

1 BEFORE THE POLLUTION CONTROL BOARD
2 OF THE STATE OF ILLINOIS

3 IN THE MATTER OF:)
4 NATURAL GAS-FIRED, PEAK-LOAD) R01-10
5 ELECTRICAL POWER GENERATING.)
6 FACILITIES (Peaker Plants).)

7 TRANSCRIPT OF PROCEEDINGS had at the
8 hearing held in the above-entitled matter, taken
9 before AMY JACKSON, Hearing Officer, at 19351 West
10 Washington Street, Grayslake, Illinois, on the
11 21st day of September, 2000, at the hour of
12 3:00 p.m.

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1 PRESENT:

2 HEARING TAKEN BEFORE:

3 ILLINOIS POLLUTION CONTROL BOARD
4 BY: MS. AMY JACKSON, HEARING OFFICER
5 100 West Randolph Street
6 Chicago, Illinois 60601
7 (312) 814-3629.

8 ILLINOIS POLLUTION CONTROL BOARD MEMBERS PRESENT:

9 Ms. Claire Manning, Chairman
10 Mr. G. Tanner Girard
11 Mr. Nicholas Melas
12 Ms. Elena Kezelis
13 Dr. Ronald Flemal
14 Ms. Marili McFawn
15 Mr. Samuel Lawton, Jr.
16 Mr. Anad Rao

17 MEMBERS OF THE ILLINOIS ENVIRONMENTAL
18 PROTECTION AGENCY AS WELL AS OTHER INTERESTED
19 ENTITIES AND AUDIENCE MEMBERS WERE PRESENT AT
20 THE HEARING, BUT NOT LISTED ON THIS APPEARANCE
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1 HEARING OFFICER JACKSON: Good afternoon,
2 everyone. On behalf of the Illinois Pollution
3 Control Board, let me welcome you all to this

4 public hearing that the Board is holding in order
5 to examine a potential environmental impact of
6 natural gas-fired peak-load electrical power
7 generating facilities commonly referred to as
8 peaker plants.

9 My name is Amy Jackson. I am the
10 attorney assistant for Board Member Elena Kezelis.
11 And at the request of Board Chairman, Claire
12 Manning, I am acting as the hearing officer for
13 these proceedings.

14 I want to welcome the entire board to
15 this proceeding. We are pleased to have them all
16 here today. And I would like to take just a
17 moment to introduce the individual board members
18 to you.

19 To my immediate left is Board Chairman
20 Claire Manning.

21 CHAIRPERSON MANNING: Good afternoon.

22 HEARING OFFICER JACKSON: And we have
23 Dr. Tanner Girard.

24 MR. GIRARD: Good afternoon.

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1 HEARING OFFICER JACKSON: And down at the end
2 of the table is Anand Rao. He is head of the
3 Board's technical unit.

4 To my right is Board Member Elena
5 Kezelis.

6 MS. KEZELIS: Good afternoon.

7 HEARING OFFICER JACKSON: Dr. Ronald Flemal.
8 Marili McFawn.

9 MS. McFAWN: Welcome.

10 HEARING OFFICER JACKSON: Samuel Lawton,
11 Junior. Nicholas Melas is present. He is just
12 away from the room at the moment, but he will be
13 joining us. He is here.

14 Before I continue with some procedure
15 matters related to this hearing, I want to
16 introduce again Board Chairman Clare Manning and
17 invite her to make some introductory remarks to
18 you. Chairman Manning?

19 CHAIRPERSON MANNING: Thank you, Amy.
20 Basically I would just like to welcome you as well
21 to this, which is our fifth day of hearing in this
22 very important matter that the Governor has
23 entrusted us with, in looking at the environmental
24 impacts of the peaker plants throughout the state

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1 of Illinois.

2 Thank you for hosting us, the College
3 of Lake County, and all of the elected officials
4 that are here today, Senator Link, members of the
5 Lake County Board. We welcome you. We welcome
6 the participation of government and elected office
7 holders as well as citizens of the state of
8 Illinois, members of government and members of

9 industry.

10 As many of you know, we had our first
11 two hearings in Chicago. The first day we heard
12 from Tom Skinner, the director of the EPA, and
13 various members of other state agencies. The
14 second day of hearing, we heard from the industry
15 itself. And the last -- the next three days of
16 hearings were scheduled within the collar counties
17 in the northern area here of Illinois.

18 So this is our third and last scheduled
19 suburban hearing. We have two more hearings
20 scheduled in Springfield, October 5th and 6th, for
21 those of you who are you willing or anxious to
22 join us. We are more than happy to have you.

23 The point here is we want information
24 relevant to the peaker plant situation for anybody

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1 who is interested in giving us that information.

2 For those of you that don't know us and
3 haven't been part of our proceedings before, let
4 me just take a little bit of time to explain the
5 Illinois Pollution Control Board. We are,
6 obviously, a board of seven independent
7 gubernatorial members, each of us serving a
8 full-time job, and each of us qualified for that
9 position. Many of us have either laws degrees,
10 science degrees, and some of us have spent a lot
11 of time in government with a lot of different

12 kinds of issues.

13 That being said, understand that we are
14 taking this job that the governor has entrusted
15 with us very seriously. And our point here today
16 is actually to have this inquiry hearing, which is
17 going to focus on the questions asked by the
18 Governor and asked that we answer.

19 Those questions are the following.
20 Governor Ryan in his letter specifically asked
21 that we address the following issues. Number one,
22 do peaker plants need to be regulated more
23 strictly than Illinois current air quality
24 statutes or regulations provide? Number two, do

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1 peaker plants pose a unique threat or a greater
2 threat than other types of state regulated
3 facilities with respect to air pollution, noise
4 pollution, or ground water or surface water
5 pollution? Number three, should new or expanding
6 peaker plants be subject to siting requirements
7 beyond applicable local zoning requirements?
8 Number four, if the Board determines
9 that peaker plants should be more strictly
10 regulated or restricted, should additional
11 regulations or restrictions apply to currently
12 permitted facilities or only to new facilities and
13 expansions. And his final question is how do

14 other states regulate or restrict peaker plants?

15 As I said, we have already gotten a lot
16 of information, a lot of testimony from various
17 different entities regarding these questions. We
18 welcome for the next three days of hearing further
19 information on all of these questions. We can
20 assure you that we will do the very best job we
21 can in analyzing all of the information we get on
22 the record and issuing what we call an information
23 order. That is what we will do at the conclusion
24 of this process.

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1 The order will analyze all the
2 information presented in light of the issue areas
3 asked us by the Governor. And very importantly,
4 as the Governor requested, the order will set
5 forth the Board's recommendations on whether
6 further state environmental regulation or
7 legislation is necessary to adequately protect the
8 environment for the citizens of Illinois.

9 With those basic comments, I would like
10 to turn the program, the hearing back to our
11 hearing officer in her capable hands. Understand
12 we do have a lot of procedural requirements.
13 Those requirements are really necessary to ensure
14 that we operate in a very fair manner for everyone
15 and that we get through our process and everyone
16 is allowed to speak and say what they need to say.

17 So I will leave it now with the very
18 capable hands of Hearing Officer Jackson.

19 HEARING OFFICER JACKSON: Thank you Chairman
20 Manning.

21 Those of you who have been following
22 this process, first of all, if you have been to
23 all of the other hearings, you are probably very
24 tired of hearing these opening remarks that I have

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1 to make. They haven't varied much from hearing to
2 hearing. But for the benefit of those who are
3 new, this may be your first hearing that you have
4 attended, I will go through these matters once
5 again.

6 As Chairman Manning mentioned, we have
7 already conducted two days of hearings in downtown
8 Chicago and two other hearings in the collar
9 counties, the first being in Naperville on
10 September 7th and the second, last week, in Joliet
11 on September 14th.

12 To assist you in keeping track of all
13 of these proceedings, we are putting all
14 information related to the peaker hearings on our
15 -- on the Board's website. All prefiled
16 testimony, all written public comments, hearing
17 transcripts, board opinions and orders and hearing
18 officer orders are available for viewing and

19 downloading on the Board's website. The address
20 for the website is www.IPCB.state.il.us.

21 Hard copies of any document filed with
22 the Board in this matter may also be obtained by
23 contacting the Board's clerk in our Chicago
24 office. Her name is Dorothy Gunn. And her

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1 telephone number is area code 312-814-3620.

2 In order for the Board to gather the
3 information it needs in order to respond to the
4 Governor's specific requests, the Board has, in
5 addition to the four previous hearings, scheduled
6 today's hearing in Lake County. While there was
7 no requirement that those wishing to speak today
8 prefile their comments with the Board, interested
9 persons were encouraged to contact me in advance
10 of the hearing to sign up to speak. As a result,
11 we have a list of approximately 25 individuals who
12 will be making presentations to the Board today.

13 As I mentioned earlier, that list is
14 available on the table just outside the room to my
15 right. If you are on the list, I ask that you
16 please keep track of where we are in the process
17 and as your name -- as your turn approaches,
18 please be prepared to step forward so we can keep
19 the process moving along as quickly as possible.
20 We do have a number of people to hear from today,
21 and we want to make sure we hear all of your

22 concerns.

23 There is also a sign-in sheet on the
24 table outside the door. The sign-in sheet is for

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1 those persons who did not preregister to speak but
2 who are present and who do wish to address the
3 Board today. Please understand that if you sign
4 in on this sheet, you will be called after we
5 have addressed all of the people that have
6 preregistered to speak.

7 We have this room reserved until 9:00
8 o'clock this evening, so we will be able to call
9 names from that sign-in sheet as time permits.
10 Again, we have a number of names to get through,
11 so I will appreciate your cooperation this
12 afternoon and this evening.

13 When your name is called, please step
14 forward to the podium or if you are coming with a
15 group, we have a table set up in front. The
16 podium is the referred place to speak because we
17 have a microphone set up there.

18 If you have any documents or exhibits
19 that you would like to present to the Board,
20 please bring those with you. You need to have at
21 least one copy to leave with the court reporter so
22 she can mark it as an exhibit and leave it with
23 the Board so that we can take it back with us and

24 the Board can review it in its deliberations. If

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1 you do have extra copies, they may be passed out
2 to the Board either before or after your
3 presentation.

4 Once you have made your statement, any
5 of the Board members or Anand Rao, the Board's
6 technical unit, may wish to ask you questions
7 regarding the information you have presented. You
8 should not infer any preconceived conclusions or
9 opinions on the part of the Board based on the
10 type or number of questions they might ask
11 regarding a particular subject.

12 Questions are asked today by the Board
13 solely in an attempt to develop a complete and
14 concise record in this matter. The Board has made
15 no conclusions at this point regarding what its
16 ultimate recommendation will be. The Board will
17 not begin its deliberations in this matter until
18 all information is submitted and the record is
19 closed.

20 Because the purpose of these inquiry
21 hearings is to provide the Board with a forum for
22 receiving as much relevant information as possible
23 regarding the peaker plant issue, only the Board
24 members and the Board's technical unit will

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1 actually be questioning presenters today. This
2 is an information-gathering process, as opposed
3 to a debate of the pros or cons of the peaker
4 plants. Therefore, no cross-examination or
5 cross-questioning from audience members will be
6 allowed.

7 Having said that, let me assure you
8 that the Board is interested in what you have to
9 say. If any statements are made today that you
10 feel need to be expanded upon, clarified or even
11 questioned, we invite you to do so in one of two
12 ways. First, you may either appear before the
13 Board at today's hearing or at our final scheduled
14 hearings in October in Springfield. Second, you
15 may submit a written public comment to the Board.
16 Written public comments will be accepted by the
17 Board until November 6th of this year. The public
18 comment process is a very simple one, and it is
19 explained in a public information sheet that has
20 been prepared by Connie Newman the Board's public
21 information officer, and that sheet is available
22 on the table outside this auditorium.

23 As you can see, we do have a court
24 reporter present today, and she will be

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1 transcribing everything that is said. The
2 transcript from today's proceeding as all other

3 transcripts will be available on the Board's
4 website. We have requested an expedited
5 transcript, so it should be available on our
6 website by this time next week.

7 When you are addressing the Board
8 today, please try to keep your voices up, speak
9 clearly and slowly, particularly if you have a
10 prepared statement that you are reading from. It
11 is imperative that the court reporter be able to
12 understand everything that you have to say so all
13 of your testimony is taken down accurately for the
14 Board to review later.

15 One other thing I want to mention is
16 that we do have a notice list for this proceeding.
17 Those persons on the notice list will receive
18 copies of all board opinions and orders and all
19 hearing officer orders. There is no obligation
20 for those on the notice list to serve anyone else
21 on the notice list when filing your own document.
22 If you have a document to file with the Board, you
23 need only submit it to the Board's clerk's office.

24 If you are not currently on our notice

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1 list but would like to be added, please contact
2 the following individual. Her name is Kim
3 Schroeder, S-c-h-r-o-e-d-e-r. She is in our
4 Springfield office. Her telephone number is area
5 code 217-782-2633 or you can e-mail Kim at

6 schroedk, s-c-h-r-o-e-d-k, @ipcb.state.il.us.

7 As I alluded to earlier, we have two
8 additional days of hearings scheduled in
9 Springfield, Illinois, on October 5th and 6th.
10 Those hearings will commence on October 5th at
11 1:00 o'clock in the afternoon. Those hearings
12 will provide an opportunity for those interested
13 persons outside the Chicago area who may want to
14 testify in these proceedings.

15 Additionally, we hope to use these
16 final days of hearing to wrap up any questions
17 that the Board might still have before beginning
18 its deliberations.

19 Before we get started, I want to
20 emphasize again that is an information-gathering
21 process. It is not an adversarial type of
22 proceeding. I ask that everyone act
23 appropriately, as if you would in a court of law.

24 If you have any questions that I have

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1 not answered in my opening statements, please ask
2 Connie Newman. She would be glad to answer any
3 questions that you might have.

4 At this point we will get started. Our
5 first presenter today is State Senator Terry Link.
6 I invite Senator Link to come forward. Good
7 afternoon, Senator.

8 MR. LINK: Good afternoon. I have to put my
9 glasses on so I can see what I said. I would like
10 to begin by thanking the Pollution Control Board
11 for hosting these hearings. I believe it is
12 important that Illinois residents hear more about
13 peaker power plants and that the findings in these
14 hearings are used to guide Illinois as we move
15 cautiously forward on permitting these power
16 generators.

17 As many of you know, earlier this
18 summer, I led a bipartisan group of suburban
19 legislators in calling for a moratorium on
20 permitting of peaker power plants. We made this
21 call after receiving numerous questions from
22 environmental groups, local residents and numerous
23 elected officials. There remain too many
24 unanswered questions regarding these peaker use

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1 power generators, and I believe that the public
2 deserves to receive better information before we
3 issue any additional permits.

4 As I have said in the past, I am not an
5 anti-peaker plant, I am supportive of any effort
6 to improve the quality of electrical service in
7 our area. However, I want to ensure that the
8 steps taken to improve this service are clean,
9 that they do not cause undo stress for local
10 residents, and they are regulated in such a way

11 that local officials understand the rules.

12 One of my greatest concerns is that
13 even here in Lake County if we are to restrict the
14 number of peaker power plants, local residents may
15 still feel the effects of other plants throughout
16 the Chicagoland area. Currently, Lake County is
17 second only to Will County in the number of
18 peaker-use plant applications. Many of these
19 plants are located within local municipalities
20 which are often understaffed to examine each one
21 of these applications.

22 Since the effect of peaker power
23 plants, air quality, water supply, natural gas
24 supply, noise, taxes, are felt regionally, not

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1 just locally. I believe we must take a regional
2 approach in regulating the peakers. We cannot
3 have patchwork local decisions. The state needs
4 to step up in a responsibility to guide this
5 process.

6 I am open hopeful that the Pollution
7 Control Board will help guide us in this
8 direction. I look forward to working together
9 with the PCB and all of those who are here today
10 to find a solution that is acceptable for
11 everyone.

12 I want to add one other thing onto this

13 thing. I think as we look at any regional
14 approaches and with local government, either it
15 may be building codes or any other thing, the
16 state takes the leadership role in this. And I
17 think it is incumbent upon us to take --
18 especially to take the leadership role in this
19 sensitive issue, and I hope to work very closely
20 with you in the right guidance to our local
21 residents.

22 And if there are any questions, I am
23 here and if not, thank you.

24 HEARING OFFICER JACKSON: Thank you very

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1 much, Senator.

2 I do note that Senator Link provided me
3 with a copy of his testimony, and that has been
4 provided to the court reporter and will be marked
5 as Link Exhibit 1 and it will be admitted into
6 evidence record in this matter.

7 (Whereupon document so offered
8 was marked and received in
9 evidence as Link Exhibit
10 No. 1.)

11 CHAIRPERSON MANNING: Thank you, Senator.

12 HEARING OFFICER JACKSON: I checked earlier
13 and State Representative Susan Garrett is here.
14 We knew you were on your way. So if you are
15 ready, we are ready to have you and welcome.

16 CHAIRPERSON MANNING: Welcome.

17 HEARING OFFICER JACKSON: It is nice to see
18 you again.

19 CHAIRPERSON MANNING: I might add this is not
20 the first time you have appeared before the Board,
21 I think, Representative.

22 MS. GARRETT: No. And it is a pleasure to
23 work with you again. I would like to thank the
24 Illinois Pollution Control Board for holding these

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1 hearings. I really appreciate the fact that you
2 come out to Lake County too.

3 Peaker electrical generating plants
4 have been a problem in Lake County for some time.
5 With each new announcement from a power company,
6 the activity and the concerns intensify. We are
7 already a severe nonattainment area for ozone.
8 The addition of the plants here, and more
9 importantly, of so many throughout the state only
10 makes our air worse. Our aquifer is on the verge
11 of being mined. We are concerned for our
12 long-term water supply. We need to resolve this.

13 The villages struggle with how to make
14 a decision to permit a plant. Neighboring
15 villages frequently feel the impact more than the
16 host community. In my own district, Unicom had
17 proposed a 300-megawatt plant in North Chicago.

18 The Great Lakes Naval Training Center was just
19 downwind and was very concerned. Great Lakes
20 didn't even receive a notice from the IEPA about
21 the air hearing. No one had a solution for Great
22 Lakes. They were going to absorb the impacts
23 without even having a voice in the decision.

24 Unicom later downsized the project from

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1 300 megawatts to 60 megawatts and ultimately
2 didn't build it at all, so the problem resolved
3 itself. I sympathize with the other
4 municipalities which are still grappling with this
5 kind of an issue.

6 In the House of Representatives, I
7 supported Senator Link's bill calling for a
8 moratorium of these plants while these issues are
9 investigated and solutions are being implemented.
10 We have the knowledge and the technology to do it
11 right. We are wasting time, money, and our
12 efforts in these never-ending sitting fights.

13 If we can't stop the permits from being
14 issued, we must then ask the plants to conform to
15 whatever new rules are created.

16 I thank you. And on an additional
17 point, I hope you really take all of these kinds
18 of testimonies into consideration. I have a huge
19 amount of respect for your efforts and what you
20 do. Thank you very much for your time.

21 HEARING OFFICER JACKSON: Thank you very
22 much.

23 Next we have Sally Ball. She is with
24 Representative Lauren Beth Gash's office.

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1 MS. BALL: My name is Sally Ball. State
2 Representative Lauren Beth Gash had a scheduling
3 conflict and could not be here in person today.
4 She regrets her absence and ask that I read a
5 brief statement from her.

6 I would like to thank the Illinois
7 Pollution Control Board for holding these
8 hearings. I am proud to have cosponsored Senator
9 Link's bill calling for a moratorium on peak use
10 power plant permits until we have the appropriate
11 air, water and siting regulations in place.

12 Our friends and neighbors are
13 understandably worried about the impact of
14 so-called peaker plants on air quality and water
15 supplies. I believe it is incumbent upon the
16 state to act cautiously and responsibly with any
17 new technology, and peaker plants are no
18 exception.

19 It appears that the Pollution Control
20 Board is asking the right questions and is
21 genuinely interested in the outcome. I am
22 optimistic that these hearings will produce

23 specific detailed information that could be used
24 to craft appropriate rules regarding the operation

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1 of peak use power plants. Thank you.

2 CHAIRPERSON MANNING: Thank you.

3 HEARING OFFICER JACKSON: Thank you very
4 much.

5 I apologize for not mentioning this
6 earlier, but I do want to take a moment to mention
7 it now. We have a private citizens group who is
8 videotaping these proceedings, if any of the
9 presenters feel uncomfortable being videotaped,
10 please let me know and we will ensure the
11 videotape is turned off during your
12 presentation; otherwise, they will be allowed to
13 continue.

14 Tom Lynch with Libertyville Township.

15 MR. LYNCH: Thank you for coming to Lake
16 County. Libertyville Township Board passed a
17 resolution opposing the peaker plants in the
18 village exactly one year ago this week. The
19 reasons were many. A couple of reasons, there is
20 a 4,000-kid soccer complex in a large residential
21 community right in that area. We are already in
22 an ozone alert area, actually one of the ten worst
23 in the nation.

24 Yes, we need lots of new clean power

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1 and being part of a very large regional grid, why
2 can't these peaker plants be located in less
3 populated areas?

4 Actually, I happen to manage a
5 cogeneration plant, first, for a state university
6 and understand the need for clean interrupted
7 power. Thank you.

8 HEARING OFFICER JACKSON: Thank you very
9 much, Mr. Lynch. If you could, before you step
10 down, sir, could you identify -- I have indicated
11 on the list that you are a Libertyville Township
12 official.

13 MR. LYNCH: Trustee.

14 HEARING OFFICER JACKSON: Thank you.

15 CHAIRPERSON MANNING: Thank you.

16 HEARING OFFICER JACKSON: Next with the
17 village of Wadsworth, is Betty Rae Kaiser present?

18 Good afternoon, Ms, Kaiser.

19 MS. KAISER: Good afternoon. I am village
20 trustee and the village is extremely concerned
21 over Zion placing three peaker plants at our
22 border. We are so extremely concerned for our
23 people, our farms, our livestock, our water -- we
24 are all on wells -- and over the pollution. We

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1 are really asking for your help. We need your

2 help. Thank you. I have a resolution here too.

3 HEARING OFFICER JACKSON: I am sorry. Could
4 you identify what you have for the record?

5 MS. KAISER: Yes. I have a Wadsworth
6 resolution that was enacted in December.

7 HEARING OFFICER JACKSON: Okay. And you
8 would like that admitted into the record?

9 MS. KAISER: Yes, I would.

10 HEARING OFFICER JACKSON: Very good. If you
11 could just hand that to the court reporter.

12 Ms. Kaiser, is the village of Wadsworth
13 located near Zion?

14 MS. KAISER: Yes, it is. And Zion is placing
15 three peaker plants right on our border.

16 HEARING OFFICER JACKSON: Thank you. We will
17 mark that resolution as Kaiser Exhibit 1. Thank
18 you.

19 (Whereupon document so offered
20 was marked and received in
21 evidence as Kaiser Exhibit
22 No. 1.)

23 HEARING OFFICER JACKSON: Daniel Kucera.

24 MR. KUCERA: Good afternoon. I am

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1 Daniel J. Kucera, Chapman & Cutler, 111 West
2 Monroe Street, Chicago. I am appearing in these
3 proceedings on behalf of the Lake County Public
4 Water District, which is a unit of local

5 government, to provide its comments.

6 The Lake County Public Water District
7 provides a wholesale finished water supply to
8 three customers, the city of Zion, the village of
9 Winthrop Harbor and the state of Illinois for
10 Illinois Beach State Park and the North Point
11 Marina.

12 The District has no retail customers.
13 The District's source of supply is Lake Michigan.
14 The District withdraws raw water through an intake
15 and treats the water in compliance with the Safe
16 Drinking Water Act. The District's water
17 treatment facility presently has a peak-day
18 capacity of 6 million gallons.

19 The District's general offices and
20 water treatment facility are located at 500 17th
21 Street in Zion.

22 Now, the term peaker plants is a
23 misnomer because it implies an oversimplification.
24 The types of electric generating facilities being

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1 proposed throughout the state, and which are
2 raising environmental concerns for many people,
3 are both base-load plants and peak-demand plants.
4 The environmental impact issues raised by such
5 plants, including water use, differ only in
6 magnitude.

7 In addition, these plants can be both
8 simple cycle and combined cycle. Accordingly,
9 demand for water and resulting environmental
10 impact of that demand can vary according to the
11 type of plant. Clearly, a combined cycle plant,
12 which uses steam to generate a portion of its
13 electricity, can be expected to use more water
14 than a small simple-cycle plant, which uses water
15 only for cooling.

16 A witness for the Illinois State Water
17 Survey in these proceedings, Mr. Winstanley, has
18 testified that simple-cycle peaker plants can use
19 up to 2 million gallons of water per day. And
20 combined-cycle plants can use 5 million to 20
21 million gallons per day.

22 In these proceedings and in the minds
23 of the general public, the term peaker plant is
24 used interchangeably to describe all kinds of

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1 electric generation plants currently being
2 proposed. They are all a product of electric
3 deregulation. Therefore, in these proceedings,
4 the term peaker plant should not be interpreted or
5 limited to mean only plants which intermittently
6 operate during peak demand periods.

7 Presently with very limited exception,
8 there is no permitting process or regulatory
9 oversight over the uses of water by peaker plants.

10 Witnesses for IEPA in these proceedings have
11 acknowledge that IEPA currently has no
12 jurisdictional responsibility over peaker plant
13 water use.

14 A public water supply providing Lake
15 Michigan water to a peaker plant would have to
16 have a sufficient allocation from the Department
17 of Natural Resources to enable it to supply peaker
18 plant demand.

19 The Illinois Water Use Act of 1983, 525
20 ILCS 45/1 et seq. was cited by one of the IEPA
21 witnesses in this proceeding. Section 5 of the
22 Act does provide that a land owner who proposes a
23 new well expected to withdraw over 100,000 gallons
24 per day must notify the local soil and water

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1 conservation district. The district is then to
2 notify other units of local government whose water
3 systems may be impacted. And the district is to
4 review the impact and make findings. However,
5 the statute provides no enforcement mechanism.

6 Moreover, this provision does not even
7 apply to the region governed by diversion and
8 allocation of Lake Michigan water under 615 ILCS
9 50/1 et seq.

10 The Water Use Act states that the rule
11 of reasonable use does apply to ground water

12 withdrawals, but it does not provide supporting,
13 permitting or regulation.

14 As to the need for permitting and
15 regulator oversight, I would first address Lake
16 Michigan water. Lake Michigan is a valuable and
17 limited domestic water supply resource. It is
18 valuable because in northern Illinois lake water
19 is perceived to be superior to ground water.

20 Aquifers in the region commonly contain
21 high levels of iron, manganese and other
22 constituents which raise esthetic issues and which
23 can require costly treatment facilities. Deep
24 wells often contain high radium or alpha-particle

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1 contents.

2 Further, in portions of northern
3 Illinois, water levels in the aquifers have
4 diminished and some deep wells have been mined
5 into salt water.

6 Obviously, there is a great demand for
7 lake water to provide the domestic water supply
8 for as many communities as possible. However,
9 Lake Michigan water is a limited resource because
10 of legal limits on how much water Illinois may
11 withdraw. Accordingly, the use of Lake Michigan
12 water by peaker plants for cooling, steam
13 production or even as backup to ground water for
14 these uses should be limited or even prohibited.

15 As to ground water, because peaker
16 plants can be heavy users of ground water, upwards
17 of several million gallons per day, there should
18 be regulatory oversight over such uses. In
19 particular, the potential effects upon aquifers
20 and ground water domestic water supplies should be
21 evaluated as part of the permitting and regulatory
22 process. Mr. Winstanley has well stated the
23 issues in his testimony in this proceeding.

24 It is also important to point out that

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1 the ground water is a limited resource in certain
2 portions of the state. For example, in parts of
3 central Illinois ground water is extremely
4 limited, even for domestic water supplies and, of
5 course, aquifers in northern Illinois have been
6 subject to diminishment.

7 Finally, other surface water, needless
8 to say where a peaker plant may withdraw water
9 from a stream or inland lake, the impact of such
10 withdrawal also could be evaluated. For example,
11 it could reduce the resource value of the water
12 body for domestic water supply, aquatic life or
13 recreation.

14 There are now some additional water
15 issues that I would like to bring to your
16 attention, one of them is decommissioning. Most,

17 if not all, electric generating facilities
18 currently being proposed in Illinois are fueled by
19 natural gas. Some also have auxiliary fueled by
20 oil. These plants, if constructed, may be
21 economic only as long as the price of fuel is
22 economic or there is a market for their
23 electricity production.

24 There is no apparent mechanism or

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1 regulatory oversight for the decommissioning of
2 these plants, either prematurely or at the end of
3 their service lives. This fact implies that the
4 environmental burdens may arise from abandoned
5 plants for which financial resources may not
6 exist.

7 For example, if a plant is terminated,
8 who will be responsible for resulting excess
9 capacity in the local public water supply? Who
10 will be responsible for capping the plant's wells?
11 Who will be responsible if leakage from the plant
12 has contaminated the source of supply for the
13 local water utility or for individual residential
14 wells? Where is the accountability when these
15 plants are closed down?

16 It would seem appropriate to enact a
17 decommissioning procedure to protect water sources
18 and the public when these plants are removed from
19 service. At the very least, there should be a

20 procedure for a state administered trust account,
21 which peaker plants would be required to fund, to
22 assure remediation and restoration funds will be
23 available if plant owners abandon plants without
24 protecting water resources.

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1 Another possibility is a requirement
2 that a surety bond or letter of credit be posted
3 to secure the obligation to protect water sources.

4 Another issue is competition. Public
5 water supplies can be expected to remain a highly
6 regulated industry so as to continue to assure
7 safe drinking water for the public. Unlike other
8 utility functions, public water supply is not
9 likely to be deregulated or to be subject to the
10 competitive marketplace. The investment in water
11 infrastructure per customer far exceeds the
12 comparable investment for other utilities. This
13 investment in water infrastructure will only
14 continue to increase under the Safe Drinking Water
15 Act amendments as new requirements are proposed.
16 Redundant water systems do not make sense.

17 It is important, therefore, that
18 electric generating plants not be permitted to
19 engage in helping to finance new public water
20 supplies which may compete with existing public
21 water supplies. Such predatory competition could

22 deny customers the benefits of economies of scale.

23 Another issue we believe is siting.

24 Presently siting of electric generating plants is

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1 considered to be a local issue. However, there
2 may be siting concerns of a broader interest, as
3 related to water use. Recent proposals indicate
4 multiple peaker plants in close proximity to each
5 other. What is the impact of multiple draw-downs
6 on an aquifer at a particular location?

7 Another concern relates to soil
8 conditions at a proposed site. How vulnerable are
9 site conditions to a contamination spill? Could a
10 shallow aquifer be adversely impacted? Presently,
11 there is no regulatory oversight of these siting
12 issues.

13 Watershed protection, the importance of
14 watershed protection only recently has become
15 understood. While IEPA may have jurisdiction over
16 waste water point discharges, surface water
17 resources still need protection against potential
18 adverse run-off from plant sites. At the present
19 time there does not appear to be any regulatory
20 oversight of potential run-off to water bodies
21 from peaker plant properties.

22 Waste disposal, although IEPA has
23 jurisdiction over waste water point discharges
24 from electric generators, it must be noted that

1 waste products may contain unique characteristics
2 depending on the source of water at the facility.
3 For example, if a deep well contains a high radon
4 or radium content, will the water be treated
5 before it's used? If not, what are the
6 implications when the water evaporates? If the
7 water is treated, how will the waste be disposed?

8 Finally, cross-connections. When an
9 electric generation facility is partially served
10 by a public water supply and partially served by
11 the facility's own wells, there must be assurance
12 that no cross-connections will exist. For
13 example, the public water supply may provide water
14 for domestic use and fire protection, while the
15 facility uses its own wells for process water.
16 However, the public water supply might also
17 provide backup in the event the wells are out of
18 service.

19 Local governments may not necessarily
20 have the staff with skills to constantly monitor
21 for cross-connections in generating plants.
22 Indeed, it is not clear that they ever would
23 have access to the plants. Who then will be
24 responsible for policing for cross-connections and

1 protecting the public water supply?

2 The District understands that the
3 Governor's water advisory committee may be
4 considering water issues related to peaker plants.
5 We are not aware whether that committee is
6 soliciting public comment. Therefore, we believe
7 it is important that the Pollution Control Board
8 in its report to the Governor include water issues
9 related to peaker plants discussed in the
10 testimony and comments submitted in this
11 proceeding.

12 In conclusion, we suggest that the
13 Illinois legislature should adopt a permitting of
14 regulatory oversight requirement for process water
15 used by all electric generating facilities,
16 including both base-load and peaker plants.

17 Thank you for this opportunity to speak
18 to you.

19 HEARING OFFICER JACKSON: Thank you very
20 much. Are there any questions?

21 CHAIRPERSON MANNING: Mr. Kucera, I do have
22 one question. You spoke of a D and R allocation
23 for the Lake County Public Water District. I
24 think just for purposes of clarification, I think

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1 if there is a D and R allocation it is because
2 Lake County is drawing the water from Lake
3 Michigan, is that not correct? Because it is my

4 understanding D and R has no general authority to
5 engage in any allocation for the general use of
6 water throughout the state. For example, drawing
7 from an aquifer or drawing from the river. I
8 think if there is a D and R allocation, it is
9 because you are drawing from Lake Michigan; is
10 that correct?

11 MR. KUCERA: That is exactly correct. It is
12 solely related to the control of the amount of
13 water withdrawn from the lake.

14 CHAIRPERSON MANNING: Thank you.

15 MR. GIRARD: I have a question. Mr. Kucera,
16 are you proposing that we have a process similar
17 to the siting of, say, a landfill where we have a
18 two-step process where there is a list of criteria
19 that a local government has to go through with
20 the applicant and then make a decision, and then
21 if they approve a project, then it goes to the
22 Illinois EPA for the more technical decision? Is
23 that what you had in mind?

24 MR. KUCERA: Well, in terms of siting issues

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1 such as the run-off or the contamination of the
2 soil and the like, that may be the best approach.
3 I don't have a specific recommendation to you on
4 the mechanics of that, other than to suggest that
5 we do need some kind of central state oversight

6 over those particular siting issues. What you
7 suggest I think would be workable.

8 MR. GIRARD: Thank you.

9 MR. KUCERA: Thank you.

10 MS. McFAWN: You talked about
11 cross-connections.

12 MR. KUCERA: Yes.

13 MS. McFAWN: How does the Lake County public
14 water supply now regulate its customers to ensure
15 that they don't create cross-connections?

16 MR. KUCERA: We only provide a wholesale
17 supply at the boundary of a municipal customer.
18 So the obligation to control cross-connections is
19 that of the retail distributor, in this case, the
20 municipals or local governments that we serve. We
21 have no control over the water once we deliver it
22 at the meter to the wholesale customer.

23 MS. McFAWN: So that you don't really have a
24 concern then about cross-connections, it is to the

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1 -- to Zion, for example, for protecting its
2 residential customers and its industrial
3 customers?

4 MR. KUCERA: Well, we have a concern in the
5 sense that backflows can effect anybody, including
6 the wholesale supplier. So I bring that issue to
7 your attention because I can see how if there is
8 any kind of oversight to help the public water

9 supplies to deal with the cross-connection issue
10 in this instance.

11 MS. McFAWN: Well, you are concerned about --
12 I don't know how this works. That is why I am
13 asking the question. You are concerned about the
14 backflow and how it could effect your client.
15 Wouldn't Zion have a similar concern and wouldn't
16 they have in place cross-connection regulations?

