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BEFORE THE OHIO POWER SITING BOARD

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. :

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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
 Columbus, Ohio, Columbus, Ohio, called at 1:00 p.m.
 on Monday, December 17, 2007.

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19 On behalf of the Ohio Environmental
20 Protection Agency.

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Monday Afternoon Session,
December 17, 2007.

- - -

EXAMINER PRICE: Good afternoon. The Power Ohio Siting Board has set for this time and this place case number 06-1358-EL-BGN, In the Matter of the Application of AMP-Ohio, Inc. for a Certificate of Environmental Compatibility and Public Need for an Electric Generation Station and Related Facilities in Meigs County, Ohio.

My name is Gregory Price, with me is Kimberly Bojko, we are the administrative law judges assigned to today's hearing. I'll note this is our third day of hearing in this particular matter.

Let's go ahead and take appearances today beginning with the company.

MR. BENTINE: Thank you, your Honor. On behalf of the applicant in this case, AMP-Ohio, Inc., the law firm of Chester, Willcox & Saxbe, LLP by John Bentine, April Bott, Nate Orosz, and Matt White, Mr. Steve Fitch has also entered an appearance in this matter.

MR. FISK: Good afternoon, your Honor. Shannon Fisk on behalf of Natural Resources Defense

1 Council. I also have with me Anjali Jaiswal from the
2 NRDC.

3 EXAMINER PRICE: Staff.

4 MR. JONES: Good afternoon, your Honor.
5 On behalf of the staff of the Ohio Power Siting
6 Board, Ohio Attorney General Marc Dann, William
7 Wright, John Jones, Assistant Attorneys General, 180
8 East Broad Street, Columbus, Ohio 43215.

9 MS. MALONE: And Margaret A. Malone, 30
10 East Broad Street, Columbus, Ohio and Christina
11 Grasseschi has also entered an appearance.

12 EXAMINER PRICE: Thank you.

13 As a preliminary matter I would like to
14 note for the record that today's hearing is being
15 filmed by Evening Star Productions. The parties and
16 Evening Star Productions have agreed that the filming
17 will only take place while we are on the record in
18 order to preserve confidential materials and
19 attorney-client privilege issues. They have agreed
20 to terminate their filming while we are off the
21 record.

22 With that do we have any other
23 preliminary matters that we need to address before we
24 take our first witness?

1 (No response.)

2 EXAMINER PRICE: Seeing none, Mr. Fisk,
3 call your next witness.

4 MS. JAISWAL: Good afternoon. Anjali
5 Jaiswal on behalf of Natural Resources Defense
6 Council. The citizen groups call David A. Schlissel
7 to the stand.

8 (Witness sworn.)

9 EXAMINER PRICE: Please be seated and
10 state your name and business address for the record.

11 THE WITNESS: My name is David, middle
12 initial A, last name Schlissel, S-c-h-l-i-s-s-e-l.
13 My business address is Synapse, S-y-n-a-p-s-e, Energy
14 Economics, 22 Pearl Street, Cambridge, Massachusetts.

15 EXAMINER PRICE: Please proceed.

16 - - -

17 DAVID A. SCHLISSEL

18 being first duly sworn, as prescribed by law, was
19 examined and testified as follows:

20 DIRECT EXAMINATION

21 By Ms. Jaiswal:

22 Q. Good afternoon, Mr. Schlissel. You've
23 introduced yourself for the record. Did you prepare
24 written testimony for this proceeding?

1 A. Yes.

2 MS. JAISWAL: Your Honor, I'd like to
3 introduce this and mark this as Citizen Groups'
4 Exhibit 6. I believe that's what we're on. May I?

5 EXAMINER PRICE: Yes, please. Just, for
6 clarification, are you marking the redacted portion?

7 MS. JAISWAL: Yes. My understanding is
8 that AMP-Ohio has agreed to use the confidential
9 version that discusses production materials at
10 today's hearing.

11 Is that correct, Mr. Bentine?

12 MR. BENTINE: Yes, we've waived any claim
13 to confidentiality on the materials as they appear in
14 Mr. Schlissel's confidential version, so we're
15 perfectly all right with using that as the public
16 version in today's proceeding.

17 EXAMINER PRICE: In its entirety.

18 MR. BENTINE: In its entirety.

19 EXAMINER PRICE: Thank you very much.

20 MR. BENTINE: I have some motions later.

21 EXAMINER PRICE: I'm sure.

22 MR. BENTINE: For that purpose, I'm fine.

23 EXAMINER PRICE: Thank you.

24 MS. JAISWAL: And in accordance with the

1 court's protective order we originally only provided
2 copies of these to the parties that entered into the
3 protective order, and now we will be providing them
4 to the rest of the parties and I would like to
5 approach to provide the marked copy to the court
6 reporter.

7 EXAMINER PRICE: Please proceed. Just to
8 clarify, we're at Exhibit 6, Citizen Groups' Exhibit
9 6?

10 MS. JAISWAL: Yes, your Honor, Exhibit 6.
11 And these are colored copies because the scanned one
12 may not have been. Unfortunately, with them being
13 single sided, it was too large to use the binder
14 clips so we had to use rubber bands.

15 (EXHIBIT MARKED FOR IDENTIFICATION.)

16 MS. JAISWAL: For the record, I've shown
17 Exhibit 6 to counsel and it was also served and
18 submitted to the Board on December 3rd, 2007.

19 Q. (By Ms. Jaiswal) Mr. Schlissel, do you
20 have Exhibit 6 in front of you?

21 A. Yes.

22 Q. Do you recognize this document?

23 A. Yes.

24 Q. Please tell us what it is.

1 A. This is the testimony that I wrote and
2 the exhibits that are attached thereto.

3 Q. Thank you.

4 And what is it dated?

5 A. December 3rd, 2007, two weeks ago
6 today.

7 Q. Did you personally prepare this
8 testimony?

9 A. Yes.

10 MS. JAISWAL: Your Honor, we offer
11 Citizen Groups' Exhibit 6 in evidence on behalf of
12 NRDC and Sierra Club.

13 One notation, too, the citizen groups
14 filed a notice of errata regarding this document
15 where it crossed out the Ohio Environmental Council
16 so if you see, this testimony is submitted on behalf
17 of NRDC and the Sierra Club.

18 EXAMINER PRICE: So noted.

19 Mr. Schlissel, do you have any additions
20 or corrections to your testimony?

21 THE WITNESS: No, sir.

22 EXAMINER BOJKO: Just for clarification,
23 is the copy that you just provided to us the same as
24 the one filed on December 4th with the exception of

1 the Ohio Environmental Council name removed as well
2 as I guess the protective status removed?

3 MS. JAISWAL: What we filed, just to
4 answer the question fully, what we filed were two
5 versions, we filed this version and then a redacted
6 public version. This version is the confidential
7 version that AMP-Ohio has agreed to provide for the
8 hearing.

9 The correction that we made, we did a
10 two-page notice of errata noting the corrections that
11 we were making, this does not strike out what those
12 corrections were, but they were very simple. What
13 they did was they corrected the first page and took
14 off "Ohio Environmental Council" on there, and then
15 on the first page of the testimony itself or where
16 Mr. Schlissel discusses who he is representing on
17 page 2, lines 13 and 14, striking "Ohio Environmental
18 Council" from the record. That was the notice of
19 errata and correction that we requested.

20 EXAMINER BOJKO: Okay. So the
21 confidential version that you filed on December
22 4th is the same as the version that you just marked
23 as Citizen Groups' Exhibit 6?

24 MS. JAISWAL: Yes, your honor. Thank you

1 for the clarification.

2 EXAMINER PRICE: Mr. Bentine.

3 MR. BENTINE: Yes, thank you, your Honor.
4 I have some motions with regard to the testimony that
5 I would like to make at this time.

6 EXAMINER PRICE: Please proceed.

7 MR. BENTINE: I'll be going through the
8 testimony serially and I'll try to give you page and
9 line numbers and reasons. There are quite a number
10 of them so I don't know whether, and many of them are
11 based on the same matters, the same bases, so I don't
12 know whether the Bench cares to take them all and
13 rule on them individually or whether you want to wait
14 till the end and then look at all of them.

15 EXAMINER PRICE: Let's take them one at a
16 time and we'll rule on them as we go.

17 MR. BENTINE: Okay. Page 6 is the first
18 motion, lines 1 through 7, and I'll make the primary
19 argument in support of this on this one and there
20 will be a number of others.

21 This witness has determined in his
22 testimony to comment on the status of the responses
23 to discovery which was undertaken in this proceeding
24 and our responses to that discovery, frankly that

1 doesn't include a number of the discovery items that
2 we've given to NRDC and Sierra Club after your Honors
3 ruled on the motions to compel.

4 As your Honors are currently aware, we
5 have no further motions to compel, which the parties
6 have agreed to. As you'll recall, your Honor, we
7 objected in most strenuous terms to the late
8 intervention of these three parties and, as the
9 record has already shown, these parties knew about
10 this proceeding well in advance of their
11 intervention.

12 They made public records requests with
13 regard to this proceeding and our members, Cleveland
14 and others, well in advance of their intervention in
15 this proceeding, and they got a number of documents
16 from those public records requests, some of which
17 answer some of the questions that Mr. Schlissel has
18 now taken issue with our not providing under
19 discovery.

20 Secondly, we objected on a broad range of
21 terms on nearly all of the items that Mr. Schlissel
22 comments on, including undue burden, vagueness, as
23 well as relevancy. The undue burden on this was
24 significant due to the lateness of the intervention.

1 We compressed preparation and discovery for this
2 massive case in a little over four weeks. We
3 complied with an accelerated discovery schedule in
4 which we agreed to answer within 15 days. We
5 provided thousands and thousands and thousands of
6 pages of documents, each of which had to be reviewed
7 for privilege, confidentiality, and other matters by
8 counsel before they were turned over.

9 We bent over backwards to respond in the
10 short time that everybody agreed had to be done to
11 get this hearing done on time, but the problem here
12 was the late intervention of these parties.

13 To now have one of their witnesses beat
14 us up in his testimony because he didn't get
15 information in discovery is outrageous.

16 Additionally, we object to simply putting
17 in whole pieces of discovery all of which, not all of
18 which, but nearly all of which was objected to and it
19 was provided over objection. Simply providing those
20 as an exhibit to his testimony, again, I believe is
21 improper.

22 MS. JAISWAL: To clarify, are you
23 referring to -- which exhibit?

24 MR. BENTINE: DAS-2, which includes our

1 responses to the discovery pretty much in toto,
2 including instructions and general objections.

3 So I believe it irrelevant and I believe
4 it unfair for this witness now to be able to beat us
5 up on the record for discovery responses, some of
6 which they got after this original set of responses
7 that he's attempting to put in, some of which they
8 had before from public records requests and,
9 therefore, I object and I move to strike lines 1
10 through 7 on page 6 as a result.

11 EXAMINER PRICE: Counsel, I would like
12 you to respond, but I just want you to keep in mind
13 the reason I asked him if he had any additions or
14 corrections is I anticipated this was going to come
15 up. He should be answering his questions as if he
16 was giving his testimony today, and they've
17 responded -- last I understood, they responded to all
18 of your discovery disputes -- or, all your discovery
19 requests. There were no pending discovery disputes.

20 MS. JAISWAL: May I respond?

21 EXAMINER PRICE: Sure.

22 MS. JAISWAL: Thank you. First,
23 Mr. Bentine's issue with our intervention. Your
24 Honor, you have properly granted our intervention.

1 Mr. Bentine is taking a second bite at the apple
2 regarding our intervention. As you ruled, it is
3 proper, we followed the court's proceedings for
4 intervention and we intervened as a party and have
5 all of the rights of a party.

6 Parties are afforded the right to conduct
7 discovery; that's exactly what happened in this case.
8 It is not unusual in any other case. We sent out
9 requests for production of documents. We sent out
10 other requests for discovery. They were largely
11 objected to with the exception of the responses we
12 got in Exhibit 2.

13 The inclusion of Exhibit 2 is entirely
14 proper to Mr. Schlissel's testimony because it falls
15 under a party admission under the rules of evidence.

16 Moreover, aside from that, the Power
17 Siting Board's rule 4906-7-09(A) explicitly requires
18 the admission of all material and relevant evidence.
19 These responses are statements by AMP-Ohio. In terms
20 of these documents, Mr. Schlissel reviewed them on
21 the short time schedule; he answered them as he knew
22 them. Mr. Schlissel has reviewed new documents that
23 have been provided by AMP-Ohio.

24 If the court would like, I can lay a

1 foundation for why his testimony has not changed
2 based on that information and why this answer remains
3 true.

4 EXAMINER PRICE: I don't want you to -- I
5 want you to explain to me why this answer remains
6 true. You don't need to lay the foundation, but
7 explain to me why this remains true.

8 MS. JAISWAL: As an offer of proof -- I
9 certainly will, your Honor. As an offer of proof,
10 Mr. Schlissel today, we have identified him as an
11 expert to discuss CO2 costs, to discuss the
12 increasing costs of construction for a power plant,
13 and the cost of alternatives.

14 Mr. Schlissel, as he will testify today,
15 if asked, and as provided in his testimony, and his
16 Exhibit 1 show that Mr. Schlissel is an expert and
17 has reviewed applications and materials that go with
18 those applications for proposed power plants.

19 Mr. Schlissel's testimony is that in
20 reviewing these documents as well as in reviewing
21 what was offered after the initial request for
22 discovery does not match up with what is typically
23 provided in these types of cases, that there is a
24 certain amount of information that AMP has refused to

1 provide.

2 We understand that we had a motion to
3 compel before this court and your Honor ruled on the
4 motion to compel. In order to follow the court's
5 proceedings as well as not to further delay this
6 proceeding, we set-aside our objections to the motion
7 to compel.

8 However, Mr. Schlissel does have
9 sufficient information to support his conclusions
10 that he presents here today as well as in this
11 written testimony.

12 EXAMINER PRICE: I'm not worried about
13 the conclusions, I'm worried about his answer to
14 lines 3 to 7.

15 MS. JAISWAL: To support his answer. So
16 for the record, the question is "Has AMP-Ohio
17 provided all of the documents necessary to conduct a
18 full investigation of this proceeding?

19 "Answer: No. AMP-Ohio has refused to
20 provide almost all of the documents that we
21 requested, other than providing a limited number of
22 narrative answers and promising to provide a few
23 documents, some of which we received on December
24 1st and others of which have not yet been provided

1 as this testimony is being finalized on December
2 3rd."

3 EXAMINER PRICE: Thank you.

4 We're going to grant the motion to
5 strike, this particular motion to strike.

6 EXAMINER BOJKO: For the record, on page
7 6, lines 1 through 7 will be stricken.

8 EXAMINER PRICE: Yes.

9 Mr. Bentine. Next motion.

10 MR. BENTINE: The next one may seem
11 silly, your Honor, but I think it's necessary. Lines
12 8 and 9, it's not a question, it's not an answer,
13 it's some sort of editorial comment. It's not
14 appropriate to be in the middle of testimony.

15 EXAMINER PRICE: I think they're just
16 trying to break up -- this is the nature of headings
17 in testimony. We'll allow this.

18 MR. BENTINE: Next is on page 9, line 4,
19 first a portion of that is after the word "No," the
20 rest of that line down to line 6, the end of the
21 sentence, and the footnote. Same basis as previously
22 argued, your Honor.

23 THE WITNESS: But they've not provided
24 those documents.

1 EXAMINER PRICE: I'm sorry. Your counsel
2 will respond.

3 MS. JAISWAL: Your Honor, in response, as
4 I explained in the previous motion, AMP-Ohio has not
5 provided all of the documents, they have not answered
6 the question "Does the risk analysis presented in the
7 Initial Project Feasibility Study provide an adequate
8 consideration of the risks and uncertainties
9 associated with the proposed AMPGS Project?" They
10 have not provided these documents and, therefore,
11 this testimony stands true and correct today.

12 MR. BENTINE: If I might, your Honor, I
13 did not move to strike the "No"; they can stand on
14 that answer. My problem is the balance of this.
15 They've deposed our witnesses, we've given them all
16 kinds of documents, and I object to this.

17 MS. JAISWAL: Your Honor, this is direct
18 testimony, it is not cross-examination, therefore, an
19 explanation is entirely proper.

20 EXAMINER PRICE: I understand that, but
21 again, you have no outstanding motion to compel. All
22 those issues were resolved one way or the other.
23 Frankly, I think at the time we actually only ruled
24 on about three questions on the motion to compel;

1 everybody represented to us that parties had worked
2 out an arrangement on those documents. You can't now
3 turn around and start alleging that AMP-Ohio has
4 refused to do this or refused to do that.

5 The motion to strike will be granted.

6 MR. BENTINE: Next, your Honor, is a
7 little bit different, but the same page, same answer
8 beginning on line 9, the phrase beginning "given the
9 reductions in CO2 emissions that will be necessary to
10 stabilize atmospheric temperatures," I move to strike
11 that on the basis that this gentleman is not --
12 there's no foundation in his testimony with regard to
13 whether or not he's a meteorologist or a
14 climatologist or other scientist that is appropriate
15 to make the statement that "given the reductions in
16 CO2 emissions that will be necessary to stabilize
17 atmospheric temperatures," and I believe it also
18 irrelevant to this proceeding.

19 EXAMINER PRICE: Counsel.

20 MS. JAISWAL: Your Honor, we have not or
21 the basis of these objections have not been set forth
22 by Mr. Bentine. He has not cross-examined
23 Mr. Schlissel. He has not asked him about his
24 expertise. It has been provided to this court. And

1 Mr. Schlissel is an expert on increasing CO2 costs as
2 well as what the present bills are in Congress.

3 These statements are appropriate.

4 EXAMINER PRICE: We're going to defer
5 ruling on this one. When you do your
6 cross-examination, you can either set up the cross
7 and then we'll rule on it then, or we'll go from
8 there.

9 MR. BENTINE: Thank you, your Honor.

10 Next is on page 15, and again, you may
11 want to defer this one too, your Honor, but this is
12 very similar, two motions with regard to portions of
13 the answer, and I'll skip my motion on the first two
14 lines, but on line 6 beginning "and the resultant
15 widespread climate changes."

16 Again, I have no problem with this
17 witness talking about the prospect of global warming,
18 but he hasn't been qualified to talk about the
19 resultant widespread climate changes, I think that's
20 outside his expertise.

21 Similarly, on that same page, line 20,
22 after the word "developments," the phrase "combined
23 with the growing scientific understanding of, and
24 evidence of, climate change." That may be true, but

1 it's not relevant to this proceeding and this witness
2 certainly is not qualified to make that conclusion.

3 EXAMINER PRICE: As you noted, we'll
4 defer that until after you've had a chance to examine
5 the witness.

6 MR. BENTINE: Next on page 22, and the
7 motion is really in two parts, your Honor, but I'm
8 going to move to strike lines 1 through 9 on this
9 page including the chart.

10 MS. JAISWAL: On what basis?

11 MR. BENTINE: I'm about to get there.

12 MS. JAISWAL: Thank you.

13 MR. BENTINE: First, with regard to the
14 chart, I don't believe that this witness indicates
15 that he either verified it or did anything other than
16 reproduce it, so I'm not sure it has a foundation.
17 The World Resources Institute is at least not an
18 entity that I am aware of that is generally relied on
19 in the literature by experts and, therefore, I would
20 move to strike it.

21 The second item, then, is line 7 through
22 9 that talks about the shaded area represents the 60
23 to 80 percent range of emission reductions from
24 current levels that many -- whoever that is -- now

1 believe will be able to stabilize atmospheric CO2
2 concentrations by the middle of this century.

3 Again, I believe this legally goes to
4 global warming and not to whether or not there's
5 going to be a CO2 regulation in this country, and I
6 believe this should be stricken.

7 EXAMINER PRICE: Mr. Schlissel, who is
8 the World Resources Institute?

9 THE WITNESS: It's an environmental group
10 in Washington, DC, an international environmental
11 group.

12 And, for the record, I did verify these
13 charts; I said that during my deposition. I checked
14 that the numbers -- that the emission levels in each
15 of the provisions was what is included in the bill
16 and what is also reported for the bill, that we've
17 specifically reviewed the numbers that underlay an
18 earlier version of this chart that was produced in
19 the spring, and then within the last month or so I
20 went back and I looked at, again, the emission levels
21 that are mandated under each -- would be mandated
22 under each of the bills and I compared it to what is
23 in this chart.

24 EXAMINER PRICE: Mr. Bentine.

1 MR. BENTINE: It wasn't in his direct
2 testimony, but I believe it was in his deposition,
3 and since it's on the record, I'll withdraw the
4 motion with regard to the chart. I will not withdraw
5 the motion with regard to 7, 8, and 9.

6 MS. JAISWAL: Your Honor, if I may
7 briefly respond, please.

8 EXAMINER PRICE: Pardon me?

9 MS. JAISWAL: If I may briefly respond.

10 EXAMINER PRICE: Sure.

11 MS. JAISWAL: My understanding is
12 Mr. Bentine is moving to strike portions of
13 Mr. Schlissel's testimony. Ohio Power Siting Board
14 rule 4906-7-09 provides the administrative law judge
15 shall admit all relevant and material evidence,
16 except evidence that is unduly repetitious, even
17 though it would be inadmissible under the rules of
18 evidence applicable to judicial proceedings.

19 What this means is that the Ohio Power
20 Siting Board rules require admissibility of all
21 relevant and material evidence; this evidence
22 includes Mr. Schlissel's testimony. The rules favor
23 inclusion. It is a "shall" provision, it is not a
24 "may" provision in these rules.

1 We prepared a pocket brief today for the
2 court, I'm happy to provide it to the court, on these
3 issues.

4 Even if this court chooses to ignore the
5 rules governing here, rule 4906-7-09, and I have a
6 copy of the rule here too if you would like to review
7 it regarding inclusion of admissibility, that means
8 for our proceeding here today that evidence can only
9 be excluded, one, if it is shown to be not relevant
10 and not material, and two, the evidence is unduly
11 repetitious. AMP-Ohio has not proven that today.

