





	I N D E X			
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2				
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1 PROCEEDINGS

2 EXAMINER SHOWTIS: Pursuant to the authority  
3 vested in me by the Commission I now call for hearing  
4 Docket 00-0714 which is a proceeding by the Commission  
5 on its own motion versus Illinois Power Company. This  
6 docket concerns the reconciliation of revenues  
7 collected under gas adjustment charges with actual  
8 costs prudently incurred. This docket addresses the  
9 PGA reconciliation for calendar year 2000.

10 Will parties please enter their  
11 appearances for the record.

12 MR. MACBRIDE: Owen MacBride, 6600 Sears  
13 Tower, Chicago, Illinois 60606, appearing on behalf of  
14 Illinois Power Company.

15 MS. BUELL: Appearing on behalf of Staff  
16 witnesses of the Illinois Commerce Commission, Linda  
17 M. Buell and Steven Matrisch, 527 East Capitol,  
18 Springfield, Illinois 62701.

19 JUDGE SHOWTIS: Mr. Ogle is the only witness  
20 to be presented today. I would just like to bring up  
21 one matter first. At the last hearing, counsel for  
22 Illinois Power and Staff indicated that certain

1 testimony and exhibits would be prefiled on the  
2 e-docket system. And the necessity to refile stemmed  
3 from the fact that certain material which was  
4 initially filed as proprietary in certain exhibits is  
5 no longer proprietary. I noticed that on August 6  
6 Illinois Power filed some revised rebuttal testimony  
7 that was sponsored by Mr. Starbody and I guess in  
8 order to distinguish it from prior testimony and  
9 exhibits, Illinois Power filed on e-docket Revised IP  
10 Exhibit 3.2, Revised IP Exhibit 3.4 and Second Revised  
11 IP Exhibit 3.5, and I believe they filed Second  
12 Revised IP Exhibit 3.5 because there was already  
13 Revised IP Exhibit 3.5 on the e-docket. I would like  
14 Staff -- I don't think Staff has refiled any testimony  
15 yet on e-docket.

16 MS. BUELL: No, we have not.

17 JUDGE SHOWTIS: I would suggest that you take  
18 the same tact. In other words, if there was, for  
19 example, a Staff Exhibit 2.0 and you are refileing it,  
20 I would call it Revised 2.0 to avoid confusion with  
21 what was earlier filed.

22 MS. BUELL: Our reluctance to do that was

1 based on the fact that it really is not revised  
2 testimony. It is the exact same testimony. And we  
3 didn't know if we should do that. We thought it might  
4 cause confusion.

5 JUDGE SHOWTIS: Well, I guess it is only  
6 revised in the fact that it would contain different  
7 information than was in the public version. So what's  
8 on e-docket, if you use the same title, you would have  
9 IP Exhibit 2.0, for example, on e-docket and then  
10 another or Staff -- let's call it Staff Exhibit 2.0 on  
11 e-docket, then you have another Staff Exhibit 2.0 on  
12 e-docket but they are different. One would have more  
13 information on it that was treated as proprietary and  
14 one wouldn't. So I think it would be confusing just  
15 to refile with the same number because you would have  
16 two different versions.

17 MS. BUELL: So you want us to refile Burma  
18 Jones' testimony as well as Eric Lounsberry's then as  
19 opposed to providing hard copies to the court  
20 reporter?

21 JUDGE SHOWTIS: I am not sure from my notes  
22 from the last hearing what was provided to the

1 reporter with regard to Burma Jones. I have from my  
2 notes Staff Exhibit 1.0 and Staff Exhibit 3.0 were  
3 admitted and marked at the hearing. Her remaining  
4 exhibits were to be refiled on e-docket.

5 MS. BUELL: So then Staff just needs to  
6 refile Eric Lounsberry's, is that correct?

7 JUDGE SHOWTIS: I believe so. I don't think  
8 any of his exhibits were marked at the hearing.

9 MS. BUELL: We have them today. We can  
10 provide them to the court reporter today.

11 JUDGE SHOWTIS: If you want to do it, that's  
12 fine.

13 MS. BUELL: Do you want us to file via  
14 e-docket as well?

15 JUDGE SHOWTIS: Well, if you file them today  
16 and they are marked, they will eventually be given to  
17 the court reporter and they will make their way onto  
18 e-docket anyway. So I guess what I am saying is, if  
19 there are versions that are different, I think we  
20 should put Revised, just mark on them Revised, because  
21 we already have, for example, a Staff Exhibit 2.0 on  
22 e-docket. If there is a new Staff Exhibit 2.0 and

1 4.0, for example, that's what's going to make it on  
2 the e-docket anyway. I don't want to have the same  
3 identification if what's going on e-docket is going to  
4 be different than the original version.

5 MS. BUELL: We can mark them Revised.

6 JUDGE SHOWTIS: That's fine.

7 Mr. MacBride, is it correct that the only  
8 exhibits that Illinois Power was sponsoring that had  
9 to be refiled were the ones that were refiled on  
10 August 6 or were there any additional ones that are  
11 still to be filed?

