

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

IN THE MATTER OF THE)
APPROVAL OF ROCKY MOUNTAIN) Docket No. 09-035-T08
POWER'S ADVICE NO. 09-08)
SCHEDULE 193 - DEMAND SIDE) TRANSCRIPT OF HEARING
MANAGEMENT (DSM) COST)
ADJUSTMENT.)

* * *

August 20, 2009
1:30 p.m.

Location of:
Public Service Commission
160 East 300 South, Fourth Floor
Salt Lake City, Utah

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Rossann J. Morgan
- Certified Shorthand Reporter -
- Registered Professional Reporter -

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A P P E A R A N C E S

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1 August 20, 2009

1:30 p.m.

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P R O C E E D I N G S

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CHAIRMAN BOYER: Let's go on the record.

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This is the time and place duly noticed for a hearing on

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the Motion for Approval of Stipulation Regarding Phase 1,

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Recovery of the Balance in the Demand-Side Management

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Deferred Account and the Company's Forecast of Future DSM

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Expenditures. And it is Docket No. 09-035-T08.

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So I think what we'll do is what we typically

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do in the motion practice and that is to hear from the

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proponents of the motion to the stipulations first.

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We'll give parties an opportunity to cross-examine. I

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think the commissioners will reserve questions until all

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of the proponents have been heard from, and then there

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will be an opportunity for redirect. We'll then move to

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proponents of the motion, if any, and then follow the

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same procedure there.

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Having said that, let's take appearances

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beginning with Rocky Mountain.

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MR. SOLANDER: Thank you, Chairman. My name

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is Daniel Solander. I'm appearing of behalf of Rocky

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Mountain Power and I have with me Aaron Lively, Manager

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of Regulatory Projects for the company.

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CHAIRMAN BOYER: Thank you. Welcome,

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Mr. Lively.

1 MR. LIVELY: Thank you.

2 CHAIRMAN BOYER: Ms. Schmid.

3 SPEAKER: Good afternoon. Patricia E. Schmid
4 with the Attorney General's Office on behalf of the
5 Division of Public Utilities; and with me is Dr. William
6 Powell from the Division of Public Utilities.

7 CHAIRMAN BOYER: Thank you. And Dr. Powell
8 is always welcome obviously. Mr. Proctor.

9 MR. PROCTOR: Paul Proctor on behalf of the
10 Office of Consumer Services. Cheryl Murray will be our
11 witness today.

12 CHAIRMAN BOYER: Also, welcome, Cheryl.
13 Neal --

14 MR. TOWNSEND: Neal Townsend, a consult with
15 Energy Strategies. Here on behalf of Utah Association of
16 Energy Users, otherwise known as UAE. Mr. Dodge is
17 unavailable today so he sends his apologies to the
18 Commission and hopes that you will accept his absence
19 today.

20 CHAIRMAN BOYER: Certainly. Although, we'll
21 miss him of course. Mr. Evans.

22 MR. EVANS: I am William Evans with Parsons,
23 Behle & Latimer. I'm here on behalf of the Utah
24 Industrial Energy Consumers Intervention Group.

25 CHAIRMAN BOYER: Great. And you're always

1 welcome as well, Mr. Evans.

2 MR. EVANS: Thank you.

3 CHAIRMAN BOYER: Would it make sense to swear
4 all of those who are going to speak for the motion at
5 this point? I think this is the first hearing we've held
6 in this matter. Let's do that now. And would all of the
7 witnesses, those who are going to give testimony, please
8 stand and raise your right hand.

9 (Whereupon all witnesses were sworn.)

10 CHAIRMAN BOYER: Thank you. Sit down. Well,
11 we'll begin, I guess, with Mr. Solander.

12 MR. SOLANDER: Thank you, Chairman. As you
13 know, we are here because on June 11th, 2009, Rocky
14 Mountain Power filed an advice letter with the Commission
15 requesting an increase in Schedule 193, the Demand-Side
16 Management Cost Adjustment, also known as the DSM Tariff
17 Rider.

18 As a result of settlement negotiations that
19 arose after that file -- after that filing, parties have
20 reached a compromise on cost recovery and certain other
21 issues as described in the stipulation. And I have with
22 me Mr. Lively who will explain the stipulation and
23 provide some additional background information to the
24 Commission.

25 CHAIRMAN BOYER: Thank you. Mr. Lively.

6

2 BY MR. SOLANDER:

3 Q. Could you please state your name and business
4 address for the record?

5 A. Yes. My name is Aaron R. Lively and my
6 business address is 201 South Main Street, Suite 2300,
7 Salt Lake City, Utah 84111.

8 Q. With whom are you employed and what is your
9 current position within that organization?

10 A. I'm employed by Rocky Mountain Power as the
11 manager of regulatory projects. I have been employed by
12 Rocky Mountain Power since 2004. Prior to assuming my
13 current position, I worked in the company's revenue
14 requirement department where I primarily assisted in the
15 calculation and reporting of the company's regulatory
16 earnings and in the development of the company's rate
17 case filings.

18 Q. What are your responsibilities as manager of
19 regulatory projects?

20 A. Responsible for the regulatory interface and
21 case management of issues affecting the company's
22 demand-side management, customer service, power delivery
23 and information technology departments. I oversee the
24 preparation of regulatory applications made by these
25 departments in each of the six states that PacificCorp

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1 serves.

2 In addition, I have responsibility for making

3 recommendations to company management regarding the
4 regulatory policy of these departments. I also oversee
5 the completion of general regulatory studies and analysis
6 for company management as assigned.

7 Q. Could you please describe your educational
8 background for the Commission?

9 A. Yes. I have a Bachelor's of Science Degree
10 in Accounting from the University of Utah, which I
11 received in 2003 and a Master of Professional Accountancy
12 from the same institution in 2004. I've also
13 participated in various educational, professional and
14 electric utility related seminars during my career with
15 the company.

16 Q. And what is the purpose of your testimony
17 before the Commission today?

18 A. I will explain the stipulation as filed as
19 part of this docket with the Commission on August 3rd,
20 2009.

21 CHAIRMAN BOYER: Mr. Solander, may I
22 interrupt for just a moment?

23 MR. SOLANDER: Yes.

24 CHAIRMAN BOYER: I neglected to ask for
25 appearances by telephone. I think Mr. Michel, Western

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1 Resource Advocate may be with us. Mr. Michel, are you
2 there?

3 MR. MICHEL: Yes, Mr. Chairman. This is
4 Steve Michel and I'm appearing on behalf of Western
5 Resource Advocates.

6 CHAIRMAN BOYER: Great. Welcome.

7 MR. MICHEL: Thank you.

8 CHAIRMAN BOYER: Pardon the interruption.

9 Q. (BY MR. SOLANDER) Thank you. Mr. Lively,
10 can you please summarize what was requested in the
11 company's original Advice filing, No. 09-08?

12 A. Yes. Rocky Mountain Power's Advice filing,
13 No. 09-08, was filed with the Commission on June 11th,
14 2009. The filing requested to increase the demand-side
15 management tariff rider, which is administered through
16 Schedule 193, from an average of 2.1 percent to an
17 average of 6.16 percent. The company requested that the
18 proposed rates become effective on August 1, 2009.

19 Q. And when was the DSM tariff rider last
20 adjusted?

21 A. The DSM tariff rider was last adjusted in
22 August 2006, as part of Docket No. 06-035-T05, where the
23 rider was adjusted downward from 3.0 percent to its
24 current level -- current level of an average of 2.1
25 percent. The DSM tariff rider was adjusted downward in

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1 that proceeding because of previously uncollected
2 deferred DSM balance had been fully recovered and the
3 rider rate was reset to recover only ongoing program

4 expenditures.

5 Q. Could you describe what necessitated Rocky
6 Mountain Power's request to increase in Advice filing,
7 No. 09-08?

8 A. Over the past couple of years, the rate of
9 acquisition of energy efficiency and load management
10 resources achieved through the company's
11 Commission-approved DSM programs has increased
12 dramatically.

13 The increase in the rate of acquisition of
14 resources has caused DSM program expenditures to rise
15 above what is currently being collected through the DSM
16 tariff rider. In fact, the uncollected balance from the
17 Utah DSM deferred account was \$24.6 million as of
18 July 31st, 2009.

19 In order to allow the company to, One,
20 recover the uncollected expenditures in the DSM deferred
21 account and, Two, recover ongoing DSM expenditures going
22 forward, an increase in the tariff rider is necessary.

23 Q. What particular programs have recently
24 experienced the greatest growth in expenditures?

25 A. Since 2006, the programs which have

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1 experienced the greatest growth in terms of program
2 expenditures are the Energy FinAnswer and FinAnswer
3 Express programs and the Home Energy Savings program.

4 In 2006, the Energy FinAnswer and FinAnswer
5 Express programs incurred approximately \$8 million in
6 expenditures collectively. In 2009, it is expected these
7 programs will incur over \$14 million in expenditures.

8 The Home Energy Savings program incurred
9 about three million in expenditures in its first full
10 year of operation in 2007. And it is expected that over
11 thirty million will be incurred for this program in 2009.

12 Q. And what are the primary drivers causing
13 these increases in the program expenditures?

14 A. The increase in program expenditures has
15 primarily been driven by increase in program
16 participation, and therefore, the acquisition of
17 energy-efficient resources.

