

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

IN THE MATTER OF THE APPLICATION)
OF ROCKY MOUNTAIN POWER FOR)
AUTHORITY TO INCREASE ITS RETAIL)
ELECTRIC UTILITY SERVICE RATES)
IN UTAH AND FOR APPROVAL OF ITS)
PROPOSED ELECTRIC SERVICE) DOCKET NO. 07-035-93
SCHEDULES AND ELECTRIC SERVICE)
REGULATIONS, CONSISTING OF)
APPROXIMATELY \$161.2 MILLION)
PER YEAR AND FOR APPROVAL OF A)
NEW LARGE LOAD SURCHARGE.)

TRANSCRIPT OF HEARING

TAKEN AT: Public Service Commission
160 East 300 South, Room 403
Salt Lake City, Utah

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REPORTED BY: WENDY ALCOCK, CSR, RPR

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P R O C E E D I N G S

CHAIRMAN BOYER: All right, let's go back on the record. This is Docket No. 07-035-93 in the continuation of the revenue requirement portion of the Rocky Mountain Power rate case.

Mr. Sandack indicates that he has a preliminary matter he wishes to present to the Commission.

MR. SANDACK: Thank you. We -- we had waived cross-examination Mr. Douglas Bennion. He was -- had submitted prefiled direct testimony on behalf of Rocky Mountain Power with regard to service and performance reliability issues.

In particular, on lines 142 and 146 of his direct testimony he addressed certain System Average Interruption Duration Indexes and System Average Interruption Frequency Indexes, known as SAIDI and SAIFI, indicating that as service standard programs and transaction commitments through March 31, 2008 Rocky Mountain Power has committed to no more than 189 minutes of average customer interruption SAIDI, and no more than 1.94 average interruptions per year SAIFI, and the Company has committed to improve further reliability through 2011. IBEW 57 also submitted testimony on that issue questioning what those commitments were.

I understand that today the power -- Rocky

1 Mountain Power is filing with the Commission a letter
2 indicating the commitments that Rocky Mountain Power
3 intends to present to the Service Quality Task Force that
4 -- towards improving those safety commitments through 2011
5 and present those for discussion with the task force,
6 which is something that the Union in fact has been
7 interested in and has raised. And those discussions will
8 be presented to the task force, reviewed, and reported
9 back to the Commission.

10 So if the Commission would take administrative
11 notice of these new developments, we would like that on
12 the record in terms of its own interest of what that task
13 force does for the purposes of public interest in
14 promoting safe and reliable service.

15 CHAIRMAN BOYER: Okay. Thank you, Mr. Sandack.
16 Does anyone object to us taking judicial notice that there
17 is a task force involving SAIDI, SAIFI, and that a letter
18 apparently will be filed soon?

19 (No response.)

20 CHAIRMAN BOYER: Seeing none, we will take
21 administrative notice of that, Mr. Sandack. Thanks for
22 bringing that to our attention.

23 MR. SANDACK: Thank you.

24 CHAIRMAN BOYER: Okay. So today we are going to
25 hear from witnesses Mark Garrett, Helmuth Schultz, and

1 Roger Ball. I don't see Roger here yet. Perhaps he'll
2 come later in the day. And so without further ado, let's
3 commence with Mr. Garrett, who's already taken the stand.

4 Have you been sworn in these proceedings,
5 Mr. Garrett? I don't believe you have. Please stand and
6 raise your right hand.

7 MARK E. GARRETT,
8 called as a witness, having been first duly sworn, was
9 examined and testified as follows:

10 CHAIRMAN BOYER: Okay. Mr. Ginsberg?

11 MR. GINSBERG: Thank you.

12 DIRECT EXAMINATION

13 BY MR. GINSBERG:

14 Q Would you state your name for the record?

15 A Mark E. Garrett.

16 Q And your place of employment?

17 A I'm the president of The Garrett Group. We
18 specialize in public utility regulation consulting.

19 Q And you have been retained by the Division of
20 Public Utilities to provide a review of certain aspects of
21 the revenue requirement phase of this case; is that right?

22 A That's correct.

23 Q Your testimony, you filed direct testimony and
24 surrebuttal testimony, both of which have been previously
25 admitted?

1 A That's correct.

2 Q Did you have any corrections to make to that?

3 A No.

4 Q Could you go ahead then and provide your summary
5 and responsive -- your responsive summary?

6 A In total, I propose six adjustments in my
7 testimony. I'd like to talk about two of those up front.
8 The first is the incentive adjustment where I propose an
9 adjustment based upon the division between and financial
10 and operational measures.

11 And in its rebuttal testimony the Company
12 provided additional information regarding the operational
13 nature of the incentive plan. And then again on Friday
14 the Company tried to admit an exhibit. They were not
15 successful. I think the Commission appropriately excluded
16 the exhibit. But I did read the exhibit and heard
17 testimony about the exhibit when Mr. Wilson testified.
18 And it addressed the 30 percent of the incentives that we
19 weren't able to address in our testimony, showing that 30
20 percent was predominantly operational in nature.

21 And so though we're not completely convinced
22 that this incentive plan is -- does not have financial
23 components, the approach we took along those lines has
24 basically been satisfied with the Company's evidence. And
25 in light of that evidence for this case, the Division is

1 withdrawing that adjustment.

2 I don't want that to be any kind of a reflection
3 on the approach that other parties may have taken with
4 respect to the adjustment, but our focus was on
5 operational measures, and the Company has supplied
6 information along those lines to the extent that at this
7 point we're not going to pursue that adjustment any longer
8 in this case. So I wanted to dispose of that adjustment
9 up front.

10 The second adjustment that I want to partially
11 dispose with is our adjustment to merit raises where the
12 Company increased its base year by 2.25 percent for raises
13 that were given during the base year.

14 We did a test. We looked at that to see if
15 payroll was really going to increase by 2.25 percent.
16 When we applied the raises, looked at salary levels before
17 the raises and afterwards, we were not showing that the
18 nonbargain employees were increasing.

19 In rebuttal testimony the Company showed that we
20 had assumed inappropriately that the MEHC adjustment was
21 applied across the board. When that correction was made,
22 it showed that there was an increase in the nonbargain
23 employee raises. It was 1.67 percent, not 2.25, but it
24 was significantly more than zero. That adjusted -- that
25 correction adjusted our approximately \$1.3 million

1 adjustment down to about \$200,000.

2 So even though that's nearly an immaterial
3 amount, you know, in respect of the entire case, I
4 still think it's the right thing to do to find out in the
5 base year what the real increase is before you escalate
6 with the 3.5 percent or three percent pay raises in the
7 forecast period. It's a small number. It greatly
8 diminishes our original adjustment, but I think it is --
9 we agreed with what the Company said in rebuttal testimony
10 about the correction.

11 So that leaves us with only four adjustments
12 that I need to discuss. One has to do with the rate base
13 cash working capital adjustment, and three of them -- the
14 other adjustments have to do with payroll and benefits.
15 And mainly they have to do with forecasted test years.
16 The treatment of those issues in forecasted test years.

17 So I'll talk about the cash working capital
18 first. And with respect to that issue the Commission --
19 the Company requested a cash working capital allowance of
20 approximately 31 million in rate base based on a 2003
21 lead/lag study which is now about five years old.

22 I said in my testimony that significant changes
23 can occur in five years that would significantly change
24 cash working capital requirements, the lead days and lag
25 days in the study. The treatment of slow-paying customers

1 would change that, advances in technology such as
2 automatic -- automated meter reading could change that,
3 and re-negotiating contract terms. The general economic
4 environment of the area can change lag days and revenue.
5 So these changes can be material.

6 And our problem with the study was not just that
7 it was old, but that we couldn't review it. The Company
8 had submitted a summary of the study, but not the
9 underlying data, so we couldn't test any of the numbers,
10 the assumptions, any of the material they provided. We
11 couldn't get behind the AR reconciliation, we couldn't
12 look at accounts payable, we couldn't look at canceled
13 checks or vouchers, we couldn't look at contracts. We
14 just had to take their word on all of the numbers. And
15 some of the numbers looked substantially out of line, but
16 there was no way to question them.

17 So what we did then was we looked to other
18 jurisdictions to gain a comfort level that the numbers
19 were correct, because the Company operates in numerous
20 jurisdictions. So we looked at those to see if a
21 commission had ever accepted this 2003 lead/lag study.
22 That would at least give it a foundation that we could
23 have some comfort level.

24 The only commission that had ever ruled on the
25 study had rejected the study. That was the Washington

1 commission. And so we couldn't go anywhere else to
2 validate the study, which closed another door in the
3 process.

4 I also said in my testimony that other
5 jurisdictions require current lead/lag studies. I named
6 several states, some by statute such as Iowa and Texas,
7 and then there's five commission order like Oklahoma,
8 Nevada, Kansas, and federal agencies do. But a current
9 lead/lag study is important to support the cash working
10 capital requirement.

11 I also said that there were things in the study
12 that looked out of line, like revenue lag days of 44.82
13 days, extremely high. OG&E, Oklahoma Gas and Elect has
14 revenue lag days of 39. Intergee has revenue lag days
15 of 39. AEP has revenue lag days of six because they
16 factor receivables.

17 So 44.8 extremely high. And it's one of those
18 -- one of those numbers that you'd really want to review
19 if you're reviewing a lead/lag study. If you drop that
20 number down to 39, the cash working capital allowance
21 would virtually disappear.

22 There were other days that seemed out of line in
23 the study, like materials and supplies, 35 days, where
24 Intergee is 44 and OGD is 49. This would greatly change
25 the cash working capital requirement. But, again, we

1 couldn't get behind the numbers to see if there were
2 errors, if there were problems in the calculations, if
3 things had changed, if things needed to be normalized. We
4 couldn't look at any of that.

5 And so I said in my testimony that the
6 Commission has not -- I mean, the Company has not met
7 burden of showing that -- supporting its cash working
8 capital requirement with the stale lead/lag study that did
9 not have underlying data to support it.

10 The three other adjustments that I proposed all
11 relate to the forecast test concept -- test year concept.
12 We proposed a productivity adjustment that recognizes
13 productivity gains over the forecast period. So it's
14 something the Company omitted.

15 They looked at pay raises over that period, and
16 we accepted those pay raises. But along with increases in
17 salaries from pay raises comes offsetting decreases from
18 productivity gains. Companies expect these, companies
19 track them, the Bureau of Labor Statistics tracks each
20 year productivity gains. The Company's incentive plan
21 even has incentive measures to reward productivity gains.
22 So it's a component of the Company and what the Company
23 works toward. They failed to include it in the forecasted
24 test year.

25 And I think it's important -- the reason this

1 issue is so important is because of the forecasted test
2 year, that when we used the historic test periods we
3 didn't propose productivity gains, because productivity
4 gains were a component of revenue lag, and they went to
5 the benefit of the Company.

6 In other words, you set rates based on the
7 historic test year. During the rates -- the prospective
8 period the rates were going to be in effect the Company
9 got the benefit of the productivity gains because they
10 also were expected to continue giving pay raises and
11 things like that that would increase their costs while
12 rates weren't going up, but the productivity gains were
13 there to offset them, so they were an important part of
14 regulatory lag. It wouldn't have been appropriate with an
15 historic test year to propose this adjustment, but with a
16 forecasted test year it's essential that we look at it.

17 I think the real the only question is not
18 whether you should have a productivity component in a
19 forecasted test year. The real question should be the
20 amount that you're going to include. Just like pay with
21 raises. I don't think there's a question that the Company
22 should -- whether they should include pay raises or not in
23 the forecasted test period, it's the amount that we need
24 to talk about.

25 The second adjustment to the benefits that we

1 proposed that has -- that stems from the forecasted test
2 period is the medical cost projection. The Company
3 projected a 9.8 percent increase in medical costs based
4 upon their consultant's assistance with their budgeting
5 process. And we looked at industry standards through the
6 Towers Perrin report where they surveyed 500 of the top
7 thousand companies of the country, asking their
8 executives, "What do you believe you'll be paying for
9 medical care costs next year? What's the increase?" They
10 do this every year, the study has been going on for 19
11 years, and it's the benchmark for looking at health care
12 increases.

13 But in that study, the study showed that health
14 care costs should increase by five percent, and so we used
15 that instead of the 9.8 percent projected by the Company.
16 The study also looked at health care costs for older
17 employees, because that was one of the things that the
18 Company raised in its rebuttal was that they have an aging
19 workforce. Well, the study addressed that and showed that
20 there was not a substantial increase in expected payroll
21 cost increases for older employees.

22 Older employees may cost more, but that's
23 embedded in the number you're escalating. It's not part
24 of the escalation. What we're looking at here is the
25 increase in the cost of medical care, not the increase of

1 a base that you're paying. So the study addressed the
2 older employees, and five percent is still reasonable.

3 I said in my testimony that I believe the
4 Commission should err on the side of caution in projecting
5 increases such as payroll and benefit increases and that
6 we should use a standard such as the Towers Perrin report
7 and hold the Company to a standard such as that that the
8 majority of companies, large companies in the country,
9 expect to achieve next year.

10 The last adjustment that we proposed that has to
11 do with the forecasted test year is the change in the
12 capitalization ratio. In its original application the
13 Company used a 26.61 percent capitalization ratio And then
14 projected that for 18 months after the base year and used
15 that throughout the forecast period.

16 In the semiannual report that the Company filed
17 and that we actually were looking at through the response
18 to a data request, it shows that the Company's
19 capitalization ratio has actually changed, and the real
20 capitalization ratio is 28.08 percent.

21 This is extremely significant because a higher
22 capitalization ratio means that expense levels will be
23 lower in the future, because even though the cost level
24 may be the same -- and let's say the cost level is exactly
25 what the Company predicts it will be for all the payroll

1 and benefit costs, if you capitalize a higher portion of
2 those costs, take them to the balance sheet, what's left
3 in expense will be a much lower portion. And that's what
4 we set rates on is the expense level, not the -- not the
5 capitalized level. So it's important that we get that
6 number right.

7 That number has changed. It's not a predicted
8 number, it's not a forecast number, it is a real number.
9 And I believe the Commission should use that number once
10 it decides all of the issues with respect to payroll and
11 benefits. And there are some that we have and some that
12 the Committee has and other parties may have. Those
13 issues only to be decided by the Commission.

14 For example, the merit raise increases, the
15 escalation period using three-and-a-half percent payroll
16 increases and three percent payroll increases, all of
17 those decisions need to be made, decisions about pensions,
18 about medical care.

19 Once all of those decisions are made, the
20 Company will rerun its forecast of payroll and the benefit
21 expense. And when it does that, one of the other things
22 that hopefully the Commission has decided is the
23 capitalization ratio that will be applied to the forecast
24 period. And that, in my opinion, should be the actual
25 capitalization ratio that exists and not a projection that

1 We are already know is wrong.

2 In my testimony I showed the affects of that
3 capitalization adjustment to be about \$3 million. That --
4 I think that's on page 9 of my surrebuttal. That's purely
5 for illustrative purposes only. The actual number will be
6 whatever falls out after the Company reruns its schedules
7 based upon the decisions the Commissioners have made about
8 these various adjustments, so if -- when the Commission
9 makes these decisions and the Company reruns its schedule
10 using the 28 percent, the answer will fall out.

11 The answer that's in my testimony is just
12 recalculating that based on all of our adjustments being
13 accepted, but what really should happen is the answer
14 based upon the adjustments the Commission has accepted.

15 I think that covers my testimony.

16 MR. GINSBERG: Thank you. He's available for
17 questioning.

18 CHAIRMAN BOYER: Thank you, Mr. Garrett and
19 Mr. Ginsberg. Mr. Proctor? Does anyone object if I begin
20 cross-examination with Mr. Proctor and work -- sweep
21 across the room to my left? That way I can keep track of
22 who's --

23 MR. PROCTOR: Well, actually, Mr. Proctor
24 objects to that. If I might have a point of privilege for
25 my client. Like you, Mr. Chairman, when I began

1 practicing law I was familiar with the phrase of "trial by
2 ambush." And, fortunately, in the last 30 years I'd
3 forgotten that until today. Could I have ten minutes,
4 please, to discuss with my client the revealing just
5 moments ago that this witness has now entirely reversed
6 testimony that he had provided as recently as May 23rd of
7 this year, apparently as a consequence of a discussion he
8 had with the Company pertaining to documents which this
9 Commission has rejected for admission?

10 MR. GINSBERG: There have been no discussions
11 with the Company on this subject. So I don't know what --

12 MR. PROCTOR: This witness just provided a
13 statement that upon information he had received from the
14 Company, in addition to reviewing documents that he had --
15 that this Commission --

16 CHAIRMAN BOYER: I don't want to answer for him,
17 I understood him to say that it was surrebuttal
18 information. But let's do take a ten-minute recess,
19 Mr. Proctor, so that you can have that opportunity and
20 we'll let our reporter rest for a moment.