17 MR. KUCERA: I don't know.

18 MS. McFAWN: Okay. So you are just not
19 familiar with that in the case of Zion or other
20 residential suppliers?

21 MR. KUCERA: They certainly should have the
22 concern. Whether they have implemented anything,
23 I don't know.

24 MS. McFAWN: Okay. Thank you.

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1 MR. GIRARD: I have an additional question
2 Mr. Kucera. Has your water district been
3 approached by any developers of peaker plants,
4 seeing if you have any excess water capacity that
5 they might be able to purchase?

6 MR. KUCERA: Not to my knowledge.

7 MR. GIRARD: Thank you.

8 MS. McFAWN: Another question I have, on the
9 Lake Michigan water, it is allocated, isn't it, by
10 the Department of Natural Resources?

11 MR. KUCERA: That is correct.

12 MS. McFAWN: And is there any surplus now to
13 be allocated to entities such as your clients or
14 others? I was under the impression that the water
15 has been allocated almost to the maximum.

16 MR. KUCERA: I believe it is fully allocated.
17 In fact, recently the D and R went through and
18 reviewed every permittees allocation. In some
19 cases cut them down, in some cases they raised
20 them. But I believe the maximum that can be
21 withdrawn from the lake by Illinois has been fully
22 allocated.

23 MS. McFAWN: I believe we are actually in the
24 red, aren't we?

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1 MR. KUCERA: I wouldn't want to say that.

2 MS. KEZELIS: I just have a question. Can
3 you for the record tell us what your rate of
4 capacity is and roughly how many gallons per day
5 your customers do take?

6 MR. KUCERA: Our peak day capacity is 6
7 million gallons per day. I think in actuality the
8 customers average between 3 and 4 million gallons
9 a day.

10 MS. KEZELIS: Thank you.

11 MR. RAO: I have a question. Mr. Kucera, you
12 mentioned that the use of the term peaker plant is
13 a misnomer and it should apply to both

14 combined-cycle and simple-cycle plants. Do you
15 believe that combined-cycle plants can be used for
16 serving peak demand?

17 MR. KUCERA: Oh, sure.

18 MR. RAO: And operate the peaker plant?

19 MR. KUCERA: I think there is total
20 flexibility to a base-load. A combined cycle can
21 certainly be used full-time or part-time, I
22 believe.

23 MR. RAO: Thank you. Now, some of the
24 testimony that we received in the earlier hearings

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1 that I think people mentioned that how the
2 combined-cycle plants cannot be brought up very
3 quickly to serve peak demand. Do you have any
4 comments on that?

5 MR. KUCERA: I am not an engineer in that
6 area.

7 MR. RAO: Okay, thanks.

8 MR. KUCERA: Thank you.

9 HEARING OFFICER JACKSON: Thank you
10 Mr. Kucera.

11 We next have a panel of speakers from
12 Lake County and what we are going to do right now
13 is go off the record for about five minutes so we
14 can get set up for them. But stick around close
15 because we are not going to take a real long time.

16

(Short recess taken.)

17

HEARING OFFICER JACKSON: Okay, our first

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presentation now is from Lake County Board. We

19

have three board members that will be speaking to

20

us and while they were speaking, the Board will

21

remain on the stage. Then we have a power point

22

presentation by Mr. Elam, Lake County Board

23

consultant and at that point the Board, so you all

24

know, will be moving into the audience to view the

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1

power point. The screen will drop down toward the

2

front of the page. So that is what is going to

3

happen here.

4

Our first speaker then is Mr. Jim

5

LaBelle, whenever you are ready.

6

MR. LaBELLE: Thank you for the opportunity

7

to speak with you today and welcome to Lake

8

County. My name is Jim LaBelle. I am the

9

chairman of the Lake County Board. With me today

10

are Sandy Coal on the end, who is a county board

11

member and chair of finance and administration for

12

Lake County; Bonnie Thomson Carter, who is a

13

county board member and is chair of public works

14

and transportation; and Greg Elam, who is a

15

consultant for Lake County with American Energy

16

Solutions and we are real happy to be here today

17

and appreciate your time.

18

Our involvement in the peaker plant

19 issue began well over a year ago, almost two years
20 ago, when the village of Island Lake received a
21 request to annex land from unincorporated Lake
22 County and grant zoning for a base-load power
23 plant. Since that time, several municipalities in
24 Lake County have received proposals to build power

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1 plants in their communities and the knowledge
2 level of Lake County and the municipal officials
3 as well as concerned citizens has escalated
4 considerably over that last year. The questions
5 and concerns that have arisen really became part
6 of the impetus, I think, that led finally to
7 Governor Ryan's request that you consider this.

8 We have attempted at Lake County to
9 better understand the market forces that are
10 driving location of peaker and combined-cycle
11 plants, also the environmental issues that are
12 involved and the regulatory framework. Based on
13 our research, we offer several recommendations and
14 have a number of questions for your consideration.
15 I will comment briefly, and then Sandy, Bonnie and
16 Greg will provide more detail.

17 First, I have three, maybe four, main
18 thoughts that I will address. The first one is
19 that the State of Illinois needs a plan and
20 comprehensive licensing guidelines to assure that

21 all regions of the state have reliable power. The
22 plan should include identification of the power
23 generation and transmission needed to support
24 continued economic growth in Illinois. It should

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1 provide an analysis of the need for power in
2 various regions of the state and an identification
3 of the measures needed to assure adequate power is
4 provided. It should also include measures to
5 assure that power generated in a particular
6 location will provide direct benefits to the
7 surrounding county and region. The plan should
8 also include consideration of alternatives, such
9 as improved transmission capacity that could
10 reduce the need for additional generation capacity
11 in certain areas. The plan and the licensing
12 process need to consider regional environmental
13 impacts and assure that benefits are received
14 consistent with the risk accepted. There should
15 be comprehensive criteria for improving the
16 location of power plants.

17 We have heard from representatives of
18 the industry that power plants are needed to
19 provide reliable energy to growing regions. Yet
20 so far none of the builders and operators of power
21 plants have guaranteed that the power produced
22 will be used locally. Therefore, the county as a
23 whole is risking limited resources and air quality

24 while potentially receiving no benefit. A single

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1 municipality may negotiate a host agreement that
2 may satisfy its financial desires, but there is no
3 requirement that the needs of the larger area be
4 considered and I have to add, I live in Zion and I
5 am, obviously, very sympathetic with the needs --
6 the financial needs of our community, particularly
7 in light of the closing of ComEd. But I do
8 believe that these regional considerations are
9 important and need to be addressed. The question
10 is, will Lake County benefit from the additional
11 generation of electricity? If not, why should
12 Lake County be interested?

13 The second main point is that the
14 regulatory and permitting process needs to be
15 comprehensive and cohesive. Unfortunately, so far
16 the thinking and actions surrounding peaker plants
17 has been piecemeal when it requires a more global
18 view. We feel the following points should be
19 considered before any more peaker or
20 combined-cycle licenses are issued and I have a
21 list that I may not actually go over completely
22 with you, but I will touch on a couple.

23 We believe that a single agency should
24 oversee planning, licensing and permitting of

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1 peaker and combined-cycle plants. The process
2 should not only consider air quality but also
3 other environmental factors such as water
4 consumption impacts on aquifers or Lake Michigan
5 water allocations.

6 We believe that local government
7 approval of location and zoning should be required
8 before the IEPA or other state agencies issue a
9 permit.

10 The IEPA should also create models that
11 consider the impact of multiple plants and to a
12 greater extent any and all industrial emissions.

13 I am going to skip a couple here, but I
14 invite you to read more thoroughly my statement.

15 The IEPA should consider, as I
16 mentioned earlier, alternatives to peakers, such
17 as additional transmission lines.

18 The IEPA should consider different
19 emission regulations if the power generated by
20 peakers is sold and used outside of Illinois.

21 And I think I will move on to, a new
22 IEPA application should be developed that is
23 specific to the industry. The current application
24 considers pollution outputs over a 12-month

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1 period, when the reality of the peakers is that
2 their operation is limited to a three-month

3 period.

4 In addition to the IEPA considering the
5 polluting impact of multiple plants, the
6 Department of Natural Resources and the ICC need
7 to consider the impact on ground water resources,
8 natural gas availability and pricing impact if
9 numerous peakers operate at the same time.

10 The third main point is that the state
11 needs to provide for intergovernmental review of
12 regionally significant land uses and certainly a
13 peaker plant, I would consider, to be regionally
14 significant.

15 At a previous hearing, EPA director Tom
16 Skinner indicated that IEPA rules and permitting
17 did not supersede local zoning and land use
18 control. However, the Lake County State's
19 Attorney advises us that our options are severely
20 limited in this area. There are 52 incorporated
21 municipalities in Lake County. Each municipality
22 has the authority to create its own zoning
23 regulations and can approve zoning for a power
24 plant without any consideration of the county,

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1 other municipalities or regional impacts. While
2 there is a system of local control, there is no
3 provision for impacts that cross boundaries.

4 If any of Lake County's 52

5 municipalities chooses to allow a peaker plant to
6 be built within their borders or agrees to annex
7 unincorporated land, neither the county nor any
8 other municipality has a voice in the matter.
9 Yet the environmental impacts of peaker plants
10 clearly extend beyond geographic boundaries. Air
11 pollution can extend for miles. The high volume
12 of ground water usage can lessen the supply for
13 any other entity tapping the same aquifer.
14 Illinois counties and neighboring municipalities
15 have no ability to participate in addressing these
16 externalities.

17 In the Lake County 2000 legislative
18 program, we proposed that legislation be enacted
19 to direct the IEPA to delay action on all peaker
20 plant permits until appropriate guidelines can be
21 established. This is still our goal. We feel
22 that a moratorium on permits is necessary in order
23 to allow the state to responsibly plan for the
24 oversight of these facilities and form

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1 comprehensive cohesive guidelines to the licensing
2 of these operations.

3 With that, I thank you for your
4 consideration, and I will now turn to Sandy Coal
5 and Bonnie Carter and Greg Elam.

6 HEARING OFFICER JACKSON: Thank you,
7 Mr. LaBelle.

8 Ms. Coal, whenever you are ready.

9 MS. COAL: Good afternoon. It is nice seeing
10 you all again. I enjoyed the comments in
11 Naperville. My name is Sandy Coal and I am the
12 Lake County Board Commissioner for the 11th
13 District. District 11 is located in central Lake
14 County and includes the College of Lake County
15 where we are meeting today. It also includes
16 residents who will be most impacted by the
17 proposed peaker power plant in Libertyville if
18 approved by the village of Libertyville just next
19 week.

20 During my testimony, I will focus my
21 statements of the impact on surrounding areas. As
22 an elected official, it is my belief that the
23 state of Illinois needs to adopt stricter air
24 regulations. And while that effort is underway,

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1 that a moratorium be imposed on the construction
2 of new facilities.

3 Before I address air quality, I would
4 like to make some comments about the geographic
5 location of Lake County in peaker terms. As
6 indicated in testimony provided to you by the
7 representatives of ComEd, Lake County is in the
8 unenviable position of being marked as a premiere
9 location for the construction peaker power plants.

10 ComEd has noted 14 locations -- different
11 locations throughout Lake County that they are
12 actively marketing as potential locations for
13 peaker power plants. This is due in part to the
14 following: Number one, our location, adjacent to
15 Chicago and Cook County and the state of Wisconsin
16 with ready access to these markets; number two,
17 the existing grid system put in place by ComEd to
18 handle the output from the now closed Zion nuclear
19 power plant; and number three, the location of
20 natural gas pipelines funneling the supply of
21 natural gas into the Northeastern Illinois region.

22 Taken together, these three aspects
23 make Lake County a prime target for the
24 construction of multiple peaker power plants. As

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1 other speakers have noted, there can be no
2 assurances that power produced in one area will be
3 used to supply energy to that area. There is no
4 doubt that peaker power will be sent out of Lake
5 County and out of state. This would mean that
6 those residents immediately impacted by the
7 physical presence of a peaker facility would
8 probably not garner any benefit, but instead bear
9 the blunt of the adverse environmental impact.
10 Few permanent jobs will be created and the
11 generation of new property tax dollars would be
12 minimal.

13 This leads me to the issue of air
14 quality. There are three major points that I
15 would like us all to address. Briefly, they are,
16 number one, the need to amend the regulations to
17 evaluate peakers on the actual daily emissions
18 output; number two, the need to evaluate the
19 combined output of all facilities within an area;
20 and number three, the need for statewide or at
21 best regional review of license applications.

22 The facilities are major polluters at
23 the time they are operating and should be
24 evaluated as such.

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1 At the end of each calendar year, the
2 Lake County Board votes on legislative initiatives
3 which we present to our local legislative
4 delegations. In December of 1999, nearly nine
5 months ago, the Lake County Board voted
6 unanimously to support the following legislative
7 initiative, and I quote, with the deregulation of
8 electrical power in Illinois, many companies are
9 seeking to establish natural gas-fueled peaker
10 generating plants throughout the state. The IEPA
11 currently requires companies to obtain permits
12 before building peaker plants. As the plants only
13 operate during times of need, their total output
14 for the year generally falls under the minor

15 pollutant source category and companies easily
16 obtain permits. During the time the plants are
17 operating, however, they emit nitrogen oxide,
18 carbon monoxide, carbon dioxide and other gases.
19 Since peaker plants are most likely to operate
20 during the summer when the ozone is high and the
21 air quality is poor, the impact of their operation
22 on air quality is of special concern. In addition
23 to air quality, peaker power plants may affect the
24 region's water supply as they need to draw

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1 significant amounts of water from Lake Michigan or
2 local aquifers. Finally, peaker plants are being
3 proposed in areas that are primarily residential,
4 and this raises additional concerns about noise
5 pollution and property taxes, end of quote.

6 I, like other speakers at your previous
7 hearings, find it ironic that during the times of
8 the year when ozone alerts are issued and
9 residents are told to reduce their emissions by
10 reducing auto trips, not mowing their lawns and
11 reducing their electrical consumption, that those
12 are the days when peakers would be operational.
13 The volume of emissions from a peaker during
14 start-up operating hours and shut down would far
15 outweigh any efforts by the residents.

16 I would finally like to address the
17 need for a statewide or at best an original

18 authority to review applications.

19 The environmental effects of peaker
20 plants do not recognize political boundaries.
21 The locations for these proposed facilities are
22 oftentimes situated at the border of another local
23 government. In many cases those most affected do
24 not live within the political jurisdiction where

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1 the peaker is proposed, and in some cases are not
2 allowed a voice in the proceeding, even though
3 they will be most affected.

4 As you know, the village of
5 Libertyville has held extensive public hearings on
6 the construction of a proposed peaker plant by
7 Indeck Corporation. The site for the proposed
8 facility is approximately 2 miles from this room.
9 That location is at the extreme northwestern edge
10 of Libertyville. If the facility is ultimately
11 approved and constructed, the properties most
12 affected by this facility would be properties
13 located in the village of Grayslake or in portions
14 of unincorporated Lake County. The Libertyville
15 Plan Commission's willingness to hold 21 hearings
16 allowing anyone affected the opportunity to offer
17 his or her testimony is extraordinary and
18 commendable. Like you, the Plan Commission has
19 remarkable patience, a keen interest in the

20 subject and a desire to know more.

21 On the other side of the local
22 permitting process is the city of Zion. During
23 recent proceedings, nonresidents were not provided
24 an opportunity to testify, even though they would

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1 be directly impacted by construction of the
2 proposed facility. Testimony provided in your
3 hearing in Naperville two weeks ago with respect
4 to the Aurora facility and the inability of the
5 public most affected to have their voices heard,
6 notably those residents in Warrenville, could be
7 echoed here in Lake County.

8 That is the end of my formal testimony.
9 I would really like to add a few comments
10 personally. Over a year and a half ago, County
11 Board Commissioner Bonnie Carter called me to
12 attend a meeting in her district about a
13 controversial power plant siting. My life hasn't
14 been the same since, thanks, Bonnie.

15 As I said in Naperville, I cannot begin
16 to adequately qualify the remarkable work done by
17 people who once were ordinary citizens. Two years
18 ago they talked about the Cubs, the Bulls, their
19 summer vacations, their latest tax bill. Now, its
20 octave bans, particulate matter, NOx, FERC,
21 base-load, deregulation, combined-cycle, megawatt,
22 IPP, SIP and on and on. Bob Wargaski, Dennis

23 Wilson -- I know you guys are here -- you started
24 us all on this journey. Susan Zingle, Chris

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1 Geiselhardt, Rick Dominic, Betsy Dietel, Jim
2 Schuler, Mark Biersdorf, who could possibly add up
3 the hours of research and the amount of knowledge
4 you now have regarding electrical generation, air
5 quality and land use issues. What I know about
6 peaker power plants I owe to all of you. And what
7 I have learned pales to what you know. Thank you.

8 In closing, as Margaret Mead so
9 eloquently stated "never doubt that a small group
10 of thoughtful, committed citizens can change the
11 world. Indeed, it is the only thing that ever
12 has."

13 I would like to also thank you again
14 for holding these hearings in Lake County. We
15 appreciate your time and your continued efforts.
16 Thank you.

17 HEARING OFFICER JACKSON: Thank you,
18 Ms. Coal.

19 MS. CARTER: Good afternoon. Thank you for
20 coming to Lake County. This day has been a long
21 day, a long time coming for many of us here.

22 Two years ago, I received a phone call
23 from two of my constituents informing me that a
24 power plant was being proposed on property across

1 the street from their homes. The village of
2 Island Lake was being asked to annex the land.
3 The plant proposed for the small community on the
4 far western edge of Lake County was not a peaker
5 plant. The plant was proposed to provide
6 base-load power year round with ground water usage
7 of 4 to 8 million gallons daily.

8 Local officials, myself included, and
9 concerned citizens began investigating the issues
10 surrounding the type of power plant involved.
11 Many issues such as air quality, noise and
12 lighting were raised. Water usage was by far the
13 most overwhelming environmental concern. While
14 gathering information, I became well acquainted
15 with the work of the Illinois State Water Survey,
16 a division of the Department of Natural Resources
17 and an affiliate of the University of Illinois at
18 Urbana-Champaign. According to data assembled by
19 the ISWS, the volume of water required to supply
20 the proposed plant for a year would have been far
21 greater than what was required for the village's
22 entire population.

23 I further learned that neither the
24 Illinois Environmental Protection Agency, nor the

1 ISWS or any other state agency had any authority

2 limiting ground water withdrawal. The proposal
3 for the Island Lake plant was eventually withdrawn
4 and most of the subsequent plant proposals in Lake
5 County are for peakers, not base-load. This, I
6 feel, is a direct result of the heightened
7 awareness of the water withdrawal issue and how
8 precious a resource water is. Though the issue of
9 water usage is not as critical with peakers, it is
10 still significant enough to warrant scrutiny.

11 In February 1999 I drove to Springfield
12 with my two constituents who had originally
13 brought this issue to my attention. We met with
14 IEPA director Tom Skinner, officials from Storm
15 Water Management, Illinois Department of Natural
16 Resources, Fish and Wildlife, the IEPA Bureau of
17 Water, the IEPA Bureau of air and two state
18 legislators. We expressed our deep concerns with
19 the permitting process of a 90-day review on
20 construction applications, the lack of regulatory
21 authority over ground water withdrawal and the
22 lack of public hearings. We also discussed air
23 quality impacts along with the noise and lighting.

24 We all felt that the IEPA directors and

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1 supervisors that sat among us were frustrated with
2 having to review permit applications without being
3 able to take the regional impacts of these plants

4 into consideration. They agreed that a regional
5 element should be included in the review. We were
6 surprised and shocked to learn that each division
7 did not review the applications together. One
8 division follows the application approval process
9 after the other division has completed its work.
10 They may never have been aware of the combined
11 impact on adjoining property owners or cumulative
12 environmental impacts. In other words, they
13 didn't talk to each other.

14 After we left Springfield that day,
15 some minor changes did take place. The 90-day
16 review process was reversed back to 180 days.
17 Public hearings started to take place on
18 applications and the IEPA Director Skinner never
19 forgot us in Lake County.

20 As you may see, we are still dealing
21 with this issue today and we are still very
22 frustrated. I hope and pray we will all be heard
23 today and that, as a result, you recommend
24 improvements, not only to the process, but to help

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1 reduce the negative impact power plants could have
2 depending on where they are sited.

3 As with many of the issues surrounding
4 peaker plants, it is important to recognize that
5 ground water is a regional issue. It is also
6 important to recognize while one peaker plant may

7 not threaten a region's water supply, multiple
8 peakers may. Aquifers do not end at municipal or
9 political boundaries. The water consumed in one
10 village not only limits the supply of its
11 immediate neighbors, but impacts the supply of
12 further villages, commercial wells and deep
13 community wells which draw from the same aquifer.

14 In the case of the Island Lake
15 proposal, adjacent villages would have realized
16 significant financial impacts. Nowhere in the
17 permit application process submitted by the
18 applicant were those impacts acknowledged or
19 addressed. One neighboring village, the village
20 of Wauconda, would have incurred expenses close to
21 \$1 million to reset the pumping well head in two
22 municipal wells. The taxpayers of this
23 neighboring village, not the power company, would
24 have borne this expense, \$1 million. This village

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1 had no opportunity to voice its concern during the
2 application review. Surely, this demonstrates why
3 a regional application approach must be in place,
4 must be put into practice.

5 Determining the amount of water
6 available for peaker use as well as all other
7 users is a significant undertaking for any local
8 community. Dr. Derek Winstanley of the ISWS in

9 his written testimony to this Board wrote of the
10 expense of collecting ground water data.
11 Conducting a study to determine the sustainable
12 level of water usage for Lake County is estimated
13 to be a multi-million dollar project. To expect
14 local communities to shoulder this burden is
15 unreasonable. Yet without regional data, a single
16 community cannot make an informed decision on
17 water supply.

18 At the August 18th, 1999, meeting of
19 the Lake County Public Works and Transportation
20 Committee, Illinois State Water Survey Director
21 Dr. Derek Winstanley reported that around the year
22 2030, Lake County will maximize its water use.
23 Today, we are at the maximum sustainable level of
24 the northeastern Illinois deep bedrock. We cannot

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1 continue to increase withdrawals from the deep
2 aquifer. Water demand is up 20 percent, and we
3 are at the point where supply and demand are
4 beginning to conflict.

5 Another large source of water for the
6 Lake County area is Lake Michigan. Here again,
7 the County's usage impacts the supply of other
8 counties and states. The supreme court fixes
9 allocations. Local governments do not have an
10 endless supply.

11 Peaker plants will either draw ground

12 water, which will have an impact on neighboring
13 wells, or draw on Lake Michigan water that has
14 already been fully allocated. Clearly this issue
15 needs to be understood and addressed.

16 The quality of water will also be
17 impacted by extensive withdrawal. Research has
18 shown that when too much water is pumped, surface
19 waters can be impacted. Water availability to
20 stream beds, wetlands and lakes can decrease, and
21 the quality of the existing water may be
22 threatened. Eventually, animal and plant life
23 will be threatened. Since the technology exists
24 to convert peaker plants to combined plants at any

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1 time, peakers should not be considered as a minor
2 use, but rather as a major use with regional
3 impact. I would suggest that all applications
4 should be specific as to whether they are peaker
5 or base-load. Applications for peakers should
6 question the intention toward possible future
7 conversion to a base-load.

8 Allowing one industry that provides a
9 very few number of jobs to have unlimited use of
10 our water supply impacts the economic growth in
11 communities where other industries also require
12 water.

13 Officials in Lake County realize that

14 it is not only peaker plants that threaten our
15 water supply. Development of any kind, whether
16 residential, commercial or industrial will place
17 an additional burden on limited resources. County
18 officials further realize that electricity may be
19 one of the resources in short supply. However,
20 our analysis of the realities of peaker power
21 plants and the marketing of power do not convince
22 us that peaker plants located in Lake County will
23 alleviate a power shortage in Lake County. We
24 feel we are being asked to give up one precious

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1 natural resource with no guarantee that the
2 sacrifice will realize a benefit for the county's
3 citizens.

4 The Water Use Act of 1983 and the Water
5 Authorities Act do not give counties the authority
6 to regulate ground water withdrawal. A plan that
7 regulates major aquifer draw-downs is needed. The
8 Lake County Board recommended legislation to do
9 just that. It is believed that there is support
10 from state agencies to clarify regulatory
11 authority for ground water withdrawal. These
12 initiatives are included for your review.

13 The state needs to determine what the
14 reasonable use is. I finally realize that the
15 IPCB does not have the authority to regulate
16 ground water withdrawal. I have the pleasure of

17 being a member of the Water Resources Advisory
18 Committee that was recently initiated by Governor
19 Ryan. This issue will be covered in this
20 committee and our recommendations will be made to
21 the Governor in December. I feel it is imperative
22 to point out that we need to share our expertise
23 with all governing state agencies in order to be
24 better equipped to make decisions involving the

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1 power industry. It is too complex an issue for
2 one agency to comprehensively see all facets. I
3 believe that the Pollution Control Board, the IPC,
4 the IEPA, the ISWS also all need to support each
5 other and work together. We need a regional
6 cooperative group with regulatory authority when
7 reviewing applications.

8 The Lake County board has made a
9 decision last year to be proactive and not
10 reactive. Our actions support that position. I
11 ask you to support this board and the people of
12 Lake County by doing the same. Place a moratorium
13 on all pending and new applications for power or
14 peaker plants until such time as all agencies have
15 collaboratively worked together reducing and/or
16 eliminating the negative impact to our quality of
17 life. Thank you, Chairman Manning and the IPC
18 Board.

19 HEARING OFFICER JACKSON: Thank you,
20 Ms. Carter.

21 At this point then I will ask the Board
22 members to please step down out into the audience
23 and I will lower the screen for the power point
24 presentation by Mr. Elam.

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1 (Short pause in proceedings.)

2 MR. ELAM: Good afternoon. My name is Greg
3 Elam. I am the CEO of American Energy. It is an
4 independent consulting energy management firm.
5 They are headquartered in Kansas City, Missouri.

6 Rather than read my testimony, which I
7 do ask that, if you have the time, to review at
8 some point further the points. I am sure there
9 are some points in here that -- I covered a lot of
10 Jim and Bonnie's same points in a little more
11 detail, but I don't want to go through all the
12 detail that people have said.

13 As with the testimony, a description of
14 my professional background, I will try to keep
15 brief. I think it is important for you to know at
16 least my perspective from which I am talking. I
17 have 20 years in the electric industry. My
18 background varies beginning with 12 years at a
19 regulated utility, Cincinnati Gas and Electric
20 Company, where I had the responsibility of
21 supervising the operations and generation of

22 transmission systems and performing short-term and
23 long-term bulk power sales.

24 In 1991 I left Cincinnati Gas and

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1 Electric Company to develop one of the first power
2 marketing companies in the county, that was the
3 Energy Exchange of Chicago. By 1993 I was hired
4 by -- pardon me.

5 In 1993 I was hired by Enron to assist
6 them in developing their power marketing business.
7 My responsibilities at Enron included regulatory
8 and transactional work, developing and
9 implementing financial products used bulk power
10 marketing.

11 My testimony is focused really around
12 three distinct areas. And if I might add, I use
13 the slides because I think it is just a little bit
14 easier to see than read. Besides I talk -- I do a
15 whole lot better with pictures. My testimony
16 focuses around three distinct areas. They are the
17 energy market today and tomorrow, price spikes --
18 because we have heard so much about it
19 historically in the other hearings -- and
20 alternatives and collaboration with other
21 agencies.

22 It is my overall intent to provide an
23 educational perspective for the Board. Energy

24 markets -- my testimony focuses on peaker plants

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1 and their participation in the market. We are not
2 going to talk to you about air emissions and
3 water. I am only going to talk about the energy
4 market. It is a piece that no one has really
5 talked about yet. And again I hope it is more
6 educational than anything.

7 The energy market today and tomorrow,
8 today we have two distinctly difficult markets,
9 the wholesale and retail market. And I must say
10 until stranded cost is eliminated in Illinois and
11 surrounding areas and states, the resale market
12 will continue to function as a reregulated market,
13 rather than a deregulated market. And that is
14 very important as you follow the rest of this
15 discussion.

16 Today the wholesale market functions
17 much like any other commodity markets, which we
18 will discuss. Tomorrow the wholesale and retail
19 markets will converge into a single energy market.
20 Many issues of supply and demand will be absorbed
21 into the market products and among customers
22 themselves.

23 I want to start off with this first
24 slide. Talk about the description of really what

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1 competition is. If you look at the definition of
2 competition, it is an active competing rivalry.
3 If you look at what a rival is, one of two or more
4 trying to get what only one can have and most
5 importantly one striving for a competitive
6 advantage. If you look at our perspective as we
7 work for clients -- and this is important -- there
8 are marketers that are trying to get as much money
9 out of the industry as they can and they call that
10 profits. There are utilities trying to get as
11 much money of the industry as they can, and they
12 call that profits. Customers, on the other hand,
13 try to save as much money as they can and they
14 call it savings. So when you look at competition,
15 that is really kind of the viewpoint.

16 Energy markets -- I want to discuss
17 with you a little bit about wholesale markets and
18 how peaker plants are used in the wholesale
19 market. I apologize immensely for not being more
20 kind of detailed, and that is the intent, but in
21 the end we will hopefully have some questions to
22 clear it up.

23 Wholesale basically has two types of
24 transactions. They have a trading market and then

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1 they have a trading to fill market. If I just go
2 down to the trading, I think the foundation here

3 would be very helpful. Trading basically, as with
4 any type of commodity, is traded in the cash
5 market in what we call 50-megawatt blocks and is
6 traded over the broker's market. Typically it
7 starts at 7:00 in the morning and has ended by
8 11:00 in the afternoon, just like any commodity
9 trade. Prices go up, prices go down. People make
10 money, people lose money. And we are talking
11 significant amounts of money.

12 Some may trade the same contract ten
13 times over, what we call book outs and
14 settlements, and often never resulting, at least
15 for one company, in delivery. Ultimately there
16 will be a delivery of power somewhere. But, as
17 you will see in some of the drawings, basically
18 what the commodity does is trade several times
19 over.

20 We also have what we call options,
21 which are traded in the cash market, very much
22 like you hear about options in the stock market.
23 Futures contracts are out there. They are traded
24 in 2-megawatt blocks. However, they are not very

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1 liquid at this time. So whether you are a
2 customer, whether you are an industry player,
3 typically you will not use the futures market for
4 hedging at this point if you use the futures
5 market in the natural gas business for your

6 hedging processes.

7 Trading to fill, very simply, I will
8 try to make it brief, is nothing more than I need
9 to go out and buy 5 megawatts to fill a need I have
10 at my municipality. In its simplest form that is
11 trading to fill. I am trying to fill a need that
12 I have.

13 Here we go, how the market works, I
14 will tell you this is simplified and there is a
15 lot of lines missing and I tried to do it that
16 way. And it is time to get out the little pointer
17 now, if I can do this.

18 Just so you know, this is not intended
19 to be geographically correct. Do not look at it
20 and say, gee whiz, IP is located north. It is
21 basically where we can fit circles on the page.
22 But what it is to represent is some of the
23 interconnections between utilities -- and just for
24 those who are maybe not familiar with the

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1 industry, the utilities east of the Rocky
2 Mountains are connected together in a grid. You
3 can, in essence, wheel power from Florida to
4 Wisconsin. Not that it is always feasible to do
5 so, but just to let you know that it is connected
6 in that sort.

7 Okay, we will come back to that in just

8 a minute, but I just want to explain, when you see
9 the pink labels for the companies up here, those
10 are the trading hubs and when you hear about
11 trades as we discussed, about 50-megawatt trades,
12 those are the hubs they are traded at. Just like
13 you hear about natural gas trading at the Henry
14 hub, in this case we use CINErgy lot, it is traded
15 in the CINErgy hub for pricing. What that means
16 is prices or electricity is delivered into the
17 CINErgy system, not through it, to the system.
18 Then the responsible party that purchases, if they
19 want to do what we call take it to physical
20 delivery, is responsible for paying the
21 transmission feeds to get it across the CINErgy
22 system.

23 What is really important as you start
24 to talk about markets is typically as they do

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1 trades they are usually known as a short and long
2 position. A short position means basically
3 someone sells power that they don't have with
4 hopes that the market falls, they buy the contract
5 back, and they make a spread. The long position
6 is just the opposite. You actually own generation
7 or the rights to generation, and we will discuss
8 that in a minute, what we call options, but you
9 have not sold it yet and you will sell it when the
10 price is high enough to generate a profit.

11 However, let me digress just a minute.

12 When we talk about a long position or a
13 short position, if you do not own the asset and
14 you are trading in the broker's market and you
15 are, for example, long, somebody -- you brought 50
16 megawatts and you have to get rid of it by
17 tomorrow, what happens is by that 11 o'clock
18 deadline you have to enter it back into the market
19 or find a home for it somewhere. There are all
20 kinds of creative ways to do that. But probably
21 the last means of resort is to do liquidated
22 damages.

23 Let me explain. Liquidated damages
24 means that maybe you bought the contract at \$50.

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1 The market falls out of bed and the only thing the
2 market would pay is 20. Basically you go back to
3 your provider and say I will just settle with you
4 and I will pay you the difference. This is
5 liquidated damages in its simplest form.

6 From a financial -- we talked about
7 physically how things are laid out. Financially,
8 I want just to run through a transaction. In this
9 case Enron may have sold shorter. They may have
10 been long with a contract here from Ameren. Enron
11 sells it to Dynergy, who sells it to Southern
12 Energy, who sells it back to Enron to Duke to SETM

13 and back to Coral. Coral may have a deal with
14 AEP.

15 At the end of the day, these are called
16 book outs where you have two in the chain and they
17 kind of go away. They collect their dollars and
18 go away. Basically, financially the dollars go
19 like this, while the actual power may actually go
20 this path (demonstrating) and a little bit later
21 we will talk about -- I have an example trying to
22 make it a little closer to home about if you have
23 a peaker plant in ComEd or ComEd territory maybe
24 what would happen.

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1 We don't want to get into a lot of
2 detail here because, one, I don't want to bore
3 you, but at the same time it is important for you
4 to know there are options sold in the market just
5 like we discussed earlier. There is what we call
6 caps, which is essentially called a call option.
7 There is a put option that says if I own power and
8 I need to get rid of it, I can have the right to
9 deliver it to you at a price. There is also
10 called collars, unprotected on both ends.

11 But, in essence, this is multiple,
12 multiple types of transactions you can do and I
13 guess what I am trying to say is what we are
14 dealing in is a commodity market. It just happens
15 to have physical delivery out here.

16 Just to give you a kind of flavor of
17 what is out there, at least more than six
18 different types of swaps and variations, literally
19 anything you can think of using your imagination
20 is out there. If you haven't thought of it, most
21 of these marketers have PhD guys that sit there
22 and develop different options to sell. Because
23 that is what they do, they sell products.

24 I tried to -- in this slide if you

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1 don't mind, I used the natural gas market because
2 it is volatile and everybody says, well, the
3 electric market is volatile and has price spikes,
4 well, guess what, so does the natural gas market.
5 What is interesting is what I tried to do is use
6 this to show you, for those that may not be
7 familiar, what long and short means in the
8 creative spread. If you entered the market at
9 this point -- now, I will say this is all in
10 hindsight. Remember, if you could see my bottom
11 line, this is extremely difficult to do,
12 especially without physical generation. But with
13 most traders what you would do is enter the market
14 about this point. Would you buy if you had
15 expectations the prices would go up? I don't care
16 if you take natural gas, you buy soybeans, you buy
17 corn, you buy electricity. It is all kind of the

18 same idea.

