

# **UNITED STATES INTERNATIONAL TRADE COMMISSION**

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In the Matter of:	)	
	)	Investigation No.:
LARGE POWER TRANSFORMERS	)	731-TA-1189 (Final)
FROM KOREA	)	

Pages: 1 through 267

Place: Washington, D.C.

Date: July 10, 2012

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## THE UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:                                 )  
    ) Investigation No.:  
 LARGE POWER TRANSFORMERS             ) 731-TA-1189 (Final)  
 FROM KOREA                                     )

Tuesday,  
 July 10, 2012

Room No. 101  
 U.S. International  
 Trade Commission  
 500 E Street, S.W.  
 Washington, D.C.

The hearing commenced, pursuant to notice, at  
 9:33 a.m., before the Commissioners of the United States  
 International Trade Commission, the Honorable IRVING A.  
 WILLIAMSON, Chairman, presiding.

## APPEARANCES:

On behalf of the International Trade Commission:

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 DEANNA TANNER OKUN, COMMISSIONER  
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P R O C E E D I N G S

(9:33 a.m.)

1  
2  
3 CHAIRMAN WILLIAMSON: Good morning. On  
4 behalf of the U.S. International Trade Commission I  
5 welcome you to this hearing on Investigation No.  
6 731-TA-1189 (Final) involving.

7 The purpose of this investigation is to  
8 determine whether an industry in the United States is  
9 materially injured or threatened with material injury  
10 or the establishment of an industry in the United  
11 States is materially retarded by reason of less than  
12 fair value imports from Korea of large power  
13 transformers provided for in subheading 8504.23.00 of  
14 the Harmonized Tariff Schedule of the United States.

15 Schedules setting forth the presentation of  
16 this hearing, notices of investigation and transcript  
17 order forms are available at the public distribution  
18 table. All prepared testimony should be given to the  
19 Secretary. Please do not place testimony directly on  
20 the public distribution table.

21 All witnesses must be sworn in by the  
22 Secretary before presenting testimony. I understand  
23 that parties are aware of the time allocations. Any  
24 questions regarding the time allocations should be  
25 directed to the Secretary.

1           Speakers are reminded not to refer in their  
2           remarks or answers to questions to business  
3           proprietary information. Please speak clearly into  
4           the microphone and state your name for the record for  
5           the benefit of the court reporter. If you will be  
6           submitting documents that contain information you wish  
7           classified as business confidential, your requests  
8           should comply with Commission Rule 201.6.

9           Madam Secretary, are there any preliminary  
10          matters?

11          MS. BARTON: No, Mr. Chairman.

12          CHAIRMAN WILLIAMSON: Thank you. Let's  
13          proceed with opening statements.

14          MS. BARTON: We will receive opening  
15          statements from Petitioners, R. Alan Luberda, Kelley  
16          Drye & Warren, LLP.

17          CHAIRMAN WILLIAMSON: Welcome, Mr. Luberda.

18          MR. LUBERDA: Good morning, Chairman  
19          Williamson and members of the Commission. My name is  
20          Alan Luberda with the law firm of Kelley Drye &  
21          Warren. I'm here today representing the domestic  
22          industry producing large power transformers in support  
23          of an affirmative determination that dumped imports  
24          from Korea are causing and threatening to cause  
25          material injury to the domestic industry.



1           The trade and financial results of this  
2 industry demonstrate that it is in an injured state.  
3 Not only did the domestic industry lose market share  
4 over the period; the value of its U.S. shipments  
5 declined 25 percent. Unit values dropped 33 percent,  
6 and it watched significant operating profits in 2009  
7 turn to substantial operating losses in 2011. Unlike  
8 other cases you've seen recently, this downturn  
9 occurred while demand was rising.

10           The questions that came out of your  
11 preliminary determination were not whether the  
12 domestic industry was suffering injury. Instead, your  
13 questions went to the issue of whether there was a  
14 causal nexus between the condition of the industry and  
15 the subject imports. Staff did a tremendous job with  
16 the parties to develop the record to answer your  
17 questions.

18           Now, the record unequivocally shows that  
19 dumped subject imports from Korea competed directly  
20 with the U.S. producers. The large and increasing  
21 volume of imports from Korea grabbed market share at  
22 the expense of the U.S. industry over the past three  
23 years. As those imports consistently undercut prices  
24 for domestic transformers, they drove down U.S. prices  
25 and operating profit margins. Those dumped imports

1 also captured long-term agreements that will cost the  
2 domestic industry sales long into the future.

3 Appendix D of the staff report shows the  
4 Korean producers directly competing for those  
5 transformers that the domestic industry most often  
6 produced during the period, as well as dominating the  
7 larger transformer sizes in which the domestic  
8 industry is heavily invested as attempting to compete.

9 The Korean producers are both where the  
10 domestic industry is and where they want to be.  
11 Purchasers confirm the significant competition,  
12 reporting competing Korean bids on roughly two-thirds  
13 of the bids domestic producers submitted. Purchasers  
14 have also confirmed that price plays a critical role  
15 in the purchasing decision, particularly the decision  
16 to purchase from Korean producers.

17 In the preliminary determination, the  
18 Commission asked to see more evidence of underselling  
19 by the Korean producers, and the purchasers'  
20 questionnaire responses have provided that evidence.  
21 The purchaser data shows that subject imports  
22 undersold the domestic product in the vast majority of  
23 instances in which they competed. The record also  
24 shows that underselling margins by the Korean  
25 producers on those sales were significant.

1           This significant and persistent underselling  
2 by the Korean producers caused U.S. prices to decline  
3 significantly over the period while costs for the  
4 domestic industry were rising. As prices were  
5 depressed and U.S. sales were lost to Korean  
6 underselling, the domestic industry sales revenues  
7 declined.

8           The industry is now losing money. The  
9 record before you squarely points to the subject  
10 imports as the cause of injury to the domestic  
11 industry through their sales of large and increasing  
12 volumes of low-priced subject transformers. The  
13 Respondents have offered no coherent theory to  
14 otherwise explain the precipitous decline in the  
15 domestic industry's fortunes.

16           They point to the economy as an explanation  
17 for the industry's downturn, but demand for  
18 transformers goes up over the period. They point to  
19 nonsubject imports as the problem, but those were  
20 declining over the period and their prices were not as  
21 low as the prices of the Korean imports. They blame  
22 the startup of Efacec, but if you remove Efacec from  
23 the industry data the financial downturn of the  
24 industry is still apparent.

25           When the record data on competition, market

1 share and underselling did not work for the  
2 Respondents, they simply reinvented it by relying on a  
3 series of unsupported assumptions to create a new  
4 database that bears no resemblance to the data you  
5 collected.

6 As bad as things are now for the industry,  
7 however, the future looks even worse if the Korean  
8 producers are not subject to an order. The Korean  
9 producers have huge capacity and huge excess capacity  
10 that export large power transformers from their  
11 protected home market, and they are highly export  
12 oriented. They have already demonstrated the ability  
13 and desire to significantly increase exports to the  
14 market, and they have done so by underselling the  
15 domestic industry persistently and significantly.

16 They also face a third country barrier to  
17 exports in the form of a new trade case in Canada, as  
18 well as increased competition and weakening economies  
19 in the other markets to which they export,  
20 particularly India and China.

21 Absent relief from dumped imports of large  
22 power transformers from Korea, the present material  
23 injury from subject imports threatens to grow much  
24 worse in the imminent future. For these reasons, we  
25 ask that you reach an affirmative determination in

1 this case. Thank you.

2 MS. BARTON: We will receive opening remarks  
3 from Respondents, Warren E. Connelly, Akin Gump  
4 Strauss Hauer & Feld, LLP.

5 CHAIRMAN WILLIAMSON: Welcome, Mr. Connelly.

6 MR. CONNELLY: Thank you. Good morning.  
7 The over 60 MVA transformer market was a \$3.5 billion  
8 plus market during the period of investigation.  
9 Contracts are awarded through a competitive bidding  
10 process, so it is inevitable that some contracts will  
11 be won or lost on the basis of the initial bid prices  
12 that are offered. But the Petitioners have completely  
13 distorted the real nature of competition in the  
14 transformer market in order to avoid responsibility  
15 for their lack of competitiveness at many purchaser  
16 accounts.

17 Their most significant and persistent  
18 distortions are the following: First, it is not true  
19 that the initial bid price is the only important  
20 purchase consideration or even the most important  
21 purchase consideration.

22 Second, it is not true that Korean producers  
23 have prevailed in a significant number of bid  
24 competitors by offering lower prices.

25 Third, it is not true that domestic

1 producers are a competitive factor in the very large  
2 Category B segment of the market, which should be  
3 treated as a separate like product, nor are they  
4 factors in the wind power segment or the shell form  
5 segment.

6 Fourth, it is not true that alliance  
7 agreements lock in long-term sales at low prices or  
8 that purchasers enter into these agreements primarily  
9 for price-based reasons.

10 These and many more distortions characterize  
11 Petitioners' approach. You should be especially  
12 skeptical about the claims contained in their  
13 declarations. These declarations present a  
14 self-serving view of why they lost certain sales, but  
15 there is no way to verify the accuracy or the  
16 completeness of these assertions at this time.  
17 Frankly, the stories they are telling are either wrong  
18 or incomplete.

19 You should be equally skeptical of the  
20 Petitioners' effort to downplay the role of nonsubject  
21 imports. These imports dominate the U.S. market, they  
22 exceed Korean imports, and they increased  
23 substantially during the POI. In contrast, domestic  
24 producer market share remained stable during the POI.  
25 Moreover, there is no correlation between subject

1 import volumes and any decline in the domestic  
2 industry's condition in 2010 and thereafter.

3 The most reliable basis upon which the  
4 Commission should evaluate the parties' claims is the  
5 bid data submitted by purchasers. This data provides  
6 extensive insight into the nature and extent of  
7 competition at a broadly representative group of  
8 purchaser accounts. It constitutes the primary  
9 evidence that you should use to evaluate the  
10 Petitioners' claims.

11 We have thoroughly analyzed this data, and  
12 it confirms what our clients have always insisted is  
13 the case, which is that the domestic industry has not  
14 been the victim of significant import underselling or  
15 aggressive pricing tactics. We don't claim that price  
16 is irrelevant or immaterial to the purchase decision,  
17 nor do we claim that Korean imports have never  
18 undersold domestic producers.

19 However, far more often subject imports do  
20 not compete with domestic units, or where they do the  
21 price of the Korean transformer is not the deciding  
22 factor. Rather, nonprice factors, especially  
23 calculated energy losses, lead times and prior track  
24 record, have a heavy bearing on the purchaser's  
25 decision.

1           In summary, any problems that the domestic  
2 industry may have experienced are not the fault of  
3 subject imports. Without substantial evidence of  
4 adverse price effects, the Commission cannot find a  
5 causal link to import volumes. Equally important,  
6 demand in this industry is growing as evidenced by  
7 large, new investments by at least four domestic  
8 producers and increasing worldwide demand.

9           Waukesha, for example, has publicly stated  
10 that its newly expanded capacity is already fully  
11 booked for 2012, and it is taking orders for 2013.  
12 Waukesha also stated that in each of the last two  
13 quarters it has experienced revenue growth of 30  
14 percent for transformers. In short, the future of  
15 this industry is bright. Thank you.

16           CHAIRMAN WILLIAMSON: Thank you. Madam  
17 Secretary, will you please call the first panel?

18           MS. BARTON: Will the first panel please  
19 come forward?

20           (Pause.)

21           MR. LUBERDA: Good morning, Mr. Chairman,  
22 members of the Commission. We're going to just jump  
23 right into the testimony and forego all the  
24 introductions. Dennis, go ahead.

25           MR. BLAKE: Good morning. I am Dennis



1 Blake, General Manager of Pennsylvania Transformer. I  
2 have worked in sales and marketing with several U.S.  
3 manufacturers of transformers and spent my entire  
4 career since 1988 in the transformer industry.

5 A large power transformer is a component  
6 used in high voltage transmission systems to transfer  
7 power from electromagnetic induction by changing the  
8 values of voltage and current. Your staff report does  
9 a great job explaining how a transformer works and how  
10 we manufacture them.

11 I would like to begin my remarks today on  
12 why we defined the case the way we did. Modern  
13 generators at power plants produce electricity between  
14 15,000 and 24,000 volts while the efficient  
15 transmission of that electricity over long distances  
16 occur between 60,000 and 800,000 volts. In contrast,  
17 electricity is typically consumed in our homes at 110,  
18 120 volts.

19 So large power transformers are the devices  
20 that are used to increase the voltage of electricity  
21 produced at the power plants to transmit them across  
22 the grid, and transformers are used to reduce that  
23 voltage so that you can use these voltages at our  
24 homes. The transformers that operate at these high  
25 transmission voltages are the large power transformers

1 subject to this case. The smaller transformers that  
2 operate in the distribution systems have been  
3 excluded.

4 In my experience, 95 percent of the large  
5 power transformers defined in this case are used in  
6 the high voltage transmission systems, while 95  
7 percent of the transformers with a top rating less  
8 than 65 MVA are used in the low voltage distribution  
9 systems. This is one of the primary reasons the 60  
10 MVA line was drawn in this case, and it conforms to  
11 the general industry understanding of transformers.

12 All large power transformers covered by this  
13 case have essentially the same physical  
14 characteristics. They consist of insulated copper  
15 wire that is wound into coils. These coils are placed  
16 into a configured core that is made up of thin  
17 laminates of grain-oriented, silicon-coated,  
18 electrical steel. These coils and core makes an  
19 assembly.

20 These are put into a frame, this frame is  
21 put into a tank, and the tank is covered with  
22 insulating oil for coil and insulation. They all have  
23 bushings, cooling systems and some sort of  
24 instrumentation, and many have features like tap  
25 changers.

1           As the MVA size and line voltages go up, the  
2 complexity generally goes up as well, but factors like  
3 tap changers, the impedance levels, the sound levels  
4 and operating conditions can also dictate how complex  
5 the unit is. Every large power transformer is custom  
6 designed for a particular customer for use in a  
7 particular application and particular transmission  
8 system. Purchasers and producers view them as all  
9 large power transformers.

10           While one can differentiate large power  
11 transformers from distribution transformers on the  
12 basis of size, one really cannot draw the line  
13 advocated by the Respondents between the invented  
14 Group A and B. The only difference between a 300 MVA  
15 345 kV in Group A and a 302 MVA 345 kV -- that's two  
16 MVA -- is maybe a \$200 fan. Neither we nor our  
17 customers think of them as parts of different product  
18 groups produced by different industries.

19           There are a number of different common  
20 operating voltages in the power grid, including 69 kV,  
21 115, 161, 230 kV, 345, 500 and 65 kV. In fact,  
22 utilities have multiple high line voltages operating  
23 on their system. The same utilities that buy from  
24 transformers in invented Group B also purchase  
25 transformers in invented Group A.

1           The domestic industry has the capacity to  
2 build transformers in both of the groupings.  
3 Pennsylvania Transformer facility, located in  
4 Canonsburg, Pennsylvania, can produce transformers in  
5 both of the size ranges. We have over a million  
6 square feet of shop floor space, making us the largest  
7 transformer production facility in the United States  
8 in terms of square footage.

9           Our cranes can lift over a million pounds  
10 because the facility was originally designed and built  
11 to build transformers up to 1,000 MVA and 765 kV. As  
12 we are currently configured today, Pennsylvania  
13 Transformer is able to produce a wide range of large  
14 power transformers from 60 MVA up to 500 MVA. We  
15 recently produced a 400 MVA 230 kV generator step-up  
16 transformer that will be used with a single phase unit  
17 and combined together makes a 1,200 MVA bank for a  
18 nuclear power facility.

19           Now, large power transformers are not off  
20 the shelf items, but are produced to the individual  
21 specifications of the customer. Our interaction and  
22 cooperation with the customer starts from the  
23 beginning of the design process, and many customers  
24 will actually come into our shop floor in order to  
25 individually inspect each transformer.

1           Larger transformers take weeks to quote,  
2 months to design and many months to build. Domestic  
3 producers work closely with customers throughout the  
4 production, transportation and on-site installation  
5 processes. The Korean manufacturers sell their  
6 product in very much the same way. In fact, both  
7 Hyundai and Hyosung have substantial sales forces in  
8 the United States. These companies are extremely  
9 focused on the U.S. market and are widely accepted by  
10 our customers.

11           While quality, delivery and specifications  
12 are important to the sales process for all of us,  
13 price plays a pivotal role in the vast majority of  
14 bids awarded. As far as prices go, since the Koreans  
15 increased their focus on the U.S. market a few years  
16 ago they have been driving a steady decline in prices  
17 in our market.

18           The bid feedback we get from our customers  
19 on bids in which Pennsylvania Transformer is competing  
20 with the Korean producers typically shows them to be  
21 roughly 20 to 25 percent below our prices. Because  
22 they have huge capacities and the United States  
23 represents the largest installed base of large power  
24 transformers in the world, Korean producers have  
25 consistently pushed low prices to gain customers and

1 sales.

2 In addition to competing with domestic  
3 producers, Hyundai and Hyosung also have a tremendous  
4 competitive rivalry. The U.S. market has become a  
5 ring in which they are fighting for sales, and the  
6 domestic producers have been the clearest victims of  
7 this battle as the Korean companies push prices ever  
8 lower. In fact, as I stated in my declaration in the  
9 prehearing brief, a Korean producer made it clear to  
10 my company that they plan on crushing any producer  
11 that stands in their path to dominate the U.S. market  
12 for large power transformers.

13 If anything, price has become even more  
14 important in recent years. Whereas a decade ago  
15 purchasing decisions were often controlled by the  
16 engineers, today they are more often led by the  
17 purchasing managers who are concerned with how many  
18 transformers they can buy and add into their rate base  
19 and available budget.

20 Of significant concern to us is the number  
21 of blanket or alliance agreements that are being won  
22 by the Korean producers with low prices. These  
23 agreements with purchasers set prices and terms and  
24 conditions of the sale of multiple units for periods  
25 of three to five years. The effect of these

1 agreements is almost always to funnel the largest  
2 portion of the purchases to the alliance partners.  
3 This is because agreements lock in low prices and  
4 reduce engineering and product review costs for the  
5 producer and the purchaser.

6 As the Korean producers have grabbed an  
7 increasing number of these blanket agreements, it has  
8 most often meant that we have lost the opportunity to  
9 even bid on those projects for a period of three to  
10 five years unless we are willing to significantly  
11 undercut the low alliance price they already have. So  
12 instead of losing a single sale, we have lost several  
13 years worth of potential transformer sales to those  
14 utilities. When those alliances are won at very low  
15 prices they also exert continuing downward price  
16 pressure in the market for the life of the agreement.

17 For our unregulated customers such as wind  
18 farms and renewable energy sources, prices have played  
19 even a bigger role. While there was excitement in our  
20 industry at the prospect of new wind farms being built  
21 across the United States and their associated need for  
22 step-up transformers to allow them to feed the  
23 electrical grid, we have been very disappointed by the  
24 actual level of sales we have achieved.

25 The reality is is that we have been

1 completely shut out of the wind farm customers because  
2 the Korean manufacturers, Hyosung, have essentially  
3 bought all this business with their lowball pricing.  
4 The Korean producers bid on, make and sell every size  
5 of transformers that Pennsylvania Transformer makes,  
6 and we see them competing against us in most of our  
7 customers.

8 This case is now providing us with  
9 opportunities to successfully bid on business that  
10 otherwise would have been lost to us. We currently  
11 have plenty of unused capacity and would love to  
12 replace some of the production workers that have left  
13 our company over the last couple years.

14 We would also like to make more of the  
15 larger sizes of the transformers that the Korean  
16 producers apparently believe they are entitled to  
17 exclusively control. These things are only likely to  
18 happen if the Koreans are subjected to the discipline  
19 of a dumping order. Thank you.

20 MS. CUSACK: Good morning. I am Deirdre  
21 Cusack, the Senior Vice President and General Manager  
22 for ABB's North American Power Transformer operations.

23 ABB is one of the world's leading electric power  
24 engineering companies. We manufacture larger power  
25 transformers pursuant to demanding industry standards.



1                   In the United States, ABB and its  
2 predecessor companies have been producing power  
3 transformers for over 100 years. We estimate that  
4 roughly 75 percent of the installed transformer base  
5 in the United States was produced by ABB or its legacy  
6 companies. We manufacture large power transformers at  
7 our St. Louis, Missouri, and South Boston, Virginia,  
8 facilities.

9                   For the past several years, ABB has faced  
10 increased competition from low-priced, large power  
11 transformers from Korea. Those dumped imports have  
12 driven down prices, undersold ABB and taken sales from  
13 ABB at customers with which we've had longstanding  
14 relationships.

15                   We aren't losing those sales because Korean  
16 producers sell a better product than ABB or offer  
17 services that we do not offer. They don't. Our  
18 quality and service are the best in the industry. We  
19 have been losing sales because over and over the  
20 Korean producers, particularly Hyundai and Hyosung,  
21 have been offering prices that are significantly lower  
22 than ours and often even lower than our costs.

23                   The assertions by the Koreans that their  
24 imports are somehow not competing with domestic  
25 producers or with ABB in particular is patently false.

1       Hyundai and Hyosung produce every large power  
2 transformer model that ABB producers in the United  
3 States, and we have been constantly in competition  
4 with them throughout the period of investigation  
5 across our entire product line.

6               In fact, it has been my experience that we  
7 see competition from Korean imports at more accounts  
8 and at lower prices than from any other suppliers.  
9 How do we know this when bids are generally not  
10 published? We know our customers' requirements very  
11 well, and we do get feedback from them.

12               For many customers, we know who has  
13 qualified to bid for the size unit and from whom past  
14 purchases have been made. While we do not receive  
15 full competitive information in advance of submitting  
16 our bids, we do have a good idea as to who is bidding  
17 on a project, and often times the purchaser will even  
18 give us a rough idea of their project budget.

19               After a bid award has been made, we also  
20 often get feedback about how far above the winning bid  
21 our price was, or we might be told that only bids  
22 within a certain product range of the lowest bids were  
23 evaluated, giving us an idea of where our bid was  
24 relative to the winning bid. In the case of public  
25 utility bids, the results are publicly available,

1 making it possible to determine precisely who won the  
2 bid and at what price. With this collection of  
3 information, we have a pretty good idea of what the  
4 Koreans are offering in terms of their prices.

5 At customer after customer, we are told that  
6 Hyundai and HICO are 10, 20, 30 and even 40 percent  
7 below our prices, and we've provided you with that  
8 information in our prehearing brief. No matter how  
9 many large power transformers we've sold them before  
10 and no matter how much they like our product, no  
11 purchaser can ignore that sort of underselling. If  
12 ABB wants to win the next sale, we have to compete at  
13 those price levels.

14 We have attempted to lower our prices to be  
15 competitive with the dumped Korean prices at a variety  
16 of customers. We provided you with some of that  
17 information in our prehearing brief. When we bid at  
18 prices that represented healthy historical returns to  
19 ABB, we were consistently underbid and lost sales to  
20 the Koreans. As we reduced our margins lower over  
21 time, we often still continued to lose sales to the  
22 Koreans. In some cases, we were only successful in  
23 getting the sale when we agreed to prices that were at  
24 losses.

25 The harmful effects of this Korean

1 underselling became even more apparent at customers  
2 that have signed blanket agreements or alliance  
3 agreements with the Koreans based on their low prices.

4 Once these agreements are signed, the vast majority  
5 of these sales are awarded to the alliance partners  
6 for typically a three to five year duration of their  
7 agreement.

8 Most of these sales are not even put out for  
9 bid, meaning that ABB and other domestic producers are  
10 never given a chance to compete for these sales. This  
11 does not mean that we're not interested in obtaining  
12 these sales. In many instances before these customers  
13 entered into long-term supply agreements with the  
14 Korean producers we were selling transformers to these  
15 accounts.

16 To take any significant business from a  
17 customer with an alliance with a Korean producer, we  
18 would have to significantly undercut their prices.  
19 That is because the customer has no economic incentive  
20 to go through the trouble and expense of the  
21 procurement and engineering process with ABB on a  
22 Korean alliance product unless ABB is offering a  
23 significant additional discount to the Korean price.  
24 With the underselling we have experienced from the  
25 Koreans, that would generally require bidding at or

1 below our cost of production. That is not a business  
2 proposition that we could sustain.

3 While these blanket and alliance agreements  
4 act as long-term ceilings on prices, they do not act  
5 as a floor. Purchasers can and do seek lower prices  
6 when they think the market will allow us. Thus, at  
7 accounts at which ABB has blanket agreements the  
8 customer has developed competitive pricing for Korean  
9 imports and uses that information to negotiate  
10 significant price reductions from ABB.

11 One such customer told us after reopening an  
12 existing alliance the pricing from the competing  
13 quotes would have allowed them to purchase four Korean  
14 large power transducers for the price of three from  
15 ABB. We kept this business, but had to lower our  
16 prices significantly not just for one transformer, but  
17 for all of the business in the life of the new  
18 contract.

19 The relentless underselling by the Koreans  
20 has reset the U.S. market over the past few years at  
21 pricing levels that are harmful to the domestic  
22 industry. A sale won by a low-priced Korean import  
23 encourages all suppliers, whether from the domestic  
24 industry or third countries, to reduce their prices on  
25 future bids.

1           In my experience, Korean imports have been  
2 the price leaders on the downside in the U.S.  
3 transformer market for the past three years, and large  
4 power transformers from Korea have been offered at  
5 prices that have been well below those bid from all  
6 other sources, foreign or domestic.

7           ABB also competes with the Korean producers  
8 in the United States from affiliates in third  
9 countries in sizes we don't make here. I can tell you  
10 with certainty that the Korean producers are  
11 underselling our third country prices as well. They  
12 just don't tend to undersell imports from other third  
13 country sources.

14           At customer after customer, we have seen  
15 prices erode and sales lost as the Korean producers  
16 undersell the domestic industry. Without relief from  
17 the Korean producers' aggressive pricing practices,  
18 ABB is left with two equally unsustainable options.  
19 We can forego sales at customers in which the Korean  
20 producers compete. That would leave us with not much  
21 of a market for our large power transformers. Backing  
22 away from competition with the Koreans would mean  
23 ceding the vast majority of our U.S. sales to them and  
24 jeopardizing the very existence of our U.S.  
25 operations.

1           The second choice would be to sell at prices  
2 that do not fully cover our costs to maintain sales  
3 and production. Obviously we cannot price below our  
4 cost for an extended period of time and expect to  
5 remain solvent or continue to produce transformers.

6           The price depressing effects of the Korean  
7 imports on ABB's profitability in the 2009 to 2012  
8 period were plain to see in our questionnaire  
9 response. The combined impact of lost volume and  
10 depressed sales prices caused by the competition from  
11 Korean imports has led to reduced revenues, resulted  
12 in lower operating profits, reduced our capital  
13 investment and caused layoffs of production workers at  
14 both our St. Louis and South Boston facilities.

15           This case is critical to ABB's future  
16 success as a domestic producer of transformers. The  
17 margins of dumping found by the Commerce Department  
18 reflect the aggressive Korean pricing and underselling  
19 we have witnessed in our market.

20           Our industry badly needs the destructive  
21 pricing practices of the Korean imports to end so that  
22 we can obtain a reasonable return on our sales of  
23 large power transformers and make the investments  
24 required for our long-term survival. Thank you for  
25 your attention.

1           MR. GUERRA: Good morning. My name is Jorge  
2 Guerra. I'm the Chief Operations Officer of USA  
3 Operations for Efacec, a domestic producer of large  
4 power transformers located in Rincon, Georgia. I have  
5 been involved in the U.S. power transformers market  
6 since 1998.

7           Although Efacec was not a Petitioner in this  
8 case, I appear today in support of this trade action  
9 and the need for relief from the unfair pricing by the  
10 Korean producers. These dumped imports have caused  
11 severe damage to my company over the past three years.

12           Let me first give you some background on my  
13 company. Efacec began to put together \$142 million in  
14 financing for our 24,000 MVA U.S. production facility  
15 in Georgia in 2007. At that time, the demand for  
16 larger power transformers was strong and prices were  
17 healthy. Efacec had a long history of success in the  
18 U.S. market based on sales of transformers from our  
19 facility in Portugal. In fact, we were encouraged by  
20 a number of customers to establish the U.S. production  
21 operations.

22           We started construction of our Georgia  
23 facility in September 2008 and began production at the  
24 beginning of 2010 when our factory was completed. We  
25 currently employ about 250 highly skilled workers in



1 Georgia. As part of our work with the State of  
2 Georgia in establishing this facility, we made a  
3 commitment to hire roughly 450 workers. We also  
4 projected that our operations would create as many as  
5 1,000 additional indirect jobs in Georgia when we  
6 reached our production target.

7 Unlike many new startup companies, Efacec  
8 had a long track record in working with U.S.  
9 customers. We were able to obtain orders for large  
10 power transformers even before our Georgia facility  
11 was completed so that production commenced as soon as  
12 it opened. As you can see from the bid history we  
13 supplied for the record of this case, Efacec has been  
14 participating in bids for transformer projects over  
15 the past three years and has been producing  
16 transformers since 2010, including the very large size  
17 of transformers.

18 While we can build every size of transformer  
19 covered by the scope of this investigation in Georgia,  
20 our plant is designed to build the largest size of  
21 transformers used in the United States. We can build  
22 transformers up to 1,500 MVA with voltages up to  
23 765 kV. We are regularly bidding on building  
24 transformers rated over 300 MVA in the 345 and 525  
25 voltage classes.

1           We can also build both core and shell  
2 transformers in each of the size groupings identified  
3 by the Koreans. Here you can see the 700 MVA shell  
4 form transformer that we produced in our facility in  
5 Georgia in 2011. In March of this year, we received  
6 an order for the 900 MVA generator step-up shell  
7 transformer that weighed almost a million pounds when  
8 completed.

9           We do not face technology limitations at our  
10 Georgia production facility. The biggest obstacle for  
11 Efacec achieving its sales and production goals has  
12 been competition from extremely low-priced Korean  
13 transformers. Although meeting customer quality and  
14 specifications is critical, Efacec has built an  
15 outstanding reputation in the U.S. market over the  
16 years on these issues.

17           We cannot win bids, however, unless we price  
18 competitively with the dumped transformers from Korea.

19       The lower prices that Korean producers offer is the  
20 reason we are losing these sales, not our start-up  
21 operations or any other factor.

22           Let me give you one very good example that  
23 is in more detail in my confidential declaration  
24 included in Petitioners' brief. In both 2008 and  
25 2011, Efacec bid on an identical transformer design of

1 a large transformer of 580 MVA with a particular  
2 customer. Our 2008 bid was successful, and we  
3 delivered that unit to the customer in 2010.

4 Fast forward now to last year. Based on our  
5 successful production of that unit, we were invited by  
6 the same customer to bid on a second identical unit in  
7 2011. By 2011, however, the Korean producers were  
8 also involved in the bidding process for this sale. I  
9 knew from competing with the Korean producers on all  
10 their bids that their prices would be significantly  
11 below the price we would normally bid to cover our  
12 cost plus a reasonable allowance for profit.

13 Because I know that the Koreans were bidding  
14 for this second sale, Efacec significantly reduced our  
15 price bid from the 2008 price to try to keep this  
16 customer. In fact, we dropped the price by double  
17 digit margins to try to win. Despite Efacec's  
18 significant bid price reduction, we did not win the  
19 sale. The feedback I received was the Korean producer  
20 underbid Efacec's already reduced price by double  
21 digit margins.

22 That kind of price undercutting translates  
23 into hundreds of thousands of dollars on large power  
24 transformers, which makes it hard for a customer to  
25 turn down. I understand the Korean producers have

1 argued that we don't know the prices they are offering  
2 because of the nature of the bid process and that  
3 initial bid prices are not important for the sale.  
4 Both of those claims are wrong.

5 Even though bid prices are confidential,  
6 customers provide sufficient informal feedback to know  
7 what price level we're competing with when we bid  
8 against the Koreans. The feedback that we get from  
9 customers tells us the Korean producers' prices are  
10 far lower than Efacec's prices by roughly 20 to 25  
11 percent on average.

12 Since I only get one chance to bid, I have  
13 to make my offer low enough to even have a chance of  
14 winning against their low prices. Further, the  
15 initial bid price is extremely important because it  
16 represents the actual immediate capital outlay for the  
17 customer. Losses do not generally vary all that much  
18 between producers, so the initial bid price is  
19 generally the driver of the sale or at least the  
20 largest single component of the total evaluated cost.

21 Purchasers in fact frequently use the  
22 initial bid price to narrow down the number of bids  
23 that will be fully evaluated. We have found that a  
24 purchaser might only evaluate those bidders within 10  
25 to 20 percent of the lowest initial bid price or might

1 evaluate only the three bids with the lowest initial  
2 price. A low initial price significantly increases  
3 the chance that the bid will be successful. The  
4 Korean producers win bids frequently with both the  
5 lowest initial price and the lowest evaluated cost.

6 In addition to low prices, we understand  
7 that Korean producers generally accept costly terms  
8 and conditions without negotiation. These include  
9 extended warranties, significant uncapped damage  
10 clauses, extended liability of in and out expenses and  
11 extended payment terms.

12 These terms all have a monetary value to the  
13 customers and a cost associated with the additional  
14 risk taken on by the producer. Agreeing to all terms  
15 and conditions without exception becomes another means  
16 for the Korean producers to offer lower cost to the  
17 customer and to undersell U.S. producers that will not  
18 accept unreasonable terms and conditions.

19 You should also recognize that preparing  
20 bids is very expensive, requiring significant time and  
21 resources for engineering, design and transportation  
22 cost calculations. When we discover that the Korean  
23 producers are bidding on a project, there have been  
24 times that Efacec has opted not to incur the expenses  
25 of developing a bid because we knew our prices will

1 not be competitive with the Korean producers' prices.

2 Since the case was filed and preliminary  
3 duties imposed, Efacec has been given new  
4 opportunities to bid and has won orders from U.S.  
5 customers that previously purchased transformers from  
6 the Korean producers. We have heard from different  
7 customers that both Hyundai and HICO have been raising  
8 prices and even canceling deliveries since the  
9 antidumping case was filed.

10 When the Korean producers have to compete  
11 fairly, Efacec can profitably win sales of large power  
12 transformers, particularly in those large sizes from  
13 which the Korean producers have sought to keep for  
14 themselves by offering such lower prices. Although  
15 Hyundai and Hyosung have been the focus of our  
16 problems in the past years, Korean producer Iljin has  
17 also increased its presence in the U.S. market and is  
18 a threat for future business for Efacec.

19 Iljin recently completed a new, large  
20 production facility for transformers in Korea that we  
21 understand is targeted at support into the U.S.  
22 market. We have seen Iljin bidding on projects as  
23 recently as last month at the Eugene Water & Electric  
24 Board. Iljin also had a large booth at the IEEE trade  
25 show in Orlando in May 2012, confirming its interest

1 in the U.S. market.

2 Without an antidumping order, Iljin will  
3 undoubtedly play a much larger role in the U.S.  
4 transformer market, making it even more difficult for  
5 Efacec to obtain business. Efacec has worked hard to  
6 establish a state-of-the-art facility in Georgia,  
7 right here in the U.S., where we are employing a  
8 number of U.S. workers and would like to employ many  
9 more.

10 We cannot generate the critical mass we need  
11 to operate our factory profitably if the Koreans are  
12 permitted to dump in the U.S. market. Thank you.

13 MR. NEWMAN: Good morning. I'm Steve  
14 Newman, Vice President of Delta Star. I've held this  
15 position for the last six years. As vice president, I  
16 oversee Delta Star's sales and marketing of power  
17 transformers. Today I'd like to address the effects  
18 of low-priced import competition from Korea on Delta  
19 Star and the U.S. market.

