

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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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. )

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TRANSCRIPT OF HEARING PROCEEDINGS

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

DATE: March 31, 2009

TIME: 2:08 p.m.

REPORTED BY: Kelly L. Wilburn, CSR, RPR

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4 Ric Campbell  
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7	Committee of Consumer Services prefiled testimony and exhibits	10
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11 (The previous exhibits and related testimony  
12 were prefiled and are part of the PSC record  
and filed at the Commission.)

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1 MARCH 31, 2009 2:08 P.M.

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

3 CHAIRMAN BOYER: This is the time and place  
4 duly noticed for the Hearing on the Motion For  
5 Approval of Revenue Requirements Stipulation in  
6 Docket No. 08-035-38.

7 Captioned: In the Matter of the Application  
8 of Rocky Mountain Power for Authority to Increase Its  
9 Retail Electric Utility Service Rates in Utah and For  
10 Approval of Its Proposed Electric Service Schedules  
11 and Electric Service Regulations.

12 So today we'll be hearing testimony on the  
13 motion for approval of the stipulation. Our intent  
14 will be to proceed first in hearing from those who are  
15 proponents of the approval of the stipulation, and  
16 those against. And then we'll let those -- the moving  
17 parties have the last, the last word.

18 When we've completed that portion of the  
19 hearing we'll be in recess until 4:30, at which time  
20 we'll convene the public witness portion of this case.

21 Having said that, let's have, if we could,  
22 Counsel make their appearances for us, beginning with  
23 Rocky Mountain Power.

24 Ms. Hogle?

25 MS. HOGLE: Yvonne Hogle with Rocky Mountain

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1 Power. And I also have here with me Mark Moench, Vice  
2 President and General Counsel of PacifiCorp.

3 CHAIRMAN BOYER: Thank you.

4 MR. GINSBERG: Michael Ginsberg for the  
5 Division of Public Utilities.

6 MR. PROCTOR: Paul Proctor on behalf of the  
7 Utah Committee of Consumer Services.

8 CHAIRMAN BOYER: Thank you, Mr. Proctor. Is  
9 it still the Committee of Consumer Services? I guess  
10 until the new bill becomes effective.

11 MR. PROCTOR: May 12th.

12 CHAIRMAN BOYER: May 12th, okay.

13 Roger Ball?

14 MR. BALL: Roger Ball for the Utah Ratepayers  
15 Association.

16 MR. DODGE: Gary Dodge on behalf of the Utah  
17 Association of Energy Users Intervention Group.

18 MR. REEDER: And I'm Robert Reeder on behalf  
19 of a number of industrial customers who are identified  
20 on this record as UIEC.

21 CHAIRMAN BOYER: Thank you, Mr. Reeder.

22 I mentioned before we went on the record that  
23 the stipulation suggests that we should put pre-filed  
24 testimony in the, in the record and admit it into  
25 evidence. Shall we proceed to do that at this point,

7

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1 and then we'll hear from the proponents?

2 Let's do that. Let's begin with Rocky  
3 Mountain Power.

4 MS. HOGLE: Rocky Mountain Power offers its  
5 evidence and pre-admission of all of its pre-filed  
6 testimony pertaining to the revenue requirement in  
7 this docket, including all exhibits.

8 CHAIRMAN BOYER: Are there objections to the  
9 admissions of the direct pre-filed testimony of Rocky  
10 Mountain Power, together with exhibits?

11 Very well, they're admitted into evidence.  
12 And I think our reporter has a copy of the complete  
13 list, so we won't read through all three pages.

14 (Rocky Mountain Power testimony and exhibits  
15 were admitted.)

16 CHAIRMAN BOYER: Division of Public  
17 Utilities?

18 MR. GINSBERG: We probably also don't want to  
19 read all three pages, but we have exhibits, basically  
20 from Exhibit 3 through Exhibit 9. And I've provided a  
21 listing of all of the exhibits, some of which are  
22 confidential, to the court reporter and all the  
23 parties. And also a copy of all of the pre-filed  
24 testimony has been provided.

25 CHAIRMAN BOYER: Thank you Mr. --



1 MR. GINSBERG: So with that I would ask for  
2 the admission of the testimony and exhibits as  
3 referenced on the three-page attachment of the exhibit  
4 list.

5 CHAIRMAN BOYER: Thank you, Mr. Ginsberg.

6 Are there objections to the admission of the  
7 pre-filed testimony, together with the exhibits of the  
8 Division of Public Utilities, listed on a three-page  
9 witness exhibit list?

10 Seeing none, they are admitted into evidence.

11 (Division of Public Utilities testimony and  
12 exhibits were admitted.)

13 CHAIRMAN BOYER: Moving now to the Committee  
14 of Consumer Services.

15 MR. PROCTOR: Thank you, Mr. Chairman. The  
16 Committee has also prepared an exhibit list for each  
17 of its three witnesses. You have a copy of that. And  
18 the court reporter has been provided with a copy of  
19 the testimony itself, together with the exhibits.

20 That would be the testimony of Cheryl Murray,  
21 Randall Falkenberg, and Donna Ramas.

22 CHAIRMAN BOYER: Thank you.

23 Are there any objections to the admission of  
24 the pre-filed testimony of the Committee of Consumer  
25 Services, consisting of Ms. Murray, Ms. Ramas, and

1 Mr. Falkenberg?

2 Seeing none, they are admitted into evidence.

3 (Committee of Consumer Services testimony and  
4 exhibits were admitted.)

5 CHAIRMAN BOYER: Mr. Dodge, have you any  
6 proffer of evidence?

7 MR. DODGE: Yes, your Honor. I've provided  
8 the court reporter a copy of the pre-filed direct  
9 testimony of Kevin Higgins on revenue requirement.  
10 We've marked it UAE-WM RR1. That's for the UAE  
11 intervention group of Wal-Mart, Revenue Requirement  
12 No. 1.

13 And attached to it is Exhib -- are  
14 Exhibits 1.1 through 1.4. We'd move admission of  
15 those exhibits.

16 CHAIRMAN BOYER: Thank you, Mr. Dodge.

17 Are there any objections to the admission of  
18 those exhibits?

19 Seeing none, they're admitted into evidence.

20 (UAE Intervention Group testimony and exhibits  
21 were admitted.)

22 MR. DODGE: Mr. Chairman, may I also quickly,  
23 may I ask in advance if I can be excused at about a  
24 quarter to three? I'm afraid I've got a commitment I  
25 have to leave for. I may be done by then, but if not,

1 I'll apologize for missing the fun.

2 CHAIRMAN BOYER: Certainly. Do you plan to  
3 say anything in favor or against the stipulation?

4 MR. DODGE: UAE signed the stipulation and  
5 supports its approval. We do not intend to call a  
6 witness here today.

7 CHAIRMAN BOYER: Okay. Very well, thank you.  
8 That will be fine. We'll, we'll understand when you  
9 walk out.

10 MR. DODGE: Thank you.

11 CHAIRMAN BOYER: Mr. Reeder?

12 MR. REEDER: I have no pre-filed testimony to  
13 offer.

14 CHAIRMAN BOYER: Okay. And Mr. Ball?

15 MR. BALL: The Association didn't file any  
16 testimony previously, Chairman. Thank you.

17 CHAIRMAN BOYER: Thank you, Mr. Ball.

18 Okay. Let's hear from proponents of the --  
19 for approval of the stipulation, beginning with Rocky  
20 Mountain Power. We'll move then to the Division, the  
21 Committee, and go around the room in the usual  
22 fashion.

23 Ms. Hogle?

24 MS. HOGLE: I call Mr. Dave Taylor, who I  
25 believe has already been -- has already taken the

1 oath.

2                                 DAVID L. TAYLOR,  
3                     called as a witness, having previously  
4                                 been duly sworn,  
5                     was examined and testified as follows:

6                                 DIRECT EXAMINATION

7 BY MS. HOGLE:

8             Q.    Please state your name and your position with  
9 Rocky Mountain Power.

10            A.    My name is David L. Taylor. I'm employed by  
11 Rocky Mountain Power as the manager of regulatory  
12 affairs for the State of Utah.

13            CHAIRMAN BOYER: Mr. Taylor, can you pull the  
14 mic a little closer to you, please?

15            THE WITNESS: Sure.

16            CHAIRMAN BOYER: And make sure that it's on.

17            THE WITNESS: I think we're on. Is this  
18 better?

19            CHAIRMAN BOYER: Perfect.

20            Q.    (By Ms. Hogle) What is the purpose of your  
21 testimony here today?

22            A.    I'll briefly review the history of key events  
23 that led to the signing and negotiation of this  
24 revenue requirement stipulation. And then I'll walk  
25 through --

1 THE COURT REPORTER: Can you speak closer to  
2 the microphone? Because I'm having trouble hearing  
3 you.

4 THE WITNESS: Oh, I'm sorry. I'll briefly  
5 review the history and the key elements of the revenue  
6 requirement stipulation that's being presented here  
7 today.

8 This stipulation was entered into by Rocky  
9 Mountain Power, the Division of Public Utilities, the  
10 Committee of Consumer Services, Utah Industrial Energy  
11 Consumers, or UIEC, the UAE Intervention Group, or  
12 UAE, the Kroger Company, and Wal-Mart Stores.

13 I'll also reconfirm Rocky Mountain Power's  
14 support of the stipulation, and the Company's belief  
15 that the stipulation is in the public interest.

16 CHAIRMAN BOYER: Thank you, Mr. Taylor. I  
17 neglected to take the appearances of those on the  
18 telephone. And I should do that at this point I  
19 think.

20 Are there counsel on the telephone?  
21 Apparently not, okay.

22 MS. SMITH: This is Holly Rachel Smith here  
23 for Wal-Mart.

24 CHAIRMAN BOYER: Okay, very well.

25 MS. SMITH: We weren't planning to put any

1 witnesses forward for the stipulation, but we have  
2 signed the stipulation.

3 CHAIRMAN BOYER: Okay, thank you.

4 Okay. Pardon the interruption, Mr. Taylor.  
5 Go ahead.

6 MS. HOGLE: I, I actually -- I believe that  
7 there's another attorney on the phone.

8 MR. BOEHM: Yes. This is Kurt Boehm for  
9 Kroger. We've also not presented any witnesses but we  
10 have signed the stipulation.

11 CHAIRMAN BOYER: Thank you.

12 Q. (By Ms. Hogle) Mr. Taylor, can you recount  
13 the events that led to the stipulation presented here  
14 today?

15 A. Certainly. On July 17th of 2008 Rocky  
16 Mountain Power filed an application -- application,  
17 together with revenue requirement, cost of service,  
18 rate spread and rate design testimony, requesting an  
19 increase in electric rates in the State of Utah in the  
20 amount of \$160.6 million over the then currently  
21 effective rates.

22 On September 10, 2008, Rocky Mountain Power  
23 filed supplemental testimony to reflect the  
24 Commission's revenue requirement order in the just  
25 completed Docket No. 07-035-93.

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1           In that filing there were also adjustments  
2 made to net power costs. And that filing also  
3 included revisions to the cost of service study, and  
4 an updated rate spread proposal based upon that new  
5 revenue requirement that was filed.

6           On September -- on October 28, 2008, the  
7 Commission held a hearing to determine the test year  
8 in this case. And October 30th of 2008 the Commission  
9 issued an order approving the test period be changed  
10 to the 12 months ending December 2009, and  
11 incorporated an average rate base.

12           On December 8th Rocky Mountain Power  
13 subsequently filed additional supplemental testimony  
14 reflecting the test period order. That also included  
15 a revenue requirement increase revision at that time  
16 to \$116.1 million.

17           On February 4th and February 9th of 2009,  
18 several parties held settlement conferences to discuss  
19 cost of capital issues. Those discussions led to an  
20 unopposed stipulation that was filed on February 23rd  
21 of 2009.

22           This settlement resulted in a return on  
23 equity of 10.61 percent, with a capital structure of  
24 51 percent equity. That resulted in a weighted cost  
25 of capital of 8.358 percent.

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1           The Commission held a hearing on March 12th  
2 of 2009, and approved the cost of capital stipulation  
3 from the bench. The Commission indicated at that  
4 time -- at the hearing that they would incorporate  
5 written approval of that stipulation and include it in  
6 the order on revenue requirement portion of this case.

7           That stipulated cost of capital is  
8 incorporated into the revenue requirement stipulation  
9 that I'll discuss a bit later.

10           On February 12, 2009, the Division, the  
11 Committee, and UAE filed direct testimony on revenue  
12 requirement in this case. And no other interveners  
13 filed testimony.

14           On March 9, 2009, Rocky Mountain Power, the  
15 Division, and the Committee each filed rebuttal  
16 testimony on revenue requirement issues in this case.

17           On March 17th and 18th the parties had  
18 settlement conferences to discuss revenue requirement  
19 issues in the 2008 general rate case. All interveners  
20 were invited to participate in those discussions.

21           On March 18th notice was provided to all  
22 interveners advising the parties -- all parties  
23 that -- who filed revenue requirement testimony and  
24 others that the parties had reached an agreement in  
25 principle and a draft stipulation would be circulated.



1           On March 19th a copy of that draft  
2 stipulation was circulated to all interveners. And as  
3 a result of the negotiations entered into in good  
4 faith from the parties that I mentioned earlier, a  
5 stipulation resolving revenue requirement matters was  
6 filed with the Utah Commission on March 23, 2009.