21 MR. PROCTOR: Thank you very much.

22 CHAIRMAN BOYER: We'll reconvene here in ten
23 minutes. Thank you.

24 (Whereupon, a recess was taken.)

25 CHAIRMAN BOYER: Let's go back on the record.

1 Are we ready to begin cross-examination?

2 MR. PROCTOR: Yes, Mr. Chairman. Thank you very
3 much for giving me the opportunity to speak with my
4 client.

5 CHAIRMAN BOYER: Okay. I assume nobody will
6 object if we start with Mr. Proctor and working around the
7 room for just logistical reasons? It may not be according
8 to protocol but it'll make it easy for me to keep track of
9 where we are. So, Mr. Proctor?

10 MR. PROCTOR: I have no questions, thank you.

11 CHAIRMAN BOYER: Okay. Let's turn to the
12 Company then. Ms. Rackner? You're smiling broadly, it
13 must be you.

14 MS. RACKNER: Thank you, Mr. Chairman. Part of
15 reason I'm smiling broadly is that my cross has been
16 shortened quite significantly as a result of the
17 Divisions's decision on the incentive pay, so I think
18 we'll be moving a long at a clip here.

19 CROSS-EXAMINATION

20 BY MS. RACKNER:

21 Q Good morning, Mr. Garrett.

22 A Good morning.

23 Q The first subject I wanted to talk to you about
24 is your recommendation on cash working capital. Our
25 understanding from your summary today is that you are

1 recommending that the Commission allow the Company \$0 for
2 cash working capital.

3 A That's correct.

4 Q And if I understand your testimony, you are
5 making this recommendation based on your opinion that the
6 lead/lag study filed by the Company this case, the 2003
7 lead/lag study, is insufficient to support their request;
8 is that correct?

9 A That's correct.

10 Q I would like to direct you to your rebuttal --
11 excuse me, your surrebuttal testimony, which I believe
12 contains a summary of the objections that the Division has
13 to the lead/lag study. Page 3 of your surrebuttal.

14 A I'm there.

15 Q Okay. First you point out that a utility can
16 experience significant changes in five years that might
17 materially impact its collections and payment practices,
18 and you list a number of examples of changes and practices
19 that could have occurred, such as increased attention to
20 slow-paying customers, renegotiated payment terms, and
21 changes in technology. Do you see that?

22 A I see that.

23 Q Are you aware that Mr. McDougal testified that
24 the Company updates its studies whenever it experiences
25 changes in applicable business practices, such as

1 billings, accounts payable, and collections?

2 A Well, I heard him say that, but they didn't
3 update this study with respect to any of the numbers
4 except for the tax numbers that were ordered in the last
5 case. So there weren't really updates that I saw that
6 were meaningful.

7 I didn't see a -- the Company didn't provide any
8 type of a review that they had conducted to show that they
9 this lead/lag study was still current or that it was
10 meaningfully reviewed by the Company to see if the numbers
11 were still accurate.

12 Q Well, again, Mr. McDougal stated that the
13 Company updates the study, as appropriate, including when
14 there's increased attention to slow-paying customers or
15 automation or technology. You heard his testimony, didn't
16 you?

17 MR. GINSBERG: I think that's a
18 mischaracterization of his testimony.

19 Q (BY MS. RACKNER) Well, I'd like to turn to --
20 I'm sorry, go ahead.

21 MR. GINSBERG: I think the only issue that he
22 said was updated was related directly to the taxes and
23 that no testing was done to determine whether the leads or
24 lags needed to be updated. But maybe you need to ask more
25 specific questions as opposed to trying to redetermine

1 what Mr. McDougal said on the stand yesterday.

2 CHAIRMAN BOYER: Or refer to the specific
3 testimony.

4 MS. RACKNER: Yes, I'd be happy to.

5 Q (BY MS. RACKNER) Do you have Mr. McDougal's
6 testimony up there?

7 A No, I don't.

8 Q Okay. And I'm going to grab mine from my
9 briefcase as well. I get my workout by carrying around
10 Mr. McDougal's testimony.

11 Please turn to his rebuttal testimony at
12 page 48. Oh, I'm sorry. Here, let me bring it up to you.
13 Just read the Q and A starting at page 48, lines 1042
14 through 1053.

15 CHAIRMAN BOYER: Let's make sure that the record
16 is clear. Which -- is this the rebuttal testimony,
17 page 48?

18 MS. RACKNER: Yes.

19 THE WITNESS: (Complies.)

20 Q (BY MS. RACKNER) Has your memory been refreshed
21 on this topic?

22 A It's exactly what I said before, that he says
23 that, but he provides nothing to substantiate it. It's
24 just a statement that says, "We didn't believe the study
25 needed updating."

1 Q Okay. And again, specifically -- and I realize
2 you don't have the testimony in front of you, but if you
3 want to check after I've read this I'll bring the
4 testimony back up, but specifically he said, "When
5 appropriate the Company updates the lead/lag study. The
6 current fiscal year 2003 study was updated to include a
7 change in income tax payments."

8 And then he says, "The driving factors that
9 would result in an update to the lead/lag study would be
10 changes in applicable business practices such as billings,
11 collections, and accounts payable, et cetera." Is that
12 the testimony of Mr. McDougal as you recall?

13 A That's what he says. You know, there were --
14 there was an impact in the projected test year, there's a
15 substantial change in the implementation of automated
16 meters where we pick up the cost and provide the Company
17 with an increase for those costs. But the effect that
18 those automatic meters will have on the lead/lag study, of
19 course, are not incorporated into the study. It's just
20 things like that.

21 I don't think it's sufficient to say, "We have a
22 five-year-old study and none of the underlying data. We
23 want you to trust these numbers because if we thought they
24 needed updating, we would have updated them." That's the
25 basically the position of the Company.

1 Q Thank you. Let me move on. Let's go to page 4
2 of your surrebuttal testimony. I'm sorry, it begins on
3 page 3 where you say in your second objection that, "The
4 2003 study could not be reviewed by any party and that the
5 Company provided only a summary of the results." And then
6 you go on further to elaborate the same statement that you
7 made earlier this morning, that without being able to look
8 at the original source documents, you couldn't test the
9 validity or reliability of the study.

10 And then on page 4 you say that the study has
11 neither been vetted nor validated by any regulatory body.
12 And I want to ask you some questions about that. You did
13 receive a 220 page document that was the summary of the
14 study; is that not correct?

15 A That's correct.

16 Q Okay. And are you aware that the Company filed
17 this study immediately after it was completed or within
18 months in 2004?

19 A Well, I wasn't aware of that. We asked -- when
20 we were on site we asked for the study and we were told
21 that all that was available was the summary.

22 Q Are you aware that the -- that the summary was
23 filed with the Utah commission in the 2004 rate case?

24 A Well, I assumed it was.

25 Q Okay. Are you also aware that this is the study

1 that the Company relied on in its 2004 and 2006 rate
2 cases?

3 A That's right.

4 Q And in every rate case and every jurisdiction in
5 which the study was filed?

6 A I think that's right. That's why we asked if
7 any commission had actually ruled on the study, if it had
8 been accepted. It needs to be accepted by a commission to
9 give the type of authentication that we were looking for.

10 Q Well, do you know who at the Commission --
11 excuse me, at the Division was responsible for the
12 reviewing Rocky Mountain Power's lead/lag study for the
13 2004 rate case?

14 A We looked at that during the course of our
15 review. But what we were -- again, what we were looking
16 for is official authentication, not another auditor's work
17 that we -- that we couldn't rely on at this point. We
18 were looking at it for a Commission who had accepted the
19 study and we couldn't find one.

20 Q Well, perhaps you didn't hear my question. What
21 I asked you was: Are you aware who at the Commission --

22 A I can't recall the name as I sit here today,
23 but, yes, we checked into that.

24 Q And there were Division employees who were
25 responsible for reviewing the study, weren't there?

1 A Yes, there was someone who looked at the study.

2 Q And are you aware that in the 2004 rate case,
3 again the rate case that occurred immediately when the
4 study had been filed, that the Division offered no
5 criticism of lead/lag study?

6 A Well, I don't know about that. "No criticism"
7 is pretty broad.

8 Q Well, in their file testimony.

9 A Oh, in their file testimony? We looked at that
10 as well, and I can't recall exactly today what it said.
11 But it seemed like a very limited review, and it didn't go
12 into great detail showing that the study had been reviewed
13 in detail. And it didn't leave any work papers or
14 anything like that that we could rely on to authenticate
15 the study.

16 Q Well, again, perhaps you didn't hear my
17 question. My question was whether you were aware whether
18 the Division filed any criticism in their testimony of the
19 2003 lead/lag study in that 2004 rate case.

20 A I can't -- I said I can't recall exactly what
21 the testimony said.

22 Q Ahead of time, in order to kind of shorten
23 things up, I gave the witness a packet of documents that I
24 premarked as cross-exhibits. The second document I think
25 in your packet is a packet of testimony that was filed by

1 the Division in the 2004 rate case, and on top it says the
2 "Prefiled Direct Testimony of Mary Cleveland."

3 A I have it.

4 Q It's also the rebuttal testimony of Mary
5 Cleveland.

6 A In the same packet?

7 Q Pardon me? It's in the same packet. And will
8 you accept, subject to check, that the packet that I've
9 handed you contains all the testimony that was filed by
10 the Division in the 2004 rate case?

11 A Subject to check, yes.

12 Q And by the way, the direct testimony of Andrea
13 Coon is also contained there.

14 A Okay.

15 Q And really all I'm going to ask you to do -- and
16 I'll tell you I've looked through this, and there doesn't
17 appear to be any criticism of the 2003 lead/lag study
18 filed by the Company in any of this testimony. I'd just
19 like you to confirm it.

20 MR. GINSBERG: How would he confirm it? Do you
21 mean to read the whole testimony or just -- the testimony
22 speaks for itself of what it says.

23 MS. RACKNER: Well, I was trying to avoid
24 burdening the record with getting -- putting all the
25 testimony that the Division filed in the 2004 rate case in

1 the record, but I'd be happy to do that to speed things
2 along.

3 THE WITNESS: Could you direct me to the place
4 where the witness talks about the lead/lag study?

5 Q (BY MS. RACKNER) I couldn't find any.

6 A So it doesn't indicate that the lead/lag study
7 was reviewed at all?

8 Q Is it your understanding -- well, let me back up
9 a little bit. When the Company files a rate case, is it
10 your understanding that the Division will file testimony
11 on every issue raised by rate case?

12 A They typically file testimony on every issue
13 that they review in the rate case, even if that review is
14 we looked hard at this issue and we think the Company's
15 right, especially with something like lead/lag where it's
16 a very big number.

17 Q Isn't it true that typically the Division files
18 testimony when they have an adjustment to the rate case?

19 MR. GINSBERG: I'm not sure he could testify as
20 to what typically the Division does, so I object.

21 CHAIRMAN BOYER: Well, I guess he can testify as
22 to his own experience.

23 MR. GINSBERG: Typically what he does.

24 THE WITNESS: I can tell you what we did on
25 staff at Oklahoma during rate cases. Staff was

1 responsible for looking at the entire application, and
2 we'd assign auditors to all of the various adjustments
3 proposed by the Company, and then we would oftentimes
4 propose adjustments of our own if they raise issues they
5 hadn't raised.

6 But typically when there was a large item such
7 as a lead/lag study, even if we agreed with it -- and I
8 can't ever recall any rate case where staff completely
9 agreed with the lead/lag study, they're way to complex and
10 there's too many opportunities for errors and mistakes, so
11 I'll pick another issue.

12 If we reviewed the issue, we would say so in
13 testimony, and we would -- we would pass on an adjustment,
14 but we would let the Commission know that we had
15 thoroughly looked at what the Company had set forth, and
16 that we agreed with it.

17 Q (BY MS. RACKNER) Well, I think probably the
18 best thing to do here, then, is to -- this is -- we will
19 be moving the testimony into the record. It's been
20 premarked as Rocky Mountain Power 2 revenue requirement,
21 cross exhibit.

22 MR. REEDER: Do I understand the representation
23 with respect to this is the whole of the Division's
24 testimony in that case, or is this selected parts of it,
25 or what is your representation with respect to it?

1 MS. RACKNER: It's all the testimony that the
2 Division filed in the 2004 rate case, direct and rebuttal.

3 MR. REEDER: I'd like to look at the record on
4 that one. Having sat in this chair for --

5 COURT REPORTER: Can you move up to your mic? A
6 little closer to your mic?

7 MR. REEDER: I think we need to check on that
8 one. Having sat in this chair for a long time, I find it
9 a bit unusual than Mary Cleveland and Andrea Coon be the
10 only Division witnesses in a case.

11 MR. GINSBERG: I actually don't recall whether
12 certain issues had been settled or the rate case was
13 settled or why there would also only be two witnesses for
14 this particular rate case. It is highly unusual. I'm
15 sure other issues maybe were not needed to be presented.
16 I really don't know.

17 MS. RACKNER: Well, perhaps we can take care of
18 that on a break. We can confer with counsel and discuss
19 the matter.

20 CHAIRMAN BOYER: And/or change the
21 representation. It might be sufficient just to say that
22 these are true and correct copies of the some testimony
23 filed by the Division.

24 MS. RACKNER: That won't be sufficient.

25 CHAIRMAN BOYER: You want to share that there

1 has been no mention of the lead/lag study.

2 MS. RACKNER: Yeah.

3 CHAIRMAN BOYER: All right. Well, why don't you
4 take care of that housekeeping matter at the next break.

5 MS. RACKNER: Certainly.

6 CHAIRMAN BOYER: We'll deal with the admission
7 of the evidence or whatever at that time.

8 MS. RACKNER: I have an exhibit that I did not
9 premark, so we'll be taking this one out of order as well.

10 Q (BY MS. RACKNER) Mr. Garrett, I'm only going to
11 be asking you about the first page, and we'll only be
12 moving the first page of this set of data requests into
13 the record, so there's no need to review anything other
14 than the first. And I actually just have one very short
15 question.

16 Rocky Mountain Power issued a data request of
17 the Division asking who at DPU or among its consultants
18 was responsible for reviewing the lead/lag study filed by
19 the Company in its 2004 and 2006 rate cases, and is it
20 correct that the answer with respect to the 2004 rate case
21 was the following, "Ron Burrup and Bruce Mojo may have
22 looked at the lead/lag study during their review of Cash
23 Working Capital in the 2004 rate case but they have since
24 left the Division"?

25 A That's what it says.

1 MS. RACKNER: And I would like to move -- that
2 will be Rocky Mountain Power Cross Exhibit Exhibit 5 into
3 the record.

4 So you at least accept that there were Division
5 employees who were assigned to review the lead/lag study
6 that was filed in the 2004 rate case?

7 A Ask that again because I'm not sure that that is
8 what it says.

9 Q Do you agree that there were Division employees
10 who were assigned to look at the lead/lag study in the
11 2004 rate case?

12 MR. GINSBERG: I wouldn't say this answer is
13 explicit about it.

14 MS. RACKNER: I would agree.

15 MR. GINSBERG: The answer just speaks for
16 itself. I don't know how he can comment on it.

17 CHAIRMAN BOYER: The response says these two
18 individuals Burrup and Maio -- not Mojo -- I think he lost
19 his mojo -- may have looked at the study.

20 MS. RACKNER: I understand that. I'm asking
21 Mr. Garrett if he understands that these two individuals
22 were assigned to look at the study. And I think his
23 answer is no, he doesn't know; is that correct?

24 THE WITNESS: Yeah, it doesn't say they were
25 assigned to look at the study, it just says they may have

1 looked at the study. I wouldn't want to read any more
2 than that into it.

3 Q (BY MS. RACKNER) Okay. You don't have anymore
4 information than what's in this document?

5 A No.

6 Q Okay.

7 CHAIRMAN BOYER: Are there objections to the
8 admission of RMP Cross 5, page 1?

9 (No response.)

10 CHAIRMAN BOYER: Seeing none, that will be
11 admitted into evidence.

12 (RMP Cross-Exhibit No. 5 admitted.)

13 Q (BY MS. RACKNER) Now, again, with respect to
14 the 2004 rate case, I think we've established that you
15 don't know whether the Division actually performed a
16 review of the lead/lag study. But I do have before you
17 what's marked as Rocky Mountain Power Cross-Exhibit 1,
18 which -- and it contains confidential information. I
19 assume that everyone who has --

20 MR. GINSBERG: Which one is this?

21 MS. RACKNER: I'm sorry, it says it contains
22 confidential information, the section that I've copied
23 does not.

24 MR. REEDER: What is the title of the document?

25 MS. RACKNER: Yes, the Prefiled Direct Testimony

1 of Donna DeRonne.

