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BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:

Illinois Department of)
Commerce and Economic) No. 13-0499
Opportunity (DCEO))
)
Approval of its Energy)
Efficiency Portfolio)
and Plan Pursuant to)
Sections 8-103(e) and)
(f) and 8-104(e) and)
(f) of the Public)
Utilities Act.

Chicago, Illinois
November 22, 2013

Met pursuant to adjournment at 10:00 a.m.

BEFORE:

Leslie D. Haynes,
Administrative Law Judge

APPEARANCES:

OFFICE OF THE ATTORNEY GENERAL
BY: MS. HELLIN JANG
- AND -
MR. LLOYD PERLOW,
ASSISTANT ATTORNEYS GENERAL
100 West Randolph Street
13th Floor
Chicago, Illinois 60601

On behalf of the DCEO;

ILLINOIS COMMERCE COMMISSION
BY: MS. JESSICA CARDONI
- AND -
MS. KELLY TURNER
160 North LaSalle Street
Suite C-800

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On behalf of the ICC;

ILLINOIS ATTORNEY GENERAL'S OFFICE
BY: MS. KAREN L. LUSSON,
SR. ASSISTANT ATTORNEY GENERAL
100 West Randolph Street
11th Floor
Chicago, Illinois 60601

On behalf of the Public
Utilities Bureau;

ROWLAND & MOORE
BY: MR. STEPHEN J. MOORE
200 West Superior Street
Suite 400
Chicago, Illinois 60610

On behalf of the NRDC;

CITY OF CHICAGO
BY: MR. ORJIT K. GHOSHAL,
ASSISTANT CORPORATION COUNSEL
30 North LaSalle Street
Suite 1400
Chicago, Illinois 60602

On behalf of the City of
Chicago;

ENVIRONMENTAL LAW & POLICY CENTER
BY: MR. BRADLEY D. KLEIN,
SR. ATTORNEY
35 East Wacker Drive
Suite 1600
Chicago, Illinois 60601

On behalf of the ELPC;

1 QUARLES & BRADY, LLP
2 BY: MR. CHRISTOPHER N. SKEY
3 300 North LaSalle Street
4 Suite 4000
5 Chicago, Illinois 60654

6 On behalf of REACT;

7 ENVIRONMENTAL LAW COUNSEL
8 BY: MS. PATRICIA F. SHARKEY
9 180 North LaSalle Street
10 Suite 3700
11 Chicago, Illinois 60601

12 On behalf of the Midwest
13 Cogeneration Association.

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VERITEXT CHICAGO REPORTING COMPANY, BY

YVETTE BIJARRO-RODRIGUEZ, CSR

LICENSE NO. 084-003734

1 ADMINISTRATIVE LAW JUDGE: Pursuant to
2 the direction of the Illinois Commerce Commission,
3 I now call Docket 13-0499. This is the Illinois
4 Department of Commerce and Economic Opportunity.
5 Approval of its Energy Efficiency Portfolio and
6 Plan Pursuant to Sections 8-103(e) and (f) and
7 8-104(e) and (f) of the Public Utilities Act.

8 May I have the appearances for the
9 record, please.

10 MS. JANG: Hellin Jang and Lloyd Perlow
11 on behalf of the Department of Commerce and
12 Economic Opportunity, 100 West Randolph Street,
13 13th Floor, Chicago, Illinois 60601.

14 MS. CARDONI: On behalf of Staff
15 witnesses for the Illinois Commerce Commission
16 Jessica Cardoni and Kelly Turner, 160 North
17 LaSalle, Suite C-800, Chicago, Illinois 60601.

18 MS. LUSSON: On behalf of the People of
19 the State of Illinois, Karen Lusson, L-U-S-S-O-N,
20 100 West Randolph Street, 11th Floor, Chicago,
21 Illinois 60601.

22 MR. MOORE: On behalf of Natural
23 Resources Defense Counsel, Stephen Moore of the law
24 firm of Rowland & Moore, LLP, 200 West Superior

1 Street, Suite 400, Chicago, Illinois 60654.

2 MR. GHOSHAL: On behalf of the City of
3 Chicago, Orgit Ghoshal, G-H-O-S-H-A-L, 30 North
4 LaSalle Street, Suite 1400, Chicago, Illinois
5 60602.

6 MR. KLEIN: On behalf of the
7 Environmental Law & Policy Center, Brad Klein,
8 Justin Vickers and Berneta Haynes, 35 East Wacker
9 Drive, Suite 1600, Chicago, Illinois 60601.

10 MR. SKEY: Good morning. On behalf of
11 the Coalition to Request Equitable Allocation of
12 Costs Together, the REACT Coalition, Christopher
13 Skey, S-K-E-Y, together with Christopher Townsend
14 and Adam Margolin, law firm of Quarles & Brady,
15 LLP, 300 North LaSalle, Chicago 60654.

16 MS. SHARKEY: On behalf of the Midwest
17 Cogeneration Association, Patricia F. Sharkey,
18 S-H-A-R-K-E-Y, of the law firm of Environmental Law
19 Counsel, PC, located at 180 North LaSalle Street,
20 Chicago, Suite 3700.

21 ADMINISTRATIVE LAW JUDGE: Are there any
22 further appearances?

23 (No response.)

24 ADMINISTRATIVE LAW JUDGE: Let the

1 record reflect there are none.

2 Today is the evidentiary hearing
3 and I think the first thing we should get out of
4 the way is to go ahead and put the testimony in
5 that's going by affidavit. So which party would
6 like to go first with that?

7 MS. SHARKEY: Your Honor, if I might.
8 Patricia Sharkey. We had filed a petition for
9 leave to intervene. I don't know if it's
10 appropriate to have that considered before the
11 testimony is submitted.

12 ADMINISTRATIVE LAW JUDGE: It is. Thank
13 you.

14 So that is Midwest Cogeneration
15 Association?

16 MS. SHARKEY: Correct.

17 ADMINISTRATIVE LAW JUDGE: Is there any
18 objection to granting that petition to intervene?

19 (No response).

20 ADMINISTRATIVE LAW JUDGE: Hearing none
21 it is granted.

22 Are there any other petitions to
23 intervene?

24 MR. SKEY: Your Honor, I'm not sure of

1 our status. Christopher Skey on behalf of the
2 REACT Coalition. We filed our petition to
3 intervene after the status hearing so it's possible
4 that it was not granted. I'm not sure.

5 ADMINISTRATIVE LAW JUDGE: Is there any
6 objection to granting REACT's petition to
7 intervene?

8 (No response).

9 ADMINISTRATIVE LAW JUDGE: Hearing none
10 that is also granted.

11 MR. SKEY: Thank you, your Honor.

12 ADMINISTRATIVE LAW JUDGE: So I assume
13 the DCEO witnesses are all not going by affidavit
14 today, correct?

15 MS. JANG: That's correct.

16 ADMINISTRATIVE LAW JUDGE: (Inaudible).

17 MS. CARDONI: Yes, your Honor. We have
18 one witness who is not being crossed today.

19 At this time Staff would move for
20 the admission into evidence of what has been marked
21 as Staff Exhibit 2.0. The direct testimony of
22 David Brightwell as well as Staff Exhibit 4.0, the
23 rebuttal testimony of David Brightwell. And we
24 seek leave for these to be admitted via affidavit

1 which has been marked as ICC Staff Exhibit 4.1. We
2 intend to file that later today on e-Docket.

3 ADMINISTRATIVE LAW JUDGE: Do you have
4 the dates of the direct and rebuttal testimony?

5 MS. CARDONI: Yes, your Honor.
6 October 23rd, Exhibit 2.0 was filed and
7 October 31st Exhibit 4.0 was filed.

8 ADMINISTRATIVE LAW JUDGE: Thank you.

9 Is there any objection to admitting
10 Staff 2.0 and 4.0 and 4.1 into the record?

11 (No response).

12 ADMINISTRATIVE LAW JUDGE: Hearing none
13 those exhibits are admitted into the record as
14 previously filed on e-Docket and the affidavit will
15 be (inaudible).

16 Okay. Staff, any further
17 testimony?

18 MS. CARDONI: No, your Honor. We're
19 calling a witness but I believe once we have the
20 witness hooked up.

21 ADMINISTRATIVE LAW JUDGE: Okay. Thank
22 you.

23 Who's next?

24 MR. MOORE: I'll be next.

1 ADMINISTRATIVE LAW JUDGE: Okay.

2 MR. MOORE: On behalf of the Natural
3 Resources Defense Counsel, we move for admission of
4 NRDC Exhibit 1.0R and this is the direct testimony
5 of Chris Neme. That's N as in Nick, E, M as in
6 Michael, E. This was filed yesterday,
7 November 21st and Exhibit 1.1 filed on
8 October 23rd.

9 Also, we move for admission of
10 Exhibit 2.0 and 2.1. That's the direct testimony
11 of Dylan Sullivan and the attachment. That was
12 filed on October 23rd.

13 Finally, we have a group cross
14 exhibit consisting of 12 pages that I've already
15 learn those exhibits by the counsel for DCEO and
16 they have approved that so we move for admission of
17 NRDC Group Cross Exhibit No. 1.

18 ADMINISTRATIVE LAW JUDGE: And is that
19 exhibit group cross on e-Docket?

20 MR. MOORE: I will be filing that on
21 e-Docket today. That consists of data responses.
22 Do you want me to read the data responses into the
23 record?

