

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF THE)
PROPOSAL OF:)
CENTRAL ILLINOIS LIGHT COMPANY) R 02-21
FOR A SITE SPECIFIC RULEMAKING)
AMENDING 35 ILL. ADM. CODE)
214.561.)

THE ILLINOIS POLLUTION CONTROL BOARD HEARING in
the above-entitled matter, taken before me, Angela M.
Jones, CSR-RPR, a Notary Public in and for the State of
Illinois, at 202 Northeast Madison, in the City of Peoria,
County of Peoria, and State of Illinois, on the 11th day of
October, A.D. 2002, commencing at 10:00 a.m.

1 APPEARANCES:

2 ILLINOIS POLLUTION CONTROL BOARD
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24 On Behalf of the Petitioner CILCO.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
RACHEL L. DOCTORS, ESQUIRE
Assistant Counsel
1021 North Grand Avenue East
Springfield, Illinois 62794
On Behalf of the IEPA.

21 ALSO PRESENT:
22

23 MARK DAVIS, CILCO
24 SANDY ISBELL, CILCO
VIR GUPTA, EPA
ROBERT KALEEL, EPA

1 HEARING OFFICER: My name is John Knittle. I'm
2 a hearing officer. Actually, I'm an attorney assistant.
3 I'm the hearing officer for this rulemaking proceeding
4 which is the petition of Central Illinois Light Company
5 E.D. Edwards Generating Station for a site-specific air
6 regulation, 35 Ill. Adm. Code 214.561. The Board has
7 docketed this as R02-021.

8 Sitting to my right is board member Tom Johnson
9 who will be coordinating this rulemaking for the Board. We
10 also have from the Pollution Control Board Anand Rao of our
11 technical unit here today.

12 As a little background on the proposal, Central
13 Illinois Light Company, who I'm going to call CILCO from
14 now on, operates the generating station near Peoria and
15 Peoria County. The facility consists of three coal-fired
16 boilers. CILCO received a variance from 35 Ill. Adm. Code
17 214.141 in a board order issued on April 15th, 1999, and
18 that variance is effective through July 31st, 2003.
19 Boilers 1 and 3 are subject to a sulfur dioxide implement
20 under site-specific rule at 35 Ill. Adm. Code 214.561.
21 Boiler 2 is subject to a sulfur dioxide admissions limit
22 under 35 Ill. Adm. Code 214.141.

23 On February 28th, CILCO filed a petition -- and
24 that's February 28th, this year, 2002 -- CILCO filed a

1 petition for an adjusted standard pursuant to Section 28.1
2 of the Environmental Protection Act. As a result of a
3 board order, CILCO then filed a motion to file an amended
4 pleading and proposal for site-specific rulemaking on
5 April 26, 2002. CILCO seeks to make permanent the relief
6 that was granted in the variance, which was PCB 99-80, by
7 amending 35 Ill. Adm. Code 214.561 with respect to the
8 requirements of the operation of boiler number 2.

9 CILCO specifically requests that the Board
10 repeal the text of 35 Ill. Adm. Code 214.561 and replace it
11 verbatim with text from the variance order of April 15th,
12 1999. CILCO asserts this language has already been
13 reviewed and approved by the USEPA and incorporated into
14 the Illinois SIP pursuant to the Clean Air Act.

15 On May 2nd, 2002, the Board granted CILCO's
16 motion to dismiss the petition for adjusted standard and
17 opened a new regulatory docket, which I said is R02-21.

18 This hearing was properly noticed pursuant to
19 the Act and the Board's procedural rules. Both the Agency
20 and the Petitioner have pre-filed testimony; and although
21 that testimony was filed past the date originally set, the
22 Board has accepted all the pre-filed testimony.

23 This hearing not only is going to handle the
24 site-specific rulemaking, it's also going to address the

1 Department of Commerce and Community Affairs hearing that's
2 necessary. Section 27(b) of the Act requires the Board to
3 request that Department of Commerce and Community
4 Affairs -- we'll call that DCCA, D-C-C-A -- to conduct an
5 economic impact study on certain proposed rules prior to
6 the adoption of those rules. If DCCA chooses to conduct
7 the economic impact study, they have 30 to 45 days after
8 such a request to produce a study of the economic impact of
9 the proposed rules. The Board must then file the economic
10 impact study or DCCA's explanation for not conducting the
11 study, make available to the public at least 20 days before
12 public hearing on the economic impact of the proposed
13 rules.

14 In accordance with Section 27(b) of the Act,
15 the Board has requested by a letter dated August 14th,
16 2002, that DCCA conduct an economic impact study for this
17 rulemaking. The request letter, referenced letter dated
18 March 10th, 2000, from DCCA, in that letter, DCCA notified
19 the Board that it would not be conducting economic impact
20 studies on rules pending before the Board during the
21 remainder of the fiscal year because of lack, among other
22 things, of the financial resources to conduct such studies.

