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BEFORE THE  
ILLINOIS COMMERCE COMMISSION  
BENCH SESSION  
111(d) POLICY SESSION 3  
Thursday, November 6, 2014  
Chicago, Illinois  
Met, pursuant to notice, at 2 P.M.,  
at 160 North La Salle Street, Chicago, Illinois.  
PRESENT:  
DOUGLAS P. SCOTT, Chairman  
JOHN T. COLGAN, Commissioner  
ANN McCABE, Commissioner  
SHERINA E. MAYE, Commissioner  
MIGUEL DEL VALLE, Commissioner  
SULLIVAN REPORTING COMPANY, by  
PATRICIA WESLEY  
CSR NO. 084-002170

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2           CHAIRMAN SCOTT: Good afternoon, everyone. I  
3 assume you can hear us down in Springfield.

4           A VOICE: We can. We are all set.

5           CHAIRMAN SCOTT: Very good. Thank you.

6                               Welcome to the third of our three  
7 scheduled policy sessions of the clean power plan  
8 the USEPA's regulation under Section 111(d) of the  
9 Clean Air Act producing greenhouse gas emissions  
10 from the power sector.

11                              With me here in Chicago are  
12 Commissioners Colgan, McCabe, del Valle, and Maye.  
13 I am Chairman Scott. I want to thank our sister  
14 agencies, the IEPA, DCEO, and IPA for helping us to  
15 put these programs together and to work with us  
16 under IEPA's lead in responding to the USEPA's  
17 proposal.

18                              As you recall, on June 2nd of this  
19 year the USEPA issued the clean power plan calling  
20 for reductions in greenhouse gases from the power  
21 sector based on a set of building blocks which  
22 produce different reductions on a state-by-state

1 basis using 2012 as a baseline year and seeking a  
2 reduction in targets by 2020 and 2030.

3 Comments to the EPA are now due on the  
4 proposal in December, and the final rule is expected  
5 to be announced in June of next year. Under the  
6 current proposed time line, states have to submit  
7 compliance by the end of June 2016, although there  
8 are provisions for some delays, including the states  
9 participating in a multi-state compliance program.

10 The EPA has very recently also issued  
11 a Notice on Data Availability, or a NODA -- the  
12 acronyms are great. You have got to love them --  
13 concerning the clean power plan with the purpose  
14 being to let folks know some of the areas where they  
15 are receiving many questions and comments and to ask  
16 everyone for additional comments on certain issues.  
17 Those comments are also due in early December.

18 So states and other stakeholders have  
19 been working on a number of these issues with  
20 respect to the plan, first, ComEd and the EPA  
21 individually or in groups, second, unpacking the  
22 rules and see where there are questions or what's in

1 the rule that may not make sense in a particular  
2 state, and also looking at regional multi-state  
3 approaches.

4 We've been doing all of those things  
5 in Illinois, preparing comments, working with other  
6 groups on comments, and analyzing the rule for our  
7 own compliance pathway, as well as working with  
8 other states to see if multi-state approaches work  
9 or may work for Illinois.

10 Obviously, all of this is important to  
11 us here at the ICC, as decisions are made here and  
12 in other states will affect the liability and the  
13 cost of electric service to our citizens and our  
14 Commission which is why we have convened these  
15 sessions.

16 In the first session we looked at the  
17 proposed rule itself, what's trying to be achieved  
18 and overall what it looks to require from us here in  
19 Illinois. We then looked specifically at building  
20 blocks one and two focusing on generator plant  
21 efficiencies and natural gas ramp up.

22 The second session we focused on

1 building blocks three and four of the clean energy  
2 sources, which is renewable nuclear power and energy  
3 efficiency, and what the rule means for us in those  
4 areas, and how well we are positioned to respond.

5 In both sessions, as is true of today,  
6 we have been joined by experts in the field, local  
7 and national, to help us sort through a very  
8 complicated, a very important proposed rule.

9 We have approached this from the  
10 standpoint, just to get this out of the way, that  
11 the rule will be implemented. We are well aware of  
12 the legal challenges, which have already started to  
13 the rule, but we have to assume that it's going to  
14 happen in order to do what we need to do in terms of  
15 preparing for a compliance pathway.

16 It's important to remember in that  
17 regard also that the impetus to this rule began with  
18 the U.S. Supreme Court's decision which indicated  
19 that USEPA could, and, in fact, should regulate  
20 carbon under the Clean Air Act.

21 So there's a lot of speculation  
22 because of the election this week, and what's going

1 to happen in the U.S. Senate, and whether or not the  
2 president can veto certain laws, and then there's  
3 going to be court actions, you are well aware of all  
4 of that, and so just to let you know that we are  
5 proceeding with this, because at some point, if it's  
6 necessary for us to actually put some compliance  
7 pathways forward, we want to be able to go to work  
8 to do that.

9                   So today, as we had planned when we  
10 laid out this schedule for the policy sessions, we  
11 are going to pivot with one exception -- I'll  
12 explain in a minute -- discussions of compliance  
13 pathways, what Illinois can do, what's important for  
14 us to keep in mind as we progress, and what the  
15 options are for multi-state compliance.

16                   The one exception to that is that we  
17 also want to ask our national experts about the  
18 recent issued Notice of Data Availability and what,  
19 if anything, we can learn from the fact that the  
20 USEPA is asking us to comment on a number of  
21 specific areas, and are there other bits of  
22 information and guidance we expect from The USEPA

1 before the December comment period or before the  
2 June 2015 final rule.

3 So to help us accomplish all of this  
4 over the next two hours and 50 minutes or so, we  
5 have a number of folks to talk with us, and we  
6 sincerely appreciate everyone being here.

7 We are going to start with a group of  
8 members from the Illinois General Assembly, not  
9 specific on questions. There's no quiz for the  
10 members on 111(d) so much as to give us a sense as  
11 we are developing energy policy into the realm of  
12 111(d) compliance, what are the important  
13 considerations that they want us to keep in mind as  
14 we do that, and we really appreciate them being  
15 here.

16 We know this is a very busy week.  
17 Having been a member of the General Assembly, as  
18 Commissioner del Valle and I, we know how busy these  
19 weeks are whether they're in a hotly contested race  
20 or not. We know this is a really busy time, so we  
21 appreciate your being here.

22 We are also going to hear from a

1 representative from the Attorney General's office to  
2 tell us, as with the legislators, what is important  
3 to them as we pursue energy policy, and then we'll  
4 be joined by two gentlemen who have now been working  
5 in the Clean Air Act for a number of years but who  
6 have also been working recently and currently with a  
7 number of states on a clean power compliance plan,  
8 and including multi-state options, as we will go  
9 through a range of options with them that our state  
10 and others raise, too.

11                   And, finally, we will speak with  
12 representatives of the two grid operators that  
13 provide service to Illinois residents, MISO and PJM.  
14 All of the plans that us and all of the other states  
15 are working on need to fit somehow into the system  
16 of how power gets dispatched, and that's obviously a  
17 huge impact on liability and cost, and so we need to  
18 talk with the regional transmission organizations  
19 about that.

20                   When we are done for today, I'm pretty  
21 sure that we will be to answer everyone's questions,  
22 and at least we hope there's an understanding of the

1 kind of issues that we are facing as we try to  
2 develop an energy policy going forward.

3 With that, I'll ask the other  
4 Commissioners if they have anything they would like  
5 to say before we start.

6 (No response.)

7 Okay. Then with that, we don't have a  
8 seniority list, so there's no particular order, if  
9 the legislators would come up to the table here and  
10 sit around the semi-horseshoe there. You are all  
11 welcome to come up. Representative Davis, don't be  
12 shy.

13 REPRESENTATIVE NEKRITZ: He's the most senior.

14 CHAIRMAN SCOTT: We have Representative Phelps in  
15 Springfield with us.

16 So I think what we will do is maybe we  
17 will take a couple of the folks who are here in no  
18 particular order, and I'll just call them as you sit  
19 down, and then we'll go to Representative Phelps,  
20 and then come back, and, again, just to go around  
21 once, but basically just a few minutes on some of  
22 the things that are important to you as we start to

1 sort through all of the issues relating to the clean  
2 energy plan and some of the other energy challenges  
3 that we are facing in Illinois and talk about what's  
4 important to you.

5 And we will start with Representative  
6 Davis as most senior.

7 PRESENTATION

8 BY

9 REPRESENTATIVE DAVIS:

10 Thank you very much, Chairman Scott,  
11 Commissioners. Thank you very much for the  
12 opportunity to be here. Unlike my colleagues, I'm  
13 looking at notepads and iPADS, and things of that  
14 nature. I don't have any Cliff's Notes, but the  
15 reason I'm here is not altogether different than  
16 previous reasons that I have come before the  
17 Commission as well.

18 As we look down the road at these  
19 compliance issues, when we are working to be  
20 compliant, that means we are going to spend some  
21 money. I'm not sure how much money is going to be  
22 spent to get Illinois to where it needs to be, but

1 dollars will be spent.

2                   So I come to you today to encourage,  
3 as Chairman Scott indicated, about looking at things  
4 or pieces of things as we walk down this path along  
5 the issue of diversity, supplier diversity,  
6 employment diversity. How ever you want to  
7 categorize it, companies are going to be spending  
8 money to upgrade their facilities, to reform their  
9 facilities, for lack of a better way of putting it,  
10 dollars will be spent. At the state level, those  
11 dollars will be pushed out the door to help in doing  
12 things like this, and I think it's just important  
13 that the conversation about diversity happen on the  
14 very front end of this conversation versus somewhere  
15 down the road.

16                   I think we have seen in past instances  
17 and in other conversations when we talk about  
18 diversity somewhere along the way it gets lost in  
19 the conversation. Companies will argue that, well,  
20 you know we can't find, it's not available, folks  
21 aren't trained, you know, all of the things that we  
22 have heard. So, guess what. Why don't we talk

1 about it now.

2                   To the extent in which you as  
3 Commissioners and us as members of the General  
4 Assembly, we have the ability to -- for lack of a  
5 better word -- legislate, things of that nature, at  
6 least put parameters in place that speak to the idea  
7 that we must have diversity, again, in our  
8 contractors and the work force.

9                   To the extent in which we can, I think  
10 we need to be talking about how we do that and to  
11 the extent in which it can become more than just  
12 conversation. Again, as we talk about the  
13 possibility of legislating it, we should be I think  
14 trying to do so.

15                   It is my understanding that, you know,  
16 these kinds of efforts over a period of time we  
17 could be spending upwards of half a billion dollars  
18 to try to make all of this stuff happen and coming  
19 in compliance with what the federal government is  
20 asking us to do. That's a lot of money and a lot of  
21 folks will be put to work and a lot of contractors  
22 will be hired to make that happen.



1 on the Blue/Green Coalition as well, so I appreciate  
2 your being here.

3 SENATOR KOEHLER: Thank you

4

5 PRESENTATION

6 BY

7 SENATOR KOEHLER:

8 Thank you. Thank you very much,  
9 Members of the Commission. Is it on? How's that?  
10 Thank you very much, Chairman Scott and Members of  
11 the Commission. I'm going to give you just some  
12 observations and a little bit of background of some  
13 work that I'm doing right now.

14 Just by way of background, I'm  
15 currently the vice chair of the Senate Energy  
16 Committee, and I've also been nominated by President  
17 Cullerton to be involved in an organization  
18 called, "The Legislative Energy Horizon Institute,"  
19 and that's sponsored in part by the National  
20 Conference of State Legislators, University of Iowa,  
21 Department of Energy, the Pacific Northwest  
22 Laboratory.

1                   As it happens to be, tomorrow I'm  
2    leaving for Washington D.C., for the second part of  
3    that. We had our first group of meetings in  
4    Washington State and Richmond, Washington, at the  
5    Pacific Northwest National Laboratory, which is  
6    owned by the Department of Energy. It's really  
7    their think tank for cutting-edge energy, you know,  
8    ideas and resources. It's been fascinating. I  
9    think I know enough now to be dangerous, which is  
10   probably the extent of it, but certainly I'm  
11   interested in it.

12                   Also, this past summer I put together  
13    a group in Peoria, much like the Blue/Green  
14    Coalition of environmentalists and laborers, Jack  
15    Deering from the Sierra Club and some of the  
16    environmentalists locally, Jonathan Michaels in  
17    Springfield and Representative Phelps, how are you  
18    folks.

19                   Jonathan Michaels has been a resource  
20    to us. We have got the local leaders and we are  
21    trying to address the issue of how do we create a  
22    common agenda, and I'll just speak as a democratic

1 legislator.

2                   The toughest time I had was getting  
3 caught between two important constituents like  
4 environmentalists and labor, and so out of self  
5 preservation, if nothing else, I called this group  
6 together to say can't we talk about what things, you  
7 know, we can agree on, so we were trying to create a  
8 common agenda, jobs being number one.

9                   I certainly want to echo what  
10 Representative Davis has said about making sure that  
11 we are diverse and the jobs that we see provided in  
12 terms of whatever we do in energy, but there's some  
13 questions that we have been kind of kicking around  
14 and from some of the things that I have learned with  
15 this Legislative Energy Horizon Institute, they are  
16 particularly related to Illinois.

17                   When I talk with my colleagues, and  
18 it's about 40 of us from Canada and the United  
19 States, first of all, Illinois is unique in that we  
20 are deregulated. There are not many states,  
21 especially in the Western part of this country, that  
22 are deregulated, Texas, and the Midwest, I guess.

1 Also, we have eleven nuclear power plants. That's  
2 just kind of unheard of.

3 Let me tell you one of the concerns  
4 that came out of this environmental labor working  
5 group expressed by the representative from the  
6 steamfitters. He said, I was called to Missouri to  
7 a conference with Ameren to talk about their  
8 maintenance plans for the next five to ten years and  
9 they had it all laid out. This is what we are going  
10 to do. This is how many workers we are going to  
11 need. This is how much we are going to capitalize  
12 the maintenance and the upgrading of our facilities.  
13 He said we don't do anything like that in Illinois,  
14 and that's one of the questions that I have is how  
15 do we capitalize our generation upgrades or, if we  
16 need to build new generation units, how do we  
17 capitalize that in a deregulated market?

18 We tried to put a mask on that, and  
19 that was a terrible failure, but I think we have got  
20 to pinpoint that as one of the priority needs of  
21 Illinois, because I used to do a lot of work in  
22 neighborhoods. I live in a poor neighborhood in

1 Peoria. I don't want the slum-landlord affect to  
2 take place. I don't want power plants to be  
3 purchased and then bled dry to be scrapped.

4 We need investments, and I'm proud of  
5 the fact that Illinois has really led the way in  
6 terms of wind production, and we do have a couple of  
7 solar projects that I'm working on with a group out  
8 of Fulton County which are very exciting. In fact,  
9 Farmington High School just put up a solar panel  
10 which is going to cut their energy cost by a third.

11 So we have got some exciting things  
12 going on, but still base-line, base-load plants are  
13 always going to be needed, because that capacity has  
14 to be there for the needs of our citizens.

15 So how do we do that in a deregulated  
16 environment? I don't know. The thing that I'm  
17 trying to focus a little bit more on 111(d)  
18 requirements. I think there's some real  
19 opportunities in that, but I think we have to be  
20 very smart in terms of how we do that.

21 There is a friend who I will see next  
22 week. He's a senator from Minnesota, and we got to

1 talking off the side, and he said, you know, what if  
2 we were to look at some kind of a multi-state  
3 partnership and we could, you know, partner with  
4 Illinois, and we started thinking about that. We  
5 talked to somebody from another state and they said  
6 that might have some advantage to us.

7 I look at the fact that we have eleven  
8 nuclear power plants and we have to somehow take  
9 advantage of that. We already have part of the  
10 solution right here in our state.

11 I think that we are going to hear more  
12 about that later on in the agenda. If we can have  
13 the polluters helping to pave the way for the new  
14 cutting-edge production of electricity generation,  
15 then that's great. I don't think government can  
16 fund it all.

17 I think that Illinois has got a lot of  
18 issues that we have to address, not to say that we  
19 are I think the only state that I know of, but maybe  
20 there's a few on the East Coast that have two RTOs  
21 with very different philosophies in terms of how  
22 they operate.

1                   I'm not smart enough to tell you, you  
2 know, what I think works and what doesn't work, but  
3 why? Is that really to our advantage? So I think  
4 we have got to take into account the whole gambit of  
5 protecting the environment, of creating jobs, of  
6 making sure that we have, you know, the incentive  
7 for capitalization of, you know, maintaining our  
8 generation plants.

9                   I think we need to look at really the  
10 ratepayers. The ratepayers have to be protected in  
11 all this, and this Commission does an excellent job  
12 in articulating that, so we have got some exciting  
13 times ahead of us, but I think we have also got some  
14 real issues that have to be addressed.

15                   I'm glad to be here with my colleagues  
16 from the legislature. I think that we need to  
17 actually form maybe an energy caucus to continue to  
18 work on these issues, because if you probably  
19 mentioned -- and I'm just guessing -- if you  
20 mentioned what is an RTOs to most of our colleagues,  
21 they would probably have no clue, no clue, but those  
22 are so important issues in terms of how we as a

1 state function in terms of our energy capacity.

2 REPRESENTATIVE DAVIS: So you are going to tell  
3 us what it is?

4 (Laughter.)