12 MR. MACBRIDE: Well, the three exhibits which  
13 need to be revised which I believe were filed on  
14 August 6 were 3.2, 3.4 and 3.5.

15 JUDGE SHOWTIS: Right.

16 MR. MACBRIDE: That was all the exhibits that  
17 needed to be refiled. And we have hard copies, if  
18 anyone needs one.

19 JUDGE SHOWTIS: With regard to the exhibits  
20 sponsored by Burma Jones, were some of them to be  
21 resubmitted?

22 MS. BUELL: No, Burma Jones didn't need to

1 change any of her exhibits. The only information  
2 contained in her testimony or schedules was considered  
3 confidential.

4 JUDGE SHOWTIS: I thought that -- it was my  
5 understanding that there would be a new public  
6 version. The public version that she filed is blank.

7 MS. BUELL: The public version is her  
8 unredacted testimony now and that was provided to the  
9 court reporter last Friday.

10 MR. MACBRIDE: We just used the unredacted  
11 copy and marked off the word "unredacted" and that was  
12 her exhibit.

13 JUDGE SHOWTIS: That's right. So her  
14 Exhibits 1.0 and 3.0 were already marked, okay.

15 It probably would be simpler, though,  
16 with regard to Mr. Lounsberry, if there was a new  
17 public version, that you put "revised" on it.

18 MS. BUELL: Mr. Lounsberry is doing that now.

19 JUDGE SHOWTIS: That can be marked if you  
20 want to do that; then resubmit it on e-docket.

21 MS. BUELL: Yes, we would, thank you.

22 JUDGE SHOWTIS: You can take care of that

1 later, Eric, if you want to. We will put the witness  
2 on now. Mr. Ogle, would you please stand and raise  
3 your right hand.

4 (Whereupon the Witness was duly  
5 sworn by Judge Showtis.)

6 MR. MACBRIDE: Call Mr. Ogle to the stand.

7 RUSSELL A. OGLE

8 called as a Witness on behalf of Illinois Power  
9 Company, having been first duly sworn, was examined  
10 and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. MACBRIDE:

13 Q. Would you please state your name,  
14 business address and employer.

15 A. My name is Russell A. Ogle. I am with  
16 Packer Engineering and my business address is 1950  
17 North Washington Street, in Naperville, Illinois  
18 60563.

19 Q. Doctor Ogle, what is your profession?

20 A. I am a chemical engineer.

21 Q. Were you retained by Illinois Power  
22 Company to conduct certain analyses and submit

1 testimony and a report in this docket?

2 A. Yes, I was.

3 Q. Do you have before you a copy of a  
4 document that's been marked for identification as IP  
5 Exhibit 4.1 which is captioned "Prepared Surrebuttal  
6 Testimony of Russell A. Ogle"?

7 A. Yes, I do.

8 Q. Does that document consist of one page of  
9 questions and answers?

10 A. Yes, it does.

11 Q. Is IP Exhibit 4.1 the testimony you wish  
12 to offer in this case?

13 A. Yes.

14 Q. Do you have any corrections or changes to  
15 make to that exhibit?

16 A. No, I do not.

17 Q. If I were to ask you the questions shown  
18 on Exhibit 4.1 at this hearing today, would you give  
19 the same answers that are shown on that exhibit ?

20 A. Yes.

21 Q. Do you also have before you a copy of a  
22 document that's been marked for identification as IP

1 Exhibit 4.2?

2 A. Yes.

3 Q. Could you briefly explain what that  
4 document is?

5 A. This is my curriculum vitae.

6 Q. Was this prepared by you or under your  
7 supervision or direction?

8 A. Yes, it was.

9 Q. Do you have any corrections or changes to  
10 make to IP Exhibit 4.2?

11 A. No.

12 Q. Finally, do you also have before you a  
13 copy of a document that's been marked for  
14 identification as IP Exhibit 4.3 bearing the caption  
15 "Safety Analysis of the Freeburg Propane Plant"?

16 A. Yes.

17 Q. Does that document consist of five pages?

18 A. Yes, it does.

19 Q. And could you briefly explain or state  
20 what IP Exhibit 4.3 is?

21 A. This summarizes my opinions based on the  
22 safety analysis that I conducted for the Freeburg

1 propane plant.

2 Q. And did you prepare this document?

3 A. Yes, I did.

4 Q. Do you have any corrections or changes to  
5 make to IP Exhibit 4.3?

6 A. I do have one correction. On page 3 in  
7 the first full paragraph I make a reference to  
8 terrorist investigations by the FBI; and I misread the  
9 two publications I had. There is actually only one  
10 incident and not two. That's the only correction.

11 Q. Could you state -- are you referring to  
12 the sentence that starts, "In 1999 the Federal Bureau  
13 of Investigation"...?

14 A. Yes, I am. It should go on to say,  
15 "investigated a single attempt to create an act of  
16 terrorism against propane storage facilities" and in  
17 parenthesis "in California."

18 Q. With that correction is the information  
19 presented on IP Exhibit 4.3 true and correct to the  
20 best of your knowledge?

