

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application) Docket No:
of Rocky Mountain Power for) 08-035-38
Authority to Increase its Retail)
Electric Utility Service Rates)
in Utah and for Approval of its)
Proposed Electric Service)
Schedules and Electric Service)
Regulations.)

TRANSCRIPT OF HEARING PROCEEDINGS

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

DATE: October 28, 2008

TIME: 9:08 a.m.

REPORTED BY: Kelly L. Wilburn, CSR, RPR

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15 (The previous exhibits and related testimony
16 were prefiled and are part of the PSC record
17 and filed at the Commission. Testimony with
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(October 28, 2008 - ROCKY MOUNTAIN POWER - 08-035-38)

1 is Katherine McDowell here on behalf Rocky Mountain
2 Power. With me today is Yvonne Hogle with Rocky
3 Mountain Power.

4 CHAIRMAN BOYER: Very well. Welcome back,
5 Ms. McDowell.

6 MS. McDOWELL: Thank you.

7 CHAIRMAN BOYER: Ms. Schmid?

8 MS. SCHMID: Patricia E. Schmid with the
9 Attorney General's Office, representing the Division
10 of Public Utilities.

11 CHAIRMAN BOYER: Thank you, Ms. Schmid.
12 Mr. Proctor?

13 MR. PROCTOR: Paul Proctor on behalf of the
14 Committee of Consumer Services.

15 CHAIRMAN BOYER: Mr. Reeder?

16 MR. REEDER: Good morning. I'm Robert
17 Reeder, appearing for a group of industrial customers
18 whose names are on this record and are known on this
19 record as UIEC.

20 CHAIRMAN BOYER: And Mr. Dodge?

21 MR. DODGE: Gary Dodge on behalf of the UAE
22 Intervention Group.

23 CHAIRMAN BOYER: Very well. So I thought
24 we'd proceed with the Company witnesses, move to the
25 Division, the Committee, UIEC, and UAE, in that order.

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1 Ms. McDowell, you have the floor.

2 MS. McDOWELL: Thank you, Chairman Boyer. We
3 have two witnesses to present today. Our first
4 witness that we will present is Mr. Jeff Larsen. So
5 Mr. Larsen has filed rebuttal testimony.

6 And Mr. Larsen, do you have that testimony?

7 MR. LARSEN: Yes, I do.

8 MS. McDOWELL: Do you have any changes --

9 CHAIRMAN BOYER: Oh, I beg your pardon. And
10 since we're doing a panel why don't we swear all of
11 the witnesses --

12 MS. McDOWELL: All right.

13 CHAIRMAN BOYER: -- and then we won't have to
14 interrupt. If everyone is here.

15 MR. REEDER: Can we have a break and move our
16 witnesses to the front?

17 CHAIRMAN BOYER: I think everyone is here.
18 There's Mr. Higgins in the back.

19 (The witnesses were sworn as a group.)

20 CHAIRMAN BOYER: Back to you Ms. McDowell.

21 MS. McDOWELL: Thank you.

22 DIRECT EXAMINATION OF JEFF LARSEN

23 BY MS. McDOWELL:

24 Q. And back to you, Mr. Larsen. Do you have the
25 testimony that you prepared in this proceeding?

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1 A. Yes, I do.

2 Q. Do you have any changes or corrections to
3 that testimony?

4 A. No, I do not.

5 Q. If I were to ask you the questions that are
6 set forth in that testimony today would your answers
7 be the same?

8 A. Yes, they would.

9 MS. McDOWELL: So we would go ahead and offer
10 Mr. Larsen's testimony on test period -- Rocky
11 Mountain Power's Test Period Exhibit 1, I believe is
12 the convention. So we'd offer that. And then
13 Mr. Larsen is available to provide a summary of that
14 testimony.

15 CHAIRMAN BOYER: Very well. Are there any
16 objections to the admission of Mr. Larsen's direct
17 testimony being admitted into evidence? Seeing none,
18 it is admitted into evidence.

19 (Exhibit No. RMP TP 1 was admitted.)

20 MR. LARSEN: Chairman Boyer, Commissioners
21 Campbell and Allen, it's a pleasure to be here today
22 to present the Company's view of test period for its
23 current rate case, commonly known as the 2008 General
24 Rate Case.

25 My throat is a bit scratchy, so hopefully

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1 you'll be able to bear with me. I've had a bit of a
2 cold. But it is a pleasure to be here and to provide
3 persuasive evidence on the need for the test period
4 that the Company has selected.

5 My testimony supports the proposed test year
6 of 12 months ended June 2009, with end of period rate
7 base. So we're looking at the cost from July of 2008
8 through June of 2009, with end of period rate base
9 reflected at June 2009 levels.

10 That's our preferred test period. Now,
11 parties have raised the question of possibly moving to
12 a calendar year 2009 test period. The Company would
13 support that, but only if the compliance filing
14 required to adopt that and allow the Company to
15 provide that additional information would not change
16 the 240-day clock and push us further into the future
17 with additional delay and regulatory lag.

18 Or alternity -- alternatively, if the
19 Commission were to provide an interim increase during
20 that time frame to, to prepare that case. But our
21 preference is to move forward with the case as we
22 filed.

23 The test period in this case should provide
24 proper cost recovery for the services the Company
25 provides to customers during the rate effective

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1 period, which now begins May 8, 2009.

2 And if current situations play out, if the
3 Company's unable to pancake rate cases, and it needs
4 to do a compliance filing at the end of this case
5 before it can file another case, then conceivably the
6 rate effective period is from about May 8, 2009,
7 through March 2010.

8 By the time we get an order in May out of
9 this case, reflect that in a new case and file that
10 say in July, and with an eight-month statutory period,
11 the latest that new rates would go into effect would
12 be March of 2010.

13 That's the very earliest. So we're looking
14 at matching costs 12 months end of June, 2009, through
15 a period that goes through conceivably of March of
16 2010.

17 The policy on test period is codified in Utah
18 Code 54-4-4(3), which requires the Commission to
19 select a test period that best reflects the conditions
20 that a public utility will encounter during the rate
21 effective period. And I've identified what that
22 period needs to be.

23 Both Dr. Zenger and I cite from one of the,
24 the key texts on public utility accounting from Robert
25 Hahne, Accounting For Public Utilities. In that he

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1 cites that selection of the timing of the test period
2 may be the most single factor -- most significant
3 single factor in the ratemaking process.

4 Approving the test period proposed by the
5 Company will help the Company stay current on cost
6 recovery of its major capital investments and its
7 projects. It will encourage the Company continue to
8 making those investments, and moderate the pace of
9 potential future rate case filings.

10 Now, there's several issues that have been
11 raised with the parties. Some agree with the
12 12 months ended June '09. Others dispute the end of
13 period rate base. And UIEC asked to adopt a new test
14 period.

15 And I'll give rationale for the end of period
16 rate base. The Company's proposed test period is
17 8 months short of the full 20-month forecast allowed
18 by statute by going to the 12 month instead of the 20
19 month. We did this in deference to the Commission's
20 2007 test period order, which allowed a forecast test
21 period of 13 months from the date of the filing.

22 To accommodate the Commission's concerns
23 about the use of longer-range forecasts in uncertain
24 economic times while still presenting a test period
25 that complies with the requirement of

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1 Section 54-4-4(3) the Company presented a
2 compromise -- a test period closer in time to the rate
3 case, but using end of period rate base.

4 The Company's proposal is a middle ground
5 between just an average rate base using a 12-month
6 forecast, or going to the calendar year 2009 test
7 period as offered up by others. The effects of the
8 Company's use of end of period rate base is, in
9 effect, to move recovery of the investments to an
10 average level that would be considered for a calendar
11 year 2009.

12 If that isn't adopted and we go forward with
13 the 12 months end of June test period with average
14 rate base, then in effect what we're saying is that
15 the average level at December 2008 reflects the
16 midpoint in the rate effective period at November
17 2009. Almost 11 months of regulatory lag. That the
18 capital investment in December will be the level that
19 we have almost at the end of the year.

20 End of period rate base is necessary to
21 reflect the conditions the Company will encounter
22 during the rate effective period. Although the
23 Company has proposed future test period, the test
24 period does not coincide with the rate effective
25 period.

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1 In fact, it only overlaps by about seven
2 months. The test period ends June of 2009, the rates
3 will go into effect May 8th of 2009. So there's only
4 a seven-week overlap. And the costs don't reflect the
5 rate effective period without also taking into
6 consideration the investment level through end of
7 period rate base.

8 Using average rate base with this test period
9 will result in the omission from rates of a portion of
10 capital costs used to serve customers during that rate
11 effective period. This will violate the code
12 54-4-4(3) in selecting the situation that best
13 reflects the circumstances during the rate effective
14 period.

15 End of period rate base is also necessary to
16 mitigate regulatory lag. Dr. Zenger argues that end
17 of period is not needed because the effects of
18 regulatory lag are mitigated by the use of a
19 forecasted test period.

20 That would be true if the test period
21 overlapped the rate effective period. But as I
22 indicated, it does not. There's only a seven week
23 overlap. So the Company still has significant
24 regulatory lag.

25 And it's estimated that on average every six

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1 months our costs go up by approximately 40 to 50
2 million dollars. So it's significant that we address
3 the year end rate base situation.

4 As Hahne points out in his text, even when
5 rates are based partly on forecasted data the data
6 must be adjusted to account for changing conditions,
7 or else the rates will not be properly established.
8 The most appropriate adjustment to account for
9 changing conditions in this case is the use of an end
10 of period rate base.

11 The data using end of period rate base allows
12 the parties to examine the 12 months information. It
13 already includes the plant, on an average basis. And
14 the Company has included one discrete adjustment that
15 then moves that rate base to a year end level.

16 So it's auditable. Everything else is
17 matched and synchronized throughout the test period
18 but for Adjustment 9.2, which captures the year end
19 rate base.

20 UIEC's motion suggests that regulatory lag
21 associated with average rate base is appropriate
22 because it's an inducement to management efficiency.
23 But the Company has to have control over those
24 investments in order to be efficient and manage it.

25 It's very difficult when our capital

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1 investment is driven by our customers' needs and load
2 growth and we have to respond to it. Regulatory lag
3 works in a period of stability, but during a period of
4 great capital investment you cannot make up lag on
5 operating efficiencies.

6 We could, in effect, lay off half of our
7 workforce and still not be able to stay on top of the
8 regulatory lag that we're dealing with. UIEC witness
9 Maurice Brubaker testifies that using end of period
10 rate base is a risk shifting issue.

11 Risk is properly balanced when rates reflect
12 the costs the utility will incur serving customers.
13 In this case, because the capital investment in the
14 end of period rate base will be used to serve
15 customers, it is reasonable that those costs be in
16 rates.

17 It is a fund -- fundamental element of rate
18 making that customers pay the cost of service, so this
19 is not a risk shifting issue. Contrary to what some
20 witnesses have argued, end of period rate bases as
21 well-recognized methodology has been used in a variety
22 of jurisdictions as a tool available to the
23 Commissions to deal with attrition and regulatory lag.

24 The Company's reply brief cites many cases
25 where commissions have used this approach. End of

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1 period rate base is often used when a utility's in a
2 build cycle or faces increasing cost environments,
3 that the current -- Company is currently facing.

4 Wyoming has typically used end of period rate
5 base in the past. Washington and Idaho commissions
6 have also used this approach. We filed a lot of cases
7 in Wyoming using end of period. Recently we filed in
8 the states of Wyoming and Idaho, both using end of
9 period rate base in our current rate cases there as
10 well.

11 There's an issue that's been raised on
12 overlapping test periods. CCS and UIEC have raised
13 the issue of overlapping test periods between the
14 Company's 2000 rate case and in this one. The six
15 months at the end of 2008 were in the last case, and
16 they're the first six months in this case.

17 These parties argue that because there's a
18 six-month overlap in the test period, the Company's
19 seeking a second opportunity for those costs to be
20 recovered. Those parties are confusing the concept of
21 test period with rate effective period.

22 The Company is not asking to recover costs
23 twice. Because there will be no overlap in the rate
24 effective period, there's no support for the argument
25 that the Commission cannot use same or overlapping

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1 test periods to calculate rates for different rate
2 effective periods in the future.

3 CCS also argues that the Company is seeking
4 to relitigate certain issues that were decided by the
5 Commission in the 2007 rate case. It is not uncommon
6 for the parties to propose an adjustment or treatment
7 of costs in a way different from the previous
8 Commission order.

9 CCS did this in the last case, when it
10 proposed the expense lag associated with payment on
11 interest on long-term debt. We've seen other issues
12 relitigated multiple times on WPNA, or SMUD, or other
13 issues.

14 As I indicated at the start, the issue on
15 using a calendar year 2009 test period has been raised
16 by the parties. And I've indicated our position on
17 that. What we would be willing to support.

18 In conclusion, the Company's evidence shows
19 that if the Commission is to satisfy the mandate from
20 the Utah Code dealing with test periods, which is to
21 select a test period that best reflects the conditions
22 the public utility will encounter during the rate
23 effective period using a test period that is
24 relatively closely in time to the filing of the rate
25 case, the appropriate test period to be used in this

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1 case is 12 months ended June 2009, with end of period
2 rate base. Thank you.

3 CHAIRMAN BOYER: Thank you, Mr. Larsen.

4 MS. McDOWELL: So our next witness is
5 Mr. Steve McDougal.

6 DIRECT EXAMINATION OF STEVEN McDOUGAL

7 BY MS. McDOWELL:

8 Q. Mr. McDougal, have you prepared testimony for
9 this proceeding?

10 A. Yes, I have.

11 Q. And is that testimony a portion of your
12 direct testimony filed with the Company's application,
13 as well as rebuttal testimony in this test period
14 proceeding?

15 A. Yes, it is.

16 Q. Do you have any changes or corrections to
17 that testimony?

18 A. No, I do not.

19 MS. McDOWELL: We would offer Mr. McDougal's
20 direct -- prefiled direct testimony in this case, and
21 exhibits as far as they are relevant to test period,
22 and his rebuttal testimony specifically filed in the
23 test period proceeding as RMP's -- that would be TP 2
24 and 3.

25 CHAIRMAN BOYER: Are there objections to the

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1 admission of Mr. McDougal's testimony, both his direct
2 and rebuttal? Seeing none, they're admitted into
3 evidence. And they'll be marked as Rocky Mountain
4 Power test period 2 and 3.

5 (Exhibit Nos. RMP TP 2 AND TP 3 were
6 admitted.)

7 MS. McDOWELL: Thank you, your Honor.

8 Q. (By Ms. McDowell) Mr. McDougal, can you
9 please present your summary?

10 A. Yes. Commissioner Boyer, Chairman -- excuse
11 me. Chairman Boyer, Commissioner Campbell,
12 Commissioner Allen, I'd like to thank you for the
13 opportunity of being here this morning. My test
14 period testimony discusses the financial impact of the
15 Commission's decision on test year and what that will
16 do to the Company, and explains the Company's proposed
17 test year.

18 The Company's proposed test year best
19 reflects conditions the Company anticipates in the
20 rate effective period. There are four items I would
21 like to discuss: One, the test period used. Two, why
22 end of period rate base is necessary. Three, how we
23 considered the Commission's eight criteria in coming
24 up with this test period. And four, the matching
25 principle and how it applies.

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1 The test period used in this case begins on
2 July 1, 2008, and ends on June 30, 2009, using end of
3 period rate base. The Company considered several
4 alternatives in determining what test period to use.

5 We considered using a calendar year 2009. We
6 looked at other options. And in looking at the
7 options we decided that calendar year 2009 was the --
8 provided the largest price increase and would be the
9 most beneficial to the Company.

10 However, in looking at the options and trying
11 to balance the needs of the Company with the decision
12 that was made in the prior case, we elected to try and
13 scale back the test period and did so to June 30th.
14 In doing so we also added end of period rate base to
15 help mitigate the lag.

16 End of period rate base did not fully
17 compensate for the change in test year. In our
18 original studies it was around an \$11 million
19 decrease. However, the Company chose this test period
20 because it was closer in time, it was more auditable,
21 and it was more easily verifiable by the parties.

22 We felt like this would help as an interim
23 measure to mitigate some of the concerns. And help to
24 allow the Company the opportunity to recover its fair
25 return.

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1 It is important to emphasize that the Company
2 will not be able to fully recover its costs of service
3 if we use any test period other than the one proposed
4 by the Company. If we scale this test period back we
5 are not going to have that opportunity.

6 The Commission's past orders have all
7 stressed the eight criteria that are used in
8 considering a test period. We considered those
9 factors. And several of the factors that led us to
10 choosing this test period were, first, the
11 inflationary pressure the Company is under.

12 Second, the proposed test period with end of
13 period rate base satisfies the factor requiring the
14 availability and accuracy of data. We felt like that
15 was one of the criteria that we would like to
16 emphasize, using this rate base and using this test
17 period, to make this a more palatable rate case to
18 others.

19 Well before the beginning of the rate
20 effective period in this case, all of the major
21 generation plants planned by the Company will be on
22 line. As mentioned by Mr. Larsen, there is only
23 around a seven week differential between when rates
24 will become effective and the end of the test period.

25 Rates will be effective for much more than

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1 that seven week period. Because of the eight month
2 statutory timeline, even if the Company were to file a
3 case immediately after this current case, we aren't
4 gonna get new cost recovery for approximately eight
5 months.

6 Third, the Company has experienced
7 significant changes in investments, revenues, and
8 expenses. The principal reason the Company filed this
9 rate case was to reflect the cost of its new
10 generation resources and rates, including the Chehalis
11 power plant and several new wind resources.

12 End of period rate base allows the Company to
13 recover for -- recover the costs of these capital
14 investments. The last item I would like to discuss is
15 the matching principle. There's several items on the
16 matching principle, but we believe the most important
17 matching principle is to try and match the rates that
18 are set in this case with the rate effective period.

19 We believe that this rate base and this test
20 period correctly matches that test period with the
21 rate effective period. Rates will become effective in
22 early May. This test period is based upon June 30,
23 2009, data with end of period rate base.

24 We believe that this matching principle is
25 important in determining the rates in this case.

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1 Thanks.

2 CHAIRMAN BOYER: Thank you, Mr. McDougal.

3 And he is your final witness; is that
4 correct?

5 MS. McDOWELL: That's correct.

6 CHAIRMAN BOYER: Okay. Let's turn now to the
7 Division of Public Utilities.

8 MS. SCHMID: Thank you. The Division would
9 like to call Dr. Joni Zenger as its witness.

10 DIRECT EXAMINATION OF DR. JONI ZENGER

11 BY MS. SCHMID:

12 Q. Dr. Zenger, could you please state your name
13 and employer for the record?

14 A. Joni S. Zenger, Division of Public Utilities.

15 Q. What is your business address?

16 A. 160 East 3rd South.

17 Q. In what capacity are you employed by the
18 Division of Public Utilities?

19 A. As a technical consultant in the energy
20 section.

21 Q. Have you participated on behalf of the
22 Division in this docket?

23 A. Yes.

24 Q. Did you prepare and cause to be prepared
25 under your direction what has been marked as DPU

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1 Exhibit No. 1.0, your prefiled direct test year
2 testimony, DPU Exhibit No. 1.1, which is the list of
3 Utah dockets in which you participated, and DPU
4 Exhibit No. 1.2, an exhibit consisting of Utah's
5 revenue requirement calculation using an average rate
6 base and ROE of 11.99482 percent?

7 A. Yes.

8 Q. Do you have any changes or corrections to
9 those exhibits?

10 A. I do. In my direct testimony, page 9. I
11 need to strike line 184, where it begins with: "This
12 means that Utah is still performing" and it goes up
13 through 186. The sentence is repeated twice.

14 And on page 10 of my direct testimony, where
15 I do the population projections in the table.

16 Q. Could you please provide the line numbers?

17 A. Line number --

18 Q. Or line number for reference?

19 A. Okay. Well, if you go to line No. 211 for
20 reference? It's the, it's the years 2008, 2009, 2010
21 percent change in population growth. Those numbers
22 should be, for 2008, 3.1 percent; for 2009, 2.7
23 percent; and for 2010, 2.5 percent. Those are all my
24 changes.

25 Q. Thank you. If I were to ask you the

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1 questions contained in your testimony today would your
2 answers be the same as presented and corrected here
3 today?

4 A. Yes.

5 MS. SCHMID: The Division would like to offer
6 for admittance DPU Exhibit No. 1.0, DPU Exhibit
7 No. 1.1, and DPU Exhibit No. 1.2.

8 CHAIRMAN BOYER: Are there objections to the
9 admission of Dr. Zenger's testimony as corrected here
10 today? Seeing none, they are admitted into evidence.

11 MS. SCHMID: Thank you.

12 (Exhibit Nos. DPU 1.0, DPU 1.1, and DPU 1.2
13 were admitted.)

14 Q. (By Ms. Schmid) Dr. Zenger, do you have a
15 brief summery to provide today?

16 A. Yes.

17 Q. Please proceed.

18 A. My testimony presents the Division's analysis
19 of the test period selection in this case. In
20 conducting its analysis concerning the appropriate
21 test period, the Division reviewed Section 54-4-4(3)
22 of the Utah Code and applied the factors identified in
23 the Commission's 2004 order in Docket No. 04-035-42.

24 Based on the information provided by the
25 Company in its application, and testimony provided by

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1 Mr. Steve McDougal and other witnesses, as well as
2 information pertaining to recent economic instability,
3 the Division recommends that the Commission approve
4 the Company's proposed test period, but reject the
5 Company's end of period rate adjustment.

6 In this particular case the Division believes
7 that the Commission should carefully consider the
8 economic factors when the Commission makes its
9 decision on approving the appropriate test period for
10 this docket.

11 The Division cautions the Commission to be
12 careful of approving a test period too high in the
13 future, due to the uncertainty and changing economic
14 events. The current financial turmoil and stress, if
15 it continues, makes it difficult to predict events
16 that will occur by the end of this year, let alone in
17 December of 2009.

18 Based on the Company's initial filing date of
19 July 17, 2009, the Company's proposed test period
20 projects 12 months into the future and does not seek
21 to project the 20 months allowed by statute. The
22 Division finds this 12-month projection is reasonable.

23 And believes that such a test period should
24 allow the Company an opportunity to recover its costs,
25 maintain its return on equity, and serve its current

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1 and projected needed load while mitigating forecast
2 errors. There would be no need to restart the clock
3 again, and no need for the Company to file for an
4 interim rate increase.

5 The Division points out that the Company
6 solely controls the timing of its filing, the
7 selection of the filed test period in the filing, and
8 the information that is shared with the other parties.

9 The Company has the burden of filing data
10 that allow our auditors to match the investment,
11 revenues, and expenses during the proposed test
12 period. Changes in investment, revenues, and expenses
13 do not occur in isolation, but are interrelated. And
14 need to be properly matched or synchronized within the
15 test year.

16 Although the Company annualizes investments
17 during the test period, the Company has not provided
18 data that analyze other components in the filing.
19 Such as the revenue received, expenses, year-end
20 customer account, usage levels, effect on net power
21 costs, renewable energy tax credits, and fuel costs.
22 And including the impact of the Chehalis plant. These
23 aren't -- none of these have been calculated using the
24 same methodology.

25 There are five wind farms -- wind farms

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1 coming on line that have zero fuel costs. Although
2 the cost of these plants have been annualized in the
3 Company's filing, the benefits have not been
4 incorporated into the filing.

5 For example, revenues generated from new
6 customers are not included in the filing as it stands.
7 However, the investment used to serve those customers
8 are fully included in the filing.