7           I will note that not all of the interveners  
8 in the case have signed the stipulation. However, of  
9 those who have not signed, only the Utah Rate  
10 Papers -- Ratepayers Association has informed us that  
11 they oppose the stipulation.

12           MS. HOGLE: Can you describe the terms of the  
13 stipulation?

14           THE WITNESS: Certainly. I'll, I'll walk  
15 through the paragraphs that describe the specific  
16 terms of this stipulation, beginning with  
17 paragraph 10.

18           The parties agree that, under this  
19 stipulation and upon Commission approval, that the  
20 Company's Utah revenue requirement and Utah customer  
21 rates will increase by \$45 million, or 3.34 percent of  
22 tariff rates, on May 8, 2009.

23           And while the parties agreed on the general  
24 categories of costs to be adjusted in arriving at that  
25 agreed revenue requirement, there is no overall

1 agreement as to specific revenue requirement  
2 adjustments.

3           There is a table in the stipulation that lays  
4 out those general categories of adjustments and how  
5 they arrived at the \$45 million.

6           There is agreement, however, that the  
7 adjustments as laid out in that table of the  
8 stipulation will be incorporated into the Company's  
9 revised cost of service study. And there's an  
10 agreement that the company will file that revised cost  
11 of service study within 30 days of today, assuming  
12 that the stipulation is approved.

13           Paragraph 11 discusses that the \$45 million  
14 increase effective May 8th will be implemented through  
15 a new tariff rider, Schedule 98. This rider will  
16 replace the currently -- the current rider, Schedule  
17 97. And this rider will equal 6.4 percent.

18           That 6.4 percent reflects this 3.34 percent  
19 increase applied to the currently existing  
20 2.96 percent increase. So multiplying those numbers  
21 together you get to an increase of 6.4 percent that  
22 will replace the existing rider.

23           That tariff rider will stay in effect until  
24 the Commission issues a final order on the cost of  
25 service and rate design phase of this case.

1           In the event that there's a resolution to the  
2 cost of service and rate design phase of this case  
3 prior to May 8, 2009, and that is approved by the  
4 Commission, in that case there will be no need to  
5 implement this, this tariff rider. But the results of  
6 that resolution from the cost of service and rate  
7 design will be implemented on May 8th.

8           Paragraph 12 talks about several new dockets  
9 and task forces that the parties have agreed to, to  
10 create. The parties agree that the issue resolving  
11 normalization of the differences in deferred taxes  
12 will be addressed in Docket 08-999-02, which the  
13 Commission has established to address those issues.

14           CHAIRMAN BOYER: Excuse me for interrupting  
15 you at this point, Mr. Taylor. Our staff brought to  
16 our attention that that's a miscellaneous docket. And  
17 that there is a docket addressing the deferred tax  
18 normalization methodologies.

19           And it's Docket No. 09-035-03. And that  
20 might be a more appropriate docket in which to deal  
21 with normalization.

22           THE WITNESS: We will address them in that  
23 docket.

24           Also, within ten days of this hearing on the  
25 stipulation Rocky Mountain Power agrees to request

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1 that the Commission open a docket addressing natural  
2 gas price risk management, and issue a protective  
3 order in that docket.

4 In addition, Rocky Mountain Power agrees to  
5 request that the Commission promptly schedule a  
6 technical conference that will allow interested  
7 parties to pursue discovery and review the Company's  
8 policies and procedures and other aspects of our  
9 natural gas pricing risk.

10 Also, within ten days of this hearing Rocky  
11 Mountain Power has agreed to schedule work group  
12 meetings to discuss net power costs modeling issues  
13 related to planned outages.

14 Paragraph 13 discusses Rolling Hills. The  
15 wind, wind project Rolling Hills. And we -- the  
16 parties have agreed that for purposes of that power  
17 cost modeling that the annual average capacity factor  
18 for Rolling Hills will be 33.8 percent until  
19 December 31st of 2011.

20 Rocky Mountain Power agrees to provide wind  
21 data from on-site monitoring during this period. And  
22 if a party argues for a higher capacity factor based  
23 upon that data in this place subsequent to 2011, then  
24 Rocky Mountain Power is relieved of that obligation to  
25 use the 33.8 percent capacity factor we've just

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1 discussed.

2           If an Energy Cost Adjustment Mechanism is  
3 established in Utah, as has been requested in a recent  
4 docket, the parties agree that Rocky Mountain Power  
5 will use 33.8 percent as the minimum capacity factor  
6 for Rolling Hills for the calculations of actual net  
7 power costs in that ECAM methodology, again until  
8 December 31st of 2011.

9           Rocky Mountain Power acknowledges that  
10 inclusion of Rolling Hills in rate base in this case  
11 does not preclude any prudency challenges in any  
12 future rate case. However, the parties have agreed  
13 not to base any prudency challenge on Rolling Hills  
14 that would be related to capacity factor issues prior  
15 to that December 31, 2011, time period.

16           Paragraph 14 addresses Goodnoe Hills Energy  
17 Trust of Oregon funding. We've agreed that the  
18 overall revenue requirement of this stipulation does  
19 not include any consideration for funds received by  
20 Rocky Mountain Power from the Energy Trust of Oregon  
21 pursuant to the project funding agreement on the  
22 Company's Goodnoe Hills wind plant.

23           As a result of that, if this stipulation is  
24 approved, Utah will retain its full share of any  
25 renewable energy credits associated with Goodnoe

1 Hills.

2 Paragraph 15 describes, it's commitments that  
3 Rocky Mountain has agreed to in filing requirements  
4 for its next case. The Company agrees to provide  
5 responses to what are known as Master Data Request A,  
6 concurrent with the filing of its next general rate  
7 case. And the responses to what's known as Master  
8 Data Request B within 30 days of the filing of that  
9 general rate case.

10 The Company also agrees to file notice of an  
11 intent to file a rate case at least 30 days prior to  
12 the expected date of such a filing.

13 In conjunction with that notice, the Company  
14 agrees that it will request -- or will file a motion  
15 with the Commission requesting that the Commission  
16 issue a protective order that will give the parties an  
17 opportunity to receive confidential information  
18 concurrent with the filing of that case.

19 Rocky Mountain Power also agrees to provide  
20 access to its GRID model, its input database, and net  
21 power costs reports, and other work papers at the time  
22 of the filing of the rate case.

23 And we've also agreed to provide responses to  
24 certain of the Master Data Request B questions earlier  
25 than the 30 days as noted above. These questions

1 which we'll respond to earlier than 30 days are noted  
2 in Attachment 1 to this stipulation. Also that's  
3 assuming the Commission's issued the protective order  
4 prior to the date of filing.

5 Paragraph 16 addresses rulemaking that the  
6 Commission is directed to enter into under Senate  
7 Bill 75 that was recently passed by the Utah State  
8 Legislature.

9 The parties agree that we will request that  
10 under this rulemaking the Commission also address  
11 appropriate rules governing the introduction of  
12 updates to filed positions during the general rate  
13 case and the proceedings including, without  
14 limitation, symmetry, timing, and fairness to all  
15 parties.

16 And the parties will jointly ask the  
17 Commission to issue rules on such issues.

18 Finally, paragraph 17 addresses a regulatory  
19 liability associated with the Goose -- Goose Creek  
20 transmission line sale. The parties have agreed that  
21 upon the approval of this stipulation the Company may  
22 write off the remaining portion of that regulatory  
23 liability.

24 I will note that a one-year's amortization of  
25 that liability is reflected in the Company's filing in

1 this case. And while there's no specific presumption  
2 of adjustments, the Company's case did include an --  
3 assumed to include a one year's amortization of that  
4 liability in this, in the stipulation.

5 But upon the conclusion of this case those --  
6 that liability will no longer be reflected on, on the  
7 Company's books for regulatory purposes.

8 Paragraph 18 just discusses that this  
9 stipulation in no way alters the regulatory assets  
10 that have previously been approved and deferred by the  
11 Commission under FAS 71.

12 And then the remaining paragraphs of the  
13 stipulation contain the general terms and conditions  
14 which are associated with most stipulations presented  
15 for this Commission.

16 They represent the obligations of the parties  
17 to the stip -- to the stipulation, and to the other  
18 parties who've signed it.

19 MS. HOGLE: Thank you, Mr. Taylor. Do you  
20 have any final comments about the stipulation?

21 THE WITNESS: Yes. First of all I'd like to  
22 thank all, all the parties in this case for their hard  
23 work. Both in, in filing testimony, their review of  
24 the case, and getting to the point where we are today.  
25 And for working cooperatively together to reach an



1 agreement.

2 I restate the Company's support for the  
3 stipulation. It was negotiated in good faith by the  
4 parties who've signed it. I believe the stipulation  
5 is in the public interest. And that all of its terms  
6 and conditions, considered together as a whole, will  
7 produce fair, just, and reasonable Utah electric  
8 utility rates.

9 And I'd recommend the Commission approve the  
10 stipulation as filed. Thank you. That concludes my  
11 comments. And if you have questions, I'll do my best  
12 to answer them.

13 CHAIRMAN BOYER: Thank you, Mr. Taylor.  
14 Let's go around the room.

15 Mr. Ginsberg, have you questions for  
16 Mr. Taylor?

17 MR. GINSBERG: No, I don't.

18 CHAIRMAN BOYER: Mr. Proctor?

19 MR. PROCTOR: No, thank you.

20 CHAIRMAN BOYER: Mr. Ball?

21 MR. BALL: I'd like to ask Mr. Taylor one  
22 question please, Chairman.

23 CROSS EXAMINATION

24 BY MR. BALL:

25 Q. Mr. Taylor, in paragraph 15, and I'm looking

25

1 particularly at subparagraph D of the stipulation, it  
2 talks about Rocky Mountain Power agreeing to provide  
3 access to a model, a database, and certain reports and  
4 work papers to interveners who have signed a  
5 protective order at the time of filing of the rate  
6 case.

7 In the current case, in my own right rather  
8 than on behalf of the Ratepayers Association, as soon  
9 as I learned that PacifiCorp was going to -- was  
10 planning to file a rate case I asked to be allowed to  
11 intervene. And that was denied on the grounds that  
12 until the application was actually filed there was  
13 no -- there was no docket.

14 My question, or rather it's a request, is  
15 will PacifiCorp undertake to provide to the Utah  
16 Ratepayers Association, as an intervener in this  
17 docket, a copy of its application in its next general  
18 rate case at the same time that it provides it to the  
19 Commission and to other parties?

20 A. We'd have no problem doing that.

21 MR. BALL: Thank you very much.

22 Thank you, Chairman.

23 CHAIRMAN BOYER: Mr. Ball.

24 Mr. Dodge?

25 MR. DODGE: No questions.

1 CHAIRMAN BOYER: Mr. Reeder?

2 MR. REEDER: No questions.

3 CHAIRMAN BOYER: Do any of the folks on the  
4 telephone have any questions for Mr. Taylor?

5 I hear none.

6 MS. SMITH: No questions, your Honor.

7 CHAIRMAN BOYER: Okay, thank you.

8 MR. BOEHM: No questions, your Honor.

9 CHAIRMAN BOYER: Thank you so much.

10 Okay. Let's see if the Commission has  
11 questions at this point too. Commissioner Allen?  
12 Commissioner Campbell?

13 COMMISSIONER CAMPBELL: Just one question.  
14 Is it your testimony, Mr. Taylor, that under the  
15 stipulation the Company has a reasonable opportunity  
16 to earn its rate of return?

17 THE WITNESS: The Company has a reasonable  
18 opportunity to earn its rate of return. Obviously  
19 there's never a guarantee that the Company will earn  
20 its rate of return.

21 But absent significant changes in cost  
22 structure from what is projected in this case,  
23 particularly changes in net power costs, the Company  
24 believes it has a reasonable opportunity to earn its  
25 rate of return. Under the parameters, limited

1 parameters of the MSP cap, of course.

2 CHAIRMAN BOYER: Okay. Thank you,  
3 Mr. Taylor.

4 Mr. Ginsberg?

5 MR. GINSBERG: The Division's witness is  
6 Dr. William Powell, who has not been sworn.

7 (Dr. Powell was sworn.)

8 DR. WILLIAM POWELL,  
9 called as a witness, having been duly sworn,  
10 was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. GINSBERG:

13 Q. Would you state your name and position for  
14 the record?

15 A. My name is Dr. William, or Arty, Powell. I'm  
16 the manager of the energy section within the Division  
17 of Public Utilities.

18 Q. You also were -- are a witness in this  
19 proceeding and filed direct rebuttal testimony?

20 A. Yes, I did.

21 Q. And can you describe your role with respect  
22 to the development of the stipulation?

23 A. I've -- as the manager of the energy section  
24 I followed closely the Division's investigation in the  
25 rate case and participated in almost all of the

1 negotiations. I did miss one meeting towards the end  
2 where people were arguing over which "i's" and which  
3 "t's" to dot and cross.

4 Q. And can you provide your comments with  
5 respect to the Division's support of the stipulation?

6 A. Yes, I will. Good afternoon. I want to  
7 thank the Commission for the opportunity to speak on  
8 behalf of the Division in support of the revenue  
9 requirement stipulation in this docket.

