. I don't think so.

22 Q I'm going to ask you to turn to a page --
23 you're generally familiar with USCAP, though,
24 and are you -- have you seen news stories or
25 reports on generally what the purpose of the

1 organization is?

2 A Vaguely. I'm not real familiar with it.

3 Q I'm sorry? I didn't hear you.

4 A Vaguely.

5 Q Oh, okay, thank you. Would you agree with me
6 that this is a group that's calling for
7 mandatory CO2 regulations generally, and this
8 document spells out their call to action for
9 doing that?

10 A Well, I would have to look at it first, but
11 with respect to the testimony that Mr. Rogers
12 has given in North Carolina, for instance, he
13 was calling for his power plants to be
14 grandfathered under carbon regulation.

15 Q Will you turn to Page 9 of this document? If
16 you look at -- on the right there, second
17 paragraph down, "New Coal-Based Energy
18 Facilities and Other Stationary Sources", do
19 you see that?

20 A Yes.

21 Q Can you just go ahead and read through that
22 first sentence there? Out loud, I'm sorry. I
23 should have specified that.

24 A Oh, okay. "Coal supplies over fifty percent
25 of our current electricity generation and will

1 play a continuing role in our energy future."

2 Q And the second sentence as well, sorry.

3 A "Policies are needed to speed transition to
4 low- and zero emission stationary sources that
5 can cost effectively capture CO2 emissions for
6 geologic sequestration."

7 Q Okay, thank you. So, at least based on that
8 statement, would you agree generally that this
9 USCAP organization that Duke Energy Indiana is
10 a part of -- or that Duke Energy is a part of
11 has agreed that as a general principle, that
12 they believe coal will play a continuing role
13 in our energy future?

14 A They believe it will, yes.

15 Q Thank you.

16 MS. KARN: Your Honor, I'm going
17 to offer into evidence Petitioner's
18 Cross-Examination Exhibit 1, which is a USCAP
19 report called "A Call for Action."

20 JUDGE STORMS: Any objection?

21 MR. POLK: No objection, Your
22 Honor.

23 JUDGE STORMS: We'll show
24 Petitioner's Cross-Examination Exhibit 1
25 admitted into this cause.

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(PETITIONER'S EXHIBIT NO. CX-1,
BEING A DOCUMENT ENTITLED, "A CALL
FOR ACTION", ADMITTED INTO
EVIDENCE.)

1 **CROSS-EXAMINATION OF MR. GRANT S. SMITH,**

2 **(Continuing)**

3 **QUESTIONS BY MS. KARN: (Continuing)**

4 Q Now, if you would turn to Page 9, please.

5 A Which page?

6 Q 9. On Page 11 there, you reference -- I'm
7 sorry, on Line 11 of Page 9, you reference
8 Mr. Fagan's testimony, you say ". . .there are
9 several studies which show significant wind
10 potential in Indiana and in surrounding states
11 within the MISO region."; is that right?

12 A Correct.

13 Q This legislative session, did you personally
14 participate in this past Indiana General
15 Assembly legislative session?

16 A Yes. I wasn't there a lot, but I was
17 involved.

18 Q Okay, and did you and/or the CAC work on or
19 review or provide comments or testimony
20 concerning the proposed renewable portfolio
21 standards bills?

22 A Yes, we did.

23 Q As I recall, there were several bills and --
24 changing bill names this session; some of them
25 being House Bill 1122, 1496, Senate Bill 467.

1 Ultimately, I think the ones that got furthest
2 were -- one of those was House Bill 1824. Do
3 you recall that towards the end of the
4 session?

5 A Yes.

6 Q Do you know whether that bill limited in any
7 way the amount of renewable energy that was
8 generated outside of the State of Indiana that
9 could count towards a utility's portfolio
10 requirement?

11 A I can't recall what actually ended up in 1824,
12 but we did have -- there was the concept of
13 allowances, for instance.

14 Q Okay.

15 MS. KARN: May I approach, Your
16 Honor, please?

17 JUDGE STORMS: Yes, you may.

18

19 (Reporter marked document for
20 identification as Petitioner's
21 Exhibit No. CX-2)

22

23 Q I've handed you what has been marked as
24 Petitioner's Exhibit CX-2. I will submit to
25 you that this is just part of the last version

1 of Engrossed House Bill 1824; it's not the
2 entire bill; it's just the renewable portfolio
3 portion, which is starting at Section 12,
4 Chapter 35 of that bill.

5 If you could go ahead and turn to
6 Page 49, and I'm going to go ahead and have
7 you look at -- read part of this to kind of
8 refresh your recollection as to at least what
9 ultimately ended up in 1824. First of all, I
10 guess for the record, this bill was not
11 passed, was it?

12 A It was not.

13 Q Thank you. Could you look at the top there at
14 Page 49 where it says Section (3)? It's
15 actually Chapter 35, Section 7(a)(3).

16 A Okay, yes.

17 Q Go ahead and read Section 3 aloud.

18 JUDGE STORMS: Mr. Smith, if
19 you're going to read that out loud, if you
20 could do so a little more slowly for the
21 benefit of the Court Reporter.

22 WITNESS SMITH: Oh, okay. Sorry.

23 JUDGE STORMS: That would be
24 helpful. You have a tendency to read fast,
25 and it makes it tough for them to get it down.

1 A "One (1) megawatt hour of electricity that is:
2 (A) generated from a renewable energy resource
3 in the territory of a regional transmission
4 organization; and (B) imported into Indiana;
5 equals five-tenths (0.5) REC.", renewable
6 energy credit.

