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In the Matter of the :
Application of American :
Municipal Power - Ohio, :
Inc. for a Certificate :
of Environmental : Case No. 06-1358-EL-BGN
Compatibility and Public :
Need for an Electric :
Generation Station and :
Related Facilities in :
Meigs County, Ohio. :

PROCEEDINGS

before Mr. Gregory A. Price and Ms. Kimberly W. Bojko, Hearing Examiners, at the Public Utilities Commission of Ohio, 180 East Broad Street, Room 11C, Columbus, Ohio, called at 9:00 a.m. on Wednesday, December 12, 2007.

VOLUME II

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ORIGINAL

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1 Wednesday Morning Session,
2 December 12, 2007.

3 - - -

4 EXAMINER PRICE: Let's go back on the
5 record. Good morning, the Ohio Power Siting Board
6 has set for this time and this place our second day
7 of hearing in case number 06-1358-EL-BGN, In the
8 Matter of the Application of American Municipal
9 Power - Ohio, Inc. for a Certificate of Environmental
10 Compatibility and Public Need for an Electric
11 Generation Station and Related Facilities in Meigs
12 County, Ohio.

13 My name is Gregory Price, with me is
14 Kimberly Bojko, we are the administrative law judges
15 assigned to preside over today's hearing.

16 Let's begin by taking appearances for
17 this morning beginning with the company.

18 MR. BENTINE: Yes, your Honor,
19 appearances will be the same as before, Chester,
20 Willcox & Saxbe, LLP on behalf of the applicant in
21 this case. I'm John W. Bentine, with me is April
22 Bott, Nate Orosz, and also on the pleadings is Steve
23 Fitch, and yesterday we noted Mr. Matt White's
24 appearance, he won't be joining us, but we note his

1 appearance.

2 EXAMINER PRICE: Intervenors.

3 MR. COLANGELO: Good morning, your
4 Honors. I'm Aaron Colangelo with NRDC, and with me
5 at counsel table is Shannon Fisk, and we're here on
6 behalf of the Citizen Groups.

7 MS. YOUNG: Elisa Young, Meigs County
8 resident, and Lola Proffitt.

9 EXAMINER PRICE: Staff.

10 MR. JONES: Good morning, your Honor. On
11 behalf of the staff of the Ohio Power Siting Board,
12 Attorney General Marc Dann, William Wright, John
13 Jones, Assistant Attorneys General, 180 East Broad
14 Street, Columbus, Ohio 43215.

15 EXAMINER PRICE: Thank you.

16 We have two rulings on motions that were
17 made yesterday.

18 I'm sorry.

19 MS. MALONE: It's okay. And I had
20 something additional to say. Margaret Malone and
21 Christina Grasseschi, who has filed her notice of
22 appearance today, Assistant Attorneys General.

23 EXAMINER PRICE: Thank you.

24 Now I'm ready. We have two rulings on

1 motions that were made yesterday. Yesterday
2 Mr. Colangelo made a request, a motion to separate
3 witnesses. We're going to deny that motion. We're
4 operating today off of prefiled direct testimony so
5 there doesn't seem to be any need to separate
6 witnesses who filed their testimony a week ago.

7 Ms. Young yesterday made a motion to
8 strike and a motion in limine regarding her
9 deposition that was taken. We're going to deny that
10 motion also. We will entertain a more
11 narrowly-tailored motion if and when Mr. Bentine
12 attempts to use the deposition if the parts of that
13 deposition are objectionable, but we do want you to
14 know up front that the broad motion to strike the
15 entire deposition will be denied.

16 Any other matters for the Bench?
17 Mr. Bentine?

18 MR. BENTINE: Yes, there is one minor
19 matter, your Honor, that I neglected to indicate
20 yesterday. At one point in this proceeding Docketing
21 put out a service notice that included not only the
22 intervening parties and their counsel, but also the
23 members of the Ohio Power Siting Board. We picked
24 that up and since then have been serving the broader

1 service notice list, and I'd just like to have the
2 Bench make it clear that, and we're fine with that,
3 that the only people we have to serve are the people
4 that are on the service list when you click Service
5 List on the website, which are those parties that are
6 represented here, and not that broader group that
7 we've been listing on our certificate of service.

8 EXAMINER PRICE: It's not necessary to
9 serve members of the Board.

10 MR. BENTINE: Thank you.

11 EXAMINER PRICE: Thank you.

12 EXAMINER BOJKO: Before we get started
13 today, just to note for the record, last night we
14 ended by stating that we were going to talk this
15 morning about striking portions of Mr. Furman's
16 testimony which is Citizen Groups' Exhibit 1. We
17 will defer ruling on those motions to strike as well
18 as the admittance of that exhibit until Tuesday
19 morning when we begin the hearing.

20 MR. COLANGELO: Your Honor, let me enter
21 one more appearance. Nolan Moser has joined us as
22 counsel table, he's representing OEC.

23 EXAMINER PRICE: Thank you.

24 EXAMINER BOJKO: If there's nothing

1 further from anybody before we begin --

2 MR. BENTINE: Could we go off the record
3 a moment?

4 EXAMINER BOJKO: Yes. Let's go off the
5 record.

6 (Discussion held off the record.)

7 EXAMINER BOJKO: Go back on the record.
8 We have a clarification.

9 MR. COLANGELO: I misstated just a moment
10 ago, Mr. Moser has not been admitted pro hac for this
11 matter. He is with OEC, and he's here as a
12 representative on behalf of OEC, he is not
13 representing them as counsel in this proceeding, and
14 I apologize for the misstatement.

15 EXAMINER BOJKO: Thank you.

16 EXAMINER PRICE: Let's go off the record
17 real quick, please.

18 (Discussion held off the record.)

19 EXAMINER PRICE: Let's go back on.

20 EXAMINER BOJKO: Would the company like
21 to call its first witness?

22 MR. BENTINE: Yes, your Honor. In
23 accordance with the schedule that we talked about
24 earlier I call to the stand Mr. Evis Couppis.

1 EXAMINER BOJKO: Mr. Couppis, could you
2 raise your right hand?

3 (Witness sworn.)

4 EXAMINER BOJKO: Thank you. You may be
5 seated.

6 - - -

7 EVIS C. COUPPIS, PhD, PE
8 being first duly sworn, as prescribed by law, was
9 examined and testified as follows:

10 DIRECT EXAMINATION

11 By Mr. Bentine:

12 Q. Good morning, Mr. Couppis.

13 A. Good morning.

14 Q. Mr. Couppis, would you state your name
15 spelling your last name for the record, please?

16 A. My name is Evis C. Couppis, that's
17 spelled C-o-u-p-p-i-s.

18 Q. And, Mr. Couppis, do you have before you
19 some direct testimony?

20 A. No, I do not.

21 MR. BENTINE: Your Honor, I would ask
22 that it be marked for identification purpose, the
23 previously filed and distributed testimony of
24 Mr. Evis Couppis, as AMP-Ohio Exhibit 1.

1 EXAMINER BOJKO: It will be so marked.

2 (EXHIBIT MARKED FOR IDENTIFICATION.)

3 MR. BENTINE: Everybody have a copy of
4 that, I assume?

5 MR. COLANGELO: I think there's already
6 an AMP-Ohio Exhibit 1.

7 EXAMINER BOJKO: No, there's not yet.

8 MR. COLANGELO: I'm sorry.

9 MR. BENTINE: We started at 5.

10 MR. COLANGELO: Oh, 1 through 4 have been
11 reserved. I'm sorry.

12 Q. (By Mr. Bentine) Have you had a chance to
13 review what has now been marked as AMP-Ohio Exhibit
14 1, Mr. Couppis?

15 A. Yes, sir.

16 Q. And what is that document?

17 A. It is my testimony.

18 Q. It is your testimony. Do you have any
19 corrections or additions that you'd like to make to
20 that testimony at this time?

21 A. No, sir.

22 Q. Mr. Couppis, if I were to ask you the
23 questions that are contained in AMP-Ohio Exhibit
24 No. 1 here today while you're under oath, would your

1 answers be as contained in that exhibit?

2 A. Yes, sir.

3 Q. And would they be true to the best of
4 your knowledge and belief?

5 A. Yes, sir.

6 MR. BENTINE: I have no further questions
7 for this witness. He's available for
8 cross-examination.

9 EXAMINER BOJKO: Mr. Couppis, could you
10 please speak up for us, and if you think you need a
11 microphone, we can turn that one on for you.

12 THE WITNESS: Okay. I will.

13 EXAMINER BOJKO: Mr. Colangelo, do you
14 have any questions?

15 - - -

16 CROSS-EXAMINATION

17 By Mr. Colangelo:

18 Q. Good morning, Dr. Couppis.

19 A. Good morning.

20 Q. Just one point of verification before we
21 begin. If I refer to "AMPGS," do you understand I'm
22 referring to the proposed AMP generating station
23 that's at issue in this proceeding?

24 A. Yes, sir.

1 Q. You were deposed by me in this matter one
2 week ago; is that correct?

3 A. Yes.

4 Q. And did you review a transcript of your
5 deposition testimony?

6 A. Yes.

7 Q. Did you mark any errors or corrections in
8 an errata sheet after your review?

9 A. Yes, I have.

10 Q. And did you sign that errata sheet?

11 A. Yes.

12 Q. Do you have any other -- did you note any
13 other errors or corrections in your transcript that
14 are not contained in this errata sheet?

15 A. No.

16 Q. Could you please turn to page 3 of what's
17 been marked for identification as AMP-Ohio Exhibit 1,
18 this is your direct testimony, and take a look at
19 question 12 and the answer to question 12.

20 A. Yes.

21 Q. Question 12 states "Are you familiar with
22 AMP-Ohio's analysis of those options and the reasons
23 it has chosen pulverized coal-fired electric
24 generating units utilizing Powerspan as a part of

1 AMPGS' pollution control systems?" Is that correct?

2 A. That's correct.

3 Q. Do you need to read further ahead for
4 context or do you understand it?

5 A. I understand it.

6 Q. And the answer you give in this testimony
7 is "Yes. AMP-Ohio, with input from their consultant
8 Sargent & Lundy among other considerations, evaluated
9 the PC, CFB, NGCC, and IGCC to determine the
10 technology that best met AMP-Ohio's needs and
11 requirements. Nuclear was not evaluated as it was
12 not seen as a viable option at this time." Do you
13 see that?

14 A. Yes, sir.

15 Q. Okay. What's the Sargent & Lundy report
16 you're referring to there?

17 A. That's a report that was done for
18 AMP-Ohio prior to R.W. Beck being engaged as the
19 owner's engineer for the AMPGS that evaluated those
20 options.

21 Q. What report is that?

22 A. It's a report that was prepared by
23 Sargent & Lundy for AMP-Ohio.

24 Q. Sargent & Lundy is another contracting

1 firm; is that correct?

2 A. Yes, sir. They're a nationally
3 recognized engineering firm.

4 Q. And Sargent & Lundy prepared several
5 reports for AMP-Ohio; is that correct?

6 A. They may have. I'm only aware of the one
7 that was referenced here.

8 Q. Which one are you referring to here?

9 A. I did not review the report, as I've
10 indicated in my deposition, others have, you know,
11 reviewed the report.

12 Q. So you personally did not read this
13 report that you're referring to here in your
14 testimony; is that correct?

15 A. Yes, sir.

16 Q. So you have no personal knowledge of the
17 information contained in this report; is that
18 correct?

19 A. Not from what is written in the report.
20 In a general way, yeah, I have been involved in
21 meetings and discussions with both our staff at R.W.
22 Beck as well as AMP-Ohio as owner's engineer so I
23 generally have some knowledge, but I have not
24 reviewed the report.

1 Q. You don't provide a cite for this report
2 in your direct testimony; is that correct?

3 A. That's correct.

4 Q. Either in the testimony itself or the
5 reference list provided later; is that correct?

6 A. That's correct, yes.

7 Q. And you testified at your deposition that
8 reference list was final; is that correct?

9 A. Yes, that's a primary, you know, list of
10 information that I relied on.

11 MR. COLANGELO: Your Honor, I'd like to
12 move to strike question 12 and the answer thereto.
13 The witness has testified he has no personal
14 knowledge, he's never read this report, he hasn't
15 identified the report, there are multiple reports,
16 the witness has said he doesn't know which report
17 this is and he can't testify as to its contents. So
18 both the witness has no personal knowledge and this
19 is hearsay that he's relying on for this statement.

20 MR. BENTINE: Do you wish a response?

21 EXAMINER BOJKO: Yes. You can respond.

22 MR. BENTINE: Well, the question says
23 "Are you familiar with AMP-Ohio's analysis of those
24 options and the reasons it has chosen pulverized

1 coal . . .?" The witness says yeah, AMP-O with input
2 from their consultants Sargent & Lundy made this
3 decision. No basis to strike this answer at all.

4 MR. COLANGELO: Your Honor, the only
5 support the witness gives in his answer is "input,"
6 which is a vague term, from the consultant Sargent &
7 Lundy, and the witness has testified he doesn't know
8 what that -- he's never seen that input, doesn't know
9 what the input is, so it's both hearsay and the
10 witness lacks personal knowledge.

11 EXAMINER BOJKO: I'm going to deny the
12 motion to strike. The question is "Are you familiar
13 with." He is familiar with AMP-Ohio's decision. He
14 is not relying on the report in this answer.

15 Q. (By Mr. Colangelo) Could you please turn
16 to page 5 in your direct testimony? And take a look
17 at question 16 and the answer to question 16.

18 A. Yes.

19 Q. And the question states "Why didn't
20 AMP-Ohio select natural gas combined cycle?" Is that
21 correct?

22 A. Yes.

23 Q. And the answer you provide is "Higher
24 levelized costs and the risk associated with high

1 volatility of natural gas prices, which are projected
2 to rise in the coming years." Do you see that?

3 A. Yes, I do.

4 Q. You didn't do any future fuel cost
5 projection yourself; is that correct?

6 A. R.W. Beck has used -- in their report has
7 used fuel estimates and forecasts, so in doing the
8 feasibility report R.W. Beck has used gas price
9 estimates.

10 Q. You didn't do any future fuel cost
11 projections yourself, correct?

12 A. Me? No. That's correct.

13 Q. Have you reviewed any cost projections
14 that anybody else did?

15 A. In a general fashion, the results are
16 presented in the feasibility report that R.W. Beck
17 wrote.

18 Q. Did you personally review any future fuel
19 cost projections that anybody else did?

20 A. No.

21 MR. COLANGELO: May I approach the
22 witness?

23 EXAMINER BOJKO: You may.

24 MR. COLANGELO: Could you mark that for

1 identification as Citizen Groups' Exhibit 2? Is that
2 correct?

3 EXAMINER BOJKO: So marked for
4 identification purposes.

5 (EXHIBIT MARKED FOR IDENTIFICATION.)

6 EXAMINER BOJKO: I'm sorry, just so we're
7 all clear, this has another Exhibit IC-4 on it.

8 MR. COLANGELO: It does, and I'll explain
9 in a second. It will end up actually with three
10 different exhibit markings, I hope that's not
11 confusing.

12 EXAMINER BOJKO: But this one will be
13 called Citizen Groups' Exhibit 2.

14 MR. COLANGELO: That's correct.

15 Q. (By Mr. Colangelo) Dr. Couppis, please
16 take a look at what I just handed you. This is also
17 marked IC Exhibit 4, it was attached to the direct
18 testimony of Ivan Clark, and it's also marked as
19 Deposition Exhibit No. 4 for the Couppis deposition.
20 Do you see that?

