

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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In the Matter of the Formal) TRANSCRIPT OF
Complaint of Richard E.) PROCEEDINGS
Drake on Behalf of the)
Lambourne Avenue)
Neighborhood vs. Rocky) Docket No.:
Mountain Power) 07-035-08
)
)

September 10, 2007 * 9:30 a.m.

Location: Public Service Commission
500 Heber M. Wells Building
160 East 300 South
Salt Lake City, Utah 84145

Before: Steve Goodwill,
Administrative Law Judge

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A P P E A R A N C E S

FOR THE PETITIONERS:

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David F. Ward

FOR ROCKY MOUNTAIN POWER:

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ALSO PRESENT:

Michael E. Rafferty - (via telephone)
Vice President, Williams Consulting, Inc.

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1 P R O C E E D I N G S

2 JUDGE GOODWILL: This is the Public
3 Service Commission hearing in the matter the Formal
4 Complaint of Richard E. Drake on behalf of the
5 Lambourne Avenue Neighborhood versus Rocky Mountain
6 Power.

7 Public Service Commission Docket Number
8 07-035-08.

9 I'm Steve Goodwill, the Administrative Law
10 Judge for the Commission. And I have been assigned
11 by the Commission to hear this matter.

12 Notice of this hearing was issued by the
13 Commission on August 14th, 2007.

14 At this time I would like to go ahead and
15 take appearances of the parties.

16 We'll start with the company, Rocky
17 Mountain Power.

18 MR. RICHARDS: Jeff Richards, for Rocky
19 Mountain Power.

20 JUDGE GOODWILL: And representing, Dr.
21 Drake, we have Dr. Drake himself.

22 Sir, if you would please, state your name
23 and address for the record.

24 MR. DRAKE: Richard E. Drake, D-R-A-K-E.

25 JUDGE GOODWILL: Okay. Thank you.

26

1 For the Division?

2 MR. GINSBERG: Michael Ginsberg, for the
3 Division of Public Utilities.

4 JUDGE GOODWILL: Before going on the
5 record, we just had some brief discussion concerning
6 how we would proceed this morning and decided that we
7 would start with Rocky Mountain Power to offer the
8 stipulation and proffer some testimony.

9 Mr. Richards?

10 MR. RICHARDS: Okay. Just as a clerical
11 matter to begin with, the amended stipulation
12 contains a clerical error in paragraph 27, which
13 refers to paragraphs 21, 22 and 23 of the
14 stipulation. This reference was inadvertently not
15 updated when additional paragraphs were added.

16 And so what I would like to do is seek a
17 correction of that.

18 The correct amended stipulation would be
19 paragraphs 24, 25 and 26 as a reference in paragraph
20 27.

21 JUDGE GOODWILL: So in paragraph 27, on
22 the first line, where it references paragraphs 21, 22
23 and 23, we're changing that to paragraphs 24, 25 and
24 26?

25 MR. RICHARDS: That's correct.

26

1 JUDGE GOODWILL: And I take it -- does the
2 reporter have a copy of the amended stipulation at
3 this time?

4 MR. RICHARDS: If not, I can provide that.

5 JUDGE GOODWILL: Okay. Let's mark that as
6 Joint Exhibit 1.

7 And had you made the corrections to the
8 copy that we've got?

9 MR. RICHARDS: I'll have to look at that
10 and make sure they are in there. If not, we'll do a
11 page correction.

12 JUDGE GOODWILL: Okay. Okay. That having
13 been marked and offered, are there any objections to
14 its admission as Joint Exhibit 1?

15 (No verbal response.)

16 JUDGE GOODWILL: Okay. We'll admit it as
17 such.

18 (JOINT EXHIBIT-1 WAS MARKED AND RECEIVED.)

19 JUDGE GOODWILL: Mr. Richards, you
20 indicated you had some testimony you wanted to
21 proffer?

22 MR. RICHARDS: I do.

23 Rocky Mountain Power proffers the
24 testimony of Paul Radakovich in support of the
25 approval of the amended stipulation.

