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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
PROPOSED NEW CAIR SO2, CAIR)
NOx ANNUAL AND CAIR NOx)
OZONE SEASON TRADING) R06-26
PROGRAMS, 35 ILL. ADM.) (Rulemaking - Air)
CODE 225, CONTROL OF)
EMISSIONS FROM LARGE)
COMBUSTION SOURCES,)
SUBPARTS A, C, D and E.)

HEARING DAY TWO, MORNING SESSION

Proceedings held on October 11, 2006, at 9:07 a.m., at
the Illinois Pollution Control Board, 1021 North Grand
Avenue East, Springfield, Illinois, before John Knittle,
Hearing Officer.

Reported By: Karen Waugh, CSR, RPR
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PROCEEDINGS

(October 11, 2006; 9:07 a.m.)

HEARING OFFICER KNITTLE: All right. We're going to go on the record here, folks. We are now on the record. Today is the second day of hearings in the CAIR rule. Just for way of benefit -- well, actually, I don't see anyone who wasn't here yesterday, so we are continuing with the Agency testimony. Agency's been presenting witnesses. We have a new court reporter, and I want to caution everybody again that she may not be familiar with you yet, so at least in the beginning, if you could identify yourselves before you start speaking -- and that's especially true if you haven't been speaking on a regular basis -- we would appreciate it. Otherwise, we're going to continue with the Agency's witnesses, and, Miss Doctors -- well, let me state before we get started, is there anything before we get started?

MR. BONEBRAKE: I had some questions for the Agency concerning the -- I think we were referring to it yesterday as the assessment draft document that was provided toward the end of the day yesterday, so --

HEARING OFFICER KNITTLE: The Agency Exhibit No. 5, I think?

MR. BONEBRAKE: Right.

1 HEARING OFFICER KNITTLE: Yeah.

2 MR. BONEBRAKE: And I think we had an
3 outstanding question too about whether this would be
4 admitted as an exhibit.

5 HEARING OFFICER KNITTLE: We have not ruled
6 on that yet. Do you want to ask some questions of the
7 Agency before we get started?

8 MR. BONEBRAKE: Well, I -- at some point --
9 and from my perspective of dealing with this document,
10 first thing probably, yes, would make good sense.

11 HEARING OFFICER KNITTLE: Miss Doctors?

12 MS. DOCTORS: Or we could wait until we
13 start talking about the CASAs, the CASA allocations,
14 because this talks about the reductions that we've
15 expected, so we could do the general allocations to
16 existing sources, those -- that testimony first.

17 MR. BONEBRAKE: So you're thinking this
18 would be -- these questions would be best directed to
19 which of the witnesses?

20 MS. DOCTORS: Probably Mr. Ross and
21 Mr. Cooper and Mr. Davis.

22 MR. BONEBRAKE: That's fine with me.

23 HEARING OFFICER KNITTLE: I have no
24 preference. So let's hold off till then, then, as per

1 Miss Doctors' request. Then, Miss Doctors, your next
2 witness will be whom?

3 MS. DOCTORS: Jacquelyn Sims, and I ask that
4 her testimony be admitted as if read. That would be
5 Agency Exhibit 8.

6 HEARING OFFICER KNITTLE: Yeah. Just so we
7 know, we were all sworn in yesterday, and even though
8 there's been a break, you are still sworn in, so I want
9 you to recall that. You understand that, right, Miss
10 Sims?

11 MS. SIMS: Yes.

12 HEARING OFFICER KNITTLE: Okay. Any
13 objection to this as being admitted as Exhibit No. 8?
14 This will be admitted as Agency Exhibit No. 8. Miss
15 Doctors, anything before we get to the questions?

16 MS. DOCTORS: No, I have nothing.

17 HEARING OFFICER KNITTLE: All right. We
18 are -- This witness is now ready for questions. If you
19 guys have any, have at it.

20 MR. BONEBRAKE: Yeah, we do have some
21 questions, and if no one else objects, I guess I would
22 start by asking some of the witness.

23 HEARING OFFICER KNITTLE: Mr. Bonebrake,
24 your witness.

1 MR. BONEBRAKE: Miss Sims, I'd like to start
2 by asking you a few questions pertaining to page 3 of
3 your written testimony, and specifically the first full
4 paragraph on that page, which -- the first sentence of
5 which reads, "Under the proposed rule, allocations for
6 the control periods 2009, 2010 and 2011 shall be based on
7 the average of the three highest gross electrical outputs
8 from 2001, 2002, 2003, 2004 and 2005 data." Do you see
9 that?

10 MS. SIMS: Yes.

11 MR. BONEBRAKE: I believe you were here
12 yesterday and there was some discussion about the fact
13 that the State had been FIPed, and as I understand it,
14 that is going to impact at least the first year of the
15 allocation by IEPA, at least that IEPA had envisioned
16 when it proposed the rule, so my first question to you
17 is, given the FIP, does that change at all your testimony
18 in the sentence that we just read?

19 MS. DOCTORS: We'd like to hold some of the
20 questions that have to do with the date until we put in
21 our motion with new dates, and we're hoping that that
22 should happen after lunch today.

23 MR. BONEBRAKE: Well, when you refer to --
24 for -- to dates, could you clarify what dates you're --

1 MS. DOCTORS: In terms of when we talk about
2 the effect of the FIP and what changes the Agency may see
3 that are necessary to the allocation methodology.

4 MR. BONEBRAKE: So that might, for instance,
5 change the references to the years in the sentence that
6 we just spoke about?

7 MS. DOCTORS: It's not -- I don't -- I would
8 not assume that, because they have a choice between using
9 gross electrical output or heat input for those years.

10 MR. BONEBRAKE: Well, I guess I'm a little
11 bit confused, because the --

12 MS. DOCTORS: The issue is, though, whether
13 it would be for 2009.

14 MR. BONEBRAKE: Oh, there's a --

15 MS. DOCTORS: So --

16 MR. BONEBRAKE: Okay. Well, let me ask this
17 quick question of the witness.

18 MS. DOCTORS: Okay.

19 MR. BONEBRAKE: That sentence indicates that
20 for the first three years, 2009, 2010 and 2011, the
21 baseline for the allocations would be a five-year period
22 from '01 to '05; is that correct?

23 MS. SIMS: Yes, that's correct.

24 MR. BONEBRAKE: And is it then the Agency's

1 position that that would remain true for all three of
2 those years -- that is, '09 and '10 and '11 -- in light
3 of the FIP?

4 MS. SIMS: At this time, yes.

5 MR. BONEBRAKE: And is there anything in
6 your written testimony that you believe would be -- need
7 to be changed in light of the FIP?

8 MS. SIMS: I'm not aware of that at this
9 time.

10 MR. BONEBRAKE: The third sentence in that
11 same paragraph reads, "Sources have a choice during this
12 initial period of submitting heat input data or
13 electrical output data." Do you see that?

14 MS. SIMS: Yes.

15 MR. BONEBRAKE: Can you explain to us what
16 you mean by that statement?

17 MS. SIMS: Like the sentence says, we left
18 the choice up to the companies if they want to submit
19 those five years of heat input data, or they can submit
20 those five years of output data for those three -- for
21 '09, '10 and '11.

22 MR. BONEBRAKE: And if we refer to the '09
23 to '11 period as the initial allocation period, does that
24 make sense to you?

1 MS. SIMS: Yes.

2 MR. BONEBRAKE: So in other words, for the
3 initial allocation period, the choice is up to the
4 sources themselves as to whether or not they want to
5 submit and have the Agency rely upon input as opposed to
6 output data?

7 MS. SIMS: Yes.

8 MR. BONEBRAKE: A related question for you,
9 if you could turn with me to Section 225.450 of the
10 proposed rule, and specifically subpart (c) thereof.

11 MS. SIMS: 225 point what?

12 MR. BONEBRAKE: 225.450, subpart (c). And
13 could you read the first sentence into the record for me?
14 The first part of that refers to the September 30, 2006,
15 date, for clarification.

16 MS. SIMS: "By September 30, 2006, the owner
17 or operator of an affected unit shall report to the
18 Agency the gross electrical output for control periods
19 2001, 2002, 2003, 2004 and 2005, if available, and the
20 unit's useful thermal energy data, if applicable."

21 MR. BONEBRAKE: And then the next sentence
22 reads, "If gross electric output is not available, heat
23 input shall be used for these control periods," and it
24 goes on from there. Do you see that?

1 MS. SIMS: Yes.

2 MR. BONEBRAKE: Now, is it the Agency's view
3 that that language that you just read and the additional
4 sentence that I just referred to is to be construed to
5 mean that sources have the option and are not required to
6 submit gross output data for the initial allocation?

7 MS. SIMS: Yes.

8 MR. BONEBRAKE: So my statement was correct.

9 MS. SIMS: Yes.

10 MR. BONEBRAKE: The date of September 30,
11 2006, in the proposed rule was also the date that -- if
12 sources elected, would be the date by which they would
13 submit heat input data; is that correct?

14 MS. SIMS: Yes, that's correct.

15 MR. BONEBRAKE: Now, that date obviously has
16 come and gone.

17 MS. SIMS: Yes.

18 MR. BONEBRAKE: Is the Agency planning to
19 revise the proposed rule, and if so, what would be the
20 alternative date that the Agency would propose?

21 MS. DOCTORS: These are the amendments we're
22 talking about that will probably be provided after lunch.

23 MS. BASSI: Do those amendments also change
24 "shall" to "may"?

1 MS. DOCTORS: No.

2 MR. BONEBRAKE: The heat input data that's
3 satisfactory to the Agency for submission by sources for
4 initial allocation, what type of heat input data would be
5 satisfactory?

6 MS. SIMS: I don't understand your question.

7 MR. BONEBRAKE: Well, the provision talks
8 about and we just talked about the fact that sources have
9 the option of submitting either gross output data or heat
10 input data, so my question for you is, what type of heat
11 input data can be submitted by a source?

12 MS. SIMS: It's the information that's
13 submitted to USEPA from their CEMS database for the, you
14 know --

15 MR. BONEBRAKE: So it would be Part 75 data?

16 MS. SIMS: Yes.

17 MR. BONEBRAKE: And with respect to gross
18 output data, what type of gross output data would be
19 deemed to be satisfactory to the Agency for the initial
20 allocation, assuming that the source would elect to
21 submit gross output data for the initial allocation?

22 MS. SIMS: I think Mr. Davis would be a
23 better person to answer that question.

24 MR. BONEBRAKE: But I would -- I guess I'll

1 go ahead and ask Mr. Davis.

2 MR. DAVIS: Okay. Could you repeat that?

3 MR. BONEBRAKE: If a source elects to submit
4 gross output data for the initial allocation, what type
5 of gross output data could the source submit that would
6 be satisfactory to the Agency?

7 MR. DAVIS: The gross output data that
8 the CEMS -- [inaudible].

9 THE REPORTER: I'm sorry. Could you repeat
10 that?

11 MR. DAVIS: The gross load data that the
12 CEMS collects or by the -- [inaudible].

13 MR. BONEBRAKE: I'm sorry. You were
14 trailing off.

15 MR. DAVIS: The gross load data that is also
16 reported to CAMD.

17 MS. DOCTORS: Could you spell out CAMD?

18 MR. DAVIS: Clean Air Markets Division,
19 C-A-M-D.

20 MS. DOCTORS: Is this also CEMS data?

21 MR. DAVIS: Yes.

22 MS. DOCTORS: And what does CEMS stand for?

23 MR. DAVIS: Continuous emission monitoring.

24 HEARING OFFICER KNITTLE: Mr. Davis, you're

1 going to have to speak up. I think the court reporter's
2 struggling a little bit.

3 MR. DAVIS: Okay.

4 MS. DOCTORS: Is that continuous emissions
5 monitoring systems?

6 MR. DAVIS: Yes.

7 MR. BONEBRAKE: And the CEMS data that
8 you're referring to, is it wattmeter data?

9 MR. DAVIS: Yes.

10 MR. BONEBRAKE: So the rule -- proposed
11 rule, as you know, refers to wattmeters?

12 MR. DAVIS: Yes.

13 MR. BONEBRAKE: So is it your testimony,
14 Mr. Davis, that utilities in Illinois are already
15 submitting gross output data based upon the same type of
16 wattmeters that the rule would require?

17 MR. DAVIS: Yes.

18 MR. BONEBRAKE: And have you -- what's the
19 basis for the testimony concerning whether or not
20 wattmeters are present currently at Illinois generators?

21 MR. DAVIS: Every CAIR-affected source is
22 currently reporting this data.

23 MR. BONEBRAKE: When you say -- What -- So
24 is that in your view a Part 75 requirement to have a

1 wattmeter?

2 MR. DAVIS: I'm not certain. I believe that
3 the CEMS that are required are recording data.

4 MR. BONEBRAKE: I guess my question's a
5 little bit different. The rule refers to the use of a
6 wattmeter. Is it the Agency's position that whatever
7 gross output data the companies are currently submitting
8 to CAMD would suffice as gross output data for purposes
9 of this rule?

10 MR. DAVIS: Yes, I believe so.

11 MS. BASSI: Mr. Davis?

12 MR. DAVIS: Yes.

13 MS. BASSI: I believe you said that -- just
14 a minute ago that the gross output data could also be --
15 and I may not get this quote exactly right -- but could
16 be other data that the Agency would find acceptable; is
17 that correct? Did you say that?

18 MR. DAVIS: Sure. All of the plants are
19 currently reporting data to CAMD. If -- I suppose if
20 someone else had a different acceptable meter that
21 wasn't -- that they were not reporting that data to CAMD,
22 they could use that, but it would have to be approved
23 then.

24 MS. BASSI: And how -- what is the process

1 for getting this approval?

2 MR. DAVIS: I'm not really sure about that.

3 MS. BASSI: What does a source have to do to
4 determine whether or not the data they are submitting to
5 you would be acceptable?

6 MR. DAVIS: That's really not my area of
7 expertise.

8 MS. BASSI: Whose is it?

9 MS. DOCTORS: Mr. Bloomberg, would you like
10 to answer that question?

11 MR. ROSS: That would have to be something
12 we'll get back to you on. We'll discuss that during a
13 break or at lunch and provide an answer.

14 MR. DAVIS: I would say that the output data
15 that is currently reported to CAMD would be obviously
16 what would be reported to us also.

17 MR. ROSS: And I know we discussed this in
18 some of our internal meetings. I just need to kind of --
19 and I think others would need to refresh their memory on
20 exactly what we decided there, but I do know the rule
21 requires output-based monitors, I believe, to be
22 installed and there are some criteria for those monitors,
23 and I believe USEPA has some established criteria for
24 what is considered an acceptable monitor to measure

1 output.

2 MS. BASSI: Well, excuse me. My turn?

3 Thank you. If the rule -- And I agree with you the rule

4 someplace in here requires the installation of

5 wattmeters.

6 MR. BONEBRAKE: 225.450.

7 MS. BASSI: Thank you.

8 MR. BONEBRAKE: (a).

9 MS. BASSI: (a). And if the rule requires

10 the installation of wattmeters, does that imply that

11 wattmeters may not be present?

12 MR. DAVIS: It may imply that, but I believe

13 that wattmeters are present in generating units.

14 MR. BONEBRAKE: And I have a couple of

15 follow-ups here. Do you know if gross generation can be

16 measured by transducers?

17 MR. DAVIS: Transducers?

18 MR. BONEBRAKE: Yes.

19 MR. DAVIS: I'm not certain of that.

20 MR. BONEBRAKE: Do you know if gross output

21 can be determined by basis of gas flow?

22 MR. DAVIS: Gas flow?

23 MR. BONEBRAKE: In the boiler?

24 MR. DAVIS: I'm not certain of that.

1 MR. BONEBRAKE: Do you know if either of
2 those methodologies are approved by USEPA for determining
3 gross output?

4 MR. DAVIS: No, I'm not.

5 MR. BONEBRAKE: Can you describe for us or
6 can anybody from the Agency describe for us what
7 methodologies are approved by USEPA for purposes of
8 determining gross output?

9 MR. DAVIS: As stated before, I think the
10 output measures that are reported to CAMD are what we
11 expect to be reported.

12 MR. BONEBRAKE: I understand that, and what
13 I'm trying to get at is what are those methodologies that
14 are acceptable to USEPA? What I'm hearing from the
15 Agency is that if they're acceptable to USEPA, they're
16 acceptable to the Agency. Is that correct?