21 A. Yes.

22 Q. And do you remember discussing this
23 during your deposition?

24 A. Yes, sir, I do.

1 Q. Have you seen this slide before?

2 A. When you showed it to me at the
3 deposition.

4 Q. And you testified at the deposition that
5 you had reviewed the written direct testimony of Ivan
6 Clark; is that correct?

7 A. In a general way, yes, I have.

8 Q. And he also works at R.W. Beck?

9 A. Yes.

10 Q. He's also been retained as a testifying
11 expert witness on behalf of AMP-Ohio in this matter;
12 is that correct?

13 A. Yes, sir.

14 Q. And at the bottom of this exhibit it
15 states "Prepared by R.W. Beck." Do you see that?

16 A. Yes.

17 Q. Does this chart project natural gas costs
18 higher than they are today anytime between now and
19 2030?

20 A. No, it does not.

21 Q. So the entire time period between at
22 least 2010 and 2030 the costs are projected to be
23 lower than they are today; is that correct?

24 A. Yes.

1 Q. You were asked to review Powerspan as
2 part of your preparation of your direct testimony; is
3 that correct?

4 A. Yes, sir.

5 Q. And you previously evaluated Powerspan
6 for a different client; is that right?

7 A. Yes.

8 Q. That client was the city of Rochester,
9 Minnesota?

10 A. Yes, sir.

11 Q. And that was for an existing facility; is
12 that right?

13 A. Yes.

14 Q. About 100 megawatts?

15 A. About. I don't recall the exact number.

16 Q. And you did a technical and cost
17 evaluation of Powerspan for that client; is that
18 right?

19 A. Yes.

20 Q. Within the past year or two?

21 A. Two to three years. Two years.

22 Q. And you concluded in that project that
23 Powerspan was not a good option for that client; is
24 that correct?

1 A. Well, yes. We evaluated the Powerspan as
2 well as our other options.

3 Q. And cost was a factor in that
4 determination; is that right?

5 A. Yes.

6 Q. In reaching your conclusion that
7 Powerspan was not a good option for that client.

8 A. Yes.

9 Q. Please turn to page 7 of your direct
10 testimony, this is AMP-Ohio Exhibit 1. And look just
11 for a minute at the fourth bullet point under your
12 answer to question 22. Do you see where I am?

13 A. Yes.

14 Q. Okay. And for context, just flip back to
15 page 6, do you see question 19 says "Has R.W. Beck
16 done a technology review of Powerspan?" Do you see
17 that?

18 A. Yes.

19 Q. And then questions 20 and 21 are missing,
20 but the next question in the testimony is 22. Do you
21 see that?

22 A. Yes.

23 Q. And question 22 states "Please summarize
24 your findings." So is it correct the fourth bullet

1 point here states "The scale up of the SO2 progress
2 from the Burger commercial demonstration unit to the
3 size of the AMPGS is within technical feasibility
4 given the types of equipment involved and the
5 vendor's demonstrated experience with the equipment"?

6 Do you see that?

7 A. Yes.

8 Q. And how big is the Burger commercial
9 demonstration you're referring to here?

10 A. It's approximately a 50-megawatt size
11 unit.

12 Q. And you believe that for AMPGS scale-up
13 is within technical feasibility for that proposed
14 station; is that correct?

15 A. Yes, sir, that's my opinion.

16 Q. As far as you can remember, is this the
17 first time you've ever endorsed use of new pollution
18 control technology for a proposed new facility that
19 has only ever been demonstrated on a commercial scale
20 at a 50-megawatt facility?

21 MR. BENTINE: Could I have the question
22 reread, please?

23 EXAMINER BOJKO: Yes, please reread the
24 question.

1 (Question read.)

2 MR. BENTINE: Thank you.

3 A. To the best that I can recall, as I
4 indicated in my deposition, yes, but it's been 30
5 years in the business, so to the best as I can
6 recall, that is accurate.

7 MR. COLANGELO: Would you read back the
8 last phrase?

9 (Record read.)

10 MR. BENTINE: Would you mind keeping your
11 voice up, Mr. Couppis. The air is working.

12 EXAMINER BOJKO: The air conditioner is
13 working today so we have the blower issue now.

14 Q. All right, Dr. Couppis, please turn to
15 page 9 of your direct, and this has been marked for
16 identification as AMP-Ohio Exhibit 1. And question
17 26, could you read the question and answer there?

18 A. The question is as follows: "Based on
19 your experience, education, and knowledge of the
20 Application, and in your opinion, does the AMPGS
21 represent the minimum adverse environmental impact
22 considering the state of available technology and the
23 nature and economics of the various alternatives, and
24 other pertinent considerations?"

1 The answer is "Yes."

2 Q. In reaching that conclusion did you
3 perform your own environmental impact assessment?

4 A. No, I did not.

5 Q. Did you rely on any environmental impact
6 assessment prepared by anyone else?

7 A. No, I did not.

8 Q. In reaching that opinion did you consider
9 the public health impacts of air pollution from the
10 proposed AMPGS?

11 A. No, I did not.

12 Q. And did you consider the public health
13 impacts of air emissions from the various
14 alternatives of the proposed AMPGS?

15 A. No, I did not.

16 Q. Did you consider the impact of CO2
17 emissions on global warming from the proposed AMPGS?

18 A. Not in a direct way, but in our
19 feasibility report we've indicated that AMP-Ohio,
20 along with R.W. Beck, has considered the choice of
21 technology, specifically Powerspan, and also have
22 considered the potential cost impacts of CO2
23 legislation that may be upon us in the future.

24 Q. I don't think that quite answered my

1 question. My question was: Did you consider the
2 impact of CO2 emissions from the proposed AMPGS on
3 global warming?

4 A. I think I've answered that.

5 Q. What's your answer?

6 A. No, not in a --

7 MR. BENTINE: Objection.

8 Q. Do you remember me asking you that
9 question at your deposition?

10 A. Yes.

11 Q. And that was just a week ago?

12 A. Yes.

13 Q. And you have reviewed your transcript
14 from the deposition?

15 A. Yes.

16 Q. You marked any errors or corrections?

17 A. No; it's true that I did not do a
18 specific global warming investigation.

19 MR. BENTINE: If we're about to make the
20 deposition an exhibit, I believe it needs to be
21 established that something in the deposition is
22 inconsistent with something he's saying on the stand
23 today and then only that part should be admitted
24 unless we believe more should be admitted for

1 context. So I'm going to object to passing out
2 portions of the transcript that we haven't seen yet
3 till we establish whether or not there's some
4 inconsistency that needs to be --

5 MR. COLANGELO: I'm sorry, I didn't ask
6 if I can approach.

7 EXAMINER BOJKO: You may approach.

8 Is the purpose to -- are you marking it
9 right now or are you going to ask the witness a
10 question first?

11 MR. COLANGELO: Well, I can ask the
12 witness a question first to refresh his recollection
13 if you'd like. Mr. Bentine is incorrect when he says
14 they haven't seen it. They have seen it and the
15 witness has testified he's reviewed it.

16 EXAMINER BOJKO: Actually, I think what
17 Mr. Bentine's point is, we did this yesterday, you
18 can try to impeach the witness with the deposition
19 and you can do that on the stand, but it doesn't
20 necessarily mean you have to mark something as an
21 exhibit.

22 MR. COLANGELO: I'm happy to do it either
23 way, your Honor.

24 EXAMINER BOJKO: That's the preference.

1 MR. COLANGELO: All right. So may I just
2 show this to the witness directly?

3 EXAMINER BOJKO: Sure.

4 Q. (By Mr. Colangelo) That's just a portion
5 from your deposition transcript. And, again, you've
6 testified you read the entire transcript; is that
7 correct?

8 A. Yes, that's correct.

9 Q. Could you look at page 103, please?

10 A. Yes.

11 Q. And did I ask you the following question,
12 and did you give the following answer, page 103, line
13 122, "Question: Did you consider the impact of CO2
14 emissions on global warming from the proposed AMPGS?

15 "Answer: No, we did not."

16 A. Yes.

17 Q. Are you changing that answer today?

18 A. No, that is what I said, and that is
19 accurate.

20 Q. All right. Did you consider the impacts
21 of CO2 emissions on global warming from alternatives
22 to the proposed AMPGS?

23 A. No, I did not.

24 Q. Did you consider the impacts of CO2

1 emissions from the proposed AMPGS on agriculture?

2 A. No, I did not.

3 Q. What about the impact from CO2 emissions
4 from any potential alternatives to the proposed AMPGS
5 on agriculture?

6 A. No, I did not.

7 Q. Did you consider the impact of CO2
8 emissions from the proposed AMPGS on public health?

9 A. No, I did not.

10 Q. Did you consider the impacts of CO2
11 emissions from any alternatives to the proposed AMPGS
12 on public health?

13 A. No, I did not.

14 Q. Did you consider the impact of air
15 pollution from the proposed AMPGS on water quality?

16 A. No.

17 Q. What about the impact of CO2 emissions
18 from any alternatives to the proposed AMPGS on water
19 quality?

20 A. No.

21 Q. Going back to what's been marked as
22 AMP-Ohio Exhibit 1 for identification, that's your
23 direct testimony, in answering that question we were
24 discussing on page 9, question 26, you didn't

1 consider the nature and economics of any
2 alternatives, did you?

3 MR. BENTINE: Objection.

4 I'll withdraw. You may answer.

5 A. I don't believe that's correct. R.W.
6 Beck has evaluated the technical feasibility of the
7 project AMPGS. In my testimony I've given reasons
8 why the technology chosen is a reasonable one for the
9 project and for AMP-Ohio. So in my opinion we
10 investigated the cost impacts as well as the
11 technical impacts, environmental impacts of the
12 project.

13 Q. I think I'm asking a slightly different
14 question. I'm asking about the opinion you give on
15 page 9 of your direct testimony --

16 A. Yes.

17 Q. -- in response to question 26.

18 A. Yes.

19 Q. And I'm asking in giving your opinion in
20 answering that question you didn't consider the
21 nature and economics of any alternatives in
22 formulating your opinion in answer to that question;
23 is that correct?

24 MR. BENTINE: I'm going to object and if

1 I could state why, your Honor.

2 EXAMINER BOJKO: Sure.

3 MR. BENTINE: All I'm going to ask is
4 perhaps Mr. Colangelo can clarify what he means by
5 "alternatives" and what this witness means by
6 "alternatives." These folks are taking the position
7 that every conceivable alternative in the world must
8 be considered from wind to conservation to every
9 technology in the world, to not building it, which
10 goes to need.

11 So if we could get on the same page here
12 in terms of what this gentleman is talking about,
13 Mr. Colangelo, and what the witness is talking about
14 when he answers that question, I think the record
15 would be much clearer.

16 EXAMINER BOJKO: Mr. Colangelo, I think
17 the witness did try to answer your question, so maybe
18 it does need to be clear if you want him to answer it
19 a different way. Can you specify what you mean by
20 "alternatives"?

21 Q. I guess what I mean, Dr. Couppis, is you
22 testified in your direct that you believe this
23 facility, and I can read the direct statement, this
24 is the answer to question 26, the question was "Based

1 on your experience, education, and knowledge of the
2 Application, and in your opinion, does the AMPGS
3 represent the minimum adverse environmental impact,
4 considering the state of available technology and the
5 nature and economics of the various alternatives, and
6 other pertinent considerations?"

7 And you answer "Yes"; is that correct?

8 A. Yes, that's correct.

9 Q. What do you understand "alternatives" to
10 mean in this sentence?

11 A. R.W. Beck did a power supply study for
12 AMP-Ohio, in that supply study they investigated
13 various alternatives including the PC technology that
14 was chosen, natural gas combined cycle, natural gas
15 peakers, so there were alternatives that were
16 evaluated.

17 Q. So I'm talking about your testimony here.

18 A. Yes.

19 Q. And when you use the word "alternatives,"
20 you're referring to natural gas combined cycle; is
21 that correct?

22 A. That's accurate.

23 Q. And what else?

24 A. If you go and reference the power supply

1 study, we may in that, and I'm not sure, I don't
2 recall, but we along with AMP-Ohio, AMP-Ohio I know
3 is evaluating hydroelectric as well as the combined
4 cycle and peak. I mean, we did a power supply study
5 that evaluated the AMP-Ohio needs from the baseload
6 resources to peaking to intermediate load and all
7 those alternatives are incorporated in our study.
8 And so when I say I believe that AMP-Ohio has
9 evaluated alternatives, that's what I mean.

10 Q. I'm asking about your opinion. Did you
11 evaluate the environmental impact of any alternatives
12 to the proposed AMPGS plant?

13 A. You mean me from a personal view? No.
14 But I was a member of that team of individuals that
15 worked on the feasibility study and I had my input
16 relative to the environmental aspects that are
17 included in the report.

18 Q. So because you did not evaluate the
19 environmental impact of any alternatives to the
20 proposed AMPGS plant, is it correct to say that you
21 also did not compare the environmental impact of any
22 alternatives to the environmental impact of the
23 preposed AMPGS plant?

24 MR. BENTINE: I'm going to object. I'll

1 withdraw the objection.

2 A. I don't understand what you mean,
3 evaluate. I mean . . .

4 Q. Well, Dr. Couppis, you just testified
5 that you did not evaluate the environmental impact of
6 any alternatives to the proposed AMPGS; is that
7 correct?

8 A. If your reference to that is I did not
9 prepare an environmental impact statement, if you
10 will, that's accurate. That's true.

11 Q. Well, my reference was to the testimony
12 you just gave a minute ago. Did you do any
13 environmental analysis of any alternative proposed to
14 AMPGS?

15 A. No, I did not analyze environmentally the
16 alternatives that I indicated.

17 Q. So then my next question was given that
18 you did not evaluate the environmental impact of any
19 alternative to the proposed AMPGS, I'm asking is it
20 also fair to say you did not compare the
21 environmental impact of any alternative to the
22 environmental impact of the proposed AMPGS?

23 A. That's accurate.

24 Q. Is it also fair to say that you're not

1 sure if the proposed AMPGS project was compared to
2 other alternatives to determine whether it represents
3 the minimum adverse environmental impact? Is that
4 correct?

5 MR. BENTINE: I'm going to object. What
6 do you mean by "compare"? Are we talking about an
7 environmental assessment of every potential piece of
8 generation or demand-side management or energy
9 efficiency that might be done to replace a thousand
10 megawatts, or are we talking about consideration of
11 those things as a part of a overall plan, because
12 those are two different things?

13 And to the extent we're talking about the
14 former, the statute doesn't require it and the
15 Board's rules do not require it, and common sense
16 doesn't require it.

17 EXAMINER BOJKO: Your objection's
18 overruled.

19 If the witness can answer the question,
20 the witness can answer. If the witness needs
21 clarification, then the witness can ask for it.

22 You may answer the question. Do you
23 remember the question?

24 THE WITNESS: No.

1 EXAMINER BOJKO: Could you reread the
2 question, please?

3 (Question read.)

4 A. I did not do an environmental assessment
5 or environmental impact statement on all the
6 alternatives. I think it's my understanding and
7 opinion in working with AMP-Ohio we considered
8 aspects of environmental impact cost of other
9 alternatives as I've indicated, including natural gas
10 combined cycle, natural gas peaking, indicated
11 AMP-Ohio is incorporating hydro in their resource mix
12 and so on. So that there are aspects of all those
13 alternatives that were looked at and investigated.