2 MR. REEDER: That's No. 1? Thank you.

3 MS. RACKNER: Yes.

4 Q (BY MS. RACKNER) I want to give you just a
5 minute to read through the document.

6 MR. GINSBERG: Is there somewhere in particular
7 you're referring to?

8 MS. RACKNER: What I intended to do was to ask
9 the witness if it appears from the testimony that in the
10 2004 rate case that CCS witness Donna DeRonne reviewed the
11 2003 lead/lag study.

12 THE WITNESS: That's the question?

13 Q (BY MS. RACKNER) Yes.

14 A Well, and I haven't read this -- these pages
15 every word, but it looks to me that what she's saying in
16 her cash working capital section of her testimony is that
17 she reviewed the income tax adjustment and made an
18 adjustment to the income tax days, and that Mick Arndt
19 made an adjustment for long-term debt, I suppose similar
20 to the adjustment proposed by the Committee in this case,
21 and that Mr. Schultz addresses the remaining comments of
22 the Company's -- I'm sorry, components of the Company's
23 working capital request.

24 So it looks like she reviewed the income tax
25 number, Mick Arndt reviewed the long-term debt component,

1 which was not part of the study, and Mr. Schultz may have
2 looked at something else, but we don't know what that was.

3 Q Well, you do recognize -- and I guess the
4 testimony speaks for itself -- that in her testimony she's
5 asked whether she reviewed the study and she answers yes.
6 I'm directing you to page 26, lines 5 through 6.

7 A Right. It says, "Have you reviewed the study?"
8 And she says, "Yes." And then she talks about one piece
9 of the study. One component of the study.

10 Q And she makes one specific recommendation with
11 respect to the study.

12 A Right, one recommendation with respect to taxes.

13 Q And is that the same issue that the Company has
14 since corrected in the update to its 2003 study?

15 A I think that's may be the only correction the
16 Company made was to the tax numbers. The other issues
17 raised here, long-term debt obviously wasn't changed, and
18 whatever Mr. Schultz brought up I don't think has changed.

19 Q The long-term debt issue is the issue, again,
20 that Mr. DeRonne raises in her testimony in this case; is
21 that correct?

22 A Right. The long-term debt issue is an issue
23 that's included by a lot of utilities in their lead/lag
24 studies. And I think that's why she was raising the issue
25 is that she believes it should be included, it often is,

1 and the Company here does include long-term debt.

2 Q The company here?

3 A Yes, in this case.

4 MS. RACKNER: I'd like to move --

5 CHAIRMAN BOYER: Ms. Rackner, what number did
6 you assign this?

7 MS. RACKNER: This No. 1.

8 CHAIRMAN BOYER: Oh, this is No. 1. So it's out
9 of sequence.

10 MS. RACKNER: And I apologize, I attempted to
11 try to streamline things by prenumbering things, but I
12 should have guessed that I would be taking them out order.
13 But, yes, this is Cross-Examination Exhibit No. 1.

14 CHAIRMAN BOYER: And do you wish to move
15 admission of this exhibit?

16 MS. RACKNER: Yes, I do.

17 CHAIRMAN BOYER: Are there objections to the
18 admission of RMP Cross 1, Ms. DeRonne's testimony in the
19 2004 -- or excepts from that?

20 MR. PROCTOR: Yes, on behalf of the Committee,
21 whose witness was Ms. DeRonne in that case. First of all,
22 this testimony exists and has been entered into evidence
23 before the Commission's docket in this case. It just has
24 -- as would all the DPU testimony. So whatever the DPU
25 testimony is there, it shows up in your docket as listed.

1 So that would be an easy solution to whether or not the
2 testimony from Ms. Cleveland and Ms. Coon is all of the
3 testimony that was filed. That would be resolvable
4 readily.

5 But I think if you're going to enter into
6 evidence one part of the testimony, it's just as easy,
7 where it exists already in your files, to enter the entire
8 testimony that she filed, and that would be my request.

9 MS. RACKNER: My only concern is that we're
10 offering it for the limited purpose of a discussion of the
11 CCS's review of the 2003 lead/lag study, and I would hate
12 to burden the record with all sorts of additional
13 arguments.

14 On the other hand, I understand Mr. Proctor
15 wanting to make sure that his witness's testimony is not
16 taken out of context. I'm wondering if it might be an
17 easier solution to avoid burdening the record with extra
18 material, to simply have us find the full copy Ms.
19 DeRonne's testimony, which I do have at the Company, and
20 give Mr. Proctor an opportunity to look through it to make
21 sure that there's nothing misleading on taken out of
22 context with the selected pages that I've offered.

23 MR. PROCTOR: Counsel's objection or requested
24 solution is really intended to keep all other issues out
25 from before this Commission. And I don't know that it's

1 appropriate for me to have to go through this testimony
2 again and identify whether or not there's other parts that
3 in fact relate to the lead/lag study. Mr. DeRonne will be
4 testifying on Thursday.

5 So bringing it all in, you don't have to burden
6 the record, because the record includes the docket that
7 you now have, and it has her sworn testimony there. It's
8 not burdening anything just to let the whole thing in.
9 She can use it for a limited purpose, that's certainly
10 appropriate. But she can't introduce only one part of
11 testimony, particularly prefiled testimony.

12 CHAIRMAN BOYER: Mr. Proctor, I think she just
13 offered to do that.

14 MR. PROCTOR: No, she's asked that I go through
15 and review it and tell her whether or not there's
16 something else that I want --

17 CHAIRMAN BOYER: No, she's offered the
18 opportunity for you to do that. You need not do it.
19 She's just going to bring to us what she represents is the
20 complete testimony of Ms. DeRonne -- Ms. DeRonne in the
21 2004 case.

22 MR. PROCTOR: If she'll move to the admit the
23 entire testimony in, I have no objection.

24 CHAIRMAN BOYER: I think that solves the issue,
25 does it not?

1 MS. RACKNER: We're not moving to move the
2 entire testimony in the record.

3 CHAIRMAN BOYER: The entire testimony of
4 Ms. DeRonne.

5 MS. RACKNER: Yes.

6 CHAIRMAN BOYER: Her direct testimony.

7 MS. RACKNER: From the two thousand and --

8 CHAIRMAN BOYER: -- four case.

9 MS. RACKNER: Yes. We are not, primarily
10 because I've not carefully reviewed the sections that
11 don't relate to cash working capital, and I would hate to
12 introduce new testimony into this case, this new rate
13 case, that may or may not bear on certain issues in the
14 case.

15 MR. GINSBERG: But it's only being introduced
16 for the limited purpose that it was used for in this
17 proceeding, so I'm not sure what difference it really
18 makes.

19 MS. RACKNER: If we have an understanding that
20 that's correct then I'm quite comfortable. What I'd like
21 to avoid is having other parties making other use of
22 testimony that I haven't reviewed carefully. If we have
23 an agreement that it's being offered for that limited
24 purpose only, then I'm quite comfortable moving the entire
25 testimony into the record.

1 MR. PROCTOR: Mr. Chairman, the rules of
2 evidence -- and I forget the precise number -- state
3 unequivocally that if a party offers part of an exhibit,
4 any other party is entitled to offer other parts or the
5 whole exhibit. That's what I'd like you to do if you
6 would, please. Thank you.

7 CHAIRMAN BOYER: I'm worried about the trees.
8 Let's think for a moment here. Okay. We're going to --
9 Mr. Ginsberg?

10 MR. GINSBERG: Sorry, go ahead.

11 CHAIRMAN BOYER: We're going to let in then the
12 entire direct testimony of Ms. DeRonne from the 2004 case
13 for the limited purpose represented by Ms. Rackner. And I
14 feel sorry for the trees, but we'll just have to make the
15 sacrifice.

16 MS. RACKNER: Thank you, Mr. Chairman. There is
17 one issue with respect to that testimony that I haven't
18 had enough time to think thoroughly through, it is
19 testimony that contains confidential information. So to
20 the extent there are individuals in this rate case who
21 haven't signed the confidentiality agreement in the 2004
22 rate case, I'm just --

23 CHAIRMAN BOYER: Why don't we deal with that
24 during the lunch break, Ms. Rackner, and then we'll -- and
25 rather than admit the evidence at this point, let's see

1 what it looks like, let you authenticate it, and lay
2 appropriate foundation, and then we'll deal with its
3 admission at that point.

4 But our intention is to let, you know, whatever
5 is the complete testimony of Mr. Donna DeRonne -- direct
6 testimony of Ms. Donna DeRonne in the 2004 case into
7 evidence in this case.

8 (RMP Cross-Exhibit 1 admitted.)

9 MS. RACKNER: Thank you.

10 MR. GINSBERG: I need to bring up another
11 problem, though. I was handed a list of what was filed in
12 the 2004 rate case, and there were numerous other
13 witnesses besides MS. Cleveland and Bruce Moio. But I'm
14 not clear on what happened in that case, whether it was
15 settled or never admitted into evidence. But there was
16 substantial amounts other prefiled testimonies in probably
17 just other issues, I'm not sure.

18 CHAIRMAN BOYER: Thank you, Mr. Ginsberg. You
19 may proceed, Ms. Rackner.

20 MS. RACKNER: Yeah, and Mr. Chairman, I just
21 want to say that if we've made an error about the
22 testimony being the complete copy of the Division's
23 testimony, we apologize and we'll look into it over the
24 lunch hour and get back to the Commission on that.

25 Q (BY MS. RACKNER) Mr. Garrett, you mentioned

1 that you believe that the Washington commission rejected
2 the 2003 lead/lag study. Do you have a copy of the
3 Washington order to that effect?

4 A I do, but not with me.

5 Q Do you recall why the -- what the commission
6 did? Can you just describe in more detail why they
7 rejected the study?

8 A Right. From what I recall, the study was not
9 made part of the record and was not submitted for review,
10 and the commission said that without being able to review
11 the study, it couldn't accept the proposed results.

12 Q Well, isn't it true that in the Washington case
13 staff was proposing that cash working capital be developed
14 using a method other than a lead/lag study, the ISWC
15 method; is that correct?

16 A That's right.

17 Q And the Company was proposing that its lead/lag
18 study be used instead; is that correct?

19 A That's right.

20 Q And isn't it true that what the Commission
21 really said was that neither party had made their case
22 because neither party had submitted their study?

23 A That's exactly right. I wasn't concerned about
24 the staff's case because it didn't have anything to do
25 with the lead/lag study, but what I was concerned about

1 was that this lead/lag study submitted in this case was
2 submitted in another docket and rejected.

3 Q Well, I think what the Washington commission
4 said was that the study was not -- the study itself was
5 never provided to the commission.

6 A What they said is that the study itself wasn't
7 provided, just like here it's not been provided. And
8 without that study they couldn't determine whether it was
9 valid and currently relevant without a review of the
10 study, which is precisely the problem we have here.

11 Q Well, in Washington a summary had not been filed
12 with the Washington commission; isn't that correct.

13 MR. GINSBERG: Do we have a copy of the order?
14 Maybe that would help, or whatever he relied on? A copy
15 of what he's relying on to make these statements? Maybe
16 that would be helpful, I don't know.

17 MS. RACKNER: I have one copy of the entire
18 order. I made many copies in an attempt to save trees of
19 the relevant section.

20 MR. GINSBERG: Do you need it is my question.

21 THE WITNESS: No. From what I recall, that
22 sounds right. And I don't know what was provided, the
23 order doesn't really specify. It just says that the study
24 wasn't made part of the record so they couldn't review the
25 data to see if it was still currently relevant or whether

1 it was accurate or not. That's precisely the problem we
2 have here. Even with the summary pages, we still don't
3 have the data to review. And you can't test and see if
4 the numbers are right, you can't trace to anything, you
5 can't validate any of the numbers, and they haven't been
6 authenticated anywhere else. So we have the same problem
7 Washington has.

8 Q Are you aware that the Company has been
9 conducting and filing lead/lag studies every five years
10 for at least two decades?

11 A Well, I'm aware that the Company has said that
12 they conduct a lead/lag study every five years.

13 Q And has this Commission ever rejected one of the
14 Company's studies because it was too old?

15 A I haven't reviewed every -- every case that
16 the -- where the Company filed a lead/lag study. It seems
17 like I recall in one case they were instructed to update
18 their lead/lag study before they filed it for the next
19 rate case, but I'm not sure about the specifics of that.

20 Q Would you agree that in the Company's 1998 rate
21 case the Commission accepted the Company's 1991 study as a
22 basis for its allowance for cash working capital?

23 A Well, and that why I was hesitating just a
24 minute ago, because you just said that the Company files a
25 lead/lag study every five years. And in that case that

1 study was seven or eight years old by the time it was
2 filed.

3 So that's why I said that's what the Company
4 says. I'm not sure that's what actually happens. But,
5 yes, I am aware that the Company -- that the Company filed
6 an eight or nine-year-old study in that situation.

7 Q And the Commission accepted that study?

8 A I assume they did. I didn't -- I didn't make
9 any other assumption. I guess the reason I assumed that
10 is because that's what was said in rebuttal testimony.

11 Q Okay. That's fine. Thank you. I want to turn
12 to your testimony on medical costs. And on page 16 of
13 your direct testimony -- are you there?

14 A Yes.

15 Q -- you reference the Company's medical expenses
16 included in the forecasted year. And as you discussed
17 this morning, you pointed out that the Company's
18 projections assume a 9.8 increase in medical costs from
19 2007 to the 2008 test year. And it's your suggestion that
20 the Company not use the 9.8 percent increase recommended
21 by Hewitt and instead depend on the Tower Perrins study;
22 is that correct?

23 A Right.

24 Q Now, you have a copy of the Tower Perrins study
25 in front of you. I've premarked it as Cross Exhibit RMP

1 4RR. That black page at the back there.

2 A I have it.

3 Q Is this the study on which you are relying in
4 your testimony?

5 A It looks like it, the 2008 Towers Perrin Health
6 Care Cost Survey.

7 Q And I'd like to turn your attention to the last
8 pages, pages 25 through 28, which contain a list of
9 employers who participated in the study. And now there's
10 an asterisk at the bottom that says that of the 500
11 employers, certain companies agree to be listed by name,
12 and those are listed here, but certain companies agreed
13 not to be listed by name; is that correct?

14 A That's right.

15 Q And of the approximately -- well, let me ask
16 you: Did you count to see how many of the companies
17 agreed to be listed here?

18 A Oh, I think it's about half. Maybe a little bit
19 more than half.

20 Q So let's just estimate that of the approximately
21 250 companies that agreed to be listed, how many of them
22 are electric utilities?

23 A Of the approximately 250?

24 Q Well, didn't you say of the 500 approximately
25 half had been -- had agreed to be listed?

1 A Right.

2 Q So I'm just asking you: Of the list that you
3 have in front of you, could you look to see how many
4 electric utilities you can identify in that list?

5 A Well, I really haven't looked through it for
6 that. Do you want me to go ahead and look through all
7 these names?

8 Q I would appreciate it.

9 A And some of these companies may own electric
10 utilities. In the case of the company, the parent might
11 be listed here instead of the subsidiary utility.

12 Q Did you make any effort to identify whether any
13 of the companies here were parents to electric utilities?

14 A No. No, I didn't. I thought that the study
15 using 500 companies was broad enough to encompass all
16 types of companies.

17 Q Well, I mean, I'll represent to you that we were
18 able to identify one or two that appeared to be electric
19 utilities in here. And perhaps what we can do is leave it
20 at that. But I guess the point is that it appears that
21 this is a general study, wouldn't you agree?

22 A It's a general study. There are several
23 utilities listed. But then there's 250 companies that are
24 not listed. And it may be that there may be a significant
25 number of utilities in the unlisted portion of the survey

1 that just don't want their names to be listed.

2 Q Is it also possible that there are no electric
3 utilities in the companies that didn't want to be listed?

4 A I would think that would be -- it's possible, I
5 don't think it's probable.

6 Q Okay. At any rate, what I do think that we can
7 agree upon is that this study was not intended to be
8 specific for electric utilities, do you agree?

9 A No, it's intended to be specific for all
10 industries, not specific to any one industry.

11 Q I agree. Do you happen to have a copy of the
12 page from the Hewitt website that was made DPU Cross
13 Exhibit -- I believe it was 1, Mr. Ginsberg. I have an
14 extra copy if you don't have it there.

15 MR. GINSBERG: I think I have it here. Yeah,
16 DPU Cross 1.

17 Q (BY MS. RACKNER) One of things I noted from
18 this article when Mr. Ginsberg provided it to us yesterday
19 is that Hewitt appears to be providing kind of a general
20 forecast for 2007-2008 in this article, and it doesn't
21 appear in any way to be providing numbers that are
22 specific to electric utilities. Would you agree with
23 that?

24 A I would agree with that.

25 Q But even so, they provide a projection of an 8.7

1 percent average increase being for employers in 2007. Do
2 you see that?

