

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF: )  
 )  
AMENDMENTS TO ) R18-20  
35 ILL. ADM. CODE 225.233 )  
(Rulemaking-Air) )  
 )  
MULTI-POLLUTANT STANDARDS (MPS) )

TRANSCRIPT OF PROCEEDINGS taken before  
HEARING OFFICER MARIE TIPSORD, by Lisa Hahn  
Peterman, CSR, RMR, a notary public within and for  
the County of Macon and State of Illinois, at the  
Madison County Government Center, County Board  
Room, 157 North Main Street, Edwardsville,  
Illinois, on the 7th day of March, 2018, at 10:00  
a.m.

\* \* \* \* \*

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

2 ILLINOIS POLLUTION CONTROL BOARD  
James R. Thompson Center  
3 100 West Randolph Street  
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5 BY: MS. MARIE TIPSORD, HEARING OFFICER;

6

7 ILLINOIS POLLUTION CONTROL BOARD MEMBERS

8 PRESENT:

9 Ms. Katie Papadimitriu, Chairman

10 Ms. Brenda Carter, Board Member

11 Mr. Mark Powell, Senior Attorney

12 Ms. Carrie Zalewski, Board Member

13 Mr. Anand Rao, Senior Environmental Scientist

14 Ms. Alisa Liu, Environmental Scientist

15

16 ALSO APPEARING:

17 MR. MARTIN KLEIN,  
Attorney Advisor to Board Member Carrie Zalewski

18

MS. TANYA RABCZAK,  
19 Attorney Advisor to Chairman Papadimitriu

20 MR. JASON JAMES,  
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MS. NATALIE WINQUIST  
22 Attorney Advisor to Board Member Brenda Carter

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4 BY: MR. JUSTIN VICKERS,

MS. TAMARA DZUBAY,

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1 HEARING OFFICER TIPSORD: I think we're  
2 ready to go on the record, but be that as it may, I  
3 will use a microphone and not yell.

4 Good morning, everyone. My name is  
5 Marie Tipsord. I've been appointed by the Board to  
6 serve as Hearing Officer in this proceeding  
7 entitled Amendments to 35 Ill. Adm. Code 225.233,  
8 Multi-Pollutant Standards (MPS).

9 With me today to my immediate left is  
10 Chairman Katie Papadimitriu, who's the Presiding  
11 Board Member.

12 Also, to my immediate right is Board  
13 Member Carrie Zalewski, and to my far right is  
14 Board Member Brenda Carter.

15 In between Members Carter and Zalewski  
16 is our Senior Attorney, Mark Powell.

17 In addition today, we have with us  
18 Martin Klein, who is Carrie Zalewski's attorney  
19 advisor; Tanya Rabczak, who is Katie Papadimitriu's  
20 attorney advisor; Jason James, who is Board Member  
21 Keenan's attorney advisor, who is helping us out,  
22 even though Mr. Keenan is not participating; and  
23 finally, we have, not least of all, Natalie  
24 Winquist, our newest Board Member, who is Brenda

1 Carter's attorney advisor.

2 Next to, on the left of Katie  
3 Papadimitriu, is Anand Rao, and to our far left is  
4 Alisa Liu, both from our Technical Unit, who are  
5 currently working on trying to get internet access  
6 signed up.

7 Today, we are ready to continue with  
8 this proceeding. We also will take comment on the  
9 failure of DCEO to perform an Economic Impact Study  
10 before we close the hearing today -- or their  
11 decision -- their indecision, I guess is the best  
12 way, since they gave us no decision one way or the  
13 other.

14 Also, there is a second -- third set of  
15 hearings scheduled currently in April. On April  
16 16th, we will be going from 4:00 to 8:00 p.m. at  
17 the IEPA Building, which is on North Grand Avenue  
18 East. There is plenty of free parking. There are  
19 many things in the area, and it's easy in and out.  
20 Enter on the converse side of the building. That  
21 will be from 4:00 to 8:00 p.m. and will be  
22 exclusively for public comment.

23 We have scheduled a hearing for April  
24 17th, where we will take testimony and public

1 comment, starting at 11:00 a.m., in the same  
2 location.

3 At this point in time, I don't think  
4 we're going to be setting pre-filing deadlines  
5 because I think that we may be wrapping up here  
6 with the testimony part, but we'll see where we are  
7 at the end of the day.

8 We left off yesterday afternoon with, I  
9 believe, Question Number 10 of the Board's  
10 Pre-filed Questions, which we've entered as Exhibit  
11 Number 32, to the IEPA, and we will pick up there,  
12 and after we finish with the Agency, then we will  
13 go through the Environmental Groups' testimony by  
14 Mr. Urbaszewski.

15 And with that, is our Tech Unit ready?

16 MR. RAO: Yes.

17 BOARD MEMBER ZALEWSKI: Okay. Carrie  
18 Zalewski.

19 So I want to go back to 3(b). I just  
20 want to make sure I'm clear on your response, so I  
21 apologize if you've answered it and I'm not going  
22 to ask the question again.

23 3(b) you've provided us a table,  
24 January 12th, with the updated cap of 44,000 tons



1 and some odd tons, which reflects the SIP with the  
2 expired retired units as zero.

3 So the question is -- again, I may be  
4 rephrasing -- but if you were to update the SIP  
5 today, would the units be kept at 44,000 tons? If  
6 you were going to resubmit the SIP today under the  
7 current MPS, would the number be 44,000?

8 MR. BLOOMBERG: I think the answer is  
9 no, but it goes into the way the SIP works.

10 So it was originally submitted with  
11 that 2002 baseline that we had talked about, and  
12 that is really the heart of the matter. So, from  
13 there, there is, you know, this downward glide path  
14 that has to be met, and so when you say, "if you  
15 resubmitted the SIP," I'm not sure what you mean  
16 because there's no reason to resubmit a SIP.

17 We did -- you know, we did the Progress  
18 Report, which shows that we're still below that  
19 glide path and everything's fine, and when we do  
20 another one in a few more years, it will hopefully  
21 show the same thing. And so those are, as of now,  
22 the only SIP submittals that are required, just to  
23 show that we continue to stay below the  
24 projections.

1                   BOARD MEMBER ZALEWSKI:   What I'm  
2   wondering is that under this MPS, the current MPS,  
3   it seems -- and please correct me -- that it  
4   ratchets down.  When there is a zero line item, it  
5   ratchets down to a lower number, and I guess I want  
6   to understand with the MPS, the new MPS proposal,  
7   if there is that same cap drain and downgraded  
8   number with retired units.  Again, please correct  
9   me.

10                   MR. BLOOMBERG:  Well, it's complicated,  
11   so you know.  I don't know that there is -- there  
12   is something of a capture, as you say, with the  
13   current MPS, but that -- you know, the current MPS,  
14   if one source shuts down and another source  
15   increases its output because of that, well, then,  
16   you know, the emissions still are in our inventory  
17   and they will show up in our report.

18                   When we do our next Progress Report --  
19   so when we do our next SIP submittal, we will, you  
20   know, show where we are, and we will also have, you  
21   know, planning for going forward, and at that  
22   point, if we see, okay, there's -- you know,  
23   because it's a continuous glide.  If we see that  
24   there's a need to reduce emissions further going

1 into the next planning period, 2030, 2031,  
2 something like that, this -- Regional Haze goes to  
3 2065, so, you know, we keep having to go back to  
4 it, and if at some point later we see, okay, now  
5 it's been five years, ten years, twenty years, and  
6 we need further reductions, that's when we would,  
7 you know, most likely circle back and say, Where  
8 can we get those reductions? Where would we need  
9 to get those reductions?

10 That would be something that would be  
11 in the future when we have, you know, more  
12 knowledge of that where we are in the planning.

13 BOARD MEMBER ZALEWSKI: Yeah. And I  
14 understand your concern about staying under that  
15 line of going the downward descent. I was trying  
16 to compare the current MPS. If we were just to go  
17 in the direction we are today and comparing that to  
18 the proposed MPS, that's what I'm trying to  
19 understand.

20 So, you know, I guess putting the  
21 projections aside and just making sure you're under  
22 that line, you know, maybe I even will understand  
23 more about the SIP submittal, but I guess that was  
24 my question, whether the MPS today with the retired

1 units with that lower number of 44,000, if that  
2 would -- if there was a hypothetical requirement to  
3 file today, would the number be 44,000?

4 I know it's part -- it's part of the  
5 bigger picture, but MPS is part of the requirements  
6 to fulfil the SIP, is that accurate?

7 MR. DAVIS: Yes. And when he speaks of  
8 the glide path, that's really visibility  
9 impairment. So you've started here in 2002, and by  
10 2065, we need to be at natural conditions in all  
11 Class I areas, and so there's a line there, and  
12 then modeling has to be done with various emissions  
13 scenarios.

14 The modeling is done regionally by our  
15 regional planning organizations, and so we will  
16 give them our emission projections, and they will  
17 say, yes, from the next planning period, which  
18 would be from 2021 to 2030, we believe that we will  
19 still be on that path of improvement.

20 BOARD MEMBER ZALEWSKI: Does the EPA  
21 have flexibility of how they stay under that line?

22 MR. DAVIS: Yes. In fact, when we  
23 submitted our SIP, US EPA had suggested that we  
24 apply Best Available Retrofit Technology, or BART,

1 to BART-eligible units, and since we only had a few  
2 BART-eligible units, they said, if you were to  
3 apply presumptive BART to those units, you would  
4 see this amount of reductions, and since we had  
5 just adopted the MPS and CPS, we said, well, that's  
6 going to be quite a bit more reductions, and so we  
7 had substitute plans instead of applying BART.

8 Now, I'm not sure what for the next  
9 planning period US EPA may -- they may advise that  
10 here's another thing we could do or measures that  
11 would get us from '21 to '30, and again, we would  
12 have flexibility in saying, well, that's great, but  
13 we also have an alternative plan to do something  
14 equivalent or better, and so we wouldn't really  
15 update the projections made for the 2011 SIP  
16 submittal at any time, but to show that we were  
17 meeting our obligations, our Progress Report said  
18 that, yes, halfway through -- and it was late, so  
19 it was more than halfway through -- in 2018, we  
20 will be meeting all our projections because we were  
21 meeting those projections back in 2015 when we did  
22 the Progress Report.

23 So the first period is essentially over  
24 and then we'll look at where we need to get for the

1 second period when we do our next SIP submittal.

2 MR. BLOOMBERG: And SIP submittals for  
3 the Regional Haze are different than most other SIP  
4 submittals. So, I mean, it's taken me awhile to  
5 wrap my head around it, too. So don't -- it's not  
6 surprising. It is complicated and different than  
7 almost anything else we deal with.

8 HEARING OFFICER TIPSORD: Yes.  
9 Mr. More?

10 MR. MORE: Josh More on behalf of  
11 Dynegy.

12 Are other sources regulated to ensure  
13 compliance with the Regional Haze Program, sources  
14 other than the MPS units?

15 MR. DAVIS: Yes.

16 MR. MORE: And are there other  
17 regulatory requirements in place that are also  
18 relied upon by IEPA to ensure compliance with  
19 Regional Haze?

20 MR. DAVIS: Yes.

21 MR. MORE: And regulatory requirements  
22 other than the MPS, correct?

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

24 MR. MORE: How far below approximately

1 are current emissions below the target, the  
2 Regional Haze target?

3 MR. DAVIS: I don't know exactly  
4 from -- I don't have that data in front of me. I  
5 believe you would get some idea of that from the  
6 Progress Report that we produced as an exhibit  
7 yesterday.

8 MR. MORE: I appreciate you not knowing  
9 the exact numbers. Is it tens of thousands,  
10 thousands? Do you have any recollection?

11 MR. DAVIS: I don't, and there's more  
12 than just the SO2 emissions. I believe there's --

13 MR. MORE: If we were just looking at  
14 the SO2 emissions, do you have any idea of how far  
15 below we are, we being the state? Take a look at  
16 page 27, I think.

17 HEARING OFFICER TIPSORD: For the  
18 record, that's page 27 of Exhibit 33. Is that what  
19 we're looking at, the Progress Report?

20 MR. BLOOMBERG: Yes.

21 MR. DAVIS: It would appear that our  
22 2015 emissions were -- I'm looking at the total  
23 statewide for the SO2 -- are at approximately  
24 191,000. We've projected that statewide emissions

1 would be around 269,000. So yes, that's tens of  
2 thousands below what we projected.

3 MR. MORE: Approximately 70,000 tons  
4 below, correct?

5 MR. DAVIS: Yes.

6 HEARING OFFICER TIPSORD: I think we're  
7 ready for Question Number 10.

8 MS. LIU: Hi. Good morning.

9 In regard to the report provided by  
10 Dynegy from toxicologist, Dr. Lucy Fraiser, would  
11 the Agency please comment on whether it has any  
12 issues with her letter or agrees with her  
13 conclusions?

14 MR. BLOOMBERG: The Agency generally  
15 agrees with Dr. Fraiser's report and did not  
16 identify any inaccuracies. However, the Agency  
17 witnesses are not toxicology experts.

18 MS. LIU: Thank you.

19 MR. RAO: Does the Agency have a  
20 toxicologist in its employ anymore?

21 MR. BLOOMBERG: Not to my knowledge.  
22 To my knowledge, the one that I'm aware of that we  
23 used to have retired.

24 MR. RAO: Just checking.



1                   CHAIRMAN PAPADIMITRIU: Hi. Good  
2 morning. Just to follow up on Mr. Rao's  
3 question -- well, actually, I guess, Alisa's  
4 question with respect to Dr. Fraiser's report, is  
5 the Agency surprised that certain things were not  
6 included in her report? In other words, did it  
7 include the subject matters that you expected it to  
8 include? In other words, was it missing any  
9 information?

10                   MR. BLOOMBERG: I can't think of  
11 anything that was missing. I guess it depends on  
12 what Dynegey's intent was in its response. So was  
13 there anything missing that we saw that we think  
14 should have been added? Is that -- I don't think  
15 so. Is there anything?

16                   I guess nothing in particular stands  
17 out, I guess. I didn't really read it that way, so  
18 that's what we're trying to figure out. It  
19 addresses a lot of the important information, I  
20 think.

21                   CHAIRMAN PAPADIMITRIU: Thank you.

22                   MR. RAO: Moving on to Question Number  
23 11. In its response regarding the air quality  
24 modeling, the Agency indicated that modeling

1 exercises were conducted for two purposes. On  
2 11(a), please clarify whether both modeling  
3 exercises involved the use of dispersion modeling  
4 to demonstrate compliance with NAAQS.

5 MR. BLOOMBERG: Yes. All the modeling  
6 was performed using dispersion modeling.

7 MR. RAO: 11(b). Does the modeling  
8 domain in both exercises include receptors at the  
9 fence line of the affected facilities and  
10 surrounding areas?

11 MR. BLOOMBERG: Yes. The modeling  
12 domains in all modeling exercises included  
13 receptors at the fence line of the sources and the  
14 surrounding areas.

15 MR. RAO: 11(c). Please clarify  
16 whether the fourth highest predicted concentration  
17 of SIP for Baldwin, Hennepin, Newton, and Joppa  
18 occurred at the fence line. If not, comment on  
19 whether concentrations at fence line would also be  
20 lower than the SO2 NAAQS equivalent of 196.32  
21 micrograms per cubic meter.

22 MR. BLOOMBERG: The fourth highest  
23 concentrations were not at the fence line of the  
24 sources in any of the study areas around Baldwin,

1 Hennepin, Newton, or Joppa. This is not  
2 surprising, given the configuration of the plants,  
3 which have relatively high stack release points.  
4 This means that the concentration modeling at fence  
5 line of all of the above sources are below 196.32  
6 micrograms per cubic meter and, indeed, below the  
7 concentrations given in the modeling summaries.

8           So all fence line receptors at the  
9 Baldwin source fell below 78.21 micrograms per  
10 cubic meter; all fence line receptors at the  
11 Hennepin source fell below 94.56 micrograms per  
12 cubic meter; all fence line receptors at the Newton  
13 source fell below 139.89 micrograms per cubic  
14 meter; and all fence line receptors at the Joppa  
15 source fell below 168.29 micrograms per cubic  
16 meter.

17           MR. RAO: Thank you.

18           MS. LIU: Question 12. Regarding  
19 Joppa, the Agency proposed a separate and  
20 additional limit of 19,800 tons per year to ensure  
21 that emissions from Joppa will never increase more  
22 than 15 percent from the modeled years.

23           12(a). If annual plant-wide emissions  
24 from Joppa increase to 19,800 tons SO<sub>2</sub>, please

1 comment on whether the predicted fourth highest  
2 concentration would also increase linearly by 15  
3 percent.

4 MR. BLOOMBERG: No. Joppa is not the  
5 only major source of SO2 in the area. In fact,  
6 other sources in the study area accounted for more  
7 than 60 percent of the SO2 emissions, so a 15  
8 percent increase in emissions from Joppa would not  
9 lead to a 15 percent increase in model  
10 concentrations.

11 MS. LIU: Question (b) -- actually, I  
12 guess we'll skip over (b) and go to (c).

13 Comment on whether the annual  
14 plant-wide limit on Joppa must be lower than the  
15 proposed limit of 19,800 tons.