14 MR. COLANGELO: There was one word I
15 didn't catch. Would you mind rereading for me what
16 the witness said after "natural gas combined cycle"?
17 He said "natural gas"?

18 (Record read.)

19 Q. I'm sorry, I don't think that that
20 answered my question. If you don't mind, I'll ask it
21 again. You're not sure if the proposed AMPGS project
22 was compared to other alternatives to determine
23 whether it represents the minimum adverse
24 environmental impact; is that correct?

1 A. No, I didn't say that. I think that what
2 I've said is that being involved with AMP-Ohio and
3 being involved with R.W. Beck doing the power supply
4 and technical feasibility, in my opinion AMP-Ohio has
5 evaluated alternatives, evaluated the project, and
6 the project does represent the minimum adverse
7 environmental impact.

8 Q. Could you turn back to page 107 of the
9 deposition transcript excerpt I just handed you?

10 A. Yes.

11 Q. And, again, you were deposed by me a week
12 ago in this case; is that correct?

13 A. Yes.

14 Q. And this is an excerpt of the transcript
15 of those proceedings; is that correct?

16 A. Yes.

17 Q. And you reviewed this transcript; is that
18 right?

19 A. Yes.

20 Q. You marked any errors or corrections that
21 you wanted to make on your errata sheet; is that
22 right?

23 A. Yes.

24 Q. And you signed that sheet; is that

1 correct?

2 A. Yes, that's correct.

3 Q. Did I ask you the following questions and
4 did you give the following answers, look at page 107,
5 starting at line 12, "Question: In answering this
6 question on page 9 of Exhibit 2, your direct
7 testimony, the answer to question No. 26, did you
8 consider the nature and economics of the various
9 alternatives?

10 "Answer: I believe there were some
11 alternatives that were evaluated. I'm not sure of
12 how many in all, but there was a power supply study,
13 there was a feasibility study.

14 "Question: When you gave this conclusion
15 in your direct testimony, what alternatives were you
16 referring to, if any?

17 "Answer: I was referring to the project
18 itself. I was not referring to any alternatives.

19 "Question: So in reaching this
20 conclusion you didn't compare the project to any
21 alternatives?

22 Answer: I did not, no. But the project
23 might have been compared by other R.W. Beck
24 individuals, as an example, against combined cycle,

1 natural gas-fired projects.

2 "Question: When you say it might have
3 been compared, do you know if it was?

4 "Answer: I'm not sure."

5 A. What is the page of that that you just
6 read?

7 Q. I'm sorry, I was reading from page 107,
8 line 12, to page 108, line 9.

9 A. Okay.

10 MR. BENTINE: Could the witness have a
11 moment to read that?

12 EXAMINER BOJKO: Yes.

13 A. All right. What is your point there,
14 please?

15 Q. Does that accurately reflect our
16 discussion last week during the deposition?

17 A. Yes. That's what I said; it's here.

18 Q. Are you changing that testimony today?

19 A. No. I mean, as I've indicated, there
20 were alternatives evaluated. I can't tell you
21 exactly how many there, you know, were. I just
22 indicated that I believe that the natural gas
23 combined cycle was evaluated, peaking was evaluated,
24 hydro was evaluated, but I did not prepare the power

1 supply study. So I think that what I said is not
2 inconsistent with what I've just answered.

3 Q. So it's correct to say, then, that you're
4 not sure if the proposed AMPGS project was compared
5 to other alternatives to determine whether it
6 represents minimum adverse environmental impacts.

7 A. I've answered that the power supply study
8 evaluated alternatives.

9 MR. COLANGELO: Your Honor, I'd like to
10 mark the transcript I handed out earlier to impeach
11 the witness. I believe his testimony today is
12 inconsistent with his testimony during the
13 deposition.

14 EXAMINER BOJKO: I believe it was just
15 read into the record, so I'm not sure there's a need
16 to mark it as an exhibit. I think your point is
17 already made on the record.

18 MR. COLANGELO: All right. Thank you.

19 Q. Returning back to what's been marked as
20 AMP-Ohio Exhibit 1, your direct testimony, still the
21 same page, your question 26 and your answer to
22 question 26, in answering this question and providing
23 this opinion you didn't compare the proposed AMPGS
24 plant to potential energy efficiency alternatives; is

1 that correct?

2 A. No, I did not.

3 Q. And you didn't compare the proposed AMPGS
4 plant to demand-side management; is that correct?

5 A. No, I did not.

6 MR. COLANGELO: Your Honor, I have a few
7 motions to strike, would you like me to make them now
8 or would you like me to wait till the end?

9 EXAMINER BOJKO: Why don't we wait till
10 the -- are you finished cross-examining?

11 MR. COLANGELO: I'm finished with my
12 cross, yes, your Honor.

13 EXAMINER BOJKO: Then you may make them
14 now.

15 MR. COLANGELO: Okay. Well, first, your
16 Honor, I'd like to move to strike this question and
17 answer on page 9, question 26 and the witness's
18 answer. He testified that he did not perform an
19 environmental impact assessment of the proposed AMPGS
20 plant. He testified this morning that he did not
21 perform an environmental impact assessment of any
22 alternatives. He did not rely on an environmental
23 impact assessment prepared by anyone else. He
24 testified he did not compare the environmental impact

1 of the plant to any proposed alternatives. And he
2 testified that he's unsure what all of the
3 alternatives are that were considered. So I think
4 there's no reliable basis for this opinion in his
5 testimony, the witness lacks personal knowledge.

6 EXAMINER BOJKO: Do you have a response?

7 MR. BENTINE: Well, first of all, R.W.
8 Beck including this witness did a great deal of work
9 with regard to this and so I think that's absolutely
10 clear.

11 Secondly, when Mr. Colangelo says he
12 didn't perform an environmental impact assessment, I
13 don't know what he's talking about. It's not in the
14 statute. Were environmental matters considered by
15 AMP-Ohio? Yes, and that's what he has testified to.
16 Were alternatives considered by AMP-Ohio? Yes, and
17 that's what he's --

18 EXAMINER PRICE: Mr. Bentine, you keep
19 saying were considered by AMP-Ohio, but the question
20 actually says "In your opinion." So the question was
21 directed at his personal opinion. It doesn't say in
22 R.W. Beck's opinion, or in AMP-Ohio's opinion, it
23 says in his opinion.

24 MR. BENTINE: Yes.

1 EXAMINER PRICE: So I appreciate if you
2 direct arguments to what he can testify to, not as to
3 what AMP-Ohio did.

4 MR. BENTINE: Thank you, your Honor,
5 you're absolutely correct. He does indicate it in
6 his opinion, he is a principal in R.W. Beck which did
7 a great deal of work, he is entitled to rely on
8 others in R.W. Beck and others that participated in
9 Beck's studies in this to come to his conclusion with
10 regard to the environmental impact of this plant.
11 He's indicated what he has done. I think anything
12 that Mr. Colangelo has talked about goes to weight.

13 Again, there's no requirement in Ohio law
14 or in the Board's rules that we do independent
15 environmental impact assessments, whatever that
16 means --

17 EXAMINER BOJKO: Okay, let's not testify.

18 MR. BENTINE: -- on every available
19 technology alternate.

20 EXAMINER BOJKO: I'm going to deny the
21 motion to strike. I think that your
22 cross-examination was adequate and that it will go to
23 the weight. With everything that you've stated and
24 that the witness has stated, and Mr. Bentine, I think

1 the record is clear it's his testimony, we don't need
2 to strike it. If you choose to argue something on
3 cross or brief, that will go to weight.

4 MR. COLANGELO: All right. Your Honor, I
5 have one more motion to strike and this is on page 5,
6 question 16 and the answer to question 16. The
7 witness is testifying here with no reference that
8 natural gas prices are projected to rise in the
9 coming years.

10 He testified that he has never done a
11 future fuel cost projection himself, so this
12 assertion is not based on personal knowledge.
13 There's no citation to explain what the basis is, and
14 the witness did not offer one. So it's unreliable
15 and unsupported.

16 And the witness testified that according
17 to the exhibit of his colleague, natural gas prices
18 are actually expected to decline and to remain lower
19 than they are today for at least almost the next 25
20 years until 2030, as far out as that chart went so,
21 therefore, this testimony, the question and answer to
22 question 16, is unreliable, unsupported, and outside
23 the witness's expertise.

24 EXAMINER BOJKO: Your motion to strike is

1 denied for the same reasons. I think that's the
2 whole point of cross-examination and why we have
3 prefiled direct testimony before the Board.

4 Anything further?

5 MR. COLANGELO: That's all, your Honor.

6 EXAMINER BOJKO: Now we will go to
7 Miss Young. Do you have any questions for this
8 witness?

9 MS. YOUNG: No, I think he covered it. I
10 would have wanted to know what kind of environmental
11 impacts had been done on this specific facility, not
12 averaged over a mix.

13 EXAMINER BOJKO: Ask him.

14 - - -

15 CROSS-EXAMINATION

16 By Ms. Young:

17 Q. Mr. Couppis, I have not had an
18 opportunity to read over all of your direct testimony
19 yet but from what was stated here today I would like
20 to know were your opinions based on AMPGS as an
21 individual facility or were your considerations kind
22 of spread out or averaged over a mix of facilities or
23 other technologies that AMP-Ohio was looking at?

24 A. I think part of the basis for my

1 testimony is based on the permit applications and
2 environmental analyses that were done in the permit
3 applications, specifically air, the NPDES, the
4 landfill application so that, you know, when we say
5 no environmental analyses were done, that's true in a
6 strict definition of environmental assessment or an
7 EIS in accordance with state and federal rules, but
8 there are environmental analyses that are included in
9 the various applications for the project. So -- and
10 those applications specifically address the AMPGS.

11 Q. So when Mr. Bentine was referencing --
12 AMP-Ohio does not have any of the hydro facilities or
13 the wind facilities like the wind facility they have
14 in Bowling Green or the hydro facility that they're
15 potentially proposing for Gallia County, those
16 impacts are very different than the coal-fired power
17 plant and the impacts to our health and environment
18 in Meigs County, correct?

19 A. I would agree with that, yes.

20 MS. YOUNG: Thank you.

21 EXAMINER BOJKO: Staff?

22 MS. MALONE: No questions.

23 MR. JONES: No questions.

24 EXAMINER BOJKO: Redirect?

REDIRECT EXAMINATION

By Mr. Bentine:

Q. Mr. Couppis, a couple questions here. First, you'll recall Mr. Colangelo asked you questions concerning R.W. Beck's recommendations in Rochester I believe Minnesota?

A. Yes.

Q. Is your view or R.W. Beck's view any inconsistency with your recommendation in Rochester with regard to the hundred megawatt unit there, a retrofit, and the proposed new build of AMP-Ohio for AMPGS and those recommendations?

A. No. I think the two projects are totally different, one is an existing small project to be retrofitted, AMPGS is a new large project. The other factor is that we did the study, as I indicated, a couple of years ago. We did not at that time have as much data and information from the power plant that Powerspan has provided, so I think we made the call at the time based on the information we had. But there was no inconsistency in not recommending Powerspan for every application, these things are done on a case-by-case basis.

Q. Mr. Colangelo asked you questions about

1 alternative and environmental assessments, and I
2 think you've made that clear, but let me ask this:
3 Your testimony here today is on behalf of AMP-Ohio,
4 correct?

5 A. Correct.

6 Q. And the opinions you express are opinions
7 that you have concluded as a principal for R.W. Beck
8 on its assignment with AMP-Ohio; is that correct?

9 A. That's correct.

10 Q. And so when you say "my opinion," you're
11 talking about R.W. Beck's opinion as well, correct?

12 A. That's correct. Yes.

13 Q. Now, Mr. Colangelo went through a litany
14 of did you specifically do an assessment of this and
15 an assessment of that, an assessment of this and an
16 assessment of that. Were environmental impacts of
17 the AMPGS considered in its application to the Power
18 Siting Board?

19 A. Yes.

20 Q. Were the environmental impacts of AMPGS
21 considered in its applications for various other
22 permits that it is required to get in order to
23 operate such as 401 permits, 404 permits, NPDES
24 permits, air permit, landfill permit, Federal

1 Aviation Administration permits?

2 A. Yes.

3 MR. BENTINE: That's all I have on
4 redirect.

5 EXAMINER BOJKO: Okay. Do we have any
6 recross?

7 MR. COLANGELO: No recross, your Honor.

8 EXAMINER BOJKO: Miss Young, do you have
9 recross?

10 MS. YOUNG: I have one more question.

11 - - -

12 RE-CROSS-EXAMINATION

13 By Ms. Young:

14 Q. Mr. Couppis, of all of those impacts that
15 he said would be included regarding other types of
16 environmental impact studies for air, water, solid
17 landfill waste, all of those things, NPDES, my
18 understanding is that there is currently no
19 permitting process for carbon sequestration, and if
20 there's a possibility that AMP might be doing that,
21 I'd like to know how those impacts have been taken
22 into consideration, or other measures of dealing with
23 carbon dioxide.

24 I could find no way of dealing with

1 carbon dioxide in this permit and there's no other
2 permitting process that would take that into
3 consideration.

4 A. You are correct that there's no present
5 regulation that addresses the CO2 in its evaluation
6 of potential regulations in the future. AMP-Ohio has
7 chosen Powerspan process that will be first used to
8 capture SO2, but it's a promising process that can be
9 added on to capture the CO2. So in choosing that I
10 think AMP-Ohio has minimized their future risks in
11 terms of when and if we get legislation, they have a
12 way to deal with it and, you know, hopefully a
13 cost-effective way.

14 So in choosing Powerspan I think AMP-Ohio
15 has looked at the potential CO2 impacts even though
16 presently we have no existing regulations.

17 Q. So even though the Supreme Court did rule
18 that it was a pollutant to be regulated, and there is
19 no regulation process for it, our county is
20 experiencing worse flooding, we had record
21 temperatures this year and we had diseases that
22 affected our animals as a direct result. Were any of
23 those impacts taken into consideration in any
24 environmental impact study that AMP-Ohio, AMPGS, or

1 Beck, anyone did in relation to this facility?

2 MR. BENTINE: Objection.

3 EXAMINER BOJKO: Basis?

4 MR. BENTINE: Foundation. No foundation
5 that any of those things Miss Young has indicated in
6 her question is in any way related it this plant in
7 this proceeding.

8 EXAMINER BOJKO: Do you have any
9 knowledge of Miss Young's -- can you respond to
10 Miss Young's question?

11 A. I have no knowledge of what you've
12 indicated as happening in the county.

13 Q. We've had worse flooding, I mean, my
14 knowledge of --

15 EXAMINER BOJKO: This isn't a place where
16 you would testify. You need to ask questions of the
17 witness and you will have your opportunity to testify
18 on Tuesday.

19 MS. YOUNG: Okay. Thank you.

20 EXAMINER BOJKO: I have a few questions.
21 Staff?

22 MR. JONES: No questions.

23 - - -

24

EXAMINATION

By Examiner Bojko:

Q. Dr. Couppis, if you could look at page 3 of your testimony, and you were just speaking about Powerspan a moment ago, you were here for Mr. Furman's testimony yesterday; is that correct?

A. Yes, that's correct.

Q. Do you recall him stating that Powerspan technology was about 15 years away? I think that's what he said. Do you recall that testimony?

A. Something like that.

Q. Well, do you agree with that? It sounded in your answer that you just stated that it could -- Powerspan was going to be utilized and it could be added onto. What is the technology feasibility for Powerspan, in your opinion?

