

1 STATE OF NEW JERSEY
2 DEPARTMENT OF ENVIRONMENTAL PROTECTION
3 CLEAN AIR COUNCIL
4 THE IMPACT OF ELECTRIC UTILITY
5 DEREGULATION ON NEW JERSEY'S ENVIRONMENT
6 1999 PUBLIC HEARING
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A P P E A R A N C E S

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- George Currier, P.E.
 - Peter S. Palmer, NJ Association of counties Irwin S. Zonis, public
 - Michael Berry, NJ Department of Health and Senior Services
 - Stephen J. Papenberg, NJ Health Officers Association
 - Farid Ahmad, P.E., NJ Department of Community Affairs
 - Raymond M. Manganelli, PhD, public
 - Pete Anderson, NJ Department of Agriculture
 - Michael Egenton, NJ Chamber of Commerce
 - Jorge H. Berkowitz, PhD., Business and Industry
 - Joseph A. Spatola, PhD., public
 - John Maxwell, public
 - Erin Indelicato, Clean Air Council Liaison

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1 MR. SPATOLA: My name is Joseph Spatola. I
2 want to welcome the general public this morning
3 to our annual public hearing for 1999. The
4 subject of this year's public hearing is the
5 impact of the electric utility regulation on New
6 Jersey's environment. As the general public
7 knows, the regulations of the electrical utility
8 industry resulting from federal actions stands a
9 great competition in the process of offering
10 lower electric rates for all customers. The
11 deregulation, however, there are other impacts
12 expected to occur particularly on the
13 environment. Today we will explore this aspect
14 of deregulation in an attempt to determine how
15 public policy should will be developed to deal
16 this this matter. As chairman of this mornings's
17 public hearing, or today's is Dr. Jorge Berkowitz
18 to my right, and he will be sharing and
19 overseeing this public hearing today. Before I
20 turn it over to him, I would like to have the
21 members of the Clean Air Council introduce
22 themselves. Before that happens, I would like to
23 take this opportunity to pay special thanks to
24 Mrs. Erin Indelicato for all her work and effort
25 to get this public hearing together so we can

1 have it this year as we do every year. And also,
2 to thank John Elston who has helped in sharing
3 the department of resources in putting this
4 hearing together as well. So at this point I
5 would like to get introductions done across the
6 board here.

7 MR. MAXWELL: My name is John Maxwell. I'm
8 a member of the public. And when I'm not a
9 member of the public I'm with the New Jersey
10 petroleum council. And I would like to also say
11 special thanks to Joe for being our chair during
12 the last year, he's done a marvelous job. As
13 well as to recognize the other folks who
14 distributed their time and effort to the work of
15 the Clean Air Council.

16 MR. CURRIER: My name is George Currier.
17 I'm vice president in charge of the mechanical
18 engineering. I represent the New Jersey society
19 of professional engineers.

20 MR. PALMER: I'm Peter Palmer, representing
21 the New Jersey association of the counties.

22 MR. ZONIS: Irwin Zonis, I'm a public
23 member and I'm retired.

24 MR. BERRY: Michael Berry, I represent the
25 New Jersey Department of health and senior

1 services.

2 MR. PAPENBERG: Stephen Papenberg, I'm the
3 health officer of South Hunterdon Township. I'm
4 also the president of New Jersey local boards of
5 health association. And I'm representing New
6 Jersey health officer's association.

7 MR. AHMAD: Farid Ahmad, I represent New
8 Jersey department of community affairs.

9 MR. ANDERSON: Pete Anderson, I represent
10 the secretary of agriculture, and the department
11 of agriculture.

12 MR. EGENTON: Michael Egenton, representing
13 the New Jersey state chamber of commerce.

14 MR. BERKOWITZ: Good morning, my name is
15 George Berkowitz, I'm a vice president of
16 environmental scientists. And I represent New
17 Jersey business and industry association.

18 MR. MANGANELLI: I'm Ray Manganelli and I
19 represent the public.

20 MR. BERKOWITZ: I'd like to thank Joe for
21 the introduction of today's topic. I'd just like
22 to take a couple of minutes to reintroduce what
23 we're looking for today, as well as some of the
24 ground rules. First of all, I would like
25 to--let's go over some housekeeping details, it's

1 probably more important than anything. There
2 will be no breaks today, no scheduled breaks, so
3 you all have to stay here. We have a very tight
4 schedule, a very tight schedule indeed. We're
5 booked up with speakers until 3:30, and knowing
6 us for asking questions, it's going to be a
7 difficult task to stay on that schedule, but I
8 will do my best. Therefore, with three minutes
9 remaining in your allotted time, I will tell you
10 that. And then, with a certain amount of
11 tolerance, I will tell you to please end your
12 discussion or your presentation. If we run very
13 late, which is a possibility, and hopefully not a
14 necessity to do this, the chair reserves the
15 right to cut down the scheduled 15 minute
16 presentations to whatever is necessary. I hope
17 we don't have to do that. I also would like to
18 give a couple of thanks, first of all, the
19 subcommittee of the Clean Air Council who worked
20 on putting this together, Dr. Spatola, Mr.
21 Maxwell and Mr. Egenton, I thank very much for
22 their time and efforts. I also would like to
23 Erin Indelicato for doing just an outstanding
24 job, as well as members from the department who
25 serve us extremely well and with a great deal of

1 attention. And Mr. Elston, and Mr. O'Sullivan
2 and people like Sandra and so forth and so on, we
3 are really thankful for all of their efforts for
4 working with the Clean Air Council. We are here
5 to discuss the impacts of senate five, Assembly
6 ten sponsored by Senator Brusco and Assemblyman
7 D'Catano and Barget. I think perhaps the best
8 way to launch into this is really to take a look
9 on the our announcement, because I cannot do a
10 better job of discussing the issues that we seek
11 to explore in today's session. First of all, the
12 Clean Air Council was formulated in 1954 by an
13 act of the legislature. The clean air
14 council--one of the tasks of the Clean Air
15 Council is to make recommendations to the
16 commissioner of the department of environmental
17 protection on topics as they impact clean air.
18 One of the ways that we do this every year is we
19 have an annual hearing on a topic that we think
20 is timely and appropriate, in order to hear from
21 all the representatives of the
22 all--representatives of all the public so that we
23 can assimilate the information, digest it,
24 discuss it, debate it, and then come out with a
25 recommendation report to the commissioner

1 regarding that specific topic. That's what this
2 is all about today. The New Jersey citizens can
3 expect to see the deregulation in the state's
4 electric utility industry the summer of 1999. I
5 believe the date is August 1 for electric, and
6 December 31 for gas, if I'm not mistaken. How
7 will these changes affect their environment? The
8 question will be the topic of the New Jersey
9 clean air council's April 14, 1999 public
10 hearing. The purpose of the hearing is to
11 provide information to the Clean Air Council from
12 interested members of the public about the
13 potential environmental impacts of energy
14 deregulation. A transformation of the electric
15 industry is expected to result in deregulation.
16 Many predict that this transformation will affect
17 the type of fuel used in generation of
18 electricity, which in turn will affect the type
19 and amount of pollution New Jersey's air, as well
20 as the pollution transported downwind into New
21 Jersey from other states. The hearing will
22 consider what the environmental impacts may be,
23 evaluate the degree or extent of the impacts,
24 consider what actions state government may take
25 to bring about environmental improvement, and to

1 address the consequences. The Clean Air Council
2 recognizes that individual electricity customers
3 may well affect the outcome. Deregulation will
4 allow customers to choose its supplier, and
5 decide whether to take the environmental
6 characteristics of the power into consideration
7 when deciding what power to buy. The hearing
8 will explore the best means to inform the public
9 of the significance of the choice they will
10 make. The Clean Air Council looks for the
11 following questions at the public hearing. One,
12 in 1995, 39 percent of New Jersey's electricity
13 came from coal, four percent from oil, 11 percent
14 from natural gas, 44 percent from nuclear, and
15 two percent from hydroelectric power. How will
16 this change with deregulation? Two, what effect
17 will deregulation have on New Jersey air quality?
18 What other environmental impacts might result?
19 For example, specifically related to mercury
20 contamination. And three, what plan does the
21 state government have? And this is an important
22 issue, and one that is keenly of interest to all
23 the council, but particularly select members on
24 the council. What plan does the state government
25 have to insure that the concerned public is

1 provided the information it needs? What
2 information does a citizen need to make an
3 informed choice in selecting an energy supplier?
4 And by the way, we have previewed some attempts
5 at this, and quite frankly, we're still not
6 convinced that anybody has the best way of doing
7 this. Four, how can state government protect New
8 Jersey air from being polluted by emissions from
9 less clean, out-of-state energy sources? Five,
10 what types of conservation and new clean sources
11 including those that rely on renewable energy,
12 should be encouraged in New Jersey, and what can
13 state government do to promote these? Six, will
14 deregulation provide incentives or disincentives
15 for conservation and renewable power? That's
16 what we're trying to do today, trying to
17 understand all these issues. And without further
18 to do, it's my distinct pleasure, and always a
19 pleasure, to introduce you to the department of
20 environmental commissioner, Mr. Robert Shinn.

21 MR. SHINN: Thank you very much. It's my
22 pleasure to be here this morning and address the
23 council. And I'd like to thank all the members
24 for all their good work in dealing with an issue
25 that's really a tough one for New Jersey. I just

1 think that looking back ten years where we were
2 in 1988, with 45, one hour ozone violations and
3 where we are in 1998 with four, one hour
4 violations is pretty indicative of the progress
5 we've made. However, that's with a one hour
6 standard, and with the eight hour standard it's a
7 different story. I think we have something like
8 47 violations of the eight hour standard this
9 year, so we've got our work cut out for us. But
10 it appears with some additional reductions of NOx
11 and VOC's, that the one hour standard is somewhat
12 within our reach. As you know, the second phase
13 of the OTC, NOx goes into effect May of this
14 year, which is a 65 percent reduction level. So
15 NOx being one of our targeted precursors, we're
16 going to see additional reductions in NOx. Phase
17 two, the acid rain is the following year, 2,000,
18 so we'll see some additional benefits from SO2
19 reductions following the suit. The discussion, I
20 guess, on the deregulation relative to impacting
21 New Jersey's air quality is something that we've
22 had on our minds for a good number of years, and
23 I think our meetings through the OTAG process, or
24 ozone transport assessment group, with FERC,
25 federal energy regulatory commission, I think

1 John had about three of those or so, and I guess
2 we were on two tracks, we never seem to be able
3 to engage FERC on the front end with independent
4 meetings with the emissions issue directly, even
5 though they did an environmental impact study,
6 there were some assumptions in that study which I
7 think were on the positive side from their
8 perspective on what would happen to air quality.
9 So this whole process involved, I think OTAG kept
10 pressure on that process, that ultimately the
11 council of the environmental quality that serves
12 the president on the environment, and Carol
13 Browner and FERC really came to a consensus.
14 OTAG modeling said there was about three million
15 tons of transport, and the consensus was, in a
16 letter to OTAG from the administrator, said that
17 we're going to reduce two million tons of that
18 transport. So the northeast was going to get,
19 essentially, a million tons of net transport.
20 And this decision and letter probably goes back
21 the best part of 18 months or so. So I think
22 that sort of, in a way, set a little bit of the
23 tone for the OTAG process. And as you know, OTAG
24 came to a near consensus vote of thirty-two to
25 five out of the 37 states recommending to EPA

1 that regulations be put into effect that reduce
2 air emissions from 55 to 85 percent from the 1990
3 inventory levels. And that was a pretty
4 significant recommendation, that modeling went to
5 EPA. They worked on finer grid modeling, and I
6 think their SIP call is very supportive of the
7 OTAG work and a finer resolution from a grid
8 perspective of what the impacts on individual
9 states really mean. There's a huge controversy
10 on the SIP call, and that will go on for probably
11 another year or so. But I can tell you that
12 we're very satisfied with process, we think it's
13 the beginning of our way to address the eight
14 hour standard. There's a lot of other work that
15 we have to do to address that standard, but
16 certainly the SIP call is the heart of soul of us
17 being able to achieve health base standard in New
18 Jersey. The electric discount and energy
19 competition act is a massive and over arching
20 legislation with significant implications for New
21 Jersey's economists. It deregulates the energy
22 industry and transforms the marketplace from a
23 closed monopoly to an open competitive market.
24 It's broader in scope and will set a motion a
25 transition from a fully regulated industry to a

1 competitive power supply marketplace. It will
2 need to do this while preserving reliable power
3 supply and delivery systems at the same time,
4 while providing fair treatment to all
5 stakeholders during the transition. It's a
6 complicated process, and many of you who have
7 spent sometime reading the legislation are
8 probably as confused as I am. But it's the
9 environmental aspects that we're here today to
10 discuss. The part of the deregulation law that
11 is intended to mature the improved energy
12 efficiency and demand side management remain a
13 part of the state's long term energy efficiency
14 strategies for all New Jersey consumers.
15 Important parts of the deregulation law address
16 changes in technology, and the mechanisms to aid
17 in the delivery of cleaner renewable sources of
18 energy within the competitive marketplace. We're
19 here to talk about the piece of the deregulation
20 law that establishes a process to prevent any
21 adverse impact on environmental quality in the
22 state. This act now means that you and I
23 individually, and collectively as businesses, the
24 general public and government will now have to
25 make decisions on how to use energy. In these

1 decisions we need to consider the environmental
2 impact and benefits of those decisions. While
3 the entire bill has many aspects, there are four
4 main areas of the deregulation bill that interact
5 with our environmental goals. Environmental
6 disclosure, renewable portfolio standards,
7 emissions portfolio standards and renewable
8 energy technology and energy efficiency funding.
9 And before I discuss these areas and how the DEP
10 can assist the BPU in this process, I want to
11 talk about the marketplace initiatives that we
12 have implemented at DEP. New Jersey has
13 implemented an open market emission trading
14 program for NOx and VOC. And NOx credits
15 currently trade for close to a thousand dollars a
16 ton and VOC credits trade for a little over two
17 thousand dollars a ton. And we probably, last
18 count, have something a little over 22 hundred or
19 is it 22 thousand tons of credits, both NOx and
20 VOC. So people have used the incentive to
21 generate reductions above and beyond their permit
22 levels to generate. We intend to utilize those
23 same market forces to advance the voluntary
24 greenhouse gas action plan. In a non-regulatory
25 approach, the GHG action plan sets a 3.5 percent

1 reduction over 1990 levels by the year 2005. We
2 expect to achieve these reductions through what
3 we have termed no regrets options. These options
4 we believe are doable and will be cost effective
5 as well as economically beneficial. Another
6 market force at DEP is a program to promote
7 environmental technologies. The basis for the
8 program is documented through verification by a
9 third party independent entity, the New Jersey
10 Corporation for Advanced Technology. NJDEP
11 certifies the overall performance of a technology
12 to meet the highest environmental standards and
13 minimize any impacts to the environment. With
14 the verification of the performance of
15 technologies to do better than the standards, we
16 will still work within the state and through
17 interstate reciprocity to breakdown regulatory
18 barriers to promote and apply these cleaner
19 technologies. I hope that many of you have the
20 environmental expo on your agendas, you'll see
21 some of these technologies at the expo. And
22 that's April 20 and 21 at the convention center
23 in Atlantic City. I think at this point there's
24 about 85 vendors supplying various types of
25 technologies. You can see from the slide that

1 was up there a minute ago our basic distribution
2 of sources of emission reduction is pretty well
3 distributed among the six generations of green
4 house gases. And transportation certainly plays
5 a big part of automobiles and fuels. Government
6 has its own impacts and we put the municipal
7 waste category under government. We have a lot
8 of landfills that generate a lot of CO2 methane
9 and VOC's, and we've targeted them as part of our
10 inventory reduction for not only leachate
11 collection and capping and methane gas
12 utilization as well. Agriculture land use, the
13 industrial commercial sites, retail manufacturing
14 and certainly the residential has a major impact
15 as well. So we've distributed the impact I think
16 pretty well in what we call no regret
17 strategies. New Jersey's action plan, which was
18 one in the same with the greenhouse gas program,
19 we look at CO2 as an umbrella pollutant. It
20 impact toxics, as well as our clean air act
21 pollutant. We're in the process of refining or
22 base line inventory and our emissions data and
23 this is a lot of good work. The fellow putting
24 the slides on the screen, Mike Linka, he works
25 under our science and research division. And I

1 tell you there's a lot of people who are putting
2 a lot of work into this effort and what we can
3 get in reductions through an effective greenhouse
4 gas program. Again our target is three and a
5 half percent below the 1990 levels by 2005.
6 That's sort of a mid-course level in regard to
7 the international discussion that's going on.
8 The first thing we have to do is get control of
9 our increase of emissions, and the second thing
10 is get reductions. And we think 2005 is a
11 reasonable mid point force to review our programs
12 and our strategies and see how we're doing.
13 Again it is a no regrets reduction strategy, and
14 I guess the definition of no regrets, if we're
15 wrong about the science of global climate change,
16 and we try to stay out of discussions about the
17 science, because we think there's energy
18 efficiency really drives this program and adding
19 a technology component and a recycling component
20 to reach our goals supporting those
21 technologies. I think that's particularly unique
22 to New Jersey. Once in a while I forget that New
23 Jersey has a reputation of being the invention
24 state, and I think this program really challenges
25 that reputation. Again, the innovative

1 technology business, we're going to see something
2 very quickly in Atlantic City. We've got, the
3 last count, 27 states and at least four foreign
4 countries attending that event. And we think
5 you'll see some of the cutting edge technologies
6 that we think are a logical part of this
7 program. And of course outreach and educational
8 programs is the key part of any strategy to
9 reduce emissions, and that's something we're
10 going to spend a lot more time on. The
11 marketplace forces of emissions trading programs
12 and our innovative technology program can be
13 coupled with portfolio standards. The renewable
14 energy technologies created by the deregulation
15 law are a double savings for air quality. By
16 promoting renewable energy technologies we get
17 collateral benefits for emissions reductions in
18 all sectors of our economy. Simply put, CO2,
19 NOx, SO2, hazardous air pollutants and discharges
20 are products of inefficient production of energy.

21 We can no longer afford to dump waste products
22 up the stack without extracting their full energy
23 value. We can no longer afford to pass along the
24 costs of that inefficiency on to someone else.
25 Let's quickly overview each of these components.

1 Environmental Disclosure, Environmental
2 disclosure is a key outreach and education
3 measure. All consumers of electricity in New
4 Jersey will receive standardized information to
5 allow them to compare and purchase electricity
6 just like any other commodity. Included in this
7 will be information on the environmental impacts
8 of the energy being offered, so consumers may
9 take the environmental information into
10 consideration when choosing their power supplier.

11 Environmental Disclosure Label, a standardized
12 label will include information on: Fuel mix,
13 renewable energy sources; the air emissions of
14 the generating unite, carbon dioxide, oxides of
15 nitrogen, and sulfur dioxide, as reported and
16 verified by each electricity suppliers; the
17 retirement of emission credits and the avoided
18 emissions from energy conservation or energy
19 efficiency projects. You can see how the market
20 forces of NJDEP's Green House Gas Action Plan and
21 OMET tie into deregulation labeling. They are
22 one and the same. The electric suppliers may
23 split up their energy portfolio of power supply
24 to produce energy products with different
25 environmental characteristics and market them

1 independently. Low emission products can be
2 thought of as Green Power. To qualify as Green
3 Power product, emissions of all the listed air
4 pollutants would be labeled below a benchmark
5 level. I'll get to benchmarks later. One of the
6 key points in the legislative mandate to prevent
7 adverse environmental impacts is the flexibility
8 built into the law to potentially add any other
9 air pollutant. Both the BPU and DEP must make a
10 finding of need and establish the availability of
11 data in order to proceed. Renewable portfolio
12 standards, let's turn to the second major
13 component of legislation, renewable portfolio
14 standards. The overhead shows the current fuel
15 mix percentage for the Pennsylvania, New Jersey,
16 Maryland control area. Note the high percentage
17 of nuclear fuel usage, 34 percent, and the even
18 higher coal, 45 percent, usage. Oil, gas,
19 hydroelectric, and waste to energy, or methane to
20 energy, the remainder. Over the next 25 years,
21 the decommissioning of nuclear power plants may
22 result in a shift, upward in emissions associated
23 with power generation. If that replacement
24 energy is coal-fired plants, from predominately
25 out-of-state facilities upwind of New Jersey, our

1 baseline air quality could be negatively
2 impacted. That is why the OTAG recommendation by
3 the state's and EPA's SIP Call is so critical to
4 New Jersey. Natural gas will also play a
5 significant role with 3100 megawatts already in
6 the permitting process and another 1500 megawatts
7 on the way. I believe this is good news for New
8 Jersey air quality. Still, other alternatives
9 are needed to ensure that the power brought on
10 line is clean power. That's why the Renewable
11 Portfolio Standard is so important. There are
12 incentives in the law to encourage development
13 and implementation of clean, renewable energy
14 sources. The incentives include funding projects
15 through a societal benefit charge. Currently,
16 the BPU, in consultation with the DEP, is
17 undertaking a comprehensive resource analysis to
18 determine the incentive funding levels for Class
19 1 renewables and energy efficiency programs. The
20 goal of this analysis is to insure that we
21 encourage the most effective strategies for
22 obtaining clean power. The law establishes two
23 classes of renewable, and these definitions allow
24 us to align with other states such as
25 Massachusetts and Connecticut. Class 2

1 renewables are currently economically available,
2 while class 1 renewable will, in some cases,
3 require assistance to be fully commercialized.
4 This funding for assistance to fully
5 commercialize class 1 renewable technologies
6 starts at 25 percent of the current Demand Side
7 Management funding and will increase over time to
8 up to 140 million dollars per year. There is no
9 funding assistance for class 2 renewables. The
10 renewable energy portfolio standards for class 1
11 and 2 technologies as provided by law reflects
12 the backloading of the more technological
13 challenging class 1 renewables. The standards
14 for class 1 renewables will increase at 0.5
15 percent in 2001 and increase to 4 percent in
16 2012. Assuming energy demand will increase at
17 the current rate in New Jersey, renewable energy
18 will provide 800 megawatts of power by 2012.
19 This is comparable to the total megawatts
20 provided in both Massachusetts and Connecticut
21 deregulation bills, although the actual
22 percentages are different. This funding
23 assistance should help energy suppliers meet the
24 renewable energy portfolio standards. Another
25 incentive, known as net metering, will allow

1 small residential and commercial customers who
2 generate electricity, using wind or solar power
3 for their homes and small businesses to reverse
4 energy to the power grid and to be paid for this
5 generation. Emission portfolio standards, the
6 third and final major environment component of
7 the law. New Jersey will be put in a challenging
8 position to attain the new 8 hour ozone public
9 health standard that has been adopted by EPA.
10 Our current attainment state implementation plan
11 shows, even after implementation of the NOx OTAG
12 SIP Call by USEPA, and the Ozone Transport
13 Commission's Phase 2 and phase 3 NOx standards,
14 that obtaining this standard will be difficult.
15 Air quality is improving, and the attainment
16 State Implementation Plan demonstrates attainment
17 with the one hour ozone standard. Our challenge
18 is to achieve the further emission reduction
19 needed to attain the 8 hour standard. As a
20 guiding principle, these emission reductions
21 would ideally be enacted by the federal
22 government on a nationwide basis or at the very
23 least, regionally. New Jersey is committed to
24 move forward with its standards in tandem with
25 its neighboring states. The new legislation

1 helps us to do so through the concept of Emission
2 Portfolio Standards. Both Massachusetts and
3 Connecticut have enacted energy deregulation laws
4 and both contain Emission Portfolio Standards.
5 We have been working with those states to develop
6 consistent principles for which regional emission
7 portfolio standards can be enacted. Indeed, the
8 required model Emission Portfolio Standard is one
9 of the options BPU has proposed for the benchmark
10 that will be used for defining Green Power for
11 environmental disclosure purposes. The overhead
12 illustrates this option, and the model emission
13 portfolio standards are compared with the current
14 PJM average. I think we must all recognize that
15 the road ahead will be a challenge for New
16 Jersey. Modifying the current fuel mix will
17 require a major commitment to new clean
18 technologies. Renewables, energy conservation
19 and innovative technologies for cleaner gas, oil,
20 yes, even coal, will require major investments
21 from all of us, government private industry, and
22 the public. I believe we are up to the challenge
23 and when all is said and done, we will enjoy
24 cleaner air and water in New Jersey and will have
25 no regrets about the commitments that we're

1 making today. Thank you very much.