20 Delta Star was established over 100 years  
21 ago and entered the transformer market in the 1950s.  
22 We have large transformer manufacturing facilities in  
23 Lynchburg, Virginia, and in San Carlos, California.  
24 In 1988, the company was sold to the Delta Star  
25 Employee Stock Ownership Plan, or an ESOP. Delta Star

1 is unique in this industry as being an employee owned  
2 company.

3 At Delta Star, we pride ourselves in  
4 providing high-quality, reliable, custom-made products  
5 to satisfy our customers' specification in the large  
6 power transformer industry. Delta Star has long  
7 considered itself to be a leader in this industry in  
8 terms of product quality and customer satisfaction.  
9 Unfortunately, despite our years of experience and  
10 commitment to quality Delta Star has been struggling  
11 to compete in the transformer sales with unfairly  
12 traded imports from Korea.

13 In recent years, our profits have declined  
14 due to imports from Korea that consistently undercut  
15 our prices. Because we are an ESOP we have not laid  
16 off workers, and it has been very important to us to  
17 keep our people working. To do that we have had to  
18 reduce our prices often to below break-even levels in  
19 an attempt to retain sales due to competition from the  
20 Korean imports.

21 Transformers are massive products that are  
22 made-to-order for specific customers. You have heard  
23 this morning competition for sales of transformers  
24 occurs through a bid process. After customers send us  
25 a request for bid, Delta Star develops a design,



1 estimates the cost for that specific transformer.  
2 This is a lengthy process. Although there may be  
3 opportunities to submit a second bid, most often only  
4 one bid is considered by the purchaser.

5 Our participation in the markets gives us a  
6 gauge of what price level is needed to obtain the  
7 business. We receive informal verbal feedback from  
8 customers after the sale is made and sometimes during  
9 the sale process as to approximately how much lower  
10 the Korean prices are compared to our prices.

11 The prices at which Delta Star has been  
12 forced to compete have become increasingly depressed  
13 over the last several years. We compete directly with  
14 the Korean producers for sales. Korean import prices  
15 undercut our prices by large margins with the Koreans  
16 often offering prices that are below our actual costs.

17 This aggressive pricing behavior has enabled the  
18 Korean producers like Hyundai and Hyosung to increase  
19 their sales in the United States at the expense of  
20 Delta Star.

21 Knowing the low prices that we are faced  
22 with from the Korean imports, Delta Star's initial bid  
23 offering has often been at prices that we know we will  
24 lose money if we win the bid. The prices at which the  
25 Korean producers bid large power transformers simply

1 allow no room for us to earn a profit. We either lose  
2 bids to low pricing by the Korean producers or we win  
3 the bids and must sell the transformers at a loss.

4 This is keeping jobs for our employees, but  
5 the situation needs to improve soon if Delta Star is  
6 to earn a reasonable level of profit to remain in  
7 business over the long term. Even at the lower prices  
8 at which Delta Star bids, we still lose sales to the  
9 imports from Korea as reflected in numerous lost bid  
10 examples in our questionnaire response.

11 It is important to recognize that many of  
12 our lost sales opportunities to the Korean producers  
13 are not always identifiable in the direct head-to-head  
14 bid competition of the type you requested in your  
15 questionnaires. A number of customers set up  
16 long-term alliances with specific suppliers that as a  
17 practical matter lock in one particular supplier for  
18 over two to five years.

19 In 2010, Delta Star lost a bid for an  
20 alliance agreement to Hyundai, who locked in a three  
21 year alliance based on its low price offer. Hyundai's  
22 ability to secure this one alliance alone had a major  
23 impact on my company. Delta Star has not received any  
24 large power transformer business from this customer  
25 since we lost the alliance.

1           While alliance agreements allow a customer  
2           to source elsewhere, the reality is once we lose the  
3           alliance contract we rarely, if ever, receive any  
4           business from that customers. These alliances will  
5           provide Hyundai millions of dollars in business over  
6           the next several years, while Delta Star and other  
7           U.S. producers lose out on these sales.

8           Without some restraint on the unfair Korean  
9           pricing behavior, the outlook for Delta Star and the  
10          entire U.S. industry is bleak. On behalf of my  
11          company and its employee owners, I urge the Commission  
12          to help us obtain the relief we need to survive as a  
13          U.S. industry. Thank you.

14          MR. LUBERDA: For the record, this is Alan  
15          Luberda again. I want to make a couple points about  
16          the like product and attenuated competition claims of  
17          the Respondents. Let me start with where we actually  
18          agree with the Respondents. First, they seem to agree  
19          now that transformers under 60 MVA are not within the  
20          like product for large power transformers.

21          Second, we agree with the Respondents that  
22          all large power transformers generally have the same  
23          general physical characteristics and uses. They are  
24          sold through the same channels of distribution and are  
25          unique, made-to-order products that are generally not

1 interchangeably with one another. They in fact come  
2 in a range of MVA and voltage combinations to match  
3 the particular needs of the customer.

4 Where we disagree with the Respondents is  
5 where one can rationally draw a bright line, whether  
6 we can do that where the Respondents have asked you to  
7 draw that, and you can't. In fact, Hyundai doesn't  
8 even attempt to argue it in its brief.

9 As you see in the slide above, Respondents  
10 have defined so-called Category A as large power  
11 transformers rated 60 to 300 MVA with high line  
12 voltages in the 345 kV class and those rated 60 MVA  
13 and over, no matter how large they are, that have a  
14 high line voltage under 345 kV. In Category B they  
15 group everything rated over 60 MVA with the high line  
16 voltages in the 500 kV or more classes with everything  
17 over 300 MVA at the 345 kV class.

18 Oh, and then you have to do a conversion  
19 formula to change auto transformer MVA to GSU  
20 equivalence to decide which category the product is  
21 going to go in. If you find this confusing, you are  
22 not alone. You won't find this definition in any  
23 industry publication, standard or website.

24 This slide lists some of the various  
25 products that would fall in one or the other category,

1 and it demonstrates the incredible variation in  
2 products that are grouped within each of these  
3 categories, as well as between them, and how similar  
4 some of them are between the two as well.

5 The like product line the Koreans are asking  
6 you to draw between the transformers in Category A and  
7 B could just as easily be drawn between transformers  
8 within each group. There is no bright line here.  
9 Large power transformers are the classic example of a  
10 continuum product with physical and performance  
11 characteristics that vary by degree along a broad  
12 continuum depending on the particular needs of the  
13 user. In similar cases, the Commission has  
14 consistently found a single like product rather than  
15 multiple like products, and you should do so in this  
16 case as well.

17 Now, it's not surprising that no bright line  
18 exists here under your six-part test because  
19 Respondents didn't base these definitions on your  
20 six-part text. These product definitions were driven  
21 instead by their claims that Category A consisted of  
22 the products the domestic industry manufactures while  
23 Category B consists of those products that they say it  
24 does not manufacture.

25 There's both a legal and a factual problem

1 with their proposed like product definition. Legally  
2 the Commission has consistently rejected the notion  
3 that like product can be defined as a product not  
4 produced by the domestic industry. If there was in  
5 fact no domestic production of Category B transformers  
6 as a statutory matter the domestic like product would  
7 be based on the product most similar in  
8 characteristics and uses as imported Category B  
9 transformers. That would be Category A transformers,  
10 which leads back to the single like product.

11 Indeed, the Commission has consistently  
12 refused to define separate like products for items not  
13 manufactured by the domestic industry. There's also  
14 no legal requirement that the domestic industry be  
15 able to produce every product within our like product  
16 definition.

17 The factual problem with Respondents' like  
18 product definition is that the domestic industry can  
19 produce and is bidding on Category B large power  
20 transformers, as you've already heard from Mr. Guerra.

21 In fact, the domestic industry has been expanding  
22 capacity for and bidding increasingly on these large  
23 units during the POI, only to be frustrated in those  
24 efforts by lower priced Korean imports.

25 The like product definition the Respondents

1 have presented is purely a function of their attempt  
2 to demonstrate market segmentation and attenuated  
3 competition. This argument, though, asks the  
4 Commission to begin its analysis with transformers  
5 that the Respondents allege that we as an industry  
6 can't produce, which really turns the statutory  
7 analysis on its head.

8           The Commission's injury analysis and its  
9 scrutiny of these attenuated competition claims must  
10 begin with looking at the competition between those  
11 products we actually do produce and the subject  
12 imports. The record evidence demonstrates beyond  
13 question that the Korean producers sell in the United  
14 States in every product that the domestic industry  
15 produces and they do so in significant quantities.

16           Although the Korean producers would have you  
17 believe they sell primarily in Category B and only  
18 marginally in Category A, that's hardly the case. I  
19 ask you to compare domestic industry shipments  
20 reported in Table D-1 with the Korean import shipments  
21 reported in Table D-3 of the staff report, both of  
22 which fall in Category A. These tables show a  
23 complete competitive overlap and demonstrate that the  
24 Koreans are a dominant factor in competition for the  
25 types of transformers that the domestic industry most

1 produces.

2 Nor have the Korean producers focused their  
3 sales on the so-called Category B transformers as a  
4 comparison of Tables D-3 and D-4 of the staff report  
5 make clear. They are competing aggressively  
6 throughout the market. The bid data in Appendix F for  
7 the staff report further demonstrates the direct  
8 competition between the subject imports and the U.S.  
9 product.

10 The Commission found 93 instances of direct  
11 competition between the Korean and domestic producers  
12 in this sample of the market. They represented over  
13 56 percent of all the Korean bids and over 62 percent  
14 of all the reported domestic bids. Domestic producers  
15 also compete directly with each of the individual  
16 Korean producers. Table B-6 of the staff report shows  
17 that there were 91 direct bid comparisons with HICO,  
18 83 with Hyundai, 11 with Iljin and three with LSIS.

19 The domestic industry also invested to be  
20 able to compete for the so-called Category B large  
21 power transformers. As you heard Mr. Guerra testify,  
22 Efacec manufactures and has been actively marketing  
23 these products since 2009 and actively marketing  
24 everything the Koreans are now selling in the United  
25 States. In fact, Efacec's U.S. facility was built to



1 produce the very sizes and models, including shell,  
2 for which the Koreans claim that they have no domestic  
3 competition.

4 Publicly available information on Waukesha  
5 also shows their new capacity is aimed squarely at the  
6 large power transformers in the so-called Category B.

7 Respondents simply ignore these huge investments made  
8 by Efacec and Waukesha during the period of  
9 investigation to produce the largest sizes of  
10 transformer.

11 As you've heard Mr. Blake testify,  
12 Pennsylvania Transformer also has the capacity to make  
13 Category B transformers up to 500 MVA and voltage up  
14 to 500 kV. We will provide the Commission in the  
15 posthearing brief a listing of bids by Pennsylvania  
16 Transformer in Category B.

17 To the extent that Pennsylvania Transformer  
18 is not winning those bids or getting more  
19 opportunities, that's a function of the low market  
20 prices for these transformers being set by the dumped  
21 Korean imports. In fact, Efacec, Waukesha and  
22 Pennsylvania Transformer all would like to sell more  
23 of these larger, high voltage units in Category B that  
24 their facilities are configured to produce. What's  
25 hampering them, as Mr. Guerra testified, is the

1 aggressive pricing of the Korean producers.

2 The domestic industry is entitled to relief  
3 from injurious dumping across the full range of  
4 products it can manufacture. The Korean producers are  
5 not entitled to carve out a chunk of the market to  
6 keep for themselves by using dumping practices to  
7 undersell the domestic industry merely because they  
8 currently sell more of those sizes of the transformers  
9 in the market today than the domestic industry does.

10 The Korean producers are the dominant force  
11 in the large power transformer market no matter what  
12 size or type of transformer you examine, the dominant  
13 competition in every size range that the domestic  
14 industry is producing, plus significant sales volumes  
15 driven by low and declining prices that undersell the  
16 domestic industry and nonsubject producers alike, and  
17 they are also using the same aggressive practices to  
18 keep the domestic industry out of the so-called  
19 Category B transformers in which the domestic industry  
20 is now heavily invested.

21 MS. CANNON: Good morning. I am Kathleen  
22 Cannon, and I will conclude our presentation today by  
23 addressing the causal nexus issue.

24 Let's start with volume. As Chart 1 taken  
25 from official Census statistics shows, imports from

1 Korea were the largest single source of large power  
2 transformers in the U.S. market in 2011. Although the  
3 actual volumes reported are confidential, Chart 2  
4 indexes those volumes so you can see Korean import  
5 trends. From 2009 through 2011, import volumes from  
6 Korea increased significantly. Respondents' assertion  
7 that the import volumes from Korea are small and  
8 declining reflects reliance on their wholesale  
9 revisions to the ITC database because the data, as  
10 presented, do not support their claim.

11           These increasing Korean import volumes also  
12 captured a large and increasing share of the U.S.  
13 market. The failure of the Korean importers to  
14 accurately report import shipments, as discussed at  
15 page 47 to 49 of our brief, has led to an  
16 understatement of their market share and a distortion  
17 of market share trends. In fact, Korean market share  
18 has grown over the past three years while the domestic  
19 industry's market share has declined. We have  
20 provided evidence of over \$70 million in lost sales to  
21 imports from Korea that purchasers either agreed with  
22 or did not refute, and these lost sales are only on  
23 individual units. They do not being to account for  
24 the lost sales as a result of alliance contracts that  
25 effectively preclude domestic producers from future

1 sales to a customer. The Commission recognized  
2 similar lost sales as present injury in the low  
3 enriched uranium case.

4 Chart 3 shows just one example of such an  
5 agreement. Hyundai's 2010 annual report identifies  
6 \$60 million in alliance contract entered with Southern  
7 California Edison to supply transformers through 2019,  
8 another seven years. Hyundai's reference to the huge  
9 dollar value of this contract belies Respondents'  
10 claims that these contracts don't provide any sales  
11 commitments. As a practical matter, they certainly  
12 do.

13 Hyundai also emphasizes that we now have 40  
14 percent of the North American market for high-voltage  
15 transformers, not even counting Hyosung. That's  
16 hardly a small volume of imports.

17 Although Respondents would have you believe  
18 that their ability to gain this large volume of sales  
19 in the U.S. market has little to do with price, their  
20 claim is not borne out by the record. Eighty-nine  
21 percent of responding purchasers said lowest price is  
22 very important to their buying decision. Purchasers  
23 overwhelmingly reported that the U.S. and Korean  
24 products are comparable across most technical,  
25 quality, and service factors, but they stated that

1 Korean imports much more frequently had the lowest  
2 price.

3 Chart 4 shows that purchasers identified  
4 either price, cost, low bid, or evaluated cost, low  
5 total cost of ownership as the main factor driving  
6 their buying decision. When a Korean producer was  
7 awarded the bid low price was identified by the  
8 purchasers even more frequently than when bids went to  
9 U.S. or non-subject producers.

10 Chart 5 aggregates willing bids by supplier  
11 based on purchaser questionnaire response, and this is  
12 also from the staff report. Of the 16 instances in  
13 which only the U.S. and Koreans completed, the Koreans  
14 won 14 sales. Of the 77 instances in which the U.S.,  
15 Koreans, and non-subject imports completed, the  
16 Koreans again won nearly three times as often as U.S.  
17 producers and significantly more often than non-  
18 subject producers as well.

19 When you compare the purchasers' reasons for  
20 awarding the bid, as show in Chart 4, with who won the  
21 bid in Chart 5, it is apparent that the Koreans are  
22 winning bids primarily based on offering the lowest  
23 price. The summary table in Exhibit 12 to our brief,  
24 which lists the instances in which the Korean producer  
25 won a bid when competing with a U.S. producer, shows

1 that Korean producers offer the lowest prices most  
2 frequently, sell at substantial underselling margins,  
3 and win bids on that basis.

4 Although the lowest bid or total cost did  
5 not always win, when the Koreans won the bid it was  
6 generally because they were the lowest price.

7 Our witnesses have each described the  
8 significant and rampant underselling they are seeing  
9 in the market by the Korean imports. Chart 6 provides  
10 just one such example of a public bid showing the  
11 Korean producers, both Hyundai and HICO, at extremely  
12 low prices. This bid was ultimately awarded to  
13 Hyundai at the lowest evaluated price, a price that  
14 was even lower than the customer's engineer projected.

15 You have also heard from U.S. producers  
16 today that they are well aware from informal market  
17 feedback as to competing price levels despite the  
18 confidential bidding process. This same behavior  
19 occurred in the vector supercomputer case where the  
20 ITC found that buyers disclosed post-sale information  
21 on competing prices to other buyers, leaving those  
22 buyers to expect similar low prices on future bids.  
23 The court referred to this phenomenon as the  
24 "lighthouse effect" and stated that it resulted in  
25 further aggressive bidding.

1           It is this underselling by Korea that has  
2           led most directly to the severe financial injury the  
3           U.S. industry has suffered. In our brief we have  
4           provided details by specific customer accounts, where  
5           possible, of the resultant gross margin slippage as  
6           U.S. producers reduce prices to try to compete with  
7           these dumped imports.

8           Given the custom-made nature of transformers  
9           it is difficult to find many examples of prices over  
10          time on the same unit to assess price trends here.  
11          You heard, however, Mr. Guerra's testimony today that  
12          he bid on an identical transformer unit to the same  
13          customer in 2008 and in 2011, but had to reduce his  
14          price in 2011 considerably from the 2008 price because  
15          of the lower Korean prices in 2011 with which he was  
16          competing.

17          Late in 2011, Efacec bid yet a third  
18          identical unit at almost 30 percent less than its 2008  
19          price, and finally got the sale. That is compelling  
20          evidence of price depression caused by Korea.

21          There is other record evidence as well  
22          showing this overall U.S. price decline. Chart 7  
23          tracks average unit values for domestically-produced  
24          transformers. Those AUVs steadily declined by 33  
25          percent in just three years as the underselling

1 practices by the Korean producers became even more  
2 pervasive, and you would see a similar trend in the  
3 Korean data that's confidential, but the trends are  
4 the same.

5 The courts have recognized the validity of  
6 relying on AUVs to indicate price trends. With costs  
7 rising, domestic producers needed to increase prices,  
8 but instead have had to reduce them to compete with  
9 the lower priced imports, leaving the U.S. industry in  
10 a cost-price squeeze. Domestic producers sought other  
11 operating income plummet and their operating profit to  
12 sales ratio fall from a healthy profit in 2009 to a  
13 significant loss in 2011, as the index data in Chart 8  
14 show. These financial losses have continued in  
15 interim 2012.

16 The domestic industry cannot continue to  
17 suffer financial losses at these levels and remain  
18 viable. Thus, record evidence shows significant and  
19 increasing import volumes from Korea, declining U.S.  
20 market share, and significant unused U.S. capacity,  
21 extensive underselling by the dumped imports, falling  
22 U.S. prices, and U.S. profits plunging to losses.  
23 There is a direct correlation between the sizable low-  
24 priced dumped imports and the deteriorating U.S.  
25 industry's condition.



1           How do Respondents attempt to explain away  
2 this causal nexus? First, they blame Efacec. Their  
3 request to exclude Efacec is legally unfounded,  
4 however, because you must look at the industry as a  
5 whole, and it's also factually pointless. If you look  
6 at Exhibit 22 to our brief you will see that even  
7 without Efacec's data the U.S. industry's financial  
8 condition has deteriorated substantially.

9           They also blame demand and the economic  
10 recession, but the prehearing report shows that the  
11 demand for transformers has increased over the period  
12 and cannot be blamed for the industry's problems here.

13           Respondents next cite rising costs as the  
14 culprit. Domestic producers utilize escalator clauses  
15 and hedging to adjust for raw material cost changes.  
16 The inability of the U.S. industry to increase prices  
17 to retain profits as costs rose was due to competition  
18 from the lower priced Korean imports.

19           Finally, Respondents blame non-subject  
20 imports. They create a fanciful table trying to  
21 combine Census data on certain non-subject imports  
22 with reported data on other non-subject imports to  
23 yield trends and totals that are completely out of  
24 line with official statistics and other record data.  
25 Official statistics show that non-subject imports

1 declined whether you look at sizes in the hundred MVA  
2 and up category, whether you look at sizes in the 10  
3 to 100 MVA category, or whether you combine both of  
4 these Census categories, and these are the official  
5 Census statistics. Non-subject imports are down.

6 While the limited responses to ITC  
7 questionnaires from non-subject importers show an  
8 increase in those imports, other ITC confidential  
9 record data show a decline in non-subject imports,  
10 consistent with these official statistics.

11 Equally important the record shows that the  
12 Korean imports, not the non-subject imports, were the  
13 price leaders on the downside in the U.S. market.  
14 Declining and higher priced subject imports were not  
15 the cause of the U.S. industry's problem here.

16 Although these facts demonstrate severe  
17 present material injury, let me briefly mention the  
18 threat of injury these imports pose. Korean  
19 production capacity to manufacture transformers is  
20 massive and has increased in recent years. Much is  
21 idle and idle capacity is projected to increase.  
22 Iljin Electric and LSIS, Korean producers that did not  
23 respond to questionnaires, also have sizeable  
24 facilities. The Korean producers are highly export-  
25 oriented and target the United States. The Government

1 of Korea has identified transformers as one of the top  
2 promising items for export. Oversupply in third  
3 country markets will force Korean producers to focus  
4 even more on U.S. exports in the near future. The  
5 Korean producers' non-traditional inventories, huge  
6 and excess capacity, and shipments already planned for  
7 the United States demonstrate that further injury by  
8 reason of imports from Korea is imminent.

9 Let me close by saying that this case  
10 presents a classic example of injurious dumping  
11 behavior. The Korean market is highly insulated and  
12 precludes all but minimal imports of large power  
13 transformers. The U.S. market is open and provides  
14 preferential treatment to imports of transformers from  
15 Korea under the WTO procurement code. Korean  
16 producers have taken full advantage of this imbalance,  
17 targeting the U.S. market with significant exports of  
18 transformer sold at low prices while selling at high  
19 prices in their home market.

20 The sizeable dumping margins that Commerce  
21 calculated based on price-to-price comparisons is  
22 evidence of this price disparity. By leveraging their  
23 protected home market sales against U.S. exports, the  
24 Korean producers have been able to penetrate the  
25 United States on the basis of low prices, causing the

1 domestic industry to lose sales, suffer price  
2 depression, and incur significant financial loss.  
3 This scenario is precisely what the dumping law was  
4 designed to remedy. Thank you.

5 MR. LUBERDA: That concludes our  
6 presentation this morning. We are happy to take  
7 questions. Thank you.

8 CHAIRMAN WILLIAMSON: Good. Thank you.

9 Before I begin questioning, I want to  
10 express my appreciation to all the witnesses for  
11 taking time from your businesses to come today. We  
12 will begin the questioning this morning with  
13 Commissioner Aranoff.

14 COMMISSIONER ARANOFF: Thank you, Mr.  
15 Chairman.

16 I also want to thank all the witnesses on  
17 this panel for being here with us this morning. There  
18 is really good representation of the domestic industry  
19 here, and we appreciate that.

20 My question that I wanted to start with goes  
21 to some of the non-price factors that Respondents  
22 raised as affecting the ability to win sales in the  
23 market; in particular, the factor of experience. I've  
24 seen a number of new entrants to the market during the  
25 period, and my question is if experience is an

1 important factor to purchasers, does that present a  
2 barrier to entry in this market, and does it depend  
3 whether a new supplier is related to maybe an existing  
4 non-subject supplier as was the case that we heard in  
5 the testimony with Efacec?

6 Does anyone want to comment on the extent to  
7 which experience is an important participating factor  
8 for customers?

9 MS. CUSACK: Experience is important for a  
10 customer to have the confidence in the product that  
11 you are going to be delivering these important  
12 products for a customer to have, and make sure that  
13 they are operating correctly.

14 On the note of experience, though, I  
15 mentioned in my introduction here that ABB has  
16 significant experience in the marketplace and has for  
17 years. So, in terms of whether or not experience is a  
18 deciding factor on these bids that we're talking about  
19 during the period of interest having already supplied  
20 identical units or very similar units to these  
21 customers experience wasn't the deciding factor  
22 whether or not ABB was going to get an order or not.

23 In terms of start-up operations, new  
24 operations into the industry, it's typical that you're  
25 looking at qualification process. That qualification

1 process can take anywhere from a number of weeks to a  
2 number of months. It's not unusual for a  
3 qualification process by a customer to take over six  
4 months to complete, but it's very much customer-  
5 dependent, and they will look, in fact, at your  
6 processes and your track record for what you've  
7 supplied very closely in making their evaluations in  
8 the marketplace.

9 COMMISSIONER ARANOFF: Okay. So I  
10 understand from what you're telling me that experience  
11 is not going to be the deciding factor in who wins,  
12 but I guess my question goes more to can experience be  
13 the deciding factor in either -- you know, whose bid  
14 is not considered or could be rejected based on lack  
15 of experience regardless of rice?

16 MR. LUBERDA: Commissioner Aranoff, that  
17 hasn't been the case for the most part with the  
18 domestic industry. First of all with Efacec, as Mr.  
19 Guerra testified, and I think they can elaborate on,  
20 they came to this market with a long history of  
21 participation in the market and were actually  
22 encouraged by customers here to come to this market.  
23 And when they got here the problem was not that the  
24 customers didn't know their technology, didn't trust  
25 their production, it was that they had better prices

1 from other sources, in particular, the Koreans.

2 As for Waukesha, we can't really speak for  
3 them but Waukesha is a well known, well established  
4 company making very sophisticated products, well  
5 accepted in the market. All the names were competing  
6 for large power transformers on the Korean side,  
7 domestic side are all there. It is true that  
8 everybody is going to have to, you know, as you're  
9 trying to market a new product to a customer you're  
10 going to have to cut your chops, you're going to have  
11 to get qualified, but it's not the case that these are  
12 just simply unknown companies who are being prevented  
13 from participating.

14 And either Mike Bauer or Jorge, would you  
15 like to elaborate on your own experience?

16 MR. GUERRA: Yes, absolutely.

17 As you question, yes, in fact experience is  
18 an important factor with the customers in the U.S. but  
19 as Alan was mentioning, it's safe to say we have been  
20 in the industry manufacturing power transformers since  
21 1957. We have more than 100,000 MVA of transformers  
22 produced in all the different ranges that the Koreans  
23 have identified worldwide.

24 What is important rather than just the  
25 expression of experience is the tracking record that

1 you can actually provide to the potential customers.  
2 They would like to see for how long you have been  
3 manufacturing transformers so to try your technology  
4 as well as they would like to see what is, like for  
5 example, your field failure rate, which by the way in  
6 our case is one of the lowest in the industry. So,  
7 that is -- just to make kind of a general approach to  
8 your question, it is, which is not a factor or a  
9 problem for Efacec here in the U.S. and the reason  
10 that, or actually evidence that I can provide for that  
11 is that this facility here in the U.S. has been  
12 already producing over 7,000 MVA in over 45  
13 transformers in the last two years as a corporation.

14 COMMISSIONER ARANOFF: Okay. Mr. Guerra, in  
15 your U.S. clients, did your lost customers to have to  
16 qualify in your plant or where they willing to rely on  
17 their qualification of your plant in Portugal?

18 MR. GUERRA: They were willing to rely on  
19 the qualifications from our plant in Portugal. In  
20 fact, we got orders even before we had opened our  
21 facility here in the U.S.

22 COMMISSIONER ARANOFF: Thank you very much.

23 Now I'm going to turn to another subject.

24 There has been some dispute in this  
25 investigation thus far about the role of non-subject



1 imports in the market. In particular, the Respondents  
2 have argued that non-subject imports dominate the  
3 market. I understand the Petitioners have argued that  
4 our data on this is maybe wrong. Our staff has told  
5 us that maybe there is some revisions pending, but  
6 it's not clear that the overall trend that's reported  
7 in the prehearing staff report is going to change.

8 So, if non-subject import trends continue to  
9 show growth in the U.S. that we see in 2011 and 2012  
10 in the staff report, how should we assess that  
11 competition?

12 MS. CANNON: Commissioner Aranoff, as you  
13 saw in the charts that I showed, I think part of the  
14 problem here is that, as it is in most cases when  
15 you're asking for importers that are not subject to  
16 the case to respond, you don't get comprehensive  
17 responses from everyone, and so that's why we have  
18 pointed to the Census statistics, which across the  
19 board in every category show that these imports are  
20 declining.

21 So, I think part of the answer is that when  
22 you look at that and other confidential data that the  
23 Commission has that I can't discuss today it also  
24 shows a decline.

25 I would further add, though, even if you

1       accepted the data as you have been presented I would  
2       urge you to look, and again I'm constrained by  
3       confidentiality on some of the points here, I would  
4       urge you to look at the import volume table as opposed  
5       to the Shimim table because there are some Shimim  
6       issues here that I can't discuss publicly that affect  
7       the Korean imports, but when those are sort of sifted  
8       through, if you will, you are not going to see a  
9       decline in the Korean market share. You are going to  
10      see an increase even relative to the non-subject  
11      imports based on the data as it's presented in your  
12      report without any revisions from the questionnaires.

13                So, I think both of those factors will show  
14      that the non-subject imports are not dominant here.  
15      They are not the ones that are pulling the market  
16      share up.

17                And the final point I would make is the one  
18      I made in my testimony which is that the price of the  
19      non-subject imports based on your data is not the low  
20      price in the market. When you saw the chart that I  
21      showed earlier, the Koreans, when they are competing  
22      with the non-subjects, are much more frequently  
23      winning, whether it's just Korean versus non-subject,  
24      or U.S. and non-subject, they are winning much more  
25      frequently, and that is consistent with the fact that

1 they are the lower price.

2 COMMISSIONER ARANOFF: Okay. Thank you for  
3 that.

4 Now, are the Census statistics that you're  
5 referring us to consistent with the scope?

6 MS. CANNON: The Census statistics for the  
7 100 MVA category that I showed you with is completely  
8 consistent with the scope. The latent MVA category is  
9 a mixture, and that's the difficulty because we're not  
10 sure exactly where that sorts out, but it would have  
11 to be radically different, frankly, in order to see a  
12 different trend than the one I saw. I mean, in other  
13 words the product mix would have to be so distorted  
14 and shifted at the lower end, which is unlikely, and  
15 this is, as I said, commensurate also with other data  
16 that you have available that we've discussed in our  
17 confidential brief.

18 COMMISSIONER ARANOFF: Okay. I only have a  
19 short amount of time left so I'm just going to  
20 introduce my next topic and I'll come back to it in my  
21 next round, but is there anything inherently different  
22 about an LPT that's sold to the wind energy segment of  
23 the market as compared to one that you would sell to a  
24 different kind of purchaser?

25 MS. CUSACK: No, there is nothing inherently

1 different between the units that would be sold to wind  
2 or the units that would be sold to a public power  
3 customer or an investor-owned utility. They are very  
4 much in the same class of products as you would see  
5 across the board.

6 COMMISSIONER ARANOFF: So, if Respondents  
7 make the statement that the domestic industry is not  
8 pursuing the wind portion of the market, which I know  
9 that you dispute, their argument has to be simply that  
10 for some reason you're not trying to make those sales  
11 as opposed to you can't make the product?

12 MS. CUSACK: Yes, that's an interesting  
13 argument that we wouldn't try to make the product or  
14 bid for it. In fact, one of the largest customers in  
15 the wind industry, which Hyosung does considerable  
16 business with or did considerable business with every  
17 year during the period of interest, I talked myself to  
18 the head of procurement of that customer and they said  
19 to me, "I don't know how they offer us the pricing  
20 that they offer us for those units."

21 We've tried repetitively to come up with  
22 different designs, more inventive ways of looking at  
23 the product, and we cannot touch the pricing that they  
24 offer for the product. That is what's preventing us  
25 from competing in that marketplace.

1                   COMMISSIONER ARANOFF: Okay, thank you all  
2 for those answers. Thank you, Mr. Chairman.

3                   CHAIRMAN WILLIAMSON: Thank you.  
4 Commissioner Pinkert.

5                   COMMISSIONER PINKERT: Thank you, Mr.  
6 Chairman, and I thank all of you for being here today  
7 to help us understand these issues about the market  
8 and about the products. I want to begin with some  
9 questions pertaining to the domestic-like product  
10 issues in the case.

11                   I understand that you are arguing that there  
12 is a clear dividing line between LPTs and what you're  
13 calling distribution transformers. Does clear  
14 dividing line mean no overlap?

15                   MR. LUBERDA: No, I wouldn't say there is  
16 absolutely no overlap. I mean, if you look at the  
17 factors, and we did brief this pretty thoroughly at  
18 the prelim. and the Respondents aren't contesting it  
19 at this point, but as Mr. Blake testified, you know,  
20 there is about in terms of use 95 or more percent of  
21 the large power transformers are out in the electrical  
22 grid for transmission and power generation, and, you  
23 know. 95 percent or more of the distribution  
24 transformers are in that under 60 range, and they are  
25 in the distribution part.

1                   Customers tend to draw the line between  
2                   distribution and the transmission part. The industry,  
3                   domestic industry draws the line there. If you look  
4                   on the, you know, most of the domestic producers'  
5                   websites you will see essentially 60 and above be in  
6                   one area and then, you know, below 60 in another.  
7                   They have got production, for example. ABB is  
8                   producing these smaller things on different lines than  
9                   they produce for the large power transformers.

10                   So, I would say that's a bright line. It  
11                   doesn't mean that there is never any bleed over.  
12                   There is exceptions to every rule, but that's pretty  
13                   much the rule, and we don't understand them to be  
14                   disputing that at this point.

15                   COMMISSIONER PINKERT: Right. So turning  
16                   from the distinction at the lower end to the  
17                   distinction that Respondent is pursuing at the higher  
18                   end, if a clear dividing line doesn't mean no overlap,  
19                   then how can we make that -- do the analysis of the  
20                   issue that the Respondent raises at the high end? Is  
21                   there not a clear dividing line there just as you  
22                   argue there is a clear dividing line at the  
23                   distribution level?

24                   MR. LUBERDA: Well, I would argue that there  
25                   is a clear dividing line at the distribution level and

1 there isn't one where they drawn -- I mean, the  
2 Respondents' argument was, well, Petitioners can draw  
3 a line at 60, we get to draw one at this crazy line  
4 that they have chosen, but that's not the case, and  
5 when you look at what they have argued. I mean, it  
6 doesn't hold any water, and I would really like the  
7 industry to talk a little bit about this rather than  
8 just getting the lawyer's perspective because --

9 COMMISSIONER PINKERT: Always helpful.

10 MR. LUBERDA: I appreciate that. Because  
11 the customers are buying things on both sides of the  
12 line for the exact same uses, exact same people, exact  
13 same uses, applications. Dennis, why don't you start  
14 wit that?

15 MR. BLAKE: Yes. One example of a 300 MVA  
16 at 345 kv where they crossed a line. You know, you  
17 could argue that the 301 MVA, which is this thousand  
18 volt amps more, you could probably put one or two fans  
19 on some radiators and become 301 MVA. So just two  
20 little fans on a radiator is going to go from one  
21 group to the other group, and that's kind of a -- the  
22 contrast is so small and it just kind of blurred over  
23 the size ranges. You really can't put a number on it  
24 because all the customer says it's a large power  
25 transformer.

1           MR. LUBERDA: Can you talk about just in  
2 answer to his question, can you talk a little bit  
3 about how customers have the same -- they have  
4 different kv ratings in the same distribution or same  
5 transmission networks.

6           MR. BLAKE: Okay. Most customers will have  
7 to transmit from one voltage class to another voltage  
8 class. So if they have a 230 kv voltage class or a  
9 345 voltage class, and they want to transmit power to  
10 115, they use autotransformers for that, and basically  
11 all the autotransformers they call large power  
12 transformers, and they are just taking the voltage  
13 from one transmission level to the next, and same  
14 engineering group, same purchasing people and same  
15 specifications, but they just call them large power  
16 transformers.

