

LARGE FILING SEPERATOR SHEET

CASE NUMBER: 06-1358-EL-BGN

FILE DATE: 1/03/2008

SECTION: 1 of 5

NUMBER OF PAGES: 188

DESCRIPTION OF DOCUMENT: Transcript
Volume IV and Exhibits

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. :

RECEIVED-ENCLAVING DIV
2008 JAN -3 AM 10:03
PUCO

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 9:00 a.m.
on Tuesday, December 18, 2007.

VOLUME IV

ARMSTRONG & OKEY, INC.
185 South Fifth Street, Suite 101
Columbus, Ohio 43215-5201
(614) 224-9481 - (800) 223-9481
Fax - (614) 224-5724

ORIGINAL

This is to certify that the images appearing are an
accurate and complete reproduction of a case file
document delivered in the regular course of business.
Technician W Date Processed 12/26/08

1 APPEARANCES:

2 Chester, Willcox & Saxbe, LLP
3 By Mr. John W. Bentine
4 Ms. April R. Bott
5 Mr. Stephen C. Fitch
6 Mr. Nathaniel S. Orosz
7 Mr. Matthew S. White
8 65 East State Street, Suite 1000
9 Columbus, Ohio 43215-4213

10 On behalf of American Municipal
11 Power - Ohio, Inc.

12 Mr. Aaron Colangelo
13 Natural Resources Defense Council
14 1200 New York Avenue, NW, Suite 400
15 Washington, DC 20005

16 Mr. Shannon Fisk
17 Natural Resources Defense Council
18 101 North Wacker Drive, Suite 609
19 Chicago, Illinois 60606

20 Ms. Anjali I. Jaiswal
21 Natural Resources Defense Council
22 111 Sutter Street, 20th Floor
23 San Francisco, California 94104

24 On behalf of Intervenor Natural
Resources Defense Council.

Mr. Trent Dougherty
1207 Grandview Avenue, Suite 201
Columbus, Ohio 43212

On behalf of the Ohio Environmental
Council.

Ms. Elisa Young
48360 Carmel Road
Racine, Ohio 45771

Pro se.

1 APPEARANCES (continued):

2 Marc Dann, Ohio Attorney General
3 Duane W. Luckey, Senior Deputy Attorney
4 General
5 By Mr. William L. Wright
6 Mr. John H. Jones
7 Assistant Attorneys General
8 Public Utilities Section
9 180 East Broad Street, 9th Floor
10 Columbus, Ohio 43215
11

12 On behalf of the Ohio Power Siting Board.

13 Marc Dann, Ohio Attorney General
14 By Ms. Margaret A. Malone
15 Ms. Christina Grasseschi
16 Assistant Attorneys General
17 Environmental Enforcement Section
18 30 East Broad Street, 25th Floor
19 Columbus, Ohio 43215
20

21 On behalf of the Ohio Environmental
22 Protection Agency.
23
24

- - -

INDEX

- - -

WITNESSES PAGE

Elisa Young

Voir dire by Ms. Bott 37

Cross-examination by Ms. Bott 67

David A. Schlissel

Cross-exam (cont'd) by Mr. Bentine 74

Cross-exam (cont'd) by Mr. Bentine 140

Redirect examination by Ms. Jaiswal 166

Recross-examination by Mr. Bentine 241

Examination by Examiner Bojko 284

- - -

AMP-OH EXHIBITS ID'D REC'D

10 - Synapse/Oberlin document VOL III 305

11 - R.W. Beck Initial Project Feasibility Study VOL III 305

12 - City of Cuyahoga Falls, Ohio Council Meeting 9/17/07 document VOL III 305

13 - Burns & Roe Consulting Engineer's Report VOL III 305

14 - R.W. Beck Initial Project Feasibility Study (full report) 112 --
(CONFIDENTIAL)15 - Power Supply Plan for City of Cleveland, 2/16/07 139 305
(CONFIDENTIAL)

CITIZEN GROUPS' EXHIBITS ID'D REC'D

6 - Direct Testimony of D.A. Schlissel Vol III 299

7 - "The Future of Coal" 178 --
black and white version

		ID'D	REC'D
1	CITIZEN GROUP'S EXHIBITS		
2	8 - Synapse & MIT CO2 Price	183	299
3	Scenarios graph		
4	9 - Cost and Performance Baseline	193	--
5	for Fossil Energy Plants by NETL		
6	10 - Evaluation of Powerspan Corp.	199	299
7	Technologies, 9/06		
8	(CONFIDENTIAL)		
9	YOUNG EXHIBITS	ID'D	REC'D
10	1 - Original testimony of E. Young	28	138
11	2 - Additional testimony of E. Young	31	138
12	3 - Drinking Water Source Assessment	131	138
13	for the Village of Racine,		
14	Tupper Plains/Chester Water		
15	- - -		
16			
17			
18			
19			
20			
21			
22			
23			
24			

1 Tuesday Afternoon Session,
2 December 18, 2007.

3 - - -

4 EXAMINER BOJKO: Go on the record. The
5 Ohio Power Siting Board has called at this time this
6 case, In the Matter of the Application by American
7 Municipal Power - Ohio, Inc. for a Certificate of
8 Environmental Compatibility and Public Need to
9 Construct an Electric Generating Facility in Meigs
10 County, Ohio, case number 06-1358-EL-BGN.

11 I am Kimberly Bojko, and I have Gregory
12 Price with me today. We are the administrative law
13 judges assigned to this case.

14 At this time for the record we will take
15 appearances to determine the parties in the room.
16 Let's start with the company.

17 MR. BENTINE: Yes, your Honor. Once
18 again on behalf of the applicant, American Municipal
19 Power - Ohio, Inc., the law firm of Chester,
20 Willcox & Saxbe, by John Bentine, April Bott, Nate
21 Orosz, Steve Fitch, and Matt White. And the record
22 should reflect only Mr. Orosz and Miss Bott and
23 myself are present today.

24 EXAMINER BOJKO: Thank you.

1 On behalf of NRDC and, well, the citizen
2 groups.

3 MR. FISK: Good morning, your Honor. On
4 behalf of the citizen groups I'm Shannon Fisk from
5 the Natural Resources Defense Council, and with me is
6 Anjali Jaiswal, also from the Natural Resources
7 Defense Council.

8 EXAMINER BOJKO: And you're appearing on
9 behalf of the citizen groups in that capacity?

10 MR. FISK: Yes, your Honor.

11 EXAMINER BOJKO: Staff.

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

17 MS. MALONE: And Margaret A. Malone and
18 Christina Grasseschi, Assistant Attorneys General, 30
19 East Broad Street, Columbus, Ohio. Ms. Grasseschi is
20 not in the room yet, but should be joining us later.

21 EXAMINER BOJKO: Thank you.

22 Mr. Bentine, you have a procedural
23 matter, or motion?

24 MR. BENTINE: Yes, your Honor, if I

1 might. In turning pages and trying to keep track of
2 what was stricken and what was not I missed a couple
3 motions to strike with regard to Mr. Schlissel's
4 testimony yesterday; I'd like to raise those now if I
5 could, please.

6 The first is on page 51, line 11 after
7 the word "No," and ending at the footnote in line 15.
8 Same basis as our other motions with regard to
9 references to discovery.

10 MS. JAISWAL: I'd just like to restate
11 our standing objection. We object based on the
12 Commission rules 4906-7-09 that requires that an ALJ
13 shall admit all relevant evidence. We believe this
14 is relevant evidence and that rule applies. We are
15 asserting that rule applies and we understand it
16 applies. It says "shall," on that basis it should be
17 admitted.

18 EXAMINER BOJKO: Counselor, one question
19 with regard to that just to be clear, because I
20 thought we talked about this yesterday, the citizen
21 groups do not have a standing motion to compel. You
22 do not have an outstanding motion to compel before
23 this board; is that right?

24 MS. JAISWAL: That's right. We agreed

1 not to pursue a further motion to compel in order to
2 allow this proceeding to go forward.

3 EXAMINER PRICE: I understand you have a
4 broad interpretation of that rule. I don't
5 necessarily understand that rule as applies to this
6 particular instance. I'm not sure I see the
7 relevance in this instance and, again, as we have
8 stated -- and I want you to respond to this. This
9 isn't a referral question I guess. I'm not sure I
10 see the relevance issue and, again, isn't this an
11 improper question and improper answer given that
12 there are no outstanding discovery disputes? He's
13 arguing the legal issue at this point.

14 MS. JAISWAL: I'm sorry, so can you
15 please state again the first portion of your
16 question? The first thing you asked is the
17 relevance, right?

18 EXAMINER PRICE: Relevance. What's the
19 probative value of this answer?

20 MS. JAISWAL: So one of the central
21 questions before your Honors is the cost estimates
22 and whether the cost estimates are reasonable. This
23 question poses "Have you been able to evaluate the
24 reasonableness of this cost estimate?" That's

1 directly and materially relevant here.

2 This question then answers it. It
3 answers the basis for --

4 EXAMINER PRICE: But they haven't refused
5 to provide these documents. There are no outstanding
6 discovery disputes. Again, his testimony is not -- I
7 think there may be an issue here. His testimony is
8 as of the day he gives it, not as of the day he
9 prepares it. And he's never corrected that answer to
10 say although I didn't get them at the time I prepared
11 this, I subsequently got these documents. Isn't that
12 correct?

13 MS. JAISWAL: My understanding is that
14 your Honors required written testimony to be filed on
15 December 3rd.

16 EXAMINER PRICE: Yes.

17 MS. JAISWAL: And there were discovery
18 motions going on simultaneously with the motion to
19 compel.

20 EXAMINER PRICE: Yes.

21 MS. JAISWAL: And that Mr. Schlissel can
22 testify to this today, whether he has been provided
23 documents that enable him to evaluate the
24 reasonableness of this cost estimate, and he will

1 testify today that he has not been provided.
2 Although some documents have been produced, these
3 specific documents have not been produced.

4 EXAMINER BOJKO: All right. But that's
5 not what you're arguing. You're saying that AMP-O
6 has refused, and that's a legal question of whether
7 they're required or whether they're refusing to do so
8 under a motion to compel.

9 MS. JAISWAL: So in terms of whether they
10 have, and Mr. Schlissel has reviewed the documents
11 and will answer that question --

12 EXAMINER BOJKO: We're allowing him to
13 answer whether he's reviewed the documents. The
14 answer is "no."

15 MS. JAISWAL: No; he has reviewed the --
16 he has reviewed the documents that they have produced
17 to us.

18 EXAMINER PRICE: No. The question is
19 "Have you been able to evaluate the reasonableness of
20 this cost estimate?" The answer as would be modified
21 by the -- as would be taking into account the motion
22 to strike as if we granted it, assuming for the sake
23 of argument we granted it, is no, he has not been
24 able to evaluate the reasonableness of the cost

1 estimate. I don't understand the probative value to
2 the rest of it.

3 MS. JAISWAL: The basis for it is the
4 initial project feasibility study.

5 EXAMINER BOJKO: No. No. The problem is
6 you're having a witness, a nonlegal witness, testify
7 to whether another party has refused or provided
8 documents pursuant to a motion to compel, a motion to
9 compel that you have now withdrawn; that is the
10 problem.

11 You can ask the witness if he has the
12 documents, if he's seen the documents, but you can't
13 ask the witness to make a legal argument on your
14 behalf regarding whether they have honored a motion
15 to compel.

16 EXAMINER PRICE: Particularly in light of
17 the fact that your co-counsel has already represented
18 to us that there are no outstanding discovery
19 disputes.

20 MS. JAISWAL: Mr. Schlissel is responding
21 to the question here. This is his written testimony.
22 Under this court's rules, under this board's rules
23 under 4906-7-09, it says these are required and they
24 shall come in.

1 Apart from that, this is expert
2 testimony. You may disagree with what Mr. Schlissel
3 says here, and you have every right to disagree with
4 what Mr. Schlissel says here, but under the Ohio
5 rules, putting aside this board's rules, under the
6 Ohio rules the expert opinion is permissible.

7 EXAMINER PRICE: He's giving expert
8 opinion as to the --

9 MS. JAISWAL: As to what he relied on.
10 The basis --

11 EXAMINER PRICE: No. No. Don't
12 interrupt me.

13 MS. JAISWAL: Moreover --

14 EXAMINER PRICE: Ma'am, one second. Let
15 me finish my thought.

16 He's giving expert opinion that, if
17 anything, is to the adequacy of their discovery
18 response. He's not here as a legal expert. He's
19 here as an expert on whether or not this plant should
20 be built. Again, this is not relevant to any of the
21 board's statutory criteria. This is relevant, if
22 it's relevant at all, to whether or not they
23 fulfilled their obligations under discovery, and your
24 co-counsel has said they have.

1 MS. JAISWAL: Your Honor --

2 EXAMINER BOJKO: This isn't evidence.

3 The rule that you keep citing to is evidence. This
4 isn't evidence. You're making a legal argument
5 through your witness.

6 MS. JAISWAL: This is a document, this is
7 his testimony, therefore, it is evidence. Moreover,
8 his answer does not reference discovery, it
9 references why he has not been able to evaluate the
10 reasonableness of the cost estimates.

11 And as I was explaining, that this is
12 expert opinion, it's allowed in. There's no
13 prejudice, since there's no jury here -- I'm just
14 stating our objection for the record -- there's no
15 prejudice either to a jury that would be here because
16 it's a bench trial because the judges are -- because
17 you're reviewing this. And, moreover, it's reliable.
18 You have the expert here; you can ask him any
19 questions you want.

20 EXAMINER BOJKO: And I take issue with
21 that. It's not a bench trial in the respect that
22 you're talking about. There's a board that has to
23 consider this, and there's a board that hasn't had
24 the ability to sit in here and listen to all the

1 arguments, so we are required to make these kind of
2 judgments.

3 MS. JAISWAL: What I meant is in terms of
4 a jury. There's no jury here. There's no -- in
5 terms of lay citizens sitting in a jury box and
6 prejudice to them, that these are -- the board
7 members are informed board members.

8 EXAMINER PRICE: I'm not sure Mr. Bentine
9 would not agree this is not prejudicial to his
10 client, but I think we'll let him respond.

11 EXAMINER BOJKO: Particularly in front of
12 the board members.

13 EXAMINER PRICE: We'll go ahead and let
14 AMP-Ohio respond to the arguments and then we'll go
15 from here.

16 MR. BENTINE: Just very briefly, your
17 Honor. Again, there are no outstanding motions to
18 compel. We've provided documentation after the Bench
19 granted certain motions to compel, asked us to get
20 together, we did, we provided those. The parties
21 agreed -- both parties agreed that no more discovery
22 was going to happen. I'm not going to go into why we
23 were late and why we were here late. We were
24 entitled to make our objections, we made those

1 objections.

2 We provided additional documents. We
3 made Mr. Clark and Mr. Couppis and Mr. Kieseewetter
4 and Mr. Meyer, all of our witnesses, available for
5 depositions. Those depositions were taken; questions
6 on this kind of stuff could have been asked and could
7 have been answered. In fact, some of this was asked
8 and answered in those depositions on a number of
9 these subjects.

10 And then the implication that we refused
11 to provide this, to provide responses to discovery in
12 a number of different ways, and a number of our
13 objections went to undue burden and inappropriate for
14 an interrogatory kind of response on this.

15 So we have responded, there's no
16 outstanding discovery and motions to compel, and
17 this, we do believe, is prejudicial because it makes
18 it appear as if there are outstanding discovery
19 disputes, that we have been recalcitrant in our
20 duties in providing discovery, and that is not the
21 case.

22 So I think that it is prejudicial and I
23 certainly think it is a legal issue, as your Honors
24 have pointed out.

1 EXAMINER PRICE: Thank you all.

2 I'm glad we were able to get out a more
3 full discussion of this issue than perhaps we got
4 through yesterday. Having said that, we're not going
5 to change our previous rulings, and the motion to
6 strike will be granted.

7 Mr. Bentine.

8 MR. BENTINE: Thank you, your Honor.
9 There's one more, and that is on page 62.

10 EXAMINER PRICE: Sixty-two?

11 MR. BENTINE: Yes. Line 22.

12 EXAMINER PRICE: Yes.

13 MR. BENTINE: The answer after "No."

14 MS. JAISWAL: We have our standing
15 objection.

16 EXAMINER PRICE: The motion will be
17 granted. Thank you.

18 MR. BENTINE: I want to turn to DAS-2,
19 your Honor.

20 EXAMINER BOJKO: I'm sorry. I didn't
21 hear you.

22 MR. BENTINE: Do you want to turn to
23 DAS-2 now and discuss that?

24 EXAMINER PRICE: Yes. Go ahead,

1 Mr. Bentine.

2 MR. BENTINE: First of all, let me say
3 that I think that the wholesale shoving in of
4 discovery is inappropriate and, certainly, to the
5 extent that discovery results in admissions, results
6 in data which is relied upon appropriately by an
7 expert, then I think they can rely on those. I think
8 they could attach those to their testimony, and so
9 there are certain of these that we would not object
10 to.

11 So I can go through these and at least
12 give the ones that we believe are appropriate. I do
13 have some trepidation about simply putting in our
14 objections as a part of that as evidence, but, having
15 said that, there are a few questions and answers in
16 here that we can agree to put in. I can go through
17 those if your Honors would like me to.

18 EXAMINER BOJKO: First of all, I'd like
19 to hear a general response from counsel.

20 Ms. Jaiswal, what is the purpose of
21 wholesale putting just the document in? Are you
22 using this to impeach a witness? I mean, I haven't
23 heard one of these questions posed to an AMP-Ohio
24 witness that then their response would need to be

1 used to impeach, and that's the normal course of
2 discovery in using interrogatories in this fashion,
3 is to ask the actual interrogatory of the witness and
4 then, if they misstate something or don't state
5 something as written, then you have the opportunity
6 to impeach the witness or selectively attaching
7 discovery responses to testimony.

8 It's highly unusual to just stick the
9 entire document including objections into -- attached
10 to testimony.

11 MS. JAISWAL: It was attached because
12 it's the basis of Mr. Schlissel's testimony; our
13 expert. So it's provided as the basis of expert
14 testimony. It's also --

15 EXAMINER BOJKO: How is it the basis?
16 There are questions posed to counsel and responses.
17 How can the general objections and instructions
18 section be the basis of your client's testimony?

19 MS. JAISWAL: They go to what was asked
20 of AMP-Ohio and how AMP-Ohio responded to documents
21 to support their assertions and what's in their
22 studies, therefore, they're relevant. They're part
23 of his testimony, the basis of his testimony is
24 admissibility. Again, the Board's rule 4906-7-09

1 says that all relevant --

2 EXAMINER BOJKO: Evidence.

3 MS. JAISWAL: -- evidence --

4 EXAMINER BOJKO: That's what we're trying
5 to get.

6 EXAMINER PRICE: The Board's rules also
7 say that the administrative law judges will regulate
8 the course of these proceedings and will make
9 procedural rulings and rulings on evidence, so that
10 rule's only going to get you so far.

11 EXAMINER BOJKO: It says "evidence." You
12 can't attach things and then blanketly argue that
13 it's evidence.

14 MS. JAISWAL: The questions that they ask
15 are also in this document, and a document can be a
16 piece of evidence.

17 EXAMINER BOJKO: What's the purpose of
18 discovery if you're just -- or a hearing for that
19 matter? Wouldn't we just submit all depositions, all
20 interrogatories to a court and then just let them
21 read everything? What's the point of a hearing if
22 we're going to just blanketly put everything into the
23 record?

24 MS. JAISWAL: The questions that are

1 posed in here will be asked of Mr. Schlissel on, some
2 of them have been asked on direct, not directly
3 pulling from this, but have been asked, and some of
4 them will be asked on redirect, so they will be used
5 in this hearing today.

6 EXAMINER PRICE: Let's segment this out a
7 little bit. What's the purpose of having the general
8 objections in here?

9 MS. JAISWAL: They are a statement by
10 AMP-Ohio. They are --

11 EXAMINER BOJKO: Discovery statement.

12 EXAMINER PRICE: They're a legal
13 argument.

14 MS. JAISWAL: They're signed by
15 Mr. Bentine and they've been authenticated and
16 they've been certified by his signature. He is
17 counsel for AMP-Ohio.

18 EXAMINER BOJKO: This is a legal
19 argument. Would you like all of your legal arguments
20 to be just blanketly submitted to a court?

21 MS. JAISWAL: This is not a legal
22 argument. Discovery is --

23 EXAMINER BOJKO: Objections?

24 EXAMINER PRICE: General objections?

1 EXAMINER BOJKO: Objections to discovery
2 is a legal argument.

3 MS. JAISWAL: They are AMP-Ohio's
4 statements and, therefore, they're admissible.

5 EXAMINER BOJKO: The objections are
6 AMP-Ohio's statements, or are the objections the
7 attorney's statements?

8 MS. JAISWAL: The attorney represents
9 AMP-Ohio, therefore, they are AMP-Ohio's statements.

10 EXAMINER PRICE: I don't think that is
11 the case in this state. I can't speak to any other
12 state or necessarily outside, but that's not the case
13 in this state and before this board.

14 Let's begin by -- one minute, please.

15 MS. JAISWAL: I didn't finish responding.
16 If I may.

17 EXAMINER PRICE: Okay.

18 MS. JAISWAL: So we did agree, we did
19 reach agreement on questions No. 9 and --

20 EXAMINER PRICE: We're going to have to
21 go through these questions one at a time, so we will.
22 We're just going to have to go through --

23 MS. JAISWAL: And what I offered to
24 Mr. Bentine in order to move forward is, for the

1 purposes of reaching agreement here, that we would,
2 subject to our objection of course, we would not take
3 issue with the general objections and we would not
4 take issue with questions that the only response was
5 an objection.

6 EXAMINER BOJKO: What do you mean, you
7 would not take issue? You would not oppose a motion
8 to strike being granted?

9 MS. JAISWAL: Yes; subject to our
10 objections.

11 EXAMINER BOJKO: Okay.

12 EXAMINER PRICE: Well --

13 EXAMINER BOJKO: Well, subject to your
14 objections --

15 MS. JAISWAL: For the record. For the
16 record. But to move forward, your Honor had asked
17 for us to do that.

18 EXAMINER BOJKO: That's contradictory. I
19 mean, either you're agreeing with Mr. Bentine to not
20 attempt to admit those sections or you have an
21 objection.

22 MS. JAISWAL: We reserve them for appeal;
23 that is what I'm doing.

24 EXAMINER BOJKO: Well then that's no

1 agreement at all.