9 The current filing using an end of period
10 rate base methodology for calculating the revenue
11 requirement is incomplete. And our accountants would
12 not be able to synchronize the data as currently
13 filed.

14 The Company would have to provide this
15 information to the parties, and this would entail
16 almost a refiling of the case. In addition, there are
17 125 calendar days from September 10, 2008, when the
18 Company filed its updated application, to January 15,
19 2009, when interveners file direct testimony.

20 So excluding holidays and weekends, this
21 means there are only 67 working days for interveners
22 to complete their case. Therefore, the Division
23 recommends that the Commission reject the Company's
24 end of period rate base adjustment, labelled tab 9.2,
25 and use average rate base in the determination of the

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1 revenue requirement for this case.

2 The Division again asserts that it is the
3 Company's burden to produce a test year that is
4 completely synchronized. And that this burden should
5 not be shifted to regulators and other parties.

6 Finally, the Commission reminds us in its
7 2004 test period order that the purpose of
8 establishing a test period is not to determine the
9 amount of time between rate cases, but to produce an
10 end result setting just and reasonable rates for the
11 Company and its ratepayers.

12 This is what the Division has tried to do in
13 this case. Therefore, the Division recommends that
14 the Commission accept the Company's proposed test
15 year, but reject the Company's end of period rate base
16 adjustment. And instead use average rate base in the
17 determination of the revenue requirement for this
18 case. Thank you.

19 CHAIRMAN BOYER: Thank you, Dr. Zenger.

20 Let's turn now to the Committee of Consumer
21 Services. Mr. Proctor, I see you have two witnesses.

22 MR. PROCTOR: We do. Thank you,
23 Mr. Chairman. The Committee would first present the
24 testimony of Cheryl Murray. And if I may lead
25 Ms. Murray, that would be helpful.

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1 DIRECT EXAMINATION OF CHERYL MURRAY

2 BY MR. PROCTOR:

3 Q. Ms. Murray, you are a utility analyst for the
4 Committee of Consumer Services; is that correct?

5 A. Yes.

6 Q. And as utility analyst you prepared direct
7 test year testimony, filed October 7th, consisting of
8 six pages and marked as CCS-1D TY Murray; is that
9 correct?

10 A. Yes, it is.

11 Q. Do you have any corrections that you wish to
12 make to that testimony?

13 A. No, I do not.

14 Q. If I were to ask you those questions, the
15 questions that are in the direct testimony today,
16 would your answers remain the same?

17 A. Yes, they would.

18 MR. PROCTOR: The Committee would offer into
19 evidence CCS-1D TY Murray.

20 CHAIRMAN BOYER: Are there any objections to
21 the admission of Ms. Murray's testimony identified as
22 CCS-1D TY Murray? Seeing none, it is admitted into
23 evidence.

24 (Exhibit No. CCS-1D TY Murray was received.)

25 Q. (By Mr. Proctor) Ms. Murray, do you have a

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1 truly brief summary of your testimony?

2 A. Truly brief, yes.

3 Q. Thank you.

4 A. The Committee's primary recommendation is
5 that whatever test period the Commission approves, the
6 Company should be required to use average rate base
7 rather than end of period. Ms. DeRonne will address
8 this issue for the Committee.

9 In direct testimony I discussed the
10 Committee's view that for this case calendar year 2009
11 is an appropriate test year. I also stressed the
12 importance of restarting the 240-day clock to allow
13 adequate time for proper and full analysis of the case
14 if the Commission determines that the Company should
15 refile its case based on calendar year 2009.

16 The Committee's recommendation for a 2009
17 test year was not an attempt to delay the case, but
18 rather to draw the Commission's attention to the
19 Committee of Consumer Services' First Response to
20 Application dated August 18, 2008, and the legal
21 arguments that were addressed therein that the
22 Commission may want to consider.

23 The Committee believes the Company's proposed
24 2008/2009 test year may also meet the guidelines that
25 the Commission has previously outlined for

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1 consideration for an appropriate test period, provided
2 it is updated to reflect average rate base.

3 However, my testimony outlined our concerns
4 that the Company's filing may not fully comport with
5 the Commission's order in Docket No. 07-035-93. Thank
6 you.

7 CHAIRMAN BOYER: Thank you, Ms. Murray.

8 MR. PROCTOR: The Committee would next call
9 Donna DeRonne.

10 DIRECT EXAMINATION OF DONNA DeRONNE

11 BY MR. PROCTOR

12 Q. Ms. DeRonne, you are a CPA licensed in
13 Michigan and a senior regulatory analyst for Larkin
14 Associates; is that correct.

15 A. Yes, that's correct.

16 Q. And you have been retained by the Committee
17 of Consumer Services to participate as its witness in
18 this particular matter. And have filed testimony
19 marked as CCS-2D TY DeRonne, which is your direct test
20 year testimony; is that correct?

21 A. Yes, that's correct.

22 Q. And attached to that direct testimony is
23 Appendix 1, the qual -- your qualifications, correct?

24 A. Correct.

25 Q. Do you have any changes or corrections that

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1 you wish to make to the testimony?

2 A. No, I do not.

3 Q. If I were to ask you the questions that are
4 set forth therein today, would your answers remain the
5 same?

6 A. Yes, they would.

7 MR. PROCTOR: We would offer into evidence
8 CCS-2D TY DeRonne and its Appendix 1.

9 CHAIRMAN BOYER: Are there objections to the
10 admission of Ms. DeRonne's testimony together with the
11 appendix? Seeing none, they are admitted into
12 evidence.

13 (Exhibit Nos. CCS-2D TY DeRonne and
14 Appendix 1 were admitted.)

15 Q. (By Mr. Proctor) Ms. DeRonne, have you
16 prepared a summary of your testimony?

17 A. Yes, I'd like to give a brief summary.

18 Q. Please.

19 A. And again, very brief. Good morning
20 Commissioners. The main purpose of my testimony was
21 to address the Company's proposal that it annualize
22 rate base as of year end but not also annualize the
23 other components of the revenue requirement
24 calculation.

25 What the Company has effectively done in this

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1 case is use two different test periods. They used the
2 test period ended June 30, 2009, for its revenues and
3 its expenses, and for deriving the rate of return to
4 apply to rate base in this case.

5 However, in determining the rate base
6 component revenue requirement, the Company's
7 essentially using a different test period as of a
8 point in time of June 30, 2009. And that would also
9 be similar to a calendar year 2009 test period,
10 because that's the mid-point of that test period.

11 So it would likely give you a similar result
12 as a calendar year '09 revenue requirement for the
13 rate base component. So you have two different test
14 periods mixed together, with no matching whatsoever in
15 the revenue requirement calculations in this case.

16 The biggest reason this is a concern, every
17 investment that's put in by a company has an impact on
18 other areas in the case. And maybe new generation
19 plants that's gonna be used to serve new customers.

20 The Company did not annualize that customer
21 level as of the year end or the sales to those
22 customers as of the year end. So therefore they have
23 the big cost component of serving that customer, that
24 generation plant, but none of the offsets related to
25 the additional revenue received by that customer.

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1 Plus, every generation plant you are adding
2 has some impact on power costs. It may reduce spot
3 market purchases. You may be replacing power with
4 zero cost wind power. The Company has not annualized
5 the impact of that on its power cost in the filing
6 either. So none of those resulting reductions or
7 changes in power cost have been reflected as of a year
8 end level.

9 Another thing is each these wind farms have
10 renewable energy tax credits associated with them.
11 The Company has not annualized that benefit of those
12 wind farms. So essentially ratepayers will pay
13 100 percent of those costs of the wind farms as though
14 they were in place the entire year, but not receive
15 those offsetting tax benefits or the lower power costs
16 associated with that.

17 And that's just one of many examples. You
18 can go through every single plant addition and it's
19 somehow related to other operations. It may change
20 expenditures level, it may reduce maintenance costs,
21 or it may cause cost increases depending on the
22 specific addition being made.

23 Therefore it's my strong recommendation that
24 if the Company's proposed test period is adopted by
25 the Commission, that the Company be required to change

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1 its filing to base it on an average rate base as
2 opposed to year end.

3 I point out in my testimony that this should
4 be a very easy thing for the Company to do. It should
5 not -- in my opinion, if the Commission chooses the
6 Company's 12-month test period, it would only be a
7 matter of a day or two, in my opinion, for the Company
8 to refile a filing based on that. As the entire
9 adjustment is included in the Company's filing in
10 Exhibit SRM 2S as Adjustment 9.2.

11 And it's very easy to flip off, essentially,
12 that adjustment in the cost allocation model. And the
13 parties have been reviewing and have that information,
14 so it wouldn't be time consuming for the Company to do
15 that. And that completes my summary.

16 CHAIRMAN BOYER: Thank you, Ms. DeRonne.

17 Turning now to the UIEC. Mr. Reeder?

18 MR. REEDER: Thank you, Mr. Chairman. We
19 call Maurice Brubaker as a witness.

20 DIRECT EXAMINATION OF MAURICE BRUBAKER

21 BY MR. REEDER:

22 Q. Mr. Brubaker, you've been sworn. Can you
23 state for the record your name and business address?

24 A. Yes. It's Maurice Brubaker. My business
25 address is 16690 Swingley Ridge Road, Chesterfield,

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1 Missouri 63017.

2 THE COURT REPORTER: I need the witness to
3 keep his voice up, please. It's little bit hard to
4 hear over there.

5 CHAIRMAN BOYER: Maybe, Mr. Brubaker, if you
6 would slide that --

7 THE WITNESS: I'll get closer to this thing.
8 How is that?

9 CHAIRMAN BOYER: Very well, that would be a
10 great help. Thank you.

11 Q. (By Mr. Reeder) Mr. Brubaker, have you
12 caused to be prepared a document that has been marked
13 for identification as UIEC Exhibit TP 1 for this case?

14 A. I have.

15 Q. Was it prepared by you and under your
16 direction and control?

17 A. It was.

18 Q. Does it contain the testimony that you would
19 present in this case if I were to call you and ask you
20 the questions therein?

21 A. Yes.

22 Q. Are there any changes, or additions, or
23 deletions that you wish to make to this testimony?

24 A. No.

25 MR. REEDER: I would offer the exhibit.

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1 CHAIRMAN BOYER: Are there any objections to
2 the admission of Mr. Brubaker's testimony, identified
3 as UIEC TP 1? Seeing none, it is admit into evidence.

4 MR. REEDER: Thank you.

5 (Exhibit No. UIEC TP 1 was received)

6 Q. (By Mr. Reeder) Mr. Brubaker, have you
7 prepared a summary of the testimony that has now been
8 received?

9 A. Yes, a brief summary. There are two points
10 that I highlight in my testimony. First is the
11 Company's desire to have annualized return on its
12 investment at the end of the 12-month test year,
13 without annualizing or reflecting the revenues
14 associated with the end of year customers and end of
15 year usage levels, and making corresponding
16 adjustments to other aspects of the revenue
17 requirement so as to synchronize all aspects of the
18 revenue requirement formula.

19 This part of my testimony I think corresponds
20 exactly to what you've just heard from, from the
21 Division and from the Committee. So probably not
22 worth your time for me to spend a lot of time
23 rehashing that.

24 I would simply point out that the Company
25 has, as I said, included the year end investment so it

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1 would earn a return for a full 12 months on all the
2 new investment including the wind farms. It has not
3 annualized or recognized year end number of customers
4 or customer consum -- or consumption levels. So we
5 have a mismatch with the revenues.

6 It has not recognized the full year of
7 operation of the wind farms. So while customers have
8 to pay the return investment for those for an
9 annualized period, customers do not get the benefit of
10 the wind farm's displacing fossil generation or
11 purchases out of the first six months of the test
12 year. Nor do they get the benefit of the production
13 tax credits for the first six months of the test year.

14 Now, it's true the Company does not fully
15 annualize wage expense or depreciation expense as I
16 first thought. But that doesn't take away from the
17 fact that they have failed to annualize for these
18 other very important factors.

19 They did, however, include some annualization
20 of other production expense presumably associated with
21 the wind farm. So there appears to be some
22 annualization at least of those expenses.

23 The second point that I make is that going to
24 an end of period test year effectively shifts risk
25 from the Company to the customers if there's any, any

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1 delay in construction schedules. So that expected
2 investments don't come on screen prior to the end of
3 test year as anticipated.

4 And that's very important in this case,
5 because between December of '08 and June of '09 there
6 are \$750 million-or-so of capital additions that were
7 scheduled to come into service the very last six
8 months of the test year.

9 Two hundred and fifty million of that was the
10 wind farm that's been, I understand, now pulled from
11 the case. But that still leaves \$500 million in
12 capital additions. And of those 500 million,
13 200 million occur in the month of June, 100 million
14 occur in each of the preceding two months. So fully
15 400 million and 500 million stepped in for the last
16 three months of the test year.

17 With a 13-month average rate base the
18 customers would have been expected to pay for
19 annualized re -- for return on those investments only
20 for the number of months that they were scheduled to
21 be in service.

22 So, for example, if the facility was
23 scheduled to come in service in the last month of the
24 test year, the customers would be faced with
25 one-thirteenth of the return with an average rate

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1 base. With the year end rate base it's 100 percent.
2 Thirteen-thirteenths of that year end investment.

3 So the impact of slipping in the construction
4 schedule just a month or two has a very large impact
5 on customers. That's the second reason why I think
6 it's better to have an average test year than the
7 Company's proposed end of period investment. A test
8 year without corresponding annualization of other
9 factors. And that would conclude my summary.

10 CHAIRMAN BOYER: Thank you, Mr. Brubaker.

11 Let's hear now from the UAE. Mr. Dodge?

12 MR. DODGE: Thank you, Mr. Chairman. Our
13 witness is Mr. Higgins.

14 DIRECT EXAMINATION OF KEVIN HIGGINS

15 BY MR. DODGE:

16 Q. Mr. Higgins, would you state your name and
17 for whom you're testifying?

18 A. Yes. My name is Kevin C. Higgins. I'm here
19 on behalf of the UAE Intervention Group.

20 Q. And Mr. Higgins, we have prefiled your direct
21 testimony marked UAE Wal-Mart Exhibit TP 1. Is
22 that -- do you have any corrections to that testimony?

23 A. Yes, I do. I have a couple of zeroes I need
24 to delete.

25 THE COURT REPORTER: I'm sorry, your voice

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1 trailed off. Would you speak up, please?

2 THE WITNESS: I'm sorry. I need to delete a
3 couple of zeroes. On page 5, line 102, please strike
4 the last zero in 900. And on page 6, line 104, please
5 strike the last zero in 600.

6 Q. (By Mr. Dodge) With those changes does your
7 prefiled direct testimony represent your testimony
8 here today?

9 A. Yes, it does.

10 MR. DODGE: And I'd move the admission of
11 UAE-WM Exhibit TP 1, Mr. Chairman.

12 CHAIRMAN BOYER: Are there any objections to
13 the admission of Mr. Higgins' direct testimony? Very
14 well, it is admitted into evidence. With the
15 corrections noted today.

16 MR. DODGE: Thank you.

17 (Exhibit No. UAE-WM TP 1 was admitted.)

18 Q. (By Mr. Dodge) And Mr. Higgins, would you
19 please provide a summary of your testimony?

20 A. Certainly, thank you. I support the
21 Company's proposal to use a fully projected test
22 period ending June 30, 2009. Such a test period best
23 reflects the conditions the Company will encounter
24 during the period rates will be in effect.

25 And I recommend that this test period be

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1 adopted by the Commission in this proceeding. And I'm
2 in agreement with the Division's witness, Dr. Zenger,
3 on this point. I disagree with the Company's proposal
4 to adjust rate base for this test period to an end of
5 period value.

6 The proposal violates well-established
7 ratemaking -- the well-established ratemaking practice
8 of synchronizing revenues and costs, generally known
9 as the matching principle. This has been well
10 explained by the other witnesses in their summaries,
11 so I will not repeat their description at this point.

12 It also produces serious operational
13 mismatches, that are one-sided and disadvantageous to
14 customers. And these operational mismatches include
15 the situation that would occur in which wind plants
16 would be coming in at full investment cost, but the
17 zero cost energy would not be reflected in net power
18 cost.

19 I recommend that the Company's end of period
20 rate base adjustment be rejected by the Commission.
21 And instead rates should be determined using average
22 rate base. And that concludes my summary.

23 CHAIRMAN BOYER: Thank you, Mr. Higgins.

24 Let me check with our reporter. Kelly, are
25 you doing okay?

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1 THE COURT REPORTER: Yes, I'm fine. Thank
2 you.

3 CHAIRMAN BOYER: Okay. Well, let's proceed.
4 We'll take a break about 10:30 then. Let's give the
5 witnesses now an opportunity to respond to the other
6 witness's testimony, beginning with the Company.

7 MS. McDOWELL: Thank you. Mr. Larsen, you
8 may proceed.

9 REPLY TESTIMONY BY JEFF LARSEN

10 MR. LARSEN: Thank you. I think a critical
11 issue that's been raised here is the matching
12 principle. Some parties criticize our year end rate
13 base treatment as it not -- as it doesn't reflect the
14 proper matching of cost revenues and investments for
15 the period -- the test period.

16 The overarching matching principle, though,
17 that is outlined by statute that the Commission is
18 required to file -- follow is the matching of the test
19 period with the conditions in effect during the rate
20 effective period.

21 And so, while we haven't matched the
22 operations of the additional revenues with the rate
23 base, we've tried to reflect the rate base at a level
24 that will be in, in rates and used by customers during
25 the rate effective period.

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1 Essentially, as I've indicated, a June level
2 of year end rate base is equivalent to an average
3 level for the calendar year 2009. And yet our rate
4 effective period potentially goes even further into
5 March of 2010.

6 So the matching principle is a key element in
7 ratemaking, but the greater matching principle is
8 trying to reflect the costs it cost to serve customers
9 during the rate effective period. Year end rate base
10 is a key component and a tool available to commissions
11 in order to deal with that attrition of earnings and
12 that regulatory lag with that additional investment.

13 So by -- if you go to an average rate base
14 without the matching, you're at a December level of
15 investment. And that's to reflect the investments
16 that the Company has through the remainder of the year
17 and into 2010. That's significant regulatory lag that
18 the Company will have to address.

19 So, you know, the parties have raised that
20 issue. We disagree with it. If you were to match it,
21 in effect you're either minimizing that rate base
22 adjustment that we're using to offset the lag. In
23 effect either pulling that rate base back from a June
24 year end level to somewhere between December '08 and
25 June '09, when you mitigate it with the offsetting

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1 pieces.

2 But that still doesn't get us to a point
3 where we're dealing with the rate effective period of
4 the costs that the Company is going to incur.

5 MS. McDOWELL: Does that conclude your reply
6 comments, Mr. Larsen?

7 MR. LARSEN: Yes.

8 MS. McDOWELL: Thank you. Mr. McDougal, can
9 you proceed?

10 REPLY TESTIMONY BY STEVEN McDOUGAL

11 MR. McDOUGAL: In addition to the comments
12 which Mr. Larsen has already discussed, one of the
13 things that I've heard mention is the fact that we are
14 using a fully-forecast test period ending June 2009.
15 I would like to point out that that's sort of a
16 misnomer, because by the time rates become effective
17 10 of those 12 months will be historic.

18 So even though those were forecast at the
19 time the rate case was prepared, it will be for the
20 most part a historic test period when it is
21 implemented. Therefore, the only way to really match
22 the rate effective period is to look a little bit
23 beyond that. And that is what we have attempted to do
24 with the end of period rate base.

25 If we look at the full matchings -- we've

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1 also heard people talk about matching revenues and
2 expenses in the test period. If we were to take the
3 June 30, 2009, period and try to match everything up,
4 the closest approximation to that would be the period
5 ending December 31, 2009.

6 The rate base is approximately actual -- is
7 approximately the same, the other costs would be
8 approximately the same, but the revenue requirement
9 would increase by doing that matching. That concludes
10 my summary.

11 CHAIRMAN BOYER: Okay. Thank you,
12 Mr. McDougal.

13 Dr. Zenger, any reply comments?

14 REPLY TESTIMONY BY DR. JONI ZENGER

15 DR. ZENGER: Yes, just a few. I want to go
16 back to this matching principle again. And I think
17 there's somewhat of a misconception and it's been
18 stretched to mean other things. But there's two types
19 of matching. There's the accounting matching during
20 the test period, where the revenues, expenses,
21 everything lines up in an accounting manner.

22 And then there's the matching principle
23 stated in the statute. Where, to paraphrase, the
24 rates -- the test period should be selected in a
25 manner that the rates are reflective -- or represent

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1 the conditions that would be in effect at that time
2 when the rates go into effect.

3 Now, in surrebuttal by Mr. Larsen and
4 Mr. McDougal I, I got criticized because my arguments
5 said that I wasn't taking into account the rate
6 effective period. Well, I don't know what the rate
7 effective period is because Mr. McDougal, in his
8 testimony on page line -- or page 9, line 200 to 204
9 states:

10 "The Company has not made any
11 decision on the length of time the new
12 rates are to be in effect."

13 So we just know when they would start, but we
14 have no idea how long the rates will be in effect. So
15 it's kind of hard to match in that sense. And while
16 we're on the matching, this ties over to the end of
17 period versus average rate base issue.

18 And I know that the Company provided several
19 legal briefs where end of period has been used before
20 in Georgia, or Florida, or Wyoming, Idaho.

21 I haven't had the opportunity to review every
22 case. But the ones I have reviewed, and in your legal
23 filing, they state despite the fact that there is a
24 mismatch. Or somewhere like, We recognize that there
25 is a mismatch. These things don't match, but.

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1 And as an example, on the Company's reply --
2 Rocky Mountain Power's reply to objections, page 3?
3 In footnote 6 there's several of those cases cited
4 where you say the Commission has used end of period
5 rate base. And repeatedly they acknowledge -- I'll
6 read one of them. This is the Washington one:

7 "End of period rate base
8 appropriates revenue regulatory lag,
9 even though it does not match revenues
10 and costs."

11 Then in -- on page 8 you write -- there's no
12 line. It must be the end of paragraph 2:

13 "In each of the cases the Commission
14 fully acknowledged that some mismatching
15 would occur. But that mismatching
16 needed to be weighted against the
17 advantage of end of period rate base."

18 There, there's others, but I don't have them
19 readily prepared because the nature of the panel, I
20 wasn't prepared for this. But what I want to say is,
21 the matching principle is important and should be
22 weighted -- like if we were to have a hierarchy of all
23 the Commission factors: The general inflation whereas
24 the cost increase in the industry, changes in utility
25 investments, so on, and so on? The matching principle

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1 should be right up at the top. And then economic
2 factors should play in most heavily second -- secondly
3 during the, this current time that we're facing.

4 Finally I just want to agree with Kevin
5 Higgins and the Company that I do believe that the
6 June -- July 1st to ending June 2009 test period does
7 not forecast too far into the future, but allows the
8 Company an opportunity to re -- to earn a return and
9 to build the projects that it has these long lead
10 times on in its planning and its IRP.

11 Were we to change to another methodology,
12 like I said, we would have to refile an entire rate
13 case. And I know that, speaking to our accountants
14 that I work with closely, the accountants prefer doing
15 general accounting through the GAP principles, which
16 is on averaging.

17 The cost of capital is all done, done on an
18 average basis. So it would be a deviation for them to
19 do that. I mean, if the information were provided to
20 us, we would have done it. But it wasn't provided to
21 us. And we do think it would be tedious.