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1 If Mr. Radakovich were called as a witness
2 and sworn, he would testify that he is Vice President
3 of Transmission Distribution for Rocky Mountain
4 Power. And that in his position, he's responsible
5 for distribution system maintenance and operations on
6 Rocky Mountain Power systems in Utah.

7 He's familiar with the record in this
8 docket, participated in the technical conferences
9 held by the Commission and participated in
10 negotiations with Dr. Drake and Mr. Ward that
11 ultimately led to the filing of the stipulation. And
12 he's familiar with all of the terms of the amended
13 stipulation.

14 The amended stipulation is the result of
15 an arms-length negotiation between the parties
16 following a number of meetings with Rocky Mountain
17 Power, President Richard Waljie and Paul Radakovich,
18 through pleadings and technical conferences and
19 otherwise. And following discovery of Rocky Mountain
20 Power by Dr. Drake and Mr. Ward. Although Rocky
21 Mountain Power does not agree with all of the
22 allegations made by Dr. Drake and Mr. Ward in this
23 case, their participation in this case has focused
24 company efforts on review of certain aspects of the
25 company's operations.

26

1 In particular, the company has agreed to
2 complete what it regards as regular maintenance on
3 the distribution circuits serving the neighborhoods
4 in which Mr. Drake and Mr. Ward reside. And adjacent
5 neighborhoods served by Millcreek circuits 11, 12, 13
6 and 14. And that work will be completed by December
7 31st of 2007.

8 Much of this work was already completed in
9 connection to the resolution of the Kempner Road
10 complaint and the complaints made in conjunction with
11 the winter storm outage in December of 2003. Rocky
12 Mountain Power has accelerated completion of the
13 balance of the scheduled maintenance work somewhat,
14 but the work would have been scheduled and completed
15 relatively soon anyway.

16 In addition, Rocky Mountain Power has
17 agreed to conduct a formal review of it's A and B
18 condition categories to ensure that they comply with
19 accepted utility practices and to inform Mr. Ward of
20 the outcome of that review.

21 As you are aware, Mr. Ward believes that
22 some conditions Rocky Mountain Power currently
23 categorizes as B conditions, should be A conditions.
24 Rocky Mountain Power is willing to review this issue
25 generally and to ensure that its categorization of
26

1 its conditions comply with accepted utility
2 practices.

3 In exchange for these agreements, Dr.
4 Drake is agreeing to dismiss this complaint. And Dr.
5 Drake and Mr. Ward are agreeing that their concerns
6 raised in the complaint or elsewhere in this
7 proceeding are satisfied. Equally important, they
8 are agreeing that future concerns about conditions on
9 the system will be brought to the attention of the
10 company for resolution in a cooperative manner,
11 rather than being raised in complaints before the
12 Commission or the media.

13 This agreement and the stipulation
14 resolves those contentious issues and starts what we
15 truly believe is an era of cooperation and direct
16 communication. We anticipate this approach will be
17 beneficial to all the parties, will reduce the cost
18 to the companies, the regulators and our customers.

19 We are aware -- the Division has two
20 concerns in this matter. The actions agreed to in
21 the stipulation may jeopardize service quality in
22 other areas and the compliance with the settlement
23 may not be appropriate for rate payers to bear.

24 Rocky Mountain Power respectfully
25 disagrees. To the extent that those issues are
26

1 applicable to rates, we would ask that those matters
2 be addressed appropriately in rate case hearings as
3 opposed to the stipulation hearing. And we are here
4 solely for approval of the stipulation.

5 As noted, and we should note here in
6 Section 9.1.1 of the WCI analysis, there will be
7 several benefits derived from doing the work that's
8 set forth in the stipulation.

9 First, Rocky Mountain Power will use these
10 circuits completely redone as a bench for performance
11 that will be used for additional worker liability
12 plans and work that's performed on other circuits.
13 And having done this work, as set forth in the
14 stipulation, will actually help guide future
15 decisions regarding worker liability plans in the
16 future.