A. Let me answer that in two parts. One part is the application of the technology relative to SO2. In my opinion that is there now, it's ready to be applied to the project.

Relative to the CO2 add-ons, as Powerspan indicated, they are planning to install a 125-megawatt size unit, a demonstration unit, in Texas. That is scheduled to come on line in 2012. I

1 would, if I were to make a judgment as to how many
2 more years after that you need to have the technology
3 ready to be applied, probably three to five years.
4 So sometime in the 2015-2017 time frame would be not
5 an unreasonable time frame to expect that the
6 technology would be ready to be available.

7 I think we know, at least from a pure
8 chemistry aspect we know that the process is very
9 promising and it's just a matter of collecting the
10 data and information, the engineering data, to allow
11 us to apply it on a larger scale.

12 EXAMINER PRICE: So if I do my math
13 correctly, your estimate is 8 to 10 years rather than
14 15 years.

15 THE WITNESS: Right.

16 EXAMINER PRICE: Okay.

17 Q. And, again, making the distinction for
18 the SO2 versus the --

19 A. Yes, that's the important one.

20 Q. In your testimony on page 4 you talk a
21 lot about the United States IGCC plants, and I guess
22 why in your testimony do you only compare to the
23 United States IGCC plants as opposed to the Europe
24 plants? Is there a difference in the plants of where

1 they're built, geography, or are you just referencing
2 them because you know them more?

3 A. Primarily my reference is that I know
4 them more. We have more data on the plants in the
5 U.S. There's always technology transfer issues, but
6 I would not say that overseas experience is not
7 applicable to the U.S. My reference is that's the
8 experience we have in the U.S.

9 Q. On page 4 of your testimony, it's --
10 sorry, I don't have line numbers -- the third bullet
11 in answer to question 15, the last sentence of that
12 third bullet that starts "That is, it is not as
13 dispatchable, another key for AMP-Ohio."

14 A. Yes.

15 Q. Do you see that?

16 A. Yes.

17 Q. Can you explain to me why that is
18 important for the AMP-Ohio-specific facility,
19 dispatchability issues?

20 A. It is important primarily because these
21 will be their -- the AMPGS will provide a large part
22 of their baseload resource, so they have no other
23 resources to fall back on or they don't have as many
24 as a larger entity that has many, many units, so the

1 inability to run a unit will not have as large of an
2 impact on the overall system.

3 Q. So that statement was in regard to the
4 baseload issue.

5 A. Yes.

6 Q. Being baseload.

7 A. Yes.

8 EXAMINER PRICE: But as a baseload unit
9 isn't it your expectation that it's going to run
10 24/7, more or less at peak capacity anyways?

11 THE WITNESS: Well, that's a good point,
12 but I think any utility will need to ramp up and
13 down. It's not a constant run all the time, as we've
14 indicated. There still the need to follow the load.

15 Q. On page 5 of your testimony, the third
16 bullet on that page, the last sentence, you're
17 talking about the reported Powerspan costs for the
18 carbon capture. Yesterday we heard testimony about
19 the IGCC facilities having a lower cost of electric.
20 Do you agree with that statement that we heard
21 yesterday?

22 A. The CO2 cost for IGCC to capture CO2 from
23 an IGCC unit are in the \$20 per ton range. If you
24 reference the MIT work, their estimate based on their

1 work is in that range, and I agree with it, I think
2 it's a generally accepted number in the industry.
3 That's what it is. So the \$20 by Powerspan in my
4 opinion would compete --

5 Q. Powerspan would compete?

6 A. Right. With the IGCC cost, and that's
7 why choosing Powerspan is an important aspect here
8 because you're guarding against potential legislation
9 that might have high costs. If you can remove the
10 CO2 at this price at your own plant, you're basically
11 insulated against the market.

12 Q. What about the -- I thought we heard
13 testimony yesterday about the overall cost, which I
14 guess would include capital costs as well as these
15 kind of environmental constraints, the overall cost
16 of IGCC being lower; is that true?

17 A. Well, the \$20 per ton really --

18 Q. The cost of electricity, the overall
19 resulting cost of electricity.

20 A. Well, yeah, if you assume that captured
21 carbon from a pulverized coal will be \$40 and IGCC
22 would be at half that, then overall the IGCC would
23 have a lower cost of electricity.

24 However, if you have a process like we

1 have here with Powerspan, if they can demonstrate
2 that \$20 per ton is their cost, then the pulverized
3 coal would be less in the overall cost of
4 electricity.

5 Q. Okay. Just one more.

6 EXAMINER BOJKO: No, that was my last
7 question. Thank you.

8 THE WITNESS: Thank you.

9 EXAMINER BOJKO: You may step down.

10 MR. BENTINE: Could I do one more --

11 EXAMINER BOJKO: I'm sorry, Mr. Couppis.
12 Yes, Mr. Bentine.

13 MR. BENTINE: I think it was pointed out
14 by Mr. Colangelo and I neglected to do something. I
15 think we have a misnumbering in this exhibit. If I
16 could ask a couple questions of him, I think we can
17 clear it up.

18 EXAMINER BOJKO: Okay.

19 - - -

20 FURTHER REDIRECT EXAMINATION

21 By Mr. Bentine:

22 Q. If you look at page 6 and 7 of your
23 testimony, it appears that question 19, the answer to
24 that runs beginning at the end of page 6 and then on

1 over to page 7, and then the next question appears to
2 be 22. Does it appear to you we have a misnumbering
3 in your testimony?

4 A. Yes.

5 Q. In your questions --

6 A. Those are a misnumbering.

7 MR. BENTINE: Since those are questions,
8 I'll take responsibility for the misnumbering, but we
9 can either correct them or simply note on the record
10 that the two numbered questions are not there so
11 question 22 was really question 20.

12 EXAMINER BOJKO: I think it's just
13 important to note for the record that the testimony
14 as filed is complete and there was just misnumbering,
15 there aren't any missing questions.

16 MR. BENTINE: Thank you.

17 EXAMINER BOJKO: Thank you, Dr. Couppis,
18 you may step down.

19 THE WITNESS: Thank you.

20 (Witness excused.)

21 EXAMINER BOJKO: At this time I would
22 recommend trying to put on Miss Young's witness since
23 we only have about 20 minutes before our lunch
24 recess. Is that acceptable to all parties?

1 MR. FISK: Yes.

2 EXAMINER BOJKO: Is that acceptable,
3 Miss Young?

4 MS. YOUNG: Yes.

5 EXAMINER BOJKO: And that way your
6 witness could travel home if need be.

7 MS. PROFFITT: We came together.

8 EXAMINER BOJKO: Would you like to move
9 admission of --

10 MR. BENTINE: Yes.

11 EXAMINER BOJKO: -- Mr. Couppis's
12 testimony?

13 MR. BENTINE: Yes, I'll move admission of
14 AMP-O 1, please.

15 EXAMINER BOJKO: It is so moved. Are
16 there any objections to the admission of AMP-O
17 Exhibit 1?

18 MR. COLANGELO: Just the objections I've
19 already noted, your Honor.

20 EXAMINER BOJKO: Thank you. And with
21 those objections we will admit AMP-Ohio Exhibit 1.

22 (EXHIBIT ADMITTED INTO EVIDENCE.)

23 EXAMINER PRICE: Mr. Colangelo, are you
24 going to move to admit Citizen Groups' 2?

1 MR. COLANGELO: Yes. Let me move to
2 admit Citizen Groups' 2.

3 EXAMINER BOJKO: Any objections?

4 MR. COLANGELO: That's IC-4.

5 MR. BENTINE: No objection.

6 EXAMINER BOJKO: Citizen Groups' Exhibit
7 2 will be admitted.

8 MR. COLANGELO: Thank you.

9 (EXHIBIT ADMITTED INTO EVIDENCE.)

10 (Witness sworn.)

11 EXAMINER PRICE: Please state your name
12 and address for the record.

13 THE WITNESS: Lola J. Proffitt, 26812
14 Mile Hill Road, Racine, Ohio 45771.

15 EXAMINER PRICE: Thank you.

16 The Bench is now going to mark the
17 previously filed notarized statement from her as
18 Proffitt Exhibit 1.

19 (EXHIBIT MARKED FOR IDENTIFICATION.)

20 EXAMINER PRICE: Do you have a copy of
21 what we've now marked as Proffitt Exhibit 1 in front
22 of you?

23 THE WITNESS: Uh-huh.

24 EXAMINER BOJKO: Is this your sworn

1 testimony to today's proceeding?

2 THE WITNESS: Yes, it is.

3 EXAMINER PRICE: Do you have any
4 additions or corrections to this testimony?

5 THE WITNESS: No, I don't.

6 EXAMINER PRICE: Miss Young, do you have
7 any additional questions on direct testimony for
8 Miss Proffitt?

9 MS. YOUNG: No, but can I reserve the
10 right to cross-examine if others ask her questions?

11 EXAMINER PRICE: To redirect.

12 MS. YOUNG: Redirect, that's what you
13 call it, okay.

14 MR. FISK: Your Honor, actually, I don't
15 believe we have a copy of Ms. Proffitt's --

16 EXAMINER PRICE: You don't have a copy?

17 EXAMINER BOJKO: We passed those out
18 yesterday. I actually made a copy with Mr. Rose's
19 testimony.

20 MR. FISK: Okay.

21 EXAMINER BOJKO: Are you ready to
22 proceed?

23 MR. FISK: Yes.

24 EXAMINER PRICE: Do you have any

1 questions, Mr. Fisk?

2 MR. FISK: No, we have none.

3 EXAMINER PRICE: Miss Bott.

4 - - -

5 CROSS-EXAMINATION

6 By Ms. Bott:

7 Q. Good morning.

8 A. Good morning.

9 EXAMINER PRICE: Miss Bott, the
10 microphones aren't working.

11 MS. BOTT: I'm sorry.

12 EXAMINER PRICE: We've been dispensing
13 with them. They're just for show.

14 Q. Can you hear me? Let's start there.

15 A. Yes, I can.

16 Q. If you can't, let me know, because that's
17 making quite a bit of noise.

18 A. Okay.

19 Q. Okay. Did you write your own testimony?

20 A. Yes, I did.

21 Q. Did anybody help you with that testimony?

22 A. No.

23 Q. Did you come here today to testify as an
24 expert?

1 A. No.

2 Q. Where do you live?

3 A. I live on Mile Hill Road clear back in
4 Racine in Meigs County.

5 Q. How far is that from the proposed plant
6 site?

7 A. Probably about two miles from me because
8 that will be on the river and I'm just across the
9 hill.

10 Q. Is that by way of how crows fly or --

11 A. Yeah, basically.

12 Q. Okay.

13 A. That's what we do up there.

14 Q. All righty.

15 MS. BOTT: I don't have any other
16 questions. Thank you so much for coming.

17 EXAMINER PRICE: Thank you.

18 Staff?

19 - - -

20 CROSS-EXAMINATION

21 By Ms. Malone:

22 Q. In the third paragraph of your statement
23 you refer to living in Middletown, Ohio, for four
24 years.

1 A. Yes.

2 Q. Could you tell us when that was?

3 A. That was in 1965, June 27th I moved
4 there. Moved back in 1969 in December.

5 MS. MALONE: No further questions.

6 EXAMINER PRICE: Thank you.

7 Redirect?

8 - - -

9 REDIRECT EXAMINATION

10 By Ms. Young:

11 Q. I just wanted to ask you a question so
12 that we can clarify. When they ask if somebody else
13 wrote your testimony, you dictated it and I
14 transcribed it; is that correct?

15 A. That's correct.

16 MS. YOUNG: Okay. I just wanted to be
17 sure that, I mean, because she didn't physically
18 write this out.

19 EXAMINER PRICE: We understand. Thank
20 you.

21 With that, the Bench is going to move
22 admission of Proffitt Exhibit 1. Is there any
23 objection?

24 MR. FISK: No.

1 EXAMINER PRICE: Thank you. That will be
2 admitted.

3 (EXHIBIT ADMITTED INTO EVIDENCE.)

4 EXAMINER PRICE: You may be excused.

5 (Witness excused.)

6 EXAMINER PRICE: Do we want to get
7 started with -- we have 15 minutes, do you want to
8 get started with Mr. Meyer or break for lunch?

9 MR. COLANGELO: I'd prefer to break for
10 lunch, your Honor, if that's all right. I think it
11 will only be about 45 minutes with Mr. Meyer.

12 EXAMINER BOJKO: Can we go off the
13 record?

14 (Discussion held off the record.)

15 (Luncheon recess taken.)

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1 Wednesday Afternoon Session,
2 December 12, 2007.

3 - - -

4 EXAMINER PRICE: Back on the record.
5 Mr. Bentine.

6 MR. COLANGELO: Before we start, I wanted
7 to make a quick motion on the record.

8 EXAMINER PRICE: I'm sorry.

9 MR. COLANGELO: This is regarding the
10 errata sheet that Mr. Meyer filed and signed with
11 respect to his deposition transcript, and we got a
12 copy of it this morning, and there are some changes
13 on here that we think are improper and will affect
14 the substance of the cross.

15 We think it is only appropriate to make
16 changes in an errata sheet that correct what was
17 actually said at the deposition. If there were any
18 mistakes in the transcription, not to make changes
19 that add additional thoughts or comments, and there
20 are some changes where the witness added some
21 sentences. If he wants to change his testimony now,
22 he's certainly welcome to, but we think the
23 transcript should reflect what was said at the
24 deposition, not what the witness would like to have

1 said in the deposition.

2 I can give a specific example.

3 EXAMINER PRICE: I'd like to hear a
4 specific example.

5 MR. COLANGELO: Okay. It refers to page
6 70 in the deposition transcript, and I asked the
7 question --

8 MS. MALONE: Do you have copies?

9 MR. COLANGELO: I do have copies.

10 EXAMINER BOJKO: Which page?

11 MR. COLANGELO: On page 70 of the
12 transcript. I just gave you a portion of it. I
13 didn't give you the whole thing. So line 17 --

14 EXAMINER PRICE: I'm looking at the
15 errata sheet.

16 MR. COLANGELO: It's the last entry on
17 the errata sheet. I asked the question, line 17 on
18 page 70: "Did you evaluate the impacts of CO2
19 emissions from the proposed AMPGS?" And on line 19
20 the witness answered no. On the errata sheet the
21 witness seeks to add, quote, "but we did consider
22 it." And the reason is "correction to facts."

23 If the witness would like to clarify his
24 answer on the record today, he is welcome to do so on

1 cross or redirect. The purpose of the errata sheet
2 is to reflect what happened at the deposition, and
3 the witness didn't say this at the deposition. He
4 may have liked to but did not, so it's improper to
5 add testimony to the deposition transcript that the
6 witness didn't say.

7 EXAMINER PRICE: Mr. Bentine.

8 MR. BENTINE: Yes, your Honor. The Ohio
9 Civil Rules and the rules that we're under today.
10 4906-7-07(E) and the instructions that are given by
11 the court reporter with regard to this review
12 indicate that: "Changes in the form or substance
13 which a witness desires to make shall be entered upon
14 the deposition by the officer with the statement of
15 the reasons given by the witness for making the
16 changes."

