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Indianapolis, Indiana
March 9, 2009
9:30 A.M. (EST)

(Reporter marked documents for identification as Petitioner's Exhibit Nos. A, A-1, A-2, Confidential A-2, B, B-1, B-2, B-3, C, C-1, D, D-1, D-2, D-3, E, F, F-1 and F-2)

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

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

JUDGE STORMS: This is an evidentiary hearing before the Indiana Utility Regulatory Commission in a cause docketed before the Commission as Cause No. 43114-IGCC2, and the caption is "Verified petition of Duke Energy Indiana, Incorporated

1 seeking: (1) authority to reflect costs
2 incurred for the Edwardsport integrated
3 gasification combined cycle generating
4 facility ("IGCC Project") property under
5 construction in its rates and authority to
6 recover certain external costs through its
7 integrated coal gasification combined cycle
8 generating facility cost recovery adjustment,
9 Standard Contract Rider No. 61, pursuant to
10 Indiana Code Sections 8-1-8.8-11 and 12; and
11 (2) approval of an ongoing review progress
12 report pursuant to Indiana Code Section
13 8-1-8.7."

14 Notice of the time and place of
15 the hearing was given as provided by law by
16 publication in Marion County in the
17 Indianapolis Star and Hendricks County in the
18 Weekend Flyer and the Republican. Each of
19 said newspapers is a newspaper of general
20 circulation, printed and published in the
21 English language in their respective counties,
22 and said publications were made ten days prior
23 to the date of the evidentiary hearing. The
24 proofs of publication of the notices have been
25 received by the Commission and are now

1 incorporated into the record of this cause by
2 reference and placed in the official files of
3 the Commission. Notice has also been given to
4 the Office of Utility Consumer Counselor and
5 other interested parties.

6 May we have appearances of
7 counsel, please?

8 MR. DuMOND: Thank you, Your
9 Honor. On behalf of the Petitioner, Duke
10 Energy Indiana, William DuMond and Kelley
11 Karn, 1000 East Main, Plainfield, Indiana.

12 MS. DOEHRMANN: Good morning, Your
13 Honor. Carrie Doehrmann from Frost Brown
14 Todd. We're here on behalf of the
15 Intervenors, Clean Air Task Force and Indiana
16 Wildlife Federation.

17 JUDGE STORMS: Thank you.

18 MR. POLK: Good morning. On
19 behalf of Intervenors, Citizens Action
20 Coalition of Indiana, Sierra Club, Save the
21 Valley and Valley Watch, Jerome Polk of the
22 firm Polk & Associates, LLC, Indianapolis,
23 Indiana.

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

1 Helmen from the OUCC.

2 JUDGE STORMS: Thank you. Will
3 all those who know themselves to be witnesses
4 please stand and raise your right hand?

5

6 (OATH DULY ADMINISTERED TO FIVE PEOPLE)

7

8 JUDGE STORMS: Petitioner, you may
9 proceed.

10 MR. DuMOND: Your Honor, we call
11 Mr. Michael Womack.

12

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

17

18 **DIRECT EXAMINATION,**

19 **QUESTIONS BY MR. DuMOND:**

20 Q State your name for the record, please.

21 A Michael Womack.

22 Q Are you employed?

23 A I am employed with Duke Energy.

24 Q What is your employment position with Duke
25 Energy Business Services?

1 A I am the Vice President of the Edwardsport
2 IGCC Project.

3 Q You have a document that the Court Reporter
4 has previously marked as Petitioner's Exhibit
5 1. Do you see that?

6 A I do.

7 Q Can you identify that document?

8 A This is the Petitioner's Verified Petition in
9 this case.

10 Q Is that a true and accurate copy of the
11 Verified Petition in this case?

12 A It is.

13 Q You also have a document that the Court
14 Reporter has previously marked as Petitioner's
15 Exhibit A. Can you identify that document?

16 A Yes, I can. This is my testimony in this
17 case.

18 Q In other words, that is your prefiled verified
19 testimony in this case?

20 A Yes, it is.

21 Q Do you have any changes or corrections to your
22 prefiled testimony?

23 A There are a couple of corrections.

24 On Page 4, Line 4, beginning after
25 the word "parties" in the middle of that line,

1 strike the rest of that sentence and add the
2 words "executed the contract on December 15,
3 2008", so that the sentence now reads,
4 "Negotiations with Bechtel were concluded in
5 early November and the parties executed the
6 contract on December 15, 2008."

7 Also, on Line 7, just for clarity,
8 after the word -- after the acronym "EPCM",
9 add the word "agreement".

10 Q And have you initialed the changes on Page 4?

11 A Yes.

12 Q If I were to ask you each of the questions set
13 forth in your prefiled testimony, would your
14 answers be the same taking into account the
15 changes that you've noted?

16 A Yes.

17 Q And do you adopt Petitioner's Exhibit A with
18 your changes as your sworn testimony in this
19 cause?

20 A I do.

21 MR. DuMOND: Your Honor,
22 Petitioner offers into evidence Petitioner's
23 Exhibit 1 and Petitioner's Exhibit A, and I do
24 have a few more questions.

25 Q Mr. Womack, you also had two sub-exhibits with

1 your prefiled testimony.

2 A Yes.

3 Q Exhibit A-1 and Petitioner's Confidential
4 Exhibit A-2?

5 A Yes, that's correct.

6 Q And I direct your attention to an envelope, a
7 sealed envelope, in front of you. Can you
8 read the label on that envelope?