2 MR. BERKOWITZ: Are there any questions
3 from the council for the commissioner, please?

4 MR. PALMER: What is the reason that
5 there's a lot more potential from that pipe shark
6 in the commercial area than there is in
7 industrial?

8 MR. SHINN: I think when we--there's more
9 potential unknown than there is known. And when
10 you go into the different areas when we try to
11 put our inventory to match the pie chart, we can
12 schedule a future session we can talk about what
13 the actual reductions. I think we're going to
14 see certain areas of the pie chart where there's
15 a lot more potential, but this concept is really
16 driven by the four elements, energy conservation,
17 innovative technology, pollution prevention,
18 recycling are the four drivers behind this
19 program. Some can be more successful than
20 others. And where the success is resulted in
21 increased reductions, could very well be the
22 commercial residential section because a lot of
23 emissions come from the two categories that you
24 saw on the chart. So if we do a good job on our
25 education program, you'll see better results in

1 those areas. It depends what kind of technology
2 emerges, what kind of by-ins we get from the
3 programs and what kind of incentives we can
4 produce to get participation. And tell the
5 public that you can make a difference in your
6 purchases, particularly in the two cycle engine
7 area, and that goes from lawn mowers to weed
8 whackers, to outward motors. There's a lot of
9 emissions in those kind of areas, how we can
10 impact those is still a little bit of a question
11 mark, but certainly they're one of the targets of
12 this program. So I agree with you. I think
13 we'll see some areas that exceed our
14 expectations, and hopefully, none that are lower
15 than our expectations, because I think we've got
16 a pretty balanced approach. And I think
17 depending how we marshal our resources, will sort
18 of determine how we are in 2035 when we look at
19 our mid course direction. But I think if we
20 arrive at our three and a half percent reduction
21 at 2005, I think getting the rest of the way will
22 be relatively downhill, if you will. I think the
23 additional three and a half percent to meet the
24 goal for 2012, we'll be in pretty good shape to
25 achieve. But the connections and the linkage to

1 both air toxics and other clean air act mandates
2 are really striking as you go through this
3 inventory and apply the technology piece. So
4 we're pretty comfortable with the program at this
5 point. It's still developing at a pretty
6 comfortable approach. Thank you all.

7 MR. BERKOWITZ: Further questions? Thank
8 you very much for your time. One request, if we
9 can have copies of your overheads, we'd
10 appreciate it very much. Our next speaker is
11 Richard Bagger, prime sponsors of the electrical
12 deregulation.

13 MR. BAGGER: Good morning. I appreciate
14 the invitation to join you at this hearing today
15 to talk about the environmental aspects of the
16 energy deregulation legislation and how it
17 impacts clean air in New Jersey from a
18 legislative perspective. Let me begin by
19 congratulating the Department of Environmental
20 Protection Commissioner Shinn for the steps that
21 have been taken to improve air quality in New
22 Jersey generally throughout the past six years
23 that I believe you've been commissioner.
24 Overall, air quality in New Jersey has been
25 improving. And in 1998, there were fewer

1 unhealthy air quality days than there were in
2 previous years. Some years we had more than 30
3 days during the year, the equivalent of a month
4 per year, when the qualities of our air in New
5 Jersey was unacceptable. Last year that number
6 was greatly reduced and our state met air quality
7 health standards throughout 1998 for four of the
8 six major air pollutants, the two exceptions
9 being ozone and total suspended particulates, but
10 the record shows progress as measured in the
11 quality of our air, and that is something that we
12 should be grateful for. That is the result of a
13 coordinated effort on the government and
14 industry, the air pollution from both industrial
15 sources and mobile sources has been reduced as a
16 result of more efficient manufacturing processes,
17 the removal of pollutant source materials, and
18 improved methods for removing contaminants before
19 they're released to the air. In this decade
20 we've seen significant reductions in industrial
21 emissions in New Jersey of two types of smog
22 forming pollutants, VOC's and nitrogen oxides,
23 NOx. And in addition, federally mandated acid
24 rain controls sulfur dioxide in New Jersey and
25 neighboring states. So progress has been made.

1 And progress has also been made in New Jersey as
2 a result of very strong air quality standards
3 that exist for the generation of electricity in
4 our state and they're understandable concerns
5 that exist now and existed as we were fashioning
6 the electric deregulation to make sure that the
7 progress we have made in this state in a totally
8 regulated system for the electricity was
9 maintained in a deregulated environment. That
10 posed quite a challenge for the legislature in
11 fashioning the electric deregulation
12 legislation. Whenever this issue came up, I
13 always took great pains to make sure that people
14 understood that prior to the enactment of this
15 legislation, electricity was competitive at the
16 wholesale level. The result of this legislation
17 is that electricity is competitive at the retail
18 level. The electricity used in any of our homes
19 or businesses or government offices in New
20 Jersey, may already have been generated outside
21 of New Jersey, not subject to New Jersey's air
22 quality standards. Because that power was
23 purchased in the wholesale marketplace at the
24 best wholesale rate available through the PJM
25 power pool. The change that we are making now is

1 that there will be retail choice for electricity,
2 because the same issues of so-called dirty power
3 from outside of New Jersey existed in the
4 wholesale marketplace that now we are trying to
5 confront in the retail marketplace. Commissioner
6 Shinn spoke about the provisions of bill that
7 I'll just touch on briefly, and that impact
8 environmental issues and they fall under three
9 categories; consumer disclosure, because of the
10 actual power of consumer choice at the retail
11 level will allow individuals in New Jersey to
12 shop around for clean power, something they
13 didn't have the choice to do before, when the
14 decision was being made strictly in economic
15 terms at the wholesale level and they had no
16 retail choice. The second is the authority that
17 exists under this legislation for the board of
18 public utilities to create emissions portfolio
19 standards. And the third are the mandates
20 imposed by the legislation for renewal energy,
21 and I'll discuss them each briefly. The new
22 legislation requires that everybody who sells
23 power in New Jersey, both the utilities and their
24 competitors, the competitive power suppliers,
25 will be required to disclose on their bills,

1 their contracts and their marketing materials, a
2 uniform set of environmental characteristics,
3 including fuel mixes and emissions, so that
4 individual consumers will be able to buy green
5 power if that is what they choose to do. To
6 implement this, because this is harder to do in
7 practice than it sounds, we are requiring and
8 have required the board of public utilities to
9 adopt standards in consultation with the DEP to
10 implement these disclosure requirements,
11 including a methodology for emissions disclosure
12 based on output in to our air of megawatt hour
13 and bench marks to allow consumers to perform a
14 meaningful comparison between suppliers because
15 that can prove to be quit difficult in practice,
16 and a uniform format for disclosing the
17 emissions, which is graphic in nature and easily
18 understandable. What comes to my mind is when
19 you buy a new car, there are standards for the
20 uniform reporting of miles per gallon. And I
21 hope to see a similar easy to understand and
22 uniform measure of environmental quality of the
23 energy that we're purchasing in New Jersey. And
24 we've required the BPU to implement that with the
25 assistance of the DEP is going to be very

1 important in making that happen. Second
2 environmental aspect of this legislation involves
3 emissions portfolio standards, and it's two part
4 provision. First, we have empowered the board of
5 public utilities to adopt an emissions portfolio
6 standard for all suppliers of electricity in New
7 Jersey, the utilities and their competitors.
8 They can do that now. Under the legislation, we
9 have authorized the board of public utilities, if
10 they make a finding that emissions portfolio
11 standards are necessary to either meet federal
12 clean air act, or state requirements for air
13 quality, the board is empowered to put in place
14 emission portfolio standards which will set a
15 floor in terms of environmental quality for
16 the--for all the power sold in New Jersey. The
17 second provision in the new law that relates to
18 an emissions portfolio standard is a provision
19 that we borrowed from the Connecticut legislation
20 to deregulate electricity, and that is to
21 encourage regional emissions portfolio
22 standards. Now, our energy region includes
23 Pennsylvania, New Jersey and Maryland, the PJM
24 pool. So this legislation has a requirement that
25 if Maryland and Pennsylvania move to have an

1 emissions portfolio standard, then New Jersey
2 must create an emissions portfolio standard so
3 that we have a regional standard for clean
4 power. At potential shortcoming of this
5 provision, and any good sponsor will recognize
6 the shortcomings as well as the other
7 provisions. Pennsylvania probably is not
8 terribly incentivized to create an emissions
9 portfolio standard, because Pennsylvania is a
10 state in which some of the electricity that is
11 generated would not meet those standards. So it
12 is probably not likely that Pennsylvania, New
13 Jersey and Maryland will create a regional
14 emissions portfolio standard. Which, as I'll
15 mention, I think we need to look for stronger
16 federal action to push those states that don't
17 have a strong incentive to raise their standards
18 to have the federal government move states toward
19 a higher standard. The third provision in the
20 legislation that addresses the environment is the
21 renewable energy requirement. And I thought it
22 was a sensible approach in the legislation to
23 separate different forms of renewable energy into
24 class one or class two. Class one is the classic
25 renewable energy sources, the solar, I'll call

1 those the pure renewable energy, and those enjoy
2 a favored status under the legislation. And, in
3 fact, the renewable energy from those sources is
4 required to increase by half a percent each year
5 through the year 2,000--excuse me one percent of
6 our energy by the year 2,006. Class two is hydro
7 power and also waste to energy. And that class
8 two, while it's not pure renewable energy, does
9 give a somewhat favored status to the electricity
10 generated by resource recovery facilities in New
11 Jersey, which we're, after all, essentially
12 mandated by the State of New Jersey and the
13 Department of Environmental Protection during the
14 1980s and by assuring a market for the
15 electricity generated by those resource recovery
16 facilities helps with another environmental issue
17 our state is facing and that is our solid waste,
18 crises may be too strong a word, but the response
19 of the state to the overturning of the system and
20 solid waste regulation that have been that place
21 for twenty years.

22 MR. BERKOWITZ: Three minutes Assemblyman .

23 MR. BAGGER: Okay. The last provision of
24 the legislation that pertains to environmental
25 quality is maintaining current funding for energy

1 efficient programs and requiring that of that
2 existing funding at least 50 percent be dedicated
3 to new energy efficiently and renewable energy
4 programs. Right now New Jersey residents make
5 the highest per capita commitment to clean
6 energy, any consumers in the country we have the
7 highest per capita charges on our bills for clean
8 power. And this legislation continues those
9 investments at current levels. There were those
10 who asked us to increase the level of commitment
11 in rate payers bills to clean energy, but a part
12 of our effort here was to lower the cost of
13 energy in New Jersey. So we simply maintained
14 the commitment at current levels, which, after
15 all, is the highest level and is about three
16 times the per capita in the state of California,
17 which is the second highest investment of any
18 state in the nation. Let me just conclude by
19 endorsing a call for stronger federal standards
20 in this area. We have very high standards in New
21 Jersey, many of the generation plants in other
22 parts of the country are old and fueled by coal,
23 would not satisfy New Jersey requirements,
24 anywhere close to New Jersey air quality
25 requirements, but yet we already are faced with

1 the environmental problems from those plants
2 because the pollutants are carried into our
3 state. With the national movement towards
4 deregulation of electricity, it's more important
5 than ever that the federal government requires
6 standards that match New Jersey's demanding air
7 quality standards, and that they be national
8 standards. I know the New Jersey DEP and
9 Governor Whitman advocated stronger federal
10 standards at the national level. This passed
11 September the environmental protection agency
12 issued an order which controls midwest power
13 plants. That's an important, very significant
14 step in the right direction. And we just need to
15 if continue to be vigilant in persuading the
16 federal government to make a clean air standards
17 for all states that meets New Jersey's existing
18 high standards for air quality. Thank you very
19 much for the opportunity to speak this morning.

20 MR. BERKOWITZ: Any questions from the
21 council?

22 MR. MANGANELLI: I have one.

23 MR. BERKOWITZ: Dr. Manganelli.

24 MR. MANGANELLI: I gather in the bill that
25 a municipality can pull together the energy

1 requirements of the town and it seems trying to
2 get better prices, as well as, I just read
3 recently, that some school districts also intend
4 to do this. I was wondering whether there was
5 conflict of that. And the second part of my
6 question is, you also have in your bill about
7 public education program, I'd like to hear a
8 little bit about how that's going to work.

9 MR. BAGGER: Those are two different
10 issues. The first is demand side aggregation,
11 the legislation permits, essentially any
12 association or government entity to be an
13 aggregator, to pool together voluntarily groups
14 of consumers to get the buying power and the free
15 market of a large consumer. So the aggregator
16 could be a municipality for its own facilities
17 and for participating residents in the
18 community. It could be, for example, the New
19 Jersey school boards association on behalf of all
20 public school districts in New Jersey. It could
21 be a business association on behalf of all the
22 member businesses and industries. It could be
23 conceivably an association of individuals like
24 the AARP on behalf of a group of individual
25 residents. We have created a system where we may

1 have multiple aggregators continuing to sign
2 people up to be in a power pool to get a
3 favorable rate, which I think is one of the very
4 advantageous provisions. The second thing you
5 mentioned is a program that is required of public
6 education because this is a significant change in
7 how all of us have interacted with our utility
8 and how all of us have thought about
9 electricity. So we have directed the board of
10 public utilities to undertake a consumer
11 education program in order to prepare all of us
12 for a competitive environment that is going to
13 begin this August.

14 MR. BERKOWITZ: Any other questions from
15 the council? If not thank you very much for all
16 your efforts and thank you for being here today.

17 MR. BERKOWITZ: We'll skip over
18 Assemblywoman Murphy. John Wisnewski.

19 MR. WISNEWSKI: Thank you. I'd like to
20 first thank you and the council for the
21 opportunity to appear here today and at least
22 make my views known on the impact that energy
23 restructuring, and that's what it really was
24 restructuring, not deregulation has on our state
25 and its environmental quality. It's unfortunate

1 that when we looked at restructuring,
2 deregulation, whatever you'd like to call it,
3 that it was looked solely as a means of reducing
4 electrical rates for the people of the state.
5 And a lot of other implications of restructuring
6 were not even primarily considered in the passage
7 of the bill. And in saying that, I do not want
8 to take away from Warren Pune, in any way, the
9 hard work that my colleagues like Rich Bagger,
10 Paul D'Catano, Carol Murphy and a whole host of
11 other member of the assembly had in putting
12 together the energy deregulation restructuring
13 bill, because it was a mammoth task. And
14 invariably, in a project of that size, all of the
15 aspects that should be considered probably
16 aren't. And I, as one member of the assembly,
17 along with many of my colleagues, had urged that
18 the legislature take a much slower approach to
19 restructuring so that many of what the, may
20 become unforeseen issues of restructuring, could
21 have adequately been addressed prior to final
22 adoption of that legislation. Certainly the one
23 issue that brings us here today is the impact
24 that restructuring has on air quality,
25 environmental quality in this state. And

1 although the prospects of cheaper power is
2 something that the industrial, the commercial,
3 the business community of this state welcomes, it
4 is something that the environmental community has
5 often held in perhaps somewhat disbelief that we
6 could have cheaper power and at least a status
7 quo in terms of our environment. The whole
8 notion that we can open up or markets to
9 competition for electricity presupposes one very
10 important fact, that there is cheaper power else
11 where that can be purchased and transmitted to
12 this state. Indeed, if that weren't the case,
13 there would have really been no compelling
14 argument to deregulate, to restructure the
15 markets, because it wouldn't have provided any
16 economic good, it would have just simply been an
17 act of legislatures changing the periods and the
18 commas in the law but not providing anything.
19 The issue was driven by the fact that there was
20 cheap power. That cheap power does not come from
21 New Jersey, it comes from out of state. The
22 cheap power coming from out of state is generally
23 generated with far dirtier standards than we have
24 here in New Jersey. Thus, the question that is
25 raised by many critics of the legislation is that

1 in trading off cheaper power, are we there by
2 giving up environmental quality that so many
3 people have worked for in this state for several
4 decades? And the answer has to be invariably,
5 yes, that one of the consequences of this will be
6 that by making New Jersey the destination market
7 for dirty power for the midwest, we are going to
8 be adding to the NOx and VOC's in the air that we
9 try to keep out. Now in the legislative debate,
10 we tried, members in my caucus tried to sponsor
11 legislation that would have done a couple of
12 things. Certainly would have required labeling
13 of the power, that was done, you have to know
14 what components your power has. We also wanted
15 to provide an economic disincentive so that dirty
16 power from out of state was no more economically
17 advantageous than clean power within the state.
18 Unfortunately, it had that dirty word attached to
19 it, tax. The members of my caucus and myself and
20 a whole host of other members proposed that dirty
21 out-of-state power should have a higher tax
22 imposed on it so that we can at least put that
23 power on an equal footing with instate power. It
24 would have the purpose of doing a couple of
25 things, providing an economic disincentive for

1 that dirty power. But also, putting the New
2 Jersey producers on an equal footing. Certainly,
3 if you can buy power out of state at ten, twenty
4 or thirty percent cheaper than you can get it
5 instate, instate producers are going to be at a
6 disadvantage from those out-of-state producers.
7 And ultimately, if you take those scenarios and
8 play them out, we will be losing business
9 instate for out-of-state interest. That did not
10 happen. But I think we need to look at ways of
11 making that happen. Certainly, it is true that
12 no matter what we do in New Jersey, those plants
13 will continue to exist. But somebody has to take
14 the first step. And there is a notion out there
15 that if we propose legislation, that if several
16 states were to take the step to do this
17 simultaneously, we would achieve the end of
18 limiting the amount of dirty power. The problem
19 is, is that everybody has a you go first
20 attitude. So New Jersey will say to New York,
21 that's a great idea, you go first, we'll follow,
22 and Pennsylvania, and ultimately it doesn't
23 happen. Somebody has to be the leader. New
24 Jersey, for the last several decades, has been a
25 leader in the northeast on environmental quality

1 and environmental standards. I would argue that
2 we should continue to stick by that, and I know
3 that while it may, in the short run, produce some
4 greater costs--or I shouldn't even say that. In
5 the short run it would eliminate some of the
6 savings that people could obtain through
7 deregulation. In the long run, it's going to
8 provide much greater economic good because it's
9 going to not only protect our environment, but
10 it's going to place the producers in this state
11 on an equal footing with the producers out of
12 state, and that means jobs and that means
13 economic opportunity and activity. And that is
14 certainly something that was ultimately the goal
15 of the deregulation bill. Let me conclude by
16 thanking the Council once again for the
17 opportunity to be here today. I always
18 appreciate any effort to share views on this. A
19 lot of people, at the end of the day weren't
20 happy, and many people say if everybody's unhappy
21 with about a bill, it must be a pretty good
22 compromise. I think all things being equal, it's
23 better than where we started, although we have
24 much work to be done.

25 MR. BERKOWITZ: Questions from the

1 council?

2 MR. MANGANELLI: This disincentive tax that
3 you will put on, will that provide via
4 disincentive for industry commercial to come into
5 and develop here in New Jersey.