7 Q (Ms. Karn Continuing) Thank you, and then can
8 you also skip over No. 4 there but read (b)
9 aloud?

10 A "Electricity generated by any source outside
11 the territory of a regional transmission
12 organization may not be considered for
13 purposes of calculating an REC to determine an
14 electricity supplier's compliance with section
15 6(a) of this chapter."

16 Q Okay. Let me summarize that in plain English
17 and see if you agree with me.

18 Essentially what this bill
19 provided was that only one-half of the
20 renewable energy credits from an out-of-state
21 resource could count towards the utility's
22 requirement if the out-of-state resource was
23 in the utility's RTO; for Duke, the Midwest
24 ISO. Does that sound right?

25 A That sounds correct.

1 Q And then if the renewable resource was from
2 outside of the State of Indiana but not
3 located within the MISO footprint for Duke,
4 then it could not count at all towards the
5 utility's portfolio requirement; is that
6 correct?

7 A That would be appear to be the case.

8 Q Thank you.

9 MS. KARN: That's all I have. Oh,
10 can I -- sorry. I would offer into evidence
11 Petitioner's Cross-Examination Exhibit 2.

12 JUDGE STORMS: Is there any
13 objection?

14 MR. STEWART: I just would like to
15 ask the purpose of it, Your Honor. It's an
16 engrossed bill; it wasn't passed. I'm not
17 sure the relevance of it to the proceeding. I
18 didn't interject during the discussion, but at
19 this point, I question whether it has any
20 relevance to the proceeding at all.

21 JUDGE STORMS: Are you going to
22 object on relevance grounds and we can rule on
23 that basis?

24 MR. STEWART: Yes.

25 JUDGE STORMS: Any response?

1 MS. KARN: Yes, thank you, Your
2 Honor.

3 Mr. Smith and other witnesses in
4 this case have testified that there's a
5 substantial amount of wind resources available
6 outside of the State of Indiana, and the
7 relevance to this bill is that at least this
8 past legislative session, bills introduced in
9 Indiana that would require a renewable
10 portfolio, a lot of those resources would not
11 count towards the utility's requirements under
12 the bill.

13 JUDGE STORMS: Are there any
14 further objections? I'm sorry I neglected
15 you. Mr. Polk?

16 MR. POLK: No.

17 JUDGE STORMS: Thank you.

18 We'll show Petitioner's Exhibit
19 CX-2 admitted into this cause over the
20 objection of the Industrial Group. I think
21 it's more appropriate to go to the weight of
22 the evidence as opposed to the admissibility
23 of the document itself.

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(PETITIONER'S EXHIBIT NO. CX-2,
BEING A DOCUMENT ENTITLED,
"ENGROSSED HOUSE BILL NO. 1824",
REPRINTED APRIL 10, 2007, ADMITTED
INTO EVIDENCE.)

1 MS. KARN: Thank you, Your Honor.

2 That's all that I have.

3 JUDGE STORMS: Redirect?

4 MR. POLK: Thank you, Your Honor;

5 yes, just a little.

6

7 **REDIRECT EXAMINATION OF MR. GRANT S. SMITH,**

8 **QUESTIONS BY MR. POLK:**

9 Q Mr. Smith, if you could turn back to Page 6 of
10 your testimony, do you recall when Mr. Helmen
11 asked you a question about your statement
12 beginning there on Line 12 about the -- having
13 done a detailed review and analysis of cost
14 comparisons of different options?

15 A Yes.

16 Q Are you the expert witness on cost comparisons
17 in this proceeding, or was somebody else an
18 expert witness for CAC on that issue?

19 A Mr. Biewald was.

20 Q So you're referring to detailed reviews and
21 studies done by Mr. Biewald; correct?

22 A Yes, I am.

23 Q All right. Now, do you recall being asked a
24 question of whether you oppose any coal plant
25 whatsoever in the State of Indiana? Do you

1 recall that?

2 A Yes.

3 Q Does CAC oppose a coal plant if it is the
4 least-cost, cleanest -- if it meets the
5 requirements of the CPCN statute and is the
6 least-cost, cleanest way to serve demand?

7 A No, we would not.

8 Q All right. Is it CAC's position that the
9 Edwardsport plant is not that?

10 A That's our position.

11 Q Do you recall being asked a question of --
12 when you say Duke will have a choice as to the
13 amount of carbon that it could capture and
14 sequester, and Mr. Helmen I believe asked you
15 whether you believed the regulations allowed
16 Duke to -- or whether Duke had to meet a
17 specific limit or not or whether Duke had a
18 choice, do you remember that discussion?

19 A Yes.

20 Q Do environmental regulations typically mandate
21 a specific technology and emissions reduction
22 at a specific power plant?

23 A They may not be specific.

24 Q Okay, but generally with your experience with
25 environmental compliance proceedings, don't

1 utilities have a choice of options in meeting
2 the regulations?

3 A Yes, they do.

4 Q Those options may be to comply or may be a cap
5 and trade system to buy allowances?

6 A They may be, or they can -- as in previous
7 proceedings, they can comply through energy
8 efficiency measures, renewable measures or
9 combined heat and power measures.

10 Q Do you remember when Ms. Dodd asked you
11 whether any law required carbon limits or
12 carbon regulations?

13 A Yes.

14 Q Do you believe the integrated resource
15 planning process is limited to comply with
16 only current regulations?

17 A I do not.

18 Q Do you remember when Ms. Karn asked you
19 about the questions -- about inconsistencies
20 with Mr. Rogers' statements?

21 A Yes.

22 Q And I don't believe you had an opportunity to
23 say which statements you thought he was
24 inconsistent with. Do you recall what
25 statements you were referring to there that he

1 was being inconsistent with?