21 A. Yes, it is.

22 MR. MACBRIDE: We offer IP Exhibits 4.1

1 through 4.3 into evidence.

2 MR. MATRISCH: No objection.

3 JUDGE SHOWTIS: Those exhibits are on the  
4 e-docket system, is that correct?

5 MR. MACBRIDE: Yes.

6 JUDGE SHOWTIS: 4.3 does contain or the  
7 exhibit that appears on e-docket as IP Exhibit 4.3 has  
8 been modified slightly to reflect the correction that  
9 Doctor Ogle just gave, is that correct?

10 MR. MACBRIDE: No, the version that is on  
11 e-docket does not reflect the correction that he just  
12 stated.

13 JUDGE SHOWTIS: That is what I tried to say.

14 MR. MACBRIDE: Do we need to file a Revised  
15 Exhibit 4.3 on e-docket?

16 JUDGE SHOWTIS: You can either have a Revised  
17 Exhibit 4.3 marked today or you can submit one with  
18 that change, whichever would be easier for you.

19 MR. MACBRIDE: We will submit a revised onto  
20 e-docket. Then that will be identified as revised.

21 JUDGE SHOWTIS: Revised, and you can just  
22 make the changes that Doctor Ogle identified. So IP

1 Exhibits 4.1 and 4.2 which are on the e-docket system  
2 are admitted into evidence. Don't need any hard copy  
3 to be marked.

4 (Whereupon IP Exhibits 4.1 and  
5 4.2 were admitted into  
6 evidence.)

7 Counsel for Illinois Power has indicated  
8 that Illinois Power will file a Revised Exhibit 4.3  
9 which will reflect the one modification to IP Exhibit  
10 4.3 which is presently on e-docket that was identified  
11 by Doctor Ogle.

12 Staff may cross examine.

13 MR. MATRISCH: Thank you, Your Honor.

14 CROSS EXAMINATION

15 BY MR. MATRISCH:

16 Q. Good afternoon, Doctor Ogle. I want to  
17 first talk about the change that you just made on page  
18 3 of your report. Just so I am clear, isn't it also  
19 true that the last sentence of that paragraph should  
20 be changed as well, because you reference both  
21 incidents with the change that you have made as only a  
22 single incident occurring in California?

1 A. That is correct.

2 Q. I just wanted to make sure I was correct.

3 In preparation of your report did you  
4 actually visit the Freeburg propane facility?

5 A. No, I have not.

6 Q. Did anyone from your company visit the  
7 propane facility?

8 A. No.

9 Q. So it would be correct then, Doctor Ogle,  
10 that in conducting this safety analysis on the  
11 Freeburg propane facility, you never inspected the  
12 facility either, correct?

13 A. That's correct.

14 Q. And, in fact, Doctor Ogle, isn't it true  
15 that the analysis and the conclusions that you arrived  
16 at are based solely on what information was either  
17 told to you or provided to you by Illinois Power?

18 A. No.

19 Q. In terms of the schematics -- strike  
20 that. Let me ask it this way. In your report you  
21 indicate that you reviewed certain items, isn't that  
22 correct?

1           A. That's right.

2           Q. In fact, the items that you reviewed are  
3 listed on page 1 of your report, Numbers 1 through 6,  
4 a letter from Pittsburg Corning Corporation to  
5 Mr. Wayne Hood, handwritten drawings, infrared  
6 scanning technologies thermographic reports, infrared  
7 scanning technologies thermal difference video tape,  
8 construction drawings and Illinois Power Company  
9 Freeburg Propane Vapor Plant Operating Manual. All  
10 those materials you received from the company, isn't  
11 that correct?

12          A. That's right.

13          Q. Isn't it true, Doctor Ogle, that the  
14 Freeburg plant began service in 1971?

15          A. Yes.

16          Q. And isn't it also true, Doctor Ogle, that  
17 the plant was retired or closed by Illinois Power  
18 sometime in early 2000?

19          A. Yes.

20          Q. And isn't it also true, Doctor Ogle, that  
21 your company was not in fact retained to provide a  
22 safety analysis, or strike that, conduct a safety

1 analysis on the Freeburg propane facility until  
2 approximately a year and a half later, July 26, 2001,  
3 to be specific?

4 A. That's right.

5 Q. When was the first time your company was  
6 contacted to conduct this analysis?

7 A. July 26 of this year.

8 Q. In conducting your analysis did you  
9 review the history of incidents or accidents that had  
10 occurred at the Freeburg propane plant?

11 A. Yes.

12 Q. In conducting your analysis I take it  
13 that you were aware that from 1971 until the time the  
14 plant was closed there were only two incidents  
15 involving safety issues or accidents at that plant,  
16 isn't that correct?

17 A. That's correct.

18 Q. And one of those incidents in fact was a  
19 lightning strike?

20 A. That's right.

21 Q. And the other incident in fact was a  
22 casting problem with a valve and that valve was sent

1 back to the company for correction, isn't that  
2 correct?

3 A. That's correct.

4 Q. Now, in your report you talk about a  
5 boiling liquid expanding vapor explosion and the  
6 acronym you use is BLEVE. Is it Blevé?