12 Moreover, the "shall" provision and as
13 well as the rest of rule 4906-7-09(A) favors
14 inclusion. Mr. Schlissel's testimony should come in.
15 Any doubts regarding any credibility or reliability
16 this court, of course, may consider in weight.

17 Moreover, putting these rules aside, if
18 you turn to the federal rules of evidence as well as
19 the Ohio rules of evidence and what the rules are for
20 expert witnesses, that's what you have before you
21 today is an expert witness and testimony in written
22 format. There are special rules for expert
23 witnesses.

24 Under the federal rules, the federal

1 rules clearly rely, the federal rules, that's rule
2 703, allows --

3 EXAMINER PRICE: I don't think the
4 federal rules are going to get you too far. You
5 probably ought to focus on the Ohio rules.

6 MS. JAISWAL: Certainly. I just want to
7 point out under the federal rules all this type of
8 material is admissible and allowed and this board can
9 also using the federal rules.

10 Also under the Ohio rules -- would you
11 like a copy of this brief? I'll hand it out, it has
12 pertinent language in it, and I'll provide a copy to
13 counsel, of course, at the same time.

14 Following your instruction and moving
15 beyond what Federal Rule 703 is, if you go to Ohio
16 rule -- and that begins on page 3. I also have the
17 rules of evidence here if the court would like those.

18 Ohio Rule of Evidence 703 varies from the
19 federal rule which, your Honor, I think you were
20 pointing out, and it provides "The facts or data in
21 the particular case upon which an expert bases an
22 opinion or inference may be those perceived by the
23 expert or admitted in evidence at the hearing."

24 Mr. Bentine is misapplying this rule. As

1 the plain text of the rule, the plain text of the
2 rule permits admissibility of expert opinion even if
3 not based on otherwise admissible evidence.

4 In particular, the Ohio Courts of Appeal
5 clarified, in Nilavar versus Osborn, the Court of
6 Appeals explained, and this is a quote, I also have
7 this case with me here today, the facts or data
8 referred to in evidence rule 703 refers to the facts
9 and data in the particular case, not to facts and
10 data underlying scientific, technical, or otherwise
11 specialized information referenced in Ohio Rule
12 702(C).

13 So we're talking about the fact in this
14 particular case -- think about it like how the case
15 is often used is in a personal injury case or a
16 medical malpractice case in terms of examining a
17 patient. The rule says for the facts of this case,
18 as pertains to the patient, the expert must have
19 conducted an examination of the patient.

20 But otherwise for the testimony, as
21 experts are known, this is why these rules exist, to
22 allow experts to come in and provide their knowledge
23 to the court to aid the court, and that goes to
24 702(C), specific technical or otherwise specialized

1 information.

2 The Nilavar court explicitly rejected the
3 argument that is being made today. In that case --
4 and I'm sorry, I will try to hurry up here.

5 EXAMINER PRICE: Take your time.

6 MS. JAISWAL: Thank you. I appreciate
7 that.

8 In that case the argument was made that
9 the expert's testimony is inadmissible, and what
10 happened in that case is the particular point of
11 testimony that they wanted to strike; so there's two
12 things, there's the testimony here and there's the
13 evidence.

14 This is Mr. Schlissel's testimony, not an
15 exhibit to it. This is his opinion, what he's
16 relying on, his inference of these documents, what he
17 concludes here today; that similarly happened in the
18 Ohio Court of Appeals case. In that case there were
19 actuary charts that were used by the expert witness.
20 There were damages being calculated in a medical
21 contract dispute and the doctor, excuse me, the
22 expert was calculating how much damages the doctors
23 had, and in calculating those damages the expert
24 relied on actuary charts known as Gamboa, they were

1 provided by A.M. Gamboa.

2 Those charts were allowed in and were
3 allowed permissible because under 702 those are the
4 type of documents that experts regularly rely on.
5 This is analyzed fully in the case, and that kind of
6 argument that Mr. Schlissel didn't actually review
7 this document, these don't pertain to the facts, the
8 particular facts of this case as explained by the
9 court of appeal. These pertain to these charts and
10 are the type of information that experts rely on
11 regularly.

12 EXAMINER BOJKO: Counsel, isn't there a
13 distinction between relying on something to produce
14 your own document as opposed to just attaching works
15 of other people, hearsay so to speak?

16 MS. JAISWAL: Well --

17 EXAMINER BOJKO: I think that's what
18 those courts were referring to.

19 MS. JAISWAL: Well, in terms of this
20 proceeding here today, Ohio Siting Board
21 4906-7-09(A), which I've quoted here, says that an
22 administrative law judge shall admit all relevant and
23 material evidence, irrespective of hearsay. So this
24 testimony is, putting that aside -- did you want me

1 to put that aside or can I go on?

2 EXAMINER PRICE: I'm not sure. You're
3 saying at this point that all the hearsay objections
4 that we have granted so far in this proceeding were
5 incorrectly granted and all the hearsay that we've
6 previously stricken in this proceeding on both sides
7 should be allowed back in?

8 I mean, I think that we would like to be
9 consistent. I certainly view our position as one of
10 the ability to keep out hearsay and other evidence
11 that flies in the face of the evidence rules.

12 So I think I'd like to give Mr. Bentine a
13 chance to respond, but let's be clear, at the moment
14 the only thing before us is lines 7, 8, and 9, not
15 the chart. Mr. Bentine's withdrawn his motion on the
16 chart.

17 MR. BENTINE: Yes.

18 EXAMINER PRICE: So right now we're
19 really on lines 7, 8, 9, and from what I understand
20 from Mr. Bentine to be primarily the phrase that
21 "many now believe," at least the phrase that begins
22 that "many now believe." We're having a lot of
23 argument over three words, so let's hear
24 Mr. Bentine's response and then we'll go on from

1 there.

2 I understand you're --

3 MS. JAISWAL: Goes to weight.

4 EXAMINER PRICE: We'll apply them later
5 when further motions come up.

6 MR. BENTINE: First of all, I believe
7 that counsel for NRDC has greatly expanded Ohio's
8 rules of evidence as it pertains to experts and
9 certainly as it's been practiced around here for
10 quite a period of time.

11 The logical conclusion of the argument
12 raised by counsel is this, that an engineer can get
13 on the stand and take a medical text, open the
14 medical text and say "I'm relying on that to
15 determine that this injury was caused by the car
16 hitting this person in this way and it did this to
17 their body and this was the cause of death for that
18 person."

19 Engineers can rely on engineering things,
20 they can rely on what they perceive, they can rely on
21 facts as they're admitted in the record, and they're
22 allowed wide latitude, but what they can't do, what
23 they can't do is go outside of their kin to
24 conclusions reached by others in areas that they have

1 not shown expertise to in order to form opinions and
2 then simply parrot that as testimony under the guise
3 of being experts. That's what the basis really is
4 for this objection and many of the others.

5 EXAMINER PRICE: What I hear you saying
6 is with respect to lines 7, 8, and 9 on page 22, it,
7 again, is the argument you previously made and we
8 have deferred, which is he's not an expert in this
9 particular field.

10 MR. BENTINE: That's correct, your Honor.

11 EXAMINER PRICE: Well then, we'll be
12 consistent. We'll continue to defer on that question
13 until after you've completed your cross-examination.

14 MR. BENTINE: Thank you, your Honor.

15 Page 25 is the next one, your Honor. And
16 I might add, I agree with much of what counsel has
17 said, if I didn't agree with it, I probably would
18 have moved to strike the entire testimony.

19 The motion to strike next on page 25 is
20 the entire page including the footnotes, and then on
21 page 26 down to line 5. I don't believe a poll taken
22 by Zogby or anybody else is appropriate evidence in
23 this proceeding. Whether or not X percent of the
24 population believes in creationism or not is not

1 relevant. Whether X percent of the population
2 believes that a certain group of folks ought to be
3 denied rights does not make it appropriate for expert
4 testimony, unless we're talking about expert
5 testimony on what polls mean.

6 Polls are irrelevant to this proceeding
7 and should be stricken.

8 MS. JAISWAL: Your Honor, if I may
9 respond.

10 EXAMINER PRICE: Briefly.

11 MS. JAISWAL: Thank you. We are not
12 moving to have the poll introduced into evidence. We
13 are moving to have Mr. Schlissel's expert testimony
14 moved into evidence, his opinion here, which is
15 allowed under the Ohio rules.

16 And under the Ohio rules any questions as
17 to the reliability of information that forms the
18 basis of Mr. Schlissel's testimony goes to weight; it
19 does not go to admissibility. And this is consistent
20 with the Ohio state court rule regarding expert
21 testimony and reliability and introduction of
22 evidence.

23 EXAMINER BOJKO: Counselor, I thought you
24 just told us a few minutes ago that, and I'll quote

1 from your document, that the information has to be
2 both reliable and does not refer to the facts of a
3 particular case. Now you're telling me that anything
4 can be admitted and it just goes to the weight, the
5 reliability of it goes to the weight? Which is it?

6 You can't have it both ways. You can't
7 tell us to admit everything and then just put proper
8 weight or associate proper weight to a particular
9 document or a particular opinion and then also tell
10 us it has to be reliable. I mean, could you respond?

11 MS. JAISWAL: Yes, your Honor. As a
12 general matter the federal rules of evidence require
13 some indications of reliability. That is this
14 court's authority, to rely on -- to discuss the
15 reliability and see whether this information cited in
16 the report is reliable information, the types that
17 experts use.

18 Certain types of evidence, for expert
19 witness testimony, for testimony -- not the documents
20 themselves, but for the expert witness testimony the
21 Ohio rules, the federal rules, this board's rules
22 allow these documents to come in, unless they're not
23 relevant, unless they're immaterial, or if they're
24 duplicative.

1 So in terms of any question that this
2 court may have on reliability, and that of course
3 will be set forth by the foundation, the foundation
4 that this evidence is not reliable, we will proffer
5 it during our redirect, but Mr. Bentine can also go
6 after the reliability during his cross-examination.

7 At that time the judges in this case, the
8 administrative law judges in this case, can use those
9 questions of reliability. How reliable is this
10 evidence in deciding how it wants to weigh the
11 evidence in reaching its final decision in this case.

12 EXAMINER PRICE: I'm more concerned about
13 relevance. Understanding the statutory requirements,
14 I don't understand the relevance of the American
15 people of the question and the answer to this
16 particular proceeding.

17 MS. JAISWAL: I'm sorry, can you please
18 repeat the question?

19 EXAMINER PRICE: Understanding the
20 statutory requirements, what the Power Siting Board
21 has to review, the determinations it has to make, I
22 do not understand the relevance of a polling question
23 about the opinions of the American people to our
24 statutory duties.

1 MS. JAISWAL: Well, that can be
2 established during both cross and redirect in
3 examining Mr. Schlissel, but if you are asking for an
4 offer of proof, what I can tell you is --

5 EXAMINER PRICE: I'm asking you for a
6 legal argument as to why it's relevant.

7 MS. JAISWAL: Why that information is
8 relevant, because the questions here before the Board
9 today are the questions regarding CO2 costs, carbon
10 dioxide costs, which are linked to carbon dioxide
11 regulation, carbon dioxide legislation.

12 Legislation and regulations are often
13 passed with public opinion whether the public, the
14 constituents, the citizens of our states of Ohio and
15 others support this legislation or do not support
16 this legislation. So the likelihood of a CO2 cost
17 increase is shown by the legislation and whether that
18 legislation is supported by the public; it is
19 relevant to the questions before this court, and we
20 can lay that foundation properly on redirect and it
21 can be asked again on cross.

22 EXAMINER PRICE: We're going to go ahead
23 and grant the motion to strike on this issue. I
24 think we've heard enough.

1 Mr. Bentine.

2 MR. BENTINE: Thank you, your Honor.

3 Page 28, similar to earlier motions, your Honor, line
4 4 after the word "No" down to line 10, "CO2 price
5 forecasts," I will move to strike that on the same
6 basis as previously discussed.

7 EXAMINER PRICE: Granted.

8 EXAMINER BOJKO: I'm sorry, to where,
9 Mr. Bentine?

10 MR. BENTINE: Line 10, the end of the
11 sentence beginning "forecasts."

12 EXAMINER PRICE: Motion to strike will be
13 granted. So the answer now would read "No. AMP-Ohio
14 only gave the following narrow answer"; is that
15 correct?

16 MR. BENTINE: Yes, your Honor.

17 EXAMINER PRICE: Thank you.

18 MR. BENTINE: The next motion to strike,
19 your Honor, is really just the footnote on line 28.

20 EXAMINER PRICE: Which footnote?

21 MR. BENTINE: Thirty-four.

22 EXAMINER PRICE: Id?

23 MR. BENTINE: Yeah. Just referring back
24 to our interrogatory responses.

1 EXAMINER PRICE: Could you explain why
2 you want to --

3 MR. BENTINE: The footnote?

4 EXAMINER PRICE: Yeah.

5 MR. BENTINE: I'm going to move to strike
6 all of that exhibit that includes those responses,
7 your Honor. I have no problem with him saying "No,"
8 I can cross him on that. I don't believe it
9 appropriate to have our interrogatory responses as a
10 part of --

11 EXAMINER PRICE: We'll deal with that
12 when we deal with your interrogatory responses. If
13 you can make a note of that to come back to this.

14 MR. BENTINE: The next item is on page
15 30, your Honor. Again, anything after the "No."

16 EXAMINER PRICE: Granted.

17 MS. JAISWAL: For the record, may we
18 please clarify the lines exactly?

19 MR. BENTINE: That would be, at least my
20 motion was lines 12 beginning "AMP-Ohio" and ending
21 on page 31, "Feasibility Study" with the footnote on
22 line 2.

23 EXAMINER PRICE: All of line 2. Thank
24 you.

1 Next.

2 MR. BENTINE: Page 33, the answer after
3 "No" and to the end of the answer with the footnote.

4 MS. JAISWAL: Can you please provide the
5 basis, Mr. Bentine? I didn't catch that.

6 MR. BENTINE: The same basis as
7 previously argued with regard to our responses.

8 EXAMINER BOJKO: Where are you ending on
9 this one?

10 MR. BENTINE: At line 30 and the footnote
11 43.

12 EXAMINER PRICE: Can you explain why we
13 would delete 24 through 30? That was your
14 interrogatory response.

15 MR. BENTINE: I believe -- I'll withdraw
16 that portion, 24 through 30.

17 EXAMINER PRICE: I'm not sure if that
18 will make any sense in the record.

19 EXAMINER BOJKO: I think we need to leave
20 in line 20 instead, "provided the following narrative
21 response."

22 MR. BENTINE: That's acceptable. I will
23 amend my motion, your Honor.

24 EXAMINER PRICE: So we will grant the

1 motion as relates to beginning on line 3, the words
2 "The Citizen Groups," and ending on line 20 with
3 "documentation."

4 EXAMINER BOJKO: And then remove --

5 MR. BENTINE: I was going to say, I think
6 the "and" referred back to two earlier narrative
7 responses that also contained no calculations
8 engineering.

9 EXAMINER BOJKO: So the only thing
10 remaining in on this page would be answer "No.
11 Instead, it provided the following narrative
12 response," and the answer?

13 MR. BENTINE: Yes. And then the quote
14 beginning on line 24.

15 MS. JAISWAL: To clarify, your Honor,
16 questions 43 and 44 are provided, or to the extent
17 that they are provided in AMP's response to
18 discovery, they are a party admission because they
19 are part of the document.

20 EXAMINER BOJKO: I'm sorry, the
21 questions?

22 MS. JAISWAL: Yes; to the extent the
23 questions are posed. They are also posed, you know,
24 the way that the discovery responses were submitted

1 here where AMP-Ohio stated the question and then
2 provided --

3 EXAMINER BOJKO: That's the requirement
4 for this board is in discovery you have to restate
5 and then put your response underneath. It's not a
6 party admission because it was your question.

7 MS. JAISWAL: It is their document and
8 the document is their admission, but I understand.
9 We can move forward.

10 EXAMINER PRICE: Okay. Just to clarify
11 for the record, on page 33, and I hope I get this
12 right, we're going to strike everything beginning
13 line 3 beginning with "The Citizen Groups," through
14 line 20, the word "documentation," inclusive. Then
15 beginning again on line 20, "and referred back"
16 through line 23, "estimate" inclusive.

17 MS. JAISWAL: For the record, if I may
18 just clarify my objection.

19 EXAMINER PRICE: Sure.

20 MS. JAISWAL: Our objection is that
21 AMP-Ohio provided an entire discovery response and
22 that is a party statement; that is their document;
23 that is their statement and, therefore, all of the
24 matters in question as set forth come in. I just

1 wanted to restate the objection.

2 Thank you.

3 EXAMINER PRICE: I understand. Thank
4 you.

5 Mr. Bentine.

6 MR. BENTINE: Yes, your Honor. Page 36,
7 similar objection beginning on line 5, "The Citizen
8 Groups" and ending with footnote 51 on line 8.

9 EXAMINER PRICE: Motion will be granted.

10 MR. BENTINE: Next, your Honor, on page
11 51 --

12 EXAMINER PRICE: Mr. Bentine, I need to
13 see this one second to make sure I'm getting my notes
14 correct.

15 Page 51?

16 MR. BENTINE: Page 59. We're going to
17 skip 51.

18 EXAMINER PRICE: Fifty-nine?

19 MR. BENTINE: Yes, 59.

20 That, your Honor, page 59, the question
21 beginning on 4 and going on to line 2 on the next
22 page, no foundation and relevance. This is a
23 chemical construction industry graph.

24 EXAMINER PRICE: We appear to be having

1 the triple hearsay here, the Chemical Engineering
2 Magazine graph republishing an Electric Power
3 Institute Graph, but why don't --

4 MR. BENTINE: Or vice versa. Or EPRI
5 publishing in Chemical, which I think probably is --

6 EXAMINER PRICE: Or vice versa; very
7 good. I hadn't thought of that possibility. Why
8 don't you seek to clarify on cross-examination with
9 the witness before we rule on this one.

10 MR. BENTINE: Yes, your Honor.

11 Page 61, that one, your Honor, I was
12 going to move the entire answer, but that would leave
13 the question, so I'll move the question and answer
14 beginning on line 1 and ending on line 5 and the
15 footnote.

16 EXAMINER PRICE: I think we're going to
17 grant the motion, but I think on redirect I will give
18 counsel some leeway if she would like to re-pose this
19 question in a manner that gets the idea through
20 without editorializing the discovery response.

21 MR. BENTINE: Thank you, your Honor.

22 EXAMINER PRICE: All the other ones were
23 so much easier to rule on.

24 Next, Mr. Bentine.

1 MR. BENTINE: The next one, your Honor,
2 on line 9, beginning with the word "AMP-Ohio" and
3 ending with the word "assessments."

4 EXAMINER PRICE: Granted.

5 MS. JAISWAL: Excuse me, which one again?

6 MR. BENTINE: Line 9.

7 MS. JAISWAL: On page 62?

8 MR. BENTINE: Sixty-one. Still on 61.

9 MS. JAISWAL: If I may respond, your
10 Honor.

11 EXAMINER PRICE: Be my guest.

12 MS. JAISWAL: Sure. Your Honor, this
13 portion does reference and discuss documents that
14 were produced here, the initial project feasibility
15 study, and that portion should stay.

16 MR. BENTINE: I didn't move that portion.

17 EXAMINER PRICE: He left the "No" in.

18 MS. JAISWAL: Okay. Had he left in the
19 reference to the R.W. Beck Initial Project
20 Feasibility Study?

21 MR. BENTINE: Yes. My motion, if your
22 Honor please, was just "AMP-Ohio refused to provide
23 such assessments," and then I did not move "other
24 than the June."

1 EXAMINER PRICE: Okay. I understand.

2 MR. BENTINE: Maybe I should have. No.

3 EXAMINER BOJKO: So just to clarify the
4 record, the answer will now read "No, other than the
5 June 2007 R.W. Beck Initial Project Feasibility
6 Study."

7 MR. BENTINE: Line 20 and 21, the
8 language after the word "No."

9 EXAMINER PRICE: Granted.

10 MR. BENTINE: Next is on page 66, your
11 Honor, line 14 beginning with "AMP-Ohio" and ending
12 on line 16 with footnote 95.

13 EXAMINER PRICE: Granted.

14 MR. BENTINE: Page 68, your Honor.

15 EXAMINER PRICE: We should have taken the
16 motions while we were waiting for Mr. Schlissel to
17 arrive.

18 EXAMINER BOJKO: Good point.

19 EXAMINER PRICE: What's done is done.

20 MR. BENTINE: Had I been sure.

21 Line 6 after "No" through line 8 and the
22 footnote; same basis.

23 EXAMINER PRICE: Granted.

24 MR. BENTINE: Line 11 and 12, your Honor,

1 beginning with the word in line 11 "and," I would
2 move "and the few answers that AMP-Ohio did provide
3 for our discovery" and the comma after discovery.

4 EXAMINER PRICE: Granted.

5 MR. BENTINE: Page 70 --

6 MS. JAISWAL: Your Honor.

7 EXAMINER PRICE: Yes.

8 MS. JAISWAL: Just to clarify the record
9 and the objections, that provides the basis for the
10 answer, the few answers that were received. It's
11 both the power supply plans and the answers.

12 Thank you.

13 EXAMINER PRICE: I see. She's exactly
14 correct. I'm going to reverse my prior ruling and
15 strike only the word "few," so it will now read "and
16 the answers that AMP-Ohio did provide in discovery."

17 THE WITNESS: With all respect, that's
18 not my testimony. That may be your testimony, but
19 that's not my testimony.

20 EXAMINER PRICE: I'll go back and strike
21 the whole thing.

22 THE WITNESS: Well, it's --

23 EXAMINER PRICE: I'll reverse myself
24 again. I mean, again -- first of all, your counsel

1 should be making these arguments. Second of all,
2 I've tried to be consistent and eliminate the
3 editorializing regarding the discovery responses, but
4 if your position is that I'm unfairly changing your
5 testimony, I will strike the whole phrase.

6 So I will reverse my previous reversal of
7 my ruling and we'll strike "and the few answers that
8 AMP-Ohio did provide for our discovery."