17 And second, this work will have a minimum
18 impact on other customers or other ongoing work
19 plans. The work will be completed within a
20 three-month time frame using contract employees. And
21 certainly the customers on those circuits will
22 benefit by the work that's done.

23 So based on these provisions and others,
24 the amended stipulation we believe is a just and
25 reasonable resolution of the dispute between the
26

1 parties and is in the public interest.

2 We recommend and ask the Commission
3 approve the amended stipulation and dismiss the
4 complaint with prejudice and close this docket in
5 accordance with its provisions.

6 Thank you.

7 JUDGE GOODWILL: Thanks, Mr. Richards.

8 For the sake of the record, could you
9 spell Mr. Radakovich's last name please.

10 MR. RICHARDS: Yes. It's
11 R-A-D-A-K-O-V-I-C-H.

12 JUDGE GOODWILL: Thank you.

13 I neglected as we were taking the parties
14 appearances. I recognize we have somebody on the
15 phone.

16 Who do we have on the line with us this
17 morning?

18 MR. RAFFERTY: Mike Rafferty, with
19 Williams Consulting.

20 JUDGE GOODWILL: Okay. Thank you.

21 MR. RAFFERTY: Thank you.

22 JUDGE GOODWILL: Anything further from
23 Rocky Mountain Power, Mr. Richards?

24 MR. RICHARDS: That's all. Thank you.

25 JUDGE GOODWILL: Probably at this point it
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1 makes sense to go ahead and turn to the Division and
2 then we'll turn to you, Dr. Drake, last for your
3 input.

4 MR. DRAKE: That's fine.

5 JUDGE GOODWILL: Mr. Ginsberg?

6 MR. GINSBERG: The Division prepared a
7 memorandum that it submitted to the Commission, dated
8 September 6th, that has attached to it a report that
9 was prepared by Williams Consulting dealing with
10 this.

11 One attachment was not attached to the
12 report that was referred to, and that's Appendix A,
13 which I have provided to the court reporter and to
14 you and to the parties.

15 Does anyone else not have a copy of that?

16 (No verbal response.)

17 MR. GINSBERG: The Division is prepared to
18 call the -- provide the testimony of Dr. Abdulle and,
19 if necessary, Williams Consulting.

20 What is your preference?

21 JUDGE GOODWILL: I think -- I think we're
22 probably okay without that testimony, assuming that
23 we get the Division's recommendation memorandum and
24 attachments admitted into the record.

25 MR. GINSBERG: Okay.

26

1 JUDGE GOODWILL: How would we mark that?

2 MR. GINSBERG: We could mark the
3 Division's memorandum as DPU Exhibit 1; the Williams
4 report, which is dated September 4, 2007, as DPU
5 Exhibit 2; and the three-page attachment, which is
6 called Appendix A, as DPU Exhibit 3. It's referred
7 to in the memorandum as Appendix A.

8 JUDGE GOODWILL: Okay. We'll go ahead and
9 mark those accordingly.

10 Any objection to their admission into the
11 record?

12 (No verbal response.)

13 JUDGE GOODWILL: Okay. We'll go ahead and
14 admit those as DPU Exhibits 1, 2 and 3.

15 (DPU EXHIBITS-1, 2 AND 3 WERE MARKED AND
16 ADMITTED.)

17 MR. GINSBERG: I guess the only area that
18 I have some question on it is Rocky Mountain Power,
19 although referred to the recommendations, did not
20 agree in their statements. And maybe this is
21 something they could do, whether the reporting
22 requirements that were outlined in the Division's
23 memorandum are going to be accomplished by Rocky
24 Mountain Power.

25 JUDGE GOODWILL: Right. I had that same.

26

1 I think you're referring to page two of the
2 Divisions's recommendation. DPU Exhibit 1, there is
3 the three recommendations at the top of page two?

4 MR. GINSBERG: Yes.

5 JUDGE GOODWILL: Okay. Mr. Richards, can
6 you speak to those, whether or not Rocky Mountain
7 Power agrees to abide by those recommendations or not
8 or their present position?