2 A Well, in terms of public statements with
3 respect to the importance of energy efficiency
4 with respect to looking seriously at renewable
5 energy.

6 Q In fact, Ms. Karn handed you a document called
7 "A Call for Action" from USCAP. Do you have
8 that document in front of you?

9 A Yes.

10 Q Can you turn to Page 9, and can you again read
11 that first sentence under "New Coal-Based
12 Energy Facilities and Other Stationary
13 Sources."?

14 A The first sentence?

15 Q The second sentence.

16 A The second sentence. "Policies are needed to
17 speed transition to low- and zero emission
18 stationary sources that can cost effectively
19 capture CO2 emissions for geologic
20 sequestration."

21 Q Do you believe the Edwardsport facility as
22 currently designed is consistent with a
23 transition to a low and zero emission
24 stationary source?

25 A No, it is not.

1 Q Now, you were asked about the -- do you
2 remember the discussion of the plethora of
3 bills with renewable energy standards in the
4 General Assembly this year?

5 A Yes.

6 Q And the specific discussion of the language in
7 House Bill 1824?

8 A Yes.

9 Q Do you have that in front of you?

10 A Yes.

11 Q Can you tell me the date off the top of that
12 document that this was reprinted from?

13 A April 10, 2007.

14 Q Okay. When did the legislative session start?

15 A January.

16 Q With your experience in the Legislature --
17 well, let me take you back.

18 Is this -- was this bill and this
19 provision in that bill specifically endorsed
20 by Citizens Action Coalition, the one you
21 talked about on Page 49?

22 A I know we posed the bill in general because it
23 had other provisions in it. I don't recall at
24 what point this was inserted into the
25 discussion.

1 Q Was Citizens Action Coalition the only
2 organization that lobbied on that bill?

3 A No.

4 Q Did Duke lobby on that bill?

5 A Duke opposed the bill, yes. The -- I don't
6 know if they opposed this bill, but they
7 opposed the renewable electricity standard
8 bill that was initially filed.

9 Q Is it possible that the language Ms. Karn
10 questioned you about was inserted at the
11 request of some party other than Citizens
12 Action Coalition, perhaps even Duke itself?

13 A I don't think it was suggested by Duke. There
14 were so many discussions going on, I have
15 no -- you know, it came up I think in the
16 context of if there's going to be difficulty
17 in complying, that this might be some way to
18 help, and there was ongoing discussions within
19 our Coalition whether this was the right way
20 to go or not, and, you know, I cannot recall
21 when this was inserted into the language. If
22 it was inserted into this bill, we were
23 opposed to it to begin with, and there were
24 other bills that we were opposed to; there
25 were others that included non-renewable

1 resources that might have had this language in
2 it. I don't recall.

3 Q What would be the reason for favoring in-state
4 renewable resources over out-of-state
5 renewable resources?

6 A So we get the economic development benefits of
7 those resources.

8 MR. POLK: I have no further
9 redirect, Your Honor.

10 JUDGE STORMS: Mr. Smith, thank
11 you very much for your testimony. You are
12 excused.

13 Mr. Polk, anything further from
14 the CAC?

15 MR. POLK: No, Your Honor. At
16 this point, that concludes our case.

17 JUDGE STORMS: Okay.

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19

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21

22 (WITNESS GRANT S. SMITH EXCUSED)

23

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25

1 JUDGE STORMS: Mr. Helmen, you may
2 call your first witness.

3 MR. HELMEN: Thank you, Your
4 Honor. The Public calls Joan Soller.

5

6 **JOAN M. SOLLER**, a witness appearing on behalf of
7 the Public, having been first
8 duly sworn, testified as follows:

9

10 **DIRECT EXAMINATION,**

11 **QUESTIONS BY MR. HELMEN:**

12 Q Would you please state your full name and
13 spell your last name for the record?

14 A Joan M. Soller, S-o-l-l-e-r.

15 JUDGE STORMS: Ms. Soller, were
16 you previously sworn --

17 WITNESS SOLLER: Yes, I was.

18 Thank you.

19 JUDGE STORMS: -- a few days ago?

20 WITNESS SOLLER: Yes.

21 JUDGE STORMS: Still applies.

22 Please proceed; sorry.

23 MR. HELMEN: Thank you, Your
24 Honor.

25 Q Where are you employed and in what capacity?

1 A I'm employed by the Office of the Utility
2 Consumer Counselor as the Director of the
3 Electric Division.

4 Q Did you have direct testimony offered in this
5 case?

6 A Yes.

7 Q I've had the Court Reporter place before you
8 what has been marked for identification
9 purposes as Public's Exhibit 1. Is that a
10 true and accurate copy of your prefiled
11 testimony in this cause?

12 A Yes, it is.

13 Q Are there some corrections or modifications
14 you need to make to that testimony?

15 A There are a few.

16 Q Okay. Can we start with the one on Page 10
17 starting on Line 19? As you know, we
18 inadvertently left out a sentence, and we have
19 moved the Court for leave to amend that, and
20 that has been granted, so perhaps you could
21 just for the record state what was added that
22 was inadvertently omitted before.

23 A Okay. Beginning on Line 19 on Page 10, the
24 sentence "The OUCC would recommend that the
25 Commission require Duke to credit its

1 ratepayers with 90% of any wholesale power
2 sale margins from generation at this facility,
3 with the remaining 10% to shareholders."