6 MR. WISNEWSKI: Well, it certainly could be
7 viewed as a disincentive to come to this state,
8 but it's not changing any of the requirements we
9 have already. So if you're company that wants to
10 build a merchant plant in New Jersey, that tax is
11 not going to effect you because if you're going
12 to locate to New Jersey, you're going to have to
13 meet all of our requirements to begin with. It
14 may, in fact, have the added benefits of helping
15 you competitively because those competitors out
16 of state that might be able to generate more
17 cheaply are going to be forced to bare some of
18 the costs that you have to bare to meet the
19 environmental standards in New Jersey. Thank you
20 Doctor, thank you.

21 MR. BERKOWITZ: Any other questions? Thank
22 you very much, Assemblyman I appreciate it.
23 There will be a lunch break. I've been informed
24 there will be a lunch break, and that will be at
25 1:00 so you can plan accordingly. Assemblywoman

1 Carol Murphy is not with us yet so we'll move
2 along to Elizabeth Murray. Is she present?
3 Chief of Staff for BPU. Is there a member from
4 BPU who wishes to present testimony?

5 (No response)

6 MR. BERKOWITZ: Is Glen Weiss in the
7 audience?

8 MR. WEISS: Yes. Good morning. I'm on a
9 little sooner than I thought. On behalf of the
10 PJM Interconnection Organization, I would like to
11 thank you for this opportunity to testify at this
12 public hearing on the New Jersey Clean Air
13 Council. PJM was founded in 1927 and has evolved
14 over seven decades as the commercial and
15 regulatory environments have changed. PJM is
16 responsible for the operation of the largest
17 centrally dispatched electric system in North
18 America. As the nation's first fully functional
19 Independent System Operator, PJM ensures the
20 delivery of electric power to over twenty-three
21 million people in Pennsylvania, New Jersey,
22 Maryland, Delaware and the District of Columbia.
23 The PJM Open Access Tariff, approved by the
24 Federal Energy Regulatory Commission, has
25 authorized the PJM Office of the Interconnection

1 to operate the bulk high voltage transmission
2 system that is owned and maintained by the PJM
3 regional transmission owners. This high voltage
4 transmission grid consists of over 8000 miles of
5 high voltage transmission circuits, which
6 interconnects generators to load centers
7 throughout the PJM service territory and to the
8 eastern half of the United States and Canada.
9 The PJM operations control center administers
10 bid-based wholesale markets, in which
11 participants buy and sell electric energy and
12 generating capacity. PJM coordinates the
13 operation of 540 generating units within the PJM
14 control area for a total of over 58,000 megawatts
15 of generating capacity. PJM's market
16 participants buy and sell electric energy from
17 the generating units located within the PJM
18 service territory and from other areas of the
19 United States and Canada. Through this continual
20 shopping for power in the hourly spot market, PJM
21 facilitates a competitive and robust energy
22 trading market. Thus, some of the energy
23 consumed by New Jersey customers may be purchased
24 from generators in other areas of the country or
25 New Jersey generation could be sold to other

1 areas of the country. Participants in the PJM
2 markets now exceed 130 members representing every
3 segment of the electric power industry.
4 Membership includes investor owned utilities,
5 independent power producers, federal power
6 marketers, transmission owners, load aggregators
7 for retail choice and other users of electric
8 power. PJM's market has become one of the most
9 liquid and active energy markets in the United
10 States. PJM is respected throughout the world as
11 a leader in the use of advanced technology to
12 support this robust and nondiscriminatory and
13 competitive energy market. The average monthly
14 purchases and sales within PJM are nearly nine
15 million-megawatt hours. A growing number of
16 these energy transactions are purchases of energy
17 from external generators and sales of energy for
18 consumption outside the PJM territory. In 1998,
19 the marketplace became increasingly deregulated,
20 making it more important for PJM to rapidly adapt
21 to changes and be responsive to the needs of the
22 marketplace. PJM maintained a competitive
23 environment that offered an efficient energy
24 pricing model and equal opportunity for all
25 providers regardless of size. Three of the most

1 notable achievements in 1998 were: 1, initiating
2 the nation's first location specific energy
3 pricing system called Locational Marginal Pricing
4 better known as LMP that allocates transmission
5 congestion costs fairly among all transmission
6 customers. Two, facilitating Pennsylvania's
7 Retail Choice program, which helped the end user
8 customers select their electric providers.
9 Three, developing a Visible Capacity Market to
10 give retail choice providers of all sizes greater
11 flexibility in meeting generation capacity
12 requirements to serve their load
13 responsibilities. Expanding on a yearlong
14 customer choice pilot program, most of
15 Pennsylvania's end users gained the right to
16 select their electricity providers as of January
17 1, 1999. This choice included at least--in my
18 notes I have at least one, but it's three,
19 providers of green power. These developments had
20 significant implications for the electric power
21 industry. The PJM Office staff worked closely
22 with members and regulators to facilitate
23 implementation by: One, providing transmission
24 and market access for new companies, enabling
25 smaller utilities to acquire adequate capacity to

1 compete. We track dynamic shifts in service
2 responsibilities as consumers exercised their
3 choice to select electric suppliers. And finally
4 we accommodate the needs and views of a rapidly
5 expanding list of PJM members, which included
6 establishment of the End-Use Customer voting
7 sector representation. I hope it's clear from my
8 statements that PJM Independent system operator
9 is about choices. The PJM energy market in the
10 last two years has undergone many changes to
11 allow participant choices for energy transactions
12 on both wholesale and retail basis. How will
13 deregulation change New Jersey's energy mix?
14 Question one in the program. The answer lies in
15 the choices that are available to the end users.
16 In the coming year, PJM, in collaboration with
17 state regulators and market participants, will
18 continue to develop innovative solutions to meet
19 upcoming challenges including the introduction of
20 Retail Choice in New Jersey, Delaware, Maryland,
21 and parts of Virginia. Thank you again for this
22 opportunity.

23 MR. BERKOWITZ: Thank you. Questions?

24 MR. ZONIS: Mr. Weiss, I think that the PJM
25 Interconnection does a marvelous job of meeting

1 what it's considered to be. But I also think you
2 don't have anything whatsoever to do with the
3 subject of this hearing, because PJM provides
4 economic dispatch, and I don't think you pay any
5 attention whatsoever to the environmental
6 consequences of the movement of one megawatt hour
7 of power. Certainly, you're necessary so that
8 providers of green power or relatively high
9 quality power can be made available to the high
10 voltage grid that you supplied. But is there
11 anyway for PJM to assist in the subject of this
12 hearing? How can you have a positive impact with
13 respect to the electric utility deregulation on
14 New Jersey's environment? Because it seems to me
15 I am failing to hear any contribution that PJM is
16 making to the basic problem. That you're helping
17 to transport power, no question, I think that's
18 fine and that's a necessary part of it. But the
19 consumer in New Jersey is not going to be any
20 better off. And considering the 540 generating
21 stations that you called upon, how is that going
22 to help those of us who are consumers here in New
23 Jersey make the choice that we might care to
24 make?

25 MR. WEISS: Excellent question. Part of a

1 successful retail implementation, I guess in any
2 state, you have to have an infrastructure on the
3 wholesale basis, I think PJM has demonstrated
4 that we have that. And in Pennsylvania, when
5 Pennsylvania came to us and initiated their
6 retail choice program, it made it much easier for
7 them to have choices for their end users to
8 supply electricity. One of the things that PJM
9 did do as far as giving choices to end users, and
10 one of those choices is to select clean power, is
11 to provide a mechanism of doing that. As far as
12 New Jersey goes, there is an initiative right now
13 with the New Jersey BPU. They've come to us and
14 asked if PJM can help become the administrator
15 for tracking generation resource and the amount
16 of pollutants that they put out. We're working
17 with the BPU on that effort. We could possibly
18 become an administrator if the agreements works
19 out for us.

20 MR. ZONIS: That's hopeful. Thank you.

21 MR. MAXWELL: Could you elaborate just a
22 little bit, how would you follow a kilowatt or a
23 watt?

24 MR. WEISS: That's a very difficult thing
25 to do, and that's part of the agreement. The

1 question he had is how do you track a red
2 megawatt and a green megawatt, and that's a very
3 difficult task to do. So we're putting together
4 some information right now which was a proposal
5 put before the BPU, I believe just several weeks
6 ago, to try to come up with a plan on how to do
7 that. All the answers are not known, it's very
8 difficult thing to do. I want to mention one
9 thing, a lot of information here I've heard them
10 say that power's always being bought from the
11 midwest. Now that is not necessarily true last
12 summer, we saw a tremendous amount of power on
13 the PJM system being sold to the midwest. In
14 years gone by we saw generations coming in from
15 the midwest. As markets deregulated, there was
16 huge price spikes in the midwest. A lot of PJM
17 generation was there, now one could argue that
18 generation is still returning no matter where the
19 megawatts go, the power plants are producing
20 electricity, and they have smokestacks and the
21 wind carries. We're there as a facilitator for
22 the marketplace and anything we can do we would
23 like to work with the commissions or our member
24 participants.

25 MR. BERKOWITZ: Any questions? Thank you,

1 Mr. Weiss, I appreciate your taking your time. I
2 understand Assemblywoman Murphy is here.

3 MS. MURPHY: I've not done this before so
4 you will have to bare with me if I seem to be a
5 little nervous, because I am. And I think what
6 I'm nervous about is the fact that one of the
7 questions you just asked the gentleman from PJM,
8 relative to what happens in other parts of the
9 United States, what other facilities are burning
10 what to develop energy for their constituencies.
11 We have some control over things like that, but
12 we don't have any real control. We can not stop
13 the air. We can not stop the winds, and we
14 certainly cannot stop the economy in any state in
15 which coal development, coal mining and coal
16 burning is an economic benefit for the people who
17 live there. And I would defy anyone to really
18 say that the State of New Jersey is going to pay
19 the salaries for all the people that would be put
20 out of work or would pay the federal government
21 to support all of these families who would be
22 impoverished, or even would expect us to find
23 other jobs, other employment for these people.
24 So I think in the sense of reality, what this
25 bill does is the very best thing it could do,

1 this bill encourages other companies, other
2 persons, other concepts to develop means of
3 supplying the energy that we need. This bill
4 also requires that this state support those kinds
5 of systems and those kinds of green power
6 producers that will come along. Does it say that
7 we will throw out the baby with the bath water
8 and we will say to the people of New Jersey we
9 have freed you from high prices only to make them
10 higher? Of course not. We're here to encourage
11 business, to encourage economy to develop the
12 concepts of new strategies and new ideas and I
13 think the bill does all of that very well. The
14 emissions portfolio is quite clear. The concepts
15 are laid out very concisely. We have also spoken
16 very clearly about the kind of things that we
17 would want to see and the fact that we expect
18 people to disclose these things to us so that the
19 consumers, customers can make very well guided
20 choices. But they need to be choices people can
21 afford to make, so is the consequence there isn't
22 any put aside to encourage the development of new
23 ways of finding our energy and replacing our
24 energy needs by other means. I don't think that
25 this bill is exclusive in anyway. It is not a

1 bill that went after negative. It's a bill that
2 has gone to positively, positively encourage and
3 support better air in the State of New Jersey.
4 Will it happen overnight? I would defy anyone to
5 say we're going to do that. I really don't know
6 how on earth you would do that, and I don't know
7 how you would measure that cleanliness. I don't
8 know what the measurement and the baseline that
9 we are looking for honestly will ever become
10 because it seems to me that man constantly
11 strives to improve whatever level we have to an
12 even higher level, and so we should. But I do
13 not think we can deny people the opportunity to
14 continue to life in finding good jobs, to using
15 their minds, to create new ideas, to strategies
16 and making them come to be while researching the
17 environment for all of us. But I do think this
18 bill with it's mythology, with its benchmarks,
19 with its kind of portfolios and controls is a
20 very good thing. So, I am delighted that you had
21 a hearing on this today. The issue of
22 deregulation, particularly of an energy industry,
23 which we all the take for granted, and which has
24 probably been the most driving force to creating
25 a movement of life, the like of which we have

1 never seen to allow the communication of ideas to
2 go from the written page that someone studied 20
3 or 30 or a hundred years later to the instant
4 communication where four or five people to move
5 forward the ideas and mistakes we made along the
6 way. I would tell you we would not be human
7 beings if we haven't, but they are mistakes we
8 can correct because we are human beings and
9 thinking people. I think the State of New Jersey
10 has gone very far in this bill. I think the
11 State of New Jersey has done some good and right
12 things. I will tell you gentlemen in all of the
13 aspects of this bill I truly think that the State
14 of New Jersey has done a better job than any
15 state before. And I think when the end of the
16 day comes that will be demonstrated here. And I
17 encourage your continued support that the
18 legislation bill has had. I will be happy to
19 answer questions.

20 MR. EGENTON: Assemblywoman, we were
21 reading an article here that mentioned a number
22 of other states attempted this, and in 1998 and
23 it withered, it didn't go anywhere. Do you know
24 any reason? I couldn't find in that article the
25 reason why it happened, what problems they faced

1 that we might face.

2 MS. MURPHY: I think one of the biggest
3 things the State of New Jersey did that no other
4 state has done was to address the tax issue. And
5 I think for New York State, particularly, when
6 they were in the middle of trying to do their
7 deregulation, setup their consumer choice or
8 customers choice, the tax issue came up and
9 everything stopped simply because they hadn't
10 looked down the line and taken the worst problem
11 first, if you will, and addressed the baseline,
12 the economic problem, before they went into the
13 deregulation. The State of New Jersey did that.
14 And I think it was one of the greatest things
15 that this state could have done in the order of
16 which we did. It makes our bill totally unique
17 from any other one. Got to watch where the money
18 goes all the time.

19 MR. EGENTON: I just want to make a general
20 comment, statement, and thank you, Assemblywoman,
21 for your leadership in ushering in that
22 legislation. And thank you for being here today
23 with us.

24 MR. MANGANELLI: This council is looking
25 into this, of course. How can we be useful, what

1 kind of information should we seek as the council
2 here?

3 MS. MURPHY: I think in terms of
4 deregulation, because I'm, I guess, a bit of a
5 futurist, if you will. I do believe that we will
6 come to the time when our homes will be without
7 wires, without the transmission apparatus that we
8 now have today. The future for sure. I do
9 believe that we will have a lot of things taking
10 place in our state that change the whole way
11 electricity or energy comes to us in the form
12 that it does. I think that for all of you being
13 involved with clean air, that's the thing you're
14 looking at because everything you do has an
15 impact on the air that we breathe. Anything we
16 do that changes what comes from homes or the
17 emissions that come from homes, the kind of
18 things that we develop as infrastructures, these
19 are things that will change the qualities of our
20 air also. I think it's more subtle, but I
21 honestly do believe it to be quite true. I don't
22 know, beyond what you do you should be doing. I
23 think you do a very good job and I think you look
24 at things very clearly. I think you need to stay
25 apprised of the kind of developments that are

1 coming from this, they will be vast, they will be
2 great and they will change our economy and our
3 whole communications system. Once again, these
4 changes are so enormous and so fast in our world.

5 MR. BERKOWITZ: I have a question. One
6 could argue that cheaper fuel equates to dirtier
7 fuel. So if you want to drive the energy costs
8 down, what will happen is we will be selecting
9 dirtier fuel. One of the components of the
10 legislation, however, is that the public should
11 be informed as to the consequences of their
12 action. What do you see the legislature's role
13 in watchdogging the efforts to guarding the
14 public education system?

15 MS. MURPHY: I'm going to take issue with
16 you, one of things this bill has done is caused a
17 stale of a lot of the older generation stations
18 that were involved in this state. Deregulation
19 will come to states further west than us when the
20 impotence is there. It is the creation of new
21 means that will change what we're doing. It
22 doesn't have to be solar, it doesn't have to be
23 hydro, this kind of containment, changes what
24 happened in the air. So the question of
25 generation, the question of coal mining, people

1 going away is what saves money. Will there be
2 new system in Alaska, they have coal burning for
3 a lot of the electricity and it's quite a
4 different process than is used in this country
5 today because they are newer, newer built. So
6 technology will take the place when the
7 commercial competitive input and the competitive
8 chance is there. Then you will see the
9 technology and the different ways that people use
10 even some of the fuels we have had before.

11 MR. BERKOWITZ: So it's your premise is
12 that the public education premise is not
13 important?

14 MS. MURPHY: Oh, no.

15 MR. BERKOWITZ: So my question again is,
16 how does the legislature plan on watchdogging the
17 efforts of the public education efforts?

18 MS. MURPHY: One very small example,
19 relative to aggregation in the municipalities.
20 And I must tell you there concerns the consumer
21 education package on every single level, not just
22 one part of it, every single bit is what we're
23 concerned about. And I have placed calls how
24 soon it will be released and what type of
25 information. I believe Rich Bagger was here this

1 morning to testify. We're clearly very
2 emotionally involved in the entire issue of
3 deregulation. We wish to see it made a success.
4 Communication issues, when it was broken because
5 they didn't know which was the better choice for
6 a hundred different reasons, they didn't have the
7 education. We are committed to making sure that
8 every part of this education is there, every
9 single part, that includes the environment as
10 well as everything else.

11 MR. BERKOWITZ: Any other questions from
12 the council?

13 MR. MANGANELLI: I'd like to ask the
14 Assemblywoman, there was an article in the Ledger
15 a while back about nuclear power that's still in
16 the plans, what did you people see as you were
17 going through details of this?

18 MS. MURPHY: Probably we all saw different
19 things relative to nuclear power. Again, the
20 facility, the ground on which the facility is
21 created is quite valuable land. It brought
22 generation into areas where we will continue to
23 meet generation and the infrastructure, so they
24 are very valuable places. Nuclear power has had
25 a, certainly, a very controversial life. It does

1 not contain an emissions. 45 percent of the
2 state's energy is developed from nuclear power.
3 Do we say to people go without because we don't
4 want to use the nuclear facilities anymore? I
5 think, again, you have to try the marketplace on
6 these. Quite often we are prognosticating before
7 we have definition, a very scary place to be, but
8 a very exciting time. So the balance is always
9 fascinating. Thank you.

10 MR. BERKOWITZ: Thank you very much. Hal
11 Bozarth.

12 MR. BOZARTH: Good morning, Dr. Berkowitz
13 and members of the Clean Air Council. I
14 appreciate the opportunity to do this. If I can
15 figure out how this works, I'd be much better
16 off. I'm here today in a dual capacity, one as
17 the executive director of the New Jersey Chemical
18 Industry Council, comprised of folks that you all
19 probably can guess who they would be. Dr. Zonis
20 could probably guess who they are. And secondly,
21 as the spokesperson for the Coalition of
22 Competitive Energy, which was one of the primary
23 movers and shakers, if you will, in the
24 just-finished deregulation battle that the
25 assembly people talked so eloquently about. And

1 Assemblywoman Murphy was an amazing asset for
2 everyone in the process to have. She not only
3 has a dynamic personality, but she see really can
4 crystallize points extraordinarily well. I was
5 very impressed with what she just did. She made
6 a couple of points that all I want to do is
7 underline. And that is the benefits of an open
8 competitive marketplace directly related to what
9 you will and we all are about, and that's clean
10 air and environment. But first, why all of a
11 sudden was there a push to free up monopoly
12 systems that have been in place for almost a
13 hundred years? Here's the answer. My friend in
14 public service loves this chart. The states in
15 red are all states with lower prices for energy
16 than New Jersey. The state in yellow is New
17 Jersey. It has rates on average 50 percent above
18 the national average. That's why we went through
19 deregulation. It was clear that one of the
20 competitive pressure points for business in New
21 Jersey was the high price of energy. And so
22 deregulation had at its core the primary function
23 of lowering the cost of this exorbitantly high
24 energy. But there was another benefit to it in
25 an open competitive marketplace, you have to

1 remember, this marketplace had been similar to
2 those in Russia and Eastern Europe, closed for a
3 hundred years. No innovations other than the
4 attempted nuclear, no innovations in billing, no
5 innovations in environment improvement. In fact,
6 if you look at the air inventory for our coal
7 fired plants here in New Jersey, you all in the
8 Clean Air Council would be shocked to find out
9 that they are probably as bad as, if not worse,
10 than our bad friends in the midwest that we cry
11 that that their air will be coming over to New
12 Jersey. So that's something that I think is
13 going to change because of the open competitive
14 marketplace. A couple of facts, 89 percent of
15 the midwest coal fired plants now are capacity
16 full, 89 percent. With the addition of
17 deregulation in New York, Massachusetts,
18 Pennsylvania, New Jersey, Maryland, just Delaware
19 three weeks ago, any additional capacity that's
20 going to be utilized in the midwest coal fire
21 plant is going to be taken up by people in the
22 marketplace now, not New Jersey. And guess
23 where, if that air is dirty, it's going to go?
24 It's going to come this way. So the worst case
25 scenario, from my point of view, is to not get

1 any regret of these exorbitantly high rates and
2 still after that air, whatever it is, coming in
3 to New Jersey. To me that's a lose/lose
4 situation. You're stuck with your monopoly
5 supplier's charging you the seventh higher rates
6 in the country and the air is not getting any
7 getting any better. Optimistically, here's what
8 a free market will did. We've already seen
9 independent power producers being encouraged in
10 New Jersey, and we know that their technology is
11 at least 20 to 30 percent times better than the
12 existing technology of the monopoly suppliers
13 here in New Jersey. That means if you all did
14 nothing but encourage the existing independent
15 power producers in New Jersey to expand their
16 operations, we can clean New Jersey's air.
17 Here's another thing that you should know, all
18 sorts or new technologies are coming forward
19 Allied Single has something called a turbo
20 generator. It's about the size of up to about
21 here and maybe six or eight feet in. And because
22 of its new technology, it can supply a
23 supermarket, a hospital, take them right off the
24 grid from all those coal fired plants in the
25 midwest, do it cheaper and do it extraordinarily

1 cleaner. That's what Mrs. Murphy was talking
2 about, about what happens with new technology
3 when marketplaces are open, good things begin to
4 happen. And one of the benefits here is the good
5 things are going to happen to the environment,
6 because we'll get away from the old coal fire
7 plants that New Jersey is so fond of calling
8 their own. If you came in on 129 today and you
9 looked left, you saw a stack about 200, 300 feet
10 tall. And if you were unlucky today, you saw the
11 emissions from that stack and it was red,
12 reddish/brown, I come that way every morning,
13 it's a coal fire public service plan. If you
14 compare all the existing instate utility
15 emissions to all the emissions instate to
16 chemical companies, which one do you think is
17 larger? It's not the chemical companies. So if
18 we encourage new technology, and if we encourage
19 the divestiture of these polluting coal fire
20 plants here in New Jersey, we can make an
21 immediate improvement in the air. Dr. Manganelli
22 asked what could the Clean Air Council do in
23 order to help, and I have a couple of specific
24 suggestions, I know my time is running short.
25 Number one, for safety idea of imposing a tax.