24 ADMINISTRATIVE LAW JUDGE: Sure.

1 MR. MOORE: Okay. 1.04 including one
2 page of an attachment, 1.05, 1.14, 1.16, 1.18,
3 1.21, 2.03, 2.04 and 3.01.

4 ADMINISTRATIVE LAW JUDGE: Thank you.
5 Any objection to any of those exhibits as listed by
6 NRDC counsel at this time?

7 (No response).

8 ADMINISTRATIVE LAW JUDGE: Hearing none
9 those exhibits are admitted.

10 MR. MOORE: And I will file an affidavit
11 to reach my witnesses (inaudible) Monday depending
12 on when I receive them.

13 ADMINISTRATIVE LAW JUDGE: Let's give
14 them a number.

15 MR. MOORE: I'm sorry.

16 ADMINISTRATIVE LAW JUDGE: Let's give
17 them a number. So the Neme affidavit we'll call
18 1.2 and the Sullivan affidavit we'll call 2.2 and
19 they will be late filed on e-Docket.

20 MR. MOORE: Thank you, your Honor.

21 ADMINISTRATIVE LAW JUDGE: Are there any
22 other witnesses?

23 MR. SKEY: Yes, your Honor. Christopher
24 Skey on behalf of the REACT coalition. I would

1 like to move for the admission of the direct and
2 rebuttal testimony of Mr. Bradley O. Fults.
3 Mr. Fultz's direct testimony was filed on e-Docket
4 as REACT Exhibit 1.0 together with attachment REACT
5 Exhibit 1.1 on October 23, 2013. Mr. Fults'
6 rebuttal testimony was filed on e-Docket as REACT
7 Exhibit 2.0 on October 31, 2013, and I'm reading
8 from and we'll plan to file on e-Docket this
9 morning an affidavit signed by Mr. Fults which is
10 marked as REACT Exhibit 3.0. So we would move for
11 the admission of REACT Exhibit -- of those
12 Exhibits 1.0, 1.1, 2.0, 3.0 at this time, your
13 Honor.

14 ADMINISTRATIVE LAW JUDGE: Is there any
15 objection?

16 (No response).

17 ADMINISTRATIVE LAW JUDGE: Hearing none
18 those exhibits are admitted.

19 MR. SKEY: Thank you, your Honor. I
20 also do have, as Mr. Moore did, a number of
21 stipulated requests that we would seek admission in
22 lieu of cross-examination today.

23 Would you like me to go through
24 those now or would you like me to do it later?

1 ADMINISTRATIVE LAW JUDGE: Let's do it
2 now.

3 MR. SKEY: Okay. Thank you, your Honor.
4 The first set of exhibits are in lieu of
5 cross-examination of DCEO Ms. Mrozowski and they
6 are marked as REACT Exhibit 1.0 -- excuse me, REACT
7 Cross Exhibit 1.0 through 1 -- through 8.0 and they
8 consist of DCEO Data Request Responses to REACT.
9 DCEO 1.0, 1.02, 1.03, 1.04, 1.06, 1.07, 1.09 and
10 1.10 respectively. We would move for admission of
11 those exhibits at this time and we plan to file
12 them on e-Docket this afternoon, your Honor.

13 ADMINISTRATIVE LAW JUDGE: Is there any
14 objection to those cross exhibits?

15 (No response.)

16 ADMINISTRATIVE LAW JUDGE: Hearing none
17 they're admitted.

18 MR. SKEY: Thank you, your Honor.
19 There's one additional set of exhibits if I can get
20 them out of my file. Excuse me. These exhibits
21 are being submitted in lieu of cross-examination of
22 AG witness Mr. Mosenthal by stipulation with AG
23 counsel. These exhibits are marked as REACT Cross
24 Exhibit 9.0 through REACT Cross Exhibit 20.0 and

1 they represent the data request responses of the AG
2 to REACT AG data request 1.01, 1.02, 1.03, 1.05,
3 1.06, 1.07, 1.8, 1.09, 1.10 and 1.12 respectively
4 and we will plan to file those on e-Docket this
5 afternoon and respectfully move for admission of in
6 evidence of those exhibits.

7 ADMINISTRATIVE LAW JUDGE: Is there any
8 objection?

9 (No response).

10 ADMINISTRATIVE LAW JUDGE: Hearing none
11 they're admitted.

12 MR. SKEY: Thank you, your Honor.

13 ADMINISTRATIVE LAW JUDGE: Do you have
14 copies of those cross exhibits for me?

15 MR. SKEY: Absolutely. I do. May I
16 approach?

17 ADMINISTRATIVE LAW JUDGE: Yes.

18 Is there further testimony going in
19 by affidavit?

20 MR. KLEIN: Yes, there is your Honor.
21 At this time I'd like to respectfully move for
22 admission into evidence the direct testimony of
23 Jeffrey Krandle which is marked as ELPC Exhibit 1.0
24 together with attachments ELPC Exhibits 1.1, 1.2,

1 1.3 and 1.4. These were filed on e-Docket on
2 October 23rd. And they will be going in by
3 affidavit which I propose to number ELPC
4 Exhibit 1.5 which we will file on e-Docket this
5 afternoon.

6 ADMINISTRATIVE LAW JUDGE: Any
7 objections?

8 (No response).

9 ADMINISTRATIVE LAW JUDGE: Hearing none
10 those exhibits are admitted.

11 MR. KLEIN: ELPC also has a proposed
12 group cross exhibit consisting of discovery request
13 responses that are going in by stipulation. I have
14 them marked as ELPC Group Cross Exhibit 1.0 to be
15 filed this afternoon on e-Docket consisting of
16 DCEO's responses to ELPC's discovery request 1.8,
17 1.9, 1.13, 1.23, 2.1, 2.3, 2.4, 2.5, 2.8, 3.1 and
18 3.2.

19 I have hard copies if your Honor
20 would like.

21 ADMINISTRATIVE LAW JUDGE: For myself,
22 yes, but you're going to file them on e-Docket,
23 right?

24 MR. KLEIN: Yes.

1 ADMINISTRATIVE LAW JUDGE: Okay. Thank
2 you.

3 Is there any objection to ELPC
4 Cross Group Exhibit No. 1?

5 (No response).

6 ADMINISTRATIVE LAW JUDGE: Hearing none
7 it's admitted.

8 MS. SHARKEY: Patricia Sharkey on behalf
9 of the Midwest Cogeneration Association. We would
10 like at this time to move for admission of the
11 direct testimony of Daniel Natura on behalf of the
12 Midwest Cogeneration Association which was e-filed
13 on October 23, 2013, which we will label as Exhibit
14 MCA Exhibit 1.0. We also would like to move for
15 admission.

16 ADMINISTRATIVE LAW JUDGE: Let's go off
17 the record for a second.

18 (Whereupon, a discussion was
19 had off the record.)

20 ADMINISTRATIVE LAW JUDGE: MCA was
21 moving your testimony into the record, right?

22 MS. SHARKEY: Correct. We are also
23 moving to admit the rebuttal testimony of Daniel
24 Natura on behalf of the Midwest Cogeneration

1 Association which was e-filed on October 31st,
2 2013, which we will refer to as MCA Exhibit 2.
3 Your Honor, we also plan to file an affidavit on
4 behalf of Daniel Matura by -- on e-Docket this
5 afternoon.

6 ADMINISTRATIVE LAW JUDGE: Okay. We'll
7 call that --

8 MS. SHARKEY: MCA Exhibit 3.

9 ADMINISTRATIVE LAW JUDGE: Okay.

10 MS. SHARKEY: And that's all.

11 ADMINISTRATIVE LAW JUDGE: Is there any
12 objection to admitting MCA Exhibits 1, 2, and 3?

13 (No response.)

14 ADMINISTRATIVE LAW JUDGE: Hearing none
15 they're admitted.

16 THE WITNESS: Your Honor, Christine
17 Munsch, M-U-N-S-C-H, on behalf of the Citizens
18 Utility Board, 309 West Washington Street,
19 Suite 800, Chicago, Illinois 60606. And then, you
20 Honor, at this time I'd like to move for the
21 admission by affidavit of CUB Exhibits 1.0 and 1.1.
22 That's the direct testimony Rebecca Devens filed on
23 e-Docket on October 23rd. CUB Exhibit 2.0, the
24 rebuttal testimony of Rebecca Devens filed on

1 e-Docket on October 31st and then today we will
2 prepare an affidavit for all three of those which
3 we can call CUB Exhibit 3.0 which we will file on
4 e-Docket and serve this afternoon.

5 ADMINISTRATIVE LAW JUDGE: Is there any
6 objection?

7 (No response).

8 ADMINISTRATIVE LAW JUDGE: Hearing none
9 CUB's exhibits are admitted.

10 MS. MUNSCH: Thank you.

11 MR. GHOSHAL: Your Honor, the City has
12 no testimony to offer by affidavit but we do have
13 one cross exhibit to enter into cross-examination.
14 Should I do that now?

15 ADMINISTRATIVE LAW JUDGE: Yes.

16 MR. GHOSHAL: This is labeled as City
17 Group Cross Exhibit 1 which is DCEO's response to
18 the City of Chicago's data request 5.1. And I have
19 copies for the court reporter and for your Honor.

20 ADMINISTRATIVE LAW JUDGE: Okay.

21 MR. GHOSHAL: So the City moves for the
22 admission of Group Cross Exhibit 1.

23 ADMINISTRATIVE LAW JUDGE: Is there any
24 objection?

1 (No response).