9 MS. JAISWAL: I restate our objection.
10 Thank you, your Honor.

11 EXAMINER PRICE: Thank you.

12 Next, Mr. Bentine.

13 MR. BENTINE: Yes, your Honor. Page 70
14 is next, your Honor. Again, line 3 after the word
15 "No," the balance of that answer down to line 6 and
16 the footnote.

17 EXAMINER BOJKO: Where are you,
18 Mr. Bentine?

19 MR. BENTINE: I'm sorry. Page 70, line
20 3, all the way through 6 and footnote 99.

21 EXAMINER PRICE: Granted.

22 MR. BENTINE: Line 9 after the word "No,"
23 the balance of that answer including the footnote.

24 EXAMINER PRICE: Granted.

1 MR. BENTINE: Lines 13 through 17, I
2 wasn't a good enough surgeon to do anything but move
3 to strike the entire question and answer.

4 EXAMINER PRICE: Again, we're going to
5 grant that, but on redirect if counsel for NRDC would
6 like to ask a question in a manner that's more
7 precise, we will give you some leeway on that.

8 MR. BENTINE: Page 72, your Honor, line
9 22 after "No" through the end of line 24, the balance
10 of that answer.

11 EXAMINER PRICE: Granted.

12 MR. BENTINE: And, your Honor, finally, I
13 would move to strike all of DAS-2, I believe it
14 inappropriate to grossly put in with objections, I
15 might add, on nearly every one of these --

16 EXAMINER PRICE: I understand where
17 you're going with this. What I would like the
18 parties to do at the next convenient time is to sit
19 down, examine through the testimony where the
20 footnotes may have stayed in and see if you can reach
21 an accommodation as to portions of the discovery that
22 are being admitted rather than striking the entire
23 exhibit at this point.

24 It's fair enough for them in the

1 testimony to reference to your discovery answers, so
2 if there's testimony that we have allowed in
3 referencing the discovery answers, I think it should
4 be kept in the record.

5 MR. BENTINE: As long as we'll have an
6 opportunity to preserve the objections. The reason
7 you put objections in discovery answers is to make
8 sure that they're not necessarily construed as
9 admissions.

10 EXAMINER PRICE: I understand that. And
11 then if the parties can reach an understanding of
12 what is not subject to being stricken, then we'll
13 rule on the objections at that point.

14 MR. BENTINE: Thank you, your Honor. Be
15 happy to do so.

16 EXAMINER PRICE: Thank you.

17 MR. BENTINE: That, your Honor, is the
18 extent of my motions to strike.

19 EXAMINER PRICE: Thank you.

20 MS. JAISWAL: Your Honor, for the record.

21 EXAMINER PRICE: Yes.

22 MS. JAISWAL: First I would like to
23 restate and make clear our objection that this is
24 Mr. Schlissel's opinion, expert opinion testimony,

1 and under the Ohio rules, under this board's rules,
2 and under the federal rules it is allowable and
3 proper. I'm just restating the objection for the
4 record.

5 EXAMINER PRICE: Noted. Thank you.

6 MS. JAISWAL: And I would also like to
7 request a ruling from the board or from the
8 administrative law judge as to the applicability of
9 Board rule 4906-7-09(A) and whether that rule applies
10 in this proceeding, especially with respect to
11 Mr. Schlissel's testimony. I'd like a ruling on
12 that, and in the event that it's already come up
13 today --

14 EXAMINER PRICE: You'll have to refresh
15 my recollection as to what precisely that rule is.
16 I've not committed them to memory; sorry.

17 MS. JAISWAL: I'm sorry?

18 EXAMINER PRICE: Which rule is that?

19 MS. JAISWAL: Certainly. I'm happy to
20 provide a copy.

21 EXAMINER PRICE: Just read the rule to me
22 is fine.

23 MS. JAISWAL: Certainly. Okay.

24 Rule 4906-7-09(A) provides "The

1 administrative law judge shall admit all relevant and
2 material evidence, except evidence that is unduly
3 repetitious, even though inadmissibility under the
4 rules of evidence applicable to judicial
5 proceedings."

6 EXAMINER PRICE: I think that all of our
7 rulings today have been in the spirit of that rule.
8 Thank you.

9 MS. JAISWAL: So this rule applies.

10 EXAMINER PRICE: Yes.

11 MS. JAISWAL: Okay.

12 EXAMINER PRICE: Mr. Bentine.

13 MR. BENTINE: Yes, your Honor.

14 EXAMINER PRICE: You may proceed.

15 - - -

16 CROSS-EXAMINATION

17 By Mr. Bentine:

18 Q. Mr. Schlissel, you've been patient.

19 Mr. Schlissel, first of all, a couple
20 questions. You're no longer testifying on behalf of
21 the Ohio Environmental Council; is that correct?

22 A. That's what I understand, yes.

23 Q. Do you know why you're no longer
24 testifying on their behalf?

1 A. No. You asked me this during the
2 deposition, and I wasn't aware then and I haven't
3 asked since.

4 Q. And you are being compensated for your
5 appearance here today?

6 A. Yes, sir.

7 Q. And you were retained in August/September
8 time frame for purposes of this case?

9 A. I believe it was September. The contract
10 may be a little later, but counsel from NRDC called
11 me I believe it was sometime in September.

12 Q. And you were engaged to provide an
13 independent review of the application of American
14 Municipal Power in this case?

15 A. Yes.

16 Q. And you pride yourself on this
17 independence; is that correct?

18 A. Yes.

19 Q. You approach all of your engagements that
20 way; is that correct?

21 A. I try to.

22 Q. And is that true for your firm; Synapse?

23 A. I believe the firm does. It's 20 people
24 and everybody does a lot of projects so I can't

1 really speak for how they approach them. It's my
2 sense that that's the kind of people they are, but I
3 can't answer for every single person in every single
4 project.

5 Q. And how long have you been a part of that
6 firm?

7 A. Been a member of Synapse since November
8 1st, 2000.

9 Q. What percentage of your time, say in the
10 last five years, Mr. Schlissel, have you spent on
11 expert witness testimony or as a nontestifying expert
12 in various proceedings and engagements?

13 A. I don't know how to answer that question.
14 A lot of my work involves analyses that end up in
15 testimony. A lot of my work involves analyses that
16 don't end up in testimony. So I wouldn't know how to
17 give you any kind of breakdown. The actual time I
18 spend in the hearing, as you can expect, is very
19 small, but other than to say some of my work ends up
20 as testimony and some doesn't, I wouldn't know how to
21 break it down.

22 Q. And I'm sorry, maybe I didn't make myself
23 clear.

24 A. Okay. Sorry.

1 Q. I'm trying to gather how much of your
2 time has to do with litigation or evaluation of
3 potential litigation or permit hearings, things that
4 are going on in the regulatory scene where you may be
5 engaged to evaluate something to do with one of those
6 kind of proceedings, either current or proposed.

7 A. I would say that most of my work involves
8 review of proposed projects or legislative proposals,
9 analyses of planned generation, transmission/
10 distribution system lines, energy efficiency plans,
11 CO2 legislation, power plant costs which may at some
12 point end up in a litigation forum, if that's
13 helpful.

14 Q. That's helpful. Thank you.

15 Now, your Exhibit DAS-1 includes a
16 lengthy résumé and I'd like to talk about it just for
17 a moment if I could. You have a engineering degree
18 from MIT?

19 A. Yes.

20 Q. And was that engineering degree in any
21 specialty or any area of concentration?

22 A. Yes. It was from the Department of
23 Aeronautics and Astronautics.

24 Q. So as you say from time to time, you were

1 the proverbial rocket scientist.

2 A. Yes. And as I told you during my
3 deposition, my clients, the staff of the Vermont
4 commission, actually cited that in a court appeal,
5 that they had had -- the issue was a power plant,
6 nuclear power plant decommissioning was complicated,
7 but they weren't worried because they had the
8 proverbial scientist as their consultant.

9 Q. And you received an advanced engineering
10 degree from Stanford?

11 A. Yes.

12 Q. And was there a concentration in that?

13 A. It was the same field.

14 Q. And that was a master's in engineering?

15 A. Yes.

16 Q. And then you also received a law degree
17 from the Stanford Law School; is that correct?

18 A. Yes.

19 Q. And you are not appearing here today as a
20 lawyer?

21 A. That's correct.

22 Q. And you are admitted in the state of New
23 York I believe?

24 A. Yes.

1 Q. And you're current in that membership?

2 A. Yes.

3 Q. And you are not admitted in the state of
4 Ohio.

5 A. That's correct.

6 Q. Okay. Are you a professional engineer in
7 any state?

8 A. No.

9 Q. Did you ever sit for the professional
10 engineering exam?

11 A. No.

12 Q. Correct me if I'm wrong, but I'm going to
13 try to paraphrase what I believe to be the case, you
14 started out practicing law and then got into the
15 consumer side of the utility industry and that sort
16 of led you, then, as you morphed from a lawyer into
17 an expert into various kinds of proceedings in which
18 you acted as a consultant and as an expert witness
19 rather than as a lawyer; is that right?

20 A. I'd probably say it differently, but the
21 transition was I was involved in energy work as an
22 attorney and I enjoyed putting together the technical
23 and economic side of the case more and I started over
24 time doing more of that work.

1 Q. Have you ever designed any sort of power
2 generation, transmission, or distribution facilities?

3 A. No, I have not designed or worked at one.

4 Q. Have you ever been directly involved on
5 behalf of an engineering firm or an owner with the
6 construction of any sort of electrical generation or
7 transmission or distribution facility?

8 A. The answer would be no, but as we
9 discussed in my deposition, I've been involved in
10 reviewing construction of power plants on behalf of
11 owners and I've been involved in reviewing operation
12 of power plants on behalf of owners and vendors.

13 Q. Have you ever been involved directly for
14 an owner or an engineer for an owner in the planning
15 of a generation facilities?

16 A. The planning of a specific facility? I'd
17 have to say "no." We have been involved in -- "we"
18 meaning Synapse and I've been part of the project
19 team -- have been involved in resource planning for
20 utilities that have ended up, will end up in power
21 plants, but with regards to any one specific plant I
22 have to say "no."

23 Q. And what utilities have you done power
24 supply planning for, directly?

1 A. We've been involved in power supply
2 planning for Nova Scotia Power recently, one
3 confidential case I'm doing now, and I'd have to say
4 that's it for my involvement.

5 Q. Now, you were provided by your clients in
6 this proceeding with certain documents regarding the
7 city of Cleveland; were you not?

8 A. Yes.

9 Q. And you were provided with a Burns & Roe
10 study for the city of Cleveland with regard to the
11 AMP generating station?

12 A. That was one of the documents, yes.

13 Q. And you have quoted that in your
14 testimony, have you not?

15 A. Yes.

16 Q. You were also provided with a power
17 supply plan that was presented to the city of
18 Cleveland by AMP-Ohio and its consultant R.W. Beck;
19 is that correct?

20 A. Yes, but that wasn't provided by my
21 client, that was provided by AMP-Ohio in discovery.

22 Q. My mistake.

23 You were also provided a copy of the
24 Cleveland power sales contract with regard to this

1 station, the AMPGS station?

2 A. I don't recall that. I recall seeing the
3 draft -- the contract language in the back of the
4 initial project feasibility study that I received,
5 but I don't recall that it was specific to Cleveland.

6 Q. And were you given access by your clients
7 to several power supply presentations and plans for
8 various AMP-Ohio communities with regard to the AMPGS
9 station?

10 A. I was provided a number of presentations.
11 I recall one or two I looked at were for the city of
12 Cleveland. I honestly don't remember whether it was
13 for any other communities. If you represent that
14 they were, I'm happy to accept that, I just don't
15 remember whether it was Cleveland and others or just
16 Cleveland.

17 Q. I want to ask you a few questions about
18 what you know about AMP-Ohio, Mr. Schlissel. Do you
19 know what AMP-Ohio's corporate structure is?

20 A. No. I've read that it's a nonprofit
21 corporation.

22 Q. And when did you learn it was a nonprofit
23 corporation?

24 A. When I read the annual report.

1 Q. And did you do that before or after my
2 deposition of you?

3 A. You deposed me a week ago Friday; I think
4 it was after that.

5 Q. Do you know whether or not AMP-Ohio or
6 its member communities are under the jurisdiction of
7 the Public Utilities Commission of Ohio?

8 A. No. I know it's one or two states where
9 public utilities actually are under the jurisdiction
10 of the state regulatory commission, generally they're
11 not, but I don't know whether Ohio is one of those.

12 Q. Are you aware of whether or not AMP-Ohio
13 has, quote, project partners associated with the
14 construction of and development of AMPGS?

15 A. The project documents I've seen refer to
16 two other agencies I believe that would be partners
17 in the plant.

18 Q. And that's Michigan South Central Power
19 Agency; is that one of them?

20 A. I believe. I seem to recall the other
21 may be in West Virginia.

22 Q. The Blue Ridge Power Agency perhaps --

23 A. Yes.

24 Q. -- in West Virginia?

1 A. Yes.

2 Q. Do you recall those? Do you know what
3 kind of organizations those are?

4 A. No.

5 Q. Do you know what the jurisdiction of
6 their state commissions are over them or their
7 members?

8 A. No.

9 Q. Have you researched the extent of the
10 Ohio Power Siting Board's jurisdiction over
11 AMP-Ohio's members?

12 A. No. I assumed that because you were all
13 spending your time here that the Siting Board had
14 jurisdiction over the application for the AMPGS
15 project; that was all that was relevant to my
16 testimony. So I looked at the statute when I started
17 the project.

18 Q. Thank you.

19 What do you know about -- strike that.

20 What do you know about AMP-Ohio's current
21 generation facilities?

22 A. I know that there's a 213-megawatt coal
23 plant, Gorsuch -- is that the way you pronounce it?

24 Q. Yes.

1 A. G-o-r-s-u-c-h, I think.

2 -- there are some combustion turbines
3 fired by gas and some by diesel, there's some hydro,
4 and there's a small wind project near Bowling Green.

5 Q. Do you know what generation any AMP-Ohio
6 members may own and operate?

7 A. I know a number of the AMP-Ohio members
8 own small coal plants, but I've not done a study to
9 look at which member owns what plants. I tried to
10 find some on the internet, but wasn't able to find
11 that information.

12 Q. Do you know how much power AMP-Ohio
13 currently purchases on the market on behalf of its
14 members?

15 MS. JAISWAL: Objection, your Honor.

16 EXAMINER PRICE: Grounds?

17 MS. JAISWAL: For the record, Mr. Bentine
18 here is trying to present a legal argument regarding
19 AMP-Ohio and its structure.

20 EXAMINER PRICE: Could you raise your
21 voice a little bit? Our heating and cooling system
22 leaves much to be desired.

23 MS. JAISWAL: Mr. Bentine wants to make a
24 legal argument here about AMP-Ohio's structure, that

1 it's a nonprofit organization, and he's entitled to
2 make that argument, but he's not entitled to make
3 that argument through our witness.

4 Our witness doesn't have -- is an expert
5 here on CO2 costs as well as increasing construction
6 costs with respect to this plant. So he's entitled
7 to make that argument, but he cannot make it through
8 our witness.

9 EXAMINER PRICE: Could I have the last
10 question read back, please, before I take
11 Mr. Bentine's response?

12 (Question read.)

13 MS. JAISWAL: The objection is to the
14 series of questions.

15 EXAMINER PRICE: Okay.

16 Mr. Bentine, response?

17 MR. BENTINE: Well, your Honor, I'm
18 trying to get a handle on what this gentleman knows
19 in order to make those recommendations, and I think
20 I'm entitled to explore that.

21 EXAMINER PRICE: Overruled.

22 Q. (By Mr. Bentine) Do you know what states
23 AMP-Ohio members are in?

24 A. Yes.

1 EXAMINER PRICE: I'm sorry, I think there
2 was a question.

3 MR. BENTINE: You're absolutely right.
4 Senior moment.

5 EXAMINER PRICE: I'd like to know the
6 answer.

7 Q. The question was on market, how much is
8 purchased on the market.

9 A. I don't recall the percentage, but I do
10 recall that it's in an exhibit of one of AMP-Ohio's
11 witnesses that I read yesterday. I'm sorry I can't
12 tell you, I just don't remember the number. If you
13 want me to go and look at the testimony, I could pull
14 up the exhibit. I know it's in the record, I'm
15 sorry, I just don't remember the exact number.

16 Q. We'll get --

17 A. I think it's fairly high, but I just
18 don't remember the number.

19 Q. We'll get to that later.

20 Do you know, in fact, my question -- I
21 almost stepped on the last one -- do you know how
22 many states AMP-Ohio has members in?

23 A. I believe it's five.

24 Q. And that would be Michigan, Virginia,

1 West Virginia, Ohio, and --

2 A. Pennsylvania.

3 Q. -- and Pennsylvania.

4 MR. BENTINE: And, for the record, we
5 just had a Kentucky municipal join.

6 Q. Do you know -- strike that.

7 Could you tell me what an RTO is?

8 A. A regional transmission organization.

9 Q. And do you know what RTOs AMP-Ohio
10 operates in?

11 A. I would imagine they operate in PJM and
12 MISO.

13 Q. PJM RTO stands for what?

14 A. Well, it stands -- the honest answer, as
15 I'm on the witness stand, is "PJM" stands for PJM,
16 but it used to be the Pennsylvania-Jersey-Maryland
17 Interconnection that morphed into a independent
18 system operator for that area and now it's grown by
19 leaps and bounds to include up through western
20 Pennsylvania and then over in Illinois. I mean,
21 there may be other pieces, some in Ohio as well, but
22 generally it's the eastern quarter of the country
23 except for the area in New England.

24 Q. Specifically do you know what

1 transmission areas in Ohio are included in PJM?

2 A. I'd have to look at a map to see exactly
3 which. I know that MISO and PJM are somewhat -- are
4 in different areas of Ohio, but, again, I'd need a
5 map to look at.

6 Q. And MISO is Midwest Independent System
7 Operator?

8 A. That's correct. It was started after PJM
9 by, I think AEP. No. AEP joined PJM. It's a very
10 confusing story.

11 Q. You should try to operate it.

12 A. I was actually here the day that MISO was
13 formed meeting with AEP people. But it's like --
14 it's an independent system operator similar to PJM
15 although not quite as advanced.

16 Q. And just to make it clear, you're not
17 sure exactly who is in Midwest ISO of AMP-Ohio's
18 members or the transmission systems that they're
19 hooked up to.

20 A. That's correct. I would think that
21 they're probably PJM given the area, some of them PJM
22 and some MISO, but I don't know which are in which.

23 Q. Do you know whether there is something
24 called the seam that goes between those two RTOs?

1 A. Yes.

2 Q. And what is your understanding of what a
3 seam is?

4 A. The seam is how they relate to each other
5 and interact with each other, that there are seams
6 issues regarding if you're on one side and you want
7 to sell to the other side, and it's very complicated
8 given the almost futile-like map and reach of PJM and
9 MISO, that they're not block areas, it's -- as I say,
10 a large portion of PJM is the Commonwealth Edison
11 service territory, Exelon service territory in
12 Illinois, and AEP in Ohio. So it's very complicated,
13 the seams issues.

14 Q. On that I believe we can agree.

15 Do you know with regard to -- PJM let's
16 talk about a moment. Do you know whether or not
17 there are capacity markets that are being made by
18 PJM?

19 A. Yes. PJM has set up something called
20 RPM, I don't exactly recall what it stands for, but
21 there are regional capacity markets in which you
22 basically bid to sell capacity and there will be
23 prices set for offering capacity into those local
24 regional markets. I think there's 16 or 19 of them

1 the number sticks in my head.

2 Q. Now, with regard to that capacity, do you
3 know what a load-serving entity is?

4 A. Yes, it's an entity that serves load, the
5 ultimate load-serving entity.

6 Q. And if you know, are load-serving
7 entities required to have certain amounts of
8 capacity?

9 A. Yes. Capacity and reserve, yes.

10 Q. And if they don't have that amount, they
11 have to buy it at whatever the rate is that is set by
12 the RTO?

13 A. That's correct. As a capacity deficiency
14 charge.

15 Q. Now is there a separate energy market in
16 PJM?

17 A. Yes. My area of work, I did a lot of
18 work related to PJM for a couple of years, I'm a year
19 or two behind right now, I'm not sure whether there's
20 one energy market, there may be several regional or
21 there's at least a plan to set up regional energy
22 markets.

23 Q. And how do those regional markets
24 currently work, if you know?

1 A. Well, you bid into the market to sell
2 power into the market.

3 Q. And at any particular hour if I have bid
4 into the market at 5 cents and another generator has
5 bid into the market at 6 cents and that other
6 generator at 6 cents is needed to fulfill the load in
7 that hour, what is the price that is paid by everyone
8 that hour?

9 A. Well, the price that's paid by everyone
10 that hour is called the market clearing price, it's
11 basically the last or the most expensive generating
12 unit or bid into the market that's needed to serve
13 load in that hour. So in your example if the two of
14 you were the only two who were serving power or
15 providing power, bidding into the market in that
16 hour, then the market clearing price would be the 6
17 cents from the other entity.

18 Q. Now, do you know whether or not, in terms
19 of PJM again, whether or not there is transparency in
20 that market currently?

21 A. That's I think beyond what I've looked
22 at. I know, in fact, that the bids -- the bids are
23 not made public for six months, and I don't believe
24 there's any way that you can identify the bidding

1 parties directly from the bids. Now, having said
2 that I also know that we've done some analyses that
3 you basically can identify the various bidders by
4 looking at the bids over a large number of hours and
5 you can see what entities are bidding at what hours,
6 but I wouldn't call the process transparent.

7 Q. And, in fact, if you know, isn't there a
8 Federal Energy Regulatory proceeding going on as we
9 speak with regard to allocations that there was
10 market manipulation and the market monitor of PJM, in
11 effect, was, at least according to his claims,
12 stifled in his ability to monitor the market?

13 A. Yes. I know that that has been going on,
14 it may have been resolved recently, but I'm not a
15 hundred percent positive of that. But I am aware of
16 what was going on.

17 Q. Are you in a position here today to tell
18 us whether or not long-term bilateral contracts based
19 on anything other than market price are available in
20 the PJM area?