17 MR. DAVIS: Yes, I think that's correct.

18 MR. BONEBRAKE: And if the methodology is
19 acceptable to USEPA for purposes of determining gross
20 output and therefore acceptable to the Agency, does that
21 mean that even if a source does not have a wattmeter
22 currently, notwithstanding 225.450(a), the source doesn't
23 have to install a wattmeter?

24 MR. DAVIS: I guess I'm a little confused

1 about what you're getting at here. Are you
2 differentiating between a wattmeter and other means of
3 measuring kilowatt hours?

4 MR. BONEBRAKE: I'm suggesting that
5 wattmeter is one of multiple means of measuring gross
6 output.

7 MR. ROSS: And that very well may be true.
8 Obviously we looked at wattmeters and determined them to
9 be the most acceptable to us, the most preferable, most
10 straightforward way to measure gross output, I think, and
11 perhaps we are open to amend the rule to allow other
12 acceptable means. I mean, what you're raising, it seems
13 like valid points; if they are acceptable to USEPA,
14 perhaps we should amend the rule to include other means
15 to measure gross electrical output. That seems
16 reasonable to me, so this may be one issue we need to
17 explore more, but certainly we had some internal
18 discussions on this. We probably all need to gather and
19 refresh our memory, but I would -- my initial take is
20 that anything that would be acceptable to USEPA to
21 measure gross electrical output and still satisfy the
22 needs of our rule would perhaps be acceptable, I guess,
23 and just exactly how such a determination would be made
24 by us, that was also something that we discussed in some

1 level of detail, and we'll have to go back and refresh
2 our memories on that. I mean, that's one of the perhaps
3 disadvantages from not having prefiled questions. Good
4 questions, though, and you're raising good points.

5 MR. BONEBRAKE: Let me ask a related
6 question. Does anybody on the IEPA panel know how much a
7 wattmeter costs?

8 MR. DAVIS: We had looked at that, and there
9 are various ways of measuring kilowatt hours, so there's
10 obviously varied prices for those.

11 HEARING OFFICER KNITTLE: Mr. Davis, can we
12 elevate the voice?

13 MR. DAVIS: There are various prices because
14 there's various measures -- or various ways to measure.

15 MR. BONEBRAKE: The wattmeter that -- or
16 wattmeters that the Agency had in mind when it proposed
17 the rule, what's the cost of that wattmeter or those
18 wattmeters?

19 MR. DAVIS: I don't believe that that's a
20 specific type of wattmeter, so I don't think that there's
21 a specific cost to that.

22 MR. BONEBRAKE: Do you know, for instance,
23 if the wattmeters cost at least \$30,000?

24 MR. DAVIS: No, I do not know.

1 MR. BONEBRAKE: Was the cost of the
2 wattmeters considered by the Agency in proposing the
3 rule?

4 MR. DAVIS: It was considered. I -- It was
5 looked at.

6 MR. ROSS: We discussed the cost of
7 wattmeters, again, in the internal meetings, and we also
8 believe that all the power plants, anyone producing
9 electricity, has an incentive to measure gross electrical
10 output, so it is being measured, and again, the most
11 straightforward way we felt to determine -- or to measure
12 that amount and provide it to us was with a wattmeter,
13 and I think they were generally determined to be
14 relatively affordable. The cost data, the specific cost
15 of such meters, we'll have to go back and dig up some
16 information.

17 MR. DAVIS: As I said, currently all
18 CAIR-affected sources are reporting this data.

19 MR. BONEBRAKE: Right, and I understand the
20 testimony concerning what data -- the fact that gross
21 output data is being reported, but that's -- I think we
22 all agree there's various ways to measure the gross
23 output, and the rule seems to specify a particular
24 methodology, notwithstanding the input that I'm getting

1 from the Agency personnel that the Agency seems to be
2 amenable to other gross output data. Let me ask a
3 related question. Does anybody on the panel know whether
4 the installation of a wattmeter requires an outage?

5 MR. DAVIS: I do not know that.

6 MR. BONEBRAKE: Does anybody on the panel?

7 MS. DOCTORS: I would say --

8 MR. DAVIS: No.

9 MR. BONEBRAKE: Does anyone know how long it
10 takes to install a wattmeter?

11 MR. DAVIS: No. I can say that with respect
12 to cost and outages and how long the labor is taking, we
13 really didn't consider these as an extra cost or an
14 outage because the data is already being collected, data
15 that we would readily accept.

16 MR. BONEBRAKE: So if in fact at least some
17 of the electric generators in the state do not currently
18 have wattmeters and if an outage is required to install
19 them, then both the cost and the timing associated with
20 the installation was really not something that the Agency
21 was considering when it was proposing the rule.

22 MR. DAVIS: No, and if there are these
23 units, I haven't seen them.

24 MR. BONEBRAKE: 225.450(a) also refers to an

1 installation date of January 1, 2007, for wattmeters.
2 Would you agree that if an EGU needs to go out and fire
3 and install a wattmeter -- well, let's backtrack just a
4 moment. This proposed rule is not yet final, correct?

5 HEARING OFFICER KNITTLE: Yeah, Miss Doctors
6 and Mr. Davis, you can't nod. You have to say yes or no.
7 The court reporter can't pick it up.

8 MS. DOCTORS: Okay.

9 MR. ROSS: The rule is not yet final, and I
10 think I know where you're going, and that's one of the
11 proposed revisions that we will hopefully discuss after
12 lunch.

13 MR. BONEBRAKE: Okay. So this again would
14 be the --

15 MR. ROSS: We realize that that date is
16 inappropriate given that the rule has no chance of being
17 final by January 1, 2007.

18 MR. BONEBRAKE: And that date then would be
19 the subject of a -- I think Miss Doctors referred to it
20 as a motion?

21 MS. DOCTORS: Yes.

22 MR. BONEBRAKE: And it was to be filed this
23 afternoon?

24 MS. DOCTORS: I hope.

1 MR. KIM: It's getting closer and closer to
2 being ready.

3 MR. ROSS: I think a lot of the issues
4 you're bringing up regarding cost and shutdowns -- and
5 Mr. Davis has testified that data is already being
6 reported, so perhaps with a tweaking of the rule,
7 allowing other mechanisms or means to be accepted by us
8 regarding the measuring of gross electrical output, that
9 all those issues may perhaps become moot.

10 MS. BASSI: I had another question on the
11 process that -- on finding data acceptable, and I hope
12 you understand that what we're looking at are the words
13 that are in the proposed rule, and working from those
14 words in the proposed rule, we do need to ask these
15 questions. If -- Mr. Davis said that the Agency would
16 accept data that the Agency -- other data that the Agency
17 finds acceptable, and, Mr. Ross, I believe you have
18 confirmed that. How long will that process take?

19 MR. ROSS: Well, that's something, as I
20 previously stated, we need to go back and review.

21 MS. BASSI: Okay.

22 MR. ROSS: Obviously there was silence here
23 when you had asked a similar question, so we need to go
24 back and review our notes and discussions on that, but I

1 would hope it would be fairly quick and I can --

2 MS. BASSI: Well, and perhaps some of these
3 questions will help guide your review.

4 MR. ROSS: Yeah. That needs to be a quick
5 process.

6 MS. BASSI: Okay. And what happens if the
7 Agency does not find the data submitted acceptable but
8 that's all the data there is?

9 MR. BLOOMBERG: Can I ask a question?
10 Where -- You said you were working from the words in the
11 rule. Can you help us out and point me to the --

12 MS. BASSI: Sure. The rule says, "Shall
13 install, calibrate" --

14 MR. BLOOMBERG: What section?

15 MS. BASSI: 225.450(a), "Shall install,
16 calibrate, maintain and operate a wattmeter."

17 MR. BLOOMBERG: Yes.

18 MS. BASSI: Okay. Mr. Davis said we will
19 accept -- we, Agency -- sorry -- the Agency will accept
20 other data that it finds acceptable, and you are
21 apparently reconsidering what that data would be, how
22 long it will take for you to decide whether the data is
23 acceptable, and my question now is, what happens if you
24 don't find it acceptable?

1 MR. BLOOMBERG: Well, I guess the first
2 thing is to go back, and what Mr. Davis said about other
3 data we find acceptable, I think the intent is if we go
4 back and, per your questions, Mr. Bonebrake, change
5 wattmeter to be maybe more specific so that it
6 encompasses -- and this is a possibility I -- that
7 Mr. Ross just talked about -- I think we would lay out
8 ahead of time what the other acceptable things would be,
9 because I do not see -- unless I'm just missing it right
10 now and you can point me to it, I don't see anything in
11 here that allows for an alternative, which seems to be
12 what you're asking, is if there's an alternative, how
13 long would we take to review it. Right now, the rule as
14 it stands does not offer an alternative. If we change
15 it, we would specify that at that time. I think that
16 answers your question.

17 MS. BASSI: Only sort of.

18 MR. BLOOMBERG: Only sort of.

19 MS. BASSI: Yes. What happens if that data
20 that you decide is the alternative is not available?

21 MR. BLOOMBERG: Well, I think that's why we
22 have -- the first control period allows to use either
23 heat input or output. The heat input -- And it even
24 says, if the data is available, submit the output;

1 otherwise, give us heat input.

2 MR. ROSS: And I think the bottom line is
3 that if we specify one means that is acceptable, a
4 wattmeter, we'll perhaps add alternatives that are
5 acceptable, and we'll specify those. If you do something
6 other than what is acceptable or is an alternative, it
7 would be in violation of the rule. That's why perhaps we
8 should work with you in this amendment regarding what you
9 believe should be acceptable, and we're willing to do
10 that.

11 MS. BASSI: Thank you.

12 MR. BONEBRAKE: And just so -- just a
13 related question. Miss Bassi's last question was related
14 to 225.450(a), which as I read it, it's intended to be
15 prospective inasmuch as it has a date of January 1 of
16 2007 for installation of the wattmeters. On 225.450(c),
17 though, does not that refer to gross output data for
18 purposes of the initial allocation? And that data really
19 would be historical data, so that raises, I think, a
20 different question, does it not? Because if the sources
21 do not currently have wattmeters, would it be the
22 Agency's view that there must necessarily be some other
23 gross output data that would be appropriate?

24 MR. BLOOMBERG: No. I think that that's why

1 we say if gross electric output is not available, heat
2 input should be used for those control periods.

3 HEARING OFFICER KNITTLE: Miss Bassi.

4 MS. BASSI: Mr. Bloomberg said -- I'm sorry.
5 Miss Sims said that the "shall" in 425.450(c) actually is
6 to be interpreted as a choice, is actually to be
7 interpreted as optional, whether you use gross output
8 data or use output data or heat input data. Under
9 450(c), 225.450(c), if the source chooses to use output
10 data, which apparently they have that option, apparently
11 we're hearing there is a process by which the -- that the
12 Agency will devise by which it will determine whether or
13 not that data is acceptable, and is what you are saying
14 now is if that data is not acceptable, the source does
15 not have a choice; it must use heat input data?

16 MR. BLOOMBERG: I think if acceptable data
17 is not available, they will need to use heat input data.

18 MS. BASSI: So then is it really a choice?

19 MR. BLOOMBERG: Well --

20 MS. DOCTORS: Objection. That's a little
21 argumentative. He's answered the question.

22 HEARING OFFICER KNITTLE: I'm going to
23 overrule. I think you can answer that to the best of
24 your ability.

1 MR. BLOOMBERG: I think it's a choice in
2 that some sources -- I'm going to ask you to restate the
3 question, please.

4 MS. BASSI: If the output data that the
5 source provides you is not acceptable to the Agency, it
6 appears to me that what this is saying is that then they
7 must use heat input data, and the question is, then, is
8 this still a choice? Where's the choice?

9 MR. BLOOMBERG: Well, there's a choice if
10 available. As it states, it's if available, so if it's
11 not available, if the proper data is not available, then,
12 no, there is no choice, but that's, you know --

13 MR. BONEBRAKE: And just a related follow-up
14 question on (c), and then perhaps we can maybe move on.
15 Is it the Agency's view, then, that for purposes of the
16 initial allocation -- that is, the allocation covered by
17 subpart (c) -- that whatever gross output data is
18 submitted to CAMD would be appropriate and suitable?

19 MR. DAVIS: I believe so, yes.

20 HEARING OFFICER KNITTLE: I have a question.
21 Miss Sims, you testified that there'd be a choice. Is
22 your testimony consistent with what Mr. Bloomberg just
23 explained as his rationale for what would actually be a
24 choice?

1 MS. SIMS: What I meant by the choice is
2 because most companies are already reporting gross output
3 data to the Department of Energy, and I didn't know for
4 sure, I guess, if that was a wattmeter or not, how
5 they're reporting it. I wasn't aware of other technology
6 out there for them to do gross output, and hence is
7 probably why I put choice in my testimony.

8 HEARING OFFICER KNITTLE: Okay. Thanks.

9 MR. BONEBRAKE: And then I have to follow up
10 on that.

11 MS. SIMS: That's fine.

12 MR. BONEBRAKE: Does the fact that other
13 methods may have been used by utilities to determine
14 gross output and report it to CAMD at all change your
15 testimony regarding choice?

16 MS. SIMS: Restate that.

17 MR. BONEBRAKE: Well, we talked before about
18 your testimony regarding the option for the utilities,
19 and then you just referred to your answer to the fact
20 that you had been assuming that wattmeters were used. If
21 wattmeters in fact are not being used but utilities are
22 nonetheless reporting gross output data to CAMD, does
23 that at all change your testimony regarding the option of
24 the sources to use either gross output or heat input

1 data?

2 MS. SIMS: Some plants probably do not have
3 the wattmeters for all their pieces of equipment, so I'm
4 assuming that if they have heat input data for some and
5 output, then maybe there would be a choice if they're
6 going to use all output or all heat input for those
7 pieces of equipment at that location. Does that make
8 more sense?

9 MR. BONEBRAKE: Miss Sims, your testimony
10 also refers to a conversion factor, I believe, for heat
11 input; is that correct?

12 MS. SIMS: Yes.

13 MR. BONEBRAKE: And can you describe for us
14 what that conversion factor is?

15 MS. SIMS: The conversion factor is in the
16 rule. On 225.435, the methodology for calculating annual
17 allocations, we have where you convert the gross output
18 based on the fuel usage, the 1.0, the 0.6 and the 0.4.

19 MR. BONEBRAKE: I'm sorry. Where
20 specifically are you referring to?

21 MS. SIMS: This is in Section 225.435 for
22 the annual allocations.

23 MR. RIESER: 435?

24 MS. SIMS: Yeah, 435.

1 MS. DOCTORS: Subsection (a)(1).

2 MS. SIMS: Yeah, (a)(1).

3 MR. BONEBRAKE: Okay. And you were
4 referring, then, specifically to what portion of subpart
5 (a)(1)?

6 MS. SIMS: A, B and C, the equations where
7 you convert the gross output to converted gross output.

8 MR. BONEBRAKE: And does your testimony also
9 refer to a conversion factor related to efficiency of
10 generation?

11 MS. SIMS: Yes.

12 MR. BONEBRAKE: And is that -- can you
13 describe that conversion factor for us?

14 MS. SIMS: That is on -- That is in Section
15 (a)(2).

16 MR. BONEBRAKE: And I think your testimony
17 refers to the conversion assuming a 33 percent
18 efficiency? And this is on page 3 of your testimony.

19 MS. SIMS: Yes.

20 MR. BONEBRAKE: Can you describe for us what
21 you mean by assuming 33 percent efficiency?

22 MS. SIMS: That was based on documentation
23 from USEPA, and I think Rory Davis can answer this
24 question.

1 MR. BONEBRAKE: Spotlight keeps coming back
2 to you.

3 MR. DAVIS: What was the question?

4 MR. BONEBRAKE: Can you describe for us what
5 is meant by assuming 33 percent efficiency?

6 MR. DAVIS: Yeah. That was taken from the
7 output-based regulations guidance. It's reference number
8 16 in the TSD.

9 MR. BONEBRAKE: And would the conversion
10 factor then be applied to the heat input submission by a
11 utility -- by a company electing to submit heat input
12 data for purposes of the initial allocation?

13 MS. SIMS: Yes.

14 MR. BONEBRAKE: Now, the next paragraph on
15 page 3 of your written testimony starting with "In
16 addition" --

17 MS. SIMS: Uh-huh.

18 MR. BONEBRAKE: -- and that sentence refers
19 to a faster roll-in of data, and it's a phrase that I
20 didn't understand. Could you explain that, please, for
21 us?

