

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

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

13  
14 (Reporter marked documents for  
15 identification as Intervenor's -  
16 IIG Exhibit Nos. 1, MPG-1 and  
17 MPG-2)

18  
19 JUDGE STORMS: Let's go ahead and  
20 go back on the record.

21 Before we get started with the  
22 next witness for the Petitioner, the  
23 Industrial Group intends to offer -- would  
24 like to offer the testimony of Mr. Gorman  
25 taken out of order, and I understand the

1 parties have no objection to that.

2 MR. POPE: That's correct, Your  
3 Honor.

4 JUDGE STORMS: Okay. Mr. Stewart,  
5 please proceed.

6 MR. STEWART: Thank you, Your  
7 Honor.

8 We offer Industrial Intervenor  
9 Group Exhibit No. 1. That's the prefiled  
10 testimony of Michael Gorman, and attached to  
11 it were two exhibits, MPG-1 and MPG-2.

12 JUDGE STORMS: Okay. We will show  
13 IIG 1 with Sub-Exhibits MPG-1 and 2 admitted  
14 into this cause.

15 MR. STEWART: Thank you, Your  
16 Honor.

17  
18 (INTERVENOR'S - IIG EXHIBIT NO. 1,  
19 BEING THE PREFILED DIRECT  
20 TESTIMONY OF MR. MICHAEL P.  
21 GORMAN, WITH INTERVENOR'S - IIG  
22 EXHIBIT NOS. MPG-1 AND MPG-2  
23 ATTACHED THERETO, ADMITTED INTO  
24 EVIDENCE.)  
25

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

3 MR. POPE: Thank you, Your Honor.

4

5 **W. MICHAEL WOMACK**, a witness appearing on behalf  
6 of the Petitioner, having been  
7 first duly sworn, testified as  
8 follows:

9

10 **DIRECT EXAMINATION,**

11 **QUESTIONS BY MR. POPE:**

12 Q Would you please state your name?

13 A W. Michael Womack.

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

16 A Duke Energy Business Services, and I'm Vice  
17 President of Major Projects for the Midwest.

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

21 A Yes.

22 Q Have you before you, sir, a document that's  
23 been marked for purposes of identification as  
24 Petitioner's Exhibit B?

25 A Yes.

1 Q Is that your prepared testimony?

2 A Yes, it is.

3 Q Are there any corrections or changes that need

4 to be made to your prepared testimony?

5 A There is one change. On the first page, Line

6 6, change the reference to "Shared Services"

7 to "Business Services". Strike the "Inc." and

8 substitute "LLC".

9 Also, in the heading of the

10 testimony, same change; change "Shared" to

11 "Business" and "Inc." to "LLC".

12 Q Have those changes been made on the record

13 copy?

14 A Yes.

15 Q Would you initial those changes, please, sir?

16 A I don't have a pen, but if I had a pen, I

17 would do it.

18 Q Does your testimony also contain Confidential

19 Exhibit B-1?

20 A Yes.

21 Q Mr. Womack, if I were to ask you those same

22 questions on the Stand today, would your

23 answers be the same?

24 A Yes.

25 Q Do you adopt Petitioner's Exhibit B along with

1 Confidential Exhibit B-1 as your testimony in  
2 this cause?

3 A I do.

4 MR. POPE: At this time, Your  
5 Honor, we will offer Petitioner's Exhibit B  
6 and B-1-Confidential.

7 JUDGE STORMS: Is there any  
8 objection?

9 If not, we'll show Petitioner's  
10 Exhibit B and Confidential Exhibit B-1  
11 admitted into this cause.

12  
13 (PETITIONER'S EXHIBIT NO. B, BEING  
14 THE PREFILED DIRECT TESTIMONY OF  
15 MR. W. MICHAEL WOMACK, ADMITTED  
16 INTO EVIDENCE.)

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1 (PETITIONER'S EXHIBIT NO.  
2 B-1-CONFIDENTIAL, BEING A  
3 CONFIDENTIAL EXHIBIT, ADMITTED  
4 INTO EVIDENCE ON A CONFIDENTIAL  
5 BASIS. )  
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1                   MR. POPE: The witness is  
2     available.

3                   JUDGE STORMS: Mr. Helmen?

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

6

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

8           **QUESTIONS BY MR. HELMEN:**

9     Q   Good afternoon, Mr. Womack.

10    A   Good afternoon.

11    Q   Were you present in the room when Mr. Turner  
12        testified?

13    A   Yes, I was.

14    Q   Do you recall in his conversation with the  
15        Chairman that he talked about when the Bechtel  
16        contract was going to be signed so that they  
17        could have some skin in the game? Do you  
18        remember that?

19    A   Yes.

20    Q   When will the Bechtel contract be signed as  
21        best that you can tell?

22    A   We have a contract with them right now that is  
23        a limited notice to proceed contract that  
24        they're acting under which authorizes them to  
25        do all of the activities that are necessary

1       for the progress of the project right now.

2                   We anticipate a full, definitive,  
3       final contract with them sometime in  
4       September.

5   Q   September of '08?

6   A   September of '08.  The end of September,  
7       probably.

8   Q   Anything in those negotiations lead you to  
9       believe that the cost estimate is going to go  
10      up any higher than it already is?

11  A   No; no change in the cost estimate.

12                   COMMISSIONER ZIEGNER:  Could you  
13      move your mike a little closer, please?

14                   WITNESS WOMACK:  Sorry.

15  Q   Turn to Page 5 of your testimony.  There at  
16      the bottom of Page 5, you talk about steps  
17      that the company's taking to minimize the  
18      costs of completing the project, and you talk  
19      about a number of steps.

20                   One of the things that you mention  
21      is that nearly 20 percent of the estimated  
22      cost of the project has essentially been  
23      fixed.  Do you see that?

24  A   Yes.

25  Q   Now, is that 20 percent of the old cost of



1        1.985 billion or 20 percent of the new cost?

2    A    It's 20 percent of the current estimate of

3        2.35 billion.

4    Q    So that would be somewhere in the neighborhood

5        of 400 million?

6    A    If the math is correct, yes. I don't have

7        anything -- That sounds right.

8    Q    And I guess it begs the question, but that

9        means the remaining almost \$2 billion are not

10       fixed at this time; is that correct?

11   A    At the time of the filing of this testimony,

12       that's correct.

13   Q    If you could turn to Page 7 of your

14       testimony --

15   A    Okay.

16   Q    -- on Lines 9 and 10, you mention -- you

17       testify that "The IGCC Project was designed as

18       carbon capture ready." Do you see that there?

19   A    Yes.

20   Q    In the event that a carbon capture program is

21       not approved by this Commission or not sought

22       by the company, what were the costs to the

23       ratepayers of making this plant carbon capture

24       ready as opposed to not carbon capture ready?

25   A    There's no substantial costs associated with

1       that. What we did was leave space for the  
2       carbon capture equipment, so all we've done is  
3       leave bare ground and utility access and those  
4       kind of things, but there's no substantial  
5       costs that have been spent to date.

6   Q   No substantial costs, or are there some costs  
7       that you could share?

8   A   I would have to do research on the subject to  
9       say zero, but it's -- it may not be zero, but  
10      it's certainly nothing substantial.

11  Q   Thank you, Mr. Womack.

12               MR. HELMEN: I don't have any  
13      further questions.

14               JUDGE STORMS: Thank you. Ms.  
15      Becker, your witness.

16               MS. BECKER: No questions, Your  
17      Honor.

18               JUDGE STORMS: Okay. Mr. Polk?

19               MR. POLK: Thank you, Your Honor.

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

2           **QUESTIONS BY MR. POLK:**

3     Q    Good afternoon, Mr. Womack.

4     A    Good afternoon.

5     Q    Picking up where Mr. Helmen left off where you  
6           say the IGCC Project was designed as carbon  
7           capture ready, can you tell me what percentage  
8           of carbon capture it was left ready for?

9     A    It's left ready for 15 to 18 percent carbon  
10          capture.

11    Q    Okay.  If the plant -- if there was a need to  
12          capture more than 18 percent carbon, what  
13          other changes would need to be made to the  
14          plant?

15    A    I don't think I could answer that question  
16          without the results of the FEED study; that's  
17          what the FEED study would determine.  There  
18          would be changes in the -- in some of the  
19          equipment and some of the configuration of the  
20          equipment that is planned to be built for the  
21          plant at that level, but the exact nature of  
22          those changes would have to come out of the  
23          FEED study.

24    Q    A little bit farther down the page there,  
25          beginning around Page (sic) 12, you talk about

1       the timing of approvals to implement carbon  
2       capture and the plant's construction schedule  
3       and say that Duke may be able to begin  
4       construction of carbon capture equipment while  
5       the plant is still under construction.  
6       However, even if an after-the-fact retro-fit  
7       is required, you believe it is -- can be  
8       accomplished economically under a partial  
9       carbon capture scenario.

10    A   Yes.

11    Q   Can you describe what you mean by the term  
12       economically there?

13    A   At the 15 to 18 percent level, our current  
14       understanding of the implications of that  
15       on -- based on the information we've had so  
16       far on the design of the current plant is that  
17       the design -- the implications would be  
18       negligible to the current plant.  So, there  
19       would not be -- no substantial waste of money  
20       that's being spent on the current plant in  
21       order to implement a 15 to 18 percent carbon  
22       capture if you decide to build that after the  
23       construction of this plant has already  
24       started.

25    Q   Okay.  Do you know whether it could be

1 significantly expensive to modify the plant to  
2 capture more than 18 percent?

3 A It could be; I don't know if it would be. We  
4 would have to get the answer to that in the  
5 FEED studies. There's a higher chance that it  
6 would be a significant impact to the plant  
7 than it would be at the 15 to 18 percent  
8 level.

9 Q Can you tell me what basis was used to form  
10 the foundation of designing the plant for  
11 18 percent carbon capture versus capturing  
12 more or capturing less?

13 A I wasn't involved in the project at that time  
14 that the decision was being made. My  
15 understanding of it, which is, you know,  
16 only -- I have a limited understanding, but it  
17 was that this was a level that would  
18 demonstrate the technology without  
19 substantially impacting the cost of the new  
20 plant in a retrofit situation.

21 Q Now, Mr. Womack, I believe you said you were  
22 in the room when Mr. Turner was on the Stand.

23 A Yes.

24 Q I'm going to ask you some of the questions  
25 that I asked him, some of which were deferred

1 to you. I expect by now, hopefully, you've  
2 had an opportunity to get an answer if you  
3 didn't already know the answer.

4 Do you know if Duke has a contract  
5 signed and a firm price for the combined cycle  
6 power block?

7 A Not for the entire cost of the combined cycle  
8 power block. There are portions which are  
9 firm. Are you asking about any particular  
10 portion; for example, equipment purchased  
11 versus labor?

12 I would have to say the answer is  
13 that if you're just talking about the power  
14 block as a whole, we do not have a firm  
15 construction price for that entire power  
16 block.

17 Q How about for the air separation unit?

18 A We have a firm price for the design  
19 fabrication supply of the air separation unit,  
20 but not for the construction of the -- you  
21 know, the installation, the field construction  
22 of it.

23 Q Can you tell me what percentage of the cost of  
24 the air separation unit you do have a fixed  
25 contract for?

1 A Approximately 60 percent. I'm doing that math  
2 in my head, but approximately 60 percent.

3 Q Okay. Do you know if Duke has a contract  
4 signed and a firm price for the gasifier?

5 A Yes. That's for the supply of the gasifier,  
6 not for the erection of the gasifier.

7 Q Okay, and what percentage of the cost of the  
8 gasifier would be the supply of the gasifier?

9 A I don't have any idea on that. We don't have  
10 our estimate broken down in that way.

11 Q Now, I believe Mr. Turner already answered  
12 this one, but I'll ask it again: Does Duke  
13 have a signed contract and a firm price for  
14 the labor to construct the project?