17           MR. LUBERDA: In other words, the users are  
18 using all these different groupings that the  
19 Respondents where they draw the line. The users are  
20 using things on both sides of the line for exactly the  
21 same thing. You know, they are going to have  
22 generation at different levels. They are going to  
23 have transmission at different levels, and they are  
24 going to interconnect those with autotransformers, so  
25 they are using GSEs at different levels,



1 autotransformers at different levels to put these  
2 systems together. They are using them all in the same  
3 grid.

4 COMMISSIONER PINKERT: Thank you. That's  
5 helpful. For the posthearing if you could give some  
6 understanding of how prevalent that crossover is, how  
7 prevalent it is, I think that would be very helpful.

8 MR. LUBERDA: We can do that and I think  
9 you're going to find that the rule is that the vast  
10 majority operate at multiple levels within the large  
11 power transformer grouping.

12 COMMISSIONER PINKERT: Thank you.

13 Now, turning to an issue that I believe Ms.  
14 Cannon testified about, as you know, according to  
15 Respondents long-term alliance agreements do not lock  
16 in sales and instead only allow the buyer to qualify  
17 purchasers and negotiate the general terms of sale on  
18 a long-term basis.

19 Now, I don't know if Ms. Cannon's testimony  
20 regarding the practical effect of these agreements  
21 actually takes issue with those specific claims. I'm  
22 trying to get an understanding of where the difference  
23 in viewpoint lies on that issue.

24 MS. CANNON: Thank you, Commissioner  
25 Pinkert.

1                   We had a lengthy discussion with the  
2 industry about exactly how these contracts work, and  
3 let me ask Mr. Strochecker to just explain it from  
4 their vantage better.

5                   MR. STROCHECKER: So the issue of alliances  
6 and the execution of alliances is a bit more rigorous  
7 than the Respondents have characterized them.  
8 Normally our customers will issue a request for an  
9 alliance as a request for tender or a request for  
10 proposal, and then typically when we respond to a  
11 request for information regarding an alliance we  
12 respond on the basis that the alliance will last for  
13 three to five years, as well the general industry  
14 practice is is that part of that response to an  
15 alliance request will include pricing, and frequently  
16 pricing is firm for the first year of that alliance,  
17 and then there are some sort of escalator clauses to  
18 cover the remaining years of that alliance.

19                   The request for proposal or the request for  
20 alliance normally includes a package of detailed  
21 specifications, includes required performance for the  
22 devices that were procured as part of the alliance,  
23 and normally almost all of the time includes the terms  
24 and conditions under which purchases would occur.

25                   Now, there may be a clause in the request

1 for proposal regarding an alliance that says, you  
2 know, this does not guarantee any sort of quantity and  
3 volume that will be purchased. In fact, the practice  
4 of the customers is that they issue the framework from  
5 which they can issue many releases of different  
6 quantities and different models.

7 Then what's so significant about the  
8 importance of the alliance, and the alliance agreement  
9 is that once an alliance is set normally customers  
10 will execute all of their business for, in this case,  
11 LPTs against that alliance agreement for the period of  
12 that alliance.

13 So, in the case of my company losing an  
14 alliance agreement when we are pursuing it, I might as  
15 well go home for another two and a half or three years  
16 until I want for that alliance to be re-tendered again  
17 unless I can do something like drop my price 20 to 25  
18 percent in order to get the attention of the buyer.

19 MS. CUSACK: We all compete very hard for  
20 those alliance contracts. In fact, we joke that they  
21 are like gold. So essentially if you've gotten an  
22 alliance award it's like gold unless somebody comes in  
23 and severely undercuts you as Bill mentioned.

24 MR. STROCHECKER: And then if I could just  
25 mention one more nuance to the issue of alliances.

1 Our biggest customers that issue such alliances are  
2 utilities, and they face the scrutiny of their  
3 regulators and their shareholders and the people they  
4 service as well, but they face the scrutiny of the  
5 public utility commission, and therefore are compelled  
6 to consider lowest price as very, very important, and  
7 price becomes extremely important to the customers in  
8 terms of who they award the alliance agreement to.

9 COMMISSIONER PINKERT: Did you have  
10 something to add to that, Ms. Cusack? I'm at the end  
11 of my round.

12 Okay, thank you very much.

13 CHAIRMAN WILLIAMSON: Thank you.  
14 Commissioner Johanson.

15 COMMISSIONER JOHANSON: Yes. Thank you, Mr.  
16 Chairman, and like Commissioner Aranoff and  
17 Commissioner Pinkert, I would like to begin by  
18 thanking all of you for appearing here today.

19 My first question is for Mr. Guerra on  
20 Efacec. If Efacec was encouraged by U.S. customers to  
21 build a facility in the United States, did that  
22 demonstrate a lack of domestic capacity to supply  
23 these products? I'm talking about the larger size  
24 LPTs.

25 MR. GUERRA: At that specific time the

1 conditions of the market, as my statement said, were  
2 totally different. There was a strong market with  
3 healthy prices. Yes, there was the need of local  
4 manufacturing base for this type of transformers.  
5 That's why we were encouraged to try to establish this  
6 base here in the U.S.

7 As I said, that totally turned to be  
8 difficult when later the Koreans came up, and they  
9 start to lower the price of every single proposal that  
10 we could make out of this facility.

11 COMMISSIONER JOHANSON: All right, thank you  
12 for your response.

13 The bit of information that our staff has  
14 collected shows a wide range of warranty periods from  
15 one to several years. How does one determine the  
16 length of the warranty that you will offer with your  
17 bid, and do you charge a price premium for longer  
18 terms for warranties?

19 MR. BLAKE: Most of the customers specify  
20 the warranty that they want in their terms and  
21 conditions. So when there are inquiries to us most  
22 investor utilities will say we want a five-year  
23 warranty with this product, and so when you're pricing  
24 the transformers you just -- either you just assume  
25 that risk of the five-year warranty. And one part of

1 the warranty is in the in and out costs. So if you  
2 have to bring a transformer back to your facility,  
3 there is tremendous cost in there, and there is a term  
4 in the industry called "in and out" that we use to who  
5 pays for that.

6 You know, if your car breaks down, you've  
7 got to bring it back to Sears or tow it back to Sears  
8 to get it fixed, but a transformer you've got to  
9 disassemble it, put it on a rail car costing hundreds  
10 of thousands of dollars, and typically the industry  
11 tries to do that in the first year, the in and out,  
12 that the manufacturer will carry that warranty, but  
13 over the five years, you know, the unit is under  
14 warranty with the manufacturer and that's pretty much  
15 a standard and it really doesn't have an effect on the  
16 pricing of the transformers.

17 COMMISSIONER JOHANSON: Ms. Cusack?

18 MS. CUSACK: Yes. I would say that we all  
19 have different evaluation formulas that we use when  
20 evaluating the cost of a transformer. And as Dennis  
21 just stated, I mean, there is a typical warranty which  
22 is fairly standard at five years, but that the in and  
23 outs and the financial risk that they pose if you've  
24 got to pick up the transformer, sometimes they build  
25 equipment too close to the transformer, or there is

1 other things there, and there could be very, very  
2 substantially expensive, depending on where the  
3 transformer is located to go in and to pick it up, and  
4 as Dennis said, put it on a rail car and send it back  
5 to your facility to do a repair. That's usually  
6 capped.

7           What we have seen though as to knock down a  
8 barrier to entry from the Korean importers is that  
9 they have gone through and said that they will assume  
10 all in and outs non-capped for a period of up to five  
11 years. That's a substantial cost barrier for what had  
12 been the normal in the domestic industry when you talk  
13 about in and outs. As Dennis said, that was typically  
14 a year.

15           So, if you had something under warranty in  
16 the first year you would cover the in and out, and  
17 beyond that then the customer picked up some portion  
18 of it. It was usually capped, you know, a percentage  
19 of what the in and out would be.

20           COMMISSIONER JOHANSON: And I don't know if  
21 you would know the answer to this or not since you're  
22 not Korean producers. But do you know how Korean  
23 producers handle the whole in/out issue if the product  
24 fails? I mean, they can't really ship it to Korea.

25           Yes, Mr Blake.

1           MR. BLAKE: The only thing I can think of is  
2 they have to find somewhere domestic to have it  
3 repairs, and there was only one facility left in the  
4 United States in Florida that could do that, and they  
5 are now closed, so I would just have to assume they  
6 would have to send it back to Korea to get it fixed.

7           COMMISSIONER JOHANSON: Ms. Cusack?

8           MS. CUSACK: My understanding is that if  
9 they have a significant failure that the units go back  
10 to Korea, but that's something that I think they would  
11 have to answer for themselves.

12           COMMISSIONER JOHANSON: All right. Yes, I'm  
13 try to make it a point to ask them that to this  
14 afternoon's panel.

15           On another price issue, how much does it  
16 cost for you to prepare a bid and what aspects of bid  
17 preparation are the most expensive? Yes, Ms. Cusack?

18           MS. CUSACK: For us a bid is very expensive  
19 to put together. There is quite a bit of input that  
20 goes into it. In fact, the units are designed. There  
21 is a transportation team that needs to determine from  
22 our facility to the customer pad how much that's going  
23 to cost, what roads or bridges, rail lines that you  
24 can get to. There are permits that some states will  
25 allow and other states won't allow, so there is an



1 awful lot of work that goes through to figure out not  
2 only the design of the unit but also the logistics of  
3 actually getting the unit to the customer.

4 We've done some estimating in my company and  
5 we found that, depending on the complexity and the  
6 number of quotes contained in a bid, it's typically  
7 between 50 and 80 thousand dollars to put together a  
8 bid package for one of these LPTs. So, it's  
9 significant.

10 So, in terms of, you know, you heard a  
11 couple people say today that sometimes when we hear  
12 that the Koreans are bidding at a customer some will  
13 elect not to bid. It is a significant amount of time  
14 and energy that goes into these requests for proposals  
15 and these bids that could be spent on something that  
16 you might have a better chance at if the Koreans  
17 aren't competing.

18 COMMISSIONER JOHANSON: Mr. Blake, would you  
19 like to respond?

20 MR. BLAKE: Yes, just to add. You know, we  
21 don't want to become a quotation company. We want to  
22 become a transformer company. So, we can provide a  
23 lot of bids, but we have to really pick and choose  
24 sometimes because of the cost of putting the bid  
25 together, the proposal package, we try to determine

1 where our competition is, and if we see the Korean  
2 manufacturers there a lot of times we don't focus  
3 there, we go somewhere else because we know we'll put  
4 all this effort into it, lose it by 20-30 percent, and  
5 that's why we have to allocate our resources very  
6 wisely just to stay afloat.

7 COMMISSIONER JOHANSON: Yes, thank you for  
8 your response.

9 I was wondering if someone on the panel  
10 could respond to HHI's contention at page 55 of their  
11 prehearing brief that U.S. demand for LPTs is expected  
12 to continue to grow for the foreseeable future due to  
13 the necessity to replace 18 LPTs, et cetera, thus  
14 hampering any effects that subject imports might have.

15 Mr. Luberda?

16 MR. LUBERDA: I'll have the industry respond  
17 to this, but there is a difference between long-term  
18 expectations for this market and what's going to  
19 happen in the imminent future. I don't think anybody  
20 is predicting in the next year or so there is going to  
21 be that kind of growth. Everybody assumes over the  
22 long term we will have some growth in the market, and  
23 that has been part of what's encouraged some new  
24 capacity to come to the market.

25 By the immediate future, the conversations

1 we've had doesn't indicate that that's happening, and  
2 I'll turn over the industry to give their  
3 perspectives.

4 MS. CUSACK: We project the U.S. market to  
5 be relatively flat in the near term future, you know,  
6 the next year or so. In fact, with the wind market  
7 and the incentive expiring for wind new farms, in  
8 fact, that whole section of the market has gone down  
9 considerably, and we don't expect that portion of the  
10 market to come back in the short term, and when I say  
11 short term, because of the lead times of these  
12 products I'm talking the next two-three years.

13 There is a replacement business for the  
14 aging infrastructure and that in fact during the  
15 general economic downturn was able to, along with the  
16 wind business being up, was able to sustain this  
17 industry during that normal economic downturn.  
18 However, that's not a large factor. In fact, if you  
19 look at Q1 as I've talked to several executives at  
20 some of the utilities, they've in fact seen a  
21 substantial, like 25 percent revenue decrease this  
22 year due to the warm winter as well as the natural gas  
23 prices that are affecting their revenue, and they are  
24 right now pushing as much out as they can out of 2012  
25 into 2013.

1           So, I don't see this market as being one  
2 that's going to be coming up rapidly here in the short  
3 term. In fact, I see the spending getting leveled off  
4 and really at a plus or minus 2 percent level for the  
5 next couple of years.

6           COMMISSIONER JOHANSON: Well, thank you for  
7 your responses. I have about 15 second left so I will  
8 conclude for now but I might follow up with some  
9 questions later. Thank you.

10          CHAIRMAN WILLIAMSON: Commissioner Okun.

11          COMMISSIONER OKUN: Thank you, Mr. Chairman,  
12 and I join my colleagues in welcoming you all here  
13 today. It's great to have so many of you here to  
14 answer our questions.

15                I wanted to ask some additional questions  
16 about the alliance agreements, and I think it was Mr.  
17 Strochecker, I'm not sure if it was you in responding  
18 had said that for the alliance agreement, and I think  
19 you were focused on public utilities, but price was  
20 even more important than in other bids, and I wanted  
21 to have you -- I wanted to make sure I understood  
22 that. Is that generally -- I mean, if one were to  
23 look at the specs or the requirements of an alliance  
24 agreement versus the other bids, is there something --  
25 is there anything in those specifications or anything

1 else where you would understand that price was going  
2 to be more important than the other part or the total  
3 evaluated cost or some of the other terms that have  
4 been used?

5 MR. STROCHECKER: Thank you, Commissioner  
6 Okun.

7 The specifications are very important  
8 because they outline the performance characteristics  
9 of the particular LPTs that will be purchased as part  
10 of the alliance. But because of the very nature of  
11 the utilities and the customers and particularly the  
12 utilities and the scrutiny they undergo from their  
13 regulators, they are compelled to buy for the best  
14 value that they can possibly buy, and therefore when  
15 prices are as much as 20 and 30 percent -- when the  
16 Korean producers' prices are as much as 20 or 30  
17 percent below the prices offered by the domestic  
18 manufacturers, the other evaluation factors simply  
19 don't add up to overcome that price difference.

20 COMMISSIONER OKUN: Okay. Yes, you want to  
21 add something?

22 MS. CUSACK: If I might add.

23 COMMISSIONER OKUN: Yes.

24 MS. CUSACK: Typically the people that you  
25 see on both sides of this case are capable of meeting

1 the specifications that are outlined in the alliance  
2 agreements, so although the specifications, meeting  
3 the specifications are very important, everyone here  
4 is able to meet the specifications in those required  
5 documents, so that kind of levels out, you know, are  
6 you capable of producing it or not. And then you get  
7 to the financials and experience in the industry. I  
8 mean, that's the next most important thing is price.  
9 So we are typically all able to compete in bid for  
10 those alliance agreements.

11 COMMISSIONER OKUN: Okay. What I was trying  
12 to understand if one were looking at -- I mean, not  
13 that I would be the expert in looking at these bids,  
14 but if we were to look at the bids would you see  
15 anything different in the way they were written up, or  
16 what was asked that would indicate a difference in  
17 what's more important. I think the answer is no, is  
18 that correct?

19 (No verbal answer.)

20 Then let me turn to some other questions  
21 about the bid data that we have collected and how to  
22 evaluate it, and obviously you have presented both in  
23 your testimony and in answers to questions your view  
24 of how the Commission should take it into effect. I  
25 wanted to raise with you some specifics from the

1 Respondents' contentions and have you respond as  
2 specifically as you can, and also for posthearing.

3 Exhibit 1 to HHI's prehearing brief and  
4 Exhibit H to Hyosung's expert report, analyzing bid  
5 data, the factor in the Respondents' volume price  
6 arguments in this investigation. I wanted, first, to  
7 ask you to respond to the volume argument, but when  
8 they look at both volume from the bid data that's not  
9 coming at the expense of U.S. as they would define it,  
10 whether it was competition, that you have a very small  
11 and declining volume that's really affected by subject  
12 imports where the domestics could compete. I know you  
13 mentioned that but if you could just respond to that  
14 again, Ms. Cannon, with some specificity.

15 MS. CANNON: Yes, Commissioner Okun. The  
16 methodology that has been set forth in their Exhibit 1  
17 is not consistent with any case I've ever seen the  
18 Commission use because it basically tried to say,  
19 well, if we don't see a U.S. producer bidding on a  
20 specific account you ignore our volume which is not  
21 right for many reasons.

22 First of all, as you've heard testimony  
23 today, sometimes there is an alliance agreement, and  
24 so the U.S. producers aren't able to bid for that  
25 business. That isn't even showing up in your database

1 often on those bids because that's all locked out, and  
2 so that isn't even factored into their Exhibit 1  
3 analysis.

4 Sometimes there is a bid and the domestic  
5 producers know the Koreans are participating. It  
6 costs, as Ms. Cusack testified, \$80,000 to bid, and  
7 they say, you know, I know they are 30 percent below.  
8 The customer told me that last time. I'm not  
9 participating. That doesn't mean they wouldn't like  
10 the business, that they haven't tried it in the past,  
11 but they couldn't participate. But again, you know,  
12 it's showing that they just are precluded.

13 And third, I would say the Commission has  
14 recognized in the DRAM case and other cases that you  
15 don't have to bid for every sale, and even when there  
16 aren't bids on specific sales for competition this  
17 pervasive pricing effect in the market is affecting  
18 everybody regardless of individual sales. So, just  
19 legally the framework for the analysis is not  
20 consistent with an approach that the Commission has  
21 ever considered in the past.

22 But maybe let me ask Ms. Beck or Mr. Kerwin  
23 as economists to provide any further methodological  
24 points.

25 COMMISSIONER OKUN: Thank you.



1           MR. KERWIN: Yes, this is Mike Kerwin from  
2 Georgetown Economic Services. I'll just add to what  
3 Kathy said by mentioning that there are quite a number  
4 of logical disconnects and questionable methodological  
5 choices that were made in that analysis.

6           First of all, the analysis implies that this  
7 is a comprehensive database of not only of purchaser  
8 responses but of bid information covering essentially  
9 all sales of power transformers in the U.S. market,  
10 and this is not true. The response from the  
11 purchasers is far from complete, and even many of the  
12 purchasers that did respond did not provide full  
13 information.

14           Secondly, the questionnaire requests the top  
15 10 purchases of large power transformers in this  
16 period of investigation, so that is not necessarily  
17 the entire universe of purchases that were made by  
18 these purchasers given that it was just the top 10,  
19 and in fact many purchasers, again, did not provide a  
20 full 10 listings of their purchases.

21           In fact, in a number of instances purchasers  
22 provided just one winner of the bid, and that appears  
23 that may be reflective of instances in which there  
24 were alliances with that customer, and that the  
25 product wasn't fully put out for bid, and in some

1 instances it's apparent that the purchasers didn't  
2 report anything that was under an alliance agreement.

3 So, the universe of information that is  
4 contained in the questionnaire responses from the  
5 purchasers is far, far from complete. I think there  
6 is a lot of good information there. I think the  
7 Commission can use that information, take it as far as  
8 it is logical to use it. It shows a tremendous amount  
9 of competition, price competition from the Korean  
10 imports, but then to take it beyond that to then  
11 combine it with the producer and importer  
12 questionnaire response information and get to the  
13 point where they are deriving market shares on that  
14 basis is incredibly convoluted and I think misguided,  
15 and I think it's misleading. The ultimate conclusion  
16 they are drawing from this is extremely misleading,  
17 and I think posthearing we would be happy to go into  
18 some more detail about the extreme limitations and  
19 misguided nature of this analysis.

20 COMMISSIONER OKUN: Okay. But I wanted to  
21 ask just from a different end goal a question which  
22 is, when you talk about instances where a producer has  
23 just chosen not to bid but the actual instances of  
24 direct competition under a state where you might have  
25 been able to make the product, I'm trying to value

1 that versus the arguments of this being, I guess you  
2 could, or Respondents would describe as a demand pool  
3 where the domestics -- there is a lot in the heavy,  
4 however you look at the numbers there is a lot of non-  
5 subjects in here, domestic supplying a portion.

6 But how does one evaluate that in terms of  
7 whether domestic producers really would be bidding on  
8 all these thing, whether there were Koreans or not?  
9 In other words, the argument being, you know, I really  
10 should focus on where those direct competition because  
11 at last I know why it's there as opposed to  
12 speculating on why you may or may not have bid. I  
13 don't know if that's framed very well, but I'm just  
14 trying to understand the competition versus looking at  
15 this other universe where you actually didn't even  
16 bid.

17 MR. BLAKE: Most of our customers, we see  
18 from the last time they bid a transformer, you know if  
19 they are going out to get 15 bids from all over the  
20 world, they really don't care about quality, just on  
21 price, we kind of know those type of customers and  
22 when that bid come in we look at our resources, do we  
23 want to bid it, and typically, you know what, those  
24 guys buy from all over the world or Korea and they are  
25 just buying the lowest price, and we have another

1 client who maybe has a more selective bid on quality,  
2 and maybe we'll focus our efforts there because we  
3 only have so much quotation resources available, and  
4 we almost kind of know by the customer who is going to  
5 bid on it and who doesn't.

6 COMMISSIONER OKUN: Okay. I'm sorry I asked  
7 that question as my time was running out, so I will  
8 come back to it to get further responses and explore  
9 it a little bit further. Thank you for those  
10 responses. Thank you.

11 CHAIRMAN WILLIAMSON: Thank you.

12 Ms. Cusack, you mentioned that ABB sources  
13 LPTs from third country sources for sizes that you do  
14 not make in the U.S. And I was wondering, what sizes  
15 do you not make in the U.S. and why? Some of this you  
16 may want to do posthearing.

17 MS. CUSACK: Well, I can certainly answer in  
18 a broad term right now and we can provide more details  
19 posthearing.

20 ABB has long since had a regional focus and  
21 if you look at the way that ABB is set up there is two  
22 arms of focus. There is a product focus and then  
23 there is a regional focus. I'm responsible for power  
24 transformers in North America, and the vast majority  
25 of what we sell into this region comes from this

1 region.

2 We have focus factories that are set up to  
3 provide specialty products, and we do get some of our  
4 products from those focus factories, and those are  
5 typically where you might not do a design very  
6 frequently for your region, but if you're aggregated  
7 across the world then you might do 30 or 40 of them a  
8 year, and what that does for my company and the  
9 strategy of my company is it allows us not to learn  
10 the same mistakes over and over and over again when  
11 you have a certain very unique product that comes  
12 through your manufacturing process maybe once a year  
13 or once every few years, so we have that concept of  
14 focus factories that we use.

15 In terms of our St. Louis facility, we  
16 typically produce there up to about 400 MVA. We've  
17 got a couple that we've produced a little bit larger  
18 than that, and that's really been a focus of us in  
19 terms of addressing the piece of the market that was  
20 most prevalent here in the U.S. You've seen in recent  
21 years a push toward higher units. The volume of those  
22 higher capacity units is very small as compared to the  
23 base load, and from a logistical standpoint we talked  
24 about prior to the prices coming down to the level  
25 that they were we actually had on the table to expand

1       our St. Louis facility, and we had several plans built  
2       up to look for what investment would look like there,  
3       but frankly at the price points that there are it  
4       doesn't make sense to invest further in a facility  
5       that's hardly being built to its capacity now.

6               CHAIRMAN WILLIAMSON: Thank you. I just  
7       can't help but ask you since I grew up in St. Louis.  
8       Where is your factory in St. Louis?

9               MS. CUSACK: Semper Avenue. It's very close  
10      to the airport.

11              CHAIRMAN WILLIAMSON: Okay, thank you. I  
12      was just very curious.

13              Something I've been wondering about since  
14      you've all talked about there is so many different  
15      types of transformers and subvariations. I was just  
16      wondering, and it's the utility, I guess, that sets  
17      the specifications. Is there sort of like a master  
18      system designer for each utility and they decide,  
19      okay, I have to get X amount of power from one place  
20      to the other, and this is the way I'm going to do it,  
21      whereas if you had a different designer they might do  
22      that in a different way? Sort of give me an  
23      understanding of that.

24              MR. STROCHECKER: I'll answer that question,  
25      Chairman Williamson.

1           CHAIRMAN WILLIAMSON: Okay, thank you.

2           MR. STROCHECKER: Yes. The utilities have  
3 planning organizations and those planning  
4 organizations determine what the utilities' short-term  
5 and long-term plans are, and part of their job  
6 function is to look at where they may have reliability  
7 problems or where there may need to have power be  
8 moved from one location to another, and those planners  
9 are the ones who are responsible for putting in place  
10 -- specifying what those equipment requirements would  
11 be.

12           CHAIRMAN WILLIAMSON: Okay. So do you sort  
13 of get to know the planners?

14           MR. STROCHECKER: Of course.

15           CHAIRMAN WILLIAMSON: Their particularities  
16 and --

17           MR. STROCHECKER: Of course. Of course.

18           CHAIRMAN WILLIAMSON: Good.

19           MR. STROCHECKER: Just as an example,  
20 locally we, of course, know in the sales function know  
21 the local planners for PHI and are very well involved  
22 in their activities, both their long-term and short-  
23 term plans.

24           CHAIRMAN WILLIAMSON: Okay, thank you.

25           Also, about the alliances, is an alliance

1 usually one utility that wants a relationship with a  
2 supplier or might you have several utilities in the  
3 same alliance?

4 MR. STROCHECKER: Normally in the investor-  
5 owned utility area the utilities, the individual  
6 utility, so in the case of the local utility they  
7 themselves would negotiate an alliance agreement with  
8 their preferred suppliers. There are public utilities  
9 that have joined forces and have formed supernumerary  
10 organizations that will negotiate on behalf of the  
11 multiple public utilities.

12 CHAIRMAN WILLIAMSON: Okay. I don't know,  
13 maybe posthearing, could we get some idea of how, say  
14 how important the alliances are in terms of the  
15 overall sales, you know for the different categories?

16 MR. STROCHECKER: Of course.

17 MR. LUBERDA: We would be happy to provide  
18 that posthearing, but they are, as Ms. Cusack said,  
19 gold. They are incredibly important to everybody  
20 because they are going to while not legally require,  
21 they are going to pretty much guarantee that you're  
22 going to get the bulk of that customer's business for  
23 the duration of the alliance.

24 CHAIRMAN WILLIAMSON: Okay. So is there a  
25 trend towards a greater percentage of the sales being



1 covered by alliance agreements or can you say?

2 MS. CUSACK: I would say that the trend is  
3 more towards having the alliances. I think that  
4 customers generally see the benefit because they see a  
5 cost reduction on their end because they don't have to  
6 go through the procurement process for each and every  
7 need that they have. They do it one time, evaluate  
8 multiple suppliers, and then all they need to do then  
9 is release off of that blanket agreement over time.

10 So, I would say the trend is to enter more  
11 alliance agreements and also, frankly, the price point  
12 where it is right now in the marketplace I've seen a  
13 number of customers who typically have not been so  
14 inclined toward putting together long-term agreements  
15 want to lock in the pricing where it's at right now  
16 because it is at a very depressed level. So, I would  
17 say overall there has probably been an increase in  
18 them for that reason. When the price points are  
19 higher you don't tend to see people want to lock into  
20 them for long term.

21 CHAIRMAN WILLIAMSON: Are the low interest  
22 rates that are prevailing now have any effect on  
23 demand or what people are doing?

24 MS. CUSACK: I haven't seen that personally  
25 as a significant factor.

1                   CHAIRMAN WILLIAMSON: Okay, just wondering.  
2           Thank you.

3                   Mr. Guerra, you mentioned that electrical  
4           losses do not vary much between larger power  
5           transformers. How much can these losses vary?

6                   MR. GUERRA: Sorry. How much?

7                   CHAIRMAN WILLIAMSON: Can you give us an  
8           idea how significant are these electrical losses? I  
9           guess over the life of a transformer it loses some of  
10          it capacity?

11                  MR. GUERRA: Yes, every single typical  
12          specification provided by any of the potential  
13          customers really outlines the formula that will be  
14          used for evolution of the losses. So, any  
15          manufacturer, any of us when we receive the request  
16          for quotation actually see the formula that is going  
17          to be used, and then therefore what you try to do is a  
18          balance between your initial cost or bid price and the  
19          losses that you will present in your design.

20                  I mean, the lower the losses that you want  
21          to have the more expensive, the more product, the more  
22          material that you have to put in the transformer which  
23          reenforces the fact that in the case of the Koreans,  
24          for example, given the conditions that we are arguing,  
25          I mean, they have a low initial cost and then they

1 have lower losses as well by having more material into  
2 the transformers in order to lower even more their  
3 total operating costs or TOC that are considered in  
4 the evaluations.

5 CHAIRMAN WILLIAMSON: Okay. Does that go  
6 into what we call the evaluated bid price?

7 MR. GUERRA: Yes.

8 CHAIRMAN WILLIAMSON: And is that always  
9 going to be different than the initial bid price? I  
10 didn't quite understand that relationship.

11 MR. BLAKE: When we quote a transformer we  
12 give them a price, and then we give them our losses,  
13 and they assign a dollar value to those losses, add  
14 them together and that's your total evaluated price or  
15 total evaluated cost.

16 CHAIRMAN WILLIAMSON: Okay.

17 MR. BLAKE: And we as a transformer  
18 manufacture, we've got to determine are they really  
19 going to evaluate on this cost or not, what's this  
20 customer like, and we can all make very efficient  
21 transformers. We just put more material in.

22 Transformers are actually very efficient.  
23 They are like 99.4 percent, 99.5 or 99.6 percent  
24 efficient, so it's a very efficient piece of  
25 equipment, and it's up to us to decide how much

1 material we want. And when we put more material in it  
2 costs us more and makes them a little bigger and costs  
3 to ship. So, we have got to optimize our proposal  
4 with the specific customer, and ideally you want to  
5 get an efficient unit in there that your losses don't  
6 take you out of your cost or moves you up a little  
7 bit, and it's just a balancing act, but that's what we  
8 do.

9 Now, there are cases where if you have your  
10 total evaluated cost, let's say your transformer is a  
11 million dollars, and your cost losses is 500 grand,  
12 and you have two manufacturer at 1.5 million each, but  
13 if your first cost is like \$900,000 for one guy and  
14 1.1 for the other one, they're going to spend \$200,000  
15 less and go with that low cost, low price supplier  
16 because that's money in their pocket now. I'm not  
17 sure if that answers your question.

18 CHAIRMAN WILLIAMSON: It does.

19 MR. BLAKE: Okay.

20 CHAIRMAN WILLIAMSON: Thank you. Good. And  
21 my time has expired, so Commissioner Aranoff.

22 COMMISSIONER ARANOFF: Thank you, Mr.  
23 Chairman. Actually let me pick up right where the  
24 Chairman left off and ask you, as I understood your  
25 testimony, you were just saying that the two things

1 that go into evaluated cost are the initial bid and  
2 the losses. Are you suggesting that all these other  
3 factors like warranties and other sorts of terms are  
4 not included in the total evaluated cost from the  
5 purchaser's perspective?

6 MR. BLAKE: From an accounting standpoint,  
7 they're looking at numbers and I don't think they put  
8 a cost -- they may -- each utility may put something  
9 inside the past performance or something inside the  
10 evaluated cost. They may put a dollar value, it just  
11 may be a gut feeling that they use.

12 But typically when we see the feedback, we  
13 see price of losses, price of cost. We won't see, you  
14 know, you got devaluated because we don't like the way  
15 you do your warranty and we deducted 10 grand. We  
16 don't see anything like that other than in their  
17 decisionmaking process, if everything equal, you know  
18 what, we like these guys better because we had a  
19 problem with them in the past on a warranty and they  
20 solved it. And it's more of a gut feeling at that  
21 point.

22 MR. LUBERDA: I'll ask the industry to  
23 correct me if I'm wrong about this, but from a  
24 producer's standpoint, your initial price has taken  
25 into account the risks, like warranty, ins and outs.

1 So you're pricing it based on what it's going to cost  
2 me to make it, what are my -- you know, what risks am  
3 I assuming taking from the purchaser or giving to the  
4 purchaser so that I can adjust my price. And then,  
5 you know, what is the market, what kind of competition  
6 do we have from Koreans or others.

7 The evaluated cost then, the markup there,  
8 is how -- you know, what does a kilowatt cost and how  
9 many kilowatts are they losing. So as Dennis said,  
10 you know, the initial price is a very important part  
11 of that. It's a big chunk of the number. You know,  
12 if you're off a little bit, it can -- you know, it can  
13 change the overall valuation.

14 But one of the problems for the industry is  
15 that when you're bidding, if you're being -- if the  
16 purchaser is only going to look at the bottom three  
17 bids, they're looking at the first cost first. So  
18 they say, okay, I'm only going to look at people who  
19 are in the bottom three, or I'm only going to look at  
20 people who are within 25 percent. You've heard the  
21 testimony this morning.

22 So if you're not within that 25 percent  
23 because the Koreans were 30 percent below you, you're  
24 out of the picture. They're not even looking at the  
25 rest of your story. You might not even get evaluated.

1                   COMMISSIONER ARANOFF: Okay. Yes, I  
2 understand that point. I guess what I'm trying to  
3 understand is when we talk about total evaluated cost.  
4       Assuming you get to that point, I'm still trying to  
5 understand what that means and whether there is --  
6 from the purchaser's standpoint -- and I wish we had a  
7 purchaser here to ask the question to, but we don't,  
8 so I have to ask it to all of you -- whether they have  
9 -- there is like a single formula that everyone uses  
10 to calculate what this is or whether all these other  
11 subjective factors somehow, you know, go into  
12 different purchasers' characterizations --  
13 calculations, and they all get down to a number.

14                   MR. LUBERDA: Sure. Dee?

15                   MS. CUSACK: Yeah. Every customer has a  
16 slightly different formula, and they typically give us  
17 the formula that they use. And so we will know going  
18 into a bid exactly how much weight they put on each  
19 factor, what they consider to be their cost. So we  
20 know -- as Dennis said, we know going in that the  
21 initial cost might be 60 percent, and then if you get  
22 that far, the losses that you have on your product  
23 might account for a little bit more, and then there  
24 might be a factor that says, you know, you get a  
25 factor of one if you hit the warranty that they want.

1           But each one is different. But they provide  
2 them to you upfront. The single, though, most heavily  
3 weighted factor is that initial cost. And as Alan  
4 said, if you don't make it within a band, because it's  
5 an expensive process for our customers to evaluate the  
6 bids -- just as it is for us to prepare them, it's  
7 expensive for them to go through and evaluate them.  
8 They'll just put them aside, and they'll say, you  
9 weren't in this band, so we don't even evaluate you  
10 any further.

11           COMMISSIONER ARANOFF: Okay, okay. That's  
12 actually super helpful. I think I really understand  
13 now. So they're giving in advance how they're going  
14 to weight all the factors that they want you to  
15 provide proposals on. And then is it your  
16 understanding that that's 100 percent of what they're  
17 looking at when they make their decisions? There  
18 aren't any, you know, what we might call sort of  
19 nonpriced or subjective factors that go beyond what is  
20 on that listing that might be swaying someone in  
21 making a purchase?

