

UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:)
)
CERTAIN CERAMIC STATION POST) Investigation Nos. :
INSULATORS FROM JAPAN) 731-TA-1023 (Final)

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THE UNITED STATES INTERNATIONAL TRADE COMMISSION

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Wednesday,
 October 29, 2003

Room 101
 U.S. International Trade
 Commission
 500 E Street, S.W.
 Washington, D.C.

The hearing commenced, pursuant to notice, at 9:30 a.m., before the Commissioners of the United States International Trade Commission, the Honorable Deanna Tanner Okun, Chairman, presiding.

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On behalf of the International Trade Commission:Commissioners:

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 MARCIA E. MILLER, COMMISSIONER
 CHARLOTTE R. LANE, COMMISSIONER
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ADDITIONAL APPEARANCES:

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TRACI WEAVER
Senior product Manager
Lapp Insulator Co. LLC

RICK STANLEY
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P R O C E E D I N G S

(9:30 a.m.)

1
2
3 CHAIRMAN OKUN: Good morning. On behalf of
4 the International Trade Commission, I welcome you to
5 this hearing on Investigation No. 731-TA-1023 (Final)
6 involving certain ceramic station post insulators from
7 Japan.

8 The purpose of this investigation is to
9 determine whether an industry in the United States is
10 materially injured or threatened with material injury
11 by reason of less than fair value imports of subject
12 merchandise.

13 Schedules setting forth the presentation at
14 this hearing and testimony of witnesses are available
15 at the secretary's desk.

16 I understand the parties are aware of time
17 allocations. Any questions regarding time allocations
18 should be directed to the secretary.

19 As all written material will be entered
20 fully into the record, it need not be read to us at
21 this time. All witnesses must be sworn in by the
22 secretary before presenting testimony.

23 Copies of the notice of institution, the
24 tentative calendar and transcript order forms are
25 available at the secretary's desk. Transcript order

1 forms are also located in the wall rack outside the
2 secretary's office.

3 Finally, if you will be submitting documents
4 that contain information that you wish classified as
5 confidential business information, your request should
6 be in compliance with Commission Rule 201.6.

7 Madam Secretary, are there any preliminary
8 matters?

9 MS. ABBOTT: Yes, Madam Chairman. With
10 your permission Grant G. Beckwith with Nixon Peabody
11 will be placed on the calendar as counsel to the
12 Coalition.

13 CHAIRMAN OKUN: Without objection.

14 Very well, then let us proceed with opening
15 remarks.

16 MS. ABBOTT: Opening remarks on behalf of
17 the petitioners will be made by Andrew Sheldrick,
18 Nixon Peabody.

19 CHAIRMAN OKUN: Welcome.

20 MR. SHELDRIK: Chairman Okun, members of
21 the Commission, members of the staff, good morning to
22 you.

23 For the record, I am Andrew Sheldrick of the
24 law firm of Nixon Peabody, and I am accompanied this
25 morning by my colleague Grant Beckwith.

1 We appear here to on behalf the Coalition
2 for Fair Trade --

3 CHAIRMAN OKUN: Mr. Sheldrick, if you would
4 just do us a favor and pull your microphone a little
5 bit closer.

6 MR. SHELDRIK: Of course.

7 CHAIRMAN OKUN: Thank you.

8 MR. SHELDRIK: We appear today on behalf of
9 the Coalition for Fair Trade in Insulators to urge the
10 Commission to enter an affirmative determination in
11 this antidumping investigation into ceramic station
12 post insulators from Japan, and I will happily adopt
13 the acronym of CSPI, which the staff has given this
14 product.

15 The coalition is a broad industry group
16 which is comprised of the three independent U.S.
17 manufacturing companies; namely, Lapp Insulator
18 Company, Newell Porcelain, and Victor Insulators, as
19 well as the Communication Workers of America, which
20 represents the hourly paid employees of Lapp. And I
21 refer to them as independent producers because the
22 fourth producer in the U.S., Locke Insulators, is an
23 affiliate of NGK Insulators of Japan, who we will be
24 hearing this morning, which is the exporter of the
25 subject merchandise.

1 Madam Chairman, imports of dumped CSPI from
2 Japan have increased significantly during the period
3 of investigation both in absolute terms and relative
4 to domestic consumption.

5 The pricing data developed by the staff show
6 that imported insulators undersold the domestic
7 product in the vast majority of cases for which
8 comparisons were available, and forced down prices
9 even during a period of strong rising domestic demand.

10 Now, although respondents in their brief
11 have challenged some of these underselling data, and
12 that's a point we will address in our post-hearing
13 brief, the Commission should take note of the fact
14 that CSPIs are a commodity product where price is the
15 principal driver of purchasing decisions.

16 So we would submit that to determine who the
17 price leader has been during the POI one really only
18 need ask who is increasing market share. And once
19 again the finger of blame points fairly and squarely
20 at imports from Japan.

21 Let me add a couple of other comments just
22 as a preface to what you will be hearing a little
23 later this morning.

24 The respondents have asserted that we're not
25 dealing with an industry problem here, but really with

1 a Lapp problem, and they have made some suggestions in
2 their brief as to what they believe the cause of these
3 problems might be. We will address these a little
4 later. We think you will conclude that these
5 suggestions are simply without merit.

6 We do agree, however, that Lapp appears to
7 have suffered more than the other two manufacturers,
8 especially in terms of lost market share, and we
9 believe this is simply the result of NGK targeting
10 Lapp for reasons we will be happy to discuss later
11 today. But it's important to bear in mind in looking
12 at the data and hearing the testimony from the
13 witnesses that the introduction of dumped imports had
14 two injurious consequences: loss of market share for
15 the industry as a whole where the brunt may indeed
16 have been borne by Lapp more so than Newell or Victor,
17 but also in terms of sharply reduced prices even
18 during a period of strong rising domestic demand.

19 In fact, as you will hear this morning,
20 prices fell by 25 percent between 1999 and 2003, and
21 this is something that injured all domestic producers.
22 They were, quite simply, deprived of substantial
23 revenue opportunity during a period of strong demand,
24 something that is particularly injurious for a
25 cyclical industry which has to make money and realize

1 good returns when demand is strong in order to tide it
2 over the times when demand is weak and margins could
3 expected to be declining.

4 And my colleague, Richard Boltuck from South
5 River Associates, will be talking about that in more
6 detail later this morning, and as always, I'm happy to
7 leave the economic analysis to someone who knows more
8 about it than myself.

9 Finally, let me touch very briefly on
10 threat. We do not believe, for reasons we will
11 discuss, that we have seen the last of Japanese
12 imports in the market. We are aware of the last order
13 explanation which has been given by Locke and NGK. We
14 don't believe that's the case, but even if it were
15 true, it would still mean that products that cannot be
16 made in Baltimore, and Locke has indicated it cannot
17 make certain high margin products, will continue to
18 enter the U.S. in substantial quantities.

19 That concludes my brief opening remarks, and
20 we look forward to addressing these questions in more
21 detail later this morning.

22 Thank you, Madam Chairman, and to the
23 Commission.

24 CHAIRMAN OKUN: Thank you.

25 MS. ABBOTT: Opening remarks on behalf of

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1 the respondents will be made by Robert C. Cassidy,
2 Jr., Wilmer, Cutler & Pickering.

3 CHAIRMAN OKUN: Good morning, Mr. Cassidy.
4 If you can make sure your microphone is on.

5 MR. CASSIDY: Thank you.

6 I am appearing before you this morning on
7 behalf of Locke Insulators, Inc., NGK-Locke, Inc. and
8 NGK Insulators Limited.

9 This is an unusual and interesting case that
10 you have before you this morning. You have imports
11 and demand spiking during the period of investigation.
12 There has been a long-term downward trend in U.S.
13 prices that began before imports increased, and has
14 continued after imports disappeared. An obvious
15 reason for this long-term trend is vigorous
16 competition among U.S. domestic producers and
17 importers of the merchandise from a number of
18 countries, one of which is Japan. The only importer
19 of subject merchandise during the period of
20 investigation is also a major and growing domestic
21 producer of the product, Locke.

22 During the period of investigation Locke
23 implemented a business plan it had adopted before this
24 period of investigation to expand its capacity and
25 reduce its costs. As Locke brought this new capacity

1 on-stream, it stopped ordering imports in July of
2 2002, long before this petition was filed, There have
3 been no imports at all of subject merchandise since
4 April of this year.

5 What can we conclude from these
6 circumstances? We can conclude that this is a case
7 about competition among domestic producers. This
8 competition explains what happened during the POI and
9 it explains what is going on today. Perhaps the most
10 telling conclusion one can reach is that whatever may
11 happen in this investigation conditions of competition
12 in the domestic market, competition among these
13 domestic producers will remain as they are today.

14 We look forward to elaborating on these
15 points and answering your questions. Thank you.

16 CHAIRMAN OKUN: Thank you.

17 MS. ABBOTT: If the first panel in support
18 of the imposition of antidumping duties would please
19 come forward. All members have been sworn.

20 (Witnesses sworn.)

21 CHAIRMAN OKUN: Thank you.

22 Mr. Sheldrick, you may proceed.

23 MR. SHELDRIK: Thank you, Chairman Okun.

24 As I indicated before, we will hearing this
25 morning from representatives of the domestic industry.

1 Let me note for the record that Mr. Ron Graczyk, the
2 President of Victor Insulators is not able to be with
3 us today due to a business commitment. He has,
4 however, submitted a written statement for the record,
5 which I think we filed on Friday, and we will not take
6 the Commission's time by simply reading that into the
7 record, but we nonetheless urge your consideration of
8 it.

9 Our first witness will be Mr. Rob Johnson
10 from Lapp Insulator Company.

11 MR. JOHNSON: Good morning, Chairman Okun,
12 and members of the Commission and staff.

13 For the record, my name is Rob Johnson. I
14 am the Vice President and General Manager of Lapp
15 Insulator Company. I am here today to urge the
16 Commission to enter an affirmative determination in
17 this investigation.

18 I would like to briefly introduce my
19 colleagues from the company who are here today. Traci
20 Weaver, our Senior Product Manager, will be giving
21 testimony a little later, along with Sam Fili, a long-
22 time employee of Lapp who is also the local union
23 president. Sam will also deliver some comments a
24 little later.

25 John Hurshman, Lapp Insulator Company

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1 President and CEO; Yaruz Erkan, Vice President and
2 General Manager of Lapp's Bushing Division; Matt
3 Bailey, Vice President of Marketing and Sales have
4 also joined us today.

5 And by the way, approximately 90 percent of
6 the ownership of Lapp Insulator Company are held by
7 Mr. Hurshman, Mr. Erkan and myself.

8 I know that you have had a chance to review
9 the testimony I gave at the staff conference in
10 January, and in the interest of time I will not
11 reiterate in detail what I said then other than to
12 highlight some of the key points which I will do in a
13 couple of minutes.

14 At the outset I would like to address some
15 of the issues NKG have made in the pre-hearing brief.
16 Although I have, of course, only read the public
17 version of that document, it's pretty clear what the
18 gist of their argument is; namely, that Lapp is the
19 only company that has suffered injury during the
20 period of investigation, and that this injury is a
21 result of problems that are specific to our company
22 other than massive imports of dumped CSPIs from Japan.

23 I will leave it to Rick Stanley, the
24 President of Newell Porcelain, to talk about how his
25 company has been affected, but I think he would be the

1 first to agree that this is not a case about Lapp.
2 It's about the U.S. industry as a whole.

3 I would, however, like to respond to several
4 specific allegations that NGK has made about Lapp on
5 the record.

6 The first point of clarification I would
7 like to make is a response to a statement made by the
8 NKG's response to a question during the pre-hearing
9 brief. Mr. Thompson asked the question, "If you're
10 not expecting to import any more station posts from
11 Japan, why are you opposing this petition?" Which I
12 thought was a great question.

13 Mr. Cassidy responded, "We are opposing this
14 action because our competitors are using it by going
15 to our customers and telling them that they can no
16 longer get products from us."

17 For the record, I can tell you that the
18 first voice from the customer about the antidumping
19 filing was in the fourth quarter of 2002, prior to the
20 filing of the petition. Lapp was informed by
21 customers that NGK itself was communicating to the
22 market that domestic producers were filing this
23 petition.

24 We believe NGK had knowledge of this action
25 and the work that Lapp and the domestic industry was

1 doing toward this petition as early as the summer of
2 2002.

3 Also for the record, Lapp does not, has not,
4 and will not negative sell the competition in the
5 marketplace. We don't do it. To my knowledge, Victor
6 and Newell do not negatively sell in the marketplace.
7 That's a distinction that belongs to NGK where the
8 examples are too numerous to mention.

9 Second, their brief states that we are less
10 efficient because we use the dry manufacturing process
11 versus the wet process that some other manufacturers
12 do use.

13 As a point of clarification, by definition
14 of the processes, all U.S. and Japanese manufacturers
15 use the wet process. Lapp uses dry turning while
16 others use wet or otherwise known as green turning.
17 The wet process and the dry process are described in
18 the staff report, or I should say wet turning and dry
19 turning, and I won't go into the specific technical
20 differences between the two right now, but I would be
21 pleased to answer any questions you may have.

22 Suffice it to say NGK claims that the dry
23 turning process Lapp uses is less efficient because
24 labor rates in upstate New York are relatively high.

25 This is simply untrue. We know this because

1 our German subsidiary manufactures high-voltage
2 station posts using the wet turning process. We have
3 benchmarked the two processes extensively. We are
4 very familiar with the relative costs and efficiencies
5 of the two processes. Each has benefits and
6 disadvantages in terms of cost, and in our opinion,
7 there is no clear cost advantage to either.

8 Just to give you an example, the wet turning
9 process typically entails significantly higher
10 percentage of labor costs and direct labor than the
11 dry process. That's simply because the dry process
12 allows for significant labor efficiencies through the
13 use of work cell technology, i.e., linking process
14 steps to maximize productivity.

15 Lapp has competed effectively for years and
16 indeed prior to the onslaught of dumped imports it's
17 had the largest share of any U.S. producer, NGK
18 included. We could not have achieve and maintained
19 that position if the dry process were inherently less
20 efficient than the wet process that our competitors
21 are using.

22 You have also heard a great deal about the
23 energy surcharge that Lapp tried to put into effect
24 during 2001. This was a necessary response to rising
25 energy costs that are a major component of our total

1 cost structure. It's inevitable that manufacturers
2 have to pass along cost increases to their customers,
3 and this is no exception.

4 Newell and Victor adopted a similar approach
5 to Lapp and applied a surcharge to their customers.
6 Porcelain Products, the other insulator manufacturer
7 in the U.S. that manufactures non-subject insulators,
8 also applied a surcharge into the market.

9 All the insulator manufacturers were paying
10 surcharges to the material suppliers. We all buy clay
11 from pretty much the same suppliers, and they were
12 applying surcharges to all of us.

13 NGK, on the other hand, saw this as an
14 opportunity to make further inroads into our market
15 share, and not only absorb the cost increases, but in
16 fact cut prices at the same time. As a result, we had
17 to abandon the energy surcharge after a short period,
18 and Lapp had to absorb those losses.

19 NGK also points to supposed production
20 problems at Lapp stating that we made a decision to
21 underutilize and then to decommission one of our
22 tunnel kilns. This reflects the misunderstanding
23 either of the technical issues involved or the steps
24 that Lapp was required to take.

25 We use a combination of tunnel kilns and

1 periodic kilns at Lapp to fire our porcelain, our
2 CSPIs and other porcelain. The other types of
3 products we manufacture besides CSPIs are non-subject
4 station posts, line posts and housings. Housings are
5 essentially hollow insulators that are used in various
6 types of apparatus.

7 At the start of the period of investigation
8 we were using two tunnel kilns and 11 periodic kilns.
9 Normal fluctuations in output are accounted for
10 through utilization of the periodic kilns. As the
11 name implies, these do not run continuously, so they
12 are turned on and off as demand requires. However,
13 they are less efficient to operate than the tunnel
14 kilns.

15 Although our sales of non-subject station
16 posts also declined during the period of
17 investigation, largely due, I might add, to increased
18 imports of those products via NGK from Indonesia,
19 demand for housings remained reasonably strong, and
20 had it not been for the enormous loss of sales of CSPI
21 we would have accommodated the reduced output through
22 the use of, or I should say the decommissioning of
23 periodic kilns.

24 We reached a point, however, that even by
25 reducing the use of periodic kilns we could no longer

1 keep the tunnel kiln efficient, and at that point we
2 closed it down, in addition to four periodic kilns
3 that were used almost exclusively for CSPIs that are
4 no longer operating. In fact, we decommissioned the
5 entire building that those kilns are situated in.

6 So for NGK to allege that we made a decision
7 to underutilize the kilns, it was really the very
8 reverse that happened. We adjusted our kiln capacity
9 as best we could in the face of very adverse market
10 competition. To the extent our total kiln capacity,
11 including our periodic kilns, is currently utilized,
12 this is not an alternative potential cause of injury.
13 It is a very graphic example of the injury we have
14 suffered as a result of the unfairly traded imports
15 from Japan.

16 Finally, NGK also seems to be alleging that
17 Lapp was at a disadvantage in relation to freight
18 costs because of its geographic location. Bearing in
19 mind that a lot of the business we lost to NGK was on
20 the west coast where shipping from Baltimore is
21 comparable, maybe even more expensive than shipping
22 from upstate New York, it's really clear that the
23 freight cost differential played no part at all in
24 many instances.

25 As regards to the southern United States,

1 sure, it may be a couple hundred miles further to ship
2 from Rochester from Baltimore, but it's not a
3 significant issue, and the cost difference is
4 calculated by Lapp through firm quotes from suppliers
5 between Baltimore to the southeast, Rochester to the
6 southeast. It accounts for less than half of a
7 percent of the value of the product shipped, so it's
8 insignificant.

9 And finally, it seems to be rather ironic to
10 me that NGK should raise the issue of freight costs
11 because it had to transport its products about 7,000
12 miles from Japan to the United States. Apparently the
13 freight disadvantage that NGK presumably suffered
14 didn't prevent it from aggressively underbidding the
15 market and taking substantial business from the U.S.
16 industry.

17 So for reasons I've described, NGK's
18 attempts to blame the problems Lapp suffered on
19 internal factors is simply an attempt to disguise what
20 I would suggest is a very apparent cause; namely, the
21 significant market share lost to NGK and the
22 additional effects of price suppression resulting from
23 NGK's tactics.

24 I do believe, however, that the injury
25 inflicted upon Lapp was different than that suffered

1 by other producers. We all suffered from the
2 substantial drop in prices that occurred during the
3 period of investigation. But my impression is that we
4 at Lapp suffered disproportionately from lost market
5 share.

6 We believe that this was because NGK
7 targeted Lapp in particular when it began to enter the
8 U.S. market aggressively in 2000. Tracy Weaver will
9 describe some specific customer communications that
10 really will enforce this.

11 All producers suffer when prices are forced
12 down during a period of rising demand. We estimate
13 that prices declined across the board by 25 percent
14 from 1990 through the first half of 2003, with at
15 least four-fifths of this decline occurring by the end
16 of 2002.

17 Given that these products in most cases are
18 sold as commodities with the lowest price usually
19 winning the business, as far as Lapp is concerned we
20 would be pleased to provide these calculations
21 confidentially in our post-hearing brief if you wish.

22 We estimate that had prices during the POI
23 merely remained the same in a period of rising demand
24 and we retained our 2002 market share lost to the
25 dumped imports, Lapp would have realized substantial

1 positive operating earnings during 2001 and 2002 as
2 the demand was high.

3 As part of the POI -- I'm sorry -- at the
4 start of the POI Lapp estimates, based on NEMA data,
5 that we had the largest market share of any U.S.
6 producer and our plant is designed to produce very
7 high volumes.

8 In our business plans, staffing levels,
9 infrastructure costs were established to take
10 advantage of these up cycles in the industry. While
11 this results in higher fixed cost overhead that some
12 of our competitors, the fact that we lost significant
13 sales had the effect of increasing our overhead on a
14 per unit basis and as a percentage of sales, thereby
15 depressing further our financial performance during
16 this period, in which we would but for dumped Japanese
17 imports have realized substantial profits.

18 While NGK may claim this is an inefficiency,
19 Lapp's position is that in the up cycles is where the
20 money is made. This is true for many commodity
21 products.

22 I described in my earlier testimony how Lapp
23 reacted to the challenge of unfairly traded imports.
24 In summary, we initially chose to resist the
25 aggressive pricing put into place by NGK into the

1 market, and adopted, I guess, what I describe as a
2 cherry picking approach in which we attempted to avoid
3 the race to the bottom of prices, and instead focused
4 on our most loyal clients even at the expense of
5 losing volume.

6 When it became apparent that this wasn't
7 stemming the fall of price we had no choice but to
8 find business as best as we could even though prices
9 continued to fall to levels that are, frankly,
10 unsustainable. The situation we find ourselves in
11 today is that prices are still declining. Our
12 capacity utilization rate is at the lowest rate in
13 decades, and every single sale is critical.

14 I have heard at the staff conferences and
15 read in the NGK's brief that Locke is no longer
16 importing from NGK any products that can be made in
17 Baltimore. However, Locke explained at the staff
18 conference that it cannot make products with service
19 class ratings in excess of 500 kv or certain high
20 leakage products with special shed designs. These
21 products are all high value, high margin products that
22 can be made in the United States, not just by Lapp,
23 but by other companies too. I believe Rick Stanley
24 will confirm.

25 Even if I were to believe the claim that NGK

1 is out of the market for other products, and for
2 reasons that I will explain shortly, I do not, I
3 interpret their testimony as an admission that they
4 will continue to dump these very valuable high margin
5 insulators into the U.S., taking business away from
6 Lapp and other domestic producers.

7 In our prehearing brief, we drew attention
8 to one major project that is about to come on line
9 involving construction of 765 kv transmission line.
10 This will generate sales of 765 kv insulators that
11 Locke has said that they cannot make in Baltimore.

12 It is business that could be up to a million
13 dollars in revenue that could and should go to one of
14 the domestic producers, but we cannot compete against
15 foreign products that enter the United States at less
16 than half of their fair value.

17 I cannot stress enough that in the current
18 marketing conditions that any lost sale, especially a
19 significant contract, would be a further serious
20 threat to the industry that is particularly vulnerable
21 because of the effects of persistent dumping during
22 the POI.

23 In addition, as I said before, I simply do
24 not believe we have seen the last of NGK even for
25 products that can be made in Baltimore. We believe

1 that the market volume has bottomed out, and it's
2 currently showing signs of a small up turn in demand.

3 Locke has stated that it used NGK product to
4 ensure that it would have sufficiently large customer
5 base to support its operations once the plant
6 conversion was completed. I assume that Locke was
7 successful in this goal.

8 If demand expands to the point which Locke
9 is not able to supply customers' requirements, what
10 will it do? Will it turn them away? Of course not.

11 Mr. Dippold testified in January about how
12 hard it was -- and it is -- to win customers back once
13 you lose them. The obvious answer, we think, is that
14 they will once again turn to NGK, taking business away
15 from Lapp and other domestic suppliers. This isn't
16 speculation. It's what they have done in the past,
17 and what they have said in so many words they would do
18 in the future.

19 Lapp believes that continued dumping of
20 those high valued products not currently made in
21 Baltimore, as well as the potential resumption of
22 imports of other products from NGK, poses a serious
23 threat of injury that would compound the industry and
24 has already suffered.

25 For that reasons I urge you to enter an

1 affirmative finding. Thank you.

2 CHAIRMAN OKUN: Thank you.

3 MR. SHELDRIK: Madam Chairman, our next
4 witness will be Mr. Rick Stanley, the President of
5 Newell Porcelain.

6 MR. STANLEY: Good morning. Commissioner
7 Okun, members of the Commission and staff. My name is
8 Rick Stanley, and I'm the President and CEO of the
9 Newell Porcelain Company. I'm also currently the
10 Chairman of the High Voltage Technical Committee for
11 Insulators for NEMA, the National Electrical
12 Manufacturers Association. In addition, I co-chair
13 ANSI C-29, which establishes standards for ceramic and
14 non-ceramic insulators manufactured in the United
15 States.

16 Newell was one of three domestic producers
17 that joined in filing this petition seeking imposition
18 of antidumping duties on high voltage and ultra high
19 voltage ceramic station posts, which we are referring
20 to as CSPI. We manufacture this product through
21 voltages of 765 KV.

22 I appreciate the opportunity to appear
23 before you today to describe how imports of dumped
24 insulators from Japan have severely damaged Newell.
25 As I described to the staff when I testified here in

1 January, Newell's facility is located in Newell, West
2 Virginia. The plant, which was then owned by Ohio
3 Brass, had closed in 1987 with the loss of 150 jobs.

4 With the encouragement of then Governor Jay
5 Rockefeller, a new management team was recruited and
6 new financing obtained. The plant reopened for
7 business in 1989. By 1999, just prior to the
8 beginning of the period of investigation, our
9 employment was back up to 100 employees.

10 I joined Newell in 1989 in the sales
11 department and became sales manager in 1991. In 1994,
12 I became vice-president of Sales and Marketing, and in
13 1999 assumed the position of president and CEO for the
14 company.

15 In September of 1999, I, along with our
16 current CFO, Dan Wolfe, and four other investors, put
17 together a management buyout and purchased the
18 company. I and my fellow investors felt sufficiently
19 confident about the insulator business at the time to
20 put my own assets at risk by investing in Newell.

21 I have read the public version of the brief
22 filed by NGK and am struck by the fact that they seem
23 to be saying that it is Lapp, not the industry as a
24 whole, that has suffered as a result of imports from
25 Japan. That simply is not true. Newell, together

1 with Lapp and Victor, have suffered both substantial
2 lost sales and decreased revenues as a result of
3 unfair import competition.

4 Contrary to what NGK has alleged, the
5 decline in price that occurred during the period of
6 investigation was not the continuation of a longer
7 term price decline. In fact, in several years that
8 preceded the period of investigation both demand and
9 price had been flat.

10 In 1999, with the increase in demand that we
11 saw materializing, we had every reason to expect that
12 prices would strengthen. However, the increase in
13 demand coincided with NGK's aggressive entry into the
14 U.S. market. Since 1999, in other words during the
15 period of investigation, prices have fallen across the
16 board by 25 percent. There is no doubt, in my
17 opinion, that the overriding cause for this is unfair
18 competition by Japanese imports.

19 I could quote many instances in which we
20 have lost bids, including many from long established
21 clients, or have had to lower our prices to retain the
22 business.

23 As an example, I had the opportunity to
24 firsthand see imported Japanese insulators in the
25 warehouse of a Newell customer. This happened during

1 a visit in which we were investigating a reduction in
2 business levels from this account. During the walk
3 through, we came upon a significant amount of 230 KV
4 insulators packaged in crates marked Made in Japan.

5 Of course, there have been cases where we
6 have lost business to our domestic competitors, as you
7 would expect in the normal competitive market, but in
8 the vast majority of cases the low bidder has been
9 NGK.

10 Our response to this has been to try to
11 maintain market share by lowering prices, especially
12 in the case of our longstanding customers, even though
13 this has reduced our revenues. In some instances,
14 however, we have heard from customers that NGK has
15 invited them to simply name the price. Clearly, there
16 is no way we can compete against that type of
17 competition.

18 In response to the producer questionnaire,
19 we have submitted detailed financial information which
20 shows how these market conditions affected our bottom
21 line. I would like to add a few words to put these
22 numbers in context.

23 Newell's performance has suffered in 1998
24 and 1999 due in part to effects of a strike that had
25 reduced output. Also, some purchasers were reluctant

1 to do business with us because of information
2 circulating in the market that Newell was for sale.

3 The management buyout in September 1999,
4 which I referred to earlier, helped restore confidence
5 among our customers, and a negotiation of a labor
6 agreement that took effect in October of 1999
7 increased productivity by 12 percent in our facility.

8 These changes, coupled with other
9 manufacturing improvements, paved the way for
10 increased profitability. With the benefit of
11 substantially increased demand, we received a modest
12 operating margin in 2001, but this margin was much
13 less than we could have achieved but for the
14 aggressive pricing of imports from Japan which forced
15 down prices even while costs, principally natural gas,
16 were increasing sharply.

17 In 2002, our margin declined again due to
18 downward pressure on pricing, coupled with weakened
19 demand. The picture is even worse in 2003. Bear in
20 mind that as recently as the period 1990 through 1997,
21 Newell had achieved an average operating margin of
22 over 13 percent, typically in the range of seven
23 percent to 13 percent annually.

24 You will see from the proprietary data that
25 we have submitted how our margins during the period of

1 investigation, which was a period of high demand,
2 compared to these historical benchmarks. Clearly, the
3 presence of unfairly traded Japanese imports robbed us
4 of substantial revenue opportunities by suppressing
5 prices across the board.

6 Evidence of the injury that Newell has
7 suffered is evident not only in our financial
8 statements. In June 2002, we had to idle a periodic
9 kiln that we had refurbished and reopened in March of
10 2001. At the end of August of this year, we had to
11 idle a tunnel kiln for over a month.

12 Our employees have also suffered significant
13 layoffs, notwithstanding the new labor agreement I
14 referred to earlier that improved productivity in our
15 plan by 12 percent.

16 We are now at a crossroads. I agree with
17 Rob that we see the beginnings of an upturn in demand,
18 but because of the effects of dumping on our industry
19 during the last three years, Newell and other domestic
20 producers are very vulnerable to any resumption of
21 imports from Japan. We desperately need every sale we
22 can get, and even a small quantity of imports will
23 cause us additional serious damage, not to manage the
24 likelihood of additional downward pressure on prices.

25 On behalf of the employees of Newell, I urge

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1 you to enter an affirmative determination in this
2 case. Thank you.

3 CHAIRMAN OKUN: Thank you.

4 MR. SHELDRIK: Thanks, Rick.

5 Madam Chairman, our next witness is Traci
6 Weaver of Lapp Insulator Company.

7 MS. WEAVER: Good morning, Chairman Okun and
8 Commissioners. I would like to thank you for this
9 opportunity to provide a statement today.

10 CHAIRMAN OKUN: Ms. Weaver, if you can just
11 pull your microphone closer to you?

12 MS. WEAVER: Sure. For the record, my name
13 is Traci Weaver. I'm currently the senior product
14 manager at Lapp Insulator Company, LLC, responsible
15 for our Substation Division products, which include
16 certain station post insulators.

17 I hold a Bachelor's Degree in Science and
18 Business Administration with a minor in Economics from
19 Blackport State University in New York and a Master's
20 in Business Administration from the Rochester
21 Institute of Technology.

22 I have been employed at Lapp since 1989. My
23 first position at Lapp was a technician in the high
24 voltage laboratory. After one year, I moved into a
25 marketing position where I was a product specialist

1 for our Polymer Products Division. My duties included
2 quotations, contracts and customer service. Since
3 that time, I have held several marketing position at
4 Lapp Insulator Company with similar responsibilities.

5 In 1992, I became the northeast regional
6 sales manager responsible for all insulator products
7 in the northeastern region. In 1994, I took a
8 position as an OEM product manager. Here I obtained
9 the direct responsibility for our OEM house accounts,
10 which included our switch manufacturers, capacitor
11 manufacturers and breaker manufacturers alike.

12 In 1997, I took a position of western
13 regional sales manager, still responsible for the OEM
14 accounts directly. I also obtained responsibility for
15 the western regional sales organization. In 2000, I
16 took a position as station post product manager. Here
17 I assumed the responsibility for the OEM accounts, as
18 well as product management.

19 Just this year I was promoted to senior
20 product manager responsible for all substation
21 products and direct responsibility for all house
22 accounts with the OEM customers. My day-to-day
23 activities include continuous communication with our
24 sales agents and customers directly. In all my
25 positions at Lapp since joining marketing, I've had

1 close contact with our customers, both directly and
2 through our sales agents.

3 Our sales organization is structured in a
4 way that we handle large OEM and packagers as direct
5 house accounts. Therefore, we are in direct contact
6 with these customers and make sales calls with them on
7 a regular basis via phone and in person. All other
8 accounts, such as the utilities and the distributors
9 and some small packagers, are handled through our
10 manufacturers' sales representatives.

11 We first noticed the price aggression from
12 NGK on certain station post insulators in late 1999.
13 This was initially isolated to the high valued items,
14 such as the extra high voltage, extra high leakage and
15 extra high strength items, along with the RG products
16 that we supplied and that they supplied. These
17 products historically commanded a 50 to 75 percent
18 premium over standard products.

19 During 1999 and 2000, this premium all but
20 disappeared due to the aggressive sales tactics of
21 NGK, who offered the premium product at or below the
22 corresponding standard products.

23 When we implemented the energy surcharge in
24 early 2001 due to the increased natural gas prices,
25 NGK apparently saw this as an opportunity to further

1 put downward pricing pressure on the station post
2 insulators. This was very noticeable due to the fact
3 that certain key accounts seemed to be targeted; in
4 particular, those large purchasers of station post
5 insulators such as the OEM accounts.

6 Starting in 2001, we learned through our
7 agents and our customers that the amount of products
8 being imported from NGK Japan was increasing, not only
9 of the items we expected them to manufacture in Japan,
10 such as the high leak and the high strength items, but
11 for the standard items as well.