3 A I see that.

4 Q And that's in contrast to the five percent that
5 the Towers Perrin study provides; is that correct?

6 A Right. This is -- this is one company, Hewitt
7 Associates, that's projecting an 8.7 percent increase.
8 The Towers Perrin report is 500 companies that are
9 projecting a five percent increase.

10 Q Well, Hewitt here is talking about U.S.
11 companies in general, are they not?

12 A Well, they are, and that's what the Towers
13 Perrin is addressing as well.

14 Q Okay.

15 A It's just, Hewitt's opinion is one company's
16 opinion, the Towers Perrin report is 500 companies'
17 opinion.

18 Q I want to also turn your attention to page 2 of
19 5 where the study says that, "While Hewitt's data shows a
20 decline in overall cost increases in 2007, a few major
21 U.S. markets experienced rate increases two to three times
22 higher than the average." And then they give some
23 examples, Nashville 14.1, percent; San Diego, 11.5
24 percent; and San Francisco 11.5 percent; is that correct?

25 A What page are you on? I'm sorry.

1 Q Oh, I'm on the second page.

2 A Okay. And which paragraph?

3 Q It says, "Cost Increases by Major Metropolitan
4 Area." It's possible the pagination is different.
5 Mr. Taylor pulled that one off of the web.

6 A Oh, here it is.

7 Q Okay. So let's --

8 MS. RACKNER: Do you mind if I just approach the
9 witness and have him look at my copy?

10 CHAIRMAN BOYER: Why don't you show it to
11 counsel first and then approach the witness.

12 MR. GINSBERG: Is it just the same?

13 MS. RACKNER: It's your cross-exhibit. The one
14 that the witness has a different pagination. But I'm
15 going to show him your cross exhibit.

16 MR. GINSBERG: Okay.

17 Q (BY MS. RACKNER) Right here. Oh, I'm sorry.
18 Right there. I just have one question about this. I
19 mean, Hewitt seems to be making the point that depending
20 on geographical locations, particular areas might expect a
21 greater or lesser increase in medical costs in 2008.
22 Would you agree with that?

23 A No, that's not what it says. What it says is in
24 2007 while Hewitt's data shows a decline in overall cost
25 increases in 2007, a few major U.S. markets experienced

1 rate increases two to three times higher than the average.
2 We're talking about 2007. Nashville 14 percent, San Diego
3 11-and-a-half, and San Francisco is 11.5. And if you take
4 each of those numbers and divide it by either two or
5 three, they come to about five percent.

6 Q Let me ask you --

7 A So it's talking 2007.

8 Q Let me ask you a more general question, then.

9 Would you agree that different areas of the country might
10 expect, in general, to experience different levels of cost
11 increases in medical costs from year to year?

12 A Absolutely.

13 Q Okay. I want to ask you a hypothetical if I
14 could. If you were tasked with the job of projecting
15 medical cost increases for a company for let's say 2009,
16 would you -- in order to produce the best possible
17 forecast would you want demographic information for the
18 company?

19 A I assume you would. I don't project health care
20 costs for companies. I do project energy costs for some
21 large companies, so I know a little more about that than
22 health care costs.

23 Q Well, is your answer that you're not enough of
24 an expert on health care costs to know whether or not you
25 would want demographic information for the -- let me just

1 finish.

2 A I'm sorry.

3 Q The only reason I'm interrupting you, I know you
4 know what I'm going to say, but the court reporter needs
5 to get my whole question.

6 A I apologize.

7 Q But now of course I've forgotten it. I think
8 what was asking you was whether what you were trying to
9 tell me was that you weren't enough of an expert on health
10 care costs to tell me whether or not it would be important
11 to have demographic information if you were going to be
12 forecasting costs. And if that's the case I accept that
13 answer.

14 A Well, I'm only an expert in projecting health
15 care costs from a rate-making perspective, and I'm much
16 more of an expert in projecting energy costs for
17 projection purposes, for budgeting purposes. So I do have
18 some experience with that.

19 And I know that projections for budgeting
20 purposes are very different than projections for rate-
21 making purposes. So I'm just trying to sort through your
22 hypothetical that, yes, I would agree that you would --
23 you would consider many things in a projection, including
24 demographics.

25 Q Would you also want to know claims experience

1 for the company?

2 A You're talking about projecting for budget
3 purposes?

4 Q Yes.

5 A For an individual company you might want to know
6 claims experience.

7 Q Is it possible that a company's claims
8 experience could increase medical costs above a national
9 average?

10 A Well, it's possible the claims experience of an
11 individual company could cause medical costs to be higher
12 for that company than the national average. And the
13 opposite is also true, it could cause costs for that
14 company to be much lower than the national average.

15 I would say it could cause the costs to be
16 somewhat higher. But I think if you want to say that
17 individual claims experiences makes this company twice
18 what the national average is, I think that is suspect.
19 But could they be higher? Yes. And they could be lower.
20 Could they be twice as high? That would take a
21 significant amount of explaining I believe.

22 Q There's just one more thing I wanted to ask you
23 about medical costs. You made the point in your summary
24 to the commissioners that the Towers Perrin study shows
25 that medical costs don't increase, at least significantly,

1 for older workers. Do I have your summary testimony
2 correctly?

3 A Their survey of the 500 companies showed that
4 the medical costs for regular employees were expected to
5 increase by the same amount for 2008 as retirees under the
6 age of 65. And retirees over the age of 65 were expected
7 to increase by one percentage point.

8 Q Well, is it fair to say, then, that the these
9 studies don't compare younger, active employees versus
10 older, active employees?

11 A What, the Towers Perrin?

12 Q Yes.

13 A They have a chart here that does that.

14 Q Well, what I see in the chart --

15 MR. GINSBERG: Where are we?

16 MS. RACKNER: Page 19.

17 MR. GINSBERG: Okay.

18 Q (BY MS. RACKNER) -- is a comparison of the cost
19 for active employees versus retirees, and then the
20 retirees are divided into two groups: Over age 65 and
21 under age 65.

22 A Right.

23 Q Okay. So the older employees that you're
24 referring to are retirees; is that correct?

25 A That's right.

1 Q Okay. And the active employees -- that group of
2 active employees in this analysis is not divided by age;
3 is that correct?

4 A That's correct.

5 Q You made the comment that Hewitt's data is just
6 one company or is just derived from one company, but I
7 want to direct you back to DPU Cross Exhibit No. 1. It
8 says, "About Hewitt's Data." I'll give you a moment to
9 get there. That's Hewitt's article again.

10 CHAIRMAN BOYER: While the witness is looking at
11 it Ms. Rackner, we're going to need to take a break to
12 give our reporter a little rest here. Are you about
13 finished with this witness?

14 MS. RACKNER: I'm getting there. We may want to
15 take a break.

16 CHAIRMAN BOYER: Well, if you would like to
17 finish the health care portion, let's do that.

18 MS. RACKNER: And perhaps if I approach the
19 witness again to show him where in the article I'm looking
20 that might be helpful.

21 CHAIRMAN BOYER: You may.

22 Q (BY MS. RACKNER) It says, "About Hewitt's
23 Data," right there.

24 A Uh-huh.

25 Q The statement -- and I'll read it and then I

1 have a question for you. It says, "Hewitt's health care
2 cost data is derived from Hewitt's health value initiative
3 in the cost and performance analysis database of more than
4 1,800 health plans throughout the United States, including
5 400 major employers and more than 18 million health plan
6 participants." Do you see that?

7 A Yes.

8 Q Do you agree that that Hewitt seems to have
9 drawn a fairly wide use of health care data from, again,
10 1,800 health plans?

11 A They -- it looks like they included the cost of
12 performance analysis of 400 major employers and came up
13 with a forecast of 8.7. Or, sorry, yeah, 8.7 for 2008.
14 Towers Perrin looked at 500 employers and came up with a
15 five percent projection for 2008.

16 Q And, again, these are both national studies,
17 correct?

18 A Right.

19 MS. RACKNER: I have nothing further on medical
20 costs.

21 CHAIRMAN BOYER: Let's take a ten-minute recess
22 then.

23 (Whereupon, a brief recess was taken.)

24 CHAIRMAN BOYER: Let's go back on the record,
25 and Ms. Rackner and Mr. Garrett you have the floor.

1 MS. RACKNER: Thank you. Mr. Chairman.

2 Q (BY MS. RACKNER) Mr. Garrett, in your
3 surrebuttal testimony you make a new recommendation
4 proposing that the Company use an undated capitalization
5 ratio to calculate its labor expenses; is that correct?

6 A That's correct.

7 Q Okay. I apologize for not having passed these
8 out previously so hold on. These have not been premarked
9 yet, but we'll mark them before we get them into the
10 record.

11 I just want to ask you if the data request,
12 which we'll mark -- re-mark as Cross Exhibit 6, and the
13 response is Cross Exhibit 7 -- this is the data request
14 and the response on which you based your change to the
15 capitalization ration that you're proposing?

16 A In part, yes.

17 Q Is there additional information that was
18 produced by the Company that you're basing your change on?

19 A Just the semiannual report.

20 Q And that's in the record. And I just wanted to
21 ask you whether -- you raise this issue in your
22 surrebuttal testimony for the first time, and I wanted to
23 ask you to what you were responding in the Company's
24 rebuttal testimony.

25 A Well, I raised the issue in my direct testimony

1 saying that the projections of payroll provided by the
2 Company, the increases for the forecast test year, could
3 materially change if things such as the capitalization
4 ratio changed.

5 In rebuttal testimony I think Mr. Wilson said,
6 "Well, capitalization ratios can go up, they can go down."
7 And so we looked at the Company's response to Request 49.1
8 in the semiannual report, and the fact is that the
9 capitalization ratio has gone down.

10 Q But in your testimony with respect to merit
11 increases, in your direct testimony, you say that the fact
12 that capitalization rates can go up or they can go down is
13 the basis for your recommendation for an adjustment to the
14 merit increase, don't you?

15 A That's where -- that's where the discussion took
16 place was in our discussion of merit increases.

17 Q Yes. And, again, to be clear, you state that
18 because capitalization rates can go up or they can go
19 down, that's why you're recommending a lower merit
20 increase.

21 A No, not at all. At that point, because we
22 didn't have any different information from that increase,
23 we accepted the base year end capitalization ratio. And I
24 said the numbers could be much different if that ratio
25 changes. And sure enough it did change and it has gone up

1 substantially.

2 And it's not a projected number, it's not a
3 forecast number, it's not a prediction, it is a real
4 number. And so the capitalization rate has changed, and
5 that does change the -- not only the merit increase
6 adjustment, it changes all adjustments to labor and
7 benefits.

8 Q And the capitalization rate on which you rely
9 for your recommendation to the Commission, it's based on
10 labor numbers that are different than the ones that the
11 company used in its filing, aren't they?

12 A Well, I don't understand. Ask that question
13 again. I don't think that's right.

14 Q I'll withdraw the question. I want to move to
15 labor productivity. You spoke this morning about your
16 recommendation that the Company should have included
17 productivity improvements in mitigation of incremental
18 increases to payroll; is that correct?

19 A In the situation of a forecast test year, yes.

20 Q Can you give examples of a few types of
21 improvements that might be adopted by utilities that would
22 result in increased productivity?

23 A Well, the Company identified two. They
24 identified a workforce reduction or change in the
25 workforce, they also identified -- which by the way is not

1 relevant to this issue because it's a past event.
2 Productivity looks at future events. But that type of
3 adjustment could also -- not to that magnitude obviously
4 hopefully in the next couple years -- but those types of
5 adjustments could occur in the future as well.

6 So any type of workforce reorganization,
7 technology changes, also just having -- the Company talks
8 about its health care costs of an older workforce. Well,
9 an older work force, more experienced workforce, is
10 generally more productive because they've been around
11 longer. They don't have to be brought up the curve as
12 much as younger employees do. So the more you do a task,
13 the more efficient you become at that task.

14 And so companies across the country recognize
15 productivity as a real issue in the workforce to the
16 extent that they even track it at the Bureau of Labor
17 statistics.

18 Q And it's based on those Bureau of Labor
19 statistics that you say that costs should fall by one
20 percent each year to account for productivity; is that
21 correct?

22 A Well, what I said was that for purposes of
23 forecasting a future test year for ratemaking purposes,
24 the Commission should look at the Bureau of Labor
25 Statistics numbers for general business, because the

1 electric sector had much higher numbers, and I didn't want
2 to use those because I wanted to propose a very, very
3 conservative adjustment.

4 But for general business the trend over the last
5 few years has been about a 1.6 percent annual gain in
6 productivity. For the electric sector, it was about
7 three-and-a-half percent. I felt like that was way too
8 high to use, so we just used the general business of 1.6,
9 and then we reduced that down to 1 percent to be even more
10 conservative, knowing that there could be some things in
11 the application that we would need to vet out.

12 And I think the Company's second example of a
13 productivity event, the automated meter reading
14 adjustment, is a good example, and it had about a half a
15 percent impact on the revenue requirement. So that's part
16 of the reason we reduced the 1.6 down to 1.

17 Q And did you read Mr. Wilson's rebuttal testimony
18 in this case?

19 A Yes.

20 Q And did you see his statement -- and I'm going
21 to read it. It's short so I think we can get away with
22 not having have you dig through your documents. "On a
23 cents per kilowatt basis, wages and benefits have declined
24 by nine percent since the last filing."

25 And I just want to ask you whether or not that

1 calculation suggests that the Company has included some
2 productivity increases in this case.

3 A No, because the productivity that's occurred
4 over those years is embedded in the test year, and we've
5 accepted a test year. So there are -- productivity gains
6 hopefully last the life of a Company, so there will always
7 be last year's productivity gains and this year's
8 expenses, although they may not happen until a couple of
9 years down the road. But there's always productivity
10 gains embedded in every test year or in every -- sorry,
11 every year.

12 So the test year here, what we're calling the
13 base year, has the productivity of the past in it. But
14 for purposes of projecting out what was two years, and now
15 is a year-and-a-half after the base year, you look at the
16 productivity that the Company expects to gain during that
17 period, not what they've gained in the past. Productivity
18 builds on productivity.

19 Q I understand that, but the Company, you
20 understand, is asking for significantly less in labor
21 costs in this case than they asked in the last rate case;
22 is that correct?

23 A That's right.

24 Q And the Company's also testified that they're in
25 a significant build cycle; is that correct?

1 A That's correct.

2 Q And they've also -- and I think you've reviewed
3 and accepted these numbers -- that they're doing so with a
4 lower labor complement; is that correct?

5 A That's correct.

6 Q That's all I have.

7 A Was that a question? Because the answer to that
8 question is: None of that matters for the productivity
9 adjustment. All of those are past events. The
10 productivity looks at the next two years, that what will
11 happen over the next two years is what we put the
12 productivity adjustment in for.

13 If the Company is in a significant build cycle,
14 productivity is going to even increase. And the
15 capitalization ratio, by the way, will increase
16 significantly during that period, too. That's why it's
17 important not to go back and look at a capitalization
18 ratio that's already changed during a significant build
19 cycle. It does have an impact, but that fact supports
20 those two adjustments.

21 MR. REEDER: Mr. Chairman, may I interrupt?
22 We've had a request that the mics be turned down because
23 of the hearing going on next door. I pass that on for
24 whatever it's worth.

25 CHAIRMAN BOYER: Ironically, they're in our

1 other courtroom.

2 MR. REEDER: Right.

3 CHAIRMAN BOYER: Maybe we can turn the volume
4 down. I think there's a master control. I think we prime
5 them, though, because I believe it is a hierarchy on this
6 floor. I think we prime them.

7 In any event, Ms. Rackner, we have RMP Cross
8 Exhibits 4, 6 and 7 that haven't been admitted into
9 evidence. Do you wish to move their admission?

10 MS. RACKNER: I do.

11 MR. GINSBERG: I actually don't think that they
12 were actually ever -- 6 and 7, I don't think you even ever
13 asked a question about.

14 MS. RACKNER: The data responses?

15 CHAIRMAN BOYER: The data request and response.

16 MS. RACKNER: Yeah, I'd asked him whether these
17 were the documents that he relied on for his
18 recommendation.

19 MR. GINSBERG: Okay. I'm sorry, thank you. I'm
20 not sure what 4 is, but I wanted to go back to the issue
21 of the testimony of Cleveland and Andrea Coon if we could.
22 I don't know if that was 4 or not. But it looks like
23 there are six other Division witnesses that filed
24 testimony in that rate case.

25 CHAIRMAN BOYER: Right, and she hasn't moved for

1 admission of those at this point.

2 MR. GINSBERG: Okay.

3 MS. RACKNER: Perhaps the best way to deal with
4 this is for the Commission to take administrative notice
5 of that testimony.