23 In the request letter, the Board also asks that
24 DCCA notify the Board within ten days of receipt of the

1 request if DCCA intended to conduct an economic impact
2 study on the proposed rules. The Board further stated if
3 it is not notified within ten days, the Board would rely on
4 DCCA's March 10th, 2000, letter as the required explanation
5 for not conducting an economic impact study. If the ten
6 days for DCCA to notify the Board have expired, we have not
7 received any notification from DCCA that it will conduct
8 the study on this rulemaking, accordingly, the Board must
9 rely on the March 10th letter as DCCA's explanation for not
10 producing a study.

11 The Board is holding this hearing for public
12 comment on DCCA's explanation for not conducting an
13 economic impact study in this rulemaking, and any person
14 who testifies will be sworn and subject to questioning.

15 Is there anybody out here who would like to
16 comment on DCCA's explanation for not conducting an
17 economic impact study for the petition of Central Illinois
18 Light Company E.D. Edwards Generating Station for a
19 site-specific air regulation, 35 Ill. Adm. Code 214.561?

20 Seeing nobody, we'll move on. Let's consider
21 the matter at hand. Please note that there are sign-up
22 sheets for this proceeding, service and notice list up
23 front. There is also a witness sign-in sheet, not for the
24 parties' witnesses; but if any member of the public wishes

1 to come by and sign, they would be more than welcome to
2 provide public testimony. Time-permitting, after the
3 parties' testimony, we'll proceed with the testimony of
4 persons who sign up in that order. I note for the record
5 there are no members of the public here at this point in
6 time. If any come in, of course, they will be given the
7 opportunity to speak and also ask questions of the
8 witnesses.

9 Part 102 of the Board's rules govern this
10 hearing. All information that is relevant and not
11 repetitious or privileged will be admitted, and all
12 witnesses will be sworn and subject to cross-examination.

13 Today we're going to begin with the
14 petitioner's testimony. After that, we'll hear the
15 testimony of the Agency. Anyone may ask a question of any
16 witness. If anybody has a question, please raise your
17 hand; and we'll try to fight through the many people here
18 to get to the right person asking the question.

19 We're going to have opening and closing
20 statements by both parties. I'm going to ask board member
21 Johnson, coordinating board member of this rulemaking, if
22 he has any remarks he'd like to make at this point in time.

23 MR. JOHNSON: Briefly, on behalf of the Board,
24 I want to welcome everybody to today's hearing and assure

1 you that we understand the importance of this rulemaking
2 and all rulemakings and give this matter the attention it
3 deserves and issue an order in a timely fashion.

4 HEARING OFFICER: That's all I have. Do we
5 have any opening statements from the petitioner?

6 MR. FALETTO: Yes. I have a brief statement
7 for the record. Jon Faletto from the law firm of Howard &
8 Howard. We're here representing Central Illinois Light
9 Company. I apologize; there's a little bit of repetition
10 in what Mr. Knittle has already stated.

11 The Central Illinois Light Company, which I
12 will refer to as CILCO, C-I-L-C-O, is an electric and
13 natural gas utility located in Central Illinois. CILCO's
14 electric production facilities include two coal-fired
15 electric generating stations, the Duck Creek Generating
16 Station located near Canton, Illinois, and the E.D. Edwards
17 station located in Bartonville, Illinois. The Edwards
18 Station will be referred to in testimony both pre-filed and
19 in response to any questions as Edwards or Edwards Station.

20 CILCO provides electric and gas service to
21 approximately 172,000 residential customers and 170
22 industrial customers. CILCO's electric and gas service
23 territory includes multiple counties in Central Illinois.
24 Edwards Station is located on the Illinois River in the

1 Peoria major metropolitan area. 113 people are employed at
2 Edwards Station which is staffed 24 hours per day, seven
3 days per week. The Edwards Station consists of three
4 boilers. All three boilers are coal-fired. Boilers number
5 1 and 2 discharge through a common stack 503 feet in
6 height. Boiler number 3 discharges through a separate
7 stack which is also 503 feet in height. The combustion
8 exhaust gases from all three boilers are ducted through
9 electrostatic precipitators which are designed to remove
10 particulate matter prior to releasing the exhaust gases
11 through the stacks.

12 In recent years, CILCO has installed
13 state-of-the-art controls on all three boilers to reduce
14 the emissions of nitrogen oxides, which you'll hear
15 referred to as NOx, NO sub X, referred to as low NOx
16 burners. In addition, CILCO has installed and is operating
17 continuous emission monitoring systems on all three boilers
18 which directly measure sulfur dioxide, which you'll hear
19 referred to as SO2, NOx, carbon dioxide, and opacity
20 contained in the exhaust gases. The Continuous Emissions
21 Monitoring Systems, which are also referred to as CEMS or
22 C-E-M-S, are required by the federal Acid Deposition
23 Control Program developed under the federal Clean Air Act.

24 Boiler numbers 1 and 3 were historically

1 subject to an SO2 emission limit of 6.6 pounds per million
2 Btu pursuant to 35 Ill. Adm. Code Section 214.561. Boiler
3 number 2 was subject to an SO2 emission limit of 1.8 pounds
4 per million Btu pursuant to 35 Ill. Adm. Code Section
5 214.141. Emissions from all three boilers collectively are
6 subject to an overall plant-wide SO2 emission limit of
7 34,613 pounds per hour established to ensure protection of
8 the National Ambient Air Quality Standard for SO2 under 35
9 Ill. Adm. Code Section 214.561.