9 A This is IURC Petitioner's Exhibit A-2, so this
10 is the confidential information from Exhibit
11 A-2.

12 Q And is that a true and accurate copy of
13 Petitioner's Confidential Exhibit A-2?

14 A Yes, it is.

15 MR. DuMOND: Your Honor, we also
16 move to admit Petitioner's Sub-Exhibit A-1,
17 and Petitioner's Confidential Exhibit A-2.

18 JUDGE STORMS: There is a redacted
19 A-2 in the file that needs to be offered as
20 well.

21 MR. DuMOND: Yes, and, likewise,
22 we offer Petitioner's redacted Exhibit A-2.

23 JUDGE STORMS: Okay. Any
24 objections?

25 MR. POLK: No objections, Your

1 Honor.

2 MS. DOEHRMANN: No objections.

3 MR. HELMEN: No objection.

4 JUDGE STORMS: We'll show
5 Petitioner's Exhibit 1 along with Petitioner's
6 Exhibits A, A-1, A-2 and Confidential Exhibit
7 A-2 admitted into this cause.

8

9 (PETITIONER'S EXHIBIT NO. 1, BEING
10 A DOCUMENT ENTITLED, "VERIFIED
11 PETITION", FILED NOVEMBER 3, 2008,
12 AND PETITIONER'S EXHIBIT NO. A,
13 BEING THE PREFILED DIRECT
14 TESTIMONY OF MR. W. MICHAEL
15 WOMACK, WITH PETITIONER'S EXHIBIT
16 NOS. A-1 AND A-2 ATTACHED THERETO,
17 ADMITTED INTO EVIDENCE.)

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(PETITIONER'S EXHIBIT NO.
CONFIDENTIAL A-2, BEING A
CONFIDENTIAL DOCUMENT, ADMITTED
INTO EVIDENCE ON A CONFIDENTIAL
BASIS.)

1 MR. DuMOND: Your Honor, the
2 witness is available for cross-examination.

3 JUDGE STORMS: Ms. Doehrmann?

4 MS. DOEHRMANN: I have no
5 questions, Your Honor. Thank you.

6 JUDGE STORMS: Okay. Mr. Polk?

7 MR. POLK: Thank you, Your Honor.

8

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

10 **QUESTIONS BY MR. POLK:**

11 Q Good morning, Mr. Womack.

12 A Good morning.

13 Q Now, in your testimony, you state that you are
14 testifying as to the status of the Edwardsport
15 plant.

16 Are you also familiar with the
17 status of the study of carbon capture at the
18 Edwardsport plant?

19 A I am familiar with portions of that. I'm not
20 the most detailed, knowledgeable person in the
21 company on that subject, but I am familiar
22 with the general understanding of it.

23 Q All right. Can you tell me the status of that
24 study?

25 A We are beginning negotiations with the parties

1 that will conduct the study with the intent of
2 entering into a contract to start that study
3 soon.

4 Q Okay. Do you have any knowledge or
5 understanding of when that study may be
6 completed?

7 A It's considered to be between a 12- and
8 18-month study, so I would say it would be no
9 sooner than 12 months and no longer than 18.

10 Q Okay. So that would be likely sometime in
11 2010, early 2011?

12 A 2010 time frame, yes.

13 Q Okay. Does the current design of the
14 Edwardsport plant include capture of carbon?

15 A No, it does not.

16 Q Does the current design of the Edwardsport
17 plant currently include storage or
18 sequestration of carbon?

19 A No, it does not.

20 Q Has there been a study or an analysis to
21 determine what changes would be needed to
22 comply with the current cap and trade proposal
23 pending before Congress for carbon emissions?

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

25 Q On Page 6 of your testimony at Line 19, you

1 indicate that there have not been any
2 significant issues arising with respect to
3 site activities.

4 Can you explain or discuss what
5 happened with the flooding last year and how
6 that affected the site?

7 A Yes. The -- to the best of my knowledge, and
8 I never was at the site, but I read the news
9 reports and talked to people who were, there
10 was significant flooding. It was considered
11 to be a, you know, rare level of flooding at
12 the old plant to the extent that we had to
13 shut down the old plant and sand bag to
14 protect the equipment in the basement, but the
15 construction site was largely unaffected.

16 The construction site is on much
17 higher ground than the old plant, so the only
18 portion of the construction site that had any
19 standing water on it at all during the flood
20 was the southeastern corner of the plant,
21 which is the lowest level of the site, the
22 southeastern corner of the new site, which
23 will be a retention pond once the plant is
24 built with no significant equipment on it.

25 Q Okay, and, again, just to sort of refresh my

1 memory, when do you expect the Edwardsport
2 plant to be completed and put in service?

3 A This will be the summer of 2012.

4 Q Summer of 2012? Thank you.

5 MR. POLK: I have no further
6 questions of this witness, Your Honor.

7 MR. HELMEN: No questions, Your
8 Honor.

9 JUDGE STORMS: Redirect?

10 MR. DuMOND: None, Your Honor.

11

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

13 **BY JUDGE STORMS:**

14 Q Mr. Womack, I have one question for you. I
15 noticed in the prior proceeding, the IGCC1
16 proceeding, that Mr. Freeman provided the
17 Commission with an estimate of the project
18 cancellation costs effective as of July 31,
19 2008, and I didn't see that in your testimony
20 in this proceeding.