16 MR. BLOOMBERG: No, it does not need to  
17 be. The modeling that we have discussed already  
18 showed that 15 percent was, and so if we had found  
19 that a different one was necessary, then, you know,  
20 we'd have come back with a different number, but  
21 that number is correct.

22 MS. LIU: Thank you.

23 HEARING OFFICER TIPSORD: Mr. More?

24 MR. MORE: I want to go back to your

1 prior answer. Would a 15 percent increase in  
2 annual emissions necessarily translate to an  
3 increase in hourly emissions?

4 MR. BLOOMBERG: Well, it would for some  
5 of the hours at least.

6 MR. MORE: Hourly rate, let me put it  
7 that way. Isn't it correct that you can see an  
8 increase in annual emissions and still not have an  
9 increase in the hourly emission rate?

10 MR. BLOOMBERG: Yes, if they operate  
11 more hours, they being the units.

12 MR. MORE: And it is the hourly rate  
13 that you are modeling, correct? That's one of the  
14 modeling inputs?

15 MR. BLOOMBERG: The pounds per hours is  
16 one of the inputs, as well as, you know, to the  
17 extent possible, the number of hours. Since it was  
18 using actual emissions, we had the actual hours and  
19 the weather conditions as well.

20 MR. RAO: Question number 13.  
21 Regarding the attainment demonstration modeling,  
22 the Agency states that it used emission rates of  
23 4,455 pounds per hour for Duck Creek and 1,830  
24 pounds per hour for Havana, as the maximum

1 allowable emissions for every hour. Please clarify  
2 whether these rates are applicable to sources under  
3 the Board's Part 214 regulations. If so, please  
4 provide citations to the rules. If not, please  
5 explain the bases of the modeled rates.

6 MR. BLOOMBERG: These rates correspond  
7 to a limit of 1.2 pounds per million BTU, and  
8 that's found in the New Source Performance  
9 Standards at 40 CFR, Code of Federal Regulations,  
10 60.43 and 2.

11 MR. RAO: Thank you. That's all we  
12 have.

13 HEARING OFFICER TIPSORD: Actually, is  
14 there a corresponding Administrative Code citation?

15 MR. DAVIS: Illinois?

16 HEARING OFFICER TIPSORD: Uh-huh.

17 MR. BLOOMBERG: Can we go off the  
18 record for a moment?

19 HEARING OFFICER TIPSORD: Absolutely.

20 (There was then had an off-the-record  
21 discussion.)

22 You can answer the question.

23 MR. BLOOMBERG: If the question was, is  
24 there a corresponding Board rule, in our reading,

1 there is not because the Board Rules have a note  
2 that says that that section was invalidated by  
3 court decisions.

4 HEARING OFFICER TIPSORD: Thank you.

5 MR. RAO: But the NSPS requirements are  
6 still valid, right?

7 MR. BLOOMBERG: Yes, yes. The NSPS  
8 requirements are federal and are what's cited in  
9 the new CAAPP requirements.

10 MR. RAO: Thank you.

11 HEARING OFFICER TIPSORD: Mr. More?

12 MR. MORE: There's two things that we'd  
13 like to address in response to IEPA comments, if we  
14 may. We'd like to address --

15 HEARING OFFICER TIPSORD: You need to  
16 speak into the microphone.

17 MR. MORE: We would like to respond to  
18 a question by Board Member Zalewski during the  
19 prior hearing that IEPA addressed relating to the  
20 layering of emission rates on some of the caps.  
21 Mr. Diericx has some testimony about that that he  
22 would like to read into the record. And in light  
23 of some of the comments made by the Agency, I have  
24 some questions for the Attorney General, and since

1 it relates to -- my question to you, Hearing  
2 Officer, if we could do those questions before we  
3 turn to Mr. Urbaszewski.

4 MS. BUGEL: I have follow-up questions  
5 for the Agency.

6 HEARING OFFICER TIPSORD: You have to  
7 identify yourself. Sorry.

8 MS. BUGEL: Faith Bugel representing  
9 Sierra Club. Last name is Bugel, B-U-G-E-L, and I  
10 do have follow-up questions for the Agency before  
11 we move on.

12 HEARING OFFICER TIPSORD: All right.

13 MR. MORE: And I'll defer to doing  
14 follow-up questions following Ms. Bugel.

15 HEARING OFFICER TIPSORD: All right.  
16 Ms. Bugel, go right ahead then.

17 MS. BUGEL: Thank you.

18 I do want to turn back to the PCB's  
19 Question Number 6, which was attached to the  
20 Hearing Officer Order of March 2nd, and we had a  
21 lot of discussion about an emissions increase, and  
22 this is just a hypothetical scenario at Newton, to  
23 39,152 tons, and what sort of Agency response that  
24 might trigger?



1           I was hoping to follow up on the  
2 timeline and try to understand, step by step from  
3 the Agency, what actions that would trigger and how  
4 long they would take? And I know we touched on  
5 this a little bit yesterday but I just wanted to  
6 dig in a little more.

7           So could the Agency start by indicating  
8 if there were such an emissions increase over a  
9 one-year time, first, how quickly would the Agency  
10 find out, and how would the Agency find out?

11           MR. BLOOMBERG: Well, I guess I need to  
12 do clarification on the hypothetical because there  
13 are so many possibilities. Is this the  
14 hypothetical we talked about where suddenly all the  
15 other EGUs are closed and only Newton and Joppa  
16 continue to operate? So it jumped all at once, or  
17 is this the hypothetical where it gradually  
18 increased year over year?

19           MS. BUGEL: Let's assume that this just  
20 occurred in a one-year time, and I don't know if  
21 that falls within your definition of suddenly, but  
22 let's assume other plants closed and the increase  
23 at Newton was within a one-year timeframe.

24           MR. BLOOMBERG: Okay.

1           First, I think we need to point out  
2   that Mr. Diericx from Dynegy pointed out that -- I  
3   believe he pointed out that this number would  
4   actually be impossible based on the limits that  
5   they'd have.

6           So when we say this is a hypothetical,  
7   this is really hypothetical, because they would  
8   have to be operating illegally from our  
9   understanding, so -- but if all of the EGUs closed  
10   in one year, and I think -- and again, it's really  
11   hypothetical.

12           HEARING OFFICER TIPSORD: We get that  
13   it's hypothetical.

14           MR. BLOOMBERG: Yeah. But the Agency  
15   would know simply because if all of Dynegy's plants  
16   are closing, everybody's going to know, and so the  
17   Agency would immediately be looking at, okay, where  
18   is the power being generated? What's going to  
19   happen here?

20           And so in a situation like that, the  
21   Agency would know pretty much immediately and start  
22   watching it to make sure that it does not cause a  
23   problem like this.

24           If, somehow, everyone at the Agency

1 weren't paying any attention and we didn't know  
2 until the end of the year, then when -- as I had  
3 discussed yesterday, when we saw the annual  
4 emissions, which we're coming to the beginning of  
5 the following year, we would immediately know, and  
6 we would have to -- under the Data Requirements  
7 Rule, we would have to, you know, immediately do a  
8 review, because it would obviously be more than a  
9 15 percent increase, determine if modeling is  
10 necessary, do the modeling, and see if there's a  
11 potential nonattainment area there, and as I  
12 discussed yesterday, that would have to be done  
13 before -- I believe that would all have to be done  
14 before June 1st.

15 HEARING OFFICER TIPSORD: Excuse me.  
16 Can I ask a question? You said that the Agency  
17 would know and that we would start watching. What  
18 do you mean by watching? What do you get before  
19 that Annual Report or what triggers would the  
20 Agency be looking for before that Annual Emissions  
21 Report that would trigger Agency action?

22 MR. BLOOMBERG: Well, we can look at  
23 the emissions as they're reported to -- it's called  
24 AMPD now, A-M-P-D.

1 MR. DAVIS: It's the Air Markets  
2 Program Data, formerly Clean Air Markets Data,  
3 AMPD.

4 MR. BLOOMBERG: So we would be able to  
5 follow all of the power plants and report directly  
6 to US EPA, and the Agency has access to that  
7 information, so we can immediately tell, or fairly  
8 immediately anyway, if suddenly emissions at Newton  
9 jumped up five times.

10 HEARING OFFICER TIPSORD: Thank you.

11 CHAIRMAN PAPADIMITRIU: Can I,  
12 Ms. Bugel?

13 Just for a point of clarification,  
14 Mr. Bloomberg, is immediately -- are you defining  
15 immediately here the same way we defined  
16 immediately yesterday?

17 MR. BLOOMBERG: I don't remember how we  
18 defined immediately yesterday.

19 CHAIRMAN PAPADIMITRIU: The scenario  
20 was, you know, if something happened in March of  
21 year one and then the report was year two. And I  
22 understand regulatory immediately. Would you know  
23 in a month? Would you know in a quarter?

24 MR. BLOOMBERG: Yeah. It's, in AMPD, a

1 month after.

2 HEARING OFFICER TIPSORD: Sorry,  
3 Ms. Bugel.

4 MS. BUGEL: And I do have some more  
5 follow-up based on that.

6 You mentioned that under the Data  
7 Requirements Review, if there's more than a 15  
8 percent increase, Data Requirements Review is  
9 triggered, right?

10 MR. BLOOMBERG: Review under the Data  
11 Requirements Rule, yes.

12 MS. BUGEL: Right. How long does  
13 review of the -- how long does review under the  
14 Data Requirements Rule take?

15 MR. BLOOMBERG: Okay. That's what I  
16 was just talking about. That is, you know, would  
17 be done before June 1st.

18 MS. BUGEL: And how about the modeling?  
19 How long does that take?

20 MR. BLOOMBERG: That's what I talked  
21 about yesterday where -- sorry, I didn't go back  
22 and check it. I didn't know there would be more  
23 questions on it. I just can't remember if the  
24 modeling needs to be done before June 1st as well,

1 or if the review indicated that modeling needs to  
2 be done. However, it would be modeling in a fairly  
3 small area. I mean, we have -- when I say we, I  
4 mean my modeling unit staff -- has all the  
5 information for these areas already in modeling  
6 files, so they already have the release points, the  
7 release information. They would just have to get  
8 the emissions information, put that into the model  
9 and run it, and that can be done within, you know,  
10 a fairly short time.

11 I would say, you know, if something of  
12 this magnitude happened, I would say no more than  
13 two weeks probably, and that may be just -- I think  
14 that's buffer time. I think --

15 You know, I asked them a question just  
16 last week about a modeling area for SO2 and they  
17 had an answer to me -- I think I asked them on  
18 Thursday and they had an answer to me on Monday.

19 MS. BUGEL: And in this you mentioned  
20 you would need to figure out if this emissions  
21 increase created a nonattainment area, right?

22 MR. BLOOMBERG: Yes.

23 MS. BUGEL: What action is triggered at  
24 the Agency if such an emissions increase did create

1 a nonattainment area?

2 MR. BLOOMBERG: There's a number of  
3 possibilities. The clearest possibility is that we  
4 would bring the company in and mandate or tell them  
5 that we were going to be working on limits for them  
6 and that those limits could either come in the form  
7 of a federally enforceable construction permit or  
8 in the form of a rule.

9 The other possibility is that it is  
10 possible that the Agency could undertake an  
11 enforcement action.

12 MS. BUGEL: And I want to just walk  
13 through those three different pathways and figure  
14 out the timeline for those. You know, you said you  
15 would need to bring the company in, and would that  
16 need to happen before June 1st or not?

17 MR. BLOOMBERG: Not necessarily.  
18 Again, though, I would point out, if every Dynegy  
19 facility except for two shut down, I'm pretty sure  
20 we would have Dynegy in our offices a lot sooner to  
21 find out what their plan was, to find out what  
22 their emissions were going to look like. I do not  
23 see any scenario under which we would wait a year  
24 to find out what those emissions were.

1 MS. BUGEL: So -- and I appreciate that  
2 answer because I actually want to turn the  
3 hypothetical to something -- since everyone said  
4 this is very unrealistic, I want to turn the  
5 hypothetical to something that might be more  
6 realistic.

7 You said it was a 15 percent increase  
8 in emissions that -- or greater than 15 percent  
9 increase in emissions that triggers the Data  
10 Requirements Review, right?

11 MR. BLOOMBERG: Yeah. It's in the  
12 guidelines, in certain situations as we laid out in  
13 our submittal to the Board a few weeks ago.

14 MS. BUGEL: What if we're talking about  
15 a scenario where, say, there's a -- instead of this  
16 jump up to 39,152 tons, I want to talk about a  
17 scenario where there's possibly just a 16 percent  
18 increase in emissions, and hopefully that's a  
19 little more realistic and something that we can  
20 chew on a little more. How would the Agency, under  
21 those circumstances, find out?

22 MR. BLOOMBERG: We would see it in the  
23 inventory, as I described, at the beginning of the  
24 following year.



1 MS. BUGEL: So if there's a 16 percent  
2 increase over one year, in year one that we were  
3 calling, you don't find out until the start of year  
4 two, correct?

5 MR. BLOOMBERG: I mean, it's possible  
6 we could through other means, but that's the latest  
7 it would be, yes.

8 MS. BUGEL: And does -- does the Agency  
9 run calculations every year to figure out  
10 exactly -- if there is an increase, to figure out  
11 exactly how much it was?

12 MR. BLOOMBERG: Yes.

13 MS. BUGEL: Okay. So can you walk  
14 through that scenario? Well, let's say as the --  
15 would all the timelines be the same as the previous  
16 unrealistic hypothetical we were talking about,  
17 everything would need to be completed by June 1st  
18 again?

19 MR. BLOOMBERG: Yes.

20 MS. BUGEL: Okay. Well, then, in this  
21 scenario, let's talk about the three different  
22 pathways. Would that also trigger -- let's assume  
23 that 16 percent increase triggers a nonattainment  
24 area or creates a nonattainment area.

1 MR. BLOOMBERG: I cannot agree to  
2 assume that because I do not think a 16 percent  
3 increase at any of these facilities would create a  
4 nonattainment area.

5 MS. BUGEL: Except for Joppa.

6 MR. BLOOMBERG: At Joppa it would -- a  
7 16 percent increase there under this proposal  
8 would -- well, it would not be allowed -- but we --  
9 that is in place to ensure that never happens, but  
10 as I mentioned in response to a Board question a  
11 few minutes ago, there are many sources of SO<sub>2</sub>, many  
12 other larger sources of SO<sub>2</sub> in that modeling area  
13 than Joppa.

14 HEARING OFFICER TIPSORD: All right,  
15 Ms. Bugel. Mr. More has a question.

16 MR. MORE: This hypothetical 16 percent  
17 increase, is there anything in the current MPS that  
18 precludes a 16 percent increase in emissions year  
19 over year at any facility?

20 MR. BLOOMBERG: No.

21 HEARING OFFICER TIPSORD: Ms. Bugel?

22 MS. BUGEL: Okay. Well, just -- I  
23 still want to just understand the three different  
24 pathways that you put out. I want to understand

1 the timeframes for those.

2 If you bring the company in to work on  
3 limits -- I think you said the options were limits  
4 in a construction permit or rulemaking or  
5 enforcement; those are the three options?

6 MR. BLOOMBERG: Those are the three  
7 that I can think of, yes.

8 MS. BUGEL: Can we talk about limits  
9 included in the new construction permit and just  
10 get a timeline on how long that would take?

11 MR. BLOOMBERG: That's -- the one  
12 section I have not worked at in all my years at the  
13 Agency is the permitting section, so I cannot claim  
14 to speak with expertise on how long it takes for a  
15 construction permit. It would partially depend on  
16 the cooperation of the company in question. If the  
17 company were feeling particularly cooperative, they  
18 could pay for an expedited construction permit and  
19 we would do that in two weeks. Otherwise,  
20 obviously, the Agency would determine this to be  
21 very important and would act on it as quickly as  
22 possible anyway, again, presuming that the, you  
23 know, company in question, whoever it may be at  
24 that point, would be cooperating.

1                   The other thing I'm not sure of off the  
2 top of my head is whether there would be any notice  
3 requirements involved, so that could cause a little  
4 bit longer timeframe.

5                   MS. BUGEL: But you did not give a  
6 timeframe for how long it would take if the company  
7 did not pay for expedited?

8                   MR. BLOOMBERG: Again, I'm not a permit  
9 person, so I just don't feel like I can give that  
10 number. All I can tell you is I'm fairly certain  
11 that the management team on something like this  
12 would think it a priority, and therefore would, you  
13 know, hurry it along pretty quickly.

14                   MS. BUGEL: And how about if the -- if  
15 the Agency needed to do a rulemaking to address a  
16 nonattainment area, how long would that take?

17                   MR. BLOOMBERG: I'm sorry. Could you  
18 repeat that?

19                   MS. BUGEL: If the Agency needed to do  
20 a rulemaking to address a nonattainment area, how  
21 long would that take?

22                   MR. BLOOMBERG: Somewhere in the area  
23 of six to eight months, depending on how many  
24 hearings were necessary, again, whether, you know,

1 companies involved cooperated, whether outside  
2 parties got involved. I would say six to eight  
3 months' timeframe.

4 MS. BUGEL: And if the Agency needed to  
5 do an enforcement action to address this  
6 nonattainment area, how long would that take?