22 MS. SIMS: Since we're doing -- after the
23 base allocation of '09, '10 and '11, we'll be redoing
24 allocations every year, and then we're doing a look-back

1 of two years, of average of two years, so from 2012
2 forward, we'll be looking at the most current data for
3 existing sources, and that's why it's a faster roll-in,
4 because we're only using two years versus what the CAIR
5 model rule had.

6 MR. BONEBRAKE: And what did the CAIR model
7 rule have?

8 MS. SIMS: The CAIR model rule had where it
9 was a baseline of the three highest years of five years
10 from 2000 to 2004, and then that stayed consistent until
11 phase II.

12 MR. BONEBRAKE: And so the CAIR model rule
13 had a single baseline allocation with no updating except
14 for the phase II?

15 MS. SIMS: I think that's what I remember.

16 MR. BONEBRAKE: And, now, the Agency's
17 initial allocation also uses the three highest gross
18 electrical outputs from a period of five years; is that
19 correct?

20 MS. SIMS: Yes.

21 MR. BONEBRAKE: But after that initial
22 allocation period, then IEPA restricts the baseline from
23 five down to two years; is that correct?

24 MS. SIMS: That's correct.

1 MR. BONEBRAKE: And what was the rationale
2 of going from five to two for purposes of the subsequent
3 allocations?

4 MS. SIMS: Original drafts, we were just
5 going to look at two years, but after the stakeholder
6 meetings and from comments that we received from
7 companies, that's why we changed the period from '09, '10
8 and '11 to the three highest of five years. It was based
9 on comments received from utilities.

10 MR. BONEBRAKE: And what's the rationale,
11 then, for using just the short two-year period for
12 subsequent allocations as opposed to a longer period like
13 five years that's being used for the initial allocation?

14 MS. SIMS: It gets the newer sources in
15 quicker into a larger pool of allocations and it also
16 keeps -- gives less allocations to the less efficient
17 plants and it's more of an accurate data for -- because
18 we're using current data instead of historical data, if
19 I'm making sense.

20 MR. BONEBRAKE: Would you agree that if an
21 EGU has a significant outage during the course of the
22 year, if a two-year baseline as opposed to a five-year
23 baseline is used, then that significant outage is going
24 to have a much greater impact on the allocations of that

1 EGU?

2 MS. SIMS: It may have an impact in the
3 beginning, but it'll roll out faster, because once the --
4 because each year the one year drops off, so we're
5 looking at '07 and '08 data when we're doing allocations
6 for '12 and '09. If you had a bad year in '07, you only
7 really have that for the one year or possible two years,
8 depending on which year that you have a lot of outages
9 on.

10 MR. BONEBRAKE: But at least for the one
11 year, you're going to have a reduced number of
12 allowances -- more heavily reduced number of allowances
13 if you're using a shorter baseline as opposed to a longer
14 baseline in the significant outage scenario that is
15 described.

16 MS. SIMS: That could be true, yes.

17 MR. BLOOMBERG: But I would also point out
18 that the company is not using the allowances that they
19 receive in that year where they have an outage, and given
20 that you can bank allowances, you just hold on to those
21 allowances until the year that you need them, so it's
22 self-correcting.

23 MR. ROSS: Obviously, if the unit is shut
24 down, it's not emitting.

1 MR. BONEBRAKE: We may have some more
2 follow-up in that regard that we can touch base on later.
3 And just so the record is clear too, we moved on from the
4 wattmeter issue, but sounded like at least some of the
5 changes that were going to be proposed related to that
6 area, so it may be that we need to come back and ask more
7 questions on that.

8 HEARING OFFICER KNITTLE: Understood.

9 MS. BASSI: Miss Sims, would you please --
10 you say in page 2 of your testimony that the model CAIR
11 provides that a unit would indefinitely receive the same
12 number of allowances even if the level of power has been
13 reduced or ceases. Do you see that in your testimony
14 somewhere?

15 MS. SIMS: Which paragraph is it?

16 MS. BASSI: Well, just one second. It's in
17 the last paragraph on that page. It's -- begins on the
18 fourth line from the bottom.

19 MS. SIMS: Yes, I see that.

20 MS. BASSI: Could you explain for the Board,
21 please, what USEPA's rationale was for adopting the
22 permanent baseline?

23 MS. SIMS: I wouldn't know what USEPA's
24 rationale was.

1 MS. BASSI: Was the rationale not set forth
2 in the preamble?

3 MS. SIMS: I don't remember.

4 MS. BASSI: Okay. Under the federal
5 system -- well, would the rationale possibly be that in
6 the permanent baseline -- in the permanent baseline,
7 would new units roll into the permanent baseline
8 eventually?

9 MS. SIMS: After I think it was, like,
10 eleven years or something based on the model rule,
11 because they have to have five years --

12 MS. BASSI: And would that 11 years --
13 pardon me.

14 MS. SIMS: That's because the newer sources
15 have established five years of data before they can even
16 get into that -- into allocations that were set six years
17 ahead, so it was, like, eleven years before they actually
18 got into the larger pool.

19 MS. BASSI: Was that true just for the
20 initial allocations?

21 MS. SIMS: I'm not sure if it's for the
22 phase II or not.

23 MS. BASSI: Okay. If new sources
24 eventually -- perhaps a decade out -- but eventually are

1 rolled into the permanent baseline, does then the
2 permanent baseline or the number of allocations that
3 are -- or allowances that are allocated to a source
4 remain static?

5 MS. SIMS: No.

6 MS. BASSI: So in a way, is that permanent
7 baseline updating?

8 MS. SIMS: Yes, it's updated.

9 MS. BASSI: What incentive does the Agency
10 see for EGUs with the two-year look-back methodology that
11 Illinois proposes to adopt?

12 MS. SIMS: Repeat the question.

13 MS. BASSI: What incentive is there for
14 new -- for EGUs under the two-year look-back methodology?

15 MS. SIMS: The incentive is for them to
16 encourage energy efficiency within their own plant,
17 because if we're assuming the 33 percent efficiency for
18 plants, like I say, if they're giving us their heat input
19 and we're converting it to 33 percent, if they become
20 more efficient within their own plant, their output will
21 stay the same but their emissions will go down, so then
22 they'll be able to bank allowances.

23 MS. BASSI: Are you aware that
24 representatives of SIPC voiced serious concerns over the

1 use of gross electrical output because of the amount of
2 electricity that's lost in the operation of a fluidized
3 bed?

4 MS. SIMS: That question would be better
5 answered by Mr. Davis.

6 MR. DAVIS: They were concerned, and they
7 voiced their concerns at outreach and we discussed it
8 with them, and it turns out that any lower output they
9 may have is more than offset by their very low emissions
10 from the circulating -- or from the fluidized bed.

11 MS. BASSI: Could you explain that, how that
12 would work, please?

13 MR. DAVIS: Sure. If your average plant is
14 emitting so much NOx and your fluidized bed is emitting
15 much lower amounts, say half, the percentage difference
16 in their efficiency is more than made up by their low
17 emissions. They don't need as many emissions per
18 megawatt hour as your average coal plant.

19 MR. ROSS: In other words, you know, they're
20 allocated less emissions as a result of an output-based
21 standard, but they're emitting less, so they need less
22 allocations to cover the lower amount they're emitting
23 when they true up during the reconciliation period.

24 MS. BASSI: Has the Agency created any kind

1 of an initial allocation chart or can you tell us what
2 the initial allocations would be?

3 MR. ROSS: Well, we -- you requested that
4 during the stakeholder meetings --

5 MS. BASSI: Yes, I did.

6 MR. ROSS: -- and we shared that with you
7 and everyone at the stakeholder meetings.

8 MS. BASSI: Is that what you plan to use,
9 what you --

10 MR. ROSS: Well, that was just one -- well,
11 I think it was several examples, scenarios. We'll have
12 to wait till we get actual data before we start
13 allocating.

14 MS. BASSI: But I thought you said you had
15 the actual data from CAMD. Is that not correct?

16 MR. BLOOMBERG: I think we said that they
17 submit the data to CAMD.

18 MS. BASSI: Does the Agency have the data
19 from CAMD?

20 MS. SIMS: We have heat input data from
21 CAMD. They're -- If you've ever been on the Clean Air
22 Markets Web site, they update that constantly. Power
23 plants can go back six years and change their data from
24 their CEMS unit, so each time period it could be

1 different.

2 MR. BLOOMBERG: So in other words, we won't
3 make that determination until we actually -- it's time to
4 do allocations.

5 MS. BASSI: So at this point in time, a
6 source like SIPC cannot verify whether they would agree
7 with you that they are going to receive the same number
8 of -- or at least a number of allocations that equal
9 their emissions; is that correct?

10 MR. DAVIS: They could not verify with all
11 certainty, but with the -- given their low emissions, I
12 would say that they should have some certainty that they
13 will be receiving enough allowances.

14 MR. ROSS: And of course I would state in
15 the case of SIPC, they are eligible for allowances from
16 CASA for clean technology.

17 MR. BONEBRAKE: Mr. Davis, I had a follow-up
18 question for you, and I'm not sure that I understood it
19 correctly. Were you suggesting that the -- on a pounds
20 of NOx emissions per megawatt hour basis that fluidized
21 bed boilers are comparable to pulverized and cyclone
22 units?

23 MR. DAVIS: No, I would say that they have
24 lower emissions. They have fewer pounds per megawatt

1 hour, and that's why they still would do okay under an
2 output-based system.

3 MS. BASSI: When you say that they still
4 would do okay under an output-based system, is that
5 somehow based on this 33 percent conversion factor?

6 MR. DAVIS: Yeah. It's possible they might
7 do -- they might receive more allowances under a heat
8 input system. It's probable.

9 MS. BASSI: You think it's likely?

10 MR. DAVIS: It's probable.

11 MS. BASSI: It's probable?

12 MR. DAVIS: However, they will be -- under
13 that system, they would still have their same low
14 emissions.

15 MS. BASSI: Is it probable that the 33
16 percent conversion factor would still not make them
17 whole? In other words, with -- under the 33 percent
18 conversion factor, they are still -- I'm not saying this
19 well. Do you know what I mean?

20 MR. BONEBRAKE: Let me try.

21 MS. BASSI: Thank you.

22 MR. BONEBRAKE: Has the Agency assessed
23 whether the EGUs that would be regulated under the
24 proposed rule are above or below the 33 percent assumed

1 efficiency, and if so, which are above and which are
2 below?

3 MR. DAVIS: Yes, we have made those
4 assessments. We did those for outreach, and we did give
5 approximate efficiencies and which ones we thought would
6 be benefitted by heat input or by gross output.

7 MR. BONEBRAKE: And it was SIPC that
8 identified as a -- a fluidized bed boiler as a boiler
9 that would be receiving more allowances under the heat
10 input approach?

11 MR. DAVIS: I would have to check those
12 numbers.

13 MR. BONEBRAKE: Wouldn't you expect that a
14 fluidized bed boiler's efficiency would be lower -- that
15 is, less efficient -- than the assumed efficiency
16 conversion factor?

17 MR. DAVIS: Sure, and as Mr. Ross stated,
18 they would probably also receive allowances from the
19 CASA.

20 MR. ROSS: And I think we testified --
21 discussed this somewhat yesterday, that fluidized bed
22 boilers have a similar or comparable efficiency to
23 pulverized coal boilers. In general, it may be less, as
24 obviously you're making that case that SIPC's efficiency

1 is less, but there are mechanisms to improve efficiency.
2 In the specific case of SIPCO, it's very important -- and
3 I think we're mentioning it several times -- that SIPCO
4 is eligible for additional allowances from CASA as a
5 clean coal technology source. This in fact would most
6 likely compensate or overcompensate for any shortage from
7 us indicating -- applying an output-based standard as
8 opposed to a heat input based standard.

9 MR. BONEBRAKE: I guess it is correct,
10 though, although you say most likely you in fact don't
11 know because the calculations have not been made; is that
12 right?

13 MR. ROSS: Well, I think we did do some
14 estimates.

15 MR. DAVIS: Yeah. We -- Like I said, we did
16 speak with representatives from SIPCO and had discussions
17 with them about output and input, and after doing some
18 calculations, you know, demonstrating that their low
19 emissions more than make up for any small deficiency in
20 efficiency.

21 MR. BONEBRAKE: You just referred to some
22 calculations, and earlier I think you referred to a
23 document maybe Mr. Ross was presented at the outreach
24 meeting that had some information about allocations.

1 Were the calculations that you were just talking about
2 reflected in the allocation document that Mr. Ross was
3 referencing that was provided at the outreach meeting?

4 MR. DAVIS: No, I don't believe so. I think
5 when we spoke with --

6 HEARING OFFICER KNITTLE: Let me interrupt
7 here for a second. Miss Doctors -- Are you two down at
8 the end going to be testifying more than Miss Sims?
9 Because the court reporter is having trouble hearing
10 them. We can move them.

11 MS. DOCTORS: Do you --

12 MR. ROSS: Well, we seem to have shifted to
13 output-based --

14 MS. DOCTORS: Output, yeah. Can I ask a
15 question here?

16 HEARING OFFICER KNITTLE: Well, let's --

17 MS. DOCTORS: How many more questions do you
18 have on Jackie's -- Miss Sims' testimony?

19 MR. BONEBRAKE: I have a few. I mean, part
20 of the issue here is we're just -- we're kind of
21 rolling -- these are seamless topics.

22 HEARING OFFICER KNITTLE: I -- No, I
23 understand, and I don't have any problem with how we're
24 approaching it except for the fact that the court

1 reporter's having trouble hearing what they're saying,
2 and I want to make sure that we get everything down. So
3 you two either have to speak up or you have to move, and
4 that's up to you, Miss Doctors.

5 MS. DOCTORS: I'd like to just switch Jackie
6 and David, move to the --

7 HEARING OFFICER KNITTLE: We don't have any
8 problem hearing Mr. Bloomberg.

9 MS. DOCTORS: Right, so I'm going to move
10 him to the end of the table. I'm going to move them
11 together to the end and I'm going to have Jim and Rory --
12 why don't you guys kind of move. Rory, why don't you sit
13 closest to the court reporter. See if that will help.

14 HEARING OFFICER KNITTLE: And I'm sorry to
15 interrupt the proceedings, but we've got to get --

16 MR. BONEBRAKE: That's quite all right.
17 Make sure we get the record correct.

18 HEARING OFFICER KNITTLE: And try to finish
19 your sentences as strongly as you start them.

20 MR. DAVIS: Sure.

21 MR. BONEBRAKE: I think there was a question
22 pending, but I think I also may have confused you, so
23 maybe I'll rephrase it and we'll start again on my
24 question. Mr. Ross had referred to a document or

1 documents that were presented at an outreach meeting that
2 contained some draft allocations. Is that correct, Mr.
3 Ross?

4 MR. ROSS: That's correct, and they are
5 available on our Web site.

6 MR. BONEBRAKE: And you, Mr. Davis, just
7 referred separately to some calculations of allocations,
8 sounded like specifically for SIPCO. Is that also
9 correct?

10 MR. DAVIS: Yes.

11 MR. BONEBRAKE: And the calculations that
12 you just referenced, were those calculations contained in
13 the document that Mr. Ross was referring to?

14 MR. DAVIS: No. I think those were sort of
15 an example of calculations done addressing the concerns
16 of someone that might think that fluidized bed boilers
17 would not do well under an output-based system, and I
18 think I could explain briefly that if there's some
19 difference in the efficiency between your average coal
20 boiler and a fluidized bed boiler, be that, you know,
21 between 3 to 5 percent -- I'm not sure -- I'm not certain
22 what the numbers are -- if that were between 3 to 5
23 percent, the average emissions of those boilers are much
24 lower than 3 to 5 percent lower than your average coal

1 boiler, so I think that the representatives from SIPCO
2 were satisfied with that as an explanation why they would
3 not be significantly damaged by an output-based system.
4 And also, in addition, as Mr. Ross and I had said
5 previously, they are eligible for allowances from the
6 CASA, so I believe they will be more than made whole, and
7 I'm -- I appreciate your concern for their company, but I
8 think we did explain that to them in detail, that -- you
9 know, that they would do as well or better with this rule
10 than under a standard heat input based system.

11 MR. BONEBRAKE: And just a couple follow-up
12 questions, then. If I understood that correctly, you're
13 acknowledging that the efficiency of fluidized bed
14 boilers is somewhat less than a pulverized or cyclone
15 unit, although you can't quantify that difference; is
16 that --

17 MR. DAVIS: It can be, and from all -- we --
18 I think our position is that it's competitive. It's not
19 greatly less efficient than your average coal boiler.