7 A. Actually, it's usually pronounced blevey;  
8 it has two syllables.

9 Q. And it is correct that you discuss this  
10 BLEVE in your analysis, correct?

11 A. Yes.

12 Q. On page 2 of your report that you  
13 provided to us you list five past occasions where  
14 there has been some accident with propane, isn't that  
15 correct?

16 A. Right.

17 Q. And according to your report you only  
18 have knowledge about these accidents because you did a  
19 cursory review of literature, correct?

20 A. Well, that specifically --

21 Q. I will strike the question. Let me ask  
22 it in your own words. According to your report you

1 indicate that a cursory review of the fire literature  
2 demonstrates that certain propane accidents have  
3 happened, correct?

4 A. That's correct.

5 Q. I take it then that you didn't conduct  
6 any investigation of these accidents?

7 A. That's correct.

8 Q. So you really don't know what the  
9 underlying cause of these accidents was, correct?

10 A. Other than the representations that I saw  
11 from the actual literature from which I got these case  
12 studies.

13 Q. I am not sure you answered my question.  
14 Let me ask it again. I take it then from these  
15 accidents that you have listed, you do not know what  
16 the underlying cause of the accident was, yes or no?

17 A. I don't believe that's a yes or no  
18 answer.

19 Q. Okay. Let's go through them one by one.  
20 In 1966 did you investigate the accident in Fasin,  
21 France?

22 A. Personally?

1 Q. Yes.

2 A. No, I did not.

3 Q. Do you know what the underlying cause of  
4 that accident is?

5 A. I have read a case study of it, yes.

6 Q. But you don't have personal knowledge of  
7 it, right?

8 A. That's correct.

9 Q. Nor do you have any personal knowledge of  
10 the accidents in Illinois or Reo or Texas City or  
11 Mexico City?

12 A. That's correct.

13 Q. And, in fact, one of these accidents  
14 doesn't even involve a storage facility; it's rail  
15 cars running into each other, correct?

16 A. A derailment, correct.

17 Q. And after these accidents occurred, sir,  
18 do you know if there were any subsequent regulations  
19 or any other actions taken to eliminate the same sort  
20 of thing happening in the future?

21 A. I would say that these incidents did not  
22 spawn the creation of any specific regulation, no, it

1 did not.

2 Q. And in your report, doctor, you indicate  
3 or you tell us about what the consequences of a BLEVE  
4 at the Freeburg facility would be, am I correct?

5 A. Correct.

6 Q. Isn't it also true, doctor, that the same  
7 consequences would have happened in 1971 as would have  
8 happened in say the year 2000?

9 A. Provided the vessel was in service, yes.

10 Q. And provided the vessel contained the  
11 same amount of liquid propane?

12 A. Correct.

13 Q. You indicate in your report, doctor, that  
14 a consideration to be taken in today's world is the  
15 potential for terrorist activity, isn't that correct?

16 A. That's right.

17 Q. Did you tell us earlier today that there  
18 is only one incident now that you are aware of and  
19 that's an incident that occurred in California? Do  
20 you know what the FBI's determination was in that  
21 case?

22 A. The trial outcome?

1 Q. Yes.

2 A. No, I do not know.

3 Q. Hypothetically, doctor, would you agree  
4 with me that an accident of terrorism committed on a  
5 facility in a highly populated area has the greater  
6 potential for injury or damage than a facility located  
7 in a rural southern Illinois area?

8 A. If indeed that's an accurate description  
9 of the two scenarios, then I would say there is a  
10 greater potential for injury when you have got more  
11 people surrounding the plant.

12 Q. Now, doctor, you are not suggesting that  
13 Illinois Power close all of its facilities simply  
14 because there is the threat of terrorism, are you?

15 A. No.

16 Q. Now, you indicated earlier to my  
17 questioning that you had not inspected the facility,  
18 that you had not even been to the facility, right?

19 A. That's right.

20 Q. What are you basing your claim on then  
21 that there is evidence of corrosion in the vessel  
22 wall?

1           A. That's based on my interpretation of two  
2 things, based on my interpretation of the inspection  
3 work that was done in 1996 by Illinois Power and my  
4 review of corrosion literature for the particular  
5 material that was used for the construction of the  
6 vessel.

7           Q. So you have no personal knowledge of  
8 whether there is any corrosion or whether there was  
9 any corrosion at that facility in the year 2000, isn't  
10 that correct?

11          A. There was corrosion prior to that which  
12 was repaired. So that indicates the potential  
13 presence of further corrosion.

14          Q. You just told us that there was corrosion  
15 in, did you say, 1996 there?

16          A. Corrosion was identified in 1996.

17          Q. 1996. And it was repaired. So as you  
18 sit here today and when you prepared your report, you  
19 have no knowledge, have no way of knowing, in fact,  
20 whether or not there was any corrosion in that vessel  
21 wall in the year 2000, isn't that correct?

22          A. That's not my inference. My inference is

1 that, given the type of service that this vessel is  
2 going to be in, it should be assumed that there will  
3 be corrosion. And until that hypothesis is refuted,  
4 it should not be put back in service.