7 MR. BLOOMBERG: That also depends. I  
8 would say using the Section 31 enforcement process,  
9 you know, violation notice would have to be sent.  
10 There's a certain timeframe by which the company  
11 would have to respond. The Agency would have to  
12 determine whether or not to accept a compliance  
13 commitment agreement. Presuming one is not  
14 accepted, it goes to a notice of intent to pursue  
15 legal action, and then it gets referred to the  
16 Illinois Attorney General's Office, and then they  
17 would proceed with the case from there. At that  
18 point it's out of the Agency's hands as to how  
19 quickly it proceeds.

20 And I should note that even if  
21 enforcement were taken, that is not really an end  
22 result, because in an enforcement case, I guess at  
23 the end of it at the consent agreement level, you  
24 could have enforceable limits, but it is likely

1 that these would be parallel processes; that  
2 something else would be going on at the same time  
3 in terms of probably a rulemaking as well.

4 I think it's also fair to say that if  
5 the company is cooperative, it is probably unlikely  
6 that enforcement would be used, but you asked for  
7 possibilities, so it's a possibility.

8 MS. BUGEL: Thank you.

9 And I just have a couple of questions  
10 on the follow-up to Dr. Lucy Fraiser's report that  
11 you were asked about today.

12 You were asked if it -- if there was  
13 anything noticeably missing, and I just wanted to  
14 confirm that that report did not include any  
15 discussion of PM 2.5.

16 MR. BLOOMBERG: To my recollection, it  
17 does not contain anything about PM 2.5.

18 HEARING OFFICER TIPSORD: Excuse me.  
19 Just to clear up the record, that is a report that  
20 is attached to Exhibit 24.

21 MS. BUGEL: Thank you. And SO2 is a  
22 precursor to PM 2.5, right?

23 MR. BLOOMBERG: Yes.

24 MS. BUGEL: And Dr. Fraiser's report

1 also did not include any discussion of ozone,  
2 right?

3 MR. BLOOMBERG: I don't believe so.

4 MS. BUGEL: And NOx is a precursor to  
5 ozone, right?

6 MR. BLOOMBERG: Yes.

7 MS. BUGEL: Thank you. That's all the  
8 follow-up I have.

9 HEARING OFFICER TIPSORD: Mr. More?

10 MR. MORE: Mr. Bloomberg, during the  
11 first hearing, we discussed how the current MPS is  
12 utilized to ensure protection of the NAAQS. Do you  
13 recall those questions? Vaguely?

14 MR. BLOOMBERG: Vaguely.

15 MR. MORE: Now that we've spent a lot  
16 of time revisiting the NAAQS, is the MPS, the  
17 current MPS, used by Illinois EPA or relied upon by  
18 Illinois EPA to ensure compliance with the PM 2.5  
19 NAAQS?

20 MR. BLOOMBERG: No.

21 MR. MORE: With the ozone NAAQS?

22 MR. BLOOMBERG: No.

23 MR. MORE: So all these concerns that  
24 are being raised today about the NAAQS in

1 connection with the proposal exist under the  
2 existing MPS, isn't that right? The idea that  
3 emissions could increase by 16 percent, for  
4 example, that can happen under the existing MPS;  
5 correct?

6 MR. BLOOMBERG: Yes.

7 MR. MORE: And a NAAQS exceedance could  
8 occur today. Any NAAQS exceedance could occur  
9 today due to operations at these plants  
10 hypothetically under the MPS, correct, and still  
11 comply -- a unit could still comply with the MPS?  
12 That hypothetical scenario could occur, correct?

13 MR. BLOOMBERG: Yes. I think it goes  
14 back to something I said yesterday and we've tried  
15 to say throughout these proceedings, which is, the  
16 MPS is an annual averaging standard and it simply  
17 cannot be used to protect like a one-hour SO<sub>2</sub>  
18 NAAQS, or a, you know, an ozone NAAQS, or a PM 2.5  
19 NAAQS. It just doesn't work that way.

20 MR. MORE: And "it" being the current  
21 MPS and the proposal, correct?

22 MR. BLOOMBERG: Correct.

23 MR. MORE: If I could, I'd like to move  
24 on to addressing --



1 HEARING OFFICER TIPSORD: Go ahead. I  
2 just want to be sure we're following.

3 MR. MORE: Thank you. So at this time  
4 we would like to respond to Board Member Zalewski's  
5 inquiry about layering an emission rate on top of a  
6 cap. So Mr. Diericx.

7 MR. DIERICX: Rick Diericx, Dynegy.

8 HEARING OFFICER TIPSORD: Just a  
9 reminder, Mr. Diericx is under oath.

10 MR. DIERICX: Thank you, Mr. More.

11 Dynegy agrees with the Illinois  
12 Environmental Protection Agency that layering any  
13 new unit-based or plant-based emission rate limits  
14 on top of the emission caps in the proposed MPS  
15 Rule would create duplicative and unnecessary  
16 requirements on the MPS leak.

17 MR. MORE: I have some questions for  
18 the Attorney General, if we can move to those.

19 HEARING OFFICER TIPSORD: Yes.

20 MR. MORE: And just for the record,  
21 they're still under oath?

22 HEARING OFFICER TIPSORD: Yes. Thank  
23 you.

24 MR. MORE: We heard yesterday that

1 Illinois EPA supports lowering the SO2 cap to  
2 49,000 tons. Does the Attorney General have an  
3 opinion on whether the proposed SO2 cap should be  
4 lowered to 49,000 tons?

5 MR. GIGNAC: James Gignac, G-I-G-N-A-C,  
6 for the Illinois Attorney General's Office.

7 We appreciate the Illinois EPA's  
8 proposal to lower the sulphur dioxide cap, and our  
9 process going forward is to review the record  
10 that's being established with our management and  
11 review what positions we should take in  
12 post-hearing comments.

13 I would like to point out that the  
14 49,000 ton number that we came up with in our  
15 pre-filed testimony was an analytical exercise to  
16 show that the First Notice Proposal was exceedingly  
17 high for an SO2 cap, and I would add that, in our  
18 view, the mass-based caps should be based on  
19 realistic assumptions, which assumptions should  
20 include the capacity factor of units, and in order  
21 to reach that 49,000 ton number, as well as the  
22 29,000 number for NOx in our pre-filed testimony,  
23 we had to make unrealistic assumptions about the  
24 cleanest units running at a hundred percent

1 capacity factor, and both Illinois EPA and Dynegy  
2 itself have responded similarly, saying that's not  
3 realistic.

4 So if the Board does conclude that a  
5 mass-based cap is justified, we believe that it  
6 should set the cap at numbers that are  
7 significantly below what was in our pre-filed  
8 testimony of 49,000 tons for SO2 and 29,000 tons  
9 for NOx.

10 MR. ARMSTRONG: And just to add one  
11 point --

12 HEARING OFFICER TIPSORD: You need to  
13 identify yourself.

14 MR. ARMSTRONG: Andrew Armstrong from  
15 the Attorney General's Office.

16 Like Mr. Gignac said, our process is,  
17 we'll have to review the record, including the  
18 testimony yesterday, with our management, and we  
19 can discuss with our management the possibility of  
20 suggesting potential caps in post-hearing comments.

21 MR. MORE: Well, we've been at this  
22 process for several months now since December. Is  
23 there anything in the -- did you discuss with your  
24 management at any point in time proposing a

1 specific cap for either SO2 or NOx?

2 MR. GIGNAC: We've discussed it with --  
3 our office does not have a position to articulate  
4 to the Board at this time.

5 MR. MORE: And is there a reason why  
6 you're not setting forth a position at this time?

7 MR. GIGNAC: As I said, as I just  
8 stated, our process is to review the record as it's  
9 completed after the public hearings and formulate a  
10 position with our management at the office.

11 HEARING OFFICER TIPSORD: They're  
12 conferring.

13 MR. GIGNAC: And then I would also  
14 state as we did in the first set of hearings, that  
15 our office's view is, changing the MPS has not been  
16 justified and that the First Notice Proposal should  
17 be withdrawn.

18 HEARING OFFICER TIPSORD: Ms. Palumbo?

19 MS. PALUMBO: Antonette Palumbo from  
20 the IPEA.

21 Just to be clear -- we want to make  
22 sure we're all on the same page -- if the Attorney  
23 General's Office proposes a cap in its post-hearing  
24 comment, the Attorney General's witnesses will not

1 be able to be cross-examined on that proposal by  
2 any participant in this rulemaking at any of the  
3 three hearings that have already been scheduled in  
4 this proceeding; is that correct?

5 MR. ARMSTRONG: If we propose a cap,  
6 which I'm not sure that we're going to propose a  
7 cap in our post-hearing comments, we might suggest  
8 a cap for the Board's consideration based on all  
9 the evidence that's in the record but, you know,  
10 we've got another --

11 I mean, I don't see us proposing a cap  
12 in the first place, because our position here is  
13 that we don't believe rulemaking is necessary.

14 MS. PALUMBO: Did you not just testify  
15 that your office will propose a cap in your  
16 post-hearing comments?

17 MR. ARMSTRONG: No. We said that we  
18 would discuss with our management possibly setting  
19 up a potential cap in our post-hearing comments.  
20 That's different from proposing a cap.

21 MS. PALUMBO: Thanks for the  
22 clarification.

23 MR. ARMSTRONG: You're welcome.

24 MR. MORE: Nonetheless, the suggestion

1 would not be subject to open public disclosure or  
2 inquiry, isn't that correct?

3 MR. GIGNAC: I mean, the Board is  
4 certainly capable of differentiating, you know,  
5 what is a post-hearing comment versus what is  
6 testimony, and the Board can accord that material  
7 the weight that it thinks it deserves.

8 MR. MORE: You mentioned that you  
9 believe the cap should be, quote, significantly  
10 below the 49,300 ton ceiling you set forth in your  
11 written testimony. What do you mean by  
12 significant?

13 MR. GIGNAC: Just to correct you, we  
14 did not propose 49,000 tons as a ceiling. Again,  
15 it was an analysis that we did to show how the  
16 First Notice Proposal's mass-based cap was set too  
17 high, and in terms of where a cap should be set,  
18 again, that's -- that would be part of our  
19 deliberative process in post-hearing comments.

20 MR. MORE: Wait a minute. You're --  
21 have you not engaged in this deliberative process  
22 to date?

23 MR. GIGNAC: It's an ongoing process.

24 MR. MORE: Now I'd like to turn to page

1 18 of your pre-filed testimony.

2 HEARING OFFICER TIPSORD: For the  
3 record, the pre-filed testimony of the -- for the  
4 record, the pre-filed testimony of Mr. Gignac from  
5 the Attorney General's Office is Exhibit Number 9.

6 MR. MORE: The paragraph under Table  
7 10, the second sentence, I'd like to read it into  
8 the record.

9 "Added to the Dynegy Group above,  
10 (15,447 tons), the total maximum allowable SO2  
11 emissions under the current MPS should be  
12 considered no more than 49,305 tons using the 2016  
13 unit-level emissions rate."

14 Did I read that sentence correctly?

15 MR. GIGNAC: Yes. And the key words  
16 there are "should be considered," because what  
17 we're doing in this portion of our testimony is  
18 trying to illustrate the -- what the maximum -- the  
19 total maximum allowable emissions could be in this  
20 theoretical exercise.

21 MR. MORE: And it says "should be  
22 considered no more than," correct?

23 MR. GIGNAC: Yes.

24 MR. MORE: And the proposal of 49,000

1 tons, you would agree, is no more than 49,305.

2 MR. GIGNAC: The number 49,000 is less  
3 than the number 49,305.

4 MR. MORE: So as of today, the Attorney  
5 General does not have an opinion whether or not a  
6 cap of 49,000 tons for SO2 is appropriate.

7 MR. GIGNAC: I testified earlier today,  
8 we think the number should be lower than that.

9 MR. MORE: Should be lower than 49,000  
10 tons now, correct?

11 MR. GIGNAC: We've been consistent in  
12 stating -- in explaining our testimony, and the  
13 number 49,000, as we calculated it using an  
14 analytical exercise, we've never asserted that as a  
15 number -- as a cap that the Board should adopt.

16 MR. MORE: Let me correct, if you don't  
17 mind. Your testimony, as written, was 49,305 tons  
18 that you'd consider less than. That's what it says  
19 here on page 18 of your testimony, correct? 49,305  
20 tons.

21 MR. GIGNAC: But we're not proposing a  
22 cap in that part of our testimony.

23 MR. MORE: I understand you're not.

24 Are you now revising your testimony to say that the



1 cap that the Board should be considering should be  
2 less than now 49,000 tons?

3 MR. ARMSTRONG: No. We're not revising  
4 our testimony, and I think that what your testimony  
5 is assuming is that the cap for SO2 or NOx should  
6 be set at the total maximum allowable emissions  
7 under the current MPS, and what Mr. Gignac conveyed  
8 before is that our office does not agree that  
9 the -- any mass limits on the revised MPS should be  
10 set at the maximum allowable emissions because  
11 that's not as protective as the current MPS.

12 MR. MORE: Should not be set at the  
13 maximum allowable; and you've calculated the  
14 maximum allowable as 49,305, correct?

15 MR. ARMSTRONG: Using the '26  
16 unit-level emission rates.

17 MR. MORE: Right. If we use 2017  
18 emission rates, we may get a different number,  
19 correct?

20 MR. ARMSTRONG: I think we covered this  
21 during the first set of hearings. You can put in  
22 different inputs. We provided an analysis that, at  
23 the time we filed this testimony, used the most  
24 recent available annual emission rates for each

1 unit.

2 MR. MORE: Well, do you have any  
3 intention of using different inputs in your  
4 post-hearing comments to propose a different  
5 number, for example, based on 2015 emission rates?

6 MR. ARMSTRONG: As I said before, we  
7 don't have any intention at this point of proposing  
8 caps.

9 MR. MORE: And you're not willing at  
10 this point to provide any guidance to any  
11 participant as to what you mean by significant; any  
12 guidance as to what you may consider to be an  
13 acceptable cap, correct?

14 MR. GIGNAC: We've provided guidance  
15 that we think it should be lower than IEPA's  
16 proposal of 49,000 tons.

17 MR. MORE: Where is that in the record  
18 that you believe it should be lower than 49,000  
19 tons?

20 MR. GIGNAC: It's in the transcript  
21 today.

22 MR. MORE: Okay. So what is the basis  
23 for your conclusion that it should be lower than  
24 49,000 tons?

1 MR. GIGNAC: I've stated that today.

2 MR. MORE: Does the Attorney General  
3 agree that the NAAQS set by US EPA are set to  
4 protect human health, welfare, and the environment  
5 with an adequate margin of safety?

6 MR. GIGNAC: That sounds correct. That  
7 is the regulatory definition of what the NAAQS are.

8 MR. MORE: And does the Attorney  
9 General agree that the NAAQS are intended to, in  
10 fact, provide protection for the population as a  
11 whole, including at-risk groups such as children  
12 and the elderly?

13 MR. ARMSTRONG: Yes. We agree that's  
14 the intent of the NAAQS.

15 MR. MORE: And do you believe that the  
16 NAAQS accomplished that?

17 MR. GIGNAC: I don't have an opinion on  
18 that.

19 MR. MORE: Does the Attorney General  
20 have an opinion on that?

21 MR. GIGNAC: I'm not authorized to say.

22 MR. MORE: Does the Attorney General  
23 believe US EPA failed to do their job in  
24 establishing any of the NAAQS?

1 MR. GIGNAC: I would also add that on  
2 at least one occasion that I'm familiar with, our  
3 office has challenged NAAQS set by US EPA and  
4 litigated those along with other states.

5 MR. MORE: Okay. Has the Illinois  
6 Attorney General challenged any of the existing  
7 NAAQS?

8 MR. GIGNAC: I'd have to research that  
9 to determine if the matter I'm thinking of is an  
10 existing NAAQS. I'd have to refresh my memory on  
11 that.

12 MR. MORE: Okay. You've been talking  
13 about the PM 2.5 NAAQS. Does the Attorney General  
14 believe that the US EPA improperly set the current  
15 PM 2.5 NAAQS?

16 MR. GIGNAC: I don't have an opinion on  
17 that.

18 MR. MORE: Would your answer be the  
19 same if I asked that question related to the  
20 current SO2 NAAQS?

21 MR. GIGNAC: Same answer.

22 MR. MORE: And the ozone NAAQS?

23 MR. GIGNAC: Same.

24 MR. MORE: I want to go back to your

1 prior testimony.

2 HEARING OFFICER TIPSORD: Excuse me,  
3 Mr. More. You know what I'm going to ask.

4 Can we go off the record, please?

5 (There was then had an off-the-record  
6 discussion.)

7 Back on the record, please.

8 MR. MORE: So I would like to turn to  
9 page 183 of the transcript from the January 17th  
10 hearing, and I'll read the question into the record  
11 and the answer, and I want to confirm whether or  
12 not your answer today, whether you've changed your  
13 position.

14 Line 19. Okay. So am I correct, then,  
15 to understand that you believe an appropriate cap  
16 should be set for SO2. If the Board goes down the  
17 path of setting a cap, then it should be at some  
18 level below 49,305 tons?

19 Answer: I believe that that would be  
20 correct, if we were asked to provide our position  
21 on that.

22 Has the position of the Attorney  
23 General changed?

24 MR. GIGNAC: No.

1 HEARING OFFICER TIPSORD: All right.  
2 Let's take a five-minute break before we -- so we  
3 don't have to stop in the middle. So we can come  
4 back and start there.

5 (A brief recess was taken.)