6 MR. GINSBERG: You know, I think I would object
7 to that. Maybe the best evidence it speaks to -- the 2004
8 rate case was settled, it was a black box settlement.
9 There was testimony that was filed by a lot of parties.
10 We had answered a data request that is in the record which
11 asked the question and asked the witness about it, "Who at
12 the DPU was responsible for reviewing the lead/lag study?"
13 And the answer was -- the one that was put in the
14 record -- that Ron Burrup and --

15 CHAIRMAN BOYER: Mr. Mojo.

16 MR. GINSBERG: -- yeah, Mr. Mojo may have
17 reviewed it. And it strikes me that that's probably the
18 best answer you're going to get.

19 CHAIRMAN BOYER: Well, you know, I'm sympathetic
20 to Ms. Rackner's challenge here in proving a negative,
21 proving that nothing was produced, but on the other hand
22 it was a settled case, settled midstream. Whether or not
23 work was done, should have been done, was in process and
24 so on, I'm just not sure how relevant it is. So I think
25 what we'll do is we'll take judicial notice -- or

1 administrative notice of what was filed at least at that
2 point in time when the case was settled and leave it at
3 that.

4 Now, are there objections to the admission of
5 4 -- or RMP 4 Cross, 7 Cross and 6 Cross?

6 MR. GINSBERG: One is the Towers Perrin report?

7 CHAIRMAN BOYER: Yes, 4 is the Towers Perrin,
8 6 -- RMP Cross 6 is the data request, 7 is the response.
9 Seeing none, those are admitted into the evidence. Thank
10 you.

11 (RMP Cross-Exhibits 4, 6 & 7 admitted.)

12 Mr. Sandack any questions for this witness?

13 MR. SANDACK: No, Your Honor.

14 CHAIRMAN BOYER: Thank you, Mr. Sandack.

15 Mr. Dodge?

16 MR. DODGE: No, Your Honor.

17 CHAIRMAN BOYER: Mr. Reeder?

18 CROSS-EXAMINATION

19 BY MR. REEDER:

20 Q Good morning, Mr. Garrett.

21 A Good morning.

22 Q Let's go back and talk about our old friend
23 health care costs if we might for a minute.

24 A Okay.

25 Q I know you've spent a lot of time talking about

1 it this morning, but let's approach the topic that you
2 began to discuss during your cross-examination just a
3 moment ago about how health care costs may vary
4 geographically. Do you recall that line of questioning?

5 A Yes, I do.

6 Q In your experience, is it true that health care
7 costs vary geographically?

8 A Yes.

9 Q And is it the case that if the health care costs
10 vary geographically that one needs to look at the relative
11 costs in the state in which rates are being set in
12 comparison with the other states so as to not have a
13 cross-subsidy in health care?

14 A Well, in general terms I would agree with that.
15 It would depend somewhat on how cost are allocated. But
16 in general, yes.

17 MR. REEDER: I'd ask to have marked as the next
18 exhibit in order a document titled, "State Health Facts"
19 from Kaiser Foundation.

20 Q (BY MR. REEDER) Mr. Garrett, you've had
21 occasion to look at the document that's been marked for
22 identification as -- Mr. Chairman, I think it's 10.

23 CHAIRMAN BOYER: According to my records it will
24 be UIEC Cross-Exhibit 10.

25 Q (BY MR. REEDER) Have you had occasion to look

1 at Exhibit 10?

2 A Yes.

3 Q It purports to be a ranking of health care costs
4 by state of all states, does it not?

5 A It appears to be that, per capita expenditures.

6 Q Have you had occasion to examine where Utah
7 falls in that ranking for that period of time?

8 A Well, it's very low. These are -- these are in
9 alphabetical order, so it falls alphabetically near the
10 end, but I can't --

11 Q I discovered that, too. But I also discovered
12 that numerically it also ranks in the same position.

13 A I don't -- I'm trying to find a cost -- a state
14 that has been lower. Utah's per capita health care costs
15 are the lowest of the 50 states.

16 Q Would you compare that with health care costs in
17 say Oregon?

18 A Oregon is 4,880, compared to Utah at 3,972. I
19 see states that are higher than Oregon, but it's much
20 higher than Utah.

21 MR. REEDER: I'd ask to have marked as the next
22 exhibit in order Total Health Care Cost per Capita for the
23 year 2006, again from Kaiser Foundation.

24 CHAIRMAN BOYER: Well, mark this is UIEC
25 Cross-Exhibit 11.

1 Q (BY MR. REEDER) Mr. Garrett, this exhibit
2 that's been marked for identification as Exhibit No. 11 is
3 a bit more user friendly, isn't it?

4 A Yes.

5 Q Can you tell us where Utah ranks in health care
6 costs nationally on that exhibit?

7 A This exhibit is a chart, so it's a little
8 easier. And Utah is at the bottom of the chart with the
9 lowest health care costs.

10 Q If Utah has the lowest health care costs of the
11 states in the nation, and we start to average costs across
12 states with higher-cost states, what happens to the
13 implicit health care costs in electric rates in Utah?

14 A Well, if a low-cost state is averaged with
15 higher-cost states the average will go up.

16 Q Thank you.

17 MR. REEDER: I would ask to have marked as next
18 exhibit in order another page from the Health State Facts.

19 CHAIRMAN BOYER: This exhibit will be marked
20 UIEC Cross-Exhibit 12.

21 Q (BY MR. REEDER) Mr. Garrett, you have a
22 document in front of you that's been marked for
23 identification as Exhibit No. 12?

24 A I do.

25 Q That document purports to show the rate of

1 growth for health care spending per capita by state, does
2 it not?

3 A Yes, for the period 1991 through 2004 it says.

4 Q Can you tell us what it shows for the rate of
5 growth for health care expenditure for a state like Utah?

6 A Utah shows an average health rate over that
7 period of 5.7 percent.

8 MR. REEDER: Thank you, nothing further.

9 MS. RACKNER: Well, first of all, are you not
10 moving these into the record?

11 MR. REEDER: Well, I'm going to wait to see what
12 you're going to say.

13 MS. RACKNER: Okay. I'm going to object on the
14 basis of relevance and lack of foundation. Mr. Reeder has
15 handed the witness a number of documents purporting to
16 show a lot of facts and figures that I don't believe that
17 this witness can authenticate. And there's so little
18 information as to where the data was drawn from, these
19 charts, that I don't think that any kind of foundation can
20 be laid for them.

21 MR. REEDER: Anyone who's familiar with health
22 care knows the Kaiser Foundation is preeminent source of
23 information on health care by state in the nation. Do you
24 doubt that, Counsel?

25 MS. RACKNER: Well, this witness did not prepare

1 these documents. This witnesses hasn't had time to review
2 the studies on which the documents were based. And it
3 also was my understanding that the Commission was not
4 going to allow parties to make their cases through
5 friendly cross in this case.

6 MR. REEDER: Are you contending this witness was
7 surprised?

8 MS. RACKNER: I don't think I said anything
9 about surprise.

10 MR. REEDER: I'm sorry. I don't understand your
11 objection so that I can respond to it. That's what I'm
12 trying to get to.

13 MR. GINSBERG: It also strikes me that these
14 exhibits are as relevant as the other reports that have
15 been filed in the record, the Towers Perrin and Hewlett
16 reports. And these are outstanding, reputable
17 organizations that produce analyses of health care costs
18 in this country. I mean, they're as helpful as anything.

19 MS. RACKNER: Well, the Towers Perrin report was
20 a report on which Mr. Garrett relied in making his
21 recommendation in this case, so he laid the foundation for
22 that report, and his testimony made that report relevant.

23 The Hewitt study was one that the Division
24 itself offered. Frankly, we debated among ourselves as to
25 whether we should object to its admission into the record.

1 But because they were the consultants that Mr. Wilson
2 relied on, we felt that the Commission might want to
3 review that article in the course of its deliberations and
4 so we allowed it into the record.

5 The Kaiser Family Foundation's studies on health
6 care costs in Utah have never been a part of this case.
7 And, for example, I mean, I haven't had a lot of time to
8 look at these, just a couple minutes, but when it says,
9 "Health Care Expenditures Per Capita By State," I don't
10 know if that includes Medicare and Medicaid, I don't know
11 if it includes dental, prescription drugs. I don't know
12 what this includes or refers to, and I don't know how it
13 relates to the health care costs that the Company's
14 expecting to incur in the test period.

15 MR. REEDER: Ma'am, the health care expenditures
16 has nothing to do with the payment source, Medicare or
17 Medicaid. This is what is spent on health care, not who
18 pays it. The document speaks for itself on that front.

19 CHAIRMAN BOYER: Well, Ms. Rackner does raise a
20 couple of objections or bases for her objections that give
21 me cause for some concern. One is the foundational aspect
22 of. And you can may be get around it by asking
23 Mr. Garrett what he knows about rates in the various
24 states based on his experience, because he is an expert in
25 the field. Maybe something like that.

1 But the other thing is: Does this go beyond the
2 scope of Mr. Garrett's testimony? Direct and rebuttal and
3 surrebuttal testimony? And we did at the beginning say
4 we'd try not to approve our cases through cross-
5 examination. But why don't you see if you can lay either
6 a foundation for this or get your information in some
7 other way and we'll let you ask a few questions.

8 Q (BY MR. REEDER) Let's ask Mr. Garrett if he's
9 familiar with the -- if he's had occasion to review and is
10 familiar with the work of the Kaiser Foundation on health
11 care.

12 A On occasion, yes.

13 Q And do you understand them to be one of the
14 preeminent reporting sources on health care costs in
15 America?

16 A I know they are a respected source.

17 MR. REEDER: That, sir, I think lays the
18 foundation. I submit that health care costs -- I'm simply
19 supporting Mr. Garrett's recommendation. This is not a
20 new issue, this is simply supporting his recommendation.

21 CHAIRMAN BOYER: Okay. We're going to admit
22 them and give them appropriate weight. There's still a
23 question about foundation and the authenticity of the
24 documents, because you didn't make the copies you didn't
25 do the research.

1 (UIEC Cross-Exhibits 10, 11 & 12 admitted.)

2 CHAIRMAN BOYER: Okay. Mr. Reeder, further
3 questions?

4 MR. REEDER: I would move for admission.

5 CHAIRMAN BOYER: Okay. As I've already decided,
6 we'll admit them for those -- with those conditions.
7 We'll give them appropriate weight in our deliberations.
8 Thank you, Mr. Reeder.

9 Mr. Matteis?

10 MR. MATTHEIS: No questions, Your Honor.

11 CHAIRMAN BOYER: Commissioner Allen?

12 COMM. ALLEN: I have a couple questions here
13 that may not have been answered. They deal with
14 productivity gains. You recommended adjustments for
15 future test year. If I remember right, the overall one
16 percent rate that you were applying results in about a \$5
17 million adjustment, 2.4 million to Utah. Have I got is
18 that roughly?

19 THE WITNESS: I think that's right.

20 COMM. ALLEN: Have other states -- now that we
21 have future test years showing up more and more around the
22 country, have other states taken into account productivity
23 gains in their adjustments?

24 THE WITNESS: We have limited experience with
25 future test years. I know California has some. Nevada

1 has a statute now that they'll be using future test years
2 in the next rate case. So in November when they file
3 we'll be looking at a future rate case there for the first
4 time.

5 There aren't very many -- so there haven't been
6 very many future rate cases used. Utah is somewhat out on
7 the cutting edge of this. And there's certainly been
8 very, very few that have been litigated so that we
9 actually have, you know, commission decisions on how to
10 treat things in these cases.

11 Now, in the San Diego Gas and Electric case that
12 I cited in my testimony, it was a projected situation, and
13 they agreed there -- it wasn't litigated, but the parties
14 all agreed to -- it was about a one percent. But, I'm
15 sorry, I can't remember the exact number. But they agreed
16 to a number to include for productivity gains to offset
17 the payroll increases.

18 COMM. ALLEN: So there may be some stipulated
19 examples, but you can't think of a litigated one at this
20 point?

21 THE WITNESS: I can't think of a litigated
22 example because there have been so few litigated future
23 test year cases. It's something that's fairly new. After
24 we move away from regulation in the '90s and didn't have
25 rate cases for so long, now everyone has kind of come back

1 to rate cases and we're seeing them just piling up. But
2 most of the -- still most of the rate cases we see are
3 historic test years. There are very, very few future test
4 year cases.

5 COMM. ALLEN: And you use what's called the BLS
6 study to look the productivity gains; is that correct?

7 THE WITNESS: Yes.

8 COMM. ALLEN: And that's just a -- that's a
9 general -- if I have that right, it's a general cross
10 industry study of productivity?

11 THE WITNESS: Right. We use the business sector
12 productivity study because it produced the most
13 conservative, the lowest productivity gain number.

14 COMM. ALLEN: And I'm just curious, did you take
15 a look at any of the historical company data to see if it
16 at least trended the same direction and was consistent?

17 THE WITNESS: The power company?

18 COMM. ALLEN: Yes.

19 THE WITNESS: Well, I think they far outpaced
20 that in productivity. And that was very typical of the
21 electric industry. It was three-and-a-half percent over
22 the last few years. But I thought it would be unfair to
23 project out a couple years using the past few years of
24 experience, because they had been significant over those
25 few years.

1 COMM. ALLEN: Thank you.

2 CHAIRMAN BOYER: Mr. Campbell?

3 COMM. CAMPBELL: What was the time period for
4 the semiannual report that you relied on for your
5 capitalization ratio?

6 THE WITNESS: The numbers that were included in
7 the semiannual report were the actual numbers for 2007, so
8 ending December 2007. So the base year that we're working
9 off of in the case ended June of 2007. So the semiannual
10 report was six months later.

11 COMM. CAMPBELL: And so the previous -- the
12 previous June '07 report was the 26.6 percent that the
13 Company used?

14 THE WITNESS: That's right. That's what the
15 base year was founded on was -- the base year made
16 adjustments to payroll and benefits and then carved out 26
17 percent of those and put them on the balance sheet.
18 Instead, we set based rates upon remaining 74 percent.
19 And then in the -- and then they used that 26 percent for
20 the next 18 months. As they projected costs out for 18
21 months they used a 26 percent carve-out for
22 capitalization.

23 That rate has actually changed now to 28
24 percent, and so as we project out for another 12 months
25 for this -- because we're really trying to get to December

1 of 2008 -- the 28 percent should be used because that's
2 the real capitalization rate now.

3 And there was testimony from the Company that
4 the capitalization rate should go up during a construction
5 expansion period.

6 COMM. CAMPBELL: That was my -- that was my
7 second question. The Company, in questioning you, talked
8 about the significant build cycle. Is there a reason that
9 one would not project out from that actual number a
10 different capitalization ratio since we are using
11 projections?

12 THE WITNESS: If you're going to change
13 something from what's actually there -- I mean, if you
14 were going to try to project a capitalization ratio, you
15 would project a much higher one, because as the Company
16 engages in capital expenditure programs, typically the
17 capitalization rates are much higher.

18 The 26 percent used by the Company struck me as
19 very low. Most utilities I look at are in the 35 to 40
20 percent range. But there are some utilities that contract
21 for a lot of their building, so it wouldn't impact their
22 ratio as much. So it depends upon the company.

23 So that's why we were willing to use the
24 Company's number and not try to make one up for them or
25 project one for them. But we believe that the actual

1 number of the Company should be the one that's used, not
2 one that's outdated and we already know is wrong.

3 COMM. CAMPBELL: In your experience, companies
4 that use future test periods, do commissions identify the
5 capitalization ratio?

6 THE WITNESS: Yes, the commissions would
7 identify the capitalization ratio I think in historic test
8 years and in projected test years. It's a number that
9 needs to be established by the commission.

10 COMM. CAMPBELL: Thank you.

11 THE WITNESS: Just for the purpose of setting
12 rates.

13 CHAIRMAN BOYER: I have a couple questions as
14 well, Mr. Garrett. I believe that if I recall correctly
15 in your written prefile testimony you testified that some
16 states -- and I can't remember whether you said it was
17 required or it was the practice in those states to have a
18 current legalized study filed in conjunction with the rate
19 case. Can you refresh my memory of what you testified?

20 THE WITNESS: I don't know all the jurisdictions
21 that do. I just was talking about the ones -- I put in my
22 testimony I was talking about the ones that I was familiar
23 with. And of the FCC required currently lag studies, I
24 know that Iowa by statute requires a current lead/lag
25 study.

1 CHAIRMAN BOYER: What do you mean by that?

2 Within last six months? The last year? Concurrent?

3 THE WITNESS: Using test year data. Now, Texas
4 requires a lead/lag study to support its cash working
5 capital requirement. If not, it would come in and file
6 one. Texas awards a negative one-eighth of operating
7 expense, which here might be a negative \$200 million in
8 cash working capital reduction in rate base.

9 So the penalty is severe. So in Texas, in all
10 the rate cases I've done there, there's always a lead/lag
11 study, and it's always current. Because you can't take
12 the risk -- because the way the statute reads is a valid
13 lead/lag study that the commission can rely on. Well,
14 they don't take the risk of it maybe being too old, so
15 they always submit current studies.

