THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)

)

AMENDMENTS TO   )

35 ILL. ADM. CODE 225.233,   )R2018-20

MULTI-POLLUTANT STANDARDS(MPS))(Rulemaking-Air)

TRANSCRIPT FROM THE PROCEEDINGS

taken before HEARING OFFICER MARIE TIPSORD

by LORI ANN ASAUSKAS, CSR, RPR, a notary public

within and for the County of Cook and State of

Illinois, at the Peoria Public Library, 107 NE

Monroe Street, Peoria, Illinois, on the 17th

day of January, 2018, A.D., at 10:00 o'clock

a.m.

January 17, 2018

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 1   A P P E A R A N C E S:

 2   ILLINOIS POLLUTION CONTROL BOARD,
     100 West Randolph Street
 3   Suite 11-500
     Chicago, Illinois  60601
 4   (312) 814-6983
     BY:  MS. MARIE TIPSORD, HEARING OFFICER,

 5

 6

 7   ILLINOIS POLLUTION CONTROL BOARD MEMBERS

 8   PRESENT:

 9   Ms. Katie Papadimitriu, Chairman

10   Ms. Cynthia Santos, Board Member

11   Ms. Brenda Carter, Board Member

12   Ms. Carrie Zalewski, Board Member

13   Mr. Mark Powell, Board Attorney

14   Mr. Anad Rao, Technical

15   Ms. Alisa Liu, Technical

16

17   ILLINOIS ENVIRONMENT PROTECTION AGENCY,
     1021 North Grand Avenue East
18   P.O. Box 19276
     Springfield, Illinois  62794-9276
19   (217) 782-5544
     BY:  MS. GINA ROCCAFORTE,
20        MS. DANA VETTERHOFFER and
          MS. ANTONETTE R. PALUMBO
21

22

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1   A P P E A R A N C E S: (Continued)

2

OFFICE OF THE ATTORNEY GENERAL,
3   69 West Washington Street
Suite 1800
4   Chicago, Illinois   60602
(312) 814-0600
5   BY: MR. STEPHEN J. SYLVESTER,
        MR. ANDREW ARMSTRONG and
6   MR. JAMES P. GIGNAC,

7   Appeared on behalf of the People
                of Illinois;

8

9   SCHIFF HARDIN,
233 South Wacker Drive
10   Suite 6600
Chicago, Illinois   60607
11   (312) 258-5769
BY: MR. JOSHUA R. MORE and
12   MS. AMY ANTONIOLLI,

13   Appeared on behalf of Dynegy;

14

15   LAW OFFICE OF FAITH E. BUGEL,
1004 Mohawk Road
16   Wilmette, Illinois   60091
(312) 282-9119
17   BY: Ms. Faith E. Bugel

18   Appeared on behalf of the Sierra
                Club;

19

ENVIRONMENTAL LAW & POLICY CENTER,
20   35 East Wacker Drive
Suite 1600
21   Chicago, Illinois   60601
BY: MS. LINDSAY DUBIN,

22

                Appeared on behalf of the
23   Environmental Law & Policy Center;

24

1   HEARING OFFICER TIPSORD: Good

2   morning, everyone, and welcome. My name is

3   Marie Tipsord. I have been appointed by the

4   Board to serve as a hearing officer in this

5   proceeding entitled Amendments to 35 Ill. Adm.

6   Code 225.233, Multi-Pollutant Standards, MPS.

7   With me today to my immediate

8   left is Chairman Katie Papadimitriu, the

9   presiding Board member. Also, at the far right,

10   Board member Cynthia Santos. Next to her, Board

11   member Brenda Carter. At my far left, Board

12   member Carrie Zalewski.

13   In addition to the Board

14   members today, we have several attorney

15   advisors present, Tanya Rabczak, Katie

16   Papadimitriu's attorney advisor. Jason

17   James, acting as attorney advisor to Jerry

18   Keenan, but he's also assisting us in

19   this rulemaking as an assistant, sort of,

20   to Chairman Papadimitriu. And Martin Klein,

21   he is our newest attorney advisor and he

22   is attorney advisor to Carrie Zalewski.

23   From our technical staff,

24   we have Alisa Liu and Anand Rao, to my left.

1   And to my immediate right is senior attorney

2   Mark Powell.

3   The purpose of today's hearing

4   is to hear testimony from the witnesses that

5   have pre-filed testimony. Those witnesses are

6   from the Illinois Environmental Protection

7   Agency, the Illinois Attorney General's Office

8   and Dynegy, Inc.

9   We will take the testimony

10   as if read and enter testimony as an exhibit

11   after the witness is sworn. We will then move

12   to questions for the witness and as we receive

13   pre-filed answers, we will also enter the

14   questions and answers as exhibits and as if

15   read.

16   We will begin the questioning

17   and with pre- -- begin the questioning with

18   questions that were pre-filed, but do not have

19   pre-filed answers. So we'll start with IEPA.

20   We'll go to questions from Dynegy and then

21   after that, we'll go to the pre-filed answers

22   from the -- for the people's questions, the

23   pre-filed answers for the environmental groups

24   and then we'll complete that with the Board.

1   The people have pre-filed

2   answers to IEPA. IEPA is the only one who

3   pre-filed questions for them and for Dynegy,

4   we will begin with the pre-filed questions

5   from -- I think we will go with people and

6   then the environmental groups and then

7   IEPA has received -- there were answers to

8   the Board's questions filed. All right.

9   I'm sorry. We'll go IEPA, the people and

10   the environmental groups for Dynegy. Okay.

11   The Board will go last.

12   Anyone may ask a question

13   today and then follow-up to any of the

14   pre-filed questions. However, you must raise

15   your hand and wait for me to acknowledge you.

16   After I have acknowledged you, please state

17   your name and who you represent before you

18   begin your questions. Please speak one at a

19   time. I reiterate, please identify yourself

20   before you speak. That way, we can get a clear,

21   concise record.

22   Also, if you have a pre-filed

23   question that fits in with some of the other

24   follow-up that you want to follow-up on, let's

1   try to keep the subject matters as close

2   together as we possibly can.

3   Please note that any question

4   asked by a Board member or staff are intended

5   to help build a complete record for the Board's

6   decision and not express any preconceived

7   notions or bias.

8   We will also allow for public

9   comment today. If the pre-filed testimony is

10 completed before 4:30, we might take a recess

11 and come back at 4:30. I don't think that's the

12 case. I think we're going to be here tomorrow

13 with pre-filed testimony. So the plan is we

14 will begin promptly at 4:30 with pre- -- with

15 public comment. The time will be limited.

16   We have -- I think when I

17 just looked back, there are 54 people signed

18 up. So we are probably looking at two minutes

19 for people to comment. For any of you who

20 might be talking to people who are coming in

21 to file public comments, I would reiterate

22 that anyone who's already filed a written

23 public comment need not repeat that written

24 comment here. We have that in the record.

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1 I highly recommend they use their two minutes

2 to do something other than repeat what they've

3 already told us in a written comment that we

4 received, which we've received hundreds of.

5 They are not all docketed, but we've, in fact,

6 received hundreds of them. I know I get them

7 every day in my email.

8   So we appreciate the interest

9 and the public interest being shown, but, like

10 I say, we will get those docketed and I would

11 just urge anyone who's already filed a written

12 comment to use their time today to say something

13 other than what they've said in the written

14 comment just because we've already gotten them

15 written down.

16   At 7:00 p.m. tonight, we will

17 adjourn or recess until tomorrow. Like I said,

18 I think realistically, we'll be recessing until

19 tomorrow. Anyone wishing to provide public

20 comment must be signed up by 5:00 p.m. There

21 is a signup sheet in the back and it already

22 includes the names of the people who let me

23 know beforehand that they will be filling --

24 they would be willing to provide public comment.

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1   With that, I would ask if

2   there are any opening statements. Does IEPA

3   have any?

4   MS. ROCCAFORTE: I'd just like to

5   introduce --

6   THE COURT REPORTER: Your name,

7   please?

8   MS. ROCCAFORTE: I'm Gina

9   Roccaforte, assistant counsel on behalf of

10   the Illinois Environmental Protection Agency.

11   With me this morning is Dana Vetterhoffer,

12   deputy general counsel, Antonette Palumbo,

13   assistant counsel, David Bloomberg, manager

14   of the Air Quality Planning Section in the

15   Bureau of Air, and Rory Davis, environmental

16   protection engineer in the Bureau of Air.

17   HEARING OFFICER TIPSORD: Thank

18   you.

19   Anybody else?

20   MS. ANTONIOLLI: Yes. We'll

21   introduce.

22   Good morning, hearing officers

23   and board members and technical staff. My name

24   is Amy Antoniolli from Schiff Hardin and my

1   colleague, Josh More, also from Schiff Hardin.

2   We have two witnesses available

3   to provide testimony today. They have pre-filed

4   testimony, which is already part of the record.

5   We have Rick Diericx and Dean Ellis.

6   HEARING OFFICER TIPSORD: Thank you.

7   Steve?

8   MR. SYLVESTER: Good morning,

9   everyone.

10   My name is Steve Sylvester.

11   I'm with the Illinois Attorney General's Office.

12   We have Andrew Armstrong as well and James

13   Gignac providing testimony.

14   HEARING OFFICER TIPSORD: Thank you.

15   Anyone else?

16   MS. BUGEL: Good morning. I'm Faith

17   Bugel representing the Sierra Club.

18   MS. DUBIN: I'm Lindsay Dubin

19   representing Environmental Law & Policy Center.

20   MS. PEARLMAN: Good morning. I'm

21   Toba Pearlman with Natural Resources Defense

22   Council.

23   HEARING OFFICER TIPSORD: And if

24   you have a card, could you get a card to the

1   court reporter?

2   Anyone who has a card or if

3   you are going to be speaking, please try and

4   give your name to the court reporter and

5   spelling and stuff at a break.

6   Again, remember to speak

7   loudly. Dana, we're talking to the back of

8   the room, don't forgot. Yes.

9   MS. HICKS: Christie Hicks.

10   THE COURT REPORTER: I'm sorry.

11   Can you repeat that?

12   MS. HICKS: I'll bring you a card.

13   Christie Hicks, Environmental Defense Fund.

14   HEARING OFFICER TIPSORD: Anyone

15   else want to introduce themselves? Great.

16   Okay. With that, we will

17   begin with the presentation of the case by

18   the Illinois Environmental Protection Agency.

19   MS. ROCCAFORTE: At this time

20   I'd ask that the witnesses be sworn in and

21   Mr. Davis would open up introducing some

22   additional clarifying testimony.

23   Oh, I'm sorry. You had

24   mentioned introducing the testimony and

1 questions and responses, entering them into

2 the record. I would move that that --

3   HEARING OFFICER TIPSORD: Let's

4 swear them in first.

5   MS. ROCCAFORTE: Okay.

6   HEARING OFFICER TIPSORD: Would you

7 swear in the witnesses?

8   THE COURT REPORTER: Raise your

9 right hands, please.

10   Do you swear that the

11 testimonies you are about to give will be the

12 truth, the whole truth and nothing but the

13 truth, so help you God?

14   And please state your names.

15   MR. DAVIS: Rory Davis and I do.

16   MR. BLOOMBERG: David Bloomberg.

17 I do.

18   (Witnesses sworn.)

19   HEARING OFFICER TIPSORD: Okay.

20 If there is no objection, we will enter the

21 pre-filed testimony of Rory Davis as Exhibit 1.

22   Seeing none, it is Exhibit

23 No. 1.

24

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1   (Document marked and entered

2   as Exhibit No. 1 for

3   identification.)

4   HEARING OFFICER TIPSORD: And if

5   there is no objection, the environmental group's

6   questions, just because that's the first one in

7   my notebook, will be entered as Exhibit 2.

8   (Document marked and entered

9   as Exhibit No. 2 for

10   identification.)

11   HEARING OFFICER TIPSORD: Then I

12 think it's Dynegy's questions are next, they

13 will be Exhibit 3, if there's no objection.

14   (Document marked and entered

15   as Exhibit No. 3 for

16   identification.)

17   HEARING OFFICER TIPSORD: And

18 we will also give -- even though we have an

19 Attachment A to this, I'm going to enter the

20 Board's questions as Exhibit No. 4, just to

21 keep things cohesive.

22   (Document marked and entered

23   as Exhibit No. 4 for

24   identification.)

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1   HEARING OFFICER TIPSORD: Then the

2   Agency has sequentially numbered its answers.

3   So I think we'll just enter it as one exhibit,

4   if that's okay.

5   Does anybody object to entering

6   it?

7   MR. ARMSTRONG: I have just one

8   comment.

9   THE COURT REPORTER: Your name, sir?

10   HEARING OFFICER TIPSORD: You have

11   to identify yourself, please.

12   MR. ARMSTRONG: I'm sorry. Andrew

13   Armstrong for the Attorney General's Office.

14   We had pre-filed questions as

15   well. I'm not sure if those made it in as an

16   exhibit yet.

17   HEARING OFFICER TIPSORD: Oh, sorry.

18   I skipped those. My apologies. We'll make --

19   the Attorney General's are quite -- will be

20   Exhibit No. 4, and the Board's will be

21   Exhibit 5.

22   (Document marked and entered

23   as Exhibit No. 5 for

24   identification.)

1   HEARING OFFICER TIPSORD: Then

2   if there's no objection, we will enter the

3   Agency's pre-filed answers as Exhibit No. 6.

4   Seeing none, IEPA's answers

5   are Exhibit No. 6.

6   (Document marked and entered

7   as Exhibit No. 6 for

8   identification.)

9   HEARING OFFICER TIPSORD: Thank you.

10   And then, Mr. Davis, you wanted

11   to give a little opening statement before you

12   start?

13   MR. DAVIS: Just a clarification.

14   I'm Rory Davis.

15   In some of the pre-filed

16   questions for the Agency regarding the limit

17   restricting the Joppa plant to 19,860 tons of

18   SO2 emissions annually, it seemed that there

19   may be some confusion.

20   The Agency would like to

21   clarify that the fleet wide mass emission limit

22   that the Agency has proposed applies to all

23   MPS units, including the Joppa units.

24   All SO2 emissions from the

 1   MPS units, including the Joppa units, would

 2   be limited to 55,000 tons per year. In

 3   addition to that limit, the Joppa units would

 4   be limited to 19,860 tons per year.

 5   Also, pre-filed questions

 6   for the Agency revealed that there may not be

 7   complete understanding of Table 1 from the

 8   Agency's technical support document or TSD.

 9   Some questions implied that the allowable

10   emissions column in that table, Table 1,

11   sets forth unit specific allowable emissions

12   limitations. It does not.

13   The individual figures from

14   Table 1 do not reflect allowable emissions

15   for any given unit. The figure -- the figures

16   in the allowable emissions column represent

17   contributions to a calculated fleet wide

18   allowable mass figure of 66,354 tons at the

19   applicable current MPS fleet average emission

20   rates for SO2.

21   No single unit, including any

22   at Joppa, is required to meet the fleet wide

23   emission rate given for the unit in that table.

24   For example, while the contributions from

1 Joppa's units add up to 13,902 tons, as stated

2 in the Board's Question 5 for the Agency, that

3 number represents only Joppa's contribution to

4 the calculated total allowable emissions for

5 the fleet. It does not represent a limit that

6 would apply to the Joppa facility.

7   MR. RAO: Mr. Davis, based on your

8 testimony, are you going to revise your Table 1,

9 which is -- which has the title of "Allowable SO2

10 Emissions Under Current MPS"?

11   MR. BLOOMBERG: No. The table will

12 not be revised.

13   MR. RAO: Okay. But you are changing

14 your testimony what those numbers mean?

15   MR. DAVIS: Just a clarification.

16   MR. RAO: You did mention it is

17 allowable?

18   MR. DAVIS: Yes.

19   HEARING OFFICER TIPSORD: Is that

20 it?

21   MR. DAVIS: I have another

22 clarification.

23   I would also like to clarify

24 that in response to the environmental groups'

Page 18

1 Question V(9) or Section Roman numeral V(9), the

2 Agency should have also identified P.J. Becker,

3 Deputy Chief of the Bureau of Air. Mr. Becker

4 was only with the Agency for a few months.

5   HEARING OFFICER TIPSORD: Okay.

6 With that, I think we are ready then for

7 Dynegy's questions.

8   MR. MORE: For ease of the court

9 reporter, I'm going to walk around to ask my

10 questions.

11   HEARING OFFICER TIPSORD: Thank you

12 very much.

13   MR. MORE: Josh More on behalf of

14 Dynegy.

15   The questions I'm going to

16 be reading are those that we pre-filed and

17 correspond with Exhibit 3.

18   For the court reporter's

19 reference, that's where all these questions

20 are.

21   The first question is the

22 Attorney General's Office, on Page 17 of its

23 testimony, references "actual potential to

24 emit" and compares those emissions to the

1   proposed emission caps.

2   Is the Agency familiar with the

3   term "actual potential to emit"?

4   MR. BLOOMBERG: I am David Bloomberg.

5   I will be responding to the questions for the

6   Agency.

7   The answer is no.

8   MR. MORE: Has the Agency -- has

9   the Agency seen the term "actual potential to

10   emit" used in connection with the implementation

11   or enforcement of any air regulatory program?

12   MR. BLOOMBERG: No. I have worked

13   in air regulatory and air compliance and

14   enforcement programs at the Illinois EPA for

15   over 26 years, including over 13 years as

16   supervisor, and I have no recollection of

17   seeing such a term in either implementation

18   or enforcement of any air regulatory program.

19   MR. MORE: Has the Agency used

20   the methodology used by the Attorney General's

21   Office to calculate actual potential to emit

22   for calculating a source's emissions in

23   connection with the implementation or

24   enforcement of any air regulatory program?

1   MR. BLOOMBERG: No.

2   MR. MORE: Is the methodology used

3   by the Attorney General's Office to calculate

4   actual potential to emit appropriate for

5   evaluating whether the proposal is as protected

6   as the existing Multi-Pollutant Standard?

7   MR. BLOOMBERG: No.

8   MR. MORE: Why not?

9   MR. BLOOMBERG: The entire purpose

10   of the concept of potential to emit is that it

11   does not take into account "the real rate of

12   pollution for each unit," as stated by

13   Mr. Gignac in his testimony.

14   Indeed, the definition of

15   potential to emit within the Board's rules

16   at Section 211.4970 states that it "means

17   the maximum capacity of a stationary source

18   to emit any air pollutant and under its

19   physical and operational design."

20   The definition then discusses

21   physical and operational limitations that would

22   be taken into account, but at no point do

23   actual emissions come into play.

24   Over the course of my time

1   with the Agency, I have had to explain this

2   to many companies who did not understand

3   why their source only emitted a small amount,

4   but was still subject to rules with a much

5   higher applicability threshold based on

6   potential to emit.

7   Because the source had a

8   significantly higher potential to emit, they

9   had nothing to do with its actual emissions.

10   For example, there have been

11 cases where a coating operation only ran once

12 per week for a few hours and, thus, had very

13 small actual emissions, but had the potential

14 to emit much higher amounts if the operation

15 ran 24 hours a day, seven days a week.

16   I do not know where Mr. Gignac

17 came up with the concept of an actual potential

18 to emit, but it runs contrary to the manner in

19 which potential to emit was used.

20   MR. MORE: This will be Question 5.

21   The Attorney General's Office

22 suggests that the Agency created the concept of

23 allowable emissions for purposes of evaluating

24 the proposal.

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1   What are allowable emissions?

2   MR. BLOOMBERG: First, let me

3   say the Agency most certainly did not create

4   the concept of allowable emissions.

5   Allowable emissions simply

6   means the amount of a given pollutant that a

7   unit source, or in this case group of sources,

8   is allowed by rule, law or permit to emit.

9   These allowable limits are used as worst case

10 scenarios in many cases when dealing with air

11 pollution regulation, modeling and planning.

12   For example, in order to

13 demonstrate to US EPA that a regulation does

14 not pose a risk of backsliding, the Illinois

15 EPA must provide information to show that the

16 allowable emissions under a new rule are at

17 least as stringent as the allowable emissions

18 under the previous SIP submittal.

19   Similarly --

20   HEARING OFFICER TIPSORD: Excuse me,

21 Mr. Bloomberg. SIPS, S-I-P-S?

22   MR. BLOOMBERG: No, SIP submittal,

23 SIP submittal in this case.

24   HEARING OFFICER TIPSORD. Oh, okay.

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1   MR. BLOOMBERG: Singular.

2   HEARING OFFICER TIPSORD: SIP, State

3   Implementation Plan?

4   MR. BLOOMBERG: State Implementation

5   Plan.

6   HEARING OFFICER TIPSORD: Sorry. It

7   ran together. I wasn't sure if she heard it.

8   MR. BLOOMBERG: Similarly, modeling

9   is often done using allowable emissions to

10   represent the worst case scenario such as was

11   done for the SO2 attainment demonstration for

12   Lemont and Pekin areas. Doing so demonstrates

13   that even if every source in the model were to

14   emit at their absolute highest allowed levels,

15   the area would still be in attainment of the

16   standard. Use of allowable emissions is the

17   most conservative way to do modeling and

18   planning.

19   MR. MORE: Question 6, does the

20   Agency use allowable emissions in connection

21   with the implementation of air regulations?

22   MR. BLOOMBERG: Yes.

23   MR. MORE: And if so, would you

24   please give us some examples?

Page 24

1   MR. BLOOMBERG: I kind of answered

2   that question in No. 5.

3   MR. MORE: Thank you.

4   Question 7, does the Agency

5   use allowable emissions in connection with the

6   enforcement of air regulations?

7   MR. BLOOMBERG: Yes.

8   MR. MORE: And if so, could you

9   please give some examples?

10   MR. BLOOMBERG: Emission limits

11   are set in terms of allowable emissions. If

12   a source exceeds an allowable emission limit

13   that was set in a rule or a permit, it is in

14   violation of that rule or permit and may be

15   subject to enforcement.

16   MR. MORE: Question 8, has the

17   Agency used allowable emissions in connection

18   with other air rulemakings?

19   MR. BLOOMBERG: Yes.

20   MR. MORE: Please identify which

21   rulemakings and give a brief description of

22   how allowable emissions were used to support

23   those air regulations.

24   MR. BLOOMBERG: Really, any air

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1 rulemaking that sets an emission limit is making

2 use of an allowable emission level.

3   I discussed one such example

4 in response to Question 5, the SO2 rulemaking.

5 The allowable limits for affected sources were

6 set by using modeling to determine how much

7 the sources could emit without threatening

8 the National Ambient Air Quality Standards

9 or NAAQS.

10   MR. MORE: I believe you've already

11 answered -- I'm sorry.

12   Were you finished?

13   MR. BLOOMBERG: No. Those limits

14 were then set in the rule.

15   MR. MORE: I believe you've already

16 answered Question 9, but I'll read it into the

17 record and you can confirm that.

18   Why did the Agency use

19 allowable emissions in these other instances

20 to evaluate whether the -- strike that.

21   Question 9, I don't believe

22 you've answered.

23   Why did the Agency use

24 allowable emissions to evaluate whether the

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1 proposal is as protective as the current

2 MPS?

3   MR. BLOOMBERG: As I mentioned,

4 the only way to properly evaluate a worst case

5 scenario is by comparing allowable emissions.

6 Actuals can and do fluctuate due to many

7 circumstances that are unrelated to regulation.

8   The proposal puts a specific

9 cap on emissions with certainty that the

10 emission level cannot be legally exceeded.

11   MR. MORE: Okay.

12   HEARING OFFICER TIPSORD: Excuse me,

13 Mr. More. We have some follow-up.

14   MR. ARMSTRONG: Andrew Armstrong

15 from the Attorney General's office.

16   Is it your testimony that

17 actual emissions should not be considered

18 in determining the environmental impact when

19 the rules change?

20   MR. BLOOMBERG: I believe we

21 already answered that in pre-filed questions

22 and answers.

23   Of course, actuals have to

24 be considered, but the only way to set a limit

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1   is with an allowable.

2   MR. RAO: May I ask a follow-up

3   too?

4   HEARING OFFICER TIPSORD: Yes.

5   MR. RAO: Mr. Bloomberg, you

6   mentioned that they use allowable emissions

7   in support of this current proposal before

8   the Board and did you use that for every

9   plant that is covered by this proposal or

10   was it based on an overall allowable emission

11   for NOx and SO2?

12   MR. BLOOMBERG: I think I understand

13   your question, so I'll give it a shot.

14   The overall cap obviously

15   applies to all of them together. As was

16   discussed in the TSD, Technical Support

17   Document, and in, I believe, many of our

18   pre-filed answers, we also reviewed the

19   modeling done at each of the plants for SO2

20   specifically to look at whether or not there

21   needed to be an additional limit. That's how

22   we ended up with the Joppa limit.

23   MR. RAO: And in those modeling

24   that you reviewed, did you use allowable

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1   emissions or actual emissions?

2   MR. BLOOMBERG: In those specific

3   cases, because the modeling was done for the

4   data requirements rule, the DRR, those were

5   done using actual emissions of specific years

6   per the requirements of the DRR, but we looked

7   at it to see, okay, how much could emissions

8   go up before we would be worried because that

9   type of modeling is a pretty direct comparison.

10   There are some types of

11   modeling where you don't know what might

12   happen if emissions go up. That particular

13   type of modeling, the amount of pollutant

14   in any receptor in the model is going to

15   directly correlate to the amount emitted.

16   MR. RAO: So you mentioned in

17   these modelings that you have viewed, there

18   were specific years of actual emissions that

19   were used.

20   Would you be able to provide

21   the Board with a summary of these modeling

22   informations for the various plants covered

23   by this proposal along with what years the

24   actual emissions were used?

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1   Because the information that

2   you provided for the actual emissions, you

3   know, it shows a very decreasing trend in

4   emissions. It would be helpful to see what

5   actual emissions were used in this modeling

6   exercise to give us an idea of how the

7   results come forward with what you are

8   proposing to us.

9   MR. BLOOMBERG: Yes. We can

10   provide that information. I don't have that

11   handy.

12   MR. RAO: Yes. I understand that.

13   Thank you.

14   MR. MORE: Along those same lines,

15   what was the purpose of evaluating the actual

16   emissions and the potential increase that may

17   occur in emissions in the context of this

18   model?

19   MR. BLOOMBERG: The original

20   purpose was data requirements. We were

21   required by federal regulation to do it,

22   to evaluate whether or not any areas that

23   had been identified within the data

24   requirements were by US EPA, and by us,

1   to evaluate whether there was a threat of

2   violating the NAAQS.

3   That was the original

4   purpose. None of the areas in question

5   here under the Data Requirements Rule had

6   that as an issue.

7   The follow-up reason was

8   to ensure that any -- in proposing this

9   rule, we would not have any worries about

10   endangering the NAAQS under the Data

11   Requirements Rule here either.

12   So, therefore, we reviewed

13   that modeling again to see how much room

14   there was basically between what was modeled

15   and where the NAAQS level is. And that is

16   where the Joppa limit came from because

17   Joppa was close enough. The modeling was

18   close enough that it gave us a little

19   concern that we needed to put a limit there

20   to make sure we would not have to remodel

21   this area in the future as the Data

22   Requirements Rule requires when emissions

23   increase at certain plants.

24   MR. MORE: So, in other words,

1   you are evaluating whether or not the

2   difference between the actuals used in

3   the model and a potential associated with

4   the plants, whether there was sufficient

5   room such that it wouldn't trigger a

6   violation of the NAAQS had you input into

7   the model the potential emissions were the

8   allowable emissions?

9   MR. BLOOMBERG: Essentially, yes.

10   MR. MORE: And in the case of

11 Joppa, that Delta -- the allowables was close

12 to the point where it may result, if you put

13 that number into the model, an exceedance of

14 the NAAQS?

15   MR. BLOOMBERG: It could have.

16   MR. RAO: May I ask the follow-up?

17   MR. MORE: Yes.

18   MR. RAO: Mr. More mentioned, you

19 know, how you compared the Delta between actual

20 and allowable.

21   So the allowables are what you

22 have presented in the tables, I think, one, two

23 and three or is it a different?

24   MR. BLOOMBERG: Again, that's part

1   of the clarification. Although this column

2   says allowable emissions, really it's the final

3   total that is the allowable. Everything else

4   is not, for lack of a better term, a real

5   allowable per unit there.

6   MR. RAO: I understand. Based on

7   Mr. Rory Davis's testimony, but I wanted to

8   know the allowable emissions in Table 1, for

9   example, for SO2, is that what you use to compare

10   with the DRR modeling actuals?

11   MR. BLOOMBERG: No, no.

12   MR. RAO: No. So what did you use

13   to make a determination that you can go higher

14   than the actuals?

15   MR. BLOOMBERG: We reviewed the

16   information that we had about the plants and

17   we reviewed how far away they were from causing

18   any potential -- you know, having the potential

19   to cause an issue, and determined that it was

20   not of concern.

21   MR. RAO: Would it be possible for

22   you to submit that information to the Board,

23   what numbers are that you used?

24   Was there any modeling done

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1 or was it just visually looking at these

2 numbers and deciding?

3   MR. BLOOMBERG: The latter. It was

4 visually looking at them and determining. There

5 was -- as I said, because SO2 modeling of this

6 type is a direct correlation, we didn't need to

7 run all the models again.

8   HEARING OFFICER TIPSORD: And,

9 Mr. Rao, just for point of clarification, the

10 tables you're referring to are found in what

11 document?

12   MR. RAO: It is found in Mr. Davis's

13 testimony, the TSD.

14   MR. DAVIS: Rory Davis. I believe

15 some of your questions will be answered by your

16 previous question for the summary of the

17 modeling results and what years the actuals

18 were used.

19   I'm not prepared to say exactly

20 for each plant which years were used right now,

21 but we will provide that.

22   MR. RAO: Okay. Thank you very

23 much.

24   HEARING OFFICER TIPSORD: Go ahead,

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1   Mr. More.

2   MR. MORE: I'll move on to

3   Question 10.

4   Earlier, you mentioned the

5   NAAQS, National Ambient Air Quality Standards.

6   What is the purpose of the National Ambient Air

7   Quality Standards?

8   MR. BLOOMBERG: The NAAQS are

9   federal air quality standards designed to

10   protect human health with an adequate margin

11   of safety.

12   The NAAQS are based on

13   scientific analysis of how concentrations

14   of various pollutants affect human health.

15   MR. MORE: And what role does --

16   Question 11, what role does the state play

17   in implementing the NAAQS?

18   MR. BLOOMBERG: The state's

19   responsible for ensuring all areas comply

20   with the NAAQS in accordance US EPA guidance.

21   If an area does not comply, the state is

22   responsible for creating a plan, which may

23   include regulations to bring the area into

24   attainment with NAAQS.

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1   MR. MORE: Question 12, what is

2   the purpose of a state implementation plan

3   in connection with the state's implementation

4   of the NAAQS?

5   MR. BLOOMBERG: A state

6   implementation plan, or SIP, is the state's

7   plan for attaining and maintaining federal

8   air quality standards. The state must submit

9   regulations that are part of the state's plan

10 to US EPA, which incorporates them into the

11 SIP.

12   This makes such regulations

13 federally enforceable and provides US EPA

14 oversight to ensure NAAQS-related obligations

15 are met.

16   MR. MORE: Is the MPS part of any

17 State Implementation Plan that is currently

18 being used by the state to implement any NAAQS?

19   MR. BLOOMBERG: No, not any NAAQS.

20 The MPS is only part of the regional haze SIP

21 under Clean Air Act Section 169(a).

22   MR. MORE: Question 14, why did

23 the Agency seek input from US EPA prior

24 to submitting the proposal to the Illinois

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1   Pollution Control Board?

2   MR. BLOOMBERG: As I mentioned,

3   the MPS is part of the regional haze SIP.

4   Illinois EPA used the MPS to meet its

5   obligations to reduce regional haze.

6   As such, the Agency sought

7   input from US EPA to ensure they agreed that

8   the changes being proposed would continue to

9   meet Illinois' obligations under regional

10   haze. Any rule adopted in this proceeding

11   must be submitted to US EPA for approval.

12   MR. MORE: What input or comments

13   did US EPA provide on the proposal in response

14   to the Agency's request?

15   MR. BLOOMBERG: US EPA asked for

16   a minor change in wording regarding the

17   operation of SCRs. SCRs are --

18   MR. DAVIS: Selective catalytic

19   reduction.

20   MR. BLOOMBERG: Yes. Otherwise,

21   US EPA Region 5 conveyed to me that the proposed

22   change and the Section 110(l) anti-backsliding

23   demonstration are acceptable and that Illinois

24   EPA could convey that information to the Board.

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1   Additionally, it was stated

2   to me that this is a pretty straitforward

3   reduction in allowable emissions so it is

4   pretty easy because for Section 110(l) purposes,

5   it is a SIP-to-SIP comparison of allowable

6   emissions.

7   HEARING OFFICER TIPSORD: All right.

8   Mr. Armstrong?

9   MR. ARMSTRONG: I have one follow-up

10   question.

11   Attached to the Agency's

12   pre-filed answers was a single email from

13   Mr. Bloomberg to Douglas Aburano at the EPA.

14   Is this the only written correspondence between

15   the Illinois EPA and the US EPA relating to

16   this proposal?

17   MR. BLOOMBERG: That is the only

18   written correspondence that I have. Well, we

19   have regular conference calls with Region 5

20   in which we discuss things that we have

21   submitted to them, things that we are working

22   on.

23   In this case, we had separate

24   calls as well where they went over the language

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1   they wanted changed in the SCR and also the

2   information that I have just provided in answer

3   to the question.

4   That was a one-on-one phone

5   call with Doug Aburano, who is a manager. I

6   don't know his exact title, but he is a manager

7   of a SIP-related unit at Region 5.

8   MR. MORE: Let me just confer. I'll

9   take just one minute.

10   HEARING OFFICER TIPSORD: Okay.

11   MR. MORE: Thank you.

12   (Brief pause.)

13   MR. MORE: I have one additional

14   question.

15   Unfortunately, I only have

16   one copy of this document that I would like

17   to show Mr. Bloomberg to refresh his

18   recollection.

19   This is an email. Let me

20   describe it for the record and I will bring

21   it to you, Mr. Armstrong, in a moment. It's

22   an email from Douglas Aburano dated Tuesday,

23   August 22, 2017, to Mr. Bloomberg responding

24   to his initial email inquiry. We'll be happy

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1   to make copies of it for the Board.

2   Mr. Bloomberg, take a look at

3   that if you would, please.

4   (Document tendered

5   to the witness.)

6   MR. BLOOMBERG: Okay.

7   Okay. I mean, yes. It

8   looks like this was an email from Doug to me.

9   I had sent an email out from myself to my

10   staff with the same information in it. We

11   were looking for emails from Doug to me and

12   apparently our email search functions are

13   not as good as we had thought they were.

14   MR. MORE: Or what you included

15   in response to FOIA.

16   MR. BLOOMBERG: Yeah. So, yeah,

17   this is an email -- appears to be an email

18   from Doug Aburano to me.

19   MR. MORE: And what does the email

20   say?

21   MR. BLOOMBERG: The email says,

22   yes, we think you can -- I'm sorry. "Yes,

23   we think we can work with what you sent

24   because this is a pretty straightforward

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1   reduction in emissions, this is pretty easy

2   and not a lot of info is needed. It could

3   be bolstered by a NAAQS-by-NAAQS description

4   of how each isn't going to be affected by

5   these changes. Something to keep in mind

6   for a future 110(l) analyses."

7   MR. MORE: I'm going to provide

8   it to Mr. Armstrong in case he has some

9   additional questions.

10   HEARING OFFICER TIPSORD: Okay.

11   MR. MORE: We will make copies

12 during a break.

13   HEARING OFFICER TIPSORD: Thank you

14 very much, Mr. More.

15   Any other questions for the

16 Agency from Mr. More?

17   MR. MORE: I have no further

18 questions. Thank you.

19   HEARING OFFICER TIPSORD: With that,

20 we will move to the people. We have pre-filed

21 answers to your questions, but if you have any

22 follow-ups?

23   MR. ARMSTRONG: We do have several

24 follow-ups.

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1   HEARING OFFICER TIPSORD: Before

2 you start, Mr. Armstrong, I just want to let --

3 if there's anyone in the back, there is some

4 table space up front here and here in the middle

5 of the room if anyone wants to come and sit at

6 any of the tables.

7   Go ahead, Mr. Armstrong.

8   MR. ARMSTRONG: My first follow-up

9 question is not actually until Question 9 of

10 the People's pre-filed questions.

11   So Question 9, Page 3

12 identifies the affected units --

13   THE COURT REPORTER: Can you please

14 speak up, sir?

15   MR. ARMSTRONG: Sure.

16   So Question 9, Page 3

17 identifies the affected units are currently

18 subject to fleet wide emission rates for

19 nitrogen oxides and sulfur dioxide in Section

20 225.233(e). I'm sorry. I'm reading from the

21 Board's questions. My apologies.

22   HEARING OFFICER TIPSORD: I was

23 going to say that's not the Question 9 on my

24 sheet.

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1   MR. ARMSTRONG: Let me go back.