6 I think we're ready to go back on the  
7 record.

8 The Attorney General's Office has spoken  
9 to Mr. More and myself and they would like to go on  
10 the record with something, so go right ahead.  
11 Mr. Armstrong?

12 MR. ARMSTRONG: Yes. Thank you. And  
13 just to reiterate the pre-filed comments, we had --  
14 our position at that time was that the Board should  
15 allow the impact of MPS to continue "as is" and  
16 withdraw our First Notice Proposed Amendment. Then  
17 to set forth the procedural rulemaking, we consider  
18 the alternative of combining groups or maintaining  
19 a rate-based standard.

20 HEARING OFFICER TIPSORD: We can't hear  
21 you.

22 MR. ARMSTRONG: I'm sorry. Just again  
23 referring back to our pre-filed comments on page  
24 20, our office's position was and is that the Board

1 should allow the MPS to continue as it was intended  
2 and withdraw and reject the First Notice Proposed  
3 Amendments; also, consider in the alternative, if  
4 it does proceed with the rulemaking, consider the  
5 alternative of combining groups or maintaining a  
6 rate-based standard, and then if the Board  
7 determines that only a mass-based standard should  
8 be used for a combined group, as we said at that  
9 time, the caps need to be set at significantly  
10 lower than what appears in the proposal, and we  
11 suggested that the Board could take public comment  
12 on what those caps might be, and we've heard loud  
13 and clear people are interested in hearing what our  
14 office thinks about what those caps might be, and  
15 so what we would propose to do is to discuss with  
16 our management to see if we can get authorization  
17 to provide opinions on what appropriate caps might  
18 be if the Board does accept the proposal and  
19 proceed with mass-based standards and file that in  
20 advance of the next hearings in Springfield, and we  
21 discussed, I believe, April 3rd as a due date for  
22 our additional filing on that subject, and so we  
23 would be available to answer questions at the next  
24 proceeding regarding whether that would be filed --

1 whatever we're authorized to file, I should say.

2 HEARING OFFICER TIPSORD: Thank you.

3 And we would set a pre-filing deadline for  
4 questions for about a week after that and we'll go  
5 over that at the end.

6 MR. MORE: All right. We would object  
7 to that. The third hearing, as I understand it,  
8 was set with the intention to allow -- it was an  
9 expectation by all parties, including the Board,  
10 that this proceeding would not be finished within  
11 these two days and there would be a need for  
12 carryover to ensure we provide the public with  
13 another opportunity for oral public comment. The  
14 Attorney General has had this opportunity to  
15 present an actual number as that third alternative,  
16 and I understand and don't disagree with this  
17 characterization of the testimony. There are  
18 layers to it, and if the Board should choose to go  
19 down the path of setting a cap, they said it should  
20 be lower than some things, without setting forth  
21 what their proposal is.

22 Now, today, they're telling you they  
23 want an opportunity at the end of the process to  
24 present that number when we're six months in, and



1 it puts all of us at a disadvantage. The longer  
2 this goes -- because the Illinois EPA filed a  
3 Motion to Expedite the Rulemaking. We supported  
4 that. We've demonstrated there's financial  
5 implications associated with complying with the  
6 MPS. Those will continue. We will be prejudiced  
7 the longer this remains, and so we would ask that  
8 the third hearing remain only solely and  
9 exclusively for the purpose of public comment for  
10 that four-hour period.

11 HEARING OFFICER TIPSORD: And that is  
12 April 16th. However, April 17th was set  
13 specifically for testimony, and I understand there  
14 was -- I will agree there was some concern that we  
15 would not finish with testimony at this hearing,  
16 but it is set, and it is for testimony.

17 I'm willing to hear from the IEPA if  
18 you have anything you'd like to say.

19 MS. PALUMBO: We don't have a position.  
20 Thank you very much.

21 HEARING OFFICER TIPSORD: And  
22 Ms. Bugel, do you want to weigh in?

23 MS. BUGEL: No. Thank you.

24 HEARING OFFICER TIPSORD: All right. I

1 think that the Attorney General has offered  
2 something that you seem to be asking for at this  
3 hearing and has offered to at least see if they can  
4 get that for you in a hearing rather than final  
5 comment, and so I think we're going to let them  
6 file testimony, and testimony will be open to  
7 anyone else who wants to file it on April 17th --  
8 for the hearing April 17th, sorry. The pre-filing  
9 deadline is April 3rd.

10 With that, I believe it's time to have  
11 Mr. Urbaszewski sworn in.

12 (Witness sworn.)

13 HEARING OFFICER TIPSORD: Take the  
14 microphone. Thank you.

15 And if there's no objection, we will  
16 mark the pre-filed testimony filed on February 6th,  
17 2018, of Mr. Urbaszewski as Exhibit 34. Seeing no  
18 objection, it is Exhibit 34.

19 MS. BUGEL: And Hearing Officer, the  
20 one thing I can offer is we realized we omitted  
21 page numbers from Mr. Urbaszewski's testimony. If  
22 that would be of assistance to anyone, I do have  
23 new copies that have page numbers.

24 HEARING OFFICER TIPSORD: I think we're

1 good. Thank you very much. I appreciate that  
2 thought.

3 And then we'll start with the questions  
4 from the Illinois Environmental Protection Agency,  
5 and if there's no objection, as we have been doing,  
6 we will mark the pre-filed questions of the IEPA as  
7 Exhibit 35. Seeing none, it is Exhibit 35. And we  
8 will have the questions read for the public today.

9 Mr. Urbaszewski, did you want to make  
10 an opening statement before we go to the pre-filed  
11 questions?

12 MR. URBASZEWSKI: No. I'm fine with  
13 it.

14 MS. PALUMBO: Question 1. Before  
15 submitting your pre-filed testimony to the Board,  
16 did you read the entirety of your submittal,  
17 including all of the attachments?

18 THE WITNESS: I read Exhibit 1, Exhibit  
19 2, Exhibit 3 in full. I read Exhibit 5 in full and  
20 I read Exhibit 4 in part.

21 HEARING OFFICER TIPSORD: We need you  
22 to speak up. We can't hear you.

23 MR. URBASZEWSKI: Oh, sorry. Do you  
24 need me to repeat that?

1 THE REPORTER: I got it.

2 MS. PALUMBO: And which parts of  
3 Exhibit 4 did you read, if you could identify  
4 those, please?

5 MR. URBASZEWSKI: I couldn't give you  
6 exact page numbers or chapters. The information I  
7 looked for was generally between 30 and 40 and  
8 between pages 50 and 60. That's what I felt was  
9 relevant.

10 MS. PALUMBO: Question 2. You state on  
11 page 3 of your testimony that, quote, there is no  
12 safe threshold level of fine particulate pollution  
13 below which there is no risk to human health from  
14 exposure, end quote.

15 I'm going to attribute your quote to a  
16 letter from Gina McCarthy to the House Committee on  
17 Energy and Commerce, attached to your testimony as  
18 Exhibit 3. Is that an exact quote from the letter  
19 itself? If so, could you please cite the page  
20 number and paragraph of that letter?

21 MR. URBASZEWSKI: It is a  
22 characterization of the position of the letter in  
23 its entirety. I would say that there are several  
24 selections that would lead to that conclusion.

1 First is, the second sentence in the third  
2 paragraph that states, "Studies demonstrate an  
3 association between the premature mortality and  
4 fine particle pollution at the lowest levels  
5 measured in the relevant studies, levels that are  
6 significantly below the NAAQS for fine particles.  
7 These studies have not observed a level at which  
8 premature mortality effects do not occur. The best  
9 scientific evidence, confirmed by independent,  
10 Congressionally-mandated expert panels, is that  
11 there is no threshold level of fine particle  
12 pollution below which health risk reductions are  
13 not achieved by reduced exposure.

14 Also, in the fourth paragraph, the --  
15 again, it says, "All drafts of the PM ISA reflect  
16 this conclusion that there is no scientific  
17 evidence supporting assumption of a threshold for  
18 fine -- for PM effects.

19 Also on page 6 of the attachment to  
20 that letter, again, that attachment on page 6, the  
21 second paragraph after 2, states: "We do not  
22 believe that it is scientifically defensible to  
23 look solely at benefits above 15 micrograms per  
24 cubic meter because there are peer-reviewed,

1 scientific studies showing health effects below  
2 this level. While 15 micrograms is the level of  
3 the current (2006) annual PM 2.5 NAAQS, it is not  
4 directly related to the studies we use to calculate  
5 benefits, which observed health effects associated  
6 with exposure to PM 2.5 concentrations. This is  
7 consistent with the fact that NAAQS are not 'zero  
8 risk' standards. Instead, EPA's current approach  
9 is to show the complete distribution of benefits  
10 across the entire range of PM 2.5 concentrations."

11 MS. PALUMBO: Question 3. That letter  
12 is an explanation of how rulemaking benefits were  
13 monetized by US EPA in performing cost-benefit  
14 analyses, correct?

15 MR. URBASZEWSKI: I am honestly not  
16 sure, because looking at the response from the  
17 assistant administrator at the time in this letter,  
18 she does not discuss any monetary benefits. All  
19 the benefits that she explains and characterizes  
20 are health benefits, including -- most of the focus  
21 is on premature mortality.

22 MS. PALUMBO: Question 4. In the  
23 letter Ms. McCarthy states, quote: "There is no  
24 threshold level of fine particulate pollution below

1 which health risk reductions are not achieved by  
2 reduced exposure," end quote.

3 The purpose of this statement is simply  
4 to defend monetizing reductions below the NAAQS  
5 levels in US EPA's cost-benefit analysis, correct?

6 MR. URBASZEWSKI: Again, this letter  
7 documents mortality health effects below the NAAQS.  
8 Studies document mortality and health effects below  
9 the NAAQS and the mortality and health effects are  
10 happening below the NAAQS. Whether that can be  
11 monetized or not is not really my reason for  
12 putting this in the record. It is because the  
13 mortality and health effects that are shown are  
14 occurring below the level of the NAAQS.

15 I could also focus on -- there is a  
16 figure in here, it's Figure 5.14. It's a chart  
17 that shows the effect of one of the rules and the  
18 pre-mortality -- the mortality prevented by that  
19 particular rule, which is the Mercury and Air  
20 Toxics Rule, and I would note that the way that EPA  
21 has laid out the data here, it shows that  
22 overwhelmingly, if you look at the current standard  
23 of 12 micrograms per cubic meter for PM 2.5 or even  
24 the old standard when this was put together of 15

1 micrograms per cubic meter, overwhelmingly, almost  
2 all the benefits, almost all the premature deaths  
3 that are provided by this rule occur in areas that  
4 are below the level of the current PM 2.5 standard  
5 of 12.

6 MS. PALUMBO: If I could have a moment,  
7 please.

8 HEARING OFFICER TIPSORD: Go ahead.

9 MS. PALUMBO: Mr. Urbaszewski, doesn't  
10 the opening paragraph of that letter state that  
11 it's sent to the House Committee because they have  
12 requested additional information regarding US EPA  
13 estimates of the public health benefits expected to  
14 result from the regulatory actions that the US EPA  
15 has taken?

16 MR. URBASZEWSKI: Yes, it does.

17 MS. PALUMBO: Question 5. This letter  
18 was not sent to that Committee to suggest that a  
19 goal be set by that Committee or any other  
20 legislative or administrative body that there be  
21 zero particulate pollution in populated areas,  
22 correct?

23 MR. URBASZEWSKI: The letter is clear  
24 about the purpose for which it's being written. It



1 doesn't mean that the health effects that US EPA  
2 identifies below the NAAQS matter only for  
3 monetizing cost benefits. This letter documents  
4 mortality health effects below the NAAQS. Studies  
5 document mortality and health effects below the  
6 NAAQS and mortality and health effects happening  
7 below the NAAQS.

8           Again, I would focus on the charts in  
9 the attachment to this letter, and the one I  
10 previously mentioned about the Mercury and Air  
11 Toxics Rule specifically affects coal-fired  
12 departments and shows that the rule that is  
13 targeted in coal-fired departments is providing  
14 benefits in areas that are below the levels of the  
15 NAAQS, and almost all those benefits are  
16 occurring -- those deaths that are being prevented  
17 are being prevented in areas that are meeting the  
18 NAAQS.

19           MS. PALUMBO: And just so I'm clear,  
20 nowhere in your reading of this letter did  
21 Ms. McCarthy suggest that the NAAQS should be zero.

22           MR. URBASZEWSKI: She did not.

23           MS. PALUMBO: And you said that this  
24 letter pertains to the MATS, M-A-T-S, and that rule

1 is still applicable, is that correct?

2 MR. URBASZEWSKI: I'm not sure if it's  
3 being litigated or not, so I couldn't answer you  
4 either way.

5 MS. PALUMBO: Question 6. In your  
6 testimony, you state that in setting a NAAQS, "An  
7 adequate margin of safety obviously still requires  
8 a judgment call by the US EPA and does not mean  
9 that US EPA picks a threshold below which no health  
10 harms occur."

11 Are you suggesting that the Board make  
12 a different judgment call and attempt to set its  
13 own standard below the NAAQS in this rulemaking?

14 MR. URBASZEWSKI: No. The Board was  
15 asked if there would be any health effects from the  
16 rule that's being proposed here. Illinois EPA has  
17 suggested that there are no concerns because all  
18 these areas are in compliance with it in the NAAQS.  
19 The fact that the NAAQS are not "zero risk"  
20 standards means there are effects, health effects,  
21 below the NAAQS. This is relevant information for  
22 the Board and responsive to the Board's requests.  
23 I'll leave it there.

24 MS. PALUMBO: Okay. Question 7.

1                   Exhibit 4, attached to your testimony,  
2                   entitled, Risk and Exposure Assessment to Support  
3                   the Review of the SO2 Primary NAAQS: Final Report  
4                   is 895 pages of your 1,003-page testimony package.  
5                   How many studies did the US EPA conduct and review  
6                   before setting the SO2 NAAQS?

7                   MR. URBASZEWSKI: I honestly don't  
8                   know; a lot, because the EPA's process is very  
9                   extensive and occurs over multiple years.

10                  MS. PALUMBO: Question 8. In this  
11                  Assessment, did US EPA analyze the evidence of  
12                  health effects of SO2, potential alternative  
13                  standards, exposure assessments, health risk  
14                  characterizations for peak SO2 exposures, exposures  
15                  analyses, and health risk assessments for at-risk  
16                  populations and risk-based considerations related  
17                  to the SO2 NAAQS?

18                  MR. URBASZEWSKI: Yes.

19                  MS. PALUMBO: Did they do this same  
20                  thorough review with the PM 2.5 NAAQS?

21                  MR. URBASZEWSKI: Is that in the public  
22                  questions?

23                  MS. PALUMBO: It is not; it's a  
24                  follow-up.

1 MR. URBASZEWSKI: I'm sorry. What was  
2 the question?

3 MS. PALUMBO: Did they perform the same  
4 thorough review for the PM 2.5 NAAQS?

5 MR. URBASZEWSKI: I would believe so.

6 MS. PALUMBO: Question 9.

7 Are you suggesting that the Illinois  
8 EPA did not conduct a -- I'm sorry -- the US EPA  
9 did not conduct a thorough review in 2009 before  
10 promulgating that standard in 2010?

11 MR. URBASZEWSKI: No.

12 MS. PALUMBO: What would you consider  
13 to be a thorough review?

14 MR. URBASZEWSKI: I think the existing  
15 process that we just went through in the previous  
16 two questions talking about the EPA's existing  
17 process for conducting a review, and what it would  
18 include would be what is required.

19 MS. PALUMBO: Question 10.

20 Also in your testimony, you state that  
21 for SO2 -- "For SO2, it is short-term spikes that  
22 trigger measurable health harms." The Agency is  
23 unaware of any definition of "spikes" under  
24 Illinois laws or regulations. Could you quantify

1 what you consider a "spike" in SO2 concentrations?  
2 In other words, what concentration of SO2 in  
3 ambient air do you consider a "spike"? Over what  
4 time interval would you consider that concentration  
5 to be a "spike"?

6 MR. URBASZEWSKI: "Spike" on my behalf  
7 here is perhaps an inartful descriptor of  
8 short-term exposures. It's not a technical term.  
9 I simply use that word to mean short-term increases  
10 in SO2.

11 I'm not in a position to make a  
12 recommendation of a concentration or a time amount  
13 to define "spike". My understanding is that US EPA  
14 has looked at this and continues to look at this  
15 and that they have set an hourly standard, but  
16 literature that US EPA relied on shows that health  
17 effects occur in as little as five minutes of  
18 exposure, definitely below 200 parts per billion,  
19 and perhaps below 100 parts per billion.

20 I would also note, however, that EPA in  
21 the 2008 ISA notes that most of the studies that  
22 show effects in this 200 ppb level or below exclude  
23 the most sensitive asthmatics. So they -- the  
24 effect of SO2 on extremely sensitive people,

1 sensitive asthmatics, is not really tested, just  
2 moderate asthmatics, and also that the studies do  
3 not include tests on children.

4 MS. PALUMBO: Question 11.

5 In your conclusion, you state: "The  
6 current rule, by imposing a fleet-wide average, has  
7 prevented SO2 hot spots and prevented many  
8 short-term spikes in SO2 that have been tied to  
9 health effects." The Agency is unaware of any  
10 definition of "hot spot" under Illinois laws or  
11 regulations. Please explain what you mean by "hot  
12 spots". In other words, what pollutant  
13 concentrations or emissions levels, over what  
14 interval of time, do you consider to be a "hot  
15 spot"?