1 Taxes are regressive ways to change behavior that
2 never really works. If you watched your history
3 anywhere in New Jersey, you'll see, number one,
4 people don't like taxes. Number two, they really
5 don't change behavior. So I don't think that's a
6 solution to the air problem as you all are afraid
7 that exists. Second thing you can do is embrace
8 the open market situation, the utility
9 deregulation, write a letter to Herb Tate in the
10 board of public utilities, and demand that the
11 marketplace that they're now in charge of is open
12 as far as it can possibly be. Demand number two,
13 that utilities be forced to invest their coal
14 fire polluting assets here in the State of New
15 Jersey. And three, demand that the shopping
16 credit, which is in the bill, be allowed to be
17 expanded, which they have the authority to do, so
18 that we all can shop for somebody else's power.
19 The bill calls for, after three years, a ten
20 percent reduction in New Jersey rates.
21 Hallelujah, isn't that wonderful. Remember we're
22 50 percent above the national average. Ten
23 percent is good, but remember what our goal is.
24 If the shopping credit is large enough, we'll be
25 able to buy power from a whole bunch of different

1 sources. So the benefit for us, financially,
2 could be significantly more than ten percent,
3 that's really good. Here's the next thing you
4 can do. You can make sure that the Board of
5 Public Utilities does everything in its power to
6 oppose what the legislation gives them authority
7 to do, and that is to put something in place
8 called execute. My friends in the monopoly
9 supplier community during the legislative debate
10 said, oh, we can't have all our customers leave
11 because if we give them a real open marketplace,
12 guess who they wouldn't be buying their energy
13 from and so the utility said to keep them in so
14 we don't lose our customers, we have to have an
15 ability to apply an exit fee, so that anybody
16 that leaves our system has to pay us a charge
17 because after all we built these coal fire
18 polluting plants. So I think the legislation is
19 worded in a way that no exit fees are an
20 immediate threat, I think you should write to the
21 board and say, never ever impose an exit fee.
22 Because if you impose an exit fee, then people
23 won't leave the system, they'll be stuck with
24 their extraordinary high cost, number one. And
25 the air won't get any cleaner, number two. So

1 you don't want people stuck in the monopoly. You
2 want people to shop, give them the opportunity to
3 buy from Green Mountain Power, give them the
4 opportunity to buy from an independent power
5 producer who's now in the marketplace. Give them
6 an opportunity to put a 20 million dollar
7 cogeneration facility in their industrial plants
8 so that their rates can go down. All those
9 things will increase the quality of air in New
10 Jersey. And that's the benefit of an open
11 competitive marketplace. We're looking at the
12 world from the old paradigm, only one supplier
13 and you only buy your gas and electric from
14 public service, that is the old paradigm.
15 There's been a fundamental shift, as Mrs. Murphy
16 said. And it's more than just a quick little
17 shift like most legislations, this is cataclysmic
18 in the way the world will look five years from
19 now. You will have the choice of buying your
20 energy from whoever you want. You'll be able to
21 shop on price, environmental cleanliness, as long
22 as we make sure there's truth in advertising. Or
23 you can stay with your monopoly supplier because
24 you like the color of their trucks or whatever
25 your reason might be to pay 50 percent above the

1 national average. If you want to do that, that's
2 certainly your right in America. But you ought
3 to embrace the content of an open marketplace and
4 the ability to shop and do the right thing for
5 the environment. Thank you very much.

6 MR. BERKOWITZ: Dr. Manganelli.

7 MR. MANGANELLI: I like your map.

8 MR. BOZARTH: Thank you. We had a lot of
9 success with it in the legislature.

10 MR. MANGANELLI: I see there's a yellow one
11 and a white one, too.

12 MR. BOZARTH: Yes.

13 MR. MANGANELLI: But why does New Jersey
14 have this higher rate for energy than anybody
15 else?

16 MR. BOZARTH: That was a question we
17 continually asked in the legislative process, and
18 the answers were pretty much as follows, the
19 devil made me do it, charge higher prices. We're
20 paying too much for societal benefits that are
21 included in our costs, and there's truth to
22 that. And we just can't do it any cheaper. One
23 of the problems of the high price of electricity
24 in New Jersey in the last couple of years has
25 been, quite frankly, that the folks who run the

1 nuclear plants can't get them to run on the
2 average fifty percent of the time, so they have
3 to buy replacements power for that. So the cost
4 of operation--you have to remember, in a monopoly
5 situation, it's not like a chemical or a
6 pharmaceutical company, people aren't worried
7 about the marketplace, their customers never
8 leave. So consequently, our prices in New Jersey
9 have soared expeditiously. Given the fact that
10 nuclear plants don't seem to be able to run right
11 all the time, that's another hump, plus we put a
12 lot of taxes and I'll certainly admit to that.
13 But it's clear that our neighboring states have
14 significantly lower rates and they're moving to a
15 deregulated energy economy, so their rates are
16 going to go down. This is an old map, New York
17 is now down below nine cents rather than eleven
18 cents. Pennsylvania and Delaware are now
19 significantly lower. So from an economic stand
20 point, we're losing the battle for competition
21 for jobs because energy is such a large part of
22 the component of most manufacturing jobs. All of
23 you are aware that in order to have a vibrant
24 economy, somebody's got to make something. You
25 have to add value to a product to make wealth.

1 You can't just service something that's not
2 there. So in order to keep New Jersey's economy
3 vibrant, I submit you must make sure it's people
4 who make things, want to stay here, rather than
5 go to one of these other 49 places where it's
6 cheaper. Constant tug and pull but, Dr.
7 Manganelli, that's basically the point. The open
8 marketplace never existed for these monopolies so
9 there's never been any push on price. Every rate
10 increase ever requested by any utility in the
11 State of New Jersey for the last hundred years,
12 every single one, has been approved. There has
13 never been a rate increase denied, that I'm aware
14 of. There may have been a reason in 1911 to have
15 a monopoly situation for energy supply, and I'm
16 sure back then Tom Edison and the boys knew what
17 though were doing, but that's a long time ago.
18 It's time to shed this dinosaur.

19 MR. BERKOWITZ: Mr. Bozarth, you said you
20 welcome an open competitive marketplace, and let
21 people select as they may based on fair
22 advertising. What's your view on how it's going
23 to be represented?

24 MR. BOZARTH: Well, one of the things I
25 worry about is that every new supplier in the

1 State of New Jersey will say my energy's green.
2 And we've testified to the board and the
3 legislature to make sure that we have a good
4 definition, as Mrs. Murphy eluded to, about what
5 green really is. If you're going to sell on
6 price, fine, if you're going to sell on green,
7 let's all decide what the fair definition of the
8 problems are. About three years ago a fellow
9 came to me from Kentucky, an energy marketer, and
10 said he can supply all 105 member companies in
11 the chemical industry council at that point of
12 time for energy industrial rate at about 2.3
13 cents a kilowatt hour, now nine cents a kilowatt
14 hour in New Jersey. I said, how in the world can
15 you do that? He said, the marketplace is vibrant
16 enough to allow me to get electrons into the
17 manufacturing plants for a hell of a lot. He
18 said something that stuck with me. He said in
19 ten years and probably before, you will go to
20 your Acme and sign up for your energy supplier as
21 you pay your bill for your groceries. I said,
22 that's crazy. He said because energy will become
23 a fungible--what's the word?

24 MR. ZONIS: Commodity.

25 MR. BOZARTH: Commodity, thank you. That

1 people will use it. If you promise to buy your
2 groceries at Acme, we'll give you your telephone
3 and electric on the side or whatever the
4 combination will be. Now, think about that, that
5 means all my friends that shop at Acme will be
6 aggregating themselves to get a lower price. Now
7 a lot of people are going to mature in their
8 thought process and they're going to say, price
9 is not the only thing around here, I want to make
10 sure that I'm not paying for more. I want Green
11 Mountain Power because I believe their ads. As
12 long as there's truth in advertising, as long as
13 they've got a good mix of energy producing things
14 to offer to people, I think that's great. That's
15 the open marketplace. Frankly, that's the
16 American way, don't just offer one thing, let
17 people choose. That's what energy deregulation
18 is all about, choice and lower prices. As long
19 as we allow the exit fees to stay in place, we're
20 not going to have those things.

21 MR. MANGANELLI: Those industries that you
22 represent, how are they facing this energy issue,
23 are they going into more conservation of
24 energy?

25 MR. BOZARTH: That's a great question. As

1 you know, because you know so many of those
2 people, they're watching every dime. They know
3 energy is, in some cases, 15 to 20 percent of
4 their operating cost. So they've looked at ways
5 to conserve. It's not a different kind of light
6 bulb that's going to save the world here. My
7 fear is that they will vote, in effect, with
8 their feet, and go to the places, Louisiana and
9 Texas, and their numbers are certainly smaller
10 and growing smaller, where they can afford to
11 operate more efficiently. What I think though,
12 what you're getting at, what else will they do,
13 they'll go to on site cogeneration, and I'll give
14 you a couple of examples of companies that did
15 it. One is General Motors. General Motors had
16 an old mill built sometime, I want to say the
17 '50's, which was clearly for electric
18 regenerating purposes, similar to a coal fire
19 plant, it was a dinosaur, lot of pollution, high
20 cost, problematic. They moved to--they wanted to
21 move on an on-site cogeneration facility in order
22 to cogenerate their electricity, both of which
23 they could use at a significantly lower cost at a
24 better hit for the environment, much lower
25 emissions. Public service, I'd hate to pick on

1 you, Jim, threatened to bring them to court to
2 say you can't leave our system with your plant in
3 Middlesex County because that would be unfair to
4 us because we would lose you as a customer
5 because you pay a lot of money. General Motors,
6 smart they are, went to the leaders of the State
7 of New Jersey and asked for help hand Mrs.
8 Whitman's administration said there shall be no
9 exit fee for the General Motors plant in Linden
10 because guess what, it was ready to be closed
11 down. General Motors folks looked at all their
12 manufacturing plants as you would hope they would
13 do around the world and found the top two highest
14 when it came to energy costs, one was in New York
15 and the other was in Linden. Well, they just
16 shut down the one in New York, and guess which
17 was now number one on the general Motors list,
18 Linden. Linden had to do something. Since it
19 couldn't shop in the open marketplace, it
20 invested in excess of 20 million dollars in new
21 on-site cogeneration facility, which benefitted
22 everybody except the stockholders of PSE&G, I
23 guess they lost a penny or two. But I didn't see
24 it from stock reports. So that's what people
25 will do, they'll either buy from independent

1 power producers that are there already in the
2 state, or they'll buy from out-of-state suppliers
3 which are cheaper, or they'll invest in on-site
4 cogeneration facilities like Princeton University
5 did two years ago. Similar story, couldn't
6 afford the higher rates of energy any more,
7 invested the most money Princeton University ever
8 invested in any capital project and put in an
9 on-site co-facility, their cost for energy went
10 significantly down, their emissions went down,
11 the air was better, tuition stayed a little
12 lower, everybody should have been happy. One guy
13 wasn't, but you know who that is.

14 MR. MANGANELLI: How do you feel that
15 public education on this problem should be
16 carried out?

17 MR. BOZARTH: I think public education
18 should be done similar to what happened in
19 Pennsylvania. Throughout, be constant on air
20 commercials about this, we now have to choose.
21 One of my disappointments was that the utilities
22 are in charge for choice here in New Jersey, and
23 the money it's going to cost, they're going to
24 bill that to us in rates, that's a shame. You
25 win one and you lose one. But the bottom line is

1 the more education the better.

2 MR. BERKOWITZ: We're going to have to move
3 on. Mr. Torpey.

4 MR. SIEBENS: Thank you and good morning.
5 My name is not Jim Torpey. I'm traveling as an
6 alias. My name is Chris Siebens. I'm the
7 manager of the regulatory problems. I manage the
8 energy efficiency programs for GPU Energy in New
9 Jersey. Jim Torpey had a death in the family,
10 could not attend. I wanted to start out by
11 congratulating the legislature on a very exciting
12 and effective birthing experience of the
13 legislation. It is, I believe, a good framework
14 for getting a lot of the initiatives and support
15 in place. But as all parents know, the birthing
16 experience is only the beginning. This morning I
17 tried to persuade my son to go to school, despite
18 a sore thought, that it's not always comfortable
19 to make a commitment to progress. But committing
20 to progress is what we have to do everyday. So
21 it was worth going to school. And this
22 restructuring legislation is worth complying
23 with. As the only utility in New Jersey that has
24 divested of generation assets, GPU Energy may
25 contribute unique perspectives on some

1 environmental issues. By the end of the year
2 2000, the only energy supplied to our customers
3 from plants we own will be from the Yards Creek
4 pumped storage facility. We will buy virtually
5 all our energy supply from generation sources
6 owned by others. We therefore have a focus on
7 the affordability and generation sources owned by
8 others. We therefore have a focus on the
9 affordability and practicability of environmental
10 initiatives in the larger context of ongoing
11 restructuring activities. The changes are
12 massive, and GPU is committed to implementing
13 them effectively and responsibly. We are
14 extremely optimistic that environmental
15 improvements will be realized with the Act, and
16 with new federal emissions standards that start
17 phasing in this year. Our comments now focus on
18 the questions raised. Will New Jersey's fuel mix
19 change with deregulation? The question requires
20 some speculation on customers' choice of
21 suppliers, but in the near term, irrespective of
22 buying from the sources that are currently
23 available. As new supply sources become
24 available, and federal regulations taking effect
25 this summer cause the economics of existing

1 plants to change, there will likely be a gradual
2 shift toward cleaner sources. Will New Jersey's
3 air quality improve with deregulation? New
4 federal regulations start this year and phase in
5 over the next four to five years that will reduce
6 SO2 and NOx emissions nationally upwind of New
7 Jersey and therefore will improve air quality in
8 New Jersey. These regulations happen to be
9 implemented concurrent with deregulation, but
10 will directly impact generation on a national
11 basis. That will have a positive impact on New
12 Jersey's air quality. What is the State doing to
13 provide customers information in selecting an
14 energy supplier? According to the Act, citizens
15 will have information on the fuel mix and
16 emissions of suppliers that will enable them to
17 make informed choices. Later this week, GPU
18 Energy and other parties will comment on draft
19 rules called for in the Act. GPU is generally
20 supportive of energy suppliers' accountability to
21 inform customers of what they are buying.
22 However, to meet that objective effectively, the
23 information provided must be valuable,
24 understandable and credible to the market, and
25 the administrative processes must be practicable

1 and economic we must take the time necessary
2 to "do it well". As with any new product, we
3 would strongly recommend test marketing the
4 content and format of any product to be used.
5 How can state government protect against
6 emissions from less clean, out-of-state energy
7 sources? GPU would recommend against imposing
8 new standards on top of the new Federal
9 regulations about to take effect. We do not see
10 it in NJ's interest to discourage or eliminate
11 potential suppliers by imposing additional layers
12 of regulation. Rather, we recommend monitoring
13 the progress of the Federal regulations, and do
14 what makes sense over time based on that informed
15 experience. The last two questions address the
16 important issues of support for new clean energy
17 sources, and energy conservation. Will
18 deregulation provide incentives or disincentives
19 for conservation and renewable power? GPU is
20 committed to the future of competitive markets
21 for distributed energy resources and energy
22 efficiency. With respect to new clean sources,
23 we've been actively looking for ways to introduce
24 new sources of electricity that are less
25 polluting than traditional central station fossil

1 fuel electric generating stations. These efforts
2 lead us to conclude that one of the best ways to
3 ensure that deregulation doesn't adversely impact
4 New Jersey's air quality is to make renewable
5 energy available to the marketplace. GPU's
6 competitive efforts in this regard are based in
7 our Technology Ventures group. Technology
8 Ventures is the part of GPU's business dedicated
9 to finding and developing innovative technologies
10 with potential for being major players in the
11 future energy arena. Technology Ventures, whose
12 goal is to make renewable energy an integral part
13 of energy supply, is currently immersed in
14 various projects in the distributed generation
15 field. Two of GPU's Technology Ventures that
16 will make renewable energy available soon in New
17 Jersey's energy marketplace target fuel cells and
18 photovoltaics. The first venture is our equity
19 investment in Ballard Fuel Cells. Back in 1996
20 GPU was the initial investor in Ballard
21 Generation Systems, a company formed by Ballard
22 of Vancouver and GPU. Ballard Generation Systems
23 will develop and market a number of clean fuel
24 cell products for applications ranging from
25 hospitals, manufacturing, and telecommunications,

1 to providing New Jersey homes with clean,
2 non-polluting heat and power. Our first
3 250-Kilowatt product will be available in New
4 Jersey sometime next year. Our second venture is
5 through GPU Solar Inc., a joint venture with
6 Astropower a leading manufacturer of solar
7 electric photovoltaic modules. GPU Solar is
8 selling residential packaged photovoltaic systems
9 that provide homes in New Jersey with up to 50%
10 of their annual electricity use. A GPU Solar
11 system installed in Lakewood, New Jersey is
12 providing the home's residents with 48% of their
13 winter electric use with that number likely to
14 rise this summer. GPU Solar is also developing
15 green power plants in California and Pennsylvania
16 and is looking forward to the development of this
17 market in New Jersey. With respect to
18 conservation and efficiency supported in the Act,
19 GPU Energy has provided a leadership role in the
20 State in the implementation of numerous energy
21 efficiency initiatives, and is committed to the
22 Comprehensive Resource Analysis process currently
23 being undertaken by the BPU. We have committed
24 resources to provide input to this process and is
25 making every effort to see that the moneys set

1 aside in the Act via the Societal Benefits Charge
2 for renewable energy and energy efficiency
3 measure are spent wisely and effectively. Part
4 of the scope of the CRA process will be to
5 explore market barriers, disincentives, to
6 investments in cost effective energy efficiency
7 and renewable technologies, and target resources
8 where the barriers and opportunities are
9 greatest. In closing, the Act will provide for
10 many other renewable energy business
11 opportunities if left to do what the legislature
12 intended it to do. These opportunities will
13 arise through implementation of this law's
14 nationally significant environmental provisions
15 such as the Renewable Energy set-asides in the
16 Societal Benefits Charge and the Renewable
17 portfolio standards. GPU believes the
18 legislature did a good job protecting New
19 Jersey's air quality and that these business
20 opportunities can only be good for New Jersey's
21 environment. Thank you.

22 MR. BERKOWITZ: Questions? Mr. Zonis.

23 MR. ZONIS: Mr. Siebens, first of all, I
24 think GPU should be commended for participating
25 in the fuel sell operation. You point out

1 earlier by the end of next year it's only Yards
2 Creek that will supply, I guess, in-house power.
3 And I would presume from that that you are
4 already purchasing from remote locations some
5 significant amounts of power here in 1999, is
6 that not the case?

7 MR. SIEBENS: That is the case.

8 MR. ZONIS: Are you knowledgeable as to what
9 the environmental emissions are for such remote
10 power that you purchased? That is, can you, if
11 you have the date in front of you now, can you
12 tell us that ten percent of your power is coming
13 from coal burning plants in Indiana or Kentucky
14 or someplace, do you pay attention to that now?
15 Because I would assume you would be paying
16 attention to it when the full effects of the new
17 Act are enforced.

18 MR. SIEBENS: Thank you. In my current
19 job, I don't know those numbers off the top of my
20 head. As the regulations unfold, at least for
21 the immediate future, GPU energy will be the
22 supplier of the--the default supplier, and
23 therefore we will have to comply fully with
24 whatever the requirements are. I don't know the
25 detailed, the direct response to that question

1 today. I know that we know our energy sources
2 and who we're buying power from. But on a daily
3 basis, I don't know if I can respond to that.

4 MR. ZONIS: It's interesting because here
5 it is the middle of April, and I gather while
6 these regulations are still in draft form, it's
7 going to be the first of August that we all
8 assume they'll be in full force and effect, and
9 that gives you just a handful of months to
10 develop the procedures to where these labels and
11 what not can be provided to the public. It seems
12 to me that GPU or anybody else that proposes to
13 supply power to the consumers in New Jersey
14 should be developing their procedures now so that
15 they know that ten percent of their power comes
16 from Pennsylvania, it's from coal, it has X
17 pounds of SO2 or all the other standards, and
18 we'd be starting to develop that information. I
19 think, as I say that, I'm a little bit
20 disappointed that you can't tell us now that
21 the purchases that you make are at a certain
22 level and that come next year or 2,000 or
23 whatever, they will be at some other level,
24 hopefully better or not or whatever. But I would
25 like to suggest to GPU or any of the other people

1 who propose to be providers in New Jersey that
2 they get cracking on this and start to make this
3 information available.

4 MR. SIEBENS: Let me make sure that you
5 understand that I personally am not directly
6 linked to that process, and therefore I don't
7 know. I would be happy to respond to provide you
8 that information and information about our
9 capability.

10 MR. ZONIS: That's fine. I would
11 appreciate that, and I would thank you if you
12 would take an effort to do just that.