20 MR. BONEBRAKE: Okay. And I think you also
21 described that the calculations you had made were
22 presented in some fashion to representatives of SIPC; is
23 that also correct?

24 MR. DAVIS: I believe it was more likely

1 over a phone call, you know, they -- or maybe in the --
2 in this room for the stakeholder meetings, and it was --
3 it's -- it was made clear fairly easily that, you know,
4 their emissions were low to the extent that any minor
5 difference in efficiency would not be a major detriment.

6 MR. BONEBRAKE: The federal CAIR model, does
7 it use heat input or gross output?

8 MR. DAVIS: Heat input.

9 MR. BONEBRAKE: Okay. And why did USEPA
10 elect heat input?

11 MR. DAVIS: For a number of reasons. The
12 heat input encourages efficiency, and most of this is in
13 the output-based guidelines reference. Did you ask why
14 we went with heat -- or output-based?

15 MR. BONEBRAKE: I asked actually why
16 USEPA --

17 MR. DAVIS: Why --

18 MR. BONEBRAKE: -- used the heat input.

19 MR. DAVIS: I'm not certain. You'll have to
20 ask them.

21 MS. BASSI: Are you going to present them as
22 a witness?

23 MR. DAVIS: No, no. I'm not certain.

24 MS. BASSI: We'd love to ask them that.

1 MR. BONEBRAKE: Do you know if it had
2 anything to do with the availability of heat input data
3 as opposed to gross output data?

4 MR. DAVIS: It may have.

5 MR. BONEBRAKE: Miss Sims?

6 MS. SIMS: Yes.

7 MR. BONEBRAKE: Perhaps we'll return back to
8 you. I had a question for you relating to page 4 of your
9 testimony. If you'd give me just a minute, I got to find
10 where -- The last sentence in the first full paragraph
11 under "New Units" section, and it says, "After a new unit
12 has operated in one control period, it becomes an
13 existing unit and qualifies for allocations for the
14 control period commencing four years into the future."
15 Do you see that, ma'am?

16 MS. SIMS: Yes.

17 MR. BONEBRAKE: And "control period" is
18 defined by the proposed rule, is it not?

19 MS. SIMS: Yes.

20 MR. BONEBRAKE: And what is the control
21 period for the NOx annual program?

22 MS. SIMS: Repeat that question, please.

23 MR. BONEBRAKE: What is the control period
24 for the NOx annual allowance program?

1 MS. SIMS: Wouldn't that depend on what year
2 it is? I mean, I don't understand your question.

3 MR. BONEBRAKE: Well, your sentence refers
4 to control period, and so my -- well, my -- what is the
5 control period? How is that defined by the rule?

6 MS. SIMS: Well, the control period will be
7 a year for annual allocations and it will be seasonal for
8 the ozone seasonal allocations.

9 MS. BASSI: When does the year begin?

10 MS. SIMS: For which one? Annual or --

11 MS. BASSI: For annual.

12 MS. SIMS: Annual? January 1.

13 MS. BASSI: And when does the year end?

14 MS. SIMS: December 30.

15 MS. BASSI: So is January 1 to December 30
16 the control period?

17 MR. ROSS: Calendar --

18 MS. BASSI: The annual?

19 MS. SIMS: Yes, control period.

20 MS. BASSI: And for the seasonal, what are
21 the dates?

22 MS. SIMS: May 1 to September 30.

23 MS. BASSI: Thank you.

24 MR. BONEBRAKE: And so if a new unit comes

1 on board partway through a year, it could actually
2 operate, then, for a portion of a year then an entire
3 control period, an entire additional calendar year,
4 before it becomes an existing unit under the proposed
5 rule; is that correct?

6 MS. SIMS: Right.

7 MR. BONEBRAKE: And during the first year,
8 then, after the control period, when it is an existing
9 unit, does it receive allowances only from existing unit
10 allocations or does it continue to receive new source
11 allocations?

12 MS. SIMS: I think I can explain that better
13 with an example. Say a plant started up in December 1 of
14 '07, so after January 1 of '08, that unit becomes
15 existing, so '08 -- well, actually, just -- that's a bad
16 year, because we won't really start doing allocations but
17 for '09. So '09, that plant would get new unit set-aside
18 allowances for each year that it's operating until it
19 goes into the existing pool, so from the year it was
20 constructed and started operating, that's why I stated
21 four years into the future, so even if it operated one
22 day in that control period -- well, maybe I shouldn't use
23 the word "control period," but for that year it started
24 operating, it will receive allowances for that time

1 period four years into the future, if that makes sense.

2 Does that answer your question?

3 MS. BASSI: If it operated for only a month
4 in that first -- in its initial control period and that
5 makes it an existing unit, is its allocation four years
6 into the future based on that one month's allocation?

7 MS. SIMS: Yes.

8 MS. BASSI: And so for -- its first existing
9 unit type of allocation is going to be pretty small,
10 isn't it?

11 MS. SIMS: Yes.

12 MR. BONEBRAKE: So does that mean, then, for
13 the initial existing source allocation for a new source
14 you'd use emissions just from the single year control
15 period?

16 MS. SIMS: Because if you do not have two
17 years of information, you only use the -- just the
18 previous year, so if it only operated that one month or
19 however that time frame for that previous year, then
20 that's the information they would send to us to use as
21 their allocations.

22 MR. BONEBRAKE: And what is the Agency using
23 to determine when a source starts operating for purposes
24 of their control period?

1 MS. SIMS: They would -- Under the
2 construction permit, they would have to send notification
3 when they commence operation.

4 MR. BONEBRAKE: Which would be presumably
5 after some period of startup, testing and operation?

6 MS. SIMS: Right.

7 MS. DOCTORS: I'd like to redirect the
8 witness. Are you familiar with the definitions in the
9 rule?

10 MS. SIMS: I -- It's been a while since I've
11 looked at them.

12 MS. DOCTORS: Would you like to refresh your
13 memory of commenced commercial operation? The date --
14 Wouldn't it be the date that they commenced commercial
15 operation?

16 MS. SIMS: Yes. It should be commercial
17 operation.

18 HEARING OFFICER KNITTLE: Mr. Rieser, is
19 that what you were going to try to discuss?

20 MR. RIESER: Yeah. Excuse me. And so the
21 date they begin to commence commercial operation, as it's
22 described in the definition, when they start producing
23 electricity for sale.

24 MS. SIMS: Yes.

1 MR. RIESER: So that's after all the
2 shake-out and everything else.

3 MS. SIMS: Yes.

4 MR. RIESER: Thank you.

5 MS. BASSI: Following up on that, in the
6 year that a new unit commences -- starts emitting, do
7 they not have to have allowances for every bit that they
8 emit?

9 MS. SIMS: Yes.

10 MS. BASSI: And that would include all the
11 shake-out stuff that Mr. Rieser was describing?

12 MS. SIMS: Yes, and I think the construction
13 permits usually discuss that in their conditions, and
14 then also their continuous emissions monitor would also
15 have to be up and running in order for the emissions to
16 be going to the feds, so if -- I'm -- the companies would
17 deal with USEPA on that. You know what I mean? They
18 would be addressing that with USEPA on the emissions
19 part.

20 HEARING OFFICER KNITTLE: Mr. Rieser.

21 MR. RIESER: It does beg the question, which
22 is, where do -- the allowances for the shake-out
23 operations prior to commencing commercial operations,
24 where do those come from? Do those come from new unit

1 set-aside? Where? Because this is something that
2 happens within the IEPA, as I understand, and I don't
3 think under the construction permit program you have any
4 authority to authorize allowances or operations without
5 allowances, although I could be wrong.

6 MS. SIMS: No, you don't allow allowance
7 under the construction permit. You would allow
8 emissions, you know, for that. So you're -- So your
9 question is you're asking me if we're going to give
10 allowances for shake-down and malfunction?

11 MR. RIESER: Is it necessary to have -- Not
12 for malfunction. We talked about an existing -- a new
13 plant. There will be a period, as I understand it, prior
14 to commencing commercial operations where it is emitting.
15 Does it require allowances for that time period before it
16 commences commercial operation, and what would the source
17 of those allowances be?

18 MR. BLOOMBERG: You know what? Let us
19 double-check that, because USEPA is the one who actually
20 collects the allowances, so let us double-check that --

21 MR. RIESER: Okay.

22 MR. BLOOMBERG: -- rather than just giving
23 you an answer off the top of our head.

24 MR. RIESER: Perfect. Thank you.

1 MS. BASSI: I have another question about
2 new sources and what you were describing as your
3 hypothetical before where you have a new source that
4 emits for part of the year, and then in -- its first year
5 of allowances would be based on that partial year; first
6 year of non-NUSA allowances would be based on that
7 partial year. When you get to the second year, what --
8 how are the second year's allowances determined?

9 MS. SIMS: It'll be the average of the two
10 years.

11 MS. BASSI: So the second year could -- will
12 also be short. Is -- The average of the two years would
13 be less than if you added the two years together,
14 correct?

15 MS. SIMS: Right.

16 MS. BASSI: Okay.

17 MR. BONEBRAKE: And under the federal model,
18 when a new source comes on-line, how long does the new
19 source remain a new source before it enters the existing
20 source pool?

21 MS. SIMS: I answered this previously. I
22 stated that the -- under phase I for sure that the
23 company would have to get five years of historical data
24 before it would start receiving allowances, and then it

1 would have to receive the new source set-asides for six
2 years until it got into the existing pool, so there would
3 be eleven years total.

4 MR. BONEBRAKE: So that means that the
5 Illinois proposal as compared to the federal rule
6 introduces a new unit's consumption into the existing
7 unit pool more quickly than the federal rule; is that
8 correct?

9 MS. SIMS: Yes.

10 MR. BONEBRAKE: And it has the effect of
11 further constricting the allowances allocated to existing
12 units as compared to the federal model, does it not?

13 MS. SIMS: Yes.

14 HEARING OFFICER KNITTLE: Miss Doctors, are
15 you trying to --

16 MS. DOCTORS: Yes. I have a follow-up
17 question under NUSA. Under the federal rule, how long
18 does it take for a new unit to get allowances from the
19 NUSA?

20 MS. SIMS: Five years.

21 MS. DOCTORS: Under -- From the NUSA, new
22 units, how long does it take them to get --

23 MS. SIMS: Oh, for our rule?

24 MS. DOCTORS: No, under the federal rule.

1 MS. SIMS: I'm not real clear on phase II,
2 but I thought the way I read it under phase I they had to
3 have five years of historical data before they begin
4 receiving the allowance.

5 MS. DOCTORS: From the NUSA?

6 MS. SIMS: Maybe I'm wrong.

7 MS. DOCTORS: Do you know the answer?

8 MR. DAVIS: I'd have to check.

9 MS. DOCTORS: Okay. We'll check on that.
10 Okay. Go ahead.

11 HEARING OFFICER KNITTLE: Any further
12 questions?

13 MS. BASSI: Yeah, I have a quick one. Miss
14 Sims, you say -- and I'm sorry, I didn't write down the
15 page number, but you say in your testimony that Illinois
16 EPA opted to allocate 75 percent of the allowances
17 without charge to the EGUs. Does the Agency have an
18 option with respect to selling or auctioning the
19 allowances allocated to the EGUs?

20 MS. SIMS: Yes.

21 MS. BASSI: And --

22 MS. SIMS: Under the model CAIR rule, it did
23 allow for us to charge.

24 MS. BASSI: Does the Agency have that option

1 under the Environmental Protection Act?

2 MS. SIMS: I'm not sure.

3 MS. BASSI: Okay. Does the Agency have
4 authority under the Environmental Protection Act to
5 allocate 25 percent of the allowances to --

6 MS. DOCTORS: Objection. She -- Counsel's
7 asking our witness to make a legal interpretation of what
8 the Act says or allows.

9 HEARING OFFICER KNITTLE: Miss Bassi?

10 MS. BASSI: There has to be some -- Someone
11 needs to answer questions about the Agency's authority to
12 make -- to propose this rule, to propose the elements of
13 this rule, and maybe Miss Sims is not the appropriate
14 person to answer the question, but in the documents that
15 the Agency submitted to the Board, there are arguments
16 made as to why they can do what they're doing or
17 proposing to do, and I'm asking questions about that.

18 HEARING OFFICER KNITTLE: I'm going to allow
19 the question, but of course if it's beyond the realm of
20 Miss Sims' knowledge or expertise, then clearly she
21 shouldn't be attempting to answer that.

22 MS. SIMS: That's correct. I'm not --

23 HEARING OFFICER KNITTLE: Is there anyone --

24 MS. SIMS: -- real familiar with that part

1 of the Act.

2 HEARING OFFICER KNITTLE: Is there anyone on
3 the panel who might be able to answer that?

4 MS. DOCTORS: We can address it in comments,
5 in the post-hearing comments.

6 HEARING OFFICER KNITTLE: Would that be
7 sufficient, Miss Bassi?

8 MS. BASSI: Sure. Okay. Thank you. Well,
9 along those same lines, which might again direct a
10 comment if you can't answer, does the Act authorize the
11 Agency to sell certain -- only certain allowances derived
12 from the NOx SIP call?

13 MS. SIMS: I don't know.

14 MS. BASSI: Okay. Does the Act address
15 selling any other allowances than what are specified in
16 the Act? Well, obviously not.

17 MR. BONEBRAKE: Asked and answered.

18 MS. BASSI: Yeah.

19 MR. RIESER: By the same person.

20 MS. BASSI: Let's see. And maybe this is
21 again not directed to you or -- appropriately, but did
22 the Agency do any analysis at all that indicated whether
23 the 25 percent set-aside will actually result in
24 encouraging energy efficiency or the development of

1 renewable energy sources?

2 MS. DOCTORS: I'm going to ask you to hold
3 that question till we start having our witnesses discuss
4 the CASA.

5 MS. BASSI: Okay. That's a CASA question.

6 HEARING OFFICER KNITTLE: Would that be
7 sufficient, Miss Bassi?

8 MS. BASSI: Yep. I just need to mark it so
9 I don't forget. Okay. You say on page 3 of your
10 testimony, Miss Sims, that the Agency elected to follow
11 the model rule and set aside 5 percent for new sources;
12 is that correct?

13 MS. SIMS: Yes, in phase I.

14 MS. BASSI: Okay. It's also on page 3 at
15 the very bottom. Okay. Why did the Agency choose not to
16 follow the model rule with respect to the new source
17 set-aside for 2015 and thereafter, or phase II?

18 MS. SIMS: It was my understanding that the
19 permit section was aware of new construction projects
20 that would get close to the 5 percent in the future also.

21 MS. BASSI: Do you know how far into the
22 future they are aware of projects?

23 MS. SIMS: No, I'm not.

24 MS. BASSI: Okay. Is the new source

1 set-aside under the NOx SIP call oversubscribed?

2 MS. SIMS: No.

3 MS. BASSI: What is the size of that
4 set-aside under the SIP call?

5 MS. SIMS: I cannot give you that -- I don't
6 remember right now.

7 MS. BASSI: Mr. Bloomberg?

8 MR. BLOOMBERG: I don't remember off the top
9 of my head. I'm sorry.

10 MS. BASSI: Would it be 2 percent?

11 MR. BLOOMBERG: Pardon?

12 MS. BASSI: Would it be 2 percent?

13 MS. SIMS: 3 percent.

14 MS. BASSI: Okay. We'll --

15 MS. DOCTORS: I think the witnesses have
16 indicated they don't remember.

17 MR. BLOOMBERG: Yeah.

18 HEARING OFFICER KNITTLE: Yeah. That's --

19 MR. BLOOMBERG: We can go look it up, but --

20 MS. BASSI: Okay. What are the new units
21 that the Agency expected -- expects to be constructed in
22 Illinois?

23 MS. SIMS: Mr. Cooper would be better able
24 to answer that question.

1 MS. BASSI: Okay. I'll mark that down.

2 HEARING OFFICER KNITTLE: Miss Bassi, do you
3 want him to answer that now? He's here.

4 MS. BASSI: I -- Do you want to answer it
5 now?

6 MR. COOPER: Please state the question
7 again.

8 MS. BASSI: Sure. What are the new units
9 that the Agency expects to be constructed in Illinois?

10 MR. COOPER: I wouldn't choose the term
11 "expect." Many projects are proposed and never are
12 finalized. However, currently there are I believe four
13 projects pending permit review.

14 MS. BASSI: Four projects under permit
15 review?

16 MR. COOPER: I believe so.

17 MS. BASSI: And when you say they're under
18 permit review, then that means that projects for which
19 permits are already issued are not included in that
20 group? Let me ask it another way. Is Prairie State in
21 that group?