2 ADMINISTRATIVE LAW JUDGE: Hearing none
3 City Group Cross Exhibit 1 is admitted. And do you
4 have three copies for the court reporter?

5 MR. GHOSHAL: I do. May I approach?

6 ADMINISTRATIVE LAW JUDGE: Yes.

7 MR. GHOSHAL: Nothing further from the
8 City, your Honor.

9 ADMINISTRATIVE LAW JUDGE: Thank you.
10 Anybody else?

11 MS. CARDONI: Judge, Staff actually has
12 four cross exhibits that we can enter at this time,
13 if that's appropriate.

14 ADMINISTRATIVE LAW JUDGE: Yes.

15 MS. CARDONI: At this time Staff moves
16 for the admission of Staff Group Cross Exhibit 1,
17 and I have no copies due to some technical
18 difficulties this morning, but I will read off the
19 items contained in each of the four exhibits and I
20 will e-serve and e-file them later today.

21 ADMINISTRATIVE LAW JUDGE: Okay.

22 MS. CARDONI: Or Monday, if possible.

23 The first is Staff Group Cross
24 Exhibit 1 which is DCEO's responses to Staff DR JLH

1 2.04 and attachment. Staff Group Cross Exhibit 2
2 is DCEO's response to staff DRJLH 2.2 -- I'm sorry,
3 2.02 and 2.03 and attachment. Staff Group Cross
4 Exhibit 3 is DCEO's response to staff DR JLH 1.12
5 and 2.05 with the PY3 evaluation reports and
6 summary report. And, finally, Staff Cross
7 Exhibit 4 is DCEO's response to staff data request
8 DAB 1.03.

9 ADMINISTRATIVE LAW JUDGE: Is there any
10 objection to admitting those Staff group cross
11 exhibits?

12 (No response.)

13 ADMINISTRATIVE LAW JUDGE: Hearing none
14 Staff Group Cross Exhibits 1, 2, 3 and 4 are
15 admitted.

16 MS. CARDONI: Thank you.

17 ADMINISTRATIVE LAW JUDGE: Are we ready
18 to call the first witness?

19 MS. JANG: Yes. We would call Agnes
20 Mrozowski.

21 WHEREUPON:

22 AGNES MROZOWSKI,
23 called as a witness herein, was examined and
24 testified as follows:

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EXAMINATION

BY MS. JANG:

Q. Can you please state your name for the record?

A. My name is Agnes Mrozowski.

Q. And what is your employer?

A. The Illinois Department of Commerce and Economic Opportunity.

Q. Can you give the business address and your title?

A. My business address is 500 East Monroe, Springfield, Illinois 62701 and my title is assistant deputy director of the Illinois Energy Office.

ADMINISTRATIVE LAW JUDGE: Before you go any further, I do want to swear the witness in.

(Witness sworn.)

BY MS. JANG:

Q. Did you prepare written exhibits for submission to the docket?

A. Yes.

ADMINISTRATIVE LAW JUDGE: I'm sorry. You need to speak in the microphone or they can't hear you in Springfield.

1 BY MS. JANG:

2 Q. In the documents that you prepared for
3 admission to this docket, is Exhibit 1.0 the direct
4 testimony of Agnes Mrozowski along with the
5 verification of Agnes Mrozowski DCEO Potential
6 Study Exhibit 1.1 EEPS Plan 20014-17, Exhibit 1.2
7 Utility Budget A Breakdown along with Exhibit 6.0
8 or the rebuttal testimony and Exhibit 6.1 and 6.2;
9 is that correct?

10 A. Yes.

11 Q. Do you have any corrections to make to
12 any of these exhibits?

13 A. No.

14 Q. If you were asked these questions here
15 today, would you give the same answers?

16 A. Yes.

17 Q. Is the information contained in the
18 exhibits true and correct to the best of your
19 knowledge and belief?

20 A. Yes.

21 MS. JANG: Your Honor, I move for
22 admission into evidence DCEO's Exhibits 1.0, the
23 verification, DCEO's Potential Study Exhibits 1.2,
24 and 1.2 -- 1.1 and 1.2 along with Exhibit 6.0 and

1 6.1 and 6.2.

2 ADMINISTRATIVE LAW JUDGE: Were these
3 previously filed on e-Docket?

4 MS. JANG: Yes, they were. They were
5 filed on August 30th, 2013, for the direct
6 testimony and the first set of exhibits.

7 ADMINISTRATIVE LAW JUDGE: And rebuttal
8 testimony was filed?

9 MS. JANG: I apologize. I don't have a
10 date for that.

11 ADMINISTRATIVE LAW JUDGE: Okay. Is
12 there any objection to admitting the direct and
13 rebuttal testimony and attachments as previously
14 filed on e-Docket?

15 (No response.)

16 ADMINISTRATIVE LAW JUDGE: Hearing none.
17 They are admitted.

18 Is there cross for this witness?

19 MS. JANG: Your Honor, the date for the
20 rebuttal testimony that was filed was this past
21 Thursday, which is November 14th of 2013.

22 ADMINISTRATIVE LAW JUDGE: Thank you.

23 So exhibits are admitted. And is
24 there cross for this witness?

1 MS. LUSSON: Yes, your Honor.

2 CROSS-EXAMINATION

3 BY MS. LUSSON:

4 Q. Good morning, Ms. Mrozowski. I just
5 have a few questions, most of which involve
6 clarifying some issues on your rebuttal testimony.
7 Actually, all of my questions deal with your
8 rebuttal testimony.

9 First, if you could turn your
10 attention to Page 10 of your rebuttal, Lines 171,
11 172.

12 A. Which lines did you say?

13 Q. 171 and 172.

14 There you reference a desire to be
15 conservative regarding future commitments. And
16 when you say "commitments" there, are you
17 referencing savings goals?

18 A. Yes.

19 Q. Would you agree generally that setting
20 realistic but aggressive savings goals provides
21 DCEO and any of its subcontractors with an
22 incentive to achieve maximum savings goals?

23 A. I believe in setting realistic,
24 achievable goals within our portfolio plan.

1 Q. Would you agree that in this docket due
2 to the cost caps provided in Sections 8103 and 8104
3 of the Act that the Commission will approve
4 modified goals for DCEO in this docket rather than
5 the statutory goals that would be computed as
6 referenced in the statute?

7 A. I do not know what the Commission will
8 approve.

9 Q. Is it your understanding that DCEO is
10 requesting modified goals?

11 A. Yes.

12 Q. Is it also your understanding that if
13 DCEO requested approval of what would be the
14 calculated statutory savings goals, that that will
15 exceed the cost cap?

16 A. That's our assumption.

17 Q. Next I'd like to ask you a few questions
18 about the new lighting standards that you reference
19 at Lines 174 through 176.

20 A. Um-hum.

21 Q. Here you note that the new lighting
22 standards for -- as I understand it, T12 lighting
23 will be going into effect January 1, 2016; is that
24 right?

1 A. Correct.

2 Q. T12 lighting just so we're clear for the
3 record is the common fluorescent bulbs you often
4 use in commercial and industrial buildings?

5 A. Yes.

6 Q. Now, is it correct that your position is
7 that the reduced savings from T12 lighting standard
8 changes which I think you indicated is 30 percent
9 is a major measure historically within the DCEO
10 portfolio?

11 A. Yes.

12 Q. Is it your testimony that this is the
13 driver or a primary reason for the higher costs for
14 energy savings associated with the lighting
15 program?

16 A. That is, the result of our modeling that
17 we did in preparation of this plan.

18 Q. Does that modeling then -- is that
19 modeling based on an assumption of higher costs
20 because of these changes in the T12 lighting
21 standards?

22 A. Yes.

23 Q. Are the T12 bulbs a part of the DCEO
24 standard program, electric program, what's known as

1 the standard program?

2 A. Yes. We put that in our public sector
3 standard program.

4 Q. Could you, if you have with you and if
5 not I have a copy, reference your Exhibit 1.2,
6 Page 4, which is the summary sheet of DCEO Budget
7 for Energy Savings for Electric Programs. Would
8 you like a copy of that?

9 A. Yes, please.

10 MS. LUSSON: You Honor, because this is
11 already in I wasn't going to mark it.

12 ADMINISTRATIVE LAW JUDGE: Okay.

13 BY MS. LUSSON:

14 Q. Do you recognize this to be a part of
15 your 1.2 which summarizes the DCEO Budget for
16 Energy Savings for Electric Programs?

17 A. I do.

18 Q. Now, just so we're clear, is it correct
19 that that T12 standard lighting change would take
20 place January 1, 2016, which would be approximately
21 in the middle of Program Year 8?

22 A. Yes.

23 Q. Would it be correct to assume then that
24 any increased cost associated with that T12

1 lighting standard change would not be reflected in
2 the PY 7 cost for the standard program?

3 A. Correct. Actually, can I reconsider my
4 answer?

5 Q. Certainly.

6 A. That is I was just thinking through a
7 modeling process and the answer is, yes, it was
8 taken into consideration in PY 7.

9 Q. But would it be correct that no increase
10 costs associated with that change -- let's go back.

11 So the change occurs on
12 January 1st, 2016, which is in the middle of
13 Program Year 8. So is it correct though that any
14 additional costs associated with that change would
15 not necessarily be reflected in PY 7 since the
16 change hasn't occurred yet?

17 A. To ensure I answer that answer correctly
18 and most accurately, I would have to go back and
19 look at some other spreadsheets beyond this.

20 Q. Do you have those with you today?

21 A. I do not. I was not anticipating a
22 question about T12.

23 Q. Okay. We'll just leave it at that.

24 A. I will be happy to answer that in a data

1 request.