9 MR. RICHARDS: Just for clarification,
10 you're referring specifically to page one? Or page
11 two?

12 JUDGE GOODWILL: Page two. Starting out
13 -- the first one is "File a report detailing how it
14 intends to comply with the settlement conditions."

15 MR. RICHARDS: Yes. We're in compliance
16 -- or we're in concurrence with those.

17 JUDGE GOODWILL: With those three
18 recommendations?

19 MR. RICHARDS: We have no objection to
20 those. Yes.

21 We'll be doing number 1 as part of our
22 stipulation, as well. And reporting on that to the
23 Division is fine.

24 JUDGE GOODWILL: Okay. Anything further
25 from the Division, Mr. Ginsberg?

26

1 MR. GINSBERG: No. Unless you have
2 questions for either Mr. Rafferty, from Williams, or
3 Dr. Abdulle. Getting our reports into the record is
4 all we wanted to accomplish.

5 JUDGE GOODWILL: I don't think I have
6 anything at this time.

7 With that, we'll go ahead and turn to Dr.
8 Drake.

9 Sir, if you would, please, as you are kind
10 of representing yourself here today and also as a
11 complainant and a witness here before the hearing, if
12 you'll go ahead and stand and raise your right hand,
13 I'll swear you in. So that everything you say will
14 be under oath.

15 DR. RICHARD DRAKE,
16 called as a witness, being first duly sworn,
17 was examined and testified as follows:

18

19 JUDGE GOODWILL: Thank you. Please be
20 seated.

21 And I may have a question or two, or the
22 other parties might, sir. But if you would just go
23 ahead and make whatever statement you would like to
24 regarding the stipulation that's been offered in here
25 today, as well as the Division's recommendation.

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1 DR. DRAKE: Okay. Myself, the petitioners
2 of Lambourne Avenue, one who just recently died of
3 multiple cancerous lesions. He actually wished me
4 well two weeks ago. He just died last week. But we
5 are in agreement with the stipulation, as we worked
6 very openly and very objectively and I think
7 productively with Rocky Mountain Power's President,
8 Rich Waljie, his high-level assistants, to include
9 Mr. Richards, to include Paul, to include some other
10 members of the legal team. But we had a two and a
11 half hour conference that was very productive. And
12 it was very clear that Rocky Mountain Power really
13 has a handle on what they need to do within the state
14 and they are doing it. And there has been a
15 significant improvement in a number of things since
16 2004.

17 And one of the things that I just wanted
18 to express here is that with this openness and
19 integrity and good faith activities in arriving at
20 these agreements and stipulations, it's made it
21 possible in our minds to bring closure to Docket
22 Number 07-035-08.

23 There were some things that were in the
24 Division's report that were -- I thought were very
25 helpful in a variety of ways. But I think in some
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1 respects, for the record, I'd just like to say it
2 appears that there are some selectively ignored
3 evidence presented and misstated a number of facts
4 presented by the complainants. That is not an
5 aspersion at all on Rocky Mountain Power. That's
6 more probably being critical of some of the process
7 that the Division engaged in.

8 From my own background, and I serve on a
9 number of organizational committees, reports, whether
10 they come from a state entity or other or private
11 organizations, whatever, take on significant
12 credibility if, in fact, dissenting opinions are
13 presented, essentially a minority report. And I
14 think the public is well served by a government
15 entity when that entity has the expertise, the
16 motivation to challenge the givens and when it
17 creates an environment of dissent. I have seen too
18 often -- and it's just like having a doctoral student
19 come in and present to you a dissertation or a draft.
20 And you chew it up and spit it out and you send it
21 back. And three different times they finally may get
22 it right. May take ten times. But otherwise,
23 lock-step consensus becomes a substitute for credible
24 research, credible conduct and credible
25 recommendations.