2 EXAMINER PRICE: That's no agreement at
3 all.

4 EXAMINER BOJKO: That's no agreement.

5 EXAMINER PRICE: Let's take this --

6 MS. JAISWAL: No, I didn't say that
7 Mr. Bentine agreed to that, so I'm not saying there
8 was agreement. But for purposes of moving forward --

9 EXAMINER PRICE: Let's take this one
10 segment at a time.

11 EXAMINER BOJKO: I'm not talking about
12 what Mr. Bentine agreed to or didn't agree to. Did
13 you agree to strike, or not attempt to admit as
14 evidence general objections in the other discovery
15 responses that were strictly legal objections?

16 MS. JAISWAL: Yes.

17 EXAMINER BOJKO: You agreed to that.

18 MS. JAISWAL: I agreed to that.

19 EXAMINER PRICE: Without reserving
20 anything for appeal.

21 MS. JAISWAL: For purposes of moving
22 forward.

23 EXAMINER BOJKO: No.

24 EXAMINER PRICE: No.

1 EXAMINER BOJKO: No. No. Do you agree
2 or do you not agree? It's one or the other.

3 MS. JAISWAL: You know, I was saying what
4 we said in order to move forward. So we still have
5 objections -- that's your question -- yes. We would
6 still have objections.

7 EXAMINER PRICE: Okay.

8 EXAMINER BOJKO: So there is no
9 agreement. Just for the record, there is no
10 agreement. We have a pending motion to strike, and
11 we will rule on the pending motion to strike. That's
12 what I'm hearing.

13 EXAMINER PRICE: And Mr. Bentine has
14 moved to strike this matter in its entirety, so we
15 would like to take this one part at a time. We'll
16 start with the general objections and then we'll work
17 our way through each question and then we'll be done,
18 then we'll proceed with Miss Young.

19 Let's let the record reflect that
20 Miss Elisa Young has made an appearance today.

21 We're going to -- I don't think you're
22 going to be surprised by this -- grant the motion to
23 strike as to the general objections, therefore, the
24 motion to strike will begin on the first page of

1 DAS-2 beginning with the words "General Objections,"
2 the balance of that page, all of page 2, all of page
3 3, and page 4 through general objection No. 14
4 terminating exclusive with words "Answers to
5 Interrogatories and Requests For Production of
6 Documents."

7 Okay.

8 MS. JAISWAL: Your Honor, I'm sorry,
9 could you please -- I couldn't hear what you were
10 saying. Which pages? You said 4 through?

11 EXAMINER PRICE: Page 1 beginning with
12 the words "General Objections."

13 MS. JAISWAL: Yes, I got that.

14 EXAMINER PRICE: And ending on page 4
15 with the phrase "Productions of Documents" in general
16 objection No. 14. What is still in there is "Answers
17 to Interrogatories and Requests for Production of
18 Documents."

19 MS. JAISWAL: Thank you.

20 EXAMINER PRICE: Question 1.

21 MR. BENTINE: Question 1. Might we go
22 off the record for one moment?

23 EXAMINER PRICE: Let's go off the record,
24 please.

1 (Discussion held off the record.)

2 EXAMINER PRICE: Let's go back on the
3 record.

4 MR. BENTINE: Thank you, your Honor.

5 Well, I don't know how exactly you want
6 to do this. I'm willing to go through these --

7 EXAMINER PRICE: I think we're just going
8 to have to take them one at a time, which is what I
9 was hoping we could avoid, but we're not going to
10 avoid it.

11 MR. BENTINE: Item 1, provide copies of
12 any technical, et cetera, on global warming
13 legislation.

14 EXAMINER PRICE: Mr. Bentine, I'm sorry,
15 let's go off the record for one minute, please.

16 (Discussion held off the record.)

17 EXAMINER BOJKO: Let's go back on the
18 record.

19 EXAMINER PRICE: At this time we will
20 take a break from our arguments on Mr. Bentine's
21 motion to strike DAS-2 in order to take the testimony
22 of Miss Elisa Young.

23 EXAMINER BOJKO: Does the citizen group
24 have any objection to this course?

1 MS. JAISWAL: No, your Honor.

2 MR. BENTINE: And the order of cross will
3 be?

4 EXAMINER BOJKO: It would have to be the
5 citizen groups, then you, AMP-Ohio, and then Staff.

6 MR. BENTINE: Thank you, your Honor.

7 EXAMINER BOJKO: Miss Young, would you
8 like to take the stand, please?

9 MS. YOUNG: Am I allowed to take anything
10 with me?

11 EXAMINER BOJKO: Oh, yeah.

12 EXAMINER PRICE: You definitely want to
13 take your testimony.

14 EXAMINER BOJKO: While Miss Young is
15 making her way to the stand, the Bench is going to go
16 ahead and mark for identification purposes
17 Miss Young's testimony, it will be Young Exhibit 1.
18 This is the prefiled testimony time-stamped December
19 4th.

20 (EXHIBIT MARKED FOR IDENTIFICATION.)

21 EXAMINER BOJKO: Miss Young, could you
22 please raise your right hand?

23 (Witness sworn.)

24 EXAMINER BOJKO: You may be seated.

1 Miss Young, do you have before you what's
2 been marked for identification purposes as Young
3 Exhibit 1?

4 THE WITNESS: No, I don't. I'm sorry.
5 Is there another copy of that?

6 EXAMINER BOJKO: Your testimony?

7 THE WITNESS: Oh, I'm sorry. I thought
8 it was something that had been -- I dropped my book
9 on the way in.

10 EXAMINER BOJKO: Your testimony has been
11 marked as Young Exhibit 1.

12 THE WITNESS: Okay.

13 MS. MALONE: Can I just ask a clarifying
14 question?

15 EXAMINER BOJKO: Sure.

16 MS. MALONE: We marked as Young Exhibit 1
17 the document which was the certificate of service and
18 faxed on 12/4 and starts with the title "Additional
19 testimony"?

20 EXAMINER BOJKO: Yes. That's correct.

21 MS. MALONE: Just to clarify. Thank you.

22 THE WITNESS: I have the original
23 testimony in this and then the additional testimony,
24 I'm sorry, but I have it in my box. My box spilled

1 on the way in here and everything went all over the
2 sidewalk, and I'm sorry, but it's --

3 EXAMINER BOJKO: I think you need to
4 clarify for the record what you mean by "original
5 testimony" versus "additional testimony."

6 THE WITNESS: The direct testimony that I
7 originally submitted was submitted about a week
8 before or longer than the second additional testimony
9 that I submitted along with the witnesses'
10 statements. And I'm sorry if that didn't go with
11 procedure, but I was doing the best I could with it.

12 EXAMINER BOJKO: I guess I assumed you
13 were refiling the same testimony on the day that
14 intervenors' testimony was due. Is that not
15 accurate? Is this truly additional?

16 THE WITNESS: Yes.

17 EXAMINER PRICE: It's two parts?

18 THE WITNESS: It's two parts.

19 EXAMINER BOJKO: I am going to, for
20 clarity purposes, I'm going to amend my
21 identification. I think it's more appropriate to
22 list the original Young testimony as Exhibit 1, Young
23 Exhibit 1, and then we will mark as Young Exhibit 2
24 the additional testimony that was filed on December

1 4th.

2 (EXHIBIT MARKED FOR IDENTIFICATION.)

3 EXAMINER BOJKO: The original testimony
4 that is now Young Exhibit 1 was filed on -- can
5 anybody help me out?

6 MS. MALONE: This is where I'm confused.
7 I have an original testimony that I think was filed
8 with her petition.

9 EXAMINER BOJKO: That's it.

10 MS. MALONE: And it had things I think
11 have been stricken.

12 MS. BOTT: We're going to move to strike.

13 MS. MALONE: Okay.

14 EXAMINER BOJKO: Let's mark it for
15 identification purposes. Yes, it was the testimony
16 filed with the intervention.

17 Is that correct, Miss Young?

18 THE WITNESS: Yes.

19 EXAMINER BOJKO: And that would be filed
20 on -- somebody help me out.

21 MS. BOTT: 10/29 is the date we have --

22 EXAMINER BOJKO: October 29th?

23 MS. BOTT: -- for filing; that it was
24 filed with the Commission.

1 EXAMINER BOJKO: Miss Young, could you
2 please obtain from your briefcase both of these
3 testimonies?

4 THE WITNESS: Yes.

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

6 (Discussion held off the record.)

7 EXAMINER BOJKO: Let's go back on the
8 record.

9 Miss Young, do you have before you what's
10 been previously marked as Young Exhibit 1, which is
11 your original testimony filed on October 29th,
12 2007?

13 THE WITNESS: Yes.

14 EXAMINER BOJKO: And do you also have
15 before you Young Exhibit 2, which is additional
16 testimony, and that was filed on December 4th?

17 THE WITNESS: Yes.

18 EXAMINER BOJKO: Miss Young, let's take
19 Exhibit 1 first. If I was to ask you any of the
20 questions, or statements I guess, posed in your
21 direct testimony, in your statement, would your
22 response or your statement be the same today as it
23 was when you wrote your testimony?

24 THE WITNESS: I believe so. The only

1 thing that I might change is that there are actually
2 two cemeteries that I had concerns about. One of
3 them is cited over near where the AMP-Ohio --

4 EXAMINER BOJKO: Could you reference a
5 page for us where you discuss one cemetery?

6 THE WITNESS: I think I had underlined it
7 in here because I thought I should make that clear.

8 I'm sorry, I'm not sure if that page is
9 missing because this got scrambled up, but I had made
10 reference to cemeteries that I was concerned about
11 the destruction of.

12 EXAMINER BOJKO: And you made reference
13 to one cemetery and you would like to amend your
14 testimony to say that there might be two cemeteries
15 that you have concerns with?

16 THE WITNESS: Yes. One of them is
17 adjacent to our farm, it's an old family cemetery,
18 and because of the existing power plants we have seen
19 those be damaged from the emissions, the sulfur, and
20 I understand that this will be releasing a lot more
21 sulfur, and it's our family history.

22 And I'm also concerned about the
23 stability of the other cemetery that's right beside
24 the AMP-Ohio proposed facility, and that is the one

1 that was referenced in my testimony.

2 EXAMINER BOJKO: Okay. With that, do you
3 have any other amendments, revisions, corrections to
4 the original Young testimony marked as Young Exhibit
5 1?

6 THE WITNESS: I don't believe so.

7 EXAMINER BOJKO: And do you believe that
8 your statement is true and accurate to the best of
9 your knowledge?

10 THE WITNESS: To the best of my
11 knowledge, yes.

12 EXAMINER BOJKO: And if we look at Young
13 Exhibit 2 now, which is your additional Young
14 testimony filed on December 4th, if I were to ask
15 you to restate your statements made therein, would
16 they be the same today as when you wrote the
17 testimony?

18 THE WITNESS: Yes.

19 EXAMINER BOJKO: Do you have any
20 corrections or changes to that testimony?

21 THE WITNESS: The only thing I was trying
22 to get clarification on in the meantime is where the
23 agricultural districts were in our county, because we
24 believe that even though we're not on the site, that

1 our ability to farm sustainably would potentially be
2 impacted by the emissions that would travel off of
3 the site.

4 And I contacted the agriculture
5 department and some of the offices with the Farm
6 Bureau in our county and I'm waiting for
7 documentation back from them, but the testimony that
8 I had, not just the testimony, but the witnesses who
9 came here earlier in the week are also generational
10 farmers whose families have farmed there for a long
11 time, and even though they're not on the site, they
12 would be impacted.

13 But as to whether it would definitely
14 fall under an existing agricultural district, I'm
15 still trying to get clarification, so . . .

16 EXAMINER BOJKO: You've not been able to
17 obtain that to date?

18 THE WITNESS: No.

19 EXAMINER BOJKO: Last week you said you
20 might be able to get some kind of documentation by
21 today.

22 THE WITNESS: Our county agricultural
23 extension agent was out of town, and he said the last
24 documentation they had was for 1999 and that he

1 wasn't sure if there had been any updates or changes
2 from that time.

3 EXAMINER BOJKO: Excuse me. Let's go off
4 the record.

5 (Discussion held off the record.)

6 EXAMINER BOJKO: Let's go back on the
7 record.

8 If you do obtain that information and
9 would like to file it as a late-filed exhibit, I will
10 take that matter up at the time.

11 THE WITNESS: Okay.

12 EXAMINER BOJKO: And for Young Exhibit 2,
13 the additional testimony, are the statements made
14 therein true and accurate to the best of your
15 knowledge?

16 THE WITNESS: Yes.

17 EXAMINER BOJKO: At this time I guess it
18 would be best to entertain any motions to strike at
19 this time.

20 MS. BOTT: Your Honor, if you wouldn't
21 mind, if we could ask a question on voir dire, we
22 think we'll move this along quickly.

23 EXAMINER BOJKO: Okay.

24 MS. BOTT: Is that acceptable?

1 EXAMINER BOJKO: Please.

2 - - -

3 ELISA YOUNG

4 being first duly sworn, as prescribed by law, was
5 examined and testified as follows:

6 VOIR DIRE

7 By Ms. Bott:

8 Q. Miss Young, good morning.

9 A. Good morning.

10 Q. I want to clarify. Are you testifying
11 here as an expert today?

12 A. No, I'm not. There's knowledge of my
13 community that I have that other people who are
14 experts may not, but I am not an educated, degreed
15 expert.

16 MS. BOTT: I think we're ready, then, to
17 make motions to strike.

18 EXAMINER BOJKO: Okay.

19 MS. BOTT: We'll go through them one by
20 one if that's acceptable.

21 EXAMINER BOJKO: Sure.

22 MS. BOTT: The first is in the direct
23 testimony that's been marked Young Exhibit 1, on page
24 2. And this also goes to the exhibits starting with

1 the testimony that was filed, we would like to move
2 to strike all the exhibits.

3 EXAMINER BOJKO: Let's do one at a time.
4 That's page 2?

5 MS. BOTT: Sure. Page 2, and the lines
6 aren't marked, but I believe it to be line 8 starting
7 with "and that its heavy reliance on coal plants."
8 And that's footnoted to No. 2, the footnote 2, which
9 is a reference to a newspaper article. We would move
10 that these be struck, these are classic hearsay and
11 not within the scope of this --

12 EXAMINER PRICE: I'm not sure where
13 you're beginning your motion to strike.

14 MS. BOTT: It's page 2, starting at
15 little a. I'm sorry.

16 EXAMINER PRICE: Okay.

17 MS. BOTT: About halfway down on line 8.
18 Starting with the "and that its heavy reliance" and
19 it would finish after footnote 2.

20 EXAMINER PRICE: Thank you.

21 EXAMINER BOJKO: I'm going to deny that
22 motion to strike. I think she's telling exactly what
23 the governor was stating. I'll take notice of your
24 objection.

1 MS. BOTT: Sure. No problem.

2 The next one is on page 3 starting at
3 line 2 and continuing through line 11, and the
4 footnotes that are attached are lines 6 and line 7.
5 This expert -- excuse me, this lay witness is not
6 here to testify as an expert on global warming.
7 Again, this is classic hearsay --

8 EXAMINER BOJKO: I'm sorry, could you
9 back up?

10 MS. BOTT: Sure. Page 3.

11 EXAMINER BOJKO: Which lines?

12 MS. BOTT: Starting at line 2. So
13 starting after the little Roman numeral iv, starting
14 with the words "Emissions of carbon dioxide" and
15 continuing through the end of that paragraph.

16 Again, this lay witness is not here to
17 testify about global warming or the impacts of global
18 warming, nor has there been any substantiation of the
19 documents attached, that would be Attachment A
20 related to this paragraph.

21 EXAMINER BOJKO: Did you say to the end
22 of the paragraph?

23 MS. BOTT: Yeah, through the end of the
24 paragraph.

1 EXAMINER PRICE: Okay.

2 MS. BOTT: And footnote 7. So it would
3 be both footnotes 6 and 7, the same article
4 reference.

5 EXAMINER BOJKO: I'm going to deny the
6 motion to strike it. This is information by the U.S.
7 Department of Energy and I believe that's an
8 exception to any hearsay claims.

9 MS. BOTT: The actual -- just as a point
10 of clarification, the actual reference is to an Akron
11 Beacon Journal article.

12 EXAMINER BOJKO: Yes. And you have an
13 exhibit to another press release as well, AMP-Ohio
14 Exhibit 7. So I think, to be consistent and fair,
15 that we will allow this information to be in the
16 record.

17 MS. BOTT: Okay. Page 4, starting at
18 line 6 and continuing through the end of that page.

19 EXAMINER BOJKO: Since there's no line
20 numbers, are you talking about "Ohio power plants"?

21 MS. BOTT: I'm sorry, I just thought it
22 would be helpful to start with numbers. The second
23 paragraph starting with "Ohio Power plants."

24 EXAMINER PRICE: Through the balance of

1 the page?

2 MS. BOTT: Through the balance of the
3 page. And the reason for that is the citation,
4 again, is now to Clear the Air, which is an activist
5 website. Those numbers in that data have not been
6 substantiated and there's no one here to testify; it
7 is classic hearsay.

8 EXAMINER BOJKO: Are you going clear to
9 the end?

10 MS. BOTT: Yes.

11 EXAMINER BOJKO: Continuing to page 5.

12 MS. BOTT: Yes, it goes clear to the end
13 with footnote 11 on page 5. And it references both
14 Attachment B and Attachment C which, again, have not
15 been substantiated, are not regularly recognized in
16 the industry. These are advocacy groups, they're
17 activist groups, and they're not here to testify
18 today. It's classic hearsay.

19 EXAMINER PRICE: Miss Young, you're
20 entitled to respond.

21 THE WITNESS: I'm not really sure how to.
22 I've been trying to follow as things proceeded, and
23 when things were struck earlier because they were not
24 research that the witness had done directly, I

1 understood those things to be struck as well. This
2 is the only type of research that I could do would be
3 to either get on the internet or ask friends for help
4 because I am not an expert and I do not have
5 witnesses here with me.

6 EXAMINER BOJKO: Miss Young, I guess I
7 need more specifics of where you're getting each
8 sentence. Are these four paragraphs all based on the
9 attachments that you've attached?

10 THE WITNESS: Eight, 9, 10 --

11 EXAMINER BOJKO: I mean, for instance,
12 your first statement doesn't have a footnote, and did
13 that come from the information attached?

14 THE WITNESS: If you look at the end of
15 the sentence where it has an 8 where it's talking
16 about the emergency room visits, that's where it's
17 referencing.

18 EXAMINER BOJKO: Your first sentence.

19 THE WITNESS: "Ohio Power plants also cut
20 short the lives of 1,743 Ohioans a year"; I believe
21 that was in the Clear the Air report.

22 EXAMINER BOJKO: And I guess I would
23 assume, then, for all of these, just because you
24 haven't necessarily footnoted each sentence, that

1 this information came from the Clear the Air Ohio's
2 Dirty Power Plants?

3 THE WITNESS: Yes. I believe the main
4 other health statistic that I had was taken from a
5 cancer atlas from 2001 to 2005 and that was in my --
6 I don't believe that was in this direct testimony.

7 EXAMINER BOJKO: I'm going to have to
8 grant the motion to strike on this one.

9 MS. BOTT: To be consistent with your
10 Honors' prior rulings, I'm going to not move to
11 strike, then, on page 5 the newspaper articles but
12 start on the third paragraph, which is the second
13 full paragraph on page 5, the first sentence, it
14 starts "Rising temperatures," and just that sentence.
15 We'd move to strike it, and I would move to strike
16 that same reference to Attachment B. Again, this lay
17 witness is not here to testify to global warming
18 impacts.

19 EXAMINER BOJKO: So "Rising
20 temperatures," that whole paragraph?

21 MS. BOTT: No. Just to stop with the
22 footnote 15. I apologize.

23 EXAMINER BOJKO: And just to be clear, I
24 think newspaper articles are published documents so I

1 think that in the spirit of trying to get to the
2 bottom of some of the facts, that we can leave the
3 published documents in, newspapers that are known in
4 the areas, but as for other documents, we'll look at
5 each one individually.

6 MS. BOTT: Thank you. Again, the
7 reference I'm making to page 5 is not to the
8 newspaper article, but to Attachment B.

9 THE WITNESS: So the part from "There are
10 a number of organic farmers in the region," from that
11 next sentence in the paragraph, that would stand?

12 EXAMINER BOJKO: Yes. She's looking at
13 the first sentence and asking to strike that because
14 it's based on the Clear the Air Ohio's Dirty Power
15 Plants website which, again, that's an advocacy site
16 so I will agree and strike that sentence. Motion
17 granted.

18 MS. BOTT: Thank you.

19 Your Honors, the next one's a bit
20 lengthy, it starts at the bottom of page 5 and it
21 continues starting with the "Cumulative Impacts of
22 Mercury Pollution" and --

23 EXAMINER BOJKO: Could you speak up? I'm
24 sorry, I can't hear you. There's a fan right here.

1 MS. BOTT: The bottom of page 5 starting
2 with "Cumulative Impacts of Mercury Pollution," those
3 three sentences, then the entire next page going
4 through to page 7, and for the same reasons I stated
5 earlier. These are all directly from advocacy pieces
6 that haven't been substantiated.

7 EXAMINER BOJKO: All the way through till
8 the next subheading Climate Change in Ohio?

9 MS. BOTT: Correct.

10 THE WITNESS: If I could ask a question.

11 EXAMINER BOJKO: Sure.

12 THE WITNESS: Is it possible for me to
13 recognize her motion to strike and object, and if
14 it's possible for me to contact people from these
15 advocacy groups and confirm their numbers, that it
16 could stand? I just don't know the procedure.

17 EXAMINER PRICE: You would need to have
18 the witnesses here.

19 THE WITNESS: They would need to be here?

20 EXAMINER PRICE: That's why it's hearsay,
21 you're giving them your report of what you read them
22 say, and they have no opportunity to cross-examine
23 those witnesses.

24 EXAMINER BOJKO: To determine whether

1 it's true or not true.

2 THE WITNESS: So there would be no
3 opportunity to do that, to bring people here as
4 witnesses at this point.

5 EXAMINER PRICE: At this point I don't
6 think it's appropriate.

7 THE WITNESS: Because I know Amy Gomberg
8 is here in Columbus, it's not that far, but I know
9 we're into the proceeding.

10 EXAMINER PRICE: Let me clarify that.
11 The reason she can't is everybody needed to prefile
12 their testimony already, and so she hasn't prefiled
13 her testimony, she can't testify. They haven't had
14 an opportunity to do any discovery, to depose her so
15 that they could cross-examine her properly.