2 Q. Okay. We will consider it an
3 on-the-record data request, if that's okay.

4 Are you clear about the question
5 then? The question then would be: Is it -- do PY
6 7, the budget for PY 7 standard budget program
7 assume any increased costs associated with the
8 change in the T12 lighting standard that takes
9 place on January 1st, 2016?

10 A. Yes, I do understand the question.

11 Q. Okay.

12 ADMINISTRATIVE LAW JUDGE: So you've
13 made an on-the-record data request but obviously we
14 don't know if it will go in the record so if you're
15 going to want that in the record, should we leave
16 the record open then today for that possibility?

17 MS. LUSSON: If we could do that.

18 ADMINISTRATIVE LAW JUDGE: Okay. Don't
19 let me --

20 MS. LUSSON: I'll make sure.

21 BY MS. LUSSON:

22 Q. Next I'd like to ask you some questions
23 about 6.1 and 6.2 which deals with DCEO's proposed
24 code compliance program.

1 A. Okay.

2 Q. First I'd like to clarify exactly what
3 DCEO is asking for in terms of deeming. So is DCEO
4 seeking to have deemed code compliance savings
5 based on the method outlined in these two exhibits
6 regardless of what evaluations and future baseline
7 code compliance studies actually estimate savings
8 from its code compliant initiative were?

9 A. No, we're not asking for deeming.

10 Q. You are asking for deeming?

11 A. No.

12 Q. You're not, okay. So then you're asking
13 for retroactive adjustment?

14 A. Yes.

15 Q. That was going to be my next question,
16 whether you would be willing to accept a
17 retroactive adjustment.

18 6.1 states it was assumed that the
19 utilities program would move an average of 10
20 percent of residential construction from
21 noncompliant to compliant. I believe that's in
22 Paragraph 5 there. Do you see that on Page 1 of 1?

23 A. Of the code's methodology?

24 Q. 6.1 and 6.2.

1 A. I'm sorry. What did you reference?

2 Q. So I'm looking at Paragraph Number 5 on
3 Page 1 of 1 where it states the utility program
4 will move from noncompliant to compliant and then
5 the breakdowns that follow. Do you see that?

6 A. Yes.

7 Q. Can you clarify what is the basis for
8 DCEO's assumption there?

9 A. Our assumption is based on a consensus
10 between the public utilities as well as DCEO's
11 agreement upon what ComEd's experience has been
12 with their new construction program and that's the
13 basis and the experience with ComEd I do believe
14 goes back three years with historical data.

15 Q. So is it your testimony then that ComEd
16 had a code compliance program or you're stating
17 that this is what ComEd discovered compliance was
18 at the stage of new construction? I'm not quite
19 sure I understand.

20 A. To my knowledge ComEd does not have a
21 code compliance program. Within this docket DCEO
22 is asking for approval on our collaborative codes
23 initiatives where the utilities and DCEO work
24 together in claiming and attributing energy savings

1 from code compliance.

2 Q. When you say your assumptions there is
3 based on ComEd's experience in the new construction
4 program, what exactly are you referencing in terms
5 of ComEd's experience?

6 A. It was data that ComEd supplied to the
7 codes group as we were working through designing
8 this program.

9 Q. Would DCEO be willing to claim savings
10 associated with the residential code compliance
11 programs based on actual compliance study results
12 of the increase in compliance once the study is
13 completed?

14 A. If there was a legitimate energy savings
15 verified, yes, if I understand your question
16 correctly.

17 Q. Yes. Any retroactive adjustment based
18 on this --

19 A. Yes.

20 Q. Would DCEO be willing to work with the
21 evaluation contractors and the Staff to find a
22 method for counting code compliance savings rather
23 than simply deem the DCEO estimated savings
24 numbers?

1 A. Yes. This has been in progress for the
2 past year in working not just with the utilities
3 but also the Staff.

4 Q. So you're proposing that that process
5 continue and can be resolved?

6 A. Yes.

7 Q. That's all the questions I have.

8 I did want to move in one cross
9 exhibit, if I could. Let me show this to Ms.
10 Mrozowski.

11 This references your testimony,
12 direct testimony. I believe it was Page 33. There
13 you reference market challenges DCEO is facing and
14 one of the market challenges you reference is
15 franchise agreements?

16 A. Yes.

17 Q. I want to show you what we'll mark as AG
18 Cross Exhibit 1. AG Cross Exhibit 1 was DCEO's
19 response to the Attorney General Data Request 2.1
20 and this data request asked which municipalities in
21 the state or what percentage, if that is the
22 available measure receive free gas and electric
23 utility service, as a result of their franchise
24 agreements with those utilities? Do you recognize

1 this as your response to that data request?

2 A. I do.

3 Q. It was prepared by you under your
4 supervision as indicated here?

5 A. It was.

6 Q. Is the information contained on that
7 page still correct today?

8 A. It is.

9 Q. And then turning to the second page of
10 that and this is -- do you recognize this to be
11 DCEO's response to AG 2.2 which cites information
12 as to whether or not school districts also receive
13 utility service?

14 A. I do.

15 Q. Is the information contained in that
16 response correct today?

17 A. Yes.

18 MS. LUSSON: At this time, your Honor,
19 we would move for the admission of AG Cross
20 Exhibit 1.

21 ADMINISTRATIVE LAW JUDGE: Is there any
22 objection?

23 MS. JANG: No.

24 ADMINISTRATIVE LAW JUDGE: AG Cross

1 Exhibit 1 is admitted.

2 MS. LUSSON: Thank you, Ms. Mrozowski.

3 ADMINISTRATIVE LAW JUDGE: Does anybody
4 else have cross for this witness? Okay. Thank
5 you.

6 MS. JANG: Your Honor, could we have a
7 couple minutes actually?

8 (Pause.)

9 ADMINISTRATIVE LAW JUDGE: Redirect?

10 MS. JANG: We have nothing further, your
11 Honor.

12 ADMINISTRATIVE LAW JUDGE: Okay. Thank
13 you.

14 Would you like to call your next
15 witness.

16 MS. JANG: Yes. We would like to call
17 David Baker.

18 ADMINISTRATIVE LAW JUDGE: Good morning,
19 Mr. Baker.

20 THE WITNESS: Good morning.

21 (Witness sworn.)

22

23

24

1 WHEREUPON:

2 DAVID BAKER,

3 called as a witness herein, having been first duly
4 sworn, was examined and testified as follows:

5 DIRECT EXAMINATION

6 BY MS. JANG:

7 Q. Good morning. If you could please state
8 your name.

9 A. David Baker.

10 Q. And your employer?

11 A. I work for the Illinois Department of
12 Commerce and Economic Opportunity.

13 Q. Can you state your address and your
14 title, your business address and your title?

15 A. The address is 500 East Monroe,
16 Springfield.

17 UNIDENTIFIED SPEAKER VIA PHONE: We
18 can't hear the witness.

19 BY THE WITNESS:

20 A. Okay. My name is David Baker. I work
21 for the Illinois Department of Commerce and
22 Economic Opportunity. The address is 500 East
23 Monroe, Springfield, Illinois 62701, I think. I'm
24 the manager of the financial division in the

1 Illinois Energy Office.

2 Q. Did you prepare exhibits for submission
3 to this docket?

4 A. Yes, I did.

5 Q. Were those Exhibits 3.0 that's direct
6 testimony of David Baker, the verification of David
7 Baker, Exhibit 3.1 to 3.4 as well as the rebuttal
8 testimony Exhibit 8.0?

9 A. Yes.

10 Q. Were these prepared by you or under your
11 direction?

12 A. Yes, they were.

13 Q. Do you have any corrections to make to
14 any of these exhibits?

15 A. No.

16 Q. If you were asked these questions here
17 today, would you give the same answers?

18 A. Yes.

19 Q. Is the information contained in these
20 exhibits true and correct to the best of your
21 knowledge and belief?

22 A. Yes.

23 Q. You Honor, we would like to move for
24 admission into evidence Exhibit 3.0, the direct

1 testimony of David Baker, the verification of David
2 Baker, Exhibits 3.1, 3.2, 3.3, 3.4 and Exhibit 8.0.

3 ADMINISTRATIVE LAW JUDGE: And were
4 these previously filed on e-Docket?

5 MS. JANG: Yes, they were. They were
6 filed on the same dates as the previous documents,
7 the direct testimony was filed on August...

8 ADMINISTRATIVE LAW JUDGE: 30th.

9 MS. JANG: ...30th of 2013 and the
10 rebuttal was filed on November 14, 2013.

11 ADMINISTRATIVE LAW JUDGE: Thank you.
12 Is there any objection to admitting these exhibits
13 into the record?

14 (No response).

15 ADMINISTRATIVE LAW JUDGE: Hearing none
16 they are admitted.

17 MS. JANG: We tender the witness.

18 ADMINISTRATIVE LAW JUDGE: Thank you.

19 MS. LUSSON: I just have some brief
20 cross, your Honor.

21 CROSS-EXAMINATION

22 BY MS. LUSSON:

23 Q. Good morning, Mr. Baker. If you could
24 turn your attention to Page 4 of your rebuttal,

1 just a couple of questions regarding a targeted
2 program.

3 A. Page 4 of my rebuttal, yes.

4 Q. Yes. At Lines 31 through 36 you
5 reference again the substantial hurdle to overcome
6 the form of franchise agreements that provide a
7 significant amount of free electricity and natural
8 gas to Illinois municipalities?