12 In 2001, it seems as though almost all of or
13 at least a significant portion of the insulator
14 shipments and the domestic OEM customers' market over
15 115 KV were from Japan. At one point during a
16 discussion with a large OEM while visiting their
17 facility and witnessing large amounts of inventory
18 from Japan, I asked the question: How do you feel
19 about buying a product from Japan? The response from
20 the customer was that at these prices we don't care as
21 long as the customer purchasing the product doesn't
22 care and they don't specify U.S. manufacturing.

23 It is clear to me that NGK targeted Lapp's
24 accounts. On several occasions we had been approached
25 either directly or by the customer or sales agent

1 being advised that NGK had approached them with prices
2 lower than existing market levels. On four separate
3 instances, we were told by either large packagers or
4 OEMs who we had annual agreements with that NGK
5 presented pricing and advised the customer that: "If
6 these are the current market levels..." I'm sorry.
7 "If these are the current prices you're paying..."

8 The customer quoted: "These are the current
9 market levels, and if you are paying more than that
10 from Lapp, you are paying higher than market levels."
11 This situation forced Lapp to meet lower prices in an
12 attempt to hold market share. In some cases the price
13 NGK offered was as much as 12 percent lower than the
14 existing price Lapp had at that time.

15 We do feel that NGK did target Lapp. For
16 example, I asked one of the large OEM customers, a
17 customer where we had lost market share to NGK and the
18 pricing we offered wasn't low enough to get that
19 business back at that time, what they were paying for
20 a standard TR-286 post. The reply? "Anything I
21 want," referring to NGK's willingness to take business
22 at any level.

23 In another instance in Canada we learned
24 from our agent that NGK told customers that they would
25 beat the price on any Lapp quotation by three percent.

1 Just send them the order. There are several examples
2 of this type of feedback in the marketplace, clearly
3 indicating that NGK has targeted our business. During
4 the period of investigation to present, it's obvious
5 to me that NGK has ratcheted down pricing in the
6 market steadily and more frequently over time.

7 Again, I would like to thank you for the
8 opportunity to provide a statement today at this
9 hearing, and I would be pleased to answer any
10 questions that you may have.

11 CHAIRMAN OKUN: Thank you.

12 MR. SHELDRIK: Thank you, Traci.

13 Chairman Okun, there is obviously a tendency
14 in these cases to look at financial statements and
15 look at data on lost sales and falling prices. It's
16 also very important to consider the day-to-day effects
17 that injurious dumping can have on the employees in
18 the domestic industry.

19 In that context, I would like to introduce
20 Sam Fili, who is the president of the union
21 representing the hourly paid employees of Lapp.

22 MR. FILI: Good morning, Chairman Okun and
23 Commissioners and staff. My name is Sam Fili, and I
24 am the president of Local 22485 of the IEU-CWA,
25 AFL-CIO. which represents the hourly paid employees of

1 Lapp Insulator Company.

2 I appreciate having the opportunity to
3 address you today and tell you firsthand how imports
4 of high voltage station posts from Japan have
5 continued to affect the employees in the domestic
6 industry.

7 I have been an officer of the union for six
8 years and president since 1999. I have been a full-
9 time employee of Lapp for 16 years, working in the
10 Substation Division where station posts are produced.
11 I am also a lifetime resident of Leroy, where Lapp's
12 plant is located. I can, therefore, speak to you
13 today just not as a representative for the union, but
14 also as an employee of the company and as a member of
15 the community that it has supported for many years.

16 To review the past two years, the workforce
17 at Lapp has borne the brunt of Japanese station post
18 imports. At the start of 2000, shortly after I became
19 president, we were running 21 shifts per week, and we
20 were discussing changes in operating procedures to
21 increase output further.

22 In September 2001, substantial layoffs took
23 place. Bumping of jobs led to loss of wages of up to
24 \$7 per hour for several workers. Employees were moved
25 to different shifts, to other jobs. Lifestyles were

1 affected, and morale was at its lowest in years.

2 In August of 2002, the union and company
3 negotiated a side agreement to our current collective
4 bargaining agreement to reduce the bumping losses. We
5 went on a four day work share program, 14 people took
6 voluntary furloughs, and some departments went on a
7 one week per month shutdown. In return, the company
8 guaranteed certain employment levels and no more loss
9 of wages during the time of the agreement.

10 With decreasing business levels in the first
11 two quarters of 2003, the company had to lay off 36
12 more employees, about 20 of whom were employed in the
13 manufacture of CSPI, some whose seniority went back 15
14 years to 1988. That would bring the total laid off to
15 130 since September of 2001, about 68 of whom were
16 employed in the manufacture of CSPI.

17 Even though the side agreement the union and
18 company negotiated in 2002 did not reduce the
19 remaining employees' wages or benefits, attitude,
20 morale and productivity were impacted by the cuts. In
21 an area where jobs paying livable wages are virtually
22 impossible to find, employees are reluctant to make
23 long-term commitments as far as buying homes and/or
24 making long-term purchases because of the fear of
25 losing their jobs.

1 I can fairly say that the local economy has
2 suffered a great deal because of the instability Lapp
3 employees have experienced since 2001 and the
4 reluctance by employees to spend any more than they
5 need to. Often in our union office in the plant I get
6 phone calls from members that are laid off asking
7 about the conditions of Lapp and telling us there are
8 no jobs available in the area that compare with the
9 lifestyle that Lapp provided them with.

10 While my responsibility is for the hourly
11 paid employees, I also know that Lapp's salaried
12 workforce has also suffered injury because of the
13 Japanese imports. Nearly 50 percent of the
14 manufacturing salaried workforce has experienced
15 layoffs, and those remaining are currently on a wage
16 freeze and reduction in benefits.

17 The union and management of Lapp enjoy a
18 good relationship. We have tried to work together to
19 address the problems caused by Japanese imports.
20 However, we see no solution to the problem other than
21 measures to stem the flow of the unfairly traded
22 imports.

23 On behalf of my members and their families,
24 I ask you for your help in protecting us from the
25 effects of these imports. Our jobs at Lapp mean

1 everything to us and to the community. Thank you.

2 CHAIRMAN OKUN: Thank you.

3 MR. SHELDRIK: Thank you, Sam.

4 Madam Chairman, to conclude our testimony
5 this morning we have Richard Boltuck from Charles
6 River Associates.

7 MR. BOLTUCK: Thank you. Good morning. For
8 the record, I am Richard D. Boltuck, vice president in
9 the International Trade Practice at Charles River
10 Associates. I am pleased to have the opportunity of
11 presenting my understanding of the central economic
12 issues involved in this matter.

13 Perhaps the most important and basic fact in
14 appreciating the record evidence before us today is
15 the U.S. CSPI market has experienced a remarkable
16 demand cycle over the POI with demand peaking by early
17 2002 and then declining sharply through second half
18 2002 and interim 2003, yet throughout this present
19 cycle the industry has turned in financial performance
20 far worse than at comparable points in past cycles
21 characterized by far fewer sales and lower prices.

22 The CRA economic report submitted as part of
23 the Coalition's brief sets out evidence demonstrating
24 much healthier performance throughout earlier cycles.
25 Unfortunately, much of the specific and most

1 enlightening evidence is business proprietary
2 information, and I cannot discuss it here, but I can
3 discuss at a conceptual level why the evidence
4 confirms that the industry is both presently injured
5 and threatened with future injury by reason of the
6 dumped NGK imports from Japan.

7 Now, I am aware that under the antidumping
8 statute the Commission must evaluate the evidence of
9 injury and threat in the context of the industry's
10 business cycle. This case offers an excellent
11 opportunity for such an analysis.

12 Figure 2 in Appendix A of the Coalition's
13 prehearing brief illustrates in general terms the
14 consequences to U.S. producers of competition with
15 dumped imports sold at less than half of normal value
16 at the factory gate.

17 Material injury caused by dumped NGK imports
18 has occurred and is presently occurring through the
19 current demand cycle and unless remedial measures are
20 in place will occur in the forthcoming and reasonably
21 imminent demand recovery phase.

22 A clear way to conceive of this injury is in
23 the lower average operating income margin attained by
24 U.S. producers over the full cycle. Respondents tell
25 the Commission that the current downturn is an

1 alternate cause of injury, but in fact this is an
2 industry that historically has survived demand trough
3 without major difficulty by achieving adequate
4 operating results consistent with a normal return on
5 capital over the course of the full demand cycle.

6 Moreover, the sharp decline in demand this
7 year has left the industry vulnerable to future injury
8 and more easily susceptible to present injury.

9 A key question that the Commission must
10 confront is how the current cycle, now in its trough
11 phase, will play out over the next six, 12, 18 and 24
12 months, what might well be the foreseeable future in
13 light of compelling evidence about the source of
14 demand for CSPI and the evolution of downstream
15 markets.

16 That evidence is as near and as compelling
17 as recent headlines about scandals at Enron and Dynagy
18 and about the blackouts in the northeast and midwest
19 affecting a third of the country. What are these
20 events telling us?

21 First, Enron and Dynagy are wholesale
22 electricity market makers. The collapse of Enron and
23 questions about Dynagy's operations clearly spooked
24 investors in electric related infrastructure,
25 including in transmission capacity and improvement,

1 substations and derivatively in CSPI, a critical
2 component of substations.

3 This factor exacerbated longer term
4 impediments to new investment in transmission
5 infrastructure principally arising from an adverse
6 regulatory environment contributing significantly to
7 the unusual magnitude of the current downturn in
8 demand for CSPI.

9 The adverse regulatory environment has a
10 number of dimensions, but among these retail rate caps
11 rank high on the list. In addition, regulation has
12 created a situation where some local utilities fear
13 that transmission capability will simply result in the
14 easier importation of electricity driving down
15 electricity prices and principally benefitting more
16 distant producers of electricity.

17 In short, regulation has often prevented
18 investors in transmission capacity from capturing a
19 major share of the social returns associated with the
20 investment, thereby discouraging adequate expenditures
21 on transmission capacity.

22 As illustrated in Figure 1 to Appendix A of
23 the Coalition's prehearing brief, the consequence of
24 problems associated with the regulatory environment
25 have taken a toll on transmission infrastructure

1 investment over a number of years, resulting in
2 transmission capacity and quality failing to keep pace
3 with electricity demand in the United States.

4 It is clear that once the impediments to
5 investment are addressed the effects of this
6 investment shortfall are to generate pent up demand
7 for transmission system related capital goods,
8 including CSPI, and that is where the news is almost
9 universally good.

10 Perhaps it wasn't purely good luck that a
11 third of the country found itself without lights, but
12 this particular dark cloud did have a silver lining.
13 With the broad level of public awareness about the
14 inadequacy of the North American electrical grid,
15 policy makers and regulators are moving rapidly to
16 find solutions, just as occurred with the imbalances
17 in demand and supply for generation capacity that
18 resulted in brown outs primarily in California just
19 three short years ago.

20 In a memorable statement, Bill Richardson, a
21 former Energy Secretary, was widely covered when he
22 reported to the nation that the United States has a
23 third world electrical grid, even if many observers
24 regard that as somewhat hyperbolic.

25 Today, in the wake of the recent blackout,

1 the President's energy bill, with its tough
2 reliability mandates, is on top of the congressional
3 agenda. Rate caps are expiring or being used
4 significantly, and the Enron and Dynagy fraud scandals
5 are being cleaned up rapidly.

6 Commentary and evidence regarding progress
7 on these fronts is presented in the Coalition's
8 economic report, and much more such evidence is
9 readily available.

10 The only reasonable conclusion is that the
11 current deep trough in demand for CSPI will be
12 followed by a strong expansion sooner rather than
13 later. It is the prospect for this recovery that
14 keeps U.S. producers who suffer from dramatic excess
15 capacity from closing shop, but as we look forward to
16 strengthening demand here is where NGK's dumped
17 imports from Japan enter the picture as an inescapable
18 factor.

19 As I have explained, adequate average
20 financial performance over the full demand cycle is
21 essential to sustain the U.S. CSPI industry, and this
22 plainly implied very solid operating results during
23 the forthcoming expansion phase of the cycle, yet with
24 NGK and Locke's acknowledged strategy of flexibly
25 topping off Baltimore's production with imports from

1 Japan that have been found to be dumped whenever U.S.
2 demand warrants, together with highly elastic supply
3 from Japan facing the U.S. market and highly fungible,
4 virtually homogeneous products, the NGK dumped price
5 effectively serves as a price ceiling for the U.S.
6 market.

7 This conclusion is not simply hypothetical.
8 Just consider 2002 when U.S. consumption was roughly
9 twice what it is in today's cyclical trough. Look at
10 NGK Japan's share of the U.S. market during that
11 earlier period. Since CSPI demand in 2004 and 2005 is
12 likely to more closely resemble 2002 than 2003 as the
13 nation focuses on repairing the North American grid,
14 dumped imports pose a real threat of imminent injury
15 by truncating the essential benefits arising from the
16 demand recovery on which U.S. CSPI producers depend in
17 order to achieve a normal return on capital.

18 This is the epitome, the very archetype of
19 threat in the context of the product demand cycle. I
20 would like to say more about why dumped imports
21 overhang the U.S. market based on production
22 conditions in Japan, NGK's alternate markets, which
23 lead to ready sources of diversion to the United
24 States and NGK's global sourcing strategy, but I must
25 tread carefully because of the confidentiality of any

1 detailed information.

2 Instead, I would like to turn to a closely
3 related issue. In the Respondents' prehearing brief,
4 NGK addresses causation in two ways. First, the brief
5 argues that a variety of the evidence on which the
6 Commission typically relies is of poor quality and
7 should not be regarded as probative.

8 I won't review these arguments in detail
9 except to say that the record evidence generally in
10 this investigation is no more imperfect than in most
11 other cases. In any event, it is not biased and yet
12 all points in the same direction toward a finding of
13 material injury and threat.

14 The Respondents' second argument needs to be
15 assessed carefully for economic coherence. The
16 Respondents contend, perhaps predictably, that the
17 dumped import share of the U.S. market has not
18 correlated as one would expect with the indicia of the
19 U.S. industry's performance. This is their primary
20 affirmative argument regarding causation, and they
21 take it as conclusive.

22 Now, the three petitioning companies have
23 different cost structures and responded to NGK's
24 dumped sales through varying strategies intended to
25 mitigate harm as much as possible, as you've heard

1 today from a couple of the industry representatives.

2 As a result, manifestations of injury to the
3 full industry became apparent with various lags and
4 other indicators and do show contemporaneous
5 correlation, but the Respondents' error in their
6 argument is even more fundamental than that, as I will
7 now explain.

8 In past investigations, the Commission has
9 sometimes examined such correlations, interpreting a
10 correlation between more subject imports and worse
11 performance as a necessary condition for causation.
12 Doing so makes sense when the principal change in the
13 market over the POI has been shifted in subject import
14 supply.

15 Here, NGK's capacity has overhung the U.S.
16 market throughout the POI with continuous dumping at
17 huge margins, resulting in terrible U.S. industry
18 performance. NGK's strategy of dumping in the United
19 States mostly likely coincides fairly closely to the
20 POI commencing sometime during 1999, as you've heard
21 during testimony today. That's when participants in
22 the market first encountered aggressive NGK pricing
23 when you see the increase in the imports and the clear
24 change in NGK's global sourcing strategy with respect
25 to the United States.

1 During the POI, the principal market change
2 has been shifts in demand that correspond to the
3 current demand cycle. Under these conditions,
4 correlation between dumped import share and industry
5 performance is not a logical, necessary condition for
6 establishing causation.

7 Please consider the figure that you should
8 have received earlier entitled Dumped Imports Cause
9 Material Injury Over the Full Product Demand Cycle.
10 This is a simple demand and supply graph, and the copy
11 that I distributed today on the side table corrects a
12 couple of very minor typographical errors.

13 It depicts U.S. like product supply in the
14 upward sloping line and NGK's dumped imports as the
15 lower of the two highly elastic flat lines labeled
16 NGK_D for dumping. The higher of the two flat lines
17 showed NGK's hypothetical import U.S. supply were it
18 to be priced at normal value.

19 Now, in order to represent the demand cycle
20 that the industry has experienced, I have drawn two
21 downward sloping demand curves, one labeled D_L that's
22 for the lower demand curve corresponding to low demand
23 during the trough phase, and the other labeled D_H,
24 corresponding to high demand during the expansion
25 phase.

1 This diagram illustrates two key facts that
2 pertain to the effects of NGK's dumping of CSPI in the
3 U.S. market. First, note that when demand is high
4 NGK's import sales expand at the dumped ceiling price
5 determined by its elastic supplies and tops off its
6 U.S. production with dumped imports. This implies
7 that when demand is high, NGK's import share
8 increases.

9 This property results from two factors,
10 namely that NGK's import supply to the U.S. market is
11 more elastic than U.S. producers' supply and, second,
12 that demand varies over the cycle within the ITC's
13 investigation period. Thus, import share increases
14 when demand rises, so import share and U.S. industry
15 performance are likely to be positively related.

16 And that brings me to the second key fact.
17 Does that correlation mean that the dumped imports are
18 not causing material injury. The answer is clearly
19 no.

20 When demand is low, NGK's sales of dumped
21 imports reduce U.S. producer prices by the distance
22 from P_{L^*} to P_D . This is comparing the equilibrium that
23 would exist if NGK were not dumping to the equilibrium
24 that currently does exist, and it further reduces the
25 industry's sales volume by the distance from Q_{USL^*} to

1 Q_{USD}, material injury. When demand is high, the
2 effects on price and volume are even greater, though
3 the industry might be somewhat less vulnerable during
4 an expansion phase.

5 This analysis is explained in greater detail
6 on the text sheet that accompanies the diagram. Now,
7 I should mention that to simplify the explanation I
8 have assumed a few things in this diagram just for
9 expository purposes. First, perfect substitutability
10 between imports and the U.S. like product and also
11 that import supply is purposely elastic; that is,
12 flat.

13 As the diagram is drawn, I have also assumed
14 that fair value pricing would result in no subject
15 import volume. Neither of the two facts that I have
16 noted depend on these simplifications, which were just
17 made for presentational purposes.

18 I would encourage any interested
19 Commissioners who might have questions about this
20 analysis to discuss it further with staff economists.
21 Of course, I am prepared to answer any questions at
22 the appropriate time.

23 That concludes my presentation. Thank you.

24 CHAIRMAN OKUN: Thank you.

25 MR. SHELDRIK: Madam Chairman, that

1 concludes our testimony. I thank my colleagues for
2 actually leaving me a couple of minutes I think for
3 rebuttal, but we are at your disposal now for any
4 questions you may have.

5 CHAIRMAN OKUN: Thank you again. Before we
6 begin our questioning, let me thank all the witnesses
7 for being here today, for providing their testimony
8 and to note, Mr. Sheldrick, that we did receive Mr.
9 Graczyk's testimony, and we appreciate you providing
10 that for us so that we could have it before the
11 testimony. I also want to thank our labor
12 representative for being here as well. We appreciate
13 all your testimony.

14 If I could ask everyone when you respond to
15 questions if you could just identify yourself so that
16 the court reporter can get it and also so that we can
17 be sure who we are talking to?

18 We will begin our questioning this morning
19 with Commissioner Lane.

20 COMMISSIONER LANE: Good morning. Thank you
21 all for being here.

22 Mr. Boltuck, I assume that when you were
23 being critical of the regulatory environment in which
24 the electricity industry operates you were not
25 including me when I was chairman of the West Virginia

1 Public Service Commission. Is that correct?

2 MR. BOLTUCK: That is absolutely correct.

3 COMMISSIONER LANE: Okay. We can get off to
4 a good start then.

5 Have you seen trends since the period of
6 investigation that there is an increase in demand, and
7 what would you attribute that to?

8 MR. BOLTUCK: Well, I'd like to actually ask
9 Rob Johnson to explain his actual market experience of
10 his company, Lapp, since the period of investigation
11 ended at mid year.

12 My understanding is there is an upturn in
13 demand that's already evident now to the foothills of
14 this process. You know, we have the mountain ahead of
15 us, but the concern, of course, which has a
16 tremendously sound foundation is that this will not be
17 an upturn from which the U.S. producers can benefit
18 because of the flexible availability of dumped imports
19 from Japan at basically the Japanese producers'
20 variable cost, if you will, which is the dumped price
21 they're setting.

22 Rob, if you could just explain what you're
23 experiencing now in the marketplace?

24 MR. JOHNSON: Rob Johnson. If I understand
25 your question correctly, you're asking about the

1 cycle, the up cycle in the 2000, 2001, 2002 timeframe,
2 or the upcoming up cycle?

3 COMMISSIONER LANE: No. The upcoming. I
4 mean, I am assuming that with what has happened this
5 summer with the blackouts and with the hurricane and
6 the regulatory arena starting to focus once again upon
7 maintenance and reliability of the electricity system
8 that perhaps there might be a change in demand at this
9 time, and I just wondered if you were seeing any
10 trends?

11 MR. JOHNSON: The answer is yes, and we
12 agree with you that those are the trends to expect for
13 the next up cycle.

14 It's clearly identified within many sources
15 of literature that we would be happy to forward to you
16 if necessary that the transmission gridlock is
17 significant across the United States. When the funds
18 become available to find a way to invest in the
19 transmission grid, that's going to result in a very
20 significant up tick that could be even larger, as Mr.
21 Boltuck mentioned, than in 2001-2002.

22 For example, in the early 1990s there was an
23 up cycle that was related to the transmission grid
24 expansion that occurred last in the early 1990s, and
25 that was a period of the highest levels of the market

1 size for CSPIs probably in history, even larger than
2 the current up cycle in 2000, 2001, 2002.

3 It's a combination of the transmission grid
4 build out that is well documented and the pressure on
5 local utilities and national utilities for increased
6 reliability. Those two are coming together beginning
7 in 2004, as we see it, as soon as the energy bill goes
8 through Congress to really present an up tick in the
9 marketplace.

10 COMMISSIONER LANE: Where do you believe the
11 supply will come from to meet this increased demand?

12 MR. JOHNSON: Well, given the opportunity, I
13 believe that the three domestic players and Locke will
14 participate in that demand. We do not see significant
15 imports or even insignificant imports coming from
16 other directions other than Japan during the POI.

17 Current market price levels in the U.S. are
18 below most market price levels in the world, so most
19 suppliers that aren't interested in just simply
20 capturing market share have no entropy to come to the
21 U.S. market. There's no reason for them to come here
22 because they can make more money in their home
23 markets.

24 MR. BOLTUCK: When Rob says given the
25 opportunity, I think what that means is given the

1 opportunity of benefitting from remediation or a
2 remedy to the prospect of dumped imports from Japan
3 expanding as they had in 2002, for instance, when the
4 market was much larger than it is today.

5 MR. JOHNSON: Yes, precisely, given the
6 opportunity from the standpoint that we are not
7 competing against what I would describe as nearly
8 infinite capacity out of Japan.

9 We certainly feel like we can support that
10 from our existing facilities within the domestic
11 market; at least Lapp feels like it can do its share.
12 I'm sure Victor and Newell feel the same way.

13 MR. SHELDRIK: Commissioner Lane, Andrew
14 Sheldrick. If I may just add to that two points?

15 First of all, in response to your earlier
16 question, we attached to the prehearing brief an
17 article from a trade magazine, *Electro Industry*, which
18 describes in some detail some of the different
19 technologies that are available for improving grid
20 capacity.

21 As I think we noted in our brief, the
22 important thing to take from that is that virtually
23 all of those different potential technologies would
24 entail the use of station posts, so we do see a very

1 close correlation between grid improvements and the
2 sale of CSPI. It's not going to happen without some
3 increase in demand for CSPI.

4 I would also add just in addition to what
5 Rob mentioned the fact that some of these projects and
6 the transmission line which AEP has recently
7 announced, which I believe will be going through your
8 home state, is a 765 KV line.

9 That is specifically a project that will
10 require insulators of 765 KV, a product that cannot be
11 manufactured by Locke in Baltimore and an example of
12 where if NGK as a group is going to compete for the
13 business it will compete necessarily using product
14 from Japan. That is something which the domestic
15 industry, Lapp and Newell, can certainly fill.

16 COMMISSIONER LANE: Okay. If I understood
17 your testimony correctly, to fulfill the requirements
18 of the 765 KV line that's going through West Virginia
19 and down into Virginia that Locke cannot produce those
20 insulators in Baltimore?

21 MR. SHELDRIK: That's correct, Commissioner
22 Lane. Based on the testimony that was given at the
23 staff conference in January, it appears that Locke
24 cannot manufacture in Baltimore anything higher than a
25 500 KV insulator.

1 COMMISSIONER LANE: The data shows that
2 Locke's imports decreased significantly over the final
3 six months of the investigation. Locke argues that
4 due to their increased capacity they will no longer
5 have to import such a significant amount of subject
6 product, even if demand increases once again. How do
7 you respond to that argument?

8 MR. SHELDRIK: In two ways. I think that
9 one has to again differentiate between product that
10 can be made in Baltimore and product that cannot be
11 made in Baltimore. There is a small, but in financial
12 terms significant, market for products that cannot be
13 made in Baltimore.

14 We understand, based upon the testimony at
15 the staff conference, that that includes the larger
16 than 500 KV insulators and in addition certain
17 products that are referred to as high leakage products
18 because they have a specialty shed design, and that's
19 something that Rob Johnson and Rick Stanley can
20 address in technical terms.

21 Based upon the explanation we have heard
22 from NGK and Locke about how their business
23 arrangements are structured, it appears that there
24 will be a continuing inflow of those products.

25 In terms of the dropoff in the last six

1 months of the investigation, we do believe that this
2 is a case, frankly, where the Commission should follow
3 its practice in other cases and attach less weight to
4 that because we believe that was prompted in large
5 measure by the pendency of this investigation, but
6 again even if one assumes that this is what is really
7 happening it is clear that as demand increases to the
8 point where Locke cannot meet it then product will be
9 drawn in from Japan.

10 Because the capacity utilization data I
11 believe is on the proprietary record, we're not really
12 able to respond in detail to when we think or what
13 conditions we think might specifically cause that to
14 happen, but I think Rob put it very well. NGK and
15 Locke products are sold through a single distribution
16 channel, NGK-Locke, which is a subsidiary of NGK in
17 Japan.

18 I would suggest that if they get a call from
19 a customer who said we need to have X number of units
20 of whatever specification and the order log, the
21 backlog at Baltimore is such that they can't be met
22 from Baltimore, they're going to come from Japan.

23 I do not believe that NGK-Locke is going to
24 turn customers away, particularly in view of the
25 testimony that Rob alluded to about the need to keep

1 customers happy and the difficulty of winning
2 customers back once you've lost them.

3 COMMISSIONER LANE: Okay. Thank you. My
4 time's up. Mr. Pearson.

5 CHAIRMAN OKUN: Okay.

6 It's the microphone again, Commissioner.

7 COMMISSIONER PEARSON: Thank you again,
8 Madam Chairman. Eventually I'll learn this.

9 Your industry is normally an exporter of
10 CSPI. To which countries do you export?

11 MR. JOHNSON: The primary exports from Lapp
12 for CSPIs are North America, Mexico, Canada, of
13 course. We also have exported on a modest basis into
14 the Middle East, not typically to the Far East.

15 MR. STANLEY: Our primary export market is
16 the Canadian and Mexican market as well, some into the
17 Middle East and then to the Korean market.

18 COMMISSIONER PEARSON: Korea? Okay. Have
19 you ever exported to Japan?

20 MR. STANLEY: No.

21 MR. JOHNSON: No, we haven't. We've tried,
22 but we've been unsuccessful.

23 COMMISSIONER PEARSON: I'm not at all
24 familiar with the Japanese market. Why has that not
25 been possible?

1 MR. JOHNSON: The attempts to sell in Japan,
2 which date back about six or seven years ago,
3 initially appeared to be very -- the customers
4 appeared to be very interested.

5 They indicated that the price levels were
6 very competitive, that the quality was acceptable, but
7 shortly thereafter their interest quickly waned with
8 relatively no explanation.

9 COMMISSIONER PEARSON: The tariff treatment
10 in Japan would seem not to be a barrier?

11 MR. JOHNSON: I don't believe it would be a
12 barrier at what we understand the market price is for
13 CSPIs are in Japan today. The tariff would not touch
14 the differential and price levels.

15 COMMISSIONER PEARSON: Is Japan a high
16 priced market for CSPIs?

17 MR. JOHNSON: It's a very high priced market
18 for CSPIs, yes.

19 MR. BOLTUCK: There are some different
20 product specifications in the Japanese market, I might
21 mention, that are specific to Japan.

22 COMMISSIONER PEARSON: Are they beyond the
23 technical capability of U.S. producers to do?

24 MR. JOHNSON: Not at all. Not at all.

25 COMMISSIONER PEARSON: We've got a

1 circumstance now where, as I understand it, the value
2 of CSPI in the U.S. market is not high. The value of
3 the U.S. dollar is coming down relative to the yen.

4 Is there some possibility for reversal in
5 trade flows here that would see U.S. product going to
6 Japan instead of the other way around?

7 MR. JOHNSON: Frankly speaking, I believe
8 that the barriers to entry would be less the price
9 than other hidden barriers associated with trying to
10 sell into Japan that have been experienced by many
11 manufacturers in the U.S.

12 Our experience in the mid 1990s reflect that
13 exact scenario that many of us have read about in
14 various business magazines. We have looked at it, the
15 cost of investing, and trying to get into the Japanese
16 market would be very, very significant so at this
17 point in time even though the price structure and the
18 exchange rate is somewhat favorable over the last two
19 years or so it wouldn't be economical for us to export
20 to Japan with the cost of trying to attempt to get
21 into that market.

22 MR. SHELDRIK: Commissioner Pearson, it's
23 probably worthwhile to point out that because of the
24 importance of these products if they break primarily,
25 most purchasers will have fairly exact

1 prequalification and precertification requirements as
2 well.

3 In addition to the standard barriers one may
4 encounter, it does require some investment and
5 actually getting a purchaser to take these products,
6 test them and certify that they are acceptable for
7 use. That's an investment which one may be somewhat
8 reluctant to make if there's really no realistic
9 potential for sales.

10 That's not a problem for the product coming
11 into the U.S. because the purchasers here are well
12 acquainted with NGK's product, and it is I guess
13 certified -- Rob will correct me -- by most purchasers
14 in the U.S.

15 MR. JOHNSON: Yes, because, of course, the
16 Locke facility itself has been well established for
17 many years in the marketplace and that the products
18 coming from Japan were primarily transparent to the
19 end user. They flowed right into the marketplace
20 accepting I'm sure the Locke test reports and
21 certification.

22 COMMISSIONER PEARSON: You've indicated that
23 Japan is a high priced market for CSPI. Do we know
24 whether it also is a high cost market based on
25 publicly available information? High cost of

1 production market for the CSPI.

2 MR. JOHNSON: I believe the DOC analysis had
3 quite a bit of that data in it when the antidumping
4 margins were calculated by the Department of Commerce
5 in their portion of the investigation.

6 At hand I don't have that data with me, but
7 we have a pretty good sense I believe in those reports
8 what the cost structure is.

9 MR. BOLTUCK: I think I would just make one
10 point, and that is that whether it's high cost, I
11 mean, it depends who you're referring to. If you're
12 referring to NGK in Japan, you have to look at their
13 current capacity utilization rates and realize that
14 they're not likely to be in the high cost portion of
15 their production curve.

16 COMMISSIONER PEARSON: An obvious question
17 is how are they affording to do this if they're
18 dumping so aggressively as you indicate? I mean, this
19 costs money, doesn't it? Am I missing something?

20 MR. BOLTUCK: When a firm has excess
21 capacity and a protected home market, it is prepared
22 to sell rationally at variable cost plus a dime, and
23 that makes a contribution to defraying its fixed
24 costs.

25 I don't believe that anyone believes that

1 NGK is pursuing a strategy that isn't rational or
2 doesn't make sense from its perspective, but,
3 nonetheless, it's exactly what the dumping law was
4 written for.

5 COMMISSIONER PEARSON: But is that
6 consistent with the point that Mr. Johnson made
7 earlier?

8 It was a point to the effect that he could
9 not compete against imports that entered the United
10 States at less than half their fair value. Is that
11 consistent with what you were just saying about the
12 cost?

13 MR. SHELDRIK: Well, it's based on the
14 dumping laws. Just to clarify, it was based upon
15 transaction values, not cost of production.

16 COMMISSIONER PEARSON: No.

17 MR. SHELDRIK: So the magnitude of the
18 margin reflects I think probably to a large extent the
19 protected nature of the Japanese market and the very
20 high prices they're able to realize domestically.

21 The margin is not based upon the cost of
22 production. It was simply a transaction to
23 transaction comparison.

24 MR. BOLTUCK: As the law specifies, the
25 first tier of comparison if it's possible to make or

1 the Commerce Department in establishing normal value
2 is a home market price, so we see this as sort of
3 Jacob Biner's version of dumping. This is the pure
4 case.

5 COMMISSIONER PEARSON: But then it would be
6 your contention that the Respondent is making money as
7 they dump their product into the United States?