10 I was gonna go through some history leading  
11 up to the stipulation, but Mr. Taylor for the Company  
12 has already gone through quite an extensive history of  
13 the various filings in the case. Let me just point  
14 out several things that I think are important for the  
15 Commissioners to keep in mind as I present our  
16 position on the stipulation.

17 The Company filed their initial filing back  
18 in July of 2008 for approximately \$161 million  
19 increase. They modified that in September to  
20 \$114 million.

21 And then again, as Mr. Taylor indicated, in  
22 response to the Com -- the Commission's decision on  
23 test year filed another modification in December for  
24 \$116 million.

25 And then the cost of capital stipulation or

1 settlement in this case further reduced the Company's  
2 request down to approximately \$93 million.

3 The Com -- the Division and other parties  
4 filed rebuttal and direct testimony, as indicated by  
5 Mr. Taylor.

6 Let me just summarize the Division's position  
7 in this, in this way. In its rebuttal testimony,  
8 based on what the Division believes to be appropriate  
9 adjustments in net power costs, O&M expenses, property  
10 taxes, and rate base items, the Division recommended  
11 an increase of approximately \$46 million.

12 In support of this position I note that the  
13 Division auditors and other staff have logged numerous  
14 hours reviewing and investigating the Company's  
15 filings. And submitted over 80 sets of data requests,  
16 consisting of approximately 500 questions to the  
17 Company.

18 Additionally, to assist the Division in  
19 auditing the Company's books and records the Division  
20 acquired the services of an independent consultant,  
21 who logged over 600 hours on this case.

22 As Mr. Taylor pointed out, the stipulation  
23 doesn't necessarily resolve every individual issue in  
24 this case. However, the Division's rebuttal position  
25 of \$46 million is not significantly different from the

1 \$45 million that the parties are recommending in the  
2 stipulation.

3           Therefore, the Division finds the revenue  
4 requirement stipulation to be a just and reasonable  
5 resolution of the revenue requirement increase in this  
6 case. And, given other terms and conditions of the  
7 stipulation, finds the stipulation to be in the public  
8 interest.

9           Mr. Taylor also went through paragraph by  
10 paragraph on some of these other conditions, but let  
11 me just highlight several that are of particular  
12 interest to the Division.

13           Paragraph 10 outlines the 45  
14 million dollars -- million dollar settlement.  
15 Starting with the Company's filed rebuttal position of  
16 \$57 million, one arrives at the \$45 million by  
17 subtracting various amounts from net power costs, O&M  
18 expenses, rate base, and property taxes.

19           As I indicated, the Division also made  
20 adjustments in its testimony in these same categories.  
21 However, the Division's starting position for making  
22 its adjustments was the Company's December 2008 filed  
23 position of \$116 million.

24           Although the, the adjustments differ -- as  
25 Mr. Taylor indicated, nobody has agreed on what

1 specific dollar amounts are being adjusted to what  
2 issue -- each of these categories represent the  
3 adjustments that the Division made in arriving at its  
4 filed rebuttal position.

5 Paragraph 12 requests that the Commission  
6 move three issues to separate dockets or work groups  
7 for investigation. Mr. Taylor went over these: Tax  
8 normalization, natural gas price risk management, and  
9 planned outages.

10 Moving these issues out of this case will  
11 afford interveners adequate time to thoroughly  
12 investigate these issues and make recommendations in  
13 the applicable proceedings.

14 On gas walks specifically, the current case  
15 demonstrates that very large swings in net power cost,  
16 both to the detriment or the benefit of ratepayers,  
17 are involved with the Company's hedging strategies.

18 The Division and other parties have expressed  
19 a desire to better understand the Company's hedging  
20 practices. And may request that the Commission offer  
21 guidance on appropriate hedging practices that best  
22 protect ratepayers.

23 Consistent with the Division's filed  
24 recommendation, the Company agrees in this paragraph  
25 to petition the Commission within ten days of approval



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1 of the stipulation for just such a docket. Also, with  
2 respect to the tax normalization, the Division notes  
3 that it has already hired a consultant. And is  
4 prepared to move forward under Docket No. -- and if I  
5 got the docket number correctly -- 09-035-03.

6 The Division had previously filed a memo  
7 stating its intent to investigate the tax  
8 normalization issue, and I believe that may have been  
9 what gave rise to the generic docket.

10 Paragraph 13 of the stipulation specifies  
11 that for purposes of modeling net power costs the  
12 annual average capacity factor for Rolling Hills will  
13 be 33.8 percent for the next three years.

14 In the course of filing testimony in this  
15 docket several interveners, including the Division,  
16 questioned the Company's model of -- modeling of  
17 Rolling Hills using a lower capacity factor.  
18 Intervenors cited, among other factors, the lack of  
19 data and support for the project.

20 The agreement on Rolling Hills in this  
21 paragraph will allow time for the Company to gather  
22 more on-site net data, while protecting ratepayers  
23 through a guaranteed level of protection. Also, this  
24 paragraph reserves the right of intervenors to  
25 challenge the prudence of the plan, if needed, at some

1 future date.

2 Paragraph 14 settles the issue of allocation  
3 of renewable energy credits from the Goodnoe Hills  
4 wind plant. As Mr. Taylor indicated, the Energy Trust  
5 of Oregon paid PacifiCorp an amount of money to offset  
6 costs of the plant in consideration of additional  
7 allocation of renewable credits to Oregon in the  
8 future.

9 In this case, as well as in the previous rate  
10 case, PacifiCorp has requested that Utah -- that the  
11 Utah Commission allow in rates an amount to offset  
12 partially the energy trust payment.

13 In both cases the Division has opposed the  
14 Company's adjustment. And in this paragraph the  
15 Company stipulates that Utah will continue to receive  
16 from Goodnoe -- from the Goodnoe Hills plant its full  
17 allocated share of renewable energy credits, without  
18 making offsetting payments as requested in this case  
19 by the Company.

20 I would note, however, that this stipulation  
21 does not resolve the general issue of how to allocate  
22 energy credits among PacifiCorp states, or among the  
23 states that PacifiCorp operates in. This is an  
24 ongoing topic of debate and investigation in the MSP  
25 resource choice work group. And I imagine it will be

1 an ongoing topic for some time.

2 Paragraph 16 specifies that parties to this  
3 stipulation agree -- and the stipulation is really a  
4 request -- that the Commission include, as part of the  
5 rulemaking under the recently-enacted Senate Bill 75,  
6 a discussion on appropriate rules governing the  
7 introduction of updates to filed positions during rate  
8 case proceedings.

9 The Division believes that such rules will  
10 improve the efficiency of future rate case proceedings  
11 by providing valuable guidance to parties on  
12 appropriate changes to key drivers throughout the  
13 case, thus reducing the number of procedural disputes  
14 that take place.

15 In conclusion, given the Division's  
16 investigation and the filed rebuttal position in this  
17 case, and the other terms and conditions of the  
18 stipulation as I've discussed, the Division believes  
19 the stipulation is in the public interest and  
20 recommends its approval.

21 That concludes my summary remarks, thank you.

22 MR. GINSBERG: That's all the testimony the  
23 Division had to present.

24 CHAIRMAN BOYER: Thank you, Mr. Ginsberg and  
25 Dr. Powell.

1 Does the Company have questions of  
2 Dr. Powell?

3 MS. HOGLE: None.

4 CHAIRMAN BOYER: Mr. Proctor?

5 MR. PROCTOR: No, thank you.

6 CHAIRMAN BOYER: Mr. Ball, have you questions  
7 of Dr. Powell?

8 MR. BALL: No thank you, Chairman.

9 MR. DODGE: No thank you.

10 CHAIRMAN BOYER: Mr. Dodge.

11 MR. REEDER: No questions.

12 CHAIRMAN BOYER: Mr. Reeder, okay.

13 How about the counsel on the telephone, do  
14 you have questions of Dr. Powell?

15 MS. SMITH: This is Holly Smith on behalf of  
16 Wal-Mart, and we have no questions.

17 CHAIRMAN BOYER: Thank you.

18 MR. BOEHM: I have no questions, your Honor.

19 CHAIRMAN BOYER: Thank you.

20 Commissioner Allen has no questions.

21 Commissioner Campbell does have one.

22 COMMISSIONER CAMPBELL: Just one, Dr. Powell.  
23 I was interested to hear the number of hours your  
24 independent consultant spent on the case, and I think  
25 you said it was 600.

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1 THE WITNESS: About 600, yes, sir.

2 COMMISSIONER CAMPBELL: Do you have any --  
3 have you calculated the amount of hours of audit time  
4 and analysis that the expert witnesses on your staff  
5 have put into this case?

6 THE WITNESS: The consultants hours -- can I  
7 ask one question of staff?

8 (Pause.)

9 THE WITNESS: The consultant was the Geary  
10 Group, and there were actually three individuals that  
11 worked on the case. The Division had approximately 11  
12 or 12, so our hours spent on the case would have been  
13 far greater than the 600 hours spent by the  
14 consultant.

15 I don't have an exact figure, but my guess is  
16 at least twice that much.

17 COMMISSIONER CAMPBELL: Thank you.

18 CHAIRMAN BOYER: Okay. Thank you,  
19 Dr. Powell.

20 Let's turn now to the Committee of Consumer  
21 Services.

22 MR. PROCTOR: Thank you, Mr. Chairman. The  
23 Committee's representative in this hearing, Cheryl  
24 Murray, has been sworn prior -- in the prior matter in  
25 this docket.

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1                                    CHERYL MURRAY,  
2                                    called as a witness, having previously  
3                                    been duly sworn,  
4                                    was examined and testified as follows:

5                                    DIRECT EXAMINATION

6 BY MR. PROCTOR:

7            Q.    Ms. Murray, if you could state your name, of  
8            course, and the position that you hold with the Utah  
9            Committee of Consumer Services.

10           A.    Cheryl Murray. I'm a utility analyst with  
11           the Committee.

12           Q.    Could you describe briefly your involvement  
13           with this particular docket and the work that you did?

14           A.    I was the -- am the project manager for the  
15           case. And I oversaw the work of the consultants,  
16           including the -- all the data requests, testimony. I  
17           was also involved in the settlement discussions that  
18           went on regarding the revenue requirement portion of  
19           the case.

20           Q.    You are, of course, familiar with your own  
21           testimony. Are you also familiar with the testimony  
22           filed by Mr. Falkenberg and Ms. Ramas?

23           A.    Yes, I am.

24           Q.    Have you prepared a statement of the  
25           Committee's position in this matter?

1           A.    I have.

2           Q.    Could you provide that, please?

3           A.    Yes.  The Committee is charged with  
4 representing the interests of residential, small  
5 commercial, and irrigation customers.  It is our view  
6 that those interests encompass not only reasonable  
7 rates, but safe, adequate, and reliable service from  
8 their utilities.

9                   Therefore, in assessing the settlement  
10 agreement we considered the rate impact on Rocky  
11 Mountain Power customers -- on average 3.34 percent --  
12 as well as providing necessary funds for Rocky  
13 Mountain Power to maintain and improve its service to  
14 those customers.

15                   The Committee office and team of experts in  
16 the fields of net power costs and accounting assessed,  
17 assessed and analyzed the various costs included in  
18 the Company's rate case filing.  Based on the  
19 analysis, we filed direct testimony.

20                   Our investigation continued as we acquired  
21 additional information through responses to data  
22 requests, and the rebuttal testimony of the Company  
23 and other parties that was submitted on March 9th.

24                   Following a number of settlement meetings, to  
25 which parties to the case were invited, several

1 parties, including those who had performed analyses  
2 and provided testimony in the case, reached agreement.

3           It was important to the Committee that  
4 parties not enter into a black box settlement. And  
5 although the reductions from the Company's filing for  
6 discrete item adjustments were not necessarily agreed  
7 upon, there was agreement to the overall revenue  
8 requirement and reductions for specific categories of  
9 costs and expenses, as outlined in the stipulation.

10           The stipulation sets Rocky Mountain Power's  
11 revenue requirement at a reasonable rate and it  
12 addresses issues of interest to the parties. Such as  
13 the establishment of new dockets, task forces, and  
14 work groups.

15           It provides a time period to gather better  
16 data on the Rolling Hills wind farm, while protecting  
17 customers by assigning a capacity factor to the  
18 resource through 2011. This is an important element  
19 for the Committee because it is our view that  
20 inadequate data was available when the decision on  
21 Rolling Hills was made.

22           Parties to the stipulation are still free to  
23 challenge the prudence of the acquisition after 2011  
24 if they desire. It establishes filing requirements  
25 for the next general rate case, which the Company has



1 indicated will be filed in June 2009.

2           It also addresses certain issues with the  
3 GRID model that should facilitate more timely access  
4 to the model and receipt of critical data. This is a  
5 significant issue for the Committee, as it will allow  
6 our consultants to begin their analysis in a more  
7 timely manner than they have in this case and the case  
8 just prior to this.

9           As part of the rulemaking under Senate  
10 Bill 75, parties have agreed to include a discussion  
11 of appropriate rules governing the introduction of  
12 uptakes -- updates during a general rate case  
13 proceeding.

14           And this would go to both the type of  
15 adjustment as well as the timing. Then after the  
16 discussion it may be that the Commission would be  
17 asked to accept those as part of the rules of Senate  
18 Bill 75.