9 A. Yes.

10 Q. So as I understand the DCEO's response
11 to AG 2.1 DCEO indicated that it does not possess
12 the information as to which communities have, in
13 fact, these franchise agreements in place.

14 Is that your understanding as well?

15 A. Yes. I mean, we have a general idea but
16 we don't know specifically a full list of
17 communities.

18 Q. On the targeted programs, does DCEO
19 approach a municipality and at that point find out
20 whether or not they have the free utility service
21 as a result of a franchise agreement or do you know
22 before going into the municipalities?

23 A. It depends in part on whether it's
24 natural gas or electricity and where it is in the

1 state. I mean, in general we know that ComEd's
2 customers other than the City of Chicago are under
3 franchise agreements where they get free
4 electricity with natural gas.

5 Nicor communities it varies so we
6 don't necessarily know downside. We don't know
7 exactly the arrangements between them and the
8 municipalities. We don't ask them ahead of time
9 whether they're on a franchise agreement or not.

10 Q. Did I hear you correctly then that in
11 Northern Illinois so that would be ComEd service
12 territory that all Northern Illinois communities
13 have these franchise agreements except for the City
14 of Chicago?

15 A. That's to the best of my knowledge. I
16 mean, the City of Chicago has its own franchise
17 agreement, but they have a different arrangement.

18 Q. Does that include reduced price for
19 electricity with ComEd?

20 A. For the City?

21 Q. Yes.

22 A. I don't know.

23 Q. In terms of I also understand from
24 DCEO's response to AG 2.2 that, in fact, it's the

1 case that these reductions or free utility service
2 apply to municipal buildings but not necessarily
3 school buildings; is that correct?

4 A. Right.

5 Q. Can you describe essentially how the
6 schools in both communities -- well, communities
7 throughout the state are made aware of the DCEO
8 programs targeted for schools?

9 A. I mean, we attend, you know, workshops
10 involving school organizations of -- I can't
11 remember the name of the organization but there's
12 an organization that involves three different
13 groups of principals and other superintendents and
14 so on. We've presented there. We do get, you
15 know, schools coming in through our CDAC program.
16 They do workshops as well and they come in and ask
17 the Smart Energy Design Assistance Center for help
18 in figuring out what they should do.

19 We also under our Building Industry
20 Training and Education program, referred to as
21 BITE, B-I-T-E, we provide some money to some groups
22 that help us bring in school projects. NEA is one
23 of them that works with us on school projects.
24 Sheldon Solutions I think is a subcontractor that

1 helps us target schools, goes out and does special
2 outreach for schools.

3 Q. But as far as you know though, the
4 schools in the state do not receive reduced gas or
5 electric utility service?

6 A. As far as I know, they don't receive
7 free electricity. I don't know how the gas
8 franchise work exactly. They get a certain amount
9 of gas, and I don't know whether the city could
10 choose to use some of it for schools. I don't
11 really know how they're structured.

12 MS. LUSSON: Thank you, Mr. Baker.
13 That's all the questions I have.

14 ADMINISTRATIVE LAW JUDGE: Is there any
15 further cross for this witness?

16 (No response).

17 ADMINISTRATIVE LAW JUDGE: Redirect?

18 MS. JANG: No.

19 ADMINISTRATIVE LAW JUDGE: Okay. Thank
20 you, Mr. Baker.

21 MS. JANG: Our next witness is John
22 Cuttica.

23 (Witness sworn.)

24 WHEREUPON:

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JOHN CUTTICA,

called as a witness herein, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MS. JANG:

Q. Good morning. Can you please state your name.

A. Yes. My name is John Cuttica.

Q. Can you please state your employer and the business address?

A. I work at the University of Illinois at Chicago in something called the Energy Resources Center. We're located at 1309 South Halsted, 60607, I think.

Q. What is your title?

A. I am the director of the Energy Resources Center.

Q. Did you prepare exhibits for submission into this docket?

A. Yes, I did.

Q. Those submissions include DCEO Exhibit 2.0, the direct testimony of John Cuttica as well as verification of John Cuttica, Exhibits 2.1 through 2.12 as well as Exhibit 7.0 which is the

1 rebuttal testimony?

2 A. Yes, that is correct.

3 Q. Were these prepared by you or under your
4 direction?

5 A. Yes.

6 Q. Do you have any corrections to make to
7 any of these exhibits?

8 A. No.

9 Q. If you were asked these questions here
10 today, would you give the same answers?

11 A. Yes, I would.

12 Q. Is the information contained in these
13 exhibits true and correct to the best of your
14 knowledge and belief?

15 A. Yes, they are.

16 MS. JANG: We tender the witness.

17 Oh, your Honor, we would like to
18 move into admission DCEO Exhibit 2.0, the
19 verification of John Cuttica, Exhibits 2.1
20 through 2.12 as well as Exhibit 7.0.

21 ADMINISTRATIVE LAW JUDGE: Thank you.
22 Were these previously filed on August 30th and
23 November 14th?

24 MS. JANG: Yes.

1 ADMINISTRATIVE LAW JUDGE: Is there any
2 objection to admitting the exhibits into the
3 record?

4 (No response.)

5 ADMINISTRATIVE LAW JUDGE: Hearing none,
6 they are admitted. Is there cross for this
7 witness?

8 MS. LUSSON: Yes, your Honor.

9 ADMINISTRATIVE LAW JUDGE: Okay.

10 CROSS-EXAMINATION

11 BY MS. LUSSON:

12 Q. Good morning, Mr. Cuttica.

13 A. Good morning.

14 Q. If you could turn to Page 9 of your
15 rebuttal testimony, Lines 165 through 170.

16 A. Yes.

17 Q. There you reference Mr. Mosenthal's
18 stated concerns regarding the method of calculating
19 the energy savings from a topping cycle combined
20 heated power system which he testified seems
21 arbitrary. Do you see that there?

22 A. I do see that.

23 Q. And then you state later in that
24 paragraph I want to point out that Public Act

1 980090 SB 1603 clearly states that, quote, Energy
2 efficiency also includes measures that reduce the
3 total BTU'S of electricity and natural gas needed
4 to meet the end use or uses. Do you see that?

5 A. I do see that.

6 Q. Would you agree that this statement that
7 you quote simply refers to what measures qualify as
8 efficiency measures under Section 8103 but says
9 nothing about establishing any particular
10 methodology for counting combined heat and power
11 savings?

12 A. That is true.

13 Q. Would you agree that current practice in
14 Illinois is to count the actual savings of each
15 fuel at the customer's meter?

16 A. That is true.

17 Q. Is it correct that the approach you are
18 proposing for counting energy savings diverges from
19 that current practice?

20 A. No. I believe that the approach that we
21 are proposing or that we have put in the filing is
22 consistent with the SP 1603 which does talk about
23 the MM BTU'S, and I also would say that the
24 approach that we use the calculation methods are

1 approaches that are used in other states and
2 approved by or utilized by US EPA and that was the
3 reason for the statement trying to address
4 Mr. Mosenthal's comments that our approach was
5 arbitrary.

6 Q. Is it your testimony though that
7 section -- that public changed to the Public
8 Utilities Act requires measurement as DCEO is
9 proposing in this document?

10 A. Required it?

11 Q. Yes.

12 A. No. It allows us to utilize the
13 approach that takes into account the MM BTU
14 approach which is called out in the law.

15 Q. So is it your position then that your
16 approach is permissible because of the reference to
17 BTU'S?

18 A. Because of the change in the law which
19 does reference that.

20 Q. Would you agree that the approach DCEO
21 is advocating results in claiming gas savings and
22 allocating them to gas utilities even when gas
23 consumption by the end use customer actually
24 increases?

1 A. Our calculation takes into account --
2 that's why we use the approved approach for the EPA
3 and also arbitrary approaches. We utilize that
4 approach because those set of calculations takes
5 into account the total use of the fuels at the
6 site. So, therefore, it accounts for any
7 additional fuel that might be utilized at the site.
8 That's why the calculations are utilized.

9 Q. But it does incorporate in as part of
10 the calculation increased gas consumption?

11 A. At the site.

12 Q. Would you agree that while there may be
13 primary BTU savings in gas to the extent the
14 electric output of the combined heat and power
15 offsets a gas fired central plant generator that
16 this gas savings will not necessarily accrue to the
17 particular gas utility system that is being
18 credited with the theoretical savings?

19 A. Would you repeat that?

20 Q. Sure. It was a long question.

21 So if, as I understand you're
22 saying that there may be primary BTU savings at the
23 site in gas, to the extent the electric output of
24 the combined heat and power offsets a gas fired

1 central plant generator -- are you with me so far?

2 A. Yes.

3 Q. Is it your testimony that this gas
4 savings will not necessarily -- would you agree
5 that that natural gas savings will not necessarily
6 accrue to the particular gas utility system that is
7 credited with this theoretical savings?

8 A. I don't know if I could answer that
9 question. Through the particular utility -- well,
10 I guess the way you phrase the question is I don't
11 know if it would be or not so therefore I
12 can't -- you said do I -- am I sure that it does?
13 I guess I'm not sure that it does accrue back to
14 that particular utility.

15 MS. LUSSON: Thank you, Mr. Cuttica.

16 That's all the questions I have.

17 MS. JANG: Your Honor, if we could have
18 a few minutes.

19 (Pause.)