8 MR. SHELDRIK: I think we would say that
9 they are either making money, or they regard it as a
10 good investment because there's a broader goal of
11 capturing a more dominant position in the U.S. market
12 and achieving a position where they can exert price
13 leadership in an upward direction rather than a
14 downward direction.

15 MR. BOLTUCK: There can be a variety of
16 motivations obviously for dumping -- promotional
17 pricing, which is a forward looking market share,
18 oriented strategy like a magazine company that gives
19 away a first year subscription free in anticipation of
20 convincing someone to renew, or they could be covering
21 their variable costs.

22 We haven't examined that. We're just not
23 asserting that they're doing anything irrational, and
24 there are, you know, several consistent explanations
25 for the behavior that we're seeing, and it's certainly

1 consistent with a firm that has a protected position
2 in its home market, which we believe is demonstrated
3 by the prior efforts to penetrate that market.

4 COMMISSIONER PEARSON: Okay. Madam
5 Chairman, let me turn it over to you if I could.

6 CHAIRMAN OKUN: Thank you, and again thank
7 you to the witnesses.

8 Mr. Johnson, I appreciated your opening
9 testimony in that you kind of went through a number of
10 the issues Respondents have raised. I thought that
11 was very helpful. There are a few that I want to
12 return to.

13 Let me just start, I guess. I want to get a
14 sense during the period of investigation what was
15 going on, to the extent you can testify in open
16 session, with regard to the product mix for the
17 individual producers and how that might relate to when
18 we're looking at cost structures, so to the extent you
19 can do that in a public session if you could?

20 Maybe I will start with you, Mr. Johnson,
21 and then to you, Mr. Stanley.

22 MR. JOHNSON: Sure. The mix moves more
23 toward the CSPI product away from non-subject
24 insulators, meaning more large insulators, extra high
25 voltage, extra high strength, extra high leak, those

1 types of products.

2 The impact on cost structures, if those
3 volumes are fully realized, are positive from the
4 standpoint that revenues generated would cover
5 significant manufacturing overhead costs.

6 When the price levels are reasonable in the
7 marketplace, the incremental volume covers up variable
8 costs and contributes to fixed overhead costs
9 significantly. That's true with the CSPIs especially
10 because of the high value as compared to non-subject
11 insulators that they bring and higher prices that they
12 bring.

13 CHAIRMAN OKUN: Okay. So for your company
14 in particular, would you describe what happened over
15 the period of investigation as you were looking to go
16 to these higher end from commodity -- I mean, you
17 talked about moving into subject.

18 I'm trying to figure out between the lower
19 end, which has been described more as commodity like,
20 I guess, the lower KV, and towards this higher end.

21 MR. JOHNSON: Sure.

22 CHAIRMAN OKUN: In your company are you
23 making a conscious decision over the POI to change
24 that mix?

25 MR. JOHNSON: We made a conscious decision

1 immediately prior to the POI in our business plan to
2 participate significantly at the market shares that we
3 had historically had, which were greater than 40
4 percent in many cases, to capitalize on the growth in
5 the market cycle.

6 We had put infrastructure in place, hired
7 employees, hired salaried workers, et cetera, down the
8 line to prepare for a very, very large market in 2000,
9 2001, 2002. Unfortunately, what occurred was we did
10 not achieve our market share goals because of the
11 competitive attack by NGK in the market.

12 The prices quickly collapsed well beyond our
13 business plan, so we were in a position of
14 underabsorbing our fixed costs, as compared to our
15 business plan, which significantly impacted our
16 financials.

17 CHAIRMAN OKUN: Okay. Mr. Stanley?

18 MR. STANLEY: Yes. I'd just like to say
19 that in my statement I commented that our facility was
20 an Ohio Brass facility. It was one of three
21 facilities that Ohio Brass closed in the late 1980s.
22 the Newell facility primarily being the facility that
23 generated the post pipe insulators. Although we're
24 the smallest of the domestic manufacturers, we are a
25 niche manufacturer whose main market is the product

1 under investigation here.

2 The 115 KV and above product is what we
3 consider to kind of be our bread and butter product,
4 so although Rob mentioned how many kilns they have, we
5 have significantly less kilns, but our manufacturing
6 facility itself is geared to the manufacture of big
7 porcelain.

8 When we saw the market pick up, we did add
9 another kiln, put a kiln into production to address
10 the additional need in the market for product, but in
11 our data that's submitted you'll see that, and Andrew
12 and I spoke of this several times, our weight, if you
13 look at it strictly by weight, you would see the
14 numbers went up significantly.

15 If you look at it by piece, the numbers may
16 not have changed a whole lot because the nature of the
17 product was that it went from 115 and 230 KV units,
18 which are a lot smaller, to 345 and 500 KV units,
19 which may be twice the size of those units.

20 Being set up for that product, we saw
21 marginal results, as I mentioned during my statement,
22 in 2001, but that weren't -- if you looked at them
23 compared to benchmarks at the same kind of levels in
24 periods prior to the investigation, they were nowhere
25 close to what we had seen in those previous years.

1 That was after we had negotiated a new
2 contract and an extension of our contract with our
3 union that gave us an ability to increase all of our
4 production standards through the plant by 12 percent,
5 so we increased our productivity, made some changes in
6 our manufacturing capabilities and had really geared
7 up for this point in the cycle to, as they say, make
8 hay when the sun shines.

9 The market was coming back. We saw that it
10 was coming back, and we were prepared to take
11 advantage of that because this was our bread and
12 butter product that we were looking for. All we saw
13 was a very significant increase in demand with a very
14 significant decrease in pricing, which just doesn't
15 make any sense. We saw that happen, and we saw that
16 happen and still happen over these last three years.

17 CHAIRMAN OKUN: Okay. If we can turn a
18 little bit to the nature of the competition you saw
19 from the subject imports? One of the things that
20 strikes me about reading this record is that it is
21 somewhat unique in the way we see these in that you
22 have a U.S. producer being responsible for all the
23 subject imports and not clear, I think, or I think the
24 evidence is mixed of whether the customers knew where
25 they were buying from, whether it was U.S. produced

1 lot versus an import.

2 Ms. Weaver, I guess you started talking. I
3 think you mentioned several examples of what you heard
4 from your customers. I'm just trying to square that
5 with what we have on the record before us.

6 I know in a number of the lost sales we
7 didn't get enough information, but I just wondered if
8 you could talk a little bit more about how we can look
9 at this record to determine that it was the
10 competition from imports, Japanese imports, that
11 accounted for the change in your business that you
12 saw.

13 Maybe, Ms. Weaver, I'll start back there
14 with you, but, Mr. Stanley, I would appreciate hearing
15 from you as well.

16 one of the things we have to obviously
17 for causation address is that this is by reason of
18 subject imports, not by reason of a domestic
19 producer's U.S. shipments or U.S. production and I'm
20 just trying to make sense of what I hear from you and
21 how that fits into the record.

22 MS. WEAVER: At the particular customers
23 where I saw the inventory levels, if you look -- even
24 if they weren't packaged, if they were in the shop, if
25 you looked on the top of the porcelain, there's a

1 permanent ink marking recognizing that it just says
2 NGK. Some of the packaging does say "Made in Japan"
3 on it, so it's very recognizable.

4 CHAIRMAN OKUN: Mr. Stanley? In terms of --

5 MR. STANLEY: Well, what we have, and
6 I wanted to maybe bring this up, maybe I should have
7 brought it up in a response to one of the questions
8 Ms. Lane asked. In the Respondents' brief, there was
9 a statement in there that there are other companies
10 out there, other foreign companies, waiting to
11 participate in the U.S. market. There's a significant
12 barrier of entry into the U.S. market that the
13 domestic manufacturers at this point don't have to
14 deal with and that's being listed as an approved
15 manufacturer at the utilities and Locke is listed. On
16 probably the lion share of the utilities across the
17 country, Locke is listed as an approved supplier.
18 They have to make no justification or clarification as
19 to where the product comes from when they ship it to
20 their customers.

21 In most cases, customers that we've spoken
22 to, especially in the last six or eight months as this
23 trade case has become visible in our industry, our
24 customers tell us that when they ask Locke where their
25 product is coming from and where it has come from,

1 they state it comes from Baltimore. And it's a
2 logistical type answer that they get, that all the
3 product that ships to the southeast or ships to Ohio
4 or wherever it goes come from Baltimore.

5 They do not make it clear that a significant
6 portion of the product that they've offered over the
7 last three years came from Japan.

8 Prior to the period of investigation, Locke
9 did not enjoy the size of market share that they have
10 now and our understanding or belief of that always
11 that they did not have the capacity in Baltimore to
12 support that type of a market share.

13 So I guess our concern is that it's not easy
14 for us to say that product came from Japan or
15 wherever, but we know that they were never in a
16 position to support the capacities that they are
17 taking now and now they're saying that there's been a
18 significant reduction in imports over the last six
19 months, which I'm sure there has because the market
20 itself has been significantly reduced over the last
21 six months.

22 Our concern is what happens over the next
23 six months or 12 months when the market starts to come
24 back, how are they going to support the capacity that
25 they've taken off of all the domestic suppliers over

1 the last three years?

2 CHAIRMAN OKUN: I appreciate all those
3 answers.

4 Vice Chairman Hillman?

5 VICE CHAIRMAN HILLMAN: Thank you.

6 I would join my colleagues in thanking you
7 for taking the time to be with us this morning and for
8 all the information that you've submitted in your
9 pre-hearing brief as well.

10 If I can, I'm going to start just to make
11 sure I understood the testimony in response to a
12 couple of questions that have already been asked.

13 In response to Commissioner Lane,
14 Mr. Johnson, you talked about this issue of the up
15 tick in demand and I wanted to make sure I understood.
16 You described it as when funds are available for the
17 increase in transmission lines and/or when the energy
18 bill passes and/or when various things and that you're
19 seeing in the literature this description of increases
20 in production.

21 I just want to understand, is there
22 currently an increase in your order books? I mean in
23 your actual request purchases for product today?

24 MR. JOHNSON: Yes.

25 VICE CHAIRMAN HILLMAN: Have you seen an

1 increase?

2 MR. JOHNSON: Yes, we are.

3 VICE CHAIRMAN HILLMAN: Okay.

4 MR. JOHNSON: And it's relatively new, it
5 started in September of this year, where the order
6 book has increased, our backlogs have increased
7 probably about 15, 20 percent since September because
8 the low cycle really bottomed out this part summer, so
9 we are currently seeing an increase.

10 VICE CHAIRMAN HILLMAN: And, Mr. Stanley,
11 from your perspective?

12 MR. STANLEY: Yes. We're seeing the same
13 type of increase at this point.

14 VICE CHAIRMAN HILLMAN: Okay. Also same
15 timeframe?

16 MR. STANLEY: Yes.

17 VICE CHAIRMAN HILLMAN: Okay. All right.
18 I appreciate that.

19 The second thing I wanted to make sure
20 I understood, a number of you testified, and,
21 Mr. Johnson, I think you in particular, that this
22 issue of what Locke can and cannot make in Baltimore,
23 that they cannot make the larger than 500 kV and they
24 cannot make the highly special shed product in
25 Baltimore.

1 Help me understand of the products that they
2 cannot make in Baltimore, how big a market share is
3 there for those products?

4 MR. JOHNSON: Hard to assess, but if the
5 market is 50 million, the one job at EP, the 765 Kv
6 job that goes through West Virginia, is approximately
7 \$1 million, so in that specific case, you have a
8 significant percentage of the market that could be
9 product that Locke in Baltimore cannot make.

10 As far as the other items, the high leak,
11 those are high value items I would say that in a
12 normal year represent \$4 to 5 million worth of the
13 market share.

14 VICE CHAIRMAN HILLMAN: Okay.

15 MR. JOHNSON: Depending on where their
16 cutoff is because I really don't know specifically
17 where their strengths or leakage or voltage rating
18 cutoff is, other than what they've generally reported
19 on the record.

20 VICE CHAIRMAN HILLMAN: Mr. Stanley, would
21 you have a sense of the portion of the total market
22 for this subject product that would be made up of
23 these greater than 500 Kv highly specialty shed type
24 of products that are being described as not being able
25 to be made in Baltimore?

1 MR. STANLEY: The over 500 Kv I would say is
2 a very small portion of the market.

3 VICE CHAIRMAN HILLMAN: Small, 1 or 2
4 percent?

5 MR. STANLEY: Yes. Yes.

6 VICE CHAIRMAN HILLMAN: Okay.

7 MR. STANLEY: If 2 percent, maybe no more
8 than that. As Rob said, the high leak type product
9 with the different shed profiles, it really depends on
10 what parts of the country is going through a
11 construction phase. If it's coastal environment,
12 utilities along the ocean or in high pollution areas
13 where those shed profiles are more prevalent to be
14 needed to increase the leakage distance on the unit,
15 then at any given point there could be an increase in
16 that, but I would say that even at that, that portion
17 of the market is probably less than 10 percent of the
18 total market.

19 VICE CHAIRMAN HILLMAN: Less than 10
20 percent? Okay.

21 MR. BOLTUCK: Commissioner Hillman, I might
22 just add that one aspect of the responses you're
23 hearing is with respect to the market today and the
24 market today is pretty much limited to replacement
25 demand for worn out and broken existing parts, so when

1 Mr. Stanley refers to building out on the coast in a
2 project, that's a very real prospect during any kind
3 of recovery phase, but it's not going on today at the
4 bottom of the market.

5 VICE CHAIRMAN HILLMAN: Okay.

6 And then, I guess, Ms. Weaver, if I can turn
7 to you, I think it would be helpful for me to have a
8 little bit better understanding of how you go about in
9 essence pricing your products, how you find out from
10 your customers what the competing prices are out there
11 in the market and just generally a better -- I need a
12 little better sense of sort of how prices get
13 established in the market. And is it different? Is
14 the way in which you go about establishing prices
15 different for sales to OEMs as opposed to the
16 packagers as opposed to the electric utilities?

17 MR. SHELDRIK: Vice Chairman Hillman if
18 I may, I think that actually raises a very interesting
19 question on a broader pricing issue. If I may, I'd
20 ask Rob Johnson to give you a little background as to
21 the history of the pricing structure and then
22 Ms. Weaver can answer your specific question.

23 VICE CHAIRMAN HILLMAN: Mr. Johnson?

24 MR. JOHNSON: Thank you.

25 The way prices are historically presented to

1 the market is on what we describe as a multiplier
2 basis and we've talked to the staff at some length
3 about what that multiplier means. I think it's a good
4 chance to clarify that.

5 There's a list price that exists and it's
6 typically an internal list price that exists in the
7 major domestic manufacturers where this list price is
8 akin to when you go to a hotel room and you see the
9 price on the back of the door. It's not often you're
10 actually paying that price, there's some discount off
11 that price. And that's really what our list price
12 represents. It's a price that if a non-partner
13 customer orders a quantity of two, we can say, okay,
14 here's our list price and here's what you get, but
15 when you go to the general market, especially the
16 large OEM customers, the large utilities and the
17 significant packagers, what you provide is a
18 structured price that is defined as a multiplier off
19 of that list price.

20 Now, the list prices in the market come from
21 a 1995 publication that Lapp submitted and that the
22 other domestic suppliers effectively followed that
23 list price and the multipliers associated with the
24 market were followed within the market timeframe
25 beginning in mid 1995.

1 The multiplier that we went into 2000 --
2 '97, '98, '99, the multiplier was very consistent at
3 about .64, so if you had a list price of 100, you'd
4 charge a customer \$64, so we really benchmark all of
5 our significant volume sales off of our multiplier
6 basis.

7 From that, I think Traci can answer your
8 question directly how we relate price information back
9 to a reasonable standard.

10 VICE CHAIRMAN HILLMAN: Ms. Weaver?

11 MS. WEAVER: Yes. In the past, when we've
12 priced material, it's generally based on the market
13 levels that we see and we keep a database and we
14 understand what level of price we're getting business
15 at at certain customer groups, like OEMs or direct to
16 utilities.

17 VICE CHAIRMAN HILLMAN: And will they
18 typically say to you, you know, gee, we've been doing
19 business, I'd like to continue doing business, but
20 I can get .63 multiplier from somebody else, I can get
21 whatever? Do you hear that?

22 MS. WEAVER: Sometimes they'll be able to
23 give us the feedback or give us an estimate in
24 percentage terms because they don't want to disclose
25 the pricing levels, obviously.

1 In the past, there's always been a
2 differentiation between the OEMs and the utilities.
3 Since the market has become very aggressive, that
4 differentiated price difference has really diminished.

5 VICE CHAIRMAN HILLMAN: Okay. And
6 typically, what is it? Who gets the best prices? The
7 OEM?

8 MS. WEAVER: The OEMs should get the best
9 prices.

10 VICE CHAIRMAN HILLMAN: And how much below
11 what a packager would typically get?

12 MS. WEAVER: The OEMs typically are just a
13 few percent, right now, below the packager groups. If
14 a packager comes in with a large project, especially
15 during the market downturn, that larger project could
16 go at a level much lower than the OEMs, just based on
17 the market conditions today.

18 VICE CHAIRMAN HILLMAN: Okay. And then the
19 highest prices would go to the utilities directly?

20 MS. WEAVER: Usually, yes.

21 VICE CHAIRMAN HILLMAN: Okay. And, again,
22 how much above the OEM price would the utilities
23 typically have paid?

24 MS. WEAVER: Those price levels should be,
25 again, about 10 to 15 percent above the OEMs.

1 VICE CHAIRMAN HILLMAN: But you say these
2 differentials have all been coming down over the POI.

3 MS. WEAVER: Absolutely.

4 VICE CHAIRMAN HILLMAN: Can you tell me a
5 little bit more about how that happened and how much
6 the differentials have been squeezed?

7 MS. WEAVER: Sometimes the differentials are
8 negative, being that if a utility comes in with a
9 large project and you're selling that same insulator
10 to an OEM customer, the project may be much larger and
11 that price may go below the OEM prices, just for the
12 award of the project.

13 VICE CHAIRMAN HILLMAN: And has that always
14 been the case?

15 MS. WEAVER: No.

16 VICE CHAIRMAN HILLMAN: Has that only been
17 recently? If so, when?

18 MS. WEAVER: Absolutely not. That trend
19 began in the late '90s.

20 VICE CHAIRMAN HILLMAN: Okay.

21 Mr. Stanley, would you agree with this
22 general sense of how things get priced?

23 MR. STANLEY: Yes, I would agree with that
24 and say that typically we had seen utility pricing
25 about 5 percent higher than the OEM price structure.

1 That went away in probably '98 and '99 and now there's
2 no differentiation, pricing is often on a job-by-job
3 basis, and it's significantly lower than the
4 multiplier that Rob mentioned. It's probably in the
5 low 4 multipliers at this point, which has been there
6 now for probably three months, two or three months.

7 VICE CHAIRMAN HILLMAN: Okay. All right.

8 I see that the red light is on, so I'll come
9 back for other comments.

10 MR. JOHNSON: Can I embellish on it quickly?

11 VICE CHAIRMAN HILLMAN: Very quickly because
12 the red light has come on.

13 MR. JOHNSON: Okay. I'm sorry.

14 As Rick said, the current multiplier is .45
15 or below and I think to directly answer one of your
16 questions, every supplier has partner customers that
17 will give them last look, so quite often you get
18 direct market feedback from the customer himself.

19 VICE CHAIRMAN HILLMAN: Okay. Thank you.

20 CHAIRMAN OKUN: Commissioner Miller?

21 COMMISSIONER MILLER: Thank you, Madam
22 Chairman.

23 Let me join in thanking all of the witnesses
24 for being here today and sharing your story with us.
25 It's very helpful, particularly with a product like

1 station post insulators which, at least I'm pretty
2 sure I haven't seen this product here in my time at
3 the commission, so some basic education is in order
4 and very helpful and some of my questions will go to
5 that point, at least the first time around.

6 Just in listening to your responses to Vice
7 Chairman Hillman, I actually may want you to elaborate
8 on this a little bit more because I'm interested as
9 well in how the pricing in the market, both now and
10 how it's changed over time, what you were just
11 discussing in terms of the narrowing of any
12 differentials. Why do you that has occurred?

13 The timeframe that you were talking about,
14 I heard, was '98, '99, so it's prior to our period of
15 investigation. I find that information -- I'm always
16 interested in understanding a product better, so some
17 information about the prior period is useful, there's
18 a limit as to how much we can use it in our
19 investigation, but in part I ask this because how
20 I wonder how deregulation has impacted the way pricing
21 works in the market, if that has something to do with
22 these changes, so let me just kind of let you expand a
23 little bit.

24 Mr. Johnson, you were finishing. Do you
25 want to go back there?

1 MR. JOHNSON: Sure. I'd be happy to. There
2 are several questions in there, of course, starting
3 with the last first, which is how did deregulation
4 impact the marketplace.

5 Deregulation was enacted, I think, in the
6 1993, 1994 timeframe. What occurred initially was the
7 end of the previous cycle. There was a very large up
8 cycle in the early '90s that deregulation and because
9 of the uncertainty of deregulation largely ended. And
10 that down cycle that occurred from about '93 until '99
11 was primarily due to the fact that utilities didn't
12 understand for many years how deregulation was going
13 to directly impact them. They needed to start acting
14 like private firms, they could no longer do rate-based
15 pricing, so now they had to become competitive. But
16 in many cases, they didn't do anything. As a result,
17 the market was very, very flat and the prices were
18 very flat during the back half of that period. From
19 about '97 to '99, the price levels were very even.

20 But one of the consequences of that was the
21 size of the up cycle because the demand was pent up
22 significantly from the time period from '92, '93, '94
23 until '99 and that resulted in the requirement for
24 increased generation into the marketplace.

25 When I refer to generation, it's not large

1 nuclear plants or large coal plants, it's independent
2 producers or, as we call them, IPPs, people like
3 Enron, for example, who bought very quick lead time
4 small generators, put a bunch of these together and
5 created a power station. And those IPPs as the end
6 result of deregulation were able to go out into the
7 capital markets, get significant investments and build
8 these profit-bearing -- well, what they thought were
9 profit-bearing -- generation plants which they would
10 sell the power on to the grid which really resulted in
11 the generation boom or the IPP cycle generation cycle
12 that increased the demand significantly in 1999
13 through 2002.

14 From a price standpoint, again, in the late
15 '90s, it was very flat, the ability to price
16 differently between different market segments had
17 mostly to do with volumes. The OEMs were consistent
18 regular purchasers of the same product over and over
19 and over again, so you could justify from a cost
20 structure standpoint that their prices should be the
21 best, whereas utilities were maybe spot buys,
22 inconsistent products, a wide variety of products. So
23 that accounts somewhat for the differentiation.

24 Now, the collapse of that differentiation
25 started, from my view, in 1999, which was actually

1 part of the original POI when we filed in January but
2 fell out due to the timing of the final hearing. In
3 1999, the price collapse came together as NGK came in
4 to capture market share. It was one of the approaches
5 that they used to capture market share. They wiped
6 out any premiums, not only from a product standpoint,
7 but from a market channel standpoint.

8 From a product standpoint, the extra high
9 voltage, extra high leak, RG glaze, products that used
10 to carry significant premiums suddenly no longer did.
11 And Locke, when they made some of those products prior
12 to 1999, enjoyed those premiums as well on the
13 products that they could manufacture there. But by
14 1999, when the strategy changed at NGK as we see it,
15 that was another tactic to take market share by
16 eliminating the premiums across the board.

17 I think addressed two out of three of your
18 questions, maybe you can repeat the first one.

19 COMMISSIONER MILLER: I'm not even sure
20 I can remember what the first one was, so don't worry
21 about it. But you're telling me the story and that's
22 what I'm lookin for --

23 MR. JOHNSON: Okay.

24 COMMISSIONER MILLER: So I'm not sure.

25 Does anybody else want to add to it?

1 It's very useful. I mean, I would add --
2 you know, as I listen to you and talking about the
3 timeframe you saw deregulation having an impact and
4 the way the utilities were learning to operate,
5 perhaps it's not surprising that the premiums
6 disappear as the utilities have to become more
7 competitive in a deregulated market? I mean, was that
8 not something that you might have expected to see in
9 any event?

10 MR. JOHNSON: In a situation where a utility
11 may consolidate purchases and lever the supplier to
12 better his cost structure, sure, but that's not that
13 frequent. The utility market is still primarily a
14 spot market business where because of that spot market
15 and project base behind that spot market there's no
16 rationale from a manufacturer's standpoint to give
17 that customer better pricing than an OEM that would
18 normally order on a blanket basis the same parts over
19 and over again every month.

20 COMMISSIONER MILLER: Okay. It's useful,
21 I think, just for me, not understanding -- in many of
22 our cases, we see different markets for the same
23 product and we have to learn a little bit about how
24 the different markets operate.

25 Do companies specialize in different markets

1 or does everyone -- and I'm not sure I have a good
2 sense of the relative size of OEM versus utilities
3 versus the packagers, so to speak, so it may be in
4 here and I wasn't focusing on it because I hadn't
5 heard your testimony, and I apologize if that's the
6 case, but maybe you can give me a little bit of that
7 sense and tell me whether companies do tend to work
8 more in one or the other of these markets or whether
9 the imports have an impact more in one or another of
10 the markets.

11 MR. STANLEY: I believe Newell, our company,
12 is probably the most specialized of all the
13 manufacturers involved here and our pricing strategy
14 so to speak over the years had always been to follow
15 either Lapp or Locke, whoever was setting the market
16 pricing, and offer similar pricing to our customers.

17 We were satisfied that the OEMs always got a
18 little bit better price because what the OEM customers
19 gave you was a base load that you could run through
20 your plant and keep your kilns as much at capacity as
21 possible because they were buying what everyone,
22 I think, considers to be the bread and butter type
23 porcelains that we manufacture.

24 On the other hand, there were utility
25 blankets historically that would come out that maybe

1 for a one-year period or a two-year period that
2 everyone participated in and most of the utilities in
3 the U.S. at one point kind of divvied up their blanket
4 among suppliers, to really get to a situation where
5 they were not being held hostage by any one
6 manufacturer, so everyone might offer a little bit
7 better price there because everyone knew they were
8 going to get some share of that blanket in some
9 manner.

10 So as deregulation hit and as deregulation
11 became a bigger factor to the utilities in the United
12 States, pricing became a bigger issue, I'm sure not
13 only in insulators but in everything that they were
14 purchasing and we saw utilities come out with blankets
15 that were longer in duration. Instead of a one-year
16 blanket, it may be a five-year blanket. That tended
17 to hold some of the pricing up for a while because
18 everyone was reluctant to offer real aggressive
19 pricing out five years without knowing what your costs
20 were going to do over that period of time.

21 Some of the utilities would even let you put
22 escalators into the pricing that you may say every
23 year you would negotiate up to a 5 percent increase or
24 3 percent increase or something like that if you were
25 awarded a portion of it.

1 In more recent years, that pricing has
2 gotten so aggressive that some of the utilities that
3 historically would spread the blanket out have now
4 partnered with one company and, as a result of that,
5 going into the bid knowing that if you didn't get the
6 whole blanket you weren't going to get any of the
7 blanket, there was a natural tendency, I believe, for
8 all suppliers to get more aggressive with their
9 pricing. And what that's resulted in is if when you
10 lose the first blanket you get more aggressive on the
11 second blanket and you keep getting aggressive until
12 you get to that point where you start to book
13 business.

14 And that, I believe, started in '98 or '99
15 and has got progressively more aggressive pricing wise
16 over the last four years.

17 COMMISSIONER MILLER: That's all very
18 interesting and useful and I'll come back with more of
19 the same questions, because I do have some follow-ups
20 for you on my next round. Thank you.

21 CHAIRMAN OKUN: Commissioner Lane?

22 COMMISSIONER LANE: Mr. Stanley, I think
23 I'll start with you. There was some testimony earlier
24 about the energy surcharge that was in effect starting
25 in the first quarter in 2001.

1 MR. STANLEY: Yes.

2 COMMISSIONER LANE: Did Newell actually
3 experience an increase in their natural gas prices in
4 the first quarter of 2001?

5 MR. STANLEY: Yes, we did.

6 COMMISSIONER LANE: And has that continued
7 today?

8 MR. STANLEY: We've seen some increases.
9 Typically, we will lock in our natural gas prices on a
10 12-month strip, but I would say that today we are
11 probably -- our natural gas prices are significantly
12 higher than they were in 1999 and 2000. It
13 progressively went up, so even if you hedged the
14 market and locked 12 months out, in 10 or 11 months
15 when you're looking at that extended market even
16 further, pricing has just continued to escalate.

17 COMMISSIONER LANE: And, Mr. Johnson, what
18 about Lapp?

19 MR. JOHNSON: Yes, ma'am. The experience
20 that we had in the first quarter of 2001 was we were
21 paying approximately a delivered price of \$3.00 per
22 unit. That unit is a decatherm. That price in
23 January was \$10.00 per unit. In February, it was
24 around \$7.00, in March it was around \$6.00, in that
25 range.

1 Today, the market price is between \$4.50 and
2 \$5.00, so it's still 50 to 75 percent higher than it
3 was prior to 2001, however, the worst quarter was that
4 first quarter of 2001 and we experienced that
5 directly.

6 COMMISSIONER LANE: And you've taken the
7 surcharge off?

8 MR. JOHNSON: That's correct. We took the
9 surcharge off on April 1, 2001.

10 COMMISSIONER LANE: Do purchasers require
11 specifications on the CSPI that you produce that are
12 stronger than the ANSI standards? If so, could you
13 please specify what proportion of your sales this
14 represents?

15 MR. JOHNSON: The large majority of products
16 fall within the ANSI standards. Now, each
17 manufacturer will choose to build a margin into his
18 product above the minimal requirements, which is what
19 ANSI standards represent and that's for liability
20 purposes, of course. So within the ANSI standard and
21 the products that are defined as ANSI standard
22 products, that probably represents around 70, 75
23 percent of the CSPI market.

24 The other 25 percent of the product are not
25 specifically defined dimensionally nor from a strength

1 standpoint in the standard, but the general
2 requirements are still in the standard. For example,
3 test levels are still generally defined in the
4 standard; methods of inspection from the standpoint of
5 how you inspect these products are still generally
6 defined in the standard. So they fall under an
7 umbrella of products, but the ANSI standard does not
8 specifically identify every part that a manufacture
9 produces because the customer desires a part. A
10 specific customer may require more leakage or more
11 strength or more height, et cetera.

12 COMMISSIONER LANE: In testing to meet
13 ANSI specifications and purchaser specifications, is
14 this testing done in house or is it done with outside
15 testing?

16 MR. JOHNSON: At Lapp it's all done in
17 house. There's three different types of tests:
18 design tests, proof tests, and routine tests.

19 MR. STANLEY: At Newell, we do all the
20 mechanical testing in house and contract out all the
21 electrical testing.

22 COMMISSIONER LANE: I'm going to go back to
23 a question that I think you all have answered before,
24 but I'm not sure that I'm clear.

25 If tomorrow there were a huge demand for

1 insulators above 500 kV, who can produce those now?

2 MR. JOHNSON: From the information on the
3 record, it would be Newell, Lapp and potentially
4 Victor.

5 COMMISSIONER LANE: Okay. And if there were
6 a huge demand for this, do those three companies have
7 the capacity available to produce what is needed?

8 MR. JOHNSON: Absolutely.

9 COMMISSIONER LANE: Okay. Thank you.
10 Okay. I don't have any other questions,
11 Madam Chairman.

12 CHAIRMAN OKUN: Commissioner Pearson?

13 COMMISSIONER PEARSON: Thank you, Madam
14 Chairman.

15 I'm accustomed to businesses in which,
16 frankly, there is a lot of fluctuation in prices,
17 volumes, earnings, year-to-year swings that really can
18 be quite dramatic, more dramatic than I'm seeing in
19 your industry, but then yours is quite a different
20 industry than I'm familiar with.

21 Based on your experience, how many years out
22 of ten do you expect to have really good earnings and
23 how often kind of adequate earnings and how often do
24 you expect things to be in the pits?

25 MR. BOLTUCK: Well, obviously the industry

1 reps should give you a more detailed answer, but I do
2 want to mention that there are tables covering
3 essentially a decade or more of operating income
4 margin data in the 1990s roughly for a couple of these
5 companies and we think that represents the normal
6 cyclical experience and seems that it's pretty much on
7 point in terms of your question. You might want to
8 take a look at that. It's in the economic report.

9 COMMISSIONER PEARSON: I have reviewed that
10 information, but some of these people have experience
11 in the industry that goes back even before that
12 reference period.

13 MR. STANLEY: I think I stated during my
14 statement that our average operating income was
15 usually around 13 percent for the period 1990 to 1997.
16 That would be at Newell what we would expect based on
17 historical conditions of the company since its
18 inception in 1989.

19 MR. JOHNSON: For Lapp, the way our facility
20 is structured to take advantage of the very large up
21 ticks in the market for CSPI, we see that cycle --
22 about a three-year cycle -- every decade.

23 I think that the current situation is that
24 the cycle is going to be much sooner for that up tick,
25 which is great news for us, but on the other hand we

1 are also a broad range manufacturer whereas in the
2 years where CSPIs are not specifically doing well in
3 the down cycle, as long as some of the other products
4 are doing okay. we're an ongoing, viable and
5 profitable business. In the cycles where CSPIs are
6 flat or low or at a modest pace, we make money, but
7 not a lot, in our current structure and as we've
8 restructured the business over the course of the last
9 seven or eight years.