5 Q. It was repaired though, correct?

6 A. The piping where the corrosion was  
7 observed had been repaired. But a complete inspection  
8 of the vessel shell was not completed at that time.

9 Q. And you didn't do a complete inspection  
10 of the vessel either, did you?

11 A. Correct. That's why it's a  
12 recommendation.

13 Q. In your report, doctor, you claim that an  
14 additional cost of operating the facility would have  
15 been \$500,000 in this BLEVE fire protection equipment,  
16 correct?

17 A. Correct.

18 Q. Isn't it true, doctor, that the current  
19 regulations or rather the regulations that existed at  
20 the time the facility closed do not require the  
21 installation of BLEVE fire protection equipment that  
22 you listed?

1 A. They do not require it, that is correct.

2 Q. And, in fact, you indicate in your report  
3 the plant was currently compliant with all safety  
4 regulations, isn't that true?

5 A. That's right.

6 Q. Now, doctor, switch gears for just a  
7 second. When you prepared your report, did you look  
8 at Illinois Power's past practices of training its  
9 employees to operate the Freeburg plant?

10 A. Yes, I did.

11 Q. And is it your contention, sir, that  
12 Illinois Power was not training its employees  
13 sufficiently and/or correctly?

14 A. No.

15 Q. Have you ever been responsible for  
16 operating a propane plant?

17 A. No, I have not.

18 Q. Have you ever been trained to operate a  
19 propane plant?

20 A. No, I have not.

21 Q. How many times in the past, sir, has your  
22 company been retained, contracted with Illinois Power,

1 to provide similar reports that you have provided in  
2 this case and/or testified for?

3 A. I have worked for Illinois Power on one  
4 previous case. Excuse me, I am sorry, two previous  
5 cases.

6 Q. And when were those cases?

7 A. In December of 2000.

8 Q. And what was the subject matter of that  
9 case?

10 A. That was to investigate an accident .

11 Q. Where is the accident? Where did the  
12 accident happen?

13 A. In Hillsboro, Illinois.

14 Q. And what was the other incident?

15 A. The other incident was litigation  
16 involving a residential explosion, house explosion.

17 Q. What was your role in that case?

18 A. I investigated the origin and the cause  
19 of the explosion.

20 Q. How much was your company paid to conduct  
21 the safety analysis in this case?

22 A. Well, we weren't paid to conduct a safety

1 analysis. We invoice Illinois Power for professional  
2 services rendered.

3 Q. Okay. How much were your professional  
4 services rendered in this case?

5 A. I would estimate approximately 14 or 15  
6 thousand dollars.

7 Q. For this case alone?

8 A. Correct.

9 Q. How much are you being paid to testify  
10 today, sir?

11 A. I don't get paid to testify.

12 MR. MATRISCH: No? I have nothing further,  
13 Judge.

14 EXAMINATION

15 BY JUDGE SHOWTIS:

16 Q. Would you just briefly describe the  
17 accident in Hillsboro that you investigated?

18 A. Yes, it was a natural gas storage field,  
19 and a storage tank which is called an atmospheric  
20 storage tank exploded. So we were asked to  
21 investigate the cause of the explosion.

22 Q. Is this the first time that you have

1 performed the safety analysis of a propane plant or  
2 have you been asked to do so on behalf of other  
3 entities?

4 A. I have performed accident investigations  
5 and risk analyses for other clients but not something  
6 like this on a propane storage facility.

7 Q. Have you in the past had occasion to  
8 perform a safety analysis for other plants? They may  
9 not necessarily be propane plants.

10 A. Yes, this type of analysis that is shown  
11 here I have done many times in the course of  
12 investigating accidents, for example.

13 Q. Could you tell me approximately -- it can  
14 be a ballpark figure -- the amount of time you spent  
15 in connection with the work that you are sponsoring in  
16 this docket?

17 A. Probably I have worked something on the  
18 order of 25 to 30 hours, not counting today.

19 Q. How did you come up with the figures for  
20 the additional costs that would be associated with  
21 operating a propane facility? I think it's on page 4.

22 A. Well, those are order of magnitude cost

1 estimates. They are based on engineering judgment and  
2 experience. They are the first approximation.

3 Q. And, finally, on page 1 of your report  
4 you mention the four main safety topics that your  
5 analysis addressed?

6 A. Yes.

7 Q. Could you just break down approximately  
8 the number of hours spent on each of those, if that's  
9 possible, or at least tell me which of those you spent  
10 most of the time on?

11 A. Probably it's about evenly distributed.

12 JUDGE SHOWTIS: Okay. That's all the  
13 questions I had.

14 MR. MACBRIDE: Off the record.

15 (Whereupon there was then had  
16 an off-the-record  
17 discussion.)

18 JUDGE SHOWTIS: Back on the record.

19 MR. MACBRIDE: We have a few questions on  
20 redirect, Mr. Showtis.

21 JUDGE SHOWTIS: Okay, proceed.

22

1 REDIRECT EXAMINATION

2 BY MR. MACBRIDE:

3 Q. Doctor Ogle, you testified that you did  
4 not personally visit the Freeburg propane facility or  
5 inspect it in preparing your safety analysis. Given  
6 that you did not visit the facility, why do you feel  
7 you are able to conduct a safety analysis of the plant  
8 and make recommendations as you have done in your  
9 report?