18 For example, until September 2008,
19 participation in the installation measures of the Home
20 Energy Savings program had not exceeded 1,000
21 applications in any given month and had not exceeded
22 10,000 total applications from the inception of the
23 program in 2006 through December 2008. For 2009, the
24 program administrator expects to receive 51,000
25 installation applications, which is an average 4,250

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1 applications per month.

2 As I stated early, with this increase in
3 participation comes an increase in the rate of
4 acquisition of energy-efficient resources and an increase

5 in program costs.

6 Q. Does the original increase that the company
7 requested in Advice filing, No. 09-08, reflect the recent
8 program changes approved by the Commission?

9 A. No, not all of them. The original increase
10 requested by the company reflected -- only reflected
11 programs and incentives approved by the Commission and
12 implemented by the company as of June 11th, 2009. Since
13 that time, the Commission has approved and the company
14 has implemented mod -- implemented modifications to the
15 Cool Cash and Energy Star New Homes programs and has
16 introduced a new communications and outreach program for
17 DSM, all of which increase the costs of the DSM portfolio
18 in Utah.

19 Q. In its original filing, over what period did
20 the company propose to bring the DSM deferred account
21 into -- into balance?

22 A. In its original filing, the company requested
23 that the DSM deferred account be retired over a period of
24 12 months from August 1, 2009 through July 31st, 2010.

25 Q. And does the company need this increase

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1 immediately?

2 A. Yes. Each week that the implementation of an
3 increase to the DSM tariff rider is delayed increases the
4 uncollected balance in the DSM deferred account.

5 Furthermore, as I stated in the company's
6 Advice filing in this docket, the DSF -- DSM tariff rider
7 will allow -- excuse me. Setting a DSM tariff rider will
8 allow the DSM deferred account to be retired within a
9 reasonable period of time and will contribute to
10 improving the company's financial ratios which are used
11 by rating agencies to determine the company's credit
12 ratings, which are a key component in obtaining favorable
13 terms in generating fund needed to finance the company's
14 substantial capital investment program.

15 Q. And did the company provide any advance
16 notice to stakeholders prior to filing for the increase
17 requested in Advice No. 09-08?

18 A. Yes. On April 6th, 2009, the company met
19 with the Utah DSM Advisory Group and communicated that
20 the company was planning to file for an increase that
21 would set the DSM tariff rider at approximately an
22 average of 4.4 percent.

23 As a result of the participation increases
24 experienced in the Home Energy Savings program and upon
25 consideration of the Commission's order in Docket

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1 No. 09-035-T04 regarding installation incentives, the
2 company revised its calculation and met again with the
3 Utah DSM Advisory Group on June 9th, 2009 to discuss the
4 company's intent to file with the Commission a request to
5 set the DSM tariff rider at an average rate of

6 6.16 percent.

7 Q. And when the company made that -- sorry.

8 When the company made that filing, did the original

9 request experience any opposition?

10 A. Yes. Both the Utah Industrial Energy
11 Consumers, or UIEC, and Utah Association of Energy Users,
12 or UAE, filed petitions with the Commission requesting
13 that the company's filing be suspended in order to allow
14 time for the consideration of various issues raised in
15 their petitions and that a hearing be held by the
16 Commission to resolve the issues raised in this filing.

17 Subsequently, the Commission suspended the
18 company's filing and set a technical -- set technical and
19 scheduling conferences, both of which were held on
20 July 14th, 2009.

21 Q. And can you please summarize what the parties
22 agreed to at the July 14th technical and scheduling
23 conferences?

24 A. During these meetings, parties agreed to
25 bifurcate the proceeding into two phases. Phase I was

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1 established to address the company's immediate cost
2 recovery of the existing balance in the DSM deferred
3 account and ongoing level of DSM expenditures.

4 Phase II of the proceeding was addressed to
5 -- was established to address other issues relevant to

6 DSM as proposed by the parties, the scope of which will
7 be determined by the Commission at a later date.

8 The Commission's scheduling order, which was
9 issued on July 28th, 2009, called for interested parties
10 to file testimony regarding Phase I issues on August 3rd,
11 2009, with rebuttal testimony due on August 10th, 2009.

12 Q. And did the parties subsequently meet -- meet
13 subsequent to that meeting to discuss possible settlement
14 of Phase I issues?

15 A. Yes. On July 21st, 27th and 29th of 2009,
16 representatives from Rocky Mountain Power, the Division
17 of Public Utilities, the Office of Consumer Services and
18 seven other parties consisting of UAE, UIEC, Utah Clean
19 Energy, Western Resource Advocates, Southwest Energy
20 Efficiency Project, Salt Lake Community Action Program
21 and Wal-Mart met to discuss the possible settlement of
22 Phase I issues.

23 Q. And did the parties agree to a settlement
24 stipulation as result of those meetings?

25 A. Yes. As a result of the settlement

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1 negotiations, the parties reached a compromise on
2 immediate cost recovery of the existing balance in the
3 DSM deferred account and ongoing program expenditures and
4 certain other issues. A stipulation reflecting the terms
5 of the agreement -- agreement arrived at by parties was
6 filed with the Commission on August 3rd, 2009. The

7 stipulation was filed in lieu of direct testimony on
8 phase issue -- Phase I issues that were due the same day.

9 Q. Can you please summarize for the Commission
10 the agreement reached amongst the parties regarding the
11 DSM tariff rider?

12 A. The parties agreed to support increasing the
13 DSM tariff rider, administered through Rocky Mountain
14 Power's Schedule 193 to an average rate of 4.6 percent,
15 effective September 1, 2009. A revised Schedule 193
16 reflecting the new tariff rider has been prepared and was
17 included as Attachment 1 to the stipulation filed with
18 the Commission on August 3rd of 2009.

19 Q. The agreed upon 4.6 percent tariff rider is
20 significantly less than the 6.1 percent -- or 6.16
21 percent originally requested by the company in Advice
22 filing No. 09-08. Can you describe how the parties
23 arrived at this amount?

24 A. The reduction of the 4.6 percent tariff rider
25 reflects two adjustments. First, during settlement

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1 negotiations the company agreed to set the tariff rider
2 rate which would retire the existing balance in the
3 deferred DSM account within 24 months, in contrast to the
4 twelve months requested by the company in its -- in its
5 original filing.

6 Second, Rocky Mountain Power agreed to reduce

7 the balance in the DSM deferred account by \$10.85 million
8 in exchange for an agreement amongst parties that the
9 Sacramento Municipal Utility District, or SMUD, revenue
10 imputation adjustment included in net power costs in base
11 rates would be terminated in the current 2009 Utah rate
12 case and in all future rate proceedings through the term
13 of the company's existing contract with SMUD.

14 Q. What does the \$10.85 million, which the
15 company agreed to reduce the DSM deferred account balance
16 by, represent?

17 A. The 10.8 -- 10.85 million represents Utah
18 allocated share of the net present value of an agreed
19 level for the value of SMUD imputed con -- imputed
20 contract revenue through the term of the existing
21 contract. The value is an amount agreed to by the
22 parties during settlement negotiations. The impact of
23 the adjustment is, in effect, an exchange of a DSM
24 receivable due from customers for a liability owed to
25 customers related to SMUD revenue imputation.

17

1 Q. What is the revenue requirement impact of
2 removing the SMUD revenue imputation adjustment from the
3 2009 general rate case?

4 A. Removing the SMUD revenue imputation from the
5 2009 Utah general rate case will increase the revenue
6 requirement in that case by \$2.0 million. Parties to the
7 stipulation have agreed that the revenue requirement

8 requested in the 2009 Utah general rate case should be
9 increased by \$2.0 million to reflect the elimination of
10 the SMUD revenue imputation included in that power costs.

11 Q. And when will the adjustment to the DSM
12 deferred account be reflected in the company's accounting
13 records?

14 A. The entry will be made on February 18th,
15 consistent with the implementation of the new rates set
16 in the 2009 Utah general rate case, in order to align the
17 termination of the SMUD imputation adjustment included in
18 net power costs in base rates with the adjustment to the
19 DSM deferred account balance.

20 Q. Were there any other terms agreed to by the
21 parties regarding SMUD revenue imputation?

22 A. Yes. Parties agreed that no further contract
23 price imputation adjustments will be made by the parties
24 to the SMUD contract in any ratemaking setting for the
25 duration of the existing contract.

18

1 Additionally, the parties agreed not to
2 propose or support any imputation adjustments to the SMUD
3 contract in the 2009 Utah rate case or any other future
4 rate proceeding. Parties also agreed that should Rocky
5 Mountain Power fail to receive an order in the 2009 Utah
6 rate case docket reflecting the elimination of the SMUD
7 imputation adjustment, the adjustment to the demand-side

8 management-deferred account for SMUD will be adjusted by
9 the net present value of any revenue imputation remaining
10 in the base rates.

11 Q. Do the terms of the stipulation prevent Rocky
12 Mountain Power or other parties from proposing further
13 adjustments to the DSM tariff rider?

14 A. No. The stipulation does not prevent the
15 company or any other party from seeking other adjustments
16 to the DSM tariff rider to reflect changes in ongoing
17 program costs and projections. However, all parties
18 agreed to support the retirement of the current DSM
19 deferred account balance over a period of 24 months
20 ending approximately in August 2011.