19 You would buy long here. When you
20 think the market peaked, if you thought -- if
21 you're brilliant, you would sell it here. Most
22 people would maybe get out a little early. They
23 would see it falling off and they would sell. But
24 this is the spread that you would create. You

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1 would own this here at this price and sell it at
2 this price (indicating.)

3 The opposite happens when you sell
4 short. Sell short says I sell it here and I buy
5 the contract back here (indicating.) Now, what
6 that means is I expect prices to fall. If prices
7 went up, there is what we call risk management
8 disciplines in place that someone would buy the
9 contract back right away to minimize the losses.

10 What is important here is whether you
11 call it -- you are buying a call option or you are
12 dealing in peakers. For example, a call option
13 says if prices are going to rise, I want to put
14 protection out here and I am going to jump a
15 little bit ahead and we often talk about price
16 spikes and capping prices and all that.
17 Basically, that peaker can do this right here
18 (indicating.) Prices go up if it is an
19 electricity market. I can start that peaker
20 provided I have the fuel at the right price. But

21 I can start that peaker and cap my exposure. I
22 know what I can produce power out of that peaker
23 plant at.

24 Likewise, if I have a base load

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1 generation, for example, I have a -- or whether it
2 is a peaker, I have a floor. I can develop a
3 floor price. What that means is if the market
4 goes away for me, it goes too far down, there is
5 always a price that I can sell at and if it is
6 profitable, I will do it. If I don't want to do
7 it, I don't have to and that is the value of
8 options. It gives you the right, but not the
9 obligation.

10 I want to use an example about ComEd
11 just because it is of interest in these hearings.
12 In essence, someone with a peaker could be long if
13 it owned the generation. It could be Enron. It
14 would be anyone else to sell it to Enron. But
15 the financial transaction can go the same way.
16 Physically, the power can be wheeled from ComEd to
17 NIPSCO to CINergy to AEP. If somebody took
18 delivery to CINergy or what -- there is another
19 means in which they can take alternative delivery
20 and deliver right from ComEd to AEP. Basically,
21 they find out where it is going and you call them
22 up and say why are we doing this, we can just

23 deliver it directly to your system.

24 But anyway, I just want to give you an

815

1 idea. Just because the plant is here does not
2 mean that the power goes here and I think that
3 supports somewhat of Jim and Bonnie's testimony.

4 I want to talk a little bit about
5 retail markets for those that are unfamiliar with
6 retail markets. Basically there are several
7 components that make up your energy costs today
8 even though it is a reregulated market and the
9 components are you have a commodity. You have
10 transition. You have distribution, ancillary
11 services and often ancillary services are embedded
12 into a distribution or transmission fee that often
13 depends on what state you are in and you have
14 stranded costs and stranded costs -- and some
15 people don't like to hear this -- but it is
16 basically subsidy given to compete in a transition
17 into a competitive market. Once this goes away,
18 there is a lot of room to move in a free market.
19 This number here, I just use as a representative
20 number, for example, this is about 3 cents per
21 kilowatt hour. I use megawatt hours because that
22 is what we deal with. This would represent 8.4
23 cents as kilowatt hours if you look at a utility
24 bill. But the idea is once this stranded cost

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1 goes away, now we have a free market. Right now
2 you don't.

3 I just noticed in one of my comments,
4 in each of those components that was identified,
5 whether it is ancillary services, the commodity
6 portion, the transmission, there is a profit
7 margin built into that or they wouldn't be in
8 business. So one thing we didn't identify was the
9 profit, just to let you know it is embedded.

10 Again just to try to help you
11 understand what we are moving toward in the new
12 market, kind of in that transition, the suppliers
13 are out here and I can put them at one end or I
14 can put generators all over the place. But in
15 essence, what happens is marketers today typically
16 go out and buy from suppliers, maybe one utility
17 or three and they make deliveries. They schedule
18 for delivery to the customer, whether it is a
19 residential, commercial or industrial client.
20 What they do is they have the direct contractual
21 arrangement with the client. They often hedge
22 themselves on the NYMEX where there is natural gas
23 today and tomorrow electricity and the stranded
24 cost is paid out to the utility. Again this is

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1 the piece right here that eventually goes away.

2 The next slide is just kind of a sample
3 of what we are going to be seeing again as we move
4 toward more retail competition and I tried to
5 abbreviate these. Basically if you look at a
6 company that owns generation and we can look at
7 AEP, the company here, or you can look at if APCO
8 owns it, it doesn't really matter. But generation
9 can be located at AEP and for those of you who
10 don't know, American Electric Power is located in
11 Ohio. For the most part, it spreads across
12 several states. But I am referencing Ohio in this
13 case. Generation may be located here and they
14 have a firm load commitment here that they have to
15 supply this load. It doesn't mean that they
16 generate from here right away (indicating.)
17 Market conditions may be that prices are soaring
18 out in PJM. So in the meantime, they will buy
19 from an interruptable power supply, which is IP up
20 here. That is IP the utility. I used the letters
21 IP for interruptable power and they may serve this
22 client 16 hours for the day. Maybe eight hours
23 for the day until they need -- they get a call and
24 somebody says this is going away. You need to

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1 fulfill your obligation.

2 Then what they do is they cut this
3 interruptable sale even though they may have been
4 getting 100, 2, 3, 4, \$500 a unit for the power.

5 They will cut this sale and wheel it back over
6 here and fulfill their commitment.

7 What I am saying is this market is
8 dynamic. It is not linear like a lot of people
9 would like to have you believe.

10 Tomorrow's market -- and this is
11 probably very, very oversimplistic. But the idea
12 is customers have choices tomorrow. When I say
13 customers, I mean industrials. I mean commercials
14 and residential. And just so you know, there are
15 many industrial and commercial clients that are as
16 large, if not larger, than what we call wholesale
17 customers today. I represent one. I represent
18 Sprint on the world headquarters. So you know
19 their world headquarter is considered like the
20 27th largest city in Kansas. But today it is
21 still held captive as a retail customer.

22 To give you an idea, some customer,
23 whether commercial or industrial, they are big.
24 But what happens tomorrow is customers have

819

1 choices and in this case I am assuming stranded
2 cost is gone. Customers can then buy -- they can
3 still buy their power from utilities. They can
4 buy from marketers. They buy directly from
5 independent power producers and, yes, they can buy
6 from other customers. We will see on the --

7 today, just so you know, today marketer needs and
8 utilities purchased on-site generation or what we
9 call options from customers today. Customers
10 don't have that freedom. What I am trying to
11 stress is we don't have a real market yet.

12 So as you make your decisions and
13 whatever they may be, the idea is think about
14 where we are moving, we are not there yet.

15 The next thing is just to try to make
16 it a little closer to home when we talk about
17 customers buying from customers, you may well have
18 had a customer that is interruptable, but maybe he
19 has a deal with customer B over here that as a
20 firm supply that really says I don't mind, for the
21 right dollar I will shut down and you can have my
22 power. Eventually, we will be there and I guess
23 what I am trying to convey to you is we are not
24 there yet.

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1 Let me just get back to my text here
2 just for a second. One thing that is interesting
3 is -- what I am trying to say is when we say we
4 are not there yet, it is difficult to weigh and
5 measure or gauge the true need of competitive
6 market until you have the functioning components
7 of the competitive market in place, and that means
8 Illinois as well as the surrounding areas, states.
9 In other words, Illinois can't do it by itself.

10 Price spikes, during the hearings, we
11 have heard the phrase prevent price spikes in 1998
12 many times. I caution regulators and citizens not
13 to allow it to raise to lull you into a false
14 sense of security with respect to retail rights
15 that the price spikes will cease if peakers are
16 installed. Again, I am neither for nor against
17 peakers, but from my independent perspective, I
18 still would caution you to listen closely.

19 Before discussing price spikes in
20 general and the effects peakers would have, I
21 would like to discuss what caused the price
22 spike of 1998 so that we all have a better
23 understanding. In brief, previous testimony has
24 indicated correctly that there were large amounts

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1 of generation off line during the spring and early
2 summer of 1998. However, the marketer, Federal
3 Energy, gave the market a false reading when it
4 had sold some approximately 750 to 1,000 megawatts
5 of generation into the market that it did not have
6 or have the financial capability to purchase.
7 Many companies relied on the sales that were made
8 by Federal. As illustrated previously,
9 transactions were bought and sold many times over.
10 So people had this false sense of security out
11 there that 750 to 1,000 megawatts is out in the

12 market. We have power plants off, but that is
13 okay, we purchased what we needed.

14 When it came time to meet their
15 obligation to supply power, Federal Energy simply
16 defaulted. And I just noticed something as I
17 read, if I can digress. When I say Federal Energy
18 here, I am talking about the marketer. When I say
19 FERC or Federal Energy Regulatory Commission,
20 please don't confuse them. But Federal Energy
21 simply defaulted on their obligation. The market
22 reacted like sharks in a blood bath, not any
23 different than Wall Street has reacted to certain
24 stocks recently in the market. It is no

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1 different. It is a market.

2 Federal Energy's failure to process
3 market to take extensive measures with respect to
4 credit limits. For example, one utility's
5 subsidiary had to have its parents' guarantee a
6 \$20 million line of credit so they can continue
7 the trading activities for the month.

8 FERC's review of the situation has
9 determined that the market worked to correct
10 itself. In other words, when given the true
11 opportunity, the market will work to correct
12 itself.

13 Now that you know what happened, the
14 question is raised, can peakers prevent price

15 spikes. The answer depends on whose shoes you are
16 in and from what perspective. If you own the
17 peaker or its output, you are either long or you
18 are hedged, basically you are at even. As stated
19 earlier, if you are long, you want prices to go as
20 high as possible to make the largest spread. That
21 could put you back into price spikes. It really
22 depends on the market position. Whether being
23 used as a hedge or sale, power from the peakers
24 can be sold or delivered to many different

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1 locations.

2 The answer to whether we will see price
3 spikes is yes. As you saw in the natural gas
4 slide and as you see in the natural gas market
5 today, we are seeing it again, that is the market.

6 Basically marketers need change to make
7 profits. Whether it is regulatory change, whether
8 it is changes in weather, whether it is changes in
9 market conditions, as long as it changes price,
10 that is how marketers make money and the ideal is
11 we all need change because otherwise you would
12 have a stagnant market, people wouldn't think of
13 creativity.

14 Anyhow, some have indicated or
15 testified that to move power over multiple systems
16 is uneconomic. I am sorry, Jim. Can you back up

17 just a minute? If not, that is okay, don't fool
18 with it. Let me jump here for a second because
19 the last slide really just had this missing. This
20 represents what we had in 1998 for those that
21 maybe -- I just skipped over it. In 1998 the
22 monthly prices soared to well over \$200 a megawatt
23 hour. What that meant is if you purchased a
24 monthly contract in -- I think this was the month

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1 of June or July, I know July went that high as
2 well later. What that meant was you would pay
3 \$200 per unit, 16 hours a day, five days a week,
4 basically 22 days in a month, however long peak
5 days are in a month. That was your financial
6 obligation. You can do the math. It is millions
7 of dollars. So that was the type of exposure we
8 are talking about.

9 So when I mentioned about the utility
10 having to get a \$20 million line of credit, what I
11 just described to you was one contract. Imagine
12 somebody having ten contracts out. So that is the
13 type of exposure we had and that is why the market
14 reacted the way it did.

15 A peaker, if people -- if you are
16 trading. I am talking from a trading perspective,
17 not the developer of the peaker, but maybe someone
18 who buys the output. If I had the right to the
19 output of that peaker, I can hedge myself here.

20 So if prices go up, I make this difference. If
21 they don't, the only thing I have lost is the
22 insurance premium.

23 I will just digress just for a little
24 bit. An option is very much like you look at your

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1 home owner's insurance. You pay the premium every
2 year to protect your home against fire, flood and
3 so forth. If your house catches on fire and burns
4 and there is damage, your premium has a set amount
5 that you can collect. You can go collect that.
6 However, if you don't use your insurance for the
7 year, your insurance company still keeps the
8 premium. This game still works the same way.
9 Basically if someone purchases a premium to
10 build call-on power, in this case let's say it was
11 about \$70, \$75 and the market never got to 75,
12 somebody just spent a premium and that is just
13 okay, now you may or may not have lost money on
14 it, but that is the market they are in.

15 I just want to go on. Some have
16 indicated or testified that moved power over
17 multiple systems is uneconomic and it can be at
18 certain times. Because peakers are used in peak
19 periods when prices are at their highest, moving
20 power across multiple systems is not unreasonable
21 if the transmission system is reliable.

22 For example, if prices are \$200 per
23 unit or per megawatt hour into CINergy -- into the
24 CINergy hub, pardon me, moving power from Lake

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1 County to the CINergy system would cost less than
2 ten percent of the market price. The remaining
3 portion -- the engine portion of that at today's
4 gas price would be approximately 25 percent of the
5 energy price. The rest would -- do the math -- be
6 a profit, less any premiums they had paid for the
7 right to have that peaker.

8 I will make one comment that is in my
9 testimony today which I don't have. It really
10 relevant. One of the things as we get into
11 discussions of RTOs next is ComEd historically has
12 had -- and I am not singling out ComEd. I am just
13 using it as an example in this case, has
14 historically had some trouble moving power from
15 the south to the north for whatever reason.
16 Locating peakers on the north side of ComEd would
17 help relieve that. But I think you will see in my
18 next comments when we discuss RTOs, which are
19 regional transmission organizations, that maybe
20 that the idea of putting peakers ahead of the RTOs
21 decision may be a little bit of putting the cart
22 before the horse.

23 Just so you know, I have moved power in
24 multiple states. I have been involved in moving

1 power from South Carolina into the ComEd system,
2 multiple systems and I will tell you the delivered
3 price at that point was \$70 a megawatt hour and we
4 made a lot of money and that was different times
5 back at Enron.

6 Moving power across multiple systems
7 requires that the transmission system be adequate,
8 otherwise congestion is encountered and market
9 prices begin to rise.

10 I want to talk just a little bit about
11 alternatives, and this is in collaboration.
12 During the hearings many of the discussions were
13 specifically focused on whether or not peakers
14 need to be regulated. However, a key piece of the
15 discussion was missed. What alternatives are
16 available or what other activities are in the
17 works that may influence our decision? As with
18 any market, alternatives play an important role in
19 price.

20 I know that the Governor specifically
21 wanted to know about the peaker installations, but
22 the commissions, IPCB, IEPA, ICC have the
23 responsibility to evaluate alternatives and look
24 at the bigger picture. Moreover, whether it is a

1 small town developing local ordinances or a
2 statewide program to promote and protect the
3 state's culture, environment, national resources
4 or community standards, someone has to weigh the
5 benefits and review the alternatives. The state
6 of Illinois has no guarantee that the generation
7 built in Illinois will benefit the communities
8 within the state let alone specific communities.

9 Other actions that are taking place
10 that may affect the Board's decision is FERC'S
11 Order 2000. Please see the attached "In Whose
12 Backyard" to my testimony. FERC Order 2000
13 proposed purpose is to create transmission only
14 entities that will be run by independent operators
15 that are independent from -- excuse me, that are
16 independent from market participants so that
17 discriminatory practices are absent when improving
18 or expanding the grid.

19 FERC has ordered that all public
20 utilities to join Regional Transmission
21 Organizations -- and we will refer to them as RTOs
22 -- which will operate, in essence, as one large
23 carrier. And let me add for the region, there
24 will be multiple RTOs around the country. In

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1 addition, those independent RTOs are charged with
2 the responsibility of implementing FERC's
3 objective of facilitating and expanding the

4 nation's infrastructure, including the location of
5 generation.

6 Energy Secretary Bill Richardson
7 recently commented "we have the infrastructure of
8 a third world country" when discussing the
9 transmission system reliability problems. We
10 would strongly recommend that the state of
11 Illinois consider to jointly coordinate its
12 efforts with that of FERC and other relative
13 agencies.

14 During the hearing we heard some
15 presentations mentioned that building transmission
16 lines are environmentally unfriendly. We would
17 argue that point from a different perspective,
18 that the transmission lines do not emit So2, NOx
19 or any other hazardous pollutants. They do take
20 up space and can be unsightly at times. However,
21 with proper planning they can be engineered to be
22 more esthetic. Moreover, they are needed to
23 enhance the system, even if generation may be
24 located elsewhere. And I might say, if it didn't

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1 come across clearly, FERC has basically set out
2 the RTOs to help define where infrastructure is
3 needed to be added as well as locate generations
4 to that, the grid is looked at -- and you will see
5 this in the testimony -- the grid is looked at as

6 a regional area versus trying to fix a market
7 problem. Now, it is also obvious that many people
8 are kind of up in arms about it, marketers versus
9 the regulators. So if you read the testimony, I
10 think you will see the purpose of RTOs is very
11 clear.

12 We believe that the state of Illinois
13 should consider the impacts that construction of
14 peakers may have. For example, has the property
15 valuation taken place to determine what impact the
16 peakers may have on natural gas prices in the
17 summer or winter since the power from these plants
18 use large amounts of natural gas? Has proper
19 planning been undertaken to ensure that adequate
20 supplies in transportation are available for local
21 communities? Likewise, since the power from the
22 peakers cannot be sold and delivered -- can be
23 delivered and sold most anywhere, will customers
24 in Indiana enjoy lower prices of power at the

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1 expense of Illinois?

2 One more slide. That is okay. I am
3 sorry. Basically, I want to summarize with the
4 statement that basically the energy market is
5 undergoing a significant change and will at some
6 point be a competitive market. We are not there
7 yet, as I mentioned. Illinois must understand
8 that it does not have the weight of the market on

9 its shoulders anymore with respect to generation.
10 The market does. However, part of the market
11 participation is to work in concert with FERC's
12 efforts to ensure that we have adequate
13 infrastructure. This may or may not include
14 additional generation. And that concludes my
15 comments.

16 HEARING OFFICER JACKSON: We will go off the
17 record for a second.

18 (Short pause in proceedings.)

19 HEARING OFFICER JACKSON: Okay. We will go
20 back on the record and I will note that
21 Mr. LaBelle just passed out Lake County 2000
22 legislative program for the board members.

23 MR. LABELLE: Yes, we did refer to that in
24 our comments. And there were a couple items in

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1 that that are pertinent, there are others that are
2 not. But that will tell you what we did. That
3 concludes our testimony. We are available for any
4 questions.

5 HEARING OFFICER JACKSON: Before we start
6 with the questions, I do want to acknowledge for
7 the record that we have marked exhibits of all the
8 testimony that was submitted today as Lake County
9 Exhibit 1, we have the testimony of Mr. LaBelle;
10 Lake County Exhibit 2, testimony of Ms. Coal.

11 Lake County Exhibit 3 is the testimony of
12 Ms. Carter. Lake County Exhibit 4 will be the
13 copies of Mr. Elam's testimony and the power point
14 presentation and then finally Lake County Exhibit
15 5 will be the 2000 Legislative Program that was
16 just submitted.

17 And then also just to go back, we did
18 have a submission from Mr. Lynch that was not
19 noted on the record and we did admit that into the
20 record as Lynch Exhibit 1. At this point then I
21 will open it up for questions from the Board.

22 (Whereupon documents so offered
23 were marked and received in
24 evidence as Lake County Exhibit

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1 Nos. 1 through 5 and Lynch
2 Exhibit No. 1.)

3 CHAIRPERSON MANNING: I have a question.
4 Various speakers, one or two, I think, indicated
5 that California had a problem and part of the
6 problem with the recent price hikes for energy
7 generation in California was a result of
8 inadequate infrastructure in the state of
9 California. Would you like to comment upon that
10 at all.

11 MR. ELAM: We do some business in California,
12 I can't comment directly on their infrastructure.
13 They do have some problems, but I would make the

14 same comment as here, California doesn't have a
15 fully deregulated market either.

16 CHAIRPERSON MANNING: You both commented on
17 infrastructure improvements that the state needs
18 to make in terms of transmission lines. Could you
19 elaborate on that a little further, how, what,
20 where, to what benefit, that kind of thing?

21 MR. ELAM: When you say the state, obviously
22 not the state.

23 CHAIRPERSON MANNING: I don't mean the state
24 paying for the transmission lines, obviously. But

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1 I think your point was that we as a state need
2 better infrastructure in terms of transmission and
3 I would like you to elaborate on that if you
4 could.

5 MR. ELAM: There are two ways to fix
6 transmission problems. One is more transmission
7 or generation at times. And as I mentioned about
8 the FERC RTO, the RTO will have the responsibility
9 of siting where they believe new generations
10 should be or new transmission infrastructure.

11 Having adequate infrastructure or
12 transmission in place really allows a free market
13 to flourish. If you don't, you have congestion.
14 Market prices get out of kilt or one or the other
15 point, probably very much like in California it

16 has happened. I guess maybe I don't really
17 understand, other than infrastructure is what
18 allows a free market to set power prices, power to
19 flow. It is kind of like having your water system
20 if you have a half inch water line trying to put
21 too much water through it.

22 CHAIRPERSON MANNING: I guess I was trying to
23 ascertain whether you had any specific comments
24 about the nature of Illinois infrastructure. We

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1 did have a gentleman from the city of Evanston
2 talk to us about his concern with the city of
3 Evanston's transmission and their infrastructure.
4 I was wondering if you had any specific examples
5 for us or concerns specifically about --

6 MR. ELAM: The only specific example that I
7 have really been able to encounter, me personally,
8 when I have been involved in transactions was
9 often moving power from the south to the north of
10 the ComEd system. Wisconsin is an already short
11 market and I will say this, this was very
12 interesting. One of the Wisconsin utilities
13 recently spoke to us, why should we pay prices in
14 the market to other marketers and basically get
15 transmission repaired when our own people have
16 generation, we will just buy it from them, our
17 customers.

18 So I guess you could say the experience

19 I have seen with transmission problems have been
20 really moving south to north within ComEd. It is
21 a market that if a generation is located here,
22 there is a short market you can dump power into,
23 and you are only one wheel away from a hub, which
24 is in CINergy.

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1 MR. GIRARD: I have a similar question along
2 those lines. If the state identifies that
3 regional transmission is a major problem in
4 freeing up this market, what would be the problems
5 of the state building the transmission line? We
6 build highways and we put in water infrastructure.
7 What would be the problems with the state
8 identifying the problem and taking care of it?

9 MR. ELAM: Other than rates and who -- is the
10 state going to benefit from rates? I don't think
11 you would hear an argument from me. I think you
12 will hear an argument from the market players.

13 MR. GIRARD: Thank you.

14 MS. KEZELIS: I have an additional question
15 for you. I think we are all generally aware that
16 California is further along in the deregulation
17 process than is Illinois, would you agree with
18 that characterization or no?

19 MR. ELAM: Not necessarily.

20 MS. KEZELIS: Then my question is this. On a

21 scale of one to ten, and ten being the most
22 deregulated and one being fully regulated in the
23 old traditional days, where would you place
24 Illinois and California on that scale?

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1 MR. ELAM: Two.

2 MS. KEZELIS: Two for both states?

3 MR. ELAM: We don't have competition.

4 Anytime you have a reregulated market using
5 constrained costs, all you have done is taken the
6 cost structure, rebundled it and recast it to a --
7 different in a different means.

8 MS. KEZELIS: Would your answer be any
9 different with respect to the wholesale market?

10 MR. ELAM: No. The wholesale market
11 literally flourishes. With the exception of
12 reliability at times from a commodity standpoint,
13 wholesale market is proven to be pretty effective.

14 MS. KEZELIS: How would you -- if stranded
15 costs were removed or have been fully paid, then
16 what would your rating scale be with respect to
17 Illinois?

18 MR. ELAM: Well, not seeing the impacts of
19 it, but everywhere --

20 MS. KEZELIS: It is thoroughly speculative.

21 MR. ELAM: Speculative, I would say it would
22 be at the higher end of the sale.

23 MS. McFAWN: You have a very complex and

24 interesting presentation. I have some questions

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1 maybe others do to. Chairman Manning was asking
2 you about California. I understand that you are
3 not familiar with it. But I am still kind of
4 curious about California because we often hear
5 that they are ahead of us and their complications
6 might come our way. What did cause theirs -- if
7 you can give me a somewhat simple answer, what did
8 cause their rate increases? Was it is lack of
9 supply, lack of transmission? What was their
10 difficulty?

11 MR. ELAM: Well, I know I probably have a
12 real specific answer. But if you can take a look
13 at what happened down there, and I am sorry I
14 can't remember which utility it is that paid off
15 the stranded costs early, and that is why I keep
16 referring to you don't have a fully competitive
17 market yet. If I can equate back to companies I
18 am familiar with here, let's take, for example,
19 that ComEd pays off its stranded cost early, the
20 surrounding markets haven't. The wholesale market
21 continues to flourish at high prices because it
22 can. Why would someone sell to customers in
23 Illinois at low prices when they can, you know,
24 sell it to high prices to Indiana, Ohio, Michigan?

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1 That is, in essence, what happened in California.
2 I will tell you one of the best --
3 although, again, there is no state that is at ten
4 on your scale. I would tell you that the state
5 that probably has worked the best, even though I
6 don't agree with probably 100 percent of how they
7 implemented it, is the state of Pennsylvania.
8 Pennsylvania took a similar approach to ComEd and
9 Ohio will soon take in 2001, is basically give
10 generation credits. The problem with giving
11 someone generation credits is it is like the
12 government says we know what the market price is
13 going to be. It doesn't allow a true market to
14 flourish. So that -- the what happens is the
15 government said, in this case the Commerce
16 Commission in Pennsylvania said, for your customer
17 class you will have four cents credit. If you can
18 beat that on the wholesale market, great; if you
19 can't, don't go shopping. You will still be a
20 regulated customer. In the meantime, take the
21 same analogy, if CINergy prices are going up and
22 down and I am a trader and I am making lots of
23 money, why would I ever sell it to you less than
24 what I can make on the wholesale market.

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1 And that why we keep saying until we
2 have a fully deregulated market from top to bottom

3 -- and I don't mean the distribution systems
4 aren't regulated, there still has to be regulation
5 in place. With respect to the commodity and how
6 it is moved, you don't have competition and until
7 you -- I think you all would be surprised and I
8 won't be the only one, maybe I will heighten your
9 awareness, but I won't be the only one that will
10 tell you that a customer will buy from another
11 customer. Customers today would love to do it. I
12 have customers, again, that are 20, 25 megawatts
13 that would love to go to the next and buy their
14 generation because they buy that cheaper than what
15 they can at market. So eventually we will get
16 there, but we are not there yet.

17 MS. McFAWN: This is on a slightly different
18 topic, I think. You had said that -- you were
19 talking about the FERC 2000 order. I am not
20 familiar with that. So my questions might not be
21 on point. But it seems to me that you are saying
22 that they wanted to separate the transmission from
23 the marketers; is that right?

24 MR. ELAM: Transmission is separate from the

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1 marketers. It is separated from the utilities.
2 Basically, I think if you read the article that I
3 attached to my testimony, the analogy that was
4 used in there, it is like if you used the analogy

5 of the O'Hare Airport transmission system, it is
6 like letting United Airlines run O'Hare. And what
7 they want to do is get away from that. They want
8 an independent company operating it so when there
9 is a need for generation somewhere it is not
10 influenced -- unduly influenced.

11 MS. McFAWN: Aren't we in Illinois going to
12 the point where Commonwealth Edison with the sale
13 of the coal fire plants where they run the
14 transmission system and that is what they are
15 doing?

16 MR. ELAM: Well, you are getting there.

17 MS. McFAWN: But in the same time, we will
18 also learn their marketing locations for peaker
19 plants.

20 MR. ELAM: Sure.

21 MS. McFAWN: Aren't they then still trying to
22 control the generation?

23 MR. ELAM: What it is, at least from my
24 perspective, the way I look at it is ComEd would

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1 basically like to locate peakers on its facility.
2 If they invest in transmission, say I need to make
3 my infrastructure stronger, basically they go out
4 like a marker, the all-in-one-ending commodity.
5 Because transmission is a commodity as well, there
6 are companies out there today that really trade
7 transmission. But if I am a -- if I am ComEd, I

8 would much rather have somebody locate on my
9 system. I will get existing wheeling fees, make
10 money for my shareholders, and I don't have to --
11 I don't have anything at risk. That is at least
12 how I see it.

13 MS. McFAWN: Okay. Thank you.

14 CHAIRPERSON MANNING: I mentioned several
15 times in your presentation the CINergy system.
16 Could you explain that for us?

17 MR. ELAM: I am sorry. It is often I do
18 that. You kind of live in this business and you
19 forget.

20 CHAIRPERSON MANNING: That is okay. We are
21 generally environmental regulators, not utility
22 regulators. Sometimes I feel like I am a
23 customer's commissioner as opposed to a pollution
24 control board commissioner today.

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1 MR. ELAM: You have been over my head several
2 times. CINergy is basically a company that is a
3 joint company made up of Cincinnati Gas and
4 Electric Company and the Public Service of
5 Indiana. I think it was in 19 -- pardon me, 1991
6 that they made the announcement, I believe it was.

7 Anyhow, what there is is a joint
8 operating company. CINergy happened to be the
9 company that said we will be the trading company

10 and transactions can make a lot of money. I don't
11 know if it goes through their system or at least
12 it is contracted to go through their system. So
13 CINergy is nothing more than a utility. ComEd at
14 one time had an operating hub, I think it is
15 important, it didn't work. Because -- at least my
16 understanding is because of some infrastructure
17 problems.

18 CHAIRPERSON MANNING: So there is actually a
19 hub where a physical --

20 MR. ELAM: Yes.

21 CHAIRPERSON MANNING: Where is this physical
22 hub?

23 MR. ELAM: Physically it would be the CINergy
24 system, which is Public Services of Indiana, or

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1 PSI, and Cincinnati Gas and Electric. I think
2 that covers about 26,000 square miles or some
3 number. I know CG&E is 2,600 itself. So it would
4 cover parts of Ohio, Indiana and Kentucky.

5 CHAIRPERSON MANNING: But at the hub
6 transfer, the physical transfer, there are,
7 obviously, people making transmission exchanges on
8 computers or whatever; is that correct?

9 MR. ELAM: Yes. Just so you know how
10 transmission is arranged and transmission is to be
11 arranged separate and across what we call the
12 oasis system, and that is open access anytime

13 information system. That was FERC's order to make
14 sure that you as the utility don't put yourself in
15 line before someone else. And so if you go to
16 CINergy or talk with CINergy, they have a group
17 that operates the transmission and schedules
18 transmission independently of the people that buy
19 us.

20 CHAIRPERSON MANNING: So with this order,
21 this federal FERC order is to have that hub
22 generation be of independent RTOs you called them.
23 The people that would actually transfer and do the
24 transfer and transmission of all the electricity

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1 would be part of the RTOs?

2 MR. ELAM: I believe the way it is set up,
3 the Midwest ISO is -- it is very important, the
4 midwest ISO happened to be headed up by John
5 Procaro of CINergy. So CINergy is very much in
6 favor of this. The RTO, though, is regional. It
7 is not a hub. It is more than the hub. It could
8 be and it is going to be multiple systems.

9 CHAIRPERSON MANNING: Thank you.

10 HEARING OFFICER JACKSON: Could you spell
11 that name, Tom Procaro?

12 MR. ELAM: John Procaro, P-r-o-c-a-r-i-o.
13 Thank you.

14 MR. MELAS: There has been some concern, a

15 great deal of concern expressed at locating along
16 this peakers in this area not necessarily to serve
17 the needs of the area. Given that you got this
18 grid system, essentially everything east of the
19 Rockies is one system, and it can be shipped
20 anywhere. If we are short some power here
21 tomorrow, say that one of Edison's -- three of
22 Edison's nuclear plants go out all of a sudden,
23 Tennessee could furnish it.

24 MR. ELAM: Provided that the proper

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1 transmission is in place, yes.

2 MR. MELAS: I thought there is a grid that
3 covers the whole eastern United States.

4 MR. ELAM: Well, there is. Let me explain.
5 When I say that, I mean provided that -- let's
6 take, for example, that ComEd needs 20,000
7 megawatts. If ComEd's physical system is not set
8 up to move 20,000 megawatts into its system, it is
9 limited.

10 MR. MELAS: So it has to have the
11 transmission lines present?

12 MR. ELAM: It is called import capability.

13 MR. MELAS: So on the other hand, if they
14 have peaker plants here and something goes wrong
15 in Philadelphia and Philadelphia is short, they
16 can fire up these peaker plants here in Lake
17 County and start sending that stuff out to

18 Pennsylvania if the price is going to be high
19 enough?

20 MR. ELAM: That's correct. Just to give you
21 an example, at one point I moved power at
22 nighttime, at least not me personally, but the
23 company I worked for, we have moved power into
24 New York, from Ohio into New York at nighttime,

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1 just the economics were right.

2 MR. MELAS: Why did you move it at night, it
3 was lesser demand?

4 MR. ELAM: It just happened the economics
5 were okay that we can do that. We had people that
6 needed to get rid of power and it was cheap and
7 New York, obviously, was not -- it is not real
8 cheap out there. It is kind of like California.

9 CHAIRPERSON MANNING: Compared to the story
10 this morning on the rising price of natural gas,
11 you have alluded to it, I think in your testimony
12 as well, what impact, if any, does the rising
13 price of natural gas have on the establishment and
14 proliferation of peaker plants? Do you think it
15 will have any?

16 MR. ELAM: I think right now it is the other
17 way around. There is actually concern that a lot
18 of -- typical summertime is when prices go down
19 historically. If you look at the last ten years,

20 historically summertime prices go down for natural
21 gas. There is concern that the summertime usage
22 of natural gas now will exceed in some states that
23 of winter, southern states, for example, for the
24 winters. They are having peaker plants and

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1 combined cycle plants. Would you repeat your
2 question? I was about ready to get there.

3 CHAIRPERSON MANNING: I guess the story was,
4 basically, there was a concern of whether there is
5 enough supply of natural gas and I guess I just
6 want to know if you wanted to comment on that at
7 all, whether there is any impact the supply of
8 natural gas may have on the building of peaker
9 plants?

10 MR. ELAM: The supply is adequate from what I
11 understand and heard in the industry. However,
12 prices today, for example, are up because we use a
13 lot of natural gas in the summer as I mentioned.
14 That means people have not been able to put gas in
15 storage for the wintertime, therefore, winter
16 prices are going to be higher until we get a
17 higher production.

18 Again, if markets stay stagnant, you
19 wouldn't have a change. Markets do not expect
20 natural gas to stay where it is. They know it
21 will change. What will happen is a -- I am trying
22 to get your question. What will happen is when

23 the prices change there is going to be a level at
24 some point prices fall to, whether it is back to

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1 \$3, if it ever goes lower than that, that is
2 great, but -- let's say it goes back to \$3, people
3 will lock in prices on futures market or cash
4 markets with other companies and they still will
5 build power plants based on those economics. It
6 may not be located here. It may be located at a
7 different gas hub.

8 CHAIRPERSON MANNING: Thank you.

9 DR. FLEMAL: I have some questions of the
10 members of the county board. One of the most
11 common opening statements that we have heard from
12 people who have given us presentations goes
13 something like since deregulation, and then there
14 is followed a litany of perceived or real problems
15 regarding peaker power plants. Mr. LaBelle, your
16 first recommendation to us is that the state of
17 Illinois needs a plan and comprehensive licensing
18 guidelines to assure that all regions of the state
19 have reliable power. Didn't we used to have
20 something like that and wasn't that called
21 regulation?