10 In 1999, CILCO elected to request relief from
11 the 1.8 pound per million Btu SO2 limit applicable only to
12 boiler number 2 through a petition for variance after
13 recognizing that relief from the limit would reduce the
14 economic hardship caused by purchasing more expensive
15 low-sulfur coal and allow increased purchases of Illinois
16 coal with no adverse impact to the environment. On
17 April 15, 1999, the Illinois Pollution Control Board
18 entered an order granting CILCO a variance from the 1.8
19 pound per million Btu SO2 emission limit applicable to
20 boiler number 2 for a five-year period beginning
21 January 1st, 1999, through July 31, 2003. Under the
22 conditions of the variance, CILCO was granted an average
23 station-wide SO2 emission limit of 4.71 pounds per million
24 Btu over all three boilers with a maximum SO2 limit of 6.6

1 pounds per million Btu for each boiler.

2 The variance further provided that boiler
3 number 2 was not required to meet the 1.8 pound per million
4 Btu SO2 emission limit established by 35 Ill. Adm. Code
5 Section 214.141 during the period of the variance. CILCO's
6 obligation to comply with all other applicable SO2 emission
7 limitations remained unchanged. CILCO remained subject to
8 the facility-wide limit of 34,613 pounds per hour of SO2
9 for all three boilers which is imposed under 35 Ill. Adm.
10 Code Section 214.561.

11 In the increasingly competitive deregulated
12 electric utility industry, the 1.8 pound per million Btu
13 limit on SO2 emissions from boiler number 2 puts CILCO at a
14 competitive disadvantage. Without permanent relief which
15 will retain the operational flexibility provided by the
16 existing variance, CILCO will once again be put at a
17 competitive disadvantage. The unreasonableness of that
18 economic hardship is underscored by the fact that these
19 benefits did not come at an environmental cost. Under the
20 variance, CILCO has continued to meet the short-term hourly
21 SO2 emission limit established for Edwards Station by 35
22 Ill. Adm. Code Section 214.561 and has actually reduced SO2
23 emissions from all three boilers. As a result of the
24 operational flexibility provided by the variance, CILCO has

1 been able to reduce SO2 emissions by approximately 20
2 percent. The SO2 emissions reductions were achieved in the
3 most cost-effective and efficient way possible.

4 Based on the benefits to CILCO and the absence
5 of any adverse environmental impact, the Board granted the
6 variance in 1999. For the same reasons which justified the
7 grant of the variance, the operational flexibility should
8 be granted on a site-specific, permanent basis through this
9 rulemaking proceeding.

10 The Board's order granting the variance
11 provided the mechanism for CILCO to obtain this operational
12 flexibility on a permanent basis. The order specified that
13 CILCO notify the Illinois Environmental Protection Agency
14 by January 31st, 2002, if CILCO decided to pursue permanent
15 site-specific relief consistent with the variance. The
16 order further required CILCO to file a petition for such
17 relief with the Board by February 28th, 2002.

18 By correspondence dated January 25th, 2002,
19 CILCO notified IEPA, Illinois Environmental Protection
20 Agency, of its intention to pursue permanent site-specific
21 relief from the 1.8 pound per million Btu SO2 limit of
22 Section 214.141. On February 28th, 2002, CILCO filed its
23 petition for an adjusted standard pursuant to the Board's
24 order of March 21st, 2002, and subsequent conferences with

1 the hearing officer, CILCO filed a petition for
2 site-specific rulemaking to obtain permanent relief
3 consistent with the variance.

4 We are here today to provide testimony in
5 support of the site-specific rulemaking. We have two
6 witnesses today. Our first witness is Mr. Mark Davis who
7 is a CILCO employee responsible for environmental services
8 and compliance for CILCO's Edwards Station. His testimony
9 has already been pre-filed with the Board, and we heard
10 from Hearing Officer Knittle that it has been accepted into
11 the record. His testimony addressed the environmental
12 aspects of the requested relief. Our second witness is
13 Miss Sandy Isbell who is also a CILCO employee. She holds
14 the position of fuel analyst/safety for Edwards Station.
15 Her testimony has also been pre-filed and, through Hearing
16 Officer Knittle, has been accepted as part of the record in
17 this proceeding. Miss Isbell will address coal-cost
18 savings that was made possible by the variance. Thank you
19 very much.

20 HEARING OFFICER: Thank you, Mr. Faletto.

21 Miss Doctors, do you have an opening statement?

22 MS. DOCTORS: Yes, I do. Good morning. My
23 name is Rachel Doctors. I am representing the Illinois
24 Environmental Protection Agency in this matter.