16 THE WITNESS: Okay.

17 EXAMINER BOJKO: Miss Young, the first
18 sentence under Cumulative Impacts of Mercury
19 Pollution, I don't see any citations in this first
20 paragraph. Are these your opinions, or did you take
21 these facts and opinions from another source?

22 THE WITNESS: Let me look at the source.
23 See Attachment G, Environment Ohio press release.

24 EXAMINER BOJKO: Miss Young, do you have

1 any certification or have you taken any classes, do
2 you have any education in the medical field?

3 THE WITNESS: I'm trained as a medical
4 laboratory technician. I've taken microbiology,
5 clinical chemistry, organic chemistry, general
6 chemistry, most of the hard sciences that I've had
7 have been related to medical laboratory technology,
8 but --

9 EXAMINER BOJKO: No nursing or doctor --

10 THE WITNESS: No.

11 EXAMINER BOJKO: -- degrees.

12 THE WITNESS: No. I have an Associate of
13 Applied Science and that's in medical laboratory
14 technology.

15 EXAMINER PRICE: Who is Environment Ohio?

16 MS. MALONE: It's an advocacy group.

17 EXAMINER PRICE: Thank you.

18 THE WITNESS: They're located here in
19 Columbus.

20 I'm sorry, ma'am, what was the question
21 that you had about which was referenced in G?

22 EXAMINER BOJKO: No, I asked about your
23 first sentence on page 5 under Cumulative Impacts,
24 and you said in that particular answer you referenced

1 Attachment G. I'm going to have to grant the motion
2 to strike for that section.

3 MS. BOTT: Your Honor, just to be clear,
4 that would take us to Climate Change on page 7.

5 EXAMINER BOJKO: Yes.

6 Miss Young.

7 THE WITNESS: I'm sorry, the first
8 sentence of "Cumulative impacts of water pollution"
9 is also in the first sentence on page 24 of that
10 press release from Environment Ohio.

11 EXAMINER BOJKO: Okay.

12 MS. BOTT: And again, your Honors, just a
13 point of clarification, all those attachments would
14 be stricken as well that are referenced?

15 EXAMINER PRICE: I think we'll have to
16 deal with those when they come up.

17 MS. BOTT: Okay.

18 EXAMINER PRICE: We'll deal with them --

19 EXAMINER BOJKO: One by one.

20 EXAMINER PRICE: -- at the end.

21 MS. BOTT: That takes us to page 7 and
22 Climate Change in Ohio and Globally. The
23 documentation, to the extent there is documentation,
24 in this section both on pages 7 and 8 comes out of

1 advocacy pieces, it hasn't been substantiated, we
2 haven't had the ability to cross on this information,
3 and it's not within the scope of this lay witness's
4 knowledge or expertise. And none of this information
5 came from Ohio EPA or U.S. EPA.

6 EXAMINER BOJKO: I agree. Motion to
7 strike granted. So we grant the end of page 7, all
8 of page 8 to Endangered Species.

9 Is that the next topic?

10 MS. BOTT: That is; correct.

11 We don't have any other motions on page
12 8.

13 At the top of page 9 at the end of the
14 first paragraph starting with the sentence, just the
15 last sentence, "Global warming" -- the last two
16 sentences -- "tell us there are tipping points," we
17 would move to strike that sentence.

18 EXAMINER BOJKO: Just the sentence
19 "Global warming"?

20 MS. BOTT: Yes. And, again, to be
21 consistent with your Honors' earlier rulings, to
22 leave that last sentence in with respect to the
23 newspaper article.

24 EXAMINER BOJKO: I think that's a good

1 idea. Motion to strike granted.

2 THE WITNESS: Can I ask, does that
3 include the recent death of deer and cattle?

4 EXAMINER BOJKO: No, it does not.

5 MS. BOTT: No.

6 In the next paragraph, the very last
7 phrase starting with -- so it would be after the
8 "EVERY SINGLE ONE" with the dashes, I would move to
9 strike that last phrase which starts out "of Ohio's
10 waterways." Again, that's referenced directly to an
11 advocacy piece. I believe the rest of the testimony
12 appears to be Mrs. Young's opinions.

13 EXAMINER BOJKO: Okay.

14 MS. BOTT: And that would be consistent
15 with your Honors' rulings in this section.

16 EXAMINER PRICE: Isn't the sentence
17 saying what she perceives the best interests for her
18 are? I understand the reference to 25, but isn't she
19 saying that it wouldn't be in the best -- she's not
20 proving that all the rivers have consumption vouchers
21 here. She's saying it's a bad idea that they do. I
22 understand she loses a lot of her weight because she
23 has no backup that this has happened, but she can
24 certainly testify to say it would be bad if all of

1 our rivers flooded. Well, that's true, that's her
2 opinion.

3 MS. BOTT: Right.

4 EXAMINER PRICE: An expert doesn't have
5 to do that.

6 MS. BOTT: And I agree with her lay
7 opinion on that matter and we wouldn't move to
8 strike, it's just the improper nature of the
9 reference.

10 EXAMINER BOJKO: Well, with that
11 clarification, and we'll deal with the references and
12 attachments later, with the clarification that's her
13 opinion, we'll deny the motion to strike.

14 THE WITNESS: If I would get
15 clarification from the EPA or another verifiable
16 source, would that be acceptable?

17 EXAMINER PRICE: I think you have to
18 understand that it's today. I mean, your testimony
19 is today. There's not going to be an opportunity to
20 go back and redo.

21 THE WITNESS: Okay.

22 EXAMINER BOJKO: The answer is yes, but
23 it would have to have been done today --

24 THE WITNESS: I'm sorry.

1 EXAMINER BOJKO: -- in the testimony, and
2 what's in your testimony or any citations need to
3 occur today. You'll have an opportunity on
4 cross-examination and direct to state your opinions,
5 your lay opinion.

6 Do you have any further objections?

7 MS. BOTT: Just a few more, your Honor.

8 EXAMINER BOJKO: Okay.

9 MS. BOTT: Thank you for your patience.

10 In the next paragraph starting with
11 the sentence "Scientists tell us that global
12 warming," this is classic hearsay outside of the
13 scope of this lay witness's testimony, no basis has
14 been formed for this opinion, and no scientists have
15 been identified. So it would be just that particular
16 sentence, we would leave in the last sentence
17 starting with "We are."

18 EXAMINER BOJKO: Motion to strike
19 granted.

20 You're not a scientist, are you,
21 Miss Young?

22 THE WITNESS: No, I am not.

23 MS. BOTT: Your Honors, that takes us to
24 the direct testimony and then we just need to deal

1 with the attached exhibits --

2 EXAMINER BOJKO: Okay.

3 MS. BOTT: -- with that direct testimony.

4 Based on the court's ruling we will
5 withdraw our objection to Attachment A.

6 EXAMINER BOJKO: Thank you.

7 MS. BOTT: Attachment B we would move to
8 strike in its entirety.

9 EXAMINER BOJKO: Motion to strike
10 granted. Attachment B will be stricken.

11 MS. BOTT: Attachment C for the same
12 reason we would move to strike in its entirety.

13 EXAMINER BOJKO: Granted. Attachment C
14 will be stricken.

15 MS. BOTT: Attachment D, again, we'll
16 withdraw my earlier objection and we'll leave
17 Attachment D in.

18 Attachment E we would like to move to
19 strike in its entirety. Again, this is an advocacy
20 piece.

21 EXAMINER BOJKO: Granted. E will be
22 stricken.

23 MS. BOTT: Attachment F, likewise, is an
24 advocacy piece.

1 EXAMINER BOJKO: And you have not
2 personally verified any of these advocacy pieces; is
3 that correct, Miss Young?

4 THE WITNESS: No. I've seen other
5 reports that show similar numbers, I know that there
6 were other environmental groups that did studies on
7 the number of women that lived in our specific area
8 who had enough mercury to cause birth defects and
9 were considered unsafe levels, but I don't have those
10 reports with me and I have not verified these
11 numbers, no.

12 EXAMINER BOJKO: The motion to strike
13 will be granted.

14 MS. BOTT: Your Honors, we would move to
15 strike Attachment G for the same reason, it also is
16 an advocacy piece, and this is a press release from
17 Environment Ohio.

18 EXAMINER BOJKO: G?

19 MS. BOTT: G.

20 EXAMINER BOJKO: Granted.

21 MS. BOTT: Your Honors, just one very
22 simple matter with respect to, then, additional
23 testimony. This would be the testimony that has been
24 identified by the court as Young's Exhibit 2.

1 EXAMINER BOJKO: Yes.

2 MS. BOTT: On page 3 starting after the
3 first full paragraph starting with "The environmental
4 concerns that Ohio EPA has made in their wellhead
5 reports," and this entire section references wellhead
6 reports that have not been attached, that have not
7 been authenticated, and we have no way of verifying
8 what wellhead reports are being referred to, I would
9 move to strike.

10 EXAMINER BOJKO: I'm sorry, I just don't
11 see where you are. Page 3?

12 MS. BOTT: Page 3, it starts with "The
13 environmental concerns that Ohio EPA made in their
14 wellhead protection reports."

15 THE WITNESS: I do have copies of those
16 reports, I may have them with me in my papers, but I
17 do not have them here in this book. But they were
18 studies that the EPA performed on the vulnerability
19 of our wells both for Tupper Plains/Chester and
20 Racine, and I've spoken with the people who work in
21 those offices regarding those reports.

22 EXAMINER BOJKO: Are these quotes from
23 the EPA report?

24 THE WITNESS: Yes, they are. They're in

1 the EPA report. They're taken verbatim.

2 EXAMINER BOJKO: I think we can get
3 copies of the report. This is Ohio EPA, so I think
4 it's an exception to hearsay. If they're direct
5 quotes and you can -- you'll have the opportunity to
6 check the accuracy of those quotes. I think we're
7 going to deny the motion to strike on that one.

8 Miss Young, at a break that we might take
9 I would like you to produce that report for us.

10 THE WITNESS: Is there a computer here on
11 site that I could have access to because they are
12 also available on the EPA's website?

13 EXAMINER BOJKO: All you would need to do
14 is provide us a website then, that will be fine, and
15 we'll look at the report. If you provide the website
16 link, that should satisfy counsel.

17 Does it satisfy counsel?

18 MS. BOTT: I'm sorry. Yes. I just was
19 looking through, I apologize, I was looking through
20 to make sure --

21 THE WITNESS: I believe they told me
22 they're on the intranet and we may not be able to
23 access that report not being employees of the EPA,
24 because of their concerns about terrorist activity.

1 EXAMINER PRICE: Do you have a copy of
2 that report?

3 THE WITNESS: I may have it with me. If
4 I don't have a copy of that --

5 MS. MALONE: I could clarify for the
6 Bench's edification. I can, in fact, say that we
7 will not have access to Ohio EPA's intranet, because
8 they're my client, I routinely have them tell me "Oh,
9 it's on the web," and can't get to it.

10 EXAMINER BOJKO: But, I mean, can you
11 have access to this report?

12 MS. MALONE: Not if it's on the intranet.
13 No. You would have to separately obtain it from Ohio
14 EPA or be at Ohio EPA on one of their computers to
15 get to it.

16 EXAMINER PRICE: Why don't we wait to see
17 if Miss Young can produce this report either today or
18 tomorrow. I mean, we're going to be in hearing
19 tomorrow, so --

20 MS. BOTT: That would be acceptable. If
21 you wouldn't mind, can we maintain the objection
22 until we --

23 EXAMINER PRICE: Yes. Don't let me
24 forget about it.

1 EXAMINER BOJKO: We will defer the
2 objection to verify the accuracy of the statements
3 and the source of the statements.

4 MS. BOTT: Thank you, your Honors.
5 That's all I have for motions.

6 THE WITNESS: If I cannot come back
7 tomorrow, is it acceptable for me to e-mail these, to
8 forward to you these by e-mail?

9 EXAMINER BOJKO: It is acceptable. Just
10 the same as when I was talking to you previously
11 today, that we could do that as a late-filed exhibit.
12 You'll have to file it in the docket so all parties
13 would have access to it.

14 THE WITNESS: Okay.

15 MS. BOTT: Your Honors, how would we
16 cross Miss Young on this information today?

17 EXAMINER BOJKO: Let's try to obtain the
18 document today. We'll take a break in a few minutes
19 and we'll try to obtain the document. If it's from
20 the Ohio EPA, we're going to allow it. If it's
21 accurate.

22 MS. BOTT: Your Honors, I apologize, in
23 my haste to move through the documents I did forget
24 one of my motions in Exhibit 1.

1 EXAMINER BOJKO: Okay.

2 MS. BOTT: If we could go back to page 3.
3 And that would be, again, in Exhibit 1, not Exhibit
4 2. About halfway down the paragraph it starts
5 "Cumulative impacts," it starts after the -- starting
6 with the sentence "Cumulative impacts can result
7 from," I would move to strike to the end of that page
8 and the end of that paragraph, that this paragraph is
9 completely irrelevant to this proceeding. NEPA is
10 not an environmental statute that is at question or
11 concern here and it is fully irrelevant to the
12 testimony, both lay and expert witness testimony, in
13 this proceeding.

14 EXAMINER BOJKO: Are you just saying
15 until the end of the citation for the CFR citation?

16 MS. BOTT: Yes. No, not through the case
17 law citations. Again, this is a lay witness citing
18 case law and citations to CFR sites of NEPA which are
19 not relevant to this proceeding. So it would start,
20 again, with "The draft air permit."

21 EXAMINER BOJKO: Miss Young, are you
22 giving a legal opinion in any way, shape, or form in
23 your testimony?

24 THE WITNESS: I was making reference to

1 NEPA and cumulative impacts.

2 EXAMINER BOJKO: Are you making it as a
3 legal opinion? Are you giving a legal opinion? Are
4 you an attorney?

5 THE WITNESS: No, I am not.

6 EXAMINER BOJKO: Are you giving a legal
7 opinion?

8 THE WITNESS: No.

9 EXAMINER BOJKO: Okay. I'm going to
10 leave it in as a lay opinion.

11 THE WITNESS: Is it possible to --

12 EXAMINER BOJKO: I left it in.

13 THE WITNESS: Okay. There's a document
14 that I submitted in my testimony at our public
15 hearing in Racine and it's from the United States EPA
16 that also stated that in the siting of another power
17 plant, that they be required to take the cumulative
18 impacts of the supporting industries as well as the
19 power plant into account for the well-being and
20 protecting the public health and safety of the
21 community.

22 EXAMINER BOJKO: Miss Young, I left in
23 the sentence, so it's in there.

24 THE WITNESS: Okay.

1 EXAMINER BOJKO: It's in evidence.

2 Again, any documents that you want to
3 talk about or cite or put in the record have to be
4 put in today.

5 THE WITNESS: So if I submitted them with
6 part of my public testimony, that's separate?

7 EXAMINER PRICE: No; your public
8 testimony in Racine is in the record also.

9 THE WITNESS: Okay.

10 EXAMINER BOJKO: Anything further?

11 MS. BOTT: Thank you, your Honors.

12 EXAMINER BOJKO: Ms. Young is now
13 available for cross-examination. Mr. Fisk.

14 MR. FISK: We don't have anything, your
15 Honor.

16 EXAMINER BOJKO: Ms. Bott.

17 MS. BOTT: Sure.

18 EXAMINER BOJKO: Actually, let's go off
19 the record for a minute.

20 (Recess taken.)

21 EXAMINER BOJKO: Let's go back on the
22 record.

23 Mr. Bentine, before we start the
24 cross-examination of Miss Young I believe you have a

1 procedural matter or an issue you'd like to bring
2 before the Bench?

3 MR. BENTINE: Yes, your Honor. I believe
4 we had an agreement and an admonition by the Bench
5 that we would not have any off-the-record videotaping
6 or audio in the hearing room, and I want to object
7 that some of that was being done. I understand that
8 the law judges have indicated to the video crew once
9 again that that's not to happen, but I want on the
10 record that we do object to the violation of that
11 admonition.

12 EXAMINER PRICE: We appreciate your
13 objection and we will reiterate to the video crew
14 that all taping done can be done on the record, any
15 taping to be done off the record should be done in
16 the hallways or places over there.

17 MR. BENTINE: The second item I would --

18 EXAMINER BOJKO: Before you go on.

19 Out in the hallways not at the disruption
20 of any witnesses or anything that's going to disrupt
21 the proceeding in this case. I'd like to note that I
22 think we need to move forward with this hearing, and
23 waiting on witnesses to be interviewed on camera is
24 not an appropriate delay of this hearing.

1 MR. BENTINE: Secondly, your Honor, the
2 items that are not in evidence should not be with the
3 witness and displayed on the witness stand, in my
4 view, and we --

5 EXAMINER BOJKO: I am short and I cannot
6 see.

7 Miss Young, are you going to move that
8 some of these items be admitted into evidence?

9 THE WITNESS: Is that a possibility?

10 EXAMINER BOJKO: Were they attached to
11 your testimony?

12 THE WITNESS: This has to do with
13 concerns about the drinking water and cumulative
14 impacts, and this had to do with mercury
15 contamination in the river, so they were not directly
16 referenced as items, but they are things that are
17 related to that.

18 MS. BOTT: Your Honor, I don't think we
19 want to go down this road. We have not seen this as
20 part of her testimony. We have not sampled this
21 water. As a matter of fact, in deposition testimony
22 she's testified that this water came from West
23 Virginia; it's not relevant to this matter. So we
24 would ask that it be removed; it's not relevant. And

1 it wasn't even placed there by Miss Young. It was
2 placed there by the video camera crew.

3 EXAMINER PRICE: Ms. Young, where did the
4 drinking water come from?

5 THE WITNESS: The drinking water came
6 from Prenter-Hopkins Fork, West Virginia, and it came
7 from the hot water tank of the community where they
8 did sludge injection like they're talking about doing
9 in ours.

10 EXAMINER PRICE: Did you take the
11 drinking water?

12 THE WITNESS: No, I didn't, but I have
13 documentation, it's through the Sludge Safety
14 Project, and the particular home that this came from
15 has triplets that are --

16 EXAMINER PRICE: Are you an expert in
17 pulling samples for drinking water or any other type
18 of --

19 THE WITNESS: I am not. This is the
20 Sludge Safety Project. I was not involved in the
21 Sludge Safety Project. It was provided to me by the
22 people who did it.

23 EXAMINER PRICE: What is the tray?

24 THE WITNESS: My concern about the fish

1 when they were discussing the fish, this is the tray
2 that -- and I have pictures of my family camping on
3 the Ohio River and for recreation and for livelihood
4 they used to fish in the Ohio River, and this is the
5 pan that my great-grandmother and my grandmother were
6 able to fix the fish on that they got in the Ohio
7 River, and that's something that I would like to be
8 able to have the river cleaned up to enjoy in my
9 lifetime. It's probably not your typical cumulative
10 impacts evidence, but this is my concern.

11 EXAMINER BOJKO: I think with the water
12 we have a chain-of-custody issue. You're not an
13 expert to be able to testify to the water, how it was
14 extracted. We also I guess have -- I think there was
15 a relevance objection on it's from the West Virginia
16 plant, not from the AMP-Ohio specific plant or the
17 water, so I think we're going to have to deny
18 admittance of that as evidence and you will have to
19 remove it from the witness stand.

20 Secondly, I think that the tray is not
21 relevant to the matters as well and you'll have to
22 remove that.

23 I understand what's coming next. Would
24 you like to make another motion?

1 MS. BOTT: Yes. Actually, yes, we would.
2 I would like to move to strike that line of
3 questioning from the record.

4 EXAMINER BOJKO: I don't think I can
5 strike the line of questioning because it is
6 important to prove the relevancy or the evidence
7 before us. I think --

8 MS. BOTT: If that's the case, then I
9 would move to strike Miss Young's testimony.

10 EXAMINER PRICE: Can you be more
11 specific?

12 MS. BOTT: Yeah, with respect to the
13 alleged ties to this project, there aren't any, and
14 it hasn't been substantiated and I think that any --

15 EXAMINER PRICE: I understand, but her
16 testimony is only relevant as to our making the
17 ruling on the evidentiary issue. It's not part of
18 the record -- it has no probative value in this case.
19 It's part of the record in this case, certainly she
20 can appeal our ruling, but it's not part of the
21 record as to the issues in this case, just as to its
22 admissibility. So nobody should be citing it beyond
23 that.

24 MS. BOTT: Thank you, your Honor.

1 EXAMINER BOJKO: Could you please --
2 thank you.

3 With that, I believe Mr. Fisk said he had
4 no questions, so we are back to Miss Bott.

5 Please proceed.

6 MS. BOTT: Thank you.

7 - - -

8 CROSS-EXAMINATION

9 By Ms. Bott:

10 Q. Miss Young, you stated earlier this
11 morning that you testified at a public hearing in
12 this matter. Is the public hearing you're
13 referencing the power siting hearing that was at
14 Meigs County High School on November 1st? Is that
15 correct?

16 A. I believe so, but I'm not sure without
17 going back and seeing the record. We've had multiple
18 hearings, but as far as AMP goes, I believe probably
19 the one I was referencing is the one we had at the
20 school in Racine.

21 Q. And you have testified with respect to
22 this issue at a hearing in Meigs County at some
23 point.

24 A. Yes, I did.

1 Q. Okay. Could you turn to page 9 in your
2 testimony?

3 EXAMINER BOJKO: Which testimony?

4 Q. And that would be Exhibit 1, Young
5 Exhibit 1. I'd like you to look at the second
6 paragraph which is actually the first full paragraph,
7 the fourth line down says "Although it may make
8 AMP-Ohio a nice profit." Do you see that?

9 A. Yes.

10 Q. Do you understand that AMP-Ohio is a
11 nonprofit organization?

12 A. I saw that in the mission statement.

13 Q. So that's a "yes," you understand
14 AMP-Ohio is a nonprofit?

15 A. Well, I read that in the mission
16 statement, but that was after I believe that this had
17 been submitted.

18 Q. Would that change your testimony with
19 respect to whether or not we make a profit, "we"
20 AMP-Ohio make a profit?

21 A. I would certainly change the sentence to
22 read more that, I mean, the construction and
23 operation of this facility would be a living -- it
24 would generate income for people, yes, I would change

1 that.

2 MS. BOTT: Your Honors, based on that
3 testimony I would move to strike that phrase on page
4 9.

5 EXAMINER BOJKO: I believe she's
6 clarified her statement as a correction, so we'll
7 leave the record stand with the correction to the
8 testimony.