15 A No, we do not.

16 Q Thank you, Mr. Womack.

17 MR. POLK: I have no further  
18 questions, Your Honor.

19 JUDGE STORMS: Thank you. Mr.  
20 Stewart?

21 MR. STEWART: Thank you, Your  
22 Honor.

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

2           **QUESTIONS BY MR. STEWART:**

3     Q    Good afternoon, Mr. Womack.

4     A    Good afternoon.

5     Q    On Page 3, you reference at Line 13 beginning  
6           to drill one of the deep injection wells.

7                   I'm just kind of curious.  Is that  
8           the one that's over 7,000 feet right now?

9     A    Yes.

10    Q    And that's wastewater injection; is that  
11          correct?

12    A    Yes.

13    Q    Can you describe that to me?  Just out of  
14          curiosity, what are we doing there with  
15          respect to putting wastewater 7,000 feet below  
16          the ground?

17    A    Yes.  Our permit for the project right now is  
18          it's a zero discharge site meaning we cannot  
19          let any of the waste from the plant leave the  
20          property, so there's a limited number of  
21          choices about how to handle that.

22                   We think the most economical way  
23          to handle that is to inject our wastewater  
24          into deep aquifers where it is well contained  
25          and disposed of safely under an EPA permit.



1 Q What's in the wastewater?

2 A Well, there's water necessary for the process,  
3 for the gasification and the power generation  
4 process; steam, for instance. You know, steam  
5 blow down and other wastes that come out of  
6 the process and water that is ejected from the  
7 equipment. So, that water is cleaned up in a  
8 wastewater treatment facility and made safe to  
9 dispose of.

10 Q Okay.

11 A In many of our sites, it would be, for  
12 instance, just discharged back into the river.

13 Q Well, steam usually just vents. I guess I'm  
14 not -- I'm kind of curious what the things are  
15 in the water that we wouldn't want to  
16 discharge into the river.

17 A I would have to say I'm not probably  
18 qualified -- the best qualified person to  
19 answer that question.

20 Q Fair enough. In your testimony at the top of  
21 Page 7, it says are you familiar with  
22 Attachment 1 of the Verified Petition, and you  
23 indicate that you are.

24 MR. STEWART: Could we get a copy  
25 of the Petition handed to the witness, please?

1           It's attached to Mr. Turner's testimony.

2                       WITNESS WOMACK: Is that the  
3       Verified Petition --

4                       MR. POPE: Nope.

5                       WITNESS WOMACK: Oh, it's not  
6       here? It's not in my testimony; it's in the  
7       Petition?

8                       MR. POPE: It's attached to  
9       Turner's testimony which is right in front of  
10      yours.

11    A    I'm sorry; I'm not able to identify what it is  
12      you may be talking about.

13                       Is this it?

14    Q    Yes, that's it.

15                       Okay, Mr. Womack, if you could  
16      help me; I just want to go through a few of  
17      these numbers and make sure I understand what  
18      I'm looking at.

19    A    Okay.

20    Q    If you look in the second column, "Projected  
21      Monthly Cash Flow (without AFUDC)" --

22    A    Yes.

23    Q    -- I guess -- is this how much you expect to  
24      spend in a month on these months because --

25                       JUDGE STORMS: Mr. Stewart, could

1       you direct the Bench to exactly where you are  
2       having the witness look right now?

3                   MR. STEWART:   Yes, Your Honor.  
4       It's Attachment 1 to the Petition.

5                   JUDGE STORMS:   Okay, thank you.

6                   MR. POPE:   And the Petition is  
7       Exhibit 1 to Mr. Turner's testimony, too, if  
8       that helps, Your Honor.

9                   JUDGE STORMS:   I did find it,  
10      thank you.

11                  MR. STEWART:   Sorry about that.

12                  JUDGE STORMS:   That's okay.  
13      Please proceed.

14                  MR. STEWART:   Thank you.

15   Q   Can you describe for me what is meant -- so,  
16       for example, November of '08, 54 million.

17   A   Yes.   That is our projected cash expenditures  
18       for that month.

19   Q   And so in December, you would project an  
20       additional 40 million; is that right?

21   A   Yes.

22   Q   Okay, and then the next column, projected  
23       AFUDC, I notice that, for example, November  
24       with 54 million, the amount of AFUDC is less  
25       than December with 40 million, which is less

1       than January with 57 million. I'm getting --  
2       Can you tell me how we're flowing through  
3       there?

4   A   Actually, I can't. These numbers were  
5       supplied to me by Kent Freeman, so it might be  
6       good to ask Mr. Freeman when he gets up, you  
7       know, exactly how that particular column was  
8       calculated.

9   Q   Well, how about the next to the last column,  
10       "Equipment and Contractor Termination Cost"?  
11       Are you familiar with that one?

12  A   Yes.

13  Q   Okay. What -- I see that it starts at 22  
14       million and rises to 37 and then drops back to  
15       23. Are these -- What are these by month?  
16       Can you tell me?

17  A   There's two kinds of things that are totaled  
18       in there. One of them is actual contractual  
19       termination costs written and contained,  
20       negotiated, signed, fully done on equipment  
21       purchases, primarily GE, and that represents  
22       GE's costs if the project was to be cancelled  
23       or if their order was to be cancelled at that  
24       point in time. So, it's a contractual  
25       obligation to pay that extra amount. That is

1       one component of that column.

2                   Another component is estimates  
3       that we performed in the project team for the  
4       same kinds of costs as they would relate to  
5       other contractors and other suppliers who were  
6       not under contract at the time we made this  
7       chart but which were shortly to be under  
8       contract; for example, the air separation  
9       unit. Those contracts also contain  
10      termination costs in the event the order is  
11      cancelled.

12                   The third component of this column  
13      is our own estimate of demobilization costs  
14      for contractors that would be in the field at  
15      that time. The reason it rises and then  
16      decreases is that as we place these orders and  
17      they begin to manufacture and they begin to  
18      order materials from their suppliers, the  
19      cancellation cost increases. After they begin  
20      to deliver the equipment to the field, there's  
21      no more risk for them on the, you know,  
22      stranded costs, so then the cancellation  
23      charges begin to decrease until the point, you  
24      know, in theory that when you get to the end  
25      of the job, it's beginning to approach zero.

1 Q So, looking at this, am I to understand that  
2 if this project were canceled, the most that  
3 you would pay from your projection is 37  
4 million?

5 A In addition to the costs that were already  
6 out-of-pocket, yes.

7 Q Now, looking back at Page 5 of your testimony,  
8 I'm struck by the similarity to the testimony  
9 that was presented by John J. Roebel in the  
10 original case. I'm looking at his testimony,  
11 and it says we have more knowledge -- and you  
12 might want to look at Line 8 of your  
13 testimony. "We have more knowledge than  
14 normal for this stage of a major project.",  
15 and I look at your testimony, and I see that  
16 "We have more knowledge than normal for this  
17 early stage of a major project. . ."

18 Is the more knowledge that you  
19 have today more valuable or likely to produce  
20 positive, accurate results than the more  
21 knowledge that John J. Roebel had when he  
22 provided sworn testimony to this Commission?

23 A I'm not sure about the way you've  
24 characterized the question, but if you're  
25 asking am I in a better position now to

1 estimate costs of the -- the final costs of  
2 the project than Mr. Roebel was when he  
3 prepared his testimony in the original  
4 proceeding, I would say yes. Every day that  
5 goes by, we're gaining more knowledge on the  
6 project and a better understanding of what the  
7 final cost is likely to be.

8 Q He also indicated that Bechtel had obtained  
9 current pricing for over 90 percent of the  
10 bulk quantity materials and equipment from  
11 vendors, and I notice you indicate that you  
12 now have more current price information.

13 I guess it's probably true that as  
14 every day goes forward, you'll be in a better  
15 position to tell this Commission what this  
16 project is going to cost than you were the day  
17 before; is that right?

18 A That's correct.

19 Q Is your comfort level as high as Mr. Roebel's  
20 was at the time of the last hearing?

21 A I couldn't characterize exactly what his  
22 comfort level was. I would say mine is  
23 reasonably high.

24 Q Well, his was very confident. Reasonably high  
25 doesn't sound as high as very confident to me.

1 Do you think that --

2 A That may just be the difference of --

3 MR. POPE: Objection. There's no  
4 basis at all for saying his was whatever way  
5 Tim characterized it; at least he's laid no  
6 foundation for characterizing Mr. Roebel's  
7 testimony.

8 MR. STEWART: I think the record  
9 in the proceeding, Your Honor, will  
10 demonstrate that Mr. Roebel's testimony, as  
11 reflected in the pleadings, was very  
12 confident.

13 JUDGE STORMS: I'll sustain the  
14 objection. I don't know if I heard a question  
15 there or not, but if you want to formulate a  
16 question and ask the witness, Mr. Stewart, you  
17 may proceed.

18 MR. STEWART: Sure.

19 Q (Mr. Stewart Continuing) Just generically  
20 speaking, what was the confidence level you  
21 had?

22 A Reasonably high.

23 Q Okay. How would you compare that to very  
24 confident?

25 A I would say very confident is higher than



1 reasonably high.

2 MR. STEWART: Thank you.

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

5 MS. DOEHRMANN: Thank you, Your  
6 Honor. We have no questions.

7 JUDGE STORMS: Okay. Redirect?

8 MR. POPE: Just a couple.

9

10 **REDIRECT EXAMINATION OF MR. W. MICHAEL WOMACK,**

11 **QUESTIONS BY MR. POPE:**

12 Q Mr. Womack, I think I am a little confused as  
13 to what the record is. Mr. Polk asked you how  
14 much of the generation block was under  
15 contract. How much is under fixed contract,  
16 sir?

17 A If you're asking about the equipment for the  
18 power generation block, then the major portion  
19 of the equipment, certainly the long-lead  
20 items, the gas turbines, the generators, the  
21 steam turbine, those items are under contract  
22 at firm prices. There are other equipment  
23 components; there are other materials involved  
24 with the power block, and there's labor to  
25 erect it, so --

1 Q Okay.

2 A -- I don't have an estimate on the percentage  
3 of the whole thing as a whole.

4 Q Okay. Is the company using deep injection  
5 wells at any of its other generating stations?

6 A Yes. We are using this exact same methodology  
7 for disposing of wastewater from our FGD  
8 scrubber projects, if you will, at Gibson  
9 Station.

10 Q Could you please turn back to Attachment 1 of  
11 the Petition, the projected cash flows that  
12 you talked about with Mr. Stewart?

13 A Okay.

14 Q Is the final column there, the "Projected  
15 Total Committed Cost", is that the cost of  
16 cancellation at any point in time?

17 A Yes, it is.

18 Q So, \$37 million is not the cost of  
19 cancellation; that was just one month's value  
20 there?

21 A Yes. I thought what I was attempting to  
22 answer was that the total cost at any one time  
23 would be the cancellation costs plus whatever  
24 the cash flow was at that point in time, so  
25 the total of those two, which is the last

1 column.

2 MR. POPE: That's all I have, Your  
3 Honor.

4

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

6 **BY COMMISSIONER LANDIS:**

7 Q Couple of questions I want to clarify.

8 Did I hear you correctly when you  
9 said that componentry was pretty well in hand,  
10 but that some of the more raw materials or  
11 some of the more basic materials were not  
12 completely under contract?

13 A Yes.

14 Q What would you say was the increase in the  
15 cost of structural steel over the course of  
16 the last year to 18 months?

17 A I haven't studied that issue, but my kind of  
18 general understanding of it would be that it's  
19 substantial, maybe as much as 40 to  
20 50 percent.

21 Q What about concrete?

22 A I don't know about the concrete.

23 Q Other componentry of a comparable nature; that  
24 is not manufactured componentry, but --

25 A More of the commodity pricing.

1 Q -- more of the commodity pricing.

2 A Yes. I think it depends exactly on -- you  
3 know, it's very component specific, but it is  
4 rising or has risen in the past at a rapid  
5 rate.