22 MR. LaBELLE: Well, I am not calling for a
23 regulated market. I think the state needs to
24 understand the market and how it can meet the

1 power demands of our state and that is a lot of
2 what Mr. Elam has been trying to -- discussing,
3 you know, that those market factors that we need
4 to understand --

5 DR. FLEMAL: I guess I tried to move away
6 from the focus on the economic regulation
7 as opposed to the regulation, as you say, for
8 licensing guidelines to assure reliable power.
9 Isn't that what one of the roles that the ICC did
10 play prior to deregulation and that they looked at
11 the issues of need and involved that in their
12 licensing decisions.

13 MR. ELAM: I might actually turn to Greg on
14 that. There is a -- we are really not proposing a
15 regulated market. What we are really proposing is
16 that the state not deal with a small -- one part
17 of the power puzzle in isolation and we need -- I
18 think all of our testimony today has demonstrated
19 what we have found about the complexity of this
20 and that we as a state need to understand that
21 complexity and make sure to the extent possible
22 that we at least have a direction that we would
23 like to go.

24 If it is as was mentioned, the need for

1 additional transmission and if that is identified

2 as a need, then we should take steps to work with
3 the marketplace to provide that. If it is a need
4 for additional peakers in certain locations, we
5 should work with the marketplace to identify what
6 those locations should be and to help them do
7 that.

8 It is more a matter of understanding
9 what we need, where it should be done and enabling
10 -- providing the right regulatory framework to
11 help those things happen.

12 DR. FLEMAL: Maybe what I am trying to get
13 some perspective on is who you mean by the we when
14 you talk about we need to make these kinds of
15 decisions? I think we used to have in place some
16 kind of structure that did precisely that kind of
17 reviewing with deregulation, the broad
18 deregulation, some of that structure was set
19 aside. Are we really at a place questioning
20 whether that decision was appropriate and maybe
21 whether we ought to look back to instituting under
22 ICC or some other regional or local or state level
23 body that kind of decision-making?

24 MR. LABELLE: I am turning to Greg here for a

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1 moment.

2 MR. ELAM: I think we are headed that way.
3 Not to the extent that you just described, but

4 when we talk about the FERC and the RTOs, that is
5 the first step in there, that the RTOs would help
6 determine whether transmission is needed, whether
7 generation is needed, not individual agencies, per
8 se. We are asking back -- I think if I can speak
9 for Jim and the county for a minute, I think what
10 we are asking is the county, the state everybody
11 work with the RTO towards FERC's goal of making
12 the infrastructure a better system.

13 DR. FLEMAL: And that would include licensing
14 of individual plans at individual locations?

15 MR. ELAM: I believe it would, yes.

16 DR. FLEMAL: I might ask a question of
17 Ms. Coal. Another item that has had some
18 reoccurrence in our testimonies previously
19 presented to the Board is the role that taxes and
20 the tax structure play in the siting issue. You
21 made the statement in your testimony that new
22 property tax dollars would be minimal in the
23 siting of power plants.

24 MS. COAL: Yes.

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1 DR. FLEMAL: At the same time tax monies seem
2 to have been viewed as a positive in some
3 jurisdictions. I am confused as to why some
4 people view this as a positive and your
5 perspective that the tax structure tax position
6 you have got now is negative.

7 MS. COAL: My understanding of that issue is
8 when -- we have asked our state's attorney to
9 address whether the peaker plants are to be taxed
10 as a personal property or as real property. Even
11 our state's attorney when we ask for a legal
12 description as to whether one -- what our assessor
13 should be assessing the property as, personal or
14 real, they have -- I would say as of the last
15 proper report -- is conflicting advice to the
16 assessors. It was look at the property, look at
17 the turbines, can they be moved, are they big
18 enough, is the building collapsible, all those
19 little features as to -- it is almost as if each
20 assessor would make their own professional
21 determination as to simple things, is the roof
22 removable, are you close to -- in testimony that I
23 heard in Libertyville, the claim was we are close
24 to the railroad line and the building could be

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1 lifted to put on a train bed and be removed,
2 therefore, it is personal property. It is
3 movable.

4 So all these issues are being left up to
5 each individual township assessor to make their
6 determination. If one assessor called it real
7 property and is sticking to that, each of the
8 assessors then I suppose is putting his own

9 township on the line as to whether the peaker
10 facility company is going to agree with their
11 assessment. Of course, they want it to be
12 personal property. They want to convince them
13 that we are movable. The turbines are part of --
14 not part of the building, but they are, you know,
15 no different than a desk or a T.V. and I think
16 that is why you see the discrepancy and that is
17 from my personal, what I have been watching in the
18 hearings I have gone to and we can probably get a
19 copy for you of our state's attorney's recent
20 assessment of that. I think it came out probably
21 about two weeks ago. We can make sure you get a
22 copy of that.

23 DR. FLEMAL: Is that a situation that needs
24 rectification?

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1 MS. COAL: Our township assessors are asking
2 for that information from us.

3 MR. LABELLE: I might add, this issue of what
4 is real and what is personal has been a continuing
5 issue with the existing power plants. The Zion
6 plant is an example of where, since it was opened,
7 there have been annual appeals of the property tax
8 assessments that have gone through the property
9 tax appeals board, and then ultimately they have
10 also been in the courts.

11 So there have been three different

12 processes every year on the ComEd assessments as
13 to what is real and what is personal and in that
14 case, in Zion's case, the conclusion was for a
15 year that it was almost all real. The turbans,
16 while ComEd argued that they could be transported,
17 were determined to be real property. We are
18 hearing from industry representatives in the
19 peaker industry the same kinds of representations.
20 I have not heard anybody represent that the peaker
21 plants would be all real property. I haven't
22 heard anybody from the industry say that. In
23 fact, it is tending to be the other way. That
24 there is a representation that it is not real

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1 mostly and it is personal and can be transported
2 and so local governments are having -- are given
3 the expectation that there would not be a great
4 deal of property tax revenue that would be
5 generated from this.

6 That has led, at least in the case of
7 Zion -- I understand that there is a host fee that
8 is being negotiated on one plan. But whether that
9 would be equal to what would have been generated
10 had it been considered real property, is anybody's
11 guess right now. So it is an open question that
12 is it.

13 MS. COAL: And it is certainly an open

14 question that we would like to have answered
15 before these peaker plants proliferate throughout
16 the area because, believe me, those peaker plant
17 companies are calling them personal property.

18 MS. McFAWN: You were talking about Zion.
19 Since you are from Zion, you touched on the
20 incentive for Zion to site in one of these plants
21 or zone for it. Can you explain why Zion did
22 that? I am not asking you to speak on their
23 behalf, but as you understand it.

24 MR. LaBELLE: Yes, I should make it clear I

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1 am not speaking on behalf of Zion. I am a
2 resident of Zion and a very interested resident,
3 of course. But the -- one parcel of property that
4 is being proposed for location of a peaker plant
5 was previously zoned general industrial in the
6 city. As it happens, because Zion hosted a power
7 plant, a power plant was a permitted use in the
8 general industrial zone. So the representation
9 that is being made is that there is not a zoning
10 decision that the city would need to make on this
11 particular piece of property, and, in fact, on any
12 property that is zoned general industrial in the
13 city.

14 There are a couple of other parcels
15 where that is not the case. I am not an expert in
16 this, but I believe that it is only one plant that

17 is in the area that is still general industrial.
18 But as a result of that, the city is believing
19 that there is not a whole lot it can do in terms
20 of the local siting decision at this point. Does
21 that answer your question?

22 MS. McFAWN: Did you mention that they were
23 also trying to get --

24 MR. LaBELLE: -- the host fees?

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1 MS. McFAWN: Yes, sir.

2 MR. LaBELLE: Back in relation to the
3 property tax issue and what is in it for the local
4 government, the City, I believe, has been -- and
5 it has been published -- that there are host fees
6 that are being negotiated with one of the plant
7 proposers and that it would be divided up among
8 the local taxing bodies as a way of compensating
9 them for having the power plant in their
10 community.

11 As we have pointed out, this is one
12 municipality doing, you know, what is really a
13 regional use. And Lake County has unincorporated
14 property immediately adjacent, and there is no
15 host fee for Lake County or the neighboring
16 municipalities.

17 MR. LAWTON: Mr. LaBelle, in your prepared
18 comments, item No. 2, you advocate or suggest the

19 regulatory and permitting process needs to be
20 comprehensive and cohesive. Would you
21 collectively or severally advocate a statewide
22 siting authority?

23 MR. LABELLE: In your legislative
24 recommendation in the spring, we suggested

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1 something similar to what has been used for
2 regional pollution control facilities. I am not
3 -- I don't know that we are sure that that is
4 exactly the right way to do it, but some process
5 that is able to in one place consider all of the
6 environmental and locational aspects is definitely
7 needed.

8 MR. LAWTON: That is a good answer and I
9 think our role, if we understand it, is to be able
10 to make some specifics in the way of a
11 recommendation and anything that you can provide
12 to us will be helpful. Because we are looking for
13 the same type of resolutions that you commented
14 on, and we would welcome your thoughts on it.

15 MR. LABELLE: We would be happy to go back
16 and think more. As you can see, we spent a little
17 bit of time on this subject. We are working our
18 way through and we are trying to share with you
19 what we know.

20 MR. LAWTON: We appreciate it.

21 MR. LABELLE: We have stopped short of

22 specific either legislative or regulatory language
23 at this point. But if you would like us to pay
24 attention to certain aspects, we would certainly

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1 be interested in working with you.

2 MR. LAWTON: Anything you could provide, we
3 would welcome.

4 MR. LABELLE: We just don't want to duplicate
5 what you may do.

6 MR. LAWTON: Don't worry about it.

7 MS. McFAWN: Along those lines, the siting of
8 regional pollution control facilities, they -- one
9 of the stumbling blocks that I believe Director
10 Skinner brought up at our first hearing was that
11 they are still local. The municipality still has
12 the right to cite regional pollution control
13 facilities even over the objection of its
14 neighbors. Have you given that any thought? I
15 mean --

16 MR. LABELLE: That is actually one of the
17 reasons that, as I said, we are not sure that that
18 is -- we wouldn't necessarily duplicate what you
19 have there. We are really concerned about these
20 extra maladies. And we are speaking today about
21 peaker plants. But as you may know, I am a member
22 of the legislative Illinois Growth Task Force,
23 which Senator Maitland is chairing. And that task

24 force is looking seriously at the issues involved

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1 in local land use planning, the intergovernmental
2 and regional issues that really need to be
3 addressed and that aren't now. We need to improve
4 our environment for planning, not just for
5 peakers, but just in general. The matter of how
6 we address impacts that are external to that local
7 jurisdiction, we need to address that.

8 So I would somehow change that -- the
9 regional pollution control process to incorporate
10 something that involves others than just that host
11 municipality --

12 CHAIRPERSON MANNING: Other than the village
13 of Island Lake --

14 MR. LABELLE: -- or any of us.

15 CHAIRPERSON MANNING: How big is Island Lake?
16 That was the name of the jurisdiction that we were
17 talking about in terms of the base-load facility.
18 How big is Island Lake?

19 MS. CARTER: Population-wise? Well, it is
20 split between Lake and McHenry County. The Lake
21 County size is probably about 4,000, 3,000
22 residents.

23 CHAIRPERSON MANNING: It is actually a city
24 that is in both counties?

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1 MS. CARTER: Yes, it is.

2 MR. LABELLE: We have a few of those.

3 CHAIRPERSON MANNING: That is interesting.

4 MR. LABELLE: If there are no further
5 questions, we have been delighted to have your
6 time today and meet with you. As I indicated, we
7 stand ready to provide additional information if
8 you would like. We do want to work with you and
9 as I indicated, if there -- we don't want to draft
10 regulatory language for you if you are doing that.
11 But if there are things that we can help you with,
12 we would be most happy to do that.

13 CHAIRPERSON MANNING: Well, I would like to
14 thank you all. This has been an excellent
15 presentation and has with every county that we
16 have been to actually. I have been in state
17 government for a long time and the interplay that
18 we have had with the local jurisdictions and the
19 state, you know, in our state responsibility has
20 been really good, I think, and healthy. So I
21 thank you.

22 MR. LABELLE: Thank you.

23 MS. McFAWN: Before we let you go, I have one
24 question. And it is a very nonsubstantive one.

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1 The article that you have attached to your
2 testimony, which I just managed to skim, where was

3 this published?

4 MR. ELAM: It came from one of my other
5 offices in Alabama that was sent to me.

6 MS. McFAWN: Can you let us know?

7 MR. ELAM: I can let you know. Thank you for
8 that easy question.

9 MR. LaBELLE: I would also introduce our vice
10 chairman of our county board Suzi Schmidt who has
11 arrived, and she is participating greatly in this
12 as well.

13 HEARING OFFICER JACKSON: Thank you very
14 much. Let's take a short five-minute break. I
15 think we like to get maybe one or two speakers in
16 before we take a dinner break. Let's go off the
17 record, five minutes, and we will start back
18 again.

19 (Short recess taken.)

20 HEARING OFFICER JACKSON: We are going to go
21 back on the record now, and our next speaker is
22 Mr. Larry Eaton. He has provided copies of his
23 testimony to the board members and to the court
24 reporter, and the testimony has been marked as

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1 Eaton Exhibit 1. Whenever you are ready.

2 (Whereupon document so offered
3 was marked and received in
4 evidence as Eaton Exhibit
5 No. 1.)

6 MR. EATON: Thank you very much, Ms. Hearing
7 Officer and members of the Board. My name is
8 Larry Eaton. I am an attorney. The Liberty
9 Prairie Conservancy, Prairie Holdings Corporation
10 and Prairie Crossing Homeowners Association,
11 through me as their counsel, recently actively
12 participated in the concluded public hearings that
13 were held before the village of Libertyville Plan
14 Commission regarding the proposed installation of
15 a 300-megawatt gas-fired power plant by Indeck
16 Power Company. Participation in those
17 proceedings, involving more than 20 hearing
18 sessions over approximately the past ten months,
19 has caused the parties to study the relevance
20 involved issues in some depth and I also, as an
21 aside, add that I also have served as counsel for
22 Bartlett CARE, a representative whom you have
23 heard speak of me in Naperville, so I have strong
24 conclusions as well from my participation in that

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1 proceeding. We would like to offer the following
2 thoughts and incites that we think we have gleaned
3 from those various hearings in the hope that they
4 will benefit this Board in crafting appropriate
5 regulations in this emerging and extremely serious
6 area.

7 The first point we would really like to

8 address is with regard to the scope of these
9 hearings in general. Others have already touched
10 upon the point, but as Chris Romaine from the IEPA
11 has already pointed out to some extent during his
12 testimony, there is potentially a sizable gray
13 area that may be inappropriately ignored if the
14 focus of these hearings is unduly restricted to
15 natural gas-fired peaker power plants.

16 It is not always clear what a peaker
17 plant is. It is not necessarily determined by the
18 nature of the fuel it uses, whether it is
19 gas-fired turbine, or whether it is a simple cycle
20 or combined-cycle plant. Indeed, as Mr. Romaine
21 pointed out on August 23rd in his testimony, the
22 very subject of these hearings, relating to
23 natural gas-fired generating facilities, is
24 subject to ambiguity. Quote, gas turbines are

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1 called gas turbines because they work with a hot
2 gas, not because they burn natural gas. In theory
3 peaker plants operating on kerosene or light oil
4 might not be viewed as subject to these
5 proceedings, but that would surely be overly
6 narrow.

7 There are hybrid plants and there are
8 plants that are capable of operating on single or
9 multiple cycles. But most importantly, all power
10 plants generate problems, such as air emissions,

11 in greater or lesser degrees. Moreover, most, if
12 not all, are designed to generate power onto the
13 national electrical grid. Accordingly, care
14 should be exercised in not drawing this line too
15 fine and entering into gray areas where there may
16 be risk of unfair exclusion.

17 The simple fact is that power
18 generators generate air contaminants and noise.
19 They use water. They compete with other power
20 generation sources for a finite, limited market
21 need with a very unclear future. We highly
22 recommend that this Board seriously consider
23 regulations that would govern the siting of all
24 nonregulated power plants, by which we mean

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1 nonutilities, since utility siting, by and large,
2 is still regulated by the Illinois Commerce
3 Commission. It is a vacuum that has been created
4 by this so-called deregulation that leaves the
5 regulatory gap with respect to power plant siting,
6 and it is that gap which needs to be filled to
7 avoid unfair or disparate treatment between and
8 among various power plants.

9 Following up on this last point, in
10 these hearings to date, others have alluded to the
11 ways in which deregulation has impacted the
12 historic approach given to power plant sitings.

13 At the risk of oversimplification, power plants
14 historically had to satisfy two regulatory
15 agencies, at least in Illinois, namely, the
16 Illinois Environmental Protection Agency and the
17 Illinois Commerce Commission. The IEPA is charged
18 with regulation, in particular, of air pollution
19 and water pollution, as well as noise, although
20 that topic is one I will address in a little bit.
21 The siting issues, by contrast, largely were
22 regulated by the Illinois Commerce Commission.
23 Deregulation, so called, has left the IEPA's
24 responsibilities in this area largely unchanged,

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1 but has removed the ICC from the equation, for all
2 intents and purposes.

3 This has had the effect of causing
4 siting considerations to devolve virtually
5 entirely upon local governmental agencies, such as
6 village zoning boards. This is not an entirely
7 bad thing. Local zoning boards have an
8 appropriate role to play in determining whether a
9 power plant should be allowed to be sited in their
10 community. However, as you have already heard to
11 some extent, a number of subissues arise in this
12 context. One critical such concern is that
13 different zoning agencies have varying degrees of
14 expertise and ability to step into the fray and
15 to properly handle these inquiries. Many of them

16 are simply ill-prepared for that eventuality,
17 notwithstanding the best intentions in the world.

18 There has been much discussion in these
19 hearings about whether it would be possible to
20 create some sort of a template for power plant
21 siting. We believe that a set of guidelines or
22 recommended procedures could well serve local
23 governmental entities, as they are forced to deal
24 with these difficult questions of power plant

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1 sitings, as I intend to discuss in a little bit
2 greater detail in a moment.

3 But before doing that, I think it is
4 best to recognize the bifurcated nature of
5 regulation in this area that we have already
6 alluded to and by that I mean I think we should
7 address first, though, the aspects of IEPA
8 regulation and how they can be improved. Then
9 turn our attention to how this Board or the
10 general assembly may be able to address the vacuum
11 or void that has been created by the removal of
12 the ICC from regulatory framework that previously
13 applied to power plant siting.

14 Regarding air pollution, one lesson
15 that we have drawn from our experience in
16 Libertyville and elsewhere is the need to
17 eliminate the differences or at least the very

18 least, lower the floor between major and minor
19 sources, especially with regard to air contaminant
20 emissions such as nitrogen oxide and volatile
21 organic compound.

22 We believe that at a minimum NOx
23 requirements such as Best Available Control
24 Technology, BACT, that presently apply only to

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1 major sources defined as sources emitting in
2 excess of 250 tons of NOx per year ought to apply
3 to all power plants or at least to all new or
4 newly modified power plants, and at the very
5 least, as I will discuss further, to all such
6 plants emitting more than 25 tons of NOx per year.

7 Unquestionably, there are complex
8 scientific issues with respect to the formation of
9 ozone and how NOx emissions factor into that.
10 However, we believe certain truisms apply. One is
11 that notwithstanding the various discussions about
12 improved ozone levels in the state of Illinois,
13 the Chicago area remains a severe ozone
14 nonattainment area. Another is that ultimately
15 NOx emissions into the atmosphere are not a good
16 thing. Indeed, the introduction of significant
17 additional amounts of nitrogen oxide into the
18 atmosphere would be a bad thing. NOx is a
19 precursor of ozone, and, ultimately, the ozone
20 level in the air we all breathe is directly

21 related to the amounts of NOx in the atmosphere.
22 Moreover, since NOx can travel a very long
23 distance, the concept of an airshed in the context
24 of NOx is a very broad concept, indeed, stretching

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1 over many, many miles.

2 In fact, because it is the very nature
3 of NOx to travel over long distances, the IEPA
4 needs to look at virtually all multiple proposed
5 installations by a single owner/operator as one
6 major source, rather than as a number of minor
7 sources. IEPA's failure and refusal to do that at
8 the present time is in violation of the
9 circumvention regulation.

10 Some companies have been known to seek
11 to avoid major source review for individual plants
12 by proposing to build more than one plant, each
13 having contaminant levels just under the maximum
14 levels at which a plant may be considered a minor
15 source. To do this, they manipulate their own
16 ownership structure and the permitting process, in
17 the effort to have each plant treated as a minor
18 source. However, when all of their plants in the
19 region are taken into account, total emissions
20 clearly far exceed these minimum standards.

21 This conduct runs afoul of the
22 provisions of the IEPA circumvention regulation

23 set forth at 35 Illinois ADC 201.150. That
24 regulation provides in pertinent part, quote, no

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1 person shall cause or allow the construction or
2 operation of any device or any means, including
3 the creation or use of any corporations or other
4 business entities, having interlocking
5 directorships or substantially identical ownership
6 which, without resulting in reduction in the total
7 amount of any air contaminant emitted, conceals,
8 dilutes or permits air contaminant emissions which
9 would otherwise violate these regulations.

10 All of these companies' plants in a
11 region need to be considered together under the
12 standards required for major sources. Failure to
13 do so will cause a violation of the circumvention
14 regulation. These power plants, proposed at
15 various locations in the state of Illinois, will
16 each be connected to the main electrical
17 transmission grid. Each plant will emit air
18 contaminants, including NOx, which well may be
19 transported into the Chicago metropolitan severe
20 ozone nonattainment area, may exacerbate NOx
21 contaminant levels elsewhere in the state of
22 Illinois, and/or may be transported to neighboring
23 states.

24 The efforts by a company or business

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1 entity having a common ownership to obtain permits
2 and to construct and operate multiple plants in
3 the vast NOx airshed, each to be considered
4 separately, constitutes an effort to dilute
5 emissions. Total emissions from all such plants
6 need to be reviewed as one, not individually, to
7 avoid a circumvention precluded by that
8 regulation.

9 It is apparent that these plants,
10 when so reviewed, will far and away exceed the
11 minimum standards for review as major sources.
12 Accordingly, all of these plants should be
13 reviewed as new major sources and must be required
14 to comply with all of the standards that such a
15 review entails.

16 Regarding NOx waivers, as we are aware,
17 the U.S. EPA several years ago granted Illinois
18 and other Great Lakes states what has been
19 referred to as a NOx waiver. This has permitted
20 Illinois not to require strict compliance with
21 regulations that otherwise would have applied to
22 new source emissions of NOx. Among other things,
23 this has meant that a requirement that would
24 otherwise require BACT on sources at a threshold

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1 of 25 tons of NOx per year has been increased to

2 apply only to facilities that emit the appalling
3 high threshold of more than 250 tons of NOx per
4 year.

5 As I have noted, this has permitted
6 certain installations, and in particular, a number
7 of proposed peaker power plants, to fly under the
8 radar screen by proposing to emit NOx emissions in
9 levels only slightly below the 250-ton per year
10 threshold. They have been permitted to do this
11 under the regulations by back calculating their
12 rates of emissions and reducing their projected
13 hours of operation accordingly.

14 The difficulty with this lax standard
15 has been compounded by the fact that peaker plant
16 emissions are designed to occur primarily during
17 the hot summer months, a period of time when both
18 peak electrical demands predictably will be at
19 their highest, while ozone threats also will be at
20 their worst due to the presence of markedly higher
21 levels of sunshine to impact the atmosphere and
22 create the ozone. However, the regulations do not
23 take into account any sort of seasonal adjustment,
24 but instead are based strictly on an annualized

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1 emission rate of 250 tons per year.

2 This state of regulation comes by
3 coincidence at a time when deregulation of the
4 electricity generation industry has struck

5 Illinois, and the gold rush is on to be among the
6 first to build new peaker power plants.

7 We believe it is evident that members
8 of the industry believe that if they can be quick
9 to get into play there are profits to be made.
10 However, it is probable and we think it is
11 possible and we think it is probable that this
12 rush to build and begin operating new sources is a
13 short window, that the demand will be short lived,
14 as some probable combination of new base-load
15 plants, coupled with such things as microturbines
16 and other sorts of distributed generation, come
17 increasingly into the marketplace in the next very
18 few years, significantly and adversely impacting
19 the demand for peaker plants.

20 This raises the potential spector
21 should many such plants be built of a countryside
22 littered with white elephants of abandoned peaker
23 plants, particularly those which cannot or are
24 not, for whatever reason, expanded into base-load

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1 plants.

2 One guideline or recommendation that we
3 feel is vital in power plant sitings is for
4 communities to require reliable, suitable and
5 adequate bonding to cover disassembly, site
6 remediation, and any other possible consequences

7 of a decision of an independent power producer to
8 discontinue use of a power plant after it has been
9 built.

10 In any event, going back to the NOx
11 waiver, that NOx waiver is coming to an end and
12 Illinois is presently required, to my
13 understanding, at least, to have a new state
14 implementation plan by October 28th of this year.
15 Nevertheless, we think it is useful to look at
16 what the ozone transport assessment group
17 concluded in their 1997 report, which is reported
18 at 62 FR 60318-01, page 60344, regarding their
19 re-review of the advisability of the NOx waivers.

20 As noted by OTAG, NOx waivers generally
21 were applied for in the early 1990s and were
22 granted to certain Great Lakes states, among
23 others, based upon information that seemed to
24 suggest that urban NOx emissions decreases

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1 produce, increases in ozone concentrations
2 locally. However, by the time of the 1997 report,
3 OTAG concluded in that regard that, quote, the
4 magnitude, time and location of these increases
5 generally do not cause or contribute to high ozone
6 concentrations. That is, NOx reductions can
7 produce localized transient increases in ozone
8 mostly due to low-level urban NOx reductions in
9 some areas on some days, but most increases occur

10 on days and in areas where ozone is low, unquote.
11 OTAG went on to state that, quote, with respect to
12 regional ozone transport, EPA believes that it is
13 not appropriate to give special treatment to areas
14 with NOx waivers, unquote.

15 In reaching that conclusion, OTAG noted
16 that most of the NOx waivers that initially were
17 granted were not supported by local or regional
18 scale air quality modeling analyses, indicating
19 that NOx emission decreases would result in ozone
20 increases. Instead, most of the waivers were
21 granted based solely on local air quality data
22 indicating the areas were already attaining the
23 ozone standard.

24 A few of the NOx waivers were

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1 accompanied by attainment plans showing
2 achievement of ozone standards by statutory
3 deadline through additional VOC controls only.
4 However, it was noteworthy that none of the 35
5 nonattainment areas, which had approved NOx
6 waivers, ever demonstrated or sought to
7 demonstrate that NOx reductions might increase
8 ozone concentration in specific areas.

9 Thus, any suggestion that there may be
10 any true benefit from NOx emissions is illusory
11 at best. NOx emissions need to be reduced to the

12 fullest feasible extent from all sources,
13 particularly new sources, and particularly so
14 long as the intolerable condition of ozone
15 nonattainment continues.

16 At a minimum, it is our belief that the
17 250-ton per year emissions floor for NOx emissions
18 from major sources should be eliminated, and that
19 any and all sources that will emit more than 25
20 tons of NOx per year should be treated as major
21 sources.

22 In addition, seasonally adjusted
23 emission rates should be calculated so that the
24 rate of NOx emissions should at no time exceed a

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1 pace that would achieve 25 tons of NOx per year
2 without being considered a major source.

3 Moreover, since reduction of NOx is a
4 critical goal, particularly as it relates to the
5 Chicago severe ozone nonattainment area, there is
6 no reason not to require NOx sources, or at least
7 all new NOx sources, to emit the least possible
8 amount of NOx, thereby, to create the least
9 additional possible amount of ozone.

10 To achieve this, we believe it is in
11 the State's vital interests to require all such
12 new and newly modified major sources of NOx, being
13 at a minimum, sources emitting more than 25 tons a
14 year, and/or major sources of VOCs to install the

15 lowest achievable emission reduction, or LAER,
16 control equipment if they are to be permitted to
17 be built at all.

18 In this fashion increases in NOx
19 emissions and VOC emissions will be limited to the
20 greatest extent possible given all the present
21 state of the art technology. This, we believe, is
22 already the standard required for all major
23 stationary sources in nonattainment areas under
24 section 203.301. We believe this regulation not

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1 only should be enforced but should be extended to
2 all sources statewide.

3 In the statement of reasons submitted on
4 behalf of the IEPA in support of the fast-track
5 NOx trading program regulations that are presently
6 pending before this Board, IEPA observed that
7 Illinois' NOx budget, which is calculated as the
8 difference between the 2007 base-year emission
9 inventory, which means the amount anticipated
10 under present conditions plus expected growth, and
11 the amount projected if highly cost-effective
12 control measure were applied to the four major or
13 large source categories, including electrical
14 generating units serving generators over 25
15 megawatts is 270,560 tons per season. Although
16 Illinois can control NOx under its SIP in whatever

17 manner it deems appropriate, so long as it meets
18 that budget, IEPA has concluded that this cannot
19 be done without controlling electrical generating
20 units.

21 IEPA proposes to do this with a fixed
22 flex approach, by which it is meant that starting
23 in 2003, allowances will be allocated to sources.
24 Old sources, defined as those in operation before

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1 1995, will receive allowances in 2006 and 2007
2 equal to only 80 percent of the 2003, 4, 5
3 allocations. In this way NOx emissions are
4 expected to be reduced.

5 It is noteworthy that under IEPA's
6 proposed regime only 5 percent of total allowances
7 will be available in the 2003, 4, 5 for new units,
8 i.e., those that commence operations after January
9 1, 1995. Only 2 percent of allowances will be set
10 aside for new units in 2006 and 7. The IEPA's
11 position paper continues, quote, if there are
12 insufficient allowances available to allocate
13 allowances representing 80 percent of their
14 average heat input to all of these new existing
15 EGUs, then the available allowances will be issued
16 to them on a pro rata basis.

17 IEPA further noted a proliferation of
18 permits from an application for new power plants.
19 Contrasted to the entire State's NOx budget of

20 270,560 tons per season, if just those already
21 applied for were all built, IEPA calculates that
22 there would be new post-1995 EGUs representing
23 over 22,000 megawatts with accompanying 11,000
24 tons of NOx during the control period.

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1 Of course, many of those plants may not
2 be built. Conversely, however, by 2007, without
3 proper regulation, many more probably will be and
4 it is noteworthy remembering the 5 percent and 2
5 percent set aside for new sources to note that
6 11,000 tons of NOx is approximately 4 percent of
7 the 270,560-ton budget.

8 The principal lesson in this, of
9 course, is that Illinois needs to quickly and
10 radically reduce NOx emissions. It is certainly
11 better for Illinois to actually reduce its own
12 emissions, and in the process enhance the quality
13 of its air, than to rely on what we think is the
14 somewhat dubious and possibly unreliable
15 alternative of purchasing interstate credits which
16 may or may not be available when the time comes
17 regardless of their advisability otherwise.

18 The obvious point in specific regard to
19 these hearings is that new EGUs are being given
20 insufficient attention and planning in
21 anticipation of the crush that looms in the next

22 very few years. How much new power will we need?
23 If simple-cycle plants emit about five times as
24 much NOx per megawatt as combined-cycle plants,

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1 shouldn't that be taken into account in our early
2 planning stages to determine what our State's
3 capacity is for new plants over the next five to
4 ten years, and how can we ensure that we get the
5 best utilization of this extremely limited NOx
6 budget?

7 The impending NOx trading rules are
8 sobering, indeed, and they demonstrate, I think,
9 an imperative need for better planning and
10 regulation of new power plant sitings.

11 I would like to turn to noise pollution
12 if I may for a moment. There are a number of the
13 approximately 50 pending peaker plant applications
14 for installations are proposed for locations quite
15 close to residences, we have learned in
16 Libertyville and elsewhere, in Bartlett. For
17 those residences, noise may well be the single
18 most serious and acute environmental problem posed
19 by these plants. I believe it bears making
20 several points with respect to noise in this
21 context. First, as you have heard, at the
22 present time noise forms no part of the Illinois
23 EPA's permitting process for new power plant
24 sitings. This is a problem that needs to be

1 rectified either by including noise as a part of
2 that permitting process or requiring a separate
3 noise permit for new installations.

4 Secondly, at present, there is
5 inadequate IEPA noise enforcement. Illinois noise
6 regulations are virtually unenforced by IEPA,
7 contrary to the purposes of the Act. Greg Zak,
8 IEPA's noise director, is a one-man noise section
9 and is the only person reviewing this area. He is
10 not even involved in the permit process for
11 construction of facilities such as proposed peaker
12 plants.

13 Accordingly, there is virtually no
14 ability to enforce these regulations and an
15 inability which is due to insufficient staffing
16 and budget restrictions which precludes properly
17 dealing with this critical area.

18 Mr. Zak testified at a hearing in this
19 regard -- regarding a peaker plant in Woodstock
20 and I have got a fairly extensive quote that is in
21 my materials, but I simply want to point out that
22 after he explains what he does, including taking
23 approximately 2,000 phone calls a year that
24 pertain mainly to noise complaints and advise the

1 various folks on how to handle the noise problems,
2 he said the reason it is done the way he explained
3 is because "I am the only person that does noise
4 work at the Illinois EPA and in order to have an
5 effective program, I have a self-help program
6 wherein I advise folks on how to work on the
7 problem to get the problem solved."

8 As a result of this intolerable state
9 of affairs, the state has noise regulations, but
10 they are essentially unenforced due to the lack of
11 manpower. At a minimum, having the IEPA check
12 sources for noise and having IEPA regulate noise
13 emissions by enforcing their standards through a
14 permit process that has some teeth in it would be
15 a major step forward.

16 Unfortunately, however, even if we had
17 the most rigorous enforcement of current
18 standards, what we are finding is that the state
19 noise regulations in many of these cases are
20 simply inadequate. As you know, the noise
21 regulations are written for nine octave bands.
22 However, we believe it is fairly well accepted
23 that the nighttime noise regulation limits for
24 emissions from industrial sources to residential

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1 receptors can be referred to by shorthand as being
2 approximately 51 dba. That may be fine in a place
3 where these plants perhaps ought to be located,

4 such as existing industrial locations, brownfield
5 areas or areas where there is already a
6 substantial amount of noise and/or virtually no
7 residences in the vicinity, all of which should be
8 encouraged.

9 However, as already noted, many of
10 these plants have been proposed to be built in or
11 near residential areas. Many of these areas we
12 have found to be extremely quiet. For example, in
13 both Libertyville and Bartlett, background noises,
14 particularly at nighttime and particularly on
15 weekends when these plants may well operate, are
16 extremely low, running sometimes below 30 decibels
17 and many times in the low 30s in dba and we know
18 that noise doubles approximately every six
19 decibels that the level of sound is increased.
20 Accordingly, to go from 33 db to 39 db would
21 double the noise. To go from 39 db to 45 db would
22 double the noise again and to go from 45 to 51,
23 would double the noise again. Thus, at 51 dba
24 noise is eight times as loud as it is at 33 dba,

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1 which is a fairly common level of noise to be
2 found in or near many of our residential
3 neighborhoods. It may well be impracticable, as
4 some have said, for these plants to meet noise
5 levels in the low 30s. But if that is so, they

6 simply should not be built in locations where they
7 will be disturbing people.