16 And then in Oklahoma, Kansas, and Nevada, the
17 other states I practice in, they all require current
18 studies. And by "current" I don't necessarily mean it has
19 to be test year results, because the companies file the
20 rate case every year, which is very, very rare, but
21 sometimes they can come very quickly. To do a brand-new
22 lead/lag study may not be required, but it needs to be
23 contemporaneous enough to reflect test year experience,
24 and it has to have the data available for the auditors and
25 other parties to review.

1 CHAIRMAN BOYER: Thank you. And my second
2 question is related also to lead/lag studies. I know, at
3 least speaking for myself, I've taken to paying my bills
4 on line now. And what I find myself doing is paying them
5 earlier than I used for a couple reasons, just for
6 convenience, getting them off, saving the postage, and the
7 float is hardly, you know, measurable anymore, a percent
8 on your account balance.

9 I'm wondering what -- do you have any
10 information, do you know what the influence of these new
11 technologies -- for example, AMR? I'm assuming that using
12 this technology to read meters reduces the time it takes a
13 company to recover that information and collect enough
14 information to send out bills. Does that have any
15 influence on the lag time between providing the service
16 being paid for it?

17 THE WITNESS: Well, it certainly should. And I
18 don't know for this company how the automatic -- automated
19 meter reading service will impact the lead/lag study.
20 What you should see is a reduction in the lag days for
21 revenue on the revenue side.

22 And you're exactly right, companies have been
23 pushing down the lag on the revenue for years now with
24 technology such as automatic -- automatic bill paying.
25 And customers sometimes get on average bill pay and things

1 like that where their account is debited a certain amount
2 each month, which takes away all of the billing time and
3 the check time and the slow pays and everything.

4 So these -- the revenue lags have been coming
5 down with utilities as they implement the new technology.
6 That's why you're seeing, for many utilities, days -- lag
7 days in the 39 -- 38 and 39 range, instead of the 43, 44.

8 PacifiCorp still takes four to five day after
9 the service is provided to get the bill out. TXU, on the
10 other hand, sends the bill out that same day. So that's
11 five days that's cut off the revenue lag right there.
12 Just by the use of computers and other technology, they're
13 able to submit the bill immediately.

14 So there's all kinds of technological changes,
15 many of them that have occurred over last few years, that
16 would bring those lag days down on the revenue side where
17 the Company's revenue lag seems appears to be very high.

18 CHAIRMAN BOYER: Thank you, Mr. Garrett.
19 Redirect, Mr. Ginsberg?

20 MR. GINSBERG: I don't think I have any
21 questions.

22 CHAIRMAN BOYER: Thank you so much. You may
23 step down.

24 MS. RACKNER: Mr. Chairman --

25 CHAIRMAN BOYER: You've had your turn.

1 MS. RACKNER: If we could, before the witness
2 leaves the stand, I wanted to make Mr. McDougal available
3 to respond to some of the questions that you were asking
4 about the automated meter reading, but I'll defer to
5 Mr. Sandack first.

6 CROSS-EXAMINATION

7 BY MR. SANDACK:

8 Q I was just -- I had a question about
9 Mr. Reeder's exhibits. I have two of the three. Did you
10 depend on any of these exhibits, yourself, in your
11 analysis and recommendation?

12 CHAIRMAN BOYER: I think he's referring to the
13 Kaiser.

14 MR. SANDACK: Right, Kaiser.

15 THE WITNESS: No, I did not use them in my
16 testimony.

17 Q (BY MR. SANDACK) The per capita figures, would
18 you say that attributing Utah's -- Utah generally has a
19 younger, more populous state. Is that your understanding
20 of Utah's demographic makeup?

21 A I wouldn't know.

22 Q Would you think that would have an impact on the
23 per capita spending?

24 A Health care costs per capita for a younger
25 population could have an impact, I suppose.

1 Q It would be less for a younger population, would
2 they not?

3 A Yeah, I would say it's possible. And if it were
4 the case, it would -- it's possible that it would be less.

5 Q Do you know how that compares to -- wasn't your
6 assessment that PacifiCorp employees were an older
7 demographic population with fewer dependents; isn't that
8 correct?

9 A I think that was the Company's rebuttal, yes.

10 Q I thought your demographics also agreed with
11 that. Did you look at the demographics?

12 A No. That was I think the Company's testimony.

13 MR. SANDACK: Oh, okay. That's all I have.

14 CHAIRMAN BOYER: Okay. Thank you, Mr. Garrett.
15 You may step down. Let's now hear from Mr. Schultz from
16 the Committee. Mr. Schultz, have you been sworn in this
17 proceeding?

18 MR. SCHULTZ: No, I have not.

19 CHAIRMAN BOYER: Would you please stand and
20 raise your right hand?

21 HELMUTH SCHULTZ,
22 called as a witness, having been first duly sworn, was
23 examined and testified as follows:

24 CHAIRMAN BOYER: Thank you, please be seated.
25 I'm not sure if you were here yesterday, Mr. Schultz, but

1 we've been inviting witnesses to give brief summaries in
2 as much as the Commissioners have all read the written
3 prefiled testimony.

4 MR. PROCTOR: Mr. Chairman, I believe that we
5 need to enter Mr. Schultz's testimony.

6 CHAIRMAN BOYER: That is correct, we do.

7 DIRECT EXAMINATION

8 BY MR. PROCTOR:

9 Q Mr. Schultz, I just have a couple of questions
10 before you begin with your summary. Would you state your
11 name and spell it for the reporter and also tell us by
12 whom you are employed.

13 A My name is Helmuth W. Schultz, III. It's
14 H-e-l-m-u-t-h. I am employed by Larkin & Associates, and
15 we were retained by the Committee of Consumer Services.

16 Q Did you file prefiled with written direct
17 testimony marked CCS Exhibit -- or excuse me, Exhibit CCS
18 6D Schultz on April -- April 7th, 2008, consisting of 27
19 pages, and Exhibit 6.1 through 6.7 plus Appendix 1, and
20 did you also file prefile written surrebuttal testimony on
21 May 23rd of this year marked CCS 6 SR Schultz?

22 A That is correct.

23 Q And do you have any corrections that you wish to
24 make to the testimony that you have prefiled?

25 A I think any changes have been identified in my

1 surrebuttal testimony.

2 Q If I were to ask you today the same questions
3 that you answered in that prefiled testimony, would your
4 answers remain the same?

5 A Yes, with the exception of what was filed in the
6 surrebuttal testimony.

7 MR. PROCTOR: The Committee would move for the
8 admission of the exhibits as I've identified.

9 CHAIRMAN BOYER: Are there any objections to the
10 admissions of Mr. Schultz's direct and rebuttal testimony
11 together with their exhibits?

12 (No response.)

13 CHAIRMAN BOYER: They are admitted into
14 evidence.

15 (CCR Exhibits 6D, 6.1-6.7, and 6SR admitted.)

16 CHAIRMAN BOYER: And, Mr. Schultz, you have such
17 a strong voice I'm going to ask you to do the opposite of
18 everyone else and move the mic in as much as we're
19 disturbing our neighbors in our other hearing room. Okay.
20 With that, Mr. Proctor?

21 Q (BY MR. PROCTOR) Mr. Schultz, have you prepared
22 a written -- or a summary of your testimony that you've
23 presented here?

24 A Yes, I have a briefly summary. The Company's
25 request for an increase in rates must be supported and/or

1 justified. The Company has not met the burden of proof
2 obligation in forecasting merit increases to exempt and
3 nonexempt employees in assuming that overtime would
4 continue at a level that included significant storm-
5 related time, in projecting its employee benefits, and in
6 assuming that relocation costs only increase and do not
7 fluctuate from year to year.

8 Specifically with respect to these individual
9 adjustments that I've recommended, my comments in summary
10 are in general not overall inconclusive of everything that
11 I've identified in testimony. For example, the merit
12 increase of three-and-a-half percent for nonexempt and
13 exempt employees requested by the Company is not supported
14 by any documentation within this filing.

15 The only information provided by the Company to
16 justify that in any documented form was an attachment to
17 Mr. Wilson's surrebuttal testimony. That attachment,
18 Mr. Wilson suggested is the basis for the three-and-a-half
19 percent. That testimony actually conflicts with the fact
20 that the Company has stated that their compensation is
21 evaluated on an overall market perspective.

22 The incentive compensation is compensation that
23 the Company has requested, and they have not provided any
24 supporting justification that the cost of the incentive,
25 with or without taking into consideration the base pay, is

1 supported by the -- by any document. No document supports
2 that position by the Company. The Company has indicated
3 that incentive pay is at risk; however, the payment and
4 the goals suggest otherwise.

5 Overtime increased significantly in 2006 and
6 2007. That overtime was the basis for carrying forward
7 what was reflected in the test year. That overtime was
8 approximately 20 percent higher than the previous three
9 years. The Company's explanation for that was it reflects
10 the fact that there were storms, a change in
11 capitalization, and it also reflects the fact that there
12 was a change in the employee levels.

13 That, in itself, actually kind of is opposite to
14 what the Company assumed when they provided their
15 testimony as to the complement of the employees where they
16 assumed that the vacancies are all filled.

17 The medical costs for the test year are an
18 offshoot from forecasts and historical information. The
19 Company's forecast for 2007 was significantly higher than
20 their actual results.

21 Relocation costs are costs that fluctuate from
22 one year to the next. That's what the evidence showed.
23 And the Company contends that we have to base it on the
24 most recent year -- actually, I can correct that. They
25 contend you base it on the test -- the base year, I'm

1 sorry, the base year, which is actually higher than the
2 calendar year 2007 and higher than the previous years. So
3 they've taken the highest year overall and used that as
4 their stepping stone for relocation costs.

5 Other employee benefits, there are adjustments
6 there that I've made because again the Company failed to
7 provide justification for the level that they're
8 requesting. That is my summary in brief.

9 CHAIRMAN BOYER: Thank you, Mr. Schultz.

10 MR. PROCTOR: Mr. Schultz is available for
11 cross-examination.

12 CHAIRMAN BOYER: Okay. Should we begin with the
13 Company? Your turn again, Ms. Rackner.

14 MS. RACKNER: Yes, thank you. I have not
15 prepared the exhibits only because I expected a longer
16 summary that thought that we would have a lunch, so if
17 you'll indulge me for a minute I'll go grab packets of
18 exhibits and hand them out.

19 CHAIRMAN BOYER: Or what we could do is begin
20 with Mr. Ginsberg while you're organizing and you can have
21 the opportunity to organize your work.

22 MR. GINSBERG: It's not going to give her any
23 time.

24 CHAIRMAN BOYER: We'll just keep going around
25 until we find someone.

1 MS. RACKNER: We could take an early lunch hour,
2 too, if that works out. I'm just trying to save us time
3 on handing out exhibits.

4 CHAIRMAN BOYER: Well, let's see if Mr. Ginsberg
5 has any question.

6 MS. RACKNER: Okay.

7 MR. GINSBERG: No questions.

8 CHAIRMAN BOYER: Mr. Sandack, do you have any
9 questions for Mr. Schultz?

10 MR. SANDACK: I have questions, but I'm wanting
11 an exhibit myself that I don't have.

12 CHAIRMAN BOYER: All right. Well, let's break
13 for lunch. Let's take an hour-and-a-half and be back here
14 at 1:15.

15 (Whereupon, lunch recess was taken.)

16 CHAIRMAN BOYER: Okay. Let's go back on the
17 record. We were about to hear Ms. Rackner's cross-
18 examination of Mr. Garrett (sic). Before we start that,
19 though, we have one little housekeeping issue we would
20 like to mention to counsel and the parties.

21 And we're wondering -- what we would like at the
22 end of the case -- well, prior to the hearings the parties
23 got together and prepared a matrix of disputed issues.
24 Some of the positions have changed during the conduct of
25 these hearings, and we would like to ask at the -- at the

1 end the hearings, which hopefully will be Thursday
2 evening, sometime after that, we would like to ask the
3 parties to update that matrix of contested issues to
4 reflect the changes in position that were made during the
5 hearings.

6 Does that seem like a reasonable request? It
7 would really help us in the deliberations in granting the
8 order. Thank you.

9 Okay. With that we'll start with Ms. Rackner
10 and then we'll move to Mr. Sandack.

11 MS. RACKNER: Thank you, Mr. Chairman.

12 CROSS-EXAMINATION

13 BY MS. RACKNER:

14 Q Good afternoon, Mr. Schultz.

15 A Good afternoon.

16 Q The first thing I would like to do today is to
17 ask your assistance to help me to get some documents into
18 the record, and I'm just going to ask you some questions
19 to lay a foundation. They are -- and we're going to
20 distribute them around the hearing room. They are
21 confidential, so if anybody -- I assume that everybody at
22 counsel table has signed the confidentiality agreement.

23 CHAIRMAN BOYER: I think that's a -- that's a
24 fair assumption.

25 Q (BY MS. RACKNER) Have you had a chance to look

1 at that, Mr. Schultz?

2 A Briefly. There's a lot of

3 Q I'll tell you what, I'm going to ask very basic
4 questions about them in an attempt to lay a foundation,
5 and if you find you need to look any more at them before
6 you answer, just let me know.

7 The first document is a white document, which
8 means it's nonconfidential. We've labeled it RMP 8 RR,
9 and at the top -- it's a chart, it says, "Job Code, Job
10 Title, Grade, Minimum, Midpoint, Maximum, Total Comp." Do
11 you see that?

12 A Mine says 9.

13 CHAIRMAN BOYER: Yeah, you've marked that as 9R
14 or 9RR.

15 Q (BY MS. RACKNER) Do you have a pen up there
16 with you?

17 A I can get one.

18 Q Thank you. Could you mark that one 8? And I
19 want to ask you: This is a document that the Company
20 calls its master job listing, and I wanted to ask whether
21 you recognize this as being the document that you referred
22 to in your direct testimony on page 11.

23 A Yes.

24 Q Okay. Thank you.

25 CHAIRMAN BOYER: Ms. Rackner, so that the record

1 is clear and the reporter understands what we've done
2 here, what you handed us has been previously marked as
3 Cross Exhibit RMP 9 RR. You've asked us to re-mark it as
4 8; is that correct?

5 MS. RACKNER: It looks like my copy is the only
6 one that's miscopied, so perhaps what we should do is
7 stick with 9 on this one if everybody's says 9.

8 MR. PROCTOR: Mine says 8.

9 CHAIRMAN BOYER: Let's go with 8. We just
10 changed it to 8, and move forward from there. So it's a
11 -- it's a white document consisting of a number of pages,
12 and at the top left it says, "Docket 07-035-93/Utah GRC
13 2000, CCS Data Request 4.9."

14 Q (BY MS. RACKNER) Thank you. The next document
15 -- and we'll just make sure it's marked 9 for everybody.
16 It says, "temp casual hhaul excluded" on the top. It's a
17 confidential document.

18 CHAIRMAN BOYER: I've changed it to 9.

19 MS. RACKNER: Thank you.

20 Q (BY MS. RACKNER) Is that the February 22nd
21 confidential document that you referred to in your direct
22 testimony?

23 A I can't say with a hundred percent accuracy, but
24 it appears it may be.

25 Q Would it help you to take a little bit of time

1 to look at it and compare it to your testimony?

2 A Well, it would take some time to look at it and
3 go through a lot of detail and try to make a comparison.
4 Like I said, it appears to be it.

5 Q And I'm wondering if subject to check, perhaps
6 at a break, you would be willing to accept that that's the
7 February 22nd confidential employee listing?

8 A I'll accept that, subject to check.

9 Q Thank you. Perhaps you can get back to us after
10 the break and let us know.

11 A I guess the one thing I would just qualify on
12 it, I mean, I was looking at an electronic version. So to
13 the extent that, you know, every number is exactly the
14 same is something I would not be able to do. I can't
15 confirm every number on there. I can't tell you that
16 specifically.

17 Q Okay. I accept that. Thank you. And do you
18 have another document in front of you?

19 A Yes.

20 Q And if it's not already, could you mark it Cross
21 Exhibit RMP 11? It's a confidential one-page document.

22 A Okay.

23 CHAIRMAN BOYER: You premarked this RMP 10 RR,
24 which is the next in sequence. Shall we go with 10?

25 MS. RACKNER: Yes.

1 Q (BY MS. RACKNER) Do you recognize that
2 document?

3 A Yes, I do.

4 Q And is that the midpoint study that you referred
5 to in your testimony on page 11? And perhaps let me
6 rephrase my question. Is that the result of your research
7 on which you based your testimony on page 11?

8 A Yes. This is a sample of the items that are
9 included in RMP Exhibit 8, the midpoint amounts that are
10 in that column.