21 A. When you say "market price," you mean
22 the -- I don't know what you mean by "market price."

23 Q. Well, as an example, a 15- or 20-year
24 contract for the purchase of power or energy, are

1 those kind of bilateral agreements available, to your
2 knowledge, today?

3 A. I've not looked at that recently.

4 Q. Would you agree with me, if you know,
5 that there has been significant increases in the cost
6 of electricity on the market in the last four or five
7 years?

8 A. Yes.

9 Q. Now, let's switch for a moment to Midwest
10 ISO.

11 A. Okay.

12 Q. Are you aware of whether or not the
13 Midwest ISO is pursuing a capacity market as well?

14 A. I think the way you state it is correct,
15 it is pursuing. There is not a capacity market in
16 the Midwest ISO as of now, but they are in the
17 process of setting up the rules for establishing a
18 capacity market.

19 Q. Midwest ISO does have an energy market,
20 correct?

21 A. Yes.

22 Q. And it operates much the same as PJM
23 energy market?

24 A. That's my understanding.

1 MS. JAISWAL: Your Honor, objection.
2 This goes beyond the written testimony and beyond the
3 scope. It's the same objection that we've made, I
4 just have a standing objection to this line of
5 questioning and I'm restating the standing objection.

6 EXAMINER PRICE: Mr. Bentine.

7 MR. BENTINE: Well, your Honor, under the
8 Ohio rules of evidence and the rules of the
9 Commission and, by implication, this board, the
10 witness is available to answer -- a witness on
11 direct -- excuse me, on cross-examination of his
12 direct, this may be limited for rebuttal, but is
13 available to answer questions within his knowledge
14 for any relevant issue in this case.

15 EXAMINER PRICE: Overruled.

16 Q. Mr. Schlissel, if I could, I want to just
17 sort of summarize your testimony in my own words and,
18 of course, you're more than willing and capable of
19 correcting me. As I understand your testimony, you
20 believe that AMP-Ohio and its consultant R.W. Beck
21 underestimated the potential costs of CO2 into the
22 future and also underestimated or failed to take into
23 appropriate account the possibility of increases in
24 construction costs of AMPGS into the future and,

1 therefore, you believe that the review and support
2 for AMPGS is lacking.

3 A. Almost right.

4 Q. Go ahead.

5 A. Okay. The way I would summarize my
6 testimony is that I believe AMP-Ohio and its
7 consultant Beck failed to consider the full range of
8 possible risks associated with CO2 costs and capital
9 cost increases. The reason why I've restated from
10 what you've said is it's not only understating CO2
11 costs, but I believe you need to look at a range of
12 costs, and that the R.W. Beck study does not look at
13 a range of costs.

14 Q. Fair enough. Thank you.

15 And I believe you also make a point that
16 there was not adequate or any, I don't want to put
17 words in your mouth, consideration of energy
18 efficiency and other renewable alternatives; is that
19 correct?

20 A. That's correct. In the power supply
21 plans and the feasibility study that I saw there was
22 no consideration of energy efficiency, that's
23 correct.

24 Q. And you made at least some passing

1 suggestions in your testimony about alternatives that
2 you believe should be considered, correct?

3 A. Yes.

4 Q. And what exactly are you talking about
5 specifically when you talk about alternatives?

6 A. Well, there's energy efficiency, there's
7 wind and biomass I would think would be three
8 alternatives that could contribute. There's -- I
9 list them in my testimony I believe. Not "I
10 believe." I list them in my testimony.

11 Q. You say wind and biomass and as a sort of
12 last resort natural gas combined cycle?

13 A. That's correct.

14 Q. In addition to energy efficiency.

15 A. That's correct.

16 MR. BENTINE: Your Honor, I'm about to
17 start a line of questioning on some confidential
18 material that I'm going to at least ask to be marked.
19 I can defer that till a later time and go on to
20 something else or I can go into it now, whatever your
21 Honor's pleasure is.

22 EXAMINER PRICE: Is this the only line of
23 questioning that involves confidential material?

24 MR. BENTINE: Now, that's a hard

1 question, but let me check.

2 I can't say that for sure. There may be
3 another area that has that as well. I can save all
4 that till the end.

5 EXAMINER PRICE: Let's save all of that
6 for the end and then we'll take that up all at once.

7 MR. BENTINE: Sort of blows my big
8 ending, though.

9 EXAMINER PRICE: It's administrative law,
10 the Board will read the transcript in the proper
11 order to get your big ending.

12 MR. BENTINE: Thank you.

13 Q. (By Mr. Bentine) Mr. Schlissel, you
14 believe you have gotten enough information to reach
15 the conclusions that you have made in your testimony;
16 is that correct?

17 A. Yes.

18 Q. And that conclusion was that without
19 additional work, the certificate should be denied,
20 correct?

21 A. That's correct. My conclusion might be
22 different if I had seen more information, but I
23 believe it supports that conclusion.

24 Q. I want to turn to your Exhibit DAS-1 and

1 specifically page 3 of that. Just a couple quick
2 questions before we do turn to that since I'm
3 skipping over some stuff here, Mr. Schlissel. You
4 did not perform a load forecast for AMP-Ohio or any
5 of its members, did you?

6 A. That's correct.

7 Q. Now, I understand you've been retained by
8 NRDC to do some other work to make a presentation to
9 the city of Cleveland; is that correct?

10 A. Yes.

11 Q. And the point of that presentation to the
12 city of Cleveland is to attempt to get them to, in
13 effect, decline to be in the AMPGS; is that correct?

14 A. You'll have to ask NRDC. They asked me
15 to make a presentation about my testimony here and
16 about my thoughts and Synapse's thoughts on possible
17 supply alternatives to the AMPGS project.

18 Q. And have you done a load forecast for the
19 city of Cleveland?

20 A. No. I have accepted that there's a need
21 for action to be taken. I'm not sitting here today
22 saying, "Wow, you guys should go on vacation. You
23 don't need to do anything." I've accepted for the
24 purpose of this testimony that, in fact, there is a

1 need to take action.

2 Q. Now, you talk about the potential for
3 energy efficiency. You would agree, would you not,
4 that with regard to energy efficiency over a broad
5 range of communities like AMP-Ohio serves, that about
6 the best we could expect is 1, 1-1/2, or possibly
7 2 percent a year in energy efficiency savings?

8 MS. JAISWAL: Objection, your Honor. He
9 is not -- the best that AMP-Ohio could have? That is
10 your -- are you asking about his opinion?

11 EXAMINER PRICE: What's your grounds for
12 objection?

13 MS. JAISWAL: My objection is he is not
14 testifying for AMP-Ohio. What AMP-Ohio believes and
15 thinks, AMP-Ohio knows that.

16 Please read back the question if I
17 misunderstood it.

18 EXAMINER PRICE: Go ahead and read back
19 the question.

20 (Question read.)

21 EXAMINER PRICE: Your grounds?

22 MS. JAISWAL: I remove the objection.

23 EXAMINER PRICE: Thank you.

24 A. That's generally considered good

1 performance to achieve that, yes.

2 EXAMINER PRICE: Can you sustain those
3 gains over more than a period of years? Is it 2
4 percent per year for 10, 20 years, or does that curve
5 flatten out after some period of time?

6 THE WITNESS: There's no evidence to
7 indicate that. Nobody's been doing it long enough to
8 be able to answer that question.

9 EXAMINER PRICE: Thank you.

10 THE WITNESS: That's probably the most
11 important question around or one of the most
12 important questions, and there's no evidence. In
13 California when they had the rolling blackouts, they
14 had a lot of conservation and then they discovered
15 that people started using power again. Now they're
16 involved in many efforts to try to keep load growth
17 flat or declining.

18 EXAMINER PRICE: Thank you.

19 Q. (By Mr. Bentine) If, then, the growth
20 that one otherwise might expect in energy consumption
21 would be around 2 percent, one might hope that one
22 could keep energy consumption flat over some period
23 of time?

24 A. Yes. That's what would be hoped if --

1 using your example.

2 Q. To add any big chunk of a baseload
3 resource takes some lengthy period of time; does it
4 not?

5 A. Yes; depending on the resource.

6 Q. So if we were going to look at adding
7 several hundred megawatts of wind, how long do you
8 think that would take?

9 A. Maybe four or five years from initial
10 planning through getting it on line.

11 Q. Do you know, Mr. Schlissel, whether or
12 not with the increase in wind around the United
13 States, whether or not there are manufacturing
14 capacity issues that is stretching out the
15 deliverability?

16 A. Yes. I believe -- the answer is yes, I
17 know there are, and yes, there are. It's similar to
18 what I discuss regarding the manufacturing
19 constraints on coal. There are similar constraints
20 on wind. I've seen estimates that they expect the
21 manufacturing capacity for wind turbines to open up
22 by 2010, but right now, yes, there are.

23 Q. And do you understand, if you know, is
24 there some "not in my backyard" backlash against

1 large wind farms in populated areas?

2 A. Yes, in some areas indeed there are.

3 Q. What about several hundred megawatts of
4 biomass; how long do you think that would take?

5 A. I don't know. I would imagine it would
6 probably be the same, maybe a little longer.

7 EXAMINER PRICE: Mr. Bentine, I have a
8 couple questions about wind, I was going to save them
9 to the end, but now seems an opportune time.

10 Is it your understanding, it's my
11 understanding, is it your understanding that AMP-Ohio
12 operates a 7.2 megawatt wind farm? Is that correct?

13 THE WITNESS: I'm not sure of exactly the
14 size of the wind farm they operate.

15 EXAMINER PRICE: Do you know how many
16 other wind farms are in this state?

17 THE WITNESS: I believe there's only a
18 very small amount of wind in the state of Ohio. For
19 some reason 9 or 10 megawatts comes into my mind.
20 It's pretty small.

21 EXAMINER PRICE: And in your testimony
22 you are recommending that a substantial portion of
23 the power generating station could be replaced by
24 wind power.

1 THE WITNESS: No.

2 EXAMINER PRICE: I misunderstood that.

3 THE WITNESS: My testimony is I believe
4 that a portfolio of approaches needs to be looked at
5 that would include energy efficiency, wind, and to
6 the extent necessary gas capacity, and biomass, but
7 that I'm not sitting here saying you can replace a
8 thousand megawatt coal base-load plant with wind.
9 No, I'm not making that position.

10 EXAMINER PRICE: One more wind-related
11 question.

12 THE WITNESS: Sure.

13 EXAMINER PRICE: In your testimony I
14 think you disputed or at least you said that the
15 25 percent capacity factor that AMP-Ohio says it's
16 currently getting on wind, that they could do better
17 with that with current technology. What would be the
18 capacity factor that you believe they can achieve?

19 THE WITNESS: We're seeing wind turbines
20 achieving 35, 40 percent capacity factors. Again, it
21 depends on the wind regime. If there's better wind,
22 you get a higher capacity factor.

23 EXAMINER PRICE: In Ohio.

24 THE WITNESS: In Ohio? I would say it's

1 reasonable probably to assume a 30, 35 percent. As I
2 was preparing my testimony I looked at some wind maps
3 of the wind areas in Ohio along the shore of the lake
4 and if you get up to I think it's 80 meters or
5 something like that, there's fairly good wind. Not
6 great wind, but fairly good wind.

7 EXAMINER PRICE: There was great wind
8 yesterday in Columbus. Thank you.

9 Mr. Bentine, please proceed.

10 MR. BENTINE: Thank you.

11 Q. (By Mr. Bentine) Just following up, do
12 you know the capacity factor on the AMP-Ohio Green
13 Mountain wind farm in Bowling Green?

14 A. No.

15 Q. Do you know what specific site monitoring
16 in terms of projected capacity factors for Ohio wind
17 generation has shown?

18 A. I'm sorry, I don't understand the
19 question.

20 Q. Have you done specific or are you aware
21 of anyone that has done specific wind monitoring
22 studies in Ohio currently to determine the projected
23 capacity factors of wind?

24 A. No. I attempted to find that data and I

1 couldn't.

2 Q. Do you know how tall the current AMP-Ohio
3 Green Mountain wind farm is up near Bowling Green?

4 A. No.

5 Q. Would you accept, subject to check, it's
6 the only commercial wind farm in Ohio?

7 A. Sure.

8 Q. In terms of a, and I know you don't
9 promote it necessarily, but how long from the light
10 going on in your head to flipping the switch and it
11 comes on would it take, in your estimation, to put up
12 a 600-megawatt integrated gasification combined cycle
13 unit?

14 A. I think you and I talked about, during my
15 deposition, a coal plant of roughly eight to ten
16 years. I said, "Eight to ten," and you said "Eight?"
17 as if it was too short. I think that siting an IGCC
18 plant is the same.

19 Q. And would you agree with me that over
20 that time in a planning horizon, before the light
21 goes on in someone's head and the switch being
22 flipped on a coal-fired power plant or a coal power
23 plant that utilizes IGCC, that one would expect that
24 there would be increases in the estimated

1 construction cost?

2 A. Yes.

3 MR. BENTINE: Your Honor, this is a
4 convenient breaking point for me, but I'm happy to go
5 on. We've been going a couple hours.

6 EXAMINER PRICE: No; I think it's a good
7 time for a break. Let's reconvene at 5 after 3
8 according to this clock, however accurate that might
9 be.

10 Thank you all.

11 (Recess taken.)

12 EXAMINER PRICE: Let's go back on the
13 record.

14 Q. One more item on energy efficiency. Are
15 you familiar with the Vermont Energy Investment
16 Corporation?

17 A. Yes.

18 Q. And what do you know about them?

19 A. I work with them on a number of projects
20 looking at the potential for energy efficiency.

21 Q. And would you call them a national leader
22 in energy efficiency programs?

23 A. Sure. They're good folks. I think they
24 do fair, good work.

1 Q. Fair or good?

2 A. Both.

3 Q. Fair and good?

4 A. Yep.

5 MR. BENTINE: May I approach the witness,
6 your Honor?

7 EXAMINER PRICE: Yes.

8 Q. I'm going to hand you a news release,
9 Mr. Schlissel. Have you seen that before?

10 A. No, I have not. I've heard about it, but
11 I've not seen it.

12 Q. And what did you hear?

13 A. I heard that the AMP had retained Vermont
14 Energy Investment Corporation to develop its energy
15 efficiency programs for its members.

16 Q. Okay. Did you read the testimony of
17 Mr. Kieseewetter?

18 A. Yes.

19 Q. And Mr. Kieseewetter testified on some of
20 the energy efficiency programs that AMP-Ohio had
21 previously undertaken; is that correct?

22 A. I don't recall that, but I do recall
23 reading the testimony.

24 Q. Clear up one other thing. I asked you a

1 question about the Cleveland power sales contract,
2 Mr. Schlissel.

3 MR. BENTINE: May I approach, your Honor?

4 EXAMINER PRICE: Yes.

5 Q. I'm going to hand you a copy of what I
6 will represent to you to be the AMP-Ohio Cleveland
7 power sales contract for the AMPGS station and ask
8 you, Mr. Schlissel, is that the contract that you
9 looked at or at least some form of that contract that
10 you looked at in your review of certain documents in
11 connection with this case either from Cleveland or
12 from AMP-Ohio?

13 A. Yes, I believe this is -- what I saw,
14 again, is in the back of the initial project
15 feasibility study, at least the document I have is a
16 copy or proposed copy of these contracts and attached
17 agreements. I don't recall that it lists the city of
18 Cleveland on the cover.

19 Q. Okay.

20 A. It could, I just don't remember.

21 Q. Okay. I have a yellow sticky in there
22 and a paragraph that is marked in there; would you
23 just read that to yourself? I'm going to ask you a
24 question about it after you read it to yourself.

1 A. Okay.

2 Q. Does that paragraph indicate that the
3 participants or at least a supermajority of the
4 participants would have the ability to cancel the
5 project?

6 A. Yes. Under two specific circumstances.

7 Q. And those circumstances are?

8 A. One is prior to giving a notice to
9 proceed to the primary contractor for the
10 construction, and then second, after such notice but
11 prior to the commercial operation date if in a report
12 to the participants and AMP-Ohio the consulting
13 engineer concludes that AMPGS cannot economically be
14 placed into commercial operation.

15 Q. So at any time prior to -- at any time,
16 and if you need it back, I'll give it back to you, if
17 at any time prior to the execution and the notice of
18 the EPC contractor or the notice to proceed the
19 participants would want to cancel this project
20 because of costs or anything else, they could,
21 correct?

22 A. A supermajority can vote to do so prior
23 to the notice to proceed, yes.

24 Q. And a supermajority is determined by

1 weighted vote of the members according to their take
2 out of the project, if you know?

3 A. That's what I believe. To be honest, I
4 wasn't quite sure of exactly how it was calculated.
5 I don't think it's in the contract.

6 Q. It would be quite an error if it's not.

7 A. Okay, then I just missed it. I tried to
8 find it.

9 Q. And then after the notice to proceed it
10 could still be cancelled but will require the
11 certificate of a consulting engineer, correct?

12 A. Correct. But obviously an individual
13 member participant can't pull out.

14 Q. Correct.

15 Let's back up. Part of the reason that
16 you've been retained by NRDC to talk to the Cleveland
17 city council is up until March 1st of this year
18 they can back out; can they not?

19 A. Yes. That's correct.

20 MS. JAISWAL: Objection.

21 EXAMINER PRICE: Grounds?

22 MS. JAISWAL: The basis of Mr. Schlissel
23 is testifying on behalf of NRDC but he is not an NRDC
24 representative and that question goes to NRDC's

1 motivations for retaining Mr. Schlissel.

2 EXAMINER PRICE: Well, he might get to
3 that, but he hasn't gotten to that yet. Overruled.

4 Q. Mr. Schlissel, do you know whether or not
5 there will be an updated cost estimate from the
6 consulting engineer and the EPC contract -- excuse
7 me, the EPC bidders will have submitted their bids
8 prior to March 1st?

9 A. It's my understanding they will be, the
10 contract or some of the documents I read said that a
11 project feasibility study rather than the initial
12 will be completed in February, and I read somewhere
13 else that the EPC bids would be in by that relative
14 time frame as well.

15 Q. So, once again, to the extent that costs
16 have exceeded what one otherwise might expect or was
17 comfortable with, each of the communities can either
18 lower their take out of the project or completely get
19 out of the project, correct?

20 A. Yes, that's true. But it depends on what
21 information they're provided as to alternatives and
22 what a cost increase means. I mean, to tell them, as
23 a hypothetical, the cost of the project went up by
24 25 percent may not mean anything to them unless

1 they're given a sense of what is the cost of the
2 project compared to possible alternatives.

3 EXAMINER PRICE: Mr. Schlissel, I'm not
4 going to do anything about that prior answer, but
5 generally if he asks a "yes" or "no" question, you
6 should answer "yes" or "no" or explain why you
7 cannot. If there's additional information that needs
8 to be put into the record, your counsel can do that
9 on redirect.

10 THE WITNESS: Okay. I generally, sir, I
11 wait for the lawyer to tell me I'm going too far, but
12 I'll do that from now on.

13 EXAMINER PRICE: I'm pretty assertive on
14 the bench.

15 Q. Now, Mr. Schlissel, I believe you
16 indicated you don't know much about the corporate
17 governance of AMP-Ohio, correct?

18 A. That's correct.

19 Q. Do you know who sits on its board?

20 A. I believe representatives of the
21 participants.

22 Q. Representatives of members; would you
23 accept that?

24 A. Yes.

1 Q. And would you accept that they're elected
2 by the members?

3 A. I would assume they are, yes. It's
4 similar to other organizations of public power
5 entities in other states.

6 Q. And would you also assume that that same
7 elected board of directors made up of members of
8 AMP-Ohio direct the organization, hire its staff?

9 A. I would expect so, yes.

10 Q. Do you know how many engineers there are
11 on AMP-Ohio's board?

12 A. On the board?

13 Q. Yes.

14 A. No.

15 Q. Do you know how many utility directors
16 and utility professionals there are on the board?

17 A. I looked at the members of the board, it
18 doesn't describe their backgrounds. Sorry.

19 Q. Let's turn to Exhibit DAS-1. We're going
20 to go through that tedious thing that we did once
21 before here, Mr. Schlissel. I want to start with
22 page 3, the top of page 3 where you start talking
23 about testimony, affidavits, depositions, and
24 comments.

1 A. That's correct.

2 Q. First of all, with regard to the West
3 Virginia Public Service Commission engagement, would
4 you tell me by whom you've been engaged?

5 A. The Consumer Advocate division of the
6 commission staff.

7 Q. And that case is about a certificate of
8 public convenience and necessity for a 600-megawatt
9 IGCC plant proposed by AEP in West Virginia?

10 A. That's correct.

11 Q. The estimated cost of that plant, I
12 believe, as indicated in your testimony in that case
13 was 2.23 billion dollars?

14 A. I don't recall, but I'll accept that.
15 I'm sure, I mean, I can certainly check it easily
16 enough.

17 Q. Is that project designed for carbon
18 capture and sequestration?

19 A. No. I mean, it's capture ready, but it
20 doesn't have any capture equipment.

21 Q. When you say "capture ready," does that
22 mean that the combustion turbines are designed to
23 accept a hydrogen-rich syngas that has been stripped
24 of CO2?

1 A. No. I don't know that. All I know is
2 that a lot of coal plants are called capture ready
3 when all they've done is really allow some space that
4 10 years, 20 years down the road they may put in some
5 equipment.

6 Q. Now, you provided testimony in that case,
7 did you not, that AEP's projections with regard to
8 projected costs of CO2 in the future were too low?
9 Correct?

10 A. No. Again, it was that they didn't look
11 at a range for that uncertainty.

12 Q. We'll come back that, but you also
13 indicated that they had not adequately taken into
14 account projected increases in construction cost,
15 correct?

16 A. That's correct.

17 Q. And your recommendation in that case was
18 that if the Commission approves it, that it should
19 cap at current cost estimates any recovery from the
20 ratepayers; is that correct?

21 A. That's correct. It wasn't the
22 ultimate -- it wasn't a denial.

23 Q. Now, with regard to that recommendation,
24 did that recommendation go to, your recommendation,

1 go to capital costs or capital costs and their
2 projected CO2 costs?

3 A. Capital costs.

4 Q. So despite the fact that they may have
5 underestimated CO2 cost, you did not recommend, in
6 that case, that the certificate be denied.