26

1 I just want to be a little instructive
2 here. The noted president of the Science and
3 Environmental Policy Project, Dr. Fred Singer, has a
4 Ph.D. in physics from Princeton University, and he's
5 got credentials coming out the gazoo, makes a
6 statement where he says, "Scientific advances
7 customarily come from a minority of scientists who
8 challenge the majority view, or even just a single
9 person, think of Galileo or Einstein. Science
10 proceeds by the scientific method and draws
11 conclusions based on evidence, not by a show of
12 hands."

13 And I guess what I'm saying, every
14 organization is like this syndrome of sameness and I
15 would like to see a little more variability in that
16 area.

17 The Williams Consulting report, dated
18 September 4th, shows major improvements have been
19 made in Utah's electrical power distribution system
20 since 2004. But the final report would have been
21 more helpful if it had included data prior to 2004,
22 data which explains why the condition of the
23 Millcreek Distribution System exist or existed, and
24 why a catch-up mode is necessary.

25 Despite the above, I am very committed to

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1 making this agreement work. I am committed, as is
2 Rich Waljie, President of Rocky Mountain Power, as
3 are his assistants, as is my technical assistant, to
4 do everything to work in a very open and very above
5 board way specific to any issues that we may see in
6 the future. And I expect that it in no way will be
7 an adversarial process.

8 I want to express appreciation to you,
9 Judge Steve Goodwill, for your objective and
10 efficient service with regard to this docket. And
11 acknowledge the contributions of the Public Service
12 Commission, the Division of Utilities and the
13 Committee on Consumer Services for their assistance
14 in discovery.

15 And I got some very -- I had some very, I
16 think, productive conversations with various members
17 of the committees where they -- obviously their
18 intention is to do the very best that they can, and I
19 acknowledge that and appreciate it.

20 There is one part of this report that is a
21 little problematic to me, and that the Division has
22 drawn up, and it has to do with the recommendation
23 specific to the fact that the Millcreek area, the
24 upgrade in the Millcreek area my, in fact, draw
25 resources away from other areas needed within the
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1 state. I think there are probably three or four
2 different dimensions to that argument, which I would
3 like to have seen. I think just because a person who
4 works with the Attorney General's Office speaks so
5 effectively concerning this, there is an issue of
6 what we call sibling rivalry. You take the
7 Minneapolis, Minnesota bridge that collapsed, I think
8 that's a classical example. I'm sure there were
9 people who argued, oh, we can't attend to perceived
10 deficiencies in this structure because we will draw
11 needed resources away that need to be applied to
12 other structures. I think that's a legitimate
13 comparison.

14 And I think what I would like to do is
15 just see more diversity coming from within the
16 Division where they actually share the wrestling that
17 may go on within the group and document it. And not
18 necessarily come up with a clear-cut conclusion, but
19 a recommendation that may have some qualifications to
20 it. Because I think we all know that the highest
21 level of critical thinking is intellectual humility.
22 And sometimes an opinion falls far short of what it
23 ought to be in fact.

24 But that doesn't negate in any way our
25 support for this agreement. And I, again, I am very,
26

1 very grateful for the opportunities that we've had to
2 work with Rocky Mountain Power. And I think they are
3 doing a phenomenal job. And I hope the state will do
4 everything in their power to support them in dealing
5 with these environmental issues with regard to
6 coal-fired power plants and a number of issues that
7 really will adversely affect the consumers of this
8 state if this isn't handled properly.

9 JUDGE GOODWILL: All right. Thank you.

10 Anybody have any questions for Dr. Drake?

11 (No verbal response.)

12 JUDGE GOODWILL: Okay. I don't believe I
13 have any either, sir.

14 Any other matters we need to take up on
15 the record this morning?

16 MR. DRAKE: Mr. Ward, my assistant here,
17 would just like to share a few comments.

18 JUDGE GOODWILL: Mr. Ward, if you would
19 please stand and raise your right hand, I'll swear
20 you in.

21 DAVID F. WARD,
22 called as a witness, being first duly sworn,
23 was examined and testified as follows:
24

25 JUDGE GOODWILL: Please be seated.
26

1 MR. WARD: Thank you.

2 JUDGE GOODWILL: Mr. Ward, if you would
3 please state your name and address for the record.

4 MR. WARD: My name is David F. Ward. The
5 address is 3006 Kempner Road, K-E-M-P-N-E-R. That's
6 in Salt Lake City.

7 Before I get started, I do want to state
8 that the stipulation and the agreement worked out
9 between the Millcreek area and Rocky Mountain Power
10 has my full support. I no longer see Rocky Mountain
11 Power as the problem. I will be looking forward to
12 working with them and helping them however I can.
13 But there are a few things that do need to be stated.
14 Please bear with me when I lay a little ground work
15 here. It will not take long.