21 Q. Were any reporting requirements agreed to in
22 the settlement negotiations?

23 A. Yes. The parties agreed that the monthly DSM
24 deferred account balance reports will continue as
25 currently provided by the company. This report provides

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1 a monthly status of the DSM deferred account balance and
2 is provided to the Office of Consumer Service, the
3 Division of Public Utilities and Commission staff.

4 Additionally, Rocky Mountain Power agreed to
5 provide a DSM deferred account analysis similar to that
6 provided in Advice filing No. 09-08 to the Commission and
7 the DSM Advisory Group every six months. The first such
8 analysis shall be provided no later than November 1st,

9 2009.

10 Q. Did Rocky Mountain Power agree to any other
11 reporting requirements?

12 A. Yes. Rocky Mountain Power agreed that no
13 later than November 1st of every year, the company shall
14 provide the Commission, the parties to this agreement and
15 the DSM Advisory Group a forecast of expenditures for
16 approved programs and their acquisition targets in both
17 megawatt hours and megawatts for the subsequent calendar
18 year. In the event that expenditures for the company's
19 DSM programs reach 90 percent of the forecasted level
20 prior to December 1st of each year, Rocky Mountain Power
21 shall notify the Office, Division, Commission and DSM
22 Advisory Group, and any party can petition the Commission
23 to take any action or seek any changes not inconsistent
24 with the terms of this stipulation that it deems
25 appropriate.

20

1 Q. Contemporaneously with the filing of the
2 stipulation in this docket on August 3rd, 2009, the
3 company also filed Advice No. 09-13. Was the filing of
4 Advice 09-13 included in the terms of the stipulation
5 agreed to by the parties?

6 A. Yes. During settlement negotiations, parties
7 agreed that the company would file with the Commission
8 the changes proposed to the Home Energy Savings program

9 proposed in Advice filing No. 09-13.

10 Q. And can you please summarize the
11 modifications to the Home Energy Savings program that
12 were proposed?

13 A. Advice No. 09-13 proposes to implement a
14 flexible tariff format for the Home Energy Savings
15 program. The flexible tariff format is intended to
16 enable the company to react quickly to the changing
17 market conditions which impact the Home Energy Savings
18 program. This format is utilized in several other states
19 in which the company offers the Home Energy Savings
20 program. Under this format, incentives offered by the
21 program are removed from the tariff and displayed on the
22 program website which is accessible through the company's
23 website.

24 It is important to note that the company is
25 not -- is not proposing to modify measures, qualifying

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1 equipment or the incentive levels offered by the Home
2 Energy Savings program as part of this filing. The
3 company has requested that the flexible tariff format
4 become effective September 1, 2009.

5 Q. Were there any other terms regarding Advice
6 filing No. 09-13 which were agreed to during settlement
7 negotiations?

8 A. Yes. The parties agreed not to oppose the
9 filing and approval of the flexible tariff format for the

10 Home Energy Savings program. Additionally, should the
11 Commission approve the flexible tariff format, at the end
12 of 12 months from the effective date, the company will
13 review the format with the DSM Advisory Group.

14 Q. Are there any issues regarding DSM that were
15 not resolved as part of the agreement reached by the
16 parties?

17 A. Yes. The parties have raised issues in this
18 docket beyond those resolved in this stipulation.
19 Parties filed comments regarding those issues with the
20 Commission on August 18th, 2009 to be addressed in
21 Phase II of this docket.

22 The parties agreed that this stipulation does
23 not impair the rights of any party to continue to pursue
24 any issues in Phase II of this docket other than those
25 that are resolved by this stipulation.

22

1 Q. Does Rocky Mountain Power believe that the
2 terms of the stipulation as filed with the Commission are
3 reasonable?

4 A. Yes. The terms of the stipulation represent
5 a compromise amongst parties, whose initial positions at
6 the onset of settlement discussions were quite divergent.
7 The terms of the stipulation agreed to by parties
8 represents a creative and collaborative solution to a
9 very difficult and complex issue.

10 The revised tariff rider rate of 4.6 percent,
11 consistent with the terms of this stipulation, allows the
12 company to recover the existing balance in the DSM
13 deferred account over a reasonable period of time and for
14 the ongoing funding of the company's Commission approved
15 DSM programs.

16 Additionally, the agreed upon tariff rider
17 rate is set at a level that is more easily absorbed by
18 customers and is in line with what was initially
19 communicated to stakeholders in April 2009. The terms of
20 the stipulation represent a balanced outcome for all
21 parties.

22 Q. In your opinion, is the stipulation in the
23 public interest?

24 A. Yes. Simply stated, the terms of the
25 stipulation allow the company to recover its prudently

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1 incurred DSM expenditures and ensures the company's
2 continued acquisition of energy efficient resources
3 through Commission-approved DSM programs, which provide
4 benefits to all Rocky Mountain Power customers.

5 Q. Do you have anything else that you would like
6 to add?

7 A. Yes. Given the short period of time between
8 the date of this hearing and the September 1, 2009
9 effective date for the increased DSM tariff rider agreed
10 to by parties in this stipulation, Rocky Mountain Power

11 respectfully requests that the Commission issue a bench
12 order today approving this stipulation, in order to allow
13 the company sufficient time to implement the new tariff
14 rider rates.

15 Q. And does this conclude your testimony?

16 A. Yes, it does.

17 MR. SOLANDER: At this time, Mr. Lively would
18 be available for any questions from the Commission or
19 other parties.

20 CHAIRMAN BOYER: Great. Thank you,
21 Mr. Lively. Ms. Schmid, any questions of Mr. Lively?

22 MS. SCHMID: No questions.

23 CHAIRMAN BOYER: Mr. Proctor?

24 MR. PROCTOR: (Mr. Proctor shook his head.)

25 CHAIRMAN BOYER: Mr. Townsend?

24

1 MR. TOWNSEND: None here.

2 CHAIRMAN BOYER: Mr. Evans?

3 MR. EVANS: No questions.

4 CHAIRMAN BOYER: Okay. I believe the
5 commissioners will reserve questions until all the
6 proponents have spoken and then we'll ask our questions
7 and then give you an opportunity to cross-examine. Let's
8 turn now to the Division. Ms. Schmid.

9 MS. SCHMID: Thank you.

10 EXAMINATION

11 BY MS. SCHMID:

12 Q. Good afternoon. Dr. Powell, could you please
13 state your full name and business address for the record?

14 A. My name is William Arthur Powell, commonly
15 known as Artie. My business address is 160 East 300
16 South, Salt Lake City, Utah.

17 Q. By whom are you employed and in what current
18 capacity?

19 A. I'm employed by the Division of Public
20 Utilities. And my current position is manager of the
21 energy section within the Division.

22 Q. In that position, have you participated in
23 this docket including evaluating issues and participating
24 in settlement discussions?

25 A. Yes. I was one of the representatives for

25

1 the Division.

2 Q. Do you have a statement that you would like
3 to give in support of the stipulation?

4 A. Yes, I do.

5 Q. Please proceed.

6 A. First, I'd like to thank the Commission for
7 allowing me this opportunity to speak on behalf of the --
8 in favor of the stipulation. The Division supports this
9 stipulation as being in the public interest and
10 recommends that the Commission approve the stipulation
11 with all of its terms and conditions.

12 The company has gone over some of the
13 background leading up to the stipulation and covered
14 different elements of the stipulation. But since there's
15 no testimony on record, my remarks are a little bit
16 longer than I would normally offer on a stipulation at
17 this time, so please bear with me.

18 On June 11, 2009, the company filed an
19 application, as the company's witness has indicated,
20 requesting an increase in the DSM rider tariff from
21 2.1 percent to 6.16 percent in order to collect
22 approximately \$85 million in DS -- in expenditures over
23 the next 12 months. That \$85 million can be broken into
24 two broad categories.

25 The first represents about \$27 million as

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1 filed by the company, which was the amount that they were
2 forecasting in their DSM deferred account balance. The
3 actual account balance of July, as the company's witness
4 pointed out, is about \$24.6 million. The second part of
5 that \$85 million was the forecasted ongoing DSM
6 expenditures that the company anticipated making over the
7 12 -- the next 12 months, which amounted to about
8 \$55 million.

9 If granted, this increase in the DSM rider
10 would result in an average rate increase of approximately
11 3.8 percent. An increase that is just slightly less than

12 the 4.5 percent that the company has requested in its
13 current rate case. This relatively large request in the
14 increase in the DSM rider is due to the increase
15 participation in DSM programs provided by the company.
16 Particularly, as the company's witness pointed out, the
17 Home Energy Savings program.

18 For example, from 2003 to 2007 residential
19 participation increased from 23,000 participants to about
20 38,000 participants, an average annual increase of about
21 13 percent. However, from 2008 to today -- or through
22 the July of 2009, residential participation has more than
23 doubled from 74,000 participants to approximately 148,000
24 participants.

25 As the company's witness pointed out, that

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1 growth in participation came with the acquisition of
2 cost-effective DSM measures and -- and subsequently in
3 savings as well. For example, the residential load
4 management has increased from 2003 to today from
5 11 megawatts to approximately 100 megawatts, which is an
6 almost tenfold increase. Over that same period, total
7 energy savings has grown by more than 285 percent from
8 73,000 megawatt hours to over 280,000 megawatt hours.