19           There will be a work group to discuss the  
20 appropriate way to model planned outages. Our goal is  
21 to eliminate some of the issues that have proven  
22 contentious in this and previous cases by parties  
23 developing a better understanding of these issues  
24 outside of a general rate case. Where there is a  
25 better chance to discuss the issues and try to come to

1 some agreement on what is the appropriate modeling  
2 procedure.

3 As noted at 25 of the stipulation, the  
4 parties agree that this stipulation is in the public  
5 interest. And all of the terms and conditions,  
6 considered together as a whole, will produce fair,  
7 just, and reasonable Utah retail electric utility  
8 rates.

9 It is the Committee's assessment, based on  
10 our expert consultant's initial and ongoing review of  
11 the case, that this stipulation does provide just and  
12 reasonable rates. And we recommend that it be  
13 approved by the Commission. That concludes my  
14 statement.

15 CHAIRMAN BOYER: Thank you, Ms. Murray.

16 MR. PROCTOR: The Committee has nothing  
17 further.

18 CHAIRMAN BOYER: Very well.

19 Ms. Hogle, have you questions for Ms. Murray?

20 MS. HOGLE: I have no questions, thank you.

21 CHAIRMAN BOYER: Mr. Ginsberg?

22 MR. GINSBERG: No, sir.

23 CHAIRMAN BOYER: Mr. Ball, have you questions  
24 for Ms. Murray?

25 MR. BALL: I have one or two, Chairman,

1 please.

2 CROSS EXAMINATION

3 BY MR. BALL:

4 Q. Ms. Murray, I take it that the stipulation  
5 was approved by the Committee of Consumer Services?

6 A. The stipulation -- the precise language of  
7 the stipulation was not approved. They did approve  
8 the parameters -- certain guidelines to settle the  
9 case.

10 Q. And when did they do that, please?

11 A. Not the last one, the meeting before that.  
12 It was in --

13 MR. PROCTOR: Just hold on a sec.

14 THE WITNESS: Well, just one second.

15 (Pause.)

16 THE WITNESS: It was on Wednesday. Anybody  
17 have a calendar? Sorry.

18 March 18th.

19 Q. (By Mr. Ball) Thank you. Are you able to  
20 tell us, please, which members of the Committee voted  
21 on that occasion?

22 MR. PROCTOR: Mr. Chairman, I would object on  
23 the grounds of relevance. The internal workings of  
24 the Committee are not what's before this Commission.  
25 Rather it's whether or not the rates that follow

1 during the rate effective period from this stipulation  
2 would be or are not just and reasonable.

3 MR. BALL: The, the problem that we have,  
4 Chairman, is that the Committee of Consumer Services  
5 is statutorily mandated to represent the interests of  
6 residential and small business ratepayers in these  
7 matters.

8 Unfortunately, because of the short time  
9 that's elapsed between the 18th of March and now,  
10 there are no minutes of that meeting available on the  
11 Committee's Web site yet. Nor is there a recording of  
12 the public parts of the meeting.

13 And so we had no way to establish this  
14 information prior to the meeting -- prior to this  
15 hearing. So I'm simply seeking information from  
16 Ms. Murray, please.

17 MR. PROCTOR: If I may, Mr. Chairman. I  
18 cannot think of a reason for asking such a question,  
19 except to argue to you that the entry of the -- into  
20 the stipulation would be ultra vires to the  
21 authority -- statutory authority or direction given to  
22 the Committee of Consumer Services.

23 Without getting involved in a discussion as  
24 to what would and would not be ultra vires, or to  
25 whether or not that concept even applies to the

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1 Committee as it is presently constructed, it would  
2 nevertheless be extraordinarily irrelevant to the  
3 matter before this Commission.

4 And if there is, in fact, a claim such as  
5 Mr. Ball appears to be headed to making, or a  
6 complaint about the nature of the administrative  
7 process engage -- that the Committee engaged in in  
8 order to reach this decision, that would be presented  
9 before a forum not this one.

10 CHAIRMAN BOYER: Let me ask a clarifying  
11 question. Does the current statute, prior to the  
12 effective date of the new 214 -- Senate Bill 214, does  
13 the current law require a unanimous vote by members of  
14 the Committee on policy issues such as this? Or a  
15 majority?

16 MR. PROCTOR: The statute -- well, again, I  
17 don't want to get too far in discussing my own  
18 interpretation of the statute or how it's been  
19 practically applied over the last few years. But no,  
20 it does not require a vote of the -- a unanimous vote.

21 One could argue that it requires merely the  
22 Committee direction. The only majority or percentage  
23 that is required is that of a quorum, and calling a  
24 meeting.

25 CHAIRMAN BOYER: Okay. Well, I'm gonna

45

1 sustain the objection, Mr. Ball. But you're free to  
2 ask if they met that requirement that Mr. Proctor just  
3 referred to.

4 MR. BALL: Well, Chairman, it will become  
5 apparent later in this proceeding. I, I need to know  
6 which members of the Committee voted on that occasion,  
7 please.

8 The information is simply not available  
9 elsewhere, and it's highly relevant to the case I wish  
10 to make.

11 CHAIRMAN BOYER: Well, I'm gonna sustain the  
12 objection. I don't see the relevancy to the -- to  
13 this particular proceeding on the motion to approve  
14 the stipulation.

15 We have representations that the Committee  
16 did approve parameters within which the stipulation  
17 fell, and that's sufficient for our record at this  
18 point. Do you have other questions?

19 MR. BALL: Yes.

20 Q. (By Mr. Ball) Ms. Murray are you able to  
21 tell us, please, what the vote was? How many voted in  
22 favor of approving, and how many voted against?

23 A. No one voted against.

24 Q. Are you able to tell us how many voted in  
25 favor?

1           A.    I actually don't recall exactly how many were  
2 there.  I could -- but there was a quorum.

3           MR. BALL:  Thank you very much, Chairman.

4           CHAIRMAN BOYER:  Thank you.

5           Mr. Reeder, any questions for Ms. Murray?

6           MR. REEDER:  No questions, thank you.

7           CHAIRMAN BOYER:  Counsel on the telephone,  
8 have you any questions of Ms. Murray from the  
9 Committee of consumer services?

10          MS. SMITH:  No questions, your Honor.

11          MR. BOEHM:  No questions, your Honor.

12          CHAIRMAN BOYER:  Thank you.

13          Commissioner Allen?  Commissioner Campbell?

14          And I have no questions.

15          Thank you, Ms. Murray.

16          Are there other parties who wish to speak in  
17 favor of approval of the motion to approve the  
18 stipulation?

19          I think we've heard that no one else intended  
20 to proffer any evidence on this.  So let's turn now to  
21 those opposed.  And to my knowledge, Mr. Ball and your  
22 organization is the, is the sole party opposing  
23 approval of the motion.

24          MR. BALL:  Thank you, Chairman.  I'd like to  
25 distribute an exhibit, please.

1 (Pause.)

2 MR. BALL: Good afternoon. Once again  
3 Mr. Chairman and Commissioners, my name is Roger J.  
4 Ball. And my address is 1375 Vintry Lane, Salt Lake  
5 City, Utah 84121. My purpose in --

6 Oh. Mr. Chairman, I'm sorry, I've not been  
7 sworn in this proceeding.

8 CHAIRMAN BOYER: Okay. So you're, you're  
9 going to be a witness at this point, then?

10 MR. BALL: Yes, sir.

11 CHAIRMAN BOYER: Please stand and raise your  
12 right hand.

13 (Mr. Ball was sworn.)

14 MR. BALL: Thank you. My purpose in taking  
15 the stand is to offer both policy and expert testimony  
16 on the matter before the Commission this afternoon.  
17 I'm the Association's chancellor and moderator of its  
18 council of governors.

19 By virtue of those offices I am the only  
20 person authorized to speak on behalf of both the  
21 Association and the council at any time and on any  
22 matter.

23 I've distributed copies of my statement of  
24 qualifications and experience. I testified on House  
25 Bill 320 before a House Founding Committee, and



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1 participated in every meeting of the Interim Committee  
2 and of the working groups on the bill in 2000. And  
3 lobbied the house speaker, majority leader, and  
4 relevant Committee members extensively.

5 I testified on Senate Bill 61 before a Senate  
6 Standing Committee in 2003. Have observed its effect  
7 on the settlement of subsequent PacifiCorp rate cases.  
8 And the effect of settlement on the percentage of the  
9 Company's requests that have been agreed and approved.

10 And am well informed on the language of the  
11 revised statute and its effects on requested revenue  
12 requirements.

13 I also testified on Senate Bill 214 before a  
14 Senate Standing Committee last month, and am well  
15 informed on the language both of the original and the  
16 enrolled bill. I've learned a great deal about Utah  
17 Power & Light prior to its takeover by PacifiCorp.

18 I am well informed about PacifiCorp's  
19 policies and decisions from that time until the  
20 Scottish Power takeover and their effect on Utah  
21 ratepayers, having been actively involved at a  
22 strategic level in Commission proceedings for the past  
23 11 years. Including the inter-jurisdictional  
24 allocations and MSP cases.

25 And I've closely observed the purchase by

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1 MidAmerican Energy Holdings, MEHC, on behalf of  
2 Berkshire Hathaway, BH, of PacifiCorp from Scottish  
3 Power, and subsequent behavior of the utility.

4 I request that my statement of qualifications  
5 and experience should be admitted as URA Exhibit 1.0,  
6 and that I be permitted to offer policy and expert  
7 testimony.

8 CHAIRMAN BOYER: Are there objections to the  
9 admission of URA Exhibit 1, containing Mr. Ball's  
10 qualifications and experience?

11 Seeing none is it -- it's admitted into  
12 evidence.

13 (Exhibit No. URA 1.0 was admitted.)

14 MR. BALL: Thank you, Chairman. It has long  
15 been the position of the Utah Ratepayers Association  
16 that settlements are a bad public policy and harm  
17 ratepayers, who have insufficient independent and well  
18 resourced representation in the regulatory process.

19 More than --

20 MR. PROCTOR: Excuse me, Mr. Chairman.

21 CHAIRMAN BOYER: I think we have an objection  
22 here to this line of testimony.

23 MR. PROCTOR: Well, I do believe so. And on  
24 behalf of the Committee, I would object. Mr. Ball's  
25 motion was that Exhibit 1 be admitted, and that he

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1 permit -- be permitted to provide testimony with  
2 respect to policy. And he'd earlier described it as  
3 expert testimony.

4 I would object to it first on the grounds  
5 that it is not timely, since this Commission  
6 established many months ago a particular schedule for  
7 the filing of testimony and the phases of testimony in  
8 this proceeding.

9 Mr. Ball has been a party to this matter  
10 since the month of its filing, July of 2008. And has  
11 been -- has known of the schedule. And so to come  
12 here today and provide sworn testimony, expert  
13 testimony, I believe violates the terms of your order.

14 But in addition it places the parties in a  
15 position of having to deal with surprise testimony.  
16 And as an administrative body, that's one of the, the  
17 things that all of your rules pertaining to the filing  
18 of exhibits, the preparation, prefiled testimony, is  
19 intended to prevent.

20 In matters of this complexity and this scope  
21 it's needed by the parties and by the Commission to  
22 have testimony and have responses to it in order to  
23 reach a proper result. So the Committee of Consumer  
24 Services would object to this testimony on these  
25 grounds.

1           MR. BALL: Chairman, the purpose of my  
2 testimony is to address the motion for approval of the  
3 stipulation on rate of return in this matter. That  
4 stipulation and the motion were not filed until a week  
5 ago yesterday.

6           Patently what Mr. Proctor is talking about is  
7 testimony in a, in a much earlier schedule issued by  
8 the Commission, which did not contemplate the filing  
9 of either a stipulation or a motion for its approval.

10           My testimony, both my policy testimony and my  
11 expert testimony, is addressed to the stipulation and  
12 to the motion for its approval. Not to matters which  
13 should properly have been -- should not properly have  
14 had testimony filed in previously.

15           I would point out as well that the testimony  
16 offered by the proponents of the stipulation today has  
17 been offered into evidence today and not previously.  
18 And so it's perfectly appropriate that the Association  
19 be allowed to respond to that.

20           MR. PROCTOR: If I may, Mr. Chairman.  
21 Summaries are particularly called out as being  
22 appropriate, which was what was given today.  
23 Summaries of testimony that was previously admitted by  
24 this body.

25           If in fact Mr. Ball is limited to his

1 statements pertaining to the stipulation and the  
2 motion to approve the stipulation, then my objection  
3 is perhaps not well taken. But it would be only if it  
4 is in fact limited to that. Thank you.

5 CHAIRMAN BOYER: Thank you, Mr. Proctor.  
6 The, the motion that was made that we conduct this  
7 hearing to approve or not approve the stipulation  
8 stated that the moving party wished that the parties  
9 opposing the stipulation give notice at least five  
10 days prior to the hearing.

11 And I think you did do that by e-mail, did  
12 you not.

13 MR. BALL: Yes.

14 CHAIRMAN BOYER: But you didn't file any  
15 testimony and the order doesn't require that. But why  
16 don't we -- to -- in the interest of time here why  
17 don't you provide us with a summary of what you --  
18 what your testimony will be. And then we'll rule on  
19 the motion at that point in time.

20 For example, your comments on stipulations  
21 being against the public interest is -- we have to  
22 take judicial notice and administrative notice that  
23 the statute under which we operate indeed favors  
24 stipulations. And encourages stipulations among the  
25 parties.