4 Q And that has now been added to that copy?

5 A Yes.

6 Q Are there any other corrections or changes you
7 need to make?

8 A There are a couple.

9 Q Okay. Please start.

10 A On Page 3, Line 24, the word "place" should be
11 plural; there should be an "s" at the end of
12 that.

13 Q What line? I'm sorry.

14 A Line 24.

15 Q Okay. Any others?

16 A Yes. On Page 5, Line 13, after "1980s", there
17 should be a period instead of a comma.

18 Q Okay. Anything else?

19 A Just a couple. Page 13, Line 13, "46293"
20 should read "42693."

21 Q Okay. Any others?

22 A Just a minute.

23 Page 15, Line 28, the word
24 "gasification" should have a capital "G", and
25 there's one more.

1 On Page 17, beginning at Line 8,
2 this is a direct quote from Mr. Rogers'
3 testimony. The quotation marks were omitted
4 at the beginning of the quote and the end, and
5 in parentheses it should read, "(Taken from
6 Mr. Rogers' testimony in North Carolina Docket
7 No. E-7, Sub 790, Page 7, Line 18 to Page 8,
8 Line 6.)" That's all.

9 Q Have you made those changes and initialed them
10 on the official copy?

11 A I've made the changes; I'm going back with my
12 initials.

13 I'm finished.

14 Q Okay. With those corrections, if I were to
15 ask you the same questions today while you're
16 under oath, would your answers be
17 substantially the same?

18 A Yes, they would.

19 Q Do you adopt the testimony in Public's Exhibit
20 1 as your sworn testimony in this cause?

21 A Yes.

22 MR. HELMEN: Your Honor, at this
23 time, we would offer into evidence Public's
24 Exhibit 1, the prefiled testimony of Joan
25 Soller.

1 JUDGE STORMS: If there's no
2 objection, we'll show Public's Exhibit 1
3 admitted into this cause.

4 MR. HELMEN: Thank you, Your
5 Honor.

6
7 (PUBLIC'S EXHIBIT NO. 1, BEING THE
8 PREFILED DIRECT TESTIMONY OF MS.
9 JOAN M. SOLLER, ADMITTED INTO
10 EVIDENCE.)

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1 MR. HELMEN: Ms. Soller is
2 available for cross-examination.

3 JUDGE STORMS: Nucor?

4 MS. BECKER: Oh, Duke doesn't get
5 to go first this time? We don't have any
6 questions, Your Honor.

7 JUDGE STORMS: Okay. Mr. Stewart?

8 MR. STEWART: Thank you, Your
9 Honor.

10

11 **CROSS-EXAMINATION OF MS. JOAN M. SOLLER,**

12 **QUESTIONS BY MR. STEWART:**

13 Q Good afternoon.

14 A Good afternoon.

15 Q On Page 5 of your testimony around Lines 14
16 and 15, you reference the 500 megawatt IGCC
17 plant being 16 percent higher. Do you see
18 that?

19 A Yes.

20 Q So, am I right that on this proposal in this
21 cause, just rounding it to \$2 billion, we'd be
22 talking about a \$320 million number? Is that
23 16 percent?

24 A I will trust your math, yes.

25 Q Okay, and my last question is further down on

1 that page, Line 22, you say that "While there
2 may be disagreements over the extent to which
3 carbon dioxide emissions are affecting our
4 planet, there seems to be almost universal
5 agreement that time is of the essence. . ."

6 Can I assume from that that you
7 don't listen to Rush Limbaugh on WIBC?

8 A I do not listen to Rush Limbaugh.

9 MR. STEWART: Thank you. That's
10 all I have.

11 JUDGE STORMS: Mr. Polk?

12 MR. POLK: Thank you.

13

14

15 **CROSS-EXAMINATION OF MS. JOAN M. SOLLER,**

16 **QUESTIONS BY MR. POLK:**

17 Q Good afternoon.

18 A Good afternoon.

19 Q In some respects, you are in the fortunate
20 position of being between us and the end of
21 the hearing in a short time to accommodate a
22 commitment, so I'm going to have to make some
23 of these questions quick, I suppose.

24 Who does the OUCC represent in
25 cases like this?

1 A We represent all Indiana ratepayers.

2 Q Okay, and have there been any public field
3 hearings in this proceeding?

4 A Not to my knowledge.

5 Q Those are generally only required in a general
6 rate case proceeding; correct?

7 A That's my understanding. I'm not aware of any
8 requests for public field hearings before the
9 Commission.

10 Q Okay, and do you recall the amount of the
11 increase from Duke's last general rate case?

12 A I do not have that information with me.

13 Q Less than 10 percent?

14 A I don't know, Jerry. I was not employed with
15 the OUCC when that rate case was negotiated.

16 Q Where were you at that time?

17 A Hendricks Power REMC.

18 Q Is it your understanding -- well, do you have
19 an opinion as to whether the increase in rates
20 from this proceeding will be greater or lesser
21 than that approved in the last rate case?

22 A If you look at my testimony on Page 4 -- I'm
23 sorry, on Page 5, the final version, it's Line
24 8, the revenue requirement impact of the
25 project is greater than the increase in the

1 last rate case.

2 Q Has the OUCC had any public meetings or
3 meetings with members of the general public
4 regarding the IGCC case, this proposal and
5 what it should do?

6 A We have not hosted an open public meeting;
7 however, I did participate in one of the
8 public meetings that was hosted by Duke in
9 Edwardsport last month.

10 Q Has the OUCC had any meetings with the
11 Governor where they've received guidance,
12 suggestions or direction with respect to the
13 Edwardsport facility?

14 MR. HELMEN: Your Honor, I'm going
15 to object to the question. I think it
16 violates the deliberative process of agencies
17 and the executive branch of government to meet
18 or not meet. It's also not relevant to this
19 proceeding.