1 Central Illinois Light Company Edwards Station
2 has requested a site-specific rule for sulfur dioxide
3 emissions. The site-specific rule would amend 35 Ill. Adm.
4 Code Section 214.561 that limits sulfur dioxide emissions
5 from boilers 1 and 3 to 6.6 pounds/mmBtu and would replace
6 the applicable rule for boiler number 2, 35 Ill. Adm. Code
7 Section 214.141 that limits sulfur dioxide emissions to 1.8
8 pounds per mmBtu. Boilers 1, 2, and 3 would now be
9 permitted to average sulfur dioxide emissions across the
10 group and be limited to 4.71 pounds per mmBtu as a group.

11 This site-specific rule replaces a prior
12 variance, PCB 99-80, granted by the Pollution Control Board
13 in 1999. This variance provided the same limits that allow
14 for the average across the three boilers, lower the --
15 excuse me -- and allowed for greater use of Illinois coal
16 and provided the company with an opportunity to study
17 compliance options for the federal Acid Rain Program as
18 well as Illinois' NOx Trading Program. These options
19 included purchases of allowances, purchase of low-sulfur
20 Illinois coal, and installation of controlled equipment.
21 Variance PCB 99-80 required CILCO to file quarterly reports
22 evaluating these options. CILCO has complied with the
23 requirements of the variance and has requested permanent
24 relief.

1 Pursuant to the requirements of the Illinois
2 Environmental Protection Act and the Board's procedural
3 rules, a petitioner for site-specific relief must
4 demonstrate the compliance with the rule of general
5 applicability is not technically feasible or economically
6 reasonable for the particular site as well as the
7 environmental impact. The Agency believes that CILCO has
8 demonstrated this by showing that Illinois low-sulfur coal
9 will not be generally available and that compliance through
10 use of other sources of coal will result in substantial
11 savings annually. Further, the cost of installing
12 additional control equipment would result in even greater
13 expense.

14 For these reasons, the Illinois EPA is
15 recommending that the Board adopt CILCO's proposed change.

16 With respect to air quality, the
17 Peoria/Tazewell area has been nonattainment for sulfur
18 dioxide and was redesignated by the United States
19 Environmental Protection Agency in 1995 as attaining the
20 standard and redesignated to a maintenance area. The
21 maintenance plan for this area contains the above rules as
22 part of the plan for maintaining the sulfur dioxide
23 standard in this area. The proposed amendment is
24 consistent with the plan for the area as CILCO's sulfur

1 dioxide emissions have decreased, and it is also consistent
2 with the requirements of the Acid Rain Program.

3 What the proposal does represent is an
4 amendment to the applicable state implementations made for
5 the area. As such, the agency will need to submit a
6 revision if the Board adopts CILCO's proposal. USEPA, as
7 stated by CILCO, approved PCB 99-80 and has been given an
8 opportunity to review CILCO's current proposal. They have
9 not raised any issues.

10 This hearing also fulfills the requirement for
11 public hearing for hearings on SIP revisions pursuant to
12 Section 110(a) of the Clean Air Act and 40 CFR, Code of
13 Federal Regulations, Section 51.104.

14 Today from the Illinois Environmental
15 Protection Agency who are also present are Rod Kaleel, the
16 manager for the Modeling Unit, Air Quality Planning
17 Section, Bureau of Air. He's pre-submitted his testimony.
18 And available for questions on technical aspects should the
19 Board have them is Vir Gupta, an Environmental Protection
20 engineer with our Air Quality Planning Section, Bureau of
21 Air. Mr. Gupta did not present testimony but is available
22 to answer any questions. Thank you.

23 HEARING OFFICER: Thank you, Miss Doctors.
24 Let's go off the record.

1 (Discussion off the record.)

2 HEARING OFFICER: I want to note for the record
3 again there are no members of the public here.
4 Accordingly, we are going to swear in all witnesses and
5 allow the agency -- not the agency -- the Illinois
6 Pollution Control Board technical representative Mr. Anand
7 Rao to ask any questions that he has. If either side has
8 any questions or Mr. Johnson as well, now is the time.

9 (Mark Davis, Sandy Isbell, Robert Kaleel
10 and Vir Gupta sworn.)

11 HEARING OFFICER: Does anybody have any
12 questions for any of these witnesses -- before we get
13 started, I do want to note that we are accepting the
14 testimony and entering it into the record as if read, and
15 it will be appended to the transcript.

16 Any questions, Mr. Rao?

17 MR. RAO: I have some questions for Miss Isbell
18 basically regarding your cost figures that you had
19 presented in the petition and also in your pre-filed
20 testimony. First, I wanted to get some qualification as to
21 the differences in the cost savings that was presented
22 earlier to the Board in the petition which estimated the
23 cost savings to be approximately in the range of \$7
24 million. In your pre-filed testimony, you have a different

1 figure in the range of \$3 million. Could you just clarify
2 for the record?

3 MS. ISBELL: Right. I think I can remember
4 what that was about. The emission numbers I put together
5 was based on the spot market in '01. If you're familiar
6 with where pricing was going in '01 on the spot market,
7 they were, in my opinion, run-away pricing last year due to
8 the perceived shortage of coal. This latest filing that I
9 put together, it was based on industry experts, I guess you
10 would call it; and I went to them and asked them, if we had
11 been under contract during that period, in their opinion,
12 where would pricing have been? So it would spot during
13 those market conditions as opposed to contract pricing.