6 They also -- you know, if you look  
7 back over the last few years, some of those  
8 same prices have a tendency to fall  
9 occasionally, so the pricing is very volatile.  
10 Luckily for us, for instance, in the area of  
11 structural steel, we only have \$20 million of  
12 structural steel in the estimate, so even with  
13 the percentage change being high, it's not as  
14 big an impact.

15 Q So, you're comfortable, then, with the 6  
16 percent escalation figure even though there  
17 are components of the cost that are likely to  
18 escalate at a multiple thereof?

19 A We are, yes.

20 Q Okay.

21 COMMISSIONER LANDIS: No further  
22 questions. Thank you.

23

24

25

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

2             **BY COMMISSIONER ZIEGNER:**

3     Q   Commissioner Landis asked you about the  
4         commodity stuff.

5                     What about labor costs and labor  
6         shortages?  What are you experiencing?

7     A   Luckily, our experience with labor is not as  
8         bad as some parts of the country.  You know,  
9         we know that on the Gulf Coast, for instance,  
10        that it's extremely difficult to get the right  
11        quantity and quality of labor.

12                    Our experience here in Indiana has  
13        been better than that, but, still, it's been  
14        usually difficult compared to what we  
15        historically have seen, so we began -- I've  
16        been working with labor unions for over two  
17        years now meeting with them every two months  
18        to talk about the probability of this project  
19        coming and what we need to do to get prepared,  
20        so we are working continually with the labor  
21        unions out of Evansville and Terre Haute.

22                    The result of that -- the  
23        pipe-fitters, for example, have done much more  
24        training.  They stepped their welder training  
25        up from -- I think they told me that -- I may

1       be wrong in the exact numbers here, but I  
2       think in magnitude I'm correct that in 2005,  
3       they trained maybe five new welders in the  
4       entire local, and last year, they trained 150  
5       new welders.

6                       So, I think we're doing all we can  
7       to mitigate the labor shortages by being as  
8       prepared we can and by -- and that, to some  
9       extent, has driven our labor strategy also to  
10      use local contractors for a lot of the work,  
11      regional contractors, who tend to have a lot  
12      of the best and most productive workers  
13      continually in their employment.

14   Q   And I understand that labor hirings ebb and  
15       flow depending on the stage you're at in  
16       construction, but are you -- I assume you're  
17       looking ahead --

18   A   Yes.

19   Q   -- and trying to get laborers in the queue, so  
20       to speak.

21   A   We are trying to do as good a job as we can of  
22       predicting and letting the labor unions and  
23       the contractors who are likely to be working  
24       on this job know about what our manpower needs  
25       are. Right now, I'd say our biggest concern

1 is pipe fitters and electricians. Those are  
2 two big trades that we'll need, probably pipe  
3 fitters being number one, but we are  
4 mitigating that as best we can every day.

5 COMMISSIONER ZIEGNER: Thank you.

6 JUDGE STORMS: Mr. Womack, I just  
7 have a couple of questions for you.

8

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

10 **BY JUDGE STORMS:**

11 Q I guess the first one is -- and some of it, I  
12 think, is in your rebuttal testimony. I don't  
13 want to get ahead of things, but there's some  
14 discussion in there about coordinating with  
15 the OUCC on a going-forward basis.

16 I guess my first question is:  
17 When you put together your testimony and you  
18 put together price -- the current status of  
19 various prices, do you plan to continually  
20 utilize the format that you've established in  
21 this proceeding for ongoing proceedings so  
22 this would be the foundation, or tell me about  
23 that a little bit.

24 A Yes, exactly right. Our intent was that when  
25 we took another look at our estimate in the

1       Spring after these events that Mr. Turner  
2       talked about caused us to be concerned about  
3       our estimate, we attempted to reorganize the  
4       estimate and to make it in a presentation  
5       format which represents fairly close to what  
6       we're going to be using as our control  
7       mechanism in regular monitoring, so the intent  
8       would be that future reports would look very  
9       similar to that in nature and format.

10    Q   Okay, and is it part of your responsibility to  
11       identify costs that are growing perhaps more  
12       rapidly than anticipated in this framework?

13    A   Yes.

14    Q   So, that would be something that -- if you  
15       were to identify that, is there a process  
16       internally, and what is that process to  
17       identify that?

18    A   Well, we are beginning to do monthly  
19       re-forecasts of the entire project, and it's  
20       the nature of projects that some things get  
21       more expensive and some things get less, so if  
22       you ask me today what do I predict as a final  
23       cost for an item, and if you ask me a week  
24       from now, I might have a different answer, and  
25       as long as those ups and downs are within a



1 reasonable range, then we don't see any  
2 reason to suspect the validity of the overall  
3 estimate.

4                   So, we're beginning to do a  
5 monthly process. If we see something  
6 repeatedly going up, even by small increments,  
7 month after month, then we begin to get  
8 worried about that, and we begin to put  
9 mitigating strategies in place, extra, you  
10 know, review, changing our buying pattern,  
11 maybe even changing our schedule to the extent  
12 that it's possible in order to try and focus  
13 on and control that particular cost. This  
14 will be a monthly effort.

15 Q Okay, and do you anticipate that once you put  
16 this together from beginning to end, you'll be  
17 able to track it all the way through from  
18 beginning estimate to projected costs all the  
19 way through with an overlay that shows what  
20 the actual final costs are? Is that how this  
21 is going to work?

22 A Yes, exactly right, yes. We should be able to  
23 see -- from month to month, we will have a  
24 record of exactly what our thinking was during  
25 any particular month and all the way tracking

1 to the final costs, and the Commission will  
2 have the benefit of that, obviously, with this  
3 oversight from the independent engineer that  
4 the Commission has asked us to hire, and  
5 through updating in these proceedings will  
6 have really a high level of visibility into  
7 what we're doing and thinking and seeing.

8 Q Okay, but you are satisfied that you have the  
9 various components broken out sufficiently and  
10 set up so that they will track sufficiently  
11 consistent with all of the information you've  
12 given us at this point?

13 A Yes. You know, project management and  
14 construction management, to a large extent, is  
15 contract management, so to the maximum extent  
16 possible, we're managing this entire project  
17 by contractual components, and we have a  
18 price; we have a target; we have, you know,  
19 change orders to that up and down, so we're  
20 managing it at the individual contract level.

21 Q Mr. Womack, thank you.

22 JUDGE STORMS: I believe you may  
23 step down; you are not excused.

24

25 (WITNESS W. MICHAEL WOMACK EXCUSED)

1 JUDGE STORMS: You may call your  
2 next witness.

3

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

8

9 **DIRECT EXAMINATION,**

10 **QUESTIONS BY MR. POPE:**

11 Q Would you state your name, please?

12 A Diane L. Jenner.

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

15 A Duke Energy Business Services as Director,  
16 Regulatory Strategy.

17 Q Ms. Jenner, for purposes of this proceeding,  
18 has your testimony been reduced to written  
19 question and answer form?

20 A Yes.

21 Q Do you have before you a document that's been  
22 marked for purposes of identification as  
23 Petitioner's Exhibit C?

24 A Yes.

25 Q And does that incorporate Confidential Exhibit

1 C-1?

2 A Yes.

3 Q Are there any corrections that need to be made

4 to Petitioner's Exhibit C?

5 A Yes. My title is in -- the header needs to be

6 changed. Delete "Integrated Resource

7 Planning" and replace it with "Regulatory

8 Strategy", and that same change in Line 6, and

9 then the name of the company, change "Duke

10 Energy Shared Services, Inc." to "Duke Energy

11 Business Services, LLC" in the header and

12 again on Line 7.

13 Q And have those changes been made on the record

14 copy?

15 A Yes.

16 Q And have you initialed them?

17 A Yes.

18 Q Are there any other changes that need to be

19 made to your testimony?

20 A No.

21 Q So, if I were to ask you these same questions

22 today, would your answers be the same?

23 A Yes.

24 Q Do you adopt Petitioner's Exhibit C along with

25 Confidential C-1 as your testimony?

1     A   Yes.

2                     MR. POPE:  You Honor, we would  
3     offer Petitioner's Exhibit C and Confidential  
4     Exhibit C-1.

5                     JUDGE STORMS:  If there's no  
6     objection, we'll show Petitioner's Exhibit C  
7     and Confidential C-1 admitted into this cause.

8  
9                     (PETITIONER'S EXHIBIT NO. C, BEING  
10    THE PREFILED DIRECT TESTIMONY OF  
11    MS. DIANE L. JENNER, ADMITTED INTO  
12    EVIDENCE.)

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1 (PETITIONER'S EXHIBIT NO.  
2 C-1-CONFIDENTIAL, BEING A  
3 CONFIDENTIAL DOCUMENT, ADMITTED  
4 INTO EVIDENCE ON A CONFIDENTIAL  
5 BASIS. )  
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1                               MR. POPE:  The witness is  
2       available.  
3                               JUDGE STORMS:  Thank you.  Mr.  
4       Helmen?  
5                               MR. HELMEN:  Thank you, Your  
6       Honor.  
7                               The Public has no questions.  
8                               JUDGE STORMS:  Ms. Becker, your  
9       witness.  
10                              MS. BECKER:  Nucor has no  
11       questions, Your Honor.  
12                              JUDGE STORMS:  Thank you.  Mr.  
13       Polk?  
14                              MR. POLK:  Thank you, Your Honor.  
15       I just have a few questions.  
16                              JUDGE STORMS:  Please proceed, Mr.  
17       Polk.  
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1     **CROSS-EXAMINATION OF MS. DIANE L. JENNER,**

2             **QUESTIONS BY MR. POLK:**

3     Q    Good afternoon, Ms. Jenner.

4     A    Good afternoon.

5     Q    You just corrected in your testimony your job  
6           title.

7                         Did your responsibilities change  
8           as well, or are those pretty much the same?

9     A    My responsibilities also changed.

10    Q    Okay. Can you tell me what changed in those  
11          responsibilities?

12    A    If you want, I can read into the record what  
13          my new responsibilities are. At the time this  
14          testimony was submitted, these were my correct  
15          responsibilities.

16    Q    Okay. Are they set out in your rebuttal  
17          testimony, or is this something that happened  
18          at --

19    A    No, I don't believe they are. I can go  
20          through them with you if you'd prefer.

21    Q    I think it would be good to get the update,  
22          thanks.

23    A    Okay. My primary responsibility as Director  
24          of Regulatory Strategy is to work with the  
25          Duke Energy Corporation operating companies,



1 including Duke Energy Indiana, to develop and  
2 implement state regulatory and legislative  
3 strategies for the states in which Duke Energy  
4 has regulated utility operations, Indiana,  
5 Ohio, Kentucky, North Carolina and South  
6 Carolina, with emphasis on resource adequacy,  
7 environmental compliance and renewables  
8 issues.

9 Q Thank you. Who do you report to?

10 A Kay Pashos.

11 Q Okay. Does your job involve lobbying, meeting  
12 with legislators and that kind of thing?

13 A No.

14 Q Have you done much of that either in your past  
15 duties or in your current duties?

16 A No.

17 Q Okay. Now, turning to Page 4 of your direct  
18 testimony, you indicate that your 2012 and  
19 2028 peak load forecasts are lower.

20 Can you explain for me why they're  
21 lower?

22 A I believe there are two primary reasons; one  
23 of them being the underlying economic  
24 conditions and assumptions that went into the  
25 load forecast, and the other change is that

1 the new forecast includes our estimate of  
2 impacts from what I would call basically a ban  
3 on incandescent light bulbs beginning in the  
4 year 2012.

5 Q Was the load forecast updated for the  
6 projected results of the Save-a-Watt program?

7 A No. The Save-a-Watt testimony was filed, I  
8 believe, near the end of 2007, and the load  
9 forecast in this cause was produced in the  
10 Spring of 2008.