11 Q Thank you. No further questions on these
12 documents, if you want to set them aside.

13 MS. RACKNER: RMP would offer Cross-Exhibits 8,
14 9 and 10.

15 CHAIRMAN BOYER: Are there objections to the
16 admission of RMP Cross-Exhibits 8, 9 and 10?

17 MR. SANDACK: I have some voir dire. What is
18 the date? Is there a date associated with RMP 8, may I
19 ask, in terms of...

20 CHAIRMAN BOYER: On the bottom right corner it
21 has bears the date 5/30/2008.

22 THE WITNESS: If I may, according to the
23 software disk that I had, it indicated that this is the
24 compensation levels as of February 22nd, 2008.

25 MS. RACKNER: That would be correct.

1 MR. SANDACK: That's all I have. Thank you.

2 MR. PROCTOR: Mr. Chairman, I don't have an
3 objection. I do have a request to the Company's counsel.
4 My understanding is that RMP 10 was the Committee's
5 response to a data request. Is that...

6 MS. RACKNER: : Yes.

7 MR. PROCTOR: Would it be helpful to the
8 Commission -- and I know it would be helpful to me -- if
9 the request is available readily we could attach that to
10 this?

11 MS. RACKNER: I may not be able to get it right
12 now, but certainly we can bring it before the record is
13 closed.

14 MR. PROCTOR: Would you mind adding that? I
15 would assume that would be helpful to you as well.

16 MS. RACKNER: That would be helpful.

17 CHAIRMAN BOYER: Yes, that would be helpful.

18 MR. PROCTOR: Thank you. Otherwise, no
19 objection.

20 CHAIRMAN BOYER: Anyone else have an objection?
21 I want to treat these with the care demanded of
22 confidential documents, but having said that, we'll admit
23 that into evidence.

24 (RMP Cross-Exhibits 8, 9 & 10 admitted.)

25 Q (BY MS. RACKNER) Mr. Schultz, I want to move to

1 the topic of your testimony on the Company's incentive
2 compensation plan. Mr. Wilson testified that he expects
3 that the Company will pay out the target amount of
4 incentive pay year after year. And you have argued that
5 this intent is contradictory to the Company's philosophy,
6 but he also testified to that incentive pay is at
7 risk. Is that a fair summary of your testimony?

8 A Part of my testimony, yes.

9 Q On that topic, is that a fair summary, that you
10 view the statement that the target amount will be paid out
11 year after year contradicts the statement that the
12 Company's philosophy is incentive pay is pay at risk?

13 A As I said, it's part of my testimony regarding
14 incentive comp. It's not the entirety of my testimony
15 regarding incentive pay.

16 Q I understand that. Would you agree, though,
17 that incentive pay could be at risk for an individual, but
18 not for the entire Company?

19 A I would agree that if it's structured as such,
20 it could be that way, yes.

21 Q Okay. And let's assume that -- well, let me
22 back up a little bit. Incentive pay is intended to
23 motivate employee behavior, is it not?

24 A Yes.

25 Q And if you were the average employee, which do

1 you think might be a more powerful motivator to you, the
2 amount that's paid out by the Company in the aggregate, or
3 the amount that would be paid to you personally?

4 A From the employee's perspective?

5 Q From the employee's perspective.

6 A From the employee's perspective, they're looking
7 to get what they can get, so it would be to the extent
8 that they're getting a benefit, they'll take that.

9 Q Now, on page 16 of your surrebuttal you point
10 out -- and it's one of your criticisms of the Company's
11 plan -- that many of the goals contained in the employee's
12 role sheets that we provided are goals that seem to set
13 goals for normal expectations. Do you agree?

14 A Yes.

15 Q And you've also said that for incentive pay to
16 be reasonable, it must be paid out for performance over
17 and above normal expectations of the job. Again, is that
18 a fair summary on that topic?

19 A That is correct. Incentive pay, in order to be
20 truly incentive pay, requires that you perform something
21 over and above what you would normally be required to do.

22 Q And in one of the data requests that the Company
23 sent to you, the Company asked for support for that
24 statement that for incentive compensation to be reasonable
25 and allowed, it must be paid only when employees perform

1 at a level that is over and above the normal expectations
2 of the job. Do you recall that data request?

3 A Yes.

4 Q Okay. I'm going to bring it up to you because I
5 would like you to refer to it. Have you had a chance to
6 review the response to that data request?

7 A Yes.

8 Q One example -- first of all, you say that --
9 again, that your view that incentive pay is something that
10 stimulates employees to action. And you give an example
11 of incentive pay I think to illustrate your point that it
12 only ought to be paid out for above-average performance.
13 And you say, "For example, a contractor will be paid an
14 agreed-upon amount if he completes his pay successfully."
15 Do you see that? It's in the middle of the response.

16 A "If he completes his job successfully."

17 Q Right. "However, on some occasions that
18 contractor will receive an incentive if the pay is
19 completed ahead of schedule."

20 A "If the job is completed ahead of schedule."

21 Q Yes, thank you. And I agree. I'm familiar with
22 those types of contracts as well. But isn't it true that
23 it's quite common in those types of contracts that not
24 only does the contractor receive a premium if the job is
25 completed ahead of schedule, but isn't it also true that

1 very typically the employer -- the contractor will receive
2 less money for each day that the job is late?

3 A That is built into some contracts. Yes, it is.

4 Q And while the premium might be thought of as a
5 positive incentive to behavior, wouldn't you agree that
6 the penalty might be thought of as a negative incentive to
7 behavior?

8 A It can. The point -- the point I'm trying to
9 make -- I was using some very generic explanations here
10 and identifications. But as Mr. Wilson stated in his
11 testimony, incentive comp is at-risk pay. If you can
12 depend on that incentive comp being paid year after year
13 after year, where is the risk that you look at? There is
14 no risk. And I'd have to question as to how much could be
15 really at risk.

16 For example, in response to DPU 55.13, the
17 Company was asked to provide the number of incentive
18 payments that were less than target. There were ten
19 employee positions listed that received less than target.
20 And this is in a year where there were a number of valid
21 targets that were met. Targets for reliability, like
22 SAIDI and SAIFI, they weren't met. Yet they basically
23 received target payment or above in the incentive comp in
24 2007. It doesn't make sense.

25 The point is: Some of the requirements that are

1 there for incentive comp, like attending meeting, is not a
2 requirement for performance that you're really going to be
3 put at risk for. Attending or making your -- filling out
4 all the forms properly like you're supposed to, that's not
5 a risk. Making sure that you comply with some legal
6 requirement, that's not a risk. That's something that
7 you're originally hired to do and that's part of your base
8 pay requirement.

9 I mean, you have, as an employee, a fundamental
10 responsibility to your employer when they hire you to
11 perform certain functions that are day-to-day operations.
12 To assume that those same things can be applied to
13 incentive compensation is just not appropriate, especially
14 when you have some special functions that aren't so much
15 the individual responsibilities, like SAIDI and SAIFI,
16 that should be the more important measures. But from what
17 I can see in this case, they don't seem to be.

18 Q Well, would you agree with me that the way the
19 Company planned -- well, let me back up a little bit.
20 Again, you're pointing out jobs that you think that
21 just -- or goals that just describe average performance.
22 Would you agree that pay or compensation, total
23 compensation, for an employee who's performing at the
24 average level ought to be at the average market level?

25 A That's kind of an interesting perspective, too,

1 because first of all the Company initially stated
2 basically that, that they're taking that position.

3 In rebuttal testimony Mr. Wilson refers to the
4 fact that the basis for the merit increase is this
5 one-page document that shows these various merit increases
6 for different companies. Now, that seems to move away
7 from looking at it as a total picture.

8 On the other hand, the Company was asked to
9 provide documentation to show that they actually performed
10 an evaluation to substantiate their claim that they have
11 made a comparison of employee compensation to the average
12 market. They don't have any documentation that they could
13 provide to me.

14 When asked about how many jobs -- about whether
15 they compared the jobs and how they would do it, they
16 identified a process, but they don't have a tracking
17 mechanism. Yet in another response they said 65 percent
18 of the job are evaluated. How do you evaluate 65 percent
19 of the jobs if you don't have a tracking mechanism?

20 And another perspective is, besides the Company
21 is unable to provide that documentation to support that
22 market comparison that they say they are doing, the
23 comparison takes into consideration -- when you're looking
24 at a study you have different levels of compensation that
25 are built in there. You have the base compensation, you

1 have incentive compensation, you have total compensation.

2 And in saying that we should get our
3 compensation based upon what the market is, assumes that
4 the market is almost identical to Rocky Mountain Power.
5 And, in fact, the Company has said, "We don't know what
6 the goals or the operational results are of these
7 companies that we're comparing this compensation to."

8 And in addition to that, when you take in the
9 total compensation, in looking at it, the Company doesn't
10 have the information to tell you that part of that
11 incentive comp that was paid by other utilities isn't
12 necessarily included in rates. In fact, in some utilities
13 it's not included at all, some utilities have some of it
14 excluded, and there are some utilities that have it
15 entirely included.

16 So, I mean, you're trying to make a comparison
17 without any documentation to substantiate that claim, and
18 you also don't know what you're making that comparison to.

19 Q Mr. Schultz, I'm trying to remember where my
20 question was before you gave that answer, but I believe
21 that your answer is responding -- I asked you whether you
22 agree that for average -- and, again, this is a
23 hypothetical question -- whether for average performance
24 an employee ought to receive market compensation.

25 A And I'd say if you can tell me what that market

1 compensation is, and is that market compensation
2 comparable to that job description, then in that case it
3 would be right. But the Company hasn't been able to do
4 that in this case.

5 Q And you said that the market pay needed to be
6 appropriate for the job description, and I just want to be
7 clear. You would agree that in order to determine what
8 market pay would be appropriate for a particular job, you
9 would want to have the job description?

10 A You would want to have the full details of the
11 job description. And I know that your next question is
12 probably: Did you have the job description for those ones
13 that I made the comparison to? And I'll tell you I did
14 not have those job descriptions for the Company jobs, I
15 had the job descriptions from the studies.

16 But I'll also note that you can look at this
17 study in 4.9, which is an interesting factor that I noted.
18 Even though the Company has two different job codes in
19 this study, with two different pay ranges, and information
20 supplied in another data response, they provided the same
21 comparative job code from a study for the two different
22 job codes that they have identified.

23 Q Well, would you agree, though, that different
24 companies have different job descriptions perhaps for the
25 same title?

1 A There will be some changes in title depending on
2 the job. In fact, you probably will not find jobs that
3 are exactly alike.

4 Q I want to ask you a couple questions on your
5 proposal with respect to medical costs. You've testified
6 that the Company's medical expense should be reduced by
7 close to two-and-a-half million dollars on a Utah
8 jurisdictional basis; is that correct?

9 A If you want to cite me -- I mean, it sounds
10 right, but I'd like --

11 Q Certainly. I believe that would be found on
12 page 21 of your direct testimony.

13 A That's correct.

14 Q And in your testimony you refer to the process
15 by which you've calculated that adjustment, and I would
16 direct your attention to CCS 6.7, which I believe contains
17 your calculation.

18 A That's correct.

19 Q And would it be fair to say that you arrived at
20 your calculation by looking at the Company's forecast for
21 2007 and comparing it to actual medical expense for 2007
22 and determining the delta? Was that your first step?

23 A That's correct.

24 Q And then you looked at the Company's original
25 budget or forecast for 2008, and you simply subtracted or

1 you deducted the delta from the 2008. Do I have that
2 right?

3 A That's correct.

4 Q And at the bottom of this exhibit you have a
5 note that says, "According to CCS 417, the Company had
6 forecasted medical costs for 2007 through '9. The 2008
7 test year forecast included in the filing is a buildup
8 from the 2007 forecast. As the 2007 forecast was
9 significantly overstated based on actual results, the
10 above adjustment reduces the 2008 projected amount to
11 remove the impact of the significant overstatement." Is
12 that correct?

13 A That's what it says.

14 Q Do you now understand, based on additional
15 testimony, that the Company did not use the 2007 budget
16 number as the basis for its 2008 forecast?

17 A That's what was alluded to, and I addressed that
18 in my rebuttal testimony. And I don't agree that that's
19 really what happened. I mean, based upon the Company's
20 response to CCS 4.17 the Company identified the 2007
21 forecast numbers. And they identified the 2008 and the
22 2009.

23 And in the explanation of how it all was put
24 together, you take -- you take -- see the development was
25 kind of procedural. What the difference is is that the

1 2007 forecast -- and I guess this hinges on the 2008
2 numbers -- the 2007 forecast was adjusted for the July to
3 December 2007 budget. There was a special adjustment to
4 that effect, okay? Based upon more measurable information
5 that subsequently came about.

6 Q Let me ask you something else. Are you aware of
7 Mr. Wilson's rebuttal testimony where he states that the
8 actual medical costs for the January through March period
9 in 2008 totaled 13 million -- \$13,134,744?

10 A Yes, I recall that.

11 Q And do you agree that if you annualize that
12 number, you will produce a number for 2008 that exceeds
13 the amount requested by the Company in this case?

14 A If you annualize it. But that assumes one thing
15 in fact that may not be existent, and in a lot of cases
16 isn't existent, is that things are going to just continue
17 completely as they are for the three months.

18 To give you a perfect example of that, in a
19 recent case in Questar they had the same argument on some
20 medical costs. But what it didn't factor in is that at
21 year end there are always these adjustment to the O&M
22 expense that took place. And so then the annual expense
23 was reduced, because the -- in that case, six months later
24 wasn't -- the last six months wasn't as high as the first
25 six months.

1 In this case the Company's already made an
2 adjustment to the 2007 forecast because the budget was too
3 high, what they originally proposed. And so there are
4 factors that -- adjustments that occur after the fact that
5 may reduce the earlier amount that's being expensed.

6 Q But you don't have any reason to believe that
7 the amount that the Company is stating that they actually
8 incurred in the first quarter of 2008 is incorrect in any
9 way?

10 A I don't have any reason to believe that it's
11 incorrect, but I think I addressed that also in my
12 rebuttal testimony where I discussed how the first six
13 months of the year would have indicated that a certain
14 level of costs would occur, but then by the end of 2007,
15 that wasn't the case.

16 MS. RACKNER: If you'll give me just a moment I
17 may be done with this witness. I would just like to
18 chance to confer with my client.

19 CHAIRMAN BOYER: Certainly.

20 MS. RACKNER: That's all I have. Thank you,
21 Mr. Schultz.

22 THE WITNESS: Thank you.

23 CHAIRMAN BOYER: Thank you, Ms. Rackner. Let's
24 go now to Mr. Sandack.

25 MR. SANDACK: Thank you.

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CROSS-EXAMINATION

BY MR. SANDACK:

Q Mr. Schultz, I'm representing IBEW Local 57 in this proceeding. How do you do?

A Very good, thank you.

Q We're having a dispute over who actually owns this table, but don't mistake the fact that I'm a separate entity.

A I sympathize. You're outnumbered three to one.

Q I would like to call your attention here to your surrebuttal testimony. Is that in the record? I guess I'm confused about that. At page 12.

CHAIRMAN BOYER: Mr. Sandack, I can help on your inquiry there. The surrebuttal testimony was admitted into the evidence earlier today.

MR. SANDACK: Okay, I thought for some reason they referred to the direct and the rebuttal, but I must have been mistaken.

Q (BY MR. SANDACK) In any event, page 12 -- actually, the question begins on the preceding page, 11, where you're addressing the merit increases for nonunion employees.

You're asked, "Do you agree that merit increases for nonunion employees cannot be compared to Union increases?" Apparently this is drawn toward your

1 testimony that the Union's increases were three percent,
2 and you feel that's more reasonable than the 3.5 percent
3 that the Company's seeking for purposes of this
4 proceeding; is that correct?

5 A That's correct.

6 Q Your answer is, "No, that is, in my opinion, a
7 blind approach to determining what level of increase is
8 reasonable. While there are some differences, negotiated
9 Union increases should not be ignored when evaluating what
10 type of increase is granted to nonunion employees."

11 You say, "For example, while Mr. Wilson
12 correctly states that the Union negotiations take into
13 consideration work conditions, nonunion compensation must
14 be a factor in the fact that incentive compensations
15 available."

16 My question to you is: When you've made your
17 reference to Mr. Wilson's testimony, my understanding is
18 you're referring to page 13 of his -- of his rebuttal
19 testimony where he states in answer to the question, "Do
20 you agree with Mr. Schultz that the Company should set its
21 merit increases for nonunion employees at the same level
22 as union employees?" And he states, "No, the markets for
23 nonunion and nonunion (sic) employees are completely
24 different, and we arrive at market compensation in
25 completely different ways."

1 Do you understand that Mr. Wilson has experience
2 and is engaged in the collective bargaining negotiations
3 on behalf of the Company with the Union? Is that your
4 understanding?

5 A I can't say specifically that he does. I will
6 add, though, that I found it kind of unusual -- I did
7 inquire as to whether the Company had anything -- any
8 survey studies with respect to Union wages, and the
9 response was no. So I don't know how they do their
10 negotiations so to speak with the Union.