2   So my first follow-up question

3   is on Question 2(c). So I'll read the entire

4   Question 2 and then Subpart (c).

5   At Page 2 of Rory Davis's

6   testimony, he states that one of the purposes

7   of this rulemaking is to provide Dynegy with

8   "operational flexibility."

9   Subpart (c), in what way would

10   Illinois EPA's proposed amendments allow Dynegy

11   to change its current operations?

12   The answer was Dynegy may

13   choose to not operate more costly units at

14   times that are financially disadvantageous

15   strictly for the purpose of meeting a fleet

16   wide rate-based limit.

17   My follow-up question is,

18   is this the only way in which IEPA anticipates

19   its amendments would allow Dynegy to change its

20   operations?

21   MR. BLOOMBERG: It's not the only

22   way that it's possible, but it is the way

23   that was foremost in terms of a reason for

24   looking at operational flexibility.

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1   MR. ARMSTRONG: What other changes

2 in operations are possible?

3   MR. BLOOMBERG: That is a very

4 wide ranging question. There are many changes

5 in operation that they could do right now that

6 they could also do under this rule. It's too

7 wide ranging to really provide an answer, in my

8 opinion.

9   MR. ARMSTRONG: Well, is it possible

10 that Dynegy could increase utilization of

11 unscrubbed plants under the proposed rules

12 compared to current usage?

13   MR. BLOOMBERG: They could, but

14 they could also do the same under the current

15 rule.

16   MR. ARMSTRONG: So my next follow-up

17 question is on Question 4(b) -- I'm sorry.

18 I'll step up here to make it easier for the

19 court reporter.

20   HEARING OFFICER TIPSORD: Thank you,

21 Mr. Armstrong.

22   MR. ARMSTRONG: So the technical

23 support document states at Page 5 that

24 Dynegy informed the Agency that in recent

1 years, the structure of the current MPS has

2 led to the company operating some units at a

3 financial loss in order to operate other units

4 in the MPS groups.

5   Subpart (d), what steps did

6 Illinois EPA take to verify the information

7 provided by Dynegy?

8   The answer was a review of the

9 relative capacities of the units in the two MPS

10 groups and the emission rates in which those

11 units regularly operate indicates that well

12 controlled units in each fleet would need to

13 operate in order for either current group to

14 meet current MPS limits. It is also reasonable

15 to assume those controlled units would be more

16 costly to run.

17   So my first question is could

18 you elaborate a little bit on the point in the

19 first sentence? I have to admit I had to read

20 that a few times before I think I got where you

21 were going with it.

22   MR. DAVIS: Right. So the -- Rory

23 Davis.

24   The capacities at the

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1   individual units and what emission rates they

2   generally run at during the year, along with

3   the margin of compliance that the total fleet

4   is operating at, would indicate that some

5   units are being operated in order to bring

6   down that fleet wide average.

7   MR. ARMSTRONG: So let's talk about

8   those rates at which those units are regularly

9   operated first.

10   Are those rates fairly static

11 from year-to-year?

12   MR. DAVIS: That, I couldn't say.

13 Some are and some may fluctuate.

14   MR. ARMSTRONG: Well, we can come

15 back to that in a little bit.

16   Generally speaking, though,

17 the amount of time then that Dynegy can operate

18 its higher emitting plants is limited by the

19 amount of time it operates its well-controlled

20 plants; is that correct?

21   MR. BLOOMBERG: I think it's the

22 reverse that -- sort of the reverse.

23   If they need to operate the

24 higher emitting plants because of demand, you

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1   know, support of the grid, whatever reason,

2   then they also sometimes have to operate the

3   other plants simply to offset them even though

4   they may be operating at a significant financial

5   loss, the grid may not need the power. It may

6   simply be operating to bring down the average.

7   MR. ARMSTRONG: So let's say --

8   let's talk about the Dynegy plants that are

9   scrubbed.

10   We can call those Baldwin,

11 Havana, Coffeen and Duck Creek. These are

12 the plants that are controlled with either

13 SDA or FGD; is that correct?

14   MR. BLOOMBERG: Yes.

15   MR. ARMSTRONG: Let's say that

16 Dynegy operated its scrub plants at 100 percent

17 capacity factor.

18   Would Dynegy, consistent with

19 the MPS as it currently stands, be able to

20 operate its unscrubbed plants at 100 percent

21 capacity factor and still comply with the MPS?

22   MR. BLOOMBERG: First, I don't

23 know.

24   Second, it is an unrealistic

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1   scenario that they would be operating those

2   plants at 100 percent all the time.

3   MR. ARMSTRONG: So -- well, first

4   of all, let's turn to Technical Support Document

5   at Page 9, Table 1, the allowable emissions.

6   What you just referred to as

7   unrealistic scenario is the basis for this

8   table; is it not?

9   MR. BLOOMBERG: As I said in

10 response to the Dynegy questions, yes,

11 allowable emissions often have very little

12 to do with actual emissions throughout all

13 of the Board's rules.

14   MR. ARMSTRONG: And so this is

15 the -- this is a baseline by which the Agency

16 believes the Rule amendments should be judged;

17 is that correct?

18   MR. BLOOMBERG: What is a baseline?

19   MR. ARMSTRONG: The emissions

20 allowable as demonstrated in Table 9.

21   MR. BLOOMBERG: I don't understand

22 what you're saying regarding how it should be

23 judged. That number there is not being

24 proposed by the Agency.

1   MR. ARMSTRONG: Well, you're using

2   that number and comparing it with a cap of

3   55,000 tons; is that correct?

4   MR. BLOOMBERG: Yes.

5   MR. ARMSTRONG: So you're using the

6   number in Table 1 as a baseline to judge the

7   environmental impact of a cap of 55,000 tons; is

8   that correct?

9   MR. BLOOMBERG: We are showing that

10   this allowable -- I'm sorry -- that the 55,000

11   ton cap as an allowable is lower than the

12   allowable they currently have.

13   MR. ARMSTRONG: So you just testified

14   that you don't know whether if Dynegy operated

15   its cleanest plants at 100 percent capacity

16   factor, whether it would then be able to operate

17   the rest of its plants at 100 percent capacity

18   factor; is that correct?

19   MR. BLOOMBERG: We have not done

20   those specific calculations.

21   MR. ARMSTRONG: Do you know if

22   anybody participating in this rulemaking has

23   undertaken that analysis?

24   MR. BLOOMBERG: No.

1   MR. ARMSTRONG: Okay. Mr. Davis --

2   HEARING OFFICER TIPSORD: Excuse me,

3 Mr. Armstrong.

4   MR. DAVIS: I have something to add.

5   That calculation would involve

6 assumptions about the emission rates of other

7 units that they are not required to meet on a

8 unit or source-specific basis. So that

9 calculation would be difficult to -- it would

10 be difficult to make without making assumptions

11 that we can't -- we wouldn't be able to make

12 without --

13   MR. ARMSTRONG: What units are you

14 referring to, uncontrolled units?

15   MR. DAVIS: Any of them, really.

16   MR. ARMSTRONG: Well, I guess

17 we can get into this now then. I mean,

18 elsewhere in response to the environmental

19 groups' questions, for example, Page 16 of

20 the Agency's pre-filed answers, Question 16 --

21   MR. BLOOMBERG: What page?

22   MR. ARMSTRONG: Page 35, at the

23 bottom, I believe the question was is it

24 true that under IEPA's proposal, the more

1   that units in the IEPA's group retire or are

2   mothballed or the less the unit is run, the

3   higher the rate of emission is for remaining

4   units could go in pounds per million Btu,

5   and the answer was that there were no other

6   limits that applied and, theoretically, yes,

7   but collectively, the Btus are still restricted

8   by other state and federal requirements. Also,

9   it is unlikely that emission rates of

10   uncontrolled units will increase.

11   So you would agree that it's

12   unlikely that emission rates of uncontrolled

13   units won't increase; is that correct?

14   MR. DAVIS: That was our answer,

15   yes.

16   MR. ARMSTRONG: And then on Page 33,

17   Question 9 from the environmental group, is it

18   IEPA's understanding that plants may be less

19   expensive to operate with their scrubbers turned

20   off?

21   The answer was yes, it may be

22   less expensive to operate units without

23   scrubbers, but the Agency is not certain

24   what "turned off" means with regard to the

1 particular controls of the Dynegy units.

2 The Agency does not believe that the Dynegy

3 units with scrubbers will operate without

4 control.

5   At the Baldwin and Havana

6 units, Dynegy is required by federal consent

7 decree to operate controls and the controls

8 at Coffeen and Duck Creek units are the type

9 of control that cannot be easily by-passed.

10   So you would agree that the

11 emission rates at those scrub plants would

12 be unlikely to change, too; would you not?

13   MR. DAVIS: I couldn't say for

14 sure. Under what circumstances would they

15 change, would be the question.

16   MR. ARMSTRONG: Well, that would

17 be my question for you; under what circumstances

18 would the emission rates at Coffeen, Duck Creek,

19 Baldwin or Havana change?

20   MR. DAVIS: Certainly, the emission

21 rates at Baldwin and Havana cannot rise above

22 the level of 0.100 pounds per million Btu,

23 just pounds per million Btu, because it's

24 required to meet those limits by a federal

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1 consent decree.

2   So if there are current

3 emissions, which I don't have the data in front

4 of me, if they are somewhat lower than that,

5 then it's possible they could increase or

6 decrease, but they can't rise above the consent

7 decree limits, but they could change.

8   MR. ARMSTRONG: Well, let's talk

9 about another way the emission rates might

10 also change, which would be Dynegy's

11 installation of new pollution controls on

12 the MPS fleet.

13   Earlier, you talked about the

14 margin of compliance that Dynegy currently has

15 and could you explain the margin compliance

16 concept a little bit more?

17   MR. DAVIS: Just that the limit

18 on one MPS Group is 0.19 pounds per million

19 Btu and the limit on the other MPS Group is

20 0.23 pounds per million Btu and the fleet wide

21 emission rates are generally close to those

22 or whatever the limits have been in the past.

23   MR. ARMSTRONG: So could Dynegy

24 increase its margin of compliance by adding

1   pollution controls and thereby moving a

2   plant from the unscrubbed column to the

3   scrubbed column?

4   MR. DAVIS: That is possible and

5   this is something I've given some thought to.

6   An additional control may actually allow

7   them to increase state wide emissions.

8   MR. ARMSTRONG: Strictly speaking --

9   MR. DAVIS: Under the current MPS.

10   MR. ARMSTRONG: Strictly speaking

11 about compliance with the MPS, though, and

12 the perceived need for operational flexibility,

13 could Dynegy's installation of additional

14 pollution controls on the MPS fleet relieve

15 a need for operational flexibility?

16   MR. BLOOMBERG: In the absence of

17 any economic consideration, yes. However,

18 real world decisions are not made in the

19 absence of any economic information and

20 controls are not cheap.

21   MR. ARMSTRONG: Did IEPA discuss

22 with Dynegy the possibility of adding

23 additional controls to the MPS fleet in

24 developing this proposed rulemaking?

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1   MR. BLOOMBERG: I don't recall

2   whether or not that came up.

3   MR. ARMSTRONG: Are you familiar

4   with a variance that was granted to Dynegy,

5   rather, Illinois Power Holdings in PCB 14-10?

6   MR. BLOOMBERG: I'm familiar that

7   there were variances granted. That one, off

8   the top of my head, I'd have to look up.

9   MR. ARMSTRONG: So you're unaware

10   of what the conditions of that variance were?

11   MR. BLOOMBERG: Off the top of my

12   head, I'm unaware of that. I do have a summary

13   sheet in front of me now, but...

14   MR. ARMSTRONG: Well, I mean, it

15   sounds like in developing this rulemaking, the

16   possibility of Dynegy adding pollution controls

17   to the MPS fleet was not discussed between IEPA

18   and Dynegy.

19   MR. BLOOMBERG: That's not what I

20   said. I said I don't recall.

21   MR. ARMSTRONG: Okay. So to your

22   knowledge, as the Agency witness here, you

23   don't recall any such discussions?

24   MR. BLOOMBERG: Correct. I don't

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1   recall that.

2   MR. ARMSTRONG: I would actually

3   like to skip back to Question 4(a).

4   Did Dynegy identify for

5   Illinois EPA which of its units had been

6   operated at a financial loss to facilitate

7   the operations of which of its other units?

8   The answer is Dynegy used

9   the Coffeen plant as an example in discussions,

10   though, that is not necessarily the only such

11   unit.

12   My follow-up question is --

13   MS. ROCCAFORTE: Excuse me. There

14   are numerous fours throughout --

15   HEARING OFFICER TIPSORD: That's on

16   Page 15.

17   MR. ARMSTRONG: Right. My apologies.

18   So the answer was Dynegy used

19   the Coffeen plant as an example in discussions,

20   though, that is not necessarily the only such

21   unit.

22   How did Dynegy use the

23   Coffeen plant as an example exactly? That

24   as an example for what?

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1   MR. BLOOMBERG: As an example of

2   a unit that had been operated at a financial

3   loss.

4   MR. ARMSTRONG: Did Dynegy provide

5   dates or times when Coffeen was operated as a

6   financial loss?

7   MR. BLOOMBERG: No. I -- I don't

8   think they necessarily look at it in quite

9   that way, but that would be a better question

10   for Dynegy.

11   MR. ARMSTRONG: Does the Agency

12   have any understanding of how often the

13   Coffeen plant was operated at a loss according

14   to Dynegy?

15   MR. BLOOMBERG: We don't have any

16   specific information of that type.

17   MR. ARMSTRONG: So we've got an

18   exhibit that -- actually, we've got two

19   exhibits that Mr. Sylvester will be giving

20   out to people, but in the meantime, I did

21   have one follow-up question.

22   I mean, this claimed need

23   for operational flexibility is the basis

24   for this rulemaking; is it not?

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1   MR. BLOOMBERG: One of the basis

2   for this rulemaking, yes.

3   MR. ARMSTRONG: And operational

4   flexibility is defined as Dynegy being able

5   to bid its plants economically and not

6   being required to bid in uneconomic plants;

7   is that correct?

8   MR. BLOOMBERG: Yes.

9   MR. ARMSTRONG: And is that your

10   sole understanding of what operational

11   flexibility means?

12   MR. BLOOMBERG: Yes. I think we've

13   already stated that, yes.

14   MR. ARMSTRONG: And the Agency then

15   doesn't have any understanding, it sounds like,

16   of how often Dynegy would have any need for

17   this operational flexibility in the real world;

18   is that correct?

19   MR. BLOOMBERG: Can you restate the

20   question, please?

21   MR. ARMSTRONG: Could you please

22   reread my question?

23   THE COURT REPORTER: Sure.

24   (Whereupon, the requested

1   portion of the record was

2   read accordingly.)

3   MR. BLOOMBERG: Specifically how

4   often, no.

5   MR. ARMSTRONG: My next follow-up

6   is on Page 17, Question 7.

7   On Page 3 of Rory Davis's

8   testimony, he states that the units affected

9   by this rulemaking are subject to the cross

10   state air pollution rule as Illinois EPA

11   considered how its proposed amendments would

12   affect the number of allowances that Dynegy

13   would be permitted to sell or trade under

14   Section 225.233(f).

15   The answer was yes. And I

16   guess just so we can all make sure we're all

17   on the same page, what is the Agency's

18   understanding of what Section 225.233(f)

19   requires?

20   Mr. Sylvester is handing out

21   two documents that are compliant certifications

22   that were submitted by Dynegy for the calendar

23   year 2016. Once everybody has gotten a chance

24   to take a look at these, I would like to have

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1   them admitted as Exhibits 7 and 8.

2   HEARING OFFICER TIPSORD: All right.

3   Mr. Sylvester has handed me two documents. The

4   first one is dated February 24, 2017, and it is

5   a letter to Ms. Yasmine Keppner-Bauman, Unit

6   Manager, Illinois Environmental Protection

7   Agency. I apologize if I mispronounced that

8   name.

9   If there's no objection, we

10   will admit that. Oh, wait. I need to go

11   further. That is "Re: IPH, LLC, 2016 Allowance

12   Surrender Compliance Report, 35 IAC

13   225.233(f)(5)."

14   If there is no objection, I

15   will admit that as Exhibit No. 7.

16   MR. MORE: I have an objection.

17   I noticed on the first -- it's two documents

18   and the first document references an enclosure.

19   HEARING OFFICER TIPSORD: Okay.

20   Right now, we're only looking at the first

21   document, which is the February 24th IPH, LLC.

22   MR. ARMSTRONG: And I think I

23   may have contributed to some misunderstanding

24   here.

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1   The document -- both of these

2   documents actually include reports from both

3   IPH and Dynegy. So these are more in the nature

4   of a group exhibit.

5   The first document that's

6   stapled February 24, 2017, there is an IPH

7   allowance surrender compliance report and

8   then an MPS Group allowance surrender report.

9   That may help clear up some of the confusion.

10   MR. MORE: Mr. Armstrong, you

11   are entering these as two separate exhibits,

12   correct?

13   MR. ARMSTRONG: Well, we can do

14   that if that's preferable.

15   MR. MORE: The first exhibit, they

16   both reference -- appear to reference that

17   there were enclosures at the end of these

18   letters.

19   I'm curious as to whether or

20   not this is a complete copy of the submittal

21   or is this just a cover page of data submitted

22   in connection with it. I don't know.

23   MR. ARMSTRONG: Well, that's a

24   good question. The Attorney General's Office

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1   obtained these in response to a FOIA request

2   to the Illinois EPA. This -- we requested

3   reports submitted to show compliance with

4   the relevant statute. These were what IEPA

5   provided to us.

6   MR. MORE: How about we see where

7   the questioning goes and to the extent that it

8   relates to something that may have been in an

9   enclosure, I would object to it then.

10   HEARING OFFICER TIPSORD: How

11   about this; since this is a rulemaking and

12   not a contested case, let's go ahead and

13   admit Exhibit 7 subject to any objections

14   you might have to the information therein.

15   (Document marked and entered

16   as Exhibit No. 7 for

17   identification.)

18   HEARING OFFICER TIPSORD: Do

19   you want them in as one exhibit or two?

20   MR. ARMSTRONG: Since they are

21   stapled together, if we could just have them

22   in as one exhibit, that might be the cleanest

23   way to go.

24   HEARING OFFICER TIPSORD: Okay.

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1   Both documents, we will handle as one exhibit.

2   MR. ARMSTRONG: My intent was

3   Exhibit 7 would be IPH, LLC, 2016 Allowance

4   Surrender Compliance Report.

5   HEARING OFFICER TIPSORD: Okay.

6   MR. ARMSTRONG: And then the page

7   after that is MPS Group Allowance Surrender

8   Report.

9   So if we could admit that as

10 Exhibit 7 and then admit the other document

11 as Exhibit 8.

12   HEARING OFFICER TIPSORD: Okay. All

13 right.

14   MR. ARMSTRONG: If that's acceptable

15 to everyone.

16   BOARD MEMBER PAPADIMITRIU: So

17 you're separating the two documents as exhibits?

18   MR. ARMSTRONG: Yes. Thank you.

19   HEARING OFFICER TIPSORD: Give me

20 just a second, please.

21   Okay. The second exhibit,

22 which will be Exhibit No. 8, is also

23 February 24, 2017, to Ms. Yasmine

24 Keppner-Bauman, Section Manager, Illinois

1 Environmental Protection Agency. It's "Re:

2 2016 NOx and SO2 Allowance Surrender Report,

3 Dynegy Midwest Generation MPS Group, 35 IAC

4 225.233(f)(5)."

5   With the same caveat, we

6 will admit that as Exhibit No. 8.

7   (Document marked and entered

8   as Exhibit No. 8 for

9   identification.)

10   MR. ARMSTRONG: Thank you.

11   So if I return to my question

12 on 135 Illinois Administrative Code 225.233(f),

13 can you summarize the Agency's understanding of

14 that requirement?

15   MR. BLOOMBERG: I mean, the rule

16 is in the proposed -- part of the proposed

17 rulemaking. It is (g) in our proposal. We

18 added a different (f), but the general

19 understanding is that there are restrictions

20 on what the MPS groups can -- can sell or

21 trade related to their compliance with the

22 MPS.

23   And so what is the relation

24 there as to what they can sell and trade in

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1   their compliance with the MPS exactly?

2   MR. BLOOMBERG: So basically what

3   it -- you know, what it says is they must

4   not sell or trade allowances allocated for

5   certain years and beyond that would otherwise

6   be available for sale or trade as a result

7   of actions taken to comply with the MPS

8   standards.

9   MR. ARMSTRONG: Have you yourself

10   reviewed these reports before?

11   MR. BLOOMBERG: I do not recall.

12   I know I helped obtain them for the FOIA,

13   but I did not sit down and review them all

14   before providing them to the FOIA department.

15   MR. ARMSTRONG: Has Mr. Davis

16   reviewed them before?

17   MR. DAVIS: I would have the same

18   answer. I -- I knew that they were going in

19   the FOIA. I did not do a detailed review of

20   them.

21   MR. BLOOMBERG: These come into

22   our compliance section.

23   MR. ARMSTRONG: Well, I just

24   wanted to walk through a couple of features

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1 on Exhibit 7.

2   First, on the 2016 allowance

3 surrender compliance report for IPH, turn to

4 Table 2, the calculation table.

5   Do you have an understanding

6 of what the table is showing?

7   MR. BLOOMBERG: Generally, I believe

8 so.

9   MR. ARMSTRONG: What is your

10 understanding?

11   MR. BLOOMBERG: It's their

12 calculation as to what they -- what their

13 cap is, what they emitted, their allocation

14 and what they're surrendering.

15   MR. ARMSTRONG: And so the cap

16 would be Table 2. Look at that first column, SO2

17 (ARP). The cap there would have been the amount

18 of sulfur dioxide that was allowed for this MPS

19 Group to emit during 2016 by the MPS; is that

20 correct?

21   MR. BLOOMBERG: I believe so at that

22 specific heat input.

23   MR. ARMSTRONG: Well, for the

24 year -- for the manner in which the MPS Group

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1   was operating at 2016, that was the amount of

2   emissions allowable under the MPS; is that

3   correct?

4   MR. BLOOMBERG: For that heat

5   input. Heat inputs -- as we have stated

6   repeatedly, heat inputs vary. That particular

7   year was a very low year for Dynegy.

8   MR. ARMSTRONG: So let's turn to

9   the MPS Group NOx and SO2 allowance and surrender

10   report for Dynegy Midwest Generation MPS Group,

11   Table 2, there is also a cap for

12   SO2 (ARP) of 21,713 tons.

13   Would it also be your

14   understanding that that cap was the amount

15   of sulfur dioxide that this MPS Group was

16   allowed to emit under MPS for calendar year

17   2016?

18   MR. BLOOMBERG: My same answers

19   apply.

20   MR. ARMSTRONG: So I won't test

21   anyone's math skill --

22   MR. RAO: Did you say Table 2?

23   MR. ARMSTRONG: Yes.

24   MS. LIU: We don't have a page

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1   number.

2   HEARING OFFICER TIPSORD: Of

3   Exhibit 8.

4   MR. ARMSTRONG: I'm sorry. I'm on

5   Exhibit 7.

6   MR. RAO: We are still on Exhibit 7.

7   MR. ARMSTRONG: Yes.

8   MR. RAO: Thank you.

9   MR. ARMSTRONG: Okay. So, I mean,

10   if you combined these two caps, you would get

11   the amount of sulfur dioxide that the MPS Group

12   was allowed to emit for the calendar year 2016

13   under the MPS; is that correct?

14   MR. BLOOMBERG: Yes, in hindsight

15   at that particular input. Their heat input

16   could have increased, it could have decreased.

17   It was a low year for heat input for Dynegy.

18   MR. ARMSTRONG: Had the Agency's

19   proposed amendments been in effect during 2016,

20   the MPS Group would have been allowed to emit

21   55,000 tons of SO2; is that correct?

22   MR. BLOOMBERG: Yes.

23   HEARING OFFICER TIPSORD: Excuse

24   me. Mr. Armstrong, just one quick question.

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1   There's an asterisk on these documents in

2   Exhibit 8. The asterisk appears -- I'm sorry --

3   in Exhibit 7, it appears on Coffeen and in

4   Exhibit 8, it appears on Baldwin. Were those

5   part of the originals that you received?

6   MR. ARMSTRONG: Yes.

7   HEARING OFFICER TIPSORD: Thank you.

8   MR. BLOOMBERG: I can explain those.

9   For our document tracking,

10   Dynegy sends in one report. However, our

11   document tracking tracks according to I.D.

12   number. So perhaps it's not the most efficient

13   way to do it, but it is the way they do it.

14   They make a copy of the document for each of

15   the different plants. So this happened to be

16   the document that was pulled from Coffeen.

17   HEARING OFFICER TIPSORD: Thank you.

18   BOARD MEMBER PAPADIMITRIU: Thank

19   you.

20   MR. ARMSTRONG: So referring to

21   Exhibit 8, this is a 2016 NOx SO2 MPS Compliance

22   Report for the Dynegy Midwest Generation MPS

23   Group followed by a 2016 NOx and SO2 MPS Rate

24   Compliance Report for IPH, LLC MPS Group.

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1   Have you seen these reports or

2   similar reports before?

3   MR. BLOOMBERG: Same answer as

4   before.

5   MR. ARMSTRONG: To your knowledge,

6   are these the reports that the Agency uses to

7   determine compliance with the MPS?

8   MR. BLOOMBERG: One of the manners

9   in which they do so, yes.

10   MR. ARMSTRONG: What other manners

11   are there?

12   MR. BLOOMBERG: As with any other

13   compliance situation, you know, field personnel

14   might look at records on-site and, you know,

15   other documents might come in, in particular,

16   like annual certifications, perhaps semiannual

17   certifications. There's a lot of documentation

18   that comes in that may or may not play a role

19   in compliance determination.

20   MR. ARMSTRONG: So returning to

21   pre-filed Question 7(b), if so, what effect

22   would Illinois EPA's proposed amendments have

23   on the minimum allowances that Dynegy would

24   be permitted to sell under Section 225.233?

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1   The number of allowances

2   would fluctuate in the market in a similar

3   fashion as it does currently. For that

4   reason, any conclusion would be highly

5   speculative.

6   The proposed amendments

7   may allow Dynegy to sell or trade more

8   allowances than allowed currently. Under

9   what circumstances would the proposed

10   amendments allow Dynegy to sell or trade

11   more allowances than allowed currently?

12   MR. BLOOMBERG: When they have

13   low usage.

14   MR. ARMSTRONG: What does "low

15   usage" mean?

16   MR. BLOOMBERG: When the plants

17   are not being operated as frequently as they

18   are in some other years.

19   MR. ARMSTRONG: Could you put a

20   number on that?

21   MR. BLOOMBERG: I don't understand

22   what you want me to put a number on.

23   MR. ARMSTRONG: Like a fleet wide

24   capacity factor.

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1   MR. BLOOMBERG: Not off the top of

2   my head.

3   MR. ARMSTRONG: Okay. So I had a

4   follow-up question on number ten. I'm going to

5   confer briefly with my colleagues.

6   (Brief pause.)

7   MR. ARMSTRONG: I believe I have

8   two more follow-up questions.

9   I wanted to go back first to

10 Exhibit 8, which was the compliance report.

11   HEARING OFFICER TIPSORD: One second.

12 Hang on.

13   UNIDENTIFIED AUDIENCE MEMBER: We

14 can't hear you back here. It's very hard to

15 hear.

16   HEARING OFFICER TIPSORD: All right.

17 We're going to get some microphones. Go ahead.

18 Just project. We will be getting microphones.

19   Also, there are still some

20 spaces at some of the tables up here if you

21 want to come up.

22   MR. ARMSTRONG: With respect to

23 Exhibit 8, do you find it difficult to review

24 this exhibit and determine whether the Dynegy

 1   MPS fleet is in compliance with the MPS

 2   emission rates?

 3   MR. BLOOMBERG: On the second page

 4   of Exhibit 8, it looks pretty clear that they

 5   are in compliance.

 6   MR. ARMSTRONG: My last question --

 7   HEARING OFFICER TIPSORD: Excuse me,

 8   Mr. Armstrong.

 9   MR. ARMSTRONG: Oh, thank you.

10   Now, you won't be able to take this out of my

11   hands.

12   My final question was on

13   pre-filed Question 10. On September 27,

14   2017, the Chicago Tribune reported that Alec

15   Messina, Director of the Illinois Environmental

16   Protection Agency, set a goal of Illinois EPA's

17   proposed amendments is to keep the financially

18   struggling coal plants open by giving Houston

19   based Dynegy more flexibility to operate

20   individual generating units several of which are

21   not operated with modern pollution controls.

22   Does Illinois EPA agree that a goal of this

23   rulemaking is to keep plants within the MPS

24   Group open? Please explain the rationale for

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1 your answer.

2   The answer was, first, the

3 Agency notes that the quoted question is from

4 the Tribune article, not Director Messina.

5 The Agency does not agree with the Tribune's

6 characterization of the director's statements.

7 The proposed amendments are intended to provide

8 operational flexibility while still maintaining

9 air quality in Illinois. The Agency's focus was

10 not preventing the closure of additional Btus in

11 Illinois.

12   And I just wanted to ask the

13 follow-up question because I'm not sure you

14 actually answered the question. Is a goal of

15 this rulemaking to keep plants within the MPS

16 Group open?

17   MR. BLOOMBERG: This was not -- this

18 was not a specific goal. As I said, or as we

19 said in the response, it was not a focus. It

20 was not a goal to keep specific plants open.

21   MR. ARMSTRONG: Okay. Thank you.

22 I have no further follow-up questions.

23   HEARING OFFICER TIPSORD: All right.

24 With that. Why don't we take a short break,

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1   like, ten minutes and then we'll move to the

2   environmental groups.

3   If you can, you know what,

4   let's see if we can have you guys move up a

5   little bit and then you don't have to stand.

6   I'm going to have you three move.

7   (Whereupon, after a short

8   break was had, the following

9   proceedings were held

10   accordingly.)

11   HEARING OFFICER TIPSORD: I have

12   given the microphones to the witnesses. So

13   if anybody has a hard time hearing me, just

14   wave. I will happily shout louder. I'm from

15   a large family and I'm one of the youngest.

16   I have spent my entire life shouting to be

17   heard. So I'm used to it.

18   Mr. More, you had follow-up

19   questions first?

20   MR. MORE: Yes. Thank you for the

21   opportunity.

22   First question, Mr. Armstrong

23   asked the Agency some questions about whether

24   or not Dynegy could increase the margin of

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1   compliance by installing pollution controls.

2   Do you recall those questions?

3   MR. BLOOMBERG: Yes.

4   MR. MORE: And in response to those

5   questions, Mr. Davis was going to discuss how

6   through the installation of pollution controls,

7   there's this potential for -- I believe you

8   were saying statewide emissions to increase?

9   MR. DAVIS: That's correct.

10   MR. MORE: Okay. Would you describe

11   that for us, please?

12   MR. DAVIS: In thinking about an

13   additional control at one of the uncontrolled

14   facilities, I had said that statewide emissions

15   could actually increase because that unit may

16   bring down a fleet wide average and allow other

17   units to operate more.

18   And the question about

19   increase their compliance margin, I thought

20   that was unlikely that someone would install

21   an additional control just to increase the

22   margin by which they comply with their

23   limits.

24   MR. MORE: And it sounds like

1   you're saying it could always have reverse

2   affect resulting in an overall increase of

3   emissions from the fleet?

4   MR. DAVIS: Yes.

5   MR. MORE: Okay.

6   HEARING OFFICER TIPSORD: And,

7   Mr. Armstrong, you have a question?

8   MR. ARMSTRONG: Mr. Davis, have

9   you produced any written analysis in

10 support of your thought that the installation

11 of emission controls on the MPS fleet might

12 increase pollution from the MPS fleet?

13   MR. DAVIS: No, I have not. That

14 thought was just in response to the question

15 about increasing compliance margin.

16   MR. MORE: Okay.

17   MR. DAVIS: Which I didn't find very

18 likely.

19   MR. ARMSTRONG: And in the scenario

20 you described, wouldn't that require an increase

21 in capacity factor fleet wide?

22   MR. DAVIS: I don't believe so.

23 I think it would involve increase in

24 utilization, but not necessarily capacity

1 fleet wide and I think -- I think the difference

2 we're speaking of here is the difference between

3 the current MPS and what may be allowed under

4 the proposal.

5   MR. ARMSTRONG: You may have misheard

6 me. I said capacity factor, not capacity.

7   MR. DAVIS: Oh, then yes, then I

8 believe that would be true.

9   HEARING OFFICER TIPSORD: Go ahead,

10 Mr. More.

11   MR. MORE: All right. I would

12 like to now turn to a series of questions that

13 Mr. Armstrong asked you about Exhibits 7 and 8.

14 Okay?

15   Before we turn to those

16 exhibits, I would like you to look at Page 8

17 of the TSD, Section 5.1.

18   The last sentence in

19 Section 5.1 reads, "These allowable emissions

20 have been calculated using rated capacity of

21 each of the units that will operate in the

22 proposed combined MPS Group and the emission

23 rate that applies to each such unit currently

24 under the MPS."

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1   Do you see that?

2   MR. DAVIS: Yes.

3   MR. MORE: And is that the correct

4   definition of allowable emissions?

5   MR. BLOOMBERG: Overall for the

6   group, yes.

7   MR. MORE: Thank you.

8   Okay. In connection with

9   Exhibit 7, for example, Table 2, there's

10   two Table 2s, Mr. Bloomberg suggested that

11   the tonnage -- the cap tons that Dynegy

12   calculated here were "allowables."

13   When looking at the table,

14   though, Mr. Bloomberg correctly noted this

15   is the system key input in 2016, that's not

16   the maximum rated capacity; isn't that right?

17   MR. BLOOMBERG: Correct.

18   MR. MORE: The numbers calculated

19   here in Table 2 are not the allowables as

20   defined in the TSD?

21   MR. BLOOMBERG: Correct.

22   MR. MORE: So they should not be

23   considered in the context of establishing

24   on a limit or the allowables in this proceeding?

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1   MR. BLOOMBERG: Correct.

2   MR. MORE: I have no further

3   questions.

4   HEARING OFFICER TIPSORD: Thank you.

5   If you want to sit there, we

6   could move the mic if you want, you can go up

7   to the podium, it's up to you.

8   MS. BUGEL: I'll go up to the podium.

9   My name is Faith Bugel and I

10   am representing the Sierra Club.

11   Good afternoon -- oh, I guess

12   it's still morning. Good morning, Mr. Davis

13   and Mr. Bloomberg.

14   I wanted to start with the

15   environmental groups -- well, we can look at

16   the -- either the environment groups' pre-filed

17   questions or the Agency's responses to the

18   pre-filed questions because they are -- the

19   questions are duplicated there. I'm looking

20   at the version that's the Agency's responses

21   to the pre-filed questions and those are the

22   page numbers I'll be referring to.

23   And could we -- could we

24   start on Page 26 and Question 3 on that page.

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 1   Just to give context, the -- the start of --

 2   the Agency's response is that in some instances,

 3   units are being operated solely in order to

 4   lower a fleet's average emission rate.

 5   In other cases, such as during

 6   periods of high electrical demand, the units

 7   operate as part of a normal fleet operations.

 8   And this is referring to

 9   achieving the current MPS requirement for a

10   fleet wide average.

11   Did I characterize that

12   correctly?

13   MR. BLOOMBERG: Yes.

14   MS. BUGEL: And then the

15   environmental groups went on to ask whether it

16   was IEPA's understanding whether this is or has

17   or was causing access or unnecessary emissions

18   and the Agency referred back to Section

19   Roman 1.2.

20   Do you see that?

21   MR. BLOOMBERG: Yes.

22   MS. BUGEL: And just for context

23   again, I'm going to try to paraphrase, but

24   the answer would be that this may or may not

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1 be causing unnecessary emissions; is that

2 right?

3   MR. DAVIS: Yes.

4   MS. BUGEL: And it would depend

5 on what -- what sort of megawatts or sources

6 of electricity might be displaced by running

7 those scrubbed units, right?

8   MR. DAVIS: I believe so. I think

9 that's what our response was, yes.

10   MS. BUGEL: Right. And, yeah, it

11 would require flipping back to Section 1.2,

12 but -- and I'm just going to characterize this

13 generally.

14   So it would depend on whether

15 the power from that scrubbed unit displaces

16 megawatts from, for instance, a nuclear plant,

17 right?

18   MR. DAVIS: Sure.

19   MS. BUGEL: And megawatts from a

20 nuclear plant on a pound per million Btu basis

21 would be lower emitting if we're referring to,

22 say, sulfur dioxide than even a scrubbed plant,

23 right?

24   MR. DAVIS: Yes, essentially zero.

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1   MS. BUGEL: And it would depend

2   on whether they are displacing power from, for

3   instance, a natural gas plant, right?

4   MR. DAVIS: Yes.

5   MS. BUGEL: And a natural gas

6   plant also, on a pounds per million Btu basis,

7   referring to sulfur dioxide, would also be

8   lower emitting than a scrubbed plant, right?