1 But having said that, what is your intention?  
2 Where do you do wish to go with your testimony?

3 MR. BALL: My intention is to address the  
4 stipulation and the motion for its approval. Which  
5 was filed a week ago yesterday.

6 (Pause.)

7 MS. HOGLE: Your Honor? The Company --

8 CHAIRMAN BOYER: Ms. Hogle?

9 MS. HOGLE: Yes. The Company objects,  
10 because Mr. Ball has no firsthand knowledge of the --  
11 of what went on with respect to the stipulation, and  
12 therefore he can't speak to that.

13 MR. BALL: Chairman, with, with great respect  
14 to Ms. Hogle, that, that objection is really a bit, a  
15 bit fatuous. Because all of those who were present  
16 during the stipulation negotiations, if they were  
17 anything remotely like earlier stipulation  
18 negotiations with PacifiCorp that I have been present  
19 for, were -- it was made very clear to all of them  
20 that everything that took place within the negotiating  
21 room was to be kept confidential.

22 So her position is a heads-they-win-tails-I-  
23 lose kind of a situation. If I'm in there, I'm not  
24 allowed to talk about it. If I'm not in there, I  
25 don't know anything about it. Beside the point. I'm

1 not here to comment on what happened in the  
2 negotiating room.

3 I'm here to comment on the stipulation, which  
4 is now a public document. And on the motion for  
5 approval of the stipulation, which is also a public  
6 document.

7 (Pause.)

8 CHAIRMAN BOYER: I'm gonna reserve ruling on  
9 the motion for the moment and we'll let you proceed  
10 for a time. But the issue before us is whether or not  
11 a revenue requirement of \$45 million is just,  
12 reasonable, and in the public interest, together with  
13 the other terms of the stipulation.

14 And if you could sort of confine your  
15 comments to those issues it would be most helpful to  
16 us.

17 MR. BALL: Let's take a shot at it and see  
18 where we get to.

19 More than a year ago the Association reported  
20 on its Web site the effects of three PacifiCorp rate  
21 demands that had been resolved in settlements with  
22 consortia of industrial and large commercial  
23 consumers, the Division of Public Utilities, and the  
24 Committee of Consumer Services, which were then  
25 approved by this Commission.

1           The Association calculated then that those  
2 settlements might cost ratepayers \$300 million more  
3 than they would otherwise -- than they would have paid  
4 if the cases had been closely scrutinized and more  
5 fully litigated through to --

6           CHAIRMAN BOYER: Mr. Ball --

7           MR. GINSBERG: Commissioner --

8           CHAIRMAN BOYER: Mr. Ball, I'm gonna  
9 interrupt at this point. We've read your article in  
10 the newspaper and have taken notice of that.  
11 Unfortunately, we're not empowered to make decisions  
12 on rate cases based on percentages awarded or what  
13 happened in prior cases, but rather the facts of the  
14 specific case.

15           And that's what we're here to deal with  
16 today.

17           MR. BALL: Mr. Chairman --

18           MR. GINSBERG: Commissioner, also, if you  
19 need an objection as to relevance and --

20           CHAIRMAN BOYER: I think I just made my own,  
21 but go ahead Mr. Ginsberg.

22           MR. GINSBERG: I just want to help support  
23 your objection. I think that the -- assuming that  
24 where it's leading is the articles that did appear in  
25 the paper that the percentages and -- between the



1 settled cases and the non-settled cases in the past,  
2 and resulting in a view that this settlement is  
3 unreasonable, I believe that type of testimony is not  
4 relevant and not probative of all of the issues that  
5 are before the Commission.

6 Which is for 2009 and all of the evidence  
7 that was presented, are the rates -- is the settlement  
8 producing just and reasonable rates. Not -- whether  
9 or not some past settlements and litigated cases are  
10 irrelevant to that decision that's before you today.

11 And so I believe that kind of testimony is,  
12 is not appropriate. All of that information is of  
13 public record. And at the most, it's argument. But  
14 it has no evidentiary value.

15 CHAIRMAN BOYER: Okay. Well, I'll sustain  
16 your motion as well as my own motion I guess on that,  
17 Mr. Ginsberg.

18 Do you have any evidence that the revenue  
19 requirement proposed in the stipulation is unjust or  
20 unfair in any respect? Or are you basing it on what  
21 happened in prior cases, and percentages, and those  
22 sorts of things?

23 Is it -- we're -- if this case were fully  
24 litigated we would be dealing with specific issues,  
25 specific adjustments to the revenue requirement. And

1 we would listen to the testimony of parties on all  
2 sides. And we would determine which evidence is most  
3 probative, issue by issue.

4 And we don't -- we haven't and we don't  
5 intend to, in the future, decide rate cases based on a  
6 percentage of what is asked for by the Company, or a  
7 percentage that has been granted in prior cases and  
8 that sort of thing.

9 I mean, you understand how the process goes.  
10 You've been very involved in many cases over the  
11 years.

12 MR. BALL: Chairman, I think I understand  
13 what you're saying. The, the problem that I have with  
14 it is that the motion before the Commission today is  
15 to approve a settlement stipulation.

16 As part of that, in essence, the parties have  
17 agreed between them that none of the -- the parties to  
18 the stipulation, that is, have agreed that -- between  
19 them that none of them will do anything other than  
20 explain and support the stipulation.

21 That's despite the fact that the Division of  
22 Public Utilities has a statutory duty to provide  
23 comprehensive information to the Commission. That  
24 will not be happening here today. It's despite the  
25 fact that the Committee of Consumer Services is

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1 supposed to determine what positions will be advanced  
2 on its behalf.

3           And it's despite the fact that the terms of  
4 office of three of the members, half the members of  
5 the Committee of Consumer Services, expired at the  
6 30th of June of 2008. So it's highly questionable  
7 that the Committee of Consumer Services can even  
8 legitimately convene a meeting, much less take a vote  
9 to support a stipulation of this kind.

10           It ignores the fact that PacifiCorp filed  
11 this rate case in July of 2008, weeks if not months  
12 before it knew the outcome of its previous rate case,  
13 thereby straining the resources both of the Division  
14 and of the Committee.

15           And at a time when the consortia of  
16 industrial and large commercial consumers, because of  
17 the economic, economic circumstances affecting not  
18 just this nation but the world, made it virtually  
19 impossible for its member companies to come up with  
20 the same kind of resources to mount a case of their  
21 own in this proceeding, as they did last year in the  
22 preceding proceeding.

23           Now once again the Commission is being asked  
24 to approve or not a settlement stipulation. Questar  
25 has come forward in the last ten years with seven rate

1 increase requests. Three of them were settled. Three  
2 of them were highly litigated.

3 MS. HOGLE: Objection. What is the relevance  
4 of Questar's --

5 MR. BALL: Did I say Questar?

6 MS. HOGLE: You did.

7 MR. BALL: I beg your pardon. I meant, of  
8 course, PacifiCorp.

9 MS. HOGLE: And what would the relevance be  
10 of that? It's irrelevant.

11 MR. BALL: Well, you -- Ms. Hogle may think  
12 that, Chairman. I happen to think it's highly  
13 relevant in trying to address the point that you tried  
14 to make to me before.

15 The issue here is whether or not the  
16 Commis -- Commission can reasonably find that this  
17 stipulation would result in just and reasonable rates,  
18 based upon the applic -- the stipulation itself in the  
19 motion, and the testimony of the parties to the  
20 stipulation that has been entered today.

21 That the argument of the Utah Ratepayers  
22 Association is that the Commission cannot reasonably  
23 find that such rates would be just and reasonable.  
24 And a large part of the Com -- of the Association's  
25 argument is based upon the enormous disparity and the

1 consistent disparity in outcomes between cases that  
2 have been largely litigated and those that have been  
3 settled.

4 The Association should be reasonably  
5 permitted to enter that argument into evidence here  
6 today.

7 CHAIRMAN BOYER: Well, it, it is simply not  
8 useful to us, Mr. Ball, to have that testimony in the  
9 record. The statute under which we operate favors  
10 settlement. We've had testimony from parties who  
11 actually did participate in the settlement  
12 negotiations.

13 We've had testimony from Dr. Powell as to the  
14 hundreds and hundreds of hours expended by his agency  
15 and their consultants. And I assume the Committee has  
16 spent a similar amount of time on that due diligence  
17 and analysis. And they've presented their testimony  
18 here.

19 You, you were not party to those settlement  
20 negotiations, as I understand it. I was not either.  
21 And so it seems highly improper for you to cast  
22 aspersions as to the work that was done in those  
23 things without having any firsthand knowledge of it.

24 You're just, you're just guessing. And  
25 you're basing your objection on this particular motion

1 on what has happened in other cases and percentages  
2 that have been recovered in other cases, which are  
3 simply not relevant to this issue.

4 This is a case that stands alone. And will  
5 be determined based on the facts applied to the law  
6 that exists and under which we operate at this point  
7 in time. So that's, that's just not helpful to us.

8 Do, do you have any testimony or any evidence  
9 to indicate that the terms of the stipulation  
10 itself -- the amounts, the additional terms, the  
11 creation of the additional dockets to study such  
12 things as tax normalization and so on -- are unfair or  
13 unjust?

14 MR. BALL: What is unjust, Chairman, or  
15 potentially unjust, is the consistence with which, in  
16 six cases that have been determined by this Commission  
17 in the past decade, PacifiCorp has regularly asked for  
18 twice as much as it has been prepared subsequently to  
19 settle for.

20 That it has consistently asked for four times  
21 as much as the Commission has ordered in cases that  
22 have been closely scrutinized and highly litigated.  
23 And that it has typically settled for twice as much,  
24 twice as large a proportion of its original request as  
25 it has been awarded in litigated cases.

1           The inevitable conclusion from that is that  
2 \$45 million is at least twice as much, ranging up  
3 perhaps to -- in other words, the number should be  
4 more like 22.5 million, ranging up perhaps to around  
5 29 million.

6           Now, that's not an unreasonable thing to  
7 point out to the Commission, because it is so con --  
8 the numbers are so consistent. The other thing that's  
9 reasonable to point out to the Commission is that the  
10 Commission runs a risk, if it approves this  
11 settlement, that it will again be awarding PacifiCorp  
12 significantly more dollars in terms of a revenue  
13 requirement increase than is truly justified.

14           MS. HOGLE: Objection --

15           MR. BALL: That the Commission --

16           MS. HOGLE: -- argumentative.

17           MR. BALL: Pardon?

18           MS. HOGLE: I object. We object, because  
19 what you are saying is argumentative.

20           CHAIRMAN BOYER: Well --

21           MR. BALL: Chairman, I'm fulfilling two roles  
22 here. Not only the role of witness, but also the role  
23 of representative. A representative is surely  
24 entitled to argue in response to the kind of  
25 procedural stuff that's going on here.

1           I apologize if I'm conflating the two, but  
2 it's kind of difficult to divide my brain into two  
3 separate parts. I believe that if, if Ms. Hogle is  
4 indeed right and some of what I'm saying is  
5 argumentative, I believe I'm entitled to argue.

6           I also believe I'm entitled, on behalf of the  
7 Association I represent, to enter evidence. The  
8 Commission and the parties to the stipulation seem to  
9 want to bar that from happening.

10           CHAIRMAN BOYER: Well, you, you --

11           MR. BALL: I find that disturbing.

12           CHAIRMAN BOYER: Well, Mr. Ball, you've  
13 abundantly made your point. We understand it. Have  
14 you anything further?

15           MR. BALL: Would you give me a moment,  
16 please?

17   (Pause.)

18           MR. BALL: Yes. I have two more, two more  
19 points I should like to make, please. One of them is  
20 that Senate Bill 214 shared the same intimidatory  
21 spirit of House Bill 320 and Senate Bill 61 in earlier  
22 years.

23           They were all well-timed swipes at  
24 regulators --

25           CHAIRMAN BOYER: Well, Mr. Ball, that's



1 totally irrelevant.

2 MR. BALL: I disagree, Chairman.

3 CHAIRMAN BOYER: The legislative process is  
4 what it is. And what happened, happened.

5 MR. BALL: There, there is a very clear  
6 connection in terms of the timeline on all of this.  
7 Senate Bill 214, much amended in the wake of public  
8 protest, passed house and senate on the last night of  
9 the session, the 12th of March.

10 PacifiCorp brought the parties to the  
11 stipulation together on the 17th of March. They filed  
12 it on the 23rd. And later that same day the  
13 Commission scheduled this hearing. That's the first  
14 point.

15 MR. PROCTOR: Mr. Chairman, if I might. On  
16 behalf of my client, the Committee of Consumer  
17 Services, that was the subject of 214. But I believe  
18 at this point I also have an obligation as an  
19 Assistant Attorney General.

20 Consistent with the remarks of the Committee  
21 for whom Mr. Ball appeared, and on behalf of the  
22 Attorney General, I believe that the statements that  
23 Mr. Ball is now making are certainly defamatory.

24 Now, this forum, like a courtroom, has a  
25 certain umbrella of privilege to -- and immunity from

1 defamation. But the Rules of Evidence certainly  
2 restrict a witness's ability, or counsel's ability, or  
3 a person who appears in place of counsel to make the  
4 type of statements that Mr. Ball has made, is again  
5 making.