8 The state regulations need to be
9 revisited and new emission levels consistent with
10 background noise levels actually experience in
11 quiet residential neighborhoods need to be taken
12 into account. These and the other new facilities
13 need either to be required to comply with far more
14 stringent noise requirements than the present
15 regulations require, or to find a location where
16 they can comply with those regulations where
17 background noise levels are not so extremely low,
18 as is the case with a number of these proposed
19 sites.

20 These observations that I have just
21 made I think will go a long way toward addressing
22 the regulatory issues in this area involving the
23 IEPA. However, as I previously noted, with the
24 advent of deregulation, there has come a serious

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1 gap. Appropriate siting locations and needs that
2 used to be regulated by the ICC are no longer
3 uniformly regulated at all. What regulation
4 there is falls, hit or miss, on local zoning
5 authorities, depending upon what zoning needs
6 there may be for various proposed sites. As you
7 heard earlier this evening, if there is no zoning
8 requirement as may be the case like in Zion, it is

9 not clear that even the local zoning authorities
10 have much authority.

11 In any even, the IEPA has a regulatory
12 system in place, as it long has had, for such
13 things as air pollution consideration -- and
14 putting aside the sufficiency or adequacy of that
15 regulatory and permitting system -- neither the
16 IEPA or the IPCB have ever purported to regulate
17 the issues relating to power plant sitings that
18 previously were regulated by the ICC.

19 As I previously noted, local zoning
20 governmental agencies have a widely varying degree
21 of expertise with which to handle the issues in
22 question and to fairly assess power plants. In
23 effect they are being asked to judge essentially
24 in a vacuum without regard to other possible

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1 plants to serve the same purpose whether they
2 should permit power plants to be sited at
3 locations sought by independent power producers.
4 Ironically, this situation ultimately may prove
5 adverse for independent power producers since
6 there may be a tendency by local zoning agencies
7 to reject proposals to permit the building of IPPs
8 in their jurisdictions.

9 An issue that you have heard frequently
10 voiced is the potential legal dilemma that a

11 community can face if it permits a plant to be
12 located in its community. Specifically, the
13 question is how can that community or agency,
14 having once permitted one such plant to locate in
15 its community, say, no to another plant. This may
16 become an increasingly difficult problem if, as
17 has been happening, many communities say no to
18 locating a plant in their community.

19 The first community to say yes runs an
20 ever heightened risk of having a flood of power
21 plants seeking to locate within that community's
22 boundaries. It seems an irony that it may well be
23 in the independent power producing industry's best
24 interest to assist and cooperate in obtaining

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1 whatever sort of legislative modifications may be
2 necessary to expressly permit a community to say
3 no to a second plant, having once said yes to a
4 first installation. The alternative may be that
5 virtually all communities will feel constrained to
6 say no to all power plants, which would lead to
7 the anomaly that none would be able to situate
8 anywhere.

9 We wish to be clear that we are not
10 recommending a reinstatement of a statewide
11 regulation. However, what we are suggesting is
12 that there ought to be an effort made on a
13 statewide comprehensive basis to assist local

14 governmental agencies to fill this gap. What we
15 believe is sorely needed is a sound set of
16 principals, guidelines and criteria to assist
17 local governmental agencies to properly evaluate
18 power plant siting requests and to evaluate
19 whether a proposed site is a good site. This
20 needs to be complimented with regularly updated
21 information with respect to other plants that are
22 in the various stages in the pipeline. Because,
23 obviously, notwithstanding the fact that
24 additional generational capacity still will,

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1 without a doubt, be needed over time, it is
2 important to fairly and validly judge both what
3 that additional generation capacity requirement
4 may be at any point in time and to be able to
5 weigh it against what the other pending proposed
6 sources to fill those needs may be if an
7 intelligent decision is to be made as to whether a
8 new plant is needed and, in turn, from that to
9 determine whether the proposed site is a good one.

10 The preparation of such guidelines
11 could be perhaps created by an existing state
12 agency or could perhaps be created by legislation.
13 In either event, we believe it could be fostered
14 in the first instance by the Illinois Pollution
15 Control Board, as a result of these proceedings,

16 perhaps followed by seeking of such legislative
17 authorization, if any, as may be found to be
18 needed to fully implement such a list of
19 guidelines.

20 What would those guidelines include?

21 To begin with, they could explain the exact scope
22 and limits of IEPA. I would like to digress just
23 a moment and tell you that long ago when Sam
24 Lawton and I both had fuller heads of hair and I

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1 presented the IEPA before this Board and many,
2 many times as chief of the Attorney General's
3 Office and the head of the environmental control
4 division, I said often, and only somewhat
5 facetiously, that having an IEPA permit is only a
6 defense to a claim of having no permit. What I
7 meant by that is that a permit holder still must
8 comply with any substantive requirements, state or
9 local, or face an action for failure to do so.
10 Unfortunately, that is unclear, I believe, to many
11 local government officials. Too often local
12 regulatory agencies believe that the IEPA, in
13 issuing a permit, has exhaustively studied the
14 situation and resolved all the issues. Even
15 worse, they may believe that the IEPA has
16 preempted the field. It should be made clear that
17 local governments are entitled to impose more
18 stringent pollution control measures than does the

19 IEPA, should they choose to do so as far as their
20 siting process.

21 As an example, it should be made clear
22 that the local village can impose LAER
23 requirements as a condition, even if the state
24 does not expand that requirement to all

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1 installations statewide, as we have recommended
2 earlier. We believe they also could include, as
3 noted, information regarding projected need,
4 whether that is a projected need projected by MAIN
5 or some other appropriate governmental entity such
6 as FERC, and a fair listing of information as to
7 the status and presently proposed additional plant
8 capacities at any point in time. I think what I
9 am suggesting by that is there could very well be
10 information available, for example, on the
11 Pollution Control Board or the IEPA's website and
12 updated on a regular basis.

13 Another example could be a locality's
14 right and ability to impose more stringent noise
15 requirements than does the state. We believe that
16 such noise regulations may well be appropriately
17 tied to a plant's proximity to residential areas.
18 It might thus be possible, and we believe this
19 should be encouraged, for an IPP to construct a
20 plant more cheaply and with less expensive noise

21 attenuation, if it is located further away from
22 residential locations and is located, we would
23 suggest, in a more appropriate location such as a
24 brownfield and/or existing industrial site where

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1 the noise levels are already high and the
2 potential impact on residences is low.

3 We also believe at the risk of
4 repetition that it would be appropriate for these
5 guidelines to encourage brownfield redevelopment.
6 It would be advisable to coordinate and publish
7 available tax benefits for brownfield
8 redevelopment and perhaps -- and this is an area
9 in which legislative assistance probably will be
10 required -- to enhance economic incentives for
11 brownfield locations and remediation in
12 conjunction with power plant locations.

13 As this Board knows, there are numerous
14 brownfield redevelopment programs and incentives
15 in place, including the Federal Brownfields
16 Assessment Demonstration Pilot Grant Program,
17 Illinois' Brownfields Redevelopment Grant Program,
18 and the tax incentives of the Taxpayers Relief Act
19 of 1997, as well as the IEPA's Site Remediation
20 Program.

21 A proliferation of new power plants
22 needing industrial sites is a golden opportunity
23 to attempt to achieve sound, logical siting

24 coupled with brownfields redevelopment. Moreover,

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1 it is logical to single out the electrical
2 generation industry for this purpose, given the
3 ability to site power plants virtually anywhere,
4 subject to certain voltage maintenance and power
5 loss constraints and still produce and transmit
6 power onto the national grid. I know these
7 comments have been somewhat lengthy and I
8 appreciate and thank you for your patience and
9 your attention. I will be happy to try to answer
10 any questions, if you have them.

11 HEARING OFFICER JACKSON: Thank you,
12 Mr. Eaton. While the board members consider what
13 question they might have, let's let the court
14 reporter stretch her fingers for a second.

15 MR. LAWTON: I would like to have the record
16 corrected to indicate that I did not have a full
17 head of hair back when you first started.

18 MR. EATON: I think I amended that to say
19 fuller.

20 MR. LAWTON: I won't say what you had. But
21 you made some very cogent suggestions, and I think
22 that this ought to be a start rather than an alley
23 as far as what we need. Again, I would pose the
24 same question to you or perhaps the same

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1 suggestion that any thoughts you have about ways
2 of implementation of your very worthwhile
3 observations would be appreciated by us.

4 MR. EATON: I would be happy to do that in
5 any appropriate way.

6 CHAIRPERSON MANNING: I also thought that was
7 an excellent presentation. I haven't had the
8 benefit of knowing you when you were at the
9 Attorney General's environmental division, but
10 welcome to the Board again.

11 MR. EATON: It predated your presence on the
12 Board.

13 CHAIRPERSON MANNING: Obviously. You used
14 some terminology that I would like you to define a
15 little further for us, independent power producers
16 and nonutilities. It is the first time I heard
17 actually anybody not regulated by ICC anymore, you
18 are calling a nonutility, and that is kind of a
19 nice way of -- I understand what that one is. Are
20 you using independent power producer
21 interchangeably with that?

22 MR. EATON: Yes. As I understand it, and I
23 will probably tax the limits of my knowledge, but
24 my understanding is, of course, historically

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1 entities such as Commonwealth Edison or
2 essentially monopolies regulated in this state by

3 the Illinois Commerce Commission primarily in
4 terms of siting and -- both siting and price-wise,
5 that may be an important distinction, I think, to
6 draw in connection with the previous testimony
7 that you heard actually.

8 But independent power producers, as I
9 use that term, as I understand that term, is sort
10 of a new industry that has grown up as we sort
11 of have started to unbundle generation from
12 transmission and distribution to a great extent
13 and as they have come into the marketplace to
14 enter the sort of private fully competitive
15 marketplace of power generation primarily, the
16 Reliance and the Indecks and the ABBs of this
17 world, I refer to as independent power producers,
18 as distinguished from the Commonwealth Edisons, it
19 may get murky at some point as Commonwealth Edison
20 or other entities they may be affiliated with may
21 actually enter that same market place. But I am
22 talking about the, quote/unquote, nonregulated
23 generators of powers, independent power producers.
24 I hope that answered your question.

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1 CHAIRPERSON MANNING: It does, thank you, as
2 best I think you can answer it. It is a murky
3 territory.

4 MR. EATON: It is.

5 MS. McFAWN: I had a question. Towards the
6 end of your testimony, you suggested that the
7 Board perhaps could help develop guidelines that
8 would assist local governments in making these
9 decisions. We have touched on that throughout the
10 course of these hearings. I wonder if you could
11 just expound on that a little bit more. My
12 concern is guidelines are enforceable and I also
13 wonder isn't there in place already not-for-profit
14 groups, such as the municipal league or
15 association of the counties that could provide or
16 articulate those guidelines for the local
17 governments?

18 MR. EATON: First of all, you may be right,
19 and I may be unfamiliar with it, but I am not
20 aware that anyone has put together a sound
21 comprehensive set of guidelines of the sort that I
22 think I am suggesting that would -- that a local
23 community or local zone board, for example, could
24 go and turn to and answer some of the questions I

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1 think ought to be answered. And in addition, I
2 think that the Pollution Control Board and the
3 Illinois Environmental Protection Agency are
4 uniquely situated to provide some of the
5 information, I think, that should go into that
6 template. Because I think that we need more
7 information available than we presently have as --

8 from the standpoint of where the various permits
9 are in the pipeline.

10 I understand that a lot of that
11 information is available, but there is -- there
12 are other aspects of that information that is not
13 available. There is -- there are aspects of the
14 permitting process itself and how it works and how
15 preemptive it is that I don't think is made clear
16 and it is not -- I don't think it is all in one
17 place, and it is not all in any one place that I
18 am aware of that if I were sitting on the local
19 zoning board that I could go and turn to and say
20 authoritatively and with confidence here today are
21 the things that I need to know as to whether this
22 is a good place to site this plant and whether
23 this plant is actually one that is needed.

24 MS. McFAWN: I would agree with you, I don't

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1 know that there is that type of template currently
2 available. My question was more what kind of
3 guidelines did you want, and you answered that. I
4 still want to know if there are to be guidelines,
5 couldn't the governmental agencies such as the
6 IEPA, IPCB and ID&R and maybe even the ICC provide
7 that, but couldn't it actually be under the
8 umbrella of some existing organization like
9 municipally or that the county governments and the

10 city governments are familiar with dealing with
11 their own not-for-profit groups?

12 MR. EATON: I think what I am really trying
13 to stress and I don't think it exists and I think
14 it is needed, I think the specific aegis that it
15 exists under could be subject to debate. I don't
16 have a firm opinion on it. I guess my thought is
17 that while I think we do want to avoid doing a
18 180-degree turn and having a full-blown state
19 regulation of siting again, that it might have
20 more sway if it were, in fact, a set of
21 guidelines, if you will, promulgated by a state
22 agency.

23 MS. McFAWN: Would you then advocate
24 something like what we use in regional pollution

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1 control facilities that are a part of the
2 Environmental Protection Act?

3 MR. EATON: You know, I don't profess to be
4 an expert on Senate Bill 172 citing, and it has
5 been mentioned here a couple times earlier. I
6 think it has got a little bit -- to the extent I
7 do understand it, I think it is a little bit of a
8 square peg in a round hole problem. I really
9 think that this needs to be its own creature.
10 Landfills, for example, strike me as being more
11 uniquely local in impact than these power plants.
12 I guess I say that primarily because of the air

13 pollution and noise aspects, especially the NOx
14 emission and noise aspects and VOCs and so forth
15 that you don't -- those are problems that are more
16 regional, statewide, interstate, in effect, not so
17 much the noise but particularly the NOx and also
18 that I think there are some problems with
19 SB-172 that have been alluded to earlier that the
20 problem that Wadsworth has with Zion, for example,
21 is not fully addressed I guess under SB-172.

22 I guess all I am saying is that some
23 aspects, something similar to that might well be
24 suitable. I would just not like -- I don't think

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1 we want to force our plant siting into a strictly
2 SB-172 mold, to the extent I understand the SB-172
3 mold.

4 MS. McFAWN: On a different point at the
5 outset of your testimony, you talked about the
6 need having been removed from the equation or it
7 has been altered, I guess, and I wondered about
8 that. How would you inject that into the
9 decision-making process?

10 MR. EATON: We had an interesting -- we did I
11 think something fairly interesting in Libertyville
12 in our hearings, we actually called as a witness a
13 professor of electrical from the University of
14 Illinois by the name of Tom Overbye, who developed

15 something called Power World, which everybody in
16 the industry uses and I mean everybody, FERC uses
17 it, Commonwealth Edison uses it. Indeck had it
18 used in that case. And Dr. Overbye put on a
19 demonstration of Power World and how it works. It
20 is not readily available to everybody on the
21 street, but it is extremely useful. I don't know
22 that Power World is, by the way, exactly the
23 answer to the question. But it is possible to
24 tell right now what power is available, what

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1 transmission limitations there are at any
2 particular site, and if it would be possible for a
3 local community to have available to it
4 substantially that sort of information. So it
5 could factor that into its judgment making process
6 and say we don't really need to build a plant here
7 now because the transmission is sufficient, the
8 generational capacity is sufficient or we do.

9 I would like to see that -- something
10 like that built into the mechanisms available to
11 local communities if local communities are going
12 to be asked to make these determinations. Right
13 now they are asked to look at -- and to some
14 extent the IEPA too -- are asked to look at a
15 single plant in a vacuum and grant a permit if
16 it meets all the tests and give it zoning and
17 allow to be built if it meets all the tests and

18 that could wind up with under-building or
19 over-building.

20 I think he needs something that does a
21 little bit more comprehensive view of what do we
22 really need in terms of additional generation
23 capacity locally, statewide, regionally or even
24 perhaps system-wide and we need -- someone needs

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1 to develop some guidelines as to what are the
2 considerations as to how to do that. Does it need
3 to be quick -- you know, a simple-cycle plant that
4 can come up quickly to provide power? Can it be a
5 complex -- a combined cycle that has greater NOx
6 controls because of the steam generation power?
7 These are all considerations that are splintered
8 to the extent that there is any regulation at all,
9 and we need something -- we need somewhere,
10 somehow to pull all those together into one
11 comprehensive hole, which is what I would hope
12 would be the end product of either these
13 proceedings or whatever is recommended by these
14 proceedings. If we do that, it will have been a
15 good exercise in my opinion.

16 MS. McFAWN: Thank you.

17 CHAIRPERSON MANNING: For the record,
18 Dr. Overbye gave his presentation to us at our
19 meeting last week in Joliet. It is available on

20 the web page.

21 MR. GIRARD: Thank you, Mr. Eaton. I have a
22 more basic question in order to flesh out the
23 record in this proceeding, can you tell us a
24 little bit something about the organization and

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1 purpose of each of those three entities that you
2 represent?

3 MR. EATON: I am not sure I can tell you a
4 lot about them. The Liberty Prairie Conservancy
5 is to my understanding an organization that exists
6 to enhance -- let me back up. I don't know if you
7 are familiar at all with Prairie Crossing, which
8 is just down the road here a little bit. But
9 Prairie Crossing is a conservation community that,
10 I think, is recognized worldwide. It is fairly
11 unique and it has been developed by Prairie
12 Holdings Corporation. There is a homeowners
13 association called the Prairie Crossing Homeowners
14 Association, which is one of the organizations.
15 It is simply a homeowners organization and as I
16 say, Prairie Holdings is the developer of Prairie
17 Crossing.

18 Liberty Prairie Conservancy, I have a
19 little bit more difficulty telling you what they
20 do. It is a conservation foundation that is
21 dedicated to some -- to enhancing some of the
22 conservation aspects both at Prairie Crossings and

23 broader communities.

24 MR. GIRARD: Is the proposed Libertyville

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1 peaker plant near the Prairie Crossings?

2 MR. EATON: The proposed Libertyville -- the
3 Indeck proposed plant that is actually in
4 Libertyville is approximately 400 feet south of
5 the southern border of the next stage of Prairie
6 Crossing.

7 MR. GIRARD: Thank you.

8 MS. McFAWN: I have a couple more questions.
9 You through the course of your testimony made
10 several regulatory recommendations, in essence,
11 reducing the size of the major source, noise
12 regulations. Would your clients be -- have they
13 ever considered bringing regulatory proposals to
14 the Board?

15 MR. EATON: I haven't necessarily had that
16 discussion with them. I guess we could somewhat
17 hope that perhaps that may be one of the products
18 of these proceedings. But you know, we would be
19 happy to cooperate, as I said to Mr. Lawton
20 earlier, to the extent we possibly can in any
21 appropriate way in trying to assist with that if
22 we can.

23 MS. McFAWN: Just so you know, we have had
24 citizens come to the Board with regulations, that

1 have not always been generated by the state.

2 CHAIRPERSON MANNING: This stage, as I see
3 the Board's role in terms of coming up with the
4 product and information order, it is to sort of
5 recommend whether further regulations and/or
6 statutory changes are necessary to meet the
7 concerns that have been raised in this process.

8 MR. RAO: Mr. Eaton, in your discussion on
9 noise pollution, you mentioned some background
10 noise levels measured in Bartlett and in
11 Libertyville.

12 HEARING OFFICER JACKSON: Anad, you need to
13 talk in your microphone, please.

14 MR. RAO: In your discussion on noise
15 pollution, you referred to certain background
16 noise levels that have been measured in Bartlett
17 and in Libertyville.

18 MR. EATON: Yes.

19 MR. RAO: Could you tell us who did the noise
20 monitoring in those two towns?

21 MR. EATON: Yes. First of all, in
22 Libertyville, Indeck had some noise readings that
23 were done by their consultant, which was Acentech.
24 Howard Schecter of MEAC did noise readings in

1 Libertyville for us. All of those noise readings

2 were introduced at the Libertyville plan --
3 village plan commission hearings that were made
4 exhibits there.

5 In Bartlett I know that there were
6 noise readings taken. I have seen them and they
7 were done by -- I want to say the organization is
8 Deigan, I may be misrepresenting the name. But it
9 was a consultant from Libertyville, actually, that
10 was hired by the village of Bartlett and I believe
11 they did the noise readings in Bartlett. I am a
12 little less clear on that.

13 MR. RAO: If you have access to this
14 monitoring information, would it be possible for
15 you to provide that information to the Board?

16 MR. EATON: Sure. Sure.

17 MR. RAO: Thank you very much.

18 HEARING OFFICER JACKSON: Is that it for
19 Mr. Eaton? Thank you very much, sir.

20 MR. EATON: Thank you very much.

21 HEARING OFFICER JACKSON: It is quarter to
22 7:00. What I would like to do is have one more
23 presenter and then we will take a short dinner
24 break. Dianna Turnball is next on the list, but I

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1 haven't seen her here today at all. So what we
2 will do is go ahead and skip down to Toni Larsen.
3 Is Toni Larsen here? Whenever you are ready.

4 MS. LARSEN: Good evening now. I am a
5 resident of Zion, which is in Lake County and Lake
6 County is, as you know, a nonattainment area,
7 meaning that we do not meet the primary standard
8 of the health-based criteria set by the Clean Air
9 Act.

10 In the Zion area, there are at least
11 five pending permits which will be licensed
12 separately for future plants. I believe all
13 facilities within Lake County need to be evaluated
14 regionally to assess the cumulative effect. One
15 of the sites is in Zion and it is zoned
16 industrial, although most of the neighboring
17 properties are not in Zion.

18 These neighboring communities have no
19 say what goes in their backyard. These
20 communities get their water from wells. One of
21 the proposed peaker plants plans on drilling an
22 industrial well. This plant can use up to 2
23 million gallons of water a day. I believe there
24 needs to be more study on ground water supply

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1 issues.

2 One of the closest residents to one of
3 the proposed sites will be less than 12,000 feet
4 away and within three decibels of the allowable
5 nighttime noise allowance. On a breezy night I
6 believe this limit could very easily be exceeded.

7 Noise pollution must be considered in the
8 permitting process.

9 I believe we need these plants to be
10 built in industrial parks and not in residential
11 areas. We need to know how far these facilities
12 need to be from residential areas and I believe
13 the bottom line is that power plants will move in
14 anywhere it is convenient for them where they will
15 have the least amount of outlay.

16 For these reasons I am asking for a
17 statewide moratorium on licensing peaker plants
18 until more research can be done regarding the
19 impact of air pollution, noise pollution, zoning
20 and ground water supply and then I am asking that
21 you act as a proactive preventive agent in
22 protecting our environment and I thank you very
23 much.

24 HEARING OFFICER JACKSON: Thank you,

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1 Ms. Larsen. Could we go off the record for a
2 second?

3 (Discussion had off the
4 record.)

5 HEARING OFFICER JACKSON: Next is Chris
6 Geiselhart.

7 MS. CHRIS GEISELHART: Good evening. Thank
8 you for this opportunity to speak. I am

9 chairperson of an organization that is an ad hoc
10 organization by the name of Concerned Citizens of
11 Lake County and we were -- we formed out of the
12 concern for the proliferation of companies that
13 were wishing to get a quick approval to build
14 peaker plants in our part of Lake County and our
15 part of Illinois as a result of deregulation of
16 the power industry.

17 We represent -- our group represents
18 about 20 homeowner organizations and several
19 environmental organizations and we have some
20 concerns that are not just local as far as our own
21 backyard but also global and we are really
22 concerned that companies are trying for a quick
23 approval in these peaker plants so that they can
24 make some fast money, even though there has been

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1 no need really established for the stunning number
2 of peaker plants that are proposed.

3 The last time I checked it, there were
4 50 applications for peaker plants and approvals of
5 22 throughout the state. I have some serious
6 concerns about a process, which when confronted
7 with deregulation and a new type of facility for
8 power production, would first grant permits and
9 finally under duress schedule public hearings.

10 I have several points to make here
11 about effects on human health, our air and water,

12 time demands and economic hardship of these
13 hearings that we have had, most recently in
14 Libertyville. I have attended the Zion hearing as
15 well.

16 When confronted with pollutants allowed
17 by the permit and with the plethora of plants
18 being applied for, it would make sense for
19 facilities to be considered in relation to each
20 other, instead each is considered as if it were
21 the only plant dumping pollution into our already
22 stressed environment. These plants release tons
23 of nitrogen oxide and other pollutants during the
24 summer months that they are scheduled to operate,

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1 a time when we in northern Illinois are already
2 suffering as a result of poor air quality and
3 because of the NOx waiver, they are virtually
4 unregulated by the IEPA.

5 We are -- as you heard before and I'm
6 sure some of the things I am saying to you right
7 now are things you have heard at other hearings
8 and I have heard some of these points mentioned
9 tonight, but I still feel compelled to submit them
10 to you for the record.

11 We are in a severe nonattainment area
12 for ozone, and these plants can only contribute to
13 the degradation of our environment. It is

14 completely invalid in my opinion, and I am
15 referring to the permit that was granted in
16 February of '99, invalid in a real-time situation
17 to use 12-month averages for pollutants when
18 facilities will only be running during the summer
19 high-demand months. People don't breathe on
20 average.

21 New research on environmental
22 particulates provide -- and I am quoting here, on
23 the environmental and health impact of
24 particulates that were sufficiently compelling

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1 that the federal EPA has proposed regulations in
2 2.5 that reduce the allowed levels of particulate
3 emissions and apply these limits to substantially
4 smaller particulants and that are covered by PM-10
5 and right here I am quoting from a paper that was
6 written by Richard Domanik, Ph.D. He has his
7 Ph.D. in chemistry. He has extensively researched
8 recent studies regarding environmental
9 particulates, and I will turn over to you his
10 letter, which was presented at an IEPA hearing in
11 April of 2000. And it documents well research on
12 both health and environmental effects. I am not
13 sure that it has been shared with you prior to
14 this time.

15 And in his document he talks about the
16 effects of creating acid rain. He talks about

17 health effects. He talks about meteorological and
18 climatological effects among other things.

19 Many residents of nearby communities
20 and users of ports facility must suffer the
21 effects of increased pollution in the form of more
22 asthma attacks, decreased lung function and other
23 serious impairments since peaker plants tend to
24 operate, again, as I said, during these periods of

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1 peak summer demand.

2 There is a potential drawdown of
3 hundreds of thousands of gallons of water from
4 Lake Michigan, which already exceeded water usage
5 for the mining of deep well aquifers as sources of
6 water for these facilities.

7 You have heard a lot about noise
8 pollution, and I too have a concern about noise
9 pollution by these gas turbines. This can affect
10 the quality of life for nearby humans and wildlife
11 as well.

12 This will continue to be a problem
13 until there is some sort of noise permit that is a
14 separate permit possibly. I really don't know how
15 I would exactly suggest this, but it seems to me
16 that there should be some sort of a noise
17 component to the permitting or a separate noise
18 permit.

19 Now, these concerns that I have voiced
20 are a direct result of studying the first Indeck
21 Libertyville LLC application to the IEPA, the one
22 I mentioned a little while ago that was approved
23 in February of '99. The people in Libertyville
24 and the village of Libertyville and the

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1 surrounding area in central Lake County felt
2 compelled when we found out about this to involve
3 ourselves in investigating the possible effect of
4 having a peaker plant near a populated area. That
5 was a major concern. We are not saying we are
6 against these completely. We were not saying we
7 are against power plants because we all know we
8 need electrical power. What we are saying is that
9 there has to be a wise judgment made about where
10 they are put.

11 And the village of Libertyville is
12 really to be complimented because they went
13 through a great deal of work devising a system for
14 hearing testimony about this proposal and since
15 that permit, people have spent hundreds of hours
16 and thousands of dollars educating themselves and
17 the plan commission before which that hearing was
18 held through public testimony and hiring expert
19 witnesses to testify in opposition, finally, to
20 the Indeck experts. If the state had a siting
21 format, much of that work, time and money,

22 particularly involving air and noise, could have
23 been avoided or simplified.

24 How many communities -- how can many

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1 communities of more limited wealth and means
2 expect to raise the kind of public outcry and
3 money for expert witnesses that Libertyville did?
4 How many zoning boards have the expertise needed
5 to make the best decision for their communities?

6 Now, I have some -- I have a few
7 questions and then I will have some suggestions at
8 the end and I know that eternal vigilance is the
9 price of democracy, and I accept that. I have
10 lived it for a long time. But my questions are:
11 Why must citizens feel that there is this
12 perception that we have to do the work for the
13 agency that is supposed to do what its main
14 promise is? Why, for example, do one of our
15 members have to spend hours or feel that he had to
16 spend hours doing research on this, finally ending
17 up with the research that he shared with the IEPA
18 on the technology from California called Xonon and
19 it produces much lower emissions than current
20 technology that is supposed to be state of the art
21 and supposed to be BACT. And one would expect the
22 IEPA to be constantly searching to update this
23 information in this regard.

1 Control Technology, redefined? And I don't expect
2 answers tonight, but these are the things that
3 have been bothering me. Why must our lives and
4 our community be seriously burdened with feeling
5 as though we have to monitor the IEPA to see if
6 its departments are doing their jobs? You heard a
7 little while ago about the problem with the noise
8 department, and it seems to me it is woefully
9 understaffed.

10 Why would peaker plants continue to be
11 approved and built while we are going through this
12 PCB public hearing process?

13 Here are some recommendations. The
14 Pollution Control Board must press our legislators
15 -- I am urging you to do this -- to give the IEPA
16 greater power and budget for more personnel to
17 effectively monitor and supervise the various
18 environmental actors in the state. Too many
19 facilities of various types are self-monitoring
20 and when they report a violation, are too often
21 given a slap on the wrist.

22 As a result, the IEPA is often
23 perceived as a paper tiger. The IEPA must be
24 strengthened through legislation to have greater

1 power to impose fines or other incentives to force
2 violators into compliance. I myself have gone
3 through years worth of records in Maywood only to
4 become very, very frustrated and almost to the
5 point of feeling cynical about the IEPA because I
6 read in and looked through mountains of letters
7 requesting compliance with various problems in
8 another matter, completely different issue. Very
9 few hard consequences for the violators, and in
10 many cases just minor successes. It just seemed
11 to go on and on and on. It is repetition over
12 long periods of time of our request for compliance
13 and then another letter saying out of compliance.

14 There must be a system for public
15 hearings for peaker plants before they are given
16 permits. Local units of government should not
17 have to be responsible for conducting these
18 hearings. Applicants should pay for expert
19 witnesses for both sides since the burden of proof
20 must rest entirely with them.

21 Another suggestion, peaker plants must
22 be regulated more strictly because they in the
23 aggregate compound the poor air quality we are
24 suffering. I suggest that the IEPA must demand

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1 documentation of true, true BACT from any company
2 wishing to have a permit to build a peaker plant

3 rather than accept the company's word for it, that
4 they have it.

5 I would like the Pollution Control
6 Board to immediately press the state legislature
7 for a complete moratorium on approval of present
8 applications and construction of new plants until
9 this series of hearings is over and your decision
10 and recommendations are made public and presented
11 to the Governor.

12 Newer expanding peaker plants must be
13 subject to siting requirements beyond applicable
14 local zoning requirements, and any restrictions or
15 additional regulations must apply to both new and
16 currently permitted facilities. I am suggesting
17 to you that now is the time to continue the
18 leadership role that you already have taken and
19 help the public regain a respect that they should
20 have for the process and a trust that the IEPA
21 will, indeed, be looking out for your best
22 interests and I thank you.

23 HEARING OFFICER JACKSON: Thank you,
24 Ms. Geiselhart. You mentioned a document that you

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1 were going to be submitting.

2 MS. CHRIS GEISELHART: Yes, I have copies of
3 what I just read to you and I have copies of
4 Mr. Domanik's article and I do have one copy of
5 the references that he makes and if you wanted to

6 make copies of them, I talked with him and he said
7 it is fine with him. Could I bring them around?

8 HEARING OFFICER JACKSON: Why don't we leave
9 them with the court reporter and we can get the
10 copies handed out. We will mark your comments as
11 CCLC Exhibit 1 and the letter that you referenced
12 as CCLC Exhibit 2.

13 (Whereupon documents so offered
14 were marked and received in
15 evidence as CCLC Exhibit Nos. 1
16 and 2.)

17 HEARING OFFICER JACKSON: Okay. It is 7:00
18 o'clock, unless there are any questions for Ms.
19 Geiselhart, we will break for dinner now. We will
20 reconvene promptly at 7:30.

21 The next speakers on the list are Craig
22 and Lisa Snider. Are the Sniders present? Okay,
23 we will start with you right at 7:30. Thank you.
24 We are off the record.

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1 (Dinner recess taken.)

2 HEARING OFFICER JACKSON: I do just want to
3 make a general comment first. We have a couple of
4 speakers that have -- that are on our list of
5 preregistered speakers that have already had a
6 chance to present testimony to the Board at
7 previous hearings. So I would ask them to please

8 be conscious of the fact that we have a number of
9 individuals who haven't yet had a chance to
10 present to the Board. So please keep your
11 comments as brief as possible so the Board can
12 have a chance to hear from those who have not yet
13 had a chance to make a presentation to the Board.

14 I am told that we can remain in the
15 room somewhat past 9 o'clock, but the college does
16 close its doors, locked and everything at 10:00.
17 So we need to get moving.

18 With that said, Ms. Turnball, we will
19 start with you and then we will move onto the
20 Sniders.

21 MS. TURNBALL: Diane Turnball. Tonight my
22 comments are based on behalf of several of the
23 groups that I have represented, the Liberty
24 Prairie Conservancy, the Concerned Citizens of

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1 Lake County, Care from McHenry County, Bartlett
2 CARE and, actually, in an interstate effort of the
3 Southwest Michigan Preservation Association where
4 we are mostly dealing with the peaker plants in
5 the state of Michigan now.

6 I don't want to get into all the
7 technical stuff because you have heard much of
8 that. What I want to deal with I think tonight is
9 to simplify it down into some basic fundamental
10 issues in layman's terms that I think need to be

11 addressed and one of the issues I think, first of
12 all, is we have had some comments made about how
13 we need to treat this particular industry the same
14 as all other industries, but it is really
15 different than other industries.

16 It is an industry whose sole operation
17 time primarily is the five months of the summer.
18 They are not year-round operators. That is the
19 ozone season as we are all well aware. That means
20 that when they are putting their emissions into
21 the air, they are putting them into the air during
22 our critical time period for nonattainment. That
23 does make them different from a company that does
24 put its emissions over the whole year framework.

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1 So when we talk about 240 tons per year of NO_x, we
2 are not talking 240 tons over 12 months, we are
3 probably talking 240 tons over five months. That
4 makes a difference.

5 As coming in, most of them as minor
6 sources, they are coming in with no offsets, and
7 yet we are having a cumulative impact of having a
8 whole series of these permits being issued, minor
9 sources. But I don't know what the cumulative
10 effect is. I would like to have you as a Board
11 ask the IEPA to give you a numerical accounting
12 of, given the permits that have been issued so

13 far, how many tons of NOx, how many tons of CO,
14 how many tons of sulfur dioxide, the DOMs and the
15 particulates matter have we introduced into the
16 air since deregulation from just these kinds of
17 facilities, so we have some idea of gross number
18 that we are talking about having permitted up to
19 this point.

20 The nonattainment status, while it
21 relates to an environmental issue, it really is
22 what I call a double E issue, it is an
23 environmental economic issue. The nonattainment
24 status that we have for the northern Illinois area

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1 here is economic disincentives. It is an economic
2 disincentive I think we want to try to remove as
3 soon as possible and to do that, I think it is
4 time for us to become aggressive in how we deal
5 with our emissions and simply maintaining the
6 status quo isn't good enough.