9 MS. BOTT: Miss Young, thank you for your
10 patience today.

11 Your Honors, that's all I have.

12 EXAMINER BOJKO: Miss Young, at this time
13 is the opportunity that you would have to what's
14 called redirect, and to limit your redirect to the
15 very brief cross-examination of Miss Bott. That
16 being said, I don't know if you could add anything or
17 not. Is there anything you'd like to add based on
18 the questions Miss Bott asked you?

19 Oh, I'm sorry.

20 MS. MALONE: I kept thinking you were
21 looking at me and you were going to, while I don't
22 actually have any questions, because whatever
23 questions I would have we would have to have the
24 document and we don't have it yet.

1 EXAMINER BOJKO: Does Staff have any
2 questions at this time?

3 MS. MALONE: Not at this time.

4 EXAMINER BOJKO: Obviously, you both are
5 reserving your opportunity to ask her questions on
6 the document that has yet to be produced which
7 Mr. Price just went to look for.

8 MS. MALONE: Nothing at this time.

9 EXAMINER BOJKO: I apologize. Now,
10 Miss Young, for redirect, do you have any statements
11 based on what Miss Bott asked you that you would like
12 to add?

13 THE WITNESS: The only things that she
14 asked me about were if I had given testimony at
15 another public hearing, and would that be something
16 that I could elaborate on?

17 EXAMINER BOJKO: Yes.

18 THE WITNESS: And the other thing that
19 she asked me about had to do with whether AMP was a
20 profit or nonprofit organization.

21 EXAMINER BOJKO: That's correct.

22 THE WITNESS: I don't believe there's
23 anything to bring up because anything that I
24 testified and submitted in the previous hearing would

1 be in that record.

2 EXAMINER BOJKO: That is correct. The
3 local public hearing and all your testimony that you
4 gave in Meigs County, it was sworn testimony and it
5 is part of the record.

6 THE WITNESS: Okay. There were --

7 EXAMINER BOJKO: So all of that testimony
8 as well as your prefiled direct testimony is now a
9 part of the record. Anything that we have not
10 stricken today.

11 THE WITNESS: Okay. I would just say
12 that I had an opportunity to see the transcript from
13 that public hearing recently and there were multiple
14 errors in it, that they had referred to Gatling, a
15 coal mine, as Gavin, which is a power plant, and
16 there were several other significant errors in that
17 testimony.

18 So I would just say that if that would be
19 referenced at a later time, that I hope there would
20 be an opportunity for me to go over and correct and
21 address any of those things if they were brought up
22 in any way, shape, or form.

23 EXAMINER BOJKO: That testimony has been
24 filed, I believe, in Docketing. The proper course

1 would be to do an errata sheet.

2 THE WITNESS: Okay.

3 EXAMINER BOJKO: Just as you did with the
4 deposition.

5 Do you have any other questions? We'll
6 talk about that in a minute.

7 THE WITNESS: No.

8 EXAMINER BOJKO: Do you have any other
9 responses or statements on redirect?

10 MS. YOUNG: Just that there were errors
11 in that other testimony and I'm still going through
12 the deposition that was taken the other day for
13 errors.

14 EXAMINER BOJKO: With the corrections and
15 the errors, that process is through an errata sheet
16 through the court reporter, and we can resolve those
17 issues through that means.

18 THE WITNESS: Okay.

19 EXAMINER BOJKO: If there are no further
20 questions for Miss Young, at this time you may step
21 down and we are going to reserve the right to re-call
22 you pending the production of the document with
23 reference to your testimony.

24 THE WITNESS: Okay.

1 EXAMINER BOJKO: Thank you, Miss Young.

2 (Witness excused.)

3 EXAMINER BOJKO: Go off the record.

4 (Discussion held off the record.)

5 EXAMINER PRICE: Let's go back on the
6 record, at this time we have another appearance to
7 take.

8 MR. DOUGHERTY: Trent Dougherty appearing
9 on behalf of Ohio Environmental Council, 1207
10 Grandview Avenue, Columbus, Ohio 43212.

11 EXAMINER PRICE: Thank you.

12 Mr. Schlissel, please take the stand.
13 Mr. Schlissel, you understand you're still under oath
14 from yesterday?

15 THE WITNESS: Yes.

16 EXAMINER PRICE: Thank you.

17 Mr. Bentine, please proceed.

18 MR. BENTINE: Yes, your Honor.

19 May I approach the witness? I'm going to
20 ask him some questions on this MIT study again.

21 EXAMINER PRICE: You may.

22 - - -

23

24

1 DAVID A. SCHLISSEL

2 being previously duly sworn, as prescribed by law,
3 was further examined and testified as follows:

4 CROSS-EXAMINATION (continued)

5 By Mr. Bentine:

6 Q. Mr. Schlissel, do you have in front of
7 you now the full copy of the MIT "Future Of Coal"
8 study?

9 A. It appears to be that, yes.

10 Q. We talked a little bit yesterday about
11 the 1997 dollars and those sorts of things; do you
12 remember that discussion?

13 A. Yes.

14 Q. I want you to turn to page 27.

15 A. Okay.

16 Q. And would you agree with me that with
17 regard to the plant costs that are shown on page 27,
18 those are identified as 2005 dollars?

19 A. Sure.

20 Q. And would you turn to page 30? With
21 regard to footnote 3 would you agree that the numbers
22 there are not 1997, but are dollars from 2000, 2004
23 updated to 2005 using CPI inflation?

24 A. Absolutely.

1 Q. And would you turn to page 112?

2 A. Okay.

3 Q. And would you agree with me that with
4 regard to figure A-3, A.4, which is discussed in the
5 last short paragraph on that page next to that
6 figure, that that talks about 2004 mine mouth costs?
7 Do you find my reference? I'm sorry if --

8 A. Sure, that looks like nominal dollars for
9 actual whatever the costs were in 2004.

10 Q. Okay. Thank you.

11 MR. BENTINE: If I may approach to get my
12 study back, your Honor.

13 EXAMINER PRICE: Yes, you may.

14 Q. Mr. Schlissel, I'm going to bounce around
15 a little bit, try to get some things cleaned up and,
16 let me assure you, I'm going to do everything I can
17 to get you out of here on time.

18 Let's talk a moment, Mr. Schlissel, about
19 the projections that Synapse has for carbon dioxide
20 prices that are included in your testimony, and if
21 you would turn to page 27 -- 37, excuse me, of your
22 testimony.

23 A. Okay.

24 Q. Now, I'm going to ask some questions on

1 figure 3 and just to make sure -- some of the
2 information on figure 3 is further explained on page
3 40 -- strike that. Let me ask it this way: Up in
4 the left-hand corner of that figure 3 there is a
5 legend, and the first item that is listed in that
6 legend is EIA S. 139. Could you tell me what that
7 represents?

8 A. That was a study of the original version
9 of the McCain-Lieberman bill which I believe when it
10 was introduced in 2003 was Senate Bill S139.

11 Q. And that EIA study, was that a projection
12 of what EIA believed carbon dioxide costs and prices
13 were going to be, or was it a projection of what EIA
14 believed that bill would result in prices, if you
15 follow my question? I'm being very inarticulate.

16 A. Yes. If I could answer it not yes/no.

17 Q. Go right ahead.

18 A. It's kind of between what you've
19 suggested. It was EIA's analysis of the CO2
20 allowance prices that would be required to achieve
21 the levels of CO2 reductions mandated by the bill.

22 Q. So I think we're on the same wavelength
23 here. So what they were trying to do is say okay, if
24 this bill was passed, what would the effect be.

1 A. Yes.

2 Q. So they weren't predicting that that bill
3 would be passed. They were saying if this bill was
4 passed, it this is the result.

5 A. Oh, sure. I didn't understand that that
6 was your question. It's not a political predictor.

7 Q. And the next one is EIA SA 2028.

8 A. Yes.

9 Q. And what did that one represent?

10 A. That was a review of the second version,
11 the amended version of the 2003 McCain-Lieberman
12 bill.

13 Q. And the same footnote, I'll call it,
14 would appear with regard to that. Again, they were
15 simply saying this is a bill, if enacted, we believe
16 this is the result.

17 A. Correct. Under -- each of these studies
18 look at more than one scenario, so they looked at if
19 this bill is enacted and there is no offsets allowed
20 or if there is full offsets allowed, if there's a lot
21 of new nuclear generation, if there's no nuclear
22 generation. So each analysis attempted to look at a
23 range of scenarios. But with that addition, you're
24 correct.

1 Q. Could you tell me what the EIA Cap &
2 Trade is?

3 A. It was a study of one of the proposals
4 that EIA looked at, I don't believe it was part of a
5 specific bill, but it was just the development of a
6 cap and trade system in the U.S.

7 MR. BENTINE: And I assume everyone has
8 color copies of this.

9 EXAMINER PRICE: Not a safe assumption.

10 MS. JAISWAL: Your Honor, yesterday we
11 provided color copies of this.

12 EXAMINER BOJKO: Oh, was that --

13 EXAMINER PRICE: That's right. That's
14 correct. Thank you.

15 MS. JAISWAL: Thank you.

16 EXAMINER PRICE: Used to black and white
17 versions, we forgot about --

18 MR. BENTINE: I saw some quizzical looks
19 up there.

20 EXAMINER BOJKO: We apologize.

21 MS. JAISWAL: And they are in color.

22 EXAMINER BOJKO: We do have color copies.

23 MS. JAISWAL: Thank you.

24 Q. (By Mr. Bentine) Just to make it clear

1 then for the judges, of the three that I've asked
2 about are the blue triangles, the lime green
3 triangles, and the orange triangles.

4 EXAMINER PRICE: I'm not sure I'd agree
5 with your characterization of the lime green, but
6 we'll go with --

7 THE WITNESS: Yeah, it looks like
8 evergreen to me.

9 MS. JAISWAL: Kelly green.

10 MR. BENTINE: What would you call it?

11 MS. JAISWAL: Kelly green.

12 MR. BENTINE: Kelly? No.

13 THE WITNESS: Your colleague's tie over
14 there is more lime green.

15 MR. OROSZ: That's right.

16 THE WITNESS: For the record.

17 Q. (By Mr. Bentine) The next is an EPA
18 estimate of Senate Bill 843.

19 A. Correct.

20 Q. And, again, that is an EPA estimate of
21 what prices would result if that bill was enacted as
22 they understood it?

23 A. Yes.

24 Q. The next one under that, and I won't even

1 attempt to --

2 A. Tellus.

3 Q. -- the kelly green circle or dot, Tellus.
4 Well, first of all, what is Tellus?

5 A. A research firm in Boston, Massachusetts.

6 Q. And Tellus was engaged by whom to provide
7 estimates of CO2 capture prices under various
8 scenarios?

9 A. My recollection is it was environmental
10 organizations, but I don't remember which ones.

11 Q. NRDC ring a bell?

12 A. Well, it does because they're my clients,
13 but it may not ring the right bell. I haven't looked
14 at the studies in a few months, I'm sorry, I just
15 don't remember the exact clients. But they were
16 national environmental organizations.

17 Q. And do you know with regard to Tellus,
18 again, were they attempting to predict or they were
19 saying here's the bill, our analysis of the bill, and
20 this is what would result from it?

21 A. Well, I think that's the same. They
22 weren't trying to predict the passage of the bill,
23 but they were trying to predict or project what they
24 believe to be the impact of the bill under various

1 scenarios.

2 Q. I'm sorry. I accept that clarification.
3 What I'm getting at is they weren't attempting to
4 say, well, that's the bill, we don't think that that
5 bill in its exact form is going to pass, so we're
6 going to predict something close to that is going to
7 pass and modified their projections accordingly. In
8 other words, they stuck with the bill and projections
9 of what they thought enactment of that bill would
10 result in.

11 A. No. It wasn't exactly like that. They
12 didn't -- I don't believe any of these scenarios
13 change the provisions of the bill specifically, but
14 what they do is they look at the bills under
15 different scenarios. As I mentioned before, amount
16 of energy efficiency, amount of new nuclear power
17 plants, amount of offsets that are allowed, and those
18 may affect the provisions -- they may alter the
19 provisions of the bill somewhat, especially the
20 amount of offsets, how long they're allowed for,
21 where you're allowed to get them from.

22 What we tried to do when we looked at
23 each of these studies was to take the range of
24 scenarios that they looked at to get the highest and

1 lowest cost and also to pick out the scenarios that
2 were truest to the original bill. I hope that's
3 clear.

4 Q. Well, it's more than I wanted, but I
5 would have got there eventually, so thank you.

6 A. Sorry. Or thank you. I don't know
7 which.

8 Q. The EIA S. 843, your answers would be the
9 same except it was an analysis of Senate 843 --

10 A. Yes.

11 Q. -- the red triangle.

12 A. That's correct.

13 Q. And then we have EIA NCEP that is --

14 A. Yes.

15 Q. -- impossible to see, but I think that is
16 a yellow triangle?

17 A. Yes.

18 Q. And what's NCEP?

19 A. The National Commission on Energy Policy,
20 a bipartisan group of 20 experts in
21 energy/environmental politics, economic affairs, and
22 they came up with a proposal in late-2004 which is
23 the proposal R.W. Beck actually discusses as one of
24 the bases for its forecasted numbers.

1 Q. Okay.

2 A. The EIA.

3 Q. The next one -- I'm sorry.

4 A. I'm just saying the EIA did a study, I
5 believe in March of 2005, of the NCEP proposal.

6 Q. Now, is there any difference -- some of
7 the yellow triangles seem to have a black line around
8 them and some don't; is there any difference in those
9 on this chart?

10 A. I believe it's different scenarios in the
11 EIA analysis. The EIA -- again, not all these, but
12 most of these studies looked at a range of different
13 alternatives, policies.

14 Q. Well, I guess I'm still not clear.

15 A. Let me explain it this way, if I might,
16 the bottom triangles, the two yellow triangles
17 without the black around them represented a \$6 per
18 ton safety valve that was in the original National
19 Commission on Energy Policy proposal, that if
20 emission allowance prices started to go above or were
21 aiming above \$6 a ton, that was a safety valve, they
22 could not go above that level.

23 The higher yellow triangles, the one with
24 the black, assumed that the safety valve provision

1 would not be called into effect and it projected what
2 the prices would be if there were no safety valve.

3 Q. Okay. Thank you.

4 EXAMINER PRICE: And the NCEP had a
5 proposal with -- an alternative with and without the
6 safety valve?

7 THE WITNESS: Well, they had a proposal
8 that included the safety valve. EPA -- sorry, EIA
9 studied it both ways.

10 EXAMINER PRICE: Both ways. Thank you.

11 EXAMINER BOJKO: Why isn't the yellow
12 with the black triangle in the key up top?

13 THE WITNESS: I don't recall. I don't
14 recall why we didn't do that.

15 EXAMINER BOJKO: So black is without the
16 safety valve?

17 THE WITNESS: But only for this one --
18 this is the only one that looks at a proposal with a
19 safety valve price.

20 EXAMINER BOJKO: Just to clarify, black
21 is without safety and yellow is with safety.

22 THE WITNESS: Yes.

23 EXAMINER BOJKO: Valves. Safety valves.

24 Q. (By Mr. Bentine) And you've explained

1 what a safety valve is here. Would you also agree
2 that whatever the cost of capture and sequestration
3 ends up being would be a safety valve, in effect, for
4 an entity that was operating a facility that emitted
5 carbon?

6 A. The answer is yes. I don't think it's
7 generally talked of as a safety valve, it's talked of
8 as a -- it would put a cap on what the price of
9 allowances would be. I think that's generally the
10 way it's talked of, but your concept is absolutely
11 correct.

12 Q. Now, the next one is an orange square and
13 that's EPA Senate 150?

14 A. Yes.

15 Q. And the same, you would answer the same
16 questions the same way on that one?

17 A. Yes.

18 Q. And then Tellus 139 is the blue circles?

19 A. Yes.

20 Q. And that would be the same?

21 A. Yes. And the same for MIT's evaluation
22 of Senate Bill 139.

23 Q. Now, do the points that you have there in
24 your legend, does that represent the entire spectrum

1 of all of the, what I would call modeling runs by all
2 of these folks on all of their scenarios?

3 A. No, it doesn't. If you look on page 39
4 of my testimony, I explain there that we didn't look
5 at it that way. We tried to look at the range --
6 rather than pick and choose what we thought was going
7 to be the scenarios most likely to occur, we tried to
8 pick the high and low prices from the scenarios each
9 looked at, or on the scenario that was really their
10 primary scenario that reflected the bill.

11 Q. And so you picked those scenarios and
12 then you plotted those data points?

13 A. Yes.

14 Q. On this graph?

15 A. Yes, sir.

16 Q. Okay. And then you didn't do independent
17 modeling of your own, what you did was then take
18 those data points and then pick, using your judgment,
19 a high, mid, and low projection using your judgment
20 and experience and the results that you have
21 portrayed in figure 3.

22 A. Yes. A team of us, seven or eight of us
23 at Synapse did exactly that.

24 Q. Okay. Table 4, then, represents the

1 levelized forecast of the three cases that you
2 picked, the low case, the mid case, and the high
3 case, correct?

4 A. Yes.

5 Q. Let's go to DAS-4, if you would.

6 A. DAS-4?

7 Q. Yes, please.

8 A. Specific page?

9 Q. Forty-one.

10 A. Okay.

11 Q. Table 6.1 on the top of that, could you
12 tell me what that table is, please?

13 A. That table reflects the information we
14 were able to gather in the spring of 2006 regarding
15 the CO2 prices that were being used by a number of
16 utilities in resource planning.

17 Q. So that is simply a report, so to speak,
18 on what you were able to find of what others might
19 have been predicting at that time with regard to CO2
20 emissions trading assumptions?

21 A. Yes. If I might, within the following
22 context: In the spring of 2006 the general belief of
23 many in the electric utility industry was there were
24 going to be no costs, that zero was the correct price

1 to use, and in fact the first draft of the report
2 that's Exhibit DAS-4 was called "Zero is Not the
3 Right Number." So some illustrative examples to show
4 that utilities were, in fact, starting to consider
5 CO2 costs in their planning.

6 Q. Thank you. Turn back to your main
7 testimony. Probably going to be sorry I asked this
8 one, but --

9 A. You are or I am?

10 Q. I am.

11 Of all the projections that were out
12 there at the time you prepared -- and by "you" I mean
13 Synapse, I understand that many of you worked on
14 this -- prepared your forecast, could you tell me how
15 you decided to pick Tellus as one of the ones that
16 you were going to use?

17 A. We basically looked for all the studies
18 that we could that projected the results of the bills
19 that were then being considered in Congress. We
20 included Tellus because they had done a study of,
21 what is it, Senate Bill -- the two versions of
22 McCain-Lieberman, 139, Senate Bill 139, and Senate
23 Bill 2028.

24 So the first thing was we tried to get

1 every study that we could at the time. The second
2 reason why we thought they were important was, more
3 so than the EIA or EPA or even MIT, they reflected a
4 lot of spending on energy efficiency and on
5 renewables, which would tend to dampen CO2 emission
6 allowance prices.

7 So if you look at the Tellus numbers,
8 they have a high range for Senate Bill 139 and then
9 but their scenario for the -- excuse me. I'm sorry,
10 the MIT was high.

11 I can read the colors, I'm having trouble
12 with the shapes. The two Tellus scenarios are fairly
13 low compared to others.

14 Q. I'm not asking where they are, I'm
15 just --

16 A. No; I'm just trying to explain that those
17 were the two reasons, one is we wanted to include
18 every study we could at the time. Second, the Tellus
19 was different than the others because they looked at
20 much more energy efficiency and renewables which
21 would dampen CO2 emission allowance prices and we
22 thought that that was an important future to be
23 considered.

24 Q. And if you know, back on page 41 of 63 --

1 A. Yes.

2 Q. -- that same table 6.1 again, do you know
3 whether or not any of these entities had any kind of
4 comparable sort of projection supporting their
5 proposed, I won't say "proposed," supporting their
6 projections or predictions with regard to CO2 costs?

7 A. I don't know whether they did. I'd be
8 surprised given these numbers if they didn't. I
9 imagine they did. I know it's speculation, but I
10 think it's informed speculation that these companies
11 would come up with these ranges. Except perhaps for
12 PG&E in California, I believe the California
13 commission by 2006 had come up with a requirement
14 that they look at a range that included \$9 per ton
15 escalating over time.

16 Q. Well, the footnotes here under that chart
17 indicate that at least a number of these came from
18 integrated resource plans of those utilities,
19 correct?

20 A. Yes.

21 Q. So my point is they weren't just taken
22 out of some press release or something. There was
23 something that was filed someplace that had those
24 numbers in it.

1 A. Oh, I'm sorry. I didn't understand your
2 question. I thought you meant how had they developed
3 their numbers, and no, absolutely it came out of the
4 integrated resource plan filings.

5 Q. Okay.

6 A. The documents cited in the footnote.

7 Q. Thank you.

8 Now, do you believe that there's going to
9 be a relationship between natural gas prices on the
10 one hand and CO2, whatever CO2 costs end up being?

11 A. Yes; a complicated relationship.

12 Q. But there is a relationship, in your
13 view.

14 A. Yes. It's not possible to determine
15 exactly how it's going to work out because it's so
16 complicated, but I think there is a relationship.

17 Q. Okay. I'd like to turn now to page 45 of
18 your testimony.

19 A. Okay.

20 Q. And I'm going to be asking some questions
21 on figure 5.

22 A. Okay.

23 Q. And the first question goes both to
24 figure 5 and figure 6.

1 A. Okay.

2 Q. Do all of the data points that you had on
3 figure 3, are all of those data points displayed on
4 figure 5?

5 A. No.

6 Q. And is the answer the same for figure 3?

7 A. That's correct.

8 Q. Excuse me. Figure 6. I'm sorry.

9 A. Could I explain?

10 Q. Not at this time. I just asked you if
11 they appeared that way.

12 A. Okay.

13 Q. And, again, and we touched on this but
14 just to get everybody back on the same page, your
15 criticism of the R.W. Beck report is that it didn't
16 look at a big enough range and was much lower than
17 the ranges that you believe are reasonable, correct?

18 A. That's almost correct. I mean, if they
19 had looked at a range, presumably the range would
20 have gone higher so I think that the one figure
21 that -- the one set of prices, the one price
22 trajectory is too low.

23 Q. Okay. Page 48 of your testimony, I want
24 to change gears just a little bit here.

1 A. Okay.

2 Q. If you could look at line 15 and the
3 sentence beginning "It is not reasonable."

4 A. Okay.

5 Q. Did you do any independent analysis of
6 whether or not AMPGS would substantially increase
7 emissions of CO2 into the atmosphere?