17 It is perfectly allowable, indeed, it is
18 required to correct these; otherwise, how would -- if
19 I give a wrong answer, how do you correct it without
20 doing the errata sheet? That's the whole purpose of
21 the errata sheet, allowing the witness to look at his
22 answers in the context of the questions and determine
23 whether or not it is correct, it is full, or
24 otherwise need changes. That is why it says form or

1 substance. This is absolutely permissible. In fact,
2 if it's not, then any witness that makes a mistake in
3 a deposition is not going to be allowed to correct it
4 in the errata sheet, and that's certainly not the
5 practice in this state.

6 MR. COLANGELO: I disagree, your Honor.
7 The point of a transcript is to record what happened
8 at the deposition. And the witness will have an
9 opportunity to change it, and there's potential
10 prejudice, too, because the fact that the witness did
11 not say this during the deposition means that I was
12 unable to ask follow-up questions, and it is a
13 different answer and I'll ask those follow-up
14 questions here later on, but it's a material change
15 that's improperly in an errata. The point of a
16 transcript is to show what happened at the
17 deposition.

18 MS. MALONE: Not that it really matters
19 because this is not our witness, I do have to say my
20 reaction is that the civil rules of Ohio do in fact
21 contemplate this, and I have been involved in state
22 cases and federal cases where witnesses have had to
23 correct their answer because when they read it, it's
24 not complete. It's missing something. It doesn't

1 mean they said it at the time; it just means it's not
2 there and should have been there.

3 EXAMINER PRICE: My only concern, I
4 understand what you're saying, but are we
5 distinguishing additional thoughts? If I say on the
6 transcript two plus two equals five and I go back and
7 read the transcripts and say of course two plus two
8 does not equal five, it equals four and I correct
9 that, that's correcting a substantive error. That's
10 not adding an additional thought. That's my only
11 concern if you can respond to that.

12 MR. BENTINE: It says form and substance.
13 It's not limited.

14 MR. COLANGELO: Your Honor, I can address
15 that with another example. We are not objecting to
16 the errata entry just above, and this is kind of a
17 substantive change where he just made a mistake.
18 This is page 78, lines 8 to 11. I don't have a copy
19 of that but he said that plant was 200 megawatts and
20 it was just an error. It's 350.

21 EXAMINER PRICE: That's more multiplying
22 the two plus two equals five.

23 MR. COLANGELO: Exactly. That's the type
24 of substantive change that is appropriate, but not to

1 elaborate on an answer that the witness didn't give
2 at the time.

3 MR. BENTINE: May I ask if that is so
4 prejudiced to Mr. Colangelo, as far as I'm concerned,
5 we can go back to deposition with Mr. Meyer and he
6 can ask all the questions on this huge change. And I
7 would point out there are other places in Mr. Meyer's
8 deposition where he talks about this kind of thing as
9 well in the context of why we chose Powerspan.

10 EXAMINER PRICE: I'd like to come up with
11 the correct ruling. Rather than a compromise, we
12 will go off the record and we're going to adjourn
13 ourselves. We will back in five to ten minutes.

14 Thank you.

15 (Recess taken.)

16 EXAMINER PRICE: Back on the record. Did
17 you make the motion to strike, was that the precise
18 motion?

19 MR. COLANGELO: I did, your Honor.

20 EXAMINER PRICE: The motion to strike
21 will be granted. To the extent the witness needs to
22 clarify his answer upon impeachment of testimony, I'm
23 sure Mr. Bentine will offer him an opportunity to
24 clarify his answer.

1 MR. BENTINE: Let the record reflect my
2 objection to the striking. I believe that's
3 inappropriate. Even if the ruling is correct, the
4 remedy is to reopen the deposition.

5 EXAMINER PRICE: Your objection will be
6 noted. Thank you.

7 EXAMINER PRICE: Please proceed. It's
8 your witness.

9 MR. BENTINE: Mr. Meyer.

10 EXAMINER PRICE: Please state your name
11 and address.

12 THE WITNESS: Randy Meyer, M-E-Y-E-R,
13 business address is 2600 Airport Drive, Columbus,
14 Ohio 43219.

15 EXAMINER PRICE: Mr. Bentine, please
16 proceed.

17 MR. BENTINE: Thank you, your Honor.

18 - - -

19 RANDY MEYER

20 being first duly sworn, as prescribed by law, was
21 examined and testified as follows:

22 DIRECT EXAMINATION

23 By Mr. Bentine:

24 Q. Mr. Meyer, I want to hand you what I will

1 ask be marked, and I believe everyone has a copy, the
2 Direct Testimony of Randy Meyer.

3 MR. BENTINE: And we ask that be marked
4 as AMP-Ohio Exhibit No. 2.

5 EXAMINER PRICE: So marked.

6 (EXHIBIT MARKED FOR IDENTIFICATION.)

7 Q. What is what I handed you marked AMP-Ohio
8 Exhibit No. 2?

9 A. This is my direct testimony.

10 Q. Mr. Meyer, I will ask you a couple
11 questions on your questions and answers beginning on
12 page 6, questions 19, 20, 21 and 22 and 23.

13 A. Yes.

14 Q. And those questions concern the landfill
15 portion of the application and the staff's
16 recommended conditions, correct?

17 A. Yes.

18 Q. Do you know, has staff issued at least
19 for comment a modification to their recommended
20 conditions with regard to the landfill?

21 A. Yes.

22 Q. And without going into detail on those
23 recommended conditions, are those conditions more or
24 less restrictive than the original conditions?

1 A. They are more restrictive.

2 Q. And has AMP-Ohio had an opportunity to
3 review those conditions?

4 A. Yes.

5 Q. And has AMP-Ohio -- can AMP-Ohio indicate
6 at this time whether or not it is willing to agree to
7 those conditions as modified by the staff and has
8 been transmitted to the parties?

9 A. Yes, we are willing to agree to them.

10 Q. And to the extent then that those are
11 incorporated into a certificate, AMP-Ohio would be
12 fine with that?

13 A. Yes.

14 Q. And other than updating the discussions
15 with regard to the revised conditions -- and I
16 understand we will have those revised conditions that
17 will be submitted to your Honors as soon as
18 everybody's had a chance to comment on them -- I
19 believe, with exception of what we just talked about
20 with regard to the conditions with the landfill, do
21 you have any other corrections, modifications on your
22 testimony?

23 A. No, I do not.

24 Q. Then, given that, and with the exception

1 of those landfill questions that I asked you, if I
2 were ask you the same questions contained in your
3 testimony in AMP-0 Exhibit No. 2 today while you are
4 under oath, would your answer be the same?

5 A. Yes.

6 MR. BENTINE: With that, Mr. Meyer is
7 available for cross-examination.

8 EXAMINER BOJKO: Before we get started I
9 want to ask a clarifying question.

10 When you talked about revised
11 recommendations, revised conditions of the staff, is
12 this tentative agreement, is that the same as being
13 discussed in your question 23 and 24?

14 THE WITNESS: Of my direct testimony?

15 EXAMINER BOJKO: Yes.

16 THE WITNESS: Yes. Those answers to
17 those questions would be the revised.

18 EXAMINER BOJKO: I mean, is it the same
19 agreement that was being worked out, or was something
20 additional issued, additional recommendations issued?

21 THE WITNESS: It's the same agreement,
22 but the terms of the agreements have changed.

23 MR. WRIGHT: Your Honor, if I may, to use
24 the term "agreement" might be a little misleading.

1 There have been invitations to both AMP-Ohio and to
2 the consumer groups to comment on the conditions, the
3 initial conditions in the staff report, and we've
4 gone through a couple gyrations, if you will, since
5 so it's an evolving process. There is no agreement,
6 per se, but there is -- we are coming, we believe,
7 hopefully will come to some agreement with everybody
8 as to what the conditions should look like, but when
9 you use the word "agreement" in common parlance like
10 that, I want to make it clear that is not the case.

11 MR. BENTINE: I agree with that. When
12 Mr. Meyer said "agreement," he means we agree to the
13 conditions that staff has proposed. That is
14 certainly consistent with our understanding.

15 MR. WRIGHT: Thank you.

16 EXAMINER PRICE: Mr. Colangelo.

17 - - -

18 CROSS-EXAMINATION

19 By Mr. Colangelo:

20 Q. Mr. Meyer, could you turn to Exhibit RM-6
21 what has been marked for identification AMP-Ohio
22 Exhibit 2, and this is a copy of your direct
23 testimony. Do you see that?

24 A. Yes, I do.

1 Q. Now, you testified that Exhibit RM-6
2 shows net emissions reduction if the proposed AMPGS
3 is built; is that correct?

4 A. Yes.

5 Q. In other words, just to make sure the
6 record is clear, take NOx for example, the first
7 column in this exhibit, the header in NOx; is that
8 correct?

9 A. Yes.

10 Q. And you have a number here after AMPGS,
11 3,184. Is that tons per year?

12 A. Yes.

13 Q. Annual emissions of NOx?

14 A. Yes.

15 Q. From the proposed AMPGS facility?

16 A. Yes.

17 Q. Okay.

18 A. From the boilers, only.

19 Q. Okay.

20 A. The two large utility boilers only.

21 Q. And then you have three numbers down, a
22 number after the word AMPGS Alternate Power, and the
23 number is 21,403. Do you see that?

24 A. Yes.

1 Q. And that's the sum of the three previous
2 numbers?

3 A. That's correct.

4 Q. Okay. Then your final number after Net
5 Emissions Reduction from AMPGS is 18,219. Do you see
6 that?

7 A. Yes.

8 Q. So what you're saying with this exhibit
9 is that switching from this AMPGS alternate power,
10 which is in your testimony a combination of
11 market-based power, RHGS and St. Mary's power plant;
12 is that right?

13 A. That's correct.

14 Q. Switching from that to the proposed AMPGS
15 would achieve a net emissions reduction from AMPGS of
16 18,219. Is that what you're testifying to?

17 A. Yes.

18 Q. Thank you. I just wanted to walk through
19 that so I understood what the chart meant. What does
20 RHGS stand for?

21 A. That is an acronym for the Richard H.
22 Gorsuch station.

23 Q. And you haven't made a decision one way
24 or the other about what to do with the Gorsuch

1 station if the AMPGS is built; is that correct?

2 A. Not contractually, no.

3 Q. So there's no final decision to shut it
4 down, for example.

5 A. No.

6 Q. And now there's a row here in RM-6 for
7 St. Mary's Power Plant; is that right?

8 A. Yes.

9 Q. And that power plant has already been
10 shut down, hasn't it?

11 A. That's correct.

12 Q. Okay. Then the second row is
13 Market-Based Power. Where did you get the
14 market-based power numbers in this exhibit?

15 A. That's best described as a composite of
16 power plants in West Virginia and Ohio, coal-fired
17 power plants.

18 Q. What do you mean when you say
19 "composite"?

20 A. It's a combination of them. We took all
21 of them, lumped them together to come up with an
22 average.

23 Q. So you're saying you averaged the
24 emissions from every coal plant in Ohio and West

1 Virginia --

2 A. Yes.

3 Q. -- to come with your present number?

4 A. We averaged the emissions and its output
5 as well.

6 Q. Okay. And where did you get the
7 marked-based power numbers in this exhibit?

8 A. It's a combination of numbers that are
9 reported through EPA and the output numbers would be
10 through the Department of Energy.

11 Q. You're aware of the recent AEP and Ohio
12 Edison New Source Review settlements; is that
13 correct?

14 A. I'm aware of them generally, yes.

15 Q. And generally you're aware those will
16 require emissions reductions for existing coal-fired
17 power plants in Ohio.

18 A. Yes. I expect it would -- there would be
19 some reductions at their Ohio plants.

20 Q. And some of the sources that comprise
21 your market-based power row and the numbers here in
22 that row are subject to those settlements; is that
23 correct?

24 A. Yes.

1 Q. But you didn't factor in -- or did you
2 factor in emission reductions they would need to meet
3 under those settlements coming up with the numbers in
4 this exhibit, RM-6?

5 A. No, I did not.

6 Q. You're also familiar with the Clean Air
7 Interstate Rule; is that right?

8 A. Yes.

9 Q. And all of the sources in this table,
10 except the St. Mary's plant, are subject to the Clean
11 Air Interstate Rule; is that right?

12 A. That is probably true.

13 Q. Are you hesitating? Do you think that
14 maybe none of them are, or you are not sure that all
15 of them are?

16 A. No. I think the vast majority of them
17 are. There may have been one or two plants, maybe,
18 that are under the size limit, but I doubt it.

19 Q. Okay. So those that are regulated, the
20 vast majority would need to make emission reductions
21 to comply with the Clean Air Interstate Rule; is that
22 right?

23 A. Yes.

24 Q. But you didn't factor in the emissions

1 reductions they would already need to make under the
2 Clean Air Interstate Rule in forming this exhibit.

3 A. No.

4 Q. The numbers in here that make the
5 market-based power, those are a few years old; is
6 that right?

7 A. Probably a couple years old.

8 Q. How old would you say?

9 A. I would say two to three years old.

10 Q. Did you personally come up with the
11 number in the market-based power row?

12 A. No; someone from my staff did that.

13 Q. And you testified earlier the number is
14 an average.

15 A. Yes.

16 Q. Do you mean the same when you say
17 composite and average; that's the same thing?

18 A. Yeah, it's roughly the same.

19 Q. Do you name anywhere in your testimony
20 all of the plants that were used to combine this
21 average?

22 A. No.

23 Q. You also testified that AMPGS
24 incorporates maximum feasible water conservation

1 practices, considering available technology and the
2 nature and economics of the various alternatives; is
3 that right?

4 A. Yes.

5 Q. And that's on page 9 of your direct
6 testimony. It's the very last question and answer on
7 page 9.

8 A. Yes, it's here.

9 Q. Okay. In reaching that opinion you just
10 compared different approaches for design of a
11 pulverized coal plant with respect to their impact on
12 water conservation; is that correct?

13 A. Within the context of the Power Siting
14 Board application, yes.

15 Q. You didn't compare the proposed PC plant
16 to alternative types of power generation with respect
17 to their impacts on water conservation; is that
18 right?

19 A. That's correct.

20 Q. And you didn't compare the proposed AMPGS
21 station with energy efficiency or demand-side
22 management with respect to their impact on water
23 conservation; is that right?

24 A. That's correct.

1 Q. Take a look at RM-5 of your direct
2 testimony marked as AMP-Ohio Exhibit 2. The fourth
3 column from the left says: Operating IGCC. Do you
4 see that?

5 A. Yes.

6 Q. What does that column represent?

7 A. I believe these are emissions from the
8 Polk power station in Florida and the Wabash.

9 Q. What do you mean when you say you
10 believe?

11 A. That's what I recall.

12 Q. You prepared this exhibit; is that right?

13 A. I'm using this exhibit. I did not
14 prepare it, no.

15 Q. Who prepared it?

16 A. I believe this was done for -- by Sargent
17 & Lundy, our consultant.

18 Q. Do you know for sure who prepared this?

19 A. I'm not 100 percent sure.

20 Q. It's marked AMP-Ohio on the bottom; do
21 you see that?

22 A. Yes.

23 Q. It's not marked Sargent & Lundy anywhere;
24 is that right?

1 A. That's correct.

2 Q. And since you didn't prepare it, are you
3 not sure what numbers were used to come up with the
4 bar graphs in this table?