10 A. Well, the conclusions fundamentally are  
11 based on information about the vessel itself, the  
12 operations of the facility, and the technical  
13 literature that's available in the engineering  
14 community regarding the hazards of propane and BLEVEs.

15 Q. You indicated that the specific  
16 information you had about the Freeburg facility was  
17 provided to you by Illinois Power. Now, did you  
18 request that Illinois Power provide you with certain  
19 documents or certain types of information?

20 A. Yes. I made very specific data requests  
21 to Illinois Power.

22 Q. And were you provided with the

1 information you requested?

2 A. I got everything I asked for.

3 Q. Did other employees of Packer Engineering  
4 assist you in reviewing materials for the preparation  
5 of this report?

6 A. Yes.

7 Q. Were they acting under your supervision  
8 in doing that?

9 A. Yes, directly.

10 Q. With reference to the five other  
11 accidents involving propane facilities that you list  
12 on pages 2 and 3 of your report, you indicate that  
13 your information on these accidents comes from a  
14 review of literature, is that correct?

15 A. That's right.

16 Q. And could you describe for the record  
17 what the nature of that literature is?

18 A. There were three primary sources. The  
19 first is a reference that's listed in the list of  
20 materials that I have reviewed which is a book called  
21 Propane Emergencies which was sponsored by the  
22 National Propane Gas Association. The second is the

1 guideline on evaluating the consequences of BLEVEs  
2 which is a guidance document produced by the American  
3 Institute of Chemical Engineers. And the third comes  
4 from a technical reference called Loss Prevention in  
5 the Chemical Process Industries by Frank Lees,  
6 L-E-E-S. All three of those are referred and  
7 purviewed publications.

8 Q. Are those three sources considered  
9 authoritative in the chemical engineering field?

10 A. Absolutely.

11 Q. And are those sources that persons in  
12 your profession commonly rely on in forming opinions  
13 in accident investigations and safety analyses?

14 A. Yes, they would.

15 Q. You also indicated that you rely on  
16 literature on corrosion rates for the type of material  
17 that was used in the storage vessel in the Freeburg  
18 facility, is that right?

19 A. That's right.

20 Q. And again could you briefly describe the  
21 nature of that literature?

22 A. I relied on a handbook on corrosion in

1 low carbon steels that was produced by the American  
2 Metal Society.

3 Q. Is that source considered an  
4 authoritative review?

5 A. Yes, it is.

6 Q. And is it commonly relied on by you and  
7 others in your profession in performing opinions in  
8 accident investigations and safety risk analyses?

9 A. Yes, it is.

10 Q. On page 4 of your report you give cost  
11 estimates for several specific recommended activities,  
12 and the Examiner asked you for the bases for these  
13 cost estimates?

14 A. Yes.

15 Q. Focus you on the item "Update Engineering  
16 Documents." First of all, could you explain what that  
17 would entail and why it is necessary?

18 A. Sure. The engineering documents as they  
19 exist are for the facility as it exists today.

20 MR. MATRISCH: Your Honor, I am going to  
21 object. I think this is beyond the scope. Your  
22 question to the witness was how did he come up with

1       these numbers, not what these documents are. I  
2       believe counsel is trying to elicit from this witness  
3       what these things are, which is beyond the scope.

4               MR. MACBRIDE: This is foundational. I am  
5       asking him how he developed -- specifically, how he  
6       developed the \$30,000 cost estimate.

7               MR. MATRISCH: Your Honor, I don't believe it  
8       is foundational. I believe he is trying to back door  
9       into the testimony what these things are and justify,  
10       if you will, how the witness arrived at \$30,000 and  
11       what these documents entail. It is beyond the scope  
12       of cross examination.

13              JUDGE SHOWTIS: I will let you summarize what  
14       those activities consist of.

15              THE WITNESS: Let me begin my answer again,  
16       mindful of the objection. There are 19 drawings that  
17       are contained in the current engineering documents.  
18       Having reviewed those drawings, I determined that at  
19       least half of those would have to be modified. There  
20       are sections in the manual which refer to specific  
21       pieces of equipment which would be replaced as part of  
22       the upgrade of the facility. So that narrative also

1 would have to be changed. Based on page count and  
2 drawing count, I was able to use unit price rules of  
3 thumb that we typically use in our field to come up  
4 with those estimates.

5 Q. So have you now also just described how  
6 you developed the \$30,000 cost estimate?

7 A. That's right.

8 Q. Thank you. And directing your attention  
9 to the line item "Comprehensive Propane Sphere  
10 Inspection," I believe you testified earlier in  
11 response to cross that this is one of your  
12 recommendations that such an inspection be conducted  
13 if and prior to the facility being placed back into  
14 service, correct?