21 Would you be the appropriate
22 person to provide that updated number to the
23 Commission?

24 A I wouldn't be able to give it to you off the
25 top of my head. I could provide that at some

1 future date or I could, you know, provide an
2 answer if requested to do so, but it would be
3 significantly higher now than that number that
4 was given as of that date.

5 Q I believe it says here that the cancellation
6 costs at the time of the calculation were \$343
7 million and then 315.2 allocated to retail
8 customers.

9 A It would be over \$500 million right now and
10 less than \$1 billion, but I'd have to do some
11 calculations and go refresh my memory to
12 narrow that range.

13 Q Okay. You feel comfortable that it would be
14 in that range, though?

15 A It would definitely be in that range.

16 Q Is that something that you could provide to us
17 in the next proceeding?

18 A Yes, absolutely.

19 Q Okay, and is that something that you could
20 routinely provide to us as part of those
21 proceedings?

22 A Yes.

23 JUDGE STORMS: Thank you very
24 much. You are excused.

25 (WITNESS W. MICHAEL WOMACK EXCUSED)

1 MR. DuMOND: Your Honor,
2 Petitioner calls Diana Douglas.

3

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

8

9 **DIRECT EXAMINATION,**

10 **QUESTIONS BY MR. DuMOND:**

11 Q Please state your name.

12 A My name is Diana L. Douglas.

13 Q Will you state the name of your employer?

14 A I'm employed by Duke Energy Business Services.

15 Q What is your employment position?

16 A I'm Director of Rates. I work in the Indiana
17 Rates Department.

18 Q Can you identify the document that's been
19 previously marked as Petitioner's Exhibit B?

20 A Yes. That's my prefiled testimony in this
21 cause.

22 Q Do you have any changes or corrections to your
23 testimony or the exhibits to your testimony?

24 A Yes. I have one change to Petitioner's
25 Exhibit B-1, Page 1 of 5.

1 In the first numbered section, No.
2 1, about two-thirds of the way down is a line
3 that says "income taxes in accordance with the
4 Commission's Order in Cause No. 43114". That
5 should be changed to say the Commission's
6 Orders, with an "s", in Cause No. 43114 and
7 Cause No. 43114-IGCC1.

8 Q And are you making that change to reflect the
9 fact that the Commission entered its Order in
10 Cause No. 43114-IGCC1 in January of this year?

11 A Yes.

12 Q And just for the record, Petitioner's Exhibit
13 B-1 is, in fact, the first page of the
14 Petitioner's Rider 61; is that correct?

15 A Yes, of the tariff pages.

16 Q So, you're making that change to show that the
17 tariff would be in conformity with both the
18 original Order in the underlying CPCN case and
19 in the first update case?

20 A Yes, I am.

21 Q Do you have any other changes or corrections
22 to your testimony?

23 A No, I don't.

24 Q If I were to ask you the questions set forth
25 in Petitioner's Exhibit B, would your answers

1 be the same?

2 A Yes, they would.

3 Q And do you adopt Petitioner's Exhibit B along
4 with Sub-Exhibits B-1, B-2 and B-3, subject to
5 the correction you made on B-1, as your sworn
6 testimony in this case?

7 A Yes, I do.

8 MR. DuMOND: Your Honor,
9 Petitioner offers into evidence Petitioner's
10 Exhibit B and Petitioner's Exhibits B-1, B-2
11 and B-3.

12 JUDGE STORMS: Is there any
13 objection?

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

16 JUDGE STORMS: We'll show
17 Petitioner's Exhibit B and Sub-Exhibits B-1, 2
18 and 3 admitted into this cause.

19
20 (PETITIONER'S EXHIBIT NO. B, BEING
21 THE PREFILED DIRECT TESTIMONY OF
22 MS. DIANA L. DOUGLAS, WITH
23 PETITIONER'S EXHIBIT NOS. B-1, B-2
24 AND B-3 ATTACHED THERETO, ADMITTED
25 INTO EVIDENCE.)

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

4 JUDGE STORMS: Thank you. Ms.
5 Doehrmann?

6 MS. DOEHRMANN: No questions, Your
7 Honor, thank you.

8 JUDGE STORMS: Mr. Polk?

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

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

12 **QUESTIONS BY MR. POLK:**

13 Q Good morning, Ms. Douglas.

14 A Good morning, Mr. Polk.

15 Q Now, on Page 11 of your testimony, Lines 16
16 through 18, you indicate that as a result of
17 this proceeding, if the company gets approval
18 from the Commission of what it's asking for,
19 it would increase residential rates
20 approximately 1.2 percent for the so-called
21 typical customer.

22 That's in addition to the increase
23 approved in the IGCC1 sub-docket; correct?

24 A Yes, it is.

25 Q And how long would that increase remain in

1 effect?

2 A The IGCC1 increase?

3 Q Actually, if you could address both of them.

4 A Both of them will remain in effect going
5 forward. They may be subject to change if the
6 rate of return changes, and there will be
7 additions to the cost of the plant.

8 Q Okay. So, if the company had a base rate
9 case, would those factors go away and the
10 costs be incorporated into the base rates?

11 A If we -- depending on the timing of the rate
12 case and if we ask for inclusion of the plant
13 in base rates and a determination that it was
14 used and useful.

15 Q Do you know what the company's plans for
16 filing its next base rate case are?

17 A No. I don't think we have definite plans at
18 this time.

19 Q All right. Have you performed a rate analysis
20 for the company based on the current carbon
21 cap and trade proposal pending before
22 Congress?