20 MS. JANG: Mr. Cuttica, I have two quick
21 questions.

22 REDIRECT EXAMINATION

23 BY MS. JANG:

24 Q. Would you agree that the change in the

1 law enabled other technologies to be included in
2 the EEPS programs besides the HP?

3 A. Yes.

4 Q. Would you agree that further discussion
5 is needed at the Staff to define the process of
6 estimated savings from those technologies?

7 A. Yes. The other technologies would
8 include things like geothermal heat pumps which
9 follow the same type of category. And, yes, I
10 think that the method of calculations for all of
11 these technologies that are now allowable needs to
12 be discussed which we have discussed with the SAG
13 to a certain extent and tend to discuss with them
14 as we go forward.

15 MS. JANG: Good. Thank you.

16 ADMINISTRATIVE LAW JUDGE: Thank you,
17 Mr. Cuttica.

18 THE WITNESS: Thank you.

19 ADMINISTRATIVE LAW JUDGE: Do you have
20 another witness?

21 MS. JANG: Yes, we do. We'd like to
22 call Stefano Galiasso.

23 ADMINISTRATIVE LAW JUDGE: Could you
24 spell the last name for the court reporter?

1 MS. JANG: Yes. G-A-L-I-A-S-S-O.

2 (Witness sworn.)

3 WHEREUPON:

4 STEFANO GALIASSO,

5 called as a witness herein, having been first duly

6 sworn, was examined and testified as follows:

7 DIRECT EXAMINATION

8 BY MS. JANG:

9 Q. Good morning. Can you please state your
10 name.

11 A. I'm Stefano Galiasso.

12 Q. Can you please state your employer and
13 the business address?

14 A. I'm employed at the Energy Resources
15 Center at University of Illinois at Chicago and my
16 address is 1309 South Halsted Street, Chicago,
17 Illinois 60607.

18 Q. And what is your title?

19 A. I'm a research engineer.

20 Q. Did you prepare exhibits for submission
21 into this docket?

22 A. Yes.

23 Q. Were those DCEO Exhibit 5.0, the direct
24 testimony of Stefano Galiasso, the verification of

1 Stefano Galiasso, Exhibit 9.0 which is the direct
2 rebuttal?

3 A. Yes.

4 Q. Were these prepared by you or under your
5 direction?

6 A. Yes.

7 Q. Do you have any corrections to make to
8 these exhibits?

9 A. No.

10 Q. If you were asked these questions here
11 today, would you give the same answers?

12 A. Yes.

13 Q. Is the information contained in these
14 exhibits true and correct to the best of your
15 knowledge and belief?

16 A. Yes.

17 MS. JANG: Your Honor, we'd like to ask
18 for submission into evidence Exhibit 5.0, the
19 verification for Stefano Galiasso and Exhibit 9.0.

20 ADMINISTRATIVE LAW JUDGE: And so were
21 these exhibits previously filed on e-Docket on
22 August 30th and November 14th?

23 THE WITNESS: Yes, they were.

24 ADMINISTRATIVE LAW JUDGE: Is there any

1 objection admitting those records into the record?

2 (No response.)

3 ADMINISTRATIVE LAW JUDGE: Hearing none
4 they are admitted.

5 MS. JANG: We tender the witness.

6 CROSS-EXAMINATION

7 BY MS. LUSSON:

8 Q. Good morning, Mr. Galiasso. I want to
9 ask you a few questions surrounding your rebuttal
10 testimony and also surrounding the issue of
11 realization rates.

12 So first can we establish a
13 definition of realization. My guesstimation would
14 be -- and tell me if you agree with this -- that
15 realization rates reflect the ratio of gross
16 savings that a program administrator has tracked
17 and estimated to the actual estimated gross savings
18 from impact evaluations?

19 A. I would agree.

20 Q. Is it correct that DCEO is requesting to
21 deem a 90 percent realization rate for low income
22 customer programs and an 80 percent realization
23 rate for public sector programs?

24 A. Yes.

1 Q. So if you could reference Page 3, Lines
2 32 through 37 on your rebuttal testimony.

3 A. Yes.

4 Q. You state that there the DCEO proposed
5 adoption of the adjusted gross savings framework
6 would apply realization rates retrospectively
7 introducing the possibility of evaluator findings
8 of different hours of use in baseline efficiency
9 measure for assistance factors, in-service rates
10 and interactive effects between measures that were
11 unknown prior to installation. Do you see that?

12 A. Yeah.

13 Q. With respect to those factors that you
14 mentioned there for custom measures, would you
15 agree that it's up to DCEO and its contractor to
16 estimate those factors that you list based on the
17 customer site specific circumstances?

18 A. Those factors they have to be estimated
19 by DCEO or its contractors onsite and are very
20 specific to the site but there's -- but they're
21 still estimates.

22 Q. But DCEO has made their way in and made
23 those estimates?

24 A. Yes.

1 Q. So to the extent you're asking for the
2 90 percent realization rates for the low end
3 customers and 80 realization rates for public
4 sector customers and that goes the adjusted
5 downward in advance of evaluation, is DCEO -- is it
6 DCEO's assumption that it is overestimating savings
7 by approximately 10 percent for low income measures
8 and 20 percent for public sector measures?

9 A. I think that's a possibility, yeah.

10 Q. So you are confirming that the statement
11 of savings you and DCEO have used in the DS Moore
12 model that you reference in your testimony are not
13 the best estimate of savings but rather something
14 perhaps higher than might occur?

15 A. They are the best estimate of savings to
16 our knowledge. Our experience is that evaluators
17 usually find realization rates lower than one and
18 we just act upon this experience.

19 Q. Do you agree that for the most part the
20 technical resource manual that's been developed
21 through the SAG defines and specifies appropriate
22 baseline efficiencies, measure persistent factors,
23 inservice rates and interactive effects?

24 A. For interactive effects in particular it

1 does so for known interactive effects and those
2 will be for measures and HVAC. There are other
3 interactive effects that are simply not estimating
4 TRM because of -- it simply cannot be estimated.
5 Depends on which measures are implemented. We do
6 use all material assumptions to estimate based on
7 efficiencies to estimate lifetime and all the
8 parameters that are going into the evaluation of
9 the savings.

10 Q. To the extent that going back to the
11 custom measures, when DCEO meets with its
12 contractors and evaluates the site specific
13 circumstances, would you agree that it would be the
14 control of DCEO to ensure the reasonable accuracy
15 fee in making those estimations?

16 A. Reasonable, yes.

17 Q. If the TRM does not specify one of those
18 factors and leaves it us, to DCEO, to establish the
19 factor, would you agree that the choice of the
20 factor used by DCEO is then within its control?

21 A. So the question is if for measures that
22 are specified in the TRM?

23 Q. For measures that are not specified?

24 A. That are not specified in TRM. So if

1 it's in control of DCEO?

2 Q. Yes.

3 A. Yes.

4 Q. Thank you, Mr. Galiasso. That's all the
5 questions I have.

6 ADMINISTRATIVE LAW JUDGE: Is there any
7 further cross?

8 (No response.)

9 ADMINISTRATIVE LAW JUDGE: Redirect?

10 MS. JANG: Give me a few moments.

11 ADMINISTRATIVE LAW JUDGE: Yes.

12 (Pause.)

13 REDIRECT EXAMINATION

14 BY MS. JANG:

15 Q. We just have one question. In your
16 answer to the question asked earlier about whether
17 DCEO is asking for the 80 percent and 90 percent
18 values to be deemed, you had answered yes. Isn't
19 it true you are using these values for planning
20 purposes only and not for evaluation purposes?

21 A. That's correct.

22 CROSS-EXAMINATION

23 BY MS. LUSSON:

24 Q. When you say for planning purposes only,

1 are you actually asking the Commission to adjust
2 savings goals based on those realization rates?

3 A. It may be a policy question that I'm not
4 ready to answer. We just do the modeling.

5 MS. LUSSON: Okay. Thank you.

6 ADMINISTRATIVE LAW JUDGE: Okay. Thank
7 you.

8 THE WITNESS: Thanks.

9 ADMINISTRATIVE LAW JUDGE: So that's all
10 DCEO's witnesses, correct?

11 MS. JANG: Yes, that's correct.

12 ADMINISTRATIVE LAW JUDGE: Does the AG
13 have witnesses?

14 MS. LUSSON: Yes.

15 MS. JANG: Your Honor, before we
16 continue I believe I had asked for admission into
17 evidence David Baker's Exhibit 4.0 and 4.1
18 through 4.8.

19 ADMINISTRATIVE LAW JUDGE: Baker? I
20 only have 3.0, 3.1 through 3.4 and 8.0.

21 MS. JANG: I apologize, your Honor. We
22 do want to ask for admission of these additional
23 exhibits. Should I ask Mr. David Baker?

24 ADMINISTRATIVE LAW JUDGE: So there's

1 more testimony?

2 MS. JANG: Yes. This is direct
3 testimony. I had it on my list. I had a space
4 between them. I didn't read 4.0 which is also the
5 direct testimony of David Baker as well as his
6 Exhibits 4.1 to 4.8.

7 ADMINISTRATIVE LAW JUDGE: So he had two
8 direct?

9 MS. JANG: Yes. Yes, he did.

10 ADMINISTRATIVE LAW JUDGE: Yes.

11 Please come back to the stand.

12 You're still under oath.

13 WHEREUPON:

14 DAVID BAKER,

15 recalled as a witness herein, having been
16 previously duly sworn, was examined and testified
17 further as follows:

18 REDIRECT EXAMINATION

19 BY MS. JANG:

20 Q. Mr. Baker, did you also prepare DCEO
21 Exhibits 4.0 which is a second direct testimony
22 from you as well as the verification of David Baker
23 Exhibits 4.1 through Exhibits 4.8?