22 Third, the, the Division would not totally
23 object to the calendar nine two thousand test period,
24 provided they use the average rate base methodology.
25 However, if that were to be the case, then I believe

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1 that the historical test period should go from July to
2 June 2008, because we would have that data.

3 And having more recent historical data will
4 make our projections even more accurate. That's all
5 my comments, thanks.

6 CHAIRMAN BOYER: Thank you, Dr. Zenger.

7 Let's turn now to Mr. Bru -- oh, I'm sorry.

8 Yeah. Getting ahead of myself. Let's turn to

9 Mr. Proctor and his two witnesses.

10 MR. PROCTOR: Ms. DeRonne has some.

11 CHAIRMAN BOYER: Ms. DeRonne? Very well.

12 REPLY TESTIMONY BY DONNA DeRONNE

13 MS. DeRONNE: I have a few comments to both
14 Mr. Larsen and Mr. McDougal's comments. And a little
15 something I'd like to add to what Ms. Zenger stated --
16 or I'm sorry, Dr. Zenger stated.

17 First off, the Company's main justification
18 for supporting using year end rate base and average
19 test year for all those other components is they cite
20 I think what he called a greater or another matching
21 principle?

22 We have a well-established matching principle
23 that is recognized in every state I've ever worked in
24 and most decisions I've seen where you match and
25 synchronize the components of the revenue requirement

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1 calculation. The revenues, the expenses, the rate
2 base, and the rate of return applied to that rate
3 base.

4 Mr. Larsen then cites a second what he
5 considers a matching principle in matching, shall we
6 say, the revenue requirement to the rate effective
7 period. And they use that as justification for using
8 rate base as only one component to annualize the
9 filing.

10 Where you're essentially using two different
11 test years. You're kind of colliding two different
12 test years together to get a result. And the Company
13 is trying to indicate that that results in what the
14 Company will experience or occur in a rate effective
15 period.

16 We've had a few different dates cited for
17 rate effective period. I believe Mr. McDougal
18 indicated that was, shall we say the year ending March
19 2010, potentially, depending on when rates go into
20 effect from this case.

21 There's been no -- nothing I've seen in this
22 record anywhere, by the Company or anyone else, of
23 what the Company considers to be the full situation
24 and what it is calling the rate effective period. If
25 that's the March 2010 period Mr. McDougal is citing.

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1 I've seen nothing from the Company showing
2 that by annualizing one component and not considering
3 annualization of revenues, the additional customers
4 occurring over that period, and everything else,
5 showing that that will in fact result in what the
6 Company will experience in the rate effective period.

7 You can't ignore all the other factors that
8 would also be changing, such as revenues. We know
9 that you're gonna increase customers through the end
10 of the test period in this case. So there's no, in my
11 opinion, evidence provided by the Company showing that
12 what it's proposing in this case, which is essentially
13 the mixing of two test years, is what it considers
14 reflective of rate effective period.

15 That's something the Commission really needs
16 to consider before evaluating or putting too much
17 weight on what the Company calls the second matching
18 principle in this case. In fact, there's not even
19 evidence on the record for what the second half of
20 2009 would be. The Company's filing only goes through
21 June 2009.

22 I believe Mr. McDougal cites a number in his
23 testimony of what the impacts would be going to a 2009
24 test year. But again, none of the facts or evidence
25 to support that number have been provided, and none of

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1 the parties have been able to evaluate that.

2 So in my opinion I don't even think the
3 Company -- or the Commission has the information
4 available in this record to show that the Company's
5 proposal to year end, just one component of the
6 revenue requirement, would be reflective of what the
7 Company is contending is the rate effective period in
8 this case.

9 Another concern I had was the cases cited --
10 that have been cited by the Company as using year end
11 rate base. I didn't have time to go back and research
12 all the ones cited, but my firm has participated in
13 some of those cases.

14 I know, for example, there's one in Alaska
15 cited. But there was some -- in that case it was a
16 very strict historic test year that was used. And
17 some of the other cases cited I noted it was also
18 historic test years that were used.

19 And also within the testimony it's not
20 indicated by the Company whether or not the other
21 components of revenue requirement were also
22 annualized. Was it just the rate base that was an
23 annualized period? Or were the revenues and expense
24 levels also annualized as of the year end basis?

25 I believe that piece of information is

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1 missing from the record. And again, it seems in cases
2 where that has been done there's been very unique
3 circumstances. And many of those were historic test
4 years. And some of those cases that were cited go
5 back into the 1970s, when historic test years have
6 been more prevalent in the states.

7 One comment I would like to make on
8 Dr. Zenger's comments. As being one of the people
9 that would go back and audit and actually review the
10 Company's filing, and look at the historic numbers
11 that are there being built up in this case and the
12 numbers actually flowing through the case.

13 I believe she'd indicated it would be very
14 difficult for other parties to annualize the other
15 components of revenue requirement. In my opinion it
16 is almost, if not impossible, for the other parties to
17 do that independently. Particularly in the area of
18 revenues.

19 The way the Company puts its revenues in the
20 filing together is they use some forecasts and then
21 there are specific adjustments made to those
22 forecasts. And in just about every case we asked for
23 what those adjustments are, but they're done by the
24 forecasters and kind of in the Company's system.

25 So I don't believe that the individual

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1 parties have the ability to take the information on
2 the record now and annualize all the components of
3 revenue requirement independently. That would require
4 a lot more information being provided by the Company
5 to do so. Thank you.

6 CHAIRMAN BOYER: Thank you, Ms. DeRonne.

7 Ms. Murray has no reply? Okay.

8 Now then we will turn to Mr. Brubaker.

9 REPLY TESTIMONY BY MAURICE BRUBAKER

10 MR. BRUBAKER: Thank you, sir. Yes, just,
11 just briefly. The Company keeps coming back to
12 wanting to reflect the year end investment as a reason
13 for the year end rate base. And they've told us often
14 the reasons we're here so often is that they have
15 growth, they have to make new investment, new
16 generation, and so forth.

17 And I just say if you're gonna use the year
18 end rate base to try to get a handle on the ongoing or
19 forward-going level of revenue requirement, you
20 absolutely need to annualize for revenues that go
21 along with what you're gonna do with that plant.

22 You need to annualize to recognize --
23 annualize the output to recognize that the wind farms
24 are producing energy at a zero incremental cost. And
25 not, not put the investment in for 12 months and the

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1 output and the benefits in for only 6.

2 But if you really want to get a handle on
3 that, if you really want to go to that concept of what
4 do we think going forward into the rate effective
5 period we're gonna look like, you need to annualize
6 all of the important components of the revenue
7 requirement and just not a selective few. The Company
8 has done just a selective few.

9 CHAIRMAN BOYER: Thank you, Mr. Brubaker.

10 Mr. Higgins?

11 REPLY TESTIMONY BY KEVIN HIGGINS

12 MR. HIGGINS: Thank you, Mr. Chairman. My,
13 my primary response to Mr. Larsen and Mr. McDougal is
14 that I disagree with the Company primarily on the
15 issue as to weight. That is, the Company's witnesses
16 do not dispute that their proposal for end of period
17 rate base creates a mismatch between revenues, costs,
18 and investment.

19 The Company takes the position that that
20 mismatch is acceptable in light of the weight that
21 they wish you to give to their projected end of period
22 investment. In my view, I would ask you to give
23 stronger weight to the need to synchronize revenues,
24 costs, and investment.

25 The Company makes the case that it expects

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1 that in 2009, when rates are in effect, it will have a
2 given level of investment in place for which it would
3 not be earning a full, a full return on. Well, at the
4 same time, many of those facilities -- wind
5 facilities, for example -- would be producing zero
6 cost energy.

7 And customers would be expected to receive a
8 full year's worth of zero cost energy. And in an
9 average rate base, or with a pro forma expense and pro
10 forma net power cost, customers are not going to get a
11 full year's worth of that zero cost energy.

12 And in my view, that's reasonable, in light
13 of using an average test period. So there are issues
14 that fall on either side of this question as to what
15 2009 and beyond is going to look like. And it really
16 does boil down to a matter of weight. And I ask you
17 to give stronger weight to the need to synchronize.

18 I do have one brief comment in response to
19 Ms. Murray. And I can't speak to the legal issues as
20 to over -- with respect to overlapping test periods.
21 But I will raise one policy concern I would have with
22 the position the Committee is taking on this.

23 If, if test periods cannot overlap from rate
24 case to rate case then I am concerned about a future
25 potential situation that could arise in which, if the

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1 Commission were ever to adopt the most forward-looking
2 test period allowed by statute -- namely one that went
3 out 20 months beyond the filing -- then it would seem
4 to me that if we cannot have overlapping test periods,
5 then it would be very difficult for the Commission
6 ever to select one of the other options that the
7 statute allows in a subsequent rate case.
8 Particularly an historic test period with known and
9 measurable changes.

10 If once a 20-month test period is adopted, it
11 would not be possible to ever adopt an historic test
12 period with known and measurable changes that didn't
13 overlap unless you waited about three years before the
14 next rate case.

15 In which case a utility could effectively
16 preempt there ever being a historic test period by
17 simply filing rate cases more rapidly than every three
18 years. It seems to me that would be an unintended
19 consequence of that policy position. That concludes
20 my response.

21 CHAIRMAN BOYER: Thank you, Mr. Higgins. I
22 think this is sort of a natural break point. So let's
23 take a 10 minute or 12 minute recess, and reconvene
24 about 10:30.

25 (A recess was taken from 10:17 to 10:32 a.m.)

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1 CHAIRMAN BOYER: We're back on the record.
2 And I think we'll turn now to see if there are
3 Commission questions of the witnesses. And then we'll
4 go to cross examination.

5 And I feel like I'd like to point out that at
6 least historically we've found that the panel format
7 has at least reduced the need for voluminous cross
8 examination because the witnesses have already had a
9 chance to respond. But with that, Commissioner Allen,
10 have you questions for the witnesses.

11 COMMISSIONER ALLEN: I don't.

12 CHAIRMAN BOYER: Commissioner Allen -- or
13 Commissioner Campbell?

14 COMMISSIONER CAMPBELL: I have just, I have
15 just two. Let me start with the Company. And it's
16 just a basic procedural question. How long would it
17 take you to refile a calendar year 2009 test year?

18 MR. McDOUGAL: It would take us approximately
19 four weeks.

20 COMMISSIONER CAMPBELL: Let me ask the other
21 parties. And I know that you haven't agreed to either
22 one of these, but I'm gonna give you a choice if you
23 have a preference. If you have one, or please let us
24 know.

25 If -- would you rather have a calendar year

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1 2009 average rate base without a change to our
2 procedural schedule, or a calendar year 2009 change in
3 the procedural schedule but considering interim rates?
4 Of those two choices, of those two choices, if you
5 could tell me which one you would prefer.

6 And maybe, maybe you can wimp out and say you
7 have no preference. But I'd be curious, of those two
8 choices, where you would stand.

9 DR. ZENGER: Chairman Campbell, I would say
10 that -- Commissioner Campbell, I would say the latter.
11 But did you mean to imply that we would use the same
12 historic base period of 2007? Or use the --

13 COMMISSIONER CAMPBELL: I thought the idea of
14 updating the historical period to a more current
15 period.

16 DR. ZENGER: Up to June, since we would have
17 that data? That's -- yes, that's.

18 COMMISSIONER CAMPBELL: Put that into the
19 question.

20 DR. ZENGER: That's --

21 COMMISSIONER CAMPBELL: So you're updating,
22 you're updating the historical test -- the historical
23 data to the most current test data. You're using a
24 calendar 2009 as your test period with average rate
25 base.

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1 Would you prefer doing it that way, keeping
2 the procedural schedule, or changing the procedural
3 schedule to have more time but then consider term
4 rates?

5 MS. McDOWELL: Commissioner Campbell, I'm
6 sorry to interrupt, but I just want to make sure that
7 the assumptions in your question are correct. I think
8 that Mr. McDougal, when he responded to your question
9 about the four-week timeline, he was assuming that the
10 base period would remain the same.

11 COMMISSIONER CAMPBELL: Right.

12 MS. McDOWELL: So perhaps he can respond
13 to --

14 MR. McDOUGAL: If I were to --

15 MS. McDOWELL: -- your further assumption.

16 MR. McDOUGAL: If I were to update the base
17 period it would probably take six weeks. Because
18 we're right now just finishing up the semi-annual
19 results of operations to be filed with this
20 Commission. I could modify those, it would take
21 another couple weeks.

22 COMMISSIONER CAMPBELL: Okay. That's
23 helpful. That's helpful to clear up the record, thank
24 you. Now, as far, as far as these other couple of
25 options I'm just curious if the parties want to opine

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1 on them or not.

2 MR. REEDER: Let me start the debate. A, I
3 think more current information to the present
4 environment is absolutely essential. I know no one
5 who would stake a reputation on the ability to predict
6 anything next week.

7 So I think getting more current information,
8 and to try to evaluate where we are and where we might
9 go, is probably is critical in our current
10 circumstances.

11 Number two, I think I would note the 2009
12 year using an average rate base is about our best
13 guess for getting there. Although we could have a
14 shorter period if it's reasonable to do so.

15 Number three, I think we need a change in the
16 schedule because I don't think the filing we have is
17 adequate. I don't know what the change in schedule
18 would have to be. It would be the adequacy of the
19 filing when made that would determine that question.

20 And if the Company can make a case for
21 interim rate relief at any time, I think they should
22 bring it. You know, if there are special
23 circumstances there's a statutory procedure for
24 interim relief.

25 There's -- if they can make the case under

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1 the statute for interim relief that there's an
2 emergency out there that we don't know about that
3 justifies interim relief -- that's a statutory right
4 they have -- then they're welcome to bring it.

5 It doesn't mean we wouldn't oppose it. But
6 there is that opportunity for them if there is an
7 emergency of the nature that the statute contemplates
8 for them to bring. But I think in today's
9 circumstances current information is absolutely
10 essential.

11 COMMISSIONER CAMPBELL: Do others want to
12 speak to this question? I'm not gonna make you
13 answer.

14 DR. ZENGER: I agree with everything
15 Mr. Reeder just said.

16 MS. MURRAY: The Committee also would prefer
17 in the scenarios that you presented the latter would
18 be, in our estimation, the best way to go. And we
19 would note that you did say "consider" interim rates.
20 And so --

21 COMMISSIONER CAMPBELL: I was very careful to
22 phrase that.

23 MS. MURRAY: And so --

24 COMMISSIONER CAMPBELL: Because we do have a
25 hearing and we have to look at the evidence.

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1 MS. MURRAY: Exactly, yes.

2 MR. HIGGINS: My quick response to your
3 question, Commissioner Campbell, is that I would, I
4 would be prepared -- I would be prepared either way to
5 move forward with the, the current filing, the current
6 framework, but with an average rate base. Or to go to
7 a calendar year 2009 with an average rate base and an
8 appropriate rescheduling of the hearing.

9 The question of interim rates would have to
10 be addressed on its own merit. And so I, you know,
11 wouldn't at this point, you know, indicate that -- a
12 preference or not for that.

13 But I suppose my answer to your question is I
14 could -- I'm indifferent between the two approaches of
15 the current filing but with an average rate base,
16 versus 2009 calendar year with an average rate base
17 and a change in schedule.

18 COMMISSIONER CAMPBELL: Let me ask the
19 non-Company parties this question, because I haven't
20 heard a direct answer to the regulatory lag issue.

21 Are the parties aware of a six-month
22 semiannual filing by the Company in the last five to
23 ten years where they actually got their return? And
24 what does that, what does that say about the
25 regulatory process here in the state and our, our

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1 ability to set rates that allow them to get their
2 return? Are they just that badly managed?

3 MS. DeRONNE: If I could just make a brief
4 comment. Part of them not earning their authorized
5 return has to do with how well the Company's
6 forecasting putting its filing together also.

7 So it's a lot of factors other than just the
8 revenue requirements that you have to deal with
9 information -- the information is in the Company's
10 hands. They're the ones making the projections. And
11 you've got to look at the accuracy of those forecasts.

12 So there's a lot of factors beyond just what
13 the Company would call "regulatory lag" that would
14 cause it to not earn its rate of return. Example, you
15 know, years ago there was the Hunter outage issue with
16 one of the power plants impacted their return.

17 There have been other cases where the power
18 costs have been different than what was projected.
19 There are a lot of factors that impact the rate of
20 return, so I'm not sure that it's the fact of the test
21 period selected.

22 I've worked in cases where you have
23 historical test years, and companies go years without
24 a rate case because they're in a rate of return.

25 MR. HIGGINS: Commissioner Campbell? I would

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1 add to what Ms. DeRonne said by pointing out that
2 under the MSP CAP the Company is not going to earn the
3 authorized return on day one, given the way the
4 Company calculates its return in Utah.

5 And that is that the, the revised protocol
6 produces a certain allocation to Utah. The MSP CAP
7 mitigates the rate increase that can occur. That when
8 the Company's ROE for Utah is then calculated with
9 respect to the revised protocol allocation to Utah,
10 that by its nature is going to produce a gap between
11 the, the allowed rate of return and what the Company
12 experiences.

13 But that is per agreement that goes back
14 about five years now that was an exchange for Utah
15 agreeing to go with the revised protocol. And so that
16 is a factor in creating that gap. I'm not saying it's
17 the only factor, but it does contribute to it.

18 COMMISSIONER CAMPBELL: I understand the
19 calculation issue. I'm just curious if you ever -- if
20 you believe that they fit their return taking into
21 account the difference between revised protocol and
22 the CAP.

23 MR. HIGGINS: I, I don't know the answer to
24 that.

25 COMMISSIONER CAMPBELL: You don't know that?

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1 MR. HIGGINS: No.

2 COMMISSIONER CAMPBELL: Okay.

3 MR. LARSEN: Commissioner Campbell?

4 COMMISSIONER CAMPBELL: I want to just follow
5 up and then you certainly have a chance to speak. I
6 mean, we've, we've had historical test years. And,
7 and with things pretty stable there were reasons to
8 have those.

9 The question is, does the forecast test year
10 do enough to, to provide the appropriate return in
11 this -- we know they're building quite a lot. Have,
12 have you -- any of you taken a different approach as
13 it relates to, to your analysis with, with this
14 building program that we're currently involved in as
15 it relates to regulatory lag?

16 DR. ZENGER: Can I respond on that?

17 COMMISSIONER CAMPBELL: Please.

18 DR. ZENGER: We haven't take a new approach,
19 but we are working to get that variance report
20 completed. So at the time, we don't know. We're not
21 aware of if and when the Company earned their allowed
22 rate of return.

23 But we will be able to track actual results
24 of operations versus forecasts and get an idea on the
25 forecasting ability. And I think your initial

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1 questions stem from the regulatory lag issue. And
2 it's, it's there, unless you forecast the full
3 20 months out.

4 But in this case I think a better answer to
5 address regulatory lag would be to have more frequent
6 rate cases rather than to try to change the accounting
7 methodology.

8 COMMISSIONER CAMPBELL: It was an unartful
9 question. My question was, I just want kind of a
10 direct answer from each witness in responding to the
11 Company's regulatory lag argument. What -- how do you
12 respond to that?

13 DR. ZENGER: I mean, we don't, we don't deny
14 it's there.

15 MR. PROCTOR: Commissioner Campbell, I
16 want -- I don't want to testify, of course. But we
17 also to have to bear in mind that in each of those
18 rate cases there has been a stipulated or agreed to
19 rate increase. The Company's agreed to it.

20 And, and one must presume then that the
21 result -- the resulting rate was just and reasonable
22 and provided, then, the reasonable opportunity which
23 the law allows. And then, as Ms. DeRonne has
24 testified, there are a number of other reasons why,
25 why the rate of return may not have been earned.

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1 So on that, just in talking quickly amongst
2 Ms. Murray and Ms. Beck.

3 COMMISSIONER CAMPBELL: No, we've talked
4 about that point before as well.

5 MR. REEDER: Productivity gains are an issue
6 that need to be accounted for in one of two ways:
7 Either A, you can make an express productivity gain in
8 a future test year; or B, you can experience some
9 regulatory lag.

10 Either way are ways that, in economics, the
11 efficiency of an enterprise is assured. That's the
12 incentive for management to behave in the most prudent
13 and efficient way. Now, you've got to be one of the
14 two.

15 You can't give them the best of all worlds
16 and not expect any productivity gains. Or you need to
17 let them suffer some regulatory lag in order to be
18 efficient. That doesn't mean we're unsympathetic to
19 the Company needing the opportunity to earn a rate of
20 return.

21 In rapid growth periods there may be need for
22 a different kind of rate treatment. That is,
23 periodically viewing rate base additions. But I think
24 we need to be cautious at this point. Cautious
25 because remember the large part of the rate additions

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1 are additions that are driven by statutes in Oregon.

2 Driven to meet an RPS statute that's
3 different than the statutes we've got in this state.
4 And I'm not sure that our policy in this state ought
5 to be too sympathetic to a rush to renewables dictated
6 by an Oregon statute.

7 COMMISSIONER CAMPBELL: Did the Company want
8 to respond to this issue? The issues I've raised?

9 MR. LARSEN: Yes, if I could, Commissioner.
10 The Company has to operate within the regulatory
11 constructs in each of its jurisdictions and the rules
12 that the Commissions promulgate there for our cost
13 recovery.

14 In this case we have the ability to use a
15 forecast test period to deal with regulatory lag. On
16 an actual basis, though, based on the way we've dealt
17 with the Company's cases in test periods, the Company
18 continues to, to suffer from regulatory lag in a time
19 of great capital investment.

20 As an example, I mentioned the Company every
21 six months has a revenue requirement going up
22 somewhere around 40 to 50 million dollars. That's 80
23 to 100 million dollars in Utah, or about 250 basis
24 points.

25 So if you accept an average test year,

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1 12 months forecasted, and we don't go out the full
2 period, we're building in somewhere between 8 and 12
3 months of lag. You know, approaching almost
4 \$100 million.

5 You're putting a cap on what the Company can
6 earn then somewhere at or below an eight percent
7 level. And then depending on what other adjustments
8 and other factors occur in the case, we're not gonna
9 get to our allowed rate of return.

10 With the investment that we're making, with
11 the costs that we're incurring right now in this
12 period, we need a mechanism that will deal with, with
13 the regulatory lag.

14 We thought the approach that we brought
15 forward was reasonable. We matched everything in the
16 test period. All the cost revenues and benefits. And
17 then added as a attrition adjustment, which other
18 commissions have done multiple times, to deal with the
19 investment cycle during large capital infusion.

20 We're doing somewhere between around
21 \$2 billion a year of capital investments on a net rate
22 base impact. That's around 1.2 to 1.4 billion dollars
23 going into rate base. Utah basis, that's around
24 500 million.

25 You can take 500 million and convert that to

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1 a revenue requirement pretty quickly and see where the
2 lag is. Capital investment to serve our customers in
3 Utah is critical. And the ability to get those costs
4 recovered is, is important.

5 In terms of settlements, I don't think the
6 Company should be blamed for settling with its
7 customers. We want to work with our customers.
8 Customers benefitted and the Company benefitted from
9 those settlements.

10 It didn't get us all the way to our rate of
11 return, but in a lot of those cases we weren't in the
12 level of capital investment that we are today. We're
13 just -- we've entered into that the last couple of
14 years.

15 Productivity is important. And I agree,
16 during a period when there's, there's flat or slightly
17 increasing costs without an investment cycle, you can
18 look at productivity gains. But with the amount of
19 capital investment going in, we can't make that up off
20 of the backs of our employees on efficiency measures.

21 A rush to renewables. The, the Company is
22 doing its resources on a cost-effective basis. We're
23 not rushing buying things out of market. We are
24 putting resources in place that meets the needs of our
25 customers, augments our generation, and they're cost

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1 effective.