6 And that is alleging/implying that there is  
7 impropriety and perhaps even criminal behavior between  
8 the Company, the Utility, the regulatory authorities,  
9 and the Legislature. It's totally inappropriate. And  
10 Mr. Ball should be sanctioned if he continues to  
11 attempt to present such testimony.

12 CHAIRMAN BOYER: Well, the, the passage of  
13 214 and the steps that led up to that are not before  
14 us, nor do we have any jurisdiction over it, Mr. Ball.  
15 If you have issues with that I think you should take  
16 them to the Legislature. What is your last point?

17 MR. BALL: Thank you, Chairman. Today's  
18 hearings are the result of the motion for approval of  
19 the stipulation filed by PacifiCorp, presumably on  
20 behalf of the parties to the stipulation.

21 Their request that the hearings be scheduled  
22 for today were unduly hasty. And the hearings were  
23 inadequately noticed to the nearly 800,000 homes and  
24 businesses that stand to be affected by this  
25 stipulation.

1           No arrangements have been made for concerned  
2 ratepayers who may live in distant parts of Utah, or  
3 may be disabled, or elderly, or otherwise unable to  
4 attend the public witness hearing in person to be  
5 heard.

6           Commission staff have been turning away  
7 ratepayers who lack the ability to e-mail or fax their  
8 views and who have asked to register their comments  
9 over the telephone. Asking them instead to write  
10 letters.

11           That in a time scale that makes it  
12 practically impossible, impossible from a practical  
13 perspective, for those letters to be before the  
14 Commission before today is over.

15           It's the position of the Association that  
16 ratepayers at large have received a wholly inadequate  
17 opportunity to respond to the filing of the motion to  
18 approve this stipulation. That any comment the  
19 Commission may have received or may yet receive is  
20 only a small fraction of the actual public opinion.

21           And that the Commission should therefore deny  
22 the motion, at least in terms of approving the  
23 stipulation at this point in time. Thank you very  
24 much, Chairman.

25           CHAIRMAN BOYER: Thank you, Mr. Ball.

1 Rocky Mountain Power, have you any questions  
2 of Mr. Ball?

3 MS. HOGLE: We have none.

4 CHAIRMAN BOYER: Mr. Ginsberg?

5 MR. GINSBERG: No.

6 CHAIRMAN BOYER: Mr. Proctor?

7 MR. PROCTOR: No, thank you.

8 CHAIRMAN BOYER: Mr. Reeder?

9 MR. REEDER: You're not gonna tempt me.

10 CHAIRMAN BOYER: The parties on the  
11 telephone, have you any questions of Mr. Ball?

12 MS. SMITH: We have no questions, your Honor.

13 MR. BOEHM: No questions, your Honor.

14 CHAIRMAN BOYER: Thank you.

15 Commissioner Allen? Commissioner Campbell?

16 Nor I.

17 Are there other parties who have intervened  
18 that wish to speak against the approval of the motion  
19 to approve this stipulation? I think we've heard none  
20 up to this point.

21 Okay. In fairness, we're going to let the  
22 proponents have the last word. Do you have anything  
23 further, Ms. Hogle?

24 MS. HOGLE: Just a few comments. As  
25 indicated earlier by Dr. Powell, the Division, the

1 Committee, and other parties have performed a very  
2 thorough review of the Company's case. There was a  
3 very substantial exchange of information.

4 After such a thorough review, and a great  
5 deal of analysis and time and resources that were put  
6 into the case by lawyers, consultants, and experts,  
7 the parties concluded that the stipulation is in the  
8 best interest of the ratepayers and of everybody  
9 involved.

10 The lone opposition is from a party who,  
11 although it had every opportunity to participate in  
12 the proceedings, was given notice of the settlement  
13 discussions, was an intervener in the case, did not  
14 make any effort to participate in the proceeding. And  
15 therefore he has absolutely no basis for opposing the  
16 stipulation.

17 Rocky Mountain Power and the parties before  
18 you deem that the stipulation is in the public  
19 interest.

20 CHAIRMAN BOYER: Thank you, Ms. Hogle.

21 Mr. Ginsberg, anything further?

22 Mr. Ginsberg: No, I have no additional  
23 comments.

24 CHAIRMAN BOYER: Thank you.

25 Mr. Proctor?

1           MR. PROCTOR: Briefly. You have before you  
2 now comprehensive testimony filed over the last  
3 several months, beginning in July, that establishes  
4 the depth to which the parties analyzed Rocky Mountain  
5 Power's initial application.

6           This Commission is aware, as is everyone who  
7 participated, with the hard fought and very competent  
8 challenges that were laid, not only to the initial  
9 filing but then to the test period. And this  
10 Commission's orders that refined this case to the  
11 point where we began to examine it at its core.

12           The Division did. The industrial parties  
13 did. The Committee certainly did through its expert  
14 witnesses. Who, as the Commission and everyone else  
15 is very well aware, are, are skilled and knowledgeable  
16 about Rocky Mountain Power and its operations.

17           Under the circumstances it's upon the basis  
18 of that evidence that the Committee of Consumer  
19 Services considered that range. What would, in fact,  
20 result in just and reasonable rates for the rate  
21 effective period for small business consumers and  
22 residential consumers within the State of Utah.

23           And based upon that, the Committee reached  
24 this, this settlement, and agrees that it should be  
25 approved by this Commission. It not only results in a

1 just and reasonable rate, but it, like other  
2 settlement stipulations, concludes some issues that  
3 give some certainty and finality to the consumer.

4 One example is the, the wind project. Where  
5 there is a presumed capacity that is, is high compared  
6 to its believed capacity for a period of three years.  
7 Giving that -- the ratepayers certainty of a certain  
8 level of revenues and a certain supply of energy.

9 So that we're not subject to the up and down  
10 of the wind -- of a wind project generally, but also  
11 time to gather accurate information in order to  
12 accurately set its capacity level.

13 And at the same time the renewable energy  
14 credits are determined and retained by the ratepayers  
15 of the State of Utah. That is a great benefit. So  
16 under the circumstances the Committee believes that  
17 indeed this should be approved, as it is a just and  
18 reasonable settlement and it is in the public  
19 interest.

20 CHAIRMAN BOYER: Thank you, Mr. Proctor.

21 Any final words, Mr. Reeder?

22 MR. REEDER: We conducted our own  
23 investigation. We conducted a very thorough  
24 investigation, we think, probably to the dismay of  
25 PacifiCorp and Rocky Mountain.

1           We came to this conclusion that the Committee  
2 and the Division were conducting a thorough  
3 investigation, and we should rely on them, and did not  
4 file any testimony. So it is not true we did not  
5 investigate and look deeply into the matter.

6           We participated in the settlement  
7 negotiations. And with the issues resolved -- there  
8 were some unresolved issues and there may be issues  
9 that are yet to be resolved.

10           With those issues yet to be resolved we think  
11 the result is a reasonable settlement, and will result  
12 in just and reasonable rates.

13           We think it's significant, Commissioner  
14 Campbell, that the Company has agreed that the result  
15 will produce just and reasonable rates. And that they  
16 have agreed to support the Commission's order  
17 approving the stipulation.

18           The Company has taken extra steps to assure  
19 you that if you approve the stipulation that they will  
20 be on board.

21           To the point of Mr. Ball. I find it  
22 difficult to find a way to connect the dots between  
23 percentages of old cases filed and reasonable  
24 outcomes. I lose the thread. Now, my Ph.D. is not in  
25 economics, but I can't follow that thought.



1           And I don't encourage you to follow that  
2 thought and let that thought deter you from reaching  
3 the conclusion that this is a reasonable result. And  
4 I would note that Mr. Ball argues that we should  
5 litigate the case, but he has not prepared himself to  
6 litigate the case by filing testimony.

7           So I think he's in no position to urge the  
8 case to go, to go on, when those of us who have  
9 investigated the case, and spent time -- considerable  
10 time and effort to investigate the case, concluded  
11 that a good settlement is better than a bad  
12 litigation.

13           That's all I have.

14           CHAIRMAN BOYER: Thank you, Mr. Reeder.

15           Both Kroger and Wal-Mart, through counsel,  
16 have supported the stipulation. Do either of you have  
17 any final comments you wish to make?

18           MS. SMITH: I have no comments, other than  
19 Wal-Mart supports the approval of the stipulation in  
20 the docket.

21           CHAIRMAN BOYER: Thank you.

22           MR. BOEHM: I have no comments either, your  
23 Honor.

24           CHAIRMAN BOYER: Thank you.

25           Okay. Thank you all for your participation.

1 MR. BALL: Chairman, if I may?

2 CHAIRMAN BOYER: Mr. Ball?

3 MR. BALL: Since you happened to mention that  
4 you have seen the opinion editorial pieces that were  
5 published in The Tribune, the Deseret Morning News,  
6 and the Ogden Standard Examiner on Sunday, may I ask  
7 that they be admitted into evidence, please?

8 CHAIRMAN BOYER: We can take notice of them,  
9 sure.

10 MR. BALL: Thank you. I'll provide copies in  
11 due course.

12 CHAIRMAN BOYER: If you would, and to the  
13 reporter as well?

14 MR. BALL: Yes.

15 CHAIRMAN BOYER: Okay, thank you.

16 Okay, with that we'll be in recess until 4:30  
17 this afternoon, when we'll hear from members of the  
18 public. Thank you all for your participation.

19 (A recess was taken from 3:34 to 4:32 p.m.)

20 CHAIRMAN BOYER: Welcome everyone this  
21 afternoon. It looks like it is 4:30, the time and  
22 state and place duly noticed for the hearing of public  
23 witnesses in Docket No. 08-035-38.

24 Before us today is a motion for approval of a  
25 revenue requirement stipulation in a case captioned:

1 In the Matter of the Application of Rocky Mountain  
2 Power For Authority to Increase Its Retail Electric  
3 Utility Service Rates in Utah and For Approval of Its  
4 Proposed Electric Service Schedules and Electric  
5 Service Regulations.

6 So we welcome members of the public to this  
7 hearing this afternoon. Ms. Murray, who is standing  
8 over here to your right -- my left -- is preparing a  
9 list of those of you who wish to give testimony this  
10 afternoon.

11 And we'll go down through those -- through  
12 you -- give everyone an opportunity, one by one, as we  
13 go forward.

14 Before you came we heard testimony from the  
15 Rocky Mountain Power witnesses. Also from a witness  
16 from the Division of Public Utilities, who's tasked  
17 with helping us, in fact, and working on their own in  
18 regulating utility and making sure that rates are just  
19 and reasonable and in the public interest.

20 Also we heard from a witness from the  
21 Committee of Consumer Services, which is an agency of  
22 the State of Utah charged with representing and  
23 advocating before us on behalf of residential  
24 ratepayers, all businesses, farmers who irrigate, and  
25 so on. And we had other people participating by phone

1 and here in person.

2           What we'll do, when I call your name please  
3 step forward here to the witness box. You may either  
4 give sworn testimony or unsworn testimony. The  
5 consequences of that are if you wish your comments to  
6 be relied upon by us in entering our order on the  
7 merits in this case the testimony has to be sworn  
8 testimony.

9           On the other hand, the downside of giving  
10 sworn testimony is you subject yourself to cross  
11 examination by the attorneys in the room, if you want  
12 the negative to that. So we'll, we'll ask you as you  
13 present yourself whether you wish to give sworn or  
14 unsworn testimony.

15           And with that, Ms. Murray, do you have a list  
16 for us?

17           Okay, thank you. The first person on our  
18 list is a familiar face, Claire Geddes. Would you  
19 like to step forward, please?

20           Ms. Geddes, do you wish to give sworn or  
21 unsworn.

22           MS. GEDDES: Yes.

23           CHAIRMAN BOYER: You want to give sworn  
24 testimony?

25           (Ms. Geddes was sworn.)

1           CHAIRMAN BOYER: Please be seated. You may  
2 proceed when you're ready.

3           MS. GEDDES: My name is Claire Geddes. Oh.

4           CHAIRMAN BOYER: Yes, speak into the  
5 microphone, please.

6           MS. GEDDES: I usually talk so loud I don't  
7 need one of these, as everybody knows. My name is  
8 Claire Geddes. Oh, it's not on?

9           Now it is, isn't it.

10          CHAIRMAN BOYER: Yes.

11          THE WITNESS: Okay. My name is Claire  
12 Geddes. I've participated in many hearings at the  
13 Public Service Commission. I -- under two different  
14 organizations. First Utah Legisla -- first United We  
15 Stand, and then Utah Legislative Watch.

16          I am now a -- and I want to make this clear,  
17 I'm speaking on behalf of myself. But I am a board  
18 member of the Utah Ratepayers Association, the group  
19 that has taken a position in this case. And I have  
20 some real concerns about that.

21          First I want to comment, I'm not going to  
22 take a position for or against this stipulation.  
23 Although I am -- feel much better after listening to  
24 the last two hours. It sounds like that it's been  
25 very well litigated, even though it didn't go through

1 a hearing.

2 That there's been lots of testimony and many,  
3 many hours, so. And I have faith in the Committee and  
4 believe that they've done a good job on this. But I'm  
5 not gonna say that I'm gonna support or deny it,  
6 because in the past we've had concerns about  
7 stipulations. That has been a, an issue.