16 Okay. On September 4, 2007, heavy winds
17 hit the Salt Lake Valley and caused many outages.
18 The strong winds caused multiple momentary outages on
19 Millcreek circuit 12. System protective equipment
20 worked well. It repeatedly and successfully
21 temporarily de-energized the lines when required to
22 protect wire, fuses and equipment. Following each
23 momentary outage, lines were automatically
24 re-energized. Until just before 7:00 p.m. High
25 winds broke a tree limb and hurled it into a power
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1 line on Millcreek Canyon Road. The tree branch
2 become entangled in the wires. Two single-phased
3 line sectionalizers on Evergreen Avenue correctly
4 de-energized the line until the tree branch could be
5 cut away.

6 While the cause of the outage could not
7 have been avoided, approximately 150 homes were
8 without power for four and a half hours. Had
9 PacificCorp not laid off linemen and created a
10 linemen shortage the power would have been restored
11 more quickly. This shortage of trained linemen was
12 one of the charges in the complaint.

13 Now Mid-America Energy Holding has removed
14 operation maintenance and budget control for Rocky
15 Mountain Power from Portland, Oregon-based
16 PacificCorp. With this new autonomy, Rocky Mountain
17 Power is reversing poor management decisions and
18 practices of PacificCorp.

19 Rocky Mountain Power has started a linemen
20 training program. In fact, they started that program
21 a number of years ago, when they recognized the
22 problem. Let's see -- start a linemen training
23 program. Is aggressively seeking and hiring
24 journeyman linemen. To find and train replacement
25 linemen for the ones laid off by PacificCorp will

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1 talk a few years. Until then, Utah residents will
2 suffer longer outages than necessary.

3 Mid-American Energy Holding has also
4 increased Rocky Mountain's maintenance budget.
5 PacificCorp can no longer divert Utah maintenance
6 money to Pacific power areas in the northwest. Even
7 with the increase in the maintenance budget, it will
8 take a number of years to overcome PacificCorp's
9 neglect of the Utah power lines.

10 Until all power lines have been inspected
11 and problems fixed, Utah residents will continue to
12 suffer widespread outages. The extent of the outages
13 should constantly decrease, as Rocky Mountain Power
14 corrects the PacificCorp negligence and
15 mismanagement.

16 The problems in the East Millcreek area
17 are being resolved. With the corrective maintenance
18 in the East Millcreek area, Rocky Mountain Power's
19 autonomy and current management policies, all issues
20 in the complaint have been resolved.

21 One of the root causes of the complaint
22 has not been addressed. The Public Service
23 Commission allowed Portland-based PacificCorp to run
24 Utah Power into the ground. Utah-based employees
25 were laid off and maintenance funds were diverted to

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1 maintenance in Oregon or used to pay stockholders a
2 rate of return greater than company earnings.

3 Pacific -- the PSC was derelict -- PSC
4 dereliction proved to be disastrous to Utah customers
5 who have endured many long power outages. And now
6 have to pay to rebuild a neglected power system. The
7 lives of hundreds of dedicated and knowledgeable
8 career employees in Utah were destroyed.

9 PacificCorp management used to boast it
10 was using the same management style as Enron and was
11 as good as Enron. Where was the Public Service
12 Commission oversight? Utah Power & Light Company,
13 PacificCorp and Scottish Power stockholders were also
14 losers of PacificCorp mismanagement.