8 A. Yes.

9 Q. Okay. What did you do?

10 A. I looked at the company's projection that
11 it would increase -- that it would generate roughly
12 7.3 million tons of CO2 per year.

13 Q. Do you believe that with regard to the
14 load that is being served by AMP-Ohio to its members,
15 excuse me, the load that is being served by AMP-Ohio
16 members today through AMP-Ohio, that there is no
17 carbon dioxide being produced to serve that load?

18 A. No.

19 Q. What did you do to, if anything, to
20 determine whether or not there would be reductions in
21 CO2 associated with that load being served by AMPGS
22 rather than other generation?

23 A. I thought along the following lines:
24 First is that I didn't see any commitment, firm

1 commitment, to retire the existing AMP-Ohio coal
2 capacity; also I assumed that if AMP-Ohio were not
3 buying the coal-fired power in the market that you're
4 talking about, that it would be available for some
5 other party to buy. So I saw no evidence that there
6 would be a backing down of coal-fired capacity. I
7 saw no commitment to do so.

8 Q. Let's explore that for a moment. Would
9 you agree with me that the total CO2 emissions is
10 related to the total amount -- and let's leave this
11 to perhaps the ReliabilityFirst region, or we can
12 limit it to MISO and PJM, either one, but would you
13 agree that there is a relationship between the amount
14 of load being served at any particular time and the
15 amount of CO2 emissions that go up in the air? "Yes"
16 or "no"?

17 A. Well, I think the answer is yes, but I
18 don't think you can limit it to any one region. I
19 think as a general proposition that's absolutely
20 correct.

21 Q. Now, to the extent AMPGS comes on line in
22 2013, to the extent that although AMP-Ohio has not
23 pointed a gun to its own head with regard to shutting
24 down Gorsuch, assume for a moment that Gorsuch is

1 shut down or repowered in a different way so that
2 it's no longer serving that load, and further assume
3 that one or more of AMP-Ohio's current member
4 generation coal-fired facilities are not being used
5 as a result of the operation of AMPGS. Can you
6 assume all of those facts?

7 A. Yes.

8 MS. JAISWAL: Can I have that read back?
9 I'm sorry, I didn't get all that. I apologize.

10 (Record read.)

11 Q. I'm going to break this down --

12 A. Okay.

13 Q. -- for just a moment. At least to the
14 extent that AMPGS replaces Gorsuch and any of that
15 member generation that has been shut down, would you
16 agree that at least to that extent that AMPGS would
17 decrease the total amount of CO2 emissions that
18 otherwise might be put into the air?

19 A. Now I have to accept your hypothetical
20 as --

21 Q. Yes.

22 A. -- in fact they are shut down.

23 Q. Yes.

24 A. If you accept that hypothetical, then

1 there is the result you're talking about.

2 Q. Now let's go to the other piece of this
3 that we talked about and that's the market piece.
4 And that is the amount of power that currently is
5 being purchased by AMP-Ohio on the market. To the
6 extent that there's not an increase in the total load
7 served by that generation, would you also agree that
8 that generation, then, would be used less to serve
9 since it would no longer be serving the AMP-Ohio load
10 and, therefore, emissions, total emissions from that
11 generation, would also be less, again assuming that
12 there is no instantaneous or overtime growth in load?

13 A. That's a more complicated one that I
14 don't think we can accept without knowing the loading
15 order of the coal plants from which AMP-Ohio buys its
16 power. That, in fact, some of those coal plants may,
17 if AMP-Ohio weren't buying the power, they may still
18 generate the same amount of power and that something
19 else noncoal, a gas turbine some hours, gas on the
20 margin, may be displaced.

21 So I don't think that that one is as
22 simple a hypothetical to answer as your first.

23 Q. Do you know how much baseload capacity in
24 PJM and MISO today is being served by gas? Baseload.

1 A. Baseload, no. Gas is on the margin.
2 I've seen some estimates of maybe 40, 50 percent of
3 the time in PJM as a whole.

4 Q. I didn't ask 40 or 50 percent of the
5 time. I'm talking about baseload served by gas
6 generation from PJM and MISO.

7 A. And I don't know. Your question has
8 no -- is not understand -- I don't understand your
9 question in the way you've asked it, the way you look
10 at it in terms of how much the specific fuels are on
11 the margin in terms of setting the market price.
12 That's the way I've seen the data presented.

13 Q. So you're saying the data is not
14 presented in baseload, intermediate, and peaking
15 form.

16 A. No; plants are considered -- I've not
17 seen the data presented as you are suggesting --

18 Q. Fair enough.

19 A. -- it would be presented.

20 Q. Fair enough. Have you reviewed
21 Mr. Meyer's testimony?

22 A. Yes.

23 Q. Mr. Meyer did make such an estimation;
24 did he not?

1 A. I don't recall. You'd have to show it to
2 me.

3 Q. Just to make clear, the answer we were
4 just talking about on page 48, that answer is
5 consistent with your question and answer on page 50
6 as well in terms of talking about additional CO2?

7 A. Yes.

8 Q. Turn to page 51.

9 A. Okay.

10 Q. You have a table 5 at the top of that.

11 A. Yes.

12 Q. First of all, would you agree with me
13 that if one were to make a similar table for the
14 costs associated with CO2 from an IGCC unit that is
15 not undertaking CCS, that the numbers would be
16 similar and they may be 3 or 4 percent less due to
17 heat rate, but other than that they would be similar?

18 A. Yes.

19 Q. And would you also agree with regard to
20 natural gas combined cycle, that you could create
21 such a table, that table would show numbers for the
22 same amount of generation being about half of what is
23 there on table 5?

24 A. That's correct.

1 Q. And would you also agree with me, and I
2 believe you did yesterday but just to get all this in
3 one place on the transcript, to the extent that these
4 numbers that you have as your forecast would come
5 true, if one were buying off the market, there would
6 also be some increase in the cost of buying off the
7 market that one could project to put in a table like
8 this?

9 A. That's correct, but again, that's more
10 complicated because you'd have to figure out what
11 type of capacity was on the margin for how many hours
12 of the year. I mean, because if it were coal, it
13 would have one impact setting the market price; if it
14 were a combined cycle, it would be a second; if it
15 were simple combustion turbine, it would be a third.
16 It would be more complicated, but essentially you're
17 correct, you could do that.

18 Q. Thank you.

19 Page 52 of your testimony, you reference
20 the Burns & Roe report there. Yesterday we talked a
21 little bit about the Burns & Roe report.

22 A. Yes, sir.

23 Q. And just to, again, get it on the record,
24 you did review the Burns & Roe report in detail?

1 A. I did before I filed my testimony. I
2 only had it for a couple of days, but I did review
3 it.

4 Q. Do you have a copy of the Burns & Roe
5 report with you?

6 A. No. You gave me one and then took it
7 back yesterday.

8 MR. BENTINE: I'm trying to find you one;
9 hold on. I'm going to be referring to AMP-O Exhibit
10 13.

11 MS. JAISWAL: You took them back
12 yesterday.

13 MS. MALONE: You took them all back.

14 MR. BENTINE: Oh, that's why.

15 EXAMINER PRICE: Except for the Bench's.

16 Q. (By Mr. Bentine) While we're looking for
17 that, let me ask you a couple of related questions.
18 Do you believe that it would be reasonable to assume
19 that one would have a fixed price or even close to a
20 fixed price EPC report by the time one comes to the
21 power siting board for approval of a plant? For a
22 plant of this size.

23 A. The answer is maybe, maybe not. I have
24 seen situations where an applicant for a permit does

1 have a contract for the EPC for its proposed plant,
2 and I've seen instances where they've not had a
3 contract.

4 Q. Well, for example, do you know -- there's
5 not a whole lot of contractors available and capable
6 of building two 3 billion-dollar power plants; would
7 you agree with that?

8 A. That's correct.

9 Q. Would you also agree that preparation of
10 a bid by an EPC contractor, at least as reported by
11 the EPC contractors, can cost them a half a million
12 to over a million dollars just to prepare a proposal?

13 A. I accept that, yes.

14 Q. To the extent that an entity then
15 approaches EPC contractors prior to receiving a
16 permit, and given that from time to time there may be
17 opposition to the building of coal-fired plants, do
18 you think that perhaps there might be some reticence
19 on behalf of contractors to put the half million to a
20 million bucks into an EPC proposal until at least
21 permitting is further down the road?

22 MS. JAISWAL: Can I have the question
23 read back, please?

24 (Question read.)

1 A. It certainly might be. As I said, I've
2 seen instances where they have -- the applicant for
3 permit has had a contract in place, and I've seen
4 instances where they haven't had a contract in place
5 or instances where -- actually, three sets of
6 instances. Let me explain.

7 First is where there's a contract in
8 place. Second is where they've reviewed bids and
9 they have a preferred EPC contractor that they intend
10 to contract with. And then the third is a situation
11 you describe which is, you know, once we get a permit
12 and we have more certainty, we're going to go get
13 bids.

14 Q. And, for example, one that you may be
15 talking about you're familiar with is the West
16 Virginia Mountaineer plant. There's an EPC contract
17 there; is there not?

18 A. I think that's one of the ones where
19 there is a proposal for a contract, that if they
20 proceed, they would sign the contract.

21 MR. BENTINE: May I approach?

22 EXAMINER PRICE: Yes, you may.

23 Q. I want to hand you what was marked
24 previously as AMP-O Exhibit 13.

1 A. Okay.

2 Q. Is AMP-O Exhibit 13 the Burns & Roe
3 report that you referenced earlier?

4 A. Yes.

5 Q. I'm going to walk you through a few of
6 the findings in that report, if we might. First of
7 all, I believe we established this yesterday before
8 we got off, but Cleveland city council has authorized
9 the execution of an agreement, I believe we even
10 looked at that agreement yesterday, correct?

11 A. Yes, we did.

12 Q. And so Cleveland is at least at this
13 point in this project, correct?

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

15 Q. Turn to page 1-2, please.

16 A. Yes.

17 Q. Displayed on page 2 under 1.4 there is a
18 summary of BREI's technical and financial assessment,
19 correct?

20 A. Yes.

21 Q. And the first of those, No. 1, is Burns &
22 Roe finds that "The proposed AMPGS project can
23 provide a source of clean, reliable, and
24 competitively priced power to CPP. The AMPGS project

1 will have substantially lower airborne pollutant
2 emissions than any coal fired plant currently
3 operating in Ohio. The project is expected to
4 displace dirtier sources of power, resulting in a net
5 improvement to air quality in the region." Do you
6 see that?

7 A. Yes.

8 Q. I correctly read that; did I not?

9 A. I believe you did.

10 Q. Let's turn our attention to paragraph 3.
11 And the first sentence of paragraph 3 states "It is
12 noted that AMP-Ohio has been proactive in the
13 selection of Powerspan ECO-SO2 process for pollutant
14 control. The Powerspan ECO system will include
15 features that will allow for the future expansion to
16 make the plant CO2 capture ready." Do you see that?

17 A. Yes.

18 Q. And did I correctly read that?

19 A. Yes.

20 Q. No. 4.

21 A. There's more to that paragraph.

22 Q. And everybody can see that, sir.

23 A. Okay.

24 Q. Would you turn to the next page? Item 4.

1 "The remainder of the plant design reflects good
2 engineering practice and will result in a facility
3 with a useful life of 40 years or more."

4 A. Yes.

5 Q. No. 5 indicates that the site selected
6 was appropriate.

7 A. Yes, it does.

8 Q. No. 6 indicates that the plans for the
9 design, equipment procurement, and construction
10 through the use of a fixed price EPC represents a
11 proven approach that minimizes risks.

12 A. It says that in that sentence.

13 Q. Thank you.

14 No. 7 indicates that the plant
15 performance assumptions as well as annual capacity
16 factor and availability are reasonable and
17 appropriate for use in the financial projections.

18 A. Yes. It says that.

19 Q. No. 8, "The project milestone schedule
20 for permitting, financing, design and construction is
21 reasonable."

22 A. Yes.

23 Q. And that was one of the things that you
24 have indicated that you didn't see any proof of

1 whether or not the schedule could be adhered to,
2 correct?

3 A. Did I say that? Where?

4 Q. Well, let's move on. I believe it's in
5 your testimony, but your testimony will speak for
6 itself as to whether or not you had any testimony on
7 that.

8 No. 9, "A detailed review of the Project
9 Cost Estimate prepared by R.W. Beck was performed.
10 Although there were differences (higher and lower) on
11 a number of items, these tend to offset each other.
12 Burns & Roe finds the cost estimate to be in the
13 range of the expected cost for a two-unit subcritical
14 coal-fired plant of this size and design."

15 A. Correct. It goes on to say other things,
16 but it does say that.

17 Q. It does say that.

18 No. 10 is "The permitting process is well
19 planned and key permits have been submitted."

20 A. It says that, yes, sir.

21 Q. And No. 13 on page 1-4, "Burns & Roe
22 believes that the Proforma Projections accurately
23 represent the expected operating results of AMPGS and
24 the projected cost of electricity . . . Burns & Roe

1 believes the assumptions used in the Projection and
2 the results of the Base Case are reasonable and
3 indicate such cash flow to cover AMP-Ohio's expected
4 annual operating costs and scheduled debt service."
5 Do you see that?

6 A. Yes.

7 Q. And I correctly read that or at least
8 paraphrased it?

9 A. It says what it says. I kind of lost
10 track of what you were reading in the middle.

11 Q. Well, I'm trying to get you on your
12 plane, sir, so --

13 A. No; that's fine.

14 Q. I can slow down if you want me to.

15 A. No. I'm not trying to challenge you.
16 I'm just saying it says what it says.

17 Q. No. 15 is "With regard to the impact of
18 future regulations on CO2 emissions, there is
19 considerable uncertainty as to the timing and actual
20 costs for CO2 emissions. Based on a review of
21 industry projections, Burns & Roe believes the
22 approach taken in the Project Proforma is
23 conservative." Do you see that?

24 A. Yes, you read it correctly.

1 EXAMINER BOJKO: Excuse me, did you say
2 you did have a copy of this prior to submitting your
3 testimony?

4 THE WITNESS: Yes.

5 EXAMINER BOJKO: You did review this?

6 THE WITNESS: Yes, ma'am.

7 EXAMINER BOJKO: Okay.

8 Q. (By Mr. Bentine) Let's turn to page 13-4.

9 A. 13-4? Okay.

10 Q. There in 13.5, Competitiveness of Cost of
11 Power, there Burns & Roe indicates it's reviewed the
12 projections in a series of sensitivity cases
13 described. Based on projected operating results of
14 the Facility, the technical and economic assumptions
15 underlying the Projections, and the findings set
16 forth in their report, Burns & Roe is of the opinion
17 that the operating projections of the Facility are
18 reasonable and achievable yielding the PSR -- which
19 is postage stamp rate -- estimated in the
20 projections. Do you see that?

21 A. Yes.

22 Q. Page 13-5. Would you look at the bottom
23 paragraph on that page, the penultimate sentence?
24 That sentence reads, "The projections include costs

1 associated with controlling, or purchasing credits
2 for the most common pollutants, including a large
3 allowance for CO2 control."

4 A. That's correct.

5 Q. And would you turn to page 13-8? In the
6 conclusion 13.7 it indicates that Burns & Roe has
7 reviewed the Projections and the series of
8 sensitivity cases. Based upon the projected
9 operating results of the Facility, the technical and
10 economic assumptions underlying the Projections, and
11 the findings set forth in this report, Burns & Roe is
12 of the opinion that the operating Projections of the
13 Facility are reasonable and achievable, yielding the
14 postage stamp rate indicated by the projections. Is
15 that right?

16 A. That's what it says, yes, sir.

17 Q. I want to ask you a couple questions back
18 on AMP-O Exhibit 12. I believe everybody but the
19 witness has --

20 A. Is that the colored sheets?

21 Q. Yes.

22 A. Okay.

23 Q. I let you get away with that one
24 yesterday?

1 A. I was hoping to take it home and frame
2 it.

3 Q. Would you turn to page CWS 00281?

4 A. 281?

5 Q. Yes.

6 A. Okay.

7 Q. That page indicates that there is
8 191 megawatts of projects that are currently under
9 development by AMP-Ohio, correct?

10 A. Correct.

11 Q. And it also indicates that there are at
12 least three potential additional projects, Meldahl,
13 RC Byrd, and Blue Stone?

14 A. Yes, it does.

15 Q. Are you aware of any other potential
16 hydro projects that are economic that AMP-O might
17 pursue?

18 A. No. I didn't have the time to do that
19 kind of study.

20 Q. Just to make sure that the record is
21 absolutely clear, we talked earlier a bit about the
22 complicated relationship between CO2 costs and
23 natural gas prices. Although you've indicated that
24 in your view that is a complicated relationship, you

1 would not disagree, would you, that to the extent CO2
2 prices rise, one would also expect a counter --
3 excuse me, a concomitant rise in natural gas prices?

4 A. There would be some rise in natural gas
5 prices, yes, but it's hard to predict how much, if
6 any. The studies that we've looked at, the recent
7 studies that I cite, MIT 2007, EIA, EPA 2007, really
8 only show a significant several percent increase rise
9 in natural gas prices for very high CO2 prices.

10 So there would be an effect, but again,
11 it's hard to quantify.

12 MR. BENTINE: Your Honor, I have some
13 discussion of confidential material left. I also may
14 have a few other clean-up things, and I know I
15 promised you that I would do all --

16 EXAMINER PRICE: Let's do the
17 confidential material now and then you can do your
18 cleanup things afterwards. At this time we'll ask
19 anybody who is not a party to the confidentiality
20 agreement to please leave the room.

21 Let's go off the record.

22 (Discussion held off the record.)

23

24

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

(OPEN RECORD.)

Q. (By Mr. Bentine) Mr. Schlissel, I want to ask you a couple questions about the least-cost, least-risk plan that you advocate. First of all, as sort of a preface to this line I believe you agreed with me the other day, but in case you didn't or it isn't clear, you do understand that AMP-Ohio cannot force any of its members to be a part of any project.

1 A. That's correct.

2 Q. And you do understand that AMP-Ohio
3 cannot force any of its members to undertake any sort
4 of energy efficiency project.

5 A. I believe that's true. That's correct.

6 Q. Let's say that we had done exactly what
7 you wanted us to do and that is come up with what you
8 would consider to be an appropriate least-cost,
9 least-risk plan, and we're proposing as a part of
10 that plan a 600-megawatt supercritical unit PC,
11 300 megawatts of hydro, and 200 megawatts of wind and
12 biomass, for a total of 900 megawatts.

13 A. That's 11.

14 Q. Excuse me. And the wind and the biomass
15 were intended to be 100 megawatts together. I
16 believe you indicated that you could use biomass and
17 wind together? For capacity purposes.

18 MS. JAISWAL: I'm sorry, can you read
19 that back? May I have that reread back?

20 MR. BENTINE: Let me just restate it and
21 it may be clearer if I could, so I'll withdraw that.

22 Q. And let's say that that least-cost,
23 least-risk plan that you would agree with included a
24 600-megawatt supercritical PC unit, and if you don't

1 think your plan would include that, I'll make it a
2 natural gas combined cycle.

3 A. I've not proposed a least-cost plan.
4 I've suggested how you should study the risks you
5 should appropriately consider in evaluating a
6 least-cost plan. None of these are provisions that
7 I've suggested that you had to have in a plan or that
8 would be the results of a plan.

9 Q. I understand that.

10 A. Okay.

11 Q. I apologize. What I'm trying to get at
12 is let's say that we had done a plan that you then
13 would review and you would, in your opinion, believe
14 the plan that we did to come up with our least-cost,
15 least-risk plan was appropriate, in other words, we
16 did it right, okay?

17 A. Okay.

18 Q. That's assumption number one.

19 Assumption number two, if you can accept
20 it, is that that plan, then, resulted in, and let's
21 make this easy, 600 megawatts of natural gas
22 combined cycle, 300 megawatts of hydro, and we're
23 trying to fill a thousand megawatts here so the other
24 hundred megawatts would come from a combination of

1 wind and biomass that you could reliably depend on
2 for a hundred megawatts of baseload capacity. Do you
3 follow that?

4 A. Yes.

5 Q. And can you accept that as a
6 hypothetical?

7 A. Yes. I mean, I don't want to quibble
8 especially since I'm the one you're trying to get out
9 of town, but that if you had the hundred megawatts of
10 biomass and the hundred megawatts of wind, you'd
11 probably give 20 percent capacity credit to the wind,
12 so it might be a little higher, but I'm not
13 quibbling. I'm willing to accept your hypothetical.

14 Q. And so that's our plan, and we come to
15 the Power Siting Board and we file applications for
16 the 600 megawatts of natural gas combined cycle, the
17 300 megawatts of hydro assuming that this board did
18 have jurisdiction over the hydro for a moment, and
19 the wind and the biomass, okay?

20 A. Correct.

21 Q. And we would have gone out and gotten EPC
22 bids for all of those and had firm, fixed prices for
23 each of those, okay?

24 A. Okay.

1 Q. And we come to the Power Siting Board and
2 the Power Siting Board approves our least-cost,
3 least-risk plan that includes that array of
4 resources, okay?

5 A. Okay.

6 MS. JAISWAL: For the record, who's
7 certifying that it's least-cost?

8 MR. BENTINE: In the hypothetical, that
9 this commission, based on what Mr. Schlissel would
10 suggest, would say "That's a good least-cost,
11 least-risk plan, and we approve."

12 MS. JAISWAL: So, I'm sorry, are you
13 asking that the board has certified that it's a
14 least-cost, least-risk, or that Mr. Schlissel has
15 certified that?

16 MR. BENTINE: For both.

17 MS. JAISWAL: For your hypothetical.

18 MR. BENTINE: Yes, for my hypothetical.

19 MS. JAISWAL: Okay.

20 MR. BENTINE: Okay.

21 Q. (By Mr. Bentine) Are we all on the same
22 page now?

23 A. Yes. At least I'm on the page with you.

24 Q. All right. And we go out to our members

1 and we have the village of X and the city of Y and
2 the borough of Z over in Pennsylvania say "We don't
3 like that plan. We're not going to participate in
4 the natural gas because we don't like it, we think
5 there's too much L&G coming in. There's too much
6 risk so we're not going to get in that one."

7 And somebody else says "We don't like the
8 biomass because we think it might smell." And so,
9 therefore, we don't have enough members sign up for
10 all of the least-cost, least-risk resources that
11 you've said are okay and the board said we ought to
12 do.