20 JUDGE STORMS: Any response, Mr.
21 Polk?

22 MR. POLK: Well, Your Honor, the
23 OUCC has represented that it represents the
24 public, not the Governor, in which case, you
25 know, that privilege doesn't apply. It's the

1 same as executive lobbying by any other agency
2 or lobbying by any other entity that went to
3 the agency who they don't represent.

4 JUDGE STORMS: I'll sustain the
5 objection.

6 Q (Mr. Polk Continuing) Was there any
7 opposition to the Edwardsport plant at the one
8 meeting you attended?

9 A I did not hear anyone oppose the plant.

10 Q Did you attend any meetings down in
11 Evansville?

12 A Regarding this plant?

13 Q Yes.

14 A No.

15 Q Any meetings in Bloomington?

16 A No.

17 Q Any meetings in Terre Haute?

18 A No. I'm not aware of public meetings being
19 held in those locations.

20 Q Now, I notice you've included or attached to
21 your testimony letters received from folks
22 supporting the Edwardsport plant.

23 A Yes.

24 Q Have you received any letters of
25 communications from people opposed to the

1 Edwardsport plant?

2 A Yes, our Office has.

3 Q So, this is a selection that supports the
4 Office's position and not a representation of
5 what the public opinion is?

6 A I don't believe that is a fair statement. To
7 my knowledge, the letters opposing the plant
8 were received after I filed my testimony,
9 subject to check.

10 Q Turning to Page 9 of your direct testimony,
11 you indicate that in North Carolina, Duke
12 committed to invest 1 percent of its retail
13 revenues in energy efficiency and DSM.

14 Has Duke made that same commitment
15 in Indiana?

16 A I believe -- I don't recall if this was in the
17 rebuttal testimony or in conversations with
18 the OUCC and CAC that they have made a similar
19 commitment.

20 Q Is there a commitment to achieving any
21 specific level of energy savings that you're
22 aware of that's publicly discussable?

23 A I believe there's an ongoing collaborative
24 that you and I have participated in as
25 recently as last week, and that the report

1 that was received is still considered draft
2 and anticipate that we will have further
3 discussions about goals and appropriate levels
4 of expenditures.

5 Q Okay. Is it the OUCC's position that Duke's
6 investments in energy efficiency for demand
7 side options should be increased?

8 A Yes.

9 Q Okay. Looking at Lines 19 through 21 there on
10 Page 9, you say that Duke's projections are
11 also based on increased capacity needs. Did
12 the OUCC perform any independent analysis of
13 Duke's capacity needs?

14 A We reviewed Duke's IRP and met with them to
15 discuss their modeling techniques last summer
16 and Fall.

17 We do not have the modeling
18 software available to us. We considered that
19 and determined that it was not wise use of
20 ratepayer -- taxpayer, excuse me, money to
21 pursue that option.

22 We met extensively with the
23 Commission Staff to discuss this and
24 internally and talked about several different
25 options and determined that auditing the

1 existing modeling of all of the utilities was
2 more wise at this point.

3 Q Now, you talk about their reductions in
4 current generation due to unit derates. Are
5 you familiar with which units were derated?

6 A I did not bring the IRP with me. That may be
7 a question to defer to Ms. Jenner in rebuttal,
8 but I believe that there were specific derates
9 identified due to environmental additions that
10 will occur in the next several years.

11 Q Now, there was a -- Can you direct me back to
12 that sentence that was added in your testimony
13 about the 90/10 sharing?

14 A Sure. It's on Page 10, the beginning of the
15 answer.

16 Q Okay. So, the OUCC's position is that
17 90 percent of the wholesale power sale margins
18 from the generation of this facility should be
19 flowed through to ratepayers?

20 A Yes.

21 Q When did the OUCC realize it omitted a
22 sentence on Page 10?

23 A I believe it was last week. I don't recall
24 the exact date, Mr. Polk.

25 Q When did the OUCC notify the parties and

1 update its testimony to reflect that sentence?

2 A The OUCC notified the Petitioner in response
3 to a data request, which was a trigger for us
4 to realize the sentence was inadvertently
5 omitted, but we filed the revised testimony
6 today.

7 Q But the OUCC did not update its testimony to
8 add the letters opposing the plant that it's
9 received since pre-filing this testimony;
10 correct?

11 A I'm not sure what the protocol is for
12 admitting that type of evidence in the absence
13 of a field hearing.

14 Q Do you know if the advisory council to the
15 OUCC that's required under statute has been
16 established or has met recently?

17 A No, I do not know the answer to those
18 questions.

19 Q Looking at Page 13, Lines 9 through 10 of your
20 direct testimony, I think you state that the
21 OUCC believes that no Indiana utilities have
22 pursued demand side options as aggressively as
23 they should; is that correct?

24 A That is what my testimony says, if that's the
25 question.

1 Q Is that the position of the OUCC?

2 A Yes, it is.

3 Q How much more aggressively should utilities be
4 pursuing efficiency?

5 A I think utilities should pursue efficiency in
6 response or as a result of specific analyses
7 of their costs and their rate structures.

8 As I mentioned earlier, I expect
9 that specific goals and expenditures and
10 what's reasonable will be decided upon, and
11 I'm glad that that's happening in a
12 collaborative setting, not just with Duke but
13 other utilities across the state.

14 Q Down at the bottom of that page, you refer to
15 the State Utility Forecasting Group's studies
16 on capacity. Do you know if the SUFG reports
17 include merchant plants in its calculation of
18 available state capacity?