16 MR. URBASZEWSKI: Just because I'm  
17 collecting my thoughts here, I wanted to add  
18 something to the previous question as well, and  
19 thinking back to yesterday that Dr. Fraiser  
20 mentioned in 2017, the SO2 ISA just came out, I  
21 think, in December, and I want to also note that  
22 that document does talk extensively about the  
23 threshold limit for SO2 as well, and since we  
24 talked about threshold limits for PM, I thought it

1 was important to note that in that document,  
2 several times it lays out that there's no evidence  
3 to suggest that 200 parts per billion represents a  
4 threshold below which no adverse respiratory  
5 effects occur, and that document also goes to great  
6 pains several times to say that there is no  
7 apparent threshold value for SO2 exposure, because  
8 one has not been found yet.

9           So with that, back to question 11.  
10 Again, a "hot spot" is not a legal term. That is  
11 my perhaps inartful term, and my testimony says  
12 that the current rule, by imposing a fleet-wide  
13 average, has prevented hot spots and prevented many  
14 short-term spikes in SO2 that have been tied to  
15 health effects. An annual cap removes the  
16 mechanism that has prevented SO2 hot spots by  
17 allowing SO2 emissions to increase at individual  
18 plants if other plants shut down, particularly if  
19 those plants are scrub plants.

20           I think on the "hot spots" point, I  
21 would say that the idea of a hot spot of greater  
22 concentrations at fewer locations would be more the  
23 result of the annual cap than it would be of any  
24 collection of, you know, short-term spikes or

1 number of short-term spikes. That is to say with  
2 the change in the rule from a rate to a cap, it  
3 would allow more concentration of SO2 to be emitted  
4 at fewer facilities.

5 HEARING OFFICER TIPSORD: Mr. More, did  
6 you have a follow-up?

7 MR. MORE: I did. I have a follow-up  
8 to your prior answer where you were discussing a  
9 2017 document.

10 MR. URBASZEWSKI: Yes. It was  
11 referenced in the attachment you put in yesterday.

12 MR. MORE: And remind me again, what is  
13 the name of that document? SIA?

14 MR. URBASZEWSKI: ISA. It's in your  
15 document that you submitted yesterday.

16 MR. MORE: Okay. Were you just quoting  
17 from the document when you were testifying or was  
18 that your characterization of the conclusions in  
19 the document?

20 MR. URBASZEWSKI: It was my  
21 characterization of the conclusions in the  
22 document. If you take the document and you search  
23 "threshold" you will see where it pops up numerous  
24 times.



1 MR. MORE: Thank you.

2 HEARING OFFICER TIPSORD: Ms. Palumbo?

3 MS. PALUMBO: And Mr. Urbaszewski, I  
4 just want to clarify. When you use your term of  
5 art "hot spot", you don't have any pollution  
6 concentration or emissions level in mind when  
7 you're using that term.

8 MR. URBASZEWSKI: No.

9 MS. PALUMBO: Okay.

10 HEARING OFFICER TIPSORD: Mr. More?

11 MR. MORE: What analysis have you  
12 performed to determine that the proposal of the  
13 emissions cap will allow for, quote, unquote, "hot  
14 spots" to occur?

15 MR. URBASZEWSKI: Under the current  
16 rule, scrub plants offset the higher emissions  
17 rates of unscrubbed plants without sulfur controls.  
18 With a cap mechanism being -- replacing that rate  
19 requirement, it would lessen the need to operate  
20 scrub plants in order to meet the rate.

21 MR. MORE: That analysis assumes that  
22 the scrub plant is being run solely for purposes of  
23 offsetting, correct?

24 MR. URBASZEWSKI: I couldn't answer

1 that. I don't have the numbers.

2 MR. MORE: Have you done that analysis?

3 MR. URBASZEWSKI: I have not.

4 MS. PALUMBO: Question 12.

5 Please detail specific instances where  
6 the current MPS rule prevented short-term increases  
7 that you would consider "spikes" in SO2.

8 MR. URBASZEWSKI: Again, I think this  
9 goes back to my use of an inartful term. If there  
10 were -- if they were your plants and those plants  
11 were more evenly weighted to unscrubbed plants, I  
12 would expect to see more SO2 emissions, and if you  
13 see more SO2 emissions, I would expect short-term  
14 increases to increase, along with annual increases.

15 HEARING OFFICER TIPSORD: Speak up,  
16 sir. We're losing you.

17 MR. URBASZEWSKI: Sorry. I'm a little  
18 dry here.

19 I would just say that if there are  
20 annual increases in SO2 at certain facilities, you  
21 would expect to see more short-term elevation as  
22 well.

23 MS. PALUMBO: And Mr. Urbaszewski, just  
24 to follow up, these are your expectations but not

1 based on any sort of analysis that you performed.

2 MR. URBASZEWSKI: I do not have an  
3 analysis.

4 HEARING OFFICER TIPSORD: Mr. More?

5 MR. MORE: What type of rule is best --  
6 is best to prevent spikes or hot spots; an hourly  
7 emissions rate, an annual emissions rate? What  
8 rule, in your opinion, is best for those hot spots?

9 MR. URBASZEWSKI: I think the current  
10 rule has been effective, as has been reducing the  
11 rate over time and that it has, in my opinion,  
12 driven the installation of scrubbers, or at least  
13 operating scrubbers, of these two facilities.

14 MR. BLOOMBERG: What's the basis for  
15 your conclusion that the rule has driven the  
16 installation or upgrade of scrubbers?

17 MR. URBASZEWSKI: That they have been  
18 installed during the time of the rule and that the  
19 rule has been in effect and that they are  
20 continuing to operate.

21 MR. MORE: The short-term spikes you're  
22 referring to are short-term duration, I think you  
23 mentioned, for example, five minutes.

24 MR. URBASZEWSKI: EPA has talked about

1 short-term excursions of anywhere from five to ten  
2 minutes up to a day.

3 MR. MORE: And the current MPS doesn't  
4 preclude a short-term increase in SO2 emissions  
5 rate at any facility, correct? Let me rephrase  
6 that.

7 MR. URBASZEWSKI: I would agree.

8 MR. MORE: You would agree.

9 MR. URBASZEWSKI: Yeah.

10 MS. PALUMBO: Question 13.

11 In any instances detailed in response  
12 to question 12, if you had any, could you provide  
13 any examples of how the current annual fleet-wide  
14 average prevented any short-term increases that you  
15 would consider spikes?

16 MR. URBASZEWSKI: I think we've already  
17 gone over this. You know, I would say that the  
18 current rule does not eliminate the possibility of  
19 short-term excursions, but I would say that the  
20 current rule minimizes them to an extent.

21 MR. BLOOMBERG: This is David Bloomberg  
22 with the IEPA with a follow-up question.

23 Mr. Urbaszewski, in previous comments  
24 that you delivered before the Board regarding the

1 2015 Part 214 and Part 225 Rulemaking for SO<sub>2</sub>,  
2 which is R2015-021, you stated -- and let me  
3 preface this by noting this is a follow-up to your  
4 statement that you just made -- that you felt that  
5 the MPS has done a good job already of reducing  
6 spikes.

7           You stated, quote: "Respiratory Health  
8 Association remains concerned about allowing a  
9 30-day rolling average to be used to determine  
10 compliance, rather than an hourly average. While  
11 others may make more detailed technical -- it looks  
12 like a word was left out there -- on this issue, we  
13 simply ask the Board to closely examine to the  
14 greatest extent possible that requires the shortest  
15 possible timeframe of averaging in order to  
16 minimize the possibility of short-term spikes that  
17 would violate the SO<sub>2</sub> health standard and  
18 exacerbate lung disease.

19           Why were you concerned about spikes  
20 during that rulemaking when the current MPS and  
21 similar combined standards for CPS and for  
22 fleet-wide averages were in place and you just said  
23 that that type of average prevents spikes?

24           MR. URBASZEWSKI: You know, I would

1 just say that -- you know, I'm not necessarily  
2 saying that the current rule does an excellent job,  
3 or I grant the adjective you used "great job", but  
4 all I'm saying is that I believe it would minimize  
5 that -- it minimizes short-term excursions to a  
6 greater extent than the proposal would.

7 MS. PALUMBO: Question 14. I think  
8 that you answered this for Mr. More, but I just  
9 want to be clear for the record.

10 Please detail any specific instances  
11 where the current MPS rule prevented SO2 hot spots.

12 MR. URBASZEWSKI: Well, again, I would  
13 say that two scrubbers were installed and/or  
14 upgraded during the course of the rule being in  
15 place, so I think, you know, that that would be one  
16 instance where I would say there was a benefit of  
17 the rule reducing, you know, hot spots or areas  
18 where SO2 emissions were reduced. Yeah, I would  
19 just say that.

20 MS. PALUMBO: I'm going to skip 15  
21 since it's really not applicable and you didn't  
22 have any specific instances.

23 I don't have any further questions.

24 Thank you.

1 HEARING OFFICER TIPSORD: And with  
2 that, we'll move to the pre-filed questions for  
3 Mr. Urbaszewski from Dynegy, which we will admit as  
4 Exhibit 36, if there's no objection. Seeing none,  
5 their Exhibit 36. Mr. More?

6 MR. MORE: Thank you.

7 Question 1. Have you ever been found  
8 to be an expert by any court of law?

9 MR. URBASZEWSKI: No.

10 MR. MORE: Question 2. Do you hold any  
11 degrees in epidemiology or toxicology?

12 MR. URBASZEWSKI: No. I'm not here as  
13 an expert. I've done research but my familiarity  
14 with the studies with lung health I've accumulated  
15 over 18 years. I'm here to answer your questions  
16 of the Board and offer supporting materials,  
17 studies, and assessments helpful in answering the  
18 Board's questions on the --

19 MR. MORE: Thank you.

20 HEARING OFFICER TIPSORD: You need to  
21 speak up, too.

22 MR. MORE: Do you hold any degrees  
23 in -- I think I asked you that question.

24 Have you taken any college level

1 courses in epidemiology or toxicology?

2 MR. URBASZEWSKI: I have not and I  
3 would refer to the prior answer I gave you.

4 MR. MORE: I'm going to skip question 3  
5 then.

6 When setting the National Ambient Air  
7 Quality Standards, NAAQS, US EPA reviews  
8 epidemiological studies, correct?

9 MR. URBASZEWSKI: Yes.

10 MR. MORE: And, in fact, you reference  
11 a number of them in your pre-filed testimony,  
12 correct?

13 MR. URBASZEWSKI: Yes, but one  
14 qualification. The current studies that I  
15 submitted as exhibits are both from last year, and  
16 so I could not say if EPA has reviewed the ones  
17 that I referenced here. They're essentially "hot  
18 off the press," but both from respected journals,  
19 New England Journal of Medicine and the Journal of  
20 the American Medical Association.

21 MR. MORE: I believe you've answered my  
22 question 5; what do you mean by short-term spikes  
23 in SO2.

24 MR. URBASZEWSKI: Yeah. I would give



1 the same answer I gave Illinois EPA.

2 MR. MORE: Thank you.

3 I'm going to ask a slightly different  
4 question. What is considered short-term as opposed  
5 to long-term? Can you add a little context?

6 MR. URBASZEWSKI: Sure.

7 Again, what I said previously, US EPA  
8 considers short-term to be anywhere in the realm of  
9 five, ten minutes, up to a day. I would say the  
10 long-term would be, you know, annual.

11 MR. MORE: Is it your opinion that hot  
12 spots are the result of short-term spikes in SO2  
13 emissions?

14 MR. URBASZEWSKI: Again, this is my  
15 inartful colloquial term. I'm not a technician or  
16 a qualitative descriptor of these locations wherein  
17 you would expect to see a concentration of SO2  
18 emissions.

19 MR. MORE: Let me see if I can rephrase  
20 it. What I'm trying to get at is when you use the  
21 term "hot spots," are you referring to areas where  
22 you anticipate short-term spikes to occur?

23 MR. URBASZEWSKI: I would assume for  
24 a -- let me rephrase that.

1                   With a source that emits a large amount  
2 of SO<sub>2</sub>, that would be where you were looking for  
3 short-term excursions as well as emissions over a  
4 long period of time, meaning they wouldn't occur  
5 elsewhere if they were not close to that source.  
6 Does that help?

7                   MR. MORE: No, I'm still a little  
8 confused, because as I understand your testimony,  
9 it's the short-term increases in SO<sub>2</sub> exposure that  
10 present the greatest risk.

11                  MR. URBASZEWSKI: That's what US EPA  
12 has said.

13                  MR. MORE: Right. Okay. And you talk  
14 about you anticipate that under the proposal, hot  
15 spots will occur that will present an increase in  
16 risk to those populations. Is that a fair  
17 characterization?

18                  MR. URBASZEWSKI: Could you say that  
19 again?

20                  MR. MORE: Yeah. As I understand your  
21 testimony, it is that the proposal will result in  
22 hot spots which will present an increase in risk to  
23 those populations.

24                  MR. URBASZEWSKI: Yes. And again, it

1 would be -- US EPA has struggled with this as well  
2 because it's very hard to measure those short-term  
3 spikes given the monitoring network the Agency has,  
4 and that's why it's gone to a longer-term averaging  
5 before the form of the standard of the one-hour  
6 standards, and that's why I went from a three-hour  
7 standard to one-hour standard to try to more  
8 accurately counter those short-term, five-, ten-  
9 minute spikes, less than an hour, and -- but there  
10 is also a relationship where you have those  
11 longer-term averages do track with the number of  
12 spikes, the short-term spike you would see. So  
13 again, if you have -- if you are emitting more SO<sub>2</sub>  
14 in a location, you would expect to see more  
15 short-term spikes as well.

16 MR. MORE: So the "hot spots", as  
17 you've defined them, do relate to or correlate with  
18 areas where you would expect to see an increase in  
19 these short-term spikes as a result of the  
20 proposal.

21 MR. URBASZEWSKI: Short-term increases,  
22 yes.

23 MR. MORE: Question 6. When setting  
24 the SO<sub>2</sub> NAAQS, US EPA set a limit that is intended

1 to limit short-term spikes, correct?

2 MR. URBASZEWSKI: Yes, but, you know,  
3 as I say for SO2, it's the short-term exposures  
4 that -- measurable health harms that EPA is  
5 concerned with, but those short spikes are hard to  
6 measure, so that's why US EPA has set a longer-term  
7 average hourly that are sufficiently low in order  
8 to limit excessively short-term exposures and also  
9 magnitude of those exposures, but even then EPA has  
10 expressed concerns that this method underestimates  
11 potential exposure. That's from page 302 of the  
12 EPA Assessment.

13 MR. MORE: Question 7. Under the  
14 current MPS, SO2 and NOx emissions are allowed to  
15 fluctuate at each plant so long as the system-wide  
16 average annual emissions rate is met. Is that  
17 correct?

18 MR. URBASZEWSKI: Yes.

19 MR. MORE: 7(a). So under the current  
20 MPS, annual SO2 emissions from any single plant  
21 would be higher in 2018 than they were in 2016 so  
22 long as the system-wide annual emissions rate is  
23 met in 2018, correct?

24 MR. URBASZEWSKI: Yes.

1                   MR. MORE: 7(b). Under the current  
2                   MPS, SO2 emissions are allowed to fluctuate at each  
3                   unit on a day-to-day basis so long as the  
4                   system-wide annual average rate is met, correct?

5                   MR. URBASZEWSKI: Yes.

6                   MR. MORE: 7(c). Under the current  
7                   MPS, SO2 emissions are allowed to fluctuate at each  
8                   unit on an hour-to-hour basis so long as the  
9                   system-wide annual emissions rate is met, correct?

10                  MR. URBASZEWSKI: Yes.

11                  MR. MORE: Question 8. Have you done  
12                  any analysis to determine how the MPS units are  
13                  expected to operate in the future if the MPS  
14                  proposal is not adopted?

15                  MR. URBASZEWSKI: No.

16                  MR. MORE: Question 9. Have you done  
17                  any analysis to determine how the MPS units are  
18                  expected to operate in the future if the MPS  
19                  proposal is adopted?

20                  MR. URBASZEWSKI: No, but again, my  
21                  concern with the change in the rule is that it  
22                  would eliminate the need to specifically run SO2  
23                  controlled plants in order to meet the existing  
24                  rule rate coverage.

1 MR. MORE: We'll skip question 10. I  
2 believe you've answered it, is that correct? Have  
3 you answered question 10?

4 MR. URBASZEWSKI: I believe so but  
5 that's up to you.

6 MR. MORE: I believe that as well.  
7 Question 11. Is it your opinion that  
8 under the current MPS, SO2 annual system-wide  
9 emissions rate limits prevent SO2 hot spots?

10 MR. URBASZEWSKI: This is a hard  
11 question to answer. I would say yes. I would not  
12 say it eliminates them, I would say that the  
13 current rule would minimize them compared to the  
14 proposed rule. Again, the concern is consolidating  
15 capacity, and therefore, SO2 emissions at fewer  
16 plants would necessarily increase the emissions at  
17 fewer facilities. My concern is that the proposed  
18 rule would allow the shuttering of the cleaner  
19 plants and generation would be, instead, generated  
20 at plants that emitted more SO2.