5 A. I didn't personally find the numbers.

6 Q. Did you review the numbers or confirm
7 that they're correct?

8 A. I have reviewed this table, this graph.

9 Q. You've reviewed the graph.

10 A. Yes.

11 Q. Did you confirm any of the numbers in the
12 graph?

13 A. No.

14 Q. You mentioned the Polk County IGCC plant
15 and the Wabash plant; is that right?

16 A. That's correct.

17 Q. And those are two currently operating
18 IGCC plants in the US.

19 A. Yes.

20 Q. Do you know if either of those use
21 Selexol for SO2 control?

22 A. I do not believe that they do.

23 Q. Do you know if either of those uses
24 selective catalytic reduction to control NOx?

1 A. I don't know about Wabash, but AMP
2 Electric Polk station does not.

3 Q. You also testified in your opinion the
4 proposed AMPGS will demonstrate only a minimum
5 adverse environmental impact; is that correct?

6 A. That's correct.

7 Q. In reaching that opinion you didn't
8 evaluate the impact of CO2 emissions from the
9 proposed AMPGS facilities on global warming, did you?

10 A. We didn't evaluate them, but we
11 considered their impact.

12 Q. And what do you mean by that, you didn't
13 evaluate them but you considered them?

14 A. We didn't go through any kind of analysis
15 to judge the impact, but we did in considering our
16 technology choices consider the possibility of having
17 to control CO2.

18 Q. You considered the possibility of having
19 to control CO2?

20 A. Yes.

21 Q. But you didn't evaluate or analyze the
22 environmental impact that CO2 emissions from the
23 facility would have.

24 MR. BENTINE: I'm going to object.

1 EXAMINER PRICE: Grounds.

2 MR. BENTINE: I don't think there's any
3 basis that we would have to, legal basis.

4 MR. COLANGELO: Your Honor, I oppose
5 Mr. Bentine's speaking objection on the legal
6 standard. We can argue that later in the briefs.

7 EXAMINER PRICE: Overruled.

8 Mr. Colangelo is exactly right. The
9 extent to which this testimony that he's eliciting is
10 relevant to the Board's consideration of the
11 statutory framework is a decision for the Board and
12 the parties should be prepared to brief that.

13 MR. COLANGELO: Would you mind rereading
14 the question.

15 (Question read.)

16 A. We did not because we weren't required
17 to.

18 Q. You're not a lawyer, are you?

19 A. No.

20 Q. So when you say you're not required to,
21 that's not a legal opinion; is that right?

22 A. Well, I read the Siting Board
23 regulations, and I did not see any requirement to
24 assess the impacts of CO2.

1 Q. So you are or are not giving a legal
2 opinion what AMP-Ohio is not required to do?

3 MR. BENTINE: We will stipulate that this
4 witness is not testifying as to the legal standards.
5 He's not a lawyer.

6 Q. Do you know, for example, whether CO2
7 emissions are regulated under the Endangered Species
8 Act?

9 A. I don't know.

10 Q. Do you know whether CO2 emissions have
11 been regulated under NEPA, the National Environmental
12 Policy Act?

13 EXAMINER PRICE: Mr. Colangelo, what is
14 the relevance of these questions?

15 MR. COLANGELO: Well, the witnesses was
16 testifying what they were required to do.

17 EXAMINER PRICE: I think he gave his
18 understanding what the rule said, and Mr. Bentine
19 already stipulated he wasn't rendering a legal
20 opinion.

21 MR. COLANGELO: All right, your Honor.

22 Q. In reaching your opinion that AMPGS will
23 demonstrate only a minimum adverse impact on the
24 environment, you didn't consider the adverse

1 environmental impact of mining the coal, the fuel for
2 the plant; is that right?

3 MR. BENTINE: I'm going to object.

4 EXAMINER PRICE: Grounds.

5 MR. BENTINE: That's not what the
6 question said. If he wants to refer to the question,
7 the question said minimum adverse environmental
8 impact taking into consideration some other things.

9 MR. COLANGELO: That's incorrect, your
10 Honor. The witness has given two opinions. I can
11 refer to a specific one if you would like me to be
12 clear.

13 EXAMINER PRICE: Yes, I'd like that.

14 Q. Please turn to page 7 of your direct
15 testimony.

16 MR. BENTINE: I will withdraw the
17 objection.

18 EXAMINER PRICE: Thank you.

19 Q. Question 25, let me just read this. "Has
20 AMP-Ohio considered the general environmental impact
21 of AMPGS if constructed and operated as proposed?"

22 ANSWER: "AMPGS will demonstrate only a
23 minimum adverse impact to the environment." That's
24 on page 7. Is that your opinion?

1 A. Yes. It's my opinion in the context of
2 the Power Siting Board application.

3 Q. So could you explain what you mean by
4 that?

5 A. My understanding of the Power Siting
6 Board regulations do not require me to look into
7 mining issues.

8 Q. So I guess are you saying then that when
9 you say it will demonstrate only a minimum adverse
10 impact to the environment, you mean that to be
11 limited by what you understand the Siting Board
12 regulations to require?

13 A. Yes.

14 Q. So you are not testifying with this
15 answer and this opinion here that you believe in
16 general this facility will have only a minimum
17 adverse impact to the environment.

18 A. I'm answering in the context of the Power
19 Siting Board regulations.

20 Q. So you're not saying in general it will
21 have only a minimum adverse impact.

22 A. I'm not sure what you mean by "general."

23 Q. This is your statement: "AMPGS will
24 demonstrate only a minimum adverse impact to the

1 environment." And that statement in this testimony
2 isn't qualified in any way, so I'm asking would you
3 make that statement without any qualification? Would
4 you continue to say AMPGS will demonstrate only a
5 minimum adverse impact to the environment?

6 A. Yes. I'll continue to say that.

7 Q. And in reaching that conclusion, you did
8 not, I think you testified, consider or evaluate the
9 environmental impact of mining coal to fuel the
10 plant; is that right?

11 A. We didn't consider it and evaluate it
12 because it's not required.

13 EXAMINER PRICE: I believe he asked you a
14 yes or no question. If he asks you yes or no, I
15 would appreciate it if you would answer yes, no or
16 explain why you cannot answer the question. If
17 Mr. Bentine wishes to clarify the points, he will do
18 it on redirect. Please answer his question.

19 THE WITNESS: Could you repeat the
20 question.

21 (Question read.)

22 A. That's correct.

23 Q. So you did not consider the impact of
24 mining coal on water quality, for example?

1 A. No, we didn't.

2 Q. Or on air quality from mining operations;
3 is that right?

4 A. No.

5 Q. You did consider the impact of siting
6 barge docking stations at the proposed facility site
7 to receive the coal; is that right?

8 A. Yes.

9 Q. Did you consider the environmental impact
10 of the necessary barge traffic to deliver that coal?

11 A. Can you repeat that question again
12 please?

13 (Question read.)

14 A. We considered it to the extent it's
15 required in the 404 permit application.

16 Q. You mean as far as any wetlands impacts
17 of siting the docking facilities; is that right?

18 A. On wetlands, dredging, any impacts to the
19 banks of the river where the docking facilities are
20 going to be located.

21 Q. What about air emission impacts from the
22 barge traffic?

23 A. No.

24 Q. What about apart from wetlands or

1 dredging, what about water quality impacts from the
2 barge traffic?

3 A. No.

4 Q. In estimating SO2 emissions from the
5 proposed AMPGS, you assumed the plant would use the
6 worst case sulfur content fuel; is that correct?

7 A. Yes, I believe that's the case.

8 Q. Okay. You also testify, and this is on
9 page 9, question 31 asks -- I'm sorry, page 9 of your
10 direct testimony, AMP-Ohio Exhibit 2, question
11 31 asks: "Based on your experience, education, and
12 knowledge of the Application, and in your opinion,
13 did the AMPGS represent the minimum adverse
14 environmental impact, considering the state of
15 available technology and the nature and economics of
16 the various alternatives, and other pertinent
17 considerations." Do you see that?

18 A. Yes.

19 Q. And your answer is yes.

20 A. Yes.

21 Q. Now, in reaching this opinion you didn't
22 consider proposed impacts on global warming from CO2
23 emissions from the proposed AMPGS; is that right?

24 A. No, we did not consider it.

1 Q. And what about the global warming
2 impacts. Any alternatives proposed to AMPGS?

3 A. We did not consider it.

4 Q. And in reaching your conclusion here,
5 your answer to question 31 about the environmental
6 impact of the proposed facility, you didn't compare
7 an IGCC plant to the proposed AMPGS PC plant; is that
8 right?

9 A. That's correct.

10 MR. BENTINE: Could I have the question
11 reread, your Honor.

12 (Question read.)

13 A. That's correct.

14 Q. And you also didn't do a real
15 environmental analysis of an IGCC alternative; is
16 that right?

17 MR. BENTINE: Objection.

18 EXAMINER PRICE: Grounds.

19 MR. BENTINE: Could the questioner define
20 what he means by a real environmental analysis?

21 EXAMINER PRICE: Sustained.

22 MR. COLANGELO: I was using the witness'
23 word from the deposition.

24 Q. But I could just say: Did you do an a

1 environmental analysis of an IGCC alternative to the
2 AMPGS PC plant?

3 A. No, we didn't.

4 Q. AMP-Ohio pursued federal support for an
5 IGCC facility in the past; is that right?

6 A. Yes.

7 Q. And the federal funding to support IGCC
8 is potentially available to you, correct?

9 A. I don't know.

10 Q. Did you pursue it here?

11 A. No.

12 Q. You also didn't, going back to the global
13 warming for a second, you didn't consider global
14 warming impacts anywhere in your Power Siting Board
15 application; is that right?

16 MR. BENTINE: May I have a continuing
17 objection to global warming?

18 EXAMINER PRICE: Noted.

19 A. Could you repeat the question?

20 Q. You didn't consider global warming
21 impacts anywhere in the Power Siting Board
22 application; is that right?

23 A. I believe in the Power Siting Board
24 application we had at least one paragraph in there

1 about CO2 emissions.

2 Q. About CO2 emissions and the potential
3 future cost of control?

4 A. I don't believe there was anything about
5 future cost of control.

6 Q. It was about the environmental impact of
7 CO2 emissions?

8 A. It was just about CO2 emissions in
9 general.

10 Q. Did you consider the environmental impact
11 of CO2 emissions and include that consideration in
12 the Power Siting Board application?

13 A. No. I believe I answered that before.

14 Q. And you didn't consider global warming
15 impacts in any of the supporting documents or permit
16 applications referenced in the Power Siting Board
17 application; is that right?

18 A. That's correct.

19 Q. And you testified that you were one of
20 the two people primarily responsible for preparation
21 of the Power Siting Board application.

22 A. I was responsible for overseeing
23 preparation, yes.

24 Q. I believe you said in your direct

1 testimony that you were one of the two people
2 primarily responsible for that application; is that
3 right?

4 A. I was responsible for the oversight of
5 the preparation.

6 Q. Would you agree that you were one of the
7 two people primarily responsible for the application?

8 A. Yes.

9 Q. Are you familiar with the UN
10 Intergovernmental Panel on Climate Change?

11 A. I've heard of it.

12 Q. Are you aware that they shared a Nobel
13 Peace Prize with Al Gore for their work on global
14 warming?

15 MR. BENTINE: Objection.

16 EXAMINER PRICE: Sustained.

17 Q. Have you reviewed any of the UN IPCC
18 reports on global warming?

19 A. No.

20 MR. BENTINE: Objection.

21 EXAMINER PRICE: Sustained.

22 MR. COLANGELO: May I approach, your
23 Honor?

24 EXAMINER PRICE: Yes.

1 (EXHIBIT MARKED FOR IDENTIFICATION.)

2 Q. I've shown you what has been marked as
3 Citizen Groups' Exhibit 3, and I'll represent to you
4 that this is the report -- excerpts of the report of
5 Working Group I of the UN IPCC entitled "Climate
6 Change 2007: Physical Science Basis." And the
7 excerpts in this exhibit include the title pages of
8 the forward, the preface, table of contents,
9 summaries, technical summaries, and frequently asked
10 questions. Have you ever seen this before?

11 A. No.

12 MR. COLANGELO: I have two more, your
13 Honor. Do you mind if I do them both at the same
14 time?

15 EXAMINER BOJKO: Please.

16 (EXHIBITS MARKED FOR IDENTIFICATION.)

17 Q. Mr. Meyer, have you seen either of these
18 exhibits before?

19 MR. BENTINE: Objection.

20 EXAMINER PRICE: Grounds.

21 MR. BENTINE: Relevance.

22 EXAMINER PRICE: Where are you going with
23 this, Mr. Colangelo?

24 MR. COLANGELO: Your Honor, global

1 warming we think is one of the important
2 environmental impacts relevant to this proceeding,
3 and I'd like to get on the record the witness hasn't
4 considered this information.

5 EXAMINER PRICE: The witness already
6 stated he didn't consider carbon emissions, period.
7 I have give given you a lot of leeway, much over
8 Mr. Bentine's objections. You can make your record
9 and present your case, but I do not want this to be a
10 trial of whether global warming does or doesn't
11 happen.

12 MR. COLANGELO: I understand, your Honor,
13 and that's not the point I'm trying to make.

14 EXAMINER PRICE: I'll give you a little
15 bit of leeway.

16 MR. COLANGELO: I understand.

17 Q. Mr. Meyer, could you answer my question,
18 have you seen either of these reports before?

19 A. No, I haven't seen any of the three.

20 MR. COLANGELO: Let me just represent for
21 the record that's what's been marked as Exhibit 4 are
22 true and accurate excerpts of the contribution of
23 Working Group II to the UN IPCC entitled "Climate
24 Change 2007: Impacts, Adaptation, and

1 Vulnerability." and what has been marked as
2 Exhibit 5 for identification are true and accurate
3 excerpts of the contribution of Working Group III to
4 the IPCC, Fourth Assessment Report, and the title is
5 "Climate Change 2007: Mitigation."

6 EXAMINER BOJKO: Are you testifying they
7 are true and accurate?

8 MR. COLANGELO: I was just wanting to
9 represent that so the parties know this isn't the
10 complete report. These aren't the complete report
11 because they are enormous.

12 EXAMINER BOJKO: You're just stating
13 they're excerpts. I don't think you're testifying
14 they are true and accurate.

15 MR. COLANGELO: That's fine.

16 Q. Mr. Meyer, one or two last questions.
17 The proposed AMPGS would emit about 7.3 million tons
18 per year of CO2; is that correct?

19 A. I'm not sure. I haven't done that
20 calculation for a while.

21 Q. You don't know one way or the other?

22 MR. BENTINE: Objection.

23 A. I don't know if your number is correct.

24 Q. Do you have an estimate?

1 MR. BENTINE: Mr. Meyer, wait a moment.

2 EXAMINER PRICE: Grounds.

3 MR. BENTINE: He answered the question,
4 said he hadn't looked at that number in a while.

5 EXAMINER PRICE: Mr. Colangelo.

6 MR. COLANGELO: I think he can answer the
7 follow-up questions: Does he know if it is close?
8 Has he seen it? I would ask a few follow-up
9 questions.

10 MR. BENTINE: I wouldn't object to those.

11 EXAMINER PRICE: Okay. We worked that
12 out.

13 Q. Are you aware of any estimate of the tons
14 per year of the CO2 emissions that would be emitted
15 from the proposed AMPGS facility?

16 A. Yes, I'm aware of some.

17 Q. Do you know of any number of any
18 estimates you've seen?

19 A. All I know is what I've seen in the press
20 accounts.

21 Q. Did AMP-Ohio come up with any such number
22 as far as you know?

23 A. We haven't published one in any official
24 way, no.

1 Q. Did you come up with any internal number?

2 A. I have an idea, yes.

3 Q. And what idea do you have?

4 A. It's in the range of the number you
5 mentioned.

6 Q. So in the range of 7.3 million?

7 A. That's correct.

8 MR. COLANGELO: Your Honor, I don't have
9 any more questions, but I have a few motions with
10 respect to the witness' direct testimony.