8 Although in -- I guess I would disagree  
9 100 percent with Roger Ball's testimony that basically  
10 says that we should look at this in light of others.  
11 I think that's -- just can't do that. I mean, there's  
12 been lots of cases. And it depends on who negotiated  
13 them.

14 I know a couple of those cases were  
15 negotiated by Roger Ball. And they used stipulations  
16 when he was there. So, you know, I can't quite  
17 understand why we're taking such a firm stand -- or he  
18 is against this just on those issues.

19 I believe that you have to be a party to the  
20 case, too. That's one of the reasons I wouldn't have  
21 really supported or not supported this. I haven't  
22 been in on the testimony. But I have listened to what  
23 I heard today, and it made me much more confident.

24 I let Roger Ball know of my concerns after I  
25 read his article. I didn't realize the organization

1 had taken a position until I opened the paper on  
2 Sunday morning. And I called Roger to give him my  
3 concerns about his analysis of that.

4 I think it's fine to come in and say you  
5 don't want to do a -- you don't want to support a  
6 stipulation because you have a problem with that. But  
7 I think you've got to do it on those terms and not  
8 because of what happened in a previous case. Because  
9 those were all negotiated by different people under  
10 different times.

11 I know there's one other board member who  
12 feels the way I do. And I'm not sure there was a vote  
13 taken on this. I asked Roger if there had been and he  
14 declined to -- his answer to me was he declined to  
15 answer the question. And that concerned me.

16 I will be honest, I haven't been real active  
17 because my husband's been sick for about three  
18 years -- or longer than that, and I had to be at home  
19 all the time. I have done some work with Roger,  
20 though, in the past and we -- up at the Legislature.

21 So I just wanted to put that out because I  
22 think it's, you know, I -- and I have probably been  
23 harder on the utility companies and the regulatory  
24 bodies than just about anybody, as everyone knows,  
25 over the years. I'm not a shrinking violet who will

1 go quietly in the night.

2 But I think also that we have to look at -- I  
3 know there's things that are happening right now that  
4 there are costs when you are building and you're  
5 having growth. And I just want to be fair and  
6 reasonable.

7 If I think there is something wrong with the  
8 situation, then I will definitely speak out. And I've  
9 spoke out against many things that have happened down  
10 here. But I want to do it on a basis that I can -- it  
11 can be given great credibility.

12 So I just wanted to put that through and my  
13 concerns, because I am a member of his organization  
14 and I do have concerns about the position they have  
15 taken. Or that Roger Ball has taken.

16 CHAIRMAN BOYER: Thank you, Ms. Geddes.

17 For the record, Ms. Geddes' name is spelled  
18 C-l-a-i-r-e, G-e-d-d-e-s. And I'm sorry I didn't ask  
19 you to spell it for the record.

20 MS. GEDDES: Oh, I'm sorry. I should have  
21 done that.

22 CHAIRMAN BOYER: That was my oversight.

23 MS. GEDDES: I've haven't been here in a long  
24 time.

25 CHAIRMAN BOYER: Since you were sworn,



1 Ms. Geddes, let's see if the attorneys have any  
2 questions for you.

3 Ms. Hogle?

4 MS. HOGLE: I have no questions.

5 CHAIRMAN BOYER: No questions?

6 MS. HOGLE: No.

7 CHAIRMAN BOYER: Mr. Ginsberg, have you any  
8 questions for Ms. Geddes?

9 MR. GINSBERG: Can you explain a little more  
10 about how the Utah Ratepayer Alliance is organized?

11 MS. GEDDES: You know, I, I went to the first  
12 beginning organization meetings. And they do have a  
13 board, though I'm concerned if we don't have any power  
14 what we're there for. Basically it was set up as a  
15 utility organization to watchdog utilities.

16 And the -- I know that Roger, during the  
17 testimony earlier, stated very succinctly that only he  
18 can speak to the organization. That's -- I know  
19 that's part of the bylaws.

20 I also have been recently told that there is  
21 a portion of it that says there should be a  
22 majority -- and I'm just quoting from what someone  
23 told me, so I'm not succinct.

24 That there should be a vote. But it can be  
25 taken over the phone, or -- because things come up

1 fast. Where a majority of the people -- of the  
2 governors, board of governors, have taken a vote.

3 Now, whether that's the only portion of the  
4 bylaws that says that, I'm not absolutely sure.

5 MR. GINSBERG: How many members are there on  
6 the board of governors, do you know?

7 MS. GEDDES: Do you know, you'd have to ask  
8 Roger, because I'm not absolutely sure. I know --

9 MR. GINSBERG: Okay, thank you.

10 MS. GEDDES: -- of one other one that -- I  
11 think there were probably, I'm guessing maybe ten.  
12 Maybe not that many.

13 MR. GINSBERG: Does it meet periodically, or  
14 just over the phone, or how does --

15 MS. GEDDES, no I think they meet every couple  
16 of months.

17 MR. GINSBERG: There was no meeting though  
18 with respect to this proceeding?

19 MS. GEDDES: Not to my knowledge. And in  
20 fact there will be a meeting on April 17th, I believe.  
21 At least Roger Ball didn't confer that to me. I asked  
22 him.

23 MR. GINSBERG: Thank you.

24 CHAIRMAN BOYER: Thank you, Mr. Ginsberg.

25 Mr. Proctor, any questions for Ms. Geddes?

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1 MR. PROCTOR: No questions, thank you.

2 CHAIRMAN BOYER: Okay. Are there people on  
3 the phone still, or have they?

4 We'll ask Mr. Ball if he has questions while  
5 you're checking that.

6 Mr. Ball, have you questions for Ms. Geddes?

7 MR. BALL: No thank you, Chairman.

8 CHAIRMAN BOYER: Okay. I think there's no  
9 one on the phone, so thank you very much for  
10 participating, Ms. Geddes. Thank you.

11 The next person -- excuse me. The next  
12 person on the list -- and I'm not sure if I'm reading  
13 this correctly -- but is it Kennelly or Kennedy?

14 MR. KENNELLY: My name is Kennelly.

15 CHAIRMAN BOYER: Kennelly. Well, that's why  
16 I mispronounced it. Please step forward,  
17 Mr. Kennelly.

18 Do you wish to give sworn testimony or  
19 unsworn?

20 MR. KENNELLY: Yes.

21 CHAIRMAN BOYER: Okay.

22 (Mr. Kennelly was sworn.)

23 CHAIRMAN BOYER: Thank you, Mr. Kennelly.  
24 Would you please spell your name for the record for  
25 the reporter's?

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1 MR. KENNELLY: K-e-n-n-e-l-l-y.

2 CHAIRMAN BOYER: You may proceed,  
3 Mr. Kennelly. Kennelly.

4 MR. KENNELLY: Okay. I've been before the  
5 Commission three or four times before, and so on. And  
6 objected to some of the proceedings for the gas  
7 Company and also, but this is the first time for the  
8 power company.

9 And the thing I object to is the number of  
10 times that they have come and asked for rate increases  
11 and special conditions for different things. My  
12 personal feeling is that this Board, even though I  
13 understand does not have any power to make any  
14 decisions except advisory now, that we had a  
15 legislator who pushed through a deal so that these  
16 people here are more or less spinning their wheels  
17 because they carry no weight.

18 Which I think is entirely wrong. And I think  
19 the public has been -- a disservice given to them.  
20 And I think it's ridiculous that a private company can  
21 control what the ratepayers and citizens of this state  
22 pay for their utilities.

23 Now, the thing of it is, it's been proven  
24 that the gas company, Mountain Fuel Supply or whatever  
25 their name is now, it's been changed three or four

1 times for the sole purpose of making it so much of a  
2 problem to determine how much they make, how much they  
3 spend, and where does the money go.

4 I have been personally so upset about the CEO  
5 of the gas company getting a million dollar bonus,  
6 it's just absolutely ridiculous. And I think the, the  
7 Board here, the people have got backwards. This Board  
8 by the State should have the control over the whole  
9 thing. And it should be with their permission when  
10 the company gets a rate increase or whatever.

11 The gas company has been dealt -- very unfair  
12 and untrue, because they have consistently tried to  
13 get rate increases which were unjustified and  
14 unreasonable.

15 The power company hasn't too much yet. But  
16 since the new ownership took over the power company  
17 and so on, the request for rate increases has been  
18 made and so on. It seems to me that when a buyer buys  
19 a business, he knows what the income and expenses are  
20 before he would ever be dumb enough to buy a business.

21 And if the business wasn't profitable, he  
22 wasn't gonna make some money out of it, he wouldn't  
23 buy the business. This idea that you can buy the  
24 business and then go back and get rate increases so  
25 you get your profits after you've bought the business

1 doesn't hardly seem fair to me.

2           If everything was negotiated when they bought  
3 the business and so on, that would be a different  
4 story. But that was not the case. So it just doesn't  
5 seem fair to the people of this state to have this.  
6 And the slap in the face from the Legislature of this  
7 state is just absolutely ridiculous.

8           And like I say, personally I think this Board  
9 should have the control and be able to say yes or no  
10 when the utilities ask for a rate increase. And they  
11 should have to justify it and make it reasonable.  
12 That's my opinion.

13           CHAIRMAN BOYER: Thank you, Mr. Kennelly.  
14 There may be --

15           MR. KENNELLY: Oh.

16           CHAIRMAN BOYER: -- some, some misinformation  
17 here going on. But the Commission, the Public Service  
18 Commission, which consists of myself and my two  
19 colleagues here, we still do have the, the exclusive  
20 responsibility for determining whether or not rates  
21 are increased or not.

22           So there's nothing happening in the  
23 Legislature that diminished our authority.

24           MR. KENNELLY: Oh, there wasn't?

25           CHAIRMAN BOYER: No.

1           MR. KENNELLY: Oh, well I was misinformed  
2 then. Because my understanding was that the  
3 Legislature would make the decision now instead of  
4 you -- the Board here.

5           CHAIRMAN BOYER: No, they, they haven't done  
6 that yet. They could sometime in the future, but they  
7 haven't yet.

8           MR. KENNELLY: Well, I don't -- personally I  
9 don't think that's a place for them to be making  
10 decisions.

11          CHAIRMAN BOYER: They've delegated that  
12 responsibility to us.

13          MR. KENNELLY: Yes.

14          CHAIRMAN BOYER: Let's see if any of the  
15 attorneys have questions for you, Mr. Kennelly.

16          Ms. Hogle?

17          MS. HOGLE: I have none.

18          CHAIRMAN BOYER: Mr. Ginsberg?

19          MR. GINSBERG: No questions.

20          CHAIRMAN BOYER: Mr. Proctor?

21          MR. PROCTOR: No, thank you.

22          CHAIRMAN BOYER: Mr. Ball?

23          MR. BALL: No, thank you, Chairman.

24          CHAIRMAN BOYER: Thank you, Mr. Kennelly, for  
25 your participation. You may step down.

1 MR. KENNELLY: Thank you.

2 CHAIRMAN BOYER: Thank you for coming.

3 The next person is Raye Nielsen.

4 Yes, ma'am?

5 UNKNOWN SPEAKER: Can you define who these  
6 attorneys are and who they represent as they are  
7 announced?

8 CHAIRMAN BOYER: Surely. Ms. Hogle, sitting  
9 here in front of me, is the attorney for Rocky  
10 Mountain Power. Mr. Ginsberg is counsel -- he works  
11 for the Attorney General's Office, and he is  
12 representing the Division of Public Utilities.

13 And Mr. Proctor here in the corner is also  
14 with the attorney -- Office the Attorney General, and  
15 he represents the Committee of Consumer Services. And  
16 we had other attorneys participating earlier today,  
17 but they have, have other commitments and have gone  
18 away.

19 Ms. Nielsen, would you like to give sworn or  
20 unsworn testimony?

21 MS. NIELSEN: Sworn.

22 (Ms. Nielsen was sworn.)

23 CHAIRMAN BOYER: Thank you, please be seated.  
24 You may begin whenever you're ready.

25 MS. NIELSEN: Well, my name is Raye Nielsen.



1 I would like to say first of all since I've been  
2 sitting here for a few minutes I've heard a couple of  
3 things that I feel are very positive.

4 First of all, the point of being here from  
5 our chairman speaking is for us to have fair and  
6 reasonable rates. That caused me to feel rather  
7 positive about being here.

8 Also, the second thing that was pleasing to  
9 me was just clarified a couple of minutes ago. That  
10 the power to raise rates and our negotiation strength  
11 still remains within our Public Utilities Commission.

12 And I had been under the impression that this  
13 was about to change or had already changed. This  
14 gives me a great deal of confidence. Because for  
15 years I've been aware that in each state the governor  
16 chooses public utility commissioners to watch over and  
17 take care of the consumers needs and problems and so  
18 forth, and at the same time still give reasonable  
19 consideration to the reason for any rates to be  
20 raised.

21 So I feel pretty good about having started --  
22 hearing positive input from various people. I want to  
23 say right from the beginning, I have always loved my  
24 electrical power company better than any other utility  
25 because of its, its -- it has a wide impact in our

1 daily life.

2           And having been raised many years during the  
3 period of time of the Depression, I value these things  
4 of comfort. And I would like to just mention here  
5 that even our, our furnace downstairs in the basement  
6 spreads out the heat because it has an electrical fan  
7 on it.