2 COMMISSIONER CAMPBELL: I might mention,
3 Mr. Reeder, we do have an MSP meeting next week that I
4 think a couple of these issues might tangentially be
5 dealt with, or at least discussed as part of -- as far
6 as the priority the Company seeks resources based in
7 that MSP. And the whole idea of return as it relates
8 to, to the CAP.

9 CHAIRMAN BOYER: Most of my questions have
10 been asked and answered by Commissioner -- asked by
11 Commissioner Campbell and answered by the witnesses.
12 But I have several questions, but I have to sort of
13 set the stage.

14 Over the past four or five years I've heard a
15 lot of projections made by expert witnesses. And I've
16 heard those very same experts say that, in essence --
17 I'm paraphrasing -- but they said that the only true
18 and correct thing you can say about projections is
19 that they'll always be wrong. Matter of degree how
20 wrong they are or how correct they are.

21 And then the other sort of rule of thumb that
22 I've heard them express is that the farther out you
23 project, the more likely you are to have erroneous
24 projections. And I -- that may or may not be correct.
25 Maybe folks in the room disagree with those two, those

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1 two principles, if you want to call them that.

2 But if they are true, what does that say
3 about the two test periods that are before us? In, in
4 economic times like we find ourselves in right now --
5 I mean, when the case was filed the DOW was at what,
6 11, 12 thousand, and now it's at -- it was 8,100 this
7 morning.

8 You know, I would describe the economy as
9 being scary, or volatile, or maybe all of the above.
10 Under those circumstances, what are your opinions? Is
11 it better to go out a little bit farther so that we
12 can sort of accommodate this volatility?

13 Or is it better that we have a test year
14 that's closer to the present time? And don't all jump
15 up at once. But I'd be interested in hearing what you
16 have to say.

17 MR. REEDER: I think that's an issue that
18 we've been raising in briefs and other things in front
19 of you. This test year is taking 2007, 2007 data and
20 escalating it to forecast the period of 2008-2009. I
21 don't think there's much chance -- well, I'm not a
22 forecaster.

23 But I don't think there's much chance that
24 the world in 2009 will look like the world in 2007.
25 So I think there's serious questions about the base

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1 that we're using. Something closer in time as a base
2 would give me more comfort, even though we may reach
3 out for the 12 months in 2009.

4 Looking at what's really going on, at the
5 commodity prices, the interest rate, the growth in
6 load, the growth in customers, the change in fuel and
7 purchase power costs today would give me more comfort
8 about knowing what 2009 would look like than looking
9 at 2007, when you've seen Andy Footman or local
10 insight escalators to escalate forward.

11 That's -- I'm not an economist, but common
12 sense seems to compel that conclusion.

13 CHAIRMAN BOYER: Mr. Larsen?

14 MR. LARSEN: Yes, if I could respond to that.
15 We are in uncertain times. But largely the
16 information that the Company has brought forward in
17 its case is based on planning and construction
18 projects that have had long lead times.

19 And, you know, we've, we've had to get
20 anywhere from 18 to 24 months lead time on
21 transformers and those types of things. So most of
22 the construction work that is going on right now,
23 we're locked into, we've made prepayments, we've
24 bought equipment. So the changes in commodity markets
25 aren't going to necessarily impact this current case.

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1 We may have some changes in our load forecast
2 in terms of our customers. If load forecast changes
3 and goes down, say for the new connects that we're
4 adding, your revenue is gonna come down in the case.
5 But so will your allocation factors allocating
6 embedded costs to offset that revenue, as well as your
7 power costs.

8 So the incremental difference if load comes
9 down and you pull out revenues, rate base, and
10 expense, net to a minimal impact. And so I think in
11 terms of the case that we have before us there isn't a
12 significant risk there on that.

13 Going forward, if you go into 2009 I think
14 you will see some, some differences. Some increases,
15 potentially. We're seeing that the cost of debt is
16 increasing. The basis point change between what we
17 can borrow has gone up somewhere between 80 or
18 90 basis points from our last debt obligation that we
19 purchased.

20 Pensions are being hit and conceivably will
21 drive up our pension costs. The other factor, as you
22 look at the region that the Company operates in,
23 Utah's economy is still somewhat insulated and doing
24 better than the rest of the states.

25 If Utah does better than the rest of

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1 PacifiCorp's system, you could actually see an
2 allocation of greater average costs to Utah. Just for
3 the fact that if their loads are going down more than
4 ours you could see an increasing shift of rate base
5 and other costs to Utah, just depending on how the
6 economics are hitting our other states.

7 So there is a potential, you know, people
8 say, Well, maybe costs are coming down if we forecast
9 out into '09. But there's also the chance that
10 there's those other consequences and other costs that
11 the Company will bear that may offset that.

12 CHAIRMAN BOYER: Thank you, Mr. Larsen.

13 Anyone else wish to comment on that?

14 MR. HIGGINS: Mr. Chairman?

15 CHAIRMAN BOYER: Mr. Higgins?

16 MR. HIGGINS: I would, I would just like to
17 comment that I agree with the, I guess the thesis in
18 your question. Which is a, a test period that is
19 closer in time, a projected test period closer in time
20 is one that I would have more confidence in.

21 CHAIRMAN BOYER: Ms. DeRonne?

22 MS. DeRONNE: Yes, if I could add a comment?
23 I'm currently working on another case -- electric case
24 in another state where they've been much more impacted
25 recently by the economic climate. And in that case

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1 the utility has experienced significant reductions in
2 usage per customer.

3 As a result of that, the Company has updated
4 its filing in a lot of areas to, you know, reduced
5 sales to customers. But also, in acknowledgement of
6 the environment, rolled back a lot of discretionary
7 expenditures.

8 It's agreeing to roll back a lot of the
9 capital expenditures that it thought could be
10 deferred. It's reevaluated those. And seeing, well,
11 given the economic climate, and what our customers are
12 facing, and the issues we're having with
13 uncollectibles, which of these capital projects aren't
14 as necessary to do now and can be put off into the
15 future.

16 They've also rolled back a lot of their
17 discretionary expenses in the filing. They have used
18 escalation factors to go out into the future test year
19 in that case.

20 In discretionary expense areas, such as some
21 of their advertising, membership dues, training
22 expenses, they went through and evaluated by area
23 which areas they thought were more discretionary. And
24 agreed to roll those back, even though they're using a
25 future test period, to actual '07 levels in

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1 acknowledgment of the economic climate.

2 So while there may be cost increasing
3 pressures that would make forecasting into '09 more
4 unreliable, you also gotta consider there may be cost
5 decreasing factors through steps the Company can do.

6 That if the, say the economy does hit Utah
7 more, then I anticipate the Company would go back and
8 reevaluate some of those capital programs that it's
9 undergoing. Perhaps if you're not having as much
10 growth and usage, slow down some of those capital
11 additions.

12 So with the current economic environment I
13 would say that the further you go out, if you go out
14 the full 20 months allowed under statute, a lot can
15 happen between now and then given the current
16 environment.

17 CHAIRMAN BOYER: Dr. Zenger?

18 DR. ZENGER: Yes. On, on the projections, I
19 agree with you that the further you go out, you have a
20 greater chance of have -- having imperfect foresight.
21 But if you think of the forecast as the short term,
22 the immediate, you know, near term and the long term,
23 then there's two different forecasts.

24 And perhaps we could be somewhere in between.
25 Because we know short term nobody knows what's gonna

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1 happen. You know. So, but if you take a little
2 longer-term look at it and hopefully by, you know, the
3 end of '09 our economy will pick up.

4 We'll have a new president. We'll have
5 containment on the crisis, hopefully. But that's just
6 another viewpoint to look at when you're forecasting.
7 A short-term forecast, if we had 2007 information,
8 wouldn't be that bad.

9 A longer-term forecast with uncertainties
10 would be a little difficult. So if there were a happy
11 medium during this uncertain time, that would probably
12 be the route to go.

13 CHAIRMAN BOYER: Okay. Thank you for that
14 tutorial.

15 Any other questions, Commissioners? All
16 right. Well, let's, let's turn to cross examination
17 then. And we'll begin with the Company.

18 Ms. McDowell?

19 (Pause.)

20 MS. McDOWELL: So I guess I just proceed with
21 Ms. Zenger -- or Dr. Zenger?

22 CHAIRMAN BOYER: That would be fine.

23 MS. McDOWELL: Okay.

24 CHAIRMAN BOYER: If you want to proceed in
25 the same order in which they testified, that would be

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1 great.

2 CROSS EXAMINATION OF DR. JONI ZENGER

3 BY MS. McDOWELL:

4 Q. Good morning, Dr. Zenger. This is a little
5 awkward, this sideways cross examination, but. Can
6 you turn to page 13 of your testimony, please?

7 A. Yes.

8 Q. And I'm looking at lines 266 to 267.

9 A. Yes.

10 Q. Hopefully this will be a good segue from the
11 discussions we've been having this morning. There you
12 indicate that inflation increased by 5.4 percent
13 during the period of August '07 to August '08. Do you
14 see that?

15 A. Yes.

16 Q. And you also reference the previous year's
17 inflation rate at 5.6 percent?

18 A. Yes.

19 Q. And note that that's the largest increase in
20 17 years. Do you see that?

21 A. Uh-huh (affirmative.)

22 Q. So as an economist would you generally expect
23 businesses to reflect these kind of cost increases in
24 their prices?

25 A. Yes. I'm sure that businesses feel it in

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1 their inputs to production and, you know, labor, and
2 in all areas. I would note that I did get one month
3 more recent data. And from September to September
4 that inflation rate went to 4.6.

5 And the trend does show that it's slowly
6 creeping back down to a normal range of around three.

7 Q. So other things being equal, if businesses
8 are not raising their prices to reflect inflation they
9 will suffer some decline in R&M, correct?

10 A. Yes. Unless they take some other measures.
11 Internal management controls or efficiencies.

12 Q. So the Company's rates are not increasing at
13 anything near this 5.5 percent level, are they?

14 A. No.

15 Q. Do you know the percentage increase in rates
16 from the Company's last rate filing?

17 A. I'd have to calculate it, because with the
18 revised filings and the '07 --

19 Q. Does 2.9 percent sound about right, subject
20 to check?

21 A. Yes, subject to check.

22 Q. So can you turn to page 5 of your testimony,
23 lines 108 through 110? So there you note, in a
24 citation to Mr. McDougal's Exhibit 8, that the Company
25 has included approximately 1.974 billion of total

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1 plant additions during the 13 month -- or during the
2 test period using a 13-month average and a
3 \$2.3 billion level using the year end rate base
4 methodology. Do you see that?

5 A. Yes.

6 Q. So you would agree, wouldn't you, that the
7 Company's new capital projects are the primary driver
8 of the cost increases in this case?

9 A. Yeah, they're one of the two. I think the
10 net power costs are the other, but I don't know the
11 magnitude. But capital planned additions are
12 definitely.

13 Q. The headline?

14 A. (Moves head up and down.)

15 Q. So can you turn to page 12, please?
16 Lines 249 to 50, please. There you indicate that
17 prices directly related to the Company's build cycle
18 have increased and outpaced inflation. Do you see
19 that?

20 A. Yes. That's true.

21 Q. So that -- your, your testimony there
22 indicates that the particular cost increases in the
23 capital cost area are even greater than these
24 5.5 percent numbers we were talking about earlier?

25 A. Yes.

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1 Q. Do you have any sense how much more?

2 A. Yes. In fact, I referenced several of them.

3 Q. Do you have an overall kind of estimate of
4 what that inflation rate is?

5 A. Uh-huh (affirmative.) Yeah. If you give me
6 just a minute, I have that.

7 Q. That's great.

8 A. While I'm looking for it, I reference the
9 Handy-Whitman Index, which is an oft-cited index for
10 utilities. But I also reference other cites.

11 Q. Maybe page 8?

12 A. Yes. Do you want me to, to kind of
13 paraphrase, or?

14 Q. Yeah. I'm just wondering how you would
15 summarize your testimony there with respect to what
16 the general cost increase level the Company's
17 experiencing in the construction or capital cost area.

18 A. Yeah. The costs in all areas of the inputs
19 that I have noted here far outpace inflation. And
20 later I cite, you know, to build a new generation
21 plant now as compared to 10 years will take 50 percent
22 more. Cost 50 percent more to build. But the
23 costs -- costs are driving. I mean, the iron, the
24 steel, metal. Metal is a daily changing index.

25 Q. So I see here on lines 178 and 179 a summary

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1 number that the electric construction cost index for
2 2007 is 17 percent higher than its low point in 2000.
3 Do you think that's a fair summary number for the
4 inflation -- kind of average inflation rate in the
5 construction area for collective utilities?

6 A. Yes, I think it is. I read a similar report
7 a year ago. This was an update to the report.

8 Q. Can you turn to page 17, please? Line 249.

9 A. Sixteen?

10 Q. Oh, excuse me. Let me -- I'm sorry, I lost
11 my place here. Line 17 -- or page 17, 249.

12 A. Three forty-nine?

13 Q. I must have that cite wrong in my notes here,
14 hang on. I guess I was going to direct your attention
15 to line 349. That's my mistake, excuse me. So there
16 page 17, line 349, you indicate that the incentive for
17 efficient management and operation is a positive
18 effect of regulatory lag. Do you see that?

19 A. Yes.

20 Q. Now, you would agree that for a cost to be
21 susceptible of being managed efficiently, the cost
22 would need to be within the Company's control?

23 A. Yes.

24 Q. Can you turn to page 14, please? Line 284 to
25 85. Do you see that?

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1 A. Yes.

2 Q. And there you indicate that the general price
3 level (inflation) is beyond the Company's control. Do
4 you see that?

5 A. Yes.

6 Q. So these general inflationary cost increases
7 we've been discussing are not increases that can be
8 managed by the Company in response to regulatory lag;
9 is that correct?

10 A. These, these costs cannot be managed by the
11 Company. I do imply that, you know, there's other
12 costs that can be managed. It's just like a
13 household. We're all facing these high costs. And so
14 you have to cut back somewhere else, or squeeze
15 something here, or try to find other solutions.

16 But yes, and to your answer, the inflation is
17 out beyond the Company's control.

18 Q. Can you turn to page 20, please, line 408.
19 Now, this gets to your testimony directly on the end
20 of period -- or end of year rate base adjustment
21 proposed by the Company. And on line 408 you indicate
22 that the Company is proposing this adjustment because
23 of regulatory lag. Do you see that?

24 A. Yes.

25 Q. And then you go on to indicate that the

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1 effects of regulatory lag are mitigated by the use of
2 a forecasted test year. Do you see that?

3 A. Yes.

4 Q. Now, in this case the forecasted test year
5 only extends six weeks into the rate effective period,
6 correct?

7 A. Yes.

8 Q. So it's not truly a forward test year in the
9 sense that it's addressing this regulatory lag in the
10 rate effective period, is it?

11 A. I mean, it doesn't go out the 20 months. So
12 there's a short -- the lag is longer. Is that what
13 you were saying?

14 Q. Yes.

15 A. Yes.

16 Q. So you acknowledge the Company continues to
17 suffer regulatory lag, notwithstanding the use of a
18 forecasted test period in this case?

19 A. Yes.

20 Q. Well, then you go on to say on lines 411
21 through 412 that the existence -- because regulatory
22 lag has been mitigated by the use of a forecasted test
23 year, the existence of this lag is not a compelling
24 reason for including some end of period adjustments to
25 the rate base. Do you see that?

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1 A. Yes. Did you want me to elaborate on that,
2 or?

3 Q. Well, my question is, since we've just
4 acknowledged that the regulatory lag continues to
5 exist notwithstanding the forecasted test year, isn't
6 the end of period adjustment a reasonable response to
7 addressing that regulatory lag?

8 A. No, I don't believe it is. I think, like I
9 stated previously, a better, a more favorable solution
10 would be to file more frequent rate cases.

11 Q. But you have a ten month -- or excuse me, an
12 eight month suspension period in this state, correct?

13 A. The statutory clock of --

14 Q. Right.

15 A. -- 240 days? Yes, we do.

16 Q. And we just had a decision from this
17 Commission effectively precluding pancaked rate cases,
18 correct?

19 MS. SCHMID: Objection. I would state that
20 that --

21 CHAIRMAN BOYER: I'm gonna --

22 MS. SCHMID: Sorry.

23 CHAIRMAN BOYER: Probably ought to sustain
24 that objection. She's not an attorney.

25 MS. McDOWELL: Right, okay.

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1 Q. (By Ms. McDowell) There are limits, aren't
2 there, on how frequently the Company can file rate
3 cases, correct?

4 A. Yes.

5 Q. And so within -- working within those
6 limitations there's still gonna be periods of
7 regulatory lag the Company faces, correct?

8 A. Correct.

9 Q. I wanted to hand you an exhibit that I've
10 marked RMP Cross Exhibit TP-1. And if I can just take
11 a moment here to distribute that.

12 (Pause.)

13 Q. (By Ms. McDowell) Dr. Zenger, I have handed
14 you what we have marked as RMP Cross Exhibit TP-1.
15 Which I'll represent to you is a portion of the direct
16 testimony of Ron -- Ronald L. Burrup, B-u-r-r-u-p, for
17 the Division filed in 2002 in a Questar rate case. Do
18 you have that document?

19 A. Uh-huh (affirmative.)

20 Q. So I just wanted to ask you a question about
21 this testimony. Have you had a brief chance to review
22 it?

23 A. I'm, I'm just looking at it right now.

24 Q. Well, your testimony that we were just
25 talking about suggests that end of period rate case

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1 might not be necessary when you're using a forecasted
2 test year. Is that a fair summary?

3 A. Yes.

4 Q. So I wanted to direct your attention to
5 page 7 of this Exhibit TP-1, the Q&A beginning on
6 line 4. And there the Division is testifying as to
7 the test period it will be recommending in the Questar
8 case.

9 And at lines 5 through 7 it indicates it
10 recommends a partially forecasted test period?

11 MS. SCHMID: And pardon me, Chair Boyer. I
12 have a couple of concerns with this exhibit and this
13 line of questioning.

14 CHAIRMAN BOYER: Go ahead and state them.

15 MS. SCHMID: Thank you. First of all,
16 Dr. Zenger was just provided this, and I don't believe
17 that she's had an adequate opportunity to read it in
18 its entirety. And second, I -- neither have I.

19 And also, this is a Questar case several
20 years ago, and I'm not sure -- certain of its
21 relevance to the case in front of us right now.

22 CHAIRMAN BOYER: Where are you going with
23 this, Ms. McDowell? To show that Dr. Zenger's
24 testimony is inconsistent with a prior witness in a
25 different case or something like that?

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1 MS. McDOWELL: With a prior Division -- yes.
2 That the Division previously used end of period --
3 recommended end of period rate base in a case
4 involving a forecasted test period because that
5 produced a test period that was closer in time to the
6 rate effective period.

7 MS. SCHMID: And, and again I would argue on
8 relevance and I would move to strike this line of
9 questioning and proceed.

10 CHAIRMAN BOYER: Well, I -- Ms. McDowell,
11 I -- we'll let you ask a couple more questions. I
12 think you can just ask her directly if Dr. Zenger
13 thinks that --

14 MS. McDOWELL: Well, I was just laying the
15 foundation for that question, so.

16 CHAIRMAN BOYER: I understand that.

17 MS. McDOWELL: Do you want me to proceed and
18 lay the foundation and then move to the question?

19 CHAIRMAN BOYER: Why don't you do that, yes.

20 MS. McDOWELL: All right.

21 Q. (By Ms. McDowell) So the foundation I was
22 laying was just to point out in this Q&A, lines --
23 between lines 4 and 10 that the Division recommended a
24 partial forecasted test period with end of rate base
25 because it was closest to the rate effective period.

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1 Do you see that testimony?

2 MS. SCHMID: And again I would object to this
3 line of questioning based on relevance. And that
4 Counsel is reading mere parts of an exhibit into the
5 record and so it does not accurately reflect, perhaps,
6 the entire direct testimony of Mr. Burrup.

7 And, for example, I don't know if there's
8 additional testimony that he filed on this later. So
9 I'm not quite sure of the relevance.

10 CHAIRMAN BOYER: Well, I'll overrule it for
11 the moment and we'll see.

12 Q. (By Ms. McDowell) So my question is just
13 that, doesn't this indicate here that in the past the
14 Division has recommended use of an end of test period
15 adjustment when coupled with the forward test period?

16 A. Yeah. Yes, it does indicate that. And I'm
17 also aware of other past cases in '89 or '90 when the
18 Commission has used an end of period test period.

19 Q. What cases are those?

20 A. I think UIEC references them all but one -- I
21 think one of them was a Mountain Fuel one in '89. And
22 a US West one was the other one. I -- but I, I do
23 re -- to the best of my recollection, not having read
24 them in their entirety, I do recall that, one, they
25 didn't have a forecasted test period. And two...

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1 One sec, I lost my train of thought. Oh,
2 they -- somewhere in the order there was a
3 representation that there was a mismatch. And so I,
4 I'd have to go through them all and mark them to tell
5 you exactly.

6 Q. Okay. That's fine.

7 MS. McDOWELL: That's all I have. And I'd
8 offer Cross Exhibit TP-1.

9 CHAIRMAN BOYER: Any objections to the
10 admission of RMP Cross Exhibit TP-1?

11 MS. SCHMID: The Division objects for the
12 reasons previously stated.

13 MR. PROCTOR: The Commission -- the Committee
14 would also object. And I think largely for the reason
15 that if indeed you do read the whole of that
16 testimony? It distinguishes that case from all other
17 cases and states clearly that the Division's position
18 in that case was not intended to apply to any other.

19 So by selectively asking questions on only
20 one part of that testimony it, it misleads the
21 Commission. And the exhibit as a whole should be
22 stricken.

23 MS. SCHMID: And if I can add to my initial
24 comments? For example, to follow up on Mr. Proctor's
25 point, in this offered exhibit on line 22 it states:

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1 "Is the Division's position on the
2 test period in this docket applicable to
3 other cases?"

4 The answer is: "No. The Division's
5 general position is that the general --
6 is that the test period should be
7 decided on a case-by-case basis."

8 Again, that just illustrates the problem with
9 using only select pieces of this document. Plus I
10 believe that in the Questar case everything changed
11 and the case was substantially updated as the case
12 evolved. And I'm not exactly sure as to the extent of
13 that. But again, I object to this exhibit.

14 CHAIRMAN BOYER: Okay. We're not going to
15 admit it as evidence but we'll take administrative
16 notice of it.

17 (Exhibit No. RMP Cross TP-1 was not admitted.)

18 MS. McDOWELL: Thank you. Do you want me to
19 proceed with other cross, or redirect, or how do you
20 want to go?

21 CHAIRMAN BOYER: Well, what I would really
22 like to do is hear from Mr. Dodge before he departs,
23 but I don't want to interrupt your chain of thought
24 here --

25 MS. McDOWELL: Well, I have --

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1 CHAIRMAN BOYER: -- or flow of your cross
2 examination.

3 MS. McDOWELL: I have questions, not for
4 Mr. Higgins, but for Ms. Murray and Mr. Brubaker.

5 CHAIRMAN BOYER: And how much time do you
6 think you require to take care of those questions?

7 MS. McDOWELL: Probably 30 minutes. And I'm
8 sorry if that isn't --

9 CHAIRMAN BOYER: Let's take -- let's
10 interrupt you then, Ms. McDowell, I apologize for
11 doing that.

12 MS. McDOWELL: Okay.

13 CHAIRMAN BOYER: But let's hear from
14 Mr. Dodge. Because I think you may have cross
15 examination, but you also want to make brief legal
16 arguments which we would like to hear before you
17 leave.