22           MS. CUSACK: I would say, you know,  
23 certainly there are cases where you will -- if  
24 somebody has an urgent need, and you have a slot in  
25 your facility, and you can make a product very



1 quickly, that might sway a particular purchase. So I  
2 would not say never do any of these factors ever come  
3 into effect.

4 But having said that, the vast majority of  
5 our customers plan -- these are large capital  
6 expenditures, and they typically know what they've got  
7 to buy in advance of buying it. So they typically  
8 aren't rushing something through and using other  
9 factors as their primary reason for buying.

10 COMMISSIONER ARANOFF: Okay. Thank you.

11 MR. LUBERDA: Commissioner, I think that's  
12 reflected also in your table V-5, where the pricing  
13 factors were the dominant factors that related to a  
14 sale, and then the things like history and fast track  
15 or owner's preference, you know, that's a couple of  
16 responses where that was the deciding factor.

17 COMMISSIONER ARANOFF: Okay. That's really  
18 helpful. Let me change to a totally different subject  
19 and ask about postpetition data. Respondents argue  
20 that the Commission should not discount postpetition  
21 declines in subject imports because LPTs tend to  
22 ordered and built many months in advance of delivery  
23 so that the deliveries that are being made during our  
24 most recent data period would not have been affected  
25 by the pendency of the investigation.

1           So I want to ask whether you agree with  
2           that. But I also want to ask whether maybe that's the  
3           wrong focus and what we should be looking at is what  
4           some of you already testified to today, which is new  
5           orders, new bids that are going on since the petition  
6           was filed.

7           MR. LUBERDA: Well, I think you heard some  
8           testimony this morning. I'll let the others actually  
9           give that testimony again. But there has been new  
10          opportunities for the domestic industry because of the  
11          petition, and more particularly this year because of  
12          the duties that -- duty deposit requirements that went  
13          into place.

14          The demand across the period was fairly  
15          stable or increasing. So we think the data does show  
16          that any postpetition declines that you see are at  
17          least partly due to what is going on with the case.  
18          There is also some decline this year in potential  
19          demand that's causing it as well.

20          MS. CANNON: Commissioner Aranoff, if I  
21          could just add, first of all, I think that the premise  
22          that there are any declines is incorrect. And again,  
23          this is frustrating because I can't discuss this in a  
24          public forum, but I would urge you to look at pages 47  
25          to 49 of our brief, and that I think explains what is

1 really going on with the Korean imports.

2 We do not disagree that in the context of  
3 this case and given the long lead times that the  
4 filing of the petition had an effect on the volumes of  
5 the sales because those were reflective of things that  
6 were happening a while ago. This case really started  
7 having an effect when the preliminary dumping margins  
8 came out from the Commerce Department. And at that  
9 point, customers did start returning to the domestic  
10 producers to seek business. And so that will be  
11 reflected, as you said, in their orders.

12 But the main point I want to emphasize is  
13 that the Korean imports in 2011 and 2012 volume-wise  
14 are not really in decline. And again, just if you  
15 would look at the discussion that we have a pages 47  
16 to 49, that explains my point.

17 COMMISSIONER ARANOFF: Okay. Thank you for  
18 that. Can we just get from the prospective of the  
19 domestic industry -- and I'll ask the Respondents, too  
20 -- an update on the two new domestic facilities that  
21 either have just come online or are supposed to come  
22 online this year. That's the Hyundai facility and  
23 then the Mitsubishi electric facility.

24 I know there was -- you did provide some  
25 evidence in your brief about what the status of the

1 Hyundai facility is. I'm not sure if anyone knows  
2 whether the Mitsubishi plant is up and running yet. I  
3 guess it was supposed to be in 2012.

4 MS. CUSACK: No. They've just started to  
5 break down, so they're not anywhere close to being up  
6 and running right now.

7 COMMISSIONER ARANOFF: So the 2012  
8 projection, they've fallen behind that.

9 MS. CUSACK: I think our latest estimate was  
10 that it would be sometime late in 2013 that they'd be  
11 up and running?

12 COMMISSIONER ARANOFF: Do you know what that  
13 plant is supposed to produce in terms of product  
14 range?

15 MS. CUSACK: I don't. I know that they're  
16 concentrating on shell technology from that plant, but  
17 I don't know the range in terms of the product range  
18 that they plan to produce from there. Do you know?

19 MR. GUERRA: Yeah. According to the  
20 information that we have seen, is more for units in  
21 size of 200 to 500 MVA, is the range that they are  
22 actively targeting.

23 COMMISSIONER ARANOFF: Okay. And in  
24 addition to what was in your brief, is there any more  
25 recent information about the current activities of the

1 Hyundai plant in terms of bids that they've been  
2 participating in recently where you may have seen  
3 them?

4 MS. CUSACK: We can certainly supply some  
5 stuff in the posthearing, but I would say that from a  
6 significance factor in the market, it is relatively  
7 insignificant, what is being done out of the Alabama  
8 facility in terms of customer interaction and bids  
9 being won there. The majority of stuff that is coming  
10 into the region that's problematic in terms of pricing  
11 is coming from Korea.

12 MR. LUBERDA: We'll try and supplement that  
13 to the extent possible, but obviously they're the best  
14 folks to ask about that.

15 COMMISSIONER ARANOFF: Absolutely. Thank  
16 you all very much for your questions. Thank you, Mr.  
17 Chairman.

18 CHAIRMAN WILLIAMSON: Commissioner Pinkert.

19 COMMISSIONER PINKERT: Thank you, Mr.  
20 Chairman. I just have a few additional questions.  
21 Given your testimony about the impact of Commerce's  
22 preliminary determination, Ms. Cannon, why don't we  
23 observe substantial improvement in financial  
24 performance in the first part of 2012?

25 MS. CANNON: Because the financial

1 performance, Commissioner Pinkert -- and you all can  
2 correct me -- is tied to shipments generally, when the  
3 product is shipped. So even though the industry is  
4 starting to now get bids that they had not been  
5 getting once the Commerce decision was published, that  
6 is not going to show up in their books and records for  
7 awhile, until these products are actually manufactured  
8 and delivered and the payment is received. So you'll  
9 see hopefully a recovery and a return of some sales if  
10 this continues. But Ms. Cusack might want to expand  
11 from the industry.

12 MS. CUSACK: Yeah. I would say that the  
13 pricing -- it's showing it's on. I'll just move it  
14 closer -- that the pricing in the market continues to  
15 be depressed. But after we got the initial ruling, we  
16 have seen customers who haven't purchased from us for  
17 years return and start to ask us to bid on stuff  
18 again.

19 So we are seeing that we were getting a  
20 positive response from our customers as a result of  
21 this case. But as Kathy mentioned, the typical lead  
22 time for these products -- you know, if you rush it  
23 through and you've done the design before, you can get  
24 it down to about six months. But you're talking from  
25 6 to 12 months. So we're not seeing the effects yet

1 of any improved financial performance from that  
2 initial ruling. But we're hopeful.

3 COMMISSIONER PINKERT: Any other comments  
4 from the panel on that issue?

5 MR. GUERRA: I totally agree with the  
6 statement.

7 MR. NEWMAN: Delta Star. We concur.

8 COMMISSIONER PINKERT: Thank you. Now, this  
9 is probably more of a question for Mr. Kerwin. Why  
10 didn't domestic industry market share bounce back in  
11 2011, given the trend with respect to subject import  
12 market share?

13 MR. KERWIN: Let me consider for a second  
14 how to not get into proprietary information. I think  
15 one of the things that I would mention is the  
16 disparity in trends between volume and price, whether  
17 you are measuring market share in relation to volume  
18 or value, and that what you do see in the data is a  
19 substantial decline in relation to value, whereas the  
20 overall market is showing some growth in terms of  
21 volume, but certainly in the U.S. instance there is a  
22 significant decline in the value of shipments, so that  
23 the measurement of the market share, it does make a  
24 significant difference in relation to, you know, which  
25 one you're looking at, at volume or value, in

1 assessing that.

2 The second factor, I think, that we need to  
3 keep in mind is we do have some significant data  
4 issues. We're awaiting the revisions that we hope  
5 will be forthcoming from the Commission staff in that  
6 regard. We don't know until those data are received  
7 exactly what the effects are going to be on the  
8 overall consumption and therefore the market shares.

9 But we have discussed -- we think there is  
10 a significant disparity between what we're seeing from  
11 the staff report in terms of nonsubject imports and  
12 what is reflected in the official statistics for  
13 nonsubject imports. And that may have some effect on  
14 the market share trends in that period.

15 I think what you did see to some extent is  
16 that, yes, the domestic industry increased its  
17 shipments to some extent in 2011, but that was quite a  
18 limited extent, and that the decline in value that was  
19 reflected in those sales was extremely dramatic. This  
20 is a product that when you produce this product, you I  
21 think face a choice of filling your facility to some  
22 extent or to just closing down the facility. It's a  
23 manufacturing process with very high overhead. A lot  
24 of skilled people are involved. And it actually can  
25 reach a point where it's more expensive to shut down a



1 facility for a period of time than it is to try to  
2 muddle through and to continue to build and to ship  
3 the product even at a depressed price.

4 I think that the domestic industry and the  
5 individual producers have been facing a very difficult  
6 situation in trying to decide what to do in relation  
7 to Korean imports and what has been going on with the  
8 pricing in the market, and they have not wanted to  
9 close whole facilities. So they've kind of muddled  
10 through and, you know, continued to ship the units  
11 that they can. But unfortunately, it has been at very  
12 depressed pricing levels.

13 So, you know, I don't think you can -- that  
14 there has been -- I think, you know, the trough of the  
15 recession was 2009. I think you're going to see some  
16 kind of a minor increase as the economy turns around  
17 in terms of volume demand. But what is really  
18 striking is that decline in the overall value.

19 MR. LUBERDA: Commissioner Pinkert, I think  
20 what is most important here is that when you properly  
21 account for Korean market share, as we argued in our  
22 brief, the problem is that the Koreans had an  
23 increasing market share, and that their prices  
24 continued to fall and undersell the domestic industry.  
25 So the industry wasn't able to make that turnaround.

1 That's what the witnesses testified to today, and  
2 that is the biggest factor in the marketplace.

3 COMMISSIONER PINKERT: Just to try to  
4 clarify the point that you're making there, Mr.  
5 Luberda, are you saying that if we properly account  
6 for the information as you suggest that there would  
7 have been an increase in subject import market share  
8 between 2010 and 2011? I'm just -- I understand  
9 you're also talking about the period as a whole. But  
10 just focusing on that sub-period, are you saying that  
11 there would be an increase in subject import market  
12 share?

13 MS. CANNON: We're saying there is an  
14 increase in subject import market share over the  
15 entire period, 2009 to 2011. In 2010, I think they  
16 had a larger share, but 2011 was also large when you  
17 account for the market share properly, and 2012 is up  
18 as well if you account for the market share properly,  
19 as we have done in the confidential exhibit to our  
20 brief.

21 MR. LUBERDA: And the prices in 2012 were  
22 lower. I mean prices in 2011 were lower. So from  
23 2010 to 2011, Korean prices declined.

24 COMMISSIONER PINKERT: And what happened to  
25 market share during that period, during that sub-

1 period?

2 MR. LUBERDA: I can't give you exact  
3 numbers, but I'm happy to discuss it in the brief.  
4 the market share stayed high, and high enough that it  
5 has a continuing significant effect on the domestic  
6 industry.

7 COMMISSIONER PINKERT: I appreciate that  
8 answer. And if you can explicate it in the  
9 posthearing, that would be helpful.

10 MR. LUBERDA: We will do that.

11 COMMISSIONER PINKERT: Thank you. Now, my  
12 last question has to do with a set of concerns that  
13 are often called Bratsk concerns. And I don't want to  
14 get into the differing interpretations of the line of  
15 cases so much as I want to understand what your  
16 position is on the facts of this case.

17 If the subject imports had left the market  
18 during the period under examination, is there just  
19 almost a one-for-one relationship between the subjects  
20 and the nonsubjects such that the nonsubjects would  
21 have replaced the subject imports during the period?

22 MS. CANNON: Absolutely not. First of all,  
23 Bratsk I think technically does not apply here because  
24 that premise was if you're dealing with a commodity  
25 product, which I don't believe anyone here has

1 suggested we're dealing with .

2 But second, there is no basis for assuming  
3 that if the subject imports disappear the nonsubject  
4 imports would take that business because as everyone  
5 has testified here, the problem that they're seeing in  
6 the market with the prices is the Korean subject  
7 imports. The nonsubject imports now and then may have  
8 some low prices, too. Everybody has low prices  
9 occasionally, but they are not the ones that are  
10 driving the market 20 to 30 percent below domestic  
11 industry prices consistently that have led to the  
12 problems you're seeing.

13 So had they not been in this market, the  
14 prices overall would have been up and the domestic  
15 industry would have had more sales at higher prices  
16 and made more money.

17 COMMISSIONER PINKERT: Thank you. I have no  
18 further questions for this round. I appreciate the  
19 answers.

20 CHAIRMAN WILLIAMSON: Commissioner Johanson.

21 COMMISSIONER JOHANSON: Thank you, Mr.  
22 Chairman. I'd like to ask a question for Mr. Blake,  
23 please. You earlier stated that some reference -- you  
24 earlier made some references to customers who  
25 primarily select due to price versus purchasers who

1 are more selective with regard to quality. Are there  
2 quality differences between U.S.-produced and Korean-  
3 produced LPTs that would influence such purchasing  
4 decisions?

5 MR. BLAKE: I would say that the utilities  
6 may have a perception of quality from past experiences  
7 and may, if all things being equal, may then influence  
8 a decision. And I'm not going to say that we have a  
9 lot more quality than another manufacturer. But  
10 typically transformers are inspected, and they are  
11 supposed to last 30 to 40 years, and they should. But  
12 that's about where I can go with that.

13 COMMISSIONER JOHANSON: All right. Thank  
14 you. Yes, Ms. Cusack.

15 MS. CUSACK: I would say that from a quality  
16 perspective -- and I think I mentioned it before.  
17 Everybody sitting in this room has the ability to make  
18 high-quality products that meet the specifications. I  
19 think with respect to quality, where it would become  
20 more of a concern is if you're talking about some of  
21 the Chinese manufacturers that might be importing and  
22 that don't have frankly the track record or the  
23 ability to show that they have made a diversity of  
24 products over their portfolio.

25 But, you know, I don't think that anybody in

1 this room has an issue with their quality.

2 MS. BECK: And, Commissioner Johanson, this  
3 is Gina Beck from Georgetown Economic Services, if I  
4 could also direct you back to table 5, section 5-5 of  
5 the staff report. When you see the factors of why  
6 purchasers purchased a particular transformer, quality  
7 is not one that is of importance on that list, whereas  
8 price was the number one.

9 COMMISSIONER JOHANSON: All right. Thank  
10 you, Ms. Beck. And I guess this is a followup to that  
11 question also. I want to go back to the whole issue  
12 of in-and-out servicing that was raised during my  
13 first line of questioning. If the Korean producers  
14 are offering five years in their in-and-out service,  
15 are they able to do so because they have lower failure  
16 rates? Are failure rates similar for the major  
17 producers? Yes, Mr. Blake.

18 MR. BLAKE: If I was a purchaser, and if I  
19 had to ship a transformer back to Korea, it would be  
20 very expensive. So I'm assuming the purchasers of the  
21 utilities are requiring them to give the same amount  
22 for all five years because of the cost to send  
23 something to Korea versus something local.

24 COMMISSIONER JOHANSON: All right. Thank  
25 you. That answers the question. I'd now like to turn

1 to the issue of government, the impact of government  
2 initiatives and incentives on sales. How do  
3 government incentives such as -- I'm sorry. How do  
4 government initiatives such as incentives,  
5 regulations, and environmental compliance requirements  
6 affect demand? And are there government actions that  
7 are likely in the foreseeable future to have an effect  
8 on transformer demand?

9 I know we have the whole issue of the wind  
10 farms. That's one area where Congress has yet to  
11 extend that tax credit. Are you all aware of any  
12 other government policies that might affect sales?

13 MR. STROCHECKER: Commissioner, if I can  
14 respond.

15 COMMISSIONER JOHANSON: Mr. Strocchecker,  
16 yes, thank you.

17 MR. STROCHECKER: Thanks. There are a  
18 number of government regulations that are impacting or  
19 have impact on the investment in the electrical  
20 infrastructure in the country. So first is the  
21 production tax credit, which has been applied and has  
22 really caused the renewable industry to grow over the  
23 last several years. That particular bit of regulation  
24 is expiring now, and Congress is currently debating  
25 whether or not that will be extended.

1           There are also a series of rulings from the  
2 Environmental Protection Agency that are impacting  
3 investment at power generation facilities that result  
4 in the purchase of some of the smallest MPT  
5 transformers as those coal-fired power plants comply  
6 with legislation.

7           And then finally there are some FERC,  
8 Federal Energy Regulating [sic] Commission, and NERC  
9 regulations that are driving investment to improve the  
10 infrastructure for transmission across the country.

11           COMMISSIONER JOHANSON: All right. Thank  
12 you. Ms. Cusack?

13           MS. CUSACK: I was just going to mention  
14 that some of these programs that Bill mentioned,  
15 though, don't have an immediate impact on the  
16 marketplace. As I said, you know, some of these, you  
17 look at a new transmission line at some of these  
18 projects -- MAP is one in that area here that has been  
19 on the table. It has been moved a number of times to  
20 the right. And, you know, really I think now the  
21 latest date that I saw for them to actually decide on  
22 whether or not there was a need to put in some of  
23 these new transmission lines was 2015. And so a  
24 decision at 2015 doesn't result in business for anyone  
25 sitting in this room for quite some time after that.



1           So, I mean, these projects take a long time  
2           once they're enacted to trickle down into the  
3           industry. So, I mean, I really do see this market as  
4           being relatively flat in the next couple of years.

5           COMMISSIONER JOHANSON: Is it safe to say  
6           that the only government policy which will have an  
7           immediate short-term impact would be the wind energy  
8           tax credit, whether or not that is extended? Yes, Mr.  
9           Strochecker.

10          MR. STROCHECKER: Commissioner Johanson,  
11          yes. Even that, history tells us that if the  
12          production tax credit is renewed by Congress, that it  
13          will take some period of time again for the  
14          marketplace to respond and begin building in the  
15          United States again. So with all of those  
16          regulations, there is a substantial dwell time of as  
17          many as 24 months to even 36 months before they truly  
18          impact the marketplace.

19          COMMISSIONER JOHANSON: Thank you for your  
20          responses. Ms. Cusack, I'd like to follow up with  
21          something you mentioned a minute ago, and that was  
22          dealing with the whole issue of China and potential  
23          sales in the United States.

24          Petitioners note that India and China are  
25          experiencing a severe oversupply situation for LPTs.

1 Do you or any other members of the panel know if there  
2 has been an increase in the LPT exports from those  
3 countries, and in particular into the United States?

4 MS. CUSACK: It has been a little while  
5 since I looked at the official import statistics, but  
6 I have not seen imports coming in from India and China  
7 at rates which are alarming. They're very  
8 insignificant when compared to what is coming in from  
9 Korea. And I guess if it's okay, I'd just like to  
10 take a moment and say the U.S. market has been a  
11 market that has accepted imports for a number of  
12 years.

13 This is not -- we're not sitting here  
14 because we have a problem with imports coming into the  
15 country. We have a problem with the price levels that  
16 the Korean producers are importing at into the  
17 country, and we're not seeing that aggressive behavior  
18 from these other countries that are named as third-  
19 party countries or nonsubject import countries. I  
20 mean, we're not seeing the same type of behavior from  
21 them that we are from the Korean producers.

22 MR. KERWIN: Commissioner Johanson, if I  
23 might. Mike Kerwin, Georgetown Economics. To add  
24 what Ms. Cusack said, just from my knowledge of the  
25 official import statistics, I could say that neither

1 China nor India have really become significant players  
2 in the U.S. market based on the levels of the import  
3 statistics.

4 COMMISSIONER JOHANSON: So the oversupply  
5 situation in those countries, you assume they're going  
6 to other markets. Do you know, or what is happening  
7 with those, with their products?

8 MS. CUSACK: I do know that -- I mean, we're  
9 a global company, and we've got presence in other  
10 countries around the world. And I do know that the  
11 Chinese transformer suppliers are targeting heavily  
12 India as a marketplace. I know that there has been  
13 some recent publications to that fact, and we've seen  
14 it through our Indian operations as well, that the  
15 Chinese are looking toward India for their product.

16 COMMISSIONER JOHANSON: All right. Thank  
17 you. And I think I have time for just one more  
18 question, and it will deal with the issue of demand.  
19 Did the recession have a delayed effect on your  
20 industry give any significant lead times between bids  
21 and deliveries, and do you all know if any orders were  
22 canceled or delivered postponed due to the recession,  
23 which began I guess in 2008-2009?

24 MS. CUSACK: Yeah. I would say that for our  
25 types of products, the number of LPTs over the period

1 actually -- there is a delay factor certainly. But  
2 these are capital purchases, and we actually saw the  
3 number of LPTs increase over the period of interest  
4 and not in fact decrease. And I think one of the  
5 things that helped to drive that increase or at least  
6 keep it stable was that there is an aging  
7 infrastructure that added to the stability for those  
8 replacement products.

9 And frankly, the wind market that was  
10 developed as a result of having tax incentives  
11 certainly helped during that period of time to keep  
12 that market healthy when in fact the general economy  
13 was going down, and the shorter cycle businesses were  
14 experiencing that. For ABB, we have a distribution  
15 side of our transformer business as well as the  
16 transmission side of our business, and we certainly  
17 did see a decline in units on the distribution side of  
18 the business that we did not see in terms of the  
19 marketplace on the transmission side of the business.

20 COMMISSIONER JOHANSON: All right. I thank  
21 you for your responses. My time has expired.

22 CHAIRMAN WILLIAMSON: Commissioner Okun.

23 COMMISSIONER OKUN: Thank you. I wanted to  
24 explore a little further the price suppression and  
25 depression arguments. And I know both in your brief

1 and today, Ms. Cannon, in your testimony you talked  
2 about the lighthouse effect and how the Commission  
3 could take that into account and has done in a prior  
4 case.

5 A couple of questions. One, bolstering that  
6 argument, would you agree that this is not a case  
7 where our typical analysis of cost of goods sold, the  
8 ratio of costs of goods sold, is appropriate, where  
9 you have the range of different types of products here  
10 where we can't construct that same type of analysis?

11 MS. CANNON: It's more difficult to  
12 construct. I think we presented a revenue variance  
13 analysis that you've recognized in other similar type  
14 cases, an alternative to that, showing the decline  
15 that correlates to the declining prices and the  
16 declining average unit values, which just given the  
17 nature of the product here we know are not perfect  
18 indicators of price but we think are a reasonable  
19 proxy to show what is quite a significant downturn in  
20 the average unit values over the period.

21 COMMISSIONER OKUN: Okay. And then with  
22 respect to whether there is a lighthouse effect in  
23 this case, do we have sufficient information on this  
24 record to rely on that, or is there additional  
25 information the purchasers could provide about where

1 they could have been, where they -- I mean, I know Mr.  
2 Guerra had talked about where they had -- I think it  
3 was you, Mr. Guerra -- had talked about a case where  
4 you had a contract you didn't bid the next time.

5 Is there more information that could be put  
6 on the record to help me better understand whether  
7 this is a case where they could have competed and  
8 chose not to because of a lighthouse effect versus  
9 they weren't in that market anyway, they wouldn't have  
10 been able to compete because of the number of  
11 instances where they didn't compete?

12 MS. CANNON: Let me start, and then maybe  
13 they can amplify. But in terms of whether there is a  
14 lighthouse effect, I think there is sufficient  
15 information to show that. You've heard from every  
16 witness today that they are well aware of the prices  
17 in the market because they are getting informal verbal  
18 feedback. And we've put in a number of confidential  
19 declarations to that effect on specific accounts of  
20 what people know is going on in the market.

21 So I don't think there can really be any  
22 doubt that the industry is not aware of what they're  
23 competing against, and that seeing the lower prices  
24 from Korea, that they in turn have had to lower their  
25 prices.

1           If you're trying to be more specific as to  
2 where they chose to bid and opted not to bid, that  
3 would probably be something we'd have to get into more  
4 in confidence, although I'm not even sure you can  
5 itemize them all. I don't know that -- you know, and  
6 you all can add on from this. But where they see the  
7 Koreans out there, and they know that they're there, I  
8 don't know whether they're documenting that we opted  
9 not to go on this particular bid. But maybe the  
10 industry witnesses could explain that further.

11           COMMISSIONER OKUN: The witnesses -- Mr.  
12 Blake, you had started down that line when we had  
13 talked about this earlier.

14           MR. BLAKE: We don't document it. We know  
15 they're bidding. We just put that one aside and tell  
16 the customer no and go on to the next one. And then  
17 we just -- we don't document that.

18           COMMISSIONER OKUN: Of those -- well, let me  
19 ask -- let me see if there are other producers who  
20 would have any sense of that.

21           MS. CUSACK: At ABB, we have a very  
22 extensive sales network in the United States, and we  
23 are aware, I would say, of the overwhelming majority  
24 of bids that are available for us to go in and to seek  
25 through both direct people as well as manufacturers'

1 representatives.

2           We have some tools that we use that we would  
3 have documented where we chose not to bid because of  
4 who we thought we were up against in terms of  
5 competition. But I would say, similar to what Dennis  
6 just said, I mean, we don't necessarily document every  
7 case that we've decided not to bid because of who is  
8 there.

9           But certainly I think we have quite a bit of  
10 data that shows in cases where we consciously decided  
11 to no bid on future opportunities because of who was  
12 bidding on them.

13           COMMISSIONER OKUN: Okay. If you have that,  
14 and it's available, I'd appreciate seeing that for  
15 posthearing. Yes.

16           MR. BAUER: Hi. My name is Mike Bauer. I'm  
17 with Efacec as well. We have basically a go/no-go  
18 process on each bid that we come up with, and that's  
19 just one of the key factors. And for the last two or  
20 three years, we've all known, at least within our  
21 organization, that based on our customer relations,  
22 how good that customer was, how much confidence they  
23 had in us, where all the things are taken into  
24 consideration. But as long as we knew that one of the  
25 Koreans was involved, then that bubbled it up to the



1 top. And in those cases where maybe we thought a  
2 specific advantage might be able to get us to a point  
3 to compete with them, we might be involved.

4 But there were numerous cases where we  
5 decided to walk away from the bid with our new plant  
6 because we knew we couldn't get down to the levels.

7 COMMISSIONER OKUN: Any other comments on  
8 that question? And then obviously without going into  
9 the confidential record, I just wanted to ask you --  
10 and you can cover it more posthearing as well -- about  
11 the lost sales and lost revenue record in this case,  
12 and whether it -- how you view it in terms of the  
13 other arguments you have made with respect to  
14 competition and reasons for winning or losing bids.

15 Is there anything you want to say generally,  
16 again without going into any specifics?

17 MR. LUBERDA: Without going into specifics,  
18 the lost revenue is significant when you look at those  
19 that were confirmed and those for which the purchaser  
20 chose not to respond, even in some cases where the  
21 purchaser chose not to respond even though they gave  
22 you a questionnaire response. Obviously, it's not in  
23 their interest sometimes to respond to these things.  
24 But the amount of lost sales either confirmed or not  
25 refuted is very, very significant.

1           COMMISSIONER OKUN: Okay. And I know there  
2 has been discussion about the presence of nonsubjects  
3 and some of the problems with the data, and obviously  
4 we'll look forward to the revisions and how that sorts  
5 out. But with respect to just going back to the bids  
6 in this case and, you know, where you have nonsubjects  
7 present with Korea, with subject imports and with the  
8 U.S., could you respond to arguments that in those  
9 instances -- and I think it is a little bit of Bratsk-  
10 like argument, but not necessarily -- that the  
11 nonsubjects would have captured the bids rather than  
12 the domestic industry in any event, and so that those  
13 are kind of further evidence that there has been --  
14 it's not -- it diminishes the significance.

15           MS. CANNON: I would -- it is sort of a  
16 Bratsk-like argument, and is misplaced for the same  
17 reason that the Commission kind of recognized that the  
18 path that the court was taking in Bratsk is misplaced  
19 because you cannot throw out bids and assume that that  
20 has no effect on the U.S. industry merely because  
21 nonsubject imports are competing and occasionally are  
22 also lower priced than the U.S. industry -- that's  
23 number one -- because it's all having an effect.

24           But I also don't think that you should  
25 assume that the nonsubject imports would necessarily,

1 you know, be getting a huge percentage of bids in lieu  
2 of the U.S. industry because when you look at the  
3 prices overall, you see that the Korean prices are the  
4 ones that are significantly below the nonsubject  
5 prices, too.

6 So they're the ones that are pulling  
7 everything down. And I think the industry could  
8 testify that the other nonsubject imports, Mexico and  
9 the other ones you're seeing, have largely been a  
10 constant presence in this market for many years. They  
11 have not posed a problem to this industry. They've  
12 supplemented the U.S. production. That has been part  
13 of the supply to this market. And everybody has  
14 happily coexisted.

15 So the problem isn't that this industry is  
16 trying to block imports. The nonsubject imports are  
17 an important part of supply. The problem is the  
18 dumping practices and the really low prices that the  
19 Koreans offer as a result that has pulled everybody  
20 down. You take that out of the equation, you have an  
21 entirely different ball game here.

22 MR. LUBERDA: Just to add --

23 COMMISSIONER OKUN: Yes, Mr. Luberda.

24 MR. LUBERDA: If I could just add one thing,  
25 that you can't assume also that if the Koreans weren't

1 bidding that the prices that the nonsubject and the  
2 subjects bid would have been at exactly the same  
3 level. You heard the testimony here today from the  
4 witnesses that they change how they bid when they see  
5 the Koreans at the table, and the nonsubjects are  
6 doing the same thing.

7 Whether Ms. Cusack's organization has bid  
8 something from a third country from here, that pricing  
9 is affected. If the Koreans are off the table, how  
10 everybody approaches that bid is different. And so  
11 the opportunity to get that bid is up in the air for  
12 both of us.

13 MR. KERWIN: Could I add one point?

14 MS. CUSACK: May I add --

15 COMMISSIONER OKUN: Yes. I'm not sure who  
16 spoke first. But let me go to the back and then up  
17 front.

18 MR. KERWIN: I think in reviewing these  
19 data, it's important to put them in the context of a  
20 typical ITC investigation and recognize that these  
21 data from the purchasers were developed in lieu of  
22 true -- the typical pricing data that the Commission  
23 develops in an investigation because of the nature of  
24 the product and the market.

25 But in a typical investigation the pricing

1 data that you have that you make an underselling  
2 analysis on is -- there is not even necessarily any  
3 evidence that those prices were offered at the exact  
4 same accounts. So what you're gathering in a typical  
5 ITC investigation is pricing data. It's derived  
6 pricing data. It's volume and value data that you  
7 then derive an average unit value for the quarter for  
8 the domestic industry and for the imports, and then  
9 you compare on that basis.

10 But in point of fact, when you do that  
11 analysis, there is no real evidence that those sales  
12 were taking place at exactly the same accounts.  
13 That's just a general feel for what was going on in  
14 price, and you make a conclusion on that basis.

15 Here you have a wealth of information, a  
16 tremendous amount of information that shows direct  
17 competition between the domestic industry and the  
18 Korean imports, and, yes, in some instances nonsubject  
19 imports. But the point is that in instance after  
20 instance, you're seeing this direct competition.  
21 You're seeing that the Korean producer is the one that  
22 won -- that got the business on the basis of its low  
23 bid, and that in that context, the Korean price was  
24 well underselling the domestic producers' prices.

25 So I think it's important to put this into

1 context and realize this is very dramatic and unusual  
2 pricing information in relation to the type of pricing  
3 information that the Commission typically reviews in  
4 its Title VII cases. And I think on that --

5 COMMISSIONER OKUN: Mr. Kerwin, I'm well  
6 over my time, so I'm going to wrap you up. But I also  
7 -- Mr. Chairman, could I have Ms. Cusack just briefly  
8 respond so I don't have to go back to you?

9 MS. CUSACK: Thank you. I just wanted to  
10 mention that even if a nonsubject import's pricing is  
11 the next lowest bid, as opposed to a Korean, it  
12 doesn't mean that the U.S. industry's bids wouldn't be  
13 evaluated. As I mentioned, if the Koreans weren't in  
14 a particular bid, and the next lowest bid was from a  
15 nonsubject country, the U.S. industry may have been  
16 within the band to make it to the evaluation stage to  
17 get to the next stage of that bid and potentially win  
18 it.

19 So there is a wide ranging of the pricing  
20 that has been offered in the marketplace.

21 COMMISSIONER OKUN: Thank you for those  
22 comments. Thank you, Mr. Chairman.

23 CHAIRMAN WILLIAMSON: Commissioner Aranoff  
24 and Commissioner Pinkert asked some questions about  
25 the postpetition effects. And I was just wondering, I

1 don't think anyone has said if they had -- one some of  
2 the things, they're saying after the petition was  
3 filed and after the preliminary ruling came out, if  
4 they had previously been denied the ability to bid on  
5 thing that they were now being bid on. And so I was  
6 wondering if anyone had any information on that; and  
7 also whether or not any of the customers that you are  
8 now sort of seeing that you might not have seen  
9 before, were they alliance agreement customers or not.  
10 Has that made a difference? And also lastly, whether  
11 or not you have actually been successful in these  
12 bids.

13 MS. CUSACK: The customers that -- who have  
14 been talking to us now more and asking us to bid on  
15 stuff that we haven't had the opportunity to bid on  
16 for years -- some of them are alliance-type customers,  
17 some of them are not. And in a number of cases, the  
18 bids are still open. But I can tell you that we have  
19 -- we were successful at the beginning of June in  
20 obtaining some orders from a customer that hasn't  
21 purchased from us in the U.S. for a number of years,  
22 and they were purchasing from the Koreans. So we have  
23 definitely seen some positive impact in terms of  
24 orders as a result of what is going on right now.

25 CHAIRMAN WILLIAMSON: Okay. Anyone else?

1 Mr. Blake?

2 MR. BLAKE: Yeah. We had two separate  
3 instances where one has an alliance with a Korean  
4 manufacturer, and as a result of the filing, they  
5 actually came out to our factory and spent a lot of  
6 time with us touring the factory, you know, for us to  
7 have an opportunity if something happens that we would  
8 be able to, you know, be in line to be able to quote  
9 on their next alliance. And then we have another one  
10 where we haven't seen -- the Koreans are on the bid  
11 list, but they're not in alliance, and they have six  
12 bidders on there, and they never opened up that  
13 quotation process for us for over five or six years.  
14 And as a result of this, we are allowed to bid on a  
15 blanket.

16 So it has been -- so it has helped us out a  
17 lot.

18 CHAIRMAN WILLIAMSON: Thank you. I'm sorry.  
19 Mr. Strocchecker?

20 MR. STROCHECKER: Yes. I was in a customer  
21 meeting two weeks ago with a customer who has an  
22 alliance with one of the Korean manufacturers who told  
23 me that they were currently looking to supply because  
24 of the ruling. They were looking for their supply of  
25 large power transformers now from North America. And



1 that was just a personal conversation that he and I  
2 had two weeks ago.

3 CHAIRMAN WILLIAMSON: Okay. Yes, yes.

4 MR. BAUER: Hi. We've got at least three  
5 specific instances with real large IOUs in the United  
6 States where we haven't done business with them for a  
7 couple of years, and we had difficulties initially  
8 because we knew they had blankets with the Koreans.  
9 And just in the last six months, they've come back to  
10 us, visited our plant, and are now interested in  
11 supplying quotes.