13 MR. SIEBENS: That would be fine.

14 MR. ZONIS: Thank you.

15 MR. PALMER: I like the efforts you're
16 making on solar and fuel sell. The annual R&D
17 budget that you have for pursuing solar and fuel
18 sell technology, if you have any idea of what the
19 number is for the all of the companies in the
20 region.

21 MR. SIEBENS: I do not know the answer to
22 that question. I'll see if I can find what it
23 is. Internally, I don't know that we can provide
24 it for the region.

25 MR. PALMER: I would say the only way we're

1 going to get someplace with solar and fuel sell
2 is if we're spending enough money on R&D to
3 really accomplish it.

4 MR. SIEBENS: It's an interesting point.
5 R&D is one aspect of technologies development.
6 Developing a delivery infrastructure that's
7 reliable and that may support a market for the
8 technology is equally or even more important.
9 Photovoltaic technologies on a technical level
10 are really pretty much available, they're just
11 expensive. And plus, there's no infrastructure
12 to deliver, and more importantly, maintain them
13 and respond to the market. That may have
14 difficulty installing these things properly.

15 MR. MANGANELLI: Here's something I think
16 you would know something about. We're talking
17 about energy efficiency, years ago we had a
18 public hearing, we were talking about coal at the
19 time, one of our greatest resources in this
20 country. Has progress been made on this so we
21 can still use this sizable amount of natural
22 energy sources? Have you been doing that?

23 MR. SIEBENS: Again, that's not in my
24 personal bag of tricks. I work with customers
25 and their energy efficiency, whether they have

1 opportunities, lighting, motors, air
2 conditioning, that kind of thing. With coal gas
3 and those other projects, we are, as a company,
4 contracted to them and aware of them, less so
5 today because we're diversing in our generation
6 focus, but, again, I'd be happy--

7 MR. MANGANELLI: Send us information.
8 Also, I read where you sold unit within the Three
9 Mile Islands, right?

10 MR. SIEBENS: Yes.

11 MR. MANGANELLI: Another outfit bought them
12 and feel that they can do the job and yet you
13 people considered you couldn't do the job of
14 this.

15 MR. SIEBENS: It's not a question of
16 whether we can do the job, it's whether the
17 focus--the question is if we're getting out of
18 generation, is that a declaration of defeat on
19 the generation side, and no. It's a business
20 decision to have a focus on infrastructure. On
21 the business, transmission, distribution
22 business, possibly gas companies, local
23 distribution, not on the competitive energy
24 supply that other companies have focused on.

25 MR. SPATOLA: I have a very quick question

1 I want to ask you. You're saying you're going to
2 be changing in the not so distant future. Are
3 you at least aware at this point whether you'd be
4 acquiring pooled power or from sources where it's
5 originally generated in the future so you'll know
6 the point of generation of the electricity that
7 you'll be marketing?

8 MR. SIEBENS: The question is, will we know
9 exactly what the source of our energy is. We'll
10 be paying off of PJM as one of our sources from
11 other brokers according to what's available in
12 the competitive market. You don't necessarily
13 have the paper and the accounting to know exactly
14 how.

15 MR. BERKOWITZ: Thank you. We're going to
16 have to move on. Is Mark Brownstein here?

17 MR. BROWNSTEIN: Yes. On behalf of the
18 Public Service Electric and Gas Company, I'm
19 pleased to provide testimony for the New Jersey
20 Clean Air Council and the impact of the electric
21 industry restructuring on the environment as you
22 may recall last year's Council meeting was
23 focused on maintaining the federal health
24 standard for ozone here in New Jersey. At that
25 time, I testified on the relationship between

1 coal fired power plants located in the south and
2 the midwest and New Jersey's ongoing air quality
3 problems. From that testimony, you may recall a
4 few important facts. First, ozone measurements
5 taken by research aircraft flying along New
6 Jersey's western border show that during a number
7 of summertime ozone episodes, air entering New
8 Jersey already exceeds the federal health
9 standards for ozone. Second, over 40 percent of
10 the total ozone affecting New Jersey's air
11 quality comes from out of state sources. Much of
12 this transported ozone is the result of nitrogen
13 oxide emissions from power plants located in the
14 south and midwest that, coincidentally, operate
15 with tall stacks and little or no environmental
16 control. Third, unregulated power plants in the
17 south and midwest enjoy a competitive advantage
18 over plants in New Jersey, which have advanced
19 pollution control technology and higher operating
20 costs as a result. Over the past ten years,
21 PSE&G has spent over one billion dollars, that's
22 with a "B", to dramatically lower emissions of
23 NOx, sulfur dioxide particulate matter, carbon
24 dioxide and other air pollutants. We've achieved
25 these reductions through a combination of

1 installing advanced emission controlled
2 technologies on our existing generation with
3 powering a significant portion of our generating
4 capacity with state of the art combined cycle
5 natural gas technology. And also, modifying our
6 fuel profile by switching to and co-firing with
7 gas. These steps were taken as a result of
8 voluntary initiatives that the company undertook,
9 and also the result of New Jersey's stringent
10 environmental regulations. You may also recall
11 from last year's hearing that PSE&G urged the
12 council members to take two actions to address
13 the problem of pollution transport. First, we
14 asked you to express support for a federal
15 proposal to regular power plant NOx emissions
16 across the eastern United States. And second, we
17 asked to you support in corporation of specific
18 environmental protection provisions into federal
19 and state electric industry restructuring
20 legislation. Well, whatever you guys did in the
21 intervening year, you did a marvelous job because
22 today I'm here to say that substantial progress
23 has been made on both of these issues. First,
24 this passed September, the US Environmental
25 Protection Agency adopted a proposal to

1 significantly reduce and cap NOx emission across
2 22 eastern states by May of 2,003. This is the
3 first time that the federal government has taken
4 decisive action to address the issue of pollution
5 transport. Equally important, this action, which
6 is premised on establishing a uniform .15 pound
7 per million BTU for NOx emission rate for all
8 power plants in the 22 states. It demonstrates
9 that EPA now understands the relationship between
10 electric restructuring and air quality. PSE&G
11 believes that EPA's decision to take action to
12 reduce power plant NOx emission is a harbinger
13 for future federal action on other issues of
14 concern, such as mercury emissions from coal
15 fired power plants and power plant
16 contributions. Second, the restructuring
17 legislation signed by Governor Whitman this
18 passed January contains a package of
19 environmental provisions which placed New Jersey
20 in the forefront of states seeking to harmonize
21 energy and environmental policy. On this point,
22 we've heard a number of speakers elaborate on the
23 initiatives, but let me just underscore them.
24 First, mandatory environmental disclosure for any
25 one selling power in New Jersey. When consumers

1 begin to make choices this August, they will have
2 the information necessary to choose an energy
3 supplier based upon environmental performance.
4 By the way, it's not just information for those
5 companies who choose to market their product, but
6 it's for all suppliers. An important consumer
7 information. And in addition, consumers will
8 have the ability to distinguish between competing
9 plants made by different green power suppliers.
10 Added to that are protections to make sure that
11 when a consumer pays a premium price for a green
12 product that they will actually get what they
13 paid for. This is unique in the United States.
14 We have, probably the finest environmental
15 disclosure program anywhere in the US right now.
16 Second important piece of the bill is
17 preservation of New Jersey's strong commitment to
18 existing energy conservation. New Jersey,
19 historically, as it was mentioned earlier, has
20 been of the most aggressive and successful energy
21 conservation programs in the United States. The
22 good news here is that in addition to preserving
23 that commitment that there will be approximately
24 an additional 120 million dollars annually each
25 year over the next four years to finance new

1 energy efficiently programs here in the state of
2 New Jersey. And as older programs begin to phase
3 out, some of that money, in turn, will be devoted
4 to new programs as well. This is also unique
5 among state restructuring bills. A third
6 important provision is that there are a suite of
7 provisions in the bill to encourage the
8 development of new energy resources in New
9 Jersey. Including net metering provision, a
10 renewable portfolio standard for all power
11 suppliers in New Jersey, and the guaranteed
12 source of funding. And finally, it was mentioned
13 earlier as well, the Board of Public Utilities
14 has the authority, in consultation with the DEP,
15 to set an environmental performance standard when
16 and if they reach the conclusion that regional
17 and federal efforts to regulate power plant
18 emissions aren't working. These provisions are
19 great, and they're all the more impressive when
20 compared with the restructuring programs of our
21 nearest neighbors. Pennsylvania, for example,
22 lacks a disclosure requirement because there's no
23 portfolio requirement, it offers no funding for
24 renewable resources, and requires no funding for
25 energy efficiency programs beyond the relatively

1 small amount that Pennsylvania utility companies
2 currently spends. In New York, New York requires
3 no renewable portfolio standard and requires only
4 a small amount to be collected each year for
5 energy efficiency programs. And although I have
6 not seen the actual bill yet, my understanding is
7 that in Maryland, there's no financial support
8 for renewables or energy efficiently. On the
9 whole, therefore, PSE&G supports the
10 environmental provisions contained in New
11 Jersey's construction legislation. And we think
12 that the Clean Air Council should be very
13 pleased. From this point forward, PSE&G's
14 efforts will be directed toward making sure that
15 these provisions are implemented in a fair,
16 effective and timely manner. We plan to work
17 closely with the Board of Public Utilities, the
18 New Jersey Department of environmental Protection
19 and other stakeholders to make the various
20 environmental initiatives in the legislation a
21 success. I would be remiss, however, if I did
22 not call your attention to one important piece of
23 unfinished business related to restructuring of
24 New Jersey's environment. EPA's 22-state plan to
25 regulate power plant NOx emissions is under heavy

1 political attack. Several midwestern states
2 joined by their utilities have sued in federal
3 court to block the plan. Several of these states
4 have publicly declared that they will not adopt
5 the necessary regulations to implement the
6 program. And Midwestern utility companies are
7 right now walking the halls of Capital Hill
8 convincing members of congress to intervene on
9 their behalf by raising false claims about the
10 effect of implementing environmental controls on
11 the reliability of electric supply. These are
12 false claims, but they're being used as a scare
13 tactic. If you are an advocate of regional and
14 federal solutions to power plant emission
15 problems, these are, in fact, those times.
16 Fortunately, there is something that can be
17 done. Section 126 of the Federal Clean Air Act
18 empowers the state to petition EPA directly when
19 it can show that power plants or other large
20 stationary sources of NOx are contributing to
21 that state's air quality problem. If the
22 petition is granted, EPA has authority to take
23 direct action against the source that is causing
24 the problem. This is a powerful remedy with a
25 correspondingly high burden of proof. To date,

1 New Jersey has chosen not to exercise this
2 option, preferring instead to work directly with
3 those states having the greatest impact on our
4 air quality, while at the same time marshaling
5 the facts necessary to sustain such a decision
6 should it become necessary. Should New Jersey
7 conclude that it is now the appropriate time to
8 exercise its rights to Section 126, PSE&G
9 believes that the Clean Air Council should be
10 prepared to support that decision. Governor
11 Whitman has consistently and successfully argued
12 for clean air in many forms and sometimes intense
13 debates within the National Governor's
14 Association. Commissioner Shinn has invested
15 large amounts of his personal time and personal
16 credibility to establish the science and policy
17 recommendations that made EPA's 22 state NOx
18 reduction plan possible. Without the
19 Commissioner's involvement and the Governor's
20 active involvement, none of this ever would have
21 happened. They have served New Jersey's
22 interests very well. And they deserve the
23 Council's support, should New Jersey choose to
24 take the next step and file Section 126
25 petition. I would urge the Council, on the

1 record, in supporting such a decision. Thank you
2 for providing me the time to speak with you this
3 morning. I'd be happy to answer any and all
4 questions.

5 MR. MAXWELL: Back in the fall, the Clean
6 Air Council did memorialize the Commissioner's
7 support. I don't know if you were aware of
8 that. An earlier speaker urged that consumers of
9 the state write to the BPU and demand that the
10 coal generators in New Jersey be closed. The
11 question is, what has your modeling shown, if, in
12 fact, the New Jersey coal generators were shut
13 down? Because they have been under attack here
14 from the environmental groups and so on. What
15 would be the impact on New Jersey air as a result
16 of their being boarded up and that power being
17 produced from out of state?

18 MR. BROWNSTEIN: Let me take a step back.
19 First of all, people at PSE&G had a leadership
20 role in the industry in arguing that the power
21 plants should be cleaned up as part of
22 deregulation. We've made that argument here in
23 New Jersey, we've made it on a regional basis and
24 we've made it on a national basis. People within
25 our own industry perceive that to be that PSE&G

1 has declared a war on coal, that somehow PSE&G is
2 against the use of coal, that our goal in life is
3 to shut down all the coal fired power plants in
4 the midwest. That's not our agenda. As was
5 pointed out to you earlier, we do want coal
6 plants both here in New Jersey and in
7 Pennsylvania. I think the difference between
8 PSE&G and a lot of other companies, that perhaps
9 you've heard from today and that you might hear
10 from over the next several days, is that we've
11 made a very strong commitment to clean the plant
12 up, to improve the environmental performance.
13 We're the only company in the United States to
14 make a voluntary commitment to reduce our NOx
15 emissions by the year 2,000, and we expect to
16 make that commitment this year. Our perspective
17 is that you can burn coal, but you have to burn
18 it cleaner, and we're making the investment in
19 our plants to do that. That being said, we
20 believe that if you were to shut down coal plants
21 here in New Jersey, that all you would really
22 succeed in doing is importing more power from
23 plants in the midwest, where those investments
24 have not been made and where those companies are
25 active in opposing federal and regional efforts

1 to require those types of reductions. So I have
2 a very hard time believing that that's a
3 preferred option. And, in fact, this argument
4 has been bouncing around the New Jersey
5 restructuring debate for close to the three years
6 that there has been a debate in New Jersey. I
7 think the legislature considered it, rejected it
8 and those who continued to call for it are on the
9 extreme of the debate in advocating that.

10 MR. SPATOLA: Just a quick question
11 regarding the innerstate transport that brought
12 up at the initial part of your testimony. You
13 talked about, I think, a 50 percent number of the
14 ozone coming in from out-of-state sources. Does
15 your information go further than that to identify
16 whether that's attributable to mobile sources so
17 if one were to look at some kind of action by an
18 agency such as EPA, that the action would be
19 focused on the right source of the generation of
20 the problem that's created?

21 MR. BROWNSTEIN: That's a very good
22 question. And that was obviously a question that
23 was looked at quite extensively during the OTAG
24 process, which is the source of the data that I
25 just presented to you. There was a lot of

1 questions being asked about whether the NOx and
2 the ozone that was being transported into the
3 northeast, what was that really from, and I think
4 what the modeling showed is that it was, in fact,
5 the large stationary sources, primarily power
6 plants, which made up the bulk of that
7 contribution. Throughout the '60s and '70s, the
8 idea of improving air quality in Ohio and else
9 where in the midwest was simply to build the
10 stacks taller. So as a consequence, the
11 pollution goes higher-up in the atmosphere and as
12 you might expect it therefore carries longer
13 distances, one of the reasons why in many areas
14 of the midwest air quality meets the federal
15 health standards, yet, 80 percent of the total
16 NOx being emitted from power plants in the United
17 States is coming essentially from the eastern US,
18 tall stacks, lots of dispersion, it comes down
19 somewhere, it comes down on us. So that was
20 looked at the modeling and, in fact, that was the
21 basis for OTAG's conclusion that utilities NOx
22 reductions of up to 80 percent were necessary to
23 address the ozone transport problem in the
24 eastern US.

25 MR. BERKOWITZ: One last question.

1 MR. PALMER: Presumably, there's going to
2 be some grading of power sources so customers can
3 decide how green they want their power and so
4 forth. Would it be at all possible to tie some
5 bonus points on this rating system to a
6 supplier's willingness to spend money to cleanup
7 plants or to close down dirty facilities?

8 MR. BROWNSTEIN: First and foremost, the
9 strongest points are going to come from the
10 consumers. One of the reasons why PSE&G was a
11 strong advocate in the bill was because we felt
12 that when consumers had the environmental
13 information at their fingertips, that it would
14 empower them to make choices based on the
15 environmental performance of the suppliers. For
16 those who want to purchase a purely green
17 product, the information is available and they
18 can do that. But for those consumers who are
19 weighing competing offers from producers who
20 perhaps made no particular environmental claim,
21 they will have the information at their
22 fingertips to say all other things being equal, I
23 see two or three other offers here that may be
24 about the same price, but you know what, this
25 one's cleaner and I'm going to purchase this

1 one. And in turn, our feeling is that as
2 consumers exercise that type of choice that there
3 will be a ripple effect in the marketplace. The
4 demand will be there, marketers will go out and
5 look for the cleanest sources of power, and in
6 turn, that will cause demand for increased
7 generation of cleaner sources. One of the
8 things, going back to John's question, PSE&G has
9 a diverse mix of fuel sources we have coal fired
10 power plants in New Jersey, we have state of art
11 and natural gas power plants. The natural gas
12 plants don't run much. They're state of the art,
13 they are some of the cleanest plants in the
14 United States, they don't run much in a
15 competitive wholesale environment. Why is that?
16 Gas is twice as expensive as coal. You want to
17 know why rates are so cheap in Kentucky, they're
18 sitting on top of huge coal fields with no
19 environmental regulations governing what goes up
20 the stack. That's why prices are cheaper out
21 there, they'll always be cheaper out there. All
22 we're asking for is when you do bring that power
23 to market, at the very least, it meet the same
24 environmental standards that we would expect of
25 any power plant located here, in New Jersey.

1 Maybe then, the natural gas plant can compete in
2 a free market will have a chance to run a little
3 more often.

4 MR. PALMER: Right. The customer is going
5 to be looking at what has already been
6 accomplished as far as cleaning up. What I was
7 asking about, what about an additional incentive
8 for companies that are demonstrably going to
9 invest in something that's going to, in other
10 words, kind of up front the credit for it based
11 on investments that are being made before they
12 actually achieve the improvement?

13 MR. BROWNSTEIN: Again, our feeling is that
14 the best and most effective type of incentive
15 that we're going to see is going to be a market
16 driven one. There is going to be a demand. The
17 fact that Green Mountain Energy is out there so
18 aggressively right now. In fact, there's a
19 website where you can find 15 or 20 companies
20 selling green products throughout United States.
21 PSE&G Energy Technologies, when our market is
22 opened in August, hopes to be one of them. But
23 you will find that as a result of that, there is
24 demand for cleaner sources of power and that
25 these companies who are offering those resources

1 are finding commercial advantage in highlighting
2 their environmental performance and that in turn
3 is translating back to demand for cleaner sources
4 in the market. I think also the fact that New
5 Jersey has implemented a renewable portfolio
6 standard is going to be very important. And I
7 would expect companies who are complying with
8 that standard to be actively marketing the fact
9 that they offer renewable power for sale. I
10 think the public, generally, would like to see
11 that.

12 MR. BERKOWITZ: We're going to have to move
13 on.

14 MR. MANGANELLI: May I ask him a question,
15 because I'd like to know from Mr. Brownstein,
16 because according to what's happening and the
17 price is going to be reduced to five percent and
18 then ten percent over the next three years, how
19 far can you really reduce the cost?

20 MR. BROWNSTEIN: Well, if you take a look,
21 if you begin to add up all the various cost
22 savings that are in the restructuring
23 legislation, you'll find that for PSE&G, the
24 reduction is about 20 percent. That's with the
25 ten percent rate reduction, it's guaranteed.

1 That's with the shopping credit that consumers
2 can exercise. That's with the tax reform package
3 that was talked about earlier. About 20 percent
4 rate reduction. And on top of it, you get the
5 environmental disclosure provisions, which are
6 state of art leading the country. One of the
7 most aggressive commitments to energy efficiency
8 anywhere in the United States. Renewable
9 portfolio standards which guarantee that New
10 Jersey will see the development of renewable
11 resources here in New Jersey. It's a compromise,
12 there's no doubt about it. You will always find
13 people on the extremes of the debate, and how
14 it's often entertaining but often times extreme.
15 You will find people at the extremes of debate
16 who will always say, you could have done better
17 on this point, you could have done better on that
18 point, granted. But as a package, the rate
19 reductions, the environmental provisions, the
20 consumer options that are available to people
21 here in New Jersey, it's second to none. And I
22 think that the legislature should be commended
23 and I think Governor Whitman should be
24 commended.

25 MR. BERKOWITZ: I'm going to stop you

1 there.

2 MR. KILLKENNY: My name is Brian
3 KillKenny. I'm with Green Mountain Energy
4 Resources, and they're a power supply group. I'm
5 actually filling in for a couple of our New
6 Jersey point people that could not make it today,
7 but I'm happy to be here and certainly on behalf
8 of Green Mountain, I'm happy to be speaking
9 today. There's been a couple of references to
10 our company. I just want to take a quick 30
11 seconds just to give a brief description of Green
12 Mountain. We're a retailer of green renewable
13 energy in California, in Pennsylvania right now,
14 serving the deregulated markets. We formed in
15 1997. Right now, we probably have about 70
16 employees based out of Vermont. We out source
17 quite a bit of folks, probably over 300 folks in
18 all centers all over the country, as well as
19 functions to supply services, market tipping, so
20 forth. We're funded by a private capital. We
21 originally had a link with Green Mountain Power.
22 That has since been divested and we're
23 exclusively a hundred percent privately owned
24 with utility affiliation at this point. How we
25 started was we were looking at the New England

1 pilot program, we really saw a definitive market
2 or cleaner energy, and the results of our efforts
3 there proved to be quite promising, and we look
4 at going forward in states that are truly
5 deregulated, and see if we can make a goal of
6 it. And all our marketing studies show that
7 there's a market, but potentially a market for
8 providing green energy. And we really saw -- the
9 whole premise behind our business is addressing
10 the problem of utility air pollution.
11 Electricity generation is the largest source of
12 air pollution in the country. 36 percent VOC's,
13 29 percent NOx, 66 percent SO2. All those
14 figures you probably heard before. I'm really
15 looking back at the regulated utilities
16 business. I think conventionally structured that
17 most of the decisions to build power plants were
18 based really solely on economics with a minimum
19 regard for the environment.
20 So our premise really is to allow the customer a
21 choice in selecting their electric service
22 provider. And we feel that in these deregulated
23 markets, these customers, a certain number of
24 customers will want that choice, and will, in
25 many cases, pay the premium that's needed to

1 deliver resources, such as solar and wind.
2 So the problem is air pollution. The opportunity
3 in the market is the energy business. If you
4 look at just the residential electric side of it,
5 that amounts to about 55 billion. Certainly,
6 even if we ask another green power provider just
7 captured a small percentage of that, over a
8 certain percentage of states that actually go
9 through deregulation, It's still a pretty
10 significant market there. Certainly, looking at
11 marketing studies of people's appetite for paying
12 more, widely vary in studies, but the range that
13 we felt pretty comfortable with is 47 percent of
14 the people expressed a willingness to pay more
15 for their electricity from renewable energy.
16 We did our own marketing studies and
17 substantiated those numbers. So as I mentioned,
18 we're doing business in California and
19 Pennsylvania. California marketers,
20 approximately seven green power competitors in
21 that state. Many of them are affiliated with
22 utilities, some are not. They all have varying
23 degrees of renewable energy contents in their
24 mix. Some just serve commercial and industrial,
25 many are green leaf certified products.