9   MR. DAVIS: Correct.

10   MS. BUGEL: But it also would

11   depend on whether or not they are displacing,

12   for instance, other coal plants, megawatts

13   from other coal plants, right?

14   MR. DAVIS: Yes.

15   MS. BUGEL: And if we're talk- --

16   and, for instance, this -- a scrubbed plant

17   could displace megawatts from another Dynegy

18   plant, correct?

19   MR. DAVIS: That is correct.

20   MS. BUGEL: And if it were an

21   unscrubbed Dynegy plant, they would be

22   displacing megawatts on a pounds per million Btu

23   basis that would be higher in emitting sulfur,

24   correct?

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1   MR. DAVIS: Yes.

2   MS. BUGEL: Okay. I'm turning now

3   to Page 28 and I'm looking at Question (a) on

4   that page, this is referring back to operational

5   flexibility.

6   Do you see that?

7   MR. DAVIS: Yep.

8   MS. BUGEL: And one of the Agency's

9   goals in this rulemaking has been to provide

10 Dynegy with greater operational flexibility,

11 right?

12   MR. DAVIS: Yes.

13   MS. BUGEL: And I'm just going to

14 refer to the latter half of this answer, which

15 defines operational flexibility in part as

16 allowing Dynegy to operate the units as they

17 are called upon by the market without being

18 forced to operate certain units strictly for

19 the purpose of meeting a flight wide rate

20 based limit.

21   Do you see where it says that?

22   MR. DAVIS: Yes.

23   MS. BUGEL: And I just want to

24 ask isn't that what environmental regulations

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1 generally do?

2   They create a different

3 incentive to operate than just allowing

4 market forces, right?

5   MR. BLOOMBERG: There are many

6 types of environmental regulations. Most

7 of them do not have averaging. Most of them

8 set at a specific allowable limit.

9   So yes, there are averaging

10 provisions that can cause, you know, market --

11 that can have market forces involved, but

12 there are others that don't.

13   But even the ones that involve

14 market forces generally when they are being

15 planned, it is not to force a group of sources

16 to run a source when it doesn't need to be run

17 just to bring down an average.

18   MS. BUGEL: I want to look at

19 Question 8 -- Question 8(b) on this page and

20 the discussion about scrubbers and the answer

21 here is SO2 does not cause transport problems

22 in the same manner as NOx does.

23   Do you see where I'm referring

24 to that?

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1   MR. DAVIS: Yes.

2   MS. BUGEL: Can I -- I wanted to

3   ask the Agency what does the Agency mean by

4   that?

5   MR. BLOOMBERG: Well. As explained

6   in 8(a), in response to 8(a), NOx emissions

7   tend to transport longer distances. They mix

8   with other chemicals in the atmosphere. They

9   create ozone downwind.

10   And so -- I mean, basically

11 as it says here and in, I think, other answers

12 as well, it causes transport into other states,

13 the northeast, for example, claims that states

14 in the Midwest are causing part of their ozone

15 problems whereas you won't see Maryland saying

16 Missouri is causing an SO2 problem for them.

17   MS. BUGEL: I want to refer for a

18 minute to the Cross-State Air Pollution Rule.

19   Doesn't the Cross-State Air

20 Pollution Rule apply to SO2 as well?

21   MR. BLOOMBERG: Yes.

22   MS. BUGEL: And SO2 does get carried

23 over state boundaries as well; isn't that

24 correct?

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1   MR. BLOOMBERG: It can get carried

2   over state boundaries, but not in the same

3   manner as NOx does.

4   MS. BUGEL: And turning to Page 30,

5   I just want to refer to Question 1(e) on that

6   page, and the environmental groups asked why

7   did EPA propose a -- and select a fleet wide

8   rate-based emissions level as opposed to a

9   mass-based level in the original MPS and the

10   Agency's response was the Agency witnesses

11   do not recall all of the details of those

12   negotiations.

13   I just did want to follow-up

14   and ask if the Agency recalls any of the

15   details of why a rate-based limit was selected.

16   MR. BLOOMBERG: Not -- not to our

17   knowledge.

18   MS. BUGEL: And Question 2 asked

19   what was the benefit of the original fleet

20   wide rate-based limit and I just wanted to

21   generalize a little bit and ask when is a

22   rate-based limit appropriate generally?

23   MR. BLOOMBERG: I think that question

24   is over-generalized. I'm not sure what you mean

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1   when is one appropriate.

2   MS. BUGEL: When -- when would the

3   Agency select a rate-based limit as opposed to

4   mass-based limit for regulations for coal

5   plants?

6   MR. BLOOMBERG: We'll have to answer

7   that in follow-up comments.

8   MS. BUGEL: That would be great.

9   Thank you.

10   And turning to Page 33,

11   Question 9, specifically going to the end of

12   that answer, the answer, the Agency indicates --

13   this was a question about whether it's possible

14   to operate -- I'm sorry -- not whether it's

15   possible, but whether it might be less expensive

16   to operate Dynegy scrubbed units specifically

17   talking at Duck Creek because those are not --

18   those do not have a consent decree SO2 limit that

19   applies to them, is it possible -- when -- would

20   it be possible to operate those plants with the

21   scrubbers turned off -- we used the language

22   turned off -- and the Agency said Coffeen and

23   Duck Creek units, wet FGD, are a type of control

24   that cannot easily be bypassed. I did want to

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1   follow-up on that and ask, well, what the Agency

2   meant by "not easily bypassed."

3   MR. DAVIS: It's just my

4   understanding of the type of control, you have

5   a -- for instance, a -- and some of these

6   questions may be better directed to Dynegy,

7   but at the Baldwin and Havana units, you have

8   spray dry absorbers. You can alter the level

9   of control by the amount of sorbent that you

10   inject. At these, you are directing your

11   flue-gas through the control and it's a medium.

12   I suppose, like I said, I -- I don't know what

13   would be meant by "turned off." There's

14   probably different levels of efficiency you can

15   run these at. You know, but, like I said, that

16   may be a better question aimed towards Dynegy.

17   Dynegy did indicate that they didn't intend to

18   change the operations at these plants from what

19   they are currently doing.

20   MS. BUGEL: I do just have one

21   follow-up question, which is are you aware of

22   wet FGD that can be operated without a slurry in

23   them, therefore just putting a flue-gas through

24   the FGD, but without any slurry to control the

 1   SO2?

 2   MR. DAVIS: I suppose that's

 3   possible. Like I said, that wasn't a

 4   possibility that Dynegy and the Agency

 5   discussed.

 6   MS. BUGEL: In 11(a), your answer

 7   indicates that Dynegy conveyed that they have

 8   no intention of changing their operations in

 9   as such a manner. I think you just referenced

10   back to that in saying that Dynegy said they

11   don't intend to change their operations.

12   Is there anything in the

13   proposed rule that prevents them from

14   changing the operations of their scrubbed

15   plants?

16   MR. BLOOMBERG: There is nothing

17   specific in the rule, but as we have stated

18   elsewhere, there are other backup mechanisms

19   such as the data requirements rule -- the

20   Federal Data Requirements Rule.

21   If they were to turn off SO2

22   controls, obviously their emissions would

23   increase to the level that would become

24   noted under the Federal Data Requirements

1   Rule annual review that the Agency has to

2   do and the Agency would then have to evaluate

3   whether an additional modeling is required

4   based on those increased emissions and US EPA

5   would have to agree or disagree with the

6   Agency as to that.

7   So if you have scrub plants

8   suddenly not being scrubbed at all anymore

9   and they're still operating, obviously those

10 emissions would go up and, you know, we would

11 have to evaluate it at that time and, you

12 know, potentially come back with something

13 restrictive to ensure that that does not

14 happen.

15   And does the Agency believe

16 that the MPS is not a forum for "something

17 restrictive at this time" to prevent that

18 scenario?

19   MR. BLOOMBERG: The MPS has never

20 been intended to control individual plants --

21 individual areas and in terms of the NAAQS.

22 We have other regulations for that and that

23 is -- such as was done in the SO2 rulemaking

24 a few years ago where, you know, specific SO2

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1   recollections were put in because there was

2   not a monitored -- two monitored non-attainment

3   areas. So that's a different type of situation

4   than the MPS.

5   MS. BUGEL: In general, how long

6   does an air rulemaking, such as, for instance,

7   this MPS rulemaking or the SO2 rulemaking

8   take the Agency from -- starting from the point

9   in which the Agency drafts the rule?

10   MR. BLOOMBERG: It depends. If

11 everybody just agrees with us, it would go a

12 lot quicker, but they -- they can take

13 approximately, you know, six months or longer

14 depending on, you know, how many hearings and

15 other factors.

16   MS. BUGEL: Thank you. I have no

17 further questions.

18   HEARING OFFICER TIPSORD: Okay.

19 Ms. Dubin?

20   MS. DUBIN: Hi. My name is Lindsay

21 Dubin. I'm an attorney at the Environmental Law

22 & Policy Center. And don't be scared by the

23 binder. These aren't all questions.

24   My first question is so

1   we asked did Dynegy make any demonstration

2   to IEPA that the structure of the current

3   MPS has led the company to operate units

4   at Baldwin, Coffeen, Duck Creek, Edwards,

5   Havana, Hennepin, Joppa or Newton at a

6   financial loss and --

7   MR. BLOOMBERG: Can we have a page

8   number, please?

9   MS. DUBIN: Oh, yes, of course.

10 Bottom of Page 21 of IEPA answers.

11   You mentioned that Dynegy

12 didn't make a demonstration, but you said

13 it's reasonable to assume that the units

14 that have more pollution controls would be

15 most costly to run.

16   Do you know how much more

17 costly they would be?

18   MR. BLOOMBERG: I'm sorry. Can

19 you repeat the question? I'm still tracking

20 it down.

21   MS. DUBIN: Yes, absolutely.

22   So the question was essentially

23 did Dynegy make any demonstration to you guys

24 that they would -- Dynegy was running any of

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1   its units at a financial loss?

2   You mentioned that they

3   didn't make any demonstration, but your

4   understanding -- or you said it's reasonable

5   to assume that units that do have pollution

6   controls would be more costly to run.

7   Did you do any kind of

8   analysis to figure out which specific units

9   were more costly to run?

10   MR. DAVIS: Obviously, the more --

11   sorry -- the controlled units would be more

12   costly to run. As we said, we didn't get

13   data from Dynegy indicating exactly how much

14   more costly.

15   That's something you may

16   question them about. Generally, a lot of

17   companies aren't, you know, forthcoming with

18   that kind of financial information.

19   I'm also not sure, you know,

20   at given times, it may be more or less costly.

21   There is several factors that could

22   go into that.

23   MR. BLOOMBERG: The other thing

24   I want to clarify is I believe you said that

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1   Dynegy -- that you said that we said that

2   Dynegy did not give us a demonstration.

3   MS. DUBIN: Yes.

4   MR. BLOOMBERG: That's not what we

5   said. We said it's unclear what you mean by a

6   demonstration.

7   MS. DUBIN: Got it. Sorry. I

8   asked -- you said the Agency did not receive

9   any documentation on this point.

10   MR. BLOOMBERG: Correct.

11   MS. DUBIN: So just to follow-up,

12   so this is a rulemaking to, in part, give

13   Dynegy operational flexibility, correct?

14   MR. BLOOMBERG: Yes.

15   MS. DUBIN: And as a part of this

16   rulemaking, and by operational flexibility,

17   some of it boils down to the economics of

18   running the units, correct?

19   MR. BLOOMBERG: Yes.

20   MS. DUBIN: And whether some are

21   being run at a financial loss?

22   MR. BLOOMBERG: Yes.

23   MS. DUBIN: So do you think -- will

24   you go back and ask Dynegy what that financial

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1 loss is?

2   MR. BLOOMBERG: I don't mean to sound

3 rude, but Dynegy is here to testify. So you

4 could ask them that.

5   MS. DUBIN: So -- and just to

6 clarify, I was just trying to kind of quickly

7 track which questions were being answered as

8 people were going, but just to make sure, you

9 said that Dynegy used the Coffeen plant, and

10 as an example, when that's being run at a

11 financial loss, Dynegy didn't share with you

12 any others than Coffeen?

13   MR. BLOOMBERG: I don't recall any

14 other specifics being mentioned. I did recall

15 Coffeen. Therefore, that's why I put that in

16 our answer.

17   MS. DUBIN: When -- kind of looking

18 at Dynegy's financials, did you take a look at

19 any of its shareholder presentations?

20   MR. BLOOMBERG: No.

21   MS. DUBIN: Did you take a look at

22 any of its calls with shareholders?

23   MR. BLOOMBERG: Can you restate the

24 beginning of that question?

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1   MS. DUBIN: Yes. Sure.

2   So this whole -- a lot of

3   this rulemaking is basically premised on the

4   fact that Dynegy is operating units on a

5   financial loss.

6   So I'm just trying to figure

7   out kind of what financials you sort of took a

8   look at to determine that.

9   MR. BLOOMBERG: There's a difference

10   between operating a source at a financial loss

11   overall and operating at a loss at certain

12   times.

13   And what we have been talking

14   about is Dynegy operating different units at a

15   loss at certain times when it was unnecessary --

16   when it would be otherwise unnecessary for them

17   to do so.

18   MS. DUBIN: And now I know you were

19   kind of looking at sort of unit-by-unit here.

20   Did you ever kind of consider

21   fleet wide whether Dynegy was operating at a

22   financial loss?

23   MR. BLOOMBERG: No.

24   MS. DUBIN: And what was the

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1   reasoning for focusing on just looking at

2   specific units rather than the overall

3   fleet?

4   MR. BLOOMBERG: When Dynegy

5   approached the Agency, they never said our

6   whole fleet is operating at a loss.

7   What they said was that they

8   needed operational flexibility because some

9   of their units at certain times operated at

10 a loss that is necessary only because of the

11 way the current MPS is written, which was not

12 the intent of the original MPS.

13   MS. DUBIN: And is it your

14 understanding that the entire -- the whole

15 fleet here in Illinois is not running at a

16 financial loss?

17   MR. BLOOMBERG: We do not have that

18 specific understanding either way.

19   MS. DUBIN: Now, on the following

20 page, Page 23, in your testimony or in the

21 IEPA's testimony you refer to distortion in

22 the power market.

23   We asked did Dynegy make

24 any demonstrations to IEPA that the structure

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1   of the current MPS is led to distortions and

2   you mentioned that the Agency didn't receive

3   any documentation from Dynegy on this point,

4   that the Agency based its analysis on its

5   understanding of how generation is dispatched

6   in this region.

7   I was wondering would you be

8   able to kind of walk me through that analysis?

9   MR. DAVIS: Your question is in

10   regards to the (b)(1)?

11   MS. DUBIN: It's in regards to

12   (b)(2) actually.

13   MR. BLOOMBERG: Without getting

14   overly complicated on this point, generation

15   is dispatched according to bids that are put

16   in by the various power generation.

17   Now, there are more complicated

18   factors such as base load versus load that's

19   called upon and, you know, some units have to

20   run all the time just to keep a base load going

21   while others don't, but basically, it is --

22   you know, generation is dispatched based on

23   combination of price, location, if there is

24   congestion on the grid. All of those are

1 factors in dispatching electricity.

2   MS. DUBIN: And so did you do any

3 kind of numeric calculations about how, you

4 know, taking all of those factors into

5 consideration or was it sort of more...

6   MR. BLOOMBERG: I'm not sure what

7 kind of a numeric calculation would be involved.

8 It was a qualitative review.

9   MS. DUBIN: So same question, the

10 following page, Question (d)(2), on Page 24,

11 here, you discuss -- in your testimony, you

12 guys also discussed grid inefficiencies. We

13 asked if Dynegy made any demonstrations to

14 IEPA that the structure of the current MPS

15 has lead to grid inefficiencies.

16   You mentioned that the Agency

17 did not receive any documentation from Dynegy

18 on this point. The Agency based its analysis

19 on its understanding of how generation is

20 dispatched in this region.

21   Would you walk me through the

22 analysis that you conducted?

23   MR. BLOOMBERG: It's very similar

24 to the answer I just gave you with, you know,

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1   also taking into account our answer to (c)(1)

2   above.

3   MS. DUBIN: At the very bottom of

4   the page in Question (d), IEPA stated that

5   the structure of the current MPS possibly could

6   lead to increased overall emissions, we asked

7   if the Agency can confirm whether this does,

8   in fact, lead to increased emissions.

9   You mentioned, no, the Agency

10 based his statement on its understanding of

11 the way generation is dispatched in the region.

12   Again, is your -- is this

13 analysis that you did to arrive at these

14 statements the same as the analysis that we

15 just discussed?

16   MR. BLOOMBERG: Yes, but it also

17 relates to something that we talked earlier. I

18 think Faith had asked a question about this.

19   If Dynegy is operating a

20 plant simply to bring down the average and

21 it displaces lower emitting sources, then

22 you are causing an increase in emissions

23 simply to have a lower average.

24   MS. DUBIN: And I'll leave that

1   point for now.

2   So on Page 31, Question 4(a),

3   we asked, would the proposed annual mass-based

4   limit allow Dynegy to use its pollution

5   controls less than it does under the current

6   MPS regulations?

7   You mentioned the current

8   MPS does not dictate how Dynegy must use its

9   controls. There are a number of variabilities

10   that affect how the units are operated and the

11   way the controls are operated.

12   Are these the same variables

13   that the regulatory variables that you are

14   referring to or are these kind of more market

15   related variables? Which variables are you

16   referring to here?

17   MR. BLOOMBERG: All of the above.

18   MS. DUBIN: Okay. Now, Question 5,

19   the same page, we asked why did IEPA select

20   55,000 tons as the mass-based emission cap for

21   SO2.

22   We asked can you -- below

23   there -- actually, first off, with respect to

24   that, how exactly -- so I know that the Dynegy

1   had originally -- looking at your answer to

2   that, Dynegy did originally propose higher

3   limits. The Agency, you said, proceeded to

4   lower limits.

5   How did you arrive at 55,000

6   as opposed to maybe 54,000 or 53,000?

7   MR. BLOOMBERG: 55,000 met the

8   requirements under regional haze and it was

9   lower than what was originally proposed by

10 Dynegy, as we noted.

11   It was a -- the number for

12 regional haze, which is in the TSD somewhere,

13 is 55,900 and something or something along

14 those lines. So we picked the number that

15 was, you know, quite honestly, a nice round

16 number that was below the regional haze

17 requirements.

18   MS. DUBIN: Why didn't you pick a

19 number that was even lower than 55,000?

20   MR. BLOOMBERG: It was not necessary

21 to do so.

22   MS. DUBIN: And by saying it's not

23 necessary, the necessary element just means

24 achieving the regional haze requirements?

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1   MR. BLOOMBERG: Yes.

2   MS. DUBIN: And can you please

3   explain -- I guess you mentioned that. I'm

4   sorry.

5   Same question goes for the

6   following page, Page 32, Question 7, why did

7   IEPA select 25,000 tons as the mass-based

8   emission cap for nitrogen oxide?

9   Again, why 25,000 instead of

10   something lower?

11   MR. BLOOMBERG: Very similar answer

12   although we went a little lower than the

13   regional haze. The regional haze number was --

14   the regional haze number was 27,951. So we

15   rounded it down a little bit more.

16   MS. DUBIN: And very quickly, so I

17   just want to go back to this point with SO2,

18   did IEPA do any calculation about the lowest

19   possible cap that could -- would still allow

20   Dynegy to achieve the regulatory flexibility

21   that it seeks -- the operational flexibility

22   that it seeks?

23   MR. BLOOMBERG: That is not the

24   way a rulemaking is typically done. So, no,

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1   and it's not really clear to me exactly how

2   that would be done either to say that this

3   is the, you know, absolute balance of the

4   lowest number that still allows you operational

5   flexibility.

6   MS. DUBIN: Did you look into maybe

7   determining how that -- did you guys kind of

8   do any digging to figure out how it is possible

9   perhaps?

10   MR. BLOOMBERG: I'm not sure exactly

11   what you are asking.

12   MS. DUBIN: Sure. So you said

13   that it's sort of not typical to figure out

14   this number that would, you know, be at the

15   intersection of, you know, lowest level of

16   pollution and also affording Dynegy operational

17   flexibility and you said you wouldn't really

18   know how such an analysis would even be

19   conducted.

20   Did it occur to you to try

21   to conduct an analysis or figure out how it

22   could be conducted?

23   MR. BLOOMBERG: The analysis that

24   we conducted, which is the analysis that we

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1   would typically conduct in any rulemaking is

2   what level of control is required and, you

3   know, can the impacted sources meet that level

4   of control?

5   In this case, the level of

6   control that is required is the regional haze

7   related level of control. So the number --

8   the cap -- emissions cap that we arrived at

9   is lower than the regional haze number.

10   Therefore, that is the required level of

11   control and that's why we brought down Dynegy's

12   original proposal.

13   MS. DUBIN: So then just to be clear,

14   so are you sort of for the most part looking at

15   the maximum amount of pollution that would be

16   allowed while still meeting the regional haze

17   requirements and maybe just round it down a

18   little bit?

19   MR. BLOOMBERG: That's what an

20   allowable emission level is, essentially, in

21   this case.

22   MS. DUBIN: So that sort of

23   would -- that influences how you would select

24   it essentially is looking at the maximum

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1 amount that folks can pollute while still

2 achieving the SIP and other regulations?

3   MR. BLOOMBERG: That's what an

4 allowable is, the maximum amount that

5 someone can emit. So that's the way we

6 would do it in any rulemaking, yes.

7   MS. DUBIN: Sorry. I'm just

8 trying to make sure this wasn't a question

9 somebody just asked.

10   Okay. With respect to --

11 so if you don't mind hopping over to Page 40

12 on the very first question under Section 4,

13 Question 1, we mentioned that there was an

14 email asking about a stakeholder outreach

15 list, and that that email was from

16 February 15th. The stakeholder outreach didn't

17 happen until the end of July. We asked why that

18 was the case.

19   In your answer, you said

20 that the Illinois EPA was engaging in early

21 preparation for stakeholder involvement. At

22 that time Illinois EPA didn't have a draft

23 proposal to share with stakeholders and was

24 not fully prepared for public outreach.

1   Now, you did share -- you

2   did have a draft written at least as early

3   as May because we saw on a FOIA that you

4   did share a draft with Dynegy in May.

5   So what the dis- -- why

6   did you not share that draft with other

7   members of the public and other stakeholders

8   at that time?

9   MR. BLOOMBERG: Again, this is

10 the way we normally do rulemakings. The

11 first thing that you typically do in a

12 rulemaking is you look at how it will impact

13 the source or sources that are covered by

14 the rulemaking and you ensure that, for one,

15 they are able to meet the requirements.

16   And so it is simply a

17 typical way that we would do a rulemaking,

18 which is that's the first group of people

19 that you would talk to. So it was after

20 that that you involve other outside people.

21   MS. DUBIN: You said you didn't --

22 as far as -- did you look at the impacts

23 that this could have on the community?

24   MR. BLOOMBERG: What community?

1   MS. DUBIN: The community

2   surrounding the sources?

3   MR. BLOOMBERG: I think we've

4   already answered that multiple times.

5   HEARING OFFICER TIPSORD: Would

6   you remind me?

7   MR. BLOOMBERG: Yeah. We -- we

8   looked at it -- actually, I talked about this

9   earlier. It was by looking at it through

10   the reviewing of the modeling, the data

11   requirements rule modeling, to ensure that

12   there would not be NAAQS problems going

13   into the future.

14   HEARING OFFICER TIPSORD: I'm

15   not sure that really gets to the question,

16   at least as I understand the question.

17   I think the question is

18   not what the impact is going to be on the --

19   whether or not you are going to meet the

20   NAAQS, but what is the impact on the people

21   who live next door to some of these?

22   Am I misstating the question?

23   MS. DUBIN: No. That's it.

24   HEARING OFFICER TIPSORD: I mean,

1 I think -- I think you're looking at this way

2 more broadly than what the question is.

3   The question is if I live

4 next door to Baldwin, what impact would this

5 have on me as far as am I going to see more

6 smokestack -- more smoke coming out of a

7 stack, that kind of thing?

8   And so I don't think you

9 have addressed that question. I think you're

10 right, you've addressed the broader question

11 of looking at the NAAQS, but not the more

12 specific question, which I think is what

13 she's getting to.

14   MR. BLOOMBERG: I guess I would --

15 in -- the two are somewhat inextricably linked.

16 The NAAQS is how we measure whether or not

17 there are safe levels of a particular pollutant

18 in the air.

19   And so if the NAAQS are being

20 met, then that is the goal of US EPA, that is

21 the goal of the Illinois EPA.

22   Obviously -- well, strike

23 that. Nothing is obvious. The -- we look

24 at the impact on the community by looking

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1   at this impact on the air. And so if there

2   is not going to be a NAAQS problem, that is

3   what we want to ensure because those, as I

4   mentioned earlier, those are US EPA set health

5   standard levels.

6   MS. DUBIN: So even if there

7   are health standard levels, do you -- is it

8   possible, though, that somebody that lives

9   near a plant and is vulnerable to -- or

10   particularly susceptible to, you know, any

11   respiratory issues caused by a plant, if

12   someone lives near there, did you look and

13   see if people's health might be affected

14   even if it is, you know, you're polluting

15   below what the NAAQS call for?

16   MR. BLOOMBERG: First, I'd like

17   to point out the current MPS doesn't do that.

18   Second, the reason for

19   NAAQS being set at the federal level is that

20   they have already done all of those studies.

21   They have done the studies that determine,

22   you know, what the proper level is set to

23   take into account a person of average

24   health, a person of below average health.

1   And so if that's the way

2   the states can follow along, because the

3   states obviously don't have the same sorts

4   of scientific resources as US EPA, and so

5   US EPA does their examination or generally

6   a multiyear process for every NAAQS that

7   they set, and they review them over and over

8   again. And so that's what the states base

9   the health levels on.

10   MS. DUBIN: And I just want to

11   make sure, I think you might have answered

12   this earlier, but did you look at different

13   scenarios in which some plants -- because

14   this rule, and correct me if I'm wrong, but

15   under this rule, if a plant shuts down, that

16   means a different plant, in theory, could

17   pollute?

18   That frees up space for

19   another plant to pollute more. So say they're

20   polluting up to that 55,000 limit for sulfur

21   dioxide. One of the plants shuts down and

22   then they're still allowed to pollute up

23   to 55,000. So another plant can increase

24   its pollution. Did you check to make sure

1 that -- you know, are you -- if a plant

2 does shut down in that manner, is it

3 possible that that could affect the NAAQS

4 and will you look at the localized impact

5 then?

6   MR. BLOOMBERG: Yes. I did

7 mention it earlier, but I'll still go ahead

8 and answer your question and that is, you

9 know, we -- first of all, we looked at the

10 DRR, Data Required Rule Modeling.

11   Second of all, under the

12 DRR, every year, we have to look at all of

13 the previously identified areas to see if

14 emissions went up. So if emissions increased

15 in the way that you're describing, we would

16 have to evaluate that, determine if further

17 modeling is necessary, and US EPA would have

18 to agree with us on that point.

19   If further modeling is

20 necessary, we would do the modeling to see,

21 you know, whether there is a potential

22 NAAQS problem there.

23   MS. DUBIN: Is there anything

24 in force that would prevent a plant from

1 increasing pollution in a way that would

2 violate the NAAQS before an analysis was

3 done?

4   So, say, a plant does

5 increase pollution under this regulation

6 because another plant shuts down or more

7 plants than just one shuts down, this,

8 in theory, allows other plants to pollute

9 more in response.

10   So you've mentioned that,

11 you know, folks would kind of conduct an

12 analysis see what impacts are there, but

13 in the meantime, is there anything that --

14 any kind of a safeguard that would prevent

15 a plant from polluting beyond the NAAQS?

16   MR. BLOOMBERG: The current MPS

17 doesn't have any sort of safeguard, first

18 of all.

19   Second of all, to do that,

20 we would basically have to look at every

21 plant in the state of Illinois of any size

22 because a plant does not exceed the NAAQS.

23 The air exceeds the NAAQS. Sometimes it

24 can be primarily caused by one plant.

1   Sometimes it's caused by a number of plants

2   close together. Sometimes it's caused by

3   a transport of a pollutant.

4   And so it's -- if your

5   question is can we put limits on every

6   individual plant to, you know, ensure the

7   NAAQS are never violated, no. I mean,

8   there is really no way to do that.

9   And so that is why US EPA

10   put in this ongoing review. When there was

11   a violation of the NAAQS -- a monitored

12   violation of the NAAQS, of the SO2 NAAQS,

13   in particular, well, in this area, in the

14   Pekin area and in the Lemont area, we did

15   more modeling and we proposed, and the

16   Board passed, very specific regulations

17   that addressed plants and units that were

18   shown to be impacting those non-attainment

19   areas to ensure that that impact would go

20   away, the non-attainment areas would be

21   brought back into attainment.

22   HEARING OFFICER TIPSORD: Do you

23   have a question?

24   BOARD MEMBER PAPADIMITRIU: Yes.

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1   Mr. Bloomberg, can I ask you

2   a question?

3   MR. BLOOMBERG: Sure.

4   BOARD MEMBER PAPADIMITRIU: So for

5   purposes of the MPS, we are only looking at

6   coal plant fleets, but in the great grid,

7   there are more fuel sources beyond coal; is

8   that correct?

9   MR. BLOOMBERG: Correct.

10   BOARD MEMBER PAPADIMITRIU: So if

11   a coal plant in this MPS grouping does not run,

12   is it a fair assumption to assume that another

13   coal plant will immediately pick that up or

14   could there be other sources that could -- to

15   use the language we have been hearing today --

16   displace additional coal from being economically

17   dispatched?

18   MR. BLOOMBERG: There could

19   definitely be other sources.

20   BOARD MEMBER PAPADIMITRIU: Okay.

21   Thank you.

22   HEARING OFFICER TIPSORD: Mr. Hicks,

23   you had a question?

24   MS. HICKS: Christie Hicks,

1 Environmental Defense Fund.

2   I would just like to do a

3 quick follow-up on the analysis that you

4 described that you would undertake in the

5 event of a NAAQS violation.

6   My understanding is that

7 analysis would be triggered by an increase

8 in the NAAQS. Then how long -- I'm sorry --

9 how long would an analysis take from the

10 time you discovered a potential violation?

11   MR. BLOOMBERG: Just to correct

12 you, it would be triggered by an increase

13 in emissions at the previously identified

14 plants.

15   MS. HICKS: Sorry. I misspoke.

16   MR. BLOOMBERG: Yes. So we are

17 mandated, as I said, under the data requirements

18 rule, to look at these annually.

19   I believe that we have to --

20 I believe that last year, we made that as an

21 attachment to our monitoring plan, which was

22 due in July. This is based on memory.

23   And so, you know, we looked

24 at the emissions as soon as we had the emissions

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1   information from the previous year and evaluated

2   at that time between then and, like I said, I

3   believe, July to determine whether additional

4   modeling was necessary.

5   MS. HICKS: So it would be a calendar

6   year analysis that begins in July; is that

7   right?

8   MR. BLOOMBERG: It's a calendar

9   year analysis, but it's based on emissions

10   over the calendar year. So the analysis

11   doesn't begin in July. That is, again, my

12   memory. That is when we have to make that

13   information available.

14   MS. HICKS: When does the analysis

15   begin?

16   MR. BLOOMBERG: When we have the

17   analysis emissions from each of the facilities.

18   MS. HICKS: So assuming a violation

19   occurred beginning, for example, January of

20   2017, what is the earliest that that information

21   would be made available?

22   MR. BLOOMBERG: I think there's

23   still some misunderstanding. I'm not sure

24   what you mean by a violation occurring in

1 January.

2   MS. HICKS: An increase in emissions.

3   MR. BLOOMBERG: Well, the increase

4 is annual. So we wouldn't -- there is no such

5 thing as an increase specifically in January.

6 It's a comparison of annual emissions.

7   MS. HICKS: Okay. Thank you.

8   MR. RAO: Mr. Bloomberg, is the

9 information that you are saying, is that

10 publicly available?

11   MR. BLOOMBERG: Yes. It's in the

12 Federal Data Requirements Rule.

13   MR. RAO: Okay.

14   MS. DUBIN: Starting on Page 40,

15 but over to 41, we asked whether any of the

16 plants were in environmental justice communities

17 and you mentioned that Hennepin was.

18   The top question on Page 41,

19 Question (b), we asked if IEPA has done any

20 outreach to environmental justice communities.

21 Your response was that Illinois EPA did not do

22 targeted outreach to the communities located

23 near the Hennepin station.

24   Does IEPA typically do

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1   targeted outreach to environmental justice

2   communities?

3   MR. BLOOMBERG: Not for rulemakings.

4   MS. DUBIN: And Question (c), we

5   asked what methodology IEPA uses to determine

6   what is and isn't an environmental justice

7   community.

8   In that question, or in the

9   response, you said that Illinois EPA defines

10   a potential environmental justice community

11   as a community with an income below poverty

12   level and/or minority population greater than

13   twice the statewide average.

14   Now, are there any other

15   plants that are located in potential

16   environmental justice communities?

17   MR. BLOOMBERG: I don't know.

18   MS. DUBIN: Okay.

19   MR. BLOOMBERG: Just to follow-up

20   on that, these answers were provided by the

21   Agency's EJ officer. We will follow-up. The

22   way we read the answer is no. However, we

23   will follow up to be sure.

24   MS. DUBIN: Thank you.

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1   On Page 46, Question 7(a),

2   so when IEPA shared a draft proposal with

3   an attorney for -- from Dynegy -- or for

4   Dynegy -- on May 11, 2017, the draft contained

5   a provision that would adjust the proposed

6   mass-based cap on sulfur dioxide, nitrogen

7   oxides and seasonal ozone downwind were a

8   unit to shut down.

9   We, in Question (a), asked

10 why did IEPA's proposal originally contain

11 a provision that would decrease these mass-based

12 caps.

13   I guess I would just like to

14 restate the question just because I don't think

15 the answer quite gets to it.

16   You mentioned that it was

17 originally -- your response was that it was

18 in there because Dynegy hadn't yet seen it,

19 but why was it in there in the first place?

20   MR. BLOOMBERG: I think --

21   MS. DUBIN: Here, I'll read your

22 response for clarification.

23   The response, as noted in

24 the question, that was an Agency proposal.

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1   This provision had not been previously

2   discussed with Dynegy. The Agency was

3   considering the idea while the first draft

4   of the proposed modifications were being

5   made. So it was included as a possible

6   addition.

7   So why did you include it

8   as a possible addition?

9   MR. BLOOMBERG: I feel that

10   the answer does address it. The Agency

11   was considering it as a possible option.

12   At the time, you know, we were -- we were

13   preparing the draft.

14   And so that was the time

15   to put something in there rather than, you

16   know, perhaps contact Dynegy and saying,

17   hey, what do you think of this? It was

18   just a lot easier to put it in the draft

19   knowing that they would read it and they'd

20   let us know what they thought of it.

21   MS. DUBIN: But my question still

22   is why is it under consideration in the

23   first place?

24   For example, does it

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1   provide any type of benefit or why was it

2   in there?

3   MR. BLOOMBERG: We were in a

4   phase where we were addressing all different

5   possible scenarios that we could think of.

6   It was more of a brainstorming than, you

7   know, anything else.

8   When Dynegy objected to it,

9   we said, okay, because it wasn't necessary.

10   It was simply an idea that we had.

11   MS. DUBIN: But I guess why did

12   you include that idea? So I know it was a

13   possible scenario. I know that Dynegy hadn't

14   yet seen it.

15   But why was it a scenario

16   in the first place that you selected to

17   incorporate or that you decided to incorporate

18   in your draft?

19   Were there -- are there --

20   do you see any benefits to lowering the cap

21   if there were shutdowns?

22   MR. BLOOMBERG: No.

23   MS. DUBIN: And you don't see --

24   do you see any environmental benefits existing

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1 for the cap to be lowered after a shutdown?

2   MR. BLOOMBERG: Since the 55,000

3 cap already addresses the regional haze

4 requirement, that is what was necessary. So

5 anything further than that is unnecessary

6 under this rulemaking.

7   MS. DUBIN: I guess my question

8 isn't about what's necessary. My question

9 is about environmental benefits.

10   So do you see any environmental

11 benefits even if it does meet the SIP? In your

12 mind, are there any environmental benefits to

13 the cap going down after a shutdown?

14   MR. BLOOMBERG: It's not really clear

15 to me that there are.

16   MS. DUBIN: And why isn't it clear?

17   MR. BLOOMBERG: Because if, as was

18 discussed earlier, one Dynegy plant is going

19 to end up picking up where another left off if

20 there is a shutdown, then Dynegy would need,

21 you know, the cap. If they don't, then the

22 emissions aren't going to happen anyway.

23   MS. DUBIN: That's all my questions

24 that I have.

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1   Thank you so much for your

2   time.

3   HEARING OFFICER TIPSORD: Okay.

4   Mr. Armstrong, you have some additional

5   follow-ups?

6   MR. ARMSTRONG: The Attorney

7   General's Office has several questions.

8   I'm Andrew Armstrong for

9   the Attorney General's Office. Mr. Gignac

10   is going to be asking some questions about

11   energy markets about which I have little

12   understanding.