11 EXAMINER PRICE: Go ahead and make that
12 motion.

13 MR. COLANGELO: I want to move to strike
14 RM-6 as unreliable and misleading. First, it doesn't
15 show what the witness claims it shows. It purports
16 to be a representation of emission reductions if the
17 proposed AMPGS facility is built, but the numbers
18 that go into the witness' estimates of emission
19 reductions at one of facilities has already shut
20 down. Another facility is not committed to shutting
21 down even if the plant is built, and the other
22 facilities would be reducing their emissions for
23 other reasons as well. So because the exhibit is
24 unreliable and misleading, we move to strike.

1 EXAMINER PRICE: Mr. Bentine.

2 MR. BENTINE: First of all, your Honor,
3 as explained in the direct testimony of this witness,
4 AMP-Ohio's plan, which has been announced, the CEO of
5 AMP-Ohio's Board is not under penalty of death if it
6 doesn't happen, but our announced plan what we
7 indicated in our application, what we indicated --

8 MR. COLANGELO: Again, your Honor, I'd
9 like to --

10 MR. BENTINE: May I finish?

11 EXAMINER PRICE: Mr. Bentine is correct.
12 Let him get out his response. Then you can respond.

13 MR. BENTINE: We have indicated in
14 numerous places the capacity of RHGS is in this. We
15 have -- that is in our application. That's in
16 Mr. Meyer's direct. So, yes, our plan is to shut
17 down RHGS contemporaneously with the project if this
18 project ever gets built and goes on line, and to try
19 to indicate that that's not our plan or not what we
20 said is simply incorrect.

21 This witness' testimony also indicates
22 that part of the reason that the St. Mary's plant was
23 not fixed and put back up is they are, at least in
24 part -- that's his testimony he could have been

1 crossed on -- they're, in part, depending on AMPGS to
2 provide this capacity of theirs beginning in 2013.
3 Those two are absolutely right.

4 With regard to the market-based power
5 estimates that this witness made, Mr. Colangelo asked
6 some questions about that, and the Bench and the
7 Board can take what they will with regard to that.
8 Obviously, he did not do a calculation of what might
9 be in five or six or seven or eight years, whenever
10 those plants put these sorts of things in. That goes
11 to the weight, not to the admissibility.

12 MR. COLANGELO: Your Honor, let me just
13 oppose for the record, I oppose Mr. Bentine's
14 testimony on behalf of the AMP-Ohio.

15 EXAMINER PRICE: I didn't take his
16 statement as testimony.

17 MR. COLANGELO: All right, your Honor.

18 With respect to the RHGS, AMP-Ohio's
19 counsel, Mr. Bentine, stipulated there was no binding
20 commitment to shut that facility down. That's on the
21 record in the Kiesewetter deposition, and the witness
22 testified the St. Mary's facility has already shut
23 down. The basis for the objection is the same, the
24 chart does not represent what it purports to be.

1 EXAMINER PRICE: The motion to strike
2 will be denied. You can make the arguments that
3 you're making today as to weight the Board should
4 consider this particular piece of evidence.

5 MR. COLANGELO: Okay, your Honor. I'd
6 also move to strike RM-5 based on the witness'
7 testimony that he did not review any of the numbers
8 in the graph, he does not know who prepared the
9 graph, and, therefore, has no personal knowledge of
10 the information in this graph. It's Exhibit RM-5 to
11 the Meyer direct testimony.

12 EXAMINER PRICE: Mr. Bentine.

13 MR. BENTINE: I don't think the witness
14 ever indicated that he had no knowledge of these
15 numbers and whether or not they were accurate, your
16 Honor. I do admit he indicated he did not make this
17 chart and he indicated that he did not perform the
18 calculations. This was done by, as he indicated,
19 Sargent & Lundy, who was a consultant for AMP-Ohio.
20 If Mr. Meyer has no knowledge about whether or not
21 these are accurate, we'll withdraw it.

22 EXAMINER PRICE: Mr. Bentine, can you
23 explain to me, for my benefit, why this chart should
24 stay in and the charts that we granted your motion to

1 strike last night should stay out? I just want to be
2 consistent.

3 MR. BENTINE: And I understand that, your
4 Honor, and that's why I said -- I believe I asked a
5 number of questions about the accuracy and whether or
6 not Mr. Furman would testify to the accuracy of
7 those, and he could not, and that's why they were
8 stricken, and so I believe Mr. Meyer may be able to.
9 If he cannot, as I said, I'll withdraw it.

10 EXAMINER PRICE: Mr. Meyer, can you
11 testify as to the accuracy of the numbers in RM-5?
12 Can you personally verify the accuracy of the numbers
13 in Exhibit RM-5?

14 THE WITNESS: I did not personally
15 calculate these numbers myself.

16 EXAMINER PRICE: Did you look up the
17 numbers to check if these numbers were accurate,
18 personally?

19 THE WITNESS: No, I did not.

20 EXAMINER PRICE: Did anybody do it under
21 your direction?

22 THE WITNESS: I would say no.

23 MR. BENTINE: We will withdraw it, your
24 Honor.

1 EXAMINER PRICE: Mr. Bentine is going to
2 withdraw it.

3 MR. COLANGELO: That's all I have, your
4 Honor.

5 EXAMINER PRICE: Thank you.

6 Ms. Young.

7 - - -

8 CROSS-EXAMINATION

9 By Mr. Young:

10 Q. When you were asked about the impacts,
11 what we thought we heard you say over here, that the
12 impacts of coal were not important. Can you either
13 play back or restate that answer? For myself I would
14 like to hear you say that. I would like to hear the
15 response to that.

16 A. Could you repeat the question?

17 Q. When you were asked why coal mining
18 impacts were not taken into consideration in the
19 studies that you did, what Lola and I thought we
20 heard you say was that they were not important. I
21 would just like to get clarification on that.

22 A. I don't believe that's what I said. I
23 believe what I said was they were not required to be
24 considered in the Power Siting Board application.

1 MS. YOUNG: We heard about a three-word
2 response over her. I guess we are having trouble
3 hearing over here.

4 THE WITNESS: I am having trouble hearing
5 as well.

6 Q. You were required to take the coal barges
7 into account in the impacts?

8 A. Within the 404 application, yes.

9 Q. Can you operate AMPGS without coal?

10 A. No.

11 Q. Thank you.

12 EXAMINER PRICE: Staff?

13 MS. MALONE: Just a few.

14 - - -

15 CROSS-EXAMINATION

16 By Ms. Malone:

17 Q. Mr. Bentine asked you some questions
18 clarifying your testimony in questions 20 through 23
19 at pages 6 and 7 of your prefiled testimony,
20 Mr. Meyer, and I think you indicated that the company
21 was willing to agree to more restrictive conditions
22 on landfill construction and operation than were
23 proposed by the staff to be included in any
24 certificate, if one is issued, in the staff report,

1 correct?

2 A. Yes.

3 Q. And the conditions that you agreed to
4 included specifically not utilizing cell 2A or cell
5 2B of the landfill, correct?

6 A. That's correct.

7 Q. And also not utilizing the portion of
8 cell 3A of the landfill which would drain to what is
9 proposed as pond 2.

10 A. That's correct.

11 MS. MALONE: Thank you, I have no further
12 questions.

13 EXAMINER PRICE: Mr. Bentine.

14 MR. BENTINE: Thank you, your Honor.

15 If I remember, when we say in answer to
16 staff counsel's question, Ms. Malone, we agreed to do
17 that without -- we wouldn't do it without further
18 order of the Power Siting Board, I believe is what
19 you said, Ms. Malone.

20 MR. JONES: That's correct.

21 MS. MALONE: It's generally correct.

22 There's a version of updated staff conditions which
23 were circulated to parties that has more language. I
24 was trying to get it generally clear on the record

1 for now.

2 EXAMINER PRICE: Thank you. One second.
3 Is it the staff's expectations that the revised
4 conditions will be available at the time Mr. Pawley
5 gives his testimony?

6 MS. MALONE: Absolutely, your Honor. We
7 are just trying to avoid marking them and talking
8 about them all now.

9 MR. WRIGHT: Again, for the record, your
10 Honor, comments have been invited from all.

11 EXAMINER PRICE: Thank you.

12 Mr. Bentine.

13 - - -

14 REDIRECT EXAMINATION

15 By Mr. Bentine:

16 Q. Let's talk a little bit about Exhibit 6,
17 RM-6. Mr. Colangelo asked you some questions about
18 whether or not the market sources there contained
19 plants of AEP and Ohio Edison. Do you recall that?

20 A. Yes.

21 Q. And he asked you whether or not some of
22 those plants would have reductions as a result of the
23 certain settlements with the EPA and the Clean Air
24 Interstate Rule. Do you recall that?

1 A. Yes.

2 Q. First of all, were there other plants
3 other than Ohio Edison and AEP in your -- in that mix
4 of plants that was used for those numbers?

5 A. Yes. There would have been Duke Energy
6 plants, DP & L plants, perhaps others.

7 Q. And, generally speaking, under the Clean
8 Air Interstate Rule, when is that going to require
9 reductions in emissions?

10 A. I believe the earliest reductions to be
11 in 2009. But it's important to recall in the CAIR
12 regulations these are not unit-specific. It's
13 changing the caps for the region. So some plants may
14 make reductions; some other plants may not.

15 Q. So it's true that some of the emission
16 rates for these plants could stay exactly where they
17 are with regard to CAIR.

18 A. Yes.

19 Q. And that starts in 2009 and then phases
20 in over a long period of time; is that correct?

21 A. That's correct.

22 Q. Do you know how long or over what period
23 of time with regard to settlements with EPA and the
24 FirstEnergy settlements and AEP and EPA, that those

1 reductions would be phased in?

2 A. I don't.

3 Q. It would be over some period of time,
4 however, would it not?

5 A. Yes.

6 Q. Now, Mr. Meyer, much has been made about
7 whether or not AMP-Ohio is committed to shut down the
8 R. H. Gorsuch station or not. Could you tell me what
9 your understanding is of AMP-Ohio's position with
10 regard to the Richard H. Gorsuch station as related
11 to the construction and operation of AMPGS?

12 A. Well, all of our members that are
13 participants in the Richard H. Gorsuch station
14 project have committed to capacity in the AMPGS
15 project, so it's expected that when the AMPGS project
16 goes on line, that capacity would be switched and
17 would no longer be needed at the Gorsuch station, and
18 at that point it would be either shut down on
19 repowered in some fashion.

20 Q. And Mr. Kieseewetter testifies to that as
21 well, does he not?

22 A. Yes.

23 Q. If you know, Mr. Meyer, have the
24 industries that depend on the co-generated steam from

1 RHGS, have they been notified of the termination of
2 their contracts?

3 A. Yes.

4 Q. And if you know, Mr. Meyer, have their
5 been conversations about possible repowering of that
6 with some of those folks?

7 A. Yes.

8 Q. And, if you know, Mr. Meyer, has AMP-Ohio
9 looked into repowering of that station?

10 A. Yes.

11 Q. Could you explain to the Board what
12 AMP-Ohio has done, the extent of your knowledge to
13 look at repowering?

14 A. We issued a statement of interest to
15 various parties that may be interested in repowering,
16 and we got a number of responses back to that, and
17 it's been narrowed down to a few respondents for
18 further discussion and negotiation.

19 Q. And what, if you know, what is the
20 current estimate with regard to the amount of
21 megawatts that would be done and the kind of
22 repowering that would be done?

23 A. The current proposal would be to expand
24 the capacity to 350 megawatts as part of an IGCC

1 facility.

2 Q. And would AMP-Ohio under that proposal,
3 if you know, be taking all of that 350 megawatts?

4 A. My understanding is we would take
5 approximately half of that.

6 Q. Now, we talked about St. Mary's being
7 already shut down, do you recall that, with
8 Mr. Colangelo?

9 A. Yes.

10 Q. What is your understanding of the
11 St. Mary's shutdown and that decision?

12 A. It was based in part on anticipation of
13 the city of St. Mary's taking capacity in AMPGS.

14 Q. And do you believe that there would be
15 other older member generation that might not continue
16 after the -- that is, older member coal-fired
17 generation as currently operated -- that might not be
18 continued to be operated after AMPGS is in service?

19 A. Yes. I believe that's what will happen.

20 Q. And you did not include any of those in
21 your estimation, did you?

22 A. No, I did not.

23 Q. There was a lot of discussion with
24 Mr. Colangelo with regard to your determinations that

1 this plant would comply with the statutes rather than
2 getting into exactly what they said, but comply with
3 what you have referenced in answers to questions as
4 minimum adverse impact, minimum adverse environmental
5 impact, taking into account the other considerations
6 listed in your testimony. Do you recall that?

7 A. Yes.

8 Q. Were a number of environmental
9 considerations considered in the application to the
10 Power Siting Board?

11 A. Yes.

12 Q. Were a number of environmental
13 considerations -- strike that. Let me ask this.
14 What other permits have been applied for with regard
15 to AMPGS?

16 A. We have applied for an NPDES permit for
17 water discharge and water intake. We have applied
18 for a solid waste permit for fly ash, bottom ash, and
19 possibly synthetic gypsum disposal. We've applied
20 for a 401 water quality certifications for wetlands
21 and streams. We've applied for a
22 404 certification -- a 404 permit, section 10 permit
23 for dredging the Ohio River, construction of barge
24 docking facilities. We've applied to the FAA and the

1 Ohio Department of Transportation to construct two
2 tall stacks. I believe that's it at the moment.

3 Q. Did the air permit address anything to do
4 with CO2?

5 A. We addressed it in the air permit, that
6 it was an item that we considered, and that's why the
7 PowerSpan scrubber was included.

8 Q. Did the information -- first of all, you
9 were involved in all those permits that you just
10 listed, were you not?

11 A. Yes.

12 Q. And did your investigations that led to
13 the filing of those permits, the information in that
14 permit, play any role in your conclusions that we
15 just talked about with regard to minimum adverse
16 impacts?

17 A. Yes.

18 Q. And what was that role?

19 A. Well, in all cases they're compliant
20 where environmental regulations, and in the case of
21 the 401 NPDES we demonstrated anti-degradation.

22 EXAMINER PRICE: Could you explain for
23 the Bench what anti-degradation means?

24 THE WITNESS: We're required to go

1 through an anti-degradation analysis that essentially
2 forces us to look at other alternatives. For
3 example, for the water intake we looked at options
4 for essentially not withdrawing any water. We look
5 at options for a zero discharge and all kinds of
6 combinations in between, and we evaluated the impacts
7 to the environment within the context of those and
8 costs and technological feasibility.

9 EXAMINER PRICE: Thank you.

10 Q. Did you do any modeling for pollutants
11 such as mercury?

12 A. Yes, we did.

13 Q. Can you tell me what you did?

14 A. We did air dispersion modeling for all of
15 the criteria pollutants.

16 MR. COLANGELO: May I object to the
17 question and answer. This goes beyond the scope of
18 my cross.

19 MR. BENTINE: I don't see -- he asked him
20 lots of questions about what studies they did, what
21 environmental studies we have done. I think --

22 MR. COLANGELO: About particular impacts,
23 nothing about mercury. Air dispersion modeling or
24 mercury did not come up at all.