14 MR. RAO: Can you explain a little bit more as
15 to how you purchase coal? Is it based on contract over a
16 year or for a period of time?

17 MS. ISBELL: In the past, we've done a
18 combination of both. Routinely, not every year, routinely
19 we've had 70 percent under contract and 30 under spot. But
20 that hasn't been a hard-fast rule. This year we didn't buy
21 any spot.

22 MR. RAO: And based on the previous year's coal
23 purchase, do these figures that you have given, do they
24 reflect the actual cost savings that CILCO had maybe in the

1 year 2000? Do you have that figure in terms of how much
2 you spent on coal and what were the savings and actual
3 costs instead of these estimations?

4 MS. ISBELL: I have actuals. I don't believe
5 it was part of the filing, but I do have actual costs, of
6 course.

7 MR. RAO: Just to get a comparison as to how
8 the actual costs compare to the spot market or your
9 contract costs, if it's possible for you to provide that as
10 part of your comment, it will be helpful.

11 MS. ISBELL: You want the '00 costs --

12 MR. RAO: If you have a couple of years.

13 MS. ISBELL: '99 to 2000, '01, something like
14 that?

15 MR. RAO: Yeah, that will be helpful.

16 HEARING OFFICER: I have a question. Why no
17 spot purchases this year?

18 MS. ISBELL: Well, coming out of '01, there
19 wasn't a whole lot of coal to be found. It was very short.
20 So, when we purchased coal, we probably were looking at
21 probably 80 percent of our requirements, what we thought
22 was 80 percent of our burn. But we didn't have the burn
23 that we anticipated the first quarter. The winter wasn't
24 as cold as what we anticipated. So we have enough to get

1 us through the end of the year.

2 HEARING OFFICER: Thanks.

3 MR. RAO: In your cost analysis to show how
4 much you saved, do you also consider the impact of
5 blending?

6 MS. ISBELL: Right. And you can't overlook SO2
7 credits also. It has to be the coal. Obviously the
8 blending is the coal costs also, transportation and SO2
9 costs.

10 MR. FALETTO: Sandy, do you want to maybe
11 explain with the variance how you were able to get more
12 flexibility in your purchases of coal?

13 MS. ISBELL: The biggest advantage of having
14 the variance on unit 2, it allows us to utilize our lowest
15 cost coal which is currently the Exxon Monterey coal in
16 Southern Illinois. The reason we can use it, they
17 guarantee annually 1.77 pounds of SO2; but per shipment,
18 they cannot. It ranges from a 1.4 up to over 2 pounds. So
19 the fact that we have that variance, we are able to blend
20 that in unit 2; and again, being the lowest cost coal, it
21 gives us that advantage. We don't have to worry about
22 exceeding the 1.8.

23 MR. RAO: I had a question pertaining to the
24 variance conditions the Board had. I think the Board

1 required CILCO to prepare a report to the IEPA evaluating
2 strategies for compliance as one of the conditions. Has
3 CILCO prepared such a report in evaluating the options like
4 complying with the Acid Rain Program using different types
5 of coals, purchases of allowances, or installation of
6 scrubbers or other desulfurization systems? Did you
7 prepare such a report?

8 MS. JAGIELLA: Those reports are actually filed
9 as part -- they're attached to Mr. Davis's testimony.

10 MR. RAO: Those are the reports that you gave
11 me today?

12 MS. JAGIELLA: Yes.

13 MR. RAO: Could you summarize what was reported
14 to the agency in terms of evaluation compliance
15 alternatives? Can you summarize the report?

16 MS. ISBELL: I don't understand the question.
17 I'm sorry.

18 MR. FALETTO: Just to clarify, as part of the
19 variance, there were certain requirements for filings with
20 the Agency. Attorney Doctors has indicated for the record
21 that those filings were made. He's now asking for someone
22 to summarize the compliance options that CILCO has
23 considered in terms of compliance with SO2 limits,
24 reductions under the Acid Rain Program and a combination of

1 trying to purchase the cheapest fuel which allows them to
2 generate power most efficiently. So those are all the
3 issues that were identified in the variance proceeding
4 which are still, of course, variables in this proceeding as
5 well.

6 MR. RAO: Yeah. I know you did present some
7 information during the variance proceeding. But when the
8 Board granted a variance as a condition, they said you need
9 to do further evaluations and report to the Agency.

10 MR. FALETTTO: Yes, sir.

11 MR. RAO: What I'm basically asking is if, you
12 know, if you did prepare such a report and submit it to the
13 Agency, which you indicated that you did, then you provided
14 a copy of that to the Board today. I wanted you to
15 summarize it for the record as to what your findings were.

16 MS. ISBELL: We did look at other alternatives
17 other than our current scenario. One of them we looked at
18 was Indiana low-sulfur coal. That should be 1.2 pounds as
19 opposed to percent. Another alternative would be to go to
20 Central Appalacia and to East Kentucky for 1.2 or Colorado
21 coal would be the three options as part of the testimony.