9 Under current Commission rules, the value of
10 current benefits is almost twice the current cost. These
11 savings represent real benefits that will flow to both
12 current and future rate payers over the life of the

13 programs.

14 Furthermore, the relatively large increase in
15 the current balance and the forecasted expenditures is
16 largely due to the recent run-up in home insulation.
17 This run-up has been the result of a relatively unique
18 set of circumstances. As the economy, in particularly
19 house construction, began to slow, contractors moved into
20 the insulation market. This increased presence in the
21 market coupled with the past combined level of incentives
22 encouraged rate payers participation in greater and
23 greater numbers. Given the recent changes in the
24 incentive levels and other safeguards provided in the
25 stipulation, the Division believes it unlikely that a

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1 large increase as requested in a current company's
2 application will not repeat itself.

3 Therefore, reviewing the company's initial
4 application request for increase in the current DSM
5 tariff rider, the Division focused on two broad
6 objectives. First, our first objective was to allow the
7 recovery of what we consider to be cost-effective DSM
8 expenditures, both what have been expended in the past
9 and what the company was forecasting over the future --
10 next 12 months. The second objective was to mitigate the
11 rate impact on current customers.

12 Before delving into the actual terms of the

13 stipulation, let me offer just a couple of preliminary
14 remarks. On July 7, 2009, under Docket No. 08-99-02, the
15 Division filed with the Commission the result of its
16 auditing report for Rocky Mountain Power's DSM program.
17 In the report, the Division's auditor, Ms. Brenda
18 Saulter, concluded that the company appears to be in
19 general compliance with Commission rules and regulations.
20 She also stated in the report that it appears the program
21 follows good business practices and is using accounting
22 and controls that are adequate and practical.

23 For my second point, from the inception of
24 the DSM's Advisory Group, the Division staff has been
25 involved in discussions with Rocky Mountain Power's

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1 representatives as well as other members of the Advisory
2 Group and, in general, have been supportive of the
3 company's DSM programs and expenditures.

4 Additionally, Division staff have regularly
5 reviewed the company's applications for approval of DSM
6 programs and expenditures, including any available cost
7 benefit analysis and have found the current DSM programs
8 to be cost effective and in the public interest.

9 Given these factors, the Division believes
10 the stipulation satisfies the Divisions objective of
11 allowing cost recovery in a timely manner and mitigating
12 the rate impacts of the recovery on other rate payers.

13 Let me turn to the stipulation itself to

14 illustrate how these objectives are met. In paragraph 8,
15 the parties have agreed to increase -- to an average
16 increase in the DSM rider rate to 4.6 percent. Compared
17 to the company's original request, increasing the rider
18 to 4.6 percent will only increase average rates by
19 approximately 2.3 percent. In other words, about half of
20 what the company had originally requested.

21 In paragraphs 9A and 9B, the net present
22 value of the SMUD imputation is used to offset partially
23 the current DSM account balance, which have been
24 identified previously as about \$24.6 million. Coupled
25 with -- or in paragraph 9F specifies that the remaining

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1 balance will be amortized over approximately 24 months.

2 These three terms of the stipulation, the
3 lower rider rate, the writing down of the account balance
4 and the extended amortization period helped meet the
5 Division objectives of allowing recovery while mitigating
6 the rate impact.

7 While parties to the stipulation view the
8 present value of the SMUD imputation, which is identified
9 in the con -- the stipulation as \$10.85 million
10 differently, the Division believes the amount to be a
11 reasonable valuation of the imputation over the remaining
12 life of the contract.

13 Essentially, and the company's witness

14 explained this, the stipulation trades the future benefit
15 from the SMUD imputation to buy down a current expense.
16 However, it must be kept in mind that the current
17 expense, the DSM expenditures that the company bears,
18 will also provide future benefits to customers. The
19 Division believes that this trade-off is reasonable.

20 Paragraph 9C recognizes that by taking this
21 present value of the SMUD imputation as an offset to the
22 current account balance will require an adjustment in the
23 rate case. In other words, elimination of the SMUD
24 imputation in the present rate case, as the stipulation
25 requests, causes net power cost to increase by slightly

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1 more than \$2 million. The Division verified this value
2 by running the company's grid model first with and then
3 without the SMUD adjustment as filed by the company in
4 its rate case.

5 In paragraph 12, parties agreed to not oppose
6 a flexible tariff for the company's Home Energy Savings
7 program. As the company's witness explained, the intent
8 of the tariff is to allow the company to more quickly
9 react to changing market conditions and circumstances
10 surrounding the Home Energy Savings program, which will
11 help avoid any future problems such as we're faced with
12 today.

13 And then finally, in paragraphs 10 and 11,
14 the company agrees to continue its current monthly

15 reporting and to provide two new reports, which the
16 Division thinks will be valuable. The first new report
17 is an account analysis that the company will provide
18 every six months similar to what it provided in the
19 current application. And the second report is an annual
20 forecast of its expenditures and the associated
21 acquisition targets for improved DSM programs.

22 These last two provisions, the increase
23 reporting combined with the flexible tariff are
24 safeguards that we think -- the Division thinks will
25 ensure that the DSM account is unlikely to get so far out

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1 of balance in the future.

2 In conclusion, the Division believes that the
3 terms and the conditions of the stipulation satisfy our
4 broad objectives of rate mitigation and cost recovery in
5 a reasonable manner. Taken as a whole, the Division
6 believes that the stipulation is reasonable, it
7 represents a fair compromise of the parties' position, is
8 in the public interest and will result in just and
9 reasonable rates. Therefore, the Division recommends
10 that the Commission adopt the stipulation as presented
11 today. And that will conclude my marks -- remarks at
12 this time. Thank you.

13 MS. SCHMID: May I ask one clarifying
14 question of the witness?

15 CHAIRMAN BOYER: Certainly.

16 FURTHER EXAMINATION

17 BY MS. SCHMID:

18 Q. Dr. Powell, is it the Division's position
19 that it is unlikely that -- the relatively large increase
20 in the current account balance due in part and perhaps
21 significantly to the run-up in home insulation
22 participation, is it the Division's position that this is
23 unlikely to occur again?

24 A. Yes. Given -- given the unique circumstances
25 that we faced over the last, oh, 12 months or so, the

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1 downturn in the economy, contractors turning to the
2 insulation market and the increased participation that
3 resulted from that combined with the terms and conditions
4 that I outlined in the stipulation that that type of
5 situation is unlikely to occur again.

6 MS. SCHMID: Thank you. Dr. Powell is now
7 available for questioning.

8 CHAIRMAN BOYER: Thank you, Dr. Powell.
9 Mr. Solander, any questions for Dr. Powell?

10 MR. SOLANDER: None, thank you.

11 CHAIRMAN BOYER: Mr. Proctor?

12 MR. PROCTOR: No, thank you.

13 CHAIRMAN BOYER: Mr. Townsend?

14 MR. TOWNSEND: None.

15 CHAIRMAN BOYER: Mr. Evans?

16 MR. EVANS: None here. Thank you.
17 CHAIRMAN BOYER: Thank you. Mr. Proctor.
18 MR. PROCTOR: Thank you, Mr. Chairman.
19 Ms. Murray will be providing information from the office.
20 MS. MURRAY: My name is Cheryl Murray. I --
21 oh, sorry. My name is Cheryl Murray. I'm with the
22 Office of Consumer Services, 160 East 300 South. I'm a
23 utility analyst and I have a brief statement to make in
24 support of the stipulation.
25 Key considerations for the Office in

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1 evaluating the value of the stipulation to customers were
2 continuation of cost-effective DSM programs, opportunity
3 for the majority of customer classes to participate in
4 DSM programs, continued support for DSM programs from the
5 various customer classes and the bill impact of a change
6 in the tariff rider for the customers we represent. This
7 stipulation addresses each of those considerations.

8 The increase in the tariff rider will allow
9 the company to retire the account balance in the
10 Demand-Side Management Deferred Account within an
11 estimated 24 months and to recover the actual and
12 projected cost of ongoing, Commission approved DSM
13 programs. Currently approved programs, which are
14 available to most customer classes, will continue as
15 approved by the Commission.

16 The 24-month amortization means that the
17 percentage increase in the tariff rider can be set at a
18 lower level than the company originally requested, thus
19 lessening the immediate impact on customers' bills. This
20 increase is more in line with what certain customers had
21 expected and indicated a willingness to support.

22 The Office supports the new percentage
23 increase as an appropriate mitigation to the rate impact
24 of acquiring these cost effective Demand-Side resources
25 more quickly than anticipated.

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1 To achieve an accessible rate for the tariff
2 rider, the parties agreed to amortize the uncollected
3 balance over 24 months and to use the dollars from
4 imputation of the revenue of the SMUD contract that have
5 been at issue in rate cases for a number of years to
6 partially offset the uncollected balance in the account.

7 The Office notes that the parties did not
8 agree to a specific methodology for commuting the SMUD
9 imputation and accept that the revenue to be attributed
10 to this account is within a range of reasonableness.
11 Other aspects of the SMUD contract will continue to be
12 addressed within general rate cases.