1 In the Pennsylvania market, there's probably
2 about six suppliers that have some type of green
3 bed to them. Of those, probably three are really
4 truly market renewable energy and have green leaf
5 certification.

6 In California -- just a couple of minutes to
7 describe some of the activities that are going on
8 in those two states. California started in April
9 of 1998, just about a year now. They opened that
10 market, such that 90 percent of customers were
11 eligible to switch. So nearly the entire state
12 could switch.

13 As it stands now, about 120 thousand some-odd
14 customers have switched, which represents about
15 1.2 percent of the state total. Much lower
16 switching activity than was anticipated, I'll get
17 to that in a minute. Of those 122 switchers, or
18 120 thousand switchers, it's estimated that over
19 half chose the green energy service provider.

20 In Pennsylvania, which started in January of this
21 year, that was structured such that about
22 two-thirds of the customers were eligible to
23 switch, and that expand is going forward, 400
24 thousand customers to 500 thousand -- the numbers
25 are dependent on who you talk to, when you ask

1 them -- 400 to 500 thousand customers have
2 switched to date, and that represents roughly ten
3 to fifteen percent of the customers in the
4 state.

5 Of those switchers, again, market is early, so
6 the numbers aren't really definitive, but numbers
7 between 20 to 30 percent of those customers who
8 have switched have gone to a green energy service
9 provider.

10 The reason for the somewhat disparity between the
11 two states and the activity there, in California,
12 competitive market is based on competing on the
13 wholesale level, so retailers have to go in and
14 basically provide or offer a price that's
15 competing against a wholesale market.

16 Pennsylvania, most people are familiar with the
17 shopping credit issues, where they've embedded
18 the true cost of retail service, such that it's
19 much more of a competitive playing field, and
20 when a customer switches from their utility. And
21 we're certainly seeing the difference in those
22 two approaches.

23 California being of one extreme, Pennsylvania
24 being the other. We've seen a lot of activity in
25 Pennsylvania so far.

1 A couple of quick notes on some of the challenges
2 that we've been facing, certainly other
3 competitors. First one is the issue about
4 consumer education. Consumers generally don't
5 know and don't care where their power is coming
6 from. When you do a survey across the country,
7 most people feel that 50 percent of their power
8 is coming from hydro. You have a problem there.
9 So certainly consumer education would be a pretty
10 daunting task for anyone that's entering the
11 market.

12 Electric energy, electrons are not even a
13 tangible commodity. It's hard for people to grab
14 onto it. Likewise, it's hard for people to
15 understand that they're supporting the power
16 plant, which gets mixed into the power pool.
17 That's the way the market works. It's a
18 difficult item to get across to folks. And in
19 that perspective, it really hits home, as far as
20 getting disclosure down. Disclosure is probably
21 one of the key items for the market to continue
22 forward. Without that, really, consumer
23 confidence would really be lost and the whole
24 market would basically flop. So certainly
25 disclosure is a key factor, whether it's

1 specifically fuel source, environmental
2 standards, certainly should be implemented to the
3 full extent possible. Certainly other challenges
4 are adversity to deregulation from consumers and
5 other advocates, variation in regulatory rules,
6 utility rules from state to state, as green power
7 providers expand into other states. Limitations
8 in renewable resources in the state in
9 surrounding areas. Certainly California is known
10 to have substantial renewable energy, wind, solar
11 resource, hydro. PJM area is a little more
12 limited. There's certainly no wind to speak of,
13 so hydro is limited.

14 So that will effect price, and it certainly
15 presents a challenge to folks entering those
16 markets. And another quite daunting challenge is
17 people's view point of what is truly green, what
18 is not. We have the Green Organization. We have
19 state definitions. Many environmental groups
20 have varying opinions. Nothing's perfect. Wind
21 has its problems, solar has its problems, hydro,
22 biomass, they all have problems. It's difficult
23 converting a really true consensus on what truly
24 is preferable in the green market.

25 It's worth taking a minute or so to mention that

1 the Green Organization, in their effort in
2 certifying independently, the green power
3 business. They've really been instrumental in
4 providing consumer confidence in these markets,
5 and, likewise, it will be instrumental going
6 forward in its success.

7 Furthermore, they've attempted to make
8 definitions available on what is renewable energy
9 and certify products that contain certain amounts
10 of renewal energy. Likewise, they've been
11 advocates and been pushing new content of
12 renewable energy, particularly since developing
13 new facilities is really where you get the
14 biggest bang for your buck in the green power
15 market.

16 That's ultimately what we'll be displacing the
17 older and dirtier plants--

18 MR. BERKOWITZ: Three minutes please.

19 MR. KILLKENNY: And that's what it can be
20 measured on, as far as emission states.

21 Furthermore, green has been instrumental in
22 promoting annual disclosure and independent
23 auditing among the green power providers. And
24 certainly in California it's going on right now,
25 because it's been a year in that market and all

1 the green power provider groups will be
2 disclosing publicly, as well as going through
3 their own processes.
4 So in conclusion, what it really boils down to is
5 certainly we have stakeholders that want to see
6 our business survive from a return perspective,
7 and it's nice to build a business such that you
8 can expand into other areas such as gas and other
9 environmentally conscience products.
10 Where we are coming from here is those things are
11 great, and we're going to focus on those, but the
12 key is what we've done to the environment in
13 quantifying emission reductions and quantifying
14 how many renewable resources we've put on line
15 and the amount of solar and wind and other types
16 of premium products that have been able to bring
17 to the market.
18 Thanks for your time.

19 MR. PALMER: Do you have any projection as
20 to what kind of rate of growth that you can
21 achieve as far as supplying power to the PJM
22 grid?

23 MR. KILLKENNY: I have those numbers, but
24 unfortunately I don't think I can give those out
25 for obvious reasons. We're quite happy. Between

1 the two states, we have over 110 thousand
2 customers now, with the majority of those
3 customers being in Pennsylvania, particularly
4 because of those issues I described with the
5 shopping credit, the attractive competitive
6 market.

7 In going forward, again, as long as each state
8 allows some type of shopping credit mechanism or
9 recognizes the true cost of retail service, such
10 that it will stir and enhance competition,
11 whether it's a green power provider or not,
12 indications show that those states will see a lot
13 of activity. And it would be similar, I imagine,
14 to Pennsylvania .

15 MR. PALMER: You will be able to provide
16 more power?

17 MR. KILLKENNY: Yeah. The way things are
18 growing in our projections and how much renewable
19 energy resources are available in Pennsylvania
20 and the surrounding region, and if we enter New
21 Jersey and Maryland, when those states open up,
22 there will probably, likely, be a time when you
23 really tap out your existing capacity. But
24 that's kind of what we're doing. What we're
25 pushing for it to create that demand, such that

1 once you tap out your existing resources,
2 developers know there's a need for it, and
3 they'll go out and find ways to bring on more
4 competitive prices.

5 MR. SPATOLA: If you were to provide clean,
6 green power to New Jersey, would you do it by way
7 of PJM, or would you have some method of
8 providing it to the state?

9 MR. KILLKENNY: I would say we would
10 probably use a hybrid, a combination of those two
11 processes. There's certainly some competition,
12 kind of conventional utility owned rate based
13 kind of facilities that we'd be able to purchase
14 from and provide for your customer. Likewise,
15 they would want some smaller facilities, IPP
16 facilities, new gas development projects, new
17 wind projects that we'll bring on line. That
18 would be one more of a one on one type of
19 relationship between the developer and Green
20 Mountain.
21 Thank you very much.

22 MR. BERKOWITZ: Thank you very much. We
23 had a couple of openings occur in the afternoon,
24 which allows us to have a more flexible schedule
25 in the afternoon. If you prefer to be the first

1 speaker after lunch, that's fine. You can go now
2 if you want.

3 MS. BISHOP: I'd like to go now. Good
4 afternoon. My name is Cherae Bishop. I'm vice
5 president of legislative affairs and media with
6 IWSA. Our member companies include such
7 companies by the name of Adugen, American Refue,
8 Western Hospital Corporate. Together our members
9 represent 64 waste to energy facilities nation
10 wide. IWSA facilities process approximately 85
11 thousand tons of waste each day and generate
12 about 22 hundred megawatts of clean, renewable
13 electricity, or enough energy to meet the
14 electricity means of two million households. The
15 waste industry offers two important benefits to
16 customers. Safe solid waste management and
17 disposal, as well as the generation of clean
18 electric power. More than 31 million people rely
19 upon our facilities to cleanly and safely dispose
20 of the trash in their communities. Five waste to
21 energy facilities are here in the State of New
22 Jersey. They dispose of 63 hundred tons of trash
23 and generate a 175 megawatts of electricity.
24 Waste to energy facilities process nearly 32
25 million tons of trash each year, and generate

1 enough power to meet the needs of 24 million
2 homes. More than 39 people and 31 states rely on
3 the 103 waste to energy plants nation wide.
4 Today's hearing is about the impact of the
5 electric utility deregulation on New Jersey's
6 environment. I would like to address one
7 relatively small, but nonetheless, very important
8 issue involved with deregulation. I'd like to
9 update the Clean Air Council on the significant
10 strives the waste industry has made in keeping
11 the environment clean and safe. New Jersey is
12 similar to numerous states in recognizing waste
13 to energy as an important source of renewable
14 electricity. Our industry generates about 2800
15 megawatts nationally or about one-fifth of
16 America's total biomass regulation. Biomass
17 accounts for about 1.4 percent of total
18 electricity generated. Renewable energy total is
19 slightly more than two percent of the nation's
20 electricity market. New cleaning air act
21 standards now being implemented and shared that
22 waste to energy facilities are among the cleanest
23 sources of electricity in the nation. For
24 example, EPA estimates that mercury emissions
25 from waste to energy plants will dramatically

1 decline by more than 90 percent over 1995
2 levels. New Jersey led the way in controlling
3 mercury emissions, and we salute your efforts.
4 Source reduction and the operation of our
5 facilities at the optimal levels have met waste
6 to energy will account for about one percent, one
7 percent of the US inventory of mercury emissions
8 stemming from the industry. EPA has acknowledged
9 similar success in controlling dioxide emissions
10 and had them reduced by at least 99 percent.
11 Waste to energy will represent less than one
12 percent of the known sources of dioxin. Waste to
13 energy prevents the release of more than four
14 million tons of methane onto our atmosphere
15 assuming the same amount of trash now processed
16 at waste to energy facilities is exposed to a
17 landfill without recovery. Waste to energy
18 prevents the release of more than 15 million tons
19 of carbon dioxide into our atmosphere, assuming
20 the same amount of trash. Waste to energy power
21 as an alternative to coal prevents the release of
22 nearly 25,000 tons of nitrogen oxides and 5,000
23 tons of organic compounds. Waste to energy also
24 completes less the earth's natural resources than
25 oil, coal or natural gas, power to electricity

1 generation. No doubt, waste to energy is a very
2 valuable human resource. The fuel used in waste
3 to energy plants produce cleaner electricity
4 municipal solid waste. Two basic criteria for
5 establishing one as a renewable energy source,
6 the society will continue to generate waste, and
7 no one can reasonably claim that waste will ever
8 be one hundred percent eliminated. Tomorrow
9 afternoon, in fact, the White House will unveil
10 its proposal to reform the electricity utility
11 industry. The State of New Jersey has at least
12 two very important provisions in common with the
13 federal proposal. One, both New Jersey's law and
14 administration's proposal include waste to energy
15 as a renewable source of power. Two, both New
16 Jersey law and the administration portfolio
17 standards that mandates that renewable power to
18 keep a foothold on a portion of the electricity
19 in the marketplace. We salute both efforts and
20 offer our assistance in assuring that the
21 provisions are implemented to the fullest
22 extent. Thank you for this opportunity.

23 MR. BERKOWITZ: Questions from the
24 council?

25 MR. MANGANELLI: How much CO2? You

1 mentioned something about 15 million tons of CO2
2 from our landfill. How much CO2 comes from
3 burning of this material?

4 MS. BISHOP: I'm going to defer to one of
5 my associates.

6 MS. SOOS: I can provide you emission data
7 from the facilities. I don't have those numbers
8 with me.

9 MS. BISHOP: We have some very valuable
10 information about our industry, what we're doing,
11 some of the things we put together and I would be
12 more than happy to share that with anyone on the
13 council.

14 MR. BERKOWITZ: In your industry you wanted
15 to look at landfills as generators of gas rather
16 than just landfills, do you see a way we can
17 alter these environmentally and rethink what we
18 did in the past?

19 MS. SOOS: If I can answer that, Mr.
20 Chair? In fact, EPA has actually, as several
21 states has, moved ahead as well to require that
22 landfills do indeed get permits landfills
23 emissions not only from the--if they have a met a
24 gas recovery system and sometimes they just flair
25 it sometimes they recover energy with some sort

1 of engine because the open stays of the will have
2 itself, they are significant air emissions that
3 come off of air, and EPA has issued to the
4 largest landfills in the state and the country
5 and then certain states have moved and
6 implemented this for additional landfills. Their
7 requirement that they from the landfill because
8 it comes out of the open face for many years even
9 after the landfill closes.

10 MR. MANGANELLI: On of the problems we've
11 had in New Jersey has been with the resource
12 recovery plant you're talking about for
13 generations the perception that they're highly
14 pollutional. What kind have a public education
15 program, because this will tie in what we're
16 looking for, do you carry on to overcome this
17 perception?

18 MS. BISHOP: We've worked with community
19 groups. We've also touched base and worked
20 closely with our legislature. We also have
21 talked to folks on Capital Hill. But, you know,
22 often enough, we need to get out the message even
23 more and share the information that we have.
24 Because we have a lot of good information, and we
25 had made tremendous strides in reducing the

1 amount of pollutants that comes out of our
2 equipment. So I think we have engaged in a
3 campaign to talk about who we are and what we can
4 do. But I think we can probably do more of that.

5 MR. PALMER: For a variety of reasons,
6 waste energy plants in New Jersey have been
7 financial nightmares. How has this been avoided
8 in other states, the fact that these things
9 operating in a way that works financially?

10 MS. SOOS: If I can answer that. New
11 Jersey's unique because New Jersey is the only
12 state that's regulated solid waste as a utility.
13 Communities around the country that have waste to
14 energy waste management system with a recycling
15 component are communities that are digging up old
16 contaminated landfills. So they have a system
17 feed for their solid waste so they charge one fee
18 and they manage their whole system. Several
19 years ago the court ruled that flow control, kind
20 of the mechanism that would allow communities to
21 build and finance these systems, they ruled that
22 wasn't constitutional because it violated the
23 laws. Most states have adjusted their systems.
24 And in some cases, they say they've eliminated
25 some of the other programs. New Jersey is a

1 unique, one, because of its size, two because of
2 its population. And because it has been
3 regulated as a public utility, it's almost the
4 electricity industry was where you don't have the
5 system you used to have, but you don't have an
6 open market yet, so that's kind of where it's
7 at.

8 MR. PALMER: Two or three states have done
9 a really good job in making this whole system
10 work so we get the waste energy a reasonable
11 cost.

12 MS. SOOS: A lot of the states and the
13 northeast, actually, Florida is a perfect
14 example. I think they have 14 waste plants
15 there. For environmental reasons they have very
16 low groundwater, solid waste prices are very
17 competitive with landfill prices. I think you
18 can point to one of the numerous states. There
19 are 28 facilities around the country and the only
20 place where we see this type of situation that we
21 do in New Jersey, frankly, is in New Jersey. But
22 part of the it is also--

23 MR. PALMER: Who's at the other end of the
24 spectrum, besides Florida?

25 MS. SOOS: Massachusetts, I think

1 Connecticut, they have a lot of waste in
2 Connecticut.

3 MR. MANGANELLI: What kind of tipping fees
4 do they have?

5 MS. SOOS: Well it depends on average, they
6 are competitive with whatever the local landfill
7 prices.

8 MR. MANGANELLI: Can you give me a number?

9 MS. SOOS: Landfill prices in Minneapolis is
10 \$50.00 per ton. Ours is \$45.00 per ton.

11 MR. BERKOWITZ: Okay. Any other questions
12 from the Council? Thank you very much.

13 (at which time a lunch break was taken)

14 MR. BERKOWITZ: Our next scheduled speaker,
15 I don't see, Steve Gabel. So with that, I'll ask
16 Jim Sinclair to lead off the afternoon session.

17 MR. SINCLAIR: I'm Jim Sinclair, first vice
18 president of the New Jersey Business and Industry
19 Association. I'm just looking for my cards.
20 Bill O'Sullivan said he was here to hear me
21 speak, and basically I'm here to say what I said
22 last year and the year before that and the year
23 before that. But about this electrical
24 regulation, deregulation bill, what people said
25 this morning that this is a comprise bill, and

1 from our perspective at the Business and Industry
2 Association, it's a compromise. We certainly
3 didn't get everything that we wanted for the
4 general business community out of it. But it's a
5 bill that really reflects a lot of effort. And I
6 think that I have been impressed by Assemblyman
7 Bagger and Assemblywoman Murphy's efforts and the
8 grasp of the real issues behind that. And I
9 think that's what you're here to talk and listen
10 to today, is about those issues that really
11 surround this thing. The bill itself has, I
12 think, focused on economics, on cost, on the cost
13 of energy in New Jersey. And back in the '80s,
14 when we were publishing the Grant Thornton studies
15 and then the Grant Alexander of the manufacturing
16 claimant in the country and New Jersey
17 participated, we always ranked down at the bottom
18 in the study on the energy cost as a thing that
19 impacts negatively on attracting and keeping
20 manufacturing businesses, not just chemical
21 companies, but other kinds of manufacturing
22 concerns that we have in New Jersey. And my
23 story, I guess, to tell you how this relates;
24 last summer, I went to a manufacturing facility
25 in Middlesex County, and they make beverage,

1 dehydrated beverages like teas and coffees, and I
2 won't tell you who it is, but they're a world
3 leader in this. And in their company, one of
4 their real concerns were the cost of energy to
5 produce their product. They took me to the table
6 and showed me the spreadsheets that they had to
7 compare their facility with other facilities, not
8 just in the United States, but throughout the
9 world. And it was shocking to look at the
10 numbers in terms of the cost of energy. The only
11 place in the world, and they had about 17
12 facilities throughout the world where they
13 produced basically the same kind of ingredients,
14 these were similar plants, but the only place the
15 energy was higher was in Japan. And it was
16 significantly higher in the United States than
17 the other 15 countries that were below it. And
18 the reason I bring this up is, in a global
19 marketplace, the cost of manufacturing a product
20 that can be controlled is extremely important to
21 be able to compete. And energy is one area where
22 we haven't been able to compete and hopefully
23 this process, and that's really our position at
24 the Business and Industry Association, hopefully
25 this will allow us to compete better. And back

1 to Bill's hearing the thing, every year I come in
2 here and say what we really need to help the
3 quality of air in New Jersey is to have national
4 standards, to be able to have the upwind states
5 where the thing is blowing in from, have at least
6 the same kinds of standards that we have in this
7 state. And I guess I'm happy to come here today
8 to say that I think that we've been making real
9 progress. If you listen carefully to what the
10 Commissioner said and Assemblyman Bagger, that
11 the kinds of controls that we've been putting on
12 electrical generating stations that are going to
13 go into effect on the NOx should help us in the
14 long run. And it depends on how you define long
15 run, but this is going to help our air quality in
16 the state. Now, I think we sort of had to make a
17 pact with the devil here to get that, and that
18 goes back to last year's thing whether we should
19 be changing the standards to the eight hour and
20 the PM ten, and I made my position clear on that
21 and I still believe that. So now we can have
22 sort of this schizophrenic announcement the
23 Commissioner can make when they talked about how
24 good the air is in the state, that we've only had
25 four violations over the last summer compared to

1 the 20 or whatever it is in the previous year.
2 Because, of course, now we have the new standard
3 where we have 48 violations or whatever the
4 number was. I think it was 48, was the number.
5 But we knew that was going to happen. There are
6 really three things in this process on electrical
7 deregulation, it's the cost, the availability and
8 the impact on the environment. And the cost, we
9 need to drive the cost down. That's really
10 important. But the availability of energy is
11 also important to the business community. Both
12 on the short term, and they use the thing about
13 making sure that when you walk-in to the room you
14 can turn the light switch on and that, to us, was
15 important. But in the long term, to have an
16 energy supply for a growing and expanding
17 economy. And on one hand, and this is the
18 schizophrenia again that you're facing and that
19 we're facing in the business community. On one
20 hand we're talking about strategies that's going
21 to give us cleaner energy, give us less energy
22 and by less energy, I mean, if you look at the
23 Commissioner's charts, which I did, and his
24 greenhouse gas strategy, which was really the
25 first time that I saw that, we're talking about,