19 A I believe that they do, but I would need to
20 check that. I don't have that report with me.

21 Also, this statement is related to
22 capacity and not consumption of megawatt
23 hours. I just wanted to clarify that.

24 Q Okay. If we can move on to Page 15 of your
25 testimony, please. Actually, I think as

1 you've amended it, it would now put us over to
2 Page 16, Line 1, where you talk about the IGCC
3 project could help facilitate -- or the
4 project could be extremely important in
5 proving that a larger scale carbon
6 sequestration at a commercial IGCC plant site
7 could help facilitate a reasonable solution to
8 climate change issues, and I would like to
9 explore that a little bit.

10 Is it the OUCC's position that a
11 specific utility's ratepayers should fund
12 projects that serve the purpose of general
13 research into feasibility for projects that
14 would apply to other utilities?

15 A I believe all Indiana ratepayers will be
16 affected by future environmental costs for CO2
17 regulations, and that the least-cost,
18 reasonable option for each utility should be
19 analyzed as such in the CPCN proceeding.

20 Q Would you agree that if it is being done for
21 the benefit of all utility ratepayers, that
22 the costs should be borne by all utility
23 ratepayers and not simply one utility's
24 ratepayers?

25 A I believe that each utility addresses their

1 generation plans based on the information and
2 their business practices and their culture and
3 their commitment to whatever it is that they
4 believe is important, and that we should
5 review and analyze the costs that are
6 presented in specific proceedings.

7 Q I'm sorry, was that a yes or a no?

8 A Well, I'm not answering the question
9 intentionally. I believe that you're
10 mischaracterizing this quote, and I don't
11 believe that the costs that are before us in
12 this proceeding are in the category of general
13 R&D.

14 I understand that in Ms.
15 Radcliffe's rebuttal testimony, she describes
16 Duke's commitment to apply for Phase III
17 funding for a DOE project, which is more R&D
18 based, which would be beneficial for
19 ratepayers to reduce the costs, but I believe
20 that the costs of this proceeding are specific
21 to this plant and for these ratepayers. I
22 think sharing information is always beneficial
23 when lessons are learned.

24 Q Is it the position of the OUCC that the
25 Edwardsport IGCC facility is the least-cost

1 option to supply generation to its customers?

2 A The OUCC believes this is the least-cost,
3 reasonable option.

4 Q Okay. You qualified that with reasonable.

5 A Yes.

6 Q Would you -- do you believe that this project
7 per megawatt capacity or by megawatt hours,
8 however you want to quantify it, is less
9 expensive than a pulverized coal plant?

10 A In what time period? Over the life of the
11 plant?

12 Q Over the life of the plant.

13 A I think given the current environment that we
14 are in with the likelihood of future CO2
15 regulations, I think IGCC is a better option
16 than pulverized coal for the life of the
17 plant.

18 Q Is that true without carbon capture and
19 sequestration?

20 A Well, I think given the environment that we're
21 in, it is not prudent to ignore the option of
22 carbon capture and sequestration.

23 Q Well, I understand that, but without carbon
24 capture and sequestration, would the OUCC
25 support this plant?

1 A No.

2 Q Does the OUCC believe that a 20 percent
3 reduction in carbon emissions from this plant
4 would result in an overall reduction in carbon
5 emissions for the Duke generating system?

6 A I believe it's part of the solution.

7 Q Okay. Would you agree that carbon emissions
8 will actually increase even with the
9 20 percent capture and sequestration option?

10 A I'm not sure what that's based upon. You'll
11 notice an attachment in Ms. Smith's testimony
12 that is in response to a data request from the
13 Petitioner, and it shows a reduction of -- or
14 it shows a level of CO2 emissions for the
15 existing plant versus the new plant, and the
16 overall values are lower even with the new
17 plant and increased capacity.

18 Q Is that the value of carbon emissions or
19 carbon emissions per megawatt hour?

20 A Let me look at it.

21 Q If you would like to defer to Ms. Smith, I
22 could always --

23 A That's fine.

24 Q Okay.

25 JUDGE STORMS: That's always a

1 popular option.

2 WITNESS SOLLER: Well, and he
3 wants to get out of here, doesn't he?

4 Q On Page 17 of your testimony, you talk about
5 Duke Energy Indiana's expertise with the
6 gasification technology at Wabash River.

7 A I believe that's Mr. Rogers' testimony from
8 North Carolina.

9 Q Okay, that's --

10 A And the word is experience with the
11 technology.

12 Q All right. Do you know what that experience
13 was?

14 A I understand they operate the turbine and
15 power side of the island but have close
16 coordination with Wabash Valley Power.

17 Q To your knowledge, Duke did not have
18 experience actually running the gasification
19 facilities; correct?

20 A I don't know that I would quantify or qualify
21 that statement or agree with that statement.
22 I have visited the plant actually as an
23 employee of Hendricks Power and talked quite a
24 bit with operating personnel while I was
25 there, and there seemed to be quite a bit of

1 cooperation between the two parties to
2 coordinate the operation of the plant.

3 Q At what time was that visit?

4 A I believe it was the Fall of 2000. Excuse me,
5 2005.

6 Q Do you recall when that plant went on line?

7 A I recall 1993, but I would have to check that
8 date.

9 Q Would the OUCC support a higher level of
10 carbon capture and sequestration than what has
11 been proposed by -- in its current -- in the
12 OUCC's current proposal or by Clean Air Task
13 Force and Indiana Wildlife Foundation?

14 A That would depend on the specifics of a study
15 that would indicate the costs and the benefits
16 of doing so, so I could not answer that
17 question today.