13 The Office also believes that the reporting
14 requirements as well as the revision to Schedule 111 that
15 has been filed separately are in the public interest.
16 The Office notes that it had previously opposed a similar

17 proposal for a flexible tariff in Schedule 111. However,
18 our concerns have been mitigated based upon additional
19 information and understanding of the methodology. The
20 flowchart contained in Attachment 3 to the stipulation
21 summarizes the process and includes the specific methods
22 by which transferency (phonetic) and appropriate notice
23 to customers will be maintained. The Office will provide
24 additional comments within that tariff proceeding.

25 Taken in its entirety, the Office believes

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1 that this stipulation will result in just and reasonable
2 rates and is in the public interest. We, therefore,
3 respectfully request Commission approval. Thank you.

4 MR. PROCTOR: Ms. Murray is available for
5 cross.

6 CHAIRMAN BOYER: Thank you. And thank you,
7 Ms. Murray. Are there questions for Ms. Murray.
8 Mr. Solander?

9 MR. SOLANDER: No, thank you.

10 CHAIRMAN BOYER: Ms. Schmid.

11 MS. SCHMID: No, thank you.

12 CHAIRMAN BOYER: Mr. Townsend.

13 MR. TOWNSEND: No, thank you.

14 CHAIRMAN BOYER: Mr. Evans.

15 MR. EVANS: None here. Thank you.

16 CHAIRMAN BOYER: Mr. Townsend, are you

17 planning to speak for the --

18 MR. TOWNSEND: I am.

19 CHAIRMAN BOYER: -- approval of the
20 stipulation? Very well.

21 MR. TOWNSEND: My name is Neal Townsend. I'm
22 a senior consultant at the firm of Energy Strategies. My
23 business address is 215 South State Street, Suite 200,
24 Salt Lake City. UA filed its petition in this docket
25 because its members considered the proposed increase of

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1 nearly 300 percent in the Schedule 193 DSM surcharge
2 roughly from two percent to six percent to be
3 unreasonable, particularly in the light of the recent 4.3
4 percent Schedule 9 rate increase that occurred in the
5 recent rate case as well as a lack of sufficient notice.

6 Most UAE members are large energy consumers
7 and energy costs are a significant part of their cost
8 structure. Many UAE members must prepare a budget well
9 in advance of the time -- in advance of the time of the
10 coming year or coming months. UAE members do not have
11 significant notice in this case of the request in the DSM
12 surcharge.

13 UAE was an active participant in the
14 settlement negotiations. UAE advocated a number of items
15 to help mitigate the impact such as spending caps,
16 alternative recovery mechanisms or a longer amortization
17 of DSM costs to help mitigate this four percent increase.

18 Nonetheless, UAE agreed to support the
19 stipulation amortizing the past and projected DSM
20 balances net of the SMUD amortization over a two-year
21 period.

22 UAE believes the stipulation is a reasonable
23 compromise and thanks RMP and the other parties for their
24 good faith negotiations and efforts to come to a
25 reasonable conclusion. UAE supports the stipulation and

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1 believes it is in the public interest and urges the
2 Commission to approve it. The UAE reiterates its strong
3 support for acquisition of resources both supply and
4 demand side that are cost effective and provide reliable,
5 low cost service to customers.

6 In Phase II of this docket, UAE has advocated
7 a number of issues which it thinks are important to
8 examine DSM programs and cost recovery in the future and
9 urges the parties to examine those as well. Thank you.
10 That concludes my statement.

11 CHAIRMAN BOYER: Thank you, Mr. Townsend.
12 Mr. Solander, any questions for Mr. Townsend?

13 MR. SOLANDER: No questions. Thank you.

14 CHAIRMAN BOYER: Ms. Schmid?

15 MS. SCHMID: No questions.

16 CHAIRMAN BOYER: Mr. Proctor?

17 MR. PROCTOR: None.

18 CHAIRMAN BOYER: Mr. Evans?
19 MR. EVANS: No, thank you.
20 CHAIRMAN BOYER: Now, Mr. Evans, you don't
21 have a witness and I presume you're not going to take off
22 your lawyer hat today to testify.
23 MR. EVANS: You would not want to hear that,
24 so I spare us that. Thanks.
25 CHAIRMAN BOYER: Okay. Are there others who

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1 wish to speak in favor of approval of the motion for --
2 the motion approving the stipulation?
3 Okay. Well, let's hear -- let's see what the
4 commissioners have to say. Mr. Allen, any questions?
5 COMMISSIONER ALLEN: Mr. Chairman, thank you.
6 For the company, I just want to make certain I understand
7 this. The stipulation itself affect your forecasted
8 level of what DSM is going to look like by next July, by
9 the end of next July, does that affect it at all?
10 MR. LIVELY: Does it change what we expect to
11 incur?
12 COMMISSIONER ALLEN: Right, right.
13 MR. LIVELY: No, nothing --
14 COMMISSIONER ALLEN: I just want to be clear
15 on that. Let's see here. And I'm assuming now that
16 since you told us that you had dramatic -- even a tenfold
17 increase on the use of the programs that the DSM forecast
18 itself no longer compares to your IRP; is that correct?

19 MR. LIVELY: I'm not prepared to speak to the
20 IRP at this point, but I can get that information.

21 COMMISSIONER ALLEN: I think the Division
22 might be aware of that, too, because you follow that
23 closely. Dr. Powell, do you have any information? Is
24 that following the IR -- the IRP now or has that come out
25 of sync with our planning process?

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1 DR. POWELL: I can't answer that question
2 either. I'm not the DSM expert in terms of the level of
3 procurement and I'm not the IRP expert in that either,
4 but I am not aware of any discrepancies between the two
5 at this point in time. But it's something certainly that
6 we'll be looking into as we move forward.

7 COMMISSIONER ALLEN: Okay. Great. Thank
8 you. Another question for the company, you mentioned
9 that there's flexible tariff formats available in other
10 states. But to your knowledge, in Utah, do we have any
11 flexible tariffs and existing tariffs that we have here
12 in Utah itself or would this be something new for us?

13 MR. LIVELY: To my knowledge, there is no
14 similar format in Utah.

15 COMMISSIONER ALLEN: Okay. Couple more here,
16 I think. It's been mentioned by both the company and
17 also by Dr. Powell, I believe, that the net power cost
18 hit for this adjustment is going to be \$2 million or

19 about \$2 million in the next rate case. I'm curious, I
20 think there's some time left on the SMUD contract beyond
21 that. Is this \$2 million going to reoccur in the future
22 or is this a one-time hit?

23 MR. LIVELY: The adjustment to SMUD will be
24 removed or terminated in all future rate proceedings
25 through the term of the existing contract, which I

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1 believe terminates in 2011.

2 COMMISSIONER ALLEN: So the expectation would
3 be that we'll have \$2 million in the next rate case?

4 MR. LIVELY: Approximately.

5 COMMISSIONER ALLEN: And not beyond that? Do
6 I understand that?

7 MR. LIVELY: Well, it would be an increase to
8 the rate case of about two million in the 2009 case. And
9 then going forward, that adjustment would not be
10 reflected in the future rate cases. So I -- excuse me,
11 just a clarification, the SMUD contract goes through
12 2014. But speaking to future rate cases, that adjustment
13 will not be in future rate cases. So it could be said
14 that the revenue requirement in future rate cases will be
15 higher than otherwise would have been had the SMUD
16 adjustment been included in those cases.

17 COMMISSIONER ALLEN: So it's possible that if
18 we're looking at the \$2 million adjustment in what you
19 just mentioned about future rate cases that we may be

20 here not just reducing the amount of the percentage in
21 the DSM tariff, but we may be actually deferring a
22 substantial part of it? Is that a fair -- correct
23 statement? Dr. Powell --

24 DR. POWELL: I'm not sure how --

25 COMMISSIONER ALLEN: -- do you have -- I see

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1 \$2 million being moved off the table now and into the
2 future and possibly into other future cases. Are we just
3 deferring part of this increase to the DSM recovery or
4 are we actually clarifying and dealing with it now?
5 That's what my -- where my conclusion stems.

6 DR. POWELL: My point of view, I think we're
7 -- we're dealing with it now. It is true that going
8 forward in every rate case, there would -- there would
9 have been an imputation on the SMUD contract. How much
10 that will be in the future, I'm not quite certain. It
11 depends on a lot of inputs that go into the grid model.

12 As I mentioned, the \$2 million that's
13 specified in the stipulation, we verified that number by
14 running the grid model with the imputation as specified
15 in the company's filing itself, and then taking that
16 imputation out, and then it comes up to be about \$2
17 million, if I remember right, 50,000 or something like
18 that.

19 COMMISSIONER ALLEN: Okay.

20 DR. POWELL: So that type of a run could be
21 done in every future rate case to figure out what that
22 amount was. But I think from the point of view of the
23 stipulation, what we did is we looked at our -- well,
24 different people view the \$10.85 million differently.
25 But from the Division's point of view, that represents a

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1 reasonable valuation of what that contract -- the rest of
2 imputations out to 2014 are worth today.