11 Q Now, on Page 5 at Line 12, you talk briefly  
12 about coal prices.

13 Do you know if coal prices have  
14 increased since you did the modeling for this  
15 case?

16 A I don't know that they have increased since  
17 then, no.

18 Q Do you know if they've stayed the same or  
19 decreased?

20 A No, I don't know for sure.

21 Q Okay. On Page 6 of your testimony at Line 6,  
22 you're talking about some of the sensitivity  
23 runs that you performed, and you talk about  
24 portions of nuclear units were chosen by the  
25 optimization model near the end of the 20-year

1 planning period.

2 Am I correct that that means that  
3 the modeling chose building or constructing  
4 new nuclear units?

5 A We allowed the model to choose a portion of a  
6 nuclear station because Duke Energy Indiana  
7 cannot swallow an entire nuclear station. So  
8 what we allowed it to have was a size of a  
9 unit that was priced at a full station per KW  
10 cost, but yet was sized so it was going to be  
11 more in the 300- to 350-megawatt range, which  
12 is about the kind of size that we would  
13 normally see, and that's also the size of  
14 other supply-side alternatives that we gave  
15 the model to choose from, and, yes, when we  
16 allowed it to choose a portion of a nuclear  
17 unit in the later stages of the study period,  
18 it did.

19 Q Okay. That sort of presumes that somebody has  
20 a nuclear unit that they're willing to allow  
21 you to buy part of, doesn't it?

22 A Yes, it does, which is why we also performed a  
23 sensitivity where we didn't allow it to choose  
24 that nuclear unit.

25 Q All right, and I know you'd probably feel very

1       disappointed if I didn't ask you this question  
2       once again, and that is: Your -- the modeling  
3       that you do does not allow energy efficiency  
4       to be chosen as an output of the model, but  
5       energy efficiency is factored in always as an  
6       input as part of the load forecast; correct?

7     A No, that's not correct. In the 2007 IRP  
8       modeling on which this modeling was based, we  
9       did allow the model to choose some demand  
10      response programs and three bundles of energy  
11      conservation programs, the first of which was  
12      more or less the energy efficiency we've  
13      projected in the Save-a-Watt case, and then we  
14      made two more identical bundles that would  
15      come in four years later and eight years  
16      later, and the model chose all of the demand  
17      response and all of the energy efficiency that  
18      we gave it.

19                     In the course of that modeling,  
20      once we saw that the model was choosing it, we  
21      then fixed it in the model because the model  
22      was frankly not able to solve with the great  
23      myriad of alternatives available to it. The  
24      energy efficiency was economic; we fixed it,  
25      and then when we did the modeling for this

1 case, we just -- we didn't revisit that issue.  
2 We retained that amount of energy efficiency  
3 fixed in the case.

4 Q Okay, and just for clarification purposes,  
5 when you say you fixed it, that means you gave  
6 it a specific number; you locked in a number  
7 for it as opposed to like repairing it or  
8 mending it or -- by using the term fix, you're  
9 giving it an assigned value.

10 A Yes.

11 Q All right. Thank you.

12 MR. POLK: No further questions,  
13 Your Honor.

14 JUDGE STORMS: Ms. Doehermann?

15 MS. DOEHRMANN: Thank you, Your  
16 Honor. We have no questions either.

17 JUDGE STORMS: Okay. Redirect?

18 MR. POPE: No redirect, Your  
19 Honor.

20 JUDGE STORMS: Ms. Jenner, thank  
21 you very much for your testimony.

22

23

24

25 (WITNESS DIANE L. JENNER EXCUSED)

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

3 MR. DuMOND: Mr. Julius.

4 JUDGE STORMS: Please proceed.

5

6 **DAVID C. JULIUS**, a witness appearing on behalf of  
7 the Petitioner, having been  
8 first duly sworn, testified as  
9 follows:

10

11 **DIRECT EXAMINATION,**

12 **QUESTIONS BY MR. DuMOND:**

13 Q State your name for the record.

14 A David C. Julius.

15 Q Please state your employer.

16 A Duke Energy Business Services.

17 Q What is your employment position with the  
18 company?

19 A I'm a Consulting Engineer.

20 Q You have a document that has been marked for  
21 identification purposes as Petitioner's  
22 Exhibit D. Is that a copy of your prefiled  
23 direct testimony in this case?

24 A Yes, it is.

25 Q Does that exhibit include three confidential

1 exhibits, Petitioner's Confidential Exhibit  
2 D-1, Confidential Exhibit D-2, and  
3 Confidential Exhibit D-3, that have been  
4 prefiled with the Commission under seal, as  
5 well as two non-confidential exhibits, D-4 and  
6 D-5?

7 A Yes, it does.

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

10 A Yes, I do. Where it says that I'm employed by  
11 Duke Energy, it should say Duke Energy  
12 Business Services, LLC up in the title as well  
13 as down in Line 6 and Line 7 of Page 1.

14 Q And are those changes marked on the testimony?

15 A Yes, they are.

16 Q And will you please initial and date the  
17 initialing for each change?

18 A Okay.

19 Q Are there any other changes?

20 A The only other change would be that I am  
21 involved with the coal handling portion of the  
22 project. That's not documented.

23 Q And if I were to ask you the same questions  
24 today, taking into account the corrections  
25 that you initialed, would your answers be the

1 same?

2 A Yes.

3 Q I would like to direct your attention to Page  
4 3, Lines 18 and 19, in which you state that  
5 "The Company will submit supplemental evidence  
6 regarding the results of the EPRI study once  
7 it becomes available." Do you see that, Mr.  
8 Julius?

9 A Yes, I do.

10 Q Have the results of the EPRI study become  
11 available?

12 A No, they have not.

13 Q And for clarification, this is the EPRI  
14 feasibility study; correct?

15 A That is correct.

16 Q When do you expect the results?

17 A Those results are expected within the coming  
18 weeks.

19 Q Have you received any preliminary results from  
20 the EPRI feasibility study?

21 A Yes, we have received preliminary results from  
22 the EPRI feasibility study that we received  
23 late last week.

24 Q Based on those preliminary results, does the  
25 company still request approval for authority



1 to move forward with the carbon capture FEED  
2 study at the 15 to 18 percent CO2 capture  
3 rate?

4 A Yes, we do.

5 Q With the correction of your testimony and the  
6 clarification you have made, do you adopt  
7 Petitioner's Exhibit D with sub-exhibits as  
8 your sworn testimony in this cause?

9 A Yes.

10 MR. DuMOND: Your Honor,  
11 Petitioner offers into evidence Petitioner's  
12 Exhibit D, including the following  
13 sub-exhibits: Petitioner's Confidential  
14 Exhibit D-1, Confidential Exhibit D-2 and  
15 Confidential Exhibit D-3 together with  
16 Petitioner's Exhibits D-4 and D-5.

17 JUDGE STORMS: Okay. Is there any  
18 objection?

19 If not, we'll show Petitioner's  
20 Exhibits D, D-4 and D-5 admitted along with  
21 Confidential Exhibits D-1, 2 and 3 all  
22 admitted into this cause.

23

24

25

1 (PETITIONER'S EXHIBIT NO. D, BEING  
2 THE PREFILED DIRECT TESTIMONY OF  
3 MR. DAVID C. JULIUS, WITH  
4 PETITIONER'S EXHIBIT NOS. D-4 AND  
5 D-5 ATTACHED THERETO, ADMITTED  
6 INTO EVIDENCE.)  
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1 (PETITIONER'S EXHIBIT NOS.  
2 D-1-CONFIDENTIAL, D-2-CONFIDENTIAL  
3 AND D-3-CONFIDENTIAL, BEING  
4 CONFIDENTIAL DOCUMENTS, ADMITTED  
5 INTO EVIDENCE ON A CONFIDENTIAL  
6 BASIS. )  
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1                   MR. DuMOND: Your Honor, Mr.  
2       Julius is 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. DAVID C. JULIUS,**

9       **QUESTIONS BY MR. HELMEN:**

10    Q   Good afternoon, Mr. Julius.

11    A   Good morning. Good afternoon.

12    Q   Counsel was asking you if there was anything  
13       else that wasn't included in your testimony,  
14       and you mentioned -- did you say coal  
15       handling?

16    A   Yes.

17    Q   C-o-a-l, coal?

18    A   Yes.

19    Q   And when you say you're responsible for coal  
20       handling, can you just briefly tell me what  
21       that means?

22    A   I'm involved with the procurement or with the  
23       design and the procurement of the material  
24       involved with the Edwardsport IGCC site.

25    Q   Okay. It doesn't have anything to do with the

1 carbon capture and sequestration part of it;  
2 it has to do with the coal handling for the  
3 IGCC facility?

4 A That is correct.

5 Q You were discussing with Counsel just a moment  
6 ago about the EPRI feasibility study.

7 A That's correct.

8 Q Now, your testimony indicates on Page 3 that  
9 it was scheduled to be completed in June of  
10 '08, and I take it that deadline wasn't met.

11 A No, it was not.

12 Q But you have received some preliminary  
13 results?

14 A Yes, we recently received preliminary results.

15 Q Okay, and when would you be willing to share  
16 those with the other parties to this  
17 proceeding?

18 A We expect to receive those within the coming  
19 weeks.

20 Q Okay. I'm not talking about the completed  
21 study; I mean the preliminary -- I thought you  
22 indicated that you already have some  
23 preliminary results from the study.

24 A The preliminary information right now we're  
25 still reviewing internally. We're going back

1       and forth with EPRI at this time to -- Those  
2       are not final at this point. There's some  
3       questions we have with relationship to those  
4       preliminary results.

5   Q   So, you're not in a position to share those  
6       with the other interested parties to this  
7       proceeding at this time?

8   A   Not at this time.

9   Q   Was this EPRI study, was it done on behalf of  
10      Duke?

11  A   Yes, it was.

12  Q   And the cost of this study -- is Duke  
13      requesting recovery of this cost?

14  A   No, we are not.

15  Q   So, this cost is not part of the 16 to 17  
16      million FEED study that you were talking about  
17      in this proceeding?

18  A   That is correct.

19  Q   You talk on Page 7 of your direct testimony  
20      about funding, other funding for site studies;  
21      you talk about a \$1 million fund from DOE.

22                Would that money be used to offset  
23      the costs of the FEED study that you're  
24      seeking cost recovery for here today or  
25      approval for today?

1 A This is for sequestration, this \$1 million.  
2 This is unrelated to what we are asking for  
3 today.

4 Q Was there any DOE funding offered for the  
5 carbon capture study?

6 A Not at this time.

7 Q Do you have any requests from any sources, DOE  
8 or other sources for --

9 A We are continuing to look for opportunities  
10 working with DOE and other federal funding and  
11 other agencies to support us in our endeavors  
12 for looking at carbon sequestration and carbon  
13 capture for the Edwardsport site.

14 Q Would it be Duke's position that any  
15 additional funding it received would be used  
16 to offset any money that the Commission  
17 requires its ratepayers to pay?

18 A I can't answer how that funding would go  
19 toward the ratepayers. That would be  
20 something that Mr. Freeman would have to  
21 answer.

22 Q Can you turn to Page 6 of your testimony,  
23 please? Starting on Line 12, you mention "The  
24 carbon capture FEED Study requires  
25 approximately 18 months to complete."

1                   I assume that's from the date that  
2     it begins.

3    A   That is from the day we -- Yes, that is from  
4     the date it begins.

5    Q   And any study of carbon sequestration or other  
6     carbon storage opportunities will -- Does the  
7     company expect for those studies to start  
8     before this study is completed?

9    A   At this time, we are not asking for funding or  
10   putting a request in for sequestration or ER  
11   studies. The \$16 million to \$17 million that  
12   have been identified within my testimony here  
13   is only for the capture.

14   Q   Okay. I didn't ask the question very good.  
15   I'm not talking about a request for cost  
16   recovery; I'm just talking about the thought  
17   of doing the study, beginning to study carbon  
18   storage or carbon sequestration.

19                   Is it the company's intention to  
20   begin studying that before this FEED study for  
21   carbon capture is completed?

22   A   The timing of that sequestration study would  
23   depend upon -- and the completion of that  
24   would depend upon the processes that we're  
25   currently going through, the procedures.