18 MR. DODGE: And again, Mr. Chair, I apologize
19 if my personal schedule is creating problems. I
20 apologize to Ms. McDowell to the extent of the
21 interruption. I have very limited cross examination
22 of others.

23 And I'm prepared to waive that, because I'm
24 sure others will ask similar questions. Our positions
25 are fairly common. I guess I would ask whether other

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1 parties have cross of Mr. Higgins, because I would
2 prefer that to occur while I'm still here.

3 MR. REEDER: I have no questions of
4 Mr. Higgins.

5 MS. SCHMID: The Division has no questions
6 for Mr. Higgins.

7 CHAIRMAN BOYER: Mr. Proctor?

8 MR. PROCTOR: No questions.

9 CHAIRMAN BOYER: Ms. McDowell?

10 MS. McDOWELL: No.

11 CHAIRMAN BOYER: Okay, that solves that
12 issue. If you'd like to wait then and just make your
13 legal argument at something like ten before the hour,
14 we could do that.

15 MR. DODGE: That's great, thank you.

16 CHAIRMAN BOYER: Let's continue then with
17 Ms. McDowell's cross.

18 MS. McDOWELL: Thank you, Chair Boyer. So I
19 have some questions for Ms. Murray.

20 CROSS EXAMINATION OF CHERYL MURRAY

21 BY MS. McDOWELL:

22 Q. So Ms. Murray, I take it that at this point
23 you've reviewed the filing that the Company has made
24 in this case?

25 A. I have reviewed it.

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1 Q. And are you familiar with the testimony of
2 Steve McDougal?

3 A. Yes.

4 Q. And specifically the testimony that I wanted
5 to ask you about was his testimony that the major cost
6 driver in this case is new capital investment. Are
7 you familiar with that testimony generally?

8 A. Generally.

9 Q. Now, I wanted to hand you an excerpt of
10 testimony from the direct testimony provided in the
11 '07 case. The Company's '07 case. And let me just
12 take a moment and mark that as RMP Cross Exhibit TP-2.

13 (Pause.)

14 Q. (By Ms. McDowell) So Ms. Murray, have you
15 had a chance to review that excerpt of your testimony?

16 A. No.

17 Q. And the question was --

18 A. Was there a specific -- I mean the...

19 Q. And let me just tell you, the question I was
20 specifically gonna ask you about is the Q&A at the
21 beginning of page 4, line 68.

22 A. Okay.

23 Q. So there you indicate that the Committee did
24 not make any objections in the 2007 case to the
25 Company's new capital costs; is that correct?

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1 A. That --

2 MR. PROCTOR: Objection, she's misstating the
3 testimony. It states the Committee has not proposed
4 any adjustments, rather than didn't object to them.
5 There's a difference.

6 MS. McDOWELL: Fair correction.

7 Q. (By Ms. McDowell) So the Committee did not
8 propose any adjustments in the 2007 case to the
9 Company's new capital costs, correct?

10 A. Correct.

11 Q. And then you provide, on lines 73 to 78, some
12 policy explanation for that position in the case. Do
13 you see that?

14 A. I do.

15 Q. Now, do you understand that the Company has
16 proposed to measure rate base at the end of the period
17 to reduce regulatory lag with respect to its capital
18 costs?

19 A. I understand that that is what the Company
20 has said it is doing. But I am not addressing the
21 rate base issue.

22 Q. But you're the policy witness for the
23 Committee, aren't you?

24 A. I am.

25 Q. So I had a question about policy --

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1 A. Oh.

2 Q. -- which is why doesn't the Committee's
3 policy of supporting recovery of the Company's capital
4 investments extend to supporting the Company's end of
5 rate base proposal?

6 A. Because we think that it is more appropriate
7 that the expenses, investment, and revenues all be
8 matched.

9 Q. Even if that means that the Company does not
10 recover the capital investment that you support?

11 A. Well, I think if the --

12 MR. PROCTOR: Well, objection, because
13 Counsel is misstating what the testimony was in '07
14 and what the testimony is here. And assumes a fact
15 not in evidence, and that is the impact of that being
16 a regulatory lag. Which is still in dispute. So the
17 question needs to be rephrased.

18 CHAIRMAN BOYER: It at least has to be
19 restated, probably, by now.

20 MS. McDOWELL: I think I'll move on.

21 Q. (By Ms. McDowell) Can you, Ms. Murray, can
22 you turn to page 2 of your testimony?

23 A. Oh, my -- the exhibit, or my --

24 Q. I'm sorry. I'm done with Exhibit TP-2 --

25 A. Okay.

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1 Q. -- for the time being, and now I'm back on
2 the testimony that you filed in this rate case. Or
3 excuse me, this proceeding. So I wanted to direct
4 your attention to the Q&A that begins on line 28. Do
5 you see that?

6 A. Yes.

7 Q. And there you express concerns about
8 overlapping test periods. And then indicate on
9 lines 37 through 39 that the Company is making a
10 second attempt at cost recovery for specific revenue
11 requirement items. Do you see that?

12 A. I do.

13 Q. And then you go on to explain that in the
14 next Q&A, beginning on line 40. Indicating that,
15 basically on lines 42 going on to the next page:

16 "Since the Company's proposed test
17 period for the current rate case
18 overlaps with six months of the
19 forecasted period in the last case, the
20 concern is that the Company is
21 selectively relitigating certain issues
22 that were decided by the Commission in
23 the last case."

24 Do you see that?

25 A. I do.

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1 Q. Now, the Commission did not approve any
2 adjustments to the Company's capital costs in the 2000
3 General Rate Case, did it?

4 A. Say that again.

5 Q. The Commission, in its final order in the
6 2007 rate case, did not approve any adjustments to the
7 capital costs of the Company, did it?

8 A. I am not aware of any adjustments that it
9 made. Or I don't recall any adjustments that were
10 made.

11 Q. So with respect to the main issue in this
12 case, which is recovery of the Company's capital
13 costs, there's no issue about selective re-litigation
14 of those issues in this case, is there?

15 A. I haven't gone through it on a point by
16 point, but probably not.

17 MS. McDOWELL: That's all I have.

18 CHAIRMAN BOYER: So is that all the cross you
19 have, or?

20 MS. McDOWELL: For this witness. Shall I
21 proceed to Mr. Brubaker?

22 CHAIRMAN BOYER: Proceed. I'll give you your
23 30 minutes here.

24 MS. McDOWELL: I'm on track. So I'm not sure
25 if I offered TP-2, but if I -- Cross 2, but if I did

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1 not, I'd like to offer it now.

2 CHAIRMAN BOYER: Any objections to the
3 admission of RMP Cross TP-2?

4 MR. PROCTOR: To the extent that it is only
5 a -- selected portions of the testimony, it might be
6 more appropriate if the Commission were simply to take
7 notice of the fact that the entire testimony is filed
8 in the prior case. In the event that the matter is
9 reviewed by an appellate court.

10 MS. SCHMID: And the Division would echo the
11 Committee's concerns and recommendations as to the
12 admittance of this Exhibit.

13 CHAIRMAN BOYER: Anything further?

14 MS. McDOWELL: I have no problem with that
15 recommendation.

16 CHAIRMAN BOYER: We'll take administrative
17 notice of it then. Thank you.

18 (Exhibit No. RMP Cross TP-2 was not admitted.)

19 (Pause.)

20 MR. REEDER: Counsel, can you direct us to a
21 page?

22 MS. McDOWELL: I will when I get there. It's
23 basically the, the excerpt that I, that I wanted to
24 ask him about is from pages 11 through pages 13.

25 MR. REEDER: Okay.

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1 CROSS EXAMINATION OF MAURICE BRUBAKER

2 BY MS. McDOWELL:

3 Q. Good morning, Mr. Brubaker.

4 A. Good morning.

5 Q. So can you turn to page 3 of your testimony
6 in this proceeding?

7 A. Yes.

8 Q. And I wanted to direct your attention to
9 lines 12 -- basically your, your Q&A beginning on
10 line 6, and specifically your testimony lines 12
11 through 16. And there you talk about the importance
12 of maintaining synchronization to assure that just --
13 rates are just and reasonable. Do you see that?

14 A. Yes.

15 Q. And then you -- on lines 21 through 23 you
16 say that that's important regardless of whether the
17 test period is historical or forecasted. Do you see
18 that?

19 A. My line numbers are different, but I see, I
20 see that testimony, yes.

21 Q. It's right at the bottom of the page on my
22 copy.

23 A. Yeah. It's not quite there on mine.

24 Q. Okay. All right. Do you see where I'm
25 directing you?

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1 A. I do.

2 Q. Excellent. Okay. So I wanted to just read a
3 line from the DPU closing argument and the test period
4 proceedings in the 2007 case and see if you agree with
5 it. And I'm, I just, this is just basically a do you
6 agree with this statement or not.

7 MR. REEDER: Who's the speaker and when was
8 it given?

9 MS. McDOWELL: This is the -- and I'm happy
10 to hand out a copy. Why don't I do that.

11 MR. REEDER: Just tell us who the speaker
12 was.

13 MS. McDOWELL: It's the closing argument that
14 was filed by the DPU in the 2007 rate case test period
15 proceeding.

16 MR. REEDER: (Speaking too softly.)

17 THE COURT REPORTER: I'm sorry, I cannot hear
18 the speakers over there.

19 MR. REEDER: Sorry. The question was, Can
20 you tell us who the speaker was and what the date of
21 it is. And she said in answer, it is the closing
22 brief for the DPU in the '07 case.

23 MS. McDOWELL: I think we'll go ahead and
24 distribute this just so that there isn't any question
25 about what I'm reading from. So this will be marked

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1 as TP-4.

2 (Pause.)

3 Q. (By Ms. McDowell) And Mr. Brubaker, I'm
4 gonna ask you about a comment on page 5. The
5 paragraph that begins: "In conclusion." Would you
6 read that while we're distributing the Exhibit?

7 (Pause.)

8 THE WITNESS: I have read it, now do you have
9 a question?

10 Q. (By Ms. McDowell) I do have a question. My
11 question is whether you agree with the following
12 statement: "Although" -- and I'm reading from -- it's
13 not numbered, but it's about midway through this
14 paragraph on page -- top paragraph on page 5,
15 beginning with: "In conclusion."

16 "Although it is not clear if any
17 party is recommending a historical test
18 year with known and measurable changes,
19 the Commission should reject this test
20 year not only because it does not
21 reflect the rate effective period, but
22 also because it suffers from the
23 non-synchronization of revenues,
24 expenses, and rate base that has
25 historically been a problem with known

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1 and measurable adjustments."

2 Do you see that?

3 A. I see that, yes.

4 Q. Do you agree with that statement?

5 A. I'm not clear what the mid-year rate base to
6 which this refers actually was, so I'm -- in the
7 con -- I don't feel that I have enough context to --

8 Q. Well, let me ask more specifically. Do you
9 agree that a historical test year with known and
10 measurable changes suffers from the
11 non-synchronization of revenues, expenses, and rate
12 base?

13 A. Historical test period with known and
14 measurable changes?

15 Q. Correct.

16 A. That depends on, on how you do the known and
17 measurable changes.

18 Q. So if you -- typically the adjustments would
19 be made so that the costs or expenses move forward,
20 correct? The known and measurable change would be
21 moved forward, correct?

22 A. Well, normally you'd try to move all relevant
23 factors to the, to the test period that you were
24 looking at. Could be a historic test period, it could
25 be a forecasted test period. Because we try to

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1 synchronize those elements of the revenue requirement.

2 Q. So do you agree that historic test periods
3 with known and measurable changes can present
4 synchronization problems?

5 A. Any test year could prevent -- present
6 synchronization issues, depending on how you choose to
7 do the synchronizations and what you adjust and what
8 you don't adjust. So I don't think it's an indictment
9 of historical test years as such at all. It's just a
10 commentary on the factual circumstances, how did you
11 make your adjustments.

12 Q. So if the practice was to move forward
13 expense or investment items but not to move forward
14 loads and revenues, that would produce a
15 non-synchronized test period, correct?

16 A. I think it would, yes.

17 Q. And is it -- do you have familiarity with the
18 way known and measurable adjustments were made in Utah
19 when those test periods were adopted historically?

20 A. I was in some of those cases. Probably not
21 aggressive revenue requirement issues so much as
22 others. I'm rusty on how that was done.

23 Q. Are you familiar with the fact that typically
24 the expense or the investment item would be moved
25 forward, but not the load or revenue that would

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1 correspond to that?

2 MR. REEDER: Is that a hypothetical question?

3 MS. McDOWELL: I'm just asking him is he
4 familiar with that practice.

5 MR. REEDER: Is that a hypothetical question?
6 You're assuming that that was the case, is your
7 question. Hypothetically it was the case, or do you
8 have an example?

9 MS. McDOWELL: Well, I'm asking whether he's
10 familiar with that as a practice. For Utah.

11 MR. REEDER: I'm trying to get clarification
12 on your counsel -- on your question, Counsel, before I
13 object to it. What is your question?

14 MS. McDOWELL: My question is, is he familiar
15 that the -- with the practice in Utah which was to
16 move forward the expense or the investment item and
17 not move forward the revenue or load that corresponded
18 to that item.

19 MR. REEDER: Well, the question lacks an
20 adequate foundation. She's assuming something about
21 which there is no evidence in this record and no
22 demonstration that this witness has individual
23 knowledge. If she has such a foundation, she should
24 present it.

25 MS. McDOWELL: Well, I was just pointing to

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1 the closing argument of the DPU complaining about the
2 non-synchronization of revenues, expenses, and rate
3 base that was historically a problem with known and
4 measurable adjustments.

5 MR. REEDER: Known and measurable can be a
6 mistake on any year, said Mr. Brubaker.

7 CHAIRMAN BOYER: Ms. McDowell, probably the
8 better approach would be to ask Mr. Brubaker if he
9 knows how those were carried forward. And then if he
10 says yes, then you can ask him how.

11 Q. (By Ms. McDowell) Do you know how known and
12 measurable adjustments were carried forward in Utah
13 when a historical test period with known and
14 measurable adjustments was used?

15 A. As I sit here today, I do not.

16 Q. Okay. Now, are you aware that Utah's test
17 period statute specifically authorizes historic test
18 periods with known and measurable adjustments?

19 A. I believe that to be the case, although I try
20 not to practice law.

21 Q. So the statute does not appear to prohibit
22 non-synchronized test periods, does it?

23 A. Well, again, without trying to speak to the
24 legality -- legal interpretation of the statute, my
25 lay reading of it is that it would not.

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1 Q. So can you turn to -- I'm not sure if you
2 have a copy of this, but your counsel would. Page 10
3 of the brief that UIEC filed contemporaneously with
4 your testimony?

5 MR. REEDER: Do you have a copy of it? I'm
6 afraid I didn't bring the brief with me.

7 MS. McDOWELL: You didn't bring your brief
8 with you?

9 MR. REEDER: I didn't. I anticipated this
10 would be an evidentiary hearing. But I am prepared to
11 argue.

12 Q. (By Ms. McDowell) So I just wanted to direct
13 your attention to page 10 of UIEC's Response to Rocky
14 Mountain Power's Motion For Approval of Test Period.

15 A. Page 10 of mine is a certificate of service.

16 Q. Let me hand you what I'm reading.

17 MR. REEDER: I have no problem with you
18 approaching the witness and showing him what you're
19 referring to.

20 MS. McDOWELL: We'll do that.

21 (Pause.)

22 MR. REEDER: Now you're asking my witness to
23 comment upon my legal argument? So I understand.

24 MS. McDOWELL: What I'm gonna do -- I'm gonna
25 ask a question as soon as I get my -- a copy of the

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1 brief for me to look at. Hang on a, second gentlemen.

2 MS. SCHMID: Pardon me, Chair Boyer. Could
3 you ask Counsel to give us the date of the document to
4 which she's referring to help us follow along?

5 MS. McDOWELL: This was filed --

6 CHAIRMAN BOYER: Well, I think this is the
7 brief --

8 MS. McDOWELL: -- contemporaneously with the
9 testimony. So that would have been last --

10 CHAIRMAN BOYER: October 7th I think is
11 the --

12 MS. SCHMID: Okay, thank you.

13 CHAIRMAN BOYER: -- filing date on that.

14 MS. McDOWELL: Okay. So everybody on the
15 same page?

16 Q. (By Ms. McDowell) The -- I wanted to direct
17 your attention to the statement on the top of page 10
18 saying -- where UIEC takes the position that:

19 "Given the current condition of the
20 economy and the uncertainty of the
21 future, an historic test year with known
22 and measurables would probably be the
23 wisest choice for the test period in
24 this case."

25 Do you see that?

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1 A. I do.

2 Q. So isn't it true that UIEC's asserting that a
3 test period with known and measurable adjustments is
4 the wisest choi -- is the wisest choice, even though
5 that is potentially a non-synchronized test period?

6 A. I don't know if I have the opportunity to
7 comment on Mr. Reeder's citings here. But I would
8 point out that this is a one-sentence statement making
9 an observation about the flux of the economy that
10 we're in today. It's not specific about what test
11 year, or what changes, or how they would be done.

12 The rest of the brief goes on to talk about
13 the issues here in terms of the 2009 test year -- a
14 2009 test year versus a 12 months ended June 2009 test
15 year with partial adjustment. So I'm not sure exactly
16 what your question would be.

17 Q. Well, my question is that your testimony
18 criticizes Rocky Mountain Power's test period on the
19 basis that it's non-synchronized. But then UIEC
20 proposes, as the wisest choice in this case, a test
21 period that would also be non-synchronized.

22 MR. REEDER: Objection.

23 THE WITNESS: I think that you're wrong --

24 MS. McDOWELL: I have a question that I would
25 like him to answer. Thank you.

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1 THE WITNESS: I think -- you seem to be
2 equating the word "historic" with "non-synchronized,"
3 and the two simply are not --

4 Q. (By Ms. McDowell) Historic with non and
5 measurable changes is the proposal -- with known and
6 measurable changes.

7 A. Okay. Historic with known and measurable
8 changes does not equate to non-synchronized.

9 (Pause.)

10 CHAIRMAN BOYER: Mr. Dodge, do you have to
11 leave at the -- right on the hour?

12 MR. DODGE: Close, but I'll be okay.

13 CHAIRMAN BOYER: Close?

14 MS. McDOWELL: I'm about five minutes from
15 being completed. Do you want me to complete my?

16 CHAIRMAN BOYER: Well --

17 MR. DODGE: That's --

18 CHAIRMAN BOYER: Do you think that will work?

19 MR. DODGE: That's fine.

20 CHAIRMAN BOYER: I'd like you to -- do you
21 have cross examination for Mr. Higgins as well?

22 MS. McDOWELL: I do not.

23 CHAIRMAN BOYER: Okay. You've said that
24 already. All right, let's take those five minutes and
25 see.

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1 MS. McDOWELL: I think that I --

2 CHAIRMAN BOYER: See if you can get her done.

3 MS. McDOWELL: I'm still within my half an
4 hour, but I'll move along.

5 (Pause.)

6 Q. (By Ms. McDowell) So, Mr. Brubaker, back on
7 your testimony at page 3, lines 10 to 11. Do you see
8 that?

9 A. As I say, my line numbers are different, so.

10 Q. Oh, I'm sorry.

11 A. Tell me the --

12 Q. I'm gonna ask you about the comment that --
13 which I think you cleared up in your summary, but I
14 just want to clarify this. You state there that RMP's
15 request to update rate base to end of period balances
16 in addition to the already annualized costs such as
17 wage expense and depreciation violates this standard.
18 Do you see that?

19 A. I do.

20 Q. And do you understand that RMP did not
21 annualize either wage expense or depreciation in this
22 filing?

23 A. Yes, I'm willing to accept that. When I
24 still go back and read the words, taking out the wage
25 expense, I still get the impression that they did.

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1 And it's unclear from, from the detailed exhibits
2 exactly, because the Company talks about annualizing
3 to December 2009.

4 But I'm willing to accept Mr. McDougal and
5 Mr. Larsen's representations of what they actually
6 did. So I'm no longer contesting that point.

7 Q. So I just wanted to ask you, your, your
8 counsel has raised some issues about overlapping test
9 periods. And I just wanted to ask you a question
10 about your position in the 2007 RMP General Rate Case.
11 And this is the testimony that we've marked I believe
12 as TP-3. Do you have that?

13 A. I do.

14 Q. Now, I want to direct your attention to your
15 comment on page -- or your testimony beginning on
16 page 11, which is entitled "In-Service Dates of Other
17 Projects." Do you see that?

18 A. Yes.

19 Q. And there you propose that the Company do --
20 update its filing a report on the status of its
21 capital investments. Do you -- is that a fair summary
22 of your testimony on pages 11 to 13? This is just a
23 very general trying to set the stage here.

24 A. I believe that's at least part of that
25 testimony.

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1 Q. And I specifically wanted to ask you about
2 your testimony on page 13, line 17. And there you say
3 in its updates -- the question is:

4 "In its updates, should RMP be
5 permitted to include projects not
6 previously presented as part of test
7 year additions."

8 Do you see that?

9 A. Yes.

10 Q. And your testimony was, No, that would not be
11 fair to the parties. Do you see that?

12 A. Yes.

13 Q. So your position in the '07 rate case was
14 that the Company should not be able to update its
15 filing with new capital costs; is that correct?

16 A. No. It was they shouldn't be allowed to
17 update with new projects that parties had not
18 previously been made aware of and had an opportunity
19 to examine as to need, or use and usefulness, or
20 reasonableness of cost.

21 Q. I see. So those would be new projects not
22 included in the original filing?

23 A. Correct.

24 Q. All right. So that would have included the
25 Company's Chehalis plant, which I believe was approved

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1 by this Commission sometime in July or August of this
2 year?

3 A. I don't know the facts or circumstances
4 surrounding the Chehalis plant at that time.

5 MS. McDOWELL: That's all I have. Thank you.

6 CHAIRMAN BOYER: Thank you.

7 Mr. Dodge, I guess you can use your time as
8 you see fit. Do you wish to cross examine, or do you
9 wish to continue waiving that right and just do your
10 legal argument? Whatever is your pleasure.

11 MR. DODGE: Thank you. And again, I do
12 apologize for having to take this out of order. I
13 apologize to all the parties. It was sort of a
14 conflict I tried my best to avoid and couldn't.

15 I, I will waive cross examination, because
16 I'm confident other parties will make all the same
17 points. And I'd like to make just a brief statement
18 as to the UAE's position. I'd like to start by saying
19 UAE is not wholly unsympathetic to the Company's
20 plight in terms of regulatory lag.

21 UAE is also not unsympathetic to the needs
22 and interests of the -- of its members and the
23 customers of the Utility. The arguments you're facing
24 here in a lot of ways are the same arguments you faced
25 in the 2007 test period order.

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1 Basically the facts remain the same. The
2 circumstances remain the same. The factors remain the
3 same. The analysis of those factors remain the same.
4 UAE continues to believe that the 2007 test period
5 order represented a fair and reasonable balancing of
6 interest of customers and the Utility.

7 Again, we're not fully unsympathetic to the
8 issue of regulatory lag. It's been an issue that's
9 been a problem as long as there have been regulated
10 utilities. It works both ways. There are times when
11 regulatory lag works in favor of the Utility, times
12 when it works against it.