24 A. Yes, I did.

1 Q. Were these done -- prepared by you under
2 your direction?

3 A. Yes, they were.

4 Q. Do you have any corrections to make to
5 these exhibits?

6 A. No.

7 Q. If you were asked these questions here
8 today, would you give the same answers?

9 A. Yes, I would.

10 Q. Is the information contained true and
11 correct to the best of your knowledge and belief?

12 A. Yes.

13 MS. JANG: We would like these admitted
14 as well.

15 ADMINISTRATIVE LAW JUDGE: Were they
16 filed on August 30th?

17 MS. JANG: Yes, they were.

18 ADMINISTRATIVE LAW JUDGE: Is there any
19 objection admitting those exhibits into the record?

20 (No response).

21 ADMINISTRATIVE LAW JUDGE: Hearing none
22 DCEO Exhibits 4.0 and 4.1 through 4.8 are admitted.

23 MS. JANG: Thank you.

24 ADMINISTRATIVE LAW JUDGE: Go ahead.

1 WHEREUPON:

2 PHILIP MOSENTHAL,

3 called as a witness herein, was examined and

4 testified as follows via phone:

5 DIRECT EXAMINATION

6 BY MS. LUSSON:

7 Q. Mr. Mosenthal, please state your full
8 name and business address for the record.

9 A. Philip Mosenthal. Business address is
10 Optimal Energy 10600, Route 116, Hinseberg,
11 Vermont 05461.

12 ADMINISTRATIVE LAW JUDGE: Before we go
13 any further, let me swear the witness in.

14 (Whereupon, the witness was
15 duly sworn.)

16 BY MS. LUSSON:

17 Q. Mr. Mosenthal, you have before you
18 what's been marked previously as AG Exhibit 1.0,
19 the direct testimony of Philip H. Mosenthal, filed
20 on e-Docket on October 23, 2013.

21 Was that testimony prepared by you
22 or under your supervision?

23 A. Yes, it was.

24 Q. If I asked you the same questions today

1 that appear therein, would your answers be the
2 same?

3 A. Yes.

4 Q. Mr. Mosenthal, you also have before you
5 what's been marked as AG Exhibit 2.0, the rebuttal
6 testimony of Philip H. Mosenthal filed on e-Docket
7 on October 31, 2013.

8 Was this testimony prepared by you
9 or under your supervision?

10 A. Yes.

11 Q. If I ask you the same questions today
12 that appear therein, would your answers be the
13 same?

14 A. Yes.

15 Q. Do you have any corrections to make to
16 either of those exhibits at this time?

17 A. No.

18 MS. LUSSON: Your Honor, I would move
19 for the admission of AG Exhibits 1.0 and AG
20 Exhibit 2.0 and tender Mr. Mosenthal for cross.

21 ADMINISTRATIVE LAW JUDGE: Is there any
22 objections to those exhibits?

23 (No response).

24 ADMINISTRATIVE LAW JUDGE: Hearing none

1 they are admitted.

2 Who has cross for Mr. Mosenthal?

3 MS. CARDONI: Staff has some brief
4 cross, your Honor.

5 ADMINISTRATIVE LAW JUDGE: Go ahead.

6 CROSS-EXAMINATION

7 BY MS. CARDONI:

8 Q. Good morning, Mr. Mosenthal, this is
9 Jessica Cardoni for Staff.

10 A. Good morning.

11 Q. I would like to start out by asking you
12 about your rebuttal testimony. Do you have that
13 with you?

14 A. I do.

15 Q. Specifically Page 5. You agree with
16 Mr. Neme that DCEO's proposed savings goals are
17 significantly lower results, don't you?

18 A. Yes, in a cost for unit savings basis.

19 Q. You agree that DCEO's goals should be
20 reflected upwards to better reflect past
21 performance; is that correct?

22 A. Yes.

23 Q. I think you just clarified but when you
24 say lower proportion of spending, you meant cost

1 per unit or cost per kilowatt hour or cost per
2 therm; is that correct?

3 A. Yes.

4 Q. Could you refer now to Staff witness
5 Hinman's Exhibit 1.1, Page 25 of 26.

6 A. Okay.

7 Q. You've got that?

8 A. Yes.

9 Q. Okay. Thank you.

10 Now, this table shows each DCEO
11 energy efficiency program for the three plans, its
12 plans cost per unit and where available the actual
13 cost per unit; is that correct?

14 A. That is correct.

15 Q. Now, there are several areas on this
16 table, aren't there, where there are dashes
17 indicating that there isn't any data?

18 A. That's correct.

19 MS. LUSSON: Jessica, can I interrupt
20 you. What is the reference for the table?

21 MS. CARDONI: I'm sorry. It's Page 25
22 of 26, Exhibit 1.1, Karen. I'm just talking
23 generally about the table.

24 MS. LUSSON: Thank you.

1 BY MS. CARDONI:

2 Q. Mr. Mosenthal, these dashes are missing
3 areas exist -- occur on the table because these
4 programs either didn't exist during those plan
5 years or they were new programs and there was
6 insufficient data; is that correct?

7 A. You know, I didn't make the table but
8 that's my assumption, yes.

9 Q. Would you agree that there are start-up
10 costs associated with introducing new program
11 measures in a plan?

12 A. Yes, there can be.

13 Q. Would you also agree that adding new
14 programs could affect the cost per unit?

15 A. Yes, it could.

16 Q. Would you also agree that if measures
17 are shifted or discontinued throughout the plan,
18 the cost per unit could change?

19 A. Yes.

20 Q. Are you aware of any significant changes
21 in local government funding or any approval
22 policies surrounding EE programs that might make it
23 easier for them to participate in EE programs?

24 A. I'm not aware one way or the other, no.

1 MS. CARDONI: Okay. I don't have any
2 more questions. Thank you.

3 ADMINISTRATIVE LAW JUDGE: Is there any
4 other cross for this witness?

5 REDIRECT EXAMINATION

6 BY MS. LUSSON:

7 Q. Just one question. Mr. Mosenthal, this
8 is your counsel so you're clear.

9 ADMINISTRATIVE LAW JUDGE: So this is
10 redirect. We're done with cross then?

11 MS. LUSSON: Yes.

12 BY MS. LUSSON:

13 Q. Mr. Mosenthal, Ms. Cardoni indicated
14 that there might be circumstances whereby the cost
15 per unit of a particular measure would increase.
16 Do you recall that questioning?

17 A. Yes.

18 Q. Is it also true that depending on
19 circumstances cost per unit could also decrease?

20 A. Yes.

21 Q. Thank you. No further redirect.

22 ADMINISTRATIVE LAW JUDGE: Thank you,
23 Mr. Mosenthal.

24 THE WITNESS: You're welcome.

1 ADMINISTRATIVE LAW JUDGE: Yes.

2 MS. JANG: Your Honor, I was just
3 checking on the ICC Docket and we had filed the
4 four rebuttal testimonies on November 14th but
5 numbered them starting from 1.0 so we actually
6 filed an errata letter and renumbered them 6.0,
7 6.1, 6.2, 7.0, 8.0 and 9.0 on the following day,
8 November 15, 2013.

9 ADMINISTRATIVE LAW JUDGE: Thank you for
10 that clarification. So e-Docket is working.

11 MS. JANG: Yes.

12 ADMINISTRATIVE LAW JUDGE: Which witness
13 is next?

14 MS. CARDONI: I think Ms. Hinman is the
15 last witness, if I'm not mistaken. So the Staff
16 will call Ms. Hinman at this time.

17 ADMINISTRATIVE LAW JUDGE: Okay.

18 (Witness sworn.)

19 WHEREUPON:

20 JENNIFER HINMAN,
21 called as a witness herein, having been first duly
22 sworn, was examined and testified as follows:

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DIRECT EXAMINATION

BY MS. CARDONI:

Q. Please state your full name for the record and spell your last name?

A. Jennifer Hinman, H-I-N-M-A-N.

Q. And who is your employer and what is your business address?

A. The Illinois Commerce Commission. My business address is 527 East Capital Avenue, Springfield, Illinois 62701.

Q. What is your position at the Illinois Commerce Commission?

A. I'm an economic analyst.

Q. Did you prepare written exhibits for submittal in this proceeding?

A. Yes.

Q. Do you have before you a document marked for identification as Staff Exhibit 1.0 consisting of a cover page, table of contents, 20 pages of narrative testimony, Exhibit 1.1 and entitled the direct testimony of Jennifer L. Hinman?

A. Yes.

Q. Did you prepare that document for presentation in this matter?

1 A. Yes.

2 Q. Do you also have before you a document
3 marked for identification as Staff Exhibit 3.0
4 consisting of a cover page, table of contents, 21
5 pages of narrative testimony and Exhibits 3.1, 3.2
6 and 3.3 entitled the Rebuttal Testimony of Jennifer
7 L. Hinman?

8 A. Yes.

9 Q. Did you prepare that document for
10 presentation in this matter?

11 A. Yes.

12 Q. Do you have any corrections to make to
13 Staff Exhibits 1.0 or 3.0?

14 A. No.

15 Q. Is the information contained in
16 Exhibits 1.0 and 3.0 true and correct to the best
17 of your knowledge?

18 A. Yes.

19 Q. If I were to ask the same questions set
20 forth in Staff Exhibits 1.0 and 3.0, would your
21 responses be the same today?