7 This is now the 21st Century, although
8 people tell me I should wait until the end of the
9 year before I say that, but I am going to assume
10 we all agree we are in the 21st Century and it is
11 time we deal with having technology that addresses
12 what we know the requirements are likely to be in
13 that 21st Century, instead of still allowing
14 yesterday's technology to be, to make do.

15 And along those lines, I would advise you as

16 Chris Romaine did when he gave his presentation
17 that other states that surround us have more
18 aggressively approached how they deal with trying
19 to not simply maintain the status quo, but
20 actually get it so we can get out of nonattainment
21 and not have that economic disincentive.

22 Indiana requires BACT for any emitter
23 over 25 tons a year. I would suggest to you that
24 it is time that Illinois did likewise. There is

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1 technology that is available, and there is
2 technology that is being required by other states
3 and we are going into the new century. We
4 shouldn't be dealing with simply what is the best
5 of ten years ago, we should be dealing with what
6 we know is coming down for the future.

7 And representatives who have been in
8 front of you during the public hearings when the
9 power industry was here have acknowledged or said
10 publically they can meet BACT. Well, if they can
11 meet BACT, then we should have BACT at 25 tons per
12 year and be getting the best available control
13 technology on all new facilities so that we are
14 not only maintaining the status quo, but maybe
15 miraculously we will start to reduce the emissions
16 and ultimately get off nonattainment.

17 In the nonattainment areas I think we

18 need to do better than that because the goal ought
19 to be -- just like the goal is for any of these
20 things is to get yourself out of that, not to
21 simply keep perpetuating it and saying that that
22 is good enough. So I would like to suggest for
23 your consideration in that all nonattainment areas
24 we go even further and we ask for LAER in all of

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1 our nonattainment areas, until at least such time
2 as we get to the point of where we are no longer
3 nonattainment area. Then I would probably argue
4 that that is the criteria we are going to need to
5 keep to deal with what the environmental standards
6 will be at that point.

7 You of all people sit here and know
8 since we started this whole process in the early
9 '70s, the degrees, the year by year by year, we
10 made through the knowledge that we have gained, we
11 made the restrictions greater. I don't see at
12 this point this is likely to stop any time soon.
13 We should be dealing aggressively in Illinois
14 knowing that, knowing the technology is out here
15 to put together a plan that doesn't mean just the
16 status quo but, in fact, means getting us out of
17 nonattainment. We need to resolve those problems
18 and we need to do it now and the technology is
19 available.

20 The sooner we reduce the emissions, the

21 sooner we set up and require technology that will
22 actually reduce emissions, the sooner we will
23 eliminate the economic disincentives that we in
24 Illinois are suffering under because of the

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1 nonattainment. So it is a win-win for everybody
2 if we do that.

3 These are the criteria and we know
4 that BACT and LAER and some of the parts per
5 million that we are all talking about four years
6 from now or whenever it happens, they are going to
7 be the new regs. We know it. If the technology
8 is out there, it is going to have to be, that is
9 how it works. There is no reason Illinois can't
10 be proactive in this.

11 One of the other things that we need to
12 do is to be able to help us deal with this new
13 industry, I mentioned it previously, but I think
14 it merits one more quick comment, and that is the
15 modeling and our standards need to be based on the
16 actual operating period and operating conditions
17 of this new industry. You cannot average yearly
18 when a company isn't going to operate yearly. You
19 cannot take weather conditions from the winter,
20 which skew the facts when this company -- these
21 companies only operate in the summer. It is, I
22 suspect, something that can be done with the staff

23 we have or the agencies that are out there. But
24 we need to be realizing that these are not

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1 year-round facilities and we need to be looking at
2 their impact based on when they are operating.

3 And last but not least under any
4 stretch of the imagination, I mentioned it the
5 last time I spoke with you, but I think it needs
6 to be reiterated, folks, we have noise
7 regulations, but we don't do anything about them.
8 I think it is time we take the regulations. We
9 put them into a noise construction permit and this
10 is particularly important for this industry.

11 These facilities are not inside buildings, okay.
12 Other industries that have noise sources have
13 things that are based on how the buildings -- how
14 they are constructed that do help with noise.
15 These are structures that may or may not deal with
16 the noise of the levels that we need it to be
17 dealt with. But I think we need noise regulations
18 or permit applications in the state anyway. Noise
19 has become an issue, and particularly it is an
20 issue when you are putting new industrial uses
21 into residential areas.

22 You know, this is something we didn't
23 see historically. We didn't see a greater
24 separation, whether that was good or bad, but we

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1 are starting to see the influx of these kinds of
2 industrial uses into residential and I believe you
3 need to deal with that and address that through a
4 noise construction permit and as Greg Zak
5 testified to you, the time to address that at
6 least with this particular industry is at the
7 design phase because it is real tough to do when
8 these big turbines and the plants are in place
9 afterwards. So if we have a simultaneous
10 application that is filed at the same time they
11 are filing for the air permit in the review of
12 both of those, we can address that and have the
13 noise issue solved at the beginning. Those are my
14 only additional comments this evening.

15 HEARING OFFICER JACKSON: Thank you.

16 MS. McFAWN: I have one question. We are
17 trying to find out a fact and I don't know if you
18 would know this or not. Do you know of any
19 municipals or counties that have noise
20 regulations?

21 MS. TURNBALL: There are lots of
22 municipalities and counties that have noise
23 regulations. Many of them -- and I am familiar
24 with Woodstock -- simply adopts whatever the EPA

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1 regulations are and says that is theirs. The

2 dilemma with that is having a regulation on the
3 books doesn't mean they have an enforcement of
4 that and it is most local municipalities and
5 counties' assumptions, however incorrectly, that
6 noise is something that is regulated by the IEPA.

7 And you would have seen -- there was a
8 rash of zoning ordinances that were passed in the
9 early '70s when they started to do performance
10 standards where you also see some noise things in
11 some of these. But it is not uncommon the
12 question becomes whether they were actually in the
13 regulation. But most frequently the ones I have
14 seen tie it to the IEPA's numbers.

15 MS. McFAWN: When they are going through a
16 zoning request or special use request, does that
17 question ever come up like the law that is on the
18 books, for instance, in Woodstock? If Woodstock
19 was considering a special use, do they ever look
20 to the noise regulations?

21 MS. TURNBALL: In the hearings that I have
22 been involved in, the issue of the noise
23 regulation and who is going to enforce that has
24 always been a topic of the hearings and it has the

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1 local governmental agency, whether it was a county
2 or a municipality, has always publically stated
3 that it is their understanding that noise
4 regulations are to be regulated by the state of

5 Illinois through the IEPA and not they themselves
6 locally.

7 MS. McFAWN: So they would never consider
8 conditioning a special use permit?

9 MS. TURNBALL: Most of the conditional use
10 permits I have seen in the past actually had a
11 condition that related to noise, but the condition
12 simply stated it must meet the criterion of the
13 IEPA noise standard.

14 MS. McFAWN: Thank you.

15 CHAIRPERSON MANNING: Just for the record,
16 those noise standards are actually standards
17 created by and promulgated by the Pollution
18 Control Board. Part of the hole is that the
19 Pollution Control Board, while we have the ability
20 and the authority to create environmental
21 regulations, we don't have any enforcement or
22 administrative authority. That rests with the
23 EPA, just as a clarification.

24 MS. McFAWN: I would just add for the benefit

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1 of the listening audience, not necessarily for the
2 record even, that we have a number of enforcement
3 actions in the noise area brought before the
4 Pollution Control Board, so while we were not the
5 enforcers of it, we were the forum where those
6 complaints can be heard and adjudicated.

7 MS. TURNBALL: I understand and it is
8 somewhat switching gears, but speaking as a
9 citizen, the only problem with that avenue is it
10 forces the citizens to go to the expense of
11 bringing the complaint to you and that is an
12 expensive and lengthy process, as you are all well
13 aware of and it really puts local citizens or even
14 a group of neighbors at a disadvantage in terms of
15 having adequate enforcement.

16 MS. McFAWN: Thank you so much.

17 HEARING OFFICER JACKSON: Thank you,
18 Ms. Turnball. Mr. and Ms. Snider.

19 MS. LISA SNIDER: Good evening. My name is
20 Lisa Snider, and this is Craig Snider, my husband.
21 I am an ordinary citizen, a wife and a mother of
22 three beautiful little girls. I am the nearest
23 residence to the proposed SkyGen and Carlton
24 peaker plants in Zion, yet I live in Wadsworth.

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1 Therefore, the city of Zion, particularly Mayor
2 Lane Harrison, does not need nor does he care to
3 represent my views or stand up for my rights.

4 My concerns are -- or a few of them are
5 ground water. I am on a well and SkyGen proposes
6 the installation of two wells on their property,
7 and that concerns me. They will also have on-site
8 a 1.5-million gallon fuel oil tank for back-up
9 fuel. This will be 400 feet from our property

10 line. The noise, as per Skygen's own study, they
11 will exceed the legal limit of noise when the wind
12 blows from east to west and as per Greg Zak, there
13 is virtually nothing I can do about this after the
14 plant is up and running and he gave me an example
15 of a place, and I believe it was in Tinley Park,
16 where they put an auditorium up and they had rock
17 concerts in it and for five miles away they could
18 hear the noise exceeding the level and the people
19 of the area paid money and kept fighting this and
20 fighting this, and all the auditorium did was pay
21 the fines. It was cheaper to pay the fines than
22 it was to fix the problem.

23 But most important, the pollution, they
24 are a major polluter and the cumulative effect on

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1 this area will be devastating. This issue of
2 allowing peaker plants to sprout up anywhere is
3 bigger than local government can handle, and I am
4 asking you for a moratorium now because SkyGen
5 could get their permitting by the end of October
6 and that will -- it could do nothing for me.

7 Again, I am the nearest resident. But
8 now you know me as Lisa Snider, a wife, an
9 ordinary citizen and mother. Thank you for
10 listening to me.

11 And if you would like at any time to

12 come to our home and see the site, you are more
13 than welcome. We desperately ask you to come on
14 out and see what is going on out there.

15 HEARING OFFICER JACKSON: Thank you very much
16 and thank you for your patience Ms. Snider. Mary
17 Matthews?

18 CHAIRPERSON MANNING: Just for the record
19 while she is coming up, Ms. Snider, I think,
20 referred to a case that was before the Board known
21 as the World Music Theater case where citizens
22 enforced -- filed an enforcement action against
23 the Tinley Park Music Theater. The Board did
24 issue an order, not only awarding fines, we

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1 actually also had an acoustic measure to be put
2 into place by the Tinley Park Theater. And that
3 case was upheld throughout the court system. I
4 think it went all the way to the Illinois Supreme
5 Court, just so that you know the Board did act as
6 best as we could in that situation. I appreciate
7 your comments. Thank you.

8 HEARING OFFICER JACKSON: I don't see
9 Ms. Mathews. So we will move on then to Verena
10 Owen.

11 MS. OWEN: Good evening. Thank you for being
12 here and holding these hearings. My name is
13 Verena Owen. Let me give you just a little
14 profile. I live in Winthrop Harbor.

15 HEARING OFFICER JACKSON: Could you speak up,
16 please?

17 MS. OWEN: I live in Winthrop Harbor, which
18 is -- that is as far north and east as you can be
19 without actually being in the lake or Wisconsin.
20 I am married. We have four children. I have a
21 master's degree in biology from a University in
22 Germany, as well as a bachelor in chemistry and
23 physics.

24 I am the co-chair of ZAPP, Zion Against

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1 Peaker Plants. We consist of WHAPP, Winthrop
2 Harbor against Peaker Plants, NAPP, Newport
3 Township Against Peaker Plants, well, I think you
4 get the picture.

5 I want to introduce you to some of
6 ZAPP's members, all the yellow shirts in the
7 audience. And I was going to show a video and I
8 decided not to do that. But I can tell you what
9 would have been in the video. This video was
10 filmed outside of Zion City Hall during a council
11 meeting on September 5th. 250 people tried to
12 attend a meeting and 150 were shut out. You would
13 have seen policemen posted at the door. The
14 council meetings are the only place for citizens
15 to take their concerns because there will be no
16 zoning hearings, there is going to be no plan

17 commission hearings. It would have been their own
18 place, and they did shut the people out.

19 I became involved and interested in
20 peaker plants a year and a half ago when it was
21 brought to my attention that the city of Zion was
22 approached by six power companies all wanting to
23 build power plants in Zion.

24 As an aside, at the time I was a

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1 resident of Zion. I have since moved three miles
2 north and actually closer to the proposed peaker
3 plants, and I have lost my status as a concerned
4 citizen. And I am now an outside educator.

5 Six proposals, when the IEPA was asked,
6 and they thought enough was enough. There is
7 enough, now famous, quotes from an IEPA employee
8 that involved peakers, street corners and a
9 fast-food franchise. He said one on every street
10 corner just like McDonald's.

11 However, as annoying as this quote is,
12 it might prove to be pathetic as far as Zion is
13 concerned. Of the six companies, two filed
14 applications for an air permit and have a draft
15 permit. One was advertised by the mayor of Zion
16 at the chamber of commerce meeting just six weeks
17 ago, although he has now retracted that statement.
18 And a representative of a fourth company was
19 recently sitting in at the Zion council meeting.

20 And I don't know what happened with the other two.

21 This brings me to my first point. If
22 the power plant proposals, as newspaper analysts
23 say, we are clean, we are bringing in development,
24 we are supplying the local grid with electricity,

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1 will this become an environmental justice issue?

2 I really want you to think about that. Will the
3 power companies in the future target less affluent
4 and less sophisticated communities? That is the
5 reason Illinois is so attractive to them. They
6 will not go away unless you change the rules.

7 And six power plant proposals,
8 something did not sound right to me from the
9 beginning and soon several things became obvious
10 to me. Peaker plants are different from other
11 industry. They do not look to be located in
12 existing industrial parks because they meet none
13 of the amenities it has to offer. They usually
14 have no local customers, and, therefore, no
15 customer base. They do not need to establish
16 customer loyalty. They need nothing from and
17 contribute nothing to the local economy. The
18 self-regulating process of being a good neighbor
19 is not there.

20 Their needs are the intersection of gas
21 mains and power lines and available water, and

22 they don't care where that is, next to residential
23 neighborhoods or in the middle of a cornfield.
24 And the few that did choose the brownfield or

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1 heavy industrial site were never opposed.

2 Now, peakers proposed by the
3 independent power producers are also not like old
4 existing peakers located next to utilities, they
5 are really used for back-up in localized peak
6 demand periods. Those benefit the local grids.
7 Peakers were not anticipated by existing zoning
8 courts. They don't even need a special use permit
9 from the Zion zoning board. An art galley does,
10 but a peaker plant does not.

11 They were not anticipated by the clean
12 air act because they are not in the list of the
13 28. They were not anticipated by the IEPA
14 regulations and they do not fit into existing
15 definitions.

16 I had the following conversation during
17 a hearing, and I will read from the transcript and
18 so on "Will those peakers fit the definition of
19 peaker in 40 CFR 75? Mr. Romaine: The definition
20 in peaker in 40 CFR 75 is a working definition, by
21 that I mean it is based upon the actual operation
22 of the turbines, and certainly these turbines
23 could be operated as turbines defined in 40 CFR
24 75. Ms. Owen: Do you expect them to operate at

1 peaking turbines under 40 CFR 75? Mr. Romaine:

2 Yes."

3 The Carlton plan, which is a smaller
4 proposal in Zion is expected to run 1,600 hours
5 for per turbine per year. 40 CFR 75 defined the
6 gas-fired peaking unit as follows. The three-year
7 zoning average annual capacity factor shall not be
8 greater than ten percent. And the highest annual
9 capacity factor of a turbine shall not be greater
10 than 20 percent in any one year of three averaging
11 years, ten percent of 876 hours.

12 They don't fit. And I don't know where
13 the EPA expects it to fit. They are merging plans
14 that need to make the highest profit possible and
15 they have to run the most time that is permitted.
16 This is a brand-new industry with new technology
17 and unexpected results of deregulation.

18 The Illinois part 201, permit and
19 general provision of part B states "the agency may
20 adopt procedures which set forth criteria for the
21 design, operation or maintenance of emission
22 sources in their pollution equipment. These
23 procedures shall be replaced from time to time to
24 represent current engineering judgment and

1 advances in the state of art." The time to adopt
2 procedures is now as a matter of fact. I think it
3 was time when the first of the new peakers applied
4 for a permit.

5 When I said that I was thankful to you
6 for holding these hearings, I think a better word
7 would have been relieved.

8 I want you to understand two things,
9 one, air hearings without the tools or the public
10 and local decision makers to ask the right
11 questions and understand the answers are not
12 meaningful at all. Air hearings are sometimes
13 only the only place the power companies will have
14 to testify under oath as was the case in Zion. We
15 cannot bring a room full of citizens up to speed
16 on what the peaker is or NOx is or PPM means or
17 TPY is or what other issues need to be considered
18 and comment on the air permit. We have been
19 trying to do that, but it takes a super human
20 effort to keep going and, frankly, we are
21 exhausted.

22 And point number two, after attending
23 more than half a dozen hearings, it is obvious
24 that they do not fit the need of the public for

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1 water, noise, land use or economic impact. Maybe
2 this needs to be done with an environmental impact
3 study, either in combination with the public

4 hearings or incorporated into a second process.

5 Environmental impact studies for peaker
6 plants are required by other states, for instance,
7 Wisconsin, Indiana and Ohio. The environmental
8 impact studies should contain at a minimum
9 hydrology and water quality, water usage, waste
10 water, water run-off and potentially polluted
11 run-off containment, air quality, biology, loss of
12 habitat, loss of agricultural land, land use and
13 community character, archaeology, socioeconomic
14 impact, visual impact, impact on local services,
15 traffic, noise and public health and safety. And
16 it shouldn't include project design features for
17 reducing environmental impact and, of course,
18 mitigation for all impacts.

19 I was going to end my comments right
20 here until Tuesday night. Tuesday night was
21 another Zion City Council meeting. And it was the
22 latest link in a chain of events which I think you
23 need to hear. First, earlier this year, Carlton
24 gave its plan proposal presentation to the Zion

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1 council. ZAPP was able to ask some questions, but
2 we were on an assumed attack by the applicant's
3 lawyer. It was very intimidating. They --

4 HEARING OFFICER JACKSON: I am sorry,
5 Ms. Owen. Could you please speak up? People are

6 having trouble hearing?

7 MS. OWEN: Later at the meeting SkyGen gave
8 its presentation and the Zion council took public
9 comment off the agenda. That silenced us. And
10 the Zion council did not ask a single question.
11 They didn't ask a question during the Carlton
12 presentation and they did not ask a single
13 question during the SkyGen presentation.

14 There was open discussion on the
15 council to ban any nonresidents for speaking at
16 council meetings. In August the Zion council held
17 meetings for Carlton and SkyGen on two consecutive
18 nights. This was purposely done to run us off our
19 feet, and they almost succeeded. We all have
20 jobs. We all have kids to take care of. The
21 first hearing lasted to midnight. Could you
22 imagine what it took to go back the next night?

23 We objected to the fast tracking of
24 these draft permits to the EPA to no avail. The

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1 timing of draft permits by Carlton and SkyGen and
2 such is they will get their final permit before
3 you give your ruling. Somebody mentioned
4 October 30th.

5 Some Zion commissioners attended the
6 first hearing for about an hour, and they did
7 not ask a single question. Are those the
8 sophisticated local decision-makers Mr. Skinner

9 referred to?

10 On Tuesday night I was signed up to
11 speak at the Zion Council. Then the Zion Council
12 made a motion to adjourn while I was standing
13 pleading to be heard. And all I wanted to do was
14 invite them to come tonight. They are not here.
15 They are not going to ask you a single question
16 either.

17 Mr. LaBelle mentioned the city of Zion
18 was negotiating a host agreement with SkyGen. I
19 have obtained a lawyer. It is the third one I
20 have now. I am working on the fourth. And I have
21 his legal opinion that that host agreement will be
22 contract zoning. And I will submit that legal
23 briefing in the future.

24 The Zion council never had any

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1 questions, but we did. But they will be the
2 decision makers for all the voices and people
3 whose life their decision will impact. This is
4 not fair and this is not just.

5 And if it is within your powers to pass
6 a moratorium to halt this insanity, please do so.
7 We need help. We need siting. We need air
8 regulations changed. We need our ground water
9 protected. And we need to have new rules. We
10 have to have new rules to be in effect to stop

11 this.

12 The EPA has let us down. Our
13 legislators have let us down. And the governor
14 has let us down. I have lived in this country for
15 16 years. After the governor's round table
16 meeting in Naperville where he ignored the pleas
17 for help and where Tom Skinner gave his memorable
18 response to plea for help, when he was asked, he
19 was going to help us or just keep making excuses,
20 he said I guess I will keep on making excuses.

21 I have filed an application of my own.
22 I filed my application for American citizenship
23 for 31 days and counting, and I will be a citizen
24 and I will vote. Thank you. And I will see you

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1 in Springfield.

2 HEARING OFFICER JACKSON: Ms. Owen, do you
3 have a copy of your testimony that you would like
4 to submit or --

5 MS. OWEN: I have a copy of my statement,
6 yes. I will give that to you later.

7 MS. McFAWN: You don't have to submit it.
8 The court reporter took down your statement.

9 MS. OWEN: That is fine, because it changed a
10 bit. Thank you.

11 HEARING OFFICER JACKSON: I didn't know if
12 you did. Are there any questions? Thank you very
13 much. Bud Nesvig. One second, Mr. Nesvig.

14 MS. KEZELIS: Ms. Owen, I do have a question.
15 I want to make sure I understood your testimony
16 with respect to Zion. Were you at the council
17 meeting conducted by Zion at which you were not a
18 resident of Zion and, therefore, they did not let
19 you speak or did they let you speak?

20 MS. OWEN: It changed. Sometimes they took
21 -- one time they took public comment off the
22 agenda completely where nobody was allowed to
23 speak. Then there was talk about having residents
24 speak, although it was never passed. And at the

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1 last one, they simply adjourned before they let me
2 speak.

3 MS. KEZELIS: Okay. I didn't quite
4 understand from your testimony what exactly
5 transpired, but it depended on the council meeting
6 you were at, is that correct? Is that a fair
7 characterization?

8 MS. OWEN: Yes.

9 MR. RAO: I have a question too. Ms. Owen,
10 you mentioned that in Indiana, Wisconsin and Ohio
11 they require environmental impact statements for
12 peaker plants.

13 MS. OWEN: Yes.

14 MR. RAO: Do you know if they came up with
15 some special regulations for peaker plants and

16 this is part of those regulations?

17 MS. OWEN: No, I don't. I called the
18 agencies in those three states and I had talked
19 with whoever it was, the engineer of the day, and
20 that is the information that he gave me. But if
21 you would like to know details, I will definitely
22 give them to you.

23 MR. RAO: Okay. Thank you.

24 MS. McFAWN: Could I ask you a point of

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1 information? When was the round table discussion
2 with the governor in Naperville? You mentioned
3 it.

4 MS. OWEN: May, June. I think it was June.

5 CHAIRPERSON MANNING: For the record, it was
6 those round table discussions that caused the
7 governor to issue the letter to me to ask us to
8 hold these hearings. It was, in part, I think,
9 his concern that he heard from the residents. I
10 think he was here at the college, if I -- I was
11 not participating in those, but I know Director
12 Skinner was. And it was shortly after those round
13 tables when he heard the concerns expressed by all
14 of you that he issued the letter to us asking us
15 to look into the matter.

16 MS. OWEN: I wrote the letter in July, so I
17 guess my guess of June is accurate.

18 CHAIRPERSON MANNING: I didn't know he was in

19 Naperville actually. I knew he was here at the
20 College of Lake County, but he was in Naperville
21 too. Thank you.

22 MS. OWEN: Yes, he was.

23 HEARING OFFICER JACKSON: Mr. Nesvig.

24 MR. NESVIG: I am Bud Nesvig. That is

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1 spelled N-E-S, as in Sam, V, as in Victor, I-G, as
2 in George. My given name is Elliot, E-l-l-i-o-t.
3 I live in Wilmette. I am a registered
4 professional electrical engineer.

5 It is my understanding that we are
6 following Commonwealth Edison's directions without
7 knowing their game plan. John Rowe, chairman,
8 ComEd said that ComEd is to become a wire and pole
9 utilities, transmission and distribution, no
10 electrical power generation. Why is ComEd doing
11 this? Can or would this board use their powers of
12 subpoena to let us know what ComEd plans for all
13 this electric power output? Can we obtain copies
14 of Unicom and ComEd board of directors' meeting
15 minutes? Can we obtain all ComEd documents
16 relating to peaker plant sites, letters,
17 contracts, promotional memos? These are their
18 sites. We would like -- I would like to have
19 Unicom and ComEd's financial data, all documents
20 relating to electrical distribution systems, that

21 is their systems, capacity, use, condition,
22 loading, all documents relating to transmission
23 systems, capacity, use, condition, loading,
24 correspondence, documentation, contracts, memos

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1 between Unicom, ComEd and Peco Energy. There is a
2 sharing -- contract sharing power between Peco
3 Energy and ComEd.

4 We should also remember that Chicago is
5 an ozone nonattainment area under the Federal
6 Clean Air Act, which I understand means that if
7 some new industry comes into the Chicago area and
8 it pollutes, something has to give in Chicago that
9 will reduce its pollution on an equal amount. Why
10 would the state of Illinois allow any operation
11 that pollutes to sell its output out of state
12 while keeping the pollution within the state? Is
13 this fraud on the public?

14 There may be an alternate to the peaker
15 power plants now that the state of Illinois has
16 allowed Unicom to sell its coal fueled electric
17 power plants.

18 United States and Canada are
19 electrically connected, and there is at least two,
20 500,000-volt transmission lines between the United
21 States and Canada. There are at least two
22 200,000-plus transmission lines between the
23 United States and Canada. Canada is connected to

24 the following states: Washington, Montana, North

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1 Dakota, Minnesota, Michigan, New York, Vermont,
2 Maine. All we need to do is get into the
3 transmission system as far as being able to move
4 power from Canada into the United States.

5 My question is why all the peaker power
6 plant production or construction? Why didn't
7 ComEd, for example, look into alternate sources of
8 power if, in fact, they needed the power? Isn't
9 there somebody that rules on this or requires
10 this? I thought we were friends with Canada.

11 There is also a transfer capacity in
12 Canada. During outages, Canada and the United
13 States share construction and maintenance crews.
14 That may be a surprise to you. Generally, when it
15 is hot in Northern Illinois, it is cooler in
16 Canada, which means that they don't need the power
17 to the same degree that we do when it becomes
18 90-degrees plus.

19 Canada is expected to have capacity
20 that they can share with Northern Illinois.
21 Canada has oil and gas, which they probably would
22 like to sell to Northern Illinois in the form of
23 electric power. They would make more profit.
24 They already do, as I indicated earlier, sell to

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1 other northern states of the United States.

2 I even envision one or more
3 transmission lines under Lake Michigan bottom from
4 Canada to Northern Illinois. Don't say that is
5 not possible. If you go up to Mackinac Island,
6 you will find Mackinac Island does not produce its
7 own electric power. It comes in under the bottom
8 of Lake Michigan.

9 Gas pipelines are built through
10 Illinois, and it can be expected that more will be
11 needed if the peaker power plant construction is
12 continued to be permitted. Further, natural gas
13 has continued to rise in price. As ComEd buys
14 electric power from these peaker and merchant
15 plants, our electric rates will rise as ComEd will
16 be allowed to pass any increase to the rate
17 payers. Talk to the city of San Diego, they are
18 up to 27 cents a kilowatt hour. This will not
19 only hurt the homeowners, but also all commerce in
20 Northern Illinois.

21 The Bartlett village board voted to
22 approve construction of what could be a 1,500
23 megawatt generating plant over opposition by local
24 residents. It will be interesting to learn of the

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1 April 3, 2001, election results in Bartlett.

2 I was going to say if there is interest

3 in learning more about the possibilities of
4 tapping into electric power generated into Canada,
5 I'm willing to explore it further by a visit to
6 Canada at my expense. I am interested in it
7 enough that whether you are interested in it or
8 not, I am going to Canada. Thank you.

9 HEARING OFFICER JACKSON: Thank you very
10 much, sir. Carolyn Muse?

11 We need to note on the record that --

12 MR. NESVIG: This is the Electric Power
13 Monthly. You can find all about the different
14 generation possibilities between Canada and the
15 United States.

16 HEARING OFFICER JACKSON: Who is that
17 published by?

18 MR. NESVIG: That is published by the Energy
19 Information Administration of the United States.

20 HEARING OFFICER JACKSON: Thank you very
21 much. We will mark that.

22 MR. NESVIG: That is available if you would
23 like to subscribe. It doesn't cost a nickel.

24 HEARING OFFICER JACKSON: Is that the only

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1 document that you have to give us today?

2 MR. NESVIG: No, I would like to give you a
3 copy -- and the only reason for providing a copy,
4 basically, is that in accordance with your request

5 -- I left out the first page.

6 HEARING OFFICER JACKSON: Okay. We can mark
7 the testimony as Nesvig Exhibit 1 and the pamphlet
8 that he submitted as Nesvig Exhibit 2. Thank you.

9 (Whereupon documents so offered
10 were marked and received in
11 evidence as Nesvig Exhibit Nos.
12 1 and 2.)

13 HEARING OFFICER JACKSON: Whenever you are
14 ready, Ms. Muse.

15 MS. MUSE: I am a local resident of the city
16 of Zion, although I am on the far western border
17 of Zion. I am surrounded by unincorporated Lake
18 County, Wadsworth. And I am one mile south of the
19 Wisconsin state line.

20 The SkyGen plant that is proposed would
21 be 1,030 feet from the border of my property. If
22 they construct that plant where I hear they are
23 constructing their plant on their 54 acres, they
24 will be approximately 4,000 feet from my home.

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1 My husband and I are very concerned by
2 the ground water. Every one in the area has
3 wells. We have septic. The siting of that plant
4 I don't know how it happened, but it should not be
5 next to residential areas.

6 Mr. LaBelle's comments tonight, I echo.
7 Ms. Owen's comments tonight, I echo. Zion has not

8 treated Ms. Owen very gracefully. And because she
9 was not a resident of Zion, I stepped forward and
10 tried to speak for her, although I did not have
11 her technical background.

12 I don't know if you have the power or
13 the desire to stop the SkyGen plant to relook at
14 it. It is on a much, much too fast a track there
15 in Zion. I would not be a popular person in Zion
16 today if that council should hear me today. But
17 that is the way it is going to be.

18 I was told before I came to the meeting
19 that anything I said here tonight would just be
20 wasted breathe, that plant is a go and you have no
21 power to stop it or regulate it. Is that true?
22 That is all I have to say.

23 HEARING OFFICER JACKSON: Thank you,
24 Ms. Muse. Are there any questions? Thank you

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1 very much. We appreciate your patience.

2 John Matijevich?

3 MR. MATIJEVICH: First of all, I would like
4 to say I knew Mayor Sam Lawton when he didn't have
5 the goatee.

6 CHAIRPERSON MANNING: When he was a mayor?

7 MR. MATIJEVICH: Yes, when he was a mayor and
8 even before then.

9 First of all, I appreciate the fact

10 that you are here. And more than just being here,
11 I have attended many, many public hearings in my
12 day. Some of them are a farce because they only
13 follow the law that public hearings must be held.
14 This one must not -- doesn't even have to be held.
15 Yet you are more attentive than virtually all that
16 I have gone through in the past. And I appreciate
17 that.

18 I might parenthetically say because I
19 saw one of the hearing officers -- by the way, I
20 was at a Zion hearing on SkyGen. I said that I
21 had the utmost confidence in the Illinois
22 Pollution Control Board. And since the hearing
23 officer from the EPA or one of the them is here, I
24 didn't give that comment to them. And that is

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1 based on my years of experience. I have nothing
2 really against those hearing officers. They did
3 their job.

4 We are sort of -- you might say we are
5 in sort of a dilemma here. Because I think
6 everybody that has testified here would say that
7 peaker power plants, the natural gas-fired plants,
8 are environmentally better than the coal fired
9 plants. We would all have to admit that. But
10 even admitting that and if we can wave a magic
11 wand and replace all of the coal-fired plants with
12 peaker full-load plants and allow the same amount

13 of energy, we still would have a problem in
14 siting, I think. And somebody has got to address
15 that problem.

16 Now, when I drove here today, I thought
17 -- they say that when you are old you can remember
18 things long ago, but you can't remember what
19 happened yesterday. And I thought about when I
20 testified many, many years ago on the nuclear
21 plant in Zion. I think I was the only public
22 official that took a stand against it. And you
23 might say, well, John, is against everything. And
24 I wasn't against nuclear power because I saw it

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1 coming and it was coming, nobody was going to stop
2 it. But I did comment at that public hearing that
3 I didn't think that a metropolitan area was the
4 place for a nuclear plant. I think I was right
5 then, and I am sure now more than ever I know I
6 was right.

7 And it wasn't just a matter of a
8 nuclear accident that probably wouldn't have
9 happened, but as long as there was a remotest
10 possibility of that happening, that I didn't think
11 it should be in a metropolitan area.

12 And I also remember asking the question
13 at that time that what were they going to do with
14 nuclear waste. I remember that question just as

15 if I asked it yesterday. And their response was
16 don't worry about that, there is going to be a
17 solution. And 25 years later, there is really no
18 solution on how they are going to dispose of that
19 nuclear waste.

20 So we have to not always take what
21 people who are looking for approval of permits, we
22 must not always listen to them that it might be
23 fact. Because all they want is their permit to be
24 approved.

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1 Now, before I get into a couple of
2 notes based on my being at that Zion hearing and
3 some of what I heard today, let me say -- and I
4 mentioned earlier that there is so much pollution
5 by the coal-fired plants, I think we have to
6 address that. The coal-fired plants really have
7 gotten a free pass, a free ride. They are
8 grandfathered in, and they are allowed to keep on
9 polluting, polluting and polluting.

10 And the fact of the matter is that
11 somebody can take some action on that because they
12 ought to be able to convert to natural gas or they
13 at least ought to use some of the technology we
14 have nowadays to provide more efficient,
15 environmentally good energy. And we ought to
16 address that even -- maybe we ought to do it
17 this way. Say that before peaker plants are

18 approved, let us -- let us make sure that a
19 coal-fired plant either meets the standard that we
20 should address before X peaker plant is approved.
21 Let's take it energy by energy, environment by
22 environment, and then we are going to clean up
23 this environment.

24 Now, when I appeared at the Zion plant,

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1 the first thing I asked the EPA -- there were
2 three gentlemen there from the EPA, and I asked
3 them the question how many states in the six-state
4 grid have deregulated electricity, and none of
5 them could answer that. And I no longer have much
6 information available to me, but I thought that
7 was an important question. Because if we are the
8 only ones, that means that we are the only state,
9 Illinois, that are allowing our energy to go in
10 other states and we are taking the full
11 environmental burden for it. And that is an issue
12 that ought to be addressed by the state. That is
13 not a local matter. That is not something that
14 Zion can answer. That is the state matter that
15 nobody at least is thinking about it.

16 And while they are thinking about that,
17 doesn't it make -- this isn't just the state of
18 Illinois, we are in a six-state grid. Shouldn't
19 it make some sense that we place these peaker

20 plants in areas not one on top of each other, as I
21 learned from the Zion hearing, that virtually they
22 are judged one by one. And therefore, there could
23 be three of them in Zion, two in North Chicago,
24 three in Waukegan. Because usually when something

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1 is bad, those communities that have, you know, the
2 most minorities get them. And isn't that a shame.