1 in the time frame here, a reduction in the amount
2 of fossil fuel that is consumed. I mean, you
3 count up the carbon atoms, and according to this,
4 we're going to have three percent fewer of these
5 carbon atoms bonding with oxygen and going into
6 the air, three percent less than we had in 1990.
7 And from our perspective, 1990, we were in a
8 sagging economy in New Jersey. We've been
9 booming since then. So that three percent
10 reduction isn't really a three percent from now,
11 that's a huge number. And I really don't know
12 what that number is because I really haven't
13 seen, and what I have seen, I don't believe on
14 the base, because I think while it's a good
15 effort, I think we're making up a lot of those
16 numbers. But that also is another story. So the
17 question of energy efficiency and reducing the
18 amount that we use, really ties into this whole
19 clean air concept and how we tie into other
20 states. And I think that it's--as much as I have
21 been bad-mouthing those coal fired plants out of
22 state because they are making our air worse in
23 New Jersey, the necessity in the long run of
24 being able to utilize coal to provide energy, I
25 don't think anybody can question that. So what

1 we need to do in the long run on the national
2 level, is figure out how to use coal in an
3 environmentally better way. And I think that's
4 the real answer on that. And so, anything that
5 we do in terms of supporting new technologies,
6 not only the environmental technologies that we
7 were talking about, the class one technologies,
8 but the coal technology, if we can figure out how
9 to use that better to have it less polluting here
10 in the long run, we're going to need that energy
11 that we get from coal. The Commissioner, and
12 almost as a throw away, but everybody else in the
13 same thing, talking about nuclear. In this
14 equation, in terms of clean air, nuclear power is
15 really a benefit. When we get rid of the 40
16 percent, we're going backwards. When we take the
17 40 percent that's being supplied by nuclear, the
18 Commissioner said, almost as a throw away, we're
19 going backwards in this equation. So I think
20 that in terms of technology and where we're
21 going, clearly somebody in the United States, it
22 isn't going to be in New Jersey where we're doing
23 this, but somewhere, someone's going to have to
24 be thinking about and looking at the European
25 Union and how they're using nuclear power and

1 also how we may be able to put nuclear power on
2 line. Deal with the waste products and deal with
3 the cost in this. Public service didn't say
4 this, but I can say it as a consumer, going
5 through the horrendous process of getting one of
6 these plants on line and keeping them on line
7 just from the bureaucratic standpoint has got to
8 cost lots and lots of money in the process. We
9 have to figure out how to better design, permit,
10 and operate these facilities and deal with the
11 waste products. And the last part of this
12 equation is the whole question of, if we're
13 really expanding, we have an expanding economy
14 here, that means growth. That means we have an
15 increased demand for energy. And we do have an
16 increased demand. That is real. So we have to
17 figure out, wherever it is, to move it around.
18 And we need to be able to put in additions to the
19 grid and interconnects and not only electric, and
20 I know we're talking about electric today, but
21 also gas, natural gas. If that is an alternative
22 to a coal fired plant, perhaps in New Jersey,
23 then we need to be able to get the gas supply
24 in. If natural gas is going to be a fuel that's
25 going to be used in this, then we need to get in

1 the supply in. And we can't have bills like pick
2 one out here, Assemblyman D'Catano's bill and
3 Assemblyman Kelly, who wants to stop an extension
4 of the gas pipe line from the west because it
5 goes through their district, even though it's an
6 existing ride of way and paralleling and existing
7 line, somehow we had we're going to have to
8 address that.

9 MR. BERKOWITZ: Three minutes, Jim.

10 MR. SINCLAIR: Okay. I thought I was going
11 to be a lot briefer than this. And then the last
12 thing is that there are proposals on the table,
13 and I know Assemblyman Wisnewski is not here, but
14 Senator Venadent and Senator Allen, they're
15 putting this thing back to the table to go back
16 and look at the bill and add these sort of things
17 that the environmental community, somebody said
18 the fringe group, but I won't say fringe, I want
19 to put these things back on the table. And we
20 haven't really even given this process a chance
21 to work. There are lots of safeguards in it,
22 there's a lot of flexibility in it, and we ought
23 to look at it before we change everything.
24 Because clearly the message that we all got and
25 everybody said it and I will resay it, that no

1 matter what we do here in New Jersey, those
2 plants will still be operating. So if you put a
3 tax on, it's a moral tax. If you decide to buy
4 higher power, green power, you're doing that as a
5 moral kind of thing because you're moving some
6 agenda forward. But it's doing nothing to help
7 our air because it's not shutting those plants
8 down. What's going to help those plants are the
9 controls that are being put on and that will come
10 on in the future. So really, I guess I've said
11 the same thing every year and I'm still saying
12 it. Thank you.

13 MR. BERKOWITZ: Questions for Mr. Sinclair
14 from the council?

15 MR. SINCLAIR: Dr. Manganelli, he always
16 asks me a question, he's not here.

17 MR. BERKOWITZ: Mr. Gabel is here from
18 Gabel Associates.

19 MR. GABEL: Thank you. Good afternoon. My
20 name is Steve Gabel. I'm a consultant with Gabel
21 Associates. We're an energy and environmental
22 consulting firm up in Highland Park, New Jersey.
23 I'm here today on behalf of the independent
24 energy producers of New Jersey who are New
25 Jersey's non-utility producers of power within

1 the State of New Jersey. And they now represent
2 about 13 percent of New Jersey's electric
3 generating capacity on a physical capacity basis
4 on an energy production basis. Depending on the
5 year, they're usually somewhere between 20 and 30
6 percent of the electricity that's produced to
7 serve New Jerseyans. And I'm happy to be here
8 today, I was here last year as well and I
9 appreciate the invitation. What I want to talk
10 about briefly this afternoon is what we think and
11 what I think makes sense in terms of an
12 environmental policy in New Jersey. I want to
13 really build on two foundations. One is the
14 strong efforts of DEP that have already taken
15 place in respect to promoting clean
16 technologies. And it's a very sound permitting
17 process. The second foundation is the electric
18 deregulation bill that Governor Whitman signed
19 into law about a month and a half ago. I'm going
20 to take those two things as given and then kind
21 of work out from there, talk about a few things.
22 The first is really, just to give you a picture,
23 at least to me, this is one picture that tells
24 the story of what's going on inside the power
25 system within this region. New Jersey is part of

1 the Pennsylvania, Jersey, Maryland Interchange,
2 that is, it's part of a transmission grid that
3 runs from New Jersey out to western
4 Pennsylvania. We are interconnected with points
5 to the south, points to the midwest, points to
6 the north. But the system that runs smoothly and
7 is intergraded is the PJM system. This chart, I
8 think, to me, tells a story on what's going on
9 inside that power system, not with respect to the
10 cost of power supply, but with respect to the
11 emissions impact and where kind of the lay of the
12 land is when you look at what the power supplies
13 impact is on New Jersey's air quality. And as
14 you work over from left to right, what I put up
15 on the big bar, is American Electric Power, which
16 is the largest coal producers, coal electricity
17 producer from coal in this country. The next bar
18 is the PJM power pool as an average NOx emission
19 rate. The next one is the New York power pool
20 just north of the us. The next smallest bar is
21 the New Jersey utilities. And the tiny little
22 bar right here is the independent power industry
23 in New Jersey. People, I guess, have talked
24 about coal versus nuclear versus oil versus gas.
25 To me the real fair contrast to me isn't always

1 fuel versus fuel. What this chart really tells
2 you is old versus new. The IPP's have all come
3 on line in the last ten years, some in the last
4 three or four years. What you see out with AEP
5 and the power pools as a whole is a lot older
6 stock of generator. In fact, some generators
7 which have been grandfathered under provisions of
8 the Clean Air Act and they have controls that are
9 significantly less stringent than those that a
10 new power plant would have to put in place if
11 they wanted to go on line. So that's really the
12 story that's out there. And as the industry
13 moves into a time of competition, retail
14 competition begins in New Jersey later this year,
15 probably enrollment will start in August, sign up
16 of retail customers will probably start sometime
17 in October. But the fact of the matter is that
18 wholesale competition, exchanges of power for
19 money among wholesale buyers of power has been
20 going on very strongly in the region for at least
21 the last five years, if you ask some people a lot
22 longer than that. And the wholesale competition
23 is exactly not about this, it's about the cost of
24 that power supply, and it shouldn't come to too
25 much of a surprise that the cost of power from an

1 older plant with lesser controls, with lesser
2 operation and maintenance expenses from coal is
3 going to be a very tough competitor in the
4 marketplace against facilities that have to meet
5 much stricter air pollution standards. Don't
6 take that comment for a second to believe, to
7 conclude, that New Jersey should back away from
8 its stringent standards. I think New Jersey,
9 absolutely, should stick with it. What it does
10 mean, I think, and this to me is the biggest
11 recommendation that I would offer out of my
12 comments, is that New Jersey should stick to its
13 guns at the federal level. I'm sure you're all
14 aware of the things happening with the NOx call,
15 with the OTAG group and a few other initiatives
16 by EPA that are trying to levelize that permit
17 playing field across the different states, it's
18 imperative that New Jersey stick to its guns,
19 keep the strong policy approach to try to have an
20 equalized permitting process and equal, fair
21 permits requirements across power generators
22 across the country. Without that, the notion of
23 real, fair, sustained competition among power
24 suppliers is not going to be real. So that would
25 be the first lesson that I take away from this

1 type of thing when you later on the cost issues.
2 The second issue, and it relates to, again, this
3 little bar right here, and that's that the IPP
4 NOx emission rate is much lower, both because
5 these plants are new, but also because they
6 engaged, most of them, in cogeneration. At the
7 site in which they're located, they not only pump
8 electricity into the grid, they're also providing
9 thermal energy to a large industrial host. The
10 two biggest examples in the New Jersey are the
11 Tasco Refinery, when was able to put aside some
12 old industrial boilers in order to take its steam
13 from the plant, cogeneration plant that's now run
14 up there by East Coast Power. And down at the
15 Dupont Plant down in Deep Water where US
16 generating provides thermal energy to the large
17 Dupont chemical facility down there.
18 Cogeneration, obviously, not only gives you these
19 benefits, but it also takes out an industrial
20 boiler and to an extent, you recognize that
21 benefit of cogeneration in allowance trading
22 programs in emission trading programs as the
23 thermal benefit of that technology. You'll begin
24 to push that technology even further within the
25 State of New Jersey. The fourth issue that I

1 wanted to touch on is to ask DEP, and ask you to
2 keep DEP managing the permit process in an
3 efficient manner. The real competition in the
4 industry, as I mentioned, is going to be probably
5 between the old coal plants, which begin to
6 either increase their output and their capacity
7 factors or take actions to increase their
8 capacity overall, versus the new plants that will
9 probably spring up on the east coast of the
10 country if the process is set the right way
11 because of a locational difference. There are
12 locational benefits to having power plants closer
13 to load the way the system is managed, price
14 signal is send called locational marginal
15 pricing, which tells generators they get an
16 economical benefit if they are closer to the
17 electrical load and away from the transmission
18 constraints that exist in this country. As a
19 result of that competition, old coal, new
20 technologies, it's important that as these new
21 technologies are developed that can displace the
22 old coal, that the DEP continue its very
23 impressive efforts to make the permitting process
24 more efficient, more timely, move the process
25 along while also protecting the public health as

1 they do that. The fourth issue I wanted to touch
2 on briefly was the issue of environmental
3 disclosure. You possibly heard about this
4 earlier today. The BPU working with the DEP over
5 the last two years has been trying to put in
6 place a system that will tell retail customers
7 not only how much their electricity costs, what
8 the environmental impact of the energy that they
9 buy. The notion of green power is real, if it's
10 done the right way. If it's done the wrong way
11 it could basically be a shell game of companies
12 putting a green label on something but really
13 accessing supplies from the same power grid that
14 they would have accessed the supplies from
15 anyway. So we need a meaningful system of
16 disclosure that really enables the BPU and the
17 DEP to have some reasonable mechanism to track
18 the supplies without imposing too much cost on
19 the suppliers who are going to have, ultimately,
20 the obligation to track the supply. You don't
21 want to make the cost of tracking too excessive.
22 But disclosure of emissions and fuel mix is a
23 real way to give consumers the ability to move
24 New Jersey's power supply from a dirtier to a
25 cleaner source of energy. To summarize, then, I

1 would ask that this group keep and help DEP to
2 keep the pressure on at the federal level to
3 equalize the playing field on permits, to keep
4 the process of granting permits and giving
5 permits an efficient one. To find ways to do
6 cogeneration within the trading programs the DEP
7 operates and is involved with, and to keep its
8 work going with respect to disclosure for retail
9 customers. Thank you.

10 MR. BERKOWITZ: Thank you Mr. Gabel.

11 Questions from the council?

12 MR. SPATOLA: Steve, among the independent
13 power producers of New Jersey, is that all
14 produced and used locally or is the IPP also
15 utilizing the PJM grid they place the board
16 powered supply?

17 MR. GABEL: Most of the independent power
18 plants in New Jersey at this moment in time have
19 their power supplies locked into long-term
20 agreements with the local, the four electric
21 utilities in New Jersey. They sell it wholesale
22 to those utilities that resell it to their
23 customers. The market is opening up, however,
24 and as new plants come on line, in all
25 likelihood, they would not be able to get

1 long-term, they're going to have to go through to
2 what's called a merchant mode and try to sell
3 their power either to the PJM grid or find retail
4 sellers of power where they can move that power
5 to.

6 MR. BERKOWITZ: Steve, we haven't had the
7 benefit of having testimony from BPU for whatever
8 reason today, and I don't believe there is
9 anybody from BPU who is going to testify.
10 Apparently, there is a hearing tomorrow at 1:30
11 to 4:30 at Two Gateway Center. Have you reviewed
12 the disclosure labels? And what are your
13 thoughts about the disclosure process and the
14 labels?

15 MR. GABEL: I think there's a lot of
16 intricacies that need to be worked out with
17 respect to what people in the industry call the
18 tracking mechanism. If you buy from a green
19 supplier, it goes kind of almost without saying
20 that the power that the green supplier, when they
21 have hydro power or wind power or solar power
22 entering the system here, those aren't the same
23 electrons that go through your meter. As a
24 result of that, the tracking mechanism of
25 verifying that the power supplier that you bought

1 that power from, actually injected more green
2 power into the system because of you, becomes a
3 very difficult, complicated process. And that's
4 where the rule doesn't go directly into that
5 issue, it talks about a process to address that
6 issue. And that's the real tough issue in
7 there. With respect to what the rule does on
8 what ought to be disclosed, I think it's a very
9 positive role, and that is that it has all power
10 suppliers will have to disclose their fuel mix.
11 So if you can kind of picture a pie with
12 different pieces of the pie telling what the fuel
13 type is, and they'll have to tell, I think, their
14 NOx, their SOx, their CO2 emissions from each
15 plant. So if you can kind of imagine a bar chart
16 showing what the emissions are from the supplier
17 you bought from and a line on there showing maybe
18 what the regional or state average is. You'll
19 get a sense, you'll be able, as a customer, to
20 get a sense of what you're buying.

21 MR. BERKOWITZ: And it's your belief that
22 somebody who is interested in trying to educate
23 themselves in making an informed decision as
24 compared to the labels comparison that need to be
25 made?

1 MR. GABEL: Yes.

2 MR. BERKOWITZ: Thank you. Any other
3 questions from Council?

4 MR. SPATOLA: One last question for you,
5 Steve. I know that you presented a chart on the
6 efficiency from independent power producers
7 versus other sources of electricity in the state,
8 but how does that also compare in for one hour
9 versus a more bulk of the producers?

10 MR. GABEL: The older plants from the
11 midwest, the coal, the older coal fired plants,
12 are significantly less expensive on a running
13 cost basis, putting capital cost aside, to
14 produce a kilowatt of electricity would probably
15 be between one and two cents per kilowatt hour.
16 And for a newer advanced technology, depending on
17 the cost of the fuel, would probably be between
18 two or three cents. Anywhere from ten to thirty
19 percent price differential between the two
20 sources, which in a competitive market is a very
21 wide defence.

22 MR. BERKOWITZ: Any further questions? If
23 not, I'd like to thank you, Steve. Good seeing
24 you. Thank you very much. Our next person will
25 be Mr., and please forgive me if I'm

1 mispronouncing this, Bi bbo from the Sciences
2 Services Inc.. Not present. I think our next,
3 perhaps, final speaker is Michelle McMorrow,
4 regional director of Burning Issues.

5 MS. MC MORROW: I want to thank you very
6 much for giving me an opportunity to speak
7 today. I came to Burning Issues by way of
8 calling the USEPA when I was trying to learn more
9 about wood smoke pollution. I would like to give
10 my support to the last speaker's point of view
11 about pursuing.

12 MR. BERKOWITZ: Can you redirect the
13 microphone so everybody hear.

14 MS. MC MORROW: Thank you very much and
15 thank you for giving me the opportunity to
16 speak. I'm going to read my notes to you. What
17 I was also trying to do was give my support to
18 the previous just speaker's point of view. I
19 came to Burning Issues by way of USEPA. I called
20 them in desperation to find out more about wood
21 smoke and the impact on the human condition. My
22 concerns go, perhaps, a little afield of what
23 your main focus is today, but they certainly tie
24 in with the deregulation of the industry. We've
25 all gone through the pros and cons of the

1 communication industry's deregulation and we've
2 observed all the professional as well as amateur
3 participants that entered that industry
4 immediately afterward. With the deregulation of
5 electric utility, a number of us are concerned
6 that we'll see the same kind of participation in
7 the amateur participants in this industry. And
8 before you make any decisions, hear me out a
9 little further. Asthma, back in 1997, Newsweek
10 May 26, reported that asthma in America was
11 afflicting some 14.6 million of us, including
12 five million children. The number represents a
13 jump of some 61 percent since the early 1980s.
14 According to the National Center for Health
15 Statistics, the asthma has increased in every age
16 group with the hardest hit being the children
17 under 18 years. For them it was a 73 percent
18 increase from 1982 to 1994. And the death toll
19 was doubled, 5,000 each year. Right now we're
20 probably looking more towards the effects of
21 ground level ozone as we're going in to the warm
22 summer months, a combination of pollutants from
23 smoke stacks, paint, solvents and a variety of
24 other things are contributing there. We know
25 that two cycle engines are still far more

1 polluting than they need to be. Probably need to
2 go to the next phase of auto emissions by
3 demanding more efficiency, especially from the
4 SUV and diesel engine manufacturers. Commercial
5 vehicles are, I believe, long overdue for the
6 same kind of emission study and scrutiny than
7 we've done for the private vehicles. The oil
8 industry must produce low sulfur gasoline and
9 eliminate the MTBE which is sensitizing to a
10 great number of people and has been found to
11 poison our water supply. Methyl bromide, which
12 you don't hear too much about in the news, which
13 apparently is a significant participant in the
14 production of ozone, and that production in the
15 country has been halted, but apparently the use
16 of methyl bromide goes on still to this day.
17 USEAP Office of Air Quality Planning and
18 Standards identified other air pollutants that
19 are grave concern, carbon monoxide and
20 particulate matter. I think we all pretty well
21 know about carbon monoxide, but I think a little
22 more attention needs to be paid to particulate
23 matter. The tiny particles and unburned
24 materials suspended in the air, they're so small
25 that they pass by the lining in the nose and the

1 throat, and they become embedded in the lining of
2 the lungs. Most wood smoke particles actually
3 average less than one micron which allows them to
4 remain airborne for as long as three weeks. Wood
5 smoke in particular from a fireplace or wood
6 burning stove or even camp fire, contains
7 creosote, soot and ash. And these particles are
8 so small they filter into your home even when you
9 have your window closed and your doors closed
10 tight. Inhalation of this particulate matter 2.5
11 causes coughing, irritation, scarring and damage
12 to the lungs. It contributes to cancers and to
13 heart disease and to changes in DNA which can
14 lead to autoimmune disease. Particulate
15 pollution is also thought to be a contributing
16 factor these days to sudden infant death
17 syndrome. The highest PM levels measured
18 consistently result from the burning of solid
19 materials. Smoke from wood combustion is
20 entirely in this range. In the packet that I
21 will supply you with, there's a chart of average
22 emission of fine particles. The sources in that
23 chart are broken down in an hourly fashion. But
24 if you take a look, you'll see that gas furnace
25 creates particulate matter, 0.001 grams per hour

1 and in 24 hours that's a .024 grams total. An
2 oil furniture in one hour creates .02 grams for a
3 total of a daily production of .48 grams. A
4 certified wood stove, which the EPA currently is
5 supporting, creates 8.2 grams per hour or a total
6 of 196.8 grams in a given day. And a
7 non-certified wood stove of which we have the
8 most in this state, I'm sure, is 15.6 grams per
9 hour or 374.4 grams in a day. Summary of
10 emission characterization and a noncancer
11 respiratory effects of wood smoke and EPA
12 document that is listed EPA 435-4, indicated that
13 for children in homes where wood is burned and
14 living in communities where wood smoke is
15 prevalent, the smoke causes a decrease in lung
16 capacity and increases in asthma attack. The
17 frequency and severity of general respiratory
18 illness is increased, emergency room visits are
19 increased, and the higher rate of school
20 absences. About 50 percent of airborne
21 polynuclear organic material comes from
22 residential wood burning overall. POMs include
23 another group of compounds, polycyclic aromatic
24 hydrocarbons, which contain many carcinogens and
25 USEPA estimates that the cancer risk from wood

1 smoke, which I find this interesting, is 12 times
2 greater than that from the equal amounts of
3 tobacco smoke. It also remains viable longer. A
4 study in Louisiana State University discovered
5 that free radicals produced from wood smoke are
6 chemically active for 20 minutes, while tobacco
7 smoke radicals are chemically active for 30
8 seconds. I'll take my chances with that one.
9 Thank you. There are over a hundred different
10 chemicals and compound groups in the emissions of
11 wood burning. In addition to the previously
12 mentioned, there's formaldehyde, methane, VOCs
13 benzene, phenol and nitrogen oxides, and that
14 combines, as you know with the ozone. Unless the
15 house is pressurized with extensive external air
16 intakes and coupled with a highly sophisticated
17 filtration units, the pollutants of the person
18 who is doing the wood burning will also integrate
19 their home because the smoke goes up the chimney,
20 it's generally heavier than the air inside, and
21 as it exists the stack and is drawn back in hence
22 the fire goes from raw oxygen to continue
23 burning. The low stacks, I mean that generally
24 speaking, the smoke stays down at ground level,
25 and it also ensures the contamination of the

1 surrounding neighborhood. On a daily basis and
2 just about year round I check into New Jersey's
3 DEP air monitoring web page, and invariably I
4 see, even in the winter, the moderate air quality
5 due to particulate matter and smoke pollution
6 often as early as seven a.m. in the morning. On
7 days when the wind drops or comes in from the
8 ocean, that moderate rate very quickly
9 deteriorates. Ground level ozone, as I'm sure
10 you folks know, is already an issue and it's only
11 April. I think that's probably, it looks like
12 we're in a brace right now as to whether or not
13 ozone or particulate matter will win the day on
14 any day. Since 1973 with the oil embargo, the
15 sale of wood burning stoves has skyrocketed. The
16 shiny new smoke stacks in every residential
17 neighborhood can attest to that. And most of the
18 condominiums and town homes that I have looked
19 at, they offer electric heat, clean electric heat
20 and conversely they offer supplementary wood
21 stove. And the indication is that wood smoke is
22 not that bad a thing. And when you look again at
23 that emissions chart, it seems is this we're
24 laboring under that misconception that wood smoke
25 is green. It's natural, therefore it's healthy.