22 MR. COOPER: No, I don't believe they were.

23 MS. BASSI: Okay. So these are -- is CWLP's
24 new unit included in that group?

1 MR. COOPER: No, I don't believe it was.

2 MS. BASSI: So then we have new unit -- or
3 new construction for those two places plus four more
4 projects that are currently pending for permit review; is
5 that correct?

6 MR. COOPER: I believe. I'm somewhat
7 confused. A lot of the names, Peabody, Indeck, CWLP,
8 Taylorville Energy Center, Steelhead. I don't recall any
9 more. So within that listing, I believe I count four. I
10 know the names are somewhat dual in nature.

11 MS. BASSI: Yeah. Mr. Cooper, are you the
12 one in the Agency or were you involved in the prediction
13 into the future as to how much of the new source
14 set-aside would be required for these new units?

15 MR. COOPER: State it again, please.

16 MS. BASSI: Are you the person or were you
17 involved in the predictions that were handed to the CAIR
18 team as to the amount of allowances that would be
19 required for new units into the future?

20 MR. COOPER: Being on the CAIR team, yes.

21 MS. BASSI: Okay.

22 MR. COOPER: It was a collaborative effort,
23 and again, that number, we would foresee due to the age
24 of our fleet that more new units should be coming in in

1 the future, and we wanted to allow growth for that.
2 Additionally, I believe at least one guidance document
3 specifically suggests for a larger new unit set-aside.

4 MS. BASSI: Do you know what guidance
5 document that is?

6 MR. COOPER: I believe it was one of the
7 STAPPA/ALAPCO documents, I believe.

8 MS. BASSI: If -- You mentioned that the age
9 of the fleet was one of the reasons why you thought the
10 new source set-aside needed to be larger than USEPA's
11 recommended 3 percent into the future into phase II. How
12 does the age of the fleet play into this?

13 MR. COOPER: Well, equipment only has a
14 useful life of X number of years. In looking at the
15 construction dates of some of our utility boilers, some
16 are -- I think are actually from '43 or 6 or so.

17 MS. BASSI: They're about my age.

18 MS. DOCTORS: So is this 1946 or --

19 MR. COOPER: Yes, 1946. And we as an agency
20 would hope that at some point those units would be
21 replaced with new or more efficient units. Another
22 reason for a larger new unit set-aside is that we do not
23 expect the current electrical demand to stay stagnant.
24 It will increase, and that demand will have to be met by

1 something. New units would be one option.

2 MS. BASSI: So -- And you mentioned that
3 you -- that the Agency would expect some of these older
4 units to be replaced by new units; is that correct? Did
5 I hear you correctly?

6 MR. COOPER: I think that is a logical
7 assumption country-wide.

8 MS. BASSI: Okay. That being the case and
9 considering the type of allocation methodology that the
10 Agency proposes, would you expect there to be some units
11 then coming offline and not requiring allowances?

12 MR. COOPER: Please state the question
13 again.

14 MS. BASSI: Considering the two-year
15 look-back updating allocation methodology, would you
16 expect that there would be some of these older units then
17 that would come offline and not require allowances?

18 MR. COOPER: I believe actually the
19 allocation methodology requires that. If a unit is taken
20 off line, unlike the previous NOx SIP call where a unit
21 received -- I believe received allowances indefinitely,
22 that was one of, I believe, the choices of not going with
23 the baseline.

24 MS. BASSI: May I correct you on that?

1 MR. COOPER: You may. I may be mistaken.

2 MS. BASSI: It wasn't indefinitely. It was
3 into the future, but not indefinitely.

4 MR. COOPER: Oh. Well, thank you.

5 MS. BASSI: Okay. Do you know -- Do you
6 have an estimate as to when these new units will be
7 constructed, recognizing all the problems with
8 permitting?

9 MR. COOPER: No. I don't have a crystal
10 ball.

11 MS. BASSI: Okay. Is there a reason -- this
12 is a general policy question, I guess. Is there a reason
13 to maintain a 5 percent new source set-aside after
14 whenever these projects are done?

15 MS. DOCTORS: I'd like to hold that question
16 for Mr. Ross when he returns.

17 MS. BASSI: Okay.

18 MS. DOCTORS: Jim Ross.

19 MS. BASSI: Right. Does the Agency have a
20 projection of how many allowances these new units may
21 require?

22 MS. DOCTORS: If you know.

23 MR. COOPER: Somewhat. Based on permit
24 application data and making some assumptions, one can

1 assumedly run the math and see how the scenario falls
2 out. I believe the document you were provided with
3 yesterday shows that Taylorville I believe is 770
4 megawatts, so using that kind of data, one can determine
5 what kind of bite they would take out of the new unit
6 set-aside. Does that answer your question?

7 MS. BASSI: No. I can't do that math.

8 MR. COOPER: I'm not doing the math for you.
9 I'm telling you that --

10 MS. BASSI: I know. I'd like you to.

11 MR. COOPER: Well, I don't have it in front
12 of me.

13 MS. BASSI: Okay. That's fine. Thank you.
14 That's all I have.

15 MR. BONEBRAKE: Just a related question.
16 Yesterday you may recall we were talking about the ICF
17 analysis?

18 MR. COOPER: Yes.

19 MR. BONEBRAKE: And there were some comments
20 made by folks on the IEPA panel along the lines that the
21 30 percent retirement assumption by ICF, which included
22 the 5 percent NUSA, was conservative. Do you recall
23 that?

24 MR. COOPER: I do, yes.

1 MR. BONEBRAKE: And the ICF report, as we
2 talked about yesterday, essentially projected minimal, if
3 any, emission reductions, and then there was some
4 testimony about the fact that the Agency had expected
5 emission reductions beyond what ICF had projected. Do
6 you recall that as well, Mr. Cooper?

7 MR. COOPER: I believe so, yes.

8 MR. BONEBRAKE: If in fact the 5 percent
9 NUSA is fully subscribed, would you anticipate that that
10 full subscription would increase emissions as much as
11 being provided to new sources of emissions in the state
12 of Illinois?

13 MS. DOCTORS: I'm going to refer this
14 question to Mr. Davis.

15 MR. DAVIS: Can you restate it just so I'm
16 sure?

17 MR. BONEBRAKE: Well, we've been talking
18 about the allocation to new sources, Mr. Davis, and
19 there's some indication that the Agency expects a
20 substantial portion -- perhaps all -- of the NUSA to be
21 allocated to new sources, at least some years in the
22 coming years; is that correct?

23 MR. DAVIS: You'd have to review
24 Mr. Cooper's testimony, but --

1 MR. BONEBRAKE: Is that correct, Mr. Cooper?

2 MS. DOCTORS: Is it correct that we believe
3 that the NUSA will be fully subscribed in the years to
4 come?

5 MR. COOPER: I don't know that we've ever
6 stated that, no.

7 MR. BONEBRAKE: Well, at least a significant
8 portion of it in some of the -- some of the years would
9 likely be --

10 MR. COOPER: In a given scenario, that is
11 possible, yes.

12 MR. BONEBRAKE: And then at least some of
13 those NUSA allowances would go to generators that emit
14 NOx; is that not correct?

15 MR. DAVIS: Yes.

16 MR. BONEBRAKE: And so wouldn't that mean
17 that the ICF analysis, which assumed that the NOx
18 allowances for NUSA were retired, would understate
19 emission levels as compared to what IEPA would expect as
20 a result of the use of NUSA allowances by new generators
21 of NOx?

22 MR. DAVIS: That is possible. I believe we
23 went with a full 30 percent retirement in the ICF
24 analysis to have a very conservative estimate of costs

1 rather than an accurate picture of emissions, because
2 that's probably more difficult.

3 MR. BONEBRAKE: I don't think we at this
4 table have anything further for Miss Sims at this
5 juncture.

6 HEARING OFFICER KNITTLE: Let's go off the
7 record for just a sec.

8 (Discussion held off the record.)

9 HEARING OFFICER KNITTLE: Let's go back on
10 the record. Mr. Rieser, you want to start us off?

11 MR. RIESER: Sure. Miss Sims, we talked
12 about your statement on page 4 of your testimony that new
13 units are allowed allocations from the new source
14 set-aside for eleven years, but then we had the
15 discussion about how a new unit is considered existing
16 after one control period. Do you recall that?

17 MS. SIMS: Yes.

18 MR. RIESER: Can a new source obtain
19 allowances from both the new source set-aside and the
20 existing allowance pool?

21 MS. SIMS: No.

22 MR. RIESER: Okay. So what's the
23 transition?

24 MS. SIMS: The transition is that they would

1 receive NUSAs for four years until they go into the
2 existing -- well, three years, and then they'll fall into
3 the existing pool.

4 MR. RIESER: So what about the other
5 11-year --

6 MS. SIMS: That's from the CAIR model rule.

7 MR. RIESER: So what is Illinois doing?

8 MS. SIMS: Our Illinois rule is that a new
9 source becomes existing after one year of commercial
10 operation.

11 MR. RIESER: And it gets --

12 MS. SIMS: And then but that's for --
13 remember, when we do allocations, it's for three years in
14 the future, so then for those three years they'll receive
15 the NUSA allocations, and then on that fourth year
16 they'll start receiving from the existing allocation
17 pool.

18 MR. RIESER: All right. Thank you. That
19 was my question.

20 HEARING OFFICER KNITTLE: Miss Bugel?

21 MS. BUGEL: Yes. Thank you. Miss Sims,
22 your testimony is that IEPA had concluded to distribute
23 the initial allocations at no charge; is that correct?

24 MS. SIMS: Yes.

1 MS. BUGEL: And were there other
2 alternatives considered?

3 MS. SIMS: The CAIR model rule allows states
4 to sell their allowances or to auction them.

5 MS. BUGEL: And did IEPA consider selling
6 the allowances?

7 MS. SIMS: I'm not aware of that.

8 MS. BUGEL: Why did IEPA not consider?

9 MR. BLOOMBERG: If I can interrupt, I think
10 all options were considered.

11 MS. BUGEL: Okay. Why was selling
12 allowances rejected?

13 MS. DOCTORS: I think we'll have to hold
14 that for Mr. Ross.

15 MS. BUGEL: Okay. I've -- Then all of my
16 further questions would be for Mr. Ross.

17 MS. DOCTORS: Okay.

18 HEARING OFFICER KNITTLE: Anybody have
19 anything else for Miss Sims?

20 MR. BONEBRAKE: Not at the moment.

21 HEARING OFFICER KNITTLE: Thank you, Miss
22 Sims, for your time and effort. Let's go off the record,
23 take a ten-minute break.

24 (Ten-minute recess taken.)

1 HEARING OFFICER KNITTLE: We are on the
2 record, back after a fairly short recess, and starting --
3 as I recall, we're finished with Miss Sims' testimony,
4 everybody? Everyone seems to agree, and, Miss Doctors,
5 you have another witness you'd like to present?

6 MS. DOCTORS: Yes. Rory Davis. I would
7 like to ask that his testimony be admitted as if read.
8 It would be Agency Exhibit 9.

9 HEARING OFFICER KNITTLE: Any objection to
10 Mr. Davis' testimony being admitted as if read? Seeing
11 none, that will be admitted as Agency Exhibit No. 9.
12 Miss Doctors, do you have anything you wish to present
13 with Mr. Davis before we get started with the
14 questioning?

15 MS. DOCTORS: Not at this time.

16 HEARING OFFICER KNITTLE: All right. The
17 witness is available for questioning.

18 MS. BASSI: Could I ask a question first?
19 Well, that's my job, isn't it? I have a series of
20 questions on allocation methodology, the CASA, the NUSA,
21 opt-ins, rule language. Is Mr. Davis the person to ask
22 those of?

23 MS. DOCTORS: Probably not. He -- His
24 testimony concerns mostly just the output, the gross

1 output monitoring.

2 MS. BASSI: Okay.

3 HEARING OFFICER KNITTLE: Who would --

4 MS. BASSI: Well, and so then if I have some
5 questions that he is not the right person to answer, I'm
6 sure you'll all let me know, so --

7 MR. BONEBRAKE: And would you expect, Miss
8 Doctors, then, that Mr. Cooper would be the appropriate
9 witness for the questions that Miss Bassi has held on?

10 MS. DOCTORS: Or Mr. Ross.

11 MS. BASSI: Okay. There's -- I have a list
12 of questions -- of question categories that I'm not -- I
13 wasn't sure who to direct them to, and perhaps towards
14 the end we could just run through those and take potluck.
15 Is that -- Okay. Thank you.

16 HEARING OFFICER KNITTLE: Is that
17 appropriate, Miss Doctors? Do you have any --

18 MS. DOCTORS: That's fine.

19 HEARING OFFICER KNITTLE: -- problem with
20 that?

21 MS. DOCTORS: No.

22 HEARING OFFICER KNITTLE: That'd be fine.

23 MS. BASSI: Okay. With respect to the
24 look-back, Mr. Davis, I -- we've asked -- I've asked all

1 those. On the gross electrical output versus heat input
2 that we were talking about before, I do have a list of
3 questions for you that are different from the list I had
4 for Miss Sims. You stated in your testimony on page 2
5 that the Agency chose an output-based allocation
6 methodology because it's not based on fuel; is that
7 correct?

8 MR. DAVIS: Yes, in part.

9 MS. BASSI: Okay. And then in the next
10 sentence in your testimony -- and this is in that first
11 partial paragraph at the top of the page -- you say the
12 proposed output-based allocation is based on fuel type,
13 and I found that a little bit confusing. Could you
14 explain that, please?

15 MR. DAVIS: Yes. The -- What that means is
16 that we went along with the CAIR model rule in adjusting
17 allocations based on fuel type.

18 MS. BASSI: Could you explain that a little
19 more, please, how that works?

20 MR. DAVIS: In the model rule, based upon
21 heat input, a source burning coal is allocated based on
22 their heat input times a multiplier of 1, meaning full
23 credit for heat input. Units burning oil have a
24 multiplier of 0.6, meaning they would get less

1 allocations for the amount of fuel use, and units burning
2 gas get a multiplier of 0.4, meaning they get less still.

3 MS. BASSI: Okay. How does this -- When you
4 said the output-based allocation is not based on fuel,
5 what do you mean by that, then?

6 MR. DAVIS: It's not based on fuel use.
7 Under a heat input system, units burning more fuel get
8 more allocations. In an output-based system, units
9 producing more electricity receive more allocation
10 allowances.

11 MS. BASSI: Okay. A reason according to
12 your testimony for relying on gross electrical output
13 rather than heat input is that some source types that
14 might make use of the CASA do not have heat input. Do
15 you recall that?

16 MR. DAVIS: Yes.

17 MS. BASSI: Is it true -- Isn't it true that
18 the Agency has included a formula for converting heat
19 input into gross electrical output in the rule? And I
20 believe we discussed that earlier this morning.

21 MR. DAVIS: Yes.

22 MS. BASSI: Wouldn't that formula work in
23 the reverse?

24 MR. DAVIS: Yes, but it would not be

1 consistent with the goal of the CASA, meaning obviously a
2 zero emitter does not have heat input or, you know, a
3 wind generator does not have heat input. To convert that
4 back into heat input would -- it's not --

5 MS. BASSI: How is that contrary to the goal
6 of the CASA?

7 MR. DAVIS: We are rewarding electrical
8 output.

9 MS. BASSI: How is converting electrical
10 output to heat input different in terms of your end
11 result from converting heat input into gross electrical
12 output?

13 MR. DAVIS: It is just the reverse
14 calculation, and I suppose that would work. However,
15 using an output-based system, the consistency of the CASA
16 was not the primary reason that we --

17 MS. BASSI: Well, what was the primary
18 reason?

19 MR. DAVIS: There are a number of reasons to
20 go with an output-based system.

21 MS. BASSI: What are they?

22 MR. DAVIS: An output-based system
23 encourages efficiency. It also provides an added degree
24 of flexibility in compliance. It may lower the cost of

1 compliance with that flexibility. It rewards the useful
2 output of electricity rather than fuel consumption, and
3 it also by reducing fuel per megawatt hour reduces all
4 pollutants by encouraging reduced fuel use, and it also
5 may reduce costs to consumers.

6 MS. BASSI: All right. Let's go through
7 those, please. How does it add flexibility for
8 compliance?

9 MR. DAVIS: Within a compliance mix, a
10 source may in a trading program opt to buy allowances or
11 control emissions, or in -- within the mix, you can, you
12 know, use efficiency measures to boost output or reduce
13 fuel usage per output in order to aid in compliance.