23 A No, I haven't.

24 Q Do you know if anyone else in the company has?

25 A No, I don't know.

1 Q It's possible that somebody's done that
2 analysis, but it just hasn't been run past
3 you; is that correct?

4 A I suppose it's possible, yes.

5 Q All right, and as I recall, you were not here
6 for the Save-a-Watt hearings last week;
7 correct?

8 A I was here one day as a spectator.

9 Q Was that the first day of the hearings?

10 A Yes.

11 Q All right. So, you were here when Mr. Rogers
12 testified about how the cap and trade proposal
13 could increase rates by 40 percent in Indiana
14 by 2012?

15 A I was here.

16 Q Do you recall that testimony?

17 A Yes, I do.

18 Q All right.

19 MR. POLK: Thank you, Your Honor.

20 I have no further questions for this witness.

21 JUDGE STORMS: Mr. Helmen?
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1 **CROSS-EXAMINATION OF MS. DIANA L. DOUGLAS,**

2 **QUESTION BY MR. HELMEN:**

3 Q Ms. Douglas, would Duke be willing to delay
4 the filing of its next base rate case until
5 after I retire?

6 MR. HELMEN: I'll withdraw the
7 question.

8 JUDGE STORMS: No need.

9 Any redirect?

10 MR. DuMOND: No, sir.

11 JUDGE STORMS: Okay. Ms. Douglas,
12 thank you very much for your testimony. You
13 are excused.

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19 **(WITNESS DIANA L. DOUGLAS EXCUSED)**

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

3 MR. DuMOND: Your Honor, we rest.

4 JUDGE STORMS: Okay. I know some
5 of the parties have waived cross of certain
6 witnesses, and I want to know if the
7 Petitioner has any questions that will require
8 the presentation of testimony or the
9 availability of the witness for the OUCC.

10 MR. DuMOND: We have no cross for
11 Mr. Blakley or Mr. Gignac or Mr. Smith.

12 JUDGE STORMS: Okay. So, we can
13 just -- it will just be a matter of putting
14 the testimony in of the witnesses that are not
15 here, and then we can proceed to the rebuttal
16 phase.

17 Okay. Mr. Polk?

18 MR. POLK: At this time, Citizens
19 Action Coalition, Sierra Club, Save the Valley
20 and Valley Watch would like to enter into the
21 record Residential Customers Exhibit A, the
22 direct testimony of James Gignac and Grant
23 Smith. The parties have prior -- agreed to
24 waive cross-examination and stipulate that
25 testimony into the record.

1 JUDGE STORMS: We'll show
2 Residential Customers Exhibit A admitted into
3 this cause pursuant to stipulation of the
4 parties.

5
6 (INTERVENOR'S - RESIDENTIAL
7 CUSTOMERS EXHIBIT NO. A, BEING THE
8 PREFILED DIRECT TESTIMONY OF MR.
9 GRANT S. SMITH, ADMITTED INTO
10 EVIDENCE.)

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1 MR. POLK: There was also
2 Residential Customers Exhibit B, the direct
3 testimony of Grant Smith. We'd also like --

4 JUDGE STORMS: I don't think I
5 heard a B; I heard an A.

6 We'll show A and B admitted into
7 this cause. Thank you.

8
9 (INTERVENOR'S - RESIDENTIAL
10 CUSTOMERS EXHIBIT NO. B, BEING THE
11 PREFILED DIRECT TESTIMONY OF MR.
12 JAMES P. GIGNAC, ADMITTED INTO
13 EVIDENCE.)

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1 JUDGE STORMS: Okay. Mr. Helmen?

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

4 At this time, Public would offer
5 Public's Exhibit 1, the prefiled testimony of
6 Wes Blakley, with Attachment WRB-1 attached
7 thereto.

8 JUDGE STORMS: Okay. We'll show
9 Mr. Blakley's testimony along with
10 sub-exhibits admitted into this cause pursuant
11 to stipulation of the parties.

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

14

15 (PUBLIC'S EXHIBIT NO. 1, BEING THE
16 PREFILED DIRECT TESTIMONY OF MR.
17 WES R. BLAKLEY, ADMITTED INTO
18 EVIDENCE.)

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1 MR. HELMEN: The Public rests.

2 JUDGE STORMS: Okay. Mr. DuMond,
3 you may call your next witness on rebuttal.

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

6 Before doing that, the parties
7 have previously communicated and I understand
8 there's no cross-examination of our witnesses
9 Mr. John Stowell and Mr. Allen Carrick, and at
10 this time, we would move to admit Petitioner's
11 rebuttal Exhibit C, which is the testimony of
12 John Stowell, together with his Sub-Exhibit
13 C-1, and Petitioner's rebuttal Exhibit E,
14 which is the verified rebuttal testimony of M.
15 Allen Carrick.

16 JUDGE STORMS: Okay. We'll show
17 Petitioner's rebuttal Exhibit C and
18 Sub-Exhibit C-1 along with Petitioner's
19 Exhibit E admitted into this cause pursuant to
20 stipulation.

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(PETITIONER'S EXHIBIT NO. C, BEING
THE PREFILED REBUTTAL TESTIMONY OF
MR. JOHN L. STOWELL, WITH
PETITIONER'S EXHIBIT NO. C-1
ATTACHED THERETO, AND PETITIONER'S
EXHIBIT NO. E, BEING THE PREFILED
REBUTTAL TESTIMONY OF MR. M. ALLEN
CARRICK, ADMITTED INTO EVIDENCE.)

