

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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.)

21

22

23

24

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.)

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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.

17

18

19

20

21

22

23

24

25

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 "SUFUG", 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.)

13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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 SO<sub>2</sub>, NO<sub>x</sub> and mercury?

6 A Generally.

7 Q Do you have an opinion as to whether the cap  
8 and trade system for at least SO<sub>2</sub> and NO<sub>x</sub> have  
9 been successful at reducing SO<sub>2</sub> and NO<sub>x</sub>  
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.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

(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.

24

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

(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.

18

19

20

21

22 (WITNESS GRANT S. SMITH EXCUSED)

23

24

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.)

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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 SO<sub>2</sub>, NO<sub>x</sub> 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)