3 COMMISSIONER ALLEN: Okay. Okay. Thank you.
4 Well, and then one last question probably for both of you
5 as a recovery accountant. We have the SMUD contract for
6 the middle of this DSM recovery. Is there some sort of
7 connection in SMUD to DSM or is it something that
8 occurred during negotiations? I'm curious about the
9 attachment in here in this case. Is it extraneous or is
10 it --

11 MR. LIVELY: There is no -- there is no real
12 connection other than that it was an attempt at a
13 creative solution to solve the difficult issue that was
14 facing parties. So as I explained in my testimony, it's
15 the company has a DSM receivable from customers, the
16 company has a liability owed to customers related to SMUD
17 and, in essence, we're agreeing to exchange those. But
18 other than that, there's no real connection.

19 COMMISSIONER ALLEN: Is that your
20 understanding, too, Dr. Powell?

21 DR. POWELL: Yes. And I would agree with
22 what Mr. Lively has said. And I'd also point out that
23 this type of trade off is not unusual or it's not unique.
24 We have done it in the past. We did it, oh, 2002. I
25 can't remember the exact date when we moved - the

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1 Commission had ordered a movement to roll in for the
2 inter-jurisdictional allocation and -- and about that
3 same time there was due to customers a refund -- a quite
4 substantial refund. And the Commission decided to use
5 that refund to buy out, if you will, that movement to
6 roll in.

7 We also did a similar type of tradeoff and I
8 can't remember the exact circumstances, but we took the
9 gain on the sale of a transmission line, I believe, up in
10 Montana and traded it for something. Some -- a
11 regulatory liability, money that was owed to the company
12 from customers. We used the gain which would have been a
13 revenue credit to customers as an offset. So that -- so
14 that type of trading is not unusual.

15 And I'd like to come back to your question
16 about the flexible tariff, if I could --

17 COMMISSIONER ALLEN: Sure.

18 DR. POWELL: -- while I have a got the mic.
19 You asked a question whether or not Utah had any flexible
20 tariffs. We may not have anything that's exactly

21 comparable to what is being proposed through the
22 stipulation when the company has already filed under a
23 different docket. But Questar's 191 account is a sense
24 of flexible tariff, where every six months we move that
25 amortization up or down. And that includes their DSM or

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1 at least those six-month applications include their DSM
2 programs and also the account balance for the
3 conservation-enabling tariff.

4 PacifiCorp does have Schedule 38, which is
5 the avoided cost tariff for large QF projects which in a
6 sense is a flexible tariff. All the tariff itself does
7 is outline the procedure of providing indicative prices
8 to an inquiring QF as the filing requirements. And then
9 basically the tariff just says that once the QF requests,
10 the company will do its calculation and provide those
11 indicative prices to the customer, and then whatever
12 rates the customer finally gets or -- is negotiated in
13 the company and, of course, that contract is approved by
14 the Commission. So there are some flexible tariffs, I
15 think, in Utah.

16 COMMISSIONER ALLEN: Thanks for that
17 explanation. Thanks, Mr. Chairman.

18 CHAIRMAN BOYER: Commissioner Campbell.

19 COMMISSIONER CAMPBELL: Before I start with
20 my questions, maybe I should follow up on -- on two
21 statements he just made that I want to make sure I

22 understand. You state that there are similarities between
23 the 191 and the Schedule 38 to this flexible tariff, but
24 in all those cases doesn't the Commission actually
25 approve any changes?

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1 DR. POWELL: Yes, they do.

2 COMMISSIONER CAMPBELL: And under the
3 flexible tariff, those changes would take place without
4 commissioner approval.

5 DR. POWELL: If nobody asks. If -- I think
6 Ms. Murray referred to the flowchart that's attached to
7 the stipulation and in that flowchart, there's a 60-day
8 process. The company recognizes a potential issue, they
9 do their analysis and -- and that's the first 15 days.
10 And then they take that analysis to the DSM Advisory
11 Group and ask for input.

12 And then under the tariff, then the company
13 would post that a change would be taking place in the
14 incentives or other portions of the tariff within 45 days
15 -- or at the end of 45 days. In that 45-day period, any
16 party is free to bring that to the Commission. Now, it
17 is true under the flexible tariff, the way it is
18 constructed, I guess the Commission is automatically --
19 nothing is really filed with the Commission by the
20 company in asking for the Commission to act, so that is
21 the difference.

22 COMMISSIONER CAMPBELL: And then likewise on
23 the example that you used, I believe I was part of that
24 case as far as when the Commission offset the allocation.
25 That all happened within the same docket didn't it.

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1 DR. POWELL: I believe that's correct, yes.

2 COMMISSIONER CAMPBELL: It wasn't crossing
3 over dockets like we are in this case?

4 DR. POWELL: That -- that's true.

5 COMMISSIONER CAMPBELL: Let me start from a
6 very high level. Even though the stipulation shows a
7 4.6 percent, we're -- we're still paying over a six
8 percent for DSM, isn't that right, total?

9 MR. LIVELY: Well, it's where -- I guess it's
10 where it shows up on customer bills. The tariff rider
11 bill will show the 4.6 percent, but instead of that, that
12 \$10.85 million being paid over a year or two years
13 through an amortization period, the DSM tariff rider it
14 is paid back in essence in base rates through the term of
15 the existing contract with SMUD.

16 COMMISSIONER CAMPBELL: So what you're saying
17 is customers are still paying six percent for DSM. None
18 of the money has been taken off the table, it's just been
19 moved?

20 MR. LIVELY: Correct.

21 COMMISSIONER CAMPBELL: Has the Division or
22 the office, have you benchmarked how that -- how this

23 compares to other states? I mean, six percent on DSM.
24 How do we -- how are we maxed out for a reading, on the
25 high end? Are we on the low end? Are we -- what have

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1 you done to state that six percent is reasonable? I'm
2 just -- just on a 50,000-foot level as a reasonable level
3 expenditure, because that's what we're approving here.

4 DR. POWELL: We haven't benchmarked that
5 against other states. I'm not familiar with whether the
6 states are paying for the DSM. I would say that the
7 Division in each time the company applies for approval of
8 a DSM program, the Division scrutinizes the analysis that
9 the company provides and we -- and we've agreed, to my
10 knowledge, each time that each one of these DSM programs
11 is cost effective under the Commission's current rules or
12 guidelines about evaluating DSM programs.

13 COMMISSIONER CAMPBELL: I guess that's --
14 that's my issue is we're looking at the trees and we're
15 saying, Oh, these trees are really nice and pretty. Are
16 we looking at the forest? Are we saying how does this --
17 how does this overall compare to -- to what others are
18 doing?

19 DR. POWELL: Yeah. Again, I'm not aware of
20 any comparison of between other states. But again, I
21 think the overall program, the analysis shows that it's
22 cost benefit -- that it's cost effective. The benefits

23 are, I think, it's a total resource cost test are almost
24 twice the costs.

25 COMMISSIONER CAMPBELL: Any response?

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1 MS. MURRAY: The office has not done a
2 benchmark on other states either. But these are all
3 Commission approved. I mean, the number may be something
4 different than we originally envisioned, but these are
5 all Commission approved programs that as Artie has said
6 have been shown to be cost effective.

7 COMMISSIONER CAMPBELL: No, I'm aware. I'm
8 aware of that. I just -- I'm just wondering if anyone's
9 taken a bigger look at this. Let me -- let me ask this
10 question. When we originally implemented the 193, there
11 was a stipulation and in that stipulation I think the
12 order approving that stipulation it was stipulated only
13 DSM costs would go into the 193 account. And the
14 question is did the parties forget that or did you
15 explicitly say well, we're not going to stick to our
16 prior stipulation back in '02? Or you interpret the
17 \$10 million is not somehow being associated with the 193
18 account and that's just being put outside as an
19 accounting mechanism?

20 MS. MURRAY: I guess we're viewing it more as
21 an accounting mechanism as an offset.

22 DR. POWELL: Yeah, from the Division point of
23 view, we're not viewing the 10.85 million as some kind of

24 DSM expense. It is an accounting mechanism and I would
25 -- it's mystery of accounting, that's why I become an

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1 economist.

2 COMMISSIONER CAMPBELL: Do you have any other
3 response to that?

4 MR. LIVELY: Well, the way the company would
5 view it, is that -- yeah, the 10.85 million it is -- you
6 know, the costs were incurred, they were DSM
7 expenditures, but the way we review it in this case is
8 not all the costs -- not all the DSM costs, at least
9 through this mechanism, are being recovered through the
10 rider. I believe what I understood you to say is that
11 the tariff rider would include only DSM costs and nothing
12 -- nothing else.

13 COMMISSIONER CAMPBELL: So you're basically
14 saying this is a revenue to offset, that it isn't -- I
15 understand. Let me ask questions related to the SMUD
16 imputation. The Commission gained a little experience
17 with this in the last litigated case and so it's
18 certainly an area of interest for us. I guess this is
19 more directed to the Division and the Office of Consumer
20 Services as you looked at this. How does -- how does
21 this compare to the -- to the imputation the Commission
22 did in the last rate case, that we -- I know the last
23 rate case was with Black Box settlement. So I guess in

24 the stipulated case, we imputed \$37 megawatt hour. Can
25 you tell us what the \$2 million means in terms of that?

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1 Is it higher or lower?