3 But I really think that much as I said
4 about nuclear power, most of these applications
5 are in the six-county area. This is an area that
6 we know about the ozone and the smog problems.
7 Somebody up there, not locally, should be making
8 judgments on siting so that we are not
9 contributing to environmental problems on a
10 regional basis.

11 These are issues that -- and that is
12 why I felt so good when I did hear that the
13 governor did call you people into it because I
14 thought now we have somebody, I believe, that is
15 going to take this up on a state and regional
16 basis.

17 Now, I did hear -- I always said to
18 myself sometimes you hear more common sense from
19 common people. And when I went to the Zion
20 hearing, I didn't -- I was listening closely to
21 SkyGen, but I knew they had their own ulterior
22 motive. And I knew that the concerns of the

23 people is what I had to listen hard to.

24 Now, one gentleman asked the question

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1 to the gentleman from SkyGen about the six stacks
2 and does that meet the guidelines. And he said,
3 yes, all we have to meet are the height
4 guidelines. And the gentleman said even if you
5 are at an airport, and he said, yes, because they
6 can still land. And then this gentleman with all
7 that common sense said how about all that
8 turbulence that causes the plume above the stacks,
9 doesn't that create a hazard? And I didn't hear
10 an answer. And I thought a simple question like
11 that ought to be answered because that Zion --
12 that airport over in Waukegan is right on that
13 line. And all of you heard about Bob Collins when
14 he was killed, and that woman that was killed was
15 a training pilot. Maybe a professional pilot
16 would know how to handle it when the wind shifts
17 and the condition of turbulence.

18 But I bring that up just to say that
19 somebody up there ought to be making these
20 decisions, that ought to be looking at all of
21 these factors. And by the way, I even -- you
22 know, you can almost cry when you heard when
23 somebody with their family came to testify. You
24 always heard the argument about O'Hare when people

1 complained about many of the problems of O'Hare.
2 And I would hear people say why did you move out
3 there for, you knew there was an airport. Well,
4 these same people can say what did they come here
5 with that peaker plant. We were here first and
6 their families are being jeopardized by it.

7 And when I did that, asked the -- I
8 heard the gentleman -- one of the gentlemen from
9 the state EPA, not the gentleman here, but he
10 called his peaker plant a major polluter, a much
11 bigger polluter than the one proposed in
12 Libertyville. And I said to myself we have a
13 major polluter. You call it a major polluter, and
14 we know what that means. And people should be
15 concerned about a major polluter coming into their
16 area. I don't care if you call it that in my
17 backyard. Somebody ought to be determining which
18 backyards these peaker plants are going to be
19 placed. Because if they are too close to each
20 other, we have got a real environmental problem.

21 Then many bring up the problem about
22 what this is going to do with peak periods, and I
23 agree with the gentleman that called peaker plants
24 a misnomer. Because I am only a layman. But when

1 this last gentlemen right before me talked, I said

2 to myself -- I wrote a column for the Lakeland
3 Newspaper when this whole issue started. And I
4 said to myself anybody that is in that much of a
5 rush to get those things done, something is wrong.
6 And my layman's mind I said they are in that rush
7 because they know they are going to have to be
8 regulated sooner or later because something has to
9 be regulated about what they are doing.

10 And even I wrote in that column, we
11 don't know a darn thing about peaker plants. This
12 is a new industry. We don't know the relationship
13 between the power companies like Commonwealth or
14 other power companies and these new peaker plants.
15 That is really what he was saying when he said
16 Commonwealth says we are only going to be in the
17 distribution business. And that is what I was
18 thinking about when I wrote that column, not even
19 thinking I might be right. But there are a lot of
20 questions that have to be answered.

21 Then somebody mentioned about the
22 assessment of these facilities. I can tell you
23 for certain that the nuclear plant itself was
24 trying to be classified as a personal -- virtually

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1 all personal property. I can tell you that
2 because I fought it in the legislature with the
3 school districts up in Zion, and they didn't get

4 their way. But they tried it and that is what the
5 peaker power plants are trying right now.

6 A plant that is assessed at a million
7 dollars and then five million when they build the
8 buildings, that should be assessed at \$55 million.
9 But the rest of it is going to be personal
10 property. Well, I would like to see any of us
11 carry that personal property on a truck or
12 whatever.

13 You know, we have got to look at these
14 things, what they are asking for and pulling the
15 wool over our eyes.

16 Now -- oh, yes, then somebody mentioned
17 about decommissioning plants. We still haven't
18 gotten rid of a lot of those gas tanks
19 underground. And look how long that has been when
20 they were putting a gas station on virtually every
21 corner and nobody was stopping anybody and we are
22 still, in spite of the fun, having a problem
23 getting rid of underground gasoline tanks. I know
24 you all know that.

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1 What are we going to do about when
2 these plants and when somebody said they quit
3 making money when they want to decommission? We
4 want to haul them off that quick. We know right
5 now with the Commonwealth Edison, Commonwealth is
6 asking 40 cents a month on their electric bill to

7 decommission the nuclear plant, and they are not
8 getting their way on that yet. But these are --
9 there are many problems that must be addressed.

10 I liked the mayor's comment, Mayor
11 Lawton, when he asked somebody should there be
12 some agency on siting. I don't know the answer.
13 I don't know the answer because I -- if I knew the
14 agency was going to be responsible, yes. If I
15 knew you were the agency, I would say yes. But I
16 don't know. But I don't -- also don't know if --
17 it can't be a totally local matter. There has got
18 to be something done. It can't be totally local.
19 And we know -- we know sometimes things are --
20 things are approved when they shouldn't. And
21 things are disapproved when they probably should
22 be approved.

23 But the point is that this is a serious
24 matter in particularly in the six-county area that

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1 must be addressed. It is an environmental
2 problem. And I didn't even get into all of that
3 because so many have said it. But I really want
4 to compliment all of you for being so attentive.
5 Thank you.

6 HEARING OFFICER JACKSON: Thank you.

7 Dennis Wilson is our next presenter. Is
8 Mr. Wargaski here?

9 MR. WILSON: No.

10 HEARING OFFICER JACKSON: He told me he might
11 have trouble getting here, so you would be here in
12 his place.

13 MR. WILSON: What I wanted to do before I
14 forget, the previous gentleman was talking about
15 aircraft flying over a peaker plant especially
16 with one I understand not 6 stacks, but 12 stacks.
17 Each stack produces a thousand to 1,100 degree
18 Fahrenheit gases. These gas volumes per stack run
19 about a couple million cubic feet a minute. The
20 velocity of those gasses is about 75 miles an
21 hour. I do believe that they can be a hazard to
22 aircraft, a very serious one, especially if they
23 are located near an airport. And that is
24 something that should be looked at very, very

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1 closely.

2 Why I am here some people would say
3 that I am one of the reasons why we are having
4 this meeting here. I am from the Island Lake
5 area. And I am not really the reason. The power
6 plant companies are the reason I am here. Because
7 if they didn't try and build a plant in my
8 backyard 1,200 feet from my house, I wouldn't have
9 protested it and it wouldn't have started all
10 this.

11 At that time they were trying to take

12 the path of least resistance, and they went to the
13 local community, which is Island Lake, and said,
14 hey, we are going to be good for the area. But
15 Island Lake didn't know the reason they needed
16 them was that they were going to produce about
17 500,000 gallons of water that had to go into
18 sewerage per day. They were going to use between
19 5 to 8 million gallons a day of water, which most
20 of it was going to go in the air. But that
21 500,000 gallons had to go into the sewers because
22 there was contamination that got into it and they
23 had to get rid of it. And so they needed Island
24 Lake as a partner.

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1 And at first Island Lake thought this
2 was a good thing. They were going to get \$112,000
3 a year for their school system. The Village was
4 going to get \$25,000 a year of revenue. And they
5 thought this was great. Being a small community,
6 this is, you know, a windfall.

7 Well, after a lot of research when we
8 found out about this plant and -- you could have
9 called us enemies at first, but then when all the
10 neighbors found out about it and we started doing
11 more research and we educated them, we found that
12 we had 129 homes that would have been within one
13 mile of this facility.

14 We had -- the Black Crown Marsh would
15 have been adjacent to the property of this plant.
16 And this is a place where sandhill cranes are an
17 endangered specie in Illinois and this would have
18 affected their nesting grounds there.

19 We did further research and we found
20 that a plant that was going to be half the size of
21 this plant -- now this plant was proposed to be
22 510 megawatts and the cost was going to be \$250
23 million. A plant that produces 280 megawatts up
24 in Whitewater, Wisconsin, they did it -- probably

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1 the way if you were going to have any one of these
2 plants near a town, the way it should be done.
3 They located it five miles out of town. It cost
4 them \$200,000 a mile to run the gas line from
5 where it was to get to this plant. The
6 distribution lines, it cost them a million dollars
7 a mile to do it and they did that to get it away
8 from the town. And the bottom line, this town
9 gets \$1.1 million of revenue a year.

10 Now, we can -- let's take a look at
11 those numbers. Island Lake, \$112,000 plus another
12 \$25,000 for a \$250,000 510-megawatt plant. You
13 got a 280-megawatt plant in Wisconsin that is
14 generating \$1.1 million for the local community.
15 Something is wrong with our laws here. Okay. And
16 you can see why they want to locate here in

17 Northern Illinois. It is a freebee. They are
18 getting a free ride.

19 And along with that free ride, they are
20 so arrogant, I want to talk a little bit about
21 McHenry County. McHenry County gave them the
22 courtesy of ZBA hearings, which took many, many
23 months to go through. And the ZBA did not pass.
24 It was not a full recommendation to the county

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1 board, but it went onto the county board to make
2 the final decision on this particular plant. That
3 was Indeck.

4 The county board voted it down and said
5 we don't want this plant where you are proposing
6 it located in McHenry County. Indeck said the
7 heck with you guys, we are going to sue you. And
8 that suit is still going on, and it is costing
9 that local government a lot of money to defend
10 themselves in that.

11 Since that time, McHenry County has
12 created a moratorium. And there was other plants
13 that were being proposed just a quarter of a mile
14 from this Indeck one that was proposed, and, you
15 know, it is held in abeyance right now. But the
16 suit isn't. So you can see the type of thing that
17 happens if these companies want their way. When
18 they can afford a 25 or a \$30 million suit,

19 whatever it is, it is something close to that
20 number, and pay all the lawyers and then all the
21 hearings and everything they went through, you
22 know, the kind of money they are looking to
23 generate. They don't want to be stopped for any
24 reason.

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1 In our particular case in the Island
2 Lake area, after we fought this thing for months
3 and months and months, we finally got the local
4 government to see that this was not good for the
5 community. And the trustees and the mayor of
6 Island Lake voted unanimously and said, no, we are
7 not going to have this plant in our area. And
8 this power plant could see that they were losing.

9 The next day -- they knew they had lost
10 at this point. The next day they called up the
11 mayor, and the mayor had trustees with him during
12 this phone conversation. And they said mayor, if
13 you folks will change your mind, we can see our
14 way of giving you folks \$400,000 a year for a
15 ten-year period and maybe that would help convince
16 you. Much to Mayor Amrich's credit, he said to
17 them what part of no don't you folks understand,
18 what part of no don't you understand. And those
19 people were very hostile with them then.
20 Actually, I heard there was some very vulgar
21 language.

22 So it just tells you how bad they
23 wanted it. And when they didn't get their way
24 with even offering what I consider just about a

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1 bribe, okay, they still -- you know, they had to
2 let go of the words that weren't too cool.

3 Now, in talking about these plants,
4 what we are really talking about here is siting
5 issues. When they can take and bring in a \$250
6 million operation on top of residences 1,200
7 feet away, there is something wrong with the
8 regulation. We have got deregulation without
9 regulation. I mean, you just can't open up the
10 system carte blanche and let the people do
11 whatever they want to do. There has to be some
12 law. And siting is the place to start it.

13 I have heard in testimony earlier this
14 evening that maybe brown areas were better for
15 this. Industrial property might be better than
16 this. But having researched this for quite a
17 period of time now, it has been two years, I have
18 a completely different opinion. I think that
19 these plants should be located -- because they
20 can't wheel the power great distances as we have
21 heard -- way out in the country away from
22 everybody.

23 One of the reasons that I believe in

24 that is this. There is a physicist over in

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1 England at Bristol University who has been
2 working on a theory about electromotive force,
3 electromagnetic radiation and the harm it is
4 causing the people and causing cancer. And no one
5 has been able to put a handle on this and what
6 maybe is the cause of this particular problem.
7 Well, what they are coming up with -- and they are
8 coming up with some pretty good proof -- is that
9 in areas where you have high pollution, and as
10 high pollution passes through the power lines, the
11 particles become charged, and those charged
12 particles remain charged for up to five miles away
13 from those lines. That means if you have people
14 living in that area they will be breathing that
15 atmosphere of the charged particles. And what
16 they are stating is that those particles will
17 stick in your lungs at a rate 100 times greater
18 than it normally would if they were not charged.

19 Now, a simple environment that a
20 person can do to get an idea of what is happening
21 around the power lines is this. If you take a
22 four-foot long fluorescent bulb and you just hold
23 it in your hands and you walk underneath a power
24 line at nighttime, it will light up. Now, you can

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1 be 50 feet from that line, but that fluorescent
2 bulb lights up. Does that tell you that there is
3 an energy field around those lines?

4 So now take that energy field and those
5 distribution lines and add in a power plant
6 throwing out hundreds of tons of pollutants going
7 right past those lines, and what happens to the
8 people that are living right around that area? It
9 is not a good situation.

10 And to give -- to give proof of this is
11 that the National Institute of Environmental
12 Health Sciences, the federal government, a medical
13 body did research in this area also. And in 1998
14 they issued a statement, and they said that they
15 believe that these lines are carcinogenic. And
16 they said prudent avoidance of these lines is what
17 should be done.

18 Now, when this plant was trying to come
19 in our area, we had help from a lot of the local
20 officials. One of our board members in our area
21 gave us a tremendous amount of help. And we went
22 down and visited with the IEPA, and we submitted
23 to them a 122-question letter with a book that was
24 three-inches thick with extensive documentation on

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1 the problems associated with these plants. We
2 pestered them for months and months and months.

3 This was in February of 1999 when they gave them
4 this information. And I got a page and a half
5 letter back on June 20th of this year as their
6 answer to everything that we had submitted to
7 them, and it just danced around the issue.

8 Our government bodies are not helping
9 us. We need your help. That is all I have.

10 Thank you.

11 HEARING OFFICER JACKSON: Thank you. Any
12 questions? Thank you very much.

13 I do want to note that we still have 15
14 people on our list to testify. We have 3 people
15 on our list of preregistered people, and we have
16 12 more who have since signed up today. It is 10
17 to 9:00. I do not want to hamper anyone's
18 presentation. But please be aware of our time
19 constraints and please be aware of our desire to
20 hear from everyone who was signed up to speak
21 today. So where possible please try to keep your
22 comments as brief as possible.

23 All right, with that said, let's move
24 on. If you do need to follow up any of your

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1 comments this evening in writing, you are more
2 than welcome to do so. Or if you are not able to
3 make your full presentation, please let me know
4 and we will get you on your list for October 5th
5 and 6th in Springfield.

6 Terry Jacobs we have next.

7 MS. JACOBS: Terry, T-e-r-r-y, Jacobs,
8 J-a-c-o-b-s. And I am a resident of Libertyville
9 and I am the mother you used to talk about, scores
10 of Cubs games and sitting home at night and
11 playing board games and help with homework with my
12 kids, and now I spend hours on the Internet and I
13 attend meetings such as this and IEPA hearings and
14 plan commission hearings and board of trustee
15 hearings, not only in Libertyville because that is
16 just acting locally on something that is a much
17 larger issue.

18 So first I would like to thank you for
19 your dedication and very careful consideration of
20 this extremely important issue. We are most
21 appreciative of your involvement and your
22 expertise. Many have spent a multitude of time,
23 energy and frustration, as you have heard, in
24 becoming well informed on this topic, subsequently

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1 attempting to travel the long and bumpy road to
2 seeking proper resolution of oversites of an
3 industry slipping through large regulatory cracks.

4 Those oversites have not been benign,
5 but have led to an industry gold rush in the state
6 of Illinois and a seemingly unending nightmare for
7 citizens and communities who have all too often

8 assumed one of the following. One, somebody
9 certainly looks at and analyzes the potential
10 ramifications of anything that might prove harmful
11 to our air, water and ultimately to us and
12 regulates it appropriately prior to unleashing it
13 upon us. Two, if something appears to fit within
14 EPA guidelines, it must be okay. Anyone familiar
15 with the system knows this is not the case.

16 Many have testified before me as to the
17 oftentimes unique and specific problems this
18 particular source of power brings with it.

19 And with my much lower area of
20 expertise, I am more than an inch deep and a mile
21 wide in my course of study. I will simply list
22 some of the things that come to mind that others
23 have already testified very extensively on. The
24 ability of anyone to apply to run a power plant,

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1 the current ability of peaker plants to obtain
2 minor source construction permits from the EPA by
3 declaring they will fault a hair error under major
4 source criteria and some of the protections it
5 provides. Unfortunately, their emission will
6 unlikely be flooding our airshed at -- will likely
7 be flooding our airshed at precisely the time our
8 air quality is at its worst, when the weather is
9 hot, ozone at its worst and demand the greatest,
10 not emitted gradually over the period of a year.

11 The current ability to cluster peakers
12 if local zoning and officials permit and to not
13 take into account what are already areas of severe
14 nonattainment as well as landfills and other
15 potential hazards already located within a certain
16 area.

17 Another problem comes into play.
18 Frequently when peakers are looked at from a local
19 level, it is the ground emission that seems to
20 most interest government officials. They seem
21 much less concerned that the emissions will go
22 somewhere and turn into ozone somewhere and cause
23 a problem somewhere. Some overseeing body needs
24 to look at these emissions in a cumulative,

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1 regional and even national basis.

2 The NOx waiver presents problems of its
3 own that have been well covered. I support the
4 comments brought to you by others in this dilemma.
5 A restrictive tool mandated to assist us in
6 cleaning up our air quality is being used in a
7 manner that is proven counterproductive.

8 We know we only need X amount of power
9 to take care of our needs in the foreseeable
10 future. And why not better plan for the power we
11 will need and approve only the best and most
12 environmentally friendly applications in a given

13 airshed? And even they should meet the strictest
14 of guidelines. This is our water and the quality
15 of our air we are talking about.

16 There are numerous other issues that
17 have been well covered. I shall not keep you all
18 here longer covering them again.

19 My plea to you is that we all work
20 together to do this right the first time. There
21 is such an abundance of new technology out there
22 proven to work and work well. We all regret the
23 amount of emissions allowed by coal-fired plants.
24 Surprisingly, some politicians find comfort in

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1 saying overall I see improvement. That is not
2 good enough for me, my kids or my neighbors.

3 We have the knowledge, authority,
4 ability and, hopefully, motivation to leap into
5 the new millennium with modern-day regulations.
6 Let's not make unnecessary concessions on peaker
7 emissions. We know there is readily available
8 technology to substantially lower emissions to
9 as low as 4 and a half parts per million, as
10 Mr. McCarthy will testify to later.

11 It is being used successfully in
12 California and elsewhere. Why should we have
13 regulations that allow for anything less.

14 Our air quality ranks an F with the
15 American Lung Association who I know can provide

16 you and has provided you with all kinds of
17 statistics on the increase of asthma and
18 allergies, both made worse by the poor quality of
19 our air.

20 These opportunities to make change,
21 unfortunately, do not present themselves often.
22 Please, I beg of you to make the most of this
23 opportunity. You have the unique privilege to
24 improve the lives of nearly everyone in this state

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1 and as well as the states downwind of us.

2 You also have the opportunity to make
3 tremendous use of a wealth of information that has
4 taken many people hours, days, weeks and months to
5 study and collect. You have also seen the impacts
6 that less than adequate and less than effective
7 regulations have had on our state for years. It
8 is time to not only improve upon these, but to
9 make them something to be proud of.

10 There is nothing wrong in demanding
11 that if a turban is built in this state that it
12 have the most achievable emissions, which right
13 now is 4 and a half parts per million. And to
14 keep that standard from becoming antiquated, I
15 would hope you would consider recommending some
16 automatic update when technology improves beyond 4
17 and a half parts per million, that triggers an

18 improvement of the limits.

19 It is not acceptable to me, and what I
20 believe to be a voting majority of the public,
21 that our state remain complacent about our poor
22 air quality. Many comparisons were made to the
23 emissions of coal-fired plants. These are so bad
24 I am appalled at the time that has been allowed to

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1 improve upon them. But just because coal-fired
2 emissions are so bad, it should not in any way
3 limit the gold standard we should now hold any new
4 plants to. Two wrongs do not make a right. They
5 only make a bad situation worse. We know better
6 now. We should do better now.

7 Hopefully your recommendations will be
8 strong and retroactive, applying to those
9 facilities that have already been permitted as
10 well. To require anything less is to sell the
11 health of these citizens of this state and those
12 downwind of us far too short.

13 We need leadership that will put
14 people's health first and the convenience of a
15 power company to save some money and/or time by
16 using whatever turbines they have on hand far down
17 the list.

18 I thank you for your work on behalf of
19 the citizens of this state. Please know that if
20 you make the necessary recommendations to right

21 these issues, we will be there to work with our
22 legislators, particularly in this very hot
23 election year to get the support you need to see
24 them carried out. I thank you very, very much.

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1 One other comment I would like to make,
2 just to put this in everyday terms, I am now
3 working with my child's elementary school to try
4 to develop an ozone policy as to when children can
5 and cannot be allowed to go outside to play for
6 recess, when they can run outside for their gym
7 class. I mean, it is a reality. They don't have
8 the policies right now and they need them. They
9 were now having to develop them. I think that is
10 a sad situation to have to be in. Thank you very
11 much. We are very, very happy you are looking
12 into this.

13 HEARING OFFICER JACKSON: Thank you. Jim
14 Booth.

15 MR. BOOTH: Good evening, my name is Jim
16 Booth. My wife and I reside in Newport Township
17 in Lake County. Our home happens to be one mile
18 from the proposed peaker plant. I also have a
19 business that is located in the Rolling Hills
20 Industrial Park in the city of Zion, Illinois.

21 HEARING OFFICER JACKSON: Mr. Booth, could
22 you speak in the microphone? They can't hear in

23 the back.

24 MR. BOOTH: I have been in -- I am located in

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1 Zion, Illinois, with a business. And what I
2 really would like to address this evening is the
3 question of water. I had an opportunity, that is
4 a business opportunity, from a manufacturer in the
5 East who installs equipment to produce a food
6 product in my facility in Zion. And this would
7 require quality Lake Michigan water.

8 Upon investigation, I learned that the
9 city of Zion, who purchases their water from the
10 Lake County Public Water District had exceeded its
11 822.345 million gallons of Lake Michigan water by
12 22 million gallons. Their allotment was 822
13 million gallons. They purchased 844 million
14 gallons from the Lake County Water District in the
15 period May 1999 through April of 2000. I use this
16 figure because that is the fiscal year for the
17 Lake County Public Water District, and it was the
18 most recent figure that was available to me under
19 the Freedom of Information Act.

20 Zion, of course, is concerning the
21 peaker power plant, which would use a maximum peak
22 of 2.124 million gallons of water per day when
23 they are operating their five turbines. And they
24 divide this by 365 days a year, of course. And

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1 that would run 230,000 gallons per day. Unless
2 Zion files and is awarded an increased allocation
3 of Lake Michigan water, they cannot serve my
4 business nor can they serve the proposed peaker
5 plant.

6 The state of Illinois is in debt to
7 Canada for exceeding their Lake Michigan water
8 allocation. This debt is to be repaid by 2019. I
9 assume you are familiar with that. For 20 years,
10 illinois took more than their allotted amount of
11 water out of Lake Michigan, and now they have to
12 pay it back. The bottom line is that there is
13 less water to be divided among the municipalities,
14 177 or so, that use Lake Michigan water.

15 But the peaker power plant has an
16 alternative which I do not have. They can drill
17 wells and tap into the Ironton Galesville
18 Sandstone Aquifer.

19 Circular 182 from the Illinois
20 Department of Natural Resources State and Water
21 Survey by Adrian A. Zuchowski addressed the water
22 level trends and pumpings into the deep bedrock
23 aquifers in the Chicago region in the period 1991
24 through 1995. On page 15 he wrote that Schlect in

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1 1976 estimated that the practical sustained yield

2 of the deep bedrock aquifers regardless of the
3 scheme of well development cannot exceed 65
4 million gallons a day.

5 The practical sustained yield of the
6 deep aquifers is defined as the maximum amount of
7 water that can be withdrawn without eventually
8 dewatering the most productive water yielding
9 formation, that is the Ironton Galesville
10 Sandstone Aquifer.

11 In a fax dated August 15th of this
12 year, Mr. Scott Meyer of the Illinois State Water
13 Survey faxed me and said I recently estimated deep
14 bedrock withdrawals in that area, referring to
15 Zion, at about 71 million gallons a day. That is
16 6 million gallons above the practical sustained
17 yield.

18 The point is this. One peaker power
19 plant drawing 230,000 gallons per day from the
20 Ironton Galesville Sandstone may not seem overly
21 significant. But it is reported that there is
22 some 55 peaker power plants proposed in the state
23 of Illinois. How many will be drawing water from
24 the Ironton Galesville Sandstone aquifer in the

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1 eight-county area?

2 Now, the survey that I referred to, the
3 circular 182 involved water being taken from the
4 following eight counties: Cook, DuPage, Grundy,

5 Kane, Kendall, Lake, McHenry and Will. Now, five
6 plants the size of the proposed Zion plant would
7 draw 1,150,000 gallons of water per day from that
8 aquifer. For 20 months plants would draw
9 4,600,000 gallons per day average, but at peak
10 would draw 42 million gallons in one day. Now,
11 this is out of an aquifer that can only sustain
12 65 million gallons and is currently being drawn at
13 71 million gallons.

14 The former state senator and minority
15 leader Everitt McKinley Dickson once said after
16 attending his first budget meeting, a billion
17 dollars here and a billions of dollars there, and
18 pretty soon it added up to some real money. The
19 same thing is true of the peaker power plants and
20 their great appetite for water.

21 I ask you to consider the following
22 questions. Should quality Lake Michigan water be
23 used for peaker power plants or should that be
24 reserved for human consumption? Should there be a

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1 limit on the quantity of water mined from the
2 Ironton Galesville Sandstone Aquifer considering
3 eight counties depend upon this water source,
4 Cook, DuPage, Grundy, Kane, Kendall, Lake, McHenry
5 and Will Counties? This is not a local issue.
6 This is a regional issue.

7 And remember, this Ironton Galvesville
8 Sandstone Aquifer begins in Minnesota, runs
9 through Wisconsin, northern Illinois, central
10 Illinois, into Missouri and finally into the state
11 of Iowa. It can be mine dry.

12 Thank you very much for your attention
13 and patience at this late hour. Are there any
14 questions?

15 MS. KEZELIS: I have a very quick question.
16 Can you generally describe for us the nature of
17 the business endeavor you were considering but
18 could not engage in because of the water, very
19 generally?

20 MR. BOOTH: The product is proprietary, but
21 it is in the food industry and it is something
22 that everybody here has eaten. And it is legal in
23 all 50 states including the possessions.

24 MS. KEZELIS: Thank you.

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1 HEARING OFFICER JACKSON: William McCarthy is
2 next on our list.

3 MR. McCARTHY: I had some handouts to give to
4 the Board to look at while I am speaking. Should
5 I give them to -- who should I hand them to?

6 HEARING OFFICER JACKSON: Go ahead and bring
7 them up and I will pick them up. You can go
8 ahead. I will pass these out.

9 MR. McCARTHY: I notice this microphone is

10 somewhat sensitive to the letter P.

11 Anyway, I don't know if you already
12 have a copy of these documents, so I apologize if
13 you already have them. I am from Libertyville.
14 My name is William McCarthy. I am a resident of
15 Libertyville and I have been involved in the
16 extremely time-consuming process of the
17 Libertyville Indeck Power Plant.

18 Ms. Jacobs and Ms. Geiselhart have
19 briefly referred to that process. But in part, it
20 involved a public referendum obtaining 2,000
21 signatures, which took about 2,000 hours of going
22 door to door to actually collect the signatures,
23 conducting an election campaign to have the
24 advisory referendum held, going to 20-something

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1 planning commission meetings that average four to
2 five hours in length, talking to village board
3 members, state representatives. We were, of
4 course, at the round table here. I mean, I would
5 say conservatively I spent 200 hours and \$4,000
6 personally fighting the Indeck Libertyville plan.

7 My wife and I own a preschool, which is
8 about two miles from where the proposed plant
9 would have been. It has currently 90 students.
10 It has expanded to about 150. It is a montessori
11 preschool. So we had -- and since our home is

12 very close to our school, we had personal reasons
13 for getting involved.

14 Anyway, I am a scientist by training.

15 And in the course of this whole Indeck
16 Libertyville process, I found this document from
17 the California Air Resources Board. It is called
18 "A guidance for Power Plant Siting and Best
19 Available Control Technology."

20 Prior to my finding this, I know for a
21 fact that Mr. Chris Romaine of the IEPA and, as
22 far as I know, every member of the IEPA I have
23 spoken to have never heard of this document. The
24 U.S. EPA was not familiar with this document,

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1 including Pam Blakely and John Kelly of the U.S.
2 EPA in Chicago. And I know our state
3 representatives were not familiar with it, the
4 governor and several other people.

5 I brought it to the attention of
6 Senator Adeline Geo-Karis. She sent it on to --
7 she sent it on to Tom Skinner and copied me on the
8 letter saying that she thought that was very
9 interesting, he should look into it and get back
10 to me. I have not heard back from him. But I am
11 sure he is a busy guy. With this mercury stuff
12 going on, he must have other things to do.

13 Anyway, I would highly recommend
14 reading this document. It is about 60 or so pages

15 long. But it is thematic, kind of like a Bach,
16 you know, theme. It repeats over and over again.
17 And so if you read a short section of it, you will
18 get a good idea what the entire document is about.
19 And its purpose is, as you know, California has
20 also been inundated with applications for power
21 plants, peaker power plants in particular. And I
22 will try not to say that P very strongly.

23 So they came up with this document as
24 a way of guiding local officials and state

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1 representatives who may not have the technical
2 background and may be being somewhat misled,
3 naturally, by power companies in their desire to
4 make profits.

5 But anyway, one of the questions that
6 you guys asked or the governor asked indirectly
7 through you is do peaker plants need to be
8 regulated more strictly in Illinois' current air
9 quality statutes and regulations. Do they pose a
10 unique threat or greater threat than other types,
11 et cetera, et cetera.

12 Well, actually, these two questions --
13 common sense would say the answer to these two
14 questions is yes. And why -- what common sense
15 would that be. Well, basically, what we have is
16 deregulation of the electrical industry, which

17 means this is an opportunity for electrical
18 companies to make money in unique ways and
19 different ventures, et cetera. And unfortunately,
20 the laws were not updated. When the lawmakers
21 said we are going to have deregulation, they
22 overlooked a couple of minor details, like that
23 there would be a lot of economic pressure for
24 companies to try to take advantage of this. And

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1 it would have been nice if a few laws were put
2 into place before they said we will have
3 deregulation. But what happened was -- and I know
4 this because I talked to our state representative
5 and many people at the governor's office -- that,
6 well, those laws weren't put into place, and now
7 there is this gap between, well, what it used to
8 be and what it is today.

9 So common sense would tell us the
10 answer to these two questions is yes. But this
11 document, this California document, says on page 4
12 -- and I apologize, if you skip past the little
13 introductory pages. But it says here "these
14 peaker plants will operate in the competitive
15 market." This is in the middle of page 4 under
16 section 3, "How will these new plants differ from
17 plants built before the deregulation of the
18 electrical utility industry? These new peaker
19 power plants will operate in a competitive market

20 with more equipment start-ups and shut downs and
21 will operate at various power loads. These power
22 plants are commonly referred to as merchant power
23 plants that operate in merchant mode. Equipment
24 start-ups and shut downs will account for a

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1 greater proportion of emissions from these new
2 plants than traditional plants."

3 Then skipping down to section 4, "what
4 are the expected air pollution impacts of these
5 plants? As mentioned, most of these proposed
6 plants will consist of large stationary combustion
7 turbines. The operation of these turbines with
8 natural gas and fuel and state of the art controls
9 is expected to result in some of the lowest
10 emission concentrations achieved today for this
11 source category." That is a good thing.

12 "However, despite the benefit of a lower emission
13 concentration, the merchant operation and the
14 large size of these combustion turbines is
15 expected to result in substantial emissions."

16 HEARING OFFICER JACKSON: You need to slow
17 down for the court reporter.

18 MR. McCARTHY: Sorry, excuse me. I was
19 trying to speed this up.

20 "The emissions are likely to exceed
21 resource review permitting regulation threshold

22 for emissions of NOx, et cetera."

23 So the California Air Resources Board
24 thinks, yes, these are different; yes, they pose a

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1 new threat and one that is not being met by
2 regulations. And these are by California
3 regulations.

4 Now, as we know, Illinois regulations
5 are a little looser than California. I have lived
6 in Illinois most of my life, except for six years
7 when I lived in California, and I can tell you
8 that there is a few differences between the two
9 states on approaches. In California they have a
10 lemon law. In Illinois they have a lemon law.
11 The California lemon law is 12 pages long. The
12 Illinois one is a half a page long and it doesn't
13 say very much either. As you might expect,
14 consumers should be aware in Illinois.

15 California has house purchasing
16 laws. Illinois has house purchasing laws. In
17 California, if you knowingly or unknowingly fail
18 to disclose faults in your house, broken windows,
19 the furnace doesn't work well, the roof leaks, you
20 can be sued and you will have to pay tremendous
21 fees. In Illinois your -- this is technically
22 true but, in fact, many people who lived here
23 their whole lives told me you better really know
24 what you are buying before you buy it because

1 these laws will not protect you.

2 Illinois has laws about oral contracts.
3 For example, my attorney who is a contract
4 specialist told me that any verbal agreement is
5 non-binding if it is over \$500 in value. In other
6 words, Illinois is pro-business. I have to say
7 sort of as a generalization, it is pro-business.
8 And as part of pro-business, it is power plants,
9 of course. It is not as strongly protecting the
10 public as California does. And this concerns me
11 since I now live in Illinois and I spent most of
12 my life here.

13 One of the things that Illinois doesn't
14 regulate -- and I can tell you because I have
15 spoken at length with this with Mr. Chris Romaine,
16 who is sitting right behind us here -- is on
17 page 12 this document says "what happens with
18 equipment start-ups and shut downs."

19 HEARING OFFICER JACKSON: Let me just
20 interrupt you. The document you are referring to
21 so the record is clear, we will be marking as
22 McCarthy Exhibit 2, and it is the "Guidance for
23 Power Plant Siting and Best Available Control
24 Technology."

1 (Whereupon document so offered
2 was marked and received in
3 evidence as McCarthy Exhibit
4 No. 2.)

5 MR. McCARTHY: Yes. And this is the only
6 quote I am -- second to last quote I am going to
7 read because it is a long document and I am sure
8 you can read it. It says "the district should
9 address all phases of plant operation and best
10 available control technology decisions and assure
11 the controls are required and used where feasible
12 to minimize power plant emissions. Permit
13 emission limits should be written to apply to
14 turbine emissions for all potential loads.
15 Emissions generated during start-up and shut down
16 should be regulated by a separate set of
17 limitations to optimize emission controls. To
18 regulate these emissions, permit conditions should
19 limit and require recordkeeping of the number of
20 daily and annual start-ups and shut downs."