13 Do we have to come back to the Board in
14 that case and say "We've got to change our plan. We
15 can't build the biomass because we didn't have enough
16 people sign up for it. We can't build the natural
17 gas because some people don't think it's appropriate
18 to rely on natural gas because of the imports?" What
19 do we do in that case if this commission has said,
20 excuse me, this board has said "That's the
21 least-cost, least-risk plan. Go for it"?

22 A. What do you do? I don't see how that's
23 different than your current situation, that I can't
24 imagine why you would alter the process you used to

1 line up members for the current AMPGS project and
2 that -- let me -- if I might finish.

3 Q. You may finish.

4 A. -- and that you face a similar problem if
5 members decide by March 1st that they don't want to
6 participate in a coal plant, that there certainly,
7 there are risks inherent in implementing any plan and
8 I certainly appreciate what you're saying, that it's
9 hard to do a project where you've got 81 masters and
10 you're trying to please all of them, but I don't see
11 any risk in the plan that I've mentioned as different
12 from what you face today.

13 Q. Well, let's examine that for a moment,
14 Mr. Schlissel. If part of our plan was to build the
15 natural gas and the hydro and the wind and the
16 biomass, and we can't do it, where does that leave us
17 under our current -- under the current way that we
18 have proposed?

19 If this board denies the AMPGS, we still
20 have hydro. If this board allows the AMPGS to go
21 forward and our members, based on input by NRDC or
22 Sierra Club or others, decide that it's not a good
23 idea for them and we don't have enough folks signed
24 up and the project is not completed, that doesn't

1 bother our hydro. That doesn't bother our wind.

2 A. I'm sorry, I misunderstood your question.
3 Not testifying as a lawyer, although I am one, it
4 seems to me that you could do what you've done. You
5 came up -- AMP-Ohio came up with some power supply
6 plans for the individual members and members are
7 joining several projects. You are prudently, I
8 believe, seeking an application for separate
9 projects.

10 I mean, you mentioned before whether the
11 hydro is covered by the siting board or not, I'm
12 unaware of that, but if it were, you could ask for
13 separate project approval under the same plan. Say
14 this is our plan, this is -- we've studied it, this
15 is what we think is the lowest cost, lowest risk.

16 Q. But if we can't build one of the
17 projects, that plan may no longer be lowest cost,
18 lowest risk, some other plan may be lowest cost,
19 lowest risk because we cannot put one of the projects
20 in, whether it's the natural gas or one of the other
21 projects. They're all interrelated; are they not?

22 A. They may well be.

23 Q. Thank you. That's all I have on this.

24 With regard to natural gas,

1 Mr. Schlissel, it is true that you do have some
2 concern on reliance of natural gas generation because
3 some of it at least comes from foreign sources?

4 A. That's correct, a concern over too much
5 reliance on natural gas.

6 EXAMINER PRICE: May I ask a question
7 about natural gas?

8 THE WITNESS: Sure.

9 EXAMINER PRICE: Since we're talking
10 about -- assume for the sake of argument it's a
11 baseload facility. How much natural gas per day
12 would be needed to fuel a 600-megawatt combined cycle
13 natural gas plant?

14 THE WITNESS: I'd have to sit down with
15 my computer and do the calculations. You've got to
16 figure the heat content of the fuel and it's just,
17 it's not something --

18 EXAMINER PRICE: You've not calculated
19 that, then.

20 THE WITNESS: I probably have calculated
21 it 30 times, but I don't remember the number. It's
22 not like I can tell you the number's 10 or, you know.

23 EXAMINER PRICE: It would be a
24 significant amount of gas.

1 THE WITNESS: Well, "Significant compared
2 to what?" is the answer.

3 EXAMINER PRICE: Okay. Actually,
4 significant compared to the amount of -- have you
5 looked at whether there's available pipeline capacity
6 to move whatever amount of gas that is from the gulf
7 to Ohio on the interstate pipelines and then to
8 distribute to wherever it would be in a pipeline
9 capacity on an intrastate basis within Ohio?

10 THE WITNESS: I have not looked at the
11 intrastate Ohio. I have looked, as part of the work
12 I did in the West Virginia case that we talked about
13 yesterday, looked at American Electric Power's
14 projections of the capacity factors being achieved by
15 existing gas capacity in this region, and they're
16 very low because gas is not on the margin. There's
17 so much coal capacity that gas is not being run.
18 That suggests to me that there's additional pipeline
19 capacity -- there is additional capacity in the
20 pipelines, but I have not done a study. I wouldn't
21 want you to rely on my --

22 EXAMINER PRICE: You've not studied it.

23 THE WITNESS: I've not studied it, no.

24 EXAMINER BOJKO: That's just your

1 assumption. You assume there's additional capacity
2 because of the coal available. You don't know.

3 THE WITNESS: It's a speculation, I have
4 not done the study as part of the studies that
5 counsel and I are talking about. That's clearly an
6 issue to be looked at.

7 EXAMINER PRICE: Thank you. Sorry.

8 MR. BENTINE: It is 12:30, I think for
9 the most part all I'm going to have is some cleanup.

10 EXAMINER PRICE: How much cleanup do you
11 think you will have?

12 MR. BENTINE: Well, until I look, I don't
13 know.

14 EXAMINER PRICE: Let's take five --

15 MR. BENTINE: No, I don't think I will
16 have a, you know, I'm certainly not going to have
17 another hour. I doubt, frankly, if I will have half
18 an hour. I need to go back through my exhibits and
19 notes.

20 EXAMINER PRICE: Let's take five minutes.
21 Let's go off the record.

22 EXAMINER PRICE: Let's go back on the
23 record.

24 We are going to, on my motion at this

1 point, mark as Young Exhibit 3 the Drinking Water
2 Source Assessment for the Village of Racine and the
3 Village of Tupper Plains/Chester, I'm sorry, for
4 Tupper Plains, it's not a village, for Tupper
5 Plains/Chester.

6 (EXHIBIT MARKED FOR IDENTIFICATION.)

7 EXAMINER PRICE: As I understand it, we
8 have a pending motion to strike part of Miss Young's
9 testimony that relied upon these documents; is that
10 correct?

11 MS. BOTT: Yes, it is. I would maintain
12 that motion to strike and I would draw your attention
13 to certain pages of this fax that identify the zones,
14 the quote/unquote protected zones, and it's on my fax
15 page 12 and page 20. So if you look at the fax
16 numbers on the bottom right.

17 There's no way for us to identify whether
18 or not our proposed plant site is in this protection
19 area. It appears -- at least on my copy it's
20 completely dark.

21 WITNESS YOUNG: Can we get a better copy?

22 EXAMINER PRICE: Well, unfortunately, now
23 is the time. We have to deal with what's in front of
24 us at the moment.

1 MS. BOTT: So it would be impossible for
2 us to ascertain whether our project is in these
3 protection areas.

4 EXAMINER PRICE: The only thing I would
5 note, it certainly appears on page 12 it identifies
6 the townships that are affected, and page 12 is
7 identified as Sutton Township, and page 20 is
8 identified as Olive Township. Those are --

9 MS. BOTT: We're in Letart Township.

10 EXAMINER PRICE: Well, I understand that.

11 MS. MALONE: If I could be heard.

12 EXAMINER PRICE: Oh, absolutely.

13 MS. MALONE: I would point out if you
14 look at page 12 and 20, in addition there's a
15 specific discussion throughout the document and the
16 recommendations and evaluations of impacts are
17 dependent on whether something is in the inner or
18 outer protection zone.

19 Since you can't identify where those
20 locations are, but you know they're not the entire
21 township, they're not a portion of something that's
22 shown on these two maps, I would say they're, you
23 know, they're of no probative value, and if they came
24 in, we couldn't possibly cross-examine on them

1 because you can't read them.

2 MS. BOTT: And again, we're not sited in
3 either of those townships so it's, again, not
4 relevant.

5 WITNESS YOUNG: Can I say something?

6 EXAMINER PRICE: Please do.

7 WITNESS YOUNG: Okay. If you look at the
8 assessments, there are many of these things that go
9 beyond both the inner and the outer zones, the
10 one-year and the five-year time of travel.

11 EXAMINER PRICE: Can you point me to
12 where that is?

13 WITNESS YOUNG: I'll have to look through
14 here but I just remember when I did the research that
15 there were things within the one-year, the five-year,
16 and some that went beyond. And some of them had to
17 do actually with like transportation which would tie
18 in with coal truck deliveries and things like that.

19 Let's see, if you look, say, starting on
20 page 6 and you see the environmental concerns, the
21 protection area is defined on the outside and they
22 have outer protection, inner protection, outside
23 five-year time of travel on page 7 -- well, page 7 of
24 the document, but it's on page 8 of the fax.

1 For instance one of my concerns had to do
2 with highway transportation routes and hazardous
3 waste, and it says that the outer protection zone and
4 outside five-year time of travel, which would mean
5 that regardless of whether it was within the one-year
6 or the five-year, this would impact things outside of
7 that time of travel within that township.

8 MS. MALONE: As a legal matter, the
9 concept behind wellhead protection is intrinsically
10 linked to whether you are inside or outside the
11 protection zone because you are creating a protection
12 zone.

13 So if you're outside the protection zone,
14 it isn't actually even part of the discussion of the
15 two studies, they've identified them, but the
16 recommendation of the studies in each of them appears
17 in a specific location which basically is it
18 recommends that the specific entity, I think it
19 appears on page 3 and page 14, and basically
20 recommends that they develop some specific approach
21 to looking at impacts.

22 But the concept behind wellhead
23 protection is intrinsically linked as a matter of law
24 to the protection zones because that's the area

1 you're protecting, so if it's not inside the
2 protection zone and we don't know where the
3 protection zone is, it's hard to say whether it would
4 be of any probative value.

5 WITNESS YOUNG: Can I respond to that?

6 EXAMINER PRICE: Yes.

7 WITNESS YOUNG: On that one particular
8 instance I pointed out on the highway and
9 transportation route, they can't run the coal trucks
10 without going outside that and the concern there is
11 that of runoff. And that because the wells are
12 highly susceptible to runoff, that it could be an
13 issue with impacting our -- it says "Accidents on
14 transportation routes pose a threat of leaks and
15 spills of fuels and chemicals. Weed killers used to
16 control vegetation can elevate levels of pesticides
17 in drinking water sources. And runoff may contain
18 oils, metals and deicers."

19 In this case it could be things like
20 ammonia or things that are being brought in for the
21 scrubbers.

22 EXAMINER PRICE: I've heard enough. The
23 motion to strike is going to be denied. The
24 arguments that the parties are making, both Staff and

1 the company, are certainly relevant for the board's
2 consideration as to the weight of the evidence, the
3 weight that we should attribute to this particular
4 piece of evidence.

5 MS. BOTT: Thank you.

6 EXAMINER PRICE: Thank you.

7 Ms. Malone, do you have any further
8 cross?

9 MS. MALONE: No.

10 I'm assuming that we're not striking the
11 related language from Miss Young's Exhibit 2 and
12 you're not striking Exhibit 3.

13 EXAMINER PRICE: We are not striking
14 Exhibit 3, and we are not striking the related
15 language on Young Exhibit 2.

16 MS. MALONE: I have no other questions.

17 MS. BOTT: Just as a point of
18 clarification, that would include these two maps on
19 12 and 20.

20 EXAMINER PRICE: It would include the two
21 maps on pages 12 and 20, yes. I understand the
22 legibility issues that are involved, but I would
23 direct everybody's attention to the fact that it is
24 broken out by township in the legend. So the record

1 is clear that these two studies do not apply to the
2 township where your plant is going to be maybe
3 located.

4 MS. BOTT: Thank you.

5 WITNESS YOUNG: But the coal trucks would
6 travel, I was just going to mention that --

7 EXAMINER PRICE: We're done taking
8 testimony now. I'm sorry.

9 WITNESS YOUNG: He e-mailed it. I was
10 just going to say, if forwarding this e-mail the same
11 as this fax would help them for clarification to
12 see that.

13 EXAMINER PRICE: If you would like to
14 file as a late-filed exhibit just the two maps, if
15 you can print out better copies and file them in
16 Docketing, just the two maps, we would accept those
17 exhibits.

18 WITNESS YOUNG: Okay.

19 EXAMINER PRICE: Do you have any further
20 questions in light of the fact that the motion to
21 strike was denied?

22 MS. BOTT: I do not.

23 EXAMINER PRICE: Pardon me?

24 MS. BOTT: I do not, no.

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

EXAMINER PRICE: Thank you.

NRDC, environmental groups?

MS. JAISWAL: No, your Honor.

EXAMINER PRICE: Ms. Young, you're
excused.

(Witness excused.)

EXAMINER PRICE: Does anybody object to
the admission of Young Exhibits 1 through 3 other
than the continuing objections related to motions to
strike?

MS. BOTT: Not in addition.

EXAMINER PRICE: On my own motion we will
admit Young's Exhibit 1, 2, and 3.

(EXHIBITS ADMITTED INTO EVIDENCE.)

EXAMINER PRICE: Let's go off the record.

(Discussion held off the record.)

EXAMINER PRICE: We will break until a
quarter till 1.

(Luncheon recess taken.)

- - -

1 Tuesday Afternoon Session,
2 December 18, 2007.

3 - - -

4 EXAMINER PRICE: Let's go back on the
5 record.

6 Mr. Bentine.

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

9 EXAMINER PRICE: You may.

10 MR. BENTINE: I ask that this document be
11 marked as AMP-O 15.

12 EXAMINER PRICE: It is a confidential
13 document, Mr. Bentine.

14 MR. BENTINE: Yes.

15 EXAMINER PRICE: Do I gather, then, that
16 this portion of the transcript should be
17 confidential?

18 MR. BENTINE: Everything after marking,
19 yes, your Honor.

20 EXAMINER PRICE: So marked.

21 (EXHIBIT MARKED FOR IDENTIFICATION.)

22 EXAMINER PRICE: Let's now go to the
23 confidential portion of our transcript.

24 (CONFIDENTIAL PORTION EXCERPTED.)

1

2

3

4

5

6

7

8

9

10

11

12

13

14

(OPEN RECORD.)

15

16

MR. BENTINE: A few clean-up items, your Honor, and we'll be done.

17

18

Q. Page 15, please, of your testimony. I'm trying to hurry as fast as I can.

19

A. You're doing fine. Okay.

20

21

22

Q. On line 6 you have included the phrase in your answer "and the resultant widespread climate changes." Do you see that?

23

A. Yes.

24

Q. I believe we previously agreed you're not

1 a climatologist or an expert in climate changes?

2 A. That's correct, but I believe I'm an
3 expert enough to present this information based on my
4 education and work experience.

5 Q. Do you consider yourself to be an
6 environmental scientist?

7 A. No, but I am someone with a science and
8 engineering education and someone with a long
9 experience of working on energy and environmental
10 issues, and I've read learned treatises on the issue
11 of global warming and predicted climate changes from
12 global warming.

13 Q. Down on line 20 and 21 you've also
14 indicated certain developments that you mention above
15 that, and then you indicate "combined with the
16 growing scientific understanding of, and evidence of,
17 climate change." Do you see that?

18 A. Yes, sir.

19 Q. And, again, you're not a climatologist or
20 an environmental scientist?

21 A. That's correct. I'm someone with a
22 science and engineering education and 34 years of
23 experience, and I've reviewed learned scientific
24 treatises, published scientific treatises on these

1 issues with colleagues at Synapse who have -- one of
2 them has a PhD in atmospheric science, so I feel
3 qualified to present this very, very summary
4 conclusions.

5 MR. BENTINE: I move to strike on line 6
6 from the "and" to line 7 after the word "changes,"
7 and line 20, "combined with the growing scientific
8 understanding of, and evidence of, climate change."
9 While he may have read a bunch of stuff, I don't
10 think he is qualified to render those opinions even
11 if one of his colleagues may be.

12 EXAMINER PRICE: Acknowledging that this
13 is outside of his area of expertise we're going to
14 deny the motion to strike. These are very summary
15 statements and you can make any arguments you like as
16 to the weight the board should give them.

17 MR. BENTINE: Thank you, your Honor.

18 Q. Page 17.

19 A. Seventeen?

20 Q. Yes.

21 A. Yes, sir.

22 EXAMINER PRICE: Mr. Bentine?

23 MR. BENTINE: Yes.

24 EXAMINER PRICE: There is something I

1 wanted to check, maybe my notes are wrong or I got
2 caught up in the argument.

3 At page 8, line 7, did you move to strike
4 a portion of that response and did I grant that
5 motion, because I don't have it reflected in my
6 notes?

7 MR. BENTINE: I haven't reflected that I
8 moved to strike it, I don't have it reflected whether
9 or not you granted it, your Honor. At least on this.

10 EXAMINER PRICE: Why don't we go back
11 over that one.

12 MR. BENTINE: Okay.

13 EXAMINER PRICE: If you would like to
14 make your motion again and I'll make a new ruling on
15 that.

16 MR. BENTINE: Yes, your Honor. I would
17 move to strike everything after the word "No."

18 EXAMINER PRICE: That motion to strike
19 will be granted. I think we probably went through
20 this already and the transcript would have helped us
21 out.

22 MS. JAISWAL: I'd like a standing
23 objection on that.

24 EXAMINER PRICE: That's moved.

1 MR. BENTINE: Would that be all, your
2 Honor, on that?

3 EXAMINER PRICE: That's the only one I
4 had. I caught that at lunch.

5 Q. (By Mr. Bentine) And we talked a little
6 bit about your answer on lines 8 through 10 on page
7 17, Mr. Schlissel, but I want to go back to that and
8 ask you a couple more questions about it. You say
9 it's expected to be years, if not decades, before
10 there will be viable postcombustion technology for
11 the removal and sequestration of greenhouse gas
12 emissions from pulverized coal power plants."

13 In your view, does that mean there should
14 be a moratorium on the construction of pulverized
15 coal-fired power plants until there is a demonstrated
16 technology for postcombustion removal and
17 sequestration of greenhouse gases?

18 A. No; I've not reached that conclusion. I
19 believe that it's prudent for management who's
20 seeking to build a coal plant to consider and study
21 whether they should wait till they know what the cost
22 is going to be. But I've not endorsed any kind of
23 moratorium.

24 Q. Thank you.

1 EXAMINER PRICE: Are you recommending
2 that the board not deny, or that the board deny the
3 permit because they've not properly studied this? Or
4 are you saying you're making a recommendation to the
5 AMP-Ohio management that they should further study
6 it?

7 THE WITNESS: Both, your Honor. I think
8 that it's a risk that should be studied. Until you
9 know the cost of the risk, you don't go ahead.

10 EXAMINER PRICE: Thank you.

11 MR. BENTINE: If you are done, your
12 Honor.

13 EXAMINER PRICE: Yes, I am.

14 Q. (By Mr. Bentine) On page 28 of your
15 testimony, the question and answer beginning on line
16 25.

17 A. Yes.

18 Q. You do understand that your counsel had a
19 chance to depose both Mr. Couppis and Mr. Clark with
20 regard to any subject they cared to.

21 A. I understand there were depositions.

22 Q. Turn to page 35, and really the answer
23 I'm going to talk about begins on line 20 on page 34,
24 if you could review that very quickly.

1 A. Okay.

2 Q. You quote Appalachian Power and their
3 witness on the cost of capturing carbon emissions
4 there, correct?

5 A. Yes.

6 Q. And they have indicated a cost of \$43 to
7 \$46 a megawatt-hour on a levelized basis to
8 capture -- and is that just capturing, not
9 sequestration?

10 A. I believe it is, yes.

11 Q. -- carbon emissions. In what context was
12 this testimony given?

13 A. In support of their application for a
14 permit to build the Mountaineer IGCC facility.

15 Q. And so they were in that looking for not
16 only a certificate, but for guaranteed cost recovery
17 from the state of West Virginia for the IGCC,
18 correct?

19 A. I believe the guaranteed capital cost,
20 yes.

21 Q. And in doing so the higher the cost of
22 capturing CCS, excuse me, of capturing carbon from a
23 PC plant, the better their IGCC plant looks, correct?

24 A. Yes, but I can't -- I don't believe they

1 would necessarily shade the costs, if that's what
2 you're implying.

3 Q. Almost done.

4 Back on your chart 45.

5 A. My chart 45? I don't have a chart 45.

6 Q. You do not. Your figure 3, I'm sorry, on
7 page 37.

8 A. Yes, sir.

9 EXAMINER PRICE: That wasn't even close,
10 Mr. Bentine.

11 MR. BENTINE: Wasn't even close. I know.
12 I know.

13 Q. Is there any confidence level associated
14 with the predictions that Synapse has forecast here?

15 A. No, we've not done a statistical
16 analysis; the numbers are too uncertain. You'd have
17 to assign probabilities to what each of the numbers
18 is likely to be and that's adding another layer of
19 speculation on top of speculation.

20 Q. Okay. Turn to page 54 of your testimony.

21 A. Fifty-four, okay.

22 Q. Line 4.

23 A. Line 4? Okay.

24 Q. I take it that this was a hunt-and-change

1 error that talks about AMP-Ohio's Cliffside project
2 there?

3 A. No. It is a mistake, I apologize, I had
4 caught it when I was reading this and then forgot
5 in -- but it should be "the company" referring back
6 to Duke. I'm sorry. Bet you didn't know that
7 AMP-Ohio was planning a 1,600-megawatt coal plant in
8 the Carolinas they didn't tell you about.

9 Q. No, I did not.

10 A. They didn't tell you. You missed that
11 meeting.

12 EXAMINER PRICE: So at this point you
13 have a late correction to your testimony.

14 THE WITNESS: Yes.

15 EXAMINER PRICE: Where it reads
16 "AMP-Ohio" on page 54, line 4, it should read "the
17 company."

18 THE WITNESS: Yes. I apologize.

19 EXAMINER PRICE: And that is referring
20 back to Duke Energy - Carolina.

21 THE WITNESS: Yes, sir.

22 EXAMINER PRICE: Thank you.

23 Q. (By Mr. Bentine) Page 59.

24 A. Yes, sir.

1 Q. There you, in the question beginning on
2 line 4, you talk about cost escalation in the
3 construction industry. Do you see that?

4 A. Yes.

5 Q. What work or studies or other information
6 have you had that would tell you that the
7 construction cost indices for chemical that is shown
8 on the chart on the next page is comparable to the
9 cost of construction of a pulverized coal electrical
10 generation unit?