21 MR. MORE: Is it your expectation under  
22 that hypothetical, the shuttering of  
23 uncontrolled -- excuse me -- that the shuttering of  
24 controlled plants will affect the SO2 emissions

1 rate of uncontrolled plants?

2 MR. URBASZEWSKI: Say that one more  
3 time.

4 MR. MORE: You mentioned that you  
5 anticipate under the proposal an increase in  
6 emissions from uncontrolled plants, is that right?

7 MR. URBASZEWSKI: Yes.

8 MR. MORE: And is that annual  
9 emissions, or do you expect there to be an increase  
10 in the emissions rate?

11 MR. URBASZEWSKI: It would be in the  
12 annual emissions.

13 MR. MORE: So if the annual emissions  
14 go up, what effect would that have, then, on  
15 short-term exposures?

16 MR. URBASZEWSKI: At a specific  
17 location, if you increase the amount of SO2 on an  
18 annual basis, you would still expect to see the  
19 more short-term excursions as well. I'm not saying  
20 there's a specific level of those excursions, but  
21 by necessity, due to weather conditions, SO2  
22 concentrations are going to vary.

23 MR. MORE: But you've acknowledged --

24 HEARING OFFICER TIPSORD: Excuse me.

1 He's conferring with his people. You can't see  
2 that behind your back.

3 MR. MORE: Thank you.

4 MR. URBASZEWSKI: Another thought is  
5 that pounds per hour could also be increased at the  
6 facility as well. Strike that. Yes, go ahead.

7 MR. MORE: 11(b). What is the basis  
8 for your statement in the conclusion of your  
9 pre-filed testimony that an annual cap removes the  
10 mechanism that has prevented SO2 hot spots by  
11 allowing SO2 emissions to increase at individual  
12 plants if other plants shut down?

13 MR. URBASZEWSKI: I would simply repeat  
14 what I've said before, that this is talking about  
15 the existing rule and the rate structure and the  
16 need to run and control SO2 plants to offset the  
17 much higher rates of uncontrolled SO2 plants.

18 If you take one part of that equation  
19 out, the controlled SO2 plants, you're going to  
20 move some or all of that generation to other  
21 facilities that are controlled towards SO2.

22 MR. MORE: What's your basis for your  
23 conclusion that some or all of the generation from  
24 a shuttered controlled plant will move to an



1 uncontrolled plant?

2 MR. URBASZEWSKI: IEPA has said in its  
3 testimony that that is a possibility, and I believe  
4 that is detrimental compared to the current  
5 structure or the current rule that's in place.

6 MR. MORE: And you do agree that that  
7 scenario is not expected to affect the emissions  
8 rate, the SO2 emissions rate, at that controlled  
9 plant -- or uncontrolled plant, excuse me.

10 MR. URBASZEWSKI: There's a difference  
11 between a rate and the total amount. I'm talking  
12 about the total amount coming out of that plant in  
13 the course of a year, and honestly, you know,  
14 it's -- the amount is what determines the health  
15 effects.

16 MR. MORE: Well, I thought you  
17 testified earlier the health effects occur during  
18 short-term spikes, which are five- to ten-minute  
19 periods or aggregated on an hourly basis, and as  
20 you acknowledged, the MPS in its current form in  
21 the proposal are dealing with annual total tons,  
22 right?

23 MR. URBASZEWSKI: In its current form.

24 MR. MORE: Have you reviewed any

1 information -- question 11. Sorry.

2 HEARING OFFICER TIPSORD: 12.

3 MR. MORE: Have you reviewed any  
4 information indicating that plants subject to the  
5 MPS will shut down if the MPS proposal is adopted?

6 MR. URBASZEWSKI: This is a hard one to  
7 answer. I would say no. However, there was a  
8 transcript of an earnings call by Vistra Energy,  
9 which I've read, and so I'll read what I have here  
10 that leads me to qualify my no. This is from the  
11 available transcript, okay, so -- and that  
12 transcript is in the record, I believe, already.

13 So we've got a -- this is from, I  
14 believe, Vistra, the CEO of Vistra.

15 We've got a good retail business there,  
16 speaking about Illinois, but we have some  
17 challenges around that asset base there, both in  
18 terms of performance, but also just economics, and  
19 I note that Dynegy and Bob are working on that. I  
20 mean, they're working on the Multi-Pollutant  
21 Standards to basically create flexibility to make  
22 decisions about what assets were in and what assets  
23 were out.

24 They also were trying to do capacity

1 market reform, which has been tough sledding to get  
2 -- and there's a typo here. It says MICO, but I  
3 believe it's MISO, M-I-S-O, is what he's talking  
4 about. MISO tried to take something and push back  
5 on them, although -- it seems that there may be  
6 another -- but at the end of the day, I think  
7 that's going to be tough to get, and just in that  
8 zone, it's going to be tough just to get reform  
9 there, and so at some point when you don't get  
10 reform and you are successful at doing what you  
11 need to do around the Multi-Pollutant Standard in  
12 freeing up the assets, we've got a portfolio  
13 optimization exercise to do no different than what  
14 we did in Texas, and I think that may result in  
15 maybe shrinking the size of our generation.  
16 Whether that means we're trying to sell assets or  
17 what, I don't know yet.

18           And two huge facilities in Texas were  
19 only recently announced for closure, two coal  
20 generation facilities by Vistra.

21           So, in my mind, I think there is a good  
22 chance that the new owners, if that was approved by  
23 the Shareholders and continues to go through, may  
24 look at closing facilities, and my understanding is

1 that that could include controlled SO2 facilities.

2 MR. MORE: Just so that the record is  
3 clear, when you started to say "and two huge," you  
4 were not quoting from the transcript, correct?

5 MR. URBASZEWSKI: Correct. When I was  
6 talking about the two facilities that were to be  
7 closed in Texas, yes, I was not speaking from the  
8 transcript. That's from news reports by the  
9 company -- by Vistra, sorry.

10 MR. MORE: Did you have that transcript  
11 at the time you wrote your testimony?

12 MR. URBASZEWSKI: No.

13 MR. MORE: Question 13. Does the  
14 analysis included in your pre-filed testimony  
15 consider actual concentrations of NOx, N-O-X, or to  
16 SO2 in Illinois over the last ten years?

17 MR. URBASZEWSKI: No.

18 MR. MORE: 13(a). Did you evaluate  
19 whether any actual short-term spikes in SO2 have  
20 occurred in the areas around the plants subject to  
21 the MPS at any time over the last ten years?

22 MR. URBASZEWSKI: No.

23 MR. MORE: 14. Do you believe adverse  
24 health effects occur at SO2 levels below 75 parts

1 per billion?

2 MR. URBASZEWSKI: Could you clarify  
3 that?

4 MR. MORE: Uh-huh.

5 MR. URBASZEWSKI: Meaning level.

6 MR. MORE: Are you aware that the NAAQS  
7 is set at 75 parts per billion?

8 MR. URBASZEWSKI: So you're talking  
9 about the hourly.

10 MR. MORE: I appreciate you helping me.  
11 Yes, correct.

12 MR. URBASZEWSKI: Because -- it would  
13 be depending on whether you're talking about the  
14 annual limit or one-hour limit.

15 MR. MORE: Sure. Let me rephrase it.  
16 Maybe that will be --

17 Do you believe adverse health effects  
18 occur at SO2 levels below the NAAQS?

19 MR. URBASZEWSKI: The one-hour NAAQS  
20 for SO2?

21 MR. MORE: Yes.

22 MR. URBASZEWSKI: Yes. The NAAQS is  
23 the 99 percent level, so it does allow for some 75  
24 or above recordings before you are in violation of

1 the NAAQS.

2           And again, back to what I mentioned  
3 earlier as well, the 2017 SO2 ISA that you included  
4 in -- incorporated in the references in Dr. Lucy  
5 Fraiser's statements show that, you know, EPA has  
6 recognized there is no threshold below which SO2  
7 exposure does not present a health threat. They  
8 have not found a level at which you would not  
9 expect to see health effects based on the most  
10 recent collection of research by EPA incorporated  
11 in that document.

12           MR. MORE: Are you suggesting that the  
13 SO2 one-hour NAAQS should be lower than 75 parts  
14 per billion?

15           MR. URBASZEWSKI: Not at this time.  
16 You know, EPA looks at the science continuously --  
17 they're looking at science now -- reevaluating the  
18 standard now to long-term process. I hope they set  
19 the standard where it protects people. At this  
20 point, I can't substitute, you know, my judgment  
21 for EPA's yet. I'm not asking the state to engage  
22 in an assessment in setting the entire NAAQS  
23 itself, but, you know, ultimately, Illinois EPA  
24 relied on the NAAQS to say there aren't health

1 effects below the levels of the NAAQS, and I think  
2 that EPA's description that there's no thresholds  
3 where you don't see health effects either for  
4 sulphur dioxide or for PM 2.5 of which sulphur  
5 dioxide is a precursor and contributor to PM 2.5, I  
6 believe that the NAAQS process is continuously  
7 ongoing, and based on the most recent science at  
8 the time, those analyses are done -- EPA has  
9 tightened several NAAQS over the years using that  
10 process, and again, I would hope that they would  
11 set the standard where tech people join forward  
12 using the best possible science.

13 MR. MORE: You mentioned that SO2 is a  
14 precursor to PM 2.5.

15 MR. URBASZEWSKI: It is.

16 MR. MORE: Are you familiar with the  
17 chemical process by which that occurs?

18 MR. URBASZEWSKI: I don't know if I  
19 could detail it in full extent, but SO2 oxidizes to  
20 sulfate in the atmosphere, and then I believe it's  
21 mostly measured as ammonium sulfate fine particles  
22 PM 2.5. That process happens over time, so the SO2  
23 comes out as a gas from the facility, and as it  
24 floats downwind, oxidizes in the atmosphere and

1 turns into particles that fall and are breathed by  
2 people at some point downwind, which can be a  
3 significant distance.

4 MR. MORE: Are you familiar with the  
5 ratio of that conversion? Is it one-to-one?

6 MR. URBASZEWSKI: I'm not.

7 MR. MORE: Question 15. Do you believe  
8 adverse health effects occur at SO2 levels below 50  
9 parts per billion? That would be an hourly.

10 MR. URBASZEWSKI: An hourly.

11 I would refer back to the EPA's  
12 document. It does reference studies defining  
13 health effects below 50 parts per billion. Those  
14 studies are not numerous. There are some Canadian  
15 studies on page, I think 50 or 51 of the document.  
16 Then it also references a study done in Los  
17 Angeles.

18 So there are some studies that look at  
19 health effects, but EPA has decided that those  
20 studies were not strong enough to warrant setting  
21 the NAAQS at 50 parts per billion.

22 MR. MORE: I'd like to ask one final  
23 question. Could we turn to Section 2 of your  
24 pre-filed testimony, Health Effects of SO2?



1 MR. URBASZEWSKI: Yes.

2 MR. MORE: The first paragraph, first  
3 sentence under that section, begins with "high  
4 concentrations." Do you see that?

5 MR. URBASZEWSKI: Yes.

6 MR. MORE: What is meant by high  
7 concentrations?

8 MR. URBASZEWSKI: I believe there you  
9 could say -- and again, referring back to US EPA --  
10 in the range of 200 ppb.

11 MR. MORE: Would that be hourly?

12 MR. URBASZEWSKI: That would be a --  
13 when we're talking about short periods of time, I'm  
14 thinking that would be the five- to ten-minute  
15 limit or five- to ten-minute timeframe.

16 MR. MORE: I have one question for  
17 IEPA, if that's all right.

18 HEARING OFFICER TIPSORD: Sure.

19 MR. MORE: Do the annual fleet-wide SO2  
20 emissions limits contained in the current MPS  
21 prevent the short-term spikes or hot spots  
22 Mr. Urbaszewski has described?

23 MR. BLOOMBERG: No.

24 MR. MORE: I have no further questions.

1 HEARING OFFICER TIPSORD:

2 Mr. Armstrong?

3 MR. ARMSTRONG: I have just a few  
4 follow-up questions for Mr. Urbaszewski.

5 During Ms. Palumbo's questioning of  
6 Dr. Fraiser yesterday, Ms. Bugel mentioned  
7 something called the Air Analysis from US EPA. Do  
8 you have any familiarity with that system?

9 MR. URBASZEWSKI: Yes. Yes.

10 MR. ARMSTRONG: And can you provide a  
11 brief description of what that system is?

12 MR. URBASZEWSKI: I'll try. It's a  
13 color-coded system where EPA uses a color in a  
14 category to denote levels of risk from exposure to  
15 air pollutants, specifically the NAAQS, N-A-A-Q-S,  
16 and I think the logic for this is done -- is that  
17 the public often doesn't understand or isn't able  
18 to conceptualize what level of air pollution is  
19 perhaps of concern or dangerous when you're talking  
20 in parts per billion and parts per micrograms per  
21 cubic meter, and so EPA color-codes the system into  
22 several categories, ranging -- with associated  
23 colors associated from good, green; to yellow,  
24 moderate; orange is unhealthy for sensitive groups;

1 and there's several categories beyond that of red,  
2 purple, I think maroon. Those latter categories  
3 are very rarely utilized at this point in time.

4 But the goal is to present a simple  
5 explanation and a health message with those various  
6 categories that can be disseminated through media,  
7 such as weather forecasters on the evening news.

8 MR. ARMSTRONG: So to try to summarize,  
9 it sounds like what you are stating is that the  
10 system is one that US EPA uses to advise the public  
11 of potential health risks related to particular  
12 concentrations of pollutants in ambient air, is  
13 that correct?

14 MR. URBASZEWSKI: Yes.

15 MR. ARMSTRONG: Are you aware of US  
16 EPA, in connection with the Air Analysis Program,  
17 advising the public of health risks for any  
18 concentrations of pollutants below the NAAQS for  
19 any of the pollutants referenced in your testimony?

20 MR. URBASZEWSKI: Yes. The -- for  
21 ozone, if we're talking about NOx, N-O-X, as being a  
22 precursor to ozone, the ozone standard is key,  
23 meaning that the NAAQS is keyed to the orange  
24 category, unhealthy for sensitive groups, but US

1 EPA in the moderate yellow category below the level  
2 of the NAAQS -- and I picked out a level that is 75  
3 percent of the concentration to the NAAQS, or what  
4 EPA would call -- US EPA would call an air quality  
5 index of 75; usually 100 is key to the standard --  
6 the message that they could give out to sensitive  
7 groups of people -- it says health effects  
8 statements -- sorry -- it says, Unusually sensitive  
9 people should consider reducing prolonged or heavy  
10 exertion. And the same thing, it's a precautionary  
11 statement, unusually sensitive people should  
12 consider reducing prolonged or heavy exertion.  
13 That is a statement that US EPA provides at levels  
14 below the levels of the NAAQS for ozone.

15 And I believe there's a -- I'm sorry,  
16 my mistake. That was for fine particulate. That  
17 message was for fine particulate matter, that  
18 health statement, and again at 75 percent of the --  
19 the NAAQS for PM 2.5, the daily NAAQS. There's a  
20 similar one for ozone. And I'm sorry to create  
21 confusion. I'm going to try -- it's similar.

22 So if you look at the ozone NAAQS and  
23 you reach an AQI of 75, which is 75 percent of the  
24 way to the ozone NAAQS, the health effect

1 statements for ozone state, Unusually sensitive  
2 individuals may experience respiratory symptoms,  
3 and there's a precautionary statement, Unusually  
4 sensitive people should consider limiting prolonged  
5 outdoor exertion.

6 So even below the level of the NAAQS,  
7 US EPA is advising there may be health concerns for  
8 especially sensitive people.

9 MR. ARMSTRONG: And just one more  
10 question. You stated, I believe, that -- you  
11 picked out a level. You appear to be manipulating  
12 some kind of handheld device. Could you explain  
13 exactly what it is you're sitting and looking at?

14 MR. URBASZEWSKI: Yes. I am looking at  
15 a website, and it's from the Environmental  
16 Protection Agency, and it's the AirNow, one  
17 word,.gov, and the site I was using is  
18 <https://airnow.gov/index> -- and forgive me if I'm  
19 going to have trouble. I think it is .cfm. It is  
20 a calculator that you can type in specific AQI  
21 levels to get what the health statement would be.

22 MR. ARMSTRONG: Nothing else.

23 HEARING OFFICER TIPSORD: Anything  
24 further?

1 Thank you very much.

2 MS. ROCCAFORTE: I'm Gina Roccaforte,  
3 and I just have a few follow-up questions for the  
4 Agency based on what was discussed earlier this  
5 morning.

6 In reviewing Assistant Administrator  
7 McCarthy's letter, Mr. Davis, what is your  
8 understanding of the purpose of US EPA's response  
9 to the House Committee's questions?

10 MR. DAVIS: Well, US EPA does not use  
11 costs to set a NAAQS, although it does explain to  
12 the public the potential costs and benefits it  
13 anticipates will result for different rulemakings.

14 The purpose of the letter -- I believe  
15 that was Exhibit 1 to Mr. Urbaszewski's -- yes, it  
16 was Exhibit 1 to his testimony -- was including  
17 reductions that are below the NAAQS levels and  
18 reductions that are from both attainment and  
19 nonattainment areas, and using US EPA's cost  
20 benefit analysis -- and I believe that was for the  
21 NAAQS group -- the committee had questioned whether  
22 using the reductions to show monetary benefit to  
23 the rulemaking was appropriate.