13   The first follow-up question

14   is on environmental groups Question 2,

15   Subsection 5, on Page 22.

16   Why does IEPA need to resolve

17   the concern of energies operating some units

18   at a financial loss? How is that a part of

19   IEPA's mission?

20   The second paragraph of

21   the answer is that Illinois EPA's website in

22   the "About Us" section notes "the mission

23   of the Illinois EPA is to safeguard

24   environmental quality, consistent with the

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1   social and economic needs of the state so

2   as to protect health, welfare, property and

3   the quality of life."

4   What is that text from the

5   body of that section taken from?

6   MR. BLOOMBERG: I don't know.

7   MR. ARMSTRONG: Is it taken from

8   any language of a statute enacted by the

9   General Assembly?

10   MR. BLOOMBERG: I don't know.

11   MR. ARMSTRONG: Is it the Agency's

12   testimony that the "About Us" section of its

13   website has any legal weight to it?

14   MR. BLOOMBERG: It's the Agency's

15   testimony that we were asked about the mission

16   and the "About Us" section lists the mission.

17   So we answered the question.

18   MR. ARMSTRONG: The following

19   sentence said this proposal safeguards

20   environmental quality, protects health and

21   welfare and is also consistent with the

22   economic needs of the state.

23   How is this proposal

24   consistent with the economic needs of the

1   state?

2   MR. BLOOMBERG: Dynegy -- the

3   Dynegy plants are Illinois plants. They

4   provide economic support to the area through

5   jobs and they provide power, perhaps more

6   importantly, to a large portion of the state.

7   Therefore, of course, with any rulemaking,

8   the economy of the situation is always

9   considered as well.

10   MR. ARMSTRONG: Does Dynegy

11   compete with any other generators in the

12   state of Illinois?

13   MR. BLOOMBERG: In the state of

14   Illinois?

15   Remember, that Dynegy

16   electricity goes into a much larger grid

17   that goes outside of the state of Illinois,

18   which means power is generated also from

19   outside of the state of Illinois by some

20   competing companies.

21   MR. ARMSTRONG: Well, I believe

22   that you were testifying as to the Dynegy

23   as an Illinois company. I'm just trying

24   to establish are there other companies

1   that operate in Illinois that generate

2   electricity in which Dynegy competes?

3   MR. BLOOMBERG: Yes.

4   MR. ARMSTRONG: Skipping on to

5   Page 32, Question 6, did IEPA ever consider

6   any mass-based emission caps for SO2 lower

7   than 55,000 tons? If so, Subsection (c),

8   why did IEPA choose not to use these limits?

9   Again, the proposed limits

10   are the results of negotiations between the

11   Agency and Dynegy in discussions prior to

12   the proposal.

13   Did the Agency seek any input

14   of any stakeholders other than Dynegy in those

15   negotiations?

16   MR. BLOOMBERG: The Agency did have

17   an outreach after a more complete draft was put

18   together, which had those -- which had those

19   limits in them.

20   MR. ARMSTRONG: So after negotiations

21   having been completed with Dynegy over the

22   amount of the emissions limits, at that point

23   the Agency reached out to other stakeholders?

24   MR. BLOOMBERG: Yes. As I have

1   explained, that is the way a rulemaking is

2   typically done.

3   MR. ARMSTRONG: What factors led

4   the Agency to decide to propose this rulemaking

5   instead of asking Dynegy to propose it?

6   MR. BLOOMBERG: When the Agency

7   proposes a rulemaking, we are the ones who

8   have more expertise in ensuring that the NAAQS

9   are protecting, in reviewing the modeling,

10 you know, in any of those sorts of ways.

11   And so there are -- I cannot

12 recall very many, if any, company proposed

13 rulemakings in my time at the Agency, at least

14 for air. It is typical that the -- any involved

15 sources would approach the Agency and the

16 Agency, if the Agency agrees, would then be

17 the run to propose the rule.

18   MR. ARMSTRONG: Skipping on to

19 Page 37, Question 3, IEPA's June 2011 original

20 regional haze submittal, in its February 2017

21 five-year progress report, forecasted or

22 referenced actual emissions, which the reports

23 also refer to as projected emissions. What

24 would explain the inconsistent approach IEPA

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1 is taking regarding whether it analyzes actual

2 emissions?

3   The Agency disagrees that

4 its approach is inconsistent with its regional

5 haze SIP submittals. The forecasted emissions

6 in both regional haze SIP submittals were

7 projected from a 2002 base year as was required

8 by the regional haze rule.

9   Prior to the regional haze

10 SIP submittal, analysis was performed using

11 modeling to demonstrate that by implementing

12 BART, B-A-R-T, level control at BART eligible

13 units, visibility goals would be met for

14 Illinois and for other states in the Midwest

15 regional planning organization.

16   The plan that Illinois

17 submitted, including anticipated reductions

18 from the MPS and other measures, was considered

19 better than BART because it resulted in greater

20 emissions reductions.

21   In the current proposal, the

22 Agency considered the projected actual emissions

23 from affected units in those SIP submittals as

24 commitments that the state needs to meet going

1   forward.

2   That is why the proposal

3   sets hard caps on allowable limits below

4   the projections of actual emissions. This

5   is not all inconsistent. Setting allowable

6   emissions ensures that actual emissions

7   under the proposal will remain below the

8   projected actuals from SIPS submittals. This

9   ensures that these commitments will be met in

10   all future years.

11   A couple of follow-up

12   questions: First, allowable emissions

13   will necessarily exceed actual emissions;

14   is that correct?

15   MR. BLOOMBERG: Yes.

16   MR. ARMSTRONG: For purposes of

17   the regional haze analysis, IEPA will use

18   projected actual emissions as a baseline

19   against which to compare emissions expected

20   under the rule; is that correct?

21   MR. DAVIS: Could you repeat that?

22   MR. ARMSTRONG: I can ask it again.

23   So for purposes of the

24   regional haze analysis, IEPA will use projected

1 actual emissions as a baseline to determine the

2 impact of this proposed rule?

3   MR. DAVIS: No. That would not

4 be what we use to determine the impact of

5 this rule. We needed to set allowable limits

6 below what the projected annual emissions

7 were when we proposed our regional haze SIPS.

8   MR. ARMSTRONG: And to clarify,

9 I asked as a baseline, what number of

10 emissions -- what emissions would be --

11 would IEPA be looking at to determine the

12 environmental impact of the rule?

13   You just said they would be

14 using projected actual emissions, is that

15 correct, as a baseline?

16   MR. DAVIS: A baseline for?

17   MR. BLOOMBERG: The original

18 regional haze submittal?

19   MR. ARMSTRONG: Correct.

20   MR. BLOOMBERG: To ensure we stayed

21 below those original submittals, we have to have

22 a rule that has allowables that are below

23 those.

24   MR. ARMSTRONG: So the allowables

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1   in the proposed MPS rule are compared with

2   projected actual emissions; is that correct?

3   MR. DAVIS: Yes. That's correct.

4   MR. ARMSTRONG: So the projected

5   actual emissions are the baseline by which

6   the proposed allowable emissions will be

7   judged when it comes to regional haze?

8   MR. DAVIS: The projected actual

9   emissions in the regional haze SIP resulted

10 in lower emissions statewide than would have

11 happened if we had applied BART level control

12 at BART eligible units.

13   Now, in the regional haze

14 SIP, the midwest RPO and our -- our lake area

15 LADCO is the lake area director's consortium,

16 they do modeling work for the region and they

17 had determined -- and this was one of US EPA's

18 recommendations was a certain class of sources,

19 a coal fire power plant, also oil refineries,

20 if they were constructed in a certain range

21 of years, if they were required to apply best

22 available retrofit technologies at those

23 plants, then they expected a certain level

24 of emission reductions in the state and

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1   in the region.

2   Now, in that analysis, they

3   needed to show the total amount of reductions

4   in our region would be sufficient to meet

5   certain goals that would reduce visibility

6   impact at class one areas -- federally

7   designated class one areas.

8   So Illinois' contribution,

9   had we applied BART level controls at BART

10   eligible units would have satisfied that

11   requirement. We then -- we didn't use BART

12   eligible -- BART control at BART eligible

13   units. We had another plan, the MPS, and

14   we projected what emissions in future years

15   would be as a result of that MPS.

16   Now, those projections had

17   to be lower than what we expected under BART

18   level control at BART eligible units. And

19   so since they were, that was better than

20   BART, and so our visibility impact would be

21   less than applying that plan. And so in any

22   future rulemaking, we considered that, yes,

23   the allowable emissions from those units

24   should be less than what we didn't -- we

1 didn't really commit to those.

2   There would have had to

3 have been changes to our SIP if we hadn't

4 been meeting our commitments under that

5 SIP, but if they are less than that,

6 then, yes, our visibility goals and the

7 commitments we made under our SIP have

8 been met.

9   MR. ARMSTRONG: So does Table 1

10 of the Technical Support Document have any

11 bearing on the Regional Haze Analysis?

12   MR. DAVIS: I'm sorry. I was...

13   MR. ARMSTRONG: Sorry. You had

14 spoke a lot there and I asked the question

15 right after you stopped talking. That's not

16 really fair.

17   Table 1 of the Technical

18 Support Document, does that have the any bearing

19 on the Regional Haze Analysis?

20   MR. DAVIS: Yes, it does.

21   MR. ARMSTRONG: In what manner?

22   MR. DAVIS: These allowables, we did

23 want to -- well, these allowables are calculated

24 at MPS rates and, like we've said before, no --

1 no single unit is required to meet this specific

2 rate and so, as a demonstration of not

3 backsliding for a Section 110(l) demonstration,

4 then, yes, those were the allowables that we

5 used.

6   MR. ARMSTRONG: So are you testifying

7 that under a Section 110(l) backsliding

8 analysis, the Agency is required to consider

9 maximum allowable emissions as opposed to actual

10 emissions?

11   MR. BLOOMBERG: Yes. As was

12 stated in the email and my discussions with

13 Doug Aburano of US EPA Region 5, is an

14 allowable-to-allowable comparison.

15   MR. RAO: And but it's fleet wide

16 not -- in the result?

17   MR. BLOOMBERG: It's -- yeah. I

18 mean, it depends on the situation. In this

19 particular situation, yes, it is fleet wide.

20   MR. ARMSTRONG: Well, I want to

21 direct your attention to a document you attached

22 as an Attachment 9, Page 3 of that document.

23   HEARING OFFICER TIPSORD: Just to

24 clarify, that's Attachment 9 to the Agency's

1 answer, which is Exhibit 6.

2   MR. ARMSTRONG: So I should ask,

3 first, you did -- the Agency did provide some

4 information on this in its answers, but just

5 for the record, what is this document?

6   MR. BLOOMBERG: This is a Dynegy

7 document.

8   MR. ARMSTRONG: So does the Agency

9 agree in all respects with this document or does

10 it potentially agree with some of it and not the

11 rest of it?

12   MR. BLOOMBERG: I can sit here and

13 read it all and tell you or we can answer in

14 comments later.

15   MR. ARMSTRONG: Second, probably

16 better.

17   I did want to direct your

18 attention to a passage at the top of Page 3,

19 which it is --

20   MR. BLOOMBERG: Excuse me. One

21 way that we can shortcut that a little bit, the

22 previous, is if you compare this list to what's

23 in the rule, if there is something that's on

24 this list that's not in the rule, it's a pretty

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1 good bet that we didn't agree with it.

2   MR. ARMSTRONG: Okay. This is not

3 so much the feature of the rule, but rather an

4 explanation of the anti-backsliding analysis.

5   MR. DAVIS: Same document?

6   MR. ARMSTRONG: Attachment 9.

7 I'll be looking at a draft confidential

8 business information dated February 21,

9 2017. There's a block quote at the top of

10 Page 3 from an EPA federal register notice,

11 EPA approval and revision of air plans,

12 Arizona state and federal implementation

13 plans.

14   The quote there is, "The

15 critical question under Section 110(l) is

16 not whether the SIP revision will cause an

17 increase in actual emissions, it is whether

18 that increase in actual emissions will

19 interfere with attainment of the NAAQS or

20 reasonable further progress, or if the SIP

21 revision interferes with any other applicable

22 requirement of the Clean Air Act."

23   My question -- well, the

24 fact that actual emissions will increase

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1   means that EPA's analysis must include an

2   evaluation of how that emission increase

3   affects attainment and reasonable further

4   progress in other applicable requirements

5   of the Clean Air Act.

6   My question first is was --

7   did the Multi-Pollutant Standard adopted

8   address regional haze requirements?

9   MR. BLOOMBERG: No.

10   MR. ARMSTRONG: Has the Agency

11   made any analysis of how its proposed

12   amendments would impact attainment of

13   PM 2.5 or ozone NAAQS within the state

14   of Illinois?

15   MR. BLOOMBERG: There have been

16   no quantitative analyses. However, it is

17   extremely unlikely.

18   MR. ARMSTRONG: Unlikely that

19   what?

20   MR. BLOOMBERG: That there would

21   be an impact of the type that you seem to be

22   suggesting and I'm not sure also what that

23   has to do with the quote you just read.

24   Just as a reminder, this

1   is not our document. This is Dynegy's document.

2   Dynegy was making an argument. The argument --

3   the quote seems to say that actual emissions

4   were -- that actual or allowable emissions

5   can increase if -- but you can demonstrate

6   because at one point, Dynegy did not want

7   the 55,000 ton limit.

8   As we mentioned, their

9   original proposal was higher. We said no,

10   it has to be below this to do a 110(l)

11   allowable-to-allowable comparison.

12   This was drafted to make

13   the argument for Dynegy that what we had

14   said was incorrect. However, we did not --

15   we clearly did not accept the argument

16   here proposed by Dynegy and continued to

17   ensure that the allowable emissions would

18   be lower than the regional haze set.

19   MR. ARMSTRONG: Does the IEPA

20   agree with Dynegy's statement here that

21   Dynegy's proposal -- I should scratch that

22   because I don't know what exactly Dynegy's

23   proposal was at this time, but does the

24   Agency agree that it's proposed rules will

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1 not cause an increase in actual emissions?

2   MR. BLOOMBERG: Where is that?

3   MR. ARMSTRONG: Directly following

4 the block quote, Dynegy states, here, Dynegy's

5 proposal will not even cause an increase in

6 actual emissions.

7   So I'm just asking does the

8 Agency believe that the proposed rules will

9 not cause an increase in actual emissions?

10   MR. BLOOMBERG: It is impossible

11 to say because I don't know what they're

12 comparing it to there. If it -- you know,

13 as we have said, actual emissions fluctuate

14 greatly. They can fluctuate under the current

15 MPS.

16   Previous years, some have

17 been higher, some have been lower. So I

18 cannot answer as to what that specific

19 sentence meant.

20   MR. ARMSTRONG: I have no further

21 follow-up questions, but James Gignac will

22 have a few.

23   HEARING OFFICER TIPSORD: You know

24 what, I'm suspecting it's going to take you

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1   more than ten minutes or 15 minutes to ask

2   your questions, Mr. Gignac.

3   MR. GIGNAC: It could.

4   HEARING OFFICER TIPSORD: Probably.

5   Why don't we go ahead and

6   take our lunch break and come back a little

7   after 2:00 and we'll start with you. Okay?

8   Especially if you're going to ask economic

9   questions, I'm a little better on a full

10 stomach. So we will come back at five after

11 2:00.

12   (Whereupon, after a short

13   break was had, the following

14   proceedings were held accordingly.)

15   HEARING OFFICER TIPSORD: We are

16 going to start then.

17   Mr. Gignac has some questions

18 for the Agency.

19   MR. GIGNAC: Okay. Good afternoon.

20 I'm James Gignac with the Illinois Attorney

21 General's Office. I think my questions will

22 mostly be for Mr. Bloomberg.

23   Hello. I wanted to follow-up

24 on the discussion of grid inefficiencies, which

1   is referred to in the Agency's Technical

2   Support Document as part of the basis for

3   the rulemaking and it's also discussed on

4   Page 24 of the Agency's response to questions.

5   MR. DAVIS: That's 24?

6   MR. GIGNAC: Yes, 24.

7   With respect to energy

8   markets and energy crisis, are you familiar

9   with the terms "bid stack" and "clearing

10   price"?

11   MR. DAVIS: You said the question

12   was for David, but, yes, we are aware of

13   those terms.

14   MR. GIGNAC: And can you briefly

15   explain how they interact?

16   MR. DAVIS: The bid stack and the

17   clearing price?

18   MR. GIGNAC: Yes.

19   MR. DAVIS: I wouldn't say that

20   I'm an expert on these terms. I don't know

21   what kind of explanation you are wanting

22   from me personally. We can -- we can give

23   a more detailed answer in post-hearing

24   comments.

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1   MR. GIGNAC: Okay. Would you

2   be able to describe what a bid stack is?

3   MR. DAVIS: Now?

4   MR. GIGNAC: Can you or if you

5   would like to wait until post-hearing

6   comments --

7   MR. DAVIS: Yes. Generally, a

8   bid stack would be where in dispatch order a

9   certain -- well, the stack would be several

10   EGUs producing power.

11   MR. GIGNAC: And then what is

12   the clearing price or stated in other

13   terms, how -- how is the price of energy

14   established?

15   MR. DAVIS: I don't know if that's

16   a very precise question, but as far as a bid

17   stack in relation to a clearing price, your --

18   the EGUs that are bidding power into the

19   market at a lower price would be selected

20   to be dispatched first.

21   MR. GIGNAC: And then once the

22   demand for power is reached, there is a

23   clearing price which then all of the

24   generators receive, is that consistent with

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1   your understanding?

2   MR. DAVIS: I'm not certain that

3   that is the way that it operates in MISO.

4   I -- I think there's a couple different ways

5   that that's actually handled, and that --

6   that honestly may be a better question for

7   Dynegy.

8   Like I said, I'm not an

9   expert in this, but I do know there's a

10 couple different ways that price can be

11 applied at any time, but, like I said,

12 I'm not -- I'm not an expert. I wouldn't

13 be able to say that yes, that is correct,

14 what you're saying.

15   MR. GIGNAC: On Page 24 of the

16 Agency's response to questions, the Agency

17 uses the phrase "more appropriate

18 geographically."

19   Could you expand on what

20 the Agency means by that?

21   MR. DAVIS: Sure. Well, if you

22 have -- theoretically, if you had more demand

23 in the Northern part of MISO, it would be

24 probably more appropriate to dispatch a unit

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1 that is closer, and it's not always the

2 closest unit, but it may be more appropriate

3 than pulling from maybe a unit in southern

4 Missouri because in MISO, they all are

5 connected. It's not just Dynegy on MISO.

6   MR. GIGNAC: So you are saying

7 that you are aware that the grid is

8 interconnected?

9   MR. DAVIS: Yes.

10   MR. GIGNAC: And that electricity

11 can flow significant distances?

12   MR. DAVIS: Yes.

13   MR. GIGNAC: So what makes it more

14 or less geographically appropriate for a certain

15 unit to provide electricity?

16   MR. DAVIS: It's generally -- and

17 this is just an understanding of electricity --

18 it's generally less efficient to send it a

19 longer distance than a shorter distance.

20   There's line losses that I

21 believe also affect the clearing price for

22 the price that is paid.

23   MR. GIGNAC: On Page 25 of the

24 response to questions, there's a question

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1   about whether the current MPS has led to

2   increased emissions. The Agency states if

3   coal fired units are forced to operate, those

4   could displace generation from cleaner units

5   like natural gas units that would have operated

6   instead.

7   Do you think this is true even

8   in off peak hours?

9   MR. DAVIS: It could be. I -- I --

10   it's -- there's a lot of variables. When you

11   say "off peak," it would depend on how many

12   units in the region were running. Certainly,

13   the lower cost ones are dispatched first. So

14   it's hard to say at which level of off peak

15   the next unit to be selected would be.

16   And so, yes, I would say it

17   could happen especially with natural gas

18   prices being low or, you know, your question

19   was lower emission units could be called

20   before higher emission and that's true

21   because of the different fuel sources.

22   MR. GIGNAC: Okay.

23   MR. DAVIS: But it's hard to say

24   exactly at what level of off peak you are

1   describing or meaning.

2   MR. GIGNAC: Did the Agency ask

3   for any data from Dynegy of the units that

4   it happens solely for purposes of MPS compliance

5   including the times of day that those units

6   operated?

7   MR. BLOOMBERG: No.

8   MR. GIGNAC: If Dynegy retires a

9   plant, is it correct to say that it is unknown

10   what type of megawatts will replace that plant?

11   MR. BLOOMBERG: By "type," do you

12   mean --

13   MR. GIGNAC: Generation source.

14   MR. BLOOMBERG: That is correct.

15   MR. GIGNAC: So in multiple places,

16   in response to comments and also today, the

17   Agency has testified that it does not expect

18   or contemplate that Dynegy would turn off

19   pollution controls or operate those controls

20   to a lesser degree, for instance, Page 33

21   response, the Agency does not believe that

22   the Dynegy units with scrubbers will operate

23   without control at the Baldwin and Havana

24   units. Dynegy is required by federal

1   consent decree to operate controls in the

2   controls at Coffeen and Duck Creek units

3   with FGD type of control not easily by-passed.

4   Isn't it correct that

5   Table 1 in the Technical Support Document

6   assumes that sulfur dioxide controls are

7   not operated at those units?

8   MR. DAVIS: No. That is not correct.

9   That's not the intention for Table 1.

10   MR. GIGNAC: So if a -- if a scrubber

11 is operating at Coffeen on Table 1, it shows

12 emission rate of .23 pounds per million Btu,

13 was that the rate that the Coffeen plant

14 would be emitting with its scrubber in

15 operation?

16   MR. DAVIS: No.

17   MR. GIGNAC: So does that figure

18 point to three in Table 1 assume that the

19 scrubber is not operating?

20   MR. BLOOMBERG: No.

21   MR. GIGNAC: Can you elaborate?

22   MR. BLOOMBERG: Yeah. We've

23 gone over Table 1 a few times now. These are --

24 those numbers there in the MPS rate column are

1 simply the rate at which that MPS Group is held.

2 It has nothing to do with the individual units

3 we discussed that several times today.

4   MR. GIGNAC: Thank you.

5   HEARING OFFICER TIPSORD: Okay.

6 Go ahead.

7   MR. MORE: I have a couple quick

8 questions. I'm just going to do it from

9 here, if that's all right.

10   Ms. Dubin asked a number

11 of questions, as did others, about the NAAQS

12 and what effect potentially the MPS proposal

13 would have on the NAAQS.

14   Do you all recall those

15 questions?

16   MR. BLOOMBERG: Yes.

17   MR. MORE: And earlier you

18 testified that the MPS is not utilized

19 by Illinois EPA in connection with its

20 obligation to maintain or attain any

21 NAAQS in the state of Illinois, isn't

22 that right?

23   MR. BLOOMBERG: I believe just to

24 clarify, what we said was it has never been

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 1 intended as a NAAQS control.

 2   MR. MORE: Okay. In fact, the

 3 plants that are subject to the MPS have to

 4 comply with a number of air regulations;

 5 isn't that right?

 6   MR. BLOOMBERG: Yes.

 7   MR. MORE: And some of those

 8 air regulations are designed specifically

 9 and relied extensively on Illinois EPA to

10 maintain and attain the NAAQS, correct?

11   MR. BLOOMBERG: Yes.

12   MR. MORE: And none of those

13 regulations are expected to change as a result

14 of this proposal?

15   MR. BLOOMBERG: That's correct.

16   MR. MORE: So, in fact, there are

17 other regulatory programs in place that are

18 intended to protect the NAAQS?

19   MR. BLOOMBERG: Yes. A good

20 example would be at the Edwards plant where,

21 as I had mentioned earlier, there was an SO2

22 rulemaking and at that rulemaking, specific

23 emission levels were set to ensure that the

24 area would be brought into attainment and

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1   so no matter what happens in this rulemaking,

2   the SO2 levels in Part 214 for the Edwards

3   plant will still be there.

4   Edwards cannot increase

5   beyond the emission level that is in that

6   rule. So it doesn't matter if every other

7   Dynegy plant in the state closed down and

8   theoretically, under the MPS, Edwards could

9   emit all 55,000 tons, they couldn't. They

10 still have that other rule that keeps the

11 area in attainment.

12   MR. MORE: Okay.

13   MR. BLOOMBERG: In addition to

14 that, I think we've already said that, but

15 just to make sure, the MPS is not really

16 the proper vehicle for doing anything related

17 to the NAAQS because it is a fleet wide

18 standard. It is an annual standard whereas

19 for different NAAQS, for example, the SO2

20 NAAQS is an hourly standard. That's why

21 there are hourly limits on, for example, the

22 Edwards plant.

23   MR. MORE: Thank you. There were

24 a number of questions suggesting that a

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1 reduction in the allowable emissions would

2 result in an environmental benefit.

3   In response to those questions,

4 the Agency indicated that it's setting the

5 regulations to ensure compliance with a

6 regional haze program.

7   Do you recall those questions

8 and the back and forth on that?

9   MR. BLOOMBERG: Yes.

10   MR. MORE: Okay. All right.

11 Does the Agency develop regulations to lower

12 emissions just for the sake of lowering

13 emissions?

14   MR. BLOOMBERG: Sometimes.

15   MR. MORE: And those sometimes,

16 you do it -- you still look at it in the

17 context of complying with another reg- --

18 well, if it's used for compliance with a

19 federal program, you're evaluating those

20 reductions whether or not they are necessary

21 to comply with that federal program; isn't

22 that right?

23   MR. BLOOMBERG: If it's for a

24 federal program, yes.

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1   MR. MORE: And in this instance,

2   you're utilizing the MPS for compliance with

3   the federal program, correct?

4   MR. BLOOMBERG: Yes.

5   MR. MORE: Okay. And when the MPS

6   was first being proposed, was it being proposed

7   in the context of being used to comply with a

8   federal program?

9   MR. BLOOMBERG: No.

10   MR. MORE: Hold on one moment,

11   please.

12   (Brief pause.)

13   MR. MORE: That's all I have.

14   HEARING OFFICER TIPSORD: Thank you.

15   Mr. Bloomberg, just a point

16   of clarification, wasn't the MPS originally a

17   part of the Mercury rulemaking, which was, in

18   fact, at that time a federal requirement?

19   MR. BLOOMBERG: It was a -- it was

20   not proposed as part of the Mercury rulemaking.

21   It was a negotiated agreement that was put into

22   the Mercury rulemaking.

23   The Mercury rulemaking

24   itself -- if my recollection of the timing is

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1   correct, the Mercury rulemaking was proposed

2   by the state of Illinois under the governor

3   at the time before the federal camera rule

4   was put into place.

5   HEARING OFFICER TIPSORD: I believe

6   it was filed under 28.5 and, in fact, we ended

7   up in Circuit Court on that issue. So that's

8   my recall, but we ended up in Circuit Court

9   on whether or not it was, in fact, a federally

10   required rule under Section 28.5 and it was

11   removed from 28.5 by the Circuit Court. So --

12   MR. BLOOMBERG: My recollection could

13   be incorrect.

14   HEARING OFFICER TIPSORD: Yes. I

15   think, in fact, at the time we certainly all

16   considered it to be federal.

17   MR. BLOOMBERG: With that in mind,

18   then my answer to Josh's earlier question

19   changes from sometimes to almost never.

20   HEARING OFFICER TIPSORD: Thank

21   you.

22   MR. DAVIS: I can clarify. Camera

23   was a federal rule that was a trading program

24   that was then found to be inappropriate so it

1   was vacated in federal court. So while the

2   Illinois Mercury rule, we had proposed, as

3   a rule that we would have to -- it was going

4   to be better than camera.

5   We were doing that instead

6   of camera. When camera was vacated, it stood

7   alone and now there is the utility mats and

8   our Mercury limits are still -- they're

9   significantly lower than what the federal

10   requirement was.

11   But, yes, when it was proposed,

12   Illinois was going to have to do something

13   with Mercury and at the time, we made our

14   own rule instead of going with the federal

15   trading program.

16   HEARING OFFICER TIPSORD: Okay.

17   MS. BUGEL: I do have a couple of

18   just three or four follow-up questions.

19   Because they are just three or

20   four --

21   HEARING OFFICER TIPSORD: Hand her

22   one of the mics.

23   MS. BUGEL: You and I are right

24   next to each other, but can you hear me now?

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1   MR. DAVIS: Yes.

2   MS. BUGEL: So the Agency has

3   pointed out that Coffeen is the plant that

4   Dynegy has provided as an example of a

5   plant operating at a loss; is that correct?

6   MR. BLOOMBERG: That was the one

7   that I -- you know, that we specifically

8   recalled them mentioning, yes.

9   MS. BUGEL: And in terms of SO2

10   and as measured on a pounds per million Btu

11   basis, isn't Coffeen the lowest emitting

12   plant in the combined Dynegy and Ameren

13   fleet?

14   MR. DAVIS: Yes.

15   MS. BUGEL: And I might have

16   just overheard you say it's one of the

17   lowest in the country; is that correct?

18   MR. BLOOMBERG: Yes.

19   MS. BUGEL: So if Coffeen is

20   being used -- run for purposes of achieving

21   MPS compliance and it's displacing other

22   megawatts, if the other source of megawatts

23   that it's displacing is a coal source, it's

24   virtually guaranteed that that source is

1 higher emitting than Coffeen; is that correct?

2 MR. BLOOMBERG: Under that situation,

3 which involved a couple of -- yes, yes.

4 MS. BUGEL: Thank you. That's all

5 I have.

6 HEARING OFFICER TIPSORD: We will

7 now move on to --

8 MR. RAO: We have a couple of

9 follow-ups.

10 HEARING OFFICER TIPSORD: Yes. We

11 probably need to grab that one.

12 MR. RAO: Can you hear me in the

13 back?

14 I would like to thank you

15 for the quick turnaround with the answers.

16 That helps a lot.

17 I have one follow-up question.

18 I think we've already dealt with this issue

19 as part of the follow-up, but I just want to

20 get something clarified and it deals with

21 Question No. 8.

22 When asked the Agency as to

23 how you went about evaluating localized impact

24 in drafting these proposed amendments and you

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1   explained how the DRR modeling was used to

2   evaluate localizing impact and you also

3   talked about I think the Joppa plant where

4   you put a limit -- a mass limit on the plant

5   for SO2, and you mentioned in regard to the

6   Joppa plant, a threshold level beyond which

7   there will be a cause for concern.

8   Did you give them a similar

9   threshold level for other plants as a part

10   of your evaluation?

11   MR. BLOOMBERG: No, because the

12   others were so far away that even if there

13   was an emissions increase at one of those

14   plants, it wasn't going to approach the

15   levels at which the NAAQS would be threatened.

16   By far away, I mean the emissions were so much

17   lower.

18   MR. RAO: Okay. So when you

19   evaluated localized impact with other plants,

20   you did mention that you looked at the DRR

21   modeling, which is done using actual levels,

22   and then you made some sort of visual

23   comparison to see if there would be a cost

24   concern.

1   How exactly did you do

2   that? There has to be some comparison of

3   the numbers or is there some other way you

4   approached this?

5   MR. BLOOMBERG: Well, the modeling

6   will tell you what the highest concentration

7   is of any of the receptors in the modeling

8   area.

9   So when we looked at the

10   highest concentration, they were significantly

11   below the SO2 NAAQS level and there's a

12   specific level in the DRR -- in the guidance

13   for the DRR, it sets a level at which, you

14   know, there's a concern that you should look

15   at under certain circumstances, and I can't

16   remember that number off the top of my head,

17   but what we did was we reviewed it, you know,

18   reviewed the concentrations and saw that

19   everywhere that we had modeled, except for

20   Joppa, the modeled values were far below that

21   level of concern.

22   MR. RAO: And earlier, Mr. Davis

23   had said that the Agency would submit some of

24   the information relating to this DRR modeling;

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1 do you recall?

2   MR. BLOOMBERG: Well, I think he

3 said, or one of us said, that we would provide

4 you with certain pieces of information. I

5 think that we indicated in our response that

6 we could give you all of the modeling if you

7 want. I just don't know what you're going

8 to do with it.

9   MR. RAO: We want your analysis

10 of the data that you looked at in the modeling

11 so that we have a better handle on how

12 legitimate the local impact is because with

13 the TSD, we know, based on the limit that we

14 have placed, the mass limit, that the state

15 would not be in any jeopardy of violating the

16 NAAQS.

17   We are concerned about what

18 the localized impacts were and the expense,

19 how we do it, and you gave the example for

20 the Joppa plant. We just want to make sure

21 that you have similar information for all other

22 plants.

23   MR. BLOOMBERG: Okay.

24   MR. RAO: Thank you. That's it.

1   HEARING OFFICER TIPSORD: All right.

2   Mr. Sylvester?

3   MR. SYLVESTER: Do you want me to

4   speak in my courtroom voice or into the

5   microphone?

6   HEARING OFFICER TIPSORD: Why don't

7   you come up?

8   MR. SYLVESTER: Thank you.

9   My question is regarding No. 13

10   to the Board. It's on Page 8.

11   It says please also provide a

12   graph or graphs for the total of all the units

13   showing the following relationships. It

14   references in the answer Attachment 6. I just

15   wanted to go over some of the numbers that were

16   shown in Attachment 6.

17   For Question 13(a), I'm not

18   sure of the page here. It's the first -- the

19   first graph or chart, however you want to call

20   it, is on the first page following the header

21   for Attachment 6.

22   At the top, it says 13(a)

23   and (b), I'm assuming that's the answers to

24   13(a) and (b), that's what that graph is for?

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1   MR. BLOOMBERG: Yes.

2   MR. SYLVESTER: Okay. And then the

3   column on the left, mine is black and white.

4   So I don't know if you have color there. I

5   think you do.

6   MR. BLOOMBERG: Yes.

7   MR. SYLVESTER: The blue column

8   for those with color, it says, allowable SO2

9   emissions-MPS, and then at 66,354, that's for

10 the entire MPS fleet currently?

11   MR. BLOOMBERG: Yes, both MPS

12 groups.

13   MR. SYLVESTER: Okay. And so then

14 I wanted to direct your attention to

15 Question 13(e). It says maximum allowable mass

16 emissions from the Joppa units under the current

17 rule and that's, once again, the MPS, the

18 current MPS?

19   MR. DAVIS: Some of these were a

20 bit difficult to discern exactly what the Board

21 was getting at. I think some of the graphs,

22 and I made most of these, and -- all of them

23 actually.

24   Some of these show -- and it's

1   really kind of an exercise and are we calling it

2   allowable for the source, allowable for the

3   fleet, allowable for a unit sometimes, and

4   even potential to emit. So some of these

5   numbers seem -- and I said in some of my

6   trend graphs that these were evaluated at

7   the most restrictive limit at their maximum

8   capacity.

9   And so, yes, the 161,000

10   would be at a limit that was in, I believe,

11   attachment -- I'm not sure which attachment,

12   but the attachment that the Board requested

13   that has quite a few of the other standards

14   that apply to the MPS units.

15   MR. SYLVESTER: Just really a

16   clarification question I have, it says the

17   first graph, and the response to the question

18   appears to me to be that for the total you

19   have, 66,354 tons per year. I'm just wondering

20   how Joppa, subject to the same rules, could

21   have allowable emissions of 95,000 tons per

22   year or more for the year.

23   I was wondering whether

24   that was a mistake or if there was further

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1   clarification you could make.

2   MR. BLOOMBERG: Yes. Rory can jump

3   in and correct me if I'm wrong, but this was

4   done in looking -- as Rory said, sometimes

5   this is a little difficult exactly what we

6   wanted. When this graph was made, it was

7   made using their management allowable emissions

8   with other limits that they may have.

9   And so, yes, you're right.

10   I guess in theory, the maximum, you know,

11   for Joppa should have done 66,354 that they

12   could have emitted all of the SO2 for the

13   entire MPS Group, but then you just have

14   that same graph again.

15   So this is more what the

16   plants' limits are; is that correct?

17   MR. DAVIS: Yes and no. You

18   couldn't say that the 66,354 would be a

19   limit that would be applied to Joppa at all

20   certainly under the current MPS rules because

21   those rules don't have the different limits of

22   0.234 that former Ameren Group had and the

23   MPS rate of 0.19 for the current Dynegy Group.

24   So this would be an allowable

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1   perhaps if the group that they were in had

2   many more units than it does currently. And

3   so coming up with an allowable for a single

4   unit based upon the fleet wide annual average

5   is difficult and so this reflects the most

6   restrictive limit. I think it may be 1.2 pounds

7   per hour. That would be 8,760 hours a day -- a

8   year at their normal capacity as given in

9   Table 1.

10   MR. SYLVESTER: Well, I guess

11 the question I would have, then, are we like --

12 is this an apples to oranges comparison?

13   MR. DAVIS: It kind of is and I

14 don't know how helpful the table is -- or the

15 graph is and that's why I was saying some of

16 it was -- I tried to just answer the Board's

17 question in the terms that was given.

18   MR. SYLVESTER: Is there a way that

19 you could supplement it with, you know, where

20 you would be able to, under the maximum

21 allowable emissions of the 66,354 --

22   THE COURT REPORTER: I'm sorry.

23 Could you please repeat that louder?

24   MR. SYLVESTER: Sure. Do you want

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1 me to repeat that?