5 SENATOR KOEHLER: Regional Transmission  
6 Organization, and we have two of them. We have PJM  
7 and we have MISO.

8 CHAIRMAN SCOTT: We'll have both on the agenda  
9 later.

10 SENATOR KOEHLER: But anyway, I thank you for  
11 your time in allowing me to be here.

12 CHAIRMAN SCOTT: Thank you very much.

13 Yes, Commissioner Colgan.

14 COMMISSIONER COLGAN: This is not a question,  
15 just a comment. Senator, you said that you think  
16 you know enough to be dangerous. I think you know  
17 enough to be asking the right questions, because you  
18 asked a bunch of right-on-the money questions, and  
19 there's a lot of work that can be done with this  
20 Commission with the General Assembly to try and  
21 resolve some of those issues.

22 SENATOR KOEHLER: Thank you.

1           COMMISSIONER del VALLE: Just quickly, I want to  
2 echo the Commissioner's comments, and I want to  
3 thank all of you for being here. There are just not  
4 enough representatives and senators in the General  
5 Assembly that are knowledgeable in this area, and,  
6 yet, to hear you speak and have all of you here  
7 today is reassuring.

8                           And I want to ask you are you going to  
9 chair the Senate Energy Commission next year?

10           SENATOR KOEHLER: I'm interested in that. We'll  
11 see what happens.

12           CHAIRMAN SCOTT: Kind of late breaking news  
13 there.

14                           Let's go to Representative Phelps. I  
15 appreciate you joining us from Springfield.

16   PRESENTATION

17   BY

18   REPRESENTATIVE PHELPS:

19                           Thank you, Chairman. My name is State  
20 Representative Brandon Phelps from the 118th  
21 District, or, as you know and the senators know that  
22 we call that God's country down in Southern

1 Illinois. I'm at the bottom of eleven counties, and  
2 a lot of my colleagues that are with me today can't  
3 believe I have eleven counties because they only  
4 represent eleven streets, and that's how rural my  
5 area is.

6 First of all, I want to thank the ICC  
7 and Jonathan Feipel for the opportunity to testify  
8 today. Also, I want to thank Commissioner Scott,  
9 and IEPA, and the ICC staff for their efforts in  
10 trying to develop policy options for the EPA to  
11 consider as it starts development of a state plan  
12 for compliance.

13 As you know, and my colleagues would  
14 say, the General Assembly is very interested in this  
15 and not only the coal aspect but other forms of  
16 energy.

17 I live in coal country, but I was one  
18 of the main sponsors of the solar bill that we had  
19 this year, so I think that we need all the aspects  
20 of energy in our state. As you know, I got  
21 criticized a few times. It is important for my  
22 area, and it passed with sponsored House Resolution

1 782, and that was one of two resolutions that was  
2 passed.

3                   If you are not familiar with House  
4 Resolution 782, it more or less recognizes that coal  
5 is an integral part of our state. Over 42 percent  
6 of our energy comes from coal and it's a key part to  
7 our economy with the jobs that it has.

8                   A coal-fired generation, as you know,  
9 is a 24/7 job, 364 days a week. Recognizing that  
10 electric generation companies have invested billions  
11 and billions of dollars of investment in  
12 environmental upgrades and, as you know, it calls on  
13 the USEPA to give what we think is very important.  
14 Let Illinois have its flexibility when it comes to  
15 Illinois policy and not just a cookie-cutter  
16 approach, because coal means so much to Illinois.

17                   The other resolution I will get into  
18 is House Resolution 1146 that passed the House that  
19 I also did support to make similar points regarding  
20 the benefits of nuclear power and to the state  
21 economy, the reliability and affordability of  
22 electricity, and it points out that nuclear power

1 out of state can maximize fossil fuel and to promote  
2 statewide carbon emissions overall.

3 The bottom line is taking together  
4 both resolutions, we recognize the importance of  
5 base-load coal and nuclear generation to the economy  
6 of Illinois, and we need to make sure that any state  
7 compliance plan that does everything possible to  
8 protect Illinois jobs, the economy, the  
9 affordability and reliability of electricity.

10 I also want to make this point. I  
11 sincerely think a lot of Representative Davis, and  
12 Representative Koehler, and Chairman of the Public  
13 Utility Commission Telecom in the House, and that I  
14 will do everything I can to work with him to make  
15 sure that we hit goals, and I think that's very  
16 important.

17 Also, Illinois needs to have, as I  
18 said earlier, all of the above energy strategies,  
19 that includes coal, nuclear, and natural gas,  
20 renewables, and energy efficiency, and one that's  
21 market-based fuel neutral. That's what I'm looking  
22 for and what I believe many of the members of the

1 General Assembly are looking for.

2                   On a personal level, I told you,  
3 Chairman Scott, I'm from Southern Illinois and have  
4 coal-fired power plants in my district with one job  
5 in Illinois, in good old Manipeg (sic) County.

6                   Dynergy, which operates this very  
7 demand, is a major employer and taxpayer in my  
8 district; similarly, over two-thirds of the  
9 22 coal-fired generators impacted by this rule are  
10 located in Central and Southern Illinois south of  
11 1-80, and the economic engine for many, many in  
12 downstate Illinois, and Senator Koehler can tell you  
13 that. For example, statewide coal-fired generation  
14 jobs has over 2400 high-paying jobs.

15                   For example, Dynergy, the largest coal  
16 and natural gas generation company in Illinois with  
17 8300 megawatts, over 9,000 engineering jobs, over  
18 655 million in household earnings, over 39 million  
19 in state tax revenues, over 23 million in  
20 local property taxes, economic activity over 2.4  
21 billion -- with a B - 2 billion spent on environment  
22 upgrades in recent years as well.



1                   Thank you very much. Is this on?

2           CHAIRMAN SCOTT: Yes, you are on.

3           SENATOR BISS: Thanks very much for having us and  
4 thank you for holding these hearings. I want to  
5 keep my comments extremely short and extemporaneous.

6                   I would say as we think about the  
7 implementation of this rule, I keep coming back to  
8 two basic principles, the most important of which is  
9 to keep -- to bear in mind the kind of long-term  
10 goal of the process as opposed to simply the letter  
11 of the rule itself, and so it appears to be the case  
12 that will be granted a fair amount of flexibility of  
13 what different options we can take, but I think we  
14 have a clear sense of where as a society and state  
15 we expect to be in future generations, and it seems  
16 to me important to use the implementation of this  
17 vehicle to use in that direction as rapidly as  
18 possible, but I keep coming back to thinking about  
19 how to emphasize both efficiency and renewables in  
20 the implementation of a mix that we put together.

21                   With that said, I would want to  
22 highlight what I would characterize as kind of a

1 similar spirit two things that Senator Koehler  
2 mentioned. The first is this possibility for  
3 interstate collaboration, which I think is worth  
4 highlighting for two reasons, the first of which is  
5 that the State of Illinois has some unique  
6 advantages which could very well position us in  
7 certain types of regional arrangements, but the  
8 other is -- you know, let's be realistic. This  
9 action by EPA, it is what it is based on the  
10 political realities of Washington as they are. It  
11 doesn't mean that the ideal solution is to kind of  
12 fragment the country into states and imagine that  
13 borders between the states are impermeable to  
14 electrons, So I think we are both leveraging our own  
15 assets, but also making good policy we are able to  
16 enter into a legislative agreement.

17 And then the last thing I would say on  
18 this topic of the Blue/Green Coalition, particularly  
19 as we think about the long-term energy  
20 transformation that our nation is going to have to  
21 undergo, let's not get tricked into feeling that the  
22 transformation and energy assets has to be paired

1 with downward pressure on wages.

2                   The fact that there seems to be some  
3 downward pressure on wages in the broader economy is  
4 important, and terrifying, and scary, and sad, but  
5 that doesn't mean that we have to accept that new  
6 sectors have to be organized differently and have to  
7 be held to lower labor standards, lower wage  
8 standards than on old sectors.

9                   As we embrace the transition, I don't  
10 think we ought to be embracing downward pressure on  
11 wages. We ought to be managing the transition so as  
12 to counteract that social trend, and I think that  
13 principle is at the core of protecting and  
14 respecting the Blue/green Coalition that Senator  
15 Koehler wants so much to build.

16                   So with that, I thank you for the  
17 chance to be here and look forward to seeing and  
18 learning from you and working on this issue.

19           CHAIRMAN SCOTT: Thank you very much, Senator. I  
20 appreciate it.

21                   Elaine Nekritz, you want to go?

22           REPRESENTATIVE NEKRITZ: No.

1 CHAIRMAN SCOTT: She keeps deferring.

2

3

4

PRESENTATION

5

BY

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REPRESENTATIVE GABEL:

7

Thank you. Thank you very much,

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Mr. Chairman and Commissioners. I am really pleased

9

to be here today with you. I have heard about, or

10

read about, or come to most of the meetings that you

11

have had on this issue, and I think it's been very

12

informative, and I really appreciate you doing these

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sessions.

14

I think that it's been clear from

15

these sessions that Illinois is really poised to

16

really address our compliance for 111(d) now, that

17

we are really -- I would say there's no reason to

18

wait, you know, as people have been talking about it

19

a number of years.

20

I think that one lesson is that we

21

should really think about how we can do this

22

quickly, and I also want to summarize a couple of

1 things that my colleagues have said already.

2           So what I have heard them say is that  
3 we have two big opportunities this spring session.  
4 The first one is this opportunity to really discuss  
5 clean energy jobs for Illinois.

6           Many of the speakers who came to the  
7 sessions before this have spoken about the  
8 opportunity for job growth in the renewable energy  
9 and energy efficiency arenas, and I heard that  
10 someone had said that there were a hundred thousand  
11 jobs in clean energy now and that it is truly ripe  
12 for growth.

13           My sense, after meeting with many  
14 people over the summer on energy issues, is that we  
15 are clearly on the cusp of a revolution in the whole  
16 energy arena at all levels of our work.

17           The second big opportunity that we  
18 have spoken about and that I have observed is that  
19 Illinois needs to be at the center of a regional  
20 approach to carbon emissions.

21           I'm looking forward to our discussions  
22 today about a regional solution, in particular the

1 cap-and-invest market approach. Illinois strength,  
2 as Senator Biss talked about, is that we are one of  
3 the most populace states. We are at the center of  
4 the country. We have a trained workforce and we  
5 also have a manufacturing sector here that's very  
6 strong.

7 I think it's really important that  
8 Illinois be at the center of this regional approach,  
9 that we have the opportunity to be a leader, but  
10 that we have to move quickly in order to be able to  
11 assume that role.

12 People are much more likely to join a  
13 regional approach that's already started rather than  
14 spending a whole lot of time having meeting after  
15 meeting with people, which I know you have spent so  
16 much time doing, Chairman Scott, and I really  
17 appreciate all the work that you have done on that.  
18 I think at a certain point we need to just take  
19 lead, move on and work with Minnesota and just begin  
20 the process of a regional approach and in time other  
21 partners will join us.

22 I strongly urge participants today to

1 discuss how Illinois could establish a  
2 cap-investment market approach by 2016 and have  
3 other states join us afterwards.

4 I also think the other thing that I  
5 would like participants today to discuss would be  
6 how a cap-and-invest market can create jobs in all  
7 parts of the state.

8 Representative Phelps, and for all  
9 people, labor unions in particular, as you  
10 mentioned, minority groups, Chicagoland, downstate,  
11 urban areas, rural areas, we need to be building in  
12 fields and rooftops everywhere in Illinois.

13 For us, this is truly a significant  
14 opportunity, and I think we need to take advantage  
15 of it. You know, I always said we need to look to  
16 see where the window's open and then make sure we  
17 jump through it, and I think to me this is an open  
18 window and we need to take the jump, so thank you  
19 very much.

20 CHAIRMAN SCOTT: Thank you, Representative.

21 COMMISSIONER MAYE: May I ask a question?

22 CHAIRMAN SCOTT: Sure.

1           COMMISSIONER MAYE:  Thanks so much for all of you  
2           being here first of all.  I just want to ask you a  
3           quick question, and I know you talked about a  
4           regional approach and why you said you wanted  
5           Illinois to really take the lead and be the center  
6           of approach.

7                           I was curious to know why or if you  
8           are opposed to an individual approach for the State  
9           of Illinois, and, if so, why.

10           REPRESENTATIVE GABEL:  I think that with the  
11           regional approach Illinois has the opportunity to  
12           really build more renewable energy, wind in  
13           particular, but also solar, and I think that there  
14           are some other states around us who are more  
15           invested in coal than we are, and I think if we do  
16           that kind of a cap and invest, then they can buy our  
17           renewable energy, cleaner energy, and we would be  
18           the winner of that kind of arrangement.

19           COMMISSIONER MAYE:  Thank you.

20           REPRESENTATIVE GABEL:  You are welcome.

21           CHAIRMAN SCOTT:  Representative, thank you.

22                           I turn to Sue Rezin who represents

1 seven counties. I thank you, Sue.

2

3

4

PRESENTATION

5

BY

6

SENATOR REZIN:

7

Thank you. It's a downstate district

8

as well, so it's a very large district, and thank

9

you for the opportunity actually for me to be here

10

and learn. I appreciate everything that you do do,

11

and I also appreciate every year we have an energy

12

tour in my district and many of you have come on the

13

tour just to learn more about what is going on in

14

that area. I do appreciate it.

15

And but just to, you know, kind of

16

give you an overview, again, for those of you that

17

don't know, I'm in the 38th District. In my

18

district I call it, you know, probably the largest

19

energy-producing district in the Midwest, if not in

20

the country.

21

So of the eleven nuclear power plants,

22

three are in my district. We also have wind, solar.

1 I have coal plants. I have the peaker plants as  
2 well, and we have -- because of that, we also have  
3 the grid system coming through, and we also have,  
4 you know, a grid system that's trying to come  
5 through from the west of us to tie into the grid  
6 system, so we see a lot of what's going on in energy  
7 right in the 38th District, So we do have  
8 challenges.

9 I am the minority spokesman on energy,  
10 so I've often said we get legislation that, you  
11 know, sounds good but, you know, where do we plug it  
12 in in the bigger picture? Where does it fit in the  
13 plan? So that's why I appreciate the opportunity to  
14 be here today and listen to all of your speakers as  
15 well.

16 Just a couple of things in terms of  
17 jobs, and I do appreciate having, you know, these  
18 energy providers in my district meet in terms of  
19 jobs. There are high-paying jobs. I mean, there is  
20 skilled labor that comes in. They do the  
21 turnaround for all of the plants in the district,  
22 and there are very, very good wages, make no, you

1 know, bones about it. This is what's driving the  
2 economy in my district, and they're good jobs, so we  
3 do appreciate that as well.

4                   You know, and as we try to figure  
5 out what the best policy for the state is in terms  
6 of, you know, clean energy, you know, we always --  
7 especially my colleagues who hopefully I will be  
8 serving on the energy committee -- we have this  
9 balancing act of, you know, clean energy and cost,  
10 and what does that mean to businesses and  
11 corporations in the State of Illinois?

12                   We've heard a lot about the challenges  
13 for companies to be in the State of Illinois, but  
14 one thing they will tell you is one of our  
15 advantages in this state is the low cost of power,  
16 and that is a very big line item in their budget,  
17 and I would like to just give you a brief example of  
18 what businesses do when the cost of power goes up  
19 and the decisions that they make.

20                   We have -- part of my district has  
21 bought into a clean coal plant, and, as a result of  
22 it, they're not flexible in terms of the rates that

1 they pay. They're locked in, and currently with the  
2 low cost of power that's out there, they're not able  
3 to go on the market and get this low cost. They're  
4 paying a lot more currently.

5                   Now mind you this fluctuates, but that  
6 currently you do have businesses looking at that.  
7 They're higher energy users and it is a huge part of  
8 their bottom line. So when they're making decisions  
9 of whether to stay there or not, they're looking at  
10 the cost of power and should they stay there and  
11 invest or move in this case to the next town over  
12 which they have the ability to go on the market and  
13 shop for a better price.

14                   So, I mean, just to let you know,  
15 these are the challenges that we are going to face.  
16 As we are talking about this, I think you know in  
17 theory we are all on board with the direction where  
18 you are going, but we also have to be cognizant of  
19 what that line is in terms of cost and not price  
20 ourselves out of the market, because it's a huge  
21 advantage for companies to be in this state who are  
22 big and large energy producers, so thank you.



1                   Thank you, Mr. Chairman. I think I  
2 missed one of the meetings, but I think this is  
3 really an important process that you are going  
4 through. This is such a complex area and so that to  
5 dedicate the time and thoughtful dedication that you  
6 are giving to it is welcomed and very worthwhile.

7                   The disadvantage to going after how  
8 ever many is that all of my points have been made.  
9 I thought I was going to get away. I thought Sue  
10 Rezin, when she started talking about the low cost  
11 of energy in Illinois, that was my last one.

12                   I do think that as I served on the  
13 Illinois Jobs Task Force a few years ago, one of the  
14 things we consistently heard from employers and  
15 companies located in Illinois and wanting to locate  
16 here was the cost of power was one of the  
17 significant advantages we had. I think that that  
18 has to be a consideration that we look at for  
19 bringing non-energy-related jobs to Illinois, but  
20 the energy-related jobs are also critically  
21 important.

22                   As Representative Gabel mentioned, we

1 have over a hundred thousand folks working in that  
2 sector now, and that is something that we really can  
3 grow and expand on.