15 The Division of Public Utilities bears
16 responsibility. The Division of Public Utilities
17 still has no technical staff to protect the public
18 from safety and code violations, or understand or
19 oversee system operation and maintenance costs. The
20 Division appears to be little more than a surrogate
21 for the utility accounting departments.

22 In recent years, the Committee for
23 Consumer Services was created to represent customers
24 before the PSC. They have been missing in action.
25 When we asked for their help with this complaint,

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1 they chose to turn their backs and ignore their
2 statutory responsibility in an effort to get along
3 with the other regulatory agencies.

4 Mid-America Energy and Rocky Mountain
5 President, Rich Waljie, appears to understand the
6 value of a long-term profitability and the total cost
7 of operating a capital-intensive system. Both appear
8 to be committed to fixing a system that PacificCorp
9 and the Public Service Commission allowed to fall
10 into disrepair. I can support President Waljie and
11 his vision. Utah will be best served by a Rocky
12 Mountain Power that is fully and completely -- has
13 full and complete autonomy.

14 While Rocky Mountain Power has autonomy
15 from PacificCorp on budget, operation and
16 maintenance, PacificCorp still controls engineering
17 and purchasing. The same mismanagement that ran Utah
18 power operations and maintenance into the ground is
19 still specifying and purchasing equipment that is not
20 in the interest of Rocky Mountain Power, Mid-American
21 stockholders or Utah residents. The purchase of
22 inappropriate equipment with high operating costs is
23 not part of the complaint. But has an effect of
24 increasing costs of electricity in Utah.

25 Two of the most important items have

26

1 already been discussed with Rocky Mountain Power. I
2 will continue to be an advocate for competent utility
3 management and proper regulatory oversight. I hope I
4 will have little to do in the future.

5 Thank you.

6 JUDGE GOODWILL: Okay. I'll note that Mr.
7 Ward had passed out to the parties, to myself, a copy
8 of a two-page memorandum, signed memorandum, that is
9 essentially the testimony he just provided on the
10 record.

11 We will mark that as Drake Exhibit 1.

12 Dr. Drake, were you offering this
13 memorandum as an exhibit to be part of the record?

14 MR. DRAKE: Yes. I've got another from
15 the letter I was reading from.

16 JUDGE GOODWILL: Okay. We'll deal with
17 that in just a second as well.

18 So we've got Mr. Ward's letter, marked
19 Drake Exhibit 1. It's been offered into evidence.

20 Is there any objection to its admission?

21 MR. GINSBERG: No.

22 MR. RICHARDS: None here.

23 JUDGE GOODWILL: Okay. We'll admit that.

24 (DRAKE EXHIBIT-1 WAS MARKED AND ADMITTED.)

25 JUDGE GOODWILL: And then Dr. Drake had
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1 just handed me a one-page memorandum, signed by him,
2 also dated September 10, 2007, which is essentially
3 the basis of your -- the verbal testimony you just
4 provided in the hearing, Dr. Drake.

5 We'll mark that as Drake Exhibit 2, for
6 identification.

7 And having been offered, is there any
8 objection to its admission into the record?

9 (No verbal response.)

10 JUDGE GOODWILL: Okay. We'll go ahead and
11 admit that as Drake Exhibit 2.

12 (DRAKE EXHIBIT-2 WAS MARKED AND ADMITTED.)

13 JUDGE GOODWILL: Just so the record is
14 clear, Mr. Ward had also handed me, and I assume
15 handed the other parties, along with what's now been
16 admitted as Drake Exhibit 1, a one-page, typed, that
17 talks about a problem existing with the stipulation,
18 as I read this, dealing with the terms and conditions
19 portion of the stipulation, it appears to be the
20 paragraph references that Mr. Richards corrected on
21 the record for Joint Exhibit 1 earlier when we were
22 admitting that document.

23 Is that the case, Mr. Ward?

24 MR. WARD: That is the case.

25 JUDGE GOODWILL: Okay. So that's been
26

1 taken care of.