12 In addition to that, one of the largest  
13 utilities had a blanket with the -- mostly with the  
14 Koreans, and in the middle of that blanket or  
15 alliance, as we have been referring to it, they've  
16 come back out and rebid that blanket right now. So  
17 it's out on the streets, and we're involved in bidding  
18 that, which I think is a direct result of the actions  
19 that have happened here.

20 CHAIRMAN WILLIAMSON: Okay. Thank you for  
21 those answers.

22 Mr. Luberda, in your slide showing  
23 Respondent's proposed like products, are the examples  
24 of LPTs you present examples of actual LPTs or  
25 theoretical ones?

1           MR. LUBERDA: Those were theoretical,  
2           although some of them -- I mean, the grouping I put  
3           together were theoretical, although some of them are  
4           actual sizes that you would see in the market. If  
5           you'd like, for our posthearing brief, I can get you  
6           just as disparate a group on either side that people  
7           have actually quoted, if that's helpful. The point  
8           was that the way that they've constructed this line --  
9           Mr. Guerra has got a 900 MVA 230 KV product that is  
10          going to weigh almost a million pounds that they put  
11          in A. And, you know, then you can have a 60 MVA unit  
12          that, you know, is going to be in B that is going to a  
13          nuclear plant, you know.

14                 So there is no rhyme or reason other than  
15          when they're going through the conversion, they're  
16          trying to say, okay, there are weight limitations. So  
17          a GSU and an auto transformer, if you do the  
18          conversion of an auto transformer, it makes it a  
19          little smaller. There is a weight limitation, you  
20          know, to what you can produce.

21                 The thing is, the industry doesn't have  
22          those technical limitations. The weight limitations  
23          that they're sort of setting up don't work out for the  
24          industry anymore. So for them, they've drawn the line  
25          just on what they think we've produced and can't

1 produce, what we have in the past produced and haven't  
2 produced, as opposed to where the industry stands  
3 right now.

4 So I would be happy to put real examples on  
5 both columns if you would like for the posthearing.

6 CHAIRMAN WILLIAMSON: Okay. If that's a  
7 further substantiation of the point --

8 MR. LUBERDA: Yes.

9 CHAIRMAN WILLIAMSON: Good, okay. Thank  
10 you. I was wondering, what share of the purchase of  
11 LPTs are by entities subject to the Government  
12 Procurement Act? Does anyone know? And --

13 MS. CUSACK: I'm sorry. I don't know off  
14 the top of -- it's something we could find out, but  
15 it's not something I know off the top of my head.

16 CHAIRMAN WILLIAMSON: Okay. And to what  
17 extent if it's relevant. The other question I had  
18 along this line, for those U.S. purchasers not subject  
19 to the GPA, how important are the buy-America  
20 provisions. So we can just -- is there anything  
21 relevant that we should know about the way the  
22 Government Procurement Act works that may affect our  
23 decision here?

24 MS. CANNON: Chairman Williamson, as I  
25 testified to, and we provided more details in our

1       brief, the Koreans are given preferential rights under  
2       the WTO to Government Procurement Act.

3               CHAIRMAN WILLIAMSON:  Yes.

4               MS. CANNON:  So really that doesn't preclude  
5       them from competing for these bids.  I'm really not  
6       aware of any specific examples of instances where  
7       they're precluded, given a number of preferences that  
8       they're now accorded under U.S. and international  
9       rules, unlike, I might say, what U.S. producers face  
10      in Korea.

11              CHAIRMAN WILLIAMSON:  Okay.  Now, are there  
12      some entities that may not be covered, you know, some  
13      state entities or other organizations that, you know,  
14      aren't bound by GPA?

15              MR. LUBERDA:  Most of the IOUs out in the  
16      market are not government-owned, and so they're not  
17      bound by that.  Most of the public power -- where you  
18      see the public bids, they're taking anybody.  So we'll  
19      give you -- we'll try and get you some firm data on  
20      those statistics.  But in point -- you know, the  
21      Koreans aren't precluded from bidding anywhere in the  
22      United States, or virtually anywhere in the United  
23      States.

24              CHAIRMAN WILLIAMSON:  Okay.  Well, that's  
25      fine.  I guess the Petitioner -- if the Respondents

1 know of anything, they'll let us know, too, so --

2 MR. LUBERDA: I'm sure they will.

3 CHAIRMAN WILLIAMSON: Thank you. Yes.

4 MS. CUSACK: I was just going to mention in  
5 the government quotes that I have been involved in,  
6 sometimes there is a factor that is applied if you are  
7 importing from certain countries. And I've not ever  
8 seen a factor applied as a penalty, if you will, from  
9 Korea. They're treated just as if they were producing  
10 here in the U.S., from the contracts that I've seen.

11 CHAIRMAN WILLIAMSON: Okay. Thank you.  
12 Given the long production lead time and the existence  
13 of long-term agreements, what period of time should  
14 the Commission consider to be the imminent future  
15 here?

16 MR. LUBERDA: We would say that the imminent  
17 future probably goes out to say the end of 2013. If  
18 you look at, you know, bid times that we're talking  
19 about, it's about the end of 2013.

20 CHAIRMAN WILLIAMSON: Okay. So they're  
21 about the same as our regional --

22 MR. LUBERDA: Yeah. From today, I'd say so,  
23 yes.

24 CHAIRMAN WILLIAMSON: Okay. And I was  
25 wondering if there is anything -- and thinking about

1 what is going to happen during that period, is there  
2 any evidence that we haven't discussed that may be  
3 relevant that we should be taking into account? I'm  
4 not sure there is, but I'm just asking in case.

5 MR. LUBERDA: I'm not sure what other  
6 evidence that would be. We think that your sort of  
7 typical time period applies here. But, you know,  
8 beyond that, even if you were to take it out longer,  
9 which we don't advocate you do, nobody is really  
10 predicting the market to have any kind of surges or  
11 anything like that until well in the future, as you  
12 heard Ms. Cusack and others testify to today.

13 CHAIRMAN WILLIAMSON: Okay. Thank you. And  
14 I think with that I have no further questions. Let's  
15 see. Commissioner Aranoff? Okay. Does anyone else  
16 have any additional questions? Okay, good. Does  
17 staff have any questions?

18 MR. McCLURE: Mr. Chairman, Jim McClure,  
19 Office of Investigations. Staff has no questions.

20 CHAIRMAN WILLIAMSON: Okay. Do Respondents  
21 have any questions of this panel?

22 MR. MORGAN: Frank Morgan on behalf of  
23 Respondents. No questions.

24 CHAIRMAN WILLIAMSON: Okay. Well, with  
25 that, it looks like it might be an appropriate time to

1 take a lunch break. So we'll resume at 1:35. Please  
2 remember that this room is not secure and that any  
3 proprietary or business confidential information  
4 you'll need to take with you. So this hearing is  
5 adjourned until 1:35. Thank you.

6 (Whereupon, at 12:30 p.m., the hearing in  
7 the above-entitled matter was recessed, to reconvene  
8 at 1:35 p.m. this same day, Tuesday, July 10, 2012.)

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

2 (1:35 p.m.)

3 CHAIRMAN WILLIAMSON: Good afternoon. Okay.  
4 Mr. Connelly, you may begin.

5 MR. CONNELLY: Thank you, Mr. Chairman. I'm  
6 Warren Connelly with the Akin Gump Law Firm. Our firm  
7 represents Hyosung. That name was pronounced about  
8 eight different ways this morning. It's Hyosung. And  
9 for those who have trouble with that, just say HICO,  
10 and we'll be okay.

11 Our testimony today is going to be presented  
12 by Jason Neal. Also with Jason to answer the  
13 Commission's questions are Vince Chiodo and Alex  
14 Ebbert. David Park is here from Akin Gump. Once  
15 Jason is over, his testimony is over, we'll turn it  
16 over to the Hyundai folks, and we'll let Frank Morgan  
17 introduce his witnesses. And then our final testimony  
18 will be presented by Dan Klett. So we'll turn it over  
19 to Jason.

20 CHAIRMAN WILLIAMSON: Okay. Thank you.

21 MR. NEAL: Good afternoon. My name is Jason  
22 Neal, and I'm the vice president for sales and  
23 marketing of HICO America, the U.S. sales subsidiary  
24 of Hyosung Corporation. In my current position, I  
25 oversee HICO America's sales and marketing activities.



1       As I result, I am extremely familiar with the nature  
2       of competition in the power transformer market and the  
3       factors that influence utilities, utility companies,  
4       to buy our transformers and those of our competitors.

5               We have an entirely different perspective  
6       from the Petitioners about the developments in the  
7       transformer market since 2008. They blame all of  
8       their problems on low-priced Korean imports. To read  
9       their brief and listen to their testimony, you would  
10      think that but for Korean imports they would have won  
11      every contract award.

12             We take strong exception to this claim. It  
13      is wrong, and it deliberately ignores the reasons why  
14      purchasers frequently choose to buy both Korean and  
15      nonsubject transformers. A utility company's decision  
16      to spend millions of dollars for a transformer that is  
17      expected to perform at a peak level sometimes under  
18      high-stress conditions for at least 25 to 30 years  
19      involves a consideration of far more than bid price.  
20      And yet the Petitioners fail to mention the critical  
21      considerations of a supplier's track record, design  
22      capabilities, ability to meet specified lead times,  
23      and minimize energy losses.

24             We win awards based on these factors and not  
25      based on our allegedly low prices. For this case, the

1 starting point is the definition of the like product,  
2 and we strongly believe that you should reject the  
3 Petitioners' proposal and accept ours.

4 The Petitioners' effort to draw a line at  
5 the 60 MVA level has numerous defects. First, no one  
6 in this industry uses this cutoff for any purpose.  
7 Moreover, transformers with 59 MVA or below are  
8 indistinguishable in terms of their physical  
9 characteristics, uses, customers, and channels of  
10 trade. Only minor differences exist in the pricing  
11 levels.

12 In addition, Hyosung produces under 60 MVA  
13 transformers on the same production lines as it  
14 produces larger units. The same is probably true for  
15 most if not all of the domestic industry. Thus, the  
16 Petitioners' like product definition is purely result-  
17 driven. By focusing solely on the MVA of the unit and  
18 by ignoring its high-line voltage rating, they seek to  
19 have the Commission ignore a critical physical  
20 characteristic that significantly influences the cost  
21 and therefore the price of every unit.

22 U.S. producers focus on transformers that  
23 have 69 to 230 kV system voltages. U.S. producers can  
24 also make transformers at 345 kV. However, the  
25 production capability for this system voltage is

1 limited to 300 MVA and below.

2 We are not aware of any domestic production  
3 of a 345 kV step-up/step-down transformer rated above  
4 300 MVA. In addition, during the POI we are not aware  
5 of any domestic production of 500 or 765 kV  
6 transformers at any MVA level. Even the 400 MVA  
7 Pennsylvania transformer unit that appeared in the  
8 Petitioners' slide show this morning was a 230 kV  
9 unit, which is a category A transformer.

10 Exhibit 1 in our handout hearing exhibits --  
11 or illustrates how we have segregated over 60 MVA  
12 units into two like-product categories using both MVA  
13 and KV as our criteria. We call these the category A  
14 and category B unit, with category B being the much  
15 larger and more technologically complex units.

16 Category A and B transformers have different  
17 uses and are not interchangeable. Due to their  
18 differing design and manufacturing requirements, a  
19 more advanced factory is required to design,  
20 manufacture, and test category B transformers. Crane  
21 capacity, processing equipment, assembly platforms,  
22 ratings of test equipment, and overhead clearance are  
23 all far different.

24 Indeed, the acknowledgment this morning that  
25 Efacec had to design its facility to produce category

1 B units proves this point. Some customers separately  
2 bid out category A and B transformers, and they pay  
3 much more on average for category B transformer.  
4 During the POI, we had virtually no competition from  
5 domestic producers for category B units.

6 The reason for this is quite simple.  
7 Domestic producers until very recently cannot make  
8 category B units. They say that they can, but we  
9 almost never found ourselves competing against a  
10 domestic producer for a sale of a category B unit.  
11 However, we did find ourselves in competition with  
12 ABB, which can make category B units in its foreign  
13 facilities. And we also have frequently competed with  
14 at least a dozen other nonsubject importers.

15 We have discussed at length in our brief why  
16 the Commission's like-product criteria support the  
17 distinction that we seek to draw. Quite frankly, we  
18 don't think that the domestic industry, and especially  
19 the Petitioners, ought to be able to obtain relief on  
20 a category of products that they elected many years  
21 ago not to produce, but only now have decided to start  
22 producing.

23 In the remainder of my testimony, I will  
24 discuss some of the key issues in dispute between the  
25 parties. Beginning with bid criteria, every purchaser

1 has such criteria, and most purchasers announce them  
2 in the RFPs that they release. Price is almost never  
3 the sole criterion, and in most instances is not even  
4 the most primary criterion. Some purchasers use a  
5 formal weighting system, while others list their  
6 evaluation criteria but don't assign numerical weights  
7 to them.

8           If you could please turn to Exhibit 2 in  
9 your handout, you will see the weighting system that  
10 the Nebraska Public Power District used in a 2010  
11 procurement of a 410 MVA 345 kV unit. As you can also  
12 see, the price and the calculated losses are assigned  
13 a 40 percent weighting, while the specified nonprice  
14 factors account for 60 percent of the total score. In  
15 short, price matters less to this purchaser than prior  
16 experience, quality, reputation, facilities, and  
17 conformance to the technical specifications.

18           Other utilities issue a lengthy list of  
19 evaluation criteria, but do not assign formal  
20 weighting. We've also provided an example of the  
21 criteria used by Progress Energy in Exhibit 3. Even  
22 though bid price and cost are not weighted, they are  
23 just 1 of 12 evaluation factors.

24           The importance of experience is illustrated  
25 by the award criteria of the city of Austin, Texas,

1 which we have provided in Exhibit 4. As you can see  
2 in that exhibit, the city of Austin requires that a  
3 bidder have designed, fabricated, tested, and  
4 delivered a minimum of 20 transformers of the same  
5 basic design with one winding being 138 kV within the  
6 past five years. No exceptions are permitted to this  
7 requirement.

8 This is why it takes a lengthy period of  
9 time before new entrants like Efacec and Iljin can  
10 establish themselves as reliable suppliers in the mind  
11 of purchasers. Other purchasers require detailed  
12 reporting of all test failures and field failures as  
13 part of their evaluations of quality and reliability.

14 We have given you three examples in our  
15 Exhibit 5. If you take a look at example one, this  
16 customer wants to understand not only the test floor  
17 failures that a factory will experience in testing a  
18 transformer at their facility, but also the field  
19 failures once a unit is delivered to the site.

20 Similarly, in example two, this customer  
21 requests the failure rates and wants an explanation of  
22 the percentage of failure rates attributed to each  
23 category that they give. Example three asks again for  
24 experience in manufacturing this type of a unit, which  
25 I mentioned previously, but it also requests failure

1 rates in the factory and in the field.

2 These are just three examples, and we will  
3 be including more in our posthearing brief. It is  
4 also true that for some purchasers price is the  
5 primary purchase factor. However, in our experience,  
6 these situations are rare. Equally inaccurate is the  
7 Petitioners' attempt to equate the price of a  
8 transformer with a total cost to operate a  
9 transformer, which is always part of their evaluation.

10 The calculated energy loss of a unit  
11 measures its efficiency. The purchaser specifies in  
12 its RFP how the bidder should calculate the cost of  
13 the energy losses that its proposed unit will sustain  
14 over its estimated life. Customers specify dollars  
15 per kilowatt loss factors, which they then add to the  
16 selling price in their evaluation. These are real  
17 costs to the utility, so they must consider them  
18 before deciding which bid to accept.

19 The Petitioners attempt to minimize the  
20 importance of these losses by claiming that they don't  
21 vary much from bidder to bidder. That is simply not  
22 true, as shown by Exhibit 16 to the Petitioners' own  
23 brief, which we have provided in our hearing exhibits,  
24 Exhibit No. 6. If you can please turn to that  
25 exhibit, you will see that it's a published bid award

1 from the Grant County, Washington Public Utility  
2 District in September 2011. The chart at the bottom  
3 of the first page of this exhibit shows that the  
4 energy loss adders for the four short-listed bidders  
5 varied from a low of \$38,000 to a higher of \$1.1  
6 million.

7 Hyundai eventually won this award, even  
8 though it did not offer the lowest price, because it  
9 offered the most efficient unit of the four bidders,  
10 which included Efacec. This example helps to  
11 illustrate why Korean companies, when they produce  
12 more efficient units, can win awards even when they do  
13 not offer the lowest price.

14 Energy loss calculations are a function of  
15 design and production efficiencies and capabilities.  
16 they give producers a competitive advantage that is  
17 not price-related. The Petitioners urge the  
18 Commission to include the cost of operating a unit in  
19 the determination of its price, but this is incorrect.

20 In other words, if Hyosung could build a more  
21 efficient unit that costs less to operate, it should  
22 not be penalized in the Commissioner's underselling  
23 analysis.

24 I want to turn now to the ways in which HICO  
25 approaches potential customers and what our primary



1 selling points are. Our parent production company,  
2 Hyosung, is not a new entrant in the U.S. market. We  
3 have been successful here since at least 1999. Unlike  
4 the Petitioners, we have always been able to offer the  
5 full range of category A and category B units. We  
6 have a long track record of successful installations  
7 that we emphasize in our proposals. We have an  
8 extraordinary design staff and production  
9 capabilities.

10 The Petitioners claim that it takes them  
11 four weeks to prepare a bid, and this is allegedly a  
12 reason why they decide not to bid at all when they  
13 think they're going up against us. However, it  
14 typically takes us no more than a week to put our bids  
15 together, so this may be yet another reason why  
16 domestic producers cannot compete effectively.

17 We stress quality, reliability, service, and  
18 shorter lead times than our competitors. Lead times  
19 can be critical for certain applications. In the wind  
20 power sector, for example, lead time is almost always  
21 the most important evaluation criterion. The  
22 Petitioners also claim that we will agree to virtually  
23 any term or condition regardless of its cost in order  
24 to make a sale. They allege that we will agree to  
25 extended warranties, but we offer the same or similar

1 warranties as our competitors. Moreover, we make the  
2 highest quality transformers that rarely if ever fail,  
3 so we have minimal warranty costs.

4 Next, I'd like to discuss the extent to  
5 which we face competition from nonsubject imports. To  
6 read the Petitioners' brief, you would conclude that  
7 their presence is minimal and sporadic, but precisely  
8 the opposite is true. The U.S. market is dominated by  
9 nonsubject imports and not by Korean producers. In  
10 fact, we frequently find ourselves in bid contests  
11 where no U.S. producers are competing.

12 A representative example of nonsubject  
13 import competition occurred with the Nebraska Public  
14 Power District. Exhibit 7 in our handout is a  
15 document that the NPPD released to the public  
16 concerning the bids that it received in 2010 for a 410  
17 MVA 345 kV unit. This is the same unit for which we  
18 provided the evaluation criteria in Hearing Exhibit 2,  
19 and I believe the same exhibit as you saw this morning  
20 from the Petitioners.

21 Six bidders are listed for this unit, and  
22 all of them are nonsubject producers, including ABB,  
23 which is identified in this document as being located  
24 in St. Louis. However, we know for a fact that ABB  
25 intended to produce this unit overseas. Ironically,

1 ABB has attempted to use the NPPD document against us,  
2 its several other customer accounts, by claiming that  
3 we engage in unfair trade. The irony here is that we  
4 proposed to sell a shell-form transformer to NPPD, and  
5 the bid criteria that NPPD issues expressly specified  
6 that each bidder that proposed a core-form unit  
7 instead of a shell-form unit would receive a 7.5  
8 percent penalty.

9 Exhibit 2 in our handout again contains  
10 NPPD's weighting criteria, and that penalty provision.

11 So it's clear that shell-form is preferred by some  
12 customers, and we've documented in our prehearing  
13 brief that shell-form accounted for a very substantial  
14 percentage of HICO's total POI sales. The Petitioners  
15 in contrast cannot make shell-form transformers in  
16 their U.S. plants, and Efacec only recently acquired  
17 that capability.

18 A good insight into the nature of  
19 competition is available from the publicly available  
20 data released by publicly-owned utilities. Precisely  
21 because they are publicly-owned, these utilities are  
22 subject to greater budgetary pressures and therefore  
23 sometimes, but not always, put greater emphasis on  
24 price when evaluating competing bids.

25 So if you would believe the Petitioners, you

1 would expect to see Hyosung and Hyundai winning the  
2 majority of these bids through underselling. But the  
3 available evidence indicates just the opposite. In  
4 our hearing Exhibit 8, we have provided the results of  
5 a bid event by the city of Seattle in early 2012.

6 There, Efacec submitted the lowest bid out  
7 of five bidders, and HICO submitted the highest bid.  
8 Nevertheless, HICO won that award. We will give you  
9 additional examples in our posthearing brief. Taken  
10 collectively, these public bid results do not support  
11 the Petitioners' contention that Korean producers  
12 engage in aggressive price competition.

13 Now I'd like to turn to the subject of  
14 alliance agreements. The Petitioners claim HICO used  
15 alliance agreements to shut them out of major  
16 accounts. The first flaw in this argument is that  
17 several of HICO's most significant alliance agreements  
18 are for category B units, which the domestic industry  
19 could not make at the time HICO entered into those  
20 agreements.

21 The second flaw is that these agreements do  
22 not fix prices, and they do not bind the purchaser to  
23 buy from HICO. This is further established by the  
24 fact that our alliance partners have actually  
25 purchased from other suppliers.

1           The third flaw is that Petitioners have  
2 failed to demonstrate that HICO obtained its alliance  
3 agreements by offering low prices. For example, we  
4 obtained one of our alliance agreements based on our  
5 superior lead times and our production flexibility.  
6 For another alliance customer, no domestic producers  
7 even qualified to bid.

8           The fourth flaw is the domestic industry  
9 also makes frequent use of alliance agreements, but  
10 they seem not to regard these agreements as locking  
11 HICO out of their own customer accounts. Finally,  
12 some utilities enter into multiple alliance agreements  
13 with multiple suppliers, while others put all of their  
14 units up for bid regardless of the existence of these  
15 agreements.

16           I mentioned category B units several times  
17 already because this is really the most important part  
18 of HICO's business. The Petitioners claim that they  
19 have always been serious competitors in the category B  
20 segment of the market. But that argument does not  
21 deserve serious consideration. We know for certain  
22 that ABB cannot produce these types of transformers in  
23 St. Louis, and we have serious doubts that any U.S.  
24 producer could do so until very recently.

25           Pennsylvania Transformer claims to be able

1 to make category B units, but I'm not aware that they  
2 have ever sold any. The same is true for Waukesha  
3 during the POI. In fact, the expenditures by Waukesha  
4 and by Efacec seem to implicitly acknowledge that  
5 these companies missed the boat for most of the POI.  
6 Now they are trying to catch up to us on these  
7 category B units because they have finally come to  
8 understand just how significant that segment of the  
9 market is.

10 In summary, the record will either confirm  
11 or disprove our own market experience. By using the  
12 Commission's terminology, competition in the category  
13 B segment is at a minimum greatly attenuated. The  
14 same is true of the wind power segment as well as that  
15 segment of the market, the preferred shell-form units.

16 We have shown in our brief the significance of HICO's  
17 sales to wind power customers and to shell-form  
18 customers. Collectively, these two segments combined  
19 with our category B sales accounted for the vast  
20 majority of our total U.S. sales during the POI.

21 In conclusion, I want to urge the Commission  
22 not to accept at face value the allegations that the  
23 Petitioners have made here today. They find it very  
24 easy to make broad accusations, but these are either  
25 mere opinions or based on unconfirmed information.

1       However, we are confident that your record will  
2       establish the correctness of our contentions.

3               Thank you, and that completes my remarks.

4               MR. MORGAN: Good afternoon, Chairman  
5       Williamson and commissioners and staff. Frank Morgan  
6       with White and Case here on behalf of Hyundai Heavy  
7       Industries, Hyundai USA Corporation. Joining us today  
8       from HHI and Hyundai Corp. are Mr. John Egan; Mr. Hwan  
9       Soo Lee; Ms. Jean Lee, who joins us from Seoul; and  
10      Mr. Sa Hoon Pack, who joins us from Los Angeles; and  
11      Mr. Sang Gyu Lee, who also joins us from -- Busan or  
12      Seoul? Busan, Korea. And with me today are David  
13      Bond and Jay Campbell of White and Case.

14              And I'm just going to hand it over to our  
15      witnesses to begin their presentation. Mr. Hwan Soo  
16      Lee will be going first.

17              MR. H.S. LEE: Good afternoon. My name is  
18      Hwan Soo Lee, and I am the general manager of HHI's  
19      Atlanta office. In that capacity, I have discussions  
20      with customers and learn about events in the market,  
21      including those involving our competitors. One of our  
22      customers recently told me that Efacec's U.S. facility  
23      delivered a transformer that was not acceptable, which  
24      required Efacec to send engineers and workers from its  
25      facility in Portugal to fix the problems.

1           I was told that it took Efacec about a year  
2 to correct the problem. Based on my experience, this  
3 is not normal, and suggests that there are problems  
4 with Efacec's manufacturing facility.

5           I read the public version of Petitioners'  
6 prehearing brief, and I disagree with much of what was  
7 said. In the time I have today, I wish to draw the  
8 Commission's attention to the statement about LPTs  
9 used in conjunction with nuclear power falling under  
10 category A. I read this to mean that most or all  
11 transformers used by nuclear power plants fall in  
12 category A. But that is not correct. We will provide  
13 information in our posthearing brief about a customer  
14 that represents 20 percent of the U.S. nuclear  
15 industry's power capacity that directly refutes what  
16 Petitioners said in their brief. Petitioners should  
17 have known that what they were saying was not correct  
18 because ABB Spain supplies this customer as well. In  
19 fact, most of the MVA ratings for new transformers  
20 with this company fall into category B.

21           I heard Petitioners' discussion of long-term  
22 agreements this morning, and I do not agree with how  
23 they have characterized them. None of HHI's long-term  
24 agreements that were in effect from 2009 to 2012 were  
25 exclusive or established the quantities to be



1 purchased. Most of the purchasers with whom we had an  
2 agreement still required HHI to submit bids each time,  
3 and most cover subject and nonsubject merchandise.  
4 Long-term agreements do not preclude competition from  
5 companies that do not have such agreements, as long as  
6 they are otherwise qualified by the purchaser. Thank  
7 you.

8 MR. PACK: Good afternoon. My name is Sa  
9 Hoon Pack. I am the president of Hyundai Corporation  
10 USA. I started selling HHI's transformers in the  
11 United States 23 years ago. I understand that  
12 Hyundai's long-term alliance agreement with Southern  
13 California Edison has been raised as an issue by ABB.  
14 The 600 million value ABB claims that agreement is  
15 worth over a 10-year period is overstated, and we will  
16 provide details explaining why in our posthearing  
17 brief. One thing I can explain publicly is that even  
18 though Hyundai has an agreement with Southern  
19 California Edison, Hyundai is not guaranteed a single  
20 sale and every transformer Southern California Edison  
21 purchased or was put out for bidding.

22 Based on my experience, Hyundai competes  
23 against ABB's and Efacec's offshore affiliates far  
24 more often than against any of their U.S. facilities.  
25 Likewise, Hyundai competes against imported

1 transformers far more often than it does against any  
2 of the other U.S. producers.

3 One thing that has bothered me from the  
4 start of this investigation is that Petitioners are  
5 calling 60 to 100 MVA top rating transformers large.  
6 In my experience, most engineers consider large  
7 transformers to be over 100 MVA top rating, which is a  
8 separate HS code. Thank you.

9 MR. EGAN: Good afternoon. My name is John  
10 Egan, and I'm the sales and marketing manager for  
11 Hyundai Power Transformers USA. I've worked for  
12 Hyundai for the past 10 years, and I began as a sales  
13 representative in 2002 and was promoted to regional  
14 vice president in 2010. During that time, the sale of  
15 power transformers was my primary responsibility.

16 In May 2012, I began my current position at  
17 Hyundai Power Transformers USA, our new transformer  
18 factory in Montgomery, Alabama. My testimony this  
19 afternoon will cover, one, the bidding process; two,  
20 how Hyundai sets prices for transformers and the  
21 importance of price in the purchaser's evaluation;  
22 three, Hyundai's Alabama facility; and four, the  
23 outlook for U.S. demand. I will also comment on some  
24 of the Petitioners' arguments.

25 Power transformers are highly technical

1 products that are custom made to the specifications  
2 established by the purchasers. Virtually every  
3 transformer sold is unique in terms of MVA capacity,  
4 line voltage, physical size, number of phases,  
5 insulation level, and many other characteristics.

6 Purchase orders for power transformers are  
7 awarded through a bidding process that is highly  
8 confidential. Purchasers give suppliers a single  
9 opportunity to bid and almost never disclose the names  
10 of competing bidders or their prices. Before a  
11 contract is awarded, there is typically no back and  
12 forth with the bidders to negotiate a lower price.

13 The Petitioners claim to receive fairly  
14 detailed postsale feedback from purchasers, but this  
15 is not my experience. From a legal standpoint,  
16 private utilities are not allowed to disclose  
17 information about competing bids because proposals are  
18 subject to confidentiality clauses. Although  
19 purchasers sometimes provide information on an  
20 informal basis, it is rare for them to do so, and the  
21 information is often vague and unreliable. A buyer  
22 might say that our bid was high by a general  
23 percentage range, but they have an incentive to  
24 inflate the percentage, and they won't specify whether  
25 they are talking about initial prices or evaluated

1 costs.

2 Overall, we find any feedback provided by a  
3 purchaser is of limited value when setting prices for  
4 future bids. Having participated in hundreds of bids  
5 on behalf of Hyundai, my sense is that our prices for  
6 transformers are in line with the market. Sometimes  
7 we might be high, sometimes we might be low. But  
8 that's the nature of closed bidding and a made-to-  
9 order process -- product, excuse me.

10 To set the base price to offer for a  
11 particular bid, Hyundai's factory undertakes a  
12 detailed analysis to estimate the cost to design and  
13 manufacture the transformer to the customer  
14 specifications with an amount for profit. Hyundai's  
15 sales department then takes the price estimated by the  
16 factory and considers additional factors such as cost  
17 of delivery, installation, and other services that  
18 might be included.

19 Price is just one of the number of factors  
20 that purchasers take into account when evaluating  
21 bids. For example, a transformer's efficiency or  
22 ability to minimize energy losses is an extremely  
23 important consideration because transformers are  
24 intended to last up to 30 years, and less efficient  
25 unit will be more costly over time and have a greater

1 risk of failure.

2 For this reason, purchasers estimate the  
3 cost of energy loss for each transformer being bid,  
4 and this amount to the bid -- they add this amount to  
5 the bid price to calculate what is called an evaluated  
6 cost. The Petitioners claim that projected losses are  
7 fairly consistent among competing bidders, so  
8 purchasers only consider bids within the lowest  
9 initial price range. But I disagree with this.

10 Energy losses can vary quite a bit, so  
11 purchasers can evaluate costs for each bid, rather  
12 than reject bids with higher initial prices out of  
13 hand. A high initial bid price could reflect the  
14 bidder's estimation that his transformer's energy  
15 losses will be low, making its evaluated cost  
16 competitive. Hyundai also takes its projected loss  
17 into account when setting an initial bid price for  
18 this given project.

19 Because of the variability in energy losses,  
20 most purchasers consider evaluated costs to be more  
21 important than the initial prices of transformers.  
22 Quality, a proven track record, warranty terms, lead  
23 times, and technical service are important  
24 considerations for customers. As a company that has  
25 supplied transformers to the United States since 1982,

1 Hyundai has a strong reputation for quality, and we  
2 can offer customers a full range of transformer size  
3 and capacities. We are also known for superior  
4 customer service and on-time deliveries.

5 For example, we are comfortable giving  
6 customers extended warranty terms because we are  
7 confident in the quality of our transformers.

8 Overall, I believe that Hyundai has distinguished  
9 itself in the U.S. transformer market based on  
10 workmanship, customer service, and on-time delivery,  
11 not based on price.

12 I will now turn to Hyundai Power  
13 Transformers, our new plant in Montgomery, Alabama.  
14 Hyundai Power Transformers began production in  
15 November of 2011 and finished production of its first  
16 large power transformer in April of this year. In  
17 January of 2011, before starting production, Hyundai  
18 Power Transformers hired 90 employees in Alabama who  
19 were sent to our manufacturing facility in Ulsan,  
20 Korea for an eight-month training.

21 Hyundai is very proud of the \$108 million  
22 investment it made in the United States facility and  
23 in the 150 people who currently work there. Since  
24 opening our Montgomery plant, we have bid to supply  
25 more than 100 large power transformers with capacities

1 ranging from 60 to 450 MVA. We have already won 6  
2 contracts to supply 12 large power transformers in  
3 2013, and we are actively working to secure more sales  
4 for 2013 and beyond.

5 As the Alabama factory gets qualified with  
6 more U.S. customers, Hyundai intends for this facility  
7 to focus on producing transformers up to 230 kV for  
8 the U.S. market, and its Korean facility to focus on  
9 producing transformers rated 345 kV and higher in the  
10 United States.

11 I completely disagree with the Petitioners'  
12 claim that the customers will qualify the manufacturer  
13 as major utilities insist on qualifying -- insist on a  
14 factory audit. The longer-term plan for Hyundai is to  
15 supply the full range of transformers to the North  
16 American and South American market with U.S.  
17 production. This plan is achievable because we have  
18 extra space at the Montgomery site to expand  
19 production capacity.

20 I understand the Petitioners have argued  
21 that U.S. producers may be inclined to participate in  
22 a bid if they somehow learn that Korean producers are  
23 competing. This argument does not make sense to me.  
24 If a transformer company is serious about making  
25 sales, it will put in the time to prepare and submit

1 bids even if it expects to lose them. For example,  
2 because Hyundai Power Transformers is a new U.S.  
3 manufacturer, we are aware that certain customers will  
4 wait until our transformers have been installed for at  
5 least a year before purchasing large power  
6 transformers from us.

7           Despite this, Hyundai Power Transformers has  
8 participated in nearly 70 bids for large power  
9 transformers since the grand opening of the Montgomery  
10 factory. If a producer fails to propose bids, they  
11 risk losing a potential customer for years to come.  
12 Preparing a bid sometimes requires time and effort,  
13 but not so much that you'd be willing to take this  
14 risk and forego an opportunity to make a sale. More  
15 likely U.S. producers have declined to bid for  
16 contracts involving transformer sizes that they are  
17 unable to make or are not their focus.

18           On the subject of establishing a record of  
19 performance, Petitioners argue that competition from  
20 Korean producers has prevented Efacec from reaching  
21 its production goals for larger power sized  
22 transformers, but this is not the case. It's really  
23 an issue of customer approval and workforce  
24 qualification. A 345 kV transformer producer needs  
25 experience and highly skilled workers to make the more



1 complex windings and perform the brazing required for  
2 transformers 345 kV and above. Hyundai customers like  
3 Arizona Public Service require winders to have six to  
4 eight years of experience for these higher-rated  
5 transformers. 345 kV skilled workers are in high  
6 demand, but limited supply in the United States.

7 Training U.S. workers to be 345 kV qualified  
8 will take Hyundai several years. Efacec has this  
9 capability in Portugal, but I don't believe they have  
10 it in Georgia. Without experienced, skills workers,  
11 it will take many -- it will take Efacec many years to  
12 improve themselves. And although Efacec has sold a  
13 few larger transformers, customer contacts informed me  
14 last year that they had a 40 percent test floor  
15 failure rate at any size.

16 As a final point, I understand there is some  
17 debate over U.S. demand in the next few years. The  
18 need to replace the aging infrastructure means this is  
19 not a question of if, but when. Transformers that are  
20 older than 30 years need to be replaced, and any  
21 utility that fails to replace a transformer that age  
22 is taking a risk.