15 A. Correct.

16 Q. And would you state how you developed the  
17 \$75,000 cost estimate for that inspection?

18 A. Again those are based on unit costs for  
19 doing what's called non-destructive test and  
20 evaluation type measurements. When you take into  
21 account the size, the shape of the sphere, that's  
22 going to introduce some complexity in terms of the

1 scaffolding. So we allowed for the complexity of the  
2 scaffolding work that would be required, and  
3 ultimately ended up with the \$75,000 estimate.

4 Q. You testified, and I think your report  
5 indicates, that at the time it ceased to be used, the  
6 Freeburg propane facility was in compliance with  
7 applicable fire protection regulations, is that  
8 correct?

9 A. That's right.

10 Q. Why then are you recommending that  
11 Illinois Power consider installation of additional  
12 fire protection equipment should it commence again to  
13 use the Freeburg propane facility?

14 A. Well, the hazard has always been there.  
15 The difference is in the risk to the surrounding  
16 population. If the area continues to grow, you are  
17 presenting targets to this particular threat. The  
18 regulations as they are written represent minimum  
19 standards. My view as a safety professional is, if  
20 Illinois Power wishes to exceed those minimum  
21 standards, I think they should do that.

22 Q. Is it your recommendation that Illinois

1 Power do that if it were to commence to operate this  
2 facility again?

3 A. Absolutely.

4 Q. Now, you mentioned in the answer you just  
5 gave and the response to some cross questions you  
6 responded to a hypothetical about an explosion, I  
7 think in the hypothetical due to a terrorist threat in  
8 a densely populated versus a thinly populated area, do  
9 you recall that?

10 A. That's right.

11 Q. In the event of a BLEVE incident are the  
12 residents and people who work in businesses that may  
13 surround the facility where the event occurs the only  
14 people who are at risk?

15 A. No. Typically, the fatalities and  
16 injuries that occur are firefighters and other  
17 emergency response personnel, not necessarily the  
18 people who live nearby.

19 Q. How about the employees of the facility  
20 itself?

21 A. Oftentimes they are trying to fight the  
22 fire as well.

1                   MR. MACBRIDE: That's all the questions we  
2 have.

3                   MR. MATRISCH: Just a couple on recross if I  
4 may, Your Honor.

5                                   RECCROSS EXAMINATION

6                   BY MR. MATRISCH:

7                   Q. Firefighting is a pretty risky job  
8 overall, isn't it?

9                   A. Most risky when you fight a propane tank  
10 fire.

11                  Q. Do I understand your testimony on  
12 redirect to be that after you prepared this report it  
13 was reviewed by others within your company?

14                  A. Yes.

15                  Q. And this was reviewed by people under  
16 your supervision, is that correct?

17                  A. That's right.

18                  Q. So your subordinates are reviewing your  
19 work?

20                  A. And they criticize me every day.

21                  Q. You didn't answer my question. Yes or  
22 no, your subordinates in whole or in part are

1 reviewing your work?

2 A. Sometimes, yes.

3 Q. These subordinates, do you give them  
4 salary increases, recommend them for retention?

5 A. I can only make recommendations. I don't  
6 have the final say.

7 Q. In your report, you listed on page 1, you  
8 listed four external sources that you consulted in  
9 helping you reach the conclusions that you came to.  
10 But I take it from your testimony on redirect you  
11 didn't list every source that you consulted here, is  
12 that right?

13 A. That's right.

14 Q. So you left something out, right?

15 A. Yeah.

16 Q. Now, referring to page 4 of your report  
17 where you discuss the additional costs of operating a  
18 facility, is it your testimony that it's your opinion  
19 that Illinois Power needs to update its engineering  
20 documents, 19 in fact, at a cost of \$30,000? Is that  
21 what you are testifying to?

22 A. Can I ask the court reporter to repeat

1 the question?

2 Q. My question, let me ask it a different  
3 way. I think it was a bad question. Doctor, on page  
4 4 of your report you indicate there that there are  
5 certain additional costs of operating the Freeburg  
6 propane facility, is that correct?

7 A. That's right.

8 Q. And one of these costs is to update  
9 certain engineering documents at a cost of \$30,000, is  
10 that correct?

11 A. Correct.

12 Q. And I believe you testified earlier that  
13 there are 19 such engineering documents that need  
14 updated, is that correct?

15 A. I was referring to drawings specifically.

16 Q. Okay. Nineteen drawings that need  
17 updated. So I take it then that currently Illinois  
18 Power isn't maintaining correct drawings?

19 A. No.

20 Q. Now, as I understand the company that you  
21 work for, it's sort of a big engineering firm. You  
22 do lots of things, consult, do engineering sorts of

1 activities. Is one of the services that your company  
2 provides propane sphere inspection?

3 A. No, we have experts on pressure vessels  
4 but not specifically propany spheres.

5 Q. Do you do inspections of any -- I guess  
6 my question to you is the \$75,000 that you are  
7 recommending Illinois Power incur?