22 Now, obviously, those are a lot farther from
23 home than Southern Illinois, and that means increased
24 transportation costs.

1 MR. RAO: Did you consider any of the other
2 alternatives like installation of scrubbers or other
3 desulfurization systems?

4 MS. ISBELL: No. We did not include it.

5 MS. JAGIELLA: It's in the report.

6 MS. ISBELL: Not in my testimony.

7 MS. JAGIELLA: That has remained unchanged, the
8 costs associated with installation of a scrubber, plus the
9 physical infeasibility of doing that at Edwards Station.
10 And that's in the report. It was in the underlying
11 variance testimony. It's in the reports. The facts
12 surrounding that have not changed.

13 HEARING OFFICER: That's attached to Mark
14 Davis's report and testimony?

15 MS. JAGIELLA: Correct. Those reports that
16 went in to IEPA that reiterated what was in the underlying
17 variance.

18 HEARING OFFICER: It states in there that the
19 facts are unchanged? I understand your representation, but
20 you're an attorney who hasn't been sworn in. We want to be
21 sure that's in the record.

22 MR. FALETTA: Right. Mark can probably
23 testify.

24 Mark, you want to comment on that?

1 MR. DAVIS: I believe it's in the -- we had
2 submitted the semiannual variance reports --

3 MR. RAO: I didn't get a chance to go over
4 them. I just got it now. I just wanted you to summarize
5 it for the record.

6 MR. FALETTO: Mark, can you summarize just
7 generally for the record -- Sandy has testified as to
8 low-sulfur coal options. Can you testify as to the
9 technical and/or economic feasibility of installing flew
10 gas desulfurization at Edwards as to whether there's been
11 any change?

12 MR. JOHNSON: Or, alternately, we've heard from
13 Miss Doctors that CILCO's been in full compliance, they've
14 made the filings they're supposed to have made. If you
15 would prefer to clarify this in the post-hearing
16 comments --

17 MR. RAO: That's fine, too.

18 MR. JOHNSON: Rather than going through
19 pell-mell your file and trying to drag that out, that's
20 perfectly appropriate. I think most of it has already been
21 incorporated in your testimony by reference, right?

22 MR. FALETTO: Yes, it has.

23 HEARING OFFICER: Miss Doctors? She was
24 raising her hand.

1 MS. DOCTORS: Just to note that the agency
2 received a discussion of this on April -- by letter of
3 April 27, 2001. On the last page, it talks about
4 installation of the scrubber or other desulfurization
5 equipment, and that's what we were relying on when we were
6 doing our evaluation.

7 MR. FALETTTO: Why don't you go ahead and
8 summarize.

9 MR. DAVIS: As we indicated in our interim
10 variance report, we basically summarized the installation
11 of a scrubber or other desulfurization equipment is the
12 most expensive means of compliance. In addition, it's
13 technically infeasible due to space limitations at the
14 facility. We did run some numbers. The cost of installing
15 the scrubber would exceed \$40 million which would basically
16 make it economically infeasible. That's essentially what
17 we had provided in this report.

18 MR. FALETTTO: In terms of site, Mark, as I
19 understand, there's also a NOx SCR control device being
20 constructed now?

21 MR. DAVIS: Correct.

22 MR. FALETTTO: In terms of site limitations,
23 does that actually make it even more difficult to add
24 desulfurization equipment at Edwards?

1 MR. DAVIS: Yes, it would definitely make it
2 more difficult.

3 MR. FALETTO: And that's why?

4 MR. DAVIS: Right.

5 MR. RAO: Thank you. One of the things that
6 the Board needs to do in a rulemaking is to make a finding
7 on the technical feasibility and economic reasonableness,
8 so that's the reason I just want to get this on the record.

9 HEARING OFFICER: And feel free, if you think
10 it hasn't been adequately explained here, feel free to
11 address it in the public comments if you feel more
12 comfortable doing that. You're definitely not prohibited
13 from addressing anything you want.

14 MR. FALETTO: Okay.

15 MR. RAO: One final question. It's a minor
16 clarification. On page 8 of the petition regarding
17 allocation of allowances, you make a statement saying
18 allowances are allocated based on the average of the base
19 year's fuel consumption multiplied by the Clean Air Act's
20 overall emission limit of 8.9 million tons of SO2 per year.
21 Either there must be some typo or missing information in
22 that statement. Could CILCO or the Agency clarify that
23 statement?

24 MR. FALETTO: Since it's our petition, I guess

1 I can clarify. That is essentially intended to be a
2 summary of what congress has implemented through the Acid
3 Rain Deposition Program in terms of how -- and it's
4 obviously a very simplified statement -- as to how the
5 US Environmental Protection Agency has been tasked to
6 determine how many allowances each of the affected units or
7 affected facilities are going to be given under the Acid
8 Rain Program. So we're only talking about affected
9 facilities as that term is defined by the federal Clean Air
10 Act and the USEPA's Acid Rain regulations which I think are
11 at 40, part 72.