18 Q Would you agree that a cost benefit analysis
19 would need to be done?

20 A I believe it would be helpful to make some --
21 take some steps to actively pursue carbon
22 capture and sequestration in the State of
23 Indiana, and as Mr. Cortez said earlier today,
24 it makes sense to walk before we run in that
25 area.

1 Q Does the OUCC believe the only way to address
2 the carbon emissions problem is through
3 capture and sequestration?

4 A No, and I believe you'll see in my testimony
5 that I highlight the benefits of energy
6 efficiency and renewable fuels and demand-side
7 management options as other means to reduce
8 carbon emissions.

9 Q Do you believe that the least-cost options
10 should be pursued first?

11 A I believe that the least-cost, reasonable
12 options should be pursued in a cumulative
13 solution.

14 Q Are you -- do you intend to imply there that
15 efficiency and renewables are not reasonable?

16 A No. I believe that utilities should plan for
17 their future forecasted load needs based on a
18 combined solution of several options, baseload
19 generation, peaking generation, base type of
20 conservation measures for energy efficiency
21 and DSM as well as direct load control, which
22 is used during peak periods.

23 Q Do you believe that planning horizons should
24 look out ten, 20 years?

25 A Yes.

1 Q Has the OUCC done any modeling or forecasting
2 with respect to the price of carbon emission
3 allowances or the cost of carbon compliance
4 going out over the next ten or 20 years?

5 A The OUCC has not done an independent modeling.

6 We understand there's a wide range
7 of values and a wide range of options that
8 have been presented throughout the country,
9 and we believe that we should respond to those
10 that are presented to us in specific
11 proceedings.

12 Q Would the OUCC support capture and
13 sequestration at facilities other than the
14 Edwardsport plant?

15 A It's possible. It depends on the specifics of
16 the site and the company and the plan to do
17 so.

18 Q Does the OUCC believe it would be in the
19 public interest for the state to look at
20 different sites and determine which site would
21 be least-cost and most productive to do that
22 sort of research?

23 A I don't know that there's a statutory basis
24 for the state to do that analysis and dictate
25 where these facilities are built or how carbon

1 capture and sequestration is accomplished.

2 Q Do you believe the Commission has the
3 authority to initiate an investigation on its
4 own motion into any matter that affects
5 utilities?

6 A Well, I believe that's a legal question.

7 Q Do you believe they should have that
8 authority, and if they do, whether they should
9 use it? If they do have that authority, do
10 you think they should use it?

11 A To investigate any option available to any
12 utility? I believe that's a very broad
13 statement, and I would prefer not to answer
14 that question, Mr. Polk.

15 Q Okay, to investigate whether capture and
16 sequestration would be feasible in other
17 locations in the state.

18 A What type of funding mechanism would you
19 recommend in order for the state or the
20 Commission to accomplish that? I don't know
21 that there's a mechanism to do so, and
22 everything costs money.

23 Q Unfortunately, I think the rules prohibit me
24 as an attorney testifying in this proceeding,
25 but I'll be glad to discuss that later with

1 you.

2 A I'm sorry.

3 MR. HELMEN: No, you're fine.

4 Q Perhaps that question should have been asked
5 to Mr. Smith.

6 MR. POLK: I have no further
7 questions at this time, Your Honor. Thank
8 you, Ms. Soller.

9 JUDGE STORMS: Mr. Hartley?

10

11

12 **CROSS-EXAMINATION OF MS. JOAN M. SOLLER,**

13 **QUESTIONS BY MR. HARTLEY:**

14 Q Ms. Soller, the OUCC's recommendation in your
15 testimony is that the Commission approve the
16 CPCN for this plant with the caveat that the
17 plant design should include up to a 20 percent
18 carbon capture and sequestration; is that
19 correct?

20 A Yes, it is.

21 Q If Duke were to propose that the Commission
22 should go ahead and approve the plant as
23 proposed with a commitment from Duke to
24 initiate shortly after that approval a second
25 proceeding for cost recovery of a FEED study

1 and other studies of carbon capture and
2 sequestration options, what would the OUCC's
3 position be on that outcome?

4 A We would support that plan, especially with a
5 time line that was reasonable following the
6 CPCN order.

7 MR. HARTLEY: Thank you.

8 JUDGE STORMS: Ms. Karn, your
9 witness.

10 MS. KARN: Thank you.

11

12

13 **CROSS-EXAMINATION OF MS. JOAN M. SOLLER,**

14 **QUESTIONS BY MS. KARN:**

15 Q Hi.

16 A Hi.

17 Q Could you turn to Page 5 of your testimony,
18 please?

19 A Yes.

20 Q If you look at lines -- I'm not sure if this
21 version is different, but on mine, it's Lines
22 13 through 15, and you talk about this
23 16 percent differential between IGCC and super
24 critical technology.

25 A Yes.

1 Q Would you agree that that 16 percent figure
2 does not take into account any of the benefits
3 of tax credits that might be available to this
4 Edwardsport IGCC project?

5 A That's my understanding. Given the fact that
6 the Vectren 2005 IRP was filed in November of
7 2005, I don't believe there was any indication
8 of what those might be.

9 Q Okay, thank you.

10 Your testimony discusses that one
11 of the benefits that the OUCC sees for IGCC is
12 this potential for carbon capture and
13 sequestration; correct?

14 A Yes.

15 Q Do you agree that the IGCC plant will also
16 have lower emissions than the new source
17 performance standard limits for coal plants
18 generally in terms of SO₂, NO_x and mercury?

19 A That is my understanding.

20 Q Do you agree that water usage and solid wastes
21 are significantly less for an IGCC plant than
22 a traditional coal plant?