4 Two of the priorities I think for  
5 legislation this spring are going to be the fix for  
6 and expansion of renewable portfolio standards as  
7 well as expansion of the energy efficiency  
8 standards, and those I think are going to be  
9 critical component parts of whatever we do on the  
10 111(d) Rule as well, So I think we can hopefully be  
11 working together on the same goal with regard to  
12 those items.

13 I do believe that a broad energy mix  
14 is critically important to keeping our energy prices  
15 low and maintaining the jobs that we have, and those  
16 are the things -- those are the goals I think that  
17 we need to focus on as we go through this  
18 discussion.

19 So, again, it is an important debate.  
20 I'm glad to see so many members of the General  
21 Assembly here, because I think it speaks to the  
22 importance of the issue.

1           CHAIRMAN SCOTT: Well, thank you very much.

2                           Any questions for Representative  
3 Nekritz or any of the other legislators?

4   (No response.)

5                           Any of the legislators, do you have  
6 other points you would like to make?

7           COMMISSIONER KOEHLER: Just one comment I want to  
8 clarify when I talked about Illinois being  
9 deregulated among regulated states around us, I'm  
10 not advocating that we go back and try to  
11 re-regulate, but I am saying we have to figure out a  
12 way that we can incentivize investment into our  
13 generation plants.

14                           I do want to mention one exciting  
15 project that I saw in Canada, and I heard about in  
16 Washington State as well, and that's conversion of  
17 coal plants into biomass plants, and I think if we  
18 look at how the synergy would be created between  
19 agriculture and power generation, that might be very  
20 exciting for us in Illinois to look at that, because  
21 we have seen that there's been a lot of natural gas  
22 conversion, and natural gas is very cheap right now,

1 but I think we need to think beyond and really look  
2 at how we can take full advantage of the resources  
3 that we have in Illinois.

4 I am very happy to see all my  
5 colleagues here, because I think we have got a big  
6 issue and an exciting start to this, and I do  
7 appreciate the work that this Commission has done.  
8 I listened to the last meeting on the internet.  
9 It's much better being here in person.

10 (Laughter.)

11 CHAIRMAN SCOTT: Most people say the opposite.

12 (Laughter.)

13 Commissioner Colgan.

14 COMMISSIONER COLGAN: A comment about that issue  
15 that you are talking about. In a perfectly  
16 integrated state, those states do what they call  
17 "integrated resource planning," and because they can  
18 actually order a utility to build generation, if  
19 needed, that is where in a competitive state -- and  
20 you are shaking your head. You probably know  
21 this -- but in a competitive state we actually were  
22 not allowed as a Commission to do integrated

1 resource planning, and there needs to be some sort  
2 of way of coming together so that we can actually  
3 have a view of where we stand, because right now if  
4 we went to the competitive marketplace and, you  
5 know, we are not going back in the other direction,  
6 but we are entirely dependent upon the marketplace,  
7 and there are a lot of challenges in that  
8 marketplace with retirement of coal plants and all  
9 kinds of things happening in there partly why we are  
10 doing these sessions, but the Commission doesn't  
11 have any authority here to do any sort of integrated  
12 resource planning, and I don't know how you package  
13 that, because it's a complex issue, but I think  
14 there could be some way to go about that.

15 SENATOR KOEHLER: Can I respond to that?

16 CHAIRMAN SCOTT: Sure.

17 SENATOR KOEHLER: I think that's an excellent  
18 point. I think one of the things we have to look at  
19 is maybe the whole area of public/private  
20 partnerships. We have seen that done with the  
21 highway system. We are going to have a subject  
22 matter hearing on transportation and agriculture on

1 our lock-and-dam system looking at a public/private  
2 partnership approach.

3 So I agree. I think we have to really  
4 roll up our sleeves and solve that problem, because  
5 what I don't want to do is wake up ten years from  
6 now and see all of our coal-fired plants shut down,  
7 but what we are doing is we are now buying coal and  
8 electricity from Indiana, and Kentucky, and  
9 Missouri, and Iowa, and everywhere around us,  
10 because that's what could happen is that we could  
11 outsource all of our electric production which means  
12 our jobs go out of state.

13 CHAIRMAN SCOTT: Anybody else like to respond to  
14 anything that they have heard?

15 Representative Phelps, anything?

16 REPRESENTATIVE PHELPS: (Shaking head.)

17 CHAIRMAN SCOTT: Okay. Thank you very much.  
18 Again, I really appreciate your being here and as  
19 the debate goes on we will be talking a lot. So  
20 thank you very much.

21 Commissioner Colgan.

22 COMMISSIONER COLGAN: I do have one thing maybe I

1 can throw in here, sort of time limited, but I want  
2 to make this point. If there are structural deficit  
3 issues with the budget of the Illinois Commerce  
4 Commission, and I know the staff has been working on  
5 that, being really focused on that and have some  
6 really good and creative alternatives to how we can  
7 resolve those issues, and I thought it would be a  
8 good time to just kind of remind people that that's  
9 on the table.

10 (Laughter.)

11 CHAIRMAN SCOTT: And, in addition to that, I  
12 think the other point is that you are also hearing  
13 discussions about the kind of utility of the future  
14 and some other topics that we are going to take up  
15 in a fairly major way, and all that plays in  
16 together.

17 As we start talking about what our  
18 generation mix is now and what it's going to be, we  
19 have to be cognizant of the fact that in a lot of  
20 places you are seeing a lot of people that are  
21 generating their own power. Now we see that some in  
22 Illinois, but it's in greater degree in other

1 places, so we have to look at that issue as well,  
2 but it all ties into the same issues that we are  
3 talking about here.

4 So there's a larger debate I think  
5 that we are all going to have to have, and while  
6 this isn't one focused on 111, that's why I want to  
7 at least expand and talk about the energy policy in  
8 general, so there's plenty that we all have to work  
9 on here going forward, So thank up very much.

10 Appreciate it.

11 Turning next to Cara Hendrickson, Cara  
12 is with the Chief Public Interest Division and the  
13 Office of the Illinois Attorney General, Lisa  
14 Madigan, and I appreciate you coming, and it looks  
15 like the legislators will hear your thoughts on some  
16 things you would like to see the General Assembly  
17 focus on as we move forward. Thank you much for  
18 appearing.

19 PRESENTATION

20 BY

21 MS. HENDRICKSON:

22 Thank you, Chairman Scott and

1 Commissioners. On behalf of the Attorney General,  
2 Lisa Madigan, thank you for the opportunity to speak  
3 with you today on this important topic. We would  
4 like to express our appreciation to the ICC, as well  
5 as to the Illinois EPA, to the IPA, and DCEO for  
6 convening these conversations in helping to advance  
7 the dialogue about our planet and energy in the  
8 future.

9 I would like to especially acknowledge  
10 the contributions of the Members of the General  
11 Assembly who participated in today's session, and  
12 many of my colleagues will be echoing again some of  
13 the same things that we heard from them this  
14 afternoon.

15 It's encouraging to see the diversity  
16 of stakeholders who participated in a wide range of  
17 issues and options that were brought to the  
18 forefront of these sessions, so, again, thank you.

19 The federal carbon standards and the  
20 opportunities for the creation of a state  
21 implementation plan is an important issue for the  
22 Attorney General's office. Addressing climate

1 change is a long-standing environmental priority of  
2 the attorney general.

3 Chairman Scott, as you mentioned, in  
4 2003 our office joined with several other state  
5 attorneys general to support the authority of the  
6 federal government to regulate greenhouse gas  
7 emissions under the Clean Air Act.

8 We were successful in the U.S. Supreme  
9 Court case of Massachusetts vs. The EPA whereas you  
10 mentioned the court held that greenhouse gases are,  
11 indeed, pollutants under the Act. That historic  
12 decision set in motion a series of actions that the  
13 USEPA is taking to incorporate greenhouse gas  
14 emissions into our regulatory system.

15 Today USEPA is in the process of  
16 developing and implementing Section 111(d) carbon  
17 pollution standards for peak power plants. That's  
18 an important step forward as power plants represent  
19 the largest source of greenhouse gas emissions from  
20 stationary sources in the United States.

21 After more than a decade of advocacy  
22 and litigation at the federal level, we are pleased

1 to see the results of important and meaningful  
2 processes in Illinois and in other states around the  
3 country.

4 As we continue to represent the State  
5 of Illinois in the legal arena, we are equally  
6 committed to playing a formative role in our state  
7 planning effort to comply with the standards and, in  
8 that spirit today, I would like to offer five  
9 principles that the Attorney General's office  
10 believes that should guide and inform the  
11 deliberations as we move forward.

12 Happily many of these principles  
13 overlap some of the same things we have heard this  
14 morning and which gives us a real reason to be  
15 encouraged about this planning process going  
16 forward.

17 First, and foremost, among those  
18 principles is the importance of least-cost planning  
19 to meet our energy and carbon reduction goals.  
20 Utility bills matter for all users, residential,  
21 commercial, and even large industrial users for whom  
22 electricity costs can often be one of the largest

1 expenses at their facilities.

2 In recent years, as has been  
3 mentioned, the average price of electricity in  
4 Illinois has been well below the national average  
5 and among the lowest in the Midwest.

6 As we consider approaches to comply  
7 with the proposed carbon rules and reduce emissions,  
8 it's critical that policymakers in Illinois are able  
9 to assure ratepayers of all types that the most  
10 cost-effective approaches are being pursued to meet  
11 our energy requirements and keep the overall cost of  
12 electricity affordable.

13 In order to accomplish this objective  
14 to protect the public's access to affordable energy  
15 while reducing carbon emissions, policymakers  
16 require the most comprehensive information available  
17 to identify exactly what those needs are, both for  
18 carbon reductions and for energy production, and  
19 then, once that need is identified, to thoroughly  
20 assess the costs associated with potential options  
21 to craft policies that will benefit consumers and  
22 the state as a whole.

1                   Policymakers should have data that  
2    answers a few of these questions:  What are the  
3    carbon reductions that we need to make under both a  
4    rate base and a mass-base system?  How far will  
5    existing policies take us?  And what's the gap that  
6    must be filled?  What is the resource potential and  
7    the total cost of each of the full range of  
8    supply-side and demand-side resources?

9                   This data should include costs and  
10   savings associated with each of Illinois resources,  
11   including making our coal plants run more  
12   efficiently, using more natural gas, existing  
13   nuclear plants, increasing renewable efficiency and  
14   demand response, among other options.

15                  Finally, policymakers should have data  
16   that shows how each of the different compliance  
17   strategies affect energy and capacity prices,  
18   supplier revenues and customer bills.

19                  We need all stakeholders to release  
20   relevant information, including generation costs,  
21   expected changes in demand, and the projected  
22   changes in price associated with the various options

1 available to comply with the federal carbon  
2 standards.

3 Illinois policymakers cannot be  
4 expected to evaluate the contributions or costs of a  
5 generation source, whether nuclear, renewable,  
6 clean coal or something else without complete  
7 information. Least cost planning informed by  
8 comprehensive data is the single most important  
9 principle that should guide our analysis and insure  
10 that we can keep our electricity reliable and  
11 electricity bills affordable and competitive.

12 A second guiding principle is the  
13 importance of drawing lessons from proven models.  
14 For example, we know that properly designed  
15 market-based systems can produce significant benefit  
16 at a reduced cost.

17 The USEPA's Acid Rain Program is a  
18 prime example of a well-structured market approach  
19 to reducing pollution that has drastically and  
20 cost-effectively reduced sulfur dioxide emissions  
21 from power plants through the use of market-based  
22 trading systems.

1                   Another market-based example is the  
2 restructure of our own electricity system, which has  
3 allowed the IEPA and other suppliers to save  
4 consumers millions of dollars by creating a  
5 marketplace for power supply with competitive  
6 bidding.

7                   It's also worth bearing in mind, as  
8 others have mentioned, that electricity markets are  
9 continually changing. Low natural gas prices and  
10 other factors have reduced electricity prices for  
11 consumers, but we do not know for certain how long  
12 natural gas prices will remain at the current level.

13                   Similarly, while capacity payments  
14 received by generators have varied over the last  
15 several years, we do know that capacity system  
16 operators, like PJM, are proposing to make  
17 potentially major changes to capacity-charged  
18 models. Some of the proposed changes, if enacted,  
19 could substantially raise capacity charges.  
20 Properly designed market-based programs are well  
21 suited to respond to changing conditions and new  
22 dynamics such as these.

1                   Of course, market-based solutions are  
2 not the silver bullet for every policy change we  
3 face, but Illinois' successful implementation in the  
4 Acid Rain Program worked well to both control costs  
5 and reduce pollution, and Illinois' competitive  
6 electricity market has generated savings for  
7 consumers. The use of market mechanisms should be  
8 carefully considered as we chart the path ahead.

9                   The flexibility in compliance options  
10 offered by the proposed carbon standards allow us to  
11 examine a range of possibilities across the electric  
12 sector as a whole. No particular compliance method  
13 has been preordained, and policymakers should draw  
14 upon the proven models to set Illinois on a path for  
15 the future.

16                   The third policy principle we would  
17 like to offer is that we should examine how to build  
18 on past successes. Historically, we have sought to  
19 insure that our state energy policies produce  
20 positive results for the environment and the economy  
21 while at the same time making certain that  
22 ratepayers are treated fairly and energy prices

1 remain affordable.

2                   It's now appropriate to take a step  
3 back and consider how we might achieve even further  
4 progress and what policy adjustments may be needed  
5 to continue reaching and expanding our goals. We've  
6 made important progress toward making Illinois more  
7 energy efficient, growing Illinois renewable energy  
8 resources and capturing market savings for  
9 consumers.

10                   As has been mentioned, the American  
11 Council for Energy Efficiency Economy points out  
12 that energy efficient programs cost about three  
13 cents per kilowatt-hour, by far the cheapest options  
14 for satisfying our electricity needs.

15                   According to the Clean Jobs Illinois  
16 Report, there are nearly a hundred thousand workers  
17 in Illinois employed in energy efficiency, renewable  
18 energy and associated fields with 62 percent of  
19 those workers helping consumers save money by using  
20 less electric energy.

21                   On the renewable side, our policies  
22 have helped Illinois go from 50 megawatts of

1 installed wind capacity in 2003 to over 3500  
2 megawatts today. Illinois is poised for similar  
3 growth in solar generation as distributed generation  
4 and solar carved-out policies are helping to open  
5 the markets for smaller size residential systems.

6 Reducing demand and including more  
7 clean energy in our system gives us flexibility to  
8 reduce reliance on an infrastructure that's getting  
9 more expensive as it ages and now must account for  
10 associated carbon pollution. It also provides a  
11 growth industry, including jobs in engineering and  
12 research, installation and maintenance,  
13 manufacturing, sales and distribution, and  
14 professional services.

15 Identifying how to build on what's  
16 working and what barriers to further growth needs to  
17 be addressed, while maintaining our sensitivity to  
18 ratepayer impasse will help us to reduce carbon  
19 emissions and increase economic development in  
20 Illinois.

21 The fourth guiding principle is that  
22 the key to expanding efficiency renewables and

1 innovation is insuring that opportunities are  
2 available for everyone in Illinois, especially  
3 low-to-moderate income households, to participate in  
4 efforts to reduce energy use or generate power  
5 locally. This is a question of both scale and  
6 equity.

7                   To reach greater levels of carbon  
8 reductions, we must work towards the goal that every  
9 residential and business owner in our state has the  
10 opportunity to reduce their energy use through  
11 long-term energy efficiency measures and through  
12 sharing in the benefits of new products and  
13 technology.

14                   Low-to-moderate income households  
15 spend a higher proportion of their income for basic  
16 necessities, like lighting, heating and cooling. By  
17 prioritizing the involvement of these households in  
18 efficiency distributed generation and product  
19 innovations, we can both expand our carbon reduction  
20 efforts and deliver the benefits of reduced costs to  
21 those who need them most.

22                   Finally, the fifth guiding principle

1 that we would like to offer today is that when  
2 evaluating potential policy approaches to state  
3 energy policy, we should prioritize those things  
4 that encourage continued growth and innovation.

5           The climate is changing, but so is  
6 technology. New devices and new applications, such  
7 as energy efficient programmable appliances and  
8 residential solar systems, may offer consumers new  
9 and different ways to participate in the electricity  
10 system.

11           More data, more communication and more  
12 integration are clear trends across the utility  
13 landscape and are enabling things like distributed  
14 generation and demand response to grow and expand.

15           We know that the energy sector is  
16 already an important source of innovation, economic  
17 development and jobs in Illinois. As new  
18 technologies and sources of income join our  
19 traditional reliance on coal and nuclear, we must be  
20 cognizant of the challenges facing those communities  
21 where aged power plants are located and of the  
22 economic and technological challenges that will

1 affect people's livelihood and communities.

2 Properly directed, the policy approach  
3 is to comply with carbon reduction requirements can  
4 insure that Illinois is a leader in energy  
5 innovation and growth both now and in the future and  
6 that no region of the state is left behind. This  
7 transition can and must be managed fairly and  
8 equitably for all Illinois residents.

9 And, in conclusion, the Attorney  
10 General's office looks forward to participating in  
11 the process that thoroughly weighs and investigates  
12 all of our options for meeting our carbon reduction  
13 goals and potential conforms to Illinois' energy  
14 policy principles.

15 With the right principles in mind, we  
16 are confident that we can find a path to  
17 cost-effective reductions and carbon emissions that  
18 maximizes the benefits and savings for all Illinois  
19 consumers and establishes the ground rules for  
20 long-term sustainable energy in the future for our  
21 state.