2   THE COURT REPORTER: Please. Thank

3 you.

4   MR. SYLVESTER: So if possible

5 for you to do a calculation using the current

6 maximum allowable SO2 emissions of 66,354 to

7 make some sort of a determination that's an

8 apples to apples comparison for Joppa or this

9 chart really is of no use?

10   MR. DAVIS: The apples to apples

11 comparison would be difficult because it would

12 also depend on the emission rate and utilization

13 of every other unit in the -- in the group under

14 current rules, that that would be their own

15 group, what the emission rates were and their

16 utilizations in a given year to meet their fleet

17 wide average. So it would be difficult to come

18 up with that comparison of what their annual

19 allowable on a mass basis would be under the

20 current rules. And so the only -- without

21 assuming a lot of variables, the only real

22 comparison I could put on the table was, well,

23 their pound per hour limit is this and this is

24 how we calculate allowables for a given unit.

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1   Now, I would stipulate that

2   it's really unlikely that under the current

3   rules they could actually get there, but that

4   would be their potential to emit if they were,

5   say, applying for a permit.

6   MR. SYLVESTER: Okay. Just to

7   answer -- to put a cap on, and then I'll stop,

8   for 13(e), you really don't have a specific

9   answer for the Board?

10   MR. DAVIS: Like I said, that

11   would be my specific answer, but again, like

12   I said, it's unlikely they could hit that,

13   but the questions you posed before to get

14   to a different sort of answer would be difficult

15   or impossible to say without making a lot more

16   assumptions that they didn't build into

17   Question 13.

18   MR. SYLVESTER: Thank you. That's

19   all I had.

20   MR. RAO: So just as a clarification,

21   161,468, is that the same as the potential to

22   emit for the Joppa plant?

23   MR. DAVIS: Yes. I believe that

24   would be accurate.

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1   MR. RAO: Okay.

2   HEARING OFFICER TIPSORD: Anything

3   else for the Agency?

4   All right. Let's move on

5   to the Attorney General's Office then. If we

6   could have some rearranging so we can get the

7   Attorney General's Office up front.

8   (Brief pause.)

9   HEARING OFFICER TIPSORD: Shall we

10   have the witnesses sworn?

11   MR. SYLVESTER: I have a couple of

12   points of procedure.

13   HEARING OFFICER TIPSORD: One, you

14   need a microphone.

15   MR. SYLVESTER: I'll take this one.

16   One, we haven't admitted

17   Mr. Gignac's testimony or have we? Is this on?

18   HEARING OFFICER TIPSORD: It's on,

19   but you pulled it away.

20   MR. SYLVESTER: Do we need to make

21   Mr. Gignac's testimony an exhibit?

22   HEARING OFFICER TIPSORD: Once he is

23   sworn in, we will.

24   MR. SYLVESTER: Okay. Very good.

1   HEARING OFFICER TIPSORD: I prefer

2   to admit their testimony after they are sworn

3   in.

4   MR. SYLVESTER: One further thing,

5   could we also swear in Mr. Armstrong? He may

6   also offer testimony.

7   HEARING OFFICER TIPSORD: Absolutely.

8   Will you swear in the

9   witnesses, please?

10   THE COURT REPORTER: Gentlemen,

11   raise your right hands, please.

12   Do you swear that the

13   testimonies you are about to give will be the

14   truth, the whole truth and nothing but the

15   truth, so help you God?

16   And please state your names.

17   MR. GIGNAC: James Gignac, yes.

18   MR. ARMSTRONG: Andrew Armstrong,

19   I do.

20   (Witnesses sworn.)

21   HEARING OFFICER TIPSORD: Okay.

22   Then if there's no objection, we will admit

23   Mr. Gignac's -- and I apologize if I'm

24   butchering your name.

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1   MR. GIGNAC: No, no. That's good.

2   HEARING OFFICER TIPSORD: We will

3   admit his testimony as Exhibit No. 9.

4   (Document marked and entered

5   as Exhibit No. 9 for

6   identification.)

7   MR. SYLVESTER: There was also

8   an exhibit to his testimony that was filed

9   separately, if we could have that admitted

10   as well. It's an Excel spreadsheet.

11   HEARING OFFICER TIPSORD: Oh, okay.

12   Okay. If there's no objection, we will admit

13   the Excel spreadsheet as Exhibit No. 10.

14   (Document marked and entered

15   as Exhibit No. 10 for

16   identification.)

17   HEARING OFFICER TIPSORD: I'm going to

18   move right along.

19   If there's no objection, we

20   will admit the IEPA questions for Mr. Gignac

21   as Exhibit No. 11.

22   (Document marked and entered

23   as Exhibit No. 11 for

24   identification.)

1   HEARING OFFICER TIPSORD: We will admit

2   the answers as Exhibit No. 12 if there's no

3   objection.

4   (Document marked and entered

5   as Exhibit No. 12 for

6   identification.)

7   HEARING OFFICER TIPSORD: Seeing

8   none, those are admitted.

9   Okay. And with that, we will

10   start with IEPA. If they have any follow-ups.

11   MR. SYLVESTER: I think Mr. Gignac

12   wanted to make a statement.

13   HEARING OFFICER TIPSORD: I

14   apologize. Please do.

15   MR. GIGNAC: Thank you. Good

16   afternoon.

17   My name is James Gignac.

18   I am appearing on behalf of the Illinois

19   Attorney General's Office. I am representing

20   the People of the state of Illinois.

21   I would like to make an

22   opening statement that briefly summarizes

23   the People's testimony and offers some

24   responses -- some additional responses to

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1   pre-filed questions.

2   So the MPS was created at

3   the request and proposal of coal plant owners

4   as an alternative to give them more time to

5   comply with Mercury pollution limits. The

6   deal required the coal plants to opt in to

7   compliance with the MPS for the lifetime of

8   the units and that is what Dynegy and Ameren

9   did.

10   The People's concern with

11   the proposed amendments is that they would

12   render the MPS essentially meaningless as a

13   pollution control limit and lead to higher

14   levels of air Dynegy plants.

15   Section 10(a) of the Illinois

16   Environmental Protection Act provides that the

17   Board -- to carry out the purposes of the Act.

18   We assert that the first notice proposal would

19   not do that specifically because it fails to

20   restore, enhance or maintain the purity of the

21   air in Illinois under Section 8 of the Act.

22   We assert that there's not

23   sufficient justification to change the MPS

24   other than the unclearly defined concept of

1   operational flexibility desired by the source.

2   If the Board decides the MPS

3   should be modified, we offer a critique of

4   Illinois EPA's allowable emissions framework

5   in that the Agency fails to take into account

6   the unit's actual emission rates. This is what

7   I call in the testimony the actual potential

8   to emit, which is not offered as a term of

9   art under the Clean Air Act or as a regulatory

10   citation, but rather words/phrases that

11   explain the concept of how to more appropriately

12   consider allowable emissions under the existing

13   MPS.

14   What we demonstrate in the

15   pre-filed testimony is that the number to

16   compare used by IEPA of emissions under the

17   existing MPS is far too high. In fact, the

18   proposed cap is higher than what the existing

19   units could ever come close to reaching with

20   respect to SO2.

21   Units have pollution controls

22   that the Agency does not expect to be turned

23   off and other units have no controls. This

24   needs to be taken into account and that is

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1 what our testimony does.

2   Assuming the Board decides

3 the MPS does need to be changed, it should

4 consider significantly modifying the proposed

5 amendments.

6   The first is limiting the

7 changes to combining the MPS groups while

8 maintaining a rate-based. This is a more

9 modest incremental change to the MPS that

10 would provide additional options to Dynegy

11 through larger pool of plants from which to

12 choose its compliance approach.

13   The Board should request

14 stakeholder input on what that new rate-based

15 standard should be.

16   If the Board decides

17 not only that the MPS needs to be changed,

18 but that it also needs to allow the MPS

19 groups to be combined and to switch the

20 standards from rate-based to mass-based,

21 the people urge the Board to consider

22 much lower caps than what had been proposed

23 and to also request stakeholder comment on

24 those numbers.

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1   The Board should also

2   include provisions for reduction of the

3   cap when Dynegy retires a unit.

4   I would like to briefly

5   also respond to some questions posed by

6   IEPA and Dynegy to each other that I

7   believe mischaracterized People's testimony.

8   Specifically, in response

9   to IEPA Question 3 in which IEPA states

10   that the people "recommended" that Dynegy

11   operate its cleanest plants full-time, that

12   is not what our pre-filed testimony says.

13   Rather, what we provide on

14   Pages 17 to 18 of our pre-filed testimony

15   is a theoretical exercise of the most heat

16   input the old Ameren group could get and

17   still meet its current SO2 limit under the

18   MPS. It is actually a more generous method

19   of calculating a more appropriate amount of

20   allowable emissions.

21   Also, IEPA and Dynegy claim

22   that the people attack the general notion of

23   using allowable emissions as an analytical

24   approach. That's not the case. What we

1   question is how IEPA calculates the allowable

2   emissions because it fails to incorporate

3   futures of the plants that the Agency itself

4   does not expect to change or says will not

5   change. That is again what is meant by the

6   phrase actual potential to emit.

7   Thank you and I look forward

8   to questions.

9   HEARING OFFICER TIPSORD: Okay.

10   Ms. Roccaforte?

11   MS. ROCCAFORTE: Mr. Gignac, on

12   Table 12 on Page 19 of your pre-filed testimony,

13   you list 12 units in the old Ameren group, but

14   in Table 10 on Page 18, you list only eight.

15   Why were Joppa 3, Joppa 5,

16   Joppa 6 and Edwards 2 excluded from Table 10?

17   MR. GIGNAC: What Table 10 does

18   is list the cleanest plants in terms of their

19   emission rates for SO2 in order and also lists

20   their maximum heat input and tabulates a

21   cumulative group rate pounds per million Btu

22   until those units reach the applicable emission

23   standard under the MPS.

24   It stops -- the table

1   stops once 0.23 pounds per million Btu is

2   achieved.

3   MR. DAVIS: To clarify, in Table 10,

4   you say that these are the cleanest units.

5   I'm not an expert on the operations at the

6   Joppa plant, but using Joppa 4 as the fourth

7   cleanest and Joppa 1 as the sixth cleanest

8   and Joppa 2 as the seventh cleanest, it would

9   be my understanding that Joppa 3, 5 and 6

10   would be using the same coal as Joppa 1, 2

11   and 4.

12   Is it your under- -- do you

13   think that Joppa 4 is then a cleaner unit

14   than Joppa 6 or Joppa 3?

15   MR. GIGNAC: The -- the unit rates

16   in pounds per million Btu were calculated

17   using 2016 data. So that's the emission --

18   that's the unit rate that we calculated using

19   2016 data and the units are listed in order

20   of their grids from lowest to highest. I don't

21   know why there's differences between the Joppa

22   units.

23   MR. DAVIS: Could it be -- could it

24   be that in different years certain of the Joppa

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1   units may be cleaner than others just based on

2   mere circumstance if they are indeed using the

3   same coal feed for all six units?

4   MR. GIGNAC: I don't know.

5   MR. DAVIS: Did you look at any

6   other years?

7   MR. GIGNAC: We used 2016 data

8   for this table.

9   MS. ROCCAFORTE: So wouldn't

10 including Joppa 3, Joppa 5, Joppa 6 and

11 Edwards 2 in Table 10 increase the total SO2

12 emissions at maximum heat input from the old

13 Ameren Group?

14   MR. GIGNAC: Correct. And that's

15 why those units are not listed in this table

16 because they would take the group in excess

17 of its MPS limit.

18   MS. ROCCAFORTE: Do you know that

19 exact increase?

20   MR. GIGNAC: I don't have it here.

21   MS. ROCCAFORTE: Okay. On Page 18

22 of your testimony, you state that the total

23 maximum allowable SO2 emissions under the

24 current MPS should be considered no more than

1   49,305 tons. You used the totals from Tables 9

2   and 10 to reach that number.

3   Shouldn't this number have

4   been increased to account for the units you

5   failed to include?

6   MR. GIGNAC: No, because again

7   table -- Table 10 is a theoretical exercise

8   of the allowable emissions, the most heat

9   input that this group of plants could get

10   under the MPS standard.

11   So this -- this, as I said,

12   is generous to that group in terms -- even

13   assuming which Dynegy says is impossible

14   in response to -- in response to pre-filed

15   questions, even assuming that they are able

16   to operate their cleanest units at max heat

17   input, it results in SO2 tons of almost 34,000

18   and then that is then added to the total from

19   Table 9, which is the other MPS Group, the

20   Dynegy group, and that's how we reach the

21   number of 49,000.

22   MS. ROCCAFORTE: Are you suggesting

23   Dynegy should shut down the units that were not

24   included?

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1   MR. GIGNAC: No.

2   MS. ROCCAFORTE: Nothing further.

3   HEARING OFFICER TIPSORD: Are there

4   any other questions for the Attorney General's

5   Office?

6   MR. MORE: I'm just going to come

7   up.

8   Thank you. Clearly, the

9   reception on these other microphones is much

10   better than this one.

11   Okay. So I appreciate your

12   opening statement and I've got a couple of

13   questions getting -- starting out getting to

14   what capacity of offering your testimony

15   in and what role you're playing here.

16   Am I correct you're not

17   offering testimony in your individual capacity?

18   MR. GIGNAC: Correct.

19   MR. MOR: You're here answering

20   questions as an officer of the Illinois Attorney

21   General's Office on behalf of the People of the

22   state of Illinois, right?

23   MR. GIGNAC: Correct.

24   MR. MORE: Therefore, the position

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1 set forth in your testimony and in response

2 to these questions are the positions of the

3 Illinois Attorney General's Office, correct?

4   MR. GIGNAC: Correct.

5   MR. MORE: And just to be clear,

6 because some of your responses to written

7 questions were in the first person, those

8 answers really are the answers of the Illinois

9 Attorney General's Office, correct?

10   MR. GIGNAC: Yes. And I wanted

11 to be clear to the hearing participants who --

12 who they could direct follow-ups to and to

13 also anticipate who would be appearing on

14 behalf of the Illinois Attorney General's

15 Office.

16   MR. MORE: Okay. Thank you.

17   Does the -- from time to

18 time, I may say AG. I presume you will

19 understand I am referring to the office;

20 is that fair?

21   MR. GIGNAC: Yes.

22   MR. MORE: Okay. Great.

23   Does the AG propose any

24 alternatives to the emission caps that the

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1   Illinois EPA is proposing?

2   MR. GIGNAC: Well, first, our

3   initial argument is that the Board should

4   withdraw the first noticed proposal and

5   dismiss the rulemaking because, as we

6   demonstrated in our testimony, Dynegy is

7   complying with the MPS and we don't believe

8   there is a justification for it to be

9   changed.

10   However, if the Board does

11   agree that the MPS should be changed, then

12   we believe that Dynegy should only be allowed

13   to combine its MPS units under a single

14   rate-based standard.

15   Again, that's the most

16   incremental modest change from the existing

17   MPS to provide the operational flexibility

18   as Dynegy says that it needs.

19   However, if the Board

20   agrees further that we should -- that the

21   MPS should be converted to a mass-based

22   standard, then what we have provided to

23   date is the position -- the view that

24   the numbers are set far too high and what

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1   we would suggest is that the Board seek

2   input on reduced caps.

3   So we have not -- to answer

4   your question, we have not provided our position

5   on what those numbers should be.

6   MR. MORE: But I believe you

7   provided what you believe those numbers

8   should be lower than; is that correct?

9   MR. GIGNAC: Well, certainly

10 lower than what's already been proposed.

11   MR. MORE: Okay. But let's go

12 back to Page 18 of your testimony. In the

13 middle there, you say added to the Dynegy

14 group above, the total maximum allowable SO2

15 emissions under current MPS should be

16 occurred no more than 49,305 tons.

17   Do you see that?

18   MR. GIGNAC: Yes.

19   MR. MORE: Okay. So am I

20 correct then to understand that you believe

21 an appropriate cap should be set for SO2, if

22 the Board goes down the path of setting a

23 cap, then it should be at some level below

24 49,305 tons?

1   MR. GIGNAC: I believe that that

2   would be correct if we were asked to provide our

3   position on that.

4   MR. MORE: Okay. Let's -- well,

5   we'll get back to that. Okay.

6   HEARING OFFICER TIPSORD: Excuse

7   me.

8   BOARD MEMBER PAPADIMITRIU: May I

9   ask a clarifying question?

10   MR. MORE: Yes, you may.

11   HEARING OFFICER TIPSORD: You may.

12   BOARD MEMBER PAPADIMITRIU: I will

13   use my hockey voice. Can you hear me okay?

14   MR. SYLVESTER: Not really. You

15   have to get close with that one.

16   BOARD MEMBER PAPADIMITRIU: So

17   the Agency's proposal is less than the

18   current NAAQS requirement; is that correct?

19   MR. GIGNAC: I don't know.

20   BOARD MEMBER PAPADIMITRIU: I

21   believe Mr. Bloomberg might have testified

22   to that effect.

23   MR. BLOOMBERG: Can you ask that

24   question again? I'm sorry.

1   BOARD MEMBER PAPADIMITRIU: Is the

2   Agency's proposal proposing a limit less than

3   what is currently required under the regional

4   haze NAAQS requirement?

5   MR. BLOOMBERG: Okay. Just

6   clarifying, regional haze is not a NAAQS.

7   BOARD MEMBER PAPADIMITRIU: Okay.

8   MR. BLOOMBERG: So, yeah, when

9   you said NAAQS, that's what confused me.

10 Sorry. Yeah. It is what is under the level

11 in our regional haze SIP levels, yes.

12   BOARD MEMBER PAPADIMITRIU: So

13 that is mandated under the federal government?

14 That is a level mandate that we cannot go

15 higher than?

16   MR. BLOOMBERG: It is a little

17 more complicated than that. We had to do the

18 projections that Mr. Davis spoke about and

19 if we, in the future, would not be able to

20 meet those projections, then we would have

21 to basically, you know, get a pound of flesh

22 from somewhere else in the state.

23   So that's why, you know,

24 we wanted to stay below those levels to

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1   ensure that we wouldn't have to come back

2   and do another rulemaking to hit someone

3   else.

4   BOARD MEMBER PAPADIMITRIU: And

5   the 55,000 number that you have -- that the

6   Agency has proposed is under that amount?

7   MR. BLOOMBERG: Yes.

8   BOARD MEMBER PAPADIMITRIU: Okay.

9   So then 49,000 would be less than the 55 --

10 I'm a liberal arts major. So bear with me

11 on that. The 49,000 that the Attorney General's

12 Office would recommend is less than 55,000,

13 which is less than what is required by the

14 federal government, do I have the math correct?

15   MR. BLOOMBERG: Yes.

16   MR. GIGNAC: Yes, except that,

17 just for the record, we are not recommending

18 a cap of 49,000 tons.

19   BOARD MEMBER PAPADIMITRIU: Okay.

20 But if you -- what you had testified to earlier,

21 you said if you had a position, it would be

22 49,000?

23   MR. GIGNAC: We said that it was less

24 than that?

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1   BOARD MEMBER PAPADIMITRIU: So

2   48,000?

3   MR. GIGNAC: We are not prepared

4   today to recommend to you what the cap should

5   be.

6   BOARD MEMBER PAPADIMITRIU: Fair

7   enough. Okay. Thank you. Again, liberal

8   arts.

9   MR. MORE: Has the Attorney

10   General's Office presented any evidence

11   projecting how the MPS units are expected

12   to operate into the future?

13   MR. GIGNAC: I don't know that

14   we -- we have not offered evidence to that.

15   We have not offered evidence to that effect.

16   We have asked Dynegy

17   questions about its -- its anticipation

18   and we look forward to discussing those

19   responses.

20   MR. MORE: Okay. Has the AG's

21   office presented any evidence projecting

22   what the emission levels of the MPS units

23   are expected to be in the future?

24   MR. GIGNAC: We have made the

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1   assertion that the emission rates -- was

2   that your question, Josh?

3   MR. MORE: I'm asking have you

4   done any projection as to what the emission

5   levels -- that would include, I guess we

6   could argue, a rate and/or an annual, either

7   one, what they would be from each unit into

8   the future?

9   MR. GIGNAC: We have made the

10 assertion that the emission rates are

11 unlikely to change because, as I said earlier,

12 the pollution control equipment, at least for

13 SO2, as the Agency has stated, it's -- it's

14 either required by consent decree or

15 difficult to bypass or undue and we have

16 seen no indication from Dynegy of a willingness

17 to invest in further pollution controls,

18 which would change emission rates and

19 which would also provide the operational

20 flexibility that the company is seeking.

21   We have seen no indication

22 of that so in our view -- in our view, the

23 emission rates are unlikely to have much

24 change to them outside of certain operational --

1 operational adjustments or -- or the type

2 of coal or something like that.

3   MR. MORE: Okay. I understand your

4 position and let's assume that that's correct,

5 that the emission rates are not anticipated

6 to change. Nonetheless, the annual tonnage

7 from each unit into the future, have you

8 projected -- is a function of the emission

9 rates and the amount of hours it runs, right,

10 the capacity?

11   MR. GIGNAC: Yes. It depends on

12 how much the plants are dispatched.

13   MR. MORE: Okay. So since you

14 haven't done an analysis as to projecting

15 how much the units had to be dispatched into

16 the future, is it fair to say then you have

17 not done any analysis as to what the total

18 annual emissions are expected to be from

19 each unit into the future?

20   MR. GIGNAC: No. And one of

21 the -- one of the reasons why we suggest

22 that -- again, assuming -- assuming the

23 Board agrees that the MPS needs to be changed

24 at all, one of the reasons to have a rate-based

1   standard is that it allows for units to --

2   to go up and down in terms of their total

3   emissions while ensuring the public that

4   there was -- there is a -- there is an

5   element of pollution control in place.

6   Our concern with setting

7   such a high mass-based cap is that it

8   essentially allows for unlimited operations

9   by the company with no meaningful pollution

10   limit.

11   MR. MORE: Okay. But I want to

12   go back to my question.

13   Have you projected what

14   the annual emissions are expected to be

15   from each unit in the MPS Group into the

16   future?

17   MR. GIGNAC: We have no projection

18   on that.

19   MR. MORE: Please explain the AG's

20   experience in writing environmental rules.

21   MR. GIGNAC: I have not written

22   an environmental rule.

23   MR. MORE: And does the AG regularly

24   propose environmental regulations to the Board?

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1   MR. GIGNAC: We don't propose rules.

2   We participate in rulemakings and in enforcement

3   actions.

4   MR. MORE: And do you sometimes

5   participate in a rulemaking on behalf of the

6   Illinois Environmental Protection Agency?

7   MR. GIGNAC: No.

8   MR. MORE: Okay. Do you sometimes

9   participate in an enforcement action on behalf

10   of the Illinois Environmental Protection Agency?

11   MR. GIGNAC: Yes. The -- as set

12   forth in our testimony, under the Illinois

13   constitution, the Illinois Attorney General

14   is the chief legal officer of the state,

15   which includes representing agencies in

16   certain actions.

17   However, the Attorney General

18   is also tasked with representing the people

19   with the state of Illinois and it is in that

20   capacity that we are here today.

21   MR. MORE: Okay. So sometimes

22   Illinois EPA is your client and sometimes

23   it is not your client, correct?

24   MR. GIGNAC: Correct.

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1   MR. MORE: Okay. How do you

2   decide when you are going to have the

3   Illinois EPA as your client and not your

4   client?

5   MR. ARMSTRONG: Well, Andrew

6   Armstrong for the Attorney General's Office.

7   I work more on the enforcement side so I

8   can probably answer that question.

9   Well, when the Agency wants

10   us to represent them, they send us a request

11   for representation and that is typically

12   how enforcement actions under the Illinois

13   Environmental Protection Act work.

14   Under Section 31 of the Act,

15   there is a process under which IEPA can refer

16   a matter to our office for enforcement. Now,

17   as James just stated, in rulemakings, our

18   office does not represent the Agency before

19   the Board. The Agency is clearly capable

20   of doing that themselves.

21   However, in this and other

22   rulemakings in the past, our office has

23   participated to provide our perspective as

24   the chief legal officer of the state who

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1 enforces rules on the rules that are being

2 proposed.

3   MR. MORE: Is the Illinois Attorney

4 General representing the governor's office in

5 this rulemaking?

6   MR. GIGNAC: No.

7   MR. MORE: Okay. Was the governor

8 elected by the same people of the state that

9 you are representing in this rulemaking?

10   MR. GIGNAC: The same electorate,

11 yes. I don't know if the same people voted

12 for him.

13   MR. MORE: Great point, but I don't

14 think you get to choose which individuals in the

15 state you're representing and which ones you're

16 not; isn't that right?

17   You're saying you represent the

18 people as a whole, correct?

19   MR. GIGNAC: Yes.

20   MR. MORE: Okay. And the governor,

21 who also, in a different capacity, represents

22 the people as a whole; those who voted for him

23 and those that didn't, right?

24   MR. GIGNAC: Sure.

1   MR. MORE: Just like your boss

2   represents the people that voted for her and

3   those who did not, correct?

4   MR. GIGNAC: Correct.

5   MR. MORE: And in this instance,

6   you oppose the rule that Illinois EPA is

7   presenting to the Board, correct?

8   MR. GIGNAC: Yes. Let me also

9   add that one difference between the governor

10   and the Attorney General is that we have the

11   Illinois Attorney General Act, which creates --

12   which guides -- I'm sorry -- which governs

13   aspects of the office and there's also Supreme

14   Court decisions that if have been issued over

15   many decades defining the roles and obligations

16   of the Attorney General.

17   So they are different offices

18   and they have different obligations and among

19   our obligations in the Illinois Attorney

20   General's Office is under Article 5, Section 15

21   of the Illinois Constitution, Illinois residents

22   are guaranteed a right to a healthful

23   environment and our office is obligated to

24   represent those interests under that amendment.

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1   We are also -- our

2   responsibilities also include enforcing

3   Illinois' prohibition on causing air

4   pollution.

5   MR. MORE: Would you agree in

6   the context of this rulemaking the Illinois

7   AG's office is adverse to Illinois EPA?

8   MR. GIGNAC: We are -- we have

9   stated that the first notice proposal should

10   be withdrawn.

11   We would be happy to continue

12   working with the Board and with Illinois EPA

13   on ideas to modify it and again, assuming that

14   the Board feels that the MPS needs to be changed

15   at all.

16   MR. MORE: Okay. Did the Illinois

17   AG receive any authorization or waiver to take

18   a position adverse to an existing client?

19   MR. GIGNAC: Well, our office is

20   not representing the Agency in this rulemaking.

21   MR. MORE: But the Agency is an

22   existing client of the office, isn't it?

23   MR. GIGNAC: In separate unrelated

24   matters.

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1   MR. MORE: And do you have a waiver

2   to represent other entities that -- and take

3   an adverse position in separate unrelated

4   matters?

5   MR. SYLVESTER: I'm going to object

6   to this, the idea that this is adverse. This

7   isn't an enforcement objection.

8   I'm sorry. I'll take a

9   microphone. I'm Stephen Sylvester on behalf

10   of the Attorney General's Office. I would

11   like to object to this line of questioning.

12   First of all, the fact that

13   this is an adverse proceeding, I would like

14   to see what the foundation of that is. This

15   isn't an adverse proceeding. This is a

16   rulemaking with public participation by

17   anybody that wants to participate.

18   So the idea that anybody is

19   adverse because they may not share the same

20   opinions on the end goals here, I would

21   like some foundation on that. I don't think

22   this is an adverse proceeding at all.

23   HEARING OFFICER TIPSORD: I agree

24   with that. I don't think that -- this is a

1 rulemaking. It's more of a legislative matter.

2 So to argue that this is an adverse position,

3 they don't agree, but it's not an adversarial

4 position.

5   MR. MORE: I'll move on.

6   Did the Illinois Attorney

7 General receive any request from any person

8 in the state to comment on the proposal?

9   MR. GIGNAC: I don't know if we

10 received any requests.

11   What I do know is that we

12 received an invitation from Illinois EPA

13 to provide feedback on a stakeholder draft

14 of the rules. That is what we did and then

15 we proceeded to analyze the proposed rule

16 when it was filed and we sought internal

17 authorization to submit our testimony.

18   MR. MORE: Just to be clear,

19 let me ask it a different way.

20   Did the Illinois Attorney

21 General receive any request to file written

22 testimony in connection with this rulemaking?

23   MR. GIGNAC: We are not aware of

24 any.

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1   MR. MORE: Mr. Gignac, am I

2   pronouncing that correctly?

3   MR. GIGNAC: Gignac.

4   MR. MORE: Gignac. Okay. Did

5   you prepare the written testimony filed on

6   behalf of the Illinois Attorney General?

7   MR. GIGNAC: Myself and my

8   colleagues.

9   MR. MORE: Could you identify

10   those colleagues for me?

11   MR. GIGNAC: Andrew Armstrong,

12   Steve Sylvester and Matthew Dunn.

13   MR. MORE: Did you work with any

14   special interest groups in connection with

15   preparing the testimony?

16   MR. GIGNAC: Can you define "work

17   with"?

18   MR. MORE: Sure. Did you communicate

19   with any special interest group regarding any

20   substance of your testimony?

21   MR. GIGNAC: I believe we told

22   the environmental groups who are present

23   here today that we planned to submit testimony.

24   MR. MORE: And did you discuss with

 1   those environmental groups the instance of the

 2   testimony?

 3   MR. GIGNAC: I don't recall. We

 4   may have said that it would be similar to the

 5   stakeholder input that we provided earlier.

 6   MR. MORE: And did any special

 7   interest group -- did you work with any

 8   special interest group in connection with

 9   the comments you provided to Illinois EPA

10   prior to them submitting the proposal to

11   the Board?

12   MR. GIGNAC: We exchanged

13   perspectives and thoughts and may have

14   reviewed pieces of analysis to see if

15   there were suggestions or comments on the

16   comments.

17   MR. MORE: And was that a two-way

18   dialogue?

19   Did they share with you

20   their thoughts and ideas and see your input?

21   MR. GIGNAC: Yes.

22   MR. MORE: Okay. When did those

23   conversations first occur?

24   MR. GIGNAC: I believe it would

1   have been in August when the stakeholder draft

2   was made available.

3   MR. MORE: And in what form did those

4   conversations take place, in person, over the

5   phone via email or all?

6   MR. GIGNAC: Telephone, email.

7   MR. MORE: Were there a series of

8   conversations that took place over the time?

9   MR. GIGNAC: I would describe it --

10   I wouldn't describe it as a series.

11   MR. MORE: Were drafts of proposed

12   comments and/or testimony provided exchanged?

13   MR. GIGNAC: I would need to go

14   back and review my records to verify that,

15   but I believe we did share pieces of written

16   analysis. Whether it was in a form of a

17   comment letter, I would have to check.

18   MR. MORE: And how did the AG's

19   office decide that in connection with the

20   positions it wanted to take in this rulemaking

21   to work with the environmental groups and not

22   any other group?

23   MR. GIGNAC: That was not a

24   decision. Our office is open to input,

1   meetings, and so forth from any group and

2   we frequently -- we frequently have those

3   conversations.

4   Our office, again as I

5   mentioned, the -- the directive of the

6   Illinois Constitution in providing a healthful

7   environment, our office tends to advocate for

8   cleaner air and for public health and we have

9   worked with the environmental groups and they

10   have good attorneys and it is -- it's sort of

11   like peer review to ensure that the comments

12   and analysis that we are considering are legal

13   and otherwise sound.

14   MR. MORE: Okay. So it sounds like

15   you have an open door to the people much like

16   Illinois EPA discussed in their testimony, they

17   have an open door to stakeholders and the people

18   in connection with rulemakings; is that right?

19   MR. GIGNAC: I can't speak to

20   Illinois EPA's policies, but our experience has

21   been that the Illinois EPA is available for

22   stakeholder input and we availed ourself to that

23   both a phone call with the staff here and then

24   also in submitting written comments.

1   MR. MORE: And there was nothing

2   inappropriate with you working together with

3   the environmental groups behind "closed doors"

4   in connection with preparing written testimony

5   just like there was nothing inappropriate

6   with Dynegy and Illinois EPA working together

7   at some point in connection with discussing

8   a proposal; isn't that right?

9   MR. GIGNAC: Well, I think it's --

10   I think it's a different scenario, a different

11   situation. We -- our office got involved in

12   this process along with many other stakeholders

13   when the Agency circulated a proposed

14   rulemaking.

15   So, you know, at that stage

16   we -- we were looking at it and thinking

17   about it along with many other groups. We --

18   we were not -- you know, we were not involved

19   in the initial development and proposal of

20   the rule as Dynegy was. So I'm not sure it's

21   appropriate to compare the two situations.

22   MR. MORE: Well, are you suggesting

23   that it was inappropriate for the Agency to

24   meet with a stakeholder and discuss a proposed

1 piece of regulation?

2   MR. GIGNAC: No.

3   MR. MORE: Has the Illinois

4 Attorney General's Office reached out to any

5 other potential stakeholder in connection

6 with the positions it's taking in this

7 proposal?

8   MR. GIGNAC: I'm not aware of

9 anyone.

10   MR. MORE: And just to be specific,

11 you're not aware whether or not the Illinois

12 Attorney General's Office reached out to

13 Dynegy to discuss what may be appropriate

14 changes to this proposal; isn't that right?

15   You're not aware of any

16 communications like that?

17   MR. GIGNAC: I don't recall having

18 a communication with Dynegy on the topic of

19 this rulemaking although I have had

20 conversations with Dynegy staff on different

21 topics over the past year.

22   MR. MORE: Right. But not on this

23 topic, correct?

24   MR. GIGNAC: Not -- not that I

1   recall and I also don't recall -- don't

2   recall getting a request from Dynegy to

3   meet with us and tell us about the proposal.

4   MR. MORE: Did you get a request

5   from Illinois EPA to meet and discuss the

6   proposal?

7   MR. GIGNAC: We received an

8   invitation to provide stakeholder feedback

9   and an invitation to convene a conference

10   call if we desired. We did that. We had

11   a conference call with IEPA's staff and

12   then also provided written feedback.

13   MR. MORE: Right. And the

14   invitation you are referring to is the

15   same invitation that was sent out to

16   the environmental groups, other stakeholders,

17   I believe, there was an email; isn't that

18   correct?

19   MR. GIGNAC: Yes, but I don't

20   know who it was sent to. I think it utilized

21   the blind copy feature.

22   MR. MORE: Fair enough.

23   Is the Attorney General

24   familiar with the term "actual emissions"?

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1   MR. GIGNAC: Yes.

2   MR. MORE: Okay. And is the

3   Attorney General familiar with the term

4   "allowable emissions"?

5   MR. GIGNAC: Yes.

6   MR. MORE: And is the Attorney

7   General aware that the term "allowable

8   emissions" is defined in some Board

9   regulations?

10   MR. ARMSTRONG: So I do know

11   that allowable emissions is defined and

12   had several -- I believe at least one

13   definition has been provided by participants

14   in the rulemaking. I can't point to where

15   it is right now.

16   MR. MORE: Is the AG familiar

17   with the term "maximum emissions"?

18   MR. GIGNAC: I can give you what

19   I perceive it to mean.

20   MR. MORE: That would be terrific.

21   Please do.

22   MR. GIGNAC: Well, in our view,

23   what maximum emissions would be is the emissions

24   of a plant running at 100 percent heat input

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1 and capacity factor or 100 percent heat input

2 with no pollution controls at all and probably

3 the highest sulfur fuel available and you put

4 all of that into the mix and that's maximum

5 emissions are the highest that that could be

6 emitted by that unit.

7   MR. MORE: Is the AG familiar with

8 the term "potential emissions"?

9   MR. GIGNAC: Yes.

10   MR. MORE: Is the AG familiar with

11 the term "potential to emit"?

12   MR. GIGNAC: Generally, yes.

13   MR. MORE: And all those terms we

14 just discussed, I imagine the AG is familiar

15 with in the context of enforcing the air

16 program; isn't that right?

17   MR. GIGNAC: Generally, yes.

18   MR. MORE: All of those terms are

19 used in the context of the enforcing side?

20   MR. GIGNAC: Yes.

21   MR. MORE: Has the AG submitted

22 written testimony in any other rulemaking?

23   MR. GIGNAC: Yes.

24   MR. MORE: Okay. Could you identify

1   for us the other rulemakings where the Agency

2   submitted written testimony?

3   MR. ARMSTRONG: AG?

4   MR. MORE: Yes, the Illinois Attorney

5   General's office, yes.

6   MR. GIGNAC: Yes. The clean

7   construction debris docket. I don't have

8   the PCB number handy.

9   HEARING OFFICER TIPSORD: R12-9.

10   MR. GIGNAC: And we have one more.

11   MR. ARMSTRONG: The one I recall

12   from personal experience, the Illinois Attorney

13   General's office submitted testimony in the

14   well-known cause using attainability analysis

15   089, I believe.