23 A I believe I read that in Duke's case-in-chief
24 testimony in Ms. Pashos' and Mr. Rogers'
25 testimony.

1 Q Do you consider those attributes to be
2 benefits of IGCC?

3 A Yes.

4 Q I want to go through on Page 10, Line 19 the
5 new section of your testimony there.

6 A Okay.

7 Q This is a section where you recommend that
8 90 percent of the wholesale sales margin from
9 the facility be credited to customers; right?

10 A Yes.

11 Q I just want to make sure that I understand
12 your proposal completely.

13 First, I guess I want to get our
14 terminology straight. You call -- I think
15 what you call wholesale sales margins I would
16 call off-system sales or non-native sales;
17 does that sound right?

18 A Yes.

19 Q Okay, let's go ahead use non-native sales so
20 we're on the same page.

21 These are opportunity sales that
22 Duke Energy Indiana would make after it's
23 fulfilled its native load obligations; is that
24 correct?

25 A That's my understanding.

1 Q And these are the kinds of sales that are
2 currently subject to the Company's off-system
3 sales or non-native sales sharing mechanism
4 under the Company's Rider 70; is that your
5 understanding?

6 A Yes.

7 Q Do you know when that rider was first
8 approved?

9 A I believe it was following your last rate
10 case, and the first proceeding was last
11 summer.

12 Q Would you accept, subject to check, that the
13 rider was approved in the last rate case?

14 A Yes.

15 Q Do you know what the OUCC's position was on
16 the rider at that time or specifically on the
17 off-system sales sharing mechanism?

18 A I recall there was a difference of opinion in
19 the target value of the amount of sales, but
20 that's all that I recall about it.

21 Q Okay, thank you.

22 Would you accept, subject to
23 check, that the Company's actually received
24 three orders under that rider since its last
25 rate case?

1 A Yes.

2 Q Those cause numbers are 42695, 42870 and 43074
3 which was -- the last of which was just
4 approved last week. Does that sound familiar?

5 A The numbers sound familiar. I thought 43074
6 was a new filing with the evidence to be
7 presented for the current year or it hasn't
8 been approved yet but it's been filed, but we
9 haven't seen the workpapers and the detail for
10 that case yet.

11 Q We have filed a new petition, and I'm not sure
12 if I have the cause numbers right, but I
13 thought 43074 was the approval of last year's.

14 A Okay.

15 Q I believe that's correct, but you're right; we
16 filed a new one for this coming summer and for
17 the next time around, but --

18 A I'll claim a Dick Stevie and say all the
19 numbers run together.

20 Q It's hard with cause numbers; I'm not that
21 great either.

22 Do you know generally how that
23 non-native sales sharing mechanism works?

24 A Generally.

25 Q I want to kind of go through it and just make

1 sure that we're both on the same page and just
2 go through it by way of some examples, and for
3 simplicity's sake, I am kind of dumbing down
4 the numbers to round numbers and even numbers,
5 which are easier for me to divide anyway.

6 Let's kind of take as the basis
7 that there's a certain amount -- is there a
8 certain -- is it your understanding that
9 there's a certain amount of off-system sales
10 profits that are included in Duke's base
11 rates?

12 A Yes.

13 Q Let's say that amount is approximately \$14
14 million. Does that sound right?

15 A Yes.

16 Q So, if Duke makes more than \$14 million in a
17 12-month period, is it your understanding that
18 Duke would then get to keep 50 percent of the
19 amount above \$14 million?

20 A Yes.

21 Q And customers would get credit for the
22 remainder, the other 50 percent of the amount
23 above the \$14 million?

24 A Yes.

25 Q Customers would also, of course, still get

1 credit for the \$14 million?

2 A I thought there was a downside if the \$14
3 million was not --

4 Q We'll get to the downside.

5 A Okay.

6 Q Let's for this one example say Duke makes
7 more.

8 A Okay.

9 Q Let's go through examples. Let's say Duke
10 makes \$16 million in non-native sales.

11 A Okay.

12 JUDGE STORMS: Ms. Karn, I think
13 this might be the best place to stop.

14 MS. KARN: Oh, okay.

15 JUDGE STORMS: I was hoping that
16 we'd be able to make it through, but we're
17 almost to a quarter to 2:00, and we have
18 Conference at 2:00, and I want to give
19 everybody a chance to get their stuff together
20 and be able to make an orderly departure from
21 this room so then we can get back in here or
22 maybe use the one next door, so let's go ahead
23 break for the day at this point.

24 There is one loose end I want to
25 address, and Mr. Helmen has reminded me about

1 this a couple of times, and I've neglected
2 him, so I'll see if I can rectify that.

3 He does have a motion for leave to
4 file late-filed confidential testimony of Wes
5 Blakley under seal that was filed the 19th,
6 and I told him I've been down here the whole
7 time and haven't had a chance to act on it, so
8 I thought I might just ask everybody if
9 there's an objection to this or not.

10 If there's no objection, we will
11 show that the motion is granted.

12 MS. KARN: No objection.

13 JUDGE STORMS: Okay.

14 We'll be in recess until tomorrow.
15 Let's go ahead and start tomorrow morning at
16 9:00 as well. Thank you.

17
18

19 (WITNESS JOAN M. SOLLER TEMPORARILY EXCUSED)

20
21

22 (HEARING IN RECESS UNTIL JUNE 21, 2007

23 AT 9:00 A.M. (EDT) IN ROOM 222

24 OF THE NATIONAL CITY CENTER,

25 INDIANAPOLIS, INDIANA)