10 Hopefully, that addresses your question.

11 COMMISSIONER PEARSON: So you occasionally
12 find yourself in a situation where earnings in one
13 product line carry another product line that's having
14 a tough time.

15 MR. JOHNSON: Absolutely.

16 COMMISSIONER PEARSON: The increase in
17 demand that apparently peaked in 2002, is that the
18 first upswing in demand since industry deregulation?

19 MR. JOHNSON: Yes. In my experience.

20 COMMISSIONER PEARSON: And you've probably
21 had an opportunity to think about whether the nature
22 of the upswings has change. And, again, I have some
23 experience with upswings that were expected and them
24 something happens, somebody increases output, you get
25 some substitution to some other product, and all of a

1 sudden the upswing that's supposed to be there simply
2 evaporates. Can you comment on that, please?

3 MR. JOHNSON: Absolutely. In my management
4 training and economics training that I received in my
5 MBA in the mid-'90s, I think all those economic
6 classes are obsolete today, so I may need to go back
7 to school. But that being said, I believe that the
8 cycles because of the global environment of various
9 economies are different today.

10 Recognizing that here in the States the
11 changes in the markets for CSPIs are historically
12 isolated because of the cost of freight, these things
13 weigh a lot, several hundred pounds apiece, and
14 putting them on a boat and sending them across the
15 pond costs quite a bit of money, I think that the
16 domestic suppliers have always been able to facilitate
17 market swings historically and in the future and this
18 is significantly true from the standpoint that there
19 is significant capacity within the existing U.S.
20 manufacturers to support these upswings and, in
21 particular, Lapp has always been structured to take
22 advantage of these upswings. And in Rick's case with
23 CSPIs, he's focused on that product.

24 MR. BOLTUCK: I might just mention as the
25 staff report points out there's no evidence there

1 really are substitute products to speak of for this
2 and demand is extremely inelastic because of the lack
3 of substitutes and because it's a small share of the
4 cost of the finished projects, you could say a
5 substation, but actually the project is usually even
6 much more significant than that, it's a transmission
7 system that incorporates a substation that
8 incorporates CSPI.

9 MR. STANLEY: I would just like to add to
10 what Rob said, that we have had expectations that
11 there was going to be a significant upswing in the
12 market and, to be quite honest, that's what prompted
13 us, myself and Dan Wolfe, to make an investment into
14 our company and to buy it when the gentleman who owned
15 it put it up for sale. And, as Rob pointed out,
16 I believe three members of Lapp's current management
17 own 90 percent of their company and I know that
18 there's only two or three owners along with some who
19 have significant ownership in Victor along with a
20 significant portion of their employees. So Lapp,
21 I believe their management buyout took place in early
22 '99, ours took place in late '99, and I think both of
23 those were prompted in some part by an expectation
24 that the market was going to come back. And we
25 believe that we're getting ready to go into another

1 upswing as a result of what we're seeing a lack of
2 activity in the early parts of deregulation.

3 The grid can only go so long without being
4 maintained or upgraded and we're back to another point
5 where some of that kind of stuff has to happen.

6 COMMISSIONER PEARSON: Permit me to shift
7 gears and ask a bit about how we should define the
8 U.S. industry. I understand that your view as
9 petitioners is that Locke should not be included as
10 part of the U.S. industry.

11 MR. SHELDRIK: That is correct,
12 Commissioner Pearson.

13 COMMISSIONER PEARSON: Okay. Locke is a
14 significant producer in the United States. At what
15 point would a producer be so large that it simply
16 wouldn't be correct to exclude that producer?

17 MR. SHELDRIK: I think one has to look at a
18 range of factors. I think it's very difficult, as it
19 is in many of these cases, to draw a bright line on
20 some specific criterion. And I apologize that that
21 appears to be really a non-responsive answer.

22 What we did in our pre-hearing brief was to
23 look at the different factors that the commission has
24 typically examined in defining the U.S. industry, but
25 what I think it largely comes down to is the question

1 of the extent to which the domestic producer in
2 question has benefitted from the imports and I think
3 one has to look no further than the testimony on the
4 public record from the staff conference on that point
5 because essentially the testimony was, if I understand
6 it correctly and, if not, I'm sure I'll be corrected
7 this afternoon, but Locke testified that it found
8 itself in a situation where it was planning to convert
9 its plant to an all CSPI facility and it saw the
10 market increasing and it couldn't supply as much
11 demand at that point as it would like to be able to,
12 it wanted to be able to essentially lock in enough
13 customers that once the conversion was finished it
14 could operate the plant at what it would consider to
15 be favorable utilization rates, so, as they testified,
16 they turned to imports from Japan to top off their
17 capacity.

18 Now, there's obviously nothing wrong with a
19 domestic producer increasing capacity and then
20 competing vigorously for business with that capacity
21 and there's nothing wrong with them bringing in
22 imports at fair prices to supplement their own
23 capacity. What they cannot do is bring in imports at
24 unfair prices and use those imports to take business
25 away from domestic competitors, business that they can

1 then hold on to in future years to fill out their
2 order book.

3 And I think that given what the purpose was
4 for these imports, given the fact that they came in
5 through a single distribution channel, NGK Locke,
6 I think it is very clear that not only did Locke
7 benefit from imports, but the very purpose of the
8 imports at that particular time was to convey a
9 benefit on Locke which obviously was not conveyed on
10 the remainder of the domestic industry.

11 And I hope that goes some way to answering
12 the question, but I'd be happy to follow up on the
13 next round.

14 COMMISSIONER PEARSON: Thank you. Madam
15 Chairman?

16 CHAIRMAN OKUN: Thank you. And I
17 appreciate those responses. With regard to the
18 related party provision for post-hearing purposes,
19 there are two things that I was interested in as well,
20 in addition to the comments you gave. One is to look
21 back at a couple of cases, one being forklift trucks,
22 the other being butt weld pipe fittings, and look at
23 the analysis there and discuss this case in that
24 concept. And then the other, I guess, just legal
25 question I have is -- and you can do this post-hearing

1 or you could comment on it now, which is does it
2 matter in applying the statute that the producer in
3 question's interests look different at different parts
4 of the period of investigation? In other words, their
5 argument now is we are now just focused on domestic
6 production versus what happened for a brief period or
7 during the POI, it doesn't matter for purposes of
8 applying the statute.

9 MR. SHELDRIK: We'll certainly respond to
10 those questions, Chairman Okun.

11 On your last point, you want us specifically
12 to address whether the interests of the related U.S.
13 company changed in relation to imports over the POI?

14 CHAIRMAN OKUN: Right. Well, I mean, again,
15 if the focus of the statute is we're looking at this
16 producer and saying where do their interests lie,
17 importation or domestic production, you could argue
18 that this producer looked different at different times
19 and I wonder if it matters for purposes of applying
20 the statute.

21 MR. SHELDRIK: We'll certainly address
22 that. My initial response is that in fact if you take
23 the POI as a whole, and maybe this is, of course, not
24 the answer to the question, but I think if you take
25 the POI as a whole, there was certainly a purpose

1 here, based upon the testimony we've heard from Locke.
2 The effects may have been different at any given time,
3 for example, the ratio of imports to domestic
4 production may change over a period of time, but we
5 would suggest that in terms of defining the domestic
6 industry you would look to the POI as a whole and
7 apply the various tests the commission has looked to
8 and basically balance those consequences. That's
9 something we'll be happy to address in more detail in
10 the brief.

11 CHAIRMAN OKUN: Okay. I appreciate those
12 comments.

13 I wanted to go back to some responses you've
14 given and I think you may have implicitly answered
15 this question, but I just wanted to give you a chance
16 to respond to it directly.

17 In listening to what you said about
18 deregulation and the impact on prices, and I found
19 those answers very interesting, and what period this
20 occurred in. One of the allegations made by the
21 Respondents relates to two things: one, with regard
22 to the historical operating income, and you had a
23 chance to respond to this a little bit, I guess the
24 first question is does one now expect in this
25 environment that your operating income would follow

1 these historical averages in a deregulated market
2 where you have a competitive domestic industry, so
3 operating income would be the first question. The
4 second one would be what about with respect to prices?
5 The other argument made by Respondents is if we look
6 at this pricing data, you can look at products where
7 we see competition and you can look at products where
8 there's only U.S. prices being given and you see a
9 similar downward trend. How do you explain that in
10 the context of the impact of imports?

11 I'll start with you, Mr. Johnson, and then
12 to Mr. Stanley and then also, Mr. Boltuck, if you
13 wanted to comment on it, you're welcome to.

14 MR. JOHNSON: Okay. Thank you. The
15 upcoming increase in demand will significantly help
16 Lapp Insulator Company's financials as it covers the
17 large fixed overhead associated with a factory that is
18 designed for these exact circumstances. So from a
19 financial improvement standpoint, just the increase in
20 capacity alone that would be rewarded in a higher
21 market, especially in a scenario where there's no
22 dumped imports, we would significantly benefit just on
23 the volume basis alone.

24 On the price side, I think the laws of
25 supply and demand would largely define the prices.

1 For example, if the market fills up, the three
2 domestic producers and Locke, capacity is approaching
3 80, 90 percent, for example, prices, by normal
4 economic laws should definitely go up. And
5 I definitely think that that would happen.

6 CHAIRMAN OKUN: Mr. Stanley?

7 MR. STANLEY: I would agree with what Rob
8 said and say that as our plant load goes up through an
9 increase in demand our operating profits should be
10 better as a result of increased productivity in the
11 plant and production type standards that we've made.
12 But I would also go one step further and say that on a
13 level playing field I believe that our porcelain
14 company has the lowest labor rates of all the domestic
15 producers and, in short, if we're hurting during these
16 prices and in this period, we believe that all the
17 other manufacturers are going to suffer in the same
18 manner. And, as a result of that, a responsible
19 leader in the market would push pricing up to help
20 increase their operating margins in their facility and
21 everyone would get healthy as a result of that. And
22 that's not what has happened in the last three years
23 because of the influx of the imported materials.

24 MR. SHELDRIK: Chairman Okun, if I may just
25 add one thing which goes absolutely to the first part

1 of your question about whether deregulation should
2 have been expected to have an had effect in terms of
3 lowering prices and lowering margins, I think one
4 might very well conclude that would be normal if you
5 had a product which accounted for a large proportion
6 of the total thing that was being made. I think that
7 in this case, and my colleagues can give you numbers
8 much better than I can, the cost of the station posts
9 that go into a substation, even more so if you look at
10 the transmission system as a whole, are very, very
11 small components of total cost, so for that reason
12 notwithstanding the normal consequences of
13 deregulation, I would suggest there should not simply
14 because of that deregulation be a substantial downward
15 pressure on price because it really just doesn't make
16 any difference in terms of the return realized by the
17 end user, but I would invite my industry colleagues to
18 give you the specific numbers.

19 MR. BOLTUCK: I mean, this industry also is
20 always a competitive industry and, as such, it adjusts
21 its capacity to the market over the long run. In
22 downturns, it has excess capacity; in upturns, it's
23 fully utilized, and it earns a normal return. And it
24 has done that for a long time.

25 I think your question also touched on how to

1 put this in a perspective with regard to the impact of
2 imports and what I'd like to say is that NGK's basic
3 story about the declining impact of imports because of
4 the dropoff in 2003 is just flatly not credible. The
5 easiest way to see this, and I can't recite the
6 numbers because they're APO, but you can look at them,
7 their story is that between 2002 and 2003, this is
8 what they said in January, they were finishing or they
9 were in the process of just completing the build out
10 of their Baltimore CSPI exclusive plant and therefore
11 they didn't need imports any more. But look at two
12 numbers in the staff report: look at the increase in
13 production in Baltimore between 2002 and 2003, i.e.,
14 the build out, and look at the decline in imports
15 between 2002 and 2003, and if they don't match, then
16 that explanation doesn't work.

17 And they don't match and the reason they
18 don't is there are at least a couple other reasons at
19 work here that are much more plausible. One is the
20 pendency of the petition, which we think -- when you
21 have a 100 percent bonding requirement, that has a
22 tremendous deterrent effect on imports, and the second
23 is that there's been a decline in demand and look at
24 the compared total consumption in 2002 to apparent
25 domestic consumption in 2003.

1 Now, the cruising level of consumption in
2 2003 is not going to last forever. It can't. People
3 are still consuming electricity, they still need a
4 transmission system, they need a grid, they need a
5 better grid than they've got, they're going to need
6 better substations and better insulators, and the
7 policymakers and investors and politicians and
8 regulators are all going to see that that happens, as
9 in past imbalances and crises with respect to
10 electricity delivery.

11 And when that happens, which is not going to
12 take very long, the question is will that recovery
13 that all these folks are talking about looking forward
14 to will that benefit them or will the benefits of that
15 be taken from a reversal of this contraction between
16 2002 and 2003 in the absence of remedy or relief from
17 this case.

18 CHAIRMAN OKUN: I appreciate all those
19 answers.

20 Vice Chairman Hillman?

21 VICE CHAIRMAN HILLMAN: Thank you. I guess
22 maybe I can start, Mr. Sheldrick, with you in terms of
23 a legal question, a little bit following up on what my
24 colleagues have asked on this issue of our treatment
25 of Locke.

1 In response to Commissioner Pearson and to
2 some extent Chairman Okun you really focused on this
3 issue of the benefits that Locke may have received
4 from importing.

5 I would like to ask you in your post-hearing
6 brief, given that it's confidential, to also focus, if
7 you can, on the degree to which we should take into
8 account rather than the issue of the benefit of
9 imports, but the benefit of the relationship with NGK,
10 particularly the financial relationship with NGK. How
11 do we take that into account and what does that mean
12 for our analysis in terms of whether Locke should
13 remain considered part of the domestic industry or
14 not?

15 MR. SHELDRIK: We'd be happy to do that,
16 Vice Chairman Hillman. I think we touched on that
17 probably in somewhat summary terms in our pre-hearing
18 brief, but we'd be very happy to focus in on that
19 issue in the post-hearing submission.

20 VICE CHAIRMAN HILLMAN: I'd appreciate that.
21 I understand it was addressed, but I'm looking for a
22 little more detail. Obviously, our staff has gone to
23 great lengths to collect a lot more data than we might
24 normally have in terms of this relationship and I'm
25 trying to get some analysis for what do I make of it

1 and what does it mean for this question of whether
2 Locke is included or excluded as a related party.

3 MR. SHELDRIK: We'll most certainly focus
4 on that.

5 VICE CHAIRMAN HILLMAN: I appreciate that.

6 I guess if I can then go back to some of
7 the -- trying to understand the sort of market
8 dynamics and the pricing issues. Commissioner Miller
9 had asked and I think you just didn't get a chance to
10 comment, to help us understand the relative percentage
11 of the market that is made up of sales to OEMs as
12 opposed to packagers as opposed to the utilities.
13 Do you have any sense of the relative shares there?

14 MR. JOHNSON: All three are significant.
15 OEMs in round figures, and I believe the staff has
16 some of these numbers more precisely from our
17 questionnaire response, but I think just for point of
18 discussion here, OEMs are 40-ish percent, packagers
19 are 20-ish percent and utilities are the other 40.

20 VICE CHAIRMAN HILLMAN: Okay. That's
21 helpful. Then just so I make sure I understand,
22 Mr. Johnson, your testimony as opposed to
23 Mr. Stanley's, at least as I heard it, you took
24 slightly different approaches as you started to see
25 imports and price competition in the market. At least

1 as I heard your testimony, you made the decision
2 initially to try not to reduce prices and ultimately
3 found that you could not do that. Help me understand
4 when was the decision made that you were going to go
5 ahead and lower prices to try to keep share.

6 MR. JOHNSON: Okay. It occurred in April of
7 2001. We really did the cherrypicking, so to speak,
8 only for the first quarter of 2001 and that was based
9 on largely the hope that we would not be a party to
10 the spiraling of prices and our influence in the
11 market could potentially suspend that spiraling.

12 Secondly, because of the surcharge that we
13 had in place to try to attempt to offset the cost of
14 natural gas. Unfortunately, what occurred in that
15 quarter was we lost so much market share that we could
16 not sustain that approach, so about beginning the
17 second quarter of 2001, we came off that strategy.

18 VICE CHAIRMAN HILLMAN: And, Mr. Stanley as
19 I heard your testimony, it was more in the vein of you
20 were prepared to try to meet prices in the market
21 throughout the POI.

22 MR. STANLEY: Yes.

23 VICE CHAIRMAN HILLMAN: Keeping share was
24 always sort of, if you will, more important than the
25 issue of keeping prices.

1 MR. STANLEY: Yes.

2 VICE CHAIRMAN HILLMAN: Okay.

3 MR. STANLEY: Our attempt has always been to
4 follow the market.

5 VICE CHAIRMAN HILLMAN: Okay. I just wanted
6 to make sure I understood the distinctions there.

7 Then if I can go to understanding the
8 pricing data that we have on the record and,
9 obviously, this is, as many cases, where we have an
10 extremely large number of individual products, it's
11 very hard for us to get significant fair comparisons
12 of prices, so two issues, I guess. One, Respondents
13 have obviously made the point that they think the
14 pricing comparisons that we do have for these products
15 where we've priced six products but we didn't actually
16 get comparisons in all of them, even the ones that we
17 have are not really fair comparisons because there's
18 too broad of a range of products even within the
19 product categories that we've priced. And I wondered
20 if you can help me understand whether you share that
21 concern.

22 If I look at the products that we priced in
23 our staff report, is there a really broad range of
24 products in terms of price of products that would fall
25 within each of these individual categories? In other

1 words, I'm looking at product 1 was porcelain station
2 post insulators of 138 kV service class, 650 kV basic
3 impulse insulation, BIL 2200 pound cantilever
4 strength.

5 I mean, if I'm looking at those prices, is
6 there a very broad range of product that would
7 nonetheless meet that description?

8 MR. JOHNSON: Only in a case where someone
9 is trying to throw a bunch of stuff in the air and
10 confuse the issue. That part number is highly
11 commoditized in the marketplace. Everyone knows what
12 it is and we all sell the same one.

13 Now, I can make an argument that if I put RG
14 glaze on it it's a different product or if I add
15 leakage distance to that product it's a different
16 product and those are true statements, but it's kind
17 of silly from the standpoint that such a large
18 percentage of that product are the basic TR number
19 that that product definition references.

20 VICE CHAIRMAN HILLMAN: Mr. Stanley, would
21 you agree with that?

22 MR. STANLEY: Yes, I would agree with that
23 and then most utilities around the country that
24 description would be on the request for product and
25 there may be four items listed and the difference

1 would be just the different manufacturers' numbers,
2 though there would not be a very broad range in that
3 particular item.

4 VICE CHAIRMAN HILLMAN: Okay. Now, how
5 about the others? Like I said, we priced six
6 products, we did get some price comparisons on product
7 2, one comparison on product 3, basically nothing on
8 4, a little bit on 5. If I look at these other
9 products where there are price comparisons, is it the
10 same, that there really is not a significant range of
11 products that would nonetheless fit within those
12 descriptions or is there a broader range for some than
13 for others?

14 MR. JOHNSON: I think that the definition
15 that's provided in its simplest form provides the
16 information to properly identify the product that's
17 being referenced. If you want to say but it could
18 have this and it can have been that, sure, you can
19 cloud the issue, but in the simplest form of that
20 definition, there's little question to what's being
21 described. There's no question to what's being
22 described, in my opinion.

23 VICE CHAIRMAN HILLMAN: Mr. Stanley?

24 And then I'll come back you, to
25 Mr. Sheldrick.

1 MR. STANLEY: If you specify a BIL level, a
2 voltage class and a cantilever rating, it limits the
3 product that can be available for that application
4 significantly. So there should not be a wide range of
5 products available. You're calling out probably half
6 of the requirements that ANSI lists in their
7 description of products in the ANSI classifications
8 and the BIL level, the cantilever rating, and the
9 voltage level really cuts it down to where there's
10 just a select few products that fall into that class.

11 VICE CHAIRMAN HILLMAN: Okay. I appreciate
12 that.

13 Mr. Sheldrick?

14 MR. SHELDRIK: Vice Chairman Hillman,
15 I would just add, we obviously saw the comments in
16 Respondent's pre-hearing brief about the quality of
17 that pricing data and to some extent I would agree
18 with that. I think that where you have particularly
19 in those products 4, 5 and 6, pricing comparisons
20 which compared, for example, the sale of 750 or 250
21 units on the one side against the sale of one, two or
22 three units on the other side. That comparison is
23 inherently somewhat suspect because, as Mr. Johnson
24 testified earlier, depending upon the circumstances of
25 sale, if someone comes in and wants two units right

1 away and you happen to have them on the warehouse
2 floor, then you can command a price that's much closer
3 to list price than the pricing multiple that is
4 otherwise available in the market.

5 I think if you look at products 1 and 2,
6 which I think have been classified as sort of the
7 bread and butter products, where you have a much
8 larger number of unit sales on both sides of the
9 ledger, I think those pricing comparisons become much
10 more reliable than some of the others.

11 So my concern would be not to throw out the
12 baby with the bath water and simply conclude --
13 because some of these comparisons are of limited
14 validity, that the whole exercise is a waste of time.
15 We think it clearly is not and we think it shows very
16 graphically what was happening in terms of price
17 leadership in the market.

18 VICE CHAIRMAN HILLMAN: Is there any
19 other -- I mean, obviously, even accepting your
20 argument and, obviously, we're going to continue to
21 look at the data we've got, is there any place else
22 you would direct us to look at to get a better sense
23 of what was going on in terms of prices in the market?

24 MR. JOHNSON: If the staff or the commission
25 requests, we'd be happy to provide all the data we

1 have on pricing in the marketplace.

2 VICE CHAIRMAN HILLMAN: But it isn't as
3 though there is some sort of publicly available sort
4 of documents that utility companies all look at or
5 other people -- some industry publication, trade
6 association publication?

7 Mr. Stanley, you seem to be connected with a
8 number of the groups that are involved in this.
9 I mean, do people publish price lists at all? I don't
10 mean publish, but I mean are there journals, anything
11 else that we would look at?

12 MR. STANLEY: I don't believe that there's
13 any information out there that would help you any more
14 than speaking with the manufacturers directly.

15 VICE CHAIRMAN HILLMAN: I appreciate those
16 answers. Thank you. Mr. Miller?

17 COMMISSIONER MILLER: Thank you, Madam
18 Chairman. A number of the questions that I have my
19 colleagues have been asking and I think some of my
20 follow-ups to the last discussion were covered in Vice
21 Chairman Hillman's questions and I find in the staff
22 report some of the breakdowns among the different
23 markets that you serve, so I think in that area I
24 don't have any further questions.

25 Just going back to the question about

1 pricing and a question that Chairman Okun asked
2 earlier, she was posing a question of how do we
3 differentiate how you see price competition with Locke
4 U.S. production and NGK Locke Japanese imports?

5 I want to go back to that again because,
6 frankly, I think the answer didn't quite give me as
7 much as I would like to understand, so let me ask --
8 I think you've told me, I've heard, that you don't
9 think the purchasers necessarily know, okay? I'm
10 trying to decide what that means for purposes of our
11 analysis. I'm trying to decide what that means for
12 purposes of our analysis. Help me.

13 MR. SHELDRIK: I'll try.

14 COMMISSIONER MILLER: If I hear your answer,
15 perhaps I'll figure out a way to pinpoint what I'm
16 trying to understand here.

17 MR. SHELDRIK: I'll try to offer a couple
18 of suggestions and invite my colleagues to fill in on
19 some of the details.

20 We're at a disadvantage here because we're
21 not the ones who are privy to the detailed information
22 about how the relationship between Locke and NGK works
23 and there's information in the public record, there's
24 information on the APO record, obviously, but the
25 central factor is that all of this product is coming

1 through a central distribution channel and I do agree
2 that the evidence seems to suggest that many
3 purchasers don't know and in some cases may not care
4 whether the material originates in Baltimore or Japan.
5 Some do because there are certain Buy America
6 requirements that are applicable to some of the
7 utilities and they at least ought to have a concern
8 about the origin of the product.

9 But in terms of how you view the
10 relationship between imports and pricing, I think that
11 unless there is evidence that suggests that the
12 product from Japan is being offered at a consistently
13 higher level than the product from Baltimore, I think
14 in reality the best you may be able to do, unless
15 there's other evidence to the contrary, is to assume
16 that it's being offered at essentially the same price
17 and that when someone goes to NGK Locke and places an
18 order, the issue of where the product is going to come
19 from is not related to the price that has been
20 obtained for it. And similarly, as we understand it,
21 they're not in the market offering price X for
22 Japanese product and price Y for domestic product.

23 That's obviously something that we don't
24 have too much control over and I think that at the end
25 of the day it is probably not an issue that should

1 preoccupy the commission unduly because what we have
2 on the record is data that shows the trend in imports,
3 the volume of imports, whether they're going up or
4 going down. We also see what is happening to market
5 share. We also know in general what is happening to
6 prices: they're going down. And I think one can draw
7 certain fairly fundamental conclusions from that,
8 given that this is a commodity product sold
9 principally on price where we apparently do not have
10 purchasers who are specifying in most cases either
11 Japanese or U.S. manufactured product.

12 MR. BOLTUCK: The lack of differentiation
13 really goes to the fungibility of the domestic and the
14 imported product and the purchasers don't care. And
15 I agree with Commissioner Okun that the record
16 certainly contains evidence that they often don't know
17 or haven't tracked the source of the product but I
18 would also say that shouldn't affect your causation
19 analysis for the reasons that Mr. Sheldrick has
20 outlined.

21 The principal thing to look at is really the
22 increase through 2002 before the pendency of the
23 petition and the temporary demand downturn, the import
24 trend that's all volume that domestic producers can
25 produce given their excess capacity, that domestic

1 producers can produce total substitute products for,
2 identical substitute products for. That's all product
3 that is in a market where demand is inelastic. What
4 all of that implies taken together is that it's
5 unit-for-unit substitution. If the imports have 5
6 percent of the market, that's 5 percent that could be
7 filling capacity of a U.S. producer if it's dumped
8 imports. If they have 10 percent, if they have 15
9 percent. I'm not giving actual numbers here, but you
10 can look at the staff report with respect to the
11 trends before the pendency of the petition.

12 I think that's the evidence for a product in
13 a market like this and it's not essential to know on a
14 transaction-by-transaction basis the source of the
15 product. Every unit that was imported, that was
16 dumped, that was sold, could have been produced by a
17 U.S. producer, given the capacity situation in the
18 U.S. industry and the scope of the products they
19 produce.

20 COMMISSIONER MILLER: Well, that's helpful
21 and it may in some ways help crystallize what I'm
22 thinking here, but what I hear you saying and
23 presenting is essentially, then, a case that relies on
24 the commission looking to volume, the effect of the
25 volume increase in imports. Obviously, by statute, in

1 my approach to cases I look at whether the volume is
2 significant and I look at whether the price is
3 significant, I determine the impact of the imports in
4 that way.

5 Volume I understand what you're saying, so
6 perhaps you're basically presenting the case as a
7 volume case because when it comes to price, it's not
8 clear to me how I can differentiate the impact of the
9 domestic competition from the impact of the imports.
10 It's not clear to me I can at all. And yet the reason
11 that troubles me, my difficulty in determining the
12 impact of the effect of imports on prices, is because
13 much of the case that I have heard the producers
14 present is about how prices have gone down and
15 obviously that is something that has contributed
16 significantly to the financial deterioration.

17 MR. BOLTUCK: To an economist, there really
18 isn't a distinction between talking about volume and
19 price in the sense that volume implies price. I mean,
20 there is a set of demand conditions and if you have 20
21 percent more product being sold in the market for a
22 fungible commodity, homogeneous product, then price is
23 going to be lower than it otherwise would be.

24 So does a unit produced by the U.S. industry
25 have a different effect on price than a unit imported

1 from Japan? Well, even if we said hypothetically, no,
2 it has the same impact, the difference is that the
3 import from Japan, which is adding to total volume in
4 the marketplace is being dumped and that increment of
5 volume has an incremental effect on price, on price
6 being lower than it otherwise would. Get rid of that
7 volume, price will be higher, even with the domestic
8 producers selling every unit that they're currently
9 selling.

10 So I think that the question isn't
11 distinguishing the effect of this unit and that unit,
12 this unit produced by a U.S. producer and that unit
13 produced by the importer, but recognizing that this
14 chunk of volume sold at dumped prices doesn't belong
15 here if it's going to be sold at dumped prices. So
16 then what would happen if it wasn't sold here? So
17 volume and price are closely related. That's the
18 story of the demand curve.

19 COMMISSIONER MILLER: Don't go there,
20 Mr. Boltuck, because if we do, I will go way past that
21 yellow light. I'll stop there.

22 I understand your point, it does rely on
23 that sort of perfect substitution, but I'm not going
24 to go there. The yellow light is on.

25 MR. SHELDRIK: Well, we'd certainly be able

1 to address this further in the post-hearing brief or
2 on the next round, as you see fit.

3 COMMISSIONER MILLER: Okay. Thank you.
4 I appreciate that.

5 CHAIRMAN OKUN: Commissioner Lane?

6 COMMISSIONER LANE: I don't have any further
7 questions.

8 CHAIRMAN OKUN: Commissioner Pearson?

9 COMMISSIONER PEARSON: Mr. Boltuck, going
10 back to the points that Commissioner Miller was just
11 making, you're differentiating, I think, between
12 imports of dumped product and imports of fairly traded
13 product, but either will have an effect on the
14 marketplace. Are you alleging that the dumped product
15 is having a greater effect somehow on the price than
16 an equivalent quantity of non-dumped product?

17 MR. BOLTUCK: Well, this is what I think. I
18 mean, I don't think we've observed over the period of
19 investigation any evidence that there have been sales
20 of non-dumped product and I think that given the
21 magnitude of the dumping margin 100 percent at the
22 factory gate in Japan, up more than 100 percent, which
23 means it's half the price it should be, for product
24 destined for sale in the United States, were that to
25 be corrected, I don't think we would see significant

1 volumes of fairly traded product in the United States.

2 So you know what it reminds me of is my
3 daughter's T-shirt. On the back, it says "The
4 statement on the front is true" and on the front it
5 says "The statement on the back is false." And that's
6 sort of a verbal contradiction which is interesting
7 philosophically by saying hypothetically if there was
8 the same volume of fairly traded imports would it have
9 the same effect on price is an internal contradiction
10 because there would not be the same volume of fairly
11 traded imports. You raise the price of the imports
12 that much and they would basically for the most part
13 or substantially be out of the market. Would they be
14 100 percent out of the market or 95 percent out of the
15 market? I don't know but that magnitude of a price
16 change would certainly have a huge effect on their
17 volume as well.

18 MR. SHELDRIK: I think it's also worth
19 pointing out that the question of whether any given
20 imports are dumped is a function, obviously, of the
21 price at which it's sold in the U.S. and the price at
22 which it is sold in the home market. You could
23 conceivably have a case with two alternative scenarios
24 where imports were entering the U.S. and being priced
25 at the same level in the U.S. market and in both cases

1 undercutting the domestic price and in one instance
2 the merchandise was dumped simply because of the way
3 the computation works and in the other case it wasn't.

4 Obviously a finding of dumping is essential
5 to an affirmative determination in this case, but the
6 issue is not the linkage between the dumping and the
7 price undercutting, price depression per se but simply
8 the question of whether the price at which those
9 products are being sold in the U.S. market is having
10 an injurious effect. So I would not necessarily see a
11 distinction between whether they are dumped or not
12 dumped in terms of that type of analysis.

13 I think what we can say is that given the
14 facts in this particular case where we have seen that
15 the Japanese manufacturer is willing to ship product
16 to the United States at margins substantially below
17 what it's achieving in its home market suggests that
18 they're willing to put product into the U.S. under
19 circumstances other producers perhaps may not. And
20 I think that clearly established a pattern which you
21 might consider relevant in the context of threat in
22 particular.

23 COMMISSIONER PEARSON: Well, just to add a
24 little less clarity, of course, we have some evidence
25 of price overselling by the Respondent.

1 MR. SHELDRIK: Correct. And I think that
2 goes back to the issue we discussed before about the
3 imperfections in the pricing data. I think one has to
4 look at the data as a whole. Given the nature of the
5 market and the way business is transacted and the fact
6 that in some cases you can achieve a premium price
7 because you've got a good client relationship or
8 because they need the product very badly, it's
9 certainly not inconsistent that you will have
10 instances from time to time where there is overselling
11 but, as I said, I think you look at the totality of
12 the evidence as far as that's concerned.

13 COMMISSIONER PEARSON: So are the data that
14 we've accumulated on price so imperfect that we ought
15 to ignore both the underselling and the overselling?