21 Now, for those of you who aren't really
22 familiar with the peaker plants, it turns out that
23 they produce, depending on who the manufacturer
24 is, somewhere between 10 and 30 parts per million

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1 of NOx when they are operating. And this is when
2 they are operating at full load at maximum
3 efficiency, i.e., lowest air emissions.

4 When they are starting up, though, it
5 is quite a different story. Up to 50 percent
6 load, they produce up to 200 parts per million of
7 NOx. I mean, in some cases it just goes off the
8 charts, 300, 400, 500, et cetera. Then between 50
9 percent and 100 percent of load, their emissions
10 are much lower, but it is not the same emission
11 level, i.e., from 0 to 100 percent load.

12 Now, merchant conditions are such that
13 these plants may want to produce only ten percent
14 loads, sometimes 40 percent loads, sometimes 80
15 percent, 50 percent load, they are producing
16 tremendous amounts of pollutants. Illinois
17 doesn't regulate those start-ups and shut downs.

18 What Illinois does is the following.
19 They say, well, you know what, it is true that
20 emissions are a little bit higher -- you know, a
21 little bit, we are talking 10 to 20 times higher
22 -- little bit higher during start-up and shut
23 down, but that is okay. There is no restriction
24 on how many times a plant can start up and shut

1001

1 done. The Indeck Libertyville permit -- you can
2 look at it. I can ask Chris Romaine for a copy of
3 it. -- it says it will turn on and turn off as
4 many times as should be generated by the market.
5 It could be 50 times a day. It could be 20 times

6 a day. It might produce -- 40 percent of its
7 emissions might be during start-ups and shut
8 downs. There is nothing that is saying that these
9 emissions should be included as annual emission
10 limits.

11 These are just some examples of the
12 differences between a peaker power plant and a
13 regular combined-cycle plant.

14 Now, this document is an overview. On
15 page 14 or 16 -- let me see. It is -- I will find
16 it. Page 14 we refer to more detailed documents
17 on power plants, how does California do power
18 plant sitings, how do you participate in the
19 siting process, what are the rules and practices
20 and procedures, what are our plant certification
21 regulations. Needless to say, Illinois has none
22 of these documents, has no siting document
23 whatsoever. It doesn't have any guidance
24 document. It has no more detailed documents.

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1 In fact, Illinois -- if you look into
2 the regulations and detail, you would have to
3 conclude that they have no process virtually
4 whatsoever.

5 Well, enough of this document. One of
6 the things that -- I apologize. One of the
7 things this document mentions is what are the
8 recommendations for NOx emissions and SOx, sulfur

9 dioxide, nitrogen oxide, et cetera. They
10 recommend -- and I have to correct Terry Jacobs
11 here because she got this number wrong. It is
12 2 and a half parts per million for peaker plants.
13 2 and a half parts per million of NOx is what they
14 recommend and five parts per million for combined
15 cycle plants. And now Illinois has no
16 restrictions at all. It could be 15. It could be
17 30. It could be 50 parts per million. There is
18 no limit whatsoever.

19 Now, there is a process -- and they
20 have particulates, sulfur dioxide, nitrogen oxide,
21 they tell you in every single case what are the
22 technologies that are being used, what are the
23 ones that are being manufactured, who manufactures
24 them, what parts per million have they achieved.

1003

1 This is all in this document and this is an
2 overview.

3 Now, the Indeck Libertyville plant
4 turns out that they were using the worst
5 technology possible, Siemens Technology, at
6 30 per million, far, far and above what California
7 calls best available control technology.

8 Now, one of the things this document
9 refers to is the technology called Xonon. And it
10 is spelled X-o-n-o-n. And I have to apologize for

11 this. This is a marketing person that came up
12 with this. It is No NOx spelled backwards. I
13 know it is stupid, but what can you do. Marketing
14 people, you turn them loose. My brother is a
15 marketing guy. I can't get him to change.

16 The Xonon technology, how does it work?
17 And I included it in your packet. It does not
18 burn methane, okay. Most natural gas plants burn
19 methane. They have a compressor. The compressor
20 feeds fuel into a combustor. It burns methane at
21 a high temperature. And then natural gas is
22 broken down into carbon dioxide and water. And
23 that is what produces energy. There is a problem
24 with this process. Air we breathe is 79 percent

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1 nitrogen, and the nitrogen is harmless. It
2 doesn't do us any harm at all unless you are a
3 scuba diver and then you might absorb nitrogen
4 bubbles in your blood if you come up too fast.
5 You will have decompression sickness. But other
6 than that, this nitrogen is no effect whatsoever.
7 Unfortunately, the nitrogen in the air when mixed
8 indiscriminately into a high-temperature
9 combustion turbines produces nitrogen dioxide,
10 nitrogen trioxide, nitrogen monoxide, in other
11 words, NOx. This is just an unfortunate byproduct
12 of the fact that they are using pure air. If they
13 were using pure oxygen, you wouldn't have this

14 pollution at all.

15 The Xonon technology doesn't burn
16 methane at all. What it does is it uses a high
17 temperature catalytic conversion of methane to
18 carbon dioxide and water and produces only 2 and a
19 half parts per million of NOx. It is not required
20 in Illinois.

21 Most of the government officials that I
22 have talked to never even heard of it. It is on
23 the web. It didn't take me more than a half hour
24 to find it, but -- so I am afraid that a lot of

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1 the people in the state are underinformed. And
2 this concerns me because they are in a power to
3 make regulatory decisions.

4 And this process has been shown to be
5 used in California. And it goes through -- this
6 whole document talks about how does it work. It
7 is a very simple document. I mean, they have,
8 like, simple slides. And the catalytic conversion
9 is a well-known technology where it encourages the
10 methane and the oxygen to come together and
11 combine.

12 And they talk about all the different
13 places that technology is currently being used.
14 It is being used by General Electric on
15 250-megawatt turbines in Southern California. It

16 is currently under development. It is being used
17 in Silicon Valley. It has been generating power
18 for over 4,000 hours there. It is being used in a
19 bunch of distributed power plant projects in the
20 Northeast sect of the country and in Texas.

21 And I think that perhaps Illinois
22 officials should look more into this technology
23 and see, you know, is this something that we could
24 use here.

1006

1 Now one of the things in this document
2 -- and you can flip through it -- it is a
3 regulatory overview chart, which I am sure you are
4 all familiar with. It is the Clean Air Act, which
5 is broken down into several sections. But the
6 main section is the NAAQS. And that section is
7 broken down into attainment and nonattainment.
8 And the idea is that when you have a power plant
9 that wants to go into construction, then they have
10 to say are we in an attainment area, then we have
11 to go through some kind of process. And if we are
12 in a nonattainment area, then we have to go
13 through a different process. And this process is
14 called new source review.

15 Unfortunately, 13 years ago the Clean
16 Air Act also had a section called NSPS, New Source
17 Performance Standards. It is an antiquated
18 standard. It allows up to 75 parts per million of

19 NOx. At the time that was good. That was good.
20 That was the best that was available. It has long
21 since been obsoleted. It still exists in law
22 today.

23 One of the questions you asked is are
24 regulations sufficient. Chris Romaine can tell

1007

1 you the NSPS section of this U.S. Regulatory
2 Overview is being used by power plants today as a
3 way of avoiding more strict resource review
4 categories.

5 In fact, according to several letters
6 I've gotten from these guys, they have said, you
7 know, we can -- these guys can produce 70 parts
8 per million and still be within U.S. law. So as
9 far as we are concerned, they can produce three,
10 four times as much pollution as -- and that is as
11 they are currently proposing and that would be
12 okay with us. That concerns me.

13 This section should be, you know,
14 removed from Illinois law or it should be or there
15 should be something that says only the new source
16 review and the prevention of significant
17 deterioration sections of this law can be used.

18 Now, one of the things that came --
19 another thing that came to my attention while we
20 were going through this whole Indeck process was

21 data. It turns out that data is not a requirement
22 to permit a plant. You do not have to have any
23 operating data to obtain a construction permit in
24 the state of Illinois. Actually, many states have

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1 this problem.

2 Now, before I got into this process, I
3 was -- as a scientist, I was under the mistaken
4 impressions that IEPA and U.S. EPA exists to
5 protect us and that they have scientists on staff.
6 And when a power company comes in and says we want
7 to build this plant, they have to prove to these
8 scientists that this plant is going to be safe
9 before the permit is granted. Then they go out
10 and buy the equipment and they build a plant and
11 they have to prove after it is built it is still
12 safe. You know, something hasn't gone wrong,
13 somebody hasn't substituted the wrong technology.
14 This is not the case. All they have to do is
15 claim that some people somewhere have managed to
16 meet these requirements of emissions and,
17 therefore, you should believe us too. They do not
18 have to supply any data whatsoever. They don't
19 have to show any scientific data. They don't have
20 to show operating data from a power plant. They
21 do not have to show, you know, the typical thing
22 you would find in any scientific experiment.

23 I had to publish papers before.

24 And you have to spit your data to a panel of

1009

1 scientific experts, independent experts, and they
2 review it and decide whether your data is
3 believable or not. Now, that is just to publish a
4 paper in a scientific journal.

5 To build a power plant, you don't have
6 to do that. All you have to do is claim that you
7 believe that you can meet these requirements, and
8 then you will get the permit, if it is possible.
9 So, for example, if my company is hopelessly inept
10 but this other company over here can produce
11 something that is better emissions standards, I
12 can just claim they did so I can do it too. That
13 is all I have to say. After the plant is built,
14 it is true I will be held to those requirements.

15 But what would happen if those
16 requirements are violated? Well, this is what is
17 going to happen according to John Kelly of the
18 U.S. EPA. And some of his letters are there -- I
19 have included there. What would happen is they
20 would say, well, you are out of compliance. You
21 are producing more pollution than you are supposed
22 to, therefore, you got to control your pollution
23 standard. And if they can't do it, like they say,
24 gee, the turbines we bought, they are \$80 million

1010

1 and they are just wrong, the manufacturer lied to
2 us, the salesman claimed they were going to work,
3 you know, salesmen. Then they have to go through
4 a paper process of simply asking to permit at a
5 higher level. There is a public hearing process.
6 They will be granted this permit, end of story.

7 To me as a public -- as a resident I
8 find that alarming. I think they should have to
9 prove that they can meet these requirements before
10 they build the plant. This is not part of U.S.
11 -- it is not part of Illinois law right now.

12 Right now, as many people have
13 testified, there is no requirement for siting.
14 You can have ten plants within two blocks of each
15 other. There is no law that says anything about
16 you -- I mean, it would be nice if there was a law
17 that said you cannot have two of these power
18 plants within five miles of each other. I mean,
19 that is a very simple law. We are not talking
20 about a whole complicated siting process. You
21 just can't have it more than -- closer than five
22 miles together. In Zion they are across the
23 street from each other. In Libertyville if
24 Libertyville had decided to grant this permit,

1011

1 they could have built six of them within a mile of
2 each other. And they would have wanted to do so

3 because they have high-voltage lines and gas
4 pipelines crossing at this one point in
5 Libertyville. And everybody would want to be
6 there. No one is going to want to be somewhere
7 else. There is no law for siting.

8 As far as someone -- one of the people
9 here today, Ms. McFawn asked a question about
10 noise. Libertyville spent, I don't know, 25 hours
11 of discussions on noise. And it turns out
12 Illinois is one of the toughest noise laws in
13 Chicago. Unfortunately, it doesn't have a law
14 about weekend noise being as quiet as weekday,
15 night noise. But other than that, it has specific
16 noise restrictions in nine octave bands. So that
17 means you can't produce a lot of high frequency
18 noise. You can't produce a lot of low frequency
19 noise, et cetera. There is no way to enforce this
20 at the moment, as has been brought up before.

21 And as you may know, power plants
22 produce a tremendous amount of low frequency
23 noise. Low frequency noise like base noise from a
24 speaker from a car, it is very hard to isolate. I

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1 don't know if you have ever tried to isolate low
2 frequency noise, the wave length of a typical low
3 frequency noise is 30 feet. Do you know the
4 thickness of a wall you would need in order to

5 construct something that would block that kind of
6 noise? It would have to be at least 30 feet
7 thick. None of these power companies want to do
8 that. They all say, well, low frequency noise is
9 hard to control, but that is too bad.

10 There is no strict enforcement of
11 violators if they violate the law. It would be
12 nice if Illinois had laws to say if someone
13 violates the emissions standards, they are shut
14 down until such time as they fix whatever they
15 have done wrong. There is no such law that does
16 that. They simply, as you know -- you -- I am
17 sure you know the process. It is very, very
18 detailed.

19 As far as water use is concerned, these
20 plants do use a lot of water. But one of the
21 things -- I don't know if it was mentioned
22 tonight. But most of the people I talked to,
23 including the people at Catalytica, Chris Romaine
24 at the IEPA, et cetera, told me that there will be

1013

1 no peaker plant sitings. They will all be
2 combined cycle. And why is that? Peaker plants
3 are inefficient. They only convert 28 percent of
4 the power that they burn into electrical energy.
5 Combined-cycle plants convert 56 percent.
6 Obviously, you are going to get a lot more bang
7 for your buck with a combined-cycle plant.

8 The problem is combined-cycle plants
9 use more than 2 million gallons of water a day.
10 Peaker plants use maybe 120,000 gallons a day.
11 That is a big difference.

12 And as has been mentioned before,
13 Illinois is under water use restrictions because
14 they don't want Lake Michigan being drained for
15 all different kinds of uses. And probably some of
16 you read National Geographic and you are aware of
17 the Aral Sea disaster in the Soviet Union. The
18 Aral Sea was completely drained within a period
19 of 20 years by overirrigation. And it is a water
20 body one fourth the size of Lake Michigan.
21 So they drained -- I think it was 100 billion
22 trillion gallons of water. It is practically
23 gone. If you could just look it up on the
24 Internet, you will see.

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1 So basically, I think, yes, you should
2 restrict these more severely. You should apply
3 more stringent standards. At the very least you
4 should look at needs. Is there a need for these
5 power plants where they are? Their efficiency,
6 whether they are a major or minor source.

7 And one of the things that the
8 governor's office told me is that their goal is to
9 put the plants as close as possible to the

10 consumers of power. The producer of power should
11 be as close as possible to the consumer of power.

12 In Libertyville that wasn't the case.
13 Libertyville is a town of 20,000 people. How much
14 power can they use? The Indeck Libertyville plant
15 would have produced 300-megawatts of power, and
16 that is only if they had kept two turbines.

17 If you are going to site these plants,
18 put them next to the people who need it. If you
19 have large steel mills and you have a ton of power
20 that run their electric furnaces, put the power
21 plants next to them. Don't put it out in the
22 middle of a rural area or a high-population area
23 like Libertyville, Mundelein and Grayslake and
24 sell the power down to some place down in Chicago

1015

1 or Waukegan. Thank you for your time.

2 HEARING OFFICER JACKSON: Thank you very
3 much. I think we need --

4 MR. MELAS: The guidance, this was passed by
5 the Air Resources Board and it is supposed to
6 provide guidance for local air districts. Is this
7 mandatory or is this just a recommendation? We
8 have a force of law.

9 MR. MCCARTHY: This guidance document
10 actually has -- you know that the California
11 Energy Commission is the one that actually issues
12 permits. This document has the force of law, but

13 it is also provided as guidance for local zoning
14 officials and people who are not aware of what the
15 regulations may or may not be.

16 MR. MELAS: The permits come from the
17 California Energy Commission for the entire state?

18 MR. McCARTHY: Yes.

19 MR. MELAS: Anywhere in the state?

20 MR. McCARTHY: Yes.

21 MR. MELAS: What role do the local agencies
22 play on just siting?

23 MR. McCARTHY: That I couldn't tell you.
24 That I am not aware of. Any other questions?

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1 HEARING OFFICER JACKSON: Thank you very
2 much.

3 MR. McCARTHY: No further questions.

4 HEARING OFFICER JACKSON: For the record we
5 will mark -- we have already talked about
6 Exhibit 2. We have Exhibit 1 which will be the
7 series of letters filed by Mr. McCarthy, McCarthy
8 Exhibit 1. McCarthy 3 will the Catalytica
9 Combustion System document.

10 (Whereupon documents so offered
11 were marked and received in
12 evidence as McCarthy Exhibit
13 Nos. 1 and 3.)

14 HEARING OFFICER JACKSON: What I would like

15 to do, it is 20 to 10:00. We are calling security
16 right now to make sure we are not going to be
17 looked in. All of the speakers who have signed up
18 to speak just today, please come forward, sit in
19 the front row. And unfortunately, we are going to
20 have to limit each of your presentations to two
21 minutes. And even then we are going to be pushing
22 our time.

23 Please be courteous of everyone else.

24 I realize everybody would like a chance to make a

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1 statement. Please, please keep it as brief as you
2 possibly can. No more than two minutes. And feel
3 free to supplement your comments with written
4 comments to the Board.

5 Suzi Schmidt? I think she already left.

6 Evelyn Hoselton? Gone. Susan Zingle?

7 MS. ZINGLE: Just a couple of things very
8 quickly. You have heard a lot about Zion tonight.
9 We did tell the Zion City Council about this
10 hearing. They have had a lot of questions. We
11 did invite the Zion City Council to come to the
12 meeting to ask their questions and express their
13 difficulties to this board. It has been as
14 frustrating for them, I think, as they have for
15 us.

16 I brought a videotape of the
17 September 5th Zion City Council meeting and part

18 of the public comment. People were asking the
19 Zion City Council for their help, and I think
20 their answer would be very interesting to you.

21 HEARING OFFICER JACKSON: Actually, at this
22 point with the videotape, the court reporter
23 cannot transcribe a videotape, so we will just
24 introduce it into the record rather than play it

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1 at this point.

2 MS. ZINGLE: When you play it, rewind it all
3 the way to the beginning because it starts off
4 with one of the commissioner's saying all you
5 outside people that are here it is nice that you
6 are here, but I am going to discount everything
7 you say because you are not Zion residents.

8 HEARING OFFICER JACKSON: We are interested
9 in seeing the videotape. We just don't have time
10 to see it tonight. We will mark the videotape
11 Zingle Exhibit 6, I believe we are at. We had
12 five at previous hearings.

13 (Whereupon document so offered
14 was marked and received in
15 evidence as Zingle Exhibit
16 No. 6.)

17 HEARING OFFICER JACKSON: Barbara Amendola?
18 Please state and spell your name for the court
19 reporter.

20 MS. AMENDOLA: My name is Barbara Amendola,
21 A-m-e-n-d-o-l-a. I live on 173 just west of the
22 proposed Zion plant. And I am one of those people
23 with severe environmental allergies. And 14 years
24 ago I moved up next to a forest preserve area and

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1 bought five acres where I can have a little piece
2 of country life and started a life for myself.
3 Since that time, I have managed to build a home,
4 put a lot of investment into this property and a
5 quality of life that I have come to value very
6 highly.

7 And I think that we need to take into
8 consideration the long-term effects. Yes, I agree
9 that we do need power. However, what are we
10 taking? We are taking all of our natural
11 resources and investing it in commercial endeavors
12 that they will reap the benefit for. And then how
13 do we replace our atmosphere or our water? What
14 is it going to take in investment to -- and who is
15 going to pay for that? The power companies will
16 long be moved on to new ventures. And they are
17 not going to compensate the taxpayers or the
18 governing bodies for correcting the problems that
19 they leave behind.

20 I think we do need to be
21 environmentally sensitive. There is only one set
22 of atmosphere, and it belongs to all of us. It is

23 not a commodity that can be used just for
24 commercial profits and leave the rest of us to

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1 deal with our lives.

2 You know, we are taking away a whole
3 area of living by moving these power plants into
4 rural areas. We are saying to an entire segment
5 of the population you can no longer pursue the
6 quality of life that you want, even though you
7 have spent a lot of time and a lot of your
8 financial resources investing in that type of a
9 life. It is becoming destroyed and it is becoming
10 obsolete. And I don't know where we are going to
11 go next.

12 I have lived in Lake County all of my
13 life. I grew up on the North Shore and I had to
14 move because of the development of my home area.
15 I had to leave my family and move up to an area
16 that I thought was safe. And it hasn't lasted
17 very long. I don't know where I am going to go
18 next. And with that, I thank you.

19 HEARING OFFICER JACKSON: Thank you. Mark
20 Sargis is next.

21 MR. SARGIS: Thank you. I have some written
22 comments which I will submit into the record, so I
23 will just try to summarize. I am an attorney in
24 Chicago and I practice environmental land use and

1 zoning law in the past 15 years. And I typically
2 represent industrial clients. But I have been
3 working with some citizens who have been concerned
4 about peaker issues, and specifically in DuPage
5 County.

6 There is some policy issues that I have
7 addressed in my written comments. I would like to
8 turn to some land use issues. And there certainly
9 are land use impacts from operations of a peaker
10 plant. And many argue that local zoning decisions
11 are adequate to address location approval.
12 However, many communities, not all, but many
13 communities, both government and the public, are
14 ill-equipped to evaluate the potential impact of
15 facilities that are not yet familiar in Illinois.

16 In addition, local zoning ordinances
17 sometimes like environmental regulations often lag
18 behind development trends. New categories of uses
19 are added continually to local zoning ordinances
20 to reflect changing development trends. For
21 example, a gasoline service station has evolved in
22 recent years into other categories of uses, such
23 as gasoline minimarts and other mixed uses.

24 So, in many cases, a local zoning

1 ordinance today might allow public utility as a

2 permitted use in many districts. And a peaker
3 plant in the absence of an updated code provision
4 could be interpreted to be a, quote/unquote,
5 public utility under the local definition. In
6 that instance, a peaker plant could ostensibly
7 pass local zoning approval without meeting any of
8 the procedural safety guards such public notice
9 and public hearings that otherwise would apply for
10 special or conditional uses. It wouldn't matter
11 if there was a guidance that was available if the
12 local code essentially allowed that use as a
13 permitted use.

14 HEARING OFFICER JACKSON: I hate to interrupt
15 you. That is your time. If you would like to
16 conclude and then we will move on to the next
17 witness. I apologize. But I have to limit your
18 time to get through everyone.

19 MR. SARGIS: Just to say the direct public
20 benefit of a utility that sells directly to retail
21 customers just may not simply exist for peaker
22 plant, which is a private utility, and may not
23 justify the local impacts from a land use stand
24 point. Thank you.

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1 HEARING OFFICER JACKSON: Thank you. We will
2 mark the written statement and mark it as Sargis
3 Exhibit 1.

4 (Whereupon document so offered
5 was marked and received in
6 evidence as Sargis Exhibit
7 No. 1.)

8 HEARING OFFICER JACKSON: The next name you
9 will have to help me with is Cindy Skrukruud. If
10 you can spell it, please, for the court reporter.

11 MS. SKRUKRUD: Cindy Skrukruud spelled
12 S-k-r-u-k-r-u-d. I live in the town of olin
13 Mills in McHenry County where I am involved in
14 various environmental organizations. And I come
15 here tonight not as a person with a peaker plant
16 looming in my backyard, but just as someone who is
17 concerned with clean air and clean water.

18 And I would like to speak in a very
19 general manner about the broader role that I see
20 the state needing to play in the peaker plant
21 issue. First, relating to the State's commitment
22 to water conservation, ground water withdrawals,
23 McHenry County is one of the many counties in
24 Illinois totally dependent on ground water for our

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1 drinking water. Combined-cycle plants with their
2 massive need for water pose a real competitive
3 threat to these water supplies. This is an issue
4 we need to address.

5 Concerning the State's commitment to
6 clean air, as I am sure you have heard many times,

7 the cumulative impacts on our air quality by the
8 proliferation of peaker plants is a major concern.
9 I ask that you address the following issues that
10 relate to the State's commitment to clean air.
11 One, address cumulative impacts of multiple plants
12 in the region; two, address laws that now govern
13 peaker plant pollution on a year-round basis while
14 the industry upgrades on a seasonal basis during
15 the times of the year when air pollution is
16 already the worse; three, address the issue by
17 which peaker plants set their hours to avoid
18 requirements to adopt best available control
19 technology; four, address the possibility of
20 peaker plants being built in Illinois, being fired
21 up to generate power for people in another state
22 leaving us with only the pollution. Update our
23 state standards for air pollution limits to truly
24 reflect the best available technologies on the

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1 market and address the start-up and shut down
2 emissions.

3 Lastly, on the State's commitment to
4 clean energy, what is the State's role in
5 promoting clean energy? We keep hearing and I
6 agree that these gas-fired plants are much cleaner
7 than coal-fired plants, but we should not forget
8 that there are cleaner forms of energy available

9 such as wind, solar and the cleanest forms of all,
10 improved efficiency in conservation.

11 So as you deal with the multitude of
12 requests you have received for the state to
13 rethink how it is handling electricity
14 deregulation, I ask you to bear in mind that
15 gas-fired plants are not the cleanest form of
16 energy. And I encourage you to be innovative in
17 your approach to this issue so that you can help
18 encourage a mix of energy sources that will give
19 us the cleanest air possible.

20 HEARING OFFICER JACKSON: I have to interrupt
21 you here. I am sorry.

22 THE WITNESS: I have just one line. Isn't
23 that the kind of future we want for our State
24 rather than the piecemeal permitting of more and

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1 more polluting stacks that we are receiving now.
2 Thank you so much.

3 HEARING OFFICER JACKSON: Thank you.

4 Paul Geiselhart?

5 MR. PAUL GEISELHART: Good evening and thank
6 you for putting together this opportunity for
7 citizens like myself to come and address you. I
8 as a citizen attended most of the Libertyville
9 peaker power plant meetings. And at one meeting,
10 one of the consultants said when we were
11 discussing touch down where the plume would touch

12 down, he said don't worry, it is just going to go
13 over Lake Michigan.

14 Lake Michigan is the source of our
15 drinking water, and the Great Lakes is a source
16 for 33 million people who depend on their drinking
17 water coming from these lakes. It is one of the
18 world's most valuable resources.

19 In 1972 the Clean Air Act was
20 established and the Clean Air Act identified areas
21 of concern around the Great Lakes in exactly -- I
22 believe there were 43 areas of concern. One of
23 the most successful citizens advisory groups in
24 the area of concern has been right here in Lake

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1 County, and that is the Waukegan Citizens Advisory
2 Group, which I am a member of for the last ten
3 years.

4 We have been successful because we
5 steadfastly have hammered out stage 1, 2 and 3 of
6 the remedial action plan. But despite this,
7 80 percent of the pollutants coming into the lake
8 are coming from nonpoint and nonpoint air borne
9 pollution sources. Collectively, I believe that
10 the power plants are a detriment to the Lake
11 Michigan airshed.

12 I ask each of you to help eliminate
13 point and nonpoint lake pollution by improving the

14 pollution laws and their stringent enforcement.

15 Thank you.

16 HEARING OFFICER JACKSON: Thank you. Evan
17 Craig.

18 MR. CRAIG: I think Bill Holaman should be up
19 before me.

20 HEARING OFFICER JACKSON: He is not on my
21 list.

22 MR. HOLAMAN: I signed up at 3:00 o'clock
23 this afternoon. I am not sure what is happening.

24 HEARING OFFICER JACKSON: Someone had crossed

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1 you off the list. Go right ahead, sir. Can you
2 please spell your name and indicate who you are
3 here on behalf of for the record?

4 MR. HOLAMAN: My name is Dr. William Holaman
5 (phonetic.) I am president of an organization
6 known as Illinois Citizen Action. We are an
7 environmental group, and I am speaking on behalf
8 of that organization today.

9 HEARING OFFICER JACKSON: Thank you.

10 MR. HOLAMAN: I am not going to attempt to
11 repeat all the things that have been said today
12 because most of it has been redundant. But the
13 question that is before you is should the state of
14 Illinois have more -- be able to regulate peaker
15 power plants. And I was thinking about all the
16 things in our life that are regulated that are so

17 insignificant and wondering why this is a question
18 that needs to be asked because it is a no-brainer.
19 My barber has to get a license. My barber has to
20 go to school and know ever knot in my head in
21 order to cut my hair. The woman who cuts my
22 wife's hair has to be registered by the state.
23 Apparently, there is a possibility that she should
24 commit some sort of terrible act while she is

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1 cutting my wife's hair.

2 I am involved in a construction program
3 where we found an unknown buried oil tank on our
4 site. You should see the state regulations
5 relating to buried oil tanks. I think most of you
6 have seen those. They are more than the half a
7 page that was referred to earlier. They are going
8 on the books. An innocuous oil tank that has been
9 there for 30 years and hasn't bothered anyone, it
10 is going to cost us thousands of dollars to remove
11 that.

12 We are regulated every time we turn
13 around. Yet we have a major pollutant, 250 tons
14 of NOx for three months. And if you analyze that,
15 it comes up to 100 tons of NOx over an annual rate
16 because they release that only over a small period
17 of time over the month. And we say, well, we
18 don't know, should we regulate that. My barber is

19 regulated, but we aren't regulating something that
20 effects literally millions of people with noxious
21 pollutants and with untold quantities of materials
22 that no one knows where they go. We are told it
23 is a local siting problem.

24 Well, we all can understand how

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1 ridiculous that is. We heard this today. This is
2 not a local problem. It is not even a state
3 problem. It is bigger than a state problem. When
4 Mr. Geiselhart talked about the emissions going
5 across Lake Michigan, they are going to end up in
6 Michigan.

7 HEARING OFFICER JACKSON: Mr. Holaman, I have
8 to interrupt you here. Your time --

9 MR. HOLAMAN: The only point I want to make
10 is it is a no-brainer guys as to whether this
11 should be regulated. If you can regulate my
12 barber, you sure as hell can regulate my air.
13 Thank you.

14 HEARING OFFICER JACKSON: Thank you very
15 much. Evan Craig?

16 MR. CRAIG: Thanks a bunch. My name is Evan
17 Craig, and I am the volunteer chair of the woods
18 and wet lands group of the Sierra Club. We have
19 2,000 members in Lake County territory. I just
20 want to buzz through some of the points. And I
21 know some of it is repetitious because I am

22 representing our volunteers.

23 This struggle has been a terrible
24 burden to volunteers, and it is taking us away

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1 from other important fights we should be fighting.
2 Hearings go on for months. It is great we have
3 hearings. This kind of hearing is a terrible tax
4 to us in intimidating forums with chairpersons who
5 seem to take pride in the way they glare at you.
6 Only the hardiest of people survive that and show
7 up here tonight. Most people won't have anything
8 to do with it. And then there is the expense that
9 Bill brought up and the technical burden. These
10 are volunteers.

11 And who are we up against? Frivolous
12 applications, they all look the same. They all
13 have the same formula on the front and most of the
14 time it doesn't even apply.

15 And the tenor of the hearing is pass it
16 now, we will adjust it later. It betrays the
17 purpose of the hearings and the enormous citizen
18 effort behind their appearance there.

19 The applicants at hearings are less
20 than truthful and they are misleading. When
21 asked, they say that when you inject water in
22 front of a turbine, the steam doesn't come out the
23 other end. I asked them when you put a pan of

24 water on the stove and bring it to a rolling boil,

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1 whether that makes steam and they said no. You
2 figure it out.

3 With peakers the sales act is these are
4 cleaner than coal. And so what we are being asked
5 to do is accept one loophole, which is called the
6 NOx waiver, in exchange for another, which is
7 called grandfathering a coal plant.

8 This isn't either. And the ground
9 pollution models that we are using to justify the
10 levels of pollution were developed for slow moving
11 gases out of tall smoke stacks, not for peaker
12 plants at 75 mile an hour 1,000 degree plumes.

13 HEARING OFFICER JACKSON: Mr. Craig, I am
14 going to have to interrupt you, if you would like
15 to conclude your statement.

16 MR. CRAIG: I would like to conclude by
17 saying there isn't such a place anywhere out
18 there. This is a regional problem and I welcome
19 your effort.

20 HEARING OFFICER JACKSON: Thank you very
21 much. Julie Serocki? Phillip Lane Tanton. Could
22 you please spell that?

23 MR. TANTON: T-a-n-t-o-n.

24 HEARING OFFICER JACKSON: Thank you.

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1 MR. TANTON: Thank you for being here. I
2 will start with this. I was told that we live in
3 an age of diminishing expectation. That was in
4 1965. I was later told that we had a war that was
5 justified, and history has shown us that that was
6 wrong on two counts. I am talking about Vietnam.

7 They told us solar energy and
8 alternative energies would never work, well, I am
9 writing history on it now and I am going to show
10 you that it does work. I am going to show that
11 the energy cartels in this country have been
12 subsidized with taxpayer money for too long. I
13 want to ask you to use your influence and vote in
14 our government to say no to peaker power plants in
15 this county and in everyone's backyard.

16 It is a greedy corporation selling
17 power to people that don't need it, and they are
18 going to buy it because they can get a dime
19 cheaper here.

20 When was the last time you had to eat
21 dinner by candlelight? I say there is no shortage
22 of power. We have plenty, but we need to develop
23 new sources of it.

24 Please use your influence to say no to

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1 these bad industries and thereby lend some
2 credence and support to alternative power. Do you

3 want to grow old attending clean air hearings? So
4 please use your influence to give us back some
5 expectation in this country.

6 You know, we have seen worker wages go
7 down. I mean yesterday in the Tribune they are
8 telling us that the government has another study
9 that shows that you can't make it on minimum wage,
10 another no-brainer. So I think I have said a lot
11 in under two minutes.

12 HEARING OFFICER JACKSON: Thank you.

13 MR. TANTON: Do I have a few more seconds?

14 HEARING OFFICER JACKSON: You have ten more
15 seconds.

16 MR. TANTON: So, you know, we are selling
17 power to people that don't need it. What is with
18 that? It is another industry that wants to
19 monopolize the natural resources for private gain.
20 Where is that at?

21 HEARING OFFICER JACKSON: Thank you very
22 much. Jerry Owens is our next speaker. Is
23 Mr. Owens here? Robert Wilson? Mr. Wilson?

24 Okay, that looks like we have gone

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1 through everybody on my list. Have I missed
2 anyone?

3 MR. HOLAMAN: Do I get another two minutes?

4 HEARING OFFICER JACKSON: I am afraid not.

5 But I want to encourage all of you to file written

6 comments to supplement your testimony this
7 evening. I know all of the Board members really
8 hate the idea to having to limit the presentations
9 this evening, as do I.

10 We are extremely grateful for your
11 patience in sitting through this long day of
12 hearings and then having your time cut as short it
13 was. So please file written comments or attend
14 our hearing in Springfield. Our next hearing will
15 be October 5th and 6th beginning at 1:00 p.m. on
16 October 5th. And with that we are adjourned.

17 (Whereupon the proceedings in
18 the above-entitled case were
19 adjourned until October 5,
20 2000, at 1:00 o'clock p.m. in
21 Springfield, Illinois.)

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1 STATE OF ILLINOIS)
2 COUNTY OF LAKE) SS:

3 I, Cheryl L. Sandeck, a Notary Public
4 within and for the County of Lake and State of
5 Illinois, and a Certified Shorthand Reporter of
6 the state of Illinois, do hereby certify that I
7 reported in shorthand the proceedings had at the

8 taking of said meeting and that the foregoing is a
9 true, complete, and correct transcript of my
10 shorthand notes so taken as aforesaid, and
11 contains all the proceedings given at said
12 meeting.

13

14

Notary Public, Cook County, Illinois
C.S.R. License No. 084-03710

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