2 DR. POWELL: Well, the \$2 million is the
3 value of the SMUD imputation at the \$37 the way the
4 company filed its rate case. In -- I will explain it the
5 way I conceptually understand it, is that within the grid
6 model the SMUD contract is modelled at it's actual
7 contract price, and so that raises a certain amount of
8 revenue. The Commission determined back in 1989 or
9 whenever it was, 1990, that that 30 -- or that contract
10 price was not cost compensatory, and then they would make
11 an imputation to that and it's been \$37 for quite a bit
12 of time. And so the \$2 million is the difference between
13 what the contract price is and the \$37 imputation. So
14 it's the incremental amount.

15 COMMISSIONER CAMPBELL: Well, then maybe my
16 question is more for the office since the office provided
17 testimony for much larger imputations than the \$37. How
18 did you get to feel that that amount was an appropriate
19 amount?

20 MS. MURRAY: We looked at what -- based on
21 our analysis, not going with a precise number but a
22 range, it's in our estimation it fell within a range that
23 would be reasonable so that if you -- again not a precise
24 number, but we did have some leeway in -- in our

25 analysis. And so we viewed it as something that was a

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1 reasonable amount, the 10.85 amounted to something that
2 we felt we could justify and it would be reasonable for
3 customers to take that amount and apply it to this other
4 DSM and it was a reasonable value. An exact amount, we
5 could have come up with if we were to go through a whole
6 litigated case again. But it was a reasonable value for
7 that contract.

8 DR. POWELL: If I could just make a
9 clarifying comment. I don't want the Commission to be --
10 to misunderstood what I said. If you -- if you try to
11 value the remaining imputation of the SMUD contract over
12 its life and you use \$37, you would not come up with
13 \$10.85 million. The \$37 is the current rate case the way
14 the company filed it. So if you just simply take away
15 any SMUD imputation in the current rate case, net power
16 costs will go up by about \$2 million and that's because
17 the company used \$37 in the rate case as the imputation.

18 COMMISSIONER CAMPBELL: Let me just ask one
19 final question. It has to do the flexible tariff. If I
20 understand what I'm reading here, basically if the
21 Commission were to approve the stipulation, is it the
22 parties' opinion that the Commission is approving a
23 flexible tariff or is it just that the parties have
24 agreed not to oppose the flexible tariff within that

1 MS. MURRAY: The latter. From our position
2 it's the latter.

3 COMMISSIONER CAMPBELL: I mean, there's
4 nothing in our approval of this stipulation that somehow
5 grants approval or approval for the flexible tariff.

6 MS. MURRAY: It's a separate docket, so we
7 don't view it that way.

8 COMMISSIONER CAMPBELL: It's just that you
9 wouldn't provide any evidence contrary to the actual
10 flexible tariff.

11 MS. MURRAY: Right. Because as we have
12 reviewed it, we think that it is in the public interest.

13 COMMISSIONER CAMPBELL: Well, it has --

14 MS. MURRAY: And -- and because of the end of
15 the year review where we would have an opportunity to
16 evaluate the impact of it. We think it's going to run
17 fine, but we do have that opportunity to review it again.

18 COMMISSIONER CAMPBELL: Have the attorneys --
19 I said I was going to ask my last question. I changed my
20 mind. Have the attorneys reviewed the Supreme Court case
21 of U.S. West several years ago when the Commission gave
22 some its authority to the utility to come up with an
23 incentive plan and -- and what's your analysis of this
24 flexible tariff in comparison to that -- that case?

25 MS. SCHMID: I have reviewed it and it seems

1 to me that a flexible tariff should be consistent with
2 the holding in that case because there is a range,
3 because it is a more discrete area.

4 MR. SOLANDER: I would also agree and also
5 add that the Commission still has the authority to
6 disapprove the flexible tariff in that other docket or
7 modify it.

8 MR. LIVELY: And I guess if I may, I would
9 just point out that any changes proposed through the
10 flexible tariff format and advice filing would go to the
11 Commission and, of course, the Commission has the
12 authority to act as it deems appropriate regarding any
13 changes proposed by the company.

14 COMMISSIONER CAMPBELL: I understand that.
15 Thank you.

16 CHAIRMAN BOYER: Well, most of my questions
17 have been asked and answered, but I have a few questions.
18 I'm understanding that the -- the sort of explanation of
19 growth in the deferred DSM account is resulting largely,
20 based on the testimony I've heard today, from the
21 insulation program and unemployed contractors getting
22 into that business and marketing free insulation and so
23 on and so forth and people double dipping and getting an
24 incentive from Questar and from RMP.

25 That program has been revised though in the

1 last few months, has it not, and the amount of the
2 incentive for insulation has been reduced by \$0.35 to
3 \$0.20 or something like is my memory.

4 MR. LIVELY: Correct. And that rate became
5 effective June 1st.

6 CHAIRMAN BOYER: So question to the parties
7 today is, is that reduction reflected in your forecast?

8 MR. LIVELY: Yes, it is. Well, I would just
9 say in our application for the tariff rider reflecting
10 the new rates, we do anticipate that the company will
11 receive in the neighborhood of 51,000 applications for
12 insulation in 2009 and does that reflect the revised --
13 the revised rate for insulation.

14 CHAIRMAN BOYER: And that's how you arrived
15 at \$55 million figure?

16 MR. LIVELY: That's correct.

17 CHAIRMAN BOYER: It's still a little -- it's
18 still a fairly high take rate.

19 MR. LIVELY: Yes.

20 CHAIRMAN BOYER: And is that forecast based
21 on any evidence of any reduction in application for the
22 incentives since the incentive has been reduced?

23 MR. LIVELY: Yes. Well, the program
24 administrator, PECI, who prepares the forecasts, they're
25 otherwise -- I guess what I would say is had the

1 incentives not been reduced, the forecast would be
2 higher.

3 CHAIRMAN BOYER: Since you have the mic,
4 Mr. Lively, have you done any analysis as to what kinds
5 of expenditures you're experiencing in the other states
6 in which you do business?

7 MR. LIVELY: Well, as far as seeing similar
8 increases in -- in the other states?

9 CHAIRMAN BOYER: Yes.

10 MR. LIVELY: I'm not prepared to speak to
11 that.

12 CHAIRMAN BOYER: What about the overall level
13 of expenditures of 6.1 percent -- or 6.16?

14 MR. LIVELY: Well, as far as the other tariff
15 riders, I don't have that information in hand. But I
16 guess I would say that in our neighbor to the north,
17 Idaho, the way that their's is set up if you combined the
18 tariff rider that is in effect and the payments that the
19 company makes for the irrigation program, which are not
20 included in the DSM tariff rider in that state, but are
21 included in that power cost, the sum of those two would
22 be equal to or higher than the 4.6 percent that is being
23 proposed in this proceeding.

24 CHAIRMAN BOYER: Okay. And I ask that
25 question just because in talking with colleagues from

1 other states, from other state commissions, DSM
2 expenditures are increasing across the board because of
3 the heightened awareness --

4 MR. LIVELY: Sure.

5 CHAIRMAN BOYER: -- and the need for utility
6 generation or some other alternative source of energy.
7 What I'm hearing is that most states are now in the three
8 to four percent range. Would that seem reasonable to
9 you?

10 MR. LIVELY: Well --

11 CHAIRMAN BOYER: Based on your experience.
12 If you don't know, you can say you don't know.

13 MR. LIVELY: Yeah, I would prefer just to --
14 yeah, to not address that.

15 CHAIRMAN BOYER: Do any other parties have
16 any information on what is happening in other states? I
17 think we've already asked that and you said no.

18 DR. POWELL: Yeah, other than like you
19 indicated the general increase, I'm not aware of the
20 comparable level.

21 MR. LIVELY: Chairman, if I may?

22 CHAIRMAN BOYER: Yes, Mr. Lively.

23 MR. LIVELY: The run rate -- the ongoing run
24 rate built into the increase that we're requesting is
25 approximately 4.2 percent. So that the increment, the .4

1 percent above -- the 4.2 percent is to buy down or to
2 recover the back amounts. But going forward, a run rate,
3 you know, in the neighborhood of 4.2 percent.

4 CHAIRMAN BOYER: After you amortize the \$27
5 million, then going forward from that point --

6 MR. LIVELY: Now, that --

7 CHAIRMAN BOYER: -- then we would see that
8 reduced four percent?

9 MR. LIVELY: And that is just reflecting
10 current commission approved programs. If there are new
11 programs or changes to programs going forward the
12 increase expenses, then that would obviously affect rate
13 as well.

14 CHAIRMAN BOYER: Right. I understand that.
15 Now, for Dr. Powell, you testified that the benefits of
16 DSM are returning about 200 percent value, giving twice
17 as much benefit as the cost; is that correct?

18 DR. POWELL: Yes.

19 CHAIRMAN BOYER: Is that based on actual data
20 or are those forecast figures?

21 DR. POWELL: That's the actual past data
22 amount. And I'm not sure if you're asking me whether
23 that's based on the engineering projections of what
24 savings would be or actual audits.

25 CHAIRMAN BOYER: That's the question.

1 DR. POWELL: That's the question. I believe
2 that number is based on the engineering estimates of what
3 the savings would be from the program.

4 CHAIRMAN BOYER: And then adjusted -- or
5 forecast using that as the baseline?

6 DR. POWELL: Right.

7 CHAIRMAN BOYER: Has anyone -- have any of
8 the parties looked at the effect on load growth of the
9 efficacy of the DSM programs that we include in our
10 funding in the state of Utah? I ask that because I'm not
11 sure how we would isolate the economic downturn from
12 these other variables such as DSM. Has anyone looked at
13 that?