14 MS. BASSI: Could you give some examples of
15 those, please?

16 MR. DAVIS: Say a source was very
17 inefficient and they could take measures to increase
18 their efficiency. They would therefore need less
19 allowances if they reduced fuel usage and therefore
20 reduced emissions, or they would have additional
21 allowances if they increased the output at the same fuel
22 usage.

23 MS. BASSI: You said this lowers the cost of
24 compliance as another factor in this. How does it lower

1 the cost of compliance?

2 MR. DAVIS: I said it may lower cost of
3 compliance if a source is able to use efficiency as a
4 measure of reducing need for allowances or boosting
5 allowances received.

6 MS. BASSI: Why would a source not do that
7 anyway?

8 MR. DAVIS: Under the current system,
9 allowances are based on fuel use and not output.

10 MS. BASSI: Okay. I'm sorry if I'm not
11 following --

12 MR. DAVIS: Commercially it would make
13 sense, yes, for a plant to attempt to be very efficient,
14 but under a heat input system, fuel use is what
15 allowances are based on.

16 MS. BASSI: Okay. You gave a couple of
17 other reasons why the -- to support the CASA after that,
18 and I didn't write fast enough. What was the next one?

19 MR. DAVIS: Not in support of the CASA. In
20 support of --

21 MS. BASSI: Oh, gross electrical output.

22 MR. DAVIS: Yeah.

23 MS. BASSI: Sorry.

24 MR. DAVIS: Maybe we could get that read

1 back.

2 HEARING OFFICER KNITTLE: You can ask me if
3 you want the court reporter to read something back.

4 MR. DAVIS: Oh. Sorry.

5 HEARING OFFICER KNITTLE: I think that's
6 actually pretty far back in the testimony.

7 MR. DAVIS: I can try to recall. Reduces
8 all pollutants.

9 MS. BASSI: Okay. How does it do that?

10 MR. DAVIS: Efficiency measures reduce all
11 pollutants relative to the amount of power output by
12 reducing fuel use relative to power output.

13 MS. BASSI: Was there another reason after
14 this?

15 MR. DAVIS: I believe I might have said it
16 may lower cost to consumers.

17 MS. BASSI: That was it. And how does it do
18 that?

19 MR. DAVIS: Increased -- This would be a --
20 This may be a small difference, but an output-based
21 system rewards output, and the more output that you have
22 within a given system, that's more electricity, and it
23 may reduce -- it's an incentive to produce more
24 electricity.

1 MS. BASSI: And is the thought behind that,
2 then, if there's more supply --

3 MR. DAVIS: Yes.

4 MS. BASSI: -- the costs go down?

5 MR. DAVIS: Yes.

6 MS. BASSI: Are there any costs associated
7 with implementing any of these efficiency measures?

8 MR. DAVIS: I would assume so.

9 MS. BASSI: Has the Agency analyzed what
10 those costs might be?

11 MR. DAVIS: That would be up to the sources
12 to use in their compliance mix, just the same as whether
13 they would want to buy allowances or control emissions.

14 MS. BASSI: Aren't these, though -- If
15 you're basing a rule on an allocation methodology, isn't
16 this a cost of the rule that is -- should be included in
17 the analysis?

18 MR. DAVIS: No, I don't believe so.

19 MS. BASSI: And why is that?

20 MR. DAVIS: If you could --

21 MS. BASSI: Why do you believe that
22 shouldn't be included in the cost analysis?

23 MR. DAVIS: I believe it's an additional
24 flexibility that's offered. Sources are still allowed to

1 either buy or reduce emissions, and in addition, they may
2 be able to more cost effectively increase efficiency and
3 have that aid in their compliance, so that would lower
4 cost of compliance.

5 MR. BONEBRAKE: We earlier talked,
6 Mr. Davis, about the 33 percent efficiency assumption.
7 Do you recall that?

8 MR. DAVIS: Yes.

9 MR. BONEBRAKE: And I think you were
10 indicating that one of the goals is to encourage
11 efficiency; is that correct?

12 MR. DAVIS: Yes.

13 MR. BONEBRAKE: If in fact a generator is
14 more efficient than 33 percent, the 33 percent efficiency
15 assumption penalizes that generator, does it not?

16 MR. DAVIS: No. No, it actually helps them.

17 MR. BONEBRAKE: What about if the generator
18 has a lesser efficiency than 33 percent?

19 MR. DAVIS: Then, yes, they would probably
20 prefer a heat input basis.

21 MR. BONEBRAKE: So are you suggesting that
22 the conversion factor encourages less efficient use?

23 MR. DAVIS: No. The conversion factor
24 encourages more efficient units. I can explain our --

1 The conversion is used from heat input to gross output,
2 so if you're more efficient, you would want to use your
3 output, because if you were to convert your heat input,
4 you would not receive as many allowances.

5 MS. BASSI: So then if you were more
6 efficient, the conversion factor penalizes you.

7 MR. DAVIS: No.

8 MS. SIMS: Can I clarify?

9 MS. BASSI: Yes, please.

10 MS. SIMS: The conversion factor that
11 includes the 33 percent is only for the heat input. If
12 you're just doing -- If you're submitting gross output
13 data, the conversion is just the 1, the 0.6 and the 0.4,
14 which is based on fuel.

15 MR. BONEBRAKE: Are you saying that there's
16 no penalty because the source has the option of using
17 gross output?

18 MR. DAVIS: No. I'm saying there's no
19 penalty. For instance, if a plant was 35 percent
20 efficient, if they were using their heat input, they
21 would be converted at 33 percent efficiency, and if
22 they're using output data that shows them to be 35
23 percent efficient, they would receive more allowances.

24 MR. BONEBRAKE: If a unit is more efficient,

1 that means for a given amount of fuel consumed it
2 generates more electricity; is that correct?

3 MR. DAVIS: It produces more electricity per
4 fuel use, yes.

5 MR. BONEBRAKE: So a unit that's 35 percent
6 efficient generates more electricity for fuel
7 consumption -- for a given amount of fuel consumption
8 than a unit that's 33 percent efficient.

9 MR. DAVIS: Yes.

10 MR. BONEBRAKE: So if we apply a 33 percent
11 efficiency to a unit that's actually operating at 35
12 percent, we understate that unit's generation, correct?

13 MR. DAVIS: By applying the conversion to
14 the heat input, yes.

15 MR. BONEBRAKE: And that would operate,
16 therefore, to reduce the allowances that would be
17 available for that unit if we had used 35 percent as
18 opposed to 33 percent.

19 MR. DAVIS: That is correct, and that is why
20 we are using an output-based system to encourage the
21 efficiency.

22 MS. BASSI: Okay. On page 3 of your
23 testimony you describe net electrical output as
24 electricity that is produced and available for sale or

1 use. Do you see that?

2 MR. DAVIS: Yes.

3 MS. BASSI: Okay. In the next sentence you
4 say that this excludes the power used by the plant itself
5 and other losses of electricity; is that correct?

6 MR. DAVIS: Yes.

7 MS. BASSI: Okay. And again, if net
8 electrical output is electricity that is available for
9 use, I think what I want to know is what do you mean by
10 available for use?

11 MR. DAVIS: If I did not state it was
12 available for sale after the plant, then I should have
13 said that.

14 MS. DOCTORS: What do you mean, after the
15 plant?

16 MR. DAVIS: Leaves the --

17 MS. BASSI: When you say it's available for
18 use, meaning the net electrical output, you mean that's
19 what's going out of the plant --

20 MR. DAVIS: Yes.

21 MS. BASSI: -- or onto the wires to
22 consumers.

23 MR. DAVIS: Yes.

24 MS. BASSI: Okay. With respect to the

1 proposal to rely on gross electrical output rather than
2 heat input for NOx allowances, isn't it true that heat
3 input has served as the basis for national trading
4 programs historically?

5 MR. DAVIS: Yes, that is true.

6 MS. BASSI: Okay. Including the NOx SIP
7 call?

8 MR. DAVIS: Yes, but I believe that CAIR
9 offers some flexibility in allocation methodology and
10 that other states have been using output-based
11 regulations for their NOx SIP call as well.

12 MS. BASSI: What other states are those?

13 MR. DAVIS: That's in reference 16 also.

14 MS. BASSI: I'm sorry. That's in what?

15 MR. DAVIS: Reference 16 of the TSD.

16 MS. BASSI: Oh.

17 MR. DAVIS: Output-based. It's from USEPA.
18 I think I lost mine.

19 MS. DOCTORS: One second.

20 MR. DAVIS: Here it is. That's Connecticut,
21 Massachusetts, New Hampshire, New Jersey, and that's all
22 that's shown here for the NOx SIP call. There's
23 others --

24 MS. BASSI: I'm sorry. For the NOx SIP

1 call?

2 MR. DAVIS: Yes.

3 MS. BASSI: Okay. And so the NOx SIP call
4 did allow gross electrical output as a means of
5 allocating allowances; is that --

6 MR. DAVIS: I'm not familiar with the NOx
7 SIP call as with CAIR, but I would assume that obviously
8 it was allowed.

9 MS. BASSI: Okay. You state that gross
10 electrical output is simpler to measure presumably as
11 compared to net electrical output?

12 MR. DAVIS: Yes.

13 MS. BASSI: Is that correct? Why do you
14 think that?

15 MR. DAVIS: Net electrical output would be
16 what -- the output that is generated at the generator
17 minus what is used at the plant. There's also
18 transformer losses. There's a number of losses that have
19 to be quantified before you can report net.

20 MS. BASSI: Which of those do you suppose
21 the companies would be most interested in, net or gross
22 electrical output?

23 MR. DAVIS: I would think that they would be
24 interested in both, but they would probably be more

1 interested in what they're selling.

2 MS. BASSI: Which is the net --

3 MR. DAVIS: Net.

4 MS. BASSI: -- correct? Okay. If gross
5 electrical output is so simple to measure -- and I think
6 we established earlier today that it's not clear that the
7 companies do measure it -- why do you suppose they don't?

8 MR. DAVIS: I would argue with the premise
9 that it's not clear that they are measuring it. I think
10 I misspoke earlier when I said that there would be -- I
11 think there's a number of ways we can measure it, and I
12 think we went over that in detail.

13 MS. BASSI: I know, but what you're saying
14 is is that gross electrical output is simpler to measure.

15 MR. DAVIS: Yes.

16 MS. BASSI: What do you mean by "measure"?

17 MR. DAVIS: There's a number of ways to
18 accurately monitor or meter power.

19 MS. BASSI: So measure, you assume meters
20 power? It's a meter?

21 MR. DAVIS: Yeah. I should say this. The
22 net output would probably be equally as readily metered.
23 However, it's been -- in -- also in our output guidance,
24 there's been some question about whether you would credit

1 back to a company if they are running pollution control
2 equipment, because if you were producing this much power
3 and you have to use this much power to run your pollution
4 control equipment, should a company be penalized for
5 that? Gross output is measured directly off the
6 generator and it also doesn't penalize companies for
7 operating pollution control equipment, so perhaps not --
8 gross output is simpler to measure net. There may be
9 some further discussion as to what we would want to use
10 as our allocation data.

11 MS. BASSI: Since you brought up the
12 operation of the pollution control equipment, I do have
13 to go there for a minute.

14 MR. DAVIS: Sure.

15 MS. BASSI: If -- Is a circulating fluidized
16 bed -- I believe it's classified by the Agency as a clean
17 coal technology; is that correct?

18 MR. DAVIS: Yes.

19 MS. BASSI: And as a clean coal technology,
20 is it a type of pollution control equipment?

21 MR. DAVIS: I don't believe so. I think
22 it's a clean generator.

23 MS. BASSI: It's just a clean -- It's a
24 clean boiler?

1 MR. DAVIS: Sure.

2 MS. BASSI: Okay. There are losses in the
3 operation of a circulating fluidized bed boiler,
4 electricity losses or heat input losses, I guess, in the
5 operation of a circulating fluidized bed boiler. I think
6 we made that -- we established that earlier today. How
7 are those then recovered by metering the gross electrical
8 output at the generator?

9 MR. DAVIS: They are not, and as we went
10 through before, any loss in the heat input is more than
11 made up by their low emissions.

12 MS. BASSI: Okay.

13 MR. DAVIS: I think we discussed that.

14 MS. BASSI: How much electricity is lost in
15 metering the gross electrical output?

16 MR. DAVIS: In metering?

17 MS. BASSI: Yeah. Wouldn't you lose some?

18 MR. DAVIS: I can't be sure, but I would
19 assume it's very small.

20 MS. BASSI: I just thought there probably
21 was some. All right. You state in your testimony that
22 the Agency has been in contact with USEPA and the Energy
23 Information Association regarding the quality control of
24 gross output data, correct?

1 MR. DAVIS: Yes.

2 MS. BASSI: And that the Agency is aware
3 that other states have also been in contact with USEPA.

4 MR. DAVIS: Yes.

5 MS. BASSI: Do you recall that? What does
6 this mean? What have they been in contact with USEPA
7 about?

8 MR. DAVIS: I think a number of states have
9 been in contact with the USEPA concerning quality control
10 of the data, you know, in comparison to the heat input.

11 MS. BASSI: And what did you learn from
12 USEPA?

13 MR. DAVIS: We learned that they -- I
14 think -- and I'm not sure who I was speaking to at this
15 point. I mean, I'm sure I was sure who I was speaking to
16 then, but I forget now. But they said it was an issue
17 that we should look into.

18 MS. BASSI: And the issue that you would be
19 looking into is the quality control of what?

20 MR. DAVIS: Of the gross electrical output.

21 MS. BASSI: Is the quality control of heat
22 input data reported to USEPA an issue?

23 MR. DAVIS: It would depend on what you call
24 an issue.

1 MS. BASSI: Is the -- Is there any question
2 that the heat input data that is reported to USEPA is of
3 a quality that is acceptable?

4 MR. DAVIS: I think Miss Sims testified
5 earlier that many times your heat input values will
6 change year to year and they go back and amend that, so I
7 would say that heat input data is -- they do quality
8 control the data, and yet sometimes it changes from year
9 to year or time to time.

10 MS. BASSI: How quickly does the heat input
11 data get to USEPA?

12 MR. DAVIS: I would not be the one to
13 testify to that.

14 MS. BASSI: Is the heat input data collected
15 through the CEMS that we were -- I think you were given
16 that acronym earlier?

17 MR. DAVIS: I would also not be the one to
18 testify to that.

19 MS. BASSI: Does anybody know?

20 MS. SIMS: I think it is --

21 MS. BASSI: Is heat input data reported
22 through a CEMS? I'm sorry. What?

23 MS. SIMS: I think it's somehow with their
24 data acquisition system that they have with their CEMS

1 unit reports the heat input to the federal EPA's database
2 that they have.

3 MS. BASSI: Is that reported automatically?

4 MS. SIMS: I'm not sure.

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

6 MS. BASSI: It's not? Is it reported before
7 quality control or quality assurance would have been run
8 on it?

9 MR. BLOOMBERG: The companies generally run
10 some quality assurance. USEPA then runs quality
11 assurance, and there are some disagreements occasionally.

12 MS. BASSI: Okay. And does that account for
13 these changes that are made to the heat input data that
14 USEPA has?

15 MR. BLOOMBERG: Yes. The companies go in
16 and update the information sometimes and then USEPA
17 checks it to see if it's still accurate.

18 MS. BASSI: Okay. So what is the problem
19 with the quality control on gross electrical output
20 that's reported, or the output data? We don't even know
21 if it's gross.

22 MR. DAVIS: I'm not certain there is --
23 there are problems with it. It was an issue that was
24 raised, and we know that there are procedures for QC/QA

1 of the heat input data. We had inquired about the output
2 data. I think -- To my knowledge, I believe that the
3 heat input data needs the adjustments and quality control
4 because it's not very accurately measured, whereas gross
5 electrical output is -- can be very accurately monitored,
6 measured.

7 MS. BASSI: Okay.

8 HEARING OFFICER KNITTLE: Yes, sir.

9 MR. BONEBRAKE: Mr. Davis, a follow-up.

10 Your testimony refers to the fact that IEPA has been in
11 contact with both USEPA and EIA, and I think in response
12 to that you indicated, if I understood you correctly,
13 that you had a telephone call with somebody at USEPA?

14 MR. DAVIS: That was brought up in -- I
15 mentioned it because I was working on output regulations
16 concerning this rule. I'm not certain that who I was
17 speaking to we were talking about this rule. I'm sorry.
18 Can you repeat it?