23 I surveyed some of Hyundai's sales  
24 representatives, and based on their discussions with a  
25 few large customers, they told me that approximately

1 30 percent of their transfer fleet was approach 30  
2 years or older. The need to replace aging  
3 transformers is one of the reasons for Hyundai's  
4 investment in the Montgomery facility. Thank you.

5 MS. J.C. LEE: Good afternoon. My name is  
6 Jean Lee, and I am the general manager of  
7 international sales and marketing for HHI. Demand for  
8 transformers is growing rapidly in Saudi Arabia and  
9 the United Arab Emirates, which are two of our primary  
10 export markets. Those markets are particularly  
11 attractive because there is limited, if any, local  
12 production, so the purchasers there must rely on  
13 imports to meet demand. Those markets are also  
14 attractive because it s mostly a package deal, with  
15 purchasers buying our switch gear and gas-insulated  
16 switch gear, along with the transformers.

17 The testimony provided in the morning that  
18 there were times when U.S. producers failed to bid  
19 because they knew manufacturers from Korea would be  
20 competing makes no sense to me. It is impossible to  
21 know with any degree of certainty who will be bidding  
22 on any given project. Also, it is not expensive to  
23 submit a bid. It does require work, but the people  
24 who prepare and submit the bids are HHI full employees  
25 whose job is to prepare bids. So the added cost of

1 preparing one more bid is minor. A more likely reason  
2 we would not submit a bid is because we weren't  
3 qualified.

4 Sometime after the Department of Commerce  
5 announced the preliminary results of this  
6 investigation, a customer informed me that ABB had  
7 approached them and stated that because of the duties,  
8 Korean producers would no longer be competitive. ABB  
9 asked this company if it could bid for a project using  
10 its facility in Poland, even though the facility was  
11 not qualified, and its St. Louis facility was. This  
12 suggests to me that even if duties are in place, ABB  
13 will continue to use its imports to compete against  
14 other U.S. producers. Thank you.

15 MR. KLETT: Good afternoon. My name is  
16 Daniel Klett. I'm an economist with Capital Trade,  
17 Incorporated. There are five subjects I will address.  
18 First, a description of the bid data collected by the  
19 Commission and its relevance for causation and  
20 attribution; second, key findings from the purchaser  
21 questionnaire bid data; third, key information from  
22 bid data separately reported by U.S. producers and  
23 importers; fourth, the relevance of the bid data to  
24 the Commission's analysis of volume and market shares;  
25 and fifth, price comparisons and underselling.

1           Because of the nature of transformer sales,  
2           the Commission collected detailed information on bids  
3           from purchasers, U.S. producers, and importers. Slide  
4           one summarizes the bid information requested.  
5           Purchasers are required to report very detailed  
6           information. U.S. producers and importers also were  
7           required to submit detailed information for all their  
8           bids for expected deliveries between January 2009 and  
9           March 2012.

10           This information if accurately and  
11           comprehensively reported allows the Commission to  
12           reliably evaluate who won or lost each bid during the  
13           POI and the basis for each win or loss. Given the  
14           importance of nonprice factors considered by  
15           purchasers and that subject import bid wins often  
16           occur when U.S. producers did not submit a bid or  
17           where nonsubject imports also were competing, market  
18           share trends based on aggregated data that does not  
19           consider the basis for a win by subject imports will  
20           be misleading.

21           Slide two summarizes the approach to  
22           analyzing the bid data that I took. I provided a  
23           report with my full analysis in the prehearing brief.  
24           The Commission received over 80 purchaser  
25           questionnaires. The total value of the reported

1 transformer purchases was approximately 70 percent of  
2 the total value of transformer sales reported by U.S.  
3 producers and importers during 2009-2011. Thus, the  
4 purchaser bid data provide a very representative  
5 picture of competition in the market.

6 Seventy purchasers reported usable bid  
7 information. Because purchasers reported the most  
8 detailed information on bid wins and losses, including  
9 both price and evaluated costs, I first relied on this  
10 bid information. U.S. producers and importers also  
11 provided bid information, including for those  
12 purchasers that did not submit bid information. I  
13 reduced the producer and importer bid database to  
14 eliminate sales to customers that had submitted bid  
15 information in their purchaser questionnaires.

16 I identified on a year-by-year basis those  
17 instances where both U.S. producers and either HICO or  
18 HHI reported that they submitted a bid to the same  
19 customer in the same year. I then reviewed these  
20 instances to identify competing bids. My focus was on  
21 bid wins by either HICO or HII to identify whether or  
22 not there was a competing bid from a U.S. producer  
23 with comparable specifications and within a reasonably  
24 contemporaneous bid date.

25 With that background, I turned to review of

1 bids from purchaser questionnaires. Slide three is a  
2 bird's eye view of all bids of Korean origin  
3 transformers reported by purchasers, including wins  
4 and losses. Purchasers reported receiving a total of  
5 257 bids with HICO and HHI associated with 171,000 MVA  
6 worth about \$1.8 billion.

7 From this slide, you can see the following.

8 First, Korean producers lost bids about half the time  
9 and won about half the time. Second, for only 6  
10 percent of Korea's total bid attempts did Korean  
11 suppliers win and a U.S. producer lose, and the Korean  
12 bid price for total evaluated costs was lower. The  
13 detailed data supporting this slide will be in our  
14 posthearing brief.

15 Because purchasers reported information for  
16 the delivery year associated with their reported bids,  
17 annual information for bid wins and losses also is  
18 available. This analysis is shown in slide four. The  
19 blue bar represents on an MVA basis Korean wins where  
20 there also was a competing U.S. bid. The red bar  
21 represents Korean wins where there was no competing  
22 U.S. bid or a U.S. producer was disqualified for  
23 nonprice reasons.

24 The green bar represents lost bids by U.S.  
25 producers where there was no competition from imports.

1 As I will explain later, this information combined  
2 with an analysis of bid data from U.S. producers and  
3 importers allows for a more accurate evaluation of  
4 volume effects and market shares.

5 The Commission had a good response rate from  
6 purchasers. However, bid information from U.S.  
7 producers and importers for those purchasers that did  
8 not submit bids should be used to supplement the  
9 analysis of purchaser bids. I focused on bid wins by  
10 subject imports, and I then evaluated whether there  
11 was a corresponding loss by a U.S. producer to the  
12 same customer for a comparable specification and  
13 approximate bid date.

14 Again, because all bids associated with  
15 deliveries during the investigation period should have  
16 been reported, bid data reported by U.S. producers and  
17 importers combined with bid data reported by  
18 purchasers should be reasonably comprehensive with  
19 regard to bid competition during the POI. When I  
20 compare bid data reported by U.S. producers against  
21 their shipments, it is apparent that they did not  
22 report all their bids and that the U.S. producers'  
23 wins are understated.

24 However, this gap in bid reporting by U.S.  
25 producers cannot be held against Korean Respondents in

1 my analysis. Slide five summarizes the Korean bid  
2 wins from U.S. producer and importer questionnaires  
3 for customers where bid data was not provided in  
4 purchaser questionnaires. It shows that 78 percent of  
5 bid wins by Korean producers were bid events where  
6 U.S. producers did not compete.

7 This analysis is conservative in that a  
8 Korean bid win when there was a corresponding U.S.  
9 loss is assumed to have been on the basis of price,  
10 even though we know from purchaser questionnaires that  
11 U.S. producers sometimes were disqualified for  
12 nonprice reasons. In addition, it also includes those  
13 instances where lower-priced nonsubject imports also  
14 competed for the bid.

15 Slide six is an aggregation of the bid  
16 analysis of purchaser, U.S. producer, and importer  
17 questionnaires. It shows on a relative basis by  
18 delivery year Korean bid wins where U.S. producers  
19 also were competing, and those bid wins by Korean  
20 producers where U.S. producers were not competing.  
21 This information on an MVA or value basis can be used  
22 to refine the analysis of import volume and market  
23 shares.

24 Regarding market shares, Petitioners make  
25 two criticisms of the staff report. First, they



1 contend that inventories reported by HICO should be  
2 included in the calculation of U.S. shipments. HICO  
3 reported its sales using its normal accounting method.

4 Even conceding that inventories should be included as  
5 shipments to calculate import volume and relative  
6 shares, the appropriate adjustment should definitely  
7 not use ending inventory, which is what Petitioners  
8 used. We will address in our posthearing brief the  
9 appropriate adjustment for purposes of market share  
10 analysis and import volume.

11 Second, Petitioners assert that nonsubject  
12 import volumes are overstated in the staff report and  
13 that nonsubject import volume market share have  
14 declined by a greater degree than reflected in the  
15 staff report. The basis for this assertion is  
16 confidential, but we disagree and will address this  
17 issue in our posthearing brief. However, for  
18 nonsubject imports in the HS category that we know  
19 contains only in-scope greater than 100 MVA  
20 transformers, it is possible to supplement the market  
21 share analysis on a value basis with imports from  
22 countries where no importer questionnaire was  
23 provided, such as for Japan, China, Taiwan, Israel,  
24 and France.

25 The market shares themselves are

1 confidential, but I can describe qualitatively what  
2 the data show, including HICO inventories and the  
3 analysis. Before making any adjustments for Korean  
4 wins, not competing with the U.S. producers based on  
5 bid data, the increase in subject market share was  
6 only from 2009 to 2010, and was primarily associated  
7 with a decrease in nonsubject import share. Over the  
8 entire investigation period, U.S. producers' share of  
9 the market remained relatively stable.

10 From 2009 to 2011 and even in interim 2012,  
11 subject import share of the market was relatively  
12 constant. Moreover, the subject import volume and  
13 market share in 2011 and interim 2012 could not have  
14 been affected by any postpetition developments.  
15 Deliveries in 2011 would have been based on bid wins  
16 generally well before the petition was filed in July  
17 2011, and any liability for duties would not have  
18 occurred until the DOC preliminary in February 2012.

19 The market share data also show that  
20 nonsubject import volume and value generally exceeded  
21 subject import volume and value. The market shares,  
22 however, should be adjusted to exclude bid wins by  
23 subject imports that clearly do not compete with U.S.  
24 producers. The analysis is summarized in attachment  
25 11 of the Capital Trade report. It shows that subject

1 volume bid wins that may have been competing with U.S.  
2 producers decreased significantly as a share of U.S.  
3 apparent consumption from 2009 to 2011 based on an MVA  
4 or value basis. This analysis will be revised in our  
5 posthearing brief with additional information received  
6 since the prehearing brief.

7 The last issue I will address is  
8 underselling. Petitioners provide at pages 51 to 53  
9 of their prehearing brief an underselling analysis  
10 derived from the purchaser questionnaires. What these  
11 data show is that in a number of instances HICO and  
12 HHI won bids and had lower initial bid prices or total  
13 evaluated costs than did U.S. producers. This finding  
14 is not surprising. To participate in the U.S. market,  
15 HICO and HHI must be competitive on the basis of total  
16 evaluated costs.

17 However, as you heard earlier, the energy  
18 lost cost is a major component of the total evaluated  
19 costs, and is a nonprice factor that can have a  
20 significant effect on the purchaser's decision.

21 We will provide our own analysis of alleged  
22 underselling in the posthearing brief, but three  
23 points are worth noting here. First, underselling  
24 that is based on total evaluated cost is not a true  
25 price comparison because it includes the energy loss

1 factor. Second, the proportion of Korean to U.S.  
2 producer underselling is very close to the proportion  
3 of Korea to U.S. market share over the investigation  
4 period and must be considered in this context,  
5 particularly given the relatively stable U.S. share of  
6 the market over time.

7 Finally, the Commission also should evaluate  
8 the bids from Korean producers that undersold a U.S.  
9 producer's bid in the context of total bids submitted  
10 by Korean producers as reported by purchasers. The  
11 values associated with the Korean bids that undersold  
12 U.S. producers accounted for less than 15 percent of  
13 the total value of bids submitted by Korean producers.

14 The percentage will be even lower when bids lost by  
15 U.S. producers for nonprice reasons or where  
16 nonsubject imports were priced lower than subject  
17 imports are taken into account, as they must be.  
18 Thank you.

19 MR. CONNELLY: That completes our  
20 presentation. We'll be happy to answer the  
21 Commission's questions.

22 CHAIRMAN WILLIAMSON: Okay. Thank you for  
23 that testimony. And before -- again, I want to  
24 express my appreciation to all the witnesses who have  
25 come today to present their testimony.

1                   This afternoon we'll begin our questioning  
2 with Commissioner Pinkert.

3                   COMMISSIONER PINKERT: Thank you, Mr.  
4 Chairman. And I join the chairman in thanking you for  
5 being here today and being willing to answer our  
6 questions and supply information. I want to begin  
7 with a question for Mr. Neal. You heard the testimony  
8 earlier today about the overlapping uses over that  
9 category A and category B line that you're advocating  
10 for this case. And I understood you to testify that  
11 the uses for the two categories are distinct.

12                   So I want to give you an opportunity to  
13 explain whether your testimony is consistent with what  
14 we heard this morning, whether it's inconsistent, and  
15 how we can -- if it is inconsistent, how we can  
16 resolve that dispute.

17                   MR. NEAL: Thank you. A couple of points  
18 that I'd like the opportunity to make. First, there  
19 is a lot of the examples that were in the Petitioners'  
20 presentation this morning were theoretical, and I  
21 think what we tried to make in our testimony was based  
22 on fact. And there is a few cases or a few  
23 characteristics rather that support this dividing line  
24 and how we're defining the like product.

25                   I think the first is what I tried to

1 included in the testimony. It's related to how they  
2 are applied. These units that we designate in  
3 category A, one way to characterize that is their  
4 application. The applications for those units fall  
5 into small generation plants, renewable sources of  
6 energy such as wind and solar. They fall in support  
7 of utility subtransmission systems and smaller auto  
8 transformers at the 230 kV voltage rating and below.  
9 They fall in applications such as auxiliary  
10 transformers and units that will support the startup  
11 or shutdown of large generation facilities; whereas  
12 the application in these larger category B  
13 transformers are more critical.

14 In terms of their application, you know,  
15 these are used for large transmission projects  
16 supporting the transmission backbone voltage of 345,  
17 500 kV, and 765, and also used typically in larger  
18 generation station applications such as coal and  
19 nuclear.

20 So the application we feel -- and I believe  
21 is one of the most critical ways to support what we  
22 are saying, that it's a bright dividing line within  
23 this like product category. I think the two others  
24 that I'd like an opportunity to mention -- the first  
25 is I don't believe it's a coincidence, you know, when

1 Efacec built this facility in the U.S. to produce  
2 category B units. I think the gentleman from Efacec  
3 indicated that it was designed specifically for  
4 category B transformers, indicating that they are  
5 quite different than category A, and that facility was  
6 built to fill a void in the production of category B  
7 transformers in the U.S.

8 Similarly with ABB, I don't think it's a  
9 coincidence that ABB supplies category B units from  
10 overseas facilities or from its Varennes, Canada  
11 plant, which seems to be the focus facility for ABB  
12 for large power category B transformers in the States.

13 And similarly with Pennsylvania Transformers that has  
14 been in the industry a long time, I don't think it's a  
15 coincidence in their past that they have never  
16 produced this.

17 There are significant differences in the  
18 manufacturing and the facility that you need to  
19 produce these category B units versus category A.  
20 Things -- you know, we heard crane capacity mentioned.

21 Certainly that's one factor. Others are the  
22 equipment you use to produce these units, the  
23 equipment you use to test the units. But there is  
24 also pretty specific design capabilities. There is  
25 differences in the designs of the units themselves,

1 things like how you support the windings, even how you  
2 cool the transformers.

3 So I think that line that we identify, the  
4 60 MVA we feel is very artificial. We believe that  
5 our designation and the definition that we came up  
6 with presents a brighter line regarding how the units  
7 are manufactured and how they're applied in the  
8 market.

9 COMMISSIONER PINKERT: Thank you. Mr.  
10 Connelly, would it be fair to say that what we're  
11 talking about here is a difference of judgment about  
12 the degree of overlap in end uses or in applications?

13 Or is it the testimony of Mr. Neal that there simply  
14 is no overlap in applications across that category A,  
15 category B line.

16 MR. CONNELLY: Well, I'll let Jason answer  
17 the bulk of that question. I don't think we would say  
18 just sitting here that there is no circumstance under  
19 which a particular unit might be looked at for one  
20 application on one side of the line and never on  
21 another.

22 I don't think we're saying that. I think  
23 what we're saying here is that if you're going to draw  
24 a line, the line we're drawing is reflected in the  
25 actual experience of producers. And that I think also



1 came through quite clearly in the testimony of the  
2 domestic industry this morning, where none of the four  
3 company witnesses said that they had actually produced  
4 a category B unit. They were very careful to say that  
5 they could, but they never said that they did. That's  
6 legally significant in our view.

7 COMMISSIONER PINKERT: Thank you. I'm going  
8 to come back to that point about ability to produce in  
9 a second. But I want to ask you a related question,  
10 which is to sort of spin out the legal analysis for me  
11 a little bit. What happens if we find two domestic  
12 like products in this case, and we find that the  
13 domestic producers do not produce one of the two  
14 domestic like products? Are we then precluded from  
15 finding injury with respect to that domestic like  
16 product that is not produced by domestic producers?

17 MR. CONNELLY: Yes, that's our position.  
18 Our position is if you made a choice as an industry --  
19 individually, but collectively the industry made a  
20 choice not to produce category B units -- then by  
21 definition they could not have been injured by subject  
22 imports.

23 This is not a new phenomenon, category B  
24 units. They didn't simply arrive with the Korean  
25 producers. Category B units have been produced and

1 sold -- not produced in the U.S., but sold in the U.S.  
2 for many, many years. So this is a voluntary choice  
3 we are talking about not to produce category B units  
4 until, of course, it was learned by the domestic  
5 industry that, oh, yes, there is a very large demand  
6 for these units in the U.S., and we had better hurry  
7 up and catch up. And that's what Efacec did, and  
8 that's what Waukesha did in their most recent  
9 expansion. And that seems to be now what PTT is  
10 doing.

11 Now, remember, PTT has said that it has  
12 always had this capacity, although the unit they  
13 flashed up on the screen was not a category B unit.  
14 That was a 400 MVA unit, but not a category B unit.  
15 So they've always had this ability, PTT. And yet this  
16 is not a sector that they've gone after.

17 So getting back to the original answer, yes.  
18 No possibility of causation when a domestic industry  
19 chooses not to produce the like product that we say is  
20 category B.

21 COMMISSIONER PINKERT: Well, let me play  
22 devil's advocate for just a second and ask you to  
23 respond to the argument that of course there is a  
24 possibility of injury because the domestic industry  
25 decision not to produce the category B units is itself

1 influenced by the behavior of the subject imports.

2 MR. CONNELLY: That's the conditions, I  
3 think, issue. Is that really what happened? Is that  
4 really what happened here? Is there evidence in the  
5 record at the start of the POI, even before the POI,  
6 that there were decisions made at that time that  
7 because they were so worried about the Korean industry  
8 that they decided not to bid. They just couldn't  
9 compete.

10 Well, we would submit to you there is no  
11 evidence at all to support that proposition. There is  
12 simply -- I mean, look at the bid information of the  
13 U.S. producers. As Dan said a little earlier,  
14 everybody was supposed to report every single bid that  
15 they submitted for a category B unit during the POI.  
16 And so we'd encourage the Commission -- and we'll  
17 provide an analysis in our brief of the extent of the  
18 category B bids that were submitted by domestic  
19 producers throughout the POI.

20 So this goes all the way back to before when  
21 Korean imports were allegedly a problem. And there is  
22 a dearth of bids, and even the bids that are reported  
23 are somewhat subject to doubt as to whether they  
24 really were category B units.

25 COMMISSIONER PINKERT: Thank you. Thank

1 you, Mr. Chairman.

2 CHAIRMAN WILLIAMSON: Commissioner Johanson.

3 COMMISSIONER JOHANSON: Thank you, Mr.  
4 Chairman. And I would also like to thank all of the  
5 witnesses for appearing here today. I realize that  
6 some of you traveled a very long way.

7 I'd like to begin by following up on an  
8 issue which was discussed this morning, and that deals  
9 with in-and-out servicing. And I asked the  
10 Petitioners how Korean producers -- how they handle  
11 this as Korean is along way away. And so the question  
12 I have is how do Korean producers deal with in-and-out  
13 servicing. Do you actually ship a defective product  
14 back to Korea, or what happens? Yes, Mr. Neal.

15 MR. NEAL: Yes. Thank you, Commissioner.  
16 If this would be some type of an issue that will  
17 require repair in a factory, the unit would be shipped  
18 back to Korea.

19 COMMISSIONER JOHANSON: That's a very long  
20 way to go. That must not happen very often, I assume.

21 MR. NEAL: Correct.

22 COMMISSIONER JOHANSON: Okay. Thank you.

23 MR. CONNELLY: May I just --

24 COMMISSIONER JOHANSON: Yes, Mr. Connelly.

25 MR. CONNELLY: We'll give you in our

1 posthearing brief the number of instances in which  
2 that happened. That number is infinitesimal.

3 COMMISSIONER JOHANSON: All right. Thank  
4 you. And this question follows on my first question.  
5 Korean producers offer five years of in-and-out  
6 servicing. Are Korean producers able to have these  
7 long five-year service agreements because they produce  
8 products which are of higher quality than U.S.  
9 products, which typically have a shorter in-and-out  
10 servicing time?

11 MR. NEAL: If I can answer that question.  
12 First, I think we disagree with the Petitioners'  
13 comments this morning that we always offer a five-year  
14 coverage of in-and-out costs. So I think that  
15 statement is not accurate, and we'll provide maybe  
16 some details in our posthearing brief of what we do  
17 offer.

18 However, I think an aspect of the warranty  
19 certainly is it takes into consideration your  
20 background and the experience, the quality record that  
21 you have. And as Warren mentioned, you know, our  
22 failure rates -- the incidence of failures are  
23 infinitesimal. So therefore that would be taken into  
24 account.

25 But we disagree with the Petitioners'

1 comment this morning that we offer five-year -- I  
2 think the statement was five-year uncapped in-and-out  
3 costs, and we disagree with that.

4 MR. EGAN: Mr. Johanson, we'd like to add --

5 COMMISSIONER JOHANSON: Yes.

6 MR. EGAN: -- that, you know, we don't  
7 necessarily say that we have a higher quality degree  
8 of transformer. But we have a high degree of faith in  
9 our transformers, so we are -- we have offered in-and-  
10 out for five years. We had had some issues where  
11 transformers shipped back to Korea for repairs. But  
12 now that we have our U.S. facility, you know, that's  
13 going to assist us with that issue.

14 COMMISSIONER JOHANSON: All right. Thank  
15 you for the clarification. My next question is very  
16 basic, and that deals with inventories. Are all  
17 imports in inventory, Korean imports in inventory, are  
18 they all presold? Is that the way the process works?

19 I assume you don't have a large backlog of LPTs since  
20 they are custom produced.

21 MR. CONNELLY: Yeah. If you have shipped  
22 the unit, or if you're in the process of shipping the  
23 unit to the U.S., it's sold. Now, inventories can be  
24 reported in a financial statement simply because  
25 that's the accounting method, because the unit may not

1 be billed -- may not be invoiced until it's accepted  
2 by the customer. And so I want to get to right to  
3 this issue that was talked around this morning, the  
4 issue of how HICO's inventory should be treated for  
5 purposes of calculating market share.

6 We have no problem with considering the  
7 inventories as part of shipments or sales. We have a  
8 big problem with how the domestic industry chose to  
9 make the adjustment. And so we'll address this in our  
10 posthearing brief. But this is not an issue as far as  
11 we're concerned with respect to how inventories should  
12 be treated. Frankly, the conclusion that you come to  
13 -- and Dan's analysis did take that into account --  
14 are the same.

15 COMMISSIONER JOHANSON: All right. Thank  
16 you, Mr. Connelly. From 2009 to 2011, ITC data shows  
17 that the quantity of imports from Korea increased, but  
18 the value decreased. Could one of you please explain  
19 why we had this divergent trend?

20 MR. MORGAN: Commissioner Johanson, I think  
21 I could take at least a stab and that, and I think --

22 COMMISSIONER JOHANSON: Okay.

23 MR. MORGAN: -- it goes to the notion of  
24 product mix and relative value of AUVs in this  
25 investigation. In our view, AUVs are absolutely

1 meaningless. This is just like a bearings case or any  
2 other case where the wide variance in product mix  
3 means you basically have to take out -- take AUVs out  
4 of the picture and not consider them.

5           You know, Petitioners I think agree with us,  
6 although they continue to use them. What they say on  
7 the price of each LPT -- and this is a quote from  
8 their prehearing brief at page 15. "The price of each  
9 LPT will depend on a variety of factors beyond simply  
10 MVA rating and primary line voltage. Prices also  
11 include such things as the number of tappings, winding  
12 specifications, testing requirements, impedances,  
13 basic insulation level, seismic requirements,  
14 application, nuclear versus other, location,  
15 elevation, high ambient temperatures, crowded urban  
16 areas, et cetera, and other auxiliary equipment."

17           So I think when you see values going down  
18 and MVA going up, I don't know that you're necessarily  
19 seeing a meaningful trend there that can be explained  
20 beyond product mix. But if the industry witnesses  
21 have anything to add, please join in. Or Dan if --

22           MR. KLETT: I agree with Frank. I mean,  
23 implicit in that, the question is that import AUVs are  
24 going down if value is going up and volume is going up  
25 -- or value is going down and volume is going up. And



1 I don't think you can use the AUV trends going down as  
2 a proxy for price, given the product mix, potential  
3 product mix issue in this case. I mean, this is a  
4 market where you have individual units of transformers  
5 varying by a wide degree, to say the least.

6 COMMISSIONER JOHANSON: All right. I thank  
7 you for your response. And I guess this question will  
8 perhaps best be answered by Mr. Neal and any other  
9 witnesses are of course welcome to speak as well.

10 You spoke quite a bit on nonprice factors in  
11 sales of LPTs. To what extent can nonprice factors be  
12 monetized by purchasers and included in the  
13 calculation of total cost? I know this is rather  
14 difficult.

15 MR. NEAL: It think one nonprice factor that  
16 the purchasers were attempt to monetize are losses.  
17 The losses in a transformer are really specification  
18 characteristic. And in most cases, purchasers will  
19 assign a dollars per megawatt assessment on losses.  
20 It's really not a price. It's assigning a weight to,  
21 you know, a characteristic of the transformer.

22 There is a lot of examples. We tried to  
23 give a few here, and maybe we can provide a few more  
24 in our posthearing brief. Some purchasers such as the  
25 NPPD example that we gave attempt to give an evaluated

1 cost or credit for certain things in bids. That bid  
2 opportunity we've been speaking quite a bit about is  
3 one that assessed a 7.5 percent credit for certain  
4 technology that was quoted. We have the opportunity  
5 to offer both shell-form and core-form transformers  
6 from our plant, and we chose to offer shell-form in  
7 that bid because the purchaser made it very clear that  
8 that was a very critical nonprice factor that was  
9 assigned to their evaluation.

10 Many times the purchasers may not be that  
11 explicit in attaching a credit or a dollar amount.  
12 But often times we will be given a list of criteria  
13 such as lead time. They may specify a deadline date,  
14 for example, for delivery that gives you an indication  
15 of how important those types of things could be. One  
16 other key one that we tried to assign some -- or  
17 provide some examples are the failure record.

18 A lot of utilities will request in a bid  
19 proposal a failure record of, you know, how are you  
20 doing, testing your units after they're produced in  
21 the factor, or how they perform once you're in the  
22 field. And again, they're not attaching a dollar  
23 amount to that, but they will certainly assess the  
24 percentage of failures and include that in their  
25 evaluation as a way to quantitatively analyze your

1 quality.

2 MR. EGAN: Let me --

3 COMMISSIONER JOHANSON: Sorry. Go ahead.

4 MR. EGAN: There are a couple of other  
5 nonprice factors that we've seen in bids. Some  
6 customers will add in a penalty for traveling overseas  
7 for their engineers or purchasers to go overseas. You  
8 know, they'll add additional costs to cover those  
9 expenses. Other nonprice factors might involve a  
10 penalty for being an overseas supplier, you know, some  
11 -- whether it's a customer or a federal agency. They  
12 might apply a 7 or 10 percent markup just for being an  
13 overseas supplier.

14 COMMISSIONER JOHANSON: All right. Well,  
15 thank you for your responses. My time has expired.

16 CHAIRMAN WILLIAMSON: Commissioner Okun.

17 COMMISSIONER OKUN: Thank you Mr. Chairman.

18 I would like to join my colleagues in welcoming this  
19 panel here today.

20 Mr. Egan, let me start with you.

21 When the considerations, when that plant was  
22 being considered, was there a business plan developed  
23 that identified conditions in the U.S. market that  
24 could be shared with the Commission? Confidentially,  
25 obviously.

1           MR. EGAN: One of the key considerations was  
2 when we build a transformer overseas there's  
3 additional shipping cost for the ocean transport. So  
4 we found that to be cost competitive we generally had  
5 to be at 100 MVA in capacity. So whether that was one  
6 large 100 MVA transformer or two 50 MVAs or three 30s,  
7 we generally needed 100 MVA. So we were missing out  
8 on opportunities to bid on transformers that were less  
9 than 100 MVA.

10           The other consideration for building our new  
11 factory was that some of the key American utilities  
12 would not allow non-American companies to bid.  
13 Southern Company, for example. That was another key  
14 decision to build our factory in Alabama.

15           COMMISSIONER OKUN: Is there any  
16 contemporaneous business documents that you could  
17 share the with Commission for us to understand that  
18 that was what was going on at the time?

19           MR. EGAN: We can provide that in our  
20 posthearing. I'll make sure we get that to you.

21           COMMISSIONER OKUN: I appreciate that very  
22 much.

23           And I think when you were going through the  
24 status of the plant you had identified that it would  
25 intend or the intent was to supply the full range of

1 products at some point. Can you walk me through that  
2 again, where you started, in what range, and then what  
3 would be the full range and the timing of that?

4 MR. EGAN: The first transformer that we  
5 built, we shipped out in March. This was the little  
6 auto transformer, I think. It was a 24 KV, a 40 MVA,  
7 so what we consider a small or medium sized  
8 transformer.

9 Since that time we have built a 230 KV 300  
10 MVA GSU transformer, which we consider a larger  
11 transformer. So we're in the process of training our  
12 workers, our factory workers, on our Hyundai system,  
13 how we build transformers and so forth.

14 The next progression would be for us to move  
15 up to a 345 KV transformer. We just recently won a  
16 project with Bechtel to supply those next June, June  
17 2013.

18 So the logical progression after that would  
19 be to go to the 500 KV size. But again, that's a  
20 matter of training our workers to be proficient in 345  
21 KV, then 500 KV.

22 So currently our transformer factory's  
23 rated, our test lab is rated up to 500 KV. Because of  
24 our creating capacity we can generally do about a 600  
25 MVA transformer, give or take a little bit depending

1 on the weight. If need be we have -- We're only using  
2 about 38 acres of land right now. We have about  
3 another 70 that we could expand our factory when need  
4 be.

5 COMMISSIONER OKUN: Thank you very much.

6 I guess my question will be to counsel with  
7 respect to the lighthouse effect. I had a chance to  
8 talk to Petitioners, obviously they've argued this in  
9 their brief. I know that the response from the  
10 witnesses has been that they couldn't understand why  
11 someone wouldn't bid if you had the opportunity, so I  
12 understand that of what you're saying.

13 But my legal question would be Petitioners  
14 are citing another case where the Commission used this  
15 as part of their analysis. Are there distinctions  
16 here that you would point us to, or would you just  
17 argue that it's not, you just disagree with the  
18 analysis?

19 MR. CONNELLY: For better or for worse I was  
20 involved in the Vector Super Computer case, and I can  
21 tell you from my hazy memory of that which is about 20  
22 years old now I think, it was very different  
23 factually.

24 First of all, there are far more differences  
25 with respect to power transformers than super

1 computers in terms of the range and differences of the  
2 physical characteristics of the units.

3 Secondly, and here I'm working from memory,  
4 I think that a much larger percentage of the bids may  
5 have been government procurements and therefore there  
6 was a more visible number of procurements.

7 Third, there were overseas procurements that  
8 were public that were also submitted to the Commission  
9 and all of that went into the lighthouse effect  
10 finding.

11 So I think it's factually distinguishable,  
12 and I think, however, there is a lot of evidence here  
13 that rebuts the lighthouse effect.

14 The lighthouse effect ought to lead, one  
15 would think, to bids being relatively close. I mean  
16 if there is a lot of information out there about  
17 allegedly what Hyundai and HICO are up to, then  
18 presumably the domestic producer should be putting in  
19 bids that are competitive.

20 So if you just look at our Hearing Exhibit,  
21 let's just look at Hearing Exhibit 8. This is the  
22 Seattle City Light bid. This is a range of bids. The  
23 low bid, Efacec at \$1.2 million and HICO at \$1.6.  
24 That's a big percentage difference in Exhibit 8.  
25 Well if the lighthouse effect were true, one would

1 think you would see a much smaller range of bids.

2 There's an even better example which is the  
3 NPPD data which is our Hearing Exhibit 7.

4 Just for argument's sake, let's just take  
5 out the Hyundai bid and the HICO bid. The Hyundai bid  
6 being \$9.8 million and the HICI bid being \$11.3.  
7 There's a big difference right there. But look at the  
8 remaining bids. you've got Semens bid apparently two  
9 different units, one at \$15 million and then you've  
10 got a bid of \$18.3 million from ABB.

11 So it's hard with that range of bids, and we  
12 could go through bid after bid after bid and do the  
13 same exercise. It's very hard to go through this kind  
14 of exercise and conclude that the lighthouse effect  
15 which comes from this gossip that salesmen pick up on  
16 the street, that that leads them to understand what  
17 they've got to do at the next bid event in order to  
18 get the sale. It's just not being born out in the  
19 published data that we can see.

20 And oh by the way, in Table F1 which of  
21 course lists every bid for 200-plus procurements, you  
22 will see this over and over. A wide variation in the  
23 bid prices. So frankly, we just reject the lighthouse  
24 theory as applicable here.

25 COMMISSIONER OKUN: Mr. Morgan, did you want



1 to add anything? Obviously you can brief posthearing.

2 MR. MORGAN: Only that the only lighthouse  
3 effects I knew of were the kind of things you see on  
4 the Eastern Shore. So with your indulgence, we would  
5 like to take that up in the posthearing brief.

6 COMMISSIONER OKUN: Okay.

7 I know you've done some of this already and  
8 briefs were extensive, but there have been a few bids,  
9 he says where the Commission has relied on bids, and  
10 to the extent you find this case more or less like any  
11 of those and you haven't already fully briefed us, you  
12 could do that as well. That would be helpful.

13 Then I wanted to just continue the line  
14 about competition. I understand the argument you were  
15 making about if we're looking at all the bids out  
16 there and all the charts, Mr. Klett, that you've  
17 provided, so I'm taking that into account. But I  
18 wanted to pose to you more the Petitioner's argument,  
19 if we were focusing on where there is head to head  
20 competition for sales of the same transformers to the  
21 same customers. In their brief at pages 19 through  
22 21, they talk about where Korean producers compete  
23 against U.S. producers in the 60 to 300 MVA LPT sizes.  
24 In the brief at pages 21 through 26 they go through  
25 where U.S. and Korean producers compete for sales

1 over, for the over 60 MVAs. And at 26 to 27 they go  
2 through where the Korean producers compete directly  
3 against U.S. producers for sales to the same customer  
4 accounts.