22 Thank you again for the opportunity to

1 address you this afternoon.

2 CHAIRMAN SCOTT: Thank you, Ms. Hendrickson.

3 Any questions? Commissioner Colgan.

4 COMMISSIONER COLGAN: I'm sorry, but your second  
5 principle kind of blended into the third principle.

6 What was the bullet point for the third principle?

7 MS. HENDRICKSON: The third principle is building  
8 on past successes, and that includes taking a look  
9 back at what has worked and building on it going  
10 forward.

11 COMMISSIONER COLGAN: The second was draw some  
12 lessons from proven models.

13 MS. HENDRICKSON: That's right, proven models,  
14 and I mentioned in particular, the acid rain program  
15 as one example and the benefits of markets as an  
16 example of models that we should consider.

17 COMMISSIONER COLGAN: Thank you.

18 CHAIRMAN SCOTT: Anything further?

19 (No response.)

20 Great. Thank you.

21 MS. HENDRICKSON: Thank you.

22 CHAIRMAN SCOTT: Appreciate your being here

1 today.

2                   We are going to turn our attention now  
3 to compliance strategies, and for that we are going  
4 to call on a couple of folks who are experts in  
5 their field, and we appreciate them joining us,  
6 Franz Litz and Jonas Monast.

7                   I will just tell you a little bit  
8 about them as they're coming to the table. Franz  
9 has 20 years of experience in energy and  
10 environmental law and policy matters and government  
11 business, and Jonas has an organization, and we've  
12 worked with Franz in various capacities in the State  
13 of Illinois while he was with the World Resource  
14 Institute and with the Pace Environmental Center and  
15 now with the Great Plains Institute where he  
16 currently works.

17                   He also worked for the New York State  
18 Development Environmental Conservation and was part  
19 of the development team in the Northeast that worked  
20 on the Regional Greenhouse Gas Initiative where  
21 REGGIE is and you heard about today and in other  
22 policy sessions as well.

1                   So Franz brings a wealth of experience  
2                   and also has been working with us currently on some  
3                   of the multi-state stakeholder groups that we have  
4                   been working on specifically with respect to 111(d).  
5                   So we appreciate Franz being here as we do Jonas.  
6                   Thank you very much.

7                   Jonas is director of the Climate and  
8                   Energy Program at Duke University's Nicholas  
9                   Institute for Environmental Policy Solutions. He  
10                  works on the interaction of state and federal energy  
11                  policies regulatory options for reducing greenhouse  
12                  gas emissions in the inter-sanctions of financial  
13                  market climate resources.

14                 He also teaches courses on the  
15                  inter-sanctions of energy and environmental issues  
16                  at Duke University's law school and Nicholas School  
17                  of the Environment.

18                 Previously Jonas worked as an attorney  
19                  on social responsibility and graduate of Colin Cove,  
20                  LLP, and also served as a congressional fellow for  
21                  the late Senator Paul Wellstone and a legislative  
22                  counsel for Center for Responsible Lending.

1                   Jonas has worked with us on  
2 many different projects over the years and I know  
3 he's been doing a lot of work for some of the  
4 southern states specifically on these issues, so we  
5 thought he would give a broad perspective from a  
6 couple of views, as we heard the legislators talk  
7 today and we talked before in previous policy  
8 sessions about the rule itself, and what are some  
9 options for a state like Illinois to pursue, and  
10 what's going on in some of the other states as well.

11                   Let me start with you, Franz, if I  
12 could. You mentioned the NODA, the Notice of Data  
13 Availability, if you could just briefly explain what  
14 that is. We tried to talk about the rule itself in  
15 the earlier sessions, but since this is kind of a  
16 new development along that line, and then if Jonas  
17 has some thoughts as well, if you could briefly  
18 outline what the EPA is looking for in terms of  
19 comments.

20                   PRESENTATION

21                   BY

22                   MR. LITZ:

1                   Absolutely, and thank you,  
2   Mr. Chairman and Members of the Commission.  It's  
3   very good to be with you again, and it's an honor to  
4   follow the other public servants who are here,  
5   members of the General Assembly and the  
6   representative from the AG's office were really  
7   interesting to listen to the comments and concerns,  
8   and I should say it's a pleasure to be here with  
9   Jonas Monast from the Nicholas Institute where they  
10   do really tremendous work and got me thinking in  
11   this area.

12                   So on the NODA, the Notice of Data  
13   Availability, that came from the EPA, the way to  
14   think about this is EPA issued a proposed order on  
15   June 2nd, and it was their big proposal,  
16   800-some-odd pages of preamble, that set out what  
17   the carbon standards might look at for existing  
18   sources and then from that point they started to  
19   have meetings and hearing comments from  
20   stakeholders.

21                   The NODA, or the Notice of Data  
22   Availability, represents their official take, if you

1 will, on some ideas that have come up from various  
2 stakeholders, and so they heard some ideas and they  
3 said, well, we only heard them from these  
4 stakeholders. Let's see what everybody else thinks  
5 and their ideas and also concerns related to the  
6 proposal.

7                   So let me tell you what they are.  
8 They boil down to three things eventually. The  
9 first is there have been concerns raised about the  
10 way that the stringency kicks in under the standards  
11 and that in many states there have been -- there are  
12 concerns that the standards kick in too quickly.

13                   So EPA has heard some ideas about how  
14 they might address that and spread out the  
15 stringency and make it more gradual. They use the  
16 term "slide path," and the two ideas that they  
17 present are to allow early reductions so you would  
18 have credit for things that happen between now and  
19 2020 and allow those reductions to count toward  
20 compliance in 2020.

21                   The second idea would be to phase in  
22 more slowly the part of the standard that was set

1 based on a shift to natural gas, so don't assume it  
2 could all happen right away, have it phased in over  
3 time. Also the part of the standard that relates to  
4 the improvements or the efficiency of improvements,  
5 that can happen at both plants.

6                   So this set of ideas related to  
7 tempering those interim targets one could say  
8 analytically would tend to lessen the stringency of  
9 the standard to make it easy.

10                   And the second point that they're  
11 reacting to are concerns about how the renewable  
12 energy portion of the proposal from June 2nd was  
13 laid out, and they have heard from various states  
14 that some states seem to have a big burden under  
15 that method and other states seem to have very  
16 little burden, and they heard an idea to sort of  
17 tinker with the way that the renewable goal will be  
18 set for states and they'll do that by -- or at least  
19 the idea they're floating is that they have a  
20 regional target and then they would allocate that  
21 target among different states, and they identify  
22 some ways they might do that.

1                   One could look at this concern and the  
2     idea that EPA is floating as a way to perhaps level  
3     the playing field, and Illinois' goal relative to  
4     some of the other states sort of falls right in the  
5     middle, but there are states like Minnesota where  
6     they really fall quite high in terms of stringency  
7     levels and other states that fall quite low, but  
8     what we could expect if the EPA follows this second  
9     point is that we see some state targets get more  
10    stringent and others get less stringent perhaps.

11                  The third thing they focused on in  
12    this NODA is the consistency in the way that they  
13    calculate the state goals, so you know from this  
14    really terrific process that you have been going  
15    through here, as you listened to stakeholders and  
16    you listened to other experts, that they looked at  
17    heat rate improvements at coal plants. They looked  
18    at a shift in natural gas. They looked at renewable  
19    energy, and they looked at energy efficiency across  
20    four building blocks.

21                  When they looked at a shift in natural  
22    gas, for example, they assumed that natural gas

1 would replace existing coal generation; however,  
2 when they got to the part where they were figuring  
3 in renewable energy and energy efficiency, they did  
4 not assume any displacement of existing fossil  
5 resources.

6 That's the point of the third area  
7 where they're taking comments and they're suggesting  
8 that perhaps they should -- they should treat  
9 renewables and energy efficiency consistently the  
10 same way that they do natural gas.

11 The effect of this idea, if they were  
12 to implement this, would be to increase stringency  
13 across the board, and so what you have here across  
14 these three issues are one which could lower  
15 stringency across the board.

16 The second one would probably result  
17 in some change in the distribution of the effort  
18 across various states, and, third, would tend to  
19 increase stringency.

20 The net result is we don't really know  
21 whether these ideas would tend to increase  
22 stringency overall, or keep it the same, or lower

1 it, but EPA does talk about offsetting the affect of  
2 these different ideas, which does suggest to me  
3 anyway as a reader that they're interested in  
4 perhaps leveling the playing field, addressing some  
5 of the glide path issues the way that the standards  
6 phase in but not necessarily looking to increase the  
7 stringency over all of the standards.

8 CHAIRMAN SCOTT: Can I ask one clarifying thing.  
9 On the first point about stringency kicking in too  
10 quickly, this is what we commonly hear about as "the  
11 cliff" where, yes, your ultimate goal is your 20/30  
12 target, but their interim goals that kick in 20/20  
13 on a lot of states they are a substantial portion,  
14 if not way more than half of the ultimate goal that  
15 you have to hit, and the fear is that one of two  
16 things: One is states just won't be able to meet  
17 that or that will lead states, because it's the only  
18 thing they can do on a fairly quick period of time,  
19 to ramp up natural gas in a substantial way.

20 Is that a fair characterization of  
21 that?

22 MR. LITZ: Yes, that's right. I think both on

1 the industry side there was a concern that you might  
2 end up straining assets, and some of these coal  
3 plants have seen recent upgrades which have cost  
4 money, and if you stop using those plants right  
5 away, then that's money that's less stringent there.

6 On the environmental side, there's  
7 also concern there would be a rush to natural gas at  
8 the expense of some of the others, and perhaps even  
9 lower cost alternatives, like energy efficiency  
10 where you need more of a lead time, and a lot of  
11 these states -- and Illinois is probably not one of  
12 them -- but in a lot of these states that are really  
13 just starting to have energy efficiency programs  
14 they need some time to ramp up.

15 CHAIRMAN SCOTT: And so both of those issues  
16 might be addressed through the kind of smart glide  
17 path approach that they're making comments.

18 MR. LITZ: Yes.

19 CHAIRMAN SCOTT: Jonas, did you want to add  
20 anything to that in the form of the states you are  
21 working with and how you see those issues or if you  
22 see what EPA may be getting as the same as Franz

1 does?

2 MR. MONAST: Let me take the last part first. So  
3 I think the system administrator emphasized when  
4 they released the NODA not to read anything into it.  
5 I think what she said was not to read that EPA has  
6 any conclusion in mind to it, but you can read a  
7 number of things into it. First off, they are  
8 getting a lot of sophisticated feedback asking very  
9 tough questions that the EPA knows they have to  
10 think about more.

11 I think another is they're not just  
12 getting push back from opponents of the action under  
13 the Clean Air Act, but they are actually getting  
14 some push back from proponents in that they think  
15 that energy or renewable energy was not treated in a  
16 way that it should have been treated, so I think  
17 it's probably safe to assume that the final rule  
18 will address the points that are being raised by the  
19 NODA.

20 I think it's important for people in  
21 this room to not leave here thinking that the EPA  
22 has something in mind or at least that there's any

1 signal that they're giving through the Notice of  
2 Data Availability at this point, so we are still in  
3 the comment period.

4 I think the EPA is hoping to get, in  
5 addition to sophisticated comments, the questions  
6 that it asked on June the 2nd and also sophisticated  
7 responses to these questions as well.

8 CHAIRMAN SCOTT: Let me ask one more question,  
9 because one of the other things we and a group of  
10 Midwestern states have been working and asked for  
11 and a lot of people have, too, and it came up  
12 earlier in the comments, so I want to ask you about  
13 rate base versus mass base and the calculations on  
14 how to do that, and we kept hearing that it's soon  
15 and going to happen soon, and then there was  
16 somebody who talked about it -- they did it today --  
17 that they're going to do it today.

18 Have you seen, or have you heard  
19 anything, or is there any likelihood that we're  
20 going to see that? Because the key point for that  
21 is a lot of states want to try to decide what works  
22 better for them, the rate base or mass-base

1 approach, even though one is allowed under the rule.  
2 If you don't know exactly how to do the calculation,  
3 you may end up making very bad assumptions.

4 MR. LITZ: Yes. The way that the proposal came  
5 out it had rates on a page, and certainly you can  
6 look at that and say, hey, that's my rate and I can  
7 figure out what I might do at that rate, and then  
8 there was a somewhat amorphous way to convert that  
9 rate to mass and the issue is people looked at that,  
10 including us. We looked at it and said, gee,  
11 there's a lot of wiggle room in here and a lot of  
12 questions unanswered.

13 So in response to that, the EPA said  
14 that they'll issue some more information on rate to  
15 mass, but I don't think it will come out unless  
16 somebody checked on their phone.

17 A VOICE: It just came out, Franz.

18 MR. LITZ: All right. It came out, so we should  
19 have more information on that.

20 The thing I want to emphasize is that  
21 it's suppose to be no less stringent than the rates.  
22 So if you go mass base, then I'd listen to your

1 stakeholders in this process and then also some of  
2 the legislators here today. It sounds like on  
3 balance there's a lot of folks interested in going  
4 mass base.

5                   The way it's suppose to happen is that  
6 if you go mass base, it's no less -- it's suppose to  
7 be the same. It's suppose to be the equivalent as  
8 the rate, and so we'll see when we look at the  
9 methodology whether folks when they crunch the  
10 numbers they agree that you end up with a mass base  
11 target that's pretty much asking for the same level  
12 of effort that you have to do under the rate.

13           CHAIRMAN SCOTT: Jonas, do you want to add  
14 anything to it?

15           MR. MONAST: You know, it's not that we don't  
16 know what it says.

17           CHAIRMAN SCOTT: Let me ask just kind of a  
18 general question, then I want to get us into some  
19 more specifics about some of the other states that  
20 have been referenced many times today and in our  
21 earlier sessions.

22                   Jonas, just in terms of, you know,

1 some of the states that you're working with, not by  
2 name or anything, of course, just the states that  
3 you are working with, maybe some of the range of  
4 possibilities that they're considering, because we  
5 can all look at it individually and say, you know,  
6 what may work in our particular state, maybe just  
7 what some of the states are looking at, how they're  
8 looking at compliance with this and what multi-state  
9 approaches enter into the discussion.

10 PRESENTATION

11 BY

12 MR. MONAST:

13 I would be happy to. First, let me  
14 echo Franz saying thank you. It's a real honor to  
15 be talking to you, and I think that the Commerce  
16 Commission should be commended for thinking, you  
17 know, really for quite some time about this very  
18 complicated issue, and some of the things you are  
19 doing and some of the work that you are involved  
20 with here in the Midwest is really informing other  
21 parts of the country as states are also starting to  
22 tackle some of these questions.

1                   We at the Nicholas Institute quickly  
2   our role really is to be a bridge between  
3   policymakers that are struggling with these major  
4   environmental policy questions of the day with the  
5   resources that academia can offer to help to make  
6   sure people have access to objective information  
7   when they're making these big policy decisions.

8                   It's hard to come up with a more  
9   vexing problem at this point than how do you deal  
10   with CO2 emissions from the existing power sector  
11   using a statute that was written quite some time ago  
12   before greenhouses gases were in the mind of  
13   Congress.

14                  I think that in the states of the  
15   Southeast our engagement with the states in the  
16   Southeast is really starting with helping them  
17   understand where the electricity sector may be going  
18   anyway and it is really important to put 111(d) in  
19   that context. It's not a question of whether the  
20   sector is going to change or not. It's a question  
21   of how and the fact that Section 111(d) is being  
22   proposed and presumably finalized.

1                   Really while we are in the earlier  
2 stages of a very major transition in a electricity  
3 sector and the fact that 111(d) is being framed in a  
4 way that it leaves a lot of choices to the states,  
5 it can provide a tool for helping to manage some of  
6 the transition that may be taking place.

7                   So, for example, Georgia is going to  
8 have a lot of solar coming on-line. Georgia is  
9 investing in energy efficiency, and Georgia also has  
10 nuclear power coming on-line.

11                   What Georgia's response will likely  
12 look like under Section 111(d), you need to  
13 understand what the energy sector is going to look  
14 like in 2020 and 2030, and I think that's a common  
15 challenge for states at this point is trying to  
16 figure out not just what Section 111(d) requires but  
17 where the energy sector is going to be anyway, how  
18 much more Section 111(d) needs to do.

19                   Some of the commonalities I think  
20 between the region where I work and Illinois, we  
21 have different regulatory systems for the electric  
22 sector, so we are currently integrating states on

1 there, but we do have some very large utilities that  
2 cross state borders, so there's an analogy in the  
3 way that electricity flows across borders, and  
4 dispatch decisions are made in a multi-state  
5 framework that looks somewhat like the RTO-type  
6 approach.

7                   So if you are thinking about managing  
8 CO2 emissions across a utility's service territory,  
9 that's leading some of the states in the Southeast  
10 to start thinking about multi-state, because that's  
11 the way the electricity system is dispatched anyway.

12                   Knowing that, just to use North  
13 Carolina and South Carolina as an example, if North  
14 Carolina and South Carolina do different things,  
15 like Duke Energy, the Carolinas operate across  
16 both, most of North Carolina and a portion of South  
17 Carolina, that could put North Carolina and South  
18 Carolina policymakers in a position where they may  
19 care a lot about where Duke Energy builds a new  
20 solar farm or potentially nuclear facility where  
21 there's coordination between the states, some type  
22 of market-based approach where there's other

1 strategies, then the states may not need to weigh in  
2 on the decision about where it's being built but may  
3 need to focus on whether it's being built.