22 A. Yes.

23 MS. CARDONI: Your Honor, I move for
24 admission into evidence of Staff Exhibits 1.0, 1.1,

1 3.0, 3.1, 3.2 and 3.3. I note for the record they
2 are the same documents that were filed on e-Docket
3 October 23, 2013 and October 31, 2013.

4 ADMINISTRATIVE LAW JUDGE: Is there any
5 objection?

6 (No response.)

7 ADMINISTRATIVE LAW JUDGE: Hearing none
8 those exhibits are admitted into the record.

9 MS. CARDONI: Thank you. Ms. Hinman is
10 available for cross.

11 CROSS-EXAMINATION

12 BY MS. LUSSON:

13 Q. Good morning, Ms. Hinman.

14 A. Good morning.

15 Q. Good afternoon. I want to ask you just
16 a few questions about approaches to calculating net
17 to gross values.

18 Would you agree that different
19 approaches to calculating net to gross values can
20 lead to significantly different net to gross values
21 for the same program?

22 A. Yes.

23 Q. Would you agree that evaluators hired to
24 do evaluations in Illinois have used different

1 approaches to calculating net to gross values?

2 A. Yes. Indeed in Staff Exhibit 3.3
3 there's some comparisons of that approach and also
4 one of our cross exhibits, Exhibit 1.

5 Q. Would you agree that the matrix approach
6 used by ADM to calculate net to gross values has in
7 the past resulted in net to gross results that were
8 higher than the net to gross calculation approach
9 used by evaluators ODC and Navigant?

10 A. Yes. And in Staff Exhibit 3.3 there's a
11 table that compares the differences there and it's
12 clear that the ABM approach rebuilds significantly
13 higher net to gross ratios.

14 Q. Would you agree that developing a common
15 approach to calculating net to gross values in
16 Illinois would allow different program net to gross
17 values to be meaningfully compared?

18 A. Yes.

19 Q. With respect to common cost definitions,
20 would you agree that if energy efficiency portfolio
21 administrators use different approaches for
22 calculating incentives and non-incentive costs that
23 the program level TRCs -- that's an acronym TRC --
24 across different portfolio administrators could not

1 be meaningfully compared?

2 A. Yes, with respect to the total resource
3 cost calculation, that's correct, and there
4 currently are differences and even some program
5 administrators have these different approaches over
6 time which makes, you know, comparisons over time
7 at the same programs difficult.

8 Q. Would you agree that the energy
9 efficiency portfolio administrators should use
10 common cost definitions for categorizing energy
11 efficiency costs?

12 A. I believe it would be helpful and make
13 the review more efficient.

14 Q. And, finally, would you agree that there
15 should be consistent rules across portfolio
16 administrators for determining whether a non-cost
17 effective measure or program should be allowed in
18 the portfolio?

19 A. I don't agree that there should be a
20 development of a policy manual that deals with
21 prudence or anything like that but there's some
22 general guidelines for, you know, why -- I mean,
23 basically the program administrator can make a
24 reasonable legitimate case for why a particular

1 measure which is maybe borderline cost effective
2 should be included in a program in order, for
3 example, to increase participation at the cost
4 effective measures in the program. I believe they
5 should have the opportunity to present that within
6 the plan filing.

7 Q. And notwithstanding that opinion would
8 you believe that any rules associated with
9 determining whether or not the cost effective
10 program should be included within a portfolio
11 should be applied consistently among utilities in
12 DCEO?

13 A. Generally, yes, I guess subject to my
14 previous response.

15 MS. LUSSON: Thank you, Ms. Hinman. No
16 further questions.

17 ADMINISTRATIVE LAW JUDGE: Is there any
18 recross for this witness? Redirect?

19 MS. CARDONI: Could we have a brief
20 recess to confer with our client.

21 ADMINISTRATIVE LAW JUDGE: Yes.

22 (Pause.)

23 MS. CARDONI: Judge, we have no
24 redirect.

1 ADMINISTRATIVE LAW JUDGE: Thank you,
2 Ms. Hinman.

3 THE WITNESS: Thank you.

4 ADMINISTRATIVE LAW JUDGE: So is that it
5 for the evidence today?

6 MS. LUSSON: Just wondering again I
7 request that the record remain open in case we
8 decide to admit that on-the-record data request.

9 ADMINISTRATIVE LAW JUDGE: So for the
10 timing of that has DCEO thought about how long it
11 would take to provide a response to that
12 on-the-record data request?

13 MS. JANG: We believe by Monday we'll be
14 able to respond to that.

15 ADMINISTRATIVE LAW JUDGE: Okay. How
16 quickly could the AG let me know whether or not
17 you're going to be moving to admit.

18 MS. LUSSON: That same day we would let
19 you know.

20 ADMINISTRATIVE LAW JUDGE: Could someone
21 remind me of the briefing dates.

22 MS. CARDONI: Judge, I have the 5th of
23 December for the initial brief and the 10th of
24 December for the reply briefs and the 11th of

1 December for any draft proposed orders.

2 ADMINISTRATIVE LAW JUDGE: The next time
3 should be fine for the on-the-record data request.

4 MS. JANG: You Honor, we would like to
5 move for a cross exhibit, one of our data responses
6 to be admitted into the record.

7 ADMINISTRATIVE LAW JUDGE: Okay.

8 MS. JANG: DCEO Cross Exhibit 1.0 will
9 be the ICC Staff's Data Request and the Data
10 Response is JLH 1.04 and also DCEO Cross
11 Exhibit 2.0.

12 ADMINISTRATIVE LAW JUDGE: Just 2 is
13 fine.

14 MS. JANG: 2. 2 will be the ICC Staff
15 Data Request and the response is JLH 2.01. DCEO
16 Cross Exhibit 3 is NRDC's Data Request and DCEO's
17 response 1.12. DCEO Cross Exhibit 4 is ILPC Data
18 Request, DCEO's response 1.4, DCEO Cross Exhibit 5
19 is ELPC's Data Request and DCEO's response 1.19 and
20 DCEO Cross Exhibit 6 is ELPC's Data Request, DCEO's
21 response 2.2. Those are all we have to have moved
22 into evidence at this time. If we could have the
23 record open until Monday just to see if we have one
24 or two more or a few more.

1 ADMINISTRATIVE LAW JUDGE: Is there any
2 objections to these exhibits?

3 MS. CARDONI: Judge, Staff is confused
4 about whether these are DCEO's responses to data
5 requests asked of DCEO's.

6 MS. JANG: Yes, it's all of DCEO's
7 responses.

8 MS. CARDONI: Well, then staff would
9 have an objection to that because we weren't -- we
10 didn't cross these witnesses and these witnesses
11 would be inappropriate to move into the record
12 without our ability to cross the witnesses on those
13 subjects and we weren't informed that there was
14 going to be a cross exhibit consisting of this
15 data.

16 MR. SKEY: I would join in the
17 objection. I'm not familiar with the particular
18 documents involved but that's not the normal
19 practice of these commission proceedings to enter
20 your own data request responses into the record
21 absent the appearance of a witness whose questioned
22 about the data responses.

23 MR. MOORE: NRDC would join in that
24 objection.

1 ADMINISTRATIVE LAW JUDGE: And the ELPC?

2 MR. KLEIN: Same.

3 ADMINISTRATIVE LAW JUDGE: Go ahead. Do
4 you have a response?

5 MS. JANG: Could we have a minute.

6 (Pause.)

7 MS. JANG: You Honor, we're going to
8 withdraw.

9 ADMINISTRATIVE LAW JUDGE: Okay. Then
10 the only outstanding question is whether the AG is
11 going to be moving for the admission on the record
12 the data request. Other than that I'll be looking
13 for briefs on December 5th and 10th.

14 Is there anything else?

15 MR. SKEY: Your Honor, is there any
16 anticipation -- Chris Skey for REACT. Is there any
17 anticipation for any common outline or is that not
18 the case here? I don't personally have a strong
19 view of it, but if there is going to be one, I'd
20 like to know about it.

21 ADMINISTRATIVE LAW JUDGE: I didn't
22 request one. I think there's not that many issues
23 that will be hard to go through.

24 MR. SKEY: Okay. Thank you.

1 ADMINISTRATIVE LAW JUDGE: I'm sure that
2 will come back to haunt me.

3 MS. CARDONI: Staff would just have a
4 question about whether or not DCEO has requested an
5 expedited transcript to do the...

6 MS. JANG: Yes, we will.

7 MS. CARDONI: Thank you.

8 ADMINISTRATIVE LAW JUDGE: If there's
9 nothing else, I'm continuing this generally. Thank
10 you.

11

12 (Which were all the proceedings
13 had on the above-entitled
14 cause.)

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INTRODUCED ADMITTED

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1 STATE OF ILLINOIS)
) SS:
2 COUNTY OF C O O K)

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4 I, YVETTE BIJARRO-RODRIGUEZ, a Certified
5 Shorthand Reporter of the State of Illinois, do
6 hereby certify that I reported in shorthand the
7 proceedings had at the evidentiary hearing
8 aforesaid, and that the foregoing is a true,
9 complete and correct transcript of the proceedings
10 of said evidentiary hearing as appears from my
11 stenographic notes so taken and transcribed under
12 my personal direction.

13 IN WITNESS WHEREOF, I do hereunto set my
14 hand at Chicago, Illinois, this 27th day of
15 November 2013.

16

17

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30th Floor
20 Chicago, Illinois 60606

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