13 Forecasted test year sometimes works to the
14 advantage of the Utility and sometimes against it.
15 And the same with historical test period.
16 Notwithstanding these issues -- which all utilities
17 face, and all customers throughout the country.
18 Including this Utility in prior aggressive build
19 cycles and other utilities in aggressive build cycles.

20 Notwithstanding those issues and problems,
21 which many, many commissions have grappled with and
22 continue to, most commissions have continued to
23 utilize a test period that doesn't go out so far that
24 you lose any confidence in projections.

25 And most continue to use an average rate

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1 base, for the reason that it allows a more proper
2 accounting treatment. Again, there probably are other
3 answers that could, and should, and UAE is willing to
4 explore to help address the Company's issues of
5 regulatory lag during periods of serious -- of extreme
6 capital expenditures.

7 But the answer, in our view, is not in this
8 case to create the serious accounting mismatch issues
9 that we believe occurs when you use an average of
10 everything but one very important cost element.

11 We believe even the cases cited by the
12 Utility shows that this is an extreme measure that is
13 warranted under other circumstances, but not under
14 circumstances of fairly consistent and predictable
15 growth in costs of capital expenditures.

16 Again, we think there may be other issues to
17 that problem. We don't think this is the correct, the
18 correct answer. Those other issues have to be pursued
19 in other contexts because it's not before the
20 Commission right now.

21 We recognize that utilities always want
22 reduced risk. In fact, they prefer no risk. In
23 return -- and who wouldn't? In return, however, they
24 tend to want an ROE that's in the 15 to 16 percent
25 before tax. And again, who wouldn't?

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1 And, and they want that ROE virtually
2 assured. Again, who wouldn't? We still continue to
3 submit that a proper balancing of the interests and
4 needs of the customers and the Utility is appropriate.

5 And on the sole issues before the Commission
6 in this hearing we believe the right answers are to
7 approve the Utility's request for the test period
8 proposed, but to reject its proposed end of period
9 adjustment.

10 And direct the parties and the Utility to
11 look for answers to the regulatory lag issue -- or to
12 a fair balancing of the concerns associated with the
13 regulatory lag in a different context. Thank you.
14 That's all I have.

15 CHAIRMAN BOYER: Thank you, Mr. Dodge. Well,
16 I think we'll take a recess now for lunch. And the
17 anticipation will be that we'll come back at 1:30. We
18 will hear cross examination. Ms. Schmid, you have
19 cross examination. Mr. Proctor, I assume some?

20 MR. PROCTOR: Some.

21 CHAIRMAN BOYER: Mr. Reeder probably has
22 some. We'll hear that. And then we'll reserve some
23 time for legal argument that the parties have
24 requested in view of the circumstances we find here
25 with legal and factual issues before us.

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1 But we will, we will terminate the hearing at
2 3:00 because of other commitments. So you can figure
3 out how you're going to pace yourselves.

4 Ms. Schmid?

5 MS. SCHMID: Yes. Will there be an
6 opportunity for redirect when we come back as well?

7 CHAIRMAN BOYER: Oh, redirect.

8 MS. SCHMID: Limited, pointed, precise.

9 CHAIRMAN BOYER: We'll probably have to try
10 to allow that as well. So we'll have an hour
11 and-a-half to do that. So we'll be in recess then
12 until 1:30. Thank you all.

13 Mr. Dodge, you're excused. Thank you.

14 MR. DODGE: Thank you. I should point out
15 that Mr. Higgins will remain. He has my full
16 permission to participate in any way that is
17 appropriate. I don't need to be here for him to --

18 CHAIRMAN BOYER: Very well, thank you.

19 (A discussion was held off the record.)

20 CHAIRMAN BOYER: We can do that now while I'm
21 still here. Are there objections to the admission of
22 Exhibits --

23 MS. McDOWELL: TP-3 and 4.

24 CHAIRMAN BOYER: TP-3 and TP-4 --

25 MS. McDOWELL: Cross exhibits.

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1 CHAIRMAN BOYER: -- the cross exhibits.
2 They're the excerpts from testimony in other cases.

3 MR. REEDER: (Speaking too softly.)

4 THE COURT REPORTER: I can't hear you.

5 MR. REEDER: I have no objection. I think
6 they're already parts of records before the
7 Commission. If the Commission wants to follow the
8 same practice it did before, taking administrative
9 notice.

10 CHAIRMAN BOYER: I think we'll take
11 administrative notice rather than admit them into
12 evidence.

13 MS. McDOWELL: That suits me fine. Thank
14 you.

15 CHAIRMAN BOYER: Thank you.

16 (Exhibit Nos. RMP Cross TP-3 and TP-4 were not
17 admitted.)

18 (A luncheon recess was taken from
19 11:57 a.m. to 1:33 p.m.)

20 CHAIRMAN BOYER: Now, we have an hour
21 and-a-half to conclude. And I guess we have to
22 complete cross examination, allow some opportunity for
23 redirect, and then legal arguments, or statements, or
24 whatever we're gonna call them.

25 So rather than allocate time for that at this

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1 point we'll just have cover yourselves with that
2 little bit of guidance. So let's turn now to
3 Ms. Schmid. This is your opportunity to cross
4 examine.

5 MS. SCHMID: Thank you very much. The
6 Division has some questions for Mr. Larsen.

7 CROSS EXAMINATION OF JEFF LARSEN

8 BY MS. SCHMID:

9 Q. How are you, Mr. Larsen?

10 A. Good, thank you.

11 Q. Isn't it true that Rocky Mountain Power chose
12 to file this rate case on July 17, 2008?

13 A. That's correct.

14 Q. And isn't it true that Rocky Mountain Power
15 in its filing shows July 1, 2008, through June 30,
16 2009, as the test period for this rate case?

17 A. Yes. With the inclusion of end of period
18 rate base in that test period.

19 Q. And so those were decisions that Rocky
20 Mountain Power consciously made, right?

21 A. That's correct.

22 Q. So if there's a regulatory lag isn't that
23 also within Rocky Mountain Power's control, because
24 they can file with a future test year and file when
25 they wish?

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1 A. We did deal with regulatory lag, in terms of
2 including the adjustment for end of period rate
3 base -- which on its own merit is worth about
4 \$49 million -- to address regulatory lag. We could
5 have filed for the calendar year 2009. Which would
6 have been, per Mr. McDougal's analysis, an \$11 million
7 higher case.

8 But as I said in my summary, to conform with
9 the Commission's desire to have a test period more
10 close in, but also to mitigate the impact of
11 regulatory lag, we included the 12-month forecast test
12 period with the end of period adjustment.

13 Q. But you didn't have to do that. You could
14 file another rate case, or you could seek interim
15 rates to help with regulatory lag; isn't that correct?

16 A. We, we couldn't file another rate case until
17 this one is concluded, based on the outcome of the
18 last case. So filing another case on top of this one
19 wouldn't happen until after May 8, 2009. So that's
20 the earliest we could address the additional
21 regulatory lag.

22 MS. SCHMID: Okay. I have just a couple for
23 Mr. McDougal. And I'd like to distribute what we'd
24 like to call Division Cross 1.

25 (Pause.)

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1 CROSS EXAMINATION OF STEVEN McDOUGAL

2 BY MS. SCHMID:

3 Q. Mr. McDougal, can you take a moment and
4 review the chart?

5 A. Okay. I think I'm familiar with (speaking
6 too softly.)

7 THE COURT REPORTER: You need to speak up,
8 sir, please.

9 THE WITNESS: I have looked over it briefly.

10 Q. (By Ms. Schmid) Thank you. Does this appear
11 to be a reasonable representation of the periods in
12 the 2007 and 2008 case?

13 A. It appears to be, yes.

14 Q. And does it appear to be a reasonable
15 representation of the planned in service dates for the
16 wind facilities, such as Glenrock, Rolling Hills, and
17 Seven Mile?

18 A. Yes, it does.

19 Q. Okay. And does it represent that the High
20 Plains project has been removed from this docket or
21 this, this rate case?

22 A. Yes, it does.

23 Q. Okay. Why was High Plains removed?

24 A. High Plains is no longer scheduled to be in
25 service in June of next year.

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1 Q. Why?

2 A. Construction delays.

3 Q. What sort of construction delays?

4 A. I am not sure all of the delays. But I just
5 know through the permitting and construction
6 progress -- process they have not been able to secure
7 contracts to get it completed on time.

8 Q. So isn't it true that perhaps other projects
9 could have delays as well?

10 A. If you look at the projects on here, High
11 Plains is the only one listed with an in service date
12 in 2009. And therefore the likelihood of any of these
13 slipping beyond that shaded gray area on your chart is
14 very minimal.

15 Q. Okay. And turning to that shaded gray area.
16 Doesn't it show that it's December when Glenrock,
17 Rolling Hills, and Seven Mile would be in service?

18 A. Yes, it does.

19 Q. So they're not in service for the whole test
20 year of July 1, 2008, through June 30, 2009; isn't
21 that correct?

22 A. That is correct.

23 Q. Let's turn now to your filing. Did Rocky
24 Mountain Power's filing include an end of year
25 customer account figure?

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1 A. No, it did not.

2 Q. Did it include end of year customer usage
3 levels?

4 A. No, it did not.

5 Q. Did it include end of year renewable energy
6 tax credits?

7 A. I might be able to quick -- more quickly
8 answer this by saying the only end of year item we
9 included was rate base.

10 Q. So no synchronization is possible with the
11 data you provided, correct?

12 A. That is correct.

13 Q. Thank you.

14 MS. SCHMID: The Division would like to move
15 the admission of DPU Cross 1.

16 CHAIRMAN BOYER: Are there any objections to
17 the admission of DPU Exhibit Cross 1?

18 MS. McDOWELL: No.

19 MR. REEDER: No objection.

20 CHAIRMAN BOYER: Very well, it's admitted
21 into evidence.

22 (Exhibit No. DPU Cross 1 was admitted.)

23 MS. SCHMID: Those were all the questions
24 that I had.

25 CHAIRMAN BOYER: Thank you Ms. Schmid.

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1 Mr. Proctor?

2 MR. PROCTOR: The Committee has no questions.

3 CHAIRMAN BOYER: Oh, very well.

4 Turning now to Mr. Reeder.

5 MR. REEDER: Thank you.

6 CROSS EXAMINATION OF JEFF LARSEN

7 BY MR. REEDER:

8 Q. Good afternoon, Mr. Larsen.

9 A. Good afternoon.

10 Q. Did I understand you correctly to say a
11 moment ago that the impact of the decision on the
12 average test year versus end of period test year is
13 approximately \$49 million?

14 A. Let me verify that, but that's what I
15 remember. Yeah. If you look at Adjustment 9.2,
16 page 9.0.2 from Mr. McDougal's revenue requirement
17 Exhibit. It has a column there that says: "End of
18 Period Rate Base." It shows 48,906,854.

19 Q. So if this Commission should make the
20 decision to use an average rate base on this record at
21 this time, the reduction in revenue requirement would
22 simply be \$48 million? Or is there other, other
23 adjustments that need to be made to accommodate that?

24 A. No, that's basically the adjustment. I guess
25 I'd ask Mr. McDougal if there's any synchronization

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1 with working capital or interest synchronization that
2 would need to occur.

3 Q. Please feel free. Let's get the record
4 complete.

5 MR. McDOUGAL: There might be a few thousand
6 dollars by updating the supplemental adjustments,
7 based upon the change in the value of a hundred basis
8 points. But I don't think it will be more than a few
9 thousand.

10 MR. REEDER: Nothing material?

11 MR. McDOUGAL: Nothing material.

12 MR. REEDER: Okay. I ask to have marked as
13 the next exhibit in order a release form Workforce
14 Services dated October 14th from the State of Utah.

15 Q. (By Mr. Reeder) Mr. Larsen, would you look
16 at that for a moment or two so we can ask you some
17 questions about it?

18 A. Do you want me to read the whole thing?

19 Q. No. Read the first paragraph.

20 (Pause.)

21 Q. (By Mr. Reeder) Did you have occasion to
22 read the first paragraph?

23 A. Give me a minute here.

24 MS. McDOWELL: I just want to indicate that,
25 depending on the question you're gonna ask him, I have

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1 an objection. You haven't established any foundation
2 for this document.

3 (Pause.)

4 THE WITNESS: Okay.

5 Q. (By Mr. Reeder) Mr. Larsen, you have before
6 you a document that's been marked for identification
7 as UIEC Cross Examination 1?

8 MR. REEDER: Or am I presumptive on the
9 numbering?

10 CHAIRMAN BOYER: No, that will be an
11 appropriate numbering system.

12 MR. REEDER: Okay.

13 Q. (By Mr. Reeder) Do you recognize that
14 document as a publication from the Department of
15 Workforce Services?

16 A. That, that's what it appears to be.

17 Q. And do you know the Department of Workforce
18 Services to be an agency with the State of Utah
19 charged with reporting on the Utah employment
20 situation?

21 A. I'm not sure what their exact charge is, but
22 I'll take your word for it.

23 Q. Are they the kind of source that you would go
24 to for that information?

25 A. Either this or the Office of Budget and

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1 Planning.

2 Q. These are one of the sources you'd rely upon?

3 Would you read the first paragraph for me?

4 A. "Utah's non-form -- nonfarm wage and

5 salaried job growth for September 2008,

6 as compared against September 2007, is

7 estimated at 0.1 percent. August's

8 employment growth rate has been revised

9 down two-tenths to 0.1 percent.

10 Approximately 1,800 new jobs have been

11 created in the Utah economy over the

12 past year, raising total wage and salary

13 employment to 1,265,405."

14 Q. What was the rate of job growth in your base

15 year 2007?

16 A. In our base year? I'm not sure.

17 Q. Let's turn to the first chart in this exhibit

18 entitled: "Year-over Percent in Non-Form -- Nonfarm

19 Jobs." Do you see the first chart?

20 A. Okay.

21 Q. What does that chart indicate with respect to

22 job growth in Utah since 2007?

23 A. It appears to have declined.

24 Q. (Speaking too softly.)

25 THE COURT REPORTER: I'm sorry, Counsel, I

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1 need you to speak up. I can't hear you.

2 MR. REEDER: Very significantly. Sorry.

3 THE COURT REPORTER: Thank you.

4 THE WITNESS: Yeah, but this -- I have other
5 data that I relied on in looking at these issues from
6 the governor's office that show about 3,260 jobs were
7 added during August '07 to August '08. So I'm not
8 sure which set of numbers from the State are right.

9 Q. (By Mr. Reeder) Do you quarrel with the fact
10 there's been a significant decline in employment in
11 the state?

12 A. I think employment has gone down.

13 Q. Okay. What does that mean for your Company?

14 A. Well, I think there's a number of issues that
15 it means. Clearly, for our case, it doesn't impact
16 our capital additions for our major plan. We're
17 continuing to, build long-term infrastructure for the
18 state. It doesn't impact those.

19 Q. Why not? If the labor pool of unemployed is
20 growing, why is the cost of labor rising?

21 MS. McDOWELL: Objection, vague.

22 CHAIRMAN BOYER: Well, overruled. That's a
23 good question. Fair question.

24 THE WITNESS: So can you point me to the cost
25 of labor that you're pointing to?

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1 Q. (By Mr. Reeder) Yes. If the number of
2 unemployed is rising, why should the cost of labor be
3 rising as you forecast in your test year?

4 A. Cost of our labor increases because we have
5 longer-term contracts with our unions. Two or three
6 year labor agreements that specify in them the level
7 of increases that they'll receive year to year.

8 Q. Now, that's a bit ironic, you're asking us to
9 adopt a future test year but you want us to look
10 backward to labor costs, isn't it?

11 A. I'm not --

12 MS. McDOWELL: Objection, argumentative.

13 CHAIRMAN BOYER: That is.

14 MR. REEDER: Let's go to the next exhibit in
15 order.

16 (Pause.)

17 MR. REEDER: Can We have the document that I
18 just circulated, entitled Market Center Cash Prices
19 December 20, '07, marked as the next exhibit in order?

20 CHAIRMAN BOYER: That will be UIEC Cross
21 Exhibit 2.

22 Q. (By Mr. Reeder) Mr. Larsen, do you have in
23 front of you the document that we've just identified
24 as UIEC 2?

25 A. Yes.

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1 Q. And do you recognize that to be cash prices
2 for commodities from the Wall Street Journal?

3 A. That's what it purports to be.

4 Q. And is the Wall Street Journal the kind of
5 source that you would look to for information on cash
6 price -- cash prices on commodities?

7 A. That's one source where you could look for
8 it.

9 Q. Let's look down at some of the commodity
10 prices. It's dated December 20, 2007. Do you see the
11 price of domestic oil?

12 A. Where are you at?

13 Q. Domestic oil. Domestic oil spot prices
14 4 p.m. ET.

15 A. Okay.

16 Q. See the price? What was the price the year
17 before December 20, 2007?

18 A. So you're looking at --

19 Q. Sixty-one dollars and ninety-seven cents.

20 A. -- West Texas Intermediate, Cushing, year
21 ago?

22 Q. Yes.

23 A. Sixty-one dollars and ninety-seven cents.

24 Q. What was the price on December 20th, the ask
25 price?

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1 A. Ninety dollars and ninety-nine cents.

2 Q. Look down at the price with respect to
3 natural gas. What do you observe?

4 A. Natural gas Henry Hub?

5 Q. Yes.

6 A. Six dollars and twelve cents a year ago.

7 Q. And current price?

8 A. Bid/ask spread, \$7.11 to \$7.25.

9 Q. Turn to the page to aluminum. Read the
10 aluminum numbers.

11 THE COURT REPORTER: Turn the page to what?

12 MR. REEDER: Aluminum. Other metals,
13 aluminum.

14 THE WITNESS: Okay.

15 Q. (By Mr. Reeder) What was the year ago price?

16 A. Purports to be \$1.245.

17 Q. And what was the price in -- on December?

18 A. There's no bid/ask price.

19 Q. For aluminum?

20 A. Uh-huh (affirmative.)

21 Q. What is the -- I guess it's the Thursday
22 price. What was the Thursday price? There's no
23 Friday price, right?

24 A. What does "Thu Price" mean?

25 Q. What was the Thu price?

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1 A. What does that represent?

2 Q. The day before the Friday.

3 MS. McDOWELL: I'm sorry, what did you say?

4 MR. REEDER: I think it's the day before the
5 Friday price.

6 Q. (By Mr. Reeder) It shows a change downward
7 on aluminum prices, doesn't it?

8 A. Yeah. But all these say Thursday, December
9 20, 2007, so.

10 Q. Okay. Look down at copper prices. And what
11 do you observe with respect to copper prices?

12 A. Two dollars and eighty-six cents, and \$2.95,
13 96 cents.

14 Q. Okay. Would it be fair to conclude from this
15 comparison that if we look at 1997 over 1996 we would
16 observe that prices were rising?

17 A. Yeah.

18 Q. Okay. Let's look at Friday's prices.

19 (Pause.)

20 CHAIRMAN BOYER: Mr. Reeder, I think you just
21 said 1997.

22 MR. REEDER: I'm sorry.

23 CHAIRMAN BOYER: Do you mean 2007?

24 MR. REEDER: 2008. Friday's prices,
25 October 28, 2008. This is the Friday's prices. I

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1 hope. I hope that's what it is.

2 CHAIRMAN BOYER: Right. Just I think you
3 said 1996 or 1997.

4 MR. REEDER: Lucky I didn't say summer of
5 '42.

6 Q. (By Mr. Reeder) Mr. Larsen, do you have in
7 front of you what's been marked for identification --
8 or will be marked for identification at Exhibit No. 3?

9 A. Yes.

10 Q. Same foundational questions: From the Wall
11 Street Journal, one of the sources you look to to
12 determine prices?

13 A. I don't personally look to this to determine
14 prices. It's a source where you could go to get these
15 prices.

16 Q. Okay. Let's go down to look at prices today.
17 And compare them, if we will as we go down, with the
18 prices for 2007. Let's look at crude, same crude.

19 A. West Texas Intermediate, \$91.87.

20 Q. And the price on Friday?

21 A. Sixty-three oh five.

22 Q. Let's go down the list and look at the same
23 prices we looked at before. If we look at natural
24 gas, what do we observe with respect to natural gas?

25 A. Natural gas at Henry Hub, \$6.42. Friday

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1 price, \$6.285.

2 Q. Let's go to metal commodities. Let's go to
3 aluminum. What do you observe with respect to
4 aluminum?

5 A. Aluminum, Comex per pound, \$1.1225, compared
6 to .895.

7 Q. Go down to steel. What do we observe with
8 respect to steel?

9 A. Let's see. Steel scrap?

10 Q. That's a good place to start.

11 A. Twenty-three ninety-two, compared to 21.21.

12 Q. And look at copper?

13 A. Copper high grade, \$3.53, and \$1.68.

14 Q. Would it be fair to conclude, Mr. Larsen,
15 that commodity prices have declined significantly
16 since 1997?

17 A. Yes, I think that commodity prices have come
18 down. The -- in answer to Chairman Boyer's question
19 on the economics, though, much of the costs that are
20 being dealt with in this case, the construction,
21 transformers, all those components that have materials
22 in them we've already locked in, we're building, we're
23 constructing those.

24 Q. On this record, do you want this record to
25 show that Rocky Mountain has not protected itself

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1 against a price decrease in commodities when it buys
2 construction materials?

3 A. I'm not sure what exactly we've hedged. I
4 know that we have got two, two years lead time in a
5 lot of those components.

6 Q. If the price of copper has been cut in half,
7 if the price of steel is down 20 percent, if the price
8 of other commodities is substantially down, have you
9 not protected yourself about that price decline in
10 these commodities that's your, your building
11 materials?

12 A. I'm not sure if we've hedged against those or
13 not.

14 Q. Let's go to the test year. What prices --
15 and I want to be fair to you. What prices do you
16 reasonably expect to be in effect in 2009? If you
17 have any idea at all.

18 A. Prices on what?

19 Q. On your building materials.

20 A. I'm not sure.

21 Q. I don't think anyone in this room is sure, to
22 be frank. I think your answer is about as good as it
23 can be. Let's go to another topic.

24 The Company's filed petition for
25 reconsideration in this case, have they not?

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1 A. Yes.

2 Q. And in that petition for reconsideration the
3 Company took the position that the Commission had no
4 authority to extend the 240 days, didn't they?

5 A. I believe that's correct.

6 MS. McDOWELL: Again, objection. This is
7 getting into commentary on our legal positions. I
8 don't think it's appropriate cross examination.

9 MR. REEDER: The next question -- well, okay.
10 Let's see where it goes.

11 Q. (By Mr. Reeder) Given that position of the
12 Company, what is your position with respect to the
13 shot clock? Where are we on the shot clock? As the
14 policy witness for this Company.

15 MS. McDOWELL: Same objection. I'm not --
16 first of all, I don't understand the question. But
17 second of all, my question stands. He's asking about
18 legal positions we've taken in a legal brief that has
19 been filed.

20 CHAIRMAN BOYER: Right. I'm gonna sustain
21 the objection to the first question. And maybe if you
22 could restate the second question it might be helpful
23 to us all.

24 Q. (By Mr. Reeder) Mr. Larsen, given the
25 Company's position that your Counsel will represent to

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1 you is that the Commission has no authority to extend
2 the 240 days, where are we in the filing of this case
3 with respect to the statutory 240 day obligation of
4 this Commission to act or have rates become
5 permanently effective?

6 MS. McDOWELL: Same objection.

7 CHAIRMAN BOYER: I guess we'll sustain that.
8 He probably is not competent -- not that you're not
9 competent. But probably not qualified to answer
10 this -- that particular question.