4 So I think probably earlier in the  
5 exploration process and I suspect that you at the  
6 Commerce Commission and others here in Illinois are  
7 grappling with some of these questions like where is  
8 the electricity sector going, what are some of the  
9 risks that we need to pay attention to in our region  
10 and try to develop some of the information, they can  
11 help answer those questions.

12 We, at the Nicholas Institute, are  
13 doing some exciting economic modeling that will be  
14 available. Unfortunately, they're not available  
15 yet, but by the end of this year, early next, really  
16 comparing state-by-state approaches to regional  
17 approaches and comparing mass-based approaches to  
18 rate-based approaches on a state and regional level,  
19 I think looking from us and other groups that are  
20 doing modeling, there's going to be a lot more  
21 information that's available in early 2015 that will  
22 help you with your comment period but I think will

1 help you start thinking ahead about how you may  
2 respond to the final rules.

3 CHAIRMAN SCOTT: Franz, let me ask you a couple  
4 of things first. You've been working with a lot of  
5 states in the Midwest, a lot similar to what Jonas  
6 was talking about, but then also going back to the  
7 REGGIE example way back for you, and I think there's  
8 some type of confusion about what REGGIE is, and  
9 what it isn't, and how long it took to set it up,  
10 and why it might have taken the amount of time that  
11 it did.

12 I think that's instructive for us,  
13 because I hear a lot about you can't do anything  
14 multi-state because it takes too long to do it and  
15 those kinds of things, so if you could go into that  
16 just a little bit.

17 MR. LITZ: Yes. Sure. So with the mid-continent  
18 states environmental and energy regulators group,  
19 which is 14 of the 15 mid-continent ISO, states with  
20 operations in the mid-continent ISO, that group, so  
21 I'm reflecting on that. I'm also presented at one  
22 of the gatherings of Jonas' group in the Southeast,

1 and I convened a group of stakeholders in the  
2 Northeast Mid-Atlantic around REGGIE commenting on  
3 111(d), and so I say all that just so that to lead  
4 into the next point which it's striking how common  
5 the interests are across the various states, and it  
6 doesn't matter if you have a very conservative  
7 Republican governor, or a really lefty Democratic  
8 governor. Everybody cares about costs, you know,  
9 and it almost -- it doesn't matter where you are.  
10 That's the first thing that comes up. How can we do  
11 this at the least cost? How can we maintain  
12 reliability? Keep the lights on, really all of  
13 those things that your legislators said today.

14           It's pretty amazing. I think you are  
15 really well set up to develop the perfect solution  
16 for Illinois, if the minds in this room are any  
17 indication, but how do we stimulate good jobs? How  
18 do we remain consistent with the way our grid  
19 operates -- a lot of comments today about the two  
20 RTOs that Illinois is in. How do we keep our  
21 current assets from being wasted, you know, whether  
22 that's a coal plant that you just invested in or a

1 nuclear plant that you have on-line that are not  
2 emitting or some of which are in trouble, you know,  
3 economically. How do we keep them going and how can  
4 111(d) help in that?

5                   So those are very common objectives  
6 that we hear across a lot of states, and what I  
7 think that means is that there ought to be good  
8 prospects for states coming together around  
9 solutions under 111(d) because you are trying to  
10 meet the same objective presumably and, you know,  
11 with the same instrument.

12                   What I can say from the REGGIE  
13 experience is that there's a way to do this. I  
14 think that doesn't give up your state autonomy. So  
15 every state is a different state, and it's just as  
16 if you are looking at M-Tier Group (sic). You have  
17 got a lot of states that don't agree on a lot of  
18 issues and a lot of issues across the board, not  
19 just in energy and planning, and they all have  
20 legislatures and in addition different governors.

21                   So you need a process where you, as a  
22 state, can decide on a model and work towards

1 developing and implementing that model in your state  
2 and keeping open the option that it can connect to  
3 your neighbor or another state as well, if that  
4 turns out to be what you think is in your best  
5 interest. The REGGIE model isn't far from that.

6 I'm a lawyer, as you know. The way we  
7 lawyers look at it is in terms of state sovereignty  
8 of the different states. REGGIE operates with  
9 separate rules and laws in every state, and so if  
10 eight of the nine states could vanish, and the one  
11 state would still be left with a rule and with  
12 legislation on the books and the rule on the books,  
13 the only thing that connects them from a legal  
14 perspective is that each state recognizes the  
15 currency from the others, and that I think ought to  
16 be instructive to any state that is thinking about  
17 wanting to keep open the option to linking to other  
18 states. As long as you have it so that you have a  
19 currency that you can exchange and allow the other  
20 state to use, then you are in good shape.

21 COMMISSIONER COLGAN: What was the REGGIE recipe  
22 that the REGGIE state came onto that allowed them

1 into kind of an agreement? You mentioned Georgia  
2 and North and South Carolina. I'm thinking about  
3 states' rights issues and how there's not a lot of  
4 communication across borders. You have the  
5 electrons that are going back and forth across  
6 borders. How do you bring those two -- I see a  
7 different world, a political world. I see an  
8 environmental world. I see electric policy.

9 All of that stuff is just bumping one  
10 another. Who is it? Did somebody do the work in  
11 the REGGIE states or was it just a quirk of fate  
12 that they were able to talk a similar language and  
13 come to some sort of agreement? I guess I'm  
14 interested in the climate and energy program that  
15 you worked on there, Mr. Monast. Is somebody trying  
16 to do that kind of work in terms of getting people  
17 talking to each other?

18 There's probably about five questions  
19 in there, but I'm just really concerned about -- it  
20 seems to me like the multi-state solution just  
21 really would be a good way to go, but how do you get  
22 states talking to each other?

1           MR. LITZ:  So, yes, there were a lot of questions  
2           in there, but I guess what I would emphasize the  
3           different REGGIE states have no authority over each  
4           other.  Each state kept its severity, so we saw  
5           that.  We saw Maryland joined late, for example.  
6           They joined after.  Even Pennsylvania has said --  
7           the governor-elect of Pennsylvania said he wants to  
8           explore the option of joining.  That's possible.  
9           And if there's an enforcement issue in one state,  
10          that's the issue in that state, and it's not anybody  
11          else's business.

12                         I would state that just needs to be  
13          the case, because we have no such thing as a  
14          regional government.  We only have state governments  
15          and we have national governments.

16                         So was it hard?  It was harder in that  
17          context for us to reach agreement I think because  
18          there was no driver.  There was no federal  
19          requirement that people needed to try to meet in a  
20          least cost way, and so it was a voluntary thing.  
21          It's getting people to agree on stringency in that  
22          context is tougher.

1                   I think it would be easier in this  
2 environment where it looks like we are going to have  
3 a rule, and even so people at these regional tables  
4 are in states where the states are going to fight  
5 like hell against this rule and they're going to try  
6 to knock it down, and they may be successful, and it  
7 will all be done, but they're very practical people  
8 and they're saying we might not win that battle,  
9 and, in the meantime, we want to make sure our  
10 consumers are protected, and our sector is  
11 protected, and we have a system that's going to  
12 work, so we are going to think about a multi-state  
13 solution in the meantime.

14                   I'm here to tell you that you could do  
15 it without giving up any of your state sovereignty  
16 or having another state try to enforce against you.

17           COMMISSIONER COLGAN: So do you think that the  
18 states are actually seriously contemplating how to  
19 work together? Because if you look at the signal,  
20 there's a lot of noise about the rule itself and how  
21 it's just going to be put down, and so it's hard to  
22 imagine how a state is working on ways to comply

1 with the rule when they just want the rule to go  
2 away.

3 MR. MONAST: A few responses. I think very good  
4 questions. First off, I think it's important to  
5 recognize that states do cooperate and collaborate  
6 with one another in lots of context.

7 So in the Charlotte/Mecklenburg  
8 metropolitan area that span North Carolina and South  
9 Carolina dealing with non-attainment, the  
10 environmental regulators already have to interact.  
11 The Public Service Commission in South Carolina and  
12 the Public Utilities Commission in North Carolina  
13 don't collaborate, but they are certainly aware of  
14 the decisions that they're making regarding Duke  
15 Energy generation and what that means on both sides  
16 of the border.

17 And because we have utilities that  
18 operate in a multi-state format, where I'm coming  
19 from is where you have regional transmission  
20 organizations here that all cooperate on a  
21 multi-state format. The answer to what is the least  
22 cost way of complying with the legal obligation

1 while maintaining affordable and reliability, that  
2 may suggest that the natural answer is multi-state  
3 anyway.

4                   One of the things we have been trying  
5 to do in the Southeast, and, again, it is not unique  
6 to us and Franz as well, is paying attention also to  
7 why. So you can really get caught up in the  
8 complexity of how would you do multi-state  
9 collaboration.

10                   If you ask the question why, what are  
11 the benefits of doing it, there are a lot of  
12 different options once you decide that that's where  
13 you want to go.

14                   So in doing something that is as  
15 structured as REGGIE or walking backwards on the  
16 spectrum from that, what Franz is suggesting that  
17 there could just be common elements. You could have  
18 renewable energy credits that count in multi-states  
19 and that actually leads to a multi-state  
20 cooperation, nuclear energy credits, something along  
21 those lines, all the way to just simply following  
22 the territory or the RTO territory how electricity

1 is dispatched and just try to pay attention to  
2 creating a coordination across those regions.

3 I guess my main point is there's a lot  
4 of frameworks that are already in place that could  
5 help facilitate collaboration. I think one of the  
6 big important points that you all are ahead of a lot  
7 of other states thinking about why and really  
8 focusing on this multi-state as an issue that  
9 deserves more consideration than maybe it's getting,  
10 because a lot of state regulators are very  
11 overwhelmed by the complexity.

12 It's very hard to understand how to  
13 make choices when they have so many choices  
14 available to them and little qualitative analysis  
15 helping them to reduce it.

16 CHAIRMAN SCOTT: Commissioner McCabe.

17 COMMISSIONER McCABE: The chairman asked about  
18 REGGIE, which is kind of a cap-and-trade approach.  
19 Can you talk about other ways states are pursuing  
20 complying?

21 MR. LITZ: Sure. I would say just that -- I also  
22 will just quickly respond to Commissioner Colgan, if

1 I could -- there's a way to -- the MC states that  
2 make up, as they call themselves, "mid-continent  
3 states," including Illinois in this discussion,  
4 refer to it as the "no regrets approach," and the  
5 reason it's no regrets, for everybody to get in the  
6 room to talk about how to comply, it helps you  
7 figure out what you might do, because you are going  
8 to be alone in the final analysis, and also if you  
9 are going to do coordinated plans, coordinated  
10 individual plans, then you need to know what the  
11 other states think about what you are thinking.

12           So you are going to have a ton of your  
13 currency or emissions credit and you ideally want to  
14 have a program that other people are going to like  
15 enough that they take your currency and then you  
16 would have that kind of mutual relationship across  
17 state lines, so it's no regrets because you are not  
18 deciding anything until the end. You can back out  
19 at any time.

20           I fully expect that it will always be  
21 based on a state's self interest. They are going to  
22 know what their interests are. They are going to

1 know what their stakeholders are saying, and they  
2 are going to say, given all of that, it either makes  
3 sense or it doesn't, and if it does, they're in, and  
4 if it's not, they won't be.

5           So REGGIE is an emission budget  
6 training program where eventually the states would  
7 take its rate base and convert it to a mass-base  
8 goal and then they allocate out portions or they  
9 allow to sources who have to use an allowance to  
10 cover every time there are emissions, and that's cap  
11 and trade.

12           There's other ways you could do it.  
13 One suggestion coming from one utility in the upper  
14 Midwest is that you could allocate those budgets to  
15 each entity and say, all right, utility, you manage  
16 your budget. You decide whether you need it or not  
17 and you use it and any tools at your disposal. That  
18 works better in a vertical integrated context where  
19 the utility owns the generation assets. It wouldn't  
20 work so well in a deregulated state like Illinois.

21           A middle-of-the road approach to that  
22 is the cap and trade, and that would be to say, all

1 right, let's grant you your budget each entity, and  
2 then the state could say we are going to let trading  
3 be optional and the entity could choose to opt into  
4 trading or they could choose to just manage their  
5 budget without any kind of trading.

6 In some ways that's similar to the way  
7 that MISO works, you know, utilities decide whether  
8 they're in or they're out or entities decide whether  
9 they participate in the MISO or not, so it's kind of  
10 voluntary submission to the market, so those are the  
11 three on the mass-base side of things.

12 And then on the rate-base side, the  
13 rate-base side of things is a little bit more  
14 difficult for states that have the nuclear because  
15 under the proposal anyway, you could -- you are  
16 limited to what you can credit in terms of nuclear.  
17 You can credit up to 6 percent at risk nuclear, and  
18 so you couldn't have nuclear credits beyond that  
19 amount, which I think makes rate base a little bit  
20 less attractive if you are trying to support  
21 existing nuclear plants, which I know a lot of your  
22 stakeholders and you are in this state, but on a

1 rate-base side you take the rate that EPA gives you.  
2 You apply it to each source, and then you say if the  
3 power plant generates at an emissions rate higher  
4 than the prescribed rate, they have to turn in the  
5 credit in order to lower their emissions rate, and  
6 if the power plant generates at lower or better than  
7 the emissions rate that's prescribed, they would  
8 earn credits and be issued credits that they could  
9 sell to others.

10                   You could then have an energy  
11 efficiency and renewable energy component where you  
12 give credits, and also the 6 percent nuclear credit  
13 where they can also feed in the credit energy  
14 renewables to help plants that need the credit to  
15 get to the prescribed rate, and that's kind of a  
16 trading mechanism, or in that case just like in the  
17 mass-base side, you could just say, entity, here's  
18 your rate needed across all the plants that you own  
19 and then they can figure it out. That again works  
20 best in a perfectly-integrated context where the  
21 plants are owned by the utilities and less useful in  
22 a deregulated context.

1                   That's just a quick run through of  
2 rate versus the mass and some options. I probably  
3 missed some.

4           MR. MONAST: I think that was a good summary. I  
5 heard as part of your question whether other states  
6 are considering as compliance strategies. I mean, I  
7 think I can't speak for the states that I work with,  
8 but my sense is that they are a long way from  
9 deciding what the compliance strategies might look  
10 like. They're really trying to focus on what does  
11 the proposal mean for their states and trying to get  
12 feedback from the stakeholders.

13                   I think the period between the end of  
14 the comment period and the final is the period where  
15 other states I believe are going to start focusing  
16 on what the different strategies are going to look  
17 like.

18           CHAIRMAN SCOTT: You have got compliance  
19 strategies, because we heard earlier on in our  
20 policy sessions you don't have to follow what the  
21 building blocks set out or allowed to do it. So a  
22 state could say, yes, we are suppose to get

1 6 percent or 6 percent from efficiency in our coal  
2 plant. We don't want to do that. We want to ramp  
3 up gas more. We want to do more in terms of energy  
4 efficiency with the local.

5           So a state can make those options by  
6 themselves or states could do -- when we start  
7 talking about multi-state to state could do things  
8 that have a piece of multi-state action, not  
9 necessarily an entire multi-state program that  
10 covers all reductions. You could do trading on  
11 renewables, for example, or you could do trading on  
12 just a piece of it.

13       MR. LITZ: If you choose a rate-based approach or  
14 mass-based approach, you wouldn't be trading  
15 efficiency, or if you want a rate-base approach, you  
16 could -- it seems almost a given that you would --  
17 since some of the renewables come from out of state  
18 that you would allow renewable credits to be  
19 transformed into 111(d) credits for renewables, but,  
20 yes, there's lots of different ways you could do it.

21           I would say -- and this has been  
22 mentioned by numerous speakers already today and I

1 think in the prior sessions as well -- the benefit  
2 of market-based approach is you aren't picking  
3 winners and losers. You are trying to say, all  
4 right, here's the approach and we are going to let  
5 industry decide where they can get the cheapest  
6 reduction, and that's almost by definition the  
7 lowest cost option, and you can through analysis,  
8 and Jonas mentioned modeling. Through modeling  
9 analysis, you could get a sense of what that's going  
10 to do for you.

11           If you took a capital trade approach,  
12 for example, you could buy into the electricity  
13 system and say what does the model project, how much  
14 renewable will we see and how much gas, and you can  
15 also look at things like is it protective of  
16 existing coal plants, you know, do we see retirement  
17 or do we not see retirement, do we see a decrease in  
18 utilization, do we use coal plants less, and so you  
19 can get a sense of all of that while you are doing  
20 your planning and thinking about your options.

21           CHAIRMAN SCOTT: And so in some of the states  
22 that you are working with, also, Jonas, I'm assuming

1 you are getting a variety. As you said, people are  
2 now starting to figure out what it means for them,  
3 but you have got -- not just you, but you have big  
4 multi-state companies as well.

5 Are you getting any sense as to where  
6 the companies are talking about this issue other  
7 than, you know, we're taking on the rule in terms of  
8 any kind of compliance options? Do you get any  
9 sense of that?

10 MR. MONAST: I've read the tea leaves, but not  
11 official proclamations. At the event that Franz  
12 mentioned that we had sat down in Atlanta in  
13 September, TVA, Southern and Duke Energy were the  
14 big regional drivers, the sense from each of them  
15 seem to be if we are going to have to do this, we  
16 would prefer to do it across our broad service  
17 territory rather than on a state-by-state approach,  
18 but, as far as taking a position on rate base versus  
19 mass base, I haven't heard them do that yet.