16   HEARING OFFICER TIPSORD: Yes.

17   MR. MORE: Was expert testimony

18   submitted as written testimony or was it

19   submitted as a comment; do you recall?

20   MR. ARMSTRONG: It was submitted

21   as pre-filed testimony and I defended a witness

22   for the Board.

23   MR. MORE: And in this instance,

24   are you putting Mr. Gignac as an expert?

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1   MR. GIGNAC: No.

2   MR. MORE: How does the Attorney

3   General decide when to submit comment as

4   opposed to when to submit pre-filed written

5   testimony?

6   MR. GIGNAC: I think it depends

7   on whether we have information that we want

8   to have in the record at an early stage and

9   also whether we can offer a perspective that

10   we think could be useful to the Board and

11   that is -- could be tested on cross-examination.

12   I've heard former Board

13   members speak about the -- how information

14   that is presented through testimony, because

15   of the process of cross-examination, it can --

16   it can have greater weight. So if we feel

17   that we have a perspective that should be

18   presented through testimony, then that's

19   the route we'll go.

20   MR. MORE: And could you discuss

21   that evaluation with the environmental groups

22   that you met with or had conversations with

23   in August?

24   MR. GIGNAC: I don't recall

1   discussing that.

2   MR. MORE: Would you agree that

3   Illinois EPA, under Section 4 of the Illinois

4   Environmental Protection Act, is

5   the Agency in Illinois charged with implementing

6   the Illinois Environmental Protection Act?

7   MR. GIGNAC: I actually brought a

8   copy of Section 4.

9   MR. MORE: Great. We can look

10   at it together in case I'm missing something

11   here.

12   MR. GIGNAC: Section 4.

13   MR. SYLVESTER: Do you have a

14   particular section?

15   MR. MORE: I just want to confirm

16   that you agree that it's the Agency under the

17   Illinois Environmental Protection Act, that

18   the General Assembly charged with implementing

19   is this Act.

20   MR. GIGNAC: I'm not sure it can

21   be just stated as definitively as that because

22   it's also been held, and maybe Mr. Armstrong

23   can supplement this being on the enforcement

24   side, but the Illinois Attorney General can

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1   also bring enforcement actions on her own

2   motion. So there is co-enforcement

3   of the Illinois Environmental Protection Act.

4   MR. MORE: And I appreciate that

5   clarification. I was not trying to suggest

6   that you lack that enforcement authority.

7   I just want to make sure it's clear. For

8   example, you don't have the authority to

9   issue an enforcement; is that right?

10   MR. GIGNAC: So maybe the term

11   is the implementation of the Act is the duty --

12   among the duties of the IEPA.

13   MR. MORE: And that actually

14   was the question. So I'm glad we are on the

15   same page. Good.

16   I got the sense from your

17   opening statement that the Attorney General

18   contends that if the proposal in its current

19   form were enacted, it would violate -- and

20   I'll just shorten it by saying the Act for

21   the Illinois Environmental Protection Act;

22   is that right?

23   MR. GIGNAC: No. I think -- let

24   me draw -- let me open up to our pre-filed

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1 answers to Illinois EPA.

2   So our position, stated in

3 our testimony, is we believe that the Board

4 should not adopt rules that fail to restore,

5 maintain and enhance the purity of the air

6 of this state under Title 2 of the Illinois

7 Environmental Protection Act.

8   And further, in past

9 proceedings, for example, in 2009, when the

10 Board amended the Multi-Pollutant Standard,

11 it did so after finding a protected

12 environmental benefit. That's a quote from

13 R9-10 in April of 2009.

14   MR. MORE: Let's go through each

15 of these terms that you are referring to

16 from Title 2, restore, maintain and enhance.

17   HEARING OFFICER TIPSORD: Excuse me.

18 Mr. More, I hate to break you up at this point,

19 but it is 4:00 o'clock and we do need to get

20 to the pre-filed testimony. I sense you still

21 have several questions.

22   MR. MORE: Unfortunately, that's

23 correct.

24   HEARING OFFICER TIPSORD: Okay.

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1 So what we're going to do is we're going to

2 go ahead and take a ten-minute break here.

3 We are going to then come back in ten minutes

4 and start with public comments. We are going

5 to limit you to ten minutes. We have over

6 60 people that signed up for public comment.

7 So you get two minutes.

8   I'm going to read

9 off the a list of the names. If you're here,

10 I want you to line up at the podium. You're

11 going to come up, state your name, have your

12 two minutes, and then I'm going to shut you down

13 and move on to the next person. I'm going to

14 keep listing off names and checking off.

15   If you are not here when I read

16 your name, we will come back to you. So I know

17 I have people that aren't going to be here until

18 5:30 or 6:00. That's okay. We will come back

19 to them. But I'm going to start down the list

20 of names. I'm going to have you line up next to

21 the podium. Two minutes and then we move on.

22   MR. SYLVESTER: Before we start

23 with public comments, are you going to discuss

24 proceedings for tomorrow?

1   HEARING OFFICER TIPSORD: We will

2   come in tomorrow morning. Honestly, if we're

3   here until 7:00 tonight, I would prefer we don't

4   start until 10:00. Is that okay with everybody?

5   MR. MORE: My witnesses have planes

6   out of Chicago. So I was hoping to see if we

7   could leave by 4:00. So we were hoping to be

8   done by noon, but we'll --

9   HEARING OFFICER TIPSORD: I don't

10   think we're going to be done by noon. I mean,

11   I don't know how much more you have for

12   Mr. Gignac, but...

13   MR. MORE: I understand. Especially

14   if we're starting at 10:00, I agree with you

15   that we will not be done.

16   HEARING OFFICER TIPSORD: I mean,

17   even if we start at 9:00, that's pushing it.

18   We're not starting at 7:00 a.m., Mr. Rao. Thank

19   you very much.

20   All right. We will start at

21   at 9:00 a.m.

22   MR. MORE: Thank you.

23   HEARING OFFICER TIPSORD: We will

24   finish Mr. Gignac and then we will go to Dynegy.

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1   You have pre-filed answers that you were going

2   to share?

3   MR. MORE: I would rather -- I'm

4   happy to share them if we then don't have to

5   read them into the record.

6   HEARING OFFICER TIPSORD: We can

7   enter them as an exhibit and then if you guys

8   are going to have a chance to take a look at

9   those tonight because they're mainly responsive

10   to you, we've have looked at ours --

11   MR. SYLVESTER: I would think it

12   might streamline things in terms of us being

13   able to answer any follow-up questions.

14   HEARING OFFICER TIPSORD: All right.

15   Let's go ahead and share those then and we will

16   enter them as an exhibit tomorrow. Okay?

17   Okay. Let's take ten minutes

18   and come back.

19   (Whereupon, after a short

20   break was had, the following

21   proceedings were held

22   accordingly.)

23   HEARING OFFICER TIPSORD: I will

24   remind you that we have received hundreds of

1   public comments. Some of you have already

2   submitted written public comments. Use this

3   time to tell me something that you didn't tell

4   me in the written public comment that you've

5   already sent me because we already have the

6   written comment. We've read them. So use this

7   time to tell me something else.

8   Okay. Mark is going to

9   keep time. With that, let's go back on the

10   record and we will begin.

11   MR. LASZLO: My name is Joe

12   Laszlo. I am here representing the Central

13   Illinois Healthy Community Alliance. We are

14   local residents and ten organizations with

15   a common objective; to improve the health

16   and well-being of citizens in Peoria and

17   Tazwell counties by transforming away from

18   dirty, coal-fired power plants to clean,

19   renewable energy.

20   Air pollution plays a major

21   role in various illnesses. The Clean Air

22   Task Force estimates that the Edwards coal

23   plant is annually responsible for 29 deaths,

24   45 heart attacks, 490 asthma attacks and 32

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1 asthma-related ER visits.

2   Our alliance strongly opposes

3 the proposed changes to the Multi-Pollutant

4 Standard.

5   From a personal perspective,

6 I have lived within the Edwards non-attainment

7 sacrifice zone for 34 years. Over that time,

8 I have seen no emission improvements made at

9 the Edwards plant to safeguard my health.

10 I can understand why Dynegy is uninterested

11 in doing so, but I believe the Pollution

12 Control Board's mandate is to protect me

13 and my neighbors. Please, do not fail us.

14 Thank you.

15   HEARING OFFICER TIPSORD: Thank

16 you. Mr. Rau?

17   MR. RAU: My name a William Rau.

18 I live in Bloomington, Illinois. I would

19 like to make several points here.

20   First, Ameren paid Dynegy

21 over $200 million to take over its five

22 money-losing coal-fired power plants. Why?

23 Perhaps Ameren wanted to free itself from

24 its pension obligations and plant cleanup

1   costs.

2   Two, Dynegy put these plants

3   into a "ring-fenced" or "no-recourse subsidiary"

4   called Illinois Power Holdings or IPH. This

5   means when IPH goes bankrupt, which it will,

6   its debt and obligations will remain with the

7   bankruptcy subsidiary, not Dynegy, Incorporated.

8   Does that mean that its Illinois workers will

9   lose their pension benefits because their

10 employer of recourse is bankruptcy even though

11 the corporate parent is flush with cash?

12   Three, Dynegy uses its market

13 dominance in Illinois to drive prices in

14 capacity auctions from an average of $3.48 per

15 megawatt day to $150 megawatt day, 43 times

16 higher than competitive markets nearby.

17   Attorney General Lisa Madigan

18 charged market manipulation and the Federal

19 Regulatory Commission agreed with her.

20   Four, Dynegy uses its

21 monopoly over municipal aggregation contracts

22 to an unfair advantage. For example, it now

23 defines force majeure as including preventive

24 maintenance or accidents. Force majeure is

 1 typically for acts of God, things that are

 2 uncontrollable. They control preventative

 3 maintenance.

 4   Does this mean that they

 5 intend to run these 50-year-old plants to

 6 the breaking point where they may crash? In

 7 which case the residents buying power from

 8 them will have no legal recourse to file

 9 for damages for losses.

10   What these points mean is

11 that Dynegy executives are the corporate

12 equivalence of a slippery gang of Texas

13 cattle thieves.

14   Fifth point, coal-fired

15 power plants are closing left and right.

16 Next door, Ameren Missouri --

17   HEARING OFFICER TIPSORD: That's

18 two minutes.

19   MR. RAU: -- will close half of its

20 coal-fired power plants after completing a

21 half a billion dollar farm -- wind farm

22 build-out.

23   HEARING OFFICER TIPSORD: I'm sorry.

24 Mr. Rau, that's your two minutes. I'm sorry.

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1   MR. RAU: Okay.

2   HEARING OFFICER TIPSORD: Otherwise,

3   we won't get to everyone.

4   MR. RAU: I'll file my comments with

5   the Board.

6   HEARING OFFICER TIPSORD: What you

7   didn't get said, you can file a written --

8   complete written comment with us as well. Go

9   ahead.

10   MS. BLUMENSHINE: Thank you very

11   much. My name is Joyce Blumenshine. I'm an

12   over 40-year resident of Peoria and first, I

13   want to appreciate the Illinois Pollution

14   Control Board, all your members, coming to

15   Peoria. It means a great deal to us.

16   The fact that you're giving

17   us some evening hours is even more important

18   because I am just one of the over 378,000

19   citizens in the greater Peoria metro area.

20   I am here as a total volunteer.

21   I do not get one penny being here tonight.

22   In fact, it has cost me a lot of effort today.

23   I'm not paid. While we value jobs for everyone,

24   and that is essential in this unsure society,

1   this should not be a jobs versus health issue.

2   That is not right.

3   This is an environmental

4   issue that is your charge as the Board and

5   the Illinois EPA's charge as our state agency

6   to protect public health and look for the

7   well-being of the people of Illinois.

8   The proposed rule clearly

9   is not in the well-being for our future;

10 however, the discussion goes on will there be

11 more pollution or not. There will be more

12 pollution because we can count that because

13 Dynegy is a for profit company and their

14 interests are for profit.

15   Several years ago,

16 Bob Flexon, the head of Dynegy at that time,

17 came to Peoria to talk to us about air. He

18 said he listened to the people. What he

19 focused on every time was he is responsible

20 to his stakeholders, his stockholders.

21   We ask that you be responsible

22 to the public. We need you to deny this rule

23 and not approve it for the good of all the

24 people and please consider that in your

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1   considerations. Thank you so much.

2   HEARING OFFICER TIPSORD: Thank you,

3   Ms. Blumenshine.

4   MR. CASHMER: My name is Kevin

5   Cashmer. I'm speaking from the perspective of

6   someone of indigenous ancestry. Some 525 years

7   ago when the first known Europeans set foot

8   in the so-called new world, those were my

9   mother's people the Vikings met with and they

10   were astounded that the indigenous drank the

11   water because 300 years prior in Europe, the

12   water was so polluted, that's why they turned

13   to drinking beer and wine. That's an 800-year

14   period. Haven't we learned anything?

15   I quit smoking 20 years ago

16   because I decided I wasn't going to pay

17   somebody to kill me yet I face the same thing.

18   I can look south and see the smokestack in

19   Powerton. I can look to the east and see the

20   smokestacks from the Edwards plant.

21   I have been to enough of

22   these hearings I believe very little what I

23   hear, but what I do believe is there are

24   people dying because we are tainting the two

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1   most essential elements to life. They are

2   irreplaceable.

3   You know, resources

4   themselves are finite. There was a time when

5   the big tobacco convinced people that smoking

6   was healthy. Today, it's unconscionable that

7   a parent light up a cigarette in the same room

8   with their child because of secondhand smoke.

9   Just because there's not a ceiling or walls,

10   I see no difference. Thank you.

11   HEARING OFFICER TIPSORD: Thank

12   you.

13   MS. WHITE: My name is Marilea

14   White. I live in Normal, Illinois. When I

15   was a little girl, my sister and I used to

16   watch my dad take what we called "clinkers"

17   out of our coal-fired furnace. We thought

18   it was fun. We used to look at the clinkers.

19   We tried to decide what they looked like.

20   We also thought it was exciting when the

21   coal guy came to deliver coal and sent it

22   down the chute into our basement.

23   We were ignorant at that

24   time of the danger of our coal burning

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1 furnace and the health risks to our family.

2 My mother had long-term breathing difficulties

3 and my sister and I both have asthma.

4   I was diagnosed in 2003 with

5 hypersensitivity pneumonitis, which is a lung

6 disease; pretty, pretty awful. I spent two

7 years on high doses of Prednisone and I will

8 need oxygen when I lie down to sleep every

9 night for the rest of my life.

10   We're a lot wiser now and

11 we know that these provisions that were put

12 into effect in 2006 to protect the environment

13 were there for a reason and we need to continue

14 them. We need to make them stronger. We do

15 not need to weaken them for Dynegy so they can

16 make money off their dirty coal-powered plants.

17   I'm here today to urge you

18 not to grant the variance in the MPS that

19 Dynegy is requesting. We know better than my

20 parents knew when I was a kid. I hope that

21 my children and my children's children will

22 grow up with a cleaner environment than I did

23 and they will not have the lung problems that

24 my family has. Thank you.

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1   HEARING OFFICER TIPSORD: Thank

2   you.

3   MR. WOJTANOWSKI: My name is Ron

4   Wojtanowski from Danvers, Illinois. I would

5   like to say a little about the about acid rain.

6   The prevailing winds carry our pollution far

7   to the northeast where it combines with water

8   vapor and falls as acid rain. The acid rain

9   is responsible for killing lakes, forests and

10 degrading wildlife.

11   In the 1980s, in the New York

12 Adirondack Mountains, researchers found that

13 55 percent of the lakes were completely devoid

14 of life. That's over 500 lakes in that region.

15 Besides killing the lakes, the acid rain is

16 also killing spruce and fir forest of higher

17 elevations.

18   The impact of acid rain is

19 just not on the environment. It negatively

20 affects people too. Elevated lead levels

21 have been discovered in the drinking water

22 mountain communities because the more acidic

23 water is stripping the lead from the residential

24 water pipes.

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1   This is creating a situation

2   that is just like Flint, Michigan. Because of

3   the amendments to the 1990 Clean Water Act,

4   this situation has gotten much better.

5   Many people think that acid

6   rain is no longer an issue. I'm here to say

7   that that is not true. The frustration of

8   the people on the East Coast is they have

9   no control over the pollution that we create

10 that is poisoning their land. The thing that

11 they are afraid of the most is that in the

12 Midwest, we will backslide on our commitment

13 to clean air causing acid rain to increase

14 again.

15   Our pollution is the cause

16 of their problem and we hold the key to solving

17 it. It is our responsibility to maintain the

18 Multi-Pollutant Standard of 2006 and strengthen

19 it.

20   HEARING OFFICER TIPSORD: Time.

21 Thank you very much. Please feel free to file

22 additional comment.

23   MR. WOJTANOWSKI: Okay. Thank

24 you.

1   HEARING OFFICER TIPSORD: Thank you.

2   MR. CARLSON: Board members, thank

3   you for coming to Peoria. My name is Don

4   Carlson and I'm executive director of Illinois

5   People's Action.

6   The question before you this

7   afternoon is whether the energy corporation

8   should be allowed to pollute our environment

9   more than it already is. The answer is

10   obviously no to anyone who does not have a

11   vested interest in the increased profitability

12   of Dynegy.

13   This Board must make the

14   political decision whether corporate profits

15   outweigh environmental harm. Citizens expect

16   democratic institutions like this Board to

17   make decisions based on the input of all

18   stakeholders, which includes everyday people.

19   But people have lost faith in democratic

20   institutions because they believe that money

21   and corporations have more power in decisions

22   than they do.

23   No one thinks this is a level

24   playing field. Dynegy is not a democratic

1   institution and they cannot escape the needs

2   of increasing profitability and stockholder

3   value, but their values need not be your

4   values. You are in power to say no.

5   The real stakeholders in

6   this process, every day people who are harmed

7   by increased pollution and gain no financial

8   benefit simply expect you to do the right

9   thing.

10   Rebuilding trust in government

11 of and by the people won't happen overnight,

12 but it does need to happen. Sometimes the

13 hardest thing to see is what's right in

14 front of you. Choose the values of people

15 and plant first and not corporate profitability

16 and environmental degradation. Thank you.

17   HEARING OFFICER TIPSORD: Thank you,

18 Mr. Carlson.

19   REVEREND PIERCE: Thank you, Board

20 Members, for this opportunity. My name is

21 Reverend Tony Pierce. I'm co-pastor of Heaven's

22 View Christian Fellowship Church here in Peoria

23 and the board president of Illinois People's

24 Action.

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1   In 2016, Wall Street 24/7 and

2   other media outlets reported on data from the

3   Economic Policy Institute that identified Peoria

4   as the worst community in the United States for

5   African-Americans to live in due to disparities

6   of opportunities here between African-Americans

7   and the majority population.

8   It's because of these

9   disparities of opportunities and the economic

10   conditions we are under, African-Americans, as

11   well as other poor people, live closer to these

12   coal-fired plants like the Edwards plant in our

13   backyard who spew toxins that cause us and

14   our children to suffer in greater numbers.

15   In fact, the Illinois

16   Department of Health reports that the white

17   kids it Illinois suffer asthma at a rate of

18   about six percent whereas African-American

19   children suffer at a rate of about 19 percent.

20   We know these statistics well.

21   They're not numbers to us.

22   They are our children. They are our church

23   members. They are our constituents. We need

24   and want standards that will restore, protect

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1   and enhance the environment of our community,

2   but the proposed new rules requested by Dynegy

3   could double the pollution in our community.

4   Dynegy's own analysis shows

5   that the rule change will allow them to close

6   some of the cleaner plants, which costs more

7   to operate and ramp up more production of

8   these plants that endanger our lives. People

9   will die because of this if this -- if this

10   request is granted.

11   That's why we're here

12   imploring you not to bargain with the health

13   of our children and our environment, but

14   instead turn down this request. Thank you.

15   HEARING OFFICER TIPSORD: Thank

16   you.

17   MS. O'REILLY: Good afternoon.

18   my name is Rachel O'Reilly. I come here as

19   a concerned citizen and resident of the

20   Peoria area. 2017 had 16 natural disasters

21   resulting in a record setting $306 billion

22   loss. Anyone dismissing the climate crisis

23   we are currently in that is expected to get

24   worse is under the financial influence of

1 corporations like Dynegy.

2   There should be trials

3 deciding mandatory fossil fuel divestment.

4 All employees of the coal industry should

5 be transitioning into renewable energy.

6 195 countries recognize the need to eradicate

7 this climate of crisis.

8   Vowing to take direct action,

9 reducing air carb emissions, we should be

10 following suit, not putting corporations in

11 the path of putting double sulfur carbon dioxide

12 in our air. Dynegy seeks to squeeze more

13 profits that not only kills and makes the rest

14 of us sick, but also jeopardizes the future of

15 our entire plant. I strongly implore you to

16 reject this proposed rule change. There are no

17 jobs on a dead planet. Thank you.

18   HEARING OFFICER TIPSORD: Thank

19 you.

20   MS. CAREY: My name is Rebecca

21 Carey. I'm a life-long Peoria resident.

22 Thank you all for coming. I know you've

23 had a very long day today.

24   I would like to say to you

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1   all time is up on coal. Time is up on

2   these aging coal plants. Ameren, Dynegy,

3   Vistra, whatever we call them today, knows

4   this. They have asked you for this rule

5   change so they can squeeze the last dirty

6   dollar out of coal energy.

7   They have asked for a cap

8   on emissions, which will be spread across

9   the whole system, but we know and they know

10   this will allow them to run their oldest,

11   dirtiest plants to the max in our most

12   vulnerable communities.

13   They know about the asthma,

14   the heart attacks, the premature deaths but

15   they'll hold out well paying jobs and the

16   taxes they pay.

17   So they come to you and

18   they say to us if we don't get this rule

19   change, we will have to close these plants,

20   but this is not significantly different

21   from the stories pouring out of Hollywood

22   and Washington, D.C. these days.

23   These are companies with

24   wealth and economic power. If we just roll

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1   over and shut up and let them have their way,

2   we'll get to keep these taxes and these good

3   paying jobs. Come on. We know full well

4   that even if you grant their caps, they're

5   still going to close these geriatric power

6   plants. They have to.

7   Even if you grant their

8   request, the jobs and the taxes are going

9   to go away in a few years. Please tell

10 Ameren/Dynegy/Vistra time's up, dudes. You

11 don't get to change the rules at this stage

12 of the game. Please, please say no to their

13 request. Thank you.

14   HEARING OFFICER TIPSORD: Thank

15 you.

16   Ms. Allen, before you start,

17 Representative Long, if you would like to go

18 ahead and come on up?

19   REPRESENTATIVE LONG: Do you want

20 me to speak from here?

21   HEARING OFFICER TIPSORD: Or you

22 can speak here from the podium if you'd prefer.

23 If you want, give your name so the court

24 reporter gets it for sure.

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1   REPRESENTATIVE LONG: Sure.

2   My name is State Representative

3   Jerry Long from the 76th District. I represent

4   the 76th District. The 76th District includes

5   the town of Hennepin where Dynegy has one of

6   their plants. Knowing full well Dynegy is not

7   only meeting all EPA standards, but exceeding

8   them as well.

9   When I discovered that

10   Dynegy was seeking a revision to these

11   Multi-Pollutant Standards, MPSs, that would

12   allow them to streamline their operation, I

13   decided to come here to show my support of

14   this proposed rule change.

15   I have visited the Hennepin

16   plant and I was impressed by how long run

17   and clean it actually is. Once more, the

18   Hennepin plant is a major employer in my

19   district. It employs 85 people, payroll

20   of $9 million.

21   Now, these are good paying,

22   safe jobs. Many of them are union. Dynegy

23   has invested heavily in air quality control

24   methods at the Hennepin plant. Their bag

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1 house inactivated a carbon injection, capital

2 cost was over $80 million and involved hundreds

3 of high skilled union construction jobs when

4 installed about ten years ago.

5   They invested over 200,000 in

6 Mercury (inaudible) sampling system around this

7 time as well. The Hennepin plant has reduced

8 its sulfur dioxide, SO2, emissions rate by 90

9 percent by switching to a low sulfur coal.

10   They are reducing its Mercury

11 emission rate by more than 90 percent by

12 injecting activated carbon. Dynegy's current

13 emission rate is now more than 25 percent

14 below the Illinois Mercury limit.

15   As I said before, they have

16 exceeded the IEPA controls 99.85 percent of

17 its particulate matter emissions and operates

18 at nine percent below the particulate matter

19 limit.

20   Folks, these are good paying

21 jobs. They have abided by the EPA and the

22 IEPA regulations. I see nothing wrong with

23 this plant. I have toured it. It's a very

24 clean plant. I am in support of this today.

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 1   Thank you very much.

 2                HEARING OFFICER TIPSORD:  Thank

 3   you, sir.

 4                     All right.  Ms. Allen, we are

 5   ready for you now.

 6                MS. ALLEN:  Hi, everyone.  My

 7   name is Jade Allen and I'm co-president of the

 8   Student Association for the Environment at a

 9   local college here in Peoria.

10                     I'm here today to ask the

11   Illinois Pollution Control Board to deny

12   Dynegy's request to weaken air pollution

13   regulations.  Every weekend, my club

14   completes restoration work at breathtaking

15   natural Peoria areas such as Rocky Glen,

16   which are located close to Dynegy's coal

17   plants.

18                     Additionally, many of the

19   students in our club and at our school come

20   from the areas that will bear the negative

21   impacts of increased pollution.

22                     As a representative of a

23   student club focused on sustainability of

24   our environment and our students' health,
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1 I strongly oppose Dynegy's rewrite of the

2 Multi-Pollutant Standard.

3   I see coal as the past and

4 renewables like wind and solar as the future.

5 Coal plants around the country are retiring

6 at unprecedented rates. The average age of

7 retirement is 53 years. Dynegy should be

8 planning retirements, not scheming ways to

9 stretch out the life of these dinosaurs.

10   It is well-documented that

11 with price competition from natural gas and

12 growth in renewables, coal plants are

13 struggling regardless.

14   Coal's impact on the climate

15 is another strike against it. In Peoria County,

16 the Edwards coal plant is by far the largest

17 carbon dioxide emitter.

18   When the IEPA first considered

19 rewriting these pollution standards, I wish

20 it had been forward-thinking. EPA working for

21 citizens might have used new rulemaking as a

22 tool to guide these aging coal plants to

23 retirement in concert with a complete site

24 cleanup and adjust transition for the workers

1   and for the community.

2   Please, IPCB, please keep

3   Peoria from becoming a pollution hot spot.

4   Any rule that opens to increasing pollution

5   and the poor SIP codes of our city is an

6   environmental injustice.

7   Any rule that fails to

8   recognize the harms coal is causing our

9   planet is a climate injustice. Thank you.

10   HEARING OFFICER TIPSORD: Thank

11   you.

12   Ms. Allen -- Ms. Allen, could

13   you give copy of that to the court reporter,

14   what you read?

15   MR. URBASZEWSKI: My name is

16   Brian Urbaszewski. I'm the director of

17   Environmental Health Programs for Respiratory

18   Health Association. Our charity is over 100

19   years old whose goal is clean air and healthy

20   lungs for all.

21   Our understanding of this

22   entire exercise is that Dynegy wants to pollute

23   more, up to 30,000 tons more. Otherwise, Dynegy

24   wouldn't have written Illinois EPA's proposal

1   the way they did. We believe the rule change

2   will equal hundreds to thousands more people

3   getting sick every year and dozens more lives

4   would be snuffed out.

5   Those 2006 health protections

6   were put in place by the state to safe lives. I

7   was involved in that process ten years ago --

8   over ten years ago. The state's job is to

9   protect the health of Illinois residents, not

10 just to do what US EPA tells it do. Some states

11 are prohibited by state law from doing more to

12 protect their citizens and residents than the

13 lack standards set by the federal government.

14   Illinois is not one of them.

15 There is no magical state level of pollution

16 where it stops making people sick or steps

17 killing them. Anyone saying that staying below

18 the federal pollution health standards, below

19 the NAAQS, means the air is safe is wrong. If

20 you meet the NAAQS that does not mean the air is

21 safe or that the pollution levels below the

22 level of the NAAQS are harmless.

23   Science analyzed by US EPA's

24 own scientific advisors shows that there is no

1 zero level risk from breathing particulate

2 matter other than zero particulate matter.

3 There is no level at which that particulate

4 matter doesn't cause health problems like asthma

5 attacks, heart attacks, strokes and premature

6 deaths. The only time you fail to see these

7 health impacts is when the pollution is not

8 there. It's a straight line relationship.

9   There's a study done using US

10 EPA's method several years ago. The Powerton

11 plant in 2014 emitted a little over 16,000 tons

12 of SO2 and caused an estimated 50 premature

13 deaths a year. The ED Edwards plant in the same

14 study emitted about 8,300 tons of SO2 and was

15 estimated to cause 29 premature deaths a year.

16 Of the 30,000 tons that would be allowed, you

17 would expect proportional damage.

18   HEARING OFFICER TIPSORD: Time.

19   MR. URBASZEWSKI: For that reason,

20 I urge you to not support this proposed rule

21 change. Thank you very much.

22   HEARING OFFICER TIPSORD: Thank

23 you.

24   Have I read all of your names

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1   off already?

2   MR. TRIER: Hello. Thank for

3   giving me a couple minutes to talk to you.

4   I am from Leaf River, Illinois.

5   I am three hours away from here and I am here

6   because I think this is doing an injustice to

7   southern Illinois.

8   There's more coal plants in

9   southern Illinois. There's more old coal

10   plants in southern Illinois. Dynegy is just

11   getting a credit from the federal tax law that

12   just passed. I believe you need reevaluate

13   their costs with the new tax law that's

14   reinstated Washington, D.C.

15   I also have a 500 kilowatt

16   solar plant I put in three years ago thanks

17   to the deposit and help from the Illinois

18   state, which has a goal to have so much solar

19   in the renewable energy in the state of Illinois

20   by, I believe, it's 2020. I don't know if

21   that's correct or not, but this is not going

22   that way. This is going the other way.

23   You talk about jobs. Iowa

24   has lots of jobs because they went ahead and

 1 put the wind chargers jobs up. Illinois

 2 could do the same thing and has jobs. But in

 3 southern Illinois, there are a lot of coops that

 4 will not let them put solar in. I had a -- I

 5 had a friend who tried to put told solar in and

 6 they told him if he did anything wrong, he was

 7 going to be sued and he got a book that thick

 8 from the coop saying you have to follow all

 9 these rules. I tell you this is not the way to

10 go. We need to go solar. We need to go wind

11 generators and we have to get rid of our coal

12 plants in Illinois in order to support our

13 citizens. Thank you for this and absolutely

14 refuse this. Dynegy needs this difference in

15 changes.

16   HEARING OFFICER TIPSORD: Could you

17 get us your name, please?

18   MR. TRIER: I'm sorry?

19   HEARING OFFICER TIPSORD: Your

20 name?

21   MR. TRIER: Jim Trier.

22   HEARING OFFICER TIPSORD: You can

23 still sign in until 5:00 o'clock at the back

24 of the room. The signup sheet is still at the

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1 back of the room. You can still sign in until

2 5:00 o'clock.

3   MS. LUNER: Hi. Julie Luner. I

4 live here in Peoria, Illinois, and I work with

5 children with disabilities.

6   I just want to say when I

7 heard that there was a proposed rule that

8 could increase -- could reduce the air quality

9 of our area, I was just astonished.

10   Everyone else is going towards

11 solar, towards wind, and the idea that a deal

12 was being made that would result in anybody

13 and in this case it happens to be us, would

14 result in worse air quality amazed me. I ask

15 you do not grant this.

16   HEARING OFFICER TIPSORD: Thank you

17 very much.

18   Hello, Kris.

19   MS. JACOBSON-FLEX: Hi. I'm

20 Kristin Jacobson-Flex. I am a resident

21 of Tazwell County, born and raised.

22   And I am here from more

23 of a personal standpoint. I am also an

24 instructor at ICC, but I'm not here in that

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1 regard. I'm here because every time I hear

2 discussions about this, it comes right back to

3 my family.

4   I have lost a father early,

5 a husband early to -- the husband in particular

6 to a brain tumor that was caused by breathing

7 in sulfur dioxide fumes, I have two of my three

8 children who have asthma, one who at 22 almost

9 died from an asthma attack had not gotten him

10 to the hospital quickly, he would have died.

11   We live in Washington. We

12 do not live in Pekin. We do not live close

13 to these plants, but we do live where the

14 clouds comes. I was an asthmatic until I

15 was about 25. I don't think any of these

16 pollutants are new. So I don't think that

17 it's particularly surprising that we have

18 these from having coal plants, but certainly

19 I agree with everyone else who has come up

20 here that the exact wrong thing to do is to

21 loosen the pollution controls.

22   What we need to be doing is

23 tightening these and going in the direction

24 that the state has every gone with more solar

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 1   and more wind.

 2   I strongly, strongly urge you

 3   not to agree with these changes because Peoria,

 4   once again, is going to be the one that suffers.

 5   I think that the Senator who

 6   spoke is probably right. I am sure that the

 7   plant he was talking about is very clean

 8   because they put the cleaning -- the scrubbers

 9   on there, but exactly what we don't want to

10   happen is them to stop using that plant and

11   start pushing all the production in our plant.

12   Peoria is the exact area

13   that's going to suffer. They're not going

14   to suffer. We will. So I ask you strongly

15   not to allow this to happen. Thank you.

16   HEARING OFFICER TIPSORD: Thank

17   you.

18   MR. DEICKMANN: Hi. My name is

19   Don Deickman. I'm up here from Alton today.

20   While I was growing up in Springfield less

21   than a mile from the Lakeside Power Station,

22   I was in and out of the hospital several

23   times with asthma, bronchitis and pneumonia

24   before I left for college.

1   In the '90s, I lost my dad

2 to heart disease and my mom to multiple bouts

3 of cancer both commonly attributed to air

4 pollution.

5   So for most of my adult

6 life, I have spent most of my time to energy

7 efficiency and alternative sources as ways

8 to reduce air pollution resulting in my

9 founding the Better Building Institute, a

10 nonprofit energy auditing consulting company

11 showing homeowners how to reduce their

12 energy use and shrink their carbon footprint.

13   As an active member in the

14 Sierra Club and other climate and pollution

15 conscious organizations, I believe that as

16 coal use declines and renewables ramp up,

17 we should be weary of carbon-based energy

18 suppliers trying to maintain or even

19 increase their profits before their services

20 are no longer needed such as the case of

21 Dynegy's pressuring IEPA to lower its

22 pollution standards so that they can keep

23 running older, dirtier, but cheaper power

24 plants while mothballing newer, cleaner and

1 more expensive ones.

2   This would not only cost

3 rate payers more and kill many high wage

4 jobs, but as the Chicago Tribune reports,

5 Dynegy could emit nearly double the amount

6 of sulfur dioxide being emitted last year.

7   The IPCB should stand up

8 for clean air and the citizens of Illinois,

9 not rubber stamp the governor's backroom

10 deal for Texas and Dynegy and its soon-to-be

11 parent, Vistra Energy, whose pollution track

12 record is just as bad as Dynegy's.

13   Besides, that merger will

14 financially help Dynegy enough that they

15 won't need to gouge employees and their

16 customers. Thank you.

17   HEARING OFFICER TIPSORD: Thank

18 you, sir.

19   MS. NOLTON: Hi. My name is

20 Robin Nolton and I am the mother and resident

21 of Tazwell County right across the river from

22 the Edwards plant.

23   I'm from a strong union family.

24 I've seen many of you over the years in the

1   panel as my daughter was growing up. She is

2   one of the statistics that the pastor talked

3   about. She had chronic asthma since she was

4   a baby. We have had on the average five weeks

5   a year, this is just approximately, maybe more

6   out, and out of them five weeks a year, we have

7   had five days in the hospital while I sit next

8   to her bed wondering if she is going to come

9   home.

10   This happened from her being

11   a baby up until 18 years and I'm -- in a sense,

12   I want to say that she's at the University of

13   Illinois now to some of you that I recognize.

14   She moved to inner city at the Circle in

15   Chicago. She's in her second year. She has

16   not had one asthma attack since she left this

17   area.

18   I left to go to Phoenix,

19   Arizona. We have Christmas with my son. I

20   took the airplane taking Prednisone just

21   two weeks -- three weeks ago and I have my

22   nebulizer machine, which they don't even

23   look at me except when you go through the

24   TSA.

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1   Two days into Phoenix, even

2   with their air quality sometimes, I came

3   home with absolutely no asthma. There's

4   something to be said for that. This happens

5   with every family that has these respiratory

6   problems.

7   It's ludicrous to think of

8   what you guys are going to do and from when

9   I heard the EPA talking to Dynegy and Vistra.

10   I'm not sure of you guys yet. I'm going to

11   learn about you because I'm coming back and

12   keep coming back until we can get you guys

13   better jobs for your families and better

14   health for everybody.

15   When I was --

16   HEARING OFFICER TIPSORD: Time.

17   MS. NOLTON: Okay.

18   HEARING OFFICER TIPSORD: Sorry.

19   MS. NOLTON: No, that's okay. Thank

20   you, guys.