19 MR. BONEBRAKE: Your testimony refers to
20 contact with USEPA, and what I -- I guess the first
21 question is, were you referring to the phone conversation
22 that you described that you had with somebody at USEPA in
23 the past?

24 MR. DAVIS: Yes.

1 MR. BONEBRAKE: And you don't recall with
2 whom you spoke?

3 MR. DAVIS: I do not.

4 MR. BONEBRAKE: And when about did this
5 conversation occur?

6 MR. DAVIS: Late last year, most likely.

7 MR. BONEBRAKE: And this individual -- was
8 it just one conversation that you had?

9 MR. DAVIS: Yes.

10 MR. BONEBRAKE: And you were informed that
11 you should look into quality control issues associated
12 with gross output; is that correct?

13 MR. DAVIS: I believe it was a discussion
14 that was had. A number of other states -- someone had
15 mentioned the topic of output-based regulations and there
16 was a question about that, and I'm really not sure what
17 you're --

18 MR. BONEBRAKE: Well, I'm trying -- I'm just
19 trying to understand what was said to you by this contact
20 at USEPA.

21 MR. DAVIS: I was not given any assurances
22 of -- that any action would be taken. It was a
23 conversation.

24 MR. BONEBRAKE: Well, were you looking for

1 assurances that the proposed rule that would utilize a
2 gross output methodology would be satisfactory to USEPA?

3 MR. DAVIS: No. I believe that it's been
4 satisfactory from a number of states, and I think there
5 was concern from other states that it was a different
6 method than the heat input, and I think that was the main
7 concern, that the model rule would be heat input. USEPA
8 has been using heat input.

9 MR. BONEBRAKE: So this individual at USEPA
10 relayed those concerns to you, the concerns by other
11 states.

12 MR. DAVIS: No. There was I believe a
13 number of states in the conversation, and --

14 MR. BONEBRAKE: I see. This was a
15 conference call --

16 MR. DAVIS: Yes.

17 MR. BONEBRAKE: -- with somebody at the
18 USEPA and including a number of other states.

19 MR. DAVIS: Yes.

20 MR. BONEBRAKE: Okay. I'm sorry. I must
21 have missed that in what you were describing. So other
22 states were raising a concern about gross output data on
23 a conference call that you were on.

24 MR. DAVIS: Yes, just to the extent that it

1 was a different method. I think a lot of -- a few of
2 them were saying that they would like to go to an
3 output-based system and that there had been concerns
4 about the quality control, because USEPA does do quality
5 control on their heat input, and I think, as I stated
6 earlier, that the quality control/quality assurance on
7 the heat input data is because your heat input data is
8 not as accurately measured as output.

9 MR. BONEBRAKE: And what states were
10 represented on that conference call?

11 MR. DAVIS: I don't actually recall.

12 MR. BONEBRAKE: Do you know if those states
13 have in fact proposed or adopted the gross output
14 methodologies and CAIR implementation rule?

15 MR. DAVIS: I can tell you the states that
16 have proposed output-based regulations.

17 MS. BASSI: Okay.

18 MR. BONEBRAKE: Well, but first, the
19 question I asked, though, was, were those pressing
20 concerns, do you know, that they had proposed for
21 adoption?

22 MR. DAVIS: I do not.

23 MR. BONEBRAKE: And then you were going to
24 provide us with some information about states that have

1 proposed --

2 MR. DAVIS: Yeah.

3 MS. DOCTORS: Okay. Is -- Can I ask a
4 foundation question for the answer he's going to give?
5 The states you're referring to, are we -- that have
6 adopted output-based, is this for the NOx SIP call rule
7 or for the CAIR rule in reference 16?

8 MR. DAVIS: I don't believe we have any
9 adopted for the CAIR. We have adopted for NOx SIP call.
10 We have proposed for CAIR.

11 MS. DOCTORS: Okay.

12 MR. DAVIS: Not proposed for the NOx SIP
13 call.

14 MS. DOCTORS: Okay. I wanted to just
15 clarify, if you want to continue.

16 MR. BONEBRAKE: And then the further
17 clarification, the list you're going to give us, is it of
18 states that have adopted gross output methodology under
19 NOx SIP call or that have proposed gross output under
20 CAIR or both?

21 MR. DAVIS: I believe I gave you earlier who
22 had adopted under NOx SIP call. Proposed would be -- you
23 know, I would -- there's a long list. This is in
24 reference 16. I would have to look through here. I

1 mean, I'm looking at the table of contents here. You
2 should have this available to you.

3 MR. BONEBRAKE: This is --

4 MR. DAVIS: I would have to look through it
5 for -- to find exactly who you're --

6 MS. BASSI: This is reference 16 to the TSD?

7 MR. DAVIS: Yes.

8 MS. BASSI: Or Exhibit -- reference 16.

9 MR. DAVIS: Yes.

10 MS. DOCTORS: Okay. Let's look at the TSD.

11 MS. BASSI: Was --

12 HEARING OFFICER KNITTLE: Excuse me, Miss
13 Bassi. Do you folks need a minute?

14 MS. DOCTORS: Yeah, I'd like one minute just
15 to give the --

16 HEARING OFFICER KNITTLE: You want to give
17 them a minute to --

18 MS. DOCTORS: -- correct exhibit number.

19 HEARING OFFICER KNITTLE: Let's go off the
20 record for a minute.

21 (Off the record.)

22 HEARING OFFICER KNITTLE: Let's go back on
23 the record.

24 MS. DOCTORS: I'd like to reflect that the

1 document that Rory Davis is looking at is reference
2 number B 16 from the table of contents of the regulatory
3 submittal, and it's entitled "Output-Based Regulations:
4 A Handbook of Air Regulations," dated August 2004.

5 MR. BONEBRAKE: Miss Doctors, I did have a
6 related question. I think this may also be identified in
7 Section 11, which is the references section of the TSD,
8 and my question for you was, were all of the references
9 identified in the TSD reference section submitted to the
10 Board as part of the regulatory submission?

11 MS. DOCTORS: All of the references were
12 submitted except those that have an asterisk by them that
13 the Board might already have a copy of, like the national
14 ambient air quality standards.

15 MS. BASSI: So then this is a document that
16 we would be able to get from the Board. Okay.

17 MS. DOCTORS: Yes.

18 MR. BONEBRAKE: And one other follow-up.

19 MS. BASSI: All right.

20 MR. BONEBRAKE: Your testimony also referred
21 to a discussion with EIA.

22 MR. DAVIS: Yes.

23 MR. BONEBRAKE: And can you describe that
24 discussion for us, starting with whom you spoke and about

1 when and then the substance of the conversation?

2 MR. DAVIS: I would have to look up with
3 whom I spoke. That was when we were examining whether we
4 would want to use net versus gross. We went with gross.
5 I was simply asking them where they get their numbers
6 from and --

7 MS. BASSI: What did they say?

8 MR. DAVIS: You know, I don't -- I could
9 find that out, but we decided to go with the gross
10 input -- or the gross output, so --

11 MS. BASSI: Is EIA, the Energy Information
12 Administration, part of the Department of Energy?

13 MR. DAVIS: Yes.

14 MS. BASSI: Is it related to USEPA at all
15 other than the director is appointed by the President?

16 MR. DAVIS: I don't -- I wouldn't know.

17 MS. BASSI: Is it a separate federal agency?

18 MR. DAVIS: Yes, it is, and I wouldn't know
19 if they're related in other ways.

20 MS. BASSI: Okay.

21 MR. BONEBRAKE: And the generator is
22 submitting gross output data to EIA?

23 MR. DAVIS: I would have to check on that.
24 I know that in looking at net output, we were looking at

1 EIA, but --

2 MS. BASSI: I'm sorry. You were looking
3 at --

4 MR. DAVIS: At EIA for net, but I would have
5 to check on gross.

6 MS. BASSI: And when you say you were
7 looking at EIA, what exactly were you looking at? A
8 form? Regulations? Guidance? What were you looking at?

9 MR. DAVIS: They get data -- net output
10 data. I believe -- I would -- again, I'd have to check
11 on which form. I want to say 767 or 916, but again, we
12 didn't -- I didn't go further into that. I'm not
13 prepared to give you the exact circuit that the data gets
14 there because we went with gross output and --

15 MS. BASSI: Okay. And so then did I hear
16 you say that net electrical output is reported to EIA?

17 MR. DAVIS: Yes.

18 MS. BASSI: Okay. But gross electrical
19 output somehow is reported to USEPA.

20 MR. DAVIS: Yes.

21 MS. BASSI: How or why is gross electrical
22 output reported to USEPA?

23 MS. DOCTORS: Do you know the answer to that
24 question?

1 MR. DAVIS: I can't testify to exactly. I
2 could give you speculation on that, but --

3 MS. BASSI: Okay. Oh. I have a question
4 with respect to Section 225.435 regarding allocations. I
5 was confused, which nobody would find surprising.

6 HEARING OFFICER KNITTLE: Can you hold on,
7 Miss Bassi? He's looking for the section.

8 MR. DAVIS: I'll get there.

9 MS. BASSI: This is 225.435(a)(1).

10 MR. DAVIS: Okay.

11 MS. BASSI: And at -- towards the end of
12 (a)(1), before it gets to the subsections there, there's
13 a -- the next to the last sentence there reads, "If a
14 generator is served by two or more units." Do you see
15 that?

16 MR. DAVIS: Yes.

17 MS. BASSI: "The gross electrical output
18 shall be attributed to each unit in proportion to the
19 unit's share." Are allocations made on a unit basis or a
20 source-wise basis?

21 MR. DAVIS: I believe they're made on a unit
22 basis.

23 MS. SIMS: Unit basis.

24 MS. BASSI: What is the CAIR compliance

1 requirement? Is it not a source-wide compliance
2 requirement?

3 MS. DOCTORS: We will stipulate to that,
4 it's -- that it's a source-wide.

5 MS. BASSI: Okay.

6 MR. ROSS: You determine your amounts per
7 unit, and then they're allocated to the source.

8 MS. BASSI: Why do you determine them per
9 unit instead of just on the source?

10 MR. ROSS: Each unit is generating a certain
11 amount of electricity. Each unit is allocated a certain
12 amount, and then those allocations are given -- the
13 source has to demonstrate compliance. Compliance is not
14 demonstrated by a unit. All the units at a source are
15 owned by that entity, that owner/operator.

16 MS. BASSI: Okay. And I just want to
17 understand this. I'm not quibbling with this at all, but
18 if you have -- if a generator is served by two or more
19 units, is it possible that the -- that one of the units
20 is not subject to the CAIR?

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

22 MS. BASSI: Well, then if you're measuring
23 gross electrical output at the generator, why is it
24 necessary to attribute a proportion to a unit? In other

1 words, with -- isn't what you are determining your
2 allocations then -- isn't the basis for your allocations
3 then more the -- at the generators than it is the
4 boilers?

5 MR. DAVIS: Can you restate that? I --

6 MS. BASSI: Sure.

7 MR. DAVIS: I think I know what you're
8 getting at, but --

9 MS. BASSI: If the basis for allocations is
10 gross electrical output metered at the generators, once
11 you have established that a boiler has a capacity greater
12 than 25 megawatts and therefore is a subject unit, isn't
13 the base -- isn't what the unit does no longer of
14 interest to the Agency because the allocation is based on
15 what the generator does rather than what the boiler does?

16 MR. DAVIS: Yes, and the allocation is based
17 upon output. However, if you wanted to -- if you want to
18 attribute output to different units serving one
19 generator, you can do that by giving their portion of the
20 heat input. In the case that allocations will be made to
21 the source, it really all comes out in --

22 MS. BASSI: I'm just wondering why that's in
23 there. Maybe there's another reason unrelated to what
24 I'm asking.

1 MR. DAVIS: Mainly because the boilers are
2 emission units.

3 MR. BLOOMBERG: If I could ask a question,
4 are you only referencing 435(a)(1)?

5 MS. BASSI: That's where I marked. It may
6 appear elsewhere.

7 MR. BLOOMBERG: Because recall that (a)(1)
8 deals with the time period when heat input can still be
9 used.

10 MS. BASSI: This language also appears in
11 (b), and that -- and (b) is for control period 2012 and
12 thereafter, and by that time, according to the rule, as I
13 understand it, heat input is no longer a factor, and I
14 just -- is this excess language?

15 MR. DAVIS: I believe it was a clarification
16 if you wanted to get back to the unit what their
17 source -- or what their allocation would be.

18 HEARING OFFICER KNITTLE: Mr. Rieser had his
19 hand up.

20 MS. DOCTORS: Okay.

21 MR. RIESER: And this may help; it may not
22 help. Would it be accurate to say that this language
23 that Miss Bassi was focusing on, the attributing the
24 output of the generators to the two units that supply it,

1 has to do with -- if you're going to measure -- have your
2 system based on output, your output's only measured at
3 the generator, so then you have the issue of if you have
4 more than one unit serving that generator, how do you
5 allocate that output among those units that serve it, so
6 it just sort of follows that if you're going to measure
7 from -- output from a single generator that you have to
8 have a way for dealing with this situation of two units
9 serving that generator, and this is the system you've
10 chosen.

11 MR. DAVIS: Yes.

12 MR. RIESER: Okay.

13 MS. BASSI: Did you cover there why you have
14 to distinguish between the units?

15 MR. RIESER: I did not, but I'm not under
16 oath.

17 MS. BASSI: That was just a clarification
18 question.

19 MS. DOCTORS: Is it -- I'm going to try to
20 clarify a question. Is it possible that when there's two
21 units serving a generator that they could use different
22 types of fuel?

23 MR. DAVIS: Yes.

24 MS. BASSI: What does that have to do with

1 gross electrical output?

2 MR. DAVIS: We have language in our rule
3 that distinguishes between fuel types.

4 MS. BASSI: So you could have one unit using
5 gas and one unit using coal serving a single generator?
6 Is that what you're saying?

7 MR. COOPER: Absolutely.

8 MR. DAVIS: Yes. I'm not aware that -- of
9 any units doing that, but it's --

10 MS. BASSI: It provides a rationale. That's
11 what --

12 MR. ROSS: Well, and also, during the first
13 few allocation periods which are -- we have the option,
14 as we stated, heat input being converted to gross
15 electrical output. You would need to distinguish between
16 the two to determine the heat input of each.

17 MS. BASSI: Okay. So that explains why it
18 was in (a)(1) but not why it was in (b), and -- but I --
19 but this does. Thank you. Sorry for all that rigmarole.
20 Okay. What was the purpose -- What is the purpose of
21 quarterly reports of gross electrical output that is
22 provided in Section 225.450(d), as in dog? 450. It
23 says, "Beginning with the year 2007, the designated
24 representative shall submit to the Agency quarterly the

1 affected unit's gross electrical output on a monthly
2 basis." Why is that?

3 MR. DAVIS: That would not be my question to
4 answer.

5 MS. SIMS: I can answer that question.

6 MS. BASSI: Okay.

7 MS. SIMS: That is the information we're
8 going to use for the -- When the company's submitting
9 their gross electrical output, they're going to submit it
10 to us on a quarterly basis, so we will be continually
11 getting it four times a year and then we'll do the total,
12 and that will be what their allocations are based on.

13 MS. BASSI: Why do you need it four times a
14 year?

15 MS. SIMS: I'm not sure of that answer, but
16 typically, a lot of the federal regulations require
17 quarterly or semiannual reports, so -- and I know under
18 the CEMS data they're already sending reports in. Some
19 are submitting quarterly and some are submitting
20 semiannually, so -- you know, for their CEMS data, so
21 we're trying to be consistent with that, Part 75.

22 MS. BASSI: And in Section 450(e), the very
23 next section -- I'm sorry.

24 MR. RIESER: Let me just ask a quick

1 follow-up on that. In the first -- Looking at that same
2 language which was in 450(e), in that first quarter, the
3 January 31 of 2007, what is being reported?

4 MS. SIMS: The January 31 is the quarter of
5 the previous year. That gives you a month to submit the
6 information.

7 MR. RIESER: Okay. So you've got to submit
8 for the last quarter of 2006.

9 MS. SIMS: Correct.

10 MR. RIESER: Okay. And it's accurate that
11 these dates were selected because they're 30 days
12 after -- or really a month after the last day of the
13 quarter.

14 MS. SIMS: Correct.

15 MR. BONEBRAKE: And just to follow up, is it
16 correct, then, that these dates as well would be subject
17 to the motion that we talked about this morning; that is,
18 that the commencement date in 2007 and reporting of 2006
19 quarterly be done?