11 Q. (By Mr. Reeder) I'm gonna pursue it for a
12 minute. Is it the Company's position that rates
13 should become effective before the date of May, or
14 not?

15 MS. McDOWELL: You know, I've got the same
16 objection.

17 MR. REEDER: We've got a Company vice
18 president on the stand. They've got a legal
19 proceeding here that says you don't have authority.
20 We will all be adversely affected, if you could rule
21 in their favor, that the time will be shorter than
22 even they've offered. And we're not going to get him
23 to tell us what their position is?

24 CHAIRMAN BOYER: Well, I think that -- I'll
25 argue this one for you, Ms. McDowell.

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1 MS. McDOWELL: Thank you.

2 CHAIRMAN BOYER: The problem is that the
3 motion for reconsideration of that order is still in
4 flux at this point in time. We haven't received
5 comments from any of the parties, nor have we decided
6 it. So I just don't think Mr. Larsen can answer that
7 question.

8 MR. REEDER: Very well. Moving right along.

9 Q. (By Mr. Reeder) Mr. Larsen, are you familiar
10 with the order that issued in this case allowing you
11 to amend your application?

12 A. Yes.

13 Q. And does the last -- the first sentence
14 following the order in the paragraph read:

15 "Rocky Mountain is permitted to
16 amend its July 17, 2008, application, as
17 it's done through September 10, 2008,
18 filed amendments, only if Utah Code --
19 citation to the 240-day period is
20 applied and commences with the filing of
21 the later amendment"?

22 A. I would have to look at the document, but
23 subject to check.

24 MR. REEDER: I'd ask the Commission to take
25 administrative note of the formal order that contains

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1 that language.

2 CHAIRMAN BOYER: We will do that.

3 THE WITNESS: Yes, that's what it says.

4 Q. (By Mr. Reeder) Mr. Larsen, what do you take
5 the words "only if" to mean?

6 MS. McDOWELL: Objection. That calls for a
7 legal interpretation of the Commission order. That's
8 beyond the scope of this witness's testimony.

9 MR. REEDER: I'm not asking about the word
10 "is." I'm only asking about the words "only if"
11 that's used in the Commission order.

12 Q. (By Mr. Reeder) What does the words "only
13 if," Mr. Larsen, what does it mean?

14 MS. McDOWELL: Same objection.

15 CHAIRMAN BOYER: Well, he can answer as to
16 what his own feeling is, but not in terms of a legal
17 answer.

18 THE WITNESS: What I think it means is if the
19 240-day time clock starts on September 10th.

20 Q. (By Mr. Reeder) That you can amend your
21 application?

22 A. Yes.

23 Q. And what do you believe that it means if you
24 don't start the time -- the shot clock on that day?

25 MS. McDOWELL: Same objection.

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1 CHAIRMAN BOYER: Are you asking his personal
2 opinion, or?

3 MR. REEDER: Yes, sir. I'm talking to the
4 vice president of regulation of this Company. I want
5 to know what their policy is. The lawyers don't set
6 the policy. It is this fellow that sets the policy.

7 CHAIRMAN BOYER: I'm gonna overrule that and
8 ask Mr. Larsen to answer if he knows the answer.

9 (Pause.)

10 MS. McDOWELL: You know, the reason I keep
11 objecting is I think all of this is the same question
12 that he first asked. Which is, you know, what is the
13 impact of that motion for reconsideration. And it's
14 just a different way of asking that same set of
15 questions.

16 So I just wanted to have my objection be a
17 little bit clearer on the record. But that's my
18 concern about all of these questions.

19 CHAIRMAN BOYER: Okay. I still think
20 Mr. Larsen can answer that if you know the answer.

21 THE WITNESS: Well, the way I view the timing
22 and the, the issue is that with the 240-day clock
23 starting with the Company's filing, that puts the
24 effective date at May 8, 2009. I've referred to that
25 date in my summary.

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1 That's the anticipation, subject to the
2 Company's appeal of the issue to the Commission on the
3 resetting of the clock.

4 CROSS EXAMINATION OF STEVEN McDOUGAL

5 BY MR. REEDER:

6 Q. Mr. McDougal.

7 A. Yes.

8 Q. Good afternoon.

9 A. Good afternoon.

10 Q. See if I can get to the right pile of
11 documents here for just a moment.

12 (Pause.)

13 MR. REEDER: The number on this exhibit is
14 Exhibit No. 4?

15 CHAIRMAN BOYER: Four.

16 Q. (By Mr. Reeder) Cross Examination No. 4.
17 Mr. McDougal, do you have in front of you what's been
18 marked for identification as Exhibit No. 4?

19 A. Yes, I do.

20 Q. And you recognize that as the data request to
21 the Company from us about your rate base?

22 A. Yes, I do.

23 Q. Mr. McDougal, we asked you to compare the
24 rate base in the overlap period in the '08 case with
25 the rate base in the case in the '07 case, did we not?

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1 A. Yes, you did.

2 Q. And you obliged us by giving these pages,
3 plus a comparison page that's at the end, did you not?

4 A. Which page?

5 Q. The comparison pages are at the end.

6 A. Okay.

7 Q. This is the comparisons you provided to us?

8 A. Yes, it is.

9 Q. Would you look at that comparison for a
10 moment and observe the differences?

11 (Pause.)

12 Q. (By Mr. Reeder) Have you had a chance to
13 look at it?

14 A. Briefly, yes.

15 Q. You're probably familiar with it already?

16 A. I have seen this, yes.

17 Q. All right.

18 A. Not recently, but.

19 Q. Is it true that the numbers used to develop
20 the rate base in this '08 case are different than
21 those numbers used for the overlap period in the '07
22 case, and those differences are shown in this exhibit?

23 A. Yes, that is true.

24 Q. Where in your application do you call to the
25 Commission's attention and the parties' attention that

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1 you have departed from the rate base numbers in the
2 case that was adjudicated in this filing?

3 A. I don't think we've ever called out that
4 difference. But what we've done in both cases is we
5 have started the rate base numbers with a historical
6 base, and then we forecast that on.

7 When we forecast we do not forecast to the
8 exact same level of detail as what actuals come in at.
9 So by default there is always going to be a lot of
10 individual variations, both directions. Which is what
11 I see on this paper.

12 Q. This Commission heard, over several days,
13 arguments with respect to rate base. And allowed or
14 determined the correct values for rate base. Have you
15 respected those numbers in your filing, or have you
16 started over again?

17 A. I'm not quite sure I understand the question.
18 Have we started over? We are using a different base
19 number, because we are starting at a different point
20 in time.

21 Q. Do you feel any obligation to call to the
22 attention of the Commission and the parties that
23 you've departed from the rate base that you advanced
24 for the same period in the prior case, and what the
25 magnitude of that departure is?

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1 A. In looking at the rate base in the prior
2 case, we agreed to an adjustment in the prior case
3 where we dropped rate base significantly. And we
4 never agreed on specific monthly numbers, therefore
5 I'm not sure how I could have done what you are asking
6 right now completely.

7 Other than to state we started with a
8 different base period. We have updated to the best
9 projections at that time.

10 Q. You have not called to the Commission's
11 attention or to the parties' attention that you've
12 diverted from the rate base determined by the
13 Commission for the period June through December of
14 '08, have you?

15 MS. McDOWELL: Objection, the question has
16 now been asked three times. He has answered it twice.

17 MR. REEDER: And the answer is, he has not
18 called it to our attention.

19 THE WITNESS: Well, I think it was called to
20 your attention by describing how the rate case was
21 calculated in this case. Which we did.

22 Q. (By Mr. Reeder) What is the magnitude of the
23 increase in rate base attributed to your recalculation
24 of the rate base for the period June through December
25 that we just observed?

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1 A. I do not know that number.

2 Q. Okay. Next exhibit.

3 (Pause.)

4 Q. (By Mr. Reeder) Mr. McDougal, do you have in
5 front of you what's been marked for identification as
6 Cross Examination Exhibit No. 5?

7 A. Yes, I do.

8 Q. Do you recognize that exhibit as the data
9 request from us to you about net power costs?

10 A. Yes, I do.

11 Q. In fact, it's an exhibit that contains
12 answers over two or three different time periods.
13 You've answered and then supplemented your answer,
14 haven't you?

15 A. Yes, we have.

16 Q. Would you turn to the last page of that
17 exhibit? On the top line of that exhibit do you show
18 us the net power costs that were included in this '08
19 case for the period July through December?

20 A. Yes, we do.

21 Q. And in the second line do you show the net
22 power costs allowed by the Commission in the last case
23 for the same period, July through December?

24 A. Yes.

25 Q. And do I conclude from looking at this that

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1 your supplemental filing contains an increase in net
2 power costs over those presented to, allowed by, and
3 determined by the Commission in the last case of
4 \$38 million?

5 A. That is correct.

6 Q. Where in your application did you call to the
7 parties' attention and the Commission's application
8 that you were departing from the prior determination
9 of net power costs by \$38 million?

10 A. I don't recall ever calling that to the
11 attention. That would have been in Mr. Duvall's
12 testimony. However, we did call everybody's attention
13 to exactly what the forecast period was, and the
14 dollars.

15 I think this is getting to that issue of the
16 overlapping period, which the whole period -- what we
17 are trying to do is set a rate going forward. As
18 indicated by Mr. Larsen, we are anticipating that the
19 rates from this case will, under the current schedule,
20 go into effect in early May.

21 Which is after the test period in the prior
22 case. We are using this period with updated
23 assumptions to try and set that rate case level so
24 that we can set the correct rates going forward.

25 Q. Mr. McDougal, we've asked you for the revenue

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1 requirement in this case assuming, A, that you had to
2 begin with the numbers the Commission used last time
3 in the overlap period; and B, with a rate of return at
4 ten and-a-quarter. And what have you told us?

5 A. I don't remember the exact response, but that
6 is something we have not calculated. And my
7 understanding of the data request is that it's
8 designed to get data. That is not something we are
9 proposing.

10 It is something that, through these data
11 requests, I think you have the information that you
12 could calculate.

13 Q. Now, we asked you for the same information
14 for a test year of '09, and what did you tell us in
15 response to our request for '09?

16 A. I believe that went out and we have given you
17 the '09 numbers.

18 Q. Okay.

19 A. That is something we had calculated. I have
20 referred to it in my testimony. We are more than
21 willing to provide that. And have.

22 MR. REEDER: I have nothing further of this
23 witness. I would offer Cross Examination Exhibits 1
24 through 5. And I have no examination of the Committee
25 or the Division witness.

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1 CHAIRMAN BOYER: Okay. Thank you,
2 Mr. Reeder.

3 Any objections to the admission of UIEC Cross
4 Exhibits 1 through 5? Very well, they're admitted
5 into evidence.

6 (Exhibit Nos. UIEC Cross 1 through UIEC
7 Cross 5 were admitted.)

8 CHAIRMAN BOYER: Commissioner Campbell has a
9 question before we go on to the next cross
10 examination.

11 COMMISSIONER CAMPBELL: Before redirect I
12 have a question for the Division. Is it, Dr. Zenger,
13 the Division's position that to use '08 with average
14 rate base, that the Company would need to update the
15 filing?

16 DR. ZENGER: To use calendar year '08 as the
17 test?

18 COMMISSIONER CAMPBELL: No, no. To use the
19 test year filed by the Company, but to use average
20 rate base rather than year end rate base. Is it the
21 Division's position that you can work off of that? Or
22 that you would need them to refile to synchronize
23 revenues, expenses, and rate base?

24 DR. ZENGER: I don't know if I'm fully
25 qualified to answer that. I -- our accounting team

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1 would know that. I would think that our accounting
2 team had started from the '07, and audited that. And
3 then the '08, working on that.

4 So I think as long as -- and this is very --
5 a qualifying statement, so I don't know without
6 talking to the accountants. But I would think that
7 they would be able to work off of that and make sure
8 all of the Commission-ordered adjustments in the last
9 case got carried through.

10 But I, I really -- it's an accounting
11 question.

12 COMMISSIONER CAMPBELL: Well, Mr. Higgins,
13 since you -- this is your recommendation as well to
14 use the rate base filed by the Company, but -- perhaps
15 use the test year filed by the Company but with
16 average rate base.

17 Is it your understanding that we have
18 everything that we need, and we just need to eliminate
19 the \$49 million? Or do you see them needing to refile
20 that and synchronize that?

21 MR. HIGGINS: Commissioner Campbell, in my
22 opinion we really have everything we need. It would
23 be helpful if the Company were to just refresh its
24 numbers based on an order from this Commission if the
25 Commission ordered an average rate base.

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1 But that would just make sure everyone's all
2 on the same page. But even absent that, we -- the
3 Company's adjustment was a very straightforward
4 adjustment they made to end of period rate base. And,
5 you know, we could certainly reverse that ourselves if
6 we had to.

7 CHAIRMAN BOYER: Okay. Thank you,
8 Mr. Higgins.

9 Now I guess we -- inasmuch as Mr. Dodge has
10 waived cross examination, I guess we've completed
11 that. So now we ought to allow some time for
12 redirect. And let's take until, let's just take the
13 next 20 minutes to do that.

14 Well, let me ask this question. How much
15 time do you need for legal arguments, Counsel?
16 Ms. McDowell?

17 MS. McDOWELL: I think 15 minutes.

18 CHAIRMAN BOYER: Fifteen minutes?

19 MS. McDOWELL: I know that seems like a lot,
20 but this is a very important issue to the Company.

21 CHAIRMAN BOYER: Ms. Schmid?

22 MS. SCHMID: Well, probably about two.

23 CHAIRMAN BOYER: Mr. Proctor?

24 MR. PROCTOR: Five.

25 CHAIRMAN BOYER: Five? We saw Mr. Dodge do

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1 it in five.

2 Mr. Reeder?

3 MR. REEDER: Five at the most.

4 CHAIRMAN BOYER: Five? Okay. Let's take the
5 next 20 minutes for redirect, beginning with the
6 Company. So Ms. McDowell, do you think you can sort
7 of pace yourself?

8 REDIRECT EXAMINATION OF JEFF LARSEN

9 BY MS. McDOWELL:

10 Q. So Mr. Larsen, Mr. Reeder asked you some
11 questions about commodity price, volatility, and how
12 that is reflected or not in the case. Can you comment
13 on how commodity price volatility impacts the
14 Company's test year recommendation in this case?

15 A. Well, as I, as I said before, you know,
16 commodities have changed, but we have a significant
17 time period in our construction projects and in our,
18 our other capital projects that we have to go out and
19 get lead time on those assets.

20 So I don't think in this case there's a
21 significant impact of those commodity costs coming
22 down, since we're going through next summer through
23 June in the test period.

24 I think there's a chance that with these
25 commodities coming down you could see that showing up

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1 in a subsequent case as it flows through our, our
2 construction costs and the lead times on components.

3 Q. Is it possible that the Company's filing did
4 not fully capture some of the increases that we are
5 now seeing decreases off of? In other words, the
6 Company experienced increased costs, commodity costs,
7 for some period of time, and absorbed those increases
8 higher than what was forecast in the case.

9 Now they're coming down, but the Company
10 still has to, to bear the brunt or the burden of that
11 higher commodity cost than forecast?

12 A. Yes --

13 MR. REEDER: I'm gonna object to the
14 question, it's leading. He is your witness. Do you
15 want to ask him what he thinks?

16 CHAIRMAN BOYER: Well, it did verge on
17 leading. But she did have some qualifying words
18 there, saying "Is it possible."

19 MS. McDOWELL: Is it possible.

20 THE WITNESS: Yes, I believe it's possible.

21 Q. (By Ms. McDowell) So Mr. Reeder also asked
22 you some questions about the unemployment -- or
23 employment situation in Utah. Can you comment on how
24 those impact the Company's test year proposal in this
25 case?

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1 A. Our employment costs are not coming down. We
2 need our workforce. We're in a heavy construction
3 cycle. Even though the charts show that employment
4 has, has come down, that doesn't necessarily tie to
5 the Company's wages coming down.

6 As I indicated, our employees, for the most
7 part in the unions, are under contract. So what we're
8 dealing with in this test period is largely
9 non-measurable, based on those contracts. So I don't
10 see a significant impact in terms of our labor or wage
11 costs in our test period.

12 MS. McDOWELL: That's all I have for this
13 witness. And --

14 CHAIRMAN BOYER: Anything for Mr. McDougal?

15 MS. McDOWELL: I don't have anything for
16 Mr. McDougal.

17 CHAIRMAN BOYER: Okay, thank you. Thank you,
18 Mr. Larsen.

19 Ms. Schmid?

20 MS. SCHMID: I have just a few redirect
21 questions for Dr. Zenger.

22 REDIRECT EXAMINATION OF DR. JONI ZENGER

23 BY MS. SCHMID:

24 Q. Who chooses when to file a rate case?

25 A. The Company.

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1 Q. Who chooses what amount to request in its
2 rate case filing?

3 A. The Company.

4 Q. Please explain the relationship -- or sorry.
5 You were asked some questions about regulatory lag.
6 Could you please explain the relationship between
7 interim rates and regulatory lag?

8 A. Yes. If -- suppose the Company -- the
9 Commission issued a 2009 calendar year test period.
10 And if the Company could show some compelling reason
11 that you could go to the Commission and request
12 interim rates. Is that about what you wanted?

13 Q. So interim rates are in effect -- interim
14 rates can be used to counter regulatory lag?

15 A. Yes.

16 MS. SCHMID: That's all I have for
17 Dr. Zenger.

18 CHAIRMAN BOYER: Thank you.

19 Mr. Proctor, any redirect?

20 MR. PROCTOR: No, thank you.

21 CHAIRMAN BOYER: Okay. Turning now to
22 Mr. Reeder. Any redirect?

23 MR. REEDER: No, thanks.

24 CHAIRMAN BOYER: Mr. Higgins, you're there
25 kind of all alone without counsel. Anything you want

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1 to add?

2 MR. HIGGINS: I have a few questions for
3 myself. No thank you, Mr. Chairman.

4 CHAIRMAN BOYER: Okay, thank you. Let me
5 check with the commissioners.

6 Okay. Well, let's proceed now then to --
7 unless I've overlooked somebody, let's proceed to the
8 legal arguments. And we'll begin with Ms. McDowell.
9 Now, do you wish to -- we're gonna follow the, you
10 know, practice in the courtroom.

11 Do you want to reserve a few minutes to have
12 the last -- the very last word today?

13 MS. McDOWELL: Yes, I would love that.

14 CHAIRMAN BOYER: All right. Why don't you
15 divide your time accordingly then.

16 MS. McDOWELL: All right, thank you. Like
17 all of you, Rocky Mountain Power is anxious to get
18 past procedural issues and into the merits of the cost
19 elements that comprise this case. But first we felt
20 it was critical that the Commission rule on a proposed
21 test period 12 months with end of period rate base.

22 And that's both because we understood the
23 importance of that component of our proposal -- the
24 end of period component to our test period proposal --
25 and understood the potential controversy associated

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1 with that proposal.

2 So we really felt like, based on those
3 issues, plus the direction from the Commission in the
4 Mountain Fuel case, which stated that:

5 "Both end of period rate base and
6 other test year convention issues need
7 to be resolved prior to hearings, based
8 on the then-existing conditions of the
9 utility and the economy in which it is
10 operating."

11 All of those factors led us to request that
12 the Commission rule now on the test period we've
13 proposed including the end of test period rate base
14 component. So we really do want to stress that.

15 I think if we come out of all of this
16 uncertain about that component we are not addressing
17 really any of the underlying issues that caused us to
18 file that proposal in the first place.

19 We're still in kind of a period of
20 uncertainty about whether this case is really going to
21 satisfy the Company's needs to address regulatory lag.
22 Or whether the Company needs to take additional steps.
23 Or, you know, or what. In order to address the
24 underlying issue that caused us to file that proposal
25 in the first place.

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1 So you've heard here that I think there's
2 no -- there's really no question about what the legal
3 standard that you all have to follow is in this case
4 in selecting the test period.

5 And that is -- I think one of your cases,
6 again the Mountain Fuel case, referred to it as the
7 "fundamental goal of ratemaking." Which is to select
8 a test period that best reflects the conditions that
9 the Company will face during the rate effective
10 period.

11 So that, that's one thing I think all parties
12 agree on. It's written in the statute. The
13 Commission set it. And that's the goal. And really
14 the question is, How do you get there? And we think,
15 for at least five reasons, our proposal is the one
16 that really gets us there most effectively.

17 So let me just go through those five reasons.
18 I think first and foremost, the Company's test period
19 addresses regulatory lag better than the alternatives
20 presented in this case. And let me just go through
21 that.

22 I know Mr. Larsen went through that but, you
23 know, when we throw around all these dates it gets a
24 little complicated. So let me try to go through the
25 timelines for you to really help you understand the

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1 calendar we're working with. I think the DPU's
2 exhibit was helpful in that regard as well.

3 But right now, based on the Commission's
4 Order on the Motion to Dismiss, the rate effective
5 date that we calculate is May 8, 2009. So assuming
6 that the earliest the Company could file a rate case
7 after that rate effective date would be June 2009,
8 assuming a 30-day kind of minimum period to integrate
9 the Commission's order into a new filing, you would
10 file in June 2009.

11 And then assuming the 240-day clock beginning
12 to run without interruption from that date, that takes
13 you to a March 2010 date. So that's the date that
14 Mr. Larsen referred to several times as, you know, the
15 "minimum period."

16 So we will have at least that -- that will be
17 the -- at least that will be the rate effective
18 period. So rates will be in effect coming out of this
19 case at least through March 2010. And certainly
20 longer if the Company delayed in its filing, or
21 procedural issues cause that filing to be pushed back,
22 or, or what have you. But it will -- the rates in
23 this case will be in effect until at least March 2010.

24 So the Company's proposal results in a
25 regulatory lag of December '08 to March 2010 for all

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1 the cost components in this case, except rate based
2 investments. So basically if you've got average of
3 period for all cost components, your, your costs are
4 being measured from December '08.

5 And that's true for all cost components in
6 this case except rate base. And on rate base we
7 reduce the lag on that through our end of period
8 proposal by six months. From June, basically taking
9 it up to, you know, six months to the end of -- and so
10 instead of measuring it at December 2008, you measure
11 it at June '09.

12 So basically you give six months and reduce
13 the lag. So the lag then on your rate base is only
14 from June '09 to March 2010. So I know that's a
15 little hard to follow, but I just wanted to go through
16 that because I think it's quite important in this case
17 to follow those numbers.

18 The two other proposals before you in this
19 case are 12 months ending June 2009 with average rate
20 base, and/or a 2009 test propose -- test year
21 proposal, which everybody says would require another
22 restarting of the clock.

23 So both of those proposals would produce a
24 longer regulatory lag than the Company's proposal.
25 First, you know, obviously the one that has average

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1 rate base takes us back. The rate base lag then is
2 December '08 to March 2010, like all the other cost
3 components in the case.

4 If you dismiss this case effectively by
5 requiring it to be re-filed with the new test period
6 of restarting the clock, obviously that adds to
7 regulatory lag by delaying the effective dates of
8 rates in this case by another two or three months.

9 So either of those proposals are inferior to
10 the Company's proposal in terms of addressing
11 regulatory lag.

12 The second issue I want to talk about is that
13 we believe that the test period in this case is
14 directly responsive to the concerns the Commission
15 addressed in its 2007 test period -- in the test
16 period order in the 2007 General Rate Case.

17 In that order the Commission did express
18 concerns about forecasting out to the 19 or 20 month
19 time range, given un -- or excuse me, given economic
20 uncertainties. Unfortunately, those economic
21 uncertainties have persisted.