11 A. The material I've seen are indices of
12 increased commodity prices from, what is it, the
13 Bureau of Labor Statistics, the London Metals
14 Exchange, there are numerous other charts similar to
15 this one, to my figure 7, that look at similar
16 forecasts of commodities prices that I've seen or the
17 way that the cost of equipment have gone up over the
18 years that are comparable to this chart that EPRI
19 used in a presentation in June to the Oregon Public
20 Service Commission regarding power plant cost
21 escalation.

22 And I believed, and still believe that,
23 as I say in the preceding testimony -- the answer, it
24 gives a sense of the escalation experienced by the

1 construction industry. I'm not trying to cite this
2 for any cost increase I believe that the AMPGS
3 project will experience; rather, this backgrounds to
4 what the industry has experienced. It's comparable
5 with the information in the Standard & Poor's report,
6 in The Brattle Group report I include exhibits.

7 You can open up any magazine issue of
8 Power Engineering, Gas Turbine World, you'll see
9 very, very similar charts.

10 Q. Why didn't you use those charts that are
11 more attuned to the electric industry than the one on
12 the chemical industry?

13 A. Because it's -- because it's the same
14 commodities, it's the same manpower, it's the same
15 people designing it, I used this one because it
16 happened to be handy and it came from an EPRI
17 document. I thought that EPRI, the Electric Power
18 Resource Institute, would be a source that no one
19 would challenge as being antinuclear or not aware of
20 the current trends. I thought they were basically an
21 unimpeachable source on this subject; I still do.

22 So I thought that using a document that
23 EPRI had considered reliable enough to give to state
24 regulatory commissions was an important document. In

1 fact, I think EPRI may have used the same chart
2 during its presentation at the summer NARUC meetings
3 in New York City. So, again, I think it's
4 representative of the magnitude of the cost increases
5 that have been achieved and it is confirmed by
6 everything else I've seen from any other source. And
7 I have tried to confirm it that way.

8 Excuse me, I apologize for going on.

9 Q. Do you believe that cost escalations in
10 the chemical industry may be closer to cost
11 calculations for an IGCC plant than a PC plant?

12 A. No. Maybe, but I don't think that it's
13 really a major difference. I think that the IGCC
14 will experience the same cost increases probably as a
15 coal plant, as a pulverized coal plant.

16 Q. Did you have this in your West Virginia
17 testimony?

18 A. No, I did not. In that case American
19 Electric Power presented a table of commodity price
20 increases that compared the price increases that had
21 been experienced over the last 20 months versus the
22 preceding 17 years and showed dramatic increases. I
23 thought that this was a visual way of presenting the
24 same thing that AEP gave, so there was no need to

1 raise it.

2 Q. Very well.

3 Would you turn to page, actually 70.

4 A. Seventy?

5 Q. Yes.

6 A. Yes, sir.

7 Yes, sir.

8 Q. You talk about the 2001 study. Just to
9 clarify, that study hasn't been updated since 2001
10 for Ohio.

11 A. That's correct, Synapse has not updated
12 its study.

13 Q. Earlier today you said you attempted to
14 find information about AMP-O member community
15 coal-fired generation; is that correct?

16 A. I may have said that. I did try to look.

17 Q. Did you review the Ohio EPA's website as
18 a part of that to determine whether or not it had
19 information on permitted coal-fired units in the
20 state?

21 A. No. I did Google searches on the town
22 names for about 20 or 30 of the largest participants
23 in the AMPGS project and with terms such as "coal,"
24 "coal-fired power plant" and didn't find anything. I

1 mean, I found some things, but they weren't on point.

2 Q. Wouldn't it be normal for a person in
3 your position to know to search Environmental
4 Protection Agency or its equivalent in each state to
5 determine what coal-fired generation there may be
6 that have permits?

7 A. Sure. If it was an important issue in
8 the case, I would have done that. In this case it
9 happened to slip my mind because I only had a couple
10 of weeks to prepare the testimony. If it had been an
11 important issue, I would have done that.

12 Q. Very quickly, with regard to wind,
13 Mr. Schlissel, if you know, other than if a proposed
14 wind farm was going to be Power Siting Board
15 jurisdictional because of its size, are there other
16 permitting hoops, so to speak, whether the Department
17 of Natural Resources or other things, that wind farms
18 would have to comply with before they could be put
19 up?

20 A. I'm sure the answer is yes. I don't know
21 specifically the statute in Ohio, but generally I
22 know the answer is yes.

23 Q. Turn to Exhibit 8.

24 A. Yes, sir.

1 Q. I've certainly heard of the Edison
2 Foundation, but I've never heard of The Brattle
3 Group. Can you tell me why we should depend on them?

4 A. For several reasons, one is they're a
5 large consulting firm in Washington, DC, and in New
6 York who do work -- I'm sorry, Boston who do work for
7 utilities. I'm surprised you haven't heard of them.
8 You can look in almost every major case I've seen
9 that they've been involved to some extent, rate
10 cases, power plant siting cases, natural gas
11 facilities siting proceedings.

12 Their work was commissioned for the
13 Edison Foundation which is, I'm sure you're aware, is
14 an arm of the Edison Electric Institute which is the
15 organization of electric utilities. I believe that
16 this study has credibility not only because of the
17 quality of the work performed by The Brattle Group,
18 but because of the sponsor of the study -- of the
19 study, the fact that the conclusions have been
20 adopted by the sponsor of the study, and also the
21 fact that the conclusions are consistent with the
22 Standard & Poor's study and just about every other
23 study that I've seen.

24 Q. Thank you.

1 A. And one other, if I might.

2 Q. I'm not going to move to strike it, so
3 you can stop.

4 A. No, no, I --

5 Q. It's fine.

6 A. All right. I'll stop.

7 EXAMINER PRICE: I'd quit while you're
8 ahead.

9 THE WITNESS: I factored that in.

10 MR. BENTINE: If I can have just a
11 minute, I think we are at the end.

12 EXAMINER PRICE: You may.

13 Q. Mr. Schlissel --

14 EXAMINER PRICE: One moment please,
15 Mr. Bentine.

16 MR. BENTINE: I'm sorry.

17 EXAMINER PRICE: That's okay.

18 Thank you, Mr. Bentine.

19 MR. BENTINE: I did have one more.

20 EXAMINER PRICE: No, I meant thank you
21 for giving me time.

22 Q. (By Mr. Bentine) Just to make it clear,
23 you're not suggesting in your testimony that we
24 could, that is AMP-Ohio could replace 960 megawatts

1 of coal capacity with 960 megawatts of natural gas
2 combined cycle.

3 A. That you couldn't? You certainly could.
4 I don't know whether it would be part of a
5 lowest-cost, least-risk plan, but you certainly could
6 do that.

7 Q. Well, are you suggesting we should?

8 A. No. I'm suggesting that you study the
9 least-cost, least-risk plan fully accounting for the
10 risk of CO2 regulation and construction cost
11 increases and the plan that comes out of that will be
12 the plan.

13 MR. BENTINE: That is all I have. Thank
14 you, Mr. Schlissel, I hope you make your plane.

15 THE WITNESS: I have relatives in the
16 area, I'm okay if I don't. I'd rather make sure I
17 give full answers to your questions.

18 MR. BENTINE: I wish you would have told
19 me that before.

20 EXAMINER PRICE: Too late now,
21 Mr. Bentine.

22 THE WITNESS: I'm not as stupid as I
23 look. I waited for you to sit down.

24 EXAMINER BOJKO: There's recross still so

1 you better just be careful.

2 THE WITNESS: Oh, that's right. I blew
3 it. I'm sorry.

4 EXAMINER PRICE: If there are no
5 questions on redirect, you won't get recross.

6 Miss Young is not here. Staff?

7 MS. MALONE: No questions.

8 MR. JONES: No questions.

9 EXAMINER PRICE: Before we go on to
10 redirect I want to take up the matter of the pending
11 motion to strike Exhibit DAS-2, although we had begun
12 to work our way through this laboriously one by one,
13 I'm going to reconsider my decision to work through
14 this laboriously one by one and simply render my
15 decision.

16 The basis of my decision is that we're
17 going to strike the document in its entirety except
18 for portions he relies on in references to his text.
19 So when you give the exhibits that are answering, I'm
20 not striking -- where we left one out he referenced
21 in his text, please let me know, but the remaining
22 answers that he is not representing in his text are
23 not germane to his testimony and can be struck at
24 this time.

1 This does not mean that you can't get
2 these answers in some other way. If you can do it on
3 impeaching a witness, on redirect, those are all
4 fine, but, again, it's not the best process to simply
5 attach all of their answers to his exhibit and try to
6 enter it into the record that way.

7 In deference to what Mr. Bentine has
8 said, let me hasten to add objections are not part of
9 the record. The only part that we're going to
10 consider to be part of this is the actual AMP-Ohio
11 answers to the questions, the objections should be
12 disregarded.

13 MS. JAISWAL: A question. The question
14 itself will remain.

15 EXAMINER PRICE: The question remains,
16 absolutely, for the context.

17 MS. JAISWAL: Great. Thank you. And a
18 point of clarification as well, they can still be
19 used in the briefs to the board.

20 EXAMINER PRICE: I think you have to get
21 them on the record before you use them on the brief.

22 MS. JAISWAL: For the post brief. That
23 was the point of going through each one is showing
24 the relevance and how we would want to also use it,

1 not only in the testimony today, but also in the
2 brief.

3 EXAMINER PRICE: You can get them in any
4 way you can get them in through the record, but
5 you're going to have to get them in --

6 MS. JAISWAL: Okay. So we can request
7 judicial notice in another matter. I'm sorry, I
8 think I might be confused on this, if you're talking
9 about the record for evidentiary proceeding today or
10 the overall record, the docket in this matter?

11 EXAMINER PRICE: I'm talking about the
12 evidentiary record the board's going to rely upon.

13 MS. JAISWAL: Which is the record today
14 for this hearing.

15 EXAMINER PRICE: The record today,
16 correct.

17 MS. JAISWAL: So we would request to go
18 through each one if that is the ruling.

19 EXAMINER PRICE: I think you need a
20 witness to go through each one.

21 MS. JAISWAL: We can go through the
22 relevancy, we have a witness here to proffer the
23 exhibit, that it was supplied. I can also
24 authenticate as an officer of the court. We could

1 ask for judicial notice of the document if it's not
2 disputed.

3 EXAMINER BOJKO: You're asking us to, I
4 mean that would leave AMP-Ohio to dump in all the
5 discovery responses you made and that would be
6 likewise inappropriate. You need to ask one of the
7 AMP-Ohio witnesses or ask your witness a question.

8 EXAMINER PRICE: It's got to be relevant
9 and germane to the testimony.

10 EXAMINER BOJKO: Well, right.

11 EXAMINER PRICE: I was going to say you
12 can't authenticate everything. It's the same thing
13 with the deposition transcripts, the fact that you've
14 taken the deposition transcripts doesn't mean that
15 they're all in the record and able to be cited before
16 the board.

17 MS. JAISWAL: Unless they're offered.
18 But my question is -- I understand the ruling. My
19 question is the questions and the answers to that --

20 EXAMINER PRICE: The ones that we will
21 not strike.

22 MS. JAISWAL: Right. The only ones that
23 you will not strike are the ones in Mr. Schlissel's
24 direct testimony?

1 EXAMINER PRICE: That he refers to in his
2 direct testimony.

3 MS. JAISWAL: Today.

4 EXAMINER PRICE: Yes.

5 MS. JAISWAL: But in terms of what's in
6 the record, okay, I think I understand your ruling.

7 EXAMINER PRICE: And, again, if you can
8 get other parts, other answers in through
9 Mr. Schlissel on redirect or through impeaching the
10 AMP-Ohio witnesses, then they'll be in.

11 MS. JAISWAL: And to clarify, which ones
12 are you --

13 EXAMINER PRICE: I haven't done that yet.
14 I haven't read the answers yet.

15 So the motion to strike will be granted
16 with the exception of the questions and answers to
17 the following: Question and answer 9, 30, 41, 43.
18 I'm sorry, one more time, 9, 30, 41, 43, and 45.

19 Now, if the witness referenced any others
20 in his text and those references were not previously
21 stricken, then that was an error on my part and we'll
22 go ahead and revisit that. But those are the ones
23 that I found on my search through his testimony that
24 are still in place.

1 MS. JAISWAL: We request, in light of the
2 ruling, to have, I know Mr. Schlissel will not be
3 happy with this, five minutes to review this exhibit.

4 EXAMINER PRICE: You can have at least
5 five minutes. I did this so you could have a chance
6 to prepare for your redirect.

7 MS. JAISWAL: Okay.

8 EXAMINER PRICE: So take as much time as
9 you need.

10 MS. JAISWAL: Thank you.

11 EXAMINER PRICE: In deference to his
12 plane flight.

13 THE WITNESS: No, as I say, honestly, I
14 think the hearing is more important than me getting
15 home tonight.

16 EXAMINER PRICE: Let's go off the record.

17 (Discussion held off the record.)

18 EXAMINER PRICE: Let's go back on the
19 record.

20 Please proceed.

21 - - -

22 REDIRECT EXAMINATION

23 By Ms. Jaiswal:

24 Q. Good afternoon. Anjali Jaiswal with

1 Natural Resources Defense Council.

2 Mr. Schlissel, do you recall AMP's
3 counsel asking you about cancellation of this plant?

4 A. Yes.

5 Q. Is it your opinion that this plant should
6 be cancelled?

7 A. Not at this time, no.

8 Q. What is your opinion?

9 A. My opinion is presented on the last page
10 of my testimony, page -- I'm sorry, it's page 72 of
11 my testimony.

12 Q. If you could please turn to page 72.

13 A. It's my testimony the project should not
14 be certified at this time, and that before committing
15 to a project that may ultimately cost in excess of
16 3 billion dollars, AMP-Ohio and its member
17 communities should reexamine the economics of the
18 proposed project against portfolios that include
19 energy efficiency and renewable resources and, if
20 necessary, new natural gas-fired capacity.

21 Q. Why are you recommending that?

22 A. Because I believe there are significant
23 risks faced by the project from potential federal
24 regulation of CO2 emissions, greenhouse gas

1 emissions, and from further project cost increases.

2 Q. Mr. Schlissel, do you recall AMP's
3 counsel asking you about CO2 costs?

4 A. Yes.

5 Q. Are you familiar with AMP's CO2 costs or
6 carbon cost forecasts?

7 A. Yes.

8 Q. What were they?

9 A. The numbers are presented on, I believe
10 it's -- you'll have to give me a second here.

11 Q. Let me just interject. I would like to
12 introduce what's been accepted by your Honors DAS
13 Exhibit 2, page 8, question 9. If you could please
14 refer to that. Do you have that in front of you?

15 A. Yes. That's where the company described
16 the basis for their numbers, but those aren't the
17 numbers. That's where they describe the basis for
18 the numbers.

19 Q. Right. So if we could go there and then
20 we can go to the numbers. So if you could please go
21 to page 8 of Exhibit 2, question 9, and you can read
22 that to yourself.

23 A. I've read it.

24 Q. Great. And what is your view about how

1 AMP developed its costs, its carbon costs?

2 A. I believe that the study by the National
3 Commission --

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

5 EXAMINER PRICE: Grounds?

6 MR. BENTINE: Well, I really don't think
7 I went into this with this witness.

8 MS. JAISWAL: You asked about CO2 costs,
9 correct? You asked about CO2 costs.

10 MR. BENTINE: I did go into this. I
11 withdraw the objection.

12 EXAMINER PRICE: Thank you.

13 Please proceed.

14 A. I believe that the National Commission on
15 Energy Policy study from December 2004 was a valid
16 study at the time, but since then the National
17 Commission has increased its own proposal which is
18 now memorialized in the Bingaman-Specter bill such as
19 the safety valve prices have gone up, have increased
20 from 7 to 12 dollars a ton. So the study's outdated.

21 As to relying on historical prices in
22 Europe and certain studies and analyses, I don't know
23 what those certain studies and analyses are.

24 Historical prices in Europe don't really offer much

1 insight into what's going to happen in the United
2 States. Prices in Europe initially were very high,
3 then they crashed, now they're back high again.

4 I don't know what insight that provides.
5 I think a better approach is to look at the current
6 bills in the U.S. Congress and the studies that have
7 been made of the possible impact of those bills.

8 Q. So what are AMP's CO2 cost forecasts or
9 carbon cost forecasts?

10 A. Their costs are presented on -- sorry,
11 maybe I should know my own testimony better.

12 Their costs are presented in table 3 on
13 page 27 of my testimony, and then in figure 4 on page
14 41, their costs are presented visually in constant
15 2005 dollars. The table 3 is in nominal dollars,
16 actual what you would pay that year as spent dollars,
17 and then I converted them to constant 2005 dollars
18 for comparison to the Synapse forecasts.

19 Q. So you're describing your figure 6 on
20 page 46.

21 A. No, I'm talking about figure 4 on page
22 41.

23 Q. Right. Thank you. That's what I have.
24 For the record, it's figure 4 on page 41.

1 So you recall Mr. Bentine asking you
2 about this figure, correct? Do you recall --

3 A. He asked me about figure 3 was the
4 Synapse forecast and then he asked me about
5 AMP-Ohio's CO2 price forecasts, but I don't recall he
6 asked me specifically about this figure.

7 Q. How does this figure relate to figure 3?

8 A. It includes the AMP CO2 prices in it.

9 Q. And are all of the points in figure 3 in
10 figure 4?

11 A. No, none of the points are.

12 Q. Why?

13 A. Because in figure 4 I was comparing the
14 two forecasts.

15 Q. Thank you.

16 You mentioned the National Commission on
17 Energy Policy study that was relied on by AMP. If
18 you could please turn to page 30, figure 2.

19 A. Yes.

20 Q. What's the title of this figure?

21 A. Original and Current National Commission
22 on Energy Policy Proposals.

23 Q. And where is it from?

24 A. Their website, but I confirmed it, the

1 numbers.

2 Q. And it's publicly available?

3 MR. BENTINE: Objection.

4 EXAMINER PRICE: Grounds?

5 MR. BENTINE: I didn't ask about figure

6 2.

7 EXAMINER PRICE: Response?

8 MS. JAISWAL: The response is that you
9 did ask about CO2 costs and what R.W. Beck's CO2
10 costs are, what AMP-Ohio's CO2 costs are based on.
11 One of the things that they're based on is this
12 study.

13 EXAMINER PRICE: We'll give the NRDC a
14 little leeway here.

15 Please proceed.

16 Q. (By Ms. Jaiswal) Can you please describe
17 this figure?

18 A. It compares the National Commission on
19 Energy Policy proposal with what the total CO2
20 emissions would have been under that proposal, which
21 is the bluish line that runs horizontally along the
22 8,000 million metric ton level to the new proposal,
23 which is green, which is declining so that the
24 National Commission decided by April of 2007 that

1 more significant reductions in CO2 emissions were
2 required than they had allowed for in their December
3 2004 proposal.

4 Q. So how does this figure, how do the new
5 NCEP numbers alter AMP's carbon cost forecasts
6 assuming all is equal?

7 A. It didn't.

8 MR. BENTINE: Could I have that question
9 reread, please?

10 (Question read.)

11 MR. BENTINE: I object.

12 EXAMINER PRICE: Grounds?

13 MR. BENTINE: There's no foundation that
14 these numbers altered AMP-O's forecast.

15 EXAMINER PRICE: Sustained.

16 MS. JAISWAL: It's a hypothetical
17 question, your Honor.

18 EXAMINER PRICE: You didn't state it that
19 way. Rephrase the hypothetical.

20 MS. JAISWAL: Yes, it is a hypothetical
21 question. Assuming all things are equal.

22 Q. (By Ms. Jaiswal) So assuming that all
23 things are equal, how would the new NCEP numbers
24 alter AMP's carbon cost forecasts?

1 MR. BENTINE: I still object.

2 EXAMINER PRICE: I'm going to defer
3 ruling on that. We'll come back to that after I hear
4 the answer.

5 A. I don't know, that's a question for them.
6 I didn't prepare their forecasts. I don't know what
7 numbers -- how they would take it into consideration,
8 you really need to ask them that question.

9 Q. Do you think it would increase or
10 decrease the numbers?

11 A. I have no idea. It's really a question
12 for them. It certainly would tell me that my numbers
13 were too low, but you need to ask them how it will
14 affect them.

15 Q. And do you know if, based on the
16 documents you have received, if AMP-Ohio has looked
17 at the new NCEP numbers?

18 A. I saw some documents recently, I don't
19 recall whether they have or not.

20 EXAMINER BOJKO: You saw a document? You
21 saw what documents?

22 THE WITNESS: I saw some documents that
23 the company provided of their assessment of bills in
24 Congress, and some of those may have discussed the

1 new National Commission on Energy -- NCEP proposal
2 because it's been memorialized in the Bingaman and
3 Specter bill. So to be completely honest, I may have
4 reviewed it as a second step, but I don't recall
5 whether it was in there.

6 EXAMINER PRICE: Just for the record, I'm
7 going to overrule Mr. Bentine's previous objection.
8 I'm sorry, I'll speak up, Mr. Bentine.

9 MR. BENTINE: The blower's on, I'm sorry.

10 EXAMINER PRICE: I understand.

11 Q. (By Ms. Jaiswal) Would you please explain
12 your view concerning AMP's analysis and use of a
13 single carbon cost scenario?

14 A. Well, I think if you look at figure 4 on
15 page 41 of my testimony, you'll see that their number
16 is fairly low. These are the two -- there are two
17 lines there for AMP-Ohio, one is from the power
18 supply studies that they prepared in February of
19 2007, the other is from the initial project
20 feasibility study from June of 2007.

21 You'll see there that their number is low
22 and doesn't increase at any rate faster than the rate
23 of inflation, and that we believe that that's not
24 reasonable considering the proposals that are

1 currently before Congress.

2 Q. I'm going to get back to that table, but
3 before I do I have a quick question. If you could go
4 to your page 37, table 4. What is your carbon price
5 forecast?

6 A. I'm sorry, our carbon price forecasts are
7 as in figure 3 in terms of constant 2005 dollars,
8 that's the same forecast that's in table 4, but
9 that's levelized. It's presenting the same forecast
10 in a different format.