1 MR. DuMOND: At this time, we call
2 Dr. Richard Stevie.

3

4 **RICHARD G. STEVIE**, a witness appearing on behalf
5 of 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 Please state your name.

12 A My name is Richard Stevie.

13 Q Will you identify your employer?

14 A I work for Duke Energy Business Services.

15 Q What is your position with that company?

16 A I am the Managing Director of Customer Market
17 Analytics.

18 Q You have before you a document that was
19 previously marked as Petitioner's rebuttal
20 Exhibit D. Do you find that document?

21 A Yes.

22 Q Can you identify that?

23 A Yes.

24 Q And what is it?

25 A It's my testimony in this proceeding.

1 Q This is your rebuttal testimony?

2 A Yes.

3 Q And do you have any changes or corrections to
4 Petitioner's Exhibit D?

5 A I have three minor changes to Page 5.

6 The first one is on Line 7.
7 Instead of being "Mr. Grant", it should be
8 "Mr. Smith", and I made the consistent mistake
9 on Line 11; "Mr. Grant" should be "Mr. Smith",
10 and then on Line 20, the second to the last
11 word "than" should be stricken, and the word
12 should be "during".

13 Q And have you initialed these changes?

14 A Yes.

15 Q Do you have any further changes to your
16 rebuttal testimony?

17 A No, I do not.

18 Q And if I were to ask you the questions set
19 forth in Petitioner's Exhibit D, would your
20 answers be the same subject to the changes
21 that you just mentioned?

22 A Yes.

23 Q And do you adopt Petitioner's Exhibit D with
24 the changes as your sworn testimony in this
25 cause?

1 A Yes.

2 Q Okay.

3 MR. DuMOND: Your Honor, at this
4 time, we move to admit Petitioner's Exhibit D
5 and Sub-Exhibits D-1, D-2 and D-3.

6 JUDGE STORMS: Is there any
7 objection?

8 MR. POLK: No objection, Your
9 Honor.

10 MR. HELMEN: No objection.

11 JUDGE STORMS: Dr. Stevie, you've
12 adopted the sub-exhibits as well; is that
13 correct?

14 WITNESS STEVIE: Yes.

15 JUDGE STORMS: We'll show
16 Petitioner's Exhibit D with Sub-Exhibits D-1
17 through 3 admitted into this cause.

18

19 (PETITIONER'S EXHIBIT NO. D, BEING
20 THE PREFILED REBUTTAL TESTIMONY OF
21 DR. RICHARD G. STEVIE, WITH
22 PETITIONER'S EXHIBIT NOS. D-1, D-2
23 AND D-3 ATTACHED THERETO, ADMITTED
24 INTO EVIDENCE.)

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

3 JUDGE STORMS: Ms. Doehrmann?

4 MS. DOEHRMANN: We have none, Your
5 Honor. Thank you.

6 JUDGE STORMS: Mr. Polk?

7 MR. POLK: Thank you, Your Honor.

8

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

10 **QUESTIONS BY MR. POLK:**

11 Q Good morning, Dr. Stevie.

12 A Good morning, Mr. Polk.

13 Q And I appreciate you making the trip up from
14 Cincinnati this morning. I'll try not to keep
15 you here too long so that you can make it back
16 in time to get some real work done.

17 A Thank you.

18 Q Now, your current forecast of demand has
19 decreased from the 2008 forecast; correct?

20 A By current, you mean the December, '08 update
21 to the forecast?

22 Q That's correct.

23 A Yes.

24 Q Okay, and that forecast had declined from the
25 previous forecast as well; correct?

1 A Yes, they were both lower.

2 Q So, the -- and the December, 2007 forecast --

3 Let me see if I can get to your exhibit here.

4 Had the December, 2007 forecast

5 declined from the December, 2006 forecast?

6 A There really wasn't a December, 2007 forecast.

7 The 2007 forecast in here is the Spring, 2007

8 forecast.

9 Q And the 2008 forecast then would have been the

10 Spring, 2008 forecast?

11 A Actually, that was the Fall forecast. We

12 generally prepare two forecasts a year, one in

13 the Spring, one in the Fall.

14 JUDGE STORMS: Mr. Polk, just for

15 clarification, are you looking at Sub-Exhibit

16 D-3?

17 MR. POLK: I am looking at

18 Sub-Exhibit D-3, and I'm looking at the

19 columns which are labeled 2007, 2008 and then

20 December, 2008, and I'm trying to understand

21 the difference between the December, 2008

22 forecast and the 2008 forecast.

23 JUDGE STORMS: Okay. I just

24 wanted to make sure we were in the right spot.

25 Thank you.

1 A Right. We prepared a forecast in the Fall of
2 2008 and then updated that in December.

3 Q About what time was the Fall, 2008 forecast?
4 That middle column there, about what time was
5 that forecast performed?

6 A That was performed in late August and early
7 September.

8 Q So, was that performed prior to a lot of the
9 recent significant economic downturn?

10 A It was performed prior to the events that we
11 saw unfold in September and October of this
12 year -- or of last year, rather.

13 Q Do you recall whether the Spring, 2008
14 forecast had declined from the Fall, 2007
15 forecast?

16 A I don't recall.

17 Q When you perform your forecasts, I take it you
18 look at, as your title would indicate,
19 customer market analytics.

20 Does that include looking at how
21 prices for energy might impact customer usage
22 and demand?

23 A Yes, absolutely. The econometric models that
24 are developed for the preparation of the load
25 forecast do incorporate the potential response

1 of customers to changes in prices, and we look
2 at this in terms of a change in the real
3 price, so it needs to be adjusted for
4 inflation.