14 DR. POWELL: I'm not quite sure I understood
15 your question, Chairman.

16 CHAIRMAN BOYER: Well, you know, a few years
17 ago as recently as two years ago, load growth was
18 forecast at something like five percent per annum, four
19 or five percent per annum. And now it's down to like one
20 and a half percent, something like that, according to the
21 numbers. How much of that is attributable to the DSM
22 program and how much is attributable to other factors
23 such as an economic downturn?

24 DR. POWELL: I'm not aware of any amounts
25 except for those two.

1 CHAIRMAN BOYER: I have some questions about
2 using the SMUD credit in this but I think you've answered
3 that. But I have language from the '02 stipulation which
4 was approved by order. And it says, "Only the cost
5 associated with Commission-approved DSM programs will be
6 included in the company's 191 scheduled balance." And I
7 guess what I hear is that you're not actually accounting
8 this in, this is sort of another negotiating device to --
9 to gain consensus on other parties by reducing the amount
10 of DSM by that 10.8 million. Do I understand correctly?

11 DR. POWELL: Yes.

12 MS. MURRAY: Yes.

13 CHAIRMAN BOYER: And I had just one on the
14 flexible tariff area. All the parties have just agreed
15 not to oppose that if and when the company files a new
16 tariff. But I'm wondering -- and this would be for the
17 attorneys in the room. Would we be -- if we were to
18 approve that and if the tariff would be posted on the
19 company's website without filing anything with us, while
20 the advisory group and other parties would have an
21 opportunity to respond to that, would we be in any way
22 advocating our ratemaking responsibilities? This is for
23 the lawyers in the house.

24 MR. EVANS: Can you ask that again? I'm
25 sorry.

1 CHAIRMAN BOYER: As I under the flexible
2 tariff, the company would adjust the tariff as needed
3 based on circumstances over time. Parties would have an
4 opportunity to bring it to us if they found something out
5 of order but nothing would be filed with us.

6 The way tariffs work currently, a tariff is
7 filed and we issue an action request to any and all
8 parties. If we do nothing in 30 days, it's approved
9 unless we intervene and issue an order, suspend the
10 tariff or whatever. Under the flexible tariff nothing
11 would be filed with us. And so if no other party brought
12 it to our attention, we wouldn't -- unless we were
13 monitoring, I suppose, the website, we wouldn't even know
14 about it.

15 So would we be in any way advocating our
16 responsibilities of -- to make rates in the state of
17 Utah, is the legal question.

18 MS. SCHMID: There is an advise filing, so
19 there would be a notice given.

20 MR. SOLANDER: We did file an 09-13 with the
21 Commission already.

22 CHAIRMAN BOYER: And then would you
23 contemplate doing that in the future --

24 MR. LIVELY: Well -- okay.

25 CHAIRMAN BOYER: -- each time it's adjusted?

1 MR. LIVELY: The way the tariff -- the way
2 the tariff works, 09-13 was just the request to implement
3 implement the flexible tariff. But the tariff
4 essentially what it does is it states that the measures
5 that are available, incentives are payable, all that is
6 placed on the company website. And so essentially that
7 would remain static and all of the updates would occur on
8 the website, but the Commission would be provided notice
9 of any change through an advise filing.

10 CHAIRMAN BOYER: Thank you.

11 DR. POWELL: I would -- I would just add too
12 that before the company -- according to the way the
13 tariff is intended to work, the company would bring that
14 -- any changes to the DSM Advisory Group to -- for
15 discussion and input.

16 CHAIRMAN BOYER: Right.

17 DR. POWELL: The Commission --

18 CHAIRMAN BOYER: My question is then are we
19 deferring our obligation to the DSM Advisory Group?

20 DR. POWELL: Well, my point was is that the
21 Commission staff does participate in the DSM Advisory
22 Group and then the company will make an advise filing
23 with the Commission saying that it has posted this change
24 to be made in 45 days on its website.

25 So the Commission still has the authority or

1 the right if they have concerns about the proposed
2 changes to instruct the Division or other parties to
3 bring forth evidence in support or against that
4 particular change. So, no, I don't think the Commission
5 is giving up its right or passing its right on --

6 CHAIRMAN BOYER: We would still have an
7 opportunity to jump in if we saw --

8 DR. POWELL: Exactly.

9 CHAIRMAN BOYER: -- a need? Going back to
10 the '02 stipulation and the order approving that
11 stipulation. By the way, that docket is 02-035-T12.
12 There was a requirement that the company file annually a
13 report, including the balance and account analysis based
14 on a number of factors. And that was to be provided to
15 the Division, the committee now known as the Office, the
16 advisory group and any other interested parties. We
17 don't receive those at the commission, we didn't -- our
18 predecessors didn't include that in the order. Have
19 those annual reports been filed and are they being
20 monitored by the Division?

21 DR. POWELL: You did say the Division?

22 CHAIRMAN BOYER: I did say the Division.

23 DR. POWELL: To my knowledge, the simple
24 answer is no.

25 CHAIRMAN BOYER: They haven't been.

1 DR. POWELL: They have not been filing an
2 annual report with the Division or other parties that I'm
3 aware of. The company does file currently a monthly
4 report, but whether that satisfies the Commission's order
5 from 2002, I'm not prepared to say at this time.

6 CHAIRMAN BOYER: Thank you, Dr. Powell. The
7 order did mention the additional monthly requirement as
8 well. How with the office, have you seen the annual
9 reports?

10 MS. MURRAY: I actually was jut looking at an
11 advisory group meeting and it talked about the highlights
12 from the 2008 annual report. I couldn't local the 2008
13 annual report, so I have to -- I don't exactly know.

14 CHAIRMAN BOYER: We'll go back to the
15 company. Are those annual reports being filed? I just
16 wanted to ask if the agencies --

17 MR. LIVELY: Well, certainly the monthly
18 reports that have -- of the rider account have been
19 provided. As far as an annual report, I will have to --
20 I'll have to check on that.

21 CHAIRMAN BOYER: And I ask that because of
22 the rather dramatic increase in the expenditures having
23 crept up on us over a 12-month period I guess.

24 MR. LIVELY: Yeah.

25 DR. POWELL: Chairman Boyer.

1 CHAIRMAN BOYER: Yes, Dr. Powell.

2 DR. POWELL: I was looking at some of the
3 monthly reports. It's not a useful comment, so I'll
4 stop.

5 CHAIRMAN BOYER: If you'll just bear with me
6 a moment, I have to look at my notes. I think that's all
7 the questions I had. Did my questions stimulate any
8 further questions from either commissioner?

9 Okay. Well, let's give the parties an
10 opportunity to offer redirect if necessary.
11 Mr. Solander, you first.

12 MR. SOLANDER: We have none. Thank you.

13 CHAIRMAN BOYER: Ms. Schmid.

14 MS. SCHMID: None from the Division.

15 CHAIRMAN BOYER: Mr. Proctor.

16 MR. PROCTOR: No. Thank you.

17 CHAIRMAN BOYER: Mr. Townsend.

18 MR. TOWNSEND: None from UAE.

19 CHAIRMAN BOYER: And Mr. Evans.

20 MR. EVANS: None.

21 CHAIRMAN BOYER: Let's -- probably our
22 report's tired by now. Let's take a, say, 12-minute
23 recess and then we'll reconvene here about -- oh, I
24 forgot to mention -- ask. Thank you. Does anyone oppose
25 the stipulation? We haven't received any written

1 indication, but does anyone wish to speak against
2 approval of the stipulation?

3 (No response from parties.)

4 CHAIRMAN BOYER: Okay. Then we will be in
5 recess until 3:00 on this clock.

6 (A brief recess was taken.)

7 CHAIRMAN BOYER: Let's go back on the record.
8 Julie's got to turn the switch. Bear with us for a
9 moment. Not quite. Okay. It took a while for the old
10 tubes to warm up because it's not a digital state we're
11 in. You know, we're mindful of the time constraints. We
12 understand the company's desire to start to amortizing
13 this deficit immediately and make sure that the future
14 costs are paid for.

15 However, it's just a little unusual and had
16 some unusual dimensions with the SMUD contract and some
17 other things. So we're going to take it under
18 advisement, but we will make every effort to get an order
19 out very, very soon. Very quickly. We thank you all for
20 your participation and look for our order coming up very
21 soon.

22 DR. POWELL: Thank you.

23 MS. SCHMID: Thank you.

24 MR. SOLANDER: Thank you.

25 (Whereupon the matter concluded at 3:13 p.m.)

C E R T I F I C A T E

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

I, ROSSANN J. MORGAN, Registered Professional Reporter, Certified Shorthand Reporter residing at West Jordan, Utah, do hereby certify:

That the foregoing transcript, consisting of Pages 1 to 67, was stenographically reported by me at the time and place hereinbefore set forth; that the same was thereafter reduced to typewritten form, and that the foregoing is a true and correct transcript of those proceedings.

I further certify that I am neither counsel for nor related to any party to said action nor in anywise interested in the outcome thereof.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 4th day of September, 2009.

ROSSANN J. MORGAN, RPR, CSR

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