8 A. Yes.

9 Q. Would your company get any of that money?

10 A. No.

11 MR. MATRISCH: Could I have just a second,  
12 Your Honor?

13 JUDGE SHOWTIS: Yes.

14 MR. MATRISCH: We don't have anything  
15 further.

16 MR. MACBRIDE: Just a couple questions.

17 REDIRECT EXAMINATION

18 BY MR. MACBRIDE:

19 Q. Doctor Ogle, look at page 1 of your  
20 report, please. Immediately before the listing of the  
21 four external sources that you show us there, your  
22 report states, "External sources consulted include,

1 but are not limited to, the following," correct?

2 A. That's correct.

3 Q. And do you know if the parties in this  
4 case made any requests to you to supply any of the  
5 other sources that are not listed here?

6 A. They did not.

7 Q. You indicated that certain of your  
8 subordinates at Packer Engineering reviewed your  
9 report prior to its submission. Is that a common  
10 practice in your company?

11 A. It is the only practice in my company.

12 Q. And why do you say it's the only  
13 practice?

14 A. Because good engineering always requires  
15 a peer review. There is always a chance of making  
16 some kind of mistake, so we always look at each  
17 other's work.

18 Q. Do you believe this to be a common  
19 practice in other engineering organizations such as  
20 yours?

21 A. In the good ones, yes.

22 MR. MACBRIDE: Thank you. That's all the

1 questions I have.

2 RE CROSS EXAMINATION

3 BY MR. MATRISCH:

4 Q. So I take it you think that peer review  
5 is important so you don't -- so stuff's not left out,  
6 is that true?

7 A. Well, that's not the exclusive reason why  
8 we do peer review, no.

9 Q. But it's one of the reasons?

10 A. It's one of the reasons.

11 Q. Sort of like the sources that you left  
12 out of your report?

13 A. No.

14 Q. Now, you just answered a question a  
15 second ago from counsel wherein you indicated that  
16 there weren't any data requests or nobody asked for  
17 these reports, is that correct?

18 A. Correct.

19 Q. Isn't it true, doctor, that you first  
20 entered this case on August 1?

21 A. July 26.

22 Q. When was your testimony filed in this

1 case?

2 A. I believe August 1.

3 MR. MATRISCH: Yes. Nothing further, Judge.

4 EXAMINATION

5 BY JUDGE SHOWTIS:

6 Q. Just one question. Did the review by  
7 your subordinates result in any changes to your  
8 report?

9 A. Nothing that I can recall, no.

10 JUDGE SHOWTIS: That's all I have.

11 MR. MACBRIDE: We have nothing further.

12 JUDGE SHOWTIS: You can step down or step  
13 aside.

14 (Witness excused.)

15 It's my understanding that Illinois Power  
16 and Staff have agreed on a briefing schedule. Could  
17 counsel for either Illinois Power or Staff state the  
18 agreed dates?

19 MS. BUELL: Yes, Your Honor. We have  
20 discussed August 28 for filing an initial brief, and  
21 September 11 for filing reply briefs.

22 JUDGE SHOWTIS: And with regard to the

1 initial brief, is that an in-hand date?

2 MS. BUELL: Yes, we would propose filing  
3 electronically or electronic service and filing via  
4 e-docket.

5 JUDGE SHOWTIS: With regard to the briefs, I  
6 would like to receive electronic copies, preferably in  
7 Word format. I know if they go on e-docket they are  
8 in PDF format. It is hard to work with PDF format.

9 Is there anything else that needs to be  
10 discussed?

11 MS. BUELL: Did you want to impose a page  
12 limit?

13 MR. MACBRIDE: I hate page limits.

14 JUDGE SHOWTIS: I know you do. Let's go off  
15 the record.

16 (Whereupon there was then had  
17 an off-the-record  
18 discussion.)

19 JUDGE SHOWTIS: Let's go back on the record.  
20 The page limit on both briefs will be 50 pages. I  
21 would hope that the parties would make their arguments  
22 concise and wouldn't have to utilize all 50 pages.



1 schedules.

2 (Whereupon there was then had an  
3 off-the-record discussion.)

4 JUDGE SHOWTIS: Back on the record. The  
5 reporter will mark the exhibits sponsored by  
6 Mr. Lounsberry. Those exhibits are Revised ICC Staff  
7 Exhibits 2.0 and 4.0. The redacted version is the  
8 public version. The unredacted is the proprietary  
9 version.

10 (Whereupon ICC Staff Exhibits  
11 2.0 Revised and 4.0 Revised  
12 were marked for purposes of  
13 identification as of this  
14 date.)

15 I will just send out a schedule for  
16 exceptions and replies when my proposed order goes  
17 out. I think I will just anticipate allowing the  
18 usual 14 days and 7 days. I am not going to require  
19 that you file a draft order. I think I can just work  
20 off the briefs.

21 MR. MACBRIDE: Okay, thank you.

22 JUDGE SHOWTIS: Is there anything else that

1 needs to be discussed?

2 MS. BUELL: Nothing I can think of.

3 JUDGE SHOWTIS: The record will be marked  
4 heard and taken. The public version and proprietary  
5 version of Staff Exhibits 2.0 Revised and 4.0 Revised  
6 are admitted into evidence.

7 (Whereupon ICC Staff Exhibits  
8 2.0 Revised and 4.0 Revised  
9 are admitted into evidence.)

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