5 Q And, as I recall, you were here for
6 Mr. Rogers' testimony in the Save-a-Watt
7 proceeding; correct?

8 A I was here for the Save-a-Watt hearing.

9 Q And do you recall his testimony about a
10 40 percent increase in Indiana electric rates
11 by 2012 if the cap and trade proposal
12 currently pending before Congress is passed?

13 A I'm not sure that I would characterize it that
14 way. I understand that he did say that there
15 was the potential for a 40 percent increase in
16 the price in 2012. I don't know that it was
17 an actual piece of legislation in front of
18 Congress, and it may or may not be what
19 actually happens, but I did hear him say that
20 there was the potential for that.

21 MR. POLK: Your Honor, may I
22 approach the witness?

23 JUDGE STORMS: Yes, you may.

24

25

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

5
6 Q Now, I've put in front of you what has been
7 marked for identification as
8 CAC Cross-Examination Exhibit -- I'm sorry,
9 Residential Customers Cross-Examination
10 Exhibit 1. It is a transcript from the Rachel
11 Maddow Show, and if you notice up at the top
12 of the first page, there is a Westlaw
13 identification reference; this was downloaded
14 from Westlaw.

15 If you go to the website for
16 Ms. Maddow, you can actually download an
17 excerpt from the show and watch the
18 testimony -- or watch the discussion between
19 Ms. Maddow and Mr. Rogers live. I would have
20 preferred to have the transcript --

21 MR. DuMOND: Your Honor --
22 Q -- from the hearing, but the transcript isn't
23 here yet, so --

24 MR. DuMOND: -- I would like to
25 object to Mr. Polk testifying evidently as to

1 what this document is. He's giving sort of a
2 narrative on what the document purports to be
3 and where you can find it and things of that
4 nature. So far, he hasn't asked the witness a
5 question as to whether the witness can
6 identify the document.

7 JUDGE STORMS: Do you have a
8 response, Mr. Polk?

9 MR. POLK: It is a
10 publicly-available transcript of a show which
11 was broadcast to millions of viewers which is
12 akin to a newspaper of general circulation.

13 JUDGE STORMS: I'll overrule the
14 objection. Please proceed.

15 MR. POLK: Thank you.

16 Q (Mr. Polk Continuing) Dr. Stevie, does the
17 document appear to be what I just described to
18 you?

19 A I have no idea; I'm not familiar with it,
20 but --

21 Q Have you ever watched the Rachel Maddow Show?

22 A No, I have not.

23 Q Do you read Indiana Utility Reports? It's a
24 publication that's issued weekly that
25 discusses news articles and filings before the

1 Commission.

2 A No, I do not.

3 Q Well, if you could turn to Page 4 of this
4 document, and about midway down the page --

5 JUDGE STORMS: Mr. Polk, do you
6 intend to offer the document?

7 MR. POLK: It's a 90 percent at
8 this point, Your Honor. Well, okay, let me go
9 ahead and --

10 JUDGE STORMS: I think you need to
11 make the offer if you're going to ask him
12 questions about the actual document.

13 MR. POLK: At this point, I would
14 like to offer this in the record.

15 JUDGE STORMS: Okay. Is there any
16 objection?

17 MR. DuMOND: Your Honor, we
18 object. This is clearly hearsay, and the
19 witness has said he has no idea what the
20 document is.

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

23 MR. POLK: Your Honor, this is a
24 document where there are representations -- a
25 discussion of Mr. Rogers which is similar to

1 what appeared on the -- in the Hearing Room a
2 week-and-a-half ago, and, unfortunately,
3 because we don't have a copy of the
4 transcript, I have to rely on other documents.
5 It's not the only statement he's made to the
6 press in the last week-and-a-half, and it does
7 directly discuss the point that I was
8 discussing with Dr. Stevie, and I wanted to
9 see if this document might refresh his
10 recollection of what transpired at the hearing
11 a week ago Friday.

12 JUDGE STORMS: Okay. Well, I
13 think you're free to ask Dr. Stevie
14 potentially some of these questions that may
15 have occurred in another proceeding subject to
16 objection on those issues, but with respect to
17 this document, Dr. Stevie is not able to
18 identify it, and I will sustain the objection.

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(INTERVENOR'S - RESIDENTIAL
CUSTOMERS EXHIBIT NO. CX-1, BEING
A SIX-PAGE DOCUMENT ENTITLED,
"RACHEL MADDOW SHOW FOR MARCH 3,
2009, MSNBC - PART 1", **NOT**
ADMITTED INTO EVIDENCE.)

1 MR. POLK: At this time, I would
2 ask leave of the Commission to be able to
3 subsequently seek administrative notice of the
4 transcript of Mr. Rogers' testimony in that
5 proceeding a week-and-a-half ago.

6 JUDGE STORMS: I'm not going to
7 prevent you from seeking whatever you like,
8 Mr. Polk, but I will allow for responses to
9 whatever subsequent request is made prior to
10 ruling on the request.

11

12 **CROSS-EXAMINATION OF DR. RICHARD G. STEVIE,**
13 **(Continuing)**

14 **QUESTIONS BY MR. POLK: (Continuing)**

15 Q Dr. Stevie, have you done any analysis with
16 respect to the impacts of what a 100 percent
17 auction of carbon emission allowances under a
18 cap and trade system would result in for the
19 company and its customers?