12 Does that sound right, Rachel?

13 MR. GUPTA: 72 and 75, yes.

14 MR. FALETTA: 72 and 75. That was essentially
15 intended to be a summary of the Acid Rain Program to give a
16 little background on the fact that Edwards Station is a
17 phase two affected source and has been allocated SO2
18 allowances under that program. That's all it was intended
19 to be. So those numbers don't reflect anything that's site
20 specific.

21 MR. RAO: Okay. That's all I have.

22 MS. DOCTORS: The agency has nothing to add.

23 HEARING OFFICER: Anything further from the
24 petitioners?

1 MS. JAGIELLA: I'd like to get some
2 clarifications on the information on the coal savings for
3 Sandy. It is sometimes very difficult because there's so
4 many variables. There's the spot-market costs. There are
5 contract costs, and sometimes predicting what a contract
6 cost might have been is virtually impossible because those
7 are all confidential contracts and they're all separately
8 negotiated by the coal companies.

9 So I guess I have two questions. One, if we
10 are submitting actual information, we have to submit it
11 under some type of confidentiality. Beyond that, I guess
12 I'm asking: What exactly are you looking for?

13 MR. RAO: Basically, you know, the cost figures
14 that were presented in the petition and in the testimony
15 were so significantly different. And I know the
16 spot-market prices vary considerably. So we wanted to get
17 a better handle on what the actual cost savings were
18 because it's hard for us to look at these numbers and
19 figure out whether it's 10 million or 1 million savings.
20 So just to get a better idea as to what the actual savings
21 are.

22 MS. JAGIELLA: Part of the problem is that
23 changes over time. If you ask her eight months ago what it
24 was and you ask her today, that will change because of the

1 availability of the sources of coal, the spot-market prices
2 that change, contract prices that change.

3 HEARING OFFICER: Correct me if I'm wrong.
4 You're asking for the actual cost of that particular year
5 based on whatever the estimate was that was provided to us?

6 MR. RAO: Yeah.

7 MS. JAGIELLA: We can provide actual coal --
8 we'd have to submit that under some order of
9 confidentiality.

10 HEARING OFFICER: Right. I'm looking right now
11 under procedures for identifying articles that represent a
12 trade secret. I think that would probably qualify.

13 MR. FALETTO: It should fall under that.

14 HEARING OFFICER: That would be something you'd
15 have to address and see if it was going to fall under that.
16 If it wasn't and you don't want to submit it, let us know
17 that; and we'll consider that.

18 MS. JAGIELLA: Maybe what we can do is submit
19 it for 2001, which we've had enough time past 2001 it's
20 probably less concern but then -- when you try to figure
21 out what the actual cost savings are, it's important to
22 understand it's all theoretical. It's theoretical based on
23 whether you want to compare to the spot-market price or
24 whether you want to compare to what you theoretically could

1 have negotiated for that coal supply. That's part of the
2 reason why the numbers change based on the time you put
3 them in, and they are theoretical.

4 Do you want to add --

5 MS. ISBELL: No. You're explaining that.

6 MR. JOHNSON: I'm sure the concern was the
7 difference between the \$7 million figure and the \$3 million
8 figure. Suffice it to say, it's a significant amount; and
9 it's somewhere hypothetically in that range. And I assume
10 that's why my power bill varies from year to year.

11 MR. FALETTA: That's a good point. That's how
12 I understood his question as well, Mr. Johnson, is that he
13 would like some explanation of the difference between the
14 number that was in the petition versus the number that was
15 in the testimony.

16 MS. JAGIELLA: It is based on timing and
17 theoretical reasons. In fact, I saw Rachel raise her hand.

18 MS. DOCTORS: Can we go off the record for one
19 minute?

20 HEARING OFFICER: Go ahead.

21 (Discussion off the record.)

22 HEARING OFFICER: We're back on the record.

23 MS. DOCTORS: I would like to make a statement
24 as to how the difference in the numbers come about between

1 the original petition and what's been submitted in the
2 testimony.

3 HEARING OFFICER: And, of course, you're more
4 than willing to make any statement that you want; but
5 understand you're not sworn in and not testifying under
6 oath. So, if one of your cohorts can do it, it might be
7 better. If not, feel free to talk.

8 MS. DOCTORS: We can try to do this through
9 Mr. Gupta. Let me make a statement, and then I'll ask some
10 questions of Mr. Gupta and see if we can do it that way.

11 I'd like to say we received their petition; and
12 it was reviewed by our utility expert, Mr. Gupta, and he
13 raised the question to us concerning the difference in
14 spot-market prices versus contractual prices. So let me go
15 from there.

16 Mr. Gupta, did you review the site-specific
17 request from CILCO?

18 MR. GUPTA: Yes, I did.

19 MS. DOCTORS: And what issue did you raise with
20 respect to cost, cost savings that they had indicated were
21 7 million?

22 MR. GUPTA: The first thing was, as she
23 indicated, was the spot-market price. When I looked into
24 that, when I said, you know, that this price seems to be so

1 high, we have to be realistic because historically CILCO
2 had not been purchasing the coal at the spot-market price,
3 100 percent of the coal. So we should go back maybe a
4 couple of years and see what was the listing number.