16 MR. SHELDRIK: Absolutely not. I think
17 that what the commission should do is take into
18 account or attach greater weight to the comparisons
19 that appear to be most indicative of what is happening
20 in the market broadly and I think those would be
21 comparisons where you have large quantities of
22 domestic product being sold compared with large
23 quantities of imported product being sold. I think
24 that in some of the pricing comparisons, and I think
25 it cuts both ways, it's not something that necessarily

1 favors us or favors Respondents, you'd have pricing
2 comparisons based upon single units, two, three units,
3 compared with, in some cases, over 100 units and think
4 that those pricing comparisons would tend to be
5 inherently less reliable than head-to-head comparisons
6 of multiple hundreds of units on both sides of the
7 ledger.

8 MR. BOLTUCK: I think that what the
9 Respondents have asked the commission to do with
10 respect to the underselling data is just another
11 example of their sort of divide and conquer strategy
12 of taking each of these factors independently and
13 saying ignore them because they have some
14 imperfections which we've acknowledged, which
15 Mr. Sheldrick has acknowledged they do have some
16 imperfections. But the truth of the matter is that
17 the testimony was unanimous from our panel that the
18 experience in the marketplace is that they
19 encountered -- these sellers, these producers and
20 sellers encountered price leadership by NGK
21 aggressively at least through 2002 and to the present
22 and that the pricing data the commission collected
23 tends to reinforce the validity of that conclusion.
24 And I think if this case were pinned only on
25 underselling data, then you would reach whatever

1 conclusion you want, but it isn't. It's a whole
2 mosaic of information, a variety of factors, the
3 testimony and it all tends to point in the same
4 direction.

5 As Mr. Sheldrick pointed out, in a relevant
6 sense, even though any given observation in the
7 underselling data might be impugned for one reason or
8 another, that the data are unbiased. There's no
9 tendency of them to favor us or favor the Respondents,
10 so if you look at them in the aggregate, do they tend
11 to add to the weight of evidence and I would say yes,
12 just as in other cases.

13 COMMISSIONER PEARSON: Permit me to ask a
14 couple of questions about the conditions of
15 competition and some of this you've already touched
16 on, so there might be a bit of redundancy here, but
17 just for clarification.

18 When you compete for sales, how often do you
19 compete with one other producer, two other producers?
20 Do you have all of the players competing for every
21 sale? Give me some sense of that.

22 MR. STANLEY: It's not always some of the
23 players. I think Rob had mentioned earlier that there
24 are some accounts that may primarily deal with Newell
25 and Locke or Newell and Lapp or Lapp and Locke and in

1 those cases you may get the opportunity where they may
2 say, well, Lapp is at this price, that's where you
3 need to be. But on the OEMs, it tends to be like that
4 more than in the utilities. In the utilities, it's
5 almost always all the approved manufacturers are
6 providing a bid so you're bidding against everybody.

7 COMMISSIONER PEARSON: Okay. So the company
8 building a generating plant that needs a number of
9 CSPI will contact all of the sellers and say I need
10 this many of such and such specs, please give me your
11 best offer?

12 MR. STANLEY: Typically, yes, that would be
13 how it is.

14 COMMISSIONER PEARSON: Okay. How important,
15 then, is it to be able to offer a wide range of
16 products for sale? For instance, are there situations
17 where someone building a generating facility might
18 want really quite a wide range of items and want to
19 acquire them all from one supplier or will they split
20 among suppliers?

21 MR. STANLEY: Our experience has been that
22 most cases in a bigger job like you're describing the
23 majority of the product needed would be product that
24 everyone could supply. We have run into situations
25 where a particular product that maybe we don't offer

1 is needed in the job where we can't offer a price for
2 that product, but typically in the scheme of things
3 it's not a big enough item that it causes the buyer to
4 move away from who has the best price for the majority
5 of the product in the bid.

6 COMMISSIONER PEARSON: Okay. Thank you,
7 Mr. Stanley.

8 Anything more, Mr. Johnson?

9 MR. JOHNSON: The only thing I can add,
10 I believe that most customers would prefer to deal
11 with fewer suppliers than greater suppliers. They
12 want to know that they are getting competitive prices
13 in the market, but the tendency to go through a
14 specific bid and if they bid four different part
15 numbers to award that to four different suppliers,
16 that would be very rare.

17 COMMISSIONER PEARSON: Thank you.

18 CHAIRMAN OKUN: Those responses that remind
19 me of something else in the record that I wanted to
20 ask you about, which is the importance of lead time in
21 this industry. I mean the responses for purchasing
22 indicated that this is a product where lead time
23 matters, and given the kind of project-specific nature
24 of some of this business I'm curious whether that
25 translate into any type of price premium, or is there

1 enough available capacity of all these types of
2 products, I guess to follow on the last question here,
3 that you don't really get a price premium, you get the
4 job I guess if you have the product.

5 Mr. Johnson and then Mr. Stanley and Ms.
6 Weaver, if there's anything you can add.

7 MR. JOHNSON: Sure. Taking your last point
8 first, we've experienced that in the case of CSPIs in
9 the timeframe of the last two-three years where we
10 would have, where Lapp specifically would have the
11 opportunity to supply product sooner at a more
12 expensive price the customer would not choose to pay
13 that higher price. He would try to change in some
14 cases his delivery schedule and go for the lower
15 price.

16 Now if you have products, there are
17 different segments of the market of course, and the
18 high commodity products --

19 CHAIRMAN OKUN: Let me just stop you there.
20 Are you saying that's changed in this period of
21 investigation? You used to get a price premium if you
22 could deliver earlier? I'm trying to make sure I
23 understood the answer.

24 MR. JOHNSON: In some cases, yes. And that
25 would be on non-commodity products that had to

1 typically be made from order. It's not products you'd
2 normally stock.

3 There are commodity products that are
4 delivered from stock and whoever has that stock gets
5 the order at the lowest price. So there will be a
6 daisy chain of phone calls to the four suppliers. Do
7 you have it? Yes. Here's the price. Go to the next
8 one. Do you have it? Yes. Here's the price. Et
9 cetera. They'll choose the one with the lowest price.

10 What we found during the POI is that
11 products that weren't normally stocked in the
12 industry, 500kv for example, which of course is not
13 historically a stocked item for multiple reasons, not
14 the least of which is the value of the inventory, and
15 the typical situation where you have plenty of time in
16 the marketplace to make it and supply it within the
17 lead time required by the customer. NGK began to
18 stock those products, so suddenly that dynamic
19 changed, and it changed from the standpoint that where
20 lead time may not be critical to the customer, the
21 security that NGK had that in stock changed that
22 dynamic to some extent.

23 CHAIRMAN OKUN: Mr. Stanley? Your
24 impression on lead time.

25 MR. STANLEY: I would agree with Rob. There

1 are situations occasionally where you may get a slight
2 premium on products. It's typically smaller volumes
3 when you're just fortunate to be the one that has some
4 of that type of product on the shelf that you could
5 ship. But it would be more not where our utility is,
6 have a planned project, it would be a situation where
7 maybe one of the other manufacturers didn't deliver
8 for whatever reason and you may have an opportunity
9 for a higher price. But typically the call would be I
10 need this many and I need them at this price. So you
11 don't really get the opportunity to really make a
12 premium like we used to say six, eight years ago.

13 CHAIRMAN OKUN: Ms. Weaver, anything else on
14 pricing there that you'd add?

15 MS. WEAVER: No, Chairman Okun. Thank you.

16 CHAIRMAN OKUN: I guess to follow-up to some
17 of these questions you've already received which is to
18 take a look at the pricing data in light of what the
19 Respondents have argued and what we've talked about
20 today to give us your analysis. Because even some of
21 the things you would expect like where you see these
22 low volumes, you would expect higher prices. I don't
23 even see that in a lot of cases.

24 So to me, I look at the pricing data and I
25 have a hard time getting any of the normal things I

1 think I would see.

2 So I need some further explanation of not
3 just are some of these products in there wrong if
4 they're over-sold because they represented some
5 specialized product, but just the rest of it and
6 including the products where there weren't imports.

7 MR. SHELDRIK: What I think we can do is
8 provide maybe a list of factors that could in any
9 given transaction influence the price either upwards
10 or downwards which could include circumstances of
11 sale, whether they happen to be on the shelf, as Rick
12 said. There may be cases where a purchaser wants to
13 buy a small number of items to test them. That could
14 affect the price.

15 So I think there are various circumstances
16 of sale which we will attempt to gather together and
17 put in the post-hearing brief. Unless you'd like
18 further discussion of that now.

19 CHAIRMAN OKUN: No, I think that needs to be
20 done in the post-hearing brief just because the
21 information is proprietary.

22 Let me -- This might be something we'll look
23 at, but in terms of the challenge of distribution and
24 this chart that was collected by staff, this Chart
25 Table 1.1 that we've talked about a little bit. You

1 gave some percentages in this session about what you
2 thought your percentage of shipments to OEMs,
3 utilities, and packing distributors are, which I think
4 are consistent.

5 But I guess my question is if we took Locke
6 out of this, because I'm assuming Locke is in this,
7 would it change much? In other words, are they more
8 focused in any of these channels of distribution?
9 I'll obviously ask them that as well, but I'm still
10 kind of curious on this issue of where they compete
11 with the different U.S. producers.

12 MR. JOHNSON: Of course I don't have their
13 data, but from what I know of the marketplace they
14 compete in every segment. Equally as feverishly.

15 CHAIRMAN OKUN: I'll tell you, the reason I
16 went back to that question is I think it was your
17 original testimony when you were talking about how
18 Lapp performed.

19 I think you had said something like you
20 thought NGK had targeted Lapp, and I wanted you to
21 kind of give me some more explanation of that. I mean
22 targeted Lapp because you're big, because you make the
23 same product line? I mean it struck me, I was curious
24 about that statement.

25 MR. JOHNSON: Sure. I think it's multiple

1 issues, not the least of which is we had the largest
2 market share to start with, therefore we had more what
3 I would call partner customers to go after.
4 Specifically they took a customer on the West Coast
5 that was an annual \$1.5 million in sales of ours. It
6 was almost all of ours. Some to Newell, none to
7 Victor as an example. There are other specific
8 examples like that.

9 But more broadly, I believe that there are
10 some other underlying reasons. Lapp competes with NGK
11 on a global basis. In the late '90s Lapp achieved
12 significant market share of non-subject products in
13 the Far East region where NGK typically defines that
14 as their home market, so to speak.

15 So it's somewhat speculation on my part, but
16 were they retaliating for us taking a significant
17 share in their region? I don't know.

18 But broadly speaking we compete against NGK
19 in almost, in pretty much every product segment we
20 make. In Newell's case they make CSPIs. That's their
21 product scope. In Victor's case they make CSPIs where
22 they compete. That's about it. We compete with NGK
23 in pretty much every product sector of the marketplace
24 so I think that probably had an influence as well as
25 the fact that being the market share leader at the

1 beginning of the POI we were the most obvious to go
2 after. We had very large customers that were largely
3 Lapp customers.

4 CHAIRMAN OKUN: Okay.

5 This would be a post-hearing request which
6 is with regard to Respondent's argument about the
7 different performance among the U.S. industry and the
8 information that I don't think we can do much more
9 publicly than we've done today, if you can continue, I
10 know you've attempted to address it, but to address
11 their specific allegations looking at cost structure
12 and related not only to what they've argued about wet
13 versus dry and natural gas, but also with regard to
14 changes in the product line over the period of
15 investigation and how that might relate to each
16 producer's cost structure. I would appreciate that as
17 well.

18 Mr. Boltuck, it's always at the end of the
19 round when I start looking at these charts and
20 thinking do I even understand what you argued?

21 But I'm looking now at this one that dumped
22 imports cause material injury over the full product
23 demand cycle chart. Is the Locke U.S. shipments, are
24 they in here? Locke's U.S., not the subject.

25 MR. BOLTUCK: They have to be because it's a

1 full market and obviously and their production exists
2 and has to be reflected. It's not a dumped import so
3 it's reflected as part of this upward sloping supply
4 curve.

5 CHAIRMAN OKUN: But their price, I mean
6 would you argue that their price is the -- So it's not
7 included in the dumped price even though you argue --
8 I'm just trying to figure out in my mind what the
9 benefit was.

10 MR. BOLTUCK: This is a commodity product so
11 representing it in one graph on the assumption of
12 perfectly homogeneous, fungible product, there's just
13 one price. That price is effectively being
14 established by the dumped price, so that's what Locke
15 sells at for their Baltimore product. It's also what
16 Victor, Newell and Lapp sell at. I mean that's the
17 problem here.

18 CHAIRMAN OKUN: Okay. Now I understand what
19 you're saying.

20 Vice Chairman Hillman?

21 VICE CHAIRMAN HILLMAN: Thank you. I hope
22 just a couple of quick follow-ups.

23 If I could maybe start with you, Ms. Weaver.
24 You commented in your original testimony that at some
25 point you were hearing that we will beat any price,

1 the price on any Lapp quote by three percent.

2 Just so I understand it, when did you start
3 hearing that in the market?

4 MS. WeAVER: That's true.

5 VICE CHAIRMAN HILLMAN: When?

6 MS. WeAVER: We began hearing that about two
7 years ago. And we only --

8 VICE CHAIRMAN HILLMAN: Solely from Locke?
9 And again, did you know whether this was Locke product
10 competing or NGK, Japanese imports through Locke that
11 were offering to do this beating of the price?

12 MS. WeAVER: That particular customer was a
13 Canadian customer.

14 VICE CHAIRMAN HILLMAN: So were you hearing
15 it from U.S. customers?

16 MS. WeAVER: Not at that time, no.

17 VICE CHAIRMAN HILLMAN: Subsequently from
18 U.S. customers?

19 MS. WeAVER: No.

20 VICE CHAIRMAN HILLMAN: Okay.

21 If there is any supporting documentation or
22 any records just on this quote of we'll beat any Lapp
23 price by three percent that could be submitted for the
24 post-hearing brief, Mr. Sheldrick, I'd appreciate
25 that.

1 MR. SHELDRIK: We'll certainly try to
2 supply something.

3 VICE CHAIRMAN HILLMAN: And then I guess if
4 I can try to follow up a little bit on actually two
5 issues that Chairman Okun has raised.

6 Originally there was some discussion I think
7 with you, Mr. Johnson, in some of Chairman Okun's
8 questions about this issue of moving to a higher
9 voltage class of product and what it did to a
10 profitability. Again, Mr. Sheldrick, just because it
11 does involve a lot of the BPI information I wondered
12 if you could in the post-hearing brief address the
13 fact that at least as I look at the data, the shift to
14 a larger percentage of sales of higher voltage class
15 CSPI by some of the companies appeared to produce a
16 deterioration in their profitability, not the increase
17 that Mr. Johnson had described earlier.

18 So I wondered if you could discuss this
19 issue of whether changes in profitability were due to
20 the production of the higher voltage class product by
21 producers who maybe were not as efficient at producing
22 the higher voltage product.

23 MR. SHELDRIK: We'll certainly do so. I
24 could offer a quick comment now.

25 VICE CHAIRMAN HILLMAN: Sure.

1 MR. SHELDRIK: Mr. Johnson I think
2 testified earlier, the growth in demand in the early
3 part of the POI was largely driven by growth in demand
4 for those higher margin, higher voltage class
5 products. So obviously the producers make what the
6 market wants. So any shift in the individual mix of a
7 company was market driven.

8 One of the problems in terms of
9 profitability is that whereas some of those products
10 previously commanded a premium and were good products
11 to sell, that was an area of the market which saw
12 particularly intense competition from NGK and that
13 obviously had an effect on the profitability data.
14 But we will try to break that out more specifically in
15 the --

16 VICE CHAIRMAN HILLMAN: Okay, I hear what
17 you're saying.

18 MR. SHELDRIK: -- post-hearing brief.

19 VICE CHAIRMAN HILLMAN: I want to make sure
20 I can see it on the record.

21 MR. SHELDRIK: We will certainly do that.

22 VICE CHAIRMAN HILLMAN: Okay.

23 I guess the other issue that I want to make
24 sure I understand, Mr. Johnson in your opening remarks
25 you focused a lot of your testimony on this issue of

1 the wet versus the dry product. I just want to make
2 sure I understand from your perspective what the cost
3 differences are between the two methods.

4 You specifically spoke of lower labor, unit
5 labor costs for those producers that are using the dry
6 method. I have to say, and again Mr. Sheldrick maybe
7 this is another question for you because of the data
8 being confidential. I'm looking at unit labor costs
9 and I'm not sure I'm seeing -- I can compare the
10 producers and I know who's using which process. I'm
11 not quite sure how that holds out.

12 So I would like to see that issue addressed.
13 But more specifically to you, Mr. Johnson, are there
14 differences in the raw materials that are used if
15 you're using the wet process versus the dry process?

16 MR. JOHNSON: Not significantly. In other
17 words there may be some slight additive changes that
18 make the product more plastic, meaning more moldable
19 and suitable for one product, but it wouldn't have a
20 significant cost differential.

21 The dry process, in linking the operations
22 from a labor productivity standpoint, even if labor
23 rates are somewhat higher in New York than West
24 Virginia, as an example, is in my opinion and from my
25 analysis much more productive on the labor side with

1 the dry product.

2 VICE CHAIRMAN HILLMAN: So the primary cost
3 savings of using the dry process is labor.

4 MR. JOHNSON: Correct.

5 VICE CHAIRMAN HILLMAN: Anything else?

6 MR. JOHNSON: Lead time is faster so it's a
7 market benefit from that standpoint. You can go from
8 start to finish quicker. But as far as cost structure
9 I'd say it has a slight negative impact on energy
10 usage as a comparison. But that is overcome in our
11 analysis in benchmarking with our facility in Germany
12 that uses a wet process, of being give or take. So
13 the extra cost of energy versus the benefit of labor
14 productivity is even.

15 VICE CHAIRMAN HILLMAN: Mr. Stanley, would
16 you have any sense of as between the dry process and
17 the wet process on the cost side, what are the cost
18 advantages of one versus the other?

19 MR. STANLEY: I really can't speak to that
20 because our plant is purely the green wet process.

21 VICE CHAIRMAN HILLMAN: Okay. I appreciate
22 that.

23 Obviously, Mr. Sheldrick, I would second the
24 Chairman's question. If there's anything you can do
25 to try to help us understand why we see different cost

1 structures for these different companies and the
2 degree to which it is or is not related to the process
3 that they use, and what are the cost differences
4 between the wet versus the dry process. I think that
5 would be extremely helpful.

6 MR. SHELDRIK: We'll be happy to do that,
7 Vice Chairman Hillman.

8 VICE CHAIRMAN HILLMAN: Okay. I appreciate
9 that.

10 With that I think I have no further
11 questions but I thank you all very much for your
12 answers and look forward to the post-hearing brief.

13 Thank you.

14 CHAIRMAN OKUN: Commissioner Miller?

15 COMMISSIONER MILLER: Vice Chairman Hillman
16 just asked my last question, so I appreciate that.
17 Thank you.

18 I also would be very interested in whatever
19 information you can supply to us in the post-hearing
20 brief regarding the cost issues in the case.

21 Thank you very much. I appreciate all the
22 testimony.

23 CHAIRMAN OKUN: Do any of my colleagues have
24 any last questions?

25 (No audible response)

1 CHAIRMAN OKUN: Seeing none, let me turn to
2 staff to see if staff has questions for this panel.

3 Ms MAZUR: Diane Mazur, Office of
4 Investigations. Staff has no questions.

5 CHAIRMAN OKUN: Thank you.

6 Let me turn to counsel for Respondents to
7 see if they have questions for this panel

8 MR. CASSIDY: We have no questions.

9 CHAIRMAN OKUN: All right, let me thank this
10 panel very much for their testimony, for the
11 submissions you've given us and for all the answers
12 today. We look forward to continuing to receive
13 information from you.

14 We are going to take a lunch break. I will
15 remind parties that the room is not secure so if you
16 have any confidential business information please take
17 it with you.

18 We will reconvene at 1:45.

19 (Whereupon at 12:43 the hearing was
20 recessed, to reconvene at 1:45 p.m. this same day,
21 Wednesday, October 29, 2003.)

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A F T E R N O O N S E S S I O N

(1:45 p.m.)

CHAIRMAN OKUN: Good afternoon. Welcome back. This hearing of the United States International Trade Commission will please resume.

Madame Secretary I see that the second panel has been seated. Are all witnesses sworn?

MS. ABBOTT: Yes, Madame Chairman.

CHAIRMAN OKUN: Mr. Cassidy, you may proceed.

MR. CASSIDY: Thank you, Madame Chairman.

What did we hear this morning? It was an interesting story, part of which I would like to summarize for you.

Things were cozy in the CPSI industry up until the early 1990s. The customers were all regulated companies who could pass through their costs without too much difficulty and who could implement long-term investment plans without disruption. Lapp, we have heard, was a responsible price leader for the U.S. producers who included two large, broad-range producers, that is Lapp and Locke. Locke during this period also imported product from Japan. Then there were two smaller producers with a much narrower product range, Victor and Newell.

1 In addition in this period there were also
2 random imports from other sources including Europe and
3 Brazil.

4 After deregulation began in the early '90s
5 you had a period in the middle of the decade when it
6 seemed like most of the customers for this industry
7 were largely clueless about what they should be doing,
8 trying to adapt to the new environment in which they
9 found themselves.

10 But as one moves into the late 1990s some of
11 the deregulated companies, profit-driven companies,
12 who could not automatically pass through their costs
13 to their customers began to push on their suppliers
14 including the suppliers of CSPI to lower their costs,
15 naturally enough.

16 This phenomenon resulted in what we see
17 today, which is this long-term decline in prices about
18 which we will be talking with you this afternoon.

19 It also distinguishes the random events that
20 the Petitioners are calling the business cycle in this
21 industry because there is no predictable cycle. What
22 one has is increases in demand that result from
23 particular circumstances.

24 The cyclic increase, as they call it, in the
25 early 1990s when the industry was regulated, was a

1 result of implementation of long-term plans to improve
2 transmission facilities in the U.S.. And we have
3 heard that when the generation industry was
4 deregulated these plans for investment suddenly
5 stopped and the boom in sales for CPSI stopped.

6 In 2000 and 2002 when we have moved into a
7 deregulated generation industry, you see the result of
8 things such as the reaction to the California energy
9 crisis and the entrance of Enron and other new profit-
10 driven players in the marketplace, looking for
11 increased generation capacity and driving up demand
12 suddenly, relatively quickly for CPSI. This demand,
13 as the numbers on the records show us, collapsed
14 quickly as it increased and that apparently was the
15 result of the collapse of confidence in the industry.
16 Enron and other couldn't raise the money and so the
17 demand disappeared.

18 We are now in a period where it looks as
19 though there may be an uptick in demand again, but
20 this time it will not be for generation facilities, it
21 will be connected, presumably, to transmission
22 facilities which Petitioners say aha, just like it was
23 in the early 1990s. But in fact it's a completely
24 different environment.

25 You now have the generation companies

1 completely deregulated. Transmission is regulated but
2 they cannot pass through their costs for all of their
3 projects as they could in the past, and it is very
4 difficult to evaluate exactly what may happen as a
5 result of the blackouts and hurricanes and more
6 precisely to predict when it will happen.

7 So Locke found itself in this very difficult
8 environment in the late 1990s. It looked around. It
9 has been in the insulator business in the United
10 States for over 100 years, but it was having a very
11 difficult time in the broad range of its products, and
12 John Dippold who was President of Locke Insulators,
13 Inc. in Baltimore, will describe to you what he did
14 and why he did it.

15 MR. DIPPOLD: Thank you, Madame Okun, for
16 receiving us. Thank you all. Good afternoon.

17 My name's John Dippold. I'm the President
18 of Locke Insulators. I've been employed at Locke
19 since 1991. I'd like to briefly describe Locke and
20 its long history, some description about how we relate
21 to NGK and the changes that we've made.

22 Locke is, as Bob said, over 100 years old.
23 It was created in Victor, New York and early on
24 established a relationship with General Electric. In
25 the early '20s GE relocated the operation to its

1 present facility in Baltimore. Over the years it has
2 always produced porcelain insulators for the
3 electrical utility market.

4 In 1974 it established a relationship with
5 NGK by selling 60 percent of the operation to NGK.
6 NGK has shown its commitment since that period by
7 continuing to invest in them and improve the
8 operation.

9 In 1989 GE's interest in Locke dissolved and
10 NGK became the sole owner of Locke Insulators and has
11 been through today.

12 Locke and NGK-Locke are sister corporations.
13 Locke manufacturers station post insulators in
14 Baltimore and imports insulators including station
15 post insulators from NGK. Locke sells the product it
16 produces and imports to NGK-Locke. NGK-Locke sells
17 the product it buys from Locke to customers in the
18 United States.

19 I want to discuss the changes and
20 improvements Locke has made over the past eight years
21 in reaction to the changing marketplace. We believe
22 these changes have made Locke the biggest station post
23 manufacturing company in the United States. I will
24 describe the major facility changes of the past eight
25 years, product line capability improvements, and

1 production and performance improvements.

2 Coming into the '90s Locke had three
3 porcelain high voltage insulator products that they
4 produced on three product lines. Suspension
5 insulators. These are the disk-like insulators that
6 are used to suspend high voltage transmission lines.
7 Apparatus insulators, hollow core products
8 incorporated into OEM products that must be designed
9 to suit the OEM-specific needs. And solid core
10 station post insulators of which the higher voltage
11 portion is today's subject.

12 Up to the middle '90s each of these product
13 lines comprised approximately one-third of Locke's
14 revenue and employment. These product lines were
15 implemented into Locke's facility in Baltimore over
16 decades without proper planning and design causing many
17 inefficiencies.

18 During the early 1990s the porcelain
19 suspension insulator industry witnessed increased
20 competition from polymer suspension insulators.
21 Polymers lower cost, shorter manufacturing lead times
22 and other advantages proved to be too great. As
23 Locke's financial performance was poor it had to face
24 these realities and make changes.

25 In 1995 Locke made the decision to cease

1 production of porcelain suspension insulators.

2 Still Locke's financial performance was
3 below expectations. The apparatus insulators produced
4 presented the most problems. Many individual
5 apparatus insulators were designed with features
6 causing high costs.

7 Additionally, small lot sizes and product
8 demand swings caused management to focus resources on
9 special needs that did not necessarily bring a
10 corresponding return in revenue.

11 In early 1999 Locke concluded that the best
12 business plan would be for it to focus on the
13 production of station post insulators. A detailed
14 business plan was composed with near and medium five-
15 year term sales plan. A direct and indirect manning
16 plan projected direct material costs and a thorough
17 analysis of expenses. The plan was submitted to NGK
18 for review and it was approved by them in 1999.

19 Before the new plan was implemented Locke
20 did not have sufficient capacity to supply all of its
21 customers demands for station post insulators and it
22 had to supplement with imports from NGK. Under the
23 new station post only plan, Locke's capacity would be
24 increased and imports from NGK would be eliminated.

25 The primary goal was simple. Locke had to

1 become one of the lowest if not the lowest cost
2 producer of station posts in the United States. The
3 plan provided many improvements towards that goal.
4 Competition between processes between apparatus and
5 station posts such as the firing operation were
6 limited. The combination of apparatus and station
7 posts in the kiln presented a wide variety of sizes so
8 we could not optimize the operation of the kiln
9 properly. The vast product swings or size swings that
10 I described prevented an engineer from properly tuning
11 so that we could be efficient.

12 Body formulation was also an improvement.
13 Locke used a higher cost aluminum body to get superior
14 mechanical performance in its station post insulators.
15 For its apparatus insulators it used a flint-based
16 body. Because they both used the same facility to
17 manufacture both bodies we had to introduce surplus or
18 extra alumina into the alumina-based body for station
19 posts because of losses due to cross contamination.
20 When we eliminated the flint body for apparatus, we
21 essentially solved that cross-contamination problem
22 and we could lower the alumina rate that we introduced
23 into it without reducing the quality of the
24 formulation. The customer still received the same
25 high quality formulation.

1 Production control was also simplified and
2 more resources were focused upon the needs of the
3 customer. Production yields were improved. With the
4 elimination of apparatus work flow could be
5 simplified, reducing handling losses. Operations such
6 as blind conditioning and extrusion could be optimized
7 for solid core posts. Before we had to have a hollow
8 core product conditioned adjacent to a solid core, and
9 as in the kilns it created inefficiencies. Engineers
10 could optimize it better with the one product.

11 With all these benefits Locke became a
12 station-post-only manufacturing operation at the start
13 of 2000.

14 Much of the equipment used to manufacture
15 apparatus insulators was converted to manufacture
16 station posts. The clay making facility, extrusion,
17 blind conditioning, glazemate, kiln, and assembly were
18 all easily converted. Maximum capacity possibilities
19 were discussed but never formalized. Basic plans were
20 conceived and developed. We basically had a plan to
21 refill the factory in the event we had a demand that
22 would require it. But at that time it wasn't.

23 Product capabilities were expanded. For
24 example, in 1999 Locke manufactured only a regular
25 strength 500 kilovolt insulator or station post,

1 making higher strength 500kv insulators required
2 improvements in extrusion, conditioning, drying,
3 turning and firing. By mid 2000 Locke demonstrated to
4 its customers that it had the capability to reliably
5 satisfy their 500kv insulator needs in the higher
6 strengths. Small orders quickly turned to medium and
7 large orders as demand of this product bloomed.

8 Another example is semiconductive insulators
9 based upon superior glaze formulation. Targeting it
10 as a product that would bring positive benefit to the
11 business and to the customer. Locke engineers focused
12 on the glaze and firing operations to improve yield.

13 Success coincided with a surge in demand.
14 Locke was able to quickly respond to the new needs of
15 the customer bringing benefits to both.

16 So with the factory largely cleared of
17 obsolete equipment, progress being made with capacity
18 expansion and numerous cost-reduction processes
19 completed and ongoing, we entered the year 2000.

20 At the start of 2000 the increase in demand
21 for station posts became apparent. Locke increased
22 output through the middle of 2002. We aggressively
23 implemented our plan to increase capacity, almost
24 doubling capacity through this period. We converted
25 facilities used to manufacture apparatus insulators to

1 station post production and we procured new equipment.

2 Most of the equipment is custom designed.
3 In certain cases NGK has developed an adequate
4 relationship with a vendor, or design with a vendor.
5 If the combination of design and price proved to be
6 competitive Locke placed the order through NGK and
7 paid the cost of the equipment plus five percent.

8 The turning operation was operating at
9 maximum capacity. We determined that we needed to add
10 more machines and existing lathes with high
11 reliability machinery with modern controls.

12 There were two surplus frames at Locke. We
13 rebuilt them new and fitted them with modern controls.
14 However, to continue upgrading the existing lathes we
15 needed to pull the existing in-production lathes that
16 were now not to our standard from service. That would
17 have decreased capacity.

18 We learned that NGK had surplus lathes in
19 their facility in Japan and they had the
20 specifications, the technical drawings necessary in
21 Japanese that they could convert them to our
22 specifications and then we added our specification of
23 modern controls.

24 And as I described before, again, we paid
25 them to make the conversion for us to our

1 specifications, plus we paid them a five percent fee
2 for supplying that equipment to us.

3 The advantage to us was that we were able to
4 execute this project faster because they had the plans
5 already prepared.

6 Another example was assembly fixtures. NGK
7 had an acceptable design for the machine that they had
8 used in Japan. Through discussion we realized that
9 the Chinese equipment manufacturer Develt, when NGK
10 built their Tanjun facility, they would be appropriate
11 for the construction of this machine.

12 So we selected their design using their
13 vendor in China. Again, paid them the cost of the
14 equipment plus five percent to supply the assembly
15 fixtures to us. In this case we got a lower cost
16 product because the Chinese labor is less.

17 Station post insulator customers require
18 their insulator suppliers to perform well in order for
19 them to be successful. As a group, insulator
20 customers are generally intolerant of failure. As the
21 market demand increased beyond Locke's expanded
22 capacity, Locke turned to its parent who had the
23 adequate capacity and capability to help meet this new
24 demand.

25 This is exactly what our customers expected.

1 They know Locke and NGK-Locke are owned by NGK in
2 Japan. Everybody in the business knows. Everyone
3 knows that Locke has imported station posts as well as
4 other types of porcelain insulators to meet a variety
5 of customer needs.

6 During the boon they needed us to do it
7 again. There was no choice.

8 If we had told them that our lead times were
9 extending because demand was greater than supply, they
10 would have asked a simple question -- What about NGK?
11 Why don't you simply go to NGK, place the order. They
12 have the capability of supplying the demand. Can you
13 go to them?

14 If Locke had not gone to NGK to assist with
15 the supply of porcelain station posts we would have
16 lost a customer base for expanded station post
17 capacity.

18 So how and when does Locke decide to import?
19 Generally expectations of demand are forecasted by
20 NGK-Locke. They are directly responsible for the
21 service to the customer and for sales goals. They
22 determined future sales expectation. Locke reviews
23 the data and determines capacity requirements. If the
24 review leads to the conclusion that market share may
25 be jeopardized because of Locke's capacity, Locke and

1 NGK review the prospect to import from NGK.

2 Locke is responsible for the inventory
3 management and the cost of all porcelain insulators
4 sold in the United States from the NGK Group.

5 If necessary, Locke must face the challenge
6 from NGK-Locke to increase the supply of insulators.
7 It develops a supply plan from either Locke, NGK or
8 both that will satisfy the increase in demand. If it
9 is agreed to import, rough quantities are agreed upon
10 and orders are placed to NGK by item and quantity.