1 EXAMINER PRICE: Sustained.

2 Q. Do you recall Mr. Colangelo asking you --
3 well, perhaps he didn't. Do you recall your
4 deposition by Mr. Colangelo?

5 A. Yes.

6 MR. BENTINE: Your Honor, let me tell you
7 where I'm going with this.

8 EXAMINER PRICE: I'd appreciate it.

9 MR. BENTINE: We had a discussion with
10 regard to whether or not we were going to change this
11 witness' errata sheet. Your Honor granted a motion
12 to strike, and I understand that. I'm not arguing
13 that, at least at this point anymore. But the
14 deposition took place over some period of time.
15 There is a place earlier in the deposition that I
16 think clarifies that later answer.

17 Mr. Colangelo is going to try to beat
18 this answer to death, the "no" on the analyze, and I
19 think I ought to be, given your Honor's ruling, able
20 to do one of two things: Either quote the deposition
21 transcript of my own witness earlier that I think
22 clarifies this, or go over it with him now, one or
23 the other, and I don't care which. But to put that
24 answer in context, I think I ought to be able to

1 quote this deposition or show it to him now.

2 MR. COLANGELO: Your Honor, I think it's
3 fine if he wants to ask Mr. Meyer about the topic. I
4 don't think it's proper for him to quote the witness'
5 deposition. If he wants to ask him about that
6 question, because it did come up during the cross,
7 and whether it is an incomplete or partial answer,
8 but I don't think he should be able to quote his own
9 witness' deposition.

10 MR. BENTINE: Let me try to do it another
11 way. I can do it another way.

12 EXAMINER PRICE: You can do it another
13 way? Excellent.

14 Q. (By Mr. Bentine) Mr. Meyer, you will
15 recall a question about did you, quote, analyze CO2?

16 MR. COLANGELO: Objection, your Honor.
17 The question was evaluate. The question we talked
18 about earlier was evaluation.

19 EXAMINER PRICE: Rephrase the question.

20 Q. And do you recall the question, did you
21 evaluate the impacts of CO2 in coming to your
22 conclusions?

23 A. Yes.

24 Q. And your answer was no, but I considered

1 it, correct?

2 A. Correct.

3 Q. And when you asked that question in the
4 deposition you just said no, correct?

5 A. Correct.

6 EXAMINER PRICE: Mr. Bentine, let's go
7 off the record for one minute, please.

8 (Discussion off record.)

9 MR. BENTINE: Let me withdraw the last
10 question.

11 EXAMINER PRICE: Thank you.

12 Q. You indicated in response to a question
13 on this record that you did consider CO2, correct?

14 A. Yes.

15 Q. Okay. Could you tell me within the
16 context of this application and the balance of the
17 permits that AMP-Ohio has asked for and in its
18 planning of their project how CO2 is considered?

19 A. We considered it in the sense that it was
20 possible that in the future we could see CO2
21 regulation, and we wanted to have an option to
22 control CO2 if we needed to, and, hence, that
23 resulted in the investigation of PowerSpan because
24 that offered what we considered at the time a very

1 promising technology that would work with a PC,
2 pulverized coal, plant that would scrub out CO2.

3 Q. Is it your understanding that there is no
4 current federal or Ohio regulation regulating CO2
5 emissions from electric generation stations like
6 AMPGS?

7 A. That's correct.

8 MR. COLANGELO: I'd like to object to the
9 extent he's asking for a legal conclusion.

10 EXAMINER PRICE: Overruled. It is not
11 unusual in Power Siting Board or Public Utility
12 proceedings to allow a witness to testify as to
13 regulatory matters.

14 MR. BENTINE: And I did ask for his
15 understanding as well.

16 EXAMINER PRICE: Exactly.

17 A. That is my understanding.

18 Q. Turn to page 5 of your testimony,
19 Mr. Meyer. You were asked some questions in your
20 cross-examination about the emissions from Polk and
21 Wabash.

22 A. Yes.

23 Q. Do you recall that?

24 A. Yes.

1 Q. Do you have of your own knowledge, or
2 anything done under your direction and supervision, a
3 general knowledge of the emission levels from the
4 Taylorville -- excuse me -- from the Polk County and
5 Wabash IGCC units?

6 A. Yes.

7 Q. Without reference to Exhibit RM-5, can
8 you state of your own knowledge that the two IGCC
9 plants currently in operation in the US, Polk County
10 and Wabash, have emission rates that are comparable
11 to emission rates proposed for AMPGS, again, without
12 any reference to Exhibit RM-5?

13 A. Yes, I do; because in the past part of my
14 investigation of repowering the Gorsuch station I
15 looked in detail at the emissions from Polk County,
16 and, in fact, visited the site and compared that to
17 what we could do with a comparably new pulverized
18 coal plant.

19 Q. So the answer to my question is yes, of
20 your own knowledge you can still make that statement
21 in your testimony?

22 A. Yes.

23 MR. BENTINE: That's all I have on
24 redirect, your Honor.

1 EXAMINER PRICE: Thank you.

2 Mr. Colangelo.

3 - - -

4 RECROSS-EXAMINATION

5 By Mr. Colangelo:

6 Q. Mr. Meyer, turn back to the RM-6 for just
7 a minute in AMP-Ohio Exhibit 2, your direct
8 testimony. Do you know how many of the plants
9 included in the market-based power row in this
10 exhibit are Ohio Edison or AEP plants?

11 A. No, I don't know exactly how many.

12 Q. Do you know which ones, which of the
13 plants included in the row will make emissions
14 reductions pursuant to the Clean Air Interstate Rule
15 and which may not?

16 A. No, I don't.

17 Q. You testified that the St. Mary's power
18 plant, which closed recently -- is that right?

19 A. Yes.

20 Q. You testified that it closed in part
21 because of anticipation of the construction of the
22 AMPGS facility; is that right?

23 A. Yes.

24 Q. What were the other reasons?

1 A. Probably cost, but I'm not sure what the
2 other reasons were.

3 Q. Would age be one of them as well?

4 A. It's likely.

5 Q. It's an old plant?

6 A. Yes.

7 Q. Did your answers to any of Mr. Bentine's
8 questions change your answers to any of my questions
9 earlier?

10 A. I believe so.

11 Q. So which questions are you changing your
12 answers to?

13 A. That I did consider CO2.

14 Q. And you believe you testified earlier
15 that you did not consider CO2?

16 A. That's what I thought I said.

17 Q. In your testimony today?

18 A. Yes.

19 Q. So you're saying you are changing your
20 answer earlier that you did not consider CO2 and you
21 are now saying you did consider CO2?

22 MR. BENTINE: Could I have the last prior
23 question reread for the witness? I don't think he
24 understood the question.

1 EXAMINER PRICE: Please read that back.

2 (Record read.)

3 A. Well, what I believe I testified to
4 earlier was that we did not evaluate but I considered
5 it.

6 Q. And are you saying you're changing that
7 opinion?

8 A. No, that's my opinion.

9 Q. Let me ask this question again. Did you
10 change any of your answers to my questions in your
11 answers to Mr. Bentine's questions?

12 A. No, I don't think I did.

13 Q. You mentioned potential use of PowerSpan
14 for CO2 control; is that right?

15 A. Yes.

16 Q. And PowerSpan for CO2 control is not
17 commercially ready; is that right?

18 A. They operated a commercial demonstration
19 unit.

20 Q. At what scale?

21 A. It was 50 megawatts.

22 Q. Did you say for CO2 or was that for SO2?

23 A. I'm sorry, that was for SO2.

24 Q. So PowerSpan has operated at commercial

1 scale at 50 megawatts for SO2.

2 A. That's correct.

3 Q. Is PowerSpan for CO2 control commercially
4 ready?

5 A. No.

6 MR. COLANGELO: That's all I have, your
7 Honor.

8 EXAMINER PRICE: Thank you.

9 Ms. Young?

10 MS. YOUNG: No.

11 EXAMINER PRICE: Staff.

12 MR. WRIGHT: Can you give us one second?

13 EXAMINER PRICE: Sure.

14 MS. MALONE: Just one question.

15 - - -

16 RECROSS-EXAMINATION

17 By Ms. Malone:

18 Q. Mr. Bentine went through in his redirect
19 a series of permits which you identified which have
20 been filed with the company related to this project.
21 Do you recall that?

22 A. Yes.

23 Q. The company hasn't, in fact, received an
24 NPDES permit, correct?

1 A. Not yet.

2 Q. Or an air permit, correct?

3 A. A draft air permit.

4 Q. But you have not received a final permit.

5 A. Correct.

6 Q. So in that entire list of permits, none
7 of those permits have been issued yet, correct?

8 A. That's correct.

9 EXAMINER PRICE: Mr. Bentine?

10 MR. BENTINE: I have nothing further for
11 this witness, and I would move AMP-O Exhibit 2 --

12 EXAMINER PRICE: Hold on. Is there
13 anything else? Because I think the Bench has some
14 questions.

15 EXAMINER BOJKO: I have some questions.

16 - - -

17 EXAMINATION

18 By Examiner Bojko:

19 Q. We were just talking about PowerSpan. I
20 think yesterday there was a little confusion whether
21 AMP-Ohio will be using PowerSpan, and I think today
22 that may be because there's two different types of
23 PowerSpan. I want to just get it clear what
24 PowerSpan can do for the different types things. I

1 want to be clear if AMP-Ohio is proposing in its
2 application to the Board to use PowerSpan?

3 A. Yes.

4 Q. Okay. And it's proposing to use
5 PowerSpan for both SO2 now and then in the future
6 carbon dioxide?

7 A. Well, I think it can be used now for SO2.
8 If the research continues to pan out as it currently
9 looks like it will, then it could be used in the
10 future for CO2 capture.

11 Q. So the PowerSpan technology has been
12 actually built into the total projected costs of the
13 plant, in the design and the plan for this AMP-Ohio
14 plant?

15 A. Yes.

16 EXAMINER PRICE: Do you have an
17 understanding or any knowledge when you believe
18 PowerSpan for CO2 capture may be commercially viable?

19 THE WITNESS: My opinion is three to five
20 years. PowerSpan has recently signed an agreement
21 with BP to collaborate on the commercialization of
22 that portion of it. They've reached an agreement
23 with NRG, another utility company, to install it on
24 one of the units at the Parish plants near Sugarland,

1 Texas, and it would have carbon capture on it, and I
2 believe that's about a 125-megawatt unit. This
3 spring there's scheduled to start a one megawatt
4 slipstream pilot plant at Burger station, and as of I
5 think within the last month there was an announcement
6 from DOE to license the technology.

7 EXAMINER PRICE: All right.

8 Q. (By Examiner Bojko) Can we please turn to
9 page 7 of your testimony. There was a lot of
10 discussion around question 25 in your answer and then
11 question 26 you explained why, and I want to make
12 sure I understand your position. You're stating that
13 AMP-O's air emissions will decrease in AMP-Ohio's
14 footprint because of replacement of the older plants
15 and less efficient plants. Is that what you're
16 saying in here?

17 A. Yes.

18 Q. And do you have -- did you do an analysis
19 or are you stating an opinion with regard to --
20 respect to any alternative technologies and what it
21 would do the to overall air emissions footprint of
22 AMP-Ohio? Did you compare it to any other
23 technologies to determine whether this plant is a
24 lower reduction?

1 A. I did not compare that to alternative
2 technologies because those were eliminated early on
3 in our study for the plant. So once they were
4 eliminated, there wasn't a lot of additional analysis
5 for those alternatives.

6 EXAMINER BOJKO: I have nothing further.

7 EXAMINER PRICE: Neither do I.

8 Mr. Bentine, your motion.

9 MR. BENTINE: Yes, I move Randy Meyer's
10 testimony marked as AMP-Ohio Exhibit 2, and that
11 would not include RM 5, I believe RM-5. That we
12 withdrew.

13 EXAMINER PRICE: Any objections?

14 MR. COLANGELO: No objection, other than
15 as already noted. Thank you.

16 EXAMINER PRICE: AMP-Ohio 2 will be
17 admitted.

18 (EXHIBIT ADMITTED INTO EVIDENCE.)

19 EXAMINER PRICE: You're excused.

20 (Witness excused.)

21 MR. COLANGELO: I think I have a feeling
22 how this will turn out, but I'd like to move in our
23 exhibits as well, the three exhibits, Citizen Groups'
24 Exhibits 3, 4 and 5 I have marked. And if I could,

1 just anticipating the objection, state the basis on
2 the record, the witness is opining on the
3 environmental impacts, and these reports go to the
4 core issue in the case. They're public reports of an
5 international governmental body so there is no
6 hearsay problem. We produced them in discovery so
7 there's no fairness issue.

8 And as far as consistency's sake, for the
9 Court's ruling yesterday the court admitted an AEP
10 press release that was printed off the Internet
11 yesterday morning that the witness testified he had
12 never seen before, could not authenticate or lay any
13 foundation for it, which was not produced in
14 discovery, even though it was responsive to our
15 request. For consistency's sake, we think it is
16 appropriate to admit the exhibits marked 3, 4 and 5.

17 EXAMINER PRICE: You didn't use them.

18 MR. COLANGELO: Mr. Bentine didn't use
19 the AEP press release. The only testimony was: Have
20 you seen it? The witness said: No. Do you know
21 what it is? No. Is it an AEP press release? The
22 witness said: Yes. And Mr. Bentine moved on. He
23 did not use the AEP press release in any respect.

24 EXAMINER BOJKO: My recollection was that

1 they did use that. I made the ruling, that they did
2 cite to it.

3 MR. COLANGELO: It was a different press
4 release, the Tampa pres release that was relied on
5 and featured in the testimony, and there discussion
6 about that. My recollection there was no discussion
7 of the AEP press release.

8 EXAMINER PRICE: Even if that were true,
9 two wrongs don't make a right, so motion to admit
10 Citizen Groups' 3, 4 and 5 will be denied at this
11 time.

12 MR. BENTINE: May I make one statement,
13 and I'm not talking about the ruling.

14 EXAMINER PRICE: And I was not making a
15 comment upon the prior ruling, by the way. Even
16 assuming for the sake of argument that that ruling
17 was incorrect, we are still not allowing Citizen
18 Groups' 3, 4 and 5 in.

19 MR. BENTINE: I want to make one
20 statement for the record. Mr. Colangelo stated it
21 yesterday and stated it again today. We did not have
22 an interrogatory or request for production from these
23 folks that asked for every exhibit we were going to
24 use. They asked for things we would rely upon for

1 our witnesses, things we relied upon in our analysis.
2 Just so it's clear, if I pull something out of my bag
3 they haven't seen before, if we didn't rely on, I
4 will be entitled to use that because they did not ask
5 that question.

6 I asked that question, and, in fact, I
7 didn't get anything back, but they did not ask that
8 question, to have all of our exhibits beforehand.

9 EXAMINER PRICE: We were doing so well on
10 discovery.

11 MR. COLANGELO: I will say one quick
12 thing, that's correct, only the part we don't have a
13 pending discovery dispute. We did not ask for all
14 the exhibits they intended to use. We asked for
15 documents in their possession relevant to the subject
16 matter that that press release addressed. That press
17 release was dated November 7. They printed it off
18 the Internet yesterday, but it was presumably in
19 their possession at the time we made the discovery
20 request. That's why we believe it was responsive,
21 but no pending discovery dispute.

22 EXAMINER PRICE: Both parties made their
23 statements. I understand where we are at. Let's
24 take a ten-minute break.