5 So if I were focusing on those arguments,  
6 can you respond to that? I realize I'm down to my  
7 last 30 seconds, but I'll come back if I need to.

8 MR. KLETT: Commissioner Okun, this is Dan  
9 Klett.

10 From a factual perspective in terms of  
11 customer overlap and where there's competition on bids  
12 from the purchaser questionnaires, the analysis I did  
13 doesn't differ that much from what they did. That is  
14 that the identified customers where there was head to  
15 head competition between U.S. producers and subject  
16 imports and I did the same thing. For the most part  
17 we identified the same customers.

18 HICO and HHI are in this market so of course  
19 they're competing with U.S. producers and while one  
20 bids and U.S. producers will lose bids; non-subject  
21 imports will win bids and U.S. producers will lose  
22 bids; U.S. producers will lose bids against other U.S.  
23 producers; so on and so forth.

24 Where we differ and where I think my  
25 analysis went beyond what they did is that what I

1       tried to do was to identify the materiality of the bid  
2       wins by HICO and HHI relative to U.S. producers as  
3       compared to where HICO and HHI won bids where U.S.  
4       producers were not competing; where U.S. producers  
5       lost bids where HHI and HICO were not competing. And  
6       --

7               COMMISSIONER OKUN: Mr. Klett, I'm sorry. I  
8       should not have posed that long question with 30  
9       seconds up. I will come back, because I do want to  
10      explore that. And it did remind me earlier when I was  
11      watching Mr. Neal that, I'm sure it is frustrating, I  
12      know it is frustrating to witnesses from companies  
13      that you don't actually see a lot of the data that we  
14      sometimes have to refer to questions in, but with many  
15      apologies to you, it's sometimes helpful just to hear  
16      the analysis generally. Thank you.

17             CHAIRMAN WILLIAMSON: I was wondering. You  
18      I think made an argument that basically you're saying  
19      the domestic producers don't produce a lot of the  
20      products that you do, and yet usually when we have  
21      that kind of situation there's a lot of testimony from  
22      purchasers about we can't get this, we've been asking  
23      them to make that, and all that. What we have in the  
24      purchaser's questionnaires, in chapter two, we don't  
25      see indication that the purchasers are saying that. I

1 was just wondering, affidavits from purchasers,  
2 testimony from them as to this difference that you  
3 see?

4 MR. CONNELLY: Mr. Chairman, there was a  
5 question in the purchaser questionnaire that, I'm  
6 paraphrasing here, that said is there any type of  
7 transformer you cannot obtain from the domestic  
8 industry? And I haven't read all the questionnaires  
9 because there are over 70 of them, but we gave you a  
10 pretty good selection of quotations in confidence from  
11 those questionnaire responses of purchasers that  
12 listed the types of products that they had sought to  
13 buy from domestic producers and were unable to buy.

14 So there I think some substantial  
15 information in the record about their limitations.  
16 That's number one.

17 Number two, domestic producers were asked to  
18 identify their production and production capacity for  
19 Category A and Category B units separately. And so  
20 while that's confidential, we would direct you to that  
21 information to show what the capabilities or  
22 limitations are with respect to the domestic  
23 industry's ability to make Category B units.

24 CHAIRMAN WILLIAMSON: I'll take a look at  
25 that information. If there's anything you want to do

1 to supplement it, I'd like that.

2 MR. MORGAN: Chairman Williamson, I would  
3 just add to what Mr. Connelly said, there are  
4 purchasers who definitely identified specific  
5 categories of transformers that couldn't be produced.

6 But in addition to that, on page nine of our  
7 posthearing brief we did an analysis based on the bid  
8 data by the U.S. producers and we broke it out into  
9 two things. We broke it out into MVA ranges and we  
10 broke it out into voltage ranges. From there you can  
11 see based on the bid data where the U.S. producers  
12 were bidding or weren't bidding.

13 If they weren't bidding on certain ranges  
14 you'll be able to see what those were and I think get  
15 a very good understanding of where they're not and  
16 where they are.

17 CHAIRMAN WILLIAMSON: Thank you. I'll take  
18 a look at that.

19 I don't think we've addressed the question  
20 about the demand for renewable energy systems such as  
21 wind farms over the POI and how has that changed  
22 demands for large power transformers.

23 MR. NEAL: Chairman Williamson, Jason Neal.  
24 I'll address that question as best I can.

25 It is true a lot of the wind market is

1 certainly driven by the production tax credit, or the  
2 investment tax credit. During the period of  
3 investigation that was in place. So if anything,  
4 maybe the demand increased a little bit this year as  
5 some facilities were maybe rushed in or going to be  
6 rushed in to take advantage of that credit.

7           What wasn't mentioned this morning, however,  
8 is there's a lot of additional demand that emanates  
9 from wind. Even though the production tax credit may  
10 be expiring this year, there's been an incredible  
11 amount of wind energy constructed throughout the U.S..

12       These facilities are constructed in areas that are  
13 rural, they're not really in population centers or  
14 where there's a lot of load. So this construction of  
15 wind over these past three years or during the POI  
16 continues to drive investment in transmission as  
17 companies look for ways to bring in that wind power  
18 from remote areas in the Midwest or western Texas, for  
19 example.

20           So I would say there are two answers to your  
21 question. I think the demand for wind power  
22 transformers during the POI was fairly constant. I  
23 think looking forward, even though the PTC's going to  
24 expire December 31st, it may be extended. I do  
25 believe that the demand for transformers will continue

1 to increase because of wind just because of all the  
2 additional projects that are as a result.

3 I think one additional point that I'd like  
4 to make as well, I do disagree with the Petitioner's  
5 comment this morning that there's this huge lag. once  
6 a production tax credit is in place, I think it was a  
7 24 to 36 month lag before you see demand in power  
8 transformers increase. That's not true, even  
9 historically. These wind farms are very easy to  
10 construct. The timing of these wind farms is  
11 essentially governed by the lead time of power  
12 transformers, making them probably one of the most  
13 critical applications to these farms. So once that  
14 tax credit is extended, hopefully soon, that will also  
15 drive demand for power transformers.

16 CHAIRMAN WILLIAMSON: Does the demand for  
17 LPTs for wind uses, is that a different type of  
18 transformer? And can domestics and Korean firms  
19 produce those?

20 MR. NEAL: It's still a power transformer.  
21 In terms of a generation transformer it's a little  
22 different than others. I think the characteristics  
23 that set aside wind are the just heavy demands on the  
24 lead time of the units and the flexibility to change.  
25 It's a very dynamic industry and there's frequently

1 changes in the units that you won't see in other  
2 areas, other generation applications or transmission  
3 applications.

4 CHAIRMAN WILLIAMSON: You mean changes in  
5 the tasks that a particular transformer has to  
6 perform? Or?

7 MR. NEAL: Maybe components that are  
8 required for the transformer, the location of that  
9 transformer. Changes, minor or sometimes major  
10 changes to the specification or the work scope.

11 CHAIRMAN WILLIAMSON: Thank you.

12 Mr. NEAL: That's even after an order is  
13 received.

14 CHAIRMAN WILLIAMSON: Thank you.

15 Mr. Egan, this morning when I asked the  
16 Petitioners about the Government Procurement Act and  
17 preferences for, you say Buy America provisions and  
18 all that, they sort of seemed to indicate that wasn't  
19 a factor of any significance in terms of U.S. demand,  
20 and yet I got the impression that you're saying it  
21 was.

22 Can you explain to me how significant and in  
23 what circumstances?

24 MR. EGAN: That's a good question. I had  
25 quite a few dealings with the Corps of Engineers and



1 it really depends on the district and how the district  
2 interprets that Buy American Act. The district that I  
3 work with primarily in the Pacific Northwest is very  
4 lenient. They consider Korea to be basically a free  
5 trade partner, but there are other districts like in  
6 the Mobile area where it's not so and they may choose  
7 to apply a penalty or an adder for the U.S.. So it  
8 can be very hit or miss.

9 CHAIRMAN WILLIAMSON: Aren't they  
10 administering the same law, the same government  
11 agency?

12 MR. EGAN: You would think that's how it  
13 would be, but it's a little bit different.

14 CHAIRMAN WILLIAMSON: How significant is  
15 this? This is rather surprising, actually.

16 MR. EGAN: Even though we still had the,  
17 with the recent Mobile bid, we were successful because  
18 we work with a prime contractor who had a very strong  
19 relationship and who had a very high rating with the  
20 federal government. That helped us to overcome the  
21 price penalty.

22 CHAIRMAN WILLIAMSON: I'm just trying to  
23 figure out how should we assess this information? How  
24 significant is it in terms of the competition in this  
25 market?

1           MR. EGAN: I don't quite understand, but the  
2 penalties can range from as low as a five to I think a  
3 ten percent adder, so whatever your price is they will  
4 add a certain percentage.

5           CHAIRMAN WILLIAMSON: Because it's a foreign  
6 made product.

7           MR. EGAN: Correct.

8           CHAIRMAN WILLIAMSON: Okay. Anything you  
9 can add posthearing on that, because --

10          MR. EGAN: We'll put together some  
11 information.

12          CHAIRMAN WILLIAMSON: We may have some  
13 posthearing question on that one.

14          MR. EGAN: Very good.

15          CHAIRMAN WILLIAMSON: Does the fact that the  
16 Korean producers receive a 1.6 price advantage under  
17 the U.S.-Korea FTA provides a significant advantage  
18 over non-subject imports? Or will it?

19          MR. CONNELLY: I guess we're going to have  
20 to reflect on that question.

21          CHAIRMAN WILLIAMSON: Okay. Posthearing  
22 would be fine.

23          MR. MORGAN: Just to add, that only very  
24 recently went into effect. So it wouldn't be  
25 affecting any of the data you're seeing in your

1 record.

2 CHAIRMAN WILLIAMSON: Okay. But if you see  
3 something, anticipate an affect in the near future I  
4 would --

5 MR. MORGAN: We can certainly comment on  
6 that posthearing.

7 CHAIRMAN WILLIAMSON: Thank you.

8 Given the long production lead times and the  
9 existence of long term agreements, what period of time  
10 should the Commission consider to be the imminent  
11 future in this case?

12 MR. CONNELLY: I think we heard this morning  
13 two years. I don't think we'd contest that as a  
14 reasonable period of time to look at.

15 CHAIRMAN WILLIAMSON: Okay. Thank you.

16 My time has expired.

17 Commissioner Aranoff?

18 COMMISSIONER ARANOFF: Thank you, Mr.  
19 Chairman, and I add my welcome to those of my  
20 colleagues to everyone on this afternoon's panel.

21 I want to go back for one moment to the like  
22 product issue on Categories A and B. I've just now  
23 glanced back over both the Respondents' briefs and  
24 attachments that we have for them, and aside from  
25 Exhibit 4 to Hyosung's brief, I don't, unless I'm

1 missing it, see anything in there that's purporting to  
2 show me that this Category A/B distinction is  
3 something that appears in industry marketing  
4 literature or any other kind of available published  
5 information that would support the claim that this is  
6 a well recognized distinction. Am I missing anything?

7 MR. CONNELLY: I think there are two points  
8 we'd make in response. First of all, it's true.  
9 You're not going to find a published distinction.  
10 However, what you will find, and we've insisted that  
11 this is critical, is that if you look at the web site  
12 of every domestic producer you will see that they  
13 publish both the MVA and the KV. They don't just  
14 publish, when they are describing their capabilities  
15 they always publish their KV. Their high line rating.  
16 That's an essential part of our like product  
17 definition and they regard that, in our view, as very  
18 important.

19 Secondly, what we rely on is primarily the  
20 capabilities or the lack thereof of the domestic  
21 industry when it comes to Category B units. As to  
22 that, there's a lot of information.

23 Now we've gone through the traditional  
24 criterial in our brief, obviously. And so when we  
25 look at this issue we say well, the domestic producers

1 pick 60 MVA and we're not contesting that, although we  
2 could have, because we're trying to confine the like  
3 product definition to the scope. We're not trying to  
4 reach outside the scope to drag in 10 to 60, although  
5 we could have, because that 60 cutoff makes no sense.

6 You could say the exact same thing about not finding  
7 the 60 MVA limit as you could say about not finding  
8 the Category A/B distinction.

9 Our view is that it's a much more rational  
10 distinction, ours is, precisely because you find it  
11 actually in effect. You find it in practice with  
12 respect to the capabilities and the actual production  
13 of the domestic industry and that's frankly where we  
14 come out.

15 MR. MORGAN: Just to add one point,  
16 Commissioner Aranoff, on that.

17 If you look at the purchaser questionnaires  
18 there's no question marks next to that. It seems that  
19 the purchasers when they were seeing those categories  
20 understood what was being proposed and responded to  
21 the questions directed at those categories, so I think  
22 that's another indication that the industry  
23 understands that there's a line and understood what  
24 those categories were.

25 COMMISSIONER ARANOFF: I'm not sure I agree

1 with you on that. You could have drawn the line  
2 between A and B anywhere within the full range of  
3 these products and then said to the purchasers, who  
4 produces this one and who produces that one, and you  
5 still would have gotten correct answers. So I'm not  
6 sure it proves that purchasers actually perceive these  
7 as distinct categories.

8 As Ms. Cannon correctly pointed out this  
9 morning, the Commission has a long line of cases that  
10 say that if the domestic industry doesn't produce  
11 something it can't be a like product. It can't be a  
12 separate like product. And yet I think that's exactly  
13 what you're arguing. So I hope that you will go back  
14 in your posthearing brief and rethink that argument.

15 MR. CONNELLY: We certainly will. I would  
16 simply say we respectfully disagree with that  
17 position. We'll brief it to the extent we can.

18 COMMISSIONER ARANOFF: Okay.

19 There is another issue in this case where I  
20 see right now the Commission's decision coming down to  
21 basically a credibility determination between two  
22 groups of witnesses. We had Ms. Lee testify this  
23 afternoon that there's no real way to know who is or  
24 isn't bidding on a particular potential sale, and that  
25 the marginal cost of bidding once you have people on

1 your staff who prepare bids for any particular one is  
2 low and that it really would be crazy to not go ahead  
3 and bid just because you think maybe some Korean  
4 producer might be bidding, and that's just not  
5 rational behavior.

6 On the other hand we have testimony from  
7 several of the Petitioner witnesses this morning that  
8 it's very costly to prepare bids and that they have  
9 made the decision in certain cases where they expect  
10 Korean producers to be bidding that it isn't worth the  
11 money to prepare the bid because they're not going to  
12 win against the low prices.

13 So right now I have two sets of testimony to  
14 basically exactly opposite points. I believe on the  
15 Petitioners side we perhaps have some emails or other  
16 evidence from the companies that suggest that they  
17 actually do engage in considering this point. I don't  
18 believe we have anything comparable on the  
19 Respondents' side.

20 My request to both sides is if there's  
21 anything that you would like to add to the record that  
22 is objective, that would help the Commission assess  
23 basically which of these versions of what goes on in  
24 the market is the more credible one, I would invite  
25 you to add that.

1                   And with respect to Respondents, if there's  
2                   anything you want to add right now, please go ahead.

3                   MR. CONNELLY: We'll certainly give you our  
4                   average cost of putting together a bid. Bearing in  
5                   mind that these are people who are on salary. This is  
6                   a fixed cost. There is no incremental cost to  
7                   preparing a bid. This is what these people do.

8                   Now what we heard this morning, I wrote it  
9                   down, 50 to 80,000 dollars per bid. So I did the  
10                  math. Even without a calculator. I said to myself  
11                  well, the average domestic producer puts in probably  
12                  500 bids in a year. So let's take the low range.  
13                  \$50,000. That's \$25 million a year to prepare bids?  
14                  Is that credible?

15                  MR. KLETT: Commissioner Aranoff, this is  
16                  Dan Klett.

17                  Also I think there was a question this  
18                  morning about when a producer decided for a no bid if  
19                  there was any documentation. It seems to me that when  
20                  you're, with the amount of revenue that you're  
21                  foregoing when you decide not to bid, that that's not  
22                  a cavalier decision to be made and I would think there  
23                  would be some documentation as you're saying to  
24                  support no bid decisions rather than well, we just  
25                  made the decision. We don't have any support.



1                   COMMISSIONER ARANOFF: Right. In fact I  
2 understood the testimony this morning to be that at  
3 least some of the domestic producers have formal  
4 go/no-go procedures, so I'm hoping they're going to  
5 submit something to document that.

6                   MR. MORGAN: I'd like for you to hear from  
7 some of the industry witnesses because I think what's  
8 going on is you're getting half the story from the  
9 domestic industry. They say it takes four weeks to  
10 put together a bid. Well it takes four weeks at least  
11 for us in terms of the time when you initially start  
12 until finish, and then you're waiting for things to  
13 come in, and you're waiting for someone to get a  
14 freight cost for you. So it's not four weeks of labor  
15 time. It's maybe one to two, three days of labor time  
16 to actually get the bid together. So I think you got  
17 half that story. You got that it was four weeks and  
18 all this cost, and the same thing with our company.  
19 All those people are being paid. Their job is to  
20 prepare bids. So that cost you're getting is a salary  
21 that's fixed.

22                   So the incremental cost of preparing one  
23 more bid is not that great.

24                   COMMISSIONER ARANOFF: Mr. Morgan, I  
25 appreciate that and I guess I just don't want anyone

1 involved to lose sight of what the real question is.

2           There obviously is a debate here about how  
3 costly it is or isn't to bid and that's fine, and  
4 please go ahead and pursue that. But the real  
5 question in my mind is can it be documented that the  
6 domestic industry is actively making decisions not to  
7 bid on particular projects because they're going to  
8 face Korean competition and they believe that they  
9 can't compete on price. To me that's really the  
10 operative issue and the issue of how expensive it is  
11 to prepare a bid is somewhat secondary. So if there's  
12 anything more you want to add on that.

13           That goes to the question of Mr. Klett's  
14 data where he shows you all these cases where Korean  
15 producers weren't even competing against domestic  
16 producers and how the Commission should weigh them.

17           If the domestic industry was just totally  
18 uninterested and not competing, that's one thing, but  
19 if the domestic industry had some reasonable reason to  
20 believe that they shouldn't participate because they  
21 had no chance of winning, then maybe that changes the  
22 way the Commission should look at that category.  
23 That's really where I'm going.

24           My time is up. I'll come back in the next  
25 round.

1 Thank you, Mr. Chairman.

2 CHAIRMAN WILLIAMSON: Thank you.

3 Commissioner Pinkert?

4 COMMISSIONER PINKERT: Thank you, Mr.  
5 Chairman.

6 Mr. Morgan, in Hyundai's brief at 52 it  
7 states that the new U.S. facility can produce the  
8 domestic like product and that its production is  
9 expected to result in a decrease in Hyundai's exports  
10 to the United States. How does that square with the  
11 notion that purchasers demand a proven track record in  
12 order to engage in transactions with respect to this  
13 product?

14 MR. MORGAN: I think I'll let Mr. Egan, his  
15 testimony touched on it. I believe some follow-up  
16 questions also touched on it. But you start with the  
17 smaller size, lower voltage transformers, and you gain  
18 a performance record in those and then you work your  
19 way up to the larger sizes. Mr. Egan can take over  
20 from there. But he was mentioning that they've  
21 already done one now that's the 300 MVA and they have  
22 some in the hopper for 2013 that are larger. So they  
23 are growing their sizes. They didn't start right off  
24 the bat like Efacec apparently did at 580 MVA and all  
25 these other kind of sizes. But they certainly are

1 working their way up. I think he's best qualified to  
2 answer with specifics.

3 MR. EGAN: Thank you, Commissioner Pinkert.

4 We've had a number of our major customers  
5 comment to perform factory audits, these include  
6 Pacific Gas and Electric, AEP, Southern CalEdison.  
7 The list is just endless. But for instance, Southern  
8 Company one of our key targets for building this  
9 factory, they have just given us an order for a small  
10 25 MVA, I believe it's 138 KV transformer. So we've  
11 talked to them about allowing us to bid on bigger  
12 transformers. Their case is no, we want to see how  
13 you perform on this. Once you get this under your  
14 belt then you can move on to the larger sizes.

15 We see the same thing with our other key  
16 customers.

17 COMMISSIONER PINKERT: Thank you.

18 Mr. Klett, I believe you touched on this in  
19 your testimony but I want to give you a chance to  
20 address it directly.

21 Should we treat inventories of Korean LPTs  
22 as effectively constituting shipments of Korean LPTs?

23 MR. KLETT: Commissioner Pinkert, this is  
24 Dan Klett.

25 I think we concede that inventories reported

1 by HICO should be included as a domestic shipment.  
2 It's just a question of how that's done, whether you  
3 use beginning inventory, whether you use ending  
4 inventory, whether you use just imports reported by  
5 HICO rather than their domestic shipments as a method  
6 for capturing that.

7 The problem with Petitioners' method is they  
8 took ending inventory, which for example 2010 or 2011  
9 is the inventory in existence at December 2011. They  
10 assign that whole number as having been shipped in  
11 calendar year 2011 which we take issue with that.

12 So they should be included, it's just a  
13 question of the appropriate methodology for how they  
14 should be included.

15 COMMISSIONER PINKERT: Thank you.

16 My next question is possibly best addressed  
17 in the posthearing, but does anybody on this panel  
18 have information from purchasers that domestic  
19 suppliers have made bids at prices that were lower  
20 than those sourced from Korea?

21 MR. CONNELLY: We have the data in Table F1  
22 which is the compilation of all the data, almost all  
23 the data, from the purchasers. So yes, there is  
24 information there about lower priced or lower total  
25 evaluated cost shipments from domestic producers.

1           Secondly, we're going to have to go back and  
2 look at the published bid data for some of the  
3 utilities because that's out there and we can see what  
4 that says. We'll submit that in our posthearing  
5 brief.

6           COMMISSIONER PINKERT: Thank you.

7           MR. NEAL: Commissioner Pinkert, this is  
8 Jason Neal.

9           One example that we did give within my  
10 testimony was our Exhibit 8 where there was a bid  
11 where Efacec was the low bidder from a U.S. facility  
12 and we were the highest bidder. But as Mr. Connelly  
13 said, we'll work to provide more examples such as that  
14 in our posthearing brief.

15          COMMISSIONER PINKERT: Thank you.

16          You also heard testimony this morning about  
17 the practical impact of having an alliance agreement.

18          I believe the term was gold standard, don't even  
19 bother to try to get business during the term of that  
20 agreement because it's effectively locked up even if  
21 it's not legally locked up.

22          I understand that legally it's not a binding  
23 agreement that keeps them from entertaining other bids  
24 from other suppliers, but is it as a practical matter  
25 a lock-up of that business?

1           MR. NEAL: Commissioner Pinkert, this is  
2 Jason Neal again. I'd like to address a portion of  
3 that question.

4           There are a few thing wrong with that  
5 comment that it locks in a certain supplier. One  
6 example, several of our alliances are cases where the  
7 utility has multiple suppliers for each rating of the  
8 transformer. So that in itself proves that the  
9 utility will make a conscious choice when they need a  
10 transformer to go to one of the either two or three  
11 suppliers that they may have categorized as an  
12 alliance supplier.

13           There are other alliances that we have in  
14 place, others may as well, that aren't given for a  
15 certain rated transformer. Things can be added to the  
16 alliance based on performance or need or lead time.

17           I think in general, I think it applies to  
18 all of our alliances. None of them guarantee us  
19 orders legally, but the same is in the practice. That  
20 we do not get all of the awards when we are awarded in  
21 an alliance. I think that's important, and we'll  
22 provide as many examples of that as we can.

23           MR. CONNELLY: I want to add just a little  
24 bit to that. I think the testimony this morning was  
25 that there was sort of a hole in your database because

1 the purchaser bid data did not include the results of  
2 sales pursuant to alliance agreements. We disagree  
3 with that. We think there are a number of instances  
4 of sales pursuant to alliance agreements that are in  
5 that purchaser bid database, and we'll endeavor to  
6 give you more analysis of that.

7 MR. MORGAN: Just to add to that point, and  
8 then our industry witness would like to address it.  
9 But the fact is you should have the bid. We've  
10 reported our bids for the alliance agreement itself so  
11 you've got that in the database. We've reported, to  
12 the extent that there are alliance agreements that  
13 they put out for bid each time, you've got those bids  
14 as well. So you've got full coverage.

15 If there was a bid on an alliance agreement,  
16 you've got it. If the alliance agreement itself went  
17 out for bid, we've reported those bids. So the  
18 databases, the data that we've reported gives you the  
19 tools you need to evaluate the effect of alliance  
20 agreements and anything else in our view would be  
21 double counting their significance.

22 I'd like our industry witness to give his  
23 experience.

24 MR. HWAN SOO LEE: As I testified, most  
25 customers they ask the bid from us each time. Is not



1 exclusive contract and doesn't guarantee any volume of  
2 orders. So I don't believe the Petitioners' assertion  
3 that the price is locked in and any volume is  
4 guaranteed and they cannot get any business because of  
5 the agreement we have with customers.

6 COMMISSIONER PINKERT: Please. And please  
7 identify yourself.

8 MR. BOND: Commissioner Pinkert, it's David  
9 Bond from White & Case.

10 These long term alliance agreements were a  
11 major issue for about a year in the Commerce  
12 Department's investigation and probably they were the  
13 issue. The Commerce Department spent quite a bit of  
14 time not only through the response process but also  
15 verification, extensively reviewing basically every  
16 single long term alliance agreement that we had. Not  
17 only the agreements themselves, but orders that were  
18 placed pursuant to those agreements, et cetera.

19 The conclusion which was reached in the  
20 final just last week I guess was consistent with what  
21 we're saying to you. These are not exclusive. They  
22 guarantee nothing. Often cases we have agreements  
23 which never result in orders, et cetera.

24 So for the reasons that Mr. Morgan was  
25 describing, we think that these agreements really are

1 an unnecessary distraction to you as you're looking at  
2 the bid data. Really what you need to be doing is  
3 just looking at the bid data. They give you the full  
4 story. You can see where competition is occurring  
5 through the bid data and you can see the pricing  
6 trends and instances of underselling through the bid  
7 data. You don't really need to get caught up in this  
8 question of the alliance agreements because the data  
9 is the data. All of the bids are there with all of  
10 the information that's necessary to understand what's  
11 going on.

12 COMMISSIONER PINKERT: Thank you.

13 I have no further questions for this round.  
14 Thank you, Mr. Chairman.

15 CHAIRMAN WILLIAMSON: Commissioner Johanson?

16 COMMISSIONER JOHANSON: Thank you, Mr.  
17 Chairman.

18 I have yet another question for Mr. Neal.

19 I was wondering if you could simply perhaps  
20 elaborate a bit further on something you spoke on  
21 earlier. I think you had stated that it only takes a  
22 week for HICO to produce a bid? Did I hear that  
23 correctly?

24 MR. NEAL: Yes, sir. I think the effort it  
25 takes equates to about one full week of work. I

1 believe one of the other folks on this panel attested,  
2 there's a lot of bids, so essentially you receive a  
3 request for quotation. At times they may enter a  
4 queue when you can actually get to that. But the  
5 total work it takes us is typically one week total.  
6 That one week could stretch over maybe two to three  
7 weeks or however long a purchaser is gracious enough  
8 to give us the opportunity to quote. But yes, that is  
9 correct.

10 COMMISSIONER JOHANSON: How involved is a  
11 purchaser in the design of the transformer when this  
12 bid is being put together?

13 MR. NEAL: The purchaser will issue  
14 specifications prior to issuing a request for  
15 proposal. That's a very involved process ahead of the  
16 time when they issue the quote.

17 When the RFP goes out, that RFP is issued to  
18 a number of suppliers. There's minimal involvement of  
19 the purchaser during that phase other than possible  
20 clarifications to the specifications. Or answering  
21 questions from some of the bidders that may  
22 participate. But the purchaser really does not  
23 influence a bid design for any one manufacturer. It's  
24 really the specification document that they would give  
25 to you and then engineers and the teams look at that

1 specification and design to the best of their ability.

2 COMMISSIONER JOHANSON: Thank you.

3 Could someone from Hyundai perhaps discuss  
4 the bid process and how long it takes you all to  
5 prepare a bid? A week seems like a very short time.  
6 I'm sure it's done, but it does seem like a brief  
7 period of time, especially from hearing the  
8 Petitioners speak this morning on the complexities of  
9 producing a bid.

10 MR. EGAN: Actually I'm a little surprised  
11 at these numbers. Part of my role at Hyundai is to  
12 manage our bid team and put together our sales teams,  
13 the sales and marketing team.

14 Once a bid comes in my coordinator, who is a  
15 \$17 an hour worker, takes it and breaks it out into  
16 technical and commercial sides, and then it enters a  
17 queue. So that queue may be a week or two depending  
18 on the other bids that are there. So it's a short  
19 lead time, we may bump that ahead.

20 But really, it's an hour to break out those  
21 two sides.

22 Then my coordinator will take that bid and  
23 look at the sizes. He'll go to my reference of  
24 transformer sizes and pick out similar shipping  
25 dimensions and weights.

1           Then it's a matter of an hour or two  
2           contacting our different freight forwarders, our  
3           different transportation specialists, to get quotes.

4           The technical side is given over to our  
5           basic designer. When it's time it takes him about two  
6           or three hours to come up with a basic design. Then  
7           that in turn is given to our bid team who goes through  
8           and looks at the technical specifications and goes and  
9           prices the steel, prices the copper, the materials and  
10          so forth.

11          Really, we can do a transformer in about six  
12          hours from reading that technical RFQ.

13          At that time they also price the equipment.

14          Once that's complete it's handed back over  
15          to my department where I have an account manager who  
16          goes through on the commercial side, looks at the  
17          commercial documents requirements, whether we have to  
18          go get a bid bond or performance check, pulls together  
19          all the documents that are required. The field  
20          failure rates, the different experience lists, which  
21          are all electronic files that you can pull off our  
22          server.

23          So really, it takes another five or six  
24          hours to actually pull together the technical side and  
25          present that whole document together.

1           So by my estimations, I'm looking at eight  
2 hours for my commercial side and probably another  
3 eight hours on the technical side. We're talking  
4 about 16 man hours by my calculations. And even with  
5 the engineers being salaried workers, if you break  
6 that salary out to an hourly rate we're looking at  
7 about \$400 to prepare a single transformer bid.

8           COMMISSIONER JOHANSON: All right. Thank  
9 you for that clarification.

10           I have a question regarding the Korean home  
11 market. The Petitioners have alleged that the home  
12 market is protected and insulated from import  
13 competition. How large is the Korean market for LPTs?  
14 And are other LPTs from other countries sold in Korea  
15 as far as you all know?

16           MS. JEAN CHEOL LEE: I'm Jean Lee. Because  
17 we are from the international sales team we are not  
18 actually sure the size of the domestic market in  
19 Korea. If necessary, we will include that information  
20 in our post brief.

21           MR. CONNELLY: Commissioner Johanson, I'd  
22 just add that there are imports of transformers into  
23 Korea. It's actually in an exhibit to the  
24 Petitioners' brief. They used official import  
25 statistics. So it's not the like product that's

1 broken down, but there is information in the record.

2 COMMISSIONER JOHANSON: Thank you for that  
3 assistance.

4 For Korean projections of exports to the  
5 United States in 2012 and 2013, and that's in Table  
6 7-1, how many of those units have already been ordered  
7 as far as you know?

8 MR. NEAL: I think we'd appreciate the  
9 opportunity to provide that in our posthearing brief.

10 COMMISSIONER JOHANSON: Thank you, I  
11 appreciate it.

12 This is a question which I spoke on with the  
13 Petitioners this morning and that deals with over-  
14 supply, possible over-supply in India and China.

15 The Petitioners have argued that there  
16 exists over-supply in India and China. Do you all  
17 agree? And have your exports to those countries  
18 changed as far as you all know?

19 MR. NEAL: Commissioner Johanson, I'll do my  
20 best to answer on behalf of Hyosung.

21 I think some of this is a little bit  
22 sensitive that we'd have to address in our posthearing  
23 brief in terms of our shipments. We've seen articles  
24 about potential over-supply in those markets, however  
25 we do have shipments into those markets as well as

1 other markets.

2 Also I think the Petitioners were minimizing  
3 possibly the potential of imports from China and India  
4 into the U.S.. I think one thing we'll disagree on is  
5 I think we have certainly witnessed enhanced activity  
6 of supplies from China and from India in this market  
7 in terms of quotations and their participation in  
8 quotations. Whether that's related to the over-  
9 supply, I must admit I'm not as familiar with both of  
10 those markets. I'm just going by hearsay and what you  
11 see in publications. But one thing we will disagree  
12 on is certainly we see a lot more involvement of China  
13 and India in the quotations here in the U.S.. We  
14 disagree a little bit with the Petitioners on that.

15 COMMISSIONER JOHANSON: Thank you, Mr. Neal.

16 This is another question, I don't know if  
17 you all have information on this or not, but if you do  
18 I'd appreciate hearing about it. That deals with  
19 Iljin and LSIS. The Petitioners contend that these  
20 two companies have significantly increased LPT  
21 production capacity during the POI and that they are  
22 very interested in the large U.S. market. Do you all  
23 have any information on these two companies and their  
24 potential sales or their current sales in the U.S.?  
25 Thank you.



1           MR. EGAN: I'm familiar with Iljin. One of  
2 the Hyundai directors is now working for Iljin. Iljin  
3 generally supplies large transformers, we call them  
4 large power transformers. They're generally in the  
5 120 MVA and lower range. They'll be bidding on  
6 projects that are generally in the 30 to 60 MVA range.  
7 They're not a big player.

8           LS is another Korean manufacturer who  
9 doesn't even have a sales network set up in the United  
10 States.

11          COMMISSIONER JOHANSON: It does not?

12          MR. EGAN: Does not.

13          COMMISSIONER JOHANSON: Thank you.

14          MR. NEAL: Commissioner Johanson, from our  
15 perspective from HICO, we have not really seen them a  
16 lot in the market, LSIS or Iljin, so far.

17          COMMISSIONER JOHANSON: Thank you. I  
18 appreciate your responses. My time is about expired  
19 so I'm going to go ahead and wrap up now, but thank  
20 you all for appearing here today.

21          CHAIRMAN WILLIAMSON: Commissioner Okun?

22          COMMISSIONER OKUN: Thank you.

23           I wanted to have the industry talk a little  
24 bit more about the role, as you see it, of non-  
25 subjects in this market and the relevance to our

1 analysis.

2 Mr. Neal, do you want to start?

3 MR. NEAL: Yes, Commissioner Okun. I'll  
4 begin.

5 I think we see quite a bit of competition  
6 from non-subject imports. We've certainly within this  
7 period of investigation have seen a lot of new  
8 entrants from non-subject countries. Even more than  
9 what I just mentioned about China and India.

10 The majority of the competition that we have  
11 on these Category B units is from non-subject  
12 countries including to the Petitioners' overseas  
13 facilities. ABB has numerous globally that we compete  
14 against quite a bit. Efacec has their facility in  
15 Portugal. So I think the majority of the competitions  
16 that we're involved in involve non-subject countries  
17 over the course of this.

18 Again, I don't have a lot of access to some  
19 of the data that Mr. Klett put together, but based on  
20 the experience that's what we see is a lot of  
21 involvement of non-subject importers from countries  
22 like Mexico, countries in Europe, Middle East, Asia,  
23 South America, Taiwan, China, India, Japan and others.  
24 It's not just Korea and U.S. suppliers.

25 MR. KLETT: Commissioner Okun, this is Dan

1 Klett.

2 At least in terms of the number of bids from  
3 the purchaser questionnaires at Table 5-4 of your  
4 staff report, I think non-subject had 117 winning bids  
5 and subject had 100 winning bids. So pretty close,  
6 but non-subject are not insignificant.