24 Nowhere in the letter did Ms. McCarthy

1 suggest that the NAAQS levels for fine particle  
2 pollution should be lowered, based on her statement  
3 that was characterized by Mr. Urbaszewski.

4 MS. ROCCAFORTE: Mr. Bloomberg,  
5 Mr. Urbaszewski's testimony states, quote: "For  
6 SO<sub>2</sub>, it is the short-term spikes that trigger  
7 measurable health harms, but short-term spikes are  
8 hard to measure," end quote.

9 What time intervals are the SO<sub>2</sub>  
10 monitors in Illinois capable of measuring?

11 MR. BLOOMBERG: The SO<sub>2</sub> monitors in  
12 Illinois take essentially instantaneous readings  
13 that data loggers, which are computers hooked up to  
14 the monitors, are set to store one-minute averages  
15 from those readings and then calculate a  
16 five-minute average based on those one-minute  
17 averages. The five-minute averages are submitted  
18 to US EPA's data system.

19 MS. ROCCAFORTE: And Mr. Bloomberg, on  
20 page 4 of Mr. Urbaszewski's testimony, he states,  
21 quote: "The range of levels for the one-hour SO<sub>2</sub>  
22 NAAQS that the US EPA was considering was 50 to 150  
23 ppb. Ultimately, US EPA selected 75 ppb. There  
24 were, however, demonstrated health effects down to

1 50 ppb levels," end quote.

2 Are there any SO2 monitors near  
3 affected sources that are currently measuring  
4 hourly values above 50 ppb?

5 MR. BLOOMBERG: No.

6 HEARING OFFICER TIPSORD: Excuse me.  
7 What do you mean by affected sources?

8 MS. ROCCAFORTE: Those sources subject  
9 to the MPS Rule.

10 HEARING OFFICER TIPSORD: We lost you.  
11 Those sources subject to --

12 MS. ROCCAFORTE: Sources subject to the  
13 MPS Rule.

14 HEARING OFFICER TIPSORD: Thank you.

15 MS. ROCCAFORTE: Are there any PM 2.5  
16 monitors near sources subject to the MPS Rule by  
17 this -- I'm sorry -- that measure concentrations  
18 that are currently exceeding the PM 2.5 NAAQS?

19 MR. BLOOMBERG: No.

20 MS. ROCCAFORTE: And earlier today you  
21 were questioned extensively about a company causing  
22 a nonattainment area. Is it in a company's  
23 interest to cause a nonattainment area?

24 MR. BLOOMBERG: No. And I believe this



1 question refers back to the hypotheticals that were  
2 discussed. It would definitely be against a  
3 company's interest to ever put themselves in a  
4 situation where a nonattainment area would be  
5 caused, not even -- just forgetting about potential  
6 enforcement, but also the fact that if there's  
7 model nonattainment area, then we have to use  
8 allowable modeling for the company, for other  
9 companies in the area. They could end up with  
10 limits that are even lower, based on, you know,  
11 using all those allowables, so it could actually --  
12 any company that did that intentionally would be  
13 shooting themselves in the foot.

14 MS. ROCCAFORTE: And Mr. Urbaszewski  
15 stated that the Agency said there are no health  
16 effects below the NAAQS. Is this a correct  
17 statement?

18 MR. BLOOMBERG: No. I'm not sure where  
19 he got that from. We've been pretty clear all  
20 along that we know what the NAAQS are, and they are  
21 set with the margin of safety by US EPA after doing  
22 extensive, extensive studies.

23 HEARING OFFICER TIPSORD: Excuse me.  
24 Mr. More?

1 MR. MORE: I believe the question asked  
2 was no health effects; that Mr. Urbaszewski  
3 testified that there are no health effects below  
4 the NAAQS. Was that the --

5 Would you read back the question that  
6 Ms. Roccaforte asked?

7 (The court reporter read back the  
8 question.)

9 MR. BLOOMBERG: Yes.

10 MS. ROCCAFORTE: I have nothing  
11 further.

12 HEARING OFFICER TIPSORD: Anything  
13 else?

14 All right. Looking around the room,  
15 and based on the signup sheets and the lists I've  
16 been handed, there are only about 25 people signed  
17 up today for public comment, so my question is, how  
18 do you feel about taking about 15 minutes right  
19 now, grabbing a snack, coming back and powering  
20 through, rather than taking an hour for lunch? Is  
21 it okay to power through? Let's power through.  
22 We'll come back about 1 o'clock and we'll first do  
23 DCEO comments and then we'll start the public  
24 comment process.

1 (A fifteen minute recess was taken.)

2 Is there anyone here who wishes to  
3 comment on the fact that DCEO decided not to do an  
4 Economic Impact Study? Does anyone want to comment  
5 on DCEO's decision?

6 Seeing no one, we're going to open  
7 public comments, and what I'm going to have you do  
8 is state your name, spell your name, and speak from  
9 the area that Ms. Bailey, Beile?

10 MS. BEILE: Beile, Virginia  
11 Woulfe-Beile. Virginia traditional, last name  
12 W-O-U-L-F-E, hyphen, B-as in boy, E-I-L-E.

13 HEARING OFFICER TIPSORD: Okay. Let me  
14 finish.

15 Everybody is going to get two minutes,  
16 which is the amount of time we gave in Peoria, so  
17 we're going to give everybody two minutes.

18 Please try not to repeat. If you've  
19 already filed a written comment, don't use this  
20 time to repeat what you've said in a written  
21 comment, use it for other information.

22 If you did speak in Peoria -- I know  
23 there's a couple of you here who did -- please  
24 don't be repetitious.

1                   So thank you. With that, we'll go with  
2 you. Go ahead.

3                   MS. WOULFE-BEILE: Okay. I did submit  
4 written comment yesterday, even though I was not  
5 given an opportunity to speak yesterday with the 40  
6 other citizens that had joined in, but I did want  
7 to, aside from the comments that I've already  
8 submitted, wanted to make comment on the process of  
9 these proceedings.

10                  I thought that it was awkward that when  
11 the questions were not revealed and we were just  
12 hearing answers that it was very hard to follow,  
13 and I thought it was strange that we have all this  
14 AV and this big screen behind us where they could  
15 not have been maybe projected to keep the  
16 proceedings moving along.

17                  I'm also disappointed that the 40  
18 something people -- we had folks, concerned  
19 citizens, here from Chicago to Carbondale.

20                  So I think it would be helpful in the  
21 future to please post when the public comments are  
22 going to be. It's very hard to get people together  
23 unless there is a specific time.

24                  And having said that, you know, I just

1 want to add these comments to what I've submitted  
2 written is that we've seen over and over again the  
3 demands of corporations met, but yet there's no  
4 resources that are given from the corporations to  
5 the retired sites or the sites that suffer from the  
6 environmental degradation due to the energy  
7 generation. So we need to ask something from these  
8 corporations for our communities that are  
9 suffering.

10 I'm from Alton, Illinois, near the  
11 shuttered Wood River Dynegy plant, and I just  
12 happened to talk with a high school friend of mine  
13 who was a worker there, and she said, Virginia, you  
14 know, it's funny. I do work for environmental an  
15 organization. She said, You knew before we did  
16 that Dynegy was closing this plant. They were  
17 letting us sail along without any notice.

18 So, anyway, I'm just saying, it's time  
19 for these corporations -- they come to us, to the  
20 public, and ask and ask. We need something back.

21 HEARING OFFICER TIPSORD: That's your  
22 time. Thank you very much.

23 Next I have Julie Carter. Julia  
24 Carter?

1 I'll tell you what. If they were here  
2 yesterday, I apologize, but I could not have made  
3 it more clear that there would not be public  
4 comment yesterday. I don't know what else I  
5 could -- there was a Hearing Officer Order that  
6 said it, I said it repeatedly yesterday, so I  
7 apologize. There was not time scheduled yesterday.  
8 Be that as it may, I'm not going to argue about  
9 that. The Hearing Officer Order is clear. I was  
10 asked repeatedly. I apologize if you feel that  
11 you've been somehow offended.

12 I can't read -- Louise -- I can't read  
13 the first name. Susan Murray, Christopher Cruzen,  
14 Crugen, Carl Dresser? Carol Dresser, okay.

15 Alan Bogardus.

16 MR. BOGARDUS: Bogardus.

17 Good afternoon. My name is Alan  
18 Bogardus, A-L-A-N, B-O-G-A-R-D-U-S. Thank you for  
19 this opportunity to speak.

20 We did not know either, but got the  
21 word late last night that we could come here, so we  
22 jumped on this because it is important.

23 I really want to start this off with  
24 thank you. In 1983 when I joined the Navy, I was

1 sent to Ardnadam Pier in Holy Loch, Scotland, and  
2 my very first impression walking down the pier of  
3 USS Los Alamos and having a really bad time trying  
4 to get off and being very scared, what happened  
5 then was I was actually being approached by Green  
6 Peace and I wasn't allowed to say anything. We  
7 just had to deal with what was going on.

8           Today, you're giving me this  
9 opportunity to say something, and I want to say  
10 something that is clear. As a nuke plant manager,  
11 which I am, what I do every day has the same  
12 passion I had back then. I care very much about  
13 everything that we do. I care about the citizens  
14 of Jasper County. My friends, the mayor, the  
15 superintendent of school districts, the principal  
16 of the school districts, they rely on me day in and  
17 day out to support them and make a difference in  
18 their school districts, and we do. We do that with  
19 4.3 million dollars annually. We do that to a tune  
20 of over \$10,000 a year in making sure that we  
21 provide math books and books for these kids. We  
22 are involved in the CEO Program. We are involved  
23 with the DNR. We leased our property with the DNR,  
24 1,700 acres of the best property you'll ever see

1 out there, for hunting and fishing. It's a  
2 beautiful piece of property. Just last year when  
3 we thought about closing our doors, I was  
4 approached and was asked, hey, if you close the  
5 door, would they be interested in selling this  
6 property so we could develop it.

7 I just ask you to consider, you know,  
8 look at today, look at what we're doing, look at  
9 how we work, look at how we try to work.

10 HEARING OFFICER TIPSORD: That's your  
11 time.

12 MR. BOGARDUS: I appreciate that.

13 HEARING OFFICER TIPSORD: Thank you.

14 Bruce Parker, followed by Lloyd  
15 Holliday.

16 MR. PARKER: Good afternoon. Thank you  
17 for the opportunity to speak.

18 My name is Bruce Parker, B-R-U-C-E,  
19 P-A-R-K-E-R. I'm the Manager of Environmental  
20 Chemistry at the Joppa Generating Station and a  
21 resident of Massac County, Illinois. I've been  
22 employed at the Joppa Station for 28 years and I  
23 support IEPA's revision to the Illinois  
24 Multi-Pollutant Standard. Revision to the MPS Rule



1 will result in a net decrease in emissions and will  
2 not cause a violation of ambient air quality  
3 standards at any of the facilities, as you've heard  
4 testimony this morning. As you've heard in  
5 Dynegy's testimony, coal-fired power plants are  
6 subject to many regulations, limited SO2 and NOx, to  
7 ensure public health. The MPS Rule was designed to  
8 achieve statewide emissions reductions and other  
9 regulations to ensure ambient air quality standards  
10 are met.

11 The Joppa Generating Station, as well  
12 as other Dynegy facilities, has an excellent record  
13 for compliance with environmental regulations. The  
14 nearly 200 employees at the Joppa station work  
15 daily to ensure we have a safe and environmentally  
16 compliant -- are operating in a safe and  
17 environmentally compliant manner.

18 We've spent millions of dollars in  
19 recent years at the Joppa station alone to comply  
20 with the MPS Rule and have achieved significant  
21 reductions in SO2 and mercury emissions.

22 The Joppa station, as well as other  
23 Dynegy facilities, provides jobs and revenue to the  
24 surrounding areas through taxes and contributions.

1                   Revision to the MPS Rule will allow  
2 flexibility in operating the Dynegy fleet of power  
3 plants to allow them to remain profitable.

4                   Without the rules revision, Dynegy will  
5 likely be required to close some plants, possibly  
6 Joppa. The closure of the Joppa station will be  
7 devastating, not only to myself, but to southern  
8 Illinois communities. The Massac County area where  
9 I live has seen the closure of many, many  
10 businesses. The most recent is the closure and  
11 layoff of over a thousand people at the United  
12 States Enrichment Corporation in Paducah, Kentucky,  
13 the closure of the Honeywell Chemical Plant in  
14 Massac County, and others, so...

15                   HEARING OFFICER TIPSORD: That's your  
16 time.

17                   MR. PARKER: Thank you.

18                   HEARING OFFICER TIPSORD: Thank you.  
19 Mr. Holliday, followed by Kenny Wendt.

20                   MR. HOLLIDAY: Hello, I'm Lloyd  
21 Holliday, L-L-O-Y-D, H-O-L-L-I-D-A-Y.

22                   I'm an electrician at the Newton Power  
23 Plant. I've been there for like 40 years, and it's  
24 been a real part of Jasper County's economy. It

1 has provided me with a good living, and to lose  
2 that plant would be a devastating blow to Jasper  
3 County.

4 That's all I've got to say. Thank you.

5 HEARING OFFICER TIPSORD: Mr. Wendt,  
6 followed by Keith Trimble.

7 MR. WENDT: Hello. My name is Kenny  
8 Wendt, K-E-N-N-Y, W-E-N-D-T, and I am also an  
9 electrician at the Newton Power Station and I have  
10 also worked at the Joppa Power Station.

11 I'm just here to show my support for  
12 Dynegy and express how much it does for our  
13 community and my family. Thank you.

14 HEARING OFFICER TIPSORD: Thank you.  
15 Mr. Trimble and then Gaylon Seagraves.

16 MR. TRIMBLE: Thank you, ladies and  
17 gentlemen. My name is Keith Trimble. K-E-I-T-H,  
18 T-R-I-M-B-L-E. I want to thank you for this  
19 opportunity.

20 I just want to say that I have been  
21 employed at the Newton Dynegy plant for about 20  
22 years, and I am a lifelong resident of Jasper  
23 County, and as one of my colleagues had said  
24 earlier, what the devastation would be for the

1 county is an understatement. Approximately -- I  
2 know for a fact, approximately five years ago, that  
3 the plant counted for 50 percent of the tax base in  
4 that county, so to lose it would be devastating.

5 I support the ruling, and on a personal  
6 note, like I said, I've lived in Jasper County my  
7 whole life and we operate a small farm. Now, I  
8 don't -- all these regulations that you guys talk  
9 about, that's for you to figure out, but all I know  
10 is for a fact about the past five years we have  
11 actually had to start adding sulfur to our soil  
12 because we don't get it any longer from the  
13 rainfall, so you guys are doing your job. You're  
14 cleaning up the air, so I thank you for that, but,  
15 like I said, I do support the ruling, and thank you  
16 so much for your time.

17 HEARING OFFICER TIPSORD: Thank you,  
18 sir.

19 MR. SEAGRAVES: My name is Gaylon  
20 Seagraves, G-A-Y-L-O-N, S-E-A-G-R-A-V-E-S. I want  
21 to thank everybody for this opportunity.

22 This ruling, if it's going to -- if  
23 it's going to produce less, isn't that good? I  
24 mean, if we're trying to achieve less, isn't that

1 where we want to go? Like my colleagues -- like he  
2 said, this is something that closing down these  
3 facilities is devastating to a lot of people, so  
4 that's about all I have to say. Thank you.

5 HEARING OFFICER TIPSORD: Let's go off  
6 the record for just a second.

7 (There was then had an off-the-record  
8 discussion.)

9 Back on the record.

10 I believe next is Eric Deasel and then  
11 followed by Anthony Jones.

12 MR. DEASEL: My name is Eric Deasel,  
13 E-R-I-C, D-E-A-S-E-L. I work at the Joppa Power  
14 Station. I've been an electrician there for eight  
15 years, a union member, served on the safety  
16 committee. Like Bruce said, nearly 200 employees  
17 work there. I got to thinking about it on the way  
18 here, that's nearly 200 families that's affected by  
19 that plant, and as he referenced, the plants around  
20 us that are closing. Well, that's tax dollars, but  
21 that's also families losing money and having to go  
22 out and look other places for jobs.

23 My dad worked at the steel mill for 32  
24 years and it closed. He was 53 years old when it

1 closed. Now he's out looking for a job. He's out  
2 there looking.

3 But just a little bit of a breakdown.  
4 The plant pays 800 to 900 thousand dollars in  
5 property taxes a year, so if we were to demolish  
6 that, there would go your school district's money  
7 because they get -- almost about 62 percent of that  
8 money goes to that school district, so consideration,  
9 I want it to be for all the families that would be  
10 affected by this ruling, if not supported, that the  
11 plants may have to close, not just Joppa but other  
12 facilities, because it's not just us, it's all of the  
13 families that have people working at Dynegy. Thank  
14 you.

15 HEARING OFFICER TIPSORD: Thank you.

16 Mr. Jones and then Derek Adams.

17 MR. JONES: My name's Anthony Jones,  
18 A-N-T-H-O-N-Y, J-O-N-E-S.

19 I'd like to focus on the economic  
20 impact, as well, as far as we've heard testimony  
21 from everybody else on everything else.