1 Q Later on Page 6, you talk about ". . .the  
2 Company believes the IGCC Project should be up  
3 and running without the use of carbon capture  
4 equipment for a period of approximately one  
5 year or longer. . ."

6 What do you base that opinion on?

7 A Based on certain operational and certain  
8 warranty-related issues for the site as it's  
9 been worked out with GE and Bechtel.

10 Q So, even if the carbon capture study comes  
11 back as a positive, something that you can do  
12 at this site, and the carbon sequestration  
13 study comes back and says it's a go at this  
14 site and you get a CPCN to go forward with the  
15 carbon capture and sequestration project and  
16 you do all of that before 2012, you're going  
17 to tell the Commission that you want to run  
18 this plant for a year or more without that  
19 equipment?

20 A I'm saying right now with the timing as is  
21 part of the D-5 exhibit schedule, it would  
22 more than likely be going through the process  
23 of 18 months and then actually having to  
24 pursue the design phase. We will probably  
25 surpass that implementation date of when the

1       unit starts anyway.

2   Q   Okay.

3                   MR. HELMEN:   Nothing further.

4       Thank you.

5                   JUDGE STORMS:   Thank you.   Ms.

6       Becker?

7                   MS. BECKER:   No questions, Your

8       Honor.

9                   JUDGE STORMS:   Mr. Polk, your  
10      witness.

11                  MR. POLK:   Thank you, Your Honor.

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1     **CROSS-EXAMINATION OF MR. DAVID C. JULIUS,**

2     **QUESTIONS BY MR. POLK:**

3     Q   Good afternoon, Mr. Julius.

4                     On Page 5 at Line 4, you discuss  
5     that the company has requested GE and Bechtel  
6     to provide similar study proposals at 50 to 60  
7     percent CO2 capture level and that the  
8     proposals were expected in June.

9                     Have you received those proposals  
10    yet?

11   A   We have received those proposals.

12   Q   Okay.  Has the company begun reviewing those  
13   proposals to see if the 50 or 60 percent level  
14   is preferable to the 15 to 18 percent level?

15   A   We looked at that information along with the  
16   information provided by EPRI, the preliminary  
17   information which we referred to earlier, and  
18   in addition to the reference -- GE reference  
19   plant information, to make our determination  
20   that the 15 to 18 percent capture is the  
21   correct direction to move forward in.

22   Q   Can you tell me why you made that decision?

23   A   That's based on the cost of the plant or the  
24   changes as well as the efficiencies as well as  
25   megawatt or energy decreases that were -- I

1       should say increases that would be seen as a  
2       result of going to the --

3   Q   Okay.  What type of changes would be  
4       necessary?

5   A   As far as?

6   Q   To meet that 50 to 60 percent level versus 18.

7   A   There's a great deal of additional equipment  
8       that would be required and -- which would mean  
9       greater impacts to the overall efficiencies of  
10      the plant as well as additional derate impacts  
11      to the plant as well, and those additional  
12      pieces of components, of course, would require  
13      additional costs that would be required.

14  Q   Can you -- do you have a ballpark or an  
15      estimate of how much more the cost would be to  
16      go with the 50 to 60 percent?

17  A   Right now, we have some preliminary  
18      information from the GE reference plant as  
19      well as the from the preliminary information,  
20      but all -- I mean, that information  
21      currently -- or, I mean, as far as the  
22      information in there, it's confidential  
23      documents.

24  Q   Can you give me ballparks like percentages?  
25      Is it, you know, 20 percent more, 50 percent

1 more, 10 percent more?

2 A Your -- the percentages of efficiency range  
3 from approximately 5 percent at the 15 to 18  
4 percent to approximately 15 percent on  
5 efficiencies only. Some very similar numbers  
6 for -- excuse me, not efficiencies; that was  
7 heat rate. Derates are around the same costs,  
8 approximately anywhere from 6 to 10 percent or  
9 6 to 12 percent, excuse me.

10 Q Okay. Now, if you could turn to Page 6 of  
11 your testimony, at the end of Line 12 going  
12 through 13 and 14, you indicate that after the  
13 FEED study for carbon capture is completed,  
14 the company anticipates another regulatory  
15 filing requesting approval to implement  
16 partial carbon capture at the Edwardsport IGCC  
17 Project.

18 Is that still an accurate  
19 statement?

20 A Yes, it is.

21 Q Is the company requesting to move forward with  
22 carbon capture at this time?

23 A The company's requesting to conduct the FEED  
24 study for carbon capture at this time.

25 Q Okay, but the decision as to whether to do

1 carbon capture or not is still a decision that  
2 remains to be made; correct?

3 A The analysis that would be need to be done by  
4 GE and Bechtel would still have to be done  
5 before we would come back to the Commission  
6 with that information.

7 Q Okay, thank you.

8 MR. POLK: No further questions,  
9 Your Honor.

10 JUDGE STORMS: Thank you, Mr.  
11 Polk.

12 Ms. Doehrmann?

13 MS. DOEHRMANN: We have no  
14 questions. Thank you, Your Honor.

15 JUDGE STORMS: Redirect?

16 MR. DuMOND: Nothing further.

17 JUDGE STORMS: Okay. Mr. Julius,  
18 thank you very much for your testimony. You  
19 may step down; you're excused.

20 Let's take a ten-minute break.

21

22 **(WITNESS DAVID C. JULIUS EXCUSED)**

23

24

25 **(HEARING IN RECESS UNTIL 2:40 P.M., SAME DAY)**

1 Indianapolis, Indiana  
2 August 25, 2008  
3 2:40 P.M. (EDT)

4 (Reporter marked documents for  
5 identification as Intervenor's -  
6 Residential Customers Exhibit Nos.  
7 A and B)

8  
9 (Reporter marked documents for  
10 identification as Public's Exhibit  
11 Nos. 1, 1-C and 2)

12  
13 (Reporter marked documents for  
14 identification as Petitioner's  
15 Exhibit Nos. H, I,  
16 I-1-Confidential, I-2, I-3, J,  
17 J-1, J-2 and K)

18  
19 JUDGE STORMS: Let's go ahead and  
20 go back on the record.

21 It's my understanding based on the  
22 discussions with the parties that they do not  
23 have any questions for the remaining two  
24 witnesses with respect to the Petitioner's  
25 case-in-chief testimony, Ms. Douglas or

1 Mr. Freeman, and, therefore, Petitioner, you  
2 may proceed to offer that testimony into the  
3 record.

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

6 Once again, I would note that  
7 Petitioner's Exhibit E, consisting of the  
8 prefiled testimony of Diana Douglas, has been  
9 marked to note the change in the service  
10 company from Duke Energy Shared Services to  
11 Duke Energy Business Services, LLC.

12 A similar change has been made in  
13 the testimony of Mr. Freeman, which is  
14 Petitioner's Exhibit F.

15 At this time, we move to admit  
16 Petitioner's Exhibit E and Sub-Exhibits E-1  
17 through E-4, and we move to admit Petitioner's  
18 Exhibit F and Petitioner's Confidential  
19 Exhibit F-1.

20 JUDGE STORMS: If there's no  
21 objection, we will show E with Sub-Exhibits  
22 E-1 through E-4 along with Exhibit F with  
23 Confidential Exhibit F-1 admitted into this  
24 cause.

25



1 (PETITIONER'S EXHIBIT NO. E, BEING  
2 THE PREFILED DIRECT TESTIMONY OF  
3 MS. DIANA L. DOUGLAS, WITH  
4 PETITIONER'S EXHIBIT NOS. E-1  
5 THROUGH AND INCLUDING E-4 ATTACHED  
6 THERETO, AND PETITIONER'S EXHIBIT  
7 NO. F, BEING THE PREFILED DIRECT  
8 TESTIMONY OF MR. KENT K. FREEMAN,  
9 ADMITTED INTO EVIDENCE.)

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1 (PETITIONER'S EXHIBIT NO.  
2 F-1-CONFIDENTIAL, BEING A  
3 CONFIDENTIAL DOCUMENT, ADMITTED  
4 INTO EVIDENCE ON A CONFIDENTIAL  
5 BASIS. )  
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1 JUDGE STORMS: Okay. Does  
2 Petitioner rest?

3 MR. DuMOND: We do, Your Honor.

4 JUDGE STORMS: Okay. Mr. Polk?

5 MR. POLK: Thank you, Your Honor.

6 The parties and the Bench have all  
7 indicated they have no questions for  
8 Residential Customers Witnesses Grant Smith  
9 and David Schlissel, so we would like to enter  
10 their testimony into the record being CAC  
11 Exhibit A, the direct testimony of Grant  
12 Smith, Exhibit GSS and attachments thereto  
13 GSS-1 and GSS-2, and the direct testimony of  
14 David A. Schlissel, which is CAC Exhibit B,  
15 consisting of DAS and DAS-1.

16 Attached to Mr. Schlissel's  
17 testimony is an affidavit verifying his  
18 testimony, which had been filed earlier this  
19 morning, and, in addition, we had prefiled  
20 confidential exhibits with Mr. Schlissel's  
21 testimony, and after consultation with  
22 Petitioner, it's been agreed that that  
23 information is no longer confidential, so we  
24 will be late filing substitute pages with  
25 the -- for the testimony with those pages that

1       had been redacted being unredacted, made  
2       available for public view.

3               At this time, we would like to  
4       move CAC Exhibit A and CAC Exhibit B into the  
5       record.

6               JUDGE STORMS:   Okay.   If there's  
7       no objection, we will show CAC Exhibits A and  
8       B admitted into this cause.

9               Mr. Polk, when did you plan to  
10      file the revised pages?

11              MR. POLK:   It is my hope that if  
12      the hearings conclude today, as it looks like  
13      they will, that I'll get that filed either  
14      tomorrow or the next day.

15              JUDGE STORMS:   Is that going to be  
16      a separate exhibit or marked as an attachment  
17      to one of these existing exhibits?

18              MR. POLK:   However you would like  
19      it done.

20              JUDGE STORMS:   Why don't we go  
21      ahead and do a separate exhibit, maybe call it  
22      CAC Exhibit C.

23              MR. POLK:   All right.

24              JUDGE STORMS:   Okay.   We will show  
25      CAC Exhibit C admitted into this cause.

1 (INTERVENOR'S - RESIDENTIAL  
2 CUSTOMERS EXHIBIT NO. A, BEING THE  
3 PREFILED DIRECT TESTIMONY OF MR.  
4 GRANT S. SMITH; INTERVENOR'S -  
5 RESIDENTIAL CUSTOMERS EXHIBIT NO.  
6 B, BEING THE PREFILED DIRECT  
7 TESTIMONY OF MR. DAVID A.  
8 SCHLISSEL, AND INTERVENOR'S -  
9 RESIDENTIAL CUSTOMERS EXHIBIT NO.  
10 C, BEING A DOCUMENT ENTITLED,  
11 "UNREDACTED PAGES OF THE TESTIMONY  
12 OF DAVID A. SCHLISSEL ON BEHALF OF  
13 RESIDENTIAL CUSTOMERS", FILED  
14 AUGUST 29, 2008, ADMITTED INTO  
15 EVIDENCE.)  
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1 JUDGE STORMS: Mr. Helmen?

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

4 The other parties to this  
5 proceeding have stipulated to the  
6 admissibility of the testimony of Public's  
7 witnesses and have also waived  
8 cross-examination, so with that, we will offer  
9 Public's Exhibit No. 1, the redacted prefiled  
10 testimony of Joan M. Soller with Attachments  
11 JMS-1 through JMS-7.

12 We also offer at this time  
13 Public's Exhibit 1-Confidential, the  
14 unredacted testimony of Joan Soller. Your  
15 Honor, this has not been previously filed, and  
16 with the Commission's indulgence, we are  
17 offering it today. The information contained  
18 therein is covered by the protective order  
19 previously entered by this Commission.

20 We also offer Public's Exhibit 2,  
21 the prefiled testimony of Wes Blakley, with  
22 Attachment WRB-1 attached thereto.