7 A. That's correct.

8 Q. Did you testify in that case that --
9 well, let's strike that. Let's ask this first: This
10 was an Appalachian Power Company certificate proposal
11 that was being litigated, correct?

12 A. Yes. That is being litigated, yes.

13 Q. And Appalachian Power is a wholly-owned
14 subsidiary of American Electric Power?

15 A. Yes.

16 Q. And American Electric Power has over
17 30,000 megawatts of generation?

18 A. That sounds ballpark.

19 Q. Did you recommend that the West Virginia
20 commission condition the certificate in that case on
21 AEP undertaking studies of biomass and wind?

22 A. No. My assignment in that case was more
23 limited than in this case.

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

1 strike. My question was did he recommend it, not
2 what his assignment was.

3 EXAMINER PRICE: Can I have the question
4 and answer again?

5 (Record read.)

6 Q. Can you answer my question, sir?

7 EXAMINER PRICE: I have not ruled on your
8 motion.

9 MR. BENTINE: Sorry.

10 EXAMINER PRICE: Read it again.

11 (Record read.)

12 EXAMINER PRICE: Overruled.

13 Q. You indicated earlier in answer to one of
14 my earlier questions that you were independent and
15 you prided yourself on that independence, correct?

16 A. Yes.

17 Q. Do you believe that AEP should have taken
18 into account energy efficiency, biomass, and other
19 renewables and as a last resort natural gas combined
20 cycle instead of building that IGCC plant?

21 A. Yes, but --

22 Q. I'm satisfied with the "yes,"
23 Mr. Schlissel.

24 Let's go to the Iowa Utility Board

1 docket.

2 And I believe you said, back on West
3 Virginia, that proceeding is still going on, there
4 hasn't been a decision, correct?

5 A. That's correct. The hearings were last
6 week.

7 Q. With regard to the Iowa Utility Board,
8 could you tell me, first of all, who you represented?

9 A. The office of the consumer advocate
10 that's in the office of the attorney general of the
11 state.

12 Q. And what was the Marshalltown plant?

13 A. 600-megawatt pulverized coal plant.

14 Q. And was that plant going to be set up to
15 capture, compress, and sequester carbon dioxide as
16 proposed?

17 A. No.

18 Q. In that case that Interstate Power and
19 Light is a subsidiary of Alliant?

20 A. Yes.

21 Q. And Alliant is what is commonly referred
22 to as a vertically integrated utility?

23 A. Since I'm only answering "yes" or "no," I
24 have to answer "no."

1 Q. Does Interstate Power and Light, the
2 subsidiary of Alliant, does it own or have control of
3 coal-fired generation?

4 A. Yes.

5 Q. Now, in that case what issues did you
6 testify about?

7 A. I testified about CO2 costs, construction
8 cost increases, I also presented the results of
9 modeling that Synapse did along with the staff of our
10 client using a capacity expansion model. We looked
11 at -- we changed some of the inputs that the company
12 had assumed to see what plans would be produced by
13 the model.

14 Q. And is it true that you found in that
15 case that Interstate Power and Light had not
16 projected CO2 costs at appropriate levels; they were
17 too low?

18 A. Again, if I'm limited to "yes" or "no,"
19 the answer would be no, that wasn't my testimony.

20 Q. What was your testimony?

21 A. It was that they hadn't considered a
22 reasonable range of CO2 costs, they hadn't considered
23 the potential for further increases in construction
24 costs, and that when you put into the model those

1 different inputs plus a couple of what we consider to
2 be mistakes in the way they input the data, when you
3 corrected all that the model produced least-cost
4 plans that did not include the Marshalltown plant.

5 Q. Has that decision been rendered?

6 A. No. The hearings in that case will not
7 be until next month.

8 Q. Let's talk about the next one here,
9 Virginia State Corporation Commission regarding
10 Dominion Virginia Power.

11 A. Yes.

12 Q. And who were you retained by in that
13 case?

14 A. Three or four parties including the
15 Southern Environmental Law Center.

16 Q. And do you recall the other parties?

17 A. No. I think Sierra Club may have been
18 one of them, but I'm not positive.

19 Q. And what was the plant that was proposed
20 there?

21 A. Wise County coal plant.

22 Q. And how big was that?

23 A. I think it was on the order of
24 600 megawatts.

1 Q. And that was a PC plant?

2 A. It's a circulating fluid bed plant.

3 Q. CFB.

4 A. CFB in southwestern Virginia.

5 Q. And your testimony in that case was
6 similar, that the ranges of CO2 that they considered
7 were too low and not appropriate and construction
8 cost estimates were too low?

9 MS. JAISWAL: Objection; vague.

10 EXAMINER PRICE: Grounds?

11 MS. JAISWAL: Objection; vague. Similar
12 to what?

13 EXAMINER PRICE: Overruled.

14 A. Again, I think if I have to answer "yes"
15 or "no," I have to say "no" because it wasn't just
16 that they were too low, it was that the range wasn't
17 reasonable; that, due to uncertainty, they needed to
18 look at a wide range of CO2 costs.

19 Q. But you also found that their range was
20 too low; did you not?

21 A. Yes. Correct. But the issue is a range.

22 Q. Now, Dominion of Virginia, they have
23 significant coal-fired generation already?

24 A. Yes.

1 Q. Let's talk about the Louisiana case with
2 regard to the Little Gypsy -- by the way, let me back
3 up. I apologize.

4 There has not been a decision issued in
5 that case, correct?

6 A. That's correct.

7 Q. Let's talk about the Entergy proposal to
8 repower Little Gypsy unit 3. Who were you retained
9 by in that case?

10 A. Sierra Club.

11 Q. And what was the repowering of Little
12 Gypsy unit 3?

13 A. Little Gypsy unit 3 is an old gas-fired
14 power plant that Entergy is planning to repower into
15 a CFB plant.

16 Q. Just for the record, would you give your
17 understanding of what a CFB plant is?

18 A. It's a plant that has the -- the boiler
19 has a bed of limestone ash in the fuel and you run
20 air through it and, depending on the velocity, it
21 acts as like a fluid, so you get a circulating fluid
22 bed. Generally CFBs, well, to date they've not been
23 built in larger units than like 400 megawatts and
24 they generally can burn a wider range of fuel, they

1 have -- they're a little less efficient, have higher
2 heat rates than supercritical PCs, probably
3 comparable to a subcritical in terms of the
4 performance.

5 Q. Okay. But it combusts the coal.

6 A. Oh, sure. I didn't realize that -- I'm
7 sorry if I went into too much detail.

8 Q. Now, is your testimony in that case
9 similar?

10 A. Yes. Except --

11 Q. Go ahead.

12 A. Except that I addressed economic studies
13 that Entergy had put into the record in my testimony
14 in that case.

15 Q. But you did not recommend the certificate
16 be granted, correct?

17 A. That's correct, based on their studies I
18 did not recommend it.

19 Q. Let's talk about the next document, the
20 Arkansas -- and that case still hasn't come out,
21 correct, or has it?

22 A. It has.

23 Q. It has?

24 A. The commission approved the certificate

1 for the Little Gypsy plant. I understand it's going
2 to court, but the commission has approved it.

3 Q. Okay. Arkansas Public Service Commission
4 with regard to Southwestern Electric Power Company's
5 Hempstead coal-fired power plant. What's the
6 Hempstead plant?

7 A. It's, again, about a 600-megawatt
8 pulverized coal plant in southwestern Arkansas.

9 Q. And who were you retained by for that
10 case?

11 A. The commission staff. The staff of the
12 regulatory commission.

13 Q. And was your testimony similar in that
14 case?

15 A. I'd have to say "yes and no"; if I could
16 explain.

17 Q. Sure.

18 A. It dealt with similar issues, but it was
19 not -- the commission staff specifically asked me to
20 review the economics of the proposed plant and I
21 didn't reach a conclusion yes or no as to whether the
22 plant should be built, but I did address the same
23 construction cost issues and CO2 issues.

24 Q. And you found, in your review, that,

1 again, they hadn't adequately addressed CO2 or
2 increasing construction costs.

3 A. That's correct. A lot of the numbers in
4 the case are confidential, so I can't kind of explain
5 my reasoning, but that was a conclusion I reached.

6 Q. Now, Southwestern Electric Power is, what
7 is that? Is that an investor-owned utility?

8 A. It's a wholly-owned subsidiary of AEP.

9 Q. And, I'm sorry, has there been a decision
10 issued in that case?

11 A. Yes. I think two weeks ago the
12 commission voted to approve the certificate 2 to 1.

13 Q. Now, let's talk about the North Dakota
14 Public Service Commission case that's next listed
15 there. That's the Big Stone project?

16 A. Yes, sir.

17 Q. And you've had, actually, a number of
18 brushes with Big Stone project, correct?

19 A. Yes. It's a project that had seven
20 owners in three states and it's still going on. I
21 mean, the regulatory approvals are still continuing,
22 the issue.

23 Q. On the lawyer side somebody would call
24 that a lawyer's dream, but --

1 A. No; on my side I call it a recurring
2 nightmare.

3 Q. Now, what was the Big Stone II generating
4 project?

5 A. Again, it's a 600-megawatt pulverized
6 coal plant. Actually, it was originally proposed as
7 a 600-megawatt pulverized coal plant. When each of
8 the cases you're about to ask me about wore on, there
9 were seven proposed owners, two of the seven have
10 since withdrawn and now Big Stone is being proposed
11 as somewhere between a 500- and 580-megawatt plant.

12 Q. Now, with regard to the commission case
13 that you cite here, I know there have been several of
14 them, what was the -- let me ask you to strike that
15 and I'll ask it this way: Was your testimony similar
16 in that case with regard to construction costs and
17 CO2?

18 A. The answer is yes, and we'll have to
19 explain later. There is an explanation, but the
20 answer is yes.

21 Q. I'm agreeable to it.

22 A. There was specific information in that
23 case related to internal estimates that indicated the
24 cost was already higher than the applicants were

1 acknowledging. So it was different than in a case
2 such as this case where I have no evidence that
3 AMP-Ohio believes costs could be higher. In that
4 case I actually had evidence that the owners had been
5 told the cost would be higher.

6 Q. But with regard to CO2, it was similar?

7 A. Well, actually, that's even more
8 complicated of an explanation because the state of
9 North Dakota in its infinite wisdom has a statute
10 that says that the company -- utilities cannot
11 consider federal environmental regulations that
12 haven't been passed yet, so the state of North Dakota
13 doesn't allow its utilities to consider CO2. So I
14 filed testimony that included testimony on CO2, but
15 it was stricken and now there's an appeal to the
16 North Dakota Supreme Court which will eventually end
17 up in the U.S. Supreme Court.

18 Q. In any of the other cases in which you
19 testified on Big Stone II did you find that their
20 cost estimates with regard to CO2 either
21 inappropriate in terms of range or too low?

22 A. Yes.

23 Q. The Indiana Regulatory Commission.

24 Back up. Who did you represent in the

1 Big Stone cases?

2 A. In the Big Stone cases in North Dakota it
3 was, I think the client's name is Dakota Resource
4 Council. And the other cases, South Dakota and
5 Minnesota, it was -- it is Minnesota Center For
6 Environmental Advocacy is one of our clients, the
7 Izaak Walton League.

8 Q. And are you still waiting for a decision
9 in the North Dakota case?

10 A. Yes, as I mentioned, if I --

11 Q. Go ahead.

12 A. Two of the owners withdrew and basically
13 the case is up in the air. It's being litigated
14 again in Minnesota, and once that's done it will be
15 re-litigated in North Dakota. So I get to go to
16 Bismarck, North Dakota, in the middle of the winter.

17 Q. By the way, do you know when the light
18 went on and somebody decided it was a good idea to
19 build Big Stone II?

20 A. My guess is it was sometime around
21 2002-2003.

22 Q. Let's go to the Indiana proceeding here.
23 That was a case brought by Duke Energy and Vectren
24 about an IGCC?

1 A. Yes.

2 Q. And who did you represent in that case?

3 A. Our clients included the Hoosier,
4 H-o-o-s-i-e-r, Environmental Council, and Citizens
5 Action Coalition of Indiana.

6 Q. And that was a 600-megawatt IGCC?

7 A. I think you're right.

8 Q. And Duke Energy is a vertically
9 integrated utility.

10 A. Duke Energy - Indiana is, yes.

11 Q. And it has other coal-fired assets. If
12 you know.

13 A. Yes.

14 Q. Now, Vectren has pulled out of this deal;
15 is that correct?

16 A. Yes.

17 Q. So Duke is pursuing it on its own.

18 A. That's what I understand. I've not
19 followed in the last six months, but I think you're
20 correct.

21 Q. The Indiana -- excuse me. In that case
22 you rendered similar testimony with regard to CO2 and
23 construction costs; did you not?

24 A. Construction costs, again, no.

1 Construction costs was specific to evidence in that
2 case and it was confidential. CO2 costs, it was
3 similar, yes.

4 Q. And the Indiana commission has approved a
5 certificate for that particular proposal?

6 A. Yes, they have.

7 Q. I'm going to skip one, mercifully, go to
8 Florida Power and Light Company's Glades Power Park.

9 A. Yes.

10 Q. And who did you represent in that case?

11 A. My clients, there were three or four of
12 them, the one I recall is Sierra Club.

13 Q. And what was the Glades project?

14 A. It was two 960-megawatt coal plants were
15 proposed.

16 Q. And they were PCs?

17 A. Yes.

18 Q. Was your testimony similar in that case?

19 A. If I could explain, there were
20 similarities and there were differences. The
21 similarities was the CO2 piece was very close. The
22 differences were I had company economic analyses that
23 I could discuss and could present to the commission
24 and explain what some of the results of the company's

1 own studies showed.

2 Q. So the CO2 testimony was similar, but the
3 construction cost estimates you were able to use the
4 company's data in a different fashion.

5 A. I could be wrong, but I don't recall
6 challenging their construction cost estimate. Again,
7 it was six, nine months ago. I don't remember
8 exactly everything I testified to in the case, but
9 the main piece of that case was looking at the
10 company's own studies and showing that even if the
11 company was right, the plant wouldn't break even
12 until like 2049 or something like that.

13 MR. BENTINE: Could I have the question
14 and answer reread, please?

15 (Record read.)

16 MR. BENTINE: Thank you. I'll move on.

17 Q. The Florida commission denied the
18 certificate in that case; did it not?

19 A. Yes, it did.

20 Q. Is that on appeal?

21 A. No, I don't believe it is. I think the
22 company has accepted the order.

23 Q. Turn the page, if you would, please.
24 We'll skip Michigan. The Minnesota commission,

1 that's another Big Stone II proceeding, correct?

2 A. Yes; that's the case we're back in.

3 Q. And the North Carolina commission, who
4 did you represent in that case?

5 A. Southern Alliance for Clean Energy.

6 Q. And in that case Duke was proposing two
7 new 800-megawatt supercritical PCs?

8 A. Yes.

9 Q. And you had similar testimony in that
10 case with regard to CO2 and construction costs?

11 A. Well, the answer is yes with an
12 explanation.

13 Q. Go ahead.

14 A. Thank you.

15 As we discussed during my deposition, in
16 the first phase of the case I testified about,
17 similar as I had testified here regarding
18 construction cost uncertainties and CO2 cost
19 uncertainties, after the record closed the company
20 announced a billion dollar cost increase in the
21 project. The commission reopened the case and in the
22 second part of the case I don't recall discussing
23 either of those subjects. I might have mentioned
24 that there was a potential for further increases,

1 but -- so I filed two pieces of testimony in the
2 case; that's why I wanted to explain.

3 Q. And the North Carolina commission has
4 acted in that case?

5 A. Yes.

6 Q. And they approved one of the units?

7 A. Yes. They've approved one and rejected
8 one, yes.

9 Q. Half full, half empty.

10 A. What?

11 Q. Half full, half empty.

12 A. I know, you would say they approved one
13 and I also wanted to point out they rejected one.

14 Q. Thank you.

15 I want to turn back to your testimony
16 now, Mr. Schlissel.

17 MR. BENTINE: May I approach, your Honor?

18 EXAMINER PRICE: Yes.

19 MR. BENTINE: Your Honor, I have a
20 multipage document that's a Synapse Energy document
21 I'm going to ask be marked as AMP-O 10, please.

22 EXAMINER PRICE: So marked.

23 (EXHIBIT MARKED FOR IDENTIFICATION.)

24 Q. Take a moment to look at what has now

1 been marked as AMP-Ohio Exhibit 10, please. Have you
2 had a chance to look at it?

3 A. Yes.

4 Q. Have you ever seen this before?

5 A. In this form, no, but as a draft, yes.

6 Q. And this is a proposal to the city of
7 Oberlin, Ohio, correct?

8 A. Yes.

9 Q. And it's a proposal to look at their
10 power supply?

11 A. Yes.

12 Q. You know the city of Oberlin has passed
13 an ordinance and signed an agreement with AMP-Ohio
14 with regard to the AMPGS project?

15 A. Yes.

16 Q. As a part of this proposal you would be
17 evaluating the AMPGS project?

18 A. I guess we would be. We would be looking
19 at the AMP project relative to alternatives.

20 Q. And you've already come to a conclusion
21 with regard to the AMP project, have you not, that it
22 shouldn't be granted a certificate?

23 A. Until it's compared in a reasonable set
24 of resource plans to alternatives. That's what my

1 testimony is.

2 Q. I want you to turn to -- well, strike
3 that. Let me ask this: You were proposed as one of
4 the analysts on this particular project; were you
5 not?

6 A. That's correct. We were contacted by the
7 city of Oberlin who asked us to submit it.

8 Q. I want you to turn to the last page, page
9 16.

10 A. Sixteen? Okay.

11 Q. And that is a scope of work and a budget?

12 A. Yes.

13 Q. Would you read line 2?

14 A. "Review AMPGS project analysis data."

15 Q. And how much is proposed for that?

16 A. \$4,800.

17 Q. Well, Mr. Schlissel, if you can come to
18 this board and testify with regard to a certificate
19 for AMPGS with the data that you have here that was
20 sufficient to allow you to form conclusions with
21 regard to AMPGS, why do you need another \$4,800 in
22 this particular proposal to evaluate that same data?

23 A. Because --

24 MR. BENTINE: I'll withdraw that.

1 A. You don't want me to answer?

2 Q. I said I withdrew it.

3 Go back to the first page.

4 A. Of which, my testimony or --

5 Q. Of 10. I'm sorry.

6 A. Okay.

7 Q. Same exhibit. Now, that first page
8 indicates that you've also been engaged, and Synapse,
9 to look at possible alternatives for Cleveland
10 instead of the AMP project, correct?

11 A. Yes.

12 Q. I believe you indicated you received a
13 copy of the initial project feasibility study,
14 correct?

15 A. Yes.

16 Q. And you reviewed that.

17 A. Yes.

18 Q. And you received that -- how did you
19 receive that; do you know?

20 A. From counsel.

21 Q. From counsel? Do you know whether or not
22 it arose from a public records request?

23 A. I don't know exactly how we got it. I
24 assumed he didn't steal it. I figured it had to be

1 something legal.

2 Q. Well, there may be something -- no. I'm
3 kidding.

4 Let me represent to you that this
5 document was included in your NRDC, OEC, and Sierra
6 Club's petition to intervene in this case.

7 MR. BENTINE: May I approach, your Honor?

8 EXAMINER PRICE: Yes.

9 MR. BENTINE: I'm going to ask this
10 document be marked as AMP-O 11.

11 (EXHIBIT MARKED FOR IDENTIFICATION.)

12 Q. Now, Mr. Schlissel, does what has now
13 been marked as AMP-O 11, does that appear to be the
14 initial project feasibility study that you saw?

15 A. I think -- well, the answer is I think
16 this is the executive summary from the project
17 feasibility study.

18 Q. Did you receive the entire study at the
19 time you received this?

20 A. Yes. I have a thicker document that has
21 several chapters to it in addition to the executive
22 summary.

23 Q. All right. Well, we'll talk about this
24 one right now. I have the thicker document if you

1 need to refer to it.

2 A. Oh, no, I wasn't saying I needed it. I
3 just wanted to let you know that I had seen more.

4 Q. So what we have here, then, is a portion
5 of, but as far as you can tell an accurate portion of
6 that report consisting of the executive summary.

7 A. Yes.

8 Q. I'm going to ask you a few questions
9 about this document and, again, about when did you
10 get this document?

11 A. I don't remember exactly when I received
12 it. I know I didn't look at it until after I
13 returned from vacation on November 4th or 5th.

14 Q. But you had it prior to preparing your
15 testimony?

16 A. Yes.

17 Q. Would you turn to page ES-2, please?

18 A. Yes.

19 Q. Under History and Development there, what
20 does the -- strike that.

21 Does it indicate that in 2002 AMP-Ohio
22 completed a strategic plan which included a 20-year
23 power supply needs analysis there?

24 A. Yes.

1 Q. And that led to an identified need for
2 new baseload generating capacity?

3 A. That's what it says, yes.

4 Q. And also indicates that a conceptual
5 feasibility study and other studies, including
6 evaluation of baseload power supply options,
7 technology considerations, site alternatives, and
8 fuel availability. Do you see that?

9 A. Yes.

10 Q. By the way, do you know whether or not
11 AMP-O's fuel availability study included a
12 determination of biomass, whether biomass was viable?

13 A. I think I've seen this study by Sargent &
14 Lundy and I don't recall whether it did or not.

15 Q. Would you accept, subject to check, it
16 did include an estimation of biomass availability for
17 baseload in Ohio?

18 A. Sure.

19 Q. Do you know what technology
20 considerations were included in that study?

21 A. I think it was gas, several types of coal
22 plants I recall.

23 Q. And you saw that study, correct?

24 A. I believe I saw it. I seem to recall

1 looking at a Sargent & Lundy report from sometime in
2 that time frame.

3 Q. And in the next paragraph under there
4 there's a discussion, is there not, of certain work
5 that was contracted with Sargent & Lundy in 2003?
6 Correct?