11 Orders placed with NGK generally follow a
12 consistent pattern. The items are regular strength
13 items sold in large quantities, or purchased from them
14 in large quantities. These are chosen for several
15 reasons. One, it would not be efficient for Locke to
16 place small orders. Two, due to the increased lead
17 time from Japan we do not place orders to Japan for
18 delivery specifically tied to a customer order.

19 Now parenthetically there's an exception.
20 For those items that Locke cannot make, these are the
21 more specialized items, customers generally accept the
22 longer lead times.

23 But let me go back to the two reasons.
24 Efficiency and lead time. For these two reasons, they
25 favor the flow of commodity-like product.

1 Locke controls the timing of import flow of
2 insulators from NGK.

3 The primary objective of a company is to
4 provide profit to its owner. Locke reports to NGK its
5 financial performance on a monthly basis. Our goal is
6 to make a profit on the station posts we make in
7 Baltimore and on station posts we import from Japan,
8 if any. Since 1974 NGK has shown its commitment not
9 only to the customers in the United States but to the
10 Locke manufacturing operation in Baltimore. They are
11 thoroughly committed to Locke. Our job in Baltimore
12 is to provide NGK with a profit from the products
13 produced in Baltimore. We can only do that by
14 maximizing the output of the Locke manufacturing
15 operation.

16 The goal and the commitment of all involved
17 -- Locke, NGK-Locke, and NGK, is to do just that.
18 Thank you.

19 MR. CASSIDY: Our next witness will be Kenny
20 Nakano who is President of NGK-Locke, Inc. in
21 Baltimore.

22 MR. NAKANO: Good afternoon. Chairman,
23 Commission members and staff.

24 My name is Kenny Nakano. I am President of
25 NGK-Locke. I took this position in July 2003. Before

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1 that I was Vice President of NGK-Locke for eight
2 years. With the exception of a four-year assignment in
3 Japan, I have been in the United States selling high
4 voltage insulators including station posts for the
5 past 21 years.

6 I want to concentrate my remarks on two
7 issues. First, what is the competitive environment in
8 the United States for selling station post insulators?

9 Second, what is the relationship between
10 Locke and NGK-Locke on the one hand, and NGK Japan on
11 the other?

12 With regard to the competitive environment
13 there is a very aggressive competition among the four
14 U.S. producers and increasingly with Seram, the
15 European company now owned by the American Firm
16 Poulson Product.

17 This competition has intensified in the last
18 six years. For example, I found the internal
19 memorandum dated May 2, 1997 in which I wrote to the
20 President of Locke as a market report, "Lapp recently
21 reduced their price by 11 percent on some standard
22 items. All other manufacturers, Locke, Victor,
23 Newell, matched these prices. Therefore it is very
24 important for us to provide better service such as
25 good quality and short lead time to OEM customers

1 because all the manufacturers' prices are exactly the
2 same."

3 In 2000, Seram in Europe entered the U.S.
4 market aggressively by taking advantage of the
5 favorable currency exchange rate. We lost five major
6 sales worth over \$1.6 million based on our quoted
7 level to them. To the best of my knowledge, Seram's
8 prices were below ours. This was a big increase and
9 it caused us to become very concerned about Seram's
10 attack on the U.S. market.

11 Seram continued to target the U.S. market
12 during the boom period.

13 In April 2001 we learned that Seram had
14 received approval from 15 utilities and were trying to
15 get the approval from 20 more utilities. We are
16 afraid that Seram would increase its imports and
17 capture a large U.S. market share.

18 So we felt compelled to protect our share of
19 the market by making sure we had products available
20 and by having competitive prices. However, Seram's
21 presence is done at this moment. I believe part of the
22 reason is that the U.S. market has become less
23 attractive to them because of the lower prices and
24 unfavorable currency conditions.

25 In November 2002 we lost a bid to Lapp for

1 1200 stacks of 500kv stationary posts to a big utility
2 on the West Coast. Bonneville Power Administration.
3 Their price was \$830. Newell was second. Locke's
4 price was more than ten percent higher than Lapp.
5 Even though Locke had ceased pricing orders with NGK
6 in July 2002, we and our competitors continued to
7 aggressively price against one another, winning some
8 sales and losing others.

9 Here is a real-life example of this
10 competition. Between September 2002 and March 2003 we
11 received three separate bid invitations from one of
12 the major utilities in the southeast, Georgia Power,
13 for the combined total of 645 stacks of the same 500kv
14 station post insulators.

15 In September 2002 the first bid for 103
16 stacks went to Victor at below \$820 which is the price
17 we offered and was the market price at the time.

18 The second bid in January 2003 was for a
19 total of 342 stacks. We understand the order was
20 split between Locke and Newell at around \$757.

21 In March 2002 the third bid for 200 stacks
22 went to Lapp at the price of \$740.

23 Just recently the utility contacted us to
24 see if we could fill this last order for the 200 units
25 that had gone to Lapp because Lapp could not deliver

1 them as promised. Locke had sufficient inventory and
2 shipped the units immediately at a premium.

3 This situation shows how on one product the
4 price dropped about ten percent in six months. This
5 kind of competition is typical of current market
6 conditions.

7 In Exhibit 4 of our brief, we provide almost
8 100 examples of sales NGK-Locke lost to each
9 competitor during the period 1999 through 2002.

10 Aside from other U.S. producers we are also
11 under the pressure of potential competition from all
12 over the world. For instance, manufacturers from
13 Brazil, China, India and Europe are approaching the
14 U.S. market.

15 Our customers are also facing stiff
16 competition among themselves, therefore cost reduction
17 is a high priority for them. A new procurement system
18 using reverse e-auction bidding are one good example,
19 and several of the utilities have asked for multiyear
20 contracts to get more competitive prices.

21 The large quantity on the bid documents are
22 attractive for the suppliers but there is no guarantee
23 how much quantity they purchase during the contract
24 period. The only known factor is that the price is
25 fixed for the contract period unless we have price

1 escalation clause.

2 In the case of OEM customers we submit the
3 prices each year. Once the customers agree to the
4 price level, we are supposed to receive their purchase
5 orders by using these prices unless there are special
6 items or it is a very big project.

7 However, some of them started asking us for
8 special discount prices even where when the quantities
9 are small because they have to lower their prices to
10 secure business or make up their loss margins.
11 Therefore all of us are facing each other in
12 competition.

13 We do not anticipate these market conditions
14 to change significantly in the near future. We do not
15 predict a significant jump in demand as a result of
16 the recent blackout. The last boom was created by an
17 increase in the construction of generation facilities.
18 Many switchyards and substations were required to meet
19 this new generation capacity. This increased demand
20 for CSPI, it did not increase demand for transmission
21 insulators because these generation facilities were
22 normally constructed at or near the consumption site.

23 The situation created by this last blackout
24 is different. While we are still not certain what
25 caused the blackout, it seems the lack of reliability

1 of transmission lines is part of the problem. This
2 will probably result in a push to upgrade or build new
3 transmission lines to reinforce the grid. Under such
4 a scenario the majority of demand would be for
5 transmission line insulators, not substation products
6 such as CSPI. Of course this is just my opinion.

7 Turning to the second issue, Locke and NGK-
8 Locke's relationship with NGK Japan. NGK-Locke are
9 sister corporations. Both of them are wholly owned by
10 NGK Japan. Locke manufactures stations post
11 insulators in Baltimore and imports a variety of
12 insulators from NGK. Locke sells the imported and
13 domestic product to NGK-Locke. NGK-Locke sells these
14 products to the United States.

15 Locke is responsible for decisions about its
16 own station post insulator production and for the
17 volume and timing of any import from NGK. NGK-Locke is
18 responsible for marketing and pricing decisions
19 related to the sales of insulators in the United
20 States.

21 While NGK must approve Locke and NGK-Locke
22 annual budget, NGK is not involved in the daily
23 control of either NGK-Locke or Locke.

24 I send to NGK Japan every month a very
25 short, usually two pages sales and order report with

1 factory production data. I showed Commission staff a
2 typical monthly report during their investigation in
3 Baltimore. I also visit NGK Japan twice a year to
4 report to NGK's management.

5 Let me be clear. I do not ask NGK for any
6 input on possible individual sales or on prices in the
7 U.S. Those decisions are for NGK-Locke to make.

8 In summary, NGK became the majority owner of
9 GE's plant in 1974 and Locke became a wholly owned
10 subsidiary of NGK in 1989. NGK therefore has been
11 committed to Locke's being a major manufacturer in the
12 United States for a very long time. Locke will be a
13 major U.S. manufacturer on virtually the full range of
14 subject station post insulators regardless of the
15 outcome of this investigation.

16 Locke and NGK-Locke remain concerned about
17 losing customers as a result of the misinformation
18 campaign Petitioners are carrying out with our
19 customers. That is why we are here today, to set the
20 record straight.

21 I would be happy to answer any questions you
22 might have.

23 MR. CASSIDY: Our next speaker -- to be a
24 lawyer.

25 MR. WARREN-BOULTON: With that

1 introduction --

2 One of my standard jokes was they made me a
3 Deputy Assistant Attorney General, but my standard
4 joke was I was neither an attorney nor a general.

5 So I'm more or less used to dealing with
6 lawyers, and one of the things that an economist
7 learns when he deals with lawyers is always show the
8 light at the end of the tunnel. So I'm only going to
9 talk about three things because I've learned that more
10 than three things people leave, or they throw things
11 at you which is why I'm standing up.

12 What I'd like to talk about is first of all
13 the methodology for the underselling margins, some
14 comments on that and the problems there.

15 The second thing I'd like to talk about is
16 the issue of what would have happened if Locke had not
17 imported in this alternative universe.

18 The third issue I'd like to talk about is
19 this issue which has been raised by Dr. Boltuck that
20 there's somehow a need for extraordinary profits in
21 good times to offset the losses that are expected in
22 bad times.

23 First turning to the issue of the
24 underselling margins. The problems as an economist
25 when we look at this, and we realize that it's a

1 difficult job to try and do, but when I look at this
2 what I see is the methodology that's being used to
3 estimate underselling margins is really so
4 fundamentally flawed as to be useless, and it's really
5 four two reasons.

6 The first is measurement error and the
7 second is conceptual.

8 The measurement error everybody has talked
9 about at some length today so I don't want to go into
10 it in too much detail, but fundamentally everybody
11 seems to agree that the products are what economists
12 would call homogeneous. In other words, they're very
13 very close substitutes when they're sold under the
14 same conditions. In other words, the same quantity
15 and the sale, sold at the same time, sold at the same
16 location. If you make everything the same, these
17 products are very homogeneous in the sense that once
18 you pass the technical specifications all that's
19 interested is the price. There will be one single,
20 the law of one price in the market.

21 So we know that given how homogeneous they
22 are, we know that if you define them correctly what
23 you're going to find is they're all going to have the
24 same price under the same conditions. Yet the problem
25 is that the data that we actually see that the ITC

1 apparently has to rely on, shows its extraordinary
2 diversity between suppliers. It's over time, and even
3 between sales of the same producer. This degree of
4 pricing heterogeneity is just completely inconsistent
5 with what we know about the fact that there's almost
6 complete product homogeneity. That's found by the ITC
7 and I think it's also argued by the Petitioners.

8 What is obviously happening here is that the
9 underselling margins that are being calculated from
10 these data is basically a random number generated by
11 grouping together in the same category sales of unlike
12 things. That's the only way you can get these
13 numbers. They're just sold in different volumes and
14 they're sold under different circumstances, and don't
15 provide any evidence.

16 Now earlier on I think Petitioners noted, I
17 think quite correctly, that a sizeable amount of the
18 variation within each category is caused by the fact
19 that they're grouping together sales of very different
20 amounts. Everybody agrees that when you have a bid
21 for a large quantity that the price tends to be much
22 lower than a small quantity, and I think if I
23 understand what Petitioner are saying is that that's
24 really a problem with some of the product groups but
25 shouldn't really be a problem for product group one

1 and two.

2 Yet even if you look within product group
3 number one, just a couple of things to note. First is
4 that Locke has produced data showing that the variable
5 costs, the costs of goods sold of its products within
6 those categories, there's a significant range. So if
7 you simply look at the variable cost to Locke what
8 you'll see is within those categories there's a pretty
9 wide range of variable costs. What that's telling you
10 is these are really different products that are being
11 lumped together.

12 The second is even clearer and that is
13 everybody seems to agree that Locke charged exactly
14 the same prices whether or not the particular product
15 was imported or whether it was produced in Baltimore.
16 And yet if you look at the data presented to you what
17 you'll find is within the groupings that are supposed
18 to be homogeneous, what you'll see is huge differences
19 in the average price realized for imported product and
20 for domestically produced product, and yet we know
21 that those prices are the same.

22 So what you've basically got here is that
23 very complicated statistical GIGO principle which is
24 garbage in and garbage out, and indeed you could take
25 it a step further. It's a kind of a Catch-22 here

1 which is if you find a difference you know that it
2 must be measurement error.

3 So my conclusion out of this is that you
4 really cannot tell anything from the data that's been
5 available to you in terms of estimating underselling
6 margins.

7 Somebody this morning asked is there
8 actually a way to do this. There is a way to do this
9 but you can't get it by looking just at the winning
10 bids.

11 The idea, as I understand it, is that you're
12 trying to get some estimate of what the effects of
13 these imports are on prices. If you want to know what
14 the effect of having somebody bid on pricing is, and
15 these are all bidding markets, you have to ask the
16 question what would happen if they weren't there? And
17 we know that. It's a very well explored area. And
18 everybody that's ever been to a furniture auction
19 knows it as well.

20 Think of an ascending English auction
21 bidding procedure. What happens is the price keeps
22 rising until everybody drops out. The price it
23 eventually settles at is just above the price that the
24 second highest value person is willing to bid.

25 So if indeed for some reason the person who

1 was going to bid the most didn't make it to the
2 auction, we know what would happen to the price which
3 is the price would go up, but only by the difference
4 between the first and the second bidder. That's the
5 price increase that you get in bidding markets when
6 one of those firms isn't there, or in fact in
7 antitrusts when you get a merger between those firms.

8 So the data that you'd have to get would be
9 you'd have to look at the bidding prices in given
10 bids. Don't just look at the winning bids. What you
11 do is you look at the bids in field bid auctions, some
12 of this is available, and you see if the winning bid
13 is 100 and the next bid is 110, and the next bid is
14 130, what you know is that if that winner wasn't
15 there, if it's an import, the price would go up from
16 100 to 110. But you have to have all the bids, the
17 winning and the losing bids. In particular you have to
18 have the first and the second bid. That's the only
19 way to get where I think you're trying to go.

20 My point is that even if there wasn't a
21 measurement error, conceptually you're basically
22 asking the wrong question so you've got to go about it
23 some other way. So that's sort of the bad news.

24 The second thing I'd like to talk a little
25 bit about is what would have happened if Locke hadn't

1 imported. And this is what economists are good at,
2 looking at parallel universes or crystal balls and
3 what would have happened.

4 Dr. Boltuck I think makes an interesting
5 argument, much of which I would agree with. He says
6 essentially that the supply elasticity of imports is
7 very high if output can be expanded in the home
8 country at relatively constant costs, and if the
9 shares of, in this case it's the shares of the
10 Japanese firm's sales in the United States are a small
11 share of their total sales. That means they can
12 divert sales.

13 In general what you will find is, and you
14 must run into this almost daily, is that in
15 economist's terms the elasticity of supply of imports
16 tends to be much higher than the elasticity of supply
17 of domestic production precisely because for many
18 firms exporting to the United States their sales to
19 the United States are only a small share of their
20 total sales. So they can double or triple or
21 quadruple their sales in the United States and that's
22 a relatively small increase in their total output.

23 What that really applies is that if you see
24 any of some product being imported from abroad, that
25 you can see an awful lot of it. You might call it the

1 economist cockroach theory which is if you see one
2 widget being imported and you know the supply
3 elasticity is very high, you know that there's a
4 million more widgets hiding behind the baseboard there
5 somewhere ready to leap in.

6 But these arguments I find are not
7 unreasonable. But those would apply not just to
8 imports from Japan but also imports from everybody
9 else, in particular for example from Seram.

10 This is quite consistent with I think the
11 ITC staff report which shows that the non-subject
12 imports during this period went up by about 700
13 percent during this period.

14 I think what is sort of clear is that
15 entering into a market like the United States where
16 you have to qualify with utilities isn't something you
17 could do immediately. You have to qualify with the
18 utility, you have to gain their acceptance. So even
19 if in the long run supply is very very elastic it
20 doesn't mean that you could suddenly come in and
21 capture a huge chunk of the market. It's a little bit
22 slower.

23 I think if you ask the question what limited
24 say Seram or the other non-subject importers during
25 this period, it's NGK and the Japanese had a leg up in

1 the sense that their product was already qualified.

2 But if you look off into the future, the
3 costs of qualifying for Seram and the others are
4 pretty well sunk. So if you're concerned with what's
5 going to happen in the future, then if the same
6 conditions come back as we have seen, which is that
7 the exchange rate changes to be very favorable to
8 imports and if there's a sudden and unexpected
9 increase in demand, then it's not clear that the
10 Japanese will be on any better ability to dramatically
11 expand their sales in the United States than say
12 Seram.

13 So what you get is, if you're looking forward
14 into this world, if all you simply do is you eliminate
15 subject imports say from Japan, the question is what
16 will happen. If all those would simply be immediately
17 replaced by non-subject imports, you basically have no
18 effect.

19 I know we weren't supposed to do diagrams,
20 but since this did get introduced, it's not my fault.
21 You can't blame me. I know the rule is no more than
22 one diagram and two equations but this doesn't come
23 under my quota of diagrams.

24 The point is if you like diagrams, in the
25 unlikely event that you do, there are two points I'd

1 like to make about this.

2 The first is when you look at it closely you
3 will notice that in this diagram the output of the
4 domestic industry is exactly the same in good times
5 and in bad times, and it's exactly the same price in
6 good times and in bad times. So that should
7 immediately begin to get you the feeling that there's
8 something a little strange going on.

9 However, all that being said, what I would
10 ask you to do is if you like the diagram just add one
11 little line right above it which is another little
12 parallel line, this one's in red, which is right above
13 the Pd line, and let me call it the Seram line. And
14 basically it asks the question if there's an
15 infinitely elastic supply from NGK, suppose there's
16 also an infinitely elastic supply from Seram with the
17 Europeans at a price just a little bit above.

18 Then the question is, in this diagram, what
19 happens if you ban imports from NGK? The answer is
20 almost nothing. All that happens is that instead of
21 all this stuff coming in, all the cockroaches pouring
22 in from Japan, they all come in from Europe.

23 so under the same set of assumptions that
24 Dr. Boltuck has used, it's not clear that, at least
25 looking in the future there's going to be much effect.

1 A final point, and I know I've gone on too
2 long, is this issue about do we need to have
3 extraordinary profits in good times to make up for all
4 those losses in bad times?

5 Dr. Boltuck seems to be arguing that even if
6 despite imports the domestic industry was earning
7 normal profits during a high demand period, that's not
8 enough. It's just got to make a bucket of money
9 because the seven years of good and the seven years of
10 bad -- it's a very biblical sort of approach.

11 That's simply an argument for autocy I think
12 that economists since Adam Smith have, at least most
13 economists, have ignored.

14 In a competitive market the ability to
15 supply the market during high demand periods entirely
16 from domestic production necessarily results in a lot
17 of excess capacity. That happens during lower demand
18 or lower periods.

19 So if what you're essentially saying is you
20 want an industry in which the industry has so much
21 excess capacity that they can supply the entire demand
22 even during peak periods, which is basically what
23 they're saying here, then what you're doing is you've
24 got a recipe for creating an industry with a massive
25 amount of excess capacity during off-peak periods.

1 When economists look at what we see in this,
2 and industry after industry where prices are being
3 held up in this way, what happens is that if it's a
4 competitive industry, competitive firms basically
5 dissipate the profits. What they'll do is they'll
6 dissipate the profits that they make during these boom
7 periods in the form of higher cost, holding all this
8 excess capacity in off-peak periods.

9 So what you do is you create basically a
10 boom or bust cycle. And anybody who's been through
11 who's watched this, this is not the recipe for a great
12 industry. Anybody who worked for Lucent, for example,
13 recently would probably be not too keen on this idea.

14 Where we've seen it as economists of course
15 most clearly is in airlines. We held up high prices
16 in airlines. What you essentially did is you got your
17 seat and you also bought the seat next to you. When
18 we deregulated the airlines what it essentially meant
19 is prices came down and capacity utilization went way
20 up.

21 I think we're all sort of in agreement that
22 we are better off in a world in which we have normal
23 capacity utilization and low prices than just high
24 prices that induce holding a great deal of just excess
25 capacity.

1 Thank you very much.

2 CHAIRMAN OKUN: Thank you.

3 MR. CASSIDY: In conclusion, Madame
4 Chairman, it seems to us that Petitioners are
5 attributing all of their difficulties to what they
6 call NGK and they are ignoring the existence or the
7 role of Locke in the marketplace.

8 In the petition and at the preliminary
9 conference it was clear that Petitioners assumed that
10 essentially everything Locke sold in the United States
11 was in fact an import by Japan, and indeed this is
12 what they told Locke's customers at the time when they
13 brought the case in an attempt to take those customers
14 away.

15 Even though the record clearly shows that
16 the great majority of Locke's sales of CSPI during the
17 entire period of investigation were in fact made in
18 Baltimore, today Petitioners continue to speak of
19 their competition with NGK as though it was all
20 imports that they were struggling with in the
21 marketplace.

22 Basically Petitioners are in denial. They
23 are ignoring the fact that according to public
24 information Locke is the largest producer of subject
25 merchandise in the United States. They are ignoring

1 the fact that they are competing vigorously with each
2 other, with Locke, with non-subject imports, and with
3 subject imports for business from customers who are
4 increasingly cost conscious because of the deregulated
5 world in which they find themselves.

6 Let me turn briefly to substantial evidence
7 on the record of causation since that is the central
8 issue in this case today.

9 There are over 100 anecdotal examples of
10 lost sales on the record, most all of which support
11 the proposition that there is vigorous competition
12 among the domestic producers including Locke, that
13 they all regularly lose sales to each other, that they
14 all lose sales to imports from Europe on occasion.

15 Petitioners put on a number of anecdotal
16 examples of lost sales to "NGK". It's not clear
17 whether we're talking about Japanese or American, but
18 something sold by Locke. When your staff attempted to
19 verify this information they were unable to
20 corroborate most of the allegations.

21 They did find that one of them was in fact a
22 lost sale but it was a lost sale by one Petitioner to
23 another Petitioner. Another one was a lost sale but
24 it was a lost sale in Canada. And they did come up
25 with two examples of lost sales to "NGK", extremely

1 small sales. Sales that are much much less than one
2 percent of the total turnover in the period given. So
3 basically what you have on the record that is reliable
4 in terms of anecdotal lost sales information, is
5 strong evidence of vigorous competition in the
6 domestic industry between the domestic producers.

7 What else is there on the record? There is
8 pricing. Price underselling data. For the reasons
9 that Rick has discussed, the price underselling
10 margins on the record are not substantial evidence of
11 anything. Indeed I think the only thing that one
12 could reasonably rely on the pricing data for, and
13 here it's only a crude indication, is that in fact
14 prices have trended down on all of these products
15 throughout the period of investigation, including
16 products which do not directly compete with imports.

17 Since there isn't any supporting anecdotal
18 information and since the pricing information means
19 nothing, Petitioners then fall back to their mosaic.
20 The mosaic as far as we can figure out seems to be
21 mostly the theoretical argument that is encaptured on
22 the chart that Rick was just showing you to prove that
23 competition between "NGK", whatever they might be
24 selling in the United States, and the three domestic
25 producers who are Petitioners is the sole cause of

1 their problems.

2 The theoretical model has a lot of problems
3 and doesn't stand for the proposition for which it is
4 presented.

5 Let me add another difficulty it has, in
6 that it presumes that the dumping margin is the
7 dumping margin found by the Department of Commerce,
8 and quite properly, of course, the Commission has to
9 assume that the subject imports are unfairly traded.
10 That's a given. But you should when you evaluate the
11 real world impact of those imports on the domestic
12 industry, keep in mind, it seems to me, that the
13 margins used in the theoretical model are in fact
14 devised by the Petitioner because they are taken from
15 the petition because Commerce never collected any
16 information in this case and NGK did not participate
17 in the Commerce phase of the investigation.

18 So that to the extent that any conclusions
19 based on a theoretical model can be relied upon, I
20 would think very hard before I assumed the margins of
21 undreselling that Petitioner proposes.

22 Indeed in the past when the Commission has
23 confronted situations in which there is a conflict
24 between what a theoretical model suggests and what
25 real facts about the marketplace show, the Commission

1 has typically exercised its own good judgment and gone
2 with the facts on the record and not with the
3 theoretical model.

4 In this case we suggest that the record is
5 quite clear, and that the difficulties faced by the
6 three Petitioners in this case, and indeed even
7 currently by Locke, are caused by a host of factors,
8 one of which might be imports fur the effect of
9 imports on the domestic producers is clearly
10 overwhelmed by all the other factors.

11 That concludes our presentation. We'd be
12 happy to answer any questions you might have.

13 CHAIRMAN OKUN: Thank you for your testimony
14 and we appreciate your willingness to answer our
15 questions today. We very much appreciate you being
16 here to help us better understand the industry.

17 We will start our questioning this afternoon
18 with Commissioner Pearson.

19 COMMISSIONER PEARSON: Thank you, Madame
20 Chairman.

21 Mr. Dippold, you have worked for Locke for a
22 number of years and are obviously familiar with where
23 the products are sold.

24 The Petitioners indicated that they export
25 some products from the United States primarily to

1 Canada and Mexico. Is that also the situation or
2 Locke?

3 MR. DIPPOLD: We export to Canada.

4 COMMISSIONER PEARSON: To any other
5 countries?

6 MR. DIPPOLD: Very small. I can't remember
7 the last time we had an order. We did one to, maybe
8 Kenny could answer that better. It's a very very
9 small percentage.

10 MR. NAKANO: I don't remember exactly what
11 year, but we have exported station posts to New
12 Zealand. That's about it.

13 COMMISSIONER PEARSON: Have you ever
14 exported or considered exporting to Japan?

15 MR. NAKANO: No, because we have
16 headquarters Japan. We have factory in Japan. So --
17 Also we don't make the product to meet Japanese
18 standard. There is a different application,
19 investigations, so will NGK Japan make it.

20 Q: From the Petitioners I got the
21 impression that the market for CSPI in Japan, this is
22 a relatively higher priced market.

23 Are you able to comment on that?

24 MR. CASSIDY: Neither Mr. Nakano nor Mr.
25 Dippold has ever been in fact engaged in the market in

1 Japan. So while we can get information about it and
2 we'd certainly be happy to give it to you, they can't
3 answer the question.

4 COMMISSIONER PEARSON: If you could provide
5 something in post-hearing I would find that helpful.

6 MR. CASSIDY: Sure.

7 COMMISSIONER PEARSON: Does anyone have
8 knowledge of whether any user of CSPI in Japan ever
9 has imported from any origin?

10 MR. CASSIDY: I have no idea. All we know
11 about Japan is what we have put in the record based on
12 the exporters' questionnaire response which is, as I
13 recall, that there are two producers in Japan. NGK is
14 by far the largest. NGK itself is in the midst of a
15 restructuring in Japan and reducing its capacity. It
16 is expanding its capacity in other parts of Asia and
17 in India. But market conditions in Japan we don't
18 know anything about.

19 COMMISSIONER PEARSON: The same would go for
20 production costs in Japan, whether they are similar to
21 those in the United States or higher or lower?

22 MR. CASSIDY: We don't know, but we can get
23 information.

24 COMMISSIONER PEARSON: That would be
25 helpful.

1 COMMISSIONER PEARSON: I'm curious, Mr.
2 Dippold, you mentioned something about holding
3 inventory or perhaps having inventory that's ordered
4 in advance from NGK and that you --

5 MR. DIPPOLD: I said that Locke was
6 responsible for inventory. We're responsible for the
7 costs, the control, and the management.

8 I said in our message when we do import CSPI
9 From NGK we tend to buy the more commodity-like
10 material so that we can sell more from inventory
11 rather than tying an order from Japan to a customer
12 order in the United States.

13 COMMISSIONER PEARSON: So the lead time
14 question gets wrapped into this. You, in order to
15 meet the customer requirements for a timely delivery,
16 you find yourself needing to, for the products that
17 you're bringing from Japan, you need to order them
18 sufficiently early and in large enough quantities --

19 MR. DIPPOLD: Generally what we perceived
20 during that period was a boom that exceed our ability
21 to expand capacity. So we tried to match the orders
22 to Japan that would make up the difference between our
23 acceleration plan and what we perceive to be the
24 market. That was the commodity-like material because
25 that's the material we had confidence we could sell if

1 the market were to drop off.

2 We supplemented those items with [Locke-
3 made product]. So if we did not order material, the
4 foil material from Japan in the proper amount at the
5 proper schedule, we would then have to make it up with
6 capacity in the United States.

7 And literally, that went on, that we would
8 have orders that we would, designated to be a lot
9 material, a week later designated to be an NGK
10 material. It's sometimes switched back. We would
11 switch orders around trying to rationalize the two
12 supply streams that we had through that period.

13 COMMISSIONER PEARSON: So as a practical
14 matter given the relationship between Locke and NGK,
15 you've done things to attempt to rationalize your
16 positioning in the U.S. market and your management of
17 inventory is one part of that.

18 MR. DIPPOLD: That's right. We have the
19 flow material that we have a commitment from NGK that
20 they'll supply and we have our capacity and we try to
21 serve the market as best we can using those two
22 supplies. I think that's answering your question.

23 COMMISSIONER PEARSON: And your situation
24 with inventory would be somewhat different than the
25 Petitioners perhaps given the fact that they are

1 producing everything they sell.

2 MR. DIPPOLD: During that period, yes.

3 COMMISSIONER PEARSON: Madame Chairman, I'll
4 go ahead and pass at this point. Thanks.

5 CHAIRMAN OKUN: Thank you.

6 Mr. Dippold, let me go back because there
7 are a couple of things you said in your testimony that
8 I wasn't able to write everything down. I just want
9 to make sure that I understood. Looking at the period
10 of investigation and what you described as the
11 business plan of Locke during that period while you
12 were increasing capacity.

13 You made a reference in there a out, and you
14 may have just said something more about it here, about
15 the marketshare. I was trying to remember what you
16 said. Were you saying that when you were looking at
17 Locke's market share and how you were trying to
18 maintain that during this change, that that you were
19 using imports to try to keep that, or you were trying
20 not to compete with the market share you had. That's
21 what --

22 MR. DIPPOLD: Okay, let me restate it.

23 The market expanded quicker than we realized
24 at first or that we could use or expand Locke's
25 capacity. So in order to not lose customer, as I

1 explained, our fears once you lose them they're very
2 difficult to come back, so we want to protect our
3 share. So we placed orders to NGK to help us protect
4 that share.

5 CHAIRMAN OKUN: I guess one of my
6 overarching questions when I look at this record is
7 let's assume, and I want to talk kind of about the
8 future. What law will be doing in this arena? If
9 we're just talking about during this period when
10 imports increased. And you talked about your business
11 plan there.

12 If I look at the record, at the volume from
13 the subject imports, it looks to me that not only was
14 it maintaining, there wasn't just the market share you
15 were trying to keep, but the other producers lost
16 market share, or didn't capture the -- I guess you can
17 look at it two ways.

18 I guess it's the volume, what I'm trying to
19 figure out. I understand what you're saying your
20 business plan is, but I'm trying to put that in
21 relationship to the other producers' argument that in
22 fact because you have this ability to do some things
23 they didn't or couldn't do, that's where they, that's
24 where they see the injury --

25 MR. DIPPOLD: I think I know how to answer

1 your question. This is not a race car we're driving.
2 It's a very foggy picture of what's going on, so if we
3 can't precisely anticipate this boom that we didn't
4 expect. So we have, we're rapidly trying to increase
5 our capacity and we can get a fairly good idea of how
6 quickly we'll be able to bring capacity on-line. We
7 don't know how quickly the market's going to expand.
8 So we're attempting to purchase insulators from Japan
9 that will not disappoint the customer. So it's a very
10 rough estimate.

11 If in the end I guess we over-bought during
12 the period, then I guess that's what they're saying.

13 We didn't turn down orders because of -- Our
14 goal was to not turn down orders because we didn't
15 have product. We were going to try to maintain our
16 customers and be able to bid on orders.

17 CHAIRMAN OKUN: And the business plan you
18 referenced for this period, has that been submitted
19 for the record? Is it a written business plan of
20 what Locke's --

21 MR. CASSIDY: We're trying to remember.
22 Given, we have shown the Commission the historical
23 record on this. Whether it's on the record here, I
24 don't know. If it's not we can find the pieces and
25 give them.

1 CHAIRMAN OKUN: To the extent, I thought
2 what you said when you referenced it is it also
3 included how Locke perceived using the imports during
4 that period, I think it would be relevant.