23 JUDGE STORMS: We'll show Public's  
24 Exhibit 1 along with 1-Confidential and all  
25 attached sub-exhibits and Public's Exhibit 2

1 admitted into this cause.

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

4  
5 (PUBLIC'S EXHIBIT NO. 1, BEING THE  
6 PREFILED DIRECT TESTIMONY OF MS.  
7 JOAN M. SOLLER, AND PUBLIC'S  
8 EXHIBIT NO. 2, BEING THE PREFILED  
9 DIRECT TESTIMONY OF MR. WES R.  
10 BLAKLEY, ADMITTED INTO EVIDENCE.)

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1 (PUBLIC'S EXHIBIT NO.  
2 1-CONFIDENTIAL, BEING A  
3 CONFIDENTIAL DOCUMENT, ADMITTED  
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1 MR. HELMEN: Public rests.

2 JUDGE STORMS: Okay.

3 MR. DuMOND: Your Honor, I do have  
4 one matter.

5 JUDGE STORMS: Yes.

6 MR. DuMOND: With apologies to the  
7 Commission, we do have one additional exhibit.

8 You may recall that under our  
9 Petition, we filed under the alternative  
10 regulatory plan with respect to the request  
11 for cost recovery for the carbon capture  
12 study. We did appropriately have notices of  
13 that proceeding filed in all of the counties  
14 in which we serve, with one exception, but I  
15 would like to submit as Petitioner's Exhibit L  
16 the complete originals showing publication in  
17 each of the counties in which we provide  
18 service.

19 The one exception is Ohio County,  
20 and due to miscommunication and oversight,  
21 unfortunately, that notice will not be  
22 published until Thursday, and we will seek to  
23 file a late-filed exhibit with respect to the  
24 proof of publication in Ohio County.

25

1                   (Reporter marked document for  
2                   identification as Petitioner's  
3                   Exhibit No. L)  
4

5                   JUDGE STORMS: Is there any  
6                   objection?

7                   MR. HELMEN: No objection to the  
8                   offered exhibit, Your Honor.

9                   JUDGE STORMS: Okay. Mr. DuMond,  
10                  when you submit the additional county, is it  
11                  your intention to file it under Petitioner's  
12                  Exhibit L?

13                  MR. DuMOND: I thought we would  
14                  just file it as a separate document, but, yes,  
15                  make it a subpart of L.

16                  JUDGE STORMS: Okay. Is there any  
17                  objection to that?

18                  MR. HELMEN: No.

19                  JUDGE STORMS: If not, we will  
20                  show it a late-filed exhibit, but I think  
21                  we'll go ahead and mark it as Petitioner's  
22                  Exhibit L -- I think perhaps L-1, something  
23                  like that, just to indicate that it does go  
24                  with this exhibit, so we will show  
25                  Petitioner's Exhibit L and the late-filed

1       exhibit or to be late-filed Exhibit L-1  
2       admitted into this cause.

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4                   (PETITIONER'S EXHIBIT NO. L, BEING  
5                   A DOCUMENT ENTITLED, "PETITIONER'S  
6                   LEGAL NOTICES", AND PETITIONER'S  
7                   EXHIBIT NO. L-1, BEING A DOCUMENT  
8                   ENTITLED, "DUKE ENERGY INDIANA,  
9                   INC.'S SUBMISSION OF PROOF OF  
10                  PUBLICATION PETITIONER'S EXHIBIT  
11                  L-1", DATED SEPTEMBER 2, 2008,  
12                  ADMITTED INTO EVIDENCE.)

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1 MR. DuMOND: Thank you.

2 JUDGE STORMS: When are you going  
3 to be making that filing? Not until Thursday,  
4 I'm assuming. Will it be Friday?

5 MR. DuMOND: As soon as we get the  
6 proof of publication back, which I don't know  
7 if that will be until Friday or perhaps  
8 Monday.

9 JUDGE STORMS: Okay. Could you  
10 just let me know?

11 MR. DuMOND: I certainly will.

12 JUDGE STORMS: Okay. Petitioner,  
13 you may call your first rebuttal witness.

14

15 **W. MICHAEL WOMACK**, a witness appearing on behalf  
16 of the Petitioner, having been  
17 previously duly sworn, resumed  
18 the Stand and testified on  
19 Rebuttal as follows:

20

21 **DIRECT EXAMINATION,**

22 **QUESTIONS BY MR. POPE:**

23 Q Please state your name.

24 A W. Michael Womack.

25 Q Are you the same W. Michael Womack that

1 testified earlier today?

2 A Yes.

3 Q Mr. Womack, do you have before you a document  
4 that's been marked as Petitioner's Exhibit H?

5 A Yes.

6 Q And is that your prepared rebuttal testimony  
7 in this cause?

8 A Yes, it is.

9 Q Are there any corrections or changes that need  
10 to be made to Petitioner's Exhibit H?

11 A No.

12 Q If I were to ask you those same questions  
13 today, would your answers be the same?

14 A Yes.

15 Q Do you adopt Petitioner's Exhibit H as your  
16 rebuttal testimony?

17 A I do.

18 MR. POPE: At this time, Your  
19 Honor, we offer Petitioner's Exhibit H.

20 JUDGE STORMS: If there's no  
21 objection, we'll show Petitioner's Exhibit H  
22 admitted into this cause.

23

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1 (PETITIONER'S EXHIBIT NO. H, BEING  
2 THE PREFILED REBUTTAL TESTIMONY OF  
3 MR. W. MICHAEL WOMACK, ADMITTED  
4 INTO EVIDENCE.)

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1                   MR. POPE: And the witness is  
2     available.

3                   JUDGE STORMS: Mr. Helmen?

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

6

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

8                   **QUESTIONS BY MR. HELMEN:**

9     Q Mr. Womack, I noticed on Page 2 of your  
10     testimony in updating the status, you indicate  
11     the detailed engineering of the project is  
12     approximately 15 percent complete.

13    A Yes.

14    Q I guess it just begs the question, but that  
15     assumes that it's 85 percent not complete yet.

16    A Yes.

17    Q So, costs could continue to increase as the  
18     remaining 85 percent of the engineering work  
19     is completed, I assume.

20    A I wouldn't characterize it that way. I would  
21     say that what's left to be done is literally  
22     the detailing, deciding how many bolts go in  
23     the end of each beam, you know, what color to  
24     paint the steel, exactly how many nozzles come  
25     off of a pump and sort forth. Costs could

1 change somewhat, but we don't anticipate a  
2 significant cost increase because of the level  
3 of detailing here.

4 Q I like your optimism.

5 MR. HELMEN: I don't have any  
6 further questions.

7 JUDGE STORMS: Ms. Becker?

8 MS. BECKER: Thank you, Your  
9 Honor.

10

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

12 **QUESTIONS BY MS. BECKER:**

13 Q Mr. Womack, on Page 6 --

14 A Yes, ma'am.

15 Q -- of your rebuttal, you address communication  
16 with the OUCC in terms of trying to find ways  
17 to update the OUCC with respect to the  
18 project's progress and information that needs  
19 to be conveyed.

20 A Yes.

21 Q Does Duke have any objection to providing that  
22 same information to other parties to this  
23 proceeding?

24 A I don't personally. I don't know if there's  
25 any reason why we couldn't provide that



1 information. It's a policy decision that  
2 would have to be made at the -- by someone  
3 other than myself, but I have no personal  
4 objections or project objections.

5 Q Okay.

6 MS. BECKER: Thank you. I have  
7 nothing further.

8 JUDGE STORMS: Mr. Polk, your  
9 witness.

10 MR. POLK: Yes, thank you, Your  
11 Honor.

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

2     **QUESTIONS BY MR. POLK:**

3     Q   Mr. Womack, on Page 3 there at the end of Line  
4         12 in your rebuttal testimony, you say that  
5         Duke has essentially fixed prices for nearly  
6         32 percent of the estimated cost of the  
7         project.

8                     Can you tell me what essentially  
9         means?

10    A   Yes.   In the context of fixed pricing, yes.  
11         I'm not going to try to become a dictionary  
12         for you, but, yes, in terms of this fixed, it  
13         means that slight changes might occur.

14                     As an example, GE's proprietary  
15         equipment was fixed, the price was fixed in  
16         December when we bought it.  The exact amount  
17         is confidential, but it's hundreds of millions  
18         of dollars.  We went to an order definition  
19         meeting it's called in the Spring and selected  
20         certain options, de-selected others, and when  
21         we left the meeting, the net result was a  
22         \$43,000 decrease in that fixed price because  
23         of some minor changes that were made.

24                     So, there are going to be minor  
25         changes even in things that are fixed as we go

1 forward through the project, but essentially  
2 fixed is what I'm talking about.

3 Q And if you're so confident to the cost  
4 estimate and how accurate it is this time  
5 around, why won't the company agree to a cap?

6 A Well, so confident is your characterization; I  
7 characterized it earlier as reasonably  
8 confident.

9 I've been managing projects for  
10 over 30 years, and I know that despite your  
11 best efforts, there are things that can happen  
12 beyond your control that would add costs to  
13 the project that are not an indication of  
14 having mismanaged or done anything wrong, just  
15 market conditions driving projects in ways  
16 that you can't fully control, so although I'm  
17 reasonably confident with the estimate, I  
18 couldn't recommend that we cap the project  
19 costs.

20 Whether or not to cap it is a  
21 policy decision that Mr. Turner and other  
22 officers would have to make, but my  
23 recommendation would be against that.

24 Q Okay. Now, on the bottom of Page 2 around  
25 Line 18, you say that "Work on the first

1 permanent structure on the site, a warehouse  
2 building, will begin in August."

3 Have you begun -- has Duke begun  
4 construction of that warehouse yet?

5 A Yes.

6 Q Is that the only permanent structure that  
7 is -- that has been built at this time?

8 A Yes.

9 Q Okay.

10 MR. POLK: Thank you. I have no  
11 further questions, Your Honor.

12 JUDGE STORMS: Thank you, Mr.  
13 Polk.

14 Ms. Doehermann?

15 MS. DOEHRMANN: We have no  
16 questions. Thank you, Your Honor.

17 JUDGE STORMS: Redirect?

18 MR. POPE: No redirect, Your  
19 Honor.

20 JUDGE STORMS: Mr. Womack, thank  
21 you very much for your testimony. You are  
22 excused.

23

24

25 (WITNESS W. MICHAEL WOMACK EXCUSED ON REBUTTAL)

1 MR. POPE: Diane?

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

4

5 **DIANE L. JENNER**, a witness appearing on behalf of  
6 the Petitioner, having been  
7 previously duly sworn, resumed  
8 the Stand and testified on  
9 Rebuttal as follows:

10

11 **DIRECT EXAMINATION,**

12 **QUESTIONS BY MR. POPE:**

13 Q State your name, please.

14 A Diane L. Jenner.

15 Q And are you the same Diane L. Jenner that  
16 previously testified in this proceeding today?

17 A Yes.

18 Q For purposes of this proceeding, has your  
19 rebuttal testimony been reduced to written  
20 question and answer form?

21 A Yes.

22 Q Do you have before you a document marked for  
23 identification as Petitioner's Exhibit I?

24 A Yes.

25 Q Is that your prepared rebuttal testimony?

1 A Yes.

2 Q Along with I-1-Confidential, I-2 and I-3  
3 sub-exhibits?

4 A Yes.

5 Q Are there any changes or corrections that need  
6 to be made to Petitioner's Exhibit I?

7 A No.

8 Q If I were to ask you those same questions  
9 today, would your answers be the same?

10 A Yes.

11 Q Do you adopt Petitioner's Exhibit I with the  
12 sub-exhibits as your rebuttal testimony?

13 A Yes.

14 MR. POPE: At this time, Your  
15 Honor, Petitioner will offer Petitioner's  
16 Exhibit I with Sub-Exhibits I-1-Confidential,  
17 I-2 and I-3.