22 So we believe that the test period we
23 propose, which is 12 months out but with this end of
24 period adjustment -- end of period rate base
25 adjustment, is a good balancing of the concerns that

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1 you all have expressed about forecasting, with the
2 concerns -- underlying concerns about regulatory lag.

3 In fact, the test period here is 12 months
4 from the initial filing, which is effectively even a
5 shorter test period than was approved in the last
6 case.

7 The third point that supports our test period
8 is that our test period is tailored to address the
9 recovery of the Company's investments. And basically
10 it's new investments only. So we've looked at all of
11 the cost components in the case.

12 And we've tried to tailor a test year
13 proposal that really addresses the primary cost driver
14 in this case, which is our capital investments. And
15 also really focused on the fact that that investment
16 is generally quantifiable, predictable, and
17 noncontroversial.

18 You've heard testimony this morning about the
19 Committee not proposing any adjustments to the capital
20 costs in the last case. And generally those are costs
21 that the Company -- that, that all parties support
22 timely recovery of. And really our proposal is
23 designed in a targeted way to enable that type of
24 recovery.

25 Now, the fourth point I wanted to make in

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1 support of our proposal is that other state
2 commissions, including some of Utah's Western
3 neighbors, have approved use of end of period rate
4 base on a case-by-case situational basis.

5 But typically in situations like those that
6 face the Company -- those that face Rocky Mountain
7 Power today. And those, those circumstances typically
8 are some combination of increasing costs and large
9 rate base investment. And often it's the combination
10 of those two, but it's often one or the other.

11 And I know a few folks have tried to
12 distinguish those cases or talk about them only
13 applying in extreme cases. And we will be the first
14 to admit that the convention, the standard convention
15 is average of period rate base.

16 But there is also no question that in cases
17 where utilities are suffering attrition, where they
18 have significant rate base investment, where they're
19 facing an increasing cost environment, commissions
20 have regularly used an end of period adjustment as a
21 tool to address the regulatory lag that they were
22 trying to confront.

23 It is -- in some ways it is the first tool
24 that most commissions turn to in cases like this.
25 Because it's one that has been used pretty regularly

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1 and is in some ways a -- it's an attrition adjustment
2 that doesn't go too far removed from the actual costs
3 in the case.

4 It's just moving a certain level of costs
5 forward by a discrete amount of time. And encouraging
6 the Company to continue to make those investments by,
7 by treating it in that way.

8 Now, UIEC filed a last-minute sur-reply last
9 night that tries to distinguish some of these cases.
10 But I, I really would urge you, if it becomes
11 important what other commissions do, to take a look at
12 those cases.

13 You know, the Alaska case that we cited, we
14 cited it because it had an extensive policy discussion
15 about end of period rate base. And cited several
16 cases where the Alaska Commission had followed end of
17 period rate base.

18 So while that case itself did not use end of
19 period rate base, it certainly was I think the most
20 important case to cite for your benefit in terms of
21 how other commissions have used this policy.

22 So, lastly I wanted to address the issue of
23 matching, because that is certainly the basis upon
24 which most parties have opposed the Company's
25 proposal. But I do want to point out that matching,

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1 we think from a statutory perspective is this, this
2 concept that the test period needs to match the rate
3 effective period.

4 And if that means that there's some internal
5 mismatching or lack of synchronization in the test
6 period to get there, we think that the statute
7 contemplates that. In part because the statute
8 includes a test period -- historical test period with
9 known and measurable adjustments.

10 And that certainly is that kind of
11 mismatched, non-synchronized test period, but has been
12 used routinely by this commission and others to get to
13 that overarching goal of matching the rate effective
14 period.

15 So now I want to turn to the alternative
16 proposal, which are -- it appears that the alternative
17 proposal that we talked most about this morning is the
18 2009 calendar year proposal. And as Mr. Larsen
19 testified, the Company could support such a proposal,
20 but with some very important qualifications.

21 The first and most important qualification I
22 think is just that we would not support such a test
23 period if it requires a refiling of this case,
24 essentially a dismissal of this case, and a
25 requirement that the Company refile and start the

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1 240-day clock.

2 If, if the concern here is regulatory lag --
3 and that is the headline. I mean, this case is all
4 about capital costs. Those costs are not that
5 complicated. But we, you know, are just in this
6 regulatory vortex where we are trying to, you know,
7 catch up with the, you know, intense level of
8 spending. And trying to figure out the best and the
9 fairest way to do it.

10 I mean, that's the situation. And dismissing
11 this case is not, is not a constructive response, I
12 guess I would respectfully submit. I mean, it's a --
13 it's certainly one that people are arguing for, but it
14 seems counterintuitive to the goal of addressing these
15 costs and getting rates in place that reflect these
16 costs.

17 So, you know, we're very concerned about
18 the -- folks talking about us having that test period
19 and refiling that case. You know, essentially it's
20 not a solution to regulatory lag if we -- if this case
21 is delayed again. And then we have, you know, an
22 eight month period to get through to get to the, to
23 the rates.

24 We also want to say that we don't concede
25 that this test period is required because it avoids

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1 overlapping with the preceding rate case test period.
2 We just think that that's a, you know, a, an incorrect
3 interpretation of, of the way test periods and rate
4 effective periods work.

5 We think that test periods can and do often
6 overlap. It's rate effective periods that can't
7 overlap. You can't have two rates in place at the
8 same time. But you certainly can construct rates that
9 would be in place in a serial basis using test periods
10 that partially overlap.

11 That's quite a common occurrence. And I
12 think Mr. Higgins correctly commented on the policy
13 issues associated with a strict rule against test
14 period overlap.

15 So that brings us really to the discussion
16 that occurred this morning on interim rate filings.
17 And we did say in our testimony and our brief that we
18 would object to a 2009 test period that required the
19 restarting of the clock, unless the Commission ordered
20 interim relief.

21 And we meant what we said. We didn't mean
22 dismiss this and then give us a chance to come in and
23 file another proceeding, and put on the same evidence,
24 and try to establish interim rates. Which all the
25 parties will object to, because that's an extreme

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1 remedy.

2 That, again, gets us nowhere. We're back
3 before you, we're saying the same things, in the same
4 context. But more time is passing and more regulatory
5 lag is occurring. And that, that, again, doesn't seem
6 like a constructive solution.

7 So we think that the Commission rule on
8 interim rates permits the Commission, on its own
9 motion or on a motion of the parties, to set interim
10 rates. It needs to do it based on a record and on a
11 hearing.

12 And we believe that the record and the
13 hearing on interim rates would be very similar, would
14 be identical essentially to what you're hearing this
15 morning. The Company is suffering attrition. The
16 Company has made significant investments.

17 You've seen how it all lays out in our rate
18 recoveries. And, you know, particularly with the
19 delay in processing this case, the Company will be
20 suffering financial harm if it cannot get interim
21 rates in place.

22 So, you know, our view would be that if the
23 Commission's gonna go down that, that road, that road
24 of using a 2009 test period, asking the Company to
25 refile this case, and restarting the clock, that a

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1 piece of that order also be all -- ought to also be
2 ordering interim rates.

3 And Mr. Larsen's testimony talks about what
4 that -- our proposal for that. It would be, you know,
5 using what we filed, with a couple of adjustments. An
6 adjustment for the Commission-ordered ROE in the last
7 case, and an adjustment for property taxes.

8 We think that's a fair way to do it. And we
9 think there's sufficient evidence on the record for
10 the Commission to go ahead and make those -- put those
11 interim rates in place as a part of the Commission
12 order on test period.

13 So that concludes my argument on this. I
14 appreciate, and the Company appreciates how much time
15 we've all spent on this today. All of the parties.
16 We, we know that these are -- our issues are costs.

17 And we know that the parties have spent a lot
18 of time and the Commission has spent a lot of its
19 focus on these issues. And we're greatly appreciative
20 of the opportunity to be heard on this, and for
21 everyone's attention to these issues today.

22 CHAIRMAN BOYER: Thank you, Ms. McDowell.

23 Ms. Schmid?

24 MS. SCHMID: Thank you. Today the Commission
25 has heard an interwoven story of law and facts. And

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1 the Commission is faced with making important choices:
2 What is the appropriate test year, and whether the
3 rate base should be calculated on an average basis or
4 a year end basis.

5 The Company has asked the Commission to
6 decide that the proper test period would be July 1,
7 2008, through June 30, 2009. The Division believes
8 that this is a proper test period. But also offers
9 that, with certain re-filings, calendar year 2009
10 could be an appropriate test period.

11 Although the Division and the Company agree
12 concerning the proper test period, the Company and the
13 Division differ greatly in recommending the means by
14 which to calculate the rate base.

15 The Company offers only investments moving
16 forward. Revenues and costs are not moved forward in
17 its end of year rate base plan. By bringing only part
18 of the equation to the end of the year there's no
19 opportunity for synchronization, that important
20 ratemaking principle.

21 The Division's proposal to use an average
22 rate base is consistent with past Commission policy,
23 ratemaking principles, and common sense. The
24 Company's use of end of year rate base doesn't make
25 the gears mesh. Things don't fit.

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1 The Division opposes the incomplete
2 adjustment by the Company. And finds that its pleas
3 concerning the rate effective period are, well,
4 ineffective.

5 The Company chooses when to file its rate
6 cases and how much money to seek. If the Company has
7 a revenue shortfall the Company can file another rate
8 case, request interim rates, or, as we've seen, seek
9 redress other ways.

10 Thus, the Division urges the Commission to
11 make the choice aligned with ratemaking principles and
12 common sense. To select this July 1, 2008, through
13 June 30, 2009, test period with an average rate base.
14 Thank you.

15 CHAIRMAN BOYER: Thank you, Ms. Schmid.

16 Mr. Proctor?

17 MR. PROCTOR: Thank you, Mr. Chairman.

18 Commissioners. One of the common threads that you
19 find in all the cases that this Commission has dealt
20 with -- and other commissions have dealt with, by the
21 way -- when it comes to test periods and end of test
22 period rate basis is that they're all on a
23 case-by-case basis.

24 Mr. Burrup testified to that plainly in I
25 think 19 -- or 2002, when he filed testimony

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1 discussing how that particular Questar case required a
2 particular treatment. But that it was only that case.
3 It was not meant to, to apply to any other.

4 And that, that's something that the
5 Commission should be aware of and should have been
6 made aware of. Another example is that the Committee
7 did, in fact, propose no capital adjustments in the
8 last rate case, but the, the Company had proposed and
9 was using an average rate base. So under those
10 circumstances we didn't have to propose capital
11 adjustments.

12 In order to prevent harm to the regulatory
13 process -- and that's really what a case-by-case
14 evaluation is intended to do -- this Commission, in a
15 decision in 1984 -- and it's cited on page 5 of the
16 Committee's initial response to this application.

17 The one dealing with the overlapping test
18 periods in 240 days pointed out that this Commission
19 has always been careful to adjust the timing of rate
20 cases and the overlapping character of test periods so
21 that they wouldn't harm the regulatory environment.

22 In other words, make it so incredibly
23 difficult to understand what a utility has done that
24 you cannot effectively create a just and reasonable
25 rate. And that's, in fact, exactly what this Company

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1 is trying to do in this case by establishing an end of
2 period rate base.

3 Ms. Murray testified at the beginning of her
4 direct testimony that, that if one were to consider
5 only the factors that this Commission has established
6 for determining a test period, that the 2009 calendar
7 test period would, would likely comply, as would the
8 2008-2009 test period, provided that both of them are
9 modified to reflect the average rate base instead of
10 the year end rate base.

11 And that is the biggest concern that the
12 Committee has. So on a case-by-case basis, also you
13 need to look at where this case comes from. This --
14 the timing of the case originally in July of this
15 year, knowing that your decision was coming. And, and
16 you went through all that. You wrestled with all of
17 that.

18 But remember, this case filed in July
19 intertwines the '07 case with this one.
20 Intentionally. Remember? It comes out and uses the
21 original proposed test period. And it says, But we'll
22 give you -- give the ratepayers credit for whatever
23 this Commission gives us in their forthcoming order.

24 So you wrestled with that. You made the
25 necessary and appropriate change to say, We'll allow

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1 the application to remain but you have to supplement
2 it with more current information. And the 240 days
3 begins in September.

4 That's where we find ourselves today. But
5 don't forget the origins of the rate case and -- as
6 you consider what the Company's now trying to do.
7 They claim it's to fight regulatory lag. But the
8 regulatory lag is the 240 days. That the legislature
9 has determined. That's all it is.

10 Furthermore, the regulatory lag is best
11 addressed by careful forecasting. Which this Company,
12 unfortunately, doesn't seem to be able to accomplish.
13 For whatever reason. And that's the real problem.

14 And in Mr. Larsen's testimony on page 8, for
15 example, he just doesn't seem to acknowledge the
16 responsibility that the Company has to properly
17 forecast as best as one can. In particular, he, he's
18 asked the question whether or not UIEC's motion
19 suggests that regulatory lag associated with average
20 rate base is an inducement to management efficiency.

21 And he claims no. And in part because new
22 investment is primarily, if not totally, driven by
23 load and customer growth. Load and -- load growth
24 cost driver is under the control of our customers, not
25 the Company.

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1 That's true as you go through in actual
2 practice. But in setting rates, for the purpose of
3 setting rates, the Company is fully in charge of the
4 forecast of load and customer growth. And that's what
5 you have to consider: Their forecast.

6 And they've presented one. But in this
7 particular case what they've done is carved out a very
8 large and important element of forecasting, and that
9 is the rate base. And extended it not truly to the
10 end of the period. They've tried to isolate it and
11 extend it into -- all the way to March 2009.

12 This is their logic. And this is from
13 Mr. McDougal: Well, if you had an average rate base
14 then it generally will be reflected by June of '09.
15 And so if we take an end of rate base on an average
16 basis, that take us basically to the same point.
17 Because we're assuming that these rates will be
18 effective from June of '09 until March of '10.

19 What does that mean? What it means is
20 nothing. What it means is a shell game to try to
21 convince you somehow that the 240 days that the
22 regu -- or the legislature has established as the time
23 for you to consider this case is somehow not enough.

24 And they need to be able to create another
25 rate -- or test period in order to acquire as much as

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1 they possibly can from consumers, at the same time
2 leaving out matching expenses, matching savings, and
3 matching revenues.

4 And according to Mr. Reeder -- and I would
5 believe him -- it's \$49 million. It's a lot of money.
6 And it's on the basis of a projected assess --
7 assumption of what their rate base might be. That is
8 probably as inaccurate as forecasts, unfortunately,
9 have been in the past.

10 The Committee's view is, We will manage the
11 rate case that you define for us. The test period
12 that you define for as -- for us. But truly, on a
13 case-by-case basis, considering the origins of this
14 case and the past practices of this Commission, an
15 average rate base is necessary.

16 This case does not present the extreme or
17 emergency circumstances that are presented in all of
18 the cases that are cited in the Company's brief.
19 There's one to look for, it's a Washington Utilities
20 and Transportation Commission decision where they
21 said, We're going to establish an end of period rate
22 base. And we know it doesn't match revenues and other
23 expenses and savings, but there's an emergency and
24 we've got to do it.

25 This is not the case. An average rate base

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1 is the appropriate one. Thank you very much.

2 CHAIRMAN BOYER: Thank you, Mr. Proctor.

3 Mr. Reeder?

4 MR. REEDER: Thank you. I apologize, like
5 Jeff I'm losing my voice. We're having a contest to
6 see who runs out of cough drops first.

7 To rate base. A, I'm not satisfied that it
8 needs to be decided now. But if you choose to decide
9 it now, we believe you should decide that it should be
10 an average rate base.

11 Couple of reasons. One, look at the largest
12 additions to the rate base. They are not load driven.
13 They're wind additions. They don't add capacity.
14 With their declining fuel costs, one must ask whether
15 it's time to rush to wind or not. And Commissioner
16 Campbell has aptly pointed out, that's a discussion
17 for another day. But that's the driving cause.

18 With respect to regulatory lag, I think
19 there's a whole lot of confusion. And let me try to
20 sort through some things here. Our position with
21 respect to overlapping rate periods is not that they
22 can't have overlapping rate periods.

23 It is when they have an overlapping test
24 period there are certain rules that ought to be
25 followed. They need to disclose to the Commission

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1 when they're departing from the rate base and expenses
2 that you allowed in the last case.

3 And they must bear the burden of proof of
4 changing those. It's not our obligation to go ferret
5 out what the changes are and then persuade you that
6 the changes should be made another way. They need to
7 start with what you ordered last time, and to change
8 it.

9 But that's the problem with an overlapping
10 rate case. They could have overlapping rate case on
11 overlapping rate case as long as, as I put it, they
12 were honest and open about it. Told you what they
13 were changing and why they were changing it.

14 Then they can solve regulatory lag, if it
15 really is the kind of crisis that justifies it. And
16 there's a second problem. And that is, the statute
17 talks about the conditions that the public utility
18 will encounter during the period.

19 I don't think that's limited to the crisis
20 that the public utility is facing. Commodity prices
21 are at their lowest level in many years. Unemployment
22 is rising. Employment is declining. A number of the
23 metrics that we the ratepayers are facing are also
24 declining.

25 I don't think that you ought to have a very

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1 sympathetic ear for regulatory lag, when around you
2 the economy is in circumstances that none of us dare
3 guess where it's going. I would think that regulatory
4 lag in these circumstances to be addressed by an end
5 of period rate base may be a fairly blunt instrument,
6 especially as Mr. Dodge said this morning as he was
7 leaving the room.

8 If there are legitimate reasons for rate
9 relief because of legitimate rate base additions that
10 need to be addressed, there are other ways to do it.
11 And they haven't been explored. And this isn't the
12 place to explore them.

13 But there is no reason to use end of year or
14 regulatory lag arguments to solve them. Let's not use
15 that blunt instrument that potentially corrupts the
16 process by taking us out of synchronization to solve a
17 problem that can be solved another way.

18 And, going back where I've been before, I
19 think you need to assure accountability. You've spent
20 a lot of time hearing evidence. You've made decisions
21 on contested evidence. We've heard on this record
22 today that their rate base that they're proposing to
23 use as year end is higher than -- or some direction --
24 different than what you decided last time.

25 I think they need to be accountable,

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1 beginning with what you ordered. And I think they
2 need to refile. Showing to you where they departed
3 from rate base. Where they departed on labor and
4 employment. Where they departed on fuel usage. So
5 you have that certainty about where they were.

6 If they do that, they can use an overlapping
7 period. It is the obligation to do that that led us
8 to our recommendation that they file an '09 period.
9 If they file an '09 period, the filing requirements
10 can be somewhat different.

11 They don't have to be as rigid as they would
12 be if they used an overlapping period. That's what
13 leads us to the '09 time recommendation. But I
14 conclude by simply suggesting that there's an
15 elephant. That is the economy. And I'm not sure that
16 we ought to be rushing to anything that potentially
17 corrupts the process.

18 When unemployment is rising, when commodity
19 prices are falling, and when the other indications in
20 the economy are all pointing downward, I don't -- we
21 would ill serve the public interest to listen to the
22 regulatory claim of lag affecting their earnings.

23 Thank you.

24 CHAIRMAN BOYER: Thank you, Mr. Reeder.

25 Last words, Ms. McDowell?

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1 MS. McDOWELL: Thank you, Chair Boyer. Just
2 a few comments in response to some of the other
3 parties' arguments. First of all I do want to refer
4 you again to the Mountain Fuel case in terms of
5 whether or not this issue should be decided now or
6 deferred.

7 And I think that case quite clearly says that
8 the Commission should decide this issue prior to the
9 onset of the hearing so the parties are not trying to
10 sort out test period at the same time they're trying
11 the case. And that makes sense on all kinds of
12 levels.

13 But we really would ask you, for our purposes
14 in trying to manage the regulatory lag we are dealing
15 with, we feel like we really need the Commission's
16 direction on this point. And we think it's also
17 consistent with the Commission's practice.

18 Mr. Reeder talked about the fact that the
19 capital costs in this case are comprised mostly of
20 wind. He leaves out the fact that the capital costs
21 also include the Chehalis gas plant. And that's a
22 significant capital addition for the Company. One
23 that is almost as significant as all of the wind
24 plants combined.

25 Mr. Proctor talked about the cases that we

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1 cited uniformly applying end of period rate base only
2 in extreme cases, and that's actually not the case.
3 They, you know, they typically say that average is the
4 norm, but end of period is appropriate in the
5 following circumstances.

6 And they don't require the end of the world.
7 They require attrition. They require capital
8 investments. They require regulatory lag. In
9 essence, they require all of the things that we're
10 talking about here today.

11 And, you know, I think a good example of that
12 is the Wyoming Commission, which has used end of
13 period rate base with this Company for probably
14 20 years. Whenever the Company is in a major build
15 cycle they have used end of period rate base.

16 They have not synchronized the test periods.
17 They have never had issues associated with the rates
18 that have come out of using that convention. And
19 they've never required the Company to show it was on
20 the verge of collapse, financial collapse, to be able
21 to use that convention.

22 They've simply required the Company to show
23 that it had significant rate base coming on in a
24 period of increasing costs. And that's precisely what
25 we're facing in this case.

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1 So the last thing I wanted to address is this
2 issue about, you know, the economy makes it -- for
3 some reason the Commission should not respond to the
4 Company's regulatory lag because the economic issues
5 make that something that, you know, ought to be
6 deferred until the economy is more solid.

7 But, you know, what happens is when the
8 economy rebounds, customers are not gonna pay more
9 than the cost of service. I mean we, you know, the
10 Company has got to catch up. And get to a place where
11 it can recover its costs, especially its investment
12 costs, in order to continue to make those kind of
13 investments.

14 And, you know, we're sensitive to our
15 customers' financial situations. I think our last
16 rate case showed that in areas where we could control
17 costs, like labor, like O&M, this Company has I would
18 say a fantastic track record on that.

19 But what we're talking about now are, you
20 know, costs -- inflationary costs primarily.
21 Inflationary costs in building materials, capital
22 investments. Costs that I think it's fairly
23 uncontroverted those are costs outside of our control.

24 So I guess I would respectfully say that,
25 notwithstanding the fact that we all face a

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1 challenging economy right now, this is a -- this
2 situation is becoming more compelling for the Company
3 to address, not less, in the current economic
4 situation.

5 So with that, I would thank you again for
6 your attention and for hearing us out on this
7 important issue. And just ask that we get direction
8 from you on this issue as soon as we can. Thank you.

9 CHAIRMAN BOYER: Thank you, Ms. McDowell. We
10 are aware of the timing exigencies, shall we say, and
11 we'll get our order out as soon as possible.

12 We are going to take this matter under
13 advisement, for fairly obvious reasons. We thank you
14 for your participation. And may I commend you all on
15 the way you've conducted yourselves today. And with
16 that, we will terminate this. That will be the end of
17 this hearing. Thank you all.

18 (The hearing was concluded at 2:54 p.m.)

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C E R T I F I C A T E

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

This is to certify that the foregoing proceedings were taken before me, KELLY L. WILBURN, a Registered Professional Reporter and Notary Public in and for the State of Utah.

That the proceedings were reported by me in stenotype and thereafter caused by me to be transcribed into typewriting. And that a full, true, and correct transcription of said proceedings so taken and transcribed is set forth in the foregoing pages, numbered 1 through 190, inclusive.

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

WITNESS MY HAND AND OFFICIAL SEAL AT KEARNS, UTAH
THIS 10th DAY OF November, 2008.

Kelly L. Wilburn, CSR, RPR
My Commission Expires:
May 16, 2009

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