2 Dr. Drake, I just have one question --
3 well, first, let me just turn to Rocky Mountain Power
4 and the Division.

5 Do you have any questions of Mr. Ward
6 based on his testimony?

7 MR. RICHARDS: No.

8 JUDGE GOODWILL: Anything from the
9 Division? Questions for Mr. Ward?

10 MR. GINSBERG: In light of the dismissal
11 of the complaint, I think the Division will not ask
12 any questions.

13 JUDGE GOODWILL: Okay. I have just one, I
14 believe. It's actually for you, Dr. Drake.

15 Mr. Ward, in his memorandum and in his
16 live testimony, did mention that in his opinion one
17 of the root causes of the complaint has not been
18 addressed. And as I read Drake 1, it appears that
19 that root cause being referred to is Utah-based
20 employees being laid off and maintenance funds being
21 diverted.

22 I just want to make sure, although both of
23 you already said on the record, I just want to
24 confirm that despite that testimony from Mr. Ward,
25 you are -- you fully support the Commission's

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1 approval of the amended stipulation that's been
2 offered and believe that it's a just and reasonable
3 settlement of all the issues that you brought before
4 the Commission in this matter; is that correct?

5 MR. DRAKE: Yes. That's correct. Even
6 though he's -- Mr. Ward is stating this as an issue
7 or as a fact, there is absolutely a momentum to go in
8 and correct the problems with regard to man power.
9 Some of the things that went on, that you're probably
10 well aware of and the Commission and others, for a
11 lot of people over the age of 50 were asked to
12 actually take a retirement package, which I saw as
13 absolute age discrimination at the time.

14 And the agreements that were made in the
15 acquisition of Utah Power by PacificCorp, I -- we had
16 some questions and we discussed these with Rich
17 concerning whether or not the contract that was drawn
18 up between PacificCorp and Utah Power was ever truly
19 enforced. And we've come to the conclusion that the
20 Public Service Commission and its assistive arms were
21 actually in a position to require PacificCorp to
22 change direction and to moderate some of the
23 decisions that were being made by PacificCorp.

24 That we just want on the record. But it's
25 not something that in any way I think needs to abort

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1 or should abort what has been agreed upon. I think
2 just for history, this needs to be cited and maybe
3 appreciated. And maybe can use as a -- be used to
4 prevent this from ever occurring in the future.

5 JUDGE GOODWILL: Okay. Thank you.

6 MR. WARD: On that --

7 JUDGE GOODWILL: Mr. Ward -- I'm sorry to
8 interrupt you, sir. I just want to make sure -- if
9 Dr. Drake has anything further he would like you to
10 say on the record, that's fine. But my question was
11 to Dr. Drake and I think he answered that
12 satisfactorily.

13 I don't know if you guys want to talk
14 offline in a minute as to anything you want to add,
15 but I'm satisfied.

16 MR. WARD: If you're satisfied, that's
17 fine. The problem was not with Rocky Mountain Power.
18 I've been very impressed with their current
19 management. It's too bad we didn't get this
20 management in place and with the autonomy they needed
21 sooner.

22 JUDGE GOODWILL: Okay. Thank you.

23 Anything further we need to take up here
24 this morning regarding the amended stipulation?

25 (No verbal response.)

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1 JUDGE GOODWILL: Okay. Thank you very
2 much.

3 (Matter adjourned at 10:11 a.m.)

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REPORTER'S HEARING CERTIFICATE

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STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

I, Kelly Fine-Jensen, Registered Professional Reporter and Notary Public in and for the State of Utah, do hereby certify:

That prior to being examined, the witnesses were duly sworn to tell the truth, the whole truth, and nothing but the truth;

That said proceeding was taken down by me in stenotype on September 10, 2007, at the place therein named, and was thereafter transcribed, and that a true and correct transcription of said testimony is set forth in the preceding pages;

I further certify that I am not kin or otherwise associated with any of the parties to said cause of action and that I am not interested in the outcome thereof.

WITNESS MY HAND AND OFFICIAL SEAL this 17th day of September, 2007.

Kelly Fine-Jensen, RPR
Notary Public
Residing in Salt Lake County