18 JUDGE STORMS: If there's no  
19 objection, we'll show each of these exhibits  
20 admitted into this cause.

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

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1 (PETITIONER'S EXHIBIT NO.  
2 I-1-CONFIDENTIAL, BEING A  
3 CONFIDENTIAL DOCUMENT, ADMITTED  
4 INTO EVIDENCE ON A CONFIDENTIAL  
5 BASIS. )  
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1                   MR. POPE:  The witness is  
2    available.  
3                   JUDGE STORMS:  Thank you.  Mr.  
4    Helmen?  
5                   MR. HELMEN:  No questions from the  
6    Public.  
7                   JUDGE STORMS:  Ms. Becker, any  
8    questions?  
9                   MS. BECKER:  None, Your Honor,  
10   thank you.  
11                  JUDGE STORMS:  Mr. Polk, your  
12   witness.  
13                  MR. POLK:  Just a couple of short  
14   ones, Your Honor.  
15                  JUDGE STORMS:  Okay.  Please  
16   proceed.  
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1     **CROSS-EXAMINATION OF MS. DIANE L. JENNER,**

2             **QUESTIONS BY MR. POLK:**

3     Q    Good afternoon, Ms. Jenner.

4     A    Good afternoon.

5     Q    On Page 2 of your testimony on Lines 6 through  
6           10, you discuss carbon prices that may result  
7           from the numerous proposals in Congress and  
8           state that ". . .there is little indication  
9           that Congress will ultimately pass legislation  
10          that results in the higher range of prices  
11          than the lower range of prices. . ."

12                       Now, as I recall from your  
13          testimony earlier this morning, you previously  
14          had not done any lobbying or legislative work;  
15          is that correct?

16    A    That's correct.

17    Q    Okay.  So, is the basis of that statement  
18          personal experience, or are you relying on  
19          statements from other folks in the company?

20    A    I would say it's a combination of the two.  By  
21          personal experience, I mean my observations of  
22          what's been going on in Congress from watching  
23          the news.

24    Q    Do you believe that when Congress enacts  
25          legislation, that at least occasionally they

1       may enact legislation based on the science  
2       underlying it and try to find ways to pay for  
3       it afterwards?

4    A   That presupposes that there's science backing  
5       a lot of this up, too. I try not to predict  
6       totally what Congress is going to do, but one  
7       would hope that they would take the interests  
8       of our customers into account whenever they  
9       enact legislation and account for the costs  
10      before they do harm to the economy.

11   Q   When you did the modeling for this proceeding,  
12       did you include the cost of carbon capture and  
13       sequestration?

14   A   No.

15   Q   Now, on Page 5, you talk about around Lines 6  
16       through 8 the NSR lawsuit and the possibility  
17       that Wabash River Units 2, 3 and 5 may need to  
18       be retired.

19                   Can you give me an update on where  
20       that stands?

21   A   The damages phase is in December. I don't  
22       know of anything more up to date than that.

23   Q   And do you have any updates on the results of  
24       the renewable energy RFPs that were put out  
25       last Fall?

1   A   Yes.  We have narrowed the list to a short  
2       list of bidders, and we -- our intention is to  
3       begin negotiations with those bidders this  
4       Fall and hopefully have contracts by the end  
5       of the year.

6   Q   Thank you, Ms. Jenner.

7                   MR. POLK:  I have no further  
8       questions, Your Honor.

9                   JUDGE STORMS:  Thank you.  Ms.  
10      Doehrmann?

11                  MS. DOEHRMANN:  No questions, Your  
12      Honor, thank you.

13                  JUDGE STORMS:  Redirect?

14                  MR. POPE:  No redirect, Your  
15      Honor.

16                  JUDGE STORMS:  Ms. Jenner, thank  
17      you very much for your testimony.  You are  
18      excused.

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25      (WITNESS DIANE L. JENNER EXCUSED ON REBUTTAL)

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

3 MR. DuMOND: We would call Diana  
4 Douglas.

5

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

10

11 **DIRECT EXAMINATION,**

12 **QUESTIONS BY MR. DuMOND:**

13 Q State your name for the record.

14 A My name is Diana L. Douglas.

15 Q Please identify your employer.

16 A I am employed by Duke Energy Business  
17 Services, LLC.

18 Q And are you the same Diana Douglas that  
19 appeared and presented direct testimony in  
20 this proceeding?

21 A Yes, I am.

22 Q You have a document that's been marked as  
23 Petitioner's Exhibit J. Is that a copy of  
24 your prefiled rebuttal testimony in this case?

25 A Yes, it is.

1 Q Do you have any changes or corrections to that  
2 testimony?

3 A No, I don't.

4 Q And if I were to ask you each of the questions  
5 set forth in the rebuttal testimony, would  
6 your answers be the same?

7 A Yes, they would.

8 Q Do you adopt Petitioner's Exhibit J as your  
9 sworn rebuttal testimony in this case?

10 A Yes, I do.

11 MR. DuMOND: Your Honor,  
12 Petitioner offers into evidence Petitioner's  
13 Exhibit J.

14 JUDGE STORMS: If there's no  
15 objection, we'll show Petitioner's Exhibit J  
16 admitted into this cause.

17 MR. DuMOND: I should mention that  
18 there are two sub-exhibits. J-1 and J-2 are  
19 also offered into evidence.

20 JUDGE STORMS: We'll show J and  
21 all sub-exhibits admitted into this cause.

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

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1                   MR. DuMOND: Ms. Douglas is  
2     available for cross-examination.

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

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

7

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

9     **QUESTIONS BY MR. HELMEN:**

10    Q Good afternoon, Ms. Douglas.

11    A Good afternoon.

12    Q Just in case everybody's not asleep yet, I  
13     want to discuss with you deferred income taxes  
14     and specifically their treatment vis-a-vis  
15     your capital structure and weighted cost of  
16     capital, okay?

17    A Okay.

18    Q And in the capital structure when you're  
19     determining weighted cost of capital, deferred  
20     income taxes are routinely called zero cost  
21     capital; is that true?

22    A For cost of capital for CWIP ratemaking  
23     treatment or base rate case treatment, yes.

24    Q Yes, ma'am, and in Duke's last base rate case  
25     and other CWIP proceedings that we have seen



1 from Duke since the last base rate case, it  
2 appears to me that Duke's weighted cost of  
3 capital with respect to deferred income taxes  
4 is running 13 to 14 percent. Does that sound  
5 about right?

6 A Yes, that is.

7 Q Okay. Now, as -- from reading your testimony,  
8 it appears that as Duke interprets the  
9 Commission Order, and when I talk about the  
10 Commission Order, I'm talking about the  
11 November 20th Order in the IGCC case, okay?

12 A Yes.

13 Q When you're interpreting that Order, you  
14 interpret it to say that -- to authorize Duke  
15 to remove all deferred taxes from the capital  
16 structure; is that correct?

17 A To remove the deferred taxes from the capital  
18 structure, yes.

19 Q Thank you, and just to make sure because you  
20 answered in discovery a question, currently or  
21 at least as of February, which I think was the  
22 last information you had, as of February of  
23 2008, Duke's deferred income taxes  
24 company-wide were \$700,360,000; does that  
25 sound about right?

1 A That sounds about right.

2 Q So, Duke interprets the Order to say that you  
3 can remove all deferred taxes from your  
4 capital structure, and then that would be used  
5 as an offset to plant in service?

6 A The way we interpret the Commission's Order  
7 and the way it was explained in Mr. Farmer's  
8 testimony in the CPCN case, we would reduce  
9 the project balance or the rate base amount by  
10 the IGCC specific or related deferred taxes,  
11 so it would be those deferred taxes that would  
12 accrue because of the IGCC Project.

13 Q And just to make sure I understand this, with  
14 respect to removing that out of the capital  
15 structure, you're not just talking about  
16 taking out deferred taxes associated with this  
17 project, are you?

18 A No.

19 Q You're talking about taking all three quarters  
20 of a billion dollars out of the capital  
21 structure; correct?

22 A Yes.

23 Q Yet when we talk about an offset to rate base  
24 or to plant in service, your interpretation of  
25 the Order is that that would only be the

1       deferred taxes associated with this project;  
2       correct?

3     A   Yes.

4     Q   And, in fact, in this filing right now -- and  
5       what's the CWIP amount at issue here?  Is it  
6       \$128 million that you're trying to recover  
7       here?

8     A   The retail jurisdictional portion is about  
9       that.

10    Q   Okay.  So when you're talking about the return  
11       on the \$128 million, your weighted cost of  
12       capital, you've completely taken out \$700  
13       million, which amounted to the deferred income  
14       taxes, to come up with your weighted cost of  
15       capital; correct?

16    A   Yes, we did.

17    Q   So that will be a benefit to Duke as soon as  
18       the Commission orders this recovery; correct?

19    A   Yes, in the early years during the  
20       construction of the project.

21    Q   And with respect to the portion of -- being a  
22       reduction to plant in service, the benefit  
23       that the ratepayers will get on the other end  
24       of that, that won't -- ratepayers won't see  
25       any benefit from that until 2012 after --

1       assuming the plant is placed in service in  
2       2012; correct?

3     A   The IGCC specific deferred taxes will begin  
4       accruing once the plant is in service, so  
5       2012.

6     Q   Okay. Now, you state on Page 3 of your  
7       testimony, and you alluded to this a moment  
8       ago, that Mr. Farmer testified in rebuttal on  
9       the IGCC case ". . .that if accumulated  
10      deferred income taxes were to be included in  
11      the capital structure used in determining the  
12      revenue requirement applicable to the IGCC  
13      investment, the Company would significantly  
14      under-recover the cost of financing the IGCC  
15      project." Did I read your testimony  
16      correctly?

17    A   Yes.

18    Q   And you would agree with me, would you not,  
19       that Duke would never advocate for a cost  
20       recovery proposal that would result in  
21       under-recovery, would it?

22    A   No. Generally, Duke requests recovery of its  
23       costs and costs necessary to support overall  
24       lower costs.

25    Q   Have you ever known Duke to make a proposal

1       which would result in significant  
2       under-recovery of the cost of financing?

3    A   No, but I haven't been associated with the  
4       Rate Department for that long.

5    Q   Well, I've never seen that either, which is  
6       interesting because in Mr. Farmer's original  
7       proposal, he recommended that the capital  
8       structure for purposes of determining the  
9       weighted cost of capital, that the deferred  
10      income taxes should be included, did he not?

11   A   Yes, he did, but in the original proposal,  
12      Duke had also requested an enhanced rate of  
13      return as an incentive under the Senate Bill  
14      29 rules and also accelerated depreciation,  
15      both of which were either given up by Duke or  
16      were ordered by the Commission to not be an  
17      incentive.

18   Q   But Duke has requested an enhanced return  
19      before, and the Commission has declined to  
20      give one. I would have expected Mr. Farmer to  
21      mention that if that was not given, that the  
22      deferred taxes should be taken out of the  
23      capital structure, and he didn't do that, did  
24      he?

25   A   No, he did not until rebuttal testimony.

1 Q Now, you mentioned Mr. Farmer and Mr. Gorman's  
2 testimony from the Industrial Group.

3 A Yes.

4 Q And Mr. Gorman testified in the IGCC case and  
5 mentioned removing the deferred income taxes  
6 from the capital structure.

7 Did you interpret his testimony in  
8 the underlying action to recommend removing  
9 the total company-wide deferred income taxes  
10 from the capital structure for purposes of  
11 this cost recovery tracker?

12 A Yes, I did, and the exhibits that were filed  
13 by Mr. Farmer and his explanation in the  
14 rebuttal testimony made clear that that was  
15 Duke's position or understanding and  
16 recommendation, and so I think it was very  
17 clear in the rebuttal testimony what we were  
18 proposing.

19 Q I know, but are you suggesting that Mr.  
20 Gorman -- that that was what Mr. Gorman was  
21 advocating in his testimony?