11 Q. So what are the numbers that you present
12 here in table 4?

13 A. It's --

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

15 EXAMINER PRICE: Grounds?

16 MR. BENTINE: I don't know what this has
17 to do with my cross. This is more direct, it's not
18 redirect.

19 EXAMINER PRICE: Well, you had a lot of
20 questions for him on figure 3. Figure 4 is simply,
21 as I understand it, a different way of portraying the
22 same underlying data as figure 3 -- table 4 is a
23 different --

24 MR. BENTINE: I'll withdraw my objection.

1 EXAMINER PRICE: Thank you.

2 Q. So you use a low, mid case, and high case
3 levelized carbon price forecast.

4 MR. BENTINE: Objection.

5 EXAMINER PRICE: Grounds?

6 MR. BENTINE: Leading.

7 EXAMINER PRICE: Sustained.

8 Q. And on page 41, back to 41 --

9 A. Yes.

10 Q. -- how does 41 relate to these costs on
11 table 4?

12 A. It's presenting the Synapse forecast in a
13 different format. The forecast -- the three dashed
14 lines in the Synapse forecast are in 2005 dollars
15 which means the effective inflation has been taken
16 out. They're increasing. The levelized takes the
17 stream of increasing costs and then figures out what
18 levelized costs would produce the same present value;
19 that's the technique. It's a way for comparing
20 streams of costs over periods of time.

21 It just presents the same forecast in a
22 different format.

23 Q. So why did you use a high, medium, and
24 low scenario?

1 A. Because there's a wide range of
2 uncertainty and risk related to CO2 costs and we
3 believe that, given the great uncertainty, you look
4 at a wide range of costs.

5 Q. So do you recall AMP's counsel,
6 Mr. Bentine, asking you about "The Future of Coal"
7 study?

8 A. Yes.

9 Q. And I'd like to introduce the full study.
10 I know that Mr. Bentine has included part of it. We
11 would like to include this as Citizen Groups' 7.

12 MR. BENTINE: Is that a black and white
13 copy?

14 MS. JAISWAL: Yes.

15 EXAMINER PRICE: So marked as No. 7.

16 (EXHIBIT MARKED FOR IDENTIFICATION.)

17 MS. JAISWAL: So "The Future of Coal" is
18 Citizen Groups' Exhibit 7.

19 EXAMINER BOJKO: Are you stating that is
20 the entire document where the AMP-O exhibit was a
21 partial document?

22 MS. JAISWAL: Yes, your Honor.

23 EXAMINER PRICE: And this is the entire
24 document, not excerpts.

1 MS. JAISWAL: It is the entire document.

2 EXAMINER PRICE: Thank you.

3 MR. BENTINE: Your Honor, let me save
4 some time here. I'm going to object to the
5 introduction of this in not a colored copy. There
6 are a number of charts in this that in order to tell
7 what this is, you have to be able to see it in color.

8 MS. JAISWAL: We're happy to provide a
9 color copy. Because of the timing we weren't able to
10 make color copies. We're happy to provide that to
11 Mr. Bentine and to the court, but we don't have --

12 EXAMINER PRICE: You can file a color as
13 a late-filed exhibit.

14 MS. JAISWAL: When we file them -- sure.
15 Yes.

16 EXAMINER PRICE: Does that suit you?

17 MR. BENTINE: Yes, your Honor.

18 EXAMINER PRICE: Thank you.

19 MS. MALONE: And provide color to the
20 parties at that time.

21 MS. JAISWAL: Certainly.

22 EXAMINER PRICE: Tomorrow?

23 MS. JAISWAL: Tomorrow, yes. Well,
24 they'll be FedEx'd tomorrow. Depending on how late

1 we get out of here so I can notify our offices.

2 EXAMINER PRICE: Won't even be a
3 late-filed exhibit. We'll replace it. We'll reserve
4 7A for the color version.

5 MS. JAISWAL: Okay.

6 MR. BENTINE: Would the Bench care for a
7 color copy while we go through this?

8 EXAMINER PRICE: That would be great.

9 MS. JAISWAL: May I approach?

10 EXAMINER PRICE: Yes.

11 MS. JAISWAL: I'm sorry that we weren't
12 able to provide color copies.

13 (Discussion held off the record.)

14 EXAMINER PRICE: Back on the record.

15 MS. JAISWAL: Just some foundational
16 questions.

17 Q. (By Ms. Jaiswal) Mr. Schlissel, do you
18 recognize this document?

19 A. Yes.

20 Q. What is it titled?

21 A. "The Future of Coal" an interdisciplinary
22 MIT study.

23 Q. Where is it from?

24 A. MIT.

1 Q. Did you use it as a basis for your
2 opinion?

3 A. Yes.

4 Q. Is this document publicly available?

5 A. Yes.

6 Q. Has it been published?

7 A. Yes.

8 Q. If you could please turn to page 9.

9 A. Yes.

10 MR. BENTINE: Is that Roman numeral ix or
11 9, 9?

12 MS. JAISWAL: Nine. Arabic No. 9.

13 Q. While we're on this page, do you recall
14 reading from this page yesterday when Mr. Bentine
15 presented this to you?

16 A. Yes, it was in the excerpts that
17 Mr. Bentine provided to me. He asked me about the
18 middle paragraph.

19 Q. Yes. And do you recall him asking you
20 about the numbers in 1997 dollars?

21 A. He asked me about the numbers and I
22 pointed out that they were in 1997 dollars.

23 Q. Great. And can you identify where that
24 is in this paragraph and just read that line for the

1 record?

2 A. It's about the eighth line down, sentence
3 begins "The two policy cases, a Low and a High CO2
4 price path, are shown in Figure 2.2, with the CO2
5 penalty stated in terms of 1997 U.S. dollars per ton
6 of CO2."

7 Q. Thank you.

8 Can you please look at figure 2.2 on page
9 9?

10 A. That's the figure they're referring to.

11 Q. What does figure 2.2 show?

12 A. The MIT CO2 paths.

13 Q. Thank you.

14 MS. JAISWAL: One moment, your Honor.

15 Thank you, your Honor. I'd like to mark
16 Citizen Groups' Exhibit 8 for identification, and we
17 are providing a copy of this exhibit. Unfortunately,
18 for this copy as well we do not have a color version,
19 however, the lines are distinguishable by the various
20 dashes and gradations of gray and we will refer to
21 them that way.

22 EXAMINER BOJKO: What is being marked for
23 identification purposes?

24 MS. JAISWAL: It is Exhibit 8.

1 EXAMINER BOJKO: No. No. What is the
2 document?

3 MS. JAISWAL: I will lay the foundation,
4 unless you want me to answer. I was going to have
5 Mr. Schlissel lay the foundation.

6 EXAMINER PRICE: Mr. Schlissel can take
7 care of it.

8 MS. JAISWAL: May I approach?

9 EXAMINER PRICE: Yes.

10 (EXHIBIT MARKED FOR IDENTIFICATION.)

11 Q. (By Ms. Jaiswal) Mr. Schlissel, do you
12 recognize this document?

13 A. Yes; I prepared it.

14 Q. What is the title of this document?

15 A. Synapse & MIT CO2 Price Scenarios.

16 Q. And where is it from again?

17 A. Yesterday Mr. Bentine asked me a question
18 about this paragraph and I said that, in fact, I had
19 compared the MIT forecast with our Synapse forecast
20 and that, indeed, they were very, very close if not
21 almost similar, and that in past testimonies I
22 actually included a graph that compared the two. So
23 last night I basically copied a graph that I prepared
24 months ago, prepared by myself, verified the numbers

1 by myself, and copied it to this page.

2 Q. Can you tell us what this shows?

3 A. This shows the MIT price forecasts, and
4 if you look at figure 2.2 on page 9 of the MIT
5 "Future of Coal" study, you'll see that the forecasts
6 for MIT, the solid lines are essentially the same, or
7 they should be the same, they're just in different
8 years' dollars, and I superimposed that on top of the
9 Synapse low, middle, and high forecast.

10 EXAMINER PRICE: Did you correct from the
11 1997 dollars to the 2000 --

12 THE WITNESS: Yes, sir.

13 EXAMINER PRICE: You personally did.

14 THE WITNESS: I personally changed it
15 from 1997 and 2005 dollars at a 2.5 percent rate of
16 inflation. I inflated it, increased it that amount
17 per year.

18 EXAMINER PRICE: Thank you.

19 EXAMINER BOJKO: And so am I right that
20 this is basically a combination with, obviously, the
21 change in dollar years, the reference point for
22 dollars, it's a combination of figure 2.2 on page 9
23 of the MIT study with your figure 4 on page 41 of
24 your testimony?

1 THE WITNESS: Close, but figure 3 on page
2 37 because I do not have the AMP-Ohio numbers in
3 there. But if you look at figure 3 on page 37 of my
4 study, you'll see that it's -- they're put together.
5 A composite; that's the word.

6 MS. JAISWAL: Anything further, your
7 Honor?

8 EXAMINER BOJKO: No. Thank you.

9 EXAMINER PRICE: No.

10 Q. (By Ms. Jaiswal) Do you recall
11 Mr. Bentine asking you about page 45, figures 5 and
12 6?

13 A. Yes, I do.

14 Q. What did you rely on in forming -- first,
15 if you could please explain what these figures show.
16 You can start with 5 and then go to 6.

17 A. Figures 5 and -- I can describe them both
18 at the same time. They compare --

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

20 EXAMINER PRICE: Grounds?

21 MR. BENTINE: My only question on this
22 was whether or not, on both this figure and figure 6,
23 were whether or not they included all the data points
24 from figure 3. That was my only question on this.

1 EXAMINER PRICE: Sustained.

2 MS. JAISWAL: Can you please read that
3 back, Mr. Bentine's statement?

4 (Question read.)

5 Q. How did you answer that question,
6 Mr. Schlissel?

7 A. I said "No, they didn't."

8 Q. And why?

9 A. The reason is that if you look at page
10 37, page 37 presents the forecast as we developed it
11 in 2006. We developed the forecast based on a series
12 of studies that were done in 2003, '4, '5, and '6
13 looking at the impact of bills that were submitted to
14 Congress in 2003, '4, '5, and '6, but as I'm sure we
15 all remember from high school civics, when Congress
16 goes out of session, the bill dies, so those bills no
17 longer exist.

18 When I prepared figure 5 and figure 6, I
19 compared the Synapse forecast and the AMP-Ohio
20 forecast to the studies of the bills in the current
21 U.S. Congress; that's the relevant comparison today.

22 Q. And what did you rely on in preparing
23 figures 5 and 6?

24 A. The proposals in Congress today. If you

1 look at my table 1 --

2 Q. Your table 1 on page --

3 A. -- you'll see --

4 Q. -- 21.

5 A. Yes. You'll see the bills that are
6 currently in Congress, and there have been studies of
7 those bills and the impact of those bills by the EPA,
8 the EIA, and by MIT. And there's also the safety
9 valve in the new Bingaman-Specter bill with is the
10 updated NCEP proposal we discussed earlier.

11 Q. If I could go to page 22 --

12 EXAMINER PRICE: Are we done with "The
13 Future of Coal"?

14 MS. JAISWAL: Yes. Did you have further
15 questions, your Honor?

16 EXAMINER PRICE: No. No. Not at this
17 time.

18 MS. JAISWAL: Page 9 had not been
19 introduced. And we produced the whole thing based on
20 the rules of completion, having a complete exhibit.

21 EXAMINER PRICE: Thank you.

22 Q. (By Ms. Jaiswal) What does figure 1 on
23 page 22 show?

24 A. The emission reductions required under

1 the climate change bills in the current U.S.
2 Congress.

3 MS. JAISWAL: And, your Honor, I would
4 like to -- maybe I could get some guidance, your
5 Honors, in the best way to handle this. We would
6 like to make an offer of proof. We understand that
7 lines 7 through 9, for those lines that you have
8 granted Mr. Bentine's motion to strike those lines --

9 MS. MALONE: Could you clarify what page
10 we're on?

11 MS. JAISWAL: I'm sorry. Page 22.

12 EXAMINER PRICE: Okay.

13 MS. JAISWAL: Since the motion to strike
14 has been granted, we would like to make an offer of
15 proof.

16 EXAMINER PRICE: But the offer of proof
17 would be lines 7, 8, and 9 which are in the record
18 for all to see.

19 MS. JAISWAL: I wanted to add some
20 foundational questions and then we can make an offer
21 of proof through our -- and you can decide not to --

22 EXAMINER PRICE: Mr. Bentine.

23 MS. JAISWAL: -- not to include it once
24 he's testified.

1 MR. BENTINE: Well, your Honor, I
2 understand why they may want to add something to a
3 proffer in this case, but the fact is it should have
4 been supported when it was originally put in here,
5 and to try to come back and firm up something without
6 foundation now that was stricken I think is
7 inappropriate on an offer of proof. I think, as the
8 Bench has noted, that testimony's there, they can
9 raise whatever objections they want with regard to
10 that, but to come back and try to bootstrap it in now
11 with further, quote, offers of proof I think is
12 inappropriate.

13 EXAMINER PRICE: Is the nature of your
14 offer of proof further reasons why he's an expert in
15 this field?

16 MS. JAISWAL: Yes, your Honor, because
17 this was brought up during the cross-examination of
18 Mr. Schlissel and we did not have the opportunity to
19 do live direct testimony and so we are proffering his
20 expertise. I can include this, Mr. Bentine also
21 asked questions about Mr. Schlissel's expertise
22 during cross-examination and I can ask them under
23 that basis as well.

24 EXAMINER PRICE: Well, I will accept that

1 Mr. Bentine did ask him whether or not he was a
2 climatologist or had any experience, so we will give
3 you some leeway at least as to his experience.

4 MS. JAISWAL: Thank you.

5 Q. (By Ms. Jaiswal) Mr. Schlissel, have you
6 been qualified as an expert before?

7 A. Yes.

8 Q. Have statements like the statements
9 you've made on page 22, lines 7 through 9, have they
10 been made before other boards and commissions?

11 MR. BENTINE: Objection.

12 MS. MALONE: Objection.

13 EXAMINER PRICE: Sustained.

14 Q. What is your expertise to testify on the
15 matters on lines 7 through 9?

16 MR. BENTINE: Objection.

17 EXAMINER PRICE: We're going to allow it
18 and give her a little bit of leeway. You did ask him
19 whether or not he was a climatologist and whether
20 this was within the scope of his expertise.

21 A. As I said before to Mr. Bentine, I'm not
22 a climatologist, I didn't study environmental
23 science. When I went to school, they didn't even
24 have environmental science. I studied science and

1 engineering. I've worked in the field of energy and
2 the environment for 34 years. I've reviewed
3 published scientific treatises. More importantly,
4 this statement is not backed -- is not based on
5 science. This is based on a review of the political
6 situation --

7 Q. What about --

8 A. -- the summary statement that the people
9 who are supporting the bills believe that reductions
10 of 60 to 80 percent in current emissions are required
11 to stabilize the environment.

12 EXAMINER PRICE: Mr. Schlissel, you're
13 saying that that's not a technical judgment, that's a
14 political judgment?

15 THE WITNESS: No; it's both. I'm not
16 testifying -- if I might finish.

17 EXAMINER PRICE: One second, let's let
18 Mr. Bentine make his objections.

19 MR. BENTINE: Well, I'm about to swallow
20 my tongue here. I don't think that asking this
21 witness his qualifications to allow him to restate
22 what has already been stricken is appropriate and I
23 move to strike his statement. He just basically put
24 this back in the record in an attempt to qualify

1 himself, and I think that's --

2 EXAMINER PRICE: We're going to sustain
3 that objection and strike those statements.

4 Q. (By Ms. Jaiswal) Moving on.

5 Mr. Schlissel, how do your CO2 cost forecasts, CO2
6 price forecasts, compare with AMP's CO2 forecasts?

7 A. We've been over that. Page 41, figure 4
8 shows those comparisons.

9 Q. Why is it important in analyzing CO2
10 costs for the proposed plant?

11 A. Because the CO2 cost will have a major
12 impact on the relative cost of the plant versus other
13 alternatives.

14 Q. Do you recall AMP's counsel asking you
15 about Powerspan?

16 A. Yes.

17 Q. What does AMP estimate the cost of using
18 Powerspan to capture carbon to be?

19 A. I believe they're using the Powerspan
20 estimate of \$20 per ton of CO2.

21 Q. Just for the record, can you explain the
22 difference between that \$20 forecast and AMP's
23 forecast for carbon costs?

24 A. Well, the carbon cost is a projection of

1 what emission allowances will cost. The \$20 is the
2 cost of installing and operating the technology to
3 capture CO2.

4 Q. Have you assessed AMP's \$20-per-ton cost
5 for Powerspan carbon capture?

6 A. I've looked at it, yes.

7 Q. What is your assessment?

8 A. My assessment is it's very low and it's
9 untested.

10 MS. JAISWAL: I would like to mark this
11 as Citizen Groups' Exhibit 9.

12 EXAMINER BOJKO: Mark this? What's
13 "this"?

14 EXAMINER PRICE: So marked.

15 MS. JAISWAL: This document, sorry.

16 EXAMINER BOJKO: Does the document have a
17 title?

18 MS. JAISWAL: Yes, I was going to use it
19 with Mr. Schlissel, but I'm happy -- it's Cost and
20 Performance Baseline for Fossil Energy Plants.

21 May I approach?

22 EXAMINER PRICE: You may.

23 (EXHIBIT MARKED FOR IDENTIFICATION.)

24 MR. BENTINE: Again, your Honor, this

1 document is a document in which there is a number of
2 charts, I believe, as I recall, that may or may not
3 come out in color.

4 EXAMINER PRICE: Well, let's see how
5 we're going to use this. If there are any that did
6 not come out well in black and white, then we will
7 ask them at that point to supplement the record.

8 MR. BENTINE: But I will have some
9 cross-examination on this and it very well may go to
10 needing color copies.

11 EXAMINER PRICE: I understand.

12 Q. (By Ms. Jaiswal) Some foundational
13 questions. Mr. Schlissel, do you recognize this
14 document?

15 A. Yes.

16 Q. What is the title of this document?

17 A. Cost and Performance Baseline for Fossil
18 Energy Plants.

19 Q. What is the date of this document?

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

21 EXAMINER PRICE: Grounds?

22 MR. BENTINE: If they were going to use
23 this, they should have used it as part of his direct
24 testimony.

1 EXAMINER PRICE: I would like to know how
2 this relates to cross-examination.

3 MS. JAISWAL: This relates to
4 cross-examination because yesterday, or I can do it
5 through the form of questions. I was going to do
6 it -- yesterday Mr. Bentine asked Mr. Schlissel about
7 the increase of the cost of energy and his numbers
8 and what they matched up to, and whether it was
9 consistent with other numbers. Specifically,
10 Mr. Bentine asked about the 2005 NETL study, and
11 Mr. Schlissel answered that that study --

12 MR. BENTINE: I'll withdraw the objection
13 on that basis.

14 EXAMINER PRICE: Thank you.

15 MS. JAISWAL: May I continue?

16 EXAMINER PRICE: You may.

17 MS. JAISWAL: Thank you.

18 Q. (By Ms. Jaiswal) I think I was in the
19 middle of laying just the foundation for this
20 document. What is the date of this document?

21 A. May of 2007 and revised in August of this
22 year.

23 Q. Thank you.

24 And the underlying -- is there an

1 underlying study that this goes with?

2 A. Yes. A very thick document.

3 Q. Thank you.

4 MS. JAISWAL: And, your Honors, I have
5 the document here should counsel or the court like to
6 review it.

7 Q. If you could, please, turn to page 27.

8 EXAMINER BOJKO: Are you asking us to
9 take administrative notice of that document?

10 EXAMINER PRICE: She stated it's
11 available if we want -- counsel wants to review it.

12 Please proceed.

13 Q. If you could please turn to page 27,
14 Mr. Schlissel.

15 A. I'm there.

16 Q. What does this page show?

17 A. This page compares the cost of generating
18 power at three different types of power plants with
19 and without carbon capture, and it shows several
20 things. For the two pulverized coal alternatives,
21 subcritical and supercritical, the next-to-last row
22 indicates an increase in cost of generating
23 electricity of 85 percent for the subcritical plant
24 and 81 percent for the supercritical.

1 Mr. Bentine had asked me about the basis
2 for some of my numbers. I included a range of 68 to
3 80 percent, and looking at this, my 80 percent was
4 obviously a little bit low, but this was for the high
5 end of my range of the impact of installing carbon
6 capture and sequestration equipment on the cost of
7 operating a pulverized coal plant.

8 Q. So the May 15th, 2007, NETL study is
9 consistent with your numbers.

10 A. Yes. It was the basis for my numbers.

11 MS. JAISWAL: I'd like to mark Citizen
12 Groups' Exhibit 10 for identification.

13 EXAMINER PRICE: Could I ask you a
14 question just for my own knowledge here? You're
15 marking -- you marked, for example, the MIT study
16 "The Future of Coal" and it seems to be about 168
17 pages, and you marked the entire exhibit and you
18 referenced one page. Is your intent to move the
19 admission of the entire exhibit based on that one
20 page or are you planning on moving just the excerpts?
21 And the same thing applies to this one too?

22 MS. JAISWAL: Your Honor, I am happy to
23 follow whatever rules you would like to set for
24 including exhibits. The practice that I understand

1 is followed in Ohio is the rule of completion, that
2 when exhibits are admitted within courts, they have
3 to be complete. I was just trying to abide by that.
4 I'm happy to do that and certainly we will do that.

5 EXAMINER PRICE: I'm not saying we
6 should, I'm just raising this as an issue because
7 this is an awful lot of information coming into the
8 record on redirect at this point, and I think
9 Mr. Bentine might have some concerns about the amount
10 of stuff, but again, Mr. Bentine says he plans to use
11 the NETL studies.

12 MR. BENTINE: I'm certainly going to
13 cross on that, but I would agree with the MIT study,
14 your Honor. There is a tremendous amount of
15 information in that study, and as your Honors
16 probably already know, some of it can be used one way
17 and others may be used another way, and I think
18 limiting some of these exhibits to that which is
19 discussed may be appropriate.

20 I certainly don't have any problem with
21 putting the whole thing in, but I think all our jobs
22 may be easier if in the circumstances where at least
23 we can agree, that only portions of these big
24 documents come in, we may be all better off.

1 EXAMINER PRICE: We'll take that up when
2 we do the actual exhibits. Thank you.

3 MS. JAISWAL: This is a confidential
4 exhibit or it's marked as confidential.

5 EXAMINER PRICE: Anybody who is currently
6 in the room who is not a part to the confidential
7 agreement -- thank you, sir.

8 Let's go on the confidential portion of
9 the transcript.

10 (CONFIDENTIAL PORTION EXCERPTED.)

11

12

13

14

15

16

17

18

19

20

21

22

23

24