21   HEARING OFFICER TIPSORD: Thank you.

22   BOARD MEMBER PAPADIMITRIU: Thank

23   you, ma'am.

24   MR. PASHOS: Good afternoon, folks.

1   Thanks for coming this way.

2   My name a Bob Pashos. I'm here

3   from Godfrey, Illinois. I missed a little

4   over half a day of work to come here unpaid

5   because I care.

6   HEARING OFFICER TIPSORD: Would

7   you speak to the microphone?

8   MR. PASHOS: I'm concerned about

9   what's going on here and about the importance

10   of a decision that is front of all of you.

11   As a concerned citizen, also

12   as someone who has been involved in my church

13   and as someone who cares and has had faith

14   that has meant the world to me over many, many

15   years, ever since I was in the seminary and

16   since, as I have been involved in ministries

17   of one kind or another, my faith teaches me

18   to be a good steward of God's creation.

19   There are all kinds of

20   examples of that being played out in a way

21   that's consistent with that and other examples

22   where that's played out in a way that's not

23   consistent with that.

24   I'm telling you this request

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1 on the part of Dynegy is not consistent with

2 being good stewards of God's creation. It's

3 not consistent with be good stewards of our

4 median environment. It's not consistent with

5 being good stewards of this planet in general.

6   We had someone up here talking

7 about the wider -- the bigger picture having

8 to do with the whole climate change issue.

9 It's not consistent with taking care of our

10 whole planet and with the future generations

11 that are depending on the environment of this

12 plant to support life.

13   So with the decision that you

14 have before you, it's a decision that, from my

15 view, involves weighing corporate profits, as

16 has been said before, against the good of the

17 people, the people involved, again the local

18 area as well as in other areas, as well as the

19 whole globe when you really bring it into the

20 global scale, which indeed is appropriate.

21   So I implore you --

22   HEARING OFFICER TIPSORD: Time.

23   MR. PASHOS: -- to follow your

24 conscious.

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1   HEARING OFFICER TIPSORD: Thank

2   you.

3   All right. I want to get

4   some more people lined up so we can keep

5   moving. If I have not read your name, don't

6   go over there. When I read your name, you

7   can go over there.

8   Robert Lawrence, if you are

9   here, Michael Moreno, Hannelore Book, am I

10 close? Jean Sloan, Gregory Barta, Kevin

11 Largent --

12   MR. LARGENT: Yes.

13   HEARING OFFICER TIPSORD: Randy

14 Fields, Byron Veech or Bryon Veech, Brian

15 Wilkerson, Scott Johnson and Mike Olle. Okay.

16 Go ahead.

17   MS. GOLDEN: My name is Chris

18 Golden. I am a here today to ask that you

19 reject the proposed rule changes, which would

20 allow for more air pollution in Illinois.

21   Not only do I have connection

22 to the Edwards power plant since I live in

23 Peoria County, but having grown up in Putnam

24 County, I also have a connection to Dynegy's

1   Hennepin Power Plant. Hennepin is the county

2   seat.

3   My family and friends still

4   live in the area. As a high school freshman,

5   my entire class toured that plant and then

6   we each had to write an essay about it. So

7   I know that plant is very old.

8   I am especially concerned

9   for the people who lived directly across

10   the river from the Hennepin plant in the

11   town of DePue, a small town where I can't

12   read some of the signs in the business

13   district because they are in Spanish.

14   I believe this is an issue

15   of racial justice. Doing some quick research

16   on energyjustice.net, I found an environmental

17   justice analysis that said within two and a

18   half miles of that plant, 55.6 percent of

19   the population is Hispanic and within five

20   miles, 4.6 percent is Hispanic.

21   Not only is Dynegy's Hennepin

22   plants across the river, but just across the

23   highway on the other side of DePue is the Super

24   Fund site. They certainly don't need anymore

 1   pollution.

 2   Their health, my health,

 3   everyone's health and well-being is more

 4   important, has more value beyond whatever

 5   money Dynegy might save under the proposed

 6   change in the air pollution regulations.

 7   Thank you.

 8   HEARING OFFICER TIPSORD: Thank

 9   you.

10   Last chance to sign up.

11   I'm going to pick up the sheet in about five

12   minutes. If you haven't signed up, there's

13   a signup sheet in the back of the room.

14   Go ahead.

15   MR. LAWRENCE: Hello, everyone.

16   My name is Robert Lawrence. I am a citizen

17   of Pekin, Illinois. I live right outside

18   of Pekin, the epicenter of where this affects.

19   I am a lot of things. I am the co-president

20   for the association for the environment over

21   at ICC. I'm an Eagle Scout. I'm a Christian.

22   I am also a citizen.

23   This has not directly affected

24   myself, my personal body, because I am a runner

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1   and I breathe the air and I need that to run,

2   but other people on my cross country team, they

3   also have asthma. They have a hard time running

4   when they do. It's detrimental to our sport

5   when we can't breathe.

6   So I'm sorry to tell you guys

7   that you're not going to make as much money as

8   you want, but it comes to our health, bottom

9   line, it should not come to our health. I

10   reject -- I would like you to reject this

11   decision. Thank you.

12   HEARING OFFICER TIPSORD: Thank

13   you.

14   MR. MORENO: Hi. I am Michael

15   Moreno. I'm also a student at ICC and a member

16   of the environmental club. I am here with my

17   two presidents today. They've introduced me a

18   lot to -- you know, a lot of -- they've opened

19   my eyes, I guess, to things that deal with

20   conservation and environmental care.

21   I have learned a lot about how

22   to try to fix some of the problems that people

23   have caused in the environment. We've gone and

24   done cleanups of the Illinois river and we

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1   helped repair the trails for more public use at

2   our own school, but this issue is a little

3   beyond what I can just go out and do and

4   things that I can clean up myself.

5   So I'm here today, you know,

6   to ask you guys to help me and help other

7   passionate citizens in the area do, help the

8   environment in ways that we ourself personally

9   can't go out and do.

10   So I hope -- I'm here to ask

11 you guys to reject the decision and try

12 to keep the air in central Illinois as clean as

13 possible. Thank you.

14   HEARING OFFICER TIPSORD: Thank

15 you.

16   MR. LARGENT: Good evening.

17 First, I would like to thank the Pollution

18 Control Board for giving me the opportunity

19 to demonstrate my support for the IEPA's

20 proposal to revise the Illinois Multi-Pollutant

21 Standard.

22   My name a Kevin Largent.

23 I'm the managing director of the Havana power

24 station in Mason County. I live locally. I

1   live ten miles west of Peoria. I have raised

2   a family in this area. I have worked for the

3   locale utility as it's changed over the years

4   in the last 30 years and raised two boys in

5   the area.

6   My Dynegy coworkers, they

7   work every day to keep the power on in

8   downstate Illinois. When it gets cold, as

9   it did in the last week or so, we are here

10   to provide power to the citizens of the

11   state of Illinois.

12   As we listened to the

13   testimony this morning, there are clear

14   economic and environmental benefits to

15   revising the rule. The proposed rule caps

16   allowable SO2 and NOx below what is currently

17   employed with the MPS rule.

18   I believe that reduced

19   emissions and efficient operations help

20   promote the viability of the Dynegy fleet

21   in Illinois and in this respect, it also

22   benefits the state and our customers.

23   In Mason County, which is

24   where Havana is located, it's one of the

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1   largest employers and taxpayers creating

2   a local economic benefit $127 million. We,

3   as with Hennepin, employ approximately 85

4   employees with an annual payroll of $9 million

5   and our downstate facility employs 700 employees

6   as well as all the part-time union trade that

7   are on-site during outages.

8   Our station in Mason County

9   pays $1.6 million in property taxes. Forty

10   percent of that goes to the local school,

11   the Havana school district. So for the sake

12   of the individuals' families, communities

13   and businesses across central and southern

14   Illinois, I urge the Board to approve the

15   IEPA's request to review the Multi-Pollutant

16   Standard. Thank you.

17   HEARING OFFICER TIPSORD: Thank

18   you.

19   MR. FIELDS: Hello. Thank you

20   for the opportunity to come in and support

21   this proposed rulemaking of the Multi-Pollutant

22   Standard. My name is Randy Fields. I'm the

23   engineering manager of the Havana power station.

24   HEARING OFFICER TIPSORD: Could you

 1   speak into the mic a little bit?

 2   MR. FIELDS: My name is Randy

 3   Fields. I'm the engineering manager of the

 4   Havana power station. I have been with

 5   Dynegy for 36 years. I raised my family

 6   in central Illinois and now my kids are raising

 7   their families.

 8   In the years that I've

 9   worked at the Havana power station, we've

10   spent hundreds of millions of dollars in

11   new pollution control equipment which has

12   resulted in reducing NOx and SO2 emissions

13   by 80 percent and particulates by more

14   than 95 plus while still providing reliable

15   low cost electricity to the state of Illinois.

16   We have reduced emissions

17   and provided efficient operations, helped

18   promote the reliability of our whole fleet

19   and this proposed IEPA rule benefits the

20   state and our customers.

21   The proposed rule caps the

22   allowable SO2 and NOx emissions of our fleet

23   below what we currently could put out. The

24   IEPA estimates SO2 17 percent lower and NOx

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1   will be 25 percent lower -- 24 percent lower.

2   Another consideration is

3   concerning jobs in Illinois, concerning our

4   economy and providing local downstate jobs

5   and maintaining low energy costs.

6   For the sake of individuals,

7   families and businesses, I ask the Illinois

8   Pollution Control Board to approve this

9   request to revise the MPS standard to lower

10   emissions and job preservation. I don't

11   see a downside in this rule change. Thank

12   you.

13   HEARING OFFICER TIPSORD: Thank

14   you.

15   Also, just as a reminder, if

16   I've already read your name, you can go ahead

17   and get in line over here. I just want to be

18   sure that we keep moving and we don't push too

19   far behind.

20   MS. SLOAN: Good afternoon. My

21   name is Jean Sloan. I have been a resident

22   in Peoria County for 42 years and I'm a

23   life-long resident of Illinois.

24   I'm a member the Interfaith

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1   Alliance of Central Illinois and also active

2   in the Peoria Health Care Coalition and in

3   the indivisible Peoria area.

4   I'm old enough to remember

5   when issues of pollution first came into

6   public consciousness and we heard about

7   Times Beach and Love Canal, acid rain, all

8   of those phrases that were strange to us at

9   that time, but we became familiar with them.

10   And we are all grateful --

11   I'm grateful for the regulations that were

12   put in place that cleaned up air and water

13   and led us to believe that we were not only

14   safe, but that we were moving toward and

15   ever cleaner environment.

16   That's why I'm so shocked

17   that this rule change is even under

18   consideration. We are all hoping for an

19   ever cleaner plant and an ever cleaner

20   environment.

21   I'm smart enough to see

22   where things are going and while I have a

23   great deal of sympathy for people who are

24   in an industry that is gradually moving

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1   towards its close, it has to be acknowledged

2   and changes have to be made to gracefully

3   exit from energy sources that are not clean

4   and move toward energy sources that are

5   clean.

6   But the central factor here

7   is citizen health and in the balance, citizen

8   health should be put ahead of corporate

9   profits.

10   That is -- that is simple.

11 That is what our conscious would lead us to

12 do, to place the health of our citizens above

13 profit making.

14   So I urge you to deny this

15 rule change and to let us all move forward

16 into a state and a planet --

17   HEARING OFFICER TIPSORD: Time.

18   MS. SLOAN: -- where things are

19 getting ever cleaner. Thank you.

20   HEARING OFFICER TIPSORD: Thank

21 you.

22   MR. VEECH: Hello my name Byron

23 Veech. I'm the manager of the Hennepin power

24 plant. I've worked with Illinois Power and

1   Dynegy for 38, almost 39 years now.

2   I started out my career in

3   environmental safety and environmental health.

4   Environmental studies was my major in college.

5   I grew up always believing

6   that you could improve things in the world

7   and for 38 years I worked very hard at the

8   plants that I've work at, along with my

9   coworkers, to achieve those goals and I

10   believe.

11   We've worked tirelessly

12   with a high level respect for the environment

13   and respect for our world. I've raised four

14   children in the Illinois state and various

15   plant areas. I've worked at all five of the

16   Illinois power plants. Every single one of

17   them, time and time again, exceeded our

18   emissions criteria and improved upon them.

19   We've spent, as was said

20   earlier, hundreds of millions of dollars

21   improving and perfecting the systems we used

22   to clean the environment that we have at our

23   plants.

24   It is critical that we have

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1 reliable, safe power available to our public. I

2 think that this rule will help us maintain

3 a better chance at that as a goal. I strongly,

4 strongly urge the Board to support this rule.

5 Thank you.

6   HEARING OFFICER TIPSORD: Thank

7 you.

8   MR. WILKERSON: Hello. My name

9 is Brian Wilkerson. I'm the operations

10 supervisor at the Hennepin power station. I

11 have been there for 38 years. It has provided

12 a good, safe and clean job for me in that

13 amount of time. I have taken care of my

14 family.

15   I have seen multiple upgrades

16 in the pollution control stuff through the

17 years.

18   I strongly urge you to stay

19 with this vote. I think it's a good thing

20 for our whole company. Thank you.

21   HEARING OFFICER TIPSORD: Thank

22 you.

23   MR. JOHNSON: Good evening. Thank

24 you to the Illinois Pollution Control Board and

1   the Illinois EPA for giving me this opportunity

2   to speak today. I appreciate it very much.

3   My name is Scott Johnson.

4   I'm a senior safety specialist at the Dynegy

5   Hennepin power station. I represent four

6   generations of family that grew up living

7   and working in Marshall County, Illinois.

8   And before that, there was

9   the Caterpillar or Dynegy power station or

10   other chemical facilities or other points

11   of industry in between. We all were blessed

12   with good paying jobs. We're hard working

13   people that were able to provide for our

14   families and go to work day-in/day-out, work

15   safely and improve the environment as time

16   went on as we all gained knowledge to improve

17   the environment through regulation and the

18   entities that we were enacted with.

19   So anyway, I want to make

20   sure I understood -- that you all understood

21   that the result here is a guaranteed

22   environmental benefit because the rule change

23   estimates than an allowable emissions will

24   actually be reduced under this by 17 percent

1   for SO2 and NOx by 24 percent while keeping

2   all the health base standards for NAAQS

3   in place and remaining unchanged. So I urge

4   you to share your support for this environmental

5   regulation. Thank you all very much.

6   HEARING OFFICER TIPSORD: Thank

7   you.

8   MR. OLLE: My name is Mike Olle.

9   I work at the Hennepin power station. I live

10   in Peru. If -- there's equipment at my plant

11   that was there the day the plant was built,

12   there's equipment I put in ten months. It's

13   not like the plant is, you know, frozen in

14   ice. It changes with the times.

15   I support a mass-based MPS.

16   Thank you.

17   HEARING OFFICER TIPSORD: Thank

18   you.

19   MS. FOX: My name is Tracy Fox.

20   I was on the list and not here at the time.

21   HEARING OFFICER TIPSORD: That's

22   fine.

23   MS. FOX: My name is Tracy Fox.

24   I am a life-long Peorian and volunteer with

1   the Central Illinois Healthy Community

2   Alliance.

3   I'd like to thank all the

4   members of the Illinois Pollution Control

5   Board and their staff for coming to Peoria

6   and sitting through this lengthy proceeding.

7   It's great to see all of your interest in

8   the proceeding and hopefully you will

9   appreciate the citizens' concern in this

10   area.

11   I am very concerned about

12   the possibility of hot spots, places where

13   that moving to a mass-based proposal could

14   concentrate pollution, especially in communities

15   like Peoria or even Hennepin.

16   Without any substantive

17   analysis, Illinois EPA is just going ahead

18   with this change for a rate-based standard,

19   which has been used since 2006, to a new

20   mass-based standard.

21   That rate-based standard came

22   about through a big collaboration of many, many

23   stakeholders that got together and hashed things

24   out and wrote the Multi-Pollutant Standard.

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1 Instead, this has been conceived kind of

2 secrecy. It happened very quickly. It's a

3 pretty dramatic change.

4 So when I looked through

5 the technical support documents, when I

6 listened to the testimony this morning, I

7 thought that I would hear some sophisticated

8 justification, some examples of models, some

9 examples of analysis, something that showed

10 that the rate-base to mass-base change would

11 actually, one, provide some operational

12 flexibility for Dynegy. No proof there.

13 Two, would actually lower

14 emissions. No proof there.

15 Instead, we hear silly

16 assertions from the Illinois EPA stating that,

17 oh, it might be that they're running these

18 cleaner plants and it's displacing nuclear

19 power, for example. You know, the scenarios

20 here -- and if you look at why would Dynegy be

21 asking for what the Chicago Tribune analysis

22 characterized caps two times higher than

23 anything they are currently emitting, I think

24 it's because they want to dispatch --

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1   HEARING OFFICER TIPSORD: Time.

2   MS. FOX: -- their old, dirty,

3   cheaper to run plant.

4   HEARING OFFICER TIPSORD: Time.

5   I'm sorry. That's time.

6   MS. FOX: Okay. Thank you.

7   HEARING OFFICER TIPSORD: Thank

8   you.

9   And I reiterate, anyone who

10   runs out of time can still file a written

11   document.

12   MR. FOX: Good afternoon. My name

13   is Rick Fox. I apologize I wasn't here when I

14   was called earlier.

15   HEARING OFFICER TIPSORD: Not

16   necessary. That's quite all right.

17   MR. FOX: I have a day job. So I

18   just got here.

19   My grandfather, Joe Fox, was

20   a union electrician, worked for Iowa power for

21   many years. So I have to start by saying I have

22   a great deal of respect for the folks that work

23   at these plants. I have some concept about what

24   the work you do is about.

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1   But I am here to urge you

2   to reject this proposal. I want to talk a

3   little bit about the process that started

4   this. The process started in secret.

5   FOIA showed that the IEPA

6   met with Dynegy over seven months before

7   releasing the Dynegy authored rules to make

8   public.

9   FOIA also revealed that at

10   one point a range of annual SO2 caps was

11   considered. However, the decision to allow

12   the 55,000 tons of SO2 was made with no public

13   input at all.

14   The process continued to fail

15   the public as it moved forward. Environmental

16   groups worked to understand the proposal in a

17   short period of time between learning of its

18   existence and its filing with the Pollution

19   Control Board.

20   They ran into -- the groups

21   ran into roadblock after roadblock. Dynegy

22   approached IEPA asking for this rewrite in

23   order to gain "operational flexibility." This

24   seems like a pretty thin justification to me.

1   Dynegy claims that under the --

2   that under the Multi-Pollutant standard, the

3   MPS, it was forced to run unprofitable plants.

4   It claims the MPS was causing distortions in

5   the power market and creating grid

6   inefficiencies. All of these are just baseless

7   assertions.

8   HEARING OFFICER TIPSORD: Mr. Fox,

9   that's time. I'm sorry.

10   MR. FOX: All right. Thank you.

11   HEARING OFFICER TIPSORD: Thank you.

12   MS. PHILLIPS: Hi. My name Courtney

13   Phillips. I was not here to hear my name

14   called.

15   HEARING OFFICER TIPSORD: That's

16   quite all right. I just wanted to get us going

17   when I could so don't worry about it.

18   MS. PHILLIPS: I live here in

19   Peoria, Illinois. I'm here on behalf of my

20   son. He has grown up with breathing troubles.

21   At the age of two, his daycare called me and

22   said I needed to pick him up and get him a

23   nebulizer treatment.

24   That same day, I had to rush

1   him to the ER. I thought I lost him in the

2   backseat because his wheezing and crying

3   finally stopped. That's nothing a mother

4   should go through.

5   So I'm here asking that you

6   reject this bailout. Sulfur dioxide is proven

7   to have public health concerns with breathing

8   issues and I look forward to the day that

9   government can put our children's health

10 ahead of profits.

11   We will find new jobs.

12 Companies always find -- can find a way to

13 pay their shareholders. I only have one

14 son and he only has two lungs. That's why

15 I ask that you reject today. Thank you.

16   HEARING OFFICER TIPSORD: Thank

17 you.

18   I'm going to read off some

19 more names. If I read your name and you're

20 not here, when you get here, that's fine.

21 I just want to be able to keep things moving

22 because we still have a lot of people who want

23 to speak. So if you were on the typewritten

24 list and I read your name earlier, you can

1   go ahead and go to the wall. I'll go back

2   over that list later. I know that I have a

3   couple of people that aren't even going to

4   be here until 5:30.

5   So please don't worry

6   about not being here when I read your name:

7   Ted Lindenbusch, Dave Milstead, Samantha

8   Pomeroy, Brad Cantrell, Jeff Miller, Bobby

9   Peace, Bill Ackerman, Bill Henning, Ron George,

10   Rod Bland and Greg Crawford. Okay.

11   MS. KARCHER: I'm Julia Karcher.

12   I'm the founding member of Heartland Areas Right

13   To Know and thank you for come here in our

14   defense today.

15   I'm a lifelong central Illinois

16   resident. In December of 2015, I moved about

17   five miles from the Edwards station on the east

18   side of the river.

19   When the spring of 2016 came,

20   I went about as I've always done. I purchased

21   vegetables and ornamentals form a local garden

22   center and prepared my areas. I ran out of

23   daylight and had to leave the plantings for the

24   morning.

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1   The very next day, they had

2   almost all began to display notable surface

3   damage. Different degrees and even variances

4   in the type. The only explanation I could think

5   of would link to sickness back to the store.

6   I pruned the damaged leaves and set them off to

7   the side of the house.

8   Determined to plant, I bought

9   a couple tomatoes this time from a different

10   location, placed them in large pots and put

11   them on the front porch. A couple more days

12   passed and all the plants look sickly. Not

13   quite dying yet, definitely ill and stressed,

14   leaves were starting to curl, papery white

15   blotches had appeared on some, most of them

16   had developed spots.

17   The spots were all different

18   colors ranging from tan, brown, red, purple,

19   black. Like they were not thriving like they

20   were mere days ago at purchase. I didn't get

21   it. It didn't make any sense. I again removed

22   the damage leaves.

23   I was frustrated and I went

24   inside and began searching for the answer. That

1   day, sulfur dioxide changed from an abstract

2   concept to a devastating reality. It was all

3   there.

4   All plants were detrimentally

5   affected. The severity and symptoms varied

6   depending on the level of exposure and the

7   individual plant's susceptibility. Descriptions

8   of pictures in the documented documents

9   absolutely mirrored mine.

10   I glanced over my house plants.

11   They had not been themselves since the move

12   either. I contributed it to shock coupled with

13   the change in light conditions. The same

14   telltale signs of acute SO2 had edged its way

15   into my home and ravaged them as well. I

16   thought there was something wrong with that

17   house and I had to move.

18   In May have 2016, I moved

19   exactly two blocks further away from that

20   the river. There was no relief. The plants

21   continued to wither and I began to experience

22   the rapid decline of my own health.

23   I had to figure out what was

24   going on. I started with my area first. I

1 would go out to the parks, the rivers, the

2 lakes. I would walk neighborhoods. I took

3 pictures, notes, talked to the people about

4 the --

5   HEARING OFFICER TIPSORD: Time.

6 I'm sorry.

7   MS. KARCHER: That's okay. I'll

8 leave my notes. Please, please, you guys are

9 the only ones that can help us. Thank you.

10   HEARING OFFICER TIPSORD: Thank

11 you.

12   MR. LINDENBUSCH: Good afternoon.

13 My name is Ted Lindenbusch. I live in Marshall

14 County, which is just north of Peoria.

15   I'm a plant manager of Edwards

16 power station in Bartonville, which is just on

17 the south side of Peoria. I have been with

18 Dynegy and its predecessor company for 28 years.

19   Over 20 years have been in

20 Illinois in the coal plants in Illinois. I

21 raised my family in central Illinois and now

22 my kids are raising their families in central

23 Illinois.

24   I want to thank the Pollution

 1   Control Board for having this hearing today

 2   and for letting us all come and have our talk

 3   and for demonstrating our support for the

 4   IEPA and their proposed new MPS standard.

 5   I have been the manager

 6   Edwards for over four years. I'm very proud

 7   of our compliance record. I'm very proud of

 8   the over 100 employees we have at the plant.

 9   We have a great record of safe, reliable and

10   efficient operations there.

11   We operate 24/7/365 to keep

12   the lights on in the area. We maintain a

13   viable industry in the area. We are vital

14   to the area.

15   I have listened carefully

16   all day long and I understand the IEPA's

17   proposal. It's clear that there's economic

18   and environmental benefits to this new proposed

19   rule. The caps of SO_2 and NO_x are at good,

20   safe levels and I support those reductions.

21   Edwards provides over 100

22   jobs at Dynegy across the state. It employs

23   over 700 highly skilled union members. We

24   provide hundreds of part-time jobs for building

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1   trades and for other plant maintenance and

2   upgrades and in addition to that, other nonunion

3   jobs too.

4   For the sake of all those

5   individuals and the families and communities

6   in this area, I ask you to support the IEPA

7   in this new rule. Dynegy supports local

8   charities, local chambers of commerce, local

9   businesses, and local emergency services and

10   we will continue to be a good neighbor in

11   this community. Thank you.

12   HEARING OFFICER TIPSORD: Thank

13   you.

14   MR. MILSTEAD: My name is Dave

15   Milstead. I'm the admin manager of the Edwards

16   power plant. I have been working at the plant

17   for 20 years. I have lived in the Peoria area

18   for 35 years and I raised my family in this

19   area.

20   The Edwards plant employs

21   over 100 people with full-time jobs and many

22   of those are union jobs. During times of

23   maintenance outages at the plants, we also

24   employ a lot of the building trades, several

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1   hundreds of building trades employees. All

2   these jobs translate into millions of dollars

3   in economic benefit to the area.

4   Environmentally, the proposal

5   by the Illinois EPA provides lower limits

6   than under the current rule. Because of the

7   environmental benefits and the jobs and the

8   economic benefits, I fully support the IEPA's

9   proposed Multi-Pollutant Standard and I urge

10   the Board to pass it. Thank you.

11   HEARING OFFICER TIPSORD: Thank

12   you.

13   MS. POMEROY: Hi. My name is

14   Samantha Pomeroy. I'm an electrical engineer

15   at the Edwards station.

16   HEARING OFFICER TIPSORD: Speak into

17   the microphone, please. Thank you.

18   MS. POMEROY: I was born and

19   raised ten miles from Edwards power station.

20   I currently live in the same neighborhood I

21   grew up in with my two small children.

22   I work closely with the

23   pollution control systems at Edwards. I have

24   no qualms whatsoever about raising my kids

1 ten miles away.

2   I strongly support the

3 proposed MPS rule as an Edwards employee

4 and as a member of the community. Thank

5 you.

6   HEARING OFFICER TIPSORD: Thank

7 you.

8   MR. CANTRELL: Hello. I'm Brad

9 Cantrell. I'm a safety specialist at the

10 Edwards power station.

11   I want to thank you for

12 allowing me to speak today. I have been at

13 Edwards for approximately five years and I

14 have worked this central Illinois for the

15 past 35 years plus.

16   During the 30 years of that,

17 I have been involved in environmental safety

18 and health. One of the companies that I

19 worked with, we were doing expansions and I

20 had the pleasure of working with the Illinois

21 EPA. I think the Illinois EPA does a very

22 good job of protecting not only the environment

23 of Illinois, but the people of Illinois.

24   I recommend that you agree

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1   with the IEPA's revision on this, on the

2   Multi-Pollutant Standard.

3   I also wanted to just make

4   a couple other comments on the economic impact

5   in the Peoria area. It's mentioned that we

6   have approximately 100 jobs at the Edwards

7   power station. I'm old enough that I can

8   remember the Reaganomics or trickle down theory.

9   I think some of us remember that.

10   Edwards has approximately a

11   $100 million impact on central Illinois. I

12   have all kind of articles I wanted to read about

13   Illinois losing residents and losing jobs.

14   Every minute we are losing jobs. I heard I

15   only had two minutes to talk.

16   So I did want to make a

17   comment as a citizen what I witnessed here

18   today. If the Illinois Attorney General's

19   Office doesn't work together with the other

20   Illinois agencies, we are going to see more

21   jobs and more people leave Illinois from

22   what I saw today. So thank you.

23   HEARING OFFICER TIPSORD: Thank

24   you, sir.

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1   MR. MILER: Good afternoon. My

2   name is Jeff Miller. I'm a shift supervisor

3   down at the Edwards station at Bartonville.

4   I would like to thank you for the opportunity

5   to voice my support for this proposal to

6   provide Multi-Pollutant Standard.

7   In my opinion, this is a

8   win-win-win for everyone concerned. It's a

9   win for the environment. We mentioned earlier

10   the IEPA says that we are going to reduce

11   nitrogen and sulfur dioxide, both by 70 percent

12   for nitrogen and dioxide will be 24 percent

13   lower. So that's a win for the environment.

14   It's a win for Dynegy

15   stakeholders and employees. When we combine

16   all of our plants into one framework there,

17   we dispatch our generation much more

18   efficiently, reduce our costs and provide

19   lower, cheaper power for everyone. Okay.

20   We are also reducing emissions at the same

21   time.

22   It's also a win for the

23   workers in the state, you know, because it's

24   going to save jobs in downstate plants. For

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1 example, the Coffeen plant has 151 employees.

2 The payroll is $17 million and the local

3 economic impact is $388 million.

4   These jobs and the overall

5 economic activity they provide the tax money

6 that the state so desparately needs. Today, we

7 hear about -- talk about burdensome and, you

8 know, job killing regulations. This revision is

9 neither one of those.

10   This is the kind of thing

11 that we need. It's the best of regulations.

12 It balances things. It balances things. It

13 balances the interest of the citizens of the

14 state, the stakeholders of my company, and it

15 affects the environment by reducing emissions

16 of the environment.

17   I wholeheartedly and

18 enthusiastically recommend that the Board

19 approves this revision. The state of Illinois,

20 Dynegy and the environment will be better off

21 for it.

22   Thank you for giving me the

23 opportunity to talk to you about this very

24 important vote.

1   HEARING OFFICER TIPSORD: Thank

2   you.

3   MR. PEACE: I want to thank you

4   for the opportunity to show my support for

5   the IEPA's request revise the Illinois

6   Multi-Pollutant Standard.

7   My name is Bobby Peace.   I'm

8   a mechanical maintenance supervisor at Dynegy.

9   I've worked at Dynegy for a little over five

10   years now.   The last few years, I've worked at

11   Edwards station and prior to that, I worked

12   three years at the Duck Creek facility.

13   I was born and raised in

14   central Illinois.   I only left home for five

15   years when I served in the U.S. military.   When

16   I returned home from the Army, I moved back

17   into the same house that I grew up in and I

18   have lived there now for the last 27 years.

19   There has been three

20   generations of the Peace family at that have

21   lived, worked and retired in central Illinois.

22   My lifelong goal has always been to do the same

23   time.

24   I live in Mason County where

1   the Dynegy Havana power station is located

2   and this is one the largest corners in Mason

3   County. The Havana station employs 97 people

4   and has an annual payroll of $12 million and

5   has a local economic impact of $127 million

6   dollars.

7   I believe that reduced

8   emissions and efficient operations help

9   promote the viability of the entire Dynegy

10 fleet in downstate Illinois.

11   In this respect, the proposed

12 IEPA rule benefits the state and/or customers.

13 There are clear economic and environmental

14 benefits to revising this rule. The capped SO2

15 and NOx emissions from the Dynegy fleet below

16 the limit set by the current MPS agreement.

17 The allowable SO2 limits would be 17 percent

18 lower while the NOx emission would be 24 percent

19 lower.

20   Dynegy employees are highly

21 skilled workers who run and maintain their

22 plants and along with these people it takes

23 to run these plants. It takes a lot of outside

24 support with local vendors and contractors. For

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1   the sake of the individuals, families,

2   communities and businesses across central

3   and southern Illinois, I urge the IPCB to

4   approve IEPA's request to revise the Illinois

5   Multi-Pollutant Standard. Thank you.

6   HEARING OFFICER TIPSORD: Time.

7   Thank you.

8   MR. ACKERMAN: Thank you for

9   serving on the Board. I appreciate that.

10   My name is Bill Ackerman.

11   I'm the plant engineering manager at the

12   Edwards plant. I live here in Peoria and

13   I'm speaking in support of the proposal.

14   I'm a licensed professional

15   engineer in Illinois. I have been licensed

16   in two other states. I have been employed

17   in the power industry since 1977. I have

18   worked in plants throughout the world. I

19   have been in probably close to 100 plants.

20   I appreciate working where

21   I am here at Edwards. During that time, I

22   have seen just remarkable improvements in

23   the power industry. Back in the '70s when I

24   first started, I can recall seeing black

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1 clouds in the daytime when you get up in

2 morning you have to do your windshield

3 wipers just to get your ash off the windshield.

4 Okay. That was in the city and not even near

5 the plants. You don't see that anymore.

6   We have made tremendous

7 improvements in the air quality and we continue

8 to do so. This proposal is just another

9 iteration. It's yet another improvement. As

10 an engineer I look for solutions that are

11 practical and I believe this proposal is a

12 practical proposal.

13   The proposal caps the

14 emissions, but it also allows some flexibility

15 for the plants to operate. Each unit has

16 differences in emissions characteristics, which

17 varies between units. It also varies over time

18 on a particular unit. Maybe even daily and

19 hourly.

20   So this gives us the

21 flexibility to optimize our plant operation.

22 It still does meet the reduced emission

23 limits and it will meet the regional

24 compliance goals, which is probably the

 1   most important thing.

 2   I've worked at Edwards for

 3   three years now. It's a very well-run plant.

 4   Like I said, I have been in a lot of plants.

 5   There are over 100 people --

 6   HEARING OFFICER TIPSORD: Time.

 7   I'm sorry. Time.

 8   MR. ACKERMAN: Thank you. I support

 9   this change.

10   HEARING OFFICER TIPSORD: Thank

11   you, sir.

12   MR. HENNING: Hello. I would

13   like to thank the Illinois Pollution Control

14   Board for this opportunity. My name is Bill

15   Henning. I work at the Edwards power station.

16   I am a maintenance manager.

17   I live in Tazwell County in

18   Washington, Illinois with my wife and two

19   daughters currently going through college. We

20   are able to do at that because I have a good

21   job here in central Illinois.

22   It is no secret that there are

23   more people leaving than coming into Illinois.

24   It's not because of the environment. It's

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1   because of jobs. We need to do what we can to

2   keep the jobs here while still being stewards

3   of the environment.

4   I am very proud of the work

5   that we have done at Edwards power station as

6   well as the other stations within the Dynegy

7   fleet.

8   HEARING OFFICER TIPSORD: Would you

9   speak into the microphone.

10   MR. HENNING: I understand that

11   this is a very emotional topic and there is

12   no way I can change people's minds here standing

13   here for two minutes, but I am an engineer and

14   my wife tells me I have no emotions. I work

15   strictly based on fact and logic.

16   As an engineer, a rate-based

17   rule never made sense. That does not provide

18   a cap. That does not stop the amount you can

19   put out.

20   A mass-based is what makes the

21   most sense and provides certainty. I actually

22   think this is an opportunity for the Board --

23   unique opportunity where you have the chance to

24   make a ruling that isn't one-sided or the other.

1   This asks for a reduction

2   in pollution or emissions as well as helps

3   protects jobs in Illinois that are desperately

4   needed.

5   Dynegy is not asking for an

6   increase in emissions over their existing rules.

7   Because of that, I ask that you please approve

8   this and I wholeheartedly support this.

9   HEARING OFFICER TIPSORD: Thank

10   you.

11   MR. GEORGE: I would like to thank

12   the Board for having us here and allowing us

13   to say our peace with respect to the proposed

14   Illinois MPS rule modification.

15   My name is Ron George. I'm a

16   citizen here of Peoria, Illinois. I'm not

17   originally from Peoria. I moved there three

18   years ago with my expecting wife and we are

19   currently expecting a second child coming this

20   summer.

21   The reason that I am supportive

22   of the rule is because it protects valuable jobs

23   here in downstate Illinois. If you look alone

24   at the Edwards power station, it provides 100

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1   full-time jobs for people here in the area

2   and the payroll is $12 million for those

3   jobs. That does not include any other

4   functions whether it be from vendors or

5   contractors who support the plant in its

6   operations from time to time.

7   The other reason is that

8   it reduces the amount of emissions that

9   the Dynegy/Illinois fleet can produce from

10   a sulfur dioxide perspective, 17 percent,

11   and NOx by 24 percent. Those are estimates

12   provided by the Illinois EPA. It also would

13   comply with any NOx rules that are in place.

14   The other thing is it gives

15   Dynegy flexibility in operating and dispatching

16   its units and allows each unit to be able to

17   be dispatched based upon its own economic merit

18   rather than encouraging the company to operate

19   some units at a loss at times in favor of other

20   units.

21   So for that reason, I support

22   the proposal given by the Illinois EPA.

23   HEARING OFFICER TIPSORD: Thank

24   you.

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1   MR. BLAND: Hi. My name is Robert

2   Bland. I am in support of what we are looking

3   for today to make sure that we keep jobs here in

4   Illinois.

5   I am a resident of Peoria.

6   I'm one of the few that actually would say

7   that I am a resident of the city of Peoria.