20 CHAIRMAN SCOTT: So there's a couple of other  
21 things. I appreciate your list of options that I  
22 wanted to get into. So a state could or a group of

1 states could just set a price on carbon as well and  
2 try to deal with it that way, right?

3 MR. LITZ: Yes. There was a proposal that was  
4 jointly developed by the Bradley Group, which is a  
5 well-known economics firm in Cambridge, I think, and  
6 the Great River Energy, which is one of the larger  
7 coops, and they operate in North Dakota and  
8 Minnesota. They were looking at ways how you could  
9 implement 111(d) by putting a price on carbon that  
10 would essentially be added to the generator's bid  
11 into the independent system operator, and so the  
12 state would set the carbon charge or a group of  
13 states would test the carbon charge and then they  
14 would develop a mechanism that would move that  
15 carbon charge up and down depending on whether it  
16 was getting the results that were desired, so that's  
17 one option.

18 There are some challenges with that  
19 and you could hear it in the implementation that  
20 I've described. You need to get the states to come  
21 together to initially cut the carbon charge. You  
22 need to have legislators in all of those states to

1 kind of empower the people who would make that  
2 choice and then they would have to agree to the  
3 mechanism that would move up and down.

4 In contrast, if you have a mass-based  
5 approach in all those different states, each state  
6 could have its own budget and allowance system. It  
7 could stand on its own as a matter of law. The  
8 legislature could allow it to happen or direct the  
9 environmental agency to do it, and then the price  
10 would be a function of supply and demand. It would  
11 be set by the market and not by the state and it  
12 would have the same impact in the ISO.

13 So those allowance prices you may hear  
14 more about from the two gentlemen who are here from  
15 MISO and PJM because they know this stuff very, very  
16 well.

17 CHAIRMAN SCOTT: They look like they're jumping  
18 at it.

19 MR. LITZ: I'm really looking forward to Paul and  
20 Brian.

21 So what happens there is that an  
22 allowance price gets added to the bids of each

1 generator and functions in a similar way in that it  
2 affects the dispatch of the units, because the  
3 carbon charge -- because the dispatch is based on  
4 the cost of all the operating costs put together for  
5 each unit and then stacked on top of each other.

6 CHAIRMAN SCOTT: Commissioner Maye, go ahead.

7 COMMISSIONER MAYE: I just was curious that in  
8 overall terms of general perspective, for example,  
9 sometimes they're 96 percent coal and actually I  
10 believe they're going to meet, you know, these  
11 requirements and they're going to be in compliance,  
12 which is great, and then there are other states,  
13 which is 90 percent control, who is totally pushing  
14 back because we're not going to meet it.

15 Have you all heard where any major  
16 states are pushing back and maybe feel like they  
17 can't meet this or anything like that?

18 MR. LITZ: There are a lot of states that are  
19 pushing back for one reason or another thinking that  
20 they have either too stringent of a target, or the  
21 time line is too tight, or even that the EPA is  
22 misreading its authority in the way they're

1 structuring it in the first place.

2 I think that part of it -- I don't  
3 want to place a value judgment on any of that, but I  
4 think some of it is based on some misinformation  
5 that was created by the way the EPA rolled the  
6 proposal out.

7 So if you compare the state target  
8 based on a static 2012 number and you just simply  
9 look at what the requirement is suppose to be in  
10 2030, that's where you get the 30 percent reduction,  
11 the 40 percent reduction at the state level.

12 If you take that number a step further  
13 and you figure out how is the electricity sector  
14 going to change between 2012 and 2025 and compare  
15 that to your stated target, then the number for the  
16 most states is much, much smaller.

17 So I think some of the opposition is  
18 perfectly legitimate. I think the timing for the  
19 requirement of the 2020 issue I think is very  
20 legitimate to take on, but part of it the states  
21 need more information in order to really hone in on  
22 the parts that they push back on. I think some of

1 the big numbers, the 30 to 40 percent numbers,  
2 comparing apples to oranges, distracts from the real  
3 issue what one needs to do.

4 CHAIRMAN SCOTT: Let me amplify that a little  
5 bit. When you say that the way that the power  
6 industry is already headed in the state, you are  
7 talking about retirements that are planned or that  
8 may be planned, or renewable programs that are up  
9 and running, or energy efficiency programs that are  
10 already on the books that are anticipated to be  
11 working during that time period? Is that the kind  
12 of thing that you are --

13 MR. MONAST: Absolutely. Thank you for  
14 clarifying. Just to use Georgia as a good example,  
15 when the Vogtle (sic) reactors go on-line and when  
16 the -- just this year the BSC approved an additional  
17 750 megawatts of solar to go on-line -- when all of  
18 that comes on-line, then the electricity sector of  
19 Georgia will look very, very different than it did  
20 in 2012.

21 So if you are focusing on the 2012  
22 number that the EPA used, it does need adjusting.

1 If you focus on the number the emissions profile on  
2 Georgia, especially from the existing, after those  
3 changes take place, it looks different than if you  
4 were just paying attention to the 2012 numbers  
5 before those changes took place.

6 CHAIRMAN SCOTT: Let me ask something as a  
7 follow-up on what you say now, because as individual  
8 states look at this and how the impact is going to  
9 be on their own particular state, say you have got a  
10 state like Georgia that looks at what you just said  
11 and what Kentucky has done, or if even West  
12 Virginia's white paper, given the trends that are  
13 happening in states, that can be met fairly easily,  
14 would a state -- would there still be a reason in  
15 those instances for a state to look at multi-state  
16 solutions or something different even if it looks  
17 like, yes, we can probably hit those numbers?

18 That's for either of you or both of  
19 you. Would it still makes sense to look at  
20 multi-state options?

21 MR. LITZ: Well, the economists are going to be  
22 up here. It would be great to hear the answer to

1 that question. I will leave that question to them.

2                   People like to talk about winners and  
3 losers in a multi-state -- in a multi-state context.  
4 It might not be the right question who's the winner  
5 and who's the loser, because if you are the state  
6 that ends up buying more credits or buying more  
7 allowances, you've just gotten the cheaper way to  
8 comply than you would have had if you weren't  
9 connected to the other state, but if you are the  
10 state that ends up selling the allowances, you know,  
11 you may actually -- those allowances may cost more  
12 than they would if you were just alone, but you  
13 would have given up the opportunity to sell  
14 allowances and implement them.

15                   So you can think of the multi-state  
16 trading in the same way you think of multi-state  
17 electricity trading. It's a market, and some people  
18 are going to be sellers and some people are going to  
19 buyers. The overall cost is going to be lower.  
20 That's what the economics tell you.

21                   Supposedly everybody will be better  
22 off, but that's not the economics of it, and then I

1 think people are going to have to look on a  
2 state-by-state basis at the way other things play  
3 out, like what does it do to my coal plant? What  
4 does it do to my renewable plant? Does it mean I  
5 need new transmission, that sort of thing.

6 COMMISSIONER McCABE: Don't you have to look at  
7 it over time? What's true in the shorter time may  
8 not be true in the longer time.

9 MR. LITZ: Yes, that's really a good point. If  
10 you choose to go it alone as a state and you design  
11 a program that's not linkable to another state, you  
12 sort of box yourself in based on the current  
13 snapshot that you see, but we know it's a dynamic  
14 situation. The market is changing on its own. You  
15 may later think you would have been better off being  
16 part of a larger market.

17 The other thing I just want to add,  
18 and this goes to Commissioner Maye's comment, what  
19 we can say about the NODA, and I didn't say this,  
20 but the supplemental release is the state targets  
21 are going to change I think we can say. Before that  
22 there were some people who said EPA is going to

1 change a lot from the draft to the final and others  
2 said I don't think they are going to change it very  
3 much, but the way I look at the NODA and they're  
4 taking comments on a lot of possible changes to the  
5 state goals and so the states that are currently  
6 sitting with what may be perceived as easy goals to  
7 me may have tougher goals in the final, and the  
8 states that are feeling like they got punished or  
9 really picked on might feel a little bit better with  
10 their changes.

11 So if you see a just level of the  
12 playing field, then the start for you is to see less  
13 stark differences across states and that would  
14 probably encourage multi-state cooperation.

15 CHAIRMAN SCOTT: Let me just hit one final point  
16 in five minutes, then you have got to leave, and  
17 again thank you very much for being here. This is  
18 enlightening us and helping us sort through the  
19 different options.

20 Jonas, you mentioned that, and, Franz,  
21 I believe you did too, working with states that are  
22 looking at multi-state options, then for me the

1 question becomes am I better going alone or am I  
2 better multi-state in terms of cost and reliability  
3 issues and things like that.

4           Have we seen some studies that have  
5 come out to what we are seeing nationally looking at  
6 them? Directionally, I realize that you don't have  
7 all the data and all the things you need to do, but  
8 directionally are there some lessons that I can  
9 already look at that way? I know there's some  
10 directional issues on whether states are better off  
11 in multi-state versus an individual state. I  
12 realize it may be different for every --

13       MR. MONAST: That's a really hard question to  
14 answer, especially at this point. I think in a few  
15 months, when there are a number of different  
16 organizations that are releasing modeling results  
17 using different tools, there will be different  
18 answers kind of looking to different commonalities.  
19 It may be easier to answer at that point.

20           Right now I think one of the  
21 commonalities is that we already have an electric  
22 sector that where electrons flow across borders and

1 so it's not really -- the question is is there going  
2 to be interaction among states. The question is  
3 how? And is it going to be deliberate from policy  
4 mechanisms or are we just going to let actions in  
5 one state affect the price of electricity through  
6 dispatch choices in another state?

7 I think that, you know, I don't want  
8 to offer an opinion about what the economic modeling  
9 is going to be, because when those numbers start  
10 coming out, people are going to focus on the  
11 numbers. We want to make sure we have it right  
12 before we start signaling what's on the modeling.

13 CHAIRMAN SCOTT: Sure. A lot of it will depend  
14 on the assumptions on modeling. Are you applying  
15 just compliance the way the building blocks are or  
16 are you doing it getting individual information from  
17 each state as to what direction?

18 MR. MONAST: I heard Paul from PJM make the point  
19 a while ago before the proposal came out that if  
20 each state is doing something different, that makes  
21 it very complicated to make dispatch decisions  
22 across a broader service territory.

1                   If the goal is least cost -- and,  
2 Paul, correct me if I'm mischaracterizing what you  
3 are saying. If the goal is least cost, then having  
4 a vulcanized approach where each state is doing  
5 something different, then that could be  
6 counterproductive in doing least cost management.

7           CHAIRMAN SCOTT: Franz, did you want to add to  
8 that?

9           MR. LITZ: Yes. That raises a point and that is  
10 we tend to think, well, we could go it alone, and  
11 would it be better if we didn't or if we went  
12 together with others. There's also the question of  
13 if we go it alone and everybody else goes it alone,  
14 what kind of a mess do we have or, you know, stated  
15 more objectively, what does the situation look like?  
16 It could be messy and it might be just fine, but  
17 there might be a cost of going it alone that when  
18 you look at the results of that analysis, you might  
19 say, well, that's not palpable. I can't. That's  
20 something I don't want us to do. I really want to  
21 get those other players at the table with me and to  
22 agree to a common approach.

1           CHAIRMAN SCOTT:  Commissioner Colgan.

2           COMMISSIONER COLGAN:  This issue of modeling,  
3           there's all kinds of -- seems like lots of different  
4           groups doing modeling and it seems important that  
5           some sort of assumption that you use, should the  
6           modeling be the same or maybe even using the same  
7           software approach and so you can come out with  
8           results that would be comparable, one result  
9           comparable to the others.

10                           Is there communication going on at  
11           that level or is there just everybody picking their  
12           way or going about it and coming up with their  
13           outcomes?

14           MR. MONAST:  That's a great question and a great  
15           point.  So I'm not a modeler.  I'm a lawyer, but my  
16           colleges are actually doing the modeling and they're  
17           in touch with a number of other people asking  
18           similar questions using different modeling tools.  
19           We should assume that before the final rule comes  
20           out there are going to be a lot of organizations  
21           that are putting out numbers based on modeling.

22                           What is going to be really important

1 there is the transparencies, understanding what the  
2 assumptions are, because we will each make different  
3 assumptions.

4 We at Duke, because we are doing this  
5 without a consulting firm, we will be fully  
6 transparent with the assumptions that we are making.  
7 We'll test that. Other organization's range of  
8 transparency will differ. I think that's important.

9 You are asking exactly the core  
10 questions. Once these numbers start coming out how  
11 do we compare them to another? And I think this is  
12 such a complex question. How do you model  
13 electricity sectors at the state level, thinking  
14 when all these different policy levers that states  
15 may choose to pull or not.

16 I think this first round of modeling will  
17 be coming out in the next few months and at that  
18 point you all can start asking common questions.

19 MR. LITZ: The thing I would say there is it  
20 doesn't relate. You are absolutely right.

21 The M-Tier Group (sic) at Great Plains  
22 we're partnering with the Bipartisan Policy Center,

1 and the Bipartisan Policy Center had some modeling  
2 using IPM, the Integrated Planning Model, that the  
3 states will then look at and presumably say I agree  
4 with this assumption or I don't agree with that,  
5 then wait to even get more confidence in a modeling  
6 analysis like that would be to expose it to as many  
7 eyes as possible, and you have your utilities look  
8 at it. You have your generators look at it. People  
9 who are experts they start to poking at it and they  
10 eventually get to a comfort level where you have  
11 analysis that's been tugged at and criticized and  
12 you will know its weaknesses, and no one else is  
13 going to tell you all the answers.

14                   We don't know. We can't predict  
15 the future, but you'll kind of get a sense of where  
16 if you -- for example, if natural gas prices are  
17 higher, then we could expect the future to look  
18 differently this way, or if energy efficiency  
19 doesn't turn out to be as available as we think it  
20 is, you see a different future.

21                   So you are right on. Modeling  
22 analyses there will be a lot of them. The states I

1 think are going to have to have at least one set of  
2 analysis that they really put through the ringers  
3 and that they can feel good about even when they  
4 make their decision about which way to go.

5 CHAIRMAN SCOTT: Thank you very much. We really  
6 appreciate it. A lot of great information. Thanks  
7 for traveling to be with us.

8 We are going to take a break until  
9 quarter after, then we will come back and listen to  
10 the RTOs. Thank you.

11 (Whereupon, a break was  
12 taken.)

13 Ready to get started in just a moment.  
14 If you could find your seats, we are going to get  
15 started. We are going to get started again, so take  
16 your seats.

17 COMMISSIONER MAYE: Have your conversation  
18 outside so we can get started. Guys, we are going  
19 to get started. Please step outside with your  
20 conversations. Step outside so we can get started,  
21 please.

22 CHAIRMAN SCOTT: Thank you very much. We want to

1 give the folks from RTO as much time as we can and  
2 still get everybody out of here on time.

3 I do want to mention because  
4 Commissioner Colgan's on the state plane, he's going  
5 to have to leave at about a quarter to five, so we  
6 want to give him an opportunity to hear as much as  
7 possible as well.

8 So our last session here, now given  
9 all that we have heard, both in the first two  
10 sessions, then from the legislators today, and then  
11 also from our clean air experts, let's talk about  
12 the RTOs. We have heard a lot about TROs and ISOs  
13 and how the power gets dispatched, and I think we  
14 want to have a discussion with Dr. Paul Sotkiewicz  
15 and Brian Rybarik.

16 So Dr. Sotkiewicz works for PJM and  
17 has been in front of us on many occasions and we  
18 really appreciate he and Brian, who's the regional  
19 director of Government and Regulatory Affairs for  
20 the Mid-Continent and Independent Transmission  
21 System Operator, or MISO.

22 So what we want to do is allow them

1 each to take maybe five minutes both in terms of  
2 talking about this issue generally, and/or reacting  
3 to things that they might have heard today, and then  
4 we'll get into more of a discussion about some of  
5 the issues that we have heard.

6 So, Paul or Brian, whoever is going.  
7 Brian, you are going to go first.

8 MR. RYBARIK: We row sham bowed for it.

9 PRESENTATION

10 BY

11 MR. RYBARIK:

12 Good afternoon. Thank you for the  
13 opportunity to be here, Mr. Chairman and  
14 Commissioners. Even though I'm from Wisconsin, I  
15 will give you two reasons why I love being in  
16 Illinois. One is that you have a state agency named  
17 after a beer, the IPA, and, two, and you actually  
18 have a little bit of a close of a connection. I  
19 heard all the discussion earlier today about the  
20 nuclear plants here in Illinois.

21 My father was actually an engineer for  
22 General Electric, and so I come from a true nuclear

1 family. He installed reactors was his job, so I  
2 have lived throughout Illinois on installations, and  
3 while I know a lot of you have done tours of them, I  
4 doubt if many of you have done them in strollers, as  
5 I have.

6 COMMISSIONER COLGAN: We know the love you have  
7 for the Chicago Bears.

8 MR. RYBARIK: Naughty.

9 (Laughter.)

10 Well, we are here to talk about some  
11 of the advantages and disadvantages of regional  
12 compliance strategies with the clean power plant,  
13 and this really is a critical dialogue, and I want  
14 to thank the ICC, and particularly the ICC staff for  
15 putting this forum together, another step in the  
16 great discussion here.