7 A. 2003, yes.

8 Q. Now, the report goes on to give a project
9 time line and project description, correct?

10 A. Yes.

11 Q. And it includes an estimated capital cost
12 and financing requirements section?

13 A. Yes.

14 Q. And that estimated capital cost exclusive
15 of financing costs is 2.5 billion dollars?

16 A. Yes.

17 Q. And this report in June of 2007, was that
18 available to AMP-Ohio's members and participants
19 prior to them being asked to execute a power sales
20 contract?

21 A. I believe it was.

22 Q. Okay. On page ES-8 there's an estimated
23 bond amount of 2.9 billion dollars?

24 A. Yes, I see that.

1 Q. And if you know, were there further
2 breakdowns of the costs making up the 2.9 billion
3 dollars in other portions of the report?

4 A. I don't recall.

5 Q. Do you know whether or not these
6 estimates included escalation costs and contingency
7 costs?

8 A. I believe they did, yes. If you look
9 on -- if I might, if you look on page ES-7, you'll
10 see that escalation and contingency for the owner's
11 costs are there and I, maybe I haven't seen it and I
12 was just assuming that the 2.2 billion-dollar capital
13 cost would also include escalation and contingency
14 because it's been in other estimates I've seen.

15 Q. And were you able to look at the
16 deposition of Mr. Clark?

17 A. I looked at portions of the deposition of
18 Mr. Clark, yes.

19 Q. Do you know whether or not he addressed
20 that in his deposition, as to whether there were
21 those costs?

22 A. No, but I'd be surprised if they weren't
23 in here.

24 Q. With regard to the technology selection,

1 do you recall what other technologies were reviewed
2 by Sargent & Lundy?

3 A. No. I looked at that study back in
4 November, but, I'm sorry, I just don't recall. I
5 mean, I recall seeing coal and gas, and you've asked
6 me to accept that biomass was in there, but I don't
7 recall what others were in there.

8 Q. What I've asked you to accept, just so
9 the record is clear, is that the fuel availability
10 study looked at biomass.

11 A. Oh, I'm sorry. I apologize.

12 Q. I just wanted to make it clear, I didn't
13 want you to be under some misapprehension of what
14 I've represented.

15 Going on in that report --

16 MR. BENTINE: And, your Honor, some of
17 these charts will be given to you in living color --

18 EXAMINER PRICE: Thank you.

19 MR. BENTINE: -- at some point as we
20 discuss these things. So this happened to be -- I
21 knew this one was all public because they made it so,
22 so I copied it in its entirety.

23 Q. Table 6 in that has projected operating
24 costs; does it not?

1 A. Yes.

2 Q. Now, I want you to turn to page ES-17.

3 A. Seventeen?

4 Q. Yes.

5 A. Okay.

6 Q. And is there a discussion there of
7 AMP-Ohio's current resources?

8 A. Yes, in the middle of the page.

9 Q. And figure 5, even though it's not in
10 color, contains a projection of projected load and
11 existing capacity resources, correct?

12 A. Yes.

13 Q. Now turn to page ES-20.

14 A. Okay.

15 Q. ES-20 is a description of a development
16 of participant need for the project, correct?

17 A. I'm sorry, I don't understand what you
18 mean by "development of participant need."

19 Q. Well, let's go into it. It indicates,
20 first of all, that AMP-O contracted with R.W. Beck to
21 determine long-term power supply plans for 119 of its
22 members?

23 A. Yes, sure.

24 Q. And you have seen at least a smattering

1 of those power supply plans?

2 A. Well, I think six.

3 Q. Six? And if you know, with regard to
4 Attachment C of those power supply plans, was your
5 counsel given the 113 you didn't see?

6 A. I'm sorry, I'm confused by the -- I
7 don't -- Attachment C --

8 Q. Not to this study, but to the power
9 supply plan.

10 A. I'm sorry, I don't recall what Attachment
11 C is. If you show me an example, I might remember,
12 but I just don't recall what it is.

13 Q. We'll get to that in a bit.

14 A. Okay.

15 Q. Let's go on here one exhibit at a time.

16 But you have seen at least the Cleveland
17 and some other power supply plans.

18 A. I think six.

19 Q. Now, if you go on down to the
20 next-to-the-last line and the sentence beginning on
21 the next-to-the-last line, that sentence indicates
22 there were generating resource options included in
23 the study including generic baseload coal, natural
24 gas-fired combined cycle, peaking resources, AMPGS,

1 Prairie State Energy Campus, and some proposed
2 AMP-Ohio hydroelectric plants as well as future wind,
3 correct?

4 A. That's correct.

5 Q. At least this would be some evidence that
6 AMP-Ohio considered some alternatives, wouldn't it?

7 A. Are you referring to the future wind as
8 some alternatives?

9 Q. I'm referring to all of those as
10 alternatives, sir.

11 A. Okay, yes, they looked at a -- I never
12 said -- the answer is yes, they looked at
13 alternatives.

14 Q. Let me ask this: Did you find any fault
15 with the conclusion by R.W. Beck or AMP-Ohio or going
16 back to Sargent & Lundy that there was approximately
17 a 2,000-megawatt hole in AMP-Ohio's power supply in
18 terms of baseload?

19 A. I thought the 2,000-megawatt hole was for
20 the regional. If I'm wrong, I'm sorry, I thought the
21 2,000-megawatt hole was for the region and that this
22 plant was to supplant market-based purchases.

23 Q. You say you believe that the
24 2,000-megawatt hole was regional?

1 A. Yeah. I recall one of your witnesses
2 talked about the most recent NERC filing for the
3 region and discussed a capacity deficit of
4 2,000 megawatts. I don't recall which one of your
5 witnesses, but I do recall -- I'm pretty sure it was
6 in the testimony that one of your witnesses filed.

7 Q. Would you turn to page ES-23.

8 A. ES-23?

9 Q. Uh-huh.

10 A. Okay.

11 Q. Would you read the paragraph beginning
12 "In summary"?

13 A. Okay. I'm not -- maybe that's where I
14 read it. I'm not taking issue with the need or the
15 magnitude of the need.

16 Q. Well, Mr. Schlissel, you're suggesting
17 that this plant should be turned down because we
18 didn't consider energy efficiency. Can we energy
19 efficiency ourselves out of a 2,000-megawatt hole?

20 A. No. And could we look at the conclusion
21 I actually reached on the last page of my testimony
22 to see --

23 Q. We can look --

24 A. -- to see what my conclusion is?

1 MR. BENTINE: I'll move to strike that.

2 EXAMINER PRICE: Sustained.

3 Q. Is it reasonable, in your estimation, to
4 think -- well, strike that. Let me ask this: You
5 are aware, are you not, that AMP-Ohio is aggressively
6 pursuing hydroelectric capacity and energy?

7 A. Yes.

8 Q. And if you know, are we pursuing it to
9 about the greatest extent possible?

10 A. I believe that's true.

11 Q. And we are also suggesting to our members
12 that they should sign up for as much of that as we
13 can get?

14 A. I don't know about the discussions
15 between AMP-Ohio and the members, but I'm willing to
16 accept that that sounds reasonable.

17 Q. Well, we've included slices of that hydro
18 in all of our power supply recommendations that I
19 believe you've seen or had access to, at least six of
20 them, haven't we?

21 A. I don't recall whether there was hydro in
22 all of them, but, again, I'm willing to accept it.

23 MR. BENTINE: May I approach, your Honor?

24 EXAMINER PRICE: You may.

1 MR. BENTINE: We'll get some color
2 charts.

3 We're up to 12, I believe. This would be
4 AMP-O 12.

5 (EXHIBIT MARKED FOR IDENTIFICATION.)

6 (Discussion held off the record.)

7 Q. I'm showing you a document that has now
8 been marked as AMP-Ohio Exhibit 12, and by the Bates
9 stamp CWS 00220 I will represent to you that that is
10 a document that was made available to your counsel
11 and copied to your counsel, and I'll also indicate
12 that this is one of the six that I believe you've
13 reviewed.

14 A. Yes, I have looked at this. This was
15 provided after I filed testimony, but yes, it was
16 provided.

17 Q. I want to ask you to, first of all, turn
18 to the third page of that presentation.

19 A. Okay.

20 Q. First of all, do you have any
21 disagreement with the definitions for baseload,
22 intermediate, and peaking that is on that slide?

23 A. No disagreements. I think intermediate
24 power is not necessarily limited to 5 by 16, it could

1 be different hours, but generally this is right.

2 Q. And would you also agree that the sample
3 load duration curve on the next page is a typical
4 load duration curve that is utilized for power
5 supply?

6 A. Yes.

7 Q. I want you to turn to the next page. In
8 percentage terms would you agree that this page
9 displays that currently AMP-Ohio is on the market for
10 62 percent of its baseload needs?

11 A. Yes.

12 Q. And would you also agree that, with
13 regard to the next slide, that that slide shows that
14 AMP-Ohio is on the market for 95 percent of its
15 intermediate needs?

16 A. Yes.

17 Q. Would you also agree on the next sample
18 load duration curve and, I'm sorry, these pages
19 aren't numbered. Yes, they are. CWS 00229. They
20 are numbered.

21 A. Yes, I'm there.

22 Q. That with regard to the intermediate,
23 that that intermediate load is currently closely tied
24 in terms of market price to natural gas? If you

1 know.

2 A. That's correct, but some baseload also is
3 natural gas. Gas CCs are baseload as well.

4 Q. Are you aware of any natural gas combined
5 cycle that is currently being used in Ohio for
6 baseload?

7 A. No. There's a glut of CC in the area is
8 my understanding.

9 Q. So the answer is no, you're not aware of
10 any that's being used in Ohio.

11 A. That's correct.

12 Q. Are you aware of any natural gas combined
13 cycle in Michigan, Indiana, Kentucky, West Virginia,
14 or Pennsylvania that's being used for baseload?

15 A. No.

16 Q. Now, would you turn, please, to CWS
17 00235?

18 A. 235, okay.

19 Q. And that slide shows, does it not, an
20 identified need for 2,000 megawatts of additional
21 baseload capacity within the membership by 2012-2013?

22 A. That's correct. I must have been wrong
23 about the 2,000 being the regional.

24 Q. Now, you're aware of the approximate

1 magnitude, are you not, of AMP-Ohio's peak load for
2 its members?

3 A. 3,200 megawatts, I think.

4 Q. That's a significant deficit in baseload
5 generation; is it not?

6 A. That's correct.

7 Q. Now, the next slide is 00236; would you
8 turn to that?

9 A. Yes.

10 Q. Would you have any disagreement with this
11 power supply strategy that's stated there?

12 A. No.

13 Q. Would you turn to the next page, please?

14 Now, that sheet shows what is titled a Balanced
15 Portfolio Timeline; does it not?

16 A. Correct.

17 Q. And that shows additional wind and
18 landfill gas resources?

19 A. Correct.

20 Q. It shows current wind resources; does it
21 not?

22 A. Correct.

23 Q. It shows additional hydro?

24 A. It does include some, the magnitudes are

1 less than the coal, but it does.

2 Q. Well, we'll get to the hydro later and
3 how much might be available. It also shows the
4 shutdown of an existing -- the Gorsuch plant we
5 talked about earlier; does it not?

6 A. Yes.

7 Q. And would you turn to the next page?

8 A. Okay.

9 Q. And that shows a projection of market
10 power after the in-service date of AMPGS; does it
11 not?

12 A. Yes.

13 Q. And that shows that, at least that
14 projection shows that we would still be on the market
15 for 13 percent of our baseload needs after the
16 in-service date of the AMPGS project.

17 A. That's what it shows.

18 Q. Now, I'm going skip a few pages. Turn to
19 page 260, CWS 260.

20 A. 260, yes.

21 Q. And this chart should be familiar to you.
22 This is an R.W. Beck chart?

23 A. Yes.

24 Q. And that shows projected annual power

1 costs out of AMPGS with no CO2.

2 A. Yes.

3 Q. The next page shows the projected, again,
4 the R.W. Beck numbers showing the projected annual
5 power costs of AMPGS versus market with CO2. Do you
6 see that?

7 A. Yes.

8 Q. Back to your testimony, again, your
9 argument -- your conclusion, excuse me, your
10 conclusion is that AMP-O's estimate was too low and
11 didn't use a wide enough range of potential CO2
12 costs, correct?

13 A. That's correct.

14 Q. Now, I want to point you to the top black
15 line there. That top black line has indicated that's
16 the projection of average market price. Do you see
17 that?

18 A. Correct.

19 Q. To the extent that CO2 costs in the
20 future are greater than that projected by R.W. Beck,
21 would one expect that market price line to at least
22 move in the same direction?

23 A. Yes.

24 Q. So if one were to, in fact, do you know

1 what R.W. Beck projected on that for every \$10
2 increase in CO2 cost, what the market price would
3 move?

4 A. I don't recall the number.

5 Q. Well, hypothetically let's say it's \$7,
6 something less than the 10. Let's just pick a year
7 here. In 2025.

8 If the CO2 cost went up \$10 from 83 to
9 93 --

10 A. Okay.

11 Q. -- first of all, it would still be under
12 the projected market price at that time, correct?

13 A. Other things remaining equal, yes.

14 Q. And if, indeed, there was movement of
15 market prices that were in the same direction as
16 increases in CO2 costs, one would expect that 97 to
17 be something higher than 97; would it not?

18 A. Correct.

19 Q. Now, are you familiar with R.W. Beck's
20 beneficial use analysis?

21 A. I've looked at it.

22 Q. And while you may not agree with the
23 inputs and what they did, it did attempt to look at
24 risks and costs into the future and minimize those;

1 did it not?

2 A. Well, you should have the R.W. Beck
3 people testify as to what they tried to do. I looked
4 at the analysis and wanted to try to look at the
5 underlying data for it and wasn't able to do so.

6 MR. BENTINE: May I have my question
7 reread?

8 (Question read.)

9 Q. Can you answer my question?

10 A. And I can't answer what they attempted to
11 do.

12 Q. You looked at the power supply plans; did
13 you not?

14 A. Yes.

15 Q. Did the power supply plans not have in it
16 an analysis of risks and costs into the future?

17 A. Well, yes, that's the way you do a plan
18 is you analyze the costs into the future.

19 Q. And in any of the power supply plans that
20 you looked at did the risks and costs go down with
21 AMPGS according to R.W. Beck?

22 A. I think, if I might, I think you're
23 getting the two documents confused. I think that the
24 beneficial use analysis you're talking about is not

1 in the power supply plans. I think that's in the
2 project feasibility study.

3 Q. I'll stand corrected.

4 A. So that I think we need to put the two of
5 them -- separate them and talk about them.

6 Q. Let's talk about the feasibility study
7 and the beneficial use analysis.

8 A. Okay.

9 Q. I apologize. You're absolutely correct,
10 sir.

11 Didn't the beneficial use analysis that
12 was part of the feasibility study show that for at
13 least the ones you examined, those six, there was a
14 decrease in risk and a decrease in cost for those
15 folks getting onto AMPGS?

16 A. And that's Beck's conclusion, yes.

17 Q. And that conclusion was confirmed by the
18 Burns & Roe report for the city of Cleveland that you
19 cite liberally in your testimony; was it not?

20 A. In terms of the project cost estimate,
21 yes.

22 Q. Let's go back to AMP-O Exhibit 11.

23 A. Eleven?

24 Q. Turn to page ES-25.

1 A. Okay.

2 Q. Starting at the bottom of page 25 and
3 going on over to the next page there is some
4 discussion of what we were just talking about with
5 regard to costs and risks, and would you read on page
6 26 the conclusion there under figure 8?

7 A. Okay.

8 Q. And it indicates that, based on that
9 power supply analysis, projected power costs for
10 every AMPGS participant are lower under the portfolio
11 of AMPGS than the existing portfolio, correct?

12 A. That's what it says, yes.

13 Q. And following then on page 27 is an
14 explanation of how costs and risks were interrelated
15 and taking into account in R.W. Beck's stochastic
16 analysis, correct?

17 A. That's what it describes. That's what
18 Beck describes here, yes.

19 Q. And then following in the next several
20 pages is an explanation of the qualitative and
21 quantitative risks that R.W. Beck took into account,
22 correct?

23 A. That's what it says, yes.

24 Q. And on page 31 --

1 A. Thirty-one.

2 Q. -- those bullets there under Quantitative
3 Risk Assessment, the second bullet is construction
4 cost risks, correct?

5 A. Correct.

6 Q. And the fourth bullet is environmental
7 cost risks, correct?

8 A. Correct.

9 Q. And that includes CO2?

10 A. That includes CO2.

11 Q. Turn to page 6 of your testimony, sir.

12 A. Six. Okay.

13 Q. Now, in the answer beginning on line 12
14 you discuss risk and then further on down in that
15 same answer you talk about a number of risks
16 including costs and restrictions on CO2 emissions and
17 fuel prices. Do you see that?

18 A. Yes.

19 Q. Would one also consider market risk in
20 such an evaluation?

21 A. If you were going to consider buying from
22 the market, sure.

23 Q. Well, let me explore that a moment. You
24 said if we want to consider buying from the market.

1 If AMP-Ohio's members don't come up with some
2 generation resources, they're going to have to buy a
3 lot from the market, aren't they?

4 A. That's correct. As I said to you before,
5 I'm not sitting here saying don't do anything. I
6 don't think that buying from the market long-term is
7 a viable strategy, a prudent strategy. I'm not
8 saying don't do anything.

9 Q. Do you think reliability risks should be
10 included in the analysis that you're talking about
11 here?

12 A. Sure.

13 Q. Do you think that spreading risks across
14 technology so that you don't have all your eggs in
15 one basket is an appropriate risk to take into
16 account?

17 A. Sure. It's usually talked of in terms of
18 fuel diversity, but yes, absolutely.

19 Q. Turn to page 7 of your testimony.

20 A. Seven? Okay.

21 Q. On line 26 you use the term "other
22 available alternatives." Are those the alternatives
23 we talked about earlier, the wind, biomass, and
24 possibly natural gas combined cycle?

1 A. And energy efficiency. Yes, that's the
2 range of alternatives.

3 Q. Tell me this, Mr. Schlissel, do you
4 really believe that the 2,000 baseload megawatt hole
5 faced by AMP-Ohio and its members can be filled with
6 renewables, energy efficiency, biomass, and natural
7 gas combined cycle?

8 A. There was one we left out.

9 Q. Wind.

10 A. Repowering. And renewables.

11 Do I? Yes, I -- do I think there's a
12 possibility? Yes. Have I done the study? No. So I
13 can't sit here and say yes there's an alternative.
14 Do I think there may be a portfolio of alternatives?
15 Yes. I think it should be studied, and if the answer
16 is no, there's no alternative that can fill that hole
17 and that AMPGS is the most economic, lowest-risk
18 option, then you should get a certificate.

19 Q. How much wind do you think -- you have in
20 your testimony an estimation that your firm had done
21 some time ago about how much wind was available in
22 Ohio.

23 A. Yes. We indicated 900 megawatts.

24 Q. 900 megawatts. Do you know of the total

1 load in Ohio, do you know what approximate percent
2 AMP-Ohio members in Ohio represent of that total?

3 A. No, I don't know that number. I imagine
4 it's not minor, but it's -- Ohio's probably got a
5 much larger load than 3,200 megawatts.

6 Q. Well, just to make it clear, AMP-Ohio's
7 3,200 megawatts is in all five states.

8 A. I understand that. But I assume
9 Cleveland and the area and some of the other AMP-Ohio
10 members in Ohio are larger cities.

11 Q. Well, let's explore that. Let's talk
12 about Cleveland for a moment. Do you think Cleveland
13 serves the entire city of Cleveland?

14 A. No. FirstEnergy serves a lot of the city
15 of Cleveland.

16 Q. And CPP has door-to-door competition with
17 FirstEnergy; does it not?

18 A. That's correct.

19 Q. And while we're doing this study on wind
20 and biomass and those sorts of things that may take
21 four years for the wind maybe, or five, as you said,
22 or eight years for something longer, is Cleveland
23 going to be stuck on the market?

24 A. I hope not.

1 Q. Do you know what happens to the city of
2 Cleveland Public Power if the rates of FirstEnergy
3 for any sustained period of time are lower than CPPs?

4 A. I imagine they're in trouble. I imagine
5 they lose customers, but the same would happen if
6 AMPGS is built and the capital cost is higher and
7 their CO2 costs are higher.

8 Q. What is Cleveland in this project for?
9 Do you know?

10 A. Is it 80 to a hundred megawatts?
11 Something in that range.

12 Q. Do you know what their projected peak
13 load is in 2013?

14 A. I'm sure it's in the power supply plan,
15 but I just don't recall the number.

16 Q. Your belief is that there is less risk
17 associated with biomass and wind to serve that
18 baseload need?

19 A. No. Absolutely not. That's not my
20 position. My position is the risks, full range of
21 risks need to be studied to determine what is the
22 lowest-risk plan.

23 Q. Tell me this, sir, when do you stop
24 studying those alternatives?

1 A. When you do a full range of risk
2 analysis. When the world changes, you acknowledge
3 that the world is changing and you do your studies to
4 view the world as it is today.

5 Q. And how often do you update those studies
6 when you're building something?

7 A. Well, if your cost goes up, I assume that
8 prudent management updates its studies periodically.

9 Q. And those updates of those studies would,
10 again, go back to a full panoply of site
11 investigation, full diversity and availability,
12 technological choices, every time?

13 MS. JAISWAL: Can I have the question
14 read back, please?

15 (Question read.)

16 MS. JAISWAL: Thank you.

17 A. Depends on -- no, not every time. What
18 you study depends on the magnitude of the change and
19 circumstance that you encounter.

20 Q. Now, let's go back to the wind just a
21 moment. You indicated that there was 900 megawatts
22 available in Ohio. What was the capacity factor that
23 was used in that estimate; do you recall?

24 A. I don't recall. It was a 2001 study that

1 was done, actually done at Synapse before I got
2 there. I don't know the numbers that were used in
3 there. And I didn't say that there's 900 megawatts
4 of wind. I actually indicated during my deposition
5 that newer numbers may actually be somewhat lower.

6 Q. Now, let's go back for a moment. I'm
7 going to represent -- would you accept, subject to
8 check, that AMP-Ohio's load in Ohio is less than
9 10 percent of the load? Less than 10 percent of
10 load, less than 10 percent of customers?