22 A That's the way we interpreted it, yes.

23 Q Okay. I would like you to turn to the bottom  
24 of Page 4, top of Page 5.

25 A Yes.

1 Q You're discussing Mr. Blakley's testimony here  
2 where he advocates leaving deferred income  
3 taxes in the capital structure.

4 You're not suggesting that  
5 Mr. Blakley is advocating both leaving  
6 deferred taxes in the capital structure but  
7 also reducing the plant in service by those  
8 deferred taxes, are you?

9 A No, I'm not suggesting that. I just wanted to  
10 clarify that Mr. Blakley's exhibit is just  
11 showing one part, and that was the impact of  
12 the cost of capital number, not the base on  
13 which that return would be applied.

14 Q Now, you've calculated -- We obviously, the  
15 OUCC, see your weighted cost of capital as  
16 you've indicated in other CWIP filings in  
17 other cases; correct?

18 A Yes.

19 Q And we saw it in the rate case, and generally  
20 your weighted cost of capital in those cases  
21 has been around seven-and-a-quarter,  
22 7.3 percent; does that sound about right?

23 A That's fair.

24 Q However, with the treatment that Duke is  
25 advocating here, the cost of capital is 8.4

1       percent; correct?

2    A   Yes.

3    Q   Now, if I would -- if you could look at Page 5  
4       of your testimony, Line 16, 15 and 16, you  
5       talk about the ordinary treatment -- actually,  
6       the Commission -- you're quoting the  
7       Commission.   "' . . .ordinary treatment of  
8       deferred income taxes could understate the  
9       project specific financing costs as noted by  
10      Mr. Farmer.'"   Do you see that there?

11   A   Yes, I do.

12   Q   Now, when we talk about your weighted cost of  
13      capital as we've indicated -- and do you have  
14      that?   Do you have your direct testimony with  
15      you?

16   A   I don't think so.

17   Q   I'm going to ask you a couple of questions  
18      about your Exhibit E-3, Page 5 of 6.

19   A   All right.

20   Q   Now, Mr. Farmer mentioned project specific  
21      financing.

22                    If you look there, the long-term  
23      debt balance is \$2.075 billion; is that  
24      correct?

25   A   Yes.



1 Q Can you tell me which debt issuances

2 specifically finance the IGCC CWIP balance of

3 \$128.5 million?

4 A No, I can't. That's a total company long-term

5 debt issuance amount, and it's financing

6 multiple projects.

7 Q Well, what is the cost rate of the project

8 specific debt used to finance this IGCC

9 Project?

10 A It would be the weighted average cost shown

11 here, 5.98 at this point in time.

12 Q Well, you've identified project specific

13 financing.

14 Is it your testimony that \$2.075

15 billion of debt specifically finances a CWIP

16 balance of \$128.5 million?

17 A That amount is supporting the expenditures

18 that we've had to date. The Company will have

19 additional debt issuances as the project

20 expenditures grow.

21 Q But there's no specific financing for the IGCC

22 plant, is there?

23 A Not at this time that I'm aware of.

24 Q There was no debt issuance that is earmarked

25 to finance the IGCC plant; correct?

1 A Not at this time.

2 Q Is it your testimony that the \$2.414 billion  
3 in equity specifically finances this IGCC CWIP  
4 balance?

5 A No. It's my testimony that, again, as with  
6 long-term debt, the common equity finances all  
7 projects.

8 Q Has Duke done a study that traces the \$700  
9 million of deferred income taxes to make sure  
10 the entire amount was used to finance things  
11 other than the Edwardsport plant?

12 A I'm not aware of any study.

13 Q Now, Duke is asking the Commission to revisit  
14 the costs of the project here and to find the  
15 increased costs to be reasonable.

16 Don't you agree that the  
17 Commission can revisit how that amount is to  
18 be financed as well?

19 A The Commission can revisit anything it wants  
20 to, I think, but I think the reasons that the  
21 Commission found a change in the capital  
22 structure calculation to be appropriate in the  
23 CPCN case still hold true now with not only  
24 the \$1.985 billion to be financed but now a  
25 higher amount to be financed.

1 Q Now, is Duke -- would Duke agree today that it  
2 will propose this same capital structure in  
3 its next base rate case to take deferred taxes  
4 out of the capital structure and use it as an  
5 offset to plant in service? Would Duke agree  
6 to do that?

7 A That's not our plans.

8 MR. HELMEN: I have no other  
9 questions.

10 JUDGE STORMS: Thank you. Ms.  
11 Becker?

12 MS. BECKER: None, Your Honor.

13 JUDGE STORMS: Mr. Polk?

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

16 JUDGE STORMS: Ms. Doehermann?

17 MS. DOEHRMANN: None, Your Honor,  
18 thank you.

19 JUDGE STORMS: Redirect?

20 MR. DuMOND: No questions.

21 JUDGE STORMS: Okay. Ms. Douglas,  
22 thank you very much for your testimony. You  
23 are excused.

24

25 **(WITNESS DIANA L. DOUGLAS EXCUSED ON REBUTTAL)**

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

3

4 **KENT K. FREEMAN**, a witness appearing on behalf of  
5 the Petitioner, having been  
6 first duly sworn, testified on  
7 Rebuttal as follows:

8

9 **DIRECT EXAMINATION,**

10 **QUESTIONS BY MR. DuMOND:**

11 Q State your name, please.

12 A Kent K. Freeman.

13 Q Are you the same Kent Freeman that testified  
14 or presented testimony in this proceeding  
15 previously?

16 A Yes, I am.

17 Q Do you have a document before you that's  
18 previously been marked as Petitioner's Exhibit  
19 K?

20 A Yes, I do.

21 Q Is that your verified rebuttal testimony filed  
22 in this proceeding?

23 A Yes, it is.

24 Q Do you have any changes to Petitioner's  
25 Exhibit K?

1    A   I do not.

2    Q   If I were to ask you the questions set forth  
3       therein, would your answers be the same?

4    A   Yes, they would.

5    Q   Do you adopt Petitioner's Exhibit K as your  
6       sworn testimony in this proceeding, rebuttal  
7       testimony in this proceeding?

8    A   Yes, I do.

9                   MR. DuMOND:  Your Honor, at this  
10       time, we offer Petitioner's Exhibit K.

11                  JUDGE STORMS:  If there's no  
12       objection, we'll show Petitioner's Exhibit K  
13       admitted into this cause.

14

15                   (PETITIONER'S EXHIBIT NO. K, BEING  
16       THE PREFILED REBUTTAL TESTIMONY OF  
17       MR. KENT K. FREEMAN, ADMITTED INTO  
18       EVIDENCE.)

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1                   MR. DuMOND: The witness is  
2     available.

3                   JUDGE STORMS: Mr. Helmen?

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

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8     **CROSS-EXAMINATION OF MR. KENT K. FREEMAN,**

9     **QUESTIONS BY MR. HELMEN:**

10    Q   Kent, you're killing me here. Turn to Page 2.  
11        At the bottom of that page, you're talking  
12        about Mr. Blakley's suggestion that with  
13        respect to cancellation costs, not that he  
14        condoned talking about cancellation costs yet,  
15        but he said with respect to cancellation  
16        costs, those, if any, should be amortized over  
17        30 years. Do you remember that?

18    A   Yes.

19    Q   And you say here that you don't believe it's  
20        appropriate to make that determination at this  
21        time; correct?

22    A   That's correct.

23    Q   Now, in your direct testimony, though, you're  
24        the one who suggested using an amortization  
25        period of ten years.

1 A For a specific amount and point in time for  
2 cancellation costs, yes.

3 Q How is that different than what Mr. Blakley  
4 was discussing?

5 A Well, Mr. Blakley is discussing at a future  
6 point in time when he says it could be as much  
7 as \$100 million rate increase to customers,  
8 so, again, as the cancellation costs would  
9 increase, then I think you would need to look  
10 at over what time period you want to amortize  
11 those costs.

12 Q I'm not exactly sure what you're asking the  
13 Commission to do with these cancellation  
14 costs. Why are we talking about cancellation  
15 costs?

16 A These cancellation costs were used by Diane  
17 Jenner in her modeling analysis, so she needed  
18 an estimate of what they would be at a point  
19 in time, so what we did is we looked at the  
20 cancellation costs as of July 31st to  
21 determine what they were and supplied those to  
22 Diane for her analysis.

23 Q Now, when you talk about cancellation costs,  
24 if I understand it correctly, you're saying  
25 that in the event the project is abandoned for

1       whatever reason, that these are the costs that  
2       Duke is going to incur to put a bow on it or  
3       whatever to get out of the deal. Is it  
4       something like that?

5   A   That's correct, and it was in -- I believe it  
6       was Exhibit 1 to the Petition.

7   Q   It was what?

8   A   I don't recall if it was Exhibit 1 or Exhibit  
9       A to the Petition, but the cancellation costs  
10      were included in that filing.

11   Q   Are you asking the Commission to approve --  
12      You've identified them, cancellation costs, as  
13      \$343 million as of July 31, '08.

14                   Are you asking for the Commission  
15      to approve that?

16   A   Oh, no. That was just, like I say, an  
17      estimate that Diane needed for her runs. We  
18      are not requesting approval or anything at  
19      this point. It's purely a quantification of  
20      the impact.

21   Q   Okay. Forget I said anything, then. That's  
22      all I got; I'm done.

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

25                   JUDGE STORMS: Okay. Ms. Becker?



1 MS. BECKER: No questions, Your  
2 Honor.

3 JUDGE STORMS: Mr. Polk?

4 MR. POLK: Thank you, Your Honor.

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7 **CROSS-EXAMINATION OF MR. KENT K. FREEMAN,**

8 **QUESTIONS BY MR. POLK:**

9 Q Mr. Freeman, does a shorter amortization time  
10 make the annual amount paid greater or  
11 smaller?

12 A It makes the annual amortization smaller --  
13 or, excuse me, larger.

14 Q So, to the extent that a shorter period was  
15 used in Ms. Jenner's modeling for cancellation  
16 charges, that would affect the modeling and  
17 increase the cost of cancellation during those  
18 early years.

19 A What Ms. Jenner and I used are in sync, so I  
20 supplied her the amortization based on a  
21 ten-year period.

22 Q Thank you.

23 MR. POLK: No further questions.

24 JUDGE STORMS: Ms. Doehrmann, any  
25 questions?

1 MS. DOEHRMANN: No questions, Your  
2 Honor, thank you.

3 JUDGE STORMS: Redirect?

4 MR. DuMOND: We have no redirect,  
5 Your Honor.

6 JUDGE STORMS: Mr. Freeman, thank  
7 you very much for your testimony. You are  
8 excused.

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(WITNESS KENT K. FREEMAN EXCUSED ON REBUTTAL)

1                   MR. HELMEN: We haven't talked  
2           about a proposed order.

3                   JUDGE STORMS: You have or have  
4           not?

5                   MR. HELMEN: We haven't.

6                   JUDGE STORMS: Do you want a few  
7           minutes?

8                   Let's go off the record and take  
9           about a 15-minute break.

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11                   (Off-the-Record Discussion)

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

15                   It's my understanding that the  
16           parties have reached an agreement with respect  
17           to the filing dates for proposed orders.

18                   Mr. DuMond, could you enter the  
19           parties' agreement into the record, please?

20                   MR. DuMOND: The parties have  
21           agreed that they will have simultaneous  
22           filings of proposed orders on September 16th  
23           and simultaneous replies on September 22nd --

24                   JUDGE STORMS: Okay.

25                   MR. DuMOND: -- and I think I

1       might add -- if anyone disagrees, let me  
2       know -- that everyone will serve their  
3       proposed orders via e-mail as well as regular  
4       mail on the 16th.

5                   JUDGE STORMS:   Okay.  Is that  
6       acceptable to everyone?

7                   MR. HELMEN:   Yes, sir.

8                   JUDGE STORMS:   Is there anything  
9       else we need to address?

10                  If not, thank you very much.  We  
11       are hereby adjourned.

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25                               (HEARING ADJOURNED)

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