20 A We have conducted an analysis of the impact of
21 a couple of different scenarios of -- to
22 reflect the impact of increasing costs of
23 carbon on our projections of sales, and I
24 can't tell you whether that covers 100 percent
25 auction. That is kind of a different story in

1 itself in terms of it's not clear that that's
2 something that's likely to happen, but,
3 regardless, the studies that we have conducted
4 indicate that the amount of impact on load
5 forecast would be captured within the -- let
6 me rephrase that -- that the amount of the
7 impact on the forecast from the carbon
8 scenarios, carbon cost scenarios, would be
9 captured within the amount of load impacts
10 that we've projected under the Save-a-Watt
11 programs, and the way I think about this is
12 that the -- when the price of carbon is
13 factored into a projection of sales --

14 MR. POLK: Your Honor, I'm going
15 to object at this point. I didn't ask him
16 what analysis he has performed; I asked him
17 specifically if he had performed an analysis
18 of 100 percent auction under a cap and trade
19 system. That's a yes or no question.

20 MR. DuMOND: Your Honor, I think
21 the witness was fairly attempting to respond
22 to the question. He asked him if there was an
23 analysis with respect to the impact of carbon
24 legislation. Dr. Stevie has indicated yes,
25 there was an analysis of sorts, although he

1 couldn't say whether it was 100 percent, and I
2 think he ought to be entitled to provide his
3 response.

4 MR. POLK: If you go back and
5 check the transcript, I did not ask if there
6 was any analysis. I asked specifically if
7 there was an analysis of 100 percent auction
8 under a cap and trade system.

9 JUDGE STORMS: Okay. Dr. Stevie,
10 just -- please just respond to the question
11 that was asked. If there's any additional
12 clarification that needs to be made, your
13 Counsel can pick that up on redirect.

14 A From my recollection, there's been an analysis
15 that includes the cost of carbon. I can't
16 tell you whether that included 100 percent
17 auction or not.

18 Q (Mr. Polk Continuing) Have you done --
19 incorporated into your analysis of peak
20 forecasts -- or of load forecasts the impact
21 of a 40 percent increase on residential rates
22 in 2012?

23 A As I was saying before, I know that we have
24 incorporated rather dramatic increases in the
25 cost of -- or in the projected rates going out

1 for the next ten years as a result of the
2 carbon studies that I mentioned before.

3 Q All right. So, is that your testimony then
4 from looking at 2012 to 2013 where there's an
5 increase in demand, that's a result -- that
6 includes a 40 percent increase in electric
7 rates; yes or no?

8 A I didn't finish my previous answer.

9 Q Well, I asked a yes or no question, and you
10 responded with you had done forecasts that
11 included price increases, and so I'm looking
12 at your forecast here, and it shows an
13 increase in demand after 2012, and I would
14 like to know if that increase reflects a
15 40 percent increase in residential rates --

16 MR. DuMOND: Your Honor --

17 Q -- and, again, that's a yes or no question.

18 MR. DuMOND: -- I'm going to
19 object to Mr. Polk arguing with the witness.
20 He asked the witness whether he had done any
21 analysis of the impact on demand with respect
22 to a 40 percent increase in the price of
23 electricity, and he was responding to that
24 question.

25 JUDGE STORMS: Again, Dr. Stevie,

1 simply respond to the question that was asked.
2 If there is any additional clarification that
3 needs to be provided, that can be done on
4 redirect potentially.

5 WITNESS STEVIE: Thank you.

6 A Could I have the question again?

7 MR. POLK: I'll withdraw that
8 question and move on.

9 Q Thank you, Dr. Stevie.

10 MR. POLK: I have no further
11 questions for this witness.

12 JUDGE STORMS: Thank you. Mr.
13 Helmen?

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

16 JUDGE STORMS: Redirect for this
17 witness?

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1 REDIRECT EXAMINATION OF DR. RICHARD G. STEVIE,

2 QUESTIONS BY MR. DuMOND:

3 Q Dr. Stevie, Mr. Polk was asking you about
4 whether you had done any analysis with respect
5 to the impact of carbon legislation, and
6 you --

7 MR. POLK: Objection, Your Honor.
8 That mischaracterizes the question I asked. I
9 asked specifically about 100 percent auction
10 under a cap and trade system. Dr. Stowell
11 discusses carbon legislation extensively in
12 his testimony. I'm not sure that we need to
13 take any more direct testimony from Dr. Stevie
14 on the subject.

15 JUDGE STORMS: I'll overrule the
16 objection and at least allow the question to
17 be presented.

18 Q (Mr. DuMond Continuing) And, in particular, I
19 believe he asked you if you had done any
20 analysis with respect to a 40 percent increase
21 in the cost of carbon, and will you please
22 just tell the Commission what analysis you did
23 perform with respect to the impact of carbon
24 legislation on demand?

25 A The analysis that we have performed has looked

1 at the amount of price response or how much
2 load reduction we would see as a result of
3 increasing costs of carbon, and we've compared
4 that to the loads that -- the load impacts
5 that we project would occur -- the load
6 reductions that we project would occur under
7 the programs proposed within the Save-a-Watt
8 application, and the forecasts that you see on
9 D-3 do not include those reductions from the
10 Save-a-Watt programs, so that can cause some
11 confusion.

12 MR. POLK: I'm going to -- Never
13 mind.

14 Q And have you, in fact, provided information to
15 Ms. Jenner with respect to the impact of the
16 Save-a-Watt programs?