7 COMMISSIONER OKUN: You may have broken this  
8 down and I've forgotten, but in terms of your Category  
9 B versus Category A, what you're saying is most of the  
10 non-subjects are Category B?

11 MR. KLETT: I think most of our competition  
12 in Category B comes from non-subject countries. I  
13 think non-subjects also participate quite a bit in  
14 Category A as well, where we also compete quite a bit  
15 against the U.S..

16 Mr. CAMPBELL: Commissioner Okun, this is  
17 Jay Campbell with White & Case.

18 If I may on the subject of non-subject  
19 imports, if I may add. You asked the question this  
20 morning whether a Bratsk-like analysis is appropriate  
21 in the context of this case, and it absolutely is.

22 In the most recent Federal Circuit decision  
23 to address this issue, Natal, the Federal Circuit held  
24 that an important element of the causation analysis  
25 under the by reason of standard is whether subject

1 imports are a but for cause of injury.

2 Now this principle applies in any case. The  
3 question is simply whether or not this but for  
4 analysis is feasible.

5 In the facts of Bratsk and Natal, but for  
6 causation analysis was feasible because you had a  
7 commodity product at issue and non-subject imports.

8 In this case obviously we don't have a  
9 commodity product, we have a custom made product, but  
10 the requirement for a but for causation analysis is no  
11 less compelling. In fact it can be done with more  
12 precision in this case than a case under the normal  
13 facts where you have a commodity product at issue.  
14 That's because we have bid data, purchaser bid data  
15 that's been reported. Capital Trade has done this  
16 analysis and they've identified the universe of bids  
17 or the bids where Korean Respondents won against a  
18 U.S. supplier because they were either at lower cost  
19 or a lower price. Already that's a low number when  
20 you look at the universe of bids reported in the  
21 purchaser data.

22 But within this group of bids you can  
23 identify the bids where there was a non-subject import  
24 at the next lowest evaluated cost. Within each  
25 individual bid we know that the specifications for the

1 transformer are the same. So it's really analogous to  
2 a commodity-like situation.

3 COMMISSIONER OKUN: Let me just, and I know  
4 Petitioners will brief as well posthearing, but one of  
5 the responses Petitioners made on that point was where  
6 you have these bids you don't know whether the  
7 Petitioners would have become one of the lower three.

8 Where people are kicked out based on price before  
9 they even get there. What's your response to that?

10 MR. CAMPBELL: If I understand the question  
11 correctly, is the question whether you have to be  
12 within a certain range of initial prices to --

13 COMMISSIONER OKUN: As I understood their  
14 argument it was that because in this case you might  
15 have a non-subject lower price than Koreans, and you  
16 have some other price -- If the bid were, if the  
17 Koreans were not in the market it wouldn't necessarily  
18 have gone to the non-subject because either the  
19 Petitioners would have been considered if they weren't  
20 already -- It would just affect the dynamics where you  
21 have a bid process as opposed to just a commodity  
22 product.

23 MR. KLETT: Commissioner Okun, this is Dan  
24 Klett. I guess theoretically that's possible, but you  
25 have the bid data and you have a situation where you

1 have the actual pricing with U.S. subject and non-  
2 subject and kind of where that shakes out based on  
3 that actual bid. In terms of if Korea had not been  
4 bidding at all, they had been completely out of the  
5 market, would the U.S. -- They're kind of assuming the  
6 relationship between subject and non-subject somehow  
7 would have flip-flopped to change the analysis I did.

8 I think that's speculative.

9 COMMISSIONER OKUN: I'll look forward to  
10 seeing that briefed. I'm interested, and obviously we  
11 have the issue of the non-subject data which may or  
12 may not be changing, and I'll look forward to how that  
13 shakes out as well.

14 Let me turn to another question, going back  
15 I think Mr. Klett, this is where we got cut off on my  
16 last round which was it seems like long ago. We don't  
17 have to recreate the whole thing. But I guess the  
18 issue would be, we spend a lot of time focusing, or  
19 your briefs focus a lot on whether, a couple of  
20 things. One, if you just look at Category B that  
21 there's not a lot going on. And again, a number of  
22 questions about whether they would have bid, could  
23 have bid ,and what documentation we have and how we  
24 should evaluate this pricing data.

25 But if we look at what you call Category A

1 and where there is competition, so it's not a case to  
2 me where there's no competition anywhere. Go through  
3 that data for me. Again, if we're looking at where  
4 the domestic industry is focused but where there are  
5 Korean imports. What does the data indicate?

6 MR. KLETT: You're right, that essentially  
7 because there's very little domestic in Category B  
8 that the analysis I did when I compared either from  
9 the purchaser questionnaires or the U.S. producer and  
10 importer questionnaires, where I found kind of head to  
11 head competition for particular bids, in large part,  
12 that was Category A competition.

13 Just generally, from the purchaser  
14 questionnaires, it's actually pretty easy.  
15 Conceptually it's not convoluted, the approach. I  
16 mean you have the bid information from purchaser  
17 questionnaires, you can look at the bids, you can see  
18 who won, you can see what the relative evaluated cost  
19 or price was and who else was competing and who won  
20 and who lost. There's a lot of data so it's data  
21 intensive, but conceptually the approach is pretty  
22 simple.

23 The Petitioners this morning said the  
24 problem with my analysis was that you don't have  
25 complete coverage. It assumes kind of comprehensive

1 coverage. Well, the Commission collected in its  
2 producer and importer questionnaires, or at least it  
3 requested all bids associated with transformers to be  
4 delivered from January 2009 to March 2012. So it  
5 should have had comprehensive information from  
6 producers and importers on all their bids.

7 My approach was that for all those  
8 purchasers that did not submit good bid information, I  
9 went to the producer and importer questionnaires and  
10 tried to compare competition on a bid by bid basis,  
11 who won, who lost, whether non-subject imports were in  
12 the market or not. Based on that approach I tried to  
13 quantify and I tried to be clear with regard to my  
14 attachments in terms of the data I relied upon, the  
15 number of bids and the MVAs and the values associated  
16 with when Korea won, when it was clearly against a bid  
17 for U.S. producers, and when it was not. That's kind  
18 of the crux of my analysis and the graphics that I  
19 showed this morning in terms of the materiality of  
20 wins by Korean producers when they were against U.S.  
21 producers and when they were not.

22 COMMISSIONER OKUN: I appreciate all those  
23 responses and I will look forward to the posthearing  
24 briefs.

25 CHAIRMAN WILLIAMSON: I have no further



1 questions. I want to thank the witnesses for their  
2 testimony.

3 Commissioner Aranoff?

4 COMMISSIONER ARANOFF: Thank you, Mr.  
5 Chairman.

6 We've had a lot of testimony today that  
7 alliance agreements don't guarantee sales and don't  
8 give producers much of a leg up in competition, and  
9 that they're a distraction. But yet we also see that  
10 producers tout them, for example, in their annual  
11 reports as being some kind of a competitive advantage.

12 Even if one assumes a certain degree of puffery  
13 involved in annual reports. I still have to ask the  
14 question, why are so many producers spending so much  
15 time pursuing alliance agreements if in fact they  
16 confer no real advantage?

17 MR. CONNELLY: I think first of all we have  
18 to consider why a particular company gets an alliance  
19 agreement. Why is Hyosung able to get an alliance  
20 agreement? Why is a domestic producer able to get an  
21 alliance agreement?

22 To believe the Petitioners it's because they  
23 offer a low price. You've got the price data in the  
24 record. But what I'd like Jason to do is talk about  
25 the reasons that producers are able to get alliance

1 agreements. What motivates purchasers to get them,  
2 ask for them.

3 MR. NEAL: There are a couple of things that  
4 I would like to address versus what Mr. Connelly has  
5 requested, and there are a lot of aspects of alliance  
6 agreements and why utilities enter into them.

7 A lot of those are non-price factors as  
8 well. One is on lead times. There's oftentimes where  
9 a utility is in a position where they need a  
10 transformer quickly. The benefit of an alliance  
11 agreement to the utility in those cases would be that  
12 they can rely on a supplier or a group of suppliers  
13 they've assigned as alliance suppliers to do that and  
14 to meet that requirement. In order to meet that  
15 requirement a company or a supplier needs to have a  
16 good track record of offering lead times that are very  
17 competitive and meeting those lead times.

18 So oftentimes one of the most important  
19 criteria a utility has in an alliance is lead time and  
20 that's because it's a benefit for them if they have a  
21 quick demand.

22 The second is the performance and quality.  
23 These alliance supplier or group of alliance suppliers  
24 that the utility identifies have gone through two  
25 thorough processes. One is the qualification process

1 just to be able to bid to that utility. The second  
2 process is a history of good performance with that  
3 utility on previous contracts.

4 So you have a group of suppliers that  
5 utility, a supplier or group of suppliers that a  
6 utility can rely on to meet a short lead time or a  
7 certain design aspect for their transformer, but also  
8 have the unique ability to perform for that utility.

9 A utility, these are not exclusive and  
10 they're not binding to the utility. It's almost the  
11 best of both worlds for the customer because while  
12 they can issue awards off of that alliance they still  
13 have the opportunity to test the market for pricing or  
14 to go to other suppliers, or in the case of utilities  
15 that have multiple suppliers for their units, still  
16 maintain a very competitive environment.

17 One point I would like to please make,  
18 Commissioner, is no two alliances are the same.  
19 They're all unique. Some alliances are based on a  
20 single rating of a transformer. Some alliances are  
21 based on a category of transformers. They could  
22 include any wind transformer, for example, that  
23 utility may buy, and there are an infinite number of  
24 possible units that they may purchase.

25 But a big factor in these and something I

1 think the Petitioners do not mention is, I keep  
2 hearing this it's just the price. The alliances  
3 involve, it's probably a category that's best  
4 representative of cases where non-price factors are  
5 more important. A utility entering an alliance does a  
6 thorough evaluation. A technical evaluation, an  
7 evaluation of your reliability and your performance  
8 over time before they will even entertain the idea to  
9 enter into an alliance agreement.

10 So by Petitioners saying that it's just a  
11 low price that's locked in, that's just not correct,  
12 almost insulting to the customers' process itself.

13 COMMISSIONER ARANOFF: There is a cost  
14 factor though, right? From the utility's standpoint.

15 If it's not going to use the alliance supplier, then  
16 it may have to go through some additional  
17 qualification or assessment either of the particular  
18 product or of the supplier that's bidding. And it may  
19 have to take on risks, as you point out, because it  
20 may be dealing with someone with whom it doesn't have  
21 as long a history of reliability or sticking to lead  
22 times.

23 So to some extent it does give a cost  
24 advantage to a bid that's coming from an alliance  
25 supplier, and in that sense, while I understand that

1 the sale isn't guaranteed, it does give some kind of a  
2 leg up to the supplier that has the alliance.

3 MR. NEAL: Maybe it can be traced back to  
4 cost by the utility, but I think the main thing is it  
5 gets them out of some binds when they need  
6 transformers quickly. And they can quickly issue an  
7 award to the group of suppliers they identify as  
8 alliance suppliers. Not as certainly on the cost  
9 benefit to the utility as it would be the time to get  
10 a unit or time to review the design of a unit because  
11 they have faith in that design or group of designs  
12 already.

13 COMMISSIONER ARANOFF: It does seem like an  
14 awful lot of trouble to go through for a situation  
15 that doesn't come up that often, but we'll leave that  
16 for now. If there's anything that anyone wants to add  
17 on why alliances, I'd appreciate that.

18 My final question goes to postpetition data.  
19 The statute tells the Commission that we can  
20 disregard postpetition data if we think that it's been  
21 affected by the pendency of the investigation.

22 I understood the argument that Respondents  
23 were making in your briefs was that doesn't really  
24 apply in this case because of the lead times. That  
25 any orders that were being delivered during the

1 postpetition period would have been ordered before, so  
2 they wouldn't be affected. So I take that into  
3 account.

4 My question to you is to respond to the  
5 Petitioners' argument that we should not so much  
6 disregard the postpetition delivery data, but that we  
7 should be really giving the most weight to  
8 postpetition order data because now we're looking at  
9 new orders that might be affected by the pendency of  
10 the case and that in that case the domestic industry  
11 has seen a pickup, has seen a benefit.

12 MR. CONNELLY: We can comment on that in our  
13 posthearing brief. What I heard were anecdotes. I'm  
14 not sure there's a very reliable basis, and no basis  
15 in the record as far as we know to quantify just  
16 exactly what that means. I will say that what we do  
17 notice in the first quarter of 2012 is a huge jump in  
18 non-subject imports.

19 COMMISSIONER ARANOFF: It would be helpful  
20 to me if posthearing if the Korean producers who are  
21 present could document first whether their new bid  
22 wins are down since the petition was filed. And in  
23 particular I think the Petitioners this morning  
24 referred to the fact that they were hearing that some  
25 U.S. purchasers were canceling orders for delivery

1 from Korean producers or putting things out to rebid.

2 If there's any response to that, that would  
3 be helpful.

4 MR. CONNELLY: Let me just observe that all  
5 of those allegations were in confidential declarations  
6 which we were unable to discuss with our clients  
7 before they chose to make that information public this  
8 morning. So we appreciate the question.

9 COMMISSIONER ARANOFF: With that, I don't  
10 have any further questions. I do want to thank  
11 everyone on this panel for your answers this  
12 afternoon.

13 Thank you, Mr. Chairman.

14 CHAIRMAN WILLIAMSON: Commissioner Pinkert?

15 COMMISSIONER PINKERT: Just one more thing  
16 in regard to the posthearing submission.

17 When you brief that line of cases that  
18 indicate you can't have a separate domestic like  
19 product where you have no domestic production, would  
20 you please discuss the relevance of the fact that the  
21 domestic industry in this case could produce that  
22 product?

23 MR. CONNELLY: Certainly. It would be  
24 helpful for the domestic producers to put on record  
25 the date as of which they could produce that product.

1 I think we'd find that helpful if the Commission  
2 would ask them that question.

3 COMMISSIONER PINKERT: Obviously they've  
4 heard your point about that, and I would request that  
5 they also address this issue of the relevance of the  
6 domestic producers being able to produce the product  
7 in question to the question of whether there's a  
8 separate domestic like product.

9 Thank you.

10 CHAIRMAN WILLIAMSON: I don't think there  
11 are any further questions from the Commissioners.

12 Do staff have any questions?

13 MR. McCLURE: Jim McClure, Office of  
14 Investigations. Staff has no questions.

15 CHAIRMAN WILLIAMSON: Do Petitioners have  
16 any questions for this panel?

17 MR. LUBERDA: WE do not.

18 CHAIRMAN WILLIAMSON: Thank you.

19 Closing statements and rebuttal statements.

20 Petitioners have three minutes of direct and five  
21 minutes closing, a total of eight minutes.

22 Respondents have 11 minutes direct and five minutes  
23 for closing for a total of 16 minutes. Unless there's  
24 any objection we'll as we usually do, we'll combine  
25 those times and ask this panel to take their seats and



1 we'll have closing arguments.

2 (Pause.)

3 CHAIRMAN WILLIAMSON: Okay. Ms. Cannon, you  
4 can begin. Thank you.

5 MS. CANNON: Thank you, Chairman Williamson.  
6 Let me start with like product. I'm mystified by the  
7 like product arguments of the Respondents as a legal  
8 matter. By statute, the like product is a product  
9 produced in the United States that's most like the  
10 grand imports. You can't define a like product by  
11 something we don't make. And I am very respectful of  
12 Mr. Connelly as an attorney, but I am very interested  
13 in seeing what type of legal argument he intends to  
14 offer to justify that. That's just not possible under  
15 the law.

16 With respect to category B, ABB bid on 17  
17 units out of St. Louis for U.S. customers in that  
18 category. That was exactly the category, B category  
19 that they described, and they have produced this  
20 product in the past. Efacec is also bidding actively  
21 in this product category and it is not true that they  
22 don't have the experience to produce it. They brought  
23 expatriates over from Portugal to supplement their  
24 workforce and meet the experience requirements for the  
25 first few years and that has been satisfactory to the

1 customers.

2 I'd like to clarify the nuclear power plant  
3 point that one of Respondents raised about category A.

4 Our testimony was not that only category A is used  
5 for nuclear power plants, but that category A products  
6 can be used for nuclear power plants just as category  
7 B can, proving that there is an overlap in uses  
8 between these categories.

9 I would refer you to page 2-30 of the staff  
10 report regarding the question of the purchaser's  
11 responses as to what can be made in the United States  
12 and Korea and what's available to them because your  
13 report identified a number of discrete categories that  
14 fall within their category B. And most of the  
15 purchasers said the U.S. and the Koreans were  
16 comparable in terms of what was available in those  
17 categories.

18 Mr. Klett has focused his analysis on where  
19 the Korean producers do not compete, but the issue  
20 really is where do they compete with the United States  
21 production that is before you. And the answer is  
22 everywhere. They were everywhere that we are.  
23 There's nowhere that the United States industry is  
24 producing that they are not competing with us. The  
25 vast majority of bids we put out there, we see them

1 on. That is proven in the appendix F of your  
2 database. And they are competing at lower prices that  
3 are depressing our prices.

4 I am pleased that Respondents have now said  
5 what I could not say this morning, which is that there  
6 are inventories of HICO that are really what have  
7 caused a problem with the market share data. And as I  
8 understood them, they agreed with us that because  
9 those are sales and not your typical inventories, they  
10 should be counted as shipments in the U.S. market.

11 If you revise your volume data to account  
12 for these inventories, you will see an increase in  
13 Korean market share over the period of investigation  
14 and a decline in U.S. market share, as well as the  
15 non-subject import market share. The only thing you  
16 have to watch for is your interim 2012 data because  
17 that will require a little bit more tweaking given  
18 that situation, but we'll discuss that in confidence  
19 in our brief.

20 On the exhibits that they offered for you  
21 and the importance of the initial bid versus total  
22 ownership cost, they offered up Exhibit 6, HICO's  
23 exhibit, to purport to show that the initial bid  
24 didn't matter because Hyundai ended up winning that  
25 bid. But I would point out to you that Hyundai was

1 very close to the lowest initial bid right up front  
2 and ended up getting that bid based on the lowest  
3 total ownership cost, which means basically that they  
4 were putting more material into that product. That's  
5 how they got those lower lost evaluations. So they  
6 were giving the customer a better product for a lower  
7 price.

8 I would also point out to you on this chart  
9 that you will see there's only four companies whose  
10 bids got evaluated. That proves our point that  
11 initial bid does matter. Everybody else was thrown  
12 out right off the bat because they weren't in the four  
13 lowest initial bids.

14 They also point to Exhibit 7, which is one  
15 of the Nebraska Power bids that we talked about.  
16 First they say that even though ABB is listed here  
17 from St. Louis, that that was wrong. ABB bid from  
18 Spain. I spoke with this about Ms. Cusack about this  
19 issue when it came up and she said that is not  
20 correct, that ABB bid from both and that the St. Louis  
21 bid is correct. So there was a U.S. offering. And  
22 again, you're seeing the lowest prices from Hyundai  
23 and HICO. Every time we look at these prices that are  
24 available, they are at the low end of the market.

25 I also learned from Efacec that they did not

1 bid because they knew the Koreans were participating  
2 in this bid. And I take the point from Commissioner  
3 Aranoff that you're looking for more specifics on  
4 these go, no go decisions and we will provide that in  
5 posthearing from Efacec. I also was informed by ABB  
6 that they have what they call an opportunity tracking  
7 system where they look at who is qualified, who  
8 supplied the bids in the past, and other feedback  
9 where they make those decision. So we'll be providing  
10 more information on posthearing on that issue.

11 The Korean producer said if they know our  
12 prices from this lighthouse effect, they should be  
13 pricing where we are. Why are the prices so  
14 different? And the answer to that is, yeah, we would  
15 be pricing where we could get the bid if we weren't  
16 losing so much money. I mean the prices have crashed  
17 in this market and we can't sell at the price that we  
18 need to sell to try to make money. Look at the bottom  
19 line here. That's what the problem is in the market  
20 and they are the ones that have driven down these  
21 prices.

22 And they know that they encouraged you to  
23 disregard the average unit value price trends, saying  
24 pay no attention to those because those don't matter  
25 and legally they're irrelevant. But I would ask you

1 to look at the U.S. Steel decision of the Court of  
2 Appeals for the Federal Circuit very carefully as to  
3 what the court said you could do with average unit  
4 values and it didn't say you can't look at them when  
5 you have a product like this which has myriad factors,  
6 which is what I understood them to argue.

7 What it said was you don't look at them if  
8 the respondents have demonstrated that there's a wide  
9 variation in product mix over time. Well that isn't  
10 what they've shown here. They haven't claimed there's  
11 any variation in product mix. So to see that huge of  
12 a decline is significant in an industry where it's  
13 also correlating with our anecdotal evidence on these  
14 price declines, as well as with the profit plunges  
15 you're seeing.

16 Alliance agreements have been talked about a  
17 lot. One thing that they said was that ABB claims  
18 that the \$600 million worth of the So Cal alliance was  
19 overstated. That wasn't an ABB claim. We showed you  
20 a chart which was from their annual report. This is a  
21 page from their report. So this is not something we  
22 have said. This is what they have said and they've  
23 said it because it's true. Alliance agreements are  
24 not a distraction, they are the center point of this  
25 case. They are the gold standard to this industry.

1 You lose an alliance bid, you're out with that  
2 customer for all practical purposes for the life of  
3 that agreement. And that is not showing up as much as  
4 it should be in your bid data because it's one bid.  
5 As soon as you have lost that bid, you're out. That's  
6 one bid that can go for years.

7 So there's no competition after that point.

8 Very, very rarely, as Ms. Cusack described, would  
9 something happen that would cause the purchaser to  
10 open it back up again and to look for other people to  
11 submit it. So everybody wants these agreements. And  
12 when you lose one, it's lost for years and you're not  
13 even talking to that customer.

14 Briefly I want to mention failure rates.  
15 Respondents said that Efacec had a 40 percent test  
16 floor failure rate and that's why people weren't  
17 buying from them. We'll put information in our  
18 posthearing brief to show that their test failure rate  
19 was 7.8 percent and that they have no field failure  
20 since they opened that plant.

21 And failure rates are not the reason that  
22 the purchasers are not buying from us. We will also  
23 put data on the record showing some of the Korean  
24 failure rates, which have been significant. One  
25 resulted in a transformer being taken out of service,

1 which is a catastrophic failure.

2 I think that will conclude my testimony and  
3 I thank you very much for your attention.

4 CHAIRMAN WILLIAMSON: Thank you. You can  
5 begin when you're ready, Mr. Morgan.

6 MR. MORGAN: Thank you, Chairman Williamson  
7 and this is Frank Morgan on behalf of all Respondents.  
8 Let me start with the gold standard, the long-term  
9 alliance agreements and we'll provide more details in  
10 our posthearing brief in terms of the legal arguments.

11 But the fact is that the data you have, and this was  
12 the first time now Petitioners have acknowledged it,  
13 does capture the effects of competition with long-term  
14 agreements because those agreements are either put out  
15 for bid for the alliance portion of them or they are  
16 the alliance agreements where they are put out to bid  
17 each time with other alliance partners. There may be  
18 instances where U.S. and subject producers are  
19 alliance partners in those agreements. So you are  
20 capturing the effects of alliance agreements in your  
21 bid data set.

22 Now there are some -- and so now Petitioners  
23 are asking you to double count the importance of the  
24 long-term alliance agreements. And let's think of  
25 some to the problems that presents. For one thing



1 these alliance agreements when they're put out to bid  
2 cover subject merchandise, non-subject merchandise.  
3 Did the Korean producer if they won one of those  
4 alliances win it because it was subject merchandise?  
5 Did they win it for their prices that they bid on the  
6 non-subject merchandise? How do you account for that  
7 in your causal analysis? What weight can you give  
8 those? Can you even know what weight to give any of  
9 those factors?

10 We know that there are warranty terms,  
11 performance record. Those things are all evaluated as  
12 part of a decision to grant someone alliance partner  
13 status. These things are unknowable based on the  
14 record that you gathered or on any possible record you  
15 could gather. What factors went into the alliance  
16 partners decision? What weight they give to each  
17 factor?

18 So there are all kinds of non-price  
19 considerations that go into coming into an alliance  
20 agreement with someone, including non-subject reasons  
21 -- or non-subject merchandise. So we think it is a  
22 bid red fish that starts with an H. We think you have  
23 the data in the record to evaluate the effects of this  
24 competition and anything more is double counting it.

25 On volume, we think that the Commission has

1       excellent data in this case, more detailed, more  
2       extensive, more in-depth, a lot of purchaser responses  
3       than in any other case. And the Petitioners basically  
4       want you to walk away from that data and just simply  
5       look at things in the aggregated. What we've proposed  
6       on volume and looking at the volume of subject imports  
7       that weren't at the expense of the U.S. industry,  
8       that's no different than any other case when you have  
9       non-subject imports present and you discount the  
10      significance of subject market share gains that were  
11      at the expense. Here, you can actually see it  
12      happening in the data set that you have. So we don't  
13      think we're asking you to do anything that's out of  
14      the norm of what your normal analysis is.

15               Pricing, same thing. We're saying that when  
16      there are subject imports competing against U.S.  
17      producers, those are the bids to be focusing on.  
18      That's what you do when you have a lost sales  
19      allegation. You don't attribute harmful effects to a  
20      lost sales where the purchaser denies that the subject  
21      import won or denies the lost sale for other reasons.

22      In essence, what we're doing is similar to what you  
23      do in every case, except in this case you have much  
24      better data and you should stick with it, not ignore  
25      it as Petitioners would argue.

1           I just heard again about average unit  
2 values. And now I guess we have to show how they  
3 change over time and somehow come up with a database  
4 that we would present to you not with just MVA and  
5 Voltage, which we've done, but with the other 15  
6 specifications that go into a bid. I don't think  
7 that's what the Federal Circuit said, that you have to  
8 show the product mix changes over time.

9           The Commission has always looked at product  
10 mix as an issue with divergent products like this. I  
11 don't think Petitioners can reasonably or in good  
12 faith say that there's not differences in the product  
13 mix because of the unique nature of these products.  
14 They're now saying we just have to show that it  
15 changes over time. I don't think that's what the Fed  
16 Circuit says. I don't think that's what Commission  
17 practice has been.

18           The other issue with AUVs of course is if  
19 you're going to measure market share and you are going  
20 to look at the imports statistics, as we have said you  
21 should do, you can't do that based on MVA in any  
22 event. You have to do it based on value. So we think  
23 that value in this case based on this unique industry,  
24 multiple characteristics that can affect price value  
25 is the only reasonable substitute for volume.

1           So one of the issues, the cornerstone of  
2           Petitioners adverse price effects in many ways is the  
3           confidential declarations they provided in Exhibit 9  
4           of their prehearing brief. And of course we can't go  
5           into the details, but I can make a few general  
6           observations, which is that my impression when I read  
7           those is that they were all U.S. bids. That's going  
8           to prove not to be the case. My other impression is  
9           that they were -- none of those were also subject of  
10          lost sales allegations. That's going to prove not to  
11          be the case.

12                 So the fact is without saying these things,  
13          those declarations were put in and we think -- and we  
14          will detail this in our confidential posthearing  
15          brief. But again, we think you're getting half the  
16          story. And we don't think that that's the way these  
17          cases should be decided. We don't think it's the way  
18          they should be argued. You have the best record in  
19          terms of purchaser data details to make the decision.

20          That's the data you should be using. That's what you  
21          should be relying on, not the anecdotes and  
22          confidential declarations.

23                 A couple of points that came up in the  
24          course of the questioning. Commissioner Okun asked  
25          what's going on with competition where the U.S.

1 industry is. We've told you that where the industry  
2 isn't, that's where our market share gains have been  
3 coming at the expense of non-subject imports.

4 But what's going on where it is? Well, you  
5 have Table 5-4 of the staff report and I think that  
6 pretty much tells you what is happening where there's  
7 competition between the U.S. And in our view, there's  
8 a fairly small number of sales where the U.S. lost to  
9 the Korean industry over the POI.

10 Now the staff report we think -- and staff  
11 did a great job. There was a ton of data. They  
12 collected it. They verified it. And we are grateful  
13 that they did that because we think the data supports  
14 us. But there are a few things in there where it's  
15 clear that the U.S. producer lost the sale for a non-  
16 price reason. There are some instances where the  
17 purchaser even said, well, the producer didn't submit  
18 a bid that was compliant with the request. We don't  
19 think that can be blamed on subject imports. The  
20 specifications were designed wrong. Well, again that  
21 has nothing to do with the subject imports.

22 So we don't think that those should be  
23 counted in Table 5-4 as a win by Korea. Or at least  
24 if you're going to consider as a win by Korea, it  
25 certainly wasn't on the basis of price. And it

1 probably isn't even something that should factor into  
2 your causal analysis because it had nothing to do with  
3 Korean imports. It was a product of the bidding  
4 process and noncompliance with it.

5 The Efacec representative testified, and  
6 that might change, but he said that they had built  
7 7,000 MVA with 45 units. So I did a little quick  
8 math. That comes out to an average of 155 MVA per  
9 unit. So again, the testimony doesn't seem to be  
10 consistent with some of the other representations that  
11 are being made in confidence. And he's free to change  
12 that testimony and that's what I heard. I may have  
13 mistakenly heard that.

14 So to kind of sum things up, our view is  
15 does the record evidence show that subject imports  
16 from HHI and Hyosung, whose representatives testified  
17 before you today, caused the decline in the domestic  
18 industry's financial performance. We think that  
19 answer is no and that it's quite the opposite.

20 You have a remarkable record, as I've said  
21 many times, but it's truly got high coverage in terms  
22 of the purchasers that are covered, in terms of the  
23 importers, in terms of the foreign producers, and in  
24 terms of the depth and detail they've provided and  
25 their responses. You've got bids submitted by the

1 importers, by the U.S. producers, and by the  
2 purchasers. You don't get that kind of detailed  
3 pricing information in any case.

4           Petitioners want you to ignore that evidence  
5 and treat this like any other case. We don't think  
6 you can do that. We don't think it would be legally  
7 permissible to ignore all of that evidence and simply  
8 rely on the anecdotes that have been provided in  
9 confidential declarations. Their sole attempt at  
10 rebutting the analysis we've provided, and they  
11 explain that they're going to do this more in their  
12 posthearing brief, but they said we reinvented the  
13 record. I challenge them to show what we reinvented  
14 in the record.

15           We took the record data and we analyzed it.  
16 That's all we did. We didn't create anything. We  
17 didn't make anything up. We didn't come up with  
18 imports statistics that purport to show declines when  
19 your record shows that they're increases. We took  
20 what you gave us and we did a thorough analysis of it.

21           And that analysis shows that the volume of  
22 subject imports that competed against the U.S.  
23 industry declined throughout the period. And that's  
24 whether you measure them in MVA, whether you measure  
25 them in dollars, whether you do it in absolute terms,

1 whether you do it in relative terms, and whether you  
2 make the adjustment that the Petitioners have asked  
3 for. They declined every time and you cannot say that  
4 there's an adverse causal connection between the U.S.  
5 industry's financial performance and the subject  
6 imports in line with the record.

7 In 2009, the industry had its best year of  
8 the POI and yet 2009 marked the peak in the volume of  
9 subject imports that one bids against the U.S.  
10 producer. There's no dispute that you should measure  
11 the financial performance of the U.S. industry  
12 relative to the volume of subject imports that entered  
13 in that same year. So if the volume of imports from  
14 Korea was at its peak in 2009 in terms of those that  
15 one bids against that U.S. and they were causing  
16 adverse effects, volume price otherwise, the U.S.  
17 industry should have had its worse year of the POI in  
18 2009, not its best.

19 After 2009, the volume of subject imports  
20 from Korea that one bids against the U.S. producers  
21 steadily declined. Again, you cannot find an adverse  
22 correlation between the subject imports and the U.S.  
23 industry's performance based on those facts. Where  
24 there some Korean bids below U.S. bids? Of course  
25 there were. And the one Hyundai bid that was put up



1 on the chart, we're going to detail what happened with  
2 that. That wasn't intention. Somebody made a  
3 mistake.

4 In a competitive market, you will always be  
5 able to find instances where subject imports won  
6 sales. Were there are U.S. bids below Korean bids?  
7 Yes. Were there non-subject bids by ABB, Efacec,  
8 Siemens, GE, and the countless other non-subject  
9 imports that were below U.S. and Korean bids? Yes.  
10 That's the way this industry works. It makes no  
11 economic sense to engage in a campaign of aggressive  
12 underselling. You want to win the bid by being the  
13 lowest bidder, but by as little as possible.

14 The record establishes the lack of price  
15 effects, adverse price effects through the limited  
16 number of bids in which the Korean industry competed  
17 and won against the U.S. producer. The fact is that  
18 transformers from Korea have been present in the  
19 market for decades, have been the subject of long-term  
20 alliance agreements that predate the POI by years.  
21 And the Korean producers have demonstrated their  
22 commitment and belief in the vitality of the U.S.  
23 market by investing over \$100 million in a new  
24 manufacturing facility, which employs 150 people. And  
25 several other producers have done the same.

1           From day one, we have argued that subject  
2 imports did not injure the U.S. industry because there  
3 is limited competition. We also argued that -- and  
4 that's putting the like product definition to the  
5 side. We also argued the Petitioner's definition of  
6 the like product was illogical and had no support.  
7 While the U.S. producers talk a great deal about their  
8 production capabilities, the bid data they provided in  
9 their questionnaire responses, along with independent  
10 corroboration from purchaser questionnaire responses,  
11 established there was little U.S. participation in  
12 bids for transformers over 300 MVA or above 345 KV.  
13 Again, this is what the record shows. And in this  
14 case, if you look to the record, there is no basis for  
15 reaching a negative -- an affirmative determination.

16           In our view, what Petitioners have done in  
17 their declarations that I discussed before is the same  
18 thing as what they've done on the question of how long  
19 it takes to put together an RFP. They've only told  
20 you part of the story. They've said that it takes  
21 four weeks to respond to an RFP. And when I heard  
22 that, I thought it took four weeks of pure labor to do  
23 that. As you heard this afternoon, the reality is, it  
24 takes a few days. The rest of the time is spent  
25 waiting or it's in the queue waiting to be evaluated.

1 But it's a matter of hours, not a matter of four  
2 weeks.

3 We look forward to seeking the documentation  
4 that Commissioner Aranoff requested from the domestic  
5 industry, which in our view should have been provided  
6 in the prehearing brief as support for these  
7 allegations because then we would have an opportunity  
8 to rebut it in our posthearing brief and not have only  
9 final comments to do so.

10 We win this case based on the extensive  
11 record evidence that supports our position.  
12 Petitioners only win if you believe one-sided self-  
13 serving stories and retold rumors. Thank you.

14 CHAIRMAN WILLIAMSON: Okay, thank you. I do  
15 want to thank all the witnesses for their testimony  
16 today, closing statement. Posthearing briefs,  
17 statements responsive to questions and requests of the  
18 Commission, and corrections to the transcript must be  
19 filed by July 17, 2012; closing of the record and  
20 final release of data to parties, July 30, 2012.  
21 Final comments are due August 1, 2012. And with that,  
22 this hearing is adjourned.

23 (Whereupon, at 4:25 p.m., the hearing in the  
24 above-entitled matter was concluded.)

25 //

**CERTIFICATION OF TRANSCRIPTION****TITLE:** Large Power Transformers from Korea**INVESTIGATION NO.:** 731-TA-1189**HEARING DATE:** July 10, 2012**LOCATION:** Washington, D.C.**NATURE OF HEARING:** Investigation

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:** July 10, 2012

**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:** Rebecca McCrary  
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:** David Jones  
Signature of Court Reporter