5 MR. CASSIDY: John will correct me if I
6 misstate this, but at the time the plan was devised
7 the notion was that imports would be eliminated, not
8 that they would be used during the period because the
9 plan was made on the expectation that there would be
10 growth but very modest growth over the period when the
11 plan was put into effect.

12 CHAIRMAN OKUN: Okay, maybe that's what I
13 didn't hear. So the plan was before what you're
14 saying was unanticipated demand. So the plan wouldn't
15 have referenced --

16 MR. DIPPOLD: The plan was no imports except
17 for those products which Locke did not make.

18 CHAIRMAN OKUN: But that's not the going-
19 forward. That's what was going on during this period.

20 MR. DIPPOLD: That's right. That was at the
21 beginning of the period.

22 CHAIRMAN OKUN: Now I understand what the
23 testimony was. I appreciate you helping me with that.

24 In terms of where you compete with the
25 domestic producers, and again looking at this period

1 of investigation, during this change in your product
2 lines as I understand it, we talked a little bit this
3 morning with the other producers about what they
4 produce and what their lines were. As I understood
5 that testimony it was pretty much a full line. Some
6 maybe more niche than others. But Lapp versus Locke
7 during this period, were you all selling the same
8 things to the same channels of distribution.

9 MR. DIPPOLD: I think maybe Kenny can answer
10 it better but I think the simple answer is yes.

11 If Kenny would like to comment.

12 MR. NAKANO: Based on the 2001 figures we
13 have about 15 percent for OEM, 40 percent utilities,
14 40 percent packages, five percent others.

15 CHAIRMAN OKUN: And that stayed fairly
16 constant during --

17 MR. NAKANO: Not -- Recently we have more
18 OEM than packages because those IPP projects are now
19 gone. We had a huge business back in 2001 related to
20 the IPP project. Less packages, more OEM.

21 MR. CASSIDY: You've gotten into this more
22 rapidly than I have. IPP is people like Enron who
23 came in and created the Flicky production facility.

24 CHAIRMAN OKUN: Okay.

25 Mr. Cassidy, maybe for the post-hearing

1 submission, the information in Table 1-1 is not
2 public, if you could look at that and comment on where
3 the Japanese imports increased their share of the
4 market along with where Locke was selling and whether
5 there were any changes. If you can comment on that in
6 a post-hearing submission and its relevance to what
7 happened to U.S. market share over the period.

8 MR. CASSIDY: Okay, we'll be happy to.

9 CHAIRMAN OKUN: Going over to, well let me
10 make sure I understood another thing. When you were
11 talking about, and I think it was Mr. Nakano, when you
12 referenced Seram, I don't know if I'm saying the
13 German name right, but Seram's imports, are you
14 talking about competition in -- We're talking about
15 subject imports now from Seram that you saw?

16 MR. NAKANO: CSPI.

17 CHAIRMAN OKUN: Okay, subject imports. So
18 you were talking about what you saw. And you were
19 focused on what period that you were talking about
20 that you saw the most presence of these European
21 imports?

22 MR. NAKANO: Yeah, we saw their presence
23 during that period. I think I stated the year 2000 to
24 2001.

25 CHAIRMAN OKUN: Okay.

1 Let me turn over to the pricing and again
2 I've heard your arguments with regard to the pricing
3 but the one thing that I thought was clarified this
4 morning and again, I just wanted to get your responses
5 which was I believe it's the Vice Chairman was asking
6 the questions about to the extent the pricing products
7 that we chose and the specifications that were made in
8 KV and the other things that are listed there, what I
9 heard the producers this morning say is that was a
10 pretty well known industry product, commodity,
11 whatever you want to call it, and we should have
12 gotten a fairly good, or a fairly -- It shouldn't have
13 included this wide range the way I'd heard you argue
14 it. I just wanted to make sure I understood what your
15 response was on that.

16 MR. DIPPOLD: I think I can simplify the
17 response. There were, in some of those product
18 categories the wide swings were due to features that
19 some of those insulators had. Some of them had
20 semiconductive glaze which is much more expensive, and
21 some of them had major/minor sheds or high leakage
22 systems. That adds cost. That gets a higher price in
23 the market. As well as --

24 CHAIRMAN OKUN: -- reporting on the
25 specifications of the product we gave but including

1 other things that were not included there. Is that --

2 MR. DIPPOLD: Well, no, it included that. I
3 think it was voltage rating and a cantilever strength.
4 It includes, it didn't say excludes special features.
5 Ours included it.

6 MR. CASSIDY: Basically, as I understood
7 what Petitioners were saying is that everybody should
8 have known what they meant by the description. What
9 we did is we took the description and answered the
10 question.

11 CHAIRMAN OKUN: Again, I've heard the
12 arguments with regard to our pricing data and I'm
13 trying to make sure that I understand exactly where
14 that's relevant. Is it just that it means you throw
15 out the overselling because they clearly were
16 including sheds or that it's, I guess your final
17 answer on that was not relevant for either?

18 MR. CASSIDY: I think the basic answer on
19 the pricing data is the margins of overselling and
20 underselling don't show you anything reliably.

21 CHAIRMAN OKUN: So you would not use the
22 data for that reason. Okay.

23 I have some other pricing questions, but
24 given that my yellow light's on I will come back to
25 them.

1 Vice Chairman Hillman?

2 VICE CHAIRMAN HILLMAN: Thank you, and I
3 would like to thank this pane for your testimony.
4 It's very helpful. Let me stay a little bit on this
5 issue of pricing and just make sure I understand what
6 the record is telling me. Maybe I can start with you,
7 Mr. Nakano.

8 All sales of product go through NGK-Locke,
9 so you are responsible for all sales, whether they're
10 made at Locke or whether they're made in Japan.

11 MR. NAKANO: That's correct. We have the
12 responsibility for sales of the product, no matter
13 whether it's made in Japan or domestic.

14 VICE CHAIRMAN HILLMAN: Tell me about your
15 customers. Do they perceive you to be Locke or do they
16 perceive you to be NGK? Would the average utility out
17 there --

18 MR. NAKANO: Good question. Many customers
19 confused for Locke and then -- People call us NGK or
20 Locke, but we are same company. Sometimes customers
21 themselves confuse NGK-Locke and Locke and NGK. But
22 any customer knows NGK.

23 VICE CHAIRMAN HILLMAN: And you do price the
24 product the same. If it meets the exact same
25 specifications, whether it's made in Japan or whether

1 it's made in the United States, you are selling it to
2 these end users at the same price.

3 MR. NAKANO: With the exception of the
4 products which Locke doesn't make of course we offer
5 with NGK brand the NGK price.

6 VICE CHAIRMAN HILLMAN: But if it's a
7 product that both make --

8 MR. NAKANO: Yes, we offer one price.

9 VICE CHAIRMAN HILLMAN: Same specification,
10 it's one price.

11 MR. NAKANO: That's correct.

12 VICE CHAIRMAN HILLMAN: I just wanted to
13 make sure I understood that.

14 You heard some of the descriptions this
15 morning from the domestic producers about this issue
16 of the relationship between the OEM purchasers
17 commanding a lower price, more competitive price,
18 versus the packages, versus the electric utilities
19 paying the highest price and that those margins
20 between the two or spreads between these various
21 purchaser groups have been shrinking.

22 Would you agree with that?

23 MR. NAKANO: Yes, I agree with that.

24 VICE CHAIRMAN HILLMAN: How do you describe
25 the price relationship between OEM --

1 MR. NAKANO: It used to be like a ten
2 percent price difference between UTTs and OEMs. Of
3 course UTT price higher.

4 VICE CHAIRMAN HILLMAN: Ten percent you
5 said.

6 MR. NAKANO: But now it's getting low.
7 Sometimes it's same price level.

8 VICE CHAIRMAN HILLMAN: Then given that, at
9 least what I'm hearing you say, some degree of mixing
10 up in the customer's mind as between Locke and NGK.
11 When they're purchasing a product are any of them
12 specifying that it must be product made in the USA or
13 that it must be product made in Japan?

14 MR. NAKANO: No, they don't specify. They
15 just say look part number and many customers don't
16 care whether it's made in Japan or U.S. made.

17 We told them, it's no hiding, we put
18 markings. Made in USA markings on the crate in case
19 of a Japanese product.

20 MR. CASSIDY: There are some government
21 contracts that do specify made in America.

22 VICE CHAIRMAN HILLMAN: I understand. Would
23 you say, Mr. Cassidy, what percentage of the market is
24 subject to a government contract Buy American clause?

25 MR. CASSIDY: My impression is quite small.

1 VICE CHAIRMAN HILLMAN: Then Mr. Nakano,
2 part of the reason I'm asking, and maybe Mr. Cassidy
3 this question would have to go to you because the data
4 itself is confidential. But I've heard your arguments
5 about throwing out the pricing data, so then I'm
6 struggling with okay, if I don't look at our
7 underselling data then what do I look at to try to
8 understand the price relationships between the
9 Japanese product and the U.S. product?

10 Obviously one proxy that the Commission has
11 on the record is purchaser perception, in terms of we
12 collected a lot of purchaser perceptions about who
13 most often meets the other price, who most often beats
14 the other price, who is the first to lower its prices,
15 who has the lowest prices. We went out and surveyed a
16 lot of the purchasers. And again, because the
17 individual answers are confidential, I'm simply -- I
18 guess I would ask you to try to help me understand how
19 to read that because obviously we have different
20 answers for Locke than we do for "Japan" with again
21 this issue of what is the purchaser perceiving. And
22 what should it tell us? What should I make of this in
23 terms of, I'm trying to understand whether it really
24 squares with your argument about the pricing data.

25 Is this an acceptable proxy for looking at

1 underselling data? To look at what the purchasers
2 tell me about who's the price leader in this market.

3 MR. CASSIDY: I don't think you need a proxy
4 for the underselling data because I don't think it
5 ever has told us much of anything. But insofar as the
6 purchaser perception data is concerned, I think that
7 if you look at what is on the record it generally will
8 show you that perceptions are all over the place.

9 It is quite clear to me that there is no
10 statistically significant or even non-statistically
11 apparent price leader according to the perception
12 data. You show people saying different things about
13 different suppliers. There is the problem of course
14 on the perception side of whether people are
15 distinguishing Locke from Japan, and I don't know what
16 one can do about that. It is what it is

17 I'm not sure that that confusion is as
18 broad, as widespread as it may sound this morning
19 because in fact the product when it is delivered to
20 people, if it happens to be Japanese, it says on the
21 box and on the product "Made in Japan", so they must
22 know about it. Nobody has been surprised when we
23 talked to them that Locke was on occasion applying to
24 them an imported product.

25 So that's a long-winded --

1 VICE CHAIRMAN HILLMAN: But on the other
2 hand if they're priced exactly the same and just say a
3 purchaser says to me Locke is always the price leader.
4 They're leading the prices down, they're always the
5 low price, they're always the first one to lower their
6 price, they're always low.

7 Why, again I'm trying to understand why that
8 shouldn't say to me that the purchasers perceive
9 equally Japanese product to be, again, the price
10 leader, given that they are at the same price.

11 MR. CASSIDY: If the data did in fact say
12 what you said they say --

13 VICE CHAIRMAN HILLMAN: I didn't say it said
14 that. I'm hypothetically saying, just hypothetically
15 --

16 MR. CASSIDY: And I'm just emphasizing that
17 point.

18 If they said what you said they say, I would
19 say that the fact that it was perceived by somebody to
20 be the same price for a domestic product as for an
21 import product suggests strongly that the assertion
22 that because the Japanese product was lower priced
23 than domestic products in general, it was being
24 referred or having an effect on prices in the domestic
25 market, must not be true. It doesn't support the

1 assertion that the import prices were driving the
2 overall market down.

3 VICE CHAIRMAN HILLMAN: Again, I'm looking
4 also -- You did acknowledge that you think you can use
5 the underselling data for purposes of trends. Clearly
6 the trend in the data is a downward movement in
7 prices.

8 MR. CASSIDY: It seems that way, yes. No
9 question.

10 VICE CHAIRMAN HILLMAN: Anything further you
11 want to say about the information --

12 MR. CASSIDY: This issue, I understand.

13 VICE CHAIRMAN HILLMAN: -- in Table 2.3, I
14 think would be appreciated.

15 Mr. Warren-Boulton, did you want to comment?
16 You looked like you were reaching for that microphone.

17 MR. WARREN-BOULTON: I'm desperate, yes.
18 Nobody's asking me a question.

19 The thing I'd like to second is the idea
20 that you can use the pricing data to get out of these
21 trends. I think what we're all saying is using it for
22 some sort of cross-sectional comparison at any one
23 moment is just randomness. But over time the pricing
24 data is real.

25 But the thing I think to notice about the

1 pricing data is the arguments made quite often that
2 prices have fallen 25 percent during this period,
3 which is from just before the period under
4 investigation to just after.

5 The thing to remember is what you're talking
6 about is prices falling from a period when there were
7 no substantial imports to a period when there's no
8 substantial imports.

9 So if prices have fallen 25 percent between
10 those two periods, the one thing you know is that 25
11 percent price flow has got nothing to do with imports.

12 VICE CHAIRMAN HILLMAN: I may sort of beg to
13 differ on how significant the shipments of imports was
14 in 2003, because obviously we're going to look at what
15 were imported shipments. Not necessarily what was
16 actually crossing the border, because the effect on
17 the market is when are the imports shipped. We can
18 differ over how significant that number is, but it is
19 certainly not nothing.

20 MR. WARREN-BOULTON: I agree.

21 VICE CHAIRMAN HILLMAN: In terms of market
22 share or anything else.

23 MR. WARREN-BOULTON: Right.

24 VICE CHAIRMAN HILLMAN: I want to just
25 really quickly go back to one of the questions that

1 Chairman Okun had asked. I heard your argument in
2 terms of why not to look at the pricing which struck
3 me as a different argument. It's much more a
4 theoretical argument that because the pricing doesn't
5 follow what an economic theory might suggest that it
6 would, we should throw it out.

7 That strikes me as a different argument than
8 saying as a factual matter included within the prices
9 are these bells and whistles, better shell, better
10 ceramic coating, better something products.

11 I understand as a theoretical matter that
12 that could affect the pricing. I want to understand
13 do we know in fact that there were products for which
14 prices were provided to the Commission, particularly
15 for products one and two, that in fact contained these
16 bells and whistles, if you will. These extras that
17 would have changed the prices.

18 I apologize, I obviously can go back and
19 look at questionnaires, I'm just trying to make sure I
20 understand whether we know. I understand the theory,
21 but in reality did that happen?

22 MR. CASSIDY: I understand the question. I
23 think I know the answer, but I want to go back and
24 check for certain to give you the answer.

25 VICE CHAIRMAN HILLMAN: And if you can, give

1 us some sense of proportion. In other words whether
2 it was a lot of the prices reported or some small
3 percentage, and I understand that would be
4 confidential information. So I'll look for it in the
5 post-hearing brief. Thank you.

6 CHAIRMAN OKUN: Commissioner Miller?

7 COMMISSIONER MILLER: Thank you Madam
8 Chairman. And, thank you, to the panel, all of you,
9 for being here today, to help us understand your
10 industry.

11 Mr. Dippold, I particularly appreciate your
12 history about Locke and helping us understand where
13 the company has been over time. It was a useful
14 perspective or narrative.

15 I want to clarify a couple of things. And
16 they as much as anything have to do with the
17 relationship between NGK-Locke and Locke, to make sure
18 that I understand.

19 Are both -- You've described yourself as
20 sister corporations. Are you both subsidiaries of NGK
21 America?

22 MR. DIPPOLD: North America. NGK North
23 America.

24 COMMISSIONER MILLER: Okay.

25 In some ways I heard your description and I

1 would almost say so you're the manufacturing arm and
2 you're the marketing arm?

3 MR. DIPPOLD: That's close.

4 COMMISSIONER MILLER: But you were the one,
5 if I heard you correctly, you said it is Locke that
6 decides the amount, timing, and nature of the imports>

7 MR. DIPPOLD: Yes, but we have to satisfy
8 sales that we're going to be able to satisfy them when
9 they get orders. So we have to answer to them. So we
10 have to show them we have a plan that is consistent
11 with their perspective of the market.

12 Q: Okay.

13 MR. DIPPOLD: So we have to agree.

14 Likewise, I push on them that you've got to
15 prove that this market is really -- They can't prove,
16 but give me some substance to your forecast that says
17 this really is what's going to happen. So we have to
18 work it out together.

19 MR. CASSIDY: The way it seems to work in
20 fact is that NGK at the beginning of each year and
21 periodically comes up with a market forecast. Sales
22 in the United States. What --

23 COMMISSIONER MILLER: NGK-Locke?

24 MR. CASSIDY: NGK-Locke, sorry. And NGK-
25 Locke then sits down with Locke, its manufacturer, and

1 says we think this is what we can tell. And Locke
2 looks at that and says okay, we can make this. We'll
3 begin to do its manning and its planning based on that
4 projection which presumably turns out to be wrong
5 frequently and therefore they have to adjust.

6 If in fact the projection during the period
7 shows that Locke's effort to increase its capacity
8 would not meet the sales projection, then Locke would
9 import.

10 COMMISSIONER MILLER: Who decides pricing?

11 MR. DIPPOLD: Sales pricing? To the
12 customer is Mr. Nakano. I don't do that.

13 COMMISSIONER MILLER: You do not decide
14 pricing.

15 MR. DIPPOLD: We argue about it from a
16 30,000 foot level. When price is declining the
17 profits go down. Why is it that we have to --

18 COMMISSIONER MILLER: You want him to get
19 more money for what you're making.

20 MR. DIPPOLD: That's right. What are we
21 really doing and so there's a lot --

22 COMMISSIONER MILLER: So recently what's he
23 been telling you?

24 MR. DIPPOLD: Well, that's confidential
25 information.

1 (Laughter)

2 COMMISSIONER MILLER: Okay. I had to say
3 that.

4 If I didn't ask that question recently, if I
5 had asked that question, what did he tell you over the
6 last three years?

7 MR. DIPPOLD: Prices have been declining.

8 CHAIRMAN OKUN: Why? I know this is much of
9 your testimony but I go back and do it again for the
10 third and fourth time.

11 MR. NAKANO: As I explained in my statement,
12 there is severe competition among domestic
13 manufacturers and European companies, Seram.

14 COMMISSIONER MILLER: I've heard that
15 element of your --

16 Perhaps you heard the answer to, or just my
17 discussion with Mr. Johnson earlier today about what's
18 gone on in the market since deregulation and going
19 into 2000 and such. Did you agree with most of that
20 discussion with him about sort of steady prices in
21 most of the '90s, not a lot going on, the utilities
22 perhaps were not too active because deregulation, it
23 was unclear what that meant for them?

24 Really what I'm getting to is in some ways
25 what is your view of what happened in terms of the

1 demand increase in the timeframe we're looking at.

2 MR. NAKANO: As far as the demand is
3 concerned there, I agree with him. In the year 2001
4 and 2002 was kind of booming, but pricing reduction is
5 concern.

6 I think we've already seen the price
7 deduction way before. Even 1997 we've seen this kind
8 of price deduction. Then '97 until now, it's down.

9 MR. CASSIDY: Generally what we have seen is
10 up. Until the early '90s the customers were
11 regulated, so that they were able to predict their
12 revenue streams and do their long term investment over
13 time, without worrying about the ups and downs of
14 demand.

15 The generation part of the customer industry
16 was deregulated in the early '90s. That resulted in a
17 period in the middle of the '90s where not much
18 happened. The deregulation ended the boom in
19 transmission construction that was going on in the
20 early '90s because they got deregulated and didn't
21 know what was going to happen in the future. You had
22 a period where in fact things were flat, were
23 inactive. Then towards the end of the '90s their
24 activity began where some of the profit-driven
25 deregulated players or new entrants to the market,

1 people like Enron, began to do construction projects
2 of generation facilities in reaction to perceived
3 shortage of generation capacity. The California
4 energy crisis.

5 Of course as profit-driven actors they were
6 pushing down on their supplier prices. That's how you
7 make more money. And one of their supplying industries
8 is the CSPI industry. That is when things began to
9 change in the industry. It went from being a very
10 comfortable place to do business to a quite
11 uncomfortable place to do business which is what we
12 have seen since the late '90s.

13 COMMISSIONER MILLER: And the description of
14 this increase in the demand in 2001 for example, as
15 sort of unforeseen. Do you attribute that to being
16 the entry of these new players, so to speak? That
17 were perhaps less known to the industry.

18 MR. CASSIDY: I can give you an answer to
19 that, but my impression is this is not a cyclical
20 industry but there certainly are ups and downs. They
21 tend to be random events caused by specific
22 activities. In the early '90s it was the construction
23 of transmission facilities.

24 In the early part of this decade it was the
25 construction of electric utility facilities, which was

1 not foreseen in advance. If it had been foreseen
2 everybody would have ramped up production presumably
3 and the boom would have been flattened out somewhat.

4 We are now looking at what might be an
5 increase in the next couple of years, again for
6 transmission. But it's going to be different from
7 what it was in the early '90s because in the early
8 '90s the industry was entirely regulated and costs
9 were just passed through to customers. Today it's a
10 partially deregulated industry and the behavior of the
11 customers of the CSPI industry is uncertain.
12 Everybody hopes they'll buy more, but exactly when and
13 how much is unclear.

14 COMMISSIONER MILLER: Okay. That's helpful,
15 thank you.

16 I want to ask you some questions about the
17 issues related to process and Mr. Dippold as a
18 manufacturer, I think they're best addressed to you.
19 I know that light's going to come on and I might have
20 to do it the next time around.

21 For the moment I'm going to put this
22 question to you, Mr. Cassidy. As you related -- this
23 is a shorter question -- through what you saw as
24 substantial evidence on the record.

25 You touched mostly on price, and I've

1 already said earlier today I'm sort of struggling with
2 the price side of this case, and I think you hear us
3 doing that.

4 The volume side of the case I don't struggle
5 with quite as much. And you didn't talk about volume.
6 That is what the statute tells me to look to first.

7 You're not saved by the yellow light.

8 (Laughter)

9 MR. CASSIDY: I will make a startling
10 admission. Volumes increased dramatically and then
11 they decreased dramatically. That's what the record
12 says.

13 I don't know what one can say about that
14 other than the fact speaks for itself. Nobody can
15 debate that. What one can discuss and I think what
16 one needs to evaluate is what effect did that volume
17 have on competition in the marketplace? But did
18 volumes increase? Of course they did. Then they
19 collapsed.

20 COMMISSIONER MILLER: All right. I'll hold
21 my other questions for the next round. I appreciate
22 your answers. Thank you.

23 CHAIRMAN OKUN: Commissioner Lane?

24 COMMISSIONER LANE: Thank you. I have a few
25 questions based upon some of the testimony that you

1 all gave, and then I'll go to some of the other
2 questions that I had.

3 Let's go back first to how the product is
4 actually marketed in the United States. It's my
5 understanding that Locke produces it in Baltimore.
6 Then NGK-Locke sells it in the United States. So all
7 of the product that is produced in Baltimore is sold
8 through the marketing arm called NGK Log.

9 MR. DIPPOLD: Products sold to Canada or
10 sold through NGK-Canada.

11 MR. CASSIDY: But everything sold in the
12 United States, everything made in Baltimore that is
13 sold in the United States is sold through NGK-Locke
14 That is correct.

15 COMMISSIONER LANE: What about the product
16 that is produced in Japan that is sold in the United
17 States. Is it sold through NGK-Locke?

18 MR. CASSIDY: Yes. It is imported by Locke
19 and then it is sold by Locke to NGK-Locke, and then
20 NGK-Locke sells it to customers.

21 COMMISSIONER LANE: When you say it is
22 imported by Locke, it is imported by Mr. Dippold and
23 then it's transferred over to NGK-Locke for sale.
24 Okay.

25 I heard a couple of different statements

1 made so I'd need a clarification of this. If the
2 product is made in Japan and is sold in the United
3 States, that on the crate it's marked Japan, or NGK.

4 Now the product itself, I think Mr. Cassidy,
5 you said also had a marking that shows it's made from
6 Japan or NGK. And that was something different than
7 anybody else had said.

8 MR. CASSIDY: The marketing requirements are
9 that the crate have, or whatever goes to the final
10 consumer has a mark of origin on it. So typically
11 what goes to the final consumer here is a crate which
12 says "Made in Japan." on it.

13 COMMISSIONER LANE: So the product itself,
14 the insulator isn't marked?

15 MR. CASSIDY: I gather that sometimes it is
16 and sometimes it is not.

17 MR. DIPPOLD: It says Locke simply on the
18 porcelain.

19 COMMISSIONER LANE: Okay.

20 MR. DIPPOLD: With respect to CSPI.

21 COMMISSIONER LANE: Yes. Okay.

22 I think you said that in the record
23 someplace it indicates that NGK-Locke sells its
24 domestic product made in Baltimore at the same prices
25 that it sells, the same product that is the same

1 product that is made in Japan, the CSPI. Is that
2 correct?

3 MR. CASSIDY: Yes, that is correct.

4 COMMISSIONER LANE: So in order to fill an
5 order to a customer, let's say an electric utility.
6 If the CSPI is made up half from made in Japan and
7 half that's made in Baltimore. Is that whole order
8 priced the same?

9 MR. CASSIDY: Yes.

10 COMMISSIONER LANE: Okay. You also said,
11 somebody said that when you were converting or doing
12 something, Locke was doing something, converting its
13 plant, it got product or maybe machines or something
14 from Japan and you paid NGK for the conversion plus
15 five percent.

16 MR. CASSIDY: That's correct. If we
17 purchased equipment through them we paid them for the
18 price of the equipment plus a five percent fee to
19 them.

20 COMMISSIONER LANE: Were those transactions
21 arms-length transactions?

22 MR. DIPPOLD: From Locke's standpoint, yes.
23 we competed -- We would value the equipment they would
24 give us relative to what we could get from any other
25 vendor. So to that extent, yes.

1 COMMISSIONER LANE: Was your source of
2 capital separate from NGK?

3 MR. DIPPOLD: It's part of our revenue, yes.
4 It's within Locke's financial burden to provide for
5 capital equipment.

6 MR. CASSIDY: Commissioner Lane, the
7 equipment that Locke bought from NGK in Japan was not
8 equipment that NGK in Japan made. It was equipment
9 that NGK in Japan bought.

10 COMMISSIONER LANE: I understand that. I
11 just wondered when Locke paid for it whether it was
12 Locke's own funds or were they NGK funds?

13 MR. CASSIDY: Locke's payments come out of
14 its operating revenues. It has to make money.

15 COMMISSIONER LANE: One of the questions
16 that was asked this morning was if when the AEP line,
17 the 765kv line is built, and insulators are needed
18 that are 500kv or above are needed, the testimony I
19 think was that Locke didn't have the capability to
20 produce those insulators. Is that true?

21 MR. DIPPOLD: That's true.

22 COMMISSIONER LANE: Is it your testimony
23 that Locke would not attempt to bid on that job then?

24 MR. DIPPOLD: Not as Mr. Nakano has defined
25 it, or I should say not as NGK-Locke has defined it to

1 Locke. We would not bid on that.

2 But as the Petitioners have described, it's
3 different from the way NGK-Locke describes it to us.

4 If it turned out to be as the Petitioners
5 described it, we would seriously consider changing our
6 operation to be able to make 765kv insulators.

7 COMMISSIONER LANE: My question is would you
8 import that from Japan?

9 MR. CASSIDY: Oh, if it says Mr. Nakano
10 purchases it, yes.

11 MR. CASSIDY: Mr. Dippold was saying that he
12 doesn't make that product and at the moment as he
13 understands the market possibility for that product he
14 doesn't plan to make that product. But he might
15 change his mind if what Petitioners said today
16 actually turns out to be true.

17 The answer to your question explicitly is
18 would NGK-Locke bid on that possibility. The answer
19 is yes, it would bid on it. And if it were to win the
20 contract tomorrow it would have to supply it with an
21 import from Japan.

22 COMMISSIONER LANE: I think you said
23 something about the standards for the product that are
24 produced in Japan for sale to the United States are
25 different than the standards that, for product that is

1 sold perhaps in Japan.

2 MR. CASSIDY: The product made in Japan for
3 sale to the U.S. and to a number of other market are
4 made to ANSI standards which is the U.S. market
5 standard.

6 The products sold in Japan are made to
7 Japanese standards which are used in other countries
8 also. It's I think called IEP. IEC, sorry. IEC
9 standard, which is a different standard.

10 COMMISSIONER LANE: Thank you.

11 I asked earlier about whether or not you
12 were seeing trends in the market for increased demand
13 and the answer this morning was yes. What do you all
14 see as far as increased demand trends?

15 MR. NAKANO: We are expecting some demand
16 but volume and timing is still unknown because of this
17 blackout and the energy administration they are now
18 discussing at the Congress. So we just don't know the
19 timing and volume at this stage.

20 COMMISSIONER LANE: Have you upped your
21 production getting ready for an upward trend?

22 MR. DIPPOLD: No, we have not.

23 COMMISSIONER LANE: So you don't have,
24 you're not increasing your inventory, getting ready
25 for this trend?

1 MR. DIPPOLD: We are not.

2 COMMISSIONER LANE: If the trend and the
3 increase happens tomorrow, would you be able to
4 supply --

5 MR. DIPPOLD: We would increase
6 production -- If it's as Mr. Nakano projects we will
7 meet the demand with Locke product.

8 COMMISSIONER LANE: And when you say
9 increase production, is that in Baltimore?

10 MR. DIPPOLD: In Baltimore.

11 COMMISSIONER LANE: And not Japan?

12 MR. DIPPOLD: Not Japan.

13 COMMISSIONER LANE: Okay, thank you.

14 CHAIRMAN OKUN: Chairman Pearson?

15 COMMISSIONER PEARSON: Thank you.

16 A question for you, Mr. Cassidy. I had the
17 expectation that you might make the argument that
18 Locke should be counted as part of the domestic
19 industry for purposes of our investigation. I don't
20 think you addressed that. Is that an argument that
21 you don't intend to make?

22 MR. CASSIDY: Well, we do make it in our
23 prehearing brief, and we will repeat it in our
24 posthearing brief. Here today, I will make it.

25 If you look at the factors the Commission

1 traditionally considers when it decides whether or not
2 it is appropriate to exclude a particular domestic
3 producer from the industry for purposes of injury
4 analysis, the record we think shows clearly that Locke
5 should be included by those criteria.

6 We think you'll reach the same conclusion if
7 you go beyond those criteria and consider the more
8 nebulous notion of whether or not Locke has shielded
9 affiliation with the exporter in this case.

10 The only way in which I can imagine you
11 would be shielded from competition would be if somehow
12 you didn't have to meet the prices in the marketplace
13 that everybody else had to meet, and here the record
14 is quite clear that Locke is meeting the prices in the
15 marketplace of its domestic competitors and of the
16 imports. It charges the same price for the imports as
17 it charges for the product that is made in Baltimore.

18 The one test that I think is not helpful to
19 the Commission here is to consider whether or not
20 Locke benefitted in any conceivable way from its
21 affiliation with NGK because it is a rational player
22 in the marketplace.

23 It must make profit in order to stay in
24 business, and any sale presumably will benefit the
25 person who sells it or the person wouldn't be making

1 that sale, so it has to be something more than that
2 superficial level of analysis that the Commission
3 undertakes to see if the behavior of the player in the
4 marketplace is different somehow, fundamentally
5 different from the way in which the other participants
6 in the marketplace behave.

7 On that basis, we see no reason why Locke
8 should be excluded from the market, and indeed if you
9 exclude Locke from the definition of industry you
10 dramatically skew the numbers because it is the
11 biggest producer in the United States.

12 COMMISSIONER PEARSON: I can envision
13 circumstances under which your arguments would be
14 quite persuasive, but before I'm willing to accept it
15 let me ask about the particular relationship between
16 Locke and NGK in terms of ordering the product.

17 I mean, you're talking about why would it
18 serve Locke's interest to compete in the U.S. market
19 against related product imported from Japan, but my
20 understanding based on the comments of Mr. Dippold is
21 that he only orders product from Japan when he thinks
22 there's demand for it and sells it together with his
23 domestic product to Mr. Nakano, who then sells it to
24 the customer base.

25 In that situation, isn't that a different

1 circumstance than you were just describing to me in
2 your comments?

3 MR. CASSIDY: I don't see why. I mean, he
4 only orders from Japan when he believes he cannot make
5 enough product here in the United States.

6 The decision whether or not to sell in the
7 United States is made by Mr. Nakano, and the price is
8 set by Mr. Nakano without reference to whether or not
9 the supply is going to be coming from Baltimore or
10 from Japan so that the sourcing decision has no
11 influence on the pricing decision.

12 Of course, there are basic cost
13 considerations that eventually will be taken into
14 account, but they haven't at this stage caused any
15 adjustment in their pricing behavior, so the price is
16 a reaction to what the competitors are doing. It's
17 their best guess of the price they have to charge in
18 order to get the business.

19 Sometimes they're right and sometimes
20 they're wrong, but the fact that they have this
21 product available from their affiliated supplier
22 doesn't affect their pricing behavior. It does mean
23 that in periods of capacity constraint that they do
24 have available another source of supply, but I point
25 out that's not unique to Locke in this industry.