8           But I have felt really very good -- honestly,  
9 I'm not bluffing. I've always felt very good about  
10 the power company and the services they give. And I  
11 felt until recently the rates have been very  
12 considerate. So I wanted to establish that.

13           And then also I want to say, I have noticed  
14 many changes in our world. And one of the things that  
15 causes me a great deal of concern in our culture, in  
16 our society, is rampant greed.

17           Now, everybody has a right to make a profit.  
18 They work hard. They do things to give service. And  
19 I feel like a profit is, is not only necessary, but  
20 important and certainly just due to the people, to the  
21 companies involved.

22           But rampant greed has been just swallowing up  
23 our world. And I don't think I need to go there and  
24 tell you where I'm referring to. But it is breaking  
25 down our society.

1           So I would appeal unto our utilities  
2 Commission to please consider these things in behalf  
3 of the consumer. Not only do we love our utilities  
4 and what they do for us -- and for me especially the  
5 electrical power -- but I have to say, consider the  
6 fact that the power companies gain strength and should  
7 love their customers as well.

8           It's a, it's a reciprocal relationship. So  
9 that's what I'm saying today. Be considerate of us  
10 too. Because we love you. We are dependent upon the  
11 comforts that are offered. Love us for the strength  
12 we provide also.

13           CHAIRMAN BOYER: Thank you, Ms. Nielsen.  
14 Very well said.

15           Are there any questions for Ms. Nielsen?  
16 Ms. Hogle?

17           MS. HOGLE: I have none.

18           CHAIRMAN BOYER: Mr. Ginsberg? Mr. Proctor?

19           MR. PROCTOR: No, thank you.

20           CHAIRMAN BOYER: And Mr. Ball?

21           MR. BALL: No, thank you, Chairman.

22           CHAIRMAN BOYER: Thank you so much for  
23 participating today, Ms. Nielsen. Thank you.

24           THE COURT REPORTER: Can I get the spelling?

25           CHAIRMAN BOYER: Oh, yes. I didn't ask you

1 how to spell your name. And correct me if I'm --

2 MS. NIELSEN: N-i-e-l-s-e-n.

3 CHAIRMAN BOYER: N-i-e-l-s-e-n. And her  
4 first name is R-a-y-e.

5 MS. NIELSEN: R-a-y-e.

6 CHAIRMAN BOYER: Thank you.

7 Ms. Murray, are there other parties who wish  
8 to be heard?

9 Yes, sir.

10 MR. FUNK: I didn't put my name on there, but  
11 I think I should speak.

12 CHAIRMAN BOYER: Sure. Come on forward. Do  
13 you wish to give sworn or unsworn testimony?

14 MR. FUNK: Sworn, please.

15 (Mr. Funk was sworn.)

16 CHAIRMAN BOYER: Please be seated. Would you  
17 state your name and spell your name for the record,  
18 please.

19 MR. FUNK: My name is -- am I on? Can you  
20 hear me? Okay. My name is Tim Funk, F-u-n-k. I work  
21 for Crossroads Urban Center. And you may know  
22 Crossroads.

23 We have an emergency food pantry. We do  
24 advocacy work. And in times long past we were active  
25 interveners in rate cases before the Commission. But

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1 that's kind of a tough thing to do all you need to do.

2 I'm here today to speak as a former employee  
3 of the Committee of Consumer Services. And I worked  
4 for them from about 1985 through the first part of  
5 1990. And I think I'm very familiar with the process  
6 and with the quality of work that's done by the  
7 Committee. And the quality of rulings brought down by  
8 the Commission.

9 I don't think we've always agreed with the  
10 companies. In fact, we think the companies could be  
11 spanked a lot harder than they are being spanked. And  
12 we think that what we'd like to talk about today is  
13 that the poor people that we serve through the, the,  
14 the Crossroads Urban Center programs and the people we  
15 advocate for at the State Legislature are people who  
16 are very poor.

17 And they're in worse shape right now than  
18 they have been in 25 years. And maybe for a lot of  
19 them as an income group are in worse shape than they  
20 have been since the Great Depression.

21 We've seen more people in our food pantry  
22 than we've ever seen before. And we see them in a  
23 magnitude we, we feel that our, our food pantry has  
24 always been the busiest emergency food pantry in the  
25 state. And it's -- our, our use is up 35 percent in

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Kelly L. Wilburn, CSR, RPR  
DepomaxMerit

1 the last 18 months.

2           And that's, that's saying a lot for us to  
3 come and tell you that, that poverty is that much more  
4 severe. But it is. So to say that we agree with  
5 anything that would increase the cost of a person's  
6 life, especially the basic fundamental cost of  
7 electricity -- of any of the basic utilities, for --  
8 especially for heat or for lights, we don't, we don't  
9 support that.

10           And we think that you should fight, that this  
11 Committee should fight and this Division should fight  
12 and have a full-blown rate case. We don't like  
13 stipulations. I didn't like stipulations when I  
14 worked for the Committee.

15           And I think the Committee was more resolute  
16 then about that sort of thing. It wasn't that we  
17 never, you know, didn't see the practicality of having  
18 a shortened hearing process and getting on with  
19 things. And stipulations sometimes made sense.

20           But at this point, with this economy, and the  
21 needs that people are feeling, and the hard choices  
22 people are having to make between what they're going  
23 to pay for -- their rent, their utilities, their food,  
24 putting their children into school with basic costs --  
25 we really see that.

1           We see that every day. And we see more and  
2 more homeless people every day. So if you raise  
3 rates, remember what you're doing to the poorest of  
4 the poor. You're causing them a new distress in their  
5 life.

6           And I don't care if it's, if it's just a  
7 partial rate increase. It's always a partial rate  
8 increase. But, you know, the, the people are feeling  
9 great about the stimulus package. And it's going to  
10 bring more money for people with the, the LIHEAP  
11 program. The paying for your utility bills.

12           But remember, about 40 percent of the people  
13 who are eligible for that get it. And a lot of people  
14 in this state -- and if you've run programs like we  
15 have over time you'll find that probably about  
16 50 percent of the people who are eligible for food  
17 stamps, for instance, about 60 percent of the people  
18 who are eligible for the heat assistance program,  
19 won't come for that. Out of pride. Some of them  
20 don't know about it. Some of them just don't want to  
21 be put into the process of having their name on a  
22 list.

23           And so as you deal with this as a Public  
24 Service Commission, and you as companies, my God, and  
25 you as, as people as -- who are supposed to be

1 representing us, don't give up. And don't stipulate.

2 We don't agree with a lot of the nonsense  
3 that goes on in terms of people who say they advocate  
4 or don't advocate. I've always thought that the  
5 Committee did a pretty good job. And we've said that.  
6 We said that in the State Legislature, and we still  
7 believe that.

8 But we don't feel good. My organization,  
9 which is a 50-year-old organization, and has dealt  
10 with every poverty problem in this state over those  
11 50 years. Every poverty problem we have dealt with in  
12 one way or another. We know that you can fight  
13 better.

14 And I think that this Committee could fight  
15 better and the Division could fight better and could  
16 better represent us. That's what I have to say.

17 CHAIRMAN BOYER: Thank you, Mr. Funk.

18 Are there questions for Mr. Funk? Ms. Hogle,  
19 have you questions for Mr. Funk?

20 MS. HOGLE: Well, I, I don't know if it's a  
21 question. More of a comment.

22 Mr. Funk, I just wanted to make you aware of  
23 Senate Bill 75, which Rocky Mountain Power, along with  
24 the Committee of Consumer Services, the Division of  
25 Public Utilities, and other stakeholders in the state.



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1 Part of this -- of the bill that passed, actually, has  
2 expanded the group of people who are eligible for  
3 low-income assistance.

4 And I just wanted to make you aware of that.  
5 And perhaps look into that to avail yourself and your  
6 organization --

7 MR. FUNK: We, we, we know of the good work  
8 that you do. We also know, as I just mentioned, that  
9 there, there are probably two or three to one the  
10 people who are eligible for those programs who won't  
11 use them.

12 And a lot of that has to do with the basic  
13 ethnic and basic ethical things that people are taught  
14 in this state. This state is primarily LDS. And the  
15 people who are LDS don't believe, frankly, in, in  
16 those programs.

17 And we, we find that people change their mind  
18 all the time and they participate in that. But I  
19 think you -- if you came into our food pantry and  
20 interviewed people -- we do this on a regular basis.  
21 And you talk to them about why they participate in  
22 programs or not, they do it out of pride.

23 Not out of lack of need. But I don't want to  
24 go there, because my upbringing tells me that taking  
25 something -- you know. They'll come in for food

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1 anonymously, but they don't want to go on a list.  
2 They don't want to go through the interviewing or  
3 the -- they don't want to do it with a company.

4           They, they find that they want to pay their  
5 bill. That's what they want to do. They want to have  
6 enough to pay their bill. And they don't have enough.  
7 And I can't overemphasize, for everyone in this room  
8 who is now doing something that really impacts  
9 people's lives, I can't emphasize for you more than I,  
10 than I am that they are having a hard time.

11           And so, good. You -- I'm not even sure what  
12 your legislation did. I'm sure that you're trying to  
13 do the right thing. But doing the right thing and  
14 doing enough aren't the same thing. And there, there  
15 isn't enough. And people are suffering.

16           People are suffering. This is the worst time  
17 any of us -- I'm 63 years old. This is the worst  
18 economic time that, that as a person I can ever  
19 remember. I can ever remember. And it, it impacts  
20 everything in the lives of the people that I  
21 represent. That I work for and work with.

22           And so for you to tell me that you went up  
23 and did some, some well-thought-out legislation,  
24 wonderful. But for, for me to hear that the Committee  
25 or that the Division is capitulating. That they've

1 agreed.

2           And now what we're talking about here is sort  
3 of on a scale of how you're gonna increase it. Is it  
4 gonna be 40 percent, is it gonna be 50 percent. Will  
5 it, you know. Will it impact, people? Sure. And  
6 does this Company have low rates? Sure, it does.

7           And we're glad you do. And the lower the  
8 better. Just, you know, just and reasonable. We've  
9 always had low rates in Utah. There's nothing wrong  
10 with that.

11           But I'm here to tell you, in full, plain  
12 language, that people are suffering. And your  
13 Company, along with anybody else that takes a dollar  
14 out of their lives, causes them to suffer. They are  
15 suffering because they don't have enough. Because  
16 their incomes have been frozen. Or, or actually in  
17 retrograde for 11 and 12 years.

18           People aren't doing better. The people we  
19 work with aren't doing better. They're doing worse.  
20 And some of them are becoming homeless every day.  
21 More, more homeless people. More poor people. More  
22 people without.

23           And we're a long way from recovery. We're a  
24 long -- probably five years from being out of this  
25 trench. So whatever happens here happens to them.

1 Happens to them.

2           It's not an easy thing. I don't come to make  
3 things better. I don't say -- I don't have any good  
4 news here. I don't have any good news for you. And  
5 so, good. I'm glad you did something legislatively.  
6 Let's do more.

7           CHAIRMAN BOYER: Mr. Ginsberg, any questions  
8 for Mr. Funk?

9           Mr. Proctor?

10          MR. PROCTOR: Give me a moment, please.

11          CHAIRMAN BOYER: Sure.

12                           (Pause.)

13          MR. PROCTOR: I have no questions.

14          CHAIRMAN BOYER: Okay, thank you.

15          Mr. Ball, have you questions for Mr. Funk?

16          MR. BALL: Just one if I may, Chairman.

17          Mr. Funk, could you help me understand more  
18 clearly. I think you're saying that low-income  
19 assistance programs are good. But because half to  
20 two -- half to three-quarters of people who would  
21 qualify are reluctant to apply for that assistance,  
22 the lower normal rates are, the better it would be for  
23 the poorest in our society.

24           Do I have that correct?

25          MR. FUNK: I, I think that's absolutely true.

1 I mean, it's just -- the way rates are structured,  
2 unless you qualify, or qualify yourself for some of  
3 the special programs. And you, you make that choice.

4 You're one of the, the 50 to say 65 percent  
5 of people who don't want to participate in the special  
6 programs. Don't want to take the care. Don't want to  
7 take advantage. Or don't apply, or are ineligible.  
8 They're low income, but they're ineligible for say the  
9 LIHEAP program.

10 They're -- the lower the rate, the better.  
11 Because the rate is applied to us as a general rate.  
12 It's that simple.

13 MR. BALL: Thank you very much, Mr. Funk.

14 Thank you, Chairman.

15 CHAIRMAN BOYER: Thank you, Mr. Ball.

16 And thank you, Mr. Funk, for participating  
17 today.

18 Are there other folks from the public who  
19 would like to speak?

20 Okay. I see, I see none. We did not specify  
21 an end date for this hearing. We anticipated going  
22 until everyone had had an opportunity to speak. And I  
23 think that has now occurred, so that will conclude  
24 this hearing.

25 We will take the matter under advisement and

(March 31, 2009 - Rocky Mountain Power 08-035-38)

1 get an order out at our earliest convenience. Thank  
2 you all for participating.

3 (The hearing was concluded at 5:07 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 Certified Shorthand Reporter and Registered Professional Reporter 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 102, 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.

SIGNED ON THIS 11th DAY OF April, 2009.

\_\_\_\_\_  
Kelly L. Wilburn, CSR, RPR  
Utah CSR No. 109582-7801