17 Like Franz, I'm a lawyer by education,  
18 and even a little bit by practice. So given this, I  
19 think I'm obliged to start with a disclaimer or two  
20 and reserve my right to identify more as we go along  
21 in this discussion.

22 First, MISO doesn't have a position on

1 whether it's a good or bad policy to reduce CO2. We  
2 are very focused on fulfilling our mission of  
3 bringing value to customers and insuring  
4 reliability. Put another way, we look at this  
5 proposal and we ask are there ways we can work with  
6 our states, our stakeholders, and, indeed, our  
7 neighbors to implement whether the final rule is in  
8 a least cost reliable way.

9           Now disclaimer number two is we have  
10 to remember we are at the very early stages of this  
11 journey. I am going to share some of our initial  
12 analysis. We have done some modeling, and then I  
13 think we will get into some discussion of reactions  
14 and things we have heard on discussion earlier  
15 today, but I think we need to look at this through  
16 at this point a telescope rather than a microscope  
17 and recognize that there's a lot of discussion to  
18 come.

19           With those disclaimers noted, let's  
20 talk a little bit about MISO's initial analysis. We  
21 performed this using the electric generation  
22 expansion analysis system, or EGEAS, which is a

1 software program that evaluates generation expansion  
2 under certain parameters and inputs.

3 I know that the ICC is actually in the  
4 process of obtaining this model. Some of your staff  
5 members are down in Carl, Indiana, right now getting  
6 some training on that.

7 We use this tool to get us some  
8 initial reactions and observations about the rule.  
9 Some of them are very relevant to this regional or  
10 non-regional discussion, but I want to share three  
11 of them with you, and then we'll get into some more  
12 discussion with the regional solutions.

13 Observation Number one, and it was  
14 brought up earlier today, is this 2020 to 29 interim  
15 averaging issue creates potential reliability  
16 concerns in the 2020 time frame. That's what our  
17 analysis has shown us.

18 And while the rule appears well  
19 intentioned to provide flexibility, the fact of the  
20 matter is the math of averages requires much of the  
21 compliance to be 2020. As much as 80 percent is  
22 what we are seeing. And given the fact that you may

1 have to actually build new generations to meet that  
2 rule, if you do retire coal generation, it's just  
3 too proximate in time for careful planning and good  
4 decision-making.

5                   And while the Notice of Data  
6 Availability that Franz talked about does provide a  
7 little bit of guidance on this, and maybe a little  
8 bit of hope that some changes will be made to this,  
9 given the importance of this, MISO will be  
10 commenting on this, and we plan to comment on  
11 December 1st. We actually just released our outline  
12 of our comments earlier today, so they are on our  
13 website for reviewing.

14                   A lot of people refer to this as a cliff.  
15 I am a skier. I think of it as we're standing on a  
16 double black diamond, and what we really need to get  
17 to is probably a green slope or even maybe the bunny  
18 slope at this point. That's our first observation.

19                   Our second observation is that  
20 compliance strategies outside of the four building  
21 blocks, something we are very cleverly calling  
22 "thinking outside the blocks" provides economic

1 benefits, and specifically the two that we see as  
2 being most valuable are retiring coal.

3 Our analysis shows that one of the  
4 least cost opportunities is to retire up to  
5 14 more gigawatts of coal beyond what the maximum  
6 clients would do from a standpoint of resource  
7 adequacy that's obviously a little concerning as we  
8 look into the future.

9 The other is building combined cycle  
10 gas, and this is something that is in our  
11 observation is a confluence between the 111(b) rule  
12 and the 111(d) rule, as far as what counts in your  
13 111(d) portfolio if you build it under the 111(b)  
14 rule. Thanks to Congress for making those two sound  
15 so much alike so we can even be more confused by all  
16 this.

17 Finally, the third observation I want  
18 to share, and this one really does get to the heart  
19 of today's discussion, is that regional solutions to  
20 this policy have economic benefits for customers.

21 We analyze the EPA's building blocks  
22 looking at the MISO footprint in all of our

1 15 states, and then also looked at it from a  
2 perspective of the local resource zone of which we  
3 have nine, so it's not an exact state replication  
4 but it is attempting to sort of get it down to a  
5 more granule level, and every time we compared those  
6 two cases, the regional solution was always less  
7 expensive, and in some cases significant, so up to  
8 40 percent less expensive on a regional basis which  
9 translates to \$3 billion of savings per year.

10 Cost is one thing. Operations and  
11 reliability are another, and that is really our  
12 mantra is reliability. While operation costs were  
13 not specifically analyzed with the GS model, that's  
14 not what that tool does for us.

15 Our experience shows that broader  
16 geographic footprint provide operational benefits,  
17 and the example I always think of is in 2006 MISO's  
18 footprint had about 1,000 megawatts of wind energy  
19 on it. Today it has about 14,000 megawatts of wind  
20 energy on it.

21 While we made some market enhancements  
22 to allow that, it really is the geographic scope of

1 MISO that has allowed that to occur and the  
2 diversity that we see on the footprint that's  
3 allowed that to occur. So a regional approach to  
4 the CO2 mitigation probably brings that same  
5 operational benefit as well as the economic benefit  
6 I have just discussed.

7                   With that said, that doesn't mean that  
8 regional solutions are easy to implement. They are  
9 a result of a lot of coordination, a lot of  
10 learning, like what we are doing here today, a lot  
11 of dialogue and a lot of hard work.

12                   I had the privilege of serving my now  
13 home State of Wisconsin as staff at the PACW as the  
14 multi-state discussions went forward about the MVP  
15 projects and the cost allocation associated with  
16 those, and I saw first hand how complicated that  
17 discussion could be when we are just talking about  
18 the multiple RPS policies throughout the MISO  
19 footprint.

20                   This problem is -- I was going to say  
21 arguably, but it's more complex than that issue, but  
22 our initial analysis, as I just pointed out,

1 provides about three billion reasons for us to have  
2 these discussions on a very regular basis and  
3 continue this dialogue.

4 I think experience shows that hard  
5 work and maybe a few airline miles and hotel nights  
6 by a lot of people in this room can bring those  
7 benefits to customers, so I look forward to getting  
8 into more specifics of what that might look like  
9 from an RTO perspective.

10 I just wanted to share some of our  
11 initial analysis and also look forward to continuing  
12 this dialogue as we get more specifics from the EPA  
13 as apparently we did just today.

14 So I'll turn it over to Paul and let's  
15 engage in some more discussion.

16 CHAIRMAN SCOTT: Thank you.

17 Paul.

18 PRESENTATION

19 BY

20 DR. SOTKIEWICZ:

21 Thank you, Chairman Scott for the kind  
22 invitation to come back. My apologies for my voice.

1 Those of you who do know me, I am a University of  
2 Florida graduate and I didn't lose it before the  
3 Georgia game last weekend, so I apologize for that,  
4 and also with a Polish last name, it's nice to be  
5 back in Chicago. My dad grew up about two hours  
6 east of here in South Bend just short right on the  
7 South Shore.

8 I want to actually start off with the  
9 question that came up with members of the  
10 legislature that were in the room today. What is an  
11 RTO? A regional transmission organization is what  
12 it is, but really what is an RTO and what does an  
13 RTO actually do?

14 What an RTO does is it operates the  
15 bulk power transmission system for its passive  
16 owners, so traditionally utilities you will hear the  
17 Amerens of the world, the ComEd's of the world, as  
18 they have been, you know, in some cases swallowed by  
19 other companies now encompass part of Exelon own the  
20 transmission system, but they don't operate the  
21 system. That's up to the RTOs to do it, and the  
22 reason is the TROs don't have any commercial

1 interest in the markets. None of our management,  
2 our board, or our employees have any financial  
3 interest in any of our market participants. In  
4 fact, we are forbidden by FERC rules to have any  
5 financial interest.

6 If you think of the RTO, the TRO is  
7 sort of like a common carrier. If you go back to  
8 the old telecom days, you all remember telecom  
9 deregulation and all that. We are the common  
10 carrier, the transmission system, and the providers  
11 for the different services.

12 So what an RTO is we are facilitators  
13 of markets and we also are the party responsible for  
14 insuring the liability, the bulk power system,  
15 whether it's PJM within our footprint, which is all  
16 or parts of 13 states in the Mid-Atlantic and out  
17 here in the Midwest and all the way down to the  
18 banks of North Carolina to MISO, which has an even  
19 larger geographic footprint as PJM.

20 As the market operator without any  
21 financial interest, we don't have a dog in the hunt  
22 with respect to the size of the facilities. They

1     could be big or small.  The age of the facilities,  
2     it could be brand new or a hundred years old.  They  
3     could run on coal, nuclear, natural gas.  It could  
4     be perfect units running on chicken litter and God  
5     knows what else.

6                     We have no interest in any of that.  
7     We are resource technology-fuel-size-age neutral,  
8     subject to reliability, which, as Brian said, is  
9     really our key focus.  So as we come into this  
10    looking at the CO2 rule that's been proposed again,  
11    much like MISO, we don't have a position on the  
12    wisdom of the rule.  We are not environmental  
13    experts.  We are not environmental legislators, but  
14    our job is to operate the system reliably, number  
15    one, and, number two, to make sure that the market  
16    outcomes are as cost efficient and least cost as  
17    humanly possible.

18                    So hearing comments from the AG's  
19    office, I just want to send a big old fruit basket,  
20    and I can't send it literally, but figuratively,, to  
21    the AG's office, you know, for embracing market  
22    mechanisms, because I think what RTOs show -- RTOs

1 through their scope and scale, because we are  
2 aggregating all the old utilities up together and  
3 operating them effectively as one, we are exploring  
4 the economy of geographic scope and just large scale  
5 to bring lower cost outcomes in just day-to-day  
6 dispatch, daily commitment of units, transmission  
7 planning, and resource adequacy, and that regional  
8 solution in PJM at least brings what we estimate to  
9 be about \$2.2 billion in savings each year.

10 That equates to giving the number of  
11 gigawatt hours that flow through our market more or  
12 less \$3 megawatt hours, or just under 10 percent of  
13 the wholesale price, energy price. That doesn't  
14 include all other stuff, but it's not an  
15 insignificant amount of money.

16 If you would translate that to a  
17 household, all that would pass through. Say they  
18 consume a thousand megawatts a month, \$3 times  
19 12, that's \$36. Hey, that's not too bad.

20 So we have all these economies of  
21 scope, you know, and regional solution also cover up  
22 a multitude of reliability sins that may exist if

1 you were operating all of these utilities  
2 separately.

3                   So you think about operating just  
4 ComEd alone versus operating our neighbors in East  
5 Kentucky Power Cooperative, American Electric Power  
6 and their operating company separately, individually  
7 it could cost them more to insure resource adequacy  
8 or transmission reliability than acting in  
9 aggregate. There are gains from trade to be had  
10 because some systems are long on resources. Some  
11 are short on resources and everybody benefits.

12                   Those who are short get lower cost  
13 resources, because they can buy them in the  
14 marketplace. Those systems that are long can sell  
15 resources, and if they are in a regulated  
16 environment, they can rebate that back to their  
17 customers. Either way everybody benefits from that  
18 regional cooperation.

19                   I think with respect to that then if  
20 we are thinking about regional solutions, it only  
21 makes sense to think about regional solutions and  
22 the environmental problems we face.

1                   If we look at it historically, the  
2 sulfur dioxide program was a broad regional program.  
3 The Knox Budget Program, the Clean Air Interstate  
4 Board were all broad regional programs, and, in  
5 fact, exceeded the regional scope of any dispatch  
6 entity at the time, whether it be MISO or PJM, and  
7 those are seen as success stories.

8                   And, again, I'm going to throw kudos  
9 out to the Attorney General's office for recognizing  
10 the success of those programs in the past, but we  
11 are concerned about reliability, and we have had  
12 programs in the past, such as Mercury Toxic  
13 Sequence, and the RTO, MSO, PJM, New York, Guidison,  
14 Waveland, Texas, California, got together got a  
15 bunch of units that needed to retire from their  
16 compliance obligations, but we don't have sufficient  
17 time to get reliability solution transmission in  
18 place. We need a methodology by which we can extend  
19 those units so that we can actually allow them to  
20 comply with the rule in a reliable fashion.

21                   EPA heard us. We got it into the  
22 final rule. It's an insurance policy. It doesn't

1 mean that units are going to be running out of  
2 compliance for years and years and years, and, in  
3 fact, I know of no units that have applied for a  
4 fifth year beyond the original fourth year that was  
5 already envisioned in the Clean Air Act Amendment.

6           So I think that's a victory up for  
7 reliability, but it's also a victory for the way the  
8 EPA implement that particular rule, but from a  
9 reliability standpoint, we are also arguing it's  
10 time for reliability safety, and PJM has been  
11 working with MISO and other RTOs to get something  
12 similar in place, but the proposed rule here is a  
13 little bit different.

14           So some of the reliability issues that  
15 we face in mass we don't necessarily face here  
16 because there's not a cliff, per se, where everybody  
17 must conform. It's not an emission rate like mass  
18 where whether you run one error or 8760, you have to  
19 meet the standard. There's a lot more flexibility  
20 and wiggle room at least in theory with this.

21           So really one big concern we have at  
22 PJM is what happens in terms of state-by-state

1 components and how does that affect now daily  
2 commitment in dispatch of units, because we have  
3 heard some of the states in our footprint, and I'm  
4 sure will come up, if it wasn't going to come up  
5 already, is some states say no way, no how are we  
6 going to put a price on emissions, never going to  
7 happen. That's fine. States could choose to do  
8 that. The state implementing authority, the state  
9 EPA's have the right to actually run time limit on  
10 fossil units. That's great. They can do that, but  
11 how does that -- but what does that do for us as a  
12 system operator.

13 I had no price by which to dispatch  
14 that unit on. How do I price that one-time  
15 restriction in unless I have things in place. All  
16 the other programs that I mentioned, the SOT  
17 training program, the Knox Budget rule, had a price  
18 on emissions.

19 All of our markets, all the RTO  
20 markets incorporate those automatically as if it  
21 were a fuel cost. We can dispatch units based on a  
22 combination of fuel costs and environmental

1 attributes to still get that least cost dispatch.  
2 Certain implementation regimes, quite frankly, would  
3 make that very difficult for us to do.

4 So with that, I will conclude my  
5 comments there and open up to questions, and, again,  
6 thank you for the invitation to talk to you today.

7 CHAIRMAN SCOTT: Thank you. Let me just start  
8 with you and then with Paul.

9 So the issue there would be, if I  
10 understand you right, a bunch of states are going it  
11 alone and eight different states in your footprint  
12 or in yours, Brian, have decided that they're going  
13 to comply with the rule by just limiting the amount  
14 of hours that coal-fired generation could run and  
15 for you then that creates an operational nightmare  
16 of how to be able to dispatch enough power at the  
17 times that you need it.

18 Is that a fair way to summarize that?

19 DR. SOTKIEWICZ: That's a fair way to summarize  
20 it, and then the question is if we dispatch those  
21 units and then run out of hours, then what do I do?  
22 Oops.

1                   We actually have to have a way to  
2 allocate that, and all it would really take is one  
3 state to do that. So we have 13 jurisdictions, plus  
4 the District of Columbia. There are really only  
5 12 that are affected by the rule. The District of  
6 Columbia is not included in the rule, and we have  
7 generation resources in the State of Tennessee.  
8 So really we are looking at 12 different  
9 jurisdictions.

10                   Let's say a large jurisdiction -- I  
11 won't name any states to protect the innocent and  
12 the guilty here -- just decides to run time  
13 restriction on units. That could potentially affect  
14 hundreds of units that we are dealing with. How do  
15 we manage that?

16                   Now we do have voluntary ways to  
17 manage that within tariffs approved by FERC, but  
18 that doesn't mean they have to do that. We would  
19 actually have to go to FERC and ask for a change to  
20 actually require such a methodology be used by any  
21 unit that is time restricted, whether it's more time  
22 restricted for Section 111(d) greenhouse gas

1 compliance or simply as a part of their Title 5 air  
2 permit for nitrogen oxide emissions or carbon  
3 monoxide emissions, as many CTs are across the  
4 county. It can create a price for us to help  
5 dispatch those units, but, again, it creates a very  
6 unit-specific price for emissions as opposed to  
7 something that's much more transferable than what  
8 we've heard in the earlier discussions.

9 MR. RYBARIK: I was just going to add on top of  
10 that when I look at MISO's footprint, we have  
11 15 states, 17 jurisdictions. The City of New  
12 Orleans is a separate jurisdiction, and we also have  
13 Manitoba, but the other complicating factors there  
14 is if all of our states go alone, I think of how  
15 that sort of intersects with policies we already  
16 have where we have RPS policies in almost all of our  
17 states and wind located in certain parts of our  
18 footprint that is then transmitted to other parts of  
19 our footprint.

20 If you have state-by-state restriction  
21 on when you can run to fossil generation now and you  
22 have wind coming through in one place, right now we

1 are able to maximize the value of all this by  
2 looking at that broad geographic footprint.

3                   If for certain units we have to sort  
4 of isolate them, I think we really lose the big  
5 value that we brought in incorporating all of these  
6 RPS policies, then you start wondering, well, are  
7 those RPS policies going to be possible any more to  
8 meet with the wind generation we put on the system.  
9 So it creates a big morass if you start looking at  
10 it from an individual state-by-state basis.

11                   Is it possible? I think we could  
12 probably figure out someways to do that. It's just  
13 not going to be optimal.