1 COMMISSIONER PEARSON: But is it fair to
2 indicate that Locke is actually competing against
3 product originated from NGK because Locke is
4 controlling the entry of those products into the U.S.
5 market, if I understood the statement correctly?

6 MR. CASSIDY: Locke is not competing with
7 imports from NGK, but, on the other hand, there's no
8 evidence that it is shielded from competition with
9 imports from NGK because if it were shielded from
10 competition of imports with NGK somehow you would have
11 to show that the imports from NGK were themselves
12 affecting the market price in the United States and
13 that was benefitting Locke, but there's absolutely no
14 evidence that the imports from Japan are affecting the
15 price in the United States in any way that is
16 different from any other source of product in the
17 United States.

18 You are getting to one point, but if you
19 were to go down this road I think, Commissioner, you
20 would end up with the conclusion that anybody who was
21 affiliated with an exporter and sold both imports and
22 domestic product at the same time could by definition
23 never compete with themselves, which is true. You
24 can't compete with yourself, but I don't know where
25 that gets you.

1 COMMISSIONER PEARSON: Well, in this case I
2 do find it interesting the degree to which Locke seems
3 to control the entry into the U.S. marketplace of
4 whatever quantity of NGK product it believes can be
5 sold.

6 There is -- what shall we say -- an
7 interesting degree or at least a possibility that
8 Locke would be arranging imports in ways to maximize
9 total revenue for Locke and minimize competition. One
10 would guess that would serve their interests.

11 MR. CASSIDY: That would serve their
12 interests, but does that mean that they are arranging
13 the imports to cause the injurious effect? How can
14 you distinguish between that which they import and
15 that which they make and its impact on the
16 marketplace? You can't.

17 COMMISSIONER PEARSON: I wasn't saying that
18 they were doing it to minimize injurious effect, but
19 rather that they were doing it to minimize competition
20 with their domestic production.

21 MR. CASSIDY: But isn't every competitor
22 inclined to minimize competition with their domestic
23 competitor?

24 COMMISSIONER PEARSON: Not in the markets
25 that I'm familiar with. I'm much more familiar with

1 competitors taking each other head on.

2 MR. CASSIDY: Well, what I mean is wouldn't
3 every competitor be happier if they didn't have to
4 compete?

5 COMMISSIONER PEARSON: That may be a natural
6 human tendency.

7 MR. CASSIDY: Yes.

8 COMMISSIONER PEARSON: It doesn't reflect
9 life as I know it.

10 Perhaps my fellow Commissioners will want to
11 pursue this line. I think I've gotten myself into
12 about as much trouble as I can handle at the moment.

13 A question for Mr. Warren-Boulton. You had
14 indicated something to the effect that one would
15 expect additional imports at a time of rising domestic
16 demand. I accept that.

17 Why didn't we see a larger increase in
18 imports from countries other than Japan during the
19 period of investigation?

20 CHAIRMAN OKUN: You need to use your
21 microphone, please.

22 MR. WARREN-BOULTON: Sorry. First of all,
23 it's my understanding that in percentage terms we did
24 see a very large increase. In fact, I think during
25 the period in question there was like a 700 percent

1 increase.

2 I think that the reason is that even though
3 imports are infinitely elastic in the long run or very
4 elastic in the long run, it's still a process of
5 qualifying.

6 You know, there's a dynamic element, which
7 is even if in the long run you can supply the entire
8 market at a given price, you know, you have to qualify
9 in front of utilities, and they have to look at your
10 product and accept your product, so there's limits on
11 how rapidly you can grow.

12 I think what you saw during this period, at
13 least my understanding of the facts, is that there was
14 in fact a very rapid, much more rapid growth of
15 imports, non-subject imports, which I assume are
16 mostly from SURAM, but what they were running up
17 against was how fast can you qualify at utilities.
18 The boom ended, you know, before they had sort of
19 gotten themselves completely qualified.

20 I think the question is as far as where will
21 they be if this comes again, and they obviously have
22 had a big head start over where they were last time.
23 I think it's clear from the fact that customers didn't
24 care whether it was Japanese made or Baltimore made.
25 That was not a problem.

1 Those dynamics were not a problem for NGK,
2 but they were for SURAM. That's why you didn't get
3 suddenly a huge -- you got a large increase in
4 imports, but it wasn't able to sort of flood the
5 market. It wasn't able to expand as rapidly, so
6 essentially SURAM's supply elasticity is probably just
7 as high. It's just it takes a little bit more time.

8 COMMISSIONER PEARSON: So your view is that
9 the next time we see an increase in demand that SURAM
10 and perhaps other firms would be in a position to
11 provide more supply to the U.S. market?

12 MR. WARREN-BOULTON: Yes. I think what
13 you're going to need to see is an increase in demand
14 and the exchange rate. I mean, remember the exchange
15 rate was remarkably favorable, and now it's not. It's
16 sort of a one-two whammy of a big, sudden
17 unanticipated increase in demand.

18 You really need it to be unanticipated
19 because otherwise the domestic suppliers are right in
20 there waiting, so unanticipated increase in demand and
21 an increase in the exchange rate and how likely you
22 think those two -- that's sort of like two hurricanes
23 hitting at the same time.

24 If that were to happen, which is basically
25 the recipe I think for a sudden increase in imports

1 from say Japan, it's exactly the same recipe for a
2 sudden increase in imports from the Czech Republic or
3 Germany.

4 COMMISSIONER PEARSON: Thank you.

5 CHAIRMAN OKUN: This morning or this
6 afternoon, I guess, we talked a little bit about your
7 view of what happened to prices in this marketplace
8 and focused a great deal this afternoon on the impact
9 of deregulation and the environment.

10 Perhaps as being a good lawyer, you picked
11 up on what we were talking about this morning, but you
12 had argued in your brief a number of other points that
13 you thought were affecting the market, and I wanted to
14 go back to them. I had a few questions.

15 One of the arguments you make is that
16 another reason for the declining price trend was that
17 domestic producers have increased their aggregate
18 production capacity. I look at the figures, and the
19 figures themselves are confidential, but if we were to
20 exclude lots from the domestic industry do you still
21 have that argument?

22 Turn your microphone on, please.

23 MR. CASSIDY: Excuse me. There still would
24 have been an increase in capacity among the three, but
25 it would not be nearly as dramatic as it is if you

1 include Locke.

2 CHAIRMAN OKUN: Okay. So your argument is
3 more if Locke is in the industry its increase has had
4 a downward pressure?

5 MR. CASSIDY: Well, my argument is the
6 industry increased whether you define it as three or
7 four. It just increased more if you define it as
8 four.

9 CHAIRMAN OKUN: Okay. Then turning to the
10 overall financial results of the industry, I don't
11 know if there's anything else you want to respond to
12 regarding the wet versus dry method, given the nature
13 of the arguments you made in your brief.

14 Was there anything else you wanted to say
15 after hearing the testimony this morning?

16 MR. DIPPOLD: Yes. I might be able to help
17 you. Maybe. I can't describe, you know, or really
18 refer to their costs. I don't know what their costs
19 are. Frankly, I'm skeptical of many cost comparisons
20 when you're doing an aggregate comparison.

21 I know that at Locke we use green to produce
22 higher voltage insulators because we're more
23 successful at making longer porcelain units than we
24 are with dry. If that is true, that fundamental
25 advantage is good.

1 If I can make longer units, that means I can
2 build an equivalent voltage stack with fewer units.
3 That means filing costs are less, assembly costs are
4 less. My direct material cost is less, but that's
5 purely a speculation.

6 CHAIRMAN OKUN: Okay. I just wanted to hear
7 if you had anything further to say on that. I
8 appreciate that.

9 Let me turn also to the argument regarding
10 natural gas and what happened with prices in the
11 market with regard to the other producers. The staff
12 report has a table -- the information itself is
13 confidential -- Table 5-1, but it talks about
14 quantities and prices of natural gas used by
15 producers.

16 I guess perhaps you have to respond
17 specifically to this, Mr. Cassidy, in posthearing in
18 your brief, but I wondered if you could just tell me
19 about your argument in light of the information we see
20 on the record with regard to what different producers
21 were paying for their gas at different times?

22 Microphone, please? We want to hear you.

23 MR. CASSIDY: Excuse me again. What the
24 record shows, I suggest, is that some people did
25 better than others at the early stages of the dramatic

1 increase of the price in natural gas.

2 There was a very short period in there, and
3 this is from recollection, but I think it was two
4 quarters where there is an aberration. That is to say
5 some companies did one thing, and another company did
6 something else. That undoubtedly must have had an
7 effect on activity in the marketplace. In the longer
8 run, everybody seemed to get control over their prices
9 and were managing with the new higher level of gas
10 prices.

11 CHAIRMAN OKUN: Okay. I guess I would just
12 give you my sense of looking at that is I couldn't
13 look at that and understand an argument that somehow
14 Locke was positioned so differently in the market that
15 what everyone else was doing somehow contributed to
16 their bottom line.

17 MR. CASSIDY: Yes. We never made it as to
18 the whole world. It was only as to one other
19 producer.

20 CHAIRMAN OKUN: I don't want to talk about
21 that now, but --

22 MR. CASSIDY: I understand that. Yes.

23 CHAIRMAN OKUN: -- if there's anything else
24 in there that would be helpful.

25 With regard to related party with interest

1 to your exchange with Commissioner Pearson, I had
2 posed two questions to Petitioners this morning about
3 related party. You might just want to look at the
4 transcript because right now I've forgotten what the
5 second one was. I think I know what the first one
6 was.

7 If you could just make sure you respond to
8 that part of the related argument party as well?

9 MR. CASSIDY: We took careful notes.

10 CHAIRMAN OKUN: Okay. I somewhere have my
11 notes, but I don't know right now where they are.

12 With that, I think most things have been
13 covered for me. Let me turn to Vice Chairman Hillman.

14 VICE CHAIRMAN HILLMAN: Let me stay just for
15 a minute on the issue of related parties because I
16 would ask the same question to you that I asked of the
17 Petitioners this morning, which is to give us your
18 analysis of, first of all, can we and should we under
19 the statute or Commission precedent take into account
20 not per se the issue of whether Locke benefitted from
21 the import, but whether they benefitted from the
22 financial and other relationship with NGK?

23 Should we take that into account, and what
24 should it say to us? There is some information in the
25 financial section of our staff report that reflects

1 something of this relationship between NGK and Locke,
2 and I'm just trying to allow you the opportunity to
3 brief what that should say to us about this issue of
4 whether or not we should be including or excluding
5 Locke.

6 MR. CASSIDY: I heard your question, and we
7 will be happy to address it at some length.

8 I do ask you in your analysis and maybe as a
9 preview of what we will end up saying in our
10 posthearing brief, be very sure that you don't
11 attribute to domestic product influences that should
12 be attributed to the import.

13 We're talking about a price discrimination
14 statute that looks about the impact of imports on the
15 domestic industry, and the kinds of questions you are
16 asking, while they are quite legitimate and we will
17 certainly answer them, I can easily see how you could
18 get into a discussion about whether domestic product
19 was somehow competing unfairly with domestic product,
20 which is not what the statute is all about.

21 VICE CHAIRMAN HILLMAN: Obviously part of my
22 question is should we take this into account? I mean,
23 is it appropriate?

24 MR. CASSIDY: Yes.

25 VICE CHAIRMAN HILLMAN: Is it appropriate at

1 all to look at it? I mean, should it affect our sense
2 of whether or not Locke should be considered part of
3 the domestic industry or not?

4 Again, I'm asking it because I don't know
5 that it is a decided question of law that we have to
6 take this information into account or that we cannot
7 take it into account, so it's both the kind of legal
8 issue of can we/should we, as well as the issue of
9 fine, even if we do, what do we make of it in terms of
10 whether it has had an effect on shielding Locke from
11 import competition or again the overall statutory
12 requirement in terms of when there are appropriate
13 circumstances there to exclude or include a party.

14 If I can I guess go from there to just
15 making sure I understand the arguments with respect to
16 the interim 2003 period, the most recent period of
17 data? I've obviously heard your argument given in
18 your brief and in response to Commissioner Miller in
19 terms of what happened to import volume.

20 Maybe I ought to start with you, Mr.
21 Dippold, or with you, Mr. Nakano, in terms of making
22 sure I understand the types of insulators that Locke
23 has imported most recently. Was there a change in the
24 nature of the product that came in in the most recent
25 period of imports?

1 MR. DIPPOLD: I would have to say off the
2 top of my head, no.

3 VICE CHAIRMAN HILLMAN: No.

4 MR. DIPPOLD: We followed the basic plan
5 that I described.

6 VICE CHAIRMAN HILLMAN: Okay. All right.
7 Maybe, Mr. Cassidy, for you. Again, my sense is
8 you've sort of said, you know, that we shouldn't be
9 looking at what happened in 2003 and attributing it to
10 imports because there was this huge falloff in
11 imports, but I think as you heard me say, I think
12 there is an issue about whether there was a
13 significant enough falloff in shipment of imports, so
14 I would ask you to sort of look at that.

15 I guess, Mr. Nakano, maybe more for you.
16 You touched on this a little bit in your testimony,
17 which is this issue of how has the market been
18 reacting to the pendency of this case?

19 Obviously we're going to hear an argument no
20 doubt from Petitioners that we should to some degree
21 -- maybe we will hear an argument. I don't know,
22 given the financials, but to some degree what emphasis
23 we should or should not place on what has happened
24 since the petition has been filed.

25 My sense is it would be helpful for us I

1 think to understand, Mr. Nakano, particularly from
2 your perspective of what has been your customers'
3 reaction to the filing of this petition.

4 MR. NAKANO: Well, frankly speaking, the
5 customers haven't changed anything. They understood
6 we supply both Locke product and NGK-Japan's product,
7 so there's no change in business.

8 VICE CHAIRMAN HILLMAN: Okay. No reluctance
9 to buy from you --

10 MR. NAKANO: No reluctance.

11 VICE CHAIRMAN HILLMAN: -- because maybe you
12 wouldn't be able to supply?

13 MR. NAKANO: Well, the only thing I would
14 like to say is some of the customers have asked, you
15 know, are you sure you're making the product in
16 Baltimore? We have some rumor that you're just
17 importing the product.

18 Some customers actually came to us to make
19 sure we are making the product. That thing happened,
20 but the injurious business has not changed --

21 VICE CHAIRMAN HILLMAN: Okay.

22 MR. NAKANO: -- related to this issue.

23 VICE CHAIRMAN HILLMAN: Okay. All right. I
24 think that's helpful.

25 I guess to some extent maybe I want to

1 understand a little bit more this issue of non-subject
2 imports. I mean, I heard Mr. Nakano mention the
3 German imports on a number of occasions.

4 Mr. Warren-Boulton, your comments on what we
5 should expect focused a lot on the fact that there
6 were non-subject imports in the marketplace, non-
7 subject meaning non-Japanese imports.

8 I have to say in looking at the data, you
9 know, the volumes of the non-subjects are so much
10 smaller. I understand your percentage figure in terms
11 of an increase, but when you start from a very, very
12 low base it's not very hard to look at a large
13 percentage increase that doesn't actually amount to
14 much.

15 I'm just curious. Is there something about
16 the non-subject imports that's not readily apparent to
17 me that means I should be looking at them differently?
18 Are they somehow having a more pernicious effect on
19 the market than the actual volume numbers and value
20 numbers would suggest?

21 You've all spent a lot of your time telling
22 me I should be looking at non-subject imports. When I
23 look at our data, I can't for the life of me figure
24 out why. They're small. They've been small. Why
25 this emphasis on non-subject imports?

1 MR. CASSIDY: There are two reasons that we
2 have mentioned that today. One of them is purely an
3 historic fact, the general question of why have prices
4 been going down. Well, one reason is that there was a
5 concern that the non-subject imports would increase.

6 At least in Locke we saw a number of sales
7 by SURAM, which is in the Czech Republic, to
8 significant suppliers, and we knew that they were
9 getting qualified at major utilities. We also knew
10 that their prices were low in the sales that we lost
11 to them because we did lose sales to them, so this was
12 a reason for concern.

13 It was yet another indication that there was
14 more and more competition in the marketplace, and
15 prices were going to continue to go down, so it's
16 purely an historical fact.

17 As it turned out, as we noted, significant
18 imports did not follow. They increased dramatically
19 from a very low level, and then nothing much happened
20 after that. Part of the reason for that presumably is
21 that it takes a while to get qualified, and part of
22 the answer is demand ride up.

23 The other issue or other reason we mentioned
24 this is that in the theoretical discussion of Dr.
25 Boltuck he made assumptions about the behavior of

1 imports. In his case it was Japanese imports. All we
2 were pointing out is exactly the same assumptions
3 apply to any imports, and since it is known that there
4 are other importers who do participate in this market
5 there's no reason to think other imports wouldn't do
6 exactly the same thing.

7 VICE CHAIRMAN HILLMAN: I'll be honest, Mr.
8 Cassidy. I was leaving aside the issue of where in
9 the statute does it in any way, shape or form suggest
10 that I have to make a determination that an
11 Antidumping Order will be effective in addressing the
12 relief and whether or not non-subjects would fill
13 right into that void.

14 I leave it to you if you really want to make
15 that argument to try to tell me where in the law it
16 suggests that I am supposed to even remotely take that
17 into account. I'm happy to read it in the posthearing
18 obviously, and I'll just leave that one aside.

19 MR. CASSIDY: I couldn't actually agree with
20 you more. I think the more interesting question is
21 why Petitioners think this antidumping action will be
22 effective, but what is the next question?

23 VICE CHAIRMAN HILLMAN: Like I said, I'm
24 going to leave it up to you if you want to make that
25 argument.

1 I have no further questions, Madam Chairman.
2 Thank you.

3 CHAIRMAN OKUN: Commissioner Miller?

4 COMMISSIONER MILLER: Since no one else did
5 my manufacturing question I'm afraid I still have to
6 do it, but that will be my last question.

7 Mr. Dippold, there was a discussion earlier
8 with the Petitioners about the wet and the dry process
9 and the cost differentials between the two, and Mr.
10 Johnson gave us his view of the relative cost
11 advantages and disadvantages of the two processes.

12 Could you just from Locke's perspective
13 answer the same question?

14 MR. DIPPOLD: As I said earlier, I have
15 skepticism in the real cost or being able to analyze
16 the real cost associated with significantly different
17 processes. I can only shed light or make speculations
18 about what may be the differences.

19 The green process at Locke we're capable of
20 making longer pieces, longer porcelain units. Because
21 we can make longer porcelain units, we can supply
22 higher voltage insulators with fewer components in the
23 stacks. Instead of having three porcelain units in a
24 stack, for example, as our competitors may have, we
25 may be able to satisfy the same voltage requirement

1 with two.

2 If indeed that is the difference, that means
3 potentially our firing costs are less, our assembly
4 costs are less, our direct material costs are less
5 because we purchased less hardware. Our capacities of
6 other operations such as turning and glazing, discrete
7 operation costs, may be less because in effect you're
8 doing a higher voltage per unit than you would if you
9 were making it shorter.

10 If that basic assumption is true that indeed
11 you can make a longer piece with green than you can
12 make with dry, there's to me an advantage.

13 COMMISSIONER MILLER: Okay. Was that in
14 answer to the question? I'm sorry.

15 MR. DIPPOLD: I think, yes.

16 COMMISSIONER MILLER: I guess I heard your
17 discussion in a way that I wasn't relating to the wet
18 and the dry --

19 MR. DIPPOLD: Okay.

20 COMMISSIONER MILLER: -- versus the other
21 dimensional kinds of things, so I apologize for making
22 you do it again.

23 MR. DIPPOLD: I like talking about
24 insulators. That's okay.

25 COMMISSIONER MILLER: You know, we test you

1 on consistency as well.

2 MR. DIPPOLD: That's okay. That's fine.

3 COMMISSIONER MILLER: Thank you, and I
4 apologize for the repetition. Thank you.

5 CHAIRMAN OKUN: Commissioner Lane?

6 COMMISSIONER LANE: Just a follow up
7 question to that.

8 Is the manufacturing process the same for
9 Locke in the United States as it is for NGK in Japan
10 for the same product?

11 MR. DIPPOLD: For CSPI generally, yes.

12 COMMISSIONER LANE: What do you mean by
13 generally?

14 MR. DIPPOLD: There are slight differences.

15 COMMISSIONER LANE: Like what?

16 MR. DIPPOLD: You know, there are equipment
17 differences, and there are process differences. I
18 could detail them a little bit better in a paper where
19 it's confidential.

20 COMMISSIONER LANE: That's okay. It's
21 basically a green process?

22 MR. DIPPOLD: It's a green process, yes. I
23 would say if I walk you through both plants I doubt
24 you could tell the differences.

25 COMMISSIONER LANE: Rest assured, that's

1 true. Thank you.

2 CHAIRMAN OKUN: Commissioner Pearson?

3 COMMISSIONER PEARSON: I have two questions,
4 and let me address them to Mr. Nakano. If others wish
5 to comment, that would be fine.

6 During the period of investigation, why did
7 we see the demand for the 345 kilovolt and 500
8 kilovolt units relatively so strong? Does this
9 indicate some change in the market for CSPI that might
10 have an influence going forward?

11 MR. NAKANO: Yes. Those products are being
12 used for IPP projects in Texas and some other areas,
13 the northeast. The system voltage has 500 and the 345
14 KV. That's the reason that we see the huge demand on
15 those high voltage insulators.

16 COMMISSIONER PEARSON: And is there some
17 expectation that the demand for those products might
18 remain relatively stronger in the near future?

19 MR. NAKANO: I don't think so because the
20 last boom was related to the generation facility. We
21 may see another increase, a demand increase, but this
22 is the transmission so the substations is the product
23 -- I mean the demand we anticipated, but I don't think
24 there is 500 and 345 KV. It could be all different
25 types of system voltage, not necessarily particularly

1 those two.

2 COMMISSIONER PEARSON: Okay. Thank you. To
3 follow that, can you give me some sense of over the
4 next two to three years what percentage of the product
5 that your customers will be wanting to buy, what
6 percentage will you be able to procure from Mr.
7 Dippold at Locke, and what percentage would you be
8 purchasing likely would be the product from NGK in
9 Japan? Just some rough number. I don't have a sense
10 of this.

11 MR. NAKANO: Well, it depends on the demand,
12 but if demand is continuing like we are now I would
13 say 95 percent can be produced by Locke, 85 percent by
14 NGK, just because Locke cannot produce all the designs
15 the customer needs. Some of the special designs they
16 have to import like the 765 KV, for example.

17 MR. DIPPOLD: We are continuing our effort
18 to develop processes to shift production more to
19 Baltimore. I don't anticipate, based upon their
20 forecast, we'll make dramatic changes, but we'll chip
21 away.

22 We've made some improvements in fact this
23 year that we'll be able to make more in Baltimore
24 because of capability than we did last year.

25 COMMISSIONER PEARSON: Okay.

1 MR. DIPPOLD: I can't estimate because I
2 don't know, but it will chip away at that percentage.

3 COMMISSIONER PEARSON: Okay. Thank you.

4 Madam Chairman, I think I've done enough
5 damage for one afternoon.

6 CHAIRMAN OKUN: Vice Chairman Hillman, did
7 you have anything?

8 (No response.)

9 CHAIRMAN OKUN: Commissioner Lane?

10 (No response.)

11 CHAIRMAN OKUN: All right. Seeing no
12 further questions from my colleagues, let me turn to
13 staff to see if staff has questions of this panel.

14 MS. MAZUR: Diane Mazur, Office of
15 Investigations. Staff has no questions.

16 CHAIRMAN OKUN: Thank you.

17 Let me turn to counsel for Petitioners to
18 see if they have questions of this panel?

19 MR. SHELDRIK: No questions, Madam
20 Chairman.

21 CHAIRMAN OKUN: Then I want to thank this
22 group of witnesses very much for your testimony and
23 for all the answers you've given us this afternoon.

24 Let me go through the time remaining. The
25 Petitioners have a total of 11 minutes, which includes

1 five minutes for closing. Respondents have a total of
2 10 minutes, including their five minutes for closing.

3 If we can just take a couple of moments to
4 let this panel go back to their seats, we will hear
5 from you, Mr. Sheldrick.

6 (Whereupon, a short recess was taken.)

7 CHAIRMAN OKUN: Mr. Sheldrick, we're ready.

8 MR. SHELDRIK: I apologize for keeping you
9 waiting, Madam Chair.

10 CHAIRMAN OKUN: You can stay back there, or
11 you can come up to the table, whatever you'd like.

12 MR. SHELDRIK: Chairman Okun, Vice Chairman
13 Hillman, members of the Commission and members of the
14 staff, the bad news is that there's lots of points
15 we'd like to rebut. The good news is that time will
16 prevent my doing so today, but we will certainly do so
17 in our posthearing brief.

18 I'd like just to touch on a few points, but,
19 first of all, I know the Commission does not have any
20 institutional history of dealing with this particular
21 product, and I would like to thank both the Commission
22 and the staff for the strenuous efforts that you've
23 all put in to get up to speed with what is, frankly, a
24 fairly complicated industry, as we've heard today.

25 Not surprisingly perhaps, we have heard from

1 Mr. Cassidy that this is a cozy industry or was a cozy
2 industry which was shaken up by fair competition by
3 Locke Insulators in Baltimore. Now that, of course,
4 does not explain the tremendous influx of product from
5 Japan.

6 What is this attributable to? Well, we
7 heard two different explanations this morning. Mr.
8 Dippold said that Locke's customers were demanding it.
9 In fact, he said we had no choice but to go to NGK.

10 With all due respect, he did have a choice.
11 He could have said we cannot supply you. We'll do so
12 as soon as we can, or these are the delivery dates we
13 can give you in the future, or he could have bought
14 product from Japan and brought it into the United
15 States at a fair price. That is absolutely
16 acceptable, and we have no concern about free and fair
17 competition.

18 The choice he made was to bring product into
19 the United States at a dumped price, unfairly
20 competing against domestic producers who could have
21 supplied that market demand, in the process forcing
22 down price.

23 Now, Mr. Nakano gave us a somewhat different
24 story. He said that the problem was CERAM. He said
25 that they saw CERAM products coming into the market at

1 a potentially low price, and they had to compete.

2 Well, let's just consider CERAM and the
3 other non-subject imports. You've seen the import
4 data there obviously, and we've heard about this 700
5 percent increase in the early period of the POI.
6 Well, there's an equally strong decrease in the
7 following year.

8 I think as Vice Chairman Hillman observed,
9 it's very easy to have a 700 percent increase when you
10 start from virtually nothing. Mr. Nakano mentioned
11 that they were concerned that CERAM had been
12 prequalified by I think 10 utilities and was maybe
13 talking to 10 more.

14 Well, there are 1,000 utilities more or
15 less, I am told, the United States. Clearly, CERAM
16 did not pose any potential threat to domestic
17 producers. Frankly, if they did they would probably
18 be here in substantial quantities in the market today.

19 Mr. Nakano mentioned that he felt CERAM was
20 no longer active because prices in the U.S. were too
21 low. I would conclude from that that NGK's strategy
22 of keeping them out of the market by driving down
23 prices was clearly successful. The only problem is it
24 violated U.S. trade laws.

25 Now, we've heard a lot today about NGK, but

1 we've not heard a lot from them. This is unfortunate
2 because Respondents are, I would respectfully suggest,
3 trying to hide behind NGK to obfuscate some of the
4 data that's on the record and otherwise try to sway
5 the Commission that there's not enough evidence to
6 prove what imports were doing in the market.

7 We've heard, for example, that it's
8 difficult to say whether the product that was being
9 sold to any given customer was NGK or Locke product.
10 Well, who knows that better than the Respondents in
11 this case?

12 We can only make the assumptions that appear
13 from the data on the record, as can the Commission,
14 but we certainly do not believe that the Petitioners
15 should be entitled to rely upon questions about what
16 purchasers thought, where they thought the product was
17 coming from.

18 On that same note, I find it rather
19 remarkable that Mr. Nakano complains about the rumors
20 that were circulating in the market allegedly as a
21 result of what Petitioners did about the origin of the
22 product because we've learned today that this product
23 was marked only on the packing.

24 Now, although the utilities make up a
25 substantial portion of the market, many of these

1 insulators go to packagers and to OEM manufacturers,
2 so when they end up in the hands of the utilities the
3 utilities have no way of knowing whether that switch
4 or that part installed by a packager was from Japan or
5 Baltimore.

6 We heard from Mr. Dippold and I think also
7 from Mr. Nakano that to the extent these products are
8 marked on the insulator it says Locke, so the obvious
9 conclusion anybody would draw is that this was a
10 product made in the U.S. Again, to suggest that this
11 confusion is somehow our fault, frankly, we feel is
12 completely misplaced.

13 We next heard a suggestion that perhaps the
14 Commission should discount the dumping margin found by
15 the Department of Commerce because this was based on
16 information supplied by Petitioners. Well, I need
17 hardly say that NGK had ample opportunity to give data
18 to the DOC. It chose not to do so.

19 Mr. Cassidy may speculate that the actual
20 margin should have been lower or could have been
21 lower. I could equally speculate it would have been
22 higher, and that's why NGK declined to participate,
23 but I won't speculate. I suggest that the Commission
24 simply go with the evidence on record, including the
25 dumping margin determined by Commerce.

1 We've also heard in the context of
2 threatened injuries a further reference today to the
3 so-called public knowledge about NGK curtailing its
4 production capacity.

5 Now, we've commented on this in our
6 prehearing brief, but I would simply point out that
7 the best way to prove this one way or the other would
8 have been for NGK to have somebody here to address the
9 Commission, respond to its questions and similarly
10 discuss the issue of the relationship between NGK,
11 NGK-Locke and Locke rather than expect the Commission
12 or the Petitioners to have to hide behind this veil of
13 ambiguity which has been created as a result of NGK's
14 non-presence here today.

15 Let me close with a more general comment
16 about the role of NGK in this because I think it
17 really goes to the heart of what is happening in this
18 market. We've been told that Locke made these
19 decisions of its own volition to discontinue
20 manufacturing apparatus housings, to discontinue
21 manufacturing distribution insulators and concentrate
22 on station posts and that Locke makes the decision as
23 to how much product comes into the United States.

24 Well, I would suggest to you, as I did at
25 the staff conference, that this is a case of the tail

1 wagging the dog. NGK is a global manufacturer of
2 insulators. It has 60 percent, we are told, of the
3 world market. In some of its public statements, which
4 we've quoted in our brief, it says that it has
5 deployed manufacturing units in various countries,
6 including the United States, in order to optimize its
7 manufacturing and sales operations.

8 We heard today that it is NGK-Locke, a
9 subsidiary of NGK not under the control of Locke,
10 which decides the sales price, so Locke here is simply
11 what NGK described it as -- a manufacturing unit which
12 produces insulators for the NGK Group, which are sold
13 through NGK-Locke in the U.S., and it is only one of
14 several manufacturing units, the most obvious
15 alternative being Japan, that NGK-Locke can and will
16 count on to supply customer demand.

17 We do believe very strongly that the
18 shipments of imported product continue to be a major
19 problem in the U.S. industry. We also believe that
20 absent relief in the form of an Antidumping Order,
21 NGK-Locke will resume imports of product from Japan,
22 not simply the very valuable products Locke cannot
23 make, but also the whole broader range of products
24 which it has brought in in the past.

25 As market conditions appear to pick up, this

1 possibility becomes not mere conjecture, but a very
2 real threat which continues to overhang the industry
3 today.

4 With that, Madam Chairman, we will conclude
5 our remarks. Thank you.

6 CHAIRMAN OKUN: Thank you.

7 Mr. Cassidy?

8 MR. CASSIDY: Madam Chairman, we want to
9 thank the obvious hard work you all have done to look
10 at our briefs and for the interesting questions you
11 have asked, and we look forward to responding to your
12 questions in our posthearing brief.

13 We haven't heard anything that requires us
14 to respond at this time, so let's bring a very long
15 day to an end.

16 Thank you.

17 CHAIRMAN OKUN: Thank you.

18 Posthearing briefs, statements responsive to
19 questions, requests of the Commission and corrections
20 to the transcript must be filed by November 5, 2003.
21 The closing of the record and final release of data to
22 parties is November 24, 2003, and final comments are
23 due November 26, 2003.

24 With no other business to come before the
25 Commission, this hearing is adjourned.

1 (Whereupon, at 4:17 p.m. the hearing in the
2 above-entitled matter was concluded.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: Certain Ceramic Station Post
Insulators From Japan

INVESTIGATION NO.: 731-TA-1023 (Final)

HEARING DATE: October 29, 2003

LOCATION: Washington, D.C.

NATURE OF HEARING: Hearing

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: October 29, 2003

SIGNED: LaShonne Robinson
Signature of the Contractor or the
Authorized Contractor's Representative
1220 L Street, N.W. - Suite 600
Washington, D.C. 20005

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceeding(s) of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker-identification, and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceeding(s).

SIGNED: Carlos Gamez
Signature of Proofreader

I hereby certify that I reported the above-referenced proceeding(s) of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceeding(s).

SIGNED: Donna J. Kraus
Signature of Court Reporter