11 Q Uh-huh. And who did you make that inquiry of?

12 A I think it was Mr. Wilson. When I went upstairs
13 the one time -- the first time I took the studies back,
14 the first set of studies back, and I think it was with
15 Mr. Taylor was accompanying me at the time, we walked over
16 and peeked towards his office, he motioned us in, I went
17 in, sat down, I asked him a few questions regarding that.

18 Q Mr. Wilson?

19 A Yes.

20 Q Okay. Well, his statement is kind of curious,
21 and yours ask a little bit, too, when you say that, "For
22 example, while Mr. Wilson correctly states that Union
23 negotiations take into consideration work conditions," you
24 do seem to have some sense that besides wages, benefits,
25 they also discuss working conditions such as schedules and

1 shifts and things of that nature.

2 A There's a multiple of things that are discussed
3 between the Union and the Company and the Company in
4 determining its exempt and nonexempt compensation. I
5 mean, they're going taking into consideration the
6 conditions that you've identified, they're going to take
7 into consideration the days off that they have, they take
8 into consideration whether the Union participates in
9 incentive comp or not, they're going to take into
10 consideration the health care benefits, the dental
11 benefits, the pensions. All those things are all taken
12 into consideration.

13 Q You understand generally working conditions,
14 those types of terms are worked out before they get to the
15 financial package? The wages and benefits?

16 A I was just trying to characterize Mr. Wilson's
17 testimony there.

18 Q Okay. And then your recommendation is that the
19 three percent is indeed appropriate based on what you
20 understood the Union -- Union thought, I guess. What
21 period of time was that your understanding?

22 A Well, I think my testimony said that three
23 percent would be the most supported, because that
24 represents something that was negotiated between some of
25 the Company's employees and the Company. And essentially

1 I indicated that it could be that the compensation
2 increase could be even less than that.

3 I mean, I've actually been in jurisdictions
4 where, because of the Company's compensation levels that
5 they were given, or the percentage increases that they had
6 that were not supported, as I have said in this case, that
7 the Commission or the board that was there based the
8 compensation increase for management on the union
9 increase.

10 Q Were you aware that the union increase for the
11 Local 125 in Oregon was 2.5 percent? The five percent was
12 paid later just as a one-time bonus and not rolled into
13 their wage base?

14 A No.

15 MS. RACKNER: I object to this line of
16 questioning, again. I mean, this witness did not testify
17 -- other than to compare on the very simple way union and
18 nonunion wages, he did not review the labor contracts. I
19 don't believe he's familiar enough to be answering these
20 questions, nor do I think they're at issue in the case.

21 MR. PROCTOR: Excuse me, Mr. Chairman. That may
22 be a good objection if I made it because he's my witness,
23 but I don't know that it's appropriate for counsel to make
24 it.

25 MR. SANDACK: Apparently he did review. I mean,

1 he reviewed the three percent, and I'm trying to
2 understand the basis of his what his knowledge was.

3 MR. PROCTOR: Well, the fact of the matter is
4 that he's admitted that -- he stated in his testimony as
5 well merely that was reciting statements made by
6 Mr. Wilson, and he has testified here that that was all he
7 was doing was characterizing Mr. Wilson.

8 So I think it's clear from his testimony up to
9 this point, and the cross, that he's not been involved
10 with, nor has he studied the labor negotiations between
11 Rocky Mountain Power and the IBEW 57. So under the
12 circumstance, he's at this point beyond the direct
13 testimony, he's certainly beyond even the cross that was
14 offered earlier. So it would it will be objectionable on
15 that basis.

16 MR. SANDACK: The testimony that he put in the
17 record was three percent and why it was appropriate, and
18 I'm simply trying to probe what his understanding of that
19 three percent was. He seemed to suggest in his testimony
20 that even less than three percent was appropriate, and I
21 was trying to understand if the basis of that was perhaps
22 what the unions had received up in Oregon. But I'll move
23 on. I think it's totally appropriate cross-examination.

24 CHAIRMAN BOYER: I think we have two objections
25 here before us that we haven't ruled on. I think up until

1 the last question or so I thought your cross-examination
2 was within the scope of his surrebuttal testimony, but we
3 may be veering off track a little bit at this point.

4 MR. SANDACK: Well, I think -- I'm going to move
5 on. But I think the surrebuttal testimony and direct
6 clearly goes to the three percent and why that at the most
7 would be appropriate.

8 CHAIRMAN BOYER: And that -- that was his
9 testimony was what I was referring to, yes.

10 MR. SANDACK: That was only my last question,
11 sir.

12 CHAIRMAN BOYER: Okay. Thank you.

13 MR. SANDACK: Thank you. I'll move on if that
14 testimony is acceptable. If it's going to be stricken
15 then -- are we okay with what's on the record at this
16 point?

17 CHAIRMAN BOYER: Yes, we'll leave that in.

18 MR. PROCTOR: But, Mr. Chairman, I think perhaps
19 we should start talking about striking Mr. Sandack's
20 testimony. So far, I mean, his objections to objections
21 are speaking objections. He's testifying himself to what
22 this witness said just moments ago, and it stands for
23 itself. His comments about what in fact he's trying to
24 get to are irrelevant as to whether or not the objection
25 is relevant.

1 MR. SANDACK: All right. Well, I'm ready to
2 move on if you would like.

3 CHAIRMAN BOYER: Okay, try again.

4 Q (BY MR. SANDACK) The next subject I'd like to
5 address has to do with the overtime, sir. And that's on
6 page -- begins on actually lines 301 or so. My pages for
7 some reason both show page 14, so...

8 A Direct or surrebuttal?

9 Q Excuse me, they're on page 14 of the
10 surrebuttal. And the question is addressed to you with
11 respect to the overtime issue, which you feel, as I
12 understand your testimony, that principally the overtime
13 is storm related. Is that a summary of your testimony?

14 A Well, just the response to the Company's data
15 request that it was storm -- driven by storm related. I
16 didn't but the dollar figures in that the Company put in
17 the response, but it indicated, you know, that that's what
18 was driving the overtime.

19 Q The question was asked, "Why should the
20 Commission adopt your recommendation with respect to the
21 overtime?" And on line 303 you begin that, "The overtime
22 increased moderately in 2003-2005 despite significant
23 changes in employee complement." I won't read the whole
24 thing.

25 But on the following page -- excuse me, it

1 actually begins above that discussion on page 14. You
2 say, "The significant change in overtime in 2006 and 2007
3 was the result of significant storms that occurred, and
4 that the Company had furnished no evidence to rebut the
5 assertion that overtime was influenced by the storms and
6 not a decrease in employees. The response to CCS 9.12
7 refers to the storm of the century that occurred in
8 December of 2007. It would be inappropriate to assume the
9 storm of the century will recur in the test year."

10 That's your testimony?

11 A Yes.

12 Q You haven't attached that CCS 9.12 to the
13 record, have you?

14 A No, sir.

15 Q I would like to do that now if you don't mind.

16 MR. SANDACK: I've handed the reporter and
17 marked it as IBEW Cross 1. And I've handed it to the
18 witness.

19 Q (BY MR. SANDACK) Have you had a chance to
20 review that document, sir?

21 A Yes, sir.

22 Q Now, according to his response, the overtime
23 related to the storm of the century was charged a
24 distribution of Pacific Power due to increased storms.
25 And the sense of that is that it's related to distribution

1 and is not a charge that will affect the Utah rates. Is
2 this your understanding?

3 A Well, that's what this says, but I address that
4 also in my testimony as to why I have a concern with it.
5 Because there was another data request that asked for a
6 distribution of costs, and they said they can't distribute
7 it. And the reason why is because they take it and they
8 put it into -- effectively, I'm going to try to put this
9 in simple terms and put it into a cost center. And then
10 they distribute it from that cost center based upon the
11 hours that were recorded, okay?

12 So, therefore, the extent that that pot is
13 distributed based upon hours recorded can be impacted on
14 other companies like Rocky Mountain Power as opposed to,
15 you know, being all fully charged to Pacific Power. It
16 has a way of blending the rate. Because you're talking
17 about -- you're not just talking about the overtime,
18 you're talking about general time was also put into that
19 pot. So everything is dumped in there.

20 Now, Rocky Mountain Power gets allocated a
21 significant portion of the total dollars, so they're also
22 going to be picking up some of those dollars. And you go
23 through the whole system and how it's allocated and that's
24 pretty detailed. And I don't want to really get into that
25 and try to confuse anybody.

1 Q Well, what is the adjustment that you're
2 basically recommending and how many millions of dollars is
3 it due to the overtime?

4 A Well, that -- the adjustment that I've
5 recommended is the adjustment that's on --

6 Q That's on page 14 there, too.

7 A Yeah, I've identified what that adjustment is.
8 See, another thing that you've got to take into
9 consideration is how this filing is put together. The
10 filing is allocating dollars based upon, you know, this
11 distribution to all these different accounts that the
12 Company has and is basically similar to what I have as an
13 attachment behind all the various adjustments.

14 And so when the Company takes a total Company
15 number and distributes it that way, you're getting some of
16 that effect from that overtime that may have been Pacific
17 Power overtime charged down to Rocky Mountain Power.

18 Q All right. Well, I did notice in your testimony
19 that you were charging how they allocate the overtime to
20 the distribution O&M accounts so that you were challenging
21 the statement that they did so as purported in this
22 response. But rather you seem to be suggesting that the
23 storm of the century somehow is related to Utah, and
24 that's not the case, is it?

25 A I'm saying the costs are being reflected

1 basically on a going-forward basis in the forecast,
2 because the forecast is picking up the base year costs.

3 Q So if the costs were structured properly by the
4 Commission then to make sure that the overtime was
5 charged -- was not charged to Utah, you would be satisfied
6 with that if in fact those are distribution expenses that
7 they shouldn't be charge with; is that correct?

8 A Yes, and that's what I basically tried to put
9 into my testimony by taking an average of what was other
10 than the abnormal years. Because the number that you're
11 given by the Company for overtime is the total company.
12 It's not just Rocky Mountain Power, it's just not Pacific
13 Power or Pacific Energy, it's a lump sum number.

14 Q You understand Pacific Energy -- are you aware
15 that we've had testimony that Pacific Energy is the
16 corporation which they hold the generation units through.
17 Are you familiar with that?

18 A I know it's not Rocky Mountain Power
19 essentially. It's not the Rocky Mountain Power that we're
20 dealing with in this rate case.

21 Q So when you looked at this response, did you
22 understand that Pacific Energy -- the increase in overtime
23 was essentially due to the generating units and the work
24 that they have to do, it isn't necessarily related to any
25 particular storm that's going on. Was that your

1 understanding?

2 A I'm not following your question, I'm sorry.

3 Q Pacific Energy owns the generating units of the
4 applicant. And therefore the generation, trying to meet
5 their load forecast in generating that much power isn't
6 particularly related to any particular storm. Is that
7 your understanding?

8 MR. PROCTOR: Objection. Mr. Chairman, we've
9 now gone beyond, again, the direct testimony that's been
10 provided.

11 CHAIRMAN BOYER: I'm going to sustain that
12 objection. I don't know that Mr. Schultz would have any
13 knowledge of how Pacific Energy allocated overtime or for
14 what reasons, and he hasn't testified as to that.

15 MR. SANDACK: Again, I'm trying to find out what
16 he does understand. When he makes a -- when he makes a
17 blank statement, sir, that the overtime that's going to be
18 charged should be going down, it isn't necessarily due to
19 a decrease of employees, other evidence will show that
20 there's been decreases not only in generation by Pacific
21 Energy units, but in other areas of the Company.

22 And if he's making his statements, then we need
23 to probe his knowledge. It's not fact that he -- if he
24 doesn't have the knowledge, then we understand how much
25 weight it can be given. So I don't know that it's proper

1 to sustain an objection. I'm simply trying to probe his
2 knowledge on a very key question.

3 CHAIRMAN BOYER: Why don't you ask him that,
4 Mr. Sandack, if he has knowledge of that?

5 MR. SANDACK: Okay. I will.

6 Q (BY MR. SANDACK) Do you know what assets and
7 what production processes Pacific Energy performs on
8 behalf of the Company?

9 A I haven't gone through the process of trying to
10 segregate it. If I may, on what you're -- you're trying
11 to dissect this response into this and breaking it up
12 between the different companies. What you're doing is not
13 what is consistent with what's in the rate filing, and so
14 it's inappropriate to try to say, "Well, this was Pacific
15 Energy's," or "This was Pacific Power."

16 If you look at the number that's there for 2006,
17 the 57 million, that's comparable to what's on MDR 2.19
18 for overtime. It's the total number. They're not -- the
19 Company isn't taking and breaking this all down into
20 pieces and then saying, "Rocky Mountain Power's is only
21 this when they're doing all their compensation stuff."

22 They take the total company, so they're taking
23 -- in trying to give you a comparison, they're taking the
24 57 million and then applying those allocation factors that
25 they provided.

1 That's all I did. I took the total Company
2 number and used the Company's allocation factor.
3 That's -- I didn't try to segregate this between Pacific
4 Energy, Pacific Power, corporate. I took -- I followed
5 the same exact format that the Company did.

6 Q Well, you were relying on their answer to make
7 -- the same answer when they purported to tell you how
8 they were doing it in relying on what your recommendations
9 were, but you've only -- you haven't -- you haven't looked
10 behind those particular different units to see how it was
11 allocated between those companies then; is that correct?

12 A I didn't look into the detail of the
13 allocations.

14 MR. SANDACK: Okay. Thank you. That's all I
15 have.

16 CHAIRMAN BOYER: Thank you, Mr. Sandack. Let's
17 move now to Mr. Dodge.

18 MR. DODGE: No questions.

19 CHAIRMAN BOYER: Mr. Reeder?

20 MR. REEDER: No questions.

21 CHAIRMAN BOYER: Mr. Matteis?

22 MR. MATTHEIS: No questions.

23 CHAIRMAN BOYER: Commission Allen?

24 COMM. ALLEN: No.

25 CHAIRMAN BOYER: And nor do I have. So,

1 Mr. Schultz, thank you so much. You may take your seat.

2 THE WITNESS: Thank you.

3 MR. PROCTOR: I have no redirect.

4 CHAIRMAN BOYER: And no redirect. We're on a
5 roll. I should ask everybody for a loan or something.

6 We have not heard anything from Mr. Ball. He
7 has not presented himself and he hasn't contacted the
8 office, so I believe we are finished for the day. But
9 we'll reconvene tomorrow at 9:00 sharp and we'll hear from
10 Mr. Duvall, Jamie Dalton, and Randy Falkenberg. It should
11 be an interesting and entertaining day tomorrow. Thank
12 you so much. Oh, actually, Mr. Sandack --

13 MR. SANDACK: Yeah, move for admission.

14 CHAIRMAN BOYER: Any objections to -- I'm sorry
15 Mr. Proctor. We're back on the record for just a quick
16 moment. Actually, we didn't go off the record, did we?
17 Mr. Sandack has moved for admission of IBEW Cross 1, which
18 is the CCS data request 9.12. Any objections to its
19 admission?

20 (No response.)

21 CHAIRMAN BOYER: Apparently not.

22 MS. RACKNER: And, again --

23 CHAIRMAN BOYER: It will be admitted then.

24 (IBEW Cross-Exhibit 1 admitted.)

25 MS. RACKNER: I'm not certain if Rocky Mountain

1 Power Cross Exhibit 11 was moved and admitted into the
2 record. That was the response to data request 11.1.

3 CHAIRMAN BOYER: That was not admitted. No one
4 made a motion to move for its admission. Do you wish to?

5 MS. RACKNER: I do.

6 CHAIRMAN BOYER: This will be Cross-Exhibit 11.
7 Are there any objections to Rocky Mountain Cross
8 Exhibit 11 being admitted into the evidence?

9 (No response.)

10 CHAIRMAN BOYER: Hearing none, it is admitted
11 then as well. And we'll see you tomorrow morning. Thank
12 you all.

13 (RMP Cross-Exhibit 11 admitted.)

14 (The hearing adjourned at 2:10 p.m.)

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C E R T I F I C A T E

STATE OF UTAH)
:
COUNTY OF SALT LAKE)

I, Wendy Alcock, a Registered Shorthand Reporter
and Notary Public within and for the County of Salt Lake
and State of Utah, do hereby certify:

That the foregoing proceeding was taken before me at
the time and place herein set forth, and was taken down
by me in stenotype and thereafter transcribed into
typewriting:

That the foregoing 122 pages contain a true and
correct transcription of my stenotype notes so taken.

IN WITNESS WHEREOF, I have hereunto subscribed my
name and affixed my seal this 9th day of June, 2008.

Wendy Alcock, R.P.R.

My commission expires:
May 18, 2008