20 MS. SIMS: I think so.

21 MS. BASSI: I have to follow up a bit on
22 that, on what Mr. Rieser was asking. You say beginning
23 in 2007 you're going to -- there is a requirement that by
24 January 31 you report quarterly the quarterly gross

1 electrical output data for 2006, and setting aside the
2 fact that these dates may change because of the timing of
3 the adoption of the rule, the rule requires that the
4 wattmeter be installed by January 1, 2007; is that
5 correct?

6 MS. SIMS: Yes.

7 MS. BASSI: So then how can they report the
8 last quarter of 2006?

9 MS. SIMS: Well, I think we might have put
10 it in the wrong order for the first year, but then each
11 year afterwards it would be January 31, but for the first
12 year you would put January 31 at the end. You know what
13 I'm saying? So you would start out with April 30 report
14 for the '07 year. It's just for all the following years
15 you'll actually have a January 31 report first.

16 MS. BASSI: Rather than relying on the
17 rulemaking record here and what you're saying to us here,
18 is it possible for the Agency to make that clearer in the
19 language of the rule?

20 MS. DOCTORS: We can look at that.

21 MS. BASSI: Okay.

22 MR. BONEBRAKE: And I guess just on a
23 related note, I would suggest consistent with our
24 discussion with Mr. Ross this morning about wattmeters

1 that there also is an issue inherent in part (d)
2 regarding what output data would be submitted and the
3 source of that output data, so I think an amendment that
4 would clarify (d) in connection with the wattmeter issue
5 also would be very useful.

6 MS. BASSI: Okay. Anybody else? And
7 where -- in the next section, subsection (e), it's -- it
8 refers to maintaining on site the monitoring plan, and my
9 question goes to the use of the word "the monitoring
10 plan." Is there a requirement someplace for a monitoring
11 plan?

12 MR. DAVIS: That's also a question that
13 would not be for me.

14 MS. BASSI: You're not it?

15 MR. DAVIS: No.

16 MR. BONEBRAKE: Is there anybody else on the
17 panel that can address that question?

18 MR. BLOOMBERG: I'll have to check, but I
19 believe there's a requirement for a monitoring plan in
20 the federal CAIR rules that we refer to in our monitoring
21 section.

22 MS. BASSI: Okay.

23 MR. BLOOMBERG: But --

24 MS. BASSI: Okay. And that's all I have.

1 HEARING OFFICER KNITTLE: Mr. Bonebrake?

2 MR. BONEBRAKE: I think that's it from our
3 end for Mr. Davis.

4 HEARING OFFICER KNITTLE: Mr. Rieser?

5 MR. RIESER: Let me just clarify in terms of
6 who's answering what questions. I did have some
7 questions on the timing of -- Section 225.430, which
8 talks about the timing for annual allocations, but that
9 doesn't seem to me that that's your area of expertise.

10 MS. DOCTORS: Correct, it isn't Mr. Davis'.

11 MR. RIESER: Okay. And whose would it be?

12 MS. DOCTORS: I believe Mr. Ross is going to
13 address the change in the motion, so it would be Mr. Ross
14 and Ms. Sims.

15 MR. RIESER: Well, the basic question is not
16 so much the initial dates but -- for the initial
17 allocation but for future allocations. You talk about --
18 You report by October 31, 2009, and I had somewhere the
19 date by which people are to submit their information. I
20 don't have that date in front of me. You may know the
21 date. In other words --

22 MS. SIMS: Well, the initial ones, you know,
23 the rule as it's proposed right now, they're supposed to
24 submit their gross output data by September 30 of '06,

1 which is past --

2 MR. RIESER: Right.

3 MS. SIMS: -- so that's hence why we started
4 the October 31, because that's what the federal
5 guidelines --

6 MR. RIESER: But for future years --

7 MS. SIMS: But for future years, it's still
8 October 31.

9 MR. RIESER: So that's when the --

10 MS. SIMS: Right.

11 MR. RIESER: As I understand it, that's when
12 the Agency submits to USEPA, but when do EGUs and sources
13 submit their information to you?

14 MS. SIMS: On their quarterly reports.

15 MR. RIESER: On the quarterly --

16 MS. SIMS: We don't have an annual report
17 that's coming in. We're only requesting the quarterly.
18 That's --

19 MR. RIESER: Is the Agency going to be able
20 to make the allocations on a timely basis?

21 MS. SIMS: Yes.

22 MR. RIESER: In light of the experience that
23 they've had with making the allocations -- reporting the
24 allocations on the NOx SIP call?

1 MS. SIMS: Yes.

2 MR. BLOOMBERG: Yes.

3 MR. RIESER: Are there changes in the
4 Agency's operations that will allow them to improve on
5 the performance of timely making the allocations from the
6 performance during the NOx SIP call?

7 MR. BLOOMBERG: One thing I'd like to point
8 out, while we did miss some dates --

9 MS. BASSI: Several? Was it several?

10 MR. BLOOMBERG: Several, yes. We never
11 missed an allowance transfer deadline; that is, sources
12 always have all the allowances that they needed from
13 Illinois EPA, from the State of Illinois, before USEPA
14 needed to take them out, so that has never been an issue
15 and we do not expect it to be an issue.

16 MS. BASSI: Are there other elements of a
17 trading program besides surrendering allowances for
18 compliance purposes that would be a business purpose?

19 MR. BLOOMBERG: I'm not sure I understand
20 the question.

21 MS. BASSI: Are there business purposes --
22 or are there businesses that I want to say utilize these
23 allowances besides for the purpose of surrendering them
24 for compliance? Is trading a business?

1 MR. BLOOMBERG: It can be.

2 MS. BASSI: Is trading a business, do you
3 suppose, for these -- for the companies?

4 MR. BLOOMBERG: It can be.

5 MS. BASSI: Does the Agency's tardiness in
6 making allocations according to the regulations affect
7 that business?

8 MR. BLOOMBERG: I don't know.

9 MS. BASSI: Do you think it might?

10 MS. DOCTORS: Objection. Relevance.

11 MS. BASSI: The relevance is that if the
12 Agency cannot make their allocations on time, there are
13 business repercussions aside from compliance
14 repercussions.

15 MS. DOCTORS: No, I understand the point.
16 The question is the relevance. I mean, to -- are you
17 arguing that we should give ourselves more time and a
18 shorter time frame for those -- I'm not sure --

19 MS. BASSI: I'm arguing there should be a
20 longer look-back.

21 HEARING OFFICER KNITTLE: I'll allow the
22 question.

23 MR. BLOOMBERG: I don't recall what the
24 question was. I'm sorry.

1 MS. BASSI: The question is, if the Agency
2 does not make its allocations in a timely manner as set
3 forth in the regulations, are there business
4 repercussions to the companies?

5 MR. BLOOMBERG: There could be.

6 MS. BASSI: And would those business
7 repercussions perhaps be through the necessity to
8 purchase allowances on the market to cover compliance?

9 MR. BLOOMBERG: No, because we --

10 MS. BASSI: And why is that?

11 MR. BLOOMBERG: Because we always had
12 allowances to the companies in advance of the allowance
13 transfer deadline.

14 MS. BASSI: And is -- how far -- how tardy
15 has the Agency been in making these allowance allocations
16 according to what's in the rules?

17 MR. BLOOMBERG: It has varied.

18 MS. BASSI: What's the range?

19 MR. KIM: I'm going to object to the
20 relevancy of this. I think we've already established
21 that there may have been some occasions in the past where
22 there was some tardiness, but there's already been a
23 representation made that efforts are going to be that
24 that will not happen here, and if there's something

1 specific that would like to -- that Counsel would like to
2 propose, I think we'd like to hear that if there's some
3 specific question as to this rule, but I don't know what
4 the purpose is in reciting past history when we've
5 already stated how we're going to act from this point
6 forward.

7 MS. BASSI: Well, I don't think you have
8 stated exactly how you're going to act and what the
9 changes are that Mr. Rieser asked about to ensure that
10 this is going to be remedied in the future, and the
11 relevance of asking how many -- how tardy the Agency has
12 been is that I believe the tardiness exceeds the
13 look-back period that you're proposing in this rule.

14 MR. KIM: And if that's the case and if
15 there's some question as to that particular provision, I
16 think you can raise that question. I think you can -- if
17 you would -- if you feel Mr. Rieser's question wasn't
18 answered sufficiently, I suppose you could ask it again,
19 but those questions are different from simply going back
20 and asking about past history, about asking about
21 speculation on what the impact may have been in the past.
22 If you'd like to look forward, if you'd like to look from
23 this rule forward, I think that's what's relevant. I
24 don't think the other questions that you've been asking

1 are.

2 HEARING OFFICER KNITTLE: I'm going to allow
3 the question insofar as whether or not the tardiness in
4 the past was longer than the look-back, so he can answer
5 the question as to how late they have been in the past
6 because I think that could possibly be relevant to the
7 issue.

8 MS. BASSI: And --

9 MR. BLOOMBERG: Off the top of my head, I
10 don't know the answer to that. However, one aspect that
11 caused some of the tardiness was relying on USEPA. As
12 has already been mentioned, some sources were changing
13 their heat input data, and we were specifically told at
14 one point by USEPA, don't use this data, we will get you
15 the quality assured data, and relying upon USEPA for that
16 heat input data, we waited and we waited and we waited a
17 little more until they finally got us what they said was
18 data that was okay to use. Under this system, the output
19 data will be coming in to us quarterly and the heat input
20 issue will not be a factor.

21 MR. BONEBRAKE: You just mentioned what --
22 one cause. Can you identify other causes?

23 MR. BLOOMBERG: Other causes were personnel
24 turnover. As of now, we have twice as many people

1 working on it that we had when it started. One employee
2 left with almost no notice. He happened to be the one
3 who was in charge of the NOx allocations at the time.
4 There was some amount of time spent determining what he
5 had done. It was further determined that he had made
6 some incorrect calculations, so even the work that he had
7 done had to be completely redone.

8 MR. BONEBRAKE: Were revenue constraints on
9 the Agency a factor in the inability to timely allocate
10 on the NOx SIP call?

11 MR. BLOOMBERG: I can't answer that.

12 MS. BASSI: Were personnel constraints a
13 problem?

14 MR. BLOOMBERG: I think bringing new
15 personnel up to speed was likely the biggest problem.

16 MR. BONEBRAKE: And can you summarize -- you
17 may already have in part -- what steps IEPA has taken
18 from your perspective to assure that timely allocations
19 would occur under the CAIR program?

20 MR. BLOOMBERG: There are now -- Like I
21 said, there are -- specifically, we have a person
22 assigned to -- who will work on that, presuming, you
23 know, this rule goes forward as planned. Obviously I
24 don't have a crystal ball either. There's -- But, you

1 know, the Agency does commit to making these allowances
2 in a timely fashion and moving forward.

3 MS. BASSI: Mr. Bloomberg, what happens if a
4 state fails to make timely submission of allocations?

5 MR. BLOOMBERG: Under the CAIR program, I am
6 not entirely certain.

7 MS. BASSI: Under the NOx SIP call, what did
8 they do?

9 MR. BLOOMBERG: They waited for us.

10 MS. BASSI: Did they wait forever?

11 MR. BLOOMBERG: We didn't take forever.

12 MS. BASSI: Okay.

13 HEARING OFFICER KNITTLE: Yes, Mr. Rieser?

14 MR. RIESER: I was wondering if this would
15 be a good time to take a break.

16 HEARING OFFICER KNITTLE: Miss Doctors?

17 MS. DOCTORS: Yeah. We have some personal
18 circumstances. We need to switch the order of one of our
19 witnesses. Mr. -- I'd like to have Mr. Bloomberg --
20 If -- When you're done with Mr. Davis, I'd like to have
21 Mr. Bloomberg go next. He has a family thing that he
22 needs to take care of.

23 MS. BUGEL: I had questions for Mr. Davis.
24 I didn't know if Miss Bassi --

1 MS. BASSI: I'm done.

2 MS. BUGEL: Oh, you're -- okay.

3 HEARING OFFICER KNITTLE: Mr. Rieser, are
4 you finished with Mr. Davis?

5 MR. RIESER: Yeah. That was the question I
6 had.

7 HEARING OFFICER KNITTLE: Let's let
8 Ms. Bugel do her questions regarding Mr. Davis, and then
9 we can -- I don't think anyone would have any objection
10 to rearranging the Agency's presentation. No, Miss
11 Doctors, you can do what you have to do in terms of your
12 presentation order.

13 MS. DOCTORS: Okay. Thank you.

14 HEARING OFFICER KNITTLE: Miss Bugel?

15 MS. BUGEL: Thank you. Mr. Davis, you
16 provided some testimony on the fuel -- the factors used
17 in calculating conversion factors, what I would call fuel
18 weighting; is that correct?

19 MR. DAVIS: Yes.

20 MS. BUGEL: Okay. And were you involved in
21 the determination that fuel weighting should be used?

22 MR. DAVIS: I don't recall. I know that we
23 used the same fuel weighting system as in the model CAIR
24 rule.

1 MS. BUGEL: Did the Agency consider not
2 using fuel weighting?

3 MR. DAVIS: I believe it was considered.

4 MS. BUGEL: Can you describe the process or
5 the consideration of fuel weighting versus what I'll call
6 fuel neutrality?

7 MR. DAVIS: In a fuel neutral system, a unit
8 that generates electricity using gas would receive as
9 many allowances as further heat input or electricity as a
10 coal-burning unit that produced -- had the same heat
11 input or electric output.

12 MS. BUGEL: And why was that rejected?

13 MR. DAVIS: In Illinois, the burden for
14 compliance is high on coal, and to further reduce their
15 allowances was considered -- I believe was considered to
16 be unduly burdensome to them.

17 MS. BUGEL: Why do you say that the burden
18 for compliance is high on coal?

19 MR. DAVIS: I'm sorry. Reductions. Burden
20 for reductions.

21 MS. BUGEL: Why do you say the burden for
22 making reductions is high on coal?

23 MR. DAVIS: That --

24 MR. ROSS: Well, I can answer that. To

1 reduce emissions at coal-fired power plants, you
2 typically install add-on controls, such as scrubbers,
3 SCRs, baghouses. We went over some of the capital costs
4 and also ongoing costs involved with those controls, and
5 they can range, as we discussed yesterday, in the tens of
6 millions if not hundreds of millions of dollars for those
7 types of controls. The types of controls for
8 non-coal-fired EGUs such as for oil and gas-fired units
9 are typically combustion modifications, which are
10 multiple lower in cost than the cost of add-on controls
11 for coal-firing EGUs, so not giving an appropriate amount
12 of allowances is, as Mr. Davis -- or to the coal-fired
13 units to provide some level of cost recovery for the
14 installation of those very expensive types of controls --
15 I think that's generally recognized -- would be
16 disadvantageous to the coal-fired EGU, and it would
17 affect the cost of the program to those types of units.

18 MS. BUGEL: Are there any benefits to fuel
19 neutrality?

20 MR. ROSS: Environmental benefits?

21 MS. BUGEL: Sure.

22 MR. ROSS: Yes, and just like I say, the --
23 we presented an issue paper on fuel neutrality, I
24 believe, at the very -- if not the first stakeholder

1 meeting or the -- it was the second stakeholder meeting,
2 that that was one of our proposed options that we were
3 exploring as going forward with a fuel neutral approach
4 in CAIR, and we received very little comments. What we
5 have decided to go with is a coal neutral approach in
6 that we weighed all coals equally that do give fewer
7 allowances to the less polluting units such as oil and
8 gas-fired EGUs.

9 MS. BUGEL: I don't have any further
10 questions. Thank you.

11 HEARING OFFICER KNITTLE: Any other further
12 questions for Mr. Davis? Mr. Davis, thank you for your
13 time. Appreciate it. Let's go off the record.

14 (One-hour lunch recess taken.)

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

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4 I, KAREN WAUGH, a Notary Public and Certified
5 Shorthand Reporter in and for the County of Bond, State
6 of Illinois, DO HEREBY CERTIFY that I was present at the
7 Illinois Pollution Control Board, Springfield, Illinois,
8 on October 11, 2006, and did record the aforesaid
9 Hearing; that same was taken down in shorthand by me and
10 afterwards transcribed, and that the above and foregoing
11 is a true and correct transcript of said Hearing.

12 IN WITNESS WHEREOF I have hereunto set my hand
13 and affixed my Notarial Seal this 15th day of October,
14 2006.

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Notary Public--CSR

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#084-003688

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