11 A. I'm sorry, less than 10 percent of the
12 load of the state?

13 Q. Yes.

14 A. I'll accept it subject to check, sure.

15 Q. Now, how much, if there is, say there is
16 900 megawatts of wind available in Ohio, how much do
17 you think it would be prudent for AMP-Ohio to try to
18 tie up?

19 A. Well, you'd have to do a system
20 integration study to determine how integrating the
21 wind fits into your member systems first. It's not
22 strictly an economic question, it's a technical issue
23 as well. And you'd want to do an economic study.

24 If, in fact, wind was the most -- excuse

1 me. If, in fact, wind was the lowest-cost option,
2 then your members should try to get as much of the
3 wind as they can.

4 Q. Mr. Schlissel, AMP-Ohio is pursuing wind;
5 is it not?

6 MS. JAISWAL: Asked and answered.

7 A. Some wind, yes.

8 Q. Do you know how much?

9 A. We went over -- it's on one of those
10 slides.

11 Q. Yes, up to a hundred megawatts of wind
12 and landfill gas.

13 A. I don't know how much is wind, how much
14 is landfill gas sitting here. I don't recall seeing
15 that number.

16 Q. We've established that AMP-O is pursuing
17 hydro, correct?

18 A. We agreed upon that before, yes.

19 Q. And we've established that they're
20 pursuing at least some amount of wind, correct?

21 A. Some amount of wind.

22 Q. Do you think in the pursuit of the hydro
23 and the pursuit of the wind that we have some idea
24 what those things might cost?

1 A. I can't answer that question because I
2 asked for information about it and don't have that
3 information.

4 MR. BENTINE: I move to strike.

5 EXAMINER PRICE: Sustained.

6 Actually, let me rephrase that.
7 Everything after "I can't answer that question"
8 should be stricken.

9 While Mr. Bentine is contemplating his
10 next question, his previous line of questions raised
11 an issue that I've been wondering about so I'm going
12 to interject here. You indicate in your testimony
13 that construction costs for coal power plants are
14 escalating, correct?

15 THE WITNESS: Yes.

16 EXAMINER PRICE: And you indicate in your
17 testimony that there is no end in sight for those
18 escalating costs, correct?

19 THE WITNESS: Correct.

20 EXAMINER PRICE: If AMP-Ohio were to
21 undertake further studies would that not expose them
22 to greater escalating costs if they delay AMPGS or
23 whatever they're going to do for two or three years
24 while they do further studies, won't they just be

1 farther down the line in the escalating costs?

2 THE WITNESS: That's a possibility.

3 There may be higher costs, but it may be that by
4 comparing the cost escalation of coal and gas and
5 other alternatives and seeing what happens with
6 federal CO2 regulation, that it may be that coal
7 plant is not the most economic choice.

8 EXAMINER PRICE: And what standard would
9 you recommend the Board use to make that decision?

10 THE WITNESS: What standard?

11 EXAMINER PRICE: How should the Board
12 resolve this conundrum that you're posing?

13 THE WITNESS: Ask them to do new studies
14 quickly.

15 EXAMINER PRICE: And what would be the
16 reasonable time frame to complete those studies?

17 THE WITNESS: Three to six months.

18 EXAMINER PRICE: Three to six months?

19 THE WITNESS: Six months. Do studies,
20 look at a wider range, come back, and if it's still
21 the most economic option among likely alternatives,
22 approve the plan.

23 EXAMINER BOJKO: And in your discussions
24 with Mr. Bentine you were talking about continued

1 studies. Are you suggesting that once they start
2 building the plant that you halt construction to do
3 more studies?

4 THE WITNESS: No. No. No. No. Not at
5 all, ma'am. I think we were talking -- Mr. Bentine
6 was posing the hypothetical what happens if two
7 years, I'm putting some words in his mouth and I
8 apologize, but if two years down the road they find
9 out the cost of the plant is going up by 15 percent,
10 should they reevaluate it then? The answer is they
11 should think about it. It depends on what the
12 magnitude of the cost increase is.

13 EXAMINER BOJKO: So even though they've
14 started construction they should stop constructing
15 because costs have gone up and reevaluate the
16 situation and determine to continue to move forward
17 or not?

18 THE WITNESS: Correct. That's what
19 happened with a lot of the nuclear power plants in
20 the '70s and '80s and '90s is that even though a huge
21 amount of money had been spent -- the Zimmer plant in
22 this state by Cincinnati Gas & Electric, even though
23 a huge amount of money had been spent already, it was
24 more economic not to finish the plant.

1 Now, I'm not proposing that for the coal
2 plant at all. I'm just saying that I believe prudent
3 management in light of changed circumstances
4 reevaluates its plan, and that I believe the
5 circumstances I set forth in my testimony on CO2
6 costs and capital costs are dramatically changed
7 circumstances and that perhaps to avoid a train wreck
8 down the road it's prudent to step back and to say
9 "Have we looked at all the risks?" and then proceed.

10 EXAMINER BOJKO: Thank you.

11 EXAMINER PRICE: Thank you, Mr. Bentine.

12 Q. (By Mr. Bentine) Is it your testimony
13 that AMP-Ohio -- strike that.

14 Your testimony is you don't believe,
15 based on what you've seen, that AMP-Ohio has
16 evaluated those different alternatives and those
17 different costs, correct?

18 A. No. I understood you most of the way.
19 It's not my testimony other than energy efficiency
20 that AMP-Ohio hasn't looked at alternatives. You and
21 I have gone and explained they have looked at
22 alternatives.

23 It's my testimony that sitting here today
24 in 2007 there's significant risk associated with CO2

1 and capital costs that warrant examination, full
2 examination, of those risks.

3 Q. Now, let's go back to capital costs for a
4 second. All those other alternatives that we have
5 talked about have not escaped significant capital
6 cost estimate increases; isn't that true?

7 A. That's correct.

8 Q. And would you also agree with me that,
9 for example, wind is more capital intensive than a
10 coal-fired plant?

11 A. No. Well, it depends on how you define
12 that. Wind capital costs are not the same -- are
13 lower than coal capital costs but they basically,
14 wind has no fuel costs so it's fixed O&M and your
15 capital costs.

16 Q. Let's ask it this way: Per available
17 megawatt on baseload -- strike that.

18 Let's ask it this way: Would you agree
19 that to be considered a baseload resource wind must
20 be paired with something else?

21 A. That's correct.

22 Q. Wind's not dispatchable.

23 A. That's correct.

24 Q. Wind can't follow the load.

1 A. That's correct. It's intermittent.

2 Q. In order to be sited, wind of any
3 substantial size must be located in a place that it
4 can be connected to a transmission system?

5 A. Correct.

6 Q. It's got to get into the grid somewhere.

7 A. Correct.

8 Q. In order to make wind a baseload resource
9 for Ohio, what would you think we need to pair it
10 with?

11 A. You might pair it with some of the hydro
12 you're looking to build. Xcel Energy is pairing
13 hydro and wind as baseload. You might pair it with
14 gas capacity so that you would have the wind operate
15 as much as possible so you don't incur the high gas
16 fuel price costs for -- you have the gas capacity
17 operate less.

18 Q. What kind of gas? Just straight
19 combustion turbines?

20 A. No. Because you're talking baseload,
21 you'll probably want to do CCs.

22 Q. Let's take the hydro example. Have you
23 studied the capacity factors and the seasonal
24 availability of making megawatt-hours from the

1 run-of-the-river projects that are available in this
2 area of the country?

3 A. No, I've not done a study. I've said
4 that several times.

5 Q. Well, you're aware that AMP-O has done
6 studies on hydro; has it not?

7 A. On hydro and wind, I wasn't aware that
8 they looked at that study, a hydro-wind combination.

9 Q. That's not what I asked you.

10 A. I thought it was.

11 Q. I said it had studied hydro.

12 A. And I said I hadn't seen it, and you
13 said, well, accept subject to check it had been done,
14 and I said "yes."

15 Q. Well, do you know what the capacity
16 factors on run-of-the-river hydro are at least on the
17 Ohio River?

18 A. No, I haven't looked at that data.
19 Sorry.

20 Q. And are you aware that AMP-Ohio is
21 pursuing natural gas combined cycle?

22 A. Yes, I've seen some references to it.

23 Q. So what else do you want us to analyze,
24 sir?

1 A. I want you to analyze -- take the
2 resource plans with a wider range of CO2 costs and
3 the possibility of higher capital costs and include
4 what Vermont Energy Investment Corp. tells you is the
5 potential for energy efficiency, put that into your
6 studies and see what plans it produces for the
7 members and for AMP-Ohio.

8 Q. Let's go back to your testimony, I think
9 that would be good for both of us. Page 10, please.

10 A. Okay.

11 Q. Now, on page 10 you indicate a number of
12 cancellations of power plants beginning with your
13 answer on line 5; is that correct?

14 A. No. This page is referring to instances
15 where companies have announced that they're not going
16 to undertake new coal plants. It's not a
17 cancellation.

18 Q. I'm sorry. I misled you.

19 Nonetheless, we'll talk about it anyway.
20 The first one is a recently filed resource plan in
21 Colorado, Xcel announced that, and then you quote,
22 that they're not proposing any new coal-fired
23 generation facilities.

24 Did you know Xcel Energy -- what exactly

1 is Xcel Energy?

2 A. It's a large holding company. Xcel owns,
3 I think it's either Northern States Power - Xcel
4 Energy in Minnesota, and Public Service of Colorado
5 in Colorado and New Mexico.

6 Q. And it has a large generation portfolios;
7 does it not?

8 A. It has load and it has generation.

9 Q. And Idaho Power?

10 A. Same, it has load and generation.

11 Q. And Minnesota Power?

12 A. Load and generation again.

13 Q. Avista Utility?

14 A. Avista is in the northwest, it has load
15 and generation.

16 Q. Has a significant amount of hydro up
17 there too, doesn't it?

18 A. I'll bet, yes.

19 Q. Now we get to the cancelled. The first
20 one you mention here is Tenaska?

21 A. Yes.

22 Q. Does Tenaska have a load, sir?

23 A. No. They're a merchant. They were
24 selling into the market.

1 Q. And Westar Energy?

2 A. It has load and capacity.

3 Q. And it indicated it was deferring?

4 A. Yes.

5 Q. You quote, and I always find this
6 interesting and I'm sure you'll have an answer, but
7 you quote this president, I guess it was president of
8 Westar --

9 A. Yes.

10 Q. -- the company explained in any event
11 that the coal-fueled power plant equipment's at full
12 capacity and, therefore, costs continue to escalate.
13 With all these cancellations do you think that maybe
14 that capacity is easing at least domestically?

15 A. The answer is maybe, but you've got a set
16 of nuclear power plants that are coming down the
17 road, you've got competition from the chemical
18 industry, the refining industry. So I think the
19 answer is yes, it may lighten a bit, but everything
20 I've seen is that the resources are so strained --
21 constrained now that I don't think that these delays
22 or cancellations will affect much likely future
23 escalation.

24 Q. Well, if all these coal plants are being

1 cancelled at least domestically, and I believe your
2 testimony indicates they are 20, 25 years away from
3 any significant nuclear generation, what's going on
4 in all the boiler shops around the United States?

5 A. Well, it's not -- the boiler shops around
6 the United States are designing plants for China and
7 India and for the U.S., they're designing nuclear
8 plants because to have a nuclear -- and they're
9 starting to line up manufacturing slots for the
10 nuclear plants.

11 So there's plenty of work going on in
12 the -- you said "boiler shops." I think you meant
13 the EPC contractors. But there's plenty of work for
14 them, and everything indicates that that workload is
15 not limiting because while you've got 20 new coal
16 plants being cancelled in 2007, you've still got 130
17 planned for the next 15 years.

18 Q. Now, you discuss Xcel then, next, and
19 that was an IGCC plant that was cancelled, correct?
20 Or deferred indefinitely.

21 A. Yes, sir.

22 MS. JAISWAL: If you could please
23 identify where you are for me as well.

24 MR. BENTINE: Page 12.

1 MS. JAISWAL: Thanks.

2 MR. BENTINE: Line 13. Going to line 16.

3 Q. TXU cancelled 8 of 11.

4 A. Yes.

5 Q. And they cancelled that 8 of 11 as part
6 of a settlement for a takeover of TXU by another
7 firm, correct?

8 A. A large Wall Street firm, KKR, as part of
9 the buying out, the deal to buy it out, KKR agreed
10 with environmental groups that they would cancel 8 of
11 11 coal plants.

12 Q. And they're still building three, though.

13 A. They're still building three and they're
14 planning to build a couple of nuclear power plants.

15 Q. Now by the way, back on that for a
16 moment, do you know whether or not any of those
17 cancelled boilers were going someplace else?

18 A. I don't know whether the boilers had been
19 ordered, I don't know whether the manufacturing slots
20 were given up to somebody else, no.

21 Q. So you don't know whether or not two of
22 those boilers are going to the Prairie State project?

23 A. No, I don't know that they are or aren't.

24 Q. Now, Tampa Electric, let's talk about

1 that. Tampa Electric cancelled an IGCC plant?

2 A. Yes.

3 Q. And what plant was that?

4 A. I forget the name of it. It's located by
5 their Polk station which is just north of my in-laws,
6 that's how I know where it is.

7 Q. And that was a companion to the current
8 Polk --

9 A. Yes.

10 Q. -- IGCC plant that is there and
11 operating, correct?

12 A. Yes, sir.

13 Q. Tampa Electric had other generation
14 resources; did they not?

15 A. Yes, load and resources.

16 Q. And TXU had other resources, correct?

17 A. I believe that's true. Texas, you know,
18 is deregulated and you have to sell into the market.
19 I'm not exactly clear on the relationship of
20 resources and load in Texas.

21 Q. But TXU had other resources. They may or
22 may not have had obligations to serve load with those
23 resources, correct?

24 A. Well, they have obligations to serve

1 load, it may not be specifically with those
2 resources, but they have load and resources.

3 Q. Tondue Corporation, that's a merchant
4 plant?

5 A. Yes.

6 Q. And the Taylor Energy Center, what was
7 that?

8 A. It was a, I can't remember whether it was
9 one or two coal plants, and there were four municipal
10 power agencies with load and resources who decided to
11 suspend permitting activities following the denial of
12 the Glades permit.

13 Q. And that was JEA, Jacksonville Electric
14 Authority was one of those?

15 A. I believe that's true, yes. And
16 Tallahassee I think was another.

17 Q. And JEA has significant coal-fired
18 resources currently; does it not?

19 A. Yes. And significant load.

20 Q. Now, let's go to page 13, line 12. The
21 Oregon Public Utility Commission there, what was
22 that?

23 A. Two proposed coal plants by the
24 PacifiCorp subsidiary, I believe it's Pacific Power,

1 were rejected on the basis of they hadn't
2 demonstrated a need for the capacity.

3 Q. And who was building that plant? Was
4 that PacifiCorp, you said? I'm sorry?

5 A. I think it was a subsidiary of
6 PacifiCorp, yes.

7 Q. And, again, they've got significant
8 assets in terms of generation and significant load.

9 A. Responsibilities in terms of load, and
10 it's the relationship between the two I think that
11 you need to consider.

12 Q. By the way, of any of these that we've
13 talked about are you aware of any of those that were
14 on the market for more than 60 percent of their
15 baseload needs?

16 A. I've not looked at that, but -- I've not
17 looked at whether they would have to go on the market
18 if they didn't build the plant. They may have
19 decided there were cheaper alternatives.

20 Q. The next one is the Florida Public
21 Service Commission, that's the Glades case that we've
22 discussed, correct?

23 A. Yes.

24 Q. And then the Oklahoma Corporation

1 Commission.

2 A. That's the Red Rock plant.

3 Q. Red Rock plant. And what happened there?

4 A. The commission found that they hadn't
5 looked at a reasonable range of alternatives
6 including gas. At the commission I talked about
7 concerns about uncertainties.

8 Q. And did that commission approve or
9 disapprove the proposal?

10 A. It rejected the application for the power
11 plant.

12 Q. Was that a two-unit plant?

13 A. I don't think so.

14 Q. And the North Carolina commission, we're
15 talking about the Duke Energy case that we talked
16 about earlier, correct?

17 A. Yes.

18 Q. Now, on the next page, the Minnesota
19 Public Utilities Commission and Xcel, we talked about
20 that previously; did we not?

21 A. No.

22 Q. We talked about Xcel; I'm sorry.

23 A. We talked about Xcel in the other state;
24 Colorado. This is the same Xcel. They were going to

1 enter into a purchase power agreement with the
2 proposed IGCC plant. The purchased power agreement
3 had to be approved by the commission.

4 Q. And that IGCC plant had not been
5 constructed.

6 A. That's true.

7 Q. And who was going to build that plant?

8 A. I think it's called Mesaba, M-e-s-a-b-a,
9 Power.

10 Q. And they were building a merchant plant.

11 A. Yes; that was going to sell power to
12 Xcel. They still want to build a merchant plant.

13 Q. And next you talk about Kansas and that's
14 the Sunflower plant throughout?

15 A. Sunflower Co-op is the party seeking to
16 build the plants, yes.

17 Q. And in that case the Department of Health
18 and Environment has rejected that application, but
19 that's being appealed; is that correct?

20 A. Yes; I understand that there's a dispute
21 in the legislature.

22 Q. Let's talk about CO2 forecasts for a
23 moment.

24 EXAMINER PRICE: Let's go off the record

1 for one minute.

2 (Discussion held off the record.)

3 EXAMINER PRICE: Back on the record.

4 Q. I believe I was about to start talking
5 about CO2 cost projections and forecasts. Would you
6 agree with me that with regard to all of the
7 forecasts, whether it's R.W. Beck's or Synapse or MIT
8 or anybody else, that there's no way to tell right
9 now what the right forecast is?

10 A. That's correct. There is no right
11 forecast.

12 Q. And would you also agree it's impossible
13 to accurately predict what those prices are going to
14 be?

15 A. That's correct.

16 Q. Would you agree with me that forecasters
17 with regard to the prices for SO2 when SO2 first
18 became a regulated emission and allowances were
19 available and tradeable, that forecasts were all over
20 the place for what those prices were going to be?

21 A. I don't know all over the place. They
22 were higher than they turned out to be.

23 Q. Now, you indicate on page 16 in the
24 answer on line 11, you talk about ignoring future

1 carbon regulations and indicate that ". . . a utility
2 that ignores future carbon regulations is implicitly
3 assuming that the allowance value will be zero. The
4 question is whether it's appropriate to assume zero
5 or some other number."

6 Well, AMP-Ohio and R.W. Beck did assume a
7 number, did it not --

8 A. Oh, sure.

9 Q. -- you just don't agree with it?

10 A. Sure. Yes.

11 Q. On page 17, on line 8 I'm not sure
12 whether there's a disconnect here or not. You're
13 talking about, in the previous sentence, the
14 Powerspan technology.

15 A. Yes.

16 Q. And then you go on, "However, it is
17 expected to be years, if not decades, before there
18 will be viable post-combustion technology for the
19 removal and sequestration of greenhouse gas
20 emissions . . ."

21 Let's separate for a moment sequestration
22 from removal, and let's just ask for a moment are you
23 talking about Powerspan there or are you talking
24 about all potential technologies for postcombustion

1 CO2 capture and compression?

2 A. All proposed technologies that are
3 being -- all proposed technologies that are being
4 considered today.

5 Q. Now, when you say "However, it is
6 expected," is that your expectation or someone
7 else's?

8 A. It's my expectation confirmed by others
9 that it will be years if not decades.

10 Q. Now, would you agree with me that other
11 folks don't necessarily agree with that?

12 A. No. You'd have to show me who believes
13 that there will be a viable technology and I mean
14 commercially, technically and commercially within
15 less than five or ten years at a minimum. I've not
16 heard anybody say that.

17 EXAMINER BOJKO: Which do you think it
18 is? That's a big span, five to ten years.

19 THE WITNESS: What do I think? I think
20 it will be 10 to 20 years before you actually have
21 operating technology on power plant scales. It
22 certainly is a big range, but the problem is we don't
23 have any tests at power plant size. The Powerspan
24 looks promising, but it's only in a lab.

1 EXAMINER BOJKO: What does "power plant
2 size" mean to you?

3 THE WITNESS: 5-, 600-megawatt size
4 plants. That's what they're going to put it on, and
5 larger for like the AMPGS project.

6 Q. Well, the AMPGS project is two units,
7 correct?

8 A. Yes.

9 Q. Two net 480s.

10 A. Okay, I didn't -- that's correct.

11 Q. Let's talk about that for a second. Now,
12 you have made some predictions, forecasts, let me
13 call them that, on future carbon costs, correct?

14 A. Correct.

15 Q. Do you believe that the ultimate level of
16 future carbon costs is going to be influenced in any
17 way by the expectation that it will be impossible to
18 come up with any postcombustion carbon capture
19 technology for 10 to 20 years?

20 MS. JAISWAL: Could I have the question
21 read back? I'm sorry, Mr. Bentine, you turned away
22 from me.

23 MR. BENTINE: I tend to pace. I'm sorry.

24 (Question read.)

1 A. I don't understand the question. I think
2 that the cost of CO2 regulation will be influenced by
3 the expected cost of carbon capture. So I guess I
4 would agree with the opposite of what you're saying.
5 I think that the cost of carbon capture will set a
6 cap on what CO2 emission allowance prices will
7 ultimately be.

8 EXAMINER PRICE: Let's go off the record
9 for one minute.

10 (Discussion held off the record.)

11 EXAMINER PRICE: Back on the record.

12 MR. BENTINE: I'm not going to get done
13 tonight. I just thought I would tell you that. I'll
14 go as late as you want to go.

15 EXAMINER PRICE: I would like to forge on
16 to 5:30 at least.

17 MR. BENTINE: Okay.

18 EXAMINER PRICE: Then we'll see where
19 you're at.

20 Q. (By Mr. Bentine) Page 18 of your
21 testimony.

22 A. Yes, sir.

23 Q. At the top of the page there on line 1
24 you say "Even if such technology were available" --

1 and I believe we're referring to carbon capture --
2 "retrofitting an existing coal plant with the
3 technology for carbon capture and sequestration is
4 expected to be very expensive." Do you see that?