22 I've been a welder for ten years at the  
23 Joppa Generating Station. It's located in Massac  
24 County, part of what most people call the Southern

1 Seven District of Illinois. It -- there's people  
2 working there from all over all those counties. It  
3 is by far the most impoverished part of the entire  
4 state. It's got the highest unemployment rate and  
5 the lowest employment in any part of the state, and  
6 this is one of the very last providers that has  
7 high-paying union jobs left in the area, and  
8 getting this -- going with the Illinois EPA  
9 recommendations greatly is going to increase our  
10 chances of keeping it. By granting -- which it  
11 pays \$835,000 a year in property taxes to the  
12 school district that my son attends that I can  
13 guarantee you would close if Joppa closes. It will  
14 be absorbed by a larger district and one of the  
15 best school districts in the southern part of the  
16 state will be lost, and I'd like to -- I just want  
17 to support the Illinois EPA's decision to the MPS  
18 Ruling. Thank you.

19 HEARING OFFICER TIPSORD: Mr. Adams,  
20 followed by Brandon Carnahan.

21 MR. ADAMS: Hello. My name's Derek  
22 Adams, D-E-R-E-K, A-D-A-M-S, and I'd like to thank  
23 the members of the Illinois Pollution Control Board  
24 for giving me this opportunity to demonstrate my

1 support for the Illinois Environmental Protection  
2 Agency's Request to Revise the Illinois  
3 Multi-Pollutant Standards.

4 I know you've all got a tough job, and  
5 I appreciate your work for clean power as much as  
6 possible, but I'm for common sense solutions to  
7 pollution and power generation.

8 So I started out my career -- I worked  
9 for Joppa, and I'm an electrical supervisor there.  
10 I worked for United States Enrichment Corporation  
11 for almost ten years before they closed down. I've  
12 seen a lot of jobs leave, and I don't know what all  
13 the causes are for this, but I know the  
14 environment, the EPA, plays a role in that.  
15 There's a lot of different factors and I know you  
16 all are considering all of them, but I want to just  
17 thank you again for the opportunity to voice my  
18 concerns, and these jobs are important to us and we  
19 rely on focusing on electricity to live -- so thank  
20 you.

21 HEARING OFFICER TIPSORD: Thank you.  
22 Mr. Carnahan and then Andy Todd.

23 MR. CARNAHAN: My name's Brandon  
24 Carnahan, B-R-A-N-D-O-N, C-A-R-N-A-H-A-N. I've



1 worked as an electrician at the Dynegy Joppa  
2 facility for three years. I also worked for one  
3 year at the coal refinery inside the EEI Dynegy  
4 Joppa facility. I also consider myself somewhat of  
5 an environmentalist, an Eagle Scout, and an avid  
6 outdoorsman. I've spent a lot of my life enjoying  
7 the outdoors, so, you know, the environment and  
8 things does mean a great deal to me, and I don't  
9 want see anything that will damage that.

10 In my county, as many other people  
11 said, EEI Dynegy is one of the largest employers,  
12 the largest contributors to the tax base. They  
13 annually pay nearly one million dollars in property  
14 taxes that the public school system very much  
15 relies on.

16 We also mentioned that -- I mentioned  
17 that I worked in a refinery with an onsite coal  
18 refining facility that provides sales tax revenue.  
19 Our county receives one percent of that sales tax,  
20 it averages approximately \$500,000 a year. The  
21 state of Illinois also receives five percent of  
22 that sales tax, which, you know, averages in excess  
23 of nearly five million dollars a year.

24 So I'd like to say for the sake of the

1 individuals, the families, the communities and  
2 businesses across central and southern Illinois, I  
3 encourage the IPCB to approve IEPA's Request to  
4 Revise Illinois' Multi-Pollution Standards. By  
5 revising this rule, there would be economic and  
6 environmental benefits to all parties, still  
7 allowing admissions regulations and caps, while  
8 allowing the companies the flexibility to make some  
9 of their own decisions on how to continue to  
10 provide the most affordable, reliable, safe power.

11 I understand we need to do our best to  
12 control emissions for generations of tomorrow, but  
13 coal continues to be a means of affordable and  
14 reliable power, not to mention creating lots of  
15 jobs and stimulating the economy while doing it.

16 I'd also like to add that by forcing  
17 the closure of some of these plants --

18 HEARING OFFICER TIPSORD: Mr. Carnahan,  
19 that's your time.

20 MR. CARNAHAN: Okay.

21 Mr. Todd and then Larry Sparks.

22 MR. TODD: My name is Andy Todd,  
23 A-N-D-Y, T-O-D-D. I'm here basically just to urge  
24 the Pollution Control Board to approve this request

1 for the many reasons that have already been  
2 discussed, and I'm not going to waste your time  
3 with that.

4           Some of the other things that I've seen  
5 at the plant that I work for at Joppa, they donate  
6 to several causes, the Boy Scouts, 4-H and several  
7 programs that small communities have, and it does a  
8 lot for the children. I hate to see those programs  
9 not be funded like they could be from the donations  
10 from the plant that I work at.

11           The area that Joppa is in, if you've  
12 ever been there, it's beautiful country. You think  
13 of pollution and, I guess, the impact that it has  
14 is seen maybe in other places, but it doesn't seem  
15 like that here at Joppa where we're at. It's a  
16 beautiful place.

17           I just want to thank you for having us  
18 here, and hopefully it will do some good to show  
19 our support for Dynegey and for the Board to approve  
20 this request.

21           HEARING OFFICER TIPSORD: Mr. Sparks is  
22 not here, is that correct?

23           Okay. Then Todd Faulkner, followed  
24 Doug Shockley.

1 MR. FAULKNER: My name is Todd  
2 Faulkner, T-O-D-D, F-A-U-L-K-N-E-R. I live in  
3 Metropolis. I've been working at the Joppa Power  
4 Plant for close to 28 years. What that means to me  
5 is a good job for me and my family. By me having a  
6 good job, I was able to send my daughter to  
7 college. She's going to graduate here in May at  
8 Ole Miss with her Bachelor's, and hopefully she's  
9 going to get to go two more years to get her  
10 Master's, and by me working at EEI, that's afforded  
11 my family an opportunity for her to go to school  
12 down there.

13 My wife has a business. In our small  
14 community, we're losing jobs, we're losing the  
15 bigger plants, and that's affected our business in  
16 Metropolis. I think we have around 6,500 residents  
17 and we're a hometown Superman. Every June we have  
18 the Superman celebration. I don't know if you guys  
19 have ever been to it, but it's really something to  
20 come and see, and at Joppa over the years, Relay  
21 for Life, the Telephone for Stars, different  
22 things. We've donated of tens of thousands of  
23 dollars to those charities, so I thank you guys for  
24 letting us speak and I hope you guys can see to

1 hopefully help us to keep our jobs. Thank you.

2 HEARING OFFICER TIPSORD: Mr. Shockley,  
3 followed by Thomas Davis.

4 MR. SHOCKLEY: Doug Shockley, D-O-U-G,  
5 S-H-O-C-K-L-E-Y. I'm a mechanic at Joppa Power  
6 Station. I've been there ten years.

7 The Joppa Power Station is probably the  
8 backbone of our community. I have a 24-year-old  
9 son that is an insulator apprentice. He is  
10 currently working at the plant for a contractor. I  
11 don't want have to see my son uproot and move nor  
12 my future grandchildren. Joppa is a big part of  
13 our community. So that's all I've got to say.  
14 Thanks.

15 HEARING OFFICER TIPSORD: Thank you.  
16 Mr. Davis, and then followed by Phil Morris.

17 MR. DAVIS: Good afternoon. My name is  
18 Thomas Davis, D-A-V-I-S. I am an employee of the  
19 Dynegy Operating Company in Collinsville, Illinois.  
20 I'm here to speak in favor of the Rule that has  
21 been proposed by the Illinois Environmental  
22 Protection Agency. I favor the Rule for two  
23 reasons. First, I believe this Rule has been well  
24 reasoned and well thought out by the Illinois EPA.

1 The Bureau of Air people are well-educated, they  
2 are air scientists, and in my opinion, based upon  
3 my understanding of the Rule, they have very  
4 carefully considered the consequences of this Rule  
5 and they have determined that this Rule will not  
6 adversely affect public health or the environment.

7 I also favor this Rule for the obvious  
8 economic reasons. There are main downstate  
9 coal-fired power plants that would economically  
10 benefit from the passage of this rule. They may  
11 remain able to stay open.

12 We have heard from a number of  
13 employees at the Joppa Station how important their  
14 jobs are to them, as well as the community in  
15 Joppa, Illinois, and that's true for the other  
16 communities where many other stations are located.

17 So I favor the passage of this rule for  
18 those two reasons.

19 HEARING OFFICER TIPSORD: Thank you,  
20 Mr. Davis. Mr. Morris?

21 MR. MORRIS: Thank you, guys. I  
22 certainly appreciate the opportunity to voice my  
23 opinion on this proposed rulemaking to the MPS  
24 Rule.

1                   My name is Phil Morris, P-H-I-L,  
2                   M-O-R-R-I-S. I live in Glen Carbon, Illinois. I  
3                   have been employed by Dynegy or Dynegy Operating  
4                   Company for ten years in our office. My office is  
5                   in Collinsville, Illinois.

6                   In short, I support this proposed  
7                   revision to this proposed rulemaking. I believe  
8                   this proposed revision will continue to maintain  
9                   the environment. I am most concerned about the  
10                  adverse economic impact if this proposed rulemaking  
11                  does not pass, that the adverse economic impact it  
12                  would have on the local communities if Dynegy is  
13                  forced to close a number of power plants in our  
14                  portfolio.

15                  I do believe, in my opinion, that  
16                  Dynegy has invested heavily in the local  
17                  communities for the past several years, and in my  
18                  opinion, my professional opinion and personal  
19                  opinion, Dynegy is a strong steward of the  
20                  environment. Thank you so much.

21                  HEARING OFFICER TIPSORD: Thank you.

22                  Is there anyone who did not sign up who  
23                  now wishes to offer oral public comment?

24                  Could you come down here and state your

1 name?

2 MS. MARSHALL: Thank you. Good  
3 afternoon. My name is Jennifer Marshall,  
4 J-E-N-N-I-F-E-R. M-A-R-S-H-A-L-L. I want to thank  
5 you for the opportunity to speak to you guys today.

6 I work for Dynegy and I've worked in  
7 the corporate office for approximately four years.  
8 I would consider myself an environmentalist. I'm  
9 an avid bicycle rider and really enjoy the Madison  
10 County bike trails. I participate in some of the  
11 events they have in the area and I'm constantly out  
12 walking my dogs, as well, in the area, and I want  
13 to speak in support of, you know, the Illinois  
14 EPA's Revision to the MPS Rule Modification. I  
15 feel that it does protect our environment and our  
16 health, and I am very sure it's going to help the  
17 operational flexibility of the Dynegy fleet, which  
18 ensures the viability of our downstate plants.  
19 Thank you very much.

20 HEARING OFFICER TIPSORD: Thank you.

21 Is there anyone else?

22 Okay. Thank you.

23 First of all, again, I apologize. I  
24 apologize if there was any confusion. I thought



1 the Hearing Officer Order issued setting the April  
2 16th and 17th hearings made it very clear that it  
3 would only be upon the completion of all testimony  
4 we would go to public comments, and that it was  
5 unlikely -- and I told several people yesterday, it  
6 was highly unlikely that it would happen yesterday.  
7 So I apologize if there was some confusion. I know  
8 someone came to me yesterday and said, We were told  
9 at 2:30 we would be allowed, and I had to make  
10 clear that that did not come from the Board.

11 So for any confusion that I may have  
12 had a part in, I apologize.

13 That being said, on April 16th, we will  
14 hold a public hearing solely for the purpose of  
15 hearing oral public comment. It is an evening  
16 hearing, something the environmental groups  
17 originally requested when we had our first  
18 prehearing conference. It is an evening hearing in  
19 Springfield, which is centrally located to several  
20 of the facilities at issue in this rulemaking.  
21 It's about an hour from Havana, a little over an  
22 hour and a half from the Peoria area, and it's not  
23 all the way to Chicago for anybody from Massac  
24 County that wants to come up.

1           So we will hold a hearing. If you wish  
2 to speak at that proceeding on April 16th, you  
3 should e-mail the Hearing Officer by April 13th.  
4 If you want to offer public comment during the day  
5 on April 17th, you could also e-mail me and let me  
6 know that and we will make sure that you have time  
7 during the day on the 17th, but during the evening  
8 on the 16th for sure on oral public comment. If  
9 you have any questions about that, you can also  
10 contact me via e-mail or by phone. My phone number  
11 is all over the website, so please feel free to  
12 give me a call. I answer my phone almost every  
13 day.

14           Also, we are in the process of  
15 docketing additional public comments. Our website  
16 has been down. I believe that as of -- if we get  
17 to the end of the day today, depending on how the  
18 docketing goes, we are fast approaching 3,000  
19 public comments. Written public comments carries  
20 the exact same weight as oral public comment, and  
21 so we appreciate the efforts that people are  
22 putting into writing us and sending those to us.  
23 Please feel free to continue to do that. We  
24 appreciate those and we're keeping track of those,

1 and I read them every day when they come in. So  
2 thank you very much.

3 Now, for the hearing on April 17th, we  
4 will allow testimony. If you wish to testify, you  
5 can pre-file by April 3rd. Questions can be  
6 followed by April 10th.

7 I'll also set out a Hearing Officer  
8 Order again setting all of this out one more time.  
9 How to register to do public comment and all of  
10 that will be sent out yet again.

11 Briefly off for the record for just a  
12 second.

13 (There was then had an off-the-record  
14 discussion.)

15 Back on the record. Parking on the  
16 evening of April 16th, the parking lot on the  
17 converse side of the -- the converse street side of  
18 the building is marked "Employee" as an employee lot.  
19 However, most of the employees will be gone by the  
20 time we start our hearings, so please feel free to  
21 park anywhere in that parking lot.

22 On the 17th, there is overflow parking  
23 across the converse in a big lot near the Caritas  
24 Hall, which is gated, but it is an overflow lot, and

1 you can park there for the hearing on the 17th.

2 Mr. More?

3 MR. MORE: One question. If there's no  
4 pre-filed testimony for the 17th hearing, will that  
5 hearing still be held?

6 HEARING OFFICER TIPSORD: We will open  
7 that hearing on the 17th if, for nothing else, to  
8 offer additional public comment in case people show  
9 up that day.

10 There's a couple reasons for that. As  
11 I said in the Hearing Officer Order, we did pick  
12 Springfield, not only because it was sort of  
13 centrally located, but also because the legislature  
14 is in session, so those of you who need hotel  
15 rooms, you need to get on that right now.

16 The legislature is in session, and we  
17 have already had, I believe, nine or ten  
18 legislators contact us by written public comment.  
19 We also had, I believe Representative Long, who's  
20 in Peoria. We've also had several other local  
21 officials contact us in written public comment, and  
22 we wanted to be sure that there was an opportunity  
23 for them. So I would anticipate that we could see  
24 staff or legislators on the 17th that we might not

1 see on the evening of the 16th.

2 MS. BUGEL: Faith Bugel again. Just  
3 one question. I have a couple follow-up questions  
4 that were requests for information over the past  
5 couple of days, and I'm wondering if there's going  
6 to be a deadline by which -- for a response to  
7 those questions.

8 HEARING OFFICER TIPSORD: I basically  
9 will leave it that anyone who wants to testify on  
10 any of the follow-up information can do so on the  
11 17th and should file it by the 10th -- or the 3rd,  
12 I'm sorry -- should file it by the 3rd.

13 However, what I would anticipate is if  
14 they don't file it and they don't want to testify,  
15 that what we'll do is we will set up a comment  
16 period that is a comments, response, reply, and  
17 that will set up when we do the final decision  
18 about timing. But for now, that's what I would  
19 anticipate, that we'll probably have to do a  
20 comment, response and reply.

21 MS. BUGEL: Thank you.

22 HEARING OFFICER TIPSORD: Is there  
23 anything else? Any other housekeeping that I've  
24 forgotten?

1 All right. With that, I again want to  
2 reiterate -- first of all, I thank you all very  
3 much. I appreciate everyone who took the time  
4 yesterday and today to be here to observe our  
5 proceedings, to be a part of our proceedings. I  
6 urge you to keep your comments coming. And to all  
7 of the participants, too: The attorneys, I thank  
8 you; the witnesses, I really thank you. I  
9 appreciate your decorum and look forward to seeing  
10 you all in April.

11 Thank you very much. We're adjourned.

12 (Hearing concluded at 1:47 p.m.)

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1 STATE OF ILLINOIS )  
2 COUNTY OF MACON ) SS

3

4

5 I, LISA HAHN PETERMAN, do hereby certify  
6 that I am a Certified Shorthand Reporter and Notary  
7 Public in the State of Illinois and that I reported  
8 in shorthand the foregoing, taken on the 7th day of  
9 March, 2018, and that the foregoing is a true and  
10 correct transcript of my shorthand notes so taken.

11

12 I further certify that I am not of counsel  
13 or attorney for either of the parties to said  
14 hearing, not related to nor interested in any of the  
15 parties or their attorneys.

16

17 Dated this 13th day of March, 2018.

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\_\_\_\_\_  
Lisa Hahn Peterman, CSR, RMR  
Illinois CSR #084.2149

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