1 And wood smoke is, in two words, air pollution,
2 plain and simple. The more efficient fuels, the
3 natural gas and oil burned clean because our
4 government has regulated and imposed standards,
5 so that they wind up burning clean and ensuring a
6 healthier life-style for everyone. As you can
7 see, the wood stoves are at least a hundred times
8 more polluting than the gas furnaces and the old
9 wood stoves are probably about a thousand times
10 worse. There's just no way to burn wood, not
11 safely. According to the natural resources
12 defence council, 64 thousand people probably die
13 prematurely each year from cardiopulmonary cause
14 linked to particulate pollution. England began
15 to mandate a clean fuel use following their air
16 inversion in 1952 that killed 4,000 people. It's
17 called, what did they call it there, the UK Clean
18 Air Act of 1956 came about because solid fuel
19 combustion was a significant contributing factor
20 in the deaths of those 4,000 people. Star Ledger
21 in December of '98 listed to our population
22 density at approximately 1034 per square mile.
23 If we're going to legislature for clean air as it
24 applies to a tobacco smoker, how can we ignore an
25 issue that is 12 times more deadly and far more

1 evasive than tobacco smoke? My goal is not to
2 minimize the concerns of the industrial pollution
3 incineration. And I'm not here to excuse, if you
4 will, the emission from our western neighbors.
5 I'm here to target the enormous ignorance that's
6 contributing as much as 50 percent or our
7 pollution here in the State of New Jersey. We,
8 the public, have got to take responsibilities for
9 our actions. Not every problem can be pinned on
10 the pocketbook of an industry. Individuals who
11 make poor decisions will impact themselves and
12 their neighbors, and what we need to bring
13 industry and compliance, we also have to begin at
14 the bottom of the pile and work, starting with
15 the amateur incinerator operator who is the
16 residential worker. The information and science
17 is available to us. Burning Issues has a website
18 that has compiled some 300 scientific papers,
19 most of them have been accomplished by the USEPA
20 and some other original studies. The New Jersey
21 DEP needs to bring this to light, they need to
22 enforce good public health for all of us. I've
23 been assured that we don't have an open burning
24 policy in this state, but I have been told that
25 farmers can obtain annual burning permits. Burn

1 days are dependant here only on fire conditions.
2 No consideration is given to the air quality
3 status or the daily forecasted conditions for
4 human health. One call to the Forestry Service
5 and you can light the match. In Washington
6 State, this year, they've notified the grass seed
7 industry that they're no longer able to conduct
8 open field burning. The health of the residents
9 takes precedence over the profits of their
10 industry. I'm sure their density can't hold a
11 candle to ours. In Iowa, Nevada and
12 Pennsylvania, last year, law students were
13 successfully filed against residential wood
14 burners by their neighbors. The details can be
15 seen on the Burning Issues' web page. The upshot
16 here is that the clean non-polluting fuels are
17 available. The court found for the plaintiff's
18 right to clean air in the home, clean air on the
19 property. This past weekend I noticed that my
20 garden centers are being flooded with a clay
21 version of a wood stove, a chiminea from Mexico.
22 Customers are now being encouraged to go and burn
23 wood or coal on their patio and have a lovely
24 outdoor wood fire for the summer. That's open
25 burning. This should not be even for sale in

1 this state. We need to get the State of New
2 Jersey to take a second look at this. It occurs
3 to me that as long as they ever there's enough
4 particulate matter being generated by our
5 population, there's no way for scientists to
6 prove the negligence of corporate entity. Right
7 now most residential wood burning is coming to a
8 halt. With these chimineas, I'm sure we're going
9 to see a lot more wood burning, and at same time
10 the power plants to the west that we've been
11 hearing about are going to be cranking up in
12 earnest burning wood, coal, whatever is cheap.
13 So the question is, how many wood burners does it
14 take to nullify any attempts by scientists to
15 read particulate matter data and to identify the
16 power companies or any other industry or anyone
17 else as a polluter? And I would say that we've
18 met the enemy and he is us. I would hope that
19 you folks will be able to mount some kind of an
20 informational and educational campaign, public
21 and influence, some kind of controls for the wood
22 burning. Both the public and private. Thank
23 you.

24 MR. BERKOWITZ: Thank you. Any questions
25 from the council? At this point, this concludes

1 the list of speakers that I have before me. Is
2 there anybody else in the audience that wishes to
3 be heard on the issue of energy deregulation? If
4 not, I've been advised that the Commissioner
5 would like to say something.

6 MR. SHINN: Sorry to get on your agenda
7 twice in one day, but it was a little premature
8 this morning to talk about this, but New Jersey
9 is filing a 126 Action against a group of states
10 south, as far as North Carolina and west to
11 include Illinois and North Michigan and New
12 York. So it's the transport line west and
13 certainly south to include North Carolina. So
14 it's not something that we've done lightly.
15 Quite frankly, we became concerned when a lot of
16 us, a lot of the states that voted for the OTAG
17 solution and recommendation of the EPA through,
18 probably several reasons, changed their
19 position. And states like Ohio and Indiana and
20 North Carolina, to name a few. And we're sort of
21 in a unique position to take advantage of the
22 subregional modeling that EPA did. EPA took the
23 OTAG model and did it from a state perspective,
24 and we took the opportunity of bringing that
25 modeling into our program and identify that in

1 the state implementation plan call. So we think
2 we have a technically sound basis for making the
3 126 Application. And so, essentially, I'm
4 signing that and processing it as of today.
5 Those of you who are interested in that aspect of
6 our air program, it's done. Thanks a lot.

7 MR. SPATOLA: The Clean Air Council, today,
8 aware of this action, has passed a resolution in
9 this regard. And I would just like to readjust
10 the last portion of our resolution as it applies
11 to Section 126. If you want I could read the
12 whole thing to you. This is done by the Clean
13 Air Council today, the 14th of April. It says,
14 WHEREAS: New Jersey has taken strong efforts to
15 control ozone precursors within its boundaries.
16 WHEREAS: Emission reductions from sources located
17 in New Jersey alone cannot bring the State into
18 attainment, because ozone and ozone precursors
19 transported from outside the State continue to
20 impair the State's air quality;
21 WHEREAS: New Jersey has therefore played a strong
22 leadership role in the National Governors
23 Association, the Environmental Council of the
24 States, the Ozone Transport Assessment Group and
25 the Ozone Transport Commission in promoting

1 cooperative and innovative solutions to regional
2 environmental challenges;

3 WHEREAS: New Jersey has also played a leadership
4 role in fostering coordinated regional ozone
5 reduction actions among the twelve Ozone
6 Transport Commission states and the District of
7 Columbia such as the NOx Budget Program for large
8 stationary sources which calls for a seasonal 75%
9 NOx reduction from electric generators by May
10 2003, along with an interim 65% NOx reduction
11 beginning in May 1999;

12 WHEREAS: Based on the OTAG Assessment, the US
13 Environmental Protection Agency has determined
14 that ozone precursor emissions originating from
15 sources located in midwest and southeast states
16 significantly contribute to ozone standard
17 exceedances in New Jersey, which is consistent
18 with the North American Strategy for Tropospheric
19 Ozone's finding that 40% or more of the ambient
20 ozone affecting New Jersey is typically the
21 result of interstate transport;

22 WHEREAS: The US Environmental Protection Agency
23 has taken final action under Section 110 of the
24 Clean Air Act to address regional ozone transport
25 in the eastern United States by requiring that

1 twenty-two eastern states reduce seasonal NOx
2 emissions by one third, so that power plants
3 located in those twenty-two states reach a NOx
4 emission level of 0.15 pounds per million BTU;
5 WHEREAS: The US Environmental Protection Agency's
6 Section 110 rule has been legally challenged by
7 midwest and southeast electric generating
8 companies in an attempt to stay the rule and
9 thereby delay or avoid NOx emission reduction
10 actions;
11 WHEREAS: Section 126 of the Clean Air Act
12 provides a means for states to petition the US
13 Environmental Protection Agency to take direct
14 action to mitigate interstate transport, under
15 which eight northeast states have acted;
16 WHEREAS: New Jersey has now joined the
17 aforementioned eight states to petition the US
18 Environmental Protection Agency under Section 126
19 of the Clean Air Act.
20 THEREFORE: The New Jersey Clean Air Council
21 strongly supports and commends the decision by
22 the State of New Jersey to file a Section 126
23 petition expeditiously with the US environmental
24 Protection Agency as means to ensure that the
25 impact of regional ozone transport is effectively

1 mitigated, should the US Environmental Protection
2 Agency be unable to proceed with Section 110
3 implementation as set forth in the Section 110
4 final rule. That's it.

5 MR. SHINN: Good.

6 MR. SPATOLA: Congratulations on behalf of
7 the entire Clean Air Council.

8 MR. BERKOWITZ: Okay.

9 MR. EGENTON: Wearing my other hat, I
10 wanted to thank you both professionally and
11 personally, as you know, the State Chamber joined
12 in the litigation with the New England States,
13 and we appreciate your efforts here today. Thank
14 you.

15 MR. BERKOWITZ: Commissioner, on behalf of
16 a lot of people who spectated your involvement,
17 and somebody that's personally involved in the
18 program years before, I'm proud of your efforts
19 in putting New Jersey on the forefront and I want
20 to personally congratulate you. We have written
21 comments which will be entered into the record
22 from Marie Curtis from the New Jersey
23 Environmental Lobby, from William Dressel from
24 the New Jersey League of Municipalities. And
25 Janelle Gurarro from Enron. Is there any other

1 business pending before the Clean Air Council
2 relative to the hearing?

3 MS. INDELICATO: Just to let you know there
4 was a little confusion with the BPU's scheduling
5 today. But we as the Council might want to
6 consider and we're certainly open to it if there
7 were any other questions that they were not able
8 to come to and answer or something like that, we
9 could submit them and also receive their
10 comments, so we'd like to reserve place for the
11 BPU statement also of some type. And I also just
12 want to say I have a message that was sent by
13 Chris Siebens that there were certain questions
14 he could not respond to and he'll provide an
15 e-mail address. That will come back in that will
16 make part of the record also.

17 MR. EGENTON: Erin, do we have a guest
18 speaker scheduled for the next meeting for May.

19 MS. INDELICATO: We do.

20 MR. EGENTON: I was going to suggest if not
21 that would be but the following would be we can
22 have a BPU representative come talk to us.

23 MS. INDELICATO: They filled right up.

24 MR. BERKOWITZ: I think it would be very
25 important to get the BPU's comments.

1 MS. INDELICATO: A representative in the
2 audience, who could really speak on the issues,
3 suggested that there were things they could have
4 answered if we would like to put certain
5 questions to them.

6 MR. EGENTON: I think in putting together
7 our reports of the comments we received, we can
8 sit down with a BPU representative and hopefully
9 in the month of June and they can clarify some
10 things on the Board of the Public Utilities end
11 of it.

12 (testimony of William Dressel, not
13 present)

14 MR. DRESSEL: The New Jersey League of
15 Municipalities is pleased to offer its position
16 regarding the environmental impact of electric
17 energy deregulation in the State of New Jersey.
18 The League recognizes that the instability of
19 market pricing and energy supply could, over
20 time, create a stronger bias toward the
21 introduction of less environmentally friendly
22 fossil fuel derived energy which is generated in
23 areas west of New Jersey. Environmental
24 standards are less in that region of the country
25 than those which have been promulgated and

1 successfully administered in New Jersey.
2 Therefore, the League supports any initiative
3 that will work toward the reduction of imported
4 energy to the State which has been produced
5 through unacceptable environmental standards.
6 This includes support for the environmental
7 disclosure standards promulgated under the Act.
8 However, we strongly urge the New Jersey State
9 Legislature to adopt even stronger standards over
10 the course of the next four years. We believe
11 that New Jersey should take a national leadership
12 position linking energy deregulation with
13 environmental impact concerns. Of primary
14 importance to the League is that all energy
15 consumers, particularly those in the residential
16 sector, must have the ability to benefit from
17 lower prices resulting from deregulation on a
18 consistent and ongoing basis. This will assure
19 that New Jersey will continue to maintain a
20 healthy and growing economy while its residents
21 enjoy improvement in the overall quality of life.
22 Two key issues form the League's position in this
23 critical area- municipal aggregation and the
24 adoption and administration of effective Demand
25 Side Management efficiency programs and measures.

1 Municipal aggregation will allow sufficient
2 numbers of low use energy consumers to take
3 advantage of volume purchasing to maximize cost
4 reductions and achieve meaningful reductions in
5 their energy bills. The league has consistently
6 and visibly maintained its support for the
7 municipal aggregation concept, and it has now
8 committed its resources to all members in their
9 efforts to develop the framework. New Jersey has
10 long been a national leader in the creation and
11 administration of highly effective DSM programs.
12 Many of these have become models for similar
13 initiatives in other states. We now find
14 ourselves at a crossroads regarding the true of
15 DSM in this state. Given the positive
16 environmental implications of DSM, it is
17 essential that a renewed effort be put forth with
18 both the energy supply sector and the private
19 energy service industry combining in a
20 broad-based effort to increase the level of
21 funding and market penetration of DSM programs.
22 DSM, by definition, will reduce the amount of
23 energy required for individuals and businesses
24 alike. This, in turn will decrease the
25 dependence on less expensive and higher polluting

1 electric generation. In addition, an ongoing
2 program of effective DSM efforts will ultimately
3 mitigate the need to construct additional
4 generation facilities in New Jersey or within the
5 Pennsylvania, New Jersey, Maryland
6 Interconnection. All of this will lead to a
7 substantial reduction in emissions, thereby
8 improving New Jersey's air quality. The League
9 also endorses the State's initiatives in the
10 areas of alternative and renewable energy sources
11 that are becoming increasingly critical to the
12 energy stability of both the state and nation.
13 The League expects that the increased funding
14 which was included in the legislation will be
15 utilized to develop innovative and cost effective
16 solutions to alternative energy applications that
17 will be beneficial to its membership over a
18 longer period of time. In summary, the League of
19 Municipalities has dedicated its staff and
20 resources to assure that its membership receives
21 the maximum benefit possible resulting from the
22 deregulation of the electric industry while
23 striving to support initiatives that, at the same
24 time, will lead to the amelioration of New
25 Jersey's environment. We support municipal

1 aggregation, the expansion of the environmental
2 portfolio standards and the development and
3 funding of effective and meaningful DSM programs.
4 Finally, we commit to provide a strong and
5 understandable education program to our
6 membership regarding the implications of energy
7 deregulation and its relationship to the
8 environment of New Jersey.

9 (testimony of Marie Curtis, not present)

10

11 MS. CURTIS: The New Jersey Environmental
12 Lobby represents some 100 local and statewide
13 environmental groups in the state with a
14 thirty-year history of activity to protect and
15 preserve New Jersey's natural resources and the
16 public health. In recent years we have focused
17 primarily on air quality because of the severity
18 of the air pollution problem in this state. We
19 fear that the deregulation of the electric power
20 industry will only worsen an already bad
21 situation. Because New Jersey is in severe
22 non-attainment of the National Ambient Air
23 Quality Standards, we have required more
24 stringent controls on pollution generators,
25 including power plants. The facilities providing

1 electricity in this state are far cleaner than
2 those in other areas. They also provide
3 electricity at a higher cost, paying for those
4 protections. In the midwest, the tall smoke
5 stacks carry the emissions up to the prevailing
6 winds where they are transported to the
7 northeast. Most midwestern states are in
8 compliance with NAAQS because their emissions are
9 deposited elsewhere. These states also have a
10 strong economic interest in coal as fuel since
11 they are home to much of the coal mining
12 industry. So a ready supply of rule, coupled
13 with supposed Clean Air compliance, has led to
14 dirty power production at a considerably lower
15 cost than here in New Jersey. The public has
16 been told repeatedly that deregulation means
17 competition and competition means cheaper rates.
18 Our fear is that our citizens will act on that
19 premise and decide on a power provider based
20 solely on the bottom line. This could impact
21 most adversely on our air quality, public health
22 and even on the State's economy should the clean
23 utilities be forced to curtail or close
24 operations. This is not a happy scenario for
25 anyone. We are not alone in this vision. In the

1 past several months, anticipating deregulation
2 and a demand for cheap power, power companies in
3 Michigan, Louisiana and Illinois have been
4 attempting to bring old, dirty coal fired plants
5 on line again. These are some of the most
6 polluting generators since they were
7 grandfathered under the original Clean Air Act
8 and exempted from new source facility standards.
9 In Michigan, the plans to reactivate such a plant
10 were called routine maintenance to justify the
11 reactivation. Some local citizens were horrified
12 and groups eventually went to court. The judge
13 declared that reactivation of a plant mothballed
14 for 12 years was more than routine maintenance and
15 ordered the generator to switch to natural gas as
16 a fuel. In other areas, the issue of those
17 dirtiest facilities being reactivated is still
18 very real and progressing. Here in New Jersey
19 our citizens will have information to assist them
20 in making a choice of power provider. The law in
21 this state requires that potential customers be
22 told of the fuel sources of the power that they
23 will be buying. Residents will be able to see
24 the percentage that comes from dirty coal, the
25 percentage that comes from cleaner natural gas or

1 hydroelectric, and the percentage that comes from
2 green sources like solar and wind. The choice
3 will be important to us all. If we opt for
4 monetary savings alone, our air quality will
5 continue to worsen. We are already facing
6 possible sanctions for failure to improve air
7 quality. Further stringency in our state
8 requirements will be an economic disincentive to
9 business and will end up costing us more in other
10 ways. Most important though, is the public
11 health. It is our children and senior citizens
12 who will pay the price here. Studies have shown
13 us repeatedly that air pollution equates to
14 increased heart and respiratory disease. A
15 study done here in New Jersey showed that, on
16 ozone alert days, hospital admissions for
17 respiratory disease rose roughly 30 percent. The
18 primary source of NOx, an essential element in
19 the foundation of ground level ozone, comes
20 primarily from power plants- coal burning power
21 plants. In the presence of ozone, asthma attacks
22 and allergy reactions escalate as well. A
23 British study confirmed that in the presence of
24 ozone, only one-half the normal dosage of an
25 allergen will trigger a severe attack. In some

1 parts of Elizabeth, NJ, roughly 40 percent of the
2 elementary school children suffer from severe
3 asthma. It is not a cost saving if we have to
4 increase medical care costs and medical insurance
5 costs to compensate for declining health. The
6 real cost of our power provider selection may
7 never be seen on an electric bill. Therefore, we
8 believe that a massive public education campaign
9 to place facts before the citizens of this state
10 prior to deregulation is necessary. New Jersey
11 citizens are sophisticated when it comes to
12 environmental concerns. We believe they will do
13 the right thing if they have all the facts. We
14 thank you for the opportunity to appear here and
15 make our concerns known to you.

16 MR. BERKOWITZ: I believe that that
17 concludes the hearing. And as such, I'll turn
18 the microphone back to the Chair.

19 MR. SPATOLA: This officially closes the
20 Clean Air Council's 1999 public hearing. And we
21 want to thank everybody for the participation and
22 the involvement and the comments and the
23 suggestions that have been made. That will help
24 us to arrive at some position on what
25 recommendations we should be making to the

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C E R T I F I C A T E

I, MATTHEW SEDACCA, being a Certified Shorthand Reporter of the State of New Jersey, do hereby certify that the foregoing is a true and correct transcript of the proceedings.

MATTHEW SEDACCA
CERTIFIED SHORTHAND REPORTER

DATED: May 2, 1999

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N O T A R Y P U B L I C

I, MATTHEW SEDACCA, a Notary Public of the State
of New Jersey, my commission expiring on May 22, 2002,
do hereby certify that the witness was sworn by me on
the aforementioned date and place mentioned.

Matthew Sedacca
Notary Public of the State of
New Jersey
2201771
My Commission Expires 5/22/02

Date: May 2, 1999

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