14           DR. SOTKIEWICZ: If I could go ahead and add to  
15 that.

16           CHAIRMAN SCOTT: Go ahead.

17           DR. SOTKIEWICZ: We are not trying to force  
18 regional compliance on anybody. The states actually  
19 have the power to do as they wish under the Clean  
20 Air Act as part of the Cooperative Federal Agency.  
21 Every state could do something slightly different,  
22 but there are varying shades of white to black and

1 gray in the middle on how that can be done and how  
2 those are going to affect dispatch operations.

3 In the most ideal of worlds it might  
4 look something like this in your training program  
5 where everybody faces the same price for emissions,  
6 sulfur dioxide, Knox Budget Program. Going further  
7 down, you may have smaller regions that break off  
8 and have a common price while the rest of the states  
9 each have their own individual price.

10 Can we still dispatch the system?

11 Absolutely, we can. Can we manage reliability?

12 Absolutely, we can. Will it cost more? Yes, it

13 will cost more, because it will no longer be as

14 cost-effective. Will it result in things that we

15 hadn't expected before? Quite possible it could

16 change dispatch on the system. It may bring to our

17 attention NERC reliability criteria violations that

18 would require new transmission build-outs.

19 So can we manage this? Yes, but it's

20 also going to be potentially much more expensive all

21 the way down to simply to not putting a price on

22 emissions and just having these one-time

1 restrictions would be the other opposite extreme of  
2 that.

3                   And so, you know, to the extent that  
4 there's a concern where states think they cannot  
5 necessarily get together to do a regional program,  
6 we can manage that on a state-by-state basis with  
7 separate state prices. It's just going to erode the  
8 efficiency, as Brian alluded to, the RTOs already  
9 brought.

10           CHAIRMAN SCOTT: Commissioner McCabe.

11           COMMISSIONER McCABE: Both RTOs are doing  
12 modeling. Is it safe to say, given both your  
13 arguments in the rulemaking process, this is just  
14 the first round of multiple rounds of modeling?

15           DR. SOTKIEWICZ: Yes. We are still in the  
16 process of working through a lot of things. We are  
17 actually using a production cost simulation dispatch  
18 mode from Ventex, which is owned by ABD, and not  
19 that I'm endorsing it necessarily, that is just who  
20 our vendor happens to be, and that is a model that  
21 will run from all 8760 hours in a year where we are  
22 running weekly unit commitment on hourly dispatch on

1 a representation of the transmission system as it  
2 exist today.

3                   So, generally speaking, we have  
4 actually made some assumptions to try to cut down  
5 the computation times. Normal runs take about 24  
6 hours for a one-year run. We have actually cut that  
7 down to six, seven, eight hours, because we are not  
8 modeling the PJM system with the MISO system  
9 attached to it, or with New York ISO to our north,  
10 or the Duke system to our south. We are just  
11 modeling the PJM in insolation to cut down on  
12 computation times so that we can run more scenarios  
13 on this.

14                   What we expect to see out of this is  
15 we will obviously get an impact on prices. We'll  
16 see an impact on revenues from generators. Based on  
17 the program, we'll see emissions profile, a price on  
18 CO2 emissions, and those types of things. But  
19 because of the complexity, and I know EGEAS -- and  
20 I'll let Brian address this in a little more  
21 detail -- is a system that is less computational and  
22 burdensome and shows a different set than Promon

1 does.

2 MR. RYBARIK: And for the reasons that Paul just  
3 talked about Promon, that's why we initially started  
4 with the EGEAS models. We wanted to provide  
5 information for people to make comments on the rule  
6 and give at least some initial analysis, and, of  
7 course, the comment deadline got extended in the  
8 middle of our analysis, so that maybe in hindsight  
9 wasn't the best option, but it actually does give us  
10 some very good information though, but it does have  
11 its limitations, and that is it's not really looking  
12 at a production cost model. It's looking at just  
13 what it actually costs in a transmission-free world  
14 to put fuel into the system and expand capacity, so  
15 we are getting an actual cost of capacity price, but  
16 we are not getting anything that would reflect  
17 transmission congestion or transmission upgrades  
18 that would be needed to actually fulfill the  
19 dispatch that we are seeing or gas pipeline  
20 infrastructure.

21 So that's a long way of answering your  
22 question of, yes, this is a very initial take on

1 this, and there has to be a lot more modeling and,  
2 quite frankly, a lot of that is going to be reserved  
3 until we get a lot more finality in what the rule is  
4 and then we can actually look at the specifics of  
5 that rule, so there's a lot to be done.

6 CHAIRMAN SCOTT: Let me take you into an area,  
7 because you just hit on it, Paul, when you are  
8 talking about modeling with or without MISO attached  
9 to PJM, and that obviously is a very concern for us  
10 since we are attached to both of you.

11 So in terms of working together and  
12 how that works out for our particular state, and I  
13 know in REGGIE you are working with two other RTOs,  
14 so you have got those kinds of issues, can you talk  
15 to us just a little bit about that and how that  
16 works.

17 DR. SOTKIEWICZ: Let me kind of work backwards  
18 from your question, Mr. Chairman. With respect to  
19 REGGIE, right now Maryland and Delaware are a part  
20 of REGGIE. New Jersey once was a part of REGGIE.  
21 Governor Christie withdrew from that cooperative  
22 agreement, and it hasn't caused any problems just

1 having two state in REGGIE and no other states in  
2 REGGIE. There are prices for the REGGIE states on  
3 generation. It runs just fine. The other states  
4 don't have it. It does affect dispatch slightly,  
5 but the price is high enough to really see major  
6 impacts on dispatch. Excuse me. But, in theory, it  
7 shouldn't have some kind of impact on dispatch.

8                   But in terms of working with the other  
9 RTOs, it's created no other operational issues with  
10 the other RTOs. We already did the same checkouts,  
11 you know, interchange checkouts 20 minutes before  
12 the top of the hour that we do with the other RTOs,  
13 and we have now implemented New York for the  
14 transaction scheduling, so we'll probably start  
15 discussions with MISO very soon with the exchange  
16 optimization.

17                   So, in that sense, you know, what we  
18 are trying to do is get a snapshot of what we are  
19 looking at and, for computational reasons, we have  
20 had to do this, so it's not as if we are  
21 discriminating against MISO.

22                   I could say the same thing about New

1 York. We have left them off, too, but with respect  
2 to Illinois' situation being a part of multiple  
3 RTOs, Illinois is certainly not alone, but it's  
4 probably the most notable in leading the discussion  
5 about regional compliance.

6 In some sense Illinois stands at a  
7 crossroad and actually can be a real policy center,  
8 here because in some sense Illinois could choose to  
9 go regional compliance in both RTOs.

10 As I mentioned, this is actually  
11 before the rule was initially announced, is that  
12 Illinois can simply say, all right, we can do  
13 regional compliance with our resources in PJM. They  
14 go with PJM. Our resources are with MISO. They go  
15 with MISO. You know, by the way, resources internal  
16 to Illinois can all trade with one another. All of  
17 a sudden Illinois has become the universal  
18 translator between programs in both RTOs. It's done  
19 very simply in many ways, so it could be Illinois.  
20 It could be Kentucky serving the same thing. In  
21 fact, Kentucky touches MISO, PJM, not RTO affiliated  
22 and TVA (phonetic).

1                   So, again, you could get that kind of  
2 cooperation with one state that actually spans  
3 multiple RTOs rather than it seems being a big issue  
4 operationally as it is with power system operation,  
5 it's actually almost become an advantage spanning  
6 the regional nature of the compliance program  
7 potentially.

8           CHAIRMAN SCOTT: Brian, did you have a comment  
9 from MISO's perspective?

10          MR. RYBARIK: Yes. I think there's two pieces  
11 there. One is the modeling side of it and not  
12 dissimilar to what PJM is doing. We model the MISO  
13 footprint just because we had to get something done  
14 kind of quick and dirty here at this point.

15                   I think ultimately we are going to  
16 have to model this together, if not on a whole  
17 eastern interconnection basis, we are going to have  
18 to look at it that way.

19                   I think that sort of segues myself  
20 into Paul's last point, which is the more you can  
21 make any market design you have for pricing CO2 or  
22 how you are going to make it, the more that is

1 uniform, the easier it is for everyone regardless of  
2 whether you are in multiple RTOs.

3           We have many states that are similar  
4 to Kentucky that have two RTOs. Missouri is the one  
5 that came to mind with two RTOs as well as multiple  
6 non-RTO areas. The more you look at that and say  
7 let's try to make this uniform so that trading take  
8 place across different platforms, it makes it  
9 significantly easier, and I think then you get down  
10 to just sort of normal operation issues, which we  
11 have to work on as well, but this shouldn't affect  
12 that if you get that sort of signal rate.

13           CHAIRMAN SCOTT: So operationally it's easier for  
14 both of you, and theoretically from a cost  
15 perspective it's better as well?

16           DR. SOTKIEWICZ: In theory, it should lead to  
17 lower cost overall, and especially with the  
18 initiative that we are going to be undertaking with  
19 MISO.

20           I mean, you know, we were actually the  
21 first two RTOs to actually -- really serious is not  
22 the right word -- but an extremely detailed joint

1 operating agreement, and through that joint  
2 operating agreement the dispatch staffs from both  
3 RTOs worked closely together on a daily basis -- an  
4 hourly basis I would say -- to make sure that we  
5 were managing flows between the two RTOs, and in  
6 doing so in the most efficient, reliable, and  
7 cost-effective manner, and the interexchange  
8 optimization work that we are going to be starting  
9 is going to try to really price that out so that  
10 effectively rather than having a MISO price for PJM  
11 and a PJM price for MISO, effectively the price will  
12 be spot right on top of one another, which would  
13 effectively serve from a power system's perspective,  
14 but you do have to worry about the laws of physics  
15 and all that.

16 Look like into the environmental  
17 rule, the option that I just laid out for a state  
18 with multiple RTOs where really that's actually much  
19 earlier than what we have to worry about in  
20 operations.

21 MR. RYBARIK: Another thought just came to mind  
22 and, you know, maybe to expand even further beyond

1 the RTOs is that, you know, I was just thinking we  
2 have utilities that would really prefer to have a  
3 single idea of a market design for the CO2 issue,  
4 because they themselves are in multiple RTOs.

5 Another example I am thinking of is  
6 Xcel Energy. They are all over to country. So the  
7 more you can design a market that doesn't really  
8 matter about geography or where you are and that you  
9 can trade your CO2 credits or divide CO2 credits  
10 wherever you sit in the country, the better off  
11 those utilities are as well. I know they don't do  
12 business in Illinois, but that I think is a big, big  
13 issue for some utilities that are in multiple areas  
14 and multiple interconnects.

15 DR. SOTKIEWICZ: And keep in mind the other  
16 thing, too -- and I'm going to throw on my academic  
17 hat -- it's not necessary for any particular set of  
18 states or groups that want to trade with each other  
19 to be a part of the same dispatch. You can still  
20 get a lot of those economies, even if you are a  
21 different dispatch.

22 So the Xcel Energy they could trade

1 with somebody in Minnesota. Well, I have got my  
2 solar in Minnesota. The Xcel part of Minnesota is  
3 in a completely different interconnection, not even  
4 synchronized to invest in an interconnection, but,  
5 yet, they could trade CO2 credits, allowances,  
6 whatever you want to call them, and it wouldn't be  
7 an issue necessarily there.

8                   So, I mean, we're using the RTO  
9 dispatch as an example because it's convenient and  
10 the institutions are already there, but it doesn't  
11 have to abide by those dispatch operations.

12           CHAIRMAN SCOTT: The last few minutes that we  
13 have got left, so you heard from Franz and Jonas  
14 talking about lots of ways to structure different  
15 programs, and I'm assuming from the answers that you  
16 have given already that almost any of those could be  
17 incorporated into PJM and MISO and operate. There  
18 are differences between them, but just on a broad  
19 question, I'm assuming any of those different plants  
20 could be as well as states going it alone, although  
21 you talked about that option already.

22           DR. SOTKIEWICZ: Sure. All of that could be

1 done, and I think if you look at the way the EPA  
2 actually modeled the emissions rate standard for the  
3 proposed rule, there is actually a price on  
4 emissions. So if there's a price on emissions, if  
5 it emanates from emission rate standards as opposed  
6 to mass-base solution for compliance, it could still  
7 be incorporated in the dispatch.

8 CHAIRMAN SCOTT: I'm assuming rate versus mass  
9 for your purposes doesn't matter. It may matter  
10 from trading program purposes, but it doesn't or  
11 does it matter whether there's a combination of  
12 states working together on rate versus mass?

13 DR. SOTKIEWICZ: From our perspective, that's  
14 going to be a choice the state has to make from a  
15 system operations standpoint. The more uniformity  
16 there is, the most cost effective the dispatch is  
17 going to be, but, you know, whether states choose to  
18 go with a rate-based state or mass-based standard,  
19 it's not really something that we should be  
20 concerned with as long as we can get the information  
21 we need to dispatch the system.

22 CHAIRMAN SCOTT: Brian.

1           MR. RYBARIK: From an RTO operations'  
2 perspective, I think that's absolutely right. From  
3 the ability to trade those two across those  
4 platforms, the more uniformity they are, the better  
5 off they are.

6                       The mass-based system seems to be at  
7 least easier to me to get my head around from a  
8 trading perspective, and that's how we have had to  
9 model it. That's another issue that we had to deal  
10 with, the EGEAS model. It only looks at mass-based  
11 stuff, so we are modeling stuff from looking at it  
12 from a mass-based perspective. That's maybe why I  
13 could get my head around it.

14           DR. SOTKIEWICZ: I think the one thing that is  
15 interesting when you look at some of the more  
16 academic works that are done by organizations such  
17 as Resources for the Future that are non-partisan,  
18 and they have taken a look comparing an emissions  
19 rate trading scheme versus a mass-based trading  
20 scheme, and you have different effects on dispatch  
21 because of the way the schemes are put forth.

22                       So, for example, if the way they

1 describe the emissions rate trading scheme, you have  
2 a target emissions rate level, everybody earns  
3 credits, but effectively if you are below the  
4 emissions rate target, you effectively are getting a  
5 production subsidy, whereas, if you are above the  
6 target, you are actually paying extra for the  
7 emissions over and above the emissions rate target;  
8 whereas, under a mass-based approach everybody's  
9 dispatch cost goes up.

10                   So it's going to have different  
11 pricing implications. It's going to have different  
12 revenue implications from generators,  
13 implementations for how much extra revenue they may  
14 need outside of the energy market, things of that  
15 nature. Things that we haven't examined or  
16 understood, I think are key things for us to flag  
17 and think about going forward.

18           CHAIRMAN SCOTT: Okay. Well, we are just about  
19 on time. Anything that we missed that you think we  
20 need to know today? Obviously, we have talked a  
21 lot.

22                   Is there anything that you think we

1 need to take out of here?

2 DR. SOTKIEWICZ: Regional compliance -- I mean,  
3 ultimately the RTOs are examples of what broader  
4 regional solutions can do in terms of cost savings.

5 I'll just use another example that is  
6 not even here in the Midwest, but that is out in the  
7 Pacific Northwest and out in California.

8 All of a sudden you are starting to  
9 notice the rise of these larger balancing  
10 authorities incorporated in California ISOs and much  
11 of the vertically-integrated utilities in the West  
12 that have a lot of hydro and wind resources, and on  
13 a stand-alone basis the small utilities have a very  
14 tough time balancing systems, while renewables are  
15 available, very little thermal generation, but as a  
16 group, because they are geographically diverse in  
17 scope and also resources in scope can actually  
18 better manage a lot of these variations.

19 So I think to the extent that you look  
20 at the EPA building blocks and you look at the state  
21 of RTOs already on the books, that regional scope --  
22 Brian brought this up in his initial comments is

1 exactly right -- that makes a big difference on how  
2 we operate the system. We can absorb a lot more  
3 renewables in the geographic and resource scope than  
4 a small utility could necessarily on a stand-alone  
5 basis.

6 I was just going to add as a tongue  
7 and cheek, because I hate to stand between people  
8 and a cocktail, that the importance of the topic on  
9 a day like this hearing at the end of the day, it's  
10 probably inversely proportioned some time before  
11 cocktails are being served.

12 MR. RYBARIK: I planned on a tongue-and-cheek  
13 thing as well. The last thought that I had becomes  
14 something the Commissioner quoted and saying about,  
15 you know, how do we get all these states working  
16 together. I know there are a lot of groups that are  
17 trying to get groups together to try and harness the  
18 value that we have been talking about here today,  
19 and there's a lot going on.

20 States are just trying to figure out  
21 where they stand with the rule, just trying to  
22 understand the rule, figuring out the situation with

1 the TROs, trying to write your comments, et cetera,  
2 and how do we get people together.

3 Well, you know what Nietzsche said,  
4 "out of chaos comes order," so that's my tongue and  
5 cheek.

6 (Laughter.)

7 CHAIRMAN SCOTT: Blazing Saddles.

8 (Laughter.)

9 Gentlemen, thank you very much. We  
10 really appreciate your being here. Thank you to  
11 every presenter and for all of you in the audience  
12 for being with us, and those in Springfield, and  
13 those of you who are listening in. Thank you very  
14 much, Mr. Feipel, for putting this together, and  
15 this meeting stands adjourned. Thanks to everyone.

16 (Whereupon, the above matter  
17 was adjourned.)

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