8   I have a daughter who has

9   graduated from the university and is a

10   respiratory therapist because I have this

11   job. I have an 18-year-old who is getting

12   ready to graduate from Ridgewood High School.

13   I plan on seeing him through college. He is

14   going an architectural engineer.

15   I really do support having

16   you guys here and thank you very much for

17   coming and listening to what we have to say

18   today.

19   BOARD MEMBER PAPADIMITRIU: Thank

20   you, sir.

21   HEARING OFFICER TIPSORD: Thank

22   you.

23   MR. CRAWFORD: Thank you for being

24   here. My name is Greg Crawford. I live in

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1 Pekin, Illinois. I as born and raised in

2 Pekin. My parents were born and raised in

3 Pekin. I still live in Pekin. Their parents --

4 my father's parents live in Pekin. They're

5 farmers. They make a good living. They're

6 working there. Good farming.

7   I've worked at Edwards station

8 for 30 years now this month. I'm currently the

9 fuel supervisor at the plant. I've lived here

10 my whole life. I've got four kids I've raised

11 here. I've got my grandkids here.

12   The economic impact of the

13 plant, as you've already heard everybody speak

14 of, the jobs, the incomes, I support and ask for

15 your support for the MPS and thank you for your

16 time.

17   HEARING OFFICER TIPSORD: Thank

18 you.

19   BOARD MEMBER PAPADIMITRIU: Thank

20 you, sir.

21   MS. LONG: Hi. Thank you for coming

22 and listening to all of our input. My name is

23 Nancy Long. I'm a citizen of Peoria. I have

24 been here for 30-some years. I raised my

 1   children here.
 2   I also am extremely concerned
 3   about the brain drain we are experiencing as a
 4   state. My story is a little different.
 5   My youngest daughter came
 6   back to -- from Denver to look for a place to
 7   farm. Denver was growing too fast for her and
 8   her husband and their one-year-old. They wanted
 9   to be able to have it all, to have a farm and
10   actually, you know, live not in poverty. They
11   were looking at -- knowing what wonderful soil
12   we have in central Illinois.
13   They had a really interesting
14   offer in Pekin, but I was aware of all of the
15   breathing difficulty that my friends in Pekin
16   have and their children had. I had to honestly
17   warn them that that's probably not an ideal
18   place health-wise for them to raise their
19   family. So they are continuing to look and they
20   may stay out in Colorado.
21   I think that's the other side,
22   the side that maybe you don't see because we
23   don't often have those people coming to talk to
24   us. We do need to attract young professionals

1   that one factor of having really poor air

2   quality is definitely a concern for many

3   of the young mothers and fathers now.

4   So I ask you to keep that

5   in mind. There is wonderful space for a solar

6   installation, for instance. There are other

7   ways to get power and we need to be creative

8   about that. Thank you.

9   HEARING OFFICER TIPSORD: Thank

10 you.

11   BOARD MEMBER PAPADIMITRIU: Thank

12 you.

13   HEARING OFFICER TIPSORD: Before

14 you start -- before you start, sir, I'm going

15 to go over the list again of people. You can

16 come on up to the podium.

17   I have already read off these

18 names. I'm going to read them off again in

19 case you weren't here and missed it: Abi Dagit,

20 Chris Krusa, Clare Howard, Melanie Andrews,

21 Larry Jones, Cheryl Hayes, Anthony Walraven,

22 Jimena Lopez, Mary Hayes, Tannen Kriver, Terri

23 Brink, Kenour Book and Gregory Barta. Okay.

24 Now, we're going to go on to Mike Cavelarres.

1   MR. CAVELARRES: That's me.

2   HEARING OFFICER TIPSORD: That's

3   you. Thought so. Lori Durkin, Roger Harrison,

4   Jase Urk, Peter Scerva, Connie Schmit, Mark

5   Davis, Joyce Kay and Dee Taylor. Go ahead.

6   MR. CAVELARRES: First of all,

7   thank you for being here. My name is Mike

8   Cavelarres. I am one of the four senior

9   control operators of the Edwards plant.

10   I started back in 1978. So

11 as of this year, I will be there 40 years.

12 I've been through the regime that started out

13 with Silco. It went through AES, went through

14 Ameren and now Dynegy.

15   We started out burning Illinois

16 coal years ago polluting like crazy. Standards

17 for emissions on the Illinois EPA and state

18 were very, very low. As we progressed over the

19 years, we went to Montana coal and now we're on

20 the lowest sulfur coal we can buy.

21   I have seen nothing but

22 improvements. Dynegy, under unit three, put in

23 brand new TR 6 sets, 98 percent efficient on our

24 emissions. I know this because I have to run

1   the stuff every day. If we don't stay in

2   violation, no only do I get in trouble, but

3   we also get big fines at the plant.

4   So anybody thinking this

5   rule is going to make a higher pollutant is

6   completely wrong. So basically I wanted to

7   say that it's going to make my job harder. It's

8   going to make operations harder to comply with

9   this, but I think it's good for all of us and

10 the environment and also I'm an Illinois Peoria

11 Heights resident. It's where I live. I grew up

12 in Michigan, but I moved here.

13   Also, the last rule I want to

14 kind of through a piece of paper at you guys

15 here. There's articles that show coal-fired

16 power plants are not the highest polluting.

17 Right now, transportation is.

18   Thank you for letting me speak.

19   HEARING OFFICER TIPSORD: Thank you.

20   MR. BARTA: My name is Gregory

21 Barta. I have been in central Illinois for

22 probably 35 plus years.

23   HEARING OFFICER TIPSORD: Sir, can

24 you use the microphone? Speak into the

1 microphone. We can't hear you.

2   MR. BARTA: My name Gregory Barta.

3 I have been in central Illinois for -- me and

4 my family have been in central Illinois for over

5 35 years.

6   There are alternative facts.

7 Everybody has heard that, alternative facts.

8 It seems like there is a discrepancy on what

9 this -- the rewrite of the Multi-Pollutant

10 Standard would do.

11   It's my information that it

12 would scrap stringent standards on the rate

13 of long damaging pollutants. We all know

14 that the emissions that come out of coal

15 plants affect our citizens here in central

16 Illinois.

17   Me -- anybody that lives in

18 central Illinois and Pekin, I have heard stories

19 about the kids in Pekin. The kids -- about the

20 high rate of puffers that they have to use in

21 the classroom because of the pollution that

22 they breathe.

23   Now, no one wants anybody to

24 lose their jobs. I don't want anybody to lose

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1 their jobs, but I do not want to see an

2 increase in pollution and I think there

3 seems to be -- some say there will be less

4 pollution. Some say there will be more.

5   The people I get information

6 from, and I respect them, say there will be

7 more pollution if this waiver -- Dynegy waiver

8 is granted.

9   Now, something I don't

10 understand is how many power plants --

11   HEARING OFFICER TIPSORD: Time.

12   MR. BARTA: -- go to the EPA and

13 say pay we want a waiver so we can reduce our

14 pollution?

15   HEARING OFFICER TIPSORD: Thank

16 you, Mr. Barta. That's your time. That's your

17 two minutes.

18   MR. BARTA: Okay.

19   HEARING OFFICER TIPSORD: Please feel

20 free to file a written comment. Thank you.

21   MS. DURKIN: Hello. My name is Lori

22 Durkin and I have been in Peoria for over

23 25 years. I have personal experience with

24 family members that have severe emphysema. I

1 don't know if any of you have ever had someone

2 that can't breathe severely, but it's very

3 scary. My mother had severe emphysema, my

4 grandmother had severe emphysema. Neither one

5 of them had ever smoked. A coworker I worked

6 with had lung cancer. She never smoked. It's a

7 very hard thing to deal with.

8   The people that will be the

9 most affected by this are the people that are

10 the youngest, the oldest, the weakest and the

11 sickest.

12   We tend to think of pollution

13 as something that's just around, not something

14 that really kills someone. What is December 4,

15 1952? That's the date that 12,000 people

16 died in London because of the sulfur dioxide,

17 the smoke and the soot, another 100,000 were

18 made sick. These things matter.

19   You are the people that can

20 balance it and look out for us. We don't

21 really have any power here. You are the people.

22   As far as attracting young

23 people and keeping them in this area, I can

24 tell you dirty air is not going to be attracting

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1 those people. We already have a designation

2 as being one of the more racist and unequal

3 cities. If we become one of the cities with

4 the dirtiest and worst of the air, you might

5 as well put another nail of the coffin for

6 Peoria. Thank you.

7   HEARING OFFICER TIPSORD: Thank

8 you. Thank you.

9   MR. HARRISON: Roger Harrison. I'm

10 a Dynegy employee and I stand tonight in support

11 of the IEPA's MPS policy change. I'm also a

12 52-year life-long resident of the village of

13 DePue that was referenced roughly an hour ago.

14 We are approximately a mile and a half north of

15 the Hennepin power facility.

16   Our little community, as

17 referenced earlier, is above 58 percent

18 minority, closer to 60. Our little community

19 enjoys great job opportunities afforded to us

20 at the Hennepin facility.

21   Dynegy Hennepin has been a

22 great corporate neighbor to our little village.

23 It would be a travesty if we did not support

24 this policy change for our little region

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 1   especially. Thank you.

 2   HEARING OFFICER TIPSORD: Thank

 3   you.

 4   MR. URK: My name is Jase Urk.

 5   Good afternoon or good evening. I'm also a

 6   resident of the this area. I was born across

 7   the street at St. Francis. I'm a product of

 8   the south end of Peoria right off Scar Street.

 9   I lived there most of my life. I live in

10   Bartonville now down on the south end about

11   five miles away from Edwards station.

12   Right now, that's where I

13   live with my two boys. I'm three miles away. I

14   don't have any ill, you know, health affects

15   from Edwards station, from the plant. I don't

16   think I do. My kids don't. No one I know does.

17   I've never had an issue with it. So I don't

18   feel threatened by the plant, you know,

19   health-wise.

20   Jobs are leaving Illinois as

21   well as people. They're are leaving Illinois

22   in droves because they can't find jobs. It's

23   a serious problem. I'm a lot more nervous than

24   what I thought I was going to be. Anyway, I

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1   think it's a win-win to keep all these jobs

2   here. You're talking thousands of jobs between

3   all of these Dynegy plants including all of the

4   contractors that work there on a regular basis.

5   Plus lowering these -- putting a cap on these

6   emissions at 55,000 tons.

7   I think in 2014, they were

8   around 70,000. So they're making progress and

9   they're making progress and they're working

10   towards lower all of these emissions. So this

11   would be, you know a win-win. Anyway, I support

12   the new standard and I ask you to pass it.

13   Thank you.

14   HEARING OFFICER TIPSORD: Thank

15   you.

16   MR. SCERVA: Peter Scerva. Thank

17   you. I am in support of the proposal. I'm

18   just a simple guy who just wants a job. Out

19   of my 21 years, I've been working. Probably

20   15 of them were outside of Illinois just

21   because of the fact the job market here.

22   I have been fortunate to

23   be here for three years with Dynegy and I have

24   been fortunate enough that these are the good

1   jobs. These are the jobs at that pay for

2   your family, your family's education. My

3   wife is able to stay home and take care of

4   our daughter. These are the opportunities

5   that most people don't have and these are

6   the jobs people deserve in these areas,

7   union jobs, and I can't think of one job in

8   Illinois I would like to see leave let alone

9   these. Thank you.

10   HEARING OFFICER TIPSORD: Thank

11   you.

12   MS. SCHMIT: Good evening. My

13   name is Connie Schmit. I live in Warrenville,

14   Illinois. It's up near Du Page County. It's

15   quite a ways away. Thank you for your service

16   on this Board.

17   I'm speaking to you today

18   as a newly elected chairperson for the Illinois

19   Chapter of the Sierra Club. I represent

20   100,000 members and supporters in all corners

21   of our state who care deeply about clean air

22   standards.

23   Before we had the Clean Air

24   Act and amendments that help to support it,

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1   air quality was terrible near polluting coal

2   plants. We know that human and environmental

3   health are impacted by dirty air pollution.

4   We appreciate the 2006 MPS,

5   the Multi-Pollutant Standards, which are

6   cutting the emissions allowable by coal plant

7   pollution.

8   You are the Pollution Control

9   Board. Listen to the name of the organization,

10   the Pollution Control Board. You are being

11   petitioned to relax standards for dirty coal

12   firing plants of Dynegy. Instead of ensuring

13   public and environmental health, you are being

14   asked for the benefit of the major corporation,

15   Dynegy, to allow them to increase the pollutants

16   that they spew into the air our citizens

17   breathe.

18   Basically, you are being

19   asked to go backwards to dirtier air quality

20   for Illinois residents. You have heard

21   fabulous technical testimony here today, which

22   I cannot match, but I can ask you to do your

23   job and carry out the responsibility to protect

24   Illinois citizens from relaxed clean air

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1   standards.

2   I request that you deny

3   the proposed rewrite of the Dynegy

4   Multi-Pollutant Standard on the grounds

5   that it would endanger the health of citizens

6   as well as the environment and since I have

7   just a moment left, I want to say there are so

8   many valuable workers here, I'm a union member

9   myself, I want you to know the fastest growing

10 jobs right now if you Google it, you'll find I'm

11 right, are solar panel installers by tenfold and

12 the second fastest growing job is wind turbine

13 technicians. IPW has a grant to help you.

14   HEARING OFFICER TIPSORD: Thank

15 you.

16   MR. DAVIS: Good evening. My

17 name Mark Davis. I'm the manager of the

18 environmental chemistry program at the Edwards

19 power station. I'm fortunate to have had the

20 opportunity to serve in this role at the Edwards

21 station for over 17 years.

22   During my time at Edwards

23 station, we have made significant reductions

24 in NOx, SO2, Mercury and particulate emissions.

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1   Our other fleet generating facilities have

2   also made significant reductions in overall

3   emissions over this time.

4   I'm especially proud to work

5   for an organization that maintains environmental

6   compliance and continually strives to reduce

7   emissions even further. I hold myself

8   accountable for our environmental compliance

9   director and I now my coworkers do as well.

10   As you know, the proposed

11   MPS rule will place more respective limits

12   SO2 and NOx emissions, which will directly

13   result in further reductions below the limits

14   set by the current MPS agreements. This is

15   a major environmental improvement.

16   Emission reductions that

17   will result from the proposed MPS rule will

18   positively impact the state and our customers

19   by further reducing the overall emissions

20   promoting efficient operating facilities

21   thereby providing hundreds of great paying

22   jobs for the state of Illinois.

23   The proposed rule provides

24   much needed environmental and economic

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1   advantages to the citizens and businesses

2   in Illinois. I trust that the Illinois

3   Pollution Control Board recognizes the

4   positive impacts of this rule and will

5   subsequently improve the IEPA's request.

6   Thank you for your time.

7   HEARING OFFICER TIPSORD: Thank

8   you.

9   MS. ANDREWS: Hi. I'm Melanie

10   Andrews. I work, live and am raising my

11   young family in Peoria. I also have a unique

12   background. I'm a family physician in town

13   at a teaching university.

14   I just wanted to say that I

15   firmly stand against the request Dynegy has

16   made both as a community member, as a parent

17   and as a public health official.

18   I have seen the daily

19   consequences of increasing the air pollution

20   translated into increased hospital admissions,

21   increased intubations or putting patients on

22   breathing machines, lost days of work and

23   lost days of school for children. I have put

24   in these tubes. So I have stood in front of

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1 parents watching their kids struggle to breathe

2 and then put in these tubes.

3   My fear is that in loosening

4 these requirements that I will have to do that

5 more frequently and I'm not okay with that.

6 So I'm very firmly asking you to deny this

7 request. Thank you.

8   HEARING OFFICER TIPSORD: Thank

9 you.

10   Before you start, let me --

11 are you Ms. Kay?

12   MS. BRINK: Therese Brink. I've

13 heard my name has already been called.

14   HEARING OFFICER TIPSORD: Yes.

15 That's true.

16   Joyce Kay, Dee Taylor, Melanie

17 Scott-Dockery, Lois Kain, Andrew Canopy, Staci

18 English and Jay Gruber. That's the entire list

19 of people. I have called everyone's names at

20 least once just so you know.

21   MR. BRINK: I was working.

22   HEARING OFFICER TIPSORD: That's

23 fine. We've been trying to keep things moving

24 along.

1   MS. BRINK: I understand.

2   HEARING OFFICER TIPSORD: And your

3   name again was?

4   MR. BRINK: My name is Therese

5   Brink. I'm from Peoria, Illinois. I am against

6   allowing Dynegy being allowed to increase the

7   level of toxins in the air. I exercise a lot

8   outside. Recently, I had to go to the doctor

9   and get some medicine for trouble breathing

10   because of the pollution outside.

11   Like many others like me, we

12   don't want to have to breathe air that's even

13   more toxic. I don't know why we would allow

14   a private corporation to pollute our environment

15   even more than they do now. So, in essence,

16   please do not allow Dynegy to increase its

17   pollution. Thank you.

18   HEARING OFFICER TIPSORD: Thank

19   you.

20   MS. SCOTT-DOCKERY: My name is

21   Melanie Scott-Dockery. I'm from Bloomington,

22   Illinois. I with Illinois People's Action. I

23   thank all of you for being here today and your

24   patience listening to this long list of people

1 talk.

2   I came here today. I'm not

3 from this region. I've lived her for about

4 13 years. I came here to talk about what it

5 was like where I grew up. I grew up in

6 southern Indiana in an area that is thought

7 of as a sacrifice zone because it's so polluted

8 from power plants.

9   I was going to talk about how

10 struggle with breathing and I struggle with

11 asthma because of that. I'm hearing these

12 stories from people that live here today that

13 this is already a huge problem in the Pekin

14 area and so forth. So I'm very concerned

15 about what's going on with our pollution

16 control.

17   I don't -- I want to speak

18 out against this variance. I don't want to

19 see the door open for the possibility for

20 there to be more hot zones and pollution

21 develop around some of the older, dirtier

22 coal plants that's devastating for communities.

23   When I was a kid, the cough

24 that I lived with was painful and I still --

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1   I recovered some from it moving to Illinois,

2   it seems to be better here than where I grew

3   up, but I have nightmares about that cough.

4   I remember the soot that landed on things

5   in my yard and how dirty our clothes would

6   be on the clothing lines. I don't want to

7   see that happen to other communities. So

8   please do not grant this variance to Dynegy.

9   HEARING OFFICER TIPSORD: Thank

10 you.

11   MS. GRUBER: Good evening. I am

12 Jay Gruber. I'm a certified public accountant

13 and I'm a CPA. I'm also the granddaughter of

14 coal miner and want you to know that my dad was

15 the first generation that didn't have to work

16 in the coal mine.

17   Every man my grandfather

18 worked with, every man that worked in the

19 coal mine when my dad didn't, had black lung.

20 One of the things that Illinois has to address

21 the fact we will pay for the people who get

22 sick. I want it to be that Illinois evolves

23 forward and not backward.

24   I do see there seems to be a

1   difference between a rate-based limit and a

2   mass-based limit. If you have a rate-based

3   limit and these profit-seeking companies

4   want to change the rule, it is because, as

5   I have seen the research, they want to put

6   their dirty plants back online?

7   I love the clean plants:

8   Let us keep the clean plants. Let us keep

9   the regulatory support for them so at that

10   they are on an even playing field and the

11   dirty plants do better.

12   I would just offer you my

13   strong opposition to granting this waiver.

14   I have no problem with profits. I have no

15   problem with jobs, but we could have clean

16   energy jobs and people do not have to die

17   to live in that area.

18   My hope is that you will

19   not grant this measure and that you will

20   see through the smoke. Have a great night.

21   HEARING OFFICER TIPSORD: Thank

22   you.

23   MS. KANE: Hi. My name a Lois Kane.

24   I live in Urbana. I don't live directly in the

1   path of one of Dynegy's polluting power plants,

2   but I do live in the same state and we all live

3   downstream.

4   As Dynegy has worked to

5   manipulate the Multi-Pollutant Standard to

6   rescue its profits from having to clean up

7   its dirty, life-threatening pollution facing

8   many of us humans, wildlife, and our water

9   to live in intolerable conditions, we are

10   all affected by the pollution created from

11   coal-burning power plants to acid rain,

12   Mercury and particulate pollution, ozone

13   and global warming.

14   We suffer from asthma,

15   heart problems, lung ailments, premature

16   death, fertility, neurological and immune

17   disorders. Acid rain falls on and into

18   our land's waterways, changing the acidity

19   in our waters, pulling aluminum from our

20   soils and contaminating our aquatic echo

21   systems with dangerously high levels of

22   Mercury.

23   No matter much science you

24   want to ignore, SO2 is warming our planet and

1   will bring even more misery if we do not

2   stop burning coal. Burning coal for energy

3   is a dying industry, but our governor and

4   Dynegy seem to think that Illinois citizens

5   should spend more of their hard earned dollars

6   for a bailout for a company that is already

7   worth billions.

8   The Illinois Pollution Control

9   Board should not approve any backroom deals the

10   public had no input and industry lobbyists had

11   full access to rewrite important and life saving

12   regulations.

13   Dynegy should have no role

14   in rewriting our air pollution regulations

15   no right to pollute and contaminate land, air

16   and water and certainly deserves no bailout.

17   Thank you.

18   HEARING OFFICER TIPSORD: Thank

19   you.

20   MS. ENGLISH: Hi. I'm Staci

21   English and I am acting general welfare

22   director, which is a voluntary position

23   that I took on because I see so much problem

24   with public integrity. So I thought this would

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1   be an good opportunity to talk public integrity

2   and standards and why they exist and how we

3   make sure they are the best standards.

4   If we have a problem and we

5   want to make a solution, we need to follow

6   the problem back to its inception and place

7   responsibility there and then we need to

8   follow that line of collateral damage all

9   the way through to the now and put that

10   responsibility along the way at every point

11   of damage. That's how we maintain public

12   integrity.

13   Now, we are in a terrible

14   situation where government regulations have

15   not been focused on well-being. You have

16   to focus on well-being if you want public

17   integrity. There is no way around it.

18   Now, we can be profitable.

19   We can be healthy, but we have to collaborate.

20   We cannot compete against each other. So

21   what I would like to -- and -- and taking

22   the role of the corporation for just a second,

23   the way you look to see whether you have

24   integrity or not is are you including everyone?

1   If your idealogy takes

2   these people who have come and testified

3   here today about health problems and you

4   write them off as not your problem, then

5   that's not collaboration.

6   So we need to collaborate

7   and I would hope this Board sets an example

8   of that and let's all move forward together.

9   Thank you.

10   HEARING OFFICER TIPSORD: Thank

11   you.

12   MR. CANOPY: Good evening. My

13   name Andy Canopy. I'm a resident of Tazwell

14   County and I'm from Hanson Professional

15   Services, an employee-owned, engineering,

16   planning and allied services consulting

17   firm with several offices.

18   THE COURT REPORTER: Can you

19   speak up, please?

20   MR. CANOPY: Yes, ma'am. And

21   I'll give you my notes.

22   In addition to manufacturing,

23   construction and maintenance jobs, power

24   stations are bringing scores of scientific

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1   and engineering jobs to the area.

2   Our company has been

3   providing support services for power plants

4   in Illinois throughout the Midwest. We have

5   a long history of working at most of the

6   power plants in Dynegy's Illinois fleet of

7   power stations.

8   Power plants such as Dynegy

9   have been essential to providing important

10 work to out geotechnical, civil, structural

11 and water resources engineers, our surveyors

12 and our environmental scientists, keeping

13 them gainfully employed and paying taxes

14 while working with Dynegy to keep the plant

15 operations in accordance with applicable

16 requirements.

17   The proposed rule increases

18 the likelihood that the fleet will remain

19 economically viable given the challenging

20 economic conditions facing coal fuel generation.

21   If approved, the proposal

22 will help ensure that reliable, base-load

23 generation is available to meet changing

24 demand.

1   Keeping these plants running

2   by approving this proposed rule will keep our

3   field representatives, consisting of surveyors,

4   engineers, environmental scientists, and

5   construction quality assurance agents,

6   working at these power plants.

7   Overall, these plans are not

8   only important to Hanson as a business, but

9   to me as an employee-owner, a local resident,

10   and my family. Thank you for your time.

11   HEARING OFFICER TIPSORD: Thank

12   you.

13   MS. TAYLOR: Good evening. Thanks

14   for you guys being here. My name is Dee Taylor.

15   I'm a member IPA through my church, which is

16   Mt. Zion Baptist Church. We are on the south

17   side of Peoria.

18   I have lived in Peoria for

19   about 40 years and I'm about 20 years out

20   of my life, I have lived on the south end

21   of Peoria. I have lost a dear friend just

22   a year and a half ago. She lived on the

23   south end most of her life. Her family

24   lives on the south end.

1   Her children and some of

2   her grandchildren have come down with asthma.

3   I know you guys are probably tired of hearing

4   about illnesses that come from the pollution

5   in the air and all of that. Well, we have to

6   look at that. I know Dynegy is a company

7   that does pollute, along with some other

8   companies.

9   The thing is here, I'm hearing

10 about all of this, but there's nothing being

11 done about cleaning this air. You know, the

12 power plant, Clinton, I believe, is polluting

13 on the south side. You know, a lot of kids,

14 even now, they have asthma problems and

15 things of that sort, but Dynegy needs to

16 clean their plant up. You know, they need

17 to clean it up.

18   I don't care where this money

19 is coming from for them to do at that, but it

20 needs to get done. I would like to say to you

21 please do not give this extension on the this

22 problem here. Help us out. Thank you so much.

23   HEARING OFFICER TIPSORD: Thank you,

24 ma'am.

1   I have still Joyce Kaye.

2   UNIDENTIFIED AUDIENCE MEMBER: She

3 had to return to Bloomington and Larry Dunn is

4 sick.

5   HEARING OFFICER TIPSORD: Okay.

6 Actually, Gregory Barta, we've already heard

7 from. Gregory Barta already spoke. Nia

8 McFarland?

9   MS. McFARLAND: Hello. Hi,

10 everybody. My name is Nia. I'm from New York.

11 So I know a little bit about dirty air. I'm

12 a forensic social worker and I've lived in

13 Peoria for about seven months. I felt

14 compelled to come speak because a lot of

15 people are talking about young people, and

16 especially people of color moving, to Peoria

17 even though it's been named second worst

18 city for people with color.

19   And so I've also been vegan

20 for seven months. I'm not judging anyone

21 who's not. I miss cheese. I really do. So

22 I'm not judging you, but I made that choice

23 because I care about people. I saw a

24 documentary called "What the Hell." I saw

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1 how they were putting waste toxic for

2 animals, in the backyards of people of color

3 and poor people who were not able to move

4 and unfortunately, they got cancer had other

5 health complications that they couldn't do

6 anything about.

7   So I made that permanent

8 choice even though it's not going to affect

9 any one person. I did it because I love

10 people it just made me feel better knowing

11 that if I didn't have to support that industry,

12 then I won't.

13   So everyone -- with that being

14 said, everyone on this board has an opportunity

15 to make a decision that will not only affect

16 themselves, but affects everyone in this room

17 and other people outside of this library.

18   So I just hope that you all

19 make the most ethical decision and one that's

20 reflective upon everyone's public health

21 concerns they have expressed today. Thank

22 you.

23   HEARING OFFICER TIPSORD: Thank

24 you.

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1   You said Joyce Kaye had to

2   return to Bloomington and Larry Jones is

3   sick?

4   UNIDENTIFIED AUDIENCE MEMBER: Yes.

5   HEARING OFFICER TIPSORD: I still

6   Abi Dabit, Chris Krusa?

7   UNIDENTIFIED AUDIENCE MEMBER: He's

8   not here.

9   HEARING OFFICER TIPSORD: And he

10   is not going to make it, do we know that?

11   Claire Howard, Cheryl Hayes, Anthony Walraven,

12   Mary Hayes and Tannen Skriver.

13   Do we have any word on any of

14   those individuals? Okay. I'm going to give

15   them ten more minutes before we close the

16   hearing. So we're going to take ten minutes

17   and then we're going to come back.

18   (Whereupon, after a short

19   break was had, the following

20   proceedings were held

21   accordingly.)

22   HEARING OFFICER TIPSORD: We have

23   two more individuals who did not sign up who

24   have elected to speak. So if everyone could

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1   come back in, that would be great.

2   Is there anyone else here

3   who signed up previously who did not get a

4   chance to speak? We have Mr. Wells as well.

5   Mr. Wells, Tim Wells?

6   We're going to go back on

7   the record as soon as the stop watch is ready.

8   MR. WELLS: You have a stopwatch

9   on me?

10   Hi. My name is Tim Wells.

11   I just want to say that I'm a neutral guy.

12   I showed up here out of curiosity more than

13   anything because I've lived next to the power

14   plant my entire life. I have no job with

15   them. I have no reason to support them

16   financially.

17   But I will tell you that in

18   the time that I've lived there, it's been 40

19   years I've lived by the power plant, I've seen

20   in improvement since they've showed up. It's

21   the most beautiful area around the power plant.

22   There's so much wildlife. There's the geese

23   and ducks and swans that are there now that

24   were never be there before.

1   It provides economic value

2   throughout the county and value for wildlife.

3   The streams that used to flow down through

4   there that used to pollute the Illinois River,

5   now they've stopped that. They've cleaned it.

6   Now, before it leaves the lake, it goes into

7   the river. Now, there's Walleye and Northern

8   in the river where before, that wasn't the

9   case.

10   I ask that you make decisions

11   based on fact and not emotion. That's all I

12   would say. Let's be fair because you talk

13   about while jobs don't matter that much, but

14   more importantly is the health of all of us.

15   Well, I can tell you right

16   now a poor person has a lot more likelihood

17   of dying young than somebody that has wealth.

18   We need to do -- we need to

19   consider all the facts. We need to consider

20   Pekin, Illinois, yes. People may have breathing

21   problems here, but I can tell you right now

22   there's not one power plant that's doing it

23   all. There's a lot of companies along there.

24   There's a steel mill. There's ADM. There's

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1 Caterpillar. There's a lot of emission going

2 on. So before we point the finger at some

3 individual, I think we need to take the facts

4 in and not base our opinion on emotion.

5   So with that said, I would

6 support the power plant. Thank you.

7   HEARING OFFICER TIPSORD: Thank

8 you.

9   MS. GURGLER: Barbara Gurgler.

10 I live in Peoria and I have lived here for

11 over 50 years.

12   All these people have talked

13 about jobs and nobody wants to jobs to go away.

14 We just want clean air. I think that the health

15 of an entire region, which comprises two-thirds

16 of Illinois basically, matters more than the

17 pocketbooks of the stockholders of the Dynegy

18 company and the other one that owns it now.

19   So what this hearing is really

20 about is Dynegy wanting to make more profit by

21 getting your approval of this change of air

22 pollution regulations for their power plants.

23   Children with asthma are

24 going to school with inhalators in much greater

1   numbers now than they used to. I know many

2   adults, mostly seniors, who have breathing

3   problems. There's another group of people,

4   I would be surprised if any of you even

5   thought about and that's the street people.

6   They live outside almost all the time. They

7   are at high risk for lung and heart disease.

8   They have little recourse to medical treatment.

9   So pollution for their livelihood -- for their

10   lives is vital. In fact, many of them die.

11   So while you are considering

12   economic factors, consider how expensive health

13   care is for anybody and consider how expensive

14   it is when people lose time off from work

15   because they are sick with some sort of lung

16   disease from air pollution and think about

17   the school children who miss school because

18   they are sick.

19   HEARING OFFICER TIPSORD: It's

20   time, ma'am.

21   MS. GURGLER: It's time?

22   HEARING OFFICER TIPSORD: Yes.

23   MS. GURGLER: Okay. I'm asking

24   you please to deny the request for changing

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 1   the pollution regulations and thank you for

 2   your time.

 3   HEARING OFFICER TIPSORD: Thank

 4   you.

 5   Again, as a reminder, anyone

 6   who did not get to say everything they wanted

 7   to say today can file a written comment with

 8   the Board.   Just send them into the Pollution

 9   Control Board, any written commit, and it will

10   be considered.

11   MS. LOPEZ: Hi.   My name is Jimenez

12   Lopez.   That is J-I-M-E-N-E-Z, L-O-P-E-Z.   I

13   live in Peoria.   My name was called before, but

14   I was still at work.   I apologize for that and

15   thank you so much.

16   HEARING OFFICER TIPSORD: That's

17   okay.

18   MS. LOPEZ: It's been a very, very,

19   very long day for you guys.   I appreciate you

20   being here.   I live in Peoria, but I have a lot

21   of friends, I have family, and I have a lot of

22   coworkers who live by the plant.   I actually

23   have to drive very often by the plant to go

24   to work.   So I know the area and the reason

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1   why I'm here is because I think that we can,

2   you know, try to think about all of these

3   numbers and statistics and big presentation

4   that Dynegy and their brand new owner from

5   Texas have presented to us and believe that,

6   you know, a number here and a number there

7   is going to make things better for the plant,

8   but in reality, this type of industry dying

9   out.

10   We know that the future is

11   in renewable energy. It's in clean energy.

12   So we know that even if we try and save this

13   plant today, that in five years, they might

14   decide to close it anyway. If we look at

15   Dynegy's track record, we can see that they

16   promise that they were not depositing to close

17   power plants not only in Illinois, but all over

18   the country. Five years later, six years later,

19   they decided to close those plants anyway.

20   So I understand that the

21   workers are now in such a tough position, okay,

22   but they have to decide between feeding their

23   families and risk their health or standing up

24   and losing their jobs and not being able to

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1 support their families.

2 So you understand how

3 difficult with must be for them to be here,

4 right? It is an impossible position that

5 we are putting them in. So as a society,

6 I think that what we should do is we should

7 think about those things and think about the

8 future. Thank you so much. You guys have

9 a goodnight.

10 HEARING OFFICER TIPSORD: Thank

11 you you too.

12 Just to reiterate, if anyone

13 who did not make it, if they signed up and

14 didn't get a chance to get here today for

15 whatever reason, illness, accident, other

16 life coming in the way, written comments

17 are accepted. You can file a written comment

18 with the Board and we will take that into

19 consideration.

20 I think we are going to go

21 ahead and adjourn for the evening.

22 MR. WALRAVEN: Are people still

23 allowed to still talk?

24 HEARING OFFICER TIPSORD: If you --

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 1   if you want to, yes.

 2             MR. WALRAVEN:  Oh, I am?  Sweet.

 3   Okay.  Cool.

 4             HEARING OFFICER TIPSORD:  We are

 5   limiting it to two minutes.

 6             MR. WALRAVEN:  My name is Anthony

 7   Walraven.  I'm sorry.  I had to stay late at

 8   work.

 9             HEARING OFFICER TIPSORD:  That's

10   quite all right.

11             MR. WALRAVEN:  So I think the

12   biggest problem that I have with this or

13   the reason why these things get to happen

14   is that we don't have any kind of democratic

15   control over utilities.  Everyone is appointed.

16   No one is elected.  Private corporations are

17   allowed to make decisions that affect everyone

18   when we don't have a choice.  We have to buy

19   them.  They are natural monopolies.

20                  We are fighting that in our

21   city with the water company where we pay more

22   than almost anyone in Illinois.  I think, like,

23   just to increase the amount of pollution that

24   comes from that plant or to allow there to be
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1   more pollution to come out of that plant and

2   for none of us to really have a say in that

3   is why we have problems like this. Those

4   people don't live here. They are not depending

5   to suffer from it.

6   You know, it just seems to me

7   that the people that live in the area should be

8   the ones who get to make decisions like that

9   like and not a private corporation that is not

10 in this area. So that's all I really have to

11 say.

12   HEARING OFFICER TIPSORD: Thank

13 you very much.

14   Well, on that note, unless we

15 know that someone else who has signed up going

16 to be here in the next ten or 15 minutes, we are

17 going to go ahead and adjourn.

18   I thank you. I do want to say

19 this; I greatly appreciate those of you who let

20 me know in advance. I appreciate the way that

21 all of you have had your speakers organized,

22 how quickly and efficiently you all stuck to

23 the two minutes, which if everybody had showed

24 up, we really would have been pushing it you.

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1   But I thank you so much.

2   I will take all of your

3   comments into consideration as we proceed

4   forward. For those of you who are going

5   to be here tomorrow, I will see you tomorrow

6   at 9:00 a.m.

7   (Whereupon, the above-entitled

8   proceedings were adjourned

9   until 1/18/18 at 9:00 a.m.)

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January 17, 2018

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1   STATE OF ILLINOIS   )

2   ) SS.

3   COUNTY OF C O O K   )

4

5

6   I, LORI ANN ASAUSKAS, CSR, RPR,

7   do hereby state that I am a court reporter doing

8   business in the City of Chicago, County of Cook,

9   and State of Illinois; that I reported by means

10   of machine shorthand the proceedings held in the

11   foregoing cause, and that the foregoing is a

12   true and correct transcript of my shorthand

13   notes so taken as aforesaid.

14

15

16   _____

17   Lori Ann Asauskas, CSR, RPR.

18   Notary Public, Cook County, Illinois

19

20

21

22

23

24

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