17 A Yes.

18 Q And can you tell the Commission what was the
19 effect of comparing the impact of carbon
20 legislation on load and the impact through the
21 Save-a-Watt programs?

22 MR. POLK: I'm going to object,
23 Your Honor. I understand there may be some
24 confusion over the two. I haven't asked any
25 questions regarding how the load forecast is

1 impacted by Save-a-Watt, and since it's
2 another proceeding pending before the
3 Commission, I'd appreciate it if the witness
4 could limit his discussion to what we've
5 discussed here today which is the impact of
6 carbon legislation.

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

9 MR. DuMOND: Nothing further, Your
10 Honor.

11 JUDGE STORMS: Thank you.

12 Dr. Stevie, thank you very much
13 for your testimony. You are excused.

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

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1 MR. DuMOND: We call Ms. Diane
2 Jenner.

3
4 **DIANE L. JENNER**, 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 Please state your name.

12 A Diane L. Jenner.

13 Q Are you employed?

14 A Yes, I'm employed by Duke Energy Business
15 Services.

16 Q And what is your position?

17 A I am Director of Regulatory Strategy.

18 Q You should have a document before you
19 identified as Petitioner's rebuttal Exhibit F.
20 Do you find that?

21 A Yes, I do.

22 Q And what is that document?

23 A It's my rebuttal testimony in this cause.

24 Q Do you have any changes or corrections to your
25 rebuttal testimony?

1 A Yes, there's one correction.

2 On Page 10, Line 2, the word
3 respond is spelled incorrectly.

4 Q And have you corrected the spelling?

5 A Yes, and I have initialed it.

6 Q Do you have any further changes to your
7 testimony?

8 A No.

9 Q If I were to ask you the questions set forth
10 in Petitioner's Exhibit F, would your answers
11 be the same?

12 A Yes.

13 Q And do you adopt Petitioner's Exhibit F and
14 Sub-Exhibits F-1 and F-2 as your sworn
15 testimony in this cause?

16 A Yes.

17 Q Okay.

18 MR. DuMOND: Your Honor, we offer
19 into evidence Petitioner's rebuttal Exhibits F
20 and F-1 and F-2.

21 JUDGE STORMS: Is there any
22 objection?

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

25 MR. HELMEN: No objection.

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JUDGE STORMS: We'll show
Petitioner's Exhibit F along with Sub-Exhibits
F-1 and F-2 admitted into this cause.

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

1 MR. DuMOND: Your Honor, the
2 witness is available for cross-examination.

3 JUDGE STORMS: Ms. Doehrmann?

4 MS. DOEHRMANN: No questions, Your
5 Honor, thank you.

6 JUDGE STORMS: Mr. Polk?

7 MR. POLK: Thank you, Your Honor.

8 If I could have just a moment here to --

9

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

11 **QUESTIONS BY MR. POLK:**

12 Q Good morning, Ms. Jenner.

13 A Good morning.

14 Q As part of Duke Energy Indiana's integrated
15 resource planning process, have you performed
16 an analysis based on the -- or based on a
17 40 percent increase in rates in 2012?

18 A I have not, but I'm not in the integrated
19 resource planning area anymore; I'm not
20 responsible for that area.

21 Q Are you aware of whether an analysis has been
22 performed by somebody else?

23 A I don't know.

24 Q Okay. So, did you perform an IRP analysis
25 specifically for this proceeding?

1 A I performed a spreadsheet analysis which is
2 shown in Exhibits F-1 and F-2.

3 Q And was that analysis done without performing
4 an IRP analysis?

5 A Yes.

6 MR. POLK: Thank you, Your Honor.
7 No further questions for this witness.

8 JUDGE STORMS: Thank you, Mr.
9 Polk.

10 Mr. Helmen?

11

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

13 **QUESTIONS BY MR. HELMEN:**

14 Q Ms. Jenner, who is in charge of the IRP
15 process now at Duke?

16 A Overall at Duke, it's Janice Hager. The
17 person that is in charge of performing the
18 analysis specifically for Indiana is David
19 Freeman.

20 Q Did you do any work in preparation for the
21 2009 IRP?

22 A I will probably be involved from a regulatory
23 standpoint but not performing the analysis.

24 Q When was it that you stopped being in charge
25 of the IRP process?

1 A June 1, 2008.

2 MR. HELMEN: Thank you. I don't
3 have any further questions.

4 JUDGE STORMS: Thank you, Mr.
5 Helmen.

6 Redirect?

7 MR. DuMOND: No redirect, Your
8 Honor.

9 JUDGE STORMS: Ms. Jenner, thank
10 you very much for your testimony. You are
11 excused.

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

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1 MR. DuMOND: Your Honor, we have
2 nothing further.

3 JUDGE STORMS: Okay. Let's go off
4 the record.

5

6 (Off-the-Record Discussion)

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8 JUDGE STORMS: Let's go back on
9 the record.

10 The parties have reached an
11 agreement on the schedule for the submission
12 of proposed orders.

13 The Petitioner will submit their
14 proposed order on April 1st. The OUCC and the
15 CAC or the Residential Customers will submit
16 responses thereto on April 15th, and replies
17 will be submitted by the Petitioner on April
18 22nd. Is that the understanding of the
19 parties?

20 MR. DuMOND: Yes, Your Honor.

21 MR. POLK: Yes, Your Honor.

22 JUDGE STORMS: Is there anything
23 else we need to discuss? If not, we're hereby
24 adjourned. Thank you very much.

25 (HEARING ADJOURNED)

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