5 A. Yes.

6 Q. Now, do you believe that that's what
7 AMP-Ohio is proposing? We would have a plant that
8 would have to be, quote, retrofitted?

9 A. I don't know what AMP-Ohio is proposing
10 in that regards.

11 Q. Let's go on, then.

12 A. Okay.

13 Q. You quote -- well, strike that.

14 You indicate that it could increase the
15 cost of generating power at the plant by perhaps as
16 much as 68 to 80 percent. Do you see that?

17 A. Yes.

18 Q. Now, are you talking about AMPGS there,
19 or are you talking about a retrofitted plant? What
20 are you talking about?

21 A. I'm talking about studies from the
22 National Energy Technology Lab and MIT and also Duke
23 Energy, this relates to a study that Jim Rogers, the
24 head of Duke Energy, put in testimony in the Indiana

1 case you and I discussed earlier, which indicate that
2 the cost of electricity from a plant with carbon
3 capture and sequestration, excuse me, carbon capture
4 alone would be anywhere from 68 to 80 percent or
5 higher. That's my conclusion based on those studies.

6 Q. Now, did you actually review those
7 studies?

8 A. Absolutely.

9 Q. You mentioned NETL?

10 A. Yes.

11 MR. BENTINE: May I approach, your Honor?

12 EXAMINER PRICE: You may.

13 MR. BENTINE: I'm going to show him what
14 has previously been marked and admitted as AMP 6.

15 Q. I'm going to show you what's been
16 previously marked and admitted as AMP 6. Have you
17 ever seen that before?

18 A. Yes.

19 Q. Then you probably know that the
20 estimations in here for aqueous ammonia technology
21 are somewhat lower than your prediction, correct?

22 A. That's correct. That's not the NETL
23 study I'm talking about. I'm talking about an August
24 2007 study that is a much bigger study that looked at

1 the range of CO2 capture costs.

2 Q. Let's talk about AMP-O Exhibit 6 for
3 right now if we could.

4 A. Sure.

5 Q. If you recall, and I'll bring this back
6 up, I probably shouldn't have taken it, it talks
7 about carbon capture at \$14 a metric ton and a
8 21 percent increase in cost of electricity, does it
9 not, for PC supercritical unit?

10 A. Correct. Within the context of all the
11 caveats it has about the early stage of the
12 technology, those are the numbers in there, yes.

13 Q. And that's quite a bit different than the
14 68 to 80 that you project, right?

15 A. Not that I project, that the studies I've
16 seen including a more recent NETL study project, yes.

17 Q. Now, you also quote the MIT study; do you
18 not?

19 A. Yes, sir.

20 MR. BENTINE: May I approach again, your
21 Honor?

22 EXAMINER PRICE: You may.

23 Q. I'm going show you what's been marked as
24 AMP-O 9, which I will represent to you is a portion

1 of the MIT "Future of Coal" study. Take a look at
2 that, and you can even look at my cheat sheet there.

3 A. You don't have the full study in there.

4 Q. I'll readily admit that.

5 A. And if you look on page 40, I think it
6 has numbers in the range of what I've talked about.

7 Q. Well, let's look at page x.

8 A. Okay.

9 Q. And the middle paragraph there in page x,
10 and what dollar per ton does it have?

11 A. It has 25 -- I'm sorry. They're
12 talking -- wait a minute. What you've got here, do
13 you want me -- this paragraph?

14 Q. Yes.

15 MS. JAISWAL: Which paragraph?

16 A. They have a range that, it's -- their
17 high range is \$25 a ton beginning in 2015, but that's
18 per metric ton so it's roughly \$22 per ton in 2015,
19 increasing at 4 percent above the rate of inflation.

20 If you do this in nominal dollars, their
21 rate here is almost exactly the same as our Synapse
22 high rate. I used to have a chart in my testimony
23 that showed that the MIT low and the MIT high were
24 our Synapse low and our Synapse high. I wish I had

1 included it in here. But basically that's what
2 they --

3 MS. JAISWAL: Just for the record, what
4 paragraph is that number?

5 MR. BENTINE: It was the middle paragraph
6 under "We conclude CO2."

7 MS. JAISWAL: Thank you.

8 Q. Let me show you one other place and I'm
9 going to be referring to the page xi, small Roman
10 Numeral xi. Referring your attention to that
11 paragraph, this has got -- would you just read this
12 paragraph that I've just pointed out there?

13 A. Sure. Yes. I actually cite this
14 paragraph in my testimony. They say ". . . for new
15 plant construction, a CO2 emission price of
16 approximately \$30 per ton" -- again, that's metric
17 tons so it's roughly \$28 per U.S. short ton -- "would
18 make CCS competitive with coal combustion and
19 conversion systems without CCS."

20 Q. Please continue.

21 A. Okay. "This would be sufficient to
22 offset the cost of CO2 capture and pressurization
23 (about \$25 per metric ton) and CO2 transportation and
24 storage (about \$5 per metric ton). This estimate of

1 CCS cost is uncertain and might be larger and with
2 new technology, perhaps smaller."

3 Q. Thank you. Now, \$25 a ton, metric ton,
4 does not compute to a 60 to 83 percent increase in
5 the cost of electricity out of a PC plant, does it?

6 A. That's correct. If you look at page 19,
7 I was wrong before, you look at page 19 of the MIT
8 study, they look at pulverized coal plants and
9 compute the cost of electricity with carbon capture
10 versus without and the numbers are roughly \$40 per
11 ton or higher. And as I mentioned also, the August
12 2007 NETL study.

13 Q. Are you aware of what Powerspan is
14 projecting as its cost per ton of CO2 capture?

15 A. Yes. They're saying \$20 per ton.

16 Q. And that's higher than the NETL document
17 that I showed you earlier and a little lower than the
18 MIT document?

19 A. No, it's impossible to compare any of
20 them. The NETL study you showed me, AMP-Ohio 6,
21 doesn't indicate what year's dollars the estimate's
22 in. I've not seen any backup for the Powerspan
23 \$20 cost; we don't know what year's dollars it's in
24 at all. So it's apples and oranges until you know

1 that kind of information and what's included.

2 Q. Okay. Page 19.

3 A. Okay.

4 MS. JAISWAL: Is this still his
5 testimony?

6 MR. BENTINE: Yes. I'm sorry.

7 MS. JAISWAL: Thank you.

8 Q. Line 8. The last sentence on that line
9 "Regardless, it is imprudent to ignore the risk."
10 Again, your testimony is not that AMP-Ohio and R.W.
11 Beck ignored the risk. Your testimony is that they
12 didn't fully take into account a wider range of
13 potential costs as well as having projections that
14 were too low.

15 A. That's correct. I didn't mean to imply
16 that they had ignored the risks entirely.

17 Q. Turn to page 20 of your testimony.

18 A. Twenty. Okay.

19 Q. The sentence starting on line 21 you
20 discuss various provisions to spur technology
21 innovation as well as details pertaining to offsets.
22 Let's talk about various proposals to spur technology
23 innovation. To the extent that AMP-O builds AMPGS
24 with the Powerspan system for SO2 removal, do you

1 believe that it would be a candidate for an early
2 installation of a full-size CO2 CCS system,
3 potentially?

4 A. Well, if you include the word
5 "potentially," you can't answer anything but yes
6 because anything is -- any plant's potentially a
7 candidate.

8 Q. And might it be eligible for federal
9 moneys to do so?

10 A. I think that's highly unlikely that
11 any -- but it's possible.

12 Q. Well, what are you talking about, various
13 provisions to spur technology? That's exactly what
14 the federal government did with regard to IGCC; did
15 it not?

16 A. Well, it's what it said it did, but it's
17 not really gotten around to giving the money to
18 companies to build IGCC, that's one of the reasons
19 why some of the plants are being cancelled. But with
20 regards to spurring technology, I was talking about
21 something like, I forget which bill it is, maybe
22 Kerry-Snowe has a portion of the emission allowances
23 would be auctioned and the money would go into a
24 technology fund.

1 Q. Do you know whether or not the state of
2 Ohio might have incentives for clean-coal
3 technologies?

4 A. I don't know if they do or not.

5 Q. Let's talk about offsets. What do you
6 mean when you say "offsets" here with regard to CO2
7 regulation?

8 A. An offset is -- when you buy an offset,
9 it's a reduction in your emission. So if you buy an
10 offset from an international offset or a noncovered
11 sector, agricultural, basically you emitted 10 tons
12 of CO2 and if you bought 1 ton's worth of offsets,
13 your net emission counting for the whole cap and
14 trade purposes would be 9 tons.

15 Q. And all of these different bills have
16 different provisions with regard to offsets and how
17 much offsets, et cetera.

18 A. Correct.

19 Q. Now, what about allowance allocation?

20 A. What about -- I don't know what you're
21 asking me.

22 Q. What do you mean when you have "allowance
23 allocation"?

24 A. Allowance allocation means what portion

1 will be given to generators for free, what portion
2 would be auctioned. The amount of allowances would
3 be based on the cap. If the cap -- using my
4 hypothetical of 10 tons, if the cap were set when you
5 were at 10 tons, you could either give those 10 tons,
6 10 allowances, to generators or you could give 5 to
7 generators, auction them, you could give zero to
8 generators and auction all 10. There are various
9 ways of dealing with the allocation of allowances.

10 Q. Go back for just a second. Do the bills
11 that are currently pending in Congress, do they only
12 cover electric utility generation carbon?

13 A. No. Generally most of the bills in
14 Congress are economywide or at least broader than the
15 electric sector.

16 Q. How were the SO2 allowance allocations
17 made?

18 A. I forget how they were initially made.

19 Q. Were they initially made based upon a
20 base year of --

21 A. Yes. Yes, that's exactly how they were
22 made. And that's how we believe the caps would apply
23 in each of these bills.

24 Q. Tell me this, sir, do you know, if

1 AMP-Ohio is going to shut down or some of its members
2 are going to shut down and retire some of its current
3 coal-fired generation, would it be able -- and
4 allowances were given out based on some historic test
5 year when AMPGS wasn't working, would those
6 allowances be available, do you think, to use for
7 AMPGS?

8 A. Yes, I think probably to a certain extent
9 they would be. I mean, I think over time, because
10 the bills in Congress as indicated on figure 1 on
11 page 22 of my testimony, that the caps -- the
12 reductions increase so the caps decrease over time
13 under the bills in Congress, the amount of total
14 emissions. So in your hypothetical of retiring
15 plants, yes, you'd get some, but over time you'd lose
16 them.

17 Q. Over time everybody would lose some
18 amount; would they not?

19 A. Sure.

20 Q. And you have listed on your table 1 what
21 you believe to be the primary bills in Congress
22 currently on CO2 control, correct?

23 A. Yes.

24 Q. I notice there isn't a bill number on the

1 Kerry-Snowe.

2 A. Yes. I think it's 489 or something like
3 that. It's somewhere in that range.

4 Q. You just left the bill number out.

5 A. Yeah, it was my mistake.

6 Q. And would you agree with me that all of
7 these proposals but one have originated in the
8 Senate?

9 A. Correct.

10 Q. And none of those have passed either the
11 Senate or the House?

12 A. That's correct. The Lieberman-Warner
13 bill passed committee and I guess is now before the
14 floor at some point.

15 Q. Not my question.

16 A. Sorry. I apologize.

17 Q. Neither one have passed the House or the
18 Senate, correct?

19 A. That's correct.

20 Q. Now we can turn to your page 22 and
21 figure 1. And this is the table that you indicated,
22 and I apologize, that you had verified the various
23 lines in here that correctly reflected your
24 understanding of those particular bills, correct?

1 A. Yes.

2 Q. With regard to lines 7, 8, and 9, the
3 discussion about 60 to 80 percent range of emission
4 reductions from current levels that many now believe
5 will be necessary, who are you referring to with
6 "many" there?

7 A. Researchers at MIT who did the MIT cap
8 and trade assessment, the same people who did the MIT
9 "Future of Coal" study that you showed me before, the
10 Intergovernmental Panel on Climate Change, the
11 sponsors of the various bills on the prior page.
12 Something called USCAP, which is an organization
13 including AEP and Duke Power on the National
14 Commission on Energy Policy.

15 Generally the belief is that you need
16 those reductions in order to keep the temperature
17 rise at 1 to 2 percent by the middle of the century.

18 MR. BENTINE: I want to mark this because
19 I'm going to come back and move to strike it in just
20 a moment if I might.

21 EXAMINER PRICE: Noted.

22 Q. Are you a climatologist?

23 A. No.

24 Q. Have you independently studied the

1 relationship between CO2 emissions and concentrations
2 in climate?

3 A. No. I'm relying on the work of other
4 experts.

5 Q. But it's outside your range of expertise,
6 correct?

7 A. I've not done a study.

8 Q. That's not what I asked. It's outside
9 your range of expertise to determine the relationship
10 between CO2 emissions, greenhouse gas, and climate.

11 A. Yeah, I'd have to say it is. I've not
12 testified to that.

13 MR. BENTINE: With that, your Honor, I
14 would move to strike lines 7, 8, and 9 of the
15 previous answer that I asked be marked.

16 EXAMINER PRICE: Motion to strike will be
17 granted.

18 Q. Turn to page 24 of your testimony.

19 A. Yes.

20 Q. The title of this table is Announced
21 State and Regional Greenhouse Gas Emission Reduction
22 Goals; are any of these mandatory limits?

23 A. Minnesota is a limit. I believe
24 California is a limit. I believe Oregon is a limit.

1 Q. Okay. Let's talk about California for a
2 second. That is economywide or only on the electric
3 industry?

4 A. Economywide.

5 Q. And how is that to be implemented; do you
6 know?

7 A. California's taking many steps now to
8 implement it. On the electric side there is a
9 requirement that the state not buy power that's
10 generated at a power plant that emits more than I
11 think 285 pounds per Btu. I think that's the right
12 units. It's roughly 1/10 the emission of a plant --
13 or 15 percent emission of a plant like AMPGS.

14 Q. I missed it.

15 A. It's roughly 15 percent of the emission
16 of a plant like AMPGS.

17 Q. How about Minnesota; how are they
18 implementing their requirements?

19 A. There's a climate change study group now
20 that's developing plans that will be decided upon.

21 Q. Well, I guess I don't understand. If
22 this is mandatory, hasn't it already been passed?

23 A. It has, and now they're figuring out how
24 to meet the -- you asked me how are they implementing

1 it, and I'm saying they are developing plans for
2 implementing the legislative requirement.

3 Q. And it, again, is economywide?

4 A. I believe it is. I've only seen it with
5 regard to electric, but I believe it may be broader
6 than that.

7 Q. What about Oregon?

8 A. Oregon. Again, I believe they're
9 developing policies, I don't recall when they set the
10 standard.

11 Q. And it's economywide.

12 A. I think so. I've seen these mostly with
13 regards to electricity because that's the field I
14 work in, but some of them may be broader than that.

15 Q. Turn to page 28.

16 A. Twenty-eight?

17 Q. The question and answer beginning on line
18 25.

19 A. Yes.

20 Q. Did you review the deposition transcripts
21 of Mr. Clark of R.W. Beck and Mr. Couppis of R.W.
22 Beck?

23 A. I looked at Mr. Clark's. I don't recall
24 the other gentleman.

1 Q. Mr. Couppis.

2 A. Mister?

3 Q. Couppis, C-o-u-p- --

4 A. I don't think I looked at that one.

5 Q. So you don't know whether or not they
6 were asked questions about this and whether or not
7 they responded?

8 A. They hadn't as of the time I wrote my
9 testimony, I know that, but I don't know whether they
10 have since done so -- or, he has done so. I know
11 Mr. Clark didn't provide this information.

12 Q. I'm sorry?

13 A. After reviewing Mr. Clark's deposition I
14 don't believe he provided this information, and the
15 other gentleman, I don't know.

16 Q. Do you know whether he was asked?

17 A. I don't.

18 Q. Turn to page 30.

19 A. Thirty? Okay.

20 Q. With regard to the remaining answer on
21 line 12, were you given copies of legislative
22 analyses or presentations on carbon legislation by
23 your counsel that was provided by AMP-Ohio?

24 A. Yes. So I guess the answer, since I

1 don't have -- the rest of it's gone, the "no" should
2 be a "yes."

3 Q. Now, on page 31 of your testimony, on
4 line 15 you talk about the cost of transportation and
5 sequestration and you have estimated that to be 5 to
6 10 dollars, correct?

7 A. Correct.

8 Q. That MIT study we talked about earlier
9 estimated that at 5; did it not?

10 A. They did, but they were in constant
11 1997-year dollars. If you escalate that over time,
12 it will end up to 5 -- well, it will be much more
13 than 5, but it will be 5 to 10 or more in actual
14 nominal year dollars; so this is not inconsistent
15 with the MIT study at all.

16 Q. So you're telling me that the MIT study
17 was published in 2007 on page xi, small Roman Numeral
18 xi, the \$5 a ton that they talk about there that they
19 are estimating is a 1997 number?

20 A. Yeah. If you would, if you would show
21 me -- give me that, I can show you where they
22 indicate that their numbers are, I believe, in
23 year-1997 dollars.

24 MR. BENTINE: May I approach, your Honor?

1 EXAMINER PRICE: You may.

2 MS. JAISWAL: Do we have the page?

3 MR. BENTINE: I believe you have this
4 one.

5 MS. JAISWAL: And any page you're going
6 to show him we will see, right?

7 MR. BENTINE: I don't know because you
8 guys have this.

9 MS. JAISWAL: I just mean the version
10 that you're going to be showing him.

11 MR. BENTINE: There's only one version
12 that I know of.

13 MS. JAISWAL: I mean the copy I have is
14 the copy --

15 MR. BENTINE: You can certainly, if it's
16 all right with the administrative law judges, you can
17 join me with the witness and we can all look at it
18 together.

19 MS. JAISWAL: Thank you.

20 EXAMINER PRICE: I have no objection.

21 A. On page 9 you'll see that they're talking
22 about their high and low that we talked about before
23 in 1997 dollars per U.S. ton of CO2, and I believe
24 that the number is -- the \$5 per ton is also in 1997

1 dollars. That's the only thing that makes sense. I
2 don't think that they would use one base year for one
3 and another base year for another.

4 Q. So you're assuming because the figure 2.2
5 that they're referring to on page 9 is in 1997
6 dollars, that the numbers that were not flagged to be
7 1997 dollars back on page small Roman Numeral xi were
8 also in 1997 dollars, correct?

9 A. Yes. The ones that you said you find are
10 not flagged are in the executive summary.

11 Q. That would be quite extraordinary; would
12 it not?

13 A. No. I am surprised that they did any of
14 their numbers in such old dollars. I would have
15 thought they would have done them more currently.

16 Q. I'm talking about not having dollar
17 numbers like that in the executive summary noted that
18 it was '97 dollars rather than 2005 or 2006 or 2007
19 in a 2007 report.

20 A. No. I just think that they -- you'd have
21 to ask them why they did that, but I don't see any
22 evidence that's anything but 1997 dollars because
23 that's consistent with the rest of the report. But
24 even if it's 2005 dollars or 2007 dollars, you're

1 still going to escalate those over time.

2 Q. Understood.

3 A. And as you escalate them over time it's
4 going to get to the 5- to 10-dollar range I'm talking
5 about.

6 EXAMINER BOJKO: Just so I'm clear, in
7 the report there's one chart and it specifically
8 says, because I didn't get a copy of this, it
9 specifically says 1997 dollars in the one chart that
10 you were talking about?

11 THE WITNESS: No. It's not a chart.
12 They're talking about their forecast of CO2 prices
13 and they say that that's in 1997 dollars.

14 EXAMINER BOJKO: For that particular --

15 THE WITNESS: That's the only place where
16 they identify the year dollars.

17 Q. (By Mr. Bentine) Beginning on page 31 you
18 start discussing Powerspan and the Burns & Roe
19 report, and that's a Burns & Roe report dated October
20 17th, 2007?

21 A. Yes.

22 MR. BENTINE: I'm sorry, what are we are?
23 Are we on 12 or 11?

24 MS. JAISWAL: Thirteen.

1 MR. BENTINE: Thirteen. May I approach,
2 your Honor?

3 EXAMINER PRICE: You may.

4 MR. BENTINE: I would ask a document that
5 is entitled Consulting Engineer's Report for the
6 American Municipal Power Generating Station that is
7 located in Meigs County, Ohio, Prepared for the
8 Division of Cleveland Public Power, City of
9 Cleveland, dated October 16th, 2007 . . .

10 (EXHIBIT MARKED FOR IDENTIFICATION.)

11 Q. (By Mr. Bentine) Do you have now before
12 you what has been marked as AMP-Ohio Exhibit 13?

13 A. Yes.

14 Q. Is that the report to which you referred?

15 A. Yes.

16 Q. First of all, Mr. Schlissel, you do
17 understand the city of Cleveland did pass an
18 ordinance and executed an agreement to be a part of
19 this project?

20 A. Yes, I do.

21 Q. If you know, Mr. Schlissel, did the
22 consulting engineer Burns & Roe review all of R.W.
23 Beck's projections including their cost of CO2
24 projections?

1 A. I don't know that they reviewed all of
2 it. They say in here, I believe, what they reviewed.
3 I'm sorry, I'm too tired right now to remember
4 exactly what they said. I can look through it and
5 tell you.

6 EXAMINER PRICE: Let's go off the record
7 for a minute.

8 (Discussion held off the record.)

9 EXAMINER PRICE: Let's go back on the
10 record.

11 We will adjourn for the evening and we
12 will commence again at 9 o'clock tomorrow morning in
13 this hearing room. Anything else before we adjourn
14 for this evening?

15 (No response.)

16 EXAMINER PRICE: Thank you very much.

17 (Thereupon, the hearing adjourned at 5:41
18 p.m.)

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CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Monday, December 17, 2007, and carefully compared with my original stenographic notes.

Maria Di Paolo Jones
Maria DiPaolo Jones, Registered
Diplomate Reporter and ~~CRJ~~ and
Notary Public in and for the
State of Ohio.

My commission expires June 19, 2011.

(MDJ-3115)

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