5 So, based on that one, I think CILCO did
6 provide yesterday what will happen, you know, if they buy
7 the coal from different sources, from Illinois, Indiana,
8 and I think from Appalachia and, under each scenario, what
9 will be the cost savings.

10 Second thing they provided was the boiler
11 number 2 particularly is more efficient compared to boiler
12 number 3 or boiler number 1. So, if they use boiler number
13 2 proficiently compared to boiler 1 and 2 (sic), they have
14 additional savings because of that.

15 So third thing was about this -- what do you
16 call it -- the managing differently. One is a high-sulfur
17 coal; one is low-sulfur coal. So, with all these three
18 different things, you can get different type of savings.
19 Okay. Under this one, this is savings. The option number
20 two, this is the savings. Option number three, this is the
21 savings. So, with three different things, I think the
22 savings were, again, in the range of about \$1.5 million.
23 That's what it is.

24 HEARING OFFICER: Do you have anything else to

1 add, Miss Doctors?

2 MS. DOCTORS: Hence, it came about they figured
3 the cost at our request from 7 million down?

4 MR. GUPTA: Right.

5 MS. DOCTORS: Because of the difference using a
6 spot-market and an estimated contractual cost?

7 MR. GUPTA: Right.

8 HEARING OFFICER: How about this; I mean, I'm
9 no economics major by any means. I was a biology major,
10 and I'm a lawyer. So I have no idea what any of this
11 means. However, we do want as much possible information on
12 this as we can get for the Board before we reach a
13 decision. That being said, if you have any further
14 clarifications after you look at the transcript and see
15 what was said, if you think there's something that needs to
16 be said, I would request you send it in during your public
17 comments.

18 MR. FALETTTO: Fair enough.

19 HEARING OFFICER: Any other questions from
20 either party?

21 MR. RAO: I have one. This is regarding your
22 statement about the reductions in SO2 that you achieve with
23 the flexibility you had under the variance from the Board.
24 You state that on a station-wide basis you're able to

1 achieve an emissions limit of 4.71 pounds per million Btu
2 with individual boilers not to exceed 6.6. Is this 4.71
3 figure, is that some kind of a permit limit; or is it a
4 voluntary deduction that you were able to achieve?

5 MS. JAGIELLA: I think that actually goes to
6 the relief, the actual relief that was granted. The 4.71
7 is the legal limit.

8 MR. FALETTTO: I think that's the limit that was
9 in the variance, and I believe that the record would
10 reflect that the air quality analysis that was done was
11 done at that number so as to be conservative in terms of
12 the potential impacts. In reality, the pound per million
13 Btu SO2 rate on these units has been less than that.

14 MR. RAO: Okay.

15 MR. FALETTTO: I think that's where that number
16 was derived from.

17 MS. JAGIELLA: The 6.6 was eliminated as part
18 of the variance. CILCO gave that up.

19 MR. RAO: Okay. Thanks.

20 HEARING OFFICER: Anything further from
21 anybody?

22 MR. JOHNSON: As remote a location as this is,
23 I think 50 minutes is sufficient time for any member of the
24 public looking to locate this hearing to have located it.

1 So we don't need to leave the record open.

2 John, if you want to close this up.

3 HEARING OFFICER: Sure. Off the record.

4 (Discussion off the record.)

5 HEARING OFFICER: Just procedurally, are there
6 any closing statements either side wants to make?

7 MR. FALETTO: No.

8 HEARING OFFICER: Seeing none from the
9 Petitioner --

10 MS. DOCTORS: No closing statement from the
11 Agency.

12 HEARING OFFICER: If anyone has any questions
13 about the rest of this rulemaking, please feel free to give
14 me a call. The transcript of today's hearing ought to be
15 available by October 21st. Copies of the transcript will
16 be available shortly thereafter on the Board's website at
17 ipcb.state.il.us, as will other board and hearing officer
18 orders pertaining to this rulemaking.

19 We've had an off-the-record discussion.
20 Comments, public comments will be due on or before
21 November 4th, 2002, and that is all I have. I want to
22 thank everyone for participating today.

23 Mr. Johnson, any final remarks?

24 MR. JOHNSON: Nothing. Thank you for coming.

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HEARING OFFICER: Hearing is adjourned.

HEARING ADJOURNED AT 10:50 A.M.

1 COUNTY OF TAZEWELL)
) SS
2 STATE OF ILLINOIS)

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CERTIFICATE OF REPORTER

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I, ANGELA M. JONES, CSR-RPR, Notary Public in

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and for the State of Illinois, do hereby certify that the

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foregoing transcript consisting of Pages 1 through 36, both

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inclusive, constitutes a true and accurate transcript of

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the original stenographic notes recorded by me of the

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foregoing proceedings had before Hearing Officer John

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Knittle, on the 11th day of October, 2002.

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Dated this day of , 2002.

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Angela M. Jones, CSR